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PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, FIRST SESSION

SENATE—*Wednesday, December 2, 1987*

(Legislative day of Monday, November 30, 1987)

The Senate met at 9:45 a.m., on the expiration of the recess and was called to order by the Acting President pro tempore [Mr. GRAHAM].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest. Take my yoke upon you, and learn of me; for I am meek and lowly in heart: and ye shall find rest unto your souls. For my yoke is easy, and my burden is light.—Matthew 11:28-30.

Father in heaven, Thanksgiving is over—the air is filled with thoughts of Hanukkah and Christmas—and inevitably hopes for adjournment sine die soon. This puts tremendous pressure on leadership and their staffs, committees and their staffs, Senate officers and their staffs, and all the men and women whose dedicated services keep the Senate functioning. These pressures, plus the unrelenting passing of time, generate weary bodies and minds, short tempers, harsh words and exhaustion, not to mention tension in homes and families. Compassionate Lord, help the people of the Senate to hear Your gentle invitation to rest and renewal. Grant them grace to respond in confidence that in health and strength they may enjoy the special blessings of this season. Give our leadership, the Senators and all the support teams, a special measure of grace for these busy days filled with such heavy issues. Thank You, Lord, for Your love and faithfulness. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority leader and minority leader be reserved for their use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SAFETY NETS COULD NOT PREVENT ANOTHER DEPRESSION

Mr. PROXMIRE. Mr. President, the conventional wisdom is that this country cannot have another depression because of the built-in safety net that Congress has developed since the last Great Depression 50 years ago. That conventional wisdom may be wrong for two principal reasons. First, the debt situation is far worse now than it was when the 1929 stock market crash presaged the beginning of the country's worst depression. In fact, today's debt—the total debt—Federal Government, household and business—is more than $8 trillion. It is now twice the Nation's gross national product. It's worse. Here's why: It is growing at a breakneck speed.

Second, the free world is far more interdependent on international investment than ever before. Fifty years ago there was a significant degree of international economic interdependence. It was largely a trade interdependency. Trade is still critical. But today there is a huge international financial interdependency that has swept aside national borders. International capital flows last year were roughly 15 times the volume of world trade with foreign transactions alone in the area of $200 billion a day. It is the movement of capital not trade that drives the world economy.

Technology has wrought an almost overnight revolution. We have 24 hour a day markets. Investment never stops. With computers and rapid fire communications around the world, Americans trade in London, Bonn, Tokyo, and Hong Kong. And foreigners from everywhere invest here. At this moment our country is dependent as never before on loans from the Japanese, the Germans, and others. It has become a platitude that the United States is the biggest debtor nation in the world. But we haven't paused to ask ourselves what is the significance of this status in relation to our future economic growth and the prospect of depression. So let us ask what is the relationship of our new international dependence on other countries to our capacity to prevent a full-fledged depression?

Let us consider both the huge and growing debt burden, and the international capital movement dependency, each in turn. Let us ask why they may be spelling depression with a capital "D." First the debt—household debt is far bigger in relation to income, savings or any other relevant criteria than it was in 1929. American families are more vulnerable to recession burgeoning into depression now than they were then. The loss of a job is much more likely to lead to the loss of a car because interest payments on the car become no longer feasible, or the loss of a home because mortgage payments can no longer be made. Savings were always far lower in our country than in other countries. In America they averaged year in and year out 5 or 6 percent compared to 20 percent in Japan. But this year's American savings have fallen to about 3 percent of income at precisely the time that debt has gone through the roof.

It is in business debt, however, that the United States is now specially vulnerable. In 1955 the ratio of debt to earnings for the typical American corporation was $2.85 of debt to each dollar of earnings. Today, that ratio has stretched to more than $9 of debt for every dollar of earnings. In a recession this has a double adverse effect. It means that American businesses are much more likely to become insolvent as the economy slows down and cash flow diminishes. Those business failures will bring catastrophe to many financial institutions that hold the business debt. And, of course, when business becomes insolvent, they go out of business. Their employees lose their

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

jobs. The employees cannot make their interest payments on their houses and cars. So financial institutions suffer a double hit. They have to foreclose on mortgage and auto loans from families and commercial loans from business borrowers. A depression level 7.7 percent commercial bank loans were nonperforming in Louisiana last June 30. In Texas it was worse with 8.4 percent nonperforming. In Oklahoma 9.8 percent, in Wyoming 10.6 percent, and in Alaska a shocking 19.5 percent. Now, of course, these are all energy dependent States. When the price of oil drops as sharply as it has, these States and especially their banks are up to their necks in trouble. But when a national or international recession hits then the whole Nation and our entire banking system is in trouble. At that point the conventional wisdom tells us that there will be no depression this time because now there is a difference that will really count. In 1929 we had no Federal deposit insurance. In 1987 we do. We do, indeed, but that FDIC insurance at some $17 billion is chicken feed in a financial system that has $2.265 trillion in deposits and $1.72 trillion in loans, almost exactly 100 times the FDIC reserves. Assume, for example, that throughout our country nonperforming bank loans rise to the average 8.6 percent level we have today in the Louisiana-Texas-Oklahoma region. That would be more than eight times the entire FDIC reserve. At that point the banking industry could invoke the full faith and credit of the Federal Government and the Congress could react with a several trillion dollar bailout and a national deficit that would explode. So if you believe the present $150 to $200 billion Federal deficit and the $2.35 trillion national debt is shocking, baby, you ain't seen nothin' yet.

Finally, there is the international interdependency. The vast investments America has abroad and foreigners have in our country would be in sudden-death jeopardy not only from a crash in this country. A crash in other major countries could trigger it—in Japan, or Germany or the United Kingdom or France or in a combination of free countries. Social Security, unemployment insurance, and the FDIC can and would help in recessions but in a world wide depression? No way. As the highly respected Jane Bryant Quinn recently wrote:

> What if a sudden loss of confidence interrupts the international computer system that swishes money around the globe? That could squeeze the money supply beyond the FED's ability to correct. And whose job is it to rescue international banking organizations if it were needed overnight.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m. with Senators permitted to speak therein.

The Senator from Nebraska is recognized.

Mr. KARNES. Thank you, Mr. President.

FARM CREDIT ACT AMENDMENTS

Mr. KARNES. Mr. President, I rise today to express my strong support for S. 1665, the Farm Credit Act Amendments of 1987. Mr. President, this legislation is a historic measure, of the most important piece of agricultural legislation in the 100th Congress. It is a comprehensive and innovative approach for dealing with the credit problems of our farmers. It sets the course for the future of agricultural lending in our country. It is allowing the innovative techniques of the marketplace to flow through to agricultural credit.

Mr. President, who benefits from this legislation? The farmers of this country, pure and simple. These are farmers who have been whipsawed these past years by the ever present uncertainty surrounding agricultural profitability.

I believe that this is a vitally important bill. It is a comprehensive and innovative approach for dealing with any number of important issues facing farmers and agricultural lenders. Mr. Chairman, if we do not help farmers with this bill, we will not help the FCS. This bill really will help our farmers.

I would like to congratulate Senator LEAHY, the chairman of the Senate Committee on Agriculture, and Senator LUGAR, the ranking Republican member of the committee, for their leadership in bringing this bill through the committee process and I might add that this was brought through the process unanimously on a 19-to-0 vote in the full committee. Of equal importance and praise, I would also like to recognize Senator BOREN, the chairman of the Subcommittee on Credit, and Senator BOSCHWITZ, the ranking Republican member of the committee for their hard work in fashioning a truly bipartisan, consensus bill. It took many long hours and long sessions of hard work but it was worth it.

As a member of the Senate Agriculture Committee and the Subcommittee on Credit that has produced the bill, I am pleased to have helped to draft a well structured and responsive measure which has bipartisan support. The bill achieves the objectives of helping farmers, providing financial assistance to the Farm Credit System [FCS], and establishing a secondary market mechanism to enable agricultural lenders to make long-term credit available to farmers at competitive rates.

The FCS is a vitally important part of our rural economy. We cannot let it fail. Yet we must be sure that we assist it in a way that serves the best interests of farmers and the Nation's taxpayers. And as we have seen over the last few weeks, the financial markets demand that Congress deal in terms of budget realities. The assistance package in the bill provides assistance, while attempting to minimize a call upon taxpayer resources.

I am reminded of an ad that I saw on TV several years back which had a gentleman holding an oil filter and behind it they were towing in a vehicle and he said, if you recall: "Well, you can pay me now or pay me later." And that comes to mind when I consider this legislation. This does have a cost to the legislation, this farm credit legislation. But it is a very sound investment to maintain the viability, strength and operational stability of the Farm Credit System.

Mr. President, we are faced with the dilemma of paying now to assist farmers or paying even more later, when one considers the System itself has assets of over $50 billion. In addition, we must assure that there is no disruption of the capital markets in which FCS sells its bonds. I would note that the administration has indicated it can support the bill in this form.

The bill does a number of important things to help farmers:

The bill guarantees FCS stock held by farmers, including farmers who lost their stock in the liquidation of the production credit associations in O'Neill and Valentine, NE.

The bill requires the restructuring of distressed loans by the FCS and the FmHA if the cost of restructure is less than the cost of foreclosure.

The bill provides funds to support State mediation programs designed to settle disputes between farmers and their lenders.

The bill provides assistance to FCS institutions where it makes sense and gives a new assistance board the power to hold those institutions accountable for performance.

Accountability and responsibility will now be located where authority is located.

There will be no more excuses for the System's bad judgment because we will have accountability and responsibility where we have authority.

And finally, this bill creates a secondary market in agricultural loans. By creating a secondary market it will put in place an innovative mechanism that will serve our Nation's agricultural sector well into the 21st century. A secondary market will bring substantial benefits to our Nation's farmers. Farmers will be able for the first time in a long time to get long-term agriculture credit at fixed and competitive rates. Farmers need a source of long-term fixed-rate credit. This has not been available.

We have too many uncertainties in agriculture presently with the world markets, with commodity prices, without forcing these farmers to adjust to the variances that are required and demanded by the international marketplace.

Thus, this system, this secondary market system, will provide a source of long-term fixed-rate credit. In other words, some certainty as to future lending. Lenders will also be able to recycle funding back into the rural community. They will gain the flexibility to better match assets and liabilities in their portfolios because they now have a place where these loans can be sold. Heretofore, they had to keep these loans, many are long-term loans, in their portfolio and they are then subject to great risk in the agricultural marketplace.

In other words, a secondary market in agricultural loans is an idea whose time has come. I have been a vocal advocate of recreating a strong and viable secondary market in agricultural loans that will place all lenders, the Farm Credit System, insurance companies and banks, on an equal footing in their ability to serve farmers with credit availability. As a result, there will be more competition for the good farmers and producers' business and as all of us know competition generates benefits. Increased competition inevitably will result in lower cost of borrowings to farmers. It is time that we make the financial advantages that have been enjoyed and proven in the homeownership market available to our farmers and their lenders.

I would like to elaborate for a moment on these important provisions. The guaranty of FCS stock held by farmers will go a long way toward stopping the flight of borrowers from the FCS due to concern about the safety of their substantial investments in those institutions.

Mr. President, I have worked to assure that farmers in production credit associations in O'Neill and Valentine, NE, will be included in the guaranty. This will relieve a substantial burden on those farmers.

Loan restructuring on a sound business basis for FCS and Farmers Home Administration borrowers is long overdue. The bill provides that farmers will have the right to be informed about and to appeal restructuring decisions.

Mediation has been a useful tool for bringing farmers and lenders together to successfully resolve disputes. It can cut down on litigation over disputes over distressed loans, reduce related costs, and enable farmers to avoid the alternative of bankruptcy. The bill encourages mediation programs.

The bill channels assistance through an assistance board which will have broad powers to require changes in FCS institutions as a condition to any assistance. This will assure that assistance is tied to accountability.

One of the most exciting parts of the bill will create a secondary market for agricultural loans. We are also taking the opportunity to put into place an innovative mechanism that will serve our Nation's agriculture right into the 21st century.

A secondary market will be an important breakthrough in agricultural lending and result in substantial benefits to our Nation's farmers. They will be able to get long-term financing at competitive rates. Farmers need a source of long-term, fixed-rate credit. The farmer will be able to stop among lenders for credit at better rates. Lenders will be able to recycle funds back into rural communities and will gain the flexibility to better match assets and liabilities and the opportunities to diversify their agricultural portfolios.

A secondary market in agricultural loans is an idea whose time has come. I have been a vocal advocate of creating a strong and viable secondary market in agricultural loans that will place all lenders on an equal footing in serving our Nation's farmers. It is time we make the financing advantages enjoyed by homeowners available to our farmers and their lenders.

The secondary market title creates a mortgage corporation which is owned by all categories of loan originators and poolers. A careful balance has been struck throughout various provisions of the bill between the interests of banks, insurance companies and other financial entities, the FCS institutions. The mortgage corporation is not to be dominated by any one group. Rather, it is to function along the lines of the other federally sponsored secondary markets for residential housing and student loans. I note for the record the language of the committee report on various points related to the mortgage corporation.

Mr. President, we must move swiftly in approving S. 1665 and move to a conference to work out the differences, the significant differences, between the House and Senate versions. We have an opportunity to help our farmers, to help the Farm Credit System, and to give farmers of the future the opportunity to participate in this very vital industry in our country. All at a very reasonable cost when we consider the alternative of a failed Farm Credit System. Thus, such legislation, I believe, is not only consistent with our commitment to American agriculture but is also consistent with our commitment and my commitment to fiscal responsibility.

I am pleased to have been able to assist in crafting this bill in the subcommittee and committee along with my distinguished colleagues. I pledge my continued efforts to see this measure enacted into law this year.

Mr. President, I ask unanimous consent that two documents be printed in the RECORD as part of my statement. The first is a letter from the Department of Justice to the Senate Agriculture Committee affirming the constitutionality of the structure of the Board of Directors of the Federal Agricultural Mortgage Corporation. The second is a letter by the general counsel for the Farm Credit Administration concerning the powers of FCS institutions and the need for this legislation as it relates to the secondary market. These documents are appropriately made part of the legislative history of this bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FARM CREDIT ADMINISTRATION,
McLean, VA, March 31, 1987.

Mr. ROBERT T. LASKY,
Cadwalader, Wickersham & Taft, Washington, DC.

DEAR MR. LASKY: This responds to your March 10, 1987 letter requesting an opinion of the General Counsel of the Farm Credit Administration on whether the Farm Credit Act of 1971, as amended ("Act"), provides the necessary statutory authority for the various System members to acquire, warehouse, and pool loan assets, and issue classes of securities backed by those loan assets, as described in your letter. This response is limited to an analysis of the proposal under the Act; it does not address any of the numerous issues which may arise under various other Federal or State laws.

The proposal, which is outlined in very general terms in your letter, would involve the accumulation by a System bank or banks of participation interests in loans originated by third party lenders or of whole loans originated by other System institutions, secured by real or personal property and serviced by the loan originator or a party selected by the acquirer. Loans would be warehoused by one or more banks until a sufficient dollar or face amount would be accumulated for offering a proposed loan-backed security. Systemwide mortgage-backed bonds secured by the loan assets would be issued in the form of multiclass pass-through certificates or Collateralized Mortgage Obligations, referred to for purposes of this response generally as "mortgage-backed securities."

Your request, and your opinion incorporated therein, does not point to any specific authority under the Act to engage in the activities proposed. Rather, an effort is made to weave selected discrete authorities conferred upon System institutions under the Act into a pattern which might support the program sought to be established. Even if the conclusion could be reached that System banks have authority to implement the proposal as described, your opinion states that "the Act precludes many types of arrangements which would be useful in creating a nationwide, highly liquid secondary market in farm loans."

The activity which is the subject of this proposal, i.e., the establishment of a form of secondary market for agricultural loans and participations that are warehoused and pooled to support mortgage-backed securities, does not fall within the stated mission or enumerated authorities of System institutions. The System is composed of different types of limited service instrumentalities that are chartered for specific purposes under Federal law and are provided with advantages unique to "sponsored agencies." The nature and scope of their authorities must be viewed within that context.

The primary mission of System banks and associations, as articulated in their statutory authorities, is to provide credit and related services directly to agricultural borrowers and their cooperatives. Where Congress intended that system institutions serve as a source of wholesale credit for other agricultural lenders, it specifically authorized such activity.

Thus, Congress provided authority in the Act, under sections 2.3 and 2.4, for Federal intermediate credit banks ("FICB's") to discount loans and extend credit to "other financial institutions," ("OFI's") and established the basic terms under which that activity can be carried on and placed limits on the types of institutions that qualify for an OFI relationship. Fundamental principles of statutory construction dictate that such a specific grant of authority be construed as an exclusive enumeration.

Unlike other federally-chartered institutions, System institutions were chartered as lenders, and not as entities with powers to purchase, warehouse, pool and sell assets in a conduit capacity. Where Congress has seen fit, it has enacted specific legislation to charter limited purpose corporations (*i.e.*, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Student Loan Marketing Association) to perform wholesale or conduit functions of the type described in your letter.

A careful review of some of the specific provisions of the Act relied upon in your opinion is instructive. The authority of System institutions to participate in loans originated by other System institutions or by third party lenders was a subject of the Farm Credit Act Amendments of 1980 ("1980 Amendments"). Pub. L. 96-597. This enumeration of participation powers in the Act was designed to unequivocally establish that authority of such authority that it did so in order to enable System institutions to make broader cross-utilization of their capital bases for lending limit purposes and to encourage System institutions, as a supplement to the discount and credit extension authority granted to FICBs in section 2.3 of the Act, to work with other lenders in making credit available at the retail level to farmers and their cooperatives. The history of adoption of the amendments to section 2.3 of the Act, which authorizes FICB, to lend to or discount loans made by OFIs, illustrates the intent of Congress that the System not become an unrestricted wholesaler of credit. See H.R. Rep. No. 1287, 96th Cong., 2d Sess. 32-33, 58-59, 62-63. I find no support for the contention that the participation authority can be used to acquire loan assets from commercial banks and OFIs with a view toward warehousing, pooling and selling those loans in a regular course of business as a conduit to the capital markets.

The language of sections 1.4(12), 2.1(20), 2.12(13), and 3.1(11) of the Act granting participation authority to System institutions are phrased in terms of "participate with" other System institutions or third party lenders, rather than "purchase or sell" participations, which more accurately characterizes the activity proposed by your letter. The statute envisions certain System institutions joining with other lenders in making credit available at the retail level, as contrasted with dealing in participations. Also, the authority of each group of System institutions is technically different in terms of the type of institutions with which each may participate. For example, FLBs are authorized to participate in loans with other System institutions and with other non-System lenders in loans that an FLB is authorized to make. The participation authority provisions for FICBs and PCAs do not mention non-System institutions. Sections 1.4(12), 2.1(20) and 2.12(13). BCs are authorized to participate with System institutions and OFIs. Section 3.1(11).

The existence of these statutory distinctions between the lending and corporate functions of the various System institutions not only presents specific problems for the implementation of this proposal, but also underscores the fact that System banks are limited purpose lenders with carefully circumscribed authorities. The differentiation between and the constraints placed on System institutions have been carefully developed over the years and were perpetuated in the 1980 Amendments. Also, the capitalization requirements imposed in connection with System participation activity are further evidence that participation authority was intended to enhance retail lending. Section 4.18. The capitalization requirements imposed in connection with participations flow down to the retail level, in contrast with the discount authority of FICBs under section 2.3 of the Act where the issue of capitalization does not go beyond the FICB/OFI relationship. If Congress intended that System institutions use its preferred access to the capital markets for the general benefit of all other lenders it would have made that clear.

Moving from the asset origination aspects of the proposal to the asset warehousing aspects, we do not agree with the assertion that section 4.2(a) of the Act provides statutory authority for loan participation warehousing activity. The section is properly viewed as authorizing System banks to borrow money from commercial banks or from each other, and to invest those funds. The subject of all such activity is, by the terms of the introductory language to the section, "money," not loan assets. The Act contains no asset warehousing authority for System institutions which would correspond to the enumerated powers of Federal entities chartered by Congress to serve as conduits for loan asset sales.

You have raised several questions relating to the authorities of System institutions to issue securities under section 4.2 of the Act. In addition to the borrowing authority noted above, section 4.2 authorizes each System bank to issue debt obligations individually, jointly with like banks, and jointly and severally with all System banks "in order to obtain funds for its authorized purposes." The operating authorities of the respective types of System institutions are set forth in the general corporate powers section of the separate titles of the Act. I conclude that the general corporate powers of System institutions, as well as their funding powers under those general powers and Title IV of the Act, do not encompass, and are vastly different from the type of activities and functions contemplated by the proposal.

In terms of the authority of System banks to join with each other selectively in the issuance of Systemwide obligations under section 4.2(d) of the Act, a review of the legislative history of the Act indicates that debt obligations issued under section 4.2(d) must carry the joint and several liability of all 37 banks of the System. Under the Act an individual bank is primarily liable on Systemwide obligations only to the extent of its participation in a particular issue; however, each bank is also secondarily liable for all Systemwide obligations, irrespective of its participation therein. Contributions for such secondary liability are determined under section 4.4 of the Act. In considering this particular issue, it is also noted that the type of loan participations which would be the subject of the proposal would be those eligible for origination by Federal land banks ("FLB"). The eligibility and scope of lending constraints imposed under the Act on the respective types of System institutions are mentioned above. It would seem incongruous for the full faith and credit of other types of System banks to be used to support securities to be backed by assets which could be originated or purchased only by FLBs when there is no corresponding benefit to the other types of banks.

You have also solicited an opinion on the scope of the term "other obligations" contained in the paragraphs of section 4.2. A review of the Act and the related legislative history reveal no support for an assertion that the authority of the banks under section 4.2 includes the power to issue mortgage-backed securities of the type contemplated by the proposal. Paragraph (b) of section 4.2 authorizes each System bank to issue on an individual basis, its "notes, bonds, debentures, or other similar obligations." Paragraphs (c) and (d) of the same section, which authorize banks to join in consolidated or Systemwide obligations, contain identical language, save for omission of the word "similar." The word similar, which has a narrowing effect on the scope of the authority, is properly read into paragraphs (c) and (d). While paragraphs (c) and (d) do not refer, as does paragraph (b), to the collateralization requirement of section 4.3(c) of the Act, section 4.3(c) in fact requires collateralization of all long-term obligations issued by the banks under section 4.2, and section 4.3(c) refers to those obligations as "notes, bonds, debentures, or other similar obligations" [emphasis added]. Reading these provisions together raises the clear implication that "other obligations" issued under the authority of paragraphs (c) and (d) of section 4.2 must be ones similar to the notes, bonds and debentures specifically authorized.

Mortgage-backed securities of the type described in the proposal are markedly different from the type of primary debt obligations authorized to be issued by System banks, and therefore would not constitute "similar" obligations within the meaning of section 4.2. The primary source of repayment of such instruments would be the underlying loan assets, rather than the credit capacity of the issuer, and, indeed, in some circumstances may be considered a sale of assets.

In further support of this conclusion, I note that Congress, in enacting the Emergency Home Finance Act, Pub. L. 91-351, found it necessary to create authority for the Federal Home Loan Mortgage Corporation to issue mortgage-backed obligation, notwithstanding the fact that the language of the Federal Home Loan Act which related to the powers of Federal Home Loan Banks to issue debt obligations closely paralleled the language contained in section 4.2 of the Act. Compare 12 U.S.C. §§ 1431 and 1455. It is my opinion that comprehensive legislation similar to the enabling statutes of other federally-chartered secondary market issuers would be required in order to establish a secondary market in farm loans through the issuance of mortgage-backed securities.

We trust that this has been responsive to your inquiry.

Sincerely,

FREDERICK R. MEDERO,
General Counsel.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, October 27, 1987.
Hon. PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This letter presents the views of the Department of Justice on the Senate bill "[t]o amend the Farm Credit System, to provide a secondary market for agricultural mortgages, and for other purposes." Our only comment concerns the constitutionality of section 702 of this bill, which provides for the creation of a "Federal Agricultural Mortgage Corporation" ("Mortgage Corporation").[1]

The Mortgage Corporation is a federally chartered instrumentality of the United States and an institution of the Farm Credit System (page 116). It is to be considered an "agency" for purposes of litigation (page 140). The Mortgage Corporation shall develop uniform underwriting, security appraisal, and repayment standards for qualified agricultural loans; determine the eligibility of agricultural mortgage marketing facilities to contract with the Mortgage Corporation for credit enhancement of mortgage pools; and provide credit enhancement for the repayment of principal and interest due on pools of agricultural loans (page 117). The Mortgage Corporation shall be governed by a fifteen-member Board of Directors. Five members shall be appointed by the President, five members shall be elected by Mortgage Corporation shareholders that are financial institutions, and five members shall be elected by Mortgage Corporation shareholders that are Farm Credit System institutions (pages 122-123). The Farm Credit Administration shall examine the financial condition of the Mortgage Corporation and regulate the safe and sound performance of the powers, functions and duties vested in the Mortgage Corporation (Page 136-139).

The constitutionality of the Mortgage Corporation must be evaluated under the standards enunciated by the Supreme Court in *Buckley* v. *Valeo*, 424 U.S. 1 (1976). * * *

Second, the Mortgage Corporation, through its credit enhancement activities, neither directly disburses federal funds nor determines conditions of eligibility for the receipt of federal funds. Credit enhancement operations merely guarantee the timely payment, to investors in securities based on pools of agricultural mortgages, of principal and interest payments with respect to those securities. Such operations do not increase or decrease the probability that a borrower will default, and they do not directly influence the amount of federal outlays.

Consistent with these two points of understanding, it is apparent that, in governing the Corporation, the Mortgage Corporation's Board members are not engaged in "the performance of a significant governmental duty pursuant to public law" within the meaning of *Buckley* v. *Valeo*. Accordingly, the Board members are not "officers of the United States" who must be appointed in conformity with the Appointments Clause, and the Board is established in a constitutionally permissible fashion. In accordance with this conclusion, and in order to avoid any possible ambiguity, we recommend that the proposed statutory description of the Mortgage Corporation as a "federally chartered instrumentality of the United States" be changed to characterize that entity instead as a "federally chartered corporation." Such a change would make it clear that, while the Mortgage Corporation is established pursuant to federal law (and is subject to federal safety and soundness regulation), it does not act pursuant to the sovereign authority of the United States.

Subject to the understandings set forth above, and the recommended change in the statutory description of the Mortgage Corporation, the Department of Justice has no objection to the enactment of this legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the program of the President.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Mr. KARNES. Mr. President, I yield the floor.

THE TRAGEDY IN HAITI

Mr. DOLE. Mr. President, the tragedy unfolding in Haiti saddens all of us. Dozens are dead; and the hope that Haiti might, at long last, be on the road toward free elections, has been dashed in a pool of blood.

The blame for these terrible events rests, ultimately, on the head of "Baby Doc" Duvalier—the dictator who now lives in lavish "retirement." Under Duvalier, and under his father who ruled before him, all of the institutions which underpin stable democratic societies were uprooted and destroyed. Indeed, only two institutions—the army and the outlawed Communist Party—survived the Duvalier years intact.

But just assigning the blame does not provide a solution. And let us be candid: a real solution is not yet in sight, and our ability to influence events is limited.

The administration has taken the absolute correct initial step, in cutting off all but humanitarian aid to Haiti. That step was urged in a resolution passed unanimously by the Senate just prior to the Thanksgiving recess, under the circumstances we have seen—where violence emerged, and the elections were canceled.

And let me take this opportunity to commend the Senator from Florida, Mr. GRAHAM, for introducing that resolution.

But where do we go from here? The first priority is insisting to the residual power structure in Haiti that the killing must stop, order must be restored, and those responsible for these terrible murders must be apprehended. Then concrete steps must be taken to get the elections process back on track. We must work even harder to locate responsible elements within Haiti with which to work; we must be even clearer to those that hold the power and the guns now, that we will just not tolerate unbridled violence, and the continued suppression of the people of Haiti.

And we do have some additional points of pressure, including our actions in international agencies providing aid to Haiti, and in terms of benefits available to Haiti under the CBI. We can bring these to bear, as it would be useful.

Finally, we should begin now diplomatic consultations with the democracies of the Caribbean, and with the Organization of American States, to lay the groundwork for a cooperative, regional approach to the situation, if it continues to deteriorate.

Haiti is at a crossroads. One way is the path to increasing violence, bloodshed and eventual chaos. The other way leads toward elections and democracy.

The choice of directions hangs in the balance. The stakes are high—highest, of course, for the people of Haiti. But important for us, too, and for all the nations of the Caribbean, who want and need a stable region.

Mr. President, too often it takes this kind of tragedy to focus proper attention on a small but important nation. Let us keep the spotlight on Haiti—this time, until it really is firmly back on the track that all of us want.

BICENTENNIAL MINUTE

DECEMBER 2, 1954: THE SENATE CENSURES JOE MC CARTHY

Mr. DOLE. Mr. President, 33 years ago today, on December 2, 1954, the Senate voted 67 to 22 to censure Joseph R. McCarthy of Wisconsin. This vote marked the end of a long, emotional, and painful period in the history of this institution, and for all purposes the end of Senator McCarthy's political effectiveness.

McCarthy had entered the Senate in 1947, after defeating the formidable Robert La Follette, Jr., in the Republican primary. A colorful and unpredictable junior Member of the Senate, he did not attract much national attention until 1950 when, in a speech at Wheeling, WV, he claimed to hold in his hand evidence of Communists operating within the State Department. That charge catapulted McCarthy to the leadership of an anti-Communist crusade that gained much public support during those troublesome early days of the cold war.

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[1] This letter will, for the sake of convenience, refer to page numbers of the Senate print, which we understand to be the Committee markup vehicle for this bill.

By 1953, Senator McCarthy had become chairman of the Permanent Subcommittee on Investigations, the platform from which he directed inquiries into the activities of various Government agencies. His supporters saw him as protecting the country against internal subversion. His opponents accused him of smearing innocent people through bullying tactics.

The televised Army-McCarthy hearings during the summer of 1954 proved to be Senator McCarthy's undoing. Watching the hearings in their homes, many Americans formed negative opinions of McCarthy and his tactics, and his standing in opinion polls fell. Moreover, McCarthy's attack on loyalty in the Army alienated the administration of President Dwight D. Eisenhower, along with a considerable number of his own party in the Senate. Thus Senate Democrats and Republicans joined together on December 2, 1954, to condemn the conduct of Joe McCarthy.

CALL OF THE ROLL

Mr. KARNES. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 35 Leg.]

Bentsen
Graham
Karnes
Mitchell

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BENTSEN. Mr. President, I move to instruct the Sergeant at Arms to request the attendance of absent Senators and the yeas and nays are requested.

The ACTING PRESIDENT pro tempore. The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—76

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Wirth

NAYS—21

Boren
Chafee
Cohen
Evans
Garn
Gramm
Hecht
Helms
Karnes
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Quayle
Specter
Symms
Wallop
Weicker
Wilson

NOT VOTING—3

Bond
Gore
Simon

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

FARM CREDIT ACT AMENDMENTS OF 1987

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1665, which the clerk will now report.

The legislative clerk read as follows:

A bill (S. 1665) to amend the Farm Credit Act of 1971 to ensure the continuation of the Farm Credit System as a source of agricultural credit at fair and competitive rates; to increase the farmer and rancher participation in the Farm Credit System; to restore the impairment of borrower stock in Farm Credit System institutions; to reform the lending practices of the Farm Credit System; to require forebearance on and restructuring of certain high-risk and nonaccrual loans; and for other purposes.

The Senate resumed consideration of S. 1665.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, for the interest of my colleagues, we are back on the Farm Credit Act Amendments of 1987. I have an opening statement which I will give momentarily and then I want to yield to the distinguished Senator from Indiana, the ranking member of the Senate Agriculture Committee.

This is a particularly complicated but extremely important piece of legislation. The distinguished Senator from Oklahoma, the chairman of the subcommittee, and the distinguished Senator from Minnesota, the ranking member of the subcommittee, have, as I said yesterday put an enormous amount of time into it. The distinguished Senator from Indiana and I have followed it carefully in a way that, after a matter of over 100 hours of work in meetings and markups in the subcommittee, it came out of the subcommittee unanimously and came to the full committee where it was passed unanimously.

I mention this because, while there may be some minor, relatively technical amendments that we did not take up in the committee still yet to come up on the floor, I would hope that all Senators would be able to resist the temptation to either write a new farm bill or a new any kind of bill on this piece of legislation. It is one of the most intricately interlocked pieces of legislation that will come before our body in this Congress.

I certainly, speaking for myself, will resist any attempt to expand greatly on what we have here. Certainly I will resist any attempt to add either a new farm bill or increase the cost of the bill. We cannot afford it. It would ruin the bipartisan consensus we have put together on this bill and would wreak havoc in the whole system.

This is a consensus bill. As such, few are pleased with every element, but the entire committee was able to endorse it as the best approach in view of our very real budget deficit concerns. Every single member of the Agriculture Committee, if they could have written their own bill and passed just their own bill, would have written it a little differently. But that is not the way it goes. We tried to bring in as a consensus the views of a number of different parts of the country.

But keeping the current law will cost too much—it is estimated that under existing law over $1 billion will be needed for Farm Credit System assistance in fiscal year 1988. That is more than 10 times greater than the first year budget cost of this bill for both the Farm Credit System and the Farmers Home Administration.

Under current law, no strings would be attached to the assistance provided to the System and, in fact, no reforms would be required. The committee bill, which costs less, contains much needed reforms of the System.

Mr. President, this is one thing we tried to do. It was not just to save the Farm Credit System from bankruptcy, which I think our bill does, just as importantly, to being about much needed reform. We set out with the feeling at the beginning of this process that we would give the money needed to keep the system from bankruptcy but the quid pro quo would be that we wanted reforms, much needed reforms.

The Farm Credit System itself requested a $6 billion aid package, all $6 billion of which would have been scored on budget. Yet, the committee was able to keep the cost of assistance in budgetary terms to $1.3 billion over 5 years according to Congressional Budget Office—a pretty significant savings.

The legislation was carefully developed with input from several parties, including the Treasury Department and the Office of Management and Budget. The administration does not oppose this bill. In fact, the administration recognizes its urgency.

Based on these consultations, the financial assistance is primarily off-budget. The Federal commitment and potential outlays are minimized—and the system is required to come to its own assistance.

To ensure that the Federal assistance is properly spent, a Federal Assistance Board will oversee system operations—the Board's members include the Secretary of Treasury, the Secretary of Agriculture, and the Chairman of the Board of Governors of the Federal Reserve Board.

As I mentioned, this bill enjoys the unanimous support of the 19 members of the committee. But that support and consensus is also a delicate balance of many different interests. I will work with the ranking member of the committee, the distinguished Senator from Indiana, Senator LUGAR, to maintain that balance and consensus as amendments are offered to the bill.

Senator LUGAR and I are committed to having a good clean, affordable bill come out of this Chamber. And we will oppose amendments which would add significant costs to the bill or are not germane to the agricultural credit needs of America's farmers or ranchers.

We must move quickly on this bill. We must restore the confidence of American farmers and our financial markets in the Farm Credit System. Defaults by the Farm Credit System on its bonds will have a chilling effect on already troubled financial markets. Interest rates to farmers, ranchers, homeowners, and owners of small businesses—and all others that rely on loans from Government sponsored enterprises such as the Federal National Mortgage Association, will rise if the Farm Credit System fails.

It is our responsibility, all of us as Senators—Republicans and Democrats—to make sure the Farm Credit System does not fail and this really is the last chance we have to make sure does not happen.

The committee bill addresses the three primary concerns: First, it establishes specific procedures for aiding financially stressed Farm Credit System institutions, but with needed Federal oversight; second, it reduces the potential for litigation by specifically stating the obligations of farmer-owners of healthy farm credit institutions to aid those institutions needing assistance; and third, it provides the needed assistance at much less immediate budget cost than current law.

Mr. President, Congress failed to adequately address these very important and essential elements when it passed amendments to the Farm Credit System Act in 1985, and again in 1986.

All of us on the committee recognize that a financially healthy Farm Credit System is essential to U.S. agriculture. We also recognize that this legislation is needed to resolve the System's existing problems. This bill was carefully designed based on lessons from the past—to address American's credit needs in the future.

Briefly, Mr. President, the legislation reported to this Chamber in S. 1665, contains the following elements:

TITLE I: FEDERAL ASSISTANCE

A Federal oversight structure similar to that used in the past to assist Chrysler, Lockheed, and New York City is established.

TITLE II: RESTRUCTURING THE FARM CREDIT SYSTEM

This title contains two major elements. The first is a system funded insurance pool beginning in 1992. The purpose of this "pool" is to provide additional assurances to the investment community by avoiding the complicated and often troublesome voluntary loss sharing agreements used by Farm Credit System institutions in the last few years.

The second major element in this title allows the voluntary merger of both like and unlike Farm Credit System entities. This language recognizes that forced structural reform does little to address the fundamental problems of financial losses and high cost debt that face several units of the Farm Credit System today.

TITLE III: CAPITALIZATION

This title permits the formation of at-risk capital and emphasizes capitalization of the institution, rather than of the loan. While institutions will be given the much needed flexibility to establish capitalization procedures, farmer-owners and Federal policymakers will never again have to question whether stock is, or is not, "at risk."

TITLE IV: BORROWERS' RIGHTS

This title affords the borrower-owners of the Farm Credit System certain rights, to include: First, restructuring of distressed loans to family farmers; second, eligibility to purchase or lease land when the resources are not there to avoid foreclosure; and third, the right of first refusal by the previous owner when the System elects to sell acquired property.

TITLE V: STATE MEDICATION PROGRAM

Meditation, when it is properly carried out, can help avoid lengthy and very costly litigation. Several States have reported excellent results regarding the success of such programs in resolving loan disputes to the satisfaction of all parties. For these reasons, the committee bill provides for a Federal matching grant for State mediation programs.

TITLE VI: FARMERS HOME ADMINISTRATION

This title applies the same advantages of loan restructuring afforded the Farm Credit System borrowers to Farmers Home Administration borrowers. It will allow Farmers Home to turn nonperforming loans into paying assets. It also establishes an appeals process that develops a hearing mechanism for borrowers who have had adverse decisions on their loans.

TITLE VII: SECONDARY MARKET

This title provides for the creation of a secondary market for agricultural and rural housing loans to increase the availability of long-term fixed interest loans for farmers and ranchers.

TITLE VIII: MISCELLANEOUS

This title has three major sections.

Section 1 requires outside directors for Farm Credit System associations and for the Farm Credit System district board of directors to provide needed financial expertise to the boards.

Section 2 requires the Secretary of Agriculture to offer the right of first refusal to holders of notes and other obligations sold under the loan asset sales program of the Farmers Home Administration.

Section 3 provides for the placement of inventory land held by financial institutions into the USDA Conservation Reserve Program.

I ask my colleagues to join me in voting for final passage of this legislation. If passed, financially troubled Farm Credit System institutions will be given the opportunity to again become viable, and farmers and ranchers will be assured of adequate credit at reasonable rates for the foreseeable future.

Mr. President. I am going to yield momentarily to the distinguished Senator from Indiana. I might say, Mr. President, that it would be impossible for us to have this bill on the floor without his guidance and leadership and strenuous efforts on behalf of it. It was a case where it was a real pleasure for me as the new chairman of the committee to be working with Senator LUGAR and Senator BOREN and Senator BOSCHWITZ and others who worked so hard to bring together the kind of bipartisan efforts necessary for this bill. In fact, I applaud all the members of our committee in that regard. This is a urgent bill, Mr. President. The leadership, Senator BYRD and Senator DOLE, have also shown great responsibility by putting this bill on their lists of leadership musts this year. It is a leadership must. We must get it out of this Chamber so we can go to conference, and hopefully we can have a final bill either before we recess at Christmas or at least have the outline of a final bill.

I yield to my good friend from Indiana.

Mr. COCHRAN. Mr. President, before the Senator yields to the distinguished Senator from Indiana, I wonder if he might yield to me for a question which would not take too long?

Mr. LEAHY. Certainly.

Mr. COCHRAN. Mr. President, I appreciate the Senator yielding.

In the statement of the distinguished chairman of our committee he talks about the bipartisan nature of the effort that was made, the fact that the Subcommittee on Farm Credit unanimously reported the bill to the full committee. I do not recall any votes against the bill in the full committee. It may very well have been unanimous then, I think it was.

I wonder, therefore, why it is that S. 1665, the bill before the Senate, is sponsored by Democrats only? I recall introducing, with the distinguished Senator from Arkansas, Senator PRYOR, a separate bill which we looked to in the markup process for some of the provisions that were eventually included in this bill. There were other Senators on the Republican side of the aisle who offered amendments which were included as a part of the bill. The distinguished Senator from Minnesota, who is the ranking Republican member of the subcommittee, spent untold hours developing and helping craft this legislation; the distinguished ranking committee member, Senator LUGAR from Indiana, as an ex officio member of the subcommittee, participated for hours and hours and hours, not only in the hearings but in the markup sessions, offering suggestions, and questioning witnesses.

I am disappointed to see that the bill as presented to the Senate may create the impression to someone unfamiliar with the history of the bill that it was a concoction of the Democrats only. Senator MELCHER is listed as the principal sponsor. Mr. BOREN is listed, Mr. CONRAD, Mr. BURDICK, Mr. PRYOR, and Mr. HARKIN.

I do not know what the process is for reforming, as we do in the chancery court, an instrument to make it conform to the facts or the intent of those who drafted it. But I think, Mr. Chairman, that if my point is well taken, this document ought to be reformed so that those who were involved in crafting the bill could be given credit for their participation in the process.

Mr. LEAHY. Mr. President, I say to my good friend from Mississippi that it certainly was not my intention to suggest this was a Democratic bill. In fact, I probably said between yesterday and today at least a half a dozen or more times—I had spoken of the efforts of both Republicans and Democrats to put this together, not only in the committee but also the Republican and Democratic leadership of the Senate in bringing it up here. Senator BOREN said much the same and applauded the efforts of those who worked with him. It was the statement back from the Republican side saying the same.

The original bill, as I understand it, was used as a vehicle. In fact, it says that we struck out all after the enacting clause and then inserted a new bill which was the bill that came out of the committee. I would be perfectly willing to see all members of the committee, if that would be their desire, listed as sponsors of this bill. I do not want to see it as a Leahy bill, a Boren bill, a Lugar bill, a Cochran bill, a Melcher bill, or anybody else. I think this is a Senate Agriculture Committee bill and a good one and that is the way it has been.

In the 13 years I have served on the Senate Agriculture Committee I have never seen an effort of such complexity where Republicans and Democrats have worked so hard together contributing to the bill. It would be hard for me to point to that bill and say any one Senator wrote this bill, because it was individuals in both parties who did.

I would suggest, and perhaps the distinguished Senator from Indiana may want to check with members on his side if it is agreeable with them, as it is with me, that before this bill leaves the floor that we have unanimous consent that all Senators who wish to be are listed as cosponsors of it. Because the Senator from Mississippi is absolutely right. This bill would not be here if it were not for some of the most talented members of the Republican Party, some of the most talented members of the Democratic Party, who have put untold hours in to make it possible. Certainly the Senator from Mississippi is one of those who has.

Unfortunately for Senator COCHRAN, his office is right across from the Senate Agriculture Committee, so he got yanked over there probably even more than he would like working on that bill.

As I stated on the floor yesterday and today, this bill would not be here without the untiring efforts of the distinguished Senator from Indiana, Senator LUGAR. It would not be on the floor unless the distinguished Democratic leader, Senator BYRD, and the distinguished Republican leader, Senator DOLE, had put it on their lists of "must" legislation. This is truly a bipartisan bill.

As the chairman, I would not want it referred to any other way and I would be happy to sit down with the Senator from Mississippi and the Senator from Indiana, Senator from Oklahoma, Senator BOREN, and others, and determine just how best we list cosponsors.

I would be happy to put my name last so that everybody else can be ahead of me. I will come in there at the end. I just want this bill to pass. We need it.

Mr. COCHRAN. Mr. President, I appreciate very much the comments of the distinguished chairman of the committee. I observe, too, that his name has been left off the bill and that is an injustice as well.

Mr. LEAHY. You know, this was in a true sense of bipartisanship. Both former Speaker Sam Rayburn and President Ronald Reagan have said many times, it is amazing what you can accomplish if you do not care who gets credit for it. We have accomplished a great deal with this bill and when it passes I will be happy to see my name last. I just want the bill to pass.

I yield to the Senator.

Mr. LUGAR. Would the Senator yield for a question before he yields the floor?

Mr. LEAHY. Yes.

Mr. LUGAR. Mr. President, in view of the colloquy in which we have engaged—the Senator from Mississippi has made an excellent point—would in fact both Republican and Democratic leadership today find those Members who wish to be associated with this bill up front so that their names might be listed as completely as possible? Because I think there are many persons on our side of the aisle who clearly want to be associated with the bill.

Obviously the chairman wants to be associated and his name has been omitted. It really should be first and not last.

Mr. LEAHY. I will put it last.

Mr. LUGAR. So perhaps even as we are in the process of debating the bill our colleagues might be helping us by furnishing their names. Some will be obvious, namely the members of the committee. All of them I think will want to be associated with this bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that before this bill leaves the floor that the Senator from Indiana and I be able to present to the Senate the list of sponsors and cosponsors to be shown as the sponsors and cosponsors of S. 1665.

The PRESIDING OFFICER (Mr. DIXON). Without objection, that will be the order.

The Senator from Indiana.

Mr. LUGAR. Mr. President, I want to begin by reciprocating the very generous comments which have been made by the distinguished chairman of our committee about the support of many persons on both sides of the aisle.

He has been particularly generous with regard to his comments about Republican members of the committee who participated in the markup and in this debate.

It has been a genuine pleasure to work with the chairman of the Agriculture Committee to try to fashion an extremely complex but extremely important piece of legislation.

I would likewise commend the distinguished chairman of the subcommittee, Senator BOREN, who was invaluable in his work, extraordinarily diplomatic and knowledgeable, and also the distinguished ranking member of that subcommittee, Senator BOSCHWITZ, who has devoted so much of his own thinking to this bill as well as his vigorous presence in our meetings.

There are so many other members of the committee who come to mind and I do not want to slight any of them. I will refer to the distinguished Senator from Mississippi, Senator COCHRAN, who has made an enormous contribution to this process.

Senator KARNES of Nebraska, a new member on our committee, has made a vital contribution concerning farm credit.

Senator CONRAD came to the subcommittee and expressed the viewpoints of so many constituents which are so important, as with Senator DASCHLE who has had so much experience with persons who have great problems in agriculture presently, who have great need for this bill.

Senator HARKIN made an enormous contribution, along with Senator CONRAD and Senator DASCHLE, on the Farmers Home section, particularly.

Senator MELCHER has devoted a great deal of time and thought to this issue throughout his years of association on the committee.

Mr. President, this does not exhaust the list, but they are persons whose contributions are vivid in my mind as we take up this legislation on the floor.

I want to indicate, Mr. President, that I am enthusiastically in support of S. 1665.

I want to begin by clarifying exactly what the bill before the Senate represents, and what it does not. The issue is not the preservation of every vestige of a banking system or protecting a group of investors on Wall Street or any other financial realm. The issue instead is the well-being of farmers—a specific group of farmers—who have struggled to make a living for themselves and their families, but for many reasons have run into grave financial difficulty.

The Farm Credit System is presently operating under the Farm Credit Act amendments enacted in 1985 and 1986. Current law provides the means to assist the System. For example, regulatory accounting practices prevent impairment of borrower stock by deferring accrual of bank losses to future years. The Capital Corporation under these amendments works with limited powers to help troubled institutions by redistributing the System's capital reserves and assisting in the working out of nonaccrual loans and other asset. However to the extent that the Capital Corporation had authority to conduct this activity its efforts have been hampered by extensive litigation. Upon depletion of the System's financial reserves, current law requires the Farm Credit Administration to request appropriated funds from the Congress to prop up the ailing institutions.

These tools, however, are inadequate to deal with the full extent of the problem. Current law does not give the Capital Corporation the power to merge hopelessly bankrupt institutions. The Capital Corporation cannot effectively remove inept bank management that refuses to implement reform measures. Most importantly, any financial assistance provided under current law comes directly from the U.S. Treasury and will increase the budget deficit.

As the distinguished chairman has pointed out, Mr. President, we do have that alternative. In the event legislation does not occur, there are going to be demands upon this system and there are going to be appropriations down the trail. I think the chairman has made a good case that through reform of the system we hope to limit the exposure of the U.S. Treasury very, very substantially.

These tools, however, are not making the situation better.

In fact, failure to pass this legislation could result in costly Federal assistance under current law with no means to ensure that these funds will be used prudently by the receiving institutions. Current law attempts to preserve every vestige of the Farm Credit System without requiring loan restructuring to ailing farmers and protecting borrower stock.

S. 1665, on the other hand, is indeed reform legislation that has been painstakingly developed by the Senate Agriculture Committee in over 20 hours of markup sessions. It eliminates the inadequacies of current law and provides a fiscally responsible approach that relies significantly on System self-help efforts.

The bill calls for establishment of an Assistance Board consisting of the Secretary of Treasury, the Secretary of Agriculture, the Federal Reserve Chairman, and two members appointed by the President.

Mr. President, this model is one that we found was successful in the Chrysler legislation, to take a vivid example of which the Chair is aware and in which many Senators participated in the late 1970's.

The point was that if the taxpayers were to come to the assistance of a financial system, there had to be safeguards. Safeguards are provided by this very distinguished membership—the Secretary of the Treasury, the Secretary of Agriculture, the Chairman of the Federal Reserve. These are the majority members. Without their OK, funds do not go to an institution that has a plan. It has to have a good plan to pass muster through this board before funds are dispensed. It is a critically important point, Mr. President.

It seems to me that the Agriculture Committee has dealt with this responsibly and by the numbers in terms of the criteria by which money would flow to the Farm Credit System.

The Assistance Board will have the authority to approve an insolvent bank's business plan, the authority to require the setting of interest rates based upon marginal cost pricing, authority to remove bank managers or employees who refuse to take aggressive action toward self-help measures, and finally, authority to require mergers of banks and associations whose financial condition has deteriorated beyond repair. These powers are in large measure the reason this legislation can be characterized as a reform bill and not simply a bank bailout.

The Assistance Board will ensure that any taxpayer-financed assistance will not be given to those institutions that refuse to take responsible measures to help themselves. The Board is similar in structure and power to the Chrysler Board, as I pointed out, that I proposed in 1979 which helped lead that troubled entity back to profitability.

The Assistance Board will attempt to correct three basic problems that have resulted in approximately $4.2 billion in System losses during the last 2 years:

First, excessive overhead expenses due to an obsolete structure and considerable duplication among System institutions amounting to about $800-$900 million annually, in what we believe is excessive overhead. These expenses have helped to make the System's interest rates less competitive than the rates available from commercial banks and other lenders, thus leading to the demise of some elements of the System.

Second, addressing the problem of poor managers who have refused or failed to make tough decisions and to take bold actions in the past to eliminate the root causes of the financial problems facing some institutions in order to avoid the financial crises that they now face. In many instances the System can improve their financial position by simply restructuring their nonaccrual loan portfolio into interest-bearing loan accounts. With the exception of the St. Paul district, this fact has largely been ignored.

Third, the failure of System banks to respond to obvious merger situations needed to bring about cost savings measures. Contrary to popular belief, the System has large financial reserves in excess of $1.2 billion and many problems can be solved by simply merger a troubled back with a healthy one that has large financial reserves. Under the provisions of the bill, the Board may require a merger as a condition for receiving financial assistance. Poorly managed and inefficient banks and associations should be merged with other entities that have a better track record.

Many aspects of the present Farm Credit System will be brought to a close by the Assistance Board. Banks and associations will be merged, and bad management removed. This was clearly the committee's objective—a tough-minded, fast-acting Assistance Board whose purpose will not simply be to protect every vestige of current Farm Credit System.

Mr. President, while this legislation is tough on the Farm Credit System, by all measures it is a particularly generous bill for the System's present borrowers, and other debt-ridden farmers.

The bill requires the Farm Credit System banks receiving assistance from the Assistance Board to restructure and write down delinquent farm loans to the net present value of each particular loan. A delinquent borrower whose net equity has fallen due to declines in land values will have the opportunity to reduce his or her outstanding indebtedness to the current liquidation value of the collateral property. For many farmers, this debt write down requirement will enable them to remain in farming.

I might point out, Mr. President, this body—in fact, the Congress as a whole—passed chapter 12 in the bankruptcy legislation which gives certain options currently to farmers. We are not rewriting the law in that respect. We are taking cognizance of options that are already available to farmers trying to incorporate this into a more efficient management of the Farm Credit System.

These mandatory restructuring provisions are further strengthened by the fact that decisions not to restructure are monitored and reviewed at both the district and national levels—first by the applicable district special asset group and then by a National Special Asset Council on a sample basis. This two-tiered review will help to ensure that farmers are receiving fair treatment through the loan restructuring process. This will be particularly helpful in those situations where the local loan officer and the borrower have a poor working relationship and a negotiated settlement between the two adversaries is unlikely.

The bill contains an extensive borrower's bill of rights section that provides further protections and benefits to distressed farmers. Borrowers who lose their land would have first option to rent or purchase the property back from their lenders at current market rates.

Borrowers are guaranteed complete access to their loan files so that they will better understand the credit policies of the lender and the reasons behind adverse credit decisions. The bill requires System institutions to fully disclose their real rates of interest including provisions for the purchase of stock and they are required to notify borrowers of any changes in the rates of interest.

Finally, the borrowers' right section allows borrowers to obtain upon request copies of stockholders' mailing lists in order to promote open communications and oversight by the member/borrowers. Access to these lists will be particularly important prior to membership votes on mergers and consolidations of banks and associations.

The chairman has pointed out the very broad support this bill has. I have received letters, as he has, from members of each of the groups that the chairman listed and they cover the entirety of American agriculture and American banking and financial associations.

I am aware of the budgetary climate that we face as we consider this legislation. I am also aware that the Congressional Budget Office has provided a cost estimate that reflects an annual direct spending under this legislation of $90 million in fiscal year 1988; $80 million in fiscal year 1989; $140 million in fiscal year 1990; $110 million in fiscal year 1991; and $30 million in fiscal year 1992. In addition, the bill provides an annual authorization for appropriations of about $200 million in connection with the subsidy of interest on System issued Government guaranteed bonds, with the total level of expenditures during the first 5 years being estimated by CBO to be $820 million.

Despite these levels of expenditures, the cost of this bill is reasonable when compared to the alternatives of default on System obligations or implementation of the 1985 amendments. Less than 6 months ago, the System and many Members of Congress were proposing a $6 billion line of credit to the U.S. Treasury in fiscal year 1988 alone.

S. 1665 is a delicately balanced compromise. Indeed, I could suggest many improvements in the bill, but to do so would destroy the compromise and with it the hope of enacting a responsible approach to our farm credit problems. I urge all Members to withhold offering amendments that will increase the cost of the bill or that will erode the balance between the Government contribution and the System's self-help contribution as they are envisioned in this package. Any amendments of this nature will be most strongly opposed by the administration and would threaten passage of this bill prior to our adjournment.

Mr. President, let me just follow on by making this point I suppose in still a different form. Throughout our markups, we were pleased with abnormal participation, as the distinguished Senator from Oklahoma pointed out yesterday, of members of the subcommittee. The chairman will testify that we had an extraordinary turnout for the markups and full participation by all of the members who came to a 19 to 0 unanimous vote. We have worked carefully with the administration throughout months of time on a number of very tortuous subjects that could have led to a breakdown of the whole process. At this point, I am pleased to say that the compromise that we have S. 1665, the bipartisan, unanimously forged document, has support of the administration. But it is tenuous support based upon a great deal of give and take.

To be very candid, Mr. President, there were strenuous compromises to be made between the problem of the safety and the integrity and the future of the Farm Credit System and the attention given to individual farmers, particularly in the Farmers Home section. To the extent that each and every individual farmer is being assisted, the problems for the Farm Credit System and its elements are, of course, made more difficult than they would be by a competitive banking situation that did not have those guidelines and that need for compassionate individual services. I think we all recognize that. We recognize that the costs of doing business in this way are reflected in a sense in the costs that taxpayers will be involved in in the direct assistance of the Farmers Home situation and the subsidies of interest. In fact, we have a delicate balance, it seems to me, with regard to the entire credit system of the country. One reason the U.S. Treasury has paid very careful attention to this legislation is that certain elements of the Farm Credit System are very close to default. It is assumed that the U.S. Government would come to their rescue. This package is the rescue, but it is not only rescue; it is reform. It says in order to get to this money, you have to change management practices. You have to get efficient employees. You have to get several hundred million dollars of System overhead out of the situation. It is a very important balance.

Now, Mr. President, I think we are faced with a technical problem legislatively and we need to get to conference. The House of Representatives has passed a bill that has many similarities but substantial differences, as CBO has already analyzed. If compromise can come with the other body, a conference report still needs to come back through this body. The details of the bill require about 100 days in structuring the Capital Improvements Board and all the elements that are involved. In essence, the Farm Credit System sort of holds in the balance while we are at our work.

In the event that the compromise which has been fashioned in committee for some reason were to be disrupted by amendments today, it is not at all difficult to see the entire process floundering. I join the distinguished chairman of the committee and the distinguished chairman of the subcommittee and ranking member in asking all Members to cooperate, if they possibly can, with us in the speedy passage of this bill without amendments that will deflect at least our attention from the need to get to conference, the need for constructive legislation which, in fact, targets money where it needs to go in rapid fashion to help individual farmers, to help elements of the System, and to do so at a minimum of expense to the taxpayers of this country.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise in strong support of S. 1665 the Farm Credit Act of 1987.

Mr. President, the crafting of this bill has been, I believe, a textbook in how the Senate should work. There has been strong leadership. We spent very long hours working on this bill. There has been the full involvement of the Senators of the Senate Agriculture Committee. A spirit of compromise in problem-solving prevailed.

Mr. President, I want to first acknowledge the contribution of the chairman, Senator LEAHY, who created a climate for success and was always ready to use his good offices to promote the passage of this legislation. Without his leadership, we could not be here today. I want to quickly add that Senator LUGAR, the ranking member of the Senate Agriculture Committee, deserves, too, major credit for bringing their bill successfully to the floor. He participated fully in the markups in the subcommittee, and his evenhanded and professional approach helped make the markup productive.

I want to salute the chairman of the committee, and the ranking member of the committee for a really textbook case of leadership. Partisanship was put on the shelf. Serious problem-solving was the order of the day. I also want to commend the hard work and dedication of Senator BOREN, the chairman of the Subcommittee on Farm Credit. Senator BOREN performed brilliantly. He carefully listened to all opposing viewpoints and time after time when it appeared the process of moving this bill ahead might break down, Senator BOREN somehow managed to bring us back on track. Again, without Senator BOREN's leadership, this bill would not be before us today.

I also want to commend my friend and colleague from the State of Minnesota, Senator BOSCHWITZ, the ranking minority member on the subcommittee who worked extremely hard to help develop this package and was instrumental in the development of many of the compromises between competing interests.

I heard over and over from Senators who have been in this body for more than a decade that never before have they seen the kind of commitment to time and the kind of evenhanded bipartisanship that was at work in the markup of this bill. I think those are the leaders who should take special credit for what occurred.

Finally, Mr. President, I would like to commend the Department of Agriculture for their willingness to negotiate on the Farmers Home provisions in this bill. I know that many at USDA were philosophically opposed to the original restructuring provisions in the legislation. But I appreciate their willingness to reach a common ground.

Mr. President, many others have discussed the importance of this legislation. Let me emphasize how critical this bill is to the entire country. The Farm Credit System is the largest financial institution in this country. It is a farmer-owned cooperative chartered by the U.S. Government to provide credit at reasonable rates and terms to family farmers who are members of the cooperative. Together with the Farmers Home Administration it provides over half of the agricultural credit needed by agriculture. To provide that credit at reasonable rates and terms the FCS sells bonds on Wall Street. A failure to pass this legislation could result in the failure of FCS to redeem all of its outstanding bonds. If that happens, it will reduce the confidence of foreigners in the U.S. Government and the U.S. dollar. It will reduce the confidence of investors on Wall Street and potentially cause another financial shock to an already weakened U.S. economic system.

At this time, we need to build confidence in our ability to manage this Government and our economic affairs. This bill helps us do that.

Mr. President, many ask why do we need to be helping the largest financial institution in the country; why is this cooperative in trouble?

Mr. President, there are many reasons. But let me focus on the economy of rural America. The economy in rural America is the major reason for the current financial crisis in the Farm Credit System. Real net farm income has fallen 40 percent from the decade of the 1970's to the 1980's. Even more telling has been the decline in the average real net farm income of family-sized farms in the 1980's.

Mr. President, farmers with sales of from $50,000 to $250,000 a year have seen their net farm income fall from an average of over $40,000 a year in the 1970's to a little over $12,000 in the 1980's. During the 1980's the farmers' share of the consumer food dollar has fallen by 50 percent. Let me repeat that, Mr. President. During the 1980's the farmers' share of the consumer food dollar has fallen by 50 percent. Farmland values have collapsed, going down as much as 64 percent in some States since 1981.

In my State, farmland values have fallen about 40 percent in that time period. For many farmers land is not only worth much less than they paid for it, but its productive value, the income it generates, has fallen even further. The fact is that billions of dollars of bad debt exist in rural America. It will not go away. It cannot be paid. It must be handled in a careful and orderly manner if we are to prevent a further precipitous collapse. This farm credit legislation will allow us to do that.

Some argue that increasing exports are helping farmers substantially and that recovery is just around the corner. Well, it is true that volume of exports have increased substantially. Export earnings in wheat and feed grains have actually declined due to falling prices. The recession in agriculture, Mr. President, is the reason we need this bill.

In a recent visit to my State I took a tour of 22 cities for town hall meetings and in town after town after town I heard people ask me to do something and do it quickly about the Farm Credit System or they could not hold out much longer. Mr. President, S. 1665 answers that cry. S. 1665 provides real solutions to these problems. It recapitalizes the Farm Credit System and does it in the least costly way for the American taxpayers. It provides for restructuring of delinquent borrower loans if restructuring will save money for the Farm Credit System.

This will put literally hundreds of millions of dollars of delinquent debt back on the books paying interest. S. 1665 protects borrowers' rights. It will allow interest rates charged borrowers to decline. It creates a program to support State mediation programs, and S. 1665 creates a secondary market for agricultural real estate debt.

This provision will help provide liquidity to rural financial institutions.

I should note the Federal Deposit Insurance Corporation believes this provision will reduce the riskiness of agricultural lending in the long term.

And S. 1665 provides for the streamlining of FmHA procedures for debt restructuring and loan servicing. These provisions are essential to restructuring of U.S. agriculture.

Mr. President, title VI of this act, farmers home loan restructuring, contains a number of important provisions that were contained in a bill I introduced earlier this year, S. 1179. I would like to touch on a few of the provisions that are in this bill.

The major provision of this title is the loan restructuring changes contained in section 613. This section directs the Farmers Home Administration to restructure loans of delinquent borrowers if such a restructuring would allow for a greater recovery by the Federal Government.

This bill requires debt restructuring only when it will save the Federal Government money. That point, Mr. President, needs to be emphasized. Data from the General Accounting Office and testimony from the Administrator of FmHA verifies that FmHA has over $10 billion in delinquent farmer borrower debt. Over $6 billion of that total has been delinquent for over 3 years.

Mr. President, only a vigorous restructuring program will put some of this back on the books as performing assets. The bad debt problem in agriculture is real. It will not go away, and it must be dealt with.

Mr. President, our choice is to either pay now or pay later. That is the question before us. The debt in agriculture is hanging over us. It will be dealt with. The question is whether we vigorously attack the problem and confront it now, or wait for it to grow and become more difficult to confront in the years ahead.

The remainder of the provisions of title VI are designed to ease the restructuring of transition of agriculture in the remainder of the 1980's.

Section 603 gives FmHA authority to set up a debt restructuring program for guaranteed loans in addition to that provided for direct loans.

Section 604 directs the FmHA to provide adequate notice of loan servicing options.

This provision will clear up the legal mess concerning unconstitutional notices to thousands of farmer-borrowers across the country. It should hasten the end of the current litigation.

Section 606 will set up a more independent appeals process for FmHA borrowers.

I should point out that the change in the appeals process was developed by USDA. I consider it a major step forward for the agency.

Section 608 provides for income release of up to $18,000 per year for 1 year for those farmers whose loans were accelerated under the unconstitutional notice procedures.

Mr. President, I would be the first to say $18,000 is not sufficient. Many of us pushed for a higher figure. But this bill is a product of compromise. There were many who were adamantly opposed to the inclusion of this provision at all. There were many who were opposed to the inclusion of FmHA reform provisions at all. But this bill is a product of compromise. And without compromise, these provisions would not be present in this bill.

Each of the 5,900 farmers still left in farming who were part of the original Coleman case has been given standing to sue the Federal Government for violation of due process rights. These suits have the potential to cost the Federal Government millions of dollars. Many of these farmers are literally being starved off of the land. This provision in section 608 will allow the 5,900 who remain in farming the opportunity to restructure their loans under the provisions of this bill.

In closing I would like to remind my colleagues of the importance of this legislation to the economic recovery of the agricultural sector, to the rural economy, and, indeed, to our entire Nation's economy.

In 1981, agriculture enjoyed a $25 billion trade surplus with the rest of the world. To regain competitiveness, agriculture needs a steady source of credit at reasonable rates of interest. They do not have that now and will not if this bill does not pass.

The bad debt, severely stressed Farm Credit System and the farm recession are facts. We are beginning to see the end of the decline. But we need to restructure the credit part of the agricultural sector. Failing to do so will prolong the most serious economic upheaval in the rural part of this Nation since the Great Depression.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I appreciate very much the kind personal comments made by the distinguished Senator from North Dakota.

The Senator from North Dakota joined the Senate Agriculture Committee this year. He has been extremely valuable to us in our deliberations. He raised a number of the issues that are addressed in this bill and his influence and expertise was shown all the way through the deliberations, and I appreciate the efforts that he has made there.

Mr. President, I understand there may be some amendments of a technical nature. I should note for my colleagues it would be my intent to see this bill move as rapidly as possible.

I may suggest, if we could see some support for this, a unanimous-consent request a little later on for a time certain for completion of the bill. I mention this because if Senators do have any amendments I would hope that they would bring them to the floor fairly rapidly, because once we determine that there are no amendments pending or no amendments we know of then we would move for third reading.

I know that there are a couple of housekeeping amendments that are now being worked out in the kind of parallel debate going on that we normally have in these deliberations, and so I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1212

(Purpose: To ensure the applicability of certain provisions in the Consolidated Farm and Rural Development Act to notes and other obligations sold by the Secretary of Agriculture)

Mr. BOREN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 1212.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 361, in line 5, strike out "subsection" and insert in lieu thereof "subsections".

On page 362, strike out line 19 and insert in lieu thereof "tions.".

On page 362, insert the following before line 20:

"(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

Mr. BOREN. Mr. President, this amendment which I have sent to the desk will ensure that the provision in current law which prohibits the curtailment or limitation of service of rural water associations would continue to be applicable to any note or obligation sold, or intended to be sold, by the Secretary of Agriculture.

Under section 306(b) of the Consolidated Farm and Rural Development Act, the area served by an association receiving a rural water and sewer loan cannot be curtailed or limited by inclusion of the area within the boundaries of any municipal corporation or other public body, or by granting any private franchise for similar service within the same area during the term of the rural water and sewer loan.

As my colleagues will recall, section 1001 of the Omnibus Budget Reconciliation Act of 1986 requires the Secretary of Agriculture to sell rural water and sewer loans during fiscal years 1987 through 1989. While the act specifically prohibits the alteration of the terms specified in the loan if the loan is sold, apparently a question has recently been raised with respect to the ability of the Farmers Home Administration to enforce the applicability of section 306(b) of the Consolidated Farm and Rural Development Act once the loan is sold.

To clarify this issue, this amendment will specifically provide that the provisions of section 306(b) would be applicable to all loans sold, or intended to be sold, by the Secretary of Agriculture.

I understand that the Department of Agriculture has no objection to this amendment, which is a clarifying amendment. I also understand that it has been cleared on both sides of the aisle and, therefore, Mr. President, I urge the acceptance of the amendment.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 1212) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the farm credit legislation now before the Senate has been a long time in the making. I have encouraged the framers of this document to make some changes that they have made, and I have been not only encouraged by what has happened but have some reservation as this measure comes before the Senate. I will support the legislation because I think it is probably the best that can be done under present circumstances.

During the making of this very important legislation I have been both encouraged and sometimes disappointed all along the way and I suspect many of my colleagues felt the same way at one time or another.

Regardless of how anyone feels about the final product, it is clear that the members of the Agriculture Credit Subcommittee and the Agriculture Committee itself have worked very hard and their dedication is to be commended.

There are a number of aspects of this legislation which please me a great deal. The redemption of the so-called "B" stock at par value is one of those positive provisions. It will mean a great deal to the borrowers of the now liquidated O'Neill and Valentine Production Credit Associations in Nebraska. They faced painful losses when their institutions were liquidated and I am very glad to see those situations "made right" by this bill.

I am also encouraged by the progress that has been made on the secondary market for agricultural mortgages.

I was the first one I believe who introduced legislation to address this in the Senate. This tool has been talked about for a very long time and a number of versions have been suggested over the last several years. The creation of a secondary market will not be an immediate panacea for agricultural borrowers, but it could provide much-needed lower interest rates on down the road.

The debate over the Farm Credit System will not be complete, however, until we take a long and a very hard look at what lies further down this troubled agriculture road. Whether or not the "bailout" proposed in this legislation succeeds depends in a very big way on the overall farm economy in the future. It depends on whether or not farm income is maintained. I spoke on this point yesterday and I rise today to reemphasize my deep concern in this area, and I think that this should be fully understood by all Members of the U.S. Senate as we move ahead to pass this legislation, which is vitally needed.

Our current farm program has served as a "conduit" of funds in many cases. America's farmers are dependent on the Federal Government like they have never been before. Any reduction in farm programs will have a definite "ripple" effect on all of rural America. That "ripple" will seem like a "tidal wave" when it hits an already shaky Farm Credit System.

I note with great concern a statement made by the Congressional Budget Office in their analysis of S. 1665. I am sure that that document has already been printed in the RECORD, so I will not ask it be printed again. I want to point out, though, that it states:

> The amount of assistance required by the Farm Credit System is highly sensitive to changes in the financial conditions of the agricultural sector and their effect on the system.

In plain English, Mr. President, this means that we have a "poker game" going on and the stakes are extremely high.

Also, in that document, Mr. President, I would like to point out, in the second following paragraph after the quote that I just made under "Basis of Estimate," that document says:

> The primary budget impact of S. 1665 would come from assistance to the Farm Credit System. Changes in the administration of agricultural loans made by the Farmers Home Administration and the authorization of matching grants to States for farm loan mediation programs would also result in Federal expenditures.

I am highlighting these two parts of the report, Mr. President, simply to detail and have everyone here understand that this Farm Credit System package is not going to be successful if we have a reduction in the net farm income of the family farmers of America. To put that another way, Mr. President: those who are going to vote for this should basically understand that they are making a commitment—a commitment, if you will, Mr. President—to make sure that if this program is going to work, it is going to require that we be vigilant, that we be vigilant, Mr. President, in future votes and actions by the U.S. Senate, Gramm-Rudman or otherwise; that if we do not keep our commitment to keep the net farmer income no lower than it is now, this bailout provision is doomed to failure.

To drive home that point a little bit more, Mr. President, I think it should be made very clear as to what we are doing. Those who vote for this are making a commitment, I think, to see that, through whatever mechanism, the net farm income cannot slip any further.

Mr. President, I will quote now from a letter of October 7 regarding this proposition. It is a letter that I received from James D. Kirk, president and chief executive officer of the Bank for Cooperatives in Omaha, NE. I had written Mr. Kirk asking a series of questions regarding the legislation that was then in its formative stage. And one of the questions that I asked Mr. Kirk was this: "What level of Federal crop subsidy is required?"

In answer to that question, Mr. Kirk said, and I quote from the letter:

> The borrowers in this district cannot withstand reductions in Government support over what already has been planned. I agree the agriculture budget should not be cut until producers can face the instability (and opportunity) of a free marketplace.

Mr. President, I ask unanimous consent that the full text of the letter of October 7 from Mr. Kirk be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, we have been playing a poker game with the Nation's farm economy for far too long. This ill-fated poker game began with the 1985 farm bill and it continues with the farm credit legislation before us, as necessary as that is.

There has been a good deal of "happy talk" going around about the farm economy in recent months. America's farmers have been lulled into a state of quiet complacency. Given the outlines of the budget agreement circulating these days, I find their dependence on the Federal Government just plain frightening.

I do not take pleasure in raining on the recent parade of so-called successes in our farm economy. We are exporting more farm commodities for less money while our farmers are on a crash course of lower farm prices.

Mr. President, it seems to me that the legislation that has been crafted here is one that deserves the support of the U.S. Senate, the Congress, and the President. But, having said that, I want to make it indelibly clear that in passing this legislation we are making a commitment, if we are going to be honest with ourselves, honest with our taxpayers and honest with our farmers in rural America, we are making a commitment to do whatever is necessary, notwithstanding any other Government programs or policies, to maintain the net income of farmers at no less than the present level.

Mr. President, I yield the floor.

EXHIBIT 1

FARM CREDIT SERVICES,
Omaha, NE, October 7, 1987.

Hon. J. JAMES EXON,
U.S. Senate, Washington, DC.

DEAR SENATOR EXON: The issues and questions concerning the Farm Credit System outlined in your letter of October 1, 1987 reveal your commitment to a healthy and prosperous agriculture sector. Although no one can predict how the legislation before Congress will unfold, I do know that agriculture overall and farmer-borrowers will benefit from federal assistance for the Farm Credit System. Before I address the specific questions in your letter, let me say that the System is worth saving. We are the only lender dedicated specifically to agriculture and capable of delivering credit without regard to the business cycle. I know for a fact, given my own experience in the commercial banking sector, that banks will enter the ag credit market in good times and leave the sector in bad. A viable and competitive Farm Credit System can play a stabilizing role in agricultural lending.

Question: What will the federal assistance do for borrowers?

Farmers and ranchers will directly benefit in three key ways. The legislation in the House and Senate would protect borrower stock. Without that protection and in the event of a liquidation, the loss could be tremendous. With the protection, farmer, rancher and cooperative stock investments in this district amounting to over $400 million is safeguarded.

The farmer mentioned in your letter, and others in similar situations, will also benefit if the System receives assistance. So far this year, the Omaha district has restructured over $743 million (3,545 loans) of loan volume. Of that total, $619 million (2,517 loans) involved some type of interest rate reduction or principal forgiveness. The rest have rescheduled or reamortized a portion of their obligation. Under current bank direction, our lending staff will attempt to restructure a loan if the borrower is cooperative, making a conscientious effort to fulfill the terms of the loan contract, and has the ability to effectively manage the operations. With financial assistance, we can continue our restructuring efforts.

As I mentioned earlier, borrowers and non-borrowers will benefit from a viable and competitive Farm Credit System. Chase Econometrics estimated that without the competitive pressure of having a Farm Credit System, interest rates in the ag sector could be higher by 3 to 4 percentage points.

Question: Is the $2-4 billion sufficient?

Based on minimum financial viability criteria, that amount may be sufficient. Recent stabilization in land values, good crops, the government support program, and the Omaha District's success at loan restructuring and acquired property sales have reduced our need for assistance from earlier projections. We still need assistance and that amount could be greater, if Congress wants to use the System to pass through large, across-the-board interest rate reductions; if it imposes substantial administrative or operational constraints, or if it limits our ability to sell acquired property. The constraints on our ability to operate efficiently and sell property could cost this district alone over $150 million over the next 10 years.

Question: Are we prepared to make the sacrifices necessary to sustain the System?

Our plans for this district call for continued restructuring, selling acquired property, attracting new business of creditworthy borrowers, and cutting expenses by over 30 percent. Yes, we are making the sacrifices necessary to survive. Such sacrifices could also include mergers to reduce overhead, selling buildings, and eliminating management layers. In essence, our plan calls for enhancements to the local delivery system, while becoming more efficient.

Question: What level of federal crop subsidy is required?

The borrowers in this district cannot withstand reductions in government support over what has already been planned. I agree the agriculture budget should not be cut until producers can face the instability (and opportunity) of a free marketplace.

In sum, I ask for your help with respect to the legislation in the Senate. From an Omaha perspective, I ask that you support our request for hard dollars of assistance, that you help structure the government oversight function (assistance board) so that it is not burdensome, and that you encourage language that allows the System to reasonably market acquired property. I have enclosed a letter we sent to other district representatives on the Senate Ag Committee for additional explanation.

I would be willing to meet with you in Omaha or Washington to answer any additional questions.

Sincerely,

JAMES D. KIRK,
President and Chief Executive Officer.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very pleased that we are finally doing something about agriculture financial credit.

For the last 4 years we have had a crisis in rural America—a crisis every bit as severe as what confronted rural America during the Great Depression.

In each of the last 4 years, the United States has lost approximately 100,000 farmers. That amounts to about 275 farmers going out of business each and every day.

And it is no mystery why farmers have been forced out of business. Since 1980, farm income has shrunk by 40 percent. The value of farmland has dropped from 40-70 percent over the same period.

It is no surprise that the Government chartered lending institution for farmers—the Farm Credit System—has itself experienced severe financial distress.

Although the situation has brightened slightly in the last few weeks, the FCS still sits on the brink of financial collapse.

But the FCS is both a victim of and a cause of the farm crisis.

The FCS lending and foreclosure policies in this decade have helped drive many farmers off their land.

The Farm Credit System must be reformed, and it is vital that Congress grant aid to the FCS to keep it afloat financially.

The FCS fills a financial need that cannot be filled by private lenders. If we refused to act to keep the system afloat we will face a larger crisis a few years down the road.

However, we must demand reform in farm credit policies and organization in return for Federal aid. What are those reforms?

The FCS bureaucracy must be reorganized to better meet the needs of borrowers.

The FCS must be forced to better respect the rights of its borrowers.

The FCS must look to restructuring instead of foreclosure as the way to deal with troubled loans.

In short, the FCS must be more responsive to the unique needs of farmers.

The farm credit bill is good legislation for good people. I am impressed with the efforts of my colleagues to assemble this bill.

I may offer an amendment to the bill during the course of the debate. But I believe that, by and large, the members of the Agriculture Committee have done an excellent job in striking a balance between the needs of the FCS and the needs of its borrowers.

I thank the members of the Agriculture Committee for the long hours they have put in drafting this legislation.

I hope that we can complete action on this bill very quickly.

The farm credit bill is an early Christmas present that rural America needs very badly.

AMENDMENT NO. 1213

(Purpose: To permit the Secretary of Agriculture to waive the limitation on annual rental payments under the conservation program to provide assistance to certain owners and operators of farms and ranches)

Mr. PRESSLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. Pressler] for himself and Mr. Daschle, proposes an amendment numbered 1213.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 365, between lines 3 and 4, insert the following new section:

SEC. 803. WAIVER OF ANNUAL RENTAL PAYMENT LIMITATION UNDER THE CONSERVATION RESERVE PROGRAM TO ASSIST CERTAIN OWNERS AND OPERATORS.

Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may waive the limitation contained in paragraph (1) in any case in which—

"(A) a State is a new owner of land subject to a contract entered into under this subtitle;

"(B) the State continues such contract under the same terms and conditions as such contract; and

"(C) the State has acquired the ownership of such land pursuant to a financing program of benefit to owners and operators of farms and ranches that is carried out in a manner determined by the Secretary to be appropriate and consistent with this subtitle."

Redesignate the succeeding sections in title VIII, and all references thereto, accordingly.

Mr. PRESSLER. Mr. President, first of all, I commend the managers of this bill and others who have worked hard to bring it to the floor. It is indeed a difficult subject matter. The entire issue we have before us, relating to agriculture, and agricultural credit is a broad and a complicated area.

The amendment I am offering would exempt States that develop an approved financial assistance program from the $50,000 payment limitation for the Conservation Reserve Program. The amendment would not remove the $50,000 payment limitation for individuals, nor would it cost the Federal Government any money.

Specifically, the amendment would exempt States that develop an approved farm assistance program from the $50,000 payment limitation for the Conservation Reserve Program.

Mr. President, I am offering this amendment on behalf of myself and Senator Daschle. Our State of South Dakota has been trying to develop a program in which it could use the CRP to assist farmers in paying off a large portion of their debt immediately. Under the proposed South Dakota program, farmers would enroll land in the CRP and then deed the land over to the State for a period of 10 years. In return, the State would make a one-time payment to the farmer. This one-time payment would allow the farmer to pay off a portion of his debt or restructure his debt. In many cases, this will improve the farmer's financial position. In fact, in some cases, this program could make the difference in determining whether a farmer survives in farming. At the end of the 10-year period, the land would be returned to the farmer.

This type of program would benefit farm lenders in many instances. For example, a farmer and his or her lender could work out a settlement if the farmer had the ready cash available to pay off a portion of his or her debt. The lender, in many cases the Farm Credit System, would receive cash payment up front. An infusion of capital such as this is desperately needed by some farm credit banks.

The program also would benefit wildlife and sportsmen. Additional CRP acres would increase wildlife habitat. Since a State would hold the deed to CRP land, it would be accessible to the public for hunting, if the State decided in such a fashion.

Finally, this amendment will not cost the Federal Government any money. It will not increase the amount of land eligible for the CRP. It will not waive the $50,000 payment limitation for individual farmers or ranchers. It simply exempts a State that develops an approved debt assistance program from the $50,000 payment limitation. In some cases, a State might choose to supplement the farm debt assistance program with State funds. This is an opportunity to assist some troubled farmers and ranchers at no cost to the Federal Government or the Farm Credit System.

Mr. President, I have distributed copies of the amendment to the minority and the majority, and we have had some discussions on it. I believe this amendment would give States the flexibility to take an initiative to assist farmers. It has always been my feeling that the States should be more involved in farm issues. The amendment would heavily involve the States and would help soil conservation as well as widen the option for public land hunting. It would help farmers pay or restructure their debts. It would help the overall economy without costing Federal dollars.

I urge the adoption of the amendment.

Mr. DASCHLE. Mr. President, the purpose of the amendment introduced by my distinguished colleague, Senator Pressler, and myself is to remove a restriction that is preventing my State from creating a program that would benefit farmers. The amendment simply would authorize the Secretary of Agriculture to waive the limitation on farm program payments in cases in which the State, through a program approved by the Secretary to assist certain farmers, becomes the owner of land subject to a contract under the Conservation Reserve Program.

South Dakota is interested in establishing a loan program to benefit owners and operators who have CRP contracts. The State would offer loans to these individuals. The loan would be repaid by the CRP payments for which the individual, having entered into a CRP contract, is entitled. The goal is that the loan would be used by the farmer to make payments on other debts.

The limit on CRP payments undermines the State's ability to carry out this worthy program.

Mr. President, the reason we are considering this credit reform legislation is the financial stress in rural America. We need to take advantage of all available tools to reduce the debt burden in agriculture. My State has taken the initiative to consider a creative approach to assist farmers and ranchers. We should encourage that kind of initiative, not discourage it. We should assist in this resourceful use of a successful Federal program.

Mr. President, I understand that the managers have indicated that there will be a hearing later on regarding the full impact of the amendment. I applaud their leadership in that regard.

Mr. LEAHY. Mr. President, I know that Senator Daschle has a real concern in this area. I share his concern. Indeed, it will be a matter of subcommittee observation, and also a subject that I will look at. I look forward to meeting with Senator Daschle to discuss the amendment.

As I stated earlier, I prefer not to have it on this bill and I am glad that it has been withdrawn by the two distinguished Senators from South Dakota. But I assure them that it will be looked at carefully. Senator Daschle is a member of the committee and I will meet with him on this particular item.

Mr. LUGAR. Mr. President, I deeply appreciate the thoughtfulness of the Senator from South Dakota with regard to his farmers.

The specific amendment he has suggested may have merit. Clearly, it has merit with regard to the approach by a State that wants to be helpful to its farmers, and it has the bipartisan support of the Senators from that State.

I hope the Senator will not press the amendment at this time, because I suspect that the Senator will admit that this issue is not related to the Farm Credit System. It does have great relevance to the Conservation Reserve Program, and this Senator has offered legislation as late as yesterday with regard to that program. It is an important one, and there are refinements that must be made.

With respect to that program, we are assured that Senator Fowler, the distinguished Senator from Georgia, the chairman of the Subcommittee on

Conservation and Forestry, has indicated he plans to hold a series of hearings next year, he hopes as early as February, on the Conservation Reserve Program. This would be an appropriate time, if the Senator from South Dakota can be persuaded, for his amendment as well as legislation of the Senator from Indiana and others to be considered in the committee and have it do a workmanlike job to do the work that it must. At this point we do not have the position of the Department of Agriculture on the amendment of the Senator from South Dakota, although we have no reason to believe the Department of Agriculture would necessarily not favor it. It is just simply an idea whose time has not quite come and gelled in the proper legislative sequence. With that in mind, I am hopeful the Senator would not press the amendment on this occasion.

Mr. PRESSLER. Thank you very much. I ask my good friend what is the timetable next year for hearings and action regarding the CRP program? Is there another bill that this might be attached to more appropriately?

Mr. LUGAR. Obviously the distinguished chairman of the committee will determine our timetable but he and the subcommittee chairman, Senator Fowler, shared with me this information that I have imparted today, that it is their desire to move quickly, early on, and I have mentioned February specifically for the hearings on the Conservation Reserve Program.

In our committee we have had a very good bipartisan view of many subjects. They have moved rapidly. We have a good batting average in terms of those things that have merit and in which there is bipartisan support. I would work with the chairman, obviously, in this respect.

Mr. PRESSLER. I thank the gentleman. It would have been better to come here today with the Department's position. It was impossible to get it in on such short notice.

Let me say that this idea springs from some of our State officials and the Governor. I think it is a very good idea. It is one that I will continue to work on and get the opinion of the Department of Agriculture so I can submit it to the committee. Perhaps you and the chairman can consider it. If it is the feeling that it would be more appropriate—if you have to oppose it today—then I would be willing to withdraw the amendment with the general understanding that you will give it prime consideration in your markup and your hearings next February and March. Would that be a fair assessment of the timetable? I see the chairman on the floor. Perhaps he can give me some assessment of the timetable he is thinking of moving?

Mr. LEAHY. If the Senator would yield, I understand Senator Fowler, the chairman of the appropriate subcommittee, will be holding hearings on this matter early next year. I would note that for the distinguished Senator from South Dakota.

He has raised an interesting suggestion. It does deserve consideration. I agree with the distinguished Senator from Indiana that this is not the appropriate vehicle for this legislation, and I appreciate the fact that the amendment will be withdrawn. I do think it is an important item and certainly I intend to look carefully at it at that time.

Mr. PRESSLER. With those assurances and with that information, I look forward to working with the chairman and the ranking member and the other members of the committee, and I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1214

(Purpose: To ensure that the composition of the Farm Credit System Assistance Board does not violate the Appointments Clause of the Constitution)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as folows:

The Senator from Oklahoma [Mr. Boren] proposes an amendment numbered 1214.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 137, beginning in line 13, strike out ", or an employee of the Department of the Treasury as designated by the Secretary".

On page 137, beginning in line 17, strike out ", or an employee of the Department of Agriculture as designated by the Secretary".

On page 137, beginning in line 20, strike out ", or a Board member or employee of the Federal Reserve System as designated by the Chairman".

Mr. BOREN. Mr. President, the amendment I just sent to the desk will ensure that the composition of the Assistance Board is in conformity with the appointments clause of the constitution.

Specifically, the amendment deletes the authority for the Secretary of the Treasury to designate an employee of the Department of the Treasury as a Board member; Secretary of Agriculture to designate an employee of the Department of Agriculture as a Board member; and Chairman of the Board of Governors of the Federal Reserve System to designate a Board member or employee of the Federal Reserve System as a Board member.

The Farm Credit Act Amendments of 1987, as reported by the committee, establishes the Farm Credit System Assistance Board. Under the bill, the Board consists of five members as follows: two members appointed by and with the advice and consent of the Senate; the Secretary of Agriculture, or an employee of the Department of Agriculture as designated by the Secretary; the Secretary of the Treasury, or an employee of the Department of the Treasury as designated by the Secretary; and the Chairman of the Board of Governors of the Federal Reserve System, or a Board member or employee of the Federal Reserve System as designated by the chairman.

At one point, Mr. President, the subcommittee adopted provisions which replaced the two appointed members with two members elected by the Farm Credit System and two presidents of District Federal Reserve Banks. The other three members, under those provisions, would be the Secretary of Agriculture or his designee, the Secretary of the Treasury, or his designee, and the Chairman of the Board of Governors of the Federal Reserve System or his designee.

This amendment was drafted following the conclusion of our subcommittee deliberations after we were advised by Mr. Joseph Wright, Jr., that the administration had come to the conclusion that there was a constitutional problem involved in the way in which the legislation was originally reported by the subcommittee.

In a letter dated October 29, 1987, Mr. Joseph R. Wright, Jr., Deputy Director of the Office of Management and Budget, indicated that the Department of Justice had determined that all members of the Board must be appointed by the President with the advice and consent of the Senate because of the Board's exercise of significant authority pursuant to Federal law. I ask unanimous consent that the text of this letter be inserted in the Record at the conclusion of my remarks.

On October 30, 1987, the subcommittee changed the composition of the Board to the present configuration pursuant to Deputy Director Wright's request.

The subcommittee additionally modified the provision by restricting the authorized designees to employees of the Department of Agriculture or Treasury and to Board members or employees of the Federal Reserve System. This modification was made in order to address concerns that the designees could, theoretically, be unqualified to be a member of the Assistance Board.

In order to ensure the constitutionality of the bill, I subsequently requested the Assistant Attorney General of the Office of Legal Counsel at the Department of Justice, Mr. Charles J. Cooper, to advise me as to whether there were any constitutional objections under the appointments clause with regard to the composition of the bill as reported by the committee.

This amendment is in the nature of a technical correction. It does no damage to the main thrust of the bill or the intent of the committee in writing the bill.

Cursory research of a few court opinions indicated to me that there possibly were constitutional objections with respect to statutorily designating a specific person to be a member of a principal office—for example, the Secretary of Agriculture—and with respect to authorizing such person to designate someone else to be a Board member.

Assistant Attorney General Cooper indicates in his response that the method in the bill for the appointment of all Board members is entirely constitutional. It is Assistant Attorney General Cooper's view that because the Secretary of Agriculture, the Secretary of the Treasury, and the Chairman of the Board of Governors of the Federal Reserve System are all appointed to their current positions with the advice and consent of the Senate, there is no violation of the appointments clause with respect to adding to their duties.

The letter also indicated that it is the Department of Justice's view that the intent of Congress with respect to the authority to designate an employee or a Federal Reserve Board member was to merely have the designees serve as agents acting under the supervision and control of the two Secretaries and the Chairman of the Board of Governors.

Regretfully, Mr. President, there was discussion during the subcommittee's consideration of the ability of the two Secretaries and the Chairman of the Board of Governors to actually designate someone else to be a Board member. At the time of this discussion, it was assumed that the Assistance Board would be an inferior office and therefore, Board members would not be subject to the constitutional requirement for Presidential appointment with the advice and consent of the Senate. When the subcommittee adopted the provision allowing for designations of Board members, the Assistance Board was, under the bill, an institution of the Farm Credit System.

We did not learn of the Justice Department's determination that the Assistance Board was a principal office of the United States and could not be an entity of the Farm Credit System until the day before the last subcommittee markup.

The language of the bill as reported by the committee also makes it difficult to ensure that there is no violation of the appointments clause as, for example, the bill specifically states that one member shall be the Secretary of the Treasury, or an employee of the Department of the Treasury as designated by the Secretary. This could easily be interpreted to specifically grant the Secretary of the Treasury the authority to appoint an employee as the Board member.

Thus, due to the legislative history already established and the language of the bill, it is necessary to modify the bill to preclude a designee from being appointed as a member of the Board.

The amendment I am offering will preclude an employee of the Department of the Treasury or the Department of Agriculture and Board members or employees of the Federal Reserve System from serving as Board members.

The ability of the Secretary of the Treasury, for example, to send a representative to Board meetings and the ability to have a subordinate act as his agent at the meetings is not affected by this amendment. Such person would clearly be subject to the Secretary of the Treasury's supervision and control and would merely represent the Secretary. Specific legislative authority to select representatives to act on behalf of the principal officers of the Board is not necessary.

Mr. President, as I have said, this amendment does have the support of the administration, of the Department, OMB, and the Department of Justice, and I understand that it has been cleared on both sides of the aisle and is in keeping with the intent of the committee.

Mr. President, the amendment I am offering will clear up any confusions or possible misinterpretations that could arise with respect to this matter. I urge the adoption of the amendment.

I ask unanimous consent that the text of Assistant Attorney General Cooper's letter be inserted in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 29, 1987.

Hon. DAVID L. BOREN,
Chairman, Subcommittee on Agricultural Credit, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: After reviewing the Farm Credit Act Amendments of 1987—the print dated October 23rd—the Department of Justice has determined that because the Board of Directors of the Assistance Board would exercise significant authority pursuant to Federal law, all members must be appointed by the President. In addition, given that the Assistance Board is designed to operate without being subject to anyone else's review (e.g., by the Secretary of Agriculture), all board members must be appointed by the President, with the advice and consent of the Senate.

Because the October 23rd draft does not provide for Presidential appointment, with Senate confirmation, of all Assistance Board members, Justice advises that it violates the Appointments Clause of the Constitution. To remedy this problem, the bill should be amended as noted below:

On page 6, line 18, add the word "and" after the semicolon;

Delete lines 19 through 25 on page 6 and lines 1 through 8 on page 7, and insert in lieu thereof the following:

"(4) four members shall be appointed by the President, with the advice and consent of the Senate.".

This would not affect the scoring of the Farm Credit Financial Assistance Corporation, which would remain off-budget.

Sincerely,

JOSEPH R. WRIGHT, Jr.,
Deputy Director.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, DC, November 17, 1987.

Hon. DAVID L. BOREN,
Chairman, Subcommittee on Agricultural Credit, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond to your letter of November 10, 1987, requesting the advice of this Office regarding possible constitutional problems posed by the November 4, 1987, draft of S. 1665, the "Farm Credit Act Amendments of 1987." Specifically, you pose two questions: (1) whether the method for appointing members to the proposed "Farm Credit Assistance Board" ("Board") comports with the Appointments Clause of the Constitution; and (2) whether presidential appointments to entities such as the Board must be subject to Senate confirmation, in light of the language in the Appointments Clause authorizing Congress to vest the appointment of certain officers in the President alone.

With regard to the first question, we believe that the method for appointing members to the Board, specified in section 101 of S. 1665, is entirely constitutional. The Appointments Clause of the Constitution (Art. II, cl. 2, sec. 2) requires that "principal" officers of the United States be appointed by the President, with the advice and consent of the Senate. Consistent with this requirement, two of the five members of the Board are to be appointed by the President, with the advice and consent of the Senate. The other three members shall be the Secretary of the Treasury (or a Treasury Department employee designated by the Secretary), the Secretary of Agriculture (or an Agriculture Department employee designated by the Secretary), and the Chairman of the Board of Governors of the Federal Reserve Board (or a Federal Reserve Board employee designated by the Chairman). The designation of these three members also comports with the Appointments Clause. The Secretary of the Treasury, the Secretary of Agriculture, and the Chairman of the Federal Reserve Board are "principal" officers of the United States who already have been appointed by the President and confirmed by the Senate. Congress may constitutionally add to the duties of an existing office through legislation, without providing for a new appointment. See *Shoemaker* v. *United States,* 147 U.S. 282, 301 (1893); *Glidden* v. *Zdanok,* 370 U.S. 530, 589 (1962) (Clark, J., concurring).

The language authorizing the Secretary of the Treasury, the Secretary of Agriculture, and the Chairman of the Federal Reserve Board, if they so choose, to "designate" subordinates to sit on the Board, can and should be construed in a manner consistent with the Appointments Clause. Specifically, we believe this language reflects Congress' intent to make the three named principal officers members of the Board; "designated" subordinates would merely serve as agents, acting under the supervision and control of their principals.[1] Congress may wish, however, to consider rephrasing section 101 to state (1) that the three named principal officers (the Secretary of the Treasury, the Secretary of Agriculture, and the Chairman of the Federal Reserve Board) shall serve as members of the Board; and (2) that these three principal officers may designate employees of their respective departments, subject to their supervision and control, to represent them at Board meetings. Such an amendment would merely serve to underscore the constitutionally correct construction of the section 101 appointments provision.

With regard to the second question, the Appointments Clause authorizes Congress to "vest the appointment of such inferior Officers, as they think proper" in the President alone. Inferior officers act under the direction and control of "principal" officers of the United States. In performing governmental functions in the farm credit area, however, the Board acts independently; it is not subject to supervision or control by any other agency or department.[2] Accordingly, the Board functions as the "head of a Department," and its members must be regarded as principal, rather than inferior officers of the United States. See 37 Op. A.G. 227, 231 (1933) (determination that the Civil Service Commission was itself a Department within the meaning of Article II because it exercised certain independent duties and functions). See also *United States* v. *Germaine*, 99 U.S. 508, 511 (1879). The Appointments Clause requires that such principal officers be appointed by the President, with the advice and consent of the Senate.

In sum, for the foregoing reasons, we believe that the method for appointing Board members, set forth in the November 4, 1987 draft of S. 1665, is constitutional.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

CHARLES J. COOPER,
Assistant Attorney General,
Office of Legal Counsel.

Mr. LEAHY. Mr. President, I think it does correct a technical problem. It takes care of the constitutional problems under the appointment clause that we had tried to work out before. We somehow missed this one point. I certainly support the amendment.

Mr. LUGAR. Mr. President, the committee went to some length to try to correct the constitutional problems that we saw. Obviously, this is one that we missed. It strengthens the bill and we support it on our side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1214) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I wish to commend our able subcommittee chairman and ranking member for their many hours to work on this important bill. And, of course, the ranking member of the full committee sat through countless hours and exhibited incredible expertise on an extremely difficult set of hearings. Of course, our chairman, the distinguished Senator from Vermont, allowed us to go forward with this most important issue to the farmers of America. My commendation to all of them for their contribution.

Mr. President, the health and stability of the Farm Credit System is one of the most serious issues confronting agriculture. There is little question of the importance to our Nation's agricultural economy of a reliable supply of competitively priced agricultural credit. The Farm Credit System has met this need for nearly half a century, and has enabled our farmers to remain the most productive and efficient in the world. However, as the farm economy has faltered, so has the economic health of the Farm Credit System. The severity of the economic crisis in agriculture is reflected in the severity of FCS's financial condition, and has brought into question the viability of our Nation's largest supplier of agricultural credit.

As we are all aware, Mr. President, the failing health of the Farm Credit System is not a new problem. This is the third time in as many years that we have attempted to fix a system confronting overwhelming financial difficulties. Unfortunately, our attempts to date have only forestalled the inevitable, and several of the banks of the Farm Credit System have, despite our efforts, come dangerously close to insolvency.

The Agriculture Committees in the Senate and House have worked for months to develop an adequate and effective assistance package which would address the needs of the System and its borrowers.

Inherent in such a task were some profound challenges. Not the least among these was the need to reconcile the diverse and often conflicting views and agendas of the System, farm organizations, USDA, Treasury, and several trade organizations. Under the leadership and seemingly infinite patience of the distinguished Senator from Oklahoma, Senator BOREN, the Subcommittee on Agricultural Credit of the Senate Agriculture Committee has with great care and deliberation developed a comprehensive farm credit assistance package.

Anyone involved in developing this bill knows that it represents a carefully wrought compromise, an agreement reached through hours upon hours of serious deliberation. Though I have my reservations about certain parts of this bill, reservations which I will outline shortly, S. 1665 represents a solid and responsible legislative response to the crisis confronting the Farm Credit System. Several months ago, I outlined to my constituents what I considered necessary components of any farm credit assistance. First, I stated any package we developed must reduce interest rates to farmers. Second, I argued the need for a mandate for aggressive restructuring of borrower debt by system institutions. Any bill not addressing these issues, in my mind, would be unfair to borrowers, and would be a waste of Congress' time.

Mr. President, I am satisfied that the bill before us accomplishes those two objectives. By providing a conduit for a level of assistance which will actually do some good in a way which minimizes the impact on the taxpayer, the System can reduce the burden of its high cost debt, and pass savings on to its member/borrowers. It gives farmers access to additional competitively priced credit through a secondary mortgage market. Furthermore, it provides specific guidelines for restructuring the debt of financially troubled farmers.

Additionally, I think it makes other positive changes. It allows for reforms in management of troubled institutions, and guarantees existing borrower stock, to name two. I am confident that the bill before us will go a long way toward assuring that the System will be placed on a firm financial footing, and that we will not need to be here next year.

However, as I have stated, I have reservations about certain aspects of this bill. Though some steps are taken toward structural reform of the Farm Credit System, I do not feel this bill goes far enough. In addition, I have some serious concerns about the assessments on System institutions—I have heard more from my constituents on this issue than on any other, and I am hopeful this issue will be resolved during this debate.

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[1] Consistent with this construction, we note that Congress amended an earlier version of S. 1665 which placed no restrictions on the status of individuals who could be "designated" by these three principal officers. The new requirement that these officers (if they choose not to participate directly in Board business) designate employees from within their respective departments appears to reflect a congressional understanding that the designees would merely serve as the representatives of principal department heads. As mere representatives, the designees would not act autonomously on the Board; they would be subject to the complete supervision and control of their principals.

[2] In particular, section 101 of S. 1665 states explicitly that the "Board shall not be subject to regulation by the Farm Credit Administration."

Nonetheless, I feel we have before us a fundamentally sound bill. As I have stated already, it is the product of long discussion and represents a carefully wrought compromise between many conflicting perspectives. The situation system banks face is one of urgency, and I sincerely hope we can move quickly to pass this bill, get to conference, and have something on the President's desk in the near future.

Mr. President, again with appreciation to all of those who have shown great leadership and patience on this issue, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, my colleagues on the Agriculture Credit Subcommittee are to be commended for their diligence and hard work in crafting the legislation we have before us today. In addition, Chairman LEAHY and the ranking member Senator LUGAR have also spent hours and hours in pursuit of a workable solution. The problems of the Farm Credit System are complex, and the solutions to their difficulties no less so, but I believe the bill we are about to pass does the job.

Turmoil in the agriculture economy these past few years led the System into a position where its high cost of debt made it uncompetitive, borrowers were leaving, increasing numbers of its remaining loans were falling into default, and the value of its collateral continued to decline. Thus, it is no wonder the System lost $4.6 billion during 1985-86—the largest single loss of any financial institution in U.S. history—and that several Federal land banks are now nearing default.

However, things seem to be improving. Missouri's farmers and ranchers have experienced very good conditions this year; the weather has been favorable, commodity prices have strengthened, and land values seem to have stabilized. Livestock producers, specifically cattle and hog producers, have shown large increases in income, although crop producers continue to rely heavily on Government support programs.

And at the same time, the Farm Credit System recently announced third quarter operating profits of $4 million—their first profits in some time.

Mr. President, this had led some to wonder why, in the midst of all this improving news, would the Farm Credit System remain desperate for Federal assistance. However, I believe that a look below the surface of this news clearly shows the problems remain, and that in some cases the problems are actually accelerating. So I would caution those who are enthused about the systemwide results to look behind the aggregate numbers to the individual banks in trouble.

The Farm Credit System, through its Federal land banks and production credit associations, is the single largest lender to American agriculture. Currently it holds nearly 26 percent of the 164 billion dollars' worth of ag debt outstanding. This share has fallen in recent years because of the system's financial problems, but the FCS still remains the only ag lender who can provide both long and short term credit—and will stick with agriculture through both boom and bust. In and of itself, continuing this stability and availability of credit may be the most important reason to provide assistance to the System.

Mr. President, I approached the Farm Credit System's problems believing we should follow five basic goals in outlining a solution. First, any solution needed to maintain the basic cooperative structure of the System. This means retaining local control, and the requirement of stockholder approval of mergers and other major management decisions. S. 1665 retains these protections.

Second, we must take steps to reassure borrowers in order to stem their flight. Last year the System lost $1 billion of loan volume per month as borrowers who could prepaid their loans and found other creditors, or, in other cases, simply paid off part of their debt. For both reasons, the System found its income being squeezed by declining loan volume and increasing numbers of nonperforming loans such that 8 of the 12 Federal land banks showed negative interest income in the third quarter of 1987. One part of this bill's solution is to guarantee the retirement of borrower stock at par value; the other is to provide financial assistance sufficient to allow institutions to offer competitively priced credit.

Third, we need to provide a mechanism for the System to restructure its nonperforming loans. In some instances the solution may be foreclosure, but in many cases the System will receive a higher rate of return by restructuring a troubled loan. S. 1665 sets up a means to encourage this restructuring.

Fourth, I believe we must plan for the System's future. Congress does not want to deal with the System's financial problems every time there is a downturn in the farm economy; therefore, our bill sets up incentives for prudent management which will also ensure that the System turns to itself first for financial assistance. S. 1665 sets up a reserve fund—which begins collecting from System institutions in 1992—which will act as an insurance fund in the future. Modeled after FDIC, I believe this will provide an excellent backstop for the cyclical turns in the ag economy.

And fifth, we must ensure that the taxpayers risk is as little as possible. This calls for the System to use any and all self-help measures available, as well as requiring that the System pay back money provided to ailing institutions. Our bill will provide up to $4 billion in Government guaranteed bonds which are issued by the newly created Financial Assistance Corporation, but the assistance would not simply be there for the asking. To qualify, institutions must develop a business plan which cuts their operating expenses, requires a review of their troubled loans, and shows an ability to continue to provide credit on a reasonable basis.

Legislation I introduced with Senator BOSCHWITZ early this summer embodied these basic principles, and at that time I called our bill a building block for a broader, more comprehensive package. I am certainly pleased to see that is what occurred.

This farm credit legislation also includes other important agricultural credit provisions. First, the bill creates a secondary market for agricultural loans. This is important because it will allow small, rural banks to provide long term agricultural real estate loans. By reducing lenders' risk on these loans, a secondary market means more options will be available to borrowers.

The bill also addresses many of the current difficulties facing the Farmers Home Administration. The bill attempts to streamline the current loan approval, restructuring and appeals process, as well as addressing the homestead, right of first refusal and income release provisions of current law. Many of these issues are currently bogged down by lawsuits related to the cumbersome processes which now exist. I trust that this section of the bill will resolve these problems.

Mr. President, I believe it is time to take the steps needed to help the Farm Credit System. S. 1665 creates the kind of framework the System needs to recover and once again become a viable lending institution for our Nation's agricultural sector. I urge my colleagues to vote in support of this bill.

I thank the Chair. I yield the floor.

Mr. LEAHY. Mr. President, I know we have a number of Senators who wish to make statements on the farm credit bill. Again, I compliment all members of the Senate Agriculture Committee who worked so hard to bring this extremely important piece of legislation to the floor. Others have expressed their concern with it. We have had some amendments of a technical nature, which the Senator from

Indiana and I have supported and the Senate has accepted. I think there are one or two others of that nature that are being worked out. But I urge Senators with other amendments to bring them forth because it would be my intention to go to third reading fairly soon.

I mention this for a couple of reasons. Obviously, to alert all offices that it will be my intention to seek third reading fairly soon, but also because I know that the distinguished majority leader has legislation which he wishes to move along. The distinguished minority leader does, too.

Next week, as we get into the final budget crunch, it is going to be horrendous around here so I want to get this bill passed. Also, the distinguished Senator from Indiana and myself need to be working with those who are putting together the budget package which came out of the summit.

The budget summit requires $900 million in agricultural savings this year, $1.6 billion next year. This is not easy money to find. This is real money. Members on both sides of the aisle in the Agriculture Committee are going to be working very hard this afternoon, evening, and tomorrow in trying to put that package together. So I do not wish to rush anything, but we will go to third reading soon, I hope. The last time I said that we went into 2½ days of debate. But I will very soon seek third reading. I alert everybody to that fact so that we can get this bill passed and on to conference.

I see the distinguished Senator from Iowa on his feet. I am certainly happy to yield.

Mr. GRASSLEY. Mr. President, it is with great pleasure that I rise to offer my support for this legislation which is pending before the Senate today.

I especially take this opportunity to commend the members of the Senate Committee on Agriculture for the commitment that they have shown to the development of this farm credit assistance package, and we all know not only of the hard work that was involved but the long, long hours—as we understand, many days—of debate at both the subcommittee and committee level. That time and energy we all need to appreciate.

I am particularly pleased that the committee created this balanced measure because this is the third year in a row that Congress will have passed some sort of emergency provision to help the Farm Credit System.

In 1985 and 1986 Congress adopted several initiatives to alleviate the fiscal crunch the System was feeling, without actually pouring money into it. These endeavors largely were comprised of organizational and accounting modifications. Congress did recognize that financial assistance might become necessary, but required a separate appropriation be requested by the Farm Credit Administration for the funding. The FCA has not seen fit to make such a request, to this point.

At the beginning of 1987, System officials requested as much as $6 billion in financial assistance to bail out the troubled farm lender. Despite this massive sum, there seemed to be a consensus in Congress that an assistance package was needed for the System.

Created by Congress in 1916, the Farm Credit System had long been held in only the highest of respect by farmers. Its banks provided cheap loans to family farmers, who were the owners and directors of their own lending cooperatives. More recently, however, I am saddened to say, the reputation of the Farm Credit System had deteriorated.

For these reasons, I have taken a very active interest in the legislation to provide assistance to the Farm Credit System. This past summer, as in each of the previous two summers, I held a field hearing in Iowa on the Farm Credit System's policies with its borrowers. The testimony received in this hearing indicated that though the new management of the Omaha district of the Farm Credit System is sincere in its efforts to treat borrowers fairly, problems still occur in the management of individual cases.

Over the summer months I organized a task force comprised of other farm State Senators who do not serve on the Agriculture Committee. This task force developed a package of initiatives that we believe best represent our constituency. Our concerns and ideas were then formulated into a letter, which was sent to Mr. LEAHY and Mr. LUGAR, chairman and ranking member of the Senate Committee on Agriculture, and to Mr. BOREN and Mr. BOSCHWITZ, chairman and ranking member of the Subcommittee on Agriculture Credit. This letter was cosigned by Mr. DURENBERGER, Mr. DIXON, Mr. PRESSLER, Mrs. KASSEBAUM, Mr. BUMPERS, and Mr. BAUCUS.

When our letter was received, I was assured that the committee would give serious consideration to our desires. I am very pleased that many of the recommendations made by the task force have been included in the legislation now before us. I ask unanimous consent that a copy of the letter, as sent to Mr. BOREN, be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 23, 1987.

Hon. DAVID BOREN,
Chairman, Agriculture Credit Subcommittee, Russell Senate Office Building, Washington, DC.

DEAR DAVID: As senators from farm states, we urge your consideration of the following items for inclusion in the legislative package which will deal with the Farm Credit System. We have developed these concepts as consensus points which we believe represent the best interest of farmers.

I. The aim of any assistance package for the Farm Credit System must be to directly help the struggling farmer/borrower.

II. Borrowers' Rights: A. Right of first refusal must be available to farmers for any offer of resale of their property. (This is not to be construed that the FCS be required to provide the financing for a farmer's purchase.) B. When land must be sold, the FCS must provide public notice of the parcels for sale. C. Members should have access to their own credit portfolios. D. Stockholder lists should be available to stockholders.

III. Borrowers Stock: A. Stock should be guaranteed at par value. B. Stockholders of liquidated associations should be reimbursed according to par value of the stock at the time of liquidation.

IV. Debt Restructuring: A. If debt restructuring is available to borrowers, the System should not discriminate on the basis of members' financial ratios. B. Negotiations for restructuring should be timely and positive. Where possible, successful models of debt restructuring should be applied to all Farm Credit System districts.

V. Mergers of Unlike Institutions (FLB & PCA): A. Borrowers should not be pressured to do all borrowing with the Farm Credit System. B. The benefits of secondary markets should be considered before a merger is implemented.

VI. Secondary Market for Real Estate Mortgages: A. The purpose for secondary markets must be to help farmers obtain long term, low cost credit at fixed mortgage rates. B. Only loans from borrowers actively engaged in farming should be pooled. C. The principal for loans should be capped.

VII. Governance: A. The cooperative structure, emphasizing local control, must be maintained. B. There should be open nominations and elections of FCS officials, except those appointed by FCA. C. The salaries of top officials should be disclosed; members should have some ability to appeal excessively high salaries.

Because we do not intend this list to be exhaustive, a comprehensive solution for the Farm Credit System situation may have to also address the unique problems of borrowers and lenders in rural commercial banks and the Farmers Home Administration.

As members from the farm belt, we understand the difficulties the Committee faces in putting together a consensus Farm Credit System package. At the same time, we feel compelled to remind the Committee of the urgent nature of the problem. The need to act, and to act expeditiously, has been known for at least six months. We stand ready to assist you in this endeavor,

Sincerely,
DAVID DURENBERGER,
CHARLES GRASSLEY,
ALAN DIXON,
LARRY PRESSLER,
NANCY LANDON
KASSEBAUM,
DALE BUMPERS,
MAX BAUCUS.

Mr. GRASSLEY. I would like to highlight, however, those items from our letter which have been included in the Farm Credit System Act Amendments of 1987. They are 10 in number.

First. Any assistance package for the Farm Credit System must directly help the struggling farmer/borrower as opposed to having what some suppose might be a legitimate end of just saving the System or helping the System.

Second. The right of first refusal must be available to farmers for offers of sale for their property.

Third. The Farm Credit System must provide public notice when parcels of land acquired through foreclosure are up for sale.

Fourth. Farm Credit System borrowers must be allowed access to all signed documents in their loan portfolios.

Fifth. Borrower stock should be guaranteed at par value and stockholders of liquidated associations should be reimbursed according to the par value of the stock at the time of the liquidation.

Sixth. Debt restructuring must be fair and uniform, without discrimination on the basis of borrowers' financial ratios.

Seventh. Negotiations on restructuring must be timely and positive.

Eighth. Secondary markets should be established to provide farmers with long-term, low-cost credit at fixed mortgage rates.

Ninth. The principal for loans sold on the secondary market should be capped.

Tenth. The cooperative structure, emphasizing local control must be maintained.

I feel these changes will help the Farm Credit System and its borrowers to remain a viable part of the agriculture economy.

The Senate Agriculture Committee made significant steps toward improving the situation faced by Farm Credit System borrowers. They also, I am pleased to say, made noteworthy steps toward reforming the operating practices of the Farmers Home Administration.

The Farmers Home Administration was started during the Depression year of 1935. At the time, the agency's purpose was to help family farmers regain self sufficiency so they could continue to make their living from the family farm.

While the FmHA is still considered the "lender of last resort" today, their attitude toward maintaining farmers on the family farms has changed dramatically. Congress had given the FmHA the authority to write down a farmers debt, but FmHA was content to sit by and watch borrowers struggle as land values fell 64 percent in 6 years.

Cooperation has been a major factor in the development of American agriculture. Cooperation is not just an attitude with farmers, it is also a way of doing business. The FmHA, however, has not cooperated, making a difficult struggle with the economy treacherous for many borrowers. The most recent example was a directive issued by the FmHA concerning mediation practices. This directive stated that FmHA employees could not participate in any form of mediation with FmHA borrowers. This is the type of unresponsiveness that has concerned me, and demands results by the Congress of changing such administrative practices.

This concern led me, earlier this year, to cosponsor Senator CONRAD'S bill, S. 1179, dealing with the reform of the Farmers Home Administration. I appreciate the committee including sections of this bill in the final version of the Farm Credit Act of 1987.

I hope, for the sake of the thousands of struggling FmHA borrowers, this language is written with enough direction that the FmHA can no longer avoid making efforts on behalf of struggling borrowers, not only for the benefit of those borrowers but carrying out congressional intent in a cooperative way and to the fullest extent intended by the Congress of the United States.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, again I would note that a colloquy is being worked out on one matter and there is one other amendment being worked out. Unless there are other matters to come to our attention, it would be my intention to submit the colloquy if it is agreed to, have it inserted, submit the other amendment once it is agreed to, seek passage of that, and then go to third reading.

In the meantime, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quourm call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I just noted that I am not a cosponsor of this bill; that the vehicle that was used was a vehicle that Senator MELCHER offered some time ago.

Mr. LEAHY. Mr. President, will the Senator yield for an observation on that point?

Mr. BOSCHWITZ. I yield.

Mr. LEAHY. Mr. President, the Senator was briefly off the floor this morning when I made a unanimous-consent request that the distinguished ranking member, Senator LUGAR, and I be able to put together a list of all the Senators, especially Senators from the Agriculture Committee, who wish to be listed as sponsors and cosponsors, and that they would be put in at the time we finished the bill. They will be the sponsors and cosponsors of the legislation.

Mr. BOSCHWITZ. I thank the distinguished chairman.

Mr. LEAHY. I said I would be happy to put my name last, if necessary. The distinguished Senator from Minnesota was an active participant, as were all members of the committee.

Mr. LUGAR. Mr. President, I ask unanimous consent that the names of Senators LUGAR, DOLE, HELMS, COCHRAN, BOSCHWITZ, MCCONNELL, BOND, WILSON, and KARNES be included as cosponsors of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I notice that the distinguished majority leader is here, and I yield the floor.

Mr. BYRD. Mr. President, I am just taking advantage of this moment, when it appears that no Senator has an amendment ready to be called up. I will yield the floor shortly, in any event.

THE INF TREATY

Mr. BYRD. Mr. President, Mr. Gorbachev is coming to Washington next week to sign a treaty on intermediate-range nuclear forces with the President of the United States. The treaty will then be submitted to the Senate for its advice and consent to ratification. As I have stated in the past, I am cautiously optimistic that the INF Treaty will be approved by the Senate for ratification.

It is the culmination of a long, bipartisan process initiated in 1979, under the last administration when the two-track NATO policy of weapons deployment and negotiations was put into place. The tenacity of NATO in pursuing this policy, at considerable political cost in some of the European deployment countries, strengthened the alliance and provided the needed leverage to bring the Soviets into hard bargaining in Geneva.

I await the completion and the submission of the treaty, however, before I can possibly make any judgment on its merits. I have not yet seen it, and so I cannot now make a judgment as to its merits.

I encourage the administration not to rush to a premature conclusion of the negotiation but to close all possible loopholes, and secure the very best arrangement possible, but not be rushed by the impending summit schedule. Summits can come and go, but we will all have to live with the treaty far beyond the time when the memories of the Reagan-Gorbachev summit, or even of the Reagan Presidency, have faded.

Mr. Reagan and Mr. Gorbachev both have a personal stake in a successful outcome of the Senate debate on the INF Treaty. They are both skilled at communications. The country is likely to get a razzle-dazzle selling job from this unlikely political duet. But we should keep in mind that it is not the song that matters, but it is the black and white text of the document to which these leaders put their signatures.

I may very well turn out to be a supporter, even an enthusiastic supporter, of the treaty; but I will await the reading thereof and some considerable understanding that is better than what I have presently.

The Senate has begun organizing itself for the detailed dissection, debate, and deliberation of the INF Treaty. The treaty will be referred to the Foreign Relations Committee; and the chairman of that committee, Mr. PELL, has committed himself to an intensive, workmanlike, and thorough hearing and committee consideration process.

In addition, it will be vital to the work of the Senate to have the views of the Armed Services Committee and the Intelligence Committee on matters about which both committees are uniquely prepared and qualified to speak. The chairman of the Armed Services Committee, Mr. NUNN; the chairman of the Intelligence Committee, Mr. BOREN; and the chairman of the Foreign Relations Committee have indicated to me that they are prepared to devote the time and the energy of their committees to these matters early in the next session. I met some days ago with those three chairmen, and we have had discussions in this regard.

The Senate will have to look at several matters very carefully. First and foremost is verification. There must be a demonstrated level of confidence in the verifiability of the provisions. If they are sloppy, even if the treaty squeaks through on a close vote, future prospects for more important treaties in the strategic weapons area could be fatally damaged.

Thus, the INF Treaty is in some ways a stalking horse for whatever strategic arms agreements may be reached later next year. The treaty could very well be either the beginning or the end of arms control, a first step or a last step.

Second, the treaty is very much a part of alliance politics and central to the future cohesion of the NATO alliance. Cohesion of NATO brought us this far. Future cohesion of NATO, in the form of alliance planning, burden sharing, and weapons modernization for the purposes of nuclear deterrence, conventional balance with the Warsaw Pact must be addressed in a post-treaty environment.

American leadership of the alliance at this juncture is badly needed. The twin dangers of American isolationist sentiment and European neutralist sentiment are real and must be aggressively combatted by the administration as well as the leaders of our alliance partners.

The three committee chairmen and I met last week, and we reached a number of planning decisions regarding Senate consideration of the treaty.

First, given the importance that the administration has placed upon the detailed negotiating record for future interpretation of treaty provisions, it will be necessary for the Senate to review the INF negotiating record.

Second, the core staff group that these chairmen and I have appointed will meet with representatives of the administration to work out the detailed agreement for the transmission, organization, and access to the body, to the Senate of documentation, in order for Senators to reach a considered and wise and informed judgment.

In order for there to be an orderly and full consideration of the treaty on the floor, I am asking the three committee chairmen to be prepared and have other Senators designated, to devote their full attention to the treaty while it is being considered by the Senate and who are conversant with the views of those various committees on aspects of the treaty within their specific areas of expertise.

In addition to the report which will be made available by the Foreign Relations Committee in association with its reporting of the resolution of ratification to the full Senate, I have asked Mr. NUNN and Mr. BOREN to provide reports from their committees on those aspects and ramifications of the treaties that are in the domain of their expertise.

I would hope that these reports would be finally available in the early springtime so that the full Senate may carefully study the reports and then debate the resolution of ratification and vote thereon well before summertime.

No one can or should try to predict a definite timetable since the committee process is to some extent an investigation, one which can hold surprises, one which can involve twists and turns. In the case of treaties, I think the ramifications are such that mechanistic timetables are ill suited.

SALT II was before the Foreign Relations Committee for 4½ months. The committee held 30 public hearings and 13 closed sessions and heard from 94 witnesses and compiled a hearing record of more than 4,000 pages. It held 16 days of markup sessions, examining each article of the treaty and its accompanying documents. This is a time-consuming, complicated process all the more so in the case of INF if we are to thoroughly compare the testimony of administration witnesses with the negotiating record to determine consistency.

Senate consideration should be, if anything, on the side of caution and thoroughness. This process will undoubtedly set the tone and the temper of arms control, perhaps for a good many years to come.

We should not forget that the Senate has failed to vote on a resolution of ratification on the last three arms control treaties submitted to it, the SALT II Treaty being one and the two treaties currently on the Executive Calendar being the other two. These are treaties submitted to it spanning the last several years.

That is the history that prompted the distinguished minority leader and myself to form the arms control observer group 3 years ago to give some meaningful direction to an otherwise unacceptable, fitful and disappointing experience in this field.

The American people were treated to a fresh and full dose of personal summitry 2 nights ago, Mr. President, when the Soviet leader, Mr. Gorbachev, gave an hour long interview shown on prime U.S. television time. That interview is only the opening gun in what will shortly be a 4-day media extravaganza undoubtedly punctuated with some moments of drama, the signing of a arms control treaty, some moments of great communicating by the President and lots of political gossip, speculation on a new era of super power relations and miles of film footage, some of it heady, some of it dull, much of it repetitious.

The Washington Post reports that the Nation's Capital will be besieged by 6,000 very competitive journalists. Mr. Gorbachev again demonstrated some qualities that make him a formidable protagonist. He is a quick thinker with a staccato-like communicating style and a considerable image of freshness is involved.

And there is the appearance, and I underscore the world "appearance," of openness. He tries to be the personification of glasnost which is the buzzword of his so-called new thinking and restructuring, or perestroika. He is engaging, he is self-confident, he is tough, and he is talented.

About 2 years ago in September 1985 the distinguished President pro tempore of the Senate, Mr. THURMOND, and I led an eight-Senator delegation to meet with this new Soviet leader. In our report to the Senate we found he seems able, is articulate, has a very versatile personality. He can be somewhat engaging as well as challenging. He presents an impressive amount of personal confidence and control and is animated and alert. This represents a significant departure from the style of previous Soviet leaders who were more formal and less versatile in their dealings across the table with American visitors and American officials. Indeed, this personal approach appears to have been adopted by many of the key players in his administration.

So, Mr. President, the perceptions and impressions of that eight-Member delegation, as recorded in the report of 2 years ago, are still the perceptions and impressions I have of this leader.

Mr. Gorbachev's welcome willingness to engage us on all topics, to field any ball batted in his direction, however, must in the long run be matched by concrete delivery on political and military questions which remain at issue between our two nations.

On Afghanistan, for instance, there were rumors 2 years ago that Mr. Gorbachev was going to take decisive action to correct the situation. And today, 2 years later, the Soviet officials still indicate quite openly that the Soviet troop withdrawal is only a matter of scheduling, just around the corner.

Mr. Gorbachev is fond of discussing political will, Afghanistan is a test of his political will, his political courage, and we are all still waiting. Soviet troop withdrawal from Afghanistan is a litmus test of the new Soviet regime's capacity and desire to take actions which will correct a running sore on the international landscape.

In addition, on human rights issues, there have been some recent increase in the number of emigres given their exit passages, but the Soviet immigration system is still inhumane, vindictive and unacceptable to all who cherish personal freedoms.

Would-be emigres clearly still must consider putting their jobs, their careers, and their loved ones at risk simply by the simple act of applying for an exit permit.

I cannot overstate the need for realism in evaluating a "Soviet Great Communicator." The television tube can be beguiling, entrancing, hypnotic. An impressive and pleasing personal style is commendable, but when the security of our society and that of our allies is at stake, results are all that count.

So I applaud the give and take of events like Mr. Brokaw's interview of Monday evening. And it was a give and take event, I suppose. It is hard to give as much as one takes in an interview of that kind because the interviewer is not expected to debate the guest. So, in many ways, the guest has the advantage, and especially a guest of this kind and stature.

So I applaud this give and take—and I will use that term for the moment—of events like Mr. Brokaw's interview of Monday evening and I respect Mr. Gorbachev for putting himself "on the line." And, again, that is a term that is used for the moment within the context of my statement and which could bear some dissecting.

But I reiterate that the West must measure progress on arms control by deeds and actions, by commitments fulfilled and promises kept, and not just by skillful public relations.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DASCHLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM CREDIT ACT AMENDMENTS

The Senate continued with consideration of the bill (S. 1665).

AMENDMENT NO. 1215

(Purpose: To improve the bill)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. LUGAR, proposes an amendment numbered 1215.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 287, between lines 13 and 14, insert the following new paragraphs:

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member subject to the provisions of section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.".

On page 287, line 14, strike out "(3)" and insert in lieu thereof "(4)".

On page 289, between lines 11 and 12, insert the following new subsection:

(a) CLASSIFICATION OF PROPERTY.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The county committee shall classify or reclassify real property (including real property administered by the Secretary on the date of enactment of the Farm Credit Act Amendments of 1987) that is farmland, as being suitable for meaningful farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for loans but who not yet receive such on the date of enactment of the Farm Credit Act Amendments of 1987;

"(B) offer suitable land at a price no higher than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or cause to be published three consecutive weekly announcements at least twice annually of the availability of such farmland in at least one newspaper that is widely circulated in a county in which the land is located until the property is sold.".

On page 289, line 12, insert "(b) DISPOSITION AND LEASING.—" before "Section 335(e)".

On page 294, between lines 17 and 18, insert the following new paragraph:

(3) in subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into logical parcels of land, the value of which shall not exceed the individual loan limits as prescribed under section 305.".

On page 294, line 18, strike out "(3)" and insert in lieu thereof "(4)".

On page 313, line 7, strike out "section" and insert in lieu thereof "sections".

On page 322, line 3, strike out the quotation marks and the second period.

On page 322, between lines 3 and 4, insert the following new section:

"SEC. 354. TARGET PARTICIPATION RATES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) GROUP POPULATION.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) RESERVATION AND ALLOCATION.—

"(1) RESERVATION.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) ALLOCATION.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) REPORT.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) DEFINITION.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to the individual qualities of such."

Mr. LEAHY. Mr. President, the purpose of this amendment is to improve the representation in Farmers Home Administration county committees. It targets Farmers Home Administration ownership loans and land inventory sales requiring, among other things, the Secretary to establish target participation rates on a countywide basis for minority farmers to receive farm ownership loans to purchase or lease inventory farmland. It handles the question of "suitable" versus "surplus" land.

It is one matter that we had left at the end of our markup on the overall bill. At that time, because we had some questions and some areas of disagreement, we said we would try to work them out prior to the bill coming to the floor. I understand that those matters have been worked out. This is the remainder of the amendment that I had at the time of the markup of the overall bill. I understand it has been cleared all around and I would hope that the Senate would accept this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LUGAR. Mr. President, I commend the distinguished chairman of the committee for his thoughtfulness with regard to this amendment and his willingness, really, to work with bipartisan support and the Department of Agriculture to have an amendment that makes a constructive change to our legislation.

I would like to ask unanimous consent, and particularly the consent of the chairman, that I might join him as a cosponsor of the amendment.

Mr. LEAHY. I would be proud to have the Senator from Indiana as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, this will have the result of reestablishing support of farmers through Farmers Home in a very important way. I think it places proper emphasis on minority interests and for a good number of reasons, Mr. President, I support the amendment and hope it will have unanimous passage.

Mr. LEAHY. Mr. President, I urge adoption of the amendment.

Mr. SANFORD. Mr. President, I rise in strong support of S. 1665, the Farm Credit Amendments Act of 1987. I would like to commend the chairman of the Subcommittee on Agricultural Credit, my colleagues on the subcommittee and all of my colleagues on the full committee for devoting their time and skill to crafting artfully this desperately needed legislation. I am satisfied that the committee has responsibly reconciled its dual objectives of shoring up the ailing Farm Credit System and of doing so in a fiscally responsible manner.

I am especially pleased with the bill's borrowers' rights sections, which afford Farm Credit System and Farmers Home Administration borrowers some long sought protections in the credit process. These protections include the extremely important restructuring, right of first refusal, and homestead protection provisions, all of which will greatly strengthen provisions in current law.

Although this is an excellent bill, I believe we can still make a few selected improvements. I believe the pending amendment represents one such improvement.

I strongly urge my colleagues to support this measure, which has been carefully constructed by the distinguished Chairman of the Agriculture Committee, Senator LEAHY. This amendment would ensure that Farmers Home Administration borrowers are eligible to serve on FmHA county committees; would allow more land held in inventory by FmHA to be sold to family farmers, and would help provide adequate credit to socially disadvantaged borrowers. These are all good ideas. However, I would especially like to address the third portion of the amendment, which would target loans to minority borrowers.

This portion of the amendment before us contains several key points from an amendment I had prepared for the occasion. I am pleased that these points could be included by my good friend, the Senator from Vermont, in his amendment.

I would like to express my sincere appreciation to Chairman LEAHY, and to the Agriculture Committee staff for their efforts on behalf of myself and the people of North Carolina in including these ideas in the amendment.

This measure addresses a problem that has reached crisis proportions in recent years—the great troubles faced by minority farmers, and particularly black farmers. We all know that this is an extraordinarily difficult time for our agricultural producers, and particularly family farmers. But if the family farmer has been hit hard in recent years, the minority family farmer has been all but eliminated.

The Congress has been made aware of these problems in the past. I am sure that many of my colleagues will recall the 1982 report by the U.S. Civil Rights Commission in 1982, entitled "The Decline of Black Farming in America," which graphically demonstrated the alarming trend toward extinction of these farmers. Many will also recall the report of the USDA Task Force on Black Farm Ownership report in 1983. The Government has attempted to take steps in order to help keep black producers on their land. Unfortunately, the simple fact is that the problem has grown even worse, not better.

On the national scale, the number of black-operated farms has declined from a peak of about 925,000 in 1920 to less than 30,000 today. In North Carolina, the number of black farmers declined from nearly 75,000 in 1930 to about 40,000 in 1960 and about 12,000 in 1970. Today, there are only about 5,300 black farmers left in our State, and at this rate, none would remain in farming by the early 1990's. Less dramatic, but still serious, problems exist for other socially disadvantaged producers.

One might think that increasing awareness of these problems, starting in the 1970's, would have led to a slowing of the trends discussed above. Unfortunately, this has not been the case. For example, between 1978 and 1982 in North Carolina, the number of black and Indian farmers declined by over 23 percent, while the total number of farmers declined by 10 percent.

This amendment will take an important step toward helping minority farmers stay on their land. It will simply help ensure that sufficient credit is available to this group, by targeting ownership and operating loans of the Farmers Home Administration.

This would work as follows: FmHA must establish target levels for minority borrowers in each county, based on minority populations in that county. FmHA must then reserve, up to the greatest extent possible, sufficient loan funds to meet the target. This is important, because for one reason or another, socially disadvantaged producers are receiving far less than they should in many areas. The result has been an inability to continue producing, for a large number of operators.

The amendment is not intended to take away funds from nonminority borrowers. If a target cannot be met despite FmHA's best efforts, no funds will be lost for a given county. However, FmHA must report back to Congress on the implementation of this program on an annual basis, so that if targets can't be met, we can see why. The amendment simply seeks to address the very serious problems faced by socially disadvantaged groups in a reasonable manner, and help keep these groups on the farm.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No 1215) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I should also note that the department advises me that this amendment will save over $200 million over the next 5 years.

Mr. President, I understand the distinguished Senator from Hawaii may soon have an amendment. The distinguished Senator from Texas, Senator Bentsen, has a colloquy worked out.

The distinguished Senator from Minnesota asked me earlier for some time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent to speak for a period not to exceed 8 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE OF HOWARD BAKER

Mr. BOSCHWITZ. Mr. President, pheasants molt twice a year. In both the spring and the fall they lose their feathers and grow new ones. That is the process of molting.

If they are in captivity and penned and if a spot of blood appears on one of them, the rest of the birds during molting fall upon their colleague and peck him to death.

When pheasants are in their natural habitat, such savagery does not happen. The same is also true of chickens. It is somewhat like being in Washington as opposed to being in the rest of the United States—which is the natural habitat of our people.

I am reminded of all this as I read the articles about Washington falling upon Howard Baker as they sense him weakened by the administration's difficulties. In a way, however, it's hard to tell if Howard is truly being pecked at by others. These articles about Baker's failures only quote "knowledgeable sources."

Some sentences start out by saying, "Said one Republican." A Republican Senator was directly quoted but not named of course. In fact, the only people who were named are those with positive things to say about Howard Baker.

Well, we would be told, people will not be direct or honest if their names appear. Come on now. Do you want me to believe, that in Washington, DC, the chicken capital of the world, people get closer to the truth under the cloak of anonymity?

Am I to believe the cutters and slashers found around this town would actually restrain themselves when their identity is kept secret? Do you believe that? When you can get a free one in and do it to good, old Howard, people surely hold back! Make sense?

It's an interesting thesis, but nobody around this city would buy it. I certainly do not.

I wonder what else those supposed unidentified critics and cynics said about Howard Baker. What was left out of those stories? What comments were filed away?

You can be assured that plenty was left out because even his critics—and I know some of them—admire Howard Baker. And who would not, considering all he has accomplished?

Few, if any, of his critics would want to return to Don Regan who, in the one article in which he was mentioned, got favorable billing probably by a reporter who panned him while he was down at the White House.

Perhaps the critics or reporters would like to return to another Iran-Contra escapade. It would certainly give them a lot to talk and write about.

Pat Buchanan, the one writer I have seen who actually attaches his name to his criticism, called Baker and his group "kennel-fed hounds, not hunting dogs."

I suppose Pat yearns for the return of Ollie North and those who consider our country a land not founded on the rule of law.

Most of us who make it to the Senate don't shrink from conflict, and while Howard likes to negotiate, I have seen him say "No" with great finality to me as well as others. More often, however, he was apt to say, "I've got no dog in that fight," and send us off to work things out, and then give us an opportunity to bring a reasonable solution to the floor of the Senate.

Howard Baker has not had an easy run in his job as Chief of Staff. Not only is the President in the last quarter of his term, but Senator Baker arrived in the White House at the hottest moment of the decade, shortly before the Iran-Contra hearings began. Perhaps that was the real bit of poor judgment on his part, to take the job at that moment, the darkest moment this administration has endured.

Are the difficulties that the administration is enduring the fault of Howard Baker?

I think that conclusion is both inaccurate and unfair. Is the President failing from age or the recent personal difficulties that he himself and his family have had?

I do not observe that at all as I meet with him virtually weekly, including this morning, in leadership meetings at the White House and see him in action elsewhere.

What has changed is that we have lost control. The Republicans have lost control of the Senate. We have lost our ability to control the agenda. Has the President been weakened as the result of the loss of one House of the Congress by his party? You bet he has, and therein lies a good share of his problems.

Howard Baker, in my judgment, comes as close to restoring the advantage conferred on the President by a Senate run by his own party as could possibly happen.

That is the story, in my judgment, a story of strength rather than a story of weakness.

Mr. President, I ask unanimous consent that there be printed in the Record an editorial from the St. Paul Pioneer Press Dispatch.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Rights's Scapegoat

> Play a word association game with the name Howard Baker, White House chief of staff. What comes to mind? What flashes onto our mental screen is a punching bag, a dart target, a man with a back ideal for tap-dancing. With spiked heels.
>
> It must be tough to be Howard Baker these days.
>
> Hailed Feb. 27 when he was appointed to replace Donald Regan as the Iran-contra scandal widened, Mr. Baker, the former senator from Tennessee, finds himself now being blamed in some quarters for everything that's going wrong at the White House, from the downfall of Robert Bork and Douglas Ginsburg to the economic gloom unlocked by the events of Black Monday. If there were stale air hanging in the corridors at 1600 Pennsylvania Ave., he'd probably be blamed for failing to turn on the fans.
>
> Reports were circulating several weeks ago that Mr. Baker was ready to resign. With the pressure on him, that would be understandable. Regularly, New Right and conservative publications go after him with cleavers. But their ire seems molded more by disappointment over Mr. Reagan's tailspin of the last 12 months and the fact that Mr. Baker is a convenient target than by any actual misdeeds or failures solely attributable to the Tennessean.
>
> As much trouble as the Reagan administration is in with Howard Baker aboard, the difficulties would in all likelihood multiply if Mr. Baker were gone. He is not Houdini. Neither is he a fighter in the style of Michael Tyson or Brian Brunette. But he was the most successful Senate majority leader since Lyndon Johnson, a fact that doesn't seem to count much with his critics.
>
> One of those critics, the pugnacious Patrick J. Buchanan, former White House communications director, barked in a newspaper column the other day: "Howard Baker and the congressional corridor-walkers he brought into the White House are of another breed. They are kennel-fed hounds, not hunting hounds. They seek compromise before the battle.
>
> What Mr. Buchanan and others of his ilk conveniently overlook is that those who spoil for a fight usually get a fight; those

willing to meet halfway frequently end up farther ahead. This nation is better off with fewer fights and more compromises.

Mr. BOSCHWITZ. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM CREDIT ACT AMENDMENTS

The Senate continued with the consideration of the bill (S. 1665).

AMENDMENT NO. 1216

(Purpose: To provide that, for purposes of determining the eligibility of land to be placed in the conservation reserve, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary of Agriculture prevented the land from being planted to the commodity during the crop year)

Mr. BENTSEN. Mr. President, I have an amendment that I have discussed with the managers for the majority and the minority. My understanding is that there is no objection to it. This is an instance of an 80-year-old woman who had leased her property on a large-term lease and then the tenant was foreclosed on by the Farmers Home Administration. The property was held in limbo where it could not be farmed during an extended period of time.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 1216.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 365, between lines 3 and 4, insert the following new section:

SEC. 803. ELIGIBILITY OF CROPLAND TO BE PLACED IN THE CONSERVATION RESERVE.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(g) For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subtitle, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary prevented the land from being planted to the commodity during the crop year.".

Redesignate the succeeding sections in title VIII, and all references thereto, accordingly.

Mr. BENTSEN. Mr. President, this amendment is a very simple one. It corrects an inequity in the current USDA regulations, not the law, regarding the Conservation Reserve Program.

Current regulations provide that, in order to be eligible for the CRP, land must have been farmed in at least two of the five base period years. In some circumstances the USDA itself prevented that requirement from being met. This amendment simply provides that in years where land could not be farmed due to actions taken by the USDA itself, the land will be considered as having been planted for CRP eligibility purposes.

In those few instances where, for example, a long-term lease was tied up in a Farmers Home Administration foreclosure proceeding against the lessor, the owner should be allowed a waiver by the USDA in order to bid that land into the CRP. That, however, has not been the case. This amendment simply corrects that situation.

I have discussed the amendment. I submit it to the managers of the legislation.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Mr. President, I have discussed this amendment with the distinguished Senator from Texas. I think it makes good sense for the same points that he has made. I have no objection to it.

Mr. LUGAR. Mr. President, we are pleased to support the amendment of the distinguished Senator on our side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. BENTSEN].

The amendment (No. 1216) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1217

(Purpose: To permit a district board under certain conditions to reallocate the amount of stock required to be purchased by banks and associations in the district)

Mr. BENTSEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. GRAMM and Mr. SANFORD, proposes an amendment numbered 1217.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 182, strike out lines 6 through 17 and insert in lieu thereof the following:

"(a) AMOUNT OF STOCK PURCHASE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.10(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit association or a Federal land bank association, 13 percent of assets.

"(2) REALLOCATION.—The district board of a district, subject to the unanimous consent of the bank and associations within the group that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability to pay of the banks and associations, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) A district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by Production Credit Associations among such associations and the district Federal Intermediate Credit Bank; and reallocation of the amount of stock required to be purchased by Federal Land Bank Associations among such associations and the district Federal Land Bank. Other reallocations than those enumerated above shall not be permitted".

Beginning on page 182, strike out line 23 and all that follows through page 183, line 2, and insert in lieu thereof the following:

"(c) NOTICE.—Not later than 15 days after the retirement of the obligations of the Capital Corporation under section 6.10—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a)".

On page 183, lines 4 through 6, strike out "the Financial Assistance Corporation notifies each System institution" and insert in lieu thereof "each System institution is notified".

DISTRICT BOARD FLEXIBILITY

Mr. BENTSEN. Mr. President, this amendment is designed to provide a safety valve in those cases where the one-time assessment formula in the committee bill does not work well at the local association level. It would allow the district board, with the unanimous consent of the affected institutions, to reallocate the assessment provided for in the committee bill. The reallocation could shift the burden within like associations or from the associations to the district bank of that group, but not from the district bank to the associations or between unlike associations. No allocation would be permitted to impair the capital of an association. If no agreement could be reached, then the assessment would be collected as provided for in the committee bill.

The committee has chosen to use an assessment formula based on unallocated retained earnings to collect the money needed for the trust fund. This is not necessarily the most accurate measure of relative ability to pay, but this formula can be said to achieve the broad objective. However, when applied all the way down to local associations it has unacceptable results.

This formula is like the sailboat that gets you across the ocean, even though it may be leaky in places. However, just because it gets you across the ocean does not mean you want to try to sail it across the reef and up on the beach at your destination. You may well prefer a different type of boat, such as one with a shallower draft more suited to the local conditions, for the last leg of the trip.

So it is with this formula. Let me illustrate the point with the situation facing the Texas district. As proposed, the bill will levy assessments against 11 of the 28 Production Credit Associations in Texas. Six of those eleven are already officially in financial difficulty according to standards set by the Federal Intermediate Credit Bank of Texas and/or the Farm Credit Administration. Mr. Paul Day, the president of the FICB, has pointed out in some detail the problems with this assessment formula, and I ask unanimous consent that a copy of a letter on this issue be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FARM CREDIT BANKS OF TEXAS,
Austin, TX November 30, 1987.

Hon. LLOYD BENTSEN,
U. S. Senate,
Washington, DC.

DEAR SENATOR BENTSEN: The Texas District appreciates this opportunity to address language in section 6.29 of the "Farm Credit Amendments Act of 1987" (S. 1665) regarding one-time stock purchases by Production Credit Associations in Texas. After analysis of provisions of this section, it is our opinion that irreparable harm will be done to several of our associations thereby jeopardizing their future viability. The methodology utilized to determine which associations to assess is, in our opinion, unfair and does not accomplish the goal of the Congress to obtain funds from those associations that have both the financial strength and liquidity to support such payments.

In the case of Production Credit Associations in Texas, 11 of 28 associations would be required to fund approximately $9.3 million of required purchases of Financial Assistance Corporation stock. This will have an average impact of 37 basis points in increased charges to the borrowers of the 11 associations. Five of these 11 associations are considered financially distressed, and would be unable to afford their payments of $3.2 million without jeopardizing future viability.

Collectively, the five associations have had combined operating losses of $5.6 million over the last 12 months. Two of the associations do not have the ability to service present indebtedness. The additional funding of the one-time stock purchase will accelerate the timeframe in which they would be forced out of business.

Finally, three of the assessed associations will be priced out of the market because of the significant impact funding these stock purchases will have on costs charged to their borrowers in a highly competitive environment.

Senator Bentsen, I believe the following factors further support our belief that methodology for determining one-time stock purchases outlined in section 6.29 does not meet the intent of Congress.

1. FCA has identified 4 of the 11 associations as high concern because of financial reasons, and has imposed special monthly reporting requirements on three of these.

2. Two of these associations have received financial assistance from the FICB because of severe financial problems. One association has repaid the bank; however, its working capital was affected to critical levels. The other association is scheduled to repay the Bank over the next four years.

3. Two of these associations will receive FICB financial assistance as part of their pending merger. Required FAC stock purchases could threaten the viability of the merged association.

4. Two of these associations have exceeded their regulatory limit for borrowing from the FICB during 1987. This is indicative of credit related problems, significant amounts of nonaccrual loans, liquidity shortages and overall weakened financial condition.

5. Five of these associations have deficit net own funds (interest bearing liabilities to the FICB exceed accruing loan volume, net of borrower equities), which is also indicative of financial problems noted in number 4 above.

We believe that some of the other Farm Credit Districts systemwide would also be adversely affected by the assessments. Senator Bentsen, we support your amendment that would allow the district boards discretion in allocation of the one-time assessment.

Sincerely yours,

PAUL S. DAY,
President and Chief Executive Officer,
Federal Intermediate Credit Bank of Texas.

Mr. BENTSEN. Mr. President, this situation is not reasonable. It is simply not fair to assess some local associations into bankruptcy while other, stronger, associations in the same district are not required to pay a dime under this assessment. I asked the Texas district to come up with alternatives. They produced several, but finally reported that the differences between the various districts of the Farm Credit System were such that each district was probably best left to produce a solution suited to its own circumstances.

I think that is a wise solution. It is in keeping with the strong tradition of local control of the Farm Credit System, a tradition which I strongly support. This amendment will allow local associations and district banks to get together and agree to help each other in order to make this bill work better.

I appreciate the assistance of the managers of the bill on both sides of the aisle in working out this amendment.

The managers of the bill requested that we modify this so as to require the unanimous consent of the affected institutions to reallocate the assessment provided for in the committee bill. There is no objection to that. We have done that.

I urge adoption of the amendment.

Mr. LEAHY. Mr. President, again the distinguished Senator from Texas, Senator BENTSEN, is absolutely right. I support the amendment.

Mr. LUGAR. Mr. President, we are pleased to support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. BENTSEN].

The amendment (No. 1217) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, again I thank Senators who have come forward with their amendments.

Mr. BENTSEN. Mr. President, will the distinguished manager of the bill yield to discuss a colloquy which we have previously commented on?

Mr. LEAHY. I was going to raise that point, as a matter of fact. Go ahead. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I am deeply concerned by the problems now facing the Farm Credit System. I think those problems should be addressed, and the bill now before the Senate goes a long way in that direction.

As has been pointed out, it is the product of many months of effort. I commend my distinguished colleague the chairman of the Senate Agriculture Committee [Mr. LEAHY] for his efforts in bringing this bill to the floor. I also commend my distinguished colleague from Oklahoma [Mr. BOREN], who serves so ably with me on the Finance Committee and who is chairman of the subcommittee which produced this bill. I also want publicly recognize the efforts of the distinguished Senator from Montana [Mr. MELCHER] who is the sponsor of this bill and who has played a lead role on the third quarter assessment issue which is so important to the Texas district as well as the Spokane district.

Mr. President, this bill contains many provisions. At the heart of this bill is a new Financial Assistance Corporation which will provide up to $4 billion to various parts of the FCS that may need it over the next 15 years. This $4 billion will be raised through the sale of FAC bonds guaranteed by the Treasury. The Treasury will pay the interest for the first 5 years, the FCS and the Treasury will split the interest 50-50 the next 5 years, and the FCS alone will pay the interest the last 5 years. The interest cost will be allocated among the FCS institutions on the basis of accruing loan volume. The bond principal will be repaid by the FCS institutions which receive the aid.

This $4 billion has been kept off budget by limiting the Federal exposure under the loan guarantee. This was done two ways. First, a trust fund is set up within the FAC to be used to pay off the bond principal. This trust fund is established through a one-time assessment which is levied on all FCS institutions that have "excess capital" as of December 31, 1986. The assessment will take all of that amount. "Excess capital" is defined as all unallocated retained earnings in excess of 5 percent of assets for district banks and 13 percent of assets for local associations. Recent estimates are that the formula in the committee bill will produce a little over $172 million for this trust fund, which will in turn grow considerably by the time the funds may be needed in 15 years.

Second, an insurance fund modeled after the Federal Deposit Insurance Corporation is established to guarantee payment of the FAC bond principal and to take the place of the FAC when it expires after 15 years. This will be funded by an assessment on accruing and nonaccruing loans.

Mr. President, this is the third consecutive year that we have had to deal with legislation to help the Farm Credit System. In 1985 we passed a bill, which I opposed, which has created a politically appointed fiefdom at the Farm Credit Administration and snarled the FCS in endless lawsuits. While lawyers are eating up money needed by the farmers and ranchers who are the borrower owners of the system, FCA has refused to use a number of their powers which could make things better. In 1986 we passed legislation to limit the powers of the FCA and to allow reversal of the loss-sharing assessment by permitting the use of regulatory accounting principles [RAP]. This was blocked by the FCA.

Now we are back again. The bill before us will again solve the problems of the FCS. It will do a number of good things, like guaranteeing borrower stock, that should have been done by FCA long ago before the system was bled dry by the loss of its best borrowers. It will provide financial assistance that hopefully will be adequate to deal with the problems facing the system. But it has a number of severe and potentially fatal flaws as well.

S. 1665 as now written mandates payment of the 1986 third quarter assessments. Those assessments, totaling $415 million, came only from Federal Land Banks. They resulted in two banks, Spokane and Sacramento, suffering capital impairment and came within just a few million dollars of impairing the Texas Federal Land Bank. These assessments were originally booked under the understanding that they would be reversed as a result of the 1986 farm credit legislation. Also, the bill proposed this year by the Farm Credit System itself would have reversed these assessments.

Mr. President, these assessments are a very sore point in the contributing districts. The farmers and ranchers who borrow from and own and run the Texas district are ready and willing to help borrowers in those other parts of the system which are in financial difficulty.

But Texas is lagging behind the Midwest. We are still sliding into the same financial hole they are now coming out of. Texas farmers and ranchers don't want to structure that help in a way that breaks their institutions. They thought that they had an agreement that the third quarter assessment would be reversed, and then it was not. That third quarter assessment took $72 million from the balance sheet of the Texas Federal Land Bank, and if paid out in cash it will add about 65 basis points to the interest cost of all the Federal Land Bank loans in the Texas district. Any true solution to the problems facing the Farm Credit System will have to refund this third quarter assessment back to the contributing districts, but in fairness it will have to do it in a way which will not damage the receiving districts.

Mr. President, in addition to this problem there are a number of problems with the one-time assessment proposed in the committee bill. The formula, which is based on unallocated retained earnings, is not the most accurate measure of financial health. As originally proposed it would have bankrupted some local associations while other, healthier, associations in the same district would not have been assessed at all. It also does not apply equally to all districts due to structural differences between districts. These problems need to be corrected.

POOLING AND REFUNDING AMENDMENT

Mr. President, I have an amendment which I will not offer at this time, but I ask unanimous consent that the text of it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. BENTSEN. Mr. President, cosponsors of this amendment include Senators CHILES, BAUCUS, FOWLER, GRAMM, SYMMS, MCCLURE, HELMS, GRAHAM, SANFORD, MELCHER, and WARNER.

Mr. President, this amendment will correct many of the major problems with this bill. It will level the playing field among the districts for this one-time assessment as well as refunding the 1986 third quarter assessment for the contributing banks only. This amendment is budget neutral and will not affect the balance sheets of the receiving districts at all. It will also not decrease the amount collected for the trust fund by the one-time assessment in the committee bill.

The committee bill levies a one-time assessment on each association in the system. Unfortunately, this method does not compensate for structural differences between districts.

This formula discriminates against districts which have not merged their PCA's or FLBA's. In those merged districts, the weak associations in effect protect the strong ones. In districts with several associations, however, the strong ones are not protected from this assessment by this averaging effect. Thus those districts pay more under the committee bill.

My amendment would avoid this discrimination by pooling like associations for purposes of the one-time assessment. Pooling the assets and unallocated retained earnings of the PCA's and assessing the pool levels that playing field. Similarly, pooling the FLBA's levels the field for them as well, so that all districts are assessed on a common basis.

In addition, my amendment would refund to the contributing districts the 1986 third quarter assessments under the FCS loss-sharing agreement by shifting those payables from the contributing districts to the newly formed Financial Assistance Corporation. This restores the balance sheets of the contributing districts without affecting the balance sheets of the receiving districts, some of which would be severely hurt by a simple reversal.

The third quarter assessment will thus be funded by the sale of bonds by the FAC. This additional $415 million bond sale, together with the contemplated other sales of bonds, should fit well within the $4 billion bond ceiling in the committee bill.

This approach is kept budget neutral under this amendment by requiring that the system as a whole, not the Treasury, pay all interest on any bonds sold under this authority. In addition, the entire system, not just the receiving districts, would pay the principal as well.

By combining the pooling and refunding provisions, the balance sheets are improved for 8 of the 12 districts. This happens because the third quarter assessment funds returned to the contributing banks are then assessed under the committee bill's one-time assessment, in effect increasing the pool of funds available to be assessed. Two contributing districts, Springfield and Baltimore, have unallocated retained earnings high enough that they pay out through the one-time assessment part of the funds they get back from the third quarter assessment. This in turn reduces the amount which must be paid by the other districts in order to fund the trust at the level required under the committee bill.

In addition, this amendment changes the assessment level for the associations from the 13-percent level in the committee bill to 12.7 percent. This is necessary in order to avoid reducing the trust fund. This amendment at the 12.7-percent level produces a trust fund of $173.2 million, compared to a $172.3 million trust fund in the committee bill. I might add that these figures are based on the most recent FCS statistics. There was at least one keypunch error in the Capital Corporation's first data base, from which some earlier trust fund calculations were done.

Under this amendment, the committee bill's assessment is levied more equitably among the districts, the Federal budget is not affected, the divisive third quarter assessment issue is resolved without hurting the receiving districts, and the trust fund used to provide part of the bond guarantee is actually increased slightly.

In addition, the balance sheets of eight districts—Springfield, Baltimore, Columbia, Jackson, Wichita, Texas, Sacramento, and Spokane—will gain a total of $418.3 million. Two districts—St. Paul and Omaha—are not affected. The balance sheets of two districts—Louisville and St. Louis—will lose a total of only $3.8 million.

Mr. President, I ask unanimous consent that a copy of a table showing the effect of this amendment be printed in the Record at this point.

Mr. President, I think that this amendment would result in a Senate bill that the entire Farm Credit System can enthusiastically support.

There being no objection, the table was ordered to be printed in the Record, as follows:

Impact on balance sheet capital

Increase:	
Springfield	$12,847,000
Baltimore	31,489,000
Columbia	100,615,000
Jackson	24,000
Wichita	18,899,000
Texas	91,934,000
Sacramento	65,750,000
Spokane	96,751,000
Total	418,309,000
Decrease:	
Louisville	−3,545,000
St. Louis	−289,000
Total	−3,834,000
No change:	
St. Paul.	
Omaha.	

Exhibit No. 1

Beginning on page 159, strike out line 24 and all that follows through page 160, line 14, and insert in lieu thereof the following new subsection:

"(e) Preservation Agreements.—

"(1) Suspension of agreements.—In consideration of the benefits, both direct and indirect, received by each System bank and association, individually and collectively, under this Act, during the operation of the Assistance Board, and thereafter whenever funds from the Reserve Account established in section 4.9A are available for use in assisting System institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended.

"(2) Adjustment of loss-sharing contributions.—

"(A) In general.—Any amounts received, or that remain accrued, by any Farm Credit System institution in accordance with the activation of any bank capital preservation agreement referred to in paragraph (1) for the calendar quarter ending on September 30, 1986, shall be repaid (or reversed) to the contributing institution by the institution that received or accrued such assistance at such time as the institution that received or accrued such assistance is provided with an equivalent amount of assistance under this subsection by the Financial Assistance Corporation.

"(B) Obligation of Financial Assistance Corporation.—The obligations of the contributing institutions under any such bank capital preservation agreement for such calendar quarter, by operation of law and without any further action by the contributing institutions or the receiving institutions, shall become and be converted into obligations of the Financial Assistance Corporation. When funds are needed to meet such obligations created under this subsection, or to repay to the contributing institutions, as required by subparagraph (A), any amounts received by the receiving institution under any such agreement, the Financial Assistance Corporation shall issue a debt obligation as provided in paragraph (3).

"(3) Debt Obligations.—

"(A) Issuance.—For the purpose of obtaining funds to make assistance available under this subsection, the Financial Assistance Corporation shall issue a debt obligation under section 6.26. The debt obligation shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

"(B) Payment of interest.—During each year of the 15-year period of an obligation issued pursuant to subparagraph (A), the banks operating under this Act shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, the entire amount of interest due on the obligation. Each bank shall pay a proportionate share of such interest, according to the average performing loan volume of the bank during the year preceding the year of such payment in relation to the average performing loan volume of all of the banks of the System for the same period.

"(C) Payment of principal.—After the end of the 15-year period beginning on the date of issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall make available to the Financial Assistance Corporation such funds as are necessary to permit the Corporation to pay the principal of such obligation. To obtain such funds, the banks may issue debt obligations under section 4.2.

"(4) Funds not considered financial assistance.—The funds made available by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to repay any amounts to the contributing institutions, as required by this subsection, shall not be considered financial assistance under this Act.

On page 182, strike out lines 6 through 17 and insert in lieu thereof the following new subsections:

"(a) In General.—For the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23.

"(b) Amount of Stock Purchase.—

"(1) Banks.—In the case of a System bank, the amount of stock required to be purchased under this section shall equal the amount by which the unallocated retained earnings of the bank (after taking into account any funds received by the institution under subsection (c) and (e)(2) of section 6.10) exceeds 5 percent of assets.

"(2) Associations.—

"(A) In general.—In the case of a production credit association or a Federal land bank association, except as provided in subparagraph (B), the amount of stock required to be purchased within each Farm Credit district shall be equal to the amount by which the unallocated retained earnings of all like associations in the district (after taking into account any funds received by such associations under subsection (c) and (e)(2) of section 6.10) exceeds 12.7 percent of the combined assets of all like associations in the district.

"(B) Allocation.—The district board of a district may allocate the amount of stock required to be purchased by associations in the district under subparagraph (A) to equitably reflect the ability to pay of the associations, except that—

"(i) the total amount of stock purchased by associations in the district under this subparagraph shall equal the total amount of stock required to be purchased by the associations under subparagraph (A);

"(ii) the board may not impair the stock of an association in carrying out this subparagraph; and

(iii) A district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations than those enumerated above shall not be permitted.

On page 182, line 18, strike out "(b)" and insert in lieu thereof "(c)".

On page 182, line 19, strike out "subsection (a)" and insert in lieu thereof "subsection (b)".

Beginning on page 182, strike out line 23 and all that follows through page 183, line 2, and insert in lieu thereof the following:

"(d) NOTICE.—Not later than 15 days after the retirement of the obligations of the Capital Corporation under section 6.10—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (b); or

"(2) in the case of the associations in a district in which the district board has allocated the stock purchase requirement in accordance with subsection (b)(2)(B), the district shall notify each association in the district of the amount of stock such association is required to purchase under subsection (b).

On page 183, line 3, strike out "(d)" and insert in lieu thereof "(e)".

On page 183, lines 4 through 6, strike out "the Financial Assistance Corporation notifies each System institution of the amounts due under subsection (c)" and insert in lieu thereof "each System institution is notified of the amounts due under subsection (d)".

On page 183, line 12, strike out "(e)" and insert in lieu thereof "(f)".

THE REVERSAL OF THIRD QUARTER ASSESSMENTS

Mr. McCLURE. Mr. President, I rise to support Senator BENTSEN's prior statements in which he expressed interest in shifting third quarter assessments of System institutions, placing them into the Financial Assistance Corporation. This will restore the balance sheets of those districts which honored the loan loss sharing agreements which all banks entered into, but which only a few honored.

To my district, the Spokane district, the amendment means equitable treatment. In the third quarter of 1986, the Spokane district gave $96.7 million to ailing sister banks which were in need. They believed that they would receive some of this money back to help keep them solvent. Actions taken by the Farm Credit Administration disallowed the return of this money. This action by the Farm Credit Administration has created great difficulty for the Spokane district.

The Spokane District Federal Land Bank has a negative surplus of $59,706; the FLBA has zero surplus; the FICB has $8.8 million; the two production credit associations have a combined surplus of $33 million; and the BC has $4.2 million. This is barely enough to keep the district solvent. A reversal of the third quarter assessments would place Spokane in a stronger position—and quite possibly one which would keep them from having to request more money from the Financial Assistance Corporation.

I support Senator BENTSEN's proposal also because it is neutral. It has the System as a whole, not the Treasury, pay all interest on any bonds sold. The entire System, not just receiving banks, will pay the principal. I agree with this approach as it comes closer to the original agreements made between district banks to cover each other's debt in exchange for a lower interest rate on bonds sold in the market.

I thank Senator BENTSEN for pursuing this issue. It has been difficult to find a workable solution. I want to assure him of my support now and in conference, where I hope this measure is settled.

Mr. LEAHY. Mr. President, I commend the distinguished senior Senator from Texas [Mr. BENTSEN] for the work which he has done in producing this amendment. I, too, come from a district that is deeply interested in reversing the 1986 third quarter assessment, and I supported that in committee and will support it in conference. In addition, I agree that the pooling approach to the one-time assessment more equitably distributes that burden among the various districts. The attractiveness of this amendment based on the distribution of benefits among the various districts is obvious. This amendment would improve the balance sheet of the Springfield district by $12.8 million compared to the committee bill.

However, much effort was put forth within the Senate Agriculture Committee to produce a package that the entire committee could support. While I personally am favorably disposed toward the amendment, I believe that there are other opinions on the committee that should be heard in deference to the consensus within the committee on this bill.

Mr. President, I yield to the distinguished Senator from Indiana [Mr. LUGAR] who is the ranking member of the Agriculture Committee, for his comments on this amendment.

Mr. LUGAR. Mr. President, I thank the distinguished chairman of the committee for yielding to me. I second his comments regarding the efforts that were put forth to develop this compromise bill.

I appreciate the opportunity to work with the distinguished Senator from Texas, and commend his work in drafting this amendment in particular, even though I am opposed to it at this time. Many, if not all, of the issues addressed in this amendment will be active topics of discussion in the conference with the House on the bill.

The amendment of the Senator from Texas can and no doubt will be considered as a possible compromise in that conference. At this point, however, I would strongly object to an amendment which makes such a major change in the committee bill. The language of this amendment also just became available late yesterday afternoon. I would prefer to have more time to fully analyze this proposal and to consider it in the context of the conference with the House on this bill.

Mr. BOREN. Would the distinguished chairman yield?

Mr. LEAHY. I would be delighted to yield to my distinguished colleague from Oklahoma [Mr. BOREN] who is chairman of the subcommittee which produced this bill.

Mr. BOREN. I thank the chairman for yielding. I want to commend the Senator from Texas [Mr. BENTSEN] for his amendment. As with the distinguished chairman of the Agriculture Committee, it is an attractive one in many respects to me also. The figures accompanying this amendment indicate that it would reduce the impact of the one-time assessment in the committee bill on the Production Credit Associations in the Wichita district by about $18.9 million, over 60 percent. That makes it a very attractive amendment to me. I am very interested in reducing the burden placed on the struggling farmers and ranchers in the Wichita district.

I recognize that the Senator has gone to great lengths to resolve many of the potential objections to this amendment, and has to a large extent succeeded. However, the bill that is now before us is the product of months of painstaking work and difficult compromises on the part of all members of the Senate Agriculture Committee. The bill has been delayed too long already, and it is imperative that we get to conference with the House as soon as possible. We must enact a farm credit bill before the end of this session.

We recognize that issues such as the third quarter assessment must be dealt with in conference. The House bill mandates reversal, while the Senate bill mandates payment. The one-time assessment will also be a conference issue. There are other deep differences between the two bills, such as the future structure of the Farm Credit System, that must be resolved in conference.

The amendment of the Senator from Texas is one that has been evolving for several days, but the actual amendment did not become available until late yesterday. I have been occupied heavily in Finance Committee budget reconciliation issues in addition to farm credit this week. The distinguished Senator from Texas, who is the chairman of the Finance Committee, knows full well that whereof I speak, for he has been even more occupied with those all-important budget issues.

I have not yet received all of the analysis that I would like to have before passing judgment on this proposal. However, from what I have seen it has many good points. This amendment, or some modification of it, could serve as a possible compromise with the House bill in conference. As the chairman of the Finance Committee well knows, it is often advantageous to leave some issues unresolved until conference with the House.

All in all I believe that this proposal is one which I would very much prefer to discuss in the context of conference rather than here on the Senate floor, and I would assure the distinguished senior Senator from Texas that I will see that this proposal receives every consideration in conference if he will permit us to deal with it in that arena rather than here on the Senate floor.

Mr. LEAHY. Mr. President, it is apparent to me that there is a strong feeling among the members of the committee that the issues raised in this amendment would be better dealt with in conference. I can assure the distinguished senior Senator from Texas [Mr. BENTSEN] that I share his concerns on these issues and will work to see that they are satisfactorily resolved in conference.

Would the Senator be willing to withdraw his amendment at this time and allow us to move expeditiously to conference?

Mr. BENTSEN. Mr. President, I appreciate the hard work that the members of the Senate Agriculture Committee have done on this bill and the position that they are in now. I agree with my distinguished colleague from Oklahoma [Mr. BOREN] that a farm credit bill needs to be enacted this year. I do not want to hold up that process. However, I think that the issues raised in this amendment will have to be resolved before a farm credit bill can be enacted into law.

I appreciate the assurances of the leadership of the Senate Agriculture Committee that the issues addressed in this amendment will receive every consideration in conference. Although I cannot support the bill as it is now written, I will not delay its passage at this time. I am hopeful that a compromise can be worked out in conference that will adequately address the concerns that I have raised and that a farm credit bill can be enacted into law this year.

Mr. GRAMM. Mr. President, I want to identify myself with the statement of the distinguished Senator from Texas. We in Texas are awfully proud that our Farm Credit System is in better shape than the System as a whole. We are awfully proud that we have money in our System. We are not so happy about the fact that the money is going to prop up other parts of the System that have not been as well run as ours.

I thank the senior Senator from Texas for focusing on a deep concern in our State. We have been very judicious and very conservative in our operations. We are frustrated by the fact that our money is going to other places that have not followed the sound practices that we have followed.

I thank the distinguished Senators for having a colloquy that focuses on those problems.

I am hoping that we can move to remedy those problems.

And again, I would like to associate myself with the remarks of the distinguished senior Senator from Texas.

Mr. BENTSEN. Mr. President, I thank my distinguished friend, and I appreciate his support. I again want to express my appreciation to the distinguished chairman of the committee, and the ranking minority member, for their interest and their concern in working out these differences.

The PRESIDING OFFICER. The Chair would ask that Senators and others on the floor to cease audible conversations. It is difficult at times to hear. So will those who are conversing retire to the cloakrooms, and elsewhere? It would be appreciated.

Who seeks recognition?

Mr. LEAHY. Mr. President, I commend my distinguished friend from Texas for raising the points which he has.

Mr. President, I have been notified that the distinguished majority leader will seek recognition for a matter which would require us to step aside on this bill for the moment. Of course I yield for that purpose.

Mr. President, I understand the two amendments by the Senator from Texas have been adopted.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. There are no amendments now pending.

The PRESIDING OFFICER. There are no amendments now pending.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the committee.

EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. BYRD. Mr. President, it is imperative that the Senate act on Calendar Order No. 455, House Joint Resolution 404. This is a temporary extension of the FHA extension. I believe the deadline is tonight, midnight.

So, with the distinguished Republican leader on the floor, I having discussed this with him and having discussed it with the manager and ranking manager, so that I believe there is no objection to proceeding with this matter, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 455. This will not have any impact on the pending matter, except it will be temporarily set aside.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 404) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, we have sent for the managers, Mr. CRANSTON and Mr. D'AMATO, I believe. They are on their way.

Mr. President, while the two managers are coming to the floor, I ask unanimous consent that the Senate go back to the farm credit bill. It is my understanding that Mr. INOUYE has an amendment he will call up, with the understanding that when the two managers are on the floor, Mr. INOUYE will yield the floor, and we can again go back to the FHA measure.

The PRESIDING OFFICER. Is there objection?

FARM CREDIT ACT AMENDMENTS

The Senate continued with the consideration of the bill (S. 1665).

Mr. MELCHER. Mr. President, there are two amendments that Senator INOUYE will offer. One is very important, and we are waiting for others to get to the floor. I would have to object if that amendment were called up at this time.

Mr. INOUYE. I will call up the one we agree on.

Mr. MELCHER. All right.

Mr. BYRD. Mr. President, I make the request. Mr. INOUYE indicated he will yield the floor when the two managers arrive.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, with the understanding from Senator INOUYE that of the two amendments, he will call up the first, which we have no problem with, I have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Hawaii is recognized.

AMENDMENT NO. 1210

(Purpose: To authorize the government of any Indian tribe to revise the priority in which the Secretary shall offer an opportunity to purchase or lease lands foreclosed by the Farmers Home Administration)

Mr. INOUYE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself, Mr. MELCHER, and Mr. EVANS, proposes an amendment numbered 1210.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 292, line 5, insert the following before "If": "The government of any Indian tribe having jurisdiction within an Indian reservation may revise the order of priority in which the lands shall be offered for purchase or lease by the Secretary, and may restrict the eligibility for such purchase or lease to persons who are members of that tribe, Indian corporate entities that are authorized by the tribe to lease or purchase lands within the boundaries of that tribe's reservation, or limit the eligibility for such purchase or lease of such lands to the Indian tribe itself."

Mr. INOUYE. Mr. President, I rise today in support of two amendments I have offered to S. 1665, a bill to amend the Farm Credit Act of 1971 to ensure the continuation of the Farm Credit System as a source of agricultural credit at fair and competitive rates.

Mr. President, I would first like to commend my colleagues on the Committee on Agriculture, Nutrition, and Forestry, and particularly the Subcommittee on Agricultural Credit, for the work they have done on this very much needed legislation. The entire country is aware of the sorry plight of our farm economy and the grievous harm that is befalling that mainstay of our Nation, the family farmer. We must all be grateful that both the House and the Senate Agriculture Committees have bent their efforts toward providing some amelioration for the burdens presently borne by the agricultural community.

I am also grateful that the Senate Agricultural Committee saw fit to include specific provisions for the protection and possible enhancement of the land base of the Indian tribes throughout this Nation. I refer particularly to the provisions of section 607 in title VI relating to Indian owned trust lands and lands within Indians reservations that may be subject to foreclosure by the Farmers Home Administration. I understand that Senator MELCHER and Senator BOREN took the lead in developing these concepts and they were heartily joined by Senators CONRAD and DASCHLE in their efforts.

While I applaud the efforts of the Agriculture Committee to consider the concerns of the Indian tribes, I am concerned with two provisions in section 607 that I believe conflict with established Indian policy. The first of my concerns is with the provisions that would establish a statutory order of preference among Indian entities for the first right of purchase or lease of lands situated within an Indian reservation that have been foreclosed under a loan administered by the Farmers Home Administration. This provision, which is found in a proposed new paragraph 1(D)(ii) to be added to section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)), would establish a legislative priority for an opportunity to purchase or lease such lands first to an Indian member of any federally recognized Indian tribe; second to an Indian corporate entity; and third and last to the federally recognized Indian tribe with jurisdiction over the Indian reservation within which the lands are located.

Mr. President, under this amendment, a member of the Yakima Nation could purchase property in the Navajo reservation. What this amendment will do—which, incidentally, I have discussed with the author of the amendment, Senator MELCHER—is to clarify the order of priority.

The first is the original owner; second, a member of the tribe; third, a corporate entity approved by that reservation, in the reservation; and, finally, the tribe of the nation itself.

Otherwise, you will have a mismatch of reservations, with little enclaves owned by different Indian tribes, which would not conform with the present policy.

I am pleased to say that Senator MELCHER joins me in this amendment, and Senator EVANS wishes to be a cosponsor.

Mr. MELCHER. Mr. President, this section of the bill deals only with land that has been on the tax rolls on a reservation. It does not deal with land that has been owned by an Indian individual or an Indian tribe and therefore not on the tax rolls.

I want to make that very clear, because what the committee has done is, first of all, to look at the situation that exists and to say that if there is land that is on a reservation and is owned by a non-Indian and is on the tax rolls, it will remain that way. That is only fair. If it is land that is owned by an Indian or an Indian tribe and is not subject to county taxes or State taxes because it is in trust and exempt from those taxes, it will stay that way. The amendment that the Senator from Hawaii is offering in this instance does not violate anything that the committee intends.

The committee intends that the lands that are on a reservation, if they are offered for resale after liquidation by the Farmers Home Administration, will be offered to the family first that owned the land, Indian or non-Indian; a member of that family, Indian or non-Indian; and then, after that, to family farmers who are Indian; or, if not purchased by any of the foregoing, it could go to the tribe.

The Senator from Hawaii has correctly pointed out that there ought to be another category, that it ought to be offered to an Indian who is a member of that tribe. I think that has merit. I think that is what the committee intended. I fully support this particular amendment.

It is the second amendment that would disturb what the committee intends that I shall have to oppose.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 1210) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURDICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. BYRD. Now, Mr. President, I ask that the Chair again lay before the Senate House Joint Resolution 404, Calendar Order No. 455.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The assistant legislative clerk read as follows:

Joint resolution (H.J. Res. 404) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ARMSTRONG. Mr. President, the leader has asked that the bill be laid before the Senate prior to the arrival of the distinguished manager on behalf of the Democrats, and so, pending his arrival, I might take just a moment to sum up what I understand to be the parliamentary situation and the purpose of this bill.

As I understand it, House Joint Resolution 404 extends the authority of the Federal Housing Administration insurance programs from today until December 16.

I must say that this is not a completely unforeseen development. In fact, it sort of feels like we have been extending the FHA program temporarily every couple of weeks or every

couple of months since I cannot remember when we were not doing that.

In fact, somebody compiled a list of how many times we have done this, and I ask unanimous consent that the list of the temporary extensions of the FHA program be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

HISTORY OF FHA EXTENDERS FROM 1934–87

Act	Approval date	Extension dates		Period	Timing
		From	Through		
Title I:[1]					
National Housing Act:					
Public Law 73–479	6/27/34	6/27/34	12/31/35	1 Year, 6 months	NA.
Public Law 74–76	5/28/35	1/01/36	3/31/36	3 months	In time.
Public Law 74–486	4/03/36	4/01/36	3/31/37	1 year	3 days late.
NHA amendments of 1938:					
Public Law 75–424	2/03/38	4/01/37	6/30/39	2 years, 3 months	In time.
Public Law 76–111	6/03/39	7/01/39	6/30/41	2 years	In time.
Public Law 77–138	6/28/41	7/01/41	6/30/43	2 years	In time.
Public Law 78–15	3/23/43	7/01/43	6/30/44	1 year	In time.
Public Law 78–159	10/15/43	7/01/44	6/30/47	3 years	In time.
Public Law 80–120	6/26/47	7/01/47	6/30/49	2 years	In time.
Housing Act of 1949:					
Public Law 81–171	7/15/49	7/01/49	8/30/49	2 months	15 days late.
Public Law 81–278	8/30/49	9/01/49	10/31/49	2 months	In time.
Public Law 81–387	10/25/49	11/01/49	2/28/50	4 months	In time.
Public Law 81–475	4/20/50	3/01/50	6/30/55	5 years, 4 months	1 month, 3 weeks late.
Public Law 84–119	6/30/55	7/01/55	7/31/55	1 month	In time.
Public Law 84–345	8/11/55	8/01/55	9/29/56	1 year, 2 months	11 days late.
Public Law 84–1020	8/07/56	9/30/56	9/29/59	3 years	In time.
Public Law 86–372	9/23/59	9/30/59	9/30/60	1 year	In time.
Public Law 86–788	9/14/60	10/01/60	9/30/61	1 year	In time.
Public Law 87–70	6/30/61	10/01/61	9/30/65	4 years	In time.
Public Law 89–117	8/10/65	10/01/65	9/30/69	4 years	In time.
Public Law 91–78	9/30/69	10/01/69	12/31/69	3 months	In time.
Public Law 91–152	12/24/69	1/01/70	9/30/70	9 months	In time.
Public Law 91–432	10/02/70	10/01/70	10/31/70	1 month	2 days late.
Public Law 91–473	10/21/70	11/01/70	11/30/70	1 month	In time.
Public Law 91–525	12/01/70	12/01/70	12/31/70	1 month	1 day late.
Public Law 91–609	12/31/70	1/01/71	9/30/72	1 year, 9 months	In time.
Public Law 92–503	10/18/72	10/01/72	6/29/73	9 months	18 days late.
Public Law 93–85	8/10/73	6/30/73	9/30/73	3 months	6 weeks late.
Public Law 93–117	10/2/73	10/01/73	9/30/74	1 year	2 days late.
Public Law 93–383	8/22/74	10/01/74	6/29/77	2 years, 9 months	In time.
Public Law 95–60	6/30/77	6/30/77	7/31/77	1 month	1 day late.
Title II:					
National Housing Act:					
Public Law 73–479	6/27/34	6/27/34	No expiration date (dollar limits)	3 years, 7 months	NA.
NHA amendments of 1938:					
Public Law 75–424	2/3/38	2/3/38	6/30/39	17 months	NA.
Public Law 76–111	6/3/39	7/1/39	6/30/41	2 years	In time.
Public Law 77–138	6/28/41	7/1/41	6/30/44	3 years	In time.
Public Law 78–159	10/15/43	7/1/44	6/30/46	2 years	In time.
Public Law 79–480	7/1/46	removed expiration date		15 years	1 day late.
Housing Act of 1961: Public Law 87–70	6/30/61	6/30/61	10/01/65	4 years, 3 months	NA.
HUD Act of 1965:					
Public Law 89–117	8/10/65	10/02/65	10/01/69	4 years	In time.
Extender: Public Law 91–78	9/30/69	10/02/69	1/01/70	3 months	In time.
HUD Act of 1969:					
Public Law 91–152	12/24/69	1/02/70	10/01/70	9 months	In time.
Extender: Public Law 91–432	10/02/70	10/02/70	11/01/70	1 month	1 day late.
Extender: Public Law 91–473	10/21/70	11/02/70	12/01/70	1 month	In time.
Extender: Public Law 91–525	12/01/70	12/02/70	1/01/71	1 month	In time.
HUD Act of 1970:					
Public Law 91–609	12/31/70	1/02/71	10/01/72	1 year, 9 months	In time.
Extender: Public Law 92–503	10/18/72	10/02/72	6/30/73	9 months	17 days late.
Extender: Public Law 93–85	8/10/73	7/01/73	10/01/73	3 months	6 weeks late.
Extender: Public Law 93–117	10/02/73	10/02/73	10/01/74	1 year	1 day late.
HCD Act of 1974:					
Public Law 93–383	8/22/74	10/02/74	6/30/77	2 years, 9 months	In time.
Extender: Public Law 95–60	6/30/77	7/01/77	7/31/77	1 month	In time.
Extender: Public Law 95–80	7/31/77	8/01/77	9/30/77	2 months	In time.
HCD Act of 1977:					
Public Law 95–128	10/12/77	10/01/77	9/30/78	1 year	12 days late.
Extender: Public Law 95–406	9/30/78	10/01/78	10/31/78	1 month	In time.
HCD Amendments of 1978:					
Public Law 95–557	10/31/78	11/01/78	9/30/79	11 months	In time.
Extender: Public Law 96–71	9/28/79	10/01/79	10/31/79	1 month	In time.
Extender: Public Law 96–105	11/08/79	11/01/79	11/30/79	1 month	8 days late.
HCD Amendments of 1979:					
Public Law 96–153	12/21/79	12/01/79	9/30/80	10 months	3 weeks late.
Extender: Public Law 96–372	10/03/80	10/01/80	10/15/80	15 days	3 days late.
HCD Act of 1980: Public Law 96–399	10/08/80	10/16/80	9/30/81	11 months, 16 days	In time.
HCD Amendments of 1981: Public Law 97–35	8/13/81	10/01/81	9/30/82	1 year	In time.
Extender: Public Law 97–289	10/06/82	10/01/82	5/20/83	7 months, 20 days	6 days late.
Extender: Public Law 98–35	5/26/83	5/21/83	9/30/83	4 months, 10 days	6 days late.
Extender: Public Law 98–109	10/01/83	10/01/83	11/30/83	2 months	1 day late.
HURRA of 1983:					
Public Law 98–181	11/30/83	12/01/83	9/30/85	1 year, 10 months	In time.
Extender: Public Law 99–120	10/08/85	10/01/85	11/14/85	1 month, 2 weeks	8 days late.
Extender: Public Law 99–156	11/15/85	11/15/85	12/15/85	1 month	1 day late.
Extender: Public Law 99–219	12/26/85	12/16/85	3/17/86	3 months	11 days late.
Extender: Public Law 99–267	3/27/86	3/18/86	4/30/86	1 month, 13 days	10 days late.
Public Law 99–289	5/2/86	5/1/86	6/6/86	1 month, 6 days	2 days late.
Extender: Public Law 99–345	6/24/86	6/7/86	9/30/86	3 months, 24 days	18 days late.
Extender: Public Law 99–430	9/30/86	10/1/86	9/30/87	1 year	In time.
Extender: Public Law 100–122	9/30/87	10/01/87	10/31/87	1 month	In time.
Extender: Public Law 100–154	11/5/87	11/01/87	11/15/87	15 days	5 days late.
Extender: Public Law 100–170	11/17/87	11/16/87	12/2/87	17 days	2 days late.

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[1] Remainder of title I history is identical to Title II history through 1987.

Mr. ARMSTRONG. It is interesting that time after time for periods of as long as a couple of years, for 9 months, for 1 month, for 15 days, for 7 months and 20 days, for different periods of time, we have extended this popular program. If you want to know why people at home think we have taken leave of our senses, it is interesting to note that this very popular, indeed this extraordinarily vital program has been extended for shorter and shorter periods of time. Recently we extended it for a few days until today. Now it is proposed that we extend FHA housing guarantees for 2 more weeks until the 16th of December.

Mr. President, I note with interest and with some concern that the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Senators will cease audible conversation.

Mr. ARMSTRONG. Mr. President, I thank the Chair for restoring order, and I believe that I would also be correct in saying that it is now time for us to make this program permanent. The reality is that the FHA Housing Program is one of the most successful programs which the Federal Government has ever undertaken. It has not been a costly program but it has been helpful to literally millions of people in homeownership and it is the kind of a program which has been one of the most successful ways of joining responsible Government action with the private market because what we are literally letting people do is come into homeownership, many of whom would not be able to without the ability to gain Government mortgage insurance of this kind. But we all know that. I do not believe that there is even one Senator—I might be wrong—but I do not know of a single Senator who does not think that the FHA program is in fact and should be as a matter of law a permanent program; that we ought to just put it in law not just because it would be less confusing, not just because it would be a more orderly way to do it, not because it would save time for the Senate to not have to go through repetitive brief extensions, but for a far more basic and fundamental reason which is that every time we come up to a deadline, we disrupt the market, we inconvenience the people who are the buyers and sellers of homes or those who are sales agents or brokers. And on many, many occasions we have failed to meet the deadline and the program has actually lapsed on a number of occasions.

For example, the last time that we did this we extended it for a month and we were 1 day late. Earlier, we extended it and we were a couple of days late. Over and over again we have missed the deadline.

Well, the practical effect of this is that people who are out home trying to close on their houses have been unable to do so. And this has been, in some cases, unsettling and, in a few cases, including one which I shared with my colleagues when this last was before us, has had actually tragic consequences. Senators may remember the case I brought to the attention of my colleagues when we talked about this last of a lady who had a terminal illness and was trying to sell her house and got the buyers to the table and it was all ready to go through and then the buyers could not get FHA insurance because the program had lapsed.

I do not think this was an isolated case. I do not know how often it happens, but I am inclined to believe that when you have millions of people counting on a program, inevitably you are going to have some real hardship and tragedy if it is on an off-again, on-again basis.

So, for that reason, Mr. President, I believe we ought to make this permanent. I do not think that would be controversial, except for one thing: Some people in this Chamber and in the other body think that by holding hostage the FHA program they can obtain the passage of other major, controversial legislation. I think the time has come when we ought to do better than that, when we ought to consider this matter on its merits; that Senators just ought to vote up or down whether they want to make this program permanent.

AMENDMENT NO. 1219

(Purpose: To provide for a permanent extension of the Federal Housing Administration mortgage insurance programs, and for other purposes)

Mr. ARMSTRONG. So, in lieu of a 2-week extension, I suggest that we make it permanent and I send, on behalf of the Senator from Texas [Mr. GRAMM] and myself, an amendment to the desk which will have that effect and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for himself and Mr. GRAMM, proposes an amendment numbered 1219.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. 2. (a) REPEALS.—Each of the following provisions of law is repealed:

(1) Section 217 of the National Housing Act.

(2) The fifth sentence of section 221(f) of the National Housing Act.

(3) Section 244(d) and the last sentence of section 244(h) of the National Housing Act.

(4) The last sentence of section 245(a) of the National Housing Act.

(5) The second sentence of section 809(f) of the National Housing Act.

(6) The second sentence of section 810(k) of the National Housing Act.

(7) The second sentence of section 1002(a) of the National Housing Act.

(8) The second sentence of section 1101(a) of the National Housing Act.

(b) AMENDMENT.—The first sentence of section 2(a) of the National Housing Act, as amended by the first section of this joint resolution, is amended by striking out "and not later than December 16, 1987".

(c) CREDIT LIMITATION.—Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974) which is provided by this joint resolution shall be effective only to such extent or in such amounts as may be approved in appropriations Act.

Mr. ARMSTRONG. Mr. President, I note that the Democratic manager has not arrived. May I ask the leader if it is his desire that I go ahead with my presentation prior to the arrival of the Democratic manager? I am advised that the Democratic manager has now arrived, so I will go ahead with a brief explanation of the amendment before seeking a vote on it.

Mr. FORD. Mr. President, I have an amendment that has been agreed to. We might get rid of that. But since the manager is here, we will proceed with the amendment of the Senator from Colorado.

Mr. ARMSTRONG. Either way, I expect to only be a moment. The amendment which I have sent to the desk, Mr. President, has the effect I have described. It makes the FHA program permanent. As Senators think about this, I would remind them that the pending resolution, House Joint Resolution 404, is the fourth short-term extension of FHA that Congress has considered in the last 2 months.

We are now faced with a choice of a 14-day extension or making the program permanent. It has been on the books for decades. It ought to be permanent. We think this is the orderly thing to do.

I would point out that during the 99th Congress, Mr. President, FHA authority was not only renewed on a number of occasions, but it was actually permitted to lapse no less than seven times. Indeed, since 1961, FHA authority has been extended 37 times.

So there is no doubt that it is a permanent program. The only question is whether or not we will make it a legislatively permanent program and thereby eliminate the interruptions which have proved to be an administrative problem and which have caused some deals to fall through and some inconvenience to the people we serve.

It seems to me the last thing we need in the economy at this time is another element of instability. It is for this reason that I offer this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DIXON. Mr. President, I had hoped that my friend, the distinguished senior Senator from Colorado, would not offer this amendment. I believe it cannot achieve its stated purpose. I think most Senators understand that. I intend to move to table this amendment at the appropriate time.

Senators are once again being put in an awkward position. An overwhelming majority of the Senate wants to avoid any further interruption in FHA home mortgage insurance, which is due to expire in just a matter of hours.

The Senate can accomplish that objective almost effortlessly by passing House Joint Resolution 404—without amendment and without delay.

The House of Representatives has already passed it by unanimous consent.

The House enrolling clerk has the joint resolution ready so it can go to the White House just minutes after he receives official notification that the Senate has passed it without amendment.

The White House is ready to put this joint resolution on a fast track for signature into law today. They say they "are poised and ready."

The major groups who care about housing want to avoid another interruption of FHA insurance.

My friend from Colorado states that is his objective as well. Nevertheless, the Senator at this late hour is offering an amendment which, if it is adopted, can only result in the shutdown of FHA tomorrow morning.

Now, the stated purpose of this amendment is to provide permanent authority for FHA insurance. As I have already stated, I strongly support permanent FHA insurance authority. Most Senators do.

But I must oppose this amendment, and I trust most Senators will join me.

Let me restate the central fact of this matter—it is that adoption of this amendment today will not, in fact, cannot provide permanent authority for FHA mortgage insurance.

The House leadership has stated in no uncertain terms that the House will not approve permanent FHA authority except in the context of a balanced housing bill. That intention is affirmed on a bipartisan basis.

House Members see the Senator's amendment as a means to weaken support for the housing bill. And they are not going to permit that to happen.

That fact is known to all Senators. Nevertheless, my friend from Colorado is asking us to adopt this amendment. If we do, the joint resolution must go back to the House and the result is very predictable. The House will take up the joint resolution, strip the amendment and send the same measure back to us. We would have to go through this battle all over again.

Nothing would be gained, and FHA mortgage insurance would be shut down once again.

It is simply shameful to bring about widespread disruption in home mortgage lending because of parliamentary maneuvering and political posturing here on the Senate floor.

Most of us grew sick of that last year, when this kind of maneuvering between the administration and the Congress forced FHA to shut down six times for a total of 51 days when demand was at a record level.

At today's level of demand, each day of interruption in FHA processing throws over 4,000 families in America into uncertainty as mortgage closings are delayed and mortgage commitments expire. Every missed FHA extension sets off a chain reaction of pain in the economy—among families trying to buy homes, among families trying to sell homes, and among builders, architects, lenders, realtors, and others.

That is why the major housing organizations are calling strongly for passage of this joint resolution without amendment.

Mr. President, the FHA has been jerked around too much in recent years by efforts of this administration to undermine Government support for housing with proposals to sell off FHA and proposals to impose fees on its activities. Congress, to its credit, has rejected those proposals.

Congress should also reassert its determination to provide stability to the home mortgage market by rejecting this amendment today.

I, therefore, urge my colleagues to join me in tabling this amendment when I make that motion.

Mr. President, I ask unanimous consent that a letter from the Mortgage Bankers Association of America, the National Association of Homebuilders, and the National Association of Realtors supporting the position of this side be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF REALTORS, NATIONAL ASSOCIATION OF HOME BUILDERS, MORTGAGE BANKERS OF AMERICA,

November 30, 1987.

DEAR SENATOR: The undersigned organizations are encouraged that there remains a strong Congressional interest in the passage of a housing bill this year. We are further encouraged that the House and Senate Banking Committees' leadership—on both sides of the aisle—are exploring possible changes in some of the provisions in the Conference Report on S. 825, the "Housing and Community Development Act of 1987" to meet objections that have been raised.

With strong expressions of Congressional support for a comprehensive bill, as evidenced by the House bipartisan vote of 391 to 1 adopting the Conference Report on S. 825 and the indication of at least a majority Senate vote, we respectfully urge that Congress enact a bill this year.

We also respectfully urge immediate adoption without amendment of H.J. Res. 404, extending FHA insuring authority, now scheduled to expire on December 2, 1987, to December 16, 1987. H.J. Res. 404 was passed by the House on November 22. Any amendment by the Senate will result in costly disruptions in the FHA programs.

Adoption of H.J. Res. 404 will offer Congress sufficient time to consider a more comprehensive bill.

Sincerely,

Mortgage Bankers Association of America, National Association of Home Builders, National Association of Realtors.

Mr. ARMSTRONG. Mr. President, I wonder if the Senator would yield for a question.

Mr. DIXON. I am delighted to yield to my friend from Colorado.

Mr. ARMSTRONG. Mr. President, the Senator has made the point that his bill comes before us at a late hour and makes an argument, which may be persuasive to many Senators, that if we were to amend the bill it would require some kind of further action, either to accept or reject our amendment by the House, and since this legislation expires today it would be very difficult to see how we could actually complete action.

In that sense, I have to agree that this is a late hour. But I just want to be sure that there is not any misunderstanding about how we got in this fix. The Senator is not suggesting that the Senator from Colorado or the Senator from Texas, who sponsor this amendment, have in any way delayed consideration of this matter or that in some sense this is a surprise amendment that comes unexpectedly out of the blue. The Senator did not say that, but I would not want there to be any misunderstanding about that.

Mr. DIXON. May I say to my friend from Colorado, in all candor, that I am not entirely conversant with everything that has transpired. The Senator understands that ordinarily the manager here would be the distinguished majority whip on this side, the Senator from California, who is otherwise engaged and has asked me to perform in his absence.

But I am told, and I do not see that to be the fact, that a request was made last night to move ahead on this issue, and that my distinguished friend from Colorado objected.

Mr. ARMSTRONG. No, the Senator is mistaken.

Mr. DIXON. I apologize if I am in error. That is what I was informed the facts were on this side.

Mr. ARMSTRONG. I have not read the RECORD of proceedings of last night, but just so that everybody knows exactly what has transpired, it was this: when this matter was before the Senate previously, that is the last time FHA was extended, I offered an amendment just like this. In fact, I believe a verbatim, identical amendment. It was defeated and in fact was defeated for somewhat the same representation that the Senator from Illinois now makes, that we did not have time, it was too late, and so forth.

After it was defeated, I made a point of saying to my colleagues that while I had not prevailed, I did not think the issue would be settled until one way or another we had a permanent extension of FHA. Some Senators thought that would be under the rubric of a comprehensive housing bill. Others of us doubted that would be possible in the time remaining in this session and certainly in the time remaining to December 2, which is today's expiration date of this bill. So I said at that time that it would be my intention to, again, offer such an amendment if it had not been otherwise disposed of.

Now, about last night. I got a call and was asked would I be agreeable—I got a call last night and was asked was I agreeable to a unanimous-consent request to take up and pass the bill without amendment? In other words, to foreclose the opportunity to offer what I believe to be the responsible amendment. On my behalf, the Republican whip did object to that.

At no time have I objected to considering the bill in the ordinary course; that is, any unanimous-consent request or motion to proceed to the consideration of the bill in other than a restrictive way, I would have no objection to.

I just want to clarify that because I would not want the Senator from Illinois or any Senator to think that I was trying to delay the passage of this. It has been known for a long time and I serve notice now that whenever the occasion arises, I shall be seeking to make this a permanent program and if the managers or the leaders or the House or somebody else delays consideration until the very last day, as they have done on this occasion, as they did the last time this matter came up, as they have done on many occasions in the past, then the Senator from Colorado cannot control that. I do not control that. I do not control the floor schedule around here.

In fact, not to put too fine a point on it, nobody on this side of the aisle controls that. But in fact the scheduling of legislation is the prerogative of the majority and I just want to make it clear to my friend that, while I am sympathetic to his problem, it is not of my making.

Mr. DIXON. I want to say that I hope my friend from Colorado understands quite fully that I am always persuaded by my friends and colleagues about the honesty of their positions and that would certainly be true of my distinguished friend from Colorado whose reputation is well known in this Chamber.

I am here in a substitute capacity. I can only tell you that those who are serving with me at this moment on this have called to my attention the RECORD of last night which shows Senator ADAMS saying:

> Mr. President, I ask unanimous consent to call up and pass without amendment House Joint Resolution 404, providing the temporary extension until December 16, 1987, of the FHA lending authority.
>
> The PRESIDING OFFICER. Is there objection?

Your distinguished assistant minority leader, Mr. SIMPSON:

> Mr. President, we have a Senator on our side of the aisle, Senator Armstrong, who intends to offer an amendment to this measure. My understanding is that the Armstrong amendment would require a rollcall vote. Our good leader has announced there will be no more votes tonight. So under those circumstances, I do not see how we could take it up and I would respectfully object at this time.

The point being that I think we wanted to go ahead at that time but my friend from Colorado—and earlier in date as well, I am advised.

Mr. ARMSTRONG. No, Senator. Wait a minute. We should not let that pass over, if the Senator would yield. The distinction which is important here is that the request, and the request to which the Senator from Wyoming objected on my behalf, was to take the bill up in a way that would prevent Senators from exercising their right to offer an amendment, not to the consideration of the bill. We were ready to take up the bill anytime. You know we could have taken it up this morning, last night, yesterday, anytime under the regular order which is to permit Senators to offer amendments.

There was no intent on our part to delay and I think that is well known among Senators on both sides of the aisle.

Mr. DIXON. I do understand the distinction pointed out by the distinguished Senator from Colorado that he would have no objection to going to the bill at anytime he could offer his amendment.

Mr. ARMSTRONG. Which is the normal course of business in the Senate.

Mr. DIXON. I have no problem with that and I have no problem taking up the bill at this time or at the appropriate time when you have completed whatever other remarks you may have. May I say to my friend from Colorado, I have no intention to cut off your opportunity to speak fully, and at an appropriate time, I would make a motion to table the amendment.

Mr. ARMSTRONG. May I make another statement? In the course of his remarks, the Senator from Illinois made the point that the adoption of the Armstrong-Gramm amendment would have the practical effect of causing a shutdown; that the leaders of the House have said that they are unwilling to meet on this in conference, they are unwilling to consider a Senate amendment, that they are unwilling to do anything except just what they have already done. In effect, that their heels are dug in and, by gosh, it is going to be this way or nothing. It is: Play the game our way or we are going to take our marbles and go home.

So, however meritorious somebody might think the Armstrong amendment is, the practical result would be at least a temporary shutdown in the FHA program. I think I have correctly paraphrased the Senator's observation.

Mr. DIXON. I think that is a fair characterization of what this Senator said, and I say that on information and belief. I must say to the Senator I have not personally talked to House leaders or the sponsors on the House side. However, it is my understanding that they are not amenable to the amendment the distinguished Senator from Colorado is offering.

Mr. ARMSTRONG. You know, the reason I wanted to clarify that is this: When last we debated this matter, the same representation was made by one of the managers of the bill and in fact he asserted that the only way that we could continue the FHA program without interruption was to pass the bill without amendment. This argument proved persuasive and a majority of the Members of the Senate did not vote for the amendment which was then offered by the Senator from Alabama and the Senator from Texas and the Senator from Colorado and others. By gosh, there was a belief that no matter how good this amendment was, it just did not make sense to do something which the House intransigently refused to seriously consider. So we passed it without amendment.

May I ask, Is there any Senator present here and now who remembers the outcome? Did the program continue without interruption? Did the House act on it? Well, the answer is—I see the Senator from Texas here. Does the Senator from Texas remember what happened? Did the program continue without interruption or was there in fact a discontinuity in the FHA program last time around?

Mr. GRAMM. I know the answer is yes or no and I think it is yes.

Mr. ARMSTRONG. The Senator is correct.

The point is that all of this posturing and hazing and horsing around and, "Boy, the House is dug in on this and they will only do it if they can do it their way"—in the first place, if Senators care about the issue, representations of the House as to what they will or will not do really should not be taken seriously until we meet them with our position face to face in conference. There are a lot of times when Members of the other body, and maybe sometimes Senators, say: "Boy, I am adamant on this, I will never give in, my feet are set in cement," and then pretty soon you hear the cement cracking, you hear the changes being made and compromises are being reached. But the thing that is really interesting to me, that even when we did what they asked us to do, pass the bill last time without amendment, it still did not get to the President's desk in a timely manner.

I do not know whether that will happen again. Maybe they are all poised and ready; the ink is probably already on the paper. I mean it is just awaiting transmittal. But is that really, even if it is true, a good reason to avoid settling this issue? Are we going to really get something more done on December 16 or are we going to be back here some time after noon on December 16 with another deadline facing us in the same situation?

Which brings me to the next question I would like to propose to the Senator from Illinois. In the event that the pending amendment is not adopted and this program is renewed until December 16, would the Senator be willing to figure out a way, so that instead of having the extension coming out on the very last day, maybe the last half of the last day, we could have it a week or 10 days ahead so that we could at least offer to the House a chance to work with us any better? Or does he think we are simply fated to always do things at the last minute?

Mr. DIXON. May I say to my colleagues that so far as this Senator personally is concerned, that would not give me any difficulty.

With reference to this resolution itself, I am told that the House has already fully acted. The enrolling clerk is prepared to send this along to the President. If we can get the joint resolution passed over here today, I think it can effectively be taken care of today.

I am told that on November 13, and I say this without trying to argue with my friend from Colorado about time constraints, we attempted to extend FHA through December 16. It was my friend from Colorado who objected then and brought us to this moment of truth, again, on December 2.

So I am not trying to quibble about dates. I am trying to suggest that some of the problem that we face today is some of the Senator's own making, I think, in the sense that he did not want to wait until December 16 on an earlier occasion.

Would the Senator agree with me? On the question of sometime before December 16, I do not mind voting on an amendment of the Senator. Generally, I think that would probably be true on this side, but I have not explored that possibility with others. I would like to accommodate my colleagues and friend on every occasion, not necessarily always supporting his side, but certainly willing to vote on the question.

Mr. ARMSTRONG. The Senator from Illinois has again enhanced his reputation as one of the most accommodating and congenial Members of the Senate.

Mr. DIXON. It is my delight to be of service to the Senator.

Mr. ARMSTRONG. The Senator from Texas wants to have a word on this issue and then I believe we will be ready to vote.

Mr. GRAMM. Mr. President, I will be brief. I identify myself with the comments of the Senator from Colorado. We can do something today so we do not ever have to come back and address this issue again, so that we never hold up FHA guarantees, so that this vehicle is not used as a train to pull every dead dog and cat that comes along across the threshold where money gushes forth out of the taxpayers' pockets.

If you really want to make FHA permanent, I urge you to vote for the Armstrong amendment. If you want to keep ransoming FHA to every special interest that comes along and use it to try to adopt everything that the people of America are opposed to in terms of threat to housing, then I urge you to vote no.

I am not the least bit swayed by the argument that says if you do not do it temporarily so we will have to do it 50 more times next year, then it may end up not being in effect when it is needed.

The amendment of the Senator from Colorado makes it permanent. I urge my colleagues to vote for the amendment and against the motion to table. I yield the floor.

Mr. DOLE. Mr. President, I rise in strong support of the Armstrong amendment to House Joint Resolution 404. Home buyers, especially first-time home buyers, have had enough of the on-again, off-again approach to FHA authorization. And I believe the housing industry as a whole has had enough of this approach.

NO SHUTDOWN OF FHA

The Armstrong amendment would accomplish three important objectives. First of all, it would avoid a shutdown of FHA. At the same time, it would avoid the need to come here every 2 weeks or so and approve a temporary extension of FHA. I don't know about other Senators, but the process of having to approve temporary extensions one after the other, week after week and month after month is getting old.

This process is like the "Perils of Pauline" where we have to continuously rescue the FHA time and time again. And all the while there is the risk that FHA actually will have to shutdown. So the Armstrong amendment is sensible in that regard.

NO RUSH TO JUDGMENT

Second, the Armstrong amendment eliminates the need to rush into a comprehensive housing bill before we are really ready. We would not be here today if there were not some serious questions regarding the housing bill that came out of conference.

The 43 Senators who cast their vote on November 17 for upholding the Budget Act cast a vote for fiscal responsibility—and not against housing. They did so—and I was proud to be one of them—because there were very real problems with the bill from a budgeting standpoint.

Other Senators—and this Senator is one of them—have concerns about maintaining existing programs at levels that are too high or continuing programs that have outlived their usefulness. And I think we have the right to question new or unnecessary programs at a time of record deficits.

For all of these reasons, we don't need to rush to judgment. We need time to consider carefully what is prudent from a fiscal and policy point of view. And we don't need to be rushed along by some arbitrary deadlines that we keep imposing and reimposing on ourselves.

With the threat of an FHA shutdown always hanging over our heads we still do not have a comprehensive housing bill for some 7 years now. It just hasn't worked. Maybe it's time to try something different. Perhaps it's time to stop using FHA as a political football and proceed in a deliberate, businesslike manner.

HELP FOR FIRST-TIME HOME BUYERS

The third and perhaps most important thing the Armstrong amendment would do is to provide stability in help for the first-time home buyer.

And I can think of no more important objective for us to focus on than making housing more affordable for the first-time home buyer.

CONCLUDING REMARKS

By voting for this amendment, we will be voting to avoid a shutdown of the FHA. We will be voting for time to craft a comprehensive housing bill that is truly in the national interest. And we will be voting to make housing more affordable.

This amendment is a sound, reasonable approach which I believe will receive the support of many in the housing industry as well as the many Americans who are in need of housing.

I intend to support the amendment and urge my colleagues to do the same.

Mr. D'AMATO. Mr. President, as ranking member of the Senate Housing Subcommittee, I rise today to join with the chairman of the subcommittee, Senator CRANSTON, in support of legislation to extend the insuring authority of the Federal Housing Authority [FHA] of the U.S. Department of Housing and Urban Development. Under this legislation, the FHA mortgage insurance authority would be extended until December 16, 1987. Currently, under Public Law 100-170, the FHA authority to insure home mortgages expires on December 2, 1987.

Both the House and the Senate have passed housing reauthorization bills including provisions for the continuation of this insuring authority. The final conference bill has passed the House, but has not yet reached the President. Therefore, Senator CRANSTON and I are sponsoring legislation today that would allow the FHA to continue its operating authority for the numerous mortgage insurance programs through December 16, 1987. This will give the Senate and the President time to act on the housing bill.

Last year the FHA insuring authority became a pawn in a larger battle between the House and Senate over a controversial reauthorization bill of all Federal housing programs. The Congress passed seven short-term extensions. However, during the course of congressional deliberations, the insuring authority was allowed to expire a shocking six times. FHA shut down its operation a total of 51 days. This caused confusion and frustration among many prospective home buyers. It threatened the Housing plans of many low-, moderate-, and middle-income Americans. Furthermore, it destabilized the mortgage and housing financing system in our Nation.

This FHA extender will prevent the insuring authority from expiring on December 2, 1987, while the 1987 housing bill is still being addressed by the Senate and the President. The FHA will be able to operate in a smoother fashion through December 16, 1987, avoiding undue hardship to home buyers, mortgage lenders, homebuilders, and the many individuals involved in our Nation's housing industry and financing system.

Mr. President, FHA is one of the most successful partnerships ever created between the public and private sectors. During its illustrious 53-year history, FHA has assisted more than 15 million American families realize the dream of homeownership. Let us preserve the integrity of this vital Federal agency. I urge my colleagues to join us and to support this legislation.

Thank you, Mr. President.

Mr. DIXON. Mr. President, if my distinguished colleagues from Colorado and Texas have concluded and no one else over here wants to participate, I move to table the amendment offered by my friend from Colorado at this point.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ARMSTRONG. Can we have a division vote? Would you like to have the yeas and nays?

Mr. DIXON. Given the strength of the lungs of the Senator from Texas, I think I would like to have the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois to lay on the table the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana [Mr. GORE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. RUDMAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—59

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—37

Armstrong
Bond
Boschwitz
Cochran
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Proxmire
Quayle
Roth
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Gore
Metzenbaum
Rudman
Simon

So the motion to lay on the table amendment No. 1219 was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I would like to address the Senate for a moment but the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. Mr. President, if we could have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. I want to take a moment to thank my colleagues who have voted not to table my amendment. This is in essence the identical issue which we considered a couple of weeks ago and at which I was joined by 27 of my colleagues. The vote was something to 28. Today 35 of my colleagues have joined and have made it possible for us to get 36 votes against tabling reflecting I think a growing sense of realization that the FHA Program is too important a program, too basic to the housing industry, and too central a basic support in the lives, both the personal and professional lives, of millions of Americans.

Mr. President, I regret to draw the attention of the Chair to the fact that the Senate is demonstrably not in order.

The PRESIDING OFFICER. The Senate will be in order so that the Senator from Colorado may be heard by all. The Senate will be in order.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I am grateful to the Chair for restoring order. The point I wanted to make is I am appreciative that a few more of my colleagues have joined our cause and to say to the managers of the bill, first, a word of thanks for their courtesy, but to suggest that this is not the last chapter in this issue. One way or another, before this session of Congress adjourns, we ought to make the FHA program permanent.

I understand that there are many Senators who would like to do so as part of a comprehensive housing bill. And I hope, too, that will be possible. On our side of the aisle we are working on a bill which at the right time we hope to offer to the Senate. But Senators have not forgotten, I am sure, that the legislation which was passed by the House and which was brought to the floor of the Senate for consideration is under the explicit threat of veto by the President. Usually when the President gets ready to veto a bill he sends up some kind of a cloudy, veiled, vague message to the effect that the President's senior advisers are skeptical and will recommend a veto. That is not what Mr. Reagan has said about the housing legislation which came before the body a few days ago. What he said was in effect "Unless lightning strikes me I am going to veto that bill if it ever gets to my desk."

The reason I draw my colleagues' attention to this fact is that I do not dispute for a minute the desirability of having one grand slam, big casino settlement of all resolved issues, housing, FHA, you name it. If we can do that, then that will suit me fine. What I note with interest is that the Members of the House may have made it clear that they do not want a compromise, they do not want to deal, they do not want to talk to the Senate about it, and they do not want to talk about the change in the bill which the President has promised to veto.

Similarly, those of us on this side of the aisle who are trying to put something together have not met with a very friendly reception from the Democratic side of the aisle. While it is not yet impossible, indeed we are working assiduously to put together a bill that can pass and be presented for the President's signature. It is unlikely at this point that we are going to succeed.

If I may say to the Senator from Illinois, the Senator from California, and others, one way or another would you please join us before this year is over if we cannot pass a housing bill to at least pass a permanent or very long-term extension of FHA? If you do not want to make it completely permanent, how about going for 2 or 3 years so at least we will not have 5 or 10 more short-term extensions next year. It is not fair to housing, it is not fair to realtors, and it is not fair to our constituents.

Mr. President, I thank my colleagues and I guess we will be back revisiting this. But I hope it will not be on December 16. I hope we will do it in a more timely way. We are not seeking to delay this. We are trying to bring it to a solution. If we come back on the 16th of December, then I hope Senators will not say it is too late to consider an amendment because it will be time to consider an amendment then if not before.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I yield to my colleague from Georgia.

Mr. ARMSTRONG. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER (Mr. ADAMS). The Senate will be in order. Senators will suspend until the Chair achieves order.

The Senator from Georgia.

Mr. FLOWER. I thank the President.

Mr. President, we are now back on the farm credit bill. Is that correct?

The PRESIDING OFFICER. The Chair would state to the Senator from Georgia that the motion to table was approved, and we are still on the FHA extension.

Mr. FOWLER. I thank the President.

I yield my time to the distinguished Senator from Illinois.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Illinois.

Mr. DIXON. Mr. President, in a brief moment I believe that the President can put the question and we will dispose of this issue. I think we can do that without a rollcall.

Mr. ARMSTRONG. Mr. President, there is no need for a rollcall. Let us have a voice vote and get on.

Mr. DIXON. Mr. President, I do want to make this response to the remarks by my distinguished friend from Colorado, because his remarks are always very persuasive. He is a man of great logic and intellect, and I feel that it is necessary to make at least a brief response to something he said.

The Senator from Colorado has made a great issue out of the fact that the President has said he will veto the housing authorization bill. It may be that he will. I would suggest to my friend from Colorado and others on the other side that one of the things that I think is so difficult for us to deal with this year is the intractability always of the administration with reference to a lot of these issues.

They simply will not deal with us and accommodate us in ways that we can pass legislation. We found that when we had the long and very divisive debate about the highway transit legislation, where all of us who were involved in that as managers on this side repeatedly asked the administration to set forth the parameters of what they could tolerate.

The Senator from Colorado, a member of the Banking Committee, knows that on the major banking legislation we consider this year, H.R. 27, through weeks and weeks of conference, we repeatedly said to the administration: "You say you want to veto this bill. What is it about this bill that you don't like? We'll try to accommodate you."

After we completed the conference, after most of us had signed the conference report, the Secretary of the Treasury finally contacted us and said: "If you will change a few small matters for us and increase the amount of FSLIC, the President will sign the bill."

We called the conference back together and accommodated the administration and accommodated the President and got a banking bill.

We can still get a housing bill if the administration will tell us what their principal objections are to the present legislation.

The statement on the other side that this is a budget buster absolutely violates all the known facts. Housing programs in this country have decreased 70 percent since I have been in the U.S. Senate. I was elected in the year that President Reagan was elected President, 1980. We have doubled military spending and have cut 70 percent on spending on housing in America, and my friends on the other side continue to holler "budget buster."

They do not holler "budget buster" when we buy MX missiles. They do not holler "budget buster" when we buy tanks. They do not holler "budget buster" when we buy weapons. They do not holler "budget buster" when we raise the salaries of people in our Armed Forces. But when we want to build a house for a homeless family, it is always budget busting.

I would like the administration to tell us what it will tolerate on this kind of legislation. This Senator is willing to talk, and there are plenty of others on this side who care about housing and represent the great urban areas of America.

All we get from the other side is nitty-gritty, saying we are trying to bust the budget. We are trying to build housing for people who need housing.

These issues are more than a little piece of paper on a desk. This goes to the question of taking care of people in America who need housing.

I say to the administration, "Tell us what you want to do." They do not want to do anything about housing. They want to cut it 70 percent; 87 percent in Illinois. Whom do they think they are kidding? The plain fact is that they want to take the money from housing and other programs to buy tanks and bombs. I am on the Armed Services Committee, and I vote for tanks and bombs. I do not deny it. But we should not neglect housing needs.

I would like the President to tell us what we can do in housing that will satisfy him. I am in my seventh year as Senator; he is in his seventh year as President; and we have not passed a major housing authorization bill in the Congress for the people who need houses in the 7 years I have been here.

Mr. ARMSTRONG. Mr. President, a lot of people around here act like they are going through the motions, and I think we need to hear a speech like that of the Senator from Illinois, because he is not going through the motions. He passionately believes in his cause, and I think that is good for the Chamber, good for the body, and good for the country.

I want Senators to know that the President passionately believes in his cause, too, and that there are many of us on this side of the aisle who are eager to work out a housing bill and are eager to come to an accommodation on many other things, and I hope we will be able to do that.

I have been in communication with the administration and have said to them much the same things, though in perhaps different tone and a little different spirit than the Senator from Illinois has said it. I have said it in the spirit of, "What could you buy, what could you agree to, or what could you get together on?"

I have approached Members on his side of the aisle and Members in the other body, and I said:

> Could you take a little reform in this program, scale it down, fit it into the spending total we would like? Could you accommodate it the way the interest rates are going, so we can put together a grand national budget summit and make it work?

I have some hope that we will be able to do that. I am not prepared to predict today that we will succeed, but we are working on it.

What I am saying is this: If that succeeds and if a permanent extension of FHA is included in the broad housing bill, well and good. But if that does not happen, if perchance we are not able to pass a comprehensive bill which would be acceptable to Senators and to the President, then I do not think we ought to hold this bill hostage.

The Senator says that he has been here 7 years and the President has been here 7 years. I have been here 7 years. Come to think of it, I have been here a couple of more years than that, and I know there is a time and place for everything. But, in the past 7 years, I wonder if anybody can recall how many times we have temporarily extended the FHA Housing Program. I wonder if anybody can recall how many people have been inconvenienced, how many business decisions have been disrupted, how many houses that might have been bought and sold fell through the cracks, how many investments both human and financial, have gone by the boards because Congress has insisted on extending this thing for 1 week, 1 month, or 2 months. That is not good practice.

All I am appealing for to the Senate is that we try to put together a housing bill. Under the terms of this, we have at least until December 16. But if we fail in that effort, let us not hold the FHA Housing Program hostage. Although it is not complete and does not cover the whole waterfront, it remains the centerpiece of good housing policy in this country, and has for decades. Let us not continue to disrupt that and let it lapse again, as it has many times in the past.

Mr. President, we have done our task here today. I believe we are ready for a voice vote.

Mr. BYRD. Mr. President, when Cicero spoke, they always said, "Cicero speaks well." But when Demosthenes spoke, they said, "Let's go against Philip."

I am ready. Let's go. [Laughter.]

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 404) was passed.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT ACT AMENDMENTS

The Senate continued with the consideration of the bill (S. 1665).

The PRESIDING OFFICER. Under the previous order the Senate returns now to S. 1665, and the Senator from Georgia is recognized.

AMENDMENT NO. 1220

(Purpose: To improve Farm Credit System restructuring provisions in the bill)

Mr. FOWLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Georgia [Mr. FOWLER], for himself, Mr. BURDICK, Mr. GRASSLEY, Mr. SANFORD, Mr. DURENBERGER, and Mr. CONRAD proposes an amendment numbered 1220.

Mr. FOWLER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Beginning on page 256, strike out line 16 and all that follows down through the end of line 7 on page 258 and insert in lieu thereof the following:
>
> "(1) the present value of interest income and principal foregone by the bank or association in carrying out the restructuring plan;
>
> "(2) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;
>
> "(3) whether the borrower has presented a restructuring plan and cash-flow analysis taking into account income from all sources proposed to be applied to the debt and all assets intended to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and
>
> "(4) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.".
>
> On page 253, line 23, strike "of family farmers."
>
> On page 254, beginning in line 15, strike out "who are family farmers".
>
> On page 254, in, line 23, strike out "who is a family farmer".
>
> On page 255, beginning in line 11, strike out "who is a family farmer".
>
> Beginning on page 260, strike out line 15 and all that follows down through the end of line 4 on page 262.
>
> On page 262, in line 5, strike out "(5)" and insert in lieu thereof "(4)".

Mr. FOWLER. Mr. President, I offer this amendment on behalf of Mr. BURDICK, the senior Senator from North Dakota; Mr. GRASSLEY, the Senator from Iowa; Mr. SANFORD, the Senator from North Carolina; Mr. DURENBERGER, the Senator from Minnesota, and others.

I do want to join my colleagues as a member of the committee in commending the chairman of our committee, Mr. LEAHY, the ranking member, Mr. LUGAR, and the chairman of the Credit Subcommittee, Mr. BOREN, from Oklahoma.

First, I would like to commend my colleagues on the Senate Agriculture Committee for their efforts on this legislation. It has not been easy to develop a comprehensive farm credit package, one that addresses the needs of borrowers while keeping the cost to the Government at a minimum.

We are proposing in this bill $4 billion in taxpayers' assistance to the ailing Farm Credit System and the Farmers' Home Administration. But the committee has also made it plain that this is not intended as merely a bureaucratic bailout, that this cash infusion must also benefit the ailing farmers these institutions were created to serve.

If you ask any hard-hit family farmer what credit changes he needs most to get back on his feet, he will put at the top of the list debt restructuring requirements that are both sound and fair.

S. 1665 does address these issues as it is written. It calls for increased stretchout on loans and for keeping farmers on their land wherever it is practical. However, with this amendment, a farmer's chances for saving his land can be vastly improved by clarifying and simplifying the terms under which the delinquent Farm Credit System loans will be restructured.

The current version of the bill requires the FCS, after comparing the costs of restructuring a loan and foreclosing on it, to choose a cheaper alternative, but it provides little guidance in computing these costs and allows a multitude of escape clauses through which a costlier foreclosure can still be pursued.

My amendment would tighten up by defining the method by which these cost calculations are made. This would ensure for the protection of shareholders, borrowers, and taxpayers, that the FCS considers all relevant factors in making a decision to foreclose or to restructure.

This amendment would also clarify the terms under which a loan is eligible for restructuring. As matters now stand, there are nine separate tests a farmer has to pass before the FCS can consider restructuring his loan. These involve such nebulous and subjective terms as "good faith," and "responsible concessions."

I would clear up all the doubt and confusion with two simple criteria: the loan must be delinquent due to circumstances beyond the borrower's control; and the borrower's past performance must demonstrate the ability to repay the restructured loan. These provisions remove the burden of proof from the farmer. They also write into the legislation a clear recognition of its intent: that, cost permitting, restructuring is the desired alternative.

I want to thank again, now that I see he is on his feet, the Senator from Oklahoma, Mr. BOREN, the chairman of the Subcommittee on Farm Credit, for the extra assistance he gave me and the borrowers throughout our country in trying to streamline this amendment, that will accomplish what we hope for it to save everybody money but give a man a chance, all things being equal, to reclaim his land, to pay off his debts and to be a productive producer on behalf of the agriculture sector of his country. And I thank him for this assistance.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the Senator from Georgia for his very generous comments. I would like to be added and ask unanimous consent that I might be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I have discussed this with Chairman LEAHY and there is no objection to this amendment on this side of the aisle.

Let me say that the Senator from Georgia has gone to great lengths to modify the amendment, to make it very clear as to the intent of the amendment. As he has said, we want to make it possible for the farmers to have a fair opportunity, for the borrowers to have a fair shake under this proposal, so that the burden of proof will not be unduly put upon the farmer/borrower. At the same time, we want to make certain that we do follow sound financial practices.

What we are saying here is that loans will be restructured if it is cheaper for the Government to restructure than it is to foreclose. That makes good common sense.

At the same time, we also require that there be a restructuring plan under which the system will look at the cash-flow of that operation, will look at any additional sources of income or assets that the farmer might desire to pledge in order to make the restructuring work and then we will make that decision consistent with the ability then for that loan and that debt to be ultimately repaid once it is restructured.

We also require that the farmer provide an accurate and up-to-date financial statement. I think that is very important. We are making sure that we are really helping those who are doing everything that they can conscientiously do themselves that are making every effort because we do have those borrowers out there, who are having a terrible time, who are struggling each and every month to make those payments but are still being able to stay current. We want to make certain that when we do help those farmers who have not been able to stay current that we can look at the other category of borrowers who are making their payments on time, at a great sacrifice and say to them we have made certain that those restructured loans are absolutely necessary in terms of the restructuring that is taking place and that those farmers who are having their loans restructured are put in a situation where they are having to make every possible effort to retire that debt so we are as much as possible putting farmers on an equal footing; at the same time we are giving relief to those where it makes sense from the point of view of compassion to the farmer/borrower. It makes sense in terms of the Government interest here as we are providing assistance to the system and it makes sense for the system because it is cheaper in these circumstances to restructure than it is to foreclose.

So, I commend the Senator from Georgia for his efforts. He has time and time again focused the attention of the subcommittee and the full committee on the need to protect the interests of the farmer and the borrower and, as I said in the very beginning, my own personal interest in this legislation was not so much to try to figure out a way to continue in existence some kind of financial organization. It was to stabilize the credit situation in this country for agriculture, to make the process more fair so that the farmers who are out there on the farms struggling to make it will have a fair chance to do so. Those are the people who we are really trying to help most of all with this legislation, providing some stability and fairness to the Farm Credit System so that the farmer/borrower can be served more effectively, efficiently, and in a fairer way.

I think this amendment helps in that effort, helps in that focus of the legislation, and, therefore, it is acceptable on this side of the aisle and I hope that it will be adopted.

Mr. LUGAR. Mr. President, in considering the amendment of the distinguished Senator from Georgia, I think it is important for Senators to understand the context in which the amendment arises. The amendment strikes language on page 256 of the bill. Prior to the points that are struck there is on line 5 a very important paragraph. It is entitled "Compelled Restructuring," and it states: "If the banker or association determines that the potential cost to the institution of restructuring the loan is less than or equal to the potential cost of foreclosure the bank or association shall restructure the loan in accordance with the proposed restructuring plan."

This is one of the most important aspects of what has become known as a borrowers bill of rights in this credit legislation. Although the central focus of the bill is the restructuring of the Farm Credit System generally, it has a very pointed focus on the individual loan situation of an individual farm family.

The distinguished Senator from Georgia has taken a look at the compelled restructuring and then the next paragraph, the computation of the cost of restructuring, so that we can begin to find whether it is going to be a viable procedure and the Senator from Georgia has suggested that the nine criteria that are listed on pages 256, 257, and 258 be struck and instead four criteria should be added instead. These he has added with his amendment.

The computation of the cost of restructuring paragraph states:

> In determining whether the potential cost to the institution of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a bank or association shall consider all relevant factors.

Now, the words "all relevant factors" remain in the bill—they are not changed by the Senator's amendment. Then the word "including" comes, followed by the four criteria from the Senator from Georgia. These criteria then are not intended to constitute an exhaustive list for the lender to consider in making the restructuring decisions, they are just important areas deserving of particular emphasis. It is expected, however, that all relevant criteria will certainly be considered.

I think the Senator has drawn up an excellent set of criteria and that this does, in fact, improve the legislation.

So we have been pleased to work with him and with members on the majority and minority staff, and we are prepared to accept this amendment.

The PRESIDING OFFICER. Who seeks recognition.

Mr. FOWLER. Mr. President, I thank the Senator from Indiana for his kind words and for his support.

Mr. GRASSLEY. Mr. President, I rise today in support of the amendment by the Senator from Georgia. I am proud to cosponsor this amendment because I firmly believe that any assistance package for the Farm Credit System must first and foremost contain provisions which directly aid the struggling farm borrower.

I applaud the work of the Agriculture Committee for its inclusion of borrowers' rights and debt restructuring provisions. The legislation approved by the committee largely represents the best interests of farm borrowers. The bill, as reported, embodies the very worthwhile intent to retain the original service-oriented functions of the Farm Credit System in the financial bailout package.

Though I heartily support the Farm Credit Act Amendments of 1987, I am reluctant to fully endorse all of the provisions in title IV of the bill, which outlines the requirements for borrower restructuring.

First, the modifications contained in the amendment which I cosponsor with Senator FOWLER, would further clarify the computation of "cost of foreclosure." Under this definition, the costs of foreclosure would include the difference between the amount due on the loan and the value of the loan's collateral, the cost of maintaining the loan as a nonperforming asset, administrative and legal costs, and changes in the value of the collateral.

The costs of restructuring would include forgone interest and principal, and expenses of administering the plan.

Second, this amendment would simplify the eligibility criteria for participation in restructuring. A borrower would have to be delinquent in loan payments, and would have to demonstrate that he or she would be able to continue the payments as scheduled, and that the farmer demonstrates ability to maintain the payments under the restructured plan.

My support of this amendment stems from my long standing criticism of the Farm Credit System. I have often gone on record to challenge the management of the System for its antifarmer policies. My constituents have shared with me all too many examples of callous treatment of farm borrowers, farmers who are also struggling with low crop prices, devalued land, and bad weather conditions.

I would like to share excerpts from some letters I have received from Iowans. I share these letters because they are painfully typical.

From a farm in Ayrshire, IA:

> We were long time borrowers of the FCS, both the FLB and the PCA, and have poured many dollars into the System over the years. We realize that they had a right to sell our property, but we think the real story of how they are dealing with the lives of people needs to be told. If they are going to get a bailout from the Federal Government, we think that the farmer-borrowers are the first ones who should be given consideration. That should be a stipulation if any government funds are given to FCS.

And from an attorney in Carroll, IA:

> The Farmers Home Administration and the Farm Credit System need help and guidance. However, assistance must not be directed toward saving the "System." Rather, efforts should be addressed to assist the borrower.
>
> Perhaps my first hand knowledge of the injustice practiced daily by the FmHA and the Farm Credit System personnel could be of value to you. Gross mismanagement of these institutions is resulting in farmers being milked out of their livelihood. Sound agricultural policy must be based upon fair treatment of farmers, rather than protection of untold layers of over-paid loan officers of these institutions.

I ask unanimous consent that the remainder of these letters be printed, with the names omitted.

I am greatly concerned that the criteria required in the bill for restructuring borrower debt would allow System officials opportunity to abuse the intent of the restructuring legislation. I realize that several districts, such as the Omaha district, have acquired new management. I am hopeful that the new management will act responsibly and in the best interests of its customers, as it has promised.

However, I do not want to have to merely "hope" that System officials will treat borrowers fairly. I want to be confident that the legislation adopted by this body guarantees that borrowers with the Farm Credit System be given fair and equitable consideration for restructuring their farm debt.

This amendment would dramatically simplify the criteria for restructuring. The bill reported by the committee specifies nine standards to which family farmers must comply in order to be considered for restructuring. Forcing borrowers to prove eligibility on nine points would be like trying to harvest oats in a combine with nine sieves. Not only would it take forever to harvest the field, but you would also lose most of the oats.

Besides being unwieldy, these nine criteria are also obscure. The criteria require System officials to consider whether a borrower has been "cooperative" and whether the borrower has utilized "reasonable" assumptions. Criteria such as these put System officials in the position of judging borrowers' character, rather than simply analyzing the fiscal costs and benefits to the System.

Mr. President, I urge my colleagues to support the amendment of the Senator from Georgia.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JUNE 12, 1987.

Re Farmers Home Administration—Farm Credit System.

Senator CHARLES E. GRASSLEY,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: Most of my work is involved in agricultural debtor creditor relations. Although I primarily represent farmers, I have also done a fair amount of collection work for financial institutions and feed, seed and implement dealers.

To date I have successfully negotiated in excess of $10,000,000 in loan write-downs and clients' loans of millions more have been restructured without a single farmer forced into bankruptcy. I have also helped creditor-clients foreclose on farms and repossess from implements.

Some clients have been the subject of Pulitzer prize winning articles and featured in Time magazine. Others are just part of the statistics of those forced from the land.

I am a regular speaker at farm meetings sponsored by such groups as the Catholic Church, Iowa Farm Unity Coalition and others. I am a member of the executive committee of the Agricultural Law Committee of the American Bar Association, Young Lawyers Division. In summary, I think I know more than a little about what is going on out here in Iowa.

The Farmers Home Administration and the Farm Credit System need help and guidance. However, assistance must not be directed toward saving the "system" rather, effort should be addressed to assist the borrower.

Perhaps my firsthand knowledge of the injustice practiced daily by FmHA and Farm Credit System personnel could be of value to you. I would welcome the opportunity to provide my testimony and that of my clients to Congress. Please advise if I can help.

Gross mismanagement of these institutions is resulting in farmers being bilked out of their livelihood. Sound agricultural policy must be based upon fair treatment of farmers rather than protection of untold layers of over-paid loan officers of these institutions.

Sincerely,

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MAY 18, 1987.

Senator CHARLES E. GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: This letter is a follow-up of the conversation we had this morning with your staff with regards to our experiences in dealing with the Farm Credit System.

In November of 1986 after nearly two years of negotiating, we deeded back 190 acres of farm land in lieu of foreclosure to the FCS.

In April of this year an investor contacted us and expressed an interest in buying the 120 acres. This land is what remains of the home 160 acres after we were able to buy back 40 acres with the buildings. After several weeks we contacted the investor to see what was happening. He said he had been unable to get anywhere with them on the phone so he made a trip to Sheldon to deal in person. He made them a cash offer on this property. This offer was well within what land is selling for in this area. He was told a farmer had a bid on the land and did in fact have until 12 noon of the same day to respond. The investor waited around until after noon, but they had received no response from the farmer. After he returned home they called him and told him the farmer would take the land.

Now we have learned that this farmer is a neighbor of ours who has purchased this land on contract from FCS for the same offer the investor made. Our problem or concern with this is that we do not understand the reluctance of the FCS to sell to an investor who specifically stated he would rent the land back to the original owner . . . not even giving the investor a chance to make a counter offer.

To add to our confusion the neighbor has for a fact deeded back at least 400 acres of land to an Insurance Company, so although we have no way of knowing their financial position it hardly seems likely that their finances are any better than ours.

We were long time borrowers of the FCS, both the FLB and PCA and have poured many dollars into the system over the years. We realize they had the right to sell this property, but think the real story of how they are dealing with peoples lives needs to be told. If they are going to get a bail out from the Federal Government we think that the farmer-borrowers are the first ones who should be given consideration and should be a stipulation if any government funds are given to the FCS.

We would like to thank you for listening to us and hope this information will be useful to you.

Sincerely,

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The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Georgia [Mr. Fowler].

The amendment (No. 1220) was agreed to.

Mr. FOWLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1221

(Purpose: To require the Farm Credit System Financial Assistance Corporation to pay interest on debt obligations as the System becomes financially viable)

Mr. CHILES. Mr. President, I send an amendment to the desk on behalf of myself and Senator Domenici and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. Chiles], for himself and Mr. Domenici, proposes an amendment numbered 1221.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 169, line 19, insert "other than that described in paragraph (5)," after "institutions,".

On page 171, between lines 17 and 18, insert the following new paragraph:

"(A) In general.—Subject to the other provisions of this paragraph, institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) Time of payment.—Institutions of the Farm Credit System shall commence making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to commence making such payments until the obligations issued under paragraph d(i)(C) have been fully repaid.

"(C) Terms of payments.—

"(i) In general.—Institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would result in jeopardizing the financial viability of any such institution.

"(ii) Limitations.—Institutions of the Farm Credit System shall not be required to make such repayments—

"(I) in a manner that shall impair the stock of such institution; or

"(II) in a manner that shall jeopardize the minimum capital requirements of the institution.

"(iii) Uncollateralized obligation.—Obligations to make repayments under this section shall not be required to be collateralized.

"(D) Regulations.—The Farm Credit Administration, after consulting with the Secretary of the Treasury, shall issue regulations governing—

"(i) the determination of the financial viability of System institutions;

"(ii) the time for payment of interest on the debt obligations issued under subsection (a);

"(iii) the amount of the payments made pursuant to this subsection; and

"(iv) the terms and conditions of such payments.

Mr. CHILES. Mr. President, Senator Domenici and I are proposing a very simple amendment. We are asking that the farm credit system repay the Federal Government interest costs that the Treasury will incur over the next several years. We are not expecting that the system begin repayment until it is financially healthy enough to do so. The thrust of this amendment is to convert the grant of up to $2 billion which the committee bill provides into a loosely structured loan.

The amendment contains several important protections which will ensure that repayment will not impair the financial viability of the system. It sets no time limit for repayment except that it cannot occur before the bonds that are set forth under the amendment have actually been repaid. It would not be collateralized. It includes a proviso that repayment cannot result in the impairment of stock. It states that repayment shall not jeopardize minimum capital requirements. It requires that repayment be made in a fair and equitable fashion. In short, this amendment simply asks of the farm credit system what we have asked of every other financial institution seeking Federal assistance (including Lockheed, New York City, and the Chrysler Corp.). We are asking the system to repay costs incurred by the Federal Government when the system is profitable. To provide such a large grant of taxpayer dollars to an ongoing private, for profit institution would be unprecedented.

I am certainly not opposed to Federal assistance. I recognize that the farm credit system is experiencing severe financial difficulties and is in need of a short-term cash infusion. But on the heels of an economic summit agreement that calls for shared sacrifice, I believe that this assistance should be in the form of a loan rather than a grant.

I might point out that it may take years before the system will be profitable enough to repay these costs. How long it takes is not the point. The point is that in its current form, this bill establishes a precedent that will haunt us for years to come, as other private entities clamor to the Federal Government for financial assistance. The point is fairness.

I certainly hope we will have support for the amendment. I am delighted to have Senator Domenici be a cosponsor of the amendment.

Mr. DOMENICI. Mr. President, I do not have much additional to say. We worked with the staff of the majority and minority and made an amendment at their suggestion to clarify our intent. Our intent is to give this new institution every opportunity to succeed. And only after it has succeeded and only if it has succeeded and is viable and making profit, only at that point in time—and that will not be prior to 15 years from the date of its inception—would they then begin to have to pay back to the Federal Government the interest advanced under a portion of this new bill on farm finance. We think it is fair. We think it sends the right signal.

Frankly, we believe that the farmers of our country do not object. We really believe that they are exactly the kind of people who would expect if this institution, this very large financial credit institution, is in a sense bailed out by the people of our country through the commitment of general Treasury funds to it, we think they would agree that if it succeeds and if it becomes profitable that they ought to pay back the Government for what the Government did for them.

Essentially, with all the technical aspects taken off, that is what the Chiles-Domenici amendment does. Nothing more; nothing less. We do not think it burdens them. We do not think it makes the job more difficult.

We just think it is fairness and we think it is the kind of thing that farmers in the United States would expect to happen because they want this to work. When it works, we think they would like to pay the taxpayers of America back what the taxpayers are giving them up front in this new institution.

I hope we will adopt it and I hope it will become part of the law of the land. I think it is the right thing for this time.

Mr. LEAHY. Mr. President, the distinguished Senator from Florida [Mr. CHILES] and the distinguished Senator from New Mexico, [Mr. DOMENICI] have been working with me and with the distinguished Senator from Indiana [Mr. LUGAR] on this amendment. It has, I think, been much improved from where it stood originally. I cannot only accept it but can support it and would hope that it would pass.

Mr. LUGAR. Mr. President, the authors of the amendment, the distinguished chairman and ranking member of the Budget Committee, make an important point, and clearly there is precedent in other guaranteed loan situations the Federal Government has made in recent years.

I would explain an initial reticence on my part, and I suspect it was shared by many members of the committee, to accept the amendment. This reticence comes from an understanding of just how fragile the Farm Credit System is, how disparate are its parts, how much litigation has already consumed time and money among parts of the system.

We have been dealing, in all candor, with a system of such extraordinary complexity that it has not been clear precisely how it could come out whole. I think the formula arrived at by the committee has been a good one of an assistance board which, in fact, will parcel out money after reform occurs. And the reform means that overhead becomes less.

But the reform does not obscure the fact that this system or elements of it have borrowed money at very high interest rates, and those bonds are still to be paid off. The operational aspects will become better. We must keep capital sufficiency and liquidity going—and I think this bill will do that. Nevertheless there is still going to be a disparity between payments that must be made that are mandated by obligations, unwisely in the judgment of many of us, entered into.

This is a long way of saying that this is a capital-short situation. And with small injections of fuel, we believe the machinery will get going again and will remain sound.

But the thought of repaying substantial sums of money from this kind of an exercise at least is breathtaking if you take a look at the next couple of years or maybe the next 5 down the trail.

The distinguished chairman of the Budget Committee and the distinguished ranking member have argued that they understand that. They have been willing to adopt language which says that the Secretary of the Treasury and the Farm Credit Administration will have to consult and determine when, in due course, it is at all feasible to consider making repayment of these interest subsidies.

Obviously, if the system does not make money and if it does not repay its bonds and meet its obligations, the moneys that are to be provided for by this amendment will never be forthcoming. But all of us have approached this not only optimistically but, we believe, in a hard-headed business fashion to a point where, we believe the system is going to work. It is going to make money. And when it does it is fairer to the taxpayers of the country that made possible this viability for the system to get their money back.

We all pray that the sums of money which will be needed to be repaid will be small. Mr. President, we have estimated already in the course of this debate it is likely that $820 million will be paid out during 5 years of time and maybe another $400 million in years thereafter. There could be an obligation under this amendment to repay $1.2 billion or $1.3 billion down the trail.

So, with that in mind but with the equities with regard to taxpayers in general in this country, on this side we are very pleased to accept the amendment. We think it makes an important contribution to the structure of the bill; likewise, the equity of this effort as compared with other such efforts in the past.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1221) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1222

(Purpose: To ensure the application of State debtor protection laws concerning security property that give a borrower more protection than certain Federal laws)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself, Mr. BURDICK and Mr. HARKIN, proposes an amendment numbered 1222.

Mr. MELCHER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 269, strike out line 23, and insert in lieu thereof the following: "the last known address of the former borrower.

"'(h) The rights provided in this section shall be in addition to any such right of first refusal under the law of the state in which the property is located.'".

On page 293, strike out line 10, and insert in lieu thereof the following: "tribe.

"'(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the state in which the property is located.'".

On page 312, line 23, strike out "subsection" and insert in lieu thereof "subsections".

On page 313, strike out line 3, and insert in lieu thereof the following: "stead property.

"'(g) If a conflict exists between any provision of this section and any provision of state law relating to the right of a borrower to designate for separate sale, or to redeem, part or all of the real property securing a loan foreclosed on by the lender, such provision of State law shall prevail, unless the provision of this section affords greater protection to the owners of real property than is afforded by such provision of State law.'"

Mr. MELCHER. Mr. President, as we went through this bill, S. 1665, we attempted to respect and to reenforce the rights of individuals as to debtor protection. It was also our intent that, if there were State law that better protected the individual borrower, the debtor, that State law would be respected.

We found that in a couple of instances there are State laws that would better protect the individual borrower than what are the general provisions required in the bill. This amendment would assure that these are not preempted.

The amendment provides that the provisions of S. 1665 which address a right of first refusal and disposition of acquired property shall supplement but not preempt the States' right of first refusal laws.

This means that if a State law on the right of first refusal for a borrower left that borrower in a better position, that State law would be recognized.

Second, under this amendment, homestead protection provisions of the Farmers Home section of S. 1665 shall supplement but shall not preempt State homestead protection laws.

In short, if a State has a better protection for homestead protection for a borrower, the State law will be used.

Mr. President, that is the intent of this bill all the way through: to help the borrower so that on restructured loans they can recover. In regard to the first part of the amendment on the question of whether or not there is a right of first refusal on disposition of the acquired property, there are 12 States with right-of-first-refusal laws and some borrowers would find the State law more advantageous than the Federal law. That is all the amendment does: under these two points, right of first refusal and the question of homestead protection, if the State law is more advantageous to the borrower, that will be what is respected and allowed for the borrower.

I hope the amendment can be accepted.

The **PRESIDING OFFICER**. Is there further debate?

Mr. **LUGAR**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **LUGAR**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **LUGAR**. For sake of clarification, I would like to raise a question for the author of the amendment, the distinguished Senator from Montana. My question relates to the second paragraph of the amendment, which reads:

> (h) The rights provided in this section shall be in addition to any such right of first refusal under the law of the State in which the property is located.

Is this phrase intended to prevent the Federal Government from preempting the State law, or is it intended to add an additional time period, on top of the State law, equal of the period of first right of refusal provided for in the bill?

Mr. **MELCHER**. If the Senator from Indiana will yield to me.

The **PRESIDING OFFICER**. The Senator from Indiana has yielded to the Senator from Montana.

Mr. **MELCHER**. This language is not intended to mean an additional period of time. It is simply either/or.

Mr. **LUGAR**. I thank the Senator.

The **PRESIDING OFFICER**. The Senator from Indiana.

Mr. **LUGAR**. I am pleased to indicate that we are prepared to accept the amendment.

The **PRESIDING OFFICER**. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1222) was agreed to.

Mr. **MELCHER**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **LUGAR**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1211

(Purpose: To delete language that authorizes a State, county, or municipality to levy and collect taxes on real property that has been taken into trust by the United States for the benefit of an Indian or Indian tribe)

Mr. **INOUYE**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for himself and Mr. EVANS, proposes an amendment numbered 1211.

Mr. **INOUYE**. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 293, line 22, strike out "subparagraphs" and insert in lieu thereof "subparagraph".

On page 293, beginning with line 23, strike out all through page 294, line 12.

On page 294, line 13, strike out "(E)" and insert in lieu thereof "(D)".

Mr. **INOUYE**. Mr. President, this amendment hopefully will cure a matter of great concern which is now continued in this measure. This bill as drafted says, in essence, that if an Indian nation purchases land which is presently subject to taxation, and if this land is placed in trust by the Secretary of the Interior Department, it will still be subject to taxation.

Mr. President, this is in direct contravention of the presently established national policy. The policy of this country states that any land held in trust by the United States for an Indian nation will not be subject to State and local taxes.

This bill will for the first time, subject land placed in trust by the Federal Government to such taxation.

I can understand the concern expressed by the authors of this measure that by taking these lands off the tax rolls of a county you will deny that county sources of revenue. But I should like to point out that if this land were taken over by eminent domain by the Federal Government, it would not be subject to taxation. I am certain all of us realize that Federal lands are not subject to State and local taxes.

Second, I can readily understand this insistence that State and county taxes still be collected if the residents of such land are receiving the services from the county. But with regard to the provision of education services, there is impact aid, whereby the Federal Government provides support for Indian children in public schools, in the same manner that such support is provided for children of military personnel or Federal employees. In Medicaid cases, the Federal Government pays the State share. In Medicare the Federal Government also pays the State share. Then you have the Indian Health Service which has the primary responsibility to provide health services for Indians, regardless of where the Indian lives.

Water and sanitation services within reservations are provided by the Indian Health Service.

Fire suppression services are provided by the Bureau of Indian Affairs.

There is also another well known phraseology statement that Americans are oftentimes prone to declare, that we are against taxation if such taxation does not provide us with representation or services. In this case, this amendment would cure situations that would provide such taxation without representation.

More importantly, I think a brief review of the history of our relationship with Indian nations may give the U.S. Senate some idea as to why we find Indian nations and Indian tribes on reservations wanting to buy land.

The first treaty that this Government of ours entered into with an Indian nation was in 1776. Since that time, until 1871, the U.S. Government entered into 800 treaties with Indian nations. Of the 800 treaties, 370 were ratified by the U.S. Senate; 430 were never ratified by the U.S. Senate. In one case a treaty was actually hidden for 50 years, hidden in one of the vaults of the U.S. Senate.

As a result of these treaties not being ratified, Indian tribes and nations, especially in the State of California and along the west coast, were deprived of many, many acres of land.

Two hundred years ago when we began this unique relationship with Indian nations, a relationship of sovereign to sovereign, we recognized that the Indians held title to and were sovereign over 550 million acres of land—550 million acres of land. Today, Indians hold title to approximately 50 million acres of land. In these 200 years, we have, by violating treaties, by refusal to ratify treaties, taken away over 500 million acres of land from Indians.

That is the sad and sordid history of our relationship with Indian nations.

In a few days, our leader, our President, will be sitting down with the leader of another powerful nation to discuss and sign a treaty. We have, in recent years, given many speeches, speaking with pride and pointing to the fact that we Americans always adhere to provisions of treaties.

Mr. President, of the 370 treaties which the U.S. Senate ratified, we have violated provisions in every one of them.

I think one can understand why these proud people wish to regain part of the lands that were lost, now that some are making a few dollars. But these lands are not held in fee by the Indian. These lands are held in trust by the Government of the United States.

It is not the kind of land that I would purchase on the free market or you would purchase, Mr. President. This is purchased by a sovereign government and held in trust by another sovereign government. We do not tax the Government of France for embassy land. We do not tax the Government of Germany for embassy land. We do not even tax the Soviets for their land. That is part of sovereignty.

The word treaty is always related to sovereignty.

I would hope that we will not set this bad precedent of taxing lands that are held in trust by the United States for a sovereign nation. It will be a very bad precedent.

Mr. President, I have no solution as to what will make up the loss of revenue by these counties when these lands are taken off the tax rolls, but I think we in the U.S. Senate should adhere to a principle that has been long established since the days of our Founding Fathers.

I could go on and give you a few more items in our relationships that are horrifying.

One last item:

Demographers, anthropologists, historians, and other scientists have suggested that 200 years ago in the continental United States—that is the so-called lower 48—there resided over 50 million Indians.

At the end of the 19th century, about a hundred years into the relationship with the U.S. Government and about the time the Indian wars ended, there were remaining in these 48 States a little over 250,000 Indians—from 50 million to 250,000. Granted, not all were slaughtered. Most were victims of strange diseases that came from Europe—influenza, smallpox, tuberculosis—diseases unknown to the Indians.

I think the time has come to reaffirm our Nation's commitment to this trust relationship. I know it is painful for these counties, but this amendment which appears in the bill does not apply to one or two or three counties. It applies to every county in the United States. In Washington, for instance, the State of the Presiding Officer, Indian tribes have purchased lands with the understanding that they would not be subject to taxation. Those purchases would now be placed in jeopardy. I hope that the Senate will uphold the established policy of nontaxation of trust lands.

I thank the Chair.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I want to speak for the people out there, Indian and non-Indian, and the counties involved that have to depend upon some sort of a tax base for the roads, for the schools, and other things that they provide. This is not something abstract. This is real. This is a question of whether there is a tax base for a county to do the things it must do. Passage of this bill is very important to the economic recovery of rural America. They are hurting across the countryside of America, and this bill is probably the main building block to get back on the road to economic recovery for rural America.

Now, we are talking about a small provision in this bill that says to those counties where land is foreclosed that is on an Indian reservation, if it is on the county tax rolls at the time of foreclosure, it will stay there. It will not go off the tax rolls, go into trust status so as to be exempt from the county taxes. It will just stay on the tax rolls.

It is simply to understand. The folks out there in the counties in Montana, Indian and non-Indian, need this. They want this.

The Senator from Hawaii spoke eloquently. I am no match. I humbly bow to his eloquence. He mentions principle. But the principle that the bill maintains is the status quo of what is a tax base for a county. It is that simple. If it was on the tax rolls because it was owned by non-Indians and the Federal Government takes it back because of a foreclosure, it will go back on the tax rolls, no matter who buys it, whether an Indian or a tribe. Why? Because the Indians need the services that the county provides.

The Senator from Hawaii spoke of impact aid money to schools. Well, that pays part of the cost, paying for the education of those students, but it is not the entire cost. Where would the county get it? Where would the school district get it if land disappears from the tax rolls? If revenues are diminished, the services must be diminished.

I cannot speak for every county and every Indian tribe, but when we prepared this language it was important that county attorneys and county commissioners look at it.

I asked the Big Horn County Commissioners and the Big Horn County attorney, which is where the Crow Tribe has its reservation. About half of the land on the Crow reservation is owned by non-Indians. So it was a matter of great importance to them. The county attorney for Big Horn County is a descendant of Bob Yellowtail. He is a very prominent member of the Crow Tribe. I said, "Do you have a copy of the language that we are considering?" He said, "Yes." I said, "What is your reaction?" He said, "Senator, we hope you, by all means, can get that in the bill because Big Horn County cannot have its tax base diminished further."

He was not just speaking just as county attorney. He was speaking as a citizen of Big Horn County on behalf of the citizens of Big Horn County, Indian and non-Indian.

This bill seeks to solve problems, not create problems. This is a minor provision in the bill. It maintains the status quo for the land. It will stay on the tax rolls if it is on the country tax rolls before foreclosure. That is wise. That is prudent. It is absolutely necessary for these counties.

You might ask, Why do these counties have land within a reservation that is on the tax rolls? It is very simple to answer. It is because parts of the reservations were opened up for homesteading. The Indians were paid for the land prior to the homesteading. Or in some instances, the tribe or individual Indians were allowed to sell their land to a non-Indian. In those cases, of course, it went on the tax rolls, and it should remain there. We should not interfere with that. That is all this provision in the bill does.

Counties simply cannot afford to have a diminished tax base. I am not speaking just for the abstract county. I am speaking for the people in these counties. I am speaking for the Indians and the non-Indians.

The Senator from Hawaii speaks very eloquently about principle. What we are living under is the day-to-day problems in parts of rural America under heavy stress because there is no income, because there are a lot of foreclosures, and those counties are under stress to get enough funds to carry on the regular functions the county must provide.

While it is true that there are some compensations provided, about a fourth of what it takes to educate a student—that is impact aid—and a little bit of county road money on the reservation, but not near enough, is provided by the BIA. The county has to provide the remainder. All of those services must be provided. And these are poor counties for the most part. They have no surplus money to grab in and to replace if they lose part of their tax base. They are just out. The services would have to be diminished.

We went to great lengths in this bill to have fairness for people, fairness for those borrowers that are so important to rural America, and agricultural borrowers. This little provision in the bill that the Senator from Hawaii would strike would remove part of that fairness and part of the practical aspects of this bill.

I hope that the amendment is rejected because if it would be accepted by the Senate, a small part of the bill would be diminished, and fairness, equity, and helping economic recovery would be diminished for those counties that are affected.

We do not attempt to do anything about the principle that the Senator from Hawaii speaks about. We only attempt to maintain the status quo of the county tax base on lands that might be taken back in the liquidation for foreclosure by the Farmers Home Administration and leave them available for county taxes.

Might I point out something that none of us would intend that might occur should the amendment of the Senator from Hawaii be successful in striking this section of the bill. It would leave open the door for something that none of us want. It would leave open the door for those lands that are liquidated and foreclosed by the Farmers Home Administration on the reservation for people who really are not individuals who live there, but under the guise of the tribe or some Indian to acquire and provide the money to buy back the land, to remove it from the tax roll, which would make it subject to operating expenses that were less than all the rest of the people around. Big Horn County is a good example.

The Campbell Corp., which operated very honorably I might add, was at one time the largest producer of wheat in the world, the largest single individual operation—not talking about the wheat raised in the Soviet Union under their collective farming but a private farming group produced more wheat off Big Horn County, off of leases that they had from the Indians and non-Indians, than any other private party in the United States. They are not in existence now. They were honorable.

But let us say that somebody wanted to acquire the land, not on leases but just buy it up. It has been done before. It has been done before early in this century where under the guise of helping the Indians it was all bought up under Indian names and tribal names and taken off the tax roll. That would be permitted under the amendment of the Senator from Hawaii—I know that is not his intent, but that is what the door is open to. It could then operate with the advantage of not having to pay taxes. That is a big advantage.

These counties are stretched to provide the services and for that reason their taxes are relatively high. Whatever land is Indian land now, tribe or individual Indian held in trust and not subject to taxes, that does not pay any taxes. So they start with a small tax base. Let us not diminish it further and create problems out there in such counties. Let us keep the language that is wise and prudent as is in the bill now. It is very fair and equitable to everyone, and very advantageous to the Indian population in those counties who after all need the services that the counties and the schools provide.

Mr. President, I yield the floor.

Mr. McCLURE and Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I thank the Chair.

Mr. President, I rise in opposition to the amendment offered by the Senator from Hawaii. I want to commend the Senator from Montana on the statement he has just made as well as for his authorship and the constructive work he did in the bill and having this language in the bill in the first place. This is not an abstract proposition. This is not simply an exercise in theory. This is something that has real consequences in many areas of the country.

I suspect one of our difficulties is trying to force national policy that fits all circumstances and circumstances are not the same. But I want to point to one example. And there are others that would have varying degrees of application in my State of Idaho. I have here a map of the State of Idaho. On that map it shows the Indian reservations in the State, Fort Hall Reservation with its Bannock Shoshone Indians; Duck Valley Indian Reservation on the Idaho-Nevada border that has both the Paiutes and Shoshones; the Nez Perce Indian Reservation, which is just Nez Perce Indians; and the Coeur d'Alene Reservation, all of those being designated reservations with varying kinds of topography and varying degrees of population within those lands.

But I want to point particularly to the Nez Perce Reservation, which on the map looks like a sizable Indian reservation with Indian ownership and control of lands on that reservation. I want to point out why that is misleading, because now we will move from the map of the State to a map of the reservation. This is a map of the reservation, which shows not the are as shown on the map of the State of Idaho, but this exterior boundary being the same as shown on the State map, but it then shows the property ownership within those boundaries to be quite different from the impression given by the map that shows the reservation as an entity, for the white lands within that reservation boundary are owned by individuals paying taxes on the land today. This land in this brownish-orangish color scattered throughout that reservation is the land owned by the tribe.

The Senator from Montana referred to a reservation in which roughly half the land is owned by the Indian tribe. As this map would indicate, I do not know the exact percentages, but far less than half of the land is owned by the tribes which is also another way of saying that in this approximately 60 miles across this reservation there are communities that have grown up over the last 150 years, railroads, airports, cities, and county governments, school districts, transportation networks, electric power lines, telephone lines, running over all of this land to provide services to all of the peoples who live there, Indian and non-Indian, all of which are today subject to taxation by the entities of government that have grown up over the last century and a half in order to serve the people who live there, Indian and non-Indian.

The movement of a few acres of land from taxable status to nontaxable status is by itself not a very significant impact upon the capacity of taxing units to continue to provide the services. But as you can see from the map, the potential for the transfer of ownership from taxable status to nontaxable status is immense in proportion to the total amount of land which is now taxable and provides the basic services.

The Senator from Hawaii made some reference to the fact there should be no taxation without representation. I want to assure the Senator from Hawaii every Indian who lives there is eligible to vote. And a good many of them do vote. I would not say they vote in higher percentages than the white population does. But they are eligible to vote and do vote in State and local elections.

I would point out too that the Senator said you should not separate taxation from services. And the implication was I think and the intention of the statement was to indicate that the Indian population gets services given to them not based upon the taxation of the lands they own. That is true. They do. But it is also correct to say the majority of the services they get in these communities are not provided by Federal Government nor tribal sources. The majority of the services in those areas are provided by taxation under State law. The telephone service, the electric power distribution, the highway transportation network, law enforcement services, schools and education are primarily local and State-taxation supported.

So it is not true to convey the impression that the Indians are already getting services from other places and do not get any value out of the services provided by the taxation on the land.

I have been working for some time with the Nez Perce Tribal Council, to assist them in buying some land which lies just outside the reservation and which ties up with land that has a timber operation, and I am in favor of that. I have run into trouble with the two counties involved because of this particular issue. They do not want that land taken off the tax rolls without any compensation to them for the services which they must continue to provide in the area.

So we have a problem arising as you raise the threat to the existing units of government which must then necessarily resist the acquisition of lands by the Indian tribal entity.

I also say that with respect to impact aid, Lewiston which is the largest community in this area and is just outside the boundaries of this reservation, the school district there has its separate land boundaries and separate tax base and gets assistance from the State government in an equalization program under State law. But impact aid in that school district is less than 5 percent of their total school budget.

Lapwai, ID, which is the seat of tribal government, similarly gets State aid as well as local property tax revenues to the school within the reservation.

There are other communities scattered across this reservation that are primarily non-Indian. They get their revenues from the taxes paid on the lands within the boundary of the reservation. The land is of different character and different proportion. This is a topographic map, and anyone can look at the contour lines on the map and get a general idea of the general character of the majority of this land. This is not wasteland. This is some of the most productive farmland within the United States, within this area. It is dry land wheat. I do not know what its value is today, because land values across the Nation in the farming communities have plummeted, under the farm crisis this country has had for the last half-dozen years or more; but it peaked out somewhere around $2,500 an acre for much of the land within this reservation boundary. I would like to sell what I own for that today, but I do not have that chance. The market would not support it.

There is a difficulty here, if you take highly productive, highly valued lands off the tax rolls and expect local governments to continue to provide the services where there is a very high percentage of the lands in private ownership.

Also, this may vary from State to State. Indeed, I know it does. My State of Idaho—and again I will refer to the full map, not to the reservation map—but in this entire area, a very large State, there are 83,000 square miles of territory. In that 83,000 square miles, barely more than 15 percent of the land is on the tax rolls today, because two-thirds of the State is already owned by the Federal Government, pays no taxes, although there is a small payment in lieu of taxes by virtue of legislation we have passed; also, some revenues from forests and from mining and from grazing—the commercial activities that occur on some of those public lands which generate revenues which are shared with State and local governments.

I have also served as chairman and ranking minority member of the Interior Subcommittee of the Appropriations Committee, through which most of the money flows for the Indian programs, and I am familiar with a great deal of the detail with respect to the amount of money that goes into the various programs that provide services to the Indian population in this country, as well as within this reservation or appurtenant to this reservation.

It would be a tragic error, in my view, to destroy the careful balance that was written into the bill which invests in the Indians individually and in the tribes the opportunity to own land, which flows to the Federal Government as a result of the operations of the Federal Farm Credit System, and then flows back into ownership which puts it back on the tax rolls, under the provisions of the bill.

If you destroy that balance, you are going to inevitably create the opposition to the kinds of provisions that are written in the bill but give favored treatment to tribal members and tribes.

I do not want to see us move backward with respect to the trust responsibility. Neither do I want to see us create a new reason for conflict between Indian and non-Indian populations. I want to be able to continue to assist members of the Nez Perce Tribe as they seek to build an economic base for their tribal operations, and I do not want to pit them in an area like this, in a political confrontation with their non-Indian neighbors who feel threatened by the expansion of tribal operations.

I guarantee that if we do not maintain the kind of provision that is already in the bill, we will greatly heighten the tensions between Indian and non-Indian populations, particularly in a situation like this.

I hope the amendment of the Senator from Hawaii is not agreed to by the Senate.

Mr. EVANS. Mr. President, I support the amendment of the distinguished Senator from Hawaii. I should like to speak about the fundamentals with which we are dealing here.

The concept of trust on Indian tribal-owned land is a longstanding one. It should be faithfully upheld by the United States. It has not always. We have not a very good history over the last more than a century, in the way in which we have dealt with those Indian tribes to whom we once set aside reservations, on the basis that that would be their homeland, in trade for which they gave to us, the remaining people of this Nation, vast acreages of land and privileges which we sought.

After we put those reservations into effect, there over the years occurred a steady and slow erosion of the sanctity of those lands. For whatever purposes and whether rightly or wrongly, they were sold, sometimes at appropriate prices, sometimes at not appropriate prices to others.

And we have now the problem which is a very real problem which has been pointed out by the Senator from Idaho. I would not diminish or demean that problem at all and we do have some difficulties.

Mr. President, I think this is a totally wrong way to approach the difficulty because we would create by the bill some anomalies which I do not believe we want to create. We would set up two types of trust land, one real trust lands under their traditional and formal concept, trust lands which were exempt from taxation, and then a second smaller group of so-called trust lands, but these trust lands would now be subject to State and local taxation.

Mr. President, if a land is subject to taxation, is it then also subject, if the owner fails to pay taxes, to foreclosure? Is it subject to all of the other laws that apply to taxable lands whose owners do not pay taxes?

This is not just a simple and little change as proposed by the Senators from Montana and Idaho. It enters us into a whole new way of approaching trust lands. It brings us into a thicket of controversy, which I think would be inappropriate.

Mr. President, in addition, the bill as now written would allow for some clever, if you would, ways to get around it. There are 90 days for the immediate family to repurchase or to succeed in lifting the liens that are on that land before the opportunity for sale to Indian members of tribes and then the tribe itself, and then the Secretary of the Interior to take over.

On the 88th day if an Indian member of the family bought it back and in turn sold it to the Indian tribe, then it becomes trust land; only it is real trust land now, not subject to taxation.

This amendment does not do what the Members would like it to do. They have, and I would agree with them, a potential problem, a problem if vast areas of land were to be taken back into trust, there would be some considerable difficulty in providing the tax base for the surrounding or interlaced communities.

There may well be a need to find some way to handle that. But not, Mr. President, by destroying the whole concept and unity of trust lands.

Mr. President, the distinguished Senator from Idaho has pointed out a very real problem on the reservation and the charts that he has brought to explain that situation. We have quite similar problems on reservations in the State of Washington where there are many non-Indian-owned lands interlaced with individual Indian and trust and tribally owned lands within the outer boundaries of reservations.

He suggests, however, that there is a vast potential for the diminishing or elimination of a tax base for local communities because so much of that land is now owned by non-Indians. But, Mr. President, this proposal does not really attack that problem. This proposal merely deals with those small acreages which are subject to and have been foreclosed by the FmHA. Those are small acreages indeed in reservations compared to the potentially vast areas of non-Indian-owned land.

There is not an acre of that reservation that is now owned by a non-Indian that cannot be sold to the Indian tribe and placed back in trust and on that day taxes would no longer be collected on that land.

Mr. McCLURE. Mr. President, will the Senator yield on that point without losing his right to the floor?

Mr. EVANS. I yield.

Mr. McCLURE. What the Senator says is correct but just as the Nez Perce Indians are trying to buy some land in the area adjacent to the reservation, and I am trying to assist them in doing that, there is also an ability on our part to withhold grants to the tribe for the purpose of purchasing that land in order to take it off the tax rolls.

If you are going to give to the Indian groups with one hand the assistance of the Federal Government to acquire lands, it seems to me to be legitimate that we ought to be able also at the same time to say that if we are going to give you that assistance, we do not want to use it in a way that is going to disrupt the tax base for the local units of government, and certainly the Senator would recognize that this bill does invest in the Indians a right that non-Indians do not have, the assistance of the Federal Government to come into ownership of those lands, to move into the possession of the Federal Government under this program.

Mr. EVANS. I would agree with the Senator except that there is the open possibility always available to an Indian tribe if they chose to do so and had the resources to do so and admittedly the resources are still a problem. But if they have the resources to do so they can purchase without the Federal Government's assistance and remove that land from the tax rolls and at this point and under current law that land would cease to be taxed and there would be no opportunity for the Federal Government to acquire rents or any other payment in kind.

Mr. McCLURE. Will the Senator yield further?

Mr. EVANS. Yes.

Mr. McCLURE. I apologize for interjecting, certainly, but that is just exactly the point. This provision in this bill does not interfere with their right to exercise powers under existing law. It seeks to impose a limitation only in those conditions in which the provisions of this bill provide for assistance to them in getting the title to the land.

Mr. EVANS. I understand, and I said in my statement that I believe that there was a clear problem or potential problem here nowhere near as large as affected by this bill as was suggested by the potential in that example the Senator from Idaho used.

There is a problem, but this is not the right way to solve the problem, because we are interfering in a fundamental concept, the trust land concept, between Indian tribes and the United States.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. EVANS. I yield.

Mr. McCLURE. Would the Senator then prefer that rather than interfering in that relationship, we strike the provisions from the bill that give them preference?

Mr. EVANS. Not at all.

Mr. McCLURE. The Senator wants to give them the preference along with the favored treatment?

Mr. EVANS. Well, I would say to the Senator from Idaho probably, if we want to unravel history, there is some question as to whether that land ever ought to have been left in Indian lands.

Mr. McCLURE. I understand then, if the Senator will yield further, and the same is true of the space he now occupies on the floor of the Senate. This once belonged to Indians.

Mr. EVANS. Surely. But we signed a treaty, if I could say——

Mr. McCLURE. Why do we not pay a tax to the Indians for occupying the space where the Senator is now standing to speak?

Mr. EVANS. I would say to the Senator from Idaho we signed treaties some time ago which traded, and maybe it was not a fair trade, but at least it was a trade and a treaty signed by two parties, a treaty which set aside reservations and supposed sanctity of the outside boundaries of those reservations to Indian tribes in exchange for which there was some considerable value achieved by non-Indians.

But if I may proceed, we cannot undo history. What has happened subsequent to the signing of those treaties may or may not have been an appropriate thing to have happened, the splintering and scattering and checker-boarding of Indian reservations by the sale of those lands to non-Indians. It has happened. It has created new problems and we ought to see how we can resolve those problems.

But, Mr. President, we should not resolve those problems by such an egregious interference with a concept of trust lands and the way in which those trust lands ought to be treated. We have had no answer, and I do not believe there a good answer, as to how those particular class II, if I can use the term, class II trust lands, would be treated in terms of the failure to pay taxes.

Would they in fact then be foreclosed and supposedly Indian trust land be foreclosed and reclaimed by a State or local community or whoever the entity was for whom the Indian failed to pay taxes?

Mr. LEAHY. Mr. President, will the Senator yield for a moment?

Mr. EVANS. I yield.

Mr. LEAHY. Mr. President, earlier today and perhaps with some Irish optimism I suggested we might finish this bill by midafternoon.

I thank my good friend from Washington State for yielding on this point.

I do not want to cut off anyone. Certainly others who wish to speak on this amendment may do so.

But we have a series of noncontroversial amendments which can be quickly handled. I think we can dispose of them by voice vote. Then we will be able to go to third reading.

So that we can notify the leadership on both sides I would like to find out if we are going to be able to finish today. I wonder how much longer this amendment might take.

Again, I have no intention to cut off any Member's ability to debate the amendment. I am just wondering how much longer we might be.

Mr. EVANS. I would say to the distinguished Senator from Vermont that I do not intend to take very much longer. I will take 2 or 3 minutes to conclude.

I am sure that the Senator from Hawaii and I would be delighted to speed things along by having this amendment accepted and we would get through the bill very much quicker.

Mr. LEAHY. I might say that you have certain powers and prerogatives, I am told, as chairman of a committee. But one of the powers or prerogatives I do not have is to accept this amendment.

Mr. EVANS. I understand. I was just hoping that the force of persuasion in debate here might swing to the other side and we could have unanimous consent. Obviously that will not happen.

Mr. LEAHY. The debate has certainly persuaded me that the farm credit bill is very important and the sooner we are able to get on with it the sooner we are able to get on to conference.

I intruded on the time of my friend from Washington, and I appreciate his courtesy for yielding to me.

Mr. EVANS. I thank the Senator.

Let me conclude, then, briefly.

One of the arguments which I have not yet spoken to, suggesting or justifying having these lands remain subject to taxation, is Indian tribes will have received land without having paid for the land, and that somehow there is a subsidy or bonus in some fashion; that the Federal Government has aided them in that process and therefore they should be subject to taxation.

It is true that S. 1665 will permit land to be transferred to a tribe, but only after the land has been managed by the Secretary of the Interior and the FmHA loan paid off from the lease revenues. During this period, the Secretary is directed to pay local taxes.

More importantly, these tax provisions are not limited to land transferred free of charge but apply to such land even if the tribe or individual purchases the land partially or outright.

Therefore, I think it is not correct to say that the tax is justified simply because the Federal Government may have helped them or assisted them in the process. To say that just because land once was taxed, once was owned by non-Indians, now has been foreclosed and during the foreclosure period taxes have been paid and then even is purchased outright and in full and transferred to tribal trust ownership, that it should be subject to taxation means that there has been no subsidy for that tribe. They have paid everything.

And if that is the case, then I do not see how we can call that land class II or second-class trust land.

Mr. President, I would be willing, and I know that the chairman of the Special Committee on Indian Affairs would be willing, to work with the Senators who have proposed this part of the bill to see if we can achieve some solution to the problem which exists. But I certainly do hope and urge my colleagues to vote for this amendment which would retain the sanctity of Indian trust lands and retain only one category of trust lands—the one that has been traditional, it is well understood by both Indian and non-Indian alike—and let us not create the confusion of having two rather awkward classes of trust lands.

I yield the floor.

Mr. McCLURE. Mr. President, certainly the Senator from Washington, in his usual, thoughtful manner, has outlined a difference of opinion from that expressed by the Senator from Idaho. But it may also be instructive to look at the degree of the problem in the two States.

There are within Indian reservations in the State of Washington lands subject to or held as collateral for farm home loans a total of 4,362 acres. I guess if there were only 4,362 acres of such land in Idaho, I would not have any more concern about it than he has expressed.

I can understand the Senator from Montana being somewhat more concerned about it because there are in that class of lands in the State of Montana nearly 227,000 acres; in North Dakota, over 100,000 acres; in South Dakota, 374,000 acres; and suddenly you get a problem of different dimensions.

Certainly, if there were only 4,000 acres in the State of Idaho that could possibly occupy this status, I would be far less concerned and I might indeed be on the side that Senator from Washington has expressed.

But, Mr. President, it goes beyond simply the number of acres. It goes to the fragile relationship between Indian and non-Indian populations in the same area. And it is not fair to say that simply because it was out of Indian ownership at one time you should be unconcerned if it goes back into Indian ownership. Because things have changed.

Lands within this boundary were not taken away from the Indians. They were sold. And based upon that sale and based upon that ownership, communities grew and communities demanded services and services were provided to Indians and non-Indians alike.

Now, if an individual Indian exercising his opportunities as a citizen of this country goes out and buys land, that land is subject to taxation just the same as if you and I bought it. That is as it should be. I have no objection to their holding land. I hope that they can own more. I have no objection vesting in them preferences for the purchase of land foreclosed upon by the Federal Government.

But I do believe it is wrong, fundamentally wrong, to have the Federal Government vesting them a preference that has a negative, adverse effect upon every one of their neighbors.

It is not just the taxing districts that are affected. They happen to be people, too. But let us assume for a moment that 10 percent of the land of the reservation or 10 percent of the tax base in the reservation shifts from taxable status to nontaxable status and every other acre of ground within that taxing district must pay more in taxes to provide the same level of services now enjoyed. Every non-Indian and every individual Indian—not land held in tribal status, but Indians who are paying taxes—are going to pay more tax on the land that they own which is taxable in order to give the tribal entity the opportunity to own land that is now taxable but would become tax exempt. That is not fair. It is not equitable. And there is a reason for the provision in this bill, both for the benefit of the Indians in the area, as well as the non-Indians in the area.

I say again what I hesitate to say. But the relationships in these communities are oftentimes fragile. And you do not need to exacerbate those fragile relationships by what is seen by the great majority of people in the area to be an unfair tax, prejudicial to their interests and their rights as citizens of this country.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. If I might respond just very briefly to the Senator from Idaho, perhaps there are fewer acres in the State of Washington than in some other States. However, I believe that it is inaccurate or at least a great exaggeration to suggest that there are large acreages where lands are potentially salable to Indians; large acreages where lands are pledged under this act. But to suggest that all, or any substantial portion, of those acres are going to be foreclosed upon and fall prey to this act, I think is quite an exaggeration. But I would say further to the Senator from Idaho that I would hope and I believe, knowing this Senator, that whether there was 1 acre or 10 acres or 100 acres or 1,000 acres of 10,000 or a million acres in the State of Washington potentially subject to this act, I would feel the same way and speak the same way, because I just believe it is fundamentally wrong for us to attack and resolve a problem in this fashion.

I am not suggesting there is not a problem nor that it should not be resolved in some equitable fashion. But it should not be resolved by interfering with and demeaning the concept and the traditional meaning of trust land as we know it.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senator from Washington, Senator EVANS, and the Senator from Arizona, Senator McCAIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, as it stands, the farm credit bill before the Senate contains language to grant exclusionary purchase powers to Indians and Indian tribes over certain lands upon which the Farmers Home Administration forecloses. These exclusionary purchase powers are currently unavailable to Indians or tribes.

The amendment offered by the Senator from Hawaii would turn this offer of beneficial purchasing powers into an all-out land withdrawal from the tax base of State and local taxes.

Mr. President, the tax base of the State and counties of Idaho currently contains 29,920 acres of non-Indian land within reservation boundaries which is currently collateral for Farmers Home Administration loans. Under the bill before us, if the Farmers Home Administration foreclosures on any number of those 29,920, individual Indians or their tribes are given exclusionary purchase rights without removing the land from the tax base.

The effect of the amendment from Hawaii would be to grant those exclusionary purchase powers with the additional benefit of allowing the 29,920 acres to become tax exempt.

The question before this Senate is not whether we want to tax Indian trust land. It is not whether we will honor our treaty obligations. It is merely a case of deciding the extent of the benefit we wish to provide Indians and tribes by way of this farm credit bill. Is it good Government policy to grant them exclusionary purchase powers over foreclosed FmHA land? Apparently the Senate Agriculture Committee has determined that it is. But, can we afford to increase the benefit by allowing currently taxable lands acquired in this way to become tax exempt?

Mr. Chairman, I assure you that the struggling State of Idaho, and its equally financially strapped counties cannot afford to grant such a benefit as a part of the farm credit bill. Two-thirds of the landmass of Idaho is already out of the tax base because of Federal ownership. Much of this land is left undeveloped, producing no new wealth and adding nothing to the State's economy.

The amendment of the Senator from Hawaii would only exacerbate this problem. In Idaho, it would be particularly onerous to Nez Perce and Lewis Counties, withdrawing a significant percentage of those counties' tax base as pointed out by my colleague from Idaho.

I encourage my colleagues to oppose this amendment. The benefits provided to Native Americans by the language currently in the farm credit bill before us are sufficient. We need not expand those benefits at the cost of already financially struggling local economies.

I urge a vote to table the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on the amendment.

All those in favor, signify by saying aye.

(Chorus of ayes.)

The PRESIDING OFFICER. All opposed, nay.

(Chorus of nays.)

The PRESIDING OFFICER. The Chair is in doubt on the outcome. We can repeat the vote and attempt to get a clear indication.

Once again, all those in favor of the amendment, signify by saying aye.

(Chorus of ayes.)

The PRESIDING OFFICER. All opposed, nay.

(Chorus of nays.)

The PRESIDING OFFICER. The noes appear to have it.

The Senator from Washington.

Mr. EVANS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, it appears that this matter, one way or the other, will go to a vote, I mean to a recorded vote, and that, apparently, it is the only way that it will be resolved.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I do not want any confusion on what the language in the bill does. It does not affect present trust lands. Somebody listening to the debate might think, "Well, there are some Indian trust lands that would somehow become subject to taxation by the local government."

There are lands that are not trust lands. They are merely lands that are privately owned now subject to taxes, and if they should change hands through forced liquidation or foreclosure, they would remain on the tax rolls.

They are lands now being taxed. If they are going to go through foreclosure, taken over by the Farmers Home Administration, they will remain subject to tax. They will be left in the status quo.

I regretfully must move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to lay on the table the amendment of the Senator from Hawaii. The yeas and nays have been ordered and the clerk will call the roll.

The clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. RUDMAN] and the Senator from California [Mr. WILSON], are necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 42, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—48

Armstrong
Baucus
Bentsen
Bond
Boren
Boschwitz
Breaux
Bumpers
Chafee
Chiles
Cochran
Danforth
Daschle
Dixon
Durenberger
Exon
Fowler
Garn
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Leahy
Lugar
McClure
McConnell
Melcher
Murkowski
Nickles
Pell
Pressler
Pryor
Quayle
Roth
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Wallop

NAYS—42

Adams
Biden
Bingaman
Burdick
Byrd
Cohen
Conrad
Cranston
D'Amato
DeConcini
Dodd
Domenici
Evans
Ford
Glenn
Graham
Grassley
Harkin
Hatfield
Inouye
Kassebaum
Kasten
Kennedy
Kerry
Levin
Matsunaga
McCain
Mitchell
Moynihan
Nunn
Packwood
Proxmire
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Trible
Warner
Weicker
Wirth

NOT VOTING—10

Bradley
Dole
Gore
Gramm
Lautenberg
Metzenbaum
Mikulski
Rudman
Simon
Wilson

So the motion to lay on the table amendment No. 1211 was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senate will come to order. Senators will please take their seats.

The Senator from Vermont.

Mr. LEAHY. Mr. President, if I could have the attention of my colleagues——

The PRESIDING OFFICER. The Senate is not in order. Senators will please take their seats.

The Senator from Vermont is recognized.

Mr. LEAHY. Thank you, Mr. President.

Mr. President, we have a number of amendments and colloquies that have been worked out. I see the distinguished Senator from Arkansas on his feet. I am about to yield to him for the purpose of such a colloquy. Before I do, I would like to ask the distinguished Senator from Indiana if he knows of other amendments on his side.

Mr. LUGAR. There are no amendments on our side.

Mr. LEAHY. I think we may be in a position to go to third reading soon, as soon as we take care of these other amendments. I do not know whether there is going to be a request for the yeas and nays.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, again I see the distinguished Senator from Arkansas on his feet. I yield to him. I understand he has a colloquy.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the Chair.

Mr. LEAHY. Mr. President, the Senate is not in order.

Mr. PRYOR. Mr. President, I want to first commend the managers of this piece of legislation, the farm credit bill. This has been one of the major pieces of legislation to come from the Senate Committee on Agriculture in many years. I would like to commend both the majority and the minority in the way that they have handled the farm credit bill, not only in the committee, Mr. President, but also on the floor of the Senate during the course of the last several legislative days.

Mr. President, having said that I see one particular problem that I think needs addressing further in the future. That is a simple section in which the committee because of its decision has decided in S. 1665 to place the arbitrary $18,000 cap on the release of the earned income for family living and operating expenses. Of course, Mr. President, this comes as I understand it from the Farmers Home Administration budget. This $18,000 cap placed on release of living and operating expenses impacts dairy producers in particular, but all agriculture in general.

Mr. President, I would like to submit an amendment to the Farm Credit Act Amendments of 1987 that will mean the difference between survival and failure for many of our farmers.

S. 1665 establishes debt restructuring requirements for the FmHA when this is cheaper than the cost of foreclosure. The intent of the legislation is to minimize Government costs and to keep family farmers on the land. The legislation also requires FmHA to release earned farm income to producers who are in acceleration and awaiting debt restructuring.

Under the 1985 farm bill, FmHA is required to make releases of production income until acceleration. However, it has terminated these releases and has begun to take all ASCA payments from many farmers who were accelerated under the notice and procedures the Coleman Court held unconstitutional. While FmHA is temporarily enjoined from foreclosing on these farmers, they are taking all of these farmers' farm income and starving them off of their farms.

And now, unfortunately, our bill S. 1665 has placed an arbitrary $18,000 cap on the release of the earned income from family living and operating expenses.

This $18,000 cap is far too low. It does not redress a basic injustice for which FmHA is responsible. Many of these borrowers are in acceleration because of FmHA's application of a procedure that was held unconstitutional by the court in the Coleman versus Lyng case.

The $18,000 cap placed on release of living and operating expenses impacts dairy producers, in particular. For example, according to dairy operators surveyed in Vermont, in FmHA indicates that living expenses alone average $18,000 and operating expense easily exceed $100,000 for a 65-head dairy.

This cap does not account for the production costs involved in maintaining a herd, including proper feed, veterinary care, and upkeep of production facilities. Dairy cattle and facilities are particularly vulnerable to rapid deterioration and depreciation. A sick cow or a broken pipeline system cannot wait a few days until the necessary funds are scraped together. If any of the basic production inputs are neglected, the productive base of the farm is seriously damaged.

For example, a dairy cow must receive the proper feed ration during the first few weeks of lactation, or it will not produce adequately during the remainder of its lactation, no matter how much supplement a farmer can supply. Even a 20-percent drop in productivity can result in a loss of $400 in milk income per cow or over $20,000 for an average size herd. It is not unusual for a healthy dairy cow to lose $300 to $500 in value at auction if they have weak production inputs or delayed breeding patterns.

FmHA argues that the release of adequate family living and farm operating expenses will increase Government costs. In fact, their practice of withholding farmers' legitimate income is eroding FmHA's security interest in the collateral. Even if the loan is at some point liquidated, maintenance of the dairy operation will ensure a higher resale value. Release of earned income reduces the number of bankruptcies, which also prove costly for taxpayers, farmers, and mainstreet.

Like dairy operators, cattle and hog producers as well as row crop producers also incur similar expenses. The $18,000 cap placed on this income release acknowledges that basic, necessary expenses are not going to be met for many farm and ranch operations.

I do not believe that this body intended to assure failure for FmHA borrowers in acceleration, or to starve operators out of business by depriving them of basic income. That is the effect of this $18,000 cap.

I urge your support for my amendment to increase the cap on FmHA income release for farm operating and family living expenses to $50,000. This will help ensure that farm families receive more of their legitimate production income and a more realistic opportunity to get back on their feet and remain on the land.

Further, Mr. President, I would like to state that at this point, because of conversations I have had this afternoon with the distinguished managers of the bill, I am not going to offer an amendment to this legislation. Assurances were given to me by the distinguished chairman that hearings will be held on this subject matter as soon as possible on a very critical issue that we are going to address later on, and those hearings will in fact take place and due consideration of this problem will be given at the appropriate time.

Mr. LEAHY. Mr. President, the Senator from Arkansas raises a very valid point. The Senator from South Dakota [Mr. DASCHLE] also spoke.

Let me just repeat what is in the CONGRESSIONAL RECORD of yesterday. Senator DASCHLE's statement was:

> If we cannot remove the limitation in this legislation, I urge the chairman of the Agriculture Committee to conduct a hearing on the administrative offset policy so that we might come to some reasonable agreement on the costs involved and work out a more realistic solution.

I also spoke earlier with the Senator from Arkansas. I think he is right. The Senator from South Dakota is right. We should have such hearings, and I will pledge to them that we will have them.

I know that the distinguished chairman of the subcommittee, the distinguished Senator from Oklahoma, thought that someday this would end. We know that he has other matters as chairman of the Intelligence Committee, but none of us knows the details, so he might as well be doing this. I will pledge the good efforts of the distinguished Senator from Oklahoma, and my efforts, so that we can have these hearings.

Mr. PRYOR. Mr. President, I thank the distinguished chairman of the Agriculture Committee. Once again I pay my tribute to the ranking manager and the majority manager and to the very distinguished subcommittee chairman, the Senator from Oklahoma [Mr. BOREN].

Mr. President, without any further ado, I might say that it probably took the chairman of the Senate Intelligence Committee to get such a complex piece of legislation through the Agriculture Committee and to the floor and make most of the groups happy that are involved.

Mr. HEINZ. Mr. President, before we conclude debate on this measure, I should like to address the attention of our colleagues to an issue that is raised by a statement on page 14 of the committee report. It is found in the fourth paragraph on page 14, and it says in part:

> Given its statutory mandate as lender of last resort, this is not a suprising result. Since FmHA is a direct arm of the Federal Government, these losses become part of the national debt.

Mr. President, I single out that statement not only because it is accurate but also because it applies to another agency of the Federal Government, a different one from Farmers Home—namely, the Pension Benefit Guaranty Corporation.

The Pension Benefit Guaranty Corporation, which federally backs the pension promises made by employers, has in the last few years taken on some $3 billion in unfunded liabilities, mostly, if not entirely, associated with steel pension plans, and it stands to take on as much as $3 million more unless a way is found to address the steel pension funding issue.

The parallel between the steel industry and the agricultural community is indeed a strong one, because just as our agricultural base has undergone a restructuring which is now forcing us to consider an innovative and I think a constructive legislative approach to the crisis in the Farm Credit System, our steel industry—what is left of it—has experienced an equally difficult restructuring which requires a similarly innovative approach to the underfunding of steel industry retirement benefits.

I must say that I have been tempted to offer to this bill an amendment that Senator METZENBAUM and I developed as a bill, the Steel Benefits Funding Act of 1987.

I have been tempted to do so because it does exactly what this legislation does. It buys some time. It provides a different source of shoring up a shaky system, and it does so through, in effect, an off-budget financing mechanism.

Just as the problems on the farm are severe and as the problems in farm credit are severe, so, too, the problems in the domestic steel industry have been severe—indeed, unprecedented.

Since 1981, employment in that industry is down 50 percent. I suspect that even our hard-hit farm community has not had 50 percent unemployment. What it means in the case of the steel industry is that some 25,000 employees have left that industry. Over 25 percent of the industry's capacity has been shut down, some 40 million tons, and during that period the industry has suffered $12 billion in losses and has built up $5 billion to $8 billion in unfunded pension liability.

As I say, I have been tempted to offer this bill, on behalf of Senator METZENBAUM and myself, as an amendment to the Farm Credit Act. I suspect that we would have some support from our cosponsors on the bill, which include Senators DURENBERGER, RIEGLE, SIMON, SPECTER, SARBANES, INOUYE, MIKULSKI, and MOYNIHAN.

We held a hearing on the legislation in the Labor Committee on Friday, November 20, and I think there is considerable urgency to enact our Steel Retirement Benefits Funding Act. Indeed, that urgency is somewhat heightened by the activity of the taxwriting and labor committees on legislation that would change the pension funding rules.

While I applaud the goals of those provisions, which are going to be part of our revised reconciliation bill—namely, tightening funding standards so that other industries will not follow steel down the path of severe underfunding—nonetheless, the rules being considered are not rules that will adequately address the steel industry's problems.

Steel companies with underfunded plans are already strapped for cash, and merely increasing the amount they are required to contribute to the PBGC is not going to improve the funding of the plans without accompanying action to expand the companies' access to capital markets.

To give a specific example, the second largest steel company in the United States is Bethlehem Steel. It earned $5 million in profits in the first 9 months of this year, and that does not count a one-time $98 million investment tax credit cashout. The pension changes that we are considering today in the Finance Committee will cost them over $80 million next year. They could be a first-class candidate for bankruptcy unless we do something; and if they go bankrupt, they could increase the PBGC liability by $2.5 billion. That is a very large piece of change.

Transitioning steel out of the picture may ease the burden on steel companies, but it is not going to reduce the exposure of the Pension Benefit Guaranty Corporation. They cannot hold the steel companies to their promises, and it will not improve the funding in steel pension plans.

The amendment that we have prepared—but which I will not offer, because I do not think it has been given enough study by Members, and I do not think that without additional study, the Senate would be prepared to debate it intelligently or accept it—would provide for the steel companies to have access to the financial markets—in effect, to refinance their pension liabilities and eliminate this huge financial risk to the PBGC and to the taxpayers. It would do that by providing, as does this legislation, Federal guarantees, but in our case for steel industry collateral that would be used in attracting private capital. In that way, it is very similar to the farm credit bill.

The five goals of the legislation to which I have referred are as follows:

First. To enable steel companies to deal with their pension liabilities without going through bankruptcy.

Second. To provide retirees with better benefit protection than they now have when companies file for bankruptcy, terminate plans, and the PBGC cuts benefits.

Third. To reduce the potential costs to the Federal Government of doing nothing and having PBGC pick up the underfunded plans.

Fourth. To make companies stand behind the commitments they have made to their retirees and not be allowed to dump their obligations on the Federal Government and other employers who pay premiums to keep the PBGC operating.

Fifth. To keep Federal assistance from interfering in the marketplace—giving all steel companies equal opportunities without encouraging or discouraging additional shutdown of capacity.

At best, this proposal would cost the Federal Government nothing. At worst, it would cost no more than we would pay if we do nothing and steel companies continue to file for bankruptcy. For the companies, the pension plans, and the plan participants, it could make a big difference.

Companies will have access to capital they either cannot get now or can only get at a high cost. The financial condition of companies with heavy retirement liabilities will brighten immediately, and pension funding will improve, making it easier for companies to meet their pension funding requirements. And finally, PBGC's risk will be greatly reduced.

Mr. President, this steel retirement refinancing bill can work as well as the farm credit bill to save an essential American industry. This is an important amendment, and I feel strongly that it should be passed as soon as possible. However, I will not offer my amendment today. I realize the urgency of passing the farm credit bill, and I do not wish to delay the Senate's work on it with the rather complicated provisions of S. 1811.

Mr. President, I simply want to conclude by saying that what we are proposing in our bill and in our potential amendment is that if we do nothing, we run the risk of the Federal Government ending up with a very large debt on its doorstep, up $8 billion. The proposal that we offer, if it was successful and at best it would end up costing the Federal Government not $8 billion, but zero dollars. Indeed there is a possibility the Federal Government might even make some money off of it. And if everything worked badly, if you took the worst case where all the steel companies still ended up in bankruptcy, still had to discontinue their pension plans, in that worst case, our plan would cost the Government no more than we would pay under those circumstances, namely, the liabilities of the Pension Benefit Guarantee Corporation in fact would become no longer contingent, they would become actual, and they would become a part of our national debt.

Very much like the Farm Credit System, this is an industry which does not have access to the capital they need. They cannot get it now or they can only get it at extraordinarily high cost.

So what our legislation would do is in so many ways parallel to what we are doing here on the floor with this farm credit bill.

As I said I am not going to offer that bill or that amendment today because there is some urgency to passing the farm credit bill. But I hope all Members will bear in mind the very clear parallel between this legislation and the legislation that Senator METZENBAUM, myself, and my cosponsors will be bringing, we hope, to the floor of the Senate. Sooner, we hope, rather than later.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I express thanks to the distinguished Senator from Pennsylvania both for the discussion as well as the fact that we will not have a debate on the steel pension situation today. But the situation he has brought to the attention of the Senate is urgent in its own right, and I applaud Senator HEINZ and others who have been associated with him for creative thinking as to how both the steel industry and the Federal Government in its obligations are to find a better solution.

So I appreciate both the discussion as well as the decision of the Senator not to offer an amendment on this matter today.

Mr. HEINZ. Mr. President, I thank the Senator from Indiana for his kind remarks.

Mr. BUMPERS. Mr. President, I had an amendment which I may or may not offer. I would like if I could to just engage the managers of the bill in a discussion of the so-called shared appreciation provision of the bill.

As I understand it, there was a proposal offered in the committee to do essentially what I want to do, and it was pulled down. But let me question the distinguished Senator from Indiana about my understanding of how the shared appreciation section works: If a farmer is about to go under, he is encouraged to go to the Farmers Home Administration and let them restructure his loan. Under the terms of the bill, they can restructure his loan.

Let us assume they may give him a reduced interest rate. They make some other concessions to him. But they also can require that he enter into a 10-year shared appreciation mortgage.

During that period of time under the provisions of the bill, if the value of his property goes up the Farmers Home Administration, and I am using them as an illustration here, gets 75 percent of the appreciated value during the first 4 years. For the remaining 6 years, they get 50 percent of the appreciated value.

Now he may quit, he may sell, or he may pay off the loan at any time before then. I assume that if he just quits and hands it over to them, they will probably take the property for whatever the debt is. But if he comes into an inheritance, for example, and he decides to pay off his loan, and we will say the value of his farm has gone up during the first 4 years by $10,000, the Government is going to get $7,500 of that $10,000, appreciated value.

So far, is that the Senator's understanding of the provision of the bill?

Mr. LUGAR. Yes, that is my understanding.

Mr. BUMPERS. OK. Let me proceed further. So at the end of 10 years, if his farm has gone up $10,000 in value, we will say, they are going to get 50 percent of the total appreciated value, or $50,000. Now if you just look at the equity of it that does not sound too bad because the Government is making him a deal. They are saying "We are not going to foreclose on you; we are going to give you an opportunity to continue to farm, but we want to share in the appreciated value of this property if you sell it or if you pay it off."

Mr. LUGAR. Will the Senator yield for an observation?

Mr. BUMPERS. Yes.

Mr. LUGAR. The Senator is correct. But he needs to know that this is only up to the amount that the loan principal is reduced by restructuring the loan—that is, the amount the loan is written down until it is paid off. It is not an unlimited right to share in a percentage of capital appreciation on the property without relevance to the immediate benefit the farmer received from the loan write down. At that point, the amount written off is totally recovered, when the shared appreciation on the part of the Government ends in the Senator's illustration.

Mr. BUMPERS. Say that again. The Senator does not have to necessarily say it differently. I want to be sure I understand it.

Mr. LUGAR. To state it a different way, if the land appreciates in value as the Senator has pointed out and the percentages that the Senator has quoted are correct as I recall them, 50 percent as it moves upward. The authority for the Government to share in the appreciation of the property only goes as far as the amount of the loan principal that was canceled. In other words, if the farmer had a $100,000 loan, and $30,000 of the principal is written down, the shared appreciation is capped at $30,000. When Farmers Home recovers the $30,000 any further increase in the land value beyond that amount will simply go to the farmer.

Mr. BUMPERS. Let me give the Senator an illustration and see if I understand him. Let us take an even figure so it will be easy to understand. Let us assume that the loan is restructured. Say he owes $100,000 to the Farmers Home Administration, and they say, "We do not want to foreclose on you; we are going to restructure. We will reduce your interest rate from 10 percent to 9 percent and give you an additional 10 years to pay it off."

What happens if at the end of 4 years the value of that property has gone up by $50,000 and he decides to sell? Does he still only owe the Farmers Home Administration $100,000 or does he owe them $100,000 plus 75 percent of the appreciated value?

Mr. LUGAR. He owes only $100,000, as I understand the shared appreciation. This is under the ability to repay the $100,000.

Mr. BUMPERS. I did not hear the Senator. I am sorry.

Mr. LUGAR. He owes just the $100,000. That did not change. His ability to repay the $100,000 is, of course, increased to the extent he has had some value change in his land. But what we are saying here is at least 50 percent of that change in value as it moves upward has to be dedicated to the repayment of the $100,000.

Mr. BUMPERS. Is the Senator saying all he still owes is the $100,000?

Mr. LUGAR. That is correct.

Mr. BUMPERS. If it brings $150,000, he does not have to pay a dime more than he originally agreed to pay?

Mr. LUGAR. He pays $100,000 and he keeps the $50,000.

Mr. BUMPERS. Let me just say that one of the reasons that I was considering offering this so-called shared appreciation amendment is that because it is an incentive, I am afraid, for farmers to take a chapter 12 bankruptcy because they may fare better under a plan they would submit to the bankruptcy court than they would if they would allow their loan to be restructured. It just seems to me that we ought not to be offering something in a bill that actually encourages people to take bankruptcy instead of trying to work their way out of it without going into bankruptcy. It is a close call. It is a close call with me.

I understand the Senator from Iowa offered this in committee and that both the chairman and the ranking member were opposed to it and it was pulled down there. But as I say I just wanted to get into a discussion of this issue and make my concern known and suggest that the committee hold a 1-hour hearing on this issue to see whether or not this provision does lend itself to the charge that it would encourage farmers to take bankruptcy rather than go through restructuring.

Mr. LEAHY. If the Senator will yield for just a moment, I understand the Senator's concern. The Senator from Indiana has correctly stated the position of the managers of the bill.

I should note that we discussed this at length. It was brought up both in subcommittee and in full committee. The Senator from Arkansas raises some troublesome questions. This issue should be part of our ongoing oversight. I will work with him and the appropriate chairman and ranking member of the subcommittee.

I hope the Senator will not seek to add the amendment to this bill. I can only urge all Senators that the bill is a product of some very careful negotiations and compromises. Like so many other pieces of legislation, if the distinguished Senator from Indiana were to have written this bill on his own, there would be some different things in it. If the Senator from Vermont were to have written this bill on his own, it would likewise have been written differently. The same with the Senator from Iowa, or Oklahoma, or Montana, or Minnesota, or any other Senator involved.

But through very long, detailed negotiations, each of us had to give somewhere. We still have to go to conference.

If this bill comes out with solid support, I still feel that there is a real possibility of doing a conference and completing it this year. But that means we need a solidly backed bill. We are going to have to work with our distinguished colleagues in the other body to iron out what will be some significant differences between the House bill and our bill.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to respond to the Senator from Arkansas who raised a legitimate point and one I have raised time and time again in subcommittee and also in the full committee. This is a problem on the shared appreciation.

As it works out in the bill right now, the Farmers Home Administration, for the first 4 years there would be a 75-percent recapture of the shared appreciation. For the remainder of 6 years, there would be a 50-percent recapture.

Let us take an example. Let us say a farmer had a $100,000 debt. I would ask the distinguished ranking minority member, Senator LUGAR, to correct me if I am wrong on this. I want to make sure I am right on my data. If a farmer had a $100,000 debt with Farmers Home and he came in and restructured it and let us say they got it down to $50,000 and let us say he kept it 6 years, let us say he then sold the land and that the value of the land was now $75,000. Then Farmers Home would get 50 percent of the $25,000 above the writedown. It would not be above the $100,000. It would be from $50,000 up to $75,000. So he would not be paying more. Is that correct?

Mr. LUGAR. That is correct.

Mr. HARKIN. Now, that is not the problem, as I see it. The problem is one again that I raised in subcommittee but we wanted to strike a compromise on this. We had the Farmers Home Administration. The administration came in and wanted to have this shared appreciation. I believe in shared appreciation. I believe that farmers ought to pay their debts. I believe if the valuation goes up, they have a right to pay it back.

The problem is we have chapter 12 bankruptcy here that farmers can take. Unless this body is willing to go in there and change the bankruptcy laws, which I do not think we are about to do, farmers do have the ability to take chapter 12. I kept pointing that out.

Under chapter 12 bankruptcy, the bankruptcy judge can invoke shared appreciation only for 5 years. So, therefore, if a farmer goes into Farmers Home and they say, "OK, we are restructuring your debt. We are going to have shared appreciation for 10 years," he goes to chapter 12. And if the farmer goes and takes chapter 12, that costs us more. We have proven that it costs the Government more money for the farmer to go through chapter 12 bankruptcy than through restructuring.

Well, since we could not get over this hurdle and we had to strike a reasonable compromise, there is report language that we inserted. In the report, it says that we directed—I believe that was some of the language we may have used, I do not know exactly how it is written—but we directed Farmers Home in these cases of restructuring that they had to take into account the farmer's option to go to chapter 12 and that the deal they give the farmer on restructuring has to be equal to or better than what the farmer would get under chapter 12.

Now, in that case, I cannot see how they could do anything other than take that into account, because we want to save money and the best way to save it is to restructure these debts. The report language was there, however and I think that was a reasonable compromise.

All other things being equal, I think we should have had a shared appreciation like chapter 12 of 100 percent up to 5 years and then we would have been in the same boat as chapter 12. But with the report language, I think Farmers Home is directed to take that into consideration and to give the farmer at least equal to or better than a deal that he would have under chapter 12. I believe that is a correct summation of what the present situation is.

Mr. LUGAR. Mr. President, the distinguished Senator from Iowa has stated the proposition very accurately. I would simply add, as he has already stated, that it was a close call, and the Senator from Arkansas has surmised that in his discussion.

Essentially, we attempted as a committee to work with the administration to have their support, which will be required for this legislation to come to a good conclusion.

Let me just add some of the mitigating factors as opposed to a farmer going into chapter 12. He would have to consider that if he goes into chapter 12, his attorney fees would be substantial. We do now know precisely what these are, but this is a factor to consider. There is a stigma of bankruptcy attached to going to chapter 12 as opposed to going to restructuring to the Farmers Home Administration. All of the other creditors have to be satisfied if you go into chapter 12 and this is not necessarily the case with the Farmers Home Administration.

So it is a fielder's choice, a very difficult one, but one in which at least I think the committee unanimously sought a reasonable compromise. The report language the Senator from Iowa has cited made a good conclusion.

Mr. HARKIN. Will the Senator yield for a minute?

Mr. LUGAR. Yes.

Mr. HARKIN. I hope that under the normal oversight of the committee, assuming this bill gets through and is signed into law, that later on we will take a look at this and see how it is working and make sure that we are not driving them into chapter 12 but, in fact, we are doing this on some kind of an equitable basis. I think that would be something under our general oversight provisions that we should pay attention to.

Mr. LUGAR. I think the Senator's point is well taken. Only experience will tell what choice the farmers will make, but we ought to observe that very carefully.

AMENDMENT NO. 1223

(Purpose: To permit borrowers to use the same collateral to secure two or more direct or guaranteed real estate loans)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 1223.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 282, between lines 13 and 14, insert the following new section:

SEC. 602. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans, made, insured or guaranteed under this subtitle, except that the outstanding amount of the loans due may not exceed the total value of the collateral used.".

Mr. FORD. Mr. President, today I am submitting an amendment to the farm credit legislation which clarifies the procedures of the Farmers Home Administration. I congratulate the floor managers of this bill, the distinguished Senators from Vermont [Mr. LEAHY] and Indiana [Mr. LUGAR], as well as the distinguished Senators from Oklahoma [Mr. BOREN] and Minnesota [Mr. BOSCHWITZ], for their untiring efforts over many weeks to bring this critically needed legislation to the Senate floor. The structural and procedural changes made by this bill to the Farm Credit System and the FmHA are commendable, and I am hopeful that they will bring long-term stability to the agricultural community.

My amendment is far less ambitious than this bill, but it is a simple change which I believe will help the small farmer, the small rural bank, and the FmHA in carrying out its mission.

Simply stated, Mr. President, this amendment will permit FmHA borrowers to use the same collateral to secure two or more direct and/or guaranteed farm real estate loans, provided of course that the total of all loans does not exceed the value of the collateral.

This has been approved by both sides. I will not go into it. We have a letter from Farmers Home Administration approving it. It will not require any additional funding. It will not increase the administrative burden on the FmHA. It merely clarifies their authority under the Consolidated Farm and Rural Development Act.

Current FmHA regulations require separate and identifiable collateral on its direct loans. This leads to some rather obvious difficulties for farmers, especially in light of the dramatic cutbacks in FmHA's funding for direct lending over the last 6 or 7 years. Many long-time FmHA borrowers have outstanding farm ownership loans with low balances, resulting in much surplus equity. Yet under current regulations, a loan guarantee would not be available, effectively depriving private lenders from servicing these borrowers' needs.

In other cases, small rural banks often find themselves unable to make a loan to farmers because the amount needed simply exceeds their lending limits. Under current regulations, the FmHA will not lend a portion of the needed amount to the farmer, and thereafter allow the private lender to provide a guaranteed loan to the farmer within its own credit limit.

I believe that amending the law to reserve the effect of current regulations would provide greater flexibility under existing programs and help stretch those funds already allocated.

Mr. President, on February 4, I introduced S. 463, which was intended to accomplish exactly what this amendment will accomplish. Subsequently, the FmHA informed me that they had received several comments from individuals on this very problem, and had introduced proposed changes to their current regulations to implement this very change. To this date, no such change has been implemented.

I believe the time for implementation is today. Mr. President, under the pending farm credit legislation, the FmHA is significantly strengthened. I believe that allowing cross collateralization would further strengthen the FmHA in its role as lender of last resort. Many troubled loans could be saved. Additional cooperation with private lenders would be ensured, avoiding unnecessary liquidation proceedings.

Mr. President, I urge the adoption of this relatively straightforward clarification, which I believe is consistent with the purpose and intent of the farm credit legislation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I commend the Senator from Kentucky on an excellent amendment. The points he made are, as usual, cogent, to the point, and accurate.

The Department of Agriculture also supports this approach, as I do. It encourages private lenders to use the FmHA Loan Guarantee Program and I also support the amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the distinguished Senator from Kentucky for his good words about the management of the bill. On our side, we commend this amendment and are prepared to support it.

The PRESIDING OFFICER. Is there any further amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1223) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. I thank the leaders for their courtesy.

AMENDMENT NO. 1224

(Purpose: To improve standards applied by county supervisors when reviewing applications for loans)

AMENDMENT NO. 1225

(Purpose: To clarify the residency requirement for homestead occupation)

AMENDMENT NO. 1226

(Purpose: To ensure that a borrower meets certain eligibility requirements to be granted homestead protection rights)

AMENDMENT NO. 1227

(Purpose: To clarify the provisions relating to independent appraisals)

Mr. LEAHY. Mr. President, I send to the desk four amendments on behalf of Mr. SANFORD and ask they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. SANFORD, proposes amendments numbered 1224, 1225, 1226, and 1227.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1224

On page 286, between lines 16 and 17, insert the following new section:

SEC. 605. PLANTING AND PRODUCTION HISTORY GUIDELINES.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331D (as added by section 604 of this Act), the following new section:

SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

"The Administrator of the Farmers Home Administration shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or state yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters.

Redesignate the succeeding sections in title VI, and all references thereto, accordingly.

AMENDMENT No. 1225

On page 310, line 15, insert ", except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period" before the semicolon.

AMENDMENT No. 1226

On page 308, line 19, insert before the comma "who meets the eligibility requirements of subsection (c)(1)".

On page 308, line 18, strike the word "may" and insert the word "shall".

AMENDMENT No. 1227

On page 253, lines 1 and 2, strike out "arrange for such a independent appraisal" and insert in lieu thereof "present the borrower with a list of three appraisers approved by the appropriate lending institution, from which the borrower shall select an appraiser to conduct the appraisal".

On page 311, line 25, add after the period the following new sentence: "The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.".

On page 321, line 5, strike out "arrange for the independent appraisal" and insert in lieu thereof "present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal".

The ACTING PRESIDENT pro tempore (Mr. GRAHAM). The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished Senator from North Carolina, who is here, has proposed these four amendments, all of which I support. They are to clarify the use of independent appraisal for Farmers Home Administration borrowers, assuring that if a borrower meets eligibility for farmers homestead protection, he be entitled to that protection, clarifying that a break in residency caused by Farmers Home will not result in denying a borrower the right to occupy the homestead regarding land that has already been acquired through foreclosure providing the Farmers Home Administration takes into effect the natural disasters on applicant's past production history.

Certainly I support them. They reflect the concern the distinguished Senator from North Carolina has shown in the past. I see him on his feet and I will yield to him.

Mr. SANFORD. I thank the Senator very much. I appreciate his proposing those amendments for me. I had asked that when I was tied up at a committee and I thought I could hardly have any better sponsorship.

I think the amendments are very good.

Mr. President, I strongly urge my colleagues to support the borrowers' rights amendment package offered on my behalf by my distinguished colleague from Vermont, Chairman LEAHY. At this point, I would also like to express my sincere appreciation to my good friend, Chairman LEAHY; the distinguished floor manager for the minority, Senator LUGAR, and to the Agriculture Committee staff for their efforts on behalf of myself and the people of North Carolina in getting these amendments offered on the floor. At this point, I wish to outline briefly what these amendments will do.

My first amendment will make changes to the county committee nomination and election procedures. As you know, these committees are very important in the Farmers Home loan-making process, since they determine the eligibility of all prospective borrowers. Unfortunately, confidence in committee decisions is lacking in many parts of the country, and voter turnouts for elections are often abysmally low.

For example, in North Carolina last year, only 700 farmers voted in committee elections held across the State. This is an astonishing figure considering that some 70,000 farmers were eligible to vote in the State and that, of this total, almost 10,000 were FmHA borrowers. In Pitt County, one of our most productive agricultural counties, only one voter cast his ballot! Most of our other top 10 counties had equally dismal turnouts; Moore County, two ballots cast; Wilkes County, three ballots cast; Lenoir County, five ballots cast; Sampson County, three ballots cast. Clearly we need to enhance voter participation if we are to restore essential confidence in our county committees.

This amendment would require that the county committee nomination and election procedures outlined in FmHA's regulations be modified to provide for fairer elections, including the mailing of nomination forms and ballots to all FmHA borrowers in a county.

With my second amendment I address the matter of FmHA yield history adjustment. Current FmHA regulations appear to provide county committees the latitude to adjust the minimum yield standards on loan applications to account for situations where the yields of applicants are distorted by preproductive factors or recent natural disasters. However, the county committees under FmHA do not uniformly apply FmHA's yield regulations.

My amendment requires FmHA to make a concerted effort to see that its existing regulations are applied uniformly and that the county committees take into account the yield situation of each individual applicant.

My third amendment provides FCS and FmHA borrowers some input in the selection of their independent appraiser. Currently the bill's FCS and FmHA sections providing for restructuring and right of first refusal require a borrower to pay for an independent appraisal that is performed by an appraiser chosen by the creditor. This language will allow the borrower to choose an appraiser from a list provided by the creditor.

Fourth, I propose to alter the language in the homestead protection section of title VI to require the Secretary to approve homestead protection for any borrower meeting all of the eligibility criteria outlined in the bill. Current language provides that after an applicant has satisfied all eligibility criteria the Secretary still has discretion regarding that applicant's eligibility for homestead protection. It seems to me that if an applicant qualifies under the requirements in the bill then the applicant should be provided the homestead protections applied for.

My last amendment simply modifies another provision in the homestead protection language of the bill. Currently, eligibility for homestead protection is contingent, in part, on an applicant's having continually resided in the homestead residence for 6 years. I wish to avoid a situation where an applicant forced off his property by circumstances beyond his control would not be eligible for the protections afforded by this section. To remedy this problem, the amendment provides that any applicant who, due to circumstances beyond his control, is off his property for less than 1 cumulative year during a 6-year period as defined in the bill will be eligible for the purposes of this section's residency requirements.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. I commend the distinguished Senator from North Carolina for the amendments and along with the distinguished chairman we are prepared to support the amendments on this side.

I would like to ask the Senator from North Carolina a question with regard to an amendment. I am attempting to find the number; it is the one dealing with section 331E, planting and production history guidelines.

In line 12 of that the words "production history has been affected by" and our understanding is the word "declared" should precede "natural disasters." Is that the understanding of the Senator?

Mr. SANFORD. Yes, that is.

Mr. LUGAR. That is the understanding.

Very well, I would ask that the amendment be so modified.

The ACTING PRESIDENT pro tempore. Without objection.

The amendment No. 1224, as modified, is as follows:

On page 286, between lines 16 and 17, insert the following new section:

SEC. 605. PLANTING AND PRODUCTION HISTORY GUIDELINES.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331D (as added by section 604 of this Act), the following new section:

SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES

The Administrator of the Farmers Home Administration shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of country or State yield averages, are used in calculating future yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by declared natural disasters.

Redesignate the succeeding sections in title VI, and all references thereto, accordingly.

Mr. LUGAR. I thank the Senator. We are prepared to accept the amendment.

The ACTING PRESIDENT pro tempore. Is there any further debate? If not, the question is on agreeing to the amendments.

The amendments (Nos. 1224, 1225, 1226, and 1227) were agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I rise to thank the managers of the bill and the members of the committee for the hard work that has been done on this bill. It is an important piece of legislation and the end of a very long and difficult process. I urge the Senate to adopt the bill as quickly as possible. I also appreciate the efforts they made to accommodate two amendments of concern to me: one dealing with waivers of territories and another in the Farmers Home Administration section of this bill.

I am glad to see the strong bipartisan support for this legislation. It was adopted unanimously by the subcommittee and the full committee. I believe that it will enjoy, indeed should enjoy, strong bipartisan support in the full Senate.

The Farm Credit System has experienced great difficulty for the past several years. Congress has twice made changes to the Farm Credit Act in attempts to deal with the problems. These changes have not returned the System to a financially viable position.

The Farm Credit System announced in November that it had reversed the trend of losses. It reported a $4 million net income for the third quarter of 1987. Although this is a positive trend, the System shows losses of nearly $200 million for 1987. The Farm Credit System is not in the clear. There are many loans out there that need help—help that can only come from a healthy Farm Credit System.

This bill is not the answer to all the needs of farmers. It does not provide immediate interest rate relief. It does, however, provide a mechanism to help those farmers who show promise of survival. The section on loan restructuring provides a new "outlook" for the System. Where it will be less expensive, it emphasizes restructuring of debt over foreclosure. I encourage all Farm Credit System employees to understand this. I have tried for many months to encourage the Spokane district banks to emphasize this—in some cases to no avail. Thus I support this section of the bill.

Another section of the bill which I strongly support, one which was a part of my own bill, is the guarantee of borrower stock. I believe that this is critical. It will keep those borrowers in the system that might leave if it appeared that they would lose their stock. It will also be retroactive and make whole those who have actually lost stock in liquidations of associations. This is critical to the legislation.

The bill also creates a secondary market for agriculture loans. This is in the best long-term interests of farmers. Creation of this secondary market will provide more sources of competitive credit to farmers. I believe that this will control some of the zeal of the System seen in the 1970's and 1980's—making loans based upon average costs of funds and loaning more than the land could carry. The secondary market will provide balance to the System and allow banks, savings and loans, and others to participate in what has, in the past, been a practical monopoly by the Federal land bank.

The cost of this bill has always been a concern of mine. The need to help farmers has to be balanced against the already massive Federal deficit. We all realized this at the outset. This bill has found a creative solution to the problem of Federal outlays. This bill emphasizes that the Farm Credit System must help itself as a condition of taxpayers assistance. It requires healthy System institutions to honor past agreements to share existing capital. It provides for a one-time assessment of surplus capital, and it provides up to $4 billion in assistance through the sale of Government guaranteed bonds. The Federal Government will assist the System in paying the interest for 10 years. The Treasury will pay all interest the first 5 years and 50 percent of the bond interest the second 5 years. After that, the system must pay all the interest and remaining principal. This way, Federal outlays are limited, but assistance to the System is provided. I believe that this is a viable solution.

Although I like several sections of this bill, there are several sections which I believe would be better taken up in other legislation. The Farmers Home Administration section of this bill should be deferred to another time. The changes made by this legislation to FmHA add cost to the bill and could cause a veto. I believe we need this legislation to help the Farm Credit System. Changes to FmHA would be better done in a separate bill.

There are other provisions of this bill which I support, but I will not go into detail. I urge the Senate to complete its work on this bill quickly and schedule a conference, with the intent of having the bill become law by the December recess.

Thank you, Mr. President.

AMENDMENT NO. 1228

(Purpose: To provide loan applicants the right to refuse to allow the loan to be pooled; provides that notice shall be given applicants to the effect that pooled loans are not subject to the borrowers' rights provisions of S. 1665; and for other purposes)

AMENDMENT NO. 1229

(Purpose: To provide that no institution of the Farm Credit System may require any borrower to provide additional collateral if the borrower is current on the loan, and prohibits the bringing of any foreclosure action as a result of the failure to provide additional collateral)

AMENDMENT NO. 1230

(Purpose: To provide that no Farm Credit System district board member shall receive during any year an amount that exceeds $15,000)

Mr. LEAHY. Mr. President, I send to the desk the amendments on behalf of the Senator from North Dakota [Mr. BURDICK] and ask that they be considered en bloc.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. BURDICK, proposes amendments numbered 1228, 1229, and 1230.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1228

On page 349 in line 21 strike "Notwithstanding" and insert in lieu thereof:

"(a) Notwithstanding".

On page 350, after line 3, insert the following new subsection:

"'(b) At the time of application for a loan, originators shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 10 days of such notice, an applicant has the right to refuse to allow the loan to be pooled thereby retaining those rights given persons under applicable state laws and under sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7, if applicable . .' ".

Amendment No. 1229

(1) On page 270, strike line 1 and insert the following new sections:

"Section 405. Additional Collateral—

"Title IV of the Act is amended by adding a new section as follows:

" 'No institution of the Farm Credit System may—

"(1) require any borrower to provide additional collateral to secure the loan if the borrower is current in the payment of principal and interest on the loan; or

" '(2) bring any action to foreclose, or otherwise liquidate, any loan as a result of the failure of a borrower to provide additional collateral to secure a loan if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.

"Section 406. Access to Documents and Information—

"Section 4.13A of the Act is amended by striking the period at the end thereof and inserting in lieu thereof:

and copies of each appraisal of the borrower's assets made or used by a bank or association, other than a bank for cooperatives.'.

"Section 407. Transitional Authority.".

Amendment No. 1230

At the appropriate place in Title VIII, insert the following:

"Section 5.5 of the Act is amended by inserting before the period at the end thereof the following:

" '*Provided*, That no director may receive compensation under this section during any year in a total amount exceeding $15,000.' ".

Mr. LEAHY. Mr. President, I note on the first amendment, the first Burdick amendment is to require notice of pooling of loans for the secondary markets.

The second one relates to additional collateral and the right to a copy of an appraisal.

The third amendment related to directors' compensation.

All of these are in the nature of basic technical amendments. All of them are acceptable to this side and I would yield to the distinguished Senator from Indiana.

The ACTING PRESIDENT pro tempore. Without objection, the amendments will be considered en bloc.

The Senator from Indiana.

Mr. LUGAR. On our side, we are prepared to support all three amendments.

Mr. BURDICK. Mr. President, today on my behalf, Senator LEAHY has offered a package of amendments that I believe enhances the effect of S. 1665 on the rights of borrowers of the Farm Credit System.

S. 1665 goes a long way to establish the rights of borrowers of the System, however, I believe that it is necessary to offer these amendments to clarify the rights of these borrowers.

Our farmers are suffering the worst economic conditions since the Great Depression. Farmers are being forced off the land in staggering numbers and our rural areas are experiencing the greatest outward migration in 50 years. In my State of North Dakota, we have lost 7,500 of our farmers since 1980. That is an unbelievable 19 percent of the total number of farmers in North Dakota.

Aside from the obvious human tragedy of the plight of these family farmers, we also have lost untold numbers of small businesses in our rural areas—businesses that are vital to our small towns. We must stop this hemorrhage from our farms and our rural communities. I sincerely hope that this piece of legislation will go far to alleviate much of the suffering currently felt in rural America.

Mr. President, I believe that these amendments I now offer will add to what we are trying to accomplish with S. 1665. These amendments provide for the following:

The first amendment provides that, at the time a farmer applies for a loan, the lending institution must provide written notice to the farmer that describes the terms and conditions of the loan if the loan is pooled or is not pooled. The farmer must also be informed of his right not to have his loan pooled.

This amendment is significant because a farm credit services borrower loses the protections afforded him under current law and S. 1665 if his loan is pooled. I believe a farmer must be notified so that he may make an informed decision of the type of loan best suits his needs.

The second amendment provides that no FCS institution may require a borrower to provide additional collateral if the borrower is current in the payment of principal and interest on the loan. It also provides that no action may be brought to foreclose any loan as a result of the failure of the borrower to provide additional collateral if the borrower is current.

The amendment also gives a borrower access to appraisals made or used by FCS institutions. A farmer should be allowed to know the value the System has placed on his property. I believe that a borrower can make informed decisions about the status of his loan only if information relied upon by the lender is available to the borrower.

The final amendment in this package limits the compensation provided FCS district board members to $15,000 per year. Currently, district board members are paid $200 per meeting attended without a limit placed on the number of meetings. In times of financial crisis, the System must trim some fat. This is certainly one area that can be trimmed without having an adverse effect on the borrower.

I believe that S. 1665 indicates that the Senate is concerned about the conditions in our rural areas and is willing to assist our farmers. It is too late for many of our farmers, but I am hopeful that, through this legislation, we can assist our family farmers to stay on the land and prosper.

The ACTING PRESIDENT pro tempore. Is there any further debate on these amendments? If not, the question is on agreeing to the amendments.

The amendments (Nos. 1228, 1229, and 1230) were agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1231

(Purpose: To require that Farm Credit System institutions having an uninsured account for advanced or future prepayments of a borrowers loan, apply amounts in such account against the principal amount of any such outstanding loans of the borrower immediately prior to that institutions insolvency)

AMENDMENT NO. 1232

Mr. LEAHY. Mr. President, I ask unanimous consent that two amendments by the distinguished Senator from Alabama [Mr. HEFLIN] be sent to the desk, immediately considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendments will be considered en bloc.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. HEFLIN, proposes amendments numbered 1231 and 1232.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

Amendment No. 1231

At the appropriate place, add the following new section:

SEC. . APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.38. APPLICATION OF UNINSURED ACCOUNTS.

"(a) In General.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect prior to the date of enactment of the Farm Credit Act Amendments of 1987), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, immediately prior to the capital depletion or insolvency of such institution, be applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) REGULATIONS.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

AMENDMENT NO. 1232

On page 362, line 19, insert the following: However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

Mr. LEAHY. Mr. President, the first of the two amendments requires that moneys deposited into advanced payment accounts or prepayment accounts immediately prior to insolvency of a farm credit institution be applied as a payment against the borrower's loan. The second is a technical amendment to section 801, Sale of Rural Development Loans.

The **ACTING PRESIDENT** pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, we strongly support all of these amendments and we commend the Senator from Alabama for his work with Members on both sides of the aisle and with the administration.

I would simply say that these amendments correct problems that gave a great deal of anxiety to the adminstration earlier on in our consideration and the adoption of these amendments, we believe, will strengthen the administration's support of this legislation.

Mr. HEFLIN. One of the primary purposes of S. 1665, the Farm Credit Act Amendments of 1987, is to institute improvements in the Farm Credit System that would prevent future uncertainty both in the Farm Credit System as a whole, and for farmer-borrowers who have loans with and own stock in the system. The amendment I now offer would simply provide statutory protection of certain moneys which are deposited by borrowers into uninsured voluntary and involuntary accounts held by Farm Credit System institutions.

Under regulations devised by the Farm Credit Administration, system institutions can require borrowers to deposit a certain portion of any payments received into what is often known as an "advanced payment account" or a "prepayment account." These moneys will be held by the Farm Credit System institution until such time as the borrower's loan payment comes due, at which time, any money in such an advanced payment account would be applied toward the repayment of that loan.

However, in the event that a Farm Credit System institution experienced insolvency or capital depletion, there is no guarantee that a borrower's deposits into system advanced payment accounts, which for all practical purposes are advance payments of a loan, would, in fact, be applied toward the repayment of this loan. In all likelihood, these moneys, which a borrower had deposited in good faith as a prepayment of a loan, would be frozen for months or even years as overall assets of the Farm Credit System institution. The borrower would be forced to recover his advanced payments in a bankruptcy court as a creditor of the system institution, but would still be required to make the entire amount of the loan payment.

My amendment simply requires that money deposited into these advanced payment or prepayment accounts would, immediately prior to the capital depletion or insolvency of a Farm Credit System institution, be applied as payment against the borrower's loan.

The money that is deposited into these accounts would normally go to the repayment of loans, and I am merely attempting to troubleshoot and find areas in which there could conceivably be some difficulty. I believe that this is a fair and just way to provide the borrower of the Farm Credit System with reasonable financial security.

The **ACTING PRESIDENT** pro tempore. Is there any further debate on these amendments? If not, the question is on agreeing on the amendments.

The amendments (Nos. 1231 and 1232) were agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1233

(Purpose: To improve the bill)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **ACTING PRESIDENT** pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. LUGAR, proposes an amendment numbered 1233.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 324, line 1, through page 359, line 22, strike out "credit enhancement" wherever it appears and insert in lieu thereof "guarantee".

On page 326, line 12, insert before the semicolon the following: "that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage".

On page 338, line 20, insert "VOTING" before "COMMON".

On page 338, line 22, insert "voting" before "common".

On page 338, line 25, insert "voting" before "common".

On page 339, line 10, insert "voting" before "common".

On page 339, line 20, insert "voting" before "common".

On page 340, line 9, insert "voting" before "common".

On page 340, between lines 11 and 12, insert the following new subsections:

"(e) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board of Directors of the Corporation from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation.

"(f) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board of Directors of the Corporation from time to time. Such preferred stock issued freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred stock shall be entitled to such rate of cumulative dividends and such holders shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividends is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

On page 343, strike out line 2 and all that follows through line 7 and insert in lieu thereof the following new subsection:

"(a) GUARANTY AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation shall guaranty the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guaranty has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

"(3) POWER OF CORPORATION.—Nothwithstanding any other provision of law, the Corporation is empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

On page 349, line 14, after the period add the following new sentence: "In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans which are deemed by the board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.".

On page 354, line 18, insert "other than the Corporation" before the period.

Mr. LEAHY. Mr. President, the amendments proposed to title VII, the secondary market provision, are truly technical and perfecting. They do not make any substantive changes in the intent of the legislation. They are offered to accomplish two objectives: First, to clarify one concept that has appeared to some to be ambiguous; and, second, to provide that in a few specific areas the language parallels the legislative language authorizing the housing secondary markets.

First, three of these amendments make clear that it is the mortgage corporation, not the Federal Government, that guarantees the timely payment of principal and interest to investors in the same manner that the housing secondary market corporations guarantee timely payment. Two amendments protect investors and the taxpayers by making absolutely clear our intent that loans sold in this secondary market are unencumbered by prior liens and are of investment quality. Lastly, two amendments establish that while the initially issued stock is voting and fairly distributed between Farm Credit System and non-Farm Credit System participants, the corporation has the authority to issue additional nonvoting common and preferred stock if it is determined by the mortgage corporation board that the corporation should raise additional capital.

Mr. HEFLIN. Mr. President, at this time I would like to ask a question of my friend, the floor manager of the bill, about one of the provisions of this legislation. It is my understanding that, under the borrower stock section, the guarantee of full repayment of the stock at par value is intended to apply to banks and associations that are placed in liquidation after enactment as well as those which will continue to exist but require assistance to repay impaired stock. This applies to existing stock as well as stock purchased within 9 months after date of enactment of this bill.

As a result of this provision, the borrower's investment in the system will be preserved, and, thus, this stock will be retired at par value when the loans are paid in full, which is the appropriate manner of repayment as identified in the bill.

Mr. floor manager, is that your understanding of this provisions.

Mr. LEAHY. Yes.

Mr. LUGAR. Mr. President, I strongly support the amendments regarding the secondary markets. I would point out the banking and insurance groups came to the committee, pointing out refinements that might be helpful on S. 1665, and minor problems that might be addressed.

We have carefully evaluated each of those as to their merit and we support each of them.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1233) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. I would like to draw the attention of the distinguished chairman of the Agriculture Committee to section 8.5 of title VII of S. 1665, which defines a so-called certified facility for purposes of the secondary market for agricultural mortgages. It is my understanding that the criteria established for approval of a certified facility are to be interpreted so as to permit any financial entity—be it a commercial bank, a farm credit bank, an insurance company, a securities firm, an investment bank or what have you—to qualify as long as it can adequately demonstrate that it meets those criteria. Is my understanding of the certified facility criteria correct?

Mr. LEAHY. Yes, it is.

Mr. LUGAR. I also understand that although there presumably will be many firms with prior experience in such diverse financial areas as loan origination, insurance, or securities, which may be interested in seeking certification as a facility, a firm need not have any prior involvement in agricultural credit or possess experience as a loan originator, pooler, or marketer in order to become a qualified facility. Rather, the firm need only demonstrate that it has the capacity to meet all the requirements of a facility as of the time it seeks certification by the mortgage corporation.

For example, an existing or newly created firm seeking to become a certified facility could hire persons with suitable prior experience in order to demonstrate acceptable managerial ability with respect to agricultural mortgage loan underwriting, servicing and marketing as required by section 8.5(a)(2)(D). Is my understanding of the legislation in this regard correct?

Mr. LEAHY. Yes, you are correct.

Mr. LUGAR. I thank the distinguished chairman.

Mr. BOSCHWITZ. Mr. President, I would like to engage the distinguished chairman of the Agriculture Committee's Subcommittee on Agricultural Credit, the Senator from Oklahoma and the Senator from Iowa [Mr. HARKIN] in a colloquy regarding certain aspects of the restructuring provisions in section 205 of the Farm Credit Act amendments bill before us.

The restructuring provisions in S. 1665 would change current law to allow two or more unlike institutions within a district to merge voluntarily into a single entity if the merger plan is approved by the Farm Credit Administration Board, the boards of directors of the institutions involved, and a majority of the stockholders or holders of equity interests of each institution.

Mr. BOREN. The voluntary merger provisions which you have just described are one of the most important elements of the bill before us. The unique, cooperative economic relationship between borrower and lender which has characterized the Farm Credit System since its inception carries with it the right to take part in decisions affecting the management of this economic interest. Although Congress has acted numerous times over the years to change various aspects of the System, it has never abandoned or modified this fundamental principle of shareholder participation in important institutional decisions. While striving for the widely shared goal of improved System efficiency, the restructuring provisions in S. 1665 preserve and protect this basic shareholder right by requiring farmer/borrower approval of any proposed merger.

Mr. HARKIN. Was it not also the belief of the subcommittee that shareholder participation in mergers of System entities would benefit the System as a whole, and foster the goals of improved efficiency, maintenance of competitive pricing, and improved quality of credit services?

Mr. BOREN. That is correct. By assuring the participation of farmer/borrowers in merger decisions, the Senate provisions would permit consolidations of System entities based upon regional economic realities. I am also confident that local control would be retained through this type of shareholder participation.

A substantial majority of the subcommittee feared that a radical, precipitous decentralization plan would foster litigation by associations that believe they are being treated inequitably in the reorganization process. If this were to occur, it could undermine the entire restructuring effort. The restructuring provisions in S. 1665 would allow the System shareholders, the farmer/borrowers, to help determine when and where mergers should take place at a realistic and deliberative pace, thereby ensuring that potential inequities could be addressed and resolved by the institutions involved before they ripen into confrontational and expensive litigation.

Mr. BOSCHWITZ. I might add that the subcommittee believes that shareholder participation in the restructuring of the System will minimize the potential for friction among System entities which could be inspired by a massive Government-mandated consolidation. Even the mere suggestion of fragmentation within the System could cause an erosion in investor confidence, which would increase the cost of funds, and, in turn, borrower interest rates. By guaranteeing the right of farmer/borrowers to participate in merger decisions, the restructuring provisions in S. 1665 would enable management and shareholders to accomplish institutional mergers in a rational, business-like fashion.

I thank my colleagues for discussing this important part of the bill.

Mr. SANFORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I would like to engage in a brief colloquy with the distinguished Senator from Indiana, if I may.

Mr. LEAHY. Mr. President, I wonder if I might suggest the absence of a quorum for just a moment.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I would like to engage in a colloquy with the distinguished Senator from Indiana.

Mr. President, I had prepared an amendment which I had felt was necessary after traveling over the farming parts of my State because I found a great deal of dissatisfaction with the election of Farmers Home Administration county committees. As many of my colleagues know, voter participation in these elections has been extremely low. I have looked at the provision in S. 1665 concerning the county committees.

S. 1665 requires the Secretary of Agriculture to assure that the farmers have 45 days to submit nominations and 30 days notice following that before an election can be held. This is a good step toward enhancing participation since nomination periods and notice periods have been very brief in the past. However, given the extent of the problem, which I spoke on at some length earlier today, I am still not sure we have done enough to solve it.

As I mentioned before, in the third largest farming county in eastern North Carolina, only one person voted in the election last year, and in half of the counties in the State less than 10 people voted.

That is distressing primarily because it reflects the lack of confidence that the farmers have in the county committees, and it cannot help but effect the credibility of these bodies.

I had prepared an amendment that would provide in more detail that FmHA not only would give 45 days notice, but would also mail out nomination forms to all Farmers Home borrowers, and then send out ballots to FmHA borrowers 30 days before the election.

I have been convinced that this amendment would be costly and that probably, for that reason, it ought to be reconsidered. I decided to withdraw it, or at least not to offer it, in accordance with the wishes of the Agriculture Committee.

I would like to say however, that I think this lack of voter participation is a serious problem, and I think the Department needs no further authority to do a better job.

I simply wanted to suggest to you there were some ways that we could suggest to the Department of Agriculture and to the Farmers Home Administration that they might do a better job, and attract more votes, in order to build up the confidence of people in the county committees and to build up their own credibility.

Mr. LUGAR. Mr. President, I commend the distinguished Senator from North Carolina for his sensitivity to a very important problem. The credibility of these meetings is tremendously important, not only based upon proper notice, but likewise to have a useful turnout of voters.

The Senator is correct that in some instances the turnout is very small, miniscule, as a matter of fact, which leads to reduced credibility of decisions reached on fundamental questions.

The Senator also is correct that the U.S. Department of Agriculture has advised him that the means he had earlier suggested or drafted in amendment form would be expensive. At the same time, the administration and the Farmers Home Administration has an obligation to do better administratively than they have done.

I would like to offer my personal assurance to the Senator that this colloquy will be brought to the attention of the U.S. Department of Agriculture and that the sensitivity that both of us feel as far as participation would certainly be made known. Also, our oversight ought to monitor how this bill works, that we ought to take a look at participation, to see how USDA has done, if they have done better, given this notice.

We would like to work with the Senator and the administration.

Mr. SANFORD. I thank the Senator from Indiana and I thank him for his work in bringing forth what I consider to be an extremely beneficial piece of legislation. I would also thank the distinguished Senator from Oklahoma and the distinguished Senator from Vermont for their leadership. I think now we can see that it is a piece of legislation being passed rapidly to the benefit of every farmer in America. I thank all Senators who have helped with this bill very much.

Mr. BINGAMAN. Mr. President, I rise in support of S. 1665. I am pleased to be a cosponsor of this important legislation.

This legislation ensures that the Farm Credit System will continue to serve our agriculture community. It contains important reforms to improve the System so that financial assistance can be provided more effectively and at less cost than under existing law. We must provide assistance to the System so that it can honor its obligations to farmers and ranches who own stock, the FCS bond holders, and in addition, continue to perform its vital role in providing credit to farmers, ranchers, and farm cooperatives at reasonable and competitive rates. This is forward-looking legislation that deals with the problems and challenges we will face in agriculture and farm credit in the future.

The Farm Credit System, through its Federal land banks and production credit associations, is the single largest lender to American agriculture. Currently it holds nearly 26 percent of the 176 billion dollars' worth of agriculture debt outstanding. This share has fallen in recent years because of the System's financial problems, but the FCS still remains the only agricultural lender who can provide both long- and short-term credit. In New Mexico, the Farm Credit System has provided over one-half billion dollars in lending assistance. Continuing this stability and availability of credit may be the most important reason to provide assistance to the System.

The legislation we consider today will maintain the basic structure of the existing System, thereby retaining local control, an issue very important for the nearly 5,000 farm credit borrowers in New Mexico.

S. 1665 would provide up to $4 billion in financial assistance to the System in the form of federally guaranteed bonds, limiting the taxpayer cost to part of the interest expenses over the first 10 years of the bonds' life. These federally backed bonds are an alternative to direct appropriations and reduce the overall cost of the program. Using bonds which must be repaid by FCS will ensure that FCS uses the money wisely. The bill also provides incentives for the System to work with delinquent borrowers to restructure loans.

The legislation creates a private sector, secondary market for farmland and rural housing mortgages. A secondary market, similar to those that have benefited residential mortgage lenders and borrowers, will lower interest rates for borrowers, further stabilize farmland values, and provide hard-pressed rural banks with greater liquidity for investments in their own communities. Importantly, this provision would give all lenders equal access to the secondary market, ensuring a fair and equal opportunity for all farmer-borrowers and their lenders. It also increases competition among farm mortgage lenders. The formation of a secondary market is an essential part of any strategy for addressing the agricultural credit situation.

The bill addresses many of the current difficulties facing the Farmer's Home Administration. This bill attempts to streamline the current loan approval, restructuring, and appeals process. The bill encourages loan restructuring with emphasis on writing down of principal and interest and debt set-aside, providing notice to borrowers of loan servicing options, the establishment of a new appeals division, providing income release for operating and living expenses for borrowers who are actively engaged in farming and have applied for restructuring, and creating a secondary market for FmHA guaranteed loans.

CONCLUSION

In 1985 and 1986, Congress passed stopgap legislation to forestall financial difficulties facing the Farm Credit System and its borrowers. This legislation will ensure the long-term viability of the System and enable the System to remain a competitive lender for agriculture. S. 1665 represents a balanced and reasonable approach to our agricultural credit problems. The bipartisan and consensus effort that led to this legislation deserves our appreciation and support.

I urge my colleagues to vote in favor of this important legislation.

Mr. SHELBY. Mr. President, today I rise in support of S. 1665, the Farm Credit Act Amendments of 1987. I feel this is a major step toward eliminating many of the problems that plague our farmers and ranchers. I, therefore, urge my distinguished colleagues to support the pending legislation.

First, I would like to congratulate the members of the Agriculture Committee for their hard work and diligence in preparing a workable plan to aid our farm sector. It is imperative that we move swiftly and intelligently in alleviating the saddened condition of our agricultural market. S. 1665 achieves this objective.

The Farm Credit System, which was originally established in 1916, is the largest provider of credit to farmers, ranchers, and their cooperatives. For 70 years the System has provided qualifying farmers and cooperatives with credit at the least cost. However, in recent years this objective has become more and more difficult. External factors beyond the control of either the lender or borrowers have been precipitating causes of the poor financial condition of the farm sector.

The current agricultural depression is not unlike the agricultural depression of the twentie's and thirtie's. We must not allow our agricultural sector to suffer irreparable economic harm. Such adverse consequences would not only injure our farm sector; especially our small family-owned farms and ranches, but also our economy at large. We must learn from the lessons of history and move with "deliberate speed" to lessen potential grave circumstances. The proposed legislation is a proper tool to diminish the likelihood of further economic damage to our farm sector.

Furthermore, current reports show that 10 to 12 percent of farmers hold 37 percent of the total debt. Due in part to a declining land value, these farmers are financially strained. When these farmers default on their loans, as they will likely do without needed assistance, the lender will suffer a reduction in net worth, thereby leading to financial disaster. To illustrate, as of September 30, 1987, the System held $6 billion of nonaccrual loans. One can readily see the consequences of such a situation. This cannot continue; it is like building a house on sand.

Mr. President, the farm credit bill of 1987 effectively addresses the problems that plague our farm sector not only for the short term, but also for the long term. As a Senator from a State where agriculture is very important, I know firsthand of the economic plight of many American farmers. Our smaller farms have been severely injured. Some farmers and ranchers have not only lost a farm but a way of life; their very livelihood. We must not only preserve our farm sector, we must strengthen and enhance our farm programs. I feel the farm credit bill is integral in reaching that result.

S. 1665, in my opinion, is a timely and well-thought-out package that will assist farmer/borrowers and the System, including the FCS bondholders. Foreclosures of farms and ranches, and a bleak financial picture for the Farm Credit System, are not economically viable circumstances. Distressed and needy farmers need our help. Furthermore, we must assure ourselves of a financially sound Farm Credit System. Thus, I must reiterate that the Congress, as a whole, must move forward and help our deteriorating agricultural sector.

Therefore, Mr. President, I urge my distinguished colleagues to support S. 1665, the Farm Credit Act Amendments of 1987.

Mrs. KASSEBAUM. Mr. President, I want to begin by commending each of the members of the Committee on Agriculture, Nutrition, and Forestry for the long hours they spent preparing this bill. Through their hard work and perseverance, we have a truly meaningful piece of farm credit legislation before the Senate today.

I am sure that every Member of the Senate is aware of the profound changes which have taken place in our agricultural communities over the past few years. Commodity prices are down considerably from the early 1980's. Land values in many areas of the country have fallen more than 50 percent. Few segments of our rural economies have gone unaffected.

One of the most important resources in agriculture is a dependable source of credit available to farmers and ranchers. Agricultural producers rely on the Farm Credit System to provide them with short-term operating loans as well as long-term loans to purchase land and production facilities. In fact, the System is the largest single supplier of agricultural credit to our Nation's farmers.

Unfortunately, the Farm Credit System has recently been a victim of many of the same circumstances which have plagued its farmer/borrowers. The high cost of funds to the System and long-term loans made on over-priced farmland in the late 1970's and early 1980's resulted in high interest rates and high default rates within the System. These problems were compounded by a decline in borrower confidence and the subsequent flight of the System's best borrowers.

Now we are faced with the necessity of providing assistance to the Farm Credit System and its troubled borrowers. This is legislation which will have a lasting impact on the future of agriculture and agricultural producers in our country.

There are several crucial guidelines which I believe are essential in evaluating any legislation designed to aid the Farm Credit System. First, local control must be restored within the System. Discretion on matters such as loan approval, mergers, and basic management decisions must be given to local offices and stockholders who best know their borrowers and economic conditions.

Borrower confidence must be restored. If the Farm Credit System is to remain a healthy, viable lender, it must retain its best borrowers and offer competitive interest rates.

A strong emphasis must be put on restructuring nonaccrual loans and working with troubled borrowers on alternatives to foreclosure. In many cases, the costs are actually less to the System if they can keep the farmer on the land rather than liquidating.

We must be forward-looking in planning for the System's future. Short-term fixes are not what we need. Instead, incentives must be put in place to encourage prudent management and financial independence for the System. This is the only way it can provide needed services to its farmer/borrowers.

Finally, we must minimize taxpayer and treasury exposure. It is clear that the System needs assistance. However, those System institutions which do receive assistance must be held accountable for that assistance, and a satisfactory repayment plan for all Federal assistance granted must be implemented.

The Farm Credit Act Amendments of 1987, S. 1665, addresses each of these areas in a manner which I feel will prove beneficial to both the System and its borrowers. It retains the System's cooperative structure and stresses local control. It provides for a guarantee of borrower stock at par value. It mandates that a least-cost approach be taken when considering restructuring versus foreclosure. It provides appropriate oversight in disbursing and administering financial aid to ailing institutions. Finally, it does minimize risk to the taxpayer by setting forth conditions which System institutions must meet to be eligible for financial assistance and specifying a payback plan.

Mr. President, this legislation is crucial to our farmers and ranchers. It is not simply a Federal bail-out of the Farm Credit System. It addresses the concerns of System borrowers as well. It provides a framework in which I think the Farm Credit System can once again provide a dependable source of credit to producers.

This package has broad, bipartisan support. It was unanimously approved by the Agriculture Committee. I urge my colleagues to support S. 1665.

Mr. DOLE. Mr. President, today we are considering S. 1665, the Farm Credit Act Amendment of 1987. I want to commend my colleagues on the Senate Agriculture Committee, especially Senators BOREN and LUGAR for their work at the subcommittee level and Senator LEAHY for ensuring quick action on the bill once it reached the full committee. The countless hours devoted to the bill by these and other Senators should help us take quick action and allow passage of a bill by Congress. If we can prevent the bill from being loaded down with costly amendments then I will encourage President Reagan to sign it into law.

CURRENT SITUATION

There is general consensus that we need to provide for a long-term solution to the problems of the Farm Credit System, which has lost almost $5 billion over the last 2 years. The Senate Agriculture Committee has taken the view that assistance in the form of Government guaranteed bonds would be preferable to a direct cash infusion since guarantees would not require an up-front budget outlay and would lessen the impact on current efforts to reduce Federal budget deficits. The taxpayer's obligation would then be only in cases of defaults and in sharing a portion of the interest costs. Interest payments would require an annual appropriation by the Congress. Assistance paid to the system should be paid back to the Treasury over time.

METHOD OF FINANCIAL ASSISTANCE

S. 1665 would replace the existing capital corporation with an assistance board which would guarantee the value of borrower stock by authorizing troubled system institutions to issue preferred stock. The funds received from the sale of the preferred stock would be used by distressed banks to return to full strength and reduce interest rates. Up to $4 billion in 15-year obligations would be issued in two phases with the principal and interest guaranteed.

RESTRUCTURING THE SYSTEM

The legislation does not require a mandatory restructuring of the system as provided for in the House bill which would reduce the number of districts from 12 to no more than 6. Our approach would require assistance to districts when the value of stock drops to 75 percent of par value. The assistance board would then have authority to recommend mergers and liquidations if that would be less expensive than providing assistance. Any district mergers would be subject to stockholder approval.

To prevent future cyclical downturns, the system's independent regulator, the Farm Credit Administration, is required to set up a central reserve account funded by annual assessments beginning 1992. This will help FCS institutions honor their bond obligations and retire borrower stock at par value without taxpayer assistance in future years.

BORROWER ASSISTANCE

Government assistance to the Farm Credit System, or to any other agricultural lender, must be conditioned on whether the benefits will pass through to their farmer borrowers. We need to be sure to assist farmers and not just the system. The legislation would require restructuring every farm loan when the cost is less than foreclosure. This is a practical attempt to keep as many viable farmers in business as possible and by generating income, the system should well be able to reduce the drain on its $6 billion in nonperforming loans.

SECONDARY MARKET

S. 1665 would also create a secondary market to provide borrowers new sources of long-term financing for ownership loans. By allowing commercial lenders to provide long-term fixed-rate real estate loans to farmers, there will be greater competition in the real estate market which should result in lower interest rates to borrowers.

The administration objects to a secondary market because they feel it will chase away the systems good loans to banks and insurance companies. However, FCS institutions are not forced to sell their loans and I think the system will be aided as well by this new tool.

CONCLUSION

Mr. President, the final solution must make system institutions competitive with commercial banks and provide sufficient liquidity and incentive so that credit demand in rural areas is met. Government assistance to the Farm Credit System, or to any other agricultural lender, must be conditioned on whether the benefits will pass through to their farmer borrowers. I believe the provisions already mentioned, together with the FmHA compromise package, borrowers rights, State mediation, and other provisions contained in the bill make this an acceptable and necessary proposal.

Mr. SASSER. Mr. President, I am pleased to rise in support of S. 1665, the Farm Credit Act Amendments of 1987. As many of my colleagues have noted, quick passage of this legislation is of vital importance to our agricultural communities.

Mr. President, for the past several years, the farmers in our country have been overwhelmed by depressed markets, decreases in farm land values, and increasing competition from foreign markets. In Tennessee, farm incomes were on a roller coaster between 1980 and 1986, while farm land and building values dropped from $14.4 billion to $12.8 billion. At the same time, production expenses increased by $1.2 billion and exports fell off steadily. These difficulties, many of which have been outside the farmer's control, have made it difficult to maintain farm operations and meet obligations. This financial difficulty has had a dramatic effect on the Farm Credit System.

System institutions have reported staggering losses over the last 3 years. This has largely been the result of nonaccrual loans. Nonaccrual loans jumped from $354 million in 1981 to a predicted $5.6 billion at the end of this year. These losses have brought the system to the point at which investor stock is now threatened. Fortunately, the focus of this bill is on guaranteeing borrowers' stock and working to recapitalize the system so that this threat can be averted.

I commend the efforts of the Agriculture Committee in bringing this legislation together. I know that the committee has worked long hours and gone through much to agree on certain aspects of the bill.

I am especially pleased that the issue of Farmers Home Administration loans are dealt with in S. 1665. In my State of Tennessee, a large number of farmers depend on Farmers Home for housing, land purchase, and operating loans. Foreclosures on these loans have been increasing rapidly. These foreclosures are not simply endangering the livelihood of individual farmers but of entire agricultural communities.

The effort to restructure these loans which the Farmers Home Administration is directed to undertake is not simply an effort of sympathy for our farmers. It is an effort to ensure that action taken on these nonaccrual loans is in the best interest of all parties involved. Restructuring of these loans, in all cases, will occur when it will be less costly to Farmers Home than would be foreclosure. As well, restructuring would apply to those farmers whose history shows that they are able to repay their loans, but have been severely affected by the agricultural crisis.

I am also pleased that amendments to the legislation have been accepted today concerning assessments of profitable institutions. These amendments will allow districts to achieve the assessments in a manner which best suits their district situation. Also, no assessments would be allowed which would jeopardize the operation of an institution. These measures are necessary to see that each district is able to make assessments which will not create a financial difficulty for institutions because of their past success.

Mr. President, the measures which I have highlighted are important to the operation of the Farm Credit System and to the farmers in Tennessee. But these are also very important to the system as a whole. Borrowers' rights and loan restructuring are at the crux of the legislation, and they are vitally important to the continued operation of many American farms. I feel that the compromises reached and methods which have been arrived at are in the best interest of the system and our Nation's farmers.

Mr. President, while we are beginning to see a turnaround in the circumstances of some farmers, and recent reports from the Farm Credit System show an increase in accrual loans, it is imperative that we not relax our efforts to support the agricultural community. S. 1665 is another strong signal from the Senate that we are serious about turning the tide for the farm sector.

I strongly support the Farm Credit Act Amendments of 1987, and I urge my colleagues to back its expedient passage. Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, I rise in strong support of S. 1665, the Farm Credit Amendments Act of 1987, and would urge all of my colleagues to do likewise. While this bill is by no means perfect, it represents a significant improvement over current law, and it is urgently needed.

The consequences of failing to pass a bill acceptable to the President could be catastrophic. The Farm Credit System, which provides a third of the credit for America's farmers, is nearing the end of its rope. It has a severe liquidity problem, and it cannot survive on the equity represented by borrower stock indefinitely.

While an improvement over 1986's results, the System's most recent announcement on the results of the third quarter of 1987 indicate that if we wait too long, it is very possible that the entire system could collapse just as America's farmers are going into the fields next spring. I ask unanimous consent that a copy of the Systems news release announcing those results and reaffirming the need for prompt action on S. 1665 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FARM CREDIT SYSTEM ANNOUNCES 1987 THIRD QUARTER AND NINE MONTHS RESULTS

NEW YORK.—Combined net income of $4 million in the third quarter of 1987, compared to a net loss of $560 million for the same period last year, was announced today by the Farm Credit System. The nominal net income in the third quarter of 1987 was primarily the result of the negative provisions for loan losses recorded by many System institutions, which more than offset the impact of the continued decline in net interest income. These negative provisions for loan losses are based on Bank management's determination of moderated risk at this time in their loan portfolios and the resultant reduction in the allowance for loan losses.

The 1987 nine month net loss was $197 million compared to a $1.528 billion net loss in the same period of the previous year, principally as a result of a $1.430 billion reduction in the provision for loan losses. Operating results of the System, excluding consideration of the provision for loan losses, continued its unfavorable trend, reflecting the impact of continuing declines in net interest income. Operations for the nine months ended September 30, 1987 used $111 million of financial resources. By contrast, operations provided $142 million of financial resources during the first nine months of 1986.

Announcing the System's 1987 third quarter and nine month financial results were Alan D. Fass, President of the Federal Farm Credit Banks Funding Corporation, and H. Brent Beesley, President of the Farm Credit Corporation of America. Other significant developments for the three and nine months ended September 30, 1987 included the following:

Net loans outstanding were $50.4 billion at September 30, 1987, compared to $50.9 billion at June 30, 1987 and $54.6 billion at December 31, 1986; the September 30, 1987 amount represents a decline of $7.8 billion from a year earlier.

The allowance for loan losses at September 30, 1987 was $3.217 billion, compared to $3.385 billion at June 30, 1987 and $3.635 billion at December 31, 1986.

Nonaccrual loans were $6.001 billion at September 30, 1987, compared to $6.471 billion three months earlier and $7.066 billion at December 31, 1986. Other high-risk loans amounted to $4.642 billion at September 30, 1987, compared to $5.311 billion at June 30, 1987 and $5.742 billion at December 31, 1986.

System total capital declined to $5.011 billion at September 30, 1987, compared to $5.082 billion at June 30, 1987 and $5.641 billion at the prior year end. Surplus at the end of the third quarter of 1987 declined to $1.216 billion from $1.221 billion three months earlier and $1.453 billion at December 31, 1986.

Total risk funds, consisting of total capital plus the allowance for loan losses, declined to $8.228 billion at September 30, 1987, compared to $8.467 billion at June 30, 1987 and $9.276 billion at December 31, 1986.

Several factors contributed to the relatively improved financial results of the System during the first nine months of 1987, particularly during the two most recent quarters. These factors included: the beneficial impact of the acceleration of certain government farm program payments on System borrowers' cash flows and financial positions; paydowns or complete repayments of loans previously identified as high-risk; indications of some improvement in key economic trends in agriculture; the apparent stabilization of farmland values in many areas of the country; and the impact of loan restructuring programs.

The above factors have contributed to the stabilization of portfolio credit quality and moderated other risk characteristics which have impacted the System over the past two years. However, the beneficial effects of these factors on the System's borrowers may or may not continue. In any event, the System remains burdened by high levels of nonearning assets and high-cost debt and will remain vulnerable to unexpected changes in borrowers' cash flows and financial positions.

Despite the recent favorable impact of the above factors on the System's financial results, many individual Federal Land Banks (FLBs) and Production Credit Associations (PCAs) have continued to incur net losses through the first nine months of 1987. These losses have increased the already severe financial stress at these institutions, and several are facing complete depletion of their total capital and/or excess collateral eligible for debt issuances. In addition, several System Banks are involved in litigation concerning intra-System financial assistance which is material to their individual capital and collateral positions. The continuation of losses or the possible outcomes of such litigation, without some form of Federal financial assistance, could have a significant adverse effect on the financial positions of individual System institutions and ultimately on the ability of the System to continue to operate in its present form.

As previously reported, the System prepared three-year projections in connection with its request for Federal financial assistance made earlier this year. Based on operating results recorded through the first nine months of 1987, the full-year 1987 results are now expected to be significantly better than the System's previous projection of a net loss of nearly $1.3 billion. While the positive factors which favorably affected the results of operations for the first nine months of 1987 call into question the continuing validity of the assumptions upon which the projections through 1989 were based, it is presently uncertain whether or not such positive factors, including the amount and the accelerated timing of certain government farm program payments, will continue on a longer-term basis. In view of the uncertainties surrounding the agricultural economy and the serious problems facing individual System institutions, the System continues to believe that it is necessary to secure legislation which creates a viable mechanism to provide the System with Federal financial and other assistance that may be required.

As expected, net interest income in the third quarter of 1987 continued its declining trend of the past several quarters. On an annualized basis, net interest income as a percentage of average earning assets decreased to 0.72 percent during the first nine months of 1987, compared to 1.07 percent for the same period in 1986. Net interest income continues to be impacted adversely by declines in accruing loan volume and by narrower interest margins. The declining trend in net interest income can be expected to continue until System institutions work through the significant volume of high-risk loans and outstanding high-cost debt.

A negative provision for loan losses of $93 million in the third quarter of 1987, following a $10 million negative provision in the prior quarter, was the major factor in the better-than-expected operating results for 1987 to date. Banks and Associations in nearly all districts recorded only nominal provisions, no provisions or negative provisions for loan losses in the third quarter of 1987. The significant reductions in provision levels from prior years resulted from a number of factors which continued to stabilize credit quality and to prevent further increases in risk exposure on loans outstanding. These factors included: a reduction in loan delinquencies, nonaccrual loans and undercollateralized loans; indications of stabilization in farmland values in many areas of the country; current positive signs in certain agricultural economic indicators; and additional financial data obtained from borrowers.

Losses on other property owned aggregated $8 million for the three months ended September 30, 1987. For the nine months ended September 30, 1987, losses on other property owned amounted to $26 million compared to $179 million in the first nine months of 1986. The lower level of losses on other property owned in 1987 resulted principally from more favorable prices of farmland attributable to increased demand, and from efforts by System institutions to dispose of such nonearning assets more quickly.

Loan volume outstanding continued to decline in the third quarter of 1987, although the rate of decline slowed in comparison to prior quarters. While new loan volume increased in several districts during the third quarter of 1987, the new volume was more than offset by borrower prepayments and foreclosure actions.

Nonaccrual loans at September 30, 1987 were $6.001 billion, a 7.3 percent decrease from the June 30, 1987 balance and a 15.1 percent decline from the prior year-end balance. Among the factors contributing to this decline were payoffs on loans classified as nonaccrual, transfers of loans to other property owned, and reinstatements of certain loans to accrual status based on improved credit positions and loan restructuring actions.

Loan restructuring programs are in place or are being implemented in substantially all districts. These programs primarily concentrate on high-risk loans which are reviewed for potential changes in loan terms, collateral or other items for the purpose of improving overall credit quality at the least cost to the lending institution. Accruing restructured loans on which monetary concessions have been granted to borrowers increased to $1.038 billion at September 30, 1987 from $363 million at December 31, 1986. In addition, many restructured loans remain in nonaccrual status until the borrowers demonstrate their ability to comply with the revised loan terms. Since restructured loans are particularly sensitive to deterioration in the agricultural economy, the long-term benefit of the System's loan restructuring programs cannot be fully ascertained at this time.

Other high-risk loans, which exhibit serious credit weaknesses and require more than normal servicing but continue to accrue interest, amounted to $4.642 billion at September 30, 1987, a decrease of 12.6 percent from the June 30, 1987 balance and 19.2 percent from the amount at December 31, 1986. The September 30, 1987 balance of other high-risk loans included loans 90 days or more past due of $935 million, a decrease of $487 million from the June 30, 1987 level.

The allowance for loan losses decreased to $3.217 billion at September 30, 1987 from the December 31, 1986 balance of $3.635 billion. This decrease was due to net loan charge-offs during the first nine months of 1987, as the provision for loan losses was nominal during this period. The allowance for loan losses as a percentage of gross loans and high-risk loans has remained relatively constant over the first nine months of 1987.

High-risk loans and loan-related assets as a percentage of loans and loan-related assets outstanding decreased to 23.2 percent at September 30, 1987 from 24.7 percent at June 30, 1987, and 24.0 percent at December 31, 1986. Despite this decrease, the continued high percentage places a significant burden on the System's operations and its human resources.

While the Banks continue to have access to adequate funds, interest rates on System securities have increased in the first nine months of 1987. Generally, interest rates in the debt securities markets rose over the first three quarters of 1987, and the difference between the interest rates paid on System debt securities and interest rates on U.S. Treasury issues of comparable maturities also increased over the same period. System debt securities outstanding were $55.6 billion at September 30, 1987, a decline of $6.9 billion since December 31, 1986.

At September 30, 1987, all Banks were in compliance with those provisions of the Farm Credit Act (the Act) and related Farm Credit Administration (FCA) regulations which require each of the Banks to maintain eligible collateral at least equal in value to the total amount of obligations outstanding for which it is primarily liable. Such compliance is a condition for participation in the issuance of Systemwide debt obligations. One FLB utilized a collateral-sharing agreement with the other two Banks in the same district in order to meet this regulatory requirement. Several other Banks have entered into similar intra-district collateral-sharing arrangements or other intra-district agreements to address potential collateral deficiencies.

Total capital consisted of $3.795 billion of capital stock and participation certificates and $1.216 billion of surplus at September 30, 1987. The decrease in capital stock and participation certificates of 9.4 percent from December 31, 1986 relates directly to net equity retirements resulting from loan volume declines.

During the first nine months of 1987, eight FLBs and one PCA utilized regulatory accounting practices to prevent stock impairment for certain regulatory purposes through the capitalization of $375 million of provisions for loan losses and certain interest costs. As of September 30, 1987, the net capitalization of these expenses and costs increased surplus reported for such regulatory purposes by $748 million.

The boards of directors and managements of the institutions utilizing these regulatory accounting practices have concluded, at this time, to continue retirement of member stock and participation certificates at par value. However, the FCA adopted a regulation in September 1987 which precludes a System institution having either a negative total capital position, as determined under generally accepted accounting principles, or a collateral deficiency from retiring borrower stock of participation certificates, even though such institution may have positive capital as determined by regulatory accounting practices. Further, the FCA staff has indicated that capital for purposes of regulatory lending limits must be calculated in accordance with generally accepted accounting principles.

On September 30, 1987, the Jackson FLB sold certain mineral rights to the Federal Intermediate Credit Bank of Jackson in order to avoid having a negative total capital position as determined on the basis of generally accepted accounting principles at that date and also in order to increase its collateral eligible for Systemwide debt issuances. The Banks in the Jackson District have also amended their intra-district collateral-sharing agreement to increase the amount of eligible collateral available to the Jackson FLB. Despite these measures, the Jackson FLB is expected to be in a negative total capital position, as determined under generally accepted accounting principles, prior to year end and to experience a collateral deficiency in early 1988 even after giving effect to the intra-district collateral-sharing agreement. Moreover, the FCA staff recently instructed the Jackson FLB to increase its allowance for losses. The Jackson FLB has recorded a portion of such increase, but does not believe that information available to it supports a further increase in its allowance for losses at this time. If the balance of such increase is recorded, the Jackson FLB would face an imminent negative total capital position, and the timing of its collateral problem would be accelerated significantly. While the ultimate outcome of this matter remains in doubt, should the Jackson FLB experience a negative total capital position and a collateral deficiency, it would be unable to retire borrower equities, make new loans or participate in future debt issuances.

The financial condition of the Jackson FLB exposes it to the possibility of the appointment of a conservator or receiver under the Act. The likelihood of such appointment cannot be predicted at this time. In the event that the Jackson FLB is unable to meet its Systemwide debt obligations as they mature, the Act requires that the other System Banks pay the interest and principal due on such obligations pursuant to calls by the FCA.

As reported earlier, there are several pending lawsuits concerning the possible reversal of financial assistance accrued for the third quarter of 1986 under the System's Capital Preservation Agreements. In one of these lawsuits, the Louisville, Jackson, St. Paul, Omaha, and Wichita FLBs, which accrued assistance receivable, have brought suit against four contributing FLBs, those of Springfield, Baltimore, Columbia, and Texas, as well as FCA, seeking to preclude such reversal. In October 1987, cash transfers of $55 million were made in payment of financial assistance previously accrued under the Capital Preservation Agreements, bringing the cumulative amount of cash payments to date under such agreements to $610 million. Payments of cash under such agreements have been limited to amounts accrued prior to the third quarter of 1986 in order not to prejudice the rights of the litigating Banks. In addition, pending litigation and court injunctions continue to hamper the ability of the Farm Credit System Capital Corporation to assess stronger System institutions and to assist weaker ones. While the litigation initiated by System institutions calls into question the various forms of intra-System financial assistance, such litigation should be viewed in light of the fact that, pursuant to the Act, all of the 37 Banks are jointly and severally liable on all Systemwide bonds and notes.

The United States Congress has been considering legislation to address the System's current problems. On October 6, 1987, the House of Representatives passed Farm Credit legislation. On November 4, 1987, similar legislation was favorably reported by the Senate Agriculture Committee and is currently pending before the full Senate. While the House and Senate bills vary in many respects, they both would protect certain borrower equities for a period of years and establish mechanisms to provide the System with Federal financial assistance. The ultimate outcome of Congressional consideration of these bills cannot be predicted at this time.

The Farm Credit System is a nationwide system consisting of borrower-owned financial institutions and related service corporations. The System's financial institutions consist of twelve Federal Land Banks which make long-term loans through Federal Land Bank Associations; twelve Federal Intermediate Credit Banks, which provide short- and intermediate-term credit to Production Credit Associations and other qualified institutions serving agricultural producers; and thirteen Banks for Cooperatives which make loans to agricultural, aquatic and rural electric cooperatives and provide financial services to exporting cooperatives.

FARM CREDIT SYSTEM: COMBINED FINANCIAL STATEMENT DATA

[In millions of dollars]

	Sept. 30, 1987	Dec. 31, 1986
Statement of condition data:		
Loans less allowance for loan losses of $3,217 and $3,635, respectively	50,421	54,614
Investment securities and cash	8,237	11,413
Accrued interest receivable on loans	1,963	2,201
Other property owned	984	1,101
Other assets	755	772
Total assets	62,360	70,101
Consolidated Systemwide, bank and other bonds	13,033	13,744
Consolidated Systemwide notes	42,551	48,734
Other liabilities	1,756	1,982
Total liabilities	57,349	64,460
Total capital, including surplus of $1,216 and $1,453, respectively	5,011	5,641
Total liabilities and capital	62,360	70,101

[In millions of dollars]

	For the Quarter ended Sept. 30		For the 9 months ended Sept. 30	
	1987	1986	1987	1986
Statement of operations data:				
Total interest income	1,394	1,678	4,327	5,523
Total interest expense	1,299	1,539	3,974	4,928
Net interest income	95	139	353	595
Provision for loan losses	(93)	459	11	1,441
Losses on other property owned	8	62	26	179
Other expenses, net	176	178	513	503
Net income (loss)	4	(560)	(197)	1,528)

FARM CREDIT OFFICIALS REAFFIRM NEED FOR FINANCIAL ASSISTANCE

[EDITOR'S NOTE: The following press release refers to the Farm Credit System's press release on third quarter results issued at 10 a.m. today]

WASHINGTON, DC.—While pleased with the relatively favorable third quarter financial results reported by the Farm Credit System today, System officials reaffirmed the need for Congress to act this year on pending Farm Credit legislation that will provide financial assistance, when needed, to severely stressed Farm Credit institutions.

In a statement issued shortly after the System released its third quarter financial results, Grant T. Lucas, a Ceres, California farmer and Chairman of the Farm Credit Council and the System's Legislative Committee, noted that the System continues to have serious financial problems.

"Although 1987 financial results have been better than the System expected," Lucas said, "there are serious and continuing financial problems in a number of System institutions that make it essential that federal assistance be available this year. It is important to understand that the combined net income reported during the third quarter resulted primarily from adjustments to the allowance for loan losses previously established by certain System institutions. There is no assurance that such adjustments will be possible in future quarters," Lucas said.

"At the same time, net interest income—the difference between the interest income earned on loans to borrowers and the interest that must be paid to System investors—continues to decline. This is a key indicator of the System's financial condition that should not be obscured by the combined net income reported for the third quarter."

Lucas concluded, "The situation in the Farm Credit System today reminds me of the story of the man who drowned in a river that averaged only two feet deep—but there were some real deep holes in that river. Certain institutions in the Farm Credit System need help. The legislation now before Congress can provide that help. Without government assistance, these farmer-owned institutions could fail. I want to assure everyone that the Farm Credit System does not want any more financial assistance than is absolutely needed. But assistance is critical because American farmers, ranchers and their cooperatives need the dependable source of credit that is provided through the cooperatively owned Farm Credit System."

John A. Waits, president of the Farm Credit Council, the System's Washington-based trade association, said that the legislation now working its way through the Congress is an appropriate and measured response to the needs of the System, given the uncertainties in the agricultural economy.

"The pending legislation would put in place an effective and efficient mechanism for providing federal assistance when and where it is needed, Waits said. "We do not want one dollar more than is absolutely needed. But the fact remains that several institutions within the System face possible insolvency in the near future. The pending legislation will be to provide the resources to assist these institutions.

"In addition," Waits continued, "if some of the potential problems in the agricultural economy materalize, we will have the backstop in place to deal with those emerging problems." Finally, he added, "the protection of borrower stock provided by both the House and Senate bills is critical to retaining the confidence of our borrowers and thereby minimizing the need for Federal assistance.

"Congress has worked diligently this entire year to craft Farm Credit legislation," Waits said. "Now is the time to press forward and complete this important legislation, to ensure that farmers, ranchers and their cooperatives will continue to have a sound and reliable source of competitively priced credit."

Mr. DURENBERGER. Mr. President, despite the terrible things some people say about the Farm Credit System, I can't imagine what life would be like in rural Minnesota without it. My State is located in the heart of the seventh district of the Farm Credit System, and is the largest of the System's 11 districts. The seventh district also happens to be the one which is most susceptible to a downturn in the farm economy, and Minnesota farmers know it.

Over 25,000 Minnesota farmers depend on the System for their credit needs. The System currently holds over $2 billion in Minnesota farm debt, and has a vested interest in seeing that it is restructured in a meaningful way. This legislation will assist the System and the borrowers in that effort.

Over 11,000 of Minnesota's neediest borrowers do not qualify for a loan from the Farm Credit System or other lenders. For them, the Farmers Home Administration is their lender of last resort. And the FmHA has financed these farmers to the tune of $1.1 billion of the taxpayers dollars. Unfortunately, circumstances outside the control of most of these borrowers has made it very unlikely that one-third of this debt will be repaid. This legislation will assist the FmHA and the borrowers reduce that debt burden.

Mr. President, the urgent nature of this legislation does not need to be explained to those of us who represent the Upper Midwest in the U.S. Senate. Over the past few years, land values in farm States have tracked farm prices and have fallen like a rock. As a result, over $15 billion in Minnesota farm assets have virtually disappeared from the balance sheets of Minnesota farmers and their lenders. As such, it comes as no surprise to me that the System has serious problems.

Helped by favorable harvests and steep Federal payments, the farm outlook has brightened somewhat in the past 6 months. But I don't know of a single person who expects this positive climate to continue over the long haul. Sooner or later the farm economy will be strained by poor harvests or reduced Federal payments, and we will be back in the soup again. Additional demands will be placed upon the farm economy's biggest lender, the Farm Credit System. And if the reforms contained in this bill are not in place, our farmers will be denied an opportunity to cope with those changes by restructuring their debts.

Like most Members of Congress, I had some specific concerns which I felt should be addressed in any Farm Credit rescue package debated by the Congress. I joined seven of my colleagues last June in an attempt to bring some of those concerns to the attention of the Senate Agriculture Committee and, for the most part, I believe the committee addressed those concerns as best it could.

I ask unanimous consent that a copy of that letter be printed at the conclusion of my remarks.

While I do have some reservations about the final product, I am confident that these concerns can be resolved in conference with the House. Rather than focus on those concerns, it is probably more constructive to draw attention to the positive things this bill does for America's farmers and their lenders.

The most important thing that this bill does is help stabilize the short-term financial health of the Farm Credit System. As the Nation's biggest farm lender, it is essential that we move swiftly to staunch the hemorrhage of its equity and its borrowers. The availability of $4 billion in federally backed securities should go a long way toward shoring up the Systems foundation.

Second, any Farm Credit bill which fails to encourage all farm lenders to engage and participate in debt restructuring with their borrowers is doomed to failure. As such, I applaud the committee's efforts to draft a debt restructuring program which meets the needs of borrowers, lenders, and the taxpayer.

Third, it is extremely important that the equity represented in the borrowers' stock be preserved. To the extent that S. 1665 guarantees the value of previously issued stock at par value, I believe the committee has done America's farmers a great service.

Fourth, after countless meetings with farmers over the last few years, it was apparent to me that they had felt that they had lost control over their system. That somehow those who were hired to run the system had taken it over and were operating it in a manner detrimental to the member-borrowers. As such, I felt that one of the top priorities in this bill should be a greater role for members in the decision-making process. This bill, by giving members a number of opportunities to influence the direction of their associations, goes a long way toward satisfying that concern.

Fifth, over the past few years, countless farmers have expressed their outrage at the callous treatment they received from officials of both the Farm Credit System and the Farmers Home Administration. Some complained that farms that had been in the family for over 100 years were sold with no advance notice. Others recounted examples where, despite being current on their loan, they were forced to post additional collateral in order to preserve their line of credit at the bank.

While the committee could have gone further, I think the enhanced borrowers' rights provisions and debt restructuring opportunities for Farm Credit and Farmers Home Borrowers will be immensely helpful to our farmers. Borrowers will be given first right of refusal before their property is sold to a third party. The Farmers Home Administration will no longer be able to starve a delinquent borrower off the farm by withholding releases of funds for family living and farm operating expenses. Every State will be given Federal matching funds to implement a mediation program. And the FmHA and the Farm Credit System will be compelled to participate in those programs.

Sixth, commercial lenders, who have long been at a competitive disadvantage with the Farm Credit System, should have access to affordable sources of credit for their borrowers. The establishment of the secondary market provision in this bill, while not without risk, should provide our farmers and their lenders with another source of affordable credit, a development which brings a new element of competition into the farm credit picture.

Finally, I have long felt that this bill should provide a final solution for the problems facing the Farm Credit System and the credit needs of America's farmers. Only the future can tell us if this bill meets that most difficult of tests. If it fails, it will mark the third Farm Credit salvation package that has failed in as many years. But if it succeeds, and I am hopeful it will, it will succeed because it provides America's farmers with the tools they need to unshackle themselves from the debt burdens of the seventies so that they can compete globally in the nineties. And in the long term, the future of rural America and our economy will rest on the answer.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, June 23, 1987.

Hon. David Boren,
Chairman, Agriculture Credit Subcommittee, Russell Senate Office Building, Washington, DC.

Dear David: As senators from farm states, we urge your consideration of the following items for inclusion in the legislative package which will deal with the Farm Credit System. We have developed these concepts as consensus points which we believe represent the best interests of farmers.

I. The aim of any assistance package for the Farm Credit System must be to directly help the struggling farmer/borrower.

II. Borrowers' Rights: A. Right of first refusal must be available to farmers for any offer of resale of their property. (This is not to be construed that the FCS be required to provide the financing for a farmer's purchase.) B. When land must be sold, the FCS must provide public notice of the parcels for sale. C. Members should have access to their own credit portfolios. D. Stockholder lists should be available to stockholders.

III. Borrower Stock: A. Stock should be guaranteed at par value. B. Stockholders of liquidated associations should be reimbursed according to par value of the stock at the time of liquidation.

IV. Debt Restructuring: A. If debt restructuring is available to borrowers, the System should not discriminate on the basis of members' financial ratios. B. Negotiations for restructuring should be timely and positive. Where possible, successful models of debt restructuring should be applied to all Farm Credit System districts.

V. Mergers of Unlike Institutions (FLB & PCA): A. Borrowers should not be pressured to do all borrowing with the Farm Credit System. B. The benefits of secondary markets should be considered before a merger is implemented.

VI. Secondary Market for Real Estate Mortgages: A. The purpose for secondary markets must be to help farmers obtain long term, low cost credit at fixed mortgage rates. B. Only loans from borrowers actively engaged in farming should be pooled. C. The principal for loans should be capped.

VII. Governance: A. The cooperative structure, emphasizing local control, must be maintained. B. There should be open nominations and elections of FCS officials, except those appointed by FCA. C. The salaries of top officials should be disclosed; members should have some ability to appeal excessively high salaries.

Because we do not intend this list to be exhaustive, a comprehensive solution for the Farm Credit System situation may have to also address the unique problems of borrowers and lenders in rural commercial banks and the Farmers Home Administration.

As members from the farm belt, we understand the difficulties the Committee faces in putting together a consensus Farm Credit System package. At the same time, we feel compelled to remind the Committee of the urgent nature of the problem. The need to act, and to act expeditiously, has been known for at least six months. We stand ready to assist you in this endeavor.

Sincerely,

David Durenberger,
Charles Grassley,
Alan Dixon,
Nancy Landon Kassebaum,
Max Baucus,
Larry Pressler,
Dale Bumpers.

(By request of Mr. Byrd, the following statement was ordered to be printed in the Record:)

● Mr. GORE. Mr. President, I would like to express my support for S. 1665. The Farm Credit System is in dire need of our assistance, and I believe the bill the Agriculture Committee has brought before us is a sound vehicle for reform, not only in the Farm Credit System, but in the entire agricultural credit community.

The Farm Credit System has been a reliable source of credit for America's farmers for 71 years. As the owner of a small farm in middle Tennessee, I know how important the Farm Credit System is to the economic health of rural America. Over the past 7 years, the rural recession and agricultural depression have taken their toll on the accounts of the Farm Credit System. The FCS holds more than $45 billion in loans, one fourth of all farm loans in the United States. Failure to lend assistance to the Farm Credit System would send a shock wave through financial markets here in the United States and abroad. We cannot afford to let the System become insolvent during this time of financial instability.

S. 1665 will provide assistance to the troubled Farm Credit System through the issuance of 15-year bonds to provide working capital for the System. The interest will be paid initially by the Treasury. After 5 years, the Treasury and the Farm Credit System will pay the interest. In the final 5 years, the System will assume full responsibility for the interest payments. The bonds will be guaranteed by the Treasury and the principal will be repaid by the System at the maturation of the bonds.

There are several sections that are especially important to any effort to assist the System and the entire agriculture community. I applaud the section dealing with loan restructuring. This provision provides that the Farm Credit System must restructure a farmer's nonaccruing loan when it is cheaper than foreclosing on the loan. This not only expresses a measure of compassion to those farmers that are struggling to stay on the land, it is good business sense. For too long the rigid policies of the Farm Credit System have caused needless farm foreclosures that contribute to the ever-weakening rural economy.

Our farm economy urgently needs the reforms of this bill. Setting up an insurance fund to guard against future losses in the Farm Credit System and establishing a secondary market for agricultural loans will provide a great amount of financial stability in the System, which will enable institutions to offer lower loan rates over time. S. 1665 will ensure that farmers receive basic borrowers' rights when dealing with agricultural lending institutions. Farmers will have access to their loan portfolio and they will be notified in advance of any intent to take adverse action on a loan or modify the loan's provisions in any way. The first right of refusal to purchase foreclosed land will go to the previous owner to keep as many family farmers on the land as possible.

I applaud the decision of the committee to extend borrower rights to Farmers Home Administration borrowers. If we are to provide assistance to the Nation's farmer borrowers, it must be done equitably and fairly. If we addressed the problems of Farm Credit System borrowers without tending to farmers who receive their credit from the Farmers Home Administration, we would be remiss in our attempt to improve the entire farm credit situation.

Finally, Mr. President, I would like to emphasize a fact that we all know, but that we may lose sight of at times. The Farm Credit System can never be healthier than the farmer borrowers that make up the System. Farmers in Tennessee and across the country have been through hard times over the past 7 years. This legislation is an important step in ensuring that farmers continue to receive reliable, affordable credit. However, if we are to maintain a healthy Farm Credit System into the 21st century, we must have financially healthy family farmers, receiving a fair return for their labor and investments.●

Mr. KASTEN. Mr. President, I rise in strong support of S. 1665, the Farm Credit Act Amendments of 1987.

A healthy Farm Credit System is very important to Wisconsin as it is to other farm States. Federal land banks are the single largest source of long-term credit to farmers in Wisconsin; production credit associations are a vital provider of operating loans.

The Farm Credit System has been in increasing difficulty for several years. As its farmer borrowers have suffered with the troubled farm economy, so has the System. Losses on farm loans and the expense of high interest debt imprudently taken on in the early years of this decade led to a situation where the System's costs could not be met without raising its interest rates. This in turn prompted farmers by the thousands to seek credit elsewhere.

Between the end of 1985 and September of this year, the System's portfolio shrank from almost $67 billion to less than $50.5 billion, a 24-percent decrease. With $12.7 billion in high risk assets, the System is surely headed for disaster unless Congress acts.

I am glad to be able to report that the seventh farm credit district which serves Wisconsin has not simply waited for a congressional bailout. With the largest total portfolio of any of the 12 districts, the St. Paul District has moved aggressively to restructure loans and sell acquired property, thereby gaining income from assets that had not been producing any and keeping hundreds of farmers on the land.

In adopting this program, the St. Paul District did more than improve its own financial condition. Perhaps even more important, the seventh district provided an example to the rest of the country. Regrettably, most of the other 11 districts were very slow to recognize that Congress would not act to assist a lender that refused to help itself and that appeared indifferent to its farmer borrowers.

The seventh district's program has also provided a model for the loan restructuring provisions that the committee has wisely included in title I of this bill. Commonsense would seem to suggest that where restructuring a farm loan is cheaper than foreclosure, then restructuring is the course that should be followed. We owe the seventh district a debt for demonstrating that this course works.

I will not take the Senate's time by repeating the detailed explanations of the bill that have been made by other Senators. I would like to cite certain provisions of S. 1665 that I consider to be of particular importance.

First, S. 1665 is a measure we can afford. By providing limited assistance through bond guarantees and interest rate subsidies, this legislation should limit the Government's budget exposure. The Financial Assistance Corporation established in title I cannot sell more than $2.8 billion in bonds in its first year and $4 billion overall. Treasury interest subsidies are limited to $2 billion over 10 years.

This approach is far superior to the line of credit approach adopted by the House. We simply cannot afford to be writing blank checks to the Farm Credit System or anybody else. I commend the Agriculture Committee for recognizing this fact.

Second, S. 1665 creates a secondary market for agricultural loans. I cosponsored S. 1172, legislation offered by Senator PRYOR earlier this year to establish a secondary market, and I am pleased that that legislation has served as the foundation for the secondary market established by this legislation.

A secondary market, by allowing farm loans to be pooled and sold as securities, should allow farmers to have access to lower interest rates on long-term loans. I believe this is especially important to younger farmers to get established. In order for the Farm Credit System and other agricultural lenders to survive and prosper, farmers must survive and prosper. Farmers can do neither without affordable interest rates. The secondary market is a step toward better interest rates for farmers and is an important part of this legislation.

Finally, Mr. President, I am pleased to see that the committee took a step that I advocated earlier this year to link the farm credit issue with the cause of soil conservation. S. 1665 would waive the 3-year ownership requirement in title XI of the Food Security Act, pertaining to certain highly erodible lands.

This provision would allow eligible land now held by the Farm Credit System, the Farmers Home Administration, banks, insurance companies, and other commercial lenders to become eligible for the Conservation Reserve Program when that land is sold to a family farmer. Currently, only farmers who have owned the land for at least 3 years can place it in the CRP, with certain exceptions. Only family farmers would be eligible to receive payments under the CRP; land acquired by lenders after the date of enactment would not be eligible.

This change would have the effect of making several hundred thousand additional acres of highly erodible land nationwide eligible for the CRP. It would permit the CRP to be used in certain areas to sustain land values, while permitting farmers in areas with high land values to farm the land.

Mr. President, this furthers the good work that was begun by the conservation title of the farm bill in 1985. Over 22 million acres have come into the CRP to date—22 million acres that otherwise would have been producing surplus crops and eroding into our lakes and rivers. The CRP is one program which is working well; the change made in S. 1665 would make it work better.

Mr. President, I have long believed that it is essential that we act on legislation to sustain the Farm Credit System by the end of this year. We need to do this not just for the System's sake. Farmers need the System as a source of credit. Small rural banks—the System's competitors—need the System to provide credit to farmers that they cannot completely serve. The financial system of this country needs the System healthy and sound. It is the largest private lender in the country; its failure would have a ripple effect that would devastate numerous individual and institutional investors across the country.

The Senate Agriculture Committee deserves congratulations for crafting a constructive response to the Farm Credit System's financial crisis. I urge my colleagues to support this legislation.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, there will be no more rollcall votes today. Are the two managers ready for the bill to proceed to third reading.

Mr. LEAHY. Mr. Leader, I am prepared to go to third reading.

Mr. LUGAR. We are prepared on this side.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEAHY. Mr. President, I ask unanimous consent that S. 1665 be temporarily laid aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be discharged from further consideration of H.R. 3030.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. And that H.R. 3030 be laid before the Senate for immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System to facilitate the establishment of secondary markets for agriculture loans, and for other purposes.

Mr. LEAHY. I move that all after the enacting clause be stricken, and that the text of S. 1665, as amended, be substituted.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, with paragraph 4 of rule XII being waived, that the vote on final passage of H.R. 3030 occur on Friday morning, December 4, at 10 o'clock.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that there be no further debate or intervening motion with respect to H.R. 3030, and that on Friday the Senate come in at 8 a.m., that there be morning business for 2 hours, that Senators may speak therein, morning business be closed precisely at 10 a.m., and the Senate proceed immediately without further action or debate to final passage of H.R. 3030.

The ACTING PRESIDENT pro tempore. Without objection, it is so orderd.

Mr BYRD. Mr. President, has the House bill been read?

The ACTING PRESIDENT pro tempore. Not for the third time.

Mr. BYRD. I ask that the House bill be read for the third time.

The ACTING PRESIDENT pro tempore. The question is on engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. BYRD. Mr. President, the order in its several parts is still in place with respect to H.R. 3030, is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BYRD. I commend the two managers of the bill for the skillful handling of the bill that they have demonstrated, for the good work that they have done in committee and on the floor, and all others on the committee I likewise commend and thank together with the staffs.

I yield the floor.

Mr. LEAHY. Mr. President, have the two bills now been returned to the calendar?

Mr. BYRD. No. I would suggest that we wait until the Senate has adopted the House bill before indefinitely postponing the Senate bill.

Mr. LEAHY. Mr. President, I ask unanimous consent that the following Senators be listed as original cosponsors of S. 1665 based on the unanimous-consent request earlier today: Senators MELCHER, LUGAR, BOREN, BOSCHWITZ, PRYOR, DOLE, HEFLIN, HELMS, HARKIN, COCHRAN, CONRAD, MCCONNELL, FOWLER, BOND, DASCHLE, WILSON, BREAUX, KARNES, LEAHY, BURDICK, THURMOND, SANFORD, BINGAMAN, MOYNIHAN, GRASSLEY, and DANFORTH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. And, of course, that any other Senator be allowed to add his or her name.

Mr. President, just so that everybody within the Farm Credit System can understand what has happened here today, we have in effect wrapped up the Senate Farm Credit System bill. I do not doubt for a moment that the vote on Friday will be overwhelmingly in favor of this bill.

We brought this bill up yesterday afternoon with the understanding that there would just be opening statements, so in effect we have had today to debate a very complicated piece of legislation. We have added a number of amendments. But the speed in which we acted on this bill indicates how important we believe it is to restore confidence in the Farm Credit System.

We are about 10 yards from the goal line. If we keep moving, we can cross that goal line. We can have an agreement in principle in conference soon. I will push to have a bill ready for the President, as soon as possible.

I want to say, Mr. President, this would not have been possible without the diligent work of my good friend from Indiana, Senator LUGAR, who has worked diligently in forging this bipartisan coalition. And it certainly would not have been possible without the help of my good friend from Oklahoma, Senator BOREN. He had to sit along with my good friend from Minnesota, Senator BOSCHWITZ, through hour after hour after hour of hearings and meetings.

This bill will be passed on Friday because of the work of people like DAVE BOREN, DICK LUGAR, and RUDY BOSCHWITZ without whose help it would have been impossible.

Mr. LUGAR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, it has been stated earlier very accurately that the atmosphere created by our chairman in the committee clearly made possible the strong bipartisan support and consideration of this legislation.

It is fitting that the chairman and cochairman of the subcommittee, Senator BOREN and Senator BOSCHWITZ, are seated together once again as they have been so frequently. They have done a magnificent job. It has been a pleasure for all of us to work together on this.

Let me simply add, and I am hopeful that I cite all the persons that I recall from our staffs who have been so important in developing this bill: On our side, Chuck Conner, Julie Hasbargen, Terri Nintemann, Tom Clark, David Graves, and Fred Medero.

And then on the Democratic side, Chuck Reimenschneider, Mike Dunn, Ed Barron, and Kelleye Eversole have played important roles.

All come to mind as persons who have made an enormous contribution to this legislation. I would simply like to cite them.

Mr. BOREN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I want to thank both the chairman and the ranking member for their generous comments which they have just made. I again join in their commendation of the members of the staff who have worked with us, those who have just been named by Senator LUGAR and some additional ones who were named during opening comments this morning and yesterday. Hours of work have been put in and, of course, again I want to thank Senator BOSCHWITZ, the ranking member of the subcommittee. This has truly been a big partisan effort.

There are times when we wonder in this body if we are able to still get together and work in the national interest on a bipartisan basis. This is proof positive that it can be done.

We started out with very strongly held views, almost polar positions, by some members of the committee. In the process of many hours of deliberation, we had over 100 amendments, not one of which had to go to a rollcall, and we were able to come out with a consensus because the right spirit was present. I hope this kind of spirit that we have engendered in this operation can be extended to other areas so that we could work together in this kind of partnership.

Several Members have been mentioned—the distinguished chairman, Senator LEAHY, and Senator LUGAR, and Senator BOSCHWITZ. Most members of the subcommittee were present during the deliberations. I have never seen attendance at such a level for such a long period of time.

We calculated that we had over 100 hours of meetings of various kinds—some formal markups, some hearings, and some informal meetings. Time and time again, members of the subcommittee and some members of the full committee were present, especially Senator MELCHER, who was constantly in attendance and actively participating, as well as Senator HARKIN and Senator CONRAD, who is not a member of the subcommittee but is a member of the full committee. He was at virtually every meeting, actively participating. Senator DASCHLE was a very faithful participant in this process and really helped us in the process of reaching an agreement. Senator BREAUX also actively participated.

I have already talked about Senator LUGAR. Senator COCHRAN, a member of this subcommittee, participated in a very meaningful way in the writing of this legislation.

Senator MCCONNELL and Senator KARNES were both present for much of our deliberations and participated in them.

This was truly a bill written by the Senators themselves, the way the legislation should be written. It was written by active participation of all members of the committee. I think our attendance averaged higher than the official membership of the subcommittee because we many times had members of the full committee participating.

I thank all my colleagues for their patience with me as we tried to work out a consensus product. I especially thank Senator BOSCHWITZ, who served as ranking member of the subcommittee and who never allowed the process to break down. It has been a privilege to work with every one of those I have mentioned and every member of the staff.

Mr. BOSCHWITZ. Mr. President, I cannot add much to that. I am not sure that the Senator mentioned Senator CONRAD, because he was not a member of the subcommittee and I think was one of the most faithful attendees.

I concur in everything the chairman and the ranking member and the subcommittee chairman, Mr. BOREN, have said. Now let us reduce the budget.

Mr. LEAHY. Mr. President, I appreciate the kind words that everybody has said here. It is a joy to be chairman of this committee, with the kind of cooperation we have received on this bill.

Mr. President, I know we have mentioned a number of people and inevitably someone may be forgotten. The committee staff has tirelessly devoted their time and energy to this bill. I applaud Chuck Riemenschneider, sitting at my side, and John Podesta, chief counsel, who have worked so hard. Also, I appreciate the efforts of Chuck Connor who is sitting over beside Senator LUGAR.

I also want to thank Mike Dunn, Ed Barron, David Freshwater, Chris Sarcone, Chris Coffin, Laura Madden, Mary Kinzer, Cynthia Molina, Sean Murphy, Susan Nehring, Betsy Paul, Patrick Collins, Shannon Shinn, Bob Sturm, and Jim Cubie. In addition, I thank Tom Clark, from Senator LUGAR's staff, and Debbie Schwertner. I can see that Kellye Eversole, of Senator BOREN's staff, has a look of relief on her face. She has put in countless hours on this bill. I also want to thank Julie Hasbargen, of Senator BOND's staff, and Terri Nintemann, of Senator BOSCHWITZ's staff.

The chairman appreciates all they have done.

Again in closing, let me say that this would have been impossible without the help of my friend from Indiana.

Thank you.

The ACTING PRESIDENT pro tempore. The Senator from Vermont has yielded the floor.

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1665 be placed back on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO INDEFINITELY POSTPONE S. 1645

Mr. BYRD. Mr. President, I ask unanimous consent that the bill, S. 1645, Calendar Order Number 457, to reauthorize certain Indian educational programs be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONVENTIONAL WEAPONS CUTS IN EUROPE

Mr. BIDEN. Mr. President, the INF treaty soon to be signed by President Reagan and Soviet General Secretary Gorbachev at the summit next week holds out the promise that our two countries will proceed with constructive negotiations on a comprehensive arms control agreement. It is essential for the stability of United States-Soviet relations and for the integrity of the NATO Alliance that our two nations make progress in reducing both strategic nuclear forces and conventional military forces.

One proposal concerning conventional arms reduction recently forwarded by U.S. negotiators to our NATO allies deserves careful consideration by Congress. The proposal, which was outlined in yesterday's New York Times, requires that the excessive numbers of Soviet-bloc tanks and artillery pieces deployed in Europe be reduced to NATO levels, or to ceilings just below current NATO levels. The result would be a 50-percent reduction in Warsaw pact tanks and artillery pieces. Such asymmetrical reductions are an approach that will be discussed further with our NATO allies in preparation for talks next year on the reduction of conventional armaments from the Atlantic to the Urals. It is supported by the conclusions reached in a new study on the disposition of conventional forces in Europe prepared by the Rand Corp. for the Air Force.

Any agreement on conventional forces must achieve large reductions in Warsaw Pact deployments. The Rand study suggests a ratio on the order of five to one in favor of NATO. Small reductions, even if disproportionately in favor of NATO, would unacceptably reduce reserve NATO units while increasing the ability of Soviet forces to exploit weak points in the Alliance's forward defenses. A reduction in offensive weapons bringing about a rough parity in offensive forces of both NATO and the Warsaw Pact would restructure the composition of Warsaw Pact forces into a less threatening, more defense-oriented force.

In addition to reducing the overall numbers of weapons, it is especially important for the Soviets to decrease their concentration of forces in Central Europe. Reducing the number of Soviet tanks and artillery pieces along the West German border would lessen East-West political tensions and would increase the overall stability of the United States-Soviet military relationship.

Disproportionate reductions will no doubt be difficult to negotiate with the Soviets, but Soviet General Secretary Gorbachev acknowledged Monday in an interview that there is a "a certain asymmetry, both in forces and armaments," between NATO and the Warsaw Pact, and Soviet leaders have long insisted that the Soviet military doctrine is strictly defensive. The new proposal to reduce tanks and artillery to parity with NATO gives the Soviets the opportunity to prove their rhetoric. Let us hope that General Secretary Gorbachev's forthright offer to address this issue at conventional arms control talks next year will be realized.

HAROLD WASHINGTON

Mr. CRANSTON. Mr. President, I would like to take a few moments to remember an extraordinary American leader and reformer who died this week—Mayor Harold Washington of Chicago.

Harold Washington was one of those rare people who refused to accept things he thought were wrong, no matter how impossible changing them seemed to be. He challenged the status quo of five decades and changed the political history of the city where he grew up. Chicago could not have had a wiser, fairer, or stronger man for such a daunting task. As a Democrat, I am proud that he represented our party.

Harold was known as a gutsy, brainy Congressman, who served with distinction on the House Judiciary Committee. When Harold left the House to run for Mayor in 1983, I flew out to Chicago to help him. That was a bitterly fought race, at a critical time in the life of his party and his city. After years of discrimination, division, and despair, Chicago turned to Harold, who offered himself as a leader who would stand up for justice, for equal opportunity, and for clean, open government.

Harold gave the people a mayor who would speak for all of them, regardless of their race, regardless of how much money they earned, regardless of who their parents were. He gave them a mayor who believed that people in government should serve the interests of the public, not the other way around.

Mayor Washington opened the doors of government to all the people of Chicago. For the first time in decades, top jobs were opened to women and minorities, and government was held in the sunshine of public debate. He was known and loved by millions of Americans who lived far beyond his city's borders—Americans who had heard about the courageous mayor from Chicago who changed "politics as usual" and led his city away from the confrontation and bitterness of the past, toward a more hopeful future.

Harold had a vision of the future that he was creating. It was a future where white people and black people and brown people, rich people and poor people and middle class people, all work together for a common agenda of economic progress and justice and full democratic participation for all Americans. He was already succeeding, and if anyone could have done it, it was Harold Washington.

The Nation has lost a great leader, the city of Chicago has lost a savior, and I have lost a friend. This is a very sad time for our country. My condolences to his beloved family and to his beloved people of Chicago.

THE ROBERT T. STAFFORD ELEMENTARY AND SECONDARY EDUCATION IMPROVEMENT ACT

Mr. KENNEDY. Yesterday I made a statement thanking the Labor Committee staff members who worked on the Robert T. Stafford Elementary and Secondary Education Improvement Act. Part of that statement was omitted in the printed version of the RECORD, and I ask unanimous consent that a corrected version of the statement be printed in today's RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks follow:)

Mr. KENNEDY. Mr. President, I want to take this opportunity to commend all the staff members of the committee who worked long and hard to work out a strong bipartisan bill.

Amanda Broun, Terry Hartle, Shirley Sagawa, and Russell Barbour of my own staff have worked tirelessly and excellently to make this a good bill and to improve the lives of America's students. But I am proud of the hard work of the entire committee staff, including David Evans, Ann Young, Sarah Flanagan, Merry Richter, Rich Tarplin, Cheryl Birdsall, Charlotte Hayes, Cora Yamamoto, Buddy Blakey, Judy White, Alyce Katayama, Pat Fahy, Phil Sharpe, Bobby Silverstein, Lynn Cook, Ellin Nolan, Liz Hackett, Bobby Dunn, Anne

Cherry, Kerk Spong, Betsy Brand, and Terry Mullenburg.

In particular, I think Ellin Nolan deserves congratulations as a worthy successor to Polly Gault who for years ably assisted and advised the committee in making education policy.

Finally, it has been said for years, and it is true today, that good education policy in the Senate would not take place without the hard work of the firm of Pell and Stafford. But there is a senior partner in that firm whose hard work makes him a special asset to the Senate, and that person is David Evans, and I would like to thank him for his contributions to this bill and to education in general.

COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

Mr. KENNEDY. Mr. President, yesterday the Senate passed the Robert T. Stafford Elementary and Secondary Education Improvement Act, which included an amendment I proposed authorizing the Comprehensive Child Development Centers Act. This program, which will provide early, continuous, and comprehensive services to disadvantaged children, is based on several models, including the Beethoven project in Chicago. The front page of the Washington Post this morning featured an excellent article about the Beethoven project. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 2, 1987]

Fighting the Cycle of Failure: Chicago Program Intervenes in Development—at Birth and Before

(By Barbara Vobejda)

Chicago.—Children leave their apartments at the Robert Taylor Homes each morning by winding down dark, narrow stairwells marked with the angry graffiti of frustrated lives. They emerge into the daylight from the country's largest, poorest housing project, walk across an empty field and push through the doors at Beethoven Elementary School, where the walls have recently been pasted with pictures of Thanksgiving turkeys.

The children retrace their steps at the end of the school day, homework papers clutched in hand, climbing back up to the metal doors that close them into their apartments for the night.

Their walk across the empty field and back each day is as repetitive as their movement through the school system and the frequency with which they drop out, become pregnant and remain in the housing project. The pattern seems as intractable as the social forces that sustain poverty in generation after generation.

A program introduced this year is attempting to break the cycle of generational underachievement at Robert Taylor, where the average age of a new mother is 16 and more than 90 percent of the residents receive public assistance.

The program—known unofficially as the Beethoven Project—has set out to prepare the children of the kindergarten class of 1993 by locating them literally before they are born, and giving first their mothers, then the children, help that will equip them to succeed when it becomes their turn to push through the doors at Beethoven to begin their schooling.

"Imagine the potential," said Gina Barclay McLaughlin, director of the program, known officially as the Center for Successful Child Development. "I can't say how successful we're going to be. * * * The need is much more than we ever anticipated." But even the conception of the Beethoven Project "is a powerful statement," she said, "because its' a group everybody has given up on."

The school sits in the midst of the housing complex, a two-mile stretch of 28 brick buildings, each 16 stories tall, a concrete city of 4,230 apartments and 20,000 poor people living on top of each other. They are isolated from the rest of the city by a highway on one side and a railroad on the other. From a half-dozen of these buildings come the 786 children who attend Beethoven elementary.

"I've taught mothers and taught their children," said Jean Bates, who has taught kindergarten at Beethoven for more than two decades. "A lot of people want to get out, but there's no way out. You need an education, and a lot haven't finished high school."

Using $1.2 million provided by the Department of Health and Human Services and the Harris Foundation, associated with Chicago philanthropist Irving B. Harris, the Beethoven Project will provide a wide range of preventive social programs over the next five years for children born in the school's attendance area since January. Some of the people providing that help will be residents of the project, former teen-age mothers who have been hired as counselors.

HELP FOR EACH PHASE OF GROWTH TO AGE 5

First the eligible children must be identified—a group that will eventually number about 150—within weeks after they are conceived; prenatal care will be given to their mothers; health care and screening will be provided for the babies once they are born. Later the program will teach the mothers how to help their children develop, open a school for the children when they become toddlers and place them into Head Start programs when they turn 3.

If all goes according to plan, these children will enter kindergarten at age 5 virtually as well-prepared for school as their middle-class peers.

The poverty at Robert Taylor is unusually concentrated, but the outlook for its children is not unique. The young people here have been born into an entire generation who, more than any previous group, are burdened by circumstances that make them likely to fail in school and society. Educators warn that as many as a third of the 40 million schoolchildren in the country are at risk of failing.

While there is much debate about how to teach these children once they arrive at school, there is a consensus that the best hope for helping them lies in programs that begin long before school age. Here at the Robert Taylor Homes, where the problems seem insurmountable—the median annual family income is $5,190, and more than two-thirds of the households are headed by single mothers—social service workers will seek to set a new standard for effective early intervention and prevention.

This "group that everybody's given up on" is now giving birth to the group that everyone in the Beethoven Project will be watching—the kindergarten class of 1993, the high school graduating class of 2006. Most members of that class will be born over the next 10 months; a few are already here.

One is Ciara Lee, born in October to 16-year-old Libra Bolden. Libra, who also has a 2-year-old daughter, lives with her mother, two sisters and a brother in a three-bedroom apartment on the 11th floor of a Robert Taylor building.

Libra's mother, Jo Ann Bolden, who was herself a teen-age mother, supports all seven in the household on a $457 monthly welfare check.

"I started having children too young," said Jo Ann Bolden, 35. "It's hard. You can live a life of regrets." She nodded at Libra, sitting quietly at the kitchen table feeding her new baby. "I'm very angry with her. I've been there and I know it's hell."

A boy named Nolan will also be a member of the class of '93. He is the second child of an 18-year-old girl who lives with her boyfriend and his mother and tells people she is determined to return to high school because she wants to be a singer.

The class will include a baby boy born in mid-November, still unnamed a few days after his birth, who is the third child of an 18-year-old girl who has left high school and lives with her mother in the housing project.

It is already clear that these children will be typical in their kindergarten class: third-generation residents of Robert Taylor, born to young, single mothers, most of whom have not finished high school.

"We've had three generations of poverty, each generation impacting the other," said McLaughlin. "We have got to do something about it or it will haunt us all. It already is. It's a time bomb."

If successful, the Beethoven Project will send children to the school whose experience differs markedly from that of the children now occupying the kindergarten desks. Most in this year's kindergarten class, say the teachers, have a very short attention span; some barely talk to their teachers; many struggle to use a pencil; one girl stares off in the distance while her teacher quizzes the class on the alphabet. She has a dozen brothers and sisters, and a mother in her late 20s, her teacher said.

"We have to stop and teach everything from the beginning," said Bates of the current class. "Colors, how to say their full name."

"Mentally, they are capable," said Clara McWhorter, another kindergarten teacher at Beethoven. "You have to teach them how to act, how to tie their shoes. I have to get them ready to go outside. Half of them don't know how to zip and button."

Out of 55 kindergarten students, only 16 were fully prepared for first grade at the end of the last school year, the two teachers said.

PREVENTING COMPOUNDED PROBLEMS

The problems that become obvious when students arrive at Beethoven's door often pile up over the next eight years, with students averaging only five to six months of academic growth each school year, according to principal Gloria Dawson. Test scores for the school, among the lowest in Chicago, show third-grade students testing a year and a month behind grade level in reading. By eighth grade, they are testing a year and seven months behind.

Fourth-grade teacher Christine Scott said about half of her 31 students are working at grade level and the rest are behind, with one boy reading at the first-grade level.

And eighth-grade teacher William Jordak, while pointing out several high achievers in his class, added that, "in the upper grades * * * it's a tough battle because they come in pretty bad shape, and it's getting worse."

At DuSable High School, attended by the graduates of Beethoven and other elementary schools serving Robert Taylor, the dropout rate is 60 percent.

Academic problems both stem from and cause the hardships at home; the two facets of life become inextricably tied.

"We see this in our schools: The girl is 12, she has a baby. Her mother is 24, she is a grandmother. Her mother is 36, she is a great-grandmother. It is a cycle we want to break," said Doris Williams, a Chicago public schools administrator, at a recent meeting to introduce Beethoven parents to a pregnancy prevention program. Many of the babies die, she said. "Those who live * * * don't develop properly. These are the children that can't sit still, that have academic problems."

What should schools be doing for these children? How can Beethoven Elementary avoid losing whatever gains are made with the kindergarten class of 1993?

Debates over strategy center on a tactical and philosophical issue: whether children whose circumstances put them at risk of failure are placed at further risk when they are treated differently than others in the classroom.

"We're framing the issue in the wrong way," said Asa G. Hilliard, a professor of education at Georgia State University who has studied and written on the issue. "Developing a nomenclature that students are 'at risk,' that the risk is internal to the child, his family or community, that is what places the child at risk * * *. What they're really at risk for is not receiving the same quality of input that their peers will receive."

That interpretation, said Hilliard, leads to two conclusions. First, disadvantaged students should be given early educational opportunities like Head Start and the Beethoven Project. "You're trying to do for those children what would be normal opportunities" for middle-class children, he said.

Second, while many others maintain that traditional remediation and tracking are the best way to help disadvantaged students, Hilliard contends that these students will succeed if they are exposed to the same high-quality teaching and high expectations available to suburban youngsters.

At Beethoven, Dawson has tried to raise expectations by changing the school name to "Beethoven Academic Center." She has tightened discipline, ordering a student arrested for assault recently when he tossed his lunch tray at a teacher. And she has done away with the common practice of grouping children by ability, or tracking.

"I believe in heterogeneous grouping," she said, "Kids learn very easily that if they're in the 'red birds,' they are the outs. The self-fulfilling prophecy tends to prevail."

Teachers disagree about this, but they tend to agree—and they are supported by national studies of early childhood education programs—that there is great promise in the Beethoven Project and a handful of similar programs around the country.

KEY STAFFERS: ROBERT TAYLOR RESIDENTS

Nevertheless, the project must overcome formidable obstacles, including distrust many Robert Taylor residents feel for outsiders. To minimize that distrust, the Beethoven Project has relied heavily on a team of six women known as "family advocates," all of them residents either of Robert Taylor or the nearby community. The women were teen-aged mothers, and many were living on welfare until they were hired.

Now these women, who earn an annual salary of $9,500, have become the backbone of the operation.

"I wanted the job because I was tired of public aid," said Phyllis Holmes, who has lived in and out of Robert Taylor most of her life. "I had my first son the day I graduated from high school. My second was born a year later," she said. Since then, Holmes, 32, has attended two years of college.

Holmes, who is responsible for 16 women and their babies, talks fondly about her group, referring with pride to "my twins," babies born in May to a drug-addicted mother.

"Most of my participants live in my building, and I know them," she said. "I had to get this rapport, so I talked and joked. Now they have coffee ready when they know I'm coming."

The family advocates walk up and down the corridors of the buildings, recruiting women who are pregnant or have just delivered babies. In the year since the program began, they have enrolled 89 mothers. Those whose babies were born before September will receive services but are considered a pilot group; only babies born since September, the class of 1993 and beyond, will be included in a research project comparing their progress to that of others not receiving services.

Holmes and the other family advocates visit their "participants" regularly, talking with them about how to feed the baby, hold it, bathe it and help it develop properly. They take photographs so the mothers can keep an album documenting the child's first steps and words, making the parents more aware of developmental stages.

"We don't try to push our values on them," said advocate Bobbie Burke. While she may prefer that the mothers breast-feed their babies, for example, she does not argue when most of them choose the bottle.

"I never would tell them, 'You're doing this wrong.' I don't like to intimidate my participants."

The staff works out of an office on the second floor of one of the buildings in the housing project, a decision that itself became a statement of commitment to the community, given its reputation for security and safety problems. An entire floor was gutted and refurbished into administrative offices, medical examination rooms for babies, their siblings and mothers, a babysitting area for infants, play areas equipped with toys and cooking and lounge areas for parents.

The project—administered by the Ounce of Prevention Fund, an Illinois social service organization, and the Chicago Urban League—has gone to great lengths to overcome the perception that it is one more social program that has come into the housing project with grand promises that may go unfulfiled. But skepticism persists.

"I don't see how the programs are going to help the new babies," said Jo Ann Bolden. "If the program was working with the parents, the young ladies wouldn't keep making the same mistakes."

"I'm guardedly optimistic," said Beethoven teacher William Jordak. "Often these programs become vehicles for the people who run, them * * * they lose track of the people we're trying to help."

Working against the long-term impact of the program is the geographic and social isolation at Robert Taylor, which many see as a serious impediment to the residents' upward mobility. The boundaries of the complex—State and Federal, 55th and 39th streets—largely define the parameters of opportunity for children here.

Teachers say their children rarely go outside the immediate neighborhood. "Going downtown" means walking a block east on 47th Street. Many children have never ridden on Chicago's subway, visited the zoo or the library. The Head Start program organizes field trips so children can see an airport.

There are few middle-class role models in the neighborhood, and children see fewer than 10 percent of the residents in the complex go off to jobs each day.

But working in favor of the program is what teachers and social workers say are the parents' high aspirations for their children, hope against odds that the next generation will break the pattern and succeed in school and life.

"The majority of the people in Robert Taylor are just like us," McLaughlin said. "They want the same things for their children. They made mistakes, but they want people to believe in them. They want another chance."

Their second chance, as they see it, rests with their children.

EXPLORING THE NEW, PRESERVING THE OLD

South Carolina places "high-risk" 4-year-olds in preschool programs designed to build self-esteem and skills that will help them in school.

Missouri sends "parent educators" on regular visits to the homes of thousands of families with small children, hoping to encourage healthy child development.

Minnesota has set aside $27 million to provide child care for teen-aged parents who want to return to school.

Programs like these, aimed at helping students "at risk" of failing in school, cover the spectrum—proactive and reactive, carrot and stick, preschool, in school and post-dropout. The programs share a common goal, but they come in a remarkable variety, reflecting both the extent of the problem and the lack of consensus over strategy.

"There may be as many different mechanisms as there are states," said Maryland School Superintendent David Hornbeck. "There are lots of programs that demonstrably work. The issue is not whether we can be successful, but whether we will make the kind of commitment it takes to be successful."

In the process of making that commitment, educators and policymakers have become engaged in a debate over tactics. The question is standard—are new programs unnecessary reinventions? Or are the traditional models—Head Start, tracking by ability, federal programs that pull disadvantaged children from the regular classroom for remedial tutoring—inappropriate for the new educational target, "child at risk"?

"We have to be careful when we debate the issue we don't throw out the baby with the bath water," said Cynthia Brown, who oversees programs on equity in education for the Council of Chief State School Officers, a group of state superintendents. Her organization is exploring new approaches, but she also argues that some of the old methods must be preserved.

Use of traditional programs has inspired fear that "child at risk" may become a new label for troublesome youngsters who could be shoved aside in programs carrying a stigma and self-fulfilling prophecy of failure.

"Tracking and placement has done more harm than good," said Robert Palaich, a policy analyst for the Education Commission of the States. "The identify, label, pull-out model may be a model of 20 years ago."

Among officials in Dade County, Fla., the answer is clear—the old programs are not enough.

"We've tried an awful lot of approaches . . . and we really didn't see the results we wanted," said Gerald O. Dreyfuss, an assistant superintendent for the Dade County Schools.

As a result, 32 schools, many in Miami's inner city, are involved in a pilot program testing whether student performance can be affected by giving parents and teachers more control over budget, organization and curriculum, decisions traditionally sent down by central-office administrators.

In some cases, the schools have decided to open on Saturdays. Others have instituted peer evaluations among teachers or redesigned the schedule, doing away with the seven-period day.

Approaches as drastic as restructuring schools are rare; it is much more common for schools to beef up drug, dropout and pregnancy prevention programs. While few school officials would argue against such efforts, many believe they reach the child too late.

"That's a very short-term way of looking at the problem," said Henry M. Levin, professor of education and economics at Stanford University. Levin has designed a program aimed at helping disadvantaged children by setting clear goals, improving nutrition and health and avoiding repetitious teaching.

"The present approach is just downright silly. None of these programs is very successful," Levin said of the secondary-school programs for troubled students. "If we put resources into young and healthy people, we'll be far, far more successful in solving those problems."—Barbara Vobejda.

SOVIET TREATY VIOLATIONS

Mr. DOLE. Mr. President, this afternoon President Reagan sent us the annual report on Soviet noncompliance with arms control agreements required by law. Its arrival today is yet another signal of our President's deep concern over this situation. It is clear that he is prepared to confront General Secretary Gorbachev with the Soviet Union's dismal compliance record when he arrives here next week.

Unfortunately, this year's report confirms that the Soviet record continues to be dismal. The President writes that "the Soviet Union to date has not corrected its non-compliance activities. Indeed, since the last report, there has been an additional case of Soviet violation of the ABM Treaty in the deployment of an ABM radar at Gomel * * *" we in Congress—and all the American people—will want to hear Gorbachev's explanation.

And I hope that explanation will be in the spirit of glasnost. The General Secretary says he wants strict compliance with the ABM Treaty. Well, perhaps next week he can announce dismantling of the Krasnoyarsk radar, and a plan to deal with remaining violations and questions. That would be a most welcome backdrop to the signing of an INF Treaty.

Whatever the outcome, shortly after Mr. Gorbachev leaves, I hope President Reagan will report to the Congress his plan for correcting the pattern of Soviet noncompliance, especially since we may be considering ratification of one new treaty, and will be in the process of negotiating others.

Today's report does make one thing clear about an INF Treaty: beyond effective verification, there must be some kind of compliance policy to accompany it. As President Reagan works to correct violations of existing treaties—and I'm sure there isn't anyone in this Chamber who doubts his commitment—we should insure that the treaty we sign next week isn't featured in the violations report we receive next year—or the next, or the next. I know President Reagan would not disagree with that goal, and I am sure he will work with us to make its attainment more likely.

BICENTENNIAL MINUTE

DECEMBER 2, 1833: ONE SENATE SEAT—TWO DULY ELECTED CLAIMANTS

Mr. DOLE. Mr. President, on December 2, 1833, 154 years ago, the Senate faced an extraordinary situation. For the first time in the Senate's nearly half-century of existence, two newly elected Members arrived in the Senate Chamber to claim the same seat. Asher Robbins and Elisha Potter each possessed properly validated credentials as a Senator from Rhode Island.

In January 1833 the Rhode Island Legislature had reelected Robbins to a second full term and the Governor issued him the appropriate election credentials for the 23d Congress. Although the term of that Congress began on March 4, 1833, it was not actually scheduled to convene until December 2.

During 1833, political shifts in Rhode Island brought a new State legislature to power. In October that body declared Robbins' earlier election void and elected Elisha Potter in his place. When the Senate met on December 2, Robbins reached the Chamber first, presented his credentials, and was administered the oath of office. When Potter appeared later in the day, the Senate referred the contest to a select committee.

After 4 months, the committee recommended that Robbins be declared the duly elected Senator. The issue revolved around an interpretation of the Rhode Island Constitution—a charter granted by King Charles II in 1663. Potter asserted that under that instrument the term of legislature had expired by the time it elected Robbins. Robbins, for his part, argued that he was elected by a legitimate legislature, for the 170-year-old charter intended that the previous legislature remain in power until elections for its successor had been completed.

Debate dragged on until May 1834, when the Senate voted in favor of Robbins. In so doing, the Senate established a precedent that it would henceforth seat the first individual presenting valid credentials. Credentials of subsequent claimants would be referred to committee for study.

MAURICE ELLSWORTH: LOOKING OUT FOR AMERICA'S FUTURE

Mr. SYMMS. Mr. President, America's fight against drug abuse is making steady progress. With the support of the Reagan administration and other prominent leaders, our country's young people are learning the dangers of abusing drugs.

And in Idaho, men like Maurice Ellsworth are on the front lines. Since taking the office of U.S. attorney in Idaho 2 years ago, Mr. Ellsworth's commitment to the war on drugs has made him a strong, steady force for good in my State.

A recent article in The Idaho Statesman newspaper noted Mr. Ellsworth's determined drive to denounce the use of drugs in Idaho. Together with his staff, he executes an intense antidrug campaign that teaches the evils of drug abuse and discourages the desire to manufacture and sell the mind-destroying substances.

Mr. Ellsworth's personal life explains why he advocates such a courageous campaign. He has always been an example of standing up for what's right. His friends and colleagues describe him as a quiet, thoughtful man of complete integrity.

Mr. President, I ask unanimous consent that the Statesman article be included in the Record, and I encourage all of my colleagues to read it.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Quiet Force Behind Idaho's War on Drugs

(By Jana Pewitt)

In an Idaho Statesmen survey earlier this year of the most influential people in Idaho, he didn't even make the list.

But Attorney Maurice Ellsworth is called one of Idaho's most powerful lawyers.

Ellsworth, who has held the office a little more than two years, wields his power quietly. He readily admits he doesn't have the name recognition of most top-ranked government officials.

"I find out all the time people wonder what the U.S. attorney does," Ellsworth said.

What he does is manage a staff of 27, including lawyers and two paralegals, plus clerical staff. He sees his role as evaluating cases and making policy decisions.

When Ellsworth, 39, assumed office in July 1985, he was quickly amazed at the breadth of areas he was responsible for.

The U.S. Attorney's Office prosecutes all violations of federal law—interstate drug trafficking, tax and mail fraud and hate groups such as The Order. It also defends the U.S. government in lawsuits against federal installations, such as the Veterans Administration Medical Center or Mountain Home Air Force Base.

Ellsworth's power stems from his authority to choose the focus of his office. A "true blue" Republican appointed by President Reagan, Ellsworth is committed to the war on drugs.

He is heavily involved in drug abuse prevention and education programs and is on the board of directors for PAYADA, Parents and Youth Against Drug Abuse. Last year, he initiated a "Just Say No" rally at the Boise State University Pavilion that drew more than 2,000 children.

"It was partially out of a request from Nancy Reagan and Attorney General (Edwin) Meese and the president," Ellsworth said. "And partially as a result of my own personal commitment."

Law enforcement efforts against drug use never will succeed as long as people want to buy drugs, Ellsworth said.

"We have to think in terms of multiple efforts," he said, "Let's face it, the kids are what it's all about They're the coming generation. I don't want them blowing their minds."

The fight took a setback last month, when the state pulled out of the Organized Crime Drug Enforcement Task Force, a multiagency effort to crack down on drug manufacturers and dealers.

Mack Richardson, director of the state Department of Law Enforcement, accused Ellsworth of reneging on an agreement to turn over to the state two planes confiscated from a suspected drug dealer.

Ellsworth denied that an agreement had been made, and charged that the state had planned to use one of the planes to ferry Gov. Cecil Andrus, but not for anti-drug operations as required by law.

The task force will miss the state's expertise, Ellsworth said. "They've been a valuable participant." But he said his office would continue "full speed ahead."

Along with the task force, federal laws allowing mandatory minimum sentences in drug cases have given Ellsworth's office the bite it needs.

"The ball is in our court," he said. "These kinds of tools . . . are providing some real teeth to our ability to get the bad guys."

Ellsworth also emphasizes the battle against drugs in his hiring—an area where he hopes to leave a lasting influence.

"I would put the staff in this office up against anybody," he said. "When I'm gone, I want people in place who are committed to drug prevention and prosecution."

Chief prosecutors have earned the image of being driven, intense, ambitious. Their world is one of black and white, good vs. evil.

Ellsworth is quiet, shy and thoughtful. He leaves the courtroom work to his assistants, saying that's not his strong suit. But he shares their intensity.

"When it comes to crime—drugs, fraud and hate groups—I can get very riled," Ellsworth said. "But I feel it's very important that I maintain a sense of balance and objectivity. It's the only way I can make decisions."

Ellsworth said it's his duty to see that justice is done—whether or not his office wins the case.

"If we lose a case and in retrospect we feel like justice was done, then we have accomplished our objective," Ellsworth said. "It is important we are professional. Sometimes, though, justice means coming down very hard on individuals or groups."

"Maurie is not a real gregarious guy, but he's forceful and he knows where he's going," said Ada County Prosecutor Greg Bower, "Sometimes he exercises that power he has more quietly."

As a child, Ellsworth played the good guy fighting the forces of evil, said his brother, Spence, 37.

"We played cowboys a lot—he was the Lone Ranger," Spence Ellsworth said "They had the Range Rider and Dick West. I was Dick West. He (Maurice) still calls me Dick."

The Ellsworths moved to Idaho from Arizona when Maurice was 14. He was the oldest of six children

"He was always very sharp and right at the tip of his class, and I've always looked up to him for that," Spence Ellsworth said. Even now, he goes to his older brother for advice.

Maurice has an interest in the Ellsworth Craters of the Moon mineral water business that Spence and their father started in 1986 in Carey.

"He doesn't have a lot of involvement as far as the working end of it, but we always consult him on everything," Spence said.

Spence said his brother's quiet nature can be deceiving. "He's pretty wild on water skis."

"I'm a maniac on water skis," Ellsworth said, smiling. "I ski with reckless abandon."

He also plays softball on a city league team sponsored by McLeod Realty.

Spence said his brother is always concerned about playing fair, whether on the softball field or in his office. "If I was asked to characterize him, I'd say total integrity," Spence said.

Ellsworth began his political career in 1976, and when he was elected Blaine County prosecutor. He made two unsuccessful runs for state Senate, the second time losing by 54 votes.

He joined the Interior Department as associate solicitor for auditing and investigation in 1981. He served as counsel to the inspector general, reviewing the legality of actions by Interior agencies. He held the job until his appointment in 1985.

Being Idaho's U.S. attorney never is dull, Ellsworth said. He has met interesting people, many of them powerful government officials.

"It's the best job there is for a lawyer."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:55 p.m, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1297. An act to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 860. An act to designate "The Stars and Stripes Forever" as the national march of the United States of America.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 578. An act to amend the National Trails System Act to designation the Trail of Tears as a National Historic Trail.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 439. An act for the relief of Thomas Wilson;

H.R. 1133. An act for the relief of Thomas Nelson Flanagan; and

H.R. 1671. An act of the relief of the estate of Commodore Perry Miller.

At 3:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 35. Joint resolution to the commemoration of January 28, 1988, as a "National Day of Excellence";

S.J. Res. 105. Joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; and

S.J. Res. 146. Joint resolution designating January 8, 1988, as "National Skiing Day".

The message also announced that the House agrees to the amendment of the Senate numbered 1 to the amendment of the House to the amendment of the Senate to the bill (H.R. 3483) to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes; it agrees to the amendment of the Senate numbered 2 to the amendment of the

House to the amendment of the Senate to the bill, with an amendment; and it disagrees to the amendment of the Senate numbered 3 to the amendment of the House to the amendment of the Senate to the bill.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 5:39 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1297. An act to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes; and

H.J. Res. 404. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 439. An act for the relief of Thomas Wilson; to the Committee on the Judiciary.

H.R. 1133. An Act for the relief of Thomas Nelson Flanagan; to the Committee on the Judiciary.

H.R. 1671. An Act for the relief of the estate of Commodore Perry Miller; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following concurrent resolution; which was placed on the calendar:

S.J. Res. 196. Joint resolution to designate February 4, 1988, as "National Women in Sports Day".

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 2, 1987, he had presented to the President of the United States the following enrolled bill:

S. 1297. An act to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Earl E. Gjelde, of Virginia, to be Under Secretary of the Interior; and

Henry M. Ventura, of California, to be an Assistant Secretary of the Interior.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Alfred A. DelliBovi, of New York, to be Urban Mass Transportation Administrator;

Cynthia Jeanne Grassby Baker, of Colorado, to be Superintendent of the Mint of the United States at Denver; and

Dianne E. Ingels, of Colorado, to be a Member of the Board of Directors of the National Institute of Building Science for a term expiring September 7, 1988.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTION

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 1909. A bill to designate the U.S. Post Office Building located at 300 Sycamore Street in Waterloo, IA, as the H.R. Gross Post Office Building;" to the Committee on Governmental Affairs.

By Mr. CHAFEE:

S. 1910. A bill to prvide financial assistance to local educational agencies to demonstrate the advantages of implementing plans to reduce class size; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON: (by request);

S. J. Res. 225. Joint resolution approving the location of the Korean War Memorial; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTION

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SHELBY:

S. Res. 334. A resolution expressing the sense of the Senate that the individuals responsible for the murder of four U.S. Marines in El Salvador be held accountable for their actions; to the Committee on Foreign Relations.

By Mr. McCONNELL:

S. Res. 335. A resolution relating to Turkish Greek relations; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 1909. A bill to designate the United States Post Office Building located at 300 Sycamore Street in Waterloo, Iowa, as the "H.R. Gross Post Office Building;" referred to the Committee on Governmental Affairs.

H.R. GROSS POST OFFICE BUILDING

● Mr. GRASSLEY. Mr. President on September 22 of this year America lost one of its finest people.

Former Congressman H.R. Gross, who represented the 3d Congressional District in Iowa for 26 years, died at the age of 88.

While serving in Congress, Gross led the fight to hold government spending down. His work gave him the reputation of being the watchdog of the Federal Treasury. Some have estimated that he saved our Government millions, perhaps billions of dollars that would have gone unchecked for boondoggles, bad spending or just pure waste. The statement in the front room of his office stated it best—"nothing is easier than the expenditure of public money. It does not appear to belong to anybody. The temptation is overwhelming to bestow it on somebody."

Gross combined his concern for the budget with his wry sense of humor when he introduced H.R. 144. The title of the bill was a play on words "HR" being the name he went by as well as standing for House of Representatives and 144 being the number of units in a gross. Gross introduced this bill every year for over a decade.

The bill would require the Federal budget to be balanced except in times of war or national emergency and would earmark up to 5 percent of the Government's net annual revenue for reduction of the national debt. He once stated:

> There is no fiscal or monetary discipline. And there will be a day of accounting. I fear there can be a lethal result that will be the loss of our system of government. We are getting ripe for a demagogue.

Gross studied every line of every bill that came to the House floor. He would spend long days in the office and would be on the floor of the House during each legislative session. He was always ready to jump up and attack any bill that he felt wasted taxpayer's dollars. A skilled parliamentarian, Gross used the House rules to kill many special interest bills.

Gross' reputation as a champion of taxpayer's money, insured him a role in major pieces of legislation. Committee chairmen would clear their bills with H.R., to insure objections weren't raised against their legislation. The chairmen would occasionally re-write their bills to evade the objections of H.R. Gross.

Mr. President, it has been said that if the House of Representatives didn't have an H.R. Gross, they would have to invent one.

I had the privilege of following Mr. Gross in representing Iowa's Third District. I am very proud to have had that opportunity. There were many things we could all learn from H.R. Gross. If we all had the drive to hold down the Federal spending like H.R., we would not be faced with the problems we have today.

I would like the Senate to consider naming the new U.S. Post Office

Building in Waterloo, IA, after H.R. Gross.

H.R. Gross was a proud Iowan that had his roots deeply planted in our State. He believed in what the State stood for and believed strongly in our form of government. H.R. Gross truly believed in Iowa's motto: "Our liberties we prize and our rights we will maintain." I feel that the naming of this building for him is only a small token of gratitude for the job he did for this country. Knowing H.R., he would probably object to my doing this as it will probably cost the Federal Government a little money.

Mr. President, I feel that this money would be well spent knowing how much money H.R. Gross saved this country during his service in the House of Representatives.●

By Mr. CHAFEE:

S. 1910. A bill to provide financial assistance to local educational agencies to demonstrate the advantages of implementing plans to reduce class size; referred to the Committee on Labor and Human Resources.

CLASS SIZE DEMONSTRATION ACT

● Mr. CHAFEE. Mr. President, today I am introducing legislation to help schools achieve a reform which is the basis for all other educational reforms: smaller class sizes. With average class sizes at unmanageable levels of 25 students and upwards, many schools find it impossible to implement their good ideas about improving the quality of education.

Common sense, scholarly research, and school reform recommendations all indicate that smaller classes would improve student achievement. Yet, for lack of funds, class size reduction has remained out of the reach of most school districts.

My bill would address this by making incentive grants available to school districts that wish to pursue class size reduction. This would have two effects. First, it would encourage States and localities to address the problem of large class sizes. Second, it would launch pilot projects in class size reduction in every part of the country, thus demonstrating the actual impact of smaller classes on student achievement.

Why reduce class size? Because smaller classes mean more attention for each child and a greatly improved atmosphere for both learning and teaching. Read between the lines of almost any recommendation for school reform and you'll see one theme emerge: Students need more individualized instruction, more attention to their particular needs, and more contact with their teacher. Unfortunately, when one-third of teachers surveyed report having an average class size of more than 25, devoting more time to each student's individual needs quickly becomes a physical impossibility.

One simple example, taken from a recent report to Governor Edward Diprete of Rhode Island, will illustrate what I mean. The report, issued by a task force appointed to study school reform measures, pointed out that if a high school teacher teachers five classes of 24 students each day, he or she is directly responsible for 120 students. That teacher would need an additional 20 hours per week just to spend 10 minutes extra with each student. Accordingly, the task force recommended that class size be limited to 18, with a total load for teachers not exceeding 80 students; that kindergarten classes be limited to 15 pupils; and that the State offer aid as incentives to reach these goals.

Other States are also moving to fill the breach, and the reports are promising. The extra attention of smaller classes often translates into higher achievement, particularly in the early grades. For example, children participating in a 2-year, class-size reduction experiment in Indiana scored higher on standardized tests and had fewer behavior problems than their counterparts in larger classes. Preliminary results from a class-size reduction project now going on in Tennessee have revealed that smaller classes allowed teachers to spend more time actually teaching: The smaller classes were quieter, with fewer student interruptions, and potential discipline problems were indentified and resolved more quickly. This allowed teachers to spend more time with each student, to provide quicker and more thorough feedback, and to reteach concepts as needed.

During the school reform movement of the last 2 or 3 years, a number of States have taken steps to reduce class sizes—passing laws or resolutions specifying maximum class size and committing additional funding to defray the costs. However, it is not surprising that reducing class size is often last on the list of school reforms: Being labor-intensive, it is a fairly expensive step to take.

This is where I feel the Federal Government can play a significant role by providing seed money for school districts that wish to pursue class-size reduction. Federal funds would work hand-in-hand with State and local funds being made available for this purpose, supplying the extra piece that is needed to get the project off the ground.

The bill I am introducing today will provide for incentive grants—$75 million in the first year—to school districts that want to reduce class size. Funds would flow directly from the Federal level to the school district, where they could be used for adding new teachers and new classroom space. These funds, matched by State and local funds, would get class size reduction programs off the ground. This will, in turn, demonstrate to other States and localities the benefits of reducing class size.

Here's how it would work: a school district that wanted to reduce its class size would put together a 3-year proposal, and apply to the Department of Education for funding. Grants would be awarded on a competitive basis, and would last for 3-years. Over this period the Federal share would decline, going from 90 percent in the first year, to 70 percent in the second year, to 50 percent in the third year. After the third year, schools would have evidence of the effect of smaller classes—evidence which they could use to make a case for continuing the project with local funds.

Because this program, like all other demonstration projects, asks the question, "what happens if we do X?", it is important to define, to some extent, what "X" is. Accordingly, this bill contains as guidelines the following target class sizes:

Fifteen pupils per class in grades K through 3; and eighteen pupils per class at all other grade levels, with each teacher having direct responsibility for no more than 80 students.

The $75 million in grants which I propose will not, of course, tackle the whole class size problem, nor is it intended to. What it will do is to launch a number of class size reduction projects in Rhode Island and across the country. The results of these pilot projects will demonstrate that smaller classes are indeed a sound educational investment.

In my view, overcrowding in classrooms is a problem that, in the wave of educational reform, has received too little attention. A program such as I am proposing today would significantly advance our national interest in quality education for all children—and improving the quality of the education we give our children is our best shot at success in meeting the formidable challenges of the coming decades.

These challenges are rather starkly set out in a recent report from the Department of Labor—a projection of what the workplace of the future will require. The theme that resounds throughout this report—called workforce 2000—is that our shift to a service economy will demand vastly greater skills from the workforce. Very few new jobs will be created for those who cannot read, follow directions, and use mathematics. And, for the first time in history, the majority of all new jobs will require a post-secondary education—compared with only 22 percent today.

The implications could not, in my view, be more clear. An educated work force will be absolutely essential to our future prosperity and well-being as a nation; we simply will not be able to maintain our present standard of living without it.

In every respect, then, it behooves us to give our young people the best schooling we possibly can. I believe my proposal will further that purpose, and I hope it will be favorably received in the Senate. I ask that a copy of the bill be reprinted in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Class Size Demonstration Act of 1987".

FINDINGS AND PURPOSE

Sec. 2. (a) Findings.—Congress finds that—

(1) the quality of education provided in our Nation's schools has a direct impact upon the prosperity, productivity, and well-being of the Nation as a whole;

(2) numerous reports on school reform and educational excellence have recommended that class sizes and student-teacher ratios be reduced in order to improve the quality of education, to increase the amount of individual attention which students receive, and to create in our Nation's classrooms an atmosphere more conducive to both teaching and learning;

(3) research in this area has indicated that smaller classes have positive effects on student behavior and achievement and on teacher effectiveness; and

(4) the national interest in excellence in education would be significantly advanced by concerted efforts to reduce class sizes in elementary and secondary schools to—

(A) a goal of no more than 15 students per class in kindergarten through grade 3; and

(B) a goal of no more than 18 students per class in all other grades, with each teacher having direct responsibility for no more than 80 students.

(b) Purpose.—It is the purpose of this Act to make demonstration grants to local educational agencies having elementary and secondary schools with large classes in order to demonstrate the advantages of reducing the size of classes in such schools.

AUTHORIZATION OF APPROPRIATIONS

Sec. 3. There are authorized to be appropriated $75,000,000 for the fiscal year 1989 and such sums as may be necessary for succeeding fiscal years, to carry out the provisions of this Act.

DEMONSTRATION GRANTS AUTHORIZED

Sec. 4. (a) General Authority.—From the amount appropriated under section 3 in each fiscal year, the Secretary shall make grants to local educational agencies in accordance with the provisions of this Act.

(b) Selection Criteria.—The Secretary shall make grants to local educational agencies on the basis of—

(1) the need and the ability to reduce class size in accordance with section 2(a) in elementary or secondary schools of the local educational agency making application under this Act;

(2) the ability of the local educational agency to furnish the non-Federal share of the costs of the project for which assistance is sought;

(3) the ability of the local educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this Act; and

(4) the degree to which each application demonstrates consultation in program implementation and design with parents, teachers, school administrators, and local teacher labor organizations, where applicable.

(c) Sufficient Size and Scope Required.—The Secretary shall make grants only to applicants having applications which describe projects of sufficient size and scope to contribute to carrying out the purposes of this Act.

APPLICATIONS

Sec. 5. (a) In General.—(1) A grant under this Act may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

(2) The Secretary shall encourage applicants to make applications for a 3-year period.

(b) Contents of Application.—Each such application shall include—

(1) a description of the objectives to be attained with the financial assistance made available under this Act and the manner in which funds so made available will be used to reduce class size consistent with the goals set forth in section 2(a);

(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

(4) an assurance that the local educational agency will pay from non-Federal sources the non-Federal share of the costs of the project for which application is sought; and

(5) such additional assurances as the Secretary may reasonably require.

(c) Approval of Applications.—The Secretary shall, in approving applications under this section, give special consideration to applications which contain provisions carrying out the requirements of section 4.

(d) Administrative Costs.—Not more than 5 percent of any grant under this Act may be used for administrative expenses.

ADMINISTRATIVE PROVISIONS

Sec. 6. (a) Grants Must Supplement Other Funds.—A local educational agency receiving funds under this Act shall use the Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the activities described in the application.

(b) Audit.—The Comptroller General shall have access for the purpose of audit and examination of any books, documents, papers, and records of any local educational agency receiving assistance under this Act that are pertinent to the sums received and disbursed under this Act.

PAYMENTS; FEDERAL SHARE

Sec. 7. (a) Payments.—The Secretary shall pay to each local educational agency having an application approved under section 5 the Federal share of the cost of the activities described in the application.

(b) Federal Share.—(1) The Federal share—

(A) for the first year for which a local educational agency receives assistance under this Act shall be 90 percent;

(B) for the second such year shall be 70 percent; and

(C) for the third such year shall be 50 percent.

(2) The non-Federal share of payments under this Act may be in cash or in kind, fairly evaluated, including personnel, equipment, or services.

DEFINITIONS

Sec. 8. As used in this Act—

(1) the term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Educational Act of 1965;

(2) the terms "elementary school" and "secondary school" have the same meaning given such terms under section 198(a)(7) of such Act; and

(3) the term "Secretary" means the Secretary of Education.●

By Mr. JOHNSTON (by request):

S.J. Res. 225. Joint resolution approving the location of the Korean War Memorial; referred to the Committee on Energy and Natural Resources.

KOREAN WAR MEMORIAL

● Mr. JOHNSTON. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of the Interior, I send to the desk a joint resolution approving the location of the Korean War Memorial.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 225

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas Section 6(a) of the Act entitled "To provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as Area I shall be deemed disapproved unless, not later than 150 days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in Area I, the location is approved by law;

Whereas the Act approved October 28, 1986 (100 Stat. 3226), authorizes The American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war.

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said Act approved October 28, 1986, should be located in Area I. Now therefore, *Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, that the location of a commemorative work to honor members of the Armed Forces who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war, authorized by the Act approved October 28, 1986 (100 Stat. 3226), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as Area I, is hereby approved.●

ADDITIONAL COSPONSORS

S. 450

At the request of Mr. Armstrong, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 450, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 840

At the request of Mr. Thurmond, the name of the Senator from Nebraska [Mr. Karnes] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 1378

At the request of Mr. Thurmond, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1595

At the request of Mr. Domenici, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1595, a bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave transfer program for Federal employees, and for other purposes.

S. 1601

At the request of Mr. McCain, the name of the Senator from Maine [Mr. Mitchell] was added as a cosponsor of S. 1601, a bill to permit the immigration of Vietnamese Amerasians to the United States.

S. 1620

At the request of Mr. Pell, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1620, a bill to reauthorize and revise the act of September 30, 1950 (Public Law 874, 81st Congress) relating to Federal impact aid, and for other purposes.

S. 1665

At the request of Mr. Bingaman, his name was added as a cosponsor of S. 1665, a bill to amend the Farm Credit Act of 1971 to ensure the continuation of the Farm Credit System as a source of agricultural credit at fair and competitive rates; to increase farmer and rancher participation in the Farm Credit System; to restore the impairment of borrower stock in Farm Credit System institutions; to reform the lending practices on the Farm Credit System; to require forbearance on and restructuring of certain high-risk and nonaccrual loans; and for other purposes.

At the request of Mr. Fowler, his name was added as a cosponsor of S. 1665, supra.

At the request of Mr. Lugar, his name, and the names of the Senator from Kansas [Mr. Dole], the Senator from North Carolina [Mr. Helms], the Senator from Mississippi [Mr. Cochran], the Senator from Minnesota [Mr. Boschwitz], the Senator from Kentucky [Mr. McConnell], the Senator from Missouri [Mr. Bond], the Senator from California [Mr. Wilson], and the Senator from Nebraska [Mr. Karnes] were added as cosponsors of S. 1665, supra.

At the request of Mr. Leahy, his name, and the names of the Senator from Alabama [Mr. Heflin], the Senator from South Dakota [Mr. Daschle], the Senator from Louisiana [Mr. Breaux], the Senator from South Carolina [Mr. Thurmond], the Senator from North Carolina [Mr. Sanford], the Senator from New York [Mr. Moynihan], the Senator from Iowa [Mr. Grassley], and the Senator from Missouri [Mr. Danforth] were added as cosponsors of S. 1665, supra.

S. 1678

At the request of Mr. Hatch, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1678, a bill to establish a block grant program for child care services, and for other purposes.

S. 1776

At the request of Mr. Armstrong, the names of the Senator from South Dakota [Mr. Daschle] and the Senator from Utah [Mr. Garn] were added as cosponsors of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1788

At the request of Mr. Trible, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of S. 1788, a bill to protect the aquatic environment from certain chemicals used in antifoulant paints, and for other purposes.

S. 1829

At the request of Mr. Pell, the names of the Senator from Ohio [Mr. Glenn], the Senator from North Dakota [Mr. Conrad], the Senator from Alaska [Mr. Stevens], and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of S. 1829, a bill to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification and fine arts, and for other purposes.

S. 1830

At the request of Mr. Sanford, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 1830, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition (and a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers born in years after 1916 and before 1940 (and related beneficiaries) and to provide for increases on their benefits accordingly, and for other purposes.

S. 1848

At the request of Mr. Kerry, the names of the Senator from Connecticut [Mr. Dodd], and the Senator from New York [Mr. Moynihan] were added as cosponsors of S. 1848, a bill to authorize a Minority Business Development Administration in the Department of Commerce.

S. 1877

At the request of Mr. Bradley, the names of the Senator from Washington [Mr. Evans], and the Senator from New York [Mr. Moynihan] were added as cosponsors of S. 1877, a bill to restore balance among sources of supply for the Nation's sweetener needs, and for other purposes.

SENATE JOINT RESOLUTION 59

At the request of Mr. Thurmond, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month".

SENATE JOINT RESOLUTION 141

At the request of Mr. Nickles, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day".

SENATE JOINT RESOLUTION 156

At the request of Mr. Grassley, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of Senate Joint Resolution 156, a joint resolution to establish a United States Commission on Improving the Effectiveness of the United Nations.

SENATE JOINT RESOLUTION 177

At the request of Mr. Thurmond, the names of the Senator from Ohio [Mr. Glenn], and the Senator from Pennsylvania [Mr. Spector] were added as a cosponsors of Senate Joint Resolution 177, a joint resolution to authorize and request the President to designate the month of December 1987, as "Made in the U.S.A. Month".

SENATE JOINT RESOLUTION 203

At the request of Mr. D'Amato, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of Senate Joint Resolution 203, a joint resolution calling upon the Soviet Union immediately to grant permission to emigrate to all those who wish to join spouses in the United States.

SENATE JOINT RESOLUTION 206

At the request of Mr. DOMENICI, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Rhode Island [Mr. PELL] were added as a cosponsors of Senate Joint Resolution 206, a joint resolution to declare Dennis Chavez Day.

SENATE JOINT RESOLUTION 218

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Illinois [Mr. DIXON] were added as a cosponsors of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE RESOLUTION 334—OPPOSING AMNESTY FOR THE MURDERERS OF FOUR UNITED STATES MARINES IN EL SALVADOR

Mr. SHELBY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 334

Whereas, on June 19, 1985, in the Zona Rosa section of San Salvador, El Salvador, several guerrilla gunmen opened fire on four crowded cafes killing 13 people;

Whereas, among the dead were four off-duty Marines, all guards at the United States embassy in El Salvador, who were unarmed and dressed in civilian clothes, namely, Sgt. Thomas T. Handwork, 24, of Beavercreek, Ohio; Cpl. Gregory H. Weber, 22 of Cincinnati, Ohio; Sgt. Bobby J. Dickson, 27, of Tuscaloosa, Alabama; and Cpl. Patrick R. Kwiatkowski, 20, of Wausau, Wisconsin.

Whereas, the Mardoqueo Cruz Urban Guerrilla Commandos of the Farabundo Marti National Liberation Front, known by its Spanish initials FMLN, reported to be El Salvador's main left-wing guerrilla organization, claimed responsibility for the attack;

Whereas, the communique broadcast to claim responsibility said, among other things: "Did Ronald Reagan think that he would come to make war in El Salvador and that his soldiers were not going to die?";

Whereas, on or about August 27, 1985, the Salvadoran government arrested three leftist guerrillas suspected of having taken part in the cafe massacre;

Whereas, one of the suspects who confessed that he was one of the gunmen, William Celio Rivas Bolanos, 17, said that he was a member of the Central American Revolutionary Workers Party and that he had been advised the week before the attack that he should be ready to kill North American military advisers;

Whereas, Salvadoran Deputy Defense Minister Reynaldo Lopez Nuila indicated that he believed the Marines were the target of the cafe massacre;

Whereas, on October 27, 1987, the National Assembly of El Salvador passed an amnesty bill which generally would prohibit the investigation or prosecution of any members of military security forces or guerrilla organizations of any crimes said to be politically motivated occurring on or before October 25, 1987, except for the killers of Archbishop Oscar Romero and those who have participated in kidnappings for profit, extortion, and drug trafficking;

Whereas, on November 12, 1987, the three suspects charged in the slaying of the four Marine guards were ordered freed under the new amnesty program by military judge Jorge Alberto Serrano;

Whereas, it has been reported that the attorney general of El Salvador has agreed to appeal the court order that would release the three suspects accused of the cafe massacre;

Whereas, the United States has an obligation to halt terrorism, particularly acts of terrorism toward United States military personnel; and

Whereas, the United States has an obligation to bring all possible diplomatic pressure upon other countries to see that terrorists are identified, arrested and punished for their actions: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of State exercise all available diplomatic means to ensure that the terrorists responsible for the massacre of the four United States Marines in El Salvador be held accountable for their actions and not absolved from all punishment under an amnesty law.

● Mr. SHELBY. Mr. President, I rise today in support of a resolution expressing the sense of the Senate that the Secretary of State should exercise every diplomatic route available to ensure that certain terrorists arrested for the brutal slaying of four United States Marines not be released under an amnesty law recently enacted by the Government of El Salvador. A brief factual background taken from news clippings which will be submitted in full for the record of what appears to be one of the most egregious travesties of justice is as follows. On June 19, 1985, in the Zona Rosa section of San Salvador, about 10 guerrillas, dressed in military fatigues, leaped out of a pickup truck and opened fire with Israeli-made Uzi submachine guns and United States-made M16 automatic rifles at a row of sidewalk restaurants. In crisp military fashion, the truck had stopped in front of a table where several United States Marines, off-duty as guards at the United States Embassy in El Salvador, were sitting, dressed in civilian clothes and unarmed. The gunmen fired first at those seated at the table and afterward sprayed bullets indiscriminately. Apparently, seeking out Americans, the gunmen walked around overturned tables and singled out people to shoot. At the end of the 10-minute attack, the guerrillas sped off.

Thirteen people were killed including six Americans. Among the dead were four marines; namely, Sgt. Bobby J. Dickson, 27, of my hometown of Tuscaloosa, AL; Sgt. Thomas T. Handwork, 29, of Beavercreek, OH; Cpl. Gregory H. Weber, 22, of Cincinnati, OH; and Cpl. Patrick R. Kwiatkowski, 20, of Wausau, WI.

In a radio communique shortly after the attack, the Mardoqueo Cruz urban guerrilla commandos of the Farabundo Marti National Liberation Front, known by its Spanish initials FMLN, claimed responsibility for the attack. The broadcast stated in part: "Did Ronald Reagan think that he would come to make war in El Salvador and that his soldiers were not going to die?"

The FMLN is El Salvador's main leftwing guerrilla organization and specializes in combat and sabotage. It serves as the urban front of the Central American Revolutionary Worker's Party.

On June 23, 1985, during a ceremony at Andrews Air Force Base, President Reagan pinned Purple Heart medals on the flag-draped caskets of the four marines gunned down and vowed "to find the jackals and bring them and their colleagues in terror to justice." He also stated that U.S. leaders would move any mountain and ford any river to find the terrorists.

On or about August 27, 1985, the Salvadoran Government arrested three leftist guerrillas suspected of taking part in the cafe massacre. The three suspects appeared at a govenment news conference where one, William Celio Rivas Bolanos, 17, said he was one of the gunmen. Mr. Bolanos, who had been a member of the Central American Revolutionary Worker's Party since he was 13, indicated that he had been told a week before the attack by the commander of his unit to be ready to kill North American military advisers.

Col. Aristides Montes, head of the El Salvador National Guard, said that four of the other guerrillas who allegedly participated in the attack had been identified but not captured and that one of them was trained in Vietnam and another was trained in Cuba and Vietnam.

On October 27, 1987, the National Assembly of El Salvador passed an amnesty law which generally absolves military security forces, death squads, and guerrillas of any crimes said to be politically motivated and provides that political prisoners held on the suspicion of being guerrillas or guerrilla supporters would be released. The amnesty bill, which was one of the requirements of the August 7 Central American Peace Plan, would not pardon crimes committed after October 25, 1987, and would not pardon the killers of Archbishop Oscar Romero. However, the amnesty would apparently free the three leftist guerrillas involved in the cafe massacre as well as the two suspected killers of Lt. Comdr. Albert Schaufelberger, the deputy head of the U.S. military group in El Salvador, who was shot to death in May 1983, while waiting for his girlfriend on the grounds of Central American University.

On November 12, 1987, Military Judge Jorge Alberto Serrano declaring that "the law is the law" issued a release order for the three guerrillas charged with participating in the cafe massacre. Responding to the order to free the suspects, the U.S. Embassy said in a statement: "As a matter of policy, we believe that those responsible on both the right and left for terrorist acts or crimes against U.S. citizens should not be allowed to escape justice."

The cold hard facts are that the administration's proclaimed doctrine of swift and effective retribution against terrorists in this instance amounts to empty rhetoric. We should not sit idly by and allow individuals who have essentially confessed to murdering U.S. military personnel while unarmed and off-duty to evade justice. All diplomatic pressure available should be brought to bear on the Government of El Salvador to not allow these terrorists to disappear into the city streets. This resolution expresses just that sentiment.

I ask unanimous consent that various newspaper articles pertaining to the cafe massacre be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 21, 1985]

GUNMEN SEEN SINGLING OUT U.S. MARINES

(By Robert J. McCartney)

SAN SALVADOR, June 20.—The gunmen who killed 13 persons at a row of sidewalk restaurants last night deliberately sought out the four U.S. marines who were among the victims, witnesses said today.

The Salvadoran and U.S. governments said they believed the killers were members or allies of the left-wing Farabundo Marti National Liberation Front, whose guerrillas have been battling the government for more than five years.

No group had claimed responsibility for the attack, in which two American civilians and seven Latin Americans also died, by this evening. But the Farabundo Marti front's Radio Venceremos welcomed the attack in its evening broadcast and warned that other U.S. military personnel might be targets of future attacks.

"Americans have begun to die," the clandestine radio, based in northeastern Morazan province, said. The broadcast did not discuss who had carried out the attack.

The attack, which was the first in two years in which U.S. military men were killed here, came at a time when the leftist guerrillas have said that they are stepping up urban warfare. The guerrillas consistently have criticized U.S. military and economic support for the government here, saying they would have won the war years ago except for Washington's backing of the Salvadoran armed forces.

The attack at the row of outdoor cafes at 8:35 p.m., the height of the evening rush, was widely repudiated.

"It is to be condemned from every point of view," Roman Catholic Archbishop Arturo Rivera y Damas said.

The four U.S. marines, who were guards at the U.S. Embassy, were off duty, unarmed and in civilian clothes, the embassy said. The two other U.S. citizens killed were employes of Wang Laboratories computer company who were visiting El Salvador. The other dead, all civilians, were five Salvadorans, a Chilean and a Guatemalan, the embassy said.

[The Pentagon in Washington identified the four dead marines as Sgt. Thomas T. Handwork, 24, of Beavercreek, Ohio; Cpl. Gregory H. Webber, 22, of Cincinnati; Sgt. Bobby J. Dickson, 27, of Tuscaloosa, Ala., and Cpl. Patrick R. Kwiatkowski, 20, Wausau, Wis.

[Wang said its two employes were George Viney, 48, of Miami, Fla., and Robert Alvidrez, of Lexington, Mass.]

Most of those killed appeared to have been victims of indiscriminate firing. A spokesman for the U.S. Embassy said it was not certain that the marines had been the main target, although he noted that the killers' truck had stopped right in front of their table. Salvadoran Deputy Defense Minister Reynaldo Lopez Nuila said he believed the marines were the target.

The two witnesses, Manuel Argueta and Mario Orellana, said the gunmen fired their submachine guns and automatic rifles first at the table where the marines were seated and afterward sprayed bullets indiscriminately. Both witnesses were wounded in the attack and were interviewed in their beds at the Policlinica hospital.

Argueta, a restaurant security guard, said an unidentified young man had approached the marines shortly after they sat down, chatted with them briefly, observed them for a few minutes from a distance, and then bicycled away. Ten minutes later, Argueta said, the killers leaped out of a pickup truck directly in front of the marines' table.

"I already had thought that he [the cyclist] was spying," Argueta said.

Both Argueta and Orellana said the gunmen, dressed mostly in military fatigues, had walked among the overturned tables and cringing bodies at the end of the 10-minute attack and singled out people to shoot again. Orellana, a 22-year-old architecture student and office worker in a construction company, said he thought that he was chosen to be shot because he is light-skinned and the killers mistook him for an American.

"I was lying with four or five friends in a row, but I was the only one picked," he said. A thin, young gunman "looked at me without expression and shot a burst at me," he said.

Argueta, 23, said he believes he was shot twice in the legs because a gunman saw his pistol stuck in his belt as he lay face down on the floor. He also said he heard one of the attackers' leaders shout to another member of the gang, "Give it to him again; he's not dead." The order was followed by the sound of a machine-gun burst from near the marines' table, Argueta said.

Argueta said one of the six marines escaped death because he had left the table and entered the Flashback nightclub a few minutes before the attack, while another apparently managed to run away.

Six persons, none of them American, were seriously wounded in the attack, the Salvadoran armed forces said. Two of the wounded were released from the hospital after treatment last night.

The leftist guerrillas were considered probably responsible primarily because the marines were killed and because of the Farabundo Marti front's proclaimed desire to escalate its war in the capital. El Salvador's right-wing vigilante groups have killed thousands of persons during the civil war, but the number of killings of suspected leftist sympathizers had declined sharply.

Left-wing killings, mostly of military personnel, have picked up this year in San Salvador as the guerrillas apparently have sought to open a new front in response to the Army's improved performance in the countryside.

"This criminal act . . . confirms the desperation that these groups of killers currently feel because of the military defeat that they are suffering and that they cannot hide," an armed forces communique said.

The embassy spokesman said: "We assume that the perpetrators were members of, or associated with the FMLN," the Spanish initials for the Farabundo Marti front. "It is known from captured documents that the FMLN was moving into the capital," he added.

Interest centered on the Clara Elizabeth Ramirez Front, a hardline group that formally broke away from the FMLN in December 1983 but whose actions have been praised by the FMLN on occasion.

In the past, however, anonymous callers claiming to represent the Ramirez front have telephoned radio stations to announce that the front had staged an action. No such phone call was reported today.

The People's Revolutionary Army, the most militaristic group in the FMLN, also has stepped up urban killings in recent months. But that group controls the guerrillas' Radio Venceremos, which thus normally is quick to claim any attacks by the rebel organization. The radio's coverage of last night's attack, welcoming the action but not claiming it, was typical of its coverage of past attacks staged by the Ramirez front.

Only one U.S. military man had been assassinated previously in El Salvador, Navy Lt. Comdr. Albert Schaufelberger III, who was slain by the Ramirez front in May 1983.

The marines, who reportedly visited the restaurant frequently, apparently violated U.S. Embassy rules. The embassy spokesman said that "we're all advised . . . not to frequent the same place on a regular basis."

[From the Washington Post, June 22, 1985]

SALVADORAN REBEL UNIT CLAIMS KILLING OF MARINES, NOT OTHERS

(By Robert J. McCartney)

SAN SALVADOR, June 21.—A communique purportedly signed by a unit of El Salvador's main left-wing guerrilla front asssert-ed today that it staged the restaurant attack that killed four U.S. marines and nine civilians, including two Americans, Wednesday evening. The front's main clandestine radio pledged that killings of U.S. personnel would continue.

The two-page communique, carrying the initials FMLN of the Farabundo Marti National Liberation Front, claimed the killings of the marines but sought to blame "armed elements dressed as civilians" for the killings of the civilians. It provided only a vague description of these "elements" and did not give a specific account of what happened.

Witnesses made clear that most of the deaths came at the hands of the attackers. But the possibility existed of cross fire, perhaps from bodyguards, that could have contributed to the toll. U.S. officials said investigations had yet to produce a comprehensive account of what happened.

"Our commandos assume responsibility for execution of the political-military operation called Yankee Aggressor in El Salvador, Another Vietnam Awaits You," began the rebel communique, which was supplied to Salvadoran radio stations. About halfway through it said: "We deeply regret that, because of the inferior technical combat capacity of these elements of the Army dressed as civilians, our people have had to pay such an elevated social cost."

The violent left appeared to have made a tactical decision to carry out attacks on U.S. government employees as part of a general expansion of its activities in the capital, and increasing attacks on civilians nationwide, Salvadoran and U.S. political observers said.

U.S. Embassy officials said they were convinced that the marines were the principal target of Wednesday's attack, as is generally accepted by witnesses, Salvadoran officials and journalists who covered the incident. The marines were the first of the 200 U.S. citizens employed by the embassy to be killed since May 1983.

The civilian deaths, in particular, appeared to have cost the left a major public relations defeat on the influential issue of human rights here, according to the political observers and brief interviews with Salvadorans on the streets. One of the left's main allegations against the government has been that it sanctioned brutal right-wing repression, particularly in the early part of the five-year-old civil war.

"This was a massacre, which doesn't help the boys," a 28-year-old waiter said, using the slang term for the guerrillas.

Some witnesses and investigators have said there apparently was a shootout during the 10-minute assault on a short block of outdoor cafes in this capital's most chick nightlife area. Other witnesses did not report an exchange of fire, however, and fresh indications arose that the killers deliberately sought to murder light-skinned persons.

Both of the two U.S. civilians murdered, and their three Salvadoran and Chilean dinner companions, had fairer than average complexions, according to employes of the computer companies where the five worked.

The FMLN's Radio Venceremos, based in northeastern Morazan province, praised the killings of the marines but did not discuss either responsibility for the shootings or the civilian deaths. "Let this be clear: as long as there is more Yankee intervention, more U.S. marines will die," said the radio, which is under control of the FMLN's largest hard-line force.

President Jose Napoleon Duarte called attention to the human rights issue at the departure of the marines' bodies this morning on the runway of Ilopango military airport on the capital's eastern outskirts.

Duarte referred to Guillermo Ungo, president of the civilian political front that is allied with the FMLN, who has complained that Duarte was dragging his feet in seemingly stalled peace negotiations: "Once more I call on Mr. Ungo, who has been talking about dialogue. Now is the time to say something about this murder."

Ungo, who lives in exile in Panama City, was a political ally of Duarte before shifting to the rebel front. He is traveling in Europe, family members said.

Duarte stood beside the four caskets, draped with U.S. flags, in front of the U.S. Air Force C140 plane that took them to Panama.

They are scheduled to be flown to Andrews Air Force Base Saturday. Representing the U.S. government at the somber sendoff were Marine Brig. Gen. O.K. Steele, U.S. Assistant Secretary of State for Latin American Affairs Richard Halwell.

The communique appeared on letterhead marked with the initials PRTC of, in Spanish, the Central American Revolutionary Workers' Party. The party, one of the smaller of the FMLN's five guerrilla forces, has claimed attacks on a National Police truck and on the National Police barracks, as well as an occupation of six radio stations earlier this year.

The party is the most internationally oriented group in the FMLN. It planted bombs in downtown Guatemala City in 1981 and has staged attacks in Honduras. Its leader is Roberto Roca, who is one of the five top commanders in the FMLN's senior command.

"If this communique is what it is purported to be, the substance of the communique, with its pathetic attempt to excuse the massacre of innocent people, is unworthy of comment. The PRTC stands revealed for just what it is: thugs with rifles," said a U.S. Embassy spokesman.

The PRTC communique said that the attack was aimed not only at the marines but at unidentified "CIA agents and elements of other nationalities linked with intelligence organs at the service of U.S. imperialism." Observers suggested, however, that this may have constituted part of a propaganda effort to justify the civilian killings.

[From the Washington Post, June 23, 1985]

Main Salvadoran Rebel Group Endorses Killing of Marines

(By Robert J. McCartney)

San Salvador, June 22.—El Salvador's main left-wing guerrilla organization, the Farabundo Marti National Liberation Front, today claimed responsibility for Wednesday's restaurant attack that left four U.S. marine guards and nine civilians dead.

The clandestine Radio Venceremos of the five-member rebel coalition, known by its Spanish initials FMLN, broadcast the communique that surfaced yesterday claiming the assault in the name of an urban command.

"Did Ronald Reagan think that he would come to make war in El Salvador and that his soldiers were not going to die?" the radio, based in a major guerrilla stronghold in mountainous northeastern Morazan province, said, "Urban guerrillas of the FMLN, we salute you from this antiimperialist trench."

The commando unit that staged the attack, named after dead guerrilla leader Mardoquoe Cruz, was formed last year and has about 75 members who specialize in combat and sabotage, according to a confidential Salvadoran armed forces document. About 10 guerrillas showing crisp military discipline killed the off-duty, unarmed marine embassy guards, and apparently most or all of the civilians as well, according to witnesses, and Salvadoran and U.S. officials.

The civilian dead, all men, included two visiting U.S. computer company employees; their three business colleagues of Salvadoran, Chilean and Guatemalan nationalities; a Salvadoran law school administrator; a Salvadoran student, and two Salvadorans of undisclosed occupations.

"Mardoqueo Cruz Urban Guerrilla Commandos of the FMLN," whose title appeared at the top of the communique that was released yesterday, had staged four earlier attacks in the San Salvador metropolitan area, according to the armed forces document.

It is the urban front of the Central American Revolutionary Workers' Party. That group, with about 500 members, is one of the smallest in the overall guerrilla coalition whose membership is estimated at between 6,000 and 7,000.

The Mardoqueo Cruz unit ambushed a Salvadoran Army Signal Corps patrol on Oct. 23, 1984, and attacked National Police vehicles on Feb. 20 and April 16 of this year with automatic rifles, hand grenades and rocket-propelled grenades, the document said.

The document did not give the number of victims in these attacks, but Salvadoran military officials said the unit previously had not staged any attack as costly or dramatic as the one on Wednesday.

Questions remained about whether anyone, and if so who, fired back at the leftist commandos. The rebels' communique said unidentified armed persons in civilian clothes had opened fire from the periphery of the row of trendy restaurants, and it sought to blame these persons for the civilians' deaths.

Witnesses' accounts were contradictory. Some said they did not think anybody shot back, while others said that one or two persons in civilian clothes had pulled out pistols and done so. Several witnesses reported hearing individual pistol shots, which contrasted with the bursts from the attackers' Israeli-made Uzi submachine guns and U.S.-made M16 automatic rifles. Witnesses uniformly reported that firing by the attackers appeared to have been indiscriminate at times and that several civilians were deliberately shot in the legs while lying on the floor.

A U.S. Embassy official said today that he understood that fire had been returned by one or more Salvadoran National Policemen assigned to guard the Brazilian ambassador's residence across the street from the restaurants.

This was disputed, however, by the National Policeman guarding the residence this afternoon. He said he had spoken with the guard stationed at the residence Wednesday evening, who said that he did not shoot because his orders were not to attract fire toward the compound where the ambassador lives.

[From the Washington Post, June 23, 1985]

President Pays Honor to Marines: Andrews Ceremony Ends Tragic Week of Terrorist Attacks

(By David Hoffman)

President Reagan, marking the end of a week of international terrorism directed at the United States and its servicemen, paid solemn tribute yesterday to four marines gunned down in El Salvador and vowed "to find the jackals and bring them and their colleagues in terror to justice."

In a poignant ceremony on the windswept tarmac of Andrews Air Force Base, Reagan pinned Purple Heart medals on the flag-draped caskets as family members sobbed and embraced.

His voice thick with emotion, Reagan told the families, "They say the men who murdered these sons of America disappeared into the city streets. But I pledge to you today they will not evade justice on Earth any more than they could escape the judgment of God."

The president and Nancy Reagan then moved through the line of family members—28 parents, brothers and sisters—and Mrs. Reagan embraced many of the tearful relatives.

The ceremony came at the end of a week of extraordinary terrorist attacks against U.S. citizens and servicemen that has severely tested Reagan's proclaimed doctrine of "swift and effective retribution" against such violence and confronted the president with scenes of sorrow.

It was a week in which Reagan acknowledged the limits of U.S. military power in response to terrorism, including the hijacking of Trans World Airlines Flight 847 in the Middle East and the San Salvador killings. In both cases, Reagan has decided against retaliation that would harm innocent civilians.

Earlier this week, the body of Navy petty officer Robert Dean Stethem, murdered by Shiite Moslems who hijacked Flight 847, was returned to the United States.

Yesterday, the president honored four Marine guards of the U.S. Embassy in San Salvador who were killed with two other Americans and seven other people Wednesday as they sat in a sidewalk cafe. Reagan and Marine Commandant Gen. P.X. Kelley, saluted as caskets were carried from a C141 cargo jet transporting the remains of the servicemen from Howard Air Force Base in Panama.

Killed in the attack Wednesday night were Sgt. Bobby Joe Dickson, 27, of Tuscaloosa, Ala.; Sgt. Thomas T. Handwork, 24, of Boardman, Ohio; Cpl. Gregory H. Weber, 22, of Cincinnati, and Cpl. Patrick R. Kwiatkowski, 20, of Wausau, Wis.

An anguished cry of "Oh my God!" from one family member echoed across the tarmac as a breeze pushed the flags from two caskets. Marines quickly stepped forward to replace them.

Reagan, who flew to the ceremony from Camp David, paid tribute to each serviceman. Weber, he said, told his father he wanted to guard the U.S. Embassy because "they need a few good men." Handwork, a five-year Marine Corps veteran, saw his work as "a calling. He wanted to be a Marine from the first days he could walk and talk." Dickson was "raised in a tradition of family honor. He feared nothing." And Kwiatkowski, Reagan said, was the youngest—his 21st birthday was Friday.

"They were all volunteers," Reagan said. "They were four young men who decided to follow an honored and ancestral path. And so they swung the bag over their shoulder, kissed their parents goodbye, and went off to serve their country.

"They chose to follow the life of service, selflessness and courage. They did it for love and honor," Reagan said, repeating the Marine Corps motto, "Semper Fi."

Reagan promised the families that the U.S. and Salvadoran leaders would "move any mountain, ford any river" to find the terrorists and bring them to justice.

Reagan has rarely attended such ceremonies in his presidency; Vice President Bush attended the arrival of Stethem's body earlier in the week. Today, Reagan was accompanied by Secretary of State George P. Shultz, Defense Secretary Caspar W. Weinberger and national security affairs adviser Robert C. McFarlane.

The president returned to Camp David after the caskets were carried off in hearses and he and his wife again consoled the family members as they boarded Marine buses.

Reagan made no mention during the ceremony of the Americans still held hostage in Beirut.

In his weekly radio talk, Reagan said he and Mrs. Reagan "carry with us all of the grief and sorrow and rising anger of a nation whose patience has been stretched to its limit."

Earlier in the day, Reagan lunched at Camp David with Bush and McFarlane to discuss the situation in Beirut.

Presidential spokesman Albert Brashear said the administration is pursuing contacts that it has previously made to gain release of U.S. hostages, but he refused to elaborate.

Later, at a news conference in Grand Rapids, Mich., Bush said the Camp David meeting was "to discuss how we and our allies can best respond to the terrorist problem. We are concerned about our hostages, but it is not we alone who suffer. Kuwait, Germany, Jordan, El Salvador all have suffered attacks."

Bush, who made a quick political trip before his expected departure today for Europe for consultations with allies, has been assigned by Reagan to examine long-range methods of handling terrorist attacks.

Bush said that on his European trip "I will be discussing with the heads of seven of our closest allies the [terrorist] problem, the means we share, and the responsibility we have to respond effectively.

"I will return to head a major coordinated effort to see what more can be done by this country and others as well to reduce international terror to its barest minimum."

Bush cited Libya and Iran as governments supporting terrorist activities but he declined to link either country to the situation in Beirut. In a carefully worded statement, he said:

"It has to be acknowledged that the terrorist is now aided and abetted by certain governments who, by sponsoring, aiding, abetting, supplying and training, give the terrorist a range of support which he has not enjoyed before."

Asked if the hostage situation had strained U.S. relations with Israel, Bush said, "I can't comment on that," but added, "I would hope not."

Bush, who came to Grand Rapids to speak to the Republican Midwestern Leadership Conference, defended taking the time out for politics in the midst of a crisis, arguing that it took him only a few hours in one day. Asked how Reagan can afford time for trips promoting his tax legislation, Bush said Reagan "delegates, he leads, and he has very good communications."

[From the New York Times, Nov. 13, 1987]

SALVADOR TO AMNESTY 3 HELD AS AMERICANS' KILLERS

SAN SALVADOR, November 12.—Three suspects charged in the 1985 slayings of six Americans, including four Marine guards at the United States Embassy, were ordered freed today under a new amnesty program.

A military judge, Jorge Alberto Serrano, ruled that the three, said to be leftist guerrillas, should be freed under the program providing amnesty for political prisoners, which was enacted as part of the new Central American peace plan. It was not clear when the three would actually be released.

The ruling came as a Salvadoran working for the United States Embassy was kidnapped this afternoon and later found shot to death, according to an embassy spokesman, Joe McManus. The authorities identified the man as Billy Méjico Quinteros and said he was abducted while driving an embassy vehicle in the upper-class neighborhood of San Francisco.

Responding to the order to free the suspects in the 1985 slayings, the embassy said in a statement, "As a matter of policy, we believe that those responsible on both the right and left for terrorist acts or crimes against U.S. citizens should not be allowed to escape justice."

Thirteen people were killed on June 19, 1985, when assailants wearing Salvadoran Army uniforms opened fire with automatic weapons on patrons at two outdoor cafes in the Pink Zone, a strip of trendy restaurants and clubs in San Salvador.

The marines were wearing civilian clothes and were seated at two tables with other young people when the assailants drove up in a red pickup truck, witnesses said at the time. Four Salvadorans, two Guatemalans and a Chilean were also killed in the attack. At least 15 people were wounded.

A little known leftist group, the Mardoqueo Cruz Urban Guerrilla Commandos, took responsibility. The group is an offshoot of one of the five guerrilla armies that form the Farabundo Marti National Liberation Front.

The three men ordered freed today were identified as Juan Miguel García, Meléndez, José Abraham Dimas Aguilar and William Celio Rivas Bolaños.

The Government has authorized the release of 473 political prisoners since last Friday under the amnesty program, which calls for the military or civil judges who first tried the prisoners to review their cases and decide who will receive amnesty letters.

The amnesty law was approved by the Salvadoran Congress late last month and applied to those "who have participated as the direct authors, intermediaries or accomplices in the commission of political crimes or common crimes associated with political crimes."

[From the Birmingham Post-Herald, Nov. 13, 1987]

JUDGE ORDERS FREEDOM FOR SLAYING SUSPECTS

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The Marines were wearing civilian clothes and were seated at two tables with other young people when the assailants drove up in a red pickup truck, witnesses said at the time.

One of the Marines kiled was Sgt. Bobby J. Dickson of Tuscaloosa. Others killed included Sgt. Thomas T. Handwork, 24, of Beavercreek, Ohio; Cpl. Gregory H. Weber, 22, of Cincinnati; and Cpl. Patrick R. Kwiatkowski, 20, of Wausau, Wis.

Dickson's parents both said last night that they were angered to learn that the three terrorists have been ordered freed.

"It makes me real mad," Joe Dickson said. "The government told us they were going to go the last end to see that these people were taken care of.

"I can't believe our government would just sit still for this."

Betty Malone, Dickson's mother, said she already has tried to contact U.S. Sens. Richard Shelby and Howell Heflin about the judge's decision yesterday.

"Naturally, I would like to see the president," Mrs. Malone said. "I'm very upset with our government . . . and with the president.

"My son supported him in everything. And I know, without a shadow of a doubt, that our government could do something about it.

"If there was one little chance that a plain old citizen could talk to the president, you'd better believe I'd be the one."

A little known leftist group, the Mardoqueo Cruz Urban Guerrilla Commandos, claimed responsibility for the massacre. The group is an offshoot of one of the five guerrilla armies that form the Farabundo Marti National Liberation Front, which has been fighting the U.S.-backed government for the past eight years.

The three men ordered freed today were identified as Juan Miguel Garcia Melendez, Jose Abraham Dimas Aguilar and William Celio Rivas Bolanos.

[From Time Magazine, July 1, 1985]

A CHAOTIC SCENE OF SAVAGERY

The Zona Rosa section of San Salvador is a popular night spot for foreigners and wealthy Salvadorans. On most evenings the three-block-long strip of discos and sidewalk cafés, with their red-enameled tables and brightly striped umbrellas, offers a festive distraction from the civil war that has racked El Salvador for the past five years. But for one night last week this cheerful stretch became an avenue of death. At about 8:45 p.m., between six and ten gunmen, dressed in jeans, military camouflage shirts and green caps, opened fire on four crowded cafés. In several minutes of shooting, they killed 13 people, including four off-duty Marines (all guards at the U.S. embassy), two visiting U.S. businessmen and seven Latin Americans.

The scene, said an eyewitness, was "a horrible bloody mess." Blood mingled with spilled beer and ice on the concrete, and once white napkins lay rumpled, soaked in red. Some of those who had been spared took lighted candles from the tables and placed them at the heads of the dead in a Salvadoran gesture of respect. "I didn't imagine that [the civil war] would reach this savagery," said Salvadoran Supreme Court President Francisco José Guerrero as he surveyed the chaotic scene.

At week's end the Mardoqueo Cruz urban-guerrilla commandos took responsibility for the shooting. The little-known group is a wing of the Central American Revolutionary Worker's Party. The party in turn is the smallest of five rebel factions in the Farabundo Marti National Liberation Front (F.M.L.N.), the 10,000-member guerrilla group that is fighting the U.S.-backed government of Salvadoran President José Napoleón Duarte. In a message delivered to a French news agency, the Mardoqueo Cruz claimed the raid was part of an operation that it called "Yankee Aggressor in El Salvador: Another Viet Nam Awaits You." The message hinted at further strikes against U.S. military personnel, CIA agents and their allies. The rebels said they had aimed their "revolutionary rifles" in the Zona Rosa only at U.S. military personnel and their companions. They claimed that the other casualties in the restaurants were the result of patrons' returning the gunfire.

The night before the Mardoqueo Cruz stepped forward, the F.M.L.N.'S clandestine radio station broadcast the claim that U.S. military involvement in El Salvador had caused the killings. "The first Marines are starting to fall," it said. "The first results of the Yankee invasion of our country are beginning to be paid by deaths." In recent months the Mardoqueo Cruz has claimed responsibility for the Feb. 6 takeover of six San Salvador radio stations; for ambushing national police troops on Feb. 20, killing two and wounding ten; and for March 27 attack on national police headquarters in San Salvador, in which a woman was slain.

In Washington, President Reagan denounced the killings as "senseless terrorism." He ordered the accelerated delivery of military equipment to El Salvador and said he stood ready to invoke emergency powers to provide additional aid. The U.S. has some 55 military advisers in El Salvador, the maximum number permitted by Congress, and for fiscal 1985 has appropriated $441.35 million in military and economic assistance.

The nightmare in the Zona Rosa began when a white pickup truck pulled up in front of four restaurants: Las Pizzas, the Chilis, the Méditerannée and the Flashback. Four men jumped out and began spraying gunfire from G-3 and M-16 automatic rifles. Moments later, a second, dark-colored vehicle delivered more gunmen, who began blanketing a 60-foot-long section of sidewalk with bullets. Screaming people threw themselves on the ground or ran inside the restaurants. One Marine was chased into Las Pizzas and killed. The melee ended when, without a word, the terrorists scrambled into their vehicles and sped away. Within minutes, U.S. embassy personnel, led by Colonel James Steele, head of the U.S. military group in El salvador, were on the scene. They rushed the three dying Marines to Policlinica Salvadorena hospital. The death toll also included two American businessmen employed by Wang Laboratories, a Lowell, Mass., computer concern, a Guatemalan, a Chilean and five Salvadorans.

Salvadoran and American officials believe that the attack signals a return by guerrillas to a campaign of urban terrorism, a plan that was indicated in numerous guerrilla documents captured by the Salvadoran army this year and in broadcasts by the rebel's *Radio Venceremos*. Urban terrorism by left-wing groups was common in the capital in the late 1970s, but tapered off in late 1980, when the rebels took their struggle to the countryside. Indeed, over the past four or five months there have been indications of increasing numbers of rebels slipping into the cities.

The café killings were the first to involve official U.S. personnel since May 1983, when Lieut. Commander Albert Schaufelberger 3rd, deputy head of the U.S. military group, was shot to death in his car while waiting for his girlfriend on the grounds of Central American University. Despite the fresh bloodshed, Salvadoran and U.S. officials are guardedly optimistic about defeating the insurgents. The Salvadoran troops are better led than they were two years ago, and the 40-odd helicopters and two AC-47 gunships provided by the U.S. have helped break up guerrilla concentrations in the countryside.

After a spartan ceremony at Ilopango military airport outside San Salvador, the bodies of the four Marines were flown to Panama. On Saturday, they were flown to Andrews Air Force Base outside Washington, where they were met by President Reagan. Duarte, who spoke briefly at the San Salvador service, called the terrorist attack "a gesture of barbarism and savagery." Later, with reporters, he made it clear that the new bloodshed had not dampened his resolve to seek conciliation with the rebels. "This will not stop our search for a formula to solve the need for dialogue," he said. "Even in the middle of this horror, I am ready to talk peace."

[From the New York Times, June 26, 1985]

SALVADOR REBELS SAY MARINES ARE FAIR GAME

(By Shirley Christian)

SAN SALVADOR, June 25.—Guerrilla leaders have issued a warning that the killing of four United States marines in a sidewalk cafe last Wednesday was "only a beginning" and promised to carry the war to "Yankee aggressors" whenever they are in El Salvador.

But the killings drew a condemnation from a small non-Marxist party belonging to the rebel coalition, a move that was thought to be the first public split among the insurgents.

The June 19 attacks, in which nine other people died and 15 were wounded, "constitute a just action in legitimate defense of our people and our sovereignty," the five top military leaders of the Farabundo Marti National Liberation Front said in a communiqué read over the clandestine guerrilla radio Monday night.

The communiqué was a response to the angry criticisms made of the attack by President José Napoleón Duarte and President Reagan. Both Presidents promised to track down the killers, and President Reagan said the United States would send additional military supplies to El Salvador on an emergency basis.

The guerrillas said the United States, because of the presence of up to 55 military advisers here, shares responsibility with the Salvadoran armed forces for the killings of civilians in rural areas during the five-year war and for the damage caused by aerial bombardments, among other things.

President Duarte and his Christian Democratic Party are "puppets" of the United States, the guerrilla leaders said, and "the intervention of President Reagan is the principal impediment to achieving a national political solution to the Salvadoran conflict."

The guerrillas also complained about United States support for Nicaragua's anti-Sandinista rebels and warned that any members of that organization found in El Salvador would become the targets of guerrilla attacks.

The rebel group coming out in criticism of the restaurant attack was the Popular Social Christian Movement, which is made up of political moderates who split from the Christian Democratic Party in the months after it joined the military in forming a government in early 1980. The dissidents subsequently created their own party and aligned it with the Democratic Revolutionary Front, the political arm of the guerrillas. The Popular Social Christian Movement is small, but its founding members include some of the best-known rebels internationally, among them Rubén Zamora, a member of the political-diplomatic commission, and Jorge Villacorta, the rebel spokesman in Costa Rica.

In a half-page advertisement in a local newspaper, the Popular Social Christian Movement said the attack in the restaurant district violated the Geneva Conventions and "lacks any justification and certainly does not contribute in any way to the attainment of a just peace in the country."

At the same time, the Social Christian group condemned air attacks by Government forces and the recent occupation by the police of 25 hospitals and clinics where workers were on strike. It called for a resumption of talks between the Government and guerrillas to discuss ways to lessen the impact of the conflict on civilians.

The Revoluntary Party of Central American Workers, the smallest of the five guerrilla group making up the Farabundo Marti Front, earlier took responsibility for the shootings at three outdoor cafes in San Salvador's most affluent neighborhood. It said the marines were the object of the attack but that the civilians were shot when some other people in the area began firing on the guerrilla force.

It is not clear who fired on the intruders, but some employees in the area said armed security men at the Brazilian Ambassador's residence directly across the street opened fire and that one or more of the guests had handguns. There may also have been some bodyguards waiting in the street. The United States Embassy said the marines, off-duty and in civilian dress, were not armed.

[From the Washington Post, Nov. 13, 1987]

EL SALVADOR TO AMNESTY KILLERS

(By Douglas Farah)

SAN SALVADOR, November 12.—Declaring that "the law is the law," a military judge said today that three confessed killers of four U.S. marines and eight civilians would be freed under a sweeping amnesty law that pardons all political crimes.

Two suspected killers of U.S. Lt. Cmdr. Albert Schaufelberger, gunned down May 25, 1983, also were expected to be freed under the amnesty, judicial sources said. The case against a top military officer implicated in the 1983 killings of at least 19 civilians also was closed, an official said.

The decisions close some of the most famous cases in El Salvador's eight-year-old civil war, which has claimed about 61,000 lives in the fighting and related political violence.

On Nov. 5, President Jose Napoleon Durate put into effect a sweeping amnesty law pardoning "political" crimes committed as a result of the civil war.

Under the law, enacted in compliance with a regional peace pact, cases must undergo judicial review to determine whether they are covered by the amnesty. So far, 427 prisoners have been freed.

"It has been determined the killings were political crimes, and they will go free today under the amnesty law," said Military Judge Jorge Alberto Serrano, who presided over a review of the case. "The killings are reprehensible here or anywhere, but the law is the law, and we must apply the amnesty."

Serrano turned over his release order for Abraham Dimas Aguilar, Juan Miguel Garcia and William Celio Rivas to the head of Mariona Prison, five miles north of the capital. Sources said the three men were expected to leave the prison after paperwork was completed.

On June 19, 1985, the three rebel gunmen opened fire on two outdoor cafes in the exclusive "Pink Zone" in the capital.

Four off-duty marines assigned to guard the U.S. Embassy were killed along with two American computer technicians, five Salvadorans, a Guatemalan and a Chilean. One rebel was accidentally killed by his own men.

The rebels, who said they belonged to the hard-line Revolutionary Party of Central American Workers, confessed to the slayings and said the marines were the targets of the attack. The men have never been tried for the killings.

A U.S. statement said, "We understand and respect President Duarte's desire to offer the broadest possible amnesty in the spirit of national reconciliation under the terms of the [peace] agreement.

"As a matter of policy, we believe those responsible on both the left and the right for terrorist actions or crimes against U.S. citizens should not be allowed to escape justice."

[From the Christian Science Monitor, Nov. 12, 1987]

CEASE-FIRE VIEWED SKEPTICALLY IN SALVADOR

(By Chris Norton)

SAN SALVADOR.—A week after the Central American peace plan passed its first deadline, European and Latin diplomats as well as political analysts say there is little chance of the plan having a lasting effect in El Salvador.

Leftist guerrilla attacks against electrical installations and clashes between the Army and guerrillas in locations across the country continue, despite the government's announcement of a unilateral cease-fire last Thursday.

Tuesday, the military attacked guerrillas by air. The Army said the rebels were threatening two important hydroelectric dams in northern Chalatenango Province.

The guerrillas are confident of an ultimate military victory, as is the Army, and both are unwilling to make any major concessions from previous gains, according to diplomats and political analysts interviewed.

Although the Salvadorean rebels want to reopen the peace talks that broke off last month, political analysts say the government is unlikely to change its conditions: that the rebels lay down their arms and join the "democratic process." The rebels want to share power in a coalition government that would hold new elections.

The Duarte government says the guerrillas have rejected its efforts to arrive at a peaceful solution and have shown they will not abandon violent means.

The guerrillas say the unilateral cease-fire was a guise to allow the military to move further into their territory. They say the Army moved into many towns under rebel control just before the cease-fire. And although the guerrillas say they would support an effective, agreed-upon cease-fire, they say their units will attack Army units in guerrilla zones under the unilateral cease-fire.

President Duarte and government leaders have long promised they will comply with the Aug. 7 Central American peace plan signed by five of the region's Presidents in Guatemala. But some diplomats say that formal compliance with the plan rather than serious negotiations has been Duarte's aim all along.

According to US Ambassador Edwin Corr, "President Duarte is complying 100 percent with the . . . [Central America] plan."

But European and Latin American diplomats are skeptical. Many of them say the cease-fire was designed to fail, but give Duarte the appearance of compliance and allow him to shift the blame on to the rebels. According to these diplomats, the Duarte government had already decided on declaring a unilateral cease-fire by the end of formal talks with the rebels last month when it realized that the rebels would not agree to its conditions.

The cease-fire declaration, political analysts say, was seen as a way to avoid having to make other concessions to the rebels.

The powerful Salvadorean military and hardliners within the Duarte government have little interest in a cease-fire or negotiations with the rebels. In the Army's view, says a European diplomat, the regional peace plan "is just a way for the communists to take power."

Before the cease-fire went into effect, the military drew up plans for a special operation, called Concord, in which 40,000 troops were deployed to positions that would enable them to occupy every town and village in the war zones, diplomatic and Army sources say.

By the time last Thursday's unilateral cease-fire was implemented, the troops were in place. "We have control of all the towns," Col. José Humberto Gómez, the Fourth Brigade commander based in el Paraiso, Chalatenango told journalists last Friday. "We have displaced the guerrillas from areas of persistent activity. We have covered the principal support routes they use."

Defense Minister Eugenio Vides Casanova says the cease-fire will last no longer than 15 days.

Diplomats say the government and Army hope to provoke or create an incident that can be blamed on the rebels and allow the cease-fire to be called off sooner. "They want the guerrillas to attack them," says the European diplomat.

[From the Washington Post, Oct. 29, 1987]

SALVADORAN, NICARAGUAN AMNESTIES TO BE IN PLACE UNDER PACT

(By William Branigin)

SAN SALVADOR, October 28.—In a controversial move designed to promote national reconciliation, El Salvador's legislature has passed a broad amnesty law that applies to perpetrators of military massacres and death squad killings as well as to Marxist guerrillas.

The law, proposed by the government of President Jose Napoleon Duarte to show compliance with a Central American peace plan, was passed 45 to 0 last night by the Legislative Assembly. The vote was boycotted by 15 right-wing opposition and independent deputies on the grounds that the bill was not tough enough on leftist guerrillas.

In last-minute changes to the bill, an exception to the amnesty was made in the case of Archbishop Oscar Romero, who was assassinated by a suspected death squad gunman in March 1980. Those responsible for his death, if they are apprehended, will not be eligible for amnesty, the law says.

It also declared ineligible the perpetrators of any offenses committed after Oct. 22, a provision that excludes the killers of Herbert Anaya, the president of the leftist Human Rights Commission of El Salvador. He was shot Monday by two unidentified gunmen in an incident that raised fears of renewed death squad activity related to this country's eight-year civil war.

The amnesty law has come under attack from leftist and human rights groups because it defines political offenses so broadly as to include practically all crimes connected to the civil war except kidnaping, extortion and drug trafficking. Specifically included in the amnesty are the perpetrators of "common crimes" in which the number of participants is "no smaller than 20." Human rights activists say this alone tends to absolve members of the military and security forces who massacred people in sweeps or death squad operations.

Legislative Assembly sources acknowledged that among those apparently eligible for amnesty would be the right-wing National Guardsmen who killed four American churchwomen in December 1980 and two U.S. labor advisers in January 1981, and the leftist guerrillas who gunned down 13 persons, including four U.S. marines, at a sidewalk cafe in June 1985.

In a news conference tonight, Duarte said he believed that the killing of the four U.S. churchwomen was a "common crime" and that five guardsmen jailed for it would not be freed under the amnesty. But he acknowledged that amnesty decisions in this and other cases now would be up to the Salvadoran judicial system.

Speaking shortly after his return from a trip abroad, Durate also said he deplored the murder of Anaya, but he accused leftist groups of "trying to create terror" by parading around the capital with Anaya's coffin. Leftist demonstrators kept the casket in front of the U.S. Embassy last night during a vigil and carried it through the streets again today in sweltering heat during a march that ended in a rock-throwing incident near military headquarters. Burial is planned for Friday.

According to a U.S. Embassy spokesman here, the State Department said that "we understand and respect President Duarte's desire to offer the broadest possible amnesty in a spirit of national reconciliation," but that "those responsible on both the right and the left for terrorist acts or crimes against U.S. citizens should not be allowed to escape justice."

Atilo Castro Salazar, a legal adviser to the Legislative Assembly, said the law is to take effect by Nov. 5, and prisoners who want to apply for amnesty must have their eligibility decided by a judge. Castro said guerrillas fighting for the Marxist-led Farabundo Marti National Liberation Front will have 15 days from the effective date of the law to appear before civil or military authorities and "state their desire to renounce violence and accept amnesty."

Armando Calderon Sol, a deputy of the right-wing Arena party, said his group objected to the absence in the law of explicit requirements for guerrillas to pledge allegiance to "the legal system and the democratic process."

[From the Christian Science Monitor, Oct. 29, 1987]

SALVADORANS ATTACK AMNESTY LAW

(By Chris Norton)

SAN SALVADOR.—El Salvador's amnesty bill, passed by the National Assembly on Tuesday, is being sharply criticized by human rights, church, and labor groups.

Amnesty is one of the requirements of the Aug. 7 Central American peace plan.

The new law will absolve the military, security forces, death squads, and guerrillas of any crimes said to be politically motivated. It also states that political prisoners, who are held on the suspicion of being guerrillas or guerrilla supporters, would be released eight days after the law goes into effect. Approximately 500 political prisoners will, thus, be released Nov. 5.

In a last-minute change Tuesday, the bill will pardon only crimes committed until Oct. 25. This means it will not pardon the assassins of Herbert Ernesto Anaya, the head of the country's private Human Rights Commission, who was killed Monday.

In addition, the bill will not pardon the killers of Archbishop Oscar Romero who was assassinated in March 1980. Nor will it absolve those who have participated in kidnappings for profit, extortion, and drug trafficking.

The law's critics say the amnesty is mainly aimed at pardoning military-connected death squads and Army massacres that human rights groups blame for most of the more than 50,000 political killings in the last eight years.

"It leaves clear all those who could be charged for crimes committed now that there is no possibility of trying those responsible for 50,000 murders," said Msgr. Ricardo Urrioste, vicar-general of the Roman Catholic Church.

The government extended the amnesty to the military and rightist death squads to avoid confrontations, political analysts say. "Obviously this was done with an eye to pleasing the military," said a human rights observer, requesting anonymity.

"Politically it is difficult," admits a top government official, who spoke on condition that he wasn't named. "There could not be an amnesty for just the guerrillas. The government side has to be covered. All the right and most of the military believe that President [Jośe Napoléon] Duarte wants to turn the country over to the communists."

Mr. Duarte, a Western diplomat said, "can't bring any of the military to justice. He can't push through the trials of any even the most obviously guilty."

Few political analysts think the amnesty plan will succeed in persuading the rebels to lay down their arms, since they say the rebels have developed deep roots in the country over the last decade.

Anaya's killing sparked protests throughout the capital. Members of the the country's largest, most radical union, the National Union of Salvadorean Workers (UNTS), spent an all-night vigil Tuesday in front of the United States Embassy. Yesterday, they took Anaya's coffin through the capital to the Army high command, whom they also blame for his death. UNTS members then went to the Foreign Ministry office, where they had scheduled a meeting with the national reconciliation commission.

The Democratic Revolutionary Front, the guerrillas' political allies, says Anaya's murder is making it consider whether to proceed with dialogue with the Duarte government.

[From the New York Times, Oct. 29, 1987]

AMNESTY LAW IS PASSED IN SALVADORAN VIOLENCE

(By Lindsey Gruson)

SAN SALVADOR.—The National Assembly has approved an amnesty that will free hundreds of guerrillas and prevent the prosecution of any members of death squads.

The law was approved Tuesday night amid mounting concern over a series of insurgent attacks and continuing protest against the killing Monday of a prominent advocate of human rights.

"We are worried," said Col. Mauricio Vargas, the High Command chief of operations. "The use of dead people as martyrs tends to generate violence, disorder and the possibility of insurrection."

The amnesty, which will take effect in about 10 days, will prohibit the investigation or prosecution of any members of the military suspected of taking part in massacres of civilians. Cases against several officers who are being investigated in connection with such massacres will apparently be dropped.

The law, opposed by human rights groups and the leftist insurgents, is the most concrete step toward complying with the regional peace accord, signed in August in Guatemala. A provision of the accord calls for amnesty measures in each of the five Central American countries.

The amnesty was passed as the Marxist-led guerrillas mounted several attacks in what appeared to be an effort to show that the war will continue.

In the assaults, insurgents briefly took over a radio station in San Salvador and others attacked the main road to Santa Ana near El Congo, 25 miles northwest of San Salvador.

In the capital, demonstrations and protests against the killing of the human rights advocate, Herbert Anaya Sanabria, continued for the third day.

Mr. Anaya, president of the nongovernmental Commission on Human Rights, was shot and killed Monday when he left his house to drive his children to school. He was the seventh leader of the group to be murdered or to have disappeared. The group often tested the limits of permitted dissent by charging that the Government and the armed forces organized death squads.

Western diplomats said the evidence indicated he was killed by a rightist death squad in an attempt to deflect increasingly active leftist groups and sabotage the regional peace accord.

MARCHERS FOLLOW COFFIN

The largest demonstration, organized by students and labor unions, attracted about 3,500 marchers, many of whom wore masks and carried sticks studded with nails and topped with pompons.

The march was led by a red jeep bearing Mr. Anaya's coffin, which was draped in an orange and white flag, the colors of the Mothers of the Disappeared. The group has pressed the government to prosecute rightists who are suspected of carrying out abductions.

Mr. Anaya's wife, Mirna Perla, rode in the front of the jeep, cradling one of her young children on her lap.

The protestors, who damaged several government cars and set ablaze a garbage truck on their march, had planned to go to the High Command. But before they could reach the fortified installation, they were stopped by riot police and soldiers carrying automatic rifles.

The two groups then engaged in a battle of slogans, using loudspeakers as artillery.

"Assassins, assassins," the demonstrators chanted.

"You jeopardize the tranquillity of the working people," the military announcer shouted drowning out the protesters. "We all want peace. Don't allow yourself to be manipulated by the Marxist-Leninist insurgents."

"Soldiers in uniform are exploited, too," the demonstrators' spokesman responded.

The sloganeering ended after about 30 tense minutes, when the police put on gas masks. The demonstrators retreated and hurled rocks. Finally, as police commanders calmed their men, the protestors left.

Spokesmen for the unions that organized the protest said it was impossible to "forgive and forget" atrocities, as demanded by President José Napoleón Duarte and the amnesty.

The final amnesty bill, which was approved after hours of bitter debate in the assembly, pardons "any crime committed by anyone for the motive, occasion or as a consequence of the armed conflict."

CHURCH WINS A CHANGE

It was altered at the last minute at the insistence of the Roman Catholic Church to exempt the killers of Archbishop Oscar Arnulfo Romero, a critic of the armed forces who was killed on March 24, 1980, by sniper fire while he said Mass.

The amnesty will not cover crimes committed after last Thursday, apparently to try to reduce the tension that followed the killing of Mr. Anaya. It also excludes participants in kidnappings and drug traffickers.

But it does cover an estimated 750 rebels held on a variety of charges. Among them are four guerrillas convicted of gunning down 13 people, including four off-duty United States marines, in June 1985.

The amnesty for rebels provoked bitter opposition among the powerful armed forces, whose strained relationship with Mr. Duarte has come under new tension because of the peace talks and a proposed cease-fire.

Senior officers successfully lobbied the President to introduce an amnesty that would include all political crimes.

Among those who could be freed are five National Guardsmen convicted in the murders of four American church women in 1980 and two other guardsmen serving prison terms in the killings of two American land reform advisers and the head of the Salvadoran land redistribution commission in 1981.

"It's a confession by the Christian Democrats that they're powerless to stand up to the military," said a human rights worker. "It wipes out all hope for prosecution and squashes the nascent growth of an independent judicial system, what there was of one."

[From the New York Times, Aug. 31, 1987]

SALVADORANS TELL OF ROLES IN SLAYINGS

(By James LeMoyne)

SAN SALVADOR.—Three Salvadorans appeared at a Government news conference today and described what they said had been their role in the killings of 13 people here, including four United States marines.

One of the suspects said he had opened fire; the other two said they had assisted those who did the shooting.

The self-confessed gunman, William Celio Rivas Bolaños, said there was no return fire when the rebels shot up an outdoor cafe with automatic weapons here two months ago. He also said he accidentally shot one of the other seven rebels who took part in the attack. The wounded rebel died in a downtown hospital, Government officials said.

The two other Salvadorans captured by the police and charged in the attack, Juan Miguel García Melendez and José Abraham Dimas Aguilar, said in the news conference this morning that they had helped hide some of the guerrillas who took part in the assault.

HELPED HIDE REBELS

Mr. Dimas said he managed a car repair shop where one of the rebel gunmen had worked. The rebel, code-named Masia, bragged about the attack the day after, Mr. Dimas said. He said he had hidden Masia on orders from his brother, who was also part of the rebel band. His brother and Masia have evaded capture.

President José Napoleón Duarte announced the arrest of the three men on Tuesday. They later appeared briefly on Government television confessing to the crime. Two United States agencies, the Federal Bureau of Investigation and the Central Intelligence Agency, are believed to have aided in the investigation that was conducted principally by a new police special unit trained by United States advisers.

Salvadoran and American officials here say they are convinced the three men were among those involved in the attack. A Salvadoran official said informers infiltrated into the rebels and helped the police.

"We are 100 percent certain that these men did it," an army spokesman, Lieut. Col. Carlos Armando Avilés, said in an interview. "There is no mistake."

REBELS DENY ROLE BY 3

But the rebels, in a statement sent to a local radio station today, denied that the three were involved.

The rebel high command heralded the assault two months ago as a decisive blow against the United States. Senior rebel officials later said the civilians were killed because the rebels were forced to defend themselves when some of the diners in a cafe shot back.

The Government in the past has detained rebel suspects who, it later turned out, had been abused while in custody and were innocent of the charges.

But in the two-and-a-half-hour news conference today, the three men accused in the shootings gave highly detailed accounts of the attack and of how the rebel commandos operate in the capital. There were slight contradictions in the dates they gave for their capture and confession to the police, but they said they had not been abused and they appeared ready to answer all questions from reporters.

PRESENTED ONE BY ONE

The news conference was held at the National Guard headquarters and a senior Government official was present. The men were presented one by one. The official tried to keep the reporters from asking specific questions about how the police had apprehended the men.

Mr. Bolaños, 17 years old, said he had been a member of the Central American Revolutionary Workers Party for four years and that he was ordered to join a 12-man urban commando unit of the group two years ago. The unit operates in three cells of four members each, he said. The rebel group is one of the five factions in the guerrilla Farabundo Marti National Liberation Front.

The revolutionary workers' group has taken responsibility for the attack on the marines.

Mr. Garcia said the rebels bought a small upholstery workshop to help serve as a cover. He said he and Mr. Bolaños worked in the shop.

In the week before the attack Mr. Bolaños said the commander of his cell, whose code name was Ulises, told him to be ready to kill North American military advisers.

8 REBELS IN ATTACK

On the night of June 19, Mr. Bolaños said he joined seven other guerrillas disguised as Government soldiers in the back of a pickup truck. They drove to a popular outdoor dining area where the marines were sitting at tables along the sidewalk.

Mr. Bolaños said he and three other guerrillas in the truck were chosen as the "annihilation unit." He said he emptied the 30-round clip of an M-16 automatic rifle in "the direction of the American advisers." He said there was no return fire and maintained that the civilians were killed by stray bullets.

Asked if he had selected his target carefully, Mr. Bolaños said he had not been able to because he was standing in the middle of the street and his view was blocked by cars parked in front of the restaurant. As he opened fire, one of his fellow rebels, code-named Julio, stepped in front of him. Mr. Bolaños said he accidentally shot him in the back. Julio died the next day in a downtown hospital, Colonel Avilés said. Mr. Bolaños said he was arrested Aug. 12.

Mr. Garcia said he fled to the United States after the assault. But he said he was arrested Aug. 4 by United States immigration officials in San Diego, as he entered the country illegally.

He said he was deported to El Salvador on Aug. 16, where police were waiting to charge him with aiding in the attack on the marines.

[From the Washington Post, Aug. 28, 1985]

3 SALVADORAN REBELS HELD IN MARINES' KILLING

(By Marjorie Miller)

SALVADOR.—President Jose Napoleón Duarte announced today that the government of El Salvador has arrested three of 11 guerrillas suspected of the June 19 massacre of 13 persons, including four off-duty U.S. marines, at an outdoor cafe.

A fourth guerrilla died of bullet wounds at a hospital and seven others are still at large, Duarte said.

Accompanied by the military high command at a press conference, Duarte read a letter to President Reagan in which he said a U.S.-trained commission aided in the investigation leading to the arrests. The Special Investigations Commission, which is under the attorney general's office, received U.S. training in evidence-gathering, analysis and forensics.

The three suspects were identified as members of Central American Revolutionary Workers' Party, the group that claimed responsibility for the killings. The group is one of the smaller factions of the Farabundo Marti National Liberation Front.

The suspects were identified as Juan Garcia Melendez, José Dimas Aguilar, and William Rivas Bolanos. All apparently are Salvadorans.

The circumstances surrounding the captures were not released, and no questions were allowed at the press conference.

Col. Aristides Montes, head of the National Guard, said afterward that the three were arrested between six and 15 days ago and that their cases have been presented to a military tribunal. He said that human rights groups have been notified of their arrest and that they have been visited by family members.

Gen. Adolfo Blandon, head of the Salvadoran joint chiefs of staff, said none of the suspects was captured in the operation referred to by Defense Secretary Caspar W. Weinberger, who said July 31 that Salvadoran troops had killed and captured "a number of people" responsible for the massacre. U.S. officials later said it was not known if any of the killers were among the casualties in the Salvadoran Army raids.

U.S. Embassy spokesman Donald Hamilton said American officials "cooperated with the Salvadorans on their investigation. We're confident they've got the right people, and we are, of course, pleased."

At one point in the investigation, Washington offered a $100,000 reward for information leading to the arrest and conviction of the gunmen.

The attack occurred on a Wednesday night at outdoor cafes frequented by marines in a fashionable section. Besides the four marines, two American businessmen, a Chilean and a Guatemalan were among the dead. The rest were Salvadoran civilians.

Montes said that the attack was carried out by 11 guerrillas divided into three squads responsible for planning, providing security and carrying out the actual attack.

On the night of the attack, he said, the guerrillas gathered at an automobile repair shop. After being taken to the target zone, he said, the four guerrillas who were responsible for security split up to cover the Brazilian Embassy across the street and to watch for government security forces just north of the restaurant area.

Montes said that four persons made up the group responsible for the assassinations. One of those, Rivas Bolanos, was among those arrested, he said.

Montes said that as the group was leaving after the attack, they realized that one of their members was missing. He said that Rivas Bolanos went back for the wounded guerrilla and as the wounded rebel was being taken away, he was caught in cross fire and shot again by his own men.

Montes said the guerrilla, Jose Salazar Mendoza, was taken to a hospital, where he died.

Four of the other guerrillas who allegedly participated in the attack have been identified but not captured, Montes said. One of them, he said, was trained in Vietnam and another was trained in Cuba and Vietnam.

[From the New York Times, Aug. 28, 1985]

SALVADOR'S PRESIDENT SAYS THREE ARE HELD IN DEATH OF MARINES

SAN SALVADOR, Aug. 27—President José Napoleón Duarte said today that the Salvadoran Government had arrested three leftist guerrillas suspected of having taken part in a cafe massacre in which four United States Marines were killed.

A fourth guerrilla suspected of having part in the massacre is dead, the President said.

At a news conference, President Daurte read a letter he sent to President Reagan advising him of the arrests.

He said other guerrillas who took part in the killings of 13 people at two sidewalk cafes in San Salvador June 19 have been identified and are being sought.

A rebel group, the Central American Revolutionary Workers' Party, has said it carried out the nighttime attacks on the cafes in the entertainment district of the capital.

Among the 13 people slain by surprise attackers firing automatic weapons were four Marine guards at the United States Embassy who were off duty and two United States businessmen who worked for a computer company.

[From the Tuscaloosa News, Nov. 13, 1987]

ACTION ANGERS SLAIN MARINE'S PARENTS

The parents of an Alabama Marine murdered in Central America expressed anger at the U.S. government and President Reagan for a Salvadoran judge's decision to free the three suspects.

A military judge in El Salvador ruled the three suspects, said to be leftist guerrillas, should be freed under a program providing amnesty for political prisoners, enacted as part of the new Central American peace plan.

"It makes me real mad," said Joe Dickson of Tuscaloosa. His son, Sgt. Bobby J. Dickson, 27, was among six Americans gunned down outside a San Salvador, El Salvador, cafe in 1985.

"The government told us they were going to go the last end to see that these people "were taken care of," Dickson said Thursday. "I can't believe our government would just sit still for this."

Betty Malone of Northport said Thursday her son supported Reagan "in everything, and I know, without a shadow of a doubt, that our government could do something about it."

"Naturally, I would like to see the president," she said. "I'm very upset with our government—and with the president.

"If there were one little chance that a plain old citizen could talk to the president, you'd better believe I'd be the one.

"I was very upset when I heard the news," she said. "Then it turned to anger. Naturally, I'm very angry. I feel our government could have prevented this with all the money they pour into El Salvador."

Ms. Malone said she called Sens. Richard Shelby and Howell Heflin's offices late Thursday afternoon and anticipates return calls from them today. She also plans to call the commandant of the U.S. Marine Corps., the State Department, the Pentagon, President Reagan and the American Embassy in El Salvador, which she said is strongly opposed to the release.

"I think they'll give me the run-around," she said. "I don't expect a response at all, but this is the least I can do for my son. He loved the Marine Corps, and he loved his country. He believed in President Reagan.

"As a mother, I live with this every day. Nothing will bring my son back. He willingly gave his life for his country. Now why can't his country do something for him?

"I would like to encourage all the people in our area to contact our senators and voice their opinions," she added.

In Washington, State Department spokesman Charles Redman said that while the United States believes the suspects should be prosecuted, it also understands the desire of President Jose Napoleon Duarte to offer the broadest possible amnesty.

Thirteen people, including six Americans, were killed on June 19, 1985, when assailants wearing Salvadoran army uniforms opened fire with automatic weapons on patrons at two outdoor cafes in San Salvador.

The Marines were wearing civilian clothes and were seated at two tables with other young people when the assailants drove up in a red pickup truck, witnesses said at the time.

Since Nov. 6, the government has authorized the release of 437 political prisoners under the amnesty program.

The three men ordered freed Thursday were identified as Juan Miguel Garcia Melendez, Jose Abraham Dimas Aguilar and William Celio Rivas Bolanos.

A little known leftist group, Mardoqueo Cruz Urban Guerrilla Commandos, claimed responsibility for the massacre. The group is an offshoot of one of five guerrilla armies in the Farabundo Marti National Liberation Front.

It was not immediately clear when the three suspects ordered freed Thursday would be released from prison. Under Salvadoran law, it is not uncommon for suspects to be held for long periods of time without being brought to trial.

The U.S. Embassy said in a statement, "As a matter of policy, we believe that those responsible on both the right and left for terrorist acts or crimes against U.S. citizens should not be allowed to escape justice."

The United States supports the Salvadoran government in its 8-year-old war against leftist guerrillas that has killed more than 65,000 people.

[From the Tuscaloosa News, Nov. 18, 1987]

OFFICIAL TO FIGHT RELEASE OF SUSPECTS IN MARINE DEATHS

WASHINGTON—El Salvador's attorney general agreed to appeal a court order that would release three men accused of killing 13 people, including a Marine from Tuscaloosa, in an attack on two outdoor cafes in San Salvador in 1985, Rep. Michael said Monday.

The Ohio Republican said he received the information from the U.S. State Department Monday after he had made a personal protest to El Salvador's ambassador to the United States late Friday. Three remain in custody pending the appeal of a ruling that they are covered by an amnesty established as part of the new Central American peace initiative, DeWine said.

"It seems to me most civilized people make a distinction between someone who is killed in combat and where people are just mowed down who are not in any way in a combat situation," DeWine said in explaining his argument against including the alleged killers in the amnesty program.

DeWine said he told Salvadoran Ambassador Ernesto Rivas-Gallont Friday that it is one thing "to grant amnesty to someone who's been a combatant and decided he doesn't want to fight anymore or to grant amnesty to someone who has been imprisoned for, quote, 'political' crimes."

"To turn loose an outright terrorist-murderer doesn't make sense to me," DeWine said.

Six Americans, including four Marine guards at the U.S. Embassy, were shot to death on June 19, 1985, when assailants sprayed automatic weapons fire at two outdoor cafes in a San Salvador night club district.

The Marines—Sgt. Bobby Joe Dickson of Tuscaloosa, Sgt. Thomas Handwork of Beavercreek Ohio, Cpl. Gregory Weber of Cincinnati, and Cpl. Patrick Kwiatkowski of Wausau, Wis, were off duty and were wearing civilian clothes.

The other Americans killed were businessmen.

Also killed were four Salvadorans, two Guatemalans and a Chilean. At least 15 additional people were wounded.

The parents of the Tuscaloosa Marine expressed anger at the U.S. government and at President Reagan last week over the possible release of the suspected terrorist.

"I can't believe the government would just sit still for this," said Joe Dickson of Tuscaloosa, father of the slain Marine.

The Marine's mother, Betty Malone of Northport, also said she was angry that the administration was not doing more to keep the suspects from being freed.

She encouraged area residents to contact Alabama's senators, Howell Heflin and Richard Shelby, to protest the proposed release. ●

SENATE RESOLUTION 335—RELATING TO TURKISH-GREEK RELATIONS

Mr. McCONNELL submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 335

Whereas, Greece and Turkey are members of the North Atlantic Treaty Organization (NATO);

Whereas, Greece and Turkey are host to important NATO military installations;

Whereas, without these installations the military training, capabilities and the forward defense of the Alliance would be diminished;

Whereas, the success of the Organization has depended upon the full military and political cooperation and confidence among the member nations;

Whereas, NATO has preserved the interests of international peace and stability for 38 years and has provided a credible framework for maintaining the East-West military balance;

Whereas, recent bilateral and unilateral decisions and actions by both Turkey and Greece have heightened tensions and eroded the basis for NATO cooperation;

Therefore it is resolved that it is in the interest of the Alliance that members accomodate their differences within a political framework that enhances coordinated action;

That it is in the interests of the United States to promote a resolution to the escalation in the tension between two valued partners within the Alliance;

That the Secretary of State should dispatch a senior U.S. official to both nations to consult on possible solutions to differences that diminish the strength of the overall NATO arrangement;

That the Senate supports the Secretary of State encouraging the Secretary General of the United Nations to renew and strengthen efforts to find a solution to the tensions between Greece and Turkey;

That the United Nations proximity talks have provided contact between parties and a constructive basis for negotiations aimed at a comprehensive and good faith solution to the Cyprus problem;

That any resolution to the differences must address the questions of level of military forces on Cyprus, security of passage, property and persons in Cyprus;

That international organizations have made a valuable contribution to the resolution of territorial disputes and should be encouraged to participate in the solution of matters in the Aegean Sea.

● Mr. McCONNELL. Mr. President, over the August recess, I had the opportunity to visit Turkey and Greece, two important partners in the NATO alliance. I had a wide range of meetings in each country addressing bilateral trade and foreign relations issues. I was deeply impressed by the reservoir of good will toward the United States, especially in light of events in the gulf. I left both countries with a clear sense of the strength of our bilateral ties.

I found my conversations with the leadership in Greece and Turkey especially interesting when I thought about the neighborhood that these two nations live in. Surrounded by Albania, Bulgaria, the Soviet Union, Iran, Iraq, and Syria, Greece and Turkey obviously have critical roles to play in the balance and promotion of NATO's security interests.

Mr. President, I could speak at length about the individual contributions that both Greece and Turkey have made to the strengthening of the NATO alliance. However, what brings me to the floor today is not their contributions but their troublesome conflicts.

Earlier this year, these two partners in NATO were on the brink of war. I look back over newsclips of this confrontation and am astonished by the degree of hostility expressed by two countries who are partners in a pact which commits them to "promote stability and well being in the North Atlantic area and (states that they are resolved) to unite their efforts from collective defense and for the preservation of peace and security."

In the midst of this dispute over oil drilling rights in the Aegean, we were caught in the crossfire. The United States was asked to suspend operations at one of our naval communications facilities near Athens and operations as other installations were threatened. Mr. President, this is not the first time Turkey and Greece have faced off in the Aegean, and unless we make an effort and take some action, I do not think it will be the last.

I have no intention to point fingers at who the guilty party is in this continuing crisis. Both nations have engaged in an ongoing rhetorical war that seems to periodically be punctuated with actual outbursts of hostilities. While I am mindful that others have dedicated their considerable diplomatic skill to settling this dispute with marginal result, I think the time has come to try again. With the Soviets attempting to expand their sphere of influence beyond Afghanistan and Syria, and as tension in the gulf rises, I think we can not afford to have these strains within our own ranks—within our NATO family.

The success of NATO has depended upon the full military and political cooperation of the member nations. Turkey and Greece host valuable military installations that play a key role in strengthening the training, capabilities and forward defense of the alliance. NATO has preserved the interest of international peace and stability for 38 years and provided a credible framework for maintaining the East-West military balance. Although NATO is certainly not trouble free, I believe that it is extremely damaging and dangerous for a situation to exist where it is more likely that there will be a conflict within the alliance than between the alliance and the Warsaw Pact.

I firmly believe that it is in our interests to refresh our effort to promote a dialog between Turkey and Greece. Recently Prime Minister Papandreou and Prime Minister Ozal have exchanged a series of private messages that mark a new beginning to the negotiation process. To the greatest extent possible we should build on this undertaking.

I am submitting a resolution today which addresses the urgent need to promote understanding and dialog between Turkey and Greece. This sense of the Senate resolution clearly outlines the contentious issues that must be on the table if any durable solution is to be achieved. The resolution recommends that the Secretary of State dispatch a senior diplomat to both countries to consult on possible solutions to the tensions. It also recommends that we reinforce the Secretary General's efforts to find common ground for resolving the problems on Cyprus.

Mr. President I do not believe that there is any quick or easy solution to the differences that separate Turkey and Greece. But, I know that if we don't apply ourselves, if we don't press the case for a negotiated, peaceful resolution to the tension between these two partners, we will surely be condemning to a slow, debilitating death the entire alliance and the principles of peace and security that anchor it. I thank my colleagues for their attention and ask them to consider this issue with the concern that I think it deserves.●

AMENDMENTS SUBMITTED

FARM CREDIT ACT AMENDMENTS

INOUYE (AND OTHERS) AMENDMENT NO. 1210

Mr. INOUYE (for himself, Mr. EVANS, Mr. MELCHER, and Mr. MCCAIN) proposed an amendment to the bill (S. 1665) to amend the Farm Credit Act of 1971 to ensure the continuation of the Farm Credit System as a source of agricultural credit at fair and competitive rates; to increase farmer and rancher participation in the Farm

Credit System; to restore the impairment of borrower stock in the Farm Credit System institutions; to reform the lending practices of the Farm Credit System; to require forbearance on and restructuring of certain high risk and nonaccrual loans; and for other purposes; as follows:

On page 292, line 5, insert the following before "If": "The government of any Indian tribe having jurisdiction within an Indian reservation may revise the order of priority in which the lands shall be offered for purchase or lease by the Secretary, and may restrict the eligibility for such purchase or lease to persons who are members of that tribe, Indian corporate entities that are authorized by the tribe to lease or purchase lands within the boundaries of that tribe's reservation, or limit the eligibility for such purchase or lease of such lands to the Indian tribe itself."

INOUYE (AND EVANS) AMENDMENT NO. 1211

Mr. INOUYE (for himself and Mr. EVANS) proposed an amendment to the bill S. 1665, supra; as follows:

On page 293, line 22, strike out "subparagraphs" and insert in lieu thereof "subparagraph".

On page 293, beginning with line 23, strike out all through page 294, line 12.

On page 294, line 13, strike out "(E)" and insert in lieu thereof "(D)".

BOREN AMENDMENT NO. 1212

Mr. BOREN proposed an amendment to the bill S. 1665, supra; as follows:

On page 361, in line 5, strike out "subsection" and insert in lieu thereof "subsections".

On page 362, strike out line 19 and insert in lieu thereof "tions.".

On page 362, insert the following before line 20:

"'(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.'".

PRESSLER (AND DASCHLE) AMENDMENT NO. 1213

Mr. PRESSLER (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 1665, supra; as follows:

On page 365, between lines 3 and 4, insert the following new section:

SEC. 803. WAIVER OF ANNUAL RENTAL PAYMENT LIMITATION UNDER THE CONSERVATION RESERVE PROGRAM TO ASSIST CERTAIN OWNERS AND OPERATORS.

Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may waive the limitation contained in paragraph (1) in any case in which—

"(A) a State is a new owner of land subject to a contract entered into under this subtitle;

"(B) the State continues such contract under the same terms and conditions as such contract; and

"(C) the State has acquired the ownership of such land pursuant to a financing program of benefit to owners and operators of farms and ranches that is carried out in a manner determined by the Secretary to be appropriate and consistent with this subtitle."

Redesignate the succeeding section in title VIII, and all references thereto, accordingly.

BOREN AMENDMENT NO. 1214

Mr. BOREN proposed an amendment to the bill S. 1665, supra; as follows:

On page 137, beginning in line 13, strike out ", or an employee of the Department of the Treasury as designated by the Secretary".

On page 137, beginning in line 17, strike out ", or an employee of the Department of Agriculture as designated by the Secretary".

On page 137, beginning in line 20, strike out ", or a Board member or employee of the Federal Reserve System as designated by the Chairman".

LEAHY (AND LUGAR) AMENDMENT NO. 1215

Mr. LEAHY (for himself and Mr. LUGAR) proposed an amendment to the bill S. 1665, supra; as follows:

On page 287, between lines 13 and 14, insert the following new paragraphs:

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member subject to the provisions of section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time."

On page 287, line 14, strike out "(3)" and insert in lieu thereof "(4)".

On page 289, between lines 11 and 12, insert the following new subsection:

(a) CLASSIFICATION OF PROPERTY.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Secretary on the date of enactment of the Farm Credit Act Amendments of 1987) that is farmland, as being suitable for meaningful farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for loans but who have not yet received such on the date of enactment of the Farm Credit Act Amendments of 1987;

"(B) offer suitable land at a price no higher than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or cause to be published three consecutive weekly announcements at least twice annually of the availability of such farmland in at least one newspaper that is widely circulated in a county in which the land is located until the property is sold.".

On page 289, line 12, insert "(b) DISPOSITION AND LEASING.—" before "Section 335(e)".

On page 294, between lines 17 and 18, insert the following new paragraph:

(3) in subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into logical parcels of land, the value of which shall not exceed the individual loan limits as prescribed under section 305.".

On page 294, line 18, strike out "(3)" and insert in lieu thereof "(4)".

On page 313, line 7, strike out "section" and insert in lieu thereof "sections".

On page 322, line 3, strike out the quotation marks and the second period.

On page 322, between lines 3 and 4, insert the following new section:

"SEC. 354. TARGET PARTICIPATION RATES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) GROUP POPULATION.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) RESERVATION AND ALLOCATION.—

"(1) RESERVATION.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) ALLOCATION.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) REPORT.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) Definition.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to the individual qualities of such."

BENTSEN AMENDMENT NO. 1216

Mr. BENTSEN proposed an amendment to the bill S. 1665, supra; as follows:

On page 365, between lines 3 and 4, insert the following new section:

SEC. 803. ELIGIBILITY OF CROPLAND TO BE PLACED IN THE CONSERVATIVE RESERVE.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(g) For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subtitle, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary prevented the land from being planted to the commodity during the crop year.".

Redesignate the succeeding sections in title VIII, and all references thereto, accordingly.

BENTSEN (AND OTHERS) AMENDMENT NO. 1217

Mr. BENTSEN (for himself, Mr. Gramm, and Mr. Sanford) proposed an amendment to the bill S. 1665, supra; as follows:

On page 182, strike out lines 6 through 17 and insert in lieu thereof the following:

"(a) Amount of Stock Purchase.—

"(1) In general.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.10(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit association or a Federal land bank association, 13 percent of assets.

"(2) Reallocation.—The district board of a district, subject to the unanimous consent of the bank and associations within the group that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability to pay of the banks and associations, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) A district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by Production Credit Associations among such associations and the district Federal Intermediate Credit Bank; and reallocation of the amount of stock required to be purchased by Federal Land Bank Associations among such associations and the district Federal Land Bank. Other reallocations than those enumerated above shall not be permitted.

Beginning on page 182, strike out line 23 and all that follows through page 183, line 2, and insert in lieu thereof the following:

"(c) Notice.—Not later than 15 days after the retirement of the obligations of the Capital Corporation under section 6.10—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a).

On page 183, lines 4 through 6, strike out "the Financial Assistance Corporation notifies each System institution" and insert in lieu thereof "each System institution is notified".

BURDICK (AND SANFORD) AMENDMENT NO. 1218

(Ordered to lie on the table.)

Mr. BURDICK (for himself and Mr. Sanford) submitted an amendment intended to be proposed by them to the bill S. 1665, supra; as follows:

On page 270, before line 7, insert the following new sections:

"SEC. 408. RIGHT TO SUE; JURISDICTION; STANDING.

"Title IV of the Farm Credit Act is amended by adding a new part I as follows:

" 'PART I—RIGHT TO SUE; STANDING

" 'Sec. 4.90. Right of Action; Jurisdiction; standing—(a) Subject to subsection (c), any person shall have the right to sue—

" '(1) any institution of the Farm Credit System for violation of—

" '(A) any duty, standard, or limitation prescribed under this Act and owing to that person;

" '(B) any order issued by the Farm Credit Administration with respect to any such duty, standard or limitation owing to that person; and

" '(2) the Farm Credit Administration for a failure to perform any act or duty prescribed under this Act to the extent that it is not discretionary.

" '(b) The United States district courts shall have original jurisdiction, without regard to the amount in controversy over any action brought under subsection (a).

" '(c) Any person shall have standing to sue under this section if such person suffers legal wrong or is aggrieved or adversely affected by the violation or violations on which the suit is based.

" '(d) This section shall not affect the right any person may have under this Act, any other statute, or the common law to sue any institution of the Farm Credit System or the Farm Credit Administration.' ".

Mr. BURDICK. Mr. President, I have an amendment to offer today, on behalf of myself and Senators Sanford and Fowler. This amendment deals with the right for a person to sue the Farm Credit System and Farm Credit Administration.

This amendment is made necessary only because the House, in their Farm Credit bill, included a right to sue provision that actually restricts the right to sue.

Currently, any person has the right to sue these two entities. However, the House provision arguably limits this right to borrowers of the System. This restricts rights of persons who are not yet borrowers, or who are former borrowers, to sue.

My amendment simply clears up this problem and restores the rights to all persons, whether borrowers or not.

My amendment also gives persons the right to sue in Federal court. This does not create additional litigation, as some will argue, but only gives the option of suing in Federal court.

Mr. BOREN. Mr. President, I have listened with interest as my good friend and colleague from North Dakota has explained the purpose of his amendment. I have certainly a high degree of sympathy with the principles that he has set forth.

It has been our hope since we have carefully crafted this legislation in the committee that we not reopen this matter at this time. However, I am told that the House has unduly restricted the right of the borrower to bring suit and that that is the proposal that is in the House bill. It would be my thought, and I have also discussed this with Senator Leahy, and Senator Lugar will speak for himself, that we would oppose that House provision in the conference committee. That would have much the same effect as the adoption of the Burdick amendment would have without our attempting to write the actual language of the amendment here on the floor at this time.

I wonder if the Senator might consider withholding the actual offering of this amendment with the understanding that the Senate conferees would oppose the House amendment in the conference.

Mr. BURDICK. The proposal of the Senator is very acceptable.

Mr. BOREN. I thank my colleague, and I believe the Senator from Indiana also has the same view.

Mr. LUGAR. Mr. President, I would confirm the understanding that the distinguished Senator from Oklahoma and I have, the distinguished author of this amendment. We will in fact oppose the House amendment in conference. We understand the problem, and we would appreciate the Senator's not pursuing this amendment on this occasion with that assurance.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

ARMSTRONG (AND GRAMM) AMENDMENT NO. 1219

Mr. ARMSTRONG (for himself and Mr. Gramm) proposed an amendment to the joint resolution (H.J. Res. 404) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; as follows:

At the end of the joint resolution, add the following:

Sec. 2. (a) Repeals.—Each of the following provisions of law is repealed:

(1) Section 217 of the National Housing Act.

(2) The fifth sentence of section 221(f) of the National Housing Act.

(3) Section 244(d) and the last sentence of section 244(h) of the National Housing Act.

(4) The last sentence of section 245(a) of the National Housing Act.

(5) The second sentence of section 809(f) of the National Housing Act.

(6) The second sentence of section 810(k) of the National Housing Act.

(7) The second sentence of section 1002(a) of the National Housing Act.

(8) The second sentence of section 1101(a) of the National Housing Act.

(b) Amendment.—The first sentence of section 2(a) of the National Housing Act, as amended by the first section of this joint resolution, is amended by striking out "and not later than December 16, 1987".

(c) Credit Limitation.—Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974) which is provided by this joint resolution shall be effective only to such extent or in such amounts as may be approved in appropriations Acts.

FARM CREDIT ACT AMENDMENTS

FOWLER (AND OTHERS) AMENDMENT NO. 1220

Mr. FOWLER (for himself, Mr. Burdick, Mr. Grassley, Mr. Sanford, Mr. Durenberger, Mr. Boren, and Mr. Conrad) proposed an amendment to the bill S. 1665, supra; as follows:

Beginning on page 256, strike out line 16 and all that follows down through the end of line 7 on page 258 and insert in lieu thereof the following:

"(1) the present value of interest income and principal foregone by the bank or association in carrying out the restructuring plan;

"(2) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

"(3) whether the borrower has presented a restructuring plan and cash-flow analysis taking into account income from all sources proposed to be applied to the debt and all assets intended to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

"(4) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.".

On page 253, line 23, strike "of family farmers".

On page 254, beginning in line 15, strike out "who are family farmers".

On page 254, in line 23, strike out "who is a family farmer".

On page 255, beginning in line 11, strike out "who is a family farmer".

Beginning on page 260, strike out line 15 and all that follows down through the end of line 4 on page 262.

On page 262, in line 5, strike out "(5)" and insert in lieu thereof "(4)".

CHILES (AND DOMENICI) AMENDMENT NO. 1221

Mr. CHILES (for himself and Mr. Domenici) proposed an amendment to the bill S. 1665, supra; as follows:

On page 169, line 19, insert "other than that described in paragraph (5)," after "institutions,".

On page 171, between lines 17 and 18, insert the following new paragraph:

"(5) Repayment by System Institutions.—

"(A) In general.—Subject to the other provisions of this paragraph, institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) Time of payment.—Institutions of the Farm Credit System shall commence making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to commence making such payments until the obligations issued under paragraph (d)(1)(C) have been fully repaid.

"(C) Terms of payments.—

"(i) In general.—Institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would result in jeopardizing the financial viability of any such institution.

"(ii) Limitations.—Institutions of the Farm Credit Systems shall not be required to make such repayments—

"(I) in a manner that shall impair the stock of such institution; or

"(II) in a manner that shall jeopardize the minimum capital requirements of the institution.

"(iii) Uncollateralized obligation.—Obligations to make repayments under this section shall not be required to be collateralized.

"(D) Regulations.—The Farm Credit Administration, after consulting with the Secretary of the Treasury, shall issue regulations governing—

"(i) the determination of the financial viability of System institutions;

"(ii) the time for payment of interest on the debt obligations issued under subsection (a);

"(iii) the amount of the payments made pursuant to this subection; and

"(iv) the terms and conditions of such payments."

MELCHER (AND OTHERS) AMENDMENT NO. 1222

Mr. MELCHER (for himself, Mr. Burdick, and Mr. Harkin) proposed an amendment to the bill S. 1665, supra; as follows:

Amendment No. 1222

On page 269, strike out line 23, and insert in lieu thereof the following: "the last known address of the former borrower.

"'(h) The rights provided in this section shall be in addition to any such right of first refusal under the law of the state in which the property is located.'"

On page 293, strike out line 10, and insert in lieu thereof the following: "tribe.

"'(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the state in which the property is located.'"

On page 312, line 23, strike out "subsection" and insert in lieu thereof "subsections".

On page 313, strike out line 3, and insert in lieu thereof the following: "stead property.

"'(g) If a conflict exists between any provision of this section and any provision of state law relating to the right of a borrower to designate for separate sale, or to redeem, part or all of the real property securing a loan foreclosed on by the lender, such provision of State law shall prevail, unless the provision of this section affords greater protection to the owners of real property than is afforded by such provision of State law.'".

FORD AMENDMENT NO. 1223

Mr. FORD proposed an amendment to the bill S. 1665, supra; as follows:

Amendment No. 1223

On page 282, between lines 13 and 14, insert the following new section:

SEC. 602. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans, made, insured or guaranteed under this subtitle, except that the outstanding amount of the loans due may not exceed the total value of the collateral used.".

SANFORD AMENDMENTS NOS. 1224 THROUGH 1227

Mr. LEAHY (for Mr. Sanford) proposed four amendments to the bill S. 1665, supra; as follows:

Amendment No. 1224

On page 286, between lines 16 and 17, insert the following new section:

SEC. 605. PLANTING AND PRODUCTION HISTORY GUIDELINES.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331D (as added by section 604 of this Act), the following new section:

SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

"The Administrator of the Farmers Home Administration shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or state yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by declared natural disasters.

Redesignate the succeeding sections in title VI, and all references thereto, accordingly.

AMENDMENT No. 1225

On page 310, line 15, insert ", except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period" before the semicolon.

AMENDMENT No. 1226

On page 308, line 19, insert before the comma "who meets the eligibility requirements of subsection (c)(1)".

On page 308, line 18, strike the word "may" and insert the word "shall".

AMENDMENT No. 1227

On page 253, lines 1 and 2, strike out "arrange for such a independent appraisal" and insert in lieu thereof "present the borrower with a list of three appraisers approved by the appropriate lending institution, from which the borrower shall select an appraiser to conduct the appraisal".

On page 311, line 25, add after the period the following new sentence: "The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.".

On page 321, line 5, strike out "arrange for the independent appraisal" and insert in lieu thereof "present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal".

BURDICK AMENDMENTS NOS. 1228 THROUGH 1230

Mr. LEAHY (for Mr. BURDICK) proposed three amendments to the bill S. 1665, supra; as follows:

AMENDMENT No. 1228

On page 349 in line 21 strike "Notwithstanding" and insert in lieu thereof: "(a) Notwithstanding".

On page 350, after line 3, insert the following new subsection:

" '(b) At the time of application for a loan, originators shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 10 days of such notice, an applicant has the right to refuse to allow the loan to be pooled thereby retaining those rights given persons under applicable state laws and under sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7, if applicable.' "

AMENDMENT No. 1229

(1) On page 270, strike line 1 and insert the following new sections:

"SEC. 405. ADDITIONAL COLLATERAL.

"Title IV of the Act is amended by adding a new section as follows:

" 'No institution of the Farm Credit System may—

" '(1) require any borrower to provide additional collateral to secure the loan if the borrower is current in the payment of principal and interest on the loan; or

" '(2) bring any action to foreclose, or otherwise liquidate, any loan as a result of the failure of a borrower to provide additional collateral to secure a loan if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.'

"SEC. 406. ACCESS TO DOCUMENTS AND INFORMATION.

"Section 4.13A of the Act is amended by striking the period at the end thereof and inserting in lieu thereof: 'and copies of each appraisal of the borrower's assets made or used by a bank or association, other than a bank for cooperatives.'.

"SEC. 407. TRANSITIONAL AUTHORITY.".

AMENDMENT No. 1230

At the appropriate place in Title VIII, insert the following:

"Section 5.5 of the Act is amended by inserting before the period at the end thereof the following:

" 'Provided, That no director may receive compensation under this section during any year in a total amount exceeding $15,000.' ".

HEFLIN AMENDMENTS NOS. 1231 AND 1232

Mr. LEAHY (for Mr. HEFLIN) proposed two amendments to the bill S. 1665, supra; as follows:

AMENDMENT No. 1231

At the appropriate place, add the following new section:

SEC. . APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 438. APPLICATLION OF UNINSURED ACCOUNTS.

"(a) IN GENERAL.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect prior to the date of enactment of the Farm Credit Act Amendments of 1987), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, immediately prior to the capital depletion or insolvency of such institution, be applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) REGULATIONS.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

AMENDMENT No. 1232

On page 362, line 19, insert the following: However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

LEAHY (AND LUGAR) AMENDMENT NO. 1233

Mr. LEAHY (for himself and Mr. LUGAR) proposed an amendment to the bill S. 1665, supra; as follows:

On page 324, line 1, through page 359, line 22, strike out "credit enhancement" wherever it appears and insert in lieu thereof "guarantee".

On page 236, line 12, insert before the semicolon the follwing: "that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage".

On page 338, line 20, insert "voting" before "common".

On page 338, line 22, insert "voting" before "common".

On page 338, line 25, insert "voting" before "common".

On page 339, line 10, insert "voting" before "common".

On page 339, line 20, insert "voting" before "common".

On page 340, line 9, insert "voting" before "common".

On page 340, between lines 11 and 12, insert the following new subsections:

"(e) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board of Directors of the Corporation from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation.

"(f) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board of Directors of the Corporation from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred stock shall be entitled to such rate of cumulative dividends and such holders shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.".

On page 543, strike out line 2 and all that follows through line 7 and insert in lieu thereof the following new subsection:

"(a) GUARANTY AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation shall guaranty the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guaranty has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

"(3) POWER OF CORPORATION.—Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages the constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.".

On page 349, line 14, after the period add the following new sentence: "In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans which are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.".

On page 354, line 18, insert "other than the Corporation" before the period.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. **BUMPERS**. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place December 10, 1987, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC. Because the subcommittee has already held a field hearing in New Mexico on this measure, only administration witnesses will be asked to testify.

The purpose of the hearing is to receive testimony on the following measure currently pending before the subcommittee:

S. 850, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.

Those wishing information about submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Tom Williams at 224-7145 or Beth Norcross at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, December 2, 1987, to conduct a mark-up of: pending nominations; S. 1519, the Doby-Robinson Gold Medal Act; S. 1829, the Lasker Gold Medal Act; H.R. 2631, Bureau of the Mint authorizations; and, H.R. 515, the Credit Card Disclosure Act.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, December 2, 1987, to continue hearings on S. 1886, the Financial Modernization Act of 1987, and, S. 1891, the Financial Services Oversight Act.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SUBCOMMITTEE ON INNOVATION, TECHNOLOGY AND PRODUCTIVITY

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Small Business Committee's Subcommittee on Innovation, Technology and Productivity be authorized to meet during the session of the Senate on Wednesday, December 2, 1987, to examine the problems confronting small manufacturing firms in automating their facilities.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, December 2, to conduct a hearing on the Environmental Protection Agency's post-1987 ozone and carbon monoxide policy.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Wednesday, December 2, 1987 to hold a hearing on Senate Concurrent Resolution 76, to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, December 2, 1987, to receive testimony from Senators on proposals to amend the Standing Rules of the Senate—Senate Resolutions 274, 276, 277, and 309.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL HIGHWAY ADMINISTRATOR RAY A. BARNHART

● Mr. **GARN**. Mr. President, I rise today to recognize the public service accomplishments of Ray A. Barnhart, who has worked for 7 years as the Federal Highway Administrator. Ray will be stepping down from this post at the end of this year.

As Administrator of the Federal Highway Administration, Ray Barnhart was and is a public figure of national stature, overseeing a $14 billion-a-year Federal-aid highway program. Despite the heavy demands on his schedule, Ray was never too busy to listen to the desires and concerns of private citizens, like my constituents throughout the State of Utah, who use and depend on the highways every day.

When Ray took office in 1981, 702 miles of the Interstate System in Utah were complete. Today, thanks to Ray's untiring efforts, another 126 miles of interstate are open, and 88 percent of the Utah system is now ready for travel. By 1991, we will close the final gaps on I-70 and I-215, thus fully completing Utah's Interstate System 2 years ahead of schedule.

My constituents also are familiar with Ray's work in times of tragedy. In 1983, mud slides devastated the small town of Thistle, UT, forcing the closure of the city's main highway, Route 6, and the town's only railway. But, thanks in large measure to Ray Barnhart's efforts, both the rail and highway arteries were open and operating in 6 months.

Similarly, Ray has provided valuable assistance to protect Utah's highways near the Great Salt Lake. In 1983, the lake level rose some 12 feet and threatened to destroy a large section of I-80 that lies immediately south of the lake. Ray's leadership and concern for the safety of the traveling public yielded a regrading of over 15 miles of I-80 that prevented the rising waters from consuming the road. In recent years, these rising waters have continued to provide a constant concern to Utah transportation officials and the local residents. I have appreciated Ray's sincere understanding and willingness to assist the State on this issue that has enabled Utah to avert any potential crisis in the State's transportation system.

In my opinion, Mr. President, Ray Barnhart has always displayed a commonsense approach to transportation issues, particularly as they relate to the needs of Utah and the West in general. For example, he was a vocal and early supporter of efforts to allow States the right to raise the speed limit on rural interstates from 55 to 65 miles per hour. He wasn't advocating a mandatory increase in the speed limit, but Ray believed, as I did, that States should have the right to determine in which areas the limit should be raised. Safety on our highways is a State as well as a Federal issue, and Ray has espoused this philosophy during his tenure as Administrator.

Ray Barnhart will be stepping down from his post as Federal Highway Administrator at the end of this year. This is a position which he has held longer than any other individual. However, Ray will long be remembered not for his length of service, but for the quality and common sense of that service to the Nation and the people of Utah. I commend him for his work and diligent service as the Federal Highway Administrator.●

CENTRAL AMERICA

● Mr. WILSON. Mr. President, the situation in Central America is of deep concern to many in this body. The presence of a Soviet-aligned client state in Nicaragua poses a direct threat to the national security of the United States and its democratic allies in the region. It is now vital that the United States take an active role in protecting its vital interests in the American hemisphere.

Only with strength and persistence can we assure that Nicaragua fulfill the promises it made the OAS in 1979. Accordingly, I ask that the following article by Mr. Victor Krulak be printed in the RECORD, as it highlights the importance of the United States in assuming a leadership role in Central America.

The article follows:

THE ISOLATION OF THE UNITED STATES

(Victor H. Krulak)

On August 3, 1914, the steamship *Cristobal* made the first ocean-to-ocean transit of the Isthmus of Panama. The Great Canal, the largest single engineering project the world had yet seen, was complete. With that completion, the United States came of age.

The canal united two halves of a continent. It contributed materially to the effectiveness and profitability of the nation's inter-coastal commerce, and it served as a powerful strategic weapon in two world wars. The United States made the waterway available to everybody. As a result, its free and untrammeled use literally shrank the size of the globe, benefiting nations both large and small.

In 1922, Vladimir Lenin offered a prescient strategic judgment concerning the worth of the Panama Canal, declaring that "control of this jewel of the Western Hemisphere is an essential to the march of socialism." To all of the commissars who followed him, Lenin's strategic imperative became an article of faith, a key element of the Kremlin's global design.

The Soviet aspirations were subsequently advanced by three major developments that united to cause the Kremlin to reach far beyond the Panama Canal and make the conquest of all of Central America a prime aim. The first of these events was the 1960 overthrow of Cuban dictator Fulgencio Batista, followed by the installation of Fidel Castro's Marxist regime and the establishment—permanently, it now appears—of a major Soviet military presence in Cuba.

Over the ensuing quarter-century Cuba, as a totally dependent Soviet client state, has become the most formidable military power in the Western Hemisphere, after the United States. Some $1.5 billion worth of Soviet arms per year have provided the Cubans with an army of over 230,000, with 780,000 reserves; an air force comprising first-quality Soviet MiG-23, 25, and nuclear capable MiG-27 aircraft; a navy of missile-firing surface ships and conventional submarines; plus a respectable logistic system.

However, the physical magnitude of the Cuban military is less significant than its operating philosophy which, responding to Soviet guidance, is overwhelmingly imperialistic. With almost 50,000 troops deployed overseas, Cuba serves as a dynamic surrogate for the Soviet acquisitive program. And nowhere is that imperial mandate more clearly visible than in Latin America.

President John F. Kennedy foresaw the threat to the hemisphere of a powerful and emboldened Cuba, as well as the threat of a set of Soviet bases on the island, and he made these two concerns the centerpiece of his confrontation with General Secretary Nikita Khrushchev. Removal of the Soviet nuclear missiles from Cuba was Kennedy's first priority, followed closely by a determination to curb the spread of Communist subversion into Latin America. He announced: "The United States is determined to prevent, by whatever means, including the use of arms, the Marxist-Leninist regime in Cuba from extending its aggressive or subversive activities to any part of this hemisphere."

This was a resolute pronouncement, admitting of no misinterpretation. In making it, Kennedy was benefiting from a multiple advantage subsequently enjoyed by none of his successors—strong bipartisan political support and substantial military superiority over the Soviets. Khrushchev knew that Kennedy meant business and backed off. The two leaders then exchanged letters confirming that we would not invade Cuba if the Soviets withdrew all offesnsive weapons from the island and if the Cubans agreed not to conduct "aggressive or subversive activity in any part of this hemisphere."

The agreement did not endure for long. In the following decade, taking advantage of the U.S. preoccupation with Vietnam, the Soviets brazenly flouted the Kennedy-Khrushchev agreement, built their formidable base in Cuba, and, with the Cubans, launched a widespread campaign of subversion in Central America. We did nothing about it. As a result, today we have a full-blown crisis in our hemisphere.

From their Cuban bases, Soviet forces are now in a position to dominate the Windward Passage and the Atlantic approaches to the Panama Canal, a strategic advantage that was strengthened by a second major development, the 1978 ratification by the U.S. Senate of two treaties with the Republic of Panama. The first treaty provided for a gradual takeover by Panama of the canal and Canal Zone, to which we had been granted "use, occupation and control" in the Panama Canal Treaty of 1903. The second accord provided that the canal shall be "neutralized" after the year 2000.

Our act of voluntary surrender of this great strategic asset, along with all rights to the U.S. bases required for its defense, has been rendered more critical by the uncertain nature of Panama's leadership. Gen. Manual Antonio Noriega, the country's strongman, came to power by violence. He is openly accused of political murder, vote fraud, drug dealing, and money laundering. He proclaims himself a close friend of Castro and of Daniel Ortega, Nicaragua's president, who visited Panama City in late June of this year.

Under pressure from conservative elements at home, the Noriega regime adopted the official stand that Panama's troubles stemmed from "the North American enemies of our country in collusion with . . . subversive radical sectors of the Panamanian right."

Meanwhile, Noriega moved rapidly toward establishing full diplomatic relations with the Soviet Union. A procession of Panamanian legislators have visited Moscow since late 1986. Noriega's political party, the Democratic Revolutionary Party, joined the Socialist International in December of that year, and Aeroflot began regularly scheduled flights to Panama on January 6, 1987. The evidence is manifest: Noriega's government has a growing fraternal, political, and economic relationship with the Soviets.

These factors have greatly enhanced the prospect of achieving Lenin's aim respecting control of the Panama Canal. That strategic program, however, has now become just a part of the larger Soviet aspiration so feared by Kennedy—the projection of Marxist-Leninist subversion into other areas of the hemisphere, particularly Central America.

A third development that has encouraged the Soviets to move aggressively in the area is the widely applauded effort by Central American countries to replace oppressive dictatorships with open, democratic societies dedicated to human rights and individual dignity. Ten years ago, only Mexico and Costa Rica, in this region, had a tradition of elected civilian authority. All of their neighbors, long sufferers from social injustice and maldistribution of national income, were governed by military men who had come to power through the use of force, rigged elections, or both.

In the ensuing decade, military regimes in Guatemala, El Salvador, and Honduras have been toppled and replaced by embryonic democratic governments, a development described by Brazilian President Jose Sarney as "the most stunning and moving political fact of recent years."

Because of their determination to seek freedom and democracy, all of these countries have become targets for Soviet-Cuban mischief. In El Salvador, for example, elections in 1982, 1984, and 1985 had to be held under the hazard of widespread violence from Marxist guerrillas—armed, supported, and guided by Cubans. Honduras and Guatemala also had to make their transition in the face of externally generated subversive action.

During the same period, the oppressive military dynasty of Anastasio Somoza was unseated in Nicaragua, with results well-known to the world. Most of the leaders of the anti-Somoza movement were determined that its successor regime would become a true democratic government, an aspiration that was completely thwarted by the Sandinista junta—hard-core Leninists advised and supported by Cuba and the Soviet Union.

Today there is no shred of democracy in Nicaragua. Freedom of speech, press, worship, and movement are put aside, as are all vestiges of political freedom. Trade unions and human rights agencies are harassed. Government wire-tapping, telephone bugging, and seizure of mail are now legal, as is imprisonment without stated cause.

Sandinista Nicaragua, beneficiary of $1.5 billion in Soviet aid, has the most potent military force in Central America—a 75,000-man army, 350 Soviet tanks, a dozen powerful Mi-24 helicopter gunships, a hundred long-range howitzers, and over 100 modern combat aircraft. Training is conducted under the watchful guidance of some 8,000 East bloc and Cuban advisers, and pilots and key technicians are trained in Bulgaria and East Germany. But, just as in the case of Cuba, the potential of Nicaragua as a Soviet base exceeds the formidable importance of its armed forces or even the physical threat those armed forces pose to its weaker neighbors.

The Soviets are developing a powerful military infrastructure on Nicaragua's west coast. There is a growing naval installation at San Juan Del Sur and a major air base at Punta Huete, with an 11,000-foot runway, revetments, and maintenance buildings, all capable of accommodating Soviet intercontinental bombers. When these are completed they will provide a counterpart, on the Pacific side of the Central American isthmus, to the existing Soviet air and naval bases in Cuba on the Atlantic side. Literally, they will have a strategic air/sea vise on the Panama Canal, one which we will be hard put to oppose militarily because, by treaty, we will have relinquished our military bases in the Canal Zone. If, someday, we were obliged to fight for the canal, it would have to be from bases in the continental United States or from our fleets at sea.

The Soviet military penetration of the hemisphere has been paralleled by corresponding social, economic, and political programs aimed at insinuating its influence into the affairs of the Central American countries that are struggling to enter the democratic world. The Soviet Union has sought to create a pro-Soviet atmosphere by establishing large diplomatic and cultural missions in the various capitals, which it has proceeded to use as convenient bases for espionage. It is giving 7,500 scholarships a year to Central American students for study in bloc countries while, at the same time, nourishing and encouraging local Communist parties to cause unrest and disruption. And it is making progress on every front.

Concurrently, the Soviets are pursuing a program of economic warfare to weaken these small struggling nations, using the guerrilla energies of their Cuban and Nicaraguan surrogates in campaigns against transportation, power, and communications. The economic offensive has been successful. The entire Central American area is now depressed. Its economic growth has dropped from 8 percent per year, a decade ago, to zero. Unemployment as high as 50 percent and inflation over 100 percent have created exactly the atmosphere for revolution sought by the Soviets. It is refugees from this condition that we are seeing in such great numbers at our border today.

The foregoing recital does not describe a succession of unpremeditated events that the Soviets had the perception to recognize and exploit. In a broader sense, it portrays the fruits of a coordinated campaign, one which has acquired powerful momentum and for which the Soviets are dictating both the strategy and the timing.

Their campaign stands in stark contrast to our own uncertain behavior in facing the same set of circumstances. With respect to the Panama Canal, at the time of the 1977 negotiations with the Republic of Panama, preference polls disclosed that a substantial majority of the American people (78 percent) opposed any action that would result in loss to the United States of full authority and control over the canal. Despite this popular sentiment, the Carter administration negotiated the treaties that surrendered control of the strategic waterway and then succeeded in accumulating the advice and consent of sixty-eight senators who, according to Adm. Thomas Moorer, former chairman of the Joint Chiefs of Staff, "had no concept of the long-range implications of these treaties on the security and prosperity of the United States." Here was further evidence that the people have an instinct that outstrips the judgment of the politicians whom they have elected.

Where other areas of Central America are concerned, our leadership has been equally reactive. It was not until the momentum and coordination of the energetic Soviet program became clearly evident that the 1983-1984 bipartisan commission on Central America was created and directed to advise on "a long-term United States policy that will best respond to the challenges of social, economic and democratic development in the region and to internal and external threats to its security and stability." It will be noted that the stated charge of the commission was to propose a policy "that will best respond"—a reaction to crisis circumstances that we, in our dilatory uncertainty, had allowed to grow.

With regard to Nicaragua, our behavior has exhibited a scenario of uncertainty, ambivalence, and indecision. Openly supportive of the overthrow of Somoza, we were reluctant to abandon the revolutionary Sandinista junta long after their true character as Marxist-Leninists became manifest. As late as 1981 they received 21 percent of all U.S. aid to Central America ($38.7 million).

Later, when the president asked for funds to support the anti-Sandinista Contras, the Congress gave a classic display of confusion, uncertainty, and micro-management. From December 1982 to October 1986, in four variations of the so-called Boland amendment, the lawmakers successively prohibited military aid to the Contras, permitted limited military aid, prohibited military aid, and then permitted humanitarian aid. Finally, they repealed the Boland amendment in its entirety.

The Sandinistas have been consequently emboldened by our uncertain actions. We have warned the junta that we would react vigorously if they persisted in enlarging their military strength. Their strength has grown, but we have done nothing beyond giving off-and-on support to the Contras. We have dabbled timidly in the murky waters of compromise—the "Contadora Formula" and the "Arias Plan"—in the face of the historical certainty that unenforced compromise is a Lorelei option when dealing with Communists. And we have carried water on both shoulders in giving support—sometimes overt, sometimes in secret under CIA control—to the anti-sandinistas while still maintaining diplomatic relations with the arrogant and cocksure junta in Managua.

The plain truth is that we have forfeited the initiative in Central America, a strategically critical area that has traditionally been a U.S. sphere of influence. However, our having given up the initiative does not, by any means, foreclose its recapture, understanding that the price of such belated action is certain to be high.

At the very outset, redress of this hemispheric crisis must be undertaken in the context of broad diplomacy—actions on our part in every sector of the international arena that make clear the certainty of escalating costs to the Soviet Union and Cuba if they persist in the destabilization of Central America. Whether focused on economic relationship, international finance, or their political aspirations in Cambodia, Afghanistan, Angola, Ethiopia, the Horn of Africa, or the Persian Gulf, our actions should transmit a clear message: "Imperialism in Central America is going to be costly to you elsewhere." And, above all, what we do should reflect a sense of consistency and determination.

Where actions within Central America are concerned, the conclusions of the National Bipartisan Commission on Central America are a good point of departure. Considering the speed with which the commission worked and the disparate nature of its composition, its proposals were both sound and respectable. The plan's overall strategy is to:

Support democratic processes and institutions by backing free and competitive elections, the administration of justice, technical training, and the development of leadership skills;

Stop declines in income, employment, and economic activity by providing major balance-of-payments support;

Build the foundation for long-term economic growth by supporting improvements in economic policy and the infrastructure needed for efficient production and diversified exports;

Assure the widest possible distribution of the opportunities and benefits of growth by helping to create jobs and improve health, education, and housing for the poor; and

Provide military assistance to create a shield to protect democratization and growth.

The programs flowing from the commission's proposals are good. They cover the full spectrum of what is needed to see stability, tranquility, and plenty in Central America, other than Nicaragua. And they have already shown modest progress. But programs, to be effective, need energy, momentum, and consistency. And they need the assurance of continuity in funding. In some of these areas the implementation has been inadequate.

In terms of funding, the commission's proposal contemplated a five-year effort totalling $8.9 billion. The programs have already fallen $750 million short of the three-year target, due to the uncertain behavior of Congress. Overall bilateral assistance to the area was cut by 20 percent between 1986 and 1987. In economic assistance, Costa

Rica, for example, was reduced 21 percent during that period, despite a constant growth in need. Military assistance in the area was reduced by about 7 percent. Guatemala, in great need of military hardware to meet a subversive guerrilla threat, has been foreclosed of such help because of congressional dissatisfaction with the human rights situation in the country.

The commission recommended that scholarships be provided for education in the United States of ten thousand Central Americans from non-elite backgrounds. The responsive program, however, has been funded at a level that has put fewer than a third of that number in training. And nothing further need be said on the subject of congressional uncertainty in our funding of the Nicaraguan resistance.

The lesson here is that a program aggressively and consistently pursued, even if in some respect flawed, transmits a positive message to everyone, friend and foe alike. That is what we have not yet done in Central America. That is what we must do.

The emerging countries of the region need to see comprehensive, dependable, long-range, non-military initiatives following the Bipartisan Commission guidelines, extending to social programs, education, health, and economics—a true Marshall Plan for Central America. On the military side they need the assurance of an adequate supply of modern hardware, consistent with their individual requirements. Each country should have its program of training for key military leaders and technicians in the United States, along with the assurance that we have neither the desire nor the intention to flood them with on-the-spot advisers. And we must make clear that we do not intend to come and fight their battles for them.

Where Nicaragua is concerned, the greatest need is to show them and their Soviet masters the same kind of U.S. unity and resolve that the White House and the Congress exhibited in the 1962 Cuban Missile Crisis. A unified national conviction—something they have not yet seen—should result in several positive actions, all aimed at achieving a major change in the nature and orientation of the Nicaraguan government.

First we should openly provide certain, continued, and enlarged arms, equipment, and humanitarian support for the Contras. Next, we should marshal every available economic stricture to create problems for the Sandinista leadership and financial burdens for their Soviet patrons. And we should terminate our hypocritical diplomatic relationship with Managua.

Finally, to underscore our position, we should make an open announcement that we will give our enthusiastic support to any "peace" plan for Nicaragua that ensures verifiable free elections, freedom of speech and press, freedom of movement, freedom of worship, respect for human rights, and a total withdrawal of foreign military advisers.

Turning finally to Panama, the geostrategic crisis that began this essay, the American people of 1987 owe their children a richer legacy than the melancholy confession that a national asset was given away by our generation, with neither reason nor prospect of benefit. This mischievous disservice to the nation needs to be reversed before it is too late.

Acknowledging that the policymakers, planners, and negotiators who designed this violence to our destiny did not contemplate the prospect of the canal falling into the hands of an uncertain, irresponsible, and hostile government, we are now justified in taking a strong and fresh stand that will protect our national interests. Specifically, we should announce that our acquiescence to the treaty in 1978 was predicated on the Republic of Panama being a free, democratic, stable, open, and friendly country. It is none of those things today.

We should therefore announce that until those conditions are established without any question, abandonment of our military bases in the zone and relinquishment of our control over the canal will be indefinitely in abeyance.

That forthright Monroe Doctrine-type action is certain to be followed by a fire storm of complaint, protest, and condemnation from everyone whom the Soviets can influence. However, in light of the stakes involved, the vilification will be well worth taking. That is so because it will do far more than just discharge an obligation to succeeding generations of Americans.

In addition, it will create a respectful understanding, by friends and enemies alike, that the United States is still alive and unified and that it possesses the courage to stand firm for what it believes.●

THE ABM TREATY

● Mr. WILSON. Mr. President, this year the Senate engaged in a lengthy debate on the interpretation of the ABM treaty. Many of us spent hours on the floor reviewing the history of the treaty, establishing a full record of the events surrounding the negotiations and ratification of this agreement.

Subsequently, Mr. Raymond Garthoff wrote an article in the Washington Post of September 20 entitled, "The Making of the ABM Uproar." In it he makes a series of specific and detailed references to Mr. William Harris of the Rand Corp.

Mr. Harris attempted to respond to Mr. Garthoff's allegations by writing the Post to set the record straight. Unfortunately, his views were not of interest to the Post and were never printed.

For this reason, Mr. President, I ask that Mr. Harris' letter to the Washington Post be printed in the RECORD. I sincerely hope that this in some small manner will serve to complete the public record on this issue.

The letter follows:

OCTOBER 14, 1987.

TO THE EDITOR, THE WASHINGTON POST: Raymond Garthoff's rendition of the history of the re-examination of the ABM treaty ("The Making of the ABM Uproar," Sep. 20) exhibits no greater care than was exercised in efforts to incorporate restrictions on future-type systems in the ABM treaty.

The first identification, in print, of the limited coverage of Agreed Statement D is not the writing of Donald Brennan, who opposed ratification of the ABM treaty. In 1973, a visiting professor at Yale, Dr. Harry G. Gelber of Australia, indicated that what is now called Agreed Statement D could not restrict systems that do not exist. Gelber indicated that deployment of future-type systems might breach the "spirit" but not the specific limitations of the ABM treaty. Dr. Gelber published in *Europa-Archiv*, No. 6, 1973. He was not opposing the ABM treaty, merely pointing to its limitations.

The Committee Print of the February 26, 1987 hearings of the House Foreign Affairs Committee on the ABM Treaty and SDI indicates that in 1976 the General Counsel of ACDA, James L. Malone, and I reviewed ABM treaty negotiating records to ascertain whether Agreed Statement D did actually prohibit deployment of future-type systems. We concluded that the U.S. had a solid basis to claim that deployment was prohibited, but also that the imprecision of the actual treaty instruments might provide the Soviets an excuse to deploy under a claim of right.

In 1977, it was Dr. Abraham S. Becker of RAND who challenged the Garthoff assertion that development of mobile, future-type systems was prohibited by the ABM treaty. I was one of several who commented on what Dr. Becker wrote before he published it. Based on my review of ABM treaty records, I could not recall any legally binding foundation for Dr. Garthoff's claims in 1977, as now. Dr. Becker sought to anticipate possible Soviet claims to develop mobile ABM systems or components. Neither he nor I sought to undermine the ABM treaty.

It is sheer fantasy for Dr. Garthoff to claim: "The election of Ronald Reagan gave Harris the chance he had been looking for . . . in the course of this work [in early 1981] on ABM Treaty compliance, Harris raised the question of ABM Treaty interpretation. . ."

I have worked on arms control policy since the Woods Hole Summer Study of 1962. I reviewed ABM treaty instruments during both Ford and Carter administrations. Though I had the opportunity to revisit the scope of Agreed Statement D in 1981, there was no reason to do so, and I did not do so. ACDA records of this period were available to the State Department Legal Adviser when he published his more accurate account of subsequent ABM treaty practice in September 1987, indicating reassessment in 1985 not 1981. A different ABM treaty interpretation issue arose in 1981. It related to highly probable Soviet concurrent testing of ABM and air defense components. This raised concerns, then as now, that the Soviets were developing a nationwide ABM capability.

My task in 1981, as in 1983-84 for a Presidential commission, was to review the scope of compliance and noncompliance with arms control treaties and executive agreements. The purpose was to better understand what arms control had and had not accomplished, and to identify areas where new agreements might be feasible pending restoration of compliance with treaties that the Soviets had violated.

Hence, in 1982 I worked on proposals to modernize the Washington-Moscow "Hot Line," preceding agreement in June 1984. Also in the fall of 1982, I performed the initial assessment mandated by legislative initiative of Senators Nunn and Warner regarding a joint US-USSR Risk Reduction Center in Geneva. I proposed as a more feasible alternative the establishment of two separate, linked centers in Washington and Moscow. After further changes and extended negotiations by others, the Secretary of State and Soviet Foreign Minister signed an agreement to establish these Centers in September 1987. Despite misgivings regarding possible missile limits with the very treaty party that has violated SALT II missile limits and the ABM treaty, I have worked on treaty instruments relating to Intermediate Nuclear Forces, so that any resulting treaty is less vulnerable to disregard of its duties and its object and purpose. Dr. Garthoff's account implies, unfairly, that I have been looking for opportunities to undermine arms control commitments.

My review of the ABM Treaty's restrictions on future-type ABM systems in January 1985 responded to an unsolicited request by a Deputy Under Secretary of Defense. After the Soviets had refused to halt construction of the Krasnoyarsk radar following repeated U.S. requests, it was prudent to consider as I did in early 1985: (1) whether the U.S. had unexercised rights to develop mobile ABM systems and components under the ABM treaty; and (2) whether the U.S. national security required suspension of the ABM treaty in whole or in part if Soviet violation of the treaty persisted.

At my suggestion, the Department of Defense commenced reassembly of ABM treaty negotiating records. My review of these records in March 1985, and far more extensive reviews by Defense Department officials and the State Department Legal Adviser in 1985-87 indicate that the Soviet delegation effectively blocked the commitment that Dr. Garthoff and others of the U.S. delegation sought.

The debate on the floor of the Senate indicates that none of the 88 senators who affirmatively voted to ratify the ABM treaty and indicated a reason for so voting expressly relied on claims that future-type mobile systems could not be developed. If some Senators were misled during committee hearings, Dr. Garthoff and Mr. Rhinelander bear some responsibility for advising witnesses that limitations rejected by the Soviets had been obtained. A mistaken claim of limitations beyond that achieved does not extend the scope of a treaty, which is essentially a contract between two sovereign states.

The ABM treaty did not prohibit any nation from exercise of its inherent right of self defense. It restricted, but did not eliminate the means of exercising that right. Soviet negotiators were careful to obtain U.S. agreement that the Article II ABM system definitions would not apply to future-type systems, before they would agree to a side agreement that became Agreed Statement D. They kept open the option of developing mobile ABM systems in the future. To impose for all time a prohibition upon mobile ABM systems and components is to make a first strike more feasible as weapon systems become more accurate and smarter. To ban only U.S. development of mobile ABM components, while the Soviets deploy mobile radars and interceptors that may already have some ABM capabilities, is irresponsible.

To restrict U.S. but not Soviet ABM development rights by Act of Congress would both undermine the President's capacity to defend the nation and restrict the President's negotiating options as he seeks major reductions in strategic offensive weapons. Will the Congress rise above election year temptations to undercut the President if he vetoes legislation imposing these unilateral restrictions?

WILLIAM R. HARRIS.

PACIFIC PALISADES, CA.●

THE WONDERS OF CHRISTMAS IN NEW MEXICO

● Mr. DOMENICI. Mr. President, New Mexico has something for everyone. It is truly a tourist's delight, offering visitors the opportunity to experience three cultures living in harmony while sharing a landscape that is as beautiful as any in this Nation.

On each of the past 2 Sundays, the New York Times has recognized the exciting qualities of New Mexico in articles that appeared in that newspaper's travel section.

The first, which appeared a week ago, is entitled, "What's Doing in Albuquerque." The answer is, lots.

The article discusses a variety of festivals and dances that are scheduled between now and Christmas, as well as a number of interesting sites for the visitor, such as the Old Town area of Albuquerque and the prehistoric petroglyphs on the west mesa.

The second article, which appeared 3 days ago, is "In New Mexico, Pinon Fires and Pueblo Dancers." This article focuses upon the many Indian dance festivals that will occur throughout the Christmas season. The article provides specific information on what the visitor can do to attend any of these modern interpretations of rituals that extend back many centuries.

Mr. President, I am proud of what New Mexico has to offer our visitors, particularly at this time of year. In New Mexico, we offer a culture where the very cutting edge of scientific achievement lives in harmony with the ancient. It is a culture where Anglos and Hispanics and Indians share the very best that life has to offer.

I am pleased that the New York Times carried these two exciting articles. To give my colleagues an opportunity to learn more about the wonders available in New Mexico, I ask that a copy of each of these two articles be printed at this point in the RECORD.

The articles follow:

[From the New York Times, Nov. 22, 1987]

WHAT'S DOING IN ALBUQUERQUE

(By Jeanie Puleston Fleming)

After travels in greener climes, flying back into Albuquerque always gives a high-desert dweller a feeling that must parallel the thrill of a landlocked sailor suddenly whisked to the oceanside and offered a boat.

The broad, see-forever view is there again, in New Mexican shades of ocher, beige and gray-brown, particularly in late fall; even the city below—bounded by the sharp rise of the Sandia Mountains on the east and the volcano-studded mesa on the west, modestly melts into the bare-bones landscape. The Rio Grande wends brown, placid and treelined, south through the valley under a clean sweep of turquoise sky, and the low-slanting winter sun throws land contours into hard focus.

On the ground, that first whiff of crisp, dry air goes to the head like bubbly fizz, creating an elation that compensates for the minor inconveniences caused by the present construction upheaval at the airport.

On sunny days in November and December, Albuquerque can masquerade as one of those balmy Southwestern spots that winter simply ignores. But come a cloud or evening and the truth is out, along with the sweaters and parkas.

At an average altitude of over a mile, the city turns brisk, then downright chilly when the sun's rays weaken and fade. Despite an abundance of sunshine, Albuquerque is a four-season city, with a pleasantly warm-to-hot summer, a long, gradual autumn, a definite, but sun-mellowed winter and a quirky, often brutally short spring.

In late fall, the faint perfume of pínon smoke signals the shifting seasons—as does a frequent brown haze, partly a result of cool weather temperature inversions that allow auto emissions, dust and other particles to hang in the air on crisp mornings. Cool, cloudy days and snow are also possible in the last two months of the year, though most of the average annual 10-inch snowfall usually waits for the new year.

Shorter, colder days and longer nights also lead into the winter holiday season, a time of year when New Mexico's tricultural nature heightens the festivities with overlapping and even mixing of Indian, Spanish and Anglo traditions.

SEASONAL EVENTS

The Christmas season is a prime time to see Indian dances in nearly all of the 19 pueblos in Albuquerque and around the state. Some dances are scheduled only a few days in advance. To confirm dates and times, call the Eight Northern Pueblos Council (505-852-4265), the Indian Pueblo Cultural Center (505-843-7270), or the individual pueblos.

Most pueblos, except Taos and Acoma (admission $2 to $3) do not charge entry fees, but there is usually a fee of about $5 for a camera, when permitted, in pueblos, as well as for sketching or tape recording. Visitors may go by car or join a tour such as those arranged by Jack Allen Tours (505-266-9688) or Okupin Tours (505-867-3817). The Albuquerque Visitors Bureau (800-321-6979) has a list of recommended tour operators.

One of the earliest, and perhaps the most impressive dance, one that many Albuquerqueans drive the 170 miles to witness, is the all-night Shalako ceremony, held at Zuni Pueblo (505-782-4418) south of Gallup in the western part of the state. This year the event has been scheduled for Dec. 5, with the public part of the ceremonies beginning about 2 P.M. and continuing through the cold night until early afternoon of the next day. The Albuquerque Y.W.C.A. has organized a bus tour to Zuni for Skalako; for reservations (about $45) call 505-266-9922.

Another Christmas dance, the "Nutcracker," though far from Indian in origin, has become an annual tradition. This year's five performances by the Southwest Ballet Company and the New Mexico Symphony Orchestra are on Nov. 27, 28 and 29 at Popejoy Hall on the University of New Mexico campus. Tickets are $9 to $16. The orchestra with chorus also presents Handel's "Messiah" on Dec. 4, 5 and 6 at different locations. For performance times and reservations call 800-251-6676.

On Nov. 28 Santa Claus officially enters the city as part of the annual Christmas parade with floats, marching bands, horseback riders and costumed groups making a midday march through the town.

"The Farolitos of Christmas," a bilingual play based on a children's book by Rudolfo Anaya, explains the origin of luminarias. It will be presented Dec. 11 at 10 A.M., 12:30 and 8:30 P.M. and Dec. 12 at 2 P.M. and 8 P.M. in the KiMo Theatre, 423 Central NW. Tickets are $4 to $6; call 505-242-7929 for reservations.

Also at the KiMo, the New Mexico Repertory Theater presents an adaptation of "A Christmas Carol" Dec. 16 to 27 at 8 P.M, (Sundays at 2 P.M.). There are no performances Dec. 21 and 25. Tickets are $5 to $18.50; for reservations call 505-243-4500.

For children there are puppet shows in Old Town in the tiny theater at 328 San Felipe Saturday and Sunday at 2 P.M. Admission is $3, children $2.50; for information, call 505-243-0208. And at the zoo on Dec. 20 from 2 to 4 P.M. there will be a living nativity and activities for children.

Admission is $2 to $4; for information, call 505-766-7802.

NEIGHBORHOODS

As home to some half-million people, crossroads of two Interstate highways, site of the state's major university, airport and military base, as well as a center for art, finance, commerce and research, Albuquerque is New Mexico's Big City. But even so, the wide-open landscape all around is an ever-present reminder that, out west, the land still dominates.

And despite the numbers, Albuquerque often seems less a city than a collection of small-town neighborhoods that just happen to have sprung up in close proximity. From the cottonwood-shaded plaza of Old Town—founded by the Spanish in 1706—to the determinedly modern steel, glass and concrete of several blocks downtown, from the rambling riverside streets in the valley to the precisely laid-out housing developments of the Northeast Heights, the city presents distincly different faces.

The juxtaposition of old and new adds an extra piquancy to tourist visits. Downtown, the carefully restored KiMo theater and La Posada hotel provide pockets of a smaller, more intimately styled past, and on some mornings you can stand among million-year-old chunks of volcanic lava inscribed with prehistoric petroglyphs on the west mesa (Petroglyp State Monument, open 9 A.M. to 5 P.M. daily; $1 a car) and watch bright blue, red and yellow hot air balloons drift over the steel and glass of a contemporary urban center.

Or you can also try the view from a balloon yourself. World Balloon Corporation (505-293-6800) and Beautiful Balloons (505-344-7334) are two of the companies that offered 45-minute rides for about $100 to 125 a person, with reservations.

Another century-hopping experience is a visit to the ruins of Kuaua pueblo at Coronado State Mounument, about 20 miles north of the city center; there are extraordinary kiva paintings and a view of the Rio Grande backed by Sandia Crest much as Coronado may have seen them when he wintered here with his goldseekers in 1540-41; afterwards, you can drive about half an hour east to the base of the Sandias on Tramway Boulevard and let the big car lift you 2.7 miles to the top of the crest for a wide-angle view of the city below and the ski area on the mountain's back slopes (daily trips from 9 A.M. to 9 P.M.; $9) Call 505-298-8518 for tram information, and Sandia Peak Ski Area at 505-242-9052 for Ski conditions as soon as snow depth permits opening (lift tickets are $21).

By the first week in December, greens, luminarias and Christmas colors are in evidence all over town, perhaps nowhere as photogenically as in Old Town, where the Plaza also hosts informal seasonal performances daily.

The luminarias—called farolitos farther up the Rio Grande—that line the walks and outline rooftops at night during the season are a custom dating from Spanish Colonial days. Each luminaria is a paper bag with an inch or so of sand in the bottom to hold a squat candle.

At private homes, the little lamps are often set out to welcome party guests, long after the holiday season. At Christmas, when lit by the hundreds, the effect adds a welcoming, festive air to the city, culminating in a Christmas Eve display with thousands of soft, flickering lights outlining the plaza of Old Town and the nearby homes of the Country Club residential area.

Many local people choose to walk around to view the display, but others drive or take police-escorted bus tours, such as the city bus Sun Tran tours for $5 (call 505-843-6262 for reservations) or the Albuquerque Trolley Company tours for $10 (505-242-1407) or Tours of Enchantment for $12.50 (505-842-5228).

WHERE TO STAY

People here are justifiably proud of La Posada de Albuquerque, downtown at 125 Second Street (505-242-9090 or 800-621-7231). The hotel, built by Conrad Hilton in 1939, has been beautifully restored in Spanish-New Mexican style to combine a sense of history and place with comfort. Double rooms, usually $88, are being offered for $59, with cocktails and breakfast, during November and December.

Its location at 800 Rio Grande Boulevard in Old Town makes the Sheraton Old Town (505-843-6300 or 800-237-2133) a favorite with visitors. Double rooms are $84 to $92.

Connected by an underground passage to the Convention Center downtown is the Regent (505-247-3344 or 800-545-4444) at 201 Marquette, where the lobby is always lavishly hung with greens for the season. Rooms for two are $75 to $85.

EATING OUT

New Mexicans have a fondness for green chili, which, along with tortillas and cheese, is essential to the regional cuisine. A few places serving New Mexican food are Duran's Pharmacy, popular for lunch, at 1815 Central (505-247-4141), where enchiladas ($4) or huevos rancheros ($3.80) are served at the bar behind the working pharmacy, and nearby Monroe's at 1520 Lomas NW (505-242-1111), which has enchiladas for about $5 a plate, lunch or dinner. M.&J. Sanitary Tortilla Factory (403 Second Street NW; 505-242-4890) produces tortillas in the very early morning, then welcomes diners from 9 A.M. to 4 P.M. Blue corn enchiladas ($4.20) or carne adovada burritos ($3.25) are favorites; factory tours are free.

Tucked into a walkway off 400 San Felipe NW in Old Town, Catalina's Mexican Restaurant is open from 8 A.M. to 8:30 P.M. A tamale plate is $4.75, and chile relleno is $5.75. Next door, La Crêpe Michel offers a change of pace, such as la crêpe aux fruits de mer ($9.75) or la crêpe aux fraises ($2.95). Open 11:30 A.M. to 2 P.M. and 6 to 9 P.M. (505-242-1251).

Favored lunch spots include Sara's (3109 Central SE; 505-256-7272), with an uncluttered décor and health-conscious menu (trout with pecan sauce $7.95) and the Artichoke Cafe (424 Central SE; 505-842-8740), where lunch for two generally runs about $25. The Quarters (905 Yale SE; 505-843-7505) is known for its barbecue (ribs, $9.95). The Corrales Inn, in the north valley, serves hearty fare in a cozy dining room (Normandy chicken, $10.50), and has several bed and breakfast rooms out back for $50 to $75.

[From the New York Times, Nov. 29, 1987]

In New Mexico, Piñon Fires and Pueblo Dancers

(By Richard Erdoes)

On Christmas Eve at the San Juan pueblo in northern New Mexico, every family puts up a small pile of logs in front of their home. As the sky darkens over the pueblo, the wood is ignited into fires called luminarias. Dancers known as Matachines appear, in many-colored silk capes and streaming ribbons, led by a blanket-draped figure holding a cross. Amid pulsating flames and clouds of white smoke, the dancers throw fantastic shadows on the adobe walls, as the silent crowd of Indians look on.

Christmas in the Santa Fe area is a time when the sweet smell of burning piñon wood is in the air and the nights are brightened by luminarias and by farolitos, candles burning in paper bags. In the Indian pueblos, Christmas is a time of ceremonies, dancing and feasting.

The Matachine, described by one anthropologist as a "midwinter drama from Iberia," is the dance most often seen. Of medieval Hispanic-Moorish origin, it was brought to Central America and the Caribbean by the Spaniards and, in 1598, crossed the Rio Grande into New Mexico. Introduced to the Pueblo Indians by Franciscan friars as a counter to the "devilish, heathen" ceremonial dances of the Indians, it was quickly adopted by the Pueblos as an integral part of their rituals.

On Christmas morning the Matachine dance is repeated in the San Juan pueblo, which is about a half-hour drive north of Santa Fe. The dance can be better studied in full daylight. There are always 10 dancers, two masked clownlike figures called arbuelos, Toro the bull, and Malinche, a little girl dressed in white communion clothes. Music is provided by one fiddler and one guitar player.

Each dancer wears a headdress that is shaped like a bishop's miter, decorated with silver and turquoise ornaments and adorned with a feather on each side. From the top and back of the headdress flutter long multicolored ribbons, and over the dancers' shoulders are draped blue, pink and green shawls of shining silk.

In one hand the Matachines carry a three-pronged wooden wand, which they wave back and forth in rhythm with the music. In the other hand they hold a gourd, which rattles softly. The dancers' faces are hidden by black eye-fringes and silk bandanas worn "bandit style" over nose and mouth. The Matachines' leader, called Monanca, is distinguished by his fully beaded Plains Indian vest and special miter topped with a small crucifix.

Malinche, named after Cortés's famous Indian interpreter and companion is usually played by a girl about 10 years old, wearing a white dress and white deerskin moccasins and leggings, a sparkling diadem upon her head. As she daintily performs her dance patterns, Malinche represents goodness and purity.

Her opposite is Toro the bull, played by a boy with a horned buffalo headdress. He supports himself on two sticks, his "forelegs." As Malinche stands for chastity, the little bull represents violence and lust.

As the Matachines weave back and forth in parallel lines, the two arbuelos, carrying long whips, do a little clowning and untangle the dancers' ribbons whenever needed.

In the San Juan version of the dance, a gunshot is heard, and the little bull is "killed" and falls down dead. Thereupon he is promptly "castrated" by the Arbuelos who then look for some unsuspecting woman or girl to whom to feed the imaginary "mountain oysters."

Some years at Taos, instead of the Matachines, the antlered deer dancers appear. The deer dancers perform with a stick in each hand to signify front legs. The pueblo will not decide which dance takes place this year until mid-December.

The Taos Matachines dance around a 15-foot-high pole reminiscent of European Maypoles. Long sashes, fastened to the pole's top, are wound and unwound as the Matachines dance around it against a background of snowy mountains and the ancient, two- and three-story complex of connected adobe houses.

At Santa Clara, about 20 miles north of Santa Fe, the Matachines perform to music that includes drumming and the singing of ritual pueblo songs. Also to the north of

Santa Fe, in San Ildefonso, the Matachines alternate with buffalo dancers while Santa Claus in his traditional red outfit and white beard looks on.

In Santo Domingo, some 35 miles south of Santa Fe, dances go on uninterrruptedly for four days, beginning on Christmas with a children's dance. At San Felipe, about five miles farther south, dancing takes place on Christmas Night inside the old church and can go on until 4 A.M.

The chances are good of seeing a Buffalo Dance at Jemez Pueblo on the 25th. At Tesuque, instead of Matachines, there are always animal dances such as the snowbird, buffalo or the plains-style Comanche dance.

On Dec. 26 the turtle dance is performed at San Juan. It is a winter solstice dance featuring the appearance of two masked figures whose real identity is never revealed. The Matachine dance may be photographed, but taking pictures of the turtle dance is absolutely forbidden because of its great sacredness.

Dances are also performed in most pueblos on New Year's Day, turtle or tablita Dances at Cochiti, Taos and Zia. On Jan. 6, Ephiphany, also known as the Day of the Holy Three Kings, is celebrated by dances at half a dozen pueblos in which participants dress as various animals or eagles.

The Sahlako at Zuni is considered the most spectacular and impressive of all Pueblo dances. The pueblo, 40 miles south of Gallup, is more than 200 miles west of Santa Fe. The dance takes place 40 days after the October New Moon (actually, on the Saturday closest to that date). This means that the Shalako usually occurs early in December (Dec. 5 this year), sometimes as early as Thanksgiving.

The Shalako, a re-enactment of Zuni mythology, is a very sacred ritual, a blessing of homes, a welcoming and feasting of the spirits of the dead. Among the dancers cavort the scared clowns called Koyemshi. The most impressive among the dancers are the Shalako, messengers of the rainmakers, who appear as 10-foot-high figures, wrapped in white blankets with black, red and green bands at top and bottom and wearing bird-like heads. The figures are manipulated from the inside by a long pole, a task demanding great skill and stamina.

The Shalako enter a number of homes, which have been newly built or refurbished in their honor, festively decorated for this occasion. An abundance of food is waiting for all comers—the gods, the Zuni people, Navajo, Hispanic and Anglo visitors. Swaying and dipping, the Shalako weave back and forth while the Koyemshi perform their antics; ludicrous yet full of hidden meaning, as chanting and the sound of drums fill the night.

At dawn of the next day, the Shalako set out on a ritual race as the crowd watches in admiration as well as in apprehension. If a Shalako should stumble and fall it would be looked upon as a bad omen, but that never happens.

Before going to see Indian ceremonies it is always a good idea to make a call to the office of the Governor of the pueblo you want to visit in order to find out which kind of dance will be performed on a given day. Dances usually last from early morning until about 4 P.M. Northern New Mexico is high country and it can be very cold or unseasonably mild. Warm clothes, a thermos of hot coffee or tea, and, perhaps a folding chair for comfort are recommended. Pueblo hospitality is warm and, if lucky, you might be invited into a home to sample a spicy chili stew or a bowl of posole. Never bring any alcoholic beverages, as pueblo law forbids it.

You may want to visit several different villages on Christmas Day in order to see a variety of rituals. This can be easily done by selecting a group of pueblos close to each other—for instance, San Juan, Santa Clara, San Ildefonso and Tesuque in one group, or Santo Domingo, Cochiti, San Felipe, Zia, Jemez and Laguna in another. Centuries-old Acoma, situated on 600-foot-high rocks, rates a visit all by itself for the view of it and the vista seen from it.

There is, of course, also the Hispanic Navidad. On Dec. 20, a traditional miralce play called Las Posadas, depicting Joseph and Mary in search of an inn that will admit them, takes place in front of and inside the candlelit Cathedral of San Felipe de Neri on Albuquerque's Old Town Plaza. Another folk drama, Los Pastores, re-enacts the story of the shepherds eager to adore the Holy Child. It is performed at the 350-year-old San Miguel Mission in Santa Fe.

On Christmas Eve, midnight Masses in Santa Fe, Albuquerque and Ranchos de Taos end with outdoor torch or candlelight processions. It is also customary to walk or ride through Santa Fe's older streets to enjoy the glow of innumerable farolitos garlanding walls and rooftops.●

INFORMED CONSENT: ILLINOIS

● Mr. HUMPHREY. I rise in support of informed consent for women considering abortion. No medical procedure, especially one as serious as abortion, should be done without the patient first knowng all about the risks, effects, and alternatives. And yet, in clinics across the Nation, women are consenting to abortion without first being told the facts. That is not right.

My informed consent legislation, S. 272 and S. 273, would require medical personnel to secure informed consent from women facing an abortion decision. I ask my colleagues to support the bills, and I ask unanimous consent that four letters from women in Illinois in support of informed consent be entered into the Record.

The letters follow:

August 1987.

Hon. Gordon J. Humphrey: I have had an abortion and it was *not* what I would have chosen. The *only* person who stood by my side was the sister I was living with at the time.

My parents and doctor were only too eager to suggest it. I could have tried to raise the child myself, but at 25 years old I felt helpless in that position also.

No words could tell you how heart rendering and helpless you can feel. The pain of the abortion was horrible too. Afterwards, I couldn't look at a baby without wanting it or without crying terribly with remorse. I still do.

Fortunately I have been able to have three healthy childen within a marriage.

I would do it all differently if I could do it all again.

Thank you!

Marla Swanson,
Illinois.

June 4, 1986.

Dear Senator Humphrey: I am writing to tell you I am in favor of the new bill coming up requiring a woman to have information about abortion and its after effects on the woman. I had an abortion and was given no information and I suffered from severe depression for a good year afterwards. I believe now that it is a serious sin which comes between the woman and God.

Sincerely,

Diane Tucker,
Illinois.

June 2, 1986.

Dear Senator Humphrey: In July of 1973, I was a wife of one year with a three month old son and pregnant again. Someone suggested an abortion to be a solution to my crisis—it had just become legal. My husband and I talked it over and decided the timing was really bad for this baby and agreed to get an abortion.

At the abortion clinic we were told that it was a simple procedure, as simple as pulling a tooth, which was an ironic way of stating what was really going to happen. They also mention it was only a mass of tissue, a glob of blood, never did they mention it to be a human life. I didn't get the whole story. Like so many other women, I was told that an abortion was the solution to my problem, but I wasn't told of the consequences. The "simple procedure" was just the beginning of tons of problems. Some of them were: I became susceptible to infections; I was continuously passing blood clots and became sterile for eight years. When I finally became pregnant again, I lost my baby in the fourth month of pregnancy. None of these symptoms are uncommon after an abortion.

There are physical and emotional effects to an abortion. No one mentioned to me that I would feel guilty, unable to forgive myself, that I would have nightmares and suicidal thoughts. And how I desired to remember my baby's date of death! He would be 12 years old this July. Now I am older and I have three children living. I look at them running around the house; masses of tissue, globs of blood.

This is my story. However sad it may sound it is true. I hope that the law some day soon may be changed soon. That abortion is physically, spiritually, morally wrong.

Sincerely Yours,

Merida Ortiz,
Illinois.

June 1986.

Dear Senator Humphrey: In November of 1974, I had an abortion in a clinic in Chicago, Illinois. I was not given any counseling or alternatives.

I was told that my baby was just tissue and I was not told of the devastating aftermath that would follow my abortion.

I have since learned that my baby was already formed and felt the pain as the abortion ripped him (her) from my womb.

I became infected a few days after the abortion. The infection never left me and years later I was told that the only cure for this painful infection is a hysterectomy. I have also experienced other physical side effects.

The guilt and remorse that I felt after the abortion, plus the physical pain, has been overwhelming. I was deceived! The whole abortion experience has been a nightmare.

Sincerely,

Kathy Demma,
Illinois.●

THE MECTIZAN MIRACLE

● Mr. PELL. Mr. President, in recent months a remarkable company named Merck has developed a drug that could improve the health and well-being of millions of people in the Third World.

The miracle is Mectizan, a drug for the treatment of river blindness, one of the most devastating diseases in the developing world.

On October 12, Merck and the World Health Organization announced a joint effort in which Merck will donate the world's supply of Mectizan for distribution in 12 countries.

River blindness affects 18 million people in west and central Africa, the Middle East, and Central and South America. Transmitted by black flies, this disfiguring and debilitating disease has been a scourge on mankind since the dawn of recorded history.

Previous drugs given to combat river blindess required close medical supervision, and many victims of the disease suffered severe side effects. Living in remote areas, river blindness victims were frequently unable to receive the medical care necessitated by treatments previously available. With this latest development, however, patients taking Mectizan, which needs to be taken only once or twice a year and is well tolerated, rarely require further medical intervention. This improvement in treatment methods will dramatically affect the number of people who can be reached and saved from this terrible disease.

Mr. President, it is not all that often we get to tell about a success story. This one is especially notable because it is born out of a cooperative effort between public sector health organizations and a private sector pharmaceutical firm. This collaboration could serve as a model to combat a host of other diseases such as malaria, sleeping sickness, schistosomiasis, and others.

As chairman of the Foreign Relations Committee, and as a member of the Labor and Human Resources Committee, I commend Merck and the World Health Organization for this historic effort. Roy Vagelos of Merck must be especially applauded as the driving force behind this effort. Together, the people of these organizations seem to have truly wrought a miracle.●

MR. JUSTIN DART

● Mr. HARKIN. Mr. President, I am distressed to learn that Justin Dart, a longtime champion of the rights of people with disabilities, has submitted his letter of resignation as Commissioner of the Rehabilitation Services Administration.

Mr. Dart's thoroughly distinguished record, achieved over many years as a private citizen and more recently as Commissioner, demonstrates his ability to push aside the barriers that confront people with disabilities, establish broad-based collegial relationships with advocacy groups and service providers, initiate and execute new policy in the delivery of services to people with disabilities, and retain the respect of even those who disagree with him. His resignation is a loss to people with disabilities, their families, and those who provide services to them.

As chairman of the Subcommittee on the Handicapped, I have the highest respect for Mr. Dart and was much impressed by his testimony before the subcommittee during its October 8 oversight hearings. It was reassuring to hear him say, with enthusiasm:

> New and reinforced initiatives in areas such as supported employment, independent living, rehabilitation engineering, protection of the rights of people with disabilities, training, services for Native Americans, Projects with Industry, and recreation constitute an historic progress for the cause of people with severe disabilities.

I could not agree more.

It also was significant, especially nowadays, that he said something else with which I fully concur:

> It is important that all segments of the rehabilitation community join together in a spirit of mutual respect and complementary unity to form true partnerships for the productive independence, equality, and mainstream social participation of all people with disabilities.

As chairman of the subcommittee, I will be vigilant to assure that the policies for which he stood and the programs under the jurisdiction of the Rehabilitation Services Administration will not be impaired. I also am determined that the management-structural issues and other problems within the Department that are having an adverse impact on the delivery of services to people with disabilities will be resolved.●

NOMINATION OF SUSAN LIEBELER TO THE COURT OF APPEALS FOR THE FEDERAL CIRCUIT

● Mr. HEINZ. Mr. President, the nomination of Susan Liebeler to the Court of Appeals for the Federal Circuit is presently pending in the Judiciary Committee. I intend to oppose that nomination and want to take a few minutes to explain my thinking.

Let me first state, Mr. President, that I am not a lawyer and will leave discussions of legal fine points to those who are. My nearly 9 years on the Finance Committee, however, have given me some familiarity with trade law, and I believe I am qualified to speak with some authority as to congressional intent on trade legislation. I am also familiar with Mrs. Liebeler, since she appeared before the committee on several occasions during the process of her confirmation as a member of the International Trade Commission, and, of course, I have followed Commission activities closely during her tenure.

I opposed Mrs. Liebeler's nomination to the ITC, as did a number of other members of the committee. Based on my private meeting with her and her responses in the hearings the committee held, I concluded at the time that she was unfamiliar with trade law and appeared to have little interest in learning more about it or congressional intent with respect to it. I believed she would use her position at the Commission to advance her own ideological approach to trade issues in defiance of the law and the facts, and I believe subsequent history has proved my fears correct. I would also state my belief that had not some extraneous factors involving another vacancy at the Commission intruded, the committee would likely have rejected her nomination.

What I learned from that episode, Mr. President, is that Mrs. Liebeler is an intelligent woman of strong views who has powerful friends in the White House. The President called me—right next door in the cloakroom—to lobby personally for her nomination to the ITC, and I anticipate similar pressures will be employed this time around as well.

Nevertheless, I intend to oppose her nomination to the court, just as I opposed her previous appointment. During the Judiciary Committee's hearings on Mrs. Liebeler, a number of allegations were made regarding her temperament and past behavior. While I believe these are relevant issues for the Senate's consideration, and the allegations are damaging, my opposition is not based on them. Rather, it is based on Mrs. Liebeler's interpretation of the laws under her jurisdiction on the Commission.

To put it simply, Mr. President, I believe Mrs. Liebeler's record at the Commission is one of consistently distorting both the letter and spirit of U.S. law to suit her own ideological preconceptions, which happen not to be in the mainstream of current economic or legal thinking.

Obviously, this is a matter of judgment, and I recognize that others who have followed Commission proceedings closely may not agree with my analysis. I take comfort, however, in the fact that there are many who do share my view, although they have regrettably not been willing to come forward publicly. Indeed, one of my personal disappointments in the consideration of the nomination thus far is the refusal of many in the trade bar to address this nomination one way or the other. In a way, I do not blame them, since they will be practicing before Mrs. Liebeler regardless of the disposition of the nomination, but it is unfortunate that those with the greatest firsthand experience are so reluctant to state their views on the record.

Fortunately, for the process and the edification of Senators, there is one group that has not only conducted the most thorough investigation of any of the bar associations evaluating her record but has been both eloquent and blunt about its conclusions. I refer to the Customs and International Trade Bar Association, which found Mrs. Liebeler unqualified—I repeat, unqualified—for the position to which she has been nominated, and they have explained why in some detail. Although I intend to place the Association's entire statement in the RECORD following my remarks, I want to cite in particular one passage that reflects the essence of my concern with Mrs. Liebeler:

> A review of Mrs. Liebeler's opinions filed in antidumping, countervailing duty and unfair act (19 U.S.C. 1337) cases leads to the conclusion that Mrs. Liebeler consistently decides cases based on her belief as to what the law ought to be rather than on the basis of criteria enunciated in the statutes. This conclusion is consistent with the views of other Commissioners as reflected in their opinions in the same cases, in critiques of Mrs. Liebeler's opinions found in the opinions of other Commissioners * * * in the report of the Committee on Ways and Means * * * on H.R. 3 * * * and in the report of the Committee on Finance * * * on S. 490, as well as in published and unpublished comments of practitioners before the Commission.

Mrs. Liebeler's fondness for using "proxy" criteria as substitutes for those mandated by law exemplifies her determination to find ways to avoid having to make a decision based on the facts of the case. Despite her denials before the Judiciary Committee, Mrs. Liebeler's opinions make clear that the standard she insists on for causation in dumping and countervailing duty cases is essentially a predatory one, even though the statute does not contemplate that. Indeed, the Customs and International Trade Bar Association's investigation comes to the same conclusion.

The difficulty of meeting Mrs. Liebeler's test is reflected in the contrast of her voting record with those of her colleagues. In a study of Commission voting covering the period from April 20, 1984, to May 18, 1987, Mrs. Liebeler voted in the affirmative on final antidumping investigations 15 percent of the time in contrast with an average of the other commissioners of nearly 62 percent. On final countervailing duty investigations, Mrs. Liebeler voted affirmative 3 percent of the time, while the other commissioners' average was over 57 percent. I have never argued that statistics like these ought to be dispositive of a nominee's record, but I do think they provide a quantitative perspective on the extent to which she is out of step with her colleagues of both parties holding various points of view on trade issues.

Another point stressed by the Bar Association is Mrs. Liebeler's failure to follow court decisions when her position is overruled. Since she has been in the minority on many of her opinions, most of her positions have not been tested in court. Those that have have not fared that well; yet she demonstrates a certain tenacity to holding on even to those where she has been reversed. The Association statement provides details on this subject that I will not repeat at this time, but I want to reiterate my concern at what appears to be a willingness to ignore what everyone else—Congress, the courts, fellow commissioners, trade lawyers of all points of view—says is the law in favor of her own peculiar and quasi-analytical approach.

Mr. President, this is not a detailed analysis of my objections to Mrs. Liebeler's views. If the Judiciary Committee approves her nomination and it comes to the floor, I expect to discuss it in greater detail at that time. Right now, I simply want to alert Senators to my concern about this nomination and bring to their attention the report of the Customs and International Trade Bar Association. I ask that that document be printed at this point in the RECORD.

The document follows:

REPORT OF THE BOARD OF DIRECTORS OF THE CUSTOMS AND INTERNATIONAL TRADE BAR ASSOCIATION ON THE NOMINATION OF SUSAN WITTENBERG LIEBELER TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

INTRODUCTION

This Report is submitted by the Board of Directors of the Customs and International Trade Bar Association on the nomination of Susan Wittenberg Liebeler to the United States Court of Appeals for the Federal Circuit.

The Customs and International Trade Bar Association is a national organization, well over a half-century old, whose members are attorneys engaged in the practice of customs and international trade law. In addition to representing importers, domestic manufacturers, exporters, customs brokers, surety companies, and others before the International Trade Commission, the Customs Service, and other federal agencies, the Association's members regularly practice before the Court of International Trade and its appellate court, the Court of Appeals for the Federal Circuit.

Consequently, our members are vitally concerned with the nominees to these courts and, in fact, we perform two related but distinct functions with respect to judicial appointments. One, from time to time, we recommend, for the consideration of the Executive Branch, persons believed by us to be qualified and experienced in international trade law. Two, we endeavor to evaluate the Executive's nominees and to provide our evaluation to the Committee on the Judiciary of the United States Senate.

After having received, considered, and deliberated over the report of the Bar Association's Judicial Selection Committee and after having reviewed the reputation, writings, and qualities of Mrs. Liebeler, the Board of Directors has formed the opinion that Mrs. Liebeler is not qualified to serve as a judge on the Court of Appeals for the Federal Circuit. Specifically, the Board finds that the nominee lacks the necessary objectivity and judicial temperament. We make this finding with particular regret since Mrs. Liebeler has already acquired some experience in international trade law, a factor which ordinarily would be an asset to a nominee to the Federal Circuit.

Our Judicial Selection Committee conducted a careful and fair investigation into Mrs. Liebeler's qualifications. Mrs. Liebeler is, of course, Chairman of the International Trade Commission, an agency on which she has served since April 1984. Between 1973 and 1984, she was a law professor at Loyola Law School. The Committee conducted interviews of Mrs. Liebeler, of other Commissioners past and present, of past and present Commission personnel, of members of the former student body, faculty, and administration of Loyola Law School, and of numerous attorneys who have practiced regularly before the Commission. The Committee has also studied Mrs. Liebeler's responses to questionnaires of our Association, of the American Bar Association, and of the Senate Judiciary Committee, has reviewed the police and court records associated with her arrest in Vermont in 1973, and has interviewed the former Attorney General of Vermont who, in his capacity as State's Attorney, had filed criminal charges against Mrs. Liebeler. Judicial Selection Committee members as well as the members of this Board have studied and familiarized themselves with the written opinions and statements of Mrs. Liebeler. Additionally, Committee and Board members, by virtue of their wealth of professional experience and their continuing practice and study, are extremely familiar with the relevant statutes, case law, and administrative precedents and practices which form the body of trade law.

Our reasons for finding Mrs. Liebeler "Not Qualified" are set forth below. We will begin by discussing the comments of various Commissioners, staffers, practicing attorneys, and members of the Loyola Law School community. We will then proceed with a discussion of the decisions and opinions that Mrs. Liebeler has rendered while sitting on the Commission. Finally, we will comment on the Vermont incident.

Interviews of Commissioners, Commission Staff, and Practicing Trade Attorneys.—In its investigation, the Judicial Selection Committee interviewed all Commissioners who serve or who have served with Mrs. Liebeler on the International Trade Commission. The Committee has also interviewed numerous practicing trade lawyers and Commission staff personnel.

During those interviews, Mrs. Liebeler was repeatedly described in the following terms or language similar thereto: "Intelligent" or "Very intelligent"; "Ideologue"; "Totally lacking in objectivity"; "Prejudiced"; "Result-oriented"; "Totally unsuited for the bench"; "Temperamentally unfit" or "Unquestionably not fit" to be a judge; "She would not be a fair and objective judge"; "She does not have judicial temperament"; "She proceeds theoretically rather than by evaluating facts"; "Her judgment gets clouded by her ideals and lack of trust"; "She is unable to work with people she disagrees with"; "She disagrees with the law and does not feel constrained by the law"; "She is uncomfortable with the statutory task of the Commission which, from time to time, requires providing protection [under the antidumping and countervailing duty laws]".

One person, who expressed personal fondness for Mrs. Liebeler, opined that she "would make an awful judge—on patents [19 U.S.C. § 1337 cases], she would be overly protectionist; on antidumping and countervailing duty cases, she would craft ways to gut the statutes." She was also described as "lacking intellectual honesty", as having "knowingly reasoned improperly to avoid protection", as being "hostile" to federal employees.

On the other hand, one Commissioner opined that Mrs. Liebeler would make a "superb judge". This Commissioner stated that Mrs. Liebeler, in addition to being "extremely intelligent", "knows the law" and has "enormous ability"; she has "high standards" and has the "courage of her convictions". Also, a reputable practicing attorney, whose substantive positions Mrs. Liebeler has consistently voted against, opined that Mrs. Liebeler should be confirmed as a judge. This attorney, acknowledging her intellectual ability, expressed the opinion that Mrs. Liebeler has demonstrated great "courage" by remaining steadfast in her views in the face of intense and often shrill criticism directed toward her from numerous sources, including her colleagues, practicing lawyers, and members of Congress.

Interviews of Members of the Loyola Law School Community.—As noted, the Judicial Selection Committee conducted interviews of members of the former student body, faculty, and administration of Loyola Law School. The opinions of those persons interviewed were essentially consistent with the opinions of the vast majority of those persons interviewed of the trade law community. Thus, she was described as "Intelligent"—but, again, she was repeatedly described as an "Ideologue" or an "Ideologue enamored of economic solutions to everything"; as "Not objective"; as "Not open-minded"; as one who "prejudges issues"; as one who "could not work well with other people"; as one who "could not get along with the vast majority of the faculty and administration; as one who was "disdainful of most of the student body".

She was repeatedly described as "not a good" teacher, who had "difficulty communicating", who did not appear to like teaching, and who was unpopular with the students because of her "arrogance, impatience, and lack of clarity in the classroom".

She was repeatedly viewed as one who did not have the judicial temperament to be a judge.

COMMISSION OPINIONS

The most frequent and troubling comments regarding Mrs. Liebeler by those interviewed—that she is an ideologue lacking in objectivity and dispassionate reasoning—appear to be confirmed by Mrs. Liebeler's opinions as a Commissioner.

A review of Mrs. Liebeler's opinions filed in antidumping, countervailing duty and unfair act (19 U.S.C. § 1337) cases leads to the conclusion that Mrs. Liebeler consistently decides cases based on her belief as to what the law ought to be rather than on the basis of criteria enunciated in the statutes. This conclusion is consistent with the views of other Commissioners as reflected in their opinions in the same cases, in critiques of Mrs. Liebeler's opinions found in the opinions of other Commissioners (e.g., Commissioner Eckes in *Certain Ethyl Alcohol From Brazil*, Inv. Nos. 701-TA-239 and 731-TA-248 (Final), USITC Public. 1818 at 40-53 (March 1986), and Commissioner Stern in *In the Matter of Certain Aramid Fiber*, Inv. No. 337-TA-194, USITC Public. 1824 at 8-9 n.15 (March 1986)), in the report of the Committee on Ways and Means of the U.S. House of Representatives on H.R. 3 (the Trade and International Economic Policy Reform Act of 1987) (H.R. Rep. No. 40, Part 1, 100th Cong., 1st Sess. 127-31 (1987)), and in the report of the Committee on Finance of the U.S. Senate on S. 490 (the Omnibus Trade Act of 1987) (S. Rep. No. 71, 100th Cong., 1st Sess. 115-18 (1987)), as well as in published and unpublished comments of practitioners before the Commission.

We emphasize that this conclusion is not directed to Mrs. Liebeler's interpretations of the statutes, or to whether her opinions are "right" or "wrong". We are most mindful of the duty of an adjudicative official to interpret a statute consistently with that official's determination of the intent of the legislature, and that responsible persons will differ in their perceptions of legislative intent. In general, we accept that views expressive of such differences are not a reason to find a nominee to a federal appellate court to be unqualified.

The issue which Mrs. Liebeler's opinions raise is that she consistently rejects the guidance of the Congress as set forth in the statutes governing antidumping, countervailing duty, and unfair act cases and replaces it with decisional criteria of her own creation. Her opinions reveal that Mrs. Liebeler's biases lead her to oppose relief for domestic industry in antidumping and countervailing duty cases without considering the governing statutory criteria and to favor relief for domestic industry in unfair act cases also without considering the governing statutory criteria.

In antidumping and countervailing duty cases, the statute requires the Commission to determine whether a domestic industry is materially injured or is threatened with material injury by reason of dumped or subsidized imports. Material injury is "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7)(A). Congress has not limited the range of factors which the Commission may consider in rendering the injury determination. However, Congress has specified that the Commission shall consider (1) the volume of imports which are subject to the investigation, (2) the effect of such imports on prices in the United States for like products, and (3) the impact of such imports on domestic producers of like products. 19 U.S.C. § 1677(7)(B). Further, Congress has specified that (1) in evaluating the volume of imports, the Commission shall consider whether the volume of imports or any increase in such volume is significant; (2) in evaluating the price effect of imports, the Commission shall consider, inter alia, whether prices of dumped or subsidized imports undercut prices of like domestic product to a significant degree or prevent price increases; and (3) in examining the impact of dumped or subsidized imports on domestic producers of competing goods, the Commission shall evaluate all relevant economic factors, including the actual and potential decline in sales which those producers face. 19 U.S.C. § 1677(7)(C). Finally, Congress has specified that the Commission shall cumulatively assess the volume and effect of imports from two or more countries "of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market." Id.

Mrs. Liebeler does not follow this statutorily mandated analysis which focuses on objective economic factors. Rather, her analysis, set forth initially in *Certain Red Raspberries From Canada*, Inv. Nol. 731-TA-196 (Final), USITC Public. 1707 (June 1985), starts from the premise that the antidumping and countervailing duty laws are intended to combat predatory import practices which requires analysis of subjective intent:

"The fact that Congress referred to *unfair* price discrimination suggests to believe [sic] that Congress meant some type of predatory pricing. Predatory pricing is a form of strategic behavior in which a firm lowers the price of its product below the marginal cost of production." Id. at 14 (emphasis in original). Thus, Mrs. Liebeler reads into the statute something which cannot be found in its text—a requirement that predation be present for material injury to exist. In fact, the criteria enunciated in the statute for the determination of injury are entirely objective and do not depend on subjective considerations involving intent.

Mrs. Liebeler stated that "ideally" the Commission would gather cost of production data, but that since this is difficult to accomplish, "the Commission must look to relevant proxies." She believes that "market share and pricing trends are the appropriate subjects for examination. Although this information is not dispositive of the predation issue, large and growing market share and deteriorating price trends are necessary conditions for a predatory behavior." Id. at 15.

Because Mrs. Liebeler believes that material injury cannot exist in the absence of predatory intent, she has established criteria to govern her analysis to the exclusion of the statutorily mandated objective criteria: (1) large and increasing market share; (2) high dumping margins; (3) homogeneous products; (4) declining prices; and (5) barriers to entry to other foreign producers (low elasticity of supply of other imports).

Id. at 16. Mrs. Liebeler's consistently expressed belief is that material injury cannot exist unless at least several of these criteria are strongly manifested in a given case. Thus, in *Agricultural Tillage Tools From Brazil*, Inv. No. 701-TA-223 (Final), USITC Public. 1761 at 24-27 (Oct. 1985), she found to be legally insignificant a 15.9 percentage point increase in market share by subsidized imports, an 8.06 percent subsidy rate, and a price decline in one of two sizes of the merchandise under consideration because (1) she did not find significant barriers to the entry of other imports and (2) since the subsidized imports were priced lower than the domestic product and since "[t]he greater the difference in the price of competing the [sic] goods, the more they differ," the price difference between the subsidized imports and the domestic goods implied a lack of homogeneity between them.

In *Certain Welded Carbon Steel Pipes And Tubes From India, Taiwan, And Turkey*, Inv. Nos. 731-TA-271 through 273 (Final), USITC Public. 1839 at 51 (April 1986), Mrs. Liebeler dispensed with the statutory requirement that price undercutting be considered, stating:

"We do not generally consider the 'underselling margins' set forth in Commission reports to be particularly persuasive evidence of price undercutting or probative on the issue of causation. And we do not find the data on underselling gathered by the Commission in this case to be useful. In brief, when there are price differences we expect that they are usually explained by differences in the items compared. Rarely will all of the characteristcs of the imported product exactly match those of the domestic product. Even when products appear to be identical (e.g., a bushel of wheat), a correct price comparison would have to take into account factors other than the exchange of ownership of the product. . . . Merely comparing transaction prices and making a seat-of-the-pants judgment that the products are 'homogeneous' is not a useful exercise."

Further, in *Certain Welded Carbon Steel Pipes And Tubes From Thailand And Venezuela*, Inv. Nos. 701-TA-242 and 731-TA-252 (Preliminary), USITC Public. 1680 at 19 (April 1985), Mrs. Leibeler indicated that she believed that the Commission need not consider the criteria specified by Congress to render a material injury determination unless one of two conditions were met: either that the domestic market exhibit characteristics demonstrating that "a relatively small level of imports could result in any material injury or threat of material injury" or that there be "an import penetration ratio" of at least 2.5 percent.

Again, it is not our function to comment upon either the logic, the economic validity, or the wisdom of Mrs. Liebeler's views. It is our intention solely to provide examples of the abandonment of statutory criteria by Mrs. Liebeler in favor of the criteria which she believes the Congress should have adopted.

It has been observed in various articles and other written comments that Mrs. Liebeler has also applied a test of cumulation different from that required by statute. In brief, Mrs. Liebeler refused to cumulate the volumes, prices and impact of dumped imports with subsidized imports and refused to cumulate data relating to goods under pending investigations with like goods which were the subject of recently issued remedial orders. In this instance, we do not conclude that Mrs. Liebeler's actions were contrary to the manifest language of the statute. We note only our deep concern that her strong ideological principles and less than objective approach have once again led her to conclusions which are contrary to the expressed legislative intent set forth in the congressional committee reports and which have been rejected by the United States Court of International Trade and the United States Court of Appeals for the Federal Circuit. See *Certain Carbon Steel Products From Austria, Czechoslovakia, East Germany, Hungary, Norway, Poland, Romania, Sweden, And Venezuela,* Inv. Nos. 701-TA-225 through 234 and 731-TA-213 through 217, 219, 221 through 226, 228 through 235 (Preliminary), USITC Public. 1642 at 41-50 (Feb. 1985), and *Oil Country Tubular Goods From Canada And Taiwan,* Inv. Nos. 701-TA-255 and 731-TA-276 and 277 (Final), USITC Public. 1865 at 15-20 (June 1986). See also *Bingham & Taylor, Division, Virginia Industries, Inc.* v. *United States,* 10 CIT , Slip Op. 86-14 (Feb. 14, 1986), and *Id.* v. *Id.,* 815 F.2d 1482 (Fed. Cir. 1987).

A second category of cases in which the Commission is required to render an injury determination is unfair act cases under section 337 of the Tariff Act of 1930. This section requires the Commission to determine whether the effect or tendency of unfair methods of competition and unfair acts in the importation of articles is to destroy or substantially injure a domestic industry. 19 U.S.C. § 1337. Frequently, the unfair act complained of is infringement of intellectual property rights such as trademarks and patents.

In this type of case, apparently due to her conviction that intellectual property rights deserve automatic protection, Mrs. Liebeler rejects the Commission's obligation to make the statutory injury determination and employs a per se injury rule instead. She has stated:

"Importation of a product which infringes a valid patent will *always* affect the patent holder adversely. . . . The Commission should, therefore, employ its most lenient injury test in Section 337 patent cases.

"There is no reason why the Commission's standards in Section 337 cases should differ significantly from those used by district courts in intellectual property cases. In that forum there is strict liability for patent infringement; infringement alone justifies an injunction. . . . The construction of elaborate and strict injury tests is neither contemplated by the statute, nor does it serve any public purpose."

In the Matter of Certain Optical Waveguide Fibers, Inv. No. 337-TA-189, USITC Public. 1754 (Sept. 1985) (Views of Vice Chairman Liebeler at 1-2) (emphasis in original).

Mrs. Liebeler issued the foregoing views in September 1985, eight months after the United States Court of Appeals for the Federal Circuit had issued its decision in *Textron, Inc.* v. *U.S. International Trade Commission,* 753 F.2d 1019 (Fed. Cir. Jan. 24, 1985), wherein the court had ruled (at 1028-29):

"Contrary to Textron's assertion, section 337 does not function merely as the international extension of our patent, trademark and copyright laws. See *In-the-Ear Hearing Aids,* Tariff Commission Publ. No. 182 at 28 (July 1966). Instead, section 337 has consistently been interpreted to contain a distinct injury requirement of independent proof. Id. Congress may well have included this separate requirement in the original 1930 version of section 337 to insure that the extreme and internationally provocative remedy contemplated therein—exclusion of imports from particular countries—would be implemented only when this is compelled by strong economic reasons. See, e.g., S. Rep. No. 93-1298, 93d Cong., 2d Sess. 199 (1974); reprinted in 1974 U.S. Code Cong. & Ad. News 7186, 7331. Although the contemplated range of remedies was expanded by the Trade Act of 1974 to include "softer" sanctions such as cease-and-desist orders, Congress has never altered the statute's injury requirement. In fact, Congress expressly rejected a Nixon Administration attempt to eliminate the injury requirement in its proposed Trade Reform Act of 1973. See H. Kaye, et al., International Trade Practice § 6.05 n.1 (1984).

Mrs. Liebeler's apparent unwillingness to put aside her personal beliefs where a court has ruled against her position is shown further by her opinion in *In the Matter of Woodworking Machines,* Inv. No. 337-TA-174, USITC Public. 1979 (May 1987):

"With regard to the industry [sic: injury] issue, I note that there is evidence on the record that woodworking machines that infringe the two registered trademarks, the one common-law trademark, and the registered logo have been imported into the United States and sold to consumers. This evidence is sufficient to establish injury and tendency to injure for these industries. Similarly, there is evidence on the record that establishes that woodworking machines that infringe the three patents have been imported into the United States and sold to consumers. This is sufficient to establish injury and tendency to injure for these three industries." Additional Views of Vice Chairman Liebeler at 1-2.

Mrs. Liebeler issued the foregoing statement in May 1987, more than two years after the court's Textron decision and nine months after the court's ruling in *Corning Glass Works* v. *U.S. International Trade Commission,* 799 F.2d 1559, 1567 (Fed. Cir. Aug. 27, 1986). In the Corning decision, the court quoted the language of the Textron decision set forth above and then stated:

"Because section 337 does not function merely as an international extension of private rights under the patent statute, the statements of this court on the showing of injury required for the grant of an injunction in a patent infringement suit cannot be taken out of context and applied to the issuance of an exclusion order in a section 337 proceeding. Upon a patentee's proof of continuing infringement of a valid enforceable patent, 'immediate irreparable harm is presumed' in connection with a request to a district court for injunctive relief. . . . Congress has, however, required more for an exclusion order against imports, as recognized by this court unequivocally in Textron. The Commission is, thus, correct in its statement, '[S]ection 337 has elements in addition to the establishment of the existence of unfair practices such as patent infringement which must be satisfied before relief [i.e., an exclusion order] can be granted.'" *In re Certain Optical Waveguide Fibers,* slip op. at 21 [majority opinion of Commission, from which Mrs. Liebeler dissented].

We, of course, are aware that the trade legislation currently under consideration by the Congress proposes to eliminate the injury requirement in section 337 cases involving certain intellectual property rights. The Association's members are divided on the desirability of this proposed change—many support the change and many others oppose it. However, we are in agreement that unless and until this change is made in the law, the statute now in force and the court opinions interpreting it require, beyond any possible doubt, an injury determination in each section 337 case. Mrs. Lieberler's opinions in this area indicate that she does not acknowledge the supremacy of the statute and court decisions over her private views when called upon to perform her public duty as a Commissioner.

In sum, Mrs. Liebeler's writings as a Commissioner show that she opposes relief for domestic industry in antidumping and countervailing duty cases and favors relief for domestic industry in unfair acts cases on the basis of her personal beliefs as to what the laws ought to say rather than on the basis of what the laws and the court decisions interpreting them do say.

THE VERMONT ARREST

In her American Bar Association questionnaire response, Mrs. Liebeler indicated that, in 1973, she had been arrested in Vermont and charged with extortion and acting as an accessory to extortion. We have reviewed the court and police records relevant to the incident that gave rise to the arrest and the June 29, 1987 letter to Senator Leahy from Mr. M. Jerome Diamond, the former State's Attorney who had charged Mrs. Liebeler; our Judicial Selection Committee monitored the August 6, 1987 Senate Judiciary Committee hearing on Mrs. Liebeler and interviewed Mr. Diamond.

We are concerned, not just over the self-help incident that led to Mrs. Liebeler's arrest, but by the way in which she has attempted to explain the incident away. In her American Bar Association response, she explained that "a young and inexperienced State's Attorney, who had apparently been advising the tenant, filed charges against me." After noting that criminal charges against her were dropped, she proceeded to state: "There was no basis in law or fact for the criminal charges." She annexed a supporting letter from the attorney who had defended her at the time.

The prosecuting attorney, Mr. Diamond, slightly older than Mrs. Liebeler, was 31 years old when he charged her with a crime. He did so in his capacity as State's Attorney, a position to which he had been elected. The following year, he was elected to the first of three consecutive terms as Attorney General of the State of Vermont. During his interview with our Judicial Selection Committee, Mr. Diamond categorically denied that he was representing the tenant at the time of his prosecution of Mrs. Liebeler. Further, a court found probable cause for the charges when it issued an arrest warrant and it again found probable cause when it denied the motion to dismiss.

We will not burden this report with a recitation of the facts alleged in the police and court records or with a summary of the testimony presented at the August 6, 1987 hearing; suffice it to say, however, that the explanation offered by Mrs. Liebeler for her arrest is too facile and is unsatisfactory.

CONCLUSION

It is with regret that we must conclude that Mrs. Liebeler is not qualified to be a judge on the United States Court of Appeals for the Federal Circuit. While her intellectual ability is undoubtedly substantial, the evidence strongly suggests that she lacks the objectivity and judicial temperament to be a judge. While some have remarked on her "courage" under fire or her having the "courage of her convictions", such traits are cause for grave concern when found in a person appointed to the judiciary to apply statutes as written by the Congress and interpreted by earlier court decisions, especially where, as in the case of Mrs. Liebeler, the person's existing body of opinions as a Commissioner indicates that personal convictions override the rule of law.

It is the very strength of her convictions that worries us. We do not wish to have judges bound by particular convictions or ideologies or by preconceived notions of how disputes should be resolved. We wish and need to have judges who are fair, openminded, and able to mete out justice dispassionately.

It should be understood that our Bar Association is not wed to any particular political philosophy or economic ideology. Our members run the gamut across the philosophical and political spectrum: there are members who favor virtually unfettered free trade and those who are supportive of protection; there are members who represent primarily import and foreign export interests and members who represent primarily domestic manufacturers; there are Republicans, Democrats, Independents, and non-politicals; there are conservatives and liberals. The position we have taken with respect to Mrs. Liebeler's nomination here is wholly divorced from any of those political or ideological concerns. The question we have addressed is whether we, as lawyers, believe that the nominee possesses the essential qualities to be a judge of the United States Court of Appeals for the Federal Circuit.●

DESIGNATION OF "THE STARS AND STRIPES FOREVER" AS THE NATIONAL MARCH OF THE UNITED STATES

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 860, a bill to designate "The Stars and Stripes Forever" as the national march of the United States of America.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 860) entitled "An Act to designate 'The Stars and Stripes Forever' as the national march of the United States of America", do pass with the following amendment:

Strike out all after the enacting clause and insert: That the composition by John Philip Sousa entitled "The Stars and Stripes Forever" is hereby designated as the national march of the United States of America.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER DISCHARGING JUDICIARY COMMITTEE FROM CONSIDERATION OF SENATE JOINT RESOLUTION 196

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 196, designating Feburary 4, 1988, as National Women in Sports Day and that that joint resolution be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR THURSDAY

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 o'clock tomorrow morning, that the call of the calendar be waived under rule VIII, and that no motions or resolutions over, under the rule, come over.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on tomorrow, there be a period for morning business, that Senators may be permitted to speak therein and that that period for morning business extend to 9:30 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will be a call for the establishment of a quorum at 9:30 tomorrow morning. There will be a motion to instruct the Sergeant at Arms to request the attendance of absent Senators so that Senators will be here ready to begin on the Senate's business for tomorrow morning.

I ask unanimous consent that at 10 o'clock tomorrow morning, the Senate proceed to the consideration of Calendar Order No. 432, that is S. 9, to increase the rates of disability compensation for veterans, and so on.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on a motion to instruct the Sergeant at Arms tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that that vote which will be a rollcall vote be a 30-minute rollcall vote and that the call for the regular order, which means "time's up," occur at the conclusion of the 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, does my distinguished friend, the acting Republican leader, Mr. LUGAR, have anything further he wishes to say or any further business he wishes to transact?

Mr. LUGAR. Mr. President, I would respond to the leader by saying that each of the requests he has made has been carefully cleared on our side and we appreciate as always his leadership in carrying us through our business.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Indiana, Mr. LUGAR.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in tomorrow morning at 9 o'clock.

After the two leaders have been recognized under the standing order, there will be a period for morning business not to extend beyond 9:30 a.m. Senators will be permitted to speak during that period for morning business.

At 9:30 a.m., the call for a quorum will be made. A motion to instruct the Sergeant at Arms will be made. There will be a rollcall vote on that motion. That will be a 30-minute rollcall vote, with the call for regular order to occur at the conclusion of the 30 minutes, or at 10 o'clock.

Upon the conclusion of that vote, or at 10 o'clock, the Senate will proceed to the consideration of Calendar Order No. 432, the veterans' compensation bill. I expect rollcall votes during and throughout the day.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD. If no other Senator wishes to get recognition, Mr. President, I thank all Senators, and I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 6:40 p.m., the Senate adjourned until Thursday, December 3, 1987, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 2, 1987:

DEPARTMENT OF STATE

LEONARD H. O. SPEARMAN, SR., OF TEXAS, TO BE AMBASSADOR EXTRAORDIANRY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLC OF RWANDA.

DEPARTMENT OF JUSTICE

WILLIAM ROBERT HAIR, OF WEST VIRGINIA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF 4 YEARS VICE RONALD A. DONELL, RESIGNED.

TENNESSEE VALLEY AUTHORITY

MARVIN T. RUNYON, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM EXPIRING MAY 18, 1996, VICE RICHARD MERRELL FREEMAN, RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, December 2, 1987*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 25, 1987.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Wednesday, December 2, 1987.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May our eyes always be open, O God, to the vision of a new and better day, when swords will be made into plowshares and spears into pruning hooks. Grant us always to know the reality and the dangers of the present time and also to know the realities and power of Your loving spirit—the spirit that reconciles and makes whole, that builds and strengthens and calls us to be the human family that You have created.

This we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PORTER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PORTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 118, not voting 62, as follows:

[Roll No. 448]

YEAS—253

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bartlett
Bateman
Bates
Beilenson
Bennett
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Craig
Crockett
Daniel
Darden
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fawell
Fazio
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Manton
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Meyers
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Moody
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Patterson
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Price (IL)
Quillen
Rahall
Ravenel
Ray
Richardson
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torricelli
Traficant
Udall
Valentine
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—118

Armey
Badham
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clay
Coble
Coleman (MO)
Coughlin
Courter
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Emerson
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gregg
Hansen
Hastert
Henry
Herger
Hiler
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Parris
Pashayan
Penny
Porter
Pursell
Rhodes
Ridge
Roberts
Rogers
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)

NOT VOTING—62

Alexander
Baker
Barnard
Berman
Biaggi
Boehlert
Bosco
Bryant
Crane
de la Garza
DioGuardi
Dowdy
Edwards (OK)
Espy
Feighan
Gephardt
Guarini
Hawkins
Holloway
Jeffords
Jones (TN)
Kaptur
Kasich
Kemp
Kolter
Leath (TX)
Leland
Livingston
Lowery (CA)
MacKay
Markey
Mavroules
Mfume
Mollohan
Montgomery
Morrison (CT)
Nichols
Owens (NY)
Owens (UT)
Pepper
Price (NC)
Rangel
Regula
Rinaldo
Roemer
Rose
Roukema
Saiki
Scheuer
Schneider
Schulze
Slattery
Smith (NE)
Stenholm
Sundquist
Sweeney
Torres
Towns
Traxler
Vento
Whittaker
Wise

□ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

EXTENDING HOSTAGE BENEFITS TO FEDERAL PRISON GUARDS BEING HELD IN ATLANTA AND OAKDALE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I include for the RECORD a letter that I have written to President Reagan dated December 1, 1987:

HOUSE OF REPRESENTATIVES,
SUBCOMMITEE ON CIVIL SERVICE,
Washington, DC, December 1, 1987.

Hon. RONALD REAGAN,
President of the United States, The White House, 1600 Pennsylvania Avenue, NW., Washington, DC.

DEAR MR. PRESIDENT: Cuban prisoners have held 90 federal employees hostage for more than a week at the federal penitentiary in Atlanta and, until two days ago, held 26 employees hostage at the federal detention center in Oakdale, Louisiana.

Employees of the Bureau of Prisons know that they face dangers in their line of work; they are not paid, however, to be subject to captivity by their prisoners.

For this reason, the Victims of Terrorism Compensation title of the Omnibus Diplomatic Security and Antiterrorism Act (P.L. 99-399) provides that certain benefits may be made available to federal employees who are in captive status within the United States, as well as abroad. These benefits include health benefits, cash payments, and, where appropriate, special savings accounts and educational benefits.

Under the law, benefits are provided if the President determines that an employee is in "a missing status which . . . arises because of a hostile action and is a result of the individual's relationship with the Government." (5 U.S.C. 5569(a)(2)). The term "missing status" is defined to include "captured, beleaguered, or besieged by a hostile force." (5 U.S.C. 5561(5)(D)). I believe the captives in Atlanta and Oakdale meet these definitions.

Once the President determines that an employee meets the requirements of the Act, the employee is entitled to medical and health care benefits which are not already covered by insurance and to a cash payment equal to one-half the current average worldwide per diem for each day of captivity. At current rates, this payment would be slightly less than $50 per day.

The Victims of Terrorism Compensation Act was enacted in reaction to the detention of 52 Americans in Teheran during 1979 to 1981. Nevertheless, in drafting the statute, we intentionally made it applicable to situations occurring within the United States as well. Whether there was foreign involvement in the activities of the prisoners in Atlanta and Oakdale is irrelevant to your determination to provide benefits.

The 116 hostages have and are suffering tremendous hardship. Their families are fraught with anxiety. From the point of view of the employees and their families, their suffering was indistinguishable from the suffering they would have faced had they been captured abroad.

I, therefore, urge you to exercise your power under the Victims of Terrorism Compensation Act and declare the federal employees held captive in Atlanta and Oakdale eligible for the benefits provided in that Act.

With kind regards,
Sincerely yours.

PAT SCHROEDER,
Chairwoman.

Mr. Speaker, I hope many other Members join me in doing this. In 1986 when this body passed the antiterrorism bill we very wisely included a provision saying that any hostages taken domestically should also be eligible for any hostage benefits if the President makes that request.

Mr. Speaker, I am urging the President today to make that request for the 116 Federal prison guards being held captive in both Atlanta, GA, and Oakdale, LA, prisons. I think as Federal employees this is the least they are due. This body gave that authority to the President, and I hope others join me in encouraging him to use it.

STATE DEPARTMENT AUTHORIZATION AND DR. JOSEPH KAREL HASEK

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SENSENBRENNER. Mr. Speaker, the 98th Congress passed an extraordinary piece of legislation which allowed an individual a second chance to submit a claim before the Foreign Claims Settlement Commission. But apparently, that wasn't enough.

The State Department authorization bill now in conference contains a Senate amendment which grants an outright sum of $250,000 plus interest to Dr. Joseph Karel Hasek with the rationale that Private Law 98-54 has not been implemented as intended by the Congress. If you believe that, you will believe most anything.

Dr. Hasek's first private bill to pass the House was vetoed by the President because it tried to legislate history. A subsequent compromise was signed into law to allow Dr. Hasek a second chance to plead his case before the Commission. Dr. Hasek had that chance and received an award according to the terms of the law, from Czechoslovakian funds held by our Government. Now he wants another quarter of a million dollars.

What makes this whole situation so ludicrous is all of the money in the fund has already been obligated. Elderly U.S. citizens have been notified how much they will receive. But, if the House does not insist on receding from the Senate amendment, some of these people will never get what our Government promised them, because Dr. Hasek felt he didn't get enough.

I include for the RECORD my letter to the chairman of the Committee on Foreign Affairs:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 1, 1987.

Hon. DANTE FASCELL,
2354 Rayburn House Office Building, Washington, DC.

DEAR DANTE: This letter is to urge you not to compromise and to delete the Section 506 from the Department of State Authorization bill entitled "Payment of the Claim of Joseph Karel Hasek from the Czechoslovakian Claims Fund."

Dr. Hasek's unique situation was recognized by the Congress with the passage of Private Law 98-54. He was awarded the extraordinary privilege of being able to file a claim before the Foreign Settlement Claims Commission for a second time—after his first claim was denied. The Commission heard his case and awarded him a monetary sum for his loss. However, now you are being asked to give him an additional $250,000 because he didn't like the verdict of the Commission.

All of the people who are eligible to receive funds from the final distribution of monies have been notified of the amount of money they will receive from this final disbursement. Anyone who has not yet received and cashed his final check will receive nothing, because Dr. Hasek wants more than he is entitled to.

The first bill granting Dr. Hasek relief passed the House and Senate but was vetoed by the President because of the unfair determination Dr. Hasek was demanding. A compromise was reached and signed into law which would not legislate an award, but would afford him an unprecedented second chance. This was the intent of the legislation and this is what Dr. Hasek received. Now he wants more, and at the expense of legitimate documented claims made by U.S. citizens who lost their property. This becomes more incredible because at the time of his loss, Dr. Hasek was not a U.S. citizen.

I cannot urge you strongly enough to recede from the Senate amendment and to delete Section 506.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Member of Congress.

IT IS TIME TO FOCUS ON OUR POVERTY PROBLEM

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, according to recent studies completed by the Council for Economic Opportunity in Cleveland, OH, Mahoning County, OH, has 50,000 people living at or under the poverty level. Nearly 20 percent of the population of Mahoning County, OH, is at or below the poverty level.

The President's policies have certainly trickled down. Since 1980 there has been a 30-percent increase in poverty in Mahoning County, OH.

What have we done down here? We threw out the investment tax credit program, threw out the accelerated cost recovery program, and now there is no investment. Auto imports are at record highs, and they have little auto activity back in that area. We want to throw out and cut back on UDAG's and Community Development Block Grant money. We completely throw out revenue-sharing money and we cut Economic Development Administration agency support to a token level.

Now, last week we debated the foreign aid bill, and it was unanimously agreed that there is a worldwide poverty problem. The problem exists, I say to my colleagues, but Congress is yet to focus on the poverty problem in its own country. I think it is time we do that.

MEMBERS OF CONGRESS VISIT THE AFGHANISTAN-PAKISTAN BORDER AREA

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, eight Members of a codel, during the Thanksgiving break, visited the Afghanistan border area. It was a fascinating trip to the Afghan-Pakistan border. Mr. Speaker, I know there is not a voice in the House that is ever raised against the freedom fighters in Afghanistan, the Mujahedin. That is as it should be. Our support for the Afghan freedom fighters is probably the best program that this country has undertaken since World War II. Ours is a clearcut effort to help people stand up against totalitarianism.

There is one young fighter inside Afghanistan that with United States-supplied Stinger missiles has personally shot down seven Soviet aircraft, including bombers, Mig's, and helicopters that were strafing, bombing, and killing his native people.

The United States program is outstanding, but it makes me wonder why liberals on the other side of the aisle deny the same sort of total support to the black freedom fighters in Angola, or why we have made a bastard child out of the freedom fighters in Central America—those who are right here on our own doorstep dying in the hills of Nicaragua.

☐ 1230

The communism which the Ortega brothers are trying to impose on Nicaraguans is identical to the tyranny which crushes families in Afghanistan. I believe that it is about time we had a consistent policy for those young men and women who are willing to die for freedom in their countries, whether it be Afghanistan, Angola, or Nicaragua.

TRIBUTE TO JAMES BALDWIN

(Mr. DYMALLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYMALLY. Mr. Speaker, it is with great sadness and utmost respect that I ask my colleagues to join me in paying tribute to one of the preeminent authors, playwrights, and essayists of our time—James Baldwin.

Mr. Baldwin, who had been suffering from cancer, passed away on Monday at his home in the south of France.

Born in 1924, Baldwin emerged in the 1950's and 1960's as a major voice of the black community's struggle for dignity, justice, and equality.

His eloquent and fiery prose—in such works as "Go Tell It on the Mountain," "Nobody Knows My Name," "Another Country," and "The Fire Next Time"—testified to the frustration and despair, hope, and rage of African Americans. Having grown up in poverty in Harlem, his themes often paralleled his own personal experiences and problems.

Baldwin was an international literary figure, writing at various times in Istanbul, Switzerland, Corsica, New York, and, of course, France.

His contributions to the civil rights movement, black heritage, and American literature are a legacy we will forever treasure.

Brother Baldwin, we thank you for giving us the gift of your words.

ACTIONS ARE WHAT COUNT IN GLASNOST

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KYL. Mr. Speaker, for the first time since glasnost became a buzz word to characterize his policy of openness, Soviet Communist Party leader Mikhail Gorbachev is coming to Washington, officially to sign an INF treaty, but also to sell this new Soviet image to the American people. Colleagues, fellow Americans, beware.

The American public got a preview of Gorbachev's salespitch earlier this week in an NBC interview. As today's Washington Post editorial "Who Is Mikhail Gorbachev?" observes, "On television, Mr. Gorbachev can show an undeniable restraint and poise, but these qualities tend to fade when the heat is turned on." The Post went on to note that he falls back on the stereotyped Soviet line when pressed on real questions like Jewish emigration and the Soviet invasion of Afghanistan.

Just today, I have received further evidence of the one-way street this glasnost public relations campaign really represents. A good friend from Phoenix, AZ, Patience Huntwork, is a national leader on human rights and Soviet Jewry issues. Last month, she received the Humanitarian Award from the Union of Councils for Soviet Jews for her efforts.

Recently, it was announced that there will be a Press Club Glasnost seminar on human rights in Moscow later this month. Patience wanted to participate in this seminar. I learned today that the Soviet authorities have denied her permission to apply for a visa to attend. On matters of human rights, the Soviet's program seems to be, "Just say nyet."

Before he can be taken seriously, Mr. Gorbachev must demonstrate by actions that glasnost is more than a slick public relations ploy. Words are cheap. Actions are what count. At this point in the RECORD I include the following editorial:

[From the Arizona Republic, Dec. 2, 1987]

MEET MR. COMMUNIST

Just when the notion was gaining currency in some minds that Soviet top-dog Mikhail Gorbachev was a species of crypto-capitalist—a secret admirer of Western-style democracy—out of the closet leapt a tough, ardent disciple of Comrade Vladimir Ilyich Lenin.

Gorbachev's televised interview with NBC's Tom Brokaw was targeted as the opening salvo in the usual pre-summit image-making barrage. The anticipated pre-summit intransigence, trotted out prior to every superpower Saturnalia to intimidate the Americans, may have backfired on the cagey Russian. The exchange unmasked Gorbachev and finally may have disabused the gullible, in this country and in Europe, of wishful notions about "Iron Mike."

This was a markedly different Gorbachev from the one encountered in Moscow last April by Wisconsin's Rep. Les Aspin. Gone, Aspin notes, was the affable, garrulous, anecdotal Gorbachev, a Russian version of Uncle Remus. In his place stood one tough cookie. Look at Gorbachev's declarations.

On "Star Wars": Sure, he said, the Soviets were doing research, as is the United States. But, of course, they would never deploy a strategic anti-missile defense, so what's the problem?

On human rights in the Soviet Union: Mind your own business, he said in effect, and that goes for the Jews, too.

On Soviet genocide in Afghanistan: Next question.

On the Soviet military presence in Nicaragua: Not only do the Soviets have no intention of getting out of our hemisphere, but they intend to expand their relations with Latin America, and the Monroe Doctrine be damned.

On the purging of his former Communist Party ally Boris Yeltsin, champion, of *glasnost:* The Gorbachev regime will follow *glasnost* firmly, but those who think this means anything remotely resembling Western-style democracy with freedom of speech and independent political parties can guess again.

In other words, Gorbachev staked out his summit negotiating ground by not giving an inch on any issue. This steely eyed, unyielding Gorbachev is certainly a variation on the jovial general secretary as depicted in the popular mythology of recent months.

Will the real Gorbachev please stand up? Has he always been a hard-line Leninist who only posed as a new-style Russian leader? Or is he having to retrench as his "conservative" enemies in the party close in on his reformist crusade?

No one in the West knows. Period. None of the so-called Kremlinologists has the foggiest idea of what is going on inside Gorbachev's skull or behind the Spassky Gate.

Only one reliable, safe way of assessing Soviet leaders suggests itself: Ignore their fine-sounding words, soothing phrases and oh-so-reasonable rhetoric and pay close attention to their behavior.

If Gorbachev is a peace-loving Mr. Peepers, and not a clever poseur, let him demonstrate it. The Soviet invasion of Afghanistan took just four days. What if the troops got out with equal dispatch? Maybe, just maybe, then the West should take seriously all the schmoozing about peace.

KEEP THE 1988 OLYMPICS FREE OF POLITICS

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, at the closing ceremonies of the 1964 Summer Olympics, I experienced one of the proudest and most exciting moments of my life as I was honored to carry the American flag from the stadium in Tokyo, Japan.

My colleague and friend, the gentleman from Maryland [Mr. McMILLEN] and I are among the fortunate few who have been honored to compete in the Olympic games. We know the value of the games first hand—in encouraging fitness, in displaying sportsmanship and most importantly, in fostering friendships among people of many diverse nations. We also have seen, however, that political posturing has too often cast a dark shadow over the games. For example, in 1980, hundreds of American young people were denied their once-in-a-lifetime opportunity to participate in the Olympic games due to political maneuvering. We then saw a politically motivated retaliation in the 1984 Olympics.

In ancient times, political disagreements were suspended for the Olympic games. In modern times, the games are suspended for political disagreements.

Their future is in peril if these abuses are allowed to continue.

With President Reagan and General Secretary Gorbachev meeting for a summit next week, the gentleman from Maryland and I are introducing a concurrent resolution asking these two world leaders to do everything possible to assure that the 1988 Olympic games in Calgary and in Seoul are not contaminated by politics. We also invite our colleagues to sign letters to these two world leaders requesting them to pledge that they will make every effort to prevent politics from poisoning the games.

If we confine the competition to the stadium, the Olympic tradition can serve as a showcase of the world's best athletes and as a bridge of understanding for all the nations.

THE 150TH BIRTHDAY OF OTTAWA COUNTY, MI

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, I rise today to recognize the 150th birthday of Ottawa County in Michigan. This is the principal Coast Guard center of the Great Lakes, the center of our great Nation's premier Dutch-American community.

When the Dutch came to this area, they brought with them tulip bulbs, wooden shoes, and native costumes. But, above and beyond all else, they introduced a work ethic that has laid the foundation for the success and prosperity that has become synonymous with today's Ottawa County.

But, Ottawa County is much, much more than just the center of Dutch-America. It is now the fastest growing county in the State of Michigan, and its economy is among the most thriving in the entire Midwest.

That is to say nothing, Mr. Speaker, about the natural beauty of this wonderful area, which stretches from the splendid shores of Lake Michigan to the outskirts of the city of Grand Rapids. Precisely because of its attractiveness, Ottawa County ranks third in Michigan in tourism, and events like the Coast Guard Festival in Grand Haven and the Tulip Festival in Holland have drawn acclaim throughout the world.

Indeed, Mr. Speaker, Ottawa County has much to be proud of. I invite all of my colleagues to visit this lovely area, but it is my duty to caution you before hand: once you come for a visit, you may never want to leave.

Again, I am sure my colleagues join me in saying congratulations to Ottawa County. May its future be filled with the continued success and achievement that has marked its first 150 years as a county.

KEEP POLITICS OUT OF THE 1988 OLYMPIC GAMES

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, it is a pleasure to work with my colleague the gentleman from Colorado [Mr. CAMPBELL] on this Olympic resolution.

As one who participated in the most painful of Olympic games with the terrorist attack at Munich in 1972 and the controversy surrounding those games, I hold the preservation of the Olympic spirit in the highest regard as a result of these tragic experiences.

With President Reagan and General Secretary Gorbachev meeting next week in Washington, the opportunity presents itself for these powerful leaders to pledge that their countries will not allow the spirit of the Olympics to be dampened by the forces of global politics.

When the modern Olympics were revived in 1896, it was hoped by their founders that peace and understanding among nations would be the by products of the games, just as warring nations in ancient Greece would lay down swords in Olympic years.

In 2 months, the 1988 Olympics begin with the winter games in Calgary, Canada.

Mr. Speaker, let us hope that in the 1988 Olympic games all nations, led by the United States and Soviet Union, will rise above global political differences and allow the games to take place in the spirit of amateur athletic competition for which they were intended.

I urge my colleagues to sign this resolution.

TRIBUTE TO HOME HEALTH CARE WORKERS

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, today I would like to take this opportunity to salute the 130,000 individuals in our population who work tirelessly, with little fanfare, to make ours a better world. The people I speak of are the home health nurses who look after the day to day needs of those less fortunate people in our society who are confined to their homes by illness and age. This week of November 29 is officially recognized as "National Home Health Care Week," and I am taking this occasion to say thank you to our country's home health care workers for doing an outstanding job in looking after the needs of our Nation's infirm citizens. Few are fully aware of, or appreciative of, the task of home health care providers, but it is one that we as a society could not do without. On behalf of the people of Ohio's 10th Congressional District I say thank you to home health care workers for a job well done; thank you for being on call to answer the needs of those unable to care for themselves.

PROHIBITING U.S. GOVERNMENT FROM PROCURING GOODS FROM COUNTRIES THAT LIMIT ACCESS TO THEIR PROCUREMENT MARKETS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, earlier this year the House included a section of H.R. 3, the trade bill, to amend the Buy America Act to prohibit the Government from procuring goods from countries that limit access to their own procurement markets. At that time I attempted to expand the scope of this provision to include services in the American market. That amendment was not allowed by the Rules Committee.

Mr. Speaker, I think the recent events as publicized in the Washington Post and elsewhere should lead Congress to reconsider this decision. The Government of Japan has made it clear that their public works market is closed for foreign firms.

I agree with the Secretary of Commerce that this situation is not acceptable. Let us examine the facts.

Japanese activities in our construction market grew from $550 million in 1981 to almost $3 billion in 1986. Japanese penetration of the United States construction market increased by 170 percent in 1 year. In the next decade, over $60 billion in major public works projects will be built in Japan, and not one of those contracts will be let to an American firm, no matter how competitive the firm, no matter how low their bid, unless we force the Japanese to open their market.

Today I am introducing legislation that would force Japan and other countries to open their construction markets to American firms or be barred from ours.

CONGRESSMAN RAVENEL'S REMARKS TO FRIENDS IN THE NATION OF BAHRAIN

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, Congressman JACK DAVIS and I have just returned from the Persian Gulf area where we found true friends in the nation of Bahrain. At a dinner I made the following remarks to our hosts:

Now we have traveled very far,
Half round the world is the eastern star.
To visit ships and search for facts.
To encourage friends and interpret acts.
Carriers and frigates we have seen,
Chiefs, captains, admirals and young sailors in their teens.
Exotic lands of which we've known,
And modern cities much like our own.
We've tracked a bomber in the dark,
Just like the one that struck our *Stark*.
We've talked with citizens high and low,
Of oil and war and other fears that tax us so.
But little did we expect to find,
The people of Bahrain so kind.
How delighted are we all to see,
The warmth of friends that comes from thee.
The peace that dwells in this fair land,
The happiness from your amirs hand.
These glad tidings we will bear,
Back to our country for all to hear.

TRIBUTE TO THE HONORABLE ABRAHAM "CHICK" KAZEN

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I would like to ask my colleagues to join me in paying tribute to a member of our family who will be dearly missed by us all. Last Sunday in Austin, TX, Abraham Kazen, Jr., passed away.

Abraham "Chick" Kazen represented the people of the 23d District for over 40 years, first as a Texas legislator and then as a U.S. Congressman from 1966 to 1984. Known as "Mr. South Texas," because of his great popularity in the region, Chick Kazen served as a beacon to the people of southern Texas, bringing them together and working tirelessly on their behalf.

Many now in Congress had the opportunity to serve with Mr. Kazen and remember him as a competent and warm person who ably defended the interests of his constituents. He will always be held in high regard by the people of southern Texas and will occupy a place in our hearts and in our prayers.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BUSTAMANTE. I am happy to yield to the gentleman from Florida

Mr. FASCELL. Mr. Speaker, I would like to join the gentleman in his remarks about "Chick" Kazen. I had the honor and privilege of serving with him. He was a dedicated Congressman and a great credit to his district and to the Nation and to his family.

I join with the gentleman and other Members of the Texas delegation in extending our condolences to his family.

Mr. BUSTAMANTE. I thank the gentleman for his comments.

□ 1245

TAX AMNESTY—F.A.S.T.

(Mrs. BENTLEY asked and was given premission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, in the next several days, we will be trying to address the $23 billion shortfall before Gramm-Rudman takes its blind bite out of the budget.

The proposed solution will include a multibillion-dollar revenue enhancement—or in other words a tax increase. We don't even know what will be taxed.

This is unacceptable. There are two basic ways to raise money—raise taxes or increase the tax rolls.

It has been estimated that a tax amnesty will raise anywhere from $25 to $200 billion. In my State of Maryland, a tax amnesty program has just been closed out—at 20 percent above the predicted $20 million.

If a tax amnesty were coupled with a fair and simple tax, millions of people now in the underground economy would be brought onto the tax rolls.

The Department of Treasury has calculated a 10-percent flat tax would be revenue neutral. This percentage would allow a $6,000 personal and $12,000 family exemption—thereby protecting those less affluent.

Coupled with the tax amnesty, a flat rate would bring in billions from new taxpayers—roughly $30 billion to $40 billion from the underground economy in the United States that has been estimated to be as much as $200 billion a year.

By getting everybody to pay his fair share—and no more—we can go a long way toward rectifying the budget deficit.

THE UNITED STATES CANNOT NOW TURN ITS BACK ON HAITI

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, the time has come for the United States to join the Haitian people in saying no to the Ton Ton Macoutes and Duvalierism with or without Duvalier.

The most basic duty of any government is to provide security for its people, to protect its citizens rights. The National Governing Council of Haiti [CNG] has proved itself either unable or unwilling to carry out this responsibility. By failing to carry out its duties the CNG has shown itself to be an unreliable entity with which the governments of the world can work or with which they should have diplomatic relations.

If the members of the CNG have any sense of duty or dignity left they should promptly resign. If the members of the CNG do not resign the United States should promptly move to recognize a government in Haiti which has the support and confidence of the Haitian people. The Provisional Electoral Council and its members are a logical alternative body with which the United States should be able to cooperate to restore order and assure a climate of security essential to the holding of free and fair elections.

U.S. foreign policy in our hemisphere and democracy everywhere has been dealt a serious blow with the cancellation of the Haitian elections. Lessons can be learned from what has happened but there is little to be gained from a search for scapegoats. For once, the Executive and Congress worked together hand-in-hand; the policy that has failed is one which the United States strongly supported. But it is principally the people of Haiti who will suffer from the Haitian military leadership's betrayal of the aspirations of its own people.

United States policy toward Haiti has been based on three key assumptions, the last of which has proved to be unfounded. Those assumptions were:

First, that the Haitian people are determined to seize control of their own destiny;

Second, Haitians want a democratic form of government so badly they are prepared to die for it; and

Third, Haiti's military leaders could be trusted to oversee a transition to democracy.

It is now clear that neither the United States nor the Haitian people can count on Haiti's military leaders to support democracy. But events of the last year have confirmed the first two of the assumptions on which our policy has been based. Haitians turned out in large numbers to endorse their new democratic constitution last March 29 and last summer it was the determination and effort of the Haitian people which thwarted the military's attempt to seize control of the electoral process.

The United States cannot now turn its back on Haiti. All nations of our hemisphere share a centuries-old common commitment to keep alight the torch of liberty. In the weeks and months ahead the United States can and should play an active role in supporting the struggle of the Haitian people for liberty.

At this stage the administration has suspended all assistance other than humanitarian assistance to be delivered through private voluntary organizations and indicated that all other assistance will not be resumed until the transition to democracy is back on track. I applaud this decision but if the administration believes that this will effectively prod the Haitian military to return to the democratic path I believe they are sadly mistaken. The Duvalier regime learned to live isolated from the rest of the world and in its own warped way thrived on xenophobia. Those who would end the drive toward democracy in Haiti are no friends of the United States. They view our aid suspension with contempt. Lacking concern for the welfare of the Haitian people these oligarchs believe they can prosper as they did for three decades with a United States hostile to their system.

For United States policy to be successful it must be forceful and assertive in promoting democracy in Haiti and in safeguarding the lives of those who have risked all for their nation. I believe the United States should take the following actions:

Do its utmost to promote adherence by Haitian institutions to the constitutions of March 29 and to a speedy transition to democracy by urging the current members of the National Governing Council of Haiti to resign in favor of persons who enjoy the respect, support and confidence of the Haitian people;

If the CNG is unwilling to resign, the United States should recognize the Provisional Electoral Council or other appropriate persons as the legitimate government of Haiti;

Make clear to the Haitian military that its betrayal of its promises to the Haitian people and the abandonment of commitments to the United States by its senior commanders can lead only to the most profound consequences;

Take steps to support the maintenance of Haiti's free press including the provision of transmitter equipment and sites as needed;

Immediately revoke the visas of all persons or their family members of those suspected of criminal activities related to the threat to democracy in Haiti;

Immediately suspend Haiti's eligibility for special economic benefits under the Caribbean Basin Initiative;

Seek implementation of a total arms embargo against Haiti's military government—enforced as necessary by the OAS or other appropriate international organization or group;

Consider establishment of a comprehensive regime of international trade and financial sanctions aimed at those who expect to profit by thwarting democracy and reform to make it clear to those who would rob the Haitian people of their liberty that they will not profit from their crimes;

Take all necessary steps to protect the lives of American citizens throughout the country;

Work with appropriate Haitian authorities to assure that elections can be held safely and securely under the auspices of a peacekeeping force acceptable to the Haitian people; and

Finally if other actions are not successful the United States should provide military support, if requested, to a responsible democratic government set up in opposition to the military junta and committed to the transition to democracy and to respect for Haiti's international legal obligations.

The events of the last few days are sad ones for the history of liberty in our hemisphere. General Namphy, who might have been enshrined among the pantheon of this hemisphere's democratic heroes, instead has assured himself a prominent place in the gallery of those whom history will judge as enemies of their own people.

It matters not whether Namphy is acting on his own or is simply a tool for others. He and those who back him have proved unworthy of the trust placed in them by the Haitian people. Haiti's poverty is so deep, its resources so strained, that Haiti cannot afford to permit the forces opposed to reform to prevail.

RECOGNITION OF TINA MAI NGUYEN'S AWARD-WINNING CITIZENSHIP SPEECH

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, today I have the opportunity to introduce a new citizen of our United States. Mrs. Tina Mai Nguyen was sworn in at a ceremony that has enabled her to become an active participant in the democracy or our Nation. The citizenship ceremony on Thursday, September 17, in San Diego was also a celebration of the 200 years of freedom that our forefathers provided us in the living constitution.

Mrs. Nguyen was the winner of an essay contest, "Why I Would Like to Become an American Citizen," in which she expressed her joy in finding the freedoms that the United States gives to all its citizens. These liberties are especially meaningful to Tina because she left a country of Communist rule in Vietnam. She writes in her essay, "I experienced difficulties under a Communist regime where I did not have any rights; neither the right to have a job, to practice my religion, nor to live as a human being." Tina has paid dearly for these rights. She lost 11 relatives at sea as they, too, were fleeing their homeland.

Mr. Speaker, I am proud to show Mrs. Nguyen the accessible government that speaks in the voice of its people. She enthusiastically writes that "even more exciting is that I'll cast my first ballot next year to choose the President for my new beloved country."

If we all could take a second look at our Nation through the eyes of a new citizen we might better appreciate the magnitude of beauty that is so evident in all facets of our life. Tina has spent her life longing to be a part of a democracy where her vote is instrumental in formulating the Government.

I am honored to have sponsored Tina Nguyen on her first visit to our Nation's Capitol.

THE UNITED STATES CAN DO MUCH BEYOND CUTTING OFF OFFICIAL ASSISTANCE TO HAITI

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, last weekend was a tense one for our family. We are grateful for the safe return of our son, Andy, and all the others who went to Haiti as election observers, and very grateful to those within the United States Government who manifested such active concern for their safety.

Our deep feelings also remain undimmed about the average Haitian citizen during these last days—the citizens who lined up to vote on Sunday despite the gunfire the night before, and most of all, the citizens who lost their lives, taking a chance with their personal safety in order to give democracy a chance in their country.

The United States owes it to the Haitian people—and our own democratic ideals—to reexamine our approach.

There is much policy room between military intervention in Haiti and the approach used these last months.

The United States can do much beyond cutting off official assistance to Haiti. We can join other nations, for example, in insisting that the Haitian Government:

Prosecute the murderers; and

Reinstate the Provisional Electoral Council.

What is clear beyond doubt is that in U.S. policy there can be not a trace of namby-pamby toward the Namphy government.

Active, clear-cut pressure must be a centerpiece of American policy in human rights issues—whether Afghanistan or Haiti.

THOUGHTS OF THE INTERVIEW OF GORBACHEV

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, on Monday night the American people were witness to another unique event in the 20th-century history and that was an interview between an American journalist, Tom Brokaw, and the General Secretary of the Communist Party of the Soviet Union, Mikhail Gorbachev.

I think we witnessed Mr. Gorbachev as a man at ease in a tough interview. We witnessed an ability to deflect questions to give the kind of answers that he felt comfortable giving.

I think if you dissect those answers, however, you find the kind of publicity seeking and lack of focus on substance that I think we would hope is not the same kind of performance that we are willing to see at the summit.

Mr. Speaker, when asked about Afghanistan and the Soviet forces in Afghanistan, Mr. Gorbachev continued to say they were invited in by a legitimate regime.

When asked about pulling out he talked about reevaluating the situation. I would hope that our President focused on Afghanistan. There can be no peace in this world while the Soviet Union conducts a war of genocide against the Afghan nation and the Afghan people.

When asked about Nicaragua and Cuba and whether or not he would diminish the shipments of Soviet arms to that region—and this is in the face of the Arias peace proposal which talks about the cut-off of foreign intervention—he basically answered "no."

Is it possible to have peace in Nicaragua, in Central America, in this hemisphere with the Soviet Union which continually increases the volume of arms shipments to Cuba and to Cuba's proxies in the region?

I would hope that our President discusses this issue very strongly with Mr. Gorbachev. And I hope the American people can be witness to something more than just a PR fireside chat that Mr. Gorbachev conducted with Tom Brokaw.

PROCLAMATION FOR HOMELESS DAY

(Mr. GRAY of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY of Illinois. Mr. Speaker, I rise today to take this opportunity to acknowledge a proclamation issued by the respected leaders of St. Clair County, IL, on behalf of the homeless:

> PROCLAMATION FOR HOMELESS DAY
>
> Whereas the Holy Angels Shelter for the Homeless has provided temporary housing for displaced families;
>
> Whereas homeless families by circumstance will be without housing in St. Clair County without such facilities;
>
> Whereas Holy Angels Shelter has provided food, clothing, and similar needs for the homeless;
>
> Whereas Holy Angels has located permanent housing for displaced families in St. Clair County;
>
> Whereas Holy Angels Shelter has been instrumental in returning people to the city and state of their origin;
>
> Whereas Holy Angels Shelter has provided protective care for battered homemakers, the elderly, and children;
>
> Whereas Holy Angels Shelter has given comfort and support during family adversity/crises;
>
> Therefore, I, Carl Officer, Mayor of East St. Louis, Illinois, join with St. Clair County, Illinois in proclaiming December 7, 1987, as "Homeless Day."

Mr. Speaker, in conclusion, I hope we can all rededicate ourselves to helping the homeless and I want to again congratulate our friends at the Holy Angels Shelter in St. Clair County, IL, for their great work.

THE BUDGET SUMMIT AGREEMENT—THANKSGIVING IS OVER BUT THE TURKEY IS STILL INTACT

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, an editorial in the November 28 issue of the economist gives a less than laudatory appraisal of the summit agreement on the deficit. World financial markets eagerly looked to the U.S. Congress for some signal that we would get our financial house in shape. But if we are trying to send a signal to our allies on how responsive we are in tackling the budget deficit, this budget package is not the way to do it.

The British magazine's editorial, entitled "America's Budget Mouse," begins by stating, "The markets expected very little. They were not disappointed."

But let me quote even further:

> The [budget] deal satisfies honour because it slightly improves on the automatic cuts threatened by the Gramm-Rudman law. Many of the details have been left blank for Congress to fill in; Mr. Reagan, nervous about precisely how taxes might be raised, is threatening to veto anything he does not like. So the deal is the minimum, short of outright failure. That, of course, is exactly what the markets had expected since day one of the talks.

Mr. Speaker, if this editorial is indicative of how much confidence this package inspires from our trading partners, perhaps it's time to go back to the table and start over, or else consider keeping sequestration as the real alternative to reducing the deficit.

Thanksgiving is over, but the turkey is still intact.

CRIMINAL FINE IMPROVEMENTS ACT OF 1987

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3483) to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes, with Senate amendments to the House amendment to the Senate amendment, concur in the first Senate amendment to the House amendment to the Senate amendment, concur in the second Senate amendment to the House amendment to the Senate amendment with an amendment, and disagree to the third Senate amendment to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment to the Senate amendment and the House amendment to Senate amendment numbered 2 to the House amendment to the Senate amendment, as follows:

> Senate amendment to House amendment to Senate amendment:
>
> Page 4, line 7 of the House engrossed amendment to the Senate amendment, strike out "an individual who" and insert "an organization that".
>
> Page 16, line 12, of the House engrossed amendment to the Senate amendment, strike out "section 209" and insert "section 9".
>
> Page 16, lines 14 and 15, of the House engrossed amendment to the Senate amendment, strike out "203, 204, 205, 206, 207, 210 and 211" and insert "3, 4, 5, 6, 7, 10, and 11".
>
> House amendment to Senate amendment numbered 2 to House amendment to Senate amendment:

In lieu of the matter proposed to be stricken and inserted by Senate amendment numbered 2, strike out line 10 through line 16 on page 16 of the House engrossed amendment to the Senate amendment to the bill.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments to the House amendment to the Senate amendment and the House amendment to Senate amendment numbered 2 to the House amendment to the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Foley). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

Mr. GEKAS. Mr. Speaker, reserving the right to object, I shall not object, but I would like to ask the chairman of our subcommittee to explain the nature of the amendments that we are considering here today in this unanimous-consent request.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Michigan the chairman of the subcommittee.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Speaker, on November 16, 1987, the House passed H.R. 3483, with an amendment to the Senate amendment. The bill was returned to the Senate, which concurred in the House amendment, with three numbered amendments. The first Senate amendment simply corrected a typographical mistake. The second and third Senate amendments sought to correct a technical error concerning the effective date provision of the bill. Upon further examination, it has become apparent that the Senate amendments do not go far enough to correct the effective date problem. The amendment I am offering today would simply drop the effective date provision of the bill. Thus, except for the one section of the bill that has its own effective date provision, the bill will take effect on the date of enactment. This will avoid any potential ex post facto problems. This amendment has been agreed to by all of the interested parties.

Mr. GEKAS. Mr. Speaker, I wish to state for the record that the explanation given by the gentleman from Michigan is absolutely correct and it has been agreed on by both sides. The important facet of all of this is that we will be straightening up this legislation to create an effective date that will stick, and then prospectively there will be no further need from that point on to correct anything except for a little hiatus between November 1 and the time of the effective date, as will finally be enacted in this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3483.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1300

NATIONAL SKIING DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 146) designating January 8, 1988, as "National Skiing Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from California?

Mr. CAMPBELL. Mr. Speaker, reserving the right to object, I am happy to be here today as the sponsor of Senate Joint Resolution 146, which recognizes the benefits of skiing and the ski industry.

The resolution will designate January 8, 1988, as "National Skiing Day." National Skiing Day will kick off the ski industry's "Let's Go Skiing, America!" month. Throughout this January, special promotions and events have been scheduled to encourage new skiers of all ages and abilities.

The ski industry, with sales of over $3.5 billion and another $1.13 billion spent on ski lessons, rentals, and lift tickets last year, makes a major economic contribution not only to my district, and home State of Colorado and to many other districts throughout the United States, this popular activity provides much-needed jobs in every State and to communities where other segments of the economy are sagging.

Besides the economic contribution the sport makes to the United States, many physical benefits are derived from the great sport of skiing. With more than 21 million Americans spending the equivalent of 52 million days each year, on the slopes, skiing makes a major impact. Both downhill and cross-country skiing give Americans a wonderful chance to breathe fresh air and enjoy our magnificent outdoors.

I would like to thank the gentlewoman from Maryland, my colleague and all who helped by cosponsoring this resolution in a true bipartisan effort. Before I yield back the balance of my time, I would also like to invite any Member to join me in Colorado for some skiing on January 8.)

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 146

Whereas commercial alpine and nordic skiing operations are among the fastest growing commercial uses of the national forests;

Whereas skiing increases the recreational value of the national forests by providing a winter recreational use for such forests;

Whereas skiing is a healthful activity that promotes physical well-being, contributes to the enrichment of the human spirit, and fosters an appreciation of the outdoor environment;

Whereas skiing provides enjoyment to millions of people each winter;

Whereas skiing improves employment opportunities in, and contributes to the economic stability of, a number of States;

Whereas the people of many rural communities in the United States rely primarily on skiing for winter employment and income; and

Whereas people throughout the world can become aware of the environmental grandeur and recreational resources of the United States by skiing in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 8, 1988, is designated as "National Skiing Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MADE IN THE U.S.A. MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 318) to authorize and request the President to designate the month of December 1987 as "Made in the U.S.A. Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HEFNER. Mr. Speaker, reserving the right to object, today this body has an opportunity to make an important statement in support of the working men and women of this great land. As everyone well knows, our Nation is suffering from an enormous trade deficit that is already doing damage to our economy, and threatens to do more if not soon brought under control.

There is no "quick-fix" to our trade deficit problem, but the American consumer can help improve the situation if, when faced with a choice between a product made abroad or one made in the United States, he or she chooses the product that was made here at home. With that in mind my colleague from Massachusetts, Mr. CONTE, and I introduced House Joint Resolution 318, a resolution to designate the month of December 1987 "Made in the U.S.A. Month."

Our resolution seeks to educate the public about the seriousness of our Nation's trade deficit and to make them aware that their purchases can have a very real impact on their own jobs and on the economy as a whole. House Joint Resolution 318 authorizes and requests the President to call on Federal, State, and local government agencies and the American people to observe the month of December with programs and activities that promote the "Buy American" concept.

There is no better time than the holiday shopping season to make this declaration, and I would think that this is something all my colleagues would be willing to support.

Mr. CONTE. Mr. Speaker, I rise in energetic support of House Joint Resoluton 318, designating this month of December 1987, as "Made in the U.S.A. Month." The gentleman from North Carolina deserves our wholehearted commendation for his tireless efforts since mid-June to move this resolution through the House, and I am pleased to be associated with him as an original sponsor of the resolution.

We are on another record setting pace for the 1987 trade deficit. The steep decline in the value of the dollar relative to other major currencies has so far had scant effect on our balance of trade. The deficit hurts our manufacturing sectors—the heart of our industrial economy—and robs many of the Nation's working men and women of the pride and joy they feel at being the driving force of the American economy.

"Made in the U.S.A. Month" is meant to help them, and all the rest of us who work to benefit our country, regain that pride.

What comes to mind when I say "Made in the U.S.A."? Quality, affordability, ingenuity, craftsmanship, service: the list goes on and on. As a result of the increased awareness of the trade deficit and of the publicity that the Made in the U.S.A. campaign has brought through television, American consumers are becoming more and more "label conscious."

They aren't just looking at the designer label, they're looking at the "Made in" label as well. It is particularly important now, while the holiday season is upon us, as I have summarized in a few lines of verse:

Twas the month about Christmas,
  And all through the land,
Shoppers studied the labels
  As Congress had planned.
The gifts in their bags
  Were all made in the States,
At competitive prices
  Enhanced by rebates.
Clothing and kitchenware
  Crafted with quality,
Hand-tools and batteries,
  And the board game, Monopoly.
Those Far Eastern products
  would increase trade deficits,
So smart high-tech shoppers
  Bought from Massachusetts.
And I, while the Judge
  was being restored,
Did my Christmas shopping
  In my borrowed Ford.
So as St. Nick did tell
  while he packed up his sleigh,
"My preferred label reads
  'Made in the U.S.A.' "

We should all support this resolution and make the special effort to buy American.

Mr. HEFNER. Mr. Speaker, I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I rise in support of House Joint Resolution 318 which designates December 1987, as "Made in U.S.A. Month."

This measure recognizes the seriousness of our trade deficit and its impact on our labor force, manufacturing industries, domestic products, exports, and economy.

House Joint Resolution 318 provides a timely reaffirmation of our commitment to American workers and products.

It calls on Federal, State, and local governments to enhance the public awareness about the origins of most products sold in the United States.

This resolution comes at a very significant time when signals sent to the stock markets here and abroad seem to be the most important matter.

Let us send, together with all Americans, a real signal to our trading partners that we are serious about reducing our trade deficit.

It is likely that America will not take a protectionism approach just as our trading partners will not improve access to their markets.

But let us indicate that Americans are becoming more conscious of the origins of their purchases. And that Americans are beginning to concentrate on purchasing "Made in U.S.A." products.

Mr. Speaker, stirring up this sense of nationalism is one way, and perhaps the most effective of all, for our constituents to play an effective role in reducing our Federal trade deficit.

I would like to commend the author of House Joint Resolution 318 for initiating this important commemoration. I urge all my colleagues to join me in adopting it.

Mr. HEFNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 318

Whereas the trade deficit in the United States reached a record level of more than $168,000,000,000 in 1986;

Whereas the trade deficit is predicted to exceed $150,000,000,000 in 1987;

Whereas in excess of one million six hundred and sixty-one thousand jobs have been lost in the manufacturing sector since 1972 as a direct result of imports;

Whereas imports account for nearly 17 per centum of all manufactured products sold in the United States;

Whereas the number of imports continues to grow at an alarming rate and constitutes a steadily increasing percentage of all manufactured products sold in the Nation;

Whereas the manufacturing sector of the economy of the United States continues to shrink at an alarming rate, as a result of imports;

Whereas a continuing flood of imports of manufactured products could permanently reduce the manufacturing capacity of the United States and, as a direct result (1) threaten the ability of the Nation to respond to a national emergency; and (2) make it highly vulnerable to embargoes of a wide range of producs vital to the national defense and the efficient functioning of the national economy;

Whereas there is a lack of public awareness of the origin of most products sold in the United States;

Whereas consumers in the Nation should be aware of the impact that their purchases can have on their own jobs and the economy as a whole; and

Whereas the Federal Government has not effectively linked the growth of imports to the decline in consumption of domestic products: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating December 1987 as "Made in the U.S.A. Month", and to call upon Federal, State, and local government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PEARL HARBOR REMEMBRANCE DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 105) to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I will not object, and I rise in favor of this very important resolution.

Mr. Speaker, as a long-time supporter of legislation designating December 7, as National Pearl Harbor Remembrance Day," I rise in favor of Senate Joint Resolution 105.

It has been my pleasure to have been actively involved in the National Pearl Harbor Remembrance Day legislation since 1981 when I first introduced it in the House. In 1985, I was honored to be an original cosponsor of a bill, which granted a Federal charter to the Pearl Harbor Survivors Association. It is important to remember there are a lot of people alive today who were there on December 7, 1941.

On the morning of December 7, 1941, the Imperial Japanese Navy launched an unprovoked surprise attack upon units of the United States stationed at Pearl Harbor, Hawaii. Over 2,400 Americans were killed in action and almost 1,200 were wounded in this attack, which led to our involvement in World War II.

For all of us, December 7, 1941, was a day of terror and fear. But for thousands of others, it was a day when they were called upon to make tremendous personal sacrifices and display uncommon courage and patriotism. It was a day proclaimed by President Franklin Delano Roosevelt as, "a date that will live in infamy." We owe a tremendous debt of gratitude to all members of the Armed Forces who served at Pearl Harbor, in the Pacific, and all others who served in this war. I believe, therefore, that it is highly appropriate that we observe this solemn occasion through the official designation of December 7, 1987, as National Pearl Harbor Remembrance Day.

This commemoration can help strengthen our commitment to defend this Nation and its allies from future aggressions and duly honor those who sacrificed so much so that American generations can be free.

Mr. GALLO. Mr. Speaker, I join today with my colleagues in support of this resolution to designate December 7, 1987, as National Pearl Harbor Remembrance Day. I believe that we must emphasize the word "Remembrance" today, because there is a strong concern being expressed by a number of my constituents, and I am sure yours as well, that real importance of this "date that will live in infamy" is fading from the public consciousness.

Even our President, who, like many of us, is old enough to remember where he was on that day in 1941, commented recently to the effect that the importance of nuclear arms reduction on December 7, 1987, would eclipse the memory of the devastation of December 7, 1941.

While we do not know what historians will say about the events of this December, we know that Pearl Harbor will stand in our history as a tragic event, as well as a turning point for America and the world.

Pearl Harbor Day is our way of honoring those brave men and women who withstood the fire and smoke of those first hours of destruction at our naval bases in the Pacific, including our base at Pearl Harbor.

The importance of this day for future generations is twofold. First, it is a reminder that events half way around the world can suddenly change the lives of millions of people.

In a world of instant communications, when word of a violent attack travels at the speed of light, we must always remember that the price of peace is eternal vigilance.

The second lesson of Pearl Harbor for all Americans is that we, as a nation, can endure dangerous and trying times and prevail, because we have the will to win when we are united behind a common cause.

While we do not wish for a repetition of events that would test our will to win in the future, I am confident that we would prevail if we were again provoked to take such actions.

We must remember that our strength as a nation is based on our dedication to the protection of freedom.

We should never forget Pearl Harbor or the other events in our history that serve as reminders of our need for enternal vigilance in the cause of freedom.

Mrs. MORELLA. Mr. Speaker, on the National Archives Building in Washington are engraved the words: "The heritage of the past is the seed that brings forth the harvest of the future." I have introduced House Joint Resolution 411 to designate December 7, 1987, as "National Pearl Harbor Remembrance Day." Those men and women who served our Nation with courage and fortitude at Pearl Harbor in 1941 deserve a special thanks from a grateful nation. Their example must surely be an inspiration to future generations of Americans.

This year marks the 46th anniversary of the bombing of Pearl Harbor and also our Constitution's 200th anniversary. I salute the brave men and women who are members of the Pearl Harbor Survivors Association. In Maryland alone, there are 142 survivors, 31 of whom are constituents from Montgomery County. I thank them for the services they rendered—and the sacrifices they made on our behalf—to "* * * secure the Blessings of Liberty to ourselves and our posterity."

John F. Kennedy is supposed to have found a simple verse scratched on a sentry box in Gibraltar:

God and the soldier all men adore
In time of trouble and no more;
For when war is over and all things righted
God is neglected and the soldier slighted.

May a grateful nation not slight those who served us so well 46 years ago. Mr. Speaker, I ask the House to move swiftly and pass House Joint Resolution 411 to designate this December 7 as "National Pearl Harbor Remembrance Day." Let us learn from the selflessness and dedication of these brave men and women.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 105

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy and Air Force launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas over two thousand four hundred citizens of the United States were killed in action and one thousand one hundred and seventy-eight were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a date that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1987, in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1987, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAY OF EXCELLENCE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 35) relating to the commemoration of January 28, 1988, as a "National Day of Excellence," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. MORELLA. Mr. Speaker, 2 years ago we watched with disbelief and horror as the space shuttle *Challenger* exploded. The seven astronauts aboard were among our greatest resources in the space program. It is fitting that we designate January 28, 1988, as a "National Day of Excellence" in honor of this crew of the *Challenger*.

In the Eighth District of Maryland, the Montgomery County Public Schools have chosen to honor the *Challenger* crew by naming the newest public school in Montgomery County, the Christa McAuliffe Elementary School in Germantown, MD. Principal Eugene G. Haines and the faculty encourage their 677 students to strive for excellence as this young woman did. Christa McAuliffe was a graduate of Towson State University and a teacher in Prince Georges County. Surely, she is a fine example of what it means to strive for excellence. She and all the members of the *Challenger* crew come to mind when we read the words of John Gardner: "Democracy is measured not by its leaders doing extraordinary things, but by its citizens doing ordinary things extraordinarily well."

Mr. Speaker, I urge the House to pass House Joint Resolution 92 commemorating January 28, 1988, as a "National Day of Excellence" in honor of the crew of the space shuttle *Challenger*. May their reaching for the stars be an incentive to the young people of the United States and especially to the boys and girls of the Christa McAuliffe Elementary School.

Mr. KOLBE. Mr. Speaker, nearly 2 years ago, our country was devastated by the tragedy that befell the crew of the space shuttle *Challenger*. As a nation we searched for a way to understand the loss. By proclaiming January 28, 1988, as the "National Day of Excellence," we will remember the astronauts in the most appropriate manner since we will call on all Americans to rededicate themselves toward reaching the high standards of Gregory Jarvis, Christa McAuliffe, Ronald McNair, Ellison Onizuka, Judith Resnik, Francis Scobbe, and Michael Smith.

As the "National Day of Excellence," January 28, 1988, will be a day when we Americans will be encouraged to reinvigorate our efforts to achieve our highest goals, both individually and as a nation. Excellence in any field is not easily achieved, rather it is something which requires hard work and dedication. The *Challenger* crew exemplified these qualities. A "National Day of Excellence" is the most appropriate way for us to honor those whose efforts we strive to match. By establishing a day for such an observance, we are providing America with an avenue to constructively honor those women and men who symbolize the American work ethic.

Our Nation was built by men and women who pursued excellence. The astronauts followed in a long line of Americans who pushed the outer limits of their abilities, of Americans who knew what it meant to be the best. Starting with the Founding Fathers who devised our system of government, our history is rich with examples of women and men who have struggled to achieve excellence in their results. Passing this resolution will set an example for all Americans to follow.

What better way to teach our children the value of hard work and perseverance than to honor those Americans who took those virtues as their credo. This was the dream of Tucson school teacher Ed McDonald and his handicapped students when they came up with the idea of the "National Day of Excellence." What started as a means to make some sense out of the *Challenger* disaster has grown into a national movement which enjoys the support of such organizations as the NEA, the Air Force Association, the Boeing Corp., and the Young Astronauts' Council.

So join me today in honoring the *Challenger* astronauts by supporting Senate Joint Resolution 35 which proclaims January 28, 1988, as the "National Day of Excellence."

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 35

Whereas, on January 28, 1986, the seven crew members of the space shuttle Challenger, Commander Francis R. Scobee, Pilot Michael J. Smith, Mission Specialist Ellison S. Onizuka, Mission Specialist Ronald E. McNair, Mission Specialist Judith Resnick, Payload Specialist Gregory B. Jarvis, Teacher-Observer S. Christa McAuliffe, were killed in a tragic explosion shortly after liftoff;

Whereas each of the crew members of the Challenger was a true American hero who represented the best and the brightest that our Nation has to offer;

Whereas the crew of the Challenger gave their lives while striving for an excellence of technology, of goal, and of personal achievement which fills all Americans with a sense of pride in their fellow human beings and countrymen;

Whereas the most appropriate tribute we could pay the crew of the Challenger is a national day when Americans would rededicate themselves in all their endeavors to the pursuit of excellence which makes our country great;

Whereas the American spirit is most responsive to a living tribute in which all citizens can participate and be enriched by such participation; and

Whereas this is a day for which our national character cries out: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1988, is designated as a "National Day of Excellence". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe such a day—

(1) by resolving that in the course of their regular activities they will pursue the spirit of excellence represented by the crew of the space shuttle Challenger; and

(2) with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GAUCHER'S DISEASE AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 122) to designate the period commencing on October 18, 1987, and ending on October 24, 1987, as "Gaucher's Disease Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 122

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequency has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principal structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on October 18, 1987, and ending on October 24, 1987, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offerd by Mr. DYMALLY: Page 2, strike lines 3 through 8 and insert the following:

That the week beginning October 16, 1988, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. DYMALLY. Mr. Speaker, I yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, earlier this year I introduced House Joint Resolution 227, a bill to designate the week of October 17, 1988, as "Gaucher's Disease Awareness Week." I am pleased that last year the House passed a similar resolution. I would like to thank my colleague from California [Mr. DYMALLY], as well as the 220 cosponsors of this bill for their support in bringing this resolution to the floor today.

Gaucher's disease is caused by the body's inability to produce an essential enzyme. The absence of this enzyme causes the body to store abnormal quantities of lipids in the liver and spleen which can have an adverse effect on tissues, especially bone tissue. This is the most prevalent among seven genetic disorders known to primarily affect Jewish populations. As many as 1 in 12 persons may be a carrier of Gaucher's disease which means that an estimated one child in every 600 born could have the disease.

In March of this year, I had the pleasure of meeting 6-year-old Jamie Seaver, a beautiful little girl who is suffering from the devastating effects of Gaucher's disease. Watching Jamie further convinced me of the vital importance of research and public awareness in combating Gaucher's disease. Once again, I would like to commend the National Gaucher's Foundation, founded in 1984, for its outstanding efforts in increasing public awareness. By publicizing the problems associated with this disease, I hope we can continue to provide resources for research so one day we may find a cure for Gaucher's disease.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. DYMALLY: Amend the title so as to read: "A joint resolution to designate the week beginning October 16, 1988, as 'Gaucher's Disease Awareness Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 136) to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

□ 1315

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

Mr. COURTER. Mr. Speaker, reserving the right to object, I do not rise to object, But I would like to say that I totally endorse this resolution. Nothing is more important than making U.S. citizens aware of the dangers of driving while inebriated, driving while drunk, or driving while under the influence of any type of controlled dangerous substance.

Mr. Speaker, I do not think there is any Member of this body from any one of our great 50 States that has not known an individual who died in an automobile accident as a result of a driver that was using a controlled dangerous substance or was drunk from alcohol. Awareness is one of the most important things we can do, indeed it is about the only thing we can do many times.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I am pleased to bring to your attention Senate Joint Resolution 136, a bill to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week."

This is a very important bill and comes at a particularly appropriate time, the holiday season, when there are an increased number of social functions and more drivers on the road. All of us want to enjoy this time to visit with friends and relatives. Let us, however, exercise caution so that our joy is not turned into sorrow.

I also want to commend Representative CONNIE MORELLA, who introduced this bill and has been in the forefront of a campaign to make us all aware of the dangers of alcohol and drug abuse, and the high risks of driving while under the influence of either. With the introduction of this bill, Mrs. MORELLA is performing a public service for which we must be grateful. We cannot be reminded enough of the fatal consequences of drinking, drugs, and driving.

Mr. Speaker, the statistics are shocking. In 1986, 46,000 persons lost their lives in traffic accidents. Of those deaths, 54 percent had been drinking prior to the accident. Another 39 percent were fatally injured and died later. Many of these persons were between the ages of 15 and 24. We cannot afford to continue to lose our youth. What talents and hopes die every day with those deaths!

I urge House passage of this bill, in the hope that it will make the difference this holiday season. Let us hope that we will take its sober message to heart. Give the best gift this season. Show you care by staying alive.

Mrs. MORELLA. Mr. Speaker, I am the chief sponsor of House Joint Resolution 300, designating the period of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week."

I sincerely wish that we did not have to designate such a week but the shocking and grim statistics indicate that our public must be made aware of the perils of mixing drinking or drugs with driving.

The public must be made aware that even legal drugs, such as a prescribed antihistamine, may cause drowsiness and impairment of judgment while driving. We should be cautioned about this aspect of ingesting drugs and driving.

During this year's Memorial Day weekend, 416 people were killed and 453 died during the Labor Day weekend as a result of automobile accidents. The National Highway Traffic Safety Administration [NHTSA] has estimated that 50 percent of these deaths resulted from alcohol or drug abuse. There were 31,120 automobile related deaths from January through August this year. Approximately 46,000 deaths occurred last year due to traffic accidents. NHTSA has estimated that 39 percent of the drivers killed in 1986 were legally drunk or drug impaired. The figure rises to 54 percent for single vehicle crashes.

Society's burden, because of impaired driving due to alcohol and drug use, is difficult to calculate. There can be no estimate rendered for the pain and suffering which follows alcohol and drug-related accidents. In dollar terms, the cost has been estimated at $26 billion.

The week of December 13-19 has been chosen to focus attention on the problem of impaired driving because there are more deaths during the holiday season—there are more drivers on the highways and there are more social events where drinking and the use of drugs are part of the festivities.

This important resolution has been introduced and has passed for the last 5 years. Thousands of citizen volunteers all over this country have participated in the awareness program and there has been signs of progress because of this awareness, Mr. Speaker. There has been a reduction of total traffic fatalities where a driver or pedestrian is intoxicated. In 1982, the statistics reflected that 46 percent of the pedestrians or drivers were intoxicated whereas, in 1986, 41 percent were intoxicated. This is a small improvement, but a positive one.

In any case, the carnage on our highways continues. We must be able to detect and stop drivers who have used drugs or liquor prior to getting behind the wheel of their car.

Mr. Speaker, the designation of "National Drunk and Drugged Driving Awareness Week" will help to remind our constituents of the severity of this problem, a national senseless waste of human life and the enormous cost in human suffering—a reminder that we cannot have happy holidays when our highways are the scene of devastation.

I wish to express my gratitude to Senator HUMPHREY for introducing this legislation and to the many cosponsors of House Joint Resolution 300.

Mr. Speaker, I urge unanimous support of this important resolution.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 136

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-six thousand in 1986;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 per centum of drivers killed in single vehicle collisions and 39 per centum of all drivers fatally injured in 1986 had blood alcohol concentrations of .10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as ten thousand lives each year;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last five years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 13, 1987, through December 19, 1987, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 791, GEOLOGICAL SURVEY WATER RESOURCES ORGANIC ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 318 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 318

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 791) to authorize the water resources research activities of the United States Geological Survey, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment in the nature of a substitute made in order as original text by this resolution and which shall not exceed two and one-half hours, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3676 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by titles instead of by sections, each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of section 401(a) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) and with clause 7 of rule XVI are hereby waived. It shall be in order to consider the amendment printed in section 2 of this resolution, by and if offered by Representative Coleman of Texas, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At the end of the bill add the following new title:

"TITLE —NUCLEAR WASTE DISPOSAL

"SEC. . LOCATION OF DISPOSAL FACILITIES.

"(a) COMPACT STATES.—Section 4 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d) is amended by adding at the end the following:

"'(c)(1) Consent to a compact under subsection (a) shall be conditioned on the requirement that the compact may not approve a regional disposal facility for low-level radioactive waste which is located within 60 miles of an international boundary.

"'(2) No compact approved under subsection (a) may approve a regional disposal facility for low-level radioactive waste which is located within 60 miles of an international boundary.'.

"'(b) NON-COMPACT STATES.—Section 5(e)(1) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021e(e)d) is amended by adding at the end the following:

"'(G) No non-member State may approve a regional disposal facility for low-level radioactive waste which is located within 60 miles of an international boundary'.".

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 318 is an open rule providing for the consideration of the bill H.R. 791, the National Ground Water Contamination Information Act of 1987.

The rule provides for 2½ hours of general debate, with 30 minutes to be equally divided between the chairman and the ranking minority member of the Committee on Interior and Insular Affairs, 30 minutes equally divided between the chairman and the ranking minority member of the Committee on Agriculture, 30 minutes equally divided between the chairman and the ranking minority member of the Committee on Energy and Commerce, 30 minutes equally divided between the chairman and the ranking minority member of the Committee on Public Works and Transportation, and 30 minutes to be equally divided between the chairman and the ranking minority member of the Committee on Science, Space, and Technology.

Mr. Speaker, the rule makes in order the text of H.R. 3676 as a substitute amendment for H.R. 791. The substitute will be considered as original text for the purpose of amendment, and will be considered by title with each title considered as having been read.

The rule waives points of order against the substitute for failure to comply with section 401(a) of the Congressional Budget Act. Section 401(a) provides that it shall not be in order to consider any measure which provides new contract authority unless such authority is limited to amounts provided in advance in Appropriation Acts. Mr. Speaker, section 210 of the substitute authorizes the Administrator of the Environmental Protection Agency to enter into contract agreements with State and local governments. Because this contact authority is not limited to a prior appropriation, a waiver of 401(a) is necessary.

However, Mr. Speaker, it is the understanding of the Rules Committee that an amendment will be offered that cures this Budget Act violation, which makes the waiver of section 401(a) purely technical.

The rule also waives points of order against the substitute for failure to comply with the provisions of clause 7 of rule XVI, the germaneness waiver. The bill as introduced by the Interior Committee authorizes the U.S. Geological Survey's ground water research activities. The four other committees that had a referral on the bill instructed other Federal agencies to establish programs that broadened the extent of the original bill. Because of this a waiver of clause 7 of rule XVI, is necessary.

Mr. Speaker, the rule also makes in order an amendment printed in section 2 of this resolution by and if offered by the gentleman from Texas, Representative COLEMAN. This amendment would prohibit a regional disposal facility of low-level radioactive waste to locate within 60 miles of an international boundary. Because this is not germane to the substitute bill a waiver of clause 7 of rule XVI, is necessary. It is the understanding of the Rules Committee that this amendment will not be offered.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3676 authorizes $164 million for fiscal year 1988, 1989, and 1990, for the U.S. Geological Survey to research and study the contamination of the Nation's ground water resources. This contamination comes from a variety of sources such as improper waste disposal, landfills, salt water intrusion and pesticides. This bill would coordinate the ground water activities of all Federal agencies and would set up an interagency Ground Water Research Committee co-chaired by the Environmental Protection Agency, and the Interior Department.

This bill is an attempt by five committees of the House to put together a bill that would provide State and local governments the reseach information and the financial assistance they will need to protect underground water resources and to allow for the start of projects to clean those water resources that are already contaminated. I urge adoption of the rule.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 318 is an open rule under which the House will consider legislation establishing a comprehensive Federal effort for research of ground water contamination.

The rule makes in order the text of H.R. 3676 as original text for the purpose of amendment, under the 5-minute rule.

Mr. Speaker, H.R. 3676 is an amendment in the nature of a substitute for H.R. 791, which was reported from the Interior Committee, the Agriculture Committee, the Energy and Commerce Committee, the Public Works Committee, and the Science, Space, and Technology Committee.

The substitute is a five-title bill, incorporating several different and often conflicting provisions from the five committees into one bill. It contains several unnecessary authorities and duplications, and confuses the roles of the Geological Survey and the Environmental Protection Agency.

The rule provides two waivers for the substitute. The first one is a waiver of section 401(a) of the Budget Act, which prohibits consideration of legislation containing contract authority unless the contract authority is provided for in an Appropriation Act.

Mr. Speaker, a provision authorizing the Administrator of the Environmental Protection Agency to enter into contracts and make grants violates section 401(a) of the Budget Act.

The rule also waives clause 7 of rule XVI against the substitute, because it is not germane to H.R. 791 as introduced. As introduced, the bill authorized a number of changes in the ground water research activities of the U.S. Geological Survey.

By the time the four other committees finished adding new titles and provisions within their jurisdictions, the bill had been expanded far beyond its original purpose.

Mr. Speaker, there is one provision of this rule that many Members will find troubling. The rule makes in order one specific amendment, to be offered by the gentleman from Texas [Mr. COLEMAN] relating to nuclear waste disposal. The amendment is not germane to the bill, the rule provides a waiver of the germaneness rule.

During our hearing in the Committee on Rules yesterday, the leaders of the Committees on Interior and Energy were strongly opposed to the amendment by the gentleman from Texas, and they urged the Rules Committee not to provide this waiver. I've been informed that the gentleman from Texas will withdraw the nongermane amendment.

Mr. Speaker, this legislation is just about the only program for today and the leaders of the five committees involved want to bring up their bill today. This is an open rule.

Mr. Speaker, the gentleman from California [Mr. PASHAYAN] the ranking minority member of the Interior Committee's Water and Power Resources Subcommittee, has introduced a substitute for the bill. Under this open rule he will be able to offer the House a less expensive alternative that avoids the duplication and overlap of agency responsibilities contained in H.R. 3676.

Since this is an open rule and since the gentleman from Texas plans to withdraw his nongermane amendment, I urge its adoption.

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Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. LUJAN], the ranking minority member.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Although the situation has changed a little bit as to the amendment the gentleman from Texas [Mr. COLEMAN] was going to offer, I still want to rise and address that subject matter. We were prepared to make an all-out fight on the rule because of the granting of that waiver of House rule XVI, clause 7 making nine nongermane amendments subject to a point of order. The Rules Committee chose to waive this provision against the amendment which the gentleman from Texas was to offer which would prohibit noncompact States from approving any low-level radioactive facilities located within 60 miles of the Mexican border. We were prepared to say that waiver should not be accepted by this body. I will not go into the argument of the amendment because it will not be offered by the gentleman from Texas.

But let me say that even if the amendment were acceptable to many of us, we thought at that time the rule should have been rejected. The reason for that is the subject matter of the Coleman amendment is under the jurisdiction of the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce. However, the Rules Committee took the backdoor approach.

The issue was not raised in committee and so there was a backdoor approach through the Rules Committee, and it was my impression, and I still believe that the Rules Committee trampled on the jurisdiction and the rights of these two committees. It should be the duty of the Rules Committee to enforce the rules of the House, not to sweep them under the table because the leadership has indicated its support of a particular amendment.

Mr. Speaker, there is also the question of what the Rules Committee ought to do. Three chairmen of committees of this body, the Committee on Interior and Insular Affairs, the Committee on Energy and Commerce, and the Committee on Science, Space, and Technology spoke against the granting of this waiver in their testimony before the Rules Committee yesterday, and yet the Rules Committee chose to ignore their guidance and to instead follow the lead of the special interests.

So I think it is a legitimate point to raise that issue, not the issue of the amendment itself, but the issue of the granting of the waiver just to satisfy some procedure.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Speaker, let me say in deference to the leadership, and also to the gentleman's objections about the rule itself, my amendment originally stated that one of those things could be put over an aquifer. That made it germane to this bill because ground water and underground water, and the hydrologic combination, and the way that it flows into the river; namely, in this instance the Rio Grande River, made it germane. But as the gentleman is aware, there are many other considerations, particularly the fact that in South Carolina they have low-level nuclear radioactive waste disposal sites on top of aquifers, much less under one.

So I withdrew that section of the amendment which required the rule. So I say to the gentleman it was really not so back-handed or under the table as he suggested that someone address the issue of where these low-level radioactive nuclear sites would be placed.

I recognize the problems that the committee chairmen had, and I thank the Rules Committee for their consideration. But as the gentleman from Massachusetts [Mr. MOAKLEY] has pointed out, I do not intend to offer that amendment because of other agreements with those committee chairmen with respect to the problem that I brought to the attention of that committee.

So I thank the gentleman and I hope he will support the rule. I think it is a good rule, particularly in light of what has been said.

Mr. LUJAN. I did not say it was underhanded or under the table. I said it was the backdoor approach. There is a difference. I am not accusing them of anything sinister or anything in just using their authority that they have to come around another way.

I am going to now support the rule, understanding that the gentleman will not offer that amendment. But I would hope that in the future the Rules Committee, if nothing else, knowing that the majority on the Rules Committee, the members and the chairmen of the committees, as a matter of fact, are on the gentleman's side of the aisle, I think the Rules Committee should show a little consideration for their feelings.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. PETRI], a member of the Committee on Public Works and Transportation.

Mr. PETRI. Mr. Speaker, I thank my colleague for yielding me this time.

I rise in support of H.R. 3676, the Ground Water Research and Protection Act of 1987.

I am hopeful that the research generated by its provisions will give communities new, cost-effective methods for safeguarding local ground water supplies. There is no question that State and local governments have primary responsibility for ground water. However, as this legislation states, the Federal Government can play an important role in providing research and technical assistance since Congress has mandated most of the standards that must be met by State and local governments in managing the resource.

I particularly support title IV which provides assistance for small communities trying to address the problem of naturally occurring radium in drinking water supplies. Much of the area I represent is made up of granite rock formations. The ground water from such formations tends to contain naturally occurring radium in amounts that exceed the maximum safety level established by the Environmental Protection Agency under the provisions of the Safer Drinking Water Act. There are a number of small Wisconsin communities faced with expensive water treatment programs to bring down the radium levels in their drinking water supplies.

Title IV of this measure before us establishes a grant program to help local governments install the ground water treatment technology needed to reduce these radium levels.

Under this program, the EPA can award grants to States to finance radium treatment technologies. I am pleased that this grant program has been added to this important bill.

As a member of the Subcommittee on Water Resources, I look forward to seeing this bill enacted into law.

Mr. TAYLOR. Mr. Speaker, I yield such time as he might consume to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. Mr. Speaker, I rise to express serious reservations with H.R. 791 as reflected in the Foley amendment (H.R. 3676).

H.R. 791 assumes the Federal Government is not doing what it should be doing in the area of ground water research and technology because of inadequate authority. Yet in fiscal year 1987 Federal agencies spent over $200 million for the activities authorized by H.R. 3676.

H.R. 3676 does not provide clear direction on the roles of the Federal and State governments.

Yesterday, I sent to each Member a copy of the administration's position on H.R. 791 as reconstituted in H.R. 3676.

The administration opposes it, because H.R. 3676:

Provides inadequate administrative flexibility to integrate with existing initiatives.

It duplicates existing authorities and programs.

Provides excessive authorization levels for current and new programs—$492 million to Interior and $57 million to EPA over fiscal year 1988-90.

Confuses historic roles of EPA and Interior by providing overlapping authorizations to these agencies.

It authorizes projects of low priority of local concerns and

Prematurely authorizes a full-scale ground water assessment program prior to evaluating the USGS Pilot Program already underway.

In my opinion, H.R. 3676 lacks a clear policy. The original Interior reported bill clearly articulated: States primacy and the proper Federal role.

Also H.R. 3676 expands without justification EPA's mission in a manner that improperly infringes on the long establishment roles of USGS and USDA. H.R. 3676 authorizes EPA to undertake virtually the same activities and to provide the same type of technical assistance that USGS and USDA is already providing.

My questions is, Do we want EPA to duplicate the Extension Service or Federal-State Water Cooperative Program of USGS and USDA? This is precisely what H.R. 3676 would do.

Last, H.R. 3676 would duplicate the 54 USGS water institutes. It authorizes five new EPA water institutes.

I believe, if H.R. 3676 is adopted in its present form, we can expect to receive request for substantial additional appropriations for research and technical assistance from EPA at a time of fiscal constraint.

Earlier this week, I introduced a substitute to the bill being considered today. It:

First, refrains from making significant new authorizations for EPA.

Second, provides a clear statement of national policy for ground water management.

Third, requires the President to establish or designate a mechanism for interagency coordination and in doing so to recognize the unique and important roles of EPA and USDA.

My substitute has 6 of the 13 major provisions of H.R. 3676 that are identified or similar. Specifically—

Title I reaffirms State privacy in ground water protection and management and the Federal responsibility to assist State and local governments.

Title II more completely defines USGS responsibilities than H.R. 3676.

Title III authorizes agriculture studies, identical to the Foley substitute.

Title IV authorizes radium contamination assistance for small communities, identical to the Foley substitute.

My substitute bill seeks to avoid duplication and overlap of agency responsibilities that exist in H.R. 3676. Specifically,

It does not authorize five new EPA ground water research institutes. There already are 54 water institutes funded at $5.7 million a year in Federal appropriations, and matched by $8.6 million in non-Federal funds.

It does not authorize new EPA research, development, and demonstration programs that could duplicate the kind of research and surveys carried out by the USGS.

Nor does it authorize a new approved water assessment program. A pilot program is already underway.

My bill authorizes $49 less than H.R. 3676. H.R. 3676 authorizes $492 million to Interior and $57 million to EPA over 3 fiscal years.

In summary, the administration is actively implementing numerous ground water related programs.

Further, the administration recognizes that current state of knowledge about ground water is inadequate and that continuing existing research and information collection activities is important.

Given the difficult budget negotiations for fiscal years 1988 and 1989, this is not the time to create and duplicate overlapping programs.

We should not vote on this bill today.

We should have recommitted it to the Interior Committee for further evaluation.

I urge you to vote against this rule.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I am glad to yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I appreciate some of the concerns the gentleman has outlined in his remarks here on the rule providing for the consideration of this legislation, and he has raised those with me and with other members of the committee. I would say to the gentleman I know he has a substitute, and I know he also has some conflicts with meetings of his other committee. We certainly are more than willing to take his concerns into consideration as this bill moves through the process.

I do not want in any way to speak for other Members, there are four committees involved and four committee chairmen and so fourth, but I think the gentleman has raised a number of points that may not have been given full attention in the rather lengthy and long deliberative process. I would certainly as a member of the committee be willing to sit down and go over some of those with the gentleman to see if some of those differences could in fact be reconciled.

But I want to also make it very clear that this bill that left our committee has now become the property of four additional committees, and that is why the discussions were so protected and detailed in trying to bring those various concerns, many of which the gentleman has expressed in his statement, to this piece of legislation. So I just wanted to let the gentleman know that.

Mr. PASHAYAN. The gentleman has reference then to the proceedings leading to and including the conference on the bill?

Mr. MILLER of California. The gentleman is correct.

I would be more than happy absolutely to sit down and go over that with the gentleman.

Mr. PASHAYAN. I accept the gentleman's offer. He says of course he can speak only for himself, but knowing the gentleman as I do, and his widespread and well-known abilities in this field, he speaking for himself is certainly enough. So I shall not offer my substitute, and I thank my colleague from California.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore (Mr. GRAY of Illinois) laid before the House the following communication from the chairman of the Committee on Energy and Commerce:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 30, 1987.

Hon. JIM WRIGHT,
Speaker, House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the U.S. House of Representatives, that Mr. David B. Finnegan on the staff of the Committee on Energy and Commerce has been served with a subpoena issued by the United States District Court for the District of Columbia. A copy is enclosed.

After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The **SPEAKER** pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

Committee on Public Works
and Transportation,
Washington, DC, October 29, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on September 23, 1987:

CONSTRUCTION: BORDER STATION

Ambassador Bridge, Detroit, Michigan.

REPAIR AND ALTERATION:

Chet Holifield Federal Building, Laguana Niguel, California; Auditors Building, Washington, DC.

LEASE PROSPECTUSES:

Federal Supply Services, Duluth, Georgia; Patent and Trademark Office, Crystal City, Virginia; Multiple Agencies, Hamilton Building, Arlington, Virginia; Multiple Agencies, Broyhill Building, Arlington, Virginia; EEOC Consolidation, Washington, DC; IRS, Covington, Kentucky; Navy, Norfolk, Virginia.

FCC Consolidation, Washington, DC; SSA—Office of Hearings and Appeals, Arlington, Virginia; Multiple Agencies, 2000 L Street, NW., Washington, DC; IRS Regional Office, 1201 E Street, NW, Washington, DC; Federal Supply Service, Arlington, Virginia; HHS—Parklawn Building, Rockville, Maryland.

11 (B) RESOLUTIONS:

Altoona, Pennsylvania.

The original and one copy of the authorizing resolution is enclosed.

Every best wish.

Sincerely,

James J. Howard,
Chairman.

There was no objection.

GEOLOGICAL SURVEY WATER RESOURCES ORGANIC ACT

The **SPEAKER** pro tempore. Pursuant to House Resolution 318 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 791.

☐ 1345

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 791) to authorize the water resources research activities of the U.S. Geological Survey, and for other purposes, with Mr. Flippo in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California [Mr. Miller] will be recognized for 15 minutes; the gentleman from California [Mr. Pashayan] will be recognized for 15 minutes; the gentleman from California [Mr. Brown] will be recognized for 15 minutes; the gentleman from Iowa [Mr. Grandy] will be recognized for 15 minutes; the gentleman from California; [Mr. Waxman] will be recognized for 15 minutes; the gentleman from Illinois [Mr. Madigan] will be recognized for 15 minutes; the gentleman from New York [Mr. Nowak] will be recognized for 15 minutes; the gentleman from Arkansas [Mr. Hammerschmidt] will be recognized for 15 minutes; the gentleman from New Jersey [Mr. Roe] will be recognized for 15 minutes, and the gentleman from New Mexico [Mr. Lujan] will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. Miller].

Mr. **PASHAYAN.** Mr. Chairman, I ask unanimous consent that my time and its control be given to the gentleman from New Mexico [Mr. Lujan].

The **CHAIRMAN.** Is there objection to the request of the gentleman from California?

There was no objection.

Mr. **MILLER** of California. Mr. Chairman, for the purposes of debate only, I yield such time as he may consume to the gentleman from Arizona [Mr. Udall], the chairman of the full Committee on Interior and Insular Affairs.

Mr. **UDALL.** I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 791, a bill to redirect the groundwater research activities of the Environmental Protection Agency, the Department of the Interior, and the Department of Agriculture.

H.R. 791 was reported by the Interior Committee on June 12, 1987. The bill was then sequentially referred to the Committees on Agriculture, Public Works and Transportation, Energy and Commerce, and Science and Technology. All those committees reported the bill with respective amendments by September 30, 1987.

Mr. Chairman, since that time, we have worked hard on a compromise acceptable to all five committees. I'm pleased to report that we have achieved an acceptable compromise. The compromise was introduced by Mr. Foley as H.R. 3676.

The compromise bill, which is supported by all the committees, has four titles.

Title I provides generic authorization for the water resources research activities of the U.S. Geological Survey.

Title II gives focus and specific direction to the ground-water research programs at the U.S. Geological Survey and Environmental Protection Agency [EPA]. This title includes a series of improvements in EPA's existing research program, authorizes a ground-water research and demonstration program, and requires a risk assessment analyses program. A ground-water assessment program and an information clearinghouse would be established in the U.S. Geological Survey.

Title III directs the Secretary of Agriculture to investigate the relationship between agricultural practices and water use and quality.

Title IV authorizes the EPA to assist local governments in mitigating radium contamination in groundwater.

Mr. Chairman, the committees of jurisdiction have labored long and hard to develop this needed bill. Polluted ground water and contaminated aquifers are problems this country cannot tolerate. I urge my colleagues to give this measure their wholehearted support.

Mr. **MILLER** of California. Mr. Chairman, for the purposes of debate only, I yield such time as he may consume to the gentleman from Connecticut [Mr. Gejdenson], the author of this legislation.

Mr. **GEJDENSON.** I thank the gentleman for yielding this time to me.

Mr. Chairman, I am very pleased to be here today for the consideration of H.R. 791, the National Ground Water Contamination Research Act of 1987. H.R. 791 is an important first step that the Federal Government must take to begin to solve the ground water contamination problem. This legislation will provide practical information that is urgently needed to prevent ground water contamination.

Before going any further, I want to thank George Miller, the chairman of the Interior Subcommittee on Water and Power, for all the work he has done on this bill. Chairman Miller's support has been instrumental to the success of H.R. 791. I also thank Chairman Scheuer, Chairman Nowak, Chairman Waxman, and Chairman Brown for their contributions to this legislation.

Ground water contamination is one of the most serious environmental problems facing this Nation. It has occurred in every State, and the number of wells closed because of contamination increases every day. Ground water supplies almost one-half of the Nation with drinking water, and 90 percent of the Nation's rural population with drinking water. We must act swiftly to protect this vital resource.

My home State of Connecticut provides an alarming example of how fast the ground water contamination problem is growing. When I first introduced this legislation in December 1985, 1,000 wells had been closed because of contamination in Connecticut. Since December 1985, 200 more tainted wells have been discovered in Connecticut, adding up to a total of 1,200 wells closed across the State.

My interest in the ground water contamination problem goes back to 1982 when I met with families living on pink row, in Montville, CT, who had just learned that their water was contaminated with trichlorethylene [TCE], a cancer-causing chemical. I cannot even begin to convey the fears and frustrations of the parents who discovered that for years their children had been drinking and bathing in water tainted with toxic chemicals.

In addition to health risks, ground water contamination has serious economic consequences. At a congressional field hearing last year in Hartford, CT, Jane Shea of Ellington, CT, testified that her home became virtually worthless after she learned that her well was contaminated with the pesticide ethylene dibromide [EDB]. During the 2-year period that her neighborhood struggled with the EDB problem, not a single home was sold in the area. The cost of extending the town water lines to the homes with tainted wells was over $500,000.

Unfortunately, a major barrier to the protection of ground water from contamination is the lack of basic information on the problem. Industry, environmentalists, farmers, and State and local officials all agree that more information is needed now. The primary purpose of H.R. 791 is to provide Federal, State, and local decisionmakers with the information they need to solve ground water problems.

H.R. 791 authorizes a comprehensive Federal ground water research effort by the Geological Survey, the Environmental Protection Agency [EPA], and the U.S. Department of Agriculture [USDA]. The bill establishes an Interagency Ground Water Research Committee to coordinate the efforts of the different agencies, and to ensure that there is no duplication of research activities.

This legislation recognizes, and increases, the strengths of the Federal agencies with major ground water research responsibilities. The Geological Survey is given responsibility for research on ground water quality and quantity. The Environmental Protection Agency [EPA] is given responsibility for health effects research, and other research related to its regulatory mission. Finally, the Department of Agriculture is directed to encourage farmers to use farming practices which do not contribute to ground water contamination and depletion problems.

H.R. 791 has five major components. First, it establishes a National Ground Water Assessment Program within the Geological Survey to increase our knowledge of ground water quality and quantity. The assessment program will fill in the many gaps in our knowledge of ground water.

Second, the bill directs the Secretary of the Interior to establish a National Ground Water Information Clearinghouse. The clearinghouse will serve as a central reference center for all ground water information, and will increase the accessibility of this information to those who need it. The assessment program and the clearinghouse are based upon recommendations made by the Environmental and Energy Study Institute in its 1986 report, "A Congressional Agenda To Prevent Ground Water Contamination."

Third, the bill strengthens EPA's Ground Water Research Program. It directs EPA to conduct health risk assessments for all significant ground water contaminants. This work is desperately needed to protect the health of over 100 million Americans who rely on ground water for their drinking water supply. EPA is also directed to initiate a program to develop and demonstrate technologies to prevent, detect, and remedy ground water contamination.

Fourth, H.R. 791 authorizes and expands ongoing Geological Survey and EPA programs to provide technical assistance to States and localities experiencing ground water contamination. The Geological Survey will assist States and localities with the assessment of ground water resources, including mapping, surveys, and investigations. EPA will provide technical assistance on regulatory matters.

Fifth, this legislation directs the Agriculture Department to conduct a study of the effect of various farming methods on water quality and quantity, and to establish an Agricultural Nitrogen Best Management Practices Task Force to encourage farmers to use nitrogen fertilizers in a manner which minimizes the contamination of ground water.

The bill authorizes $81 million in new spending over the next 3 years, an increase of $27 million per year. This increase is justified because of the massive environmental, health, and economic costs of ignoring the ground water contamination problem.

In the long run, measures to protect ground water, such as H.R. 791, will cost far less, and yield far better results, than emergency responses to individual cases of ground water contamination. The $9 billion Superfund Program is a sad example of the exorbitant costs of cleaning up ground water contamination after the fact.

H.R. 791 is the final product of 2 years of work. I introduced the first version of this legislation, H.R. 3906, in December 1986. The legislation has been redrafted many times, and each revision has improved the bill. This year, the bill has been made more comprehensive with the addition of provisions to strengthen the ground water programs of EPA and the Department of Agriculture.

Mr. Chairman, I strongly urge my colleagues to support H.R. 791. This legislation is a crucial first step that the Federal Government must take to solve the ground water contamination problem. Until we understand what is causing contamination and how widespread it is, we will continue to simply throw money at the problem in response to individual cases. H.R. 791 will provide the information we need to develop intelligent solutions to ground water problems.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 791, the National Ground Water Contamination Research Act of 1987. I would like to thank my colleague from Connecticut, [Mr. GEJDENSON], for his leadership on this measure, and the distinguished ranking minority member of the Interior and Insular Affairs Subcommittee on Energy and the Environment. The gentleman from New Mexico [Mr. LUJAN], as well as all the other Members on both sides of the aisle who through their diligent committee efforts have expedited the consideration of this legislation.

Mr. Chairman, the consensus in support of this legislation attests to the increasing severity of the problem of ground water pollution. In a recent study conducted by the Environmental Protection Agency [EPA], contaminated ground water containing a variety of 20 different pesticides was found throughout 24 of the surveyed States. The EPA stated that these chemicals were most likely released as a result of routine agricultural applications, rather than as a result of accidential spills or illegal dumping of toxic pollutants. With almost half of the Nation's drinking water supplied from underground wells, the necessity and significance of this legislation cannot be overlooked. By some estimates, 90 percent of our Nation's rural population is dependent upon ground water for their daily supply of drinking water. We shudder to think of the consequences which may result from tainted water supply. It is long past time for Congress to recognize the health risks associated with all pollution of the environment, let alone the contamination of our Nation's water supply.

Mr. Chairman, despite the severity of this problem, and the fact that at least three Federal agencies currently play a role with respect to regulation or research of ground water quality or quantity, there is no centralized data base or central authority mechanism to drive and coordinate our approach to ground water pollution. Unfortunately, due to the many duplicative efforts and gaps of information, our State and local regulators often lack the necessary information to prevent contamination of our underground wells.

Accordingly, H.R. 791 addresses the problem by establishing the Interagency Ground Water Research Committee, comprised of Presidential appointees from each Federal agency involved in ground water-related activities. The committee will serve to facilitate joint funding and promote interagency cooperation on research, development, and demonstration programs. In conjunction with the research committee, the legislation also establishes the National Ground Water Clearinghouse to function as a centralized mechanism for data collection, reporting, and dissemination. Additionally, H.R. 791 authorizes $164 million over the next 3 years to establish an Interior Department Ground Water Assessment Program and approximately $12 million for EPA research and development programs to control the sources or potential sources of ground water contamination.

While the legislation strengthens and coordinates Federal responsibility for research and data collection, it simultaneously recognizes that the States must play the primary role in controlling ground water pollution. H.R. 791 will codify Federal authority and provide the States with sufficient flexibility to implement the recommendations proposed by the Interagency Ground Water Research Committee. Hopefully, we can provide the States with the necessary funding and technical knowledge, then have the good sense to step back and let them solve the problem without the Federal Government compounding their burdens.

Mr. Chairman, H.R. 791 will take substantive steps to eradicate pollution in our Nation's water supply. This legislation is badly needed, and is needed now. Accordingly I urge my colleagues to vote in favor of the National Ground Water Contamination Research Act of 1987.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the compromise substitute to H.R. 791.

Mr. Chairman, ground water protection is the most serious water resource issue in the country. Yet ground water supply and contamination problems exist in every State and region. Indeed, it is difficult to think of a congressional district that doesn't have them.

Ground water is a pervasive resource. It accounts for over 85 percent of the Nation's fresh water; supplies drinking water for one-half our population; and, also supplies over one-half of our irrigation water.

The Congress has recognized the importance of this vast resource and enacted an assortment of statutes—including Superfund Act and the safe drinking water amendments—which deal with ground water matters.

These laws provide for the protection, maintenance, and remediation of ground water quality. They also delegate to the States the primary responsibility for ground water protection, maintenance, and remediation.

These statutes recognize quite correctly that the primary responsibility for solving ground water problems rests with State and local governments—not the Federal Government. The Federal role should be limited.

Yet several recent reports have indicated that we aren't doing a very good job of managing and protection this precious resource.

Although considerable scientific progress has been made in knowledge about ground water resources and ground water contamination, there remain significant gaps in developing and making available needed scientific knowledge.

The scientific uncertainties, lack of adequate technologies, and shortage of skilled scientific personnel have hindered the ability of regulators to develop and implement effective ground water management, protection, and remediation policies.

According to the National Academy of Sciences:

> There are no adequate data available on a national or on a regional scale to estimate the extent of ground water contamination and the impacts of this contamination.

Mr. Chairman, the compromise substitute to H.R. 791 takes a major step toward filling the research gaps and protecting the Nation's ground water resources.

The substitute has its genesis in H.R. 791, legislation introduced by Congressman SAM GEJDENSON and reported by the Committee on Interior and Insular Affairs on June 12, 1987. H.R. 791 was then sequentially referred to the Committees on Agriculture, Public Works and Transportation, Energy and Commerce, and Science and Technology. All those committees reported the bill with respective amendments by September 30.

The substitute represents a compromise acceptable to all five committees. It was introduced by the majority leader, Mr. FOLEY (H.R. 3676). It provides badly needed coordination of the ground water research activities at the Environmental Protection Agency [EPA], and the Departments of the Interior and Agriculture.

There are four titles to the substitute.

Title I provides generic authorization for the Water Resources Division of the U.S. Geological Survey. This title is referred to as the Geological Survey Water Resources Organic Act.

The water resources activities of the Survey have never been formally authorized by the Congress. Instead, the Survey's authority has been provided for many years in annual appropriations acts. The authority in title I does not provide the Survey with any new authority beyond that which it currently exercises on a year-to-year basis. The substitute authorizes the appropriations of $164 million for fiscal years 1988 through 1990.

Title II is referred to as the National Ground Water Research Act of 1987. It authorizes the appropriation of $43 million to provide focus and direction to the Federal Government's ground water research activities at the Geological Survey and the EPA. It would establish an interagency committee, chaired by representatives from the Geological Survey and the Environmental Protection Agency [EPA], to recommend to the President research priorities and a coordinated ground water research plan.

Title II also includes a series of improvements in EPA's existing research program, authorizes a ground water research and demonstration program, and requires a risk assessment analyses program. A ground water assessment program and an information clearinghouse to enable Government agencies, private organizations, and individuals to share information would be established in the Geological Survey.

The substitute further directs the Administrator to study specific ground water contamination problems in New Jersey, New York, and California. In addition, the legislation would establish a research program on the Lake Okeechobee ecosystem in Florida.

Title III of the substitute directs the Secretary of Agriculture to investigate the relationship between agricultural practices, water use and quality, and report findings to the Congress.

It also establishes an Agricultural Nitrogen Best Management Practices Task Force to review and recommend to the Congress best agricultural management practices to minimize the impact of nitrogen on ground and surface water quality. The task force would also develop methods to disseminate information and recommendations to farmers and producers.

Title IV authorizes the EPA to assist local governments in mitigating radium contamination in ground water. The legislation establishes criteria for the Administrator to follow in awarding grants to States to finance ground water treatment technologies needed to remove radium from ground water. The legislation authorizes the appropriations of $14 million for fiscal years 1988-90 for title IV.

Mr. Chairman, this bill is an important first step in meeting the problems of ground water contamination head on.

By enhancing our knowledge of ground water as a resource, this legislation takes preventative steps now to keep the resource clean—rather than force us to waste money later to clean up ground water contamination.

Before we can tackle existing ground water contamination problems and prevent future pollution of ground water, we need a well-coordinated Federal research program. The substitute lays the foundation for that program.

The legislation also would give regulators access to information regarding national ground water quality conditions and trends. it would provide the States with adequate technical information and guidance so that they can develop and implement comprehensive ground water management programs.

I dare say without the efforts of Congressman GEJDENSON in pioneering this legislation in the Committee on Interior and Insular Affairs, the Congress would not have addressed this issue at this time. I think we all owe him a debt of gratitude for addressing one of the most serious problems confronting not only our environment but the economic well-being and the health of our economy. I would hope that the committee would pass this bill after the deliberations on the amendments.

Mr. Chairman, I would also like to thank the chairmen and ranking members of the committees and subcommittees involved in this legislation for their cooperation in crafting this compromise.

I urge my colleagues to join me in supporting this important legislation.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the substitute amendment on ground water. This so-called compromise bill is not a compromise for States which are sick and tired of harassment by the Environmental Protection Agency. The substitute bill greatly expands EPA research authority for ground water pollutants. The bill specifically directs EPA to issue 50 risk assessments within 36 months. We all know that this is merely the first step in a series of steps which will lead to the Federal Government using its heavy hand to cram burdensome regulations and yet another expensive program down the throat of individual States.

As an example of what happens when Congress turns loose the EPA brownshirts, I ask the Members to consider the recent fiasco with the Endangered Species Pesticide Labeling Program. The EPA, in a moment of due process amnesia, attempted to implement a program which would place restrictions on the use of up to 70 percent of agricultural pesticides in several counties across the country. The EPA did this without proper notification or opportunity to comment from the States, farmers, and pesticide manufacturers which would be effected.

The goal of this labeling process is something we all applaud—the protection of some 400 endanger species. However, the methods which the EPA proposed were arbitrary, overly-broad and poorly conceived. The EPA prepared maps to show which pesticides would be ban in each of the specific counties because and endangered species might be harmed. But in the usual bureaucratic bungling by EPA, entire counties were banned from using pesticides even though no endangered species had ever been found in the county.

Finally, after much complaining by the effected States, EPA has agreed to delay implementation of the Pesticide Labeling Program to give the States an opportunity to review the program.

States need technical assistance and accurate information so the States, not the Federal Government, can implement meaningful environmental protection. The bill which the Interior Committee reported, H.R. 791, would assist the States in their groundwater efforts through the U.S. Geological Survey. The substitute bill however, will allow EPA to stick its foot in the door and eventually require programs which the States cannot afford or enforce.

I ask my colleagues to vote against the substitute bill and return to the measure as originally reported by the House Interior Committee.

□ 1400

Mr. MILLER of California. Mr. Chairman, for the purposes of debate only, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, first of all, let me take this opportunity to thank the chairman of the subcommittee, the gentleman from Connecticut [Mr. GEJDENSON], and also the gentleman from California [Mr. MILLER], for their excellent work on this, and I wish to thank also all my other colleagues who have been integrally involved in the legislation before its arriving here today.

Since 1980, the Subcommittee on the Environment, Energy and Natural Resources, which I chair, has been conducting investigations and issuing reports relating to ground water protection. In addition, I was a member of the working group of the Environmental and Energy Study Institute which developed a congressional agenda to prevent ground water contamination last year.

One of the key findings of both the subcommittee and EEIS was that while there are many Federal, State, and local laws and programs which deal in part with ground water protection, there is no effective coordinating mechanism to maximize the effectiveness of these efforts.

Another was that there is a need for more and better ground water research data and better ways to make that data available and to interpret it for decisionmaking purposes. This is a critical need because it is a prerequisite for further significant progress in protecting ground water from both contamination and depletion.

We in Congress have attempted to deal with this problem in 1984 by including a provision in the Resource Conservation and Recovery Reauthorization Act authorizing the establishment of a National Ground Water Commission to identify the gaps in our knowledge of ground water and to make recommendations for filling them. Unfortunately, the administration never included any funding for the Commission in its budget proposals, and it never became operative. As a result, ground water research remains fragmented, uncoordinated, and lacking in overall direction.

But we have an opportunity today to rectify that situation by enacting the bill before us. It vests in the President the responsibility to coordinate all Federal activities to assess, manage, and protect ground water resources and all Federal activities to remedy ground water contamination and depletion.

It requires the President to establish an Interagency Ground Water Research Committee, with membership from each Federal agency with ground water-related activities, to be cochaired by the Secretary of the Interior and the Administrator of EPA. The committee is to identify major ground water research needs and recommend priorities and a coordinated research plan to the President and the Congress.

It would also establish a National Ground Water Assessment Program to evaluate and improve ground water quality and quantity information systems which can be carried out by agencies of the Department of the Interior and through assistance to State and local governments.

It would require the Administrator of EPA to establish a research, development, and demonstration program for the protection and management of ground water resources, along with a variety of other things, and finally it would require the Secretary of the Interior to establish and maintain a National Ground Water Information Clearinghouse to disseminate ground water information.

Mr. Chairman, with regard to this information before us today, we admit that it would not solve all the problems relating to ground water protection, but it is an essential step in the development of an effective program for the protection of this precious and irreplaceable national resource.

Mr. Chairman, I urge my colleagues to support the bill.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my good friend, the gentleman from New Mexico, for yielding this time. I appreciate his courtesy.

Mr. Chairman, if you were to conduct a survey on problems facing small communities in northeast Wisconsin, on top of the list, would be the task of meeting EPA regulations to reduce radium in drinking water.

In accordance with the Safe Water Drinking Act, the EPA is in the process of proposing regulations for establishing a maximum containment level for radium-226 and radium-228 in drinking water supplies. There is little doubt that radium is a known carcinogen, however, the cost of removing the radium from water will be exorbitant for many small communities. And several will face financial ruin if assistance is not provided.

The Ground Water Research Act being debated today contains a vital provision which authorizes the EPA to offer grants and technical aid to help small communities meet Federal drinking water standards. Only communities with populations less than 20,000 people will be eligible for this crucial assistance.

Radium contamination in drinking water is a growing national problem. The Wisconsin Department of Natural Resources has estimated that it will cost at least $45 million for the 43 Wisconsin communities with high radium levels to address existing violations. Residents of a town with a population of 5,000 in my district must raise a projected $1.3 million to install radium-abating systems. Another town with a population of only 650 faces $100,000 in capital outlays to comply with the new Federal standards.

The Radium Removal Demonstration Program contained in this legislation is an important first step to helping radium-affected small towns and villages install the necessary water treatment technologies. Safe drinking water regulations are in effect to protect the public. Passage of the Ground Water Research Act will reinforce our Nation's commitment to provide clean water for public consumption. Mr. Chairman, I urge my colleagues to support this needed legislation.

Again, Mr. Chairman, I thank the chairman of the subcommittee and the other members who have done so much to make this legislation possible.

Mr. MILLER of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, as a nation, we often recognize our cherished water resources in the form of our many lakes and streams. When these resources are threatened with pollution, we react quickly, as we should, to the thought of jeopardizing these precious water resources. Unfortunately, the case for ground water protection does not always appear so vividly.

Many Americans do not realize that 96 percent of the fresh water in the United States lies in aquifers buried deep beneath the ground's surface. In addition, many would be surprised to learn that half our population relies on ground water as its primary drinking source—nearly 120 million people. My State of California is the leader in ground water use putting over 20 billion gallons to work every day. This amount includes 2 billion gallons for essential drinking water. Clearly, when we think of protecting our water supplies, ground water must be at the forefront of our minds.

Today, ground water is receiving the attention it needs and deserves. H.R. 791 is a bill that puts ground water protection where it belongs on our policy agenda. By smartly keeping the primary statutory responsibilities for managing ground water resources with the States, but also clearly defining the important Federal role in conducting research and disseminating information, this bill is a positive step toward preserving this essential resource for the future. Most important is the bill's focus on eliminating duplication in Federal and State research programs to make ground water protection efforts more efficient. Also of great importance in the bill is an emphasis on studying means of replenishing valuable ground water supplies after use. I urge my colleagues to recognize the importance of ground water to our Nation's health and prosperity by supporting this carefully constructed ground water research bill.

□ 1410

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 791, as amended by H.R. 3676.

This bill authorizes:

The U.S. Geological Survey to conduct a ground water assessment program; and

The Environmental Protection Agency to conduct a ground water research and technology demonstration program.

These programs are critical if we are to address the Nation's ground water pollution problems. I am pleased that title II, the National Ground Water Research Act of 1987, is based on the bill that was developed in the Science Committee's Natural Resources Subcommittee.

Ground water is an important national resource. Half of the U.S. population uses ground water for drinking water and nationwide ground water use has tripled over the last 30 years. But ground water is threatened by contaminants from hazardous waste sites, municipal landfills, septic tanks, underground storage tanks, and urban and agricultural runoff. There are instances of ground water contamination from over 200 chemicals in all 50 States, including my State of New Mexico. The Office of Technology Assessment reports that 1 to 2 percent of all ground water nationwide is believed to be polluted.

While 16 Federal laws address aspects of the ground water problem, no one law establishes a comprehensive research and assessment program. Such a program is necessary because there are significant gaps in our knowledge about the sources, extent, and effects of ground water and in ways to prevent and mitigate ground water contamination.

H.R. 791, as amended, addresses this problem by establishing a comprehensive Federal research and assessment program. This program is designed to give States, which have the primary responsibility for managing ground water, the information they need to manage their ground water resources. The bill also requires Federal agencies to provide technical assistance to States and requires the U.S. Geological Survey to establish a ground water information clearinghouse. Finally, the bill authorizes EPA to conduct a program to develop and demonstrate technologies to control sources of ground water pollution and to mitigate ground water contamination.

Mr. Chairman, I do have some concerns about the level of funding contained in the bill, and consequently, I plan to offer amendments to reduce the level of funding to be provided for USGS. With this one caveat, however, I believe this bill to be worthy of support.

Mr. MILLER of California. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. BROWN] will be recognized for 15 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 791 as amended by the substitute language contained in H.R. 3676. This bill contains a much-needed and long-overdue program of ground water quality research, monitoring, and demonstration which will help us protect our vital ground water resources.

I will not detail the importance of ground water because I think that all of us in Congress recognize the heavy dependence upon ground water which exists in this country. I would like to make the point that this resource is one which we have neglected in our environmental protection efforts to date. In other water quality and toxic substances statutes we have only recently begun to focus on ground water quality issues. And we have only recently started to look at nonpoint sources of contamination, such as agricultural production operations. These two shortcomings in our past legislation efforts have led to the need for the legislation before us today.

In the 1970's, when I was chairman of what was then the Science and Technology's Subcommittee on Environment and the Atmosphere, we engaged in a comprehensive examination of ground water quality research needs. In 1978 this effort produced a bill, H.R. 13946 which resembled H.R. 791 and proposed a comprehensive ground water quality research program. The bill was apparently ahead of its time and died in the 95th Congress. However, the ground water quality problem continued unabated and now it seems that the time is right to address the issue in Federal legislation.

I would like to make a few general comments about the bill before us today. The development to this legislation represents a unique process in Congress. Last year a similar bill passed the House with little controversy. This year, H.R. 791 caught the interest of four committees after it was reported out of the Interior Committee. At that point, I feared that we were in for a rough time, since this issue cuts across so many committee jurisdictions and is emerging as a major environmental issue, caught up in increasing controversy.

However, for once we did it right and all five committees cooperated fully in their considerations of H.R. 791 and in the subsequent negotiations which resulted in the substitute compromise. I sincerely hope that this spirit of cooperation can continue as we continue to deal with ground water quality problems in the future, since we have 13 House committees with jurisdictional interest in ground water issues.

I would also like to stress the urgent need for this bill, a need which has been seen by all of the committees involved. If we do not begin today to pull together available research and monitoring data and develop new understandings about ground water quality problems and their ultimate solution, we will fall farther behind. I know that many feel that regulatory measures are needed now and some may feel that this research bill will take away from or delay these regulatory measures. This is not the case.

The programs and activities outlined in this bill will probably increase the sense of urgency to protect this vital resource as we finally do the survey and monitoring work we have neglected for so long. But we will be able to make more informed decisions as a result of this bill, and regulators, when they eventually become more involved, will not have to respond in the state of ignorance which now dominates this issue.

I would like to make a few observations about the portions of H.R. 791 which the House Agriculture Committee authored. First, I feel that the provisions in title III of the bill are a significant first step toward getting the agriculture sector prepared to deal with water quality problems. Note that I said "water" and not simply "ground water" problems. We have taken the approach on the Agriculture Committee that we must deal with the entire hydrologic cycle if we are to see meaningful progress on water quality issues.

The first part of our title calls upon the Department of Agriculture [USDA] to conduct a comprehensive review of their activities in this area and develop a departmentwide strategy for dealing with water quality problems. This is to be accomplished in what is an arbitrarily short period: 90 days after enactment. However, since we have been waiting upon USDA's ground water quality plan since September, and since USDA should have already had such a review and strategy in place, and since this bill will not be considered by the Senate until next year, USDA will have already had at least 1 year by the time this bill gets to the President. I hope that the message of discontent by the House Agriculture Committee which a 90-day deadline represents is not lost on those at USDA who are reviewing these remarks.

The second part of the Agriculture Committee's title deals with the development of best management farming practices which can reduce ground water contamination due to fertilizer use. This is a narrowly defined first step on a longer journey to increase the efficiency of all agricultural operations. The end goal in this effort will be to develop agricultural practices and technologies which will allow farm profitability while meeting environmental goals. We have begun a series of hearings on the Agriculture Committee to explore this broader task and have another hearing scheduled next week to hear from the animal agriculture sector. I expect that this series of hearings will develop into a broader legislative agenda for USDA sometime next year.

I want to thank my colleagues on the other committees for their diligence and cooperation in the development of this legislation. It has been a very good example of how we should deal with complex legislation. I urge all of my colleagues to vote in favor of this bill, as amended by the compromise substitute.

Mr. GRANDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am rising today in strong support of H.R. 791 and the Foley substitute, H.R. 3676.

I think it is worth saying at the outset, Mr. Chairman, that we have no less than five House committees that are in support of this legislation and in support of the need for this legislation, but I also rise today and hope that this legislation produces a leading role for agriculture, and specifically the Department of Agriculture, in this legislation.

I want to take this opportunity to thank our chairman, the gentleman from California [Mr. BROWN] who is the chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, and our vice chairman, the gentleman from Kansas [Mr. ROBERTS], for bringing this problem and focusing this issue in my district of northwest Iowa, and specifically coming to Humboldt, IA, on October 12 of this year to observe not only the problem, but some of the solutions that the Iowa Legislature has started to grope toward in confronting the ground water problem.

Purely, the Iowa bill is attempting to gather information, to advise without regulating, and I think that the results of this hearing would probably conclude that there is still some fine tuning to be done on that legislation.

Let me just begin with a quote from the Kansas City Environmental Protection Agency district official, Mr. Tim Amsden, who I think framed the problem rather well that we are confronting at the national level, as well as in Iowa. He said:

> Ground water is inherently a difficult resource to understand, much more difficult than air or surface water, because you have intervening soil. You have a three-dimensional system.
>
> Health effects are very difficult to understand. There is a debate within EPA and outside of EPA as to whether ground water standards should be maximum contaminant levels or maximum contaminant level goals.

Now, that is localized in my particular area of Humboldt County. When we went out to investigate the situation, we found that we had three underground aquifers converging in one county, within a 15-mile radius. We had water levels that varied 100 feet within a 5-mile radius.

We have an Iowa law that is presently attempting to establish a goal of no level of contamination by 1992, but has no specific guidelines to achieve that.

So the question that we are confronting today, hopefully beginning with this legislation, is how are we going to regulate without understanding the ramifications of the problem, and how are we going to set goals without guidelines to accomplish them?

I think that H.R. 3676 recognizes this problem. Clearly it states so in its findings under paragraph 10, where it says:

> (10) present water quality and use data collection, analysis, and information dissemination programs are insufficient to provide farmers and decision makers with the bases for formulating sound water quality and use policies and programs.

It is imperative, Mr. Chairman, that the Secretary of Agriculture become a major player in this inner-agency ground water task force. I would have hoped he would have been a cochairman, along with the EPA Administrator and the Secretary of the Interior, but I will yield to our chairman on this, who has advised us that he will be a major player in these deliberations, helping to guide research, information, and technical assistance provided in this act; but we have to send a strong message to the USDA to consolidate and cooperate in its own operations. Presently there are 18 different subagencies in the Department of Agriculture with partial jurisdiction over ground water matters. The bureaucracy must be streamlined to provide guidelines.

There is a special need for the agriculture section to examine its own operations, cooperating and not competing with other agencies, such as the EPA and Department of the Interior.

Once the scope of the ground water quality is better understood, then agriculture practices can be adjusted accordingly, and hopefully these practices can be adopted by those who understand them best; namely, the American farmers.

Hopefully, this legislation will begin an effort to advise agriculture producers on best management practices of ground water quality control, rather than to confuse them with crippling regulations and possibly unenforceable Federal regulations.

States like Iowa are already leading the way and the purpose of this legislation should be to form a partnership, a Federal-State partnership, rather than to impose a chain of command.

I think we are already off to a good start under the 1985 farm bill, the Conservation Preserve Program and diverted acre programs have already produced positive environmental results. We have a 24-percent cut in nitrogen applications on Iowa farms over the past 2 years. The private sector is responding. In some areas of the Great Plains, the upper Midwest, farmers are being advised to apply no nitrogen to their crops this year. These practices are hopefully enhanced by the data that is connected with the Ag-Nitrogen Best Management Task Force established in this bill.

I want to come back to the hearing that we had in Iowa, Mr. Chairman, in conclusion. I think those of us who participated in that hearing would say we probably came back with more questions than answers, but I think one thing is abundantly clear and one thing that is addressed in this legislation is that for Iowa and probably for the Nation, as we in the Congress struggle to ascertain what the Federal responsibility in ground water management is to be, we must be ever mindful that the farmer in Iowa and the farmer around the country probably wants this legislation more than we do, because he is concerned about this legislation, not just for the success of his harvest, but more importantly, for the future of his farm and the future of his family.

Mr. Chairman, I reserve the balance of my time.

□ 1425

Mr. BROWN of California. Mr. Chairman, I would like to engage the chairman of the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs in a brief colloquy if the gentleman from California [Mr. MILLER] has no objections.

The version of H.R. 791 which was reported out of the Agriculture Committee contained a number of specific references to the need to consult and coordinate with the Secretary of Agriculture on those activities which involved farm and forestry production practices. The proposed substitute does not contain those specific references because of the increased coordinating role of the Interagency Ground Water Research Committee.

However, it is expected that the Ground Water Research Program envisioned in this bill will take full advantage of the extensive, decentralized strength of the Cooperative Extension and conservation programs funded by the Department of Agriculture. These are the people to whom the farmers turn for advice and these are the people with the expertise on agricultural production practices. I would like to ask my colleague if he shares my understanding of the level of Department of Agriculture involvement expected in this bill with regard to agricultural practices.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. Mr. Chairman, I yield to the gentleman from California.

Mr. MILLER of California. The gentleman is correct in his view that we expect to have full consultation and coordination between the involved Federal agencies and the Department of Agriculture when matters concerning agricultural sources of water contamination are involved. We also expect that the Department and its State cooperating institutions and programs will play a central role in developing agricultural practices designed to minimize agricultural sources of water contamination. While there are formal memorandums of understanding in place between USDA and EPA and USGS, we expect that there will be increased levels of coordination as this ground water quality research and demonstration program develops.

Mr. BROWN of California. Mr. Chairman, I wish to thank my colleague, the gentleman from California [Mr. MILLER], for expressing those sentiments. I had hoped and expected he would do so and I thank him for it.

One other thing, Mr. Chairman, I listened with a great deal of pleasure to the remarks, of my distinguished colleague, the gentleman from Iowa [Mr. GRANDY], and I would like to pay tribute to the extensive contribution which he has made in the structuring of the agriculture portions of this important piece of legislation. As he mentioned, we did have a subcommittee hearing in his congressional district. I do not often go into Iowa since I am not running for President, but in this case I found it to be a most illuminating experience. There are more different aspect of this ground water problem than any of us can imagine and in each area there are certain unique aspects.

Iowa is one of those areas which has many unique aspects and the hearing there which was largely put together by the gentleman from Iowa [Mr. GRANDY] contributed a great deal to our understanding of the problem. I wanted to thank him publicly for the work that he has done.

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, I would just like to say in response that I appreciate the remarks of the gentleman from California [Mr. BROWN] and Iowa appreciates his contribution to this legislation and to the whole question of ground water and the focus that he has brought to it. Clearly, I think one of the things that we learned at that meeting is that somehow the States are looking to us for some kind of guideline and I think that hopefully that hearing in Iowa provided a very good beginning. I thank the chairman for providing the opportunity to study the problem locally.

Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. Roberts].

Mr. ROBERTS. Mr. Chairman, I thank my friend and colleague, the Republican manager of this section of the bill, for yielding me this time.

Mr. Chairman, I rise today to support H.R. 3676, which is a substitute for H.R. 791. As of September of this year, as the gentleman has stated, we have had no less than five committees legislating different versions of this bill. This substitute is a compromise version of that effort.

I was interested in the colloquy between my chairman, the gentleman from California [Mr. Brown], and the gentleman from California [Mr. Miller]. I perhaps would have written the colloquy a little bit different. In farm country perhaps we would write it not in the 35-cent-word class but we would have simply said the Department of Agriculture should lead the way in regard to disseminating the information and the research that we come up with under this bill. Obviously, farmers have told me in Iowa, Kansas, and other places that certainly they can work better with their traditional counterparts within the Extension Service. I would hope that that would be the conclusion of this effort.

We have a lot at stake in the farm country in regard to ground water in this bill. We depend on it for personal use, and in regard to the production of our crops we have had three hearings to date in the Committee on Agriculture and as referenced by my chairman and the gentleman from Iowa [Mr. Grandy], one very important hearing was held in Iowa.

The gentleman from Iowa [Mr. Grandy] is the kind of Member, as is my chairman, who not only want to draft legislation in terms of what may take effect, but they want to see the effect in farm country. We did learn a lot and we will learn more.

I want to pay real homage to my chairman, the gentleman from California [Mr. Brown], whose expertise and leadership in this field is second to none in the Congress, and to the gentleman from Iowa [Mr. Grandy] who insisted upon that practical-effect hearing which should serve as a real foundation as other States try to model their program after Iowa if in fact that is the way they want to go.

We do not depend on heavy-handed regulation in this bill. That is not the approach that we want. It does provide research and education and a great deal more coordination and preparation by the appropriate Federal agencies.

It is a good bill and I urge my colleagues to support it.

Mr. Chairman, I rise today in support of H.R. 3676, the text of which is made in order today as an amendment in the nature of a substitute to H.R. 791.

I would also like to recognize the distinguished efforts of the gentleman from California [Mr. Brown] the chairman of the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture [DORFA]. My colleague has worked long and hard to lend coherency to the ground water efforts within the Agriculture Committee, and to insure that our efforts fit properly with the work of several other interested committees. The result is this legislation we have before us today for consideration. I would likewise like to recognize the diligent work of my colleague, Mr. Grandy of Iowa. The DORFA Subcommittee this past October visited Mr. Grandy's district to see first hand the problems and concerns the agriculture community has regarding ground water contamination, and we reviewed in detail the management strategy recently adopted by the State to protect its ground water resources.

The interest of the Agriculture Committee in forwarding responsible ground water legislation is twofold. First off, the agriculture community relies on ground water to support normal farming activities. Second, the Agriculture Committee is uniquely responsive to the needs and concerns of rural America, and as such we are very sensitive to the fact that 95 percent of the drinking water in our rural areas comes from ground water. For many parts of the country ground water is a natural resource that underpins a healthy economy. In my district we rely on ground water for irrigating our crops, and as a source of drinking water for a $3.4 billion a year cattle industry, and as a source of water for many small industries. Our reliance on ground water will doubtlessly grow. Nationwide, withdrawals of ground water nearly tripled between 1950 and 1980, reaching 89 billion gallons per day in 1980.

Agriculture, which so depends upon ground water, is a significant factor influencing the quality and quantity of of our ground water supplies. Because of this relationship, we on the House Agriculture Committee have an incumbent responsibility to provide direction on this issue. We must approach our task from a partnership position. Our efforts must go hand in hand with the work being done by State and local governments, our agricultural producers, and the environmental community.

Mr. Chairman, the legislation before us today, the text of H.R. 3676, is a consensus bill representing the compromise efforts of five committees that acted on H.R. 791, a bill introduced by Mr. Sam Gejdenson. H.R. 3676 is a first step towards resolving our ground water quality and quantity problems. We must have sound research and assessment programs in place and operating before we consider implementing policies to protect our supplies. While we must accept responsibility for moving ahead we must also guard against counterproductive policy proposals. Under no circumstances am I prepared to support regulatory efforts prior to acquiring the necessary understanding of the problems we face.

The bill under consideration today lends a degree of organization and clarity heretofore lacking in the efforts by the Federal Government to assess, monitor, and research the full scope of our ground water quality and quantity problems. I am especially pleased by title III of the bill which begins to address the needs of the agriculture community. Title III provides firm direction to the U.S. Department of Agriculture to organize and formalize its ground water program activities. The Department of Agriculture has a wide variety of resources ready to bring to bear in our efforts to better understand the nature of our ground water resources, and to protect those resources.

Deserving special attention is section 304 of H.R. 3676, which is in large part derived from an earlier bill, H.R. 3069, introduced by my colleague, Mr. Stangeland. This section establishes a task force, the members of which will be appointed by the Secretary of Agriculture, to review and formalize best management practices, systems and technologies for use by crop farmers to mitigate nitrogen contamination of our ground water resources. The task force will also review the extent of the problems posed by nitrogen contamination, and submit annually to the Secretary of Agriculture and Congress a written report on the success and nature of their activities.

Mr. Chairman, I would also like to mention that title IV addresses an acute problem for many small communities throughout the Nation—radium contamination of ground water drinking supplies. The title will assist communities no larger than 20,000 people for the purposes of acquiring and installing ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water.

The legislation we are considering today, H.R. 3676, is the necessary first step we must take for the care and management of our ground water resources. The House Agriculture Committee has long dealt with the issues and potential contaminants that influence ground water quality. The most prominent vehicle for our discussions has been the Federal Insecticide, Fungicide, and Rodenticide Act.

The interest of the Agriculture Committee in ground water research is substantial and ranges widely. So far the committee has had three hearings this year on ground water issues, and we have another scheduled for December 9 of this year. This past summer the committee authorized the construction of an USDA Agriculture Research Service facility at Texas Tech University. This facility will house plant stress and water conservation research activities. The focus is on the valuable Ogalalla aquifer. Agriculture in the high plains of the midwest will face radical changes if we fail to plan now for the conservation of our valuable ground water resources.

The soil and water conservation provisions of the 1985 farm bill provide a crucial instrument in managing the quality of waters occurring both on the surface and underground. The farm bill idled approximately 75 million acres of land during the 1987 crop season for conserving uses. We will likely exceed that figure for 1988. Also, the U.S. Forest Service, the largest land management agency at the Department of Agriculture maintains responsibility for some of the most vital watersheds in the United States.

The agriculture community has a wide variety of tools available to assist in the conservation of the Nation's ground water resources, and H.R. 3676 provides the footing needed to continue our efforts in these areas.

Mr. BROWN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I appreciate the gentleman from California [Mr. BROWN] yielding me this time, and I applaud him, the gentleman from Iowa [Mr. GRANDY], and everybody else who has been involved with this very, very important legislation.

Mr. Chairman, I rise in support of H.R. 791, the Geological Survey Water Resources Organic Act as amended by the text of H.R. 3676.

No other issue has the potential to affect this Nation's rural communities and agricultural producers like the matter of ground water contamination. About 97 percent of rural America's drinking water comes from ground water supplies. In addition ground water provides 40 percent of the Nation's irrigation requirements. Yet our knowledge of ground water, the quality of these waters and the effects of human activities on these resources is extremely limited. The legislation before the House today will help us take a critical first step toward filling the void that exists in our understanding of the Nation's ground water resources.

As a member of the House Agriculture Committee's Subcommittee on Department Operations, Research, and Foreign Agriculture, and as a member of the House Science, Space, and Technology Committee, I have participated in the hearings held during our consideration of this bill and I know what a sizable problem we face. The problem is especially tough for agricultural producers since agriculture is dependent upon ground water for irrigation and rural residents are nearly totally dependent upon ground water for household use. At the same time, agricultural producers also have a major role to play in keeping our surface and ground water free from contamination. These are the concerns which we tried to address in the House Agriculture Committee's consideration of the bill.

It is important to note that we have tried to stress the need to look at both surface and ground water quality. In the hydrologic cycle, there is great mingling of surface and ground waters and it is important that we approach this problem on a comprehensive basis. I take some pride in noting that this point was very strongly made by Mr. Joe Harkins, director of the Kansas Water Office, when he appeared before the House Agriculture Subcommittee during our hearings on the bill. Mr. Harkins provided specific and pointed examples of the interrelationships between surface and ground water and I think that our legislation benefited from his views.

I would also note that title III of this bill provides for the development of a USDA task force to develop best management practices to guide farmers in minimizing the effects of fertilizers on ground water resources. This provision responds to the need to address an immediate concern—one which the fertilizer industry itself has brought to the committee's attention. I commend the industry for their foresight. However, fertilizers are only one source of nitrogen and one source of potential contamination of ground water. For this reason, I am pleased to see that our subcommittee will continue its investigations into this matter. I expect that further improvements in our efforts to develop nitrogen BMP's will be made as we learn more about other potential agricultural sources of nitrogen contamination of ground water.

It is clear that the task before us in assessing our ground water resources, in devising means to protect the quality of these waters, and developing the capability and the knowledge to wisely use these reserves is substantial. This legislation will provide a mechanism to coordinate the activities of the various Federal departments and agencies with the expertise needed to accomplish this aim. However, I would agree with the comments of my subcommittee chairman, Mr. BROWN, that the Department of Agriculture must move more aggressively to come to grips with this issue. The agricultural water quality and use study that the Secretary of Agriculture is directed to conduct in conjunction with section 303 of the bill is an essential first step toward this goal. I, too, have been disappointed with the Department's response to the committee's efforts to determine what USDA's ground water policy is and what programs are in place to deal with ground water use and contamination concerns. USDA's failure to get it's act together on this issue is a dangerous mistake.

Let there be no misunderstanding, agricultural producers and rural residents stand the most to lose if we fail to deal effectively with ground water concerns. Problems have already begun to appear. Pesticide residues and nitrogen contamination are being reported in rural ground water supplies across the Nation. Inadequate agricultural practices by some are contributing to these problems. Should the Department fail to come to grips with this issue and provide the leadership needed to help agricultural producers clean up their act where needed, then others will surely step in and take the matter out of agriculture's hands.

Many States, including my native Kansas have decided that they cannot wait for the Feds to get their act together and are devising programs and passing legislation to provide for the protection and management of their ground water supplies. The problem is not so easily addressed, however, since aquifers transcend State lines and the technology needed to inventory ground water resources and monitor water quality is limited. Federal assistance is essential and, according to witnesses appearing before our subcommittee, would be welcomed in this regard. H.R. 791 will help get us on the right track.

Mr. Chairman, I want to compliment all of the committees involved in weaving this package together. Anytime you can get five committees of this body to agree on anything, it is a day to remember. I recommend passage of the bill, as amended by the text of H.R. 3676.

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], who is a member of the Subcommittee on Department Operations, Research, and Foreign Agriculture.

Mr. GUNDERSON. Mr. Chairman, I, too, want to stand and pay proper respect to both the chairman of our subcommittee, the gentleman from California [Mr. BROWN], and the gentleman from Iowa [Mr. GRANDY] for their leadership, their expertise, and their work and efforts in this particular issue. I do not think there is any doubt that each and every one of us wants to have a strong State and local program in the area of ground water.

We want to have that local access, that local control. Yet as this process was going through, I was one of those who became very concerned about what is the Federal role, what good does it do to conduct all of this new research and coordination at the Federal level if we are going to leave it up to the States and the locals to have all of the implementation of it?

Second, I think every State agency that I have talked to across this country and every farm organization and local farmer that I have talked to has pleaded to have us give some direction to them so that they know exactly where we are supposed to go so that we do not end up with 50 different ground water standards in this country.

As the gentleman from Kansas [Mr. GLICKMAN] stated, water knows no boundaries, certainly it knows no State lines.

From that perspective, I offered an amendment in the Committee on Agriculture to focus on the fact that the research and risk assessment being conducted here at the Federal level would hopefully serve some purpose, more than simple research, and that it would be more than just a public information clearinghouse that would serve as the guidelines for the development of State standards.

I have to say that I am very pleased with the legislation that is in front of us. As we have compiled the work of the various committees and we look at the various findings, it is clear to me that the role of the Federal Government in this area through finding No. 16 in particular is to provide the States with the adequate technical information and guidance upon which they can develop and implement the comprehensive ground water management programs.

For this I want to say congratulations on a job well done to my subcommittee, to the other committees that have been so involved in this, and I would urge my colleagues to support this legislation.

Mr. GRANDY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Chairman, I rise in very strong support of this legislation. I think it is important for us to recognize the value of ground water and its uses. When we realize that half of the United States population uses ground water for drinking water, and in my own State of Rhode Island about 25 percent of the population in the urban areas and about 100 percent in the rural areas are dependent upon ground water, so I think we have to recognize the value and importance of protecting ground water.

Right now it supplies 40 percent of irrigation water and many of my colleagues from the Committee on Agriculture have been making such indications of its value, but to add to that, in our industrialized parts of the country in New England 25 percent of our water is used by industry.

Nationwide, ground water use has tripled over the last 30 years. We have an opportunity now to look very closely with this piece of legislation at the ground water contamination levels. There are instances in every one of the 50 States of contamination from a variety of sources.

Insofar as how we best address the challenge of ground water protection, I think this piece of legislation which is a combination of five other proposals, looks very closely at the 16 Federal laws that address the various aspects of ground water but yet the fact there is no comprehensive research and technical assistance program certainly draws us to propose an appropriate solution.

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The significant gaps right now in our knowledge about the sources, the extent, the effects and the ways to prevent and mitigate ground water contamination are certainly something addressed by this legislation. And the fact that the EPA research program has been limited to issues over which EPA has regulatory jurisdiction, EPA does little on pollution from fertilizers, septic tanks and nonpoint sources, and these are major contributors to the problem. So the solution that is established in this bill I believe will certainly address these challenges by coordinating Federal ground water research efforts. The fact that the U.S. Geological Survey would be required to conduct a program to assess the extent of ground water pollution throughout the United States is certainly very timely. USGS establishing a ground water clearinghouse will help get the information to the States where we can take more appropriate action. The fact that the bill requires EPA to conduct comprehensive ground water quality research to provide information and technical assistance to the States to manage their ground water programs I think is an important incorporation, not to mention the fact that I feel that it is so important because it is quite specifically the Scheuer-Schneider provision of this bill, title II.

The EPA program also must include the R&D relating to sources, causes, effects, detection, monitoring, prevention and mitigation of ground water contamination, and the assessment of risk to human health and the environment associated with a range of concentrations of significant ground water contaminants.

Needless to say, the problems that we see before us insofar as ground water contamination is concerned certainly mandate that we provide for the scientific research and monitoring that is so very necessary to making good decisions both on the Federal and the State levels.

Mr. BROWN of California. Mr. Chairman, will the gentlewoman yield?

Miss SCHNEIDER. I am happy to yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentlewoman on her statement. In listening to it, I was again impressed by the breadth of her concerns in the area of environmental pollution and contamination, and recall the many years we have worked together on the Science, Space, and Technology Committee and in other ways on these kinds of problems. I can think of no one in the Congress who has longer or more consistently supported the cause of a cleaner and better environment than the gentlewoman from Rhode Island, and I wanted to express my appreciation to her.

Miss SCHNEIDER. I thank my colleague for his kind remarks.

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] has 1 minute remaining.

Mr. GRANDY. Mr. Chairman, I yield that 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise is strong support of H.R. 791 and urge my colleagues to support the legislation as well.

As a cosponsor of H.R. 791, I strongly commend the leadership from both sides of the aisle in the five committees for coming up with what I believe to be the first comprehensive plan for dealing with ground water contamination and in particular, the dissemination of information to State, local, and private organizations on how to prevent contamination and to maximize remedial efforts.

While I firmly believe that the primary responsibility for protecting the quality of our ground water must lie with State and local governments, Congress and the Federal Government must expand ground water research efforts and provide more information as well as technical assistance to State and local authorities. At the present time, data needed by local officials to prevent contamination is difficult to obtain. This proposed legislation, H.R. 791, would coordinate the research capabilities of the respective Federal agencies, thus providing more accurate and timely information which can be effectively utilized at the local level.

I strongly support the provisions of H.R. 791 which provide partial funding for 10 demonstration projects that each eyar would effectively analyze proven methods in the control and mitigation of ground water contaminants. I also support the establishment of five institutes and fellowships at schools with proven records in the areas of ground water research.

And finally, while I support the agricultural nitrogen best management task force contained in this legislation, I urge this Congress to require the U.S. Department of Agriculture to evaluate the impact that its various programs have on ground water quality and to modify them when necessary to prevent contamination. The Federal Government must get its own house in order and at the present time there is little coordination between Federal agencies administering programs that have a direct impact on ground water. Policies and programs established for nonenvironmental purposes in some cases have actually contributed to ground water pollution, and as the EPA has estimated, as many as 2,000 municipal wells may be contaminated by old USDA grain sites.

The future development of my State, Nebraska, for example, depends to a great extent on a plentiful supply of safe water, Nebraska is fortunate to be blessed with such an abundant supply. But if we continue to allow our regulatory agencies to move in opposite directions and do not coordinate activities in a more appropriate and timely manner, we may all be guilty of jeopardizing not only the future of my State, but the future generations of this Nation.

Mr. BROWN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, considerable comments have been made by many of the speakers with regard to the paucity of research on this subject of ground water contamination. It is true that we do not have a comprehensive data base in this area, but we do have a great deal of research that has been going on.

As I indicated in my opening remarks, we examined this question 10 years ago, and in the Committee on Science, Space, and Technology we were aware that there was research being done. We felt then that it needed better coordination and focus, but the time was not right. The urgency of the problem had not yet surfaced as it has today.

It is my personal opinion, and I realize I am out of step with most of my colleagues, that we do have enough information to begin to take remedial steps, and those could be of a variety of different natures.

It is somewhat similar to the situation with acid rain. I think we have enough information to take remedial steps. But the economic and political situation is not right for taking those steps; hence, the legislation before us which does give us a better focus and coordinated program, elevates the priority of the subject to a higher level and is a valuable piece of information.

If I had my druthers, I would druther go a little bit further. But unfortunately, I do not have my druthers around here very often.

So I will close by urging my colleagues to support this very good piece of legislation, and I yield back the balance of my time.

The CHAIRMAN. The Chair will now recognize the gentleman from California [Mr. WAXMAN] from the Committee on Energy and Commerce for 15 minutes, and the gentleman from New York [Mr. LENT] will be recognized in lieu of the gentleman from Illinois [Mr. MADIGAN] for 15 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am pleased that today we are considering H.R. 791, the "National Ground Water Contamination Research Act of 1987."

We have known for some time that our Nation's precious ground water reserves are threatened by contamination from pesticde runoff, leaking undergound storage tanks and hazardous waste disposal.

Ther legislation before us is a compromise vehicle with bipartisan support that would put in place a comprehsensive ground water research program, an important first step in the process of coming to grips with the contamination problem.

The bill is a remarkable achievement, not only because of the crucial research that it calls for, but also because five committees participated in the process of developing the legislation. I commend the chairman and participating members from each of these committees for their efforts in seeing this legislation through.

In the Energy and Commerce Committee, this bill came through two subcommittees before being considered at the full Committee. The bill was first reported out of the Health and Environment Subcommittee, where several important provisions concerning ground water research at EPA and other agencies were added as a result of efforts by Congressman SCHEUER. These provisions are, in large part, reflected in the compromise that is now before us. I congratulate Mr. SCHEUER for his excellent leadership in this area.

Within our committee, the bill was then reported out of the Subcommittee on Transportation, Tourism, and Hazardous Materials, where several important perfecting amendments were added. I commend Congressman LUKEN, chairman of that subcommittee, for his efforts in that endeavor, and I also commend Congressman SLATTERY who sponsored the amendments.

The Comprehensive Federal Ground Water Research Program in H.R. 791 is a vital step in the effort to assure that our Nation's irreplaceable ground water reserves aren't permanently contaminated. I urge my colleagues to support this bill.

Mr. LENT. Mr. Chairman, I yield myself such time as I shall consume.

Mr. Chairman, I also would like to join my colleagues, the gentleman from California [Mr. WAXMAN], in commending the participating chairmen and also the participating ranking minority members of the various committees that handled the deliberations in crafting this bill.

We are all aware of increasing problems with ground water contamination. This issue is of particular importance to me and to my constituents on Long Island where there is only one aquifer to supply water for the entire island. However, this situation is not unique to Long Island. Indeed, aquifers provide almost half this country's water supply needs. Needless to say, public concern over ground water contamination is justified and the need to protect our precious water system is acute.

As you may recall, we enacted the safe drinking water amendments in the 99th Congress. I am gratified that the bill which was signed included an urgently needed provision to enhance the protection of underground water supplies. That provision gives Federal aid to local governments or planning agencies for development of demonstration programs to protect sole-source aquifers from contamination.

If the safe drinking water amendments represented an important first step toward insuring the purity of public water supplies—and I believe it did—then, the measure before us today is surely a second and equally critical step toward achieving this goal.

The National Ground water Research Act of 1987 is an important piece of legislation for a couple of reasons:

First, it provides for coordination among the many different Federal agencies that are involved in one way or another with ground water. While delegating certain responsibilities to the Department of Interior and the Environmental Protection Agency, the bill leaves substantial authority with the President to coordinate ground water policy at the Federal level. An interagency task force is established to advise the President, thus ensuring that all Federal agencies concerned with ground water issues will participate.

Second, the bill will enable us to gain a better understanding of ground water contamination and of methods of preventing and mitigating such contamination. This is essential if Federal agencies and, particularly, State and local governments are to develop sensible policies for ground water protection and management.

In many places around the country, we now lack an understanding of the location and physical properties of ground water. We must remember that ground water is a hidden resource. But its nature it is not easy to know exactly what the characteristics of any particular aquifer are. In addition, it is often difficult to track contamination as it moves through the ground water.

The function of this bill, then, is to provide limited Federal assistance in developing the scientific foundation necessary for ground water policy. The U.S. Geological Survey has the expertise to examine the geological and hydrological issues involved in assessing ground water resources. The EPA has the expertise to carry out research and development in identifying sources of pollution and determining methods of prevention and mitigation of ground water contamination.

These efforts will assist other Federal agencies and State and local governments when they make decisions affecting ground water. It is important to note that this bill does not expand Federal regulatory authority over ground water. In fact, it affirms the primary role that State and local governments have in protecting and managing ground water.

I recognize that the level of authorizations in the bill may cause concern among some of my colleagues. I believe that the relatively small amount of funds authorized by this bill is a wise investment now that will help us to avoid more costly clean ups in the future.

I commend the five committees involved in this legislation for their efforts in producing the compromise bill before us and I urge its adoption.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY], who has played a very important role in crafting this legislation.

Mr. SLATTERY. Mr. Chairman, I rise in support of the legislation, and I commend the members of the five committees and the chairmen of the committees who have worked so hard to bring this legislation to the floor today.

Ground water is one of this country's most important natural resources. The uses of ground water in our daily lives cannot be overstated—we drink it, cook with it, bathe in it, and use it in commercial and industrial applications.

It constitutes a majority of all fresh water in this country, and supplies almost 50 percent of the Nation's drinking water. Nearly 117 million Americans rely on ground water for their drinking water.

Yet, ground water quality problems have been discovered in every State and region—and they are being detected with increasing frequency.

In fact, within the last few years, 2,800 drinking water wells have been closed in California; 2,600 in Long Island, 700 in Connecticut, 500 in New Jersey, and 250 in Massachusetts.

In 1984, 4,400 well contaminations were reported in 21 States alone—and estimates place nearly 70 percent of the Superfund NPL sites as contributing to ground water contamination.

At this point, the data we have indicates that between 1 to 2 percent of the Nation's ground water may be contaminated—yet, the actual extent and concentrations of contamination are factually unknown. Ground water protection is such a "new" area of environmental focus that the nature and extent of the problem are just being defined. National data on ground water are limited, and there is no national monitoring system to determine the degree or trends of ground water degradation.

We are literally on the learning curve of understanding the dimensions of ground water from a national perspective. We need to understand the types of ground water, and what its actual and potential uses may be. We need to understand how activities in one area affect ground water in other locations, and how land-use planning decisions affect water quality. Practically speaking, a full hydrogeologic study of this country's surface and subsurface water resources is needed.

The legislation before the House today will begin to provide us with the answers we need to preserve and protect our Nation's ground water. Federal ground water efforts will be coordinated through the newly created interagency ground water research committee. Data collected through the Department of Interior U.S. Geologic Survey will be made available to States and localities through the national ground water information clearinghouse to assist in developing ground water protection strategies.

Within the Environmental Protection Agency a research, development, and demonstration program will be established to study the causes and effects of ground water contamination, and technological development will be supported to prevent, detect, and remedy contamination problems.

In rural America, ground water is especially important because it supplies nearly 95 percent of all drinking water, and about 40 percent of the water used to irrigate crops. Provisions of this legislation which direct the Agriculture Department to study the relationship between agricultural practices and water use and quality are vital to the well-being of this Nation's farmers and their families. Also important to the agricultural community are provisions of the legislation which direct the Agriculture Department to study nitrogen use and water quality and provide farmers with information about nitrogen best management practices.

The legislation before the House is but a first step toward insuring the integrity of this natural resource for future generations of Americans. Like several of my colleagues, I am concerned with the new spending authority provided in this legislation. I would point out, however, that the bulk of the authority, on an annualized basis, is targeted toward the activities USGS at the Department of Interior. The USGS activities have historically received appropriations, and the continuing resolution which we will consider tomorrow contains a $148 million appropriation for this purpose.

The legislation before the House today is a wise investment of limited Federal dollars if we are to help the States prepare management and protection plans, and mitigate significant and costly ground water repair projects in the future.

I encourage my colleagues to support this legislation.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I did not realize I was going to be following another Kansan here, but I do think this is an issue of great importance in my State.

Mr. Chairman, I rise in support of H.R. 791. Ground water is this country's most important natural resource. It is also our most fragile. Once ground water is polluted or contaminated, it is virtually impossible to clean up. In some areas ground water is an especially precious and finite resource, because the surface is not porous and recharging doesn't take place, or takes place very slowly. The emphasis of public policy, therefore, must be geared toward prevention of pollution and maintaining ground water quality.

Kansas is the fifth largest user of ground water in the country. Ground water comprises 90 percent of the water used in Kansas, and 60 percent of Kansans depend on ground water for their drinking water. Both figures are significantly above the national average.

In January 1986, I cochaired a conference sponsored by the Environmental and Energy Study Institute on ground water quality protection. The conference concentrated on ground water protection policy options and the local implementation of ground water protection policies.

This bill will improve our understanding of ground water resources with federally supported research. It recognizes that the primary responsibility for ground water protection lies with States and localities. The bill establishes a national clearinghouse for ground water information and coordinates efforts between the responsible Federal agencies and the States.

I urge my colleagues to support H.R. 791, legislation that will protect a national resource vital to life itself.

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Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the very distinguished chairman of the Subcommittee on Transportation, Tourism and Hazardous Materials of the Committee on Energy and Commerce, the gentleman from Ohio [Mr. Thomas A. Luken].

Mr. THOMAS A. LUKEN. I thank the distinguished gentleman from California [Mr. Waxman] for yielding and extend to him and to the gentleman from New York [Mr. Lent] my congratulations for their leadership on this very important matter.

Mr. Chairman, I would like to voice my strong support for H.R. 3676, a consensus bill which merges the concerns of five committees with jurisdiction over ground water research legislation. H.R. 3676 is the result of efforts made by many Members and reflects the work of the Subcommittee on Transportation, Tourism, and Hazardous Materials, which reported to the bill to the Committee on Energy and Commerce on September 21 this year.

I believe that this legislation appropriately addresses important issues raised by the committees, including matters considered by the Committee on Energy and Commerce. The bill assigns responsibility to the President to coordinate the activities of Federal agencies which characterize, manage and protect our Nation's ground water resources to assist the States in restoration of our ground water resources. It requires the establishment of a clearinghouse for information about ground water on matters such as new technologies for monitoring ground water quality or providing a remedy to contamination.

Further, H.R. 3676 designates EPA as the lead agency for a research and development program for the protection and management of ground water. The program would be carried out in consultation with State and local governments and would include availability of Federal assistance for funding various projects. It does many things such as requiring the administrator of the EPA to conduct and publish a risk assessment analysis for significant ground water contaminants.

Ground water quality is an issue of national concern. In virtually every State, water quality problems have been found in the ground water, and this has understandably led to significant public concern. Increasingly, people are becoming more aware of what is in the ground, the dangers. Ground water is the source of drinking water for more than half of the United States population, and for over 90 percent of our rural citizens.

However, there is a consensus that water managers at the State and local levels lack the data they need on both the quantity and quality of our ground water resources. This was confirmed in a report released last year by the National Academy of Sciences which reviewed the efforts of State and local governments to manage ground water and concluded that, "There are no data available on a national or even regional scale to estimate the extent of ground water contamination or the impact of this contamination."

In recent years, various agencies have been given authority over aspects of our ground water resources. This bill is a necessary step toward generating the more comprehensive body of information which State and local governments will need to effectively manage their ground water resources. I hope that we will take that step today with the adoption of H.R. 3676.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the very distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. Dingell].

Mr. DINGELL. I thank the distinguished gentleman from California for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 791. The five committees who have worked on this bill have arrived at a consensus which embodies the most important aspects of the various committees' work. I urge my colleagues to support the bill.

Ground water contamination is the major emerging environmental issue of the 1980's. Over the past several years, virtually every State has discovered contaminated aquifers. Although statutes exist which attempt to address specific sources of ground water contamination, it is increasingly clear that the current piecemeal approach to ground water protection is inadequate to provide comprehensive protection; the statutes do not lend themselves to the formation of a coherent body of ground water data which can be shared between Federal agencies and State regulators, and regulations promulgated under the different laws sometimes work at cross purposes.

Our experiences with Superfund have taught us that cleanup of contaminated aquifiers is extremely costly and time consuming. It is far better to keep ground water from becoming contaminated in the first place than to attempt to clean it up.

The programs established under the consensus bill are a necessary first step in providing comprehensive ground water protection:

In drafting the bill, the authors acknowledge the traditional role and responsibility of States to manage and protect ground water resources. One of the major obstacles to comprehensive ground water protection has been the sensitivity of the States in relation to water resource management. The current bill does not create Federal authorities which would override State authorities. What the bill does accomplish from a State perspective is to require the Federal Government to make its information and technical expertise available to assist the States in fulfilling their responsibilities to protect and manage their own ground water resources.

The bill requires the President to take overall responsibility for coordinating the ground water activities of all Federal agencies. In requiring the President to take the lead, it is intended that statutes affecting ground water will be administered in a manner consistent with each other and that collection of data and technical information from all Federal agencies will be coordinated to eliminate duplication of effort.

The bill requires the Secretary of the Interior to take the lead role in collecting basic scientific data about this Nation's ground water resources. In taking the lead role, it is intended that the Secretary have both the authority and the responsibility to coordinate with all other Federal agencies collecting ground water data—such as data relating to hazardous waste storage, treatment and disposal facilities—to assure that such data can be used as part of the Secretary's national ground water data base.

The bill requires the Administrator of the Environmental Protection Agency to establish a research, demonstration, and development program aimed at preventing and remediating ground water contamination. The program is intended primarily to support regulatory activities to manage and protect ground water and is not intended to duplicate in any substantial manner the data collection program administered by the Secretary of the Interior.

The bill requires the Administrator of the Environmental Protection Agency to conduct risk assessments of significant ground water contaminants. These risk assessments are intended to help those managing ground water resources to set priorities and to target their efforts on those contaminants representing the greatest threat.

The bill requires the establishment of mechanisms to transfer ground water information gathered by the Federal Government to the States.

The bill requires the Secretary of Agriculture to study the relationship between agriculture practices, water use and water quality. It also requires him to establish an Agricultural Nitrogen Best Management Practices Task Force to determine the extent to which nitrogen from agricultural chemicals poses an environmental threat.

This bill represents an important effort to protect this Nation's ground water resources. I urge my colleagues to support the bill.

Mr. LENT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of our time.

The CHAIRMAN. The gentleman from New York [Mr. NOWAK] from the Committee on Public Works and Transportation will be recognized for 15 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join with my distinguished colleagues in bringing to the floor H.R. 791, a bill concerning the protection of the Nation's ground water resources. The bill before us represents the efforts of five committees—Agriculture, Energy and Commerce, Interior and Insular Affairs, Science, Space and Technology, and our Committee on Public Works and Transportation. I wish to express my appreciation for the leadership and assistance provided by the chairman of our Public Works Committee, the gentleman from New Jersey [Mr. HOWARD] and for the cooperation and support of the ranking Republican of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the ranking Republican on the Water Resources Subcommittee, the gentleman from Minnesota [Mr. STANGELAND]. I would also note not only the commendable efforts of the other committees but also of Congressman SCHEUER for his efforts on those parts of the bill dealing with research activities of the Environmental Protection Agency, Congressman STANGELAND for his efforts with regard to the provisions relating to agricultural management practices and water quality, and Congressman GEJDENSON for his role in the development of the original version of H.R. 791.

Over the past decade there has been an increasing awareness of the seriousness of the problem of ground water contamination and the need to substantially increase efforts to assess, protect and properly manage ground water resources.

Ground water protection is one of the most important environmental issues facing the Nation, and arguably the most difficult. Pollution of surface waters is relatively simple to detect and observe. Pollution and contamination of other environmental media such as air and the Earth's surface are also susceptible of relatively straightforward detection and observations.

In the case of ground water, however, we are dealing with a resource which is out of sight and which, because of varying geological and geochemical conditions, behaves in very complex fashions. Ground water moves very slowly, and contaminants tend to travel in plumes with relatively little mixing or dispersion. Contaminants are thus difficult to locate, and may take decades to move out of a particular area. Ground water contamination problems are being detected with increasing frequency. No State is immune. Sources of contamination include improper waste disposal—landfills, hazardous waste sites, surfce impoundments, septic systems, and the like—use of pesticides, industrial activity, underground storage tanks, salt water intrusion, and abandoned mines.

The Nation is dependent on ground water to a great degree—probably much more than most people realize. About one-fourth of all water used in the United States comes from ground water. Ground water is the source of drinking water for almost half of the population, and for over 90 percent of rural households. It supplies some 70 percent of the water used for irrigation of agricultural crops. Over 117 million people rely on ground water for their domestic needs. Of the Nation's 100 largest cities 34 obtain all or part of their water from ground water. Given the amount of ground water utilized by the Nation—estimated at over 100 billion gallons per day—the wisdom and necessity of protecting this essential resource are indisputable.

The most compelling need at this time is for information—where are there contamination problems, where do potential problems exist, what measures can be taken to prevent contamination, and what feasible methods exist for removing contaminants from ground water or mitigating their effects?

H.R. 791 is designed to obtain this information and make it available for use in the protection and remediation—which includes restoration—of the Nation's ground water resources. This is done through four key elements—coordination; data gathering; research; and technical assistance, training, dissemination of information, and technology transfer.

The President is directed to coordinate the ground water activities of the Federal agencies. This coordination is carried out primarily through an Interagency Committee on Ground Water Research, which is composed of Federal agencies having responsibilities in the area of ground water. It is also expected that if agencies which are not members of the committee undertake activities related to ground water, the President will direct those agencies to coordinate with the committee. The committee is to identify research data needs and overall priorities for addressing these needs, facilitate interagency cooperation and coordination, and consult with State and local Governments. One of the more important duties of the committee is to recommend priorities for the assessment of ground water resources based on the use of such resources and the likelihood of such resources being contaminated. This provision applies to both existing and future uses of ground water and the likelihood of existing and future contamination. In conducting assessments, priorities will have to be set. Completion of needed assessments will require considerable time and resources, and it will be necessary to concentrate on the more serious or potentially serious problems first.

The second key element of the bill is data gathering. The Department of the Interior is designated as the lead agency for the purpose of carrying out a national ground water assessment program. Assessment is defined as a description of the location, hydrological properties, quantity, quality, and rate of depletion of ground water resources. The Secretary may carry out the assessment program both directly through the Department of the Interior and indirectly by providing assistance to other Federal agencies and State and local governments. The provision that the program may be carried out directly through the Department of the Interior is intended as clarification and affirmation of the Department's ability to perform the activities involved in ground water assessments under its own authority as well as by providing technical assistance and information to State and local governments.

The assessment of ground water resources will provide critically needed information with regard to ground water quality and protection. It will identify those resources which are in fact contaminated so that necessary decisions can be made with respect to remediation and mitigation. It will also provide information with respect to the hydrogeological properties of ground water—how water and contaminants move within the aquifer, the location of recharge areas where water and contaminants may enter the aquifer, and characteristics of an aquifer which may relate to the ease or difficulty, and means, of protection and remediation.

Research is another critical element of H.R. 791. The Environmental Protection Agency has a number of statutory responsibilities which involve ground water contamination—the Resource Conservation and Recovery Act, the Safe Drinking Water Act, Superfund, and the Federal Water Pollution Control Act, among others. In 1985, a review of EPA's Ground Water Research Program by the Ground Water Research Review Committee, Science Advisory Board, found that EPA's research effort under these statutes was inadequate to support the Agency's ground water strategy or future regulatory or policy needs. The committee also found a need for increased research on contaminants that are not covered by specific statutory mandates, increased coordination with other Federal agencies in the area of research and development, increased funding for monitoring, and increased research on the transportation and fate of contaminants in ground water. Similarly, the Office of Technology Assessment concluded that State and Federal programs relating to ground water vary in their approaches to protection of ground water quality and generally do not take into account the potential of all sources to contribute to ground water contamination, because the programs are concerned only with managing selected sources of contamination.

The need for additional research is addressed in section 206 of the bill, which directs the Administrator to establish a research, development, and demonstration program for the protection, management, and remediation of ground water resources. The program is to include research, experiments, demonstrations, surveys, and studies relating to the sources, causes, effects, extent, prevention, detection, remediation, monitoring, and mitigation of ground water contamination. It will also include the development and demonstration of effective, practical, and cost efficient technologies for the prevention, detection, monitoring, remediation and mitigation of ground water contamination.

Section 310 of the bill also addresses research needs through the improvement of EPA's research capability.

In a related area, section 207 directs the Administrator to conduct and publish a risk assessment analysis for significant ground water contaminants. The risk assessment analyses are to use scientifically sound methodologies to assess the risk to human health and the environment associated with a range of concentrations of the ground water contaminants. The analyses are to include, among other things, the most recent scientific knowledge of the physical, chemical, biological, and radiological properties of the contaminant and its effects on human health and the environment. It is not intended that these analyses be confined to effects that have conclusively been proven. They may take into account the potential of a contaminant to cause adverse health effects based on epidemiological data, animal studies, structure—activity relationship analysis, or other similar scientific information.

Finally, the bill provides for technical assistance, training, dissemination of information, and technology transfer. Both the Secretary of the Interior and the Administrator of the Environmental Protection Agency are authorized to establish a program to provide technical assistance between and among Federal agencies and to State and local governments with respect to ground water. Also, both are authorized, upon the request of a State or local government, to conduct research and make surveys concerning specific ground water problems, and develop recommendations for solutions to the problems.

Training of personnel in ground water matters is also authorized. Finally, transfer of technology obtained by the activities authorized under title 2, and establishment of an information clearinghouse to disseminate ground water information, are provided for.

Title 3 of the bill, the Agricultural Ground Water Management Act of 1987, directs the Secretary of Agriculture to study and report to Congress on the relationship between agricultural practices and water use and quality, including recommendations for changes in existing programs and new initiatives to address present and potential water quality and quantity problems. It also establishes a program to develop and improve agricultural best management practices and to develop and disseminate information with regard to agricultural nitrogen in order to reduce impacts on ground water.

Mr. Chairman, these are the highlights of the bill as developed by the five committees. I will now proceed to a more detailed analysis of this legislation.

Section 101 contains the short title for title I, "Geological Survey Water Resources Organic Act."

Section 102 authorizes the Secretary of the Interior, acting through the Geological Survey, to undertake ground water research activities, in cooperation with Federal, State, and local agencies, and to disseminate acquired information. The section requires agreements if the activities are to be conducted with other Federal agencies on a reimbursable basis.

Section 103 authorizes $164 million for each of fiscal years 1988, 1989, and 1990 for water resource activities of the Secretary of the Interior authorized by this Act.

Title 2 deals with ground water research. Section 201 contains the short title for title II, "National Ground Water Research Act of 1987."

Section 202 contains numerous findings: ground water is a major source of drinking water and provides 86 percent of the available freshwater; contamination occurs in every State and from diverse sources; contamination is associated with adverse health, environment, economic, and social impacts; ground and surface water are interconnected; data collection, analysis and dissemination are essential but insufficient; there are significant gaps in scientific knowledge; the Federal Government has certain responsibilities under existing law, but lacks a statutory mandate to conduct ground water research; the primary responsibility for ground water is with States and local governments; Federal assistance should support State programs; additional Federal research is necessary; several States have ground water programs; current Federal programs require improved coordination; contamination prevention is preferable to clean up activities; greater efforts are necessary to preserve ground water.

Section 203 provides the definitions of certain terms used in title II.

Section 204 requires the President to coordinate activities of the U.S. Government related to ground water.

The President is also to establish an interagency ground water research committee which includes appropriate Federal agencies, and as a minimum, the Environmental Protection Agency, the U.S. Geological Survey, the Department of Agriculture, and the Department of Health and Human Services. The committee is cochaired by EPA and USGS. The committee is required to: Identify data needs and scientific uncertainties; recommend priorities and a coordinated research plan; facilitate interagency cooperation and coordination; consult with State and local governments and other groups to determine research and information needs; and, recommend priorities for the assessment of ground water resources based on the use of the resource and likelihood of the resource being contaminated. The activities of the committee will be reported by the President under section 212.

Section 205 requires the President to designate the Secretary of the Interior as the lead official for activities under this section. The Secretary, in consultation with the Administrator of EPA and the heads of affected agencies and State and local governments, is required to prepare a report on: An evaluation of ground water information systems; and evaluation of existing data collection and monitoring programs; an evaluation of the availability of data; and recommendations on actions to better use information, and for the improved collection of data and information.

This report is to be completed within 270 days and made available for public comment before being submitted to Congress within 1 year. The report must be biannually updated and included in the report required under section 212.

The Secretary is to establish and conduct a National Ground Water Assessment Program to determine the location, hydrogeologic properties, quantity, quality, and rates of depletion of ground water resources. The program may be conducted directly by the Secretary or indirectly by providing assistance to other agencies and State and local governments. The program is to assist State and local governments in their ground water activities; coordinate activities relating to ground water; provide information regarding protocols and quality controls; encourage the use of existing programs; assist Federal and State governments in their activities under the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Solid Waste Disposal Act, the Federal Water Pollution Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and other related statutes; improve knowledge relating to ground water contamination and depletion; and provide information complementing surface water quality data. All activities are to be coordinated with the interagency committee.

Under section 206 the President is required to designate the Administrator of EPA as the lead official for activities under this section. The Administrator is to establish and coordinate a research, development, and demonstration program for the protection, management, and remediation of ground water resources. The program includes: Research and learning activities related to ground water contamination, and development, and demonstration of technologies related to ground water contamination.

The demonstration program may be conducted through contracts, agreements, or grants if: The project will improve technology; the project is not a duplicative effort; the demonstration is consistent with other laws; the project would meet an identified priority need; and, the project is not an alternative or innovative treatment technology eligible for assistance under section 311(b)(5) of the Comprehensive Environmental Response, Compensation and Liability Act.

The Administrator must annually solicit proposals for demonstration projects. Projects are to be selected based on the potential of the proposed technology to control or mitigate sources of contaminants, the capability of the applicant to complete the project and the applicant's willingness to disseminate the results, and the transferability of the technology demonstrated. A decision on whether to accept projects must be made within 135 days, and at least 10 qualified projects must be selected annually. The Administrator is to supervise and ensure testing and quality control. An applicant must be able to demonstrate an inability to otherwise obtain reasonable financing, and the Federal share may not exceed 50 percent of the total cost.

Under section 207 the President is required to designate the Administrator of EPA as the lead official for activities under this section. The Administrator is to conduct and publish risk assessment analyses for significant ground water contaminants in a standard format. Each analysis is to include the most current knowledge, an assessment of variable factors and assumptions, and a comparison of the risks of a particular contaminant to the risks of other contaminants. Analyses for at least 30 contaminants must be published with 24 months, and an additional 30 in the following 12 months.

Under section 208 the President is to designate the Administrator and the Secretary as lead officials with responsibilities for technical assistance, training, and technology transfer. The Administrator is responsible for activities related to source controls and mitigation of contamination, remediation of ground water, and health and environmental effects. The Secretary is responsible for activities relating to ground water assessment.

Upon request of a State or local government, the Secretary and Administrator are authorized to conduct research and make surveys concerning specific ground water problems and make recommendations regarding a solution. This activity requires a 50 percent non-Federal share.

The Administrator and Secretary are each authorized and directed to establish a technical assistance program, conduct technology transfer program, and assure that acquired information is made available to the public.

Section 209 requires the President to designate the Secretary of the Interior as the lead official for activities under this section. The Secretary is to establish and maintain a national ground water information clearinghouse to assist in dissemination of information relating to ground water and the relationship between ground water quality and surface water quality and quantity.

The clearinghouse is to be coordinated with the interagency committee.

Section 210 directs the Administrator to create a media-specific research committee for ground water resources. It also requires the Science Advisory Board to review ground water research programs of EPA and to periodically report to Congress. The Science Advisory Board is also to comment on the risk assessment analyses prepared under section 207.

The section also authorizes research fellowships and not more than five research institutes. The research institutes are to be funded with Federal grants of not more than 50 percent.

Section 211 requires the Secretary of the Army and the Secretary of the Interior to consider the impact of a proposed project on ground water resources, and to consider measures to replenish and protect ground water resources.

The Secretary of the Army and the Secretary of the Interior are authorized to review the operation of existing projects to determine the need for modifications to replenish and protect ground water. This section also contains provisions relating to specific ground water problems.

Section 212 requires the President to submit an annual report each January 15, on the activities of the Administrator, the Secretary, the Interagency Ground Water Research Committee, other Federal agencies, and State and local governments on activities under this title.

Section 213 requires that studies, reports and results of research be reported and adopted only after appropriate review.

Section 214 authorizes appropriations to the Environmental Protection Agency of $10 million for fiscal year 1988, $12 million for fiscal year 1989, and $14 million for fiscal year 1990.

Title 3 relates to agricultural production and water use.

Section 301 contains the short title for Title III, "Agricultural Ground Water Management Act of 1987."

Section 302 contains congressional findings concerning the value and vulnerability of ground water supplies; and the need for and value of technology, education, and proper agricultural practices to reduce impacts on ground water.

Section 303 requires the Secretary of Agriculture to conduct an investigation and analysis of the relationship between agricultural practice and water use and quality. A report is to be submitted to Congress within 90 days. The report to include the status and level of effort of programs at the Department of Agriculture, estimates of the extent of water quality problems and the availability of agricultural water supplies, and recommendations for changes in existing programs and new initiatives.

Section 304 directs the Secretary of Agriculture to establish a task force consisting of specific representatives of appropriate Federal activities, a farmer's representative, a representative of fertilizer retailers, and the executive secretary of the National Association of State Departments of Agriculture.

The task force is to develop and improve agricultural best management practices, develop educational and training materials, and disseminate information. The task force must report to Congress in 1 year on the progress of its efforts and annually thereafter. The report is to describe the extent of nitrogen related problems, the best management practices recommended by the task force, the dissemination of information, and progress made by the agricultural community.

Section 305 amends section 319 of the Federal Water Pollution Control Act—relating to control of nonpoint pollution—to require that certain activities under that section be carried out in consultation with the task force.

Section 306 authorizes for appropriation such sums as are necessary for the 3 fiscal years after enactment.

Title 4 concerns ground water radium contamination.

Section 401 authorizes the Administrator of EPA to assist local governments in demonstrating mitigation of radium contamination in ground water. Assistance may be used for financing the acquisition and installation of ground water treatment technologies to remove radium from drinking water. The grants are limited to providing insurance or prepaying interest on local obligations and administrative costs.

There are authorized to be appropriated $4 million for fiscal year 1988, and $5 million for each of fiscal years 1989 and 1990.

Mr. Chairman, H.R. 791 constitutes an important step in our efforts to protect our ground water resources and I urge my colleagues to give it their full support.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 791 which authorizes a comprehensive, focused program of Federal ground water research and information gathering to assist State and local governments in addressing the growing problem of ground water contamination.

Ground water is a precious national resource. It is used by over one half of our population as a source of drinking water. In rural areas, over 95 percent of all drinking water comes from underground aquifers. In addition, aquifers provide water for irrigation and other commercial and industrial purposes. According to the U.S. Geological Survey, 81 percent of all water withdrawals in my home State of Arkansas, exclusive of water used for thermoelectric power generation, comes from ground water supplies.

In view of this heavy dependence on ground water, it is imperative that we ensure that these supplies are adequately protected. In this regard, we must strive to protect ground water from contamination that may impair the use of this precious resource. Where contamination is a problem, we should have thorough and cost effective technologies to restore the water to a level of quality appropriate to the water's use.

Recent studies by the Office of Technology Assessment, the National Academy of Sciences, Federal agencies and affected interest groups have brought attention to the threats posed to this precious resource from a variety of potential sources of contamination. These studies have pointed to the need to focus existing Federal efforts to assess the condition of ground water resources and to assist State and local governments to prevent, mitigate or correct any contamination problems.

I know that the Federal Government is already doing a great deal in the area of ground water research and potection. Frankly, my impression is that what is currently being done could and should be more focused and better coordinated. At the same time, there may be serious gaps in the overall Federal program that need to be addressed. Clearly, the States have had, and should continue to have, the lead in this area. Nonetheless, I believe there are aspects of the ground water problem that warrant Federal assistance.

Because ground water resources are so pervasive and because the potential threats come from a wide variety of sources, efforts to fashion legislation to strengthen the Federal role in ground water research have involved a number of the committees of the House. In all, five committees have come together to fashion a comprehensive, compromise bill. H.R. 791 as introduced originated in the Committee on Interior and Insular Affairs and, after being reported by that committee, was sequentially referred to the Committees on Agriculture, Energy and Commerce, Science, Space and Technology and our own committee on Public Works and Transportation. Each of these committees reported out somewhat differing versions of legislation dealing with ground water research and protection.

Mr. Chairman, referral of a bill to so many committees can, at times, present insurmountable obstacles to progress on a bill. It is a credit to the commitment and close cooperation of the leadership of each of these committees, as well as to the recognition that the House needs to address this issue expeditiously, that we have been able to achieve such success. I would like to thank the leadership of each of the committees involved in this bill for their flexibility and hard work. Although time will not permit me to mention all who have participated in this process, I do want to take a moment to commend the chairman and ranking members of the other four committees.

Certainly, we all owe a debt of gratitude to the gentleman from Arizona [Mr. UDALL] and the gentleman from Alaska [Mr. YOUNG] who have taken much of the initiative to bring this bill before the House. Also, the gentleman from Texas [Mr. DE LA GARZA] and the gentleman from Illinois [Mr. MADIGAN] deserve our praise for the important contributions originating in the Agriculture Committee. The chairman and ranking members of the committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] and the gentleman from New York [Mr. LENT] and of the Committee on Science, Space and Technology, the gentleman from New Jersey [Mr. ROE] and the gentleman from New Mexico [Mr. LUJAN] are to be commended for the important improvements to the bill that were developed in their respective committees.

Finally, I would be remiss if I did not thank the chairman of our own Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD], as well as the chairman and ranking Republican of our Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK] and the gentleman from Minnesota [Mr. STANGELAND] for their leadership, commitment and willingness to cooperate in the drafting of this important bill. Without the hard work of all these and more, we would not be able to come before the House with a compromise bill that reflects the contributions and perspectives of all five committees.

The compromise bill, which was introduced on Monday by the gentleman from Washington [Mr. FOLEY], is truly a synthesis of the work of all five committees. Admittedly, most of the committees were fairly close in their approach to the bill, with differences in drafting style, emphasis, or the degree of specificity provided. This made the work of reconciling differences among the committees less difficult than might have been the case otherwise. I am happy to report that the compromise package is very close in most respects to the bill reported out by our Committee on Public Works and Transportation, including all of the refinements added by our committee and adopting a number of our basic approaches.

The bill contains four separate titles addressing different aspects of the Federal role to ground water research, data collection and assistance. Title I, "The Geological Survey Water Resources Organic Act," contains organic authority for the U.S. Geological Survey's program of water resources research. This title is virtually the same as title I of the bill reported by the Committee on Interior and Insular Affairs.

Title II, "The National Ground Water Research Act of 1987," provides general authority to the President to conduct a comprehensive program of assessment, research, demonstration, technology transfer, training, and information dissemination relating to ground water. It represents a marriage of title II of the Interior Committee's reported bill, which emphasized the role of the USGS in ground water research, and H.R. 2253 introduced by the gentleman from New York [Mr. SCHEUER] emphasizing EPA's role in health related ground water research and information exchange.

Title II of the compromise bill authorizes a Federal program, under the direction of the President with full interagency coordination, that encompasses the important roles of USGS and EPA. The title calls for the President to designate the USGS as the lead Federal agency with respect to the development of factual information assessing or characterizing the Nation's aquifers, including information on the location, hydrogeological properties, quantity, quality, and rates of depletion of the resource. The USGS would be responsible for implementing a national assessment program within 2 years of the date of enactment to assist State and local ground water programs.

The title also requires that the President designate EPA as the lead agency in establishing a program of research, development, and demonstration for the protection, management, and remediation of ground water resources. The program is envisioned as being broad in scope but targeted to address primarily areas of research needed to support ongoing Federal, State, and local ground water protection strategies. Furthermore, although the bill provides EPA with the authority to undertake research to support existing programs, it does not provide any new regulatory authority. Instead, the bill recognizes the primary role of States to manage their ground water resources but with the full assistance of Federal research and expertise.

The bill also calls upon EPA to undertake a program of developing and distributing risk assessments of ground water contaminants which pose significant health threats. In preparing these assessments, EPA is to rely on the authority provided under other Federal laws, rather than on any new authority conferred in this bill.

The bill further authorizes both EPA and USGS to provide technical assistance, training, and technology transfer in areas of ground water research within their respective expertise. In addition, USGS would be called upon to establish a national clearinghouse to disseminate information on ground water assessment, management, protection, and remediation as well as the interrelationship between ground and surface water. It also contains provisions strengthening EPA's institutional research capabilities, establishing research fellowships, and authorizing the funding of national research institutes. Finally, title II provides authority to the Secretaries of the Army and Interior to consider ground water impacts in connection with proposed and existing water resources projects; clarifies the authority of State water resources research institutes to look, at ground water contamination and water quality using existing Federal grant funding; authorizes a number of specific studies of ground water and related surface water problems; and calls for periodic reporting on the Federal ground water effort.

Title III of the compromise bill calls for study of agriculturally related ground water problems and for the development and dissemination of best management practices for the use of fertilizers and other forms of nitrogen in agriculture. I want to especially thank the gentleman from Minnesota [Mr. STANGELAND] for his contribution to title III of the compromise bill which is derived in large measure from a bill which he introduced earlier this year (H.R. 3069).

Ground water protection is certainly an important national issue but it is even more important in rural areas. Farmers have been identified with some of the causes of ground water pollution such as pesticides, herbicides, and fertilizers. At the same time, farmers are more dependent upon the resource to supply drinking water and irrigation needs.

Finally, title IV of the compromise bill establishes a grant program to assist small communities with the cost of removing radium which has contaminated underground resources of drinking water. This is a problem that was first brought to the attention of the committee by the gentleman from Illinois [Mr. HASTERT] who serves on our Water Resources Subcommittee. Radium is a naturally occurring radioactive substance that has been detected at levels exceeding the standards established by the EPA in approximately 400 communities around the country. Although the substance can be removed through a number of different treatment processes, the cost of such treatment can be quite high. These costs can be particularly burdensome in smaller communities where the costs can exceed $100 per person served.

In an effort to provide some assistance without upsetting the traditional responsibility of States and local governments to provide drinking water supplies, our committee developed an approach modeled on the State revolving loan fund authorized under the 1987 amendments to the Federal Water Pollution Control Act. The approach is to provide funds to States to "buy down" interest rates on loans which would be used to help finance the cost of treatment. Our committee included a radium removal provision in our markup of H.R. 791, which was the genesis of similar provisions subsequently incorporated into the bills reported out by the Committees on Agriculture and Energy and Commerce.

The radium provision contained in title IV of the compromise bill authorizes a total of $14 million to help small communities deal with these potentially serious problems in their drinking water. It is to be administered by EPA and would target communities of 20,000 population or less.

Mr. Chairman, I again want to commend the many Members who have contributed to the development of this thoughtful bill. Certainly, it is not a perfect bill but, I believe, it takes the right basic approach. It recognizes that the State and local governments have the primary responsibility for addressing ground water problems. The Federal Government has an important role but it is a role of providing information, research capability, and general assistance to those that need to take the lead. Accordingly, I support the bill and urge my colleagues to support it also.

Mr. HOWARD. Mr. Chairman, H.R. 791 is a bill that addresses the growing problem of ground water contamination. This serious national problem requires the focus and resources of the Federal Government. I hope the agencies with jurisdiction, especially EPA and the Interior Department, will work in a cooperative effort to develop an effective ground water program, as our committees have. I would like to thank all of the committees who have worked to develop this bill, and especially thank Mr. NOWAK, chairman of the Water Resources Subcommittee, and Mr. HAMMERSCHMIDT and Mr. STANGELAND whose support for this legislation continues the public works and transportation tradition of developing strong bipartisan proposals to address difficult problems.

In some areas of the country, ground water contamination has forced the closing of wells, created health problems and ground water mining has depleted aquifers at alarming rates. In most areas ground water quality is good but it needs a strong program of protection from pollution.

For too long, our ground water resources have received too little attention. Public awareness of the problem has been limited. Until recently, the ground actually was thought to be the best place to get rid of our wastes—that the natural filtering capacity of soil simply removed dangerous contaminants. Most ground water contamination is not readily apparent, and most contaminants require a long time to reach wells, keeping the problem out of sight of the general public. However, instances of serious pollution such as in my own district in Ocean County, NJ, clearly demonstrate the need for action on ground water pollution.

This bill provides the means to attack the problem before it reaches enormously expensive proportions. As we have learned in the Superfund Program, once ground water becomes contaminated, cleanup is extremely costly, and may not even be technically feasible in some instances. H.R. 791 will enable us to get the information we need to understand the nature and extent of ground water pollution. We will be able to develop a comprehensive strategy at the Federal, State, and local level to prevent contamination in the first instance, and to clean up existing pollution. The bill authorizes $549 million over 3 years for a national program of research, assessment, technical assistance and demonstration programs.

The substitute text to H.R. 791 represents a compromise to the differing versions of the bill which were reported by each of the committees. First reported by the Committee on Interior and Insular Affairs, the bill was sequentially referred to the Committees on Public Works and Transportation, Science, Space, and Technology, Energy and Commerce, and Agriculture. The five committees have agreed upon the text of H.R. 3676 as a viable and valuable step toward addressing our ground water pollution.

The substitute text is divided into four titles. Title I contains the Geological Survey Water Resources Organic Act, outlining the basic authority of the Secretary of the Interior acting through the U.S. Geological Survey to undertake water resources research activities.

The Geological Survey has long been a leading source of information concerning the water resources of our Nation for both surface and ground water. Unfortunately, most of their authority emanates from annual appropriations bills and no basic authorizing legislation exists for the survey's ongoing programs. Title I clearly states the authority of the survey to continue their work without relying on authorization through appropriation bills.

Title II contains authorities for both the Department of the Interior and the Environmental Protection Agency.

Title II requires the President to coordinate the ground water activities of all Federal agencies. He is also to establish an Interagency Ground Water Research Committee composed of members of each agency involved in ground water related activities. The committee is to assist in coordination of ground water programs and recommend research priorities to the President as well as a coordinated research plan.

The Secretary of the Interior is charged with establishing and conducting a National Ground Water Assessment Program to determine the locations, hydrogeologic properties, quantity, quality, and rates of depletion of ground water resources. The program may be conducted directly by the Secretary of the Interior, or indirectly at the request of a State or local government. Both the Secretary of the Interior and other Federal agencies engaged in assessment activities are to consult and coordinate their activities with the Interagency Ground Water Research Committee. This committee is to operate as a two-way conduit for information to pass from and between Federal agencies.

The Environmental Protection Agency is given the lead responsibility to establish a national research, development, and demonstration program for ground water protection and management. The program is to be for the protection, management, and remediation of ground water resources. It is not intended to have an adverse impact or to detract from ongoing geological survey activities. The new program is to enhance Federal efforts in the area of ground water and complement the activities of other agencies.

The Administrator of EPA is also to be the lead agency for a program to conduct and publish risk assessment analyses for significant ground water contaminants. Each analysis is to include the most recent scientific knowledge on the contaminant and its effects on human health and the environment. The analysis is not intended to be limited to known or certain effects. The Administrator has the authority and is encouraged to also examine potential or suspected human health and environmental effects. The analysis should also include an assessment of factors and assumptions used, and a comparison of the risk posed by the contaminant and other contaminants.

The bill establishes a Technical Assistance, Training, and Technology Transfer Program to be administered by both the Secretary of the Interior and the Administrator of EPA. The Secretary is the lead official for activities related to ground water assessment and the Administrator is the lead official for activities relating to source controls and mitigation of ground water contamination, remediation of ground water, and health and environmental effects. Authorized activities include assistance, and training to Federal and non-Federal personnel. The Administrator and the Secretary are each authorized to conduct research and surveys concerning specific ground water problems at the request of State and local governments, sharing the costs equally. Importantly, these research and surveys may include recommendations to the State or local government concerning solutions to the particular problem studied. These solutions will give the State or local government a guide to address their ground water problems using their own resources and in the manner which they determine is best.

Since one of the primary purposes of the legislation is to gather information, the Secretary is charged with establishing a national ground water information clearinghouse to disseminate information.

The Secretary of the Interior and the Secretary of the Army are each authorized to review projects within their jurisdiction to determine whether the project will have an impact on ground water resources, and to consider measures to replenish and protect ground water resources in developing project plans. They are also authorized to review existing projects to determine whether modifications are necessary to replenish or protect ground water.

The remainder of title II contains provisions to improve the Environmental Protection Agency's ground water research capability, a requirement for the President to submit an annual report on ground water activities, and a requirement for studies, reports, and results of research to undergo appropriate, peer review.

Title III contains the Agricultural Ground Water Management Act of 1987. This title recognizes the relationship between agricultural nitrogen and ground water resources. The Secretary of Agriculture is to establish a task force to develop and improve agricultural best management practices, develop educational and training materials, and disseminate information. Title III also amends section 319 of the Federal Water Pollution Control Act relating to the control of nonpoint pollution to require that activities of that program and the task force created here be conducted in consultation with each other.

Title IV authorizes the Administrator of EPA to assist small communities in demonstrating mitigation of radium contamination in ground water. Assistance is in the form of grants used to provide insurance or preparing interest on local obligations and administrative costs.

Mr. Chairman, H.R. 791 adds an important component to our Nation's environmental effort—the protection of our ground water resources. It is time that we begin to study the extent of the problem. I hope that this House will give the legislation its overwhelming support.

Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota [Mr. STANGELAND], the ranking member of our Subcommittee on Water Resources of the Committee on Public Works and Transportation be allowed to handle the balance of our time on this side.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. STANGELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on November 30, Mr. FOLEY introduced a comprehensive ground water research and protection bill. This legislation, which I strongly support, embodies a compromise among the five committees that received referrals of H.R. 791, a ground water research bill, earlier this year. Today's consensus bill combines and coordinates major elements of each version of H.R. 791 reported by the five committees of jurisdiction.

Let me begin by thanking all the committees and members who worked on today's compromise bill and its predecessors. Our success is due in large part to the leadership of the Public Works and Transportation Committee: chairman JIM HOWARD, ranking minority member JOHN PAUL HAMMERSCHMIDT, and Water Resources Subcommittee chairman, HENRY NOWAK. I also want to thank the leadership and staff of the other committees for their hard work and dedication. The Interior and Insular Affairs Committee should be congratulated for its efforts and patience regarding last year's and this year's ground water bills. I also want to commend the Committees on Energy and Commerce; Science, Space, and Technology; and Agriculture for their contributions and improvements to H.R. 791 and its substitute.

Mr. Chairman, our bill contains four major components to improve Federal, State, and local ground water protection efforts. The first is assessment and mapping of the resource itself. The second is research, development, and demonstration of cleanup technologies. The third is information gathering, information dissemination, and technology transfer. The fourth is improved consistency and coordination among existing and future ground water activities.

Title I, the Geological Survey Water Resources Organic Act, authorizes a number of USGS ground water activities. This portion of the substitute is based on sections in H.R. 791, as reported by the Interior Committee.

Title II, the National Ground Water Research Act of 1987, may be the heart of the bill. Our substitute combines aspects of the USGS research bill—H.R. 791—and the EPA research and demonstration bill—H.R. 2253. The substitute also reflects subsequent changes to the USGS and EPA bills made by Science, Space, and Technology; Energy and Commerce; Public Works and Transportation; and Agriculture.

Section 202 contains congressional findings that are the guiding principles of our substitute. Because ground water is a unique resource requiring different approaches to the control, prevention, and cleanup of contamination, we have adopted a phased approach emphasizing education, research, demonstration, technical assistance, and prevention. While providing for an increase in the Federal role in ground water research and protection, we have also recognized that State and local governments must retain primary responsibility for managing the resource. In addition, we have improved upon provisions to foster the consistency and coordination among Federal programs.

Section 204 provides the President with the overall responsibility of coordinating ground water activities of all Federal agencies. The President is directed to establish an interagency ground water research committee, cochaired by EPA and the Interior Department and composed of members from each Federal agency involved in ground water activities. The interagency committee must recommend research priorities and a coordinated ground water research plan.

Section 205 directs USGS to evaluate the Nation's ground water quality and quantity information systems, the utility and adequacy of existing data collection and monitoring programs, and the availability and accessibility of existing ground water data. The evaluation, to be updated every 2 years, will recommend actions to improve the collection of ground water data and information.

The bill also directs USGS to establish and conduct a national ground water assessment program. The program should assist State and local governments in the assessment, management, protection, and remediation of ground water resources and the design of ground water monitoring programs. The program should also provide information regarding protocols and quality controls, and recommend standard protocols to be used where appropriate.

Section 206 directs EPA to establish a research, development, and demonstration program of the causes, effects, cleanup and prevention of ground water contamination.

Section 207 directs EPA to conduct and publish a risk assessment analysis for significant ground water contaminants. This section will address the primary need of States to obtain information on health and environmental effects of contaminants.

Section 208 directs EPA and USGS to establish programs to provide technical assistance among Federal agencies and to State and local governments through grants, loans, cooperative agreements, and contracts. The section also establishes a technology transfer program.

Section 209 designates USGS as the lead agency for establishing and maintaining a national ground water information clearinghouse to be used to disseminate ground water information to Federal agencies, State and local governments, and other persons.

Section 210 directs EPA to establish a ground water research committee for the protection, maintenance, and remediation of ground water resources. The bill also instructs the Science Advisory Board to review EPA's ground water research programs, submit periodic reports, and comment on EPA's risk assessment program. EPA is also authorized to establish and maintain research fellowships and to award grants for up to five ground water research institutes.

Section 211 directs the Secretaries of the Army and Interior and the Administrator of EPA to conduct various ground water studies and activities.

Section 212 directs the President to prepare and submit to Congress an annual report evaluating programs authorized in title II. This section consolidates various reporting requirements contained throughout portions of the committee bills in an effort to avoid duplication and minimize paperwork.

Section 213 provides that studies, reports, and results of research conducted under this title are to be reported and adopted only after appropriate peer review.

Section 214 authorizes $46 million for fiscal years 1988 through 1990 to carry out title II's provisions. These funds are in addition to amounts authorized in section 211.

Title III, the Agricultural Ground Water Management Act of 1987, requires the Secretary of Agriculture to study and report on agricultural practices, water quality, and use and includes provisions from my bill, H.R. 3069. In September, the bill was not only introduced in the other body but also included in the three House ground water bills reported by Public Works, Energy and Commerce, and Agriculture.

H.R. 3069, now part of title III, establishes an agricultural nitrogen best management practices task force. Through increased education, public information, and the adoption of agricultural best management practices, this Nation can prevent many of its ground water and surface water quality problems right from the start. Title III brings key players together to get the ball rolling so that we can develop ways to use agricultural nitrogen more effectively and sensibly.

Section 302 contains various findings, including the finding that efficient plant use of agricultural nitrogen is essential to maximize the farmer's return on investment and to minimize agricultural nitrogen losses from erosion and leaching.

Section 304, which is the heart of title III, directs the Secretary of Agriculture to establish an agricultural nitrogen best management practices task force consisting of 12 specified members. Since reporting out the bills in September, we have increased the size of the task force to include the Director of USGS, a State representative, a representative of the fertilizer industry, and a member of the public who has considerable training and expertise in farming. We also expect the Secretary of Agriculture to provide any and all necessary items for the task force to carry out its functions.

Subsection (b) directs the task force to: First, review information on water quality and agricultural nitrogen; second, develop and improve agricultural best management practices for agricultural nitrogen utilization in crop production; and third, develop educational training material.

Subsection (c) requires the task force to provide annual progress reports to Congress beginning 1 year after enactment. The reports could include, among other things, the number of BMP's developed by the task force and adopted by farmers.

Subsection (d) defines the key terms "agricultural nitrogen," "environmental nitrogen," and "agricultural best management practices." These definitions differ from those contained in the reported bills. We have adopted most of the public works' definition of "agricultural nitrogen, while adding the new term "environmental nitrogen." This distinction clarifies that nitrogen problems in ground water have a wide variety of man-made and natural sources, and that some are outside the control of farmers and fertilizer manufacturers. This, however, does not mean the task force should ignore the presence or impact of environmental or natural sources when assessing the problem and developing or recommending best management practices.

Section 305, provides two amendments to section 319 of the Clean Water Act, which establishes a new nonpoint source management program within the Environmental Protection Agency. Subsection (a) amends the Clean Water Act to require that any State assessment report and any State management report and program be developed in consultation with the agricultural nitrogen best management practices task force established by this bill. Similarly, subsection (b) amends the act to require the Administrator of EPA to consult with the task force in preparing the Administrator's annual and final reports to Congress. These amendments will highlight the important link between nonpoint source pollution and agricultural best management practices and encourage greater consultation with and coordination among Federal, State, and local agencies.

Finally, section 306 authorizes funds to carry out activities in title II for 3 years. Additional funding may be necessary for the task force to continue its important work beyond those 3 years, however.

Title IV addresses the growing, national problem of radium contamination in ground water. These provisions, written in large part by the gentlemen from Illinois [Messrs. HASTERT and MADIGAN], authorize EPA to provide financial and technical assistance to small communities with contamination problems.

Mr. Chairman, this bipartisan bill should not be controversial. It reflects a broad consensus of views among committees, agencies, and citizens. Its funding levels are responsive to ground water needs, yet responsible in these times of budgetary constraints. Its mandates and authorizations reflect long-standing principles of federalism and recognize the primary roles of State and local governments.

Today's substitute bill offers a comprehensive, sensible approach to ground water quality and quantity problems. Accordingly, I urge each Member to support or compromise. By doing so, we can send a strong signal to the other body and to the American public that ground water protection is finally coming of age.

□ 1510

Mr. NOWAK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of H.R. 791 and urge my colleagues to support its passage. Five committees have worked on this bill that will go far in helping States protect and manage their ground water resources.

Each State should have a comprehensive ground water protection and management program and I am proud to represent a State that has led all others in this area for a long time. The Federal Government should provide technical assistance and useful information to the States to enable them to carry out their responsibilities for ground water protection and management well. The Clean Water Act, the Resource Conservation and Recovery Act, Superfund, and the Safe Drinking Water Act have challenged the States to do more to protect our water resources. Now the Federal Government must assure it can provide promised levels of assistance in support of these worthy initiatives.

This legislation establishes the much needed assistance programs. Under this bill, the Federal Government would provide research, technical, and informational assistance to the States in areas in which the States have expressed a need for assistance; for example, ground water assessment and risk assessment analyses.

Mr. Chairman, I want to commend the original sponsors of the several bills that now make up H.R. 791, and in particular I commend my colleague, the gentleman from Connecticut [Mr. GEJDENSON], the original sponsor of a very significant piece of this legislation; I commend them for their leadership in bringing these issues before the Congress. I also wish to commend the leadership of my own Committee on Public Works and Transportation for its bipartisan approach to addressing ground water protection problems.

Mr. Chairman, at this time I would like to engage the distinguished gentleman from New York [Mr. NOWAK], the able chairman of our Subcommittee on Water Resources, in a colloquy.

Mr. Chairman, I would like to take a moment to discuss with the gentleman from New York [Mr. NOWAK] the sections of the bill—sections 205 and 208—that deal with the ground water assessment and technical assistance programs.

Mr. NOWAK. Mr. Chairman, if the gentlewoman would yield, I would be glad to discuss those sections with the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. In sections 205 and 208, broad authority is provided for Federal agencies to assist State and local governments in ground water assessment activities. By ground water assessment, I mean a description of the location, hydrogeological properties, quantity, quality, and rates of depletion of ground water resources. It is a critical first step in any State or local effort to protect and manage ground water resources and to identify goals and objectives for those resources. The Federal agencies involved should construe their authority under sections 205 and 208 broadly in order to assist the States with their ground water protection and management programs. Assessment activities include providing any necessary information on ground water which allows for the classification of ground water, to the extent that States find such management approaches to be useful. This is particularly important to my own State of Connecticut, which has included a classification approach in its ground water program, and to many other States using or considering using classification as a ground water protection and management tool.

Mr. NOWAK. I concur with the gentlewoman from Connecticut. It is intended that the Federal Government provide the broadest possible range of assessment and technical assistance to the States, including information needed for State classification efforts where States determine them to be appropriate.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the subcommittee chairman for his support and urge passage of the bill.

Mr. STANGELAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT], who is the driving force behind the radium contamination section of this legislation.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Minnesota for yielding me this time.

Mr. Chairman, this is really an important issue. It is an issue that, as a member of the Committee on Public Works and Transportation and of the Subcommittee on Water Resources, I have been talking about for some time. I want to thank the chairman of our committee, the gentleman from New Jersey [Mr. HOWARD], and our subcommittee chairman, the gentleman from New York [Mr. NOWAK], for their help and cooperation in putting this specific provision in the bill. I also want to thank the gentleman from Minnesota [Mr. STANGELAND] and our ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for helping to put this language together.

In my district and in districts across northern Illinois 0 and in 17 other States, there is a problem of bringing small towns up to meet the standards that the EPA has put into place, the standards relating to radium in water. What we have tried to do here is to give small towns the ability to begin to help themselves in this regard, to begin to give them the ability to pool bonds and the ability to start to put the financial work together so they can begin to solve their problems. It is an across-the-board effort. It is something that certainly does not seem to be a big issue, but in a small town of a thousand people they have to raise anywhere from $600,000 to $700,000 to purify their water, and in towns of 3,000 to 4,000 people they have to go forward and try to raise bonds of $4 to $5 million to purify their water to meet these certain standards. These impurifications, the radium in the water, are naturally occurring. These are not manmade, and yet they have to bring those standards to pristine levels.

So, Mr. Chairman, I thank the leadership of this committee, and I also thank the chairman and the ranking member of the Agriculture Committee for their help in putting this legislation together.

Mr. STANGELAND. Mr. Chairman, having no further requests for time, I yield back the balance of my time.

Mr. NOWAK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Science, Space, and Technology, will be recognized for 15 minutes, and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the last 30 years, the Congress has initiated major initiatives to remove conventional pollutants from our air and from our lakes, rivers, and streams. We have also made a good start in tackling the more difficult tasks of controlling toxic chemicals and hazardous wastes which pervade our environment.

But in those years, there has been one major environmental resource which we have largely ignored: ground water.

We were slow to recognize the threat to ground water in large part because ground water is an unseen resource. Ground water pollution was out of sight, and out of mind. In addition, because contaminants move so slowly in ground water, it took a long time before evidence of contamination was detected in drinking and monitoring wells.

For the same reason, our understanding of ground water has lagged far behind that of air and surface water. Until recently, it was assumed that ground water was generally protected from contaminants associated with man's surface activities. The discovery in the mid-1970's of pesticides in ground water came as a rude surprise to many ground water experts. Since then, ground water contamination has been discovered in every State.

We now know that ground water is in fact a vulnerable and finite resource that can be degraded through careless management.

This neglect is all the more surprising in light of our dependence on ground water. Ground water currently supplies nearly one-fourth of all of our Nation's water needs. In the West, agriculture would be impossible without the irrigation water supplied by vast underground aquifers. Ground water is also used extensively for drinking water. Indeed, 97 percent of rural households, and nearly half of the total U.S. population, use ground water from wells as the source of drinking water.

In the last few years, amendments to the Clean Water Act, Superfund, RCRA, and the Safe Drinking Water Act passed by Congress have addressed aspects of the ground water contamination problem. But no law has focused on ground water in a comprehensive way. As a result, protection of this vital resource remains haphazard and uncoordinated.

H.R. 791, as amended, would fill this missing link in our environmental statutes and signal Congress' determination to protect this critical resource. Protection must be the goal; once contaminated, ground water is likely to remain unusable for centuries. Even where feasible, cleanup is an extremely expensive and slow process.

Under present laws, the States and localities have the primary responsibility for the protection and management of their ground water resources. To manage ground water effectively, however, State and local officials need a wealth of technical and scientific information, including data on the potential sources of contamination in their areas, the feasibility of methods to control contaminant sources, the hydrogeological characteristics of specific aquifers that supply ground water, and the dispersion and movement of existing contaminants and their potential health effects.

Mr. Chairman, there are few States that have the institutional capacities to mount such efforts on their own. Nor does it make sense for numerous States to carry out programs which have national applicability, such as assessing health effects or evaluating cleanup technologies.

H.R. 791 reflects the view shared by environmentalists, by industry, by experts, and by State and local governments, that ground water research and technical assistance ought to be a Federal responsibility.

Both the Environmental Protection Agency and the U.S. Geological Survey have existing ground water research and technical assistance programs. But the two agencies have not developed a coordinated program focused on the needs of the States. Instead, each agency has looked at ground water protection from its own narrow perspective and as a result many State needs are not being adequately addressed.

Title II of this bill provides for a coordinated, interagency, Federal research and technical assistance program. The bill draws upon the expertise already existing at the EPA and USGS, and brings together other agencies with significant ground water interests, such as the Department of Agriculture. It directs the President to establish an Interagency Ground Water Research Committee, composed of USGS, USDA, EPA, the Department of Health and Human Services, and other agencies designated by the President, which will recommend to the President research priorities and a coordinated research plan.

Mr. Chairman, the five committees that have worked to bring this bill to the floor have spent a great deal of time in order to develop a consensus package on these environmental issues. Indeed, many predicted that the sequential referral of H.R. 791 to four committees would be its death knell. Instead, the cooperation that we bear witness to is testimony to the strong consensus that what is needed now is not more Federal regulation, or expensive new programs, but an effective, coordinated Federal effort to assist State and local governments in protecting their own ground water resources. It recognizes that our first priority must be to build the institutional capacity at the Federal, State, and local levels to understand and manage ground water effectively and wisely.

I would like to highlight certain aspects of this bill which are of particular importance to the Committee on Science, Space, and Technology, and are further explained in our committee report (H. Rept. 100-155, part 4).

Section 206 establishes a research and demonstration program at the EPA. Under this authority, EPA will carry out research relating to the causes, effects, prevention, and remediation of ground water contamination. This authority will help EPA fill the gaps in its existing statutory research authorities and will enable it to conduct research more relevant to State and local ground water management needs. Section 206 also authorizes a program to demonstrate promising new technologies to prevent, detect, monitor, and remediate ground water contamination.

This demonstration program is a critically important element of this bill. Ground water management officials desperately need new technical options. Monitoring technology generally remains cumbersome, costly, and imprecise. To give but one example, the Illinois EPA has estimated that it will take 4 to 5 years just to complete one round of organic compound testing for the 3,400 public drinking water wells in the State. In remediation technologies, much more work is needed on cleaning up contaminants from nonpoint sources such as fertilizers and pesticides. EPA scientists and others are conducting new tests on biological remediation methods that may provide hope for restoring contaminated aquifers, but this work needs to be accelerated and demonstrated.

The bill also authorizes a general technical assistance and technology transfer program, and a clearinghouse to help State and local officials locate and use relevant ground water information generated by this program.

Section 207 requires EPA to conduct and publish risk assessment analyses for 30 significant ground water contaminants within 2 years after the date of enactment. These assessments are intended to gather together existing scientific information on the health and environmental effects of exposure to ground water contaminants. At the present time, information relevant to such assessments are collected by numerous agencies under existing statutory programs; this section would simply require EPA to pull together and assess the existing information and put it together in a form that will assist State and local officials in making their own ground water management decisions.

Section 210 includes a number of important provisions intended to enhance EPA's capabilities to conduct ground water research. The bill adopts a recommendation made by EPA's independent Science Advisory Board to establish an internal research committee dedicated specifically to ground water. This change will improve coordination of EPA's ground water research, presently being carried out in separate programs, and improve the responsiveness of EPA's research to State and local needs.

This section also authorizes fellowships which will help contribute to the training of urgently needed scientists and engineers in fields relating to ground water protection and management.

Finally, section 210 also authorizes the administrator to establish up to five ground water research institutes to look at regional or national ground water issues. This program will supplement the existing USGS and USDA Water Research Institutes Program under which public land-grant colleges focus on local ground water issues. The EPA centers make funding available for interdisciplinary regional centers or consortia consisting of private colleges, public non-land-grant colleges, and other research institutions.

The bill authorizes $10 million for fiscal year 1988, $12 million for fiscal year 1989, and $14 million for fiscal year 1990 for EPA to carry out these programs. These authorizations are intended to be in addition to other sums otherwise authorized. In fiscal year 1987, EPA spent about $30 million on ground water-related research. The funding provided for in this bill will provide a modest increase to EPA's base level program to enable it to carry out its additional responsibilities under this act.

Mr. Chairman, given the current budget crisis, I can understand the reluctance of some Members to authorize any new spending for needed programs. The fact is, however, that the budget issues will be with us for years to come. Declaring a moratorium on decisionmaking for the duration of the budget crisis would result in a total abdication of our responsibility to make decisions and set priorities.

It is hard to imagine an area where a modest investment in prevention will give more of a payoff than in the area of ground water. We need to get on with the work of protecting this resource for ourselves and for future generations. The bill which we have crafted will begin to do that in a cost-effective and responsible way, and I urge my colleagues to support the bill.

Mr. Chairman, I would like to sum up, now that we have heard from the distinguished representatives of all five of the committees that worked so diligently on this very, very important legislation, and I would like to compliment them and particularly compliment the staffs of all five committees for the extraordinary job they did in bringing this bill to the floor, in working up the details of this bill to be able to bring it to the floor.

I happen to think that we are coming full circle at this point in really a historical effort over the last 2 years or the last 3 years, particularly in the 100th Congress, in focusing our entire attention on the environmental relationship of the water resources of this Nation and really achieving the optimum yield of the water resources of this Nation.

If I may, Mr. Chairman, I would remind the Members of the House that in this Congress and in the last Congress we were successful in having passed the Water Resources Development Act, which had to do with revisiting, if you like, and readjusting and reestablishing the water resources projects in this country, and having to do with port development and hydropower development and flood control and water supply development. We took a major step forward with the Safe Water Drinking Act. We took a major step forward when we passed the Clean Water Act, which really was landmark legislation to provide for the improvement of water quality and the clearing up of sewage disposal contamination in our water supply.

We passed the Superfund Act, which was probably the most important bill we have been able to pass in getting rid of solid waste.

All those pieces of legislation pointed to one particular issue we had not resolved, and that was the ground water issue. The ground water issue now closes the circle of this monumental task that has been accomplished by the Congress, by all these five committees and in fact by all the Members of Congress on a bipartisan basis in the interest of the people of this Nation to preserve and protect and establish a quality water supply for this country that will go on for centuries yet to come.

As it has been written, there is no new water ever created in the world, as the distinguished committee chairman knows well, having served so eloquently and diligently on the Committee on Public Works and Transportation for the years he has been in this House. In effect, what we are saying is that we hope that man has not destroyed the cycle of protecting the water supply.

There is no new water. It is the same water we use over and over and over again. But the ground water issue becomes particularly important because it is the one area that is out of sight of mankind and we do not know what happens underground unless we protect it and we must protect it above ground. Basically, that is what this very important piece of legislation does for the people of this country.

□ 1520

Therefore, if we close this cycle, which we should do today and I hope the vote is unanimous on this particular piece of legislation, and it should be, it would really be a great legacy left by the 100th Congress, this historical 100th Congress, in the water resources protecting and development and achieving the optimum yield of the water resources of this Nation.

Having said that, Mr. Chairman, again I want to compliment the chairman of the respective full committees and subcommittees and the staff for their hard work they have performed in bringing this very splendid piece of legislation to the floor.

Mr. Chairman, I reserve the balance of my time.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this legislation. We are authorizing some projects that need to be taken care of. I think those are all very good demonstrations of the kind of work that we need to do.

Mr. Chairman, I reserve the balance of my time.

Mr. ROE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SCHEUER], the subcommittee chairman who has been really one of the truly great leaders in this House in this very important area and has spent a great deal of his career here in the Congress in protecting and passing legislation of great magnitude affecting the water resources of this country.

Mr. SCHEUER. Mr. Chairman, I thank the full committee chairman for this time and for his kind words and for his constant support and distinguished leadership in every way along the line, and I thank the other full committee chairmen and subcommittee chairmen in the five different committees of the Congress for their efforts in bringing this bill to the point where it is. The system is working. This is an excellent bill.

The Subcommittee on Natural Resources, Agriculture and Environment, which I chair, has held 4 days of field hearings on problems associated with ground water contamination.

Each of these hearings demonstrated the widespread support for an expanded Federal research and information role on ground water contamination.

Environmentalists, industry representatives, academics and State representatives all testified that the ability of States and local governments to manage and protect ground water supplies was being hampered by a lack of reliable, usable scientific information about ground water and ground water contamination.

It is essential that we act now to protect this vast, invisible resource.

Ground water is the source of drinking water for more than 50 percent of the total U.S. population and 97 percent of rural residents.

Ground water accounts for nearly 40 percent of all agricultural irrigation water and 26 percent of industrial water uses.

Until recently, we mainly believed that ground water was naturally protected from man-made sources of contamination.

We have learned—sometimes painfully—that this is not, in fact, the case.

For example, in December 1978, 36 wells in Suffolk and Nassau Counties on Long Island were closed after the discovery of synthetic organic chemicals—solvents and degreasers, gasoline and petroleum products, and pesticides—in the drinking water, an incident that affected more than 2 million people.

Similar incidents all across the country have shown that ground water contamination is a problem of national scope.

In 1981, an EPA study found measurable levels of volatile organic compounds in more than one-fourth of the large public drinking water systems drawing on ground water.

The discovery of contaminated ground water has led to well closings all over the Nation:

Causing disruptions in water supplies;

Concerns about possible health effects;

Economic losses to consumers and businesses.

Once contaminated, ground water can be cleared up—if at all—only through slow and highly expensive technologies.

The purity of our ground water is threatened daily for a wide variety of sources:

Hazardous wastes;
Septic tanks;
Road salts;
Pesticides and fertilizers;
Sanitary landfills;
Underground storage tanks; and
Oil and gas explorations.

We can no longer afford to take our ground water for granted.

Protecting our ground water will require strong concerted action.

Toward this end, I, together with seven members of the Natural Resources Subcommittee of the Committee on Science, Space, and Technology, introduced H.R. 2253 to establish a comprehensive and coordinated program of research, development, and demonstration at EPA to enhance the knowledge of ground water contamination.

In addition, that bill contained provisions that:

Would improve the scientific capabilty to assess, detect, and evaluate the effect on human health;

Provide for technology transfer, technical assistance and dissemination of information to State and local governments; and

Provide for the training of scientists in disciplines relevant to ground water contamination.

Mr. Chairman, I am pleased that these and other provisions adopted by our committee during its consideration of H.R. 2253 and H.R. 791 are included in the final compromise, H.R. 3676, before us today.

The adoption of this bill is a major step in protecting our vast resources for future generations.

We must commit the resources necessary to conduct the research, provide the training and engineering needed to understand ground water contamination and to develop new technologies to clean up ground water resources.

This bill would accomplish these goals and I urge my colleagues to support it.

I am very grateful for the support, as I have said, of the gentleman from New Jersey [Mr. ROE], the chairman of the Committee on Science, Space, and Technology, for the other full committee and subcommittee chairmen who have worked so tirelessly and in such a great common cause to produce this product of five great committees of the House.

Mr. ROE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Chairman, I appreciate the gentleman yielding this time. I would like to have an opportunity to engage the gentleman in a colloquy, and with the predicate that it is my understanding that the bill provides for the establishment and operation of several regional research institutes in the country. Is that correct?

Mr. ROE. Mr. Chairman, if the gentleman will yield, that is absolutely correct, yes.

Mr. DAUB. With that understanding, I would like to ask the gentleman two questions. First, does the bill designate the National Center for Ground Water, a consortium between Oklahoma University, Oklahoma State University, and Rice University, as one of these institutes?

Mr. ROE. The gentleman is also correct on that.

Mr. DAUB. The committee report states, "The Administrator shall equitably allocate the funds made available to carry out this section among the regions of the United States."

My question to the gentleman is, does this predetermined selection preclude the establishment of another research institute, perhaps as a consortium, in the northern Great Plains, which includes Nebraska, Iowa, the Dakotas, Kansas, and Minnesota, to name just a few potentially interested states?

As the gentleman knows, this region, which includes the State of Nebraska, is facing a unique set of problems, such as nonpoint source contamination which threatens vital water supplies and acquifer depletion uncertainties resulting from irrigation uses.

Mr. ROE. As far as I know, the predetermined selection of an institute in the Oklahoma-Texas region would not preclude the selection of an institute in the northern Great Plains region.

Mr. DAUB. Well, I thank the chairman.

I want to commend my friend from prior service. I have enjoyed my service with him on the committee and I thank the gentleman for his leadership and his action and information this very important matter to the folks who live in our part of the country.

Mr. Chairman, I rise in support of H.R. 791, which establishes a timely, comprehensive, and multiagency research program that addresses the growing problem of ground water contamination in the United States.

I am pleased that this legislation establishes an interagency committee that includes the United States Geological Survey, the Environmental Protection Agency, the U.S. Department of Agriculture, and the Department of Health and Human Services.

The representation on this committee recognizes that an examination of ground water contamination automatically requires a discussion of the scientific uncertainties relating to ground water, agricultural practices in areas with susceptible ground water resources, and public health concerns.

I am also pleased that the bill recognizes the high degree of variation among ground water resources among the States by stating in several places that "the primary responsibility for ground water protection and management resides with the States and local government."

Unlike air pollution, ground water contamination is a very site-specific problem which removes the possibility of setting Federal uniform standards that would effectively reflect the site-specific nature of ground water contamination in the United States.

While the bill recognizes that many States have already developed or are developing ground water management and protection strategies, it also recognizes that "the Nation's ground water quality data collection, analysis, and information dissemination programs and activities are insufficient."

Scientists need effective models that can predict the movement of chemicals through different soils and hydrological formations. They need more accurate statistical methods to monitor contamination levels in acquifers and get meaningful results.

Additionally, the scientific community needs more information on the attenuation process of chemicals and methods to enhance this process and mitigate contamination.

This bill establishes a ground water information clearinghouse which will become a national repository of important research results which will assist the States in developing their ground water strategies.

I am also aware of the establishment of the Agricultural Nitrogen Best Management Practices Task Force, which includes the USDA and some of its various services, the EPA, farmers, and fertilizer companies. This task force will provide important educational and training opportunities for farmers who apply nitrogen.

Separately, the Science Committee included authorizing language for the establishment of several regional institutes to study the various aspects of ground water contamination.

The State of Nebraska is heavily dependent on ground water for a wide range of uses and its ground water has unique geological and hydrological characteristics. Coincidently, the University of Nebraska's institute of agricultural and natural resources is one of the leading institutions in the country in the study of ground water, and it is in a position to undertake extensive research efforts on ground water in the northern Great Plains.

In conclusion, I would like to say that this is a responsible and reasonable bill, and it will make the prevention and cleanup of ground water contamination in the United States an easier task for State and local governments, and it will force this issue to the top of State's environmental priorities.

Mr. ROE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. COELHO].

Mr. COELHO. I would like to engage the chairman of the Water and Power Resources Subcommittee and the chairman of the Science Committee in a colloquy. Mr. Chairman, under this legislation, who would have the authority to regulate ground water?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, it clearly is under the States' jurisdiction. As noted in the findings section of the bill, "the primary responsibility for ground water protection and management shall reside with State and local governments."

Mr. COELHO. And did the committees of the House that reported this legislation have any intent to take away or lessen the States' ability to regulate ground water?

Mr. MILLER of California. We did not. Both majority and minority members of the committees involved agreed that the States would continue to have the primary responsibility for ground water protection and management.

Mr. COELHO. I am pleased to see the major role that USGS will have under this legislation as their scientific credentials are well-known and respected. However, I see that EPA has been given some additional responsibilities to conduct research into ground water problems.

May I ask the gentleman from New Jersey [Mr. ROE], does this responsibility include any role in regulating ground water?

Mr. ROE. Mr. Chairman, if the gentleman will yield, I can assure my colleague that EPA's role under this bill will be limited to research into ground water problems and to dissemination of the results of this research to the States. EPA will also be providing technical guidance to the States, at their request.

Mr. COELHO. EPA has been given the authority to undertake a demonstration program for projects that may be effective in controlling or mitigating sources of ground water contamination. Does this demonstration program in any way give EPA the authority to regulate ground water?

Mr. ROE. I assure the gentleman that it does not.

Mr. COELHO. Finally, I wish to mention the risk assessments that EPA will be carrying out. These assessments shall look at the risk of ground water contaminants to human health and the environment. Does EPA have any authority to do any more than publish the results of these assessments under this legislation?

Mr. ROE. Again the answer to the distinguished gentleman is that it does not.

Mr. COELHO. Mr. Chairman, I thank both my colleagues for their clarification of these matters.

Mr. LIGHTFOOT. Mr. Chairman, I rise in support of H.R. 791, the National Ground Water Contamination Research Act, of which I am a cosponsor.

Ground water contamination is a growing problem in this Nation. During hearings in the Public Works and Transportation Subcommittee on water resources, we were presented with testimony and tests showing that more and more of our ground water supplies are becoming contaminated at levels that pose a threat to human health and the environment. This trend is alarming in view of the fact that ground water is the source of water of 117 million Americans. In fact, 95 percent of rural communities use ground water for their drinking water, and 34 of the Nation's 100 largest cities obtain all or part of their supplies from this resource.

Currently three different agencies—the Environmental Protection Agency, the U.S. Geological Survey, and the U.S. Department of Agriculture—are primarily responsible for research and regulation of ground water contaminants, but there is no coordinated effort nor any central data base or authority. As a result, we cannot hope to effectively address problems in this area. The goal of H.R. 791 is to fill in these gaps and develop a comprehensive plan to prevent ground water contamination.

I am particularly pleased that a bill I joined Congressman STANGELAND in introducing, H.R. 3609—the Agricultural Nitrogen Management Act, has been incorporated into H.R. 791. As a result of farming techniques that make intensive use of fertilizers, ground water contamination is becoming particularly acute in certain areas of agricultural States. H.R. 3069 is aimed at minimizing the impact of nitrogen fertilizer on ground water and surface water. The centerpiece of this bill is the creation of a task force consisting of 12 professionals drawn from the fertilizer industry, the U.S. Department of Agriculture, the Environmental Protection Agency, the U.S. Geological Survey, the Extension Service, and other State and private sector ground water specialists. This task force would be charged with developing agricultural best management practices to minimize agricultural nitrogen losses into ground water. The task force also would develop and disseminate to American farmers educational materials to familiarize farmers with the use of these practices. This is an essential first step we need to take to address this problem in the area of agriculture.

I also want to take a moment to commend the members in the various committees with jurisdiction over H.R. 791. I know a lot of hard work has gone into this bill, not only in the Public Works Committee but in other committees as well.

Mr. Chairman, I intend to vote in favor of H.R. 791, and I urge my colleagues to do so as well.

Mr. ROBERT F. SMITH. Mr. Chairman, I rise in support of passage of this bill and I urge my colleagues to join me in helping to pass it.

Ground water contamination is a serious problem throughout the United States, but certainly is a far greater threat to the entire population when it occurs in areas of agricultural production.

I am concerned, however, that this legislation unfairly indicts the agricultural producers of this Nation for ground water pollution.

Though the business of crop production is often blamed for contributing pollutants, the fact is that contamination due to use of pesticides and herbicides is far less frequent and far less devastating than the problems caused by farming's urban neighbors.

Factories, city disposal systems—sewage, industrial, and sanitary landfills—annually create sources of ground water pollution in far greater amounts than anything from food production. These are the criminals in most need of attention when this Nation focuses on ground water pollution.

This bill's shift of responsibilities also causes some degree of concern to me. Ground water pollution has always before been the responsibility of States and municipalities. With this legislation, we may be treading dangerously close to Federal assumption of that problem.

The fact is that, for long-term policy, the Federal Government is the least well-equipped level of government to assume the gigantic chore of monitoring, regulating, and governing pollutants to ground water.

Distantly removed from the problem, from the people involved and from the cleanup, the shoulders of Uncle Sam may be adequate for the purpose of study and documentation, but in the long run, if this leads to a next step assumption that the Federal Government should also do the cleanup or should step in as regulator of ground water quality across the Nation, we might actually degrade current purity levels.

In Oregon, our State Department of Environmental Quality has conducted a 15-year, and ongoing, study of ground water contamination. Because of Oregon's vastly agricultural complexion, they have concentrated levels of nitrates and pesticides, and they will, in fact, be concluding the latest 2-year study this January.

Similarly, they have chosen to study urban landfill and industrial sites so that they may show us definitive comparisons of ground water pollutants from both rural and urban sources.

Though this bill's requirements for study are, indeed, laudable, the State of Oregon is concerned that Federal involvement will detract from Federal commitments for help to States like Oregon which are already in place.

This bill and this first step into ground water pollution by Uncle Sam must not be considered a replacement or a higher priority than local studies now underway.

Oregon officials do agree, however, that a national information repository would benefit all States with an equal ambition for cleanup and regulation.

Though I have some reservations about the well-known camel's nose in the tent—my suspicion that this bill could lead to far more Federal involvement than most of us would like—I will support it.

I realize that not every State is as enterprising or vigilant as my own home State of Oregon. If this bill helps identify those who need to do more to protect the quality of ground water, I can't help but support it.

Mr. WOLPE. Mr. Chairman, I want to express my strong support for H.R. 791, the Ground Water Research Act. Approximately 86 percent of the fresh water available for use in the United States is ground water. This resource is essential not just for drinking and bathing, but for industry, agriculture and a myriad of other uses as well. As a Representative from the State of Michigan, I am all too familiar with the disastrous environmental and economic consequences of ground water contamination. Over a thousand sites of ground water contamination have already been discovered in Michigan. And, the Northeast-Midwest Congressional Coalition, which I cochair, has determined that 18 percent of the wells in our region are contaminated. Ground water contamination is not simply a regional issue, however. Contamination has occurred in every State of the Union and is being detected with increasing frequency.

Once discovered, the costs of addressing ground water contamination are tremendous. No environmental problem more aptly proves the old adage, "an ounce of prevention is worth a pound of cure." The skyrocketing expense of "Superfund" site clean-ups—now projected at $100 billion—largely reflects the costs of cleaning up contaminated ground water. In all too many cases, the Environmental Protection Agency has determined that clean-up is not feasible and has opted to leave water contaminated.

We waited to address surface water pollution until rivers were bursting into flames and Lake Erie was on the brink of death. We will not have that luxury with ground water. Solutions must be preventative.

H.R. 791 embodies the preventative approach. It coordinates and improves current Federal Ground Water Protection Programs. It delineates, Federal responsibilities for ground water research, enhances research capabilities, and provides for direct financial and technical assistance to State and local governments to help them meet their responsibilities for ground water protection. This bill will be essential for helping States and localities address the ground water contamination before it occurs.

There is, of course, a broader problem behind ground water contamination; the toxic inundation threatening the Nation. The toxic shell games we have been playing—moving wastes from one environmental medium to another—have had a devastating effect on ground water. As we move to declare ground water off limits for pollution, we can also explore our capacity to limit the production of toxic pollution in the first place. Hazardous waste reduction at the source has a tremendous potential to reduce toxic pollution altogether. The Office of Technology Assessment estimates we could cut pollution by as much as 50 percent through waste reduction.

Earlier this year, I introduced the Hazardous Waste Reduction Act, H.R. 2800, in an effort to help us take advantage of waste reduction's potential. A bipartisan initiative of the Northeast-Midwest Coalition, it now has the support of over half the Members of the House. Like the Ground Water Research Act, the Hazardous Waste Reduction Act focuses on disseminating information and technical assistance through a computer clearing house and assistance to States. Like the Ground Water Research Act, H.R. 2800 is an important first step toward addressing a major environmental and economic threat. And like the Ground Water Research Act, H.R. 2800 demonstrates that an ounce of prevention is truly worth a pound of cure.

Mr. CLINGER. Mr. Chairman, I rise in strong support of the National Ground Water Research Act of 1987. This legislation will expand the ground water research efforts of the U.S. Geological Survey and the Environmental Protection Agency and promote more coordination between Federal, State and local efforts with regard to ground water contamination.

The bill contains a number of initiatives which will help the millions of people in our Nation who rely on ground water for their domestic needs. Most importantly, the legislation's basic goal is to develop a national ground water information clearinghouse to provide technical assistance for States and local areas as they develop water policies.

In fact, I've been pleased to assist in securing a comprehensive ground water study conducted in Warren County, PA, by the U.S. Geological Survey and Pennsylvania's Department of Environment in Warren County. This study will detail the physical and chemical characteristics of industrial wastes, oil and gas drilling and other suspected contaminants and possible alternatives.

In closing, I urge my colleagues to support this legislation. It's imperative that we tackle this problem today—not tomorrow. Ground water contamination must be prevented rather than relying on expensive clean up efforts.

Mr. BRUCE. Mr. Chairman, the protection of the Nation's ground water is an issue of growing concern to the Congress and the public as contamination of this important resource is detected with increasing frequency. I believe that this compromise legislation agreed to by all the committees of jurisdiction establishes an excellent ground water research program allowing for the appropriate participation of the Environmental Protection Agency, the U.S. Geological Survey and the Department of Agriculture.

Ground water supplies 96 percent of all the freshwater in the United States, 95 percent of the drinking water supply in rural areas such as I represent, and 40 percent of the water used for agricultural irrigation. While the U.S. Geological Survey has characterized the existing ground water quality as "generally good" contamination is being found as ground water monitoring increases.

The 1984 Office of Technology Assessment report on ground water quality noted 8,000 public and private wells closed or otherwise affected by ground water contamination. Contamination has been found in every State.

This contamination can be traced both to natural sources and to man's activities. I believe that one thing agricultural areas can do right now to protect ground water is to more carefully manage the application of fertilizers. The nitrogen found in ground water comes from many sources including septic tanks and the biological processes of some legumes. However, fertilizer also contributes to the nitrogen contamination of ground water. I believe that by encouraging agricultural nitrogen best management practices we can reduce the amount of nitrogen getting into the ground water supply.

The Committee on Energy and Commerce approved an amendment, which I strongly supported, to add an important component to existing ground water and surface water protection programs. The amendment, based on the Mr. Stangeland's Agricultural Nitrogen Management Act, would minimize the impact of agricultural nitrogen on ground water and surface water quality by establishing a nationwide educational program aimed at the American farmer, urging adoption of agricultural best management practices.

This legislation, with the best management practices language, is an important first step in protecting the quality of the Nation's ground water. I believe the chairs of the relevant committees should be commended for bringing us a sound investment in ground water quality at a modest cost to the taxpayer. I urge my colleagues to support this legislation.

Mr. DREIER of California. Mr. Chairman, ground water contamination is a serious and growing national dilemma, and I support H.R. 791 as a necessary step in protecting this critical national resource.

Ground water, which constitutes more than 96 percent of all fresh water in the United States, is known to be contaminated in virtually every State. The picture is no different in southern California. In my district, nearly a third of the water wells are contaminated, and many people believe that the scope of the problem is still not fully known. Four areas in the San Gabriel Valley alone have spent several years on the Superfund priority list as a result of hazardous waste contamination. Some studies indicate that cancer-causing toxic solvents, such as TCE, may have been leaking into the ground water there for as long as 30 years. Tragically, health officials have been unable to find the major sources of the contamination.

There are so many sources of ground water contamination that detection, monitoring, and cleanup is extremely difficult, time-consuming, and expensive. Contamination can come from various sources, including hazardous waste dumps, oil and petroleum spills, agriculture fertilizers and pesticides, and leaking underground storage tanks. Unlike the air, ground water cannot cleanse itself of these contaminants, which can remain for thousands of years.

Mr. Speaker, the problem lies in identifying the sources of ground water contamination through research and information gathering. Although I, too, have concerns regarding the cost of such a program, I believe H.R. 791 is necessary for dealing with the problem of ground water contamination, and I urge my colleagues to support this important legislation.

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this bill, and I want to first commend the members of the five committees which have jurisdiction over this legislation for their hard work and the spirit of cooperation which guided this important bill to the floor today for our prompt consideration.

Fellow colleagues, as we all know, concern over the Nation's ground water has grown in recent years as contamination has been detected with ever increasing frequency. Ground water is a vital resource because it supplies about half of our Nation's drinking water and about 70 percent of the water used for irrigation of agricultural crops. Approximately 117 million Americans rely on ground water for their domestic needs. Therefore, given the increasing contamination of ground water by municipal and hazardous waste disposal sites, underground storage tanks, and fertilizer and pesticide application, as well as other sources, swift and coordinated action between the Federal Government and the States and local authorities is essential to preserving this resource as well as protecting the health and safety of our Nation's citizens.

In my home State of New Jersey, 50 percent of the water supply is found below ground. In recent years, problems with ground water quality have led to the closing of dozens of water wells throughout the State. Although the primary responsibility of ground water protection rests with the State, clearly a national program to monitor this critical resource would assist New Jersey and the other States in safeguarding ground water. The bill before us today accomplishes this important goal.

Specifically, the bill directs the President to establish an Interagency Groundwater Research Committee to coordinate the efforts of the Environmental Protection Agency [EPA] and the Departments of the Interior, Agriculture, and Health and Human Services in this area. To increase the availability of ground water data, this legislation directs the Interior Department to establish a national ground water information clearinghouse to provide Federal, State, and local authorities, as well as industry and other interested parties, with information on ground water contamination and remedies for ground water protection. The bill directs the EPA to conduct studies in order to determine the risks posed to human health and the environment due to the contamination of our Nation's drinking water supplies.

There are two studies mandated in the bill with particular importance for my home State of New Jersey. The first study will examine the feasibility of removing volatile ground water contaminants resulting from gasoline spills along New Jersey's coastal plain. The second study will examine the corrosive effects of highly acidic ground water on drinking water supply equipment, also along the coastal plain. This study will be used to develop a corrosive index for wells in the Potomac-Raritan-Magothy Aquifer System and to determine if a corrosive ground water study is needed in northern New Jersey.

Other provisions in the bill establishing a grant program for the removal of radium contamination in drinking water and protecting coastal waters from the discharge of contaminated ground water are particularly noteworthy and deserving of support.

I urge my colleagues to support this legislation today, and I urge Members in the other body to take prompt action on this issue. This legislation provides the Nation with workable and practical solutions to this problem. It also accords us greater security in our fight to keep our Nation's drinking water safe from contamination.

Mr. McGRATH. Mr. Chairman, I want to take this opportunity to express my support of one of the best pieces of environmental legislation to come before the 100th Congress. H.R. 791, with over 100 cosponsors, is a much needed measure designed to better this Nation's ever-growing water needs.

Ground water is indeed a precious resource and I believe without immediate action it may become an endangered specie. A great deal of evidence has surfaced in recent years indicating that contamination of our Nation's ground water supplies is increasing at an alarming rate. When you consider that the fact that about one-half of all Americans depend on ground water for drinking water, you can begin to realize the potential magnitude of this problem. Being from Long Island, I consider ground water to be one of our biggest environmental concerns, for we on the island depend solely on underground aquifers for drinking water.

I am especially pleased with the bill's provisions involving the Environmental Protection Agency. Included in H.R. 791 is a demonstration program to direct the EPA to study the causes and effects of ground water contamination, and develop technologies for preventing, detecting, and remedying contamination. This is certainly a giant step in the right direction.

As a proud cosponsor of H.R. 791, I urge my colleagues to carefully consider this legislation and vote to preserve one of our most precious natural resources.

Mr. GALLO. Mr. Chairman, clean water is our most basic environmental resource because, without it, human beings cannot sustain the quality of life that we as Americans currently enjoy.

Over 117 million Americans rely on ground water for their daily water needs. And, as reports of ground water contamination continue, the need to create a national ground water protection program increases.

Over the past decade, the country's ground water quality has become an issue of growing concern. It has become painfully apparent that ground water protection has fallen through the regulatory cracks under existing environmental legislation.

Because our ground water aquifer systems are critically important to many of our Nation's communities, including most of the communities in our area of New Jersey, I believe it is time to improve our National Ground Water Protection Program.

I support H.R. 791, the National Ground Water Contamination Research Act of 1987, because I believe that ground water protection is one of the most important environmental issues facing the United States today. The bill, which authorizes $549 million over 3 years, establishes a comprehensive plan to improve Federal, State, and local efforts to prevent ground water contamination.

The legislation vests the President with the overall responsibility of coordinating the ground water activities of all Federal agencies and establishes an Interagency Ground Water Research Committee composed of members from each relevant, Federal agency.

The Secretary of the Interior is directed to establish and conduct a national ground water assessment program that will assist State and local governments in the assessment, management, protection, and remediation of ground water programs.

Under the bill, the Administrator of the EPA is directed to establish a research development and demonstration program for ground water resources. This program will include research and experiments concerning ground water contamination.

Because of the importance of our ground water resources, I strongly support the passage of the National Ground Water Contamination Research Act of 1987.

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the ground water legislation, H.R. 791, that is before the House.

This is landmark legislation that addresses a serious nationwide problem. The recognition of the magnitude of the problem is indicated by the fact that five committees have joined together to report this legislation.

Ground water supplies over 50 percent of the Nation's drinking water supply and approximately 80 percent of the rural and agricultural water needs.

In my own State of Florida, more than half of the fresh water used for all purposes, which amounts to over 7,300 million gallons per day, comes from ground water sources. In addition, approximately 90 percent of Florida's population depends on ground water for its drinking water.

However, the supply is not endless, especially when the existing water is contaminated. Today's legislation has several provisions that address the contamination problems.

One such provision calls for the development of a management model system designed to prevent future decisionmaking disasters that have led to many of the ground water pollution problems facing us today. Moreover, once the model is developed it will be in a form that is usable in all 50 States.

In Florida, for example, the Biscayne aquifer and other nearby aquifers supply the densely populated Miami-Palm Beach coastal area with virtually all the water needs. These aquifers are recharged by several sources including surface water. Unfortunately, in managing the surface water problems, little or no thought is given to the impact on the ground water.

This bill establishes a demonstration project that will address these and related management problems. Up until now, if herbicides were used to control surface aquatic weeds, no one knew the impact on the entire ecosystem, including the ground water.

When this provision is funded and the research completed within 3 years, the management system will be developed that would allow the decisionmakers to find the short- and long-term impact on the entire ecosystem. Decisionmakers in each of the 50 States would be able to use this sound scientific management system for assistance in policy decisions regarding ground water, surface water, and other aquatic ecosystem issues.

This scientifically sound approach to solving environmental problems, including ground and surface water contamination, is both important and necessary. It will help decisionmakers avoid decisions that will help one segment of the ecosystem but could destroy another.

I urge my colleagues to support this ground water research legislation.

I would like to express my appreciation to the chairman of the Science, Space, and Technology Committee, Mr. ROE, for his leadership in forging this landmark legislation and for his support for the management model provision in the bill. I also want to recognize the significant contribution of several Members that I have worked with including Mr. HOWARD, Mr. STANGELAND, Mr. DE LA GARZA, and Mr. MADIGAN.

Thank you Mr. Chairman.

Mr. BONIOR of Michigan. Mr. Chairman, I rise today in support of H.R. 791, the Ground Water Research Act. This legislation marks a significant step in the direction of a cleaner environment and dovetails with Superfund, the Resource Conservation and Recovery Act, FIFRA, the Clean Water Act, the Clean Air Act, and the many other environmental protection bills that Congress has enacted. Our Nation's continuing commitment to cleaning up environmental damage from the past and insuring environmental integrity in the future is embodied in the efforts we make today in passing this bill.

I believe that H.R. 791 will provide much needed support to State and local governments which are attempting to protect their ground water resources. Recent studies have concluded that only the Federal Government has the resources to determine the scope of ground water contamination, to devise the best methods of ground water protection, and to disseminate this information.

Ground water is an essential resource that must be protected. For many families, ground water is the only fresh water they have for drinking, cooking, bathing, and washing clothes. In fact, ground water supplies 86 percent of the fresh water available in the United States. Ground water supplies 80 percent of the water needs of rural communities and farm livestock and provides 40 percent of the water used for irrigation.

If this water which has collected underground in natural reservoirs is contaminated, it affects everyone who uses it. Certain chemicals found in contaminated ground water could cause cancer or other debilitating, fatal diseases. Contamination is not a limited problem in scope or geography. It has been detected with increasing fequency, often near heavily populated areas. The Office of Technology Assessment reported in 1984 that ground water contamination was found to some degree in every State.

The Ground Water Research Act assists states and localities by placing the Federal Government in the role of researcher and adviser. H.R. 791 sets up a comprehensive program of ground water research and information dissemination.

To learn the extent of the ground water contamination problem, the bill will create a National Ground Water Assessment Program in the Interior Department. The program's goal will be to determine how much ground water we have, where it is, and what part of it is contaminated. The program will also help local entities develop assessment and monitoring systems for their own water supply.

To determine what toxics affect our ground water, the bill will create a new research, development, and demonstration program at the Environmental Protection Agency. The program will have the responsibility of determining what toxics contaminate ground water and the effects of these toxics on human health. The EPA will set up demonstration units to develop ways to prevent these toxics from ruining our ground water resources.

In an effort to prevent research duplication and provide pertinent ground water information quickly, a National Ground Water Information Clearinghouse will be established at the Interior Department. From the clearinghouse, Federal agencies and State and local governments, will be able to learn about the most recent findings regarding ground water assessment, management and protection. The U.S. Geological Survey will have the responsibility of compiling a working list of the current efforts by private industries and Federal and State agencies engaged in ground water research.

When we vote for the Ground Water Research Act, we are voting against poor public health, the spiraling costs of medical care needed for the diseases that contaminated water causes, duplicated research efforts, and the inability of State and local governments to provide the service they need to provide. When we vote for the Ground Water Research Act, we are voting for the abatement of ground water contamination, for State and local governments, and for the health of our citizens.

I want to commend the efforts of my colleagues in the House who have played a role in crafting this legislation and urge all Members of the House to support this bill.

Mr. PANETTA. Mr. Chairman, I rise today in support of H.R. 791 as amended by the text of H.R. 3676.

Ground water, as acknowledged by the Members who have already spoken, is a critical national resource. Yet it is unfortunate, and somewhat ironic, that this body has expended so much energy over the past two decades debating the merits of programs to provide protection for the Nation's surface waters, while largely ignoring, until today, the source of water that is most important to all Americans. Ground water is the lifeblood of this Nation—most especially of its rural residents and of our agricultural producers. Yet we know remarkably little about how much ground water there is, where it is located, and what effects our activities have had on both the quantity and the quality of the ground water resources that remain.

When most of my colleagues think of water, I know many think of California and water projects. Certainly surface waters are a critical part of California's water supply. But more than 50 percent of all Californians rely on ground water as a source of water for domestic use. Nearly 40 percent of all the water withdrawn for irrigation is from ground water. In fact, the amount of ground water used for domestic purposes and for agricultural irrigation in California each total more than 14 billion gallons a day. In fact, I suspect that California's dependence on ground water resources will grow as budgetary constraints limit our ability to develop projects to provide other sources of water.

H.R. 791 will develop the inventory, research, demonstration, and technical assistance programs that are needed to protect and effectively manage our ground water resources. The coordinating mechanisms which it would establish should help to keep duplicative efforts and programs to a minimum while ensuring that all the technical expertise needed to tackle this issue is made available. This is the only rational way of dealing with this complex concern.

One problem that I believe warrants special attention is the matter of pesticide impacts on ground water quality. This has become a growing concern in various regions of the country, particularly California. According to a recent EPA report, 57 different pesticides have been detected in California's ground waters. Half of these are believed to be associated with "normal" pesticide applications. The discovery of pesticides like dibromochloropropane (DBCP), aldicarb, and EDB in California ground waters are cause for concern and necessitate action. EPA, as a result of increasing reports of pesticide residues in ground water, has initiated a long-term strategic plan for protecting ground water from contamination by agricultural chemicals. Unfortunately, as my colleague from the Committee on Agriculture have already made clear, USDA has yet to respond to this and other potential threats to ground water quality.

The matter of agricultural chemical impacts on ground water resources can no longer be ignored by the agriculture community. In the end, if we fail to tackle the issue—to attempt to determine the scope of the problem and develop means to prevent or at least minimize water contamination by agricultural chemicals—agriculture will suffer.

California's Central Valley, Santa Clara Valley, and Salinas Valley STGT dependent on ground water for irrigation and public water supplies. Most cities in the San Joaquin and Santa Clara Valleys are heavily dependent or entirely supplied by ground water. If pesticides should contaminate the aquifers which supply water to this region, then both agricultural producers and other rural residents will suffer irreparable harm.

There is an urgent need to understand how agricultural programs and practices may be affecting ground waters. Yet USDA continues to sit on the sidelines while other Federal agencies are formulating their game plans and, in some instances, already putting them in place. Title III of H.R. 791 should send a clear message to the Department of Agriculture to take control of their own destiny before other Federal agencies dictate how, when, and where agricultural producers are permitted to use pesticides and other agricultural chemicals.

I will grant that responding to the ground water contamination problem will require some innovation and imagination on USDA's part. The Department must look at the economics of chemical applications and begin to question if the costs of some traditional practices outweigh the benefits. The Department should begin to pay serious attention to alternative, less chemical intensive forms of agriculture. And the Department must promote greater understanding of the interrelationship between surface and ground waters—and the effects that farm practices have on the quality of all water resources. The Department of Agriculture, to its credit, has made great strides in dealing with the problem of soil erosion. I only hope that it is willing to expend the same energy to deal with the problem of chemical contamination of ground waters.

As a member of the Agriculture Committee's Subcommittee on Department Operations, Research, and Foreign Agriculture, I am pleased to see that our chairman, the gentleman from California [Mr. BROWN], intends to continue the process of reviewing the role of agriculture in relation to ground waters. Nevertheless, H.R. 791, as amended by the text of H.R. 3676, can provide a critical first step toward understanding the effects of agricultural chemicals on ground water. It warrants immediate passage by the House.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired for general debate.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 3676 is considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments now printed in the reported bill, and each title is considered as having been read.

The Clerk will designate title I.

The text of title I is as follows:

H.R. 3676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WATER RESOURCES AUTHORITY OF THE GEOLOGICAL SURVEY

SEC. 101. SHORT TITLE.

This title may be cited as the "Geological Survey Water Resources Organic Act".

SEC. 102. WATER RESOURCES AUTHORITY.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary"), acting through the Geological Survey, is authorized to undertake research, investigations, appraisals, surveys, and related activities, of the Nation's water resources. The Secretary is authorized to undertake such activities in cooperation with other Federal, State, and local governments and agencies, and academic institutions. The Secretary is further authorized to disseminate the results of such research, investigations, appraisals, surveys, and related activities.

(b) REIMBURSEMENT.—The Secretary may undertake the activities described in subsection (a) with other Federal agencies or Federal permittees or licensees on a reimbursable basis, but only after execution of an agreement which outlines for whom such activities are being undertaken and the purpose, cost, and duration of the activities. The Secretary shall transmit on a yearly basis a summary of the agreements executed to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the water resource activities of the Secretary authorized by this Act, there is authorized to be appropriated $164,000,000 for each of the fiscal years 1988, 1989, and 1990.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: On page 3, lines 7 and 8, strike "$164,000,000 for each of fiscal years 1988, 1989, and 1990", and insert in lieu thereof "$155,000,000 for fiscal year 1988, $158,000,000 for fiscal year 1989, and $160,000,000 for fiscal year 1990".

Mr. LUJAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. LUJAN. Mr. Chairman, simply, this amendment reduces the authorization by $19 million for 1988. It means where $164 million is in the bill, we reduce it to $155 million and we increase it in the following years to $158 million and then to $160 million.

I might say that it does not in any way eliminate any of the demonstration projects, nor does it diminish the USGS nor the EPA role in ground water research.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I am glad to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity to look at the gentleman's amendment. It is consistent with the amount in the continuing resolution. With the additional funding for 1989 and 1990, we would be willing to accept the amendment. We thank the gentleman for offering it.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Chairman, we, too, in the Science, Space, and Technology Committee have reviewed this amendment and have no objection to it. We think it is an improvement to the bill and we accept the amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from California.

Mr. BROWN of California. Well, Mr. Chairman, in light of this overwhelming support expressed for the gentleman's amendment, I am persuaded of its merit. I am willing to endorse it at this point.

Mr. LUJAN. Mr. Chairman, I thank all three gentlemen, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. LUJAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—GROUND WATER RESEARCH

SEC. 201. SHORT TITLE.

This title may be cited as the "National Ground Water Research Act of 1987".

SEC. 202. FINDINGS.

The Congress finds the following:

(1) Ground water is a resource of immeasurable value, comprising 86 percent of the fresh water available for use in the United States.

(2) Ground water supplies approximately one-half of the Nation's population with drinking water and over one-half of the Nation's irrigation water.

(3) Ground water contamination has occurred in every State in the Nation and is being detected with increasing frequency.

(4) Sources of ground water contamination are diverse.

(5) Certain ground water contaminants are associated with adverse health, environmental, economic, and social impacts.

(6) Ground water and surface water are interconnected as related parts of the hydrologic cycle.

(7) While the Federal Government has certain responsibilities for the protection, maintenance, and remediation of ground water quality under existing laws, the primary responsibility for ground water protection, maintenance, and remediation is with States and local governments.

(8) Many States already have comprehensive ground water protection and management programs or are developing such programs.

(9) Although considerable scientific progress has been made in knowledge about ground water resources and ground water contamination, including the transport, transformation, and fate of ground water contaminants and the effects of ground water contamination on human health and the environment, there remain significant gaps in developing and making available needed scientific knowledge.

(10) Presently available technologies to detect, monitor, and mitigate ground water contamination are expensive and highly limited in utility.

(11) Shortages exist in skilled personnel trained in scientific disciplines relevant to the detection, assessment, prevention, and remediation of contaminated ground water resources.

(12) The scientific uncertainties, lack of adequate technologies, and shortage of skilled scientific personnel hinder the ability of Federal agencies or State and local governments to develop and implement effective ground water management, protection, and remediation policies.

(13) The Nation's ground water quality data collection, analysis, and information dissemination programs and activities are insufficient.

(14) Access to information regarding national ground water quality conditions and trends is essential to improving management of the Nation's ground water resources.

(15) Federal research and development, technical assistance, and financial assistance should be available to support State ground water programs.

(16) Additional Federal research efforts in ground water are necessary to provide the States with adequate technical information and guidance upon which they can develop and implement comprehensive ground water management programs. One of the aims of these research efforts should be to develop risk assessment analyses that States can use to develop ground water standards, where appropriate.

(17) Current Federal programs of research and development with respect to ground water require improved coordination.

(18) The Federal Government lacks a clear and comprehensive statutory mandate to conduct ground water research.

(19) Ground water contamination should be prevented rather than relying on expensive clean up efforts.

(20) Greater efforts are necessary to prevent ground water contamination today and to preserve this valuable resource for current and future generations of Americans.

SEC. 203. DEFINITIONS.

As used in this title—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGENCY.—The term "Agency" means the Environmental Protection Agency.

(3) ASSESSMENT.—The term "assessment", when used with respect to ground water or ground water resources, means a description of the location, hydrogeological properties, quantity, quality, and rates of depletion of such resources.

(4) FEDERAL AGENCY.—The term "Federal agency" means any department, agency, or other instrumentality of the Federal Government, including any Government corporation.

(5) LOCAL GOVERNMENT.—The term "local government" means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law.

(6) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation pursuant to the provisions of section 501(a) of such Code.

(7) PERSON.—The term "person" means an individual, trust, firm, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, State, local government, commission, regional agency, interstate agency, or Federal agency.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(9) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and federally recognized Indian tribes.

SEC. 204. COORDINATION OF FEDERAL GROUND WATER RESEARCH PROGRAMS.

(a) DUTIES OF THE PRESIDENT.—

(1) The President shall coordinate activities conducted by Federal agencies to undertake assessment, management, and protection of ground water resources and to remedy ground water contamination and depletion. The President shall also assist the States in the conduct of such activities and shall disseminate information concerning those activities to State and local governments.

(2) The President shall establish within 90 days from the date of enactment of this title, an Interagency Ground Water Research Committee to provide for the coordination of research, development, demonstration, technology transfer, training, and information dissemination activities authorized in this title.

(b) INTERAGENCY GROUND WATER RESEARCH COMMITTEE.—

(1) The President shall appoint the members of the Interagency Ground Water Research Committee from each Federal agency involved in ground water-related activities, including the Environmental Protection Agency, the Department of the Interior, the Department of Agriculture, and the Department of Health and Human Services. The Committee shall be cochaired by the Secretary and the Administrator. The Committee shall hold at least 2 public meetings per year.

(2) The Interagency Ground Water Research Committee shall—

(A) identify major research data needs and scientific uncertainties regarding ground water assessment, monitoring, protection, management, and remediation,

(B) recommend overall priorities and a coordinated research plan to the President and to Congress for addressing the data needs and scientific uncertainties identified,

(C) otherwise facilitate, through joint funding and other means, interagency cooperation and coordination on ground water research, development and demonstration programs,

(D) consult with State and local governments, environmental organizations, scientific and professional organizations, industry, academia and other appropriate institutions to determine the ground water research and information needs of State and local governments and other persons who have responsibilities for protecting or managing ground water resources, and

(E) recommend priorities for the assessment of ground water resources based on the use of such resources and the likelihood of such resources being contaminated.

SEC. 205. NATIONAL GROUND WATER ASSESSMENT PROGRAM.

(a) DUTIES OF THE PRESIDENT AND SECRETARY.—The President shall designate the Secretary of the Interior as the lead official for the purposes of carrying out the activities authorized in this section. The Secretary shall carry out such activities in consultation and coordination with the members of the Interagency Ground Water Research

Committee and such other agencies as the President may designate.

(b) ASSESSMENT REPORT.—The Secretary, in consultation with State and local government officials and other persons, shall prepare a report which includes each of the following:

(1) An evaluation of existing ground water quality and quantity information systems, including a description of geographic areas and categories of data where there is a lack of information on quality or quantity.

(2) An evaluation of the utility and adequacy of existing ground water data collection and monitoring programs conducted by Federal agencies, State and local governments, and other persons, including the adequacy of such programs for projecting long-term status and trends in ground water contamination and depletion.

(3) An evaluation of the availability and accessibility of existing ground water data to Federal agencies, State and local governments, and other persons.

(4) Recommendations on actions to be taken to better utilize existing information and recommendations for the improved collection of data and information.

(c) REPORT AND SUPPLEMENTS.—The Secretary shall complete a draft of the report under subsection (b) no later than 270 days after the date of the enactment of this title. The report shall then be made available for public comment for a period of at least 45 days. The final report shall be submitted to Congress and made available to the public no later than 1 year after the date of the enactment of this title. The report shall be updated every 2 years and supplements to the report containing such updates shall be submitted to Congress together with the report required under section 212.

(d) ESTABLISHMENT OF PROGRAM.—Within 2 years after the date of the enactment of this title, the Secretary shall establish and conduct a national ground water assessment program. The purposes of the program shall be to determine the location, hydrogeological properties, quantity, quality, and rates of depletion of ground water resources in the United States. The Secretary shall carry out the program both directly through the Department of the Interior and indirectly by providing assistance to other Federal agencies and State and local governments. The Secretary shall ensure access to the data and information gained under the program to Federal, State, and local agencies and other persons. The program shall meet each of the following requirements:

(1) The program shall assist State and local governments in the assessment, management, protection, and remediation of ground water resources and the design of ground water monitoring programs.

(2) The program shall coordinate activities relating to ground water among Federal agencies and State and local governments in order to avoid duplication of efforts.

(3) The program shall provide information regarding protocols and quality controls, recommend protocols to be used where appropriate, and provide guidance regarding the comparison of data collected under different methods and quality assurance programs. Such recommended protocols (A) shall not be construed as binding or retroactive, (B) shall not be construed to apply to or impair the validity of any other protocols in any enforcement proceeding, and (C) shall not be construed to alter the authority of Federal agencies and State and local governments to determine where the use of such protocols is appropriate. The Secretary shall develop the protocols in consultation with the members of the Interagency Ground Water Research Committee and provide public notice and solicit comment upon proposed protocols.

(4) The program shall encourage the use of existing Federal-State programs.

(5) The program shall assist Federal and State agencies in meeting their data collection responsibilities under title XIV of the Public Health Service Act (relating to safe drinking water), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Solid Waste Disposal Act, the Federal Water Pollution Control Act, Federal Insecticide, Fungicide, and Rodenticide Act, and other related statutes.

(6) The program shall improve the knowledge and understanding of the nature, extent, and causes of (A) ground water contamination (including contamination on a site specific basis), and (B) ground water depletion.

(7) The program shall provide information and data which will complement the collection of surface water quality data to provide integrated knowledge of water quality conditions within specific hydrologic regions and subregions. For this purpose, the Secretary is authorized to obtain any ground or surface water quality information in the possession of Federal agencies, States, or subdivisions thereof, and shall maintain the confidentiality of any such information and data in accordance with the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code.

SEC. 206. NATIONAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR GROUND WATER PROTECTION AND MANAGEMENT.

(a) DUTIES OF THE PRESIDENT AND ADMINISTRATOR.—The President shall designate the Administrator as the lead official for the purposes of carrying out the activities authorized in this section. The Administrator shall carry out such activities in consultation and coordination with the members of the Interagency Ground Water Research Committee and such other agencies as the President may designate.

(b) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a research, development, and demonstration program for the protection, management, and remediation of ground water resources. Such program shall include conducting research, experiments, demonstrations, surveys, and studies relating to the sources, causes, effects, extent, prevention, detection, remediation, monitoring, and mitigation of ground water contamination, and the development and demonstration of effective, practical, and cost-efficient technologies for the prevention, detection, monitoring, remediation, and mitigation of ground water contamination. For the purposes of this section, "technologies" includes processes, practices, methods, and products.

(c) DEMONSTRATION PROGRAM.—The Administrator shall carry out a program to develop and demonstrate technologies which may be effective in controlling sources or potential sources of ground water contaminants or in mitigating ground water contamination. The Administrator shall develop and publish a list of priority needs with respect to source control technologies or mitigation technologies. The Administrator may enter into contracts or cooperative agreements with, or provide financial assistance in the form of grants to, public agencies and authorities, nonprofit institutions and organizations, or other persons, for projects to demonstrate such technologies, only if the Administrator makes each of the following findings:

(1) The project involved will serve to demonstrate a new or significantly improved technology or the feasibility and cost effectiveness of an existing but unproven technology.

(2) The project involved will not duplicate other Federal, State, local, or commercial efforts to demonstrate such technology.

(3) The demonstration of such technology will comply with all other laws for the protection of human health, welfare, and the environment.

(4) The project involved would meet a priority need previously identified by the Administrator.

(5) The project involved is not an "alternative or innovative treatment technology" eligible for demonstration assistance under section 311(b)(5) of the Comprehensive Environmental Response, Compensation and Liability Act.

(d) DEMONSTRATION PROGRAM ELEMENTS.—The demonstration program established by this section shall include solicitations for demonstration projects, selection of suitable demonstration projects from among those proposed, supervision of such demonstration projects, and evaluation of the results of the demonstration projects which are conducted. The Administrator shall publish regulations to assure the satisfactory implementation of each element of the program established by this section.

(e) SOLICITATION FOR DEMONSTRATION PROGRAMS.—Within 270 days after the date of the enactment of this title, and no less often than every 12 months thereafter, the Administrator shall publish a solicitation for proposals for projects to demonstrate technologies which may be effective in controlling sources or potential sources of contaminants or in mitigating ground water contamination. The solicitation shall prescribe the information to be included in each such proposal which shall permit the Administrator to assess the potential effectiveness and feasibility of the technology proposed to be demonstrated.

(f) APPLICATIONS FOR DEMONSTRATION PROJECTS.—Any person (including any public or private nonprofit entity) may submit an application to the Administrator in response to a solicitation under subsection (e). The application shall contain a demonstration plan setting forth how and when the proposed project is to be carried out and such other information as the Administrator may require.

(g) DEMONSTRATION PROJECT SELECTION.—In selecting technologies to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project on the basis of each of the following:

(1) The potential of the proposed technology effectively to control or mitigate sources or potential sources of contaminants, with emphasis upon those sources of contaminants which present the greatest risk to human health and the environment or the greatest likelihood of ground water contamination and which are not effectively controlled by existing technologies.

(2) The capability of the person or persons proposing the project to complete successfully the demonstration as described in the application and the willingness of such person to make the benefits of the technology widely available to the public in a timely manner.

(3) The likelihood that the demonstrated technology would have significant application.

The Administrator shall select, request further information on, or refuse to select a project for demonstration under this section within 135 days after receiving the completed application for such project. In the case of a refusal to select a project, the Administrator shall notify the applicant within such 135-day period of the reasons for the refusal. In each 12-month period the Administrator shall select at least 10 qualified demonstration projects for support according to the provisions of this section.

(h) Supervision and Testing.—Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator and the applicant shall enter into a written agreement granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of a demonstration project and the limitations of subsection (i) shall not apply to such costs.

(i) Cost Sharing.—The Administrator shall not provide any Federal assistance for any project under this section to any applicant unless such applicant can demonstrate that it cannot obtain appropriate private financing on reasonable terms and conditions sufficient to carry out such project without such Federal assistance. The total Federal funds for any project under this section shall not exceed 50 percent of the total cost of such project estimated at the time of the award of such assistance.

(j) Demonstration of Compliance.—In making the required finding of compliance in subsection (c)(3), the Administrator shall, after notice and opportunity for public comment, establish guidelines and procedures for issuing expedited demonstration permits or other regulatory approvals required to carry out such research or demonstration.

SEC. 207. GROUND WATER CONTAMINANT RISK ASSESSMENT ANALYSIS.

(a) Duties of the President and Administrator.—The President shall designate the Administrator as the lead official for the purposes of carrying out the activities authorized in this section. The Administrator shall carry out such activities in consultation and coordination with the members of the Interagency Ground Water Research Committee and such other agencies as the President may designate.

(b) Ground Water Risk Assessment Analyses.—The Administrator shall conduct and publish a risk assessment analysis for significant ground water contaminants. Such risk assessment analysis shall use scientifically-sound methodologies to assess the risk to human health and the environment associated with a range of concentrations of the ground water contaminant.

(c) Content of Analyses.—Each risk assessment analysis shall include—

(1) the most recent scientific knowledge on the physical, chemical, biological, and radiological properties of the contaminant and its effects on human health and the environment,

(2) an assessment of factors, including contaminant sources, variable aquifer conditions, and ground water uses, which may influence the effect of the contaminant on human health and the environment,

(3) an assessment of the assumptions, scientific uncertainties and data gaps contained in the risk assessment analysis, and

(4) a comparison of the risks posed by such contaminants to risks posed by other ground water contaminants.

(d) Format.—The Administrator shall establish and use a standard format for the presentation of risk assessment analyses to facilitate the use of such analyses by State and local officials and the public.

(e) Use of Available Data and Authority to Conduct Additional Studies.—In carrying out this section, the Administrator shall use, to the fullest extent practicable, existing data or analyses developed by other agencies, including the Department of Health and Human Services. The Administrator shall also consider data and analyses developed pursuant to the Federal Water Pollution Control Act, title XIV of the Public Health Service Act (relating to safe drinking water), the Toxic Substances Control Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, and the Federal Insecticide, Fungicide, and Rodenticide Act. The Administrator may conduct such additional studies under the authorities of such Acts to gather data necessary to reduce scientific uncertainties in the risk assessment analyses. Such additional studies may be conducted in consultation with the Department of Health and Human Services.

(f) Timetable for Publication of Risk Assessment Analyses.—The Administrator shall publish, with an opportunity for public notice and comment, risk assessment analyses for not less than 30 contaminants within 24 months after the date of enactment of this title, and not less than 30 additional contaminants within 36 months after the date of enactment of this title. The Administrator shall continue to publish such analyses for additional contaminants at a rate which is consistent with the needs of the State and local governments in developing ground water quality standards.

(g) Periodic Review and Revision.—The Administrator shall periodically review and revise, with an opportunity for public notice and comment, published risk assessment analyses to ensure that they reflect developments in scientific data relevant to the contaminant.

SEC. 208. TECHNICAL ASSISTANCE, TRAINING, AND TECHNOLOGY TRANSFER.

(a) Duties of the President, Secretary, and Administrator.—The President shall designate the Secretary as the lead official for the purposes of carrying out the activities authorized in this section relating to ground water assessment and shall designate the Administrator as the lead official for the purposes of carrying out the activities authorized in this section relating to source controls and mitigation of ground water contamination and remediation of ground water and health and environmental effects. The Secretary and the Administrator shall carry out their activities in consultation and coordination with the members of the Interagency Ground Water Research Committee and such other agencies as the President may designate.

(b) Assistance.—The Administrator and the Secretary are each authorized and directed to establish a program to provide technical assistance (1) between and among Federal agencies, and (2) to State and local governments through grants, loans, cooperative agreements, and contracts. Such technical assistance shall assist in the conduct of activities authorized under this title and in the collection, evaluation, and analysis of ground water data and information to assist such agencies and governments to undertake assessment, management, monitoring, protection, and remediation of ground water resources.

(c) Research and Surveys.—Upon request by a State or local government, the Administrator and the Secretary (1) may each conduct research and make surveys concerning any specific problem of ground water contamination or depletion in cooperation with such government, and (2) may each make recommendations concerning solutions to such problem. The non-Federal share of the costs of such research and surveys shall be 50 percent.

(d) Training.—In the course of carrying out this title, the Administrator and the Secretary are authorized to conduct training for personnel from Federal agencies, States, local governments, nonprofit organizations, and other persons, relating to the assessment, management, protection, and remediation of ground water resources, and the causes, effects, extent, prevention, detection, and mitigation of ground water contamination and depletion. The Administrator and the Secretary may establish reasonable fees for such training provided to non-Federal personnel.

(e) Technology Transfer.—The Administrator and the Secretary shall conduct a technology transfer program, including the collection and dissemination of information obtained by the activities authorized by this title. Such technology transfer shall be accomplished by publications, conferences, and other appropriate means and shall ensure that such information is available through the National Ground Water Information Clearinghouse established under section 209.

(f) Public Access.—Information obtained by the programs authorized by this title shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other government agencies in a manner that will facilitate its dissemination, except that, upon a showing satisfactory to the Administrator or the Secretary by any person that records, reports, or information, or particular parts thereof, to which the Administrator or Secretary has access under this section, would, if made public, divulge methods or processes entitled to protection as trade secrets of such person, the Administrator or Secretary shall treat such record, report, or information or particular portion thereof as confidential in accordance with section 1905 of title 18, United States Code.

SEC. 209. NATIONAL GROUND WATER INFORMATION CLEARINGHOUSE.

(a) Duties of the President and Secretary.—The President shall designate the Secretary of the Interior as the lead official for the purposes of carrying out the activities authorized in this section. The Secretary shall carry out such activities in consultation and coordination with the members of the Interagency Ground Water Research Committee and such other agencies as the President may designate.

(b) Clearinghouse.—The Secretary shall establish and maintain a National Ground Water Information Clearinghouse. The Clearinghouse shall be used to disseminate information to Federal agencies, State and local governments, and other persons on—

(1) ground water assessment, management, protection, and remediation,

(2) remedies for ground water contamination and depletion, and

(3) the relationship between ground water quality and quantity and surface water quality and quantity.

SEC. 210. ENVIRONMENTAL PROTECTION AGENCY GROUND WATER RESEARCH CAPABILITY IMPROVEMENTS.

(a) Authorities. For the purposes of carrying out this title, the Administrator is authorized—

(1) to enter into contracts or cooperative agreements with, or make grants to, States, local governments, other appropriate public agencies and authorities, nonprofit organizations, and other persons,

(2) subject to the provisions of the Public Buildings Act of 1959, to construct and equip such facilities as may be necessary, and

(3) to use, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers.

(b) Research Committee.—The Administrator shall establish a media-specific research committee for ground water resources in addition to the media-specific research committees already established. The membership of the committee established pursuant to this subsection shall be broadly representative of the program and research concerns within the Environmental Protection Agency related to the protection, maintenance, and remediation of ground water resources.

(c) Science Advisory Board.—

(1) Continuing review.—In addition to such other duties as may be prescribed by the Administrator under this title, the Science Advisory Board established under the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365) shall review on a continuing basis the ground water research programs of the Agency and submit periodic reports to Congress. The reports should include an evaluation of the progress made by the proposed research program of the Agency, the likelihood that the research program will provide the information needed for pending policy decisions or for State and local governments, and the adequacy of resources to carry out the research program.

(2) Comment.—The Administrator shall request comments from the Science Advisory Board on the risk assessment analyses prepared by the Administrator under section 207. The Board shall respond, as it deems appropriate, within the time period applicable for the publication of the risk assessment analyses. This subsection shall under no circumstances be used to delay the final publication of ground water contaminant risk assessment analyses.

(d) Fellowships.—The Administrator is authorized to establish and maintain research fellowships in the Agency and at public or nonprofit private educational institutions or research organizations for the purposes of this title.

(e) Research Institutes.—

(1) Grant program.—The Administrator may make grants to institutions of higher learning or other research institutions (or consortia of such institutions) to establish and operate not more than 5 ground water research institutes in the United States.

(2) Responsibilities of the institutes.—The responsibility of each ground water research institute established under this section shall include the conduct of research and training relating to the protection, maintenance, and remediation of ground water resources and the publication and dissemination of the results of such research.

(3) Applications.—Any institution of higher learning or other research institution (or consortium of such institutions) interested in receiving a grant under this section shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) Selection criteria.—The Administrator shall select recipients of grants under this section on the basis of the following criteria:

(A) Each research institute shall have available for carrying out this section demonstrated research resources.

(B) Each research institute shall have the capability to provide leadership in making national and regional contributions to the solution of both long range and immediate ground water contamination problems.

(C) Each research institute shall make a commitment to support ongoing ground water research programs with budgeted institutional funds.

(D) Each research institute shall have an interdisciplinary staff with demonstrated expertise in ground water management and research.

(5) Agency share.—The grant or grants made by the Administrator under this section with respect to the establishment and operation of a ground water research institute shall not exceed 50 percent of the costs of establishing and operating such institute and of the related activities carried out by the grant recipient or recipients.

(6) Limitation on use of funds.—No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(7) Equitable distribution.—The Administrator shall equitably allocate the funds made available to carry out this section among the regions of the United States. One of the institutes shall be the National Center for Ground Water Research, a consortium between Oklahoma University, Oklahoma State University, and Rice University, except that paragraph (5) shall not apply to such Center.

(8) Technology transfer.—Not less than 5 percent of the funds made available to carry out this section for any fiscal year shall be available to carry out technology transfer activities.

(9) Proposed research program.—Prior to and as a condition of the receipt each year of funds appropriated to carry out this section, each research institute established under this section shall submit to the Administrator for approval a ground water research program that includes assurances, satisfactory to the Administrator, that such program was developed in consultation with the States, local governmental entities, and other agencies and institutions within the region having ground water protection or management responsibilities and with interested members of the public. Such program shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the region and the Nation, and shall encourage regional cooperation among institutions in research into areas of ground water protection, maintenance, and remediation that have a regional or national character.

(10) Review and evaluation.—

(A) Procedures.—The Administrator shall establish procedures for a careful and detailed evaluation of each research institute to determine whether the quality and relevance of its ground water resources research and its effectiveness as an institution for planning, conducting, and arranging for such research warrants its continued support under this section in the national interest.

(B) Evaluation.—The Administrator shall arrange for each of the research institutes supported under this section to be evaluated within two years after its establishment and to be reevaluated at intervals not to exceed five years. If, as a result of any such evaluation, the Administrator determines that a research institute does not qualify for further support under this section, then no further grants to such institute may be made until its qualification is reestablished to the satisfaction of the Administrator.

SEC. 211. MISCELLANEOUS PROVISIONS.

(a) Water Resource Projects.—

(1) Consideration of impact on ground water resources.—In the formulation and evaluation of water resource projects, the Secretary of the Army and the Secretary of the Interior shall consider the impact of the proposed project on ground water resources and the feasibility of measures to replenish and protect such resources.

(2) Review of existing projects.—The Secretary of the Army is authorized to review the operation of water resources projects authorized for construction by the Secretary of the Army before the date of the enactment of this title and the Secretary of the Interior is authorized to review the operation of water resources projects authorized for construction by the Secretary of the Interior before such date. Such reviews shall be made to determine the need for and feasibility of modifications in the structures and operations of such projects for the purpose of replenishing and protecting ground water resources.

(b) Institute Priorities.—Section 108 of the Water Resources Research Act of 1984 (Public Law 98-242; 98 Stat. 97, 98) is amended—

(1) in paragraph (6), by inserting ", contamination," after "Depletion", and

(2) in paragraph (8), by inserting "quality and quantity" after "water".

(c) Studies.—

(1) Volatile ground water contaminants.—The Administrator, in cooperation with the State of New Jersey and appropriate local governments, shall study the feasibility of removal of volatile ground water contaminants in the New Jersey coastal plain by induced air phase transport for the purpose of developing a plan for removal of such contaminants. The Administrator shall prepare a report on the results of such study, including recommendations for implementation of such plan.

(2) Trace metal leaching by corrosive ground water.—The Administrator, in cooperation with the State of New Jersey and appropriate local governments, shall study the problem of trace metal leaching by corrosive ground water at selected sites in the New Jersey coastal plain for the purpose of determining methods of reducing or controlling such problem. The Administrator shall prepare a report on the results of such study, including recommendations.

(3) Ground water replenishment and contamination.—The Administrator, in cooperation with the sanitation districts of

Los Angeles County, California and regulatory agencies of the State of California, shall conduct a study of the feasibility of ground water replenishment with treated wastewater with particular emphasis on health effects related research recommended by the California State Scientific Advisory Panel on Groundwater Recharge. The Administrator shall prepare a report on the results of such studies.

(4) Water pollution resulting from contaminated ground water.—The Administrator, in cooperation with the State of New York and appropriate local governments, shall study the problem of pollution of the Buffalo River by contaminated ground water in Erie County, New York, for the purpose of determining methods of reducing or controlling such problem. The Administrator shall prepare a report on the results of such study, including recommendations.

(d) Lake Okeechobee Ecosystem, Florida.—

(1) Research program.—

(A) In general.—The Administrator, in cooperation with the Secretary of the Army, shall conduct a program of research at the Lake Okeechobee ecosystem on the relationship between surface and ground water quality and the management and control of aquatic plants. The Secretary of the Army shall provide such resources and services as may be necessary to assist the Administrator in conducting such program.

(B) Program requirements.—The program conducted under this paragraph shall—

(i) examine, interpret, and summarize existing data relating to surface and ground water quality and the management and control of aquatic plants, and identify the location of major collections of such data,

(ii) examine the impact of existing methods for the management and control of aquatic plants on the Lake Okeechobee ecosystem,

(iii) conduct any research which the Administrator determines is necessary for the development of effective methods of management and control of aquatic plants and surface and ground water quality, and

(iv) be conducted in coordination with similar programs conducted by other Federal agencies.

(C) Management and control methods.—Methods developed under this paragraph shall—

(i) be capable of application in a variety of combinations as separate components of systems for such management and control,

(ii) be adaptable for application, without a significant loss of accuracy and utility, to a wide variety of surface and ground water ecosystems and regions of the United States, and

(iii) be compatible with all aspects of each ecosystem to which they may be applied.

(D) Outside research.—Subject to the availability of appropriations, the Administrator and the Secretary of the Army may each enter into contracts for the performance of research required for the development of methods under this paragraph.

(E) Provision of information to state and local governments.—The Administrator shall provide information about methods developed under this paragraph to any official of State or local government upon receipt by the Administrator of a request submitted by the official.

(2) Demonstration project.—The Administrator shall conduct a project demonstrating methods developed under paragraph (1) at the Lake Okeechobee ecosystem. Such project shall—

(A) assess the utility of methods developed under paragraph (1) as components of a variety of comprehensive systems for the management and control of aquatic plants and surface and ground water quality, and

(B) identify any further research required to allow development of effective methods for the management and control of aquatic plants and surface and ground water quality.

(3) Recommendations of third parties.—The Administrator shall solicit recommendations regarding activities under paragraphs (1) and (2) from—

(A) scientists other than those participating directly in activities under paragraphs (1) and (2), including scientists representative of the Federal, State, and local scientific communities, universities, and private industry, and

(B) management and operational personnel involved in the management and control of aquatic plants,

and shall utilize such recommendations in the development of methods under paragraph (1).

(4) Completion of research and demonstration.—The Administrator shall complete the research program under paragraph (1) and demonstration project under paragraph (2) not later than 3 years after the date of the enactment of this title.

(5) Plan for implementation.—Not later than 180 days after the date of the enactment of this title, the Administrator and the Secretary of the Army shall each transmit to the Congress a report outlining a plan for carrying out the functions of the Administrator or Secretary of the Army, as the case may be, with respect to the research program and demonstration project to be conducted under this subsection. Such reports shall each include a description of the cooperative measures to be undertaken by the Administrator or the Secretary of the Army, as the case may be.

(6) Utilization by departments and agencies.—Any department or agency of the United States may utilize any recommendation contained in a report on the results of the research program and demonstration projects conducted under this subsection—

(A) if the recommendation may be utilized without interfering with any management or demonstration project already in progress, or

(B) after consultation with each person conducting such a management or demonstration project.

(7) Lake Okeechobee ecosystem defined.—For the purposes of this subsection, the term "Lake Okeechobee ecosystem" means Lake Okeechobee, Florida, all rivers and streams entering into and carrying water away from such lake, the surrounding marsh area, the associated 100-year flood plain, and associated ground water resources.

(e) Authorization of Appropriation.—There is authorized to be appropriated to carry out this section $7,000,000 for fiscal years beginning after September 30, 1987. Upon request of the Secretary of the Army, the Administrator may transfer to the Secretary of the Army such funds as may be necessary for the Secretary of the Army to comply with the provisions of this section applicable to the Secretary of the Army.

SEC. 212. ANNUAL REPORT.

Not later than January 15, 1989, and each January 15 thereafter, the President shall prepare and submit to Congress an annual report on the activities carried out by the Administrator, the Secretary, the Interagency Ground Water Research Committee, other Federal agencies as appropriate, and State and local governments regarding ground water assessment, protection, management, and remediation activities under this title. The annual report shall contain a discussion of the ground water assessment and research findings to date, needs of the Federal Government and State and local governments, and an evaluation of the extent to which the programs authorized by this title are addressing those needs. The report shall also describe the ground water research and assessment programs for the agency members of the Interagency Ground Water Research Committee for the succeeding 2 fiscal years.

SEC. 213. PEER REVIEW.

Except as otherwise provided in this title, studies, reports, and results of research conducted under this title shall be reported and adopted only after appropriate peer review.

SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

In addition to such sums as may be otherwise authorized, there are authorized to be appropriated to the Environmental Protection Agency for the purposes of carrying out the provisions of this title, other than section 211, $10,000,000 for fiscal year 1988, $12,000,000 for fiscal year 1989, and $14,000,000 for fiscal year 1990.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: On page 41, at the beginning of line 23, insert "(a)" and on page 42, after line 2, insert the following new subsection:

"(b) Any contract authority provided in this title shall be available only in amounts provided in advance in appropriations acts.".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this is a technical amendment which has been cleared by the majority and minority of all five committees.

The amendment is being offered at the request of the Budget Committee. The amendment is a requirement of the 1974 Budget Act. The language will ensure that any contract authority in the bill can only be for amounts provided in advance in the appropriation bill, and I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Miller].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—AGRICULTURAL PRODUCTION AND WATER USE

SEC. 301. SHORT TITLE.

This title may be cited as the "Agricultural Ground Water Management Act of 1987".

SEC. 302. FINDINGS.

The Congress finds that—

(1) ground and surface waters are interconnected and the quality and availability of these waters are of critical importance to our Nation,

(2) agriculture is the largest single consumer of water in rural America, with irrigation used on more than 41,000,000 acres,

(3) 95 percent of all rural residents in the United States are dependent upon ground water as a source of potable water,

(4) ground and surface water contamination from a number of sources, including contamination from agricultural operations, is a major national concern which can cause adverse social, economic, health, and environmental impacts,

(5) technology and education on soil and tissue testing, in managing both economic and environmental concerns of agriculture, deserve renewed emphasis by the Department of Agriculture in view of changing farmer needs,

(6) careful selection of the proper combination of agricultural practices and technologies, including proper water management, will help farmers reduce the effect of agricultural practices on water quality,

(7) efficient plant use of agricultural nitrogen is essential to maximize the farmer's return on investment and to minimize agricultural nitrogen losses from erosion and leaching,

(8) least-cost production strategies continue to offer the best long-term hope for sustaining American agriculture,

(9) farmers must be fully informed to ensure that agricultural operations are agronomically, economically, and environmentally sound, and

(10) present water quality and use data collection, analysis, and information dissemination programs are insufficient to provide farmers and decision makers with the bases for formulating sound water quality and use policies and programs.

SEC. 303. AGRICULTURAL WATER QUALITY AND USE STUDY.

The Secretary of Agriculture shall conduct an investigation and analysis of the relationship between agricultural practices and water use and quality and shall, within 90 days of the date of the enactment of this title, submit a report to Congress on the results of the investigation and analysis. The report shall include—

(1) the current status and level of effort of programs at the Department of Agriculture to evaluate present agricultural water use and predict future use and availability of water for agricultural and rural residents,

(2) the current status and level of effort of programs at the Department of Agriculture to evaluate, prevent, and mitigate water quality problems in both surface and ground water,

(3) the current status of efforts to coordinate the undertakings described in paragraphs (1) and (2) both within the Department of Agriculture and within other departments and agencies of the Federal Government, including a detailed description of how the water quality and use issues are being included in management plans for lands of the Department of Agriculture,

(4) an estimate of the extent of the water quality problem, in both surface and ground water, due to agricultural operations and an examination of the extent to which these problems are due to identifiable organic and inorganic sources of pollution,

(5) an estimate of the availability of water for agricultural uses on a geographic area basis, based upon current and predicted levels of use and withdrawal,

(6) an analysis of the interrelationships and compounded problems, if any, between agricultural water use and water quality,

(7) the policy of the Department of Agriculture on water quality and use which should be used to guide programs associated with agricultural and rural water needs, and

(8) specific recommendations for changes in existing programs and new initiatives in monitoring, research, extension, and technical assistance efforts to address present and potential water quality and quantity problems.

SEC. 304. AGRICULTURAL NITROGEN BEST MANAGEMENT PRACTICES TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish an Agricultural Nitrogen Best Management Practices Task Force. The Secretary shall appoint as members of the Task Force—

(1) the Administrator of the Agricultural Research Service,

(2) the Administrator of the Extension Service,

(3) the Chief of the Soil Conservation Service,

(4) the Administrator of the Agricultural Stabilization and Conservation Service,

(5) the Administrator of the Cooperative State Research Service,

(6) the Manager of the National Fertilizer Development Center of the Tennessee Valley Authority,

(7) the Director of the Office of Ground Water Protection of the Environmental Protection Agency,

(8) one representative of persons engaged in the agricultural production,

(9) one representative of the fertilizer industry,

(10) one representative of State government,

(11) one representative of the public with expertise in agricultural practices, and

(12) the Director of the United States Geological Survey.

(b) FUNCTIONS.—The Task Force appointed under subsection (a) shall—

(1) review the status of current information on the relationship between agricultural nitrogen and water quality, including the quality of both surface and ground water,

(2) develop and improve agricultural best management practices, systems, and technologies for (A) improving nitrogen utilization in agricultural production, and (B) reducing or mitigating any negative effects of agricultural nitrogen and environmental nitrogen on water quality, and

(3) develop educational and training materials for providing information and technical assistance to farmers through appropriate means to encourage the adoption of the recommendations developed under paragraph (2)

(c) REPORT.—The Task Force shall report to the Secretary of Agriculture and to Congress one year after the date of the enactment of this title and annually thereafter on the progress of its efforts under subsection (b). Each report shall include a description of—

(1) the extent of problems posed by agricultural nitrogen and environmental nitrogen for water quality,

(2) the agricultural best management practices recommended by the task force with particular emphasis on practices to minimize the impact of agricultural nitrogen and environmental nitrogen on ground and surface water quality,

(3) the means for disseminating to farmers and producers data and information relating to environmental nitrogen sources as they may impact on agricultural best management practices,

(4) the educational and training materials developed to promote adoption of agricultural best management practices and the strategy for their dissemination, and

(5) progress made by the agricultural community, to date, to address these problems, including progress in disseminating information to agricultural producers.

(d) DEFINITIONS.—For the purpose of this section—

(1) AGRICULTURAL NITROGEN.—The term "agricultural nitrogen" means nitrogen in all forms (whether manmade, chemical, or biological) which may be present or available for crop production including nitrogen supplied by leguminous plants, animal manures, decaying leaves, and other vegetation, commercial fertilizers, applied human and industrial sewage, and such other nitrogen sources that are within the control of a farmer or producer.

(2) ENVIRONMENTAL NITROGEN.—The term "environmental nitrogen" means nitrogen fixed or occurring in the soil by means not under the control of a farmer or producer, including nitrogen from naturally occurring sources, such as precipitation and dustfall, and nitrogen from non-naturally occurring sources, such as air and water pollution.

(3) AGRICULTURAL BEST MANAGEMENT PRACTICES.—The term "agricultural best management practices" means generally recognized management practices under the control of farmers engaged in crop production that may be designed to reduce or prevent contamination of ground and surface water.

SEC. 305. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) STATE REPORTS AND MANAGEMENT PROGRAMS.—Section 319(c) of the Federal Water Pollution Control Act (33 U.S.C. 1329(c)) is amended by adding at the end thereof the following new paragraph:

"(3) CONSULTATION REQUIREMENT.—Any report required by subsection (a) and any management program and report required by subsection (b) shall be developed in consultation with the Agricultural Nitrogen Best Management Practices Task Force of the Department of Agriculture established by section 304 of the Agricultural Ground Water Management Act of 1987.".

(b) REPORTS OF THE ADMINISTRATOR OF EPA.—Section 319(m) of such Act (33 U.S.C. 1329(m)) is amended by adding at the end thereof the following new paragraph:

"(3) CONSULTATION REQUIREMENT.—In preparing the reports under this subsection, the Administrator shall consult the Agricultural Nitrogen Best Management Practices Task Force of the Department of Agriculture established by section 304 of the Agricultural Ground Water Management Act of 1987.".

SEC. 306. AUTHORIZATION.

There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the first 3 fiscal years beginning after the date of the enactment of this title.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 43, line 24, insert "(a) IN GENERAL." before "The" and after line 15 on page 45 insert the following:

(b) The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall conduct and complete within 12 months of the date of enactment of this Act a joint study of the impact on groundwater and agricultural interests of proposals to dredge sediments which contain PCBs from the Hudson River and dispose of such sediments on land.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

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Mr. SOLOMON. Mr. Chairman, let me first of all commend all of the committees of jurisdiction for bringing this vitally important legislation to the floor. Ground water contamination is one of the most serious problems facing many areas of our country including the Hudson Valley, which I happen to represent. We presently have a number of existing problem areas such as the one in the town of Moreau in Saratoga County which the chairman of the full committee, the gentleman from New Jersey [Mr. HOWARD], and the gentleman from New Jersey [Mr. ROE], the chairman of the subcommittee, have been helpful with me on in the past; and another potential problem could become a real problem which is why I am offering this amendment today.

About 7 years ago, Mr. Chairman, the Congress of the United States passed an amendment which authorized a pilot project to dredge certain PCB spots in the Hudson River. Since that time over a period of 7 years there have been all kinds of problems that have come up, and the most recent problem is that the Department of Agriculture Commissioner of the State of New York has come out unalterably opposed to the project because by dredging the PCB's far upriver where the Hudson River is only about a foot deep, it endangers the 34-foot-deep water channel running for 150 miles from Albany, NY, the State capital, to the New York City, and by dredging that deep-water channel and dumping the PCB-laden silt along the Hudson River Basin, it would endanger all the dairy industry, the apple-growing area along the Hudson River and consequently what I am asking for here is just that we direct the Secretary of Agriculture at the Federal level, and the Administrator of the Environmental Protection Agency to conduct a study to complete within a 12-month period a study of just what the ground water contamination would be if the project went ahead.

It in no way stops the project but at the same time in an ongoing effort we would at least be able to accumulate the information and know ourselves what is going on.

Mr. Chairman, I urge adoption of this amendment.

Mr. Chairman, I am offering this amendment today which concerns the PCB Hudson River dredging program. I am the Representative who represents the largest section of the Hudson River. I am also the Representative of the community which would be the site of the landfill that would hold the dredged sediment should the New York State Department of Environmental Conservation's PCB dredging project succeed in winning approval for this demonstration project.

I take a back seat to no one in my desire to see the majestic Hudson River restored. It is a precious natural resource of rare beauty, as well as an economic resource for fisherman, an important waterway for commerce, and the source of drinking water for the town of Waterford and other communities downriver.

What I do not support, and what I have been fighting for years, however, is the attempt to dredge and landfill PCB-laden sediment on New York farmland.

Ellen Silbergelb, an environmental toxicologist with the Environmental Defense Fund, likened the PCB dredging plan to "Trying to suck sugar from the bottom of a glass with a straw. You can't do it without stirring it up." And Walter Hang of the New York Public Interest Research Group said "There is no such thing as a landfill that won't leak." This raises serious questions about contaminating ground water.

Mr. Chairman, I believe that there are serious problems with both the dredging and the landfilling aspects of the plan, problems that clearly suggest that taxpayer funds, would be more wisely spent in finding alternatives to this outmoded and environmentally discredited project which is so inconsistent with public sentiment and current environmental thinking.

There have been serious questions raised about the adverse effects of this project on the continued viability of farmland, not only in the area adjacent to the site of the landfill, but throughout the Hudson Valley.

To better understand these concerns, I would like to quote from the report on the Hudson River PCB demonstration project by Donald Butcher, commissioner of the New York State Department of Agriculture. "These findings state it is clear from the record of the hearing that the proposed Hudson River PCB reclamation demonstration project will have an adverse and damaging effect upon agriculture and agricultural resources within Washington County agricultural district No. 27."

It also appears that there may be other alternatives to the proposed action which would not require the taking of any agricultural land. One of these is not to dredge at all. Evidence that PCB's are biodegradable in the environment of the river suggest that they may be left in place.

The permanent loss of one farm and the significant disruption of normal farming practices on another for up to 2 years, constitutes a serious impact in itself.

An overriding concern in this matter, however, involves the degree to which surrounding crops, livestock, and livestock products will be subject to contamination either through volatilization of the PCB's during dredging, or their leakage from the pipeline or the containment facility. Unquestionably, the fear of serious contamination and its resultant adverse effects on farmer incomes, farm values and markets for farm products is paramount in the minds of many Washington County farmers.

The landfilling aspect of the PCB dredging flies in the face of national efforts to avoid contaminating ground water and farmland by the landfilling of toxic wastes. I respectfully request adoption of my amendments.

Mr. ROE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise primarily to consult a bit with the distinguished gentleman from New York [Mr. SOLOMON] for clarification on his amendment.

As we understand the amendment, what the amendment attempts to achieve, which I find no fault with, is to get a coordination between the Department of Agriculture, and the Environmental Protection Agency on the studies that they have already conducted; is that correct?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. SOLOMON. I say to the gentleman that he is correct.

Mr. ROE. Therefore, we are not looking for another protracted study. We are coming back and saying that the information that has been gathered by the Environmental Protection Agency already, and the information that has already been gathered by the Department of Agriculture, all of that information would be assimilated and considered in its whole, so to speak, and then, with a decision based on that existing data?

Mr. SOLOMON. If the gentleman will continue to yield, the gentleman is exactly right, plus we would want them to obtain the information also that has been gathered and completed by the New York State Department of Agriculture and the New York State Environmental Conservation Department.

Mr. ROE. With the purpose of looking to coordinate them?

Mr. SOLOMON. If the gentleman will yield further, to accumulate in one report that would go back to the committees of jurisdiction so that we will know what is going on with this project.

In no way does it stop or hinder that project from going ahead.

Mr. ROE. In effect, what we are saying is we will take this information and coordinate this information and come up with an overall consensus of what we find there.

Mr. SOLOMON. If the gentleman will continue to yield, the gentleman is absolutely correct. That is the legislative intent of the amendment.

Mr. NOWAK. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. NOWAK. Mr. Chairman, I want to reemphasize the point that has been made that there is an existing program to start to look at the actual removal of sediments. That is ongoing by the Department of Conservation of the State of New York.

This amendment, or this study which would be conducted would not in any way inhibit that from progressing as it is now stated, is that correct?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. SOLOMON. The gentleman is absolutely correct. I might say that I had an amendment at the desk which would have prohibited the project from going forward until this study had been completed, but I withdrew that amendment, and this amendment in no way impedes or hinders the ongoing project as it now stands.

Mr. NOWAK. If the gentleman will continue to yield to me, I thank the gentleman for his clarification.

Mr. ROE. Mr. Chairman, if I might reclaim my time, the Committee on Science, Space, and Technology on that understanding has no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

Mr. COLEMAN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the opportunity to address the House to explain the purpose of the amendment I had intended to offer to this legislation and to engage a number of my colleagues in a colloquy on separate legislation I will introduce on low-level nuclear waste disposal.

At the outset, let me just say that H.R. 791 is long overdue. I commend my colleagues on the five committees with jurisdiction who have worked so diligently in bringing this bill to the floor. Because ground water contamination is so serious, a national problem, and because it can occur in a variety of ways, my amendment was designed to provide a margin of protection to scarce domestic water resources—as well as those we share with Mexico.

My intention was to add a provision to the Low-Level Radioactive Waste Policy Act of 1980, which delegated to the States responsibility for disposal of low-level radioactive waste within their borders. A majority of the States have formed regional compacts which assume control over the site selection process for location of waste disposal facilities—as well as with the eventual operation of those facilities. The formation of these compacts must be approved by the Congress.

The State of Texas has elected not to join a regional compact and has instead created the Texas Low-Level Radioactive Waste Disposal Authority to draw up a plan for disposal. No congressional approval is required.

The efforts of the Texas authority to select a suitable location for disposal facilities have raised strong concerns along the State's border with Mexico and particularly in west Texas, the area most likely to house a site. Unfortunately, political and budgetary factors appear to have had more influence in the site selection process than analysis based on scientific or engineering concerns.

At the present time, two locations have been selected—both in Hudspeth County and both in my district. A neighboring county, El Paso, has filed suit against the authority, alleging that neither location meets the siting criteria spelled out in State law. An injunction has been placed on the authority to prevent any further work on the sites while the Texas Supreme Court hears arguments on the suit.

The language I proposed in my amendment and now in legislation I am introducing would exactly duplicate language contained in a 1983 agreement between the United States and Mexico on cooperation for the protection and improvement of the environment in the border area. The agreement, which was signed by President Reagan and President de la Madrid, provides for mutual cooperation in preventing or reducing sources of pollution in their respective territories. The border area is defined as land within 100 kilometers—60 miles—on either side of the border. The problem is obviously most acute where the Rio Grande constitutes the border.

Earlier this session, the House passed a bill sponsored by two of my colleagues from Texas, Mr. DE LA GARZA and Mr. BUSTAMANTE, which authorized the State Department to enter into consultations with the Government of Mexico to prevent further pollution of the Rio Grande. Unless the State decides to utilize the most scientifically appropriate sites, or this Congress acts, we will be setting the stage for a unilateral violation of the 1983 Presidential agreement and a reversal of the bill we passed unanimously just 2 months ago.

The 1983 agreement—and my bill—recognize the need for both countries to act responsibily in respecting our shared border area environment. The location of a low-level disposal facility within the defined area—in this case an international boundary, a navigable river fed by several surface and ground water sources—clearly violates the intent of the 1983 agreement and poses a serious threat to the natural resources H.R. 791 seeks to protect.

The purpose of this legislation is to prevent contamination before it happens. My bill will be consistent with that purpose.

Congress has only recently begun to recognize the need to aggressively safeguard against ground water contamination. In adopting new legislation, Congress would demonstrate an understanding of the interdependence which characterizes the border environment. I urge my colleagues to keep to our part of the Presidential agreement and to support my legislation. I thank the distinguished chairmen for the opportunity to articulate my concerns and those of my constituents.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding. I want to thank him on behalf of all of the committees involved in this legislation for not offering the amendment that was made in order by the Committee on Rules.

While there is support for the gentleman's amendment, there is also a great deal of concern, especially since the issues of ground water and radioactivity are mixed. We recognize that this is an immediate problem in the gentleman's State of Texas. It is not just a decision that can be isolated and considered in a vacuum.

The gentleman from Texas [Mr. COLEMAN] has expressed concern that the potential site for the disposal of the low-level radioactive waste may impact an aquifer near the United States and Mexico border. This may not be an isolated case of contamination. The gentleman has clearly captured the attention of this Member and others with his amendment. In lengthy discussions with the gentleman from Michigan [Mr. Dingell], with the gentleman from Indiana [Mr. Sharp], with the gentleman from Arizona [Mr. Udall], and myself, we agree that this problem deserves our careful attention.

(On request of Mr. Miller of California, and by unanimous consent, Mr. Coleman of Texas was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I yield to the gentleman from California.

Mr. MILLER of California. We have consented to the gentleman's request that we hold indepth hearings on the subject of his amendment. This will give our committees an opportunity to take a look at the problem. I am authorized on behalf of both the chairman of the Committee on Energy and Commerce and the chairman of the Committee on Interior and Insular Affairs to make that commitment to the gentleman from Texas [Mr. Coleman]. As soon as we possibly can, both committees will hold hearings on the problem as it exists in the State of Texas and on the border with Mexico.

Again I want to express my gratitude to the gentleman for bringing this problem to the attention of the Congress. There has been a lot of discussion on it since the amendment was brought to our attention. I also want to express our gratitude for your withholding the amendment.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman for his comments and I appreciate very much the opportunity to work with such distinguished chairmen as we have in this Congress who I think understand the problem from many more years of experience than many of us who did not arrive here until the 1980's. I appreciate very much the opportunity to work with all of them. I certainly hope for all the chairmen that they will continue with that willingness as we go into early next year because the bill that I will propose and that I hope we can work on will start out very simple. It will deal with that very critical and crucial issue to the health and welfare and safety of constituents along the United States-Mexico border as well as to those who live on the other side of the United States-Mexico border. I really hope we can move forward with it and with that commitment, Mr. Chairman, I appreciate very much the opportunity to address this body.

The CHAIRMAN. Are there further amendments to title III?

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. UPTON. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I rise as a cosponsor of H.R. 791 and urge its passage.

Ground water protection is one of the most important environmental issues facing our Nation today.

About one fourth of all water used in the United States comes from ground water and almost one half of all drinking water consumed domestically comes from ground water.

In rural areas, such as my district in Michigan, over 90 percent of the people depend on ground water for their household needs.

Given the need for clean water for everyday activities, and given the amount of water used per day in our Nation—estimated at over 100 billion gallons—it is imperative that Congress act to preserve, protect, and improve the quality of our precious ground water.

A number of my constituents have contacted me and asked that I do something to make sure that the water they are drinking is safe—the bill before us, H.R. 791, is that something.

Mr. Chairman, this bill represents the work of five House committees to craft a proposal to coordinate the efforts of at least three Federal agencies—at the same time, this bill recognizes the importance of the states ground water protection and management.

Many important activities are currently being undertaken at the local, State, and Federal level to protect ground water, but these efforts lack coordination—this bill provides that coordination.

Mr. Chairman, H.R. 791, is what our constituents are looking for—legislation to ensure that their drinking water is safe.

I urge my colleagues to vote yea on H.R. 791.

Mr. REGULA. Mr. Chairman, I would like to add my support to this legislation before us today. The National Ground Water Contamination Research Act represents a major accomplishment on behalf of the several committees which have so carefully and thoroughly crafted it. It is the first important step in a vital investment in our nation's future.

The old adage that an ounce of prevention is worth a pound of cure is the perfect description of the effects that this legislation may have on the ground water resources of our future generations.

As we in this body have witnessed, numerous aquifers across our Nation have already been contaminated from a variety of sources. For example, we are now faced with huge technical and financial constraints in meeting the task of cleaning up major aquifers which supply drinking water to thousands of people. Completing this task can take decades and will no doubt cost our country billions of dollars. But today we can turn this trend around for future generations. Let us move toward protecting this precious and vital resource before we are confronted with the overwhelming task of its cleanup.

A number of organizations, including the Environmental and Energy Study Institute, has warned of the inadequate mechanisms available to aid the States and local governments in their ground water protection decisions. For this reason, I would especially like to commend the bill's authors for their creation of the National Ground Water Clearinghouse. The clearinghouse will be able to fill this glaring void by providing uniform, usable data to decisionmakers across the country.

I further endorse the task given the U.S. Geological Survey to gather the vital data on ground water quality, quantity, and hydrogeological properties. These are essential components in determining policy decisions, especially in our Nation's rural communities.

Mr. Chairman, we have heard the statistics that nearly 40 percent of the people of our Nation depend upon these underground resources for drinking. Today we can make an impact on helping to preserve this precious resource. Let us not miss the opportunity to make a worthwhile investment in our future.

□ 1550

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—GROUND WATER RADIUM CONTAMINATION

SEC. 401. ASSISTANCE FOR SMALL COMMUNITIES WITH GROUND WATER RADIUM CONTAMINATION.

(a) Radium Removal Demonstration Program.—The Administrator of the Environmental Protection Agency, in cooperation with State public authorities, may assist local governments in demonstrating mitigation of radium contamination in ground water. Upon application of any State public authority, the Administrator may make a grant to that authority for such purposes. Assistance provided pursuant to this subsection shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) Level of Contamination.—A grant may only be made under subsection (a) for removal of radium from ground water if the level of contamination from such radium exceeds the maximum contaminant level for radium established under title XIV of the Public Health Service Act (relating to safe drinking water).

(c) Purposes of Grants.—Funds made available through grants under subsection (a) may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such authority of a program to provide financing for such acquisition and installation.

(d) Definitions.—For purposes of this section—

(1) Small community.—The term "small community" means a political subdivision of

a State the population of which does not exceed 20,000 individuals.

(2) State public authority.—The term "State public authority" means an agency or instrumentality of a State which is established for the purpose of assisting local governments in financing capital improvements on a statewide or regional basis.

(e) Authorization of Appropriations.—The following sums are authorized to be appropriated to carry out this section:

Fiscal Year	Amount
1988	$4,000,000
1989	$5,000,000
1990	$5,000,000.

The CHAIRMAN. Are there any amendments to title IV? If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. Foley] having assumed the chair, Mr. Flippo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 791) to authorize the water resources research activities of the U.S. Geological Survey, and for other purposes, pursuant to House Resolution 318, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 15, not voting 19, as follows:

[Roll No. 449]

YEAS—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—15

Archer
Armey
Bartlett
Burton
Cheney
Craig
Dannemeyer
DeLay
Inhofe
Marlenee
McCandless
Nielson
Shumway
Stump
Thomas (CA)

NOT VOTING—19

Biaggi
Bosco
Bryant
Crane
de la Garza
Dowdy
Edwards (OK)
Gephardt
Hawkins
Kemp
Kolter
Leath (TX)
Livingston
Lowery (CA)
Montgomery
Rangel
Roemer
Rose
Towns

□ 1605

The Clerk announced the following pair:

On this vote:

Mr. Lowery of California for, with Mr. Crane against.

Mr. ARCHER and Mr. BARTLETT changed their votes from "yea" to "nay".

Mr. CARPER and Mr. SWINDALL changed their votes from "nay" to "yea".

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. (Mr. Foley). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 404. Joint resolution to provide for the temporary extension of certain programs relating to housing and community develpment, and for other purposes.

AUTHORIZING USE OF DEPOSITIONS IN CONNECTION WITH IMPEACHMENT INQUIRY OF COMMITTEE ON THE JUDICIARY

Mr. CONYERS. Mr. Speaker, I offer a privileged resolution (H. Res. 320) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That the Committee on the Judiciary or its Subcommittee on Criminal Justice, in connection with the inquiry into the conduct of the United States District Judge Alcee L. Hastings, may authorize the taking of affidavits and depositions by counsel to such Committee pursuant to notice or subpoena.

Mr. GEKAS. Mr. Speaker, reserving the right to object——

The SPEAKER pro tempore. The gentleman does not have the right to impose a reservation; no unanimous consent is required. This is a privileged resolution.

The gentleman from Michigan [Mr. CONYERS] has called up a privileged resolution which has been reported by the Clerk.

Mr. GEKAS. That is correct. In that case, then Mr. Speaker, I would ask the gentleman from Michigan to yield to me.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 1 hour and the gentleman may request that he be recognized.

Mr. GEKAS. I thank the Chair.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] is recognized for 1 hour.

Mr. CONYERS. Mr. Speaker, for purposes of debate only I yield 30 minutes to the gentleman from Pennsylvania [Mr. GEKAS] and pending that I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary is conducting an inquiry to determine whether U.S. District Judge Alcee L. Hastings, of the Southern District of Florida, has engaged in conduct which would warrant impeachment. This is a very important matter. The committee has before it a certification from the Judicial Conference of the United States stating that, in language specified by Federal law, "consideration of impeachment [of Judge Hastings] may be warranted," as well as a report of an investigating committee of the Eleventh Circuit Court of Appeals and other evidentiary materials. The matter has been referred to the Subcommittee on Criminal Justice, which I chair.

The subcommittee's inquiry into the conduct of Judge Hastings inlcudes interviewing witnesses who may have information relevant to the investigation. Certain witnesses have indicated an unwillingness to respond to questioning unless they are subpoenaed. Many of these witnesses are located far from the District of Columbia and it is uncertain whether their testimony will be pertinent because of the exploratory nature of the questioning. It is desirable that these witnesses be questioned without the formality of a subcommittee hearing.

On October 19, 1987, the Committee on the Judiciary, on recommendation of the Subcommittee on Criminal Justice, unanimously reported favorably on the resolution now before the House. The resolution authorizes the taking of affidavits and depositions by committee counsel pursuant to notice or subpoena, in connection with the inquiry into the conduct of Judge Hastings.

Rule XI(2)(m)(1)(B) of the Rules of the House of Representatives provides in pertinent part that:

> [A]ny Committee, or any subcommittee thereof, is authorized * * * to require, by subpoena or otherwise, the attendance and testimony of such witnesses * * * as it deems necessary.

This rule authorizes the Committee on the Judiciary and the Subcommittee on Criminal Justice, in furtherance of the pending inquiry, to issue subpoenas and take sworn statements from witnesses. The resolution now pending merely confirms that authority by enabling counsel, at the direction of the committee or subcommittee, to take sworn testimony, pursuant to subpoena or otherwise, without the need for two Members to be present. The proceudre authorized by the resolution will enable the inquiry to move forward efficiently and economically, and will minimize inconvenience to the witnesses and to Members of Congress.

□ 1620

Mr. Speaker, this follows the discussions and the intercourse between the members of the committee and the Judiciary Committee, and I urge the support of the Members for the resolution.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to my colleague, the gentleman from Pennsylvania, the ranking minority member.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Michigan [Mr. CONYERS] has well stated the necessity for using this procedure. We are at a point in the inquiry as to whether or not Judge Hastings should be impeached where our counsel and staff require the ability to move around with dispatch to gain testimony and evidence that we might not otherwise be able to obtain. All this does is provide a waiver or make it easier for the subcommittee and, therefore, the full committee to do its work.

Mr. Speaker, we ask that the resolution be adopted in full.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Pennsylvania.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the chairman of the full committee.

Mr. RODINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Chairman, I merely want to state that this resolution is not only timely but it is essential in order that the Committee on the Judiciary fulfill the responsibility that it has before it in the impeachment proceedings of Judge Hastings.

Mr. Speaker, I urge adoption of the resolution.

Mr. Speaker, the resolution before the House is related to the inquiry into whether a U.S. district judge, Alcee L. Hastings, should be impeached. The Judicial Conference of the United States transmitted this matter to the Speaker of the House of Representatives on March 17, 1987, certifying that consideration of the impeachment of Judge Hastings may be warranted. The report and records of the Judicial Council were referred to the Committee on the Judiciary which in turn referred the matter to the Subcommittee on Criminal Justice.

The resolution authorizes the Judiciary Committee's impeachment staff to take sworn statements of witnesses pursuant to notice or subpoena and to conduct investigative interviews efficiently and economically. It would be cumbersome at this stage of the inquiry to require the subcommittee to meet in order to conduct interviews which may well be preliminary in nature. In addition it would be unnecessarily costly and inconvenient to bring out of town witnesses to the District of Columbia, or, in the alternative, to require of the subcommittee to travel to where the witnesses are located. For these reasons, I urge you to support the resolution.

Mr. CONYERS. Mr. Speaker, I think the chairman of the full committee and the ranking minority member of the subcommittee have adequately added to these comments. I presume that this is not a controversial resolution. It would take away the responsibility of our having two members of the committee follow our staff through Florida and wherever this investigation may take us.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted.

The SPEAKER pro tempore (Mr. Foley). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 2939, INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1987

Mr. FRANK. Mr. Speaker, I call up the conference report on the bill (H.R. 2939) to amend title 28, United States Code, with respect to the appointment of independent counsel.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as having been read. (For conference report and statement, see proceedings of the House of November 20, 1987.)

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Frank] will be recognized for 30 minutes and the gentleman from Florida [Mr. Shaw] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. Rodino], who has been the major player in the development of this legislation over the past 10 years.

Mr. RODINO. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the conference agreement that we have before us on the independent counsel legislation is one that has been worked out between the House and the Senate. I believe that as a result of the coming together of these views, we have worked out a proper resolution that will serve well the Independent Counsel Reauthorization Act of 1987.

Mr. Speaker, the conference report on H.R. 2939, the Independent Counsel Reauthorization Act of 1987, provides for a 5-year reauthorization of the independent counsel provisions of the Ethics in Government Act of 1978.

As I stated in October during floor consideration of this bill, this is one of the most important pieces of legislation that Congress will consider this year. Reauthorization of this statute is critical to maintaining public confidence in the fairness of our legal system and the integrity of our Government. Also if this statute is not reauthorized, four currently operating independent counsel will be left hanging, with investigations and prosecutions not yet complete.

This conference agreement is a compromise between the House and Senate versions and represents a very workable piece of legislation.

There are five major substantive differences between H.R. 2939 as it passed the House and this conference report on H.R. 2939.

First, the current law provides for a 90-day preliminary investigation by the Attorney General to determine whether to apply for the appointment of an independent counsel. The House-passed bill basically followed current law. The Senate bill followed current law, except that it provided that the Attorney General file a report with the court if no application for the appointment of an independent counsel is made within 30 days of receiving information under the act.

One major problem encountered with the current law has been that the Attorney General sometimes takes months to conduct a pre-preliminary investigation, thereby significantly lengthening the 90-day limit for a preliminary investigation.

The conference agreement solves this problem by reaching a compromise between the House-passed and Senate-passed versions. This compromise gives the Attorney General 15 days to decide whether to commence a preliminary investigation and then limits the preliminary investigation to 90 days.

The second major difference between the House-passed bill and the conference report involves the expansion of jurisdiction provisions. The House-passed bill provided that the independent counsel could go directly to the court for an expansion of jurisdiction. The conference agreement limits an independent counsel's request for expansion of jurisdiction to the Attorney General. However, the conference report retained the House language and current law on the procedures to be followed by an independent counsel in seeking referral of a related matter. The conference agreement also retained the House language that independent counsel be provided with prosecutorial jurisdiction adequate to fully investigate and prosecute the subject matter involved, including all related matters.

Third, the state of mind provisions in the House-passed bill were modified to provide that the Attorney General consider evidence of the state of mind of the subject of the investigation in determining whether to apply for the appointment of an independent counsel only if that evidence is clear and convincing on its face. The conferees anticipate that this will only occur in rare cases.

Fourth, the House adopted an amendment on the floor which provided that the position of an independent counsel would be full time. Numerous concerns were raised that the very nature of criminal investigations and prosecutions often make it impossible to work full time on only one case, and could also make it difficult to find qualified, experienced attorneys to take on the job. However, all the conferees agreed that an independent counsel should work diligently and as quickly as possible to resolve his particular investigation or prosecution. Therefore, the mandatory requirement was removed from the bill, but language was inserted stating that the court should appoint an independent counsel who will conduct an investigation in a "prompt, responsible, and cost-effective manner." There is no question that independent counsel should conduct any investigation and prosecution as expeditiously as possible.

In addition, the conference agreement includes several new reporting requirements by the Attorney General and the independent counsel to encourage the independent counsel to conduct the investigation promptly and with due regard to cost.

Fifth, the conference agreement adopted the Senate provision which provides for a mandatory audit of independent counsel investigations and prosecutions by the Comptroller General.

These differences represent the major differences between the House-passed bill and the conference report.

I believe the legislation before us is a good bill. None of the decisions made in reaching this compromise were made lightly.

I urge my colleagues to support the conference report and vote for its passage.

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have here a conference report which reflects some modifications in the bill that passed the House. It does not make major changes. I think Members should be aware that to the extent it makes the changes, it removes one of the major amendments that was adopted in the House.

In the House we dealt with the situation where the Attorney General had in a previous case objected to an expansion of jurisdiction requested by an independent counsel. We explicitly in the House authorized what some people feel was in the law, and may still be there, the right of independent counsel to go directly to the special court for expansion of jurisdiction.

In a case in which the independent counsel had first gone to the Attorney General and then went to the special court, the special court said, "Having gone to the Attorney General and being refused, you can't come to us." That leaves open the question in my mind about what happens when you go directly. We in our bill said explicitly that if the independent counsel went directly to the court, the court had the power to expand jurisdiction. The Members of the minority here were very opposed to that.

The Members of the other body, in the bill they adopted, found that that would be a potential problem. In particular, Members thought that might weaken the Constitution argument. I did not agree, nor did I think a majority of the Members of the House on the conference committee agreed, but in the spirit of getting the bill out and since no pending issue turns on that, we receded. It would be the intention of some of us, after there has been a resolution of this issue in the courts, to bring this matter up again, and an amendment to the statute would always be in order, and that could be done later.

In other areas, the bill conforms fairly closely to what we had in the House. It does clarify somewhat the question of the Attorney General's ability to refuse to get an independent counsel if he thinks a state of mind of criminality is not present. We had said he could not take that into account. This bill allows him to take it into account in a modified fashion, and I think it achieves in substance what we were trying to do. It prevents the Attorney General from making more than a threshold inquiry as a matter of denying.

We now have before us essentially, then, the issue we had before. Is it reasonable in that limited class of cases where there is at least a perceived and almost certainly a real conflict of interest between the Attorney General's desire to enforce the law and his problem of having to enforce it against those who have been his close allies and friends and coworkers and common servers of the President who were appointed over them? Does it make sense for us to set forth this mechanism of independent counsel?

The independent counsel mechanism has been working well. It is now very much involved in the prosecution of several cases which are pending. The bill will expire at the end of this year. The administration has argued that it is unconstitutional. No court has yet agreed with the administration. We are confident that the ultimate decision of the U.S. Supreme Court will be to uphold the constitutionality.

Mr. Speaker, we ask for the approval of the independent counsel conference report here as part of the process of keeping it alive.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking member of the subcommittee from which this bill originated, I have fought this bill in subcommittee and in full committee and on the House floor. I offered several amendments in subcommittee and full committee to delete certain provisions of this bill and to add certain provisions to it. Those amendments were, for the most part, defeated. I voted against this bill when it was considered previously in this House. Today, I will vote against this conference agreement and, should President Reagan veto this legislation, I will vote to support that veto.

The conference agreement represents an improvement over the House version of the bill primarily because the Senate provisions with regard to certain issues prevailed in the conference. For instance, the criminal state of mind provision contained in the House bill, which restricted the Attorney General's discretion with regard to the appointment of an independent counsel, was replaced with a more reasonable Senate provision which allows the Attorney General discretion with regard to that pivotal decision. Furthermore, the provision in the House bill, which provided an independent counsel unilateral authority to seek expansion of his prosecutorial jurisdiction through the special court, was replaced by a Senate provision which provides the Attorney General some discretion with regard to the expansion of an independent counsel's jurisdiction. These two provisions were both subjects of amendments which I had unsuccessfully attempted to pass in the House, and I am pleased that the conference agreement now includes them. For these reasons, as a conferee, I signed the conference report. I want to emphasize that I signed that conference report only because it represented an improvement over the House bill. I remain opposed to the underlying theory of this independent counsel law. Why? Because I remain convinced that this law is unconstitutional as a violation of the separation of powers doctrine and will be so found by our courts when they rule on this matter.

I further remain opposed to this bill because, as I demonstrated when this bill was on the House floor, I believe Members of Congress ought to be included under this measure. This law represents our Nation's primary political conflict-of-interest law and yet it conveniently exempts Members of Congress from mandatory coverage under the bill. This body refused to include Members under the coverage provision, and I think that was a mistake.

When this bill was considered by the House, I also offered an amendment to simply extend the current law for 1 more year in order to provide our courts an opportunity to rule on this issue. That amendment was also defeated. We continue to await the opinion from the Circuit Court of Appeals for the District of Columbia in in re Sealed Case, the only pending case in which our courts have had an opportunity to determine the constitutional validity of the independent counsel law. Should that appellate court rule that the independent counsel law is unconstitutional, then the bill we are passing today will also be unconstitutional, as the statutory framework of this bill is identical to the current law, and the changes we have made in it would merely exacerbate the constitutional problems inherent in the current law. I would urge our appellate court here in the District of Columbia to expeditiously ruling on this issue so that we in Congress may have some guidance with regard to the constitutional aspects of this law.

I believe the independent counsel statute although providing political cover has proven to be a tool of political abuse. I believe the independent counsel statute represents a convenient conceptual cure to a highly complex and serious issue facing our Federal Government; however, I do not believe that we should trample upon the fundamental theory of our Constitution—the separation of powers doctrine—in order to implement a convenient legal concept.

I intend to vote against this conference report, and I urge my colleagues to do so as well.

□ 1630

Mr. FRANK. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN], the former chairman of the subcommittee, who made a major contribution to getting our bill to this point, and who is a conferee.

Mr. GLICKMAN. Mr. Speaker, this is a very important bill. The purpose of this bill is to insure that an aggressive unbiased and thorough investigation is conducted of all criminal allegations against senior Government officials. It is to insure continuing public confidence in our democratic system of government and to protect the executive branch from unwarranted suspicion. It is to insulate the investigation of senior executive branch officials from personal or political influence, and therefore, to insure that its conclusion will have the fullest credibility.

It is to insure that we afford protection to the reputation of any official subject to investigation.

This bill will have much to do with the integrity of what high-level Government officials are doing.

I should point out that all the conferees on the House side, Republican and Democrat, signed the conference report, and that includes the gentleman from Florida [Mr. SHAW] and the gentleman from Georgia [Mr. SWINDALL].

Now, it is strange, indeed, that the gentleman from Florida [Mr. SHAW] contends that he signed the conference report because it reflects an improvement on what the original piece of legislation that passed the House contained, but I accept the fact that the gentleman signed the conference report. He put his name, his credibility, on the line, because he believed that in fact we had done a good job as conferees to make this a good and constitutional piece of legislation. I assume the gentleman would not have signed the conference report if he felt the bill was still unconstitutional.

I should point out, Mr. Speaker, this bill passed the House by 322 to 87. The Senate just voted 85 to 7, an overwhelming bipartisan majority, to support this conference report, to insure that we have an impartial way of investigating wrongdoing of senior Government officials.

So I commend the gentleman from New Jersey [Mr. RODINO], and the gentleman from Massachusetts [Mr. FRANK], as well as the gentleman from Florida [Mr. SHAW] for the work they have done, and I urge my colleagues to vote yes on the conference report.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I would like to address just one comment the gentleman made as to why I signed the report. I signed the report because I do think it sets forth accurately the legislative intent of the managers of the bill and I do believe also that it is a substantial improvement over some of the issues that I was particularly concerned about; but the overall issue that I am still tremendously concerned about, that is, the constitutionality of the bill, is going to cause me to vote against it.

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. FRANK. Mr. Speaker, I yield 1 additional minute to the gentleman from Kansas.

Mr. GLICKMAN. I am just curious, Mr. Speaker, that one would sign a conference report on a piece of legislation that one had serious questions about its constitutionality.

The gentleman from Florida is a great constitutional scholar. I know the gentleman. I have great respect for his legal ability. It is one of the best legal minds in this institution. I say that in all sincerity, and for the gentleman to put his name on a conference report and still have questions of its constitutionality of the underlying legislation is absolutely amazing.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, after throwing those roses at me, I hesitate to disagree with the gentleman, but the question of the constitutionality and the question of the constitutional infirmities were in both bills that were before the conference. That was not an issue in the conference.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. CARDIN] a distinguished member of the subcommittee who worked hard on this bill.

Mr. CARDIN. Mr. Speaker, I thank my chairman for yielding this time.

Mr. Speaker, I rise in support of the Independent Counsel Reauthorization Act of 1987 conference report and urge my colleagues to join me in endorsing this important legislation.

The Judiciary Committee has considered this legislation in great detail. What we have before us today is a carefully drafted, thoroughly debated bill. I would like to commend the chairman of the subcommittee [Mr. FRANK] and the chairman of the committee [Mr. RODINO] and ranking minority member [Mr. SHAW] for their commitment to achieve a fair compromise—one that represents the best of many differing viewpoints.

Since its very beginning, this country has had a commitment to the checks and balances that have prevented any branch of government from becoming too powerful or arrogant. In 1978, having withstood one of the worst constitutional crisis in our history, we enacted the first independent counsel law. That enactment was critical to preserving the integrity and credibility of our Government. It still is.

The purpose of the independent cousel law is to ensure that an aggressive, impartial investigation is conducted when criminal allegations are made against senior Government officials. Public confidence in our democracy cannot be sustained without this assurance. Conversely, senior Government officials cannot protect their innocence and credibility without this law.

The important principle we are affirming today is that no man or woman—no matter how high their position in Government—is above the law. Experience has demonstrated that it is necessary to affirm and to reaffirm this principle—again and again.

Public cynicism is corrosive to democracy. It is in all of our best interests to have a strong independent investigatory mechanism and to demonstrate a continued commitment to the independent counsel. It has served us well in the past and will continue to do so in the future.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. SWINDALL] a member of the subcommittee and a conferee.

Mr. SWINDALL. Mr. Speaker, I rise in opposition to this conference report. Like the ranking member of my subcommittee, I too, signed the conference report and I would like to just state to the gentleman from Kansas that my reasons for doing so are very simple, and that is that it is my understanding that as a conferee you are to try to strike an agreement between what the House stated and what the Senate stated.

I voted against the bill in subcommittee. I voted against the bill in full committee and I voted against the bill and spoke out against the bill when it came to the floor of the House. I intend to vote against the bill and speak out against the bill at this time, because the bill is fundamentally flawed constitutionally.

First, it violates one of the most fundamental concepts of our Constitution, and that is the notion of separation of powers. When it comes to prosecution, there is a very good reason for the rationale of the Constitution. It is fundamental that you do not want the same branch of government executing the law as legislating or interpreting the law.

In this case, you have a merger between execution and the determination that a court ordinarily does with respect to fundamental fairness of the judicial procedure.

The next fundamental flaw, constitutionally at least, is the notion of equal protection. One of the things that makes our Constitution a unique constitution and has survived the test of time is the fact that all of us, whether we serve in public office or otherwise, enjoy the same fundamental protection of the law. In this case, we are singling out one group of individuals, one might even argue that it amounts to a bill of attainder, and we are starting that those individuals will be treated differently.

Why, if we are not concerned by that, did we not include the Congress? If you go back and review our own debates, you will find that there were legitimate concerns by Members of Congress if they were included in this bill that they might well become subject to political persecution and political retaliation. No one here can give a legitimate reason why those individuals who are expressly singled out by this law for special prosecutor status would not have the same right to raise the same fundamental argument.

If you will recall, there were amendments to try to perfect this bill and each of those were defeated.

The next point that I would like to make is one that former Attorney General Griffin Bell made, and that is this bill does not make sense because it violates fundamental public policy with respect to two major aspects; one, the cost, there is absolutely no way that we can put any type of cost containment on what a special prosecutor can spend.

Second, there is no congressional oversight over these special prosecutors once they are appointed.

It does not make sense for this body to create one of these special prosecutors without having at least those same restraints that we place on anyone else.

The other point that I would like to make is that if this issue, that is, what do you do when a member of the executive branch violates the law, given the fact that the Attorney General is otherwise charged with investigating and prosecuting, what do you do when the Attorney General fails to do so? It seems that is such a fundamental problem that the Founding Fathers should have thought about it at the time they wrote the Constitution, and the fact of the matter is they did. They provided for the solution, and it is a far better solution than this bill offers, because the solution is impeachment and removal.

What is the fundamental difference between impeachment and removal and what a special prosecutor can do? Whoever is convicted by the results of a special prosecutor's prosecution can be pardoned by the President of the United States. Not so with respect to impeachment and removal.

My point is, if we ever find an Attorney General who fails in this regard, our solution constitutionally is impeachment and removal.

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Let us also not forget that an Attorney General is subject to the scrutiny of this Congress because the Senate must confirm any Attorney General.

I think that it is more than passingly interesting that every Attorney General that has served, whether they be Democrat or Republican, since this law was put into effect is opposed to it on the constitutional and public policy grounds that I have mentioned.

I urge my colleagues to vote against this conference report.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I predict that the Supreme Court of the United States will ultimately find the concept of and the legislation encompassing independent counsel unconstitutional.

I predict also that the American public when it discovers to its dismay, when it finally sinks through to them, that this body rejected inclusion of Members of Congress under the very scrutiny of independent counsel that the hue and cry says must occur for public officials that then we will be again barraged with that cynicism that the public already has developed for us in all our actions on this floor.

Whether or not we pass this piece of legislation, I want to reject the argument of those who have already spoken who say that we need this because the integrity of this body is at stake or integrity of the system is at stake.

How can we say that when we voted resoundingly, at least on one side of this aisle, against the inclusion of Members of Congress in the scrutiny of the independent counsel?

If it is not unconstitutional for independent counsel to exist and investigate members of the executive, it cannot be unconstitutional for it also to look at Members of Congress.

For those reasons I continue to oppose this legislation and I will vote against it.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I am a little puzzled by some of my colleagues who said they would vote for it if it included Members of Congress, but will vote against it because it is unconstitutional, and I am puzzled because that would not cure the constitutionality problem.

Mr. GEKAS. I want it to be unconstitutional as to everybody.

Mr. FRANK. If the gentleman will continue to yield, so that I understand the gentleman, he will not vote for the bill if it is a little unconstitutional, but he will vote for it if it is a lot unconstitutional. He is a distinguished scholar and I admire that.

Mr. GEKAS. Reclaiming my time, it is the only honest way to do it. If I believe it is unconstitutional, I should vote against it.

Mr. FRANK. Yes.

Mr. GEKAS. If it includes Members of Congress, I should vote against it.

But I am saying to you that the American public will find us to be wrong in this duty and that is the only issue.

Mr. FRANK. If the gentleman will continue to yield, I say to the gentleman, if it did not include Members of Congress it would be unconstitutional, so if we eliminated that problem and it then did include Members of Congress we should vote against it, but he would vote for it if it included Members of Congress. How would the gentleman vote?

Mr. GEKAS. I did not understand a word the gentleman said.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I just do not want to reargue the question that the amendment would bring Members of Congress within the purview of the statute, but the fact of the matter is that the reason that we created this independent counsel statute is to remove from the executive branch of the Government the inherent conflict of the executive branch of the Government investigating the executive branch of the Government, such as the Attorney General investigating members of his staff, and members of the executive branch of the Government.

Members of Congress are not members of the executive branch of the Government. The Attorney General, if in fact Members of Congress violate the law, has every right to investigate and prosecute Members of Congress and if he feels he cannot do it, he can bring in a special investigator to do it.

Mr. GEKAS. Mr. Speaker, regaining my time, I do not need the gentleman from New Jersey [Mr. HUGHES] saying to me that Members of Congress are not members of the executive branch.

Whatever tools we give the independent counsel to sort out the things in the executive branch that that inherent conflict brings to their attention, there is no reason they cannot have that special power or something special that happens within the Halls of the Congress that should disable them from looking at Members of Congress as well.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the fact of the matter is that today the Attorney General, if he felt there were an inherent conflict in investigating and prosecuting a Member of Congress, could bring in the special prosecutor. That is present law.

In fact, one of our colleagues just recently within the past year requested the Attorney General to do just that and the Attorney General refused to do it on the basis that in fact there was no conflict, that he could do it himself.

I think the Attorney General was right.

Mr. GEKAS. Does not the gentleman agree that if some Member of Congress was alleged to have committed some horrible act that the focus on it then, the duty of investigating it fully in the hand of independent counsel would do a specific job on that uncluttered by the same kind of things that we are talking about for independent counsel, that it would be pinpointed on that and highlighted?

Mr. HUGHES. If the gentleman will continue to yield, the Attorney General has the authority under existing law to do that.

Mr. GEKAS. And the Attorney General would assign someone to do that particular job.

Mr. FRANK. The Attorney General would not assign them. The court would.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Florida.

Mr. SHAW. I would say in answer to what the gentleman from New Jersey [Mr. HUGHES] pointed out and what he said was absolutely correct. What he did not say is that in this law that we are passing, there are certain trigger mechanisms that require the appointment of a special investigator, that require an investigating board, and that the Members of Congress have said we do not want that to apply to us.

When I offer the amendment to include Members of Congress, the Members of Congress say no way. That is exactly what happened. That is what the gentleman from Pennsylvania [Mr. GEKAS] who is in the well, is talking about.

Mr. GEKAS. That is exactly the point.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding me this time. I want to congratulate the gentleman for his statement. The real essence of what we are passing here is another of those bills that says we are indeed above the law that we pass for others. We do it all the time around here. This is just one of a series of bills where we have said that we are better than the law, we are above the law.

I think the gentleman from New Jersey [Mr. HUGHES] in making the point of the fact that we are not members of the executive branch makes a very, very crucial point in this debate.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I say to the gentleman from Pennsylvania [Mr. WALKER] that that is absolute nonsense. As a matter of fact, in fact the gentleman's amendment would make it more difficult for the Attorney General to investigate and prosecute Members of Congress. If the Attorney General has any reason to believe there is an inherent conflict in prosecuting any Member of Congress, he can bring in special counsel. There is no inherent conflict because Members of Congress are not members of the executive branch of the Government. That is the difference.

I realize my colleague does not have to be told that we are not members of the executive branch of the Government, but that is the reason for the legislation. It is directed at members of the executive branch of the Government, not of Members of Congress or the Supreme Court. The Supreme Court is not part of the executive branch of the Government.

Mr. FRANK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the tenuous bands of reality that bind some of my colleagues have snapped. I hope temporarily. We have just heard some of the most unrealistic and inaccurate descriptions of this law that I have ever heard.

The gentleman from Pennsylvania [Mr. GEKAS] said that he could not understand me. I will try to speak slowly, I will try to use small words, I will do everything I can to get him to understand me, but I cannot guarantee the results.

The fact is he says the Attorney General will have to assign someone when the gentleman from New Jersey [Mr. HUGHES] said if a Member of Congress were under suspicion the Attorney General could have an independent counsel appointed.

He said then that the Attorney General would have to assign someone.

No, under the law the special court would do that. That would thereby remove the Attorney General if he felt there was a conflict. He would trigger the independent counsel process.

What we have is this, there was nothing in this bill that in any way protects Members of Congress from the full force of the law.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, when I was alluding to the question of the Attorney General appointing someone, that was in answer to the assertion by the gentleman from New Jersey [Mr. HUGHES] that the Attorney General would have the right to pursue an investigation of a Member of Congress. I am saying that——

Mr. FRANK. Mr. Speaker, I take back my time because the gentleman has misstated the point.

The fact is what the gentleman from New Jersey [Mr. HUGHES] was saying was if the Attorney General wants to, he can trigger with respect to Members of Congress the independent counsel process. Where he does not, the Attorney General does not make the selection, but the special court does make the selection. The suggestion that the Attorney General would assign someone was wrong. It would be the special court.

The fact is this, we had a bill which passed in 1978, a Democratic Congress passed it under a Democratic President.

It was reenacted in 1982, President Reagan signed that bill that he now says is unconstitutional.

Every member of the Committee on the Judiciary on the Republican side who is now in Congress and who voted then voted for that bill on a rollcall vote.

Then what happened? A lot of important appointees of President Reagan found themselves in difficulty with the independent counsel.

That fact apparently rose to constitutional significance so Members on the Republican side began to oppose the bill. Now they have come up with this smokescreen about Members of Congress which is not an accurate one because we do not have a conflict of interest in every case. The Justice Department has a vigorous record under the Carter and Reagan administrations of prosecuting Members of Congress. When a Member of Congress asks for an independent counsel to be appointed, in this case the Attorney General said no, that is not a good idea, I will do it myself.

We have got under way an effort here to try to explain why people are against the bill that they were once for, all because of political embarrassment. The gentleman says wait until the American people find out. As the gentleman knows, the propaganda machine of the House Republicans tried to get the American people all indignant about this, but it did not work well.

Everybody who is on the side for the independent counsel, Common Cause, the American Bar Association, and the other organizations, recognized that smokescreen and helped blow it away.

So there is no real unhappiness with this legislation.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Please answer one question. Will the gentleman from Massachusetts answer once and for all, are the Members of Congress equal to, under this legislation, members of the executive branch with respect to the power of the independent counsel to investigate wrongdoing? Yes or no.

Mr. FRANK. The answer is that the gentleman is under a misapprehension.

Mr. GEKAS. Will the gentleman answer the question first?

Mr. FRANK. Mr. Speaker, I take back my time. I will instruct the gentleman first in the rules and then answer the question.

The gentleman is under the misapprehension that he is a prosecutor in a courtroom. He is under a lot of misapprehension about the bill. Now he is under a misapprehension about what he is doing. The fact is we are not automatically covered the way members of the executive branch are because we do not believe there is an automatic conflict of interest, because whenever the Attorney General thinks there is a conflict of interest he has the unchallenged right to invoke the procedure.

Apparently the Attorney General, Mr. Meese, does not agree with the gentleman from Pennsylvania [Mr. GEKAS], does not agree with the others because he has never availed himself of his statutory power under the law in 6½ years of Republican administration. In 6½ years of Republican administration, Republican Attorneys General under this law have never availed themselves of their unchallenged right to invoke an independent counsel for Members of Congress, not until they needed a smokescreen to cover their embarrassment in opposing this bill which they all had been for before the indictment of Nofziger and Deaver and the others.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, let me say that I think we are hearing a lot of nonsense here and it is being spouted from the majority side because I bothered to read their report. The report says a couple of interesting things. First of all, it says that this independent counsel does not just cover people in the executive branch. It covers people that are even outside the Government.

For instance, I find a category down here of people including the chairman and treasurer of the principal national campaign committees seeking election or reelection of the President.

Those are people that may have absolutely nothing to do with Government whatsoever.

They are absolutely not people in the executive branch. So therefore we have gone beyond people in the executive branch to whom my colleagues have referred. It is absolutely absurd to suggest that this bill only covers the executive branch. All my colleagues have to do is read their own report.

Then we get down to the requirements of a special prosecutor. The special prosecutor has specific grounds under which he comes into being. What we are suggesting is that those requirements ought to apply to Members of Congress as well. They ought to apply to Members of Congress because there are other conflicts of interest beyond just conflicts of interest that exist within the executive branch of the Government.

For example, an executive officer of Government might well have a fairly cozy relationship with the chairman of the committee that controls his funding on Capitol Hill.

□ 1700

He might find it very difficult to, as Attorney General, ask for the prosecution of someone who he has to come to the next week to get funds from. That could be a very grave potential conflict of interest. Under this bill, that conflict of interest cannot be resolved. If in fact you had a special prosecutor who was triggered by certain requirements, that conflict of interest would be resolved.

It seems to me that is something we ought to be a little bit concerned about when we exempt Members of Congress from coverage.

I would also suggest that we have had some prosecutions of Members of Congress under this administration and under past administrations, and almost invariably when the prosecuting attorney has brought those charges, politics has been charged. Almost immediately someone runs out and says this is a political witch hunt that is taking place, the administration is coming after me because I am a Member of Congress. It is a political thing that is being done, because it appears as though the charges are simply charges that are based upon the administration coming up with them.

If there are requirements to bring them about, the fact is those requirements then govern the process. It seems to me that having those requirements cover Members of Congress is extremely important in the conduct of Government on a basis of integrity.

What we are doing here is once again we are saying that somehow integrity applies to other people, but when it comes to Members of Congress we do not want to be covered, thank you, and I would submit that by so doing that in this bill that we have lost our ability to suggest that we are any kind of model of integrity.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I would ask the gentleman, I assume he has presented this analysis to Attorney General Meese or Attorney General Smith. We have had Republican Attorneys General for the last 6½ years who have the unchallenged power under this bill to invoke the independent counsel procedure when a Member of Congress is under suspicion. They have not only not done it on their own, but when asked to do it they have said no, there is no such conflict of interest and we will not do it. Why have they not done it?

Mr. WALKER. Let me reclaim my time and say to the gentleman I think what I am going to do is put together an encapsulation of all the gentleman's comments in this regard to the Attorney General and send them down there because there are a number of Members of Congress who I think ought to be looked at at the present time, and since the gentleman is very anxious for this Attorney General to begin looking at members of his own party who we think have severe ethical violations, perhaps that is something that should be done.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, the gentleman has misstated my position more egregiously than he usually manages.

Mr. WALKER. I am sorry. I thought what the gentleman was telling me was that he wants the Attorney General, on his own, to begin to look at some of these matters, and I would suggest to the gentleman that his comments in that regard might be very educational to the Attorney General and maybe we ought to have the Attorney General looking into some of these cases.

Mr. FRANK. Will the gentleman yield further?

Mr. WALKER. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. The gentleman is aware that I said nothing remotely of the kind, and he can look at my words tomorrow and see. What I said was if it was so difficult for the Attorney General, on his own, to prosecute, I do not understand why these past two Attorneys General have not availed themselves of the power to appoint independent counsel. In fact, my view is that they have not been retarded in their prosecutorial zeal, that they have gone after Members. But the gentleman's point was that the Attorney General cannot do an adequate job, and the facts are wrong.

Mr. WALKER. Let me say to the gentleman that is exactly the point I was making, that the gentleman seems to be anxious to have this Attorney General take steps to have special prosecutors look at Members of Congress. Obviously the gentleman recognizes that there are some problems in the Congress. I certainly recognize that and I think it might be very instructional for the Attorney General to know that one of the leading Members of Congress handling this bill thinks that he should begin to pursue that particular course of action.

Mr. SHAW. Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, the vote on this bill will come shortly and I am not going to prolong this argument. We have been through this before and everyone has voted on this. But I think just in 1 or 2 minutes I want to make the point that I think has gone over the heads of many of the Members of this body with regard to what this does. The fact is it has been brought up correctly, so that the Attorney General can appoint an independent counsel if he feels that there is a conflict of interest to investigate a Member of Congress. That is absolutely correct.

But what this bill does and where it sets aside Members of Congress as privileged citizens and the executive branch as something else is that this bill requires an investigation to go forward under certain circumstances. There is no requirement that an investigation go forward for Members of Congress because the Members of Congress ought to exclude themselves from inclusion under this bill. That is as simple as I can state it, and that is as correct as it can be. There is no one who can refute that because that is absolutely in the most simplistic form exactly the way the thing is handled.

I would like to also make one closing comment with regard to the fact that the existing law was passed back, I believe, in 1982, as correctly stated by my friend from Massachusetts, and signed into law and voted on for this body and this Member voted in favor of it. The law that is before us is a great expansion of existing law. It is the same framework, it is the same type of law, but it is not the same law. I think that the same law, as a matter of fact, I again proposed existing law as a substitute for this bill and voted in favor of it for a simple extension until such time as the constitutional dust rests on this subject.

I think all of the arguments have been made. I think everybody's mind is made up.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES], who has been a very influential member of the committee.

Mr. HUGHES. Mr. Speaker, I thank the chairman of the subcommittee for yielding me this time and commend him and the members of his subcommittee and the chairman of the full committee, the gentleman from New Jersey, Mr. PETER RODINO, for work on this particular legislation.

Mr. Speaker, I rise in support of the conference report on the Independent Counsel Reauthorization Act.

The independent counsel, originally called a special prosecutor, was originally provided for in a 1978 act, passed by a democratically controlled House and a democratically controlled Senate and signed into law by a Democratic President.

Some fine tuning was done in the law in 1983, which was passed by a House controlled by Democrats and a Republican Senate, and signed by a Republican President.

The legislation is not, as this history indicates, politically motivated or politically partisan legislation. Indeed, it is the opposite. The essence of the legislation is a requirement that anytime credible allegations of criminal wrongdoing are leveled against a person appearing on a list of high-ranking executive branch officials, those allegations must be investigated and evaluated by a person independent of the administration whose official is under scrutiny. Almost all of the enumerated officials covered by the act are political appointees of the President, and thus placing control in an independent counsel is a step which tends to depoliticize the consideration of the charges in question.

In 1983, we made some modest adjustments in the law based on experience as of that date. Today, we are considering a conference report which essentially does the same thing based on subsequent experience.

The resulting bill involves the interaction of all three branches of Government to address difficult situations which test the fairness of our criminal justice processes and the integrity of our political processes.

The law is well balanced from both the point of view of preserving a role for the Department of Justice in evaluating allegations of criminal wrongdoing, and from that of taking ultimate prosecutorial decisions out of the hands of political appointees when other political appointees or political party officials are the subject of the allegations.

At this point, I would like to make a special note about a portion of the conference report which has somewhat been changed from the House-passed version. I sponsored an amendment at the Committee on the Judiciary which was adopted and passed by the House, providing that the Attorney General may not refuse to apply for the appointment of an independent counsel on the grounds that he or she feels that the subject of the allegations did not have the requisite criminal intent. I felt then—and now—that a determination of criminal intent is not an appropriate conclusion to be reached in a preliminary inquiry.

In the Senate version, the Attorney General was prohibited from closing a case, either before or after a preliminary investigation, due to a lack of evidence of the subject's state of mind, unless the Attorney General has "clear and convincing evidence" that the person lacked the state of mind necessary to commit a crime.

The conference agreement combines the House bill and Senate amendment and provides that prior to a preliminary investigation, the Attorney General may not close a case upon his determination of what was the subject's state of mind and after a preliminary investigation, the Attorney General may not close the case based on his determination of the subject's state of mind unless the Attorney General has "clear and convincing evidence" that the necessary criminal state of mind was absent.

The conference report further declares that it will be a very rare case in which even the latter situation would apply. Although I still prefer the House version and rationale, I accept the conference report action as well as the other fine tuning of the report.

Experience has shown that in situations which involve a politically charged atmosphere and substantial interbranch tensions and conflicts, the processes of this statute can bring us through to effective and fair results. This process which insures an objective analysis of abuse of public office by high-ranking officials is essential for all of us and the failure to pass the bill prior to its January expiration date would make us all losers in the public's eye.

I urge Members to support extension of this important legislation.

Mr. Speaker, I do not have to tell my colleagues in this Chamber and listening to this debate that not a day goes by that we do not read about an abuse of one's public office. The fact of the matter is that we have a major revolving door. Even though we have moved in the last few years to try to close that revolving door, we still have major conflicts that exist, and unfortunately they send the wrong signal to the public.

This statute is an effort to take the perception as well as sometimes the reality of conflicts of interest out of the decisionmaking process and put it in the hands of an independent counsel, nothing more, nothing less.

We have heard a lot today about the fact that Members of Congress are not covered. The law was developed because of the inherent conflicts that exist with the members of the executive branch of Government investigating primarily members of the executive branch of the Government. Members of Congress and Members of the Supreme Court are not members of the executive branch of Government.

This is a good bill and I urge my colleagues to support the legislation. It would be an injustice if we did not pass this legislation now.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RAY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 322, nays 90, not voting 21, as follows:

[Roll No. 450]

YEAS—322

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CO)
Bruce
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Daub
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—90

Archer
Armey
Badham
Ballenger
Barton
Bateman
Bliley
Boulter
Broomfield
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coble
Combest
Coughlin
Courter
Craig
Daniel
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Fields
Fish
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gregg
Hall (TX)
Hammerschmidt
Hansen
Hefley
Herger
Holloway
Hopkins
Hunter
Inhofe
Konnyu
Latta
Lewis (CA)
Lott
Lukens, Donald
Lungren
Mack
Marlenee
McCandless
McCollum
McEwen
Michel
Miller (OH)
Moorhead
Murtha
Myers
Nielson
Packard
Petri
Quillen
Regula
Roberts
Rogers
Roth
Schaefer
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Spence
Stump
Sundquist
Sweeney
Swindall
Taylor
Thomas (CA)
Vucanovich
Walker
Whittaker
Young (AK)

NOT VOTING—21

Biaggi
Bosco
Brown (CA)
Bryant
Crane
de la Garza
Dowdy
Edwards (OK)
Gephardt
Hawkins
Kemp
Kolter
Livingston
Lowery (CA)
Montgomery
Pursell
Rangel
Ritter
Roemer
Rose
Wolpe

☐ 1715

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Crane against.

Mr. Wolfe for, with Mr. Lowery of California against.

Mr. HALL of Texas changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1730

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. RAY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

S. 860—TO DESIGNATE "THE STARS AND STRIPES FOREVER" AS THE NATIONAL MARCH OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 5 minutes.

Mr. INHOFE. Mr. Speaker, for years, millions of Americans have been stirred by the rousing beat and uplifting melody of John Philip Sousa's "The Stars and Stripes Forever." Yesterday, in a well-deserved tribute to the special place this composition has in the hearts of all of us, this House approved legislation designating "The Stars and Stripes Forever" as our national march. As a cosponsor and avid supporter of this effort, I applaud this Chamber's action.

I think it is also important to recognize the efforts of private citizens, who have worked long and hard to see this measure approved by Congress. Tulsa, OK is proud to be the home of of the most dedicated and persistent of these private citizens: Mr. Jimmy Saied.

Jimmy Saied has used his uncanny resemblance to John Philip Sousa to promote the kind of music that both Sousa and Saied—and the American people—love. Jimmy's efforts to promote concert bands and the music of John Philip Sousa are legend in our region. He has travelled from State to State for the last 6 years, dressed as John Philip Sousa and leading bands in the rousing music that leaves its audience tapping its toe, humming a tune, and feeling good.

Jimmy's primary goal was to see "The Stars and Stripes Forever"—Sousa's most widely known and loved march—designated as our national march. With House passage of S. 860, that goal has been all but realized, and I would like to express my appreciation for the important contribution Jimmy Saied has made to this effort.

INTRODUCTION OF AN ACROSS-THE-BOARD SPENDING FREEZE FOR 1988 TO BALANCE THE BUDGET

Mr. INHOFE. Mr. Speaker, I would like to take a moment of my time to proceed on an unrelated subject.

Mr. Speaker, I am introducing a resolution today to freeze most Government spending for 1988 at the 1987 levels.

We are in a quandary around here about how to balance the Federal budget. Some of us do not support President Reagan's economic summit plan. Others believe Gramm-Rudman is the wrong approach. So what do we do?

I say we find the nearest exit from this budget mad house and catch our collective breath. We do this by freezing appropriations for 1 year. It appeals to those of us who truly believe that a tax increase is not necessary. It appeals to those who want no Gramm-Rudman cuts.

Defense spending, along with some domestic spending, would be frozen in order to give us time to find the best approach to balancing the budget. Yes, we are going to offend some constituencies. But a 1-year freeze is a modest sacrifice for most Americans. It is a sacrifice that would be shared equally by all Americans. If we dismiss this proposal, or any other, because we fear Americans are not willing to make the sacrifice then we underestimate their patriotism.

My bill would freeze all Federal spending for a period of 1 year. This would be an across-the-board freeze to encompass all appropriations accounts. All Federal retirees and other Federal entitlement beneficiaries would receive a 2 percent cost-of-living adjustment. Supplemental Security Income recipients would receive a full COLA.

This amendment is the same as Senate Resolution 329 which was introduced by Senator NANCY KASSEBAUM in the Senate on November 20th. The bill has strong bipartisan support and according to Senator KASSEBAUM "over 23 Senators have already joined as cosponsors of this comprehensive freeze. The bill would also delay tax reductions that individuals and corporations are scheduled to receive until 1989."

Such a freeze should be considered as the minimum acceptable step toward deficit reduction. The 1-year savings from the freeze would total about $30 billion in fiscal year 1988. It would provide a 3-year total deficit reduction of about $100 billion.

As my colleague Senator ROTH points out, the Congressional Budget Office predicts that revenues will grow an average of $70 billion a year over the next 5 years without—and I emphasize without—legislative tax increases. By 1992, $350 billion will have been added to Federal revenues. If Congress can restrain spending growth, we will be able to achieve our goal of a balanced Federal budget.

Please join me in sponsoring this resolution so that we may be on record as having the integrity to stand up and make the tough choices.

RETIREMENT OF A GREAT PUBLIC SERVANT AND FRIEND—GEORGE THOMAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, although it is with great regret, it is also a privilege for me to be able to report to my colleagues on the retirement of one of California's finest public servants, and a good and long-time friend of mine, George Thomas.

George is retiring as manager of the San Benito County Water Conservation and Flood Control District after 16 years of hard work dedicated to one goal: The improvement of his county's water supply and control, and through it a continuing improvement in the lives and livelihoods of his fellow citizens. He has done his job well, very well, and the residents of San Benito County, particularly those involved in agriculture, as well as those who have had the opportunity to work with him over the years, are going to miss him.

George graduated from Gilroy High School and San Benito Junior College. He attended the University of California at Berkeley until 1940, when he volunteered for the Army. He left the Army as a captain, having served for 5½ years.

George has had a long and successful career, and I would like to mention a number of his accomplishments and activities.

Among the professional activities in which he is still involved are the following:

He is a Farm Bureau Director, and has been for 26 years; he is a member of the Wowona Town Planning Council; he serves on the executive committee of the Central Valley Water Project Association; he is an adviser to the Pajaro Valley Water Management Agency; he serves on a special agency committee of the Association of California Water Agencies; and he serves on the executive committee of the San Luis Delta-Mendota Water Users Association.

George's past professional activities include the following:

He served as an adviser to the San Benito Planning Commission; he served on the California Farm Bureau Water Advisory Committee; he served on the Technical Review Committee for a Bureau of Land Management study of Federal land uses for New Idria and Clear Creek; he testified before a number of congressional and State Assembly and Senate committees on water and agricultural issues; he helped rewrite the San Benito County Water Conservation and Flood Control District Act in 1967; he served on the board of directors of the San Benito County Water Conservation and Flood Control District, including 2 years as president; he served on Senator S.I. Hayakawa's Agriculture Advisory Committee; he served as Farm Bureau president; and he served for 4 years as a director of the San Benito Cattlemen's Association.

In addition to these numerous professional and agriculture-related activities, George has been very active in community life. He served for 16 years on the Gavilan College board, including two terms as board president; he served as president of the Hollister Rotary during its Golden Jubilee Anniversary; he was involved in Little League, including 3 years as president; he coached basketball at his church; he served as leader of 4-H, including 2 years as president of the 4-H Council; and he served on fundraising committees of San Benito High School. George is also a member of the Commonwealth Club and a lifetime member of the University of California Alumni Association.

Mr. Speaker, these activities speak volumes about George Thomas. They show his commitment to improving the lives of his neighbors and community and the integral role he plays in the economic and community life of San Benito County. But I can tell you from my long friendship with George that he is also a dedicated husband, father, grandfather, and friend. His lovely wife, Nevada, is also a dear friend to me and to my own wife, Sylvia. We look forward to many years of continuing friendship with them, and I am sure that San Benito County can look forward to their continuing involvement in community life.

Mr. Speaker, I know my colleagues join me in congratulating George upon his retirement. He can look back on a career of accomplishment at the same time that he looks forward to a fulfilling retirement. We all join together in and wishing him and Nevada the best of luck in the future.

AN ALASKAN SALUTE TO H. NOBLE DICK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska [Mr. YOUNG] is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, recently, a very distinguished Alaskan, Mr. H. Noble Dick, passed away. Noble was a long-time Alaskan, having grown up in Fairbanks and having lived in the State most of his life. He was very active in Alaska Native issues and was serving as the president of the Bristol Bay Native Corp. at the time of his death.

Establishing the for-profit corporation as the prime structure to implement a settlement of aboriginal claims was a new and untried national experiment in 1971. Alaska Natives saw great opportunity, but faced uncertainty and risk when this bold corporate concept became the foundation of the Alaska Native Claims Settlement Act. Noble played a key role in giving the Settlement Act one of its truly great success stories.

Noble was well known throughout Alaska for his honesty and integrity. He was also known as the man who helped turn the Bristol Bay Native Corp. around and ensure its success and financial solvency for the future. Noble worked at the Bristol Bay Native Corp. for many years, first as a controller and then as president.

When he took over the reins of the Bristol Bay Native Corp., the corporation was in some financial difficulty. He presided over a restructuring of the corporation and its business practices. He helped the corporation, many of whose shareholders are commercial fishermen, make the difficult decision to remove itself from the commercial fishing business and expand into other business enterprises.

That decision, for which Noble is best remembered by his shareholders, has been the key to success for the corporation. I am pleased to say that the corporation is now on a sound financial footing and is one of the most successful of the Alaska Native corporations.

Noble, however, was not only known for his business. He was also a kind and gentle individual who was particularly active in his church. A long-time activist in the Lutheran Church, Noble was well known as an individual who worked hard for worthy causes. He will be missed by all who knew him.

A VISIT TO AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I just want to address my colleagues a little further on the subject that I mentioned this morning before we began official business. I refer to this journey that seven of my colleagues and I took to the Afghanistan border to assess the struggle of the Mujahedin freedom fighters in that far-off corner of the world.

I had thought, from previous visits to Pakistan and a previous trip to Kabul in Afghanistan in 1972, that I had a pretty good feel for the freedom fight in that area. But it gives proof always to the fact that an onsite inspection, with a little "I was there" feeling on the scene, is worth any type of reading that you can possibly do.

□ 1740

To visit with the wounded, to visit with one man who had received a serious wound in the back of his head, had been sent to the United States through the generosity of American doctors and hospitals, had survived and been treated to the tune of $400,000 and was then sent home to Afghanistan to die, this is one of the commanders, to see him slightly recovering, doing well, and not sorry at all that he had received this terrible wound to the back of his head that will not heal, in the fight for freedom for his country, it was a remarkable thing to talk to this man through a translator right there on the border.

The children that we saw, the fighters that gathered into a large group at one of the refugee camps, over 600 people, to listen to the remarks of one of our senior colleagues on the majority side of the aisle, Representative CHARLES WILSON of Texas, to see the children being trained in a school, these are Afghan children being trained at the expense of Pakistan at one of the refugee camps, to meet with their fighters, to go up to the Khyber Pass and have a Thanksgiving dinner with the Khyber Rifles, to visit with the military people of Afghanistan, to look at all sorts of parts of a program that is top secret, that cannot be discussed on this House floor, thoughts that we cannot share with the great free American, European, and Japanese press, to see the success of an operation for freedom there and then to think about the pathetic shoestring that the young men and women who are fighting for freedom right here on the continent of North America must get by on, the limited supplies, how they would dearly love to have Stinger missiles, the Contra freedom fighters, when they see one of the Soviet-made Cuban-flown HIND helicopters boring in on them in Central America, I for the life of me, with all the liberal disassembling and descriptions of why it is different in Afghanistan, different from Angola, different from Central America, let me try in a brief minute here to run a comparison.

The bordering country that helps the freedom fighters in Central America is Honduras. It has a duly elected President, Jose Azcona. The government that helps the freedom fighters in Afghanistan on the border, Pakistan has a military government.

The freedom fighters in Central America have no military tradition. They are not described as fierce, Bataan fighters, who rise to fight fiercely for their independence and freedom. You know the old cliche, "Latins are lovers, not fighters," but the young boys and girls who die in the jungles of Nicaragua, Nicaraguan young men and women on Nicaraguan soil, fighting against a Communist government aligned with the Soviet Union, they do not have this tradition of fighting, so they learn as they go, but they fight with the same stout heart as the Mujahedin.

Here is a country, Nicaragua, closer to my district in California than this far-off trip that it took up to reach the border of Pakistan and Afghanistan. These people are fellow Americanos, fellow North Americans, and yet we will not give them the Stinger. We give them older type missiles so that when the HIND helicopter is coming at them, they cannot fight. They have to hope that they are not murdered, they are not killed. Then they get a shot at the heat exhaust of the departing HIND helicopter; but in Afghanistan, we have given them the state of the art so they can stand up face to face and fight the killing helicopters and Mig's as they are coming at them. Over a period of this summer, they were shooting down an average of one per day, one per day. They have shot down over 670 aircraft, helicopters and bombers, that have been ripping up the countryside in Afghanistan.

We have given Stingers to Angola. It is no longer classified. It is in Time magazine, Newsweek, and U.S. News & World Report, but there they call Jonas Savimbi a Marxist. We rip him up. We have debates on this House floor to support the Communist government in Rwanda, and yet who is Jonas Savimbi and his UNITA forces up against? Soviet commanders at the brigade regiment, and in some cases the battalion level, fighting the same tanks, the same aircraft, the same armored personnel carriers that the Mujahedin are fighting in Afghanistan.

My heart goes out to the Mujahedin, but I say to them, how lucky you are that you are far away, that you have this fierce, fierce gun running tradition, fierce fighting tradition, and that it is the Soviet troops that are directly involved with killing you, because if you were in Africa, or worse yet, if you were closer to my district than where I stand in Washington, DC, if you were a fellow North American young man or woman, you do not get the help. You have to be in the foothills of the Himalayas. It does not make sense to this Member, not at all.

HUMAN RIGHTS IN RUSSIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MRAZEK] is recognized for 60 minutes.

GENERAL LEAVE

Mr. MRAZEK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MRAZEK. Mr. Speaker, today on the east steps of the U.S. Capitol, steps that through the last century and more the words of freedom have rung out through the voices of great American leaders like Abraham Lincoln in two inaugural addresses, many other Presidents and many other extraordinary men and women who have spoken of freedom and what it means to them as citizens of the United States of America.

Well, today it was our sad duty as Members of Congress to join together in a prayer vigil in support of millions of people in the Soviet Union who are chained to a nation that they have no freedom to leave.

One of the basic and most fundamental human rights that we enjoy is the opportunity to live wherever we wish. That is not true for so many hundreds of thousands of families who have asked to leave the Soviet Union and who are separated by political barriers and intolerance from their families and their loved ones.

I think it is fair to say that one of the most simple and exquisite pleasures that all of us maybe too often take for granted as parents is the opportunity to watch our children grow up. I have an 8-year-old daughter and a 6-year-old son and the most exquisite joy I know is bathing in the reflection of their love, and I guess it is for that reason so many of us in America who enjoy that wonderful freedom can appreciate and understand the agony of so many tens of thousands of families who have not seen one another in many cases for decades, simply because they are not allowed to leave the Soviet Union.

We have seen certain progress made in the relationship between the United States and the Soviet Union and it is fair to say that the State Department in our relationship with the Soviet Union is practicing what some have called quiet diplomacy when it comes to questions like human rights. I think it is important to continue quiet diplomacy if in fact that was responsible for the release of great heroes like Anatoly Shcharansky and great heroines in the world of the free stage like Ida Nudel.

By the same token, I think it is critically important that we send a continuing message to Mr. Gorbachev, General Secretary Gorbachev, as well as to all those families behind the Iron Curtain that they are not forgotten, that we will continue to speak out, that we will continue to pray for their release from the endless night of oppression that they face in the Soviet Union.

At this point, Mr. Speaker, I would like to call on my colleague from New York. No one has a greater or more positive record in the field of human rights across this globe than my distinguished colleague from New York.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and I thank the gentleman for his kind words.

Mr. Speaker, I am pleased to join with our colleague from New York [Mr. MRAZEK] and thank him for sponsoring this opportunity to bring our colleagues up to date on this vital issue of human rights in the Soviet Union.

This is certainly appropriate to do so. On Monday, December 7, the President will be meeting with Premier Gorbachev at the summit. Despite the blandishments of the White House not to become too overly optimistic, the western world is looking forward to significant breakthroughs on the path to international peace and stability.

Accordingly, this is a most appropriate time to remind the American people that a true, lasting peace is not possible without justice. As the late Dr. Martin Luther King, Jr., so eloquently stated: "Injustice anywhere is a threat to justice everywhere."

The continued pleas of Soviet Jews and other religious minorities to be allowed to emigrate out of the Soviet Union, to reunite with family and loved ones, and to live in a nonoppressive society allowing them to worship and pray as they choose is today one of the great injustices on the face of the Earth.

This is why so many of us committed ourselves to the cause of Soviet Jewry on the steps of the Capitol earlier today, along with the gentleman from New York [Mr. MRAZEK], and this is why thousands upon thousands of interested Americans are traveling to Washington this weekend; to demonstrate outside of the White House and let Mr. Gorbachev know that we have not forgotten.

Under the new wave of "glasnost," much publicity has been given to the new "openness" of the Kremlin regime. It is true that emigration figures for Soviet Jewry in 1987 has surpassed that for 1986. It is also true that most of the famous prisoners of conscience have been freed.

But how much of glasnost is genuine openness, and how much is mere window dressing? The facts speak for themselves:

Although we are grateful that Iosef Begun and Iosef Berenshtein and Ida Nudel and many of the other prisoners of conscience have been released and allowed to emigrate, what of the hundreds of thousands of others that we know have begun the process to apply for exit visas?

Why have so many courageous men and women been arrested and tried on unfounded charges in the first place? Although we are grateful for their eventual release, why did the Soviets violate and continue to violate the Helsinki accords originally?

Why does the interruption of international mail addressed to minorities and dissidents inside the Soviet Union continue? Why have the Soviets decreed that, as of this year, parcels sent into the U.S.S.R. must be required to have a customs declaration only in Russian or French language, despite the fact that English previously had been acceptable?

Why did the Soviet Union recently implement new emigration restrictions, allowing only a first-degree relative permission to emigrate? In the past, a cousin or a grandparent was sufficient.

Mr. Speaker, I submit that glasnost will continue to have only a hollow ring in the ears of all American unless and until all the Soviet Jews who wish to emigrate are allowed to do so. Until that day arrives, Secretary Gorbachev's cry for openness will remain hollow.

So far this year, 7,250 Soviet Jews were allowed to emigrate. We all agree that this is certainly an improvement over the 1986 total of 914. But it does not compare with the 51,320 who emigrated in the peak year of 1979. Nor does it compare with the hundreds of thousands who are still awaiting word on their visa applications.

Mr. Speaker, I hope the American people will rise with one voice in reminding Mikhail Gorbachev: "If you are sincere, then let those who wish to emigrate, to go 'freely'—to the lands of their choice."

Mr. MRAZEK. Mr. Speaker, I want to thank my colleague, the gentleman from New York [Mr. GILMAN] for an eloquent statement.

Mr. Speaker, today I was joined, as I have been for the last 4 years, with the very strong support of my colleague, the gentleman from Illinois, Mr. EDWARD PORTER, who is the cochairman of the Human Rights Caucus and an ardent and committed advocate for human rights all around the world.

□ 1755

The gentleman from Illinois [Mr. PORTER] could not be here this evening to participate in this special order, but will submit for the RECORD a statement that supports our efforts to continue the struggle to make sure that all of those families that wish to leave the Soviet Union will someday be allowed to do that.

Mr. Speaker, I want to call on someone who joined Congressman PORTER and I as principal sponsors this year of the fifth annual vigil, and although a freshman Member of Congress, someone who already has developed an outstanding record when it comes to human rights questions. I want to commend my colleague, the gentlewoman from Maryland [Mrs. MORELLA], and call on her now to make a statement.

Mrs. MORELLA. Mr. Speaker, I certainly want to thank the gentleman from New York [Mr. MRAZEK] for the fifth consecutive year of having this special vigil and special order. I want to commend also his colleague, the gentleman from Illinois [Mr. PORTER], who was also involved with this and to tell them that I am very happy to take a small part in this special order.

Mr. Speaker, in just a few days Mikhail Gorbachev will arrive in this city, the first Soviet Head of State to do so since Leonid Brezhnev 14 years ago.

A coalition of American Jewish groups will hold a big rally, which I will be attending, on the Ellipse this Sunday. President Reagan will give human rights an important place on the agenda of his meetings with Secretary Gorbachev. This special order, and the prayer vigil held earlier today, are important opportunities for Congress to communicate its concern for Soviet abuses of human rights. I would like to commend Congressman PORTER and Congressman MRAZEK for their fine work in organizing the prayer vigil which is now in its fifth year, and for organizing with me this special order.

I am pleased to be here, but also disappointed to be here. I am pleased to be here because we may never have a better opportunity to demonstrate to the Soviets our commitment to human rights and to free emigration. I am disappointed because, despite the encouraging words of glasnost, there is still a very pressing need to be here.

Make no mistake—things are better this year than they were last year; 910 refuseniks were allowed out last month alone, only 4 less than were allowed out during all of 1986.

But 910 is still only one-fourth of the number of refuseniks allowed out every month during 1979. At the height of détente in 1979, some 51,000 Soviet Jews were granted exit visas. I call on Secretary Gorbachev to show that he is serious about glasnost by matching that figure. But even that, four times the present rate, is still a far, far cry from what the Soviets are bound to by the U.N.'s Universal Declaration of Human Rights. The declaration states that, "Everyone has the right to leave any country, including their own." That means free emigration, free, and we will not rest until the Soviets allow that for:

Every 1 of the 380,000 Soviet Jews who have indicated a desire to leave.

For Lev and Marina Furman, whose daughter's name, Aliyah, means "the ascent to Israel."

For Leonid and Judit Ratner-Bialy, denied visas on the basis of "secrecy" though Leonid hasn't had access to secrets since 1972.

For Vladimir Tufeld and his wife Isolde, who suffers from a brain tumor that can be treated properly only in the West.

For Isaac Tsitverblit, a refusenik for 14 years who recently had to divorce his wife so that she and their son could leave for the West.

For Valery Aronov, who has suffered for 8 years because he desires to exercise his basic human right to live in freedom.

If glasnost means openness, then why are the gates of the Soviet Union still closed to these people? And why are the gates to Soviet prisons still closed to so many Ukrainian, Estonian, Lithuanian, Latvian, and other prisoners of conscience?

Fifty-five-year-old Yuriy Shukhevych is spending the 36th out of his last 40 years in prison because he refuses to denounce his father, a prominent Ukrainian nationalist.

Estonian Mart Niklus has been imprisoned since 1981 because of his peaceful opposition to the Soviet occupation of the Baltic.

Vladimir Slepak, a refusenik for 17 years, has said to us, his friends in America, "If you turn your eyes, even for a moment, we will cease to exist." Mr. Slepak was recently allowed to leave the Soviet Union, but we must continue to focus on those who remain.

I know that my colleagues share my determination to press on with the fight for justice. I yield the floor to them now so that they may join me in making heard the voice of freedom.

Mr. MRAZEK. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. Morella] for her superb statement.

I, too, met with Vladimir Slepak and his wife in Moscow several years ago and found them to be most remarkable human beings, with indomitable courage and optimism, and that after 18 years of waiting for the chance to leave the Soviet Union and being denied, but they were still convinced and committed that someday they would leave the Soviet Union and live again with his children and his family in Philadelphia.

Now he has that opportunity and, I suppose, to a certain extent, all of those who continue to speak out on behalf of human rights around this globe can take a certain amount of credit for the fact that the Soviets do listen and eventually do make changes in their policy.

Mr. Speaker, I now call on my distinguished colleague, the gentleman from California [Mr. Dymally], who is also a committed advocate for human rights.

Mr. DYMALLY. Mr. Speaker, I appreciate very much this opportunity and I thank the gentleman from New York [Mr. Mrazek] very much for yielding me this time.

Mr. Speaker, some 3 years ago, approximately 3 years ago, I visited Moscow with my wife and had the very unique experience of visiting with the refuseniks. It was a most moving experience to meet with these people who are denied the right to earn a decent living, not to mention denied the right to leave the Soviet Union to visit with or to join their families in Israel or in the United States or any other part of the world. What I found very disturbing was that immediately upon application for an exit visa, these good people would lose their jobs, they lose their status, and some of them are relegated to doing very menial tasks, their children are denied opportunities in school, and it is really a life of misery.

In one instance, one of the refuseniks had in his possession a United States passport and I said to him, "If you have a United States passport, why do you not leave?"

He said, "I have left, but I had to come back because they would not permit my family to leave."

So here we had an American citizen in Russia unable to leave to come to the United States because his family was not given permission to join him. They certainly had no state secrets, which is the favorite excuse that the Soviets use for not granting a visa. But I lived to see this gentleman and his family subsequently migrate to the United States, but he was just one of several cases who have been denied permission to visit Israel or the United States or any other country.

So I am very pleased that the gentleman from New York [Mr. Mrazek] has seen fit to bring attention to this very critical issue, and I will join my friends on Sunday in showing a sense of solidarity between Americans and Soviet Jewry for those who wish to migrate to any part of the world.

Mr. MRAZEK. Mr. Speaker, it is my privilege to call on my extraordinary colleague, the gentleman from Maryland [Mr. Hoyer], the chairman of the Helsinki Commission, which has the very important responsibility of monitoring human rights violations and who has traveled to some of the most uninviting places in the world to fulfill his commitment on behalf of those who enjoy no freedom today.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding. I would like to take this opportunity to once again thank the gentleman from new York and the gentleman from Illinois [Mr. Porter], cochairs of the Congressional Human Rights Caucus. Both the gentleman from New York [Mr. Mrazek] and the gentleman from Illinois [Mr. Porter] have worked unstintingly to make sure that we do not forget that all of the peoples of the world do not enjoy the rights that we are so privileged to enjoy under the Constitution, whose birthday we celebrate this year.

I also thank and congratulate the gentlewoman from Maryland [Mrs. Morella], for cosponsoring today's congressional prayer and fast vigil.

In less than 1 week the leaders of the United States and the Soviet Union will begin their summit meeting and finalize, it appears almost certain, an INF treaty.

It is a time of hope, of expectation, and accomplishment.

Mr. Speaker, we must measure that hope not only by the number of the accords that we sign but how those accords are subsequently observed. As chairman of the Helsinki Commission, I know firsthand the hopes and expectations that have been shattered by the Soviet Government's nonobservance of international documents that they have signed, most specifically the Helsinki Final Act and by reference of that act, the Universal Declaration on Human Rights of the United Nations.

Mr. Speaker, the signing of the Helsinki accords in 1975 raised the expectation of many Soviet citizens who desired the right to leave and indeed the right to return to their country. The Helsinki accords also gave hope to those citizens who wanted to freely practice the religion and culture of their choice. For some, Mr. Speaker, these dreams have never been realized.

Vladimir and Maria Slepak, Lev and Inna Elbert, Ida Nudel, and Yuli Edelshtein, all at long last and after long struggles have realized the dream of living in an open and free country.

Yet, Mr. Speaker, the dreams, hope, and expectations remain for countless others:

Ira Dashevsky pleads with Members of Congress and Soviet authorities to grant her ill and aging father permission to emigrate, to come to be with his daughter in the United States.

Judith Ratner Bialy and her husband, Leonid, need medical attention yet their pleas go unheard in seeking that attention.

Mark Terlitsky is denied permission to emigrate and not even told when to reapply.

Ira and Lev Furman, with their young child, are unable to emigrate to Israel for alleged knowledge of state secrets. Ira and Lev have been waiting for more than 16 years, longer, indeed, than the existence of the Helsinki accords.

Benjamin Charny—of whom we hear almost every time we rise to speak—Benjamin Charny is suffering from cancer. Benjamin Charny, desiring to come to this country to seek medical, perhaps life-saving, care. Benjamin Charny, who desires to come and visit his brother Leon and to be with his daughter Anna. His only dream shattered by the Soviets' refusal to let Benjamin Charny go.

Mr. Speaker, on the eve of this historic summit, the U.S. Congress in one united voice urges the General Secretary to give substance to the hopes, dreams, and expectations of his own citizens.

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Those hopes, those dreams, those expectations are mirrored in the Helsinki Final Act.

Again I thank the gentleman from New York, BOB MRAZEK, and the gentleman from Illinois, JOHN PORTER, and all of the others in this body who stand on a daily basis to make sure that we do not forget. As privileged as we are in this country, there are thousands, yea millions who do not enjoy the promises made to them in international documents, a moral undertaking of 35 nations that said we believe that there is an absolute minimum standard that we ought to accord to human beings. Those minimum standards are not being observed in some of those nations, and most specifically the Soviet Union.

All of us join the gentleman from New York, BOB MRAZEK, and the gentleman from Illinois, JOHN PORTER, in hoping that this next week we will see a dramatic change and acceptance of human rights obligations.

Again I congratulate my colleague for his leadership and commitment.

I would again like to take this opportunity to thank Congressman BOB MRAZEK, Congressman JOHN PORTER, the co-chair of the Congressional Human Rights Caucus, and my colleague from Maryland, CONNIE MORELLA, for sponsoring today's prayer and fast vigil for Soviet Jews and this special order.

In less than 1 week the leaders of the United States and the Soviet Union will begin their summit meeting and finalize an INE treaty. It is a time of hope, expectation, and accomplishment. But, Mr. Speaker, we must measure that hope not only by the number of accords we sign, but by how those accords are observed.

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To some, Mr. Speaker, these dreams have been realized. Vladimir and Maria Slepak, Lev and Inna Elbert, Ida Nudel, and Yuli Edelshtein, all at long last and after long struggles have realized the dream of living in an open and free country.

Yet, Mr. Speaker, the dreams, hopes and expectations remain for countless others:

Ira Dashevsky pleads with members of Congress and Soviet authorities to grant her ill and aging father permission to emigrate.

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Ira and Lev Furman, with their young child, are unable to emigrate to Israel for alleged knowledge of state secrets. Ira and Lev have been waiting for more than 16 years, longer than the existence of the Helsinki accords.

And Benjamin Charny is dying from cancer. His only dream is to be with his family members in his final days. Shattered hopes and shattered dreams, Mr. Speaker.

Mr. Speaker, on the eve of this historic summit, the U.S. Congress in one united voice urges General Secretary Gorbachev to give substance to the hopes, dreams, and expectations of his own citizens. Those hopes, dreams, and expectations are mirrored in the Helsinki Final Act.

I again thank my colleagues for the opportunity to participate in this special order.

Mr. MRAZEK. Mr. Speaker, I thank the gentleman for those sensitive and caring words about people who again are treated with humiliation and ostracism simply for requesting the opportunity to leave the nation where they are forced to live.

I find it remarkable that General Secretary Gorbachev, who had an opportunity to deliver a very candid presentation on national television within recent days, when asked about the question of human rights and people who want to leave suggested that there are so very few who in fact really want to leave, and that those others who cannot leave represent state security risks.

He also talked about a brain drain from the Soviet Union. It is remarkable because the people we are talking about, although once they may have been lawyers or doctors or teachers, are people who when they indicate an interest in leaving the Soviet Union find that they immediately lose their occupation, they find themselves unemployed or sweeping floors or cleaning public toilets. We are talking about people who remake the word bravery and courage every day when in fact they recognize exactly what is going to happen to them when they ask for the simple right to leave the Soviet Union.

It is not a brain drain that General Secretary Gorbachev is talking about, and he well recognizes that. It is simply the fact that in their society there are all too many people who would like to leave, and if they opened up the doors of the Soviet Union millions of people would come flooding out.

It is hard when one claims, of course, that they are living in God's paradise on Earth, even though they do not accept the reality of a God in heaven, nevetheless fully appreciate what would happen if those doors would open.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN] for a brief statement.

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me this time and would first like to commend him and his colleague, the gentleman from Illinois, JOHN PORTER, for once again taking their valuable time and adding their important voices to the cause of Soviet Jewry and of others who are denied human rights and the freedom to emigrate in the Soviet Union, and to add my voice to this special order on Soviet Jewry.

Mr. Speaker, I rise today to welcome General Secretary Gorbachev to Washington and to add my voice to this special order on Soviet Jewry. This summit is a momentous occasion for both the United States and the Soviet Union. The leaders of the world's two most powerful nations will convene to sign an agreement on nuclear weapons reduction that will benefit all the Earth's inhabitants.

I am, however, concerned that the positive nature of this important accomplishment might be allowed to overshadow the great difficulties still to be resolved between our countries. I am referring to the issues of human rights in, and emigration from, the Soviet Union.

Congress and the American people have been closely monitoring the progress of reforms in the Soviet Union under General Secretary Gorbachev's policy of glasnost. While we are encouraged by much of what we have seen, there are still many contradictions and unfulfilled promises.

Glasnost has sent conflicting and ambiguous signals to both Soviet Jews and the West. While the increase in numbers of Soviet Jews granted permission to emigrate comes as a welcome sign, we are distressed by increasing denials for reasons of secrecy even though many of those persons have not been privy to secret information for 10 years or more. Equally distressing was the January 1, 1987, OVIR declaration limiting emigration to only those with first degree relatives outside of the Soviet Union.

We are hopeful that the number of Soviet Jews and others who are granted permission to leave continues to rise. The new Soviet willingness to discuss and recognize the validity of Western concerns is encouraging. Yet promises and numbers well below those of 1979 are not enough. The ultimate test of General Secretary Gorbachev's intentions and resolve lies in the successful enactment of a regularized application procedure which leads to substantial and sustained emigration. Without a standardized emigration procedure their lives, tragically, will continue to be manipulated by the political vagaries of the Soviet Government.

The time has come for the Soviet Union to stop treating Jews and others who wish to emigrate as so much foreign policy currency. These refuseniks should be allowed to leave because it is immoral to keep them there against their will, not because it gains the U.S.S.R. trading preferences. That is the problem with people speaking prematurely about new economic arrangements with the Soviet Union. Let the Soviet Union first present its credentials as a nation worthy of equal treatment.

This much said, I believe a note of caution is due here to those of us who feel strongly on these issues. There are those who believe that the ratification of an arms control agreement with the Soviet Union should be tied to an improvement in the human rights policy of the Soviet Union. I disagree. Issues of our very survival must not be superseded by other—even the most morally compelling—issues. Survival must take precedence, if only to leave us in a position from which to improve the quality of life.

Our survival does not, however, depend on the continuance or improvement of commerce with the Soviet Union. I anticipate, Mr. Speaker, the President Reagan and General Secretary Gorbachev will use the summit to discuss the issue of human rights violations at length. While we must not give up on the possibilities of large scale verifiable reductions of offensive nuclear weapons for any reason, there is no reason why we should not fully exploit our economic hand.

Trade remains a carrot the Soviets openly and earnestly desire. It is not unreasonable then, for the United States to withhold the benefits of commerce—membership in the IMF, participation in the GATT, the provision of commercial credit, and freedom from the restrictions of the Jackson-Vanik amendments—in response to the immorality of the Soviet Union's domestic policies.

Glasnost presents a bold challenge for the President, Congress and the American people. We must successfully interpret the pressing needs of Soviet Jewry amidst the profound changes that are presently occurring in the Soviet Union. While our anxiousness to improve superpower ties is understandable, we must not let it interfere with the pursuit of a political strategy which gives the Kremlin a genuine stake in improving its record on Soviet Jewry.

Mr. MRAZEK. Mr. Speaker, I thank the gentleman from California for those remarks.

Mr. Speaker, it is now my privilege to yield to my distinguished colleague, the gentleman from New York, Mr. TED WEISS, who has spoken out on so many human rights questions, not only in the Soviet Union but in our hemisphere, and in some cases right here at home in the United States when that was called for.

Mr. WEISS. Mr. Speaker, I thank the gentleman very much for yielding this time to me and want to compliment him and commend the gentleman for not only this special order but for the special prayer and fast vigil for Soviet Jewry.

Mr. Speaker, I am honored to participate in this special order today, in the fifth annual fast and prayer vigil for Soviet Jewry. I want to thank my distinguished colleague from New York for sponsoring this special order.

Secretary Gorbachev's visit to Washington next week presents us with an historic opportunity to achieve substantial progress on the issue of Soviet Jewry. Beyond the important step of signing of a treaty to eliminate an entire class of nuclear weapons, the summit will present a chance for progress on other issues, including the right of all Jews in the Soviet Union to practice their religion freely, and to emigrate if they wish.

The introduction of the glasnost policy by General Secretary Gorbachev has resulted in heartening changes within the Soviet Union. Issues previously considered off-limits are now openly being debated. Countless prisoners of conscience have been released, and a number of prominent refuseniks have received permission to emigrate.

While these steps taken by the Soviet Government are indeed encouraging, they are not enough. The Soviet Government has yet to fulfill its obligations to preserve the basic human rights of its citizens—obligations which it voluntarily accepted when it signed the 1948 Universal Declaration of Human Rights and the 1975 Helsinki Final Act. The Soviet Government continues to unjustly detain too many of its citizens. Soviet Jews are still subject to religious discrimination. Although the rate of emigration has increased in comparison to the last 2 years, it is not nearly what it should be.

At the current rate, a total of 10,000 Jews will be given permission to leave the Soviet Union in 1987. But there are almost 400,000 Jews in the Soviet Union who have indicated that they want to emigrate. In 1979, approximately 51,000 Jews were allowed to leave. A return to such levels would be a significant sign that the Soviet Government is committed to improving its treatment of Soviet Jews.

After much fanfare about a new, supposedly more liberal policy of emigration, the Soviet Union enacted a new highly restrictive emigration decree, in effect since January 1, 1987. The decree limits letters of invitation to emigrate to individuals who have close relatives in other nations. It thus effectively excludes thousands of Jews wanting to leave the Soviet Union.

One of those individuals who have been denied the right to emigrate is Sergei Fishel, the son of one of my constituents. Like so many others, Sergei's family was displaced and divided by the effects of World War II. A native of Poland, his mother had fled East when the Nazis invaded her country. Soon after Sergei's birth in 1943, his father was killed at the front. Although they were eligible for repatriation to Poland after the war, bureaucratic rigidity and delay prevented their return to Mrs. Fishel's native land.

In 1977, Sergei's mother emigrated to the United States. In 1979, after the obligatory 5-year wait that followed his military service. Sergei and his family requested permission to emigrate and were denied. Their application has since been denied three times, without explanation. Because of his attempts to emigrate, both he and his wife were unable to find employment. He is currently serving a 9-year sentence in a Soviet labor camp.

This summer, I wrote to Secretary Gorbachev, along with 115 of my colleagues, urging him to grant clemency to Sergei Fishel, and allow him and his family to emigrate. Today, I repeat that request. In the spirit of cooperation between our two countries, let this family be reunited.

Mr. Speaker, on December 6, the eve of Secretary Gorbachev's summit with President Reagan, tens of thousands of people will march and rally in the largest show of support for Soviet Jewry ever in Washington, DC. I urge my colleagues to join us in marching on Sunday to show Secretary Gorbachev that we will not cease in our demands that the Soviet Government take further steps toward the fulfillment of its obligations to protect human rights. We must make Secretary Gorbachev realize that further improvements in United States-Soviet relations—improvements which are desired by the peoples of both our countries—cannot be divorced from a fundamental commitment to human rights.

As Anatoly Shcharansky recently said: "Our fight must go on * * * every Jew in the Soviet Union who wishes to leave must be given that right." Let us declare strongly our belief that human beings have a right to think and speak freely, to live with dignity and to observe their religious beliefs without interference by the state.

Mr. MRAZEK. Mr. Speaker, I thank the gentleman from New York for his remarks.

Mr. Speaker, it is now my pleasure to yield to my colleague, the gentleman from Houston, TX, Mr. TOM DELAY.

Mr. DELAY. Mr. Speaker, I thank the gentleman from New York for yielding and also add my congratulations for taking this special order.

Before I start my remarks I want to associate myself with the remarks of the other gentleman from New York [Mr. WEISS], but also point out that not only are there thousands of Jews who want to leave the Soviet Union, there are thousands of Christians who also are trying to leave the Soviet Union.

But, Mr. Speaker, I must say I was outraged by Secretary Gorbachev's dishonest and manipulative performance on American TV the other night. Specifically, I take exception to Mr. Gorbachev's statement that the most important problem facing our two nations is the issue of arms control. The fundamental difference between our two countries is the Soviet Government's systematic denial of its citizens' innate human rights. The upcoming summit will be successful only if Mr. Gorbachev leaves Washington with a better understanding of basic human rights. Certain liberties are inherent aspects of human life. As every human being can speak, think, and move; freedom of speech, expression, and movement are innate, inalienable, human rights. Governments do not grant these rights; good governments protect them, abhorrent governments try to repress them.

In the absence of a representative government, a human being can move freely and choose the country in which he wants to live. But, Mr. Gorbachev has no qualms about indicating that his paranoia of a brain drain on the Soviet Union is sufficient cause to forcibly imprison people within his borders. He conveniently neglects the fact that his government has signed the universal declaration of human rights and the Helsinki accords, both of which affirm the basic human rights to free emigration.

Just what is a Soviet signature worth anyway?

Mr. PORTER. Mr. Speaker, I rise to commend my colleague BOB MRAZEK for his tireless efforts on behalf of Soviet Jews. For 5 years, BOB has taken the lead in organizing the congressional fast and prayer vigil. The outpouring of support for this event—today we had 50 Representatives and Senators join us on the steps of the Capitol—is testimony to Congress' continuing concern for the plight of Soviet Jews.

The past year has seen some gratifying developments in the Soviet Union: The release of many high-profile refuseniks, emigration levels above the previous year, and hints of possible liberalization of the treatment of Jews by the Soviet Government. However, we must not forget the hundreds of thousands of Soviet Jews still suffering solely for their desire to emigrate.

The Soviet Government continues to suppress all emigration and maintains the fiction that Jews are only kept in the Soviet Union for reasons of state security.

In today's world, secrecy is an unfortunate reality. All nations must guard from potentially corrosive information leaks. But, how can the Soviets justify the number of secrets they claim to possess? How do they expect us to believe that Benjamin Charney's 16-year-old scientific findings are still national security secrets?

Today, 5 days before the superpower summit during which we will sign the INF agreement, a question posed by my colleague STENY HOYER at the last "Capitol to Capitol" broadcast is very timely. Representative HOYER asked the Soviet panelist how we could expect them to carry out the terms of an INF agreement, when the U.S.S.R. does not honor their commitments under the Helsinki Final Act and other international documents.

Although we cannot ignore the progress made this year, we know of 11,000 refuseniks still being denied exist visas, and as many as 400,000 Soviet Jews who have begun the emigration process. In this context, the current emigration levels are merely a drop in the bucket. Ironically, a recent poll conducted jointly by Soviet and French sociological institutions shows a substantial majority of Soviet citizens believe individuals desiring to emigrate should be allowed to do so.

Little is known about the faceless thousands—the hundreds of thousands of Soviet Jews who do not speak English, live in remote regions, or do not have close relatives abroad. It is very difficult for these people to draw attention to their plight or for us to offer them sufficient support. Nonetheless, we must not forget them. We must continue to remind the Soviets that, in addition to Benjamin Charney, Alexander Yampolsky, Roald Zelichonok, Abe Stolar, Judith Ratner-Bialy and family, Alexander Zonis, Vladimir Dashevsky, and Evgeny Lein, there are hundreds of thousands of Soviet Jews also waiting.

I challenge Secretary Gorbachev to let these individuals emigrate before the end of 1987, and to develop a systematic and fair emigration process. Mr. Gorbachev claimed during his recent NBC interview that they consider all specific, individual emigration cases in a very attentive and thorough manner according to Soviet laws.

If that is true, then maybe the Soviets need to reevaluate their laws. Maybe they need to reread Basket Three of the Helsinki Final Act of the Commission on Security and Cooperation in Europe, which their country has signed.

The importance of time in the consideration of Soviet emigration and human rights policies cannot be overstated. When we speak of refuseniks, religious prisoners of conscience, and the use of punitive psychiatry for political purposes, we are speaking of individuals who cannot wait forever.

I look forward to the day, Mr. Speaker, when glasnost means real freedom.

Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues today in commemorating the fifth annual congressional fast and prayer vigil for Soviet Jewry which took place earlier today. I commend the sponsors of this event, our distinguished colleagues, Representatives MRAZEK and PORTER, for their leadership on this vitally important issue.

It is quite appropriate that we draw attention to the plight of Soviet Jews just days before the historic visit of Soviet General Secretary Gorbachev to Washington. While we all welcome the arms reduction agreement that President Reagan and General Secretary Gorbachev will sign next week and look forward to agreements in other areas of mutual interest, we cannot forget—and we must not let the Soviet leader forget—our concern for and our commitment to Soviet Jews and others struggling to exercise their fundamental human rights.

The recent resolution of longstanding divided family and refusenik cases and the increase in emigration rates, although very positive and welcome developments, should not overshadow the fact that at least 10 Americans are still forcibly separated from their Soviet spouses, thousands of Soviet Jews have been, and continue to be, denied the right to emigrate, and, under repressive legislation enacted earlier this year, many thousands of others are prohibited from even applying to emigrate.

Next week's summit offers an unique opportunity for the administration, the Congress, and the American people to send the Soviet leadership a strong signal of our unwavering and unequivocal support for the promotion and protection of internationally recognized human rights. It also provides the Soviet Union with the opportunity to make dramatic progress in this area by announcing their intention to release all political prisoners, resolve favorably all outstanding emigration cases and increase significantly the rate of emigration from the Soviet Union by adopting a permanent policy of liberalized emigration. These actions would be in compliance with the Soviet Union's international human rights commitments, would remove, once and for all, a contentions issue from the bilateral agenda between our two countries, and would improve the Soviet Union's standing in the community of nations.

I hope that this opportunity will not be lost. For if it is, the Soviet Union can be sure of one thing: Neither the Congress nor the American people will retreat from the commitment to freedom for Soviet Jews and all those who seek to emigrate, practice their religion, express their political beliefs, or exercise other internationally recognized human rights. We will redouble our efforts to ensure that the Soviet Union abides by the obligations it freely undertood at Helsinki in 1975 and at Madrid in 1983 to respect human rights and fundamental freedoms. And we will not cease until these promises become reality.

Mr. FAZIO. Mr. Speaker, two nights ago this Nation viewed Secretary General Gorbachev during an hour interview with NBC news correspondent Tom Brokaw. This interview took place exactly 1 week prior to the Soviet leader's arrival in Washington for a summit with President Reagan. Secretary General Gorbachev appealed for a resumption of our wartime status as allies in confronting the problems of the modern world. He said, "Can't we join our efforts, * * * pool the enormous might of our countries' economies, intellectual capacities to resolve these problems?" I say yes we can confront the problems of this modern world together. However, one of the very first steps is to confront the issue of human rights including the right of all people to emigrate from their homeland. It is time for the Soviet Government to honestly confront this issue. It is time to stop using state security as the excuse to deny its Jewish population the right to emigrate.

The entire world looks with great anticipation to the upcoming United States-Soviet Union summit. It is anticipated that this meeting will result in a historic step in nuclear arms reduction and will lead to further reductions in nuclear arms, however, there are many other issues such as human rights, adherence to the Helsinki accords, and emigration that must be discussed.

The right of a person to emigrate from their homeland is a basic human right. The right of a Soviet Jew to emigrate from the Soviet Union is further supported by three international documents: Universal Declaration of Human Rights (1947); International Convention on Civil and Political Rights (1966); and Helsinki Agreement (1975).

The Soviet Union has committed itself to all three of these agreements. It is a travesty that the Soviet Union cannot adhere to the promises contained in these documents. The Soviet policy towards its Jewish citizens and their right to emigrate has changed little since the signing of the Helsinki Agreement in 1975. Jewish emigration is at an extremely low-level while harassment of Soviet Jews seeking exit visas continues. It appears that the rise to power of Secretary Gorbachev, in March 1985, has done little to alleviate the pain and suffering of Soviet Jews.

If glasnost is real and is to be believed by the West, then now is the time for the Soviet Government and the new Soviet leadership to distinguish itself. By addressing the right of emigration by its citizens at the upcoming summit, Secretary Gorbachev and the Soviet leadership can show the world that they are committed to addressing the problems of the modern world.

The Soviet Union and its leaders must understand that this Nation and its leaders, whether Democratic or Republican, will continue to fight for basic human rights. They must understand that human rights will always be an integral part of our foreign policy and that it will be impossible to improve our relations and return to the status of allies as long as they persist in harassing and oppressing their Jewish citizens. They must understand that the issue of Soviet Jewry and their right to emigrate is one issue in Congress that has overwhelming bipartisan support. Until they accept this basic right, it will be impossible to break down the barriers that have separated our countries for the past 40 years.

Mr. DWYER of New Jersey. Mr. Speaker, I rise today for the purpose of bringing the plight of the Soviet Jewry to the attention of the Congress. I wish to thank my colleagues, Congressmen MRAZEK and PORTER who have arranged this special order to coincide with the Congressional Fast and Prayer Vigil for Soviet Jewry. By participating in these events, we make it clear that the treatment of Jews inside the Soviet Union does not go unnoticed by the United States.

In this era of glasnost our hopes have been raised that real reforms will take place in the Soviet Union. However, despite the release of some well-known dissidents and refuseniks, thousands of others, people who are not perhaps as well known or not as publicized by the media, still languish in the Soviet Union. We must continue to focus on the individual cases in order to keep the flame of hope alive for all those who are denied the right to emigrate.

I would like to take this opportunity to bring to the attention of my colleagues the case of the Tsimberov family of Leningrad. Pavel and Victoria Tsimberov, their 21-year-old daughter Una, their 24-year-old son Dmitri, Dmitri's wife Tania and their 6-month-old baby Leah have applied for permission to leave Soviet Union for the United States. While Pavel and Victoria Tsimberov have been issued exit visas, their children and spouses have not. The elder Tsimberovs are hesitant to leave the Soviet Union for fear that their family will be divided never to be reunited.

It is a shame that these people and others like them are not allowed to emigrate and begin more productive lives. I have been endeavoring to obtain the entire Tsimberov family's freedom, but we all know it will be a long and difficult effort.

It is my fervent wish that the new hopes lighted in the hearts of Soviet refuseniks and divided families by the release of several well-known refuseniks and dissidents will not be extinguished. By participating in the Congressional Fast and Prayer Vigil for Soviet Jewry today, we continue to spotlight the individual cases which so perfectly illuminate the problems faced by these families. We must not allow these problems to slip from public view.

Mr. MANTON. Mr. Speaker, I am honored to join my colleagues today in participating in the Fifth Annual Congressional Fast and Prayer Vigil for Soviet Jewry. I would like to commend my colleagues, Mr. MRAZEK and Mr. PORTER, for organizing today's special order. This year's vigil takes place at a particularly appropriate time. The Reagan-Gorbachev summit will take place next week, and the American Soviet Jewry community is mobilizing for the "summit rally for Soviet Jews." We are all hopeful that during the summit President Reagan will be able to convince General Secretary Gorbachev to make a change in Soviet policy to allow free emigration and to end the harassment of Soviet Jews.

We are pleased that some progress has been made in the Soviet Union's emigration policies. In 1981-86, less than an average of 1,000 Jews a year were allowed to emigrate. During 1987, 7,000 Jews have left the Soviet Union. However, many of the recent emigrants have been well-known cases. Approximately 400,000 Jews still wish to leave the Soviet Union. Many are afraid to apply for an exit visa because they fear demotion or dismissal from their jobs, the loss of academic degrees, and other acts of harassment. Furthermore, it is still extremely dangerous for the Jewish people of the Soviet Union to learn Hebrew and to practice their religion.

Secretary General Gorbachev recently stated in an interview with Tom Brokaw that the Jews who have been denied exit visas were denied permission because they possessed state secrets. Earlier this year, Secretary General Gorbachev told a congressional delegation that denying an exit visa on the basis the applicant has been in possession of state secrets should be a relevant concern for only 5 or 10 years. Many Soviet refuseniks have been refused on the basis of their supposed possession of state secrets. Yet, most of these individuals have not had contact with their supposed secrets for more than 5 or 10 years. By General Secretary Gorbachev's own criteria, they should be allowed to emigrate.

Mr. Speaker, many of these cases are not well known and therefore do not guarantee the Soviet Union and thus do not provide an opportunity to receive favorable press attention. For example, in 1977, one of my constituents was forced to divorce her husband so that she and her son could emigrate. Her husband, Gregory Solomonsvich Gimpelson, was not allowed to emigrate because of his supposed access to sensitive information. Although his employment and supposed access ended 14 years ago, his requests for an exit visa has been repeatedly denied.

Mr. Speaker, I sincerely hope that the upcoming summit will result in a change in the basic Soviet human rights policies that will grant the Gregory Gimpelsons of the Soviet Union their freedom. Today's vigil sends a strong signal to the Soviet Union that the United States will continue to press for emigration reform in the Soviet Union. Today, we reaffirm our commitment to the cause of Soviet Jewry and leave no doubt that we will continue to be the voice for these people who are allowed no voice.

Mr. LEWIS of Georgia. Mr. Speaker, on the eve of the Reagan-Gorbachev summit, we must send a message to both President Reagan and General Secretary Gorbachev. That message is plain and simple—Let the Soviet Jews out.

There must be a direct link between the future of Sino-American relations and the relaxation of Soviet immigration restrictions. In the present climate, with both the Soviets and our administration pushing for arms and trade agreements before the end of the Reagan Presidency, the pressures are great to accept less than proper human rights performance and less than acceptable numbers of emigration visas for Jews in the Soviet Union.

The Soviet Government has admitted that at least 15 percent of Soviet Jews currently would seek to emigrate. Natan Shcharansky has estimated that some 400,000 Soviet Jews would leave if they could.

As we continue to evaluate the promise of glasnost, the Kremlin's treatment of Jews must serve as an indicator of its future policy toward the West. Not only must we work to pressure the Soviets to open the gates to

Jewish emigration, we must pressure the Soviets to allow Jews who wish to stay in the Soviet Union to receive a fair chance for university admission, to provide unhindered opportunities to study their heritage, and to learn and speak Hebrew.

All of us, black and white, Jew and gentile, must work together to help our brothers in the Soviet Union. Many times we as Americans take our freedoms for granted. But freedom carries obligations. If we fail to help those seeking freedom, we are squandering the rights which we claim to cherish. Let us join together to urge this administration to put the issues of Soviet Jewish immigration and civil liberties on the table when President Reagan and General Secretary Gorbachev meet in the coming days.

Mr. COUGHLIN. Mr. Speaker, I rise today to call attention once again to the plight of Soviet Jewry, in conjunction with the Fifth Annual Congressional Fast and Prayer Vigil for Soviet Jewry. I would like to congratulate my colleagues JOHN PORTER and ROBERT MRAZEK for their involvement in this year's vigil and this special order. As a former chairman of the Congressional Call to Conscience Vigil, I know how important efforts such as the Congressional Fast and Prayer Vigil are.

Mr. Speaker, this is, of course, an especially propitious time to be discussing the issue of Soviet Jewry, given the impending visit of Soviet leader Mikhail Gorbachev. The signing of an agreement eliminating intermediate-range nuclear forces by President Reagan and General Secretary Gorbachev will hopefully lead to a reduction of tensions, more responsible Soviet foreign policies, and a more productive superpower relationship in the future, and that is to be applauded.

With all the hoopla about the summit and the INF agreement and the resultant optimism about more positive United States-Soviet relations, however, it is imperative that we not allow Soviet human rights violations to be placed on the back burner.

Despite some positive actions in recent months by the Soviet authorities—some limited intellectual freedoms under glasnost, the release of several of the most prominent refuseniks, and a small increase in the overall number of Soviet Jews allowed to emigrate this year, compared to recent past years—Soviet practices remain inadequate. While we should welcome any positive change, no matter how small, we must continue to push for much more far-reaching reform on Soviet human rights policies.

The numbers on Jewish emigration are a good indicator of just how limited the change going on in the U.S.S.R. has been. In the first 10 months of 1987, 6,340 Soviet Jews were reportedly allowed to emigrate. While this compares quite favorably to recent years—in fact, it exceeds the total for 1983, 1984, 1985, and 1986 combined—it is still far less than the total for 1979, when Soviet Jewish emigration topped 51,300, the Soviets are clearly capable of providing for much higher levels of emigration. We must encourage them to do so, for we know that hundreds of thousands of Soviet Jews have indicated their interest in leaving.

Numbers, of course, cannot tell the whole story. Each Member here has taken a special interest in certain compelling cases, of which there are, sadly, so many. I would like to draw my colleagues' attention to two that I am personally interested in.

David Gusak and Clara Dudnik are retired Soviet Jews now living in Moscow. Their daughters, Marina Grim and Lilia Kazansky, currently reside in my congressional district. David and Clara were first refused in 1985, on the grounds of David's alleged previous access to classified information. It is imperative to note, however, that David retired from his job as an engineer—where he supposedly had access to these secrets—12 years ago. As my colleagues know, the Soviet General Secretary himself has stated that only 5, or at most, 10 years had to elapse before such security considerations would be invalidated. In fact, the General Secretary reiterated this exact policy when I met with him in April, 1987, as a member of House Speaker WRIGHT'S delegation to the U.S.S.R.

I am especially concerned about this case because David and Clara are now in their seventies and have a history of health problems. Most recently, David has been diagnosed as having cancer of the lip, and his daughters are obviously concerned about his ability to withstand the necessary medical treatment, which would be difficult even with the immediate family support he would receive here. There is no reason why the Soviets cannot resolve this case by allowing David Gusak and Clara Dudnik to emigrate.

Likewise, Zunya and Rosa Sklar of Leningrad have found themselves in refusal. Zunya, who was trained to be an electrical engineer but who now works as a telephone repairman, and Rosa, who is now retired, have been seeking to leave since 1979. They have two sons, Jeffrey and Elliott Sklar, who emigrated in 1978 and 1979, respectively, and who now live in the Philadelphia area. Elliott came to the United States with his mother's parents, and together the sons and grandparents hoped that the family would be reunited soon. The years dragged by, though, due to Soviet inaction on this case. In 1986, the family's hopes were shattered when Rosa's mother passed away in Philadelphia. While nothing can be done to bring Rosa's mother back, it is not too late to allow the Sklars to emigrate.

Mr. Speaker, there is no reason why these and thousands of other cases—including those of my personal friends Eric Khasin and Yelena Dubienskaya, and Leonid and Ludmila Volvovsky—cannot be resolved forthwith. Until the Soviet authorities provide Soviet citizens with the right to emigrate and other basic human rights, we must continue our efforts to highlight such unacceptable Soviet human rights practices.

Mr. SAXON. Mr. Speaker, I would like to thank my colleagues for holding this special order today. This demonstration and the vigil for Soviet Jewry in which I was also pleased to participate, occur at a good time.

In a few days, Soviet General Secretary Gorbachev will be in town to discuss serious arms control issues with President Reagan. As the summit approaches, it is important that we make sure that Mr. Gorbachev gets this message: Despite his public relations efforts, the American people realize the true nature of the Soviet system with regard to human rights. Furthermore, we will continue to press Mr. Gorbachev for improvements, particularly in emigration policies for Soviet Jewry.

While the number of Soviet Jews allowed to leave the Soviet Union has increased to over 6,000 thus far in 1987, we should rejoice for those who got out, but should not congratulate the Soviet Government.

After all, emigration is a basic human right. There are still 11,000 refuseniks and almost 400,000 Jews who have expressed a desire to leave. And, we all know of the repression that the Jewish faith and culture comes under, as well as the difficult life for refuseniks inside the Soviet Union.

Moreover, while the growth in emigration figures is encouraging, this growth must be sustained. We must not settle for improvement which is merely part of presummit publicity. A sincere goodwill gesture on the part of the Soviet Government would be sustained, ever-improving emigration figures.

We know that during the summit President Reagan will raise human rights issues, particularly the plight of Soviet Jewry. Unfortunately, we do not know how receptive Mr. Gorbachev will be to demands that the Soviet Government abide by the Helsinki accords, a document which they have signed.

Nevertheless, our administration and Congress must assure Mr. Gorbachev that the granting of, at least, the basic human right of emigration to Soviet Jewry is essential to long-term improvements in United States-Soviet relations.

Mr. CARDIN. Mr. Speaker, as we approach the historic summit between the leaders of two of the greatest countries of the world, we must also realize that now is an equally critical period in the era of human rights and the future of Soviet Jews. During my 11 months here in Congress, no issue has brought forth more personal outpouring than that involving human rights—or, perhaps better phrased—the lack of human rights in the Soviet Union.

Certainly, we all rejoice with news that many of those who've long desired to leave the Soviet Union have been able to do so. But, as Elena Balovlenkov pointed out just Monday when she was reunited with husband Yuri, even as Yuri left the Soviet Union many others who've asked for permission to settle in the country of their choosing were sent notices of rejection. Let me briefly talk about just a few individuals who have met with me over the past months in an effort to win the release of their family members.

Just yesterday, I succeeded in getting a call through to Moscow to talk with Vladimir Dashevsky who has been refused permission to emigrate to Israel for the past 11 years. With me during that call was Vladimir's daughter Irena who hereself only left the Soviet Union with her husband and 4 children 6 months ago to resettle in Israel. Vladimir is an astrophysicist, who, because of his expressed desire to leave the Soviet Union, has now been forced to make his living tutoring students. His denial is based on bureaucratic red tape which requires his in-laws to sign a document saying thaey are not dependent on him financially. So far, his in-laws have refused to comply. As Irena pointed out, here is a 50-year-old man, the father of six and the grandfather of four who is allegedly being denied the opportunity to emigrate because his in-laws refuse to grant him permission. Clearly, this is a denial of Vladimir's basic human rights to be reunified with his family in Israel. When I spoke with Vladimir yesterday, he told me he was thriled that so many people in the United States had taken his case to heart. He also said that knowing there were so many working for him gave him the strength to continue his fight.

Also yesterday, Igor Tufeld came to my office to discuss the unfortunate case involving his parents, Vladimir and Isolde Tufeld of Moscow. Both of Igor's parents suffer from serious physical problems and both are in need of surgery. In fact, Isolde has had a recurrence of an earlier brain tumor but the Soviets are moving at a snail's pace in getting her the treatment she needs. Both Isolde and Vladimir have been certified as Invalids of the First Group which indicates they are in need of outside nursing care. Despite the fact that the Soviets have told them their case would be handled quickly, nothing has been done and the days are growing shorter for them. Again, this is a case that cries out for a quick resolution on humanitarian grounds but the Soviets have turned a deaf ear.

A little more than a month ago I met with the son and husband of Eugenia Kalendarev. After 14 years of being denied a visa, Mikhail was told he could leave the Soviet Union but Eugenia was informed that she would have to stay behind because of "state secrets." The last job Eugenia held was designing boxes for electronic devices and that was more than 10 years ago. Even General Secretary Gorbachev has said in recent days that the period of denial for those allegedly having "state secrets" was 10 years. It is obvious that the words of even the Soviet's supreme leader have little meaning.

Certainly, we all know that the number of people who have been permitted to leave the Soviet Union is up greatly over last year. But, that is little consolation when we know there are thousands more who desire no more than the right to live together with their family in the country of their choosing. The Helsinki agreement is clear on the issue of human rights and family reunification. By signing that agreement, the Soviet Union said it would live up to those conditions. Unfortunately, that has proven not to be the case.

Five days from now, Soviet General Secretary Gorbachev will sit down with President Reagan. Five days from now, we could have word that the Soviets do intend to make the Helsinki agreement a little more than a document filled with empty and unfulfilled words. I implore United States officials to do everything within their power during these critical next days to raise the issue of human rights in every discussion with the Soviets. Hopefully, the impact of our rally on Sunday and the private meetings that will follow will bring about a significant change in current Soviet policy. And, just maybe, we will be able to say that the era of glasnost brought about not just a new openness but a new enlightenment as well.

Mr. YATRON. Mr. Speaker, Mr. Gorbachev is coming to the United States in a few days. I joined millions of Americans who watched NBC last Monday to see this Soviet leader. There is a curiosity about this man who talks about openness, democratization, and arms control. After all, this terminology has not been tossed around lightly by Soviet power figures, and certainly not by anyone as charismatic as Mr. Gorbachev.

As I listened to this interview, I wanted to be encouraged by some of what was being said. Certainly, all of us who value peace and human life want to believe that perhaps there is a solution to the pervasive threat of nuclear war. We also would like to believe that finally we have a nice guy at the helm in the Soviet Union who is willing to work with us. But even though I longed to be appeased by Mr. Gorbachev, there are many reasons why I am not satisfied.

I am concerned about the human rights situation in the Soviet Union, in particular, the plight of Soviet Jews. The prisons and psychiatric hospitals still house Jews who are robbed of their freedom for expressing their political or religious beliefs. The new policy of openness should begin with the doors of these institutions so those who have been unjustly sentenced can be free. This policy should also ban the continued harassment of Jewish activists.

Although the number of Jews emigrating from the Soviet Union is increasing and anti-Semitism is not as evident in current official policy, the issue of Jewish emigration has yet to be resolved. While our attention is focused on the high-profile refusenik cases, there are still thousands of people trapped in this Communist country, some separated from their families and others separated from a country they long to call home.

Glasnost can have positive effects on Soviet Jewry if it is fully implemented, but international pressure must continue so this goal can be realized. If Mr. Gorbachev is sincere in his desire to correct the internal problems in the Soviet Union, and if he is sincere about seeking a solution to the arms race, then I will certainly applaud his efforts. In the interim, the issue of human rights must not get lost in the glasnost shuffle.

I would like to commend the gentleman from New York [Mr. MRAZEK] for work on behalf of Soviet Jews.

Mr. KEMP. Mr. Speaker, I regret that I cannot be here with you in person today, but I know that the banner of freedom for Soviet Jewry will be carried staunchly by my good friends and colleagues who have sponsored today's annual Fast and Prayer Vigil for Soviet Jewry, Congressman JOHN PORTER of Illinois and Congressman BOB MRAZEK of New York. We will all be here to carry this banner on Sunday, December 6, when hundreds of thousands of people from all over the country will gather at the Ellipse here in Washington to demonstrate our commitment to this cause, to hear former refuseniks who prove that Mikhail Gorbachev's statements on his country's purported human rights and economics reforms remain bold-faced propaganda.

No Soviet unemployment? Only possession of state secrets a bar to emigration? Let's hear from Natan Shcharansky, Ida Nudel, the Slepaks, among others, and hear how gainfully they were employed after they applied to emigrate. Unless, of course, Mr. Gorbachev considers work in the gulag's labor camps as employment. If we could, we could ask Dr. Naum Meiman about his possession of state secrets, when his last work in his academic and scientific area was published over 30 years ago, and nothing since. But Dr. Meiman has been refused permission time and again and languishes alone in Moscow.

I've heard about Soviet unemployment from Vladimir Feltsman, who was prohibited from concertizing for 8 years and would not even have been able to practice the piano in his apartment had it not been for the goodwill gesture of the Long Island Committee for Soviet Jewry in soundproofing his room with cork, who, but for the efforts of the National Conference on Soviet Jewry and Norman Gladney, would still not be performing anywhere today. Through the good efforts of these organizations and individuals, Volodya is now performing in the Americas, still unaware that his skill at the piano may have been the state secret which denied him permission all these years.

Or let us hear directly now from Dr. Vladimir Dashevsky. His daughter, Ira, and her husband are seeking help from Washington for permission for Dr. Dashevsky and the rest of his family to join them in Israel. Ira brought me an open letter from her father, and I am including parts of the text as follows:

To: Everyone who believes that freedom is an inherent right of man.

I appeal for your support and help. My name is Dr. Vladimir Dashevsky. I am a 50 year-old physicist, living in Moscow, USSR. Three of my children and my four grandchildren live in Israel. I am an observant Jew, and for eleven years have been denied permission to emigrate to Israel.

For the last seven years I have taught Judaism to young Jews conscious of their religious identity. On many occasions I have been harassed by the KGB, which demanded that I stop all my religious activities.

The Soviet authorities' latest pretext for denying an exist visa for me, my wife and our three children still in Moscow is lack of "permission" from my wife's parents, a document required by the USSR Visa Department. Such an absurd requirement would be unthinkable in any country other than Russia. Here I am, 50 years old, a father of six children and a grandfather of four, and to leave the country I have to ask for permission from my communist parents-in-law.

My daughter Irina demonstrated at the Soviet Mission to the United Nations in New York, and as a result met with Vladimir Petrovsky, Deputy Foreign Minister of the USSR, who was in the city. He told her that my case would be "considered in a very short time". That was in September. I have yet to receive word from the Visa Department.

I dread the day when my little children who are religious will have to go to Soviet schools and be harassed by their teachers and classmates. Please help us leave the country before this time comes.

Mr. Speaker, until the Soviet Union has opened its doors to let out the Soviet Jews who wish to emigrate, as required by the Helsinki Treaty they signed, I say, "Mr. Gorbachev, your P.R. machine will not pull the wool over our eyes. Let our people go."

Mr. COLEMAN of Texas. Mr. Speaker, the visit of Mikhail Gorbachev to the United States can give us an unparalleled opportunity to press one of the world's most important human rights issues. Through our voices and actions, the General Secretary of the Communist Party must be shown that the United States House of Representatives stands firm with the thousands who have been denied permission to emigrate from the Soviet Union to Israel, the United States, and other countries.

Incredibly, the General Secretary told Tom Brokaw in a national broadcast interview two nights ago that permission to leave the Soviet Union is denied only on security grounds, and that all others are free to come and go as they wish.

Now the world knows that such statements are patently false. Thousands upon thousands of people whose only desire is to leave that oppressive system and emigrate to Israel are routinely denied permission. Perhaps, in the land of doublespeak, the General Secretary is correct; anyone who desires to emigrate to Israel is thus regarded as a security risk, and is refused permission to leave.

Now, more than ever, is the time to redouble our efforts. We must not be mesmerized by Gorbachev's practiced, telegenic style. He has cleverly allowed a handful of the more prominent refusniks to leave in the hope that public pressure from the West would subside. We are, of course, gratified for the individuals and their families, but we must not be fooled into thinking that the Soviet Union has done us any favors. There are thousands and thousands of other people, unheralded but equally oppressed, who still languish and still endure suffering, discrimination and retribution for daring to attempt to emigrate.

As a member of the Congressional Coalition for Soviet Jews, I have participated in the Congressional "Refusenik Roll Call," in which the names of over 10,000 refuseniks were recited and honored. This most urgent human rights issue will not go away despite the earnest efforts of the Soviet propaganda apparatus, and the United States Congress will not let it disappear. We must continue to insist that human rights be in the forefront of United States relations, and we must continue to pressure the Soviet leadership at every opportunity.

Mr. Speaker, President Reagan will soon meet the General Secretary face to face. Although we all support the efforts to reduce and eventually eliminate nuclear weapons from the face of the world, our Nation's moral commitment to individual freedom and human rights must never waver, especially in the rarified air of a summit meeting. President Reagan must get results from General Secretary Gorbachev on the issue of Jewish emigration from the Soviet Union, and he ought to tell the General Secretary in no uncertain terms: "Next year in Jerusalem."

Mr. GARCIA. Mr. Speaker, next week the United States-Soviet summit will be held here in Washington. President Reagan and First Secretary General Gorbachev will be discussing several issues of mutual interest, and they are also scheduled to sign an INF treaty. While INF is certainly important in terms of national security, another important issue that should be discussed is the plight of Soviet Jews. We should endeavor to continually remind the Soviet Union that their human rights policies need to change. Members of Congress, by writing letters on behalf of families who have been separated, create pressure on the Soviet Union to rethink its policies. Sometimes families are reunited, but there are many more individuals who remain separated from their families, suffering from illness and deprivation. They may be helpless, but we are not, and the summit affords a good opportunity for us to apply still more pressure for a policy change. Perhaps we can provide renewed hope to those who have given up.

I, therefore, urge President Reagan to make this most important subject part of his agenda with Mr. Gorbachev. Glasnost has no meaning if there is even one refusenik left in the Soviet Union. If Mr. Gorbachev really wants change, let him show it by opening up his emigration policy. That is the kind of openness that has real meaning.

Mr. MATSUI. Mr. Speaker, I wish to bring to the attention of my colleagues a matter of great importance in United States-Soviet relations. Today many members of this body joined in the Fifth Annual Congressional Fast and Prayer Vigil for Soviet Jewry. They are expressing their support of Soviet Jews and their desire to see human rights improvements in the Soviet Union.

Although General Secretary Gorbachev made several promising assurances on these issues in his recently televised interview, there is still reason for concern. According to Gorbachev, the only Soviet Jews who are being denied permission to emigrate are "those who cannot leave because of state security reasons." He went on to say that "there are no other reasons" for the denial of exit visas.

Unfortunately, these statements are not supported by the Soviet record on emigration. According to the U.S. Council on Soviet Jewry and the Israeli Embassy, nearly 400,000 Soviet Jews have shown interest in emigration. While the Soviet government permitted 51,000 Jews to emigrate as recently as 1979, the level fell dramatically to 1,140 in 1985 and 914 in 1987. There is no evidence that this change was due to a sudden decrease in either the number of applicants for emigration or a miraculous increase in the percentage of applicants who would be security risks.

Recently, Jewish emigration has climbed to a level of 800 to 900 per month, but this level is still far below 1979 levels. If General Secretary Gorbachev wants to be taken seriously by the American people and their elected representatives, he must back up his words with actions. There is no reason why Jewish emigration should not again rise above 50,000 per year.

The issue is one of human dignity and basic human rights. Soviet emigration policy has needlessly divided families, often until death. In addition Soviet restrictions on teaching Yiddish and Hebrew, as well as the absence of rabbinical instruction, threaten to permanently divide Soviet Jews from their cultural heritage.

Mr. Speaker, seldom in the history of relations between our country and the Soviet Union has there been so much cause for hope and optimism as there is at the present. Nevertheless, we must continue to work diligently to improve human rights in the Soviet Union and around the world.

Mr. LENT. Mr. Speaker, I'd like to thank my distinguished colleague from New York, Congressman BOB MRAZEK, for chairing this year's Call to Conscience Vigil for Soviet Jews. I share his hope that this year's vigil will be particularly effective, timed as it is to coincide with General Secretary Gorbachev's upcoming visit to the United States to complete an arms control agreement between our two nations.

Today, we face a different challenge than in the past. For over the past year, many of the prominent leaders of the Soviet Jewry movement have been freed, among them Lev Elbert, Vladimir Slepak, and my own fourth district's adopted prisoner of conscience, Ida Nudel. Known as the "Guardian Angel" for her work on behalf of the prisoners of conscience, Ida has waited 16 long years to rejoin her sister in Israel. I deeply appreciate my colleagues' support in that endeavor for I know many of you have cosigned letters to Soviet officials on her behalf over the years. I hope that you will take some measure of satisfaction, as I do, in knowing that you have helped win Ida Nudel her freedom.

But we must not become complacent in light of these victories. We may have won the battle, but we haven't won the war. The Soviets are masters in the game of public relations, and it's no coincidence that Ida Nudel and other principals in the Soviet Jewry movement have been freed on the eve of important negotiations between the Soviet Union and the United States. For every "star" who sees the light of freedom, there are hundreds more who have been left behind in the darkness.

That's why our participation in today's vigil is so vital: to let these courageous men and women know that they are not forgotten and that we haven't given up the struggle. When my first adoptee, Hillel Butman, was released after 9 years in prison, I adopted Ida Nudel. Now that Ida is reunited with her family in Israel, I have adopted a new refusenik, Yakov Rabinovich of Leningrad, who has been separated from his family since 1978.

There are hundreds of thousands of people like Yakov Rabinovich who are still denied the right to live in the land of their choice, to practice their religion without fear of persecution, to be reunited with their families. Our vigil will send a message to the Soviets that we have not been "bought off" with the release of a chosen few. We demand free emigration for all those who seek it. For 211 years, we Americans have lived and governed by the basic principle that all men have a right to choose their own destiny. And as long as there are people anywhere in the world who are denied their human rights, Americans and freedom-loving people everywhere in the world must join in the fight to defend them.

Mr. ANDREWS. Mr. Speaker, the Reagan-Gorbachev summit is a chance to achieve results for Jews wishing to leave the Soviet Union. The agenda for the summit is impressive: the INF Treaty, the war in Afghanistan, and plans for further arms reductions. But the groundwork is already in place for discussions of political freedom for Soviet Jews.

I urge President Reagan to take this opportunity to press for greater Jewish emigration. Glasnost has made a promise to Soviet Jews that we need to make sure the Soviets keep. The additional emigration that we have seen this year is nowhere near previous levels or where it should be.

An interesting fact has been revealed by the recent emigration numbers. Twenty percent of this year's emigrants have not been previously known to us as refuseniks. This fact indicates that far more Soviet Jews than were ever known before wish to leave the Soviet Union.

Even on the eve of a victory for peace in the world, we hold this vigil for Soviet Jews to reunite families, to end religious discrimination, and to fight for political freedom. Surely, peace without these things would not be a true peace.

Mr. MOODY. Mr. Speaker, Vladimir Dashevsky's life has been filled with achievements. He is a prominent astrophysicist and one of only three Soviet scientists elected a member of the American Astronomical Society. He has published numerous articles in scientific journals. After teaching himself Hebrew, he began studying classical Hebrew and Aramaic texts in the original. He has translated into Russian five books by the Jewish philosopher Martin Buber.

Today, Dr. Dashevsky faces a challenge of a different nature. He is struggling to bring his wife and three small children to Israel. His three older children wait for him there.

Dr. Dashevsky first applied for a visa to Israel in 1976 after his oldest daughter finished at the university. At that time, he lost his position of 16 years at the Institute for Terrestrial Magnetism. In 1979 his application was denied for "security" reasons.

Since being fired from his position, Dr. Dashevsky has tried to earn a living tutoring high school students in physics. In addition, he became a central figure in an active and growing Jewish studies seminar for young Soviet Jews. While not illegal, the activities of this group have been repeatedly disrupted by the KGB.

In 1986, Dr. Dashevsky was called before the State Committee on Religious Affairs, threatened with arrest, and warned to stop these activities. Instead, he took over full leadership of the group as other seminar leaders departed.

Dr. Dashevsky's application was originally refused on security grounds. But he has not been exposed to sensitive material for the past 11 years. How can that be a valid basis for rejecting his application today?

In his televised interview this week, Secretary Gorbachev assured Americans that all immigration cases are being handled fairly and expeditiously. He stated that the sole basis for refusing immigration requests was on security grounds and that the Soviet Union had a right to protect itself from some conspiratorial "brain drain." All of us familiar with the plight of Soviet Jews know that both of those statements are untrue.

Dr. Dashevsky's case and that of thousands of other refuseniks are not being fairly considered. And, in Dr. Dashevsky's case, the Soviet government has invented a bureaucratic hurdle—aside from security reasons—to prevent him from even completing a new application. Last May, Dr. Dashevsky was summoned to OVIR, the Soviet Visa Authority, and told that permission to leave the U.S.S.R. was being withheld because his wife's parents have refused to sign a statement that the Dashevskys have no outstanding financial obligations to them. In fact, the Dashevskys have no such obligations. But because—for whatever reason—the parents have refused to sign this form, the application will not be approved. The irony is that Soviet law does not even require such a statement but Soviet authorities have decided in effect, to give "veto authority" to the relatives over emigration from the Soviet Union.

Dr. Dashevsky's oldest daughter, Ida, was allowed to emigrate to Israel with her husband in May of this year. Many of us have had the privilege of meeting Ida. She has traveled from Israel to gather support for her father's case. Dr. Dashevsky has two other children, aged 15 and 10, waiting in Israel. In September, 108 Members joined me in signing a letter to Secretary Gorbachev calling for permission for Dr. Dashevsky and the rest of his family to emigrate to Israel. This week, Representative MOLINARI is collecting signers for a telegram to Ambassador Dubinin demanding that the Dashevsky case be considered favorably. I thank my colleagues for their assistance and hope that all of them will join us in this effort. Dr. Dashevsky has not wavered in his commitment to live and observe his religion; we must not waver in our efforts to help his family in any way we can.

Mr. GREEN. Mr. Speaker, I am happy to join with my distinguished colleagues in observing this the Fifth Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

While I have participated in many, many previous special orders on behalf of Soviet Jewry, I have never done so with more hope and fear than I do today. For this is a historic time which will either mark a great passage for Soviet Jewry or alternatively a great opportunity lost.

Next week Mr. Gorbachev comes to the United States to sign a treaty between the United States and the Soviet Union and to take part in a summit which will surely have as a prime agenda item human rights. On Sunday, December 6 a massive rally will take place in Washington and hundreds of thousands of Americans are expected to gather here to make sure that Soviet Jewry is a part of that agenda.

There are those who say that this is a time for great optimism. Ida Nudel, the Slepaks, and many other well-known refuseniks have been given their freedom. I, too, rejoice at this freedom. But at the same time I remember that Alexei Magarik, whose father I met with a few weeks ago, and Semyon Gluzman, who has been my "adopted refusenik" for five Congresses, are still not free. So I am inserting in the RECORD an op ed piece by Natan Shcharansky which appeared in the November 30 New York Times, and I say to my colleagues be joyful for those who are free but be mindful of the limits of glasnost. Our vigilance must continue.

JEWS' SUMMIT MESSAGE TO GORBACHEV

(By Natan Shcharansky)

JERUSALEM.—One of my first Gulag cell mates was a professional swindler. After a career of enterprising scams, Leonid had exhausted his opportunities for "work" in the Soviet Union. As he served his sentence, he was studying English with the hope of living in the United States.

"What will you do in America?" I asked. He replied: "Some of my colleagues are already there. They write that America is the best place in the world for those in our profession. The Americans are good businessmen, but otherwise they're as naive as children."

Next month, for the first time in 14 years, a Soviet leader will visit the United States. After a succession of drab, unappealing bureaucrats, Mikhail S. Gorbachev represents a stunning contrast. With his warm smile, charisma and charming wife, he has so captivated the American public that an uninformed visitor from abroad might conclude that of all the candidates running for the Presidency, he was the front-runner.

There is no question that Mr. Gorbachev is a new type of leader. Unlike his predecessor, he is a realist about the economic problems facing the Soviet Union. He understands how badly it has lagged behind the West and how urgently it must begin to close the technological gap. He understands that the only way to do this is to build closer ties with America.

That is why Mr. Gorbachev is working strenuously to improve his country's image. Human rights is a major part of that image, but so far, at least, the situation has not changed significantly. True, the public-relations campaign has been excellent, and there have been favorable developments for prominent dissidents: The best-known names have been attended to.

But all along, the struggle for Soviet Jews has been for the release of all of our people who want to leave. Emigration figures are once more on the rise, but compared with emigration in the 70's, today's numbers are tiny. In a society where 400,000 Jews have taken the first step in the emigration process, the release of 5,000 or 10,000 a year is insufficient.

Moreover, Mr. Gorbachev has actually made the emigration process more difficult. New laws are even more restrictive than those of Leonid I. Brezhnev, for now only Jews with invitations from immediate family members can even apply for visas—a restriction that eliminates more than 90 percent of the 400,000 who have already made their decision. And for all the talk of glasnost, many of my fellow prisoners in the Gulag, including a number of human rights activists, still languish in prisons, camps and psychiatric hospitals.

For the Soviet Union, human rights are important not for their own sake but as a factor in superpower relations. For the West, they are a moral issue and the ultimate measure of real change in the Soviet Union.

That is why American Jews from all over the country, and other Americans who value human rights and who know that peace and freedom are inseparable, will gather in Washington next weekend on the eve of the Reagan-Gorbachev summit meeting. There are those who say that this is the wrong time for an appeal on behalf of Soviet Jews, that a demonstration may undermine the prospects for peace, that it could encourage Mr. Gorbachev's opponents, that it might lead to the squandering of a historic opportunity.

Yes, there really is a historic opportunity. This is precisely why Jews are coming to Washington. We have had historic opportunities before and have been bitterly disappointed. The summit meetings of the early

70's were followed by new arms races and Cuban troops in Angola. The Helsinki Act of 1975 was followed by massive repressions against human rights activists in the Soviet Union. The summit meeting of 1979 was followed by the invasion of Afghanistan.

Mr. Gorbachev's visit represents a historic opportunity to move in the direction of a real peace, a peace built on mutual trust. But if his visit is greeted only by our naïveté, then Leonid the swindler will turn out to be right. It would be an ironic tragedy if glasnost were greeted with self-censorship in the United States.

During my imprisonment, the K.G.B. often tried to convince me that my life, like the lives of other prisoners of Zion, was in its hands and not in the hands of "students and housewives," as it contemptuously referred to our supporters in the free world. But an army of "students and housewives" was able to prove the K.G.B. wrong. Today, the Soviet leaders may again believe that the fate of Soviet Jews is entirely in their hands. Let us again prove them wrong.

Mr. BIAGGI. Mr. Speaker, I am very proud to join so many of my colleagues today as we commemorate the Fifth Annual Congressional Fast and Prayer Vigil for Soviet Jewry. The timing of this vigil could not be any more appropriate. We are on the eve of the first United States-Soviet summit we have hosted here in 15 years. In just a few days, Soviet leader Mikhail Gorbachev will come to Washington to meet with President Reagan, thus setting the stage for historic discussions on the most critical issues facing our two nations. One of those critical issues is the plight of Soviet Jews.

Since my first days in Congress some 20 years ago, I have joined an overwhelming majority of Members of this august body in working to secure basic human rights for the estimated 3.5 million Jews who reside in the Soviet Union. The Soviet Union has a horrendous record of denying those courageous individuals of basic human rights, including the right to practice their religious and cultural beliefs, and the right to emigrate. More than 400,000 Soviet Jews have applied to leave the Soviet Union, and some 20,000 Soviet Jews have been refused the right to emigrate at least once.

Just recently, we passed a resolution calling upon the Soviet Union to immediately grant permission to emigrate to all of those persons in the Soviet Union who desire to join their spouses in the United States. The fact is, we have identified at least 15 cases where the Soviet Union has refused to grant exit visas or marriage permits to Soviets who have a spouse in the United States, in direct contradiction of the Helsinki accords, to which the Soviet Union is a signatory.

Just prior to that action, a number of us raised our voices against reports that Soviet authorities were threatening to impose criminal penalties against the proud people of Latvia who would dare to celebrate their short-lived independence of long ago.

But, even with the Soviet's long history of human rights atrocities and their recent demonstrations of the same, we have been given some hopeful glimpses of change. For example, some 6,340, Soviet Jews were allowed to emigrate during the first 10 months of this year, compared to about 900 who were allowed to leave during all of 1986. Just 2 weeks ago, I was proud to stand in the Capitol and greet Vladimir and Maria Slepak, two long-time Soviet refuseniks, who had finally been allowed to emigrate after a 17-year struggle. And, before that I was proud to issue a formal welcome that appeared in the pages of our CONGRESSIONAL RECORD to another Soviet Jew who was finally granted freedom after enduring seemingly endless physical and mental suffering. Her name is Ida Nudel, and her struggle and the courage she demonstrated throughout will never be forgotten. It was an inspiration to us all, and it's also because of the Slepaks and the Ida Nudels that we will never be able to rest until every Jew who wants to leave the Soviet Union is allowed to do so, and until those who wish to stay are permitted to practice their religious and cultural beliefs free of persecution.

So, while we continue to hope that glasnost is more than mere words and short-term improvements, we are constantly reminded that the Soviets have a long way to go. They could start by revamping their emigration law, which still restricts this right to those persons who have a first degree relative living in another country.

Mr. Speaker, let's use this opportunity today to send a strong and clear message to Soviet leader Gorbachev that the mixed signals being sent from the Soviet Union on human rights, particularly the treatment of Soviet Jews, are unacceptable. I join my many colleagues today, and the thousands of persons who will be marching in Washington on December 6, in saying that the basic rights of Soviet Jews must never be compromised. Anything less is simply an intolerable situation that will continue to meet our strongest possible resistance.

Mr. BUSTAMANTE. Mr. Speaker, I want to thank the gentleman from New York [Mr. MRAZEK] for organizing this special order on behalf of thousands of Soviet Jews who are being denied permission to emigrate.

I want to take this opportunity to highlight the case of Vladimir Dashevsky who is one of the many separated families which still await permission to join their loved ones. His daughter Ira Dashevsky has eloquently stated her father's case. I would, therefore, request to include in the RECORD her letter on behalf of her father.

Mr. Speaker, I hope we will not need any more special orders to call on the Soviets to respect human rights.

ON BEHALF OF VLADIMIR DASHEVSKY

I solicit your support in our efforts to allow my father Vladimir Dashevsky the right to get out of the USSR as soon as possible. He and his family (wife and three children) has been unable to get a permission to leave for Israel in the course of eleven years without any reason.

V. Dashevsky born 1937, is a Ph.D. in physics, a member of American Astronomical society. He had worked for many years at institute for Terrestrial Magnetism, but after having applied for a visa to Israel, had to leave his job and make a living by giving private tutoring in physics.

Dashevsky's broad intellectual interests brought him to an investigation of general philosophy. Through his study of the Jewish existential philosopher, Martin Buber (five of whose books he translated into Russian), Dr. Dashevsky came to an interest in his own Jewish background. He taught himself, Hebrew, and began studying classical Hebrew Aramaic texts in the original. He became an observant Jew and helped a large group of young Jews to study their language and heritage. He has been frequently harrassed by the KGB for these activities. In May 1986 Dr. Dashevsky was summoned to the State Committee on Religious Affairs and accused of organizing religious seminars and meeting foreigners. He was warned of possible arrest and criminal proceedings.

Lately a number of his students have been allowed to leave the USSR and come to Israel.

Inspite of the widely publicized changes in the Soviet policy, my father's case is still unsolved. M. Gorbachev in his speech on September 20, 1987, published in the Soviet newspaper "Pravda", again declares that the only reason for a refusal to leave the USSR can be access to the secret documents. However, my father was officially informed by the authorities of UVIR that he is clear of any secrecy. In spite of this he has been refused to leave the country.

In September 1987 my husband and I went to the USA where we demonstrated on behalf of my father in front of the Soviet Mission in New York. We were received after that by the Deputy Minister of the Foreign Affairs V. Petrovsky, who assured us that Dashevsky's case would be treated in the nearest future. About two months have passed since this conversation, but there have been no changes in my father's fate.

The long years of refusal have absolutely ruined by father's health. All his family is in constant psychological strain, which is very hard for the adults and really dangerous for the children. Like many other refuseniks have the same situation, he awaits your humane support and help. Please help us to reunite our families.—IRINA DASHEVSKY.

Mr. JEFFORDS. Mr. Speaker, I would like to thank the sponsors of this special order for providing a forum for congressional attention to the plight of Soviet Jews. While I was unable to attend today's Fast and Prayer Vigil for Soviet Jewry, I would like to offer my own words of support for the thousands of Soviet Jews who desire to emigrate from a nation that refuses to fully recognize not only their religious beliefs, but also their very way of life. With the arrival of General Secretary Gorbachev in Washington next week, the issue of Soviet Jewry must not go unnoticed.

Although the synagogue is a legally and officially acknowledged institution in the Soviet Union, there are in fact only 91 official synagogues, some of which exist only on paper. Attendance at synagogues is extremely poor, with an estimated 0.7 percent of all eligible Jewish males participating in communal prayers on the Sabbath. The decline in prestige of this religious institution is the result of a number of factors. In overwhelming majorities of cities and towns, it is impossible to study the Hebrew language. The number of qualified rabbis is rapidly dwindling, and in many cases the Jewish community is on the brink of financial collapse. With such discouraging religious circumstances, not to mention the abhorrent treatment that the Jews receive from the government, many Jews choose to leave their homeland to practice their religion in their spiritual homeland, Israel.

Most Jews who apply to emigrate are not allowed to leave. Since 1979, when a record 51,000 Jews emigrated from the Soviet Union, the number of Jews permitted to leave has been drastically reduced, with only 914 leaving last year. While I am encouraged by the sharp increase in emigration permissions this year, the number 6,000 pales in comparison to the estimated 380,000 Jews who would like to leave the Soviet Union. The Soviet Government has erected numerous barriers to emigration, including the stipulation of family reunification as a requirement for emigration. In addition, many applicants are refused on the basis of alleged secret work that they have done for the government, regardless of the fact that in many cases the work was conducted far in the past and was long since obsolete. Many people refused for this reason have never even had access to classified information. Refuseniks now number over 10,000 people.

In Congress, we often hear of Soviet Jews seeking emigration permission—Benjamin Charney, whose family resides in the United States, suffers from malignant cancer and heart disease that can only be treated in the West; Dr. Semyon Gluzman, sentenced to 7 years of hard labor and 3 years internal exile in Siberia because he refused to brand human rights activists and political dissidents as mentally ill; Dr. Naum Meiman, founding member of the Moscow Helsinki Monitoring Committee; Alexander Lerner, a computer scientist who has been kept from holding any academic or research post since he applied for emigration 15 years ago; Abe Stolar, raised in Chicago, who followed his parents to Russia in 1931 but now wants to return with his family to the land of his birth—these are just a handful of the thousands who seek to live their lives in freedom and be reunited with their families.

In our Nation, where religious freedom is taken for granted, it is easy to turn our backs on the problems of a nation that we often consider our adversary. But we can't turn our backs on the suffering of fellow human beings. I ask you all to take a few minutes today and think of those who so desperately want to join their families and practice their religion without persecution.

Mr. LAGOMARSINO. Mr. Speaker, I am honored to be a part of this special order focusing on the tragic plight and continued oppression of Soviet Jews. With the summit meeting between President Reagan and Soviet leader Gorbachev just around the corner, I believe this attention to the status of Soviet Jews and their right to emigrate is very timely and important.

The Government of the Soviet Union, the same government that is wooing the West with its proclaimed policy of "glasnost" suppresses religion, encourages anti-Semitism, and ignores its obligations under the Helsinki Human Rights Treaty to allow for freedom of emigration. The Soviet Government has targeted innocent Jews by withholding emigration visas thereby forcing Jews who want to leave to remain prisoner in a country that despises them. Should any of these Jews protest their treatment or question the Soviet authorities, they face the serious consequences of unemployment, restrictions on their already guarded lives, imprisonment or banishment to a psychiatric hospital or hard-labor gulag.

Because of the deplorable living conditions and discrimination, over 350,000 Soviet Jews have begun the application process to leave. Twenty thousand are listed as refuseniks—those who have made application to be rejoined with their families abroad and have been refused. One of those refusenik cases I would like to bring to the attention of my colleagues is the plight of Vladimir and Maria Slepak. The Slepak's case may be familiar to you because their son, Alexander, held a 17-day hunger strike here in Washington to protest the lifetime refusal given to his parents. Vladimir Slepak has been targeted by the Soviets because he is one of the founders of the Soviet Jewry emigration movement and, largely, because of his effort, over 260,000 Jews have been permitted to leave the Soviet Union.

Since he began his humanitarian activism in the 1960's, his home has been repeatedly raided and searched. Many of his belongings have been confiscated, his telephone disconnected and electronic bugs installed in his walls. He has been the subject of public condemnation through the Soviet Government controlled media. Moscow television has listed him in their "Traders of Souls" television show and have labeled him as a "soldier of Zionism inside the Soviet Union" and as part of an anti-Soviet conspiracy. In 1977, Izvestia maliciously accused him and other Jews of espionage and treason. Vladimir has been interrogated and imprisoned twice on unknown, obviously false, charges. In June 1978, Vladimir and his wife Maria were arrested for displaying a banner from their window saying, "Let Us Go To Our Son in Israel." Vladimir was sentenced to 5 years of internal exile in Siberia for the bogus charge of "malicious hooliganism." Maria voluntarily share this intolerable fate with her husband after her 3-year sentence was suspended. Siberia is no vacation land—the land is barren and the climate very harsh. Despite his ill health, Vladimir worked at odd jobs, often in subzero weather. In 1982, Vladimir was allowed to return to Moscow. But, knowing of the Soviet authorities' ability to ship their citizens off to the gulag on a whim, I am concerned about just how long the Slepaks can remain in the relative safety of Moscow.

If the Soviets are serious about the rhetoric they often produce regarding the need to uphold human rights, then they will back their words with actions—positive actions like allowing the Slepaks to rejoin their family abroad. I urge my colleagues to remember the Slepaks and other subjugated Soviet Jews when considering other matters pertaining to our relations with the U.S.S.R., like arms control. Trust the Soviets? Ask the Soviet Jews.

I know that this tragic situation will be part of President Reagan's agenda during his meetings with General Secretary Gorbachev. I urge my colleagues to join me in supporting the President in this worthy, humanitarian effort. As Elie Wiesel said, "What hurts the victim most is not the cruelty of the oppressor, but the silence of the bystander." Please do not be a silent bystander.

Mr. SCHEUER. Mr. Speaker, despite Mr. Gorbachev's smooth talking, sophisticated style, the Soviet Union continues its gross violations of human rights against Jews and other minorities.

I am saddened that the Secretary General, in his recent NBC-TV interview, accused the United States of fabricating human rights issues in the Soviet Union for the purpose of draining Soviet talent.

In the words of Mr. Gorbachev, we have organized a "brain drain" from the Soviet Union, and only those Soviets who hold "state secrets" are denied permission to emigrate.

How can Mr. Gorbachev make these absurd, contemptible charges when most of the Soviet Jews who request exit visas are stripped of their professional positions and forced to work at menial tasks?

The United States continues to lead the free world in upholding human rights across the globe, and we cannot allow the Soviet Union to continue to deny, to undermine and to lie systematically about issues of human rights.

Mr. Gorbachev had offered us hope for improved human rights in the Soviet Union under glasnost.

I spoke with Mr. Gorbachev last April when I traveled to Moscow with Speaker WRIGHT and other Members of Congress.

At that time, the General Secretary reiterated a point he made on French television 2 years before—that the "security risk" label used to deny emigration to Soviet Jews was valid for 5 years and at the most 10 years, except in the most aggravating circumstances.

So far, we have seen the release of some prominent refuseniks—mainly to influence public opinion on the eve of the summit—but there are an estimated 400,000 Jews remaining in the Soviet Union who have expressed a desire to emigrate.

The leaders of the free world dedicated to upholding basic human rights have remained very patient.

The recent politcial infighting in the Soviet Union has demonstrated that the West will need to maintain a hard line on human rights issues if we hope to bring about any fundamental reform in Soviet human rights or emigration policy.

Jewish emigration from the Soviet Union has risen this year, but if the rate of emigration remains constant, fewer than 10,000 Jews will emigrate from the Soviet Union in 1987. This number pales in comparison to the 1979 figures of close to 50,000.

How can we establish trust with the Soviets if they continue to violate their obligations under the Helsinki accords which they signed under their own free will?

How can we trust the Soviets to uphold bilateral arms agreements when they blatantly use their own emigration laws under the rubric of "state security" to punish and intimidate their people.

President Reagan and Secretary of State Shultz deserve praise for their persistance in making human rights an priority agenda item in the summit and other meetings with the Soviets.

We must continue to press the Soviets through all diplomatic channels if we hope to see leadership by Mr. Gorbachev and movement in the Soviet bureaucracy to improve the abysmal plight of Jews and other persecuted minorities in the Soviet Union.

Mr. LANTOS. Mr. Speaker, I would like to commend my distinguished colleague, Mr. MRAZEK for calling this special order to focus attention on the treatment of Jews in the Soviet Union.

Next week President Reagan and Secretary Gorbachev will meet in Washington to open talks that could lead to significant improvements in arms control. We welcome this prospect. At the same time President Reagan has stated that he will raise the issue of human rights conditions in the Soviet Union with Mr. Gorbachev. We look forward to this exchange and hope that it will lead to significant improvements in the ability of Soviet Jews to exercise their human right to emigrate from the Soviet Union.

Earlier this week, Secretary Gorbachev spoke of the effects of glasnost on human rights in the Soviet Union and the prospect of providing more opportunities for Soviet citizens to exercise their personal freedoms. He said that improvements had been made in the human rights conditions, and that a case-by-case review of the individual applications for permission to emigrate would ensue.

He stated that the only reason that many applicants are refused permission to emigrate is because they have had previous access to state secrets. If that is the case, the entire Soviet Union economy must operate on the basis of state secrets because almost every refusenik is denied permission to emigrate because of access to state secrets.

Mr. Speaker, with many of our colleagues in the Congress and many of our fellow Americans, I am concerned that flagrant violations of human rights continue in the Soviet Union. These violations continue despite glasnost, despite rhetoric about increased attention to human rights.

Let me cite just a few examples that I have given special attention. Judith Ratner and her husband, Leonid Bialy, have consistently been refused permission to leave the Soviet Union. Judith and Leonid are both physically disabled and have been unable to continue working in their profession for over 14 years. Leonid has suffered three heart attacks in the last 10 years and was recently diagnosed in need of immediate coronary bypass surgery. Such treatment is not available to him in the Soviet Union. Their case has been reviewed and they have been instructed not to even reapply until the year 1992. Furthermore, Leonid's son was refused permission to emigrate—the reason was that his father at one time had access to state secrets.

Let me cite another example, Mr. Speaker, denial of the right to emigrate to George Karakasheva. George served as a builder in the Soviet Army over 28 years ago. At the age of 57 he wishes only to be reunited with his family in the West. His case has been reviewed and he has been denied permission to leave eight times.

A third case, Mr. Speaker, is that of Isaac Tsitferblit. All his relatives, except one brother who presently resides in Israel, were killed by the Nazis during World War II in that most infamous massacre at Babi. Isaac is now 68 years old and suffers from heart disease. He was told in 1973 that the state secrets to which he had been exposed would be outdated in 3 years. He is still denied permission to leave the Soviet Union, although his wife and son live in Israel. He desires only to be reunited with his family in Israel.

Mr. Speaker, we are receiving mixed signals about Soviet policy toward refuseniks. In 1985, Secretary Gorbachev stated that generally after 5 years and at most after 10 years individuals involved in classified work would be permitted to emigrate. The cases I have raised today all run counter to that assertion.

The Universal Declaration of Human Rights, to which the Soviet Union is a signatory party, states: "Everyone has the right to leave any country, including his own, and to return to his own country." (Article 13, section 2.)

At a time when the whole world wonders whether glasnost really means a change in Soviet human rights policy, it is essential that we make clear to Secretary Gorbachev that the observance of human rights is a central concern of the American people and of the American Congress.

In November, 912 Jews left the Soviet Union, the highest number of Jewish emigrants this year. Nevertheless, these figures are far below the peak year of emigration in 1979 when 51,000 Jews were allowed to emigrate. It is imperative that Soviet Jews and people of all religions be entitled to their right to emigrate if they wish or freely to worship and observe their cultural traditions if they chose to remain in the Soviet Union.

We in the Congress must continue our efforts on behalf of refuseniks in the Soviet Union. This remains one of the principal areas of emphasis of the Congressional Human Rights Caucus. Our continued efforts can make a difference in securing the release of individuals, we must continue to raise this issue.

Mr. Speaker, it is my sincere hope that Secretary Gorbachev will come to understand the crucial importance of the observance of human rights—including the right of Soviet Jews freely to emigrate. Soviet observance of human rights will establish the foundation of trust that is essential if we are to have good relations between our two nations.

Mr. Speaker, all of us wish Mr. Reagan and Mr. Gorbachev well in their upcoming talks. All of us welcome progress in arms control. All of us look forward to concrete progress in the area of human rights.

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WORLD FOOD DAY AWARD TO DR. SWAMINATHAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 60 minutes.

Mr. GILMAN. Mr. Speaker, I requested this special order in order to honor a man who has saved millions of lives from the effects of drought and famine. A man, who through his tireless commitment to the improvement of the quality, quantity, and availability of food, has brought new life and hope to the underdeveloped nations of the world.

On October 6, Dr. M.S. Swaminathan, director general of the International Rice Institute in the Phillippines and best known as the architect of India's "Green Revolution," was awarded the first General Foods World Food Prize. Dr. Swaminathan was selected as the first recipient of this $200,000 prize because of his long and distinguished record of accomplishments in helping feed the world—including the introduction of Mexican semi-dwarf wheat plants in India, which led to greatly improved productivity in a nation ravaged by agricultural disasters and hunger.

A former Secretary of Agriculture and member of the planning commission of the Indian Government, Dr. Swaminathan has received countless honors for his work as a wheat and rice geneticist. In 1986, he was the recipient of the Albert Einstein World Science Award.

In addition he has served as honorary vice president of the World Wildlife Fund, president of the International Union for the Conservation of Nature and Natural Resources, independent chairman of the Food and Agriculture Organization Council, and board member of the Better World Society. The laureate has received honorary doctorates from 23 institutions of higher learning.

Accordingly, because of his outstanding record of humanitarian service, I believe that it is appropriate that this body honor Dr. Swamwathan by sharing his achievements so soon after thanksgiving and before our other special holidays.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 395, FURTHER CONTINUING APPROPRIATIONS, 1988

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-466) on the resolution (H. Res. 321) providing for the consideration of the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes, which was referred to the House Calendar and ordered to be printed.

IMPACT OF H.R. 162 ON AMERICAN BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, my colleagues and I have heard a lot recently about how businesses would be affected by final enactment of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, which this House recently passed.

Since it was first introduced 2½ years ago, many businessmen have testified before the Subcommittee on Health and Safety and met with me informally concerning H.R. 162, and I've paid careful attention to what they had to say. Suggestions for improving the bill have come from business people who support it, as well as those who oppose it, and I've listened to both sides.

In fact, during the floor consideration of the bill, I supported an amendment to exempt small businesses from the medical removal provisions of the bill. I appreciate those businesses that have taken the time to study the high risk bill and to learn if or how it affects them.

I especially appreciate those businesses that have analyzed the bill and recognized its value. They understand how the bill will work and they're now working for its passage in the Senate.

Many of the business groups that support the bill are also the same ones that will be most affected by its passage, such as the Chemical Manufacturers Association, the American Electronics Association, and the National Paint and Coatings Association.

On the other hand, there are a few national business organizations that have confused the issues which the bill addresses and have misrepresented the way the program works. I think it's shameful that these business groups are misleading their members.

Just recently, in fact, I got a letter which claimed the bill would require employers "to notify former workers back 30 years of a possible exposure to hazardous substances," and "require that the employers offer medical monitoring to those former employees."

Now, anyone familiar with H.R. 162 knows that employers are not required to notify anyone. All of the notification will be done by the Federal Government, unless the company decides to request permission to do the notification itself.

Employers also will not be required to contact former employees nor to provide medical monitoring for them. These claims are completely false, and they are indicative of the kinds of rumors being circulated.

The letter goes on to say that in addition to chemical manfacturers, even restaurants and grocery stores would be affected by the bill's passage.

This is an outrageous statement.

First of all, workers will be notified only after the risk assessment board has determined that scientific studies indicate that workers exposed to the same degree or for the same length of time have shown a significantly greater risk of developing a specific disease.

I doubt that restaurant and grocery store workers have even been studied, and it's very doubtful whether they're exposed to any hazardous substances for periods long enough, and at concentrations high enough, to cause occupational diseases.

The third point the letter makes is that H.R. 162 puts businesses "in great liability jeopardy."

Again, this claim is not based on fact. The high risk bill is liability neutral—it neither adds to nor detracts from workers' rights under existing law, and it excludes the use of both the notification letter and the notification process as a basis for, or as evidence in, any kind of suit.

The facts on liability and H.R. 162 were presented in recent testimony before the Small Business Committee by Mr. Lester Cheek, a representative of Crum and Forster Insurance Cos., the Nation's second largest writer of general liability insurance, and one of the Nation's top 10 workmen's compensation carriers. Mr. Cheek said that private notification and medical monitoring programs have not affected workmen's compensation or tort claim frequency, and he went on to say that the bill holds out the promise of significant long-term reductions in the frequency and severity of occupational disease, with concomitant savings for employers and product manufacturers.

So, the writers of this letter are dead wrong when they conclude that the high risk bill will "drive people out of business and cause lost jobs, lost tax revenues, and lost sanity."

Mr. Speaker, all of these claims are false. These misleading attacks by national organizations are simply unbelievable and outrageous.

The truth is that H.R. 162 sets up a program to identify workers at risk of disease, to notify those workers of their risk, and to prevent death and disability resulting from occupational diseases by encouraging employers to reduce hazardous exposures by using safer manufacturing techniques or by substituting less toxic substances.

I invite all of my colleagues to study the high risk bill, as it was passed by the House on October 15. You will see for yourselves that the high risk bill is a very sensible measure carefully crafted with the help of business, labor, and public health groups.

The quality of the bill speaks for itself, and I urge you all to continue to support the bill as we work towards its ultimate final enactment into law. I wish to refer to various provisions of the bill which justify such continued support.

The letter referred to is as follows:

SHERATON INN GREENSBURG,
Greensburg, PA, October 8, 1987.

Senator ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: What in the world could Representative Gaydos from Pennsylvania and Senator Metzenbaum from Ohio have on their minds regarding the High Risk Occupational Disease Notification and Prevention Act! Sometimes we constituents at home begin to wonder if Capitol Hills's air causes our representatives to lose sight of practical every day business.

Surely, no sensible person who wants to encourage all businesses, small or large, to stay in operation, provide jobs for the public, (and, incidentally, taxes for public works), would vote for legislation that required employers to notify former employees back 30 years of a "possible exposure to hazardous substances". Personally, many businesses don't even have the records of those former employees. In addition, to require that the employers offer medical monitoring to those former employees and present employees regarding exposure is absolutley ludicrous!

This hotel, now in business 9 years, and its owners, in the construction and coal business for over 40 years, has in good faith tried to provide jobs in the safest way available at the time. Maybe the Congress thinks only of chemical manufacturers or rubber manufacturers as businesses affected by this legislation. Not so! Restaurants, grocery stores, and other businesses would also be impacted.

This legislation puts us in great liability jeopardy, asks us to perform an impossible feat in finding former employees, and provides sure fire financial ruin to have to provide medical monitoring to former and present employees. Surely it will drive people out of business and cause lost jobs, lost tax revenues, and lost sanity.

Can we please return to some common sense and some common trust? Please consider these remarks and do not vote positively for H.R. 162 and S. 79.

Sincerely,

Wilmer P. Eidemiller, President, Adam Eidemiller, Inc.; Anna Mary MacPhail, Secretary/Treasurer, Adam Eidemiller, Inc.; Margaret C. Kuhnemund, Marketing Director, Sheraton Inn Greensburg; Elizabeth E. Battistella, Vice President, Adam Eidemiller, Inc.; Louis R. Battistalla, General Manager, Sheraton Inn Greensburg.

Mr. HAYES of Illinois. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Illinois.

□ 1840

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Pennsylvania [Mr. GAYDOS] for his taking the initiative to sponsor H.R. 162 and also for taking an initiative to further explain and answer the negative positions that have been taken by some employers which have now been put in the RECORD.

I think there is nothing wrong with notification of hazardous materials with which people have to work. Notification should be provided in order to preserve life and prevent permanent injury or damage to their bodies.

Mr. Speaker, I want the gentleman to know that I completely support H.R. 162 and also the Senate bill.

Mr. GAYDOS. Mr. Speaker, I thank my colleague, the gentleman from Illinois.

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague on the Education and Labor Committee, who I know has an intense personal interest in this bill.

Mr. OWENS of New York.

Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a member of the committee, I certainly know of the tremendous amount of hard work that has gone into this bill. The gentleman has coordinated his efforts over a long period of time. The bill has certainly been subject to a number of compromises and amendments, and every effort has been made to accommodate business interests. Personally, I think this is a good beginning. It is not as strong as it was when it first started. I would like to see it strengthened.

Mr. Speaker, I want to congratulate the gentleman from Pennsylvania for at least arriving at a point where we have across-the-board support and for bringing the bill to the point where it has been passed by the House of Representatives.

I do not think that any employer would knowingly want to subject his workers to conditions that threaten their lives or their health. Certainly there are large numbers of employers who would not want to do that, and certainly those employers ought to welcome the opportunity to have everybody brought into some kind of a system where things are equalized. If they have to spend money to make sure conditions are safe, their competitors would also have to spend money to make sure conditions are safe, and they should welcome a bill of this kind, which, I think, is minimal. I think most free world nations have regulations which are a bit stronger than this.

Mr. Speaker, this is a good beginning, and I congratulate the gentleman on his long effort to make this bill a reality.

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague, the gentleman from New York, for those remarks. He does bring up a point that I think is quite important.

We are talking about weakening the bill, and I do admit that on the floor of the House, in order to gain passage, I did introduce some amendments and also accepted some amendments along those lines. I, too, share the thoughts the gentleman expressed here so vividly today that maybe the bill should be a lot stronger, but we are talking about the practicalities of getting something in place and started. As the Chinese have said, a journey starts with the first step. This is it. And I think my good friend and colleague refers, for instance, to my amendment No. 1. That amendment provides an exemption from notification requirements for companies that show by a preponderance of the evidence that they have operated exceptionally effective health and safety programs. That is a little bit of a weakening, but I think it is one that is justified under the circumstances.

I also put in a second amendment at the time that prohibits employee requests for medical removal benefits without physiological evidence that the covered disease was about to manifest itself. That was in response to a lot of critics; by putting that amendment in we thought we would make it very clear that there would not be a lot of sub rosa or ficticious requests for removal. So that takes care of that problem.

The third amendment that I put in provides that employers would not be required to duplicate medical monitoring already required by a specific health and safety standard. I think that is a good amendment, and there is no problem there.

But another amendment I had suggested and which I had included permits at risk assessment boards to limit the notification to the period of latency associated with the disease. We did not want to have any limitation, but I put it in with the encouragement of some of my colleagues who said they would support the bill with the amendment. We only passed the bill by 40 votes. I thought we should have passed it by 240 votes, but we only passed it by 40 votes. So I made some concessions and some compromises, and that is one of them.

Let me give another example. If a class of workers were identified as at risk for bladder cancer in one of the areas of employment because of exposure to some kind of chemical dye, for example, the latency period for that cancer in most medical circles is 10 years. Then the notification would only go back for 10 years. Others who support the bill wanted to have an unlimited period going back 30 years. There are some conceivable cases where an exposure could have occurred and 30 years could pass and it would still be an authentic case. We compromised. We said, let us take a look at the latency period, and at least that will get us started on the right path.

We did make some changes, defining OSHA's standard and changes on the procedures of the risk assessment board.

I want to mention one thing here. Our colleague, the gentleman from California [Mr. DANNEMEYER], did put in an AIDS amendment, and the gentleman from Vermont [Mr. JEFFORDS] directed the board to give priority consideration to designating workers exposed to dioxin as an admitted at-risk group. We accepted that amendment, too.

Let me conclude by saying this: I will take a special order at another time to enlarge on this. I want to go into every particular detail of the bill. I want to do that until next year, until we come back with a conference report. I think everybody should know what this bill provides. I think it is so basically and fundamentally essential that we have a full and complete understanding that when we pass that conference report, we are going to be talking about passing it by a couple of hundred votes.

That is why I am going to cut my remarks short at this time, because we have others here who are going to pick up an item that is very close to my heart, and one that, when spread upon the record, is going to affect a lot of people, and I think it is one that is of a worthy nature.

Let me finally conclude by saying that I would admonish and greatly encourage at the same time our lobbyists here on the Hill to be careful of their facts when they lobby a particular bill. I was exposed to so much misinformation and complete fabrication and outright lies. I am not accusing our lobbyists of manufacturing them, but looking at the evidence, let me say that we find so many people saying these things that we conclude they have to originate at some place and in most places a lot of our business people and entities as such look toward their lobbying representatives here in Washington. So if they are misquoting facts, I would say they are maybe being supplied half truths or information, or maybe they could interpret it that way. I am going to give that concession to our lobbying groups, because our lobbyists up here do, I think, perform an admirable task. I think we need lobbyists. I think they do supplement our employees that we have and our personnel. I think the expert decorum that they have and the technical knowledge they have all goes together and helps us to better understand and support our legislation.

But, on the other hand, having experienced this exposure that we have seen of half truths and misinformation that caused so many problems, I had to go around personally explaining time after time that this is not fact and that is not true, that this bill does not pertain to past employees, things like that. These things are so fundamentally basic, and yet much misinformation has been made available.

So under these circumstances I again reiterate that I would want to admonish and encourage our lobbyists to be more accurate in their information, to tell those around them that they lobby for and those who employ them that they are not going to do this, because, if not, what is going to happen is that we are going to have legislation governing lobbying, and I think that is bad, because our Constitution does provide for a good determined and hopefully accurate lobbying effort. A lobbyist should be an asset rather than a detriment. I say that as a legislator, and I think I say that on behalf of my colleagues.

Finally, in conclusion, let me say that lobbyists are important, but I think they ought to watch their decorum. They should clean up their act if they have to and they should make sure they are more accurate in some of their observations.

Mr. Speaker, I yield back the balance of my time.

□ 1850

TRIBUTE TO THE LATE HONORABLE HAROLD WASHINGTON, MAYOR OF CHICAGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 60 minutes.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have leave to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DYMALLY. Mr. Speaker, we take this moment in history to build a monument in tribute to a fallen leader, our former colleague in this august body and mayor of the city of Chicago. The Honorable Harold Washington. He was a man who stood tall, and cast an enormous shadow of goodwill. Blow as they might—the winds of political turmoil and upheaval and injustice—this giant would not bend, nor bow, nor break. There was a quiet dignity about the man, Harold Washington; yet there was no more formidable opponent when challenged. He was purposeful and constantly focused, for his battle did not begin and end with the rollcall, but extended into a crusade to heal the cancerous lesions of race hatred and generations of divisive political warfare. He was a slayer of giants, yet a gentle person who stooped to lift up the downtrodden.

Chicago laid to rest on November 30, one of its favorite sons. Yet, he belonged to us all. We, in the Congressional Black Caucus are grieved at this loss, for Harold Washington was our brother as well as an eloquent statesman, a champion of justice, and a politician without contemporary peer. A former Secretary of the Caucus, in 1983 he returned to keynote the 13th Annual CBC Legislative Weekend Awards Dinner with a stirring address which captured the unrelenting struggle of black America's quest for economic and political empowerment. It was a very special occasion, for that evening he was awarded the highest honor conferred by the CBC for political achievement named the Adam Clayton Powell Award.

Harold Washington was elected from the First Congressional District of Illinois to serve in the U.S. House of Representatives in 1980. As a freshman, he was a member of the Committee on Education and Labor, the Judiciary Committee and the Committee on Government Operations, while serving on the Subcommittee on Civil and Constitutional Rights, which had initial jurisdiction over legislation to reauthorize the Voting Rights Act of 1965. Harold played a crucial role in the successful extension of the act which was signed into law on June 29, 1982.

His was a career of distinction and honor. After graduating from Northwestern University School of Law in 1952, he practiced law until his appointment in 1954 as assistant city prosecutor for Chicago. He served for 5 years as arbitrator for the Illinois Industrial Commission, and in 1965 was elected to the Illinois House of Representatives where he served Chicago's 26th District until his election to the Illinois Senate in 1977.

In one of his last interviews, which appears by extraordinary coincidence in the December 1987 issue of Ebony magazine—Harold Washington challenged that we not abandon our cities and that the Congress make a clear commitment to the rejuvenation of our urban centers. I can think of no greater testimony to his memory than for us to pledge to move forward on this battlefront to make our cities vibrant, healthy and productive environments to bring this Nation into a competitive position as we look to the year 2000. Harold Washington was a dreamer—and a doer. He shall surely be missed.

Mr. Speaker, I yield the balance of my time, because I think it is appropriate, to my friend from Chicago, Congressman HAYES.

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentleman from California for yielding this time.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, I just want to spill upon the RECORD a sincere tribute to our former colleague, Harold Washington. He was a member of my committee. He attended the hearings we had faithfully and regularly. He lent so much to the hearings. Of course, everybody knows of his ability as a great orator. His questions were driving questions, yet fair. I missed his presence and I do miss his presence on the committee. I think my colleague, the gentleman from Chicago, will verify that he gave our committee class, in a nutshell. After he was through asking questions, I think I even felt much more informed, better informed.

As I mentioned before, the questions were driving questions. Some were very difficult, but the end result is that we got better legislation, better witnesses.

I just wanted to thank my colleague for yielding and I wanted to take this part of this special order at this particular point in the RECORD and let the RECORD show that I was in a position to observe him in his activities here in his short stay as our colleague here in Washington before he went on to better and more important things and that we miss him. He was a most effective member.

Mr. HAYES of Illinois. Mr. Speaker, it is with a note of sadness that we pause at least for an hour and a half or so to reflect on the life of one of the greatest friends that I have ever had and one of the greatest mayors that the city of Chicago has ever had, who was born on April 15, 1922, at the Cook County Hospital in Chicago, IL.

Harold Washington was one of 11 children, son of Roy L. and Bertha Jones Washington.

He was graduated from DuSable High School, in the heart of my district in Chicago. He also attended school at Roosevelt University and Northwestern University School of Law.

When his father died in 1954, Harold took his first step toward official political empowerment and assumed his father's position as local precinct captain of his home third district. From precinct captain he rose through Chicago's political ranks, and that is not easy to do, serving in numerous appointed and elected capabilities, including assistant corporation counsel from 1954 to 1958, as state representative for the State of Illinois from 1965 to 1977. He was a state senator from 1977 to 1981, and an Illinois Congressman from the First Congressional District from 1980 to 1983.

He first ran for mayor of the city of Chicago in 1977, but was elected mayor on April 12, 1983, as a reform Democrat, and reelected on April 7, 1987.

He ran a government based on the principal theme, "Chicago works together." All races, black, brown and yellow, and all ethnic groups.

Although he had only 4 years and 7 months to govern, he left a record of leadership and accomplishment that will benefit Chicagoans for many, many years to come.

On Wednesday, November 25, 1987, at 1:36 p.m., he died physically of a massive heart attack. Although physically gone, his spirit lives on and his legacy will live for generations.

As evidence of his popularity, it is estimated that over 2 million people either came to the city hall to pay their respects or lined the streets to bid him farewell. Never before in my lifetime have I seen such an outpouring of people to pay their last respects to any person in Chicago.

Harold Washington was a catalyst. He awakened in all of us the realization that hopes and dreams in fact can be turned into reality. He was many things to many people. It was said he was the Mayor that everyone knew.

In that light, Mr. Chairman, I will include at this point in the RECORD an article which just recently appeared this month, in fact, in Ebony magazine, written by Charles Whitaker, which clearly delineates and points out the mayor that everybody knows, Harold Washington. I include the article, as follows:

[From Ebony magazine, December 1987]

THE MAYOR EVERYBODY KNOWS

(By Charles Whitaker)

It is a phenomenon that Chicagoans who venture much beyond the city limits know well. It doesn't matter where they go—Cairo, Illinois, or Cairo, Egypt; London or Los Angeles; New York or New Delhi. Once a hint of their Windy City origins is revealed, the reaction invariably is the same: "You're from Chicago? How's Harold?"

"Harold," of course, is the city's chief executive, Mayor Harold Washington. And the answer to the often asked question, according to many Chicagoans, is "Harold's doing fine!"

More than six months into his second term, Washington, 65, now sits securely at the top of Chicago politics. Last spring, he turned back the three White challengers who sought to unseat him in the mayoral elections, His foes on the City Council have been vanquished, freeing his administration of the handcuffs that hampered it for much of the first term.

Though he faces a myriad of problems, such as patching up an aging network of streets and sewers and staving off attempts by the Reagan Administration to gain control of the city's massive and financially strapped public housing system, the concerns are no greater than those confronting most big-city mayors. Yet, Washington has captured the attention of the world in a manner that few of his mayoral peers have.

Observers of the Chicago political scene attribute Washington's wide recognition to the fact that he is so vastly different from Chicago's previous mayors; not merely because he is the first Black to hold the post, but because he is, some say, the most intelligent, compassionate and colorful leader the city has ever had. "Harold Washington is certainly the best mayor Chicago has had in my lifetime," says Leon Despres, a White former alderman and outspoken leader among Chicago's "lakefront liberals." "He has a remarkable intellect and he is deeply and truly interested in the city. No other mayor has been as interested in the city as he is."

Washington, however, modestly says that it was an unusual set of circumstances that catapulted him to the mayor's office and made him one of the world's best known mayors. "The reason my face and my name are known all over is because of the history of the Chicago political machine and the movement that brought it down," he says. "I just happened to be there at the right time to capitalize on it."

It was indeed a historic movement that carried Harold Washington to the mayor's office in 1983. After decades of serving as foot soldiers in Chicago's tightly controlled political system, Blacks, who compose approximately 40 percent of the city's population of three million, finally realized that their collective voting strength could enable them to elect a Black mayor.

The fact that any individual or group would take on Chicago's political machine was enough to attract attention, Washington says. "Chicago had a reputation as being the last bastion of Democratic machine politics," he says. "And it was assumed by many people that the machine was impregnable."

Washington's 1983 mayoral bid proved that the machine could be overthrown. The campaign captured national attention largely because of the open displays of racism that punctuated it. Still, Washington triumphed over Republican Bernard Epton by building a coalition of Blacks, Hispanics and a smattering of liberal Whites. But his first term was hamstrung by "Council Wars," the name given by the press to the attacks on the administration by 29 White alderman. Using their numerical advantage, the opposition bloc stalled the mayor's appointments and generally interfered with the running of the city.

A court-ordered redrawing of the city's ward boundaries late last year boosted the number of Blacks and Hispanics on the City Council and cleared the way for the demolition of the last traces of machine politics.

It is both fitting and ironic that Harold Washington should preside over the movement that crushed the machine. He got his political schooling within Chicago's old Democratic organization. His father, a lawyer and Methodist minister, was a precinct captain and one of the city's first Black Democrats. Washington got his start in politics at age 16, working with his father. He has served as a state representative (1969 to 1977), a state senator (1977 to 1981), and a U.S. representative (1981 to 1983).

Longtime friends say that Washington, who has lived in Chicago all of his life, has always had the look of a leader. "Even as a kid, he was always reading something," says real estate tycoon and author Dempsey Travis, who grew up with Washington on Chicago's South Side. "When we played baseball, he'd have a book in his hip pocket and whenever he wasn't on the field or at bat, he'd be reading."

At Chicago's Roosevelt University, where he was one of 20 Blacks in a class of 400, Washington was elected senior class president and president of the student senate. He graduated from Roosevelt in 1949 with a degree in political science, then headed for law school at Northwestern University, from which he was graduated in 1952.

Admirers describe Washington as a warm and gregarious man who is at home in virtually every stratum of his multi-faceted city. "He's extremely bright and articulate, but he's also very compassionate," says the Rev. Willie Barrow executive director of Operation PUSH. "He cares about all of the people of this city, from the lakefront to the ghettos. He doesn't talk down to anyone."

Chicago media, with whom Washington has frequently clashed, paint a slightly different picture, branding the mayor as irascible and combative. Washington says the reputation developed during his protracted struggle with his opponents on the city council. "I'm not combative," he says. "I just don't like being pushed around. But I don't think the press is that used to seeing Black men who stand up for their rights. That's because they don't know that many Black men. But Black people don't call me combative. They call me strong, which lets me know I'm on the right track."

Washington lives alone in a modest art-filled apartment in Chicago's fashionable Hyde Park neighborhood. His den is crammed with books that chronicle the careers of some of the world's best-known leaders, including late Mayor Richard Daley. Since assuming the wood-paneled office on the fifth floor of Chicago's City Hall, Washington has not had much time for extracurricular reading.

Up at 5 a.m. for a quick glance at the morning papers and a spot of tea, he is in constant motion until 7 p.m., when his day begins to wind down. His calendar is packed with briefings with department heads, meetings with other government officials and a host of ceremonial duties and public appearances. Single with no children, when time permits him to attend social functions, he is usually in the company of his fiancée, Chicago teacher Mary Ella Smith.

Much of Washington's first term was consumed by the business of dismantling Chicago's entrenched system of patronage which had long left Blacks, Hispanics and women in the cold. "We're just about where we want to be in terms of real, structural reform," he now says. "That means fair hiring, an equal distribution of services, freedom of information. I'm no goody-goody, but to me, that's the way government is supposed to work."

At the same time, Washington has forged an agenda for social reform. "We have to focus on reform in areas like hunger, providing for the homeless, combatting youth crime and unemployment," he says. "These are not just problems in Chicago, but on a national scale. So we have to go to Washington, work with Congress, try to get these areas addressed."

He has taken the lead among big-city mayors in attacking the federal government for what he calls its "abandonment of our cities." His sharp criticism of the Reagan Administration has led many to speculate that he is jockeying for a position in national politics. He quickly dismisses the notion. "No, it's not my desire to be a national leader," he says. "But it is my desire to be part of a national movement that is trying to turn Congress around and trying to help rejuvenate our cities. It's a commitment that every mayor of every medium to major-sized city has made."

Washington has reached out to the White ethnic communities where resistance to his initial campaign for mayor was strongest. Though his reception at the city's popular ethnic festivals has been warm, the thaw in relations has not been demonstrated at the ballot box. His White support still remains along the traditionally liberal and relatively affluent lakefront.

Washington says that such voting patterns reflect the reluctance of White Americans to vote for Black candidates. "Look at most of the major cities that have Black mayors and you'll find the same thing," he says. "So what can we do about it? We can talk about it, not in an acrimonious way, but in a clinical way. And maybe by talking about it, we can get a few of those borderline White people who have never consciously thought about racism or prejudice to think about it and maybe want to do something about it."

Yet, he has seen some changes over the course of his first term, and he continues to extend himself, attempting to break down the barriers and demonstrate that he is not the mayor of just Black Chicago, but of *all* Chicago. "It's a big job," he says, "but we're tackling it, breaking down stereotypes and warped impressions of Black leadership."

It's a challenging job, and it's a job that Washington loves. "You can't solve *every* problem," he says, "but if you can affect just a few of the areas, like ending discrimination. . . . The satisfaction you get out of things like that is enough inducement to make me want this job.

One of the most highly sought-after speakers in Chicago, Washington routinely breaks up audiences when he tells them that he is embarking on the second of his *five* terms as mayor of Chicago. Insiders say that he is only joking and has no intention of remaining in office for 20 years. But there are indications that he has laid the foundation for a political dynasty that could rival that of Richard Daley. In fact, some Chicagoans, in response to questions about Washington's political staying-power, are predicting that his reign will mark a critical turn in the city's political history. A turn so critical, some say, that Chicago history will be divided into two eras: Before Harold Washington and After Harold Washington.

Mr. HAYES of Illinois. Mr. Speaker, I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, a week ago today the city of Chicago and this Nation, in fact, suffered the sudden loss of a public official of considerable stature, our former colleague, Mayor Harold Washington. Mayor Washington left a legacy that will long endure. He was a man of vision. When he first decided to run for mayor, he had the foresight to believe that Chicago could overcome its racial and ethnic divisions to work together. Indeed, in his 4 years and 7 months in office, he set in motion a number of programs to make Chicago a model city, proof that any urban center could achieve harmony among its many diverse communities.

He was a man of resolve. He left this body to become mayor. He worked tirelessly to develop policies that could improve the quality of life for all Chicagoans; better schools, better housing, better transportation; above all, a new sense of hope.

He was a man of courage. When he assumed office, he broadened the opportunities for government contracting processes so that all could be assured a fair chance to participate.

He met with the business community to convince them that Chicago was a city that was going to continue to grow, continue to prosper, and that they in fact should invest their moneys, time and energies into a city like Chicago, so that we could have not only a wonderful business climate, but job opportunities for those who were much in need. This has enhanced Chicago's economic base considerably.

Because of these personal qualities and others, Mayor Washington was a political leader for all Chicago residents and he applied his leadership skills to accomplish a number of objectives. He opened the doors to City Hall and made local government accessible to every resident of the city. He insured that municipal services were distributed on a more equitable basis and he raised the bond rating, in fact, of our city from a meager B to something lie a triple-A. This was the greatest input into financial affairs that had been seen for decades in our city.

He placed minorities and women in positions of great authority. These are people who had been left out of the governmental process in the city of Chicago.

Mayor Washington's influence was also felt at other levels of government. As a State legislator and a Member of this Congress, he introduced set-aside programs in government contracting that have significantly increased the development of small businesses by minorities and women.

He also proposed to provide businesses with financial incentives to come not only to Chicago, but to most urban areas in his role as a member of the coalition on mayors.

In addition, he worked to establish programs that would assure the young and the elderly to have no fear of being fed, clothed, or housed.

Perhaps most important, Mayor Washington was recognized as a national leader on urban policy.

At the time of his death, he was soliciting support among Presidential candidates for his national urban agenda, which is in fact a comprehensive housing and urban development program intended to improve the quality and availability of public housing and other essential services for low income persons.

Harold Washington has left a host of accomplishments that stand in tribute to him.

Mayor Washington believed that the Government ought to be a government for the people. In fact, many of us have seen him in Washington many times since he became mayor, coming here in pursuit of Government funds and programs that would have greatly enhanced the stature of the city of Chicago, not only for the city, but for the people who lived there.

In fact, I was to have met with Mayor Washington on the day of his death for the purpose—he had asked me to come and sit down and discuss with him some local issues and some matters relating to Washington, DC, that he was vitally interested in.

He opened the door for all people to participate in government.

The people of Chicago and this Nation have in fact suffered an irreparable loss in Mayor Washington. Our Nation is indeed weeping as we mourn his great loss.

Mr. HAYES of Tennessee. Mr. Speaker, I thank the gentlewoman from Illinois.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman very much for yielding to me.

When I think of Harold Washington, it goes back to my days in the Illinois State Senate. I knew Harold from those days, long before he was mayor of the city of Chicago and before he was a Member of Congress.

I must confess that I have not kept up with him as he has moved on in the world, but my first contacts with him were back I think in the early seventies. I would like to just share a little story. When Harold was a member of the Illinois House and I think a relatively new member at that time and I was in the Illinois Senate at that time. I was chairman of the Illinois Senate Public Health Committee and I was very interested in trying to find a member of the House who would be interested in sponsoring in the Illinois House a bill which attempted to reform or pose what we felt were some reforms in the Chicago Department of Public Health.

□ 1905

It was a touchy matter understandably because it was reliably reported that there were a number of patronage workers there and all was not going well. True or false, that was not an issue at the time. I had trouble finding a Chicago-based Democrat, I wanted to be impartial, I wanted to be fair, because the facts justified a partisan effort and that brought me to Harold Washington, then relatively new, as I said, in the Illinois House.

I sat down next to him one day in the House, and he listened carefully as I explained the bill and then he scooped up various reports and investigations made by medical personnel in the Chicagoland area and he left and said, "I'll be getting in touch with you."

I was not sure how he felt about it but when he found some evidence apparently of the failure of the Department of Public Health to have a measles immunization program in the Chicagoland area, so that many pregnant women came down with measles and thereupon accounting for the birth of numerous retarded children, one day he bounded into the Senate and sat next to me and said, "Harris, this is a nonpartisan area one thousand percent."

Thereafter though, we ultimately lost that bill in the last day of the session as oftentimes I think we have seen in the Illinois Legislature, but Harold kept on working in regard to that area and I think with all the knowledge that he gathered up, and he certainly worked so hard on that issue, eventually his forcefulness and I think his insight on the issues brought about some badly needed reform in that area.

From time to time we would meet thereafter, we working quite a number of bills together, and I grew to respect his honesty, his articulate ability to get up on the House floor and make things happen.

In 1976 I chose not to run for the Senate again and I began practicing law back in Naperville. We only met one time thereafter and we were both at Comiskey Park on opening day of the baseball season. He looked at me, and he had become mayor by that time, and he had more white hair, and he said, "Fawell, you got an awful lot of white hair."

But I watched from my perch in Naperville in the western suburbs and saw him go into Congress, and then I saw him give up a safe seat in Congress and this was, I think, typically Harold Washington, gave up a safe seat in Washington for a not-so-safe run and maybe that is an understatement of the day, for mayor of the city of Chicago.

Of course the rest is history. His first term was tumultuous, one would have to say, marked by the fact that he had to operate without full control of the majority of that city council, but he persevered, he never stopped, he knew exactly what he wanted to do and of course he was reelected, obtained the majority support he needed and then certainly in the very prime of the tremendous services that he could render to all the people of Chicago, the people of Chicago lost him. More than just the people of Chicago lost him, the people of the State of Illinois, indeed the Nation. Harold Washington knew as he once told me that politics is the science of government, of man's relationship to man, of all men and of Harold Washington I know we can say regardless of race, religion or creed, and again the real understatement, I guess, he will be really sorely missed in not only the city of Chicago but all of Chicagoland.

I am happy to have had this opportunity to say these words on behalf of a great friend of mine, Harold Washington.

Mr. HAYES of Illinois. Mr. Speaker, I certainly want to thank the gentleman from Illinois [Mr. FAWELL] for sharing with us his knowledge and experiences with our deceased colleague.

Yes, the gentleman is absolutely right, he told me, for I succeeded him as the Congressman of the First Congressional District, that he gave up a safe seat in the Congress to take the challenge of becoming mayor of the city of Chicago.

Mr. FAWELL. If the gentleman will yield, we know a man has courage when he does that.

Mr. HAYES of Illinois. I never saw a human being that could stand the storm of public pressure in the field of politics as well as Harold Washington did.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I thank the gentleman from Illinois very much for yielding, and I thank him so much for this opportunity to be able to pay our respects to our former colleague Harold Washington.

When Chicago poured out its love and its people and its very, very strong admiration for Harold Washington in the past few days, it was a very natural situation because Harold Washington was a true child of Chicago. He was born in Chicago. He was graduated from Forestville School. He went on to be graduated from Roosevelt University, and he took his law degree at Northwestern University.

He was a true Chicago child who gave his life literally to Chicago and its people. He was assistant city prosecutor, then he represented the people in the House in Illinois, and then in the Senate in Illinois, and always he had this tremendous interest in education, health, and civil liberties. He knew the only way to uplift all of the people so that they could enjoy the great blessings of this country and of their magnificent city was to make certain that their health and their education and their civil liberties were intact.

He served so beautifully in the legislature, in the House and in the Senate in Illinois, that he received every conceivable award as the best legislator, the 10 best legislators, awards from bar associations, and awards from civil rights groups. Then he came here to Washington to represent the people of Chicago in the Congress of the United States, and he brought that same dedication to the same objects of his devotion to this House and he served as he had in the Illinois Legislature, on the Committee on Education and Labor, and on the Committee on the Judiciary which he chaired in both the House and the Senate in the Illinois Legislature.

I think it is very fitting that this evening when we meet here in the House that a tribute to Harold Washington is following a tribute and a begging for civil rights and civil liberties of the people of the Soviet Union because if anybody fits the description of someone who has stood for the civil rights of all people, the constitutional rights of all Americans, it was Harold Washington.

This Nation is going to miss him but we will remember him very much and we will recognize that his heart was so full, it was so full of love and mercy and understanding and of wanting to do so much for his people that it literally burst in the effort.

We are very pleased to have had an opportunity to serve with him here, and we wish him through all eternity the blessings of the God that he loved so well.

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentlewoman from Louisiana for her remarks.

At this time I would like to recognize for such time as he may consume, the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time.

Mr. Speaker, at the last meeting of our Illinois group of Illinois business interests, on June 4, our former colleague, Congressman Bob McClory, of Illinois, introduced our late mayor and former Congressman Harold Washington. Bob's introduction is such a fitting tribute of love and respect that I would like to include it in the RECORD, following my remarks.

Mr. Speaker, let me just point out that Harold and I have had an association going back some 38 years. We both got our feet wet in electoral politics running for the student council as classmates at Roosevelt University, and we were longtime friends and also political allies, and finally, of course he became our political leader.

I also miss the private occasions, the Thanksgiving dinners, the dinners that he had at my home and the Friday fish fries that I enjoyed often at his home, but nothing so much as our very serious opposition to each other on the chessboard.

He leaves as his legacy having defeated patronage politics in Chicago. He opened up municipal government for public examination, and he provided a fairer participation for blacks and Hispanics and women. Would it not be the case that how he died he was doing what he enjoyed doing most, which was working at his desk governing the people's business. He died suddenly in the twinkling of an eye, and in the autopsy it was discovered that his heart was three times oversize. Not too surprising, of course, considering the strain and the stress of battling for decades the antiquated, vicious, and insensitive political machine that so long ruled in Chicago; not surprising the stress and strain considering that he also had to fight racism perhaps more deeply embedded in Chicago than in any other large northern city, and of course the stress and strain of just being a strong black man in America. But however enlarged physically that heart, larger still was his concern and his commitment and his courage. Even in a way it seems the death angel respected this rare man by being so careful in coming so that he did not suffer any debilitation or hospitalization.

I want to just announce that we will be submitting tomorrow a bill to rename the Great Lakes Social Security Program Service Center in Chicago, IL at 600 West Madison, a building constructed in 1975 with some 521,000 square feet and four stories high housing some 2,600 employees and recognized by the unusual and huge sculpture of a baseball bat that towers before it on the plaza, to rename that building the Harold Washington Social Security Center.

□ 1920

This is particularly appropriate at a time when our senior citizens are among our most needy and our most helpless, for Harold Washington, if he had any great preference, it was for the needy and for the most helpless.

Mr. Speaker, we are going to try to introduce a bill and put that bill on a fast track and try to run it through the subcommittee on December 9 and through the full committee on December 10 and come before the body and ask unanimous consent for its special consideration. Hopefully we may even get it out and approved before we adjourn and have the name posted in the first part of next year.

If I might end my statement just by recognizing the relevance here of Apostle Paul's fist epistle to the Corinthians, even though it was written in 56 A.D., and I think it was the 15th chapter of the 54th though the 56th verses when he said that when this corruptible puts on incorruption, and this mortal puts on immortality, God swallows up death in victory and washes tears away from all faces, and then, O death, where is thy sting and O grave, where is thy victory.

INTRODUCTION OF THE HONORABLE HAROLD WASHINGTON, MAYOR OF THE CITY OF CHICAGO BY ROBERT MCCLORY FORMER MEMBER OF CONGRESS (1963-1983) JUNE 4, 1987

While it is somewhat awkward for me to appear today in the Democratic Club, I am nevertheless happy to have this opportunity to see this structure from the inside and to get a firsthand view of the location which was easily identified when I learned from Mike Dineen that the Club was located where the Old Rotunda used to be. Of course, introducing the distinguished Mayor of Chicago, Harold Washington, is one of the easiest and most welcome assignments that I've had as a part of the Illinois Group.

Until recenty, Harold Washington appeared to be patterning his career after my own. I was once a Member of the Illinois House of Representatives back in the year when Harold Washington was graduated from the Northwestern University School of Law. He served a somewhat longer period in the Illinois House of Representatives and then a somewhat shorter term in the Illinois State Senate than I did before I came to the Congress in 1963.

Upon his election to the Congress in 1980, Harold Washington exercised very good judgment by earning appointment to the House Judiciary Committee. I was the Ranking Republican at that time, but let me state quite frankly that Harold Washington and I worked closely and cooperatively together during the 97th Congress when we were both members of the Judiciary Committee. A racially minority member of the Committee, Harold Washington's interests extended far beyond the limited civil rights issues with which the House Judiciary Committee has primary jurisdiction. Indeed, I found that he and I were frequently working shoulder-to-shoulder on anti-crime, anti-trust and immigration legislation and numerous other issues with which the House Judiciary Committee has primary jurisdiction. As a longtime delegate to Interparliamentary Union meetings, I recall the Interparliamentary Union meeting in Lagos, Nigeria, in 1981. Congressman Harold Washington came along as one of our U.S. delegates and contributed substantially to the debates—particularly on issues which were denominated as anticolonialist—meaning specifically the problems of apartheid in South Africa. Congressman Washington took a firm U.S. position describing appropriately our policies and contributing his paticular knowledge of the subject of our relations with South Africa.

Just incidentally, I recall one particular episode when our delegation was being escorted on a brief sightseeing tour of Lagos. Unfortunately, our vehicle broke down and we were stalled on a busy highway and attracted a substantial crowd. Let me observe that the Nigerians are, in my view, not the friendliest type people and several of them got quite disturbed when I persisted in taking photographs of various elements in the native population. When the atmosphere appeared to be threatening as far as I was concerned, I was relieved to have Congressman Harold Washington appear and calm the situation as he uniquely could do under circumstances such as that.

As Mayor of Chicago and reelected recently for a second four-year term, it seems most appropriate to observe that Harold Washington has measured up to the broad responsibilities of Mayor of a great metropolitan community and my favorite city—the city of Chicago.

I'm not endorsing anybody for a third term for Mayor of Chicago—you undertand. But I am proud to be here with my longtime friend, my former colleague in the House of Representatives and a most distinguished public official—the Honorable Harold Washington, Mayor of the City of Chicago.

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentleman from Illinois. I thought he had become a minister at the windup of his remarks.

Mr. Speaker, I yield such time as she might consume to the gentlewoman from the State of Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman from Illinois who was such a close personal friend of Mayor Washington for yielding.

Mr. Speaker, I will abbreviate my remarks because I know there are others who want to pay tribute to this wonderful man. I am pleased to submit my statement for the RECORD which details some of my feelings about Harold.

I just simply want to say that I am proud to have served with Harold in the Congress of the United States. He was not in the Congress for a lengthy period because his heart was really in Chicago. "Tip" O'Neill said all politics is local, and I think Harold had that feeling about his hometown, born and raised in that town.

He began his really prestigeous career by breaking new barriers. He was the class president, as I understand, at Roosevelt University. When he was elected senior class president his class was only 5 percent black, so he broke that barrier.

He certainly broke a barrier in terms of Illinois politics and national politics really by being elected mayor with great odds against him. He forged a grassroots campaign, the best kind of campaign really. He went right to the people, and he had a charismatic way.

Even though he was only here in the House for a brief period, one could not say no to Harold because he just really mesmerized I think the House of Representatives whenever he brought anything to us asking our support.

I know a little bit about breaking barriers. I know in my own case, being the first woman in Democratic politics in my State to be elected, frankly, we do not say this very often, but it is not easy when people are not used to appreciating something they do not know. It is just that simple.

My own city of Cleveland is proud of the fact that we elected the first black mayor in the history of this country in a major city by electing Mayor Carl Stokes, and of course we are all privileged especially to serve with the dean of the Ohio delegation, LOUIS STOKES. So we know a little bit in my hometown about breaking barriers. We sometimes call Cleveland Little Chicago, so there is an awful lot that we have in common. They just do things in a bigger way in Chicago than we do in Cleveland.

But the fact is there was something very poignant, moving, and exciting about Harold's victory in what was then the second-largest city in the country. The fact is he was a reform candidate and he promised the people a new access to politics. That is really what he promised the people, that there would not be favoritism, that people would be judged on the basis of what they were and what they had to offer. I think that is really so important, and I think we saw what the Washington Post said. It said that Harold Washington led his last great political rally yesterday, and they talked about all of the limousines and so on. I think they also mentioned that Harold would probably not have wanted that kind of a tribute.

The fact is that Harold Washington is very much alive because the legacy of his actions will have a dramatic impact not only on the great city of Chicago but I think our country and all people who believe in freedom and equality and have a humanistic approach to government really throughout the world. I think the tribute we can best pay Harold is to try to emulate his values in terms of civil and human rights, thinking of the needy and the poor, especially at a time when it is not particularly voguish. It is not particularly discussed that somewhere along the line we ought to be thinking of those less fortunate than ourselves. They are the ones who really need our support the most in terms of what government can and should do.

I think we really have an obligation to live up to the legacy of Harold Washington. So I simply want to join my friends in mourning his sudden and unexpected death, but at the same time rejoicing that that kind of individual served our country as a public servant with such distinction.

Mr. Speaker, my friends here in this House, we have lost a great statesman and a friend.

As the Washington Post put it, "Harold Washington led his last great political rally" yesterday. Dozens of limousines bearing Senators, Members of this House, mayors, aldermen, and working men and women followed in an hour-long procession through Chicago's South Side. One million Chicagoans paid their respects. Tens of thousands gathered for the last procession to mark our loss.

They say Harold Washington wouldn't have cared for all that fuss. But as a man who fought for what we believe in, and as the heroic symbol of the political movement that has succeeded the civil rights struggles of decades past, Mayor Harold Washington deserved our tribute.

In his 65 years, Harold Washington held fast to his principles. He stood up for those in need.

As 1 of 11 children, Harold made his own way. His father was a Methodist minister, a lawyer, and a Democratic precinct captain on Chicago's South Side. Harold Washington served his country under arms. And after the war, Washington attended Roosevelt University in Chicago, and Northwestern to earn his law degree.

At Roosevelt, Mayor Washington presaged what was to come in winning election to the office of senior class president in 1949, despite the fact that his class was only 5 percent black.

Harold Washington's election in April 1983 as the first black mayor of Chicago, then the second largest city in the United States, was a major political event for that city and for our country.

Sixteen years in the Illinois Legislature and 2 years in the U.S. House of Representatives sharpened Harold's skill in fighting for his convictions, especially on civil rights.

As a Member of this House, Harold Washington demonstrated to us what he had shown so effectively in Illinois. He was an innovative legislator and an eloquent orator. He drafted bills to strengthen Illinois' Fair Employment Practices Commission, to make Martin Luther King, Jr.'s birthday a State holiday, to protect witnesses to crimes, and to help poor and elderly consumers. In 1980, he guided through both State chambers a bill establishing a department of human rights. On 11 occasions his colleagues voted him 1 of the 10 best State legislators.

In this, the most impoverished district in all of Illinois, Washington was a consistent opponent of social service cuts and increases in military spending. He helped put together the coalition that preserved the key features of the 1965 Voting Rights Act.

But it was in his triumphant return to Chicago politics that our Nation came to appreciate Harold Washington, the national leader. The mayor's 1983 campaign opened the opportunity for leadership to all.

The Washington for mayor campaign worked the old-fashioned way: with grassroots voter registration that added 100,000 to the voting rolls, the stage was set.

With Harold Washington's forceful and charismatic style, the battle was joined.

When Harold set his sights on one of the toughest jobs in America, he did so characteristically, without compromising his commitment to correcting injustice. He promised equal economic opportunity. And he promised and delivered jobs.

He issued an executive order giving the public greater access to city records. He transferred funds from city hall salaries to neighborhood projects. He nominated Fred Rice as Chicago's first black police commissioner, and no objection was heard.

Mr. Speaker, on this sad occasion of his passing, I ask our Nation to pause and mark the struggles of Harold Washington, the man. He fought for what was right. And we will miss him.

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentlewoman from Ohio for joining with us.

Mr. Speaker, I yield to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, I would like to thank the gentleman from Illinois for allowing us this time this afternoon to come in the well of the House of Representatives so that we might pay fitting tribute to a friend, to a colleague, to a mentor, a role model, a leader and a humanitarian, to a man who changed the face of politics in this country, our dearly departed former colleague, Mayor Harold Washington, of Chicago.

As mayor of Chicago, Harold Washington stirred the emotions of people everywhere, making them feel that they could be an important part of the political and social and economic fabric that covers this great Nation, and motivating them to improve their lives and to push for progress.

Mr. Speaker, I am of course a new Member of Congress, and I did not have the opportunity to serve in this body with Mayor Washington. But as much as anything else, and as much as anyone else, Mayor Washington is responsible for my being here in Congress, you see, because as a young lawyer in Mississippi I watched with great pride and with great emotion the events of the mayoral election there in Chicago the time he first ran for mayor. We all remember that campaign, those of us who followed the daily traces and tracks of that campaign. We know how vigorous it was and we know of course how spirited it was. I just sat there watching on television and watching the news accounts and seeing that great victory. I recall that it filled me with pride and it filled me with hope, and it said to me that if Harold did it perhaps I could do it. Mr. Speaker, it caused me to believe that perhaps I could run and perhaps I could win.

So I will be forever grateful to him for that because he helped to make it possible for Mississippi to elect me to Congress. And being the first black Congressman since Reconstruction, his leadership, his compassion, and his dynamic personality inspired all Mississippians, I should say, to work for the future and gave them the hope for a better tomorrow.

Harold's words and deeds helped not only to elect me, but certainly other mayors all across this Nation, and supervisors and city councilpersons and school board members in Mississippi and all across this great land of ours. So he will be missed as a political leader, as a statesman and as a former Member of Congress, and certainly as the ultimate mayor. But more importantly, he will be missed as a human being who cared for all people regardless of color.

The gentlewoman from Ohio [Ms. OAKAR] said that Cleveland is fondly called Little Chicago. Mr. Speaker, in my area we know Chicago to be fondly called as northern Mississippi, so many of Harold's constituents were my constituents and are my constituents and many of his are mine because, as my colleagues know, Chicago and Mississippi will be forever linked in this country by a long history of travel of people going back and forth in the 1940's and in the early 1950's searching for a better life and for better jobs and for more opportunities and searching for something better. Mayor Harold Washington made things better for all people. He took a city torn by strife and in a very short period of time, Mr. Speaker, he healed the wounds. As others have said so eloquently, Mayor Washington was the glue that held the coalition together in Chicago. This coalition is the kind of coalition that we all hope for in every city and every town and every State in this Nation, a coalition of whites and blacks and Hispanics all working together.

So I am just here to say thank you, Mayor Washington, for setting the example for me and for so many others, showing us what must be done and how it can be done and what we must do. We know that it will be difficult, but we will try to follow in your footsteps.

It certainly has been said before that the dreamer can die but the dream will live on. I would like to say to Harold that we will not let you down, we will not let your work go unheeded, we will not allow the force of your spirit to die.

Mr. Speaker, I thank the gentleman from Illinois for making this opportunity available to me.

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentleman from Mississippi for joining us.

Mr. Speaker, I yield to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I want to thank my distinguished colleague from Illinois for yielding to me and for taking out this special order along with the gentleman from California [Mr. DYMALLY], so we could pay our last respects and appreciation to our dearly departed friend and colleague, Harold Washington.

Mr. Speaker, the Congress, the city of Chicago and our Nation are diminished with the passing of Harold Washington.

Those of us who had the honor of serving in Congress with Harold Washington knew him as an outstanding legislator and a good friend. I had the privilege of serving with him on both the Education and Labor Committee and the Committee on Government Operations. The early years of the Reagan administration were trying ones for us, but Harold Washington proved himself as a committed advocate for the unemployed, the poor, and the disenfranchised. He is well remembered in this body, among other legislative achievements, for the critical role he played in the successful effort to extend the Voting Rights Act of 1965, which President Reagan signed into law in June 1982.

In my capacity the national president of Americans for Democratic Action, I know how generous he was in sharing himself with the organized liberal community. In 1986 he was the keynote speaker at the annual dinner of the New York City chapter of ADA. At the time of his death Harold was serving as cochair of the 40th anniversary dinner of the national ADA to be held in January.

A great test of courage for Harold Washington came in 1982 when he decided to give up a safe congressional seat and run for mayor of Chicago. His narrow victory, showed little promise in 1983 for achieving unity in tumultuous Chicago. But just 4 years later, after much struggle and perseverance, Harold Washington's reelection last April, along with his victories in the city council, firmly established him as one of our Nation's great urban leaders.

As the first black mayor of Chicago, Harold Washington became an important unifying force and an inspiring role model for a new generation of black leaders and indeed for all Americans committed to justice, fairness, and equality. His leadership and example will be sorely missed; but, while Harold Washington the man is gone, his victories and his dreams will live.

I want to express my profound sorrow at the loss of my cherished colleague and to extend my deepest sympathies to the family and friends of Harold Washington and to the people of the great city of Chicago.

□ 1935

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentleman for joining us and at this time I yield to a fellow Illinoisan, Congressman BRUCE.

Mr. BRUCE. I thank the gentleman for yielding.

There has been a great deal of talk about Harold Washington. It was my distinct pleasure to serve with him in the Illinois Legislature.

There has been talk about Harold the giant and the great individual that he was. You know, in the presence of Harold Washington you never knew that you walked with a giant. I am reminded of just about 3 weeks ago that a friend of mine and his, we all served together in the Illinois State Senate and Harold was together with Vince Demuzio, the State party chairman. They were sitting in the back of the car. And he said to Vince, "Vince, when we were all serving together in the State legislature did you ever think that I would be the mayor of the city of Chicago?" And he gave a great laugh. And he punched Vince and then Vince said, "Did you ever think that I would be the State party chairman?" And he gave a big laugh. And then he said, "But did you ever think TERRY BRUCE would be in Congress?" And both of them had a great laugh.

When they came out to Washington several weeks later Harold pulled me aside to tell me the great story that had occurred in the city of Chicago with my State party chairman. When we served together in the legislature you never thought that Harold Washington was somebody that was above you or someone you should hold in awe.

He was a man that was brilliant on the Illinois State Senate floor.

We had a chance to serve together in a fight when we tried to restructure the Illinois State Senate and tried to give a little bit more to the minorities in that body and to the downstate members of the Illinois Senate, when Harold Washington and I ran for president of the Illinois Senate in the midseventies.

That went on for 176 ballots stretched over 2 months. We never gave up.

The interesting thing is I got to know Harold Washington through that battle. The Governor and the powers that be in the city of Chicago and others kept pounding on all of us to resolve our differences. But they would go to Harold and say, "You know, this is what we will do if you will just say to TERRY BRUCE, we will do this and vote with you and sell him down the river." And Harold would say, "No, you will have to deal with all of us." And I did the same thing. So that neither one of us was ever left out in the cold.

We resolved that conflict within the Democratic Party, we resolved it in such a way that we gave the minorities in the Illinois State Senate and people from downstate Illinois a greater voice in the activities of the State government of that great State.

It is interesting as we walked around and worked together during the time we served together in the State senate. I am always amazed when people talk about Harold Washington as being black. I never thought of Harold Washington as being black.

I am reminded of the story, perhaps apropos, of the lad who came back from school during his first year in school, he was 8 years old and he told his mother he found a new friend in school. Being in a town in Mississippi, the mother said, "Well, is he black?" And he said, "Gee Mom, I don't know. When I go back to school tomorrow I will look."

That is the way I saw Harold Washington. I did not see a black; I saw skills, brilliance, leadership, humor, humanity, and accomplishments.

If we could meet again I would not see a State legislator, although Harold Washington made a great number of accomplishments for the great State of Illinois. And if we could meet again I would not see a Congressman, although his record here was one of great brilliance. And if we could meet again I would not see a mayor, although he brought to that city the finest city in the State of Illinois and in the United States, leadership and style that we will perhaps not see again. If we could meet again I would see a friend, a friend who will be very sorely missed.

Mr. HAYES of Illinois. Mr. Speaker, I yield to the gentleman from Illinois, LANE EVANS.

Mr. EVANS. I thank the gentleman for yielding and I commend Congressman HAYES for putting this special order together. He, of course, is Harold Washington's very able replacement here in the U.S. Congress, was a close friend of the mayor and has done very well since the mayor left this body.

I also want to say that the occasion of the mayor's death caught many people on the eve of the holiday and we were pleased that so many of our colleagues here in the Congress as well as so many of the mayors of our country were able to take time out of their busy holiday weekend to join us.

I also want to commend the mayor's staff, people like Jackie Grimshaw, Harold Baron, and others, as well as the interim Mayor David Orr for the fantastic way they came together and helped to pull together during that crisis.

I have been real pleased to have the opportunity just to stand in the back and listen to so many of our colleagues who knew Harold Washington as a State senator, as a Congressman and I am not one of those that goes back all that far with Harold. I did not meet him until 5 or 6 years ago when he had occasion to come into my congressional district when no one else thought I had a chance of winning, and he campaigned for me. I guess I will never forget that.

It is true Harold had an outstanding record in all those different capacities that others have alluded to. I think perhaps his record as mayor has been overlooked, just what in fact he accomplished as mayor of that great city of Chicago.

He was one of those who did have a balanced budget, he signed some 40 labor contracts, established a political climate in which the labor community could flourish at a time when there was a national trend toward busting unions. As a son of a retired firefighter, I appreciate that.

He passed ethics legislation in the city of Chicago. He was behind a perculating-upturn of economic development strategy that started in the communities and in the neighborhoods in Chicago.

He opened up government. I considered myself a populist and I guess Harold called himself a reformer but I would consider Harold Washington the ultimate urban populist, because he stood for those empowerment issues for the people he represented as much as I think I do in my district.

Harold Washington, however, was also important to those of us in downstate Illinois. I think that was attested by the fact that we had the Republican mayor of Peoria, Mayor Maloff, the Republican mayor of Rockford and many others of the cities and villages, both Democratic and Republican mayors came to that funeral this week.

That was partially because Harold Washington saw the need for the cities and villages as well as the large towns of our State to come together and fight some of the cuts we saw in the urban programs. He understood when he came to my city as mayor of Chicago, to Rock Island, when he came to Peoria, that those smaller town mayors would have to work together with him and the other mayors in the suburban areas to fight the budget cuts that we have seen in the general revenue sharing, and so forth. He had that kind of vision.

We were surprised, I guess it was probably the first time we in the downstate ever saw a city mayor of Chicago come into our communities to talk about the need to come together. Of course, he and JOHN CONYERS led the fight in this body to strengthen the voting rights act. That probably is the most significant single factor that led to the defeat of Judge Bork in terms of his nomination, because it led to a great voter registration drive that Jesse Jackson and others led that elected so many Democratic Senators.

But it also led to downstate suits which I believe have opened up representation in city governments. And just as he has been a model to people like Congressman ESPY from Mississippi, he has also been a model to so many people, including myself, James Polk, a county board member in Peoria County and Rock Island Alderman Jim Kerr.

So we appreciate this and we thank him. We enjoyed what he stood for, we enjoyed those issues that he presented. It was also a great deal of fun to be with Harold Washington.

I remember looking at his last public act, actually, standing there with Alderman Tim Evans and smiling. That is the way I guess we will always remember him. It was a great deal of fun to campaign with Harold Washington. I had that opportunity in 1983 to go to places like CHARLES HAYES' labor center in CHARLIE's district. Not only to go through the churches but to go throughout the city and to meet so many of the people that supported him.

We had many of our colleagues come into those campaigns, BILL CLAY, Ron Dellums, JOHN CONYERS, and others. JOHN CONYERS practically lived in the city of Chicago during those times.

I was able through Harold Washington to meet many Hispanic leaders, Miguel DeValle, Alderman Guitterez, Alderman Garcia and we were very pleased to have been able to work with them.

So I am pleased that CHARLIE HAYES has called together and paused a few minutes here to pay tribute to Harold Washington here. We remember the best way to honor the dead is to fight for the living.

Harold Washington's legacy is one that commands us to continue the fight that he believed in.

I remember on the first campaign, campaigning in CHARLIE HAYES' district and on leaving, on my way out to O'Hare I was picked up by a black taxi driver and we got talking about the campaign. He had a Harold Washington bumper sticker on the back of the front seat. I asked him what he was doing. He said he was doing all that he could to get Harold Washington elected mayor. But he said they will never let that man be elected mayor of Chicago.

Well, they never did let that man become mayor; he and the people that supported him made it happen.

As a person who believed that John Kennedy—coming from a small town in Illinois—would never be elected President, as a Catholic, I guess I understood some of what the person was feeling. But I also know that when Mayor Washington was elected that cab driver was empowered and is probably involved now in politics and working very hard.

So CHARLIE HAYES, I want to thank the gentleman again for making this possible.

Mr. HAYES. I thank the gentleman for joining us.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I want to congratulate the gentleman from Chicago, my colleague, Mr. HAYES, for coordinating this special order in memory of Harold Washington.

I rise to honor the memory of Harold Washington, Mayor Harold Washington who died of a heart attack on Wednesday, November 25. He died of a massive heart attack. I think Congressman SAVAGE from Chicago has already described a little bit about what the autopsy revealed, when it was conducted; that Harold Washington's heart was three times the size of a normal heart. It took three hearts to accomplish what Harold Washington accomplished; it took three hearts.

Every step of the way Harold Washington was not yielded one inch; he had to take it all.

I recall participating in the campaign for his election in 1983. I recall the fact that he was accused of all kinds of things related to his taxes. Charges were made which were wild, unsubstantiated, but they were presented in the press and the media as if they were facts. They had created a criminal, a tax evader in the press and in the media.

Nothing came of those charges. I recall when they went one step further and they accused Harold Washington of molesting a child; of something being in his history where he had been convicted of molesting a child.

Now lesser men would have, at some point during that campaign, thrown up their hands in despair and say, "I will go back, back to the safety of the Congress."

Well, Harold Washington had a safe seat here in the Congress. He did not need to fight those extraordinary battles, battles that certainly caused an increase in the size of his heart.

He had to keep expanding his heart because it took that much heart to fight the conditions he was up against in Chicago starting with the primary election and then the general election. They were determined under no circumstances would Harold Washington be elected mayor. Chicago, the bastion of the Democratic Party, Chicago which had always gone Democratic, found itself in a situation where all of the major Democratic leaders, the major white Democratic leaders were lined up behind a Republican candidate in the general election for mayor.

□ 1950

They all got behind a Republican and said, "Anybody but Harold." Harold won that race only by a very narrow margin. They said at that time that Harold Washington was unpredictable, that he never stopped, that he stayed up all night sometimes strategizing and planning. It took three hearts. It took a whole lot of heart to keep battling in that kind of struggle.

Harold Washington's death is a blow not only to Chicagoans but to our entire Nation. Harold Washington gave life to the slogan, "In unity there is strength." He brought together racial, ethnic, and economic groups in Chicago that had never come together before. Washington's rainbow coalition was a shining example of what the politics of the future could be in our cities and on a national level.

Using the slogan, "Chicago works together," Washington rode to victory in both the 1983 and 1987 mayoral elections due to the efforts of that great coalition of black people, of white people, of Asian-Americans, Latinos, of women, of disabled people, of senior citizens, and others who were previously excluded from the political process. With the coalition's support, Washington was able to accomplish a great many achievements in his 4 years and 7 months as Chicago's mayor, despite the fact that at every step of the way they fought him. He made achievements despite the fact that at the State level he got no help when he needed it the most, despite the fact that there was no help coming from any national body. The National Democratic Party did not come to recognize Harold Washington as a true leader of the Democrats in Chicago until very, very recently.

Harold Washington presided over the unprecedented reinvestment in Chicago's neighborhoods at a time when many developers in our urban cities are ignoring neighborhoods and building expensive high-rise offices and condominiums. They said that the economics are such that you cannot do anything in the inner city neighborhoods. Harold Washington has proven that that is not true.

During his years in Chicago as mayor, there was a development boom of more than $7 billion. He increased the participation of women and people of color in the city contracting business to more than 40 percent.

We have a struggle in the great Empire State, the liberal State of New York, of getting a mere 15 percent. In the city of New York we do not even recognize the principle of setaside for minorities. That is not even recognized by our mayor. But Harold Washington moved right ahead and moved the participation of women and minorities to the figure of 40 percent in the construction business in the city of Chicago.

Harold Washington created the first city-sponsored job referral program to provide qualified, unemployed Chicago residents with job opportunities spurred by government-sponsored development. He instituted Chicago's first citywide ethics ordinance providing clearly stated rules of conduct for elected and appointed officials and city employees.

Why was it so difficult for Harold Washington? Why did he have to have three hearts in order to prevail? Because just to be a black leader and a black politician in America is a trial. It is a struggle. But to be a black politician who also stands for reformed politics and who turns his back on the old machine and the power of entrenched forces, to be that kind of a politician, a black reformed politician, it takes three hearts in order to prevail.

Harold Washington did in Chicago what had never been done before. He brought Chicago into line with the modern concept of open city government, of a city government that respected certain basic principles of ethics. And he was at the forefront of a movement to bring about improvement in the city's education system.

But Harold Washington once indicated that of all the things he was able to achieve, what he was most proud of was the fact that he had built a broad-based, multiethnic, multiracial coalition in Chicago, and of his being able to usher in a new era of political change as a result of that broad-based coalition.

Again, when it came time for the reelection of Harold Washington, they said, "We've got you. We will play all kinds of tricks. We will cross party lines, and we will do all kinds of things to get Harold out. Anybody but Harold."

"Anybody but Harold" was the slogan, and great attempts were made. But Harold Washington showed that he did not have to beg. Harold Washington showed that he understood that power yields only to power, and that the 4 years he spent in Chicago government had been spent doing things that made people understand that Harold Washington was different. So he had a base of people power. It was people power that overwhelmed the forces against Harold Washington.

While the entrenched establishment machine politicians yelled, "Anyone but Harold," the people said, "We only want Harold," and they made certain that message was understood at the polls.

Harold Washington once said, "We've changed the standards." I am quoting him directly. He said, "We've changed the standards. People know more about their government than they ever have. * * * Clearly the fairness concept is no longer something to be laughed at. * * * We changed the whole approach to governance, not just in terms of management but in terms of who gets what." Harold Washington was a bread-and-butter inner city politician.

Harold Washington understood what it meant to deliver to a constituency that had been deprived for so many years. Harold Washington understood how to deliver, and that you do not have to deliver in the old-fashioned way through a corrupt political patronage mechanism.

Washington also understood well the significance of political empowerment for those who had been locked out of the system. Following his reelection last April, he indicated that he would rather be considered "one of the most powerful politicians in the country," rather than one of the Nation's leading black politicians." The word, 'black,' doesn't mean much" in the political context he explained. "You're either powerful or you're not."

He demonstrated that he understood power, and he put together the kind of coalition that had real power. That Washington was highly successful in empowering a wide range of Chicagoans and holding his coalition together was evident even at Washington's funeral. Peoples of all races and creeds were there at that funeral. I remember as I sat there watching and understanding that Harold Washington would never die, there was clear indication of the fact that Harold Washington had made an impression, that not only in terms of rudimentary politics in Chicago, but what he had done had made an imprint and an impact and he had woven himself into the whole cultural fabric of that city, and something amazing had happened.

Just consider the music that was chosen for that funeral. The speakers, of course, certainly represented the entire spectrum of the rainbow for Chicago, but the music ranged from "Lift Every Voice and Sing" to Beethoven's "Hallelujah" or "Mount of Olives," to a gospel number called "Keep on Moving" sung by the Chicago Housing Authority Ambassadors Choir. This was the Chicago Housing Authority Ambassadors Choir which was composed mostly of young people under the age of 25. As I looked, I watched them, and they sang beautifully and they sang proudly. They were happy to be there and to be included, and there was obviously a whole new transition that had taken place with respect to their lives.

This was the Chicago Housing Authority that some people in this country say should be written off. These are the people who live there, the residents of the Chicago Housing Authority that people say should be written off. Some people say that they should be blown up, that housing authorities across the country should be blown up. But Harold Washington had done something.

I know what the housing authority is up against in Chicago, as in many other cities. When I campaigned for Harold Washington in 1983 and again in 1987, I was assigned to campaign in housing authority projects, in housing authority buildings, and I saw some things that were really quite sad and indications of a quite serious problem, problems that those housing authorities had experienced. But obviously Harold Washington had faith in the major constituents of the housing authority, and that is the tenants, the people who inhabit the housing. Those are the people that we must address. They have to be organized, they have to be inspired, and they have to be made to understand that the city belongs to them, that the houses they live in belong to them.

I have seen them in New York City and I have seen them in other places be transformed when they are approached in that manner, when they are included and they are made to understand that their destiny is really in their hands.

□ 2000

Harold Washington made them understand their destiny was in their hands.

There was a musical number, the Battle Hymn of the Republic, by the Rockefeller Memorial Chapel Choir of the University of Chicago. This group was practically all white. They sang the Battle Hymn of the Republic, a favorite of all of us, but I think that appearance on the program was also symbolic of the kind of thing that Mayor Washington made happen in Chicago.

Let us never forget that Harold Washington won that election, certainly that general election in Chicago, with the participation of 20 percent of the white population, and without that 20 percent he could not have won. People who understood what Harold Washington understood refused to go along with the racist strain that was introduced in that campaign. They stood up for principle. They stood up for the best candidate and they supported Harold Washington as a result.

There was another number, "Carry Me Home," a gospel number sung by the Apostolic Church of God Sanctuary Choir. I had gone into several of those churches when I campaigned for Harold Washington in 1987 and 1983. I knew that the people were coming home, that these are the people who made the victory for Harold Washington. It was not a miracle. Harold Washington put together that coalition. He inspired all those people and made them come forward and participate.

Finally, the funeral was closed with the Hallelujah Chorus, a triumphant way to close out a ceremony. That was meant really not so much to bury Harold Washington, but to demonstrate to the world that Harold Washington was still very much alive. Harold Washington lives.

It took three hearts to accomplish what he did accomplish. We are sorry that the resistance was so great, that the struggle was made so difficult. We are sorry that in America power yields to nothing except power, we know that, but when it comes to black politicians it seems that the yielding process is so much longer. It seems that every possible obstacle is thrown in the way. It seems always that demand is being made that you have to come not with one heart, not with two hearts, but you have to come with three hearts, and finally they demand that maybe your heart will burst in the effort and they will have you defeated, but they are very much wrong. Harold Washington is not defeated.

Harold Washington will live on and on. Chicago will never be the same again. There may be temporary setbacks, but I assure you, the spirit of Harold Washington has transformed Chicago forever.

Mr. PORTER. Mr. Speaker, it is with a deep sense of sadness that we remember and memorialize today the life of our friend and former colleague Mayor Harold Washington.

Harold Washington and I served together for 4 years in the Illinois General Assembly and for 3 years in this body and I always knew him to be at his best when he was leading a cause. Whether it was as a spokesman in this Chamber for the disenfranchised and dispossessed of our Nation's cities or when he took on a formidable political machine and made history as Chicago's first black mayor, Harold approached it all with the indominatable will and a strong sense of purpose that marked his life.

Harold Washington believed that our institutions must be all inclusive. He exhorted Chicagoans and people across the country to look beyond the color of skin and into the merit of ideas. He gave hope to thousands who had long felt despair and offered pride to those whose lives knew only degradation.

Many can testify to the fact that Harold Washington could be a tenacious opponent, and I, like countless others who experienced the sting of his argument, came to respect his intellect and admire the articulate manner in which he presented his ideas.

Mr. Speaker, I offer my sincere condolences to the family and friends of Mayor Harold Washington and to the people of the city of Chicago. The memory of his warm personality and the legacy of his administration will not be forgotten.

Mr. ROSTENKOWSKI. Mr. Speaker, I am proud to join my colleagues in this tribute to Harold Washington, whose shocking and untimely death last week represented a great loss to the city of Chicago. I grieve at the loss of an ally in the fight to improve the condition of the people of Chicago.

Harold Washington was a man of many facets, talents, and interests. After our many years of working together, I could still be surprised and delighted to learn more about him.

One of my strongest memories of Harold dates back to when we used to share flights to and from Chicago during congressional sessions. He would sit there and speak knowingly and caringly about a problem that one welfare recipient was having, giving the impression that it was the only thing important to him in the world. The very next instant, he would be totally engrossed in the financial pages of the Wall Street Journal, delving into how the stock market was doing and what it all meant.

As a man, Harold Washington was one personable fellow. I could not agree with Gov. Jim Thompson's description of him when he said "Harold could charm your socks off." He was really an enjoyable man to be around—a rambunctious, joyful, lively, regular guy. The fact that we sometimes found ourselves on opposite sides of an issue did not take away from my fondness for Harold one bit. Our best work was done in friendly conversation out of the spotlights.

As a politician, he taught us some valuable lessons. He showed us something about the power of a man who could inspire and mobilize a coalition into a movement that could not be denied. He demonstrated the need to find support in many quarters. And, most sadly, we were reminded by Harold's death of the fearsome toll that running a major city in troubled times can take on one human being.

Harold Washington was also a prominent spokesman for urban programs, and had recently assumed a position of national leadership among his fellow big-city mayors. His outspokenness sometimes make life difficult for those of us who have to work with the administration everyday, but I admire him for his unflinching defense of the programs he supported.

As any newspaper reader knows, Chicago is now in turmoil over the selection of Harold Washington's successor. In joining my colleagues in the Congress in honoring Harold Washington today, I am declaring my hope that his motto, "Chicago Works Together," will long stand as a reminder to us of his remarkable career of public service, and as a guide for our future governance.

Mr. DIXON. Mr. Speaker, I rise today to join my colleagues in this special order in honor of the memory of my friend, Harold Washington. On Wednesday, November 25, we were all stunned by the sudden death of Chicago's first black mayor, who was truly a strong leader and a major proponent for government reform.

Yet, even as we mourn his tragic death, we should view his life as a source of inspiration. Throughout his political career, and especially in his work as mayor of Chicago, Harold Washington actively responded to a growing desire on the part of minorities for greater participation in the political process. During his 16 years in the Illinois Legislature and 2 years in the U.S. House of Representatives, he consistently established himself as an advocate for civil rights.

Harold's election as mayor of Chicago in 1983 was an astounding triumph, occurring in a city once cited as "the most segregated city in the Nation." His victory was in large part the result of a growing dissatisfaction with the entrenched democratic machine and his ability to launch a grassroots voter registration campaign that added 100,000 black voters to the rolls, a record voter turnout, and a coalition of black, white, and Hispanic voters.

Soon after taking the helm as mayor, Harold described his administration as one "in which three groups will have roughly equal numbers: blacks, Hispanics and whites. * * * No ethnic or racial group is expected to represent a majority in Chicago anytime in the foreseeable future. Thus, only coalition politics can lead to victory."

Although he served only 4 years and 7 months as mayor of Chicago, he worked hard to build coalitions and opened access to city politics through reforms in Chicago's established political structure. He labored to dismantle an entrenched system of patronage that had long limited the involvement of blacks, Hispanics, and women, promote fair housing for minorities, the poor and the elderly, and improve city services. He reduced a staggering budget deficit inherited from the previous administration, but not at the expense of social programs for inner-city poor.

As chairman of the Congressional Black Caucus in 1984, I was proud to present Harold Washington with the Congressional Black Caucus Foundation's Adam Clayton Powell Award for Black Political Empowerment, which is presented to an individual in the political arena who has contributed substantially to black political awareness.

Harold Washington's death has left a void in Chicago politics, and in our hearts. The spirit of Harold Washington will live on, in Chicago, and in our Nation's political process. He has clearly shown us that an individual can make a difference—a significant difference.

Mr. STOKES. Mr. Speaker, 1 week ago today I was shocked and saddened by the news of the sudden and unexpected death of my respected colleague and trusted friend, Harold Washington. A former Member of Congress from the historic First Congressional District of Illinois and the first black mayor of Chicago, IL, Harold Washington was a man who made a difference. His contributions to all mankind will long be remembered by future generations. He was a politician's politician. I vividly recall his active participation in the Congressional Black Caucus as soon as he came to Congress in 1980. A statesman of unique caliber, he will not be easily replaced.

Harold Washington's political career exemplified his yearning to serve his fellow man. His titles included assistant corporation counsel, State senator, Illinois Congressman and two term mayor to the city of Chicago. He tackled each position with a burning desire to bring about social change. He was a man willing to make an unequivocal, unlimited commitment to a public policy of ending racism and all it implies. It should be clear to all of us, both black and white, that Harold's philosophy of team effort must be continued if we are to transform communities paralyzed by hate and fear into an open and just society.

Harold Washington was a man who left a shining record of accomplishment. He was always in the forefront of the struggle to increase job and business opportunities available to all of his constituency. To Harold Washington, everyone was important. He worked hard to insure that senior citizens received the greatest possible benefits and work opportunities while not becoming burdens to themselves, their children, or the public. He fought apathy and lack of concern for the welfare and dignity of our senior citizens. He believed that the Nation as a whole would benefit by tapping the vast reservoirs of knowledge and experience that senior citizens possess.

Mayor Harold Washington was one who believed in a unified effort to get the job done. He had long been an advocate of participation of citizens in the programs which affect their lives. It is a known fact that he won both his mayoral elections due to the well-orchestrated strength of a coalition of blacks, whites, Asians, Hispanics, women, the elderly, the handicapped and others who have traditionally been excluded from the political mainstream. The eyes of the world watched as Harold shaped true reform to Chicago's local government from the unique coalition he managed to amass. Though he only governed Chicago for 55 months, he left behind a legacy of leadership and accomplishment that will be difficult to match. His slogan was "Chicago Works Together" and under his inspired leadership the city did just that. His reelection as Chicago's mayor was a wonderful testimony of the confidence of his constituency in his ability as their leader.

I feel privileged to have known this great statesman. I was honored to consult frequently with Harold during his tenure in the House. Both my brother Carl and I were pleased to assist him during his campaigns for mayor and while he served in that great office.

Many knew him simply as "Harold" and shared his vision of hope and unity as the Honorable Harold Washington, mayor of the city of Chicago. People throughout the world observed his selfless dedication to making a positive difference for his fellowman. He did more than just talk about righting wrongs and eradicating social injustices. He worked tirelessly to fulfill his vision to make a difference in the lives of those he served in the community he loved so much.

He worked consistently and effectively to be a catalyst for positive change. He made us all realize that dreams really do come true. He was unconcerned about gaining personal wealth but rather focused his attention on inspiring others to reach their God-given potential. He was a bridge builder for racial reconciliation. Harold Washington was something special to each of the lives he touched; a friend to some, a statesman to others, a role model for our youth, a helping hand to those in need, and a man of remarkable patriotism.

Harold Washington was a mentor to many and his legacy will live on for generations to come. His spirit and philosophy is sure to be imitated by those who will try to follow in his footsteps. I am proud to have known this gentleman. He was a giant whom we all loved and respected.

We will miss his presence but will not forget his record of accomplishments. Harold Washington was an individual who truly made a difference in all of our lives.

I want to express my condolences to his family, his many friends, and to the people of Chicago. We will all miss him. Most appropriately, the following quote from William Shakespeare, included as part of the funeral, best describes the spirit of Harold Washington.

> His life was gentle; and the elements so mix'd in him, that nature might stand up, and say to all the world. This was a man!

Mr. CROCKETT. Mr. Speaker, I rise to join with my colleagues in mourning the loss of our friend and former colleague, Mayor Harold Washington of Chicago, who died tragically and unexpectedly while conducting the city's business last Wednesday.

My memories of Harold Washington are happy ones—of sharing subway rides and floor discussions, of comparing notes on politics and colleagues.

I particularly remember two things about Harold:

Somehow, people couldn't seem to keep the two of us straight. We'd each be in an elevator, or walking down a corridor, and inevitably, someone would come up to Harold and ask "How are things in Detroit?" Or they would greet me and ask "How are things in Chicago?" We both got pretty good at answering the questions about each other's city.

I'd also kid Harold about his weight, and how I'd meet him at the gym in half an hour. He rarely made that appointment, and I'd give him grief the next time I saw him. Nowadays, I'm having trouble getting to the gym myself.

I can recall two times I've been asked by friends and colleagues for my assessment of their political chances. The first time, Coleman Young asked me whether I thought he should run for mayor of Detroit. I told him to throw it out of his mind. I was very wrong. Later, when Harold Washington told me he was leaving the House to run for mayor of Chicago. I told him I thought he was crazy. I was wrong again. Harold, like Coleman, was the most beloved mayor his city ever had.

Sadly, Chicago will not see the fulfillment of his dreams of reform and sustained progress and growth for the city. It is tragic for them, and for us, that we have lost so dynamic a leader and friend.

Mr. CONYERS. Mr. Speaker, I rise today to pay my respects to one of the greatest statesmen of our time, and the first black mayor of Chicago, the late Harold Washington. By the time of his death, Mayor Washington had become a larger than life figure of black political empowerment, a cultural hero who symbolized the transformation of black politics from the civil rights protests to traditional electoral power.

As one of my former colleagues on the House Judiciary Committee, I knew Harold as a serious and able legislator, with a wealth of political savvy and a keen intellect. In 1983, he left Congress to begin his historic campaign for the mayoralty of Chicago. Ultimately, Harold overcame racism, as characterized by the name of one group that supported his opponent called "bigots for Bernie"; he overcame ethnic resentment; and he overcame perhaps the most powerful political machine this country has ever seen. His election to Chicago's city hall was a turning point for Chicago as well as the Nation.

He ushered in a new era of American politics, paving the way for Wilson Goode to become the mayor of Philadelphia, and for the Reverend Jesse Jackson to launch a credible and effective campaign for the Presidency of the United States. And most importantly, he had begun to bring together the people of Chicago; people of different races, religions and ethnic origins had seen that this man would be fair with them if they could put their prejudices aside and join him in his efforts to heal the wounds of the past.

Unfortunately, we lost Harold just as he was hitting his stride as a national political figure, just as he had clearly consolidated his power in Chicago. This cultural hero was the first person since Richard Daley to be reelected as mayor. His most vociferous rivals had finally come to grips with his ability to run the city effectively and fairly. He had returned Chicago to its status as a bastion of political power, the citadel of the Democratic Party.

He received expressions of praise and condolences from the most powerful figures in America: The President, Senators, Representatives, mayors, and scores of major political leaders. More than 1 million people came to view his body in city hall, tens of thousands lined the streets as his body passed, and thousands packed the church where he was eulogized. I join with all of these friends and admirers of Harold Washington in mourning the loss of this brilliant leader. I hope that they will join with me in fighting to carry on the legacy of this man who embodied the greatest achievements of the civil rights era, who symbolized the hope that this Nation may some day attain the noble ideals upon which it was founded.

Mr. FORD of Michigan. Mr. Speaker, on Monday the Nation laid to rest an astute statesman, a gifted politician and a man who sought to bring about political order and an end to racial divisiveness in Chicago. Mr. Speaker, I'm referring to my friend and former colleague, Harold Washington. Harold Washington served this Nation as well as the great city of Chicago with great distinction.

Harold Washington will be remembered as a man whose leadership touched the social and political conscience of Chicago and the Nation. His election in April 1983 as the first black mayor of Chicago, the second largest city in the United States, was a major political event for that city and the country which changed the course of history.

The election of Harold Washington was an event of national importance because it increased black voter registration and black voter participation throughout the country. It gave Chicago a new image as a fair and decent place to live and to do business.

Harold's victory immediately established him as one of the country's most influential black leaders—and what a great leader he proved to be.

Faced immediately with grave problems and the support of only 21 of the 50 city aldermen, Mayor Washington's political savvy enabled him to triumph in the wake of adversity. The mayor was able to introduce important reforms: Political and economic equality for blacks, revitalization of city communities, the abolishment of the formidable Democratic machine—so that all ethnic groups, including blacks, could receive their fair share of city patronage jobs, private-sector neighborhood jobs and municipal services; an overhaul of the current welfare system so as to assist the city's poor and reduce the staggering unemployment rate among blacks. Washington refused to retreat from his promises of reform despite the machine's power. He was able to hold the council to a standstill by use of his veto, by his initiative power in budgetary matters, by his appointive power, and by his authority to withhold funding from council committees.

Harold Washington devoted over 20 of his 65 years to dedicated public service—his first elected position was in the Illinois house of representatives in 1964, 11 years in the Illinois senate, 4 years in the U.S. House of Representatives and almost 5 years as mayor of the great city of Chicago. Harold took to the legislature as well as to the mayoral seat in unfettered energy and fervor.

I will always remember Harold as a competent, articulate and concerned legislator and an unrelenting, shrewd, and courageous city administrator.

Mr. Speaker, we will miss Harold Washington—the man who never really wanted to be mayor of Chicago, but whose astute leadership provided the bridges to bring together a once racially divided city. While all is still not well in the city of Chicago, the city's future will definitely be brighter—thanks to Harold Washington.

Mr. MFUME. Mr. Speaker, if there was any doubt as to the far reaching influence and great popularity of Chicago Mayor Harold Washington, it was put to rest this week as hundreds of thousands of people gathered in his town to say their final farewell to this enormously gifted man. I traveled to Chicago with a contingent of Congressmen who, though saddened by Washington's sudden departure, all seemed to remember, more than anything, the vitality, wit, tenacity, and humanity of the Windy City's 42d mayor. Harold Washington, as few leaders before him, became a larger than life symbol of the power of hard work, honesty, and commitment in overcoming tremendous odds. He was more than Chicago's first black mayor. He was a beacon in the night to thousands of people who clung with courage to a vision of Chicago and America that put excellence and character before race.

After years of political machinery and intimidation that had identified Chicago as a city where ruthlessness and chicanery were the keys to power, Harold Washington's rise to leadership seemed to signal a quantum leap in the direction of honest, democratic government. And though he was a man of gentle intentions, he was forced by the nature of his opposition to adopt a tough style. No one will ever know how much the strain of dealing with the unrelenting opposition to his leadership by a small but vocal minority, led to his untimely death. But it is probably safe to say that it was a factor.

I will always remember Harold Washington as a tower of strength in a tumultuous sea. To understand the magnitude of his accomplishments you have to understand that Chicago politics, as rough as the game has been played over the years, has been virtually an exclusively white, male dominated battlefield. And Chicago's brand of institutional racism has been particularly brutal to its black citizens. No one believed that Chicago would ever have a black mayor and there were some who refused to accept the reality when Harold Washington became Chicago's first black mayor in 1983.

Harold Washington's rise to power was no fluke. He did it the old fashioned way—he earned it. His first government post was as an assistant corporation counsel for the city of Chicago from 1954–58. He went on to become a State representative from 1965–76 and a State senator from 1976–80. He became a U.S. Congressman in 1980 running as an independent and was reelected in 1982 with the highest margin of any Congressman in the country, garnering over 95 percent of the vote in his district.

Harold Washington will surely be missed, both by the people of Chicago and the growing numbers of citizens from across the Nation who came to admire his style, grace, and dignity under sometimes trying circumstances.

I had an opportunity to witness that dignity last February when I had the privilege of spending 4 days in Chicago campaigning for Mayor Washington's reelection. Rarely have I seen such an emotional outpouring of support by thousands of Chicagoans who wanted Washington to return as mayor. Through it all, Mayor Washington stood tall and was a paragon of strength.

Mrs. MARTIN of Illinois. Mr. Speaker, Illinois is known for its contentious politics, but people from all over the State, from every party and political persuasion, are united in their mourning over the death of Harold Washington.

No public official can hope to achieve more than Harold Washington did. Yes, he was mayor of one of the world's most vital cities, but his elective office was not the source of his greatness. To hundreds of thousands of souls, Harold Washington's life in public service was a bright beacon. The light of his leadership showed that the doors of government are open to all, that no segment of our society can be disenfranchised from its democratic birthright.

I served with Harold in the Illinois State senate, and we were elected to Congress in the same year. He was an earnest and able legislator. He was an ambitious mayor. His real legacy, however, is that in the city of big shoulders, his own shoulders carried the hopes and dreams of so many Chicagoans to their ultimate realization.

The minority community of Illinois has lost a champion; the Nation has lost a man who proved that our system of government can work for all citizens. He will be missed.

Mr. BIAGGI. Mr. Speaker, the city of Chicago suffered a tremendous and enduring loss 1 week ago today when Mayor Harold Washington died suddenly at his desk, on the job, serving the people of the city he loved so much. The loss is both hard to measure and impossible to reconcile. It came at a time when Harold Washington finally had reached some degree of political peace through strength—the strength that can only come from a strong electoral mandate from the people. Harold Washington received such a mandate from the people of Chicago and it was his plan to use that mandate as a catalyst for the changes and improvements he wanted to make in the quality of life of all Chicagoans.

I had the pleasure of serving in this body with Harold Washington, specifically on the Education and Labor Committee. I always found him to be a man of great stature, integrity and effectiveness. He was fiercely loyal to protecting the interests of the Windy City and it made him one of the most effective and respected members of the Chicago congressional delegation.

Yet, Harold's love was the city and the people of Chicago and so he returned to seek the highest elected office in the city. He won election in a hard fought campaign. He encountered struggles from the very first day on the job. Yet, he never relented in putting forth his agenda for the good of the city and in the end, the voters of Chicago stood beside him and returned him to a second term. Yet, he will never see the dreams he had for Chicago reach their fruition. Yet, the fact remains that Harold Washington through his leadership, dedication, and vision planted the seeds for the new Chicago. It is up to those who succeed him to continue his path.

Harold Washington saw a Chicago that afforded all its people an opportunity to do well. He believed in the positive role of government at the local level to help people. His work and the work of his administration touched the lives of millions of people in Chicago. Why else would more than 1 million people pay their respects to Mayor Washtington as they did this past weekend.

Harold Washington, in many ways, typified the people of the great city he headed. He was a hard-working man with great integrity, and a genuine zest for life. He saw Chicago not as some enormous city with no character but as a collection of communities with bonds and a spirit that made Chicago grow. He brought the government back to the people because he was one of those people.

The city of Chicago, as well as the Nation, will miss Harold Washington, but take solace in the fact that his life was a full and rich one that made a difference for so many others.

Mr. TOWNS. Mr. Chairman, today this body has paused to honor a great political leader in Mayor Harold Washington, of Chicago. As a Member of the House of Representatives, he distinguished himself in the short time that he was with us as a civil rights champion and an advocate for the disadvantaged. As a Member of the House Judiciary Committee, Harold Washington played a significant role in the reauthorization of the voting rights during the 97th Congress.

In spite of his achievements in this body, Harold will always be remembered for his leadership in bringing true reform to the machine politics of Chicago. His initial election served as a catalyst for a new coalition in "the Windy City." Mayor Washington's reelection in April of this year demonstrated that there is room in our political system for those who still believe in sharing power with people at the grassroots level.

Harold Washington breathed new life into Chicago for all its citizens. I can only hope and pray that the reform movement that he began will continue. So today as we honor Mayor Washington, let us all remember that the American political process operates best when all the people can participate and when we have a political leader like Harold Washington who is willing to stand up and be counted and say "I can make a difference." Harold, you certainly made a difference for the people of Chicago and for all of black America.

Mr. DELLUMS. Mr. Speaker, Harold Washington was much more than a former Member of Congress and mayor of Chicago. He was a true champion of the people—not only in Chicago, but across America and around the world.

Harold spent a lifetime struggling for social and economic justice—because he had been a victim of injustice. He had a lifetime commitment to compassion and caring for those less fortunate than he—regardless of race, gender, or political persuasion.

I came to know Harold well during the time he served in the Congress. As a result, I gladly campaigned for him in his two mayoral election campaigns, because of his dedication to the full implementation of people's democracy.

As mayor of Chicago, Harold demonstrated the validity of Dr. Martin Luther's plea to have all judged "not by the color of their skin but by the content of their character." In word and deed he showed that it is possible to "make Chicago work"—and, by extention, all of America, if there is courageous leadership that appeals to the best in all of us, rather than pandering to the prejudices and fears in each of us.

Chicago has lost a great mayor—and America has lost a great human being. I have lost a dear friend—one that I will miss even more in the months and years to come.

Mr. FLAKE. Mr. Speaker, on Monday, November 30, 1987, the city of Chicago and the whole Nation said goodbye to one our country's most distinguished political figures. Harold Washington was more than just a mayor to the city of Chicago, he represented a new vision for rebuilding urban America. Through his hard work, perseverance, dedication, and commitment to the citizens of Chicago he was able to transcend racial barriers and political obstacles and be elected as Chicago's first black mayor.

Mayor Washington's accomplishments during his short lifetime, including serving in the House of Representatives from 1981 to 1983, were an inspiration not only to the youth of Chicago but to disenfranchised people in the United States and worldwide.

The city of Chicago has lost a mayor and the world has lost a great leader.

Mr. GARCIA. Mr. Speaker, it is with great sadness that we come here today to honor a former colleague and political hero to millions of people of all races, Harold Washington.

I, along with many of my colleagues, had the privilege to serve with him during the 97th and 98th Congresses. I remember him as being a champion of the underdog, as a man who had the courage of his convictions.

He fought hard for the civil rights of all Americans. He was a tireless advocate of arms control issues, leading the fight to defeat the MX. In short, Harold Washington was a man of the people.

When he returned home to Chicago to take up the mayor's race in 1983, many of us had high hopes of what such a committed individual could accomplish. Despite the political battles that threatened him during his first term as mayor, Harold proved that he was a fighter by winning a second mandate from the people of Chicago. He was in the process of fulfilling our expectations when he was suddenly taken from us last week.

I remember campaigning for the mayor in Chicago in that city's Hispanic community, letting the hard working individuals there know what a fine man Harold Washington was. He did not let them down. He was a success, and the best thing about the mayor was that his success did not keep him from the people he loved, the people that elected him, the people of the city of Chicago. We will all miss Harold Washington.

Mr. ROE. Mr. Speaker, it is with great sadness and admiration that I join my colleagues in this special order today honoring the late Harold Washington, a former Member of this body and mayor of the city of Chicago who died of a sudden heart attack last week.

Mayor Washington served one term in the U.S. House of Representatives, from 1981-83, and I was most fortunate to have the opportunity to come to know him during that time. Indeed, I consider it a privilege to have had the opportunity to serve in the House while Mayor Washington was here. For it is clear from the dynamic way in which he guided the great city of Chicago during the past 4 years, and the way he swept to a reelection victory earlier this year, that he was an outstanding leader who was held in the highest esteem by so many of his constituents.

I believe a recent comment by our distinguished colleague from Chicago, Congressman CHARLES HAYES, more than adequately expresses the way so many of those who knew him viewed Harold Washington. In the current issue of Time magazine, Congressman HAYES was quoted as saying, "I never believed Harold could open up a city and turn it around as he did."

And the editor of a monthly newspaper in Chicago, the Chicago Reporter, termed Harold Washington's death a "loss in the family the way Jack Kennedy's was."

While a Member of the House, Harold Washington was a member of the House Judiciary Subcommittee on Civil and Constitutional Rights and played a key role in the successful extension of the 1965 Voting Rights Act that was signed into law in 1982. He was also active in the Congressional Black Caucus.

Above all, it is clear that he cared about people. And he left the House to run for mayor of Chicago because he cared deeply about that fine city. He was a tireless worker who strove hard to improve the lives of all those he touched during his more than 30 years of public service. In Harold Washington, the citizens of his great city saw a man of action, a man who never stopped trying to improve Chicago. And in working to improve his city, Harold Washington also was working to improve our country.

I join with my colleagues, with the residents of Chicago and all of our Nation in mourning this great leader. I wish to extend my condolences to the Washington family and the citizens of the city he so dearly loved, Chicago. He has left a rich legacy to build on.

Mr. YATES. Mr. Speaker, Harold Washington and I were friends for many years, and I was troubled and deeply saddened by his death. Chicago and the people of this country have lost an unusually talented, eloquent, and courageous mayor and a very fine human being.

I am pleased that we are taking a few moments today to pay tribute to him. I want to tell you that my mind is filled with the expressions of genuine love and respect that I saw in the streets of Chicago on Monday. If anyone needed to be convinced that Harold Washington was a man of the people, he had only to be in Chicago this week. The expressions of sorrow were massive, absolutely sincere, and very moving. His death is a real tragedy and the people of Chicago know it in the most fundamental way.

Many of us knew Harold as a friend and colleague when he served here. For me, his election to the House in 1980 was one of the few bright moments in an otherwise dismal election year. I predicted a bright future for him in this House, but I was delighted by his decision to run for mayor. It was a tough campaign and it took all of Harold's considerable skill to win but he did it. And he won again this year. I was proud to endorse him for both elections and very pleased by his progress and success that he was having in the city.

Harold Washington was very good for Chicago and this country. It is very hard to lose a friend and I will miss him. All of Chicago will miss his courage, the bright and incisive speeches, and the enlightened and very skillful leadership that we will forever associate with him.

Mr. HORTON. Mr. Speaker, I rise to pay tribute to a former colleague of ours, Harold Washington, who passed away 1 week ago today. Many Americans, when they think of Harold Washington, think of only one thing—Chicago's mayor. But for those of us serving in the House in the 97th Congress, Harold will be remembered as a man of dignity who served his constituents with zeal and compassion.

I had the pleasure of working with Harold in my capacity as the ranking minority member of the House Committee on Government Operations. Harold served on that committee, and quickly became a knowledgeable, diligent member of the committee's Subcommittee on Manpower and Housing. In addition to Government Operations, Harold served on the Judiciary and the Education and Labor Committees.

For nearly three decades, with a career spanning from Member of Congress to mayor to assistant city prosecutor, Harold worked for the betterment of all people. The country, the State of Illinois, and the city of Chicago are better off because of Harold Washington's work.

Mr. Speaker, my wife Nancy and I want to wish the scores of family and friends of our former colleague the very best during this difficult time. He will be sorely missed, both as a man and a politician.

Mr. CLAY. Mr. Speaker, it is with a heavy heart that we take the time today to lament the passing of our most esteemed and eminent colleague, Harold Washington, former Congressman of the First Congressional District of Illinois and upon his death, mayor of Chicago.

From the depths of Chicago's South Side this man rose to prominence: a leader and a role model. Widely read and well educated, magnanimous in his empathy, sure in his unbridled wrath when it came to opposing injustice. He died Wednesday November 25, 1987, premier among black politicians.

He was a force to be reckoned with. A professed reformer, Washington, along with other black leaders in Chicago, brought the well-oiled political machine to a whimpering halt. Although his first term as mayor was marked by political confrontation and racial polarization, Washington, with unswerving determination, managed to push through a tough ethics ordinance and brought the longstanding mayoral practice of patronage jobs to an end.

He always encouraged an honest government, and to his death, remained untouched by alleged political and administrative mishaps exploited by his opponents.

As one of my colleagues in Congress, Washington was a frequent opponent of the insensitive and cruel programs of the Reagan administration. He must be credited with putting together the coalition that beat back administration efforts to weaken the Voting Rights Act.

He was unafraid of confrontation and in fact always sought to comfort the afflicted, while afflicting the comfortable.

Certainly, Washington has left the echo of his voice and the imprint of his shadow upon the city of Chicago. He left a city united in its fight against racism and other unjustices.

Washington was described in the Chicago Tribune as more than a symbol, perhaps a possible winner.

Mr. Speaker, in his works, in his life, and in his compassion for his brothers, Harold Washington has erased the "possible" from that phrase. He was a winner.

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a man, a great man, the mayor of the city of Chicago, Harold Washington. With his passing, the city loses a great leader, an advocate for the urban dweller, and the common man.

The mayor presided over the greatest city in our country and the power of his personality was such, that while we disagreed on many issues, we amicably agreed on our love of Chicago and all its people. We never failed to work together for the good of the community.

Harold Washington leaves behind many projects begun in his administration—projects that will help our city grow and continue to prosper. His support for the Southwest Rapid Transit Line was vital to the ultimate approval of this project and his commitment to the revitalization of Midway Airport has aided the economic development of my community. It is our responsibility to now see that these projects are carried through to completion to honor the memory of this good man.

Harold Washington was a source of pride and inspiration to his people. He will be missed by us all.

Mr. RODINO. Mr. Speaker, I was deeply shocked and saddened to learn of the death of my good friend, Harold Washington. Chicago's great loss of its outstanding mayor is shared by the entire Nation as we mourn the passing of a remarkable leader.

I had the great personal privilege to work closely with Harold when he served on the Judiciary Committee during his two terms in Congress. He brought to the committee his fervent passion and dedication to justice and his insights and advice were invaluable. Harold served as one of the floor leaders in the effort to extend the Voting Rights Act and his effectiveness contributed to the successful passage of this important legislation. For Harold, this was a continuation of his lifetime commitment to ensuring equality for all Americans.

Harold Washington's outstanding qualities were his impressive intellect, his independence, and his cheerfulness even under pressure. What we as a nation are grateful for is that Harold—although he would have achieved greatness in any chosen field—directed these talents to serving the public.

He started his political career as a teenager, following in his father's footsteps, and went on to serve in the Illinois State House and Senate and two terms representing Chicago's First Congressional District in this Chamber. Throughout his tenure as a legislator, Harold served with distinction and remained first and foremost a man of the people, determined to serve their interests above all others.

The crowning achievement of Harold Washington's public service was his election in 1983 as Chicago's first black mayor. During his all too brief time as the city's chief executive, he opened the doors of government to all citizens and guaranteed that equal opportunity was the guiding force in his city. Harold's slogan—"Chicago Works Together"—reflected the new spirit he brought to Chicago. He replaced divisiveness with cooperation and bridged the gap between government and the people to forge a meaningful partnership. Harold's reelection last year confirmed that he had won the support and the hearts of the people of Chicago.

Harold Washington was an extraordinary and gifted leader and he will be missed by all of us whose lives he touched. But he will not be forgotten. His enduring legacy extends well beyond the city limits of Chicago. As a national leader on urban issues and an inspiration to us all, his example will demonstrate to future generations that commitment and perseverance can make the impossible happen. His message of hope and optimism will continue to echo. We can best honor this distinguished American by ensuring that the ideals and beliefs Harold Washington fought so hard for in this lifetime remain a bright beacon for us all.

Mr. ANNUNZIO. Mr. Speaker, I join my colleagues in paying tribute to our former colleague, the late Mayor Harold Washington of

Chicago, who served in the Congress of the United States for 4 years.

Harold Washington was a good friend for 25 years. Prior to serving in the U.S. House of Representatives, where he was a member of the Judiciary Committee and was known as a supporter of organized labor and liberal causes, he served in the Illinois State Senate for 4 years and as an Illinois State Representative for 11 years.

In 1942, he went into the Army where he served as an engineer in the Army Air Corps. He attended Roosevelt University under the GI bill, where he was president of his senior class and the student council. He graduated from Northwestern University Law School in 1952, and after his father's death in 1954, took over his father's law practice and position as assistant corporation counsel.

Although he will be remembered as an anti-organization independent, Mayor Washington started his early political career as a Democratic machine supporter. It was after he went to Springfield that his relationship with Democractic Party regulars began to decline.

Mayor Washington was a genuine liberal and he fought the machine for 25 years. In the last 6 years, he defeated the machine and he worked hard toward dismantling the machine, but the irony of his unexpected death is that only several months ago when the Democratic ticket was slated for the coming primary election in 1988, all of the candidates selected by the Democractic Central Committee of Cook County were cleared by Mayor Washington so he truly was becoming the leader of the Democratic Party in Cook County.

Yes; Harold went full circle, and it is a sad farewell, but as one who knew him well, I am also happy over the successes he achieved during his lifetime. He died at the pinnacle of his career and the positive changes he brought to the democratic process in Chicago shall endure as his memorial.

Mr. MINETA. Mr. Speaker, last week our Nation lost a great leader: Harold Washington. And although he was laid to rest on Monday, it is still unsettling for me to think of Harold in the past tense.

Yes, he was the mayor of Chicago. Yes; he was once a Member of this body. And yes, he was a good friend. But what Harold was, is, and will remain is inspirational.

Harold Washington personified the hopes and dreams of black Americans in many ways. But through his outspoken leadership in Chicago's City Hall, Harold transformed that city's civil rights movement into a civil rights administration for all its citizens.

Harold stood for truth, he stood for justice. And he worked tirelessly toward the goal of enabling each and every American—of every race, color, and creed—to practically exercise the inherent right of political might. That he achieved as much as he did in his few years at the helm of our Nation's second largest city is testament to his abilities, to his ideals, and to his dreams for all Americans.

Mr. MAVROULES. Mr. Speaker, I wish to thank our colleague, CHARLES HAYES, for requesting this special order today to allow Members to pay tribute to Mayor Harold Washington, who was elected to Congress in 1980. His tenure in the House of Representatives, albeit brief, was a foreshadow of the direction his mayorship would lead Chicago.

As a number of Members have already stated, the election of Harold Washington in April 1983 as the first black mayor of Chicago, the third largest city in the United States, had major political ramifications for both the city and the country. Harold Washington fought for those same principles and ideals when he became mayor of Chicago that were important to him when he was a Federal legislator—responsible programs which benefit the poor and disadvantaged, the elderly, and middle-income taxpayers. He was also a tireless champion of civil rights.

I would like to make brief mention of a program Harold Washington initiated to increase the number of black-, Hispanic-, and women-owned businesses in Chicago. the thrust of this program, which increased city contracts for minority-owned firms by 25 percent, and women-owned firms by 5 percent, was controversial but became an accepted business practice in competing for city contracts. This initiative is consistent with my own efforts on the Small Business Subcommittee.

Mayor Washington was also instrumental in helping Chicago recover from the 1982–83 recession. At the time of his election, Chicago had lost a quarter of its manufacturing base. Since then, the Windy City has experienced its biggest building boom with $10 billion of new construction either completed or underway.

While it is obvious that many more accolades could be bestowed upon Harold Washington, let me close by saying that Harold Washington was a friend and colleague whom I deeply admired and respected and who will not be forgotten.

Mr. HOYER. Mr. Speaker, as with many of us, I only had the privilege of serving with Harold Washington in this body for only a brief time. I was elected in a special election in May 1981, just a few months after he had been elected to Congress. As freshmen, members of the same class, we came to know each other. A former State legislator myself, I appreciated his experience and legislative skill, as well as his eloquence and good humor.

Early in his second term, I was sorry to see Harold leave the House, for I knew he could have been a great leader of this Congress. However, I watched with admiration as he battled the odds and became the mayor of Chicago. Certainly as practitioners of the art, we in this Chamber admire political achievement. Achieving the mayoralty was the pinnacle of a career full of achievement at every level of government.

It has been infrequently remarked upon what Harold Washington was able to accomplish in his first term—despite his not commanding a majority of the city council. Chicago was clearly thriving under his leadership, with an improved economic climate and a new system of inclusion in government of many groups.

Last winter, several weeks before Harold Washington was reelected, I saw him here on Capitol Hill. At that time we had a pleasant conversation and I was impressed with his infectious optimism about the coming election and the many years he expected to be governing his city. He expected great things of himself and of Chicago.

The unexpected passing of Harold Washington brings sadness to those of us who have lost a friend, but even more it has caused a deep sense of loss on the part of the people he so ably represented and led. Indeed, the outpouring of grief over the past week in which literally millions of people paid their respects are the greatest indication of how much he will be missed. My condolences go out to Mayor Washington's friends and family and to the people he held most dear: the people of his city.

Mr. FOGLIETTA. Mr. Speaker, on Wednesday, November 25, the United States lost a great leader, the civil rights movement a great champion, and the U.S. House of Representatives a former member and good friend. Harold Washington, mayor of Chicago, died of a heart attack at 65.

Harold Washington's life was public service. He became involved at the young age of 13, when he helped his father in his duties as precinct captain. Harold Washington served his country as an officer in the Army Air Corps during World War II. After completing his studies at Roosevelt University, where he was elected senior class president in a class that was only 5 percent black, and Northwestern University School of Law, Harold Washington went on to serve as Chicago city attorney.

In 1965 Harold Washington was elected to the Illinois House of Representatives. He served for six terms, before being elected to the State senate, where he served for three terms. In 1980, Washington challenged the party system, defeated the incumbent, and became a member of the U.S. House of Representatives, where he served two terms.

But Harold Washington's biggest achievement was in 1983 when he challenged the Chicago party system, and two of its most vocal leaders, to win his first term as mayor. Washington's election was a watershed in American politics. His reelection this year consolidated that victory.

Harold Washington is proof positive that someone who cares about public service can buck the system and prevail. Twenty years ago, no one would have thought that a black man could become mayor of Chicago, especially a man with an independent mind who understood that blind adherence to the party line was not in the public interest. Harold Washington was a true pioneer. He went where no man had gone before, and opened the doors to political participation for thousands of people. He was a true leader, and he will be sorely missed.

TRIBUTE TO THE LATE HONORABLE HAROLD WASHINGTON, MAYOR OF CHICAGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 60 minutes.

Mr. HAYES of Illinois. Mr. Speaker, I yield to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I want to thank my distinguished colleague, Congressman HAYES from Illinois, for this opportunity to add a word on the RECORD in tribute to our fallen brother, Mayor Harold Washington. His death was simply a blow to progressive forces all over this Nation generally and to all of us who knew him in this House personally and worked with him over the years.

I know the gentleman knows that he was a man of uncommon integrity, conviction, and political sagacity. I know of no politician who took on a greater challenge than did Harold Washington in seeking to become the mayor of the great city of Chicago in 1983, and certainly few of us know of any mayor who had to govern against greater odds than did Harold Washington govern in his first term of office.

One of the real tragedies that I felt was that having won the re-election and with it a team that would free him to demonstrate his extraordinary skills as an administrator and leader, he was on the threshold of providing the city and the Nation with much needed leadership on the urban scene.

He was a man of a tough mind and a tender heart. He will be sorely missed by me personally and by people of good will all over this Nation and across the world.

I think that no tribute is adequate to express the affection and the appreciation that we all held for Harold Washington.

Mr. HAYES of Illinois. Mr. Speaker, I thank the gentleman for joining with us.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank my neighbor in the Longworth Building and good friend, the gentleman from Illinois, for yielding. I want to extend to him my personal condolences, because I know that for him this has been not just a political loss, as it has been for many of us, but even more for him a personal loss because he has lost a very good friend, a man whose seat he took, a man whose tradition he himself very ably serves us in this House.

Mr. Speaker, my own reactions, both personal and political, politically we have lost a man who was becoming one of the giants of the American political scene. It is often the case that all of us fail fully to appreciate what we have had until we lose it and it has become very clear that people only now practically understand the importance of the contribution Harold Washington was making to the political life of this country and its absence is a loss to the country.

He emerged in a situation where racial division was a sad fact. This whole country has suffered since our inception from a legacy of racism. We had a Constitution which had a lot of good points, but it was flawed from the beginning by its terrible tragic compromise with slavery and racism has plagued us. Our history is in part a desperate struggle to throw off the racism that continues and the negative effects of racism.

As an extraordinarily articulate and forceful and committed political leader, Harold Washington made through his own career a contribution to beating back racism and refuting the evil and negative tenets of racism that few men in our time have been able to equal, and the loss of that ability is enormous.

People now understand the extent to which he had transcended the racial divisiveness of the city of Chicago, and Chicago is not a lot different than many other American cities where racism is a problem.

Harold Washington was on the way, having been re-elected mayor, to diminishing the relevance of race, to establishing the relevance of humanity, of compassion, of concern for others, of the ability of a man of great eloquence, compassion and intelligence, to transcend; so we are terribly hurt. We lose, when we could not afford to, one of the most articulate advocates of the view that precisely as this country as a whole does better economically by some broad gauges, the obligation that many of us who benefit have to the vulnerable minority of people of all races and ages who are hurt ought to be something we could discharge.

So I very much lament the loss of a committed fighter, who said, you know, America can be great all around. We can be economically very progressive. We can grow and we can at the same time take care of the poor and take care of people who need help.

In addition to the political loss, Mr. Speaker, I just want to speak for a brief time about the personal aspect. Harold Washington and I came to the Congress of the United States at the same time in 1980, and as I am now the neighbor in the Longworth of his successor, my good friend, the gentleman from Illinois [Mr. HAYES], I was Harold's neighbor when we were elected to Congress. We sat next to each other in the Judiciary Committee.

There are a lot of things I could think of about him right now. Eloquence is one that comes immediately to mind. I have never met a man who could open his mouth and have the most finely polished, articulate phrases, come out the way Harold could on the spur of the moment in informal conversation, in debate in the Judiciary Committee. Harold's ability to get the English language to work for him and for the causes he cared about was a great asset.

He was also a man with a great gift for friendship. There was about him a cheerfulness, a sense of serenity, because he understood the worth of his cause that made it just good to be around him, even at times when we were fighting, and this goes back to 1981 when some of the worst mistakes of the Reagan administration were getting enacted into law and Harold and a few others were fighting against that.

There were unpleasant times when you saw very poor people being hurt by thoughtless and angry public policies. Fighting along side Harold Washington at that time was glorious.

I guess my most recent memories were in February of this year in a very cold time in Chicago when at the invitation of the gentleman from Illinois who arranged this special order and some of the others, I was privileged to go to Chicago during the primary and appear as part of a rally on behalf of Harold. You saw then a kind of enthusiasm that people had for politics that we are often told is not here anymore. We are told that to transform things in the old style politics of personal involvement, personal commitment, of individuals caring and identifying and drawing strength from political leaders and sacrificing so they can participate in the selection of political leaders and have some choice about their own destiny, all those are things that are supposed to have disappeared, I saw in Chicago that day in February. I saw thousands and thousands of people on a very cold day, at some inconvenience to themselves, crowding into a hall and cheering, not because anybody told them they had to, but sincerely identifying, and it was a racially mixed crowd, there were people of all ages, and it was for me one of the most moving and affirming experiences I have had as a politician to be part of what has become a movement, because the people who participated in it needed a movement, because they had a chance to work for a man of decency and compassion and courage who was able to bring out the best in men and make them feel strong and equal to any challenge.

So the loss of people like the gentleman from Illinois now standing is greater than for most of us, because he was privileged to work with and along side our late colleague, but all of us who care about the quality of life in this country, all of us who think that further diminishing the racism that remains is a very, very high duty for politicians, all of us who think that in a very wealthy country children should not be hungry and elderly people should not be frightened about what happens if they are going to get sick and lose their ability to survive, and that we ought to provide through public services the kinds of things that only the Government can provide, even while we hope the free market will prosper and make us all better, all those things which are so important and which so need advocates, all of them were the losers with the tragic death of Harold Washington.

So I want to express my appreciation to the gentleman from Illinois and the gentleman from California and their colleagues in the Congressional Black Caucus.

We have all, those of us who care about those issues, suffered a loss.

Finally, let me say that all of us here as Members of this body, as elected officials, we have lost one of our best. We have lost a man who was so good at what we do and enjoyed it so much that he was one of those who made our profession the best it could be.

In a phrase that is very common up in Massachusetts, all of us with the death of Harold Washington, all of us in this body have lost one of our own.

I thank the gentleman for giving us this opportunity to express that.

Mr. HAYES of Illinois. Mr. Speaker, I want to thank the gentleman for having shared with us his admiration and his feeling and his experiences in working with the now deceased great man, Harold Washington.

Mr. Speaker, I think what has been said here by all the persons who joined with me in paying this tribute to a great leader has buttressed what I have concluded some time ago when Harold was elected mayor of the city of Chicago. We had the right man at the right time, he being the first black to be elected as chief executive of the third largest city in these United States.

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Harold Washington was a leader respected all over this great Nation of ours and in many sections of the world.

I had an opportunity as a member of the committee to visit South Africa, and London, England, and with our Armed Forces in West Germany and in other sections of the world where, as soon as they found out that I was from Chicago, they would ask me "how is Harold?"

He was known abroad in many sectors by his first name. I know the Good Lord will make it possible, has made it possible, I just get a feeling, that Harold is listening to many of the good things that have been said here about him even though he is not here physically.

Words are hard to find to put into focus my own feelings. Harold supported me when I was first elected and when I had 13 political opponents, it was almost political suicide to have selected 1 of the 13 who ran in the Democratic primary in 1983. I, on the other hand, have supported him for every political position that he ran for from the General Assembly in the State of Illinois, to the Congress of the United States, and to his brief term as mayor of the city of Chicago.

I along with others are charged with the responsibility of trying to follow the legacy which he established as a leader of the city of Chicago. Such a task is not easy. He is hardly cold in his grave and meetings are already being held by those who seek to take over the mantle of leadership and veer away from the course or the legacy which Harold Washington has established.

I certainly want to say that I feel that Harold Washington was a people's candidate, a people's political leader, one who was a voice for the voiceless. He was interested in helping those who had not, and I certainly want to see this kind of leadership displayed by those who take over the mantle of leadership in the city of Chicago. They must be concerned about jobs for people who are out of work, they must be concerned about the education of our young, they must be concerned about our senior citizens who need housing and health care, and these are the kinds of things that Harold stood for and he fought for in every facet of political life.

I certainly want to close by saying that we cannot let Harold down. We cannot let those people down.

HAITI FOLLOWING ELECTION DAY MASSACRES

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I think that what we have seen on national television in the past few days since last Sunday, what we have read in the national press has given us a clear idea that something is wrong, radically wrong in Haiti.

When we see bloodied bodies in polling places, people who have been gunned down for no other reason than that they desire to cast a ballot, we can understand that something is radically wrong in Haiti. There is a human tragedy that certainly is obvious and evident. We do not need an analysis to tell us about that. We do not need anybody to explain the human tragedy, but beyond the human tragedy there is a diplomatic tragedy, there is a tragedy in terms of the international struggle for democracy.

I would like to take a few minutes to talk about that tragedy. First, I would like to quickly review the facts. The Haitian people are quite fortunate in that after more than 30 years of tyranny by the Duvalier family, first Francois Duvalier who made himself president for life and then when he died he made his son President for life, Francois Duvalier and Jean-Claude Duvalier were dictators of the most ruthless and primitive kind.

Haiti is the poorest country in the Western Hemisphere. Haiti probably rivals countries anywhere in the world in terms of poverty. Yet not long before Jean-Claude Duvalier was forced to step down as the lifetime President of Haiti, Jean-Claude Duvalier's wife went to New York City and she spent $2 million shopping. When Jean-Claude Duvalier was pressured out finally by the actions of the Haitian people and with the help and assistance of the United States Government, it was discovered that he had hundreds of millions of dollars in banks throughout the world while the country was sinking further and further into poverty. And there are five million of the poorest people on this globe who live in Haiti. That is the kind of ruthless, heartless, primitive, crude dictatorship that the Haitian people were up against.

Our Government is to be congratulated. I congratulate the Reagan administration. I congratulate the State Department. Not only did they remove, at least play a major role in pressuring Jean-Claude Duvalier to leave, but they did it with a minimum of bloodshed. In fact, it was the Haitian people who first rose up, Haitian people who had very little to fight with but made it clear that they would not tolerate any longer the kind of oppression that they lived under with the Duvaliers.

They made it clear, they rose up, they were murdering them in large numbers, but they would rise up again and more numbers would be massacred and they would rise up again. It was the U.S. Government that said that this is not going to stop, it is obvious that unless somebody does something we are going to have one bloodbath after another, and I say to my colleagues our Government is to be congratulated that they moved to make it clear to Jean-Claude Duvalier that the U.S. Government, which is the prime support in terms of economic aid and military assistance for Haiti, that they would no longer support a government which was massacring its own people in order to stay in power.

So as we did in the Philippines, and again I think the Reagan administration is to be congratulated, they brought a new kind of diplomacy and a new kind of intervention into being which there should be no limit on the amount of applause for which is showered upon them for it. As they did in the Philippines against a cynical, brutal dictator, Ferdinand Marcos, they used their influence and used their power in the way that a great nation should use its influence and power. That is without firing any shots, without sending any marines in. They merely sided with the majority of the people, and when the majority of the people were given an opportunity, they elected Corazon Aquino. They moved on from there to establish a whole new constitution, and a whole new government.

So our State Department is to be congratulated, and our President should be congratulated. Some very decisive actions were taken, some very important precedent-setting decisions were made.

In the case of the Philippines and again in the case of Haiti, to move Jean-Claude Duvalier off the scene with a minimum of additional bloodshed was an accomplishment to be applauded.

So that was accomplished. The problem was when that kind of change takes place, what does a government establish to maintain law and order as a substitute?

It was a dilemma never before faced by this government and very few others. They had to go through a process and I do not know what the process was but I can understand, I sympathize with the dilemma that they faced of installing a set of leaders to replace Jean-Claude Duvalier. That set of leaders originally included some people from the civilian sector as well as military leaders. The person who emerged of course as the strong man and as the leader was General Namphy. As is to be expected in that kind of a situation, the vacuum would be filled inevitably, it would be filled with military power. But there was an understanding that a process would go forward by which the Haitian people would be allowed first of all to write a constitution, to vote on that constitution, to establish an elections process, and eventually to elect their own new government in a democratic process.

I think some of the generals quite cynically looked at that process and said that it will never happen in Haiti. They expected the ordinary people who helped to make the revolution lead to the point where Duvalier had to be forced out, they expected them to fall flat on their faces and not produce a constitution, let alone an elaborate one which had some provisions in it which showed that people clearly understood the tyranny they were living under. But the people did it. They got a constitution, they voted for it and set in motion an election process. Part of that constitution specified, however, that all of the people who were close to the obvious colleagues of the Duvalier family would not be allowed to run in that election. That was a provision of the constitution which I think was a stroke of genius.

There are some people who criticized it and said that they made a mistake by putting a provision in which closed out the old Duvalier regime totally. They set up a desperate situation. Out of desperation the people who are the remnants of the Duvalier regime have to turn to violence. Therefore, they should never have frozen them out of the electoral process.

My reply to that is if they had not frozen the Duvalier people out of the electoral process, if they had allowed the old Duvaliers to run for election, they would have had a different kind of scenario and the scenario would have been as follows: there would have been elections in Haiti, they would have followed the timetable, but the same guns, the same bullets that were used to gun people down at the polls would have been used to terrorize any people who did not support the candidates of the Duvalier remnants. They would have guaranteed that there was an election even if only 10 percent of the population came out and they would have terrorized the other 90 percent. They would have gone to the world and said,

> We gave them an opportunity to come out and vote, but they did not. Here is our election result, here is our candidates, now leave us alone. We have freely established democratic government in Haiti.

They would have used their power and might to rig the election and to guarantee that they stayed in power. So a wise group of people, the Haitian people, stood behind that provision in the constitution and said that under no circumstances would they waive this provision. They insisted despite the fact that 12 people who were identified as old members of the Duvalier regime, those 12 were not allowed to become candidates. They struck them off the ballot. They would not allow them to be candidates in accordance with their own constitution.

At that point the cynical ruling military junta understood that they had to resort to violence. Either they would carry out violence directly as they did in some places on Sunday, November 29, or they would permit the civilian terrorists, those who do not wear uniforms but who have the same kind of firepower, the same guns, the guns that Duvalier brought in when he was there and distributed, and some of the guns that we have recently paid for for them to maintain law and order in Haiti.

□ 2030

The guns and the bullets that were used to murder Haitian citizens on Sunday, November 29, were guns paid for and bullets paid for by the American taxpayers.

When they understood clearly that the legally established constitution would not bow to them, they determined that they would wreck the whole process. Step by step they showed this. It was not anything that should have taken our Government by surprise. When you had a candidate hacked to pieces in broad daylight, a presidential candidate gets hacked to pieces in broad daylight, that should send you a clear signal, and nobody was ever punished for it.

Further, when an internationally known lawyer who happens to be a Haitian citizen is running for President, Volel went to make a speech, he chose to make a speech about certain kinds of things that were happening that were not correct in front of the police station in downtown Haiti, because I think he reasoned that that was the safest place to be. In a place where terrorists were known to be abroad, he figured he could stand in front of the police station and be safe. And the police station is not far from the palace where General Namphy's government sits. So I think it was good reasoning.

He also invited journalists from all over the world to come and listen to him, with their cameras, their notebooks. So we had a scene where a candidate is standing in front of the police station with journalists from all over the world. They are taking notes with television cameras. He began making a speech. Plainclothesmen, they say they were policemen, men in plain clothes walked out of the police station, gunned him down, walked away, and to this day nobody has apprehended them or punished them. The Presidential candidate, Volel, lay dead, and he died in front of the central police station in downtown Haiti not too far from the palace.

That was a clear signal, in my opinion, that the Namphy government would tolerate terrorism and was cooperating with terrorism. If they came out of the police station, obviously there was a plot or a conspiracy which involved the powers who were supposed to keep law and order.

Despite all of these clear signals, we dragged our feet. Our Ambassador, our Government did not obviously make it clear to Namphy and his government that we would not tolerate a disruption of the electoral process. Namphy cynically, cynically insisted until the last minute that he would cooperate, despite what we saw developing he would guarantee that there would be law and order on November 29, election day. But of course, we know on election day there were massacres. Not only did they massacre Haitian people, but they went after foreign journalists and some of the observers.

So cynical was General Namphy that he invited many international observers. He did keep out some Congressmen because he did not like the way they had been making speeches or signing statements about developments in Haiti. But there were large numbers of people brought in from all over the world, certainly the Caribbean region, who were there to observe the elections. And he cynically invited them in, and then they saw the display of the collaboration between the government and the terrorists before their very eyes.

This is where we are today. The problem is where do we go from here.

It is clear that Namphy and his government, the military junta, will not permit free elections in Haiti. They have disbanded the Electoral Council, the Provisional Electoral Council, and they are insisting that they will conduct elections, oversee elections, and guarantee a new government by February 7, the date the election process was to have been completed if it had been allowed to proceed normally. They have disbanded the Provisional Electoral Council.

However, the Provisional Electoral Council was created by the Constitution of Haiti. The Provisional Electoral Council has as much authority as the Namphy government. The Namphy government was an extralegal, makeshift entity of temporary status until the Constitution was written. And when the Haitian Constitution was written they wrote in a provision that the military junta, the Namphy government, could continue until February 7. So they were given by the Constitution some status.

That same Constitution gave the Provisional Electoral Council its own status and did not subject it to the Namphy government. One part of a constitutionally established government, one body established by the Constitution, cannot eradicate another body established by the Constitution. So the Provisional Electoral Council has been illegally, in defiance of the Constitution, declared null and void by Namphy.

Already I understand recent developments are such, the pressures on him are such that he has reinstated the provisional government. He does not have the power to declare null and void, so he does not have the power to reinstate it. It exists, and much to the credit of the men who serve on this much-threatened and maligned Provisional Electoral Council, they are still insisting that they are there, they are legal, they have authority from the Constitution and they intend to continue. They will not recognize any election that is conducted by this Namphy government.

Also, many of the candidates have made it clear that they will not participate in any election which is overseen and supervised by the Namphy government. The defiance of the people of Haiti is still there, it is still strong, despite the massacres on Sunday, November 29.

In embarrassment, our Government has decided now to get tough. They have been outwitted, they have been hoodwinked. In the streets of my district we would say that they have been psyched out and they are upset. The Government would like to do something beyond what it has done already. They said they are cutting off all military aid, all economic aid except humanitarian aid. They said that, and I assume that that is true. I assume that they are bringing maximum pressure to bear on the Namphy government through the discussions that have been held with them recently.

I understand the Ambassador in Haiti has met with the military rulers recently. We do not know what kind of conversations took place.

People in a number of places in this hemisphere and throughout the world are upset. They want some action. The question is: What do we do now?

Some people are calling for immediate military intervention. I have all along called for peaceful intervention, and I repeat that peaceful intervention is possible and peaceful intervention should go forward.

What do I mean by peaceful intervention? Because of the fact that intervention has been used in so many ways by so many different people, I would like to take this time to explain what I mean by peaceful intervention.

Intervention in Haiti means providing maximum assistance for the free election process. Intervention in Haiti means providing maximum assistance for the Provisional Electoral Council to carry out the free election process.

The Provisional Electoral Council has as much authority as the Namphy military junta. If the Provisional Electoral Council wants help from the outside, they should be able to get help from the outside by merely requesting the help from the outside.

Intervention which is peaceful, legal, and respectful of the Constitution is possible in Haiti. Circumstances in Haiti are unique and they must not be loosely compared to other situations involving tyrannical and oppressive governments. It must be remembered that since the fall of the dictator, Jean-Claude Duvalier, Haiti has been a nation with a government in transition. The government is a government in transition right now. The ruling military group is not a permanent government. Instead, it must be viewed as makeshift, a temporary arrangement that it is. The Namphy government was put in place by the U.S. State Department. This temporary arrangement was made legal only when the writers of the new Constitution of Haiti recognized this group as an interim government until February 7, 1988, and that is when the free election process was to have been completed.

The same Constitution which made the military junta legal for a temporary period and conferred upon it the authority from the Haitian people also created the Provisional Electoral Council. This council does not exist subject to the approval of the Namphy government. The Electoral Council exists with authority derived from the Haitian people who voted to approve the new Constitution.

This same Constitution also clearly spelled out the function and the role of the Electoral Council. This Constitution established a timetable for free elections to be conducted. Interference with the Electoral Council by the Namphy government constitutes a gross violation of the Haitian Constitution. The Electoral Council has the authority and the right to act independently. Such independent authority of the Electoral Council includes the right and the authority to call on outside agencies, to call upon outside organizations, and to call on nations. The Provisional Electoral Council can legitimately request help from anyplace it wants to seek help. The Provisional Electoral Council can call on the rest of the world to help it by sending in equipment or a new printing press to print new ballots for the election. The Electoral Council can call on the outside world to give it help in terms of trucks to transport ballot boxes and any other equipment it has to move or helicopters to reach remote parts of the country.

The Electoral Council also has the right to call upon nations and organizations for armed guards or police or troops, if necessary, to guarantee the protection of the election process, to guarantee the protection of the personnel working in the election, to guarantee the protection of the candidates, and also on election day to guarantee the protection of the voters.

We do not need military intervention. We do not need intervention forced upon the people of Haiti. We need to ask the Electoral Council what it is they want and we need to respond to the Electoral Council.

That is not illegal intervention. That is not forcing ourselves on a nation and violating its sovereignty. That is coming to the rescue of the majority of the people, that is obeying the will of the Constitution, facilitating the constitutional process established by the Haitian people.

This call for outside help, which might include armed guards, or police, or troops, this call should be made in terms of a multinational approach. No one nation should answer the call by itself. It is preferable that if personnel have to come in, they come from the Caribbean countries, or they certainly come from this hemisphere, minus any personnel from the United States.

The role that our Nation can play is a crucial one, a critical one. We can coordinate, we can provide moral leadership, we can make it clear that we are as upset and as outraged as anybody anywhere in the hemisphere or anywhere in the world. We can provide financial support for the electoral process, we can provide logistical support to move the equipment, to move the personnel, whatever has to be done. We can do a great deal without having to send a single American into Haiti.

All of this can take place at the request of the Electoral Council. Under the supervision of the Electoral Council, all of the people, all of the equipment, all of the goods and services that we supply or are supplied by the outside world can be placed under the command of the Provisional Electoral Council. We should not hesitate, we should not get so embroiled in the discussions of international law, comparing the situation to Grenada or comparing the situation to Afghanistan. We should not get lost and fail to understand the unique situation of Haiti.

Haiti is a government in transition. Haiti is a place where intervention can be used to support the constitutional carrying out of a process that will result in free elections and a newly established democratic government.

For all of these reasons, we should move carefully in terms of what we decide to do, but on the other hand, we should move swiftly and decisively in doing what we are going to do. We should not hesitate any longer. I do not want to see the visit of Mikhail Gorbachev take precedence over all other international events and next week we lose sight of the outrageous atrocities, we forget the outrageous atrocities that took place in Haiti.

Our Government needs to move now, before the end of this week. We need to move now. We need to show that we are ready to provide the leadership necessary to come to the aid of the Haitian people through the Provisional Electoral Council and assist it in carrying out free elections in Haiti.

Mr. Speaker, I yield to my colleague, the gentleman from the District of Columbia [Mr. FAUNTROY].

□ 2045

Mr. FAUNTROY. I thank the gentleman for yielding.

Let me first express to the gentleman my heartfelt appreciation for his wisdom and his courage over the years in standing up for the long-suffering people of Haiti. I want to thank him especially for this opportunity given us as Members of Congress to speak at an extended period on the desperate situation in Haiti.

I have the privilege now of sharing the congressional task force on Haiti. I came to that position as a result of the fine work done during the decade of the seventies by the gentleman from New York's predecessor, the Honorable Shirley Chisholm who chaired for many years the congressional Black Caucus task force on Haiti.

The gentlewoman from New York gave us magnificent leadership in the effort to see to it that our Haitian brothers and sisters who came to these shores were accorded all the rights and privileges of persons who were seeking asylum here in this great land of ours.

It was in 1981 shortly after the gentleman from New York came to the Congress to succeed Shirley Chisholm that I became chair of that task force of the congressional Black Caucus on Haiti and had to travel to Miami, FL, for the funeral of some 40 Haitian men and women who had perished in a vain effort to reach the United States from Haiti and whose bodies had been washed up on Hillsboro Beach just outside of Miami.

That experience move me and my colleagues in the congressional Black Caucus to recognize that it was not enough simply to address the symptoms of the problems of Haiti which reflected themselves in people seeking asylum by the tens of thousands, but the time had come for us to address some of the causes and to focus our attention upon the need, somehow, to utilize U.S. programs and United States pressure to end an era in Haitian history that had created millionaires at the top and desperate boat people by the hundreds of thousands at the bottom.

So we launched in 1981 our effort to secure a partnership for change with the courageous people of Haiti.

As the gentleman has so eloquently and so carefully outlined, the result of that new approach to Haiti was magnificently concluded when our own United States Government assisted in a remarkable transition, the nonviolent deshucage, the nonviolent removal of then President-for-life Jean Claude Duvalier, and the announcement of a new day of hope in the life of the Haitian people. It has nearly been 2 years now since Jean Claude Duvalier left Haiti and the seeds of hope were sown when we learned that a new provisional government had been put in place that pledged itself to preside over the transition of Haiti to a democracy where there was human rights and press freedom and where people had the opportunity for the kind of economic recovery that all of us had advocated for our island neighbor.

I cannot tell you what joy it brought to my own heart and the chairman of that congressional task force on Haiti to hear on February 7, 1986, on the day of the transition, then-Lieutenant General Namphy, as I quote him, said, "We are going to work for the flowering of a real and functional democracy founded on absolute respect for human rights, press freedom, the existence of free trade unions and the functioning of organized political parties. This is the program of the provisional government that desires to hand over power to a democratically elected government," he said.

Those words fell like drops of refreshing rain upon our souls that were thirsty for a new day in Haiti.

Looking back to that time, I must now candidly admit that those of us who embraced that kind of rhetoric and supported that kind of interim leadership and what we called the CNG, really misread a number of signals that that government gave us over the course of the last 18 months that it had no intention of matching its practice with the rhetoric of those early days.

We should have known that when they took so long to appoint the body which was to craft the Constitution that perhaps they were not as sincere as their words indicated.

But finally on March 29 after an exhaustive, after a magnificient Constitution had been produced and the people, 80 percent of whom we know happen to be functionally illiterate, heard about that Constitution, listened on their radios to discussion about it and understood what it meant, on March 29, 1987, they went out by the hundreds of thousands and in the 99.8 percent vote adopted the Constitution by which they would be governed, and the electorical process that would guide their actions through to February 7, 1988, when a government of the people, by the people and for the people was to have been in place.

But we should have known when that provisional electoral council called for by the Constitution published its election law on June 5, 1987, that something was amiss when the provisional government, the CNG, did not almost immediately endorse and support that body which constitutionally had exercised its role in outlining how the election would be conducted. And then on June 22, 1987, when the provisional electoral council had its election law dismissed by the CNG and the CNG attempted to usurp the authority of the CEP to carry out the elections, we should have known that something was amiss. We did not know it, but the Haitian people understood it and they protested vigorously.

As a result of their protests, many of them died at the hands of Haitian security forces and we should have known then that they were not about to match their rhetoric with their actions in providing a true transition to a democracy.

When the Haitian people forced them through nonviolent actions to withdraw that coup attempt of June 22, we should have known when a presidential candidate was hacked to death and thereafter when nearly 200 people were killed, massacred with the use of machetes, machetes, machetes; we should have known that there were those who were determined even in the CNG, even in the military, to prevent the seed that was sown with that magnificent speech of General Namphy on February 7 to come to fruition.

And then as we led up to the elections with the killing of another presidential candidate by a police officer, by a member of the armed forces in front of the police station, and when thereafter a number of persons were killed by death squads during the night and a number of places were burned, we should have known there was something amiss, that those who claimed on February 7 they would preside over a process that would bring about a democracy, would bound up the development for all the people, were misleading us. And then when the CEP, electoral commission, carrying out the mandate of the Constitution which the people had overwhelmingly supported with their votes, ruled 12 candidates ineligible to run because the people by a 99 percent vote had said we want a Constitution, we want a government that prevents those who have slain us and tortured us and brutalized and intimidated us for 30 years, to be able to preside over us in the initial years of this new democracy; when they did that and some people felt that they had the license to burn down the headquarters of the provisional electoral commission, that they had the license to threaten civil war and the lives of those who had constitutionally been given the authority to preside over the election, we should have known that these people were not serious.

As the gentleman from New York knows, in spite of all of that we proceeded into November 29 in the hope that the courage and wisdom of the Haitian people that had them refusing to respond even to the 11th-hour provocations of murders and burning and looting, we should have known that we would be surprised on November 29.

I want the gentleman to know that I was genuinely surprised. But it is now clear to the world when innocent men and women, most of them wretchedly poor people, standing in line to vote, are brutally gunned down and savagely hacked to death by members of the Ton-Ton Macoute and members of the armed forces, we should have known that it was a cause for moral outrage across this nation, that these people had no intention of doing what the Constitution mandated and what most of us trusted them to be able to do, and that is to secure those elections.

And, yes, in response to that I did call for an international peacekeeping force to protect the Haitian people as they carry out the elections mandated by the Constitution which they have approved.

I am so happy that the gentleman from New York has made it very clear that what at least this gentleman believes is consisent with what he has said, namely that there is a way that we can provide peaceful intervention and support and protection for the people of Haiti, the vast majority of whom were anxious to vote on November 29 and who, without the support of the world, may not have that opportunity and may not be able to realize the dream so magnificently outlined by then-head of the CNG, Namphy, on February 7.

I know that this situation does not compare with any other in the world today. And I would agree with the gentleman from Brooklyn that that is the case. But I have resolved that as these courageous, beautiful, strong people have demonstrated their thirst for democracy, that I will not rest until I have spoken, as people of conscience should have spoken in the decade of the thirties when a government was abusing a small segment of its population in Europe.

□ 2100

I believe that we have a moral responsibility, not just Americans but people all over this globe, to lend Haiti a hand and to see to it they are able to carry out the election process developed by the CEP and for which they have thirsted for so many decades. I think it can be done. I believe, with you, that there are governments in the Caribbean and in this region that would be willing to respond to an appeal from the duly constituted authorities in Haiti for election. We know who those authorities are. Those authorities are the members of the CEP, members who were unconstitutionally dismissed by the CNG. It is almost ridiculous. It is to suggest that the people of the world have no intelligence to say that it is the CEP that has violated the Constitution, and therefore, they ought to be dismissed, Mr. Namphy said.

The fact is, as we all know, that not only were the Ton-Ton Macoutes responsible for the disruption of the election but members of the armed forces joined them in that blood bath on November 29. And to try to assign the blame to the CEP is ridiculous.

I, with you, feel that our country ought to reaffirm our respect for the integrity of the Constitution of Haiti and the authority of the CEP and demand that they be allowed to function. And should they be allowed to function and require or request assistance from people of conscience around the world in carrying out an effective election, we ought to do whatever we can, including providing persons who can deal with thugs and murderers who for decades have in a cowardly way taken advantage of poor, wretched people with nothing to defend themselves, as we saw them do on Sunday.

I do not think that violence would be the result of such an intervention, if you want to call it that. I believe, to the contrary, that should people of conscience and professional security persons, police or troops for that matter, be asked to come to those 6,000 polling places in Haiti which have been designated as the duly constituted authorities of the CEP, if they are there and well prepared to deal with those who would harm innocent citizens who want to vote, those citizens would not be attacked by these cowards who blatantly did so on November 29.

Finally, let me say to my colleagues and to my dear brother in the well that I know that there are those who take issue with the suggestion that the Haitian people need any help at this point in carrying out free, fair, and open elections, but I believe that at this point it is clear that without some help, the courageous and long-suffering Haitian people will not be able to achieve their election goals.

There may be elections, but I fear that those elections will be those on the order of which the gentleman in the well outlined, with a handpicked candidate from this military junta to operate as a civilian front for the continued repression and exploitation of the Haitian people and the continued flow of courageous people out of that island around the world, let alone to the United States.

I believe, however, that we have to understand those from Haiti who are saying there should be no intervention. If I had relatives in Haiti, knowing the history of what happens to people who are the targets of retribution, I would not stand up in public anywhere and say, "Send help to my brothers, my sister, my mother, or my father, and to those who want to vote in Haiti," because to do that might target that grandmother, that mother, that brother, or that sister for assassination in Haiti.

So I understand why some have said, "Let us not do it." But let me say that for the world to wash its hands of this carnage, as Pilate washed his hands two millenniums ago, would be to serve the interests only of those on the far right who want things to return to where they were or those on the far left who want only to have an excuse to arm desperate people to engage in a bloody conflict. I do not want to see that kind of blood-letting. And as I indicated to many of my colleagues, I do not believe that they will send the money or the arms anyhow to promote that. As Joe Mokinata said often, "When elephants fight, only the grass gets trampled."

If we want to help the long-suffering Haitian people who magnificently drafted a Constitution and overwhelmingly endorsed it and confirmed it with their votes on March 29, and who stood in long lines in spite of the intimidation and the murders and the machetes of the Ton-Tons Macoutes and armed members of the armed forces, if we want to help them, then let us implement the formula the gentleman has outlined here. Let us recognize the CEP as the authority on the elections. Let us ask them if there is anything we can do as people of conscience to assist them in carrying on free, open, and fair elections, and then let us do all they ask us to do, that this day that we have all envisioned may still come to pass, that come February 7, 1988, in accordance with the Constitution that has been drafted and in accordance with the process established by the CEP, we will have a new government, a new day, a new hope for all the people of Haiti.

Mr. Speaker, I want to invite the gentleman in the well to a meeting tomorrow morning at 9 a.m. with colleagues of conscience from both sides of the aisle. The meeting will be in and outside of the Foreign Affairs Committee, a meeting held to consider together a morally responsible position that we in the United States can take in support of the Haitian people.

Mr. Speaker, I thank the gentleman for yielding.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman, who among his many other responsibilities, chairs the Haitian Task Force. I congratulate him and salute him for the immediate, passionate, intense response to the events in Haiti which he has put forth in the past few days.

I will certainly accept the invitation of the gentleman to attend the meeting tomorrow morning. I look forward to the drafting of some kind of practical approach. I would like to submit to the Haitian Task Force in writing my proposal for peaceful intervention in Haiti, the proposal which I have discussed here, in which I say that peaceful intervention in Haiti means maximum assistance for the free election process.

I also want to thank and congratulate the members of the Congressional Black Caucus. The caucus has issued a statement calling for immediate action also, and I would like to submit in writing my proposal for maximum assistance for free elections and for support for the free election process.

□ 2110

I think this is a course of action which would be in harmony with what the members of my congressional district who are Haitian Americans have communicated to me. My congressional district has the largest number of Haitian Americans in the country. The Haitian-American leaders in my district recently met and they have forwarded to me a statement which calls for three things. It calls for the immediate removal of the military junta. It calls for the establishment of a new civilian provisional government which is worthy of the respect of the Haitian people and able to meet the people's basic rights and demands. They call for a disarmament of the Ton-Tons Macoutes and a de-Duvalierization of the administration of Haiti. They also have added that they do not want military intervention. They remember U.S. military intervention in the past, and as the gentleman from the District of Columbia [Mr. FAUNTROY] stated before, we should understand the fears of calling or taking that kind of position.

I think it is important as I close to just review a few important facts. The members of the electoral council in Haiti are still in hiding. They fear for their lives. So I would like to use this opportunity to express some of their sentiments. An electoral council statement was read over Haiti's radio Metropole. The statement said that while the military junta dissolved the council on Sunday, the council is still the legally recognized body under Haiti's constitution and it is mandated to carry out the elections.

The statement also said, and I quote from the statement:

> The mission of electoral council cannot be interrupted under any circumstances before the newly elected President takes office, according to the constitution in article 289-3. The mission of the Provisional Electoral Council ends only when the newly elected president takes office.

This council said further that the military junta must abide by the electoral council's decisions on the elections. That is exactly where I derive my proposal from, the position taken by the electoral council.

Mr. Alain Rocurt, who is the treasurer of the electoral council, said in a statement which was read on Radio Metropole also, and I quote Mr. Alain Rocurt:

> I reject without hestitation as false the accusation by the military government that we overextended our rights and that we violated the constitution, and we invited foreign countries to intervene in national affairs.

He rejects the charge being made by the military junta that they are the cause of the problem, that they have overextended themselves.

There are also increasing calls in Haiti and in this country for some sort of multinational intervention, as we have discussed already. I think it is important that we note the fact that among the people who are calling for immediate multinational intervention is Robert White, a former U.S. Ambassador to El Salvador, who was actually in Haiti on Sunday as part of an elections observer team. Mr. White told the Associated Press yesterday that he and the members of his team who went to Haiti to observe the elections were shot at twice. They were shot at twice on Sunday by gunmen as soldiers stood and watched and did nothing.

Mr. White blames the Haitian military for the election's turmoil.

Mr. White told reporters, and I quote Mr. White:

> During the night the military abandoned the streets to the terrorists. There is no sense of having elections if the same crowd, the military junta, headed by Henry Namphy is in charge.

There was also an international delegation sent to Haiti to observe the elections. It was sent there by the National Democratic Institute. I think this is the Institute that Jimmy Carter is associated with. They sent a consortium of representatives from democratic nations and they are now making the statements as a result of their experiences in Haiti that the Organization of American States, they are urging that the Organization of American States organize a peacekeeping force to help restore order in Haiti, once such a force gets the total support of the Haitian people. They are saying pretty much what I said, that it is necessary for the Haitian people with the electoral counsel speaking for the Haitian people to call for the multinational force.

Mr. Speaker, I also submit an article that appeared in today's New York Times.

I also submit an article which appeared in today's Washington Times for the CONGRESSIONAL RECORD. Both of them highlight various calls for immediate action in Haiti.

[From the New York Times, Dec. 2, 1987]

OBSERVERS, BACK FROM HAITI, ASK O.A.S. TO RESTORE ORDER

(By Jon Nordheimer)

MIAMI, December 1.—An international delegation invited to observe the Haitian presidential election returned to Miami today and urged that the Organization of American States act promptly to restore order in Haiti.

The delegates, still shaken by the violence they witnessed in Haiti and by the abrupt cancellation of Sunday's election, said one of the options that the O.A.S. should consider is an international peacekeeping force to protect the Haitian people and political candidates from further violence.

"It should be an international force, not an American force," said Bryan Atwood, president of the National Democratic Institute, a consortium of representatives from democratic nations. The group was invited by the Haitian ruling party to observe the elections.

PEACEKEEPING FORCE

A peacekeeping force should be organized "if no other options work," Mr. Atwood, who headed the 18-member observer delegation, said at a news conference in Miami after the group returned from Port-au-Prince, the Haitian capital.

He stressed that the O.A.S. should first try to get the backing of the Haitian people and those leaders who have challenged the Government of Lieut. Gen. Henri Namphy before introducing a peacekeeping force.

He and the others in the delegation, who expressed shock and dismay at the violence they observed last weekend instead of the peaceful election promised by the Haitian leadership, expressed sorrow over the loss of Haitian lives and outrage at the violence.

"No one made any attempt to stop the violence," he said. "No arrests were made as far as I know. We were shocked that General Namphy would invite observers into Haiti and then expose us to this kind of violence. It is the ultimate in cynicism."

At the same time, heads of several Caribbean nations attending a regional economic meeting in Miami urged Haitian leaders to "establish a firm timetable" for presidential elections. Prime Minister Edward Seaga of Jamaica, conferring with leaders of St. Lucia, the Netherland Antilles and Aruba, issued a communique expressing disappointment with the events of the weekend and the bloodshed that accompanied it, but stopped short of recommending any external moves.

Richard Holwill, Deputy Assistant Secretary of State for Caribbean Affairs, who attended the meeting, was critical of the Haitian Government and army, saying, "We are particularly distressed that the army failed in its duty to protect the electoral process."

[From the Washington Times, Dec. 2, 1987]

INTERNATIONAL PEACEKEEPING FORCE ASKED FOR HAITI

(By James M. Dorsey)

A prominent candidate in Haiti's foiled presidential election called yesterday for intervention by an international peacekeeping force to ensure that a free and democratic poll can be held.

Sylvio Claude, leader of the Haitian Christian Democratic Party, was responding to a similar call by Delegate Walter E. Fauntroy, Democrat of the District of Columbia, sources close to the candidate said.

In Port-au-Prince, a number of other presidential candidates said privately they also favored the intervention in Haiti of an international peacekeeping force. They said Haiti's political climate did not allow them to say so publicly.

"It takes a lot of courage to endorse the idea publicly," said a Western expert on Haiti.

Earlier, three other candidates, including another front-runner, Louis Dejouie II, said they favored a "Haitian solution" rather than foreign intervention.

In street interviews earlier this week, residents of Port-au-Prince's Bel Air shantytown said they favored foreign intervention to secure free elections if such a move were not dominated by the United States.

"I would like several nations to participate in this thing. It should be multinational, not American-directed," said a young, unemployed technician.

"Intervention is no good, the National Governing Council is no good. But of the two evils, I'd prefer intervention," said another unemployed professional.

For a third young man, the issue was much simpler. "I would receive the Marines with flowers," he said.

A congressional grouping of black representatives issued a statement in Washington yesterday condemning the violence in Haiti and calling for creation of an international peacekeeping force to restore order in the country.

"We agree with the action of the administration in cutting off all but humanitarian assistance to Haiti and call on nations around the world to help bring an immediate cessation of these abhorrent acts," the 23-member Black Caucus said.

"To achieve this goal, we call for the establishment of an international peacekeeping force that would protect the citizens of Haiti in their efforts to elect a government of their own choosing and to isolate those who are determined to crush democracy," the statement said.

State Department spokesman Charles Redman said Washington was talking with fellow members of the Organization of American States on what to do about Haiti but a peacekeeping force was not among the reactions being discussed.

Mr. Redman told reporters the Haitian government should prosecute those responsible for Sunday's violence in which at least 34 people were killed and hold fresh elections.

In Costa Rica, Speaker of the House Jim Wright said yesterday he was opposed to a unilateral U.S. intervention in Haiti. But he did not rule out action by the OAS.

"Currently, there ought not to be a unilateral intervention by the United States," Mr. Wright said. "If there were any intervention, it ought to be done by the Organization of American States. But there really ought to be some certainty that the people of that unhappy land could be given an opportunity to express their will through the electoral process."

Prime Minister Edward Seaga of Jamaica told The Washington Times from Miami there still was plenty of room for a dialogue with Haiti before a peacekeeping force should be recommended.

Mr. Seaga has convened a meeting of Caribbean nations there to review the situation in Haiti.

"The appetite of the Haitian people has been awakened for democracy," he said. "The call of the people will be heard again. If the people's call is not answered, if they seek it, the country could become ungovernable. We are trying to avoid that. That's why the Caribbean is taking the lead."

But the Jamaican prime minister warned that "one can exercise dialogue beyond the point of patience."

Haiti's long-awaited elections were canceled Sunday after a bloodbath broke out in the streets of the nation's capital.

Haiti's military-dominated government justified Sunday's dissolution of the Provisional Electoral Council on the grounds that it had sought foreign interference in the island nation's internal affairs.

The council is an independent body established under the constitution adopted in March and charged with organizing Haiti's first democratic elections in almost 30 years. The council canceled the elections on Sunday after at least 34 people were killed in attacks by the military and Ton-Ton Macoutes—supporters of former dictator Jean-Claude Duvallier—as voters queued in front of polling stations.

The Provisional Electoral Council—which the ruling junta said it had dissolved—declared yesterday that any election held without its supervision would be illegal.

"I reject without hesitation as false the accusation that we overextended our right. . . . and invited foreign countries to intervene in our national affairs," Radio Metropole quoted Alain Rocourt, a Methodist priest who serves as the Provisional Electoral Council's treasurer, as saying.

It was Mr. Rocourt's first statement since Sunday's bloody events. Like his eight fellow council members, Mr. Rocourt had gone into hiding to avoid the government's wrath.

"The Haitian people who stated their total trust in the Provisional Electoral Council by massively registering to vote have given a formal denial to the enemies of the council," Mr. Rocourt said.

Several presidential candidates, including Mr. Claude and Marc Bazin, a former World Bank official who heads the Movement for the Installation of Democracy in Haiti, rejected the holding of elections under auspices of the government.

Haitian President Lt. Gen. Henri Namphy vowed Sunday to hold elections for a new head of state and a two-chamber Parliament within the constitutionally mandated period of time. Haiti's constitution calls for the takeover of power by a democratically elected president on Feb. 7 of next year.

In a telephone interview, Mr. Fauntroy said here he had bipartisan support in Congress for a draft resolution that calls on the United Nations, the Organization of American States, the Organization of Eastern Caribbean States and the Caribbean Economic Community to send an international peacekeeping force to Haiti. The resolution also calls for an economic embargo of the island republic.

The House and Senate are expected to vote on the resolution later this week or early next week, Mr. Fauntroy said.

He said he had discussed the proposal with Assistant Secretary of State Elliot Abrams, who had expressed "reservations about our giving some leadership in putting together such a force."

He said neither Mr. Abrams nor key officials in various Caribbean nations had rejected his proposal out of hand. "Everybody is keeping an open mind," Mr. Fauntroy said.

In closing, Mr. Speaker, I want to state what I have said several times already. In the final analysis, there will be freedom in Haiti. We know there will be freedom. There will be a democratically established government, because the Haitian people, 5 million people, have made it quite clear that they will no longer tolerate oppression. Either we are going to assist them and limit the amount of bloodshed that takes place and lessen the time which it takes to establish such a government, or they are going to do it by themselves over a longer period of time.

I would like to see our great Nation take the leadership and come to the relief of these people who are indicating that they want democracy. We are the guardians of democracy in the world. We must recognize that our Nation in this hemisphere was one of the first to establish its independence and establish a democratic government, but we also had a partner, and that partner was Haiti.

Toussant L'oueture in Haiti rose up and threw out the French and established an independent Haiti as the first black republic in the world, and one of the first republics, first independent republics in this hemisphere. These are the descendants of Toussant L'oueture calling for our help. I think as a great nation, as the guardian of democracy on this planet, we cannot turn our backs. We must make possible free elections in Haiti. We must lead peaceful intervention in Haiti.

Mr. CONYERS. Mr. Speaker, Haiti's first free elections in more than three decades have been thwarted by the murderous remnants of the tyrannical Duvalier dictatorships. Duvalier may be gone, but "Duvalierism" goes unabated. The United States should act now to ensure that the chance for democracy does not slip away, and it should act multilaterally.

Throughout election day, armed gangs, including the supposedly disbanded Duvalier paramilitary force known as the Ton-Tons Macoutes, prowled the streets of Haiti, shooting and hacking to death more than two dozen Haitian voters, sabotaging radio stations, and destroying polling places. Yet, the Haitian Army was either nowhere to be found or actively assisting in the violent attacks.

Clearly, the military must have anticipated that there would be violent attempts to disrupt the elections. In the weeks leading up to the election, Presidential candidate Yves Volel was assassinated on the doorstep of a Haitian police station. Another candidate, Louis Eugene Athis, was hacked to death by a mob apparently led by a constable.

At the same time, the army looked the other way as antielection terrorists attacked innocent civilians in and around the capital city of Haiti. After enraged citizens formed their own protection groups to fight back against the marauders, the army quickly stepped in. On election day, the army soldiers apparently tried to finish off wounded voters that the Ton-Tons Macoutes had failed to kill. Clearly, there was a concerned effort on the part of the army and the terrorists to stop the elections, and to force military rule upon the people of Haiti.

Despite the violence, the Haitian people were resolute; some voters continued to stand in line, even at polling stations that had already been sprayed with gunfire. Unfortunately, that was not enough. By the end of the day, the National Council of Government had disbanded the Provisional Electoral Commission and abrogated all electoral laws. There can be no doubt that the military has short circuited the democratic aspirations of the Haitian people to satisfy its own lust for power.

What is so disheartening is that the elections could have been a reality if the United States and our Western allies had not been so indifferent to the plight of our international neighbor. The Reagan administration waited until after the election day fiasco before moving forcefully. Now that we have cut off all nonhumanitarian aid to the Haitian National Government, we must continue to press for elections in Haiti. I will soon introduce a resolution calling on all of our Western allies, the United Nations and the Organization of American States to join in the support of the Haitian people in their quest to bring democracy to their nation.

Mr. TOWNS. Mr. Speaker, I want to lend my support to my colleagues who have called for increased sanctions against the National Governing Council of Haiti. Sunday's election violence was clearly aided and abetted by the government's security forces. Moreover, Gen. Henry Namphy's dismissal of the Provisional Electoral Council is not only unwarranted but it also violates the Haitian Constitution which was overwhelmingly ratified by the Haitian people in March of this year.

Perhaps even more disturbing than the violence on Sunday are today's Washington Post articles by Julia Preston. These articles suggest that U.S. Embassy officials were ill-informed about the government and the Army's attitudes toward the election. One would certainly hope that our State Department officials will make every effort to gather extensive information from nongovernmental as well as governmental sources so that they can better assess the current circumstances in that country.

Finally, I would like to personally urge the State Department to implement extensive economic sanctions which should include but not be limited to an international arms embargo; removal of C.B.I. eligibility; freezing assets of the Haitian government and canceling commercial credit by U.S. banks. We should also urge our representatives in the various multilateral institutions to oppose any future loans to Haiti as until there is a duly elected civilian government in place.

Now is the time for our Government to demonstrate as much concern for democracy in Haiti as they have promoted in Nicaragua and Grenada. We should do everything possible to ensure that the flames of democracy do not perish in Haiti.

Mr. DYMALLY. Mr. Speaker, men and women of integrity have but one option in standing up for what is morally just and deploring that which is morally reprehensible. I stand in the well today knowing that innocent men and women lie victims of inexplicable violence in a nation torn apart by madness. The Government of Haiti has displayed to the world the most abhorrent behavior. People of conscience must come to the fore to condemn and isolate these international despots.

We have heard the will of the people expressed by the passage of the Haitian constitution, which established a mandate for a democratic electoral process. In the face of this dictate, agents of the military regime have acted as tyrants. I am horrified and angered that those who would make claim to governance would respond to the mandate of the people by the barrel of the gun and the blade of the hatchet.

The wanton slaying of men and women seeking merely to exercise the constitutional right to vote, brings to life the statement of philosopher Reinhold Niebuhr who offered that "Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary."

For the record, let me again express as chairman of the Congressional Black Caucus, the outrage which my colleagues and I share at the conduct of the military forces and blatent violence of the Ton Tons Macoute in the abortive elections on Sunday, November 29, 1987, in Haiti. They have violated the most basic of human and civil rights in deliberately destroying the democratic electoral process and the will of the people of Haiti. Justice and democracry have been trammeled, and the atrocities and the horror which have been witnessed by the international community demand immediate response.

The action of the administration in cutting off all but humanitarian aid to Haiti is a most appropriate initial step. We call on nations around the world to help bring an immediate end to these abhorrent acts. It is imperative that we establish an international peace-keeping force which will protect the citizens of Haiti in their efforts to elect a government of their own choosing and to isolate those determined to crush democracy.

As this island nation's neighbors in the Western Hemisphere, we must fulfill our responsibility to let the people of Haiti know they are not alone. The arrogance and actions of the forces of violence in operating outside the constitution and laws of Haiti must be addressed, and that response must be united and immediate. More than 100 years ago Susan B. Anthony advanced the question which we riterate today and I quote: "For how can the consent of the governed be given, if the right to vote be denied?"

Mr. FLAKE. Mr. Speaker, let us not forget that our great country has always provided a sanctuary for individuals seeking refuge from oppressive regimes. It is the responsibility of this country on its 200th anniversary to honor its commitment to guarantee democracy and freedom for all people.

Given the political climate and civil unrest that exist in Haiti today, the United States should increase the number of Haitian refugees permitted to emigrate to this country. Because of the violence inflicted on Haitian citizens attempting to participate in a democratic process, the United States has no alternative other than to open its doors to Haitian refugees seeking political asylum. Further, this country should grant a temporary stay of deportation to illegal Haitian aliens until the political climate in Haiti improves.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NEED FOR DISCLOSURE BY THE INSURANCE INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 60 minutes.

Mr. LAFALCE. Mr. Speaker, one of the major problems that we face as legislators in developing appropriate public policy solutions to the recent liability insurance crisis is a lack of empirical data to determine the causes of the crisis. There is, of course, a great deal of data collected by the insurance industry, but it is not available in any useable form to the public. Thus, there is no way to confirm or verify their claims that an increase in tort litigation is responsible for the crisis. In order to provide the public with the necessary data to determine the causes of the crisis and to help the Congress develop appropriate public policies to ensure that a precipitous future crisis will not occur, I am introducing today the Insurance Information Disclosure Act of 1987.

STATEMENT OF PROBLEM

From 1984 through 1986, hundreds of thousands of businesses, municipalities, and individuals were negatively affected by the liability insurance crisis. These groups experienced extreme difficulty in finding adequate liability insurance coverage; and when coverage was obtained, it was often at several times the previous cost.

Even today, problems still exist with regard to the affordability and availability of liability insurance. Availability of coverage remains particularly acute for medical malpractice, directors and officers of companies, products liability, pollution and hazardous wastes liability, day care centers, nurse-midwives, governmental entities, and trucking operations.

With regard to the affordability of liability insurance, A.M. Best reports that premiums for commercial liability insurance rose an average 79 percent in 1985 and about 73 percent in 1986. In many cases, premiums jumped by as much as 300 to 1,000 percent in certain lines of insurance.

This liability insurance crisis led me to hold a series of congressional hearings on the causes of the liability insurance crisis during 1986 and the spring of 1987. I believed then, and still believe now, that the first step in determining the cause or causes of the crisis is to get the necessary data.

The insurance industry and the Reagan administration have argued that the cause of the crisis is an increase in tort litigation. Therefore, during the course of my hearings, I continually requested representatives of the insurance industry for data to substantiate its arguments regarding the frequency and severity of tort litigation and the impact on industry profitability. In particular, I requested information on the industry's actual losses by line and class of business over the past few years, as well as the number of liability claims per year, the number of liability lawsuits, and the number and dollar amount of claims paid, broken down by stage of settlement and verdicts.

However, I have not yet seen this data from the insurance industry. While the insurance industry collects enormous amounts of data—for example, the Insurance Services Offices, Inc. alone has insurance company information that, if stacked end to end, would be equivalent to 6½ times the height of the World Trade Center—it appears that it can produce absolutely no data to confirm their claim that there has been a litigation explosion or to show that any proposed tort reforms would produce sizable benefits to the insurance consumer.

In contrast to the lack of empirical information presented by the insurance industry, expert witnesses from the National Center for State Courts and Jury Verdict Research presented evidence that there has been no explosion in tort litigation. Instead, Robert Roper, author of the study conducted by the National Center for State Courts, has stated that there is not one shred of evidence to indicate there is a litigation explosion in the State court systems, where 95 to 98 percent of tort litigation takes place. Instead he found that the increase in tort filings has been in line with the increase in population.

It may be that for some lines and classes of liability insurance, and in some States, the number and size of claims paid has dramatically increased in recent years, which would indicate that noninsurance factors may be in part responsible for insurance industry price increases and refusals to provide insurance. On the other hand, the number and size of claims paid may not have increased dramatically, thus suggesting that it is the insurance industry's own financial and underwriting practices that are a major cause of this crisis.

We need this empirical information before we can determine the appropriate legislative response(s) to this crisis. The bill which I am proposing today would provide us with this necessary information.

BENEFITS OF DISCLOSURE

The insurance industry argues that any Federal data collection effort would involve more costs than benefits, especially to American consumers. Four major arguments in opposition to the collection of insurance data at the Federal level have been raised by the insurance industry in hearings before Congress. I would like to briefly summarize these four major arguments and present a rebuttal to each of them.

First, the insurance industry argues that it already provides a great deal of data to public officials, especially at the State level. Therefore, they argue that any Federal data collection bill would be duplicative or irrelevant.

I would agree that the insurance industry collects a massive amount of data that is used to develop its rates and premium costs. However, most of the data that we need is not currently provided in any coherent fashion to any public regulatory official.

For example, data on the insurance line entitled "Commercial General Liability" is provided by insurers in their annual statement to State regulators only in an aggregate form called other liability. The Insurance Services Office testified before the Small Business Committee that this line of business is composed of approximately 1,400 sublines or classes of insurance, which includes products liability; professional liability such as Owners, Landlords & Tenants, Manufacturers & Contractors, Directors & Officers, Day-Care Centers. These are the sublines of insurance that were considered the most troubled with regard to availability and affordability during the recent crisis. Because we do not have any detailed data on the number or amount of claims broken out by subline, it is impossible for us to determine whether any of these sublines should be treated differently in the development of appropriate solutions to the crisis.

We also lack data to ascertain the validity of certain perceptions about the legal system. Even though we have not seen empirical data to support the argument regarding an increase in tort litigation, this argument still dominates the perceptions of many public officials, insurance industry underwriters, and others. Such perceptions may also have been responsible for the enactment of tort reform legislation by over 30 States during the past year.

The insurance industry has data on the amount of the verdict and the amount the insurance company paid to the injured person after verdict. We need information such as this to ascertain if the amounts paid to injured parties have actually increased over time, and if so, in what lines and sublines of insurance the increases have occurred.

My proposed bill would also require the disclosure of information by insurance entities which do not currently provide this information to anyone, such as self-insurers, risk retention groups, and nonadmitted carriers. The purpose of this is to ensure that we are collecting all of the necessary data to determine whether there is any relationship between the civil justice system and insurance costs.

The data that is requested is also highly relevant to the insurance industry's rate-setting function. Information on future costs of tort litigation are considered by the industry in setting its rates, as well as any potential impacts of various tort reforms on insurance costs. Therefore, the information that is requested in the bill on the frequency and severity of tort litigation is extremely relevant to the industry's own actuarial practices in setting rates.

Second, the insurance industry argues that any new data collection effort would be too burdensome and costly both for insurance companies and for the Federal Government.

In response, I want to assure the insurance industry that I do not intend to create any major dislocations in the insurance marketplace by imposing any major new reporting formats or other changes that would prove extremely burdensome or costly to them. It is my intent, as explicitly stated in my proposed bill, to work very closely with the National Association of Insurance Commissioners, as well as the insurance industry itself, to develop appropriate definitions, regulations and procedures. A full rulemaking hearing would be conducted by the SBAAdministrator prior to the promulgation of any regulations to ensure the participation of all interested parties in the proceedings.

In addition, the Administrator of the SBA would work closely with the NAIC in the development of a statistical methodology each year to collect the closed claims data and in the determination of the lines and sublines of insurance to be included in the reporting requirement.

The closed claims information would also be collected based on a random sampling process. Thus, insurers would not be required to report all closed claims information, but rather only a percentage of claims for the following categories: below $10,000, from $10,000 to $25,000, and above $25,000.

Third, the insurance industry argues that if additional data is needed, it should be collected by the States and not by the Federal Government. In fact, data collection laws have been enacted by 18 States during 1986.

The problem is that there is no uniformity among these State insurance data bills. The bills differ not only with regard to the type of data but also the amount of data that will be reported to the State regulatory officials. For example, the Arizona law basically says that data reporting will be required, and leaves it to the State insurance commissioner to decide when, where and how it will be carried out. In contrast, the Florida law asks not only for premium and claims totals, but for claims information in 17 different categories on every liability claim on policies written in Florida.

This lack of uniformity among data reporting requirements is not only inefficient, it also places an onerous burden on the insurance companies themselves to comply with many different reporting formats, procedures and jurisdictions. Given that the insurance industry argues that the reporting of this data to the Federal Government would be too costly and too burdensome for them, one might expect that reporting all of this additional information to 51 separate jurisdictions would be even more problematic from their point of view.

It is inconsistent for insurers to argue that the reporting of this data to the Federal Government would be too costly, but that providing it to the States would not be too costly for them or for the States. Instead we have seen that one of the major reasons for the formation of statistical organizations such as ISO is because the States did not want to incur the costs of collecting the insurance data themselves. Therefore, it makes more sense from an economic and efficiency point of view to require insurance companies to disclose this information to one central repository, such as the Federal Government, which can in turn provide it to the State regulatory officials at no cost to them.

Perhaps the central issue for insurers is that if the Federal Government begins to collect this information, they are concerned this will lead to Federal regulation of the insurance industry. While I can understand this concern, I want to emphasize that disclosure of insurance information to the Federal Government is not the same as Federal regulation of the insurance industry.

Currently, insurers provide some information to the Federal Government through the filing of Federal income tax forms with the Internal Revenue Service and the disclosure of loss reserve information to the Securities and Exchange Commission. Providing information to these Federal agencies has not led thus far to Federal regulation of the industry. I also see little support in Congress for Federal regulation of the industry; and it is not politically viable given the States' incentives to maintain control over the taxing and licensing of insurance companies.

It is also important to point out that other industries provide substantial amounts of data to the Federal Government, such as credit card companies, and banks through truth in savings and lending laws. Therefore, there is no reason to treat the insurance industry differently from other financial institutions when it comes to the disclosure of information.

Fourth, the industry argues that consumers would not benefit at all from any additional financial disclosure by the industry at the Federal level. Rather the industry argues that the additional costs of disclosing this information will ultimately be borne by consumers, which will harm rather than benefit them.

I would argue that the benefits to consumers of enacting this bill would outweigh any possible costs. After all, it is the consumers who were injured by the recent liability insurance crisis and who were unable to obtain necessary liability insurance coverage or only at exhorbitant rates. With the enactment of this bill, we would have, for the first time, the necessary information available to ascertain whether an increase in tort litigation was truly a cause of the recent liability insurance crisis. If we find that there has been an increase in tort litigation, particularly in certain lines of insurance, then tort reform is a solution to the problem. But if we find that there has not been a substantial increase in tort litigation costs, then we must look to other solutions to protect the American consumer. Either way, the consumer wins—because we will have the empirical evidence to develop appropriate legislative solutions.

For the future, we would have the necessary data to continue to monitor the relationship between the civil justice system and insurance costs. Thus the consumer would continue to derive immense benefits from the disclosure of this insurance information to help ensure that such a future precipitous crisis would not occur.

TIMELINESS

Consideration of the Insurance Information Disclosure Act of 1987 is particularly important at this time. The Energy and Commerce Subcommittee on Commerce, Consumer Protection and Competitiveness is currently considering product liability tort reform in response to the recent crisis. However, any resolution of the crisis is incomplete if we only discuss tort reform. Even more important might be reform of the practices of the insurance industry itself.

While I am not calling for specific reform of these industry practices today, it is clear that we need additional information from the insurance industry in order to make intelligent public policy decisions. The industry cannot argue for relief as a response to the recent crisis without providing us with the empirical basis to support such action. Before Congress enacts any Federal tort reform legislation, we must have reliable empirical data to substantiate that this is the solution to the crisis. While I believe that some type of product liability reform may be useful in order to provide needed uniformity and coherence in our laws, I do not believe that Congress should enact a product liability bill without at least the accompaniment of a data disclosure requirement by the insurance industry.

The bill I am introducing today should be considered, at the very least, in any discussion of proposed legislative solutions to the liability insurance crisis. This bill is also extremely worthy of consideration on its own merits, regardless of anyone's viewpoint on the causes of the crisis. The disclosure of information by the insurance industry is an appropriate requirement for an industry that expects the Federal Government to assist it during times of marketplace instability, but leave it alone during times of great profit. The industry cannot "have its cake and eat it too." It must play fairly by the rules of the game and provide the necessary information to ensure that we enact appropriate public policy solutions to any liability insurance problems.

SUMMARY OF PROPOSED LEGISLATION

The major purpose of the proposed "Insurance Information Disclosure Act" is to provide for the collection of reliable and valid data to assist in determining whether there is any relationship between liability insurance cost and the civil justice system. The act would assist the States in analyzing this relationship by requiring insurers to disclose certain specified information to the Administrator of the Small Business Administration [SBA]; and, based on this information, the Administrator would prepare an annual report to monitor whether there is any relationship between the civil justice system and the cost of providing commercial insurance coverage.

The bill requires the filing of two separate types of disclosures by any primary liability insurance entity which is admitted or authorized to do business or doing business writing liability insurance in the United States. These two disclosures would consist of (a) liability insurers claims disclosures, and (b) liability insurance closed claims disclosures.

The liability insurers claims disclosure includes information on the frequency and severity of tort litigation. Information that is critical to determine whether there is any empirically demonstrated correlation between the liability crisis and the existing tort system would be provided here. Such information would include: The number and dollar amount of overall property/casualty liability claims by specific line and class of coverage; the number of liability lawsuits by specific line and class of coverage; the number of liability cases that actually make it to a jury; the number of suits won by the plaintiff and by the defendant; the results on appeal; remittitur; additur; amount and terms and settlement; and number of claims closed without payment. This information would be provided by State and for the Nation as a whole.

The liability insurance closed claims disclosures is comprised of a random sampling of closed claims data on a quarterly basis by primary insurers. At the beginning of each calendar year, the SBA Administrator, in consultation with the National Association of Insurance Commissioners [NAIC], would develop a statistical plan with regard to how this closed claims information would be disclosed based on a random sampling process.

The bill divides closed claims into the following three categories; (a) those under $10,000; (b) those from $10,000 to $25,000; and (c) those over $25,000. For claims under $10,000, the insurer would only have to provide aggregate data with regard to the total number of claims and dollar amount paid out. For claims that range from $10,000 to $25,000, the insurer would have to file only summary claims reports. For those claims over $25,000, the insurer would disclose specific information, for example, on the type, number, and dollar amount of closed claims.

This information would be reported to the Administrator of the Small Business Administration. We have found that the recent liability insurance crisis harmed the financial stability of small business, in particular, and the continuing insurance marketplace instabilities continue to have a detrimental impact on the ability of small business to adequately carry out its functions. The SBA has been actively involved in analyzing the impacts of this crisis upon small business, so it has a unique role and interest in analyzing the causes of the recent crisis and in monitoring any relationship between the civil justice system and the cost of liability insurance.

The bill requires the Administrator of SBA to issue a report at the end of each calendar year that analyzes the information disclosed by the insurers on a State and national basis to determine whether there is any relationship between the civil justice system and the cost of liability insurance. This report would be sent to the President, Congress, Comptroller General, Secretary of Commerce, Chairman of the Securities and Exchange Commission [SEC], and the Federal Trade Commission [FTC], Governor of each State for transmittal to the State insurance regulatory officials, NAIC, and Director of the Congressional Research Service. Copies would also be made available to the public.

This proposed legislation has been developed as a result of extensive discussions with a variety of insurance analysts, representatives, regulatory officials, and other interested parties. Although there are a number of important public policy issues concerning the insurance industry, this legislation addresses only the relationship between the civil justice system and the cost of liability insurance. It does not examine additional causes of the recent crisis, such as cash flow underwriting practices of the industry or macroeconomic factors. It also does not intrude on State regulatory functions with regard to the collection of ratemaking data or financial data to ensure the solvency of insurance companies.

Even though the bill's purpose is limited in scope, the enactment of such a bill should provide benefits not only to consumers, but also to the insurance marketplace through increased stability due to a better understanding of any relationship between the civil justice system and insurance costs.

Mr. Speaker, the full text of the legislation follows:

H.R.—

A bill to provide for the disclosure of certain insurance data to the Small Business Administration in order to facilitate assessment of any relationship between liability insurance cost and the civil justice system, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Insurance Information Act of 1987".

SECTION 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) liability insurance, as the primary method of managing business-related risks, is recognized as one of the foundations of the nation's commerce;

(2) the instability in the insurance marketplace is not merely a problem for the various States but is also a national problem that has a profound impact on the functioning of the American economy, in general, and upon small business, in particular;

(3) no independently verifiable data-gathering body exists within the Federal Government to analyze the causes of the instability within the insurance marketplace, especially with regard to the recent liability insurance crisis; and

(4) since one of the major alleged causes of this recent crisis is an increase in tort litigation nationwide, additional information is needed regarding the relationship between liability insurance cost and the resolution of liability insurance claims through the civil justice system; and such information is also needed to assist the States in analyzing whether any relationship between liability insurance cost and the civil justice system affects the availability and affordability of liability insurance.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the collection of reliable and valid data to assist in determining whether there is any relationship between liability insurance cost and the civil justice system;

(2) to assist the States in analyzing such a relationship by requiring insurers to disclose data specified in this Act to the Administrator of the Small Business Administration; and

(3) to assist the President, the Congress, and the States by requiring the Administrator to report and analyze the collected data in an annual report that will assist in determining whether there is any relationship between the civil justice system and the cost of providing liability insurance coverage.

SEC. 3. LIABILITY INSURERS CLAIMS REPORT.

(a) IN GENERAL.—(1) Each insurer which provides primary liability insurance coverage shall disclose to the Administrator the information described in subsection (b). Such disclosure shall be made on or before May 1 of each calendar year, beginning with the calendar year which begins after the issuance of regulations under section 7. The information shall be provided in detail—

(A) on a line-by-line basis for the nation as a whole, and State-by-State, and

(B) as provided under regulations issued under section 7, on a subline-by-subline or class-by-class basis for the insurance categories listed in paragraph (2).

(2) The disclosure required by this section shall include (but not be limited to) information described in subsection (b), categorized under the following types of insurance written by an insurer:

(A) Commercial general liability insurance.

(B) Medical professional liability insurance.

(C) Professional liability insurance (other than medical professional liability insurance).

(D) Commercial automobile liability insurance.

(E) The liability component of commercial multiperil insurance coverage.

(F) Product liability insurance.

(G) Any other category of liability insurance designated for disclosure by the Administrator (in consultation with the National Association of Insurance Commissioners).

(3) Each disclosure shall contain information for the calendar year preceding the calendar year in which such disclosure is provided, except that, with respect to the first disclosure, information shall be provided for the preceding 5-year period.

(4) Each disclosure shall be accompanied by a certificate of an independent public accountant verifying the accuracy of such disclosure.

(b) INFORMATION TO BE DISCLOSED.—The information required to be disclosed by an insurer under subsection (a) is the following:

(1) Direct premiums written.

(2) Direct premiums earned.

(3) Net investment income, determined in accordance with guidelines issued by the Administrator.

(4) Net underwriting gain or loss.

(5) Net operating gain or loss, including net investment income.

(6) Claims incurred by the insurer, developed as the sum of—

(A) dollar amount of claims closed with payment; plus

(B) reserves for reported claims at the end of the current calendar year; minus

(C) reserves for reported claims at the end of the previous calendar year; plus

(D) reserves for incurred but not reported claims at the end of the current calendar year; minus

(E) reserves for incurred but not reported claims at the end of the previous calendar year; plus

(F) loss adjustment expenses for claims closed; plus

(G) reserves for loss adjustment expense at the end of the current calendar year; minus

(H) reserves for loss adjustment expense at the end of the previous calendar year.

(7) Specific data for each of the categories under paragraph (6).

(8) Total number of claims paid and specific dollar amounts broken down as follows:

(A) Above $1,000,000, with each claim above $1,000,000 enumerated separately.

(B) $500,000-$1,000,000.

(C) $100,000-$500,000.

(D) $50,000-$100,000.

(E) $10,000-$50,000.

(F) Under $10,000.

(G) Claims closed without payment.

(9) The number of claims paid and the amount paid in claims pursuant to (A) settlements made before a complaint is filed, (B) settlement made after a complaint is filed but before a verdict is reached, (C) awards specified in verdicts (allocated separately for judge and jury verdicts), and (D) settlements made after verdict.

(10) The total amount rendered in verdicts, and the total amount actually paid out pursuant to verdicts.

(11) The amount paid out in economic damages, compensatory noneconomic damages, and punitive damages, tabulated by size of economic damage and by type of injury.

(12) For court actions in which the insurer is a party, the number and dollar amount of claims paid during the calendar year in which parties other than the insured had been found liable by the trier of fact.

(13) For claims in which parties other than the insured had been found liable by the trier of fact, the amount by which the payment of damages made by the insurer exceeded the amount of a damage payment which would be attributable to the insured's degree of fault for the injury.

(14) For claims paid by the insurer during the calendar year—

(A) the amount of punitive damages assessed against the insured by the jury;

(B) the amount of punitive damages ultimately paid by the insurer; and

(C) the amount of punitive damages ultimately paid by all parties.

(15) The number and total dollar amount of claims closed with payment by calendar year incurred and the total amount reserved for each claim at the end of the previous calendar year and the total amount of such claims payable by reinsurance.

(16) The number of claims closed without payment by calendar year incurred and the dollar amount reserve for each claim at the end of the previous calendar year.

(17) The number of claims pending at the end of each calendar year and the amount reserved for each claim.

(18) Actual loss adjustment expenses allocated separately according to—

(A) fees or salaries paid to claims adjusters,

(B) fees paid to investigators,

(C) travel and other expenses, and

(D) legal fees, including fees paid to defense counsel and other expenses related to litigation, including, but not limited to, discovery costs and expert witness fees.

(19) Actual incurred expenses allocated separately for unallocated loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses, fees, and all other expenses.

(20) Such other information as the Administrator deems necessary under this section.

SEC. 4. LIABILITY INSURANCE CLOSED CLAIMS REPORTS.

(a) In General.—(1) Each insurer which provides primary liability insurance coverage shall disclose to the Administrator the information described in subsection (b). The Administrator shall, in consultation with the National Association of Insurance Commissioners, develop a statistical plan at the beginning of each calendar year that would provide information concerning—

(A) the proportion of closed claims, and

(B) the manner of selection of claims concerning which insurers should disclose information described under paragraphs (2) through (5) based on a stratified random sampling process.

(2) Information shall be provided by insurers to the Administrator, on a quarterly basis, beginning with the first calendar quarter which occurs during the calendar year beginning after the issuance of regulations under section 7.

(3) Not later than the 10th day after the last day of the calendar quarter in which claims for recovery under a liability insurance policy are closed, the insurer shall file with the Administrator closed claims reports (for those claims selected based on a stratified random sampling process) on a form prescribed by the Administrator for such closed claims if the indemnity payment made on such claims was $25,000 or more for bodily injury.

(4) The Administrator may require the insurer to include in a closed claims reports filed under this section information relating to payments made for property damage and other damage on the claims.

(5) For closed claims under liability insurance policies for which the insurer makes indemnity payments under the coverage for an amount less than $25,000 but more than $10,000 for bodily injury (as selected based on a stratified random sampling process), the Administrator shall require the insurer closing the claims to file summary claims reports of the claims. The reports shall be filed on a form prescribed by the Administrator not later than the 10th day after the last day of the calendar quarter in which claims for recovery under liability insurance policies covered by this subsection are closed.

(6) For closed claims under liability insurance policies for which the insurer makes indemnity payments for an amount of $10,000 or less for bodily injury (including claims for which no indemnity payment is made on closing), as selected based on a stratified random sampling process, the Administrator shall require the insurer closing the claims to file a report (on a form and in a manner prescribed by the Administrator) containing the total pertinent figures for all such claims closed within the calendar year, including, in summary form, at least the following information:

(A) The aggregate number of claims, including the aggregate number of claims closed with payment.

(B) The aggregate dollar amount paid out.

(b) Content of Closed Claim Report.—The closed claim report form prescribed by the Administrator for reports under subsection (a) shall include provisions for reporting—

(1) information relating to the identification of the insurer;

(2) information relating to the identification of the claim, including—

(A) the State in which the claim was filed with the insurer (without regard to whether the claim was adjudicated by a court),

(B) the claim identification number,

(C) the policy year or years to which the claim relates,

(D) the date on which the claim was opened and the date on which the claim was closed,

(E) the standard industrial code of any covered business,

(F) the type of coverage,

(G) relationships to other claims, which includes insurer codes of other insurers who are involved in the claim; and

(H) reserves for the claim;

(3) information relating to the liability insurance policy, including—

(A) the type or types of insurance,

(B) the amounts of various policy limits,

(C) whether the policy was an occurrence policy or a claims-made policy, and

(D) the classification of the insured;

(4) details concerning any injury, damage, and other losses that were the subject of the claim, including—

(A) the types of injuries, damages, and other losses,

(B) the site and manner of injuries, damages, and other losses, and

(C) whether an injury was work-related;

(5) details concerning the claimant, such as age, sex, State of residence, and occupation;

(6) details relating to the claims process, including—

(A) whether suit was filed,

(B) the identification of the court in which suit was filed (whether Federal or State court),

(C) whether attorneys were involved,

(D) the stage at which the claim was closed, and whether the claim was settled out-of-court and, if so, at which stage in the proceedings,

(E) any verdict reached by the court,

(F) information relating to appeals, and

(G) the number of defendants;

(7) details relating to the amounts paid on the claim, including information relating to—

(A) the award sought in any court action,

(B) total amount of a court award,

(C) the amount paid by the insurer,

(D) amounts paid by other insurers,

(E) amounts paid by other defendants,

(F) collateral sources,

(G) structured settlements,

(H) the amount of economic and noneconomic compensatory damages, reported by category,

(I) the amount of prejudgment interest,

(J) amounts paid for defense costs,

(K) amounts paid for punitive damages, and

(L) amounts of allocated loss adjustment expenses, reported by category;

(8) the name and address of any company, association, or exchange which reinsures any part of the closed claim; the coverage provided, restrictions on such coverage, and loss retention per risk, if applicable; and

(9) any other information that the Administrator determines to be significant for purposes of this Act.

SEC. 5. REPORT OF THE SBA ADMINISTRATOR.

(a) In General.—(1) The Administrator shall, not later than December 30 of each year during which disclosure is required under sections 3 and 4, issue a report which summarizes the information disclosed under such sections, as compiled and analyzed in accordance with subsection (b).

(2) A copy of such report shall be sent to—

(A) the President;

(B) the Congress;

(C) the Comptroller General;

(D) the Secretary of Commerce, the Chairman of the Securities and Exchange Commission, and the Chairman of the Federal Trade Commission;

(E) the Governor of each State, for transmittal to the State insurance regulatory official;

(F) the National Association of Insurance Commissioners; and

(G) the Director of the Congressional Research Service.

(3) Copies of such report shall be available for distribution to the public upon request.

(b) Contents of the Report.—The data shall be compiled and analyzed on State and national bases. The compiled data shall be reported as follows:

(1) Compiled for each class of business conducted.

(2) Analyzed for any relationship between the civil justice system and the cost of liability insurance.

(3) Any other analysis of such information deemed necessary by the Administrator and the Congress for the purposes of this Act.

(c) Restriction on Disclosure.—Information included in individual closed claim reports and individual summary claims reports submitted by insurers is confidential and may not be made available to the public. Such information may be examined by the individuals and agencies listed in subsection (a).

SEC. 6. PENALTY.

Any person who—

(1) fails to file a report in accordance with the requirements of this Act (and regulations promulgated under this Act), or

(2) knowingly makes any false statement or omission of fact in such a report.

shall be fine not more than $50,000, imprisoned not more than 3 years, or both.

SEC. 7. REGULATIONS.

Within 6 months after the date of the enactment of this Act, the Administrator shall hold a public hearing of all interested parties to obtain any necessary additional information before the issuance of regulations to implement this Act. Within 60 days after the completion of the hearing, the Administrator—

(1) shall issue such regulations as may be necessary to implement this Act;

(2) shall develop standard and uniform definitions for information required to be submitted to the SBA;

(3) shall issue a list of standard classes of business for which insurers shall report data under this Act; and

(4) shall develop a uniform reporting form which will be used by insurers for disclosing the information required under this Act.

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "insurer" means—

(A) an insurance company or other entity admitted to do business or authorized to do business, or doing business writing liability insurance in any State, including county mutual insurance companies, Lloyd's plan companies, and reciprocal or interinsurance exchanges; and

(B) any pool, joint underwriting association, or self-insurance mechanism or trust which insures its participants, subscribers, or members against liability;

(3) the term "primary liability insurance" means those types of insurance referred to in subparagraphs (A) through (G) of section 3(a)(2), but such term does not include reinsurance;

(4) the term "reserves" means money or other value set aside for payment of a claim; and

(5) the term "State" means any State of the United States or the District of Columbia.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BRYANT (at the request of Mr. FOLEY), for today, on account of official business.

Mr. MONTGOMERY (at the request of Mr. FOLEY), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SAXTON) to revise and extend their remarks and include extraneous material:)

Mr. INHOFE, for 5 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mr. DORNAN of California, for 60 minutes, today.

Mr. DORNAN of California, for 5 minutes, on December 3.

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on December 3.

Mr. HANSEN, for 5 minutes, on December 3.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. LAFALCE, for 60 minutes, today.

Mr. SOLARZ, for 60 minutes, on December 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SAXTON) and to include extraneous matter:)

Mr. BROOMFIELD.

Mr. OXLEY.

Mr. COBLE.

Mr. SAXTON.

Mr. GINGRICH in two instances.

Mr. SHAYS.

Mr. ROTH.

Mr. GILMAN in two instances.

Mr. JEFFORDS.

Mr. MCGRATH.

Mr. HUNTER.

Mr. DREIER of California.

Mr. HORTON.

Mr. CLINGER.

Mr. BADHAM.

Mr. BURTON of Indiana.

Mrs. MORELLA in two instances.

Mr. RITTER.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. MFUME.

Mr. ACKERMAN.

Mr. RICHARDSON.

Mr. WAXMAN.

Mr. HOYER.

Mr. FORD of Michigan.

Mr. MAVROULES.

Mr. PANETTA.

Mr. RAY.

Mr. MOAKLEY.

Mr. MATSUI.

Mr. GARCIA.

Mr. CLAY.

Mr. FAZIO.

Mr. COLEMAN of Texas.

Mr. BERMAN in three instances.

Mr. BUSTAMANTE.

Mr. DELLUMS in two instances.

Mr. BIAGGI in two instances.

Mr. LIPINSKI.

Mr. HALL of Ohio.

Mr. YATRON.

Mr. FAUNTROY.

Mr. FEIGHAN.

Mr. STUDDS.

Mr. HAMILTON in three instances.

Mr. DYMALLY.

Mr. LEHMAN of California.

Mr. MORRISON of Connecticut.

Mr. EDWARDS of California.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found a truly enrolled joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 404. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1297. An act to amend the National Trails Systems Act to provide for a study of the De Soto Trail, and for other purposes.

ADJOURNMENT

Mr. OWENS of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Thursday, December 3, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of Nov. 30, 1987]

2457. A letter from the Deputy Secretary of Defense, transmitting a report on the certification of the Bradley fighting vehicle, pursuant to Public Law 99-661, section 121(c)(1) (100 Stat. 3829); to the Committee on Armed Services.

[Submitted December 2, 1987]

2458. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-112, "St. Mary's Cemetery Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2459. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-103, "St. Paul's Episcopal Church, Rock Creek Parish, Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2460. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-113, "Codification Amendment Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2461. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-105, "Northminster Presbyterian Church Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2462. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-114, "Conveyance of Old Police Precinct #9 Authorization Temporary Act of 1987", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2463. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-106, "St. Martin's Catholic Church and Convent Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2464. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-104, "Mount Olivet Cemetery Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2465. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-107, "John S. Thomas Memorial Baptist Church Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2466. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-108, "Tuition Grant for Parents, Caretaker Relatives, and Legal Guardians Eligible for AFDC Benefits Amendment Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2467. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-110, "Metropolitan African Methodist Episcopal Church Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2468. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-111, "His Church Equitable Tax Relief Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2469. A letter from the Secretary of Education, transmitting a copy of final regulations for the Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2470. A letter from the Secretary of Education, transmitting a notice of final annual funding priority—postsecondary education program for handicapped persons—demonstration projects, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2471. A letter from the Secretary of Education, transmitting a copy of final regulations for student assistance general provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2472. A letter from the Secretary of Education, transmitting a copy of final regulations for the Perkins Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2473. A letter from the Secretary of State, transmitting a report that the Soviet Union has generally fulfilled its obligations to U.S. diplomats for the 6 month period beginning February 1, 1987, pursuant to Public Law 99-591, section title III (100 Stat. 3341-58); to the Committee on Foreign Affairs.

2474. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting copies of grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

2475. A letter from the Administrator, General Services Administration, transmitting copy of a building project survey for Baton Rouge, LA, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

2476. A letter from the President of the United States, transmitting the administration's report to the Congress on Soviet noncompliance with arms control agreements, pursuant to 22 U.S.C. 2592a; jointly, to the Committees on Armed Services and Foreign Affairs.

2477. A letter from the Administrator, Environmental Protection Agency, transmitting a report entitled "Hazardous Waste Sites on Indian Lands", pursuant to 42 U.S.C. 9626; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3362. A bill to amend the Panama Canal Act of 1979 (Rept. 100-465). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 321. Resolution providing for the consideration of House Joint Resolution 395, a joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes (Rept. No. 100-466. Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARLENEE (for himself, Mr. CHENEY, Mr. HANSEN, Mr. CRAIG, Mr. DENNY SMITH, and Mrs. VUCANOVICH):

H.R. 3680. A bill to revoke certain public land orders, transfer certain public lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska:

H.R. 3681. A bill to amend Public Law 87-77, to authorize transportation of passengers on foreign flag vessels between certain ports in Alaska and certain ports in the United States outside Alaska; to the Committee on Merchant Marine and Fisheries.

By Mr. CAMPBELL:

H.R. 3682. A bill to improve hazardous materials transportation safety; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. CHANDLER:

H.R. 3683. A bill to provide that each title of any bill or joint resolution making continuing appropriations that is reported by a committee of conference and is agreed to by both Houses of the Congress in the same form during a 2-year period shall be presented as a separate joint resolution to the President; to the Committee on Rules.

By Mr. DeFAZIO:

H.R. 3684. A bill to amend the Buy American Act, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. FRANK:

H.R. 3685. A bill to amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 3686. A bill to amend the Internal Revenue Code of 1986 to encourage the coverage of older Americans by private long-term care insurance; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. KASTENMEIER:

H.R. 3687. A bill to provide that any pay increase for Members of Congress under the Federal Salary Act of 1967 shall be deferred until the beginning of the Congress following the Congress in which the increase would otherwise take effect; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. LAFALCE:

H.R. 3688. A bill to provide for the disclosure of certain insurance data to the Small Business Adminstration in order to facilitate assessment of any relationship between liability insurance cost and the civil justice system, and for other purposes; jointly, to the Committees on Small Business and Energy and Commerce.

By Mr. NAGLE:

H.R. 3689. A bill to designate the U.S. Post Office Building located at 300 Sycamore Street in Waterloo, IA, as the "H.A. Gross Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. CONTE:

H.J. Res. 412. Joint resolution to congratulate King Bhumibol Adulyadej of Thailand on his 60th birthday on December 5, 1987; to the Committee on Foreign Affairs.

By Mrs. JOHNSON of Connecticut (by request), (for herself, Mr. RANGEL, and Mr. LEWIS of Georgia):

H.J. Res. 413. Joint resolution approving the location of the Black Revolutionary War Patriots Memorial; to the Committee on Interior and Insular Affairs.

By Mr. LEWIS of Georgia:

H.J. Res. 414. Joint resolution to designate the week beginning April 10, 1988, as "National Productivity Improvement Week"; to the Committee on Post Office and Civil Service.

By Mr. McMILLEN of Maryland (for himself and Mr. CAMPBELL):

H. Con. Res. 222. Concurrent resolution urging President Reagan and General Secretary Gorbachev to act to prevent the forces of global politics from adversely affecting the 1988 Summer Olympic Games in Seoul, South Korea and the 1988 Winter Olympic Games in Calgary, Canada; to the Committee on Foreign Affairs.

By Mr. INHOFE:

H. Res. 319. Resolution to urge significant deficit reduction by enacting at a minimum an across-the-board freeze on all Federal spending; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. CONYERS:

H. Res. 320. Resolution authorizing the use of depositions in connection with an impeachment inquiry of the Committee on the Judiciary; considered and agreed to.

By Mr. DERRICK:

H. Res. 321. Resolution providing for the consideration of the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes. House Calendar No. 107. House Report No. 100-466.

By Mr. WAXMAN (for himself and Mr. CARDIN):

H. Res. 322. Resolution encouraging U.S. air carriers in international service to implement the U.S. Committee for UNICEF's Change for Good Program; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mr. WEISS.

H.R. 80: Mr. AKAKA.

H.R. 81: Mrs. Patterson, Mr. Evans, Mr. Conte, Mr. Savage, Mr. Lehman of Florida, Mr. Neal, Mr. AuCoin, and Mr. Wolpe.

H.R. 303: Mr. Combest, Mr. Swindall, Mr. LaFalce, Mr. Studds, Mrs. Saiki, Mr. Leland, Mr. McGrath, and Mr. MacKay.

H.R. 759: Mr. Bartlett.

H.R. 786: Mr. Hastert.

H.R. 999: Mr. Rogers.

H.R. 1531: Mr. Jones of North Carolina.

H.R. 1546: Mr. Gejdenson and Mr. Cardin.

H.R. 1566: Mr. Gilman.

H.R. 1663: Mr. McEwen, Mr. Houghton, Mr. Wolf, Mr. Oxley, Mr. Kanjorski, Mr. Hubbard, Mr. Combest, Mr. Ridge, Mr. McCollum, Mr. Udall, Mrs. Byron, Mr. Thomas A. Luken, Mr. Chappell, and Mr. Sawyer.

H.R. 1736: Mr. Bevill.

H.R. 1742: Mr. Donald E. Lukens, Mr. Sunia, and Mr. Rodino.

H.R. 1786: Mr. Emerson, Mr. Ravenel, Mr. Weber, and Mr. Martinez.

H.R. 2052: Mr. Foglietta, Ms. Kaptur, and Mr. Lehman of California.

H.R. 2067: Mr. Traxler, Mr. Bustamante, Mr. Pickle, Mr. Synar, Mr. Ravenel, Mr. Burton of Indiana, Mr. Florio, Mr. Bilirakis, Mr. Flippo, Mr. Jacobs, Mr. Craig, Mr. Swindall, Mr. Russo, Mr. Bartlett, Mr. Thomas A. Luken, Mr. Holloway, Mr. Thomas of California, Mr. Kasich, Mr. Lujan, Mr. Hutto, Mr. Wheat, Ms. Oakar, Mr. McCollum, Mr. Stark, Mr. Foglietta, Mrs. Vucanovich, Mr. Carper, Mr. Pepper, Mr. Callahan, Mr. Rahall, Mr. Bennett, Mr. Mollohan, Mr. Harris, Mr. Dornan of California, and Mr. Robert F. Smith.

H.R. 2148: Mr. Richardson, Mr. Hayes of Illinois, Mr. Gilman, and Mr. Hastert.

H.R. 2238: Mr. Matsui, Mr. Moorhead, Mr. Porter, Mr. McCurdy, Mr. Natcher, Mr. Murtha, Mr. Swindall, Mr. Gordon, and Mr. Spratt.

H.R. 2532: Mr. Moakley.

H.R. 2586: Mr. Ray, Mr. Emerson, Mr. Gunderson, Mrs. Saiki, Mr. Leach of Iowa, Mr. Mrazek, Mr. Fazio, Mr. Waxman, Mr. Frost, Mr. Brown of California, Mr. Anthony, Mr. Valentine, Mr. McEwen, Mr. Livingston, Mr. Vento, Mr. Gejdenson, Mr. Bartlett, Mr. Wheat, Mr. Williams, Mrs. Vucanovich, Mr. Lantos, Mr. Bruce, Mr. McGrath, Mr. Garcia, Mr. Vander Jagt, Mr. Schaefer, and Mr. Rowland of Connecticut.

H.R. 2690: Mr. Barton of Texas.

H.R. 2692: Mr. Pursell, Mr. Stratton, and Mr. Pepper.

H.R. 2800: Mr. Hyde, Mr. Dornan of California, Mr. Kolter, Mr. Flake, Mr. Hall of Ohio, Mr. Mfume, Mr. Goodling, Mr. Bryant, Mr. Boland, Mrs. Roukema, Mr. Gregg, Mr. Courter, Mr. Fauntroy, Mr. Ballenger, Mr. Clay, Mr. Kastenmeier, Mr. Cooper, and Mr. Visclosky.

H.R. 2936: Mr. Holloway, Mr. Buechner, Mr. Owens of Utah, Mr. Whittaker, Mr. Horton, Mrs. Bentley, Mr. Wolpe, Mr. McEwen, and Mr. Fawell.

H.R. 2943: Mr. Murphy, Mr. Fauntroy, Mr. Mrazek, Mr. Perkins, Mr. Boehlert, Mr. de Lugo, Mr. Garcia, Ms. Oakar, Mr. McCloskey, Mr. Hochbrueckner, Mr. Flake, Mr. Taylor, Mr. Manton, and Mr. Roe.

H.R. 2944: Mr. Murphy, Mr. Fauntroy, Mr. Mrazek, Mr. Perkins, Mr. Boehlert, Mr. de Lugo, Mr. Garcia, Ms. Oakar, Mr. McCloskey, Mr. Hochbrueckner, Mr. Flake, Mr. Taylor, Mr. Manton, Mr. Roe, and Mr. DioGuardi.

H.R. 2953: Mr. Lagomarsino, Mr. Foglietta, Mrs. Martin of Illinois, and Mr. Armey.

H.R. 3019: Mr. Kolter, Mr. Ford of Tennessee, and Mr. Savage.

H.R. 3142: Mr. Ritter, Mr. Swindall, Mr. Skeen, and Mrs. Martin of Illinois.

H.R. 3205: Mr. Nielson of Utah.

H.R. 3286: Mr. de Lugo, Mr. Coyne, Mr. Fish, Mr. Bevill, Mr. Crockett, Mr. Owens of Utah, Mr. Bryant, Mr. Dixon, Mr. Gejdenson, Mr. DeWine, Mr. Durbin, Mr. DeFazio, Mr. Roe, Mr. Boehlert, Mr. Horton, Mr. Mavroules, Ms. Pelosi, Mrs. Roukema, Mr. AuCoin, Mr. Berman, Ms. Slaughter of New York, Mrs. Boggs, Mr. Wolpe, Mr. Ford of Tennessee, and Mr. McGrath.

H.R. 3342: Mrs. Martin of Illinois.

H.R. 3351: Mr. Smith of New Jersey, Mr. Craig, Mr. Armey, Mr. Bereuter, Mr. Smith of New Hampshire, Mr. Crane, and Mr. DeWine.

H.R. 3359: Mr. Foglietta, Mr. Savage, and Mr. Mavroules.

H.R. 3374: Mr. Kennedy, Mr. Smith of Florida, Mr. Evans, Mr. Lagomarsino, Mr. Owens of New York, Mr. Frank, Mr. Coelho, Mr. Donald E. Lukens, Mr. Whittaker, Mr. Hayes of Illinois, Mr. Lewis of Georgia, Mr. Kostmayer, Mr. Herger, Mr. Fascell, Mr. Mrazek, Mr. Crockett, Mr. Horton, Mr. Foglietta, Mr. Miller of California, Mr. Jacobs, Mrs. Collins, Mr. Hyde, Mr. Henry, Mr. Yates, Mr. Solarz, Mr. Vento, Mr. Weber, Mr. Leland, and Mr. DioGuardi.

H.R. 3390: Mr. Schuette and Mr. Packard.

H.R. 3440: Mr. Foglietta and Mr. LaFalce.

H.R. 3513: Mr. Matsui.

H.R. 3524: Mr. Fuster, Mr. Torres, Mr. de la Garza, Mr. Garcia, and Mr. Richardson.

H.R. 3552: Mr. Brown of Colorado, Mr. Weber, Mr. DeLay, and Mr. Kyl.

H.R. 3562: Mr. Foglietta, Mr. Shumway, Mr. Traxler, Mr. Horton, Mrs. Boxer, Mr. Ford of Tennessee, Mrs. Boggs, Mr. Gallo, and Mr. Lancaster.

H.R. 3598: Mr. Stark, Mrs. Collins, and Mr. Daub.

H.R. 3607: Mr. Neal, Mr. Fazio, and Mr. Conte.

H.R. 3627: Mr. DioGuardi.

H.R. 3639: Mr. Smith of New Hampshire, Mr. Lancaster, Mr. Bereuter, Mr. Emerson, Mrs. Vucanovich, Mr. Erdreich, Mrs. Bentley, Mr. Neal, and Mr. Clay.

H.R. 3654: Mr. Horton, Mr. Oxley, Mr. Henry, Mr. Brown of Colorado, Mr. Whittaker, Mr. Lagomarsino, Mr. Wortley, Mr. Slattery, Mr. Biaggi, Mr. Smith of Texas, Mr. Hughes, and Mr. Petri.

H.R. 3667: Mr. Lagomarsino.

H.R. 3669: Mr. Wolpe.

H.J. Res. 48: Mr. Gilman.

H.J. Res. 92: Mr. Feighan, Mr. Mfume, Mrs. Morella, Mr. Solomon, Mr. Courter, Mrs. Byron, Mr. Fauntroy, Mr. Bennett, Mr. Crockett, Mr. Brown of California, Mr. Gordon, and Mr. Swindall.

H.J. Res. 272: Mr. Miller of Washington and Mr. Gallegly.

H.J. Res. 287: Mr. Fauntroy, Mr. Kastenmeier, Mr. Williams, and Mr. Schumer.

H.J. Res. 289: Mr. Archer, Mr. Brooks, Mr. Coleman of Missouri, Mr. DeLay, Mr. Grandy, Mr. Lewis of Florida, Mr. Lowry of Washington, Mrs. Meyers of Kansas, Mr. Rangel, Mr. Sikorski, Mr. Torres, Mr. Wheat, and Mr. Wolpe.

H.J. Res. 304: Mr. Gilman, Mr. Cooper, Mr. Brooks, Mr. Sawyer, Mr. Borski, Mr. Moody, Mr. Skelton, Mr. Morrison of Connecticut, Ms. Oakar, Mr. Wilson, Mr. Hastert, Mr. Lent, Mr. Leland, Mrs. Kennelly, Mr. Olin, Mr. Schumer, Mr. Moorhead, Mr. Jones of Tennessee, Mr. Spence, Mr. Baker, Mr. Upton, Mr. Craig, Mr. Evans, Mr. de la Garza, Mr. Weber, Mr. Fish, Mr. Mazzoli, Mrs. Morella, Mr. Foley, Mr. Ford of Tennessee, Mr. Pashayan, Mr. Aspin, Mr. Weiss, Mr. Green, Mr. Ireland, Mr. Rowland of Georgia, Mr. Wolpe, Mr. Miller of California, Mr. Lott, Mr. Neal, Mr. Kastenmeier, Mr. Murphy, Mr. Miller of Washington, Mr. Markey, Mr. Emerson, Mrs. Patterson, Mr. Stenholm, Mr. Smith of New Jersey, Mr. Swindall, Mr. Frost, Mr. Berman, Mr. Flippo, Mr. Manton, Mr. Coughlin, Mrs. Lloyd, and Mr. Mfume.

H.J. Res. 315: Mr. Stenholm and Mr. Daub.

H.J. Res. 337: Mr. Gordon.

H.J. Res. 382: Mr. Carr, Mrs. Boxer, Mr. Solarz, Mr. Evans, Mr. Frost, Mr. Traxler, Mr. Ackerman, Mr. Rose, Mr. Vento, Mr. Sikorski, Mr. Miller of California, Mr. Synar, Mr. Mineta, Mr. Bates, and Mr. Lehman of Florida.

H.J. Res. 383: Mr. Cardin, Mr. Walgren, Mr. Stark, Mr. Stokes, Mr. Morrison of Connecticut, Mr. Dyson, Mr. Shumway, Mr. Livingston, Mr. Bonior of Michigan, Mr. Davis of Illinois, Mr. LaFalce, Mr. DeFazio, Mr. Kastenmeier, Mrs. Morella, Mr. Derrick, Mr. Owens of Utah, Mr. Matsui, Mr. DioGuardi, and Mr. Dellums.

H.J. Res. 386: Mr. Bennett, Mr. Carr, Mr. Coelho, Mr. Davis of Illinois, Mr. Kleczka, Mr. Lehman of Florida, Mr. Moorhead, Mr. Roth, Mrs. Saiki, Mr. Smith of New Jersey, and Mr. Solarz.

H.J. Res. 388: Mr. Bilbray, Mr. Bliley, Mr. Bonior of Michigan, Mr. Bustamante, Mr. de la Garza, Mr. DeWine, Mr. Edwards of Oklahoma, Mr. Espy, Mr. Ford of Tennessee, Mr. Hammerschmidt, Mr. Inhofe, Mr. Lehman of Florida, Mr. Leland, Mr. Lipinski, Mr. Neal, Mr. Rahall, Mr. Roe, and Mr. Shaw.

H.J. Res. 405: Ms. Snowe, Mr. Watkins, Mr. DeWine, Mr. Blaz, Mr. Lagomarsino, Mr. Brooks, Mr. Stratton, Mr. Wolpe, Mr. Shumway, Mr. Madigan, and Mr. Miller of Washington.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. RES. 395

By Mr. EDWARDS of Oklahoma:

—At the end of the joint resolution add the following new title:

TITLE 2: "SEVERABILITY OF CONTINUING APPROPRIATIONS RESOLUTIONS"

Sec. 1. (a) The provisions of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) The provisions of this title shall take effect upon the final passage by both Houses of this Act in the same form.

SEC. 2. (a) IN GENERAL.—

(1) Notwithstanding any other provision of law, when this joint resolution is agreed to by both Houses of Congress in the same form, the Clerk of the House shall cause the enrolling clerk of the House to enroll the provisions in that bill or joint resolution as separate bills or joint resolutions pursuant to subsection (c).

(2) Bills or joint resolutions that are separately enrolled pursuant to paragraph (1)

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was a part prior to enrollment, together with such other designation as may be necessary to distinguish the bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) PROCEDURES.—A bill or joint resolution separately enrolled pursuant to paragraph (1) of subsection (a) shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) BASIS FOR SEPARATE ENROLLMENT.—

(1) All of the provisions within the jurisdiction of a subcommittee of the Committee on Appropriations of the House of Representatives as defined in subsection (d) shall be enrolled as part of one separate bill or joint resolution which shall only contain all of the provisions within the jurisdication of that subcommittee as defined in subsection (d).

(2) All of the provisions within the jurisdiction of the Committee on Appropriations of the House of Representatives for which jurisdication cannot be determined pursuant to subsection (d) shall be enrolled as part of one separate bill or joint resolution which shall only contain all of the provisions within the jurisdiction of the Committee on Appropriations of the House of Representatives for which jurisdiction cannot be determined pursuant to subsection (d).

(3) All of the provisions with in the jurisdiction of a committee of the House of Representatives (excepting the Committee on Appropriations) as defined in Rule X of the House of Representatives shall be enrolled as part of one separate bill or joint resolution which shall only contain all of the provisions within the legislative jurisdiction of that committee as defined in Rule X of the House of Representatives.

(4) All of the provisions for which jurisdiction cannot be determined pursuant to paragraphs (1), (2) or (3) shall be enrolled as part of one separate bill or joint resolution which shall only contain all of the provisions for which jurisdiction cannot be determined pursuant to paragraphs (1), (2) or (3).

(d) JURISDICTION OF APPROPRIATIONS COMMITTEE AND SUBCOMMITTEES.—

(1) Commerce, Justice, State, and the Judiciary	Department of Commerce. Department of Justice. Department of State: (*Except* Migration and Refugee Assistance.) Department of Transportation: Maritime Administration. The Judiciary. Related Agencies: Arms Control and Disarmament Agency; Board of International Broadcasting; Christopher Columbus Quincentenary Jubilee Commission; Commission on the Bicentennial of the United States Constitution; Commission on Civil Rights; Commission on Security and Cooperation in Europe; Commission for the Study of International Migration and Cooperative Economic Development; Constitutional Law Resource Centers; Dwight David Eisenhower Centennial Commission; Equal Employment Opportunity Commission; Federal Communications Commission; Federal Maritime Commission; Federal Trade Commission; International Trade Commission; James Madison Memorial Fellowships; Japan-United States Friendship Commission; Legal Services Corporation; Marine Mammal Commission; Office of the United States Trade Representative; Securities and Exchange Commission; Small Business Administration; State Justice Institute; and United States Information Agency.
(2) Defense	Department of Defense—Military: Departments of Army, Navy (including Marine Corps), Air Force, and Office of Secretary of Defense (*Except* Military Construction.) Central Intelligence Agency. Intelligence Community Staff.
(3) District of Columbia	District of Columbia.
(4) Energy and Water Development	Department of Energy: (*Except* the Economic Regulatory Administration; Energy Information Administration; Emergency Preparedness, Office of Hearings and Appeals; Strategic Petroleum Reserve; Naval Petroleum and Oil Shale Reserves; Fossil energy research and development; Energy conservation; Alternative fuels production and related matters.) Department of Defense—Civil: Department of the Army: Corps of Engineers—Civil. Department of the Interior's Bureau of Reclamation. Related Agencies: Appalachian Regional Commission; Appalachian Regional Development Program; Delaware River Basin Commission; Interstate Commission on the Potomac River Basin; National Council on Public Works Improvement; Nuclear Regulatory Commission; Office of Water Policy; Susquehanna River Basin Commission; and Tennessee Valley Authority.
(5) Foreign Operations, Export Financing and Related Programs	Agency for International Development. African Development Foundation. African Development Fund and Bank. Asian Development Fund and Bank. Department of State: Antiterrorism Assistance; International Narcotics Control; Migration and Refugee Assistance; U.S. Emergency Refugee and Migration Assistance Fund. Export-Import Bank. Foreign Military Credit Sales. Guarantee Reserve Fund. Inter-American Development Bank. Inter-American Foundation.

	International Bank for Reconstruction and Development (World Bank). International Development Association. International Development Cooperation Agency. International Finance Corporation. International Fund for Agricultural Development. International Military Education and Training. International Monetary Fund. International Organizations and Programs. Military Assistance Program. Multilateral Investment Guarantee Agency. Overseas Private Investment Corporation. Peace Corps. Peacekeeping Operations. Special Defense Acquisition Fund. Special Assistance for Central America: Assistance for Democratic Nicaraguan Resistance. Trade and Development Program.
(6) HUD-Independent Agencies	Department of Housing and Urban Development. American Battle Monuments Commission. Cemeterial Expenses, Army (DOD). Consumer Information Center (GSA). Consumer Product Safety Commission. Council on Environmental Quality and Office of Environmental Quality. Environmental Protection Agency. Federal Emergency Management Agency. Federal Home Loan Bank Board. National Aeronautics and Space Administration. National Credit Union Administration. National Institute of Building Sciences. National Science Foundation. Neighborhood Reinvestment Corporation. Office of Consumer Affairs (HHS). Office of Science and Technology Policy. Selective Service System. Veterans Administration.
(7) Interior	Department of the Interior: (*Except* Bureau of Reclamation.) Department of Energy: (Economic Regulatory Administration; Energy Information Administration; Emergency Preparedness, Office of Hearings and Appeals; Strategic Petroleum Reserve; Naval Petroleum and Oil Shale Reserves; Fossil energy research and development; Clean Coal Technology; Energy conservation; Alternative fuels production and related matters.) Other Agencies: Advisory Council on Historic Preservation; Commission of Fine Arts; Energy Security Reserve (Treasury); Federal Inspector for the Alaska Gas Pipeline; Forest Service (USDA); Franklin Delano Roosevelt Memorial Commission; Holocaust Memorial Council; Indian Education (DOEd); Indian Health Services and Facilities (HHS); Institute of Museum Services; National Capital Planning Commission; National Foundation on the Arts and the Humanities; National Gallery of Art; Navajo and Hopi Indian Relocation Commission; Pennsylvania Avenue Development Corporation; Smithsonian Institution; Woodrow Wilson International Center for Scholars.
(8) Labor-Health and Human Services-Education	Department of Education: (*Except* Indian Education Activities.) Department of Health and Human Services: (*Except* Food and Drug Administration; Indian health services and facilities; Office of Consumer Affairs.) Department of Labor. Related Agencies: Action; Corporation for Public Broadcasting; Federal Mediation and Conciliation Services; Federal Mine Safety and Health Review Commission; National Commission on Libraries and Information Science; National Council on the Handicapped; National Labor Relations Board; National Mediation Board; Occupational Safety and Health Review Commission; Physicians Payment Review Commission; Physicians Payment Review Commission; Prospective Payment Assessment Commission; Railroad Retirement Board; Soldiers' and Airmen's Home; and United States Institute of Peace.
(9) Legislative	House of Representatives. Joint Items. Commission on Central American Negotiations. Botanic Garden. Biomedical Ethics Board. Congressional Budget Office. Copyright Royalty Tribunal. General Accounting Office. Government Printing Office. Library of Congress. Office of Technology Assessment. Railroad Accounting Principles Board.

(10) Military Construction	**Military construction, Army, Navy (including Marine Corps), Air Force, and Defense Agencies, and Reserve Forces.** **Military family housing.** **Homeowners Assistance Fund.** **NATO Infrastructure.**
(11) Rural Development, Agriculture, and Related Agencies	**Department of Agriculture (*Except* Forest Service).** **Farm Credit Administration.** **Commodity Futures Trading Commission.** **Food and Drug Administration (HHS).**
(12) Transportation and Related Agencies	**Department of Transportation (*Except* Marine Administration).** **Department of the Treasury: Rebate of Saint Lawrence Seaway Tolls.** **Related Agencies: Architectural and Transportation Barriers Compliance Board; Aviation Safety Commission; Interstate Commerce Commission; Interstate Commerce Commission; National Transportation Safety Board; Panama Canal Commission; United States Railway Association; and Washington Metropolitan Area Transit Authority.**
(13) Treasury-Postal Service-General Government	**Treasury Department (*Except* Office of Revenue Sharing).** **United States Postal Service.** **Executive Office of the President: Compensation of the President; Council of Economic Advisers; Executive Residence; National Critical Materials Council; National Security Council; Office of Administration; Office of Federal Procurement Policy; Office of Management and Budget; Office of Policy Development; Official Residence of the Vice President; Special Assistance to the President; Unanticipated Needs; White House Conference on Drug Abuse and Control; and White House Office.** **Independent Agencies: Administrative Conference of the United States; Advisory Commission on Intergovernmental Relations; Advisory Committee on Federal Pay; Commission on Executive, Legislative, and Judicial Salaries; Committee for Purchase of Products and Services of the Blind and Other Physically Handicapped; Federal Election Commission; Federal Labor Relations Authority; General Provisions, Governmentwide; General Services Administration (*Except* Consumer Information Center); Merit System Protection Board; National Archives and Records Administration; Office of Personnel Management and related trust funds; and President's Commission on Pension Policy.** **Other: United States Tax Court.**

(e) WAIVER.—

In the House of Representatives it shall not be in order to call up for consideration any resolution which waives or modifies the application of any provision of this section unless so determined by a vote of not less than two-thirds of the Members voting.

EXTENSIONS OF REMARKS

WIPE THAT SMILE OFF YOUR FACE MR. GORBACHEV

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BROOMFIELD. Mr. Speaker, in an interview with NBC anchorman Tom Brokaw that was shown last Monday night, Soviet leader Mikhail Gorbachev's comments on Nicaragua prove that the Soviets, at least, are unwilling to learn from history.

When asked about Nicaragua Mr. Gorbachev stated:

> I have to smile when I hear the security of the United States is threatened by the Sandinista regime. That's not serious.

Mr. Speaker, I know many Members of Congress on both sides of the aisle who feel, to the contrary, that the threat of the Sandinista regime to U.S. security is very real.

It seems that the Soviets have not learned much from history. It was another seemingly unthreatening country, Cuba, which in the fall of 1961 brought the world probably as close as it ever got to nuclear armageddon. This incident was brought about by the Soviet Union's attempt to base nuclear missiles in that "unthreatening" country.

Now, in the fall of 1987, the Sandinistas and their Soviet advisers have nearly completed a 10,000-foot airstrip just north of Managua, Nicaragua. This will be the longest airstrip in Central America. This airstrip will be capable of servicing every military aircraft in the Soviet arsenal. It could soon be used as a base for Soviet reconnaisance and antisubmarine aircraft patrolling the United States' coastal waters or, in the worst scenario, as a launch site for Soviet "bear" bombers armed with nuclear tipped cruise missiles. In addition, according to recent press reports a Sandinista combat squadron is being trained in Cuba to fly Soviet Mig-21's. Mr. Gorbachev may smile at these activities, but few Americans do.

I hope that during the upcoming summit President Reagan will convince Mr. Gorbachev of how serious we view the introduction of sophisticated Soviet aircraft in Nicaragua. It is the Soviets, not us, who must change their attitude about the Sandinista regime.

[From the Washington Post, Dec. 1, 1987]

EXCERPTS FROM THE NBC NEWS INTERVIEW WITH GORBACHEV

NICARAGUA

I have to smile when I hear that the security of the United States is being threatened by the Sandinista regime. That's not serious. It certainly is not serious. This is the back yard of Latin America, where the people just can't—couldn't live the way they did. It couldn't stand the dictatorship any more, and it rose up against it. And we feel that—we were convinced that morally right are all those who supported that indignation, the just indignation of those people and took power into their own hands. Why shouldn't this suit the administration of the United States? I think now even in Congress they have understood that—surely the Americans understand that Nicaragua cannot threaten—pose a threat to the United States.

[From the Armed Forces Journal, July 1987]

POTENTIAL BASE FOR SOVIET BEARS IN CENTRAL AMERICA

(By Marc Liebman)

In the near future the US may see a new development in Soviet probing of US airspace. For years, Soviet aircraft have been intercepted in Alaska Air Command airspace and escorted out of the Air Defense Identification Zone. The increased Soviet, Cuban, and Warsaw Pact presence in Nicaragua may lead to a new Soviet opinion in terms of Bear bomber reconnaissance missions. Bases there may allow Bears, for the first time, to operate out of the Soviet Far Eastern port of Petropavlovsk and fly along the West Coast of the US, landing in Nicaragua.

This type of operation is not without precedent. As part of the expanded Soviet military commitment to Cuba, Bears began flying to Cuba from Soviet Northern Fleet bases. Soviet Bears have been regularly flying patrols for years from their bases in the Murmansk/Archangel area down through the Greenland/Iceland/Norway gap across the Atlantic and then along the US East Coast to bases in Cuba.

According to the 1987 edition of *Soviet Military Power*, there were at least nine deployments of Bear D naval reconnaissance and five of Bear F antisubmarine warfare aircraft to Cuba in 1986. That's more than one per month.

The aircraft have then either retraced their route going north or crossed the Atlantic passing west of the United Kingdom. Another flight plan which is regularly followed is to proceed down to Angola on the West Coast of Africa. Once in Angola, Bears fly patrols over the South Atlantic or around the Cape of Good Hope and patrol sectors in the Indian Ocean before returning to either Angola or the Soviet base at Cam Ranh Bay in Vietnam. These long-range over water reconnaissance missions are routine for this large four-engine turboprop airplane, which has a range of more than 9,000 nm.

On the West Coast of the US, it has been a different story. Bears, which take off from Petropavlovsk on the east coast of the Kamchatka Peninsula, routinely fly past the Aleutians and into the Gulf of Alaska. But they cannot come much farther south because they lack the range to make the return trip, particularly against the strong winds that blow from the northwest.

However, if the aircraft are flying to a base in Central America, the scenario changes dramatically. Bears can easily make the one-way trip from Petropavlovsk to Managua, Nicaragua. If they follow the route shown on the map above, it is approximately 9,000 nm. well within the capability of the aircraft.

En route, they would fly by many key US and Canadian military installations. A short list of these facilities includes the Canadian Forces base at Comox, British Columbia; the Navy's Trident Base at Bangor, WA; Naval Air Station (NAS) Whidbey Island, WA; Beale AFB, CA; NAS Lemoore, CA; NAS Fallon, NV; Nellis AFB, NV; and the complex of US military bases in southern California.

Soviet electronic intelligence (ELINT) ships have been monitoring US and Canadian communications and radar emissions for years from several miles offshore. Nevertheless, they have not been able to routinely monitor them from the air. The Bears, if they were at altitude, could collect valuable electronic information on tactics communications capability, aircraft radars and countermeasures from the US military aircraft flying on the ranges near Nellis AFB and NAS Fallon. The ELINT ships have likely not been able to acquire this type of information, because the Sierra Nevada mountains prevent most of the signals from reaching their sensitive antennas.

Bear missions could also test US air defense capability in terms of response time, radar range and capability, ability to vector interceptor aircraft to a target, etc. Regular Bear missions along the West Coast could force the US to either split its air defense forces, increase its interceptor squadrons (not a realistic option in the current budget climate), or increase the mission loads of existing, overcommitted forces.

When the ongoing improvements to Nicaraguan airfields are completed (with Soviet and Eastern bloc help), the runways will be able to accommodate these large martime reconnaissance aircraft. Much has been written about the intentions of the Nicaraguans to use these improved airfields for tactical aircraft such as the MiG-21. Nevertheless, these aircraft have not made an appearance yet, and the long runways can also be used by Bears.

Deployment of Bears to Nicaragua by the Soviets would probably not raise as much concern in the US Congress as would the arrival of MiG-21s or other fighters. The Soviets have already established a precedent with the Bear missions to Cuba.

Using Nicaraguan bases as fuel stops for Bears based in the Far Eastern Military District opens a whole new part of the world to their reconnaissance missions. Before returning home, the aircraft could fly down either coast of South America and then return to Managua or to Cuba. On their return flight to Petropavlovsk from Nicaragua, they could fly by US bases in Hawaii. Another potential mission would be to transit the Pacific Ocean across Micronesia, passing by the US bases in Guam and the Philippines before landing at Cam Ranh Bay.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

[From the Miami Herald, June 14, 1987]

SANDINISTAS USING MIGS IN CUBA; SOURCES SAY NICARAGUA HAS FORMED COMBAT SQUADRON

(By Alfonso Chardy)

WASHINGTON.—Cuba has assigned a squadron of its MiG-21 jet aircraft to Nicaragua pilots for regular combat training missions from a military base in the westernmost part of the island, according to U.S. intelligence sources.

If Nicaragua were to be attacked, MiGs based at the San Julian air base in Pinar del Rio province conceivably could reach Nicaragua and engage enemy forces within 30 minutes if they flew at their maximum speed of 1,185 per hour, the sources said.

Although the aircraft technically are not under unilateral Nicaragua control, they constitute an informal squadron that would normally operate in Nicaragua were it not for U.S. threats of retaliation if the Sandinista government officially acquires MiGs, the sources said.

The U.S. has adamantly opposed introduction of MiGs in Nicaragua on the grounds that this would escalate the arms buildup in Central America. Currently Nicaragua has no jet-fighters; the only country in the region with a major jet-fighter force is Honduras.

An administration official who monitors Cuban and Nicaraguan affairs said the United States believes that the MiGs the Sandinista pilots are flying in Cuba are the ones that originally were meant for Nicaragua but never got there because of U.S. reprisal threats.

He said the United States suspects that the jets were shipped to Cuba two years ago and were later incorporated into the Cuban air force when Managua decided against risking U.S. retaliation.

Although they say they don't have positive confirmation, U.S. intelligence analysts say they are virtually certain that Sandinista pilots are flying regularly from San Julian, Cuba's second largest air base, about 100 miles southwest of Havana. San Julian is about 600 miles from Punta Huete, Nicaragua's largest military air base already configured to service MiGs.

"I have no information on whether the Nicaraguans have operational control [of MiGs in Cuba], but I can tell you that Nicaraguans have received MiG-21 training in Cuba," said Defense Department spokeswoman Capt. Nancy LaLuntas.

The Nicaraguan Embassy and the Cuban Interests Section officials in Washington declined to comment. But sources close to both governments acknowledged that Cuba has trained Nicaraguans.

[From the New York Times, July 26, 1987]

U.S. FEARS SOVIET USE OF NEW NICARAGUAN AIRFIELD

(By Bernard E. Trainor)

WASHINGTON, July 25.—Administration officials say the Nicaraguan Government has almost completed work on the longest airfield in Central America, which they fear the Soviet Union might use to extend its reconnaisance missions in this hemisphere.

The officials said the 10,000-foot runway at Punta Huete, north of Managua, has been under construction since 1982 and is being built even though the Sandinista government has no aircraft that need a runway that long.

The United States formally warned the Soviet Union in 1984 that it would not permit it to base high-performance aircraft in Nicaragua.

Senior American officials say the field nevertheless could be used as a base for Soviet long-range electronic spy and antisubmarine missions along the American, Canadian and Latin American coasts and out to Hawaii, missions that the Russians cannot conduct now.

"Soviet air presence would be of enormous concern in view of its central location and proximity to the canal," an Administration official said, referring to the Panama Canal, which is about 500 miles southeast of Managua.

Administration officials first expressed concern over Punta Huete two years ago when the Sandinista government acknowledged it was building the military airfield. They continue to express concern even though senior officials in the State and Defense Departments say construction on the field has slowed down and there is no evidence that the Soviet Union is planning to place an air unit in Nicaragua. The American officials add that the likelihood the Russians will use the field any time soon is very low given their cautious attitude toward Nicaragua.

But the Russians do run spy flights along Atlantic coastal areas from Cuban airfields.

Lt. Col. Oliver L. North, the former National Security Council aide, in his testimony in the Iran-Contra hearings specifically cited the air base at Punta Huete and two small ports as potentially useful to the Russians as bases in the Western Hemisphere.

American intelligence officials say such use is not likely to occur in the foreseeable future. There is considerable Soviet and Eastern European military equipment in Nicaragua and thousands of Cuban military advisers, but only a handful of Soviet military and technical advisers.

"The Soviets are sensitive to Administration concern over events in Nicaragua and will not jeopardize their larger policy goals for the sake of the Sandinistas," a senior Government official said.

The work on the airfield is estimated to have cost $25 million to $30 million. Some intelligence analysts have speculated that the airstrip might be used by civilian commercial airliners. But others say Sandino International Airport, on the outskirts of Managua, is far more convenient than Punta Huete.

The long runway at Punta Huete can accommodate all modern military aircraft. It was finished last year, and Nicaraguan helicopters and small planes occasionally use it. Support facilities such as parking ramps, protective embankments and fuel storage tanks are still being built.

In December, an American, Sam Nesley Hall, was arrested outside the Punta Huete base, which is 13 miles northeast of Managua, and charged with spying, he was released in January after the Nicaraguan Government declared him psychologically unstable.

Most experts who have followed the construction at Punta Huete say they believe the airfield will be completed but will not be used to its full potential unless Nicaragua and the Soviet Union judge they can do so without unduly provoking the United States. Even so, it is generally believed that Moscow will not try to base tactical aircraft like MiG's there.

More likely, experts say, Punta Huete may be eventually used as a landing and refueling base for Soviet maritime aircraft. That would make it possible for the Russians to fly long-range reconnaissance and electronic eavesdropping flights along the west coast of Alaska and North America from bases in Soviet Asia.

The Russians cannot conduct such flights along the Pacific coast now without a turnaround refueling site such as Punta Huete, because the distance from their Asian bases to the southwestern border of the United States is too great for the reconnaisance aircraft to make an unrefueled round trip.

[From the Washington Post, Aug. 3, 1987]

NICARAGUA SAYS IT WILL PROCEED WITH PLANS TO GET MIGS

(By Julia Preston)

MANAGUA, NICARAGUA, Aug. 2.—Nicaragua is proceeding with preparations to receive Soviet-made MiG fighter jets and will feel more justified in importing them if the United States supplies F-5 jets to Honduras, Defense Minister Gen. Humberto Ortega has announced.

Managua's two dailies, which are government-controlled, this morning reported statements made Saturday by Ortega, the top military commander, at a ceremony marking the eighth anniversary of the Sandinista Air Force.

Ortega stressed that Nicaragua requires the MiGs to intercept CIA-run air resupply flights from Honduras and El Salvador for the U.S.-backed rebels, known as Contras. Sandinista intelligence detected 20 supply flights in July alone, the general said.

The MiGs would bolster Nicaragua's defenses against the Contras and any direct U.S. military intervention, and would not be used to attack neighboring countries, Ortega asserted. But he added:

"To the degree that the U.S. continues to arm Honduras with weapons like the F-5, it undoubtedly makes it more possible and more justified for Nicaragua to obtain the interceptor jets we need."

Ortega's sharp warning that his forces continue to make ready for escalating warfare appeared to signal Nicaragua's pessimism that Central America's five presidents will achieve any important results at their peace summit in Guatemala Thursday and Friday.

For more than two years, Sandinista leaders indicated they were not making immediate moves to introduce MiG aircraft, although they asserted their right to do so. The United States has threatened to respond with direct military action to destroy the Soviet fighters if the Sandinistas bring them in.

This weekend, Ortega, discussing preparations and crews for the MiGs, said, "We have the airfield, we have the men." He added that Nicaragua has not brought the planes in until now primarily because of technical preparations, including installation of advanced navigational systems and completion of airport facilities.

"But this doesn't mean we aren't basically prepared to handle them," Ortega said. "Fundamentally we are overcoming those problems."

The Reagan administration approved the $60 million F-5 sale to Honduras late last year to replace an aging fleet of French-built Super Mystere jets. Honduras, which has the most advanced air force in Central America, is not expected to pay cash. Delivery of the first F-5s has been expected before the end of this year.

The Pentagon said the F-5s would not escalate the weaponry in the region because they were replacing an older but roughly equivalent aircraft. The F-5 was produced for sales to U.S. allies in the 1960s and is not considered a first-rank fighter.

Sandinistas have decried the planned sale of F5s as altering the military balance and some Pentagon officials also have said that it could prompt a confrontation with Nicaragua over the MiGs.

PSYCHOLOGICAL ASSESSMENT OF BHOPAL GAS TRAGEDY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. GARCIA. Mr. Speaker, December 3 is the third anniversary of the Bhopal tragedy. It is important that we remember that tragedy so that we will continue to do everything humanly possible to prevent a reoccurrence.

It is in that light that I am submitting for the RECORD a fine article by Dr. Sambhu Banik on lingering psychological and emotional problems that have arisen as a result of this incident. Dr. Banik is the chief of the Children and Youth Services Division of the South Community Health Center in Washington, DC. He is also the chairman of the Maryland Chapter of the Indian American Forum for Political Education. In addition, Dr. Banik has visited Bhopal, giving him firsthand knowledge of the situation.

PSYCHOLOGICAL ASSESSMENT OF BHOPAL GAS TRAGEDY

(By Dr. Sambhu N. Banik)

December 3rd 1987 would be the third anniversary of the Bhopal Gas Tragedy which has been characterized as the worst man made human disaster in history. This tragedy took 2,500 lives and injured over 25,000 people. I visited Bhopal on four occasions to make an assessment as to the long term psychological and emotional problems the Union Carbide's massive gas leakage has caused. A great deal has been reported about many aspects of the Bhopal tragedy but very little has been reported in the western mass media about the devastating emotional problems affecting thousands of surviving gas victims.

Psychological effects of disaster has long been recognized in the field of mental health. Studies of traumatic disasters have shown wide variation in occurrance of psychiatric and emotional problems in the affected area depending upon the severity of stressor and the types of toxicity. Pesticides of any kind has been found to affect individuals functioning by inducing toxicity resulting in confusion, nervousness, anxiety, loss of memory, depression, irritability, sterility. My previous visits to Bhopal and assessments of Bhopal victims have shown that many MIC exposed victims are suffering from anxiety, depression, phobia, nightmares, feelings of inadequacy, strange burning sensations, confusion, feelings of exhaustion, irritability, loss of memory, mental retardation, feelings of impotency, sterility, lack of concentration and attention, hallucinations and delusions etc. There is no known scientifc study on the effects of MIC on human beings which is causing more anxiety about the long time consequences and the fear of contracting some unknown diseases.

Anxiety, depression, hallucination, fear psychosis, nightmare and intellectual deficiencies are some of the afflictions found among the gas victims between the ages of 6 and 13 after the lapse of 3 years. I found out that some youngsters who were doing well, standing first and second in the classes before the gas disaster are now failing in the classes because of severe emotional problems such as inability to concentrate, forgetting, frontal headaches, depression and regression. Many children who were quite outgoing and communicative before the gas disaster in 1984, the same children after being exposed to MIC have become withdrawn and noncommunicative.

Mrs. Chauhan, Head Mistress of Naba Niketan Middle School at Kanchi Chola, emphasized that some of the children do not speak up even after spanking. These children have lost many of their key family members and relatives. She also cited discipline problems among the gas affected children.

Every 8 out of 10 victims were experiencing the problems of ugly nightmares. They often experience ghastly dreams of ghosts chasing them and telling them that they will be the next target. Some dreamt of being chased by headless objects and woke up screaming. A young man narrated that he saw bright and shiny lights quite often and when the lights disappeared he saw a lot of decomposed bodies with twisted legs and arms.

Enuresis (bedwetting) has also become a visible problem among the youngsters between the ages of 10 and 12 years which could act as mirror reflection of the emotional status of the child.

The more alarming problem is the emotional imbalance among the large percentage of the gas affected children between the ages of 7 and 11 and my apprehension and fear is that they may undergo another traumatic and serious emotional experience when they attain puberty.

"X" is a 13 year old boy. His uncle died of gas exposure. His entire family members were exposed to gas. He was exposed to gas when he was 11 years old. According to the parents, patient "X" did not exhibit any problems before the gas disaster. At the moment he is suffering from severe headaches, anxiety and the fear of contracting unknown disease. Before the gas exposure he was an average student in the school and never failed in any subject. He has failed the recent examination because of his inability to study. He complained of pains in the eyes along with headaches when he studies. The Rorschah protocol indicated deep underlying problems such as hostility and impulsivity coupled with the possibility of explosive acting out behavior. Parents observed some discipline problem in him.

I talked to a lady of 21 years of age whom I saw 3 years ago during my initial visit. She is the mother of 2 children. During my first visit she complained only of experiencing nightmares an intense body sensation. During my recent visit she complained of irregularity in her menstrual flow and feelings of tiredness. She also has developed fears of suffering from some incurable disease caused by the gas.

This 12 year old boy named "H" comes from a family where his father died due to gas exposure. He was 10 years old when his father died. He along with other family members were also exposed to gas. All members of his family are experiencing emotional problems.

"H" is doing poorly in the school due to persistent headaches and pains in the eyes. He suffers from severe anxiety and depression coupled with impulsivity. His Rorschah protocol suggest that he is preoccupied with death and murder. He feels that some ghosts are after him and his blood.

A 53 year old lady who lost many of her family members due to gas is obsessed with the idea of dying. She feels guilty for her being alive. She is preoccupied with the idea that she might have done something bad to get the curse from God to suffer alone. At times she feels that she would have been better off dead than alive and go through all the problems alone.

When I first visited Bhopal immediately after gas leak disaster, no proper and adequate thought was given to the psychological aspects as the physical and physiological conditions of thousands of affected to be attended first. Although two teams of mental health professionals have been added to screen the mental health related problems among children and adults, yet the number is very very small considering thousands of victims who need immediate help to handle these emotional problems either through drug therapy, individual therapy, group therapy or family therapy. One psychiatrist had to see 50-55 patients in 3 hours in an outpatient clinic for psychiatric assessment and treatment. The psychiatric facility is highly inadequate to handle the increased incidents of emotional problems.

I strongly recommend group and family therapy on a regular basis and a change in their living conditions to try and alleviate their suffering. I also strongly recommend payments of compensation to the victims at the earliest because that could hasten the healing process.

I would not be surprised if at a later date some genetic changes crop up as well as other ailments as it happened in Hiroshima and Nagasaki even after 15 years of radioactivity exposure from atom bombs explosion. Many may undergo another traumatic and serious emotional experience when they attain puberty.

Among the adult gas victims complaints of persistent headaches, feelings of tiredness and exhaustion are on the increase. Many are exhibiting signs of irritability and anger at the slow pace of their rehabilitation and compensation.

TRIBUTE TO KEMAL SHOAIB

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Kemal Shoaib, this year's recipient of the Goodfellow Award, who will be honored by the Boys and Girls Club of San Fernando Valley at a dinner on Thursday, December 3. The chairman of the board of Independence Bank of San Fernando Valley, Mr. Shoaib has been chosen to receive the award in recognition of his commitment to serving his community.

Presented each year to a member of the San Fernando Valley who has set himself apart through his work for the welfare of his fellow humans, the Goodfellow Award allows the Boys and Girls Club of San Fernando Valley to recognize a community member who knows the importance of helping others. Mr. Shoaib has maintained leadership positions in numerous professional associations and in his directorships of a number of public and private corporations. For over 25 years, Mr. Shoaib has tirelessly worked with various San Fernando Valley organizations, always translating his prominent positions into avenues through which he has helped contribute to the well-being of the members of this community.

The Boys and Girls Club provides a range of programs directed toward the young, with the goal of helping them grow into responsible adults. By teaching and reinforcing traditional values, the club's services provide a valuable and needed resource for our young

Recipients of the Goodfellow Award are those community members who represent the best in responsible community involvement, as does this year's awardee. It is my pleasure to join with the Boys and Girls Club of San Fernando Valley in honoring Mr. Kemal Shoaib.

COVERT OPERATIONS IN A DEMOCRATIC SOCIETY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my foreign affairs newsletter for November 1987 into the CONGRESSIONAL RECORD:

COVERT OPERATIONS IN A DEMOCRATIC SOCIETY

The Iran-Contra affair raises again the issue of whether the U.S. can conduct covert operations within the constitutional framework of government. Covert operations can be a useful tool of foreign policy. But can they be conducted both effectively and lawfully, consistent with the accountability required in a democratic society?

Specially-appointed select committees of the House and Senate addressed this question once before in the mid-1970s, after revelations of controversial CIA activities. These inquiries led to the adoption of laws and procedures to control intelligence activities, including covert operations. Congress and three successive administrations, working together, created an interlocking system of statutes, executive orders and national security directives to provide for accountability. The two branches sought to ensure that covert operations would be conducted only with the prior authorization of the President, and with prior notice to Congressional Intelligence Committees. Those Committees were specially constituted by Congress in 1976-77 both for the purpose of legislative review and to protect the secrecy of covert operations.

The experience of the past decade has shown that the system governing covert operations can both protect secrets and provide accountability—if procedures are respected. In the Iran-Contra affair, they were not. Presidential flexibility was distorted beyond reasonable bounds. Officials, including the late Director of Central Intelligence, withheld information, misled Congress and skewed intelligence to support the policies they were advocating. Laws intended to reflect a spirit of trust were abused. The commitment to consultation with Congress was abandoned. The process broke down.

The House and Senate Iran-Contra Committees believe that extensive new legislation is not the remedy for the abuse of covert operations in this affair. Rather, the basic answer lies in better attitudes by those who serve in public office. The Committees make several recommendations:

First, covert operations are necessary in certain circumstances, but they should not be the preferred tool of foreign policy. They can supplement—but cannot replace—diplomacy and the normal instruments of foreign policy. Particularly close scrutiny should be given to paramilitary or military covert actions, because it is hard to keep them secret or to sustain public support for them. As former National Security Adviser Robert McFarlane testified, "it is clearly unwise to rely on covert action as the core of our policy." Our government can gain and sustain support for its foreign policy only through open and public debate. Covert operations should not be used to change policy in secret and circumvent that debate.

Second, covert operations should be of the kind that the public would support if it knew of them. They should be consistent with public policies. When they run contrary to public policies, they damage American credibility, risk a major battle between Congress and the President, and lead to policy failure.

Third, the U.S. should not rely on private individuals and funding to carry out its most sensitive business. All government operations, including covert operations, must be funded from appropriated monies or funds subject to the control of Congress. This is a principle at the heart of our system of checks and balances—and the best protection against future abuse.

Fourth, the intelligence and policy functions must remain separate if covert operations are to be successful. In the gathering, analysis and reporting of intelligence, conclusions should be based on the facts, as objectively as they can be discerned. Conclusions should not be based on what policy advocates hope the facts to be.

Finally, the agencies carrying out covert operations must deal in a spirit of good faith with Congress. New and on-going covert operations must be reported fully, not cloaked by broad findings. Answers to the Intelligence Committees that are technically true, but misleading, frustrate the process of legislative review. A dialogue that requires Congress to ask precisely the right question if it is to get the right answer is no dialogue at all, and is not a relationship based on trust and mutual respect.

Congress, in turn, has responsibilities. The Intelligence Committees are unable to benefit from a public airing of covert operations. Because their oversight is exclusive, the Committees must be thorough. They cannot stop the President from initiating a covert action; the President is required by law only to inform the Committees. But they are an important sounding board, and can point out potential policy pitfalls to the President. Had the Administration felt obliged to inform the Committees, many of the mistakes in the Iran-Contra affair could have been avoided. Strengthening current laws requiring notification to the Intelligence Committees will help Congress perform its tasks better.

Congress also has a responsibility to ensure that sensitive information shared by the Executive branch remains secure. Contrary to how its views are sometimes portrayed, the intelligence community generally has been pleased with security on the Intelligence Committees. Nonetheless, a need exists for greater consensus between the branches on the sharing and protection of information.

As a great power with worldwide interests, the United States must deal with nations that have different hopes, values, and ambitions. To provide for its defense, the United States needs not just a strong military, but effective intelligence and the ability to influence developments abroad. A capable intelligence service, no less than a capable military, is fully compatible with democratic government when its actions are conducted in an accountable manner and in accordance with the rule of law.

(A version of this article appeared recently in the Los Angeles Times.)

NAUM MEIMAN APPEALS TO CSCE VIENNA CONFERENCE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HOYER. Mr. Speaker, I recently received from Ambassador Warren Zimmerman, chairman of the U.S. delegation to the Vienna followup meeting of the Conference on Security and Cooperation in Europe, an urgent appeal from Prof. Naum Meiman of Moscow.

Dr. Meiman, has been a refusenik for more than 12 years. The reason of his refusal has been the alleged knowledge of "state secrets." Mr. Speaker, Naum Meiman is a 76-year-old man, who is seriously ill and lost his wife last year after a long struggle with cancer.

Mr. Speaker, I would like to share Naum Meiman's desperate appeal with my colleagues.

Moscow,
September 29, 1987.

To the Vienna Conference: At the current session of the UN General Assembly, both President Reagan and Soviet Foreign Minister Shevardnadze quoted academician, Andrei Sakharov. Reagan quoted his support for human rights, and Shevardnadze his criticism of SDI. Shevardnadze commented, "If Sakharov is to be trusted in the sphere, why not in another as well, in which he speaks with the very highest authority?"

The extremely important thing here is that a member of the Politburo, the highest ranking authority of the Soviet leadership, publicly acknowledged Sakharov as the highest authority on nuclear armament, this being the official point of view of the Politburo.

Let me quote Sakharov now on an issue of personal concern to me. In a letter to the Federation of American Scientists of August 19, 1977, he wrote, "All calculations in which Meiman took part where of a conventional character. Divulgence of the information he had access to would never be of substantial importance. It is now more than 20 years since he participated in secret work. Meiman without any doubt possesses no information which might be classified as secret." That was written 10 years ago.

This was also quoted by a big group of eminent physicists and mathematicians in an Appeal to the Belgrade Helsinki Conference of October 1977. In this Appeal, official certification was also noted that I have had no relation to any classified work since 1955. I even changed my job in 1955 to avoid secret work.

Common sense shows how silly and absurd it is to consider calculations done more than 30 years ago as secret. Sakharov's opinion makes this particularly convincing. After all, you can't regard Sakharov as the very highest authority in nuclear armament, yet deny his common sense. It is incompatible to attach such importance to his criticism of SDI while disregarding, as OVIR does, his opinion in an incomparably simpler matter in the sphere of his particular speciality.

Still, for more than 12 years, I am refused permission to emigrate to Israel for reasons of secrecy.

In the Soviet Union, refusal for permission to emigrate on the pretext of secrecy is decided mysteriously, in secret, without any legal process being followed, and without the right of appeal. This inevitably breeds misinformation, abuse of power, and an unlimited possibility to take personal revenge. I am convinced that this is the only true reason for refusing me the right to emigrate. This was evident in the tragic death of my wife last December 17. Shevardnadze firmly assured Senator Gary Hart that there was no objection to my wife's departure from the USSR. In spite of the extreme importance of every passing day, the Visa Office did everything possible to delay her departure. It took personal letters from Mr. Hart and Ambassador Arthur Hartman to Shevardnadze and intervention by Soviet Ambassador Dubinin before my wife was finally given her exit visa a month later. Quite possibly, this delay proved fatal. She died of embolism three weeks after arriving in the United States.

I am 76 years old, seriously ill, and I have no relatives in Russia. My only daughter has been living in the United States over ten years.

There are no grounds for refusing me the right to emigrate for reasons of secrecy. In view of the Universal Declaration of Human Rights and the Pact on Social and Political Rights, both ratified by the Soviet Union, and of the Helsinki Accords, not to mention the humanitarian aspects of the matter, I insist on my right to emigrate.

Prof. NAUM MEIMAN.

BLACK ROLE MODELS—ON VIDEO

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. CLAY. Mr. Speaker, one of the most prevalent problems facing us today is the burgeoning high school dropout rate. Unfortunately, there is no easy answer on how to keep our youth's mind and eyes on a bright future.

However, a constituent in my district is making a start. A start that is virtually unprecedented.

I would like to share with my colleagues, the following Washington Post article about a method, using high technology, that will surely give students hope and motivation.

[From the Washington Post, Dec. 2, 1987]

BLACK ROLE MODELS—ON VIDEO

(By William Raspberry)

Glenn Doughty's tapes might not inspire the same hushed attention as, say, a rerun of "All My Children." But they just might make a difference in the lives of a good many of our children.

Doughty, the former Baltimore Colts receiver, has been in town drumming up interest in an experimental "Takeoff" series, a sort of prerecorded role model, guidance counselor and career adviser.

It is a simple idea: really just a series of vignettes of people on the job. But the sense here is that it could be of enormous help to school counselors and far more useful to students than the traditional "career day" visits of a few superstars.

Says Doughty: "The kids have constantly drummed into them the glamour of the athletic world. But that is not realistic. What these tapes will do is let kids see that there are blacks in careers as architects, plumbers, nurses, accountants, doctors—the whole spectrum. We are represented in every industry, but often these jobs are looked upon as nothing. Our idea is that a youngster might see something on one of these tapes and say, 'I can do that,' or 'That's something I think I'd like to try.'"

Doughty may have reached a correct conclusion from a faulty premise. Most inner-city youngsters (the target of the first series) know they are not going to be the next Magic Johnson. They also know that blacks are successful in a wide variety of careers. What may be missing for them is any notion of what those careers really involve and any sense that people like themselves could succeed in them.

Career days don't do much to overcome that problem. Youngsters may sit in rapt attention while a neurosurgeon describes his work. They may admire his success. But even if that neurosurgeon is black, the youngsters seem to think that he must have been born with some special can't-miss quality. They seldom see any real link between neurosurgery and their own dismal existence.

Youngsters might get a different feeling from watching a professional or a skilled worker on the job, talking about his work and the path (academic and otherwise) that led to it.

The tape I've just seen features an auto plant supervisor, an architect, a plumber, a car dealer and a police detective.

There is Henry Peyton, telling how he "worked hard at everything I did—including a stint as a porter washing cars—until one of those opportunities came along." His Detroit Cadillac dealership grossed $22.5 million in 1986.

There is Donna Spaulding, an adviser (foreman) at a GM plant in Wentzville, Mo., earning close to $40,000 a year supervising the 48 operations involved in producing the front seat of a GM car.

"If you can't communicate," she tells her audience, "you might as well stay home, because there are too many things that can be fouled up through poor communication." Her secret for moving up on the job—any job: "Open your eyes and be observant, learn how to deal with people, and NEVER QUIT!"

There is Eddie Meyer, no paragon of articulation, who makes a comfortable living (some $20 an hour) as a master plumber. "I always loved math, and I love working with my hands. I've got a comfortable home and a nice family, and that's my reward. I like to drive my family past a downtown building and tell them, 'I put the plumbing in that building.'"

The tapes, for which Doughty and his colleagues are now seeking corporate underwriting, are produced by American Heat, a St. Louis company whose main line is producing training tapes for firefighters. The plan is to give the "Takeoff" series, complete with teaching guides and sources of additional information, to any school that wants it.

"Young people just don't know all the possibilities that are available to them," Doughty says. "The problem is most acute in the black community, which is why we started with black professionals, but we plan to expand the program to include every ethnic group. We believe that video can be a vehicle to give young people career information in a short, concise fashion."

It's hard to know for sure, without having watched the tape in use in a school setting, but I think it may work.

A CONGRESSIONAL SALUTE TO ANTONELL K. AIKENS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. FAUNTROY. Mr. Speaker, I am privileged to bring to the attention of my colleagues that on Thursday, December 3, 1987, the board of trustees of the University of the District of Columbia will honor Mrs. Antonell Kinard Aikens for her many years of outstanding service to the District of Columbia Board of Higher Education and the board of trustees of the University of the District of Columbia.

Mrs. Aikens is indeed deserving of this appreciation celebration marking her 20 years of service to public higher education in the District of Columbia, and I join with the entire UDC community in recognizing her outstanding career.

Nell is one of those rare people who effectively exhibits dedication to professional public service while at the same time devoting herself to grassroots activity in the public interest.

Her work record reveals a commitment and dedication to giving her best to every work assignment. The positive attitude and professionalism displayed in the discharge of her duties and responsibilities have undoubtedly contributed to the overall effectiveness of the D.C. Board of Higher Education and the University of the District of Columbia.

During her 11-year tenure with the board of trustees of the University of the District of Columbia, she has held the positions of director, university secretariat; executive director, board of trustees staff; and secretary to the University of the District of Columbia Board of Trustees' Nomination Committee.

Her service with the Board of Higher Education included assignments as executive secretary and administrative aide.

Mrs. Aikens has successfully combined her professional career with civic and community activism. She is a member of the American Business Women's Association, the Lamond-Riggs Civic Association, Ward 5 Democratic Committee, and chairman of the Ward 5 Economic Development Committee. She also finds time and energy to serve as a trustee of the John Wesley A.M.E. Zion Church, and as an active alumni of the University Without Walls at Howard University.

The observance of this special occasion in honor of Antonell Aikens is reflected in this scripture from Proverbs 3:16–17: "Give her of the fruit of her hands; and let her own works praise her in the gates."

As the Representative from the District of Columbia in the U.S. Congress, I am pleased to be able to express the gratitude of our citizens for Mrs. Aikens' fine record of service to our city. Her presence as a catalyst for excellence throughout 20 years of activism in our local educational system has left an indelible imprint on the lives of our area's youth. Nell's efficient and productive performance in administration has enabled those who teach our young people in the classroom to concentrate fully and freely, challenging and inspiring young minds. Through her untiring diligence, diplomacy, and determination to complete whatever she began, Nell helped create an environment of positivism and productivity for all who enjoyed the privilege of working with her.

I invite my colleagues in the House of Representatives to join me in commending Mrs. Antonell Kinard Aikens for her lifetime of service and in wishing her continued success, good health, and personal happiness.

DEMOCRATIC ETHICS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. GINGRICH. Mr. Speaker, an editorial entitled, "Democratic Ethics" appeared in the Boston Herald on July 31, 1987. The editorial summarizes a number of ethical questions which the House of Representatives has failed to address. I urge my colleagues to read the editorial and then ask themselves how they can tolerate this kind of behavior.

[From the Boston Herald, July 31, 1987]

DEMOCRATIC ETHICS

With all the hullaballoo over ethics that has been raised by the Iran-Contra hearings, some Republicans have begun to counterattack by charging that the Democrat-controlled House has been taking an exceedingly relaxed attitude towards allegations of wrongdoing on the part of its own members, including the head honcho, Speaker Jim Wright himself.

Wright, for instance, has been making phone calls to federal regulators on behalf of some Texas chums who own troubled savings and loan associations. Wright of course, says he just wanted to make sure some constituents were treated fairly. Sure.

The House Ethics Committee seems to have developed a standard operating procedure for dealing with allegations of misfeasance: announce an investigation has begun, spend months gathering evidence, leak every lurid detail in order to subject the member to public embarrassment, and then decide not to take any further action.

For instance, just last month Rep. Mary Rose Oakar, D-Ohio, was found to have kept on the payroll an aide who had not actually worked for her in more than two years. Even though this was a serious violation of both House ethics and federal law. Oakar got off with no further penalty after agreeing to reimburse the $45,000 in salary.

In April, the ethics panel ruled that Banking Committee Chairman, Fernand St. Germain, D-R.I., had done no wrong, despite the fact that he accumulated a fortune during his House career by taking the investment advice of numerous people with business before his committee.

If the executive branch cannot be trusted to investigate itself, why should Congress? Special prosecutors should be in order for congressional violaters too. Ethics shouldn't mean only having to say you're sorry.

CONGRESS-BUNDESTAG YOUTH EXCHANGE PROGRAM

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HORTON. Mr. Speaker, earlier this year, Miss Laura King, a constituent of mine from Camden New York wrote to share the experiences she had as a participant in the Congress-Bundestag Youth Program. Laura spent a year in West Germany and participated in this youth exchange program. This learning experience has given her a lasting impression of this importance of international relations through youth exchange programs.

Mr. Speaker, I am glad to support the Congress-Bundestag Youth Exchange Program. It is indeed a very worthy program that provides a valuable educational experience for young people of the United States and West Germany. I would like to submit Laura's letter into the CONGRESSIONAL RECORD so that my collegues can see how beneficial this youth exchange program is to the youth of the United States and West Germany.

AUGUST 16, 1987.

DEAR FRANK HORTON: I hope you are reading this letter and that it's not being overlooked by a personal secretary sorting your large amounts of mail. I imagine that the majority of your mail consists of either problems, complaints, or requests. This letter, however, doesn't fit into any of those categories, instead, its a letter of appreciation.

I have just returned from a year in West Germany and participated with the Congress-Bundestag Youth Exchange Program. This scholarship enabled me to have a year long experience that will have a lasting impression in my mind. This experience has already started to influence my future. I am now planning on studying at Boston University with majors in languages and International Relations. It is this exchange experience that has made me more open, accepting and aware about many current issues. Through all of this learning, I feel I've grown as an individual in ways that wouldn't have been possible if I hadn't participated in the Youth Exchange Program. I now see the need for better international relations with all countries and hope to use things I've learned from this exchange experience beneficially toward the international relations of the future.

I hope to have encouraged you to go on with your support and influence to continue this program. The benefits are numerous and provide the younger generations with a better understanding of each other, and most of all friendships that secure a hope for the future.

Thank you again for making such an opportunity available to me.

Sincerely,

LAURA T. KING.

DRACONIAN MEASURE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BURTON of Indiana. Mr. Speaker, there are many atrocities taking place in the Punjab at the hands of Rajiv Gandhi and the Indian Government. Early this year India's Government passed the Terrorist and Disruptive Activities (Prevention) bill, 1987.

I would like to insert into the RECORD an article from India Today which tells a little bit about this law and how reprehensible it is to the Sikh people in the Punjab.

Those who believe in the rule of law, most certainly will find this law reprehensible.

DRACONIAN MEASURE—CRITICS CALL ITS EXTREME PROVISIONS "FASCIST"

(By David Deradas)

If a newspaper columnist were to suggest that India settle its border dispute with China by handing over Aksai Chin once and for all, he could well end up behind bars for life. That is just one of the possible consequences of a stringent law passed by Parliament last month to deal with terrorist and "disruptionists".

The Terrorist and Disruptive Activities (Prevention) Bill, 1987, provides for an in camera trial, by special courts set up by the Government, over which any Central Government officer may preside. Such courts could order death for acts of terrorism and a life term for disruptive activities, even on the basis of circumstantial evidence.

The law is effective from May 24 this year when the previous anti-terrorist law lapsed. Like its predecessor, this one will be valid for two years. Significant, though, are the new measures which critics have labelled as "fascist".

Section 15, for instance, allows a confession recorded by a superintendent of police to be used as evidence—normally, a magistrate records this. The bill's opponents are cynical of the clause which enjoins the officer to ensure that the confession is made voluntarily.

Rajinder Kaur, daughter of Master Tara Singh and president of the Istri Akali Dal, says: "This is worse than the Rowlatt Act. The police in Amritsar can make anyone—even Rajiv Gandhi—say anything." She says that of the hundreds of prisoners she has met in jails, only one had not been tortured—because he readily agreed to confess.

A basic principle of justice is that the accused is presumed innocent until proved guilty. But under Section 21, in a terrorist case, the court must presume the accused guilty if the prosecution produces any of the following evidence: a confession made to anyone other than a police officer, a co-accused's confession, finger prints, or the fact that arms or explosives of the sort used in the crime were found on the accused. Once such evidence is submitted, it's up to the accused to prove his innocence.

Leading solicitor Soil Sorabjee says the law "completely deprives a person accused of any semblance of a fair and just trial". Maintaining that "publicity is the soul of justice", he castigates the secrecy in proceedings. "No discretion is left to the judge. Only if the public prosecutor asks for it to be public," can it be so. He feels the judge should decide whether or not the trial ought to be in camera, and record his reasons.

Justice V.M. Tarkunde, former president of the People's Union for Civil Liberties (PUCL) also disagrees with the absolute secrecy for witnesses. "If a witness' name is not disclosed, you cannot crossexamine him," he says. Describing it as "a savage law which no civilised country would tolerate", he asserts that "the state should not become a terrorist if there is private terrorism in the country".

Punjab police chief J.F. Ribeiro, who says it was his officers who had demanded such a law, seems aware of the dangers. He avers: "I'll ensure that the new act is not misused and I would like to put my own checks." There is no denying the fact that in Punjab the judicial process has virtually collapsed with regard to terrorist cases. Not only witnesses, even judges are running scared. Some are known to go on leave when a terrorist case comes up. But Mubarak Singh, former president of the Punjab unit of the Janata Party, feels that even these draconian provisions will not reassure the judiciary. Senior police officers too privately share this cynicism.

However, even if such measures are defensible in the face of terrorism, the extension of the bill to vaguely defined "disruptive activities" can have few apologists. As Tarkunde points out, just about anyone can now be hauled up for disruptive activities. Anyone who questions India's sovereignty and territorial integrity or who supports a claim to cession of territory is defined as disruptionist. Astrologers should take special note: any prediction about the killing of a public official is now punishable.

A number of commentators have remarked on the dangers of this bill when read along with the amendment to the National Security Act which now provides for preventive detention up to six months. Tarkunde is not the only one who feels that with such laws, Emergency conditions can be introduced without formally declaring one.

SOVIETS CONTINUE ILLEGAL USE OF CHEMICAL WEAPONS IN AFGHANISTAN

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. DREIER of California. Mr. Speaker, I wish to bring to my colleagues' attention a segment of the "Report of the Independent Counsel on International Human Rights on the Human Rights Situation in Afghanistan." The report takes on added significance with Afghanistan scheduled to be discussed during next week's historic meeting between President Reagan and General Secretary Gorbachev. After reviewing the report's conclusions on the massive human rights violations at the hands of Soviet and Afghan Government forces, I am hopeful that all members of this body will become actively involved in denouncing, at this critical time, the continuing Soviet occupation of Afghanistan.

I would like to insert into the Congressional Record the section of the independent counsel report on the use of chemical weapons and the report's conclusions on the use of weapons.

(ii) *Chemical weapons*

58. The use of chemical war by Soviet forces was raised by certain of the testimony the Independent Counsel heard. Many persons provided evidence on the use of chemicials to poison food and water supplies. In some instances, chemical weapons were used directly against the civilian population. For example, it is known that villagers in Afghanistan hide in tunnels which branch off of water wells. One man, hiding in the house during a Soviet attack on his village, testified that he saw a Soviet tanker truck pull up to a well in the village and a person completely covered in a protective suit pour an unknown chemical into the well from a pipe attached to the tanker. After the truck left, the person in the protective suit threw a small device into the well and ran away. Shortly thereafter, a cloud of gas or smoke emerged from the well. After the Soviet troops left his village, the witness and others went to investigate and found everyone in the well, including many members of the witness' family, had died.

59. Use of chemical weapons against civilians is a serious violation of the laws of war, including the Geneva conventions and the 1925 Protocol for the Prohibition of the Use of War of Asphyxiating, Poisonous and Other Gases. Although the Independent Counsel cannot determine what particular chemical weapons have been utilized, it seems clear that chemical weapons have been used by Soviet armed forces against civilians on a number of occasions in Afghanistan.

Conclusions on use of weapons

60. The DRA and Soviet armed forces engaged in the war in Afghanistan do not appear to be inhibited in their choice or use of weapons. These troops continuously use potentially lawful weapons in an unlawful manner. Moreover, and more disturbing, Soviet troops use booby-traps and explosives household objects as part of their ordinary arsenal in blatant violation of the most fundamental laws of war.

CHEMICAL UNVEILS BASIC BANK ACCOUNT; NY CAMPAIGN TARGETS BLACKS, HISPANICS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. GARCIA. Mr. Speaker, the need for lifeline banking services, that is low-cost banking services for low- and moderate-income families, is an issue that has been consistently recognized by consumer groups and members of Congress, but is often ignored by banks. In cities like New York, banking services are so expensive that a large portion of the population is simply unable to own a checking or savings account. This means that many are unable to cash paychecks at banks and are forced to pay a percentage of that paycheck to check cashing services. They must also buy money orders to pay bills with rather than simply write a check.

Many banks also charge fees for conducting transactions on an account. For example, if you make withdrawals from an ATM or at a teller window your account is charged. A minimum amount is often required in a savings account in order to avoid a service charge and for the account to accrue interest. A minimum amount is also required in order to maintain a checking account. This minimum is more often than not beyond the means of the low- to moderate-income depositor.

In the past few years banks have been turning more and more to high income customers while ignoring the large and basically untapped lower income market. This market, generally composed of blacks and Hispanics has been ignored for a variety of reasons—but for the most part because they do not have the financial resources and sophistication that make any group an attractive target. This is starting to change. Last week Chemical Bank announced the introduction of their new lifeline savings account called Special Banking. Although it is late in coming, it is a welcome change. And other banks will soon follow suit for one very important reason—Chemical is not doing this out of social conscience, but because the numbers are overwhelming—there are about 2.1 million households in the New York metropolitan area that currently do not use any banking services. That is a large market, and one that should never have been—and certainly no longer can be—ignored. I submit the article from the November 24 American Banker for my colleagues' review.

Chemical Unveils Basic Bank Account; New York Campaign Targets Blacks, Hispanics

(By Donald Shoultz)

New York.—Chemical Bank has drawn a bead on one of New York's neglected market segments: those with modest means and limited banking needs. The retail banking giant on Monday introduced Special Banking, a basic account.

Chemical said it believes the targeted market for lifeline banking is big. The bank estimates that there are about 2.1 million households in the nine-county New York City metropolitan area that do not now use banking services.

"Special Banking makes it possible for people who have never banked before to take advantage of banking services," said Barbara A. Sullivan, a senior vice president at Chemical.

A company spokesman added that the new account fills a gap in Chemical's relationship banking product line. That line includes Select Banking, an account aimed at the affluent; Chem-Plus, the highly successful mass-market bundled account; and StudentPlus, which is marketed directly to college students at strategically located branches.

Special Banking joins that roster as a low-cost product offering basic banking services. The Chemical spokesman described Special Banking as a "streamlined version" of the Chem-Plus account.

According to Ms. Sullivan, "Many people with incomes of less than $25,000 are reluctant to use the services a bank provides because of minimum balance requirements, per-check fees, and lack of information about what a bank can do for them." The new account bypasses these restrictions.

Special Banking can be a checking account, a savings account, or both. There is no minimum balance requirement, and an account can be opened with as little as $1. The account comes with an automated teller machine access card and a consolidated monthly statement.

Chemical charges a monthly maintenance fee of $4 for the checking account and $1.50 for the savings account. But the bank waives the savings account fee if that account is linked to a checking account under the Special Banking umbrella.

Special Banking carries no per-check charges, and there is no limit on the number of checks that can be written each month. The first six ATM withdrawals and the first three savings account withdrawals each month are free; the bank charges 75 cents for each additional withdrawal.

Besides rounding out its product line, Ms. Sullivan said Chemical believes its new basic banking product will mine a unique marketing opportunity. She pointed out that Special Banking's potential market—those who do not use banks—is huge, and that this market segment has not been pursued by New York's big retail banks. Both Citibank and Manufacturers Hanover Trust Co. offer low-cost, no-frills checking accounts, and both place severe restrictions on the number of free checks that can be written on those accounts.

In addition to displays in Chemical branches touting the new account, the bank is also launching a big print advertising campaign heavily aimed at blacks and Hispanics. The bank said ads will appear in the New York Daily News, the area's large-circulation, blue-collar tabloid, the New Amsterdam News, which serves the black community, and El Diario, a Spanish-language daily.

Chemical apparently is making a special effort to lure Hispanics. The bank emphasized that its advertising would be bilingual. All brochures associated with Special Banking are available in Spanish. And the bank's toll-free information line concerning the account will have Spanish speaking operators standing by.

The bank is also undertaking a special education effort linked to the new account. Chemical is sponsoring a series of free "financial fitness" seminars and educational brochures "to help consumers better understand banking services and how to develop a relationship with a bank," the bank announced.

TRIBUTE TO JUDGE HARRY PREGERSON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Judge Harry Pregerson, who will be honored on December 8, 1987, by the attorney's division of the American Friends of Hebrew University. Judge Pregerson is the recipient of the Louis D. Brandeis Award for the standards of excellence he has set as a judge and for the contributions he continues to make to American jurisprudence.

During his 20-year career on the bench, Judge Pregerson has achieved special distinction with his rulings in areas such as civil rights, immigration and labor law, women's rights issues, and consumer protection.

Judge Pregerson graduated from the University of California at Los Angeles and earned his law degree at the University of California at Berkeley, Boalt Hall. He has served in the U.S. Marine Corps Reserve. Prior to becoming a judge, he practiced law and was a partner in the firm Pregerson & Costley. He has also participated in a variety of law related seminars over the years.

Judge Pregerson's first judicial position was on the Los Angeles Municipal Court. He then served on the Los Angeles Superior Court and in 1967 received a Federal appointment as District Judge, U.S. District Court for the Central District of California. Judge Pregerson served in this capacity for 12 years and then became a member of the U.S. Court of Appeals for the Ninth Circuit. During his judicial tenure, Judge Pregerson ruled on thousands of cases and produced over 350 published legal opinions. He has been a truly outstanding individual in the legal field.

Judge Pregerson participates in a number of organizations which serve the youth of our Nation, including service as a board member of the Marine Corps Reserve Toys for Tots Program and a member of the advisory boards of the Jewish Big Brothers Association and International Orphans, Inc. Recently, Judge Pregerson was named Honorary Big Brother of the Year by the Catholic Big Brothers of Los Angeles and the Jewish Big Brothers of Los Angeles, a special addition to the long list of honors and awards that he has received.

It is my pleasure to ask my colleagues to join the American Friends of Hebrew University in saluting Judge Harry Pregerson, whose work and leadership has greatly influenced the legal profession and benefited society.

THE NATIONAL INSTITUTES OF HEALTH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 2, 1987, into the CONGRESSIONAL RECORD:

THE NATIONAL INSTITUTES OF HEALTH

In 1887, doctors could identify disease, but could not cure it. In 1987, they can diagnose, treat, and prevent many diseases and disabilities ranging from the rarest genetic disorder to the common cold. For a hundred years, the federal National Institutes of Health (N.I.H.) have helped to lead the nation and the world to most of these medical advances. I have always been fascinated by the N.I.H., and as we celebrate its 100th anniversary, I though Hoosiers might like to learn more about this medical research giant.

Since its beginning in 1887 as a one-room laboratory in the attic of a New York hospital, the N.I.H. has grown to more than 40 buildings on 300 acres in Bethesda, Maryland, about 10 miles from the Capitol. Its original $300 budget bought lab equipment to study cholera; today's budget exceeds $6 billion and supports its own research, as well as the work of nearly 20,000 scientists in 1,300 universities, medical schools, hospitals, and other research institutions. Grants to these scientists range from thousands to millions of dollars, from short-term to multi-year studies. These grants account for 90% of the N.I.H. budget, with the remaining 10% supporting research within the N.I.H.'s own labs and clinics. The work of the N.I.H. has made us the leader in medical reseach, a far cry from 1887 when Europeans led the world in medical discoveries. N.I.H.-supported scientists have won 69 Nobel Prizes.

The N.I.H. consists of 12 institutes, each with a differenct medical mission. Each institute supports its own research and training through a program of grants, cooperative agreements and contracts with university and industry scientists. Institute research may focus on specific diseases or treatments, or it might involve studies of basic biological processes upon which future findings depend. Perhaps the best way to learn about N.I.H. research is to take a tour through the institutes.

NATIONAL CANCER INSTITUTE

Scientists here have made significant progress toward the Institute's treatment goal of curing everyone who develops cancer. Their work has advanced our ability to prevent and control cancer as we learn more about both hereditary and environmental contributions to cancer. Better survival rates are being achieved with research on less toxic cancer drugs, and new combinations of drugs, radiation and surgery. Researchers here played a major role in discovering the AIDS virus.

NATIONAL EYE INSTITUTE

Work at this institute pioneered the medical use of lasers, applying them to save the sight of people with diabetic and other eye diseases. A major study is now evaluating lasers as a treatment for glaucoma.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Research advances and lifestyle changes supported by this institute have helped to lower the death rate from heart disease by 43% since 1972. Its work has included advances in coronary bypass surgery and new drugs to reduce blood clotting and fatty deposits in arteries. An equally important mission is to educate the public about preventing heart attacks by controlling high blood pressure and cholesterol levels, and by quitting smoking.

NATIONAL INSTITUTE ON AGING

A major undertaking has been to debunk misconceptions about aging, studying normal aging and proving that aging is not synonymous with disease. Alzheimer's disease is a major research focus.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Research here has improved our understanding of diseases caused by bacteria and viruses, and of the causes of allergic reactions and other immune system disorders. This institute supports the largest share of AIDS research.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

This institute conducts basic research on these diseases, distributes related health education materials, and develops therapies and treatments including hip joint replacements and drug treatments.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Important studies here have focused on birth defects, reproductive processes and mental retardation. Institute studies have led to reduced infant mortality by improving care of low birthweight and premature babies.

NATIONAL INSTITUTE OF DENTAL RESEARCH

Modern dental disease prevention essentially began with the 1954 results of an Institute study which championed the use of fluoride in community water supplies. Researchers are now working on possible vaccines to prevent tooth decay.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

We have a long way to go before we can cure and prevent diabetes, the 5th leading cause of death in America. Institute work has developed and improved treatment of two types of diabetes, production of human insulin for diabetics, liver transplants, dialysis to treat kidney disease, and treatment of digestive diseases which afflict millions around the world.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Research advances here have included the role of asbestos fibers in causing cancer, as well as the effects of smoking on fertility.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

This institute provides valuable support to the current revolution in biology: the isolation and manipulation of the basic hereditary materials known as genes. We may one day be able to cure or prevent disease with gene therapy which replaces absent or defective genes with normal genes.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

This institute has concentrated on diseases of the nervous system, including Parkinson's disease, chronic arthritis, epilepsy, and multiple sclerosis. Diagnosis, treatment and counseling have been improved and will continue to be studied.

Funding for the N.I.H., perhaps the most strongly and widely supported federal program, provides both immediate and long-term investments in the health of peoples around the world. One hundred years of medical research have enabled us to lead longer and healthier lives, and we can only imagine what the next century will bring.

A TRIBUTE TO ELMER H. TIPPETT, JR.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HOYER. Mr. Speaker, on December 10, the Prince Georges' Police Department will host a retirement dinner for a 21-year veteran of the force, former Deputy Chief of Police Elmer Tippett.

This is not a retirement dinner in the traditional sense, for Elmer Tippett is taking on new duties and a new challenge as superintendent of the Maryland State Police.

To say that the Prince Georges' Police Department and the citizens of our county are proud of Elmer Tippett would be an understatement. A native county resident, Elmer Tippett rose quickly through the ranks after joining the force in March 1966. In 1983 he became a lieutenant colonel. Along the way, he garnered 25 letters of commendation. Always he has had the deep respect of his fellow officers for both his professionalism, his approachable manner and his great, some say "infamous", sense of humor.

Among his many accomplishments, Elmer Tippett has served as executive assistant to three of the chiefs of police in Prince Georges' County: John Rhoads, John E. McHale, Jr., and current Chief Michael J. Flaherty. Although people in staff positions often go unrecognized for their efforts, Colonel Tippett received numerous letters of commendation for his excellent day-to-day performance.

Colonel Tippett was appointed by County Executive Parris N. Glendening to serve as a member of both the Alcohol and Highway Safety Committee and the Prince Georges' County Drunk Driving Task Force. These committees studied the problems associated with drunk driving and established numerous outstanding projects to combat this serious problem. Project Graduation, Safe Summer, Safe Holidays, and Call-A-Ride are the most significant programs our county has ever implemented to reduce the senseless injuries and deaths caused by drunk drivers. Through Colonel Tippett's efforts, Prince Georges' County can now meet a commitment to eliminating drunk drivers from our roadways.

A community activist as well, Colonel Tippett voluntarily took an active role in the Prince Georges' County Locate-A-Child program during which more than 1,100 children were fingerprinted. For his work, Colonel Tippett received a certificate of appreciation.

Last year, Elmer Tippett was selected by the Bureau of Diplomatic Security of the Department of State to visit Pakistan and assess that Government's capability in dealing with international terrorism. The program also assessed the local needs of the provincial police and airport security.

Following the visit, David G. Epstein, Chief of the Anti-Terrorism Assistance Program, wrote the following letter of commendation for then-Colonel Tippett:

> Colonel Tippett's sensitivity to foreign points of view, his professional knowledge, his ability to gain rapport with foreign police and his articulate commentary and advice were invaluable assets to the Department of State.
>
> The seriousness of the terrorist threat needs no elaboration. The critical position in Pakistan in our efforts to deal with the threat is obvious. Be assured that Colonel Tippett made significant contributions to the security of the United States and that of American citizens abroad by his work with the Pakistani Police and civil officials we dealt with.

Now Colonel Tippett assumes a new challenge as superintendent of the Maryland State Police. He will guide a 1,600-member agency and I firmly believe that there is no better law enforcement officer in this country to lead the State police.

We in Maryland are very fortunate to have Elmer "Tip" Tippett, Jr., in a leadership role, and we Prince Georgians are especially proud of him.

FEDERAL EMPLOYEES DESERVE FULL RIGHTS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. CLAY. Mr. Speaker, on November 13, 1987 the St. Louis Post-Dispatch published an editorial entitled "Federal Employees Deserve Full Rights."

The St. Louis Post-Dispatch calls for revision of the Hatch Act and supports the bipartisan bill, H.R. 3400, passed by the House recently by an overwhelming vote of 305 to 112, which I had sponsored along with 291 of my colleagues.

The Post-Dispatch supports the argument I have consistently made of the unfair and selective application of the Hatch Act. As more Government jobs are being contracted-out, Federal workers, who work side-by-side with private sector workers performing the same tasks, have restricted political rights while their private sector counterparts enjoy full political rights. There is no legitimate reason why one segment, just because they are employed by the Federal Government, should be denied their constitutionally guaranteed rights of speech and assembly while their private sector colleagues are not. The editorial concludes, "It's time that Federal workers stopped being second-class citizens." The recent House passage of H.R. 3400 supports this position.

I commend the following St. Louis Post-Dispatch editorial to my colleagues:

FEDERAL EMPLOYEES DESERVE FULL RIGHTS

For the 3 million federal employees whose political rights are unfairly curbed by the Hatch Act, relief may finally be on the way. Democratic Rep. William Clay of St. Louis has struck a modern-day Missouri Compromise which could bring long-overdue and much-needed revisions to the code that governs their political behavior.

The Hatch Act forbids federal workers from active involvement in politics. Theoretically, the legislation was designed to protect employees from being coerced into performing political chores by giving them a ready excuse: Such behavior is illegal. From a practical standpoint, the 1939 law also tried to curb the likelihood that Democratic officeholders would extract political contributions from public jobholders.

Rep. Clay has been unsuccessful so far in revising this act. His latest version clarifies the potpourri of separate regulations that evolved under the original legislation, making the basic rule: Federal employees can engage in any legal political activity off the job but in no political activity while on duty, in federal buildings or vehicles or in uniform. The bill passed the House Post Office and Civil Service Committee overwhelmingly with the help of Republican Rep. Gene Taylor of Sarcoxie, Mo.

That bipartisan support should help rescue the latest Hatch Act revision from the veto that a similar bill suffered from President Ford in 1976 and from the behind-the-scenes maneuvering of President Carter to kill a revision in 1977. With increased privatization of formerly government functions, many federal workers find themselves alongside private employees who perform similar jobs but enjoy full political rights. It's time that federal workers stopped being second-class citizens.

TRIBUTE TO CARVER J. LEACH, JR., HUMANITARIAN

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. FAUNTROY. Mr. Speaker, for 36 years we in the city of Washington, DC, have been blessed with the presence, the creativity, the leadership, and the unselfish humanitarian contributions of Carver J. Leach, Jr. Now this good, this generous man tells us he is "retiring." How can we fill the void left by his departure.

As a tribute to Carver Leach, I placed in the CONGRESSIONAL RECORD of the U.S. Congress on October 5, 1984, a lengthy appreciation of his many services to the Washington metropolitan community. That year he had worked so unselfishly to make the July Fourth Family Celebration Day a success that he suffered a heart attack. This is just one example of the many kinds of sacrifices Carver has made on behalf of his fellow man.

While Carver Leach has made many other contributions to our life, the program that has always filled me with hope and inspiration has been his creation, the Roving Leader Program—a unique program that provides guidance, counseling and direct services to problem youth. Not only has it virtually dissolved the potential for "youth gangs" in the Washington, DC, communities, this program has also been adopted in other parts of the United States and in foreign lands. The Roving Leader concepts proved so universal that they are now used in Brixton, London, England, and in Liverpool, England, among a few of the foreign sites. Intern exchanges directed by Carver have developed further the essential components of the program as adopted in other countries.

We thank you for your lifetime of humanitarian contributions.

May God bless you and keep you.

WRIGHT IS WRONG

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. GINGRICH. Mr. Speaker, an editorial entitled, "Diplomatic Venture Not the Wright Stuff" appeared in the Atlanta Journal-Constitution on November 18, 1987. The editorial points out the impropriety of Speaker Wright's actions when he intervened in negotiations with the Communist dictator of Nicaragua. I urge my colleagues to read the editorial and then ask themselves how they can tolerate this kind of behavior.

DIPLOMATIC VENTURE NOT THE WRIGHT STUFF

Jim Wright is wrong, wrong, wrong to insert himself smack in the middle of ever-so-delicate negotiations over Nicaragua.

The U.S. House speaker's assertions to the contrary, he is not co-equal with the president in the conduct of foreign affairs, and he oversteps constitutional boundaries when he tries to act on his country's behalf. Not only that, he risks giving the Sandinista regime in Nicaragua the mistaken impression it can use a Washington back-channel to attain its aims and avoid the hassles of dealing with its enemies, the contras, or with the peace organizers of Central America.

Wright's invitation from President Reagan last August to join in a bipartisan peace initiative lapsed almost from Day One, after the five Central American presidents agreed, without the least encouragement from the Reagan administration, to undertake their own cease-fire and mutual-security accord.

And the invitation that Wright cites from the designated Nicaraguan mediator, Cardinal Miguel Obando y Bravo, worthy though the latter's motives certainly are, simply does not have any official standing.

For all the flak the speaker is catching from the White House and the well-intended scolding he's received from concerned friends, he is adamant that his meetings last week with Obando and Nicaraguan President Daniel Ortega were proper, as are his near-term plans to facilitate the peace.

Well, if he won't listen to the arguments concerning the impropriety of his actions, he at least should consider that his diplomatic poaching sets a precedent that right-wingers like Sen. Jesse Helms would happily copy. Furthermore, Wright's high-profile involvement gives the president an easy target for scapegoating if the peace effort collapses—an outcome that seems to be all too earnestly desired by many in his administration.

Which, in all fairness to the speaker, is why he strode into this brier patch in the first place: He was fed up with administration hypocrisy over trying to resolve the Nicaraguan conflict without more bloodshed. The trouble in this situation is that his second wrong does not set it Wright.

LAW ENFORCEMENT IS NOT ANTIGUN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BIAGGI. Mr. Speaker, ever since I led the successful legislative fight against armor-piercing cop killer bullets, there are some who cannot resist labeling me antigun. Well, if the truth be known, I'm not antigun, and neither is the police community that joined me in the anticop killer bullet campaign.

However, we are for police protection; we are for sparing innocent lives from gun-related crimes; and we are for making life as difficult as possible for the criminal. That's why we fought for a ban against cop killer bullets. That's why we strongly resisted efforts last year to ease our Nation's gun laws; and that's why we're currently working to control public access to undetectable plastic handguns.

But, don't just take my word for it. Ask the leaders of our Nation's law enforcement community. They'll tell you the same thing. And, unlike some special interest groups, their thinking has nothing to do with politics or financial considerations. They simply want to fulfill their commitment to public safety as best they can.

Acting with these beliefs in mind, I am very proud to insert in the RECORD an op-ed article that recently appeared in the Washington Post. The article was written by Jerry Vaughn, executive director of the International Association of Chiefs of Police, and a former police chief, himself. Through this article, Mr. Vaughn injects a voice of reason into what has all too often been an issue dominated by emotion. Mr. Vaughn's article is characterized by the following excerpt:

> Law enforcement is not anti-gun. Police officers carry guns as a tool of the trade. Many of us are recreational shooters and hunters. We also, however, get a firsthand view of the carnage created by guns that get into the wrong hands and into the hands of the untrained.

The full text of Mr. Vaughn's article follows:

[From the Washington Post, Nov. 16, 1987]

BEFORE YOU REACH FOR A GUN

(By Jerry Vaughn)

Readers of the Post and other large daily newspapers recently have been assaulted by full-page ads suggesting that they secure a handgun as the most effective means of self-defense. The ads depict several different kinds of assailants—notably muggers and rapists—and ask, "Should You Shoot A Rapist Before He Cuts Your Throat?" or "How Much Red Tape Is Too Much Red Tape When He Threatens To Kill You?"

It should come as no surprise that these ads were paid for by the leadership of the National Rifle Association. When questioned about the purpose of the new campaign, an NRA spokesman explained: "The ad's message is, don't own a firearm if you don't want one, but don't let anyone deny you the right to own one if you want."

That would seem to be stretching it a bit. The real message in this campaign, it would appear, is that the only way you are going to prevent yourself from victimization is by getting a handgun and keeping it at the ready.

Leaving aside the many statistical inaccuracies and distortions presented in this alarming ad campaign, a number of things need to be pointed out.

First, guns alone are not the crime-proofing insurance the NRA campaign suggests. The police, from their own experience in dealing with guns, crime, and criminals, know the sheer lunacy of the proposition. Guns aren't used quickly, easily or without consequence.

I've worked with highly skilled and trained police officers who have failed to use deadly force when it was more than justified and appropriate. People tend to hesitate, even freeze up, in a life-threatening, traumatic situation. When an attacker sees a victim lift and aim a handgun, he is hardly going to wait to see whether there is any hesitation about using it—he will most assuredly use his own weapon quickly. The police experience is that the consequences of such confrontations are often more serious than if the victim had no weapon.

(There is, by the way, often a severe emotional trauma associated with killing someone. Over 70 percent of all police officers who kill a person leave the force within five years because of emotional difficulties associated with the event.)

Second, the police experience also reflects the fact that guns pulled or just available during conflict often fall into the wrong hands. Last year 15 police officers, who were typically younger, stronger, and better trained than their attackers, were killed when they were disarmed and shot with their own weapon. Some 85 percent of all police officers who lose their weapon to an assailant are shot with their own weapon. If those best trained in the use of firearms, our police officers, are occasionally subject to this kind of violence, what sense does it make to encourage the public—who do not get the same level of training in firearms handling and usage—to get guns for self-defense purposes?

Third, law enforcement is not anti-gun. Police officers carry guns as a tool of the trade. Many of us are recreational shooters and hunters. We also, however, get a first-hand view of the carnage created by guns that get into the wrong hands and into the hands of the untrained.

The whole truth, to twist an interesting and familiar theme, is that guns won't protect people, people protect people. Citizens are not helpless against the rising crime rate, and the firearm is not the only way the public can protect itself. For those who are looking for better protection I suggest the following:

Instead of spending your money on a gun to put by your bed, install a phone there. Call the police if you hear a strange noise that you think might be an intruder. By doing so, you decrease the chances of killing your spouse or child—something that happens all too frequently—if they move around and make noises unfamiliar to you in the night.

Have adequate locks and other protective devices installed to keep intruders out.

Use basic precautionary measures to avoid making yourself vulnerable in the first place. Plan what you are going to do if there's trouble. An ounce of prevention is worth a pound of cure.

Organize your neighborhood to be alert to activities that threaten your safety and security. Where such organizations already exist, join them and do your best to keep them active.

Call your local police and ask for their guidance on crime reduction tips. They can provide you with personal protection and effective rape prevention techniques, for example, that would do much to protect you from crime.

Write to your elected leaders and demand that they spend the money for adequate police protection and to correct the flaws in our criminal justice system. Insist that public safety be a higher priority. Only 1.4 percent of total government spending goes for the provision of police services.

Citizens everywhere must reject the notion that more guns in our society will make us safer and should tell those who make any such suggestion to back off. The people who are pumping out this crazy, dangerous advice for public consumption—and abuse—are not the police, but the NRA. That, by the way, is the organization that fought against a ban on cop-killer bullets, that is resisting legislation that would outlaw a potentially favorite weapon of the terrorist—the plastic gun, and that has identified publicly as its highest priority the repeal of laws that restrict the manufacture and private ownership of machine guns.

ROCKLAND COUNTY (NY) RESIDENTS RISK THEIR LIVES TO SAVE OTHERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. GILMAN. Mr. Chairman, almost daily we in the Congress hear of heroic acts by our citizenry and we are always proud of those persons who go out of their way to help others.

In that regard, I am pleased to call to the attention of my colleages an extremely rare act of heroism performed by two constituents of mine.

Paul Babbin, of Spring Valley, NY, the deputy coordinator of Rockland County Emergency Medical Services, and his companion, Douglas Beyer of Spring Valley, were driving on the Major Deegan Parkway in New York City when they observed a tank truck leaking highly flammable volatile, liquid oxygen. Instead of driving on as most others would have done, instead they risked life and limb by signalling the truck driver to pull over, and by stopping oncoming traffic until emergency vehicles could arrive at the scene.

Mr. Speaker, I would like to share their heroism with our colleagues by inserting the following article which appeared in the Gannett-Westchester Newspapers detailing this act of selflessness by Mr. Babbin and Mr. Beyer.

The article follows:

TANKER LEAKS ON DEEGAN—TWO PASSERSBY, EMERGENCY VOLUNTEERS, HELPED EASE PROBLEM

(By Frank Leonard)

A tanker truck carrying 6,000 gallons of liquid oxygen sprung a leak Tuesday on the Major Deegan Expressway in the Bronx, but a pair of emergency service volunteers from Rockland County quickly came to the rescue.

The resulting noontime chain of events tied up southbound traffic for as far as the eye could see, observers said. Eventually, however, the truck was permitted to continue its journey from Albany to Queens.

Scores of New York City fire and police units went to the scene after Paul Babbin, a 29-year-old Spring Valley resident flipped on his car's emergency lights and hailed the truck's driver to pull over. Babbin's companion, Douglas Beyer, jumped from their car and waved all the southbound lanes of traffic to a halt.

Babbin, deputy coordinator of Rockland County Emergency Medical Services and a member of two Rockland ambulance corps, and Beyer, 27 a volunteer firefighter from Spring Valley, were en route to a friend's house in Queens when Babbin noticed a big cloud of white smoke coming from the truck.

"It was spraying the stuff all over the road," he said. "I put my hand out the window and pointed to the driver like a cop to pull over."

While Babbin informed the driver of the leak, Beyer walked down the lines of stopped traffic warning motorists to turn off their engines to guard against fire. Babbin used a two-way radio in his car to notify New York City Emergency Services about the situation.

Fire engines traveled north in the southbound lanes in order to reach the scene quickly. Charles Marshall of Stony Point, one of the firefighters, credited Babbin and Beyer with taking their lives in their hands by stopping traffic.

John Mulligan, a spokesman for the city Fire Department, said the oxygen was escaping through a valve that had become frozen from the oxygen, which is kept at 250 degrees below zero to keep it liquid.

Mulligan said about 50 gallons of the truck's cargo had leaked into the air and dissipated, apparently because of a buildup of pressure inside the tanker.

The truck, owned by Airco Co., was eventually allowed to continue to its destination in Maspeth, Queens, where some of its cargo was unloaded and repairs were made.

Liquid oxygen is highly volatile and flammable. Once it escapes into the atmosphere, it vaporizes but remains highly flammable.

AIDS EDUCATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. STUDDS. Mr. Speaker, AIDS has already taken the lives of 25,000 Americans. Millions more are believed to be infected with the virus. If we do not respond to this crisis with the most responsible public health measure available to us—straightforward education—many more Americans will be lost needlessly to AIDS.

In this context, I would like to share with my colleagues the following editorial from the October 13 edition of the New Bedford Standard Times which reveals the effectiveness of New Bedford's AIDS education efforts.

[From the New Bedford (MA) Standard Times, Oct. 13, 1987]

AIDS AWARENESS WEEK: THE TALE OF TWO MASSACHUSETTS CITIES

Congratulations to the New Bedford School Department for its unflinching approach to AIDS Awareness Week last week. High school seniors, juniors and sophomores heard five days' worth of small group presentations, capped by a school assembly for the showing of a film prepared by U.S. Surgeon General C. Everett Koop.

Local school officials have shown courage and vision as they took a straightforward, public health-oriented view of educating high schoolers about safe sex, including such formerly troublesome topics as the use of condoms.

Theirs is an example that the Springfield School Committee should have followed. There, the elected officials in charge of educating and, hopefully, protecting students against exposure to AIDS have their heads stuck firmly in the sand. Their squeamishness about sex and their denial of reality led them to the preposterous conclusion that whatever else is taught about AIDS, the word "condom" is never to be mentioned in the curriculum.

One can only imagine the snickers that must run through Springfield classrooms as students, many of them sexually active, ask an honest question about safe sex and the teacher responds by refusing to use the C-word. The School Committee there, professing that it does not want to encourage premarital sex and the use of illegal drugs, decided that students would be better off taking these questions home to mom and dad. In school, they'll teach abstinence instead.

The Springfield decision, couched in wishful thinking about abstinence from sex and drugs, comes a little late. They know that most students would never in a million years ask their parents a question about condoms, and so they prefer to keep their students ignorant, to avoid soiling their bureaucracy. They may wish for pure hearts and deeds, but the schools' failure to recognize the reality of AIDS could cost the lives of some of the world-wise students they are belatedly preaching to.

The New Bedford approach is far preferable, far more courageous. No, AIDS is not an easy subject for an educator to approach. It must be taught in its proper context, and that means discussing sex and drugs, as well as abstinence from both. New Bedford High School students are better off for having their school teach them about these unpleasant facts of life. In Springfield, they'll just have to learn their lessons elsewhere, on the street, perhaps—per order of the school committee.

THE 1985 HUMAN RIGHTS TRIAL IN ARGENTINA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. FEIGHAN. Mr. Speaker, the 1985 human rights trial in Argentina, described in "Argentina: The Military Juntas and Human Rights," by Amnesty International, had both national and international significance as a human rights landmark unique in Latin American history. It is the only case in which leading government figures who conducted the "dirty war" against their own people have been brought to account for their actions. The crimes committed during the 1976-82 repression resulted in the disappearance, torture, and killing of thousands of men, women, and children.

Amnesty International concluded that the trial was fair and that the judges were impartial. The trial was a major step to establish the fate of individuals who "disappeared" in the 1976-82 period. It stands as an encouragement to human rights work throughout the world and serves as a warning to those who abuse political power. At the same time, the gains accomplished by bringing members of the armed forces to trial are in danger of being undermined. In June, the Argentine Congress approved a law granting immunity to military torturers who could claim they were "obeying orders." The new law affects some 300 members of the armed forces for crimes committed during the 1976-82 period.

According to Amnesty International, this law reverses provisions of Argentine law that established the principles that surbordinates could not claim "due obedience" if charged with crimes involving "atrocious or aberrant acts." It conflicts with Argentina's international human rights obligations to investigate past abuses fully and to provide families with effective legal remedies. The United Nations Convention Against Torture states that, "an order from a superior officer or a public authority may not be invoked as a justification for torture." It is hoped that would-be torturers will not seek refuge under the law of due obedience in defending future acts of torture.

President Alfonsin and the Argentine people are to be commended for the courage and conviction that led to the historic trials of the military leaders responsible for the "dirty war." The trial is unique in all of Latin America and will serve as a beacon of hope for all those who seek justice and freedom from repression. The new law should not be allowed to dim this hope for Argentines who still seek justice. I commend the report to your attention and I have submitted an excerpt for your information.

PREFACE

In December 1985 a remarkable trial ended in Buenos Aires—the trial of the nine military commanders who had ruled Argentina between 1976 and 1982. The defendants had been tried for a series of crimes, from murder to falsification of documents, committed during the "dirty war" against subversion—a state-organized campaign of systematic repression about which the facts had only emerged officially with the return to democracy in Argentina in late 1983. During the period of the "dirty war", Amnesty International, together with other human rights agencies had persistently protested against the apparent violations of rights committed by the Argentine army and security forces. Now Amnesty International has produced the following report on the trial, including an account of its historical and legal context and an assessment of its nature and implications.

The report has been produced for three reasons. First, the trial was unique in modern Latin American history: the only case of leading government figures who had presided over a period of gross violations of human rights being brought before a court of law to account for their misdeeds. Second, Amnesty International, aware of the powerful emotions aroused in Argentina by the decision of the new government to prosecute the former junta members, wished to observe the trial proceedings in order to ascertain whether the defendants were afforded a fair trial with full legal guarantees. Third, the trial not only represented a landmark in Argentine legal history, but was also the culmination of a struggle to establish accurate information about the fates of thousands of "disappeared" people.

It has always been the policy of Amnesty International that human rights violations should be subjected to judicial investigation even after a change of government. Though the organization does not take a position as to which legal mechanisms should be employed (provided that the facts are clarified and the defendants' legal rights are respected), Amnesty International does believe that, in order to safeguard human rights, offenders against them should be brought to justice. Regrettably, full-scale judicial proceedings concerning human rights abuses are all too seldom initiated. What follows is a detailed account of a notable recent exception.

SALUTE TO THE MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BERMAN. Mr. Speaker, I rise today to salute the Mexican-American Legal Defense and Educational Fund. MALDEF is celebrating its 13th anniversary and commemorating this occasion at a dinner on December 8, 1987. I ask my colleagues to join me in recognizing the great accomplishments of this important organization.

MALDEF is a national advocacy organization which uses law, research, community education, and scholarships to gain equality for Mexican Americans and other Hispanics.

MALDEF will honor three outstanding individuals at its anniversary dinner for their dedicated service to the community. MALDEF's highest honor, the Valerie Kantor Award for extraordinary achievement, will be presented to Judge Dan Sosa for his vision, foresight, and tenacity in helping to create MALDEF. Antonio Rodriguez will receive MALDEF's legal services award for his selfless service to the poor. Jose Lozano, publisher of La Opinion, will receive the Corporate Responsibility Award for public service and corporate responsiveness to the needs of the Hispanic community.

It is my pleasure to congratulate these outstanding individuals for their individual achievements on this special occasion and to commend MALDEF for the important work that it does on behalf of Mexican Americans and the community at large.

LITERACY CORPS PUSHES PROGRESS FOR MILLIONS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. FLORIO. Mr. Speaker, in the United States today, an estimated 27 million individuals will not be able to read the Congressional Record, a newspaper, or even fill out an employment application. These 27 million people are part of a group of American citizens who, through no fault of their own, have for a long time not had the opportunity to participate fully in the American dream.

These 27 million individuals are illiterate.

Illiteracy means not having access to education or at the most essential level, the opportunity to seek employment.

At the national policy level, the high percentage of functionally illiterate adults in our society is stopping the Nation's drive to become competitive in the world market again.

While Western Europe and Japan continue to forge economic miracles in the world marketplace, the United States continues to lag behind in a variety of areas. One of the most persistent and most solvable problems in the

Nation's economic woes is that of education and in particular, that of illiteracy.

Indeed, in a recent survey conducted by the Gallup organization, in comparing various strengths and weaknesses of the United States to Western Europe and Japan, almost half of the respondents believe that the educational system in the United States is weaker than abroad. In other words, more people feel that education in America is the weakest of all points of comparison, including product quality, technical innovation, and standard of living, relative to other industrialized nations.

At many colleges and universities across the Nation, a dedicated corps of student volunteers have been willing to play a constructive role in the solution to illiteracy.

Currently before the 100th Congress are proposals that deal with the competitiveness of the Nation and the future viability of our Nation's labor and intellectual force. One of the propoals is the Florio-Kennedy Literacy Corps Assistance Act of 1987, funding creative literacy programs conducted through colleges and universities throughout the United States.

The Literacy Corps would mobilize that dedicated corps of students in college in the push to address double-digit illiteracy percentages.

The funds provided by this legislation would be seed money going directly toward the salaries of both student coordinators and staff instructors. In time, as the program grows, the colleges themselves would provide the funding internally through tuition fees.

While receiving credit for their role in the anti-illiteracy curriculum, participants in the college Literacy Corps would dedicate a specific, college-established amount of time during their enrollment in the program. Under the program's curriculum, these students would go into the community, tutoring individuals in order to reduce illiteracy across the Nation.

With the $20 million in seed money authorized by this bill, the college-based literacy programs would finally have the means for a meaningful impact on illiteracy in this Nation.

Heretofore, the Literacy Corps has operated with success on a smaller scale through private donations. With the participation of the Federal Government, the Literacy Corps could be instituted throughout the Nation under the auspices of the Department of Education, which would administer the funding to the individual, independent, local programs.

In fact, with Federal funding for these college-based programs, not only would flexibility be ensured in the tutoring programs on the local level but also programs, building on successful Literacy Corps programs that have been funded through private donations, could be expanded.

The Literacy Corps, indeed, has experienced much success in the past in the settings where it has operated. With a small investment from the Federal Government, the program can be an effective instrument against functional illiteracy wherever that gap may be, whether it is among the prison population, rural communities, or the poorest neighborhoods of the inner cities.

The Federal Government can change the numbers of the illiterate in the Nation. By teaming together the commitment of a corps of students and the backing of the Federal Government, the Literacy Corps can turn the numbers back in the war against illiteracy.

Illiteracy has been estimated to cost the Nation billions of dollars in lost productivity. The Literacy Corps offers an opportunity for the Nation to recoup those losses in productivity but more importantly to give 27 million individuals the opportunity to find a job and to participate more fully in society.

Participation and employment in today's society require functional literacy. Competitiveness in the world marketplace requires an improved educational base for our Nation's citizens. Yet without the fundamentals of a literacy program, there can be no progress toward that ultimate goal.

I am including below an article from the Christian Science Monitor examining the Literacy Corps from its inception and the goals that it has striven to achieve. The article follows:

[From the Christian Science Monitor, Nov. 23, 1987]

LITERACY PROGRAM TAPS COLLEGE STUDENTS AS TUTORS

(By Catherine Foster)

BOSTON.—Norman Manasa has kept a dream alive since he was an undergraduate in 1968. And it's just now starting to come true.

The dream? "To transfer economic power to the illiterate poor." The way to do that, he figured, was to give them something that no one could ever take away: the ability to read, write, and do math. Who could give it to them? College students, who had not only the skills but also the untapped desire to share.

So he developed a program in which undergrads would tutor children and adults—and get college credit.

Now, almost 20 years later, the idea is starting to come to fruition. His tutoring program is on six campuses and receiving high-level corporate funding. And if legislation sponsored by Sen. Edward M. Kennedy (D) of Massachusetts passes, the program could be federally underwritten on a much larger scale.

If only a small percentage of the nation's undergraduates spent six hours a week tutoring, Mr. Manasa says, a wave of tutors could be released. That, he says, could start making a dent in the huge number of Americans who are illiterate.

In September, Stonehill College, Endicott College, Boston College, and Bunker Hill Community College, all in the Boston area, offered a tutoring course as an elective. St. John's University in Queens, N.Y., was the first, last year, and has since expanded the program to another campus.

The United States Department of Education estimates that 27 million adult Americans are "functionally illiterate"—can't read printed instructions, newspapers, bus schedules, etc.

The hidden costs of illiteracy are extraordinarily high, according to Jonathan Kozol, who wrote "Illiterate America": more than $120 billion a year for such things as industrial accidents and welfare payments, and more than $100 billion in lower gross national product. Other, higher, calculations add in the cost of crime and poverty.

And with the US moving into an increasingly technological era, those who can't read might be more than unemployed; they might be unemployable.

Manasa's Literacy Corps joins a host of state and private literacy programs run by churches and community groups. PBS and ABC have run literacy campaigns. And there's a movement afoot to get newspapers to start their own.

Manasa started working on the tutoring-for-credit idea as a student at the University of Miami. Over a period of four years, 1,000 undergraduates who signed up got three credits for tutoring in prisons, inner-city schools, and Head Start centers. They also met in weekly seminars with supervising professors.

He came to Washington 10 years ago to generate interest in the project on a national scale and formed a nonprofit corporation, the Washington Education Project. Then-Chief Justice Warren E. Burger, Manasa's former boss, got interested. While he was chairman of the Commission of the Bicentennial of the Constitution, Mr. Burger had Manasa speak to the commission about the program. Senator Kennedy heard him and suggested he call his staff.

"This program taps the idealism and potential of young people," Mr. Kennedy says. "It encourages them to pitch in in their communities. And its great success as a pilot program makes me think it could work on a nationwide basis."

Manasa has already gained corporate funding for his vision: the New York Daily News, the Xerox Foundation, Manufacturers Hanover Trust Company, Hughes Aircraft Company, Primerica, the Los Angeles Times, and the Bank of Boston.

"Nothing could be more important to the future of this country than the education of our young and reeducation of others who never got the chance," says Ken Rossano, director of development at Bank of Boston. "That's why you'll see more and more companies willing to take part."

Kennedy's bill authorizes $20 million to be divided up into $25,000 grants that would go to 800 colleges that applied for them. The colleges would receive the funds in four payments over two years. The money would be for administrative and supervisory purposes, minimizing the risk to the university until there's enough demand for the class to be incorporated into the regular degree program. Then the costs would be absorbed by student tuition.

Acknowledging that 1960s altruism won't go far in the tightfisted '80s, Manasa's program is as no-frills as an L. L. Bean boot. His enthusiasm, however, is not.

"We'd do this only in agencies that exist and that have teaching programs in place," he said in a phone interview. "There would be no storefronts, no capital investment. We'd just pump in tutors, use the books already in the classroom that have been paid for by taxpayers. Consequently, there's virtually no money involved."

To avoid upsetting teachers who might view tutors as interlopers, the plan lets teachers choose whether they want tutors and decide which students will be tutored. The tutors maintain a consistent schedule of six hours a week, allowing the teachers to plan around them.

"I wanted the [college] kids not sitting in class and getting only theory but to be able to move between the two worlds of theory and experiences. As you can imagine, putting students in ghetto schools would give them a hard dose of reality," says Manasa. He adds that the students also get job experience for the future.

And something more intangible: "It would teach the old virtues of duty, obligation, and compassion," he says. "They can't be learned as theoretical exercises, but only by taking up the responsibility of welfare for another individual."

Ann Saffi, a student at St. John's University, took part in its program last spring. She tutored in a second-grade class as one of her four internships in social work. "It started out as a simple tutoring job, but developed into much more of a relationship," she says. "I was only supposed to go until the beginning of May, but stayed until the end of their term."

Donna Petrie, who is the course instructor for the St. John's program, says the tutored students gain more than just reading skills.

"You take 10- to 12-years-olds already in trouble with courts. They don't trust anybody but their own kind. A kind of bonding takes place. It gives them another chance, because somebody believes in them."

One criticism of the program is that it doesn't provide much training; students start tutoring from the first week of class, but do meet with a faculty adviser weekly. Karl Haigler, director of the federal Department of Education's adult literacy initiative, reserves judgment on this fledgling program but says, "Teaching an adult how to read is not an easy proposition. It takes more than a year to get someone reading at low level to advance a grade. To what extent are students, and adults, able to commit to that?"

Other literacy experts say the money might be better used to support the already established network of literacy programs. "My personal view would be to provide more funding for the $106 million national Adult Education Act [which supports adult literacy programs] rather than re-create a whole new support system," says Jinx Crouch, of the Literacy Volunteers of America.

The Literacy Corps leaves the structure of the course "up to whoever's running it," says the Rev. Eugene Green at Stonehill College, in North Easton, Mass. There, the tutoring is part of the writing program: "Writing, Literacy, and Power," and the course, says Fr. Green, "provides a theoretical reflection on the experience students are having at the site. The method is learned on site."

But one literacy expert, who asked not to be named, said, "The bill makes the problem of adult literacy seem simple to solve when it is a multifaceted social, economic, psychological, and educational issue."

THE BERNE CONVENTION

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. MORRISON of Connecticut. Mr. Speaker, recently, the Wall Street Journal published an article which sets out some of the major arguments for and against proposed adherence by the United States to the Berne Convention, an international copyright treaty. The Subcommittee on Courts, Civil Liberties, and the Administration of Justice has been holding hearings on the issue. Because this issue may come before the full House during the 100th session of Congress, I thought Members would be interested in reviewing the Journal article.

The report follows:

Pressing Issue: Publishers Mobilize To Foil Revision of Copyright Law

(By Michael W. Miller)

Imagine this scenario: A reporter hands in an article about a big fight over a proposal to revise the U.S. copyright law, and his editor wants to change the first paragraphs. This infuriates the reporter, who considers the opening passage a poetic gem that will win prizes for great writing. It compares international copyright law to a starry galaxy with comets soaring in all directions, and quotes T.S. Eliot: "Immature poets imitate: mature poets steal."

The editor rewrites the beginning to read: "A big fight is brewing over a proposal to revise the U.S. copyright law." After the story runs, the reporter sues his publication for injuring his reputation, and a jury awards him millions of dollars in damages.

Well, a big fight is brewing over a proposal to revise the U.S. copyright law, and scenarios like this one are at the heart of it. A group of big publishers fears the revision will introduce the concept of "moral rights" into the U.S., which could suddenly give writers, photographers, and artists the legal right to insist on the way their work winds up in print. Dissatisfied contributors, the publishers fear, will be able to sue and win steep damages, or even court injunctions to halt the presses.

COMPUTERS AND MOVIES

The publishers are up against a powerful lineup that favors the revision. The support isn't coming from frustrated newspaper writers, though some of them think the idea definitely has its merits. It's coming from the Reagan administration, the computer industry and the movie business.

Their interest has nothing to do with the moral-rights issue that upsets publishers. Supporters are pushing for the new copyright plan because they think it will help crack down on international piracy of software, videos and other creative works.

The battle turns on a proposal in Congress to bring the U.S. under a century-old international copyright treaty called the Berne Convention. Most industrialized countries subscribe to it. The few exceptions include China, the Soviet Union and the U.S. In the U.S., lawmakers have preferred to chart their own copyright course, and have raised technical and political objections to signing the treaty.

Now those old qualms are dissolving because of rising alarm about overseas copying of creative works. The problem is exacting an especially harsh toll in the fast-growing software industry, where it can take only minutes to rip off millions of dollars of programs. The video boom has also made movie studios more vulnerable, they say illegal movie copying abroad robs them of half a billion dollars a year.

Berne supporters say signing the treaty will make it easier for the U.S. to prosecute foreign copycats. Three bills calling on the U.S. to join Berne were introduced in Congress this year, and after months of hearings by Rep. Robert Kastenmeier (D-Wis.), at least one subcommittee should consider the issue early next year.

The publishers hardly dispute the goal of broadening copyright protection around the world. But they have a big problem with language in the treaty that endorses the moral-rights concept. It says that creators can insist that their names appear on all copies of their works. It also states that a creator can object to "any distortion, mutilation . . . or other derogatory action . . . which would be prejudicial to his honor or reputation."

Those are fighting words for the publishers. They admit that their fears of aggrieved reporters' lawsuits sound far-fetched. But they argue that not long ago, so did multimillion dollar libel awards.

"This will become a bonanza for tort lawyers," says Harry Johnston, general counsel of Time Inc.'s magazine group.

Time has put together a coalition of publishing heavyweights to lobby against joining Berne. Other members of the group include the Magazine Publishers Association, McGraw-Hill Inc., and Dow Jones & Co., publisher of this newspaper.

Even beyond the world of magazines and newspapers, the coalition says signing Berne could unleash legal tornadoes wherever works are copyrighted. It sees the moral-rights concept as a giant wild-card that will let contentious artists press all sorts of unprecedented grievances. Lyricists could sue radio stations for not crediting them when their songs go on the air. Film makers could sue TV stations if they object to the commercials that run with their movies. A professor who writes a textbook chapter could sue the publisher over the way the entire book turns out.

Berne supporters call these worries outlandish. They are trying to focus the debate away from the moral-rights issue and onto the potential economic benefits. Among them: Signing the treaty would make it easier for the U.S. to press piracy cases in Berne countries' courts, where complex international matters might otherwise languish. That is considered especially important in the 24 countries, including Turkey and Egypt, that don't have strong copyright pacts with the U.S.

The pro-Berne faction also sees strong symbolic reasons for the U.S. to sign the treaty. U.S. Trade Representative Clayton Yeutter says that being outside the convention is crippling his office as it pushes for better copyright protection in Brazil, Korea, and Thailand, three nations considered piracy hot spots.

"Non-adherence to Berne allows trading partners to view the United States as something of a 'second-class citizen' in the copyright world, and question our commitment to attaining high levels of copyright protection internationally," Mr. Yeutter told Congress this summer.

Some companies also say they would save millions by not having to use an expensive gimmick that sometimes helps their works get the treaty's protection overseas: publishing simultaneously in a Berne nation.

International Business Machines Corp.'s $5.5 billion software business makes it one of the world's largest producers of copyrighted works. Kenneth W. Dam, IBM's vice president for law and external affairs, says the Berne push is shaping up as a top priority in the computer firm's strategy to protect its software.

As for the publishers' fears of moral-rights lawsuits, Berne proponents contend that the U.S. often isn't bound by the exact language of treaties it joins, and could write powerful safeguards into U.S. legislation based on the Berne Convention. One frequently cited safeguard would exempt work-for-hire—such as newspaper and magazine stories—from the moral-rights provisions of Berne. The proponents also argue the treaty hasn't brought turmoil to other nations' publishing industries, and has helped prosecute foreign pirates.

TREATY TINKERING

American publishers retort that other nations aren't anywhere near as litigious as the U.S. They also maintain that tinkering with the treaty to add extra safeguards may not be legal. And they dispute the pact's effectiveness and say pirates still flourish in plenty of Berne nations.

Above all, the publishers' staunch position is that any move at all to sign Berne will introduce the concept of moral rights into the U.S.—inevitably leading to legal chaos. "It's the old camel's nose under the tent problem," says Arthur Sackler, Time's chief lobbyist on publishing issues. "Moral rights would be here in one respect or another, and that would make it a lot easier to expand their application and their reach in the future."

Newspaper and magazine contributors haven't yet weighed in on the Berne fight, but other artists have. Movie directors and screenwriters say strong moral-rights legislation will help them fight studies that want to tamper with their work—colorizing black and white movies, for instance.

Congressmen have also heard the testimony of William Smith, the painter of a mural in a building near Aberdeen, Md., called Maryland House, depicting the state's history in nine panels. This year another artist was hired to enlarge and repaint one of the panels, to accommodate a new Roy Rogers restaurant. Mr. Smith says he was powerless to fight the changes. As it is, he says, "it is a traumatic experience for me even to enter the lobby of Maryland House."

A TRIBUTE TO REV. DR. JAMES A. EVERETT, D.D.

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. MFUME. Mr. Speaker, I want to pay special tribute to Rev. James A. Everett as he celebrates his retirement of 34 years in the ministry. Reverend Everett is a native of North Carolina and a graduate of Shaw University and holds a doctorate of divinity degree from Howard University.

Prior to arriving in Baltimore, in 1953, Reverend Everett served as pastor of St. Paul Baptist Church in Gastonia, NC, St. Thomas Baptist Church of Portsmouth, VA, Mt. Sinai Baptist Church of Ivor, VA, and Mt. Carmel Baptist Church of Portsmouth, VA.

Reverend Everett is credited with rebuilding the New Shiloh Baptist Church in Turners' Station, a small community in Maryland—the congregation occupied the new edifice in 1971.

Reverend Everett has been an outstanding leader in the Baltimore community. He has served as president of the Dundalk-Sparrows Point branch of the NAACP and the Baltimore Ministers' Conference. He has also been an active member of numerous organizations, including the National Baptist Convention, the Hampton Ministers' Conference, the Lott Carey Baptist Foreign Missionary Baptist Convention of Maryland and Clergy in Action.

Reverend Everett takes an avid interest in all young children and is a stable force behind the community. Truly, he is one whose love for mankind dominates all that he does.

Mr. Speaker, on Monday, December 7, 1987, the official board and the New Shiloh Baptist Church members will honor Reverend Everett at a retirement banquet. I know that my colleagues will want to join with me in applauding this outstanding leader for his years of service and commitment to the members of his congregation and the community.

CONGRESSMAN MILLER HONORS GEN BRADLEY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. MILLER of California. Mr. Speaker, next week a very special friend and constituent of mine, Gen Bradley, will be honored by the Democratic Party of my district of Contra Costa County. Her work over many years is an extraordinary testament to our Nation's tradition of active citizen participation in the political life of the country.

I know first hand of Gen Bradley's dedication to the Democratic Party and her commitment to elect party nominees. She was invaluable to my campaign when I was first elected in 1974, and has been ever since. She is a tremendous asset as a volunteer in my district office.

As a native of Minnesota, Gen became involved in politics as a strong supporter of one of our greatest American leaders, the late former Vice President Hubert Humphrey. In Contra Costa County, she first became active as a member of the Clayton Valley Democratic Club in 1961. Since 1962, she also has worked diligently in many roles for the United Democratic Campaign.

Gen Bradley has been a leader of the Democratic Party. She was not only President of the Key Democratic Women of Contra Costa County, but was also elected twice to serve for 6 years on the County Democratic Central Committee. In addition, she has served as Treasurer of the Central Committee, and as campaign treasurer for many local candidates, including the successful campaigns of June Bulman of the Concord City Council and Gene Ross of the Community College Board.

Gen has opened the doors of the political process to many, including her family, which includes her husband Paul and three children.

Gen often brought her youngest child to the campaign headquarters at a very young age, and while Karen amused herself in her playpen, Gen persuaded Contra Costans that voting in the election was essential to the democratic process. As a member of the Volunteers-In-Politics program, Gen is actively engaged in getting more citizens to play an active role in our political system.

I am proud to honor and thank her. While next week she will receive much deserved appreciation for her efforts, the people of Contra Costa County are at the same time hoping that Gen Bradley will be active in the activities of our community for years to come.

H.R. 1212—THE EMPLOYEE POLYGRAPH PROTECTION ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. RICHARDSON. Mr. Speaker, on November 4, 1987, the House of Representatives passed H.R. 1212—the Employee Polygraph Protection Act restricting the use of lie detectors in the private sector. During the debate on H.R. 1212, I offered a bipartisan amendment providing an exclusion from the polygraph ban for companies authorized by the Federal Government to manufacture, distribute, and dispense controlled substances. It passed by an exceptional margin of 208 votes, or 313 ayes to 105 nays. More important, however, is the intent of the amendment: to minimize the theft and diversion of dangerous drugs and narcotics from legitimate sources in the United States, thus combating in an important way this Nation's drug abuse problem.

During debate on the amendment, it was suggested that the amendment did not enjoy wide support. For the record, I would like to clarify this issue. In point of fact, our amendment enjoyed strong support from a wide and diverse number of organizations concerned about drug theft, diversion, and substance abuse. In addition to the many pharmaceutical companies that expressed support for the amendment, the following groups endorsed the amendment: the Pharmaceutical Manufacturer's of America, the National Federation of Parents for Drug-Free Youth, the Food Marketing Institute, the National Association of Chain Drug Stores, the National Association of Retail Druggists, and the National Wholesale Druggist's Association.

The amendment was narrowly drawn to provide an exemption from the polygraph ban for only those employees or prospective employees having direct access to controlled substances. The amendment also prohibits lie detector test results from being used as the sole determining factor in the hiring, firing, or disciplining of any employee. Additionally, during debate, an amendment was adopted which improved the original by eliminating the possibility of random polygraph testing of current employees.

Mr. Speaker, my colleagues overwhelmingly supported this amendment because it was narrowly and tightly drawn and because it was championed by numerous organizations. More importantly, my colleagues supported this amendment because it strikes a reasonable balance between the ligitimate rights of employees and our ongoing effort to address drug diversion and substance abuse. Like my colleagues, I believe this amendment will act as a strong deterrent to the interwoven problems of drug abuse and the illicit drug market.

A TRIBUTE TO SHELBY T. HARBISON

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. DURBIN. Mr. Speaker, if you turned on your radio in Springfield, IL, over the last 40 years, chances are you would have heard the familiar voice of Shelby Harbison.

For four decades, radio has been Shelby's passion and his pulpit in Mr. Lincoln's hometown. But fortunately for us, Shelby came down from that pulpit and rolled up his sleeves time and again to help the community he loved.

As a former President of the Springfield Economic Development Council and the American Business Club, Shelby presided over an era in Springfield development known for its progress. During his years on the Springfield School Board, Shelby let everyone know that there shouldn't be such a thing as second-class education in Springfield.

In a city bitterly divided by Chicago Cubs and St. Louis Cardinals fans, Shelby demonstrated the finesse of a seasoned diplomat by trumpeting his allegiance to the Cincinnati Reds. And he stood by those Reds in their leanest years—that is to say this year.

He grilled and served politicians by the hundreds to his listeners. Though his elected guests got nervous at the T-A-X word, Shelby made them feel right at home on W-T-A-X.

Even though his own tastes ran to more high-brow fare, Shelby broke ground as a cultural pioneer in Springfield when his WDBR-FM station brought serious rock to the State's capitol. Some parents will never forgive him.

His radio stations ranged far and wide. His broadcast efforts in Morris, IL, and Beloit, KS, created economic welfare in those communities by providing the bulk of jobs in each town.

His efforts in the industry were recognized and rewarded. The Illinois Braodcasters' Association recognized his leadership in 1977 by designating him as their statewide president.

But if you asked Shelby about his most prized accomplishment, he probably wouldn't mention his time spent as a former board member of the Gateway House in Springfield, as a former board member of the Springfield Urban League, or as a graduate of the University of the South. Shelby would undoubtedly point to his family, his three children and his wife, Lyn. They may not have seen him as much as they would have liked, but they always knew where they could hear his voice.

Shelby T. Harbison is more than a leader in our community. He is a voice that has informed us with the news; inspired us with his insight; and guided us through 40 great years. Stay tuned, Shelby. Your listeners and fans want you to know how much you've meant to their lives.

TRIBUTE TO HON. DAVID DHILLON

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HUNTER. Mr. Speaker, I rise today to recognize one of my constituents, Mr. David Dhillon. Dave is a high-school teacher and recently elected mayor of El Centro, CA.

At the age of 25 Dave has managed to accomplish quite a lot. I first met Dave when we formed the Camarena Club, an antidrug club, at El Centro High School.

Dave's No. 1 motivation is helping the youth of the Imperial Valley. Not only striving to keep them away from the ill effects of drug use, but also to encourage their involvement in government. For example, in one recent assignment, Dave had students write to President Reagan, Congressmen, Senators, and other legislative representatives regarding a number of current topics of debate.

Dave seems to thrive off of achieving impossible goals and living on the edge between failure and success. Some of his goals are evident in the abundance and variety of hats he wears in a single week—such as teaching U.S. history at Central Union High School and counseling juveniles for the county probation department. Other activities include Parents United, a suborganization of the Child Abuse Prevention Council; the Republican Central Committee; Chairman of the Young Republicans; a seat on the Economic Opportunity Commission Board, the Imperial Valley Association of Governments Transportation Board, Advisor of Centrals "Just Say No" club and acting as El Centro's voting delegate for the California League of cities, and to cap this list, Dave was just recenty selected as the new mayor of El Centro.

Dave has been a great asset to the entire Imperial Valley as is evident in his work with our youth. By both helping them to say "no" to drugs and by teaching them the American way, he has inspired them to take on active roles as citizens of this great Nation. That is why I would like to take this time and say "thank you Dave" and I look forward to seeing what you do next.

ELECTION DAY MASSACRE IN HAITI

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. MFUME. Mr. Speaker, I rise in shock and horror at the election day massacre that occurred in Haiti on November 29, 1987. Armed gangs wielding submachines and machetes brutally murdered dozens of citizens as they sought to exercise a right that most of us are finally able to take for granted; that being, the right to vote.

Haiti has not held free national elections in 30 years, those of us who have followed the events in Haiti since the fall of the Duvalier dictatorship in 1986 had strong hopes that—despite its seemingly insurmountable political and economic problems—Lt. Gen. Henri Namphy's provisional government would eventually become a true democracy. To this end, the U.S. Government has been generous in terms of humanitarian and military aid. More than $6 million was provided to assist the electoral council.

On Sunday morning, a Haitian pharmacist was quoted as saying that, "I'll wait all day if I have to. If there's an election, I'll vote." His comments were made at a polling place that had already been sprayed twice with gunfire by 8:30 a.m.

Such determination to participate in the democratic process helps to underscore the importance of ensuring that—despite the recent suspension of $62 million in U.S. economic aid—we must not abandon our commitment to basic human and civil rights throughout the world. This past weekend's bloodbath must only be a temporary derailment of democracy in that country.

In accordance with this belief, I join my colleagues in calling for the establishment of an international peacekeeping force that would protect the citizens of Haiti in their efforts to have free elections and to isolate those who are determined to prevent such progress.

SUPPORT FOR KIM KEUN-TAE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. ACKERMAN. Mr. Speaker, I rise today in support of Kim Keun-Tae, a South Korean prisoner of conscience who cannot speak for himself in his native country. Kim was arrested in September 1985 and is serving a 5-year prison sentence for organizing meetings and demonstrations feared to cause social unrest. There is substantial evidence that he is being illegally tortured and abused in prison.

Kim, who is only 40 years old, is the founding chairman of the National Youth Alliance for Democracy [NYAD]. NYAD seeks to democratize Korean politics, renunify North and South Korea and create an independent and equitable national economy. Kim was involved in organizing support for opposition party candidate Kim Dae Jung in the 1971 Presidential elections.

Although Kim Dae Jung is running again in the current elections and although democracy seems to be making a comeback in Korea, political liberalization has not reached Kim Keun-Tae in his Kyongju prison cell. He claims that he was physically abused numerous times while in prison, but the courts refused to allow him a medical examination. Kim describes being tortured with electric shocks for 5 hours at a time, beaten by prison guards, held in an isolation cell and refused food for days on end. The Korean Government's only response to these horrible charges has been an incomplete investigation and reduced visiting rights for Kim's family so that he would not pass on incriminating evidence.

While I strongly support the upcoming Presidential elections in the Republic of Korea and commend the eight candidates who are running, I am horrified at these reports of continued torture of political prisoners. In recent months Korea has released many prisoners, but it is estimated that at least 40 political prisoners remain—their only crime being that they peacefully exercised their rights to expression and assembly. Torture, abuse, and incomplete trials fly in the face of the democratic practices Korea is attempting to create. I call on my colleagues, as well as President Reagan and President Chun, to investigate these gruesome allegations and demand the release of all political prisoners, including Kim Keun-Tae, from Korean jails.

MASSACHUSETTS STUDENTS HONORED FOR ACADEMIC EXCELLENCE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. MAVROULES. Mr. Speaker, I'd like to take this opportunity to extend my heartfelt congratulations for and express my great pride in the academic achievements of a number of 6th district high school students. While I am always pleased to hear about scholastic achievement, I am particularly delighted to be able to compliment these students from my district on their accomplishments.

The following individuals have received the National Council of Teachers of English Achievement Awards in Writing for 1987:

Mr. Christopher Brogan, North Andover High School, North Andover, MA.

Ms. Jennifer L. Russell, Marblehead High School, Marblehead, MA.

Mr. Joseph A. Sibol, North Andover High School, North Andover, MA.

Ms. Jinnie R. Stine, Danvers High School, Danvers, MA.

In addition to recognizing these students, I would like to say thank you to those teachers who have given so liberally of their time and energies to sponsor and encourage students in this project. Teachers have the profound responsibility of exciting, challenging, and encouraging students.

In many cases, it is the teacher that awakens the student to the value and importance of education, particularly, English education. Those unable to communicate are not only restricted by the limitations of their communication skills—both as transmitter and recipient of ideas—but they are inhibited in their thought processes. These awards demonstrate the ongoing contributions to academic excellence from our State's and Nation's English teachers.

Additionally, I am most pleased to applaud the following students from my district for receiving scholarships from the University of Massachusetts at Boston.

David Neary of Lynn and Christopher Jackson of Lynnfield were awarded the Chancellor's Scholarship for Excellence. Richard Harvey of Peabody was awarded the Foster Furcolo Scholarship. Elizabeth O'Neil of Saugus was awarded the University Community Scholarship for Adult Learners.

Congratulations to you all.

I am quite proud of these scholastically exemplary representatives of our community and ask them to continue to make us proud with their academic achievement. With their receipt of these awards, I challenge them each to accept the responsibility to continue to educate not only themselves but to encourage learning wherever and whenever the opportunity exists.

By doing this they too will continue to learn. As eloquently stated in a Latin proverb, "By learning you will teach; by teaching you will learn," I ask that they commit themselves to this axiom in the hope that the seeds of their knowledge will bear the fruit of wisdom. It is only through an educated populace that our Nation will continue to excel politically, socially, economically, and technologically.

AN APPEAL TO THE GOVERNMENT OF KOREA TO RELEASE KIM KEUN-TAE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HALL of Ohio. Mr. Speaker, I rise to call attention to the torture, illegal arrest, and imprisonment of South Korean citizens for peacefully exercising their right to assemble and express their political views. Amnesty International has identified 40 such "prisoners of conscience." Some have been imprisoned for more than 10 years.

One prisoner of conscience is Kim Keun-Tae, a 40-year old gradfuate from Seoul National University. He is currently serving a 5-year prison sentence on charges including having participated in meetings "feared to cause social unrest."

Kim charged that he was tortured after his arrest September 4, 1985. Though his lawyers made two requests for a court order to have him examined by a judge and a doctor to document the evidence of torture, both requests were denied without explanation.

The Supreme Prosecutor's office later issued a statement denying that torture had occurred, but there was no indication that a thorough investigation had been conducted and there was no confirmation that a medical examination had even occurred.

During his trial, Kim testified that he had been tortured with electric shocks on many occasions. Each torture session lasted about 5 hours. He said, "By 20 September I became covered all over with wounds and couldn't stand any more. At last, on 25 September, I gave in to them. In groups they beat me up and asked me to beg for my life by crawling on the floor naked. I did what I was told. I wrote in the interrogation records as they demanded."

In August 1986, Kim and 17 students in Kyongju prison were reportedly seriously beaten by prison officers. According to reports, Kim was later beaten for protesting against the treatment of the students. He was later visited by his wife who said his face was swollen and bruised and that there was considerable bruising on his body.

I call on my fellow Members of Congress to support Amnesty International's appeal to the Government of South Korea to release Kim Keun-Tae and other prisoners of conscience.

WILLIE ROGERS BOYETTE RETIREMENT DINNER, DECEMBER 4, 1987

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. DELLUMS. Mr. Speaker, on December 4, 1987 many citizens of the San Francisco Bay area will gather at the Oakland Hilton Hotel in honor of a distinguished citizen of the area, Mr. Willie Rogers Boyette. For many years Bill Boyette has played an active leadership role in the area. He is a founder and past president of the Cal-State Package Store and Tavern Owners Association. This organization, which Bill has headed both in Oakland and statewide, has been a critical agent in protecting the interest of retail liquor and tavern owners as a remarkably successful black trade association. It is also an organization that has made a notable contribution to the youths of the community through its award of generous scholarship stipends to high school students who are planning college careers.

In all of these activities, Bill Boyette has been a perceptive and inspiring leader. A retail merchant for 30 years, his professional activities have been widespread, and his civic activities many and varied. Bill has been active in such organizations as the Men of Tomorrow and the Black Chamber of Commerce. He is a Master Mason and Past Master of Monarch Lodge No. 73. He organized the National United Affiliated Beverage Association and served as its past president and general chairman for 8 years. An active church goer and avid golfer, Bill has earned the reputation of combining an affable personality with a serious approach to the business and professional life of our community. It pleases me to join his colleagues in Cal-Pac, his wife Margaret Rhodes, and his thousands of friends and admirers in the bay area community in thanking Bill Boyette for his warmth, his kindness, his many acts of generosity, his outstanding presence and his many laudable achievements that have been of benefit to us all.

I invite my colleagues in the U.S. Congress in congratulating Bill on his retirement from business and his many notable accomplishments during this celebration of his life and good works.

TRIBUTE TO WILLIAM O. McCONNELL

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. DYMALLY. Mr. Speaker, it is with much pride and joy that today, I ask my colleagues to join me, and all the residents of the city of Bellflower, CA., in commemorating the achievements of its longest standing employee, Mr. William O. McConnell who entered retirement on October 30, 1987. As the public works director, Mr. McConnell began work in the city of Bellflower on May 5, 1958. During his over 29 years of tenure, Mr. McConnell has overseen the construction of miles of streets, curbs, storm drains, traffic signals, sidewalks, sewer lines, water lines, and other important components that many people take for granted in their daily lives.

I would like to point out that Bellflower has been extremely fortunate to have such a dedicated public works director. Although Bellflower is a contract city, virtually all public works services are provided for by city staff members. Mr. McConnell's public works crews are extremely supportive of his efforts and continually strive to provide the best service available to the residents of the "Friendly City of Bellflower."

On a personal note, Mr. McConnell has acquired a wealth of knowledge which has proven itself invaluable in many instances. Oftentimes, a constituent will question the Bellflower City Council during an open meeting regarding an issue that took place some 20 years ago. In those instances, I am told that people look upon Mr. McConnell for the right answer and the correct recollection of history. Thus, it is no surprise to learn that his warm and friendly demeanor has earned him much respect and admiration from many in the community.

Today, Mr. Speaker, I ask my colleagues and the residents of Bellflower to join with me in paying tribute to Mr. McConnell's outstanding record of dedicated service and contributions to the city of Bellflower. In closing, I would like to extend a warm and personal thanks to Mr. McConnell and wish him, his lovely wife, Diane, and daughter Lisa the very best for a happy and prosperous future.

OPHELIA BASGAL, INNOVATIVE EXECUTIVE DIRECTOR OF THE ALAMEDA COUNTY HOUSING AUTHORITY, RECEIVES HUD AWARD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. EDWARDS of California. Mr. Speaker, the shortage of low-income housing in California demands fresh thinking from low-income housing advocates, and Ophelia Basgal has provided a good supply. As the executive director of the Alameda County Housing Authority, Ms. Basgal has helped create and preserve numerous affordable housing projects. She is both diplomatic and persistent in her advocacy of affordable housing. Her sensitivity to the housing needs of the community are admirable.

Recently, the Department of Housing and Urban Development selected Ms. Basgal to receive a Specific Activity Award under its Public Housing Agency Award Program. The award recognizes Ms. Basgal's key role in the establishment of a self-insurance pool for the housing authorities of Washington, Oregon, and California. I commend Ms. Basgal for her success with the insurance pool, and I look forward to her continued excellent work.

GREAT LAKES WATER QUALITY AGREEMENT

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. ROTH. Mr. Speaker, I would like to bring to the attention of my colleagues a historic milestone for Great Lakes water quality which was recently achieved at the International Joint Commission's Biennial Meeting in Toledo, OH. On November 18, United States and Canadian negotiators formally signed the 1987 amendments to the United States-Canada Great Lakes Water Quality Agreement of 1978.

The Great Lakes constitute the largest single system of fresh water in the world and ensuring the quality of the Midwest's most precious resource is of paramount importance. With 355 miles of shoreline on Lake Michigan in my district, I am extremely concerned about the future of this valuable resource.

Lake Michigan serves as a focal point for recreational and economic activities in northeast Wisconsin. While significant improvements in the water quality of Lake Michigan have been made, there are still serious problems to address including the reduction of toxic sediments and wildlife habitat loss. Cleanup of the Great Lakes is an ongoing process and the new amendments reinforce the United States and Canadian commitment to safeguard this vital system for future generations.

The 1987 amendments strengthen the Water Quality Agreement by increasing accountability and management rather than revising the basic structure or provisions. The new changes also reflect advances in technical knowledge gained since 1978.

The United States Department of State and the Canadian Department of External Affairs led the review and negotiating process. Several Federal agencies participated in the negotiating sessions including the Environmental Protection Agency, Coast Guard, Office of Management and Budget, Army Corps of Engineers, Department of Agriculture, U.S. Fish and Wildlife Service, and the National Oceanographic and Atmospheric Administration. Representatives from all eight Great Lakes States were involved and for the first time, three citizen groups—the National Wildlife Federation, Sierra Club, and Great Lakes United—were granted observer status for the negotiations.

Five new annexes were added to the agreement which will enhance the respective governments' abilities to control toxic contaminants. The new provisions included the identification of contaminated sediment areas, watershed management for nonpoint pollution sources, monitoring of airborne toxics, mapping of contaminated groundwater and efforts for coordinated bilateral research.

Additional amendments to the existing 12 annexes of the 1978 agreement will institutionalize remedial action plans as a blueprint for cleaning up toxics in the 42 identifed areas of concern in the Great Lakes basin. The remedial action plans will use an "ecosystem approach" to analyze the pollution sources that affect the river/bay area and develop a cooperative means to restore the system to its fullest potential.

In October, the Wisconsin Department of Natural Resources released its remedial action plan for Green Bay Harbor, which is in my district. The Green Bay Remedial Action Plan was developed in cooperation with the citizens of northeast Wisconsin and represents a calculated plan of attack to restore a health bay environment. When fully implemented, both recreational and commercial interests will be preserved.

The 1987 amendments also call for the implementation of new "lakewide management plans" to reduce toxics throughout the lakes. More importantly, provisions for citizen input and an expanded monitoring role for the International Joint Commission are now incorporated in the Water Quality Agreement.

The Great Lakes are a delicately balanced ecosystem and it is vital that bilateral efforts continue in implementing the 1978 Water Quality Agreement. Earlier this year, Congress incorporated the agreement into section 118 of the Clean Water Act which is now public law. The goals of the agreement are unique and exceed any previous U.S. law in formulating standards for protecting and restoring natural resources.

I am pleased that the United States delegation rejected efforts to renegotiate the agreement and instead, reached a consensus with the Canadians on updating and strengthening the agreement consistent with provisions of the Clean Water Act. Mr. Speaker, I share their firm commitment to preserve the Great Lakes as a dependable water supply for residential and industrial consumption. And I would like to commend the U.S. negotiators on a job well done.

THE 60TH BIRTHDAY OF THE KING OF THAILAND

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. CONTE. Mr. Speaker, today I have introduced a joint resolution which sends the congratulations of the U.S. Congress to King Bhumibol Adulyadej of Thailand on the occasion of his 60th birthday.

On December 5, 1927, the King was born in Cambridge, MA, where his father was attending medical school. The unique circumstances of his birth distinguishes him from all other monarchs past and present: He is the only reigning monarch in the world who was born in the United States.

The King's 60th birthday is of special significance. Those familiar with the Government of Thailand know that the King is a constitutional monarch, who wields strong, if informal, influence on his people, and whose people hold him in great respect. Part of being a constitutional monarch in Thailand is practicing Buddhism; under the constitution the monarch is required to be Buddhist. The completion of the fifth cycle of 12 years is an important date for Buddhists, so the King's 60th birthday has religious as well as secular importance.

Amongst the many honors to be bestowed on the King will be the establishment and naming of an international university in Thailand in his honor. A university dedicated to human understanding and achievement will begin a legacy of education for the benefit of Thailand and students from around the world.

I would also note that soon, on July 2, 1988, the King will reach a milestone in Thai history. On that date he will officially become the longest reigning monarch in Thai history, having served 42 years as King. My resolution recognizes these achievements and King Bhumibol Adulyadej's valued friendship with the United States, and congratulates him on his 60 years of distinction.

PETER CUTINO HONORED FOR ACCOMPLISHMENTS AS EDUCATOR AND COACH

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. PANETTA. Mr. Speaker, it is a pleasure to be able to inform my colleagues that Peter Cutino of Oakland, CA, will be honored at the University of California on December 15 for his many years of service as an educator and coach.

Like myself, Peter was born in Monterey, CA, and attended school there during his youth. He has gone on to a noteworthy career in education and college coaching, and his accomplishments over the years deserve mention here.

I would like to note first that Peter was a great college athlete himself. He was a champion swimmer and water polo player at Cal Poly, San Luis Obispo, and was named outstanding athlete there in 1957.

Peter's teaching career began at Oxnard High School, where he taught physical education and social studies from 1957 to 1963. He also served as chairman of physical education during the latter part of his tenure at Oxnard. As swimming coach, he led his team to 60 consecutive dual meet victories, 5 league championships, and 2 California Interscholastic Federation. His water polo teams had an overall record of 80 wins and only 16 losses, for a winning percentage of .833.

In 1963, Peter moved on the University of California at Berkeley. He has served there as supervisor of physical education, but primarily, he has coached swimming and water polo. Not one of his swim teams from 1963 to 1974 had a losing season. His water polo teams have won six NCAA national titles and have finished between second and fourth nationally in seven other years.

Peter has also coached teams to seven national titles in the U.S. water polo senior championships.

Peter has also served as assistant and then head coach of the U.S. national water polo team. As head coach, he has taken the team to the World University Games, the World Games, the Pan American Games, the New Zealand Games, the Jadran Cup, the Tungsram, and other international matches and tournaments.

Peter's stature in his field is clear from the other responsibilities and honors he has been given, ranging from chairman of the NCAA Water Polo Rules Committee and membership on the U.S. Water Polo Rules Committee to president of the American Water Polo Coaches Association and membership on the board of governors and the board of directors for U.S. water polo.

Finally, I want to relate a few of the awards that Peter has received during his career: Cal Poly Alumnus of the Year; Master Coach Award from the American Water Polo Coaches Association; NCAA Coach of the Year in 1975, 1977, and 1983; Pac 10 Coach of the Year in 1973, 1974, 1975, 1977, and 1983; University Coach of the Year in 1977; and Northern California Water Polo Coach of the Year in 1968, 1969, 1973, 1974, 1975, and 1977.

Mr. Speaker, it should be clear that Peter Cutino is one of California's, and one of the Nation's, outstanding college coaches and educators. I am sure my colleagues join me in offering congratulations to him for the recognition he is receiving at Berkeley and for his many accomplishments. He is truly a man of achievement and commitment.

PERSONAL EXPLANATION

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BADHAM. Mr. Speaker, because of unfortunate, unpredicted, and unpredictable scheduling of this body, I missed several votes in late October and early November and I would like to enter into the RECORD my positions on these votes.

Rollcall No. 393: "Yes."
Rollcall No. 394: "No."
Rollcall No. 395: "No."
Rollcall No. 396: "No."
Rollcall No. 397: "Yes."
Rollcall No. 398: "No."
Rollcall No. 399: "Yes."
Rollcall No. 400: "No."
Rollcall No. 401: "No."

The above votes were on such Earth-shaking procedural questions as whether to adjourn or to approve the Journal.

On Senate Joint Resolution 209, housing programs extension/passage, I would have voted yes. On H.R. 3479, gas royalty payments/rule, I would have voted no. On S. 1158, agreeing to a Senate amendment for the Public Health Service Corps, I would have voted yes. On H.R. 1517, the Aircraft Collision Avoidance Act, which I cosponsored, I would have voted yes.

Mr. Speaker, I would also like to take this opportunity to urge the leadership to adopt consistent scheduling and to make a better effort to schedule bills for consideration in advance, particularly after this Congress was long since supposed to be adjourned for the year. This would be especially helpful to those Members who must travel a great distance to and from their districts.

TRIBUTE TO MSGR. JOHN PATRICK CARROL-ABBING

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. SHAYS. Mr. Speaker, I would like at this time to pay special recognition to Msgr. John Patrick Carrol-Abbing of Rome who is being honored today in my district in Connecticut for 50 years of selfless commitment to helping those in need.

An Irish priest, Monsignor Carrol-Abbing was honored recently in Rome where citizenship was conferred on him for 50 years of service to humanity and to the young people of the world. He is only the 29th person over the centuries to receive this honor from the Eternal City, and is the third non-Italian to receive this recognition in modern history. American Presidents Woodrow Wilson and Franklin Delano Roosevelt were also honored in this fashion.

The monsignor was in Rome during World War II and its aftermath. He immersed himself in the problems of the persecuted and suffering and has continued this dedication throughout his life in the church.

During the war as a young priest, the monsignor undertook delicate and dangerous missions ensuring that those in war-torn areas received food and supplies. In Rome he was instrumental in finding shelter for the persecuted and assistance for escaped Allied prisoners of war crossing enemy lines to safety. He was given the Silver Medal for Military Valor "on the field of battle" by the American Army for his efforts.

Following the occupation of Rome, in response to an appeal from the monsignor, the Allied military government set up relief centers to dispense medical aid to ease the suffering of those left homeless and destitute. As the Allied armies swept north and more areas were released from German rule, the monsignor followed closely behind bringing aid to devastated areas.

In 1945, on the recommendation of then U.S. Ambassador to Rome, Myron Taylor, Monsignor Carrol-Abbing was appointed director in Italy of American Relief for Italy, Inc., to ensure the equitable distribution of relief supplies collected by American volunteer groups and organizations.

Also in 1945, Monsignor Carrol-Abbing established the first Boys' Town; 200 boys ranging in ages from 10 to 18 orphaned by the war or from poor families were given a second chance at life.

Today, through the monsignor's efforts, there are nine Boys' Towns throughout Italy and one Girls' Town. The monsignor's towns are populated by orphans, abandoned children, and children from homes with drug or alcohol problems. Some of the children are refugees from foreign countries.

Every Boys' Town and Girls' Town is self-governing. A mayor is elected, and town meetings are held at which no adult has a vote or veto. The monsignor has built these towns on the philosophy of giving young people responsibilities and expecting the most from them in return. It has worked.

In the last four decades of operations of Boys' Towns, more than 20,000 youngsters from five continents have received a new start in life in a democratic, self-governing community.

Today, in Stamford, CT, Msgr. John Patrick Carrol-Abbing is being honored for his many accomplishments by the Italian Center of Stamford, which has been closely tied to Boys' Towns of Italy for many years. Monsignor Carrol-Abbing has proven through his life's work that good can come from adversity with the help of dedicated people, and that democracy can work. The monsignor is an inspiration to us all.

THE RETIREMENT OF BETTY J. TICHO

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. WAXMAN. Mr. Speaker, on Saturday, December 12, 1987, the Los Angeles County Epilepsy Society [LACES] will honor Betty J. Ticho upon her retirement as executive director.

Ms. Ticho is one of those all-too-rare individuals whose commitment, care, dedication, wisdom, and energy are absolutely essential for the welfare and interests of our community.

In 1956, the board of directors for LACES hired Ms. Ticho and asked her to organize a service program for persons with epilepsy in Los Angeles County. Under her direction, LACES was able to establish itself as the only existing organization which serves specifically people with epilepsy. Most services available are free and include information and referral, counseling, advocacy and advocacy referral, school alert, educational programs and seminars, educational materials, consultations, training and placement service, emergency "ID" tags and cards, peer groups, and community educational group meetings.

Epilepsy is the most common of all neurological disorders, affecting approximately 1 in every 50 children and 1 in every 100 adults. Indiscriminate of age, sex, or nationality, it is a unique chronic problem. It affects more people than muscular dystrophy, cerebral palsy, multiple sclerosis, autism, Huntington's disease, and myasthenia gravis combined. Betty J. Ticho and the Los Angeles County Epilepsy Society are providing much-needed assistance and information to our community.

I ask all Members to join me in recognizing and thanking Betty J. Ticho for 31 years of outstanding dedication and service in the interest of her fellow man.

AN ATTEMPT UNDERWAY TO EXCLUDE UNDOCUMENTED ALIENS IN CENSUS COUNT

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. BUSTAMANTE. Mr. Speaker, I would like to speak out in opposition to an attempt underway to add an amendment to the continuing resolution that would exclude undocumented aliens from the census count for purposes of reapportionment. Including undocumented aliens in the Commerce Department's Decennial Census is required by the Constitution of the United States, and cannot be held accountable for a potential loss of seats in the House by certain States. In addition to this, excluding these people from the census count will be detrimental to our Nation's census goals.

The Commerce Department has already announced its decision not to adjust the 1990 census to correct for undercounts. It is estimated that about 1 percent of the population of the United States was not counted in the 1980 census. By the census' own calculation, the national undercount of black citizens was 5.9 percent and the national undercount of Hispanic citizens was near 5.5 percent. In contrast, the calculated undercount for the white population was only seven-tenths of 1 percent.

The negative impact of this failure to properly account for all Hispanic and black Americans is felt most strongly in our cities and States with large populations of both groups. And it is these same cities that would be most harshly penalized by the proposal to eliminate undocumented aliens from the census count.

Many of our Nation's States with large Hispanic populations already lack proper representation because of this institutionalized oversight. Ignoring the constitutional directive to include undocumented aliens in the census count would only exacerbate this inequality.

Requiring the Census Bureau to account for all undocumented aliens would also prove to be operationally impossible. Including undocumented aliens for some census figures but not for others would require asking people their legal status. Such a question will undoubtedly elicit one of two responses from a vast majority of those aliens asked, dishonesty or noncompliance, both counterproductive to our census goals.

The undocumented population in America is afraid and extremely wary of involvement with Government officials. When asked if they are legally residing in the United States, many will answer "yes," simply out of fear. Such responses would only contribute to inaccuracies in the census count.

Those who honestly answer "no," will be all the more reluctant to divulge additional information about themselves on the census forms, and, most likely, will refuse to participate further. This would result in yet a greater undercount for cities and States with large alien populations, and an even more inequitable distribution of Federal funds and benefits.

Contrary to what proponents of this amendment contend, requiring the Census Bureau to exclude undocumented aliens from the count for reapportionment purposes would be directly counter to the Constitution, and exacerbate the present underrepresentation of cities and States with large Hispanic populations.

For these reasons, I believe that this amendment does not warrant consideration before the full House.

CONGRATULATIONS TO BILL PEARSON, TULSA LETTER CARRIER

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. INHOFE. Mr. Speaker, I would like to take this opportunity to commend an act of selfless bravery by Mr. Bill Pearson, a letter carrier in the city of Tulsa.

During a routine letter drop to one of the houses on his route, Mr. Pearson noticed that the house felt hot and he immediately investigated. After seeing that the house was full of smoke and fearing that people may be trapped inside, Mr. Pearson took charge. He had a neighbor phone the fire department and then he kicked in the front door. Fortunately, no one was inside but the fire threatened to burn down the house. Mr. Pearson put out the flames with a garden hose at great personal risk to himself and saved the house.

The appreciative homeowner later said, "If he hadn't acted like he did, I would have lost everything. That man did not have to do what he did. He put his life in jeopardy to save my house."

I congratulate Mr. Pearson for his quick thinking and courage. Mr. Pearson represents the best of Americans. His actions warrant high esteem for himself and the U.S. Postal Service.

NATIONAL PRODUCTIVITY WEEK

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. LEWIS of Georgia. Mr. Speaker, today, I am introducing a joint resolution to designate the week of April 10, 1988, as "National Productivity Week."

If any American citizen were to look around, they will find an increasing number of foreign made products croping up around them at an alarming rate. As a result of the flood of foreign products into the United States, we have begun to cope with the ill effects of a trade deficit which presently stands at $1.4 billion. Plain and simple, our Nation is loosing its productive edge.

While the United States remains the most productive Nation in the world, our Nation's industries must be perceptive and maintain their productive and competitive advantages over their competitors in world markets.

Because productivity has been in the news so often during the past 10 or 12 years it has become a familiar concept. Most of us know what it means. Moreover, we all are cognizant of how productivity affects us in an economic sense.

Another word which goes hand in hand with productivity is quality. Quality is certainly understandable to all of us. As consumers, we have learned that there is a great difference between a quality product and a lesser one. The same holds true for quality service.

But how often do we stop to think of how productivity affects our daily lives. Virtually everything and everyone is affected by the level of productivity and quality in business, industry, and government. If we are to continue to compete in the world marketplace we must continue to strive for new and improved levels of productivity and quality. The way this can be done is something we need to consider for a moment. However, before doing so, we must set the stage by reviewing the concept of productivity.

Productivity measures the relationship between the output of goods and services versus the amount of investment needed to create those goods and services. When more is produced from a given investment, the rate of productivity goes up. When the output is less from the same investment, then productivity goes down. From this short explanation, it is easy to assume that productivity is really a pocketbook issue for everyone. When output for a given investment increases, a business can sell more of its goods or services because a competitive price is possible. At the other end of the cycle, more and better paying jobs result.

Now that we all understand how productivity works and why we should all want improved productivity and quality in our workplaces. The next question is: Can these be accomplished by companies which have limited technical resources and few if any automated systems?

The answer to the question posed above is, yes. And this answer is given with only one stipulation. Whatever the size or type of business setting up a productivity improvement program, the plan must have widespread cooperation and participation. Everyone in a workplace needs to feel part of the process and proud of what they are doing to reach the goal. As our economy has expanded, jobs have become interdependent. It is good when an individual can improve his or her productivity, but even more improvement is realized through a team effort by all employees.

Such a program need not be elaborate, but should be measurable. Moreover, fostering an expression of ingenuity within an organization is paramount to improvements in productivity. Let me hasten to emphasize at this point that productivity is not only a major consideration for manufacturing and plant operations. But, it is a white collar concern as well. Considering that almost 80 percent of this Nation's work force is now employed in other than blue collar jobs, white collar productivity is a much more critical area of concern.

Some may ask: How could white collar jobs remain so inefficient with the advent of computers and the other electronic innovations which have been developed over the years? Some suggest that it is often because responsibility for cost and productivity is not specifically assigned to white collar work. Also, it is difficult to measure white collar productivity.

In closing, let me again remind you that the United States still leads the world in productivity. But forecasts by many economists place the United States by the end of the century far down the productivity ladder among developed countries in the world marketplace.

Mr. Speaker, conceding this kind of prediction would be to concede a departure from the quality of life most Americans now enjoy. My colleagues, we must not let it happen. Moreover, the answer lies in our determination to improve productivity in the years to come.

HOW YANKEE INGENUITY SAVED UNCLE SAM BIG BUCKS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. JEFFORDS. Mr. Speaker, I rise today to pay tribute to John Ledoux, a military technician and sergeant with the Vermont Army National Guard. While Congress and the Defense Department have been struggling to find ways of reducing military spending without harming the quality of our defense, John Ledoux has used his good common sense and knowledge of mechanics to save the taxpayer millions of dollars.

Mr. Ledoux has invented a hand-held device which detects whether the infrared lights on a helicopter are working. His device, built from parts acquired at a local electronics store, costs approximately $8.70. A far cry from the $4,500 pair of special goggles originally used by the military. The Army estimates Mr. Ledoux's gadget will save the Government an average of $6.3 million a year.

In a recent interview with a local Vermont newspaper, Mr. Ledoux stated he came up with his idea after watching engineers stand on a helicopter, in precarious positions, while trying to check the infrared lights. Aware of the risk of falling from the helicopter, as well as the possibility of destroying the expensive goggles, he set out to invent a more convenient method. The final product has done just that. A hand-held gadget, which provides safety for the engineer, as well as saving the American people over $6 million a year. This is certainly an accomplishment of which Mr. Ledoux can be proud.

IN MEMORY OF JOHN OLIVER KILLENS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. OWENS of New York. Mr. Speaker, I rise in memory of one of the most significant black American writers in more than 30 years, John Oliver Killens, who died Tuesday, October 27, of cancer in Brooklyn's Jewish Geriatrics Center. He was 71.

Killens was born in Macon, GA. He attended Edward Waters College, Morris Brown College, Atlanta and Howard Universities, and studied law while working at the National Labor Relations Board.

He was motivated to write by his grandmother, who once told him "The half ain't never been told." After 3 years of law studies at night, Killens gave up his dreams of becoming a lawyer because, as he explained, "I knew writing was the thing for me. It would be my raison d'etre and nothing else would matter." Killens' work was inspired by that of other great black authors such as Langston Hughes, Richard Wright, and Margaret Walker.

He first began writing formally during World War II, when he served in an all-black Army unit in the South Pacific. His first novel, "Youngblood," was published in 1954. His second novel, "And Then We Heard the Thunder," was based on his war experiences. The book concerns black soldiers living the contradiction of fighting and dying in segregated Army units to preserve freedoms not extended to them in their own country. Killens said the major part of the novel was based on an incident which actually took place: a race riot between black and white American soldiers at an Australian base. When the riot was over, most of the black soldiers involved were ordered to take part in invasions of islands held by the Japanese, and they were killed in the invasions. The Army denied that the riot had taken place and the Australian military conceded that it had occurred, but said records of the incident had been destroyed at the request of the U.S. Government.

Altogether, Killens wrote six novels, a book of essays, a biography, and several plays.

He was a member of the Black Filmakers Hall of Fame, the executive board of the writers' organization American PEN, and was the founding chairman of the Harlem Writers Guild.

Killens was also an adjunct professor at Columbia University, in addition to having taught at Medgar Evers College, the New School, Cornell, Rutgers, and Fisk Universities.

Killens and his family lived in Brooklyn, in my congressional district. He will be greatly missed by his family and friends, and those of us who were as inspired by his writings as he was inspired by the established black authors of his generation. He has contributed a great deal to American literature, to black scholarship and literary arts, and to current and future generations of writers, in this country and abroad. His genius and his influence will leave a lasting impact for years to come.

LET'S CLEAN UP OUR WATERS

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. SAXTON. Mr. Speaker, this summer New Jerseyites experienced directly the results of man's lack of respect for his environment. Like in many eastern seaboard States, we watched as garbage, industrial waste, and sewage sludge was deposited by the sea on our beautiful Atlantic coastlines. This problem is more than just the responsibility of the coastal States, it is a small portion of a very large environmental situation for which all Americans must be concerned.

In my many efforts to bring an end to the ocean depositing of hazardous substances, I have had the opportunity to work closely with my colleague from New Jersey, BILL HUGHES. Together we have been able to promote a more rapid response to the need for a cleanup and preservation plan for the New York Bight. Also, I have had the privilege of serving as an original cosponsor of Mr. HUGHES' H.R. 3595. This bill requires vessels to manifest the transport of municipal or other nonhazardous commercial wastes transported offshore to ensure that these wastes are not illegally disposed of.

Recently, Congressman HUGHES eloquently articulated the need for further measures to protect our oceans. I am inserting his statement into the RECORD so that all Members may realize the extent of this problem.

STATEMENT BY CONGRESSMAN WILLIAM J. HUGHES

Mr. Chairman, in 1951, Rachel Carson (the author of "Silent Spring") wrote:

"The sea lies all around us. The commerce of all lands must cross it. The very winds that move over the lands have been cradled on its broad expanse and seek ever to return to it. The continents themselves dissolve and pass to the sea, in grain after grain of eroded land * * *. In its mysterious past it encompasses all the dim origins of life and receives in the end * * * the dead husks of that same life. For all at last returns to the sea—the beginning and the end."

Mr. Chairman, that quotation beautifully sums up the tremendous significance of the oceans in all aspects of our lives and of our global environment, past, present and future. Given this significance, it is truly remarkable that—unlike many other great environmental resources—the ocean often seems to have no constituency.

Over the years, few have objected as, time after time, we have used the ocean as the most expedient way to rid ourselves of troublesome waste products for which we have no alternative means of disposal. The dumping of sewage sludge, chemicals, acids, dredge spoils, munitions, nuclear waste and a host of other materials, have combined with raw sewage, illegal dumping, and agricultural runoff to make one big mess of our ocean. In time, this mindless degradation was bound to come back to haunt us.

Just this past spring and summer, New Jersey suffered a barrage of adverse publicity as a reuslt of all kinds of waste washing up on our shore. In May, we had a 20-mile trash slick along the coast made up of various debris. In June, a slick of sludge containing fecal matter and other waste closed beaches in Ocean County, still with no clue to its source.

In July, we witnessed large numbers of dolphins, dead or dying, found washing up on our beaches. The exact cause is still unknown. August brought us another garbage slick, this time stretching along 50 miles of our coast and containing timber, hypodermic needles, and other hospital waste. Again, the beaches were ordered closed because of potential health risks.

These incidents generated an unprecedented amount of negative comment, public concern and confusion among those who live, work, or visit at the seashore. Those who utilize the ocean for sport and commercial fishing, shellfishing, tourism, boating, swimming, and a host of other activities were particularly alarmed. People are naturally concerned that our water quality has been jeopardized and, some are even afraid to swim in the ocean. Ironically, we have always believed that the ocean has healthful, if not medicinal, qualities. Now, some fear that the ocean is the source of virus and infection and is not suitable for bathing or swimming. That's understandable. Who would want to swim amid debris that you usually find in a landfill?

These conditions just did not happen overnight or unexpectedly. Indeed, in the past years we have experienced algae blooms, red tides, green tides, trash slicks and other similar incidents. For the past 12 years, I have helped to lead the fight to end the ocean disposal of materials that are potentially harmful to the public health and the marine environment. In 1977, for example, Congress overwhelmingly approved legislation which I authored to end the ocean dumping of harmful sewage sludge by the end of 1981.

That law forced a number of cities, including Camden and Philadelphia which has relied upon ocean dumping, to find alternative means of disposing their wastes. The same is true for the over 300 chemical dumpers that have ceased ocean dumping and who have found other suitable alternatives.

Unfortunately, in the face of eleventh-hour legal challenges brought by New York City seeking to avoid compliance with the law, the E.P.A. decided to play dead and refused to appeal an adverse lower court decision that gutted my ocean dumping law. As a result, we lost much of the momentum we had established up to that point, and New York City, the granddaddy of the dumpers, and other municipalities have been allowed to continue dumping in the ocean under that court decree.

It is clear that we must regain that momentum. In the 98th, 99th, and 100th Congress I have sponsored legislation to ban the ocean dumping of sewage sludge and other toxic wastes. In 1983 and 1985, I introduced legislation to close the 12-mile dump site and to address the serious problem associated with the broad range of pollutant inputs to the area. The bills passed in the House but, unfortunately, they did not pass in the Senate. The recently passed Clean Water Act; however, does contain our provision that all ocean dumping will be phased out of the 12-mile dump site and shifted to the 106-mile site on an interim basis. This is a good first step but it is only part of the solution. We need to do more.

We do not yet have a comprehensive plan in New Jersey for the disposal of wastes. Our State resorts to ocean dumping because there are no land-based alternatives, and we are rapidly approaching the 1991 deadline when the permit for the 106-mile site expires. It is clear that we must anticipate that deadline and begin developing a comprehensive plan that includes pre-treatment, point-source interception of hazardous contaminants, funding for land-based disposal alternatives, and stronger enforcement.

To this end, I have joined with my colleagues Congressmen Saxton and Carper, in legislation that imposes a stiff per ton fee on municipalities that continue to dump into the ocean between now and 1991. It is our strategy to make this 1991 deadline as the legislatively mandated date for phasing out the 106-mile dump site. In addition, the legislation provides the financial mechanism to accomplish what New Jersey and New York have thus far not attempted—the development of land based alternatives for sludge disposal. Resource recovery, recycling, thermal reduction, and composting are only a few of the alternatives that are available now as a means to better manage our waste.

Congressman Saxton and I have also introduced H.R. 2791, the New York Bight Restoration Act, H.R. 562, the Ocean Dumping Amendments Act, and H.R. 3595, the Shore Protection Act. These three bills are part of an ongoing effort to protect the coastal and marine waters. Among other key provisions, the New York Bight restoration plan calls for the EPA to submit to Congress a plan that would revitalize and restore the bight. H.R. 562 encourages municipalities to find land based alternatives to ocean dumping and requires the municipal authorities to meet current pretreatment requirements. H.R. 3595 imposes a cradle-to-grave manifest tracking system for vessels carrying garbage and commercial waste to ensure that the waste is not illegally disposed of in the ocean or coastal waters.

Congressman Saxton and I have also introduced legislation that would increase the penalties imposed under the Marine Protection Research and Sanctuaries Act and the Clean Water Act for violations involving medical wastes. The bill also amends the Solid Waste Disposal Act to create a manifest reporting system to enable us to better track the generation, storage, and disposal of hospital generated waste.

At the same time, we must review our current marine disposal activities and policies. Ocean and coastal outfalls, coastal sewage treatment facilities that fail to comply with regulations, and uncontrolled nonpoint sources are all factors that contribute to the degradation of the water quality. Just recently EPA concluded that excess nutrients in the ocean and back bay waters, partly from outfalls, help to create the "green tides" and algal blooms when certain atmospheric and other conditions are present. We must develop new strategies to deal with these problems.

Finally, we need to determine whether the laws directed at the illegal dumpers are being properly implemented and enforced.

Clearly, new laws alone will not stop ocean pollution. I recently walked along the beach in Ocean City, New Jersey, and observed hundreds of beer and soft drink containers littering the high water mark in just a three-block area. How can we legislate common courtesy or good citizenship for those responsible for this trash? Obviously, we must do a better job of educating people not to litter the beaches and near shore waters with garbage and impose stiff penalties on those that persist in violating our laws. We must also develop policies which reduce the production of hazardous and non-recyclable materials, and to utilize resource recovery and recycling more aggressively. There is a limit to both our natural resources and our wastefulness.

I am confident that through a combination of new laws, technological innovation, public education and commitment by concerned citizens, we can develop a more comprehensive and effective policy to protect the marine environment and preserve its natural wonders for future generations.

CONGRATULATIONS TO JULES RABIN ASSOCIATES

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. McGRATH. Mr. Speaker, I would like to take this opportunity to congratulate my many friends employed at Jules Rabin Associates as they mark a third of a century in business in my home community of Valley Stream, NY.

Thirty-three years ago, an enthusiastic former reporter, Julie Rabin, established his small advertising firm. As one of the first agencies of its kind in the area I represent, Julie had to prove himself to those who were skeptical about the ability of a public relations firm to improve their businesses. Through hard work and innovation, Jules Rabin Associates has played a leading role in Long Island's commercial growth. But their contribution to the community goes beyond the world of business.

Rabin Advertising has made a tremendous effort to assist the Multiple Sclerosis Society of Long Island. Julie Rabin founded the Long Island Sports Hall of Fame, and continues to organize its annual induction ceremonies. The firm also recently sponsored the acclaimed Anne Frank Exhibition with the Fine Arts Museum of Long Island. That exhibit is now on a world tour. These are only a few examples of community service performed by a small business with a large supply of energy and imagination.

I hope others will follow the lead of Julie Rabin and the members of his firm. Their old-fashioned recipe for success and tireless public service are an example for large and small businesses to emulate. I congratulate them and hope that they enjoy many more prosperous years.

THE EDUCATION SYSTEM

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. RITTER. Mr. Speaker, the following article is from the November 20 edition of the Washington Post and was written by William Raspberry. In a world in which we find our country in a great struggle for competitive advantage, this article makes some suggestions for improving the guts and brains of any economy, the education system.

[From the Washington Post, Nov. 20, 1987]

WHEN INDUSTRY GETS A DEFECTIVE SUPPLY OF WORKERS

(By William Raspberry)

Educators can be forgiven if they have mixed reactions to a recent speech by the head of the Xerox Corp.

On the one hand, David T. Kearns obviously believes their work is of critical importance to America. On the other, he believes they are doing an unforgivably bad job of it.

"Public education has put this country at a terrible competitive disadvantage," Kearns told the Economic Club of Detroit a month ago. "The American work force is running out of qualified people.

"If current demographic and economic trends continue, American business will have to hire a million new workers a year who can't read, write or count. Teaching them how, and absorbing the lost productivity while they're learning, will cost industry $25 billion a year for as long as it takes. And nobody knows how long that will be."

It isn't primarily the money that outrages Kearns, although outlays for public education, which have doubled or trebled every decade since World War II, now consume nearly 7 percent of the GNP. His concern is the product: a drop-out rate approaching one in four; another quarter finishing high school lacking acceptable reading, writing and computation skills and, despite the rhetoric of school reform, little evidence that things will get better soon.

"At Xerox," he said, "we expect 100 percent defect-free parts from our suppliers. We're getting 99.9 percent, and we're still going after that last one-tenth of a percent. The public schools are the suppliers of our work force. But they're suppliers with a 50 percent defect rate. . . .

"Teaching new workers basic skills is doing the schools' product recall work for them—and frankly, I resent it."

Kearns acknowledges that business has played a role in the deterioration of public education—even when it attempts its numerous partnerships with the education industry. The reason: the "feel-good" partnerships, in which the schools set the agenda. No more.

"Business will have to force the agenda, or we'll have to set it ourselves." And the sine qua non of the new agenda must be accountability.

Kearns proposes a six-point plan for the fundamental restructuring of education.

Choice. Under his scheme, which he does not call a voucher system but which looks a good deal like it, states would fund students, not schools. If students were free to attend the public school of their choice, bring their education dollars with them, schools would have to compete for students, their income would depend on their ability to satisfy their customers, and poor families would have options that only the affluent now enjoy.

Restructuring. Like the best of the high-tech companies, schools need leaner, flatter organizations in which the professionals are both free to do what needs to be done and accountable for its successful accomplishment. Schools would design their own curricula, decide their own methods, textbooks and service suppliers—and be shut down by the state if they failed to meet minimum levels of competency, measured by student performance.

Professionalism. "Teaching is the only profession I know of that if you do well, nothing good happen to you . . . and if you do poorly, nothing bad happens to you." His free-market rewards for successful teaching would include salary schedules based on performance rather than simple longevity and the accumulation of certificates.

Standards. Academic requirements for all students would be raised. "How dare we arbitrarily consign our kids to two different futures—college prep for the affluent and dead-end vocational or general courses for the disadvantaged. . . . Every student—without exception—should master a core curriculum equivalent to college entrance, requirements. No one should be promoted without performance. Kids who need extra help should get it."

Values. "Anyone who thinks it's possible to have a value-neutral education is dead wrong. Everything is not relative. Exclude values from the schools, and you teach that values aren't important."

Kearns would not have the schools push particular religions. "But they should recognize that children can learn integrity as well as literature, morality as well as science. . . . The Harvard Business School is not the place to start teaching values and ethics."

Federal responsibility. He acknowledges that the federal role in education is limited, but insists that a lot can be done within those limits. "The one area in which Washington ought to excel—and doesn't—is research. You may not believe this, but education—a $150-billion-a-year industry—is supported by only $100 million of research by the federal government. That's less than one-tenth of one percent. . . . At Xerox, we regularly invest about 7 percent in R&D."

Kearns, who would like his ideas discussed by the presidential candidates and has been disappointed by the "empty rhetoric" with which most of them have addressed education, is frank to acknowledge that his interest is selfish, though it has implications for the future of America.

"The fact is, the basic skills of our work force—particularly at the entry level—are simply not good enough for the United States to compete in a world economy."

EXPEDITING CONSIDERATION OF ASBESTOS CASES

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. MOAKLEY. Mr. Speaker, I have become increasingly concerned of late over the continued hardship asbestos-related disease victims and their families must face as they wait for the Federal courts to process their personal injury cases. Injuries related to asbestos exposure have left a deep scar on many working families in our country. The distressful situation they must confront as their loved ones become progressively ill and often face death has been further compounded by the frustrating delays these families encounter while the court system processes their cases. The healing necessary for many of those affected can only begin when their cases are given their day in court.

As I understand it, the court delays can be addressed by increasing the number of judges involved in hearing these cases. We need to voice our concern on this matter and to encourage the system to allocate as many of its resources as possible to help process these cases more quickly. It is the only fair, right and just thing to do.

THE DANGERS OF DÉTENTE II

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. OXLEY. Mr. Speaker, as the Reagan-Gorbachev summit draws near, it is important to remember the mistakes of the past while keeping in mind the promises for the future.

The summit next week is not, and should not be considered, a segue to détente II. Rather, the summit is simply an opportunity to sign an historic agreement between the two superpowers. An agreement, by the way, which is the result of the strong national defense and foreign policy which President Reagan has pursued throughout the last 7 years.

Richard Perle, former Assistant Secretary of Defense for International Security Policy, offers this view in the following article. Mr. Perle eloquently explains the dangers and pitfalls of a second détente in U.S. News & World Report on November 23. I strongly encourage my colleagues to read this article.

The article follows:

THE DANGERS OF DÉTENTE II

(By Richard Perle)

Not even Pac-Man with my 8-year-old son Jonathan at the joy stick could negotiate all the crossroads at which American foreign policy is said to stand. That's just as well: A crossroads syndrome has long afflicted our thinking about the world, creating a seldom justified sense of portentous turning points. Nowhere is the crossroads mentality more evident than in the longing for a new direction in the relationship between East and West. Yet what we need most often—and especially in our relations with the Soviet Union—is not the agility to shift direction but a star by which to navigate.

Détente is not that star, and the Washington summit next month is not a crossroads. It is no more than an occasion to consummate a treaty, first proposed by the President in 1981, eliminating medium-range missiles—a validation of the rewards of strength and patience that argues persuasively for more of the same.

Yet President Reagan, for all the talk of tough bargaining, seems strangely to harbor the silly notion that when Mikhail Gorbachev, General Secretary of the Communist Party of the Soviet Union, comes to America and sees at first hand the cars of ordinary workers overflowing the parking lot at the Tysons Corner Shopping Center in suburban Virginia, he will be awe-struck by the virtues of capitalism and individual liberty. The Washington summit will be an epiphany of ideological revisionism from which a chastened Marxist-Leninist will learn the lesson of freedom. This romantic notion, Hollywood on the Potomac, is devoid of any sense of history of reality. It ignores the Soviet view that détente amounts to nothing more than Western acknowledgement of Soviet power, a reflexive obeisance to what Moscow calls "the correlation of forces."

The beguiling notion that we and the Soviets are at a crossroads stems from the belief that Gorbachev, eager for a more congenial and constructive relationship with the United States, is prepared to abandon Moscow's preoccupation with military power in order to achieve it. Just turn at the next light and we will find ourselves on a new road, a highway to détente, in which confrontation will give way to negotiation and a spirit of accommodation will transform the discordant conflicts of the cold war into a new political harmony.

REMEMBER THE FIRST TIME

For those too hardheaded to appear lyrical, the crossroads of a new détente is said to derive from the increasingly evident failure of the Soviet economy and Gorbachev's desire to reform it. Burdened by a massive military budget consuming 20 percent or more of the Soviet GNP, Gorbachev, they argue, has no alternative but to restructure relations between East and West along more peaceful lines, reconciling old differences and disarming as fast as Reagan will allow: Away with medium-range missiles, abolish chemical weapons and stop nuclear testing. Cut strategic arsenals in half and abandon strategic defenses. Bid farewell to Afghanistan and welcome a human-rights conference to Moscow. Sign up Moscow for membership in the free world's international economic institutions and cooperate in science, technology and culture Détente II is just around the corner.

But before we make that turn and follow the Eastern Star of Détente II, it would be well to reflect on the theory and practice of Détente I. This was, of course, the Nixon-Kissinger strategy of substituting cooperation for confrontation in the U.S.-Soviet relationship, thereby entangling the Soviets in a "web of interrelationships" that would tie down a pacified Soviet Gulliver with a thousand Lilliputian threads.

Détente I began in 1970 and was in full swing in 1972 when Moscow and Washington signed the ABM treaty and an "interim agreement" limiting strategic offensive arms. The latter was described as a "freeze" that the Nixon administration said would "halt the momentum of the Soviet strategic buildup" then under way. The former, under which we scrapped our plans to build a limited ballistic-missile defense, was agreed to on the dubious grounds that limits on the growth of Soviet offenses would obviate the need for American defenses.

Now, 15 years later, the Sovet strategic arsenal is larger by some 8,000 powerful and accurate ballistic-missile warheads, along with greatly expanded conventional forces—tanks, artillery, ships, aircraft, missiles and the like. Soviet military spending increased dramatically after the 1972 agreements. Some freeze. In contrast, the United States cut defense spending in real terms by 3 percent a year. Momentum was halted, all right, but it was ours and not theirs.

The 1972 accords on offensive and defensive strategic weapons were followed by a torrent of other agreements. One was intended to reduce the risk of nuclear war by requiring that knowledge of possible military action obtained by one party should be shared immediately with the other so that the superpowers might cooperate to avert hostilities.

The ink was barely dry on that one when the Soviets assisted the Egyptians and Syrians in planning the Yom Kippur War against Israel. The Soviets knew of the planned attack in time to remove their dependents from the war zone. Yet in the hour before it came, Soviet officials in Washington were talking of a Middle east peace initiative, masking the war that was about to begin. When the surprise attack came, the Soviet moved quickly to resupply Egyptian and Syrian forces, opposing U.S. calls for a cease-fire. When Israel later recovered from the initial assault and took the offensive, the Soviets put their nuclear forces on alert, demanded a cease-fire and threatened to intervene directly.

Other agreements established cooperative programs in space, housing, transportation, science and technology, medicine and the arts. A steady stream of Soviet agents, the détente brigade, made their way to our shores to collect intelligence and technology, expanding greatly a vast network set up to steal American technology for use in Soviet military programs. Even the Department of State would later reflect on the slapdash mélange of cooperative programs by observing that the benefits flowed principally from West to East.

It was in this period of cooperation that we agreed to let the Soviets build a new Embassy at a location in Washington ideally situated for intercepting our telephone conversations, while a new American Embassy in Moscow was relegated to a site unusable for such purposes. That new American Embassy, by the way, is the one found so riddled with KGB listening devices that it may well have to be torn down even before it is complete.

ADVENTURISM AND EXPLOITATION

This was no slack period for Soviet adventure. Remember Angola? It was in the heyday of détente that the Soviets, using their Cuban proxies, intervened to bring about a Communist regime there. (To be fair to Kissinger, he did argue in vain against legislation from a détente-minded Congress that forced us to abandon Angola to the Communists.) From Angola to the Horn of Africa to Central America to Southeast Asia to Afghanistan, the Soviets, under the cover of détente and while "cooperating" with any Western institution with the postage for an invitation, worked to exploit instability, undermining fledgling governments and installing Marxist-Leninist regimes congenial to Moscow. And while Rome burned, Washington fiddled its way through a sterile debate over whether, in a period of détente, it was appropriate to link agreements on arms control to Kremlin behavior around the world or the plight of Soviet Jews and dissidents at home.

One of the lessons of the Nixon-Kissinger détente is that the idea that cooperation with the Soviets gives us leverage over them, enabling us to suborn them with solicitousness and kill them with kindness, is simply wrong. It was Soviet influence in Washington and not American influence in Moscow that emerged from détente. This is hardly surprising. On the Soviet side, détente was managed centrally, out of the Kremlin, utilizing all the institutions of a totalitarian state. On our side, the conduct of détente was largely in private hands: Companies that sold them technology, universities that trained their middle-aged "students" in sensitive technical subjects, scientists who helped them in physics or computing or space research, banks that lent them money.

LEVERAGE, ALL RIGHT, BUT FOR WHOM?

No administration in Washington could hope to orchestrate a comparably coordinated policy in which the flow of benefits could be used to elicit more-accommodating policies. Just try telling Stanford or Yale (or the Department of Commerce, for that matter) to shut down a cooperative program with the Russians because they are behaving badly in Angola or because they are pumping vast resources into a buildup of military power. Or try asking a businessman or farmer to cancel his Soviet contracts because Anatoly Shcharansky has been packed off to the gulag on trumped-up charges of spying for the United States. The only thing wrong with the Nixon-Kissinger theory of leverage through détente was the naive assumption about who would wind up with the lever.

If détente began in earnest with the Nixon-Brezhnev summit in 1972, it ended with the Soviet invasion of Afghanistan in 1979. All along, détente theory held that contact between Russians and Americans would lead to Soviet introspection and reform as blinkered Bolsheviks discovered through shared experience that we meant them no harm. The scales would fall from their ideological eyes. But in 1979 it was Jimmy Carter who had a revelation. The invasion of Afghanistan on Christmas Eve, as the second strategic-arms agreement was being debated in the Senate, had changed his opinion of the Russians "more drastically in the last week than even the previous 2½ years." When the scales fell, they fell from the President's eyes.

But what about *glasnost* and *perestroika*, the Gorbachev program aimed at extracting goods and services from a moribund, failing economy? Doesn't Gorbachev, unlike his predecessors, want and need a respite from the burdens of military spending, a reordering of priorities that will open the way to a second, this time real, détente?

When confronted with a choice between acting on the basis of theory or evidence, we are wise to choose the latter. Lives, battles, fortunes and even nations have been lost in the pursuit of petty theories unsupported by evidence. And there is not a shred of evidence that Gorbachev's restructuring has diminished by a single kopeck the resources flowing to the military, the KGB or the worldwide program of subversion that flourished under the last détente and since.

The Gorbachev proposals on arms-control issues still being negotiated would, in every case, increase the relative strength of the Soviet Union and continue the pattern of massive military spending. Had he wished to do so, Gorbachev could by now have reduced his military forces while still maintaining vast superiority in conventional arms and armies—and that's where the money is. If he wished to withdraw the Red Army from Afghanistan, it could be home by Christmas.

As for the cooperative programs that every agency in Washington is eager to establish, the pattern of Détente I is almost certain to be repeated in Détente II. The alacrity with which the Soviets will sign up to siphon off our technology tells us nothing about their willingness to moderate aggressive international goals and behavior. But our enthusiasm for these programs tells us a great deal about how mindless the bureaucracy in Washington is when, unguided by any serious, disciplined policy, it acts on theory and not on evidence.

As the pre-Christmas summit draws near, we should look hard at the lessons of Détente I before we become enveloped in the euphoria of Détente II. And as for a star to guide us, the Western Star will do just fine.

VOLCKER COMMISSION WINS HIGH PRAISE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. FORD of Michigan. Mr. Speaker, it will not surprise Members of this House when I say that it is, in my view, of critical importance to the Nation that its Government is served by career servants of the highest quality.

Indeed I would trust that such a view would be endorsed by all of us. In saying that, it is not a matter of big government or small government but rather quality government at all levels.

I recently had the opportunity to meet and talk with members of the National Commission on the Public Service, a new nonprofit organization funded by private foundations and corporations and chaired by Paul Volcker, the distinguished former Chairman of the Federal Reserve Board, whose own reputation for dedicated public service is probably unparalleled in recent times. Mr. Volcker has encouraged a group of 35 other prominent Americans, who share his concern that the quality of the career services may be declining, to join with him to spend the next 18 months to study the problem and consider what can and should be done to reverse that trend.

That group includes such distinguished citizens as Gerald Ford and Walter Mondale, former Senators Muskie, Mathias, and Tower, the presidents of several of our best Ivy League and urban universities, the president of the League of Women Voters, and senior labor and business leaders. As chairman of the Post Office and Civil Service Committee, I want to express my appreciation to Chairman Volcker and his commission for their commitment.

Recently one of the members of the Volcker Commission, the Honorable Elliot Richardson, contributed an article relating to the commission's work to the OP Ed pages of the Wall Street Journal, and I include it in the CONGRESSIONAL RECORD. That article is an eloquent statement of why quality Government service is of special importance to the business community of our country. I might add that it is surely of equal importance that we in Government take some lessons from the business world—not least in learning what it takes to attract and motivate good people in getting a job done.

CIVIL SERVANTS: WHY NOT THE BEST?

(By Elliot L. Richardson)

Lacking any real knowledge of how government works, too many members of the business community subscribe to the notion that the abler the government official, the more he or she will seek to enlarge the sphere of government at the expense of the private sector. To prevent this, they want the machinery of government placed in the hands of unambitious timeservers who will keep the wheels turning but can be counted on not to reach out for larger roles.

They mirror the views of Terry W. Culler, associate director of the Office of Personnel Management in President Reagan's first term. In an article published on this page last year, he contended that "government should be content to hire competent people, not the best and most talented people." The "best and brightest," indeed, should not work in government at all, but should instead be channeled into the private sector where national wealth is created.

This simplistic view is diametrically opposed to the interests of business itself. Mere competence will not ensure that government programs fulfill their purposes with the least possible encroachment on the private sector.

TODAY'S CHALLENGE

The confident era of expanding government that attracted the "best and brightest" to the New Deal, the New Frontier and the Great Society is long since over. Today's challenge is more complex. It is to keep the federal government from being totally overwhelmed by the additional tasks that no other level of government is equipped to perform. Among these new demands are cleaning up toxic wastes, ensuring air safety, deterring insider trading, containing terrorism, holding down the escalation of health-care costs, combating the AIDS pandemic, promoting competitiveness, and fighting drug abuse.

If this daunting array is to receive any response at all, it can be only in a manner that makes the most efficient possible use of limited political, managerial and fiscal capacity. Today's constraints on federal ambition are practical, not ideological.

This is why our nation now needs better motivated, better trained, better qualified and better paid public servants than ever before. The government decision maker, administrator, or program designer must have a deep understanding of the systemic relationships affected by government action. Equally necessary is a sophisticated capacity to select the tool best suited to the task at hand.

To minimize the risk of undesired side-effects, government programs have to be designed and executed with knowledge and skill. Conversely, clumsiness, ignorance, or indifference can lead to further intervention in order to correct the mistakes caused by the initial intervention. The result can be like trying to even up the legs of a chair so that it will sit firmly on the floor: You take a little off one leg and then a little off another and another until you end up with a legless chair.

The more concerned you are, therefore, with protecting individual freedom and preserving private initiative, the more you should care about the quality of government. An ideological bias against big government is of less than no use. Indeed, all it does is get in the way of the understanding necessary to control big government. One thing is certain: Big government won't go away.

A second consequence of the mediocrity-is-sufficient fallacy is its tendency to undermine the relationship between political appointees and the career services. This relationship requires cooperation and respect between competent political managers who have a clear sense of what they want to accomplish and experienced bureaucrats who know how to get things done. Highly capable civil servants, in any case, could not by themselves, even if they wanted to, bring about the enlargement of the government's role: This kind of decision is not in their hands.

The trouble is that all too many political appointees enter government service without understanding any of the above. They suspect, instead, that senior civil servants lie awake at night scheming to sabotage the president's agenda and devising plans to promote their own. Having worked with most of the career services under five administrations, I can attest that this is not true. Although many civil servants have ideas they are glad to put forward and would like to see adopted, they do not see themselves as performing a policy-making role. When approached with distrust, they respond with hostility, and the loser is the public interest.

Compounding all these negative influences on the career services are the increase in turnover and the decline in quality of second- and third-echelon political appointees. According to a recent study by the National Academy of Public Administration, the tenure of Senate-confirmed appointees, which was 2.8 years under President Johnson, 2.6 years under President Nixon, and 2.5 years under President Carter, has dropped to two years under President Reagan.

One result is that the tour of duty of a given appointee seldom overlaps for more than a few months with the tours of the other non-career people with whom he works. There has been a drop, meanwhile, in the experience level of political appointees with respect both to government generally and to their agency's field of responsibility. A contributing factor, no doubt, has been the elimination from the pool of eligible prospects of those who cannot meet the ideological litmus test.

As if this weren't bad enough, more and more political appointees are being pushed into jobs traditionally held by career officials. In addition to reducing the number of positions at the top that remain open to a civil servant, the consequence is to place minimally qualified individuals in highly important posts.

Almost any job at the deputy assistant secretary level, for example, is more responsible and has wider impact on the national interest than most senior corporate positions. In the State Department, a deputy assistant secretary is responsible for all of Southeast Asia. In the Commerce Department, a deputy assistant secretary is in charge of export controls. A deputy assistant attorney general heads the war against organized crime. Comparable responsibilities belong to every similar position throughout the government.

But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type—a campaign advance man, or a regional political organizer. For a senior civil servant, on the other hand, it's irksome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn't know the difference between an audit exception and an authorizing bill. From 1981 to 1986, the number of non-career Senior Executive Service members increased 13.1%, while the number of career SES members decreased 5.3%.

PSYCHIC INCOME

I have many friends who once held responsible but not necessarily prominent roles in government and who now occupy prestigious and well-paid positions in the private sector—some of them very prestigious and very well-paid. Not one finds his present occupation as rewarding as his government service. If they feel this way, so must a lot of others, and that could explain why business executives are paid so much more than their government counterparts. Society treats public servants, together with teachers, ministers, and the practitioners of certain other honorable but low-paid callings, as the beneficiaries of a high level of psychic income. But the psychic income of public service is being steadily eroded, harming the government's ability to respond to the ever more difficult demands that the years ahead are sure to place upon it.

To combat this erosion, I and others have formed a National Commission on the Public Service. Headed by Paul Volcker, the panel will seek to build public awareness of the essentiality of the career services to carry out the national agenda, promote measures for strengthening the morale and efficiency of government employees at all levels, encourage the pursuit of excellence by government workers themselves, and make government a more attractive and accessible career choice for young people. The commission's effectiveness will depend on convincing business that it has an enormous stake in the fulfillment of these objectives.

TRIBUTE TO LEE KINARD

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. COBLE. Mr. Speaker, on December 16, 1987, Mr. Lee Kinard of WFMY-TV in Greensboro, NC, will celebrate 30 years as the host of the "Good Morning Show." An entire generation in the piedmont of North Carolina has grown up with Lee. He has been the mainstay of the "Good Morning Show" since it first signed on the air on December 16, 1957.

Lee claims he was selected as host of the "Good Morning Show" three decades ago because he was "in the right spot at the right time." Nothing could be further from the truth. He was chosen because of his outstanding broadcasting skills which he has displayed every Monday through Friday for the past 30 years. As WFMY-TV's program director Gomer Lesch said, "I don't believe we ever seriously considered anyone else for the show." Those of us who have spent the past 30 years beginning our day with Lee Kinard cannot imagine anyone taking his place.

In addition to his morning show duties, Lee is an anchor on the evening news and specializes in travel reports from all corners of the world. Lee is a devoted husband, father and grandfather, and a respected member of the community. All of us in the Sixth District are proud that in the sometimes transient world of broadcasting, Lee decided to make our area his home for the past 30 years. We are all the richer for it. Congratulations, Lee, on 30 years of outstanding achievement as the host of the "Good Morning Show." We look forward to at least 30 more years of quality broadcasting.

IN HONOR OF BRUCE VENTO, 1987 CONSERVATIONIST OF THE YEAR

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. LEHMAN of California. Mr. Speaker, it is with great pleasure and enormous pride that I rise to share with my colleagues the announcement that our chairman of the Subcommittee on National Parks and Public Lands has been named 1987 Conservationist of the Year by the National Parks and Conservation Association. BRUCE VENTO now stands alongside such distinguished past recipients as the Honorable MO UDALL and William Penn Lott, Jr., Director of the National Park Service.

For those of us who serve with BRUCE VENTO on the House Interior and Insular Affairs Committee, we have known privately for a long time what the National Parks and Conservation Association has now announced publicly. BRUCE VENTO is tireless and unstinting in his work on behalf of the National Park System. When he labors for our National Parks, he labors for all Americans, for this generation and all those generations yet to come. The National Parks and Conservation Association noted:

Without BRUCE VENTO's leadership and perseverance, the establishment of Great Basin National Park, the first new national park in the lower 48 states since 1971, most likely would not have been successful. He continues to be in the vanguard on national park matters in the Congress and has exhibited a strong land and preservation ethic during his tenure.

Mr. Speaker, on the occasion of BRUCE VENTO's award, he gave a major address on the future of America's National Parks. I would like to share excerpts from this speech with my colleagues.

REMARKS BY CONGRESSMAN BRUCE VENTO, BEFORE THE NATIONAL PARKS AND CONSERVATION ASSOCIATION, NOVEMBER 19, 1987

This annual meeting of the National Parks and Conservation Association is an annual celebration of the greatest gift and responsibility ever provided the American people, the National Park System.

* * * * *

You and the future generations of conservationists that you will train are the citizens who must provide the backbone to protect the existing system and lead the battles to pass the laws needed which will add new units that should be part of the National Park System.

The past is prolog. Battles have been won—the most recent to establish Great Basin National Park. But new challenges must be met and battles fought not only for natural parks like the Samoan Rain Forest and Tall Grass Prairie but for preservation of our cultural and historical resources.

There are many who oppose any additions to the National Park System. I have heard the arguments for the last eleven years that the National Government does not have the money to buy land, to hire Park staff or to build facilities for people to use. To that argument I can only say that a nation that does not have the commitment, the will to protect its most outstanding and significant natural and cultural heritage is indeed impoverished, not in money but in their minds and hearts. A society that knows the cost of everything and the value of nothing is indeed impoverished.

* * * * *

The National Park System is not complete.

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On a visit to American Samoa early this year I talked to the high chiefs of Samoa about a park to protect parts of that beautiful land and its culture. * * * I saw the untouched paleo-tropical forests and coral reefs of American Samoa, two ecosystems of worldwide concern that are not represented in the National Park System today.

* * * * *

My district has a population of over 10,000 Hmong immigrants from Indochina. Minnesota has 33,000 Indochinese refugees. A small part of the new wave of immigrants from Asia, Africa, South America and the Near East; all of whom bring new history and culture to enrich our Nation. Our vision of the future of the Park System should certainly include suitable park units that would preserve the values of those great cultures.

Neither do I believe we have adequately reflected the history of the black culture, the women's movement, the labor union evolution nor numerous other cultural themes in the Park System. There is surely the opportunity for nationally significant designations today and tomorrow.

* * * * *

There are many challenges that we face to protect the Park System. Challenges that are certainly worthy of all of our intellect and energy. The threats to the park resources are approaching from all quarters and with increasing intensity.

Air pollution is insidiously degrading lakes and rivers, trees and flora of all kinds, even the valued views of distant mountains and canyons.

* * * * *

Another challenge we face is the adjustment of park boundaries. The physical boundaries reflect the vulnerability of the National Park System.

* * * * *

The Park System has about 2 million of private land acres within the park boundaries. * * * Clearly we must undertake a vigorous campaign to address this concern and acquire such inholdings in an orderly but deliberate manner.

* * * * *

The National Park Service has faced some difficult years. The people in the Park Service have had their mettle tested in ways that have astounded and frustrated them, and all of us who have worked to protect the professionalism of the National Park Service. * * * I think this time of testing has shown all of us that we must look for a better institutional framework for the National Park Service that would provide for some degree of independence of actions so that a park superintendent can freely and publicly voice opposition to an action that might degrade park resources without fear of being fired, demoted or punished.

* * * * *

The National Park System is special. The National Park System tells us many things about ourselves as a people and a society. We can look at our historical and cultural parks and trace our heritage as a diverse people, our progress through good and bad times, our concern for the past, and our view of what persons and actions shaped our Nation.

* * * * *

We can look at our natural park units and see the way our land was when in a more natural state as shaped by the hand of the creator. * * * Together these National Park System attributes as well as the traditional values people apply to the Park System make it well worth all of the effort it takes to designate and surely to protect our national parks.

PRAYER OF LEWIS L. BANKS, LAGRANGE, GA

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. RAY. Mr. Speaker, I would like to share with my colleagues a prayer by a retired educator in the Third District of Georgia, Mr. Lewis L. Banks, Sr.

Mr. Banks resides in LaGrange, GA, and gave the invocation at LaGrange's observance of the bicentennial of the Constitution in September. The prayer that he delivered stirred the hearts of many of those attending the celebration. I think you all will agree that he delivered a stirring message in this prayer that is worth remembering. The full text of Mr. Banks' prayer is as follows:

My country 'tis of thee, sweet land of liberty, of thee I pray. Land where my fathers died, land of the Pilgrims' pride, from every mountain side, let freedom ring. May we pray.

O God of the years, God of our weary tears, lest we forget . . .

In the beauty of the lillies Christ was born across the sea. With the glory in His bosom that transfigures you and me. As he died to make men holy, let us live to make men free; while God is marching on.

Father God, You have blessed our great country to come to this historic moment, and we thank You for it.

Two hundred years of constitutional government in a nation with a population diversity, as is represented in America, is no accident, no happenstance; it is a blessing from You, Lord, and we are thankful.

You summed up the great Ten Commandments for all of us, for all times when You admonished us to "love our neighbor as ourselves."

We just thank You, Lord, for this great country that has been privileged and given the opportunities to reach out to its neighbors at home and abroad.

As a nation, a State, a county, a city, and yea, Lord, as individuals, we confess that our great country has fallen short of being in perfect harmony with Your will, but because of Your grace and mercy as is shown in Your love for this Nation, we have yet another opportunity.

We thank You, Lord, for another opportunity to make our great country an even greater one in service to mankind.

Now Lord, we ask Your blessings upon the leadership and the governance of our great Nation at all levels, from the White House to our Troup County Courthouse and our LaGrange, West Point, and Hogansville City Halls.

And we pray for, and thank You also, for the citizenry of our country.

And, Lord, we pray that the next 200 years of constitutional government shall lead us to, and find us in, an even more perfect relationship with You.

Glory, glory hallelujah, glory, glory hallelujah, glory, glory hallelujah, Your truth, O Lord, is marching on.

In the name of the Father, the Son, and the Holy Spirit we pray.

Amen.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 3, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 4

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment statistics for November.
SD-628

10:00 a.m.
Foreign Relations
To hold hearings on the nominations of Kathleen C. Bailey, of California, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, and William Schneider, Jr., of New York, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.
SD-419

DECEMBER 8

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 1886, to modernize and reform the regulation of financial services, and S. 1891, to establish a Financial Services Oversight Commission.
SD-538

Finance
Business meeting, to mark up H.R. 1207, to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, and to ban certain resale of drugs by hospitals and other health care entities.
SD-215

3:30 p.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold oversight hearings on the maritime provisions contained in the proposed Free Trade Agreement with Canada.
SR-253

DECEMBER 9

9:30 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on the Southern States Energy Board report on the Tennessee Valley Authority.
SD-406

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 1886, to modernize and reform the regulation of financial services, and S. 1891, to estab-

lish a Financial Services Oversight Commission.

SD-538

Governmental Affairs

To hold hearings on the elevation of the Veterans' Administration to cabinet status.

SD-342

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD-226

Select on Indian Affairs

To hold hearings on S. 1236, authorizing funds for programs administered by the Navajo and Hopi Indian Relocation Commission.

SR-485

DECEMBER 10

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold oversight hearings of the modified final judgment regarding AT&T divestiture.

SR-253

9:30 a.m.

Environment and Public Works

Superfund and Environmental Oversight Subcommittee

To hold hearings to examine the question of delays and inefficiencies in the Superfund program.

SD-406

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 1886, to modernize and reform the regulation of financial services, and S. 1891, to establish a Financial Services Oversight Commission.

SD-538

2:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 1804, to designate the coastal plain of the Arctic National Wildlife Refuge in Alaska as a wilderness area, and related matters.

SD-406

DECEMBER 11

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To continue oversight hearings of modified final judgment regarding AT&T divestiture.

SR-253

9:30 a.m.

Joint Economic

To resume hearings to review the current state of Federal research and development programs.

SD-628

DECEMBER 14

10:00 a.m.

Judiciary

To hold hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.

Room to be announced

DECEMBER 15

10:00 a.m.

Judiciary

To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.

Room to be announced

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 1416, to authorize the Lyman-Jones, West River and Oglala Sioux Rural Water Development Projects, and S. 1431, to authorize the Secretary of the Interior to construct, operate and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, South Dakota.

SD-366

DECEMBER 16

10:00 a.m.

Judiciary

To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.

Room to be announced

SENATE—*Thursday, December 3, 1987*

The Senate met at 9 a.m. and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

As we begin our prayer this morning, let us remember silently the people in Haiti, the violence, the oppression, the tragedy, and those who suffer at this particular time.

Create in me a clean heart, O God; and renew a right spirit within me. Cast me not away from thy presence, and take not thy holy spirit from me.—Psalm 51:10-11.

Lord God of mercy, thank You for the simple petition of King David, a powerful ruler, and "a man after God's own heart." Thank You, Lord, when powerful people acknowledge vulnerability and weakness and dependence upon God. Thank You, Father, for the phone call from a woman who spent an entire day in the Senate gallery and for the observations she shared with me as she looked down on the Senate. She spoke of the "weary men—the wounded men—the self-righteous men—hidden agendas." You know our hearts, Lord. We can conceal nothing from You. Strengthen the weary one; heal the wounded one; humble the self-righteous one; and deliver us from hidden agendas which frustrate order and achievement. We ask this in the name of Jesus, incarnate love, truth and justice. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 3, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask that the time of the distinguished Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask that my own time be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein.

The Senator from Wisconsin.

WHY THE INF TREATY IS MAJOR ADVANCE FOR ARMS CONTROL

Mr. PROXMIRE. Mr. President, the Senate should resoundingly ratify the INF Treaty that President Reagan and Secretary Gorbachev will sign on December 7. Both the Reagan administration and Soviet leaders deserve the enthusiastic gratitude of Americans and people throughout the world who yearn for peace in this dangerous nuclear world. But how about the argument of those critics of the INF Treaty who charge that the agreement carries risk to our national security? How do we answer their fear that the Soviets will violate the treaty? Are they right that we are engaging in an act of unilateral disarmament? Does INF provide a dangerous precedent for future similar agreements? Would INF pave the way to disarm the free world? Would it permit the closed Communist world to race ahead militarily behind its Iron Curtain?

The answer is that the critics are right, up to a point. The INF agreement, indeed, does constitute a risk. Any action we take, any action we fail to take runs a risk. This is true of any agreement we make with the Soviet Union. It is also true when we fail to agree. We cannot escape from the fact that we live in the most dangerous, risk-filled world in human history.

Consider our choices. We can negotiate a treaty with minimum risk only if we negotiate a treaty which both sides will observe because it is in the interests of both sides to observe it. Is that possible? Yes. In this nuclear age this should not be difficult. Here is why: There is no prospect that either side could succeed in breaking out of the limits of the treaty to an extent that would give the violator such a decisive military advantage that it could win a superpower nuclear war. We live in an age when a war between the United States and the Soviet Union would result in an absolutely certain total loss by both sides, a sure double knockout. Both countries would be left steaming, radioactive ruins. Most of those living in both countries would be dead or dying. Civilization would be lost. President Ronald Reagan, the most anti-Communist, promilitary President of the United States in history has himself said that a nuclear war must never be fought and can never be won. As a statement of logic and reason, this is obviously true.

Does this mean that there will never be a nuclear war between the United States and the Soviet Union? No, indeed. Even before the nuclear age wars were rarely instigated as a matter of logic or reason. In an atmosphere of hate and distrust, with both sides armed to the teeth with increasingly more devastating, more hair trigger, more rapid-fire nuclear weapons, the final war could begin not with logic, not with reason but with any one of thousands of possible accidents on either side.

So which course is more likely to prevent this kind of accidental incineration of the world? Arms control? or an arms race? Either course has its risks. Arms controls may reduce the risk of war by accident by diminishing the number of weapons and limiting the testing that will continually develop newer, more devastating, more hair trigger, speed-of-light weapons. On the other hand arms control may result in violations by our Soviet adversary. What can we do about it? Certainly the stronger our verification proce-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

dures, the more certain it is that we would stop violations.

Here is where the INF makes a special contribution. The verification provisions of this proposed treaty are certainly the most detailed ever. In addition to our continually improving satellite observation of the Soviet Union with a technology that can photograph golf ball size objects from hundreds of miles in space we have added far and away the most thorough on the spot, unannounced inspection process ever. Think of it, we will have U.S. inspection for 13 years at the missile assembly plants in the Soviet Union. They will have similar inspections in the United States; 30 to 40 inspectors on each side will be on location 24 hours a day to make sure that no banned weapons are produced. As the new Defense Secretary Carlucci says: "For those of us who have been around a while, that is pretty mind boggling."

But that is not all the verification. We don't simply count on improved on-the-spot inspection. Our most reliable and comprehensive inspection has been by satellite. This treaty sharply improves that critical satellite inspection. It provides for an array of "inspection rights," through an arrangement that will make sites visible to cameras on satellites at hundreds of locations in the Soviet Union and eastern Europe where these intermediate missiles have been based. Of course, the Soviets will have the same "uncover the site" advantage at medium-range nuclear missile sites in western Europe and in the United States.

Mr. President, the INF Treaty is not primarily significant for limiting intermediate nuclear weapons in Europe. These constitute less than 4 percent of the nuclear warheads on both sides. Strategic Soviet nuclear missiles will still be ready to hit America and free European military and civilian targets. Free world missiles can still strike Communist military and civilian targets. The treaty is significant because it eliminates a class of nuclear weapons for the first time. It is even more significant because it provides a vital precedent for assuring that future, more far-reaching limitations on strategic and conventional weapons can and should be accompanied by the same kind of thorough and meticulous verification that this INF Treaty provides.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Carolina.

THE RAMP PROGRAM

Mr. THURMOND. Mr. President, I rise today to pay tribute to the U.S. Navy and the South Carolina Research Authority [SCRA] for undertaking an important initiative that will help ensure the current and future fleet readiness of our Navy. The effort, known as the Rapid Acquisition of Manufactured Parts [RAMP] Program, will integrate state-of-the-art automation and communication technology into systems that can respond rapidly to the Navy's critical manufactured parts needs.

The time between the introduction of Navy ships, aircraft, and other weapons systems and the end of their service life is 20 to 50 years. During this period, changes occur in technology, product lines, and industry composition. There is a declining commercial manufacturing capability to produce spares for the electronic components and machine parts used in weapons systems. The impact on the Navy has been rapidly increasing costs for parts, longer lead times, and in some cases inability to acquire parts.

The response to these changes has been to maintain an increasing number of inventoried parts at the time a ship, aircraft or weapons system is purchased. Most of the parts in inventory are procured to assure that weapons systems can be quickly restored to operational status when a part fails. The value of Navy inventory increased from $10 to $15 billion in the period 1982-85. It costs the Navy about $3 billion per year to carry this inventory.

The time from order to delivery, known as total procurement lead time, of some parts exceeds 300 days. This includes all activities from the identification of the need for a spare part through the actual fabrication time. In comparison, the RAMP Program will strive for an average lead time of 30 days.

Specifically, the purpose of a RAMP manufacturing system is to produce small mechanical parts and printed wiring assemblies for the Navy which are unavailable when needed as replacements and spares, and to produce those parts in small lot sizes, quickly and according to Navy quality requirements. These systems, when fully tested and accepted, will serve as models for establishing RAMP manufacturing facilities at Government activities and in private industry.

I commend the Navy for recognizing this enormous problem and having the foresight to seek its resolution. Equal praise is due to the South Carolina Research Authority, which as prime contractor, has teamed with a consortium of firms with renowned expertise and experience in manufacturing technology. They are Arthur D. Little, Inc., Battelle Memorial Institute, Grumman Data Systems, and Ingersoll Engineers.

I am particularly proud that the Charleston Naval Yard will be one of the first RAMP sites. The Charleston Naval Yard will not only benefit directly but will contribute to the overall modernization of the Naval supply system.

Maintaining the security of our Nation is the single most important function of our military services. In today's shrinking world, it is absolutely essential to maintain rapidly deployable Armed Forces in a constant state of readiness. Through work on the RAMP Program, a unique team of public and private interests has been forged and is being managed by the South Carolina Research Authority to enhance U.S. naval operational readiness.

Mr. President, I had the pleasure of working on this RAMP project with Secretary Lehman. I conferred with him on a number of occasions and was very pleased that he approved the RAMP project in South Carolina to work with the South Carolina Research Authority. I am sure that his successor, Secretary Webb, will carry on this project as Secretary Webb is an able man and has the foresight to see the necessity of this RAMP project. I commend the Navy for what they have done and hope they will continue this important work as it will save the Navy millions of dollars in the future.

I yield the floor, Mr. President.

CALL OF THE ROLL

Mr. THURMOND. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 36]

Bingaman
Byrd
Exon
Ford
Graham
Kasten
Thurmond

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered. The question is on agreeing on the motion of the Senator from West Virginia. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Dole] and the Senator from Texas [Mr. Gramm], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis], are necessarily absent.

The PRESIDING OFFICER (Mr. Daschle). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 75, nays 19, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—75

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stafford
Stevens
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—19

Bond
Boren
Chafee
Cohen
Evans
Garn
Hatch
Hecht
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Quayle
Specter
Symms
Wallop
Weicker

NOT VOTING—6

Dodd
Dole
Gore
Gramm
Simon
Stennis

So the motion was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 19, the motion is agreed to, and a quorum is present.

OMNIBUS VETERANS' BENEFITS AND SERVICES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar Order No. 432, S. 9, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 9) to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof new language.

The PRESIDING OFFICER (Mr. Fowler). The Senator from California, Mr. Cranston.

Mr. CRANSTON. What is the pending business before the body?

The PRESIDING OFFICER. The pending business before the body is S. 9.

Mr. CRANSTON. Mr. President, I am delighted, as the chairman of the Committee of Veterans' Affairs, to urge our colleagues to give their unanimous approval to the pending measure, S. 9, the proposed Omnibus Veterans' Benefits and Services Act of 1987, as reported by the committee on November 6 as modified by an amendment offered on behalf of our committee's ranking minority member [Mr. Murkowski] and myself which I will describe in more detail later in my statement.

Mr. President, the measure that is before the Senate today—which I will refer to as the committee bill—is derived from a significant number of bills which are described in detail in the committee's report accompanying this measure, Senate Report No. 100-215. As I noted at the time our committee met to mark up this measure earlier this year, this is the most comprehensive single legislative initiative our committee has undertaken since it was established in 1971. There are over 60 substantive provisions covering a wide range of subjects, including provisions providing for cost-of-living adjustments for compensation and related service-connected benefits; radiation-exposure compensation; compensation for ex-POW's; an agent orange science review; extension of Gramm-Rudman-Hollings exemptions; direction regarding various AIDS matters and drug testing of VA employees; State veterans' home program improvements; rural health care pilot projects; noninstitutional care alternatives; procreative services; increased emphasis on geriatric-care training; major new VA disciplinary and grievance procedures for title 38 DM&S personnel; major new initiatives to improve the VA's ability to recruit and retain health-care personnel; expanded mental health research; and procurement reform. A significant number of provisions in S. 9 are based on VA-requested legislation, the first such movement of administration legislation in recent years.

Mr. President, because the various provisions of the commitee bill are described in detail in the committee's report, I will at this time just set forth a summary of the provisions and then discuss some selected provisions that I want to highlight. I refer my colleagues and all others with an interest in this bill to the committee report for more complete information on it.

SUMMARY OF PROVISIONS

Mr. President, S. 9 as reported has titles: Compensation and Other Benefits; Radiation Exposure Benefits; Health Care; and Miscellaneous, as follows:

TITLE I—COMPENSATION AND OTHERS BENEFITS

Mr. President, this title would provide cost-of-living adjustments in VA compensation and related benefits and make improvements in various benefits programs.

PART A—COMPENSATION AND RELATED COST OF LIVING ADJUSTMENTS

Part A of this title contains freestanding provisions and amendments to chapters 21, 23, and 29 of title 38, United States Code, that would:

First, require the Administrator of Veterans' Affairs to adjust, effective December 1, 1987, the rates and limitations for compensation paid to veterans with service-connected disabilities and dependency and indemnity compensation [DIC] paid to certain service-connected disabled veterans' survivors by the same percentage, 4.2 percent, as that paid to Social Security recipients and VA pension beneficiaries effective on that same date.

The basic adjustment would apply to: (a) Basic compensation rates for service-connected disabled veterans and the rates payable for certain severe disabilities; (b) the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled; (c) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance, including a wheelchair, that tends to tear or wear out clothing; and (d) the DIC rates paid to: (i) surviving spouses of veterans whose deaths were service connected; (ii) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid-and-attendance or to be permanently housebound; and (iii) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

Second, increase by 14 percent, from $35,000 to $40,000, the maximum amount of specially adapted housing assistance for certain service-connected disabled veterans with serious mobility impairments and increase by 13 percent, from $6,000 to $6,775, the maximum amount payable for special housing adaptations for certain veterans suffering from service-connected total blindness or loss of use of both upper extremities.

Third, increase by 11 percent, from $5,000 to $5,530, the maximum amount of the automobile assistance allowance for veterans with certain service-connected disabilities.

Fourth, increase by 105 percent, from $1,100 to $2,250, the burial allowance for a veteran who dies of service-connected causes.

PART B—OTHER COMPENSATION-RELATED PROVISIONS

Part B of this title includes freestanding provisions and amendments to chapters 1, 11, 13, 15, and 17 of title 38 that would:

First, add peripheral neuropathy, peptic ulcer disease, and irritable bowel syndrome to the list of diseases of former prisoners of war that are presumed to be service connected and reduce the dental benefits eligibility requirement for such veterans from 6 months of internment to 90 days.

Second, add systemic lupus erythematosis to the list of chronic diseases that are presumed to be service connected if becoming manifest within 1 year after a veteran's discharge from active service.

Third, restore to DIC beneficiaries receiving certain Social Security equivalent benefits the benefits—equal to the mother's benefit for children ages 16 and 17 and the child's benefit for postsecondary students and for secondary students over age 19—which were eliminated in the Omnibus Budget Reconciliation Act of 1981 and restored in 1982 to Social Security recipients but not to these DIC beneficiaries.

Fourth, provide a permanent exemption from Gramm-Rudman-Hollings sequestration for rehabilitation programs for service-connected disabled veterans under chapter 31 of title 38 and the program of educational assistance for survivors and dependents under chapter 35.

Fifth, require the VA to contract for a comprehensive review—by the National Academy of Sciences [NAS], or, if the NAS declines, another appropriate private, nonprofit, scientific entity—of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and for a report, due by October 1, 1988, on the review's results as to the weight of the evidence on this subject.

PART C—EDUCATION PROVISIONS

Part C of this title includes amendments to chapters 30, 31, 34, 36, and 51 of title 38, United States Code, that would:

First, provide for two 50-minute periods of laboratory instruction, rather than two 60-minute periods of such instruction, to be considered as a standard class session.

Second, toll the eligibility periods for GI bill and certain other education benefits or rehabilitation programs for certain veterans and other eligible persons who have been prevented from participating in such programs because of drug or alcohol dependence or abuse disabilities.

Third, give the Administrator, in the cases of certain institutions having a demonstrated record of compliance with all of the applicable requirements under VA education programs, authority to waive the requirement for an annual compliance survey.

Fourth, would require that the effective dates relating to awards under chapter 32 of title 38, post-Vietnam era veterans' educational assistance, correspond, to the extent feasible—as the effective date for all other VA education programs are required to correspond—with the effective dates for VA compensation.

Fifth, repeal the program under which education loans in the form of accelerated payments of educational assistance allowances were authorized for certain veterans—contingent upon the veteran's State having established a matching fund program.

PART D—INSURANCE PROVISIONS

Part D of this title contains amendments to chapter 19 of title 38 that would:

First, authorize the Administrator periodically to adjust the dollar amount of the monthly installments payable to a beneficiary of national service life insurance, U.S. Government life insurance, veterans special life insurance, or veterans reopened insurance who is receiving payments under a life annuity settlement option.

Second, prohibit the States from imposing any taxes on premiums paid under a servicemen's group life insurance or veterans' group life insurance policy.

Third, authorize the Administrator to exercise the option of administering the Veterans Mortgage Life Insurance Program, for veterans who are eligible for VA specially adapted housing assistance, either directly by the VA or, as required by current law, by contract with a commercial insurance company acting as the insurer.

PART E—PENSION PROVISION

The provision of this title would amend chapter 15 of title 38 to expand the existing exclusion for proceeds from fire insurance policies, for purposes of pension and parents' DIC income computations, to encompass reimbursement of market or reasonable replacement value from any source for property loss from any cause.

TITLE II—RADIATION EXPOSURE BENEFITS

This title contains freestanding provisions and amendments to part II of title 38 and Public Law 98-542 that would:

First, in the cases of veterans who were exposed to radiation in connection with the atmospheric nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan, and who apply by September 30, 1991:

(a) Provide for the payment of a benefit at a rate equal to the disability compensation payable for the percentage of disability involved for those who have: (1) Leukemia, except for chronic lymphocytic leukemia, or thyroid cancer; or (2) if exposed to at least 1 rem of radiation, cancer of the small intestine, stomach, liver—except where cirrhosis or hepatitis B is indicated—bile ducts, gallbladder, or pancreas, lymphomas—excluding Hodgkin's disease—or multiple myeloma.

(b) Require that, in the case of those with certain other cancers—cancer of the colon, lung, esophagus, rectum, pharynx, liver—when cirrhosis or hepatitis B is indicated—kidney, urinary tract, bladder, brain, and nervous system, salivary glands, and bones and joints, and cutaneous melanoma—their claims receive special consideration, which would include the VA giving conclusive weight to the congressional findings in the committee bill relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors.

(c) Upwardly adjust the applicable Defense Nuclear Agency radiation exposure estimates through the use of a formula based on the estimated radiation exposure for all the participants in the nuclear weapons testing operation involved.

Second, extend by 2 years, from September 30, 1989, to September 30, 1991, VA health care eligibility for radiation-exposed veterans—and dioxin-exposed Vietnam veterans.

Third, require the Veterans' Advisory Committee on Environmental Hazards to submit its reports to the Senate and House Committees on Veterans' Affairs in addition to the Administrator of Veterans' Affairs.

TITLE III—HEALTH CARE

This title includes provisions to make various improvements in VA health care programs and in the administration of such programs.

PART A—HEALTH CARE PROGRAMS

Part A of this title includes freestanding provisions and amendments to chapters 17 and 73 of title 38 that would:

First, authorize the VA to furnish services to help a male or a female veteran or a male veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disabilities impair procreative ability.

Second, authorize the VA to contract with non-VA health care entities (a) to provide emergency hospital care for a veteran who is being furnished nursing home care in the community under a VA contract, and (b) to provide inpatient or outpatient observation and examination of a veteran to determine eligibility for a VA benefit.

Third, update the requirement for the Administrator to submit to the Senate and House Committee on Veterans' Affairs an annual report on the provision of contract care.

Fourth, authorize the VA to provide contract care outside of the United States (a) for the treatment of the service-connected disability of a veteran who is not a U.S. citizen, or (b) to a veteran who is participating in a VA vocational rehabilitation program.

Fifth, revise the eligibility criteria for domiciliary care so as to provide eligibility to veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support.

Sixth, require the VA to conduct a 4-year pilot program at not less than 5 nor more than 10 demonstration project sites for the purpose of furnishing health and—by contract with non-VA entities—health-related services in noninstitutional settings. Care would be provided using a VA case manager to coordinate and facilitate services contracted for with public and private agencies. Participation would be limited to veterans eligible for and otherwise in need of VA hospital, nursing home, or domiciliary care. Priority for care and services through the pilot program would be accorded to (a) those with service-connected disabilities, (b) those 65 years of age or older, (c) those who are totally and permanently disabled, and (d) those who are suffering from Alzheimer's disease or another form of dementia. The total cost of conducting the pilot program would be limited to 60 percent of the cost that would have been incurred by the VA if the veterans had instead been provided care in nursing homes.

Seventh, provide for the VA, when contracting for community nursing home care for eligible veterans in Alaska or Hawaii, to pay at a rate of up to 45 percent—or up to 50 percent, if determined to be necessary—of the cost of general community hospital care in the State.

Eighth, require the VA (a) to establish a systemwide education and training program, including first, a plan to distribute periodically the Surgeon General's report on AIDS and other materials on AIDS, with the goal of providing pertinent information to VA beneficiaries and employees; and second, the provision of the Surgeon General's report to each veteran-patient identified as being at high risk for AIDS, (b) to establish and implement a plan for AIDS education, training, and clinical skills improvement and other activities for all health care personnel and infection control procedures for such personnel and health care support staff.

Ninth, prohibit the records of the identity, diagnosis, or treatment of any patient infected with the AIDS virus from being disclosed except in medical emergencies or for the purpose of conducting scientific research and audits, but authorize the release of that information to a public health officer in a State requiring the infection to be so reported or to Federal health officers pursuant to a requirement of Federal law.

Tenth, prohibit the VA from implementing any widespread HIV testing program—that is, a program for offering testing and counseling to patients other than substance abuse patients and patients at high risk for AIDS—unless Congress specifically appropriates funds for that purpose.

Eleventh, restrict the Administration's authority to prescribe limitations, not consistent with title 38 provisions, on the furnishing of health care services by the VA so as to permit the exercise of that authority only in times of national or regional emergencies other than periods of armed conflict, which are covered in section 5011A of title 38.

Twelfth, increase VA per diem payments for domiciliary care to $8.70 from $7.30 and for nursing home and hospital care to $20.35 from $17.05 and $15.25, respectively; and authorize the VA to increase these rates annually, beginning in fiscal year 1989, by a percentage not greater than the percentage increase in the cost of care in VA general hospitals—which is calculated for purposes of determining the maximum amount the VA may pay for contract care in community nursing homes.

Thirteenth, make technical adjustments in provisions, enacted in 1986, establishing a priority system for awarding State veterans' home construction grants so that, if the Administrator determines that a State has submitted drawings and specifications for a project which are at least 80-percent complete and that the project application would meet all remaining requirements within 6 months, the Administrator would be authorized to make an award of a grant while withholding certification of payment until all requirements are actually met.

Fourteenth, specify that VA per diem payments to State homes are not to be considered third-party liabilities for purposes of payments under the Medicaid Program.

Fifteenth, modify the effective date of the Gramm-Rudman-Hollings sequestration exemption for the Special Therapeutic and Rehabilitation Activities Fund, a self-sustaining revolving fund, to provide for the recovery of funds sequestered during fiscal year 1986.

Sixteenth, authorize the VA (a) to provide, or assist veterans' service organizations in providing, recreational activities which would further the rehabilitation of disabled veterans if the activities are available on a national basis and a signficant percentage of the participants are veterans eligible for VA rehabilitative services, and (b) to accept contributions for these recreational activities and permit the contributor to advertise their participation as long as their advertisements clearly state that the VA has not endorsed any product or commercial endeavor.

Seventeenth, require the Administrator to implement a 2-year mobile health clinic pilot program of four geographically dispersed projects using appropriately equipped mobile clinics to furnish care in rural areas where veterans live at least 100 miles from the nearest VA health care facility.

PART B. HEALTH-CARE ADMINISTRATION

Part B of this title includes freestanding provisions and amendments to chapters 17, 81, and 83 of title 38 that would:

First, authorize the appointment of, in addition to physicians, certain nonphysician health-care professionals to various positions in the office of the Chief Medical Director [CMD] and specify that all individuals appointed to CMD office positions must be qualified in the administration of health services.

Second, shift VA pharmacists and occupational therapists into the so-called title 38/title 5 hybrid category under which the agency may use title 38 appointment, pay, and promotion policies for specified employees employed under the title 5 personnel system.

Third, provide that all matters relating to adverse actions, disciplinary actions, and grievance procedures involving title 38/title 5 hybrid employees will be resolved in accordance with the provisions of title 5 as though the employees in question were appointed under title 5.

Fourth, provide that the procedures set forth in title 5, United States Code, for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—would be used in cases involving title 38 personnel—including the use of a negotiated grievance procedure involving an appeal to an arbitrator. This section would also create, in title 38, a grievance-resolution process that parallels that available to title 5 employees.

Fifth, require that nurses who work on Saturdays be paid in same premium pay currently applicable to Sunday work.

Sixth, establish a tuition-reimbursement program for full-time nursing personnel and, when needed, for other full-time health care personnel, for academic courses leading to completion of any degree program in nursing or in a field related to nursing, or in other appropriate degree-granting fields for other personnel—with first priority in the selection of participants to be given those with 2-year service within the VA whose performance is superior and second priority to others with 2 years of service.

Seventh, make eligible for the VA's Health Professional Scholarship Program—in addition to physicians and nurses—physical therapists and other individuals providing direct patient-care services or services incident to direct patient-care services; require a minimum of 2 years of obligated service for each year of scholarship aid; and require that priority in the award of nurse scholarships be given to nurses seeking a fourth year of baccalaureate education.

Eighth, authorize the VA to utilize the title 38 on-call pay provisions for newly hired or newly assigned title 5 health-care personnel; and specify that title 5 employees currently earning standby pay who are assigned to on-call status would be entitled to continue to receive pay under the standby system—that is, be grandfathered into that pay status—so long as their employment status does not change.

Ninth, require that Chiefs of Nursing Service or their designees at VA health-care facilities be members of those facilities' policymaking and fiscal committees.

Tenth, authorize the CMD to waive (a) state licensure or registration requirements, as appropriate, for practical and vocational nurses or physical therapists if they are to be employed: First in research or academic work and are to have no direct patient-care responsibilties, or second in a country other than the United States and the practitioner's license is in the country in which he or she is to work, and (b) the requirement that psychologists have completed a 1-year internship if they are to be employed in research or academic work and are to have no direct patient-care responsibilities.

Eleventh, require the Administrator to increase rates of pay for VA psychologists who have board certification by using the hybrid title 5/title 38 appointment authority unless the CMD certifies that an increase of board-certified psychologists is clearly not necessary for the furnishing of effective psychological services to veterans.

Twelfth, require the Administrator to study and report on various issues relating to enhancing the VA's recruitment and retention of VA health-care personnel.

Thirteenth, prohibit the VA from conducting any program of testing VA employees for the use of illegal drugs, as defined under Executive Order 12564, September 17, 1986 except in three circumstances: First when there is a reasonable suspicion that an employee uses illegal drugs, second in an examination authorized by the VA regarding an accident or unsafe practice—which in the provision of health care would be defined to be an unsafe practice that has resulted or could reasonably be expected to result in an adverse patient outcome—or third as part of or as a followup to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.

Fourteenth, repeal the Administrator's authority to provide free cigarettes to veterans receiving hospital or domiciliary care.

Fifteenth, define the period during which the VA may institute legal action to recover the cost of certain hospital, nursing home, domiciliary, and medical care to be 6 years after the last day on which the care for which the recovery is sought was furnished.

Sixteenth, expand the scope of the provision of law under which the Federal Government accepts liability for the negligent acts of its employees acting within the scope of their employment so as to cover so-called intentional torts of VA health-care employees committed in the course of furnishing health-care services.

Seventeenth, replace the existing Veterans' Affairs Committees approval-resolutions process for VA major medical construction or acquisition projects with a legislative authorization process under which it would not be in order in either House to consider a bill, resolution, or amendment appropriating funds for (a) a VA major medical construction project—one costing over $2 million—unless the amount for the project is specified in the appropriations measure and does not exceed the amount authorized for the project by a provision of law enacted in legislation reported by the Veterans' Affairs Committees, or (b) a medical facility lease with an estimated annual rental exceeding $500,000 unless the lease has been authorized in such a law.

Eighteenth, replace the current law prohibition against the Administrator increasing "the estimated cost" of a construction or acquisition "in the contract" to an amount more than 10 percent above that specified in the committees' resolution with a requirement that the Administrator give the committees 30-day's advance notice whenever the cost of a project would exceed by more than 10 percent the amount specified in the authorizing legislation.

Nineteenth, require the VA to develop and implement an agencywide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the VA, including provision for the procurement of generic pharmaceutical items that are cost-effective, except where the Chief Medical Director, after consultation with the FDA, determines that an equivalent generic item is not available or that the availability of a brand-name item is necessary in the interests of effective patient care.

Twentieth, require the VA to procure medical and pharmaceutical items only under national contracts except where purchase by a local contract is necessary because (a) the item is not available for procurement under a national contract, (b) the item is needed for the effective furnishing of a health-care service or the conduct of a research or education program at a VAMC, or (c) an emergency need has arisen; require that, except for emergency procurement, not more than 20 percent of all medical pharmaceutical items procured by the VA in any fiscal year would be permitted to be procured under local contracts and that such contracts, to the maximum extent feasible, be awarded to persons regularly engaged in the wholesale supply of such items; and permit the percentage limitation to be increased to not greater than 30 percent based on 2 fiscal years of experience under the new program, if the President determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the VA.

Twenty-first, require (a) each VA medical center director to submit to the Administrator by December 1 each year—beginning in 1988—a report on local-procurement contracts during the previous fiscal year, and (b) the Administrator to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than February 1 of each year—beginning in 1989—a report on the agency's experience in the procurement of medical and pharmaceutical procurement during the most recent fiscal year, including a summary list indicating the quantity and cost of pharmaceutical items procured at VA medical centers under local contracts during the most recent fiscal year.

Twenty-second, authorize the VA to use multiyear procurement contracts except where multiyear purchasing would interfere with maximum effective procurement of generic drugs.

TITLE IV—MISCELLANEOUS

This title includes freestanding provisions and amendments to chapters 24 of title 38 and Public Laws 99-272 and 99-576 that would:

First, prohibit the Administrator from taking any action to dispose of any portion of certain lands at two VA medical centers in southern California.

Second, authorize the Administrator, upon the recommendation of the Chief Medical Director, to waive the requirement for upright grave markers in a VA national cemetery if the Administrator determines that the use of upright markers at that cemetery would have a detrimental effect on the health of veterans receiving care at a nearby VA health care facility.

Third, provide exceptions to the general requirement for upright markers in VA national cemeteries so as to mandate the use of flat markers at the National Cemetery in Riverside, CA, and the proposed national cemetery in northern California.

Fourth, direct the Administrator, upon conditions being met, to lease to the U.S. Department of Labor for nominal consideration 20.6 acres of land at the former Veterans' Administration Hospital, Minot, ND.

Fifth, add a representative of Native Hawaiians to the Veterans' Administration Advisory Committee on Native American Veterans and extend the life of the advisory committee by approximately 1 year, until about May 1, 1989.

COMPENSATION COST-OF-LIVING ADJUSTMENT

Mr. President, section 101 of the bill would, as I proposed in the original section 2 of S. 9, effective December 1, 1987, provide for compensation and DIC cost-of-living adjustments [COLA's] equal to the Social Security/VA pension benefits COLA, which on October 23, 1987, was announced to be 4.2 percent and will also take effect on December 1. In addition to the basic rates of compensation for service-connected disabled veterans, the special rates paid for certain severe disabilities and combination of disabilities and the DIC rates, the COLA would also be provided for the clothing allowance paid to veterans whose compensable disability requires the use of a prosthethic or orthopedic appliance—including a wheelchair—that tends to tear or wear out clothing. The allowance for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled.

The VA's service-connected compensation program is at the very heart of our system of veterans' benefits, and I and the Veterans' Affairs Committee have consistently attached the highest priority to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice.

Meeting the needs of the more than 2.2 million veterans who suffer from disabilities resulting from their service and the 340,000 survivors of those who died from service-connected disabilities will remain my number one priority in veterans' affairs. I strongly believe that the compensation and DIC benefits paid to these veterans and survivors must not be permitted to be eroded by inflation.

As of June 1987, the disability compensation program was providing benefits for 2,214,207 veterans who have service-connected disabilities. This number includes disabled veterans with the following periods of service: 8,312 World War I veterans, 989,347 World War II veterans, 218,314 Korean-conflict veterans, and 620,917 Vietnam-era veterans. A veteran whose disability is rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. These dependents' allowances are prorated according to the percentage of disability. As of March 1987, 677,121 veterans were receiving additional compensation for 1,064,753 dependents.

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died from a disease or injury incurred or aggravated in the line of duty during active service.

In written testimony for the June 30, 1987, hearing, the VA testified, "[T]he VA generally supports legislation that would safeguard benefits from the erosive effects of inflation. However, we believe the policy evident in S. 9 may best be effectuated by legislation that would provide for an automatic annual increase in compensation rates indexed to the periodic increases in the cost of living." All other witnesses at the June 30 hearing opposed this proposal, and I also strongly disagree with the administration's proposed approach of permanently linking compensation and DIC COLA's to annual Social Security increases. The administration does, however, support a COLA at the same level and time as provided for Social Security recipients.

SPECIALLY ADAPTED HOUSING INCREASE

Mr. President, section 102 of the committee bill, as I proposed in the original section 3 of S. 9, would increase by 12.7 percent, from $35,500 to $40,000, effective October 1, 1987, the maximum amount payable in specially adapted housing assistance, under the so-called wheelchair home program, to certain veterans with total and permanent service-connected disabilities that impair their mobility. Section 102 would also amend section 802(b) of title 38 to increase by 12.9 percent, from $6,000 to $6,775, effective October 1, 1987, the maximum amount payable for special housing adaptions to certain veterans suffering from service-connected total blindness or loss of use of both extremities.

By raising the maximum limits of the assistance by 12.7 percent, to $40,000, and by 12.9 percent, to $6,775, the committee bill would help ameliorate the erosion in the value of these benefits resulting from increases in housing costs over the last 3 years. According to the National Association of Realtors, in January 1985, the median cost of an existing single family house was $73,800. That cost has since increased by 15.2 percent to $85,000.

AUTOMOBILE ASSISTANCE ALLOWANCE INCREASE

Mr. President, section 103 of the bill would, as I proposed in the original section 7 of S. 9, increase by about 11 percent, from $5,000 to $5,530, effective October 1, 1987, the maximum amount payable for the automobile assistance allowance to veterans with certain severe, service-connected disabilities.

The program of automobile assistance grants—now codified in chapter 39 of title 38, United States Code—was established by the Congress in Public Law 79-663, which was enacted in 1946. Under this program, veterans who have suffered the service-connected loss or loss of use of one or both feet or hands or service-connected blindness are entitled to a one-time VA grant to assist them in purchasing an automobile. The last increase in this grant was enacted in 1984, effective January 1, 1985. Since then, the inflation in new car prices has increased by approximately 10 percent.

SERVICE-CONNECTED BURIAL ALLOWANCE INCREASE

Mr. President, section 104 would, as I proposed in the original section 4 of S. 9, increase by 105 percent, from $1,100 to $2,250, the VA allowance for funeral and burial expenses for a veteran who dies from a service-connected cause.

In 1978, based on an estimate from the National Association of Funeral Directors that the average cost of a funeral, including the basic funeral and the casket, had risen to $1,348, the Congress in Public Law 95-479 raised the allowance to $1,100, slightly more than 80 percent of the average funeral cost.

According to the National Funeral Directors Association, a study by the Federation of Funeral Directors has found that the cost of an average adult funeral was $2,922 in 1987—more than 2½ times the amount of the VA allowance for service-connected deaths.

In our committee's and my view, the highest priority of VA programs relating to burial and cemetery benefits should be assistance to the survivors of those veterans who die from service-connected causes and the inadequacy of the current allowance should be remedied. Therefore, in view of the substantial increase in the cost of burial since 1978, the committee bill would increase the maximum allowance in such cases to $2,250, restoring the allowance to approximately 80 percent of the average funeral costs.

FORMER POW BENEFITS

Mr. President, section 111 of S. 9—derived from S. 1365, which the Senator from Florida [Mr. GRAHAM] and I introduced—would expand eligibility and improve benefits for former prisoners of war.

At the outset, I want to recognize the contribution of Senator GRAHAM, who has been a forceful champion of the rights of former POW's, and Senator MURKOWSKI, who also has contributed greatly to these provisions. I also want to extend recognition to the efforts in the House Committee on Veterans' Affairs, where Representatives APPLEGATE and MCEWEN introduced similar legislation.

Mr. President, over the many years I have served on the Veterans' Affairs Committee, both as its chairman and ranking minority member, I have come to know very well the deep concerns that many have—and which I fully share—for those of our Nation's veterans who made great sacrifices and endured extreme hardships as POW's. Their strength, courage, and love of freedom helped to preserve our country, and we truly owe them a debt that can never be fully repaid.

Mr. President, I would like to briefly describe the background leading up to the development of the provisions in section 111. I would also refer my colleagues to the more extensive treatment of this subject in my floor statement upon introduction of S. 1365, set forth in the RECORD on June 16, 1987 (S8156).

Although many former POW's have been awarded VA disability compensation, many others with disability resulting from the conditions of their internment may face practical difficulties in proving that that internment actually contributed to their disability.

In a VA study undertaken as a result of legislation I authored in Public Law 95-479, the VA found that former POW's often suffer from disabilities that are difficult to detect or to attribute to a specific cause. The VA report also concluded that former POW's from World War II and Korea claiming service connection are often confronted with problems arising from the absence or inadequacy of records of their repatriation examinations. Accordingly, a record of health conditions manifested during service, which would provide the necessary information to establish that a disability is service connected, is unavailable in many cases.

Indeed, in recognition of some of these difficulties, in 1970 Public Law 91-376 was enacted to create rebuttable presumptions of service connection with respect to certain disorders. And, since that time, as new scientific evidence has demonstrated the relationships between the conditions experienced by former POW's while in captivity and certain other disorders—as is the case with the three disorders addressed in S. 9, peripheral neuropathy, peptic ulcer disease, and irritable bowel syndrome [IBS]—I have worked to provide for the enactment of additional presumptions warranted by that scientific evidence. I will continue to do so.

Mr. President, the diagnosis of—and thus research on—the diseases included in S. 9 is made difficult because their symptoms, particularly in the case of peptic ulcer disease and IBS, can vary greatly from one individual to the next and because of a necessary reliance on evaluation of subjective factors, such as pain. Moreover, recent studies of both former POW's and the general population indicate that the conditions experienced by former POW's during the internment—including severe malnutrition, extreme stress, and exhausting physical exertion—are significant risk factors for the development of peripheral neuropathy, peptic ulcer disease, and IBS. And the VA Advisory Committee on Former Prisoners of War, in its August 1987 biennial report, supported the enactment of legislation to presumptively service connect these three diseases.

S. 9 thus would provide presumptions of service connection for former POW's who suffer from peripheral neuropathy, peptic ulcer disease, or IBS, even though there is no record of the disease during the veteran's period of service.

S. 1365 proposed establishing presumptions of service connection for peripheral neuropathy, peptic ulcer disease, and IBS only where manifestation first occurred within 10 years after the last date of the veteran's internment and there was recurrence continuously or regularly intermittently thereafter. However, in light of testimony received at the Committee's June 30 hearing, including testimony from the American Ex-Prisoners of War, as well as the evidence supporting an association between internment and these diseases, section 111 of S. 9 deletes the circumscribing language.

In addition, as recommended by the American Ex-Prisoners of War and the American Defenders of Bataan and Corregidor and not strongly opposed by the VA, section 111 of S. 9 also includes a provision reducing to 90 days the current-law dental-benefits eligibility requirement of 6 months of internment.

Finally, as a result of the committee modification to these provisions that I will offer on behalf of Senators GRAHAM, HEINZ, MURKOWSKI, and myself, section 111 would expand the definition of a former POW to include veterans held during wartime under circumstances comparable to that generally experienced by POW's held by an enemy government.

Mr. President, our Nation will always honor its former POW's. As a further measure of our continuing gratitude to these courageous and valiant patriots, it is my hope that section 111 will be of significant assistance to them in obtaining the compensation which they earned at such great cost.

AGENT ORANGE

Mr. President, questions arising from veterans' exposure in Vietnam to the herbicide agent orange and its highly toxic contaminant, dioxin, and the possible long-term adverse health effects resulting from that exposure have long been of serious concern to me and many of my colleagues. A major focus of my efforts and those of the Committee on Veterans' Affairs in both Houses has been on research which might eventually lead to a greater understanding of the health effects of agent orange exposure and how best to address the special needs of those veterans who may have been exposed to this herbicide and its highly toxic contaminant, dioxin.

Section 115 of S. 9, which is derived from S. 1510 which Senator KERRY and I introduced, would require the VA to contract, subject to the availability of appropriations, for a comprehensive review to be conducted—by the National Academy of Sciences [NAS], or, if the NAS declines, another appropriate nonprofit scientifc entity—of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds. The review would be required to be completed not later than October 1, 1988, with a report to be submitted to our two committees on the review's results as to the weight of the evidence on this subject.

Mr. President, in this regard, I would now like to update my colleagues and others with an interest in this issue as to the progress of ongoing scientific research.

BACKGROUND

In 1979, Congress passed legislation—enacted in section 307 of Public Law 96-151—mandating that the VA conduct an epidemiological study of the health effects in Vietnam veterans of exposure to dioxin as found in herbicides used in Vietnam. The scope of that study was expanded—by section 401 of Public Law 97-72—to authorize the inclusion of an evaluation of the impact on the health of Vietnam veterans of other environmental factors which may have occurred in Vietnam. This latter approach is known as a health experience study. In 1983, the VA delegated to the Centers for Disease Control [CDC] the responsibility for the overall study.

CDC EPIDEMIOLOGICAL STUDIES

The first component of the CDC study, the Vietnam Experience Study [VES], is a three-part effort designed to demonstrate whether or not there is any difference in the health of veterans who served in Vietnam compared to the health of veterans who served elsewhere during the same period of time. Reports from the VES study are scheduled to be published over a number of months beginning in early 1988.

The second component of the CDC effort, the agent orange study, was designed to determine if there are any differences in the health of veterans who were exposed to that herbicide during service in Vietnam compared to the health of veterans who also served in Vietnam but were not so exposed. Both the Office of Technology Assessment [OTA] and the Agent Orange Working Group [AOWG] have determined that the agent orange exposure study, at least as originally envisioned, cannot be carried out. With regard to the CDC conclusions, I refer my colleagues to my more extensive floor statement in the RECORD, on October 1, 1987, beginning on page S13347. As I noted in that statement, OTA concluded that, first, "[t]here is no support for the rationale for a large-scale epidemiologic study" and second, that, "[t]here cannot be a general study of agent orange effects on ground troops."

In the same vein, the Honorable Donald M. Newman, Chair of the AOWG, in a November 3, 1987, letter to me, stated that, "The Agent Orange Exposure Study, one of the three studies undertaken by the CDC under Public Law 95-151 and Public Law 97-72, has proved scientifically impossible to do." Mr. Newman further stated that "[t]his decision was not made easily, and, * * * repeated efforts were made to find the valid scientific basis on which to proceed." In an October 28, 1987, letter to Mr. Newman enclosed in his letter to me, the Director of CDC, James O. Mason, stated that the "AOWG has instructed CDC to begin the process of canceling the contracts and closing out all activities relating to the Agent Orange Exposure Study."

This determination makes it even more imperative that the VES study proceed on schedule. Unfortunately, its release date keeps slipping—most recently from late 1987 to early 1988. I intend to contact Dr. Mason in the near future to urge that he take whatever steps are necessary to prevent any further delay in the release of the results of this study.

Mr. President, I ask unanimous consent that the AOWG's November 3 letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, November 3, 1987.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the Agent Orange Exposure Study, one of three studies undertaken by the Centers for Disease Control (CDC) under P.L. 96-151 and P.L. 97-72, has proved scientifically impossible to do.

The Congressional Office of Technology Assessment in an independent review of the final effort on CDC's part to continue the Exposure Study, concluded, as had the Agent Orange Working Group Science panel, and other peer review groups that the study could not be done.

The explanation is clearly outlined in Dr. James Mason's memorandum to me and in his letter to General Thomas Turnage.

This decision was not made easily, and as you will note, repeated efforts were made to find the valid scientific basis on which to proceed.

On a more positive note, I am pleased to report that two other CDC studies mandated; the Vietnam Exposure Study and the Selected Cancer Studies, are progressing well and should contribute much to our scientific knowledge.

Please call me if there are any matters relative to this decision you wish to discuss.

Sincerely,

DON M. NEWMAN,
Chair, Domestic Policy Council, Agent Orange Working Group.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
PUBLIC HEALTH SERVICE,
Atlanta GA, October 28, 1987.

Note to: Mr. Don Newman, Under Secretary, Chair, Domestic Policy Council, Agent Orange Working Group.

SUBJECT: Agent Orange Exposure Study.

This is in response to your note of October 9.

Congress enacted P.L. 96-151 in January 1979, directing the Veterans Administration (VA) to investigate the possible health effects of exposure to Agent Orange in Vietnam veterans. The authorization was expanded in November 1981 by P.L. 97-72 to include other factors of the Vietnam experience. Responsibility for these studies was transferred in January 1983 to the Centers for Disease Control (CDC), which proposed three separate but complementary studies of the health of Vietnam veterans; the Vietnam Experience Study, the Selected Cancers Study, and the Agent Orange Exposure Study. A protocol approved by the Agent Orange Working Group (AOWG), the Office of Technology Assessment (OTA), and other review groups was published in November 1983.

After the appropriation was complete, CDC immediately began the negotiated contractual process for these three studies and implemented the necessary start-up activities for the Vietnam Experience Study and the Selected Cancers Study. Implementation of the Agent Orange Exposure Study was more complex and revolved around the issue of developing a scientifically valid exposure index to identify cohorts of veterans who were and were not exposed to Agent Orange. As cautioned in the 1983 protocol, "Since many of the proposed procedures are untested, modification, indeed, even a recommendation not to proceed with an Agent Orange Study, may be required after pilot study assessments."

As a result of intensive work between 1983 and 1986 by the U.S. Army and Joint Services Environmental Support Group and CDC, an AOWG Science Sub-Panel concluded that a scientifically valid study based on military records was not possible without an independent method of exposure verification. At that time, CDC was developing a new method utilizing blood to establish current body burdens of dioxin as an indicator of previous exposure to dioxin-containing substances such as Agent Orange. A protocol for the "Validation Study Comparing Military Records-Based Estimates of the Likelihood of Exposure to Agent Orange with Current Serum Levels of 2,3,7,8-tetrachlorodibenzo-p-dioxin" was developed by CDC and approved by the AOWG Science Panel and OTA in October 1986. A complete report on the findings of this study was provided to the AOWG Science Panel and OTA in July 1987.

Based on the review of the study results, both AOWG and OTA concluded that a scientifically valid Agent Orange Exposure Study is not possible. Accordingly, AOWG has instructed CDC to begin the process of canceling the contracts and closing out all activities related to the Agent Orange Exposure Study.

The contractual funds for the Vietnam Experience Study, Agent Orange Exposure Study, and the Selected Cancers Study were appropriated by Congress in 1984. These obligations totaled approximately $49 million. The completion of data collection activities for the Vietnam Experience Study cost about $18 million in contractual funds. The contractual costs for the Validation Study were about $4 million. Also, approximately $3 million have been obligated to date for contractual penalties related to the work stoppage of the Agent Orange Exposure Study. The contractual obligations for the Selected Cancers Study are about $5 million.

The Vietnam Experience Study and the Selected Cancers Study are proceeding well and, when completed, will add significantly to the scientific base of knowledge about the health of Vietnam veterans. Data for the Vietnam Experience Study were collected from over 15,000 interviews and 4,000 medical examinations and will be published in 1988. Data collection for the Selected Cancers Study will be completed in 1989 and the results published in 1990. The mortality component of the Vietnam Experience Study was published in February 1987 and showed that Vietnam veterans had experienced a 17 percent higher rate of postservice mortality than non-Vietnam veterans. During the first 5 years following discharge, mortality among Vietnam veterans was 1.45 times the death rate of non-Vietnam veterans. Most of the increased mortality was from external causes such as injuries, a similar finding to those of earlier studies of men returning from combat areas after World War II and the Korean conflict.

Also, the Birth Defects Study, which cost about $2 million and was funded by the De-

partment of Defense, the Veterans Administration, and CDC, was published in 1984. The study showed that Vietnam veterans, in general, did not have an increased risk of fathering babies with defects. In addition, the Air Force has just published the results of its second morbidity followup of the Ranch Hand cohort and concluded that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and health effects in exposed men. Followup of this cohort is planned through the year 2002.

The current amount of obligated but unexpended funds for the Agent Orange Exposure Study from the 1984 appropriation is about $19 million. While the final settlement costs for canceling the contracts is not yet know and will be paid out of this $19 million, a substantial unexpended balance (without having discussed this with the contractors, we estimate between $15 and $18 million) will remain. We understand that this balance will revert to the U.S. Treasury, unless Congress directs otherwise. The negotiation process for the final settlement costs associated with the termination of the contracts is expected to take approximately 8-10 weeks.

We will continue to keep you apprised of major events associated with the cancellation of the Agent Orange Exposure Study and the related budgetary issues and the progress of current scientific studies. If there is additional information which would be helpful to you, please contact me.

JAMES O. MASON, M.D., D.P.H.,
Assistant Surgeon General, Director.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
PUBLIC HEALTH SERVICE,
Atlanta, GA, October 29, 1987.

Hon. THOMAS K. TURNAGE,
Administrator, Veterans' Administration, Washington, DC.

DEAR MR. TURNAGE: The purpose of this letter is to update you on the status of the different components of the epidemiologic studies of the health of Vietnam veterans, to provide a budget report for fiscal years 1983-87, and to summarize our resource needs for fiscal years 1988-90.

The Agent Orange Exposure Study was designed to evaluate the health effects of possible exposure to herbicides (primarily Agent Orange), utilizing information contained in military records. This study has been on hold since January 1986 due to problems related to the exposure assessment of veterans who served in Vietnam. More specifically, it was determined that a study based on military records alone was not possible because of the considerable potential for misclassification of exposure status. Subsequently, the Centers for Disease Control (CDC) conducted a TCDD validation study to compare military records-based estimates with current serum dioxin levels. The results of this study led the Domestic Policy Council's Agent Orange Working Group and the Congressional Office of Technology Assessment to conclude that the Agent Orange Exposure Study cannot be conducted. We concur with this conclusion and have started the close-out process for this study.

The Vietnam Experience Study was designed to evaluate the possible health effects of the general Vietnam service experience by comparing a group of male U.S. Army Vietnam veterans with a group of male Army Vietnam-era veterans who did not serve in Vietnam. Data were collected for the study between January 1985 and July 1987, and publication of the study's results is planned for June 1988. These findings will be presented in summary articles published in medical journals and comprehensive monographs published by CDC.

The Selected Cancers Study was designed to evaluate if Vietnam veterans are at increased risk of contracting any of five specific cancers—soft tissue sarcoma, lymphoma, nasal, nasopharyngeal, and liver cancer. Data collection for this study component was initiated in January 1985 and will continue through July 1989. Publication of the Selected Cancers Study findings is currently targeted for June 1990.

With respect to the budget, we are enclosing a summary table for fiscal years 1983-87. We would like to highlight and explain several items in this table. The contractual costs for the Vietnam Experience Study are final; however, intramural (in-house) obligations and expenditures for this component will continue until all the analyses are completed. The Selected Cancers Study will continue to have both contractual and intramural obligations and expenditures until that study is completed in 1990. There will be no additional obligations for the Agent Orange Exposure Study. The $503,593 in unexpended penalty funds represent what is owed to Lovelace Medical Foundation through October 1987. Termination of the contracts with Research Triangle Institute and Lovelace Medical Foundation follows cancellation of the Agent Orange Exposure Study and will result in final settlement costs to the Government. The settlement amount will be based on negotiations with the contractors and will reduce the current amount of unexpended funds ($18,898,525) reserved for the Agent Orange Exposure Main Study. The negotiation process for the final settlement has been initiated and is expected to take approximately 8 to 10 weeks. We will keep you informed of the results of these negotiations. The remaining balance of unexpected Agent Orange Exposure Main Study funds would revert back to the United States Treasury.

Our funding needs for fiscal years 1988-90 are as follows: Fiscal year 1988-$3,000,000 ($2,625,000 in fiscal year 1988 funds and $375,000 in fiscal year 1987 carry-over funds); fiscal year 1989-$2,750,000; fiscal year 1990-$740,000. The fiscal year 1988 funds will be used to complete work and publish the main findings from the Vietnam Experience Study and to continue work on the Selected Cancers Study. The fiscal year 1989 funds are needed to complete additional important analyses from the Vietnam Experience Study database and to complete data collection activities and analyze data for the Selected Cancers Study. The fiscal year 1990 funds are required to complete the analysis and to publish the findings from the Selected Cancers Study.

Thank you for close cooperation and support relative to this issue.

Sincerely yours,
JAMES O. MASON, M.D., DR. P.H.,
Assistant Surgeon General, Director.

CDC'S EPIDEMIOLOGICAL STUDIES OF THE HEALTH OF VIETNAM VETERANS—BUDGET SUMMARY FISCAL YEAR 1983–87

Study	Total provided by VA	Total funds			
		Obligated	Expended	Unexpended	Unobligated
Vietnam experience:					
Contract costs		$17,871,036	$17,871,036	0	
Intramural costs		5,574,204	5,574,104	0	
Total (VES)		23,445,140	23,445,140	0	
Selected cancers:					
Contract costs		5,274,233	2,835,822	2,438,411	
Intramural costs		2,017,751	2,017,751	0	
Total (SCS)		7,291,984	4,853,573	2,438,411	
Agent orange exposure contract costs:					
Main study		18,898,525	0	18,898,525	
Validation study		3,922,199	3,829,897	92,302	
Penalties incurred [1]		3,237,028	2,733,435	503,593	
Subtotal contract		26,057,752	6,563,332	19,494,420	
Intramural costs [2]		8,575,010	8,575,010	0	
Total (AOS)		34,632,762	15,138,342	19,494,420	
Total:					
Contract costs		49,203,021	27,270,190	21,932,831	
Intramural costs		16,166,865	16,166,865	0	
Total	$65,745,100	65,369,886	43,437,055	21,932,831	$375,214

[1] The penalty expended figure includes payments to Lovelace Medical Foundation through July 1987. The penalty obligation figure includes projected penalties through October 1987. Final settlement costs with the contractors, if the contracts are terminated, are not included in the penalty obligation total.

[2] The intramural costs for the agent orange exposure study include $693,000 in laboratory costs for the validation study.

Mr. CRANSTON. Mr. President, the third component of the CDC Health Experience Study, the Selected Cancers Study, is designed to determine whether there is an increase among Vietnam veterans in the incidence of several serious, but relatively rare, cancers which have, in some studies, been suggested to be linked to dioxin exposure. Results from the Selected Cancer Study are expected in early 1989. The committee will continue to monitor very closely all of these activities.

RANCH HAND STUDY

In 1979, the Air Force began an epidemiological study of Ranch Hand personnel, the personnel who participated in the agent orange spraying missions in Vietnam, to determine whether these individuals suffered adverse health effects from herbicide exposure. In October 1987, a summary of results from the first followup examinations of the Air Force health study was released, with no demonstration of any adverse health effects which can be conclusively attributed to dioxin exposure.

VA MORTALITY STUDY

The VA recently completed a proportionate mortality study of Army and Marine Corps Vietnam veterans. The study found a statistically significant twofold increase of non-Hodgkin's lymphoma [NHL] and a statistically significant 57-percent increase of lung cancer among the Marine Corps Vietnam veterans, although there was no increase in these causes of death among the Army veterans, who comprised about 80 percent of those studied, or among all the some 25,000 veterans studied. Our committee has requested a review of this study from OTA, the AOWG, and the VA Advisory Committee, with particular reference to whether it supports the suggestion in several studies of a link between NHL and dioxin exposure. In an October 23, 1987, letter, OTA noted that, "[o]verall, the methodology of this study appears sound and appropriate * * *" and recommended that the VA carry out certain specific followup analyses.

I believe that the VA needs to examine additional questions arising out of the study, including, for example, the health status of Army Vietnam veterans who served in "I" Corps, the area in Vietnam where the majority of the Marine veterans served. House Veterans' Affairs Committee Chairman MONTGOMERY and I are requesting an evaluation from the VA regarding further investigation of conditions in I Corps.

NON-VETERAN HERBICIDE STUDIES

In addition to studies of the effects of dioxin exposure on Vietnam veterans, other independent studies have examined the effects of herbicide exposure on agricultural, forestry, and industrial workers. In September 1986, the results of a study entitled "Agricultural Herbicide Use and Risk of Lymphoma and Soft-Tissue Sarcoma" ["Kansas Study"], conducted by the National Cancer Institute and the University of Kansas, were published. In their reviews of this study carried out at my request, both OTA and the AOWG raised important questions about the significance of the Kansas Study as far as Vietnam veterans were concerned. OTA observed that the results of the Kansas Study "do not provide strong support for attributing the occurrence of non-Hodgkin's lymphomas in Vietnam veterans to agent orange."

A recent study entitled, "Soft Tissue Sarcoma and Non-Hodgkin's Lymphoma in Relation to Phenoxy Herbicide and Chlorinated Phenol Exposure in Western Washington," published in the May 1987 issue of the Journal of the National Cancer Institute, found "small but statistically insignificant increased risks for developing NHL in association with some occupational activities involving exposure to phenoxy herbicides, particularly for prolonged periods, and possibly, in combination with other chemicals," but did not demonstrate "a positive association between increased cancer risks and exposure to any specific phenoxy herbicide product alone."

The Senate and House Veterans' Affairs Committees have asked OTA, the AOWG, and the VA Advisory Committee to review this western Washington study and provide their views on its relevance to issues relating to Vietnam veterans. The VA Advisory Committee has thus far responded, noting, in summary minutes enclosed in a November 6, 1987, letter, that the study was well-designed and well-executed, and further, that, "this study adds to the accumulating evidence of no relationship with herbicide exposure and the occurrence of soft-tissue sarcoma," but that "[t]he association of phenoxy herbicide exposure with NHL warranted careful watching for new evidence." Mr. President, I request unanimous consent that the summary minutes from the VA Advisory Committee on Environmental Hazards April 27 and 28 meeting be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS ADMINISTRATION,
Washington, DC, November 6, 1987.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of October 16, 1987, concerning a study by Woods, et al., entitled, "Soft-Tissue Sarcoma and Non-Hodgkins' Lymphoma in Relation to Phenoxyherbicide and Chlorinated Phenol Exposure in Western Washington." (*Journal of the National Cancer Institute* 78:899-910 (1987).) The Veterans' Advisory Committee on Environmental Hazards reviewed this study at its April 27-28, 1987, meeting. The comments of the Committee on this study are summarized on pages 18 and 19 of the Summary Minutes for that meeting. I am enclosing a copy of those minutes for your information.

An identical letter is being sent to the Chairman and Ranking Minority Members of the Senate and House Committees on Veterans' Affairs who co-signed your letter. If I may be of further assistance, please let me know.

Sincerely,

FREDERIC L. CONWAY,
Executive Secretary, Veterans' Advisory Committee on Environmental Hazards.

Enclosure.

COMMITTEE COMMENTS

The Council next reviewed a study by Woods, et al., "Soft-Tissue Sarcoma and Non-Hodgkins Lymphoma in Relation to Phenoxyherbicide and Chlorinated Phenol Exposure in Western Washington." (*JNCI* 78: 899-910 (1987).)

This was a population-based case control study in Western Washington of 128 cases of soft-tissue sarcomas, 576 cases on non-Hodgkins Lymphoma, and 694 controls without cancer. Outcome variables were occupational history by job categories and an assessment of past occupational exposures to phenoxyherbicides or chlorophenols. The authors found no increased risk of either soft-tissue sarcoma or non-Hodgkins lymphoma associated with occupational history of exposure either to phenoxy herbicides or chlorophenols. With regards to occupational history by job category, however, there was found an increased risk of non-Hodgkins lymphoma for farmers, forestry herbicide applicators, and for those potentially exposed to phenoxy herbicides in any occupation for 15 years or more during the period prior to 15 years before cancer diagnosis.

Dr. Colton, the principal reviewer, described the study as being well-designed and well executed. The strengths of the study include its population basis, the careful choice of controls, the validation of the diagnosis of a soft-tissue sarcoma, the absence of any particular media attention during the period of data collection, and the validation by other sources the subjects' reported occupational histories and exposures to herbicides. The study's authors also presented various possible explanations for the discrepancies between their study's findings and other more recent U.S. findings with the Swedish studies of Hardell.

Dr. Lathrop expressed several concerns. First, he noted that when the overall population is looked at, no differences are found and that an association is seen only when the groups are further broken down. Secondly, he was concerned about the relatively low number of study subjects noting that with just a few miscalculations, the significance line can change quite easily. Overall, he believed the study to be extremely well conducted but noted that multiple comparison issue needs to be considered.

Dr. Kurland stated that he recalled a considerable amount of publicity regarding the use of herbicides by the Forestry Service and wondered whether there was, in fact, publicity to which the subjects were exposed and of which the investigators were unaware.

Dr. Colton expressed the belief that this study adds to the accumulating evidence of no relationship with herbicides exposure and the occurrence of soft-tissue sarcoma. With regards to the question of non-Hodgkin's lymphoma. Dr. Colton stated that this study raised the response to the question whether the VA's guidelines should be modified from a "no" to a "maybe." Dr. Lathrop noted the association of phenoxy herbicide exposure with non-Hodgkin's lymphoma warranted careful watching for new evidence.

The next study reviewed by the Council was by Boyle, et al., "Post Service Mortality Among Vietnam Veterans," (*JAMA* 257:790-795 (1987)) with Doctors Colton and Lathrop serving as the reviewers. This study examined the mortality experience through December 1983 of a group of approximately 9000 men who served in the army in Vietnam compared with a controlled group of about 9000 Vietnam era army veterans who did not serve in Vietnam. Over the entire follow-up period, total mortality in Vietnam veterans was 17% higher than for other veterans. The excess mortality occurred mainly in the five years after separation from military service and involved motor vehicle accidents, suicide, homicide, and accidental poisonings. Thereafter, the mortality among Vietnam veterans was similar to that of other Vietnam era veterans except for drug-related deaths which continued to be elevated. Vietnam veterans had substantially lower mortality rates from diseases of the circulatory system. The authors noted that the excess in postservice mortality due to external causes among Vietnam veterans was similar to that found among men returning from combat areas after World War II and the Korean War.

The Council found that study to be well designed and well conducted. It noted that this study was a Vietnam experience study and consequently could shed no light on the issue of the efforts of exposure to Agent Orange.

Following this study, the Council addressed the question whether it should review Vietnam experience type studies contrasted with studies focusing on herbicide exposure, especially given the Council's charge in Pub. L. 98-542. Dr. Lathrop observed that if Vietnam experience studies that are well conducted and sufficiently large show no association of particular cancers that are of interest, then subcategorization of those results in other studies of Vietnam veterans would have considerably less meaning even if they are positive. It was the consensus of the Council that Vietnam experience studies would be reviewed by the Council but to the extent possible, the Council's focus should be on herbicide exposure.

Mr. CRANSTON. Mr. President, a recent study, entitled "Soft Tissue Sarcoma and Military Service in Vietnam: A Case-control Study," by Dr. Han Kang, et al., published in the October 1987 issue of the Journal of the National Cancer Institute, adds further information on the issue of the possible long-term adverse health effects resulting from veterans' service in Vietnam.

This study sought to "examine the association of soft tissue sarcomas [STS's] with military service in Vietnam as well as other host and environmental risk factors." This study found a small, not statistically significant increase of the risk of STS among subgroups of Vietnam veterans who had higher estimated opportunities for exposure to agent orange, but concluded that Vietnam veterans generally "did not have a statistically significant increased risk of STS when compared to men who had never been in Vietnam."

The Senate and House Veterans' Affairs Committees have requested that OTA, the AOWG, and the VA Advisory Committee review and comment on the scientific methods used and the validity of the statistical analysis of this study and to identify any specific findings discussed in the study which warrant follow-up investigation or analysis, especially in light of the ongoing CDC selected cancers study, its epidemiological studies of the health of Vietnam veterans, and other pertinent studies, such as the 1987 western Washington State study, the Kansas study, and the Swedish studies regarding agricultural workers. I will be very closely monitoring all of these activities and will report any information in the RECORD when the committee receives responses.

Mr. President, I ask unanimous consent that the study be printed in the RECORD at this point.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[From the Journal of National Cancer Institute, October 1987]

SOFT TISSUE SARCOMA AND MILITARY SERVICE IN VIETNAM: A CASE-CONTROL STUDY [1]

(By Han Kang, Dr. P.H.,[2, 3] Franz Enziger, M.S.,[4] Patricia Breslin, Sc.D.,[2] Michael Fell, M.S.,[2] Yvonne Lee, M.S.,[2] and Barclay Shepard, M.D.[5, 6]

[Note.—Abbreviations used: AFIP—Armed Forces Institute of Pathology; CI—confidence interval; MOSC—Military Occupation Specialty Code; OR—odds ratio; RR—relative risk; STS—soft tissue sarcoma; TCDD—2,3,7,8-tetrachlorodibenzo-p-dioxin.]

(Abstract.—A case-control study was conducted in men who were of draftable age during the Vietnam conflict to examine the association of soft tissue sarcomas (STSs) with military service in Vietnam as well as other host and environmental risk factors. A total of 217 STS cases selected from the Armed Forces Institute of Pathology were compared to 599 controls for Vietnam service, occupational and nonoccupational exposure to various chemicals, occupational history; medical history, and life-style (smoking, alcohol, coffee, etc.). Military service information was verified by a review of the patient's military personnel records. Other information was ascertained from a telephone interview with either subjects or their next of kin. Cases and controls were stratified on the basis of the hospital type (civilian, Veterans Administration, and military); the Mantel-Haenszel estimate of the odds ratio (OR), adjusted for the effects of the stratification variable, was calculated. Vietnam veterans in general did not have an increased risk of STS when compared to those men who had never been in Vietnam (OR, 0.85; 95 percent confidence interval, 0.54-1.36). Subgroups of Vietnam veterans who had higher estimated opportunities for Agent Orange exposure seemed to be at greater risk of STSs when their counterparts in Vietnam were taken as a reference group. However, this risk was not statistically significant—JNCI 1987; 79:693-600.)

There is much concern in the United States that many health problems in Vietnam veterans may be the result of exposure to Agent Orange during their military service in Vietnam. Their complaints range from psychological disorders to cancer. Agent Orange was the herbicide most commonly applied in Vietnam by the United States Air Force during the Vietnam conflict. It was a mixture of two commercial herbicides, 2,4-dichlorophenoxyacetic acid (CAS: 94-75-7) and 2,4,5-trichlorophenoxyacetic acid (CAS: 93-76-5). The 2,4,5-trichlorophenoxyacetic acid contained minute amounts of an extremely toxic chemical, dioxin [TCDD (CAS: 1746-01-6)], which contaminated the herbicide during the manufacturing process. TCDD is teratogenic and carcinogenic in some experimental animals [1-3]. During the 5-year period from 1965 to 1970, the United States Air Force sprayed more than 11 million gallons of Agent Orange in South Vietnam [4]. Approximately 2 million military personnel served in Vietnam during the same period.

The possibility that exposure to the herbicide may induce rare forms of cancer in humans such as STS has been suggested from studies in Sweden [5, 6]. The Swedish studies have shown that persons reporting exposure to phenoxyherbicides have a fivefold to sixfold higher risk of developing STS as compared to persons without such exposure. A similar risk was reported by the Swedish investigators for malignant lymphoma [7].

Studies published subsequent to the Swedish studies have not demonstrated the association between STS and either exposure to phenoxyherbicides or military service in Vietnam [8-11]. Several cases of STS have been reported, however, among workers involved in the manufacture or use of phenoxyherbicides [12-14]. These industrial workers, in contrast to the herbicide applicators, are believed to have been exposed to relatively high levels of TCDD contaminant.

STSs are a complex and diverse group of malignant neoplasms that originate in extraskeletal supporting structures of the body, excluding the hematopoietic system, the glia, and supporting tissues of specific

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[1] Received April 29, 1987; accepted May 28, 1987.

[2] Office of Environmental Epidemiology, Department of Medicine and Surgery, Veterans Administration, Washington, DC 20006-3868.

[3] Address reprint requests to Dr. Kang, VA Office of Environmental Epidemiology, Riddell Building, 1730 K St., NW., Room 401, Washington, DC 20006-3868.

[4] Department of Soft Tissue Pathology, Armed Forces Institute of Pathology, Washington, DC 20306-6000.

[5] Agent Orange Projects Office, Veterans Administration, Washington, DC 20420.

[6] We acknowledge the contribution of the Westat staff, especially Mr. John Ward and Ms. Susan Rogers, in tracing study subjects and conducting telephone interviews. We also thank Mr. Richard Christian, Major Leslie Halapy, Mr. James Cox, and others at the U.S. Army and Joint Services Environmental Support Group for reviewing military records and providing geographic location of military units to which Vietnam veteran study subjects were assigned in Vietnam. Eleanor Travers, M.D., Director of the Veterans Administration Pathology Service, is appreciated for her strong support of the study from its inception and for writing to several hundred pathologists for their participation in the study. We are grateful to Marilyn Fingerhut, Ph.D., Carl Keller, Ph.D., Richard Monson, M.D., Paul Stolley, M.D., Alvin Young, Ph.D., and Shelia Hoar Zahm, Sc.D., for their review of the earlier version of the manuscript.

organs and tissues [15]. STSs account for about 1% of all malignant neoplasms and for about 2% of all cancer deaths. The average annual age-adjusted incidence rate for white males is 3.82 per 100,000, and it is estimated that about 8,000 patients are diagnosed with STS each year in the United States [16].

Little is known about the etiology of STS. An excess of STS has been reported in patients receiving immuno-suppression therapy for renal transplantation and other conditions [17, 18]. A small fraction of STS is induced by heavy external radiation therapy for various benign disorders and malignant tumors. Nearly all cell types of STS have been described following radiation [19, 20]. Some radioactive materials used for diagnostic or therapeutic purposes may induce sarcomas at or near sites of deposition [21, 22]. The well-known examples of associations between specific chemicals and sarcomas of specific cell types are angiosarcoma of the liver and exposure to vinyl chloride and mesothelioma and exposure to asbestos [23, 24].

In view of the concern raised by many veterans that their contact with Agent Orange during Vietnam service may increase the risk of developing STS and conflicting research findings in the scientific literature regarding association between exposure to phenoxyherbicides or military service in Vietnam and STS, a case-control study of STSs among men of draftable ages during the Vietnam conflict was conducted.

SUBJECTS AND METHODS

Selection of cases and controls.—Cases were drawn from soft tissue tumor files of the AFIP. The AFIP offered a unique resource to contribute to this study. The AFIP routinely provides consultation services for civilian and military pathologists throughout the United States, especially for conditions such as STS that present special diagnostic problems. Almost one-quarter to one-third of the STSs occurring in the United States are being sent to the AFIP for review. Thus the AFIP is one of the largest single registries in the world for this group of tumors. The uniformity of diagnoses at the AFIP gives it an added advantage as a resource for epidemiologic studies.

Selection of STS cases was restricted to men who were diagnosed at the AFIP as STS patients between January 1, 1975, and December 31, 1980, and who were born between 1940 and 1955. These eligibility criteria were established to restrict the study to individuals who were potentially at risk of exposure to Agent Orange and to reduce selection bias. These individuals would have been between 18 and 25 years of age during the Vietnam conflict, and their specimens would have been referred for diagnostic evaluation to the AFIP before the publicity appeared on Vietnam service, Agent Orange exposure, and the risk of STS.

Controls were selected from the patient logs of referring pathologists or their pathology department. This was to duplicate the selective factors (e.g., socioeconomic status, area of residency, etc.) that bring people to these hospitals or clinics. Excluded from consideration as controls were patients with diagnoses of STS, non-Hodgkin's lymphoma, and Hodgkin's disease. The latter two conditions have been associated with exposure to phenoxyacetic acid herbicides, chlorophenols, or their contaminants [7]. For each STS case, a pathologist in each referring pathology unit was asked to select the 3 male patients who would have been born between 1940 and 1955. Controls were not matched to the STS case by race or vital status.

A total of 440 STS cases was identified from the AFIP soft tissue tumor registry as potentially eligible cases. A letter was sent to each of the 368 hospitals representing the potential cases requesting their cooperation in the study. One hundred and nineteen hospitals (32%) did not respond positively because they were either unable or unwilling to retrieve and review the requisite medical records for selection of controls. These medical records could be as old as 10 years. Ultimately, 249 hospitals nationwide cooperated in the study and contributed 279 STS cases and 808 controls.

Interviews.—A letter was then sent to attending physicians of the STS cases and controls indicating our intent to approach the study subjects or the next of kin for a telephone interview unless the physician believed that there was strong medical contraindication for their participation in the interview. When negative responses were not received from the physician, an introductory letter was sent to each study subject or the next of kin to solicit his participation in a telephone interview. In the letter the purpose of the study was described simply as a national health study of adult men who were treated in various hospitals throughout the United States. No specific mention was made of cancer, STS, Agent Orange, or service in Vietnam.

The telephone interview averaged approximately 40 minutes and elicited information on occupational exposures, medical history, life-style including alcohol and tobacco consumption, and socio-demographic factors.

Interviews were successfully conducted for 217 of 279 cases (78%) and 599 of 808 controls (74%). Reasons for unsuccessful interviews included inability to locate study subjects or their next of kin (17% of cases and 17% of controls) and refusal to be interviewed (5% of cases and 9% of controls). In an attempt to minimize interviewer bias, a two-interview apporach was taken. The first interviewer asked questions on medical history, and the second interviewer administered the remaining questions on occupational exposure, life-style, and military history. The interviewers had no opportunity to know the case or control status of the respondent. Interviews were obtained directly from the study subjects for 120 of 217 cases (55%) and 527 of 599 controls (88%). Military and Vietnam service for all study subjects was documented by reviewing the existing military personnel records stored at various locations.

Measure for herbicide exposure.—Although desirable, a valid and precise estimate of the exposure of each Vietnam veteran to Agent Orange is not considered feasible based on either military records or self-reported exposure. In this study the probability of opportunity for exposure was determined in several different ways with varying degrees of likelihood of exposure: service in the Army or Marine Corps, military occupation, broad geographical location of the individual's unit in Vietnam at the time of his service, or a combination of the above.

It has been suggested that ground troops (Army or Marines) in Vietnam, by the nature of their military operations through defoliated zones and the practice of base perimeter spraying, might have a higher probability of direct or indirect contact with Agent Orange than other Vietnam veterans. Furthermore, it has been suggested that, among ground troops, those engaged in combat were more likely to be placed in herbicide-sprayed areas than individuals who were not in combat. In the military personnel records, there was no single data element applicable to all veterans that would indicate whether they actually had been in combat. As an alternative measure, the proportion of individuals with combat-related MOSCs was determined for both STS cases and controls. Combat-related MOSCs were those occupations where primary duties involved direct offensive and defensive action against an armed hositile force. Examples of combat MOSCs include rifleman, field artillery man, and tank crew member.

As another surrogate measure for herbicide exposure, the broad geographic location of the individual's military unit in reference to recorded herbicide spray missions was also determined. Initially, an elaborate computer mathcing of troop location to recorded aerial spray missions (Ranch Hand HERB and Service HERB tapes) was planned. However, an expert government panel [25] has subsequently determined that military records alone could not be used to locate troops with enough precision to allow a scientifically valid estimate of the likelihood of exposure to herbicides. For example, it cannot be determined in many instances whether a man was within 2 km of a spray tract on the day of a Ranch Hand spray mission.

According to maps developed by the National Research Council of the National Academy of Sciences from recorded spray missions, areas of defoliation and crop destruction were most extensive in military region III [26]. There were 3,487 spray missions carried out in military region III for the purposes of crop destruction, defoliation, and clearance of base perimeters and supply lines from 1964 to 1971 [25]. During the same period the number of spray missions recorded within military regions I, II, and IV were 2,015, 2,406, and 825, respectively. Army units were classified as located in regions I, II, III, or IV. Almost all Marine units were located in military region I.

Statistical analysis.—The measure of association between the risk of STS and the various exposure factors that included military service in Vietnam was the RR, as approximated by the OR. Tests of significance were derived by the Mantel-Haenszel chi-square statistic, and 95% CIs were calculated using Cornfield's method [27, 28].

The confounding variable of hospital type (civilian, Veterans Administration, and military) was evaluated by stratified techniques. The Mantel-Haenszel procedure was used to estimate the OR and calculate the 95% CI [27].

Since matching was employed in the study design and cases and controls were not replaced when the interview was not completed because of inability to locate them or refusal to participate, analysis was also conducted using a logistic approach for matched data with unequal number of controls per case [29]. The results were similar to those derived from the unmatched stratified analysis. For this reason, the results from the unmatched stratified analysis were chosen for presentation.

RESULTS

The distribution of cases and controls by age, accession year, and type of hospital for controls is shown in table 1. Demographic characteristics for cases and controls were almost identical with respect to marital status, religion, race, and level of education (table 2).

There were 45 of 217 STS cases and 145 and 599 controls who had a record of military service in Vietnam. No statistically significant positive association was found between STS and military service in Vietnam on a crude and adjusted basis. The crude OR was 0.82, with a 95% CI of 0.55-1.21. The Mantel-Haenszel OR adjusted for the effect of hospital type was 0.85, with a 95% CI of 0.54-1.36 (table 3). Distribution of histologic type of STS reported among Vietnam veterans was similar to that reported among non-Vietnam veterans. No particular anatomic site or histologic type was predominant in either group.

Notwithstanding the assumption that ground troops were more likely to be exposed to Agent Orange than non-ground troops, table 4 indicates that ground troops in Vietnam as a group showed a lower RR of STS when compared to men who had never been in Vietnam or Vietnam veterans in general. However, it appears that subgroups of ground troops who had higher estimated opportunities for Agent Orange exposure experienced greater risk of STS. For example, the OR was 0.61 (95% CI, 0.32-1.13) for Army Vietnam veterans, whereas the OR increased to 1.06 (95% CI, 0.42-2.59) for a subgroup of Army Vietnam veterans who were likely to have been involved in combat. For this reason, the ORs were calculated for Army and Marine veterans with combat-related MOSCs by military region where their units were stationed, taking their non-combat counterparts in each military region as reference groups (table 5). Army Vietnam veterans who had a combat-related MOSC showed a 2.6 times elevated risk of STS as compared to their non-combat counterparts in Vietnam (OR, 2.57; 95% CI, 0.72-9.36). The risk of STS was even greater (OR, 8.64; 95% CI, 0.77-111.84) when the location of their units was within military region III, the area where Agent Orange spray was reported to be extensive. In both instances, however, these increased risks were not statistically significant.

In this study the power to detect moderate increases in RR of STS among the entire group with Vietnam service is fairly good. The study had an estimated 65% chance of detecting a 1.5 times increase in the risk of STS and a 98% chance of detecting a twofold increase in the risk of STS for Vietnam veterans in general. It must be noted, however, that the study had a very low power to detect greater increased risks for subgroups of Vietnam veterans who had higher estimated opportunities for Agent Orange exposure. There was a 10% chance of detecting a 1.5 times increase in the risk of STS, a 23% chance of detecting a twofold increase, and an approximately 80% chance of detecting a fivefold increase in the risk of STS for Army combat veterans when non-combat Army Vietnam veterans were taken as a reference group.

No statistically significant association was found between STS and other study variables, including histories of viral infections, tropical diseases, skin problems, use of certain medications, organ transplantation, artificial joints, trauma, cancer other than STS, immune deficiency, chronic edema, radiation therapy, blood transfusion, and cancer in the family; smoking, alcohol drinking, and coffee drinking; work in certain occupations or industries that might involve herbicide, pesticide, and other toxic chemical exposure; exposure to specific chemicals such as asbestos, arsenic, herbicides, degreasing chemicals, insecticides or pesticides, and vinyl chloride or polyvinyl chloride; and occupational exposure to radiation (table 6).

The STS cases were also compared to control patients with cancer ($n=132$) for study variables. No statistically significant association was found for any variable. This was also true when taking only the study subjects who responded directly (120 cases and 527 controls), with one exception. Men who had a history of topical tar ointment application had an OR of 2.72, with a 95% CI of 1.25-5.85. This finding is of interest in that crude coal tar contains chemical substances that can cause benign and malignant neoplasms in animals and a case-control study reported that patients with high exposure to tar and UV radiation had a 2.4 times increase in the risk of skin cancer as compared with those patients lacking the high exposure [30].

DISCUSSION

The results of the present study do not support a strong positive association between Vietnam service and the occurrence of STS. These findings are consistent with the results of several other case-control studies of STS's. Greenwald and co-workers in 1984 [8] reported no significant association between STS and military service in Vietnam or Agent Orange-2,4,5-trichlorophenoxyacetic acid exposure. Of 281 STS cases, 10 men had military service in Vietnam; in contrast, of 281 live controls, 18 had served in Vietnam. The OR was 0.5, with a 95% CI of 0.21-1.31. The OR associated with Agent Orange exposure as reported by the subjects was 0.70, with a 95% CI of 0.17-2.92. Smith and co-workers [9], in studying 82 STS cases and 92 controls for their potential exposure to phenoxyherbicides, did not observe a statistically significant positive association. The estimate of RR was 1.3, with a 90% CI of 0.6-2.5. In a recent paper, Hoar and co-workers (10) confirmed the non-positive association between STS and herbicide exposure. They reported that neither STS nor Hodgkin's disease was associated with herbicide exposure. Of the 133 STS cases, 95 men reported having worked or lived on farmland as compared with 662 of 948 controls, yielding an OR of 1.00, with a 95% CI of 0.7-1.6. Twenty-two of the STS cases reported farm herbicide use as compared to 192 of the controls. The OR was 0.9, with a 95% CI of 0.5-1.6. However, Hoar et al. reported a strong association between non-Hodgkin's lymphoma and farm herbicide use.

The absence of an increased risk of STS in Vietnam veterans as a group when compared to those men who had never been in Vietnam cannot be explained by possible differential referral patterns to the AFIP with respect to the presence of study factors such as Vietnam service or Agent Orange exposure. The hospital pathologist referring STS cases to the AFIP seldom has that information. Furthermore, selection of STS cases was restricted to the cases referred to the AFIP in 1980 or earlier, before the publicity appeared on Vietnam service, Agent Orange exposure, and the risk of STS. Preferential referral of Vietnam veteran STS cases to the AFIP, however, would have introduced a bias toward overestimating the risk of STS for Vietnam veterans. Selection of controls from the hospital that referred the STS case to the AFIP does not appear to have introduced either an overrepresentation or an underrepresentation of men who were unlikely to have been in the military because of their chronic illness. The whole spectrum of diagnoses reflecting acute and chronic conditions was recorded for the control patients in the hospital records. However, it is unknown what the recorded health status of the STS cases as well as the controls was as far back as 15 years ago, during their draftable age. Interview data show that the proportions of cases and controls reporting as having had any physical conditions that might have prevented them from serving in the military during their draftable age were similar: 24% of the STS cases and 23% of the controls. Had bias been introduced, it would have created a spurious positive association by underrepresenting veterans in controls.

Several mortality studies of Vietnam veterans found no statistically significant excess deaths from STS, with the exception of the Massachusetts State study [31-34]. The Massachusetts study found 9 deaths from STS among Vietnam veterans as compared to only 1 expected death from STS. The results of the mortality studies reported to date are difficult to interpret since there are some limitations, which include the small number of deaths available for analysis (lack of adequate statistical power), the varying quality and accuracy of the death certificate coding, possible misdiagnosis of this malignancy, and lack of verification of Vietnam service.

The absence of a possible positive association between STS and Vietnam service might be the result of insufficient observation time since Agent Orange exposure in Vietnam. In general, it takes more than a decade for cancer to manifest itself if it is induced by a chemical carcinogen. Over 80% of the STS cases in this study were observed less than 10 years after the last troops were exposed to Agent Orange in Vietnam. Another possibility is that, although Agent Orange or dioxin can induce STS, Vietnam veterans as a group were exposed to such small doses or only a very small fraction of Vietnam veterans might have been exposed to Agent Orange that the present study does not have an adequate statistical power to detect the excess risk.

In summary, Vietnam veterans as a group as well as subgroups of those veterans who were categorized as having had higher opportunities for Agent Orange exposure by virtue of their military occupation or location of their units in Vietnam did not have a statistically significant increased risk of STS when compared to men who had never been in Vietnam. However, within Vietnam veterans, those who had higher opportunities for Agent Orange exposure appear to have greater risk of STS. The conclusion for subgroups of Vietnam veterans is based on considerably weaker study power than the conclusion about Vietnam veterans in general. Therefore, the possibility of a modestly increased risk of STS associated with Agent Orange exposure in Vietnam among select groups of Vietnam veterans can be neither confirmed nor ruled out in this study. Additional studies using better characterization of exposure are needed to answer this question.

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TABLE 1.—DISTRIBUTION OF STS CASES AND CONTROL PATIENTS BY AGE, ACCESSION YEAR, AND HOSPITAL TYPE

Characteristic	Cases (n = 217)		Controls (n = 599)	
	Number	Percent	Number	Percent
Age at accession, year:				
<26	30	14	77	13
26 to 35	165	76	476	79
>35 or more	22	10	46	8
Accession year:				
1975 or earlier	37	17	98	16
1976–77	64	29	159	27
1978–79	73	34	205	34
1980 or later	43	20	137	23
Type of hospital:				
Civilian	163	75	431	72
Veterans' Administration	26	12	86	14
Military	28	13	82	14

TABLE 2.—DISTRIBUTION OF SELECTED DEMOGRAPHIC CHARACTERISTICS FOR STS CASES AND CONTROL PATIENTS

Characteristic [1]	Cases (n = 217)		Controls (n = 599)	
	Number	Percent	Number	Percent
Marital status:				
Married	154	71	409	68
Divorced	18	8	62	10
Never married	45	21	125	21
Other-DK	0	0	3	<[1] 1
Religion:				
None	7	3	26	4
Catholic	52	24	176	29
Protestant	146	67	361	60
Others	12	6	36	6
Race:				
White	178	82	511	85
Black	31	14	62	10
Hispanic	6	3	17	3
Other	2	1	9	2
Education:				
<11th grade	22	10	63	11
High school	62	29	175	29
Vocational school	11	5	22	4
Some College	60	28	148	25
4-yr college	34	16	81	14
Post college	28	13	108	18
DK	0	0	2	<1

[1] DK = Do not know.

TABLE 3.—DISTRIBUTION OF STS CASES AND CONTROL PATIENTS BY VIETNAM SERVICE STATUS [1]

Vietnam service	Hospital type							
	Civilian		Veterans' Administration		Military		Total	
	Cases	Controls	Cases	Controls	Cases	Controls	Cases	Controls
Yes	20	66	11	43	14	36	45	145
No	143	365	15	43	14	46	172	454
Total	163	431	26	86	28	82	217	599
OR	0.77		0.73		1.27		0.82	
95 percent CI	.43–1.36		.27–1.94		.50–3.29		.55–1.21	

[1] The Mantel-Haenszel estimate of the OR adjusted for the effects of the stratification variable = 0.85; 95 percent CI = 0.54–1.36.

TABLE 4.—OR'S FOR STS'S IN RELATION TO VARIOUS CATEGORIES OF ESTIMATED AGENT ORANGE EXPOSURE LIKELIHOOD FOR ALL STUDY SUBJECTS

Exposure group [1]	STS cases	Controls	OR	95 percent CI
Never in Vietnam	172	454	1.00	
Ever in Vietnam	45	145	.82	0.55–1.21
Army, all	15	65	.61	.32–1.13
Combat MOSC's	8	20	1.06	.42–2.59
MR I	7	15	1.23	.45–3.29
MR I and combat MOSC's	3	6	1.32	.01–6.00
MR III	6	30	.53	.19–1.36
MR III and combat MOSC's	5	11	1.20	.36–3.80
Marine, all	5	24	.54	.18–1.55
Combat MOSC's	3	13	.61	.08–2.32

[1] Combat MOSC's include the following career groups: infantry, combat engineering, field artillery, special operations, and armor. MR refers to military region. South Vietnam was divided into four regions. The regions were denoted by I, II, III, and IV. They went from north to south.

TABLE 5.—OR'S FOR STS'S IN RELATION TO COMBAT AND MILITARY REGION AMONG VIETNAM VETERANS [1]

Combat MOSC	Military region [2]							
	I		II		III		Total	
	Cases	Controls	Cases	Controls	Cases	Controls	Cases	Controls
Army Vietnam veterans:								
Yes	3	7	0	3	5	11	8	20
No	4	9	2	17	1	19	7	45
Total	7	15	2	20	6	30	15	65
OR	1.13		0		8.64		2.57	
95 percent CI	.13–9.85				.77–111.84		.72–9.36	
Marine Vietnam veterans:								
Yes	3	13					3	13
No	2	11					2	11
Total	5	24					5	24
OR	1.27						1.27	
95 percent CI	.13–7.90						.13–7.90	

[1] The Mantel-Haenszel estimate of the OR adjusted for the effects of the military region for Army personnel = 2.32; 95 percent CI = 0.47–11.41.

[2] South Vietnam was divided into four military regions. No Army Vietnam veterans in the study served in military region IV. Almost all Marine units were located in military region I.

TABLE 6.—OR'S FOR STS'S FOR VARIOUS HOST AND ENVIRONMENTAL FACTORS [1]

Factors	Cases (n=217)	Controls (n=599)	OR	95 percent CI
Manufacture or repair of electrical transformers	11	20	1.52	0.60–3.82
Work with asbestos	53	151	.97	.44–2.11
Work with arsenic	6	21	.81	.13–4.87
Work with herbicides	17	77	.62	.32–1.21
Work with vinyl chloride-polyvinyl chloride	14	35	1.13	.36–3.57
Work with x-ray	22	61	.99	.86–1.14
Apply herbicides on farm or ranch	12	61	.51	.19–1.37
Work at incinerator for waste materials	3	12	.69	.05–10.24
Work in lumbering, logging, or forestry	13	45	.79	.35–1.76
Use herbicides in yard work	60	157	1.08	.68–1.70
Cigarette smoking	126	401	.71	.51–.99
Coffee drinking	131	371	.92	.63–1.35
Drinking alcoholic beverages	193	559	.66	.36–1.20
Angioma	13	19	1.95	.87–4.36
Psoriasis	5	10	1.43	.19–10.81
Neurofibromatosis	4	2	6.00	.89–40.39
Radiotherapy	9	28	.99	.83–1.18
Tar ointment	15	23	1.85	.89–3.86
Close relative with cancer	70	159	1.31	.92–1.87

[1] OR's were calculated using the Mantel-Haenszel procedure controlling for the effect of hospital type.

AGENT ORANGE LITERATURE REVIEW

Mr. CRANSTON. Mr. President, against this background, and in order to pull together the various scientific studies, section 115 of S. 9 would provide for the NAS—or a similar entity—to undertake a review of all of the scientific evidence, literature, and studies pertaining to the adverse health effects in humans of exposure to agent orange and its component compounds, and issue a report by October 1988 summarizing the Academy's conclusions as to the weight of the evidence on this subject. Such sums as are necessary would be authorized to be appropriated, and, in order to satisfy section 401(a) of the Congressional Budget Act, the contract authority would be authorized only to such extent as is, or in such amounts as are, provided for in Appropriations Acts. It is my hope that the Academy would be willing to undertake a scientific review and issue a report, as outlined above, which would provide an authoritative statement regarding the evidence pertaining to agent orange, and could help guide future public-policy decisionmaking in this area. In this regard, I note an August 19, 1987, letter to Senator KERRY and me from Dr. Frank Press, the President of the Academy, in which Dr. Press states:

> [t]he Academy would be prepared to discuss [the possibility of carrying out such a review] further with you and to perform a review if so requested.

Mr. President, I ask unanimous consent that the full text of this August 19 letter appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ACADEMY OF SCIENCES,
Washington, DC, August 19, 1987.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

Hon. JOHN F. KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON AND SENATOR KERRY: I am responding to your letter regarding a review by the National Academy of Sciences of the scientific evidence on the possible relationship of exposure to Agent Orange and its component compounds and health effects among veterans so exposed. As you have said, the subject is a controversial and emotional one.

The Academy Complex has been involved with the issue of Agent Orange in several instances. Committees have advised the Air Force on the planning of the "Ranchhand" epidemiologic study and on the planning and conduct of the study now being performed by the Centers for Disease Control. A review of dioxin as a contaminant in indoor environments is scheduled for initiation shortly. We are aware of other studies that attempt to assess the possible adverse health effects of exposure to Agent Orange.

Because the comprehensive study being performed by CDC is in progress and not expected to be complete for some time, it may still be too early to embark on a review such as you suggest. However, it is my understanding that interim results exist from the CDC study and that they, together with data from other studies, may make it possible to perform a review. It must be recognized that a committee performing a review at this time might reach the conclusion that the available data are insufficient or that they yield no conclusive answer. Such an outcome may cause frustration for legislators and the public who seek a more definitive response.

The Academy would be prepared to discuss this matter further with you and to perform a review if so requested.

I thank you for your confidence that the National Academy of Sciences can provide the most authoritative assistance to the nation in dealing with this question and will welcome discussion of a constructive role we might play.

Yours sincerely,

FRANK PRESS,
President.

Mr. CRANSTON. Mr. President, I believe that the goal of finding acceptable answers to the many remaining questions regarding Vietnam veterans' exposure to agent orange and other herbicides during their service in Vietnam must not be abandoned. My counterpart in the House, Veterans' Affairs Committee, Chairman G.V. "SONNY" MONTGOMERY, and I share a commitment to doing what is right for Vietnam veterans on this issue. Along with our ranking minority members, Senator FRANK MURKOWSKI and Representative GERALD SOLOMON, we and all the members of our two committees will be working closely together in the days and months ahead as we continue to grapple with this very complicated, divisive, intensely felt, vitally important issue.

AUTHORITY TO WAIVE COMPLIANCE SURVEYS

Mr. President, section 123 of the bill would give the Administrator, in the case of an institution having a demonstrated record of compliance with all of the applicable requirements for education programs under title 38, authority to waive the requirement for an annual compliance survey of each institution in which 300 or more eligible veterans or persons are enrolled or which offers courses not leading to a standard college degree.

The provision in the committee bill, which is derived from section 105 of the administration-requested bill, S. 918, would amend section 1793 of title 38 to permit the VA to waive mandatory compliance surveys for schools with a good record of full compliance and thus give the Administrator greater authority to direct compliance surveys toward those institutions where the need is greatest. The committee believes that the VA can maintain active and effective enforcement of the law and regulations without the need for annual compliance surveys of every institution covered by current law—that is, every institution in which 300 or more eligible veterans or persons are enrolled or which offers courses not leading to a standard college degree. The VA's April 1987 report, "Cost Effectiveness Study of School Liability Procedures Under 38 U.S.C. Section 1785" suggested that changes are needed in the compliance survey formula and process. The report recommended that compliance surveys be "targeted" on educational institutions which have the largest average overpayments per VA beneficiary enrolled in lieu of the current procedure which generally bases the survey schedule on the numbers of beneficiaries enrolled in courses.

The study further recommends implementing the "targeted" approach by using data in the education master file [EMF], an automated repository of some 4 million beneficiary records at the VA Data Processing Center in Hines, IL. This "targeted" approach, according to the report, would have the following advantages over the current approach.

First, it would be more cost-effective. The costs associated with using a high-speed ADP system such as the EMF to identify institutions with the highest average overpayments are much less than the current labor-intensive efforts of sending compliance survey specialists to individual institutions manually to retrieve and review folders.

Second, the targeted, EMF approach would facilitate a more uniform implementation of the procedure. VA regional offices nationwide have implemented the school liability procedure in a less-than-uniform way. Using the EMF to identify schools which have apparent systemic reporting problems or potential school liability means that all regional offices would be using the same criteria for deciding where to conduct compliance surveys.

Third, the targeted, EMF approach would create a new uniform method for identifying schools in need of technical assistance. To promote closer coordination between the higher education community and the VA, the EMF can be used to identify for the national higher education associations the institutions that would appear to need technical assistance with respect to timely reporting requirements. The EMF can provide this information in an objective rather than subjective way.

Given that the VA report on school liability found a very high correlation between the frequency and amount of education overpayments per beneficiary enrolled and assessment of liability against an educational institution by the VA—which is the ultimate manifestation of a lack of compliance with the title 38 requirements for education programs—I urge the VA to make full use of the EMF to promote the more efficient and effective conduct of compliance surveys and the identification of institutions in need of technical assistance. Although I recognize that various manual techniques are used by VA regional office personnel in identifying schools where compliance surveys need to be conducted, such techniques are generally more labor-intensive—and thus less cost-effective—than the EMF approach and should be supplemental to the EMF approach. I very much hope that the VA will proceed as its own school liability report has recommended.

RADIATION BENEFITS

Mr. President, title II of S. 9—derived from S. 1002, which I introduced on April 9, 1987—would provide for disability and death benefits to veterans and their survivors in connection with the veteran's exposure to ionizing radiation through participation in the U.S. Government's nuclear weapons testing program, the American occupation of Hiroshima or Nagasaki, Japan, or, as the bill will be modified today, interment as a prisoner of war in Japan during World War II.

At the outset, I want to recognize the contribution of the ranking minority member, the Senator from Alaska [Mr. MURKOWSKI], who introduced a radiation compensation bill earlier this session—S. 453—which played a major role in focusing the debate on and bringing about increased attention to this area. I also want to extend similar recognition to the activity in the House Committee on Veterans' Affairs, where five members, including the Chairman [Mr. MONTGOMERY], joined with Representative ROWLAND of Georgia to introduce a radiation compensation measure, H.R. 1811. Finally, and foremost, I wish to note the leadership of the principal cosponsor of S. 1002, my good friend, the Senator from Illinois [Mr. SIMON], who, dating back to his years in the House, has been at the forefront of efforts to secure compensation for these veterans.

Mr. President, in my view, title II of S. 9 represents a major step forward for radiation-exposed veterans. It is the latest in our continuing efforts to address the concerns and resolve the problems facing veterans who were exposed to ionizing radiation while in the service of our country. Those concerns generally fall into three categories: compensation for disabilities possibly related to exposure; answers to questions about the actual effects of exposure to low-level ionizing radiation; and, finally, access to health care for current problems that might be related to the exposure. Although Congress has addressed the latter two issues in what I believe are significant and appropriate ways, the compensation issue has not gone forward, pending the continuing search for scientific understanding of the precise effects of low-level radiation exposure on human health.

I believe that the time has come to try to ensure that radiation-exposed veterans are treated fairly and reasonably with respect to claims for VA benefits.

Mr. President, science clearly has demonstrated that exposure to radiation can cause serious, long-term health effects. What we do not know, of course, is how much exposure causes what health effects; and that is at the root of the problem that has resulted in the denial of over 99 percent of radiation-exposed veterans' claims for VA benefits since 1978.

In title II of S. 9, we have sought to provide a fair and compassionate approach—and one based on the scientific knowledge which we *do* have. As I will discuss in greater detail later, certain cancers have been shown to be more susceptible to radiation induction than have others; and other cancers, although susceptible to radiation, are as, or more, likely to be caused by other risk factors, such as tobacco smoking, alcohol abuse, or poor diet. The benefits which these provisions would provide are dependent upon the relationships between the various radiogenic cancers included in the bill and radiation and between those cancers and other risk factors.

Mr. President, we spent many hours evaluating different alternatives and researching these issues with a variety of scientific consultants, including epidemiologists and radiological oncologists at the National Cancer Institute, members of the BEIR III committee, members of the VA's Veterans' Advisory Committee on Environmental Hazards, and scientists at private institutions including UCLA, Johns Hopkins, and Harvard. We tried very hard to develop a rational, scientifically consistent basis for drawing lines between and among various radiogenic cancers, and I am satisfied that we have succeeded.

According to the CBO, title II of S. 9 would provide benefits to as many as 5,000 veterans and survivors at a cost of $39 million in its first full year of implementation.

Mr. President, I have thought a great deal about the issue of compensation for these veterans and their survivors and possible resolutions of it, and I believe that this bill provides a compassionate, scientifically reasonable, and fair approach. These veterans and their families have waited long enough. It would be unjust, in my judgment, to withhold any longer all compensation for lack of scientific confirmation, when that science is unlikely to emerge for many years, if ever.

BACKGROUND

Mr. President, I would like to describe some of the background leading up to the development of title II. I would also refer my colleagues to the more extensive treatment of this subject contained in the committee report accompanying S. 9, Senate Report. No. 100-215 (pages 91-102).

I have had a longstanding concern for the approximately 225,000 veterans who participated on site in the detonation of 235 nuclear devices in connection with our Government's atmospheric and underwater nuclear weapons testing program and the American occupation of Hiroshima and Nagasaki, Japan, following the detonation of atomic bombs over those two cities on August 6 and August 9, 1945. Along with others of my colleagues in the Senate, I have long sought to find solutions and answers to the questions raised by those veterans' exposure to ionizing radiation during their military service.

Accordingly, as chairman of the Veterans' Affairs Committee, on June 20, 1979, I held the first congressional hearing expressly on the subject of veterans' exposure to radiation and focusing on the difficulties experienced by veterans and survivors in using the then-current VA adjudication system for radiation exposure-related claims. Among the most important outcomes of the hearing was the VA's agreement to issue agency-wide instructions establishing certain presumptions on test participation and directing that credible estimates of radiation exposure—even if higher than actual badge or dosimeter readings—be used in adjudicating claims, and the agreement of the VA and the Department of Defense to work closely to assist claimants in gathering information in support of claims and to provide timely reconstructions of individual veterans' radiation dose estimates.

Over the next several years, three additional oversight hearings examined the efforts of the VA and the DOD to implement the agreements from the 1979 hearing and the VA's overall claims adjudication system (held on April 6, 1983), the VA's efforts to carry out the mandate of Public Law 98-542 requiring the VA to establish uniform guidelines for adjudicating claims for VA benefits based on exposure to radiation (held on November 14, 1985), and the GAO's report, which I had requested, on issues relating to Operation Crossroads, the first post-World War II test of nuclear weapons (held on December 11, 1985). In addition, our committee's June 30, 1987, hearing on compensation issues, which I chaired, focused on legislation—S. 1002 and S. 453—and oversight issues relating to radiation-exposed veterans.

Mr. President, in 1981, the Congress enacted Public Law 97-72—which included provisions I introduced in S. 921—to extend eligibility for VA health care services to veterans exposed to radiation from their participation in the nuclear weapons testing program or the American occupation of Japan. This provision provides veterans suffering from disabilities that they believe may be linked to their exposure to radiation—but as to which there is insufficient medical evidence at the time they apply for care to establish this linkage—with eligibility to receive basic VA health care services for those disabilities without having to prove exposure or to establish that they are unable to defray the cost of the care they need as section 610 of title 38 otherwise would require. Although originally enacted for a 1-year interim period, the Congress in 1985 passed legislation I proposed, ultimately enacted as Public Law 99-166, extending the health care eligibility until September 30, 1989.

I have long believed that, in addition to providing a basis for determining what remedies—such as presumptive compensation—are due to radiation-exposed veterans, it is our moral obligation to provide answers as to the health status of radiation-exposed veterans and the increased risks they have faced compared to that of persons not exposed to radiation from nuclear weapons. Accordingly, in 1983, I authored provisions—which were enacted as section 601 of Public Law 98-16—to require the VA to contract with an outside entity to conduct a comprehensive epidemiological study of the long-term health effects of those veterans' exposure to ionizing radiation.

Mr. President, in conjunction with the mandated epidemiological study, Senator Simpson and I authored legislation which became Public Law 98-542, enacted in October 1984, to address the issue of compensation for disabilities that might have resulted from exposure to radiation. A parallel provision in the law dealt with compensation for possibly agent orange-related disabilities. That law directed the VA, through a rulemaking process allowing for public participation, to develop binding regulations for the adjudication of claims based on exposure to radiation in order to bring about consistency in the process and the results. In developing the regulations, the Administrator was required to address specifically whether—based on medical and scientific evidence and resolving reasonable doubt in the claimant's favor—any presumptions as to service connection should be applied in the case of certain specified disabilities.

Public Law 98-542 addressed the process by which the VA handles claims for benefits rather than designating specific diseases or disabilities as being presumptively service connected for VA compensation purposes. We took this approach for two reasons. First, we believed that there was room for significant improvement in the way in which the VA compensation system handled claims based on radiation exposure and that such changes might obviate the need for legislation providing for presumptive compensation. Second, it seemed premature to provide presumptive compensation, that is, for the Congress to make decisions regarding the relationship between relatively low levels of ionizing radiation exposure and the diseases of the various body organs and tissues when the scientists could not do so, particularly when there was still an opportunity for further information on the health-status of veterans exposed to radiation to become available through the epidemiological study mandated by Public Law 98-160.

Unfortunately, after more than 3 years of extensive review of a proposed protocol for conducting a broad-based, morbidity study of veterans exposed to radiation, the scientists recently indicated that it is not scientifically feasible to design a morbidity study of those radiation-exposed veterans and that the only mortality study that can proceed at this point would be one involving only one series of detonations. A mortality study of Operation Crossroads onsite participants is only now proceeding, more than 41 years after the first test operation—during which time only a handful of veterans have been awarded VA compensation for disabilities claimed on the basis of radiation exposure—and it appears most unlikely that a comprehensive epidemiological study of radiation-exposed veterans ever will be conducted. Indeed, the committee was just notified by a letter from the Administrator dated November 27, 1987, that a contract for the conduct of the Crossroads study had been awarded to the National Academy of Sciences.

Mr. President, I ask unanimous consent that the letter from the Administrator be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Administrator of Veterans' Affairs,
Washington, DC, November 27, 1987.

Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: Pursuant to the provisions of Public Law 98-160, Section 601(a)(5)(A), this is to provide you with information concerning the status of Veterans Administration epidemiological studies of veterans who were exposed to ionizing radiation as a result of participation in the atomic weapons testing program or of service with the occupation forces in Hiroshima and Nagasaki, Japan.

In our report of April 7, 1987, we advised that we would conduct a mortality study of the Shot Smoky participants beginning in fiscal year 1988, subject to the availability of funds. This study is an alternative to a morbidity study of veteran participants at sites of temporarily augmented ionizing radiation during their military service which was deemed not scientifically feasible. Discussions are ongoing with the National Academy of Sciences concerning this effort. Resource availability for the study is pending for fiscal year 1988.

Additionally, we committed to proceed with obtaining the design of a method for determining cohorts of exposed and unexposed veterans for a mortality study of Operation Crossroads participants. As noted in our previous report, the VA Office of Research and Development submitted the National Research Council protocol for the study to a special ad hoc review committee for their evaluation. The review was completed on April 1, 1987.

The scientific review conducted by the committee concluded that the low dose estimates of exposure at Crossroads, and the intervening years of exposure to radiation from other sources make it clear that this is not a study that can definitively measure the effects of radiation on mortality of participants in Crossroads. They further concluded that the study is very unlikely to increase the ability to quantify risks resulting from exposures to low levels of radiation. Nonetheless, given the above qualifications, the committee recommended VA support for the study to add to the growing body of information derived from studies of human populations exposed to low level radiation. They further concluded that the study will be valuable in analyzing the experience of this particular cohort, and presenting the findings in ways that are interpretable by a broad audience of interested groups and individuals. The committee made several recommendations and comments on the study design which were subsequently incorporated into the proposed study. A contract for conduct of the study was awarded to the National Academy of Sciences on September 30, 1987. The contract is for one year from date of award with two years renewal option pending availability of funds, acceptance of previous year's work and continued need. Annual progress reports of the previous year's work are required.

In addition to these efforts pursuant to Public Law 98-160, the VA continues to work with the Veterans' Advisory Committee on Environmental Hazards in our review of the scientific literature concerning the effects of exposure to ionizing radiation. We also continue our active membership on the Committee on Interagency Radiation Research and Policy Coordination which coordinates radiation matters between agencies, evaluates radiation research, and provides advice on the formulation of radiation policy.

We continue our firm commitment to search for answers on whether exposure to ionizing radiation has harmed veterans in any way. The Veterans Administration will continue to provide a number of programs and services to these veterans while these studies are underway.

Sincerely,

Thomas K. Turnage,
Administrator.

Mr. CRANSTON. Mr. President, in November 1985 the General Accounting Office [GAO] released the results of a study I requested on Operation Crossroads—the 1946 two-detonation series in the Pacific—regarding the safety precautions during that operation and the degree to which the onsite participants may have been exposed to ionizing radiation there. The GAO report, although it does not purport to establish or estimate any specific exposure levels for veterans who were present at Operation Crossroads, casts significant doubt on the assertions by the DOD that the only exposures were to low-level radiation. GAO officials estimated that a substantial number of the 42,000 Crossroads participants—as many as approximately 17,000—probably received heavier radiation dosages than previously assumed.

Shortly after the release of the Operation Crossroads report, allegations arose that the radiation exposure estimates of certain Air Force veterans who flew through the mushroom clouds caused by certain nuclear detonations in Operation Redwing in 1956 significantly understated actual exposure. Accordingly, in order to see if safety precautions had improved after Operation Crossroads and to study the specific questions raised about Operation Redwing, the committee requested that the GAO investigate this issue as well as any other issues that arose in the course of investigation with respect to manned planes flying through postdetonation nuclear clouds. The results from this second GAO investigation, which examined the cloud-sampling activities in three test operations—including Operation Tumbler-snapper in 1952 and Operation Dominic I in 1962, as well as Operation Redwing—were reported in September 1987, and basically confirmed the findings in the Operation Crossroads report of errors in the Defense Nuclear Agency [DNA] of the DOD reporting of radiation exposure levels and significant understatement of radiation exposure levels.

The two GAO reports taken together provide confirmation of the contention that inadequate safety precautions were taken by the U.S. Government to protect the health of nuclear test participants, that the estimates of radiation exposure by the Government for participants have been substantially understated, and that it is no longer appropriate to place sole reliance on such estimates in the VA benefits claims adjudication process.

It has thus become clear that the reliance in the present claims adjudication process on DNA radiation exposure estimates has often prevented fair consideration of these claims. Scientific research over many years has proven conclusively the dangers to human health from exposure to certain higher levels of ionizing radiation. But such claims, particularly those involving health effects with long latency periods, present adjudicatory issues which differ significantly from the issues presented in claims based upon the more usual types of injuries incurred in military service. Although almost 6,500 claims for compensation or DIC have been filed with the VA by veterans and their survivors since 1978 for disabilities resulting from exposure to low-level ionizing radiation, according to the VA it has awarded benefits in only 43 of those cases. The circumstances of these 43 cases and of many where the claim was rejected reveal no consistent standards or principles or analytical process governing the decisions.

Moreover, from certain documents that have come to light in the last several years, it is now clear that some officials of the U.S. Government were aware as early as 1945 of the risks of long-term, adverse health effects from exposure to ionizing radiation. Nevertheless, the Government continued deliberately to expose service personnel to ionizing radiation in connection with the nuclear weapons testing program. Perhaps most significantly, these personnel were not informed of the risks associated with their participation in the program, nor was their health status systematically monitored thereafter. I firmly believe that these factors place an even greater than usual responsibility on the Government to ensure that these veterans receive appropriate compensation as well as necessary health care through the VA for any disabilities that could reasonably have resulted from such exposure.

BILL PROVISIONS: COMPENSATION AND EXPOSURE PROVISIONS

S. 9 addresses the two key problems which have resulted in the denial of over 99 percent of all claims for VA benefits filed by radiation-exposed veterans: First, the impossibility of determining, in a given individual, whether a disability was caused by radiation exposure rather than by something else; and, second, underestimates in the DNA radiation exposure estimates on which the VA relies in claims adjudication.

The bill has two main provisions:

First, presumptive disability and death benefits, or special consideration in the adjudication of claims for benefits, are provided for veterans and their survivors based on exposure to ionizing radiaton through on-site participation in the nuclear weapons testing program or the American occupation of Japan and the development of certain cancers which have been associated with ionizing radiation exposure. The treatment in S. 9 of a particular cancer is based on the strength of the association between the cancer and radiation, and between the cancer and other significant risk factors, such as tobacco smoking or alcohol abuse.

Mr. President, I based my decision to introduce presumptive benefits legislation last spring in part on the scientific uncertainties regarding the radiation dose responsiveness of various cancers and the unfairness of penalizing veterans for those uncertainties by denying compensation because the veteran could not prove his or her cancer was caused by radiation. Having made that decision, the scientific knowledge which is available concerning the effects of low-level ionizing radiation exposure was applied to develop the provisions in S. 9.

The principal scientific basis relied upon in selecting and determining the treatment of the various cancers in S. 9 is the most recent report of the National Academy of Sciences' Committee on the Biological Effects of Radiation [BEIR III], which was issued in 1980. BEIR III is generally regarded as a preeminent source of information on the status of scientific understanding of the health effects in humans of exposure to low-level ionizing radiation. BEIR III deals with the scientific bases for the effects of low-dose radiation and encompasses a review and evaluation of scientific knowledge developed since the first BEIR report, published in 1972, concerning radiation exposure of human populations.

Two cancers—leukemia, except for chronic lymphocytic leukemia, and thyroid cancer—are included in the bill of presumptive compensation purposes without reference to the level of the veteran's exposure to radiation. BEIR III lists both of these cancers as having a very high relative sensitivity to induction by radiation, and other studies have not demonstrated an association with other significant risk factors.

Eight other forms of cancer—cancer of the small intestine, stomach, liver, except where cirrhosis or hepatitis B is indicated, bile ducts, gallbladder, and pancreas, lymphomas excluding Hodgkin's disease, and multiple myeloma—are included in S. 9 for presumptive benefits purposes if the veteran was exposed to more than one rem of radiation. These are cancers which are described in BEIR III as having a moderate relative sensitivity to induction by radiation, and other studies have not demonstrated an association with other significant risk factors.

With the exception of leukemia, S. 9 would require a 5-year latency period between a veteran's first exposure to nuclear-detonation radiation in the service and the manifestation of the cancer before a cancer would be considered for presumptive compensation. This 5-year time period is included in recognition of the fact, as discussed in BEIR III, that "[t]he minimal latent period for most radiation-induced cancers is long—10 [years] or more after exposure." I believe that the 5-year requirement will give the veteran every benefit of the doubt while still recognizing the appropriateness of a latency period.

One exception to that rule—leukemia—is treated differently in S. 9. Rather than requiring a latency period, presumptive benefits would be available for leukemia occurring at any time after a veteran's exposure. However, the bill has a cutoff date—30 years after a veteran's exposure to radiation—after which compensation would not be presumptively provided in the case of a veteran with leukemia. This approach incorporates the findings of BEIR III and the report of the National Institutes of Health ad hoc working group to develop radioepidemiological tables that the risk of leukemia becomes negligible 25 to 30 years after the radiation exposure. No similar cutoff date is applied to the other cancers specified in the committee bill because, as BEIR III notes with reference to those cancers, "there is as yet no indication that the increased risk of cancer eventually declines." With further reference to the issue of a cutoff date, the NIH radioepidemiological tables report notes that "[t]he BEIR Committee rejected a plateau model of finite length for cancer, other than leukemia and bone cancer, because after approximately 30 years of follow-up in the major exposed populations, excess risk has shown no sign of declining."

Mr. President, title II of S. 9 specifies that other cancers—cancer of the colon, lung, esophagus, rectum, pharynx, liver, when cirrhosis or hepatitis B is indicated, kidney, urinary tract, bladder, brain and nervous system, salivary glands, and bones and joints, and cutaneous melanoma—are to be given special consideration in claims based on radiation exposure for benefits, including the Administrator's giving conclusive weight to the congressional findings relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors. These cancers are ones which, according to BEIR III, have either a low sensitivity to induction by radiation—kidney, urinary tract, bladder, brain and nervous system, salivary glands, and bones and joints, and cutaneous melanoma—or a moderate or higher radiation association but an equal or higher sensitivity to induction by other causes, so that the likelihood that the cancer was caused by radiation exposure from a nuclear weapons test operation or the American occupation of Japan is very low. In the latter group are lung cancer, which has a known, strong association to smoking, cancer of the esophagus, which has a known association with smoking and alcohol, cancer of the pharynx, which has a known association with smoking, cancer of the colon, which is now being implicated with dietary deficiency, and cancer of the liver when hepatitis B infection or cirrhosis is present, because of known associations with those two conditions.

All radiation-exposed veterans—including those who fit within the special consideration category and those suffering from a disease which is not included in S. 9—and survivors of such veterans would retain their current-law rights to prove their entitlement to compensation under chapters 11 or 13 of title 38.

In formulating the list of cancers in the bill, we recognize that the status of scientific information about the health effects of exposure to low-level radiation is not static. The committee intends to continue to monitor information on this subject and will propose changes to the list as appropriate. Indeed, in the committee report, we urge that the scientific data be monitored closely by the Advisory Committee on Environmental Hazards, and set forth the committee's intention to oversee the efforts of the advisory committee in this regard. Accordingly, section 208 of the bill would require that the reports of the advisory committee, required under Public Law 98-542 to be submitted to the Administrator, be submitted concurrently to the Senate and House Veterans' Affairs Committees. In addition, an update of BEIR III—BEIR V—is expected to be completed and thus available for the committee's review in 1989.

The second major provision of S. 9 would mandate that the DNA radiation-exposure estimates, on which the VA relies in evaluating claims for benefits, be upwardly adjusted according to a formula based on the ranges of exposure estimates for substantial segments of the participants in each nuclear test operation, as determined by the DNA estimates. In addition, for the approximately 25,000 occupation force veterans or former prisoners of war in Japan during World War II who had an opportunity for radiation exposure comparable to that of a veteran who participated in the occupation, one rem would be added to the veteran's DNA-estimated radiation exposure. Radiation exposure estimates would be increased for approximately two-thirds of all radiation-exposed veterans from both the nuclear weapons testing program and the American occupation.

These provisions of S. 9, relating to ionizing radiation exposure, would terminate as to new claims submitted after September 30, 1991. This date is expected to be approximately 1 year after the VA submits the report from the Public Law 98-160 radiation mortality study. At that time, the Congress could make adjustments—including the addition of any cancers not included in S. 9 which are found to be associated with radiation exposure—as appropriate in light of the study results. I intend to recommend that the Congress do just that, should the study results so warrant.

Because the benefits provided in S. 9 thus would be interim benefits, they would not be added to the compensation benefits provided in chapters 11 and 13 of title 38. This is similar to the approach taken in 1984 in Public Law 98-542, which provided interim benefits for certain veterans exposed to agent orange through their service in Vietnam. However, other than the location of the statutory provision in title 38, these are regular VA service-connected benefits, for all purposes, including determination of disability ratings and the amount of benefits paid.

In order to demonstrate the basis for the proposed benefit formula in title II, S. 9 also would incorporate a number of congressional findings on the state of science pertaining to ionizing radiation exposure, including the calculation of and the carcinogenic effects of such exposure; the VA's history of adjudicating radiation claims; and the difficulties involved in resolving veterans' claims for VA benefits when based on exposure to ionizing radiation.

CONCLUSION

Mr. President, the committee has given a great deal of consideration to how to address the issue of compensation for these veterans and their survivors and possible resolutions of the difficulties inherent therein. We believe that the Congress has a responsibility to ensure that the burden of answering what may prove to be unanswerable questions regarding the health effects of exposure to ionizing radiation will no longer generally be used to deny benefits to veterans and their survivors based on exposure in the nuclear test program or in the occupation of Japan.

We may never have the answers, at least not in the lifetime of these veterans, and we all know that. We must act now, and act with reason and compassion.

PROCREATIVE SERVICES

Mr. President, section 301 of the committee bill would amend section 601(6) of title 38 to authorize the VA to furnish services to help a veteran or a veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disability impairs the veteran's ability to procreate. This provision is very similar to legislation reported by the committee in 1986 as section 205 of S. 2422 and passed as part of H.R. 5299, which the House did not accept in the 99th Congress.

The committee provision would authorize the VA to provide such services in the limited circumstances where a veteran's service-connected condition impairs the veteran's ability to procreate. It would target those veterans to whom the VA has always had the greatest responsibility—those disabled in service.

Mr. President, a number of concerns have been raised with regard to philosophical and practical questions regarding providing this service, all of which are addressed in detail in the committee report. It is enough to say at this point that I am fully satisfied that this measure should go forward.

I want to add with specific reference to concerns that some have raised regarding potential VA liability for children conceived as a result of services provided under this provision that the VA currently provides medical treatment and hospital care on a fee-basis for pregnant women when their pregnancies are complicated and does so with no apparent concern about any liability for any health problems resulting from such births. If the VA is not stymied from providing these services by reasons of possible liability, I do not believe such concerns should prevent the furnishing of pregnancy-related services provided for in the committee bill.

ELIGIBILITY FOR DOMICILIARY CARE

Mr. President, section 305 of the committee bill, which is derived from section 3 of my bill, S. 6, would revise the existing eligibility criteria for VA domiciliary care so as to provide eligibility for veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support.

Under current section 610(b) of title 38, two general categories of veterans are eligible for domiciliary care: In the first category are service-connected disabled veterans who are suffering from a permanent disability or tuberculosis or a neuropsychiatric ailment and who are incapacitated from earning a living and have no adequate means of support; in the second, more general category are veterans in need of domiciliary care and unable "to defray the expenses of necessary domiciliary care." Although this provision appears to establish more stringent criteria for a veteran with a service-connected disability than one without, section 622(g)(2) of title 38 automatically accords the status of "inability to defray necessary expenses" to a veteran with a service-connected disability. The first criterion thus appears meaningless.

Current VA practice tends to overlook the first category as well. When a veteran seeks admission to a VA domiciliary, the first determination generally made by the VA is whether the applicant is medically eligible—that is, has a disability, disease, or impairment which incapacitates the applicant from earning a living. Once the VA decides that a veteran is medically eligible, a determination is made regarding income eligibility. A veteran with an income of $415 or less a month is eligible for admission as a result of having an "inadequate means of support." If an applicant's income exceeds $415 per month, obligations against such income are taken into consideration and a waiver can be granted by the domiciliary director if the veteran is found to be unable to afford necessary community care. According to the VA, criteria relating to service-connected disabilities and non-service-connected disabilities are not factors in this decision process.

Under section 305 of the committee bill the VA would provide domiciliary care to veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support. I believe that this change would clarify the confusing current law eligibility criteria and make the law consistent with current VA philosophy and practice.

During the committee's May 21 hearing, the VA stated that if this proposal were enacted the agency would implement regulations according a priority to service-connected veterans ahead of non-service-connected veterans for domiciliary care. Our committee encourages the VA to implement such a regulatory priority.

With further reference to the issue of eligibility for domiciliary care, the VA noted that the limitation of $415 per month on veteran earnings in the current regulation which is used to determine whether a veteran has "no adequate means of support," may be in need of revision. The General Accounting Office [GAO] in a June 1987 report entitled "VA Health Care—Financial and Quality Control Changes Needed in Domiciliary Care," likewise recommended that the income limit be raised. The $415 limit has not been revised since 1980, is significantly lower than the income limits for other VA health-care programs, is considerably below the national poverty level as well as the VA's own need-based pension income eligibility standard, and does not take into consideration the size of the veterans' family.

Mr. President, I support increasing the income eligibility criteria for veterans to be admitted to domiciliaries—including State home domiciliaries—and believe that establishing this income limit at 150 percent of the pension income level, $9,940 per year, or the pension aid and attendance level, $9,320 per year, would be appropriate. Indexing the domiciliary income eligibility to a pension rate would ensure future increases consistent with other cost-of-living allowances, and establishing that limit in the vicinity of $9,000 to $10,000 per year would allow veterans to have resources necessary to further their rehabilitation and treatment. This will be an issue before us in conference, and I am confident we will be able to reach an amicable accord with the House on this matter.

PILOT PROGRAM OF NONINSTITUTIONAL ALTERNATIVES TO INSTITUTIONAL CARE

Section 306 of the committee bill, which is identical to section 5 of S. 6, would require the VA to conduct, from January 1, 1988, through December 31, 1991, a 4-year pilot program at not less than 5 nor more than 10 demonstration project sites to evaluate noninstitutional alternatives to institutional care.

Section 5 of S. 6 was, except for date changes and minor drafting changes, identical to section 204 of S. 2422 as reported by the committee last September. That provision—which was derived from section 8 of S. 2388, legislation I introduced on April 30, 1986, and from section 3 of S. 2445 as introduced by then Chairman MURKOWSKI on May 8—was passed by the Senate as part of an amendment to H.R. 5299 on September 30, 1986. Because the House and Senate committees were not able to reach agreement on this pilot program, the provision was not included in the measure that was ultimately enacted as Public Law 99-576.

The committee has approved this provision again because we remain convinced that, in light of current developments in health-care services which enable more individuals to receive needed care without being institutionalized and of the rapid increase in the number of veterans age 65 and older who may be seeking care from the VA in the years ahead, the VA must take steps to develop new approaches to addressing the health-care needs of veteran patients. By 1990, there will be 7.2 million veterans in this age group and there will be 9 million veterans age 65 or older by the year 2000. The kinds of new VA approaches this legislation envisions must include an emphasis on increased interaction with community entities that provide health and health-related services if the VA is to get the maxium health-care benefit out of every dollar spent. There also must be a greater emphasis on reducing the need for institutional care for veterans.

With specific reference to the goal of avoiding institutional care and of providing services in an individual's home, I note that the VA, in its 1984 report, "Caring for the Older Veterans", set forth a number of objectives that were central to the agency's strategies for meeting the needs of the older veteran and that the first of these was:

> To sustain older individuals' independence, comfort, and contentment in their own home environment for as long as possible, providing supportive services to do so.

Clearly, this proposed pilot program would help reach that goal.

Mr. President, under the committee bill, the administrator would be required to conduct a pilot program through which the VA would provide certain veterans with medical, rehabilitative, and other health services and, by contract with non-VA entities, with health-related services. These health and health-related services would be provided in noninstitutional settings—such as the veteran's home or a personal-care or board-and-care home—with the goal of being able to avoid institutional care, such as a care in a hospital, nursing home, or domiciliary facility, for the participants in the program.

Participation in the program would be limited to veterans eligible for and otherwise in need of VA hospital, nursing home, or domiciliary care, and priority for care and services through the pilot program would be accorded to veterans with service-connected disabilities, to veterans who are 65 years of age or older, to veterans who are totally and permanently disabled, and to veterans who are suffering from Alzheimer's disease or another form of dementia.

Since 1980, DM&S has conducted an independent living program to provide a range and combination of services which would enable disabled veterans to live and function at their maximum level of independence within the community. The program uses both VA and community resources to provide services to veterans, including veterans with spinal cord injuries, aged veterans, veterans with neurological and psychiatric impairments, and others. Services include, among others, transitional living, activities of daily living, independent living skills, and counseling.

Last year, in section 333 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Public Law 99-576, a program of independent living services, established by Public Law 96-466 and carried out through the Department of Veterans Benefits [DVB], was extended for 3 years, through fiscal year 1989.

I urge coordination between the Department of Veterans' Benefits and DM&S in the continued implementation of these programs and, when appropriate, the linking of services under these two programs.

The provision of health-related services provided in noninstitutional settings under the pilot program which would be established by section 306 of the committee bill is consistent with the mission and goals of the DVB's independent living services program and other VA ambulatory-care programs such as adult day health care. With respect to the adult day health care program, the VA requires that any such program in which veterans participate under a contract arrangement include rehabilitation services, defined by VA regulation (51 Fed. Reg. 26,027, July 18, 1986) to include assistance in daily living—including bathing, feeding, toileting, and ambulation—case management, nutrition services, recreation therapy, transportation, and maintenance of client records. I believe that the noninstitutional care pilot program we are proposing would provide a valuable addition to the VA's continuum of care.

The bill would limit the total cost of this pilot program over the life of the program to 60 percent of the cost that would otherwise have been incurred by the VA if the veterans participating in the program had been furnished nursing home care instead of the noninstitutional services provided under the program. It is our intent that the pilot program be carried out through the use of funds that would otherwise be used for the provision of more costly intermediate care and that the funds saved by this pilot program be applied to care for more veterans than would be served in its absence.

AIDS MATTERS

Mr. President, section 308 would require the VA to establish a systemwide AIDS education and training program for patients and employees of VA health-care facilities, expand the scope of existing VA alcohol and drug treatment confidentiality and nondiscrimination provisions to encompass individuals who are infected by the human immunodeficiency virus [HIV], and prohibit the VA from implementing any widespread HIV testing program unless Congress specifically appropriates funds for that purpose.

Mr. President, just 6 years ago, AIDS was unknown to the vast majority of Americans. Today, it's impossible not to know of the terrible tragedy that this virus has inflicted upon the world. Tens of thousands of people have died and millions worldwide are thought to be infected with the HIV.

AIDS is primarily a sexually transmitted disease that has afflicted mostly gay men and intravenous drug users. It has raised numerous complex medical, ethical, and legal questions, and much controversy and debate has surrounded how best to treat and prevent further spread of the disease.

Nearly 6 percent of all AIDS cases in the United States are being cared for by the VA. Because of the gravity of the epidemic and its impact on the VA, on June 24 the Committee on Veterans' Affairs held a hearing on AIDS issues in general and as they relate to the VA specifically. The committee heard testimony regarding education and prevention of AIDS, counseling and testing, and confidentiality of test results. The testimony stressed that education and counseling about how AIDS is transmitted and how it can be prevented is critical for both individuals at high risk for AIDS and the general population.

The provisions included in section 308 were developed on the basis of the hearing testimony and various reports and other documents issued by major health organizations, the Office of Technology Assessment, the Institute of Medicine and other public health entities. These provisions and other matters related to AIDS are discussed in considerable detail at pages 120-26 of the committee report.

First, under section 308(c), the VA would be required to establish and implement programs of AIDS education, training, clinical skills improvement, and other pertinent activities for VA patients and all health care personnel and hospital support staff, including an infection-control program and periodic distribution of the Surgeon General's report and other materials on AIDS to VA employees and beneficiaries.

Second, section 308(a) would amend section 4132 of title 38, relating to maintaining the confidentiality of VA medical records regarding alcohol and drug treatment, to make it applicable to individuals with the HIV infection. However, the VA would be specifically authorized to release that information, upon the written request of the appropriate official, to a public health officer in a State with a law requiring HIV infections to be reported to Federal health officers pursuant to a requirement of Federal law. The bill would also expressly make the VA subject to the provisions of any otherwise applicable general Federal legislation enacted regarding the disclosure of medical records related to HIV infection.

Third, section 308(b) would amend section 4133 of title 38, which prohibits discrimination in the furnishing of VA health care against drug and alcohol abusers, to include individuals with the HIV infection.

Finally, section 308(d) would prohibit any widespread program of testing VA patients to determine their HIV status—that is, a program for offering testing to patients other than a program offering testing and counseling to substance abuse patients and other patients at high risk for AIDS—unless Congress specifically appropriates funds for that purpose. Although the committee has strongly urged the VA to undertake a focused voluntary AIDS counseling and testing program—and the committee report outlines specific guidelines for carrying out such a program—routinely testing every veteran admitted to a VA hospital would be a counterproductive and cost-ineffective approach to the AIDS efforts.

In this regard, I also note that this provision is not worded—or intended—to preclude HIV-status testing of VA patients' blood on an anonymous basis for the purposes of epidemiological studies where the results of the test of a blood sample cannot be traced to any particular patients. The legislation prohibits only "testing * * * of Veterans' Administration health-care patients to determine whether such patients are infected with the human immunodeficiency virus," and such anonymous testing does not make it possible to determine whether a patient is or is not infected; it only permits a determination to be made of the proportion who are infected in any grouping of patients. Thus, for example, this provision would not preclude VA hospital's participation in the CDC's ongoing anonymous hospital patient survey.

TESTING FOR THE AIDS ANTIBODY IN THE VA

Mr. President, because testing is one of the most controversial issues regarding AIDS and because the President, in his May 31 address on AIDS, requested a review be undertaken of mandatory testing of VA hospital patients, I would like to discuss in some detail why I believe that routine testing of all VA inpatients to determine their HIV status would be unwise. Witnesses at the June 24 hearing, including the VA's Chief Medical Director, Dr. John A. Gronvall, raised a number of serious concerns regarding the concept of such testing.

First, a number of witnesses were concerned that, since veterans are generally a low-risk population and the false-positivity rate—a positive test result even though the individual has not been exposed to the HIV—for low-incidence populations is quite high, many veterans would be needlessly alarmed by an incorrect test result; second, serious questions were raised about whether a mandatory testing program for 1.4 million hospital inpatients each year would be cost effective; third, the VA's CMD testified that the VA does not currently have the capacity to perform 1.4 million tests a year; fourth, mandatory testing may deter some veterans from seeking care or counseling; and fifth, representatives of two health professions organizations, the National Association of Veterans' Administration Physicians and the American Nurses Association, opposed mandatory testing and testified that hospital personnel should take precautions whenever they might come into contact with blood or body fluids, regardless of the patient's antibody status. Moreover, witnesses, including the CMD, testified overwhelmingly that counseling—about AIDS as well as the test itself—must be an integral part of any testing program and that informed consent is critically important.

Five veterans' service organizations—the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, and the Vietnam Veterans of America—oppose mandatory testing of all hospital inpatients. In addition, the American Hospital Association, the American Nurses Association, the American Public Health Association, and the National Association of VA Physicians all have stated that they, too, oppose mandatory testing on the grounds that it is too expensive and inappropriate. I ask unanimous consent that letters from those organizations be printed in the RECORD at this point.

Mr. President, I expect to be speaking at greater length about the adverse consequences of mandatory testing at a later time in connection with an anticipated floor amendment to strike section 308(d), which would prohibit widespread testing without a specific appropriation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, DC, November 16, 1987.

DEAR SENATOR: As you and your colleagues prepare to consider S. 9, we invite your attention to its provisions regarding VA policy on AIDS testing.

An omnibus measure seeking refinements in a variety of veterans benefits and services, S. 9 calls for an aggressive program of AIDS education and prevention activities. The bill seeks to concentrate AIDS testing efforts by VA on high risk patients, rather than mandatory testing of all hospital patients. For example, those with intravenous drug abuse histories would be strongly encouraged to undergo AIDS testing. Broader-based testing would not be authorized unless Congress specifically appropriated funds to pay for it.

The American Legion supports these provisions in S. 9. We believe that the Veterans' Affairs Committee has developed a reasonable approach to the AIDS issue. It properly recognizes VA's patient population as being generally low risk since the overwhelming majority of those patients are elderly. The Committee's plan, in our opinion, correctly focuses on education, prevention, and counselling while concentrating its testing efforts on a very limited number of potentially high risk patients. We understand that mandatory testing across-the-board would cost $25 million annually which, in the existing budgetary situation, would divert those funds from more critical medical services.

Our organization, therefore, urges you to support the AIDS provisions contained in S. 9 when this measure is considered by the full Senate.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

DISABLED AMERICAN VETERANS, NATIONAL SERVICE AND LEGISLATIVE HEADQUARTERS,
Washington, DC, November 16, 1987.

Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: The Senate will soon consider the provisions of S. 9—the Omnibus Veterans' Benefits and Services Act of 1987. In this regard, I want to bring to your attention the views of the Disabled American Veterans concerning two provisions contained in this legislation.

The first relates to Section 333 of the bill—drug testing of Veterans' Administration employees. This provision of the bill would prohibit the VA from implementing a widespread, random drug testing program of VA employees as defined under Executive Order 12564, effective July 31, 1987. The provision would, however, provide for testing of individual VA employees (1) when there is a reasonable suspicion that an employee uses illegal drugs, (2) in an examination authorized by the VA regarding an accident or unsafe practice, or (3) as part of or in follow-up to counseling or rehabilitation for illegal drug use through an employee assistance program.

The DAV believes that Section 333 reasonably and adequately addresses the issue of drug testing for the illegal use of drugs among VA employees, contrary to the provisions of Executive Order 12564 that would subject all VA employees to such a drug testing program.

In our view, there is insufficient proof that such a program is necessary or warranted in the case of VA health care employees. To date, the DAV has never received a complaint from any source, to include veterans using the VA health care system, that illegal drug use among VA employees is a problem or even a matter of concern.

Additionally, the DAV is very concerned about the potential negative effects random testing of VA employees may have upon the VA's ability to recruit and retain high quality health care professionals. As you know, the VA is already experiencing serious recruitment and retention difficulties with respect to nurses, pharmacists, and certain other health care specialties. Random testing, in our opinion, could worsen the VA's current recruitment and retention difficulties.

Finally, it has been estimated that the first four years of a random drug testing program for VA employees will cost at least $10 million. Quite frankly, the DAV strongly believes that such resources could be better utilized for providing direct patient care to veterans. Based on the above, I strongly urge you to support the provisions of S. 9, as reported, relating to the drug testing of VA employees.

The other issue of concern to the DAV relates to Section 308 of S. 9—acquired immune deficiency syndrome matters. This section of the bill (1) would require the VA to establish a system-wide AIDS education and training program for patients and employees of VA health care facilities, (2) expand the scope of existing VA alcohol and drug treatment, confidentiality and nondiscrimination provisions to encompass individuals who are infected by the human immunodeficiency virus (HIV) and (3) prohibit the VA from implementing any widespread HIV testing program unless Congress specifically appropriates funds for that purpose.

This section, in our view, sets forth a responsible approach to permit the VA health care system to realistically address one of the greatest health threats in our country. Clearly, the provision that permits the VA to offer HIV testing and counseling to those patients believed to be at high risk for infection, coupled with those provisions maintaining confidentiality of VA medical records, prohibition of discrimination in admission to VA hospitals and establishing system-wide programs of education and prevention for VA patients and health care personnel, responsibly addresses this serious health issue based upon current scientific and medical knowledge.

As you know, AIDS has been a major health issue for more than five years—claiming the lives of more than 20,000 Americans. The VA has treated nearly six percent of all AIDS cases in the United States and treated approximately 1,300 such patients in Fiscal Year 1987 alone.

Due to the gravity of this health issue there have been calls for more wide-spread testing of individuals for the presence of the antibody to the HIV and, in some cases, mandatory testing for the AIDS antibody.

Should the issue of wholesale mandatory testing for the HIV antibody of all VA inpatients be proposed through amendment to S. 9, I want you to know that the DAV is *unalterably opposed* to such a proposal or amendment.

Wholesale mandatory testing for AIDS fails to recognize the body of information that has been compiled by the Office of Technology Assessment, the Surgeon General of the United States and the Centers for Disease Control relating to the serious flaws that exist for mass testing programs directed at whole classes of people.

In addition, such a mass testing program for the VA could cost the agency at least $25 million a year in direct patient care funding. Consequently, the DAV strongly urges you to support Section 308 of S. 9 as reported by the Senate Veterans Affairs Committee.

In closing, on behalf of the more than 1.1 million members of the Disabled American Veterans and its Ladies' Auxiliary, I strongly encourage you to actively support the Senate Veterans Affairs Committee recommendations as contained in Section 308 and 333 of S. 9. Your support for these provisions will prevent further erosion of funding needed for direct patient care. I look forward to your support.

Sincerely,

Gene A. Murphy,
National Commander.

Paralyzed Veterans of America,
Washington, DC, November 16, 1987.
Hon. Alan Cranston,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Cranston: On behalf of the membership of Paralyzed Veterans of America, I respectfully request your support of S. 9, the "Omnibus Veterans' Benefits and Services Act of 1987," and specifically, Section 308 of this Act, pertaining to Acquired Immune Deficiency Syndrome (AIDS).

Section 308, would require the Veterans Administration to establish a system-wide AIDS education and training program for patients and employees of VA health-care facilities. This section would also expand the scope of VA confidentiality procedures to encompass individuals who have tested positive for human immunodeficiency virus (HIV) and would prohibit any widespread HIV testing program unless Congress specifically appropriates funds for that purpose. PVA shares the concern of the nation with regard to the best possible control and public management of this fatal epidemic. While we recognize the importance of testing and diagnostic procedures, we believe that a comprehensive education and training program, together with the testing of certain high risk, susceptible populations are the best available tools to prevent further spread of AIDS.

In times of severe budget constraint, PVA questions whether the mandatory testing of an estimated 1.4 million hospital inpatients per year would be cost effective. The cost to the VA would be enormous. PVA believes that these same federal dollars would more appropriately be applied to care and treatment of AIDS patients, research toward a cure and a wide-spread prevention campaign.

Further, among our concerns regarding mandatory testing are the potential ramifications of false positive and false negative test results and the potential misuse and abuse of confidential information derived from test results.

PVA, as an ardent advocate for the civil rights of all Americans, also opposes indiscriminate across-the-board testing for HIV on the grounds that it denies the patient the right to informed consent, the premise upon which a free and democratic healthcare system is based. Mandatory testing establishes a dangerous precedent by which arbitrary medical services can be mandated by law.

The VA is already working diligently to contribute to the nation's efforts to control and eradicate this deadly epidemic. Please allow for the continuance of the VA's important role and the cost-effective use of federal monies through your support of S. 9. The civil rights and the future health of your veterans constituency are dependent upon your favorable action.

Sincerely yours,

Gordon H. Mansfield,
Associate Executive Director for Government Relations.

Veterans of Foreign Wars of the United States,
Washington, DC, December 17, 1987.
Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Chairman: It is our understanding that a bill of major consequence to this nation's veterans, S. 9 the "Omnibus Veterans' Benefits and Services Act of 1987," is to be debated tomorrow on the Senate floor. This is written to express our support of this measure and particularly our support of section 308 of this act which pertains to acquired immune deficiency syndrome (AIDS).

Among its other provisions, this bill would also provide a much needed cost of living increase in the rates of disability compensation for veterans who suffer from service connected disabilities and the rates of dependency and indemnity compensation (DIC) for the survivors of veterans who have died from service connected disabilities. This compensation COLA would be in line with the one provided for social security which CBO now estimates to be 4.2 percent. The VFW points to the fact that the $366 million in entitlement spending contained in S. 9 is consistent with the budget allocation to the Veterans' Affairs Committee and the current CBO baseline. Thus, S. 9 would provide an equitable COLA for veterans along with other needed funding increases while remaining within congressionally prescribed funding parameters.

We also strongly support section 308 of this bill which pertains to a major VFW concern, the deadly disease known as AIDS. Sections 308 would require the VA to establish a system wide AIDS education and training program for patients and employees of VA health care facilities. This section would also expand the scope of VA confidentiality procedures to protect those individuals who have tested positive for the AIDS virus and would prohibit wide spread AIDS testing within the VA unless Congress specifically appropriates funds for that purpose. We believe this provision would make a major contribution in the fight to prevent the spread of AIDS and also contribute toward ensuring that veterans suffering from this dread disease receive the most compassionate and up-to-date care available. At the same time this provision would prevent an inordinate amount of money from being diverted from direct patient care services. It has been estimated that testing all 1.4 million inpatients along with providing the counseling that would be requisite in such endeavor would cost about $25 million.

Thus, on behalf of the 2.8 million members of the Veterans of Foreign Wars and its Ladies Auxiliary, I urge your support of S. 9 so that the VA may better serve this nation's veterans and in particular, so that it may continue in its vitally important effort to eradicate the deadly disease, AIDS.

Sincerely,

Earl L. Stock, Jr.,
National Commander-in-Chief.

National Association of VA Physicians,
Washington, DC, November 16, 1987.
Hon. Alan Cranston,
VA Senate Affairs Committee, Russell Senate Office Building, Washington, DC.

Dear Senator Cranston: The enclosed resolution was approved unanimously by the National Officers and District Directors of the National Association of VA Physicians at their semi-annual meeting here in Washington, DC, on Saturday, November 14, 1987.

Very sincerely yours,

Paul W. Schafer, M.D.,
Executive Director.

RESOLUTION

The National Association of VA Physicians would like to go on record as strongly supporting two areas covered by provisions in the Omnibus Veterans' Benefits and Service Act of 1987 (S.9): those dealing with Acquired Immune Deficiency Syndrome (AIDS) (Sec. 308) and those dealing with drug testing of VA employees (Sec. 333).

AIDS is a disease that has engendered more fear and misunderstanding among the public, including health care professionals, than any other in recent years. Education has already stimulated substantial and profound changes in behavior in some high risk groups. We applaud the extension of these educational activities to the VA. It is only appropriate that the largest hospital system in the United States be actively involved, because the VA is now caring for 7% of the living people with AIDS in this country.

Extension of confidentiality guarantees, presently accorded to alcohol and drug abuse programs, to those with HIV-related diseases is an appropriate and urgently needed extension of these regulations. Similar discrimination is often seen in HIV-seropositive people and we, as physicians charged with the health and well-being of our veteran patients, are often dismayed at the results of discriminatory acts of employers, landlords and acquaintances.

Mandatory HIV testing has previously been the subject of NAVAP scrutiny. We reaffirm our position that antibody testing should be available only when it is voluntary, and when fully informed consent is obtained. In addition testing should be medically indicated or part of an educational and risk-reduction program. Blanket and mandatory testing policies would be counter-productive, discouraging participation by high-risk persons, and putting them at risk of discrimination.

NAVAP also supports portions of S.9 related to drug testing of employees and most strongly and specifically opposes the amendment offered by Senators Domenici, DeConcini, and Mikulski which would strike Section 333. These are several reasons for our position:

1. It is clearly discriminatory to single out federal employees for drug testing unless all adults in the United States are likewise tested.

2. Mandatory testing and collection of specimens without cause has been considered an invasion of privacy (See "Policemen's Benevolent Association v. Washington, No. 86-3525 (D.N.J. Oct 8, 1987)").

3. We are greatly concerned about the accuracy and reliability of most drug testing systems (See the Journal of the American Medical Association, Vol. 258, No. 4, Pages 504-509). There are well-founded fears of both false positive and false negative tests. Even the Office of Technology and Assess-

ment has estimated that when the prevalence of drug abuse is low in a population, as it is among VA employees , at least one half of all positive tests would be false positives. This would truly be an intolerable situation.

4. Mechanisms already exist for intervening and testing when an employee's work performance causes suspicion of drug or alcohol abuse. It would be far better to improve and encourage procedures for intervention when cause can be shown rather than to randomly test everyone.

5. NAVAP's greatest concern is the allocation of funds for this program. The estimated $10 million cost in the first four years of testing seems incomprehensible in a country where countless thousands of currently identified alcohol and drug abusers are waiting months to get into overcrowded and undersupported treatment programs, even within the VA itself. How can we even consider financing an expensive random testing program when so many are already known to be afflicted and cannot be provided with treatment?

NAVAP fully supports the goal of a drug-free federal work place. Its desirability is innately obvious. Unfortunately, allocating resources to testing rather than to prevention and treatment will not achieve this end.

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, MO, November 17, 1987.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: Within the next few days, the Senate will consider the Service Disabled Veterans Benefits Improvement Act of 1987 (S.9). Currently, the bill includes a provision, (Section 308) which would require the Veterans Administration (VA) to establish a system-wide AIDS education and training program for patients and employees of VA health-care facilities; expand the scope of existing VA alcohol and drug treatment confidentiality and nondiscrimination provisions to encompass individuals who are infected by the human immunodeficiency virus (HIV); and prohibit the VA from implementing any widespread HIV testing program unless Congress specifically appropriates funds for that purpose.

The American Nurses' Association (ANA), which represents 188,000 nurses, many of whom are veterans and/or Veterans Administration (VA) nurses, supports passage of S.9, including Section 308.

Over the past three years, ANA has issued a variety of policy statements on the various aspects of AIDS. Association positions have generally incorporated and supported guidelines issued by the Centers for Disease Control (CDC) regarding infection with HIV. In essence, the ANA: (1) believes that the most effective tools for preventing the transmission of AIDS are education and preventive health techniques; (2) opposes discrimination against persons with AIDS or a positive HIV; (3) supports the availability fo quality health care, the confidentiality of that care, and respect for the individual affected; and (4) supports increased funding for research and educational efforts.

Historically, public health efforts have included health education, and health promotion to control the spread of infectious diseases. Public health experts believe that educational programs are the key to minimizing the spread of AIDS. The HIV virus is transmitted through intimate sexual, blood-to-blood, or body fluid contact. In the overwhelming majority of cases, the transmission of the disease can be effectively prevented by individuals voluntarily abstaining from well-documented high risk behaviors and activities. There are strong indications that carefully targeted educational programs and individual health counseling directed at changing high risk behaviors have been effective in combatting the transmission of AIDS. Educational efforts directed toward changing behavior continue to be crucial, and S. 9 would help promote such efforts.

Regrettably, we understand that an amendment to require mandatory AIDS testing of all VA patients may be introduced by Senator HELMS (R-NC). ANA opposes such testing, and asks that you also oppose such an amendment.

In June, ANA testified before the Senate Veterans Affairs Committee in opposition to mandatory testing of all VA patients. The VA has reported its caseload has ranged from 5.3–5.8% of the total number of cases reported to CDC. A review of the ten VA Medical Centers representing the highest number of cases indicates a correlation to the nation's highest prevalence areas. Although the Department of Defense report from its screening of military personnel may affect the numbers, it does not seem naive to expect that without large numbers of women or children as AIDS patients, testing of all VA patients will not prohibitively increase VA cases. Testing of all VA patients would therefore not be cost effective.

Additionally, the result of testing all VA patients is that a multitude of documentation must be maintained. ANA also believes that the potential for misapplication of such testing could affect the provision of health care to veterans, if the VA had to juggle its resources because of misinformed budget cutters.

ANA supports the availability of *voluntary, confidential* testing with *informed consent* and *appropriate counseling*. Individuals seeking services at drug rehabilitation, sexually transmitted disease, and family planning clinics should have access to confidential testing and counseling about health practices. Confidentiality of test results must be maintained to prevent discrimination, especially in such areas as insurance, employment, and housing. Regardless of whether individuals are found to be seronegative or positive, targeted health education programs and individual health counseling which address preventive health practices and the avoidance of high risk behaviors must be provided by qualified health professionals.

Therefore, ANA urges you to oppose any amendment to S. 9 which would require mandatory AIDS testing of VA patients. We believe that the VA AIDS policy as set out in Section 308 of S. 9 assures effective prevention and education programs to prevent the spread of AIDS to and by veterans.

Sincerely,
MARGRETTA M. STYLES,
Ed.D., R.N., F.A.A.N.,
President.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, November 18, 1987.
Hon. ALAN CRANSTON,
Chairman, Veterans Affairs Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN CRANSTON: The Vietnam Veterans of America, Inc. (VVA) takes this opportunity to join with you in opposing any amendment to S.9 permitting widespread AIDS testing of patients in VA Medical Centers. The costs of such a program would likely be prohibitive but, more importantly, the implementation of this type of policy would be ill-advised holding no realistic prospect of accomplishing the epidemiologic safeguards presumably intended.

In this connection, the AIDS tests currently in use are known to be less than completely reliable. The risk of large numbers of false positive results is significant. For those who may test positive falsely, the potential emotional damage done must be carefully evaluated before any such policy is implemented.

Moreover, even if the VA were to test each and every patient and even if all the tests were accurate, there would still be a strong possibility that recent AIDS exposure would be missed. Likewise, of all those who tested negative having never been exposed at the time of the test, there can never be a guaranty that the same patients will remain exposure-free subsequently.

In our view, the provisions on AIDS currently written into S.9 are thoughtfully designed to provide education and counseling where needed without undertaking wholesale testing at enormous cost. These provisions are also sensitive to the needs of AIDS exposed veterans without falling prey to the temptation of panic-inspired policies.

If we can be of further assistance to you on this matter, please feel free to contact us again.

Sincerely,
PAUL S. EGAN,
Legislative Director.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, November 17, 1987.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Senate Russell Building, Washington, DC.

DEAR CHAIRMAN CRANSTON: An amendment regarding routine testing for Human Immunodeficiency Virus (HIV) in patients admitted to Veterans Administration facilities is anticipated when the Senate considers S. 9, the Service Disabled Veterans' Benefits Improvement Act. I want to inform you of the American Hospital Association's position regarding routine testing for HIV.

The American Hospital Association and the Centers for Disease Control (CDC) have endorsed universal precautions as the most effective means of reducing the risk of HIV infection for hospital staff and patients. Because HIV is transmitted only by direct contact with blood or body substances, the treatment of all body substances as potentially infectious protects both patients and hospitals staff regardless of whether an individual's infection status is known. Universal precautions require the use of a barrier such as gloves, gowns, masks or protective eyewear, when exposure to blood or body substances is anticipated. Use of such barrier precautions provides additional benefit in protecting employees and patients from a wide variety of infectious diseases.

It has not been demonstrated that routine testing will increase the level of protection for workers above that achieved by rigorous adherence to infection control procedures such as universal precautions. Routine testing of either patients or staff is unnecessary to reduce the risk of exposure to HIV and should not be substituted for rigorous adherence to universal precautions. Testing for HIV infection is appropriate when making a medical diagnosis; screening blood, organs or other body substances prior to donation; or in conducting follow-up procedures when a potential exposure to HIV has occurred. If barrier precautions fail, for example after needlesticks or other inadvertent violations of universal precautions, it is appropriate to conduct post-exposure follow-up testing, whether the incident involves employee exposure to a patient's blood or body substances, or patient exposure to an employee's blood or body substances. Such testing, however, should not be done without thorough pre- and post-test counseling as well as maintenance of confidentiality of information about HIV status.

Other arguments against mandatory routine testing are that it is prohibitively expensive; there is a time delay that accompanies the administration of the test; and there is also an important risk of inaccurate test results. For many hospitals the screening test would be sent to reference laboratories and results may be unavailable for several days. In the case of ambiguous or positive results, repeat testing will be necessary. It is often impossible to perform a test before treatment is required. False negative test findings could result in treating a small number of infectious patients as though they were not infectious and false positive test results could create serious problems for the patient.

Ultimately, consistent use of protective measures affords the best protection against the transmission of HIV. Routine screening of patients or staff is unnecessary to reduce the risk of exposure to HIV, and should not be viewed as a substitute for universal precautions.

We urge careful consideration of this issue as Congress attempts to fashion a reasoned response to the public health problems associated with Acquired Immune Deficiency Syndrome.

Sincerely,

JACK W. OWEN,
Executive Vice President.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, November 18, 1987.

Hon. ALAN CRANSTON,
Chairman, Senate Veterans' Affairs Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN CRANSTON: The American Public Health Association, with a combined national and state membership of over 50,000 health professionals, opposes any amendments to S. 9, the Veterans bill, which would require mandatory testing in VA Hospitals.

Mandatory testing in hospitals is not an effective mechanism for combatting the AIDS epidemic. The incidence of infection is likely to be low since this population is not at high risk for the disease. The Association is concerned about the rate of false positive tests in a low incidence population such as this. In recent testimony, APHA estimated that out of every 1,000 people who test positive for HIV antibodies in low incidence populations, as many as 200 to 500 may be false positives. The implications of false positive tests in human terms are staggering, and could include severe emotional stress, and possible loss of employment, insurance, and relationships. Given the seriousness of the impacts that such results can cause, it is important that we focus testing only upon population groups with high rates of risk behaviors. A better approach would be to offer voluntary testing and counseling at VA hospitals for those who desire to learn their antibody status.

We urge you to oppose any mandatory AIDS testing amendments as this legislation is considered on the Senate floor.

Very truly yours,

WILLIAM H. MCBEATH, MD, MPH,
Executive Director.

RULES AND REGULATIONS GOVERNING THE FURNISHING OF HEALTH CARE

Mr. CRANSTON. Mr. President, section 309 of the committee bill, which is derived from section 6 of S. 6, would place certain limits on the authority of the Administrator to prescribe limitations on the furnishing of health-care services to veterans except during times of national or regional emergency.

In the midst of the Great Depression, Congress passed the Economy Act of 1933, which cut severely into the then-existing scheme of veterans' benefits. Among the wide-ranging provisions in that measure was one which authorized the Administrator of Veterans' Affairs to limit by regulation the furnishing of hospital and domiciliary care to veterans.

Although this authority to limit care has not been utilized in recent times, the VA has this discretion at its disposal, regardless of the laws enacted by the Congress. In 1984, during congressional action on reconciliation legislation, the VA's Office of General Counsel submitted to the staffs of the two Veterans' Affairs Committees an informal white paper which included a discussion of the availability of this provision in the event that the Administrator desired to provide access to health-care benefits on a different, more restrictive basis than prescribed in chapter 17 of title 38.

For example, the Consolidated Omnibus Budget Reconciliation Act of 1985—Public Law 99-272—revised VA health-care eligibility so as to direct—by using the word "shall" in describing access to VA care rather than the word "may" as had been used previously—that VA-furnished hospital care be provided to specified categories of veterans. These changes were made after careful consideration and extensive deliberation in both Houses of Congress. Under present section 621, the Administrator has the authority to limit, or deny altogether, such health-care entitlements expressly provided to these veterans by Congress, or to limit or deny health-care eligibility expressly provided by Congress.

Section 309 of the committee bill would limit the Administrator's authority so as to restrict its exercise to times of national or regional emergencies other than periods of armed conflict, which are already provided for in present section 5011A of title 38.

Without reference to whether an Administrator would ever choose to take such an action limiting veterans' statutorily provided eligibility or entitlement to VA health care and without suggesting whether or not such an action would be lawful, I see no basis for vesting in an executive branch official the appearance of having such a broad, unrestricted power, as is provided in current law, to reverse the will of the Congress with respect to veterans' eligibility for, or indeed entitlement to, VA health care.

INCREASES IN PER DIEM RATES FOR CARE IN STATE HOMES

Section 310 of the committee bill, which is derived from section 7 of S. 6 and from S. 216, would increase VA per diem payments to State Veterans' Homes, effective 30 days after the beginning of the first full month beginning after the date of enactment, to $8.70 from $7.30 for domiciliary care and to $20.35 from $17.05 and $15.25, respectively, for nursing home and hospital care. This provision also would authorize the VA to increase these rates annually, beginning in fiscal year 1989, by a percentage not greater than the percentage increase in the cost of care in VA general hospitals, as calculated pursuant to section 620(a)(2) for the purposes of establishing the maximum amount the VA may pay for contract care in community nursing homes, and by a percentage no greater than the percentage by which the Administration increases the payment rate for community nursing homes.

The VA participates in two separate programs of assistance to State veterans' home hospital, nursing home, and domiciliary facilities: a program (under subchapter V of chapter 17 of title 38) of per diem payments for care provided to eligible veterans and a program (under subchapter III of chapter 81 of title 38) of matching grants for the construction, remodeling, or renovation of State home facilities.

State homes, originally operated entirely at State expense, were first established in the 1800's to care for disabled soldiers and sailors. In 1888, the Federal Government began to appropriate funds, $100 per year per veteran, for the 11 State programs, each with one domiciliary, to assist them with their costs of providing care and treatment. Subsequent legislation, in 1949, provided authorization to pay a portion of the cost for hospital care, and in 1964 the authorization was further expanded to include nursing home care. Currently, a total of 35 States manage 50 State homes with a total of 18,431 beds providing hospital, 689 beds; nursing home, 10,868 beds; and domiciliary care, 7,056 beds.

In 1960, the method of Federal assistance to State homes was changed from a per annum rate to a per diem rate, with a per diem rate of $2.50 established for both domiciliary care and hospital care. With the inclusion in 1964 of nursing home care in the State home program, the per diem rate of $3.50 was established for that level of care. The per diem rates have been periodically increased, and the present rates, established by Public Law 98-160, took effect on April 1, 1984.

Public Law 98-160 also included a provision requiring the Administrator to submit to the two Committees on Veterans' Affairs every 3 years a report on "the adequacy of the per diem rates in light of projections over each of the following 5 years of the demand on the Veterans' Administration for the provision of nursing home care to veterans eligible for such care." The initial, June 30, 1986, report included elements which suggest both that per diem rates are adequate and that an increase in rates may be appropriate. Thus, the report stated that current per diem rates did not seem to be inhibiting State home construction activity on the part of States; however, the report also indicated that maintenance of the VA's percentage share of the cost of operating State homes over the next few years may require a per diem rate increase.

Regarding the Administrator's authority to increase the per diem rates periodically, under current section 6201(a)(2)(A), the Administrator may increase the per diem paid to community nursing homes for the care of veterans up to a level which equals 45 percent—or the amount equal to 50 percent of such cost, if such higher amount is determined to be necessary by the Administrator upon the recommendation of the CMD—of the cost of care furnished by the VA in a general hospital under direct VA jurisdiction. Mr. President, it is my view that the VA's share of the average cost of providing care in State homes should—just as should the community nursing home care rate—keep up with the rising costs of providing such care. Providing such periodic increases in State home rates should provide encouragement to States to take an active part in providing services to veterans.

In this regard, the committee notes two critical factors which contribute to the need for an increase in the per diem rates for State veterans' homes and periodic, regular assessments of the costs of providing such care. First, the number of veterans age 65 and over is expected to increase from a September 1986 total of 5.5 million to a peak of 8.9 million in 1999, while the number of veterans 75 years old and older will grow from 1.1 million to 1.5 million by 1990 and then nearly triple over the next 15 years to a total of 4.4 million. The aging of the veteran population is expected to increase dramatically the demand for acute and long-term health-care services, and the State home program is a very vital component of the overall effort to meet that demand. Second, since April 1984, the effective date of the last increase in per diem rates, inflation has substantially diminished the ability of State homes to provide care for eligible veterans. As evidenced by the 32.3-percent rise in the overall unadjusted consumer price index [CPI] from April 1984 through June 1987, and the corresponding 85.6-percent increase for the medical care component of the CPI, the buying power of the Federal Government's per diem payment to the State homes has been significantly reduced since the time of the last increase.

I strongly support the State home program and its continuation as a vital community link in meeting the needs of our aging veteran population, and believe that this increase in the per diem rates is fully justified in light of the importance of the State home program in our overall efforts to meet the health-care needs of the aging veteran population.

REHABILITATIVE RECREATIONAL ACTIVITIES FOR DISABLED VETERANS

Mr. President, section 314 of the committee bill, which is derived from S. 1506 which Senator MURKOWSKI and I introduced, would authorize the VA to provide, or assist in the provision of, rehabilitative recreational activities to disabled veterans.

Current law provides the VA with the authority to provide rehabilitative services to disabled veterans. These rehabilitative services can include recreational therapy. In addition to recreational activities within medical centers, the VA has used this authority to organize and conduct competitive events on a nationwide basis. For example, the National Veterans Wheelchair Games, now cosponsored by the VA and the Paralyzed Veterans of America, originated in 1981 at the VAMC in Richmond, VA.

The committee bill would provide explicit authority for VA participation in national rehabilitative recreational activities and establish parameters for these activities. The VA would be authorized to provide these activities on its own, or in cooperation with a veterans' service organization named or approved under section 3402 of title 38. The activities would be required to be: First, for the purpose of furthering the rehabilitation of disabled veterans; second, available on a nationwide basis to disabled veterans; and third, include among the participants a significant percentage of veterans eligible for VA rehabilitative services. The committee intends that these requirements ensure the rehabilitative nature of the activities and focus the activities on disabled veterans while recognizing that it may be appropriate to allow limited participation by individuals not eligible for VA rehabilitative services.

The committee bill also would authorize private contributions of funds, goods, or services in support of these activities and establish conditions under which the contributor may publicize the activity or the contributor's participation in support of the activity or both. The National Veterans Wheelchair Games are almost entirely funded through private-sector contributions. I applaud these sponsors for the contribution they have made to the rehabilitation of disabled veterans and believe they should be able to make public reference to their contributions, but only on the condition that any publicity makes clear that the VA in no way endorses any private product or endeavor.

I congratulate the outstanding efforts of the Paralyzed Veterans of America in sponsoring these games. At the most recent games in Ann Arbor, MI, this summer approximately 425 disabled athletes participated and there was general consensus the event was an enormous success.

PILOT PROGRAM OR MOBILE HEALTH-CARE CLINICS

Mr. President, section 315 of the committee bill would mandate the VA to implement a 2-year pilot program of four projects using appropriately equipped mobile vans to furnish health care in rural areas where veterans live at least 100 miles from the nearest VA health care facility—subject to a $2.5 million annual expenditure cap. By virtue of the committee modification that Senator MURKOWSKI and I are submitting these numbers will be changed to 8 projects and $5 million. The committee provision as modified would further require that two projects be established in each of four geographic regions—one in the Northeast, one in the South, one in the Midwest, and one in the West.

For a number of years, I have been concerned about the access veterans living in rural and remote areas have to VA health-care facilities and the most cost-effective approach to providing care for these veterans. On July 13, 1983, the committee held a hearing to consider testimony on a measure, S. 523, introduced by Committee Member GEORGE MITCHELL, to establish an experimental program of diagnostic services in a rural county of Maine. Testimony received at that hearing and additional information analyzed afterwards focused on what was known about access to health care in rural areas and the problems associated with travel distances, adverse weather conditions, and the capacity of health-care facilities to meet veterans' needs.

Underlying much of the discussion during and after that hearing was the lack of reliable data about the location, number, and distribution throughout the United States of veterans with varying eligibilities for VA health care. The committee believed that the development of such statistics would help define and promote solutions to the perceived rural veteran health-care problem. As a result, provisions were enacted as section 202 of the Veterans' Health Care Act of 1984, Public Law 98-528, requiring the VA to submit two reports to the Committees on Veterans' Affairs. The first report, which was due on January 1, 1986, was to include the Administrator's findings on the extent of the need for VA health-care services in remote areas as well as the Administrator's findings and recommendations as to the advantages and disadvantages of alternative ways to furnish health-care services to eligible veterans in remote areas. The second report was due on July 1, 1986, and was to have described, in light of the first study, an experimental program that could be carried out in five remote areas to demonstrate alternative methods for the VA to provide health-care services to eligible veterans in such areas and the Administrator's recommendations about the desirability of carrying out such a program or a part thereof.

Mr. President, a detailed account of the VA's response to these mandated reports is included in the committee report at pages 133 to 136. In brief, the agency concluded that it was not necessary to conduct experimental demonstration projects because DM&S "is able to meet its responsibility to remote veterans through existing forms of care. * * *"

Following publication of that study, the Senate Committee on Appropriations, in its report accompanying H.R. 5313, the HUD—Independent Agencies Appropriations Act, 1987 (S. Rept. No. 99-487, p. 87), noted that "a significant portion of the population of the more rural States reside at dispersed locations where the average commute to a VA facility is over 2 hours." The Appropriations Committee noted the VA's lack of funds to open new medical centers or clinics in such areas and directed the VA to reassess the issue of access to health care for veterans living in remote areas and to consider several alternatives to address the problems. In this regard, the committee noted that there appeared to be two basic approaches to addressing the health-care needs of veterans in more rural areas: First, use of the mobile clinic concept, and second, the development of cost-effective means of transporting veterans to VA health-care facilities.

In response to the Appropriations Committee's directive, the VA developed plans for two pilot demonstrations, one in northern New Mexico and the other in northern California, for providing health care to veterans in rural remote areas. The program in Farmington, NM, opened on August, 10, 1987, while the clinic in Redding, CA, is scheduled to become operational by the end of February 1987. According to the VA, the initial demand for service at the New Mexico facility has far exceeded expectations and it is assumed, based upon current usage, that the facility will be averaging 8,000 to 10,000 patient visits annually by the end of 1987. The Redding facility is projected to average approximately 14,000 patient visits annually in fiscal year 1988.

Although I believe that the current California and New Mexico sites and methodologies chosen for study are appropriate and will offer valuable information regarding the provision of health care to veterans in rural and remote areas, I also believe that the use of mobile health-care clinics should be further explored. Mobile clinics may offer the individualized types of services to localities indicated to be necessary. Geographic dispersion of the projects is being mandated because of the committee's view that, given the diversity of climate and geographical factors within this country, what is successful in one region may not succeed in another.

Finally, Mr. President, in light of the recent reduction in beneficiary travel funds which the committee has addressed in reporting S. 1464 and the Senate in passing that bill on October 16, 1987, the committee has recommended that the VA, during the course of the study, use the vans returning to their home bases to transport veterans traveling there to receive health care, especially those needing special-mode transportation; conversely, when a van is traveling to a remote area, veterans needing return transportation from the VA should also be accommodated.

MENTAL ILLNESS

Mr. President, section 316 of the committee bill, which I authored, would amend section 4101(c)(1) of title 38 to add mental illness research as a specific DM&S research mission—along with biomedical, prosthetic, and health care services research—in order to encourage more research into mental illness and to improve treatment for such illnesses within the VA.

Mr. President, mental illness research has been historically underfunded and it is the committee's belief that the VA should take action to increase significantly funding for research on mental illness and continue to train and educate mental health researchers.

Section 316 was based, in large part, on the findings of the October 30, 1985, report of the special purpose committee to evaluate mental health and Behavioral Sciences Research Program, known as the "Kety report," which concluded that less than 10 percent of VA research resources are directed toward mental illness although 40 percent of all VA bed-days are provided to veterans who suffer from mental disorders, including post-traumatic stress disorder, depressions, alcoholism and substance abuse, Alzheimer's disease, and other dementias.

The committee report also states the committee's intent that the Chief Medical Director create a mental illness research service to direct and develop a program of research in the VA specifically in the area of mental illness and establish three pilot mental illness research and education centers—MIREC's—to provide state-of-the-air treatment, increase innovative basic and clinical research opportunities, and enhance and encourage continuing education and training in mental illness research. I intend to pursue the idea of establishing MIREC's legislatively next year, but the VA should get started on this promising idea administratively now.

REPORT ON CERTAIN ACTIVITIES OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION

Section 317 of the committee bill, which is identical to section 10 of my bill, S. 6, would set forth findings of Congress regarding the need to prepare for the impact of the aging of the U.S. population and of the Veterans' Administration's leadership role in that regard, particularly with reference to increasing the efforts by medical and other health-professional schools affiliated with the VA in training professionals to care for older patients and in research into the aging process and diseases associated with aging, and require a one-time report from the Administrator, due not later than March 1, 1988, on the VA's activities to promote increased efforts by affiliated schools in training health-care professionals to care for older patients and in research efforts into the aging process.

It is abundantly clear to me that a major public policy issue facing our Nation is how we will respond to the needs of our elderly citizens as the population ages. It has been estimated by the Census Bureau that by the year 2030, the proportion of the U.S. population age 65 and older will have risen to nearly 22 percent from the current level of approximately 12 percent. This fundamental shift in the composition of our society has significant implications for how national resources are to be allocated and how a wide range of services are to be furnished. Key among such services are those which help address the health-care needs of our population. Although there are many efforts—both governmental and nongovernmental—underway at present seeking to address the many challenges associated with this fundamental demographic change, I believe there is still a need for increased, focused efforts as we prepare to come to terms with the impact of the aging of our population.

Because veterans cluster in age groups related to the periods of major conflicts—World War I, World War II, the Korean conflict, and the Vietnam conflict in this century—trends relating to the general population are realized differently in the veteran population. In the area of aging, the change in the overall population, which will peak around the first third of the next century, will be accelerated in the case of veterans. The veterans of World War II, who make up 37 percent of the total veteran population, are already approaching an average age of 65, and the veterans of the Korean conflict are just behind them.

Despite many activities designed to address the needs of our aging veterans, I am concerned that the VA may not be taking full advantage of the potential influence that it has to motivate health-care training institutions which are affiliated with the VA to increase their efforts in the areas of training health-care professionals in the care of older patients and research related to aging issues. Through its affiliation agreements, the VA has a significant opportunity to influence decisions made at affiliated institutions—at present 101 medical schools, 59 dental schools, and 850 other health-care professional schools. Certainly, there has been some progress at the schools affiliated with the 10 VA medical centers that have geriatric research, education, and clinical centers [GRECC's] centers of excellence mandated by section 4101(f) of title 38, United States Code. In fact, that provision of law recognizes explicitly the need for participation on the part of the affiliated institution by specifying that a GRECC can be established only at a VA medical center which has arrangements with affiliated schools providing education and training in geriatrics and at which medical residents and nursing or allied health personnel receive training and education in geriatrics through regular rotation through the VA medical center.

Mr. President, I believe that the VA efforts to promote action at affiliated institutions should be expanded. The VA should be seeking comprehensive action from all affiliated institutions, not only those affiliated with medical centers with a GRECC. Because the VA is the largest health-care system in the Nation, it can exert a leadership role in both education and research.

In order to guage the extent to which the VA has had an impact on affiliated institutions in regard to their training and research efforts in the area of aging and of the need for extension of legislative mandates such as those that apply to GRECC-affiliated institutions, section 317 of the committee bill would require the Administrator to submit a report, not later than March 1, 1988, to the two Veterans' Affairs Committees setting forth detailed information with regard to such past, present, and planned efforts at affiliated institutions.

TITLE 5/TITLE 38 PERSONNEL HYBRID EXPANSION

Section 322 of the committee bill, which is derived from section 2 of my bill, S. 1195, would move VA pharmacists and occupational therapists into the so-called title 38/title 5 hybrid category under which the agency may use title 38 appointment, pay, and promotion policies for specified employees employed under the title 5 personnel system.

I proposed, and the Congress enacted in 1983, the title 38/title 5 hybrid category in order to address the need to improve the VA's ability to attract and retain certain health-care personnel—namely, registered respiratory therapists, licensed practical or vocational nurses, and physical therapists—as to which the VA was then experiencing significant shortages. Although health-care personnel in the hybrid category remain under the title 5 personnel system, the Administrator has the same greater flexibility as under the title 38 personnel system with regard to hiring practices and setting pay rates. For instance, the Chief Medical Director can approve special pay rates for hybrid and title 38 employees, whereas special rates for title 5 occupations must also be approved by the Office of Personnel Management. Another advantage of the hybrid title 5/title 38 category is that those employees are not prohibited from outside employment as are title 38 employees. A third advantage is that the VA can apply title 38 features selectively and apply them only at certain stations.

As is discussed in more detail at pages 142-143 of the committee's report accompanying S. 9, a recent VA report, entitled "1986 Survey of Health Occupational Staff," found widespread recruitment and retention problems among pharmacists and occupational therapists, both of whom are currently under the title 5 personnel system.

More than 52 percent of VA medical centers were reported as experiencing difficulty in recruitment and retention of pharmacists. The turnover rate for pharmacists was 22.6 percent—nearly 1 out of every 4 pharmacists leave the VA annually. That results in disruption of critical pharmacy services to inpatients and outpatients as new pharmacists are recruited and trained. Agency-wide losses exceeded gains by 51 pharmacists for a net loss rate of nearly 2 percent and the vacancy rate was reported to be 2.7 percent as of December 1986.

Losses of pharmacists were reported to be primarily concentrated in the mid-Atlantic States, in Florida, and in Wisconsin. This high number of losses nationwide has resulted in nearly 40 percent of facilities using alternative methods of coverage—additional shifts, overtime on recurring bases, and, most troubling, employing people in other occupations to provide coverage. More than 80 percent of the respondents to the VA survey stated that pharmacists working in non-Federal medical facilities receive salaries that are higher than those earned by VA pharmacists performing comparable work.

Likewise, the survey found that the VA is experiencing difficulties recruiting and retaining occupational therapists [OT's]. Overall the VA experienced a net loss rate of 5 percent for OT's. The vacancy rate for OT's in the VA is 9.2 percent with a turnover rate of 23 percent—again about 1 in 4 each year. VA facilities report that nearly 34 percent of OT's who left the VA did so for higher pay.

Mr. President, in response to these recruitment and retention problems, section 322 of the committee bill would amend certain sections of chapter 73 of title 38 in order to move pharmacists and OT's into the title 38/title 5 hybrid category. In times of critical shortages and scarce personnel funding, the VA must be able to respond quickly and effectively to attract new professionals in the VA system and to target those efforts to the facilities most in need. Although the hybrid category has certainly not solved all of the recruitment and retention problems for physical therapists, licensed practical or vocational nurses, or registered respiratory therapists, it has helped, and the committee believes it will also help attract pharmacists and OT's to the VA and prevent further damaging attrition.

DISCIPLINARY MATTERS INVOLVING HYBRID EMPLOYEES

Mr. President, section 323 of the committee bill would provide that all matters relating to adverse actions, disciplinary actions, and grievance procedures involving title 38/title 5 hybrid employees will be resolved in accordance with the provisions of title 5 as though the employees in question were appointed under title 5.

As I just discussed in connection with section 322 of the committee bill, which would expand the title 38/title 5 hybrid category—to include pharmacists and OT's in addition to registered respiratory therapists, licensed practical or vocational nurses, and physical therapists—the hybrid category of VA health-care employees was first created in 1983 by Public Law 98-160. As I also noted, health-care personnel in this category remain under the title 5 personnel system but the Administrator has the same greater flexibility as under the title 38 personnel system with regard to hiring practices and setting pay rates.

As a reflection of the intent of the Congress that hybrid employees remain in title 5 for all purposes except for the purposes specified, the explanatory statement which the two Committees on Veterans' Affairs included in the CONGRESSIONAL RECORD—see page H9001 of the RECORD, November 2, 1983, and page S15357 of the RECORD, November 3, 1983—during final debate on the legislation that was enacted as Public Law 98-160 included the following statement:

> The committees note that it is not the intent of the provisions of this legislation relating to the three DM&S occupations involved to diminish or impair in any way the rights and protections guaranteed the employees in those occupations under the express provisions of chapter 71 of title 5 relating to Federal labor-management relations.

In light of this clear statement of intent, it was a surprise to the committee when two witnesses at the committee's May 21 hearing—those representing the American Federation of Government Employees [AFGE] and the National Federation of Federal Employees [NFFE]—expressed concerns that employees in occupations in the hybrid category were not being accorded protections that were available to title 5 employees in grievance and disciplinary matters.

In response to questions at the May 21 hearing and in followup submissions, the VA acknowledged that there is some confusion regarding the rights available to so-called hybrid employees in areas relating to labor-management relations. According to the VA, it has been the agency's position that, in general, these employees retain the rights provided by title 5 except for matters as to which the VA has exercised title 38 authorities to appoint, pay, or promote such employees. In addition, the VA noted that there has been some confusion regarding these employees' rights to appeal adverse actions to the Merit Systems Protection Board, with two administrative law judges refusing to accept such appeals and one judge accepting an appeal. The VA expressed the view that these appeals should be accepted by the MSPB.

Mr. President, in order to resolve this confusion and to vindicate the committee's and the Congress' original intent with reference to the employees in the occupations included in the hybrid category, section 323 of the committee bill would amend section 4106(g) of title 38, the basic authority for appointing individuals to hybrid positions, to clarify that, notwithstanding any other provision of Federal law, matters concerning adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to hybrid positions will be resolved as though the individuals were appointed under title 5. Thus, these individuals would have the full panoply of rights available to title 5 employees for the resolution of grievance and disciplinary matters including, for those in recognized bargaining units, access to negotiated grievance procedures involving outside arbitration.

DISCIPLINARY ACTIONS AND GRIEVANCES

Section 324 of the committee bill would amend section 4110 of title 38 so as to provide that the procedures set forth in title 5, United States Code, for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—would be used in cases involving title 38 personnel, including the use of a negotiated grievance procedure involving an appeal to an arbitrator. This section would further amend chapter 73 of title 38 so as to create, in title 38, a grievance-resolution process that parallels that available to title 5 employees.

When the VA's Department of Medicine and Surgery was established in 1946, the Congress created a separate personnel system, distinct from the general civil service system, in order to provide the VA with greater flexibility in recruiting and employing health-care professionals. It was the view at that time that the civil service system was too cumbersome to permit the timely hiring that was felt to be necessary in order to enable the VA to meet the health-care needs of the returning World War II veterans and also that the other attributes of the civil service system were not compatible with running a large health-care organization. The elements of this system, which are set out in chapter 73 of title 38, United States Code, and in regulations and guidelines issued by the VA, have generally served the purpose of enabling the VA to employ needed health-care professionals and to operate DM&S relatively effectively.

Among the areas addressed in chapter 73 are those relating to employer/employee relations, such as those involving terms and conditions of employment—including how employee grievances over such terms and conditions are resolved—and disciplinary procedures. Specifically, current section 4108(a) gives the Administrator exclusive authority over the conditions of employment of title 38 personnel "notwithstanding any law, Executive order, or regulation," and current section 4110 sets out the process by which disciplinary actions involving title 38 employees are to be conducted.

Many of these provisions date back to 1946 and, although there have been many significant changes in Federal employee relations in the intervening years—most especially, the enactment in 1978 of the Civil Service Reform Act [CSRA], Public Law 95-454—VA authorities and practices have remained largely unchanged. In fact, the only significant attempt to reform this system was made in 1976 when this committee reported and the Senate passed provisions I proposed in S. 2908 to clarify and expand the procedural rights of title 38 employees. Unfortunately, because there was significant misunderstanding and confusion about the Senate-passed provisions, those provisions were not included in the legislation that was ultimately enacted as Public Law 94-581.

Meanwhile in the 1978 CSRA, title 5 Federal employees gained significant new rights to negotiate with regard to the terms and conditions of their employment and to utilize new methods to resolve grievances, including through negotiated grievance procedures and binding arbitration. The VA interprets the current law as holding that title 38 employees, by way of contrast, remain limited by section 4108 to whatever rights the Administrator is willing to accord to them and has been unwilling to negotiate grievance procedures for title 38 employees comparable to those available to other Federal employees. Likewise, under section 4110, all disciplinary actions involving title 38 employees, however minor, must be heard by a disciplinary board of 3 to 5 employees, a trial-like adversarial process that frequently takes many years to reach a resolution and from which the only administrative appeal available is an internal VA action, with no recourse to outside judgment except in a court action. Civil service employees, on the other hand, have various methods for contesting disciplinary actions, both within and outside of their particular agencies.

As is discussed in some detail in the committee report accompanying S. 9, a number of challenges have been brought in recent years, including by the American Federation of Government Employees [AFGE] and the National Federation of Federal Employees [NFFE], to the VA's position, in light of the enactment of CSRA, regarding certain attributes of the separate VA personnel system, particularly to those relating to the resolution of employee grievances and disciplinary actions. These challenges have been based on the theory that CSRA established governmentwide procedures in the area of labor-management relations and, in so doing, superceded VA-specific laws. Although this legal theory was accepted in some cases before the Federal Labor Relations Authority [FLRA] involving VA disciplinary procedures in which the FLRA ruled that the VA was obligated to adhere to CSRA procedures, these results have been reversed on appeal to Federal appellate courts.

Against this background of litigation relating to personnel matters affecting title 38 employees, the committee, at its May 21 hearing, considered a number of administration-proposed measures relating to the current title 38 system. One of those measures, S. 1136, proposed to amend section 4110 so as to limit the types of proposed disciplinary actions that would have to be heard by a disciplinary board to those involving proposals of removal, suspension of more than 14 days, or demotions involving loss of grade or pay. All other disciplinary matters would have been excluded from the section 4110 procedure and, as to those, the VA transmittal letter stated the VA's intent to establish "administrative appeal or grievance procedures."

Various witnesses at the May 21 hearing, in their comments on S. 1136, were critical of the current disciplinary board practice under section 4110. For example, Dr. Peter Hawley, representing the National Association of VA Physicians—NAVAP—expressed his organization's view as follows:

> The Agency's quasi-military personnel system is itself the cause of much disenchantment. An individual quickly finds out how few rights one really has when the Agency itself is prosecutor, judge, and jury.

Dr. Hawley also stated that:

> Until all review or appeals of disciplinary actions are removed from the precincts of the Agency and are put in the hands of a truly impartial body, we must conclude that VA physicians remain subject to capricious or vindictive actions.

In a June 15 letter which followed up on NAVAP's testimony, Dr. Hawley wrote that his organization—

> must be adamantly opposed to S. 1136.

John Mulholland, AFGE director of field services, expressed AFGE's view of section 4110 procedures that "current practices are unfair and are perceived as unfair by the employees." Tricia Thomas, NFFE legislative director, indicated that NFFE believes that "many of the Veterans' Administration's staffing problems are rooted in their outdated and their generally inequitable personnel system."

Mr. President, in view of the concerns expressed by the VA about the current 4110 procedures, the criticism from various witnesses about the fairness of those procedures and the overall title 38 personnel system, and the ongoing, costly, and time-consuming litigation over issues relating to the relationship between title 5 and title 38 provisions relating to personnel matters involving title 38 employees, the committee sought to develop a legislative solution that would address the many and varied concerns.

The effort to develop the provisions in section 324 of the committee bill, which included significant consultation with many concerned parties, was carried out with two fundamental, and sometimes conflicting, principles in mind—first, the separate title 38 personnel system for DM&S generally serves a valid and valuable purpose of permitting the VA to staff and manage a very large, complex, health-care system and, as such, should be maintained; and, second, as the Congress recognized with the enactment of the CSRA, there can and should generally be significant opportunity for employees to have disciplinary actions and grievances related to their employment resolved in a timely fashion with an opportunity for outside administrative review.

With these principles underlying, section 324 of the committee bill would amend section 4110 so as to remove from the coverage of that section's disciplinary actions involving lesser proposed penalties—specified as suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment. All other disciplinary actions would remain covered by section 4110.

This approach, of specifying those matters which would be excluded from coverage, was adopted by the committee rather than the approach advocated by the administration and included in S. 1136 as introduced. That approach entailed expressly limiting the applicability of section 4110 disciplinary boards to matters involving title 38 personnel in which significant disciplinary penalties—removal, suspensions of more than 14 days, or demotions involving loss of grade or pay—are proposed. The committee chose to exclude matters from the coverage of 4110 boards so as to be clear that any matters not specified would remain covered by section 4110. For example, because of the current VA practice, based on strong congressional directive, of treating any proposal to remove a title 38 employee's clinical privileges as the same as a proposed removal, current 4110 procedures would continue to apply in such cases.

The committee bill would also make one further substantive change to section 4110 derived in part from the administrative bill. Under current law, the CMD appoints disciplinary boards. The committee bill would authorize the CMD to delegate this authority to some other DM&S official with the limitation that the official to whom the authority is delegated cannot be involved in deciding whether to file charges against the employee or be subordinate to any charging official.

For the disciplinary matters specified in the committee bill which involve lesser proposed penalties, the committee bill would provide that a title 38 employee would be entitled, in lieu of a 4110 proceeding, to a process which would include first, advance written notice which sets forth the specific reasons for the proposed action; second, a reasonable time to answer the notice, either in writing or orally, including time to furnish affidavits and other documentary evidence in support of the answer; third, a chance to be represented by an attorney or some other representative; and fourth, a written decision, which would include the reasons for the decision, at the earliest practicable time. These procedures are generally the same as are provided, pursuant to section 7503(b) of title 5, United States Code, to all title 5 employees in such disciplinary proceedings.

The committee bill also would provide two methods by which title 38 employees could gain a review of a decision on such a specified lesser disciplinary matter. These two methods are either an agency review procedure established by the Administrator or a negotiated grievance procedure which would include binding arbitration. Appeals from an arbitrator's decision to the Federal Labor Relations Authority would be authorized.

The committee bill would specify that any agency review procedure established by the Administrator would have to include, first, an informal review of the decision on the disciplinary action by a VA official of a higher level than the official who made the original decision and a prompt decision following that review; second, a right to have the matter reviewed further by an impartial examiner from within the VA who would have to submit a prompt report of findings and recommendations; and third, a prompt review of those findings and recommendations, as well as any comments the employee or the agency or both wishes to make on the findings and recommendations, by an agency official at a higher level than the one who carried out the first informal review. These procedures are generally similar to ones currently provided by the VA through internal agency guidelines for title 5 employees.

The overall impact of these changes would be to make parallel to personnel procedures available to title 5 employees the VA's procedures for personnel actions against title 38 DM&S employees involving the specified lesser disciplinary actions and grievance procedures.

RECRUITMENT AND RETENTION OF REGISTERED NURSES, PHYSICAL THERAPISTS, AND OTHER DIRECT PATIENT-CARE PROVIDERS

Sections 325, 326, and 329 of the committee bill, which are derived from my bill, S. 1195, would amend section 4107(e), subchapter IV of chapter 73, and section 4112 of title 38 to improve the VA's recruitment and retention of certain health care personnel. Specifically these provisions would, first, require the VA to pay nurses who work on Saturdays the same premium pay currently applicable to work on Sunday; second, establish a tuition reimbursement program for full-time nursing personnel or, when needed, for other full-time health care personnel, for academic courses leading toward completion of any degree program in nursing or a field related to nursing, or in other appropriate degree-granting fields for other personnel, giving first priority to others with 2 years of service within the VA whose performance is superior and second priority to those with 2 years of service; third, make eligible for the Health Professional Scholarship Program, in addition to physicians and nurses, physical therapists and other DM&S personnel who provide direct patient-care services or services incident to direct patient-care services; fourth, require a minimum of 2 years of obligated service for each 1 year of scholarship aid; fifth, give priority for scholarships to nurses seeking a fourth year of baccalaureate education; and, sixth, require that the chiefs of nursing service or their designees be members of VA health care facilities' policymaking and fiscal committees.

Section 327 of the committee bill, which is derived from S. 713 introduced by Ranking Minority Member MURKOWSKI, would authorize a bonus of up to $20,000 over 4 years to be paid to full-time registered nurses or other full-time health care personnel—except dentists and physicians—who agree to work or are presently working in the VA within a specific geographic area or in a professional specialty experiencing recruitment and retention problems.

Section 332 of the committee bill, which I authored in committee, would require the VA to study and submit a report on various matters related to enhancing recruitment and retention of health care personnel within the VA. I will be discussing this provision extensively in the context of the committee modification which proposes substantial expansion of it.

The problem of recruiting and retaining sufficient health care personnel is one which has occurred frequently in recent years both within and outside of the VA. An extensive history dating back to 1980 can be found in the committee report at pages 150-154.

In 1986, VA and non-VA sector health care facilities again began to experience an increasing shortage of registered nurses and other skilled health professionals. Recently, for example, the California Association of Hospitals and Health Systems [CAHHS] reported that the vacancy rate for all health care personnel in California increased by 50 percent, from 4.2 percent in 1985 to 6.3 percent in 1986. The highest vacancy rate reported by CAHHS was 11.8 percent for physical therapists [PT's] while the vacancy rate for RN's was 8.9 percent. All of the reasons for this change are not clear. However, some authorities have speculated that an increased acuity in patient conditions, demands for greater efficiency in hospitals, increases in outpatient utilization, growth of alternative delivery settings, a gradually aging society, and advanced scientific knowledge and technology have all had an impact. There also seems to be no question that the increasing opportunities for women in previously nontraditional occupations for women have contributed to recruitment and retention difficulties in previously female-dominated fields such as nursing. This is perhaps most readily seen in the almost 15-percent decline in nursing school enrollments over the last 2 years.

In the DM&S report entitled "1986 Survey of Health Occupational Staff, the VA reported regional recruitment and retention difficulties. The VA results were similar in many respects to the CAHHS results, with the highest vacancy rate of any health profession in the VA occurring with respect to PT's who also had the highest DM&S turnover rate. Nearly 58 percent of responding VA health care facilities stated that they were having difficulty recruiting and retaining PT's.

The 1986 survey reported that the overall vacancy rate for the nursing service nationwide was 0.8 percent, with a turnover rate for the nationwide nursing service of 16.6 percent. The vacancy rate for RN's was relatively low, 0.2 percent, and the rate for licensed practical nurses was 9.3 percent. However, it should be noted that these were net vacancy rates for the entire VA system. Since some facilities reported employing many more nurses than they have authorized positions for, the net vacancy rates do not necessarily reflect the severity of the shortage problem at many VA medical centers across the country. Among facilities reporting RN vacancies, rates ranged from a low of 0.6 percent to a high of 19.2 percent. Moreover, shortages are not evenly distributed throughout the country nor uniform in every nursing specialty. Facilities in California, Arizona, Ohio, and the mid-Atlantic States reported the highest net losses. In northern California there are serious shortages of intensive care nurses.

At the committee's May 21 hearing, witnesses representing the VA, nursing organizations, and veterans' service organizations testified about the cause of the nursing shortage, its effect upon patient care, potential solutions, and current strategies for resolving the problem. Many of the strategies and solutions recommended at that hearing were similar to those suggested during the committee's 1982 hearing and included in a mandated 1984 report from the VA.

Specifically, the testimony showed that there was a 13.4-percent decrease in nursing school enrollments over the previous 2 academic years; that the numbers of first-time, full-time, 4-year college freshmen indicating a desire to enter nursing dropped from 42,000 in 1983 to 19,800 in 1986; and that the vacancy rate in hospitals for registered nurses more than doubled between 1985 and 1986. Many suggestions were made by witnesses to address this problem, including enhancing the work environment and reward system for nursing, promoting public understanding of nursing as a respected, desired field of endeavor, increasing funds for nursing education, enhancing the position of nurses in the workplace, and funding special projects to demonstrate effective recruitment strategies for RN's in health care institutions.

One witness at the hearing, Dr. Howard Green, representing the VA Chiefs of Staff, both during the hearing and in response to written questions, described a unique program being planned at the White River Junction, VT, VA Medical Center. In cooperation with Vermont College, which will provide professors to teach the classes, the medical center will conduct courses leading to a degree in nursing, pay the tuition costs for full-time employees, and allow its employees to take time off from work—with pay—to attend class. This program, according to Dr. Green, is intended both to help the VAMC recruit nurses and also benefit Vermont College by helping to boost its declining enrollment. It has been reported that from the time that program was first announced in July, the White River Junction VAMC has filled 9 of 16 nurse vacancies and all 9 have enrolled in the new program. A total of 44 of the 182 nursing staff members are enrolled in the program. Because only three courses are offered each year, it will take approximately 6 years to complete the program for those students who do not enroll in additional course work at their own expense at the university campus.

Dr. John Gronvall, the VA's Chief Medical Director, testified on current VA efforts to improve recruitment and retention of health care personnel. Dr. Gronvall described both the use of special pay rates, which are being authorized in those areas where the VA rates are found to be less than competitive with rates paid in the non-Federal sector, and tuition assistance programs as useful in recruitment and retention. He indicated that the VA had identified $2.5 million to be used in fiscal year 1987 for tuition assistance purposes which is in addition to the $4.5 million planned in fiscal year 1988 for 240 nursing scholarships and testified in general support of the tuition assistance program incorporated into the committee bill.

With specific reference to the use of special rates of pay, the VA is authorized under present section 4107(g) to approve increased rates for recruitment and retention purposes for employees appointed under title 38, and for those health-care employees employed under title 5 to approve such rates subject to a veto by the Office of Personnel Management. A document entitled "Occupational Coverage of Special Rates, Report Summary", dated August 2, 1987, was submitted to the committee in response to my request. This document shows, in the cases of 27 occupations, the number of facilities having special rates in effect and also shows for each occupation the number of facilities which do not have special rates in effect, the number of special rate requests pending in central office, and the number of special rate requests refused. For example, Mr. President, in the case of registered nurses special rates have been approved in 102 facilities, 64 facilities have no special rates, two requests are pending in central office, and no requests have been refused. For physical therapists, special rates are in effect in 61 facilities, 103 facilities do not have special rates, 4 requests are pending, and no requests have been refused. Pharmacists receive special rates in 75 facilities, 68 facilities do not have special rates for them, 24 have requests pending, and 1 facility had its request turned down. In total, special rates in 424 instances have been approved, 79 requests are pending, and 2 requests have been turned down out of a total of 4,536 possibilities.

At the time the 1986 health occupational staff survey information was being collected, a "Staffing Shortages Task Force" was established within DM&S. This task force, chaired by Dr. David Law, was charged with formulating recommendations, based upon the survey data and other information, to improve recruitment and retention in health-care occupations. Strategies being considered by this task force include "improved benefits packages, increased recruitment budgets, expanded use of Saturday premium pay under section 4107(e)(10) of title 38, provision of recruitment bonuses for new hires, streamlining the application process for title 5 occupations, including the increased use of direct hire authority, and increased use of para-professional personnel." A preliminary report of these recommendations has been forwarded to Dr. Gronvall who plans to approve those strategies which DM&S is authorized to implement and will be recommending the approval of the others to the Administrator.

COMMITTEE BILL PROVISIONS

SATURDAY PREMIUM PAY FOR NURSES

Mr. President, section 325 of the committee bill would require the Administrator to provide nurses who work on Saturdays with the same premium pay—a supplemental amount equal to 25 percent of basic pay—currently applicable to Sunday work. In the 1986 VA Health Occupational Staff survey, 40 percent of VA facilities reported that weekend premium pay offered at non-VA medical facilities placed them at a competitive disadvantage. In addition, many private sector hospitals provide nurses with a minimum of every other weekend off. Registered nurses at VA medical centers generally have one weekend out of three off and, since premium pay is provided only on Sundays, this means that not only are many VA nurses working one-and-a-half times as many weekends as their non-VA counterparts, but they are receiving considerably less pay for their weekends.

TUITION REIMBURSEMENT PROGRAM

Section 326 of the committee bill would establish a Health Professionals Education Assistance Program, one component of which would be the current Health Professionals Scholarship Program, which is set forth in subchapter IV of title 38 and which would be amended by this section of the committee bill, and the other component of which would be a newly established tuition reimbursement program.

The tuition reimbursement program would provide financial assistance for full-time nursing personnel, and, when needed, for other full-time health-care personnel, for academic courses leading toward completion of any degree program in nursing or in a field related to nursing, or in other appropriate degree-granting fields for other personnel. First priority in the award of assistance would be given to those with 2 years or more of VA service whose performance is superior, and second priority to others with 2 or more years of service.

Mr. President, many private sector hospitals offer tuition reimbursement programs to enable nurses and certain other health-care professionals to attend school for the purpose of obtaining a degree. Since the nursing profession is now emphasizing a baccalaureate degree as a minimum degree for staff nurses, more so-called diploma nurses, those who studied for 3 years in a hospital-based program, and nurses with associate's degrees, are seeking opportunities to return to school. Also, many nurses with a baccalaureate degree are interested in pursuing graduate education, and this program would assist them and, in that regard, ultimately provide more advanced and skilled practitioners for the veteran-patient. The VA could also provide tuition reimbursement for degrees to other individuals, such as pharmacists, PT's, and occupational therapists, providing direct patient-care services, if it is determined that such a program would help alleviate recruitment and retention problems in the occupation concerned.

Seventy-seven percent of VA facilities, as reported in the VA's 1986 survey, believed that the lack of availability of tuition assistance as a fringe benefit is a major disadvantage in recruitment and retention. Over 80 percent of non-VA hospitals surveyed by the American Organization of Nurse Executives in 1985 offered tuition assistance as a benefit for full-time employees.

Under the committee bill, tuition reimbursement would be provided to nurses and other eligible employees following successful completion of the course or courses. An employee who has worked a minimum of 2 years full-time for the VA would be eligible to receive a maximum of $2,000 a year—with increases indexed to Federal pay raises—and would be required to work for the VA for a period of 1 year following completion of the degree or the last course taken while a participant in the tuition reimbursement program. The VA could also enter into agreements to pay the teaching institution directly, as Dr. Green described at the May 21 hearing, an option the committee encourages the VA to explore fully.

As a final point regarding tuition reimbursement, I note that Dr. Gronvall testified at the committee's May 21 hearing that the VA was offering a tuition assistance program under the Government Employee Training Act (codified in chapter 41 of title 5, United States Code). Although the VA's general counsel has interpreted this act as allowing the VA to provide tuition assistance for the pursuit of a degree, there is the possibility that this opinion could be challenged and the training act could be limited only to those seeking to improve or upgrade their skills and not to those obtaining a degree. Section 326 of the committee bill would explicitly authorize the VA to provide assistance to those taking courses leading to a college degree under specific terms and conditions set forth in the new subchapter governing tuition reimbursement programs. It is thus my intention in authorizing these provisions that any tuition reimbursement programs carried out by the VA after enactment of this new, very explicit authority be implemented under this new authority which is intended to supersede any authority the agency may have under the Government Employees Training Act.

HEALTH SCHOLARSHIP PROGRAM MODIFICATIONS

Mr. President, with reference to the Health Professional Scholarship Program, section 326 would expand the categories of those eligible to participate in this program—students of medicine, osteopathy, dentistry, podiatry, optometry, or nursing, or who are enrolled in a course of training to become a physician assistant or expanded-function dental auxiliary are eligible under current law—to include physical therapists and other individuals who provide direct patient-care services or who provide services incident to direct patient-care service. This program was enacted in 1980 to assist in providing an adequate supply of trained physicians and nurses for the VA and for the Nation. Those who receive a scholarship are obligated thereafter to work in DM&S for certain minimum periods.

Before awarding scholarships in any course of training other than in medicine or nursing, the Administrator must notify the Senate and House Committees on Veterans' Affairs of the awards not less than 60 days prior to making them. Since the education and training needs have been the greatest for nurses, thus far the scholarships have been used exclusively to help train nurses—and with substantial success in attracting and retaining them. Of the 434 nurses who have completed their service obligation under the scholarship program, 329—73 percent—remain employed at the VA.

Cumulatively, the VA has obligated $20.9 million for nurse scholarships over the 5 years since Congress first appropriated funds to initiate the program in 1982. PT's have manifested interest in the scholarship program. The VA indicated in connection with its fiscal year 1988 budget request that the agency would like to provide scholarship support to PT students as well as to nurses, and the fiscal year 1988 budget request included $1 million to support 41 1-year awards and 14 2-year awards to full-time PT students. Under this section of the committee bill, the VA would be able to make these awards.

I believe there may also be interest among other professionals whose skills are in great demand in the VA. The scholarship program offers an opportunity for the VA to attract younger professionals in scarce-skill categories into the system.

Section 326 would also lengthen the period of obligated service under the scholarship program from 1 year for every year of support to 2 years for every year of support and provide priority for nurses seeking a fourth year of baccalaureate training. Under the current scholarship program, recipients are required to serve for a period of 1 year for every year of scholarship support they receive, with a minimum of 2 years. Other scholarship programs, such as the newly established Congressional Teachers Scholarship Program require a service obligation of 2 years of service for every year of scholarship. Lengthening the pay-back period under the VA program to 2 years for every year of support is designed to encourage greater retention of nurses and other professionals who receive educational assistance under the scholarship program.

The Nurses Organization of the VA [NOVA] nurses estimated at our hearings that, according to VA's workload data, 8,200 more registered nurses than are currently employed within the VA medical centers are needed to meet patient needs. In the VA Recruitment Bulletin published in August 1987, which lists only those vacancies for which field facilities have requested nationwide recruitment publicity, 68 medical centers indicated a need for a total of 947 RN's. Because there is a demonstrated need for qualified nurses within the VA and the demand for nursing services is intense, I believe it is wise to identify, in advance, those students who can offer needed support as soon as possible and, while assisting these students to complete their education, receive a commitment from them to work in the VA for a specified minimum period of time. Thus, section 326 of the committee bill would provide priority in awarding scholarships for nurses in their fourth year of baccalaureate education so as to get help quicker.

RECRUITMENT AND RETENTION BONUS PAY

The committee bill would authorize the VA to provide a bonus of up to $20,000 to individuals—registered nurses or other health care personnel but not including dentists and physicians—who enter into a written agreement with the VA to serve full-time for a period of at least 4 years. Individuals who are presently working in the VA or who agree to work for the VA in a geographic area or in a professional specialty in which the VA is experiencing recruitment and retention difficulties would be eligible for the bonus under the committee bill. These provisions are derived from Senator MURKOWSKI's bill, S. 713, and certain substantial modifications which we developed together.

The Administrator would be required, at least once annually, to determine geographic locations and professional specialties where recruitment and retention problems exist for the personnel categories authorized to receive the bonus under the committee bill. The Administrator would further be required to notify the committees promptly of this determination and the justification for it.

Under the committee bill, employees would not be eligible for the bonus if they are fulfilling an obligation of service as a result of the receipt of a training scholarship or tuition reimbursement. However, once that obligation is complete, the employee would be eligible for the bonus authorized by this section.

In order to avoid staffing fluctuations which may result if the bonus is not offered in a consistent manner, the committee bill would require that all personnel serving in the same professional capacity in the same geographic area be offered the opportunity to receive the bonus under the same conditions.

There are a number of provisions relating to the payment of the bonus in the committee bill. First, money paid as a bonus would be in addition to any pay to which the employee is already entitled and would not be considered basic pay for other purposes, such as determining retirement benefits. Second, the bonus would be required to be paid in equal installments after each year of service is completed throughout the period of obligated service; however, the Administrator would be authorized to make the payment of an amount not in excess of 25 percent of the total bonus in a lump sum at the time the agreement between the employee and the VA is executed. In this case, the balance of the bonus would be paid in equal installments after each year of service. Additionally, if an employee fails to perform the services agreed to except for reasons beyond the control of the individual—that is, if the failure to perform is either voluntarily or because of misconduct—the employee would be required to refund the bonus payment, and the amount to be repaid would be considered a debt owed to the United States. Finally, the Administrator would be required to prescribe regulations to carry out the bonus program as provided for under the committee bill.

REPRESENTATION OF NURSES ON MEDICAL CENTER POLICY COMMITTEES

Mr. President, one factor that was noted during the committee's May 21 hearing, and since that time, that contributes to job dissatisfaction among nurses generally, is the lack of representation of nurses in the decision-making process regarding policies that affect them and the overall management of their facilities. Issues regarding workload, shift assignments, budget, and support staff all contribute to the quality of life for nurses, and nurses should have input into decisions that relate to those issues.

In 1980, I proposed legislation (in S. 2534 as reported) to elevate the Director of the Nursing Service in the VA Central Office to an Assistant Chief Medical Director or a Deputy Assistant Chief Medical Director in order to give the nursing department head a greater role in policy matters within DM&S. Although that provision was not enacted, the VA proceeded administratively to elevate the position of Director of Nursing Service to the Deputy CMD level. At that time, in the explanatory statement which the chairman of the House Committee on Veterans' Affairs and I inserted into the CONGRESSIONAL RECORD (20741, July 31, 1980, and 21033, August 1, 1980) during final consideration of the legislation that was enacted as Public Law 96-330, the committees stressed that it was vital to have extensive nursing service participation in planning, policy development, and decisionmaking activities throughout the VA health care system, not only at Central Office but in individual VA health care facilities as well.

However, many VAMC's committees do not include nursing representatives or include it only with respect to some matters. For example, according to VA data, out of 172 VA medical centers, 146 include the Chief of Nursing Service or designee on their hospital education committees, and 135 include such representation on the position management committees, while only 109 VAMC's hospital budget committees do the same. There are no data available as to how many VAMC's, if any, have nursing representatives on all pertinent committees. Because of the importance given to the need for nursing representation, I believe that there must be a uniform policy of including nurses on all key hospital committees at all VA facilities.

Thus, section 329 of the committee bill would require that Chiefs of Nursing Services or their designees be members of all VA health care facilities policymaking and fiscal committees, including those relating to budget, education, position management, Dean's committee, clinical executive issues, planning, and resource allocation.

STUDY OF RECRUITMENT AND RETENTION ISSUES

Section 332 of the committee bill would require the VA to carry out, and submit a report on, a study of various issues related to enhancing recruitment and retention of health care personnel within the VA. The issues to be studied include first, whether pay compression—that is, restricted potential salary ranges for employees—occurs within VA salary structures and, if it does, the feasibility of revision to correct for this problem; second, whether the payment of pay differentials for evening and night tours of duty needs to be increased in order to improve the ability of the VA to recruit for these shifts; third, whether the VA should furnish diagnostic testing and prescription-filling services to employees for a fee not to exceed the amount of the cost incurred by the VA, if that could be done without diminishing the provision of services to veterans; fourth, whether opportunities for research can be given to nurses with advanced degrees; fifth, whether it is feasible and desirable to establish collaborative-practice committees including, physicians, nurses, and other health-care providers as appropriate; and sixth, whether it is practical to offer a program of flexible benefits to VA health-care employees. A seventh item added on the floor by our committee modification would be whether it is feasible and desirable to expand the administrative and supervisory responsibilities of the Chief of the Nursing Service to include responsibility for support services and clinical department other than nursing.

Although issues involving pay practices, scheduling, and recognition of worth as an employee have been addressed to some extent by the VA, I believe, Mr. President, that more needs to be done in these areas and, for this reason, have proposed requiring this in-house study and report.

Mr. President, although the management configuration at most VA medical centers has remained unchanged for many years, some VA facility directors have attempted innovative management restructuring involving the Chief of the Nursing Service. At the San Diego VAMC additional responsibilities have been successfully delegated to the Chief Nurse, and I understand that the Directors in both the Minneapolis, MN and Charleston, SC, VAMC's are considering similar realignments. I believe implementing alternative management structures such as these might have a beneficial effect upon the recruitment and retention of direct health-care staff.

With regard to pay compression, particularly when special rates are in place or when a system is partially adjusted rather than reviewed in total, it frequently happens that the ranges between new and more senior employees or between staff and supervisors no longer bear a logical relationship between one another. This phenomenon has the potential to create dissatisfaction among the more highly paid workers, eventually causing them to leave the organization. In specific regard to nursing, salary ranges are frequently narrow and compressed. In the VA, depending upon the nurse's educational background, years of experience, and location, pay compression may present difficulties. Staff nurses having a diploma or associate degree and no work experience start at $16,521 and may, under the current salary scale, earn up to $35,326. Staff nurses holding a baccalaureate degree and no work experience start at $19,326 and have the same earning possibilities. The potential for problems becomes more evident when staff nurses with experience seek employment in the VA or staff nurses seek employment in areas where VA special rates are effective. In those instances the starting salary ranges up to $26,439 while the top earnings remain $35,326. Because salary issues play an important role in recruitment and retention matters, pay compression within the VA must be studied to determine if problems exist which make the agency insufficiently competitive.

Furnishing care in medical facilities is a 24-hour-a-day, 7-day-a-week requirement and requires scheduling employees to work at times that are viewed generally as undesirable. Because the majority of workers choose to work Monday through Friday during regular daylight hours, employers frequently pay premium wages in order to attract workers to other shifts or to work at less desirable times. Currently, in DM&S, section 4107 of title 38 requires payment of premium wages to nurses and other designated health-care employees at a rate equal to 10 percent of the employee's hourly rate of basic pay if at lest 4 hours of the tour of duty fall between 6 p.m. and 6 a.m.

Mr. President, I am concerned, however, that a 10-percent differential may not be high enough to attract large numbers of employees to work these evening and night shifts on a permanent basis. As a result, staff who would prefer to work during the day are required to rotate to other tours of duty. When there is a shortage of staff, as is occurring at present in many areas, the number of times the employee is required to rotate increases because there are fewer workers to share the burden. This increase in working on evening or night shifts frequently leads to dissatisfaction and resignations which can be translated into costly turnover entailing the recruitment, orientation, and training of new employees. Thus, the question arises whether there is a differential that can be offered to employees that is affordable and will attract personnel to the less desirable shifts on a permanent basis, allowing those that choose to, to work the day shift exclusively. This is one of the questions that I intend the VA to analyze extensively as part of this study.

The expense associated with health care is escalating, not only for the individual consumer but for those employers paying the insurance premiums. One method used by private sector hospitals to decrease both their own costs—of premiums for employees' health insurance—and those of their employees is to offer, for a fee not to exceed the cost, diagnostic testing, that is, laboratory and radiology services, and prescription-filling services to pesonnel. This is viewed generally by employees as a benefit because they ususally can receive these services at a lower cost than if they were to obtain them elsewhere. It also is usually more convenient to obtain these services at the workplace. Employers generally are benefited as well because less work time is lost by the employee who only has to go down the hall or into the next building for a test or prescription, rather than leaving work to travel to an off-site location. I believe this benefit may help to recruit and retain health-care personnel and believe that it is worth exploring.

In this regard, I want to stress strongly that it is not my intent to detract from services offered veteran-patients and that any services offered to employees would have to be on a not-to-interfere basis with the cost or provision of services to those veterans.

Mr. President, another recruitment tool the VA would be required to study under this provision of the committee bill is the practice of establishing clinical, administrative, and educational research opportunities in nursing. This has been successful in attracting highly-qualified physicians to the VA in the field of medicine and may prove to be equally successful in the nursing field.

At both the 1982 and 1987 committee hearings, the NOVA representatives testified to the need for closer working relationships between physicians and nurses. That this has been brought to the committee's attention in separate hearings 5 years apart suggests that this issue has not been resolved within the VA. Collaborative practice programs which foster interdisciplinary professional collaboration and colleague relationships between physicians, nurses, and other direct health-care providers have been shown as enhancing personal job satisfaction. CAHHS reported in its August 29, 1987, publication, Insight, that interdisciplinary practice committees exist in two-thirds of the facilities surveyed. One of the most significant complaints lodged by nursing professionals is that hospital administrators and physicians fail to appreciate or make appropriate use of their skills or give them autonomy over their clinical practice. In this regard, I intend that the VA study these programs and determine their feasibility in the VA setting as one means of providing recognition of the nursing staff and showing that their ideas are valued.

The final area that the committee bill would require to be studied is flexible benefits programs. Frequently referred to as cafeteria style benefits, such programs offer employees a choice among types of health insurance, disability insurance, child care, annual leave, sick leave, and other benefits which are paid for in whole or in part by the employer. The employee may or may not be expected to contribute to the cost, depending upon the specific plan.

When employers first began to offer health and other benefits, the employee population was relatively homogeneous—most were men with families—and it was easy for employers to identify the needs of workers or for labor unions to identify the needs of their memberships and bargain for them. As the composition of the work force changed and more women, both single and heads of household, became employed, benefit needs changed. Although many employers have recognized these changes, generally little has been done to reflect these changes. I believe that employers who take the individual needs of their personnel into consideration will be more successful in both recruitment and retention. Therefore, if the VA study of flexible benefits finds them to be feasible to implement, I would encourage the agency to take action, which may include proposing the necessary legislative authorization, to implement this approach. In this regard, I expect the VA to consult with labor representatives when a negotiated contract is involved. The child care program provided for in the new section 34 that our committee modification will add to the bill can offer important recruitment and retention incentives as part of such packages.

ON-CALL PAY

Mr. President, section 328 would authorize the VA to utilize the title 38 on-call pay provisions for newly hired or newly assigned title 5 health care personnel. This provision is derived from S. 1065, administration-requested legislation which would have mandated on-call pay for title 5 personnel and contains substantial modifications to the proposal developed in consultation with VA officials.

Currently, in order to ensure that adequate numbers and types of health-care personnel who are appointed pursuant to regular civil service authorities in title 5, United States Code—such as radiology and laboratory technicians—are available in medical emergencies or for unforeseen medical needs which occur outside of regular duty hours, the VA places such employees on so-called standby duty and pays them premium pay pursuant to section 5545 of title 5. While on standby status, these employees are expected to remain at their duty stations—or at home if that location has been designated as a duty station by the VA for such purposes—until called to return to work. The amount of premium payment received by personnel on standby duty is based upon predetermined criteria which take into account the average number of hours per week the employee is expected to remain on standby duty, whether the standby duty occurs on a regular workday or nonworkday, and whether the duty occurs Monday through Saturday or on Sunday. Employees receiving premium pay as a result of standby duty receive this payment, which cannot be less than 5 percent nor more than 25 percent of their annual salaries, each pay period as part of their regular pay regardless of whether, or how often, they are called to return to work. In instances when an employee is called to return to work, he or she received no additional pay beyond this premium. The premium pay they receive as part of their regular pay checks counts for pay computation for retirement and workers' compensation purposes.

Mr. President, in contrast to this approach for title 5 employees, VA health care personnel employed pursuant to the VA's special personnel authority in title 38 who may be needed for a medical emergency during their off-duty hours, are placed in an on-call status pursuant to section 4107 of title 38. Although employees in this on-call status are subject to being called back to work outside regular tours of duty, their physical movements are not confined to a designated duty station. They may arrange for a coworker to respond to a call, leave a telephone number by which they can be reached should their services be required, or carry an electronic pager by which they can be reached within a designated radious of the medical center. For each hour they are on call, employees receive premium pay equal to 10 percent of their hourly overtime rate. If required to return to work, an employee receives, in lieu of on-call premium pay, overtime pay for the time actually worked, although a minimum of 2 hours overtime pay must be paid each time the employee is called back regardless of the actual time worked. This on-call premium pay is not considered part of an employee's basic pay.

In the March 31, 1987, letter transmitting legislation—introduced as S. 1065—to require the VA to provide on-call pay to certain title 5 health care personnel, the Administrator stated that the current method for providing standby-duty premium pay for title 5 VA employees was very expensive for the agency and could add as much as $6,000 in annual pay for each of the VA employees involved. In response to my inquiry relating to the relationship between on-call and standby pay following the committee's May 21 hearing, the VA's Chief Medical Director stated:

> An employee who is regularly called back to work will generally receive about the same or more compensation under the on-call system as under the standby.

He also stated:

> On-call systems are commonplace among health care workers in the competitive marketplace; lack of familiarity with an unknown standby system may be a recruitment deterrent. In this respect an on-call system could improve the competitive position of a VAMC.

I recognize the current competitive environment for qualified health-care personnel and support efforts being taken by the VA to recruit and retain capable employees. In response to the VA's legislative proposal, section 328 on-call pay provisions for newly hired or newly assigned title 5 health-care personnel. The committee bill would also provide that employees working pursuant to title 5 earning standby pay on the date of the enactment of the committee bill could similarly be assigned to on-call status but their right to receive pay under the standby system would be continued if their employment status—that is, position and work unit—does not change and they remain eligible for standby pay. The pay for such employees would be computed using both standby and on-call methods, and they would be paid at the greater rate for as long as they remained in their grandfathered position and work unit.

My intent in proposing to protect current title 5 employees serving on standby is to protect their economic interests in their present employment status. The VA is expected to ensure that grandfather status or the absence of that status will not be a consideration in scheduling and awarding on-call assignments. It is also the committee's intent—and the VA has agreed—that grandfathered employees who are considering changing their employment status will be fully and clearly notified about the effect that that change would have upon their rights to standby pay. If this provision is enacted, I plan to monitor these aspects of its implementation closely.

It is not clear to me after reviewing the letter from the Administrator accompanying the proposed legislation, the response of Dr. Gronvall to my questions, and the result of followup discussions with VA officials, whether this change in how the VA pays employees for being available for after-hours work will result in savings or additional costs. The committee is providing the VA with this new authority in order to assist in its recruitment and retention of health-care employees.

RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

Section 331 of the committee bill would require the Administrator to increase the rates of pay for VA psychologists with board certification by using the appointment authority—in section 4107(g) of title 38—provided for such purposes in legislation—section 108 of Public Law 98-528—enacted in 1984 unless CMD determines within 90 days of the date of enactment, that an increase of board-certified psychologists is not necessary for the VA to furnish the appropriate quality of psychological services to veterans. This provision is derived from S. 105, introduced by the distinguished Senator from Hawaii [Mr. INOUYE], which would mandate special pay for these psychologists in the VA.

Pursuant to present section 4107(g), the Administrator is authorized to increase pay rates for, among others, clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator if there is difficulty recruiting these professionals.

Both Senator INOUYE and Leonard Goodstein, Ph.D., executive director, American Psychological Association, in testimony submitted for the committee's May 21 hearing stated that this measure would help the VA to recruit and retain qualified psychologists as well as promote the provision of a higher quality of health care to veterans. The chief medical director testified at that same hearing that the VA was not experiencing difficulty in recruiting and retaining psychologists and that a bonus as provided for in this legislation was not necessary "to attract and maintain the number of highly qualified psychologists needed for the VA health-care mission." Other witnesses generally supported special pay rates for board-certified psychologists.

Mr. President, section 331 of the committee bill would require the Administrator to authorize, within 90 days after the enactment of this legislation, special pay rates for clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, unless the CMD determines that such psychologists are not needed to furnish the quality of care determined by the CMD to be appropriate. Should additional pay be authorized pursuant to this provision, the rate would be set at an amount determined by the Administrator, upon the recommendation of the CMD, to be necessary to make VA pay competitive with the pay of psychologists having the same qualifications and credentials serving in non-VA capacities.

It is my view that the care provided to veterans should be of the highest caliber and that if board-certified psychologists are necessary—as Dr. Gronvall indicated to the committee in a June 20, 1984, letter to me was the case—to provide such a level of care the Administrator and CMD should utilize the authority they possess under section 4107(g) to pay special rates in order to recruit such employees.

DRUG TESTING

Mr. President, section 333 of the bill would prohibit the VA from conducting any program of testing VA employees for the use of illegal drugs, as defined under Executive Order 12564, September 17, 1986, except for the conduct of tests in three specified circumstances applicable to individual employees, namely: First, when there is a reasonable suspicion that the employee uses illegal drugs; second, in an examination authorized by the VA regarding an accident or unsafe practice, which in the provision of health care would be defined to be an unsafe practice that has resulted or could reasonably be expected to result in an adverse patient outcome, or third, as part of or in followup to counseling or rehabilitation for illegal drug use through an employee assistance program.

This provision was supported by the Veterans' Affairs Committee by a vote of 8 to 3, including all five committee Republicans, because we believed that a wide-scale drug testing program is neither appropriate nor cost effective for the VA health-care system.

Certainly, we must take every reasonable step to ensure that the judgment and competence of VA employees who make life and death decisions must not be clouded or impaired because of drug use. I would add that I am equally as concerned about the use and abuse of legal drugs on the job, such as alcohol, as I am about illegal drugs. However, confronting the effects of drug and alcohol use and abuse on the job and encouraging health-care workers to seek help voluntarily is best done by promoting trust between employees and employers, not fear.

Based on the VA's preliminary random testing plan, $2 million would be diverted from direct patient care in the first year to test randomly 10,000 VA employees selected out of approximately 135,000 employees—most all of whom would be VA health-care workers. By 1991, 40,000 employees would be tested annually at an annual cost estimated by the VA to be $2.5 million. However, I believe that this is a gross underestimate of the true costs. A recent article, "Drug Testing in the Workplace—Are Methods Legally Defensible?", in the July 24, 1987, issue of the Journal of the American Medical Association, reported that, although the military estimates that the cost per sample for the same two-procedure method that the VA would use is about $20, the total cost for the military's Drug Testing Program including sample collection, legal procedures, and the administrative costs, comes to almost $100 per sample. This would place the cost of the VA program by fiscal year 1991 at well over $4 million annually.

IMPACT OF DRUG TESTING ON RECRUITMENT AND RETENTION

Mr. President, to my knowledge, there has been no demonstration that drug abuse among VA health-care personnel has posed problems for VA patient care. On the other hand, there is great potential that such a program would drive physicians, nurses, pharmacists, and certain other health-care personnel—already in severe shortage in the VA—out of the VA system.

Salary and benefit differentials already give community and teaching hospitals a competitive advantage over VA medical centers. Individuals who choose to work at the VA are committed to caring for our Nation's veterans. if we now subject these dedicated health professionals to random drug testing, we would likely create very serious morale problems and force out many of our best people.

Few private sector hospitals randomly test their employees. In fact, according to the California Association of Hospitals and Health System [CAHHS], there is no random testing program in any hospital in California.

Mr. President, I ask unanimous consent that a November 17 letter from the executive vice president of CAHHS to this effect be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

California Association of
Hospitals and Health Systems,
Sacramento, CA, November 17, 1987.

Senator Alan Cranston,
Chairman, Committee on Veterans' Affairs,
Washington, DC.

Dear Senator Cranston: Following conversations with your staff relative to random drug testing in California's private hospitals, we would like to share the following with you:

1. California's State constitution specifically provides a right to privacy.

2. Generally, hospitals use pre-employment and "reasonable suspicion" procedures to test for drug use. Further, California has, for some time, drug rehabilitation programs for impaired physicians and nurses. A precondition to placement in this program may be the acceptance of random drug testing.

3. To the best of our knowledge, no private California hospital has a random drug testing policy unless there is reasonable suspicion of drug abuse.

As I shared with you, one hospital in the Los Angeles area adopted such a policy and was sued by a group of nurses and lost at the superior court level. The court ruled that in the absence of reasonable suspicion that an employee is under the influence of drugs an employer cannot test. The hospital has yet to decide whether or not to appeal. We decline an invitation by the hospital to participate as an amicus.

It was reported that a nurse representative stated that the existence of such a drug testing policy could hamper the hospitals' nurse retention and recruitment effort.

As an association representing almost 500 California hospitals, we believe that based on current knowledge, and available technology, current state programs and hospital policies and procedures are sufficient to protect hospitals' patients and employees. Thus, at this time, we do not, promote or support random drug testing.

I hope this is helpful. Please call if we can be of further assistance.

Best regards,

John H. Ferman,
Executive Vice President.

Mr. CRANSTON. Mr. President, I have heard informally from a number of VA hospital chiefs of staff who feel certain that many of their best nurses and other health professionals would leave rather than be subjected to a drug test. They believe that requiring such testing would undermine the trust and good faith that is so vital to maintaining a positive and productive relationship between any employer and employee.

The American Nurses Association [ANA] believes that such a program would "cripple the morale of VA employees and compromise the agency's ability to provide quality health care to the Nation's veterans." According to the ANA, the nursing profession is developing and implementing State legislation to address drug and alcohol abuse which would help identify impaired nurses and provide them with rehabilitation. Likewise, the National Officers and District Directors of the National Association of VA Physicians unanimously approved a resolution on November 14 opposing mandatory random drug testing.

THE TESTING.

The resolution stated that "it would be far better to improve and encourage procedures for intervention when cause can be shown rather than to randomly test everyone." The American Association of Critical-Care Nurses [AACN] opposed mandatory drug testing in a May 1987 position statement adopted by the AACN Board of Directors and stated in a November 19 letter "that the costs of such testing could adversely affect the health care of patients." The American Medical Association also stated that it strongly opposes any attempt to delete section 333 of the committee bill. I ask unanimous consent that these letters be inserted in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

American Nurses Association, Inc.,
Kansas City, MO, November 11, 1987.

Hon. Alan Cranston,
U.S. Senate, Washington, DC.

Dear Senator Cranston: Within the next few days, the Service Disabled Veterans' Benefits Improvement Act of 1987 (S. 9) will be considered. Currently included in the bill is a provision which limits the circumstances in which employee drug testing can be considered by the Veterans' Administration (VA). Consequently, mandatory random testing cannot be conducted, and VA employees would only be tested when there is reasonable suspicion of drug use or unsafe practice.

Regretably, we understand that an amendment to strike this provision of S. 9 will be offered by Senator Dennis DeConcini (D-AZ). The American Nurses' Association (ANA) which represents 188,000 nurses, many of whom are VA employees, asks that you oppose deletion of this provision.

The ANA agrees with VA Committee Chairman Alan Cranston (D-CA) that such testing could divert money from Veterans health care programs. Data indicates test reliability is unstable, and necessary confirmation tests would be more costly. There is also insufficient data to indicate that drug abuse is a significant problem for VA employees.

We recognize that substance abuse among health care workers is an unfortunate but real occurance. Accordingly, the nursing profession has developed and implemented state legislation to address the drug impaired nurse. Such professional self policing has assured identification of the abuser, and provided employee assistance programs which permit the continued practice of rehabilitated nurses.

Additionally, private sector hospitals do not utilize mandatory random drug screening. The VA is already experiencing critical nursing shortages, as they are unable to compete with the salaries and benefits offered to nurses by private hospitals. A VA drug screening program radically different, and more onerous and burdensome than the private sector may increase the VA's inability to attract and maintain qualified health care workers. Such a program would further cripple the morale of VA employees and compromise the agency's ability to provide quality health care to the nation's veterans.

Therefore, ANA urges you to oppose the DeConcini amendment to strike this critical provision of S. 9. We believe that employee drug testing based on reasonable suspicion of drug abuse or unsafe practice as outlined in S. 9 will accomplish identification and rehabilitation of impaired health care workers and ensure quality patient care.

Sicnerely,

Margretta M. Styles,
Ed.D., R.N., F.A.A.N.,
President.

National Association
of VA Physicians,
Washington, DC, November 16, 1987.

Hon. Alan Cranston,
VA Senate Affairs Committee, Russell Senate Office Building, Washington, DC.

Dear Senator Cranston: The enclosed resolution was approved unanimously by the National Officers and District Directors of the National Association of VA Physicians at their semi-annual meeting here in Washington, DC, on Saturday, November 14, 1987.

Very sincerely yours,

Paul W. Schafer, M.D.,
Executive Director.

Resolution

The National Association of VA Physicians would like to go on record as strongly supporting two areas covered by provisions in the Omnibus Veterans' Benefits and Service Act of 1987 (S. 9): those dealing with Acquired Immune Deficiency Sydrome (AIDS) (Sec. 308) and those dealing with drug testing of VA employees (Sec. 333).

AIDS is a disease that has engendered more fear and misunderstanding among the public, including health care professionals, than any other in recent years. Education has already stimulated substantial and profound changes in behavior in some high risk groups. We applaud the extension of these educational activities to the VA. It is only appropriate that the largest hospital system in the United States be actively involved, because the VA is now caring for 7 percent of the living people with AIDS in this country.

Extension of confidentiality guarantees, presently accorded to alcohol and drug abuse programs, to those with HIV-related diseases is an appropriate and urgently needed extension of these regulations. Similar discrimination is often seen in HIV-seropositive people and we, as physicians charged with the health and well-being of our veteran patients, are often dismayed at the results of discriminatory acts of employers, landlords and acquaintances.

Mandatory HIV testing has previously been the subject of NAVAP scrutiny. We affirm our position that antibody testing should be available only when it is voluntary, and when fully informed consent is obtained. In addition testing should be medically indicated or part of an educational and risk-reduction program. Blanket and mandatory testing policies would be counter-productive, discouraging participation by high-risk persons, and putting them at risk of discrimination.

NAVAP also supports portions of S. 9 related to drug testing of employees and most strongly and specifically opposes the amendment offered by Senators Domenici, DeConcini, and Mikulski which would strike Section 333. These are several reasons for our position:

1. It is clearly discriminatory to single out federal employees for drug testing unless all adults in the United States are likewise tested.
2. Mandatory testing and collection of specimens without cause has been considered an invasion of privacy (See "Policemen's Benevolent Association v. Washington, No. 86-3525 (D.N.J. Oct. 8, 1987)").
3. We are greatly concerned about the accuracy and reliability of most drug testing systems (see the Journal of the American Medical Association, vol. 258, No. 4, pages 504-509). There are well-founded fears of both false positive and false negative tests. Even the Office of Technology and Assessment has estimated that when the prevalence of drug abuse is low in a population, as it is among VA employees, at least one half of all positive tests would be false positives. This would truly be an intolerable situation.
4. Mechanisms already exist for intervening and testing when an employee's work performance causes suspicion of drug or alcohol abuse. It would be far better to improve and encourage procedures for intervention when cause can be shown rather than to randomly test everyone.
5. NAVAP's greatest concern is the allocation of funds for this program. The estimated $10 million cost in the first four years of testing seems incomprehensible in a country where countless thousands of currently identified alcohol and drug abusers are waiting months to get into overcrowded and undersupported treatment programs, even within the VA itself. How can we even consider financing an expensive random testing program when so many are already known to be afflicted and cannot be provided with treatment?

NAVAP fully supports the goal of a drug-free federal work place. Its desirability is innately obvious. Unfortunately, allocating resources to testing rather than to prevention and treatment will not achieve this end.

AMERICAN ASSOCIATION OF
CRITICAL-CARE NURSES,
Newport Beach, CA, November 19, 1987.
Hon. ALAN CRANSTON,
U.S. Senate, Veterans' Affairs Committee, Rayburn Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: The Service Disabled Veterans' Benefits Improvement Act of 1987 (S.9) is scheduled for a vote in the next few days. Included in the bill is a provision which limits the circumstances under which mandatory employee drug testing can be undertaken by the Veterans Administration. We understand, however, that an amendment striking this provision from S.9 will be offered by Senator DeConcini.

The American Association of Critical-Care Nurses (AACN), representing 57,000 members, urges you to oppose deletion of this provision.

AACN is opposed to mandatory random drug testing and believes that the costs of such testing could adversely affect the health care of patients. Enclosed is a copy of AACN's position statement on drug testing of critical care nurses.

AACN recognizes that substance abuse occurs among health care workers to the same degree that it occurs in the general population. We believe that the nursing profession has developed and implemented adequate programs that address the impaired nurse. We urge you to oppose any amendments to S. 9 that would result in mandatory random drug testing of nurses.

Sincerely,
JEANETTE C. HARTSHORN, RN, Ph.D.,
President.

DRUG TESTING OF CRITICAL CARE NURSES

The increase of drug and alcohol impaired individuals in society is a well-known and significant social problem. As part of the larger society, health care workers are subjected to the same risks of alcohol and drug abuse. Mandatory and/or random drug testing of employees has emerged as a trend in both public and private business sectors.

Whereas mandatory drug testing raises numerous ethical and legal issues in areas such as invasion of privacy, presumption of innocence, and protection against unreasonable search and seizure, and

Whereas the tests employed in screening programs have significant error rate, and

Whereas the American Nurses' Association (ANA) has issued a formal position, "Statement on Drug Testing for Health Care Workers" (1986): Therefore be it

Resolved, That, AACN supports drug testing of critical care nurses only if there is reasonable grounds and objective evidence that work performance is, or has been, impaired by alcohol or drug abuse: Be it further

Resolved, That, if drugs or alcohol are detected, the employee should be offered counseling and treatment prior to the institution of any permanent discipline.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, November 30, 1987.
Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN CRANSTON: The AMA is writing to express its support for Section 333 of S. 9, the "Service—Disabled Veterans' Benefits Improvement Act of 1987." S. 9 will be considered by the full Senate shortly. Section 333 would limit drug testing of Veterans' Administration employees to the following circumstances:

1. when there is reasonable suspicion that an employee uses illegal drugs;
2. in an examination authorized by the V.A. regarding an accident or unsafe practice; or
3. as part of or as a follow-up to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.

We are concerned that an amendment may be offered to delete this provision.

The AMA believes that drug and alcohol testing of employees should be limited to: preemployment examinations of persons whose jobs affect the health and safety of others; situations in which there is reasonable suspicion that an employee's job performance is impaired by alcohol or drug use; and monitoring as part of a comprehensive program of treatment and rehabilitation of alcohol and drug abuse.

As a result, we strongly oppose an amendment that would delete Section 333.

We urge you to consider carefully our views.

Sincerely,
JAMES H. SAMMONS, M.D.

Mr. CRANSTON. The PVA, also in a November 16 letter, stated that it

> * * * strongly believes the potential affront to the civil rights, morale and personal integrity of these federal employees does not warrant this massive and expensive effort to identify or deter any potential drug abuse problem among this particular population.

In a November 18, 1987 letter, the VVA stated:

> The loss of personnel in key medical specialities can only be exacerbated if testing is undertaken in the VA while no such testing is undertaken in the private sector. * * * What is needed, instead, are programs offering opportunities for employees to voluntarily come forward for confidential drug abuse counseling and treatment.

I ask unanimous consent that these letters be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DISABLED AMERICAN VETERANS,
Washington, DC, November 16, 1987.
Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: The Senate will soon consider the provisions of S. 9—the Omnibus Veterans' Benefits and Services Act of 1987. In this regard, I want to bring to your attention the views of the Disabled American Veterans concerning two provisions contained in this legislation.

The first relates to Section 333 of the bill—drug testing of Veterans Administration employees. This provision of the bill would prohibit the VA from implementing a widespread, random drug testing program of VA employees as defined under Executive Order 12564, effective July 31, 1987. The provision would, however, provide for testing of individual VA employees (1) when there is a reasonable suspicion that an employee uses illegal drugs, (2) in an examination authorized by the VA regarding an accident or unsafe practice, or (3) as part of or in follow-up to counseling or rehabilitation for illegal drug use through an employee assistance program.

The DAV believes that Section 333 reasonably and adequately addresses the issue of drug testing for the illegal use of drugs among VA employees, contrary to the provisions of Executive Order 12564 that would subject all VA employees to such a drug testing program.

In our view, there is insufficient proof that such a program is necessary or warranted in the case of VA health care employees. To date, the DAV has never received a complaint from any course, to include veterans using the VA health care system, that illegal drug use among VA employees is a problem or even a matter of concern.

Additionally, the DAV is very concerned about the potential negative effects random testing of VA employees may have upon the VA's ability to recruit and retain high quality health care professionals. As you know, the VA is already experiencing serious recruitment and retention difficulties with respect to nurses, pharmacists and certain other health care specialities. Random testing, in our opinion, could worsen the VA's current recruitment and retention difficulties.

Finally, it has been estimated that the first four years of a random drug testing program for VA employees will cost at least $10 million. Quite frankly, the DAV strongly believes that such resources could be better utilized for providing direct patient care to veterans. Based on the above, I strongly urge you to support the provisions of S. 9, as reported, relating to the drug testing of VA employees.

The other issue of concern to the DAV relates to Section 308 of S. 9—acquired immune deficiency syndrome matters. This section of the bill (1) would require the VA to establish a system-wide AIDS education and training program for patients and employees of VA health care facilities, (2) expand the scope of existing VA alcohol and drug treatment confidentiality and nondiscrimination provisions to encompass individuals who are infected by the human immunodeficiency virus (HIV) and (3) prohibit the VA from implementing any widespread HIV testing program unless Congress specifically appropriates funds for that purpose.

This section, in our view, sets forth a responsible approach to permit the VA health care system to realistically address one of the greatest health threats in our country. Clearly, the provision that permits the VA to offer HIV testing and counseling to those patients believed to be at high risk for infection, coupled with those provisions maintaining confidentiality of VA medical records, prohibition of discrimination in admission to VA hospitals and establishing system-wide programs of education and prevention for VA patients and health care personnel, responsibly addresses this serious health issue based upon current scientific and medical knowledge.

As you know, AIDS has been a major health issue for more than five years—claiming the lives of more than 20,000 Americans. The VA has treated nearly six percent of all AIDS cases in the United States and treated approximately 1,300 such patients in Fiscal Year 1987 alone.

Due to the gravity of this health issue there have been calls for more wide-spread testing of individuals of the presence of the antibody to the HIV and, in some cases, mandatory testing for the AIDS antibody.

Should the issue of wholesale mandatory testing for the HIV antibody of all VA inpatients be proposed through amendment to S. 9, I want you to know that the DAV is *unalterably opposed* to such a proposal or amendment.

Wholesale mandatory testing for AIDS fails to recognize the body of information that has been compiled by the Office of Technology Assessment, the Surgeon General of the United States and the Centers for Disease Control relating to the serious flaws that exist for mass testing programs directed at whole classes of people.

In addition, such a mass testing program for the VA could cost the agency at least $25 million a year in direct patient care funding. Consequently, the DAV strongly urges you to support Section 308 of S. 9 as reported by the Senate Veterans Affairs Committee.

In closing, on behalf of the more than 1.1 million members of the Disabled American Veterans and its Ladies' Auxiliary, I strongly encourage you to actively support the Senate Veterans Affairs Committee recommendations as contained in Section 308 and 333 of S. 9. Your support for these provisions will prevent further erosion of funding needed for direct patient care. I look forward to your support.

Sincerely,

GENE A. MURPHY,
National Commander.

PARALYZED VETERANS OF AMERICA,
Washington, DC, November 16, 1987.
Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: Paralyzed Veterans of America (PVA) would like to express its strong support for Section 333 of S. 9, "The Omnibus Veterans' Benefits and Services Act of 1987." This section would limit the Veterans Administration's authority to conduct wide-spread random drug testing on VA health care personnel as currently defined under Executive Order 12564, (September 17, 1986).

Under current directive, the VA has proposed a plan to proceed with a drug testing program which would include employees selected under four circumstances: (1) reasonable suspicion; (2) accident or incident investigation; (3) follow-up for rehabilitation; and (4) random selection in sensitive positions. Section 333 of S. 9, while generally agreeing with the intent of the first three circumstances, would prohibit the implementation of the widespread drug testing program called for in the fourth instance as being ineffective, unnecessary, expensive and largely irrelevant to the provision of quality health care within the VA. PVA wholeheartedly agrees with this position.

Under the VA's proposal, approximately 135,000 employees, 90 percent of whom are involved in the provision of direct health care, would be subject to random testing. Approximately 65,000 applicants tentatively selected for VA employment would be randomly selected for drug testing as well. The VA estimates that 100,000 employees would be tested in the first four years of the program at an estimated *minimum* cost of $10 million.

PVA believes that the vast majority of these VA employees, primarily physicians, nurses and other health care professionals, are not in the high risk groups normally associated with illegal substance abuse. Apart from identifying the documented unreliability of certain drug testing methods and procedures, PVA also strongly believes the potential affront to the civil rights, morale and personal integrity of these federal employees does not warrant this massive and expensive effort to identify or deter any potential drug abuse problem among this particular population. The testing program, except in those instances mentioned above, where there is reasonable suspicion of abuse which could affect the well-being of a veteran patient or the rehabilitation of the employee, will not have any positive impact on the provision of quality care within the VA or the prevention of illegal drug use in society at large.

At a time of high federal deficits and limited VA dollars, PVA believes that the targeted approach to testing expressed in S. 9 is the most reasonable and effective way to address any potential problem of drug abuse among VA employees. We urge your full support for Section 333 and the entire bill as approved by the Senate Committee on Veterans' Affairs.

Sincerely yours,

GORDON H. MANSFIELD,
Associate Executive Director for Government Relations.

VIETNAM VETERANS OF AMERICA, INC.,
Washington, DC, November 18, 1987.
Hon. ALAN CRANSTON,
Chairman, Veterans Affairs Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN CRANSTON: This letter is intended to alert you to the opposition of the Vietnam Veterans of America, Inc. (VVA) to any floor amendments to S.9 which are designed to allow widespread random drug abuse testing in the Veterans Administration. As you know, the VVA has expressed its opposition to even the modest provisions on this subject already present in your bill. Our position, in this regard, is based on concerns over what definition of "reasonable suspicion" might be employed when determinations are made to test specific individuals and how confidentiality might be assured as a practical matter in the VA health setting.

Moreover, any amendment allowing widespread drug testing in the VA would ignore the special circumstances that have created an adverse environment in which health care has had to be delivered. Already, the VA is experiencing difficulty in competing with the private sector for scarce health personnel resources. The loss of personnel in key medical specialties can only be exacerbated if testing is undertaken in the VA while no such testing is undertaken in the private sector.

We recognize that drug abuse on the job among health workers may pose serious problems for the quality of care offered by the VA, but just as surely the loss of personnel and deteriorated morale accompanying drug testing will have the same or worse effects. What is needed, instead, are programs offering opportunities for employees to voluntarily come forward for confidential drug abuse counseling and treatment.

Chairman Cranston, should an amendment be offered to allow widespread arbitrary drug testing, you can count on our willingness to join you in opposition. As always, your attention to our concerns is appreciated.

Sincerely,

PAUL S. EGAN,
Legislative Director.

CONCLUSION

Mr. CRANSTON. Mr. President, I strongly believe that requiring VA employees to undergo random mandatory drug testing would do more harm than good to the effort to ensure that veterans receive the highest quality of medical care. I expect to be speaking at greater length about the adverse consequences of mandatory testing at a later time in conjunction with a floor amendment which is expected to be made to strike section 333 from the bill.

VETERANS' SERVICE ORGANIZATIONS OPPOSE RANDOM TESTING

Mr. CRANSTON. Mr. President, three of the major veterans' service organizations, the Disabled American Veterans [DAV], the Paralyzed Veterans of America [PVA], and the Vietnam Veterans of America [VVA] strongly support the committee provisions and oppose mandatory random testing for VA employees. These organizations' sole purpose is to advocate for policies that are in the best interests of veterans. If they believed that randon testing would protect veterans from possible harm by an impaired physician or nurse, I have every confidence that they would support it.

In a November 16 letter, the DAV states that it has never received a complaint from any source that illegal drug use among VA employees is a problem or "even a matter of concern." In contrast, the DAV expressed serious concern that random testing could worsen the VA's current recruitment and retention difficulties.

PROHIBITION ON SALE OF VA PROPERTIES IN SOUTHERN CALIFORNIA

Mr. President, section 401 of the committee bill, which is derived from section 10 of my bill, S. 6, would prohibit the Administrator from taking any action to declare as excess to the needs of the VA, or otherwise taking any action to dispose of, the land and improvements at the VA medical center in west Los Angeles, CA—consisting of approximately 109 acres—and at the VA medical center in Sepulveda, CA—consisting of approximately 46 acres.

There are numerous strong reasons for the VA to retain these lands. First, these parcels provide important buffer zones between the facilities and the surrounding communities. I strongly believe that not all urban properties should be developed; open space is a valuable commodity, especially in highly congested areas, such as west Los Angeles where some 3,000 Brentwood homeowners are strongly opposed to the excessing or commercial development of this property due to the additional congestion it would create.

Second, retention of these lands also ensures latitude for possible future uses for the benefit of veterans such as, according to a 1986 VA task force report, a possible new State veterans' home, recreational facilities for veterans, and joint-venture projects with the University of California at Los Angeles or others.

Third, in addition, a major portion of the land in question at west Los Angeles is either part of a deep ravine or separated from the facility by the ravine. Without massive landfill, this land is unattractive and difficult to utilize and would not have the commercial value OMB has attributed to it. The administration's estimated value for the 109 acres is $125 million. Moreover, the VA has used the ravine for waste disposal, including remnants of an old VA hospital that once stood on an adjacent site. This would compound problems for any developer since the contaminated soil would need to be removed and the substructure of the land shored up before landfilling is begun. Additionally, the parcel includes an area where the VA once disposed of radioactive waste, and digging in the area could be hazardous.

Fourth, conditions exist that suppress the market value of the property, including in the case of west Los Angeles a county moratorium on new access cuts into Wilshire Boulevard. Also, the zoning for the VA land is open space, and no development could be undertaken without a zoning variance—which is highly unlikely given the opposition of both the Los Angeles County Board of Supervisors and city officials.

Fifth, the major veterans' organizations—both nationally and in the State—have expressed and continue to express vigorous opposition to any excessing of this land.

Finally, the surrounding west Los Angeles and Sepulveda communities strongly oppose the additional major construction activity and the resultant development that would occur, as well as the disruption of a number of existing leases and agreements with the VA regarding the use of some of the land proposed for excessing.

In sum, our committee concluded that a speculative revenue possibility is far outweighed by the reasons I have outlined in opposition to the sale of this land.

GRAVE MARKERS IN NATIONAL CEMETERIES

Mr. President, section 402 of the bill would amend section 1004 of title 38 to give the Administrator discretionary authority, upon the recommendation of the Chief Medical Director, to waive the general requirement for upright grave markers in a VA national cemetery if the Administrator determines that the use of upright markers would have a detrimental effect on the health of veterans receiving care at a nearby VA health-care facility.

In a March 9, 1987, request to the Congress, the administration requested a statutory exemption to continue flat markers at the Wood, WI, Cemetery because of circumstances such as these, and the committee provided for a generic authority in the event that these conditions were present at any of the 19 national cemeteries located in proximity to VA health care facilities. Section 402 would also amend section 1004 to mandate, with respect to all interments occurring after the date of enactment, the use of flat markers at the National Cemetery in Riverside, CA, and the proposed national cemetery in northern California. Mr. President, the National Cemetery in Riverside, CA, was designed to accommodate flat grave markers in order to maintain harmony with its surroundings. There is strong local support, as evidenced by a proclamation received by the committee from the Riverside County Board of Supervisors expressing opposition to the application to the Riverside Cemetery of that portion of Public Law 99-576, section 411, requiring upright grave markers. Additional support for an exception to the requirement for the use of upright markers at both the Riverside, CA, and the proposed national cemetery in northern California was received from the California State Department of the Veterans of Foreign Wars; additionally the American Legion, the Disabled American Veterans, and the Veterns of Foreign Wars indicated they were not opposed to such an exemption in response to a question that I posed at the committee's June 30 hearing.

CONCLUSION

Mr. President, it has been a pleasure to work with Senator MURKOWSKI and all the members of the committee in the development of this most comprehensive legislation. I want to note the contributions of, and thank, the committee staff members who have worked on this legislation—Lisa Moore, Chris Yoder, Laura Stepovich, Tom Roberts, and Tony Principi on the minority staff; Roy Smith, who so ably provides editorial support to the committee; and, on the majority staff, Jane Wasman, Sandi Isaacson, Barbara Masters, George Bentley, Darryl Kehrer, Michael Bracey, Liz Giffin, Jennifer Loporcaro, Cathy Chapman, Ann Danelski, Charlotte Hughes, Loretta McMillan, Ingrid Post, Claudia Kashin, Bill Brew, Ed Scott, and Jon Steinberg.

Mr. President, I am delighted that we have been able, once again, to develop a truly bipartisan measure that will fulfill our commitment to ensure that compensation and DIC benefits for this Nation's service-connected-disabled veterans and the survivors of those who have died from service-connected causes are protected from the effects of inflation, that will help to maintain and improve the quality and efficiency of health-care services provided to eligible veterans, and that will provide needed safeguards for and improvements in VA programs.

Mr. President, I urge the Senate's approval of the pending legislation.

On behalf of the committee and Senator THURMOND and myself and various other Senators, as I will describe in a moment, I send to the desk a modification of the committee amendment and ask that the committee amendment be so modified.

The PRESIDING OFFICER. The committee amendment is so modified.

The modification is as follows:

At the end of the bill, insert the following new section:

SEC. 405. SALES OF LOANS MADE BY THE VETERANS' ADMINISTRATION TO FINANCE THE SALE OF FORECLOSED PROPERTIES.

Section 2 of Public Law 100-136 if repealed.

On page 23, between lines 22 and 23, insert the following:

(a) DEFINITION OF FORMER PRISONER OF WAR.—Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

On page 23, line 23, strike out "(a)" and insert in lieu thereof "(b)".

On page 24, line 6, strike out "(b)" and insert in lieu thereof "(c)".

On page 49, strike out all on line 13 and insert in lieu thereof the following:

(a) IN GENERAL.—(1) Clause (5) of section 503(a) is amended to read as follows:

"(5) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount to be excluded exceed the greater of the fair market value or reasonable replacement value of the property involved immediately preceding the loss;"; and

(2) Clause (I) of section 415(f)(1) is

On page 49, line 21, strike out "amendment" and insert in lieu thereof "amendments".

On page 49, line 22, strike out "(2)" and insert in lieu thereof "(a)".

On page 61, line 19, strike out all beginning with "who" through "participation" on line 20 and insert in lieu thereof "who during such veteran's service (1) participated on site".

On page 62, line 2, strike out "was" and all that follows through the period on line 3 and insert in lieu thereof "or (2) in connection with such veteran's internment as a prisoner of war in Japan during World War II, experienced an opportunity for exposure to ionizing radiation from a nuclear detonation which the Administrator finds to have been comparable to the opportunity for such exposure of a veteran who so participated in such occupation.".

On page 67, line 26, strike out all beginning with "was" through "participation" on page 68, line 1, and insert in lieu thereof "participated on site".

On page 69, line 2, strike out all beginning with "was" through "participation" on line 3 and insert in lieu thereof "(A) participated on site".

On page 69, line 4, insert "or (B) was interned as a prisoner of war in Japan during World War II," after "1946,".

On page 69, line 7, strike out all beginning with "who" through "participation" on line 8 and insert in lieu thereof "(i) who (I) participated on site".

On page 69, line 10, strike out "and" and insert in lieu thereof "or (II) was interned as a prisoner of war in Japan during World War II, and (ii)".

On page 69, line 16, strike out all beginning with "was" through "participation" on line 17, and insert in lieu thereof "participated on site".

On page 80, line 10, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 80, line 15, strike out all after the first period.

On page 80, between lines 15 and 16, insert the following:

"(3)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section shall not prohibit the disclosure of such information or records by a physician or a professional counselor if—

"(i) the disclosure is made to the spouse of the patient or subject concerned or to an individual whom the patient or subject has, during the process of professional counseling or testing, identified as being a sexual partner of such patient or subject, and

"(ii) such physician or counselor, after making reasonable efforts to counsel and encourage such patient or subject to inform such spouse or sexual partner, reasonably believes that the disclosure is medically appropriate and that such patient or subject will not inform such spouse or sexual partner about the information involved.

"(B) The disclosure under this paragraph of the identity of a patient of subject shall be made only in a case in which the physician or professional counselor determines that such disclosure is necessary in order to protect the health of such spouse or sexual partner.".

On page 83, line 11, strike out "immunodeficiency" and insert in lieu thereof "immunodeficiency".

On page 90, line 16, strike out "one mobile health-care clinic" and insert in lieu thereof "two mobile health-care clinics".

On page 90, line 21, strike out "$2,500,000" and insert in lieu thereof "$5,000,000".

On page 135, on line 11, insert ", except for physicians and dentists," after "title".

On page 145, line 19, strike out "and registered nurses", and insert in lieu thereof "registered nurses, and, as appropriate, other direct health-care personnel,".

On page 145, between lines 21 and 22, insert the following:

(7) Whether it is feasible and desirable to expand the administrative and supervisory responsibilities of the position of Chief of the Nursing Service, where such Chief has the requisite qualifications and experience, to include responsibility for support services and clinical departments other than nursing.

On page 146, strike out all on lines 10 through 20 and insert in lieu thereof the following:

(d) PILOT PROGRAM.—In order to evaluate the effectiveness of various pay and other personnel management practices in enabling the Veterans' Administration to recruit and retain sufficient employees who are qualified to provide direct patient-care services, or services that are incidental to direct patient-care services, the Chief Medical Director of the Veterans' Administration shall conduct a pilot program during calendar years 1988, 1989, and 1990, in not less than five Veterans' Administration medical centers to gain information and experience with respect to the matters required to be studied under subsections (a), (b), and (c). In the course of such pilot program, the Administrator—

(1) shall—

(A) at not less than three sites, expand the administrative and supervisory responsibilities of the Chief of the Nursing Services to include responsiblility for support services and clinical departments other than nursing;

(B) at not less than one site, establish a collaborative-practice committee involving physicians, nurses, and, as appropriate, other direct health-care personnel; and

(C) at not less than one site, significantly increase the pay differential for evening and night service; and

(2) may implement changes in personnel management practices as otherwise authorized by law so as to gain information with respect to any of the matters described in subsection (a), (b), or (c).

(e) REPORTS.—(1) Not later than the one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a), except with respect to the results of any activity pertaining thereto undertaken as part of the pilot program required by subsection (d). The report shall contain—

(A) the determinations of the Administrator; and

(B) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of such study.

(2) Not later than 30 months after the date of the enactment of this Act, the Administrator shall submit to such Committees a report on the results of the first 24 months' experience under the pilot program required by subsection (d). The report shall contain—

(A) the evaluation of the Administrator of the effectiveness of each management practice undertaken in the pilot program on the Veterans' Administration's ability to recruit and retain healthcare employees;

(B) information on the cost factors associated with each such management practice; and

(C) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of such pilot program.

(3) Not later than 42 months after the date of the enactment of this Act, the Administrator shall submit to such Committees a final report on the pilot program. The report shall contain—

(A) updates on all information provided in the report submitted pursuant to paragraph (2) of this subsection; and

(B) the Administrator's final assessment of the pilot program based on 36 months of operation.

On page 147, between lines 7 and 8, insert the following:

SEC. 334. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) IN GENERAL.—Section 233 is amended by adding at the end the following new subsection:

"(c)(1) Subject to this subsection and regulations prescribed to carry out this subsection, the Administrator, to the extent that the Administrator determines that it is in the best interest of the Veterans' Administration and practicable to do so based on the demand for such care, shall provide for the establishment of onsite child-care centers at Veterans' Administration facilities for the care of the children of Veterans' Administration employees and, to the extent space is available, other Federal employees and other non-Federal employees.

"(2) In connection with the establishment of centers pursuant to paragraph (1) of this subsection, the Administrator—

"(A) shall furnish, at no or nominal cost to the centers, space in existing Veterans' Administration facilities, utilities, and other amenities necessary for the health and safety of the children; and

"(B) may, on a reimbursable basis, convert such space for use as a center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be furnished by the administrator without reimbursement.

"(3) The Administrator shall prescribe regulations to carry out this subsection. Such regulations shall include provisions which—

"(A) provide for the participation of the parents of the children in a child-care center, either directly or through parent-advisory committees or both, in the establishment of policies to govern the operation of such center and in the oversight of such center's operation;

"(B) require the development and utilization of a process for determining the fitness and suitability of prospective employees of or volunteers at such centers;

"(C) authorize the parents of children in such centers to conduct fundraising activities in order to help defray the cost of the operation of such centers;

"(D) require the establishment of a schedule of charges for the provision of child-care services for each such center (including a sliding-scale schedule, based on the income and assets of a child's parents) sufficient to cover the expenses of operating each such center; and

"(E) require in connection with the operation of such centers compliance with all State and local laws, ordinances, and regulations relating to the operation of child-care centers.

"(4) In carrying out the provisions of this subsection, the Administrator may—

"(A) enter into contracts, under section 5022(a) of this title, for the operation of such centers with non-profit organizations comprised of parents of children who would receive child-care services in such centers;

"(B) enter into contracts, under such section, for the operation of such centers with other non-profit organizations which have a demonstrated expertise in the operation of child-care centers, except that any such organization must establish a parent advisory committee; and

"(C) provide for the direct management of such centers by the Veterans' Canteen Service created pursuant to chapter 75 of this title or otherwise by the Veterans' Administration, except that such management shall include provision for a parent advisory committee.

"(5) The Administrator may carry out the provisions of this subsection through such Canteen Service or otherwise.

"(6) A parent advisory committee referred to in this subsection shall be comprised of, and selected by, the parents of children in a center and be fully involved in the establishment of policies to govern the operation of the center and the oversight of the implementation of such policies.".

(b) Conforming Amendments.—(1) The heading of section 233 is amended to read as follows:

"233. Special services for employees".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"233. Special services for employees.".

On page 161, line 23, strike out "case of the national cemetery" and insert in lieu thereof "cases of the national cemeteries".

On page 161, line 24, insert "Bourne, Massachusetts, and Augusta, Michigan," after the second comma.

At the end of the bill, after the section (section 405) previously added, add the following additional new sections:

SEC. 406. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION

(a) In General.—The Administrator of Veterans' Affairs shall accept on behalf of the United States, without consideration, all right, title, and interest in the Arizona Veterans Service Commission in and to the Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres, if such right, title, and interest are so offered to the United States.

(b) Cemetery to Become Part of the National Cemetery System.—After acceptance by the Administrator of Veterans' Affairs, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) Legal Description.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey conducted at no charge to the United States that is satisfactory to the Administrator of Veterans' Affairs.

(d) Terms and Conditions.—The Administrator of Veterans' Affairs may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) Waiver of Liability for Repayment of Veterans' Administration Grant.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the acceptance of the Arizona Veterans Memorial Cemetery by the Administrator of Veterans' Affairs, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) Expenditures.—(1) Except as provided in paragraph (2), during each of fiscal years 1988 and 1989, the Administrator may not expend, from appropriated funds, for the operation and maintenance of the Arizona Veterans Memorial Cemetery funds in excess of the amount that the Administrator estimates that the Administrator would have paid during the year involved to the State of Arizona pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration, or the amount so paid during fiscal year 1987, whichever amount is greater.

(2) The limitation in paragraph (1) may be exceeded in a fiscal year to the extent that the Administrator determines that expenditures in excess of the limitation are necessary and appropriate in connection with the need to make repairs of damage to such cemetery resulting from a fire, flood, or other natural disaster.

(3)(A) Subject to subparagraph (B), in each of fiscal years 1988 and 1989, the Administrator shall use for the operation and maintenance of such cemetery amounts available for payments under such section 903(b)(1).

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1) without regard to paragraph (2).

(g) Acceptance of Gifts.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) Grave Markers.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a).

SEC. 407. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

On page 20, below the item relating to section 333, insert the following:

Sec. 334. Child-care services at Veterans' Administration facilities.

On page 21, below the item relating to section 404, insert the following:

Sec. 405. Sales of loans made by the Veterans' Administration to finance the sale of foreclosed properties.
Sec. 406. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.
Sec. 407. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

Mr. CRANSTON. Mr. President, I want now to describe briefly the provisions of the Cranston/Murkowski committee modification for my colleagues.

SALE OF VENDEE LOANS WITHOUT RECOURSE

First, the committee amendment contains a provision which I am proposing along with Senator Murkowski to repeal the provision in section 2(a) of the recently enacted Public Law 100-136 which restricts the VA from selling loans made to certain purchasers of VA-acquired foreclosed properties—known as vendee loans—without recourse unless the amount received is equal to an amount which is not less than the unpaid balance of the loan—that is, for 100 percent of par value. This provision has the effect of prohibiting without recourse sales.

S. 1691, enacted as Public Law 100-136, was introduced by Senator Murkowski and myself on September 16 in order to provide 90-day extensions of two provisions—the 1-percent loan fee and the provisions of section 1816(c) of title 38 establishing the "no-bid formula" for determining whether the VA acquires, or does not acquire, at a liquidation sale the property securing a VA-guaranteed loan that is in default—which had September 30, 1987, sunset dates established in section 2512(c)(2) of the Deficit Reduction Act of 1984 (Public Law 98-369).

Mr. President, S. 1691 was introduced as an interim measure, pending enactment of a comprehensive home loan bill—such as S. 1801/H.R. 2672 which the House passed on November 17—for the purpose of preventing a substantial hiatus in the collection of the fee, which both would have been inequitable to those required to pay the fee before and after the hiatus and would have jeopardized the solvency of the VA's Loan Guaranty Revolving Fund [LGRF]. Without the fee, there would be a need for additional appropriations—currently about $20 million per month—to pay the claims of the holders of defaulted VA-guaranteed loans.

On October 1, 1987—the day after the fee and no-bid provisions had expired—the House passed an amended version of S. 1691. The House-passed version provided, in lieu of the 90-day extension, a 46-day extension through November 15, 1987. It also contained a provision to prohibit the VA permanently from selling vendee loans without a repurchase agreement which would make the VA ultimately liable for a subsequent default by the new purchaser, that is, without recourse, unless such loans are sold for par value. Senator MURKOWSKI and I very reluctantly agreed to accept this House amendment; and the Senate concurred in the House amendments on October 1, 1987. The President ultimately signed the bill on the last day—October 16, 1987. During this delay, the VA's LGRF lost approximately $10 million.

Mr. President, the administration announced in January 1987 that it would require, beginning in fiscal year 1988, that all vendee loans be sold without recourse. The administration further insists that, over the next 3 fiscal years, $900 million of loan assets from the VA's loan portfolio be sold on that basis. In May 1987, the VA attempted one sale of vendee loans without recourse. Despite extensive advertising of and major preparations for the sale, the results were a disastrous failure. The VA received bids for only about $8 million of the $84 million of the vendee loans it planned to offer for sale, and the amount of those bids ranged from only 15 to 65 percent of the par value of the loans. As a consequence, the VA withdrew all of the loans from sale.

The administration's plan is designed to make a series of reductions of the budget deficit over the next 3 years. However, it is of questionable policy justification, particularly as applied to the $900 million in older VA loans. Not only will the sale of 30 percent of the VA's accumulated loan portfolio over each of the next 3 fiscal years greatly reduce a stream of payments—in the form of interest and principal—into the LGRF, but, as the attempted sale in May indicates, at least if current VA selling practices are used, the VA will have to discount these loans greatly in order to sell them without recourse. Thus, any revenues achieved through such sales would likely be far less over the long term than they would have been if the loans were sold with recourse. If the House amendment had simply ensured that nonrecourse sales could be made only if the VA obtains fair value for the loans, I could probably have endorsed it. However, as I indicated when the Senate reluctantly accepted the amendment on October 1—in my statement beginning on page 26144 of the RECORD—in order to keep the 1-percent fee alive, I believe that it went too far in a number of respects.

The House amendment has the effect of permanently prohibiting the VA from selling the vendee loans without recourse. I do not believe such a permanent and rigid limitation on without-recourse sales is good public policy. There is nothing wrong with a without-recourse sale as long as the sale price of the loan is not greatly discounted from what the price would be if the loan were sold with recourse.

Mr. President, I know that Senator MURKOWSKI agrees with me in this regard. However, despite our strong objection to this sweeping prohibition, we felt compelled to accept it in the House-passed version of S. 1691 in order to preserve the loan fee and the solvency of the LGRF, which secures home loan guaranties. The House committee leadership, during debate on S. 1691, indicated that if the short-term extension of the fee were not enacted they would not agree to reinstate it.

Although I do not agree that an absolute prohibition of without-recourse sales is desirable, I do share the House's concern that the LGRF must be protected against the administration's attempts to provide quick cash for one-time reductions of the budget deficit at the expense of the Home Loan Program and the veterans who benefit from it and to use without-recourse sales as a means of privatizing the program.

It may be that, regardless of the marketing strategies used, the VA would be able to sell vendee loans without recourse only at unacceptable discounts. However, I do not believe that has been demonstrated solely on the basis of the VA's first attempt at such a sale. Rather, the VA—perhaps with the assistance of independent financial consultants familiar with such loan sales—needs to develop improved marketing strategies to carry out a fair test of the viability of such sales. Perhaps such methods as overcollateralized loans or reinsuring them privately—both forms of recourse that may be less costly—should be tried by the VA as they were recently tried by the Farmers Home Administration in September.

Mr. President, OMB and CBO, as a result of a recent, dubious shift in budget scorekeeping methodology, have attributed to the enactment of section 2 of Public Law 100-136 a cost of about $800 million and $611 million, respectively, in fiscal year 1988 outlays. Under the Gramm-Rudman-Hollings [GRH] baseline, this results in a requirement that equivalent savings be enacted as an alternative to sequestration. It also far more than uses up all of the room that our committee had in its crosswalk allocation under the fiscal year 1988 budget resolution for controllable spending, which our committee has from the outset planned to use for COLA's in service-connected disability compensation and DIC and related service-connected benefits and for benefits for certain veterans, or the survivors of veterans, who were exposed to ionizing radiation from nuclear detonations, as provided for in the pending measure. Under last year's scorekeeping, this would not have been the case. Such is the illusory nature of the GRH and scorekeeping processes.

Accordingly, in S. 1801/H.R. 2672 as passed by the Senate on October 30, Senator MURKOWSKI and I proposed and the Senate adopted an amendment—as section 16 of that bill—to repeal the provision.

However, as I noted at the time, an outright repeal is not ultimately my preference. Rather, we endeavored to work with our colleagues on the House Veterans' Affairs Committee to seek a compromise which would allow without recourse sales where that would be to the benefit of the LGRF. Unfortunately, we were unable to convince our House counterparts to agree to such an outcome. I believe we should eventually be able to find a solution that will address the concerns which have been raised in both bodies while allowing the VA to sell vendee loans without recourse when that would be in the best interest of the LGRF.

Finally, Mr. President, I note that the economic summit agreement reached on November 20 includes an assumption of $800 million in savings in outlays and budget authority in fiscal year 1988 and $1 million in outlays and budget authority in fiscal year 1989 from repeal of section 2 of Public Law 100-136. Accordingly, I will do my best again to achieve a satisfactory outcome on this legislation.

CHILD-CARE SERVICES

Mr. President, our amendment also includes provisions identical to S. 1876, which Senator DECONCINI and I introduced on November 17 along with Senators MURKOWSKI and ROCKEFELLER. The basic purpose of this provision is to promote the expansion of the development of nonprofit child-care centers located at VA facilities for the children of VA employees by requiring the

Administrator, to the extent determined in the best interest of the VA and practicable to do so based on the demand for such care, to provide, at no or nominal cost, space for onsite child-care centers and utilities in connection with such centers and to authorize the provision of other support services on a reimbursable basis, and by authorizing the Administrator to enter into agreements with nonprofit child-care providers or provide directly for the management of the centers. These provisions would require the Administrator to prescribe regulations providing for parental involvement in the administration and day-to-day activities of the center; authorize parents to conduct fundraising activities to help defray the cost of operations of the centers; provide for the establishment of a sliding-scale fee schedule; require a process for screening prospective employees and volunteer workers; require that applicable State and local requirements relating to child-care centers be met; require that parent advisory committees composed of parents of children in the center be fully involved in the establishment and oversight of policies governing the center; and authorize the Administrator to carry out the provisions of the proposed legislation through the canteen service.

BACKGROUND

There is a growing rivalry among health-care facilities in the United States for the services of qualified health-care professionals. As are most other health-care facilities, the VA is confronting a crisis in the recruitment and retention of these personnel, and the VA must be competitive in the area of salaries and benefits if it is to attract these individuals. More and more, private and public medical facilities are offering onsite child-care programs.

Throughout the country, there are long waiting lists for admission to existing child-care programs; countless parents are forced to make do with unsatisfactory child-care arrangements so that they can continue to work to support their families. In 1977, an estimated 51.7 percent of the mothers of children between the ages of 6 and 17 and 37.6 percent of the mothers of children under age 6 were in the work force. By 1984, those numbers had increased to 63.8 percent and 53.1 percent, respectively. The 1985 figures reported by the Department of Labor showed that almost half—46.8 percent—of those mothers with children under the age of 3 were in the work force. Indeed, it has been projected that by the year 1990 there will be 11.5 million children under the age of 6 and 17.2 million children between the ages of 6 and 13 whose mothers will be working. There is, without a doubt, a child-care crisis in every community in America. We need to resolve this crisis with creative and forward-looking measures.

Mr. President, most mothers work for the same reason that most fathers work: economic necessity. Two-thirds of the women in the work force are either sole providers for their families or married to men who earn less than $15,000 per year. In a report published by the U.S. Commission on Civil Rights in July 1981, entitled "Child Care and Equal Opportunity for Women," the extent to which lack of adequate child-care services restricted women, particularly in terms of employment opportunities, was examined. Here is what the report found:

First, substantial numbers of women are prevented from taking paid work because of the unavailability or inadequacy of child care. The Commission noted that a number of studies suggest that approximately one of every five or six unemployed women is unemployed because she is unable to make satisfactory child-care arrangements.

Second, the unavailability of adequate child care limits employment opportunities for many women—either in terms of their hours of employment or their inability to seek or accept job promotions or acquire the training necessary for advancement.

Finally, lack of child care or inadequate child care can have a detrimental effect upon job performance. A UAW representative told the Civil Rights Commission that stress was a significant factor in industrial accidents and that worry about inadequate child care was cited as the single greatest cause of stress by a number of female assembly line workers participating at a 1978 conference on Occupational Health and Working Women. One of the key reasons a number of employers have recently become interested in helping their employees find or secure adequate child-care services is the recognition that lack of such care has a detrimental effect upon employee performance.

CHILD CARE WITHIN THE DM&S

Mr. President, employees within the VA's DM&S have expressed substantial interest in child-care services. At a hearing held by our committee on April 21, 1982, a witness representing the Nurses Organization of the Veterans' Administration [NOVA] recommended, among other strategies, that day-care programs for the children of VA personnel be established. Results of a VA study entitled "Nurse Recruitment and Retention in the Veterans' Administration," dated February 26, 1984, carried out as an outcome of those hearings pursuant to section 118 of Public Law 96-330, indicated that 15.5 percent of staff nurses had sole or partial responsibility for 1 to 3 children under 6 years old and that 32.9 percent of staff nurses had sole or partial responsibility for 1 to 3 children from 6 to 18 years old. These figures alone show a significant potential need for child-care facilities within the VA.

The DM&S Policy Council, in February 1983, recommended active endorsement and the establishment of uniform guidelines for child-care centers in the VA. Although the CMD approved these recommendations, no published CMD policy guidance has been issued to the field.

The 1984 VA study also reported that 10 VAMC's had on-site day-care centers, 1 was being developed, and 10 others were exploring the feasibility of opening one. Of those that were open, the hours of operation ranged from 7:15 a.m. to 5 p.m. and 5:45 a.m. to 12:30 a.m. Fees for the service varied depending upon the age of the child, and some centers had sliding-scale fees based upon the employees' ability to pay. The majority of centers were established as not-for-profit corporations governed by employee boards.

Mr. President, more recently, in 1986, a "Staffing Shortages Task Force" was established within DM&S charged with formulating recommendations to improve recruitment and retention in health-care occupations. A preliminary report of the task force released to me on October 26, 1987, as chairman of the Veterans' Committee indicated that providing child-care facilities for VA employees is one of the recruitment and retention tools being recommended. The DM&S Policy Council, in February 1983, recommended active endorsement of child-care centers in the VA and the establishment of uniform guidelines. Although the CMD approved these recommendations no published CMD policy guidance has been issued to the field.

Currently, there are 15 active child-care centers at VAMC's. Those centers are in Togus, ME; Wilmington, DE; Perry Point, MD; Ann Arbor, MI; Northport, NY; Brockton/West Roxbury, MA; Albany, NY; North Chicago, IL; Hines, IL; Dayton, OH; Knoxville, IA; Martinez, CA; Long Beach, CA; and New Orleans, LA. Approximately 700 children are being cared for at those centers at a cost ranging from $50 to $80 per week. Although the VA is not financially subsidizing these centers, the agency is providing space at no cost. According to a "white paper" prepared in response to my request, the VA, under the authority of title 38, section 5022, supports "the establishment of local employee initiated efforts to establish not-for-profit child care centers in VA facilities." However, this expansion from 10 to 15 child-care programs over the last 4 years is clearly not adequate progress, given the price of development of such programs at health-care facilities with which the VA is competing for staffing.

PROVISION OF ON-SITE CHILD-CARE SERVICES

Mr. President, child-care services offered in close proximity to one or more parents has the potential to attract personnel who might otherwise accept employment closer to their children's caretaker or who might otherwise not accept employment at all. Many parents want to be involved in the activities in which their children are participating and desire to be close to their children for that purpose. Additionally, at times, children may need extra parental attention and parents prefer to have the capability to provide it. On-site child care affords parents these opportunities, and, therefore, health-care personnel considering employment may find working at a VA facility more attractive than it might otherwise be.

Moreover, I believe that the provision of on-site services sends a message to personnel that the employer cares about the employees' needs. As I noted earlier, more women today then ever before have joined the work force and, although the roles in our society are changing, women continue to be the primary caretakers of children. Because a significant number of health-care workers are women—97 percent of all nurses are women and an increasing number of physicians are women—a signal of this kind to women health-care personnel could be beneficial to the VA's recruitment and retention efforts.

There are also potential benefits to be gained by veterans when the child-care concerns of parents are attended to. As I described earlier, reducing the stress caused by child-care concerns can lead to improved job performance and reduced job-related accidents. Such accidents in a hospital environment could include errors in patient care.

Offering child-care services to other Federal and non-Federal employees if space is available would assist in making this endeavor a successful one. If adequate numbers of VA employees are not interested in the service, or, if the sliding-scale charges make additional funding necessary to cover expenses, authority would be available to offer child-care services to non-VA employees to increase revenues.

FINANCIAL SUPPORT FURNISHED BY THE VA

Mr. President, I do not believe it necessary at this time for the VA to subsidize child-care services by paying directly for any item. I do, however, believe that the agency can be of assistance by providing space and utilities and other amenities at no or nominal cost and other support services, including furniture, office machines, and converting the area into useable space, on an at-cost, reimbursable basis.

Frequently, the startup costs of converting space and purchasing the initial equipment present unsurmountable obstacles to parents wanting to organize child-care centers. Assistance in this regard could offer the impetus needed to motivate interested parents to form their own cooperative.

PARENTAL PARTICIPATION

Mr. President, I believe that the most successful and lasting child-care centers are those which provide for the participation and input of parents of the children who attend. Such an approach gives the parents a stake in the continuation of the center as well as providing them with assurances about the goals and objectives of the programs being provided their children. Participation can occur in a variety of ways, from parents being permitted to observe activities taking place to their being members of the corporation board. In this regard, our amendment requires the Administrator to prescribe regulations to provide for parental participation in a child-care center in the operation and oversight of the operation of such center, either directly or through parent-advisory group or both.

The provision of safe, high quality care for children has always been one of my major concerns. It is important that children receive the attention they personally need, are properly supervised, and are provided educational and developmental activities suitable for their age. These activities must be furnished by capable and caring persons who have the skill and knowledge necessary to guide the children in the absence of their parents.

In addition to the qualifications of the personnel caring for them, the physical environment in which children spend their time is also important. A child-care center should be clean, large enough to provide adequate space for each child, and avoid harmful conditions. Parents must be given assurances that specific identified standards are met. Thus, our amendment requires that regulations promulgated by the Administrator include the development and utilization of a process for screening prospective employees of such centers for fitness and suitability and require compliance with all State and local laws, ordinances, and regulations relating to the operation of child-care centers. I have long been active in working to promote adequate standards for child-care programs and have introduced legislation, S. 934, the proposed Child Care Standards Improvement Act, to provide incentive to encourage States to upgrade their child-care standards and monitoring procedures.

Mr. President, the amendment requires the Administrator to require the establishment of a schedule of charges for the provision of child-care services for each center, including a sliding-scale schedule based on the income and assets of a child's parents, sufficient to cover the expenses of operating each center. The provision of quality child-care services is expensive. As I previously mentioned, the range in cost of present child-care services affiliated with the VA is from $50 to $80 per week. This is more than many parents can afford, particularly those in single parent households or those who fall within the lower salary scales. The provision for sliding scales should assist parents in those circumstances by shifting costs to others who are better able to pay. To help offset costs for all parents involved, the amendment would require the Administrator to establish regulations authorizing the parents of children in centers to conduct fundraising activities in order to help defray the operating costs of the centers.

CONTRACTING WITH NONPROFIT ORGANIZATIONS

Mr. President, to perform the services necessary to support the provision of quality child-care services to the children of VA employees, our amendment would authorize the Administrator to enter into contracts, under section 5022(a) of title 38, with nonprofit organizations comprised of parents of children who would receive child-care services in the centers or with other nonprofit organizations which have a demonstrated expertise in the operation of child-care services, provided that such organizations have an advisory committee comprised of parents of children who would receive the child-care services.

Our amendment also would furnish the Administrator with the authority to provide for the direct management of child-care centers by the Veterans' Canteen Service which is operated pursuant to chapter 75 of title 38. The Canteen Service functions as an independent unit in the VA and has exclusive control over all of its own activities, utilizing no appropriated funds. In the specific instance of child-care services, matters such as personnel management, financing, and procurement and supply could be arranged to meet the specific needs of a child-care center. In those instances where recruitment and retention concerns are significant the Administrator may choose direct involvement in establishing and managing a child-care center rather than delaying this service until such time as a nonprofit organization musters the necessary interest or support. In this regard, the Administrator has the authority to provide child care directly through the canteen service as well as provide for the overall management of the program by that service.

CONCLUSION

Mr. President, the growing crisis in recruitment and retention of health-care personnel poses a threat to the VA's capability of providing health care to our Nation's veterans. I believe it is imperative that the VA begin to examine a wide range of employee benefits which may assist in resolving some of these problems, one of which is certainly child-care services.

Our amendment contributes to meeting the ever-growing need in this country for a coordinated approach to child care. On November 19, 1987, I joined with Senator Dodd as the principal author of a bipartisan comprehensive child-care measure, S. 1885, the proposed "Act for Better Child Care Services," ABC, aimed at expanding the availability of child-care service throughout the Nation.

There is simply no question that the demand and need for child-care services will continue to grow. We need to promote a variety of solutions to meet this national problem. The VA has an opportunity to provide leadership in this area in the health-care industry, and I strongly urge the agency to do so and hope this legislation will serve to promote this result.

PILOT PROGRAMS TO TEST RECRUITMENT AND RETENTION STRATEGIES

The committee amendment includes provisions which I have developed with the support of Senator Murkowski to add to the committee bill a provision requiring the VA to carry out certain pilot projects to test various recruitment and retention strategies which the VA is required to study and report on section 332 of the committee bill. Since July 31, 1987, when this provision was favorably reported by the Senate, additional studies and strategies which might have a positive effect upon the solutions to these problems have come to my attention. We must continue to move in the direction of exploring creative methods to resolve the shortage of qualified health-care personnel within the VA, and, to that end, we are introducing this legislation.

SUMMARY OF PROVISIONS

Our proposed addition to section 332 of S. 9 would:

First, add to the in-house management study requirements a reference determining the feasibility and desirability of expanding the administrative and supervisory responsibilities of the Chief of the Nursing Service to include responsibility for support services and clinical departments other than nursing.

Second, require the Chief Medical Director, CMD, to conduct, at not less than five VA medical facilities, pilot programs during calendar years 1988, 1989, and 1990, in regard to any or all the matters specified in section 332 to be studied.

Third, require, at not less than three of the pilot program sites, that the role of the Chief of the Nursing Service to be expanded; at a minimum of one site, that collaborative-practice committees be instituted; and, at a minimum of one site, pay differentials for the evening and night shifts be significantly increased.

Fourth, authorize changes in personnel management practices so as to gain information with resepct to any of the matters involved in a pilot program.

Fifth, require that the report on the results of the studies required in section 332(a) not covering matters which are the subject of the required pilot programs be submitted no later than 1 year after the date of enactment.

Sixth, require that a report be submitted by the Administrator to both the House and Senate Veterans' Affairs Committees on the results of the pilot programs no later than 30 months after the date of enactment describing the results of the first 24 months' experience under the pilot programs and containing (a) the Administrator's evaluation of the effectiveness of each management practice undertaken in the pilot program on the VA's ability to recruit and retain healthcare personnel; (b) information on the cost factors associated with each such management practice; and (c) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the pilot program.

Seventh, require that the Administrator submit a final report to both committees no later than 42 months after the date of enactment including (a) updates on all information provided in the previous report submitted, and (b) the Administrator's final assessment of the pilot program based on 36 months of operation.

CHANGING ROLE OF PRIVATE SECTOR NURSING LEADERS

As early as June 1972, Dr. Frederick N. Elliott, then-associate medical director of Rancho Los Amigos Hospital, Downey, CA, in an article appearing in hospitals, a publication of the American hospital Association, wrote:

> In my model institution, the nursing service would be responsible for the total patient environment. Housekeeping, engineering, and administration, as well as the allied and therapeutic services such as dietary, pharmacy, and other diagnostic and treatment services, would approach the patient only through the mediation of nursing. Until that is achieved, we will not have coordination and control of the patient's therapeutic environment, and we will continue with the fragmentation of services in which misidentification and other mistakes, inappropriate emphasis, psychological trauma, and depersonalization are all possible, probable, and prevalent in most of our institutions.

In the late 1970's and early 1980's, a severe shortage of registered nurses occurred. Between 1980 and 1983 several organizations, including the Institute of Medicine, the American Hospital Association, and the American Academy of Nursing separately studied the problem, published their findings, and made a total of 39 recommendations for future change. One of the findings, based upon input from staff nurses around the country, was that nursing leaders within hospitals did not have—or were not perceived as having—the opportunity to influence hospital policies and procedures affecting their professional practice. As a result, one recommendation was to modify the management structure of hospitals to have the director of nursing report directly to the administrator or chief executive of the hospital and afford the nursing leadership the same level of responsibility and accountability as other senior administrative staff.

Other forces within the health-care environment precipitated additional restructuring. In 1983, Medicare's prospective payment system was enacted in Public Law 98-21, replacing the prior cost-reimbursement method with fixed payments to hospitals for patients based on their diagnosis, as set forth in diagnostic related groups [DRG's]. Because of this change, non-VA hospitals had strong incentives to decrease the cost of care they provided. Initially, as the patient census decreased, hospitals reduced the number of direct-care providers but, as the severity of patient illness and the number of patient complaints increased and the morale of the remaining direct care providers decreased, this approach became less desirable. At that time, the literature suggests that administrators of private-sector hospitals began to examine their administrative costs to determine the feasibility of restructuring by reducing the numbers of supervisors and other management personnel.

In efforts to contain personnel costs at the highest management levels as well as to improve the coordination of services to patients, some hospital administrators increased the scope of responsibility for nursing administrators to include services other than nursing. In a 1986 survey of 377 hospitals with 250 or more beds, Witt Associates, an executive search firm specializing in the recruitment of hospital executives, and the American Organization of Nurse Executives found that 23 percent of nursing administrators had responsibility for support services such as housekeeping, central supply services, and pharmacy, and 13 percent had responsibility for clinical services such as physical therapy, vascular laboratories, and speech therapy.

ROLE EXPANSION OF THE VA CHIEF OF THE NURSING SERVICE IN THE VA

The management configuration at most VA medical centers has remained unchanged for many years. The Director is accountable for the operation of the total facility, delegating responsibility to two key individuals, the Chief of Staff and the Associate Director. Reporting to the Chief of Staff, who is responsible for clinical activities, are

Chiefs of Clinical Services such as the Chief of Medicine, Chief of Surgery, and the Chief of the Nursing Service. The Associate Director is primarily responsible for administrative and support services such as the fiscal office, medical administrative services, and pharmacy.

Mr. President, I believe implementing alternative management structures might have a beneficial effect upon the recruitment and retention of direct health-care staff. Presently within the VA, as in the Nation, severe nursing shortages exist in certain geographic areas and specialties. An extensive discussion of this problem is included in the committee report on S. 9 at pages 150 to 161 and I refer my colleagues to the report for a complete overview. In specific regard to the effect of organizational restructuring on recruitment, a second recommendation which arose from the findings of the previously referred to investigations into the cause of the early 1980 nursing shortage was the need to increase the support services available to both the nurse and the patient. During this same time period, the VA took certain steps to promote examination of its organization. In a September 28, 1981, Deputy CMD communication to the field, and again in a July 19, 1982, Associate Deputy CMD's letter, Directors of VA facilities were encouraged to review functions in support of direct patient care and realign those functions if they resulted in more efficient and cost-effective patient care.

VA nursing staff have frequently indicated dissatisfaction with the fact that they are required to assume the responsibilities of others and therefore were not left with adequate time or resources to provide direct care to their patients. In a 1984 report entitled, "Nurse Recruitment and Retention in the Veterans' Administration," submitted to our committee pursuant to Public Law 96-330, nurses emphasized the importance of adequate support services as follows:

> One time-consuming task, washing beds after patients' discharge or transfer, was addressed in a pilot program. * * * Two nursing service employees were assigned to wash beds. Once the program was established, the positions were given to Building Management to continue it. The nurses said this approach alleviated a frustrating problem.

More recently, in a preliminary report submitted in July 1987 to the CMD by the VA Task Force on Recruitment and Retention of Non-Physician Health Care Workers, inadequacy of support services to professional health-care workers was again cited as a factor affecting employee recruitment and retention. Additionally, at a 1987 conference of Sigma Theta Tau International, an honor society of nursing, Mr. Ron Norby, R.N., Chief of the Nursing Service, San Diego VAMC, called for an increase in the availability and coordination of support services.

Mr. President, some VA facility directors have attempted innovative management restructuring involving the Chief of the Nursing Service. At the San Diego VAMC, additional responsibilities have been successfully delegated to the Chief Nurse, and I understand that the Directors in both the Minneapolis, MN, and Charleston, SC, VAMC's are considering similar realignment that have met with some central office opposition.

The purpose of the provisions in the amendment we are proposing today is to ensure that creative management models are attempted and a scientific research approach is used to determine their benefits or lack thereof. In this regard, the CMD would be required to study the effects of expanding the administrative and supervisory responsibilities of the Chief of the Nursing Service to include support services and clinical departments other than nursing. Throughout the course of this evaluation the effects these changes might have on the efficiency and cost-effectiveness of services, the impact on recruitment and retention of direct health care personnel, the functioning and productivity of staff in all services involved, the ability of the Chief Nurse to provide supervision and support to all designated departments, and, most importantly effectively, the effect upon the quality and timeliness of care provided to veterans is to be determined.

PILOT PROGRAMS

As I noted earlier, the strategies our committee is proposing to assist in resolving issues surrounding DM&S recruitment and retention problems are summarized in the committee's report accompanying S. 9. After S. 9 was ordered reported, the committee received comments from several sources that any conclusions resulting only from studies of the issues set forth in section 332 would be highly conjectural unless the VA was also provided with the authority to implement demonstration projects for the purpose of evaluating the feasibility and desirability of the recommended practices. Because we believe these comments have much merit, our amendment would require the Administrator to conduct pilot programs at not less than five VA medical facilities and, in so doing, would authorize implementation of any or all the strategies set forth in the study description in section 332. Because of the importance I believe the Chief of the Nursing Service plays in the operation of the VAMC's, our amendment requires that pilot programs be implemented at not less than three medical centers to study the effect of increasing the scope and responsibility of the Chief Nurse.

Concerns were raised by VA comments in section 332 that it might not be necessary to study the effects of two issues in S. 9 as reported—paying evening and night differentials or fostering collaborative relationships between professional staff—because both are present VA practices. As explained in the committee report accompanying S. 9, the committee is interested in learning whether paying the current 10-percent differential is sufficient, and, if not, whether an increase will attract personnel to the less desirable shifts on a permanent basis.

In regard to fostering collaborative practice, although this philosophy may be encouraged within VA medical facilities the written response of the Nurses Association of the Veterans' Administration to questions I asked after the testimony at our hearing suggests strongly that the VA has not been uniformly successful in attaining its goals in this area. The creation of formalized collaborative-practice committees has been implemented in some hospitals to overcome negative feelings which have arisen between health care professionals. As an example, physicians frequently request the presence of a nurse when they arrive on the unit to visit patients and they do not understand why their request is denied. Nurses, on the other hand, become upset when they call a physician to attend to a patients need and the physician does not immediately respond. Frequently, legitimate reasons exist to explain why the request of the other goes unanswered yet these reasons are not communicated and no efforts toward mutual problem-solving are made. Friction develops and patient care, as well as recruitment and retention problems, occur. Collaborative-practice committees provide a forum for issues such as these to be resolved.

To provide assurances to the committee that these two issues will be formally addressed, our amendment would require that, at a minimum, of onsite collaborative practice committees be instituted, and at a minimum of onsite pay differentials for the evening and night shifts be significantly increased.

CHANGES IN PERSONNEL MANAGEMENT PRACTICES

Mr. President, to provide the VA with the flexibility needed to arrive at valid and reliable conclusions in regard to the studies and pilot programs, our amendment authorizes changes in personnel management practices which are otherwise authorized by law. In that regard, I strongly encourage consultation with labor organizations or other employee groups. This is particularly important where a pilot program involves employee benefits. Indeed, there is substantial potential for such a pilot project to fail only because employees were not properly informed.

CONCLUSION

Mr. President, because the VA runs the largest health care system in the Nation, I believe it should become a leader in recruitment and retention of health care professionals. The VA can move forward toward achievement of this goal by developing and implementing innovative approaches based on solid research and study.

PILOT PROGRAM OF MOBILE HEALTH CARE CLINICS

Mr. President, as reported, section 315 of S. 9 would require the VA to implement a 2-year pilot program of four projects—one each in the Northeast, Midwest, South, and West—using appropriately equipped mobile vans to furnish health care to eligible veterans in rural areas where veterans live at least 100 miles from the nearest VA health care facility. Not more than $2.5 million annually could be expended on this program. Senators HECHT, REID, and the committee's ranking minority member, Senator MURKOWSKI, and I are proposing as part of the committee amendment to increase the number of programs to eight, two in each designated region of the country, and increase the spending limit on these projects to $5 million annually.

As noted in the committee report accompanying S. 9—page 133—the committee mandated that the pilot programs take place in dispersed regions of the country because of the concern that what worked in one area might or might not work in another. Since the bill was reported, concern has been expressed to the committee that four demonstration sites may not provide an adequate test of mobile health care clinics. The vast size of the United States—3.5 million square miles—and the many differences in the geography, climate, economic structure, population dispersion, social factors, and medical needs both among and within regions make it difficult to develop valid and reliable data based upon only four projects. Because the sizes of the regions designated within the study are also vast and also include many of the same diverse factors as found within the country, I am now convinced that the numbers of pilot programs must be increased to minimize the effect of these differences on the study results. In doing so, it is necessary to increase the budget limitations proportionately.

TRANSFER OF ARIZONA VETERANS MEMORIAL CEMETERY

Mr. President, another provision of the committee amendment is proposed by Senators McCAIN, and DECONCINI, as well as myself and Senator MURKOWSKI, to authorize and direct the VA to accept from the State of Arizona title to the Arizona State Veterans Memorial Cemetery, is located in Phoenix, which would then become part of the National Cemetery System. This transfer would be on terms and conditions specified by the VA. Under the provision, once this transfer takes place as anticipated, Arizona would not be obligated to repay any part of the Federal grant provided to the State in connection with the establishment of the cemetery.

Mr. President, as a result of factors that are unique to this State cemetery, including very low maintenance and operation costs, this transfer can be effectuated at no additional cost to the Federal Government beyond the amount already paid to Arizona by the VA as a plot allowance under section 903(b) of title 38, United States Code, in connection with the burial of each deceased veteran. In recognition of this fact, subsection (f) in the provision provides that in fiscal years 1988 and 1989 the VA may not expend funds for the operation and maintenance of this cemetery in excess of the amount the agency would have expended in each of those years—or did spend in fiscal year 1987, if that amount is greater—in connection with the payment of the section 903(b) $150-plot allowance to the State of Arizona for burials at the cemetery. In addition, in fiscal years 1988 and 1989, the VA would be authorized to use for operation and maintenance expenses funds available for the payment of plot allowances.

Had this limitation not been agreed to, I could not have supported this amendment since I have resisted all efforts to provide for specific projects sought by various Senators in their States. Moreover, although I would not generally agree to directing the VA to accept the transfer rather than authorizing that result, I have reluctantly agreed to the request by the Senators from Arizona that the VA be mandated to accept the transfer because I believe that the Office of Management and Budget might very likely prohibit the VA from accepting the transfer even though the VA would likely wish to do so.

With further reference to the issue of funding the cemetery's operation, because veterans service organizations in Arizona have in the past donated funds for the cemetery, subsection (g) in the amendment includes an express provision which would authorize the VA to accept gifts from any entity for the purpose of operating the cemetery after its transfer to the VA. In addition to veterans service organizations and other private entities which might wish to make contributions in support of the cemetery once it is transferred to the VA, this provision would allow the VA to accept gifts for such purposes from the State itself and require that such gift funds be used for the purpose for which donated.

Finally, because the cemetery has been developed utilizing flat markers and the veterans' community in Arizona desires to continue this approach, our amendment would provide a waiver, in the case of this cemetery once transferred to the VA, of the requirement in section 1004 of title 38, United States Code, that upright markers be used in National cemeteries, thereby permitting flat markers to continue to be used there after the transfer to the VA.

Mr. President, I am delighted that we have been able to work out this aproach to establish a national cemetery in Arizona by transfer of the State cemetery. Today's action is a successful culmination of a long and multifaceted approach by my good friend and committee colleague, Senator DECONCINI, to achieving a national cemetery in Arizona. He is to be congratulated for his persistence and endurance in pursuing this goal.

RADIATION-EXPOSED VETERANS

Mr. President, Senator MITCHELL, I, and Senator MURKOWSKI, propose to revise the definition of "radiation-exposed veteran" for purposes of the radiation benefits provisions in title II of S. 9 as reported to include a veteran who, in connection with the veterans' internment as a prisoner of war in Japan, had an opportunity for radiation exposure which the Administrator finds to have been comparable to that of a veteran who participated in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946. This provision would have no significant cost impact.

EX-POW'S

Mr. President, Senators GRAHAM and HEINZ, and I, and Senator MURKOWSKI propose to revise the title 38 definition of a "former prisoner of war", which is used for purposes of various special provisions and VA benefits for ex-POW's, to include any veteran who was held by a foreign government during a period of war—as well as during peacetime as under current law—under circumstances which the Administrator finds to have been comparable to the circumstances generally experienced by persons held by enemy governments during periods of war. The House has passed a similar provision.

GRAVE MARKERS IN NATIONAL CEMETERIES

Mr. President, the distinguished Senators from Michigan [Mr. RIEGLE] and Massachusetts [Mr. KERRY] have authored provisions to create exceptions to the general requirements for the use of upright grave markers in national cemeteries for the national cemeteries in Augusta, MI, and Bourne, MA, respectively, and to require the use of flat markers in those cemeteries.

In each case, the proposed legislation has the support of the other Senator from the State, the Member of the House of Representatives in whose district the cemetery is located, and the State-level departments of the major veterans' organizations.

Mr. President, in this regard, as to the Augusta, MI, cemetery, I ask unanimous consent that there be printed in the RECORD at this point copies of a letter dated November 12, 1987, signed by Senators RIEGLE and LEVIN and Representative WOLPE, who represents the district in which the cemetery at Augusta is located, and a letter from the Fort Custer National Cemetery Advisory Committee, dated September 17, 1987, and signed by representatives of all of the major veterans organizations in the State of Michigan.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 12, 1987.
Senator ALAN CRANSTON,
Chairman, Senate Veterans Affairs Committee, Washington, DC.

DEAR ALAN: We are writing to ask that a provision be added as an amendment to S. 9, The Service Disabled Veterans Benefits Improvements Act, that would authorize the use of flat markers at Fort Custer National Cemetery in Augusta, Michigan.

We believe that the attached letter to Representative Wolpe from the Fort Custer National Cemetery Advisory Committee, signed by all of the major veterans organizations, makes a persuasive case for granting an exception to current law, which requires that only upright grave markers be used in national cemeteries.

Not only will the use of flat markers, in those areas which are so designated in the cemetery's master plan, best preserve the natural beauty of Fort Custer, it will also reduce maintenance costs and lower the risk of vandalism in the cemetery. In addition, an exception will allow Fort Custer to continue to offer the veteran and his family a choice of using either upright or flat markers.

We support the unanimous conslusion of the Advisory Committee that an exception from the provision of PL 99-567 should be made in this instance, and we very much appreciate your support.

Sincerely,
HOWARD WOLPE.
CARL LEVIN.
DONALD W. RIEGLE, Jr.

FORT CUSTER NATIONAL CEMETERY
ADVISORY COMMITTEE, INC.,
Augusta, MI, September 17, 1987.
Hon. HOWARD WOLPE,
Washington, DC.

DEAR HOWARD WOLPE: The members of the Fort Custer National Cemetery Advisory Committee respectfully request that an exception be made for this cemetery from the provisions of PL 99-567, the ruling that only upright grave markers will be used in National Cemeteries.

Our reasons are many but mostly it is our desire that the natural beauty of Fort Custer be preserved forever. We believe that this can best be achieved by the use of flat markers for which the cemetery was designed in its master plan. However we also believe that the veteran and/or his family should have the right of choice of headstone. Fortunately, Fort Custer is laid out in such a manner that we can and do offer that choice. The old post cemetery, now a part of Fort Custer National Cemetery has uprights and can be expanded to 14,000 grave sites which should be sufficent for many, many years. This is perhaps the only flat area and can be seen from the highway. Keeping uprights in alignment on much of the rolling terrain will always pose a problem. This being even more difficult because the stones are not required to be set in cement neither are vaults required. Accordingly there will always be a settling of the soil. Flat markers for much of the Cemetery will add to the feeling of tranquility and serenity that one gets as he strolls the hills and dales admidst the trees and shrubs and occasional wildlife that also feels free to roam.

There are other reasons for our request. We believe, in fact we know, that the cost of maintenance is much less for flat markers which can be mowed over by machine, whereas uprights must have individual attention and hand trimming. The maintenance staff is barely adequate now. If additional staff were hired to trim around the headstones, the money to pay them would have to come from someplace else, possibly from the hospital program. Monies that could better be used to serve the living.

An additional concern is that because of Fort Custer's remote, rural location, the uprights invite vandalism. A truly sad happening in some of the area's private and public cemeteries.

At our regular monthly meeting on September 15, 1987 the matter was discussed at some length and it was unanimously agreed that a request for an exception be made for Fort Custer from PL 99-567.

We earnestly seek your support to make this possible. Thank you.

——— ———,
Chairman.

Attested to by: 14 veterans organizations.

Mr. CRANSTON. Mr. President, as to the proposed exception for the national cemetery located in Bourne, MA, I ask unanimous consent that there be printed in the RECORD at this point copies of letter dated November 12, 1987, signed by Senators KENNEDY and KERRY, and a letter dated November 16, 1987, signed by Representative STUDDS, who represents the district in which the cemetery at Bourne is located. Additionally, representatives of the major veterans' groups in Massachusetts have contacted the committee indicating their support of the exception.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 12, 1987.
Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: We are writing regarding the National Veterans Cemetery at Bourne, Massachusetts. As you may know, many veterans in Massachusetts have requested that the law be amended to permit flat gravestones instead of upright markers in this cemetery for aesthetic and other reasons.

We urge the Committee to respect the wishes of the veterans of Massachusetts in this matter, and to adopt an amendment to S. 9 when it comes to the floor of the Senate which would permit flat grave markers in the cemetery at Bourne, Massachusetts. This request is supported by the major veterans organizations in Massachusetts.

Thank you very much for your attention to this matter. With best regards.

Sincerely,
JOHN F. KERRY,
EDWARD M. KENNEDY.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 16, 1987.
Senator ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, Washington, DC

DEAR CHAIRMAN CRANSTON: I am writing to express my strong support for amending the Service-Disabled Veterans Benefits Improvements Act of 1987 to permit continued use of flat grave markers at the Massachusetts National Cemetery, located in the Town of Bourne which I am privileged to represent in the House. As you know, Public Law 99-576 requires all national cemeteries to shift from flat to upright grave markers. The Bourne cemetery was designed for flat markers, and veterans groups throughout Massachusetts strongly favor their retention. In the absence of a waiver, the cemetery would be required to begin using upright markers next spring.

Language already in S. 9 would waive the upright grave marker requirements for three national cemeteries. In addition, H.R. 2957 contains provisions to exempt two other national cemeteries from this requirement.

At a recent meeting of the statewide Joint Veterans Committee, which is comprised of representatives of most of the veterans groups in Massachusetts, there was unanimous support for keeping flat markers at the Bourne cemetery. The proposed waiver also received unanimous support at a state convention of the American Legion this past summer. Further, you should by now have received under separate cover letters supporting flat markers from the Massachusetts Veterans of Foreign Wars and Disabled American Veterans.

I share the view expressed by these and other Massachusetts veterans that switching to upright grave markers would mar the cemetery's park-like atmosphere, and in years to come would result in grave markers tilting and tottering in an unsightly manner. In addition, maintenance costs would increase substantially as a result of a shift to upright markers.

Again, thank you for your kind consideration of this matter.

Sincerely,
GERRY E. STUDDS.

RENAMING OF VA MEDICAL CENTER IN SHREVEPORT, LA

Mr. CRANSTON. Mr. President, the Senators from Louisiana, Mr. JOHNSTON and Mr. BREAUX, propose a provision—derived from Senator JOHNSTON'S bill, S. 1492, which is cosponsored by Senator BREAUX—to rename the VA Medical Center in Shreveport, LA, as the "Overton Brooks Veterans' Administration Medical Center." The companion House measure, H.R. 587, was cosponsored by the entire Louisiana delegation in the House. In addition, this proposal has the unqualified endorsement of the Louisiana components of veterans' groups.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point letters in support of this naming of the hospital from the following Louisiana organization components: The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, the Military Order of the Purple Heart, the Louisiana Vietnam Veterans Leadership Program, the Louisiana Ex-Prisoners of War, the Veterans of World War I, and the Marine Corps League.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC, July 16, 1987.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: On Tuesday, July 14, I introduced S. 1492. This bill names the Veterans' Administration Medical Center in Shreveport, Louisiana, as the "Overton Brooks Veterans' Administration Medical Center".

I am writing to you today to request that S. 1492 be included in S. 6, the Veterans' Health Care Improvements Act of 1987 which is scheduled to be marked up Thursday, July 23. This proposal has the support of the entire Louisiana delegation and a similar measure, H.R. 587, was included in H.R. 2616 that passed the House of Representatives on June 29. Enclosed you will find a copy of my bill, S. 1492 and the House proposal, H.R. 587.

Along with the entire Louisiana delegation, the local Louisiana chapters of veterans groups have endorsed this measure. I have enclosed for your perusal copies of letters from the various veterans organizations in support of naming the Veterans' Administration Medical Center, in Shreveport, Louisiana, as the "Overton Brooks Veterans' Administration Medical Center".

I would be most appreciative of any assistance you could provide in seeing that S. 1492 is included in S. 6 during Committee mark up next week. Should you have any questions, please feel free to contact me or have your staff contact Jane FitzSimmons at x44241.

With kindest regards, I am

Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

MARRERO, LA,
August 19, 1986.

Hon. BUDDY ROEMER,
House of Representatives, Washington, DC.

DEAR MR. ROEMER: This letter is in reference to legislation (H.R. 1586) which proposes to change the name of the Veteran's Administration Hospital in Shreveport to the "Overton Brooks Veteran's Administration Medical Center".

In my previous correspondence, I indicated that this matter would be presented to our membership at our State Conference, held last weekend in Monroe. I'm pleased to report unanimous approval in support for this initiative by our organization.

Mr. Roemer, the Department of Louisiana American Ex-Prisoners of War appreciates being a part of the strong contingent of Military veterans organizations within this state and nation. The congressional support we have enjoyed in the past has played a large part in our current status and posture. We certainly appreciate your initiatives and active support on all veterans related matters—particularly those pertaining to benefits and recognition of former POW's.

Our organization is dedicated to the basic principal of helping those ex-POW's who cannot, or are unable, to help themselves. As you are aware, many of our members have suffered unimaginable hardships, abuse, and torture while serving in the Armed Forces of this nation. Many have never fully recovered. Some never will! The continuation and extension of medical services earned by this group is of paramount interest to us and represents a significant part of the American conscience.

We need your support, and urge you to oppose any reduction in veteran's benefits however they may be attacked. The price paid for these benefits by former POW's in human suffering cannot be negotiated on the broad table of government spending reductions.

Again, we are proud to be among those who support this well deserved move in the renaming of the hospital in recognition of Mr. Brooks contribution.

Sincerely,

JAMES G. PIRIE,
Publicity Director,
Louisiana Ex-Prisoners of War.

MANARD & RYAN, A PARTNERSHIP OF
PROFESSIONAL LAW CORPORATIONS,
New Orleans, LA, March 25, 1985.

Re: Legislation H.R. 1586 to Rename the Veterans Administration Hospital, Shreveport, Louisiana, the "Overton Brooks Veterans' Administration Medical Center."

Hon. SONNY MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MONTGOMERY: As Chairman of the Louisiana Vietnam Veterans Leadership Program, Inc., a Member of the Committee on Employer Support of Veterans Employment, and as a former Member of the Veterans Affairs Commission for the State of Louisiana, I hereby give my support and endorsement to the above referenced Legislation. It would be both a great honor and a tribute to rename the Veterans Administration Hospital in Shreveport, Louisiana, after a man who represented our armed forces reserves and our veterans so well and so conscientiously.

Very truly yours,

WILLIAM F. RYAN.

THE AMERICAN LEGION,
LOUISIANA DEPARTMENT,
Minden, LA, May 14, 1985.

Hon. BUDDY ROEMER,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN ROEMER: The American Legion, Department of Louisiana, strongly supports your efforts to rename the Shreveport VA Medical Center the "Overton Brooks Veterans Administration Medical Center" and is honored that you seek our support. We feel that your introduction of H.R. 1586 is most appropriate and pays tribute and honor to the memory of Congressman Brooks who did so much for the American veteran. He was an outstanding American, legislator and a fellow veteran.

I have contacted Administrator Harry N. Walters of the VA, Congressman Sonny Montgomery and Congressman Bob Edgar, expressing our support for your legislation. Copies of those letters are attached for your files.

If there is any further way we can support your efforts in this legislation please do not hesitate to contact me.

Sincerely,

ROY KIRKHAM,
Department Commander.

DISABLED AMERICAN VETERANS,
DEPARTMENT OF LOUISIANA,
Chaimette, LA, April 23, 1986.

Hon. BUDDY ROEMER,
Congress of the United States, House of Representatives, Washington, DC.

DEAR CONGRESSMAN ROEMER: This letter is in reference to legislation to change the name of the Veterans Administration Medical Center Shreveport, Louisiana, House Bill (H.R. 1586).

It is a pleasure to write this letter in support of (H.R. 1586) Congressman Brooks service to the Disabled American Veterans goes without question. Congressman Brooks introduced many Bill's before the House to aid the Disabled Veterans of this State.

His efforts before the Congress of the United States did not go unnoticed by the 4th Congressional District. During his 25 years of service he was responsible for having a Veterans Administration Hospital built in Shreveport, Louisiana. His thoughtfulness should not go unnoticed it is only fitting that the VA. Hospital in Shreveport, Louisiana be re-named after former Congressman "Overton Brooks.

The Congress should also take into consideration Congressman Brooks service to Veterans and to the State of Louisiana. His intensive work included initiatives in the area of national Veterans rehabilitation programs.

Please contact me personally if I can be of assistance to you in reference to Officially change, in naming the VA. Hospital in Shreveport, LA. to: "Overton Brooks Veterans' Administration Medical Center."

Very truly yours,

JOSEPH R. MOITY,
Commander.

DEPARTMENT OF LOUISIANA, VETERANS OF WORLD WAR I OF THE
U.S.A., INC.,
Shreveport, LA.

Our Congressman, Buddy Roemer, advises that he is reintroducing in the near future, his bill H.R. 1586. As he explains it, this bill will enable the name of the present Veterans Administration Center, located here at Shreveport to be changed to, "The Overton Brooks Veterans Administration Medical Center." To we World War I Veterans in this area, such a change is a long delayed step and should be completed as soon as conveniently possible. We are hoping you will see fit to support H.R. 1586 when it comes up for a vote.

LYNN F. SNODDY.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Mansfield, LA, April 12, 1985.

Hon. SONNY MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MONTGOMERY: I understand Congressman Buddy Roemer has introduced H.R. 1586 to rename the V.A.

Medical Center in Shreveport, Louisiana, the "Overton Brooks Veterans' Administration Medical Center".

As a member of Congress for 25 years, Congressman Brooks was always a friend of the Armed Forces Reserves and Veterans. I have been informed that Congressman Brooks was a chief sponsor of many major Reserve bills and was an avid supporter of Veterans' Legislation.

Congressman Brooks was instrumental in obtaining approval for a Veterans' Hospital in Shreveport, La. I feel I can speak for the 28,000 members of the Department of Louisiana, Veterans of Foreign wars of the United States in asking your support of this important legislation, H.R. 1586.

Alva Nash,
Commander,
Department of Louisiana, V.F.W.

Paralyzed Veterans of America,
New Orleans, LA, April 5, 1985.

Hon. Sonny Montgomery,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

Dear Mr. Montgomery: BPVA supports the renaming of the V.A. Hospital in Shreveport, Louisiana, to the "Overton Brooks Veterans' Administration Medical Center," H.R. 1586.

Any assistance in this matter would be appreciated. If you have any questions, please contact:

The Honorable Buddy Roemer, House of Representatives, 125 Cannon House Office Building, Washington, D.C. 20515, (202) 225-2777.

Sincerely,

Perry Tillman III,
President—BPVA.

Military Order of the Purple Heart,
Metairie, LA, April 13, 1986.

Hon. Buddy Roemer,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

Dear Congressman Roemer: The Military Order of the Purple Heart, U.S.A., State of Louisiana, would like to go on the record recommending to the Veterans Administration and the Members of Congress of the United States, a change in the name of the Veterans Administration Hospital, Shreveport, Louisiana.

The Military Order of the Purple Heart would like to suggest the name of a former distinguished Representative from the 4th Congressional District. The Honorable Overton Brooks. He served his Country, District and the State of Louisiana with distinction for 25 years. Congressman Brooks was known as a Veterans' Advocate and a stronger supporter of Veterans' legislation.

He himself was a Veteran of WW I. Congressman Brooks was instrumental in the establishment of the present Veterans' Administration Medical Center in Shreveport, Louisiana.

The Military Order of the Purple Heart, State of Louisiana enthusiastically support H.R. 1586. The passage of H.R. 1586 is only fitting to Honor such a man, Veteran and Representative.

With cordial best wishes, I remain,

Sincerely,

Charles R. Cunningham,
Commander, M.O.P.H.,
State of Louisiana.

AMVETS, American Veterans of World War II, Korea-Vietnam, Department of Louisiana,
Harvey, LA, July 31, 1986.

Congressman Buddy Roemer,
Cannon Building,
Washington, DC

Dear Congressman Roemer: My deepest apology for not answering sooner in reference to changing the name of the VA Medical Center in Shreveport. I have attached a copy of my letter to you on March 7, 1986 at which time I assured you of the support of the AMVETS Department of Louisiana. I hope this will clarify our position.

Rest assured that the AMVETS Department of Louisiana is in full support of changing the name of the VA Medical Center in Shreveport to the Overton Brooks Memorial Medical Center.

With kindest regards.

Sincerely,

Robert Martin, PNC,
Executive Director.

Marine Corps League,
Southeast Division,
Houma, LA, April 27, 1985.

From: Linwood P. Liner, National Vice Commandant.

To: (1) Mr. Harry N. Walters, Administrator, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. (2) The Honorable Sonny Montgomery, Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, 335 Cannon H.O.B., Washington, DC 20515. (3) The Honorable Bob Edgar, Subcomittee on Hospitals and Health Care, Committee on Veterans' Affairs, U.S. House of Representatives, 338 Cannon H.O.B., Washington, DC 20515.

Subject: U.S. House of Representatives Bill 1586; support of.

The members of the Marine Corps League, a Congressional Chartered Veterans Organization and operating in the great State of Louisiana, enthusiastically support H.R. Bill 1586.

Whereas; the late Congressman Overton Brooks, a veteran of World War I, represented the 4th Congressional District of Louisiana for 25 years, 1936 to 1961; during this period he was very involved in writing legislation pertaining to veterans (1) Veterans Readjustment Act (GI Bill of Rights), (2) legislation for hospitalization and rehabilitation programs, (3) aid to disabled veterans, (4) aid to widows and orphans of veterans', (5) Military Training, (6) the Military Reserve Program, (7) was instrumental in obtaining approval for a Veterans Hospital in Shreveport, Louisiana and was active in obtaining many other veterans' assistance programs.

Congressman Brooks was a strong supporter of Veterans' Legislation.

We feel that Congressman Brooks having served our Country, both in the Army and as a Member of Congress, has aided veterans above and beyond the call of duty.

We, the Members of the Marine Corps League, seek your support in passing legislation, H.R. Bill 1586, which would change the name of the Veterans' Administration Hospital in Shreveport, Louisiana to the Overton Brooks Veterans' Administration Medical Center.

In conversation with other Marine Corps League Members throughout the Southeast Division, in the states of Mississippi, Alabama, Florida, Georgia and South Carolina, they would like to also be recognized in support of H.R. Bill 1586.

Respectfully written on behalf of the Marine Corps League Members of the Southeast Division.

Semper Fidelis,

Linwood P. Liner.

DISCLOSURE OF AIDS INFORMATION TO A SPOUSE OR SEXUAL PARTNER

Mr. CRANSTON. Finally, Mr. President, we have included in the committee modification a provision, which Senator Murkowski and I developed to address concerns expressed by the Senator from Colorado [Mr. Armstrong], which would authorize the disclosure under certain circumstances of HIV antibody test results to spouses and sex partners. This provision is derived from proposed new section 2335 of the Public Health Service Act as would be added by section 2 of S. 1575, the proposed "AIDS Federal Policy Act of 1987" of which I am an original cosponsor. It would provide that a physician or professional counselor may, as a matter of professional discretion and judgment, disclose the results of an antibody test to a spouse or sex partner of an individual if the physician or professional counselor: first, makes reasonable efforts to encourage the veteran to inform the spouse or sex partner about the information involved, and second, determines that it is medically necessary to protect the health of the spouse or sex partner and that the veteran will not inform the spouse or sex partner. Our provision would also provide that the name of the veteran would not be disclosed unless necessary in order to protect the health of the spouse or sex partner.

Mr. President, these provisions would provide VA physicians and counselors with the needed flexibility to notify spouses or sex partners of veterans when it is determined to be a necessary course of action. I am concerned, as I know the Senator from Colorado and Alaska are concerned, that unsuspecting partners be able to find out if they have been exposed to the HIV virus. Clearly that is best accomplished by direct communication between the individuals involved and that should be fostered whenever possible. However, there may be situations where outside intervention is warranted, and our provision would provide that authority.

Mr. President, I would note that the bill as reported had already anticipated the issue raised by Senator Armstrong. The amendments made by section 308(a)(4) of the bill would add a new paragraph (2) to section 4132(e) of title 38 which would permit any disclosure of HIV-infection-related information or records that is "required or authorized by a law having general applicability to Federal health-care services programs." This provision was included in anticipation of the enactment of S. 1575, the proposed "AIDS

Federal Policy Act of 1987," which would provide spouse and sexual partner notification.

CONCLUSION

Mr. President, this composite committee modification would make very worthwhile changes in the bill and is clearly in the best interests of our Nation's veterans, the VA, and the Government as a whole. I thank the committee's ranking minority member, Senator MURKOWSKI, and all others who had a hand in these provisions for their excellent cooperation in the development of this modification. I yield to our committee's distinguished ranking minority member, the Senator from Alaska [Mr. MURKOWSKI], for his opening remarks at this time. I yield the floor.

I am now prepared to yield to our committee's distinguished ranking minority member, the Senator from Alaska [Mr. MURKOWSKI] for his opening remarks.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska, Mr. MURKOWSKI, is recognized.

Mr. MURKOWSKI. Mr. President, I am pleased to join my colleague, the senior Senator from California, chairman of the Veterans Committee, and as ranking member of that committee, I rise today in strong support of S. 9. As my colleague, Senator CRANSTON has indicated this bill, the Omnibus Veterans' Benefits Services Act of 1987, proposes to make significant improvements in veterans' benefits and health care programs administered by the Veterans' Administration.

S. 9, as reported to the Senate, contains four titles: Compensation and other benefits, radiation exposure benefits, health care, and miscellaneous. This is one of the most comprehensive veterans' bills ever reported to the Senate. Several of the provisions included in S. 9 are derived, in part, from proposals submitted to the Congress by the Veterans' Administration. I am pleased that the committee was able to work with the VA on these matters. My statement today will summarize some of the major provisions contained in S. 9 as well as discuss briefly some of my concerns regarding certain provisions.

I would like to commend the chairman of the Veterans Committee for his leadership in developing this legislation. There are numerous provisions in this bill which will benefit veterans as he enunciated in his statement concerning S. 9. It is my feeling that it is truly an omnibus legislative package and certainly in the best interest of our Nation's veterans. I would like to join the chairman in briefly highlighting a few of the many provisions in the bill.

TITLE I—COMPENSATION AND OTHER BENEFITS

Title I of S. 9 would provide a cost-of-living adjustment [COLA] for the 2.2 million veterans receiving compensation for disabilities and illnesses incurred in or aggravated during active duty.

I would emphasize that, Mr. President: "while they were on active duty."

The COLA is based on the same percentage that will be provided for Social Security and VA pension recipients, currently estimated at 4.2 percent. The same COLA would be paid to dependents and survivors of those who died on active duty or as a result of their service-connected disabilities.

Obviously, as we know, in the light of the economic summit, there is a great deal of discussion still occurring on the cost-of-living adjustment for entitlements but that is a matter that will be settled by this body, and the House as well, at a date not too far distant.

Mr. President, I have spoken on the Senate floor recently—on several different occasions—regarding the specter of financial crisis facing the Nation and the budget summit which is currently under way between the White House and the Congress. My statements, among other things, reflected the view of the veterans' service organizations that disabled veterans would be willing to forgo their COLA if, Mr. President, and only if, a COLA freeze or reduction were applied equally to all entitlement programs, including Social Security. Veterans want to, demand, and have the right to be treated equally, Mr. President. They should be.

If Social Security recipients are provided with a COLA, so should the veterans who were disabled during their service to our country. Our veterans expect and deserve nothing less than equal treatment. This legislation ensures that veterans will receive a COLA if there is no universal freeze this year.

The bill would also increase the amount provided for other special benefits provided to our Nation's service-connected disabled veterans—many of which have not been increased for several years—including special adapted housing assistance, automobile assistance allowance, and burial allowance.

I am pleased that S. 9 incldues provisions—substantially identical to S. 1451, which was introduced by the senior Senator from Pennsylvania and which I cosponsored—which would address the needs of former prisoners of war [POW's] by adding peripheral neuropathy, peptic ulcer disease, and irritable bowel syndrome to the list of diseases presumed service-connected for former POW's. In addition, the bill would expand the availability of dental services for former POW's by reducing the required period of internment from 6 months to 90 days.

S. 9 would also provide a permanent exemption from Gramm-Rudman-Hollings sequestration for rehabilitation programs for service-connected disabled veterans and educational assistance for survivors and dependents of veterans who die while on active duty, due to a service-connected cause or who have a permanent and total service-connected disability. Other program improvements and technical modifications in the education and insurance programs are provided in the Committee bill.

TITLE II—RADIATION PROVISIONS

Mr. President, title II of S. 9 contains provisions which would provide service-connected disability compensation to veterans or death benefits to dependents and survivors if the veteran first, was exposed to ionizing radiation in connection with the U.S. Atmospheric Nuclear Weapons Testing Program or during the American occupation of Hiroshima and Nagasaki, Japan, and second, subsequently develops certain cancers. I am concerned that diseases specified in S. 9 may be subject to scientific or medical dispute. I regret that the committee did not adopt my approach to this issue—as set forth in S. 453. However, I am pleased that my legislation served as a catalyst for the committee's action and, most importantly, that we are addressing the plight of those veterans who, in the performance of their duty, were exposed to radiation.

TITLE III—HEALTH CARE

Mr. President, title III of S. 9 would make improvements in three major areas of the VA's health-care delivery system. First, it would provide the VA with additional authorities, and therefore increased flexibility, to provide new and innovative health care services. Among those would be mobile health care clinics, home health care, and various other innovations for the delivery of health care services.

Second, it would make major improvements in the VA's ability to recruit and retain health care professionals including nurses, pharmacists, and occupational therapists. Third, it would improve the VA's program of procuring medical and pharmaceutical items.

In order to address both the changing health care needs of veterans and the many advances in medical technology and treatment modalities, the VA must have a variety of tools at its disposal. In this regard, the committee bill: First, requires the VA to conduct a pilot program to help veterans avoid being placed in a hospital or nursing home by providing them health-related services in their homes; second, requires the VA to conduct a pilot program to provide outpatient health care services in rural settings through mobile health care clinics; and third, authorizes the VA to furnish procreative services to a veteran or veteran's spouse if the veteran's service-connected disability impairs the veteran's ability to procreate.

The committee bill addresses the VA's current recruitment and retention problems with regard to certain health care professionals by providing additional mechanisms or tools to allow the VA to promptly address these problems. This flexibility absolutely is vital if the VA is to have the ability to promptly implement strategies to recruit and retain quality health care professionals. Among other things, S. 9 would provide for a recruitment and retention bonus to be paid to full-time registered nurses and certain health care professionals who agree to serve in the VA for a specified period of time. For example, the bill would provide that the VA first must pay Saturday pay—at the same rate as they pay for Sunday work—to nurses; second, establish a tuition reimbursement program for full-time nurses, and certain other personnel, for academic courses leading to the completion of a degree in nursing or a nursing-related field; third, authorize recruitment and retention bonuses of up to $20,000 over a 4-year period to full-time registered nurses or certain other health care professionals. The increasing need for these professionals is evident in the VA system. The cost of training is very high. Unless the system is able to hold those people, obviously the costs of training their replacements will far exceed what we are offering as incentives. S. 9 would also make certain modifications in the VA personnel grievance and disciplinary action processes as well as other management and organizational improvements.

In addition, with regard to VA personnel, S. 9 would prohibit the VA from conducting any drug testing program except in the following circumstances: First, reasonable suspicion, second, in connection with an examination of an accident or incident, third, as part of a followup to an Employee Assistance Program. All Members of this body support the concept of a drug-free workplace. The means to achieve that end is the difficult question. I, along with seven other members of the committee, supported restricting the VA's use of drug testing. I believe that our reasons are sound. First, there is no evidence of a drug problem in the VA. Second, there would be significant morale problems associated with random testing at a time when the VA is experiencing recruitment and retention problems in many professional specialties. Third, because of the high cost of identifying each drug-using individual, I do not believe it is cost effective to test on a random basis. Funds could be better used to provide education and other prevention efforts to combat substance abuse.

Title III of S. 9 also deals with the issue of AIDS. Mr. President, it is well known that AIDS may be the world's greatest health threat. Indeed, President Reagan has stated that AIDS is the No. 1 public health problem facing this Nation. The VA is playing an important role both in treatment of AIDS patients as well as research into the disease. Because of this important role and the always fatal nature of this disease, it is vital that the VA be in the forefront of efforts to educate both patients and employees about the disease. At this point education and prevention are the only methods available to combat the spread of AIDS. S. 9 would require the VA to establish a systemwide AIDS Education and Training Program for patients and employees of VA health-care facilities, would provide for certain confidentiality and nondiscrimination protections to individuals who test positive for the AIDS virus, and would prohibit the VA from implementing any widespread testing of VA patients unless Congress specifically appropriates funds for that purpose.

With regard to widespread AIDS testing, I believe, and the VA concurs, that it is unwise and unrealistic to test all VA patients for AIDS. VA patients are generally a low-risk population, and I believe efforts should be made to test those in high-risk categories. In fact, S. 9 encourages the VA to target testing efforts to high-risk veteran-patients. I strongly believe that those veterans in alcohol and substance abuse programs in the VA should be encouraged to be tested and that appropriate counseling be provided.

The provisions included in S. 9 are not intended to prohibit the VA from participation in or conducting studies regarding the incidents of infection with the AIDS virus. In fact, we encourage the VA's participation in such efforts.

S. 9 would make significant improvements in the VA's procurement of medical and pharmaceutical items. As the Nation's largest health-care delivery system, the VA spends about $1.2 billion annually to purchase items needed in its many facilities including 172 hospitals. Unfortunately, notwithstanding their vast purchasing power, the VA has not aggressively pursued methods to reduce its procurement costs. I am pleased, however, that as a result of last year's study—completed by Coopers and Lybrand—which made major recommendations to improve the program, that the VA has started the process of implementing its suggestions. For these reasons, I introduced S. 613 and I am grateful that the chairman and members of the committee worked with me to incorporate in this bill provisions based on my legislation which will implement long overdue procurement reform.

OBJECTIONABLE PROVISIONS

Mr. President, I do support the vast majority of provisions in S. 9, but, like all pieces of legislation, this legislation does represent a compromise. There are several provisions, however, which I oppose and which are of great concern to the administration as well. While I addressed these objectionable provisions during the committee's markup on July 31, my attempts to strike them were unsuccessful. Senators SIMPSON, THURMOND, and I have discussed some of these issues in the minority views which accompanied the report on S. 9 (S. Rept. 100-215), and which I outline here.

First, I am concerned that S. 9 would add systemic lupus erythematosis [SLE] to the list of diseases which can be presumed to have been incurred in, or aggravated by, military service if the disease develops to a disabling degree within 1 year of service, even if there is no record or evidence of the disease while the veteran was on active duty. I oppose this provision because there is no known evidence linking this disease, which occurs naturally in the American population, to military service. Nor is there any evidence that veterans disproportionately suffer from SLE.

Second, I do not support section 312 because it would undermine the State Veterans' Home Program which provides health care to veterans through a Federal and State sharing program. This provision seeks to have the Federal Government pick up the State's costs of the program. Therefore, the sharing aspect—upon which this program is based—would no longer be in effect. The provision in the committee bill would undermine the integrity of reducing the program and possibly reduce support for it, from the standpoint of local involvement. The representatives of the State veterans' homes who would benefit by this provision are the very ones who are on record in strong opposition to section 312 of the bill. Why? Because they fear that support for the State Home Program will be eroded because they will not have the individual local participation in it.

Finally, I have a difficult time with section 401 of S. 9. The chairman and I have discussed our differences from time to time. This is a section which would permanently prohibit the VA from excessing certain land at the VA medical centers in West Los Angeles and Sepulveda, CA. There are different scenarios concerning this land, but it is my contention that the land in issue consists of an orange grove, vacant ravine, golf course, and other recreational areas and parking for non-VA patients. I think it should be clear that this land is not being used to benefit veterans, and the VA has no plans for its use in the future. I feel that the enactment of this provision would set a very dangerous precedent by restricting the Administrator's authority to make decisions about property under his control. That restriction is inappropriate in the sense that that is the purview of an Administrator to make these decisions.

COMMITTEE AMENDMENT

Mr. President, I commend my friend, the junior Senator from Arizona, Senator McCAIN, for his hard work on the provision to convert the Arizona State Memorial Cemetery to the National Cemetery System. I am pleased that the committee was able to reach an agreement on his proposal. I also applaud the fine efforts of Senator DECONCINI for his amendment to authorize the VA to provide onsite child care centers in VA facilities for the children of VA employees. This is a very important recruitment and retention tool and just makes good sense. I am pleased to support his amendment.

Further, S. 9 includes a provision which would require the VA to conduct a 2-year pilot program of mobile health care clinics. I am pleased that the committee amendment includes Senator HECHT's proposal to add an additional four projects to this pilot program. I applaud the Senator from Nevada [Mr. HECHT] for his hard work on this proposal. I acknowledge his dedication to ensure that veterans who reside in rural areas receive adequate health care services.

It is vital that the VA make every effort to address the special needs of veterans living in rural and remote areas, as the Senator from Alaska is well aware. It is often extremely difficult and costly for these veterans to travel to VA health care facilities.

Special efforts made in the past by the VA to make services available to veterans have proved to be successful. One program similar to the one proposed in S. 9, known as Medivan, resulted in the VA providing outpatient and followup care to veterans living in rural areas. This method of providing care was acceptable to veterans and was found to be comparable to the costs of outpatient hospital visits.

I believe the pilot health care clinics proposed in S. 9, as expanded by Senator HECHT's proposal, will allow the VA to explore thoroughly the viability and feasibility of furnishing outpatient services to rural veterans through mobile clinics.

Further, it is important that the VA examine cost effectiveness of this approach. I believe requiring the VA to implement this program in a variety of geographic locations will add to the knowledge we can gain through the pilot program.

As Senator HECHT of Nevada has stated, there are many compelling reasons why his State would be an ideal site for a mobile health care clinic. It is my intention to work with Senator HECHT to ensure that every consideration is given by the VA to designate Nevada as one site for a mobile health care clinic.

Once again I want to thank the senior Senator from Nevada for his fine work on this proposal. I look forward to working with him on this issue.

Mr. GRAHAM. Mr. President, on August 12, 1944, a 19-year-old American flyer named Russ Manthie was shot down over Siberia and taken captive by Russian soldiers. For the next 7 months, Manthie and the other members of his crew endured untreated injury, bitter cold, near starvation, dysentery and amoebic disorders, complete absence of sanitary facilities—including, ever, a change of clothes—no contact with the outside world and routinely brutal treatment.

Manthie and the other "interned" Americans developed chronic medical conditions identical to, in some cases worse than, other American prisoners-of-war. But until now, politics has prevented their sacrifice from being acknowledged—their proper access to veterans' medical benefits from being awarded.

Russ Manthie was never classified as a prisoner-of-war because the Russians were our allies in World War II. He and the other soldiers who crash landed inside the Russian border were not treated well nor released because the Russians maintained neutrality with Japan.

The Russians' delicate political balance was the American soldiers' bad fortune. But we have a chance to right those wrongs by including Russ and the other veterans who were also detained in allied or neutral countries, in an expanded definition of former prisoner-of-war.

The amendment which Senator HEINZ and I are offering would slightly broaden the description of former prisoner-of-war to include servicemen interned by a foreign government during a period of war. The Chief Benefits Director of the Veterans' Administration, R.J. Vogel, testified before the House Veterans' Affairs Committee that these men are clearly deserving of POW status.

The House has passed legislation to include them in benefits eligibility. The Senate should do the same. I urge all my colleagues to support this amendment, to pay a debt to some heroic Americans we have ignored for too long.

Mr. HECHT. Mr. President, as the ranks of veterans over 65 increases, the need for first rate health care also increases. This need is especially acute in rural areas of the country where health care for veterans is not so readily available. Recently, I held a veterans forum in my home State of Nevada. During the forum, several veterans told me of the great distances they must travel to receive proper medical care.

The number of veterans in Nevada who must travel many miles for health care is increasing rapidly. Nevada has one of the fastest growing veterans populations in the country. Because of the State's beautiful dry climate, many veterans come to Nevada for retirement. In both Clark County and the remainder of the State, Nevada's veteran population has increased by about 2,000 individuals a year. Nevada ranks second only to Alaska in the United States in the number of veterans per 1,000 population age 17 and over. In fact, Mr. President, considering the small population of our State, the percentage of veterans in Nevada compared to the rest of the population is one of the highest in the country.

Currently, there is only one Veterans' Administration Hospital located in Nevada; it is in Reno, which is in the northern part of my State. In any given year, the hospital in Reno treats about 5,000 inpatients. Not only is the Reno VA Medical Center the only acute care facility in the State, but it also draws patients from one of the largest geographical areas in the VA system. This hospital serves all veterans of Nevada except those in Clark County and those in counties which border Utah. It also serves all of the eastern slope counties of the Sierras in California.

There is, in addition, a VA out-patient clinic located in Las Vegas where the largest concentration of veterans now reside. The out-patient facilities in Las Vegas and Reno treat 70,000 veterans a year. Many southern Nevada veterans, however, needing inpatient care must travel to Reno, more than 450 miles away, or to Los Angeles. Every year, close to 9,000 veterans in Nevada must be treated outside of the VA system because they are too far from a VA facility or because it is unreasonable or medically impossible for these veterans to travel to the closest VA Hospital.

Mr. President, we have been successful in moving up the construction date for a joint Air Force/Veterans Administration hospital at Nellis Air Force Base near Las Vegas to 1990. Nevertheless, many of Nevada's veterans, especially in the southern part of the State, can't wait until 1990. They need help now.

Mr. President, as a solution, S. 9 requires the VA to implement a 2-year mobile health clinic pilot program in four geographic areas. Mobile vans would furnish health care to veterans in rural areas at least 100 miles from the nearest VA health care facility.

While this is a step in the right direction, more must be done and I am pleased the committee has agreed to my request to double the number of clinics authorized. My provision would add four additional mobile health pilot clinics to those already provided for in the bill—for a total of eight, two each in four different regions—the Northeast, the South, the Midwest, and the West. In addition, the VA could use the vans established by this program to transport veterans to the nearest VA health care facility.

Mr. President, providing adequate health care to Nevada's veterans is one of my highest priorities as a U.S. Senator. These courageous individuals have bravely defended this country, and they deserve the finest health care our country offers. I am committed to ensuring that Nevada's veterans are provided with excellent health care, and, accordingly, I will do everything in my power as a U.S. Senator to ensure that one of these mobile health clinics is established in Nevada. I intend to work very hard with the ranking minority member, Senator MURKOWSKI, to that end.

I thank Senators CRANSTON and MURKOWSKI for their assistance in this matter.

Mr. MURKOWSKI. Mr. President, I am pleased to join in an amendment that will allow the VA to recognize that the veterans who were interned by the U.S.S.R. during World War II were held under conditions comparable to those who were held as POW's by our enemies. I have seen ample evidence that these veterans were held under conditions that included prolonged malnutrition, primitive or nonexistent medical care, inadequate shelter and infrequent or nonexistent communication with their families and country. Concerns have been raised that the language of the amendment could be interpreted to allow the VA to determine that individuals who had been interned by other neutrals, such as Sweden or Switzerland, had been held under conditions comparable to former POW's. However, I am confident the VA would not make such a determination based only upon evidence of hardship or confinement. Confinement, or even hardship, do not, by themselves, create an experience comparable to being held as a prisoner of war. If this provision becomes law, I am confident the VA will carefully and fairly evaluate the facts in the cases of veterans who wish to be considered the equivalent of former POW's.

CONCLUSION

Mr. President, in concluding I wish to thank my friend, the distinguished chairman of the committee, Senator ALAN CRANSTON. I appreciate and commend the outstanding efforts of the majority and minority staffs which have resulted in the development of such a comprehensive and important bill. In particular, I wish to acknowledge the work of my most dedicated staff including my chief counsel and staff director, Anthony Principi, Lisa Moore, Chris Yoder, Tom Roberts, Laura Stepovich, Susan Theroux, and Annie Rothgeb. I further recognize the fine work of the majority staff including Michael Bracey, Darryl Kehrer, George Bentley, Jane Wasman, Barbara Masters, Sandi Isaacson, Jennifer Loporcaro, Liz Griffin, Cathy Chapman, Ann Danelski, Charlotte Hughes, Ingrid Post, Loretta McMillian, Claudia Kashin, Bill Brew, Ed Scott, and the majority chief counsel and staff director, Jon Steinberg, and our fine printer Roy Smith.

I urge my colleagues to support this legislation. I thank the Chair.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, as a member of the Senate Committee on Veterans' Affairs, I strongly support the committee amendment to S. 9, the Omnibus Veterans' Benefits and Services Act of 1987. One provision of the amendment is particularly important to Senator MCCAIN and myself. It will require the Veterans' Administration to incorporate the Arizona Veterans Memorial Cemetery into the National Cemetery System—a longstanding dream of the Arizona veteran community and the entire Arizona congressional delegation.

I would like to express my deep appreciation and gratitude to the distinguished chairman and the ranking member of the Senate Committee on Veterans' Affairs, Senators CRANSTON and MURKOWSKI, without whose invaluable assistance this dream could never have been realized. I would also like to give special thanks to my friend and distinguished colleague from Arizona, Senator MCCAIN, for all his hard work in the development of this provision. And I would be remiss if I did not mention Representative STUMP for his contributions to this effort. Finally, I would like to thank all the Members of the Arizona delegation, both past and present, for their cooperation and support through the years on this issue.

Mr. President, this year marks the 125th anniversary of the National Cemetery System. In 1862, President Lincoln signed legislation that authorized the establishment of national cemeteries for "soldiers who shall die in service to their country."

In marking the observance of its 125th anniversary, Administrator of the Veterans' Administration Thomas K. Turnage said:

> The VA national cemetery system is a testament to our nation's gratitude for the sacrifice of the many Americans who answered their country's call to arms * * *. By providing their final resting places, we honor their memory and express our everlasting gratitude for their dedication and unselfishness.

President Reagan also has stated:

> No greater honor can be bestowed on a citizen than to be committed to the hallowed grounds of a national cemetery.

I share the views of General Turnage and President Reagan that every veteran who has served his country honorably has the right to burial in a national cemetery. However, I believe every veteran has the right to such burial with reasonable proximity to his or her family. Unfortunately, this is not the case for too many veterans from the West. Seven of the 12 most Western States have no open national cemetery, including Arizona. The vast majority of Arizona families wishing to bury their deceased veteran in a national cemetery must travel in excess of 400 miles.

The Arizona Veterans' Memorial Cemetery Board of Directors, along with the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars, worked tirelessly to ensure the establishment of a State veterans' cemetery in Arizona so veterans could be buried near their loved ones. As a result of their efforts, the State of Arizona, on June 27, 1976, authorized and later appropriated moneys for the development of a parcel of land in Maricopa County to be used for a veterans' cemetery. After enactment of the State Cemetery Grant Program in 1978, Public Law 95-476—legislation which I cosponsored—the board worked with the Federal Government to secure matching grant moneys for the development of the site. The initial phase of the cemetery plan was completed in early 1979, and the first three interments took place on March 14, 1979. From the outset, however, Arizona veterans hoped that this State cemetery site would one day become a national cemetery.

As of 2 weeks ago, 6,097 veterans and their dependents have been buried at this site. Burials are now averaging close to four per day. In fact, the Arizona Veterans Memorial Cemetery buries a greater percentage of veterans than 78 percent of the 68 open national cemeteries. Arizona also ranks third out of only 11 States showing increases in veteran population. The increase in the number of veterans residing in Arizona and the rise in their median age will result in a much higher interment rate in the future.

Since being elected to the Senate in 1976, the goal of establishing a national cemetery has been one of my highest priorities and I have worked tirelessly to achieve that objective. In 1978, I introduced an amendment to establish a national cemetery in Arizona. That same year, I cosponsored the bill which established the State Cemetery Grant Program. In the 97th Congress, I introduced S. 1570, a bill to provide for the establishment of a national cemetery at the site of the Arizona Veterans Memorial Cemetery. I reintroduced the same legislation in the 98th and 99th Congress, S. 211 and S. 623, respectively. In the 99th Congress I also introduced legislation, S. 622. I was successful in having the language of that bill incorporated into H.R. 5299, "Veterans' Benefits Improvements and Health Care Authorization Act of 1986," Public Law 99-576. S. 622 authorized the establishment of national cemeteries in 10 additional areas which were selected from VA's internal projections of future burial needs. One of the sites authorized was in the Phoenix/Tucson area. Finally, in the present Congress, I was successful in having $225,000 included in the Senate version of the fiscal 1988 housing and urban development and independent agencies appropriations bill, H.R. 2783, for an environmental impact statement on the establishment of a national cemetery site in Arizona.

Mr. President, inclusion of the Arizona Veterans' Memorial Cemetery in the National Cemetery System will not disrupt VA orderly planning processes. The Veterans' Administration Advisory Committee on Cemeteries and Memorials agrees, and has recommended that the VA "accept the State Veterans' Cemetery in Arizona at no cost to the Government." The committee amendment requires just that.

Mr. President, this provision mandates the VA to accept transfer of title of the State cemetery lands and to incorporate them into the National Cemetery System. In other words, the VA will be getting the land for free. To further restrict costs, the Administrator is prohibited from expending funds for operation and maintenance of the cemetery during fiscal years 1988 and 1989 in excess of the amount that the Administration estimates would have expended by the State for burial allotments to the Arizona Veterans Memorial Cemetery.

The incorporation of the State cemetery into the National Cemetery System will mark the end of an uphill battle that the Arizona veteran community, other members of the Arizona congressional delegation, and I have waged for many years. Mr. President, it isn't often that the Government gets something for nothing or almost nothing. This is one such case. It is a good deal for the Veterans' Administration and a good deal for Arizona veterans.

Again, I would like to express my deep appreciation to Senators CRANSTON and MURKOWSKI and their superb staffs for working with Senator McCAIN and myself to realize our dream of a national cemetery in Arizona. I would also like to thank the VA for its support and cooperation, particularly Wilfred Ebel, Chief Memorial Affairs Director.

Mr. President, in closing, I would just like to pay tribute to one Arizona veteran who devoted so much of himself to this effort, my late friend, Mr. Dick Countryman. While hundreds of others in the veteran community gave countless hours of their time and energy, perhaps not one of them worked and prayed as hard as Dick to see that Arizona veterans could at last be buried in a national cemetery in their home State, and near their loved ones. Although he did not live to see that dream come true, I am sure that his family will be greatly comforted by the inclusion of the site at which he is buried into the National Cemetery System. I can think of no finer tribute to his selfless dedication and commitment to the American veteran than to pass this amendment to this bill in the same year as we celebrate the 125th anniversary of the National Cemetery System.

Mr. President, I am pleased to be an original cosponsor of S. 9, along with many of my distinguished colleagues on the Senate Committee on Veterans' Affairs.

S. 9, as introduced, provided for a cost-of-living increase in the rates of compensation for veterans who suffer from service-connected disabilities as well as in the rates of dependency and indemnity [DIC] for the survivors of veterans who have died as a result of service-connected causes. In addition, the original bill would have: First, increased the maximum amount of VA specially adapted housing assistance grants for certain severely disabled, service-connected veterans; second, increased the funeral and burial allowances for service-connected deaths; third, tolled the eligibility period for GI bill and certain other educational and vocational rehabilitation programs for veterans and other eligible persons who have been prevented from participating in such programs because of alcohol or drug dependence; fourth, increased the maximum loan guaranty under the VA's Home Loan Guaranty Program; and fifth, increased the amount of automobile assistance grants provided to certain service-connected severely disabled veterans.

Finally, the original bill would have made permanent the Gramm-Rudman-Hollings sequestration exemptions enacted late last year for the VA's program of vocational rehabilitation for certain service-connected disabled veterans and the program of educational assistance for survivors and dependents of certain service-connected veterans. An exemption would also be added for the VA's Home Loan Guaranty Program.

Mr. President, those same provisions were included in the bill reported from the Committee on Veterans' Affairs except for the maximum home loan guaranty increase and sequestration exemption for the Home Loan Guaranty Program which were incorporated in another bill, H.R. 2672. I continue to wholeheartedly support the original provisions. Further, I strongly support the committee amendments being considered today and the amendments agreed to during markup, except for the one dealing with drug testing in the VA.

I would like to elaborate on one of the provisions in the reported bill. During committee markup, I was successful in having an amendment adopted to add systemic lupus erthematosis [SLE] to the list of chronic diseases for which there is a presumption of service connection if the symptoms become manifest to a degree of 10 percent or more within 1 year of separation from service. I believe the minority views in the committee report, Senate Report 100-215, are not only exaggerated, but factually incorrect. They allege that this one addition will destroy the integrity of the compensation system, and thereby, somehow endanger future support of veterans' compensation legislation.

From my own perspective, the opposition to the addition is not based upon the facts. More precisely, the opposition is based on any addition, not this addition, to the list of chronic illnesses that allow 1 year after separation from service in which symptoms can manifest themselves for compensation purposes.

I believe that it is only right and fair to allow 1 year for symptoms to appear for certain diseases and illnesses which have a substantial likelihood of going undiagnosed before discharge. Any doubt regarding the circumstances, conditions or hardship of such services should benefit the veteran.

First, let me say that there are certainly difficulties in tracing the origins of SLE to military service. That fact is not in question, nor is it a question with many, if not most, of the chronic diseases delineated in section 301(3) of title 38 of the United States Code. According to Dr. Alfred Steinberg, M.D., of the National Institute of Arthritis, "SLE may be caused by a combination of several genes plus additional environmental factors."

SLE's clinical course can also be difficult to detect. In some patients, the disease is rapidly progressive. Although the disease may start acutely, the course of the disease is usually chronic and irregular, with periods of activity alternating with periods of remission. Because of the difficulty of diagnosing SLE in its early stages, I believe the 1 year, post-service period sought by this provision of the bill for SLE victims is warranted and would allow additional time and necessary time for a more accurate diagnosis of this hard-to-identify disease because of the come-and-go nature of its symptoms.

Mr. President, this provision poses a simple question—whether the Senate, as a matter of legislative priority, is willing to give the benefit of the doubt to a veteran who clearly manifests symptoms of a very serious and insidious disease, SLE, for the first time within a year following discharge from military service. In that case, as is the case with most chronic diseases, we can reasonably conclude with some certainty that the disease had its onset during service. It would not be an irrevocable presumption. Where the evidence contradicts the claim, it would be disallowed.

In conclusion, I again want to commend Chairman CRANSTON and Senator MURKOWSKI for their leadership in developing this significant piece of veterans' legislation. I also want to thank their fine staffs, particularly staff director, Jon Steinberg, and minority staff director, Anthony Principi, for their hard work on this most important piece of legislation. I believe this bill will be of great assistance to the American veteran.

Thank you.

Mr. BURDICK. Mr. President, I would just like to take a minute to make a few brief remarks regarding section 403 of S. 9, the bill we are now considering. Section 403 includes provisions to make available to the Department of Labor, for use as a Job Corps center, VA hospital facilities in Minot, ND, which will become vacant in the spring of 1988.

Since 1959, the VA has been leasing to the Air Force, at no cost, for use as a regional hospital the 20.6 acres and improvements thereon that the VA previously used for a hospital which ceased operating this year. The Air Force is now building a new hospital at a nearby location and will be vacating the property by May 1988. By letters dated March 30, 1987, the VA advised the House and Senate Committees on Veterans' Affairs that the 20.6 acres and improvements thereon were determined to be excess to the VA's needs. On September 28, 1987, the VA Regional Office and Medical Center in Fargo reported that 20.6 acres to the General Services Administration as excess to the needs of the VA.

The Job Corps Program, conducted under sections 1691 through 1709 of title 29, United States Code, assists disadvantaged young males and females, age 16 through 21, who need and can benefit from a wide range of services in the residential setting of a Job Corps center. These services include education, vocational skills training, counseling, health care, and related supportive services.

North Dakota is one of only eight States that do not have a Job Corps center. Approximately 300 young men and women recruited in North Dakota currently attend Job Corps training at one of six centers located in Montana, South Dakota, and Utah.

According to the North Dakota Job Service, which strongly supports the establishment of a North Dakota Job Corps center, disadvantaged youths in North Dakota are adversely affected by the lack of a Job Corps center in the State; many youths in need of Job Corps skills do not enroll in the program because it means leaving the State—and their homes and families—for at least 6 months. Establishing a center in North Dakota would greatly increase the potential for Job Corps enrollments. In addition, corps members from the area near the center could be served as nonresidential students.

Due to the absence of a Job Corps center in North Dakota, women are particularly underserved. According to the North Dakota Job Service, educational and vocational courses could be planned at a North Dakota Job Corps center to meet the needs of both Job Corps participants and North Dakota employers. North Dakota Job Service employment projections to 1990 indicate that the average annual job openings for occupations for which youth could receive training in a North Dakota Job Corps center include for example: Janitor, porter, and cleaner—775 openings, secretary—435 openings, sales clerk—391 openings. These are just a few examples of the types of jobs which could be filled by Job Corps graduates.

Mr. President, as a member of the Labor, Health and Human Services Appropriations Subcommittee, I have been working to expand the Job Corps Program. We are now in the process of conferencing with the House on the fiscal year 1988 Labor, Health and Human Services appropriations bill and I am confident that funds will be provided for the establishment of new centers. Should North Dakota be chosen to receive a Job Corps center, this bill will provide us with a turnkey facility, thus greatly reducing the cost of opening a new center.

Mr. President, this is one of those rare occasions where everybody wins—the Veterans' Administration, hundreds of disadvantaged youths, the city of Minot, and the State of North Dakota. Rather than sit empty, the John Moses Hospital would be transformed into a facility where hundreds of young people could turn their lives around by learning important skills which will help them throughout life.

I would like to especially thank the chairman of the Veterans' Affairs Committee, my good friend, Senator CRANSTON, for his cooperation and leadership on this relatively minor, but important, provision of S. 9.

Mr. President, there is one aspect of section 403 on which I would like to obtain clarification from the chairman. Subsection (a)(1) and (b) would require the VA, upon satisfaction of certain conditions, to lease the property to the Department of Labor "for nominal consideration" and to renew the lease "for nominal consideration." I note that, in Webster's Third New International Dictionary [1966], the most appropriate definition of the term "nominal" in this context would appear to be "being so small, slight, or negligible as scarcely to be entitled to the name." Is that the intended meaning of the term as used in section 403(a)(1)?

Mr. CRANSTON. Mr. President, I am delighted to join with the distinguished senior Senator from North Dakota in an effort to bring a much-needed Job Corps center to that State.

In response to the question regarding the intent underlying the provision in the bill which I authored at the request of the Senator from North Dakota, the term "nominal consideration" is intended to be considered a negligible amount. In this regard, I note that, for the last 28 years the VA has leased this property to the Air Force at no cost, for use as a regional hospital. The Labor Department should not be treated substantially different from the Air Force in this respect.

Mr. DASCHLE. Mr. President, the Senator from Massachusetts, Mr. KERRY, and I would like to engage the distinguished chairman of the Veterans' Affairs Committee, Mr. CRANSTON, and the ranking minority member, Mr. MURKOWSKI, in a colloquy.

Mr. President, first let me commend the chairman for his leadership in bringing S. 9 to the floor. This legislation is necessary to secure important benefits for veterans, and I strongly support it. During consideration of S. 9, I think it is appropriate to remember that there are many veterans seeking compensation for diseases they believe were caused by exposure to agent orange and other toxic substances during the Vietnam era. The chairman is aware of my deep concern for the plight of these Vietnam veterans.

In 1979, Congress mandated an epidemiologic study of the health effects of agent orange on Vietnam veterans. The mandate was expanded in 1981 to include other factors, and all these studies are currently based at the Centers for Disease Control [CDC]. The Air Force also began its own study of the problem, and there have been numerous other studies undertaken by the Government and private entities.

While some CDC studies are continuing, the agent orange study—8 years and millions of dollars later—has not begun. The Air Force study is scheduled to be completed in 2002. Results from other studies are mixed, with some studies suggesting high correlations between exposure to dioxin and serious negative health effects, and some studies proving inconclusive. In the meantime, veterans continue to wait, and concerns about possible Government actions to block progress on the agent orange issue have been raised.

Mr. President, over the past few years, Congress has passed legislation to give the Veterans' Administration [VA] the discretion to compensate veterans exposed to agent orange. The VA has chosen not to use that discretion, and many people feel that it is time to settle the agent orange issue. Senator KERRY and I have introduced legislation, S. 1787, to establish a presumption that certain diseases are associated with veterans' service in Vietnam and to require VA compensation for those diseases. Given a situation where conclusive evidence may never be available, we believe it is time to give veterans with agent orange claims the benefit of the doubt.

For years, veterans have asked for hearings to investigate their concerns about Government studies, to consider compensation legislation, and, for public health reasons, to synthesize the large, currently available pool of information regarding dioxin and other toxic herbicides. I support veterans in their pursuit of such hearings.

Mr. President, I have spoken with the distinguished chairman, and I know he shares my interest in addressing this issue. I would ask the chairman if he could advise the Senate as to whether or not the Veterans' Affairs Committee plans to hold hearings on the agent orange issue, and, if so, when those hearings might be? I would also ask what the scope of such hearings might be and whether or not veterans will have direct representation in the hearings?

Mr. CRANSTON. Mr. President, I recognize and appreciate the deep commitment of both the Senator from South Dakota and the Senator from Massachusetts to address the concerns of veterans seeking compensation for diseases or disabilities that veterans believe may be related to their exposure to agent orange during their Vietnam service. I, too, have been deeply concerned for many years about the possible long-term adverse health effects of such exposure and the need for responsive Government action. I have chaired or participated in many hearings on this issue and have authored a number of legislative provisions enacted into law to address veterans' concerns about their exposure.

There are a number of important studies which have recently been completed or which are scheduled to be completed in the near future. In addition, there is one very key matter—CDC's determination, endorsed by the chair of the Agent Orange Working Group of the President's Domestic Policy Council in a November 3, 1987, letter which I inserted in the RECORD as part of my opening remarks, that it is not scientifically feasible to go forward with a broad-based epidemiological study of veterans exposed to agent orange—that must be addressed and resolved.

At present, our committee and our counterpart committee in the House are awaiting the views of various outside entities—including the Office of Technology Assessment, the Agent Orange Working Group of the Cabinet Council, and VA's Advisory Group on Environmental Hazards—on a number of these matters, including the VA's recently released mortality study of Vietnam veterans, a study conducted in Western Washington State which includes information on the relationship between exposure to dioxin and non-Hodgkins lymphoma, and a VA study on soft tissue sarcoma.

Once these various evaluations are received, our committee will hold a hearing on agent orange issues, and I anticipate that this hearing will take place in January or February. Among matters that will be addressed at that hearing are S. 1692, agent orange compensation legislation introduced by Senator MURKOWSKI, our committee's ranking minority member, on September 17, and S. 1787, the measure the Senators from South Dakota and Massachusetts introduced on October 14. Certainly, the committee hearing will include individual veterans as witnesses and I look forward to having my colleagues from South Dakota and Massachusetts appear as well at that hearing. With further reference to S. 1787, I note that the Congressional Budget Office provided a preliminary cost estimate on this measure on November 13. According to CBO, the 5-year cost of this bill would be $534 million.

Finally, I thank my colleague from South Dakota for his kind words regarding my efforts on S. 9. This is a very important veterans' bill and I am delighted that it is before the Senate today. With specific reference to agent orange, I am delighted to note that section 115 of the bill as reported by our committee is derived substantially from S. 1510, legislation that I was pleased to join with my colleague from Massachusetts [Mr. KERRY] in introducing on July 21. This provision, which would call on the National Academy of Sciences to carry out a comprehensive review of all scientific evidence, studies, and literature pertaining to the health effects of exposure to agent orange, is not a final answer to the agent orange problem, but it is my sincere hope that it will help shed some further light on this very difficult and complex issue.

Mr. DASCHLE. I thank the chairman for his willingness to hold hearings on the agent orange issue and his commitment to veterans' issues. I look forward to continuing to work with him to see that veterans' concerns are addressed. Finally, I appreciate the invitation to testify on S. 1787 at the upcoming hearings and will look forward to that opportunity as well. Mr. President, I know that the Senator from Massachusetts, who has joined me in sponsoring S. 1787 and whose work on the agent orange issue has been invaluable, would also like to speak on this issue.

Mr. KERRY. Mr. President, I, too, commend the chairman of the Veterans' Affairs Committee, Senator CRANSTON, for bringing S. 9 to the floor of the Senate. This is an important compensation bill for veterans, and I support its provisions. I am pleased that this bill incorporates the provisions of S. 1510, the Agent Orange Scientific Evidence Review Act of 1987, which I introduced several months ago. This legislation would call upon the National Academy of Sciences to study all of the scientific evidence on agent orange and to report to the Congress with their conclusions.

Unfortunately, S. 9 does not contain any provisions which would provide compensation for the victims of agent orange. I believe that the time has come to provide compensation to Vietnam veterans who are suffering from diseases caused by agent orange.

I was very pleased to join with my distinguished colleague from South Dakota, Senator TOM DASCHLE, who is the chairman of the Vietnam-Era Veterans in Congress, and with other Senators in introducing S. 1787, the Veterans' Agent Orange Disabilities Act of 1987. This legislation would begin the process of compensation for Vietnam veterans suffering from non-Hodgkin's lymphoma, lung cancer, and immunosuppressive diseases caused by agent orange.

It is my sincere hope that the Senate Veterans' Affairs Committee will hold hearings in the very near future on this important legislation. I am pleased that the chairman has indicated a willingness to hold hearings on agent orange early in 1988. I would be very happy to testify at those hearings in support of S. 1787.

Mr. President, Vietnam veterans have waited long enough. The war has been over for more than a decade. Let us as a Congress recognize the sacrifices of those Vietnam veterans who are still suffering. Let us complete the healing process, and compensate the victims of agent orange.

Mr. MURKOWSKI. Mr. President, I am pleased the distinguished chairman of the Committee on Veterans' Affairs has again agreed to expeditious hearings on the issue of a possible association between service in Vietnam and the subsequent development of diseases such as non-Hodgkins lymphoma.

This commitment reaffirms the commitment made to me in September 1987, when I introduced S. 1692, a bill which would provide VA disability compensation to Vietnam veterans who develop non-Hodgkins lymphoma. I am pleased the committee will soon have an opportunity to more closely examine all facets of this very complex and important issue.

Mr. DASCHLE. Mr. President, again, I thank the chairman and the ranking member, and I thank the Senator from Massachusetts. I yield the floor.

OVERTON BROOKS VETERANS' ADMINISTRATION MEDICAL CENTER

Mr. JOHNSTON. Mr. President, I am delighted to rise today in support of the Cranston-Murkowski amendment. On July 14, I introduced, along with my colleague, Senator Breaux, S. 1492. This measure, which is included in the Cranston-Murkowski amendment, will rename the Veterans' Administration Medical Center in Shreveport, LA, as the "Overton Brooks Veterans' Administration Medical Center."

Congressman Brooks served in the U.S. House of Representatives for 25 years representing the fourth Congressional District of Louisiana. During his tenure in Congress he took considerable interest in veterans' legislation. Mr. Brooks, himself a veteran of World War I, worked diligently on legislation to protect the rights of veterans and to ensure the United States had a well-trained Reserve. Most of the major Reserve bills enacted during the period he served in Congress bear his name as principal sponsor. While a Member of Congress, Mr. Brooks helped write the GI bill of rights; advanced the idea of terminal leave for all enlisted men and pay for this time; and actively fought to increase compensation paid to disabled veterans and to the widows and orphans of veterans.

Today, some 15 years after Mr. Brooks' tenure in Congress, veterans continue to benefit from his hard work on their behalf. Given Congressman Brooks' dedication to improving the quality of life for those men and women who served in the armed services it is only fitting that we rename the VA hospital in Shreveport, LA, the Overton Brooks Veterans' Administration Medical Center. This is a small but duly noted tribute to a man who not only was a great friend to the veterans in the State of Louisiana but to those all across the country.

Mr. HEINZ. Mr. President, I would like to engage the distinguished chairman and ranking minority member of the Veterans' Affairs Committee in a colloquy regarding benefits for United States servicemen held in the Soviet Union during the Second World War.

Senator Heflin and I have already introduced legislation on this subject. The amendment which Senators Cranston and Murkowski have joined Senator Graham and me in offering, appears to be consistent with the intention of S. 1874, but I would like to make clear that my primary goal is to provide former prisoner of war benefits to those United States airmen who were held by the Soviet Union, during the Second World War, in circumstances similar to POW's.

Because the Soviet Union was still neutral in the Pacific conflict until August 1945, those United States airmen who landed in Soviet territory after bombing runs on Japan were held anywhere from 7 months to over 1 year under conditions that were very harsh. They were at times housed like livestock, men slept on the floor of barn-like lodgings and were often fed nothing more than porridge.

In later years, many of these former servicemen have suffered serious disabilities which I believe are the result of their incarceration. A Siberian winter or two stays with you a long time, Mr. President.

I want to ask the distinguished Senator from California and the Senator from Alaska, as managers of the bill, if they believe that the Graham-Heinz amendment dealing with Americans incarcerated in time of war, will help to provide for United States airmen held in the Soviet Union during the Second World War.

Mr. CRANSTON. I appreciate the Senator raising this question. The committee modification which I submitted at the outset of our consideration incorporated an amendment, proposed on behalf of myself and Senators Graham and Murkowski, as well as my friend from Pennsylvania [Mr. Heinz], is designed to correct a current inequity in the law. That inequity is that veterans who were interned under circumstances which we associate with prisoners of war cannot receive the special benefits provided to those who made such great sacrifices for our country, our former POW's, if they were held during wartime by other than an enemy government or hostile force. Our amendment would correct this inequity by recognizing such veterans as former POW's for purposes of VA benefits.

I certainly intend that service members who were held by the Soviet Union during World War II and suffered deprivations similar to other POW's be included within the scope of this amendment and thus be provided with the VA benefits to which former POW's are entitled.

I congratulate the Senator from Pennsylvania [Mr. Heinz] for the concern that he and the Senator from Florida [Mr. Graham] have shown in this matter.

Mr. MURKOWSKI. The Senator from Pennsylvania is correct. His intention with this amendment is to provide assistance to those, such as the servicemen interned in the Soviet Union during the Second World War, whose circumstances are similar to former prisoners of war generally.

Mr. HEINZ. Mr. President, I would like to thank my colleagues for their assistance in this matter, and for their assurances, and I look forward to working with them to assist these valorous servicemen.

Mr. McCAIN. Mr. President, I would like to take this opportunity to commend my colleagues on the Committee on Veterans' Affairs for crafting an omnibus veterans bill that addresses the needs of our Nation's veterans. There are numerous veterans across America that needed a reaffirmation of our commitment to continue to provide them with the programs and services which they have earned and deserve. I believe the provisions incorporated in S. 9, affirm that this country is grateful and proud of the bravery, loyalty, and patriotism all our veterans have exhibited, and lets each of them know that we will not abandon them during their time of need.

There are many measures incorporated in S. 9 that will be welcome news to our veteran community. One of the more notable of these provisions is the 4.2-percent COLA increase that is earmarked for disabled veterans and survivors of veterans who die due to service-connected causes. Another act permanently exempts from Gramm-Rudman-Hollings sequestration the rehabilitation programs for service-connected disabled veterans and educational assistance for survivors and dependents of veterans who die of service-connected causes. There is also a section in the bill that provides a 12.7-percent increase in the maximum amount of specially adapted housing assistance payable to certain severely disabled veterans. Furthermore, there are certain aspects of the bill that would improve the very popular VA Home Loan Guaranty Program. Without a doubt, S. 9 is a bill that addresses many of the issues of paramount importance to our Nation's veterans.

Mr. President, also incorporated in S. 9 is an amendment of great significance to veterans that reside in Arizona. The intent of the amendment is to correct an inequity that has had a negative impact on the veterans in my State for many years. I am very pleased that with the enactment of S. 9, the State of Arizona will finally secure an open national veterans cemetery. Specfically, the McCain-DeConcini-Murkowski-Cranston amendment transfers the Arizona Veterans Memorial Cemetery to the Veterans' Administration for inclusion in the VA's National Cemetery System.

Currently, Arizona does not possess an open national veterans cemetery within its boundaries. The State of Arizona Veterans Memorial Cemetery was established in 1979 so that veterans who desired burial in a veterans cemetery in close proximity to their families homes would be provided with that option. Since March 14, 1979, when the first veteran was laid to rest at the cemetery, over 6,400 veterans and their families have been interred.

Despite the fact, however, that Arizona's Veterans Cemetery is the most utilized in the country, veterans in my State have constantly expressed their desire to be buried in a national veterans cemetery. Certainly they are proud to be Arizona residents, but they did not serve and fight on behalf of the State of Arizona. Their allegiance was and always has been to the United States. Regrettably, under the VA's current regional cemetery policy, Arizona's decreased veterans who request final burial in a national cemetery are taken to Riverside, CA. But final interment at Riverside has created countless financial and emotional hardships for surviving family members who live in Arizona.

Since its establishment in 1973, the VA's National Cemetery System has attempted to provide our Nation's veterans with a final resting place that is commensurate to their dedicated service to our country. For the most part, the VA has accomplished what it set out to do. But this is not to infer that no problems exist. The regional cemetery concept poses many problems to veterans living in the Southwest, and in particular in Arizona.

Only 70 percent of today's living veterans reside within 100 miles of an open national cemetery. For the majority of veterans residing in Arizona, Riverside, CA, is over 300 miles away. To suggest that the surviving family members of these veterans should incur the costs associated with transporting a loved one is ludicrous, and an abrogation of the promises our Government made to our veterans when they entered the military.

But there is another compelling reason why I and my colleagues have taken the time to draft this amendment. There are approximately 400,000 veterans living within a 100-mile radius of the Arizona Veterans Memorial Cemetery. Of this amount, over 20 percent are age 65 or older. Within 2 years, the number of veterans over 65 is expected to rise to over 119,000 and by the year 2000, approximately 40 percent of Arizona's veteran population will be 65 or over. It is this aging of our veteran population that presents the VA with one of its greatest challenges in terms of memorial affairs. And this is why the State of Arizona is prepared to convey the title of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.

The McCain-DeConcini amendment directs the Administrator of the Veterans' Administration to accept on behalf of the United States, all right, title, and interest in the Arizona Veterans Memorial Cemetery which consists of approximately 225 acres. Under the terms of the conveyance the State of Arizona has agreed to continue to pay for approximately 40 percent of the operating costs during fiscal years 1988 and 1989. Additionally, the measure places a limitation on expenditures by the VA for the same 2 fiscal years. After fiscal year 1989, the continued operation and maintenance of the Arizona Veterans Memorial Cemetery would become the sole responsibility of the Veterans' Administration.

Mr. President, the veterans that reside in Arizona deserve the right to be interred in a national veterans cemetery within the State. A national veterans cemetery symbolizes the extent of American sacrifice and service in our struggles to preserve freedom for all people. These cemeteries have been the personification of dignity and reverence for generations of Americans. Let's not succumb to the urge to maintain the failed policy of the past. The State of Arizona is prepared to transfer its $2.5 million veterans cemetery to the Veterans' Administration for inclusion in the National Cemetery System. I sincerely hope my colleagues will see the merits of this effort and support this worthwhile endeavor.

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI].

AMENDMENT NO. 1234

(Purpose: To strike section 333 from S. 9 as reported from the Veterans' Affairs Committee. This section addresses the matter of drug testing within the VA)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] for himself, Mr. DOMENICI, Ms. MIKULSKI, Mr. THURMOND, Mr. DANFORTH, Mr. WALLOP, and Mr. HELMS) proposes an amendment numbered 1234.

Beginning on page 146, line 21 of the bill, strike section 333 in its entirety.

Mr. DECONCINI. Mr. President, the amendment I send to the desk is on behalf of myself and Senator DOMENICI, Senator THURMOND, Senator DANFORTH, Senator WALLOP, Senator MIKULSKI, and Senator HELMS.

Mr. President, the amendment that I am offering deletes section 333 from the bill as reported by the Committee on Veterans' Affairs. Section 333 of the committee bill would effectively exempt the Veterans' Administration from the Random Drug Testing Program proposed by the President and governed by the provisions of section 503 of the Supplemental Appropriations Act of 1987 (Public Law 100-71) which we passed and voted on here into law today.

My amendment would allow random drug testing to go forward under the rigid terms and conditions of section 503—the same terms and conditions that are governing drug testing at every other Federal agency. The committee bill essentially tells our Nation's veterans that VA health care employees and other VA workers should somehow be immune from the President's effort to eliminate drugs from the VA workplace through random drug testing. My amendment has the full support of the President and his top officials who worked with this Senator, Senator DOMENICI of New Mexico, Senator MIKULSKI of Maryland and Congressman HOYER of Maryland, to craft a workable, responsible, effective framework for Federal drug testing.

Mr. President, there are really three principal reasons why the amendment should be adopted and section 333 stricken from the bill.

First, as the committee acknowledges in its own report accompanying this bill, there are solid safeguards and procedures built into section 503 of the Supplemental Appropriations Act that will help assure VA health care and other personnel, that drug testing will be done fairly, accurately, equitably and with the proper protections for all workers. I know about these safeguards because I was one of the four principal authors of the provisions built into section 503 of the supplemental. Furthermore, the administration has enthusiastically supported and implemented the directives and procedures established in the supplemental, resulting in a solid framework within which the President's Executive order can be carried out. In short, there is no need to exempt the Veterans' Administration from the President's Drug Testing Program because tough, rigorous safeguards are in place and they are working right now today.

Mr. President, I ask unanimous consent that my floor statement of July 1, 1987, summarizing the provisions contained in section 503 of the Supplemental Appropriations Act be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DRUG TESTING

Mr. DECONCINI. Mr. President, I rise in support of the conference compromise that address the issue of drug testing of certain Federal employees, and urge my colleagues to support it.

Mr. President, I want to make it very clear to everyone in this Chamber that I support drug testing of certain Federal employees who occupy particularly sensitive positions, such as law enforcement agents; air traffic controllers; public health officers; doctors; workers handling nuclear materials and weapons; and others with critical national security positions. When I began to negotiate with the House on this drug testing provision I made it abundantly clear to Congressman HOYER; Senator MIKULSKI; Senator DOMENICI; and others that I wanted to make sure that our final package would go as far as we possibly could to protect against the "ticking time bomb" waiting to go off; to prevent another Conrail tragedy; to prevent an airline disaster waiting to happen; and to prevent that doctor at the public health service from showing up for work while under the influence of drugs. I also wanted to make sure that the lynchpin of Federal drug testing, that is, tough accurate, fair laboratory standards, be the backbone of any final compromise package. And finally, Mr. President, I insisted that the rights of those who would be the subject of drug testing would be protected throughout the drug testing process.

I am pleased to say that all of these safeguards are built into the conference compromise that is before the Senate.

Mr. President, the negotiations with the House on this drug testing matter were not easy ones. At times, tensions ran high, complicated significantly by an overzealous, misguided, and out-of-control civil division at the Justice Department that broke ranks with the administration negotiating team, time and time again, to try to dismantle and derail the drug testing negotiations. The final conference agreement has not caused the administration to dance in the street. But I believe it is safe to say that virtually all of the drug testing negotiators from the administration now agree that the conference agreement is a good package that will allow drug testing to move ahead in accordance with the President's Executive order issued last year.

Mr. President, I will not tie up the Senate with a long dissertation on the provisions of this drug testing compromise package. I will ask to place in the RECORD a section-by-section analysis of the compromise package for my colleagues to go over at their convenience.

Mr. President, the drug testing compromise contained in the final conference agreement on the supplemental is just that, a compromise. It may not be everything that this Senator wants, nor does it contain all of the provisions that the administration or the House conferees might have liked. But it meets this Senator's primary objective and that is to allow drug testing to go forward under responsible, accurate, fair, and equitable conditions.

Before I close I want to take just a moment to commend Congressman STENY HOYER of the House; Senator BARBARA MIKULSKI; and Senator PETE DOMENICI for their tireless work on crafting this compromise drug testing package. There were times when all of us wanted to throw up our hands and give up. But these three Members of Congress stuck to it; dealt in good faith with the administration and with the public employee groups to keep negotiations on track toward a successful conclusion. The overwhelming vote on the House floor last evening, 343-77, in support of this drug testing compromise is testament to the outstanding work of Congressman HOYER, Senator MIKULSKI, Senator DOMENICI and the conferees on the supplemental. The lopsided vote last night confirms what has been said today, that is, that this is a drug testing plan that everyone can live with and which will work.

Mr. President, I am pleased to have played some small role in crafting the drug testing plan and I offer it to the Senate for its support as well. I want to also thank some key staff people who help make this possible, Rebecca Davies, Kevin Kelley, Bobby Mills.

The material follows:

SUMMARY OF DRUG TESTING AMENDMENT

Section 503(a)(1) provides that no funds appropriated by this Act or any other Act shall be available for implementing drug testing until:

(A) Secretary of HHS certifies:

(i) each agency has a plan in accordance with the Executive order and the law

(ii) the Department of HHS has published mandatory guidelines that:

(I) establish standards for all laboratory procedures using best available technology,

(II) specifies the drugs to be tested for,

(III) establishes standards for lab certification review and revocation of certification.

(iii) all programs comply Rehabilitation Act and title 5 of the law.

(B) The Secretary of HHS has submitted an analysis which:

(i) specifies the criteria and procedures for designating employees for drug testing,

(ii) the position titles which will be tested,

(iii) the nature, type and frequency of the drug tests.

(C) The Director of OMB submits to the Appropriations Committees agency-by-agency cost estimates for carrying out the drug testing Executive order and the law for a five-year period.

(a)(2) Defines those agencies which are included in this section. They include all Departments, the Office of the President, and the EPA, GSA, NASA, OPM, SBA, USIA, VA.

(a)(3) Establishes the procedure for the Secretary of HHS in issuing the mandatory of guidelines for laboratory procedures. It includes a public comment period of no less than 60 days and requires review and consideration of the comment before publishing them (at which time they become effective.)

(b)(1) Exempts the Department of Transportation, any agency with an agency wide testing program in effect when the Executive order was issued, or any part of such agency which was testing from the restriction of (a).

(b)(2) Requires these agencies to be brought into compliance:

(A) with the Executive order within 6 months from enactment,

(B) with mandatory guidelines within 90 days from when they take effect.

(c) Requires any agency that is not covered in (a) or (b) will comply with the requirements of this amendment before beginning their testing programs.

(d) Provides that any employee who requests so in writing will have access to any records relating to their drug test and any records relating to the laboratory certification and review process.

(e) Provides that the results of a drug test may not be released without the written permission of the employee unless it is disclosed to:

(1) the employees medical review official,

(2) the Administrator of the Employee Assistance Program,

(3) any supervisory official with authority to take an adverse action against the employee,

(4) pursuant to a court order when required to defend against a challenge against an adverse personnel action.

(f) Each agency is required to submit to the appropriate committees an annual report relating to their drug testing activities.

(g) Definitions of agency and Employee Assistance Program.

Mr. DECONCINI. Second, section 333 of the committee bill will not prevent the proverbial "ticking time bomb" drug user from going "off". The only thing that the committee bill would do is to try to stop a tragedy from happening again. Our veterans deserve better and the VA's drug testing plan appears to be well-conceived, fair, and poised for success if only given a chance to work.

The VA plan will provide for the rehabilitation of illegal drug users. It will protect the constitutional rights and individual privacy of VA employees who are tested. And it will assure that VA beneficiaries and the public are secure from the dangers and damage of illegal drug use in the VA workplace.

That is the plan, Mr. President, that the VA wants to implement, but section 333 exempts the veterans from implementing that particular plan.

Furthermore, Mr. President, the concerns about the cost of the VA drug testing program, seem to be exaggerated. The latest estimate of the cost of the VA's drug testing program from fiscal year 1987 through fiscal year 1992—6 years—will be $11.8 million, including only $2,167,000 in fiscal year 1988 or about 0.02 percent of the total VA operating budget. This cost estimate would include everything from the initial drug test itself; employee assistance programs; supervisory training programs; employee education programs; and related administrative and personnel costs. In short the VA will be able to conduct a fair, reliable, safe, random drug testing program to protect our veterans; while protecting VA workers and without busting the budget. Section 333 of the committee bill would not allow this critical effort to rid the VA workplace from drugs to go forward.

I ask unanimous consent that a cost analysis of the VA drug testing program be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COST ESTIMATE FOR DRUG TESTING IN VA

[Dollars in thousands]

	1987	1988	1989	1990	1991	1992
1. DRUG TESTING [1]						
a. Tests:						
Number of tests	...	10,000	20,000	30,000	40,000	40,000
Includes persons slated to be hired as well as current employees costs per test	...	$24.00	$24.96	$25.96	$27.00	$28.08
Subtotal	...	$240	$499	$779	$1,080	$1,123
b. Medical review: The medical experts expect 10 percent positive results on tests; for each positive result, it is estimated that two hours for review by a doctor will be required—the average salary for VA doctors is $36/hr	...	72	144	206	288	288
Administrative time of the immediate supervisor and personnel specialists is estimated at 3 hours with each positive test result; primarily, this will be involved with the implementation of disciplinary action—average grade of GS12–4	...	48	96	144	192	192
Subtotal	...	120	240	350	480	480
Total	...	360	739	1,129	1,560	1,603
2. EMPLOYEE ASSISTANCE						
OPM projects $15 per employee for cost of employee assistance at 240,000 employees that projects to $3,600,000. 10 percent of the assistance is drug related which is $360,000. With the drug testing being implemented, a 50 percent increase in utilization of this program for drug related reasons is expected for a 1988 cost of $540,000; inflated at 4 percent per year:						
Total	...	540	562	584	607	632
3. SUPERVISORY TRAINING [2]						
CO personnel specialists have been preparing in 1987 and will continue to prepare training material in '88. The combined efforts is estimated by OP&LR to be 20 percent of time of a GS12–4 in 1987 and 30 percent of time in 1988. During 1989–92, 10 percent of time will be needed to answer field inquiries and monitor the training being done. The printing of materials will be $3,000 in 1988	8	15	4	4	4	4
Field instructors will be presenting a three hour course with two hours of preparation per class. A thousand classes are estimated in 1988 (25,000 supevisors/25 per class). The instructors will be an average of GS11–4. With normal turnover of supervisors, this course will be provided once a year at each facility (225) in 1989–92	...	72	16	16	16	16
Total	8	87	20	20	20	20
4. EMPLOYEE EDUCATION						
OP&LR will be preparing pamphlets, videotapes, and copies of the plan to inform the VA employees and prospective employees of the VA drug testing program. The following costs are based on their experience in the preparation of similar materials for other personnel matters: pamphlets $32,500 each three in 1988 and one per year 1989–92; videotapes $8,000 each one in 1988 and one in 1989; plan $90,000 for 275,000 copies one per employee, reference copies for personnel offices, and supply for new employees:						
Total	...	196	41	32	32	32
5. OTHER RELATED COSTS						
CO personnel specialist 509 percent of time of GS–13 in 1987 and 1988 and 30 percent of time in 1989–92	21	21	13	13	13	13
Task force has nine participants at average grade of GS–15 who contributed 50 hours in 1987 and will contribute 20 hours in 1988	12	5	...	...	...	...
Field management officials will need to coordinate distribution of information and answer questions at each of 225 facilities—10 percent of time of GS–13 in 1988 and 5 percent of time in 1989–92	...	958	479	479	479	479
Total	33	984	492	492	492	492

[1] Includes $15 per test to be done by Navy (interagency agreement being finalized), $3.50 per specimen for collection—supplies and mailing as estimated by Dr. Chamberlain, and $5.50 per specimen for personnel costs—½ hour per specimen at GS9–4 wages; the cost per test is inflated at 4 percent per year.

[2] The time of 25,000 supervisors for the training is not included as this time would have been used for training on another responsibility if this program did not occur.

Veterans Administration—Cost Estimate of Agency Drug Programs

[Dollars in thousands]

Please indicate in the space provided below, the cost of both inhouse and contract activities at your agency for the following areas of the drug program. Amounts should be presented in thousands of dollars.

Drug testing (includes initial and follow-up testing, MRO's, etc.):

1987	
1988	$360
1989	739
1990	1,129
1991	1,560
1992	1,603

Employee assistance programs (includes counseling, rehabilitation, referrals, and coordination with community resources. Does not include employee education activities):

1987	
1988	540
1989	562
1990	584
1991	607
1992	632

Supervisory training programs (includes activities that assist supervisors in addressing and identifying drug use by employees):

1987	8
1988	87
1989	20
1990	20
1991	20
1992	20

Employee education programs (includes seminars and informational materials):

1987	
1988	196
1989	41
1990	32
1991	32
1992	32

Other related costs (includes startup and continuing administrative costs; governmentwide coordination costs for agencies such as OPM, HHS and DOJ; and any other costs not attributable to the activities listed above):

1987	33
1988	984
1989	492
1990	492
1991	492
1992	492

Agency totals:

1987	41
1988	2,167
1989	1,854
1990	2,257
1991	2,711
1992	2,779

Mr. DECONCINI. Third, illegal drug use among health professionals is a serious problem in this country. Impairment of our health care workers because of drugs and alcohol abuse is one of the great ironies and tragedies of the drug threat to this great Nation. And, surely no one in this body can believe that our VA health care system is somehow immune to the danger of drug abuse and the danger that drug abuse poses to our veteran beneficiaries. Dr. Donald Ian MacDonald, the President's drug abuse adviser in the White House, has cited a number of articles, surveys, and studies that point to drug abuse in the health care profession. Rather

than go over all of the findings contained in those articles and surveys, I ask unanimous consent that a number of the materials provided to me by Dr. McDonald be printed in the RECORD.

There being no objection, the material was ordered to be print in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 14, 1987.
Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I understand that there seems to be continuing concern that drug testing of employees of the Veterans Administration is an unnecessary intrusion. I hope it is clear that the rationale supporting drug testing in the Veterans Administration is not that VA physicians and other health professionals have particular problems with drugs. Rather, as reported by he American Medical Association, the American Nurses' Association, the American Pharmaceutical Association, and other health professions associations, there are special problems of impairment among members of the helping professions, perhaps because of the unique stresses involved in being responsible for human lives. AMA and other studies have shown that sizeable numbers of physicians are so impaired by alcohol and other drugs that they are unable to practice medicine with reasonable skill and safety. VA employees are skillful and caring, but unfortunately can not be immune to the impairment sometimes resulting from the special stresses of their professions.

On October 9 I spoke at the AMA 8th National Conference on Impaired Health Professionals. Alcohol and drugs figure prominently among the causes of impairment. I am attaching materials from that Conference, some articles on drug use among health professional and some additional points to consider about impaired professionals.

Sincerely,
DONALD IAN MACDONALD, M.D.,
Director, Drug Abuse
Policy Office, and
Special Assistant to the President.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, DC.

IMPAIRED HEALTH PROFESSIONALS

It is often stated that health professionals are at a higher risk than other groups for substance abuse, both because of the stress and pressure associated with their work, and the easier accessibility to drugs. Drug addiction is often considered to be an occupational hazard for health professionals.

A significant amount of drug use among health professionals, physicians in particular, appears to be self-medication rather than so-called "recreational" drug use. Patterns of substance abuse apparently begin in medical school, when stimulants are used in order to keep up with the demanding schedule, and depressants may be used for sleep. These patterns may lead to significant impairment and an inability to perform duties.

The issue of impaired health professionals raises concerns not only of patient safety, but also of the ability of health professionals who are themselves using drugs to recognize and address illegal drug use among their patients.

The Nation's state medical societies consider impaired health professionals to be a significant problem. Indeed, all 50 state medical societies have programs to assist impaired health professionals. States are currently being encouraged by the American Medical Association to develop unified programs which address all health professionals jointly, rather than forcing each health professional group (i.e. physicians, nurses, pharmacists) to develop its own program.

Colleagues of addicted health professionals may unintentionally support their habits by denying the possibility that professional associates could be abusing drugs and by blaming any unusual behavior on job stress, personal, or family difficulties. It is difficult for members of any professional association to acknowledge that a member of their group is using drugs.

A study conducted by the Impaired Physicians Program of the Medical Association of Georgia surveyed 1,000 impaired physicians nationwide. Their data indicate that anesthesiologists and family practitioners are more likely to abuse drugs than are other physicians. Researchers also found that anesthesiologists typically abused narcotics rather than alcohol, and that many anesthesiology residents reported drug access as a reason for choosing that field of practice.

Data from two nationwide surveys of US hospitals indicate that registered nurses were involved in nearly 70% of all reported incidents of controlled substance diversion from hospitals (US Department of Justice, 1985).

Of the approximately 2.5 million nurses in this country, Green (1984) reports that 2 to 3 percent may be addicted to non-alcoholic drugs, and Beck and Buckley (1983) estimated that 4 percent may be narcotic dependent. This rate is 30 to 50 percent higher than that of the general population (Roth, 1987). It has also been suggested that 8 percent of nurses are at risk for developing chemical dependency during their professional career (Griffin, 1984). Other researchers estimate that one in seven nurses is at risk (Hayens-Streaty and Medina, 1985; Kabb, 1984; Roth, 1987).

In a survey on the use of controlled substances among pharmacists and pharmacy students, almost half of the pharmacist respondents and two thirds of the students reported ever using a controlled substance without a prescription; 19% of the pharmacists and 41% of the students had used drugs in the last year. Students reported using drug typically for so-called "recreational" purposes, whereas pharmacists reported use of drugs for self-medication and "recreation". Marijuana, stimulants (primarily cocaine), tranquilizers, and opiates were reported as the most frequently used drugs. The study concluded that 18% of the pharmacists and 35% of the students who had ever used drugs were either drug dependent or at risk of being drug dependent or at risk of being drug dependent at some point in their lives (McAuliffe, 1987).

[From the New England Journal of Medicine, Sept. 25, 1986]

PSYCHOACTIVE DRUG USE AMONG PRACTICING PHYSICIANS AND MEDICAL STUDENTS

(By William E. McAuliffe, Ph.D., Mary Rohman, Ph.D., Susan Santangelo, B.A., Barry Feldman, B.A., Elizabeth Magnuson, B.S., Arthur Sobol, M.A., and Joel Weissman, M.A.)

Abstract: We surveyed random samples of 500 practicing physicians and 504 medical students in a New England state during 1984-1985; 70 percent of the physicians and 79 percent of the students responded. Fifty-nine percent of the physicians and 78 percent of the students reported that they had used psychoactive drugs at some time in their lives. In both groups, recreational use most often involved marijuana and cocaine, and self-treatment most often involved tranquilizers and opiates. In the previous year, 25 percent of the physicians had treated themselves with a psychoactive drug, and 10 percent had used one recreationally. Although most of the use was experimental or infrequent, 10 percent of the physicians reported current regular drug use (once a month or more often) and 3 percent had histories of drug dependence. More physicians and medical students had used psychoactive drugs at some time than had comparable samples of pharmacists and pharmacy students. The results suggest a need for renewed professional education about the risks of drug misuse. (N Engl J Med 1986; 315:805-10.)

Although recent years have witnessed increased efforts to prevent psychoactive drug dependence among physicians, progress is hampered by the absence of a clear picture of how many physicians and medical students use or abuse psychoactive drugs. All 50 states have now organized impaired-physician committees or equivalent structures,[1] and the American Medical Association and other organizations have sponsored regular conferences on preventing physician impairment. Although many of these activities are devoted to reducing risk factors for impairment, there is little epidemiologic research on the proportion of physicians who have used drugs or on the extent of that use.[2,3] Research[4,5] suggests that gathering statistics on both drug use and abuse is important since reducing per capita use in a population may be the key to preventing abuse. Selected data on drug use in samples of medical students[2,6-8] and physicians[2,9-18] have been reported, but the full spectrum and extent of drug use in a cross-section of practicing physicians have not been described. Without such information, organized medicine cannot easily know whether its programs for preventing drug abuse are sufficient and well directed, and it has no benchmark for measuring future progress.

The present article addresses this epidemiologic need by presenting comprehensive self-reported data on psychoactive drug use in samples of physicians and medical students in one state. To provide appropriate background, it also presents data on comparable samples of practicing and student pharmacists—health professionals whose reputedly low levels of drug use are often contrasted with those of the medical profession.[14,19]

METHODS

The study surveyed 500 physicians, 504 medical students, 510 pharmacists, and 470 pharmacy students. The physicians and pharmacists were simple random samples from the memberships of the state's professional societies; the students were stratified random samples from the state's professional schools. The statistics on students were weighed according to the population proportions of their respective student bodies. In November 1984, each subject received a questionnaire that was to remain unsigned, a covering letter, and a response postcard to be returned separately from the questionnaire; if no response was received, two follow-up questionnaires were sent and a telephone call reminding the subject was made.

The multiple-choice questionnaire took 15 minutes to complete and inquired about demographic characteristics, specialty and type of practice, drug education, access to drugs, and use and adverse effects of drugs. The main question on drug use presented a list of the categories of drugs most commonly abused and asked that recreational drug use be reported separately from drug use for self-treatment. Users were also asked to report on recency and frequency of use (in the past only, less than once per month over the past year, or once per month or more often over the past year) and on the number of lifetime episodes (1 to 10, 11 to 60, 61 to 100, or 101 or more.) The drug categories were marijuana, amphetamines, Ritalin (methylphenidate) or Preludin (phenmetrazine), cocaine, barbiturates, Doriden (glutethimide), Quaalude (methaqualone), Darvon (propoxyphene) or Talwin (pentazocine), tranquilizers, codeine, Percodan or Percocet (oxycodone), Demerol (meperidine), morphine, fentanyl, heroin, and hallucinogens. A separate question asked for the number of episodes of use of "amphetamines or other stimulants (besides caffeine) to study, work, or perform better at athletics," which this paper refers to as "instrumental" drug use. Finally, the questionnaire asked, "Have you ever used a psychoactive drug, prescribed by a physician or dentist for a medical problem, daily for a month or more?" and "Have you ever felt dependent on a psychoactive drug such as those listed [above]?" Subjects who responded affirmatively to these two questions were asked to identify the drug (or drugs).

Methodologic research has found little response bias in surveys of drug use in which responders remain anonymous.[20-26] Since response bias, when it is found, almost always involves underreporting,[26] it is unlikely that the present results overstate the truth about these populations. All questionnaire data were double-entered and checked for reliability; the number of coder disagreements ranged from 1 per 1000 to 1 per 50,000 over items and averaged 4 per 10,000. Because all data were responses to fixed-alternative questions, the staff easily resolved these random disagreements.

Despite the questions' sensitive nature, the response was good. All groups had acceptable response rates: 70 percent of 489 physicians, 79 percent of 483 medical students, 76 percent of 479 pharmacists, and 67 percent of 413 pharmacy students. Using information from the response cards and reminder calls, the staff excluded ineligible subjects—those who had moved away, dropped out of school, or were no longer practicing. Although some evidence[27] suggests that completion rates of this order may lead to underestimation of rates of use, recent research[28] suggests that attaining even higher completion rates sometimes has little effect on results of surveys of physicians—a conclusion consistent with the present findings. Among the physicians, the respondents did not differ significantly from the nonrespondents in geographic location, sex, medical specialty, or type of practice. Among the other three samples, the staff coded the subjects' sex and found differences only for medical students: women responded significantly more frequently (82 percent) than men (71 percent). Correlations between the time at which a respondent returned his or her questionnaire and the number of episodes of recreational use (r = 0.04), or self-treatment (r = −0.02) were not significant.

The physicians and pharmacists were virtually identical in age (mean, 46 years for both), sex (85 percent and 84 percent male, respectively), and citizenship (97 percent and 99 percent American), but medical students were significantly older than pharmacy students (25 vs. 22 years) and were more often male (59 percent vs. 44 percent) and more often citizens (99 percent vs. 88 percent). Significantly more pharmacists (79 percent) and pharmacy students (69 percent) attended religious services than did their medical counterparts (67 percent and 45 percent, respectively). Since these characteristics have previously correlated with drug use among practioners and students,[2,6,13,17,29-31] statistical comparisons control for them across samples when appropriate. Statistical methods included t-tests, chi-square tests, multiple regression, and multiple logistic regression,[32] depending on the number and measurement levels of variables.

RESULTS

Prevalence and Number of Episodes of Drug Use

Many physicians reported recent and lifetime psychoactive drug use (Table 1). Fifty-nine percent had used a psychoactive drug at some time for self-treatment, recreational use (to "get high" with friends), or "instrumental" use (to stay awake or facilitate work or sports). One in three physicians had used a psychoactive drug in the previous year, and about a quarter of the current users (9.5 percent of all physicians) had done so on a regular basis (once per month or more often). In addition, 5.7 percent of the physicians had taken a psychoactive drug (mostly tranquilizers and opiates) daily for a month or longer under another provider's direction. The distribution of the number of lifetime episodes was skewed, with a range from 0 to 1845 and a mean of 44. Drug dependence was self-reported by 3.3 percent of the physicians.

TABLE 1.—PSYCHOACTIVE DRUG USE AMONG PHYSICIANS, PHARMACISTS, MEDICAL STUDENTS, AND PHARMACY STUDENTS

Type of use	Physicians (N=337)	Pharmacists (N=312)	Medical students (N=381)	Pharmacy students (N=278)
Recreational, self-treatment, or instrumental:				
Use at any time				
Percent	59.2	[1] 46.4	[1] 77.2	[2,3] 62.4
No. of episodes [4]	43.7	43.7	[1] 65.7	64.6
Current use				
Past 12 mo (percent)	33.3	[1] 19.3	[1] 43.6	[3] 41.1
Regular (once per month or more often) (percent)	9.5	7.1	[1] 16.1	[2,3] 22.7
By another's prescription, at any time: Daily for month or longer (percent)	5.7	5.5	[1] 2.5	3.0
Drug dependence at any time: Percent	3.3	2.3	5.2	3.9

[1] As compared with physician. $P<0.05$ by two-tailed t-test.

[2] As compared with medical students. $P<0.05$ by two-tailed t-test.

[3] As compared with pharmacists. $P<0.05$ by two-tailed t-test.

[4] For all subjects, including nonusers; calculated using midpoints of response categories of "1–10," "11–60," "61–100," and "100+," with value of 120 assigned to last category.

When physicians and pharmacists were compared, more physicians were found to have used drugs, but pharmacists who used drugs tended to take them more often and for slightly different reasons. Significantly more physicians than pharmacists had ever used drugs or were currently using them. These differences were primarily due to significant differences in self-treatment at any time (42 percent vs. 29 percent) and current self-treatment (25 percent vs. 12 percent), although nonsignificant trends in the same direction were evident for recreational use. Although physicians were also slightly but not significantly more likely than pharmacists to report current regular drug use, both samples had similar rates of drug dependence and the same mean number of episodes of use. The latter finding was due to the tendency of more pharamacists than physicians to use stimulants instrumentally (21 percent vs. 16 percent) and to report a higher average number of overall episodes of drug use (98 vs. 78 episodes), but neither finding was significant. Comparison of medical and pharmacy students revealed the same basic pattern of relationships, except that significantly more pharmacy students than medical students were current regular users and pharmacy students had significantly more episodes of use than had medical students when the data were adjusted for age, sex, and citizenship.

The largest differences shown in Table 1 are between practitioners and students rather than between physicians and pharmacists. Significantly more medical students than physicians reported use at any time, current use, or current regular use; students also reported more lifetime episodes of use ($P<0.05$). By contrast, significantly more physicians than students reported daily use of psychoactive drugs for a month or longer under another provider's direction. This anomaly is consistent, however, with the contrasting nature of use by physicians and use by medical students, as described next.

Type and Extent of Drug Use

Drug taking among physicians and medical students was broken down into the three types of use (Table 2). Physicians treated themselves more often than they used drugs recreationally or instrumentally. Although this pattern was substantial and true of past and current use, the physicians' mean number of lifetime episodes was higher for recreational use (23 episodes) than self-treatment (17), primarily because of their many episodes of marijuana use and the larger number of drugs used recreationally than for self-treatment. In contrast to the physicians, pharmacists reported as much use for recreation (29 percent) as for self-treatment, and both medical and pharmacy students reported twice as much recreational use as self-treatment. It should not be surprising, moreover, that the use patterns of young physicians (26 to 30 years old) were more like those of medical students than those of older physicians; in the previous 12 months, 28 percent of the young physicians had used drugs for recreation and 8 percent for self-treatment.

TABLE 2.—CURRENT AND LIFETIME USE OF DRUGS AMONG PHYSICIANS AND MEDICAL STUDENTS, ACCORDING TO TYPE OF USE AND DRUG CATEGORY

[Percent of sample]

Type of use	Physicians (337)						Medical Students (381)					
	Current use[1]		Lifetime episodes			Ever[2]	Current use[1]		Lifetime episodes			Ever[2]
	occasional	regular	1–10	11–60	>61		occasional	regular	1–10	11–60	>61	
Recreational:												
Marijuana	6	2	16	7	9	34	22	12	24	19	25	72
Cocaine	3	0	6	2	1	9	16	4	22	13	2	39
Hallucinogens	0	0	4	0	0	5	2	0	14	3	1	19
Stimulants	0	0	5	1	1	7	2	0	10	5	1	17
Sedatives	0	0	2	0	1	3	0	0	8	1	1	11
Analgesics	0	0	0	0	1	1	0	0	2	0	0	3
Tranquilizers	0	0	1	1	1	3	1	0	6	0	0	7
Opiates	0	0	3	0	1	4	2	0	6	1	1	8
Any recreational use	8	2	16	7	10	35	25	14	24	19	29	73
Self-treatment:												
Stimulants	1	0	4	2	1	7	0	0	3	0	1	4
Sedatives	2	1	4	1	2	8	1	1	2	1	1	3
Analgesics	3	1	5	3	1	11	1	0	5	1	0	6
Tranquilizers	9	5	11	6	4	23	5	2	9	4	1	14
Opiates	8	1	16	4	1	23	7	1	16	3	1	21
Any self-treatment	18	7	19	13	7	42	11	4	19	8	5	33
Instrumental	(3)	(3)	12	2	2	16	(3)	(3)	14	2	1	17

[1] "Occasional" denotes use less than once per month, and "regular" use once per month or more often.
[2] Some values differ slightly from the sums of values for lifetime episodes, because the number of episodes was unspecified in some cases.
[3] Data not obtained.

Current drug use among physicians and students mostly involved only a few categories of drugs, although both samples had some lifetime experience with each of the abused drugs. Current recreational drug use was essentially confined to marijuana and cocaine, especially among physicians; current self-treatment was mostly confined to tranquilizers and opiates, particularly among medical students.

The extent of current and lifetime drug use by physicians and medical students was generally moderate. Regular current use (once a month or more often) was rare; 1 percent or less of each sample reported such use in all drug categories except marijuana, tranquilizers, and cocaine (students only). In lifetime use, experimentation (1 to 10 times) was the most common pattern for every drug except marijuana, and frequent use (over 60 episodes) was reported by 2 percent or less for all drug categories except marijuana and tranquilizers (doctors only).

Drug Dependence and Subjects "at Risk"

Although most of the drug use was limited, 3.3 percent of physicians and 5.2 percent of medical students reported drug dependence (Table 1). Of the 11 drug-dependent physicians, 6 used the drug of dependence for recreation, 2 for self-treatment, 1 for treatment under another provider's direction, and 2 for undetermined reasons. Of the 20 addicted medical students, 14 used the drug for recreation, 4 for self-treatment, and 2 for multiple reasons. The drugs of dependence among physicians were multiple in 1 subject and overall included amphetamines (4 subjects), marijuana (2), sedatives (2), tranquilizers (2), and opiates (2); among medical students they were marijuana (12 subjects), tranquilizers (3), cocaine (2) amphetamines (1), propoxyphene (1), and opiates (1). Seven drug-dependent physicians reported using their drug of dependence currently, and the other 4 were abstinent and apparently recovering; 15 medical students were currently using the drug and 5 were abstaining.

To estimate the proportion of respondents who were ever at risk of abusing drugs but never drug-dependent, the study team identified subjects who reported both extensive drug use and some resulting impairment of functioning. Extensive use was defined as 100 or more episodes of combined drug use in a lifetime, daily use for a month or longer under another provider's direction, or current use once per month or more often. The following percentages of respondents reported drug-related impairment of functions: missing work or school—2.1 percent of physicians and 15.7 percent of medical students, falling seriously behind at work or falling behind in school—1.3 percent and 10.5 percent, having trouble getting along with others—2.7 percent and 6.4 percent, worrying about using drugs too much—7.1 percent and 17.1 percent, having an accident—0.9 percent and 2.6 percent, seriously considering suicide—0.9 percent and 0.8 percent, caring poorly for patients or doing poorly at school—1.8 percent and 2.4 percent, or having to obtain professional help—1.5 percent and 1.3 percent. Differences between the physicians and medical students in the first four types of impairment were significant but may in part reflect variations in wording—i.e., "works" versus "school." To each question, the subjects responded "never," "once or twice" (scored as 1), "sometimes" (scored as 2), or "often" (scored as 3). Regression analyses performed after the scores for these responses were added showed that impairment resulted primarily from recreational or instrumental use (doctors only), whereas self-treatment had no significant effect and prescribed use had only a weak significant effect among doctors. According to these measures of extensive use and impairment, 4.2 percent of physicians and 16.5 percent of medical students were at risk of abusing drugs at some time.

Which Physicians and Medical Students Use Drugs?

Tailoring of preventive efforts to specific physician groups may be reasonable, for not all physicians or students are equally likely to use drugs or to use them for the same reasons. Physicians over 40 were much less likely to have used drugs recreationally (2 percent) in the previous year than were younger physicians (23 percent), but current self-treatment was distributed bimodally over age, with modes at the ages of 36 to 40 and 56 to 60. Among medical students, those in their clinical years of study currently used drugs signficantly more (50 percent) than did students in their preclinical years (38 percent). Religious physicians and medical students were also significantly less likely than others to be currently using drugs for recreation or self-treatment.

The variance in drug use across specialties was significant for self-treatment currently or at any time; it approached significance for instrumental use ($P<0.09$) but was not significant for recreational use, daily use under another's direction, or dependence. Psychiatrists had much higher rates for all types of use at any time (83 percent) and for current self-treatment (48 percent) than did other groups of physicians, and these significant differences persisted even after adjustment for demographic factors. The percentages of practitioners in other specialties reporting current self-treatment were 44 percent in anesthesiology, 24 percent in primary care, 23 percent in surgery and surgical subspecialties, 22 percent in other medical specialties, 17 percent in obstetrics and gynecology, and 12 percent in miscellaneous other specialties.

Both current recreational use and self-treatment varied significantly according to type of practice, but there was nearly an inverse pattern for different types of use. Physicians in group practices had the highest percentage for current self-treatment (30 percent) but the lowest for current recreational use (2 percent); physicians in training had the highest percentage for current recreational use (26 percent) but the lowest for self-treatment (0). Doctors employed in hospital and clinic settings had the highest percentage (42 percent) of combined current recreational use or self-treatment. Since physicians in training were young, the difference in recreational use between them and other physicians became smaller and nonsignificant when demographic variables were controlled for. Like physicians in group practices, those in solo practices and other types of practices ranked near the bottom in current recreational use and near the top in current self-treatment, whereas physicians in teaching, administration, and research ranked low in both types of current use. Because of these contrasting patterns, rates for recreational use and self-treatment combined and for drug dependence, both currently and at any time, did not vary significantly according to type of practice.

DISCUSSION

This comprehensive survey of drug use in a sample cross-section of practicing physicians and medical students found that the probability of any drug taking was substantial, but in most cases use was quite limited. One third of the physicians reported recent psychoactive drug use, with 1 in 4 currently treating themselves with a psychoactive drug and 1 in 10 currently using a drug recreationally. Another 26 percent had used drugs only in the past. Although most of this drug use was experimental, analysis showed that it increased the risk of impairment, with 3 percent of physicians and 5 percent of medical students reporting drug dependence. Another 4 percent and 17 percent, respectively, were at risk of abusing drugs at some time.

When interpreting these results, one must keep in mind the potential for error due to sample attrition and response bias as discussed above. Also, by focusing on practicing physicians the survey no doubt excluded some physicians who were drug dependent; two of four physicians excluded from the sample because they were not practicing had reported dependence. However, most impaired physicians never stop practicing or return to practice quickly.[33-35] During 1984 this state's medical board revoked licenses of fewer than 5 physicians per 10,000 for any reason.[36] Consequently, the number excluded from the sample was probably quite small.

Has Physician Drug Use Been Increasing?

Analysis of the limited evidence suggests that the amount of self-treatment and instrumental use by physicians has changed little over the past several decades, whereas recreational use has greatly increased over the same period. In 1970, Vaillant et al.[10] found that in a sample of 45 middle-aged physicians, 67 percent had used sedatives, 27 percent tranquilizers, and 22 percent amphetamines. Although these researchers did not distinguish among the purposes of this drug use, Table 2 shows that even now most use of tranquilizers and sedatives by physicians is for self-treatment, and most amphetamine use is instrumental. Subsequent studies,[2,12,14,18,37] including the present one, have reported percentages of physicians using those three drugs that are consistent with or lower than the figures of Vaillant et al. Consequently, there is no evidence that self-treatment or instrumental drug use is increasing among physicians. By contrast surveys of recreational drug use [2,11-13,38] have found increasingly higher percentages of physician users over time, especially after adjustment for geographic area and medical specialty. Moreover, the present survey and other studies[2,38] found that the recreational drugs used by young physicians now include not only marijuana but the full spectrum of phychoactive drugs, and that recreational drug use has become an important cause of drug-related impairment for them.

Surveys of drug use among medical students since the mid-1960s have presaged this increased recreational use by physicians and its probable continued rise. Reviewing 12 surveys conducted between 1964 and 1972, McAuliffe et al,[2] concluded that 50 percent or more of medical students had taken drugs for nonmedical reasons. More recent surveys [2,6-8,38,43,44] and the present study have found that between 57 percent and 75 percent of medical students have tried marijuana alone, and that many have used other drugs, especially cocaine, as well. Comparison of data on medical students in the present study with those from the same schools in 1979 [5] suggests further that recreational drug use has changed little (1 percent to 3 percent, depending on the drug) in the past five years, except that cocaine use has nearly doubled, from 21 percent to 39 percent ($P<0.01$). Perhaps for the first time, appreciable although small proportions of persons entering medicine have histories of extensive drug use and dependence.[2,41-44]

As one would predict from the surveys of students the proportions of physicians who have ever used drugs recreationally is now over 50 percent among those up to 40 years old. What one could not have predicted, however, is that many of these physician drug users—38 percent of users under age 40—have continued to use drugs, principally marijuana and cocaine, for recreational purposes. Recreational use is more likely than self-treatment to result in adverse effects. Unless these patterns can be changed, as new cohorts of medical students with relatively high use rates graduate and older physicians with low use rates retire, the proportion of all physicians using drugs recreationally and the subgroup becoming impaired as a result should grow steadily for some time. Since younger physicians have not reduced the amount of self-treatment below that of previous age cohorts, the rate of impairment from self-treatment should remain unchanged.

How Concerned Should One Be?

For the moment, the overall level of psychoactive drug use in these medical samples should not be cause for great alarm. Despite its recent increase, recreational drug use by physicians and medical students simply reflects current trends in recreational drug use throughout American society, including its elite circles.[45] Recreational use among physicians and medical students is similar to or lower than that among other professionals (this study) [14,15] and occupational groups,[46] students of other professions (this study),[2,29,30] college students,[2,46] and upper-income residents of New York State.[45] The present study and a previous one [14] also found that physicians do not use stimulants instrumentally any more than do other health professionals. Although physicians have reported some higher rates of apparent drug self-treatment, as compared with pharmacists, dentist,[17] lawyers,[18] and comparable nonphysicians,[10] rates of drug abuse and dependence among physicians have not differed significantly from the rates among pharmacists or lawyers [15] and are within the range of measurement differences when compared with rates in general urban populations.[3,47] Consequently, although the full extent of physician drug use is better documented now than before and the caseload of committees dealing with impaired physicians may increase somewhat because of recreational drug abuse, there is no evidence that physicians' relative position in society with regard to drug problems has changed.

Preventive efforts should currently focus on marijuana and cocaine use by medical students and young physicians, and on tranquilizer and opiate self-treatment by practitioners and students. The physicians in the present study had appreciably less formal education about drug and alcohol use than the other three samples, and the study's data suggest a need for more education of professionals about drug use and the risks of impairment, with special attention to the insidious psychological process that leads from use to abuse.[42] The evidence is clear that warnings against physician drug use in pharmacology textbooks and medical education that emphasizes the biology of addiction are not sufficient to prevent physician drug abuse in a drug-using society, and that the problem of physician impairment is likely to grow if current patterns of drug use persist.

We are indebted to Paul Breer, Richard Curran, Eva Deykin, Edward Khantzian, Sidney Klawanski, Nan Laird, Donna McAuliffe, George Sims, and Marvin Zelen for assistance and helpful comments, and to the professional societies and schools of the state under study, whose cooperation made the study possible.

FOOTNOTES

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HELP—AND ANONYMITY—FOR IMPAIRED MD'S

(By Liza Galin)

It is estimated that 4,000 New York State physicians are at some stage of chemical dependence, and several hundred are emotionally ill. At a recent New York City press conference, the Medical Society of the State of New York (MSSNY) reported on the expansion and progress of its program to seek out and rehabilitate these physicians.

The Committee for Physicians' Health (CFPH), established in 1974, has been restructured over the past two years, increasing its staff from two to nine. It is a referral and monitoring agency that guides physicians into treatment and recovery programs. Said Dr. David Axelrod, New York State Commissioner of Health: "We want to assure that those who have gone through a long, arduous education, who have prepared themselves for the care of patients, can continue to function to provide care to members of our society. At the same time, we want to make absolutely certain that those who are providing care are not impaired by drugs, by mental illness, or by abuse of alcohol."

During the past two years, 223 physicians have been actively enrolled in the rehab program by the MSSNY's referral panel. This is only a small percentage of those who need treatment, and the CFPH hopes that as more physicians become aware of the aims of the program, the percentage will rise.

Early intervention is the CFPH's goal—preventing a doctor from harming a patient or himself. "There has been an intensification of efforts to make certain that physicians know that there is a mechanism with which they can identify their peers who they think are impaired without getting into all of the legal potential that would be involved with their being reported to the Office for Professional Medical Conduct [OPMC] or the formal process that would ensue," said Dr. Axelrod.

CFPH is the only group authorized by New York State law that does not have to report an impaired physician to the OPMC, although it is obligated to report physicians who are unwilling to accept treatment for their illness.

Once a physician has been referred to the CFPH, the extent of the physician's illness is evaluated and a treatment plan—which might include inpatient or outpatient services for detoxification, rehabilitation, psychiatric care, and attendance at self-help and peer support groups—is prepared. According to Dr. Barton A. Harris, medical director of the CFPH, one-third to one-half of the physicians are referred to Alcoholics or Narcotics Anonymous.

Physicians in the program are monitored by a colleague, who observes their behavior, reports any problems, and collects random urine specimens for drug and alcohol analysis. Participants remain in the program for a minimum of two years. After successful completion, the MSSNY may advocate for the physician to the OPMC, hospitals, or others needing verification of rehabilitation.

According to Dr. Harris, there is a distinction between an impaired physician and one who is too ill to practice. "A physician who is an alcoholic may have family trouble and have two DWIs (driving-while-intoxicated citations) and still be able to maintain an acceptable level of practice," he said. Alcohol dependence has a course of illness typically 15 years or longer, he noted. "Impairment progresses first with increasing isolation, then increasing disruption of the family, then increasing rigidity in thinking, and last, the inability to practice, to meet an acceptable standard," he said. Even though a physician may not fit the impaired definition, he or she might be unable to effectively treat patients.

The disparity between the number of doctors who have been enrolled in the program and the number who might be impaired is due in part to the perception of the regulatory agencies, especially the OPMC, as a threat to the medical professional. Physicians are afraid of becoming involved, and although all referrals are confidential, they are anxious about reporting their peers. "What we hope is that the kind of education process by the medical society will make everyone appreciate that we are here and that the OPMC, the regulatory process, is really a small part of the disciplinary process," said Dr. Axelrod. "There is no possibility that the Department of Health [or] the regulatory process will ever be able to deal with all of the problems associated with impairment without the participation of the physicians themselves," he added.

Dr. Joseph Guimmo, an alcoholic and former drug addict, was a practicing emergency-room physician during many years of drug and alcohol abuse. Dr. Guimmo is helping promote the program and hopes "to accomplish something in the world of addiction, an illness that brought me to my knees and several times close to my death," he said. He hopes the work of the MSSNY's Physicians' Committee will educate physicians about addiction and how to deal with it when it is recognized in colleagues.

Dr. Guimmo, aged 45, started using amphetamines while in medical school in Italy. During his internship and the breakup of his marriage, he started drinking heavily. "When I got my registration for controlled substances, my first thought was, I could be my own pharmacy," he said. His addiction intensified while he worked as an emergency-room physician at several New York hospitals. He believes the house staff system helped him cover up his inability to make decisions. He was never approached by colleagues or hospital staff about his abuse problems. In 1975, while he was injecting heroin and Demerol, he began working in private practice.

After spending a year in prison for conspiring to sell Quaaludes, Dr. Guimmo resumed working in emergency-room positions, which he would lose because of relapses into alcoholism and drug use.

Dr. Guimmo, who has been clean since January, 1982, had his license revoked in April of that year. He now counsels recovering physicians and teaches alcoholism and drug-addiction counseling. He is awaiting the reinstatement of his license to practice medicine in New York.

The committee wants to meet its dual obligations to patients and peers but is not an autonomous arm, and its reliance on the impaired doctors themselves and their colleagues severely limits its effectiveness. Only 20% of the physicians enrolled in the program self-reported; 50% were reported by colleagues. "Any disciplinary process, to be totally effective, must be dependent on the self-reporting, the recognition that there are not enough policemen, not enough administrators, not enough inspectors, to make the program work if the profession does not want it to," said Dr. Axelrod.

According the Dr. Harris, the majority of program enrollees anticipate return to practice or are in practice while being monitored. A few have retired from practice, a few have been the subject of disciplinary action by the OPMC, and 38 have voluntarily surrendered their licenses while in treatment, with the hope of returning to practice.

MSSNY is aware that physicians are particularly vulnerable to addictive behavior because job pressure and accessibility of drugs. It wants to play a greater role in making young physicians aware early on of the potential dangers. MSSNY State is lobbying for changes in New York State medical-school curricula to include didactic and clinical training in chemical dependence. "Sudden or dramatic changes don't seem likely," said Dr. Harris, "but we will continue to work so students in training will be aware of the early signs of chemical abuse both in their patients and themselves, so they can be helped before such abuse destroys careers and family relationships," he said.

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PROGNOSIS OF PHYSICIANS TREATED FOR ALCOHOLISM AND DRUG DEPENDENCE

(Robert M. Morse, MD; Mary A. Martin; Wendell M. Swenson, PhD; Robert G. Niven, MD)

(Data on 73 physicians are compared with data on 185 middle-class patients similiarty treated for alcoholism or drug dependence in a hospital-based inpatient program. General patients were contacted one year after treatment and physicians, one to five years later. The prognosis was more favorable for physicians then for general patients. When the groups were selected for study on the basis of completion of inpatient treatment, availability at time of contact, and not having died, 83% of physicians and 62% of the general group were noted to have favorable outcomes. Close monitoring may account, in part, for the better prognosis for physicians. (*JAMA* 1984; 251:743-746))

During the past decade, much attention has been drawn to the problem of recognizing and rehabilitating the impaired or "sick" physician.[1] General agreement exists that alcoholism and other drug dependence (addictive disorders) are major health hazards to physicians. An earlier Mayo Clinic study of 93 physicians admitted to a psychiatric ward noted that more than half were alcoholic or drug dependence.[2] Since the opening of the Alcoholism and Drug Dependence Unit at the Mayo Clinic, Rochester, Minn., in 1972, at least 5% of new admissions for the ensuing five years involved physicians. This was the largest specific occupational group treated. Therefore, there is evidence that addiction may be the primary behavioral condition for which physicians are hospitalized, and, in a middle-class population hospitalized for treatment of that disorder, physicians are the preponderant profession.

It has been suggested that, because of these and other experiences, physicians are more vulnerable to alcoholism and drug dependence than the general population. We are unaware of reliable incidence or prevalence studies, documenting this. Although the rate of alcoholism among physicians has not been established, a recent Mayo Clinic study showed that 7% of physicians surveyed were possible for probable alcoholics, a percentage almost identical to that of similarly surveyed general medical outpatients.[14] This rate is consistent with figures quoted by federal authorities for the population in general.[5]

Drug use and the abuse of prescription drugs does seem to be more prevalent among physicians.[6-8] Yet it is often not clear whether this is drug dependence. Physicians may enter treatment facilities or otherwise come to attention at a higher rate than do nonphysicians.

An increasing number of reports show that physicians treated for addiction have a relatively favorable prognosis. Goby et al[9] reported that 65% of alcoholic physicians followed up for a mean of 42 months either were totally abstinent or had only occasional relapses. Moreover, two thirds of addicted physicians treated at the Menninger Clinic, Topeka, Kan, were described as sober and practicing, although they may have had brief relapses nine months to 4½ years after treatment.[10] Kliner et al[11] described an abstinence rate of 76% for alcoholic physicians who responded to a questionnaire one year after treatment. However, 21% of this group either had died or did not respond to the questionnaire survey. More recently, Herrington et al,[12] at the DePaul Rehabilitation Hospital, Milwaukee, reported that 67% of addicted physicians maintained abstinence during participation in a two-year program.

These studies have not attempted to compare outcome for physicians with other patients similarly treated for addiction. Although the report by Kliner et al[11] refers briefly to "76% of the physicians but only 61% of the patients in the general patient population being abstinent for 1 year after discharge," there is no description of how the general patients were selected, treated, or followed up.

We have had an opportunity to compare the outcomes of treatment for addiction to alcohol and other drugs in a group of physician patients and in a group of middle-class patients.

METHODS

The study involved 73 physicians who were contacted in 1978, an average of 37 months after the completion of treatment (range, one through five years), and 185 general patients who were contacted in 1975, one year after treatment. The average age for each group was 49 years. Men made up 92% of the physician group and 75% of the general group. Analysis of outcome by sex difference in the general group, however, failed to disclose obvious differences. Sixty-one (84%) of the physicians and 141 (76%) of the general group were married. The relatively high educational level and socioeconomic status of the general group are indicated by data from an earlier study of 867 general patients from our program, in which 23% were college graduates and 29% were in executive or professional occupations."

The Alcoholism and Drug Dependence Unit is a 24-bed inpatient treatment program located in a large medical center with 1,800 hospital beds. The multidisciplinary-staffed unit has attempted to integrate accepted modalities for addiction treatment with psychiatric and specialty-oriented medical care. The treatment approach is based on a "disease concept" of addiction, by which it is understood that these disorders cease to be symptoms of underlying problems once they reach the addictive stage and, therefore, must be approached as "primary disorders." Although patients accept the nature of this primary illness, many have associated psychiatric and medical disorders that receive concurrent management. The duration of treatment is three to six weeks, with a four-week average stay. Preliminary analysis shows no relationship between the age of the patient or the length of inpatient treatment and prognosis.

Each patient received an initial diagnostic assessment, including an internist-directed general medical examination, detailed drug and alcohol histories, psychiatric evaluation, psychological testing, and spouse or family interviews. Special medical and surgical consultations were arranged as necessary. The multimodal treatment approach included educational measures, individual and group psychotherapy, addiction counseling, physical exercise, family participation, and an introduction to Alcoholics Anonymous. Detailed aftercare planning preceded dismissal from the hospital.

Patients were contacted by one of us, who was the aftercare coordinator (M.A.M.). These were generally telephone contacts, often confirmed by a third party. Forty-five (85%) of physician contacts were confirmed, usually by the spouse but occasionally by a parent, friend, physician, or pastor. A much smaller proportion of the general group were confirmed. Some contacts were personal interviews, and some follow-up information was provided by other staff members.

Of the original subjects, 44 (24%) of the general group were excluded from the study, as were 20 (27%) of the physician group because of incomplete treatment, death, or inability to be reached (Table 1). Incomplete treatment was defined as leaving the treatment program before the end of two weeks. Fewer physicians than general patients left early. The death rate of the two groups was similar, when considering that the follow-up period for the physician group was up to five years and only one year for the general group. Only three (2%) of the general group and four (5%) of the physician group could not be reached. The eventual study groups were composed of 141 (76%) of the original general group and 53 (73%) of the physician group.

TABLE 1.—COMPOSITION OF STUDY GROUPS IN TREATMENT OF ALCOHOLISM AND DRUG DEPENDENCE

	General group		Physician group	
	Number	Percent	Number	Percent
In study	141	76	63	73
Excluded	44	24	20	27
Treatment incomplete	37	20	7	10
Dead	4	2	9	12
Not contacted	3	2	4	6
Total	185	100	73	100

Outcome categories were defined as follows: (1) abstinence since dismissal, (2) brief relapse (no longer than one week in duration) but abstinent when contacted and no evidence of return to the addictive pattern, (3) drinking or using drugs, but improved with regard to pattern and consequences of use, and (4) no improvement in drinking or drug use.

We arbitrarily considered categories 1 and 2 as favorable and 3 and 4 as unfavorable. Although category 3 (the "controlled drinker") could be considered favorable, our experience suggests that this is not a stable or predictable state and often is the initial regression into addictive alcohol or drug use (relapse). Furthermore, complete abstinence from alcohol and other drugs of abuse is an announced treatment goal of the program. Recent studies continue to refute seriously the idea of controlled drinking as being a reasonable treatment goal for alcoholic patients.

RESULTS

Favorable outcome (categories 1 and 2) was noted for 44 (83%) of the physicians and 87 (62%) of the general group, a significant difference ($P<.01\ \chi^2$). Four (8%) of the physicians were in outcome group 4, compared with 34 (24%) of the general group. When the entire series included patients who died, patients with incomplete treatment, and uncontacted patients, 60% of the physician group and 47% of the general group had favorable outcomes.

In the physician group, a favorable outcome was noted for 19 (95%) of the drug-dependent physicians, 16 (84%) of the physicians with alcoholism, and nine (64%) of physicians with a combined dependence (Table 2). These percentages were significantly different from the respective categories of the general group ($P<.01\ \chi^2$). Although we are not clear why the physician group with combined dependence did less well, the degree of psychiatric disturbance may have had some effect. A previous study of 43 physicians noted evidence of a greater degree of psychopathology, as measured by the Minnesota Multiphasic Personality Inventory in the group dependent on both alcohol and other drugs.[15] We are unable to answer the important question, however, whether this evidence of psychopathology indicates preexisting psychiatric disturbance or reflects the mood and behavioral consequences of addiction to a number of drugs.

TABLE 2.—OUTCOME AMONG 53 PHYSICIANS TREATED FOR ALCOHOLISM AND DRUG DEPENDENCE

Outcome	Alcohol use only		Drug Use Only		Both	
	Number	Percent	Number	Percent	Number	Percent
Abstinent	9	47	17	65	5	36
Brief relapse	7	37	2	10	4	29
Using but improving	2	11	1	5	2	14
Unimproved	1	5	0	0	3	21
Total	19	100	20	100	14	100

Of the 47 drug-abusing physicians, 19 (49%) used a single prescription drug, while 18 (38%) admitted to the use of three or more prescription drugs. The most commonly abused drugs were diazepam, 18 (38%), pentazocine, 15 (32%), and meperidine, 14 (30%). There was no distinct trend in the drug combinations used, as many physicians seemed to combine rather indiscriminately analgesics, tranquilizers, sedatives, and stimulants. When compared with 38 general patients who were drug-dependent, the physicians were more likely to use narcotics and less likely to use illegal street drugs.

The proportion of the treated physicians in various types of medical practice as compared with the proportion of physicians in that practice for the country as a whole is given in Table 3. It is difficult to know how to interpret the distribution. The categorization and definition of "general practice" as a medical specialty continue to change; however, this group is overrepresented among our patients. The data may reflect the selection of physicians referred to our treatment program rather than indicate any definite trend of specialty vulnerability to addiction.

Thirteen (81%) of the group with mild problems and 31 (84%) of the group with severe problems fared well. Therefore, the prognosis for addicted physicians probably is not related to the stage or severity of the disease.

TABLE 3.—TYPES OF MEDICAL PRACTICE OF PHYSICIANS TREATED FOR ALCOHOLISM AND DRUG DEPENDENCE

Type	Physicians		Percentage of Total U.S. Physicians[1]
	Number	Percent	
Family or general practice	24	33	14
Internal medicine	10	14	14
Psychiatry	6	8	7
Obstetric-gynecology	6	8	6
Anesthesiology	6	7	4
Surgery (general)	5	7	7
Radiology	4	5	5
Others	13	18	
Total	73	100	57

[1] Daily News report, Oct 1, 1980.

Each Alcoholism and Drug Dependence patient was introduced to Alcoholics Anonymous meetings and principles during treatment and was encouraged to become a member on dismissal. Although only 16 (37%) of the physician group became regular attenders, 100% of these had favorable outcomes. Twenty-nine (78%) of those who attended irregularly or did not attend at all were also in the favorable-outcome category.

Of the 53 physicians with adequate follow-up data, 47 (89%) had returned to the practice of medicine at the time of contact. Twenty (38%) had changed their practice in some way, often to a more structured setting, such as hospital-based or group practice. We are unable, however, to comment on the adequacy of their medical practice or the competence of the physician.

COMMENT

Our findings add to the growing documentation of favorable prognosis for the physician undergoing treatment of an addictive disorder (alcoholism and drug dependence). When compared with middle-class general patients undergoing similar treatment in the same program, physicians fared significantly better. We realize, however, that it is difficult to assess adequately treatment and prognosis of the addictions and agree with Westermeyer[16] in his conjecture that perhaps no area of medical care has been so poorly evaluated.

Our study has some limitations. The comparison groups were not treated concurrently, although there was overlap and the treatment program did not change overtly during the time in question. The physician group was contacted during a five-year period, and the general group was contacted one year after treatment. However, the mode of contact and follow-up was identical with each group. Furthermore, we relied mostly on self-report data, which were confirmed when possible by a relative, friend, or professional person. We continue to be skeptical of self-reports despite studies seeking to reassure. Polich,[17] for example, interpreting the well-analyzed Rand data, stated that his subjects accurately reported abstention and major alcohol-related events and concluded that these findings indicate the validity of most types of self-reports. This is notwithstanding his findings that 35% of recent drinkers underreported their consumption during the 24 hours before the interview and 24% underreported their consumption during the previous month.[17] Our clinical experience suggests a definite factor of unreliability in self-reports. However, we see no reason to suspect a greater error in one of our study groups than the other, therefore allowing relative comparisons.

We focused almost entirely on the abstinence or lack of abstinence from addicting drugs in our follow-up, realizing that this did not take into account such other important outcome measures as work adjustment, health status, interpersonal relationships, and social stability. However, other researchers have demonstrated a consistent correlation between these items and abstinence.[18]

Finally, the comparison groups were highly selected for positive outcome. Those who did not complete the inpatient phase of treatment were excluded, as were those who could not be contacted or were dead. However, few of the patients could not be reached (four [5%] of the physicians and three [2%] of the general group), and the death rates in the two groups seemed to be similar. We believe that it was reasonable to focus our attention on those patients motivated enough to complete inpatient treatment. It should be emphasized that reluctance to enter treatment seems almost universal because virtually all patients in both groups entered treatment under various forms of personal, social, medical, legal, or economic pressures. Few entered the hospital because of their own personal concern over the problem.

We believe it is important to note the lack of correlation between severity of addiction (as measured by adverse professional consequences and times previously treated) and treatment outcome. Physicians with multiple previous admissions and with severe professional difficulties recovered as favorably as did those with lesser problems. We believe this information should be made better known because it counteracts the reluctance of many to encourage treatment for addicts who have previously failed. It also provides some reassurances to state boards and impaired-physician committees that even the most severely addicted physician should receive an opportunity for adequate treatment.

Unexpected, and counteracting common opinion, was the highly favorable outcome of the drug-addicted physician. That the drug addict seemed to do better than the alcoholic patient is consistent with the results of Herrington et al,[12] who found that fewer narcotic-addicted physicians than alcoholic physicians experienced a significant or a brief relapse. Our data differ with those of the Menninger study,[10] which found no relationship between drugs of choice and treatment outcome. The group with the poorest outcome was the group with a combination of alcohol and drug dependence—a group that also seemed to have more evidence of psychopathology. However, the numbers in our study were small, and the difference may be a chance one.

What factors or influences might explain the reasons why physicians seem to recover from drug and alcohol addiction at higher rates than nonphysicians? Although we are unable to answer this with any of our data, we believe that basic intelligence, formal education, and type of occupation are not factors. However, most of our physician patients, in contrast to the nonphysicians, were forced to begin their outpatient rehabilitation under a probationary reporting system. This may range from formal monitoring by the state licensure board, to review by hospital staff, to being overseen by concerned partners. Physicians are frequently asked to document aftercare visits and submit to random drug screens. Furthermore, many physicians are now also involved in the "impaired-physician" system, which brings them together in a group of similar professionals with similar problems. We believe that the structured monitoring system for the physicians is therapeutic in itself and may enforce longer periods of abstinence from drugs and alcohol, during which time other rehabilitation efforts can become effective and the behavioral effects of addiction can moderate.

Similar systems are available to nonphysicians only under special circumstances. The Federal Aviation Administration and the airline companies place strong sanctions on airline pilots, prohibiting flying status while under the influence of alcohol or other drugs. Pilots treated for chemical dependency are monitored closely during the recovery period, under methods similar to those used with physicians. The director of The Employee Assistance Program for a national airline has noted a recovery rate of 90% among more than 100 treated pilots followed in a preliminary survey. Of theoretical interest is the shared threat of loss of highly valued professional privileges in the two groups—flying status for the pilot and practice privilege for the physician. Perhaps the motivation to recover is stronger when the occupation at risk is high status, competitively sought, and identified closely with personal image and prestige.

FOOTNOTES

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[From the New York Times, Aug. 19, 1983]

DRUG ABUSE FOUND IN MEDICAL TRAINING

(By Lawrence K. Altman)

The problem of drug abuse in the medical professions was dramatically underlined yesterday with the first published national survey of drug use within a single specialty.

The survey, published yesterday in The Journal of the American Medical Association, was made among doctors and nurses training in the specialty of anesthesiology as well as their instructors.

It found that over a 10-year period almost three-quarters of the anesthesiology training programs that responded to the survey had "at least one suspected" case of drug dependency among students or instructors. The researchers wrote that they had been surprised to learn that the problem was most prevalent among the older anesthesiologists, the instructors.

Some hospitals had more than five cases. Of the total of 334 confirmed or suspected cases of drug dependence among doctors or nurses, 30 deaths were attributed to drug overdoses.

The researchers from the University of California's San Diego Medical Center said they knew of only a few "mishaps" among patients that could be attributed to the drug dependency problems of doctors and nurses.

PROBLEMS IN SAN DIEGO

Anesthesiologists were singled out for the study because of problems observed in the San Diego training program. Dr. Lawrence J. Saidman, a principal researcher in the study who also heads the university's department of anesthesiology, said in an interview that about five nonfatal cases of drug dependence were detected among his professional staff and students over a period of about seven years.

"We asked ourselves: Is our experience unique?" he said. "Is there something in our environment or in the way we practice medicine or the people we select that encourages or somehow specially recruits people who are drug-prone?"

Despite the absence of comparative data among other medical specialties the choice of this specialty for the survey was apt. For years, anesthesiologists have been considered the most vulnerable group because of their sophisticated knowledge of drugs as well as their ready access to them.

The drug dependence problem "may be more common than usually thought in anesthesia, perhaps in part because of drug availability," Dr. Saidman and his co-authors, Dr. C. F. Ward and Gretchen C. Ward, said.

The two drugs most often reported to have been abused in the study were meperidine and fentanyl. They were synthetic narcotics. Fentanyl, a short-acting drug that is about 100 times more potent than morphine, often leaves little detectable evidence of its use in urine samples.

184 REPORTED POSSIBLE PROBLEM

The study was based on responses to questions from 247 of the 289 programs that train physician anesthesiologists and nurse anesthetists in the United States. At least one instance of confirmed or suspected drug abuse was reported in 184 of them, or 74 percent of those answering the survey. About half such programs train nurses, the other half doctors, Dr. Ward said. Few train both.

According to the American Medical Association, 15,934 anesthesiologists were actively practicing as of 1981. Of these, 2,930 were in training. In addition, the American Association of Nurse Anesthetists said that as of this year it had 18,492 practicing members and 2,016 trainees.

The researchers concluded "that chemical impairment in anesthesia may be more common than generally held and perhaps more common than in other areas of medicine, partly due, in our opinion, to the ubiquitous availability of remarkably potent drugs."

The researchers pointed out that the medical profession in general and anesthesiologists in particular were paying increasing attention to drug addiction in their ranks. Dr. Saidman said in an interview that the American Society of Anesthesiologists had set up a committee to address chemical dependence and drug related problems among its members.

"In the past when it was called the Committee on Environmental Health, the primary issue was that of operating room pollution," the ill effects of anesthetic gases released into the room," Dr. Saidman said. "Now most people are changing their focus and feel that the primary environmental hazard to anesthesiologists is not O.R. pollution but alcohol and drug related problems."

Dr. Saidman said he believed the results of his team's survey "significantly underestimates the problem."

"Over the past three years or so, medicine in general and anesthesia in particular have become much more concerned and aware of the magnitude of the issue," he said. "I don't think we were as good at ferreting out the problem in 1970 as we are now. I am sure a lot of people graduated from programs with big time drug problems."

"Only 25 percent of the respondents notified the state licensing authority" regarding the cases, the authors said.

[From the New York Times, Mar. 13, 1987]

DOCTORS SUBMIT TO DRUG TESTS AS ALTERNATIVE TO PENALTIES

(By Ronald Sullivan)

Under a program that began two years ago to help doctors overcome drug abuse, about 100 doctors in New York are submitting to random urine tests for drugs and alcohol.

A similar program in New Jersey, which began about five years ago, has about 50 doctors enrolled, and local programs in Connecticut have about a dozen doctors enrolled. In each state the screening is regarded as an alternative to disciplinary proceedings by state health authorities.

In New York and Connecticut, physicians who refuse to submit to the random tests as part of their rehabilitation are turned in to state health authorities for disciplinary action and license revocation proceedings. New Jersey has no such mandatory provision.

The Medical Society of the State of New York reported yesterday that nearly 100 physicians were being tested several times a month for drugs and more than 130 others among the state's 45,000 practicing physicians were receiving drug and alcohol treatment. The program is part of a cooperative effort by the society and the State Department of Health.

The State Medical Society of New Jersey said yesterday that 360 of the state's 12,000 physicians were undergoing similar treatment and that 50 of them were being randomly tested for cocaine, heroin, amphetamines and other drugs as part of their rehabilitation.

State and local medical societies in Connecticut, which has 5,200 physicians, have similar programs that give doctors the choice of submitting to voluntary treatment and drug testing or being turned in to state health authorities.

Dr. Harris said about half of the doctors referred for treatment in New York were turned in by other doctors. He said about 20 percent of the doctors under treatment turned themselves in, and families and friends accounted for about 15 percent of all referrals.

In most cases, doctors who submit to rehabilitation have their urine tested without prior notice several times a month. Positive tests are grounds for referral to state health authorities for disciplinary proceedings.

The rehabilitation efforts offered by medical societies in the three states are part of a national trend in which state medical boards are dealing more aggressively with the problem of drug and alcohol abuse among doctors, a problem that medical authorities contend has long been underestimated and ignored.

According to medical authorities, New York, New Jersey, Florida and Georgia are among the states with the most aggressive programs.

AXELROD'S OBSERVATION

Four years ago, Dr. David Axelrod, the New York State Health Commissioner, said the problem of drug and alcohol addiction among New York doctors was "overwhelming" and estimated that up to 10 percent of the state's doctors were impaired by drugs or alcohol at one time or another.

Dr. Axelrod's statements were bitterly attacked at the time by the state medical society "as an exercise in overkill."

Yesterday, however, Dr. Barton A. Harris, medical director of the Committee for Physicians Health, which operates the drug rehabilitation program for the state medical society, said general statistics indicated that about 4,000 of the state's 45,000 practicing physicians "were at some stage of chemical dependence" and several hundred more were emotionally or mentally ill.

"We are now more sympathetic to the state's position than we were before," Dr. Harris said.

At a news conference at the New York Hilton marking the opening of the society's annual meeting, Dr. Axelrod referred to his original estimate of the problem and said, "we have come a long way since that confrontation."

MORE PHYSICIANS DISCIPLINED

He described the society's program as "a major effort to restore impaired doctors as fully qualified practicing physicians."

Dr. Axelrod said the number of cases referred to the State Board of Regents for license revocations or other forms of discipline tripled in 1986, increasing to 310 from 114 in 1985.

He said the number of medical licenses revoked or surrendered in 1986 rose to 92 in 1986 from 44 in 1985.

All told, he said there were 2,352 complaints against doctors processed last year and 2,740 investigations completed, compared with 1,699 complaints and 1,300 completed investigations in 1985.

THE OREGON EXPERIENCE WITH IMPAIRED PHYSICIANS ON PROBATION: AN EIGHT-YEAR FOLLOW-UP

(By James H. Shore, MD)

"Sixty-three addicted or impaired physicians who had been on probation with the Oregon Board of Medical Examiners were followed up in a new rehabilitation program for eight years." A majority (59 percent) were still on probation at follow-up, and 75 percent were rated as stable and improved. Problems of addiction affected 78 percent.

"The most successful treatment outcomes were for addicted physicians whose improvement was significantly associated with random urine monitoring to detect repetitive drug abuse." This research confirms an effective treatment approach for addicted or impaired physicians and is compared with other outcome studies.

Effective rehabilitation for the impaired physician has gained increasing attention from state medical societies and licensing boards since 1972, when the American Medical Association (AMA) published its report on "The Sick Physician." Model programs have been developed in many states, including Georgia, California, Colorado, and Oregon, demonstrating different approaches that have followed a consistent treatment philosophy for the rehabilitation of addicted physicians. The programs in these states represent four different models; a regional/national referral program, a statewide diversion program, contingency contracting, and a rehabilitation/research effort by a state board of medical examiners. In addition, the AMA now sponsors a biennial national forum on the impaired physician, attracting broad interest from state medical societies, medical boards, and recovering physicians.

This study represents research on the effectiveness of a rehabilitation program for impaired physicians who have been on probation with the Oregon Board of Medical Examiners. Oregon has a noteworthy tradition of active involvement in issues concerning the impaired physician. In 1963, Blachly et al[2] published an initial article calling attention to the pattern of suicide among physicians. In 1980, Crawshaw et al[3] reported an epidemic of suicide among Oregon physicians on probation. Smith and Steindler[4] participated in the pioneering effort of the AMA to develop the National Impaired Physician Program and emphasized the importance of a comprehensive approach to assessment and treatment of impaired and addicted physicians. In 1982, I[5, 6] reported on a consultation to the Oregon Board of Medical Examiners after a four-year evaluation. Kent Neff, MD, participated actively with the Oregon Board of Medical Examiners and the Oregon Medical Association to develop a monitored treatment program for addicted physicians (written communication, July 11, 1985). In the context of this active tradition, the current research received strong support from the Oregon Board of Medical Examiners, who placed rehabilitation and the evaluation of treatment effectiveness as a high priority for the implementation of their program.

SUBJECTS AND METHODS

This research continued after the initial four-year evaluation[5] While I continued to serve as a psychiatric consultant to the Oregon Board of Medical Examiners. The consultation focused on four areas: (1) ongoing review of treatment plans, (2) identification of treatment resources, (3) continuous feedback to the board concerning the psychiatric implications of specific disciplinary or treatment alternatives, and (4) evaluation of rehabilitation effectiveness. The essential treatment components of the program included rapid and early detection, a comprehensive medical and psychiatric evaluation, required ongoing treatment where appropriate, long-term supervision by the medical board, and active collaboration with the Monitored-Treatment Program of the Oregon Medical Association. An individualized treatment plan was developed for each physician at the initiation of probation.

The research method consisted of a systematic record review of all physicians who were on probation with the Oregon Board of Medical Examiners between 1977 and 1985. This included a total of 63 subjects. I did the outcome ratings in April 1985 for subjects who were or had been on probation from January 1977 through January 1985. The evaluation consisted of 38 items, which included demographic characteristics, educational history, probationary status, type of impairment, history of alcohol and/or drug abuse, treatment history, course of the illness, and outcome. The 38 items were selected because they represented critical issues of professional and clinical status and were consistently available in the data base throughout the records. I systematically reviewed each subject's administrative and clinical records and recorded all related information on a research data form. Physicians were rated as improved in status if they were engaged in their professional activities and showed stable professional and interpersonal relationships. For example, a typical "improved" impaired physician would have returned to a preimpairment level of practice, with substantially greater communication to medical colleagues and the hospital medical board. The spouse would know of the probationer's status and, if appropriate, marital therapy would have been prescribed. These relationships were evaluated through quarterly reports to the Oregon State Board of Medical Examiners by assigned supervisors and by regular interviews of probationers by board members. "Unimproved" was defined as unchanged or worse at the time of the evaluation. Diagnoses of substance-use disorder and psychiatric conditions were assigned by diagnostic criteria of the American Psychiatric Association (DSM-III).

RESULTS

The profile of the impaired physicians is summarized in Table 1. Of the 63 subjects, 59 were men. The mean age at the time of evaluation was 48 years, ten years after time of onset of the addiction or other impairment. The physicians had been on formal probation for an average of six years, with a four-year period after onset to formal probation. They had been graduated from medical school 16 years prior to probation and experienced the onset of their impairment ten years after graduation. Two thirds were married, while 22% had been divorced. Table 1 summarizes the specialties of these impaired physicians, with 50% coming from the fields of family medicine or surgery. The referrals of these impaired physicians (Table 2) were most commonly from hospital administration, medical staffs, or peers. Sixteen percent of the total sample, or 29% of those with nonalcoholic drug dependence, were referred through the Oregon Board of Pharmacy or a pharmacist, indicating a pattern of inappropriate or illegal prescription practice to obtain the drugs of abuse.

Table 3 summarizes probationary status and addiction or psychiatric disorders for these impaired physicians. Thirty-seven (59%) were on probation at the time of the evaluation. Of these, 57% had Drug Enforcement Administration restrictions of their prescription-writing practices. Nineteen percent of the total sample had been on probation since 1977 but were off probation by January 1985. Fourteen subjects (22%) were included with voluntary or "other" probationary status, since their rehabilitation program and follow-up were virtually identical to those of the group on formal probation. Alcohol dependence accounted for 14 (22%) of the 63 subjects, while combined alcohol and other drug dependencies affected ten (16%). Non-alcohol-related, other substance dependence accounted for 40%. Affective, schizophrenic, and organic disorders constituted 22%.

Table 3 also includes the follow-up status of the impaired physicians. Thirty-three (52%) were rated as improved and in their usual job (January 1985), while 21% were improved and in a new job placement. Thirteen percent were rated as unimproved. There were two suicides, two deaths by natural causes, and five subjects whose follow-up status was unknown. By including the unimproved, suicide, and unavailable for follow-up statuses in the unimproved category, the total improvement rate was 46 (75%) of 61 subjects.

The data base provided an opportunity for comparison of the type of impairment, pattern of substance abuse, follow-up status, and other clinical items. The data analysis was conducted with the assistance of a biostatistical consultant. Statistical significance was assessed using the χ^2 test (for 2×2 tables) with a continuity correction. All significance levels presented are two-sided tests. All observed patterns of improvements fit our a priori hypothesis that selected addicted physicians, eg., those monitored (Table 6), would be more likely to show improvement.

Forty-nine of the 63 subjects had an impairment from an alcohol or other drug dependency. Table 4 summarizes the follow-up status and the type of substance abuse, demonstrating that the improvement ratings for alcohol and other drug dependence (excluding ten subjects with combined dependence) were similar at 79% and 72%. Nineteen (49%) of these 39 addicted subjects suffered from at least one documented relapse during their course of treatment. The relapses occurred an average of 22 months after the initial probation. There was not a significant correlation between relapse and the long-term outcome rating. After six years, 57% of subjects with alcohol dependence and 44% of those with other drug dependence had a history of relapse. Subjects with a history of relapse had a lower improvement rate of 71% vs 91%, which was not statistically significant (corrected $\chi^2=1.99$, two-tailed test, $\rho=.16$). The ten subjects with a pattern of polydrug abuse and combined dependence had a similar pattern, with a 90% improvement rate

* * * * *

Among the 49 substance-abuse subjects, 12 were followed up for zero to two years, 29 for two to eight years, and eight for more than eight years. There was no statistically significant relationship between outcome and length of research followup.

As the rehabilitation program of the Oregon Board of Medical Examiners developed, there was an increasing attention to an extended period of monitored outpatient supervision for all addicted physicians who entered probation. In the two years immediately preceding the evaluation, consistently monitored urine specimens were required for all addicted physicians. A program was developed for unpredictable random urine screenings, with specimens collected weekly and tested for a wide range of drugs of abuse. Gradual development of the monitoring allowed a comparison of addicted physicians who had earlier entered the rehabilitation program and had been followed up without the strict requirement of a urine-monitoring program. However, since the monitoring requirement was a recent addition to the treatment of addicted physicians in Oregon, it was not possible to control for length of treatment and monitoring. At the time of the evaluation, 25 subjects had received long-term monitoring and 22 had received none. A comparison of these subjects for follow-up status and monitoring is presented in Table 6. It demonstrates a dramatic improvement rate of 96% for those subjects who had been monitored, compared with a 64% improvement rate for those who had no monitoring (corrected $\gamma^2=5.96$, two-tailed test, $\rho=.01$). For subjects with alcohol dependence, the prescription of disulfiram treatment (eight of 24 subjects) was not significantly correlated with improvement (100% vs 75%; corrected $\chi^2=0.39$, two-tailed test, $\rho=.54$).

COMMENT

This eight-year follow-up opportunity doubled the length of outcome evaluation from an earlier report[5] of a rehabilitation program by the Oregon Board of Medical Examiners. The results demonstrated remarkable consistency with the initial evaluation in 1982 and in comparison with other studies. Forty-nine of the 63 Oregon subjects had an impairment[6] from an alcohol or other drug dependency, with an improvement rating from addicted physicians of 72% to 79%. This positive outcome parallels that of treatment programs from Georgia, California, Colorado, Minnesota, and Wisconsin. However, there may be important differences in the impaired physician groups in various states, since the Oregon study is the only one reporting a cohort of impaired physicians on probation with a state board of medical examiners. Gualtieri et al[7] evaluated the treatment of impaired physicians in California since 1980, following a change in the California law. The California statewide treatment program included a diversion from medical-board discipline into an individualized treatment plan with confidentiality in a multilevel monitoring system. They concluded that, after 2½ years, the impaired physicians were found and treated more quickly when legal restrictions against the physicians' licenses were avoided. Of the 117 physicians participating in the California program, 109 had been able to continue their practice while undergoing treatment. As in the Oregon program, a large percentage (86%) were addicted physicians. Herrington et al[8] have reported a three-year follow-up of 36 addicted physicians with an overall recovery rate of 72%. In this group, 50% experienced a relapse and half of the relapsed group dropped out of treatment. From Georgia's impaired physician program, Gallegos and Norton[9] have reported on 250 physicians with a minimum of two years' follow-up. Seventy-four percent had maintained complete abstinence until the end of the Georgia study.

The Oregon study allowed the evaluation of monitored outpatient supervision by comparing monitored and unmonitored subgroups. While three fourths of all addicted subjects improved, there was a significant difference for the improvement rate for monitored subjects (96%) compared with treated but unmonitored addicted physicians (64%). There is increasing evidence that random urine monitoring during a two- to four-year period is positively correlated with treatment outcome, whether the treatment program is sponsored by a state medical board, medical society, or regional referral program. Reporting on the prognosis of physicians treated for substance abuse at the Mayo Clinic, Morse et al[10] compared 73 physicians with 185 middle-class patients who were similarly treated for alcohol or drug dependence in a hospital-based inpatient program. As in the Oregon program, the treatment was based on a disease concept of addiction, with associated psychiatric and medical disorders being identified and concurrently treated. Eighty-three percent of the physician group vs. 62% of the nonphysician group were noted to have favorable outcomes one year or more after treatment. While Morse et al did not report the percentage of physicians under monitored treatment, this practice is increasingly accepted as routine in the treatment of impaired physicians with an addiction disorder. In addition, Crowley[11] has reported on contingency contracting as a treatment technique that decreases physicians' drug use. In the treatment of 15 drug-abusing physicians, Crowley utilized a consensual written contract that linked recurrent drug abuse to a license-surrendering letter addressed to the state medical board. The annual days of drug use per patient declined from 209 in the year before to fewer than two the year following the contract signing. The combined prescription modal of urine monitoring and contingency contracting has become more widely accepted in the treatment of addicted physicians.

Although represented by small numbers, certain specialties in the field of practice for Oregon physicians may identify risk variables. Physicians in family medicine represented 35% of the impaired physicians, compared with 21% of all of Oregon's MDs in 1980. Ten percent of impaired physicians were psychiatrists, compared with 6% psychiatrists among all of Oregon's physicians. Several of the impaired psychiatrists sought employment in the state hospitals as a part of their rehabilitation and were subsequently identified with psychiatry as a field of practice. Importantly, these physicians all were successfully rehabilitated and had a stable and reliable job performance. The study did not show a higher incidence of addiction among anesthesiologists (5%). However, in a national study, Ward et al[12] reported a survey of drug abuse in anesthesia residency programs between 1970 and 1980 and identified 334 confirmed addicted physicians, including a substantial number of instructors. Thirty of these subjects have died of a drug overdose. They concluded that chemical impairment may be more common than usual in anesthesia, in part because of drug availability.

While this report preponderantly concerns addiction of impaired physicians, 22% were impaired by a psychiatric disorder of an effective, schizophrenic, or organic type. Although the improvement rates were higher among addicted physicians (78% vs 57%), it is important to note that eight of the 14 impaired physicians with a major mental illness also improved. The prognosis for those suffering from an affective disorder was especially positive.

Crawshaw and colleagues[3] had reported an earlier epidemic of suicide among physicians placed on probation by the Oregon Board of Medical Examiners. The suicide group included six physicians who took their own lives in Oregon during 1976 and 1977, prior to the implementation of the current rehabilitation program of the Oregon board. Among this group, 83% had a history of addiction, with a high correlation of interpersonal and family alienation. All six physicians had a prior diagnosed psychiatric illness. Only two suicides occurred among Oregon physicians on probation in the eight-year follow-up since 1977. While Murphy[13] cautioned against extrapolating a high suicide rate for impaired physicians based on a small cohort of physicians, the study of epidemic physician suicides called national attention to the problem and led to increased organization sponsorship of programs for impaired physicians, including the joint AMA-American Psychiatric Association physician mortality study. Smith and Steindler[4] have emphasized the importance of a comprehensive evaluation when assessing impaired physicians to ensure the reliable identification of complex multiple problems and psychiatric illness when they exist in association with a pattern of addiction.

TABLE 1.—PROFILE OF IMPAIRED PHYSICIANS

Characteristic	Number	Percent [1]
Number of subjects	63	
Sex:		
Male	59	
Female	4	
Age, y (range):		
Average at evaluation (31–67)	48	
At onset (16–59)	38	
Average time interval, y (range):		
Since onset (7 mo–27 y)	10	
From probation (2 mo–26 y)	6	
Onset to probation (0–18 y)	4	
Graduation to probation	16	
Graduation to onset	10	
Marital status:		
Married/remarried	40	64
Divorced	14	22
Single	7	11
Separated/widowed	2	3
Field of practice: [2]		
Family medicine	22	35 (21)
Surgery	10	16 (23)
Medicine	8	10 (15)
Psychiatry	6	10 (6)
Obstetrics/gynecology	2	5 (6)
Anesthesiology	3	5 (4)
Emergency medicine	2	3 (3)
Pediatrics	1	2 (6)
Others	10	16 (16)

[1] Numbers were rounded to the nearest percentage; total percentage may not equal 100 percent.

[2] Numbers in parentheses indicate all Oregon MDs, 1980.

TABLE 2.—REFERRAL SOURCES OF IMPAIRED PHYSICIANS

Source	Number	Percent
Hospital administration and staff	22	35
Peers	16	25
Pharmacy	10	16
Law enforcement	7	11
Family	3	5
Treatment physician	3	5
Oregon Medical Association	1	2
Self	1	2

TABLE 3.—CHARACTERISTICS OF IMPAIRED PHYSICIANS

Characteristic	Number	Percent
Probationary status:		
Probation (currently)	37	59
Drug Enforcement Administration restrictions	21/37	
Probation (in past)	12	19
Voluntary probation	8	13
Other probationary status	6	10
Diagnosis:		
Alcohol dependence	14	22
Combined dependence	10	16
Other substance dependence	25	40
Affective, schizophrenic, organic, or other disorder	14	22
Follow up status:		
Improved, usual job	33	52
Improved, new job	13	21
Unimproved	8	13
Deceased, suicide	2	3
Deceased, natural	2	3
Unknown	5	8
Improved, combined	46/61	75

TABLE 4.—FOLLOWUP STATUS AND TYPE OF SUBSTANCE ABUSE [1]

Type of abuse	Status			
	Improved		Unimproved	
	Number	Percent	Number	Percent
Alcohol abuse (n=14)	11	79	3	21
Other drugs (n=25)	18	72	7	26

[1] Corrected $X^2=0.005$, two-tailed test, P=.94.

TABLE 5.—LENGTH OF FOLLOWUP AND OUTCOME FOR SUBSTANCE ABUSERS [1]

Length of followup, y	Number of abusers	Outcome			
		Improved		Unimproved	
		Number	Percent	Number	Percent
0–2	12	10	83	2	17
2–0	20	23	70	0	21
8+	8	5	63	3	37

[1] Corrected $x^2=1.32$ two-tailed test, P>.25.

TABLE 6.—FOLLOWUP STATUS AND MONITORING FOR SUBSTANCE ABUSE [1]

Type of treatment	Status			
	Improved		Unimproved	
	Number	Percent	Number	Percent
Monitored	24	96	1	4
Unmonitored	14	64	8	36

[1] Corrected $x^2=5.96$, two-tailed test, P=.014.

It is possible that the current program of the Oregon Board of Medical Examiners is unique and that it is not appropriate to generalize this model to other states. In a letter to the *New England Journal of Medicine* in response to Feinstein's report[14] on "The Ethics of Professional Regulations," Ulwelling[15] pointed out that Oregon's disciplinary action rate of 12 per 1000 gave Oregon the highest rate of disciplinary actions. The Feinstein report demonstrated that there is a wide variation among disciplinary action rates, which range from zero to 12 per 1000 licensed physicians. Certainly, in Oregon the active investigation process also identified impaired physicians and, because of the board's enlightened treatment approach, led to physician rehabilitation. Georgia's impaired physician program reported that 33% of the 675 physicians in that study either had lost their state license or would have their state license revoked if they did not enter treatment. Other states, such as California, have developed a system that diverts all treatment of the impaired physician away from medical-board discipline.

The positive outcome associated with contingency contracting, urine monitoring, and a medically oriented addiction treatment philosophy in both voluntary and required programs is encouraging. The Oregon outcome for the rehabilitation of addicted and impaired physicians after an eight-year probationary follow-up is additional confirmation. While episodes of relapse were common among both alcololic and drug-addicted subjects, the relapse pattern in Oregon, contrasted to those described in some other reports, was not statistically associated with a poorer prognosis. Three of four physicians from the Oregon program showed a significant improvement and a stable status and were in practice at the time of the follow-up evaluation.

I wish to acknowledge the Oregon Board of Medical Examiners and John Ulwelling, executive director, for their strong commitment to rehabilitation of the impaired physician and to an open evaluation of their program. He also thanks William Vollmer, PhD, for biostatistical consultation and Elaine Steffen for manuscript preparation.

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NONMEDICAL DRUG USE PATTERNS AMONG MEDICAL STUDENTS

(By William Paul Kory,[1] and Lee A. Crandall[2])

ABSTRACT

Interrelationships in the use of nonmedical drug use and tobacco use are explored based on self-reports by 165 medical students at an average-sized southeastern medical school. Lifetime and current use of drugs among these students appears consistent with earlier studies. Several background and demographic characteristics are correlated with drug use; higher rates of use are found among males, older students, and students who frequently miss classes. No correlation is observed between drug use and class standing, sibling position, social relationships, or family drug use patterns. Tobacco use was found to be low among these medical students but was highly correlated with nonmedical drug use. Drug use patterns appear to have developed in high school and college, and to persist, albeit at a diminished rate, during medical school. The findings provide little support for the belief that marijuana or cocaine use substitutes for alcohol use; higher consumption of virtually any recreational drug is predictive of higher use of other recreational drugs.

Over the past two decades a substantial number of researchers have examined nonmedical drug use among American medical students. The majority of these studies, which are summarized in Table 1, have focused on description of lifetime and/or current drug use and have demonstrated great variability in definition, research design, response rate, and types of drugs studied. Few of these studies dealt comprehensively with the issue of medical student drug use. For example, of the 12 studies of drug use reviewed, only three dealt with alcohol use. Nine provided information on marijuana use while six dealt with hallucinogens, six studied amphetamines or other stimulants, and only one reported data on use of cocaine. Furthermore, the interrelationships among use patterns of the various drugs have not been well documented, and only a few of these studies have attempted to obtain information on life problems associated with recreational use (Mechanick et al., 1973; Thomas, Luber, and Smith, 1977).

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Early recognition of drug problems may help to prevent the morbidity and mortality associated with physician impairment. Thus, one purpose of the present study was to gather information on patterns of drug use and drug problems which may be precursors of impairment during later stages of the physician's career. While only a longitudinal study can provide definitive data on future impairment, the present study does examine the relationship between students' background and the type and number of substances used, and in addition provides an update on drug use by medical students which may reflect the changing popularity of recreational drugs.

METHODS

Data were collected by mailing an anonymous questionnaire to all medical students in an average-sized southeastern medical school during spring 1980. Two follow-up mailings were used to increase the response rate. While mailed surveys notoriously produce lower response rates than face-to-face interviews, the issue of recreational drug use is one which is highly sensitive and where a lack of absolute anonymity may produce misleading findings, especially with regard to current use (Leutgert and Armstrong, 1973; Smith and Nacer, 1977). Surveys presented to captive populations such as students in classroom settings often must forego collection of demographic data in order to avoid inadvertent identification of respondents based on age, sex, race, etc. Furthermore, the present study raised questions about acts which were illegal (e.g., cocaine use) and/or might invoke administrative sanctions (e.g., working on the wards while under the influence of drugs). As a consequence, the authors employed a mailed survey in order to allow full treatment of items dealing with behaviors and demographic data without compromising the study's validity or the students' anonymity. Nevertheless, underreporting of controversial and illegal acts seems likely in social research. The estimates reported here thus seem more likely to underestimate drug use by medical students than to overestimate this behavior.

TABLE I.—DRUG USE AMONG MEDICAL STUDENTS: PUBLISHED REPORT

Authors (publication year)	Study year	Technique	Sample population	Recreational drugs studied [1]	Major findings	Limitations of study
Smith and Blachly (1966)	1964	Anonymous questionnaire—mailed return.	All students in one medical school (70%) response.	AMP	Greatest initial use during freshman year. 44% lifetime use.	Failed to distinguish recreational from medically prescribed use. Single institution.
Blaine, Lieberman, and Hirsh (1968)	1966	Anonymous questionnaire—mixed mailed return and on-site completion.	All students in one medical school (response rate varied from 34% to 100% by class year).	AMP, ETOH, TRANQ, BARB, MAR, HAL, OPIAT.	Frequent recourse to drugs to alleviate somatic complaints. Amphetamines used as adjunct to studying. Trend to increased marijuana use among youngers students. No evidence of dependence on opiates, codeine, barbituarates, amphetamines.	Single institution.
Solursh, Weinstock, Saunders, and Ungerleider (1971).	?	Anonymous questionnaire—distributed and completed on site.	All students in one U.S. (Calif.) and one Canadian (Ont.) medical school.	MAR, ETOH, TOB	U.S. students more familiar with cannabis. U.S. students more permissive than Canadian students regarding use by patients and legalization.	Single institution in each country.
Lipp, Benson, and Taintor (1971); also Lipp, Tinklenberg, Benson, Melges, Taintor, and Peterson (1972).	1970	Anonymous questionnaire—mailed.	All students in four "widely separated" U.S. medical schools.	MAR	Slightly over half of respondents reported lifetime use. Geographic differences exceeded those due to age, sex, or marital status. Current use ranged from 6 percent to 44 percent (average of 4 schools was 30 percent).	Study purposes were descriptive, thus, no correlations with respondents' characteristics are reported.
Slaby, Lieb, and Schwarts (1972)	1970	Confidential questionnaire—mailed.	All medical and law students attending Yale University.	MAR, HAL, AMP	Medical student use: MAR, 68 percent, HAL (LSD), 9.5 percent; MAP, 7.0 percent. Inverse relationship of religiousity to drug use.	Low response rates raise issues of representativeness. Single institution.
Polakoff and Lowinger (1972)	1969	Mixture of questionnaires distributed at national conferences and at a large urban medical school.	Mixture: volunteers at convention and freshman/sophomores at one medical school.	MAR, HAL, COC, OPIAT	47 percent "had exposure to drugs not intended for medical uses". Of 325 respondents, number using drugs was: MAR, 81 percent; AMP, 31 percent; HAL, 16 percent; "hard drugs" (cocaine, opium, heroin), 6 percent.	Convenience sample combined with institutional sample.
Grotheer (1973)	?	Questionnaire—distributed to first and second-year students for onsite completion; mailed to other students.	All medical students in one midwestern medical school.	MAR	Higher lifetime use among underclassmen. Current use highest among junior class. Of 81 current MAR smokers, 62 did not currently smoke (tobacco) cigarettes.	Single institution Questionnaire limited to 15 questions.
Mechanick, Mintz, Gallagher, Lapid, rubin, and good (1973).	1970, 1972	Anonymous questionnaire—mailed with stamped return envelope.	All medical students at the University of Pennsylvania.	MAR, HAL, AMP, BARB	Lifetime drug use increased between 1970 and 1972. 1972 lifetime MAR use 70 percent. Current MAR use declined slightly from 1970 to 1972. Cannabis use and positive attitudes toward it are fading.	Single institution. Short time period for meaningful longitudinal research.
Thomas, Luber and Smith (1977)	?	Anonymous questionnaire—distributed in classroom situations.	Students from all classes in a midwestern medical school.	ETOH, MAR, AMP, HAL, TRANQ, BARB, TOB.	40 percent of seniors were TOB smokers. 95 percent of respondents drank ETOH. 10 percent drank "in a concerning manner". 53 percent lifetime MAR. 14% lifetime AMP. Significant relationship between TOB use and use of ETOH, TRANQ. Significant relationships between familial use of ETOH and student use. ETOH use positively related to use of other substances. Higher familial income correlated with higher use of most drugs.	Single institution. Population and sampling methods not clearly described. Relatively low response rate (35%).

TABLE I.—DRUG USE AMONG MEDICAL STUDENTS: PUBLISHED REPORT—Continued

Authors (publication year)	Study year	Technique	Sample population	Recreational drugs studied [1]	Major findings	Limitations of study
Rochford, Grants, and LaVinge (1977)	?	Administered questionnaire	134 freshman medical students.	MAR, HAL, AMP	No significant differences between MAR users and nonusers on any of six neuropsychological tests. Lifetime use: ETOH, 94 percent, MAR, 72 percent HAL or AMP, 24 percent NARC, 7 percent, TOB, 37 percent. MAR users consume significantly more ETOH on a weekly basis than naive subjects. Positive correlation of family income and use of MAR..	Representativeness of students not specified. Apparently single institution.
Rosenberg, Orkin, and Springstead (1979)	?	Distributed anonymous questionnaire.	"Medical and dental students at a nearby university".	ANES (N_2O)	"Depending on class year, N_2O has been used in a social setting by 8.5 percent to as many as 20 percent of students". No significant difference in use of rates between medical and dental students.	Response rate unspecified ("high"). Single institution.

[1] AMP, amphetamines; ANES, nitrous oxide (N_2O), other anesthetics; BARB, barbiturates; COC, cocaine; ETOH, ethyl alcohol; HAL, LSD, mescaline, other hallucinogens; MAR, marijuana, hashish, other cannibinoids; NARC, narcotics; OPIAT, heroin, opium, other opiates; TOB, cigarettes, other tobacco products; TRANQ, tranquilizers.

Of the approximately 450 students registered at the time of the survey, 165 (37%) completed and returned our questionnaire. No significant differences were found among responses from each of the three mailings. While the rate of response was relatively low, demographic data suggest that the respondents are representative of the student body with two exceptions. Females, who represented approximately 24% of the student body at the time of the study, comprised 28.6% of respondents. Respondents also were likely to report that they were in the middle third (40%) or upper third (53%) of their class rather than the lower third. It is unclear whether this finding represents a skew of respondents toward better students or simply an overestimation of class standing by respondents. When findings from our study were compared with a study conducted in a classroom setting in the same medical school, results were amazingly similar despite that study's participation rate of 77% (Gravenstein, Kory, and Marks, 1983). Our study showed a lifetime use rate of marijuana of 76% versus 75% for the classroom study and a lifetime use rate of 31% for cocaine versus 38% for the classroom study. Thus, comparisons with demographic characteristics of the student body and comparisons with a classroom study (for which demographic data were unknown) suggest that data from our study represent the students and their drug use quite accurately.

FINDINGS

Table 2 shows the educational level at which medical students first used each of 10 drugs recreationally and the lifetime prevalence of use of each drug. Alcohol appeared to be widely used and to have been used first while students were in high school. Similarly over 75% of respondents had sampled marijuana, and 37.6% reported initial use as high school students. Other types of drugs used recreationally at some time by more than 10% of respondents included hallucinogens, cocaine, amphetamines, tranquilizers, and hypnotics. Most drugs appeared to have been initially used prior to entry into medical school, if at all. Only marijuana, cocaine, tranquilizers, and hypnotics were reported by a substantial number of students as being first used for recreational purposes in medical school.

TABLE 2.—EDUCATIONAL LEVEL AT TIME OF INITIAL RECREATIONAL USE AND LIFETIME PREVALENCE OF USE OF 10 RECREATIONAL DRUGS

	Percent, by educational level at time of first use			Lifetime prevalence (percent)
	High school	College	Medical school	
Alcohol	73.9	20.6	0.6	95.1
Marijuana	37.6	29.7	8.5	75.8
Cocaine	4.2	17.6	9.1	30.9
Tranquilizers	7.3	6.7	6.1	20.1
Hypnotics	6.1	9.7	4.8	20.6
Amphetamines	7.3	15.8	1.8	24.9
Hallucinogens	11.5	7.3	.0	18.8
Barbiturates	6.1	3.0	.6	9.7
Opiates	2.4	4.8	1.2	8.4
Anesthetics	1.8	6.7	.6	9.1

Table 3 provides a clearer picture of the current use of drugs (i.e., monthly or more frequent use) among these medical students. Only two substances were reported to be used on a daily basis (marijuana and alcohol), and this frequency of current use was reported by only a few students. Nearly 90% of respondents reported current use of alcohol, and a majority reported use on at least a weekly basis. The only drug currently used recreationally by a large portion of students was marijuana. However, over half of respondents reported that they were not current users; this included 40% who reported that they never used it.

TABLE 3.—ANNUAL USE AND CURRENT USE OF 10 RECREATIONAL DRUGS WHILE IN MEDICAL SCHOOL

	Percent reporting various frequencies of use					Total current use (percent)
	No use	Annual use	Current use [1]			
			Monthly use	Weekly use	Daily use	
Alcohol	5.5	6.7	31.1	52.4	4.3	87.8
Marijuana	40.0	16.4	21.8	13.4	8.5	43.6
Cocaine	76.4	13.9	9.1	.6	.0	9.7
Tranquilizers	79.9	7.3	6.7	6.1	.0	12.8
Hypnotics	90.3	6.1	3.6	.0	.0	3.6
Amphetamines	92.7	5.5	.6	1.2	.0	1.8
Hallucinogens	93.3	6.1	.6	.0	.0	.6
Barbiturates	97.6	1.2	1.2	.0	.0	1.2
Opiates	97.6	1.8	.6	.0	.0	.6
Anesthetics	98.2	1.2	.6	.0	.0	.6

[1] Current use as defined by the National Survey on Drug Abuse (Fishburne, Abelson, and Cisin, 1980).

Cocaine use was reported by nearly one fourth of respondents, but its frequency of use appeared low as only 10% of respondents reported use on a monthly or more frequent basis. Tranquilizers were the only other drug class which was reported by any substantial number of students as the subject of weekly or monthly recreational use. This drug is subject to more confusion regarding self-treatment and medically appropriate use versus recreational use than is the case for alcohol, marijuana, or cocaine. Thus its frequency may have been overreported.

These findings appear consistent with a number of other studies of recreational drug use by college students and health professions students cited earlier in this paper. The major purpose of the present research, however, is not to describe medical student drug use, but to investigate relationships between background characteristics of medical students and their recreational drug use and abuse, and to examine the interrelationships among use patterns of these drugs.

Table 4 shows that several background and demographic characteristics of medical students were correlated with an overall index of their drug use. These included: sex, with males reporting substantially more drug use; age, with older students reporting somewhat greater drug use; and class, with juniors and seniors reporting greater drug use than freshmen and sophomores. Drug use was also associated with a decrease in class standing and decreased class attendance. In contrast to a number of other studies, we found few significant correlations (only one of eight examined) between students' current use of drugs and measures of family drug use (i.e., mother's, father's, or sibling's abuse of drugs or seeking help for drug use). However, the number of students reporting substantial parental or sibling impairment was quite small.

TABLE 4.—CORRELATION BETWEEN BACKGROUND AND DEMOGRAPHIC CHARACTERISTICS OF MEDICAL STUDENTS AND OVERALL INDEX OF DRUG USE

Characteristic	Correlation coefficient	*p* [1]
Sex	[2].23	<.01
Age	[3].16	<.05
Sibling position	[2]—.01	NS
Class year	[2].14	<.05
Class standing	[2]—.05	NS
Frequency of class attendance	[2]—.16	<.03
Number of social relationships	[2]—.05	NS
Mother's function impaired by drugs	[2]—.01	NS
Father's function impaired by drugs	[2]—.02	NS
Older sibling's function impaired by drugs	[2]—.05	NS
Younger sibling's function impaired by drugs	[2]—.07	NS
Mother has sought help for drug problem	[2].03	NS
Father has sought help for drug problem	[2].03	NS
Older sibling has sought help for drug problem	[2].11	<.05
Younger sibling has sought help for drug problem	[2].05	NS

[1] NS, not statistically significant.

[2] Kendall's tau B.

[3] Pearson's ***R***.

Drug use during medical school clearly is not a phenomenon which is isolated from earlier behavior. Those medical students who reported early initial use of virtually any of the drugs surveyed also reported a greater variety and frequency of drug use in medical school. Similarly, a high frequency of use during college of most of the drugs surveyed was correlated with more frequent current drug use as medical students. Most students reported that their drug use had not increased during medical school. One-third (32.9 percent) of students reported that their level of drug use had decreased during medical school, while over half (51.6 percent) reported no change in their use of drugs during medical school. Most of those who did report an increase during medical school were very low users of drugs during their undergraduate years.

Drug use may have had some adverse impact on medical students' performance. One of every eight respondents (12.1 percent) reported that he/she was under the influence of a recreational drug at some time while present on the wards. Similarly, 15.3 percent of medical students reported that they believed that drugs had caused some level of impairment of their function at some time. The types of impairment reported included damaged social relations, missed classes, and lowered grades. Approximately half of those who perceived impairment reported that this had occurred during medical school with alcohol or marijuana, the most frequent causal agent.

The issue of polydrug use, which has been widely discussed in the literature, was addressed by correlating the students' current frequency of use of each of the 10 drugs with a numerical index which summarized use of the other nine drugs. Each of the 10 drugs was strongly positively related to the index score for use of the other drugs (Table 5). In addition, an examination of all possible intercorrelations among measures of use of these 10 drugs showed that 38 of the 46 possible correlation coefficients were statistically significant. These findings suggest that the 10 drugs were not used as substitutes for one another, but rather that use of any of these substances was part of a larger pattern of substance use which was consistent and appeared to encompass most recreational drugs. The use of alcohol, marijuana, and cocaine appeared to be particularly strongly associated with the use of other drugs. This no doubt reflects the fact that use of all three of these recreational drugs may be simultaneously discouraged or encouraged by one's peer group, depending on the nature of that group, and the likelihood that social settings in which one of these drugs is used will also encompass use of other drugs.

TABLE 5.—MEDICAL STUDENTS' USE OF 10 COMMON DRUGS BY INDEX OF USE OF NINE OTHER DRUGS

	Kendall tau B	p
Alcohol by Index 1 [1]	.43	<.0001
Cocaine by Index 2	.49	<.0001
Marijuana by Index 3	.61	<.0001
Hallucinogens by Index 4	.29	<.0001
Ampthetamines by Index 5	.29	<.0001
Barbiturates by Index 6	.21	<.001
Tranquilizers by Index 7	.34	<.001
Opiates by Index 8	.20	<.01
Hypnotics by Index 9	.33	<.0001
Anesthetics by Index 10	.17	<.01

[1] Index 1=use of all drugs in table 5 except alcohol; Index 2=use of all drugs in table 4 except cocaine; etc.

This paper has so far ignored the issue of tobacco use. This drug was used by some of the medical students, although its use was surprisingly low. Only 23 (13.9%) of the respondents reported any tobacco use; and of these only six reported daily use, while five reported weekly use, six reported monthy use, and six reported having used tobacco only on a yearly basis while medical students. National data for 1979 show that 37.1% of males and 33% of females in the 20-24 age group were current smokers (Fishburne, Abelson, and Cisin, 1980). Those medical students who reported more frequent use of tobacco, and those who began smoking earlier, appeared to use a wider variety and higher frequency of recreational drugs and reported more problems associated with drug use. For example, 78% of respondents reporting any tobacco use also reported use of alcohol or marijuana on at least a monthly basis. Among non-smokers only 19% reported such use. Table 6 shows the results when a trichotomous index of recreational drug use (which excludes tobacco use) is cross-tabulated with current use of tobacco. Nearly two-thirds of current tobacco users are in the highest category of recreational drug use, while only one-fourth of nonusers of tobacco fall in this category. The lowest category of recreational drug use, which represents an extremely conservative use of drugs, includes only 12% of current tobacco users by 30% of nonusers.

TABLE 6.—TRICHOTOMOUS INDEX OF CURRENT RECREATIONAL DRUG USE BY CURRENT TOBACCO USE

[In percent]

Current tobacco use	Index of current recreational drug use		
	Extremely low	Low	Moderate or more
No	30	44	26
Yes	12	23	65

Note.—Kendall's tau B=.22; p <.01.

DISCUSSION

The lifetime use of drugs, except for tobacco, by medical students responding to this survey was very similar to the pattern seen in the National Survey on Drug Use for young adults collected in 1979 (Fishburne, Abelson, and Cisin, 1980). Current use, defined in the National Survey as use of a drug in the month prior to information collection, was also remarkably similar.

One of the major purposes of this study was to examine the interrelationships among use patterns of recreational drugs. The findings provide little support for beliefs that marijuana and cocaine serve as substitutes for alcohol. Indeed, higher frequency of consumption of virtually any recreational drug appears to be predictive of higher consumption of other recreational drugs.

The use of tobacco and its relationship to other drugs was especially striking. Daily use of tobacco among medical students was markedly lower than use among age peers. It appears that medical students, who regularly observe patients suffering from smoking-related illnesses, refrain from habitual use of this substance. Moreover, those medical students who were regular tobacco users were much more likely to be substantial users of recreational drugs. This suggests that tobacco use may reflect a general pattern of hedonism in drug use or may indicate the existence of certain physicians with a predisposing personality more susceptible to drug dependency, especially in this population where the dangers of tobacco are widely appreciated.

From the intercorrelations of drug use seen in this study, one may postulate that a changing pattern may emerge for drug abuse. The availability of marijuana, cocaine, and other illicit agents may not significantly increase the total population of physician drug abusers. Rather the broader spectrum of drugs used suggests that polydrug abuse, already a common pattern seen in physician addicts, may become a greater segment of the problem. Still, the predominant drug of use and abuse remains alcohol.

Conversely, one may infer that the reported polydrug use by medical students is not a serious problem since our research suggests that: (1) The number at risk remains relatively constant throughout medical school, (2) these medical students report relatively little impairment at present, and (3) drug use appears to be largely recreational and sporadic rather than habitual. Nevertheless, the recreational drug use patterns of these students appear to include a substantially broader array of drugs than was believed to be the case among their predecessors of two decades ago. The reported incidence of illicit drug use among medical students may not portend a serious problem ahead with physician drug abuse when the present group of medical students enters the medical profession. Nevertheless, the long-range impact of these new drug patterns on physician impairment and on physicians' understanding and treatment of drug abuse merits further attention.

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Mr. DECONCINI. I believe that they show convincingly that there is a serious drug and alcohol abuse problem in the medical care profession. There is one set of study results that I want to briefly share with the Senate this morning.

The results of a study appearing in the Journal of the American Medical Association conducted by Dr. James H. Shore on drug impaired or addicted physicians in Oregon, showed that problems of addiction affected 78 percent of the test group and that the most successful treatment outcomes were for addicted doctors whose improvement was significantly associated with random urine monitoring to detect repetitive drug abuse.

In short, Mr. President, there are special problems of impairment of medical care personnel due to drug and alcohol abuse, resulting in workers who are unable to practice medicine with reasonable skill and safety. The President's drug testing program and the DeConcini amendment will allow the VA to make sure that impaired medical workers are identified, rehabilitated and, if necessary, prevented from caring for veterans.

Finally, Mr. President, random drug testing is winning the battles in Federal courts and, I believe, will ultimately pass constitutional muster. I continue to believe that a well-structured, carefully conceived random drug testing program makes sense both in the private sector and in the Federal Government for public health and safety positions and other sensitive jobs. Hopefully the Senate will approve this amendment I have offered on behalf of my other colleagues and allow all of us to turn our attention away from the divisive issue of whether drug testing should or should not go forward, and toward how we can make it an effective, fair tool for eliminating drug abuse in the workplace.

Mr. President, there are other Senators who wish to speak on this issue so I will close with a quote from Dr. David Axelrod, New York State Commission of Health, in discussing a program for impaired medical doctors—a program that includes drug testing:

> We want to assure that those who have gone through a long, arduous education; who have prepared themselves for the care of patients, can continue to function and to provide care to members of our society. At the same time, we want to make absolutely certain that those who are providing care are not impaired by drugs, by mental illness, or by abuse of alcohol. (Medical Tribune, June 14, 1987)

Those are exactly the assurances that the President, the American people, and this Senator want to give to the beneficiaries of the Veterans' Administration. Section 333 of the committee bill will not give those assurances. The DeConcini amendment will. I hope that my colleagues will support this amendment and put the VA on the same playing field as all other Federal agencies in our bipartisan effort to rid the Federal workplace from drugs.

In closing, I would remind my colleagues that on October 29 the Senate overwhelmingly endorsed an amendment offered by Senator DANFORTH that would essentially approve random drug testing for transportation personnel. The vote was 83 to 7 in support of that amendment. If this body supports random drug testing for truck drivers, pilots, and other "public safety" workers, how can we say that medical care workers at the Veterans' Administration should be exempt from random testing? The answer hopefully will be obvious and you will support the DeConcini amendment.

I also ask unanimous consent that a Washington Post editorial dated August 5 supporting my position; a package of correspondence on the DeConcini amendment from the administration; an outline of the VA drug testing plan; and an article in the August 4 Washington Post on this matter, be printed in the RECORD.

I urge the adoption of my amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 5, 1987]

EVIDENTLY THE VA IS DIFFERENT

Some members of the Senate Veterans' Affairs Committee reminded us, this week, of those folks who are all for halfway houses or racially integrated schools so long as they're in someone else's neighborhood. These legislators have raised no objections to the president's proposal for drug testing of federal job applicants and more than a million other workers in "sensitive positions" in the government. But when it comes to employees of the Veterans' Administration, all bets are off. Some workers are just more equal than others.

This week the committee added to a veterans' compensation bill language that would bar tests of VA employees except in cases where officials have a reasonable suspicion that an employee is using illegal drugs, has been involved in an accident or is in a rehabilitation program. This is good policy. But this standard should apply to the whole government, not just to one favored agency. Sponsors of the amendment correctly pointed out that random tests given to ordinary civilian workers about whom there is no suspicion whatever are a waste of money. They are also an invasion of privacy and a blow to the morale of the federal work force.

In June, Rep. Steny Hoyer persuaded the House to adopt an amendment to the supplemental appropriations bill that would have applied these limited testing standards to all civilian workers. But that amendment was not passed by the Senate. Instead, eight out of 11 members of the Vererans' Committee voted for alternative language that was far less effective. The compromise finally adopted allows random testing but only after guidelines and cost estimates have been developed. Not one of the Veterans' Committee members tried on the floor to substitute the Hoyer amendment. It is no wonder that Sen. Dennis DeConcini, who favors broad testing and who helped to devise the appropriations compromise, was flabbergasted when some of his more conservative colleagues on the Veterans' Committee supported the Hoyer standards for the VA.

For some on the Veterans' Committee this week's vote was no surprise. They have consistently opposed broad testing and apparently decided that it was better to attack the president's proposal piecemeal and in a forum where they had some clout. But those who are willing to carve out exceptions only for their friends are leaving themselves open to charges of hypocrisy. If drug testing without probable cause is objectionable in the VA, it shouldn't be imposed on job applicants at the Interior Department, trade experts at Commerce or nurses at NIH.

NATIONAL DRUG POLICY BOARD,
Washington, DC, October 14, 1987.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DECONCINI: As you know, at the Executive Session of the Committee on Veterans' Affairs on July 31, Senators Cranston and Murkowski sponsored, and the Committee voted to adopt, an amendment to S. 9 that virtually would prohibit the Veterans Administration from conducting any program to test its employees for the illegal use of drugs. Such drug-testing programs throughout the Executive Branch are required by Executive Order 12564 and, after protracted and sensitive negotiations between the Administration and the Congress, now operate in accordance with the carefully-crafted compromise on this issue that is codified in Public Law 100-71. As you so appropriately pointed out at the Committee's July 31 meeting, the Committee's amendment violates both the letter and the spirit of the compromise agreement that we negotiated on behalf of the Administration. We write to ask you to support a move to delete the anti-drug-testing provision of S. 9 when the bill is considered in the full Senate.

In his letter to Senator Cranston dated August 6, 1987, Veterans Administration Administrator Thomas K. Turnage declared that his agency is "implacably opposed to any legislative language that would exempt the VA from fully implementing the President's Drug-Free Workplace Program." On behalf of the rest of the Administration, we join General Turnage in expressing the same implacable opposition. When we participated in the negotiations that led to the enactment of the drug-testing provisions of Public-Law 100-71, it was the understanding of all of the parties to these negotiations that the compromise plan for drug-testing on which we agreed would be binding throughout the Executive Branch.

We cannot allow the compromise agreement on drug-testing that we reached with the Congress to be vitiated, in piecemeal fashion, by anti-drug-testing provisions such as the one that now is included in S. 9. Accordingly, by separate letters we have notified Senators Cranston and Murkowski that we will urge the Senate to seek a rollcall vote on the issue when it considers S. 9. Furthermore, if the Committee's amendment or any other anti-drug-testing provision is included in any legislation relating to the Veterans Administration, or to any other Executive Branch agency, enacted by the Congress in the closing months of this session, we may be compelled to recommend to the President that his approval of such legislation should be withheld.

On behalf of the President, we thank you for your support in the Veterans' Affairs Committee and look forward to working with you when this vital issue is considered on the Senate floor.

Sincerely yours,

JAMES C. MILLER
Director,
Office of Management and Budget.
EDWIN MEESE III,
Attorney General
Chairman, National Drug Policy Board.
CONSTANCE J. HORNER,
Director, Office of Personnel Management.

DRUGS IN THE WORKPLACE—DRUG ABUSE POLICY OFFICE

Employee drug use costs society nearly $100 billion in lost productivity each year and poses a grave threat to public health and safety as well as national security.

There are currently 23-25 million Americans who use illegal drugs on a regular basis. In a national study, drug users reported missing one or more days of work in the past month because of illness or injury 50% more frequently than did nonusers. Marijuana and cocaine users "skipped work" two to three times as often as nonusers because they "didn't want to be there."

In the military, implementation of a no-drug policy which includes urine screening resulted in a two-thirds decline in the number of drug users over a 5-year period.

Currently, over one-third of the Fortune 500 companies have some form of drug testing program; it is expected that over half will have implemented a testing program by the end of the year.

The cost of drug testing has decreased with volume and experience. The average cost of a drug test can be expected to approximate $15 per person.

The President has determined that the Federal workplace should be a model for eliminating drug abuse from the workplace.

On September 15, 1986, the President signed Executive Order 12564 proposing reforms in the federal workplace that will improve the health, safety and productivity of Federal workers. The Executive Order directed the head of each Executive agency to increase drug abuse awareness, identify and rehabilitate drug users, and improve the quality and accessibility of treatment services for employees.

Legal decisions have supported the President's Executive Order (see Department of Justice paper).

VA IMPLEMENTATION OF THE PRESIDENT'S DRUG-FREE WORK PLACE PROGRAM

The VA, and its beneficiaries, fully support the goal of achieving a drug-free workplace.

One aspect of the Drug-Free Workplace Program—random testing—has been criticized. However, numerous court rulings have affirmed the constitutionality of such testing. Further, the Congress has enacted legislation (§ 503 of Public Law 100-71) which approves such testing.

VA will only test employees who occupy sensitive positions on a random basis. Once the program is implemented, the VA will include all new employees in the test pool. The VA may test all applicants.

The Administrator will determine which VA positions are sensitive. The Congress will be apprised of each position which is deemed to be sensitive.

Approximately 135,000 VA employees (or approx. 60% of the VA work force) have been tentatively determined to occupy sensitive positions. Almost 90% of these employees (approx. 120,000) are direct providers of medical services (e.g. physicians, RN's, LPN's, Nursing Aides, etc.) in the VA health care system—the largest such system in the nation.

Cost constraints preclude the testing of all sensitive employees on a regular basis. Efficiency, therefore, dictates that only some sensitive employees be tested. (Congress will be apprised of estimated annual costs prior to implementation). Fairness requires an impartial method of identifying those to be tested—e.g., random computer selection.

The illegal use of drugs is incompatible with Federal service. Health care providers, who are directly responsible for the health, safety, and welfare of VA patients, must be free of illegal drug use. Drug testing based solely on "reasonable suspicion," accident investigation, and rehabilitation follow-up will not assure that VA beneficiaries are protected from dangers associated with illegal drug use.

Employees who voluntarily seek rehabilitation will be provided a "safe harbor" from disciplinary action.

Employees for whom confirmatory testing demonstrates the recent use of drugs will be provided an opportunity to present medical justification on a confidential basis. If illegal drug use is verified, such employees will be offered rehabilitation.

Drug test results will be subject to the protections of the Privacy Act and, in addition, to the protections set forth in § 503 of Public Law 100-71. Additional protections will apply to information concerning rehabilitation.

JUDICIAL REVIEW OF DRUG TESTING

Drug testing has withstood every single federal appeals court challenge. In fact, federal appeals courts for the Third, Fifth, Seventh, Eighth and District of Columbia Circuits have held that testing of public employees without individualized suspicion is constitutional.

Moreover, the Supreme Court has twice let stand lower court decision by denying the discretionary writ of certiorari. Even more significant, the Supreme court *unanimously* vacated a Ninth Circuit injunction that would have halted the Federal Railway Administration's post accident testing program.

On June 1, 1987, in *NTEU* v. *von Raab*, the Supreme Court voted 8 to 1—with only Justice Brennan dissenting—to deny NTEU's request to halt Customs mandatory drug testing program. This case received media attention when a Louisiana District Court stopped the Customs Service's program of drug testing of applicants for sensitive positions. The 5th Circuit reversed and vacated that injunction.

Mandatory testing without individualized suspicion has been upheld by appeals courts for the following job classifications: employees who have access to classified information, employees who carry firearms, and employees who are involved in law enforcement (CA 5); bus drivers (CA 7); prison guards (CA 8); military personnel (DC) and race jockeys (CA 3).

On September 4, 1987, the U.S. District Court, District of Columbia denied an AFGE motion to temporarily enjoin the Department of Transportation's random drug testing program. More significantly, on September 30, 1987, that same court denied AFGE's motion for a preliminary injunction and held that DOT's random drug testing program is constitutional.

Although some earlier district court decisions were not favorable, particularly where municipalities failed to develop written standards for their drug testing program, more recent cases have since upheld drug testing in contexts involving nuclear power plant operators, helicopter mechanics, and air traffic controllers. Of those earlier district court decisions, none has been upheld on appeal and two have been overturned.

OFFICE OF THE
ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, August 6, 1987.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On Friday, July 31, 1987, the Senate Committee on Veterans' Affairs, in a markup session on S. 9 and other bills, approved a provision which would prohibit the Veterans Administration (VA) from conducting any program of testing VA employees for the illegal use of drugs, as directed by Executive Order 12564 and as authorized by Public Law 100-71, except in three limited circumstances. Press reports have appeared which state that the VA did not oppose the Committee's action when it was taken, and which appear to suggest that the VA had an opportunity to express its views on the subject, but elected not to do so. We take this opportunity to clarify the record.

The VA is implacably opposed to any legislative language which would exempt the VA from fully implementing the President's Drug-Free Workplace Program. As you know, the Congress recently enacted a supplemental appropriations act, Public Law 100-71, which further modified the implementation of the President's program as set forth in Executive Order 12564. It was our understanding that these compromise modifications, achieved after extensive negotiation within the Congress and agreed to by the Administration, would be operative for the foreseeable future. Had the VA been given an opportunity to present its views to the Committee, we would have expressed our support for the supplemental appropriations compromise, and our strong opposition to any provision—including the one adopted by the Committee—which is inconsistent with its terms.

Since we were not afforded such an opportunity, and because we so strongly oppose the anti-drug testing provision of S. 9 as ordered reported by the Committee, we strongly urge that this Committee amendment be deleted from S. 9.

The Office of Management and Budget advises that enactment of the provision discussed in this letter would not be in accord with the program of the President.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

OFFICE OF PERSONNEL MANAGEMENT,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC.

Hon. DENNIS DECONCINI,
Chairman, Senate Committee on Appropriations, Subcommittee on Treasury, Postal Service, and General Government, Washington, DC.

DEAR SENATOR DECONCINI: As your staff has requested, here is a brief discussion of the protections afforded Federal employees under Executive Order 12564, on a Drug-Free Federal Workplace and the guidelines issued by both the Department of Health and Human Services and the Office of Personnel Management on the implementation of that Executive Order. We understand that Senator Cranston has offered legislation that would limit the ability of the Veterans' Administration to test its medical personnel for illegal drug use. Your staff has indicated that the following information, in conjunction with their analysis of the recently enacted legislation on this issue, might prove helpful to you as you consider Senator Cranston's bill.

The Executive Order and the guidelines on implementation do not restrict, remove, or otherwise change the procedural or appellate rights afforded Federal employees under the Civil Service Reform Act of 1978. Federal employees enjoy a considerable array of procedural and appellate protections that remain unaffected by the President's initiative.

All provisions of law regarding the taking of disciplinary action against Federal employees remain undisturbed. An agency may take a disciplinary action against an employee only "for such cause as will promote the efficiency of the service." 5 U.S.C. § 7513(a). Employees against whom disciplinary action is proposed are entitled to at least thirty days advance written notice of the proposed disciplinary action (5 U.S.C. § 7513(b)(1)), to a reasonable time to answer orally and in writing (5 U.S.C. § 7513(b)(2)), to be represented by an attorney or other representative (5 U.S.C. § 7513(b)(3)), and to a written decision and the specific reasons therefor (5 U.S.C. § 7513(b)(3)). Further, employees against whom a disciplinary action is taken are entitled to appeal to the Merit Systems Protection Board under 5 U.S.C. § 7701. 5 U.S.C. § 7513(d). These procedural and appellate rights are statutorily mandated and have not been changed in any way. In addition, employees who are members of a bargaining unit under 5 U.S.C. § 7121(e) have the option of choosing the statutory appeals procedure or the negotiated grievance procedure which can lead to binding arbitration if invoked by the union.

In addition to the above administrative appeal and grievance rights, the Civil Service Reform Act included a right to judicial review in the United States Court of Appeals. 5 U.S.C. §§ 7703 and 7123. It is important to note that constitutional issues, like those that have been raised concerning the drug testing program, may be brought, even for the first time, at the judicial review stage. *See, e.g. Brown* v. *Department of Transportation, FAA,* 735 F.2d 543, 548 (Fed. Cir. 1984); *Fiorello* v. *Bureau of Prisons,* 795 F.2d 1544 (Fed. Cir. 1985); *Beard* v. *General Services Administration,* 801 F.2d 1318, 1321 (Fed. Cir. 1986).

The Executive Order and guidelines do not change the established quantum of proof in Federal employee misconduct cases involving drug use. That quantum of proofs is, as with any other disciplinary action taken under the provisions of 5 U.S.C. Chapter 75, that the agency establish that the misconduct occurred, that there is a nexus between the misconduct and the efficiency of the service, and that the penalty selected by the agency is appropriate.

Indeed, the Merit Systems Protection Board itself has recently reiterated the applicability of these statutory provisions and proof requirements with regard to adverse actions involving off-duty illegal drug use in *Kruger* v. *Department of Justice,* 32 M.S.P.R. 71 (1987). Therein, the Board ruled that a Bureau of Prisons corrections officer could be disciplined for off-duty marijuana use and that the agency had met its procedural obligations under the above-referenced statutes. Nothing in the Executive Order or the guidelines amends or otherwise modifies the legal requirements noted above facing agencies as they take disciplinary action for illegal drug use. Existing statute and case law precedent will continue to be applied to cases involving illegal drug use on or off duty by Federal employees.

In addition, both the Executive Order and the guidelines incorporate protections for employee privacy and confidentiality. Those provisions stress the need for agencies to conduct their programs in a manner consistent with existing statutory and regulatory requirements, including those mandated by the Privacy Act. In particular, individual test results may not be released, except under very specific and limited circumstances, without the written consent of the employee involved. Further, the Department of Health and Human Services guidelines include extensive chain of custody procedures and quality control measures. They also include provision for a Medical Review Official who will ensure that the drug test result is accurate and is the result of knowing use of an illegal drug. In addition, he or she will ensure the confidentiality of any other medical information that may be obtained during the course of his review of the facts and circumstances surrounding the positive drug test result.

Please feel free to contact us if you need anything further. Thank you for the opportunity to express our views on this very important matter.

Sincerely yours,

HUGH HEWITT,
General Counsel.

NATIONAL DRUG POLICY BOARD,
Washington, DC.

MEMORANDUM

To: All Executive Branch Agency Heads.

From: Edwin Meese III, Attorney General, Chairman, National Drug Policy Board; James C. Miller III, Director, Office of Management and Budget; Constance J. Horner, Director, Office of Personnel Management.

Re: Anti-Drug-Testing Legislation.

At the Executive Session of the Committee on Veterans' Affairs on July 31, the Committee voted to adopt an amendment to S. 9, the Service-Disabled Veterans Benefits Improvement Act of 1987, that virtually would prohibit the Veterans Administration from conducting any program to test its employees for the illegal use of drugs. As you know, such drug-testing programs throughout the Executive Branch are required by Executive Order 12564 and, after protracted and sensitive negotiations between the Administration and the Congress, now operate in accordance with the carefully-crafted compromise on this issue that is codified in Public Law 100-71. The Committee's amendment violates both the letter and the spirit of the compromise agreement that we negotiated on behalf of the Administration.

In his August 6, 1987 letter to the Veterans' Committee Chairman, Senator Cranston, Veterans Administration Administrator Thomas K. Turnage declared that his agency is "implacably opposed to any legislative language which would exempt the VA from fully implementing the President's Drug-Free Workplace Program." On behalf of the rest of the Administration, we join General Turnage in expressing the same implaceable opposition. When we participated in the negotiations that led to the enactment of the drug-testing provisions of Public Law 100-71, it was the understanding of all of the parties to these negotiations that the compromise plan for drug-testing provisions on which we agreed would be binding throughout the Executive Branch.

We cannot allow the compromise agreement on drug-testing that we reached with the Congress to be vitiated, in piecemeal fashion, by anti-drug-testing provisions such as the one that now is included in S. 9. Accordingly, we have notified appropriate Senators that we will urge them to seek a roll call vote on the deletion of the anti-drug-testing provision of S. 9 when the bill is considered in the full Senate. Furthermore, we have advised these Senators that if any anti-drug-testing provision that violates the compromise agreement embodied in Public Law 100-71 is included in any legislation relating to the Veterans Administration, or to any other Executive Branch agency, enacted by the Congress in the closing months of this session, we may be compelled to recommend to the President that his approval of such legislation should be withheld.

We write both to advise you of these developments and to ask your cooperation in advising us promptly if you learn of any similar effort to attach anti-drug-testing language to authorization or appropriations legislation relating to your agency.

Thank you in advance for your assistance in defending the President's drug-testing program.

NATIONAL DRUG POLICY BOARD,
Washington, DC, October 14, 1987.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: As you will recall, at the Executive Session of the Committee on Veterans' Affairs on July 31, you and Senator Murkowski offered, and the Committee voted to adopt, an amendment to S. 9 that virtually would prohibit the Veterans' Administration from conducting any program to test its employees for the illegal use of drugs. Such drug-testing programs throughout the Executive Branch are required by Executive Order 12564 and, after protracted and sensitive negotiations between the Administration and the Congress, now operate in accordance with the carefully-crafted compromise on this issue that is codified in Public Law 100-71. As your colleague, Senator DeConcini, pointed out at the Committee's July 31 meeting, the Committee's amendment violates both the letter and the spirit of the compromise agreement that we negotiated on behalf of the Administration.

In his letter to you dated August 6, 1987, Veterans Administration Administrator Thomas K. Turnage declared that his agency is "implacably opposed to any legislative language that would exempt the VA from fully implementing the President's Drug-Free Workplace Program." On behalf of the rest of the Administration, we join General Turnage in expressing the same implacable opposition. When we participated in the negotiations that led to the enactment of the drug-testing provisions of Public Law 100-71, it was the understanding of all of the parties to these negotiations that the compromise plan for drug-testing on which we agreed would be binding throughout the Executive Branch.

We cannot allow the compromise agreement on drug-testing that we reached with the Congress to be vitiated, in piecemeal fashion, by anti-drug-testing provisions such as the one that now is included in S. 9. Accordingly, we will urge the Senate to seek a roll call vote on the issue when it considers S. 9. Furthermore, if your amendment, or any other, anti-drug-testing provision is included in any legislation relating to the Veterans Administration, or to any other Executive Branch agency, enacted by the Congress in the closing months of this session, we may be compelled to recommend to the President that his approval of such legislation should be withheld.

Sincerely yours,

JAMES C. MILLER,
Director, Office of Management and Budget.
EDWIN MESSE III,
Attorney General, Chairman, National Drug Policy Board.
CONSTANCE J. HORNER,
Director, Office of Personnel Management.

NATIONAL DRUG POLICY BOARD,
Washington, DC, October 14, 1987.
Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DECONCINI: As you know, at the Executive Session of the Committee on Veterans' Affairs on July 31, Senators Cranston and Murkowski sponsored, and the Committee voted to adopt, an amendment to S. 9 that virtually would prohibit the Veterans Administration from conducting any program to test its employees for the illegal use of drugs. Such drug-testing programs throughout the Executive Branch are required by Executive Order 12564 and, after protracted and sensitive negotiations between the Administration and the Congress, now operate in accordance with the carefully-crafted compromise on this issue that is codified in Public Law 100-71. As you so appropriately pointed out at the Committee's July 31 meeting, the Committee's amendment violates both the letter and the spirit of the compromise agreement that we negotiated on behalf of the Administration. We write to ask you to support a move to delete the anti-drug-testing provision of S. 9 when the bill is considered in the full Senate.

In his letter to Senator Cranston dated August 6, 1987, Veterans Administration Administrator Thomas K. Turnage declared that his agency is "implacably opposed to any legislative language that would exempt the VA from fully implementing the President's Drug-Free Workplace Program." On behalf of the rest of the Administration, we join General Turnage in expressing the same implacable opposition. When we participated in the negotiations that led to the enactment of the drug-testing provisions of Public Law 100-71, it was the understanding of all of the parties to these negotiations that the compromise plan for drug-testing on which we agreed would be binding throughout the Executive Branch.

We cannot allow the compromise agreement on drug-testing that we reached with the Congress to be vitiated, in piecemeal fashion, by anti-drug-testing provisions such as the one that now is included in S. 9. Accordingly, by separate letters we have notified Senators Cranston and Murkowski that we will urge the Senate to seek a roll call vote on the issue when it considers S. 9. Furthermore, if the Committee's amendment or any other anti-drug-testing provision is included in any legislation relating to the Veterans Administration, or to any other Executive Branch agency, enacted by the Congress in the closing months of this session, we may be compelled to recommend to the President that his approval of such legislation should be withheld.

On behalf of the President, we thank you for your support in the Veterans' Affairs Committee and look forward to working with you when this vital issue is considered on the Senate floor.

Sincerely yours,

JAMES C. MILLER,
Director, Office of Management and Budget.
EDWIN MEESE III,
Attorney General, Chairman, National Drug Policy Board.
CONSTANCE J. HORNER,
Director, Office of Personnel Management.

VA DRUG-FREE WORKPLACE PROGRAM—BRIEFING

KEY FEATURES OF VA DRUG-FREE WORKPLACE PROGRAM

A. Policy Statement.

B. Employee Assistance Program, including Employee Awareness.

C. Supervisory Training Program.

D. Self-referrals for Assistance.

E. Drug Testing.

DRUG-TESTING COMPONENTS

Employees to be tested:

Reasonable suspicion cases. Documented reasons. Approved by higher level official.

Accident or incident investigations. Documented as part of investigation.

Follow-up for rehabilitation. Coordinate with Employee Assistance Program.

Sensitive positions (following criteria established in Executive Order). Random basis—controlled by computer selection. Approximately 135,000 employees covered. Categories of positions covered:

1. Health care treatment team—such as Physicians, Nurses, LPNs, Nursing Assistants, Pharmacists, Therapists, Technicians, Psychologists, and Social Workers.

2. Safety and law enforcement—such as Police Officers, Criminal Investigators, Safety Inspectors and Engineers, Firefighters.

3. Key management officials—such as Facility Directors, Associate and Assistant Directors, Service and Division Chiefs, Cemetery Directors, District Counsel, and Contract Administrators.

4. Computer Specialists, with access to sensitive data, financial program systems and with major system control responsibilities.

5. Technical employees, who operate major systems, heavy equipment or motor vehicles, such as Air Conditioning Operator, Boiler Plant Operators, Drivers, Electronics Mechanics, Medical Equipment Repairers.

Applicants tentatively selected for employment. Random, controlled basis. Approximately 65,000 hires per annum.

Drugs to be tested: Marijuana, Opiates, Cocaine, Amphetamines, and PCP.

DRUG TESTING PROCEDURES

Random selection by computer.

Scheduling notification controlled by Director or one designee.

Specimen collected and chain of custody established by qualified VA laboratory personnel.

Privacy, no direct observation, generally.

Analyses by Navy specialized laboratory.

Results to Medical Review Officer at each Medical Center.

Referral of verified results only to responsible management official and EAP coordinator.

PROGRAM PROTECTIONS FOR EMPLOYEES

HHS guidelines with quality assurance in collection, testing and records.

Confirmatory positive testing, using different techniques.

Medical Review Officer verification of results.

Employee assistance provided.

Confidentiality of records.

Full procedural rights, including appeals, for any disciplinary actions.

CHIEF OF NAVAL OPERATIONS,
September 16, 1987.
Hon. THOMAS K. TURNAGE,
Administrator, Veterans' Administration,
Washington, DC.

DEAR MR. TURNAGE: Your recent request that the Navy conduct urinalysis drug testing of approximately 10,000 specimens is approved.

A Memorandum of Understanding should be executed with Commander, Naval Military Personnel Command to cover transfer of funds for salaries, supplies, legal support and other administrative services. I anticipate the cost being about $15 per sample, but this may vary depending on actual testing requirements.

We look forward to continuing our close working relationship with the Veterans' Administration.

Sincerely,

C.A.H. TROST,
Admiral, U.S. Navy.

NATIONAL DRUG POLICY BOARD,
Washington, DC, November 16, 1987.
Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: On October 14, 1987, we wrote to you and other Members of the Senate Veterans' Affairs Committee expressing the Administration's implacable opposition to a provision in the Committee-reported version of S. 9 which would virtually prohibit the Veterans Administration from conducting any program to test its employees for the illegal use of drugs. In our letter, we urged you to support a move to delete the anti-drug testing provision when the bill is considered by the full Senate.

We now understand that you will be leading a bi-partisan effort to strike the provision. We commend you and your colleagues for taking this step and strongly endorse your amendment.

After protracted and sensitive negotiations between the Administration and Congress, agreement was reached on how the Executive Branch should implement the important drug-testing program. The Administration is now operating in accordance with the carefully crafted compromise that is codified in Public Law 100-71. It was the understanding of all of the parties to the negotiations that the agreement would be binding throughout the Executive Branch. The Veterans' Affairs Committee action to exempt that VA from the drug testing program violates both the letter and the spirit of the compromise agreement.

In his letter to Senator Cranston dated August 6, 1987, Veterans Administration Administrator Thomas K. Turnage declared that his agency is "implacably opposed to any legislative language that would exempt the VA from fully implementing the President's Drug-Free Workplace Program." As you stated in your November 4, 1987 Dear Colleague letter, there is growing evidence of drug abuse among medical care professionals and it is important that VA medical care personnel be drug-free and unimpaired in providing health care to our nation's veterans.

If the Committee's amendment or any other anti-drug testing provision is included in any legislation relating to the VA, or to any other Executive Branch agency, we may be compelled to recommend to the President that his approval of such legislation be withheld.

Sincerely yours,

James C. Miller III, Director, Office of Management and Budget; Edwin Meese III, Attorney General, Chairman, National Drug Policy Board; Constance J. Horner, Director, Office of Personnel Management.

[From the Washington Post, Aug. 4, 1987]

PRESIDENTIAL PLAN FOR DRUG TESTING OF FEDERAL WORKERS SUFFERS SETBACK

(By Bill McAllister)

The Senate Veterans' Affairs Committee has rejected the administration's plan for drug testing of nearly 194,000 Veterans Administration employees, an action that a senator said undercuts a presidential plan for testing federal workers in sensitive jobs.

Although the committee vote is subject to action by the full Senate, Sen. Dennis DeConcini (D-Ariz.), who last June worked out a compromise drug-testing plan with the administration, was furious yesterday that the administration failed to fight the move and expressed doubt that he would lead a fight to overturn it on the floor.

"I feel a little betrayed," DeConcini said. "They didn't do anything for me.

"I want to reassess how much of their water I want to carry," he said, describing the action as "the worst" possible setback to the testing plan.

The senator said he knew of no other agency that Congress is moving to exempt from the president's Sept. 15 executive order.

A Justice Department official, speaking for the administration, noted last night that the measure "is at odds with the agreement" the administration reached with the Congress earlier this summer over drug testing and said the administration expected the provision would be dropped when it is brought before the Senate. The spokesman had no comment on DeConcini's anger at the lack of Republican support in the committee.

A VA spokesman confirmed that the agency did not take a position on the issue when it came before the Senate committee Friday.

The panel's 8-to-3 vote came after Sen. Alan Cranston (D-Calif.) complained that the Reagan plan for annual testing would cost the VA "at least $3 million" and would accomplish little.

Cranston, chairman of the panel, was joined by Sen. Frank H. Murkowski (R-Alaska), the committee's ranking minority member, in sponsoring a provision blocking the testing in a veterans compensation bill.

"We believe that it has not been demonstrated that a mass-drug-testing program of VA health-care employes is necessary or would be cost effective as a means to reduce drug use among such employes," said Cranston. "There is no evidence I am aware of to suggest that VA health personnel generally have any particular drug abuse problems."

DeConcini attempted to strike that provision but he could muster only the votes of two Democrats, Sens. George J. Mitchell of Maine and John D. Rockefeller IV of West Virginia. The opposition included some of the Senate's leading Republican conservatives, Sens. Strom Thurmond of South Carolina and Alan K. Simpson of Wyoming, and surprised DeConcini, who earlier this summer pushed for a compromise package on federal worker drug testing that was signed into law by the president.

The language approved by the committee Friday would effectively bar the VA, one of the first agencies moving to implement the testing plan, from conducting any random tests. It would allow individual tests in cases in which officials have "reasonable suspicion" that an employe may be using illicit drugs, was involved in an accident or was in a rehabilitation program.

VA spokesman John Scholzen said the agency, which employs about 220,000 workers at its 172 hospitals and medical facilities, had determined that almost 200,000 of them could be subject to testing under the Reagan plan. It called for testing of employes in "sensitive" positions and specifically called for testing public health workers.

Congress delayed implementation of the president's plan for most agencies earlier this summer until the Department of Health and Human Services could develop technical guidelines for the testing. Entities that had begun testing, such as the military and the Department of Transportation, were allowed to continue their tests.

Scholzen said the VA was awaiting guidelines before moving ahead with its testing.

A spokesman for Rep. Steny H. Hoyer (D-Md.), who has opposed all testing of federal workers as unconstitutional, said Hoyer would support the VA ban in the House. Earlier this summer, Hoyer won a House vote supporting his position but, faced with Senate opposition, joined with DeConcini in reaching a compromise with the administration that requires the HHS guidelines before most testing can proceed.

Mr. KERRY assumed the chair.

Mr. CRANSTON. Mr. President, I strongly oppose the amendment of my good friend from Arizona [Mr. DECONCINI] to strike section 333 of the committee bill. The committee's provision would permit the VA to conduct a program of testing VA employees for the use of illegal drugs, as defined under Executive Order 12564, only in three specified circumstances applicable to individual employees, namely, first, when there is a reasonable suspicion that an employee uses illegal drugs; second, in an examination authorized by the VA regarding an accident or unsafe practice, which in the provision of health care would be defined to be an unsafe practice that has resulted or could reasonably be expected to result in an adverse patient outcome; or third, as part of or in follow-up to counseling or rehabilitation for illegal drug use through an employee assistance program. In effect, we are allowing testing to proceed in these specified circumstances but prohibiting mandatory random drug testing.

This provision was supported by the Veterans' Affairs Committee by a vote of 8 to 3, including all five committee Republicans, because we believe that a wide-scale random drug testing program is neither appropriate nor cost effective for the VA health-care system. As Senator THURMOND stated very succinctly in committee markup, "I believe that a reasonable suspicion standard, as set forth in the committee print, is an appropriate standard for employees of the VA." And, as Senator MURKOWSKI said, "I must seriously question the usefulness of using limited VA medical resources for the purpose of mandatory drug testing."

Mr. President, random drug testing is a deceptively simplistic solution to the problem of substance abuse in VA facilities. It would divert scarce resources from direct patient-care services and more effective education and prevention programs. The committee provision allows for testing in situations where there is reason to believe that an individual is using drugs which impair his or her ability to get the job done. That should be our primary concern, not forcing thousands of dedicated workers to take a drug test to prove their innocence.

THE SUPPLEMENTAL APPROPRIATIONS ACT

Mr. President, it was not the committee's intent either to undermine the administration's efforts to implement random testing in other agencies or to undermine congressional efforts, in enacting section 503 of the fiscal year 1987 Supplemental Appropriations Act (Public Law 100-71), to ensure that all testing, random or otherwise, is properly conducted. The Senate has already made clear its view on the appropriations of mandatory testing in certain situations, such as in the Department of Transportation and the Department of Defense. Although I did not personally support these two testing programs, there is, never the less, a significant difference in requiring drug testing throughout an entire industry, such as for all safety-related transportation workers—who are responsible for the safety of large numbers of travelers on planes, trains, buses, and our highways and among certain categories of whom a drug abuse problem has been documented—on the one hand, and signaling out VA health care professionals within the entire health care industry, on the other.

Mr. President, as I said during the committee markup, I support the safeguards and requirements outlined in section 503 of the Supplemental Appropriations Act. They are excellent, and I congratulate Senators DeConcini, Domenici, and Mikulski and Representative Hoyer for their outstanding efforts in developing them. They will help ensure that drug testing of Federal employees is conducted properly and that employees have a degree of protection against improper use of the test particularly in those situations where a random drug testing program has been deemed to be necessary and appropriate. The question here is whether subjecting 135,000 VA employees to random testing, as the administration plans, is necessary and appropriate.

I do not agree with the Senator from Arizona [Mr. DeConcini] or the Attorney General that, by passing section 503 of the supplemental, the Senate or the Congress in any way endorsed mandatory testing in any and all circumstances in which the President or any particular agency chooses to impose it. Let's lay that argument to rest. Section 503 deals exclusively with testing procedures and guidelines; it does not require that random drug testing occur at all. It lays out how it is to be done—if it is done.

Any assertion that section 503 constituted some type of agreement between the Congress and the administration on matters that the provision did not resolve—or even seek to resolve—is totally without foundation.

As the chairman of the authorizing committee with jurisdiction over the VA, I believe that our committee and the Senate have the responsibility to speak to the issue of drug testing in the VA and to the effect it could have on that agency's performing of its statutory missions. I have not relinquished, nor should any Senator believe that he or she has relinquished, that responsibility.

Mr. President, what we are debating here is whether a random-testing program is in fact in the best interest of veterans not how it would be conducted, which was addressed so thoroughly and well in section 503.

DRUG TESTING IN THE VA

Based on the VA's preliminary random testing plan, $2 million would be diverted from direct patient care in the first year to test randomly 10,000 VA employees—100,000 over 4 years—most all of whom would be VA health care workers. By 1991, 40,000 employees would be tested annually at an annual cost estimated by the VA to be $2.5 million. However, I believe that this is a gross underestimate of the true costs. A recent article entitled "Drug Testing in the Workplace—Are Methods Legally Defensible?," in the July 24, 1987, issue of the Journal of the American Medical Association, reported that, although the military estimates that the cost per sample for the same two-procedure method that the VA would use is about $20, the total cost for the military's Drug Testing Program, including sample collection, legal procedures, and administrative costs, comes to almost $100 per sample—five times more. This would mean that the $10 million 4-year costs would be increased many times—to at least $40 million. And these funds would be diverted from already short VA direct patient care funds.

Moreover, I believe we should be as concerned about the use and abuse of legal drugs on the job, such as alcohol, as we are about illegal drugs. The random testing program planned by the executive branch would focus efforts solely on drug abuse and would not contribute anything toward curbing alcohol abuse.

IMPACT OF DRUG TESTING ON RECRUITMENT AND RETENTION

Mr. President, certainly, we must take every reasonable step to ensure that the judgment and competence of VA employees who make life and death decisions must not be clouded or impaired because of drug use. To my knowledge and this is confirmed by the veterans' service organizations who strongly support section 333, there has been no demonstration that drug abuse amount VA health care personnel has posed problems for VA patient care. On the other hand, there is great potential that such a program would drive physicians, nurses, pharmacists, and certain other health care personnel—already in severe shortage in the VA—out of the VA system and thus impair the quality and availability of health care for veterans.

Salary and benefit differentials already give community and teaching hospitals a competitive advantage over VA medical centers. Individuals who choose to work at the VA are committed to caring for our Nation's veterans. If we now subject these dedicated health professionals to mandatory random drug testing, we would likely create very serious morale problems and we would likely force out many of our best people.

Few private sector hospitals randomly test their employees. In fact, according to the California Association of Hospitals and Health Systems [CAHHS], there is no random testing program in any hospital in California. One hospital in Los Angeles—the Estelle Doheny Eye Institute—attempted to implement such a program, and the Superior Court for the County of Los Angeles issued a permanent injunction against implementation of that program on the grounds that it violated the California constitution, which contains an explicit right to privacy. I would add that nine other States have similar constitutional privacy protections—Alaska, Arizona, Florida, Hawaii, Illinois, Louisiana, Montana, South Carolina, and Washington. Moreover, State law in Rhode Island, Iowa, and Vermont specifically prohibits random drug testing.

Mr. President, employees should not be presumed guilty until they can prove their innocence. Programs that encourage deception and that breed a lack of respect between employer and employee are antithetical to producing a service or a product—whether it be health care or refrigerators. In the health care area especially, employee morale is crucial to the effectiveness of the services being provided.

Mr. President, there are limits as to what the Federal Government can force its employees to do as a condition of continued employment. Oliver Wendell Holmes had the notion that Government can impose any condition on employment, but that idea has long since been rejected. The line between job-related conduct and individual privacy in terms, for example, of the employee's lawful use of medications or the wide range of physical conditions detectable through a urine test should be breached by the Government only when there is a very good job-related reason to do so. It is that proposition that section 333 is designed to uphold as written.

It should be the Government's goal to extend the heavy hand of "Big Brother" only as far as is absolutely necessary in our society.

CONCLUSION

Finally, Mr. President, I believe that this issue raises the question of what kind of society we want, and what kind of example the Federal Government should be setting as an employer in our society. I am as concerned as President Reagan that all reasonable steps should be taken to provide for a workplace—and, indeed, a society—free of the effects of all substance abuse. But at what cost?

Individual freedom and privacy are highly cherished by American citizens. Random drug testing, which is very clearly an assault on individual privacy, is contrary to a society that values minimal government intrusion into our personal lives. I urge all Senators to examine very carefully whether the dubious benefits of a massive mandatory random drug testing program warrant that intrusion.

The proposal here is an insult to 135,000 dedicated and, up to now, trusted VA employees.

The Senate should support the prudent, sensible approach taken by the Veterans' Affairs Committee in an 8-to-3 vote.

I urge my colleagues to support the committee provision in section 333 of the bill and oppose the DeConcini amendment to strike it.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have not been present so I do not know the parliamentary situation. Are there any time constraints? I do not want to close anyone out.

The PRESIDING OFFICER. There are no time constraints.

Mr. DOMENICI. I am most grateful to the distinguished ranking member for letting me speak now. We are in appropriations markup and I will just take a few moments. I am a cosponsor of the DeConcini amendment and I think the Senate should understand the entire picture as it considers this matter.

It was not too long ago that across this land there was a hue and cry for the Federal Government and other employers in America to do what they could to stop the terrible ailment in our society that comes from drug use. America was up in arms. We wanted a war on drugs. The President of the United States, in responding to that hue and cry, said: "Let the Federal Government set the standard. Let us get out front and do things in a reasonable way with random testing so that we can say to all others in America: The Federal Government is doing its share."

The President's executive order to establish a drug-free Federal workplace was challenged in the supplemental appropriations bill last year and much debate, much deliberation, and I must say a great deal of negotiating occurred. We then adopted a law of the land with reference to all of the agencies of the Federal Government, including the Veterans' Administration. That particular random drug testing program was adopted overwhelmingly in the supplemental appropriations bill last year. As a matter of fact, I do not remember the exact numbers but the U.S. House of Representatives, which has been very concerned about abuses, about the lack of criteria and standards, about, perhaps, the constitutionality of some onerous approach to drug testing, adopted the supplemental—which included the language that is now set in place as the law of the land on drug testing—for all departments and agencies, with only 77 "no" votes. The issue was debated.

The U.S. Senate adopted it overwhelmingly in the Supplemental Appropriations Act. It could have been amended here on the floor. But we decided that the Appropriations Committee and the administration had come up with a good overall compromise.

As a matter of fact, Mr. President, parts of that program have already been challenged. That program, which is modified by law, which does not exempt the Veterans' Administration nor does it make it subject to any more onerous testing than any other department, has already been tested in the Federal court system as to certain aspects of its constitutionality. To this point, it has been held valid.

We are not here passing judgment on that.

Let me say to the Senators we are talking about should we spend $2 or $3 billion at most to assure a drug-free work-force at the VA? I do not want to cast any aspersions on the magnificent employees of the VA, but it is a little-known fact that there are a number of malpractice suits occurring against the Veterans' Administration. As a matter of fact, last year alone, settlements were in the neighborhood of $34 million. I do not know if any of those were the result of drug use on the part of those who run our marvelous hospitals, and no aspersion is being cast on the overwhelming number of VA employees, professional and otherwise. It is just a reality that when you have 135,000 critical employees, from doctors to nurses and all the others, indeed, Mr. President, it should come as no shock that some of them may be involved in this terrible ailment of drug use which affects their work and affects the products of their services for our people.

Mr. President, we have already adopted and put in place a procedure whereby the Secretary of HHS is the clearinghouse for all departments. No agencies may proceed to test until that process is complete, except for two which were found to be urgent and they had to do with transportation and nuclear safety. All the other departments have to submit their detailed plans to the Secretary of HHS. Whatever preliminary plans the VA has are inoperative. They must submit them for approval by the HHS Secretary.

That same law has set up mandatory criteria for the testing, mandatory standards with reference to the laboratories and, yes, Mr. President, providing for the absolute protection of the employees in the Federal Government with reference to keeping these matters clearly confidential.

Mr. President, I ask, why, with the law in place, with the mechanism operating through all of the bureaucracy, most accepting it and working on the process, do we come along today and say let us do something separate, special, distinct for the VA? Is there some indication about that law which we adopted overwhelmingly, compromised with the President of the United States on—they gave and we gave, and it is already in place—that we now today, because we have a veterans bill, going to readdress the issue with some kind of specific attention that frankly I do not understand why we need? There is nothing wrong with the law that is in place. All the protection in the world is there. It is not an abusive statute. It is not an insulting statute. All the rest of the Federal Government is under it. For those who want to challenge it, they can challenge this one, the one that is going to be proposed by the Veterans' Committee.

We cannot prohibit people from taking their civil rights to court, but, Mr. President, I submit that there is no need for this. We ought to get on with letting the Veterans' Administration in due course implement its program under the President's executive order, as modified by existing substantive law. It is already there. It is the law. Why do we need to change it?

I was also told 10 minutes ago that the administration feels very strongly on this issue. They worked diligently with the Appropriations Committees for well over a month last year on the supplemental and they feel we have in place an overall program that meets the requirements of the Congress and the test of reasonableness both as to cost and effectiveness. They have indicated that if we here today as part of the veterans' bill seek to change the drug testing for the VA and treat them differently, or put them on a pilot program for 1 year, that the bill indeed would be subject to a veto just on that score because the President feels so strongly that we have already gotten the job done. We completed our work and it is in place.

I do not think the good people, those who are concerned about the care and treatment of our veterans in the many hospitals and clinics across America, ought to be worried. The law is going to protect everyone. We are not doing this because we are picking on anyone. We are saying let them all be subject to a reasonable random testing approach so that we can determine whether or not there is excessive drug use within the professionals, within those who work in the veterans' hospitals and to provide a continuing deterrent against the use of drugs. I say, what is wrong with that? Why should they be concerned? They ought to be held to enormously high standards. It is not an insult.

We will see the day in America when they are all going to be tested in this way in the private sector and public sector if the scourge of drug abuse does not ameliorate in America.

I urge adoption of the DeConcini-Domenici amendment to strike the new language setting up a different system for the VA, taking the place of something that is already in existence and beginning to work. I hope the Senate does not table the DeConcini-Domenici amendment striking the new language. I think the new language is unnecessary. If further language is offered, I think it is just asking for a veto and indeed asking for something we do not really need.

Mr. President, I join my colleague, Senator DECONCINI, in this amendment to strike section 333 from the bill.

This language would exempt the Veterans' Administration [VA] from fully implementing the President's program to assure a drug-free Federal workplace. If the President's program is to succeed, it must include all Federal departments and agencies. Neither the VA, nor any other agency, can be singled out and given a special exemption.

On September 15, 1986, the President announced a policy against the use of illegal drugs by Federal employees. The basis of this policy is that Federal employees should be able to enjoy a work environment free of drugs; that the use of illegal drugs by Federal employees not only impairs the efficiency of Federal departments and agencies but undermines the public confidence in them, as well as posing a serious health and safety threat to the public and other Federal employees.

To achieve a drug-free Federal workplace, the President's program, set forth in Executive Order 12564, requires each agency to provide education, counseling, and rehabilitation referral programs to address drug abuse by agency employees.

It also directs the head of each Federal agency to establish a drug-testing program for employees in "sensitive" positions based on the agency's mission, the duties of its employees, and the potential consequences of employee drug use to national security and the health and safety of others. In addition, testing of any employee is directed when, first, there is reasonable suspicion that the employee uses illegal drugs; second, as part of an investigation of an accident or unsafe practice; or, third, as part of or as a followup to counseling or rehabilitation through an employee assistance program.

In April of this year, the House of Representatives approved a provision as part of the fiscal year 1987 supplemental appropriations bill banning the use of funds appropriated to implement, administer, or enforce any provision of the President's Executive order.

When considering that bill, the Senate struck the House language and instead approved language placing certain conditions on the implementation of the Federal drug-testing program required under the President's Executive order.

Weeks of intense negotiations on that language occurred between Representatives of the Congress and administration officials to arrive at a compromise for inclusion in the conference agreement. That compromise was approved by the House on a vote of 343 to 77, and by the Senate as part of the conference report. It is now section 503 of Public Law 100-71, the Fiscal Year 1987 Supplemental Appropriations Act signed by the President on July 11 of this year.

I think it is important to remind my colleagues what that supplemental language does and why we thought it was needed.

First, there was concern that there be some uniformity among the drug-testing plans developed by the executive departments and agencies. We felt it was important that Federal workers employed by the different agencies who are similarly situated receive similar treatment. We also felt than the Federal Government's drug-testing program should be implemented by the agencies at the same time, not in an ad hoc manner.

The Supplemental Appropriations Act language prohibits any drug testing until the Cabinet-level and other major Federal departments and agencies have actually developed their plans in accordance with the President's Executive order and other key elements of the program are in place.

Each plan is to include the criteria and procedures to be applied in designating employee positions as "sensitive" for the purpose of a drug-testing program; and the nature, frequency, and type of random drug-testing program to be instituted. It will also detail the drugs to be tested for, and give an estimated cost of the drug-testing and assistance plan proposed.

Because of immediate health and safety concerns, the only agencies allowed to drug test at present are the Department of Transportation and the Department of Energy in testing employees involved in the handling of nuclear weapons or materials. In addition, all agencies or components of agencies with drug-testing programs in place on the date the President's Executive order was issued are able to continue those programs under the language.

There was also a high level of concern that we ensure reliable and accurate drug testing. The key element of the testing program is the credibility of the laboratory standards used. They must be as rigorous as possible.

In addressing this concern, the Supplemental Appropriations Act language requires that the Department of Health and Human Services [HHS] publish in the Federal Register comprehensive standards for all aspects of drug-testing and laboratory procedures, including the chain of custody of specimens collected, the drugs to be tested for, and the procedures for periodic review of the laboratories performing the work. It was hoped that this would subject the standards to the close scrutiny of public and expert review.

The other major concern was that the rights of the Federal worker be protected. The Supplemental Appropriations Act language ensures the continuance of current law protections afforded Federal employees. It also ensures that Federal employees are given full access to their drug-testing records and that the confidentiality of those records be protected.

I believe this language provides the safeguards necessary to effective implementation of the President's program. HHS must certify to the Congress that all these required steps have been taken. Once the drug-testing program is implemented, each agency is to submit an annual report to the Congress on the drug-testing activities it has conducted.

I realize that some of my colleagues may believe that random drug testing is unconstitutional. The legality and constitutionality of the Federal drug-testing program is the subject of extensive litigation at the present time. Given this, we made it clear in the statement of the managers accompanying the Supplemental Appropriations Act that we remained neutral on these issues. They will be properly decided by the courts.

I should point out however that drug testing has already withstood Federal appeals court challenge. Mandatory testing without individualized suspicion has been upheld by appeals courts for such classes of employees as those with access to classified information, those who carry firearms and are involved with law enforcement, and military personnel.

On September 30, 1987, the U.S. District Court for the District of Columbia upheld the Department of Transportation's drug-testing program under the President's Executive order as constitutional.

The administration is now proceeding with its Federal drug-testing program under the Executive order and in accordance with the strictures of the supplemental language.

All Cabinet-level and other major executive agencies are completing their drug-testing plans for review by the Department of Health and Human Services. They are, of course, subject to change during the HHS certification process and the Office of Management and Budget will review the cost estimates agencies have submitted on their plans.

On August 14, the Department of Health and Human Services published notice in the Federal Register of the scientific and technical guidelines for the Federal drug testing program and the standards for laboratory certification.

The Veterans' Administration has developed its plan in accordance with the President's program which is now under review at the Department of Health and Human Services. This proposed plan will be implemented at the same time the other executive agency plans have been certified, and after the standards for drug testing and laboratory certification have become final.

As I mentioned earlier, the President's program requires that only those employees identified to be holding "sensitive" positions be tested for illegal drug use.

The Administrator of the Veterans' Administration has tentatively determined that 135,000 Veterans' Administration employees—approximately 60 percent of the VA work force—occupy "sensitive" positions designated for random testing. Of these positions, 92 percent—or 123,000—are direct providers of medical services in the VA medical care system; that is, the physicians, nurses, pharmacists, therapists, and others charged with the welfare of our Nation's veterans. The other VA positions designated as sensitive include safety and law enforcement personnel; key management officials; computer specialists with access to sensitive data; and technical employees who operate major systems, heavy equipment, or motor vehicles.

Of these 135,000 testing-designated positions, the Veterans' Administration proposes to randomly select 10,000 to be actually tested during the first year of the program's operation. These 10,000 will be randomly selected by computer. Any employee with a testing-designated position will be given prior notification of testing.

The average contract cost per test for screening and confirmation will be $15. Other related costs, including collection, supplies, mailing, associated personnel, and medical review will increase the cost per test by $21. Based on 10,000 random tests, the first year cost of the VA's planned drug testing program is estimated to be $360,000.

If the costs of employee assistance, supervisory training, employee education, and other related costs are added—and, with limited exceptions, we are not talking about additional personnel but the costs of existing personnel which would be attributed to this program—the total first year cost of the VA drug testing program is estimated to be $2.2 million.

The VA proposes that the random testing population be increased by 10,000 a year until an annual random test program of 40,000 is reached. Even at this level, it is estimated that the total program, including testing, employee assistance, and all other costs, would be no more than $2.7 million a year.

Like other agency plans, the VA's drug-free workplace plan is currently under review at the Department of Health and Human Services. These cost estimates are subject to change as part of that review process and may also be revised upon review by the Office of Management and Budget.

However, a testing program on the order of $2 to $3 million a year does not seem to be out of line for an agency with an annual operating budget of $11 billion.

We cannot ignore the significant cost of not detecting drug-impaired personnel. If the program works to increase the health, safety, and productivity of workers; to increase drug abuse awareness; to identify and rehabilitate drug users as well as to improve their accessibility to treatment services, we may see a large return on such a small investment.

If cost constraints are necessary, a program of random drug testing maintained at the first-year level of 10,000 or scaled back further is a deterrent to illegal drug use.

Many of my colleagues may be unaware of the fact that in fiscal year 1987, VA medical malpractice claims and suits cost the Federal Government roughly $34 million. If even a small number of these cases were the result of drug use, some of these costs may have been avoided if a drug-testing program had been in place.

Section 333 of this bill, as reported by the committee, would disallow random drug testing of critical VA employees. Only drug testing when there is a reasonable suspicion of drug use, as part of an investigation of an accident or unsafe practice, or as a follow-up to employee counseling or rehabilitation would be permitted. This does not prevent the "accident waiting to happen" and it ignores the deterrent value of random drug testing.

Proponents of this provision argue that random drug testing will affect the employment and retention of medical care professionals at the VA. I would suggest to my colleagues that where such employment and retention problems are being experienced at the VA, they are due to other factors, most probably a general shortage of certain medical specialists such as pharmacists and physical therapists, or to pay equity.

I would point out to my colleagues that there is a growing trend in the private sector to test employees for drug use. In 1983, only 3 percent of the Nation's largest companies had such testing programs. By 1986, that figure had risen to 30 percent. The U.S. Chamber of Commerce estimates that more than half of the Fortune 500 companies will have drug-screening programs in place by the end of this year.

At the Veterans' Administration, the critical employees are the medical care professionals charged with the important mission of caring for our 2.8 million veteran patients throughout the Nation.

I do not stand here to suggest that drug abuse is a major problem among VA health care professionals. I assume it is not. But I also do not pretend that these people are altogether immune from substance abuse.

There are past cases in the VA of drug-related problems. The proponents of section 333 will argue that these cases are anecdotal. They may be, but they indicate problems of substance abuse do exist even if they are an exception.

I am, quite frankly, dismayed that the groups representing the veterans and the medical professionals are opposed to random drug testing of critical personnel at the VA.

Drug testing is a VA patient issue. Veterans have the right to a drug-free health care system and to be served by those whose judgment is unimpaired. The large number of critical employees at the VA—the health care professionals—are those who should set an example in health care. Their work is directly related to the health and safety of others.

I see no reason why we should legislate a special exemption for the VA from the Federal Government's drug testing program. VA medical care professionals are no different that the employees involved in direct patient care at the Department of Defense, the Department of State, and the Department of Health and Human Services, all designated to be critical employees for random drug testing under the President's program.

Their importance in the protection of the health and safety of their patients is no different than the air traffic controller whose mission is critical to assuring the air traveler's safety in our Nation's skies.

Just over a month ago, the Senate failed to table, by a vote of 7 to 83, the Danforth amendment to the Air Passenger Protection Act of 1987. That amendment approved by the Senate requires domestic and foreign air carriers to conduct mandatory random testing of all safety-related personnel.

I do not see how this body can vote to require random drug screening of air-safety-related personnel and turnaround here and exempt critical personnel from the Federal Government's drug testing program. If we do, we are not placing equal value on the health and safety of our Nation's veterans.

A vote to include the VA in the President's drug-testing program will demonstrate that we are taking one further action to assure quality care at the VA. It will say that we expect the drug-free workplace at the VA expected at other Federal departments and agencies.

I urge my colleagues to support this amendment to strike section 333 from the bill.

I thank the distinguished Senator from Alaska for yielding.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today as a cosponsor of the amendment offered by the distinguished and able senior Senator from Arizona.

In September 1986, President Reagan issued Executive Order 12564 calling for the establishment of a drug-free Federal workplace. This order required the head of each executive agency to establish a program to test for the use of illegal drugs by Federal employees.

Several Federal agencies, including the VA, were included in this order. Testing was authorized under the following circumstances:

First, when there is reasonable suspicion that any employee is using illegal drugs.

Second, in an examination authorized by the agency regarding an accident or unsafe practice.

Third, as part of or as followup to counseling or rehabilitation for illegal drug use through an employee assistance program.

And, fourth, random testing of employees in sensitive positions.

These employees include all health care professionals, safety and law enforcement personnel, key management officials, computer specialists with access to sensitive data, and technical employees who operate major systems.

Section 333 of the bill before the Senate would limit testing within the VA to the first three circumstances mentioned above. In other words, VA employees, unlike other Federal employees, would be exempt from random testing.

I believe this country would be better served by having a drug testing program which is consistent throughout all Federal agencies. Such a program includes random testing.

When the matter of drug testing came before the Veterans' Affairs Committee earlier this year, I supported exempting VA employees from random testing. I was concerned that the VA's plans for drug testing of its employees were too widespread, inappropriate, and costly.

However, based on new information I have received from the VA, and recent court decisions which have upheld random testing, I now believe an exemption from random testing would not be appropriate.

Mr. President, first, the VA has indicated that its random testing would involve only those who occupy sensitive positions. Approximately 135,000 employees, or 60 percent of the VA work force, have been tentatively identified as occupying sensitive positions.

Second, the VA testing program is reasonable and humane. It protects the constitutional rights and individual privacy of VA employees as well as provides for the rehabilitation of illegal drug users. Most importantly, the VA plan will go a long way toward assuring that veterans and their beneficiaries are secure from the dangers and inefficiencies which result from the illegal use of drugs in the workplace.

Third, of the 135,000 employees that may be tested, the VA has indicated only 10,000 would be tested in the first year; this provides an opportunity for an orderly transition of the program. In addition, the VA has advised that the cost per test is approximately $36.

Fourth, drug testing has been considered by many Federal courts of appeal. In fact, Federal appeals courts for the Third, Fifth, Seventh, and Eighth Circuits have held that testing of public employees without individualized suspicion is constitutional. Most recently, on September 30, 1987, in the case of *American Federation of Government Employees* v. *Dole,* 87-1815, the District Court for the D.C. Circuit held the Department of Transportation's random drug testing program was constitutional.

Mr. President, for all these reasons, I join on the amendment offered by the distinguished Senator from Arizona and urge my colleagues to adhere to the current law adopted earlier this year in the supplemental appropriations bill. This provision is sound and no exemption should be made. Treat the VA like all other Government agencies.

Mr. President, I yield the floor.

AMENDMENT NO. 1235

(Purpose: To authorize the Administrator of Veterans' Affairs to conduct a mandatory random employee drug testing program)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1235.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 146, strike out line 23 and all that follows through page 147, line 7 and insert in lieu thereof the following:

(a) IN GENERAL.—The Administrator of Veterans' Affairs shall not conduct any program of testing of Veterans' Administration employees for the use of illegal drugs as defined in section 7(c) of Executive Order 12564 as in effect on July 31, 1987, except (1) in the circumstances described in section 3(c) of such order as so in effect, and (2) that the term "accident or unsafe practice" in such section 3(c) means, in relation to the furnishing of healthcare services, an unsafe practice which has resulted or could reasonably be expected to result in an adverse patient outcome.

(b) MANDATORY RANDOM DRUG-TESTING.—Notwithstanding subsection (a), during the one-year period beginning on the date on which the Administrator of Veterans' Affairs begins employee drug testing under the executive order referred to in subsection (a) (to the extent permitted by that subsection), the Administrator may conduct mandatory random employee drug-testing as defined in section 3(a) of such executive order.

(c) REPORT.—(1) At the end of the one-year period referred to in subsection (b), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the conduct and results of employee drug testing permitted under subsection (a) and employee drug testing carried out under subsection (b).

(2) The report under paragarph (1) shall include the following matters:

(A) The number of employees tested during the one-year period referred to in such paragraph as follows:

(i) The total number of employees tested.

(ii) The number of employees tested under subsection (b).

(iii) The number of employees tested under each of the sets of circumstances described in section 3(c) of the executive order referred to in subsection (a).

(B) The number of cases in which the results of a drug test indicate use of an illegal drug referred to in subsection (a) and a description of the types of jobs held by the employees in such cases.

(C) The number of cases in which the results referred to in subparagraph (B) have been determined to be erroneous.

(D) A discussion of the actions taken by the Administrator in each referred to in subparagraph (B), including adverse employee actions and referrals to employee assistance programs.

(E) The direct and indirect costs of conducting the drug testing referred to in subsection (b) during the one-year period referred to in that paragraph.

(F) The Administrator's assessment of the effects that the drug testing referred to in subsection (b) have had on the morale of employees of the Veterans' Administration and on the ability of the Veterans' Administration to recruit and retain employees.

(G) The Administrator's assessment of the effectiveness of the drug testing referred to in subsection (b) in deterring the use of illegal drugs and improving job performance.

(H) The number of employees who refused to submit to drug-testing permitted by this section, including those employees who terminated their employment in order to avoid such drug-testing.

AMENDMENT NO. 1236

Mr. CRANSTON. Mr. President, I send an amendment to the Murkowski amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment to the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 1236 to amendment No. 1235.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment of Mr. MURKOWSKI, add the following new subsection:

(d) EFFECTIVE DATE.—This section shall take effect on December 15, 1987.

Mr. CRANSTON. Mr. President, this would make a minor yet technical change in the Murkowski amendment so as to make it effective December 15, 1987. Frankly, it is designed to preclude any other amendment to the pending Murkowski amendment.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I think there is some confusion as a consequence of the concern expressed by my colleagues the Senator from Arizona and Senator THURMOND.

First of all, let me posture the issue by identifying, as I understand them, specific positions.

What we have here first of all is the President's Executive order requiring that agencies implement a program for mandatory random drug testing. Now, the Congress has authorized that agencies could implement random drug testing.

The second point of clarification that I think is appropriate is where we are in S. 9. In July, the Veterans Committee voted as part of S. 9 to prohibit the VA from implementing only random drug testing. However, testing is allowed under the following provisions: First, reasonable suspicion. If the VA supposes that there are areas where there are those using drugs, they can go in and test; second, investigation in an accident. They can go in and test; third, followup to employee assistance rehabilitation. They can go in and test.

That is the committee action pending in S. 9. It is my understanding that the Senator from Arizona has proposed to delete this section. In effect, then, his amendment would allow the VA to proceed permanently with mandatory random drug testing.

Now, my amendment, which is before us, would allow random drug testing for a 1-year period, and at the end of the year the VA would report on the effectiveness of the program. This report would include the cost, the effect on morale, job performance, and the extent of the drug problem, if indeed there is one, in the VA. Congress would also have the opportunity to reevaluate the program after the year to determine whether the suggestion from the Senator from Arizona and Senator THURMOND is appropriate in adopting it as mandatory.

But I think it is appropriate, Mr. President, we move into this with some caution. We have responsible people in the VA, as we do in all Government agencies. The majority of these people are involved in health care. Let us learn the effects of drug testing before we make the program absolutely mandatory within the VA system. I hope, Mr. President, that I have clarified for my colleagues the basic difference in our position.

Mr. President, as the ranking minority member on the committee responsible for veterans programs and Veterans' Administration, I am a little sensitive to the actions by my colleagues coming in on appropriations over the authorizing committees' responsibilities. We have hearings, and the good Senator from California, the chairman of the Veterans Committee, and I have sat through them. We have professional staff that tracks the agency. We have the expertise in its problems, and the critical shortage of nurses, and other health care professionals. Our committee colleagues, as well, have expertise and knowledge of the agency and its problems. It is their duty, and that is why they are on the committee. The committee members are held responsible for the effects of congressional decisions. This is the way the process should work for major policy decisions. We have made our recommendations to this body as a consequence of those hearings—policy such as drug testing of VA employees should rightfully originate from the Veterans' Affairs Committee and not be enacted as part of a money issue, which is what is happening to us, Mr. President, such as an emergency supplemental appropriation bill.

I am very concerned by a tendency to develop major policies within a small, closed group and imposing those policies without participation of the committee of the Senators affected, specifically our committee.

The Veterans' Affairs Committee, is the first committee with jurisdiction to deal directly with this policy. I do not think we should be criticized for including the provision in the committee bill. And to suggest, Mr. President, that the White House is going to veto this omnibus veterans bill as a potential threat is to assume that the White House is going to veto the COLA for the veterans. I question that. I think what we have done here is to look at our area responsibly, the VA, determine what is in the best interest of those concerned and accept the responsibility for these recommendations. I am a little sensitive and perhaps a little testy to the proposition that others should come in from appropriating committees under the threat of dollars to influence this process.

I assure the President that they have that right, but by the same token, I also feel that we on the committee have a right to remind them that we are the oversight committee. We are responsible and accept the responsibility.

As we look at the matter before us, there is no question that it is absolutely essential to take steps to combat the drug and alcohol abuse in our society. A drug-free workplace is vital if we are going to have a safe and productive working environment. I am not disputing that point whatsoever. The issue, however, is not a drug-free work environment. The issue is how we accomplish the goal, Mr. President. Will mandatory random drug testing of the VA doctors and nurses create a drug-free working environment in VA facilities? I question that. What will the cost be on the VA in terms of both scarce medical dollars and the recruitment and retention of health care professionals already in critical shortage in the VA?

Provisions contained in S. 9 as reported by the committee would permit the VA to conduct an aggressive drug testing program by concentrating on cases where first, there is reasonable suspicion that employees are using illegal drugs. In such cases, the VA can test individuals who work in a specific department of a VA hospital, the entire hospital or in a region composed of hospitals. The only prerequisite is that the Administrator have a reasonable belief that drugs are being abused in that area;

Second, as an examination of an accident or an unsafe practice which did or could result in an adverse patient outcome;

And, third, as part of a followup to an Employee Assistance Program. The only restriction provided in S. 9 would be that no mandatory random drug testing could occur in the VA system nationwide. It is important to make that distinction, Mr. President, and to state the safeguards that are in S. 9.

Mr. President, in recent weeks, concerns have been expressed by the proponents of the amendment to strike section 333 of S. 9, which states the committee's position prohibiting mandatory drug testing. Their concern is that by prohibiting mandatory drug testing a precedent would be set that would undermine the Government's drug testing program. The chairman of the committee has eloquently responded that there is a great potential that such a program would provide physicians, nurses, pharmacists, and other certain health care personnel already in a severe shortage in the VA a way perhaps out of the system. I share that concern and I think it is a genuine concern. I appreciate the position of the proponents of the amendment regarding precedent.

Accordingly, in the interest of finding a middle ground which recognizes the concerns of both sides, we in the minority offer this amendment which would permit the VA to implement a mandatory random drug testing program for a period of 1 year beginning on the date on which the Administrator of the Veterans' Affairs begins drug testing under the Executive order.

Mr. President, we are by no means trying to move around the Executive order. The Administrator of Veterans' Affairs would be required to report to the Committees on Veterans' Affairs of both the Senate and the House of Representatives on the results of this 1-year program. We would have a record on the impact of the drug testing program so the Congress can make informed decisions based on sound evidence as to the merits of continuing the program. I know all too well that it is sometimes impossible to stop programs, irrespective of their nature or their effectiveness, once they are enacted into law. Accordingly, we have proposed a full 1-year testing program and we have the authority to come back and reauthorize it if necessary. That is the responsibility of the authorizing committee.

Mr. President, we all recognize that some VA employees may indeed abuse drugs. However, I sincerely believe that the vast majority of VA employees, doctors, nurses, technicians, veterans' benefit counselors, as well as the vast majority of Federal employees, are highly dedicated individuals who do not use drugs, and are as concerned with their use as you and I. In fact, there is little data to support the contention that drug abuse is higher amount physicians than in the general population. A recent study in the New England Journal of Medicine, on September 25, 1986, entitled "Drug Use Among Practicing Physicians and Medical Students" found that drug use among physicians was limited. The overall level of drug use for doctors should not be a cause for extraordinary alarm. The VA has yet to present to the committee any data which would indicate that VA health care personnel, in general, have any particular drug abuse problem.

Through an effective quality assurance program, the VA would be able to identify health care professionals with drug abuse problems. Adequate credentials and licensing procedures would screen such individuals prior to their admission to practice in the VA with those health care professionals currently practicing effective patient injury control. Other quality assurance programs would serve to identify those abusing such drugs.

In light of the small number of VA employees who may abuse drugs, the committee rightfully questions the cost effectiveness of a long-term mandatory random testing, which the VA now estimates would cost about $10 million a year—$10 million over 4 years is a pretty heavy commitment—to test about 100,000 employees. A 1-year testing program would give the Congress the opportunity to evaluate the effectiveness of such a program before expending scarce medical resources.

Mr. President, one of the most critical issues facing the VA is recruitment and retention of qualified health care personnel to care for our veteran population. It is becoming increasingly difficult for the VA to compete with the private sector in terms of salaries and in terms of benefits for health care professionals. The bill before us reflects what is a fact. There are a number of provisions, one of which I authored, authorizing the payment of bonuses to registered nurses who agree to work for the VA for a specific time period. The return obviously is evident to all. What we lose in trained personnel is substantial in relationship to what offsetting bonuses would cost to keep those personnel.

Mr. President, my amendment sends a signal that we are concerned about the impact such a program will have on recruitment and retention. We intend to monitor this issue very carefully. That is why this committee was created and if at the end of 1 year we find evidence that widespread or extraordinary or unusual drug abuse does exist among VA employees, which I hope and expect will not be the case, then the Congress would have the option, the responsible option, and the duty to reauthorize a mandatory random drug-testing program.

Mr. President, it is vital that we proceed with caution into such a program which may have unforeseen problems.

The Congress should have the ability to learn the result and its impact on the recruitment and retention before money is spent on this program. I know the argument is, first, it should be mandatory for all Government agencies, and, second, why exempt the VA? Mr. President, the realities of the fact that the VA is different, or not different, is incidental. The reality is that this committee has come up with a workable, responsible program to address whether or not we have a problem within the VA. We prescribed the procedure that covers the exposures identified by my colleagues, Senator THURMOND, Senator DECONCINI, and Senator DOMENICI. We are not exempting the VA from drug testing. We are simply identifying a program within the VA for a period of time to identify whether or not we have a problem, and we will address the problem appropriately as mandated by the proposed amendment.

(Mr. DASCHLE assumed the Chair.)

So the amendment would permit the VA to proceed with mandatory random drug testing. It would provide Congress the opportunity to carefully examine the effects.

While I understand that there likely will be a motion to table the DeConcini amendment, I think it is important to understand that this will not be the only vote on random drug testing. My compromise amendment will still be pending after the tabling vote occurs. If the Senate votes to table the DeConcini amendment, it will continue to have the opportunity to vote in support of random drug testing in the VA by voting for my amendment.

Thus, I urge my colleagues to support a thoughtful and reasonable compromise that has been developed within the committee on this issue, by allowing the VA to conduct mandatory random drug testing for a period of 1 year.

I urge the Members of this body to support Senator CRANSTON and me in our effort to table the amendment offered by the Senator from Arizona.

RANDOM DRUG TESTING

Mr. INOUYE. Mr. President, I rise in opposition to the DeConcini amendment.

Section 333 of the Omnibus Veterans' Benefits and Services Act of 1987 mandates the drug testing of Veterans' Administration employees under the following circumstances:

First, when there is reasonable suspicion that an employee is using illegal drugs; second, after an accident or unsafe practice; and third, as a follow-up to counseling or rehabilitation for drug abuse. Drug testing under these circumstances is justified, cost-effective, and has survived constitutional scrutiny. I strongly support its passage.

However, my colleague from Arizona has introduced an amendment which would add a fourth circumstance under which VA employees would be tested for drugs—random drug testing of employees in "safety-sensitive positions."

The constitutionality of random drug testing is a hotly debated issue. The U.S. Supreme Court has yet to address it. No U.S. court of appeals has upheld random testing on the broad scale that Senator DECONCINI would have us approve. To the contrary, in a Washington Post article on Wednesday, November 18, it was reported that the U.S. Court of Appeals for the District of Columbia found the drug testing program administered by the D.C. School System unconstitutional. The court ruled that urinalysis testing as a part of the employee's physical examination would be justified only if the test could establish that the employee was currently under the influence of drugs. No urine test can determine that. Rather such tests show whether an individual has used drugs over the course of, at most, a month. Nonetheless, the unanimous court placed the burden on the Government to demonstrate that the employees to be tested were impaired from performing their jobs at the time of the test.

In light of this most recent D.C. Circuit Court decision, support for the DeConcini amendment is support for unwise public policy. This would be measured by countless litigation stemming from the unresolved constitutional question involving the degree of fourth amendment protection accorded to individuals' privacy rights. The cost of court battles runs high, not only in terms of financial calculations, but also in the number of lives disrupted and careers destroyed as numerous employees test the constitutionality of this provision.

Mr. President, is it not a wiser policy to keep random drug testing from the bill until our courts resolve this issue, rather than drag employees into the turmoil and uncertainty of courtroom battles.

If the DeConcini amendment becomes law, approximately 135,000 employees may be subjected to random testing, with about 10,000 employees actually tested in the first year. The VA expects the number to increase to 100,000 by the fourth year. This necessarily brings to light the issue of cost. The Veterans' Administration estimates that the cost of random drug testing would be approximately $10 million over the first 4 years. The Veterans Affairs' Committee believes that this figure is dramatically understated. I must agree.

In a July 1987 article in the Journal of the American Medical Association, the total cost for the military's drug testing program, including sample collection, legal procedures, and administrative costs, amounts to nearly $100 per sample.

Based on this realistic figure, and the start-up costs associated with establishing the program, training the staff as to the proper procedures for administering the test and the chain-of-custody requirements that follow, the VA would require an appropriation which would greatly exceed $10 million over the next 4 years.

I have received numerous letters and phone calls from local veterans and national veterans organizations urging that I oppose the DeConcini amendment.

In light of the need to reduce our Nation's deficit through cost-cutting measures, veterans advocate that such scarce financial resources could be better utilized by providing direct health care services. Neither the disabled American veterans nor the paralyzed veterans of America have ever received a complaint, from any of its veteran members, that drug use among VA employees was a problem or even a matter of concern.

Mr. President, veterans groups advocate that a massive and costly random drug testing program designed to identify potential drug abuse cases, in a population which has not been identified as a high-risk drug abuse group, does not justify the potential violation of the constitutional right to privacy, the affront to personal integrity and the drop in morale among employees that will surely result.

If the beneficiaries themselves do not believe that the quality of care is impaired because of drug use, and there is, in fact, no evidence to draw such a conclusion, I must question the public policy rationale behind my colleague's amendment to include random drug testing.

Section 333 already mandates drug testing upon a showing of reasonable suspicion, after an accident or unsafe practice, and as a followup to a rehabilitation program.

Drug testing under these circumstances is constitutionally sound, and a cost-effective means of assisting those employees with drug abuse problems while providing quality health care to our Nation's veterans.

For these reasons, I urge my colleagues to oppose the DeConcini amendment.

Mr. CRANSTON. Mr. President, I do not support the Murkowski amendment at this point but I do believe it is a constructive proposal by the Senator from Alaska.

The real issue before us is the DeConcini amendment to strike the committee provision on drug testing which is so strongly supported by the Disabled American Veterans, the Paralyzed Veterans of America, the Vietnam Veterans of America, the American Medical Association, the American Nurses Association, the National Association of VA Physicians, the AFL-CIO, the AFGE, the NFFE, the Teamsters, and the American Association of Critical-Care Nurses.

At the appropriate time, I will move to table the DeConcini amendment so as to preserve the committee's section 333.

VETERANS' SERVICE ORGANIZATIONS AND PROFESSIONAL ASSOCIATIONS' OPPOSITION TO RANDOM TESTING

Mr. President, three major veterans' service organizations, the Disabled American Veterans, the Paralyzed Veterans of America, and the Vietnam Veterans of America, strongly support the committee provisions and oppose mandatory random testing for VA employees. These organizations' sole purpose is to advocate policies that are in the best interests of veterans. If these organizations representing the most seriously disabled veterans believed that random testing would protect veterans from any potential harm by an impaired physician or nurse, I have every confidence that they would support it.

But quite the contrary is the fact. In a November 16 letter to me, the DAV stated that it has never received a complaint from any source that illegal drug use among VA employees is a problem or "even a matter of concern." In contrast, the DAV is "very concerned about the potential negative effects random testing on VA employees may have upon the VA's ability to recruit and retain high quality healthcare professionals.

The Paralyzed Veterans of America, also in a November 16 letter to me, stated that it "strongly believes the potential affront to the civil rights, morale and personal integrity of these Federal employees does not warrant this massive and expensive effort to identify or deter any potential drug abuse problem among this particular population."

Likewise, the Vietnam Veterans of America strongly oppose random drug testing and, in a November 18 letter to me, instead advocated "programs offering opportunities for employees to voluntarily come forward for confidential drug abuse counseling and treatment."

Mr. President, the unions have also expressed their strong opposition to random drug testing. The American Federation of Government Employees stated in a November 12 letter, that

> The VA has gone beyond testing "certain sensitive, public health" jobs [in subjecting to testing 135,000 employees out of a workforce of 240,000].

And, in a November 17 telegram, the Teamsters wrote that,

> It is our view that random drug testing would be a wholly unreasonable, unjustifiable, and unconstitutional infringement upon individual rights.

Mr. President, the national officers and district directors of the National Association of VA Physicians—the doctors who treat our veterans—unanimously approved a resolution on November 14 opposing mandatory random drug testing. The resolution stated, in part,

> It would be far better to improve and encourage procedures for intervention when cause can be shown rather than to randomly test everyone.

In addition, I have heard informally from a number of VA hospital chiefs of staff that they feel certain that many of their best nurses would leave rather than be subjected to a drug test. They believe that requiring such testing would undermine the trust and good faith that is so vital to maintaining a positive and productive relationship between any employer and employee.

According to the American Medical Association newspaper, the AMA vice president for scientific affairs, Dr. George Lundberg, said at a recent meeting of the Institute of Medicine on Drug Abuse Policy that random drug testing is akin to "chemical

McCarthyism". Lundberg further stated that

> There are no studies . . . that support the notion that the benefits produced by this approach will exceed the costs in money or the loss of personal liberty produced by this form of intimate body search without clinical indications.

In a November 30 letter, the AMA voiced its strong support for section 333 and opposed any attempts to delete it.

The American Nurses Association has written all Senators that such a program would "cripple the morale of VA employees and compromise the agency's ability to provide quality health care to the Nation's veterans."

The American Association of Critical-Care Nurses opposed mandatory drug testing in a May 1987 position statement adopted by the AACN board of directors and in a November 19 letter stated "that the costs of such testing could adversely affect the health care of patients."

CROSS-REACTING MEDICATION AND INVASION OF PRIVACY

Mr. President, there is one other issue I would like to address—cross-reacting medication. Many medications to control epilepsy or depression or other ailments may result in a positive test result, including positive results in the confirmatory test. I would note that in the first round of testing in the Transportation Department, 2 out of 212 tests examined showed a positive reading. One of those two was traced to a worker who took a codeine painkiller during a visit to the dentist, which caused the test to indicate that the employee used an opiate. While a trip to the dentist may not be a sensitive personal issue, I am deeply concerned that in order to prove their "innocence" employees may be forced to disclose certain medical information that has no bearing whatsoever on their job performance. Such information, such as the fact that the employee has epilepsy, may very well be stigmatizing and could—because of the reactions of others—have a potentially devastating impact on an individual's career and life.

I would also note, Mr. President, that the recent admission by the Washington, DC, Police Department that the urine samples that women police force candidates submitted for drug screening were, without their knowledge, routinely used to test for pregnancy is one blatant example of how the drug testing process can be abused by government, thus seriously undermining the faith and confidence that employees should have in their government.

Again, I ask, where is the problem among VA employees that warrants the massive intrusion on individual privacy that mandatory random urinalysis would bring about?

Mr. President, while I will make a tabling motion later, I now yield the floor.

Mr. DECONCINI. Mr. President, I thank the distinguished senior Senator from South Carolina for his support of this amendment. He has been a strong advocate of doing something constructive and positive to stop drug abuse, as has the distinguished senior Senator from New Mexico.

Mr. President, I think a little history is important. This law that is in effect, section 503 of the supplemental bill, governs all agencies now. That is the law. That provides for random testing to go forward, in a very selective way, under very strict interpretation and certification as to laboratories, as to what is a sensitive position, as to insuring the rights of privacy and notice to workers. That is the law now.

How did we get that law? Quite frankly, that law was put together due to the expert efforts of the junior Senator from Maryland, Senator MIKULSKI, and Congressman HOYER, of Maryland, who generally opposes all drug testing; Senator DOMENICI, the ranking member of the Appropriations Subcommittee on Treasury, Postal Service and General Government; and myself working for literally 3 weeks with the administration to ensure that what was going to be the law was going to be safe, not invade privacy; provide the necessary securities and safeguards, and to allow the court cases on testing to continue. It also calls for a number of other protections.

The Senator from Alaska has been a leader indeed for years in support of veterans and the quality of VA health care, as has the Senator from California, Senator CRANSTON. There is nobody I respect more than these two Members and the efforts that they have put in over the years in dealing with veterans' issues and realizing the need to have a safe cadre of medical care people in the veterans hospital system.

But the point of the Senator from Alaska is to let us do it for 1 year, so to speak, and then review it.

I think it is important to note that we already have review built into section 503 which is the law today. OMB as part of section 503 must report as part of the certification process what the costs of each drug testing plan will be, each plan. That means the one in the VA, the one in the Department of Transportation or any place else, including the cost estimates for the 5-year period following fiscal year 1987.

So the procedures are there to be sure that there is adequate reporting back and review by Congress as to how all this certification works under section 503 and what the cost is going to be.

The question here is if we should adopt the Murkowski amendment we are in essence exempting the VA. We are saying that all other agencies of the Government are going to have this very carefully scrutinized agreement as to drug testing. All other agencies are going to have that. That is going to be the law unless Congress repeals section 503—except for the Veterans' Administration, under the Murkowski and committee reported provisions.

They will only have a 1-year pilot program or study program, or what have you. It just seems to me consistency demands that we go ahead and strike section 333 and let the law continue to prevail and be applied to the Veterans' Administration, like every other agency.

There was no fight here to exempt the Veterans' Administration when the supplemental bill was on the floor and section 503 was adopted. Where was all the opposition to drug testing? I'll tell you where it was. It had been satisfied through our compromise agreement. Section 503 is a far cry from what the administration wanted originally for drug testing, and I opposed the administration's original position. I believe even the Senator from New Mexico had some real qualms about that and was willing to provide for a safer place for workers and to be sure that they had adequate protection.

So, Mr. President, I hope that we will strike all of 333 and let the existing law continue.

Again I want to thank the Senator from South Carolina and the Senator from New Mexico for their staunch support of this amendment.

Mr. THURMOND. Mr. President, I take this opportunity to commend the chairman of the Veterans' Affairs Committee, Senator CRANSTON, and the ranking member, Senator MURKOWSKI, for their fine leadership in bringing this Omnibus Veterans Benefits and Services Act of 1987 to the committee and to the Senate. It is now ready for final action. This is a very important piece of legislation.

I want to say, however, that I do feel that the provision included to exempt the VA from random testing should not be included in the bill. I say that mainly for two reasons. Why should we exempt the VA people, employees, doctors, nurses, technicians, and others, those that take blood from the veterans, and so forth, from the provisions of random testing? We are requiring that in all other government agencies.

Now, some time ago we had a terrible wreck between Washington and New York, a train wreck in which lives were taken and it was later determined that some of those in charge of the train were using drugs. Suppose the Transportation Department comes in and says, "You have exempted the VA from current law, why not exempt us?" And other government agencies could come in as well. Why make any exception for the VA? In fact the VA operates the largest hospital system in the world. They have 12,000 doctors, they have 35,000 nurses, they have hundreds of technicians. And why should they be exempt? They are dealing with human life and it is important that those people know that they could be tested at any time and if they know they can be tested at any time, I think it is very helpful to them because even though they might be tempted to use drugs, they will not do so.

So I say the VA should be treated like all other Departments.

There is no one that is more interested in the veterans than I am. I have worked with them all these years and I want to see them get the best possible treatment and I do not want to see anything left undone to help these veterans. I do not know why those working with the veterans—employees, doctors, nurses, and others—should be exempt because they are working with the people who wore the uniform and preserved freedom for the people of this Nation and the free world.

Now the next point is the administration and the VA are bitterly opposed to this exemption. We passed a bill this year—Senator DOMENICI spoke about that—and the supplemental bill provided random testing for all government agencies. The President of the United States, the Veterans' Administration, in other words, those in charge, do not want any exemption, and if we should have a veto of this bill then I think it would be very unfortunate.

I just want to say that this bill contains so many good things that we should run no risk of a veto.

This bill provides a 4.2 percent cost-of-living adjustment for veterans receiving pensions for service-connected disabilities. This bill provides an increase from $35,500 to $40,000 in the maximum amount for specially adapted housing assistance for certain service-connected disabled veterans. This bill provides for an increase from $1,100 to $2,250 in the burial allowance for a veteran who dies of service-connected causes. This bill provides an increase from $17.05 to $20.35 in the VA per diem payment for State nursing home care.

This bill provides incentives for the recruitment and retention of registered nurses, physical therapists and other direct patient care providers. This bill provides improved efficiency in the procurement of medical and pharmaceutical products.

Mr. President, this bill contains so many good things. This bill contains a lot of provisions that our veterans need. Why run the risk of a veto of this important legislation when, in the first place, the provision is unfair, it is unreasonable, and it is wrong because it makes an exemption of one agency of the Federal Government from all others?

In other words, it exempts the VA and no other government agency and, therefore, we should not make that exemption. We should not run the risk of a veto of an important piece of legislation that our veterans need so badly.

For these reasons, Mr. President, I think that we ought to adopt the DeConcini amendment and assure to the veterans that this legislation will pass.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I yield to the Senator from Arizona.

Mr. DECONCINI. Is the Senator from Alaska about to move to table?

Mr. MURKOWSKI. The Senator from Alaska is not.

Mr. DECONCINI. I just wanted the Senator from Maryland to have a chance to speak.

Mr. MURKOWSKI. I yield to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President.

First, I rise in strong support of the Omnibus Veterans Benefits and Services Act of 1987 and also compliment the Senator from Alaska in his persistent and eloquent support of veterans.

However, I must also rise in strong support of the DeConcini amendment to S. 9 and am proud to join my distinguished colleague in cosponsoring the amendment.

This amendment guarantees that we will keep in place the responsible compromise on the drug testing of Federal workers contained in the fiscal year 1987 supplemental appropriations bill.

This means that, essentially, we are asking that employees of the VA be treated the same way that employees are treated everywhere. It means that doctors and nurses at VA hospitals should be treated the same as doctors and nurses at NIH.

That compromise legislation, which was unanimously approved by this body, balances the absolute need to protect the rights of Federal employees, while safeguarding public health and safety and the Nation's security.

As my colleagues will recall, the administration's initial drug testing plan was nothing less than a sham.

It would have meant random testing over a million Federal worker: everyone from secretaries at Social Security to top secret analysts at the CIA.

It provided no uniformity in who would be tested. It made no guarantees that labs used to perform drug tests would have state-of-the-art technology. And it made only fleeting references to insuring the privacy rights of thousands of dedicated and hard-working Federal workers.

In fact, the administration's plan was so bad that we read weekly stories in newspapers throughout the country about disastrous testing efforts. Perhaps the worst example was the discovery that the lab used by the Department of Transportation had actually falsified test results.

In that context, the Senator from Arizona, the Senator from New Mexico, Senator DOMENICI, and myself began a series of negotiations with the administration to develop a reasonable and sensible response to the administration's plan.

Those efforts resulted in the legislation passed as part of the supplemental appropriations bill. It provides major safeguards for Federal workers, while trying to prevent accidents waiting to happen.

LAB STANDARDS

First, the legislation establishes rigorous lab testing guidelines. Those guidelines will require the use of the best available testing technology at all times and at all labs.

In addition, these lab standards require that the chain of custody procedures agencies use is as secure as possible. This will guarantee that an employee's test sample is protected from being mishandled, mislabeled or compromised in a way that would alter test results.

These lab requirements also provide for regular inspection of labs and for the means to decertify labs that fall out of compliance with these guidelines.

Tough lab standards are the foundation of a credible drug testing plan. The standards we have required are so tough, that those in the lab testing industry say they are too stringent.

But I believe, as does the Senator from Arizona, that they are the minimum standards necessary if a test result could affect a civil servant's career.

UNIFORMITY IN TESTING

A second area where the supplemental appropriations language provides a major guarantee to Federal workers is in its requirements for uniformity from agency to agency.

It makes little sense for one cabinet agency to test employees in one job category, like shuttle drivers, while another agency does not. This kind of discrepancy hurts morale and makes little sense in the everyday world. Shuttle drivers at Social Security are no more, or no less, sensitive, than their counterparts at the Education Department.

The supplemental provides for uniformity from position to position unless an agency's mission, like the Department of Defense, would require special consideration in classifying those in sensitive positions.

CONFIDENTIALITY OF TEST RESULTS

A third, and very important safeguard in the supplemental language, is the restriction on who can see an employee's test result.

If there is no positive test result no one but the lab technician would see the results.

If an initial test proves positive, the sample would be subject to a second confirmatory test. Only if this second test result is positive would the results be sent outside the lab.

And those who would see these results is limited to a small number of people: the medical review official involved, the head of the agency's rehabilitation program and the employee's immediate supervisors.

In addition, under the Appropriations Committee language, employees would have access to their test results, as well as the lab's certification records, upon written request.

These restrictions insure maximum privacy for individuals who may be tested, while giving them the greatest access to information in the unlikely event that their test proves positive.

REHABILITATION, NOT PROSECUTION

The final area of protection for Federal employees we included in the supplemental was to guarantee the program's focus is rehabilitation, not prosecution.

As a result, we guaranteed that there would be no first strike and you're out for Federal workers who are found to have a substance abuse problem in all but the most egregious of circumstances.

The law would allow supervisors to remove an employee with a substance problem from their sensitive position. But they could not be dismissed before given the chance for completing a rehabilitation program.

CONCLUSION

In closing, Mr. President, I think it is safe to say that all members of this body support the goal of a drug-free Federal workplace. Federal workers support that goal as well.

The legislation we passed in the supplemental appropriations bill is a step toward that goal which provides maximum protection to Federal workers.

One agency should not be exempt while other agencies comply.

The amendment before the Senate would guarantee we keep that responsible framework in place. Now is not the time to begin a piecemeal dismantling of this approach only 5 months after it was unanimously passed and even before it is fully implemented.

I urge the adoption of the amendment.

Mr. MURKOWSKI. Mr. President, there have been very eloquent statements made on the issue of why there should be uniformity: What is the difference between the VA and other agencies? I think we ought to examine that for a minute.

Several veterans' service organizations, which represent the interest of the veterans, have certainly expressed in letters to the committee that they oppose mandatory random drug testing. These organizations are concerned. They have the responsibility to safeguard the interests of patient care by ensuring that drugs are not abused. Those organizations do not believe mandatory random drug testing is necessary.

Let me, for the RECORD, Mr. President, cite the specifics. I have a letter here dated November 16, 1987 from the Disabled American Veterans. It states, in part:

> The DAV believes that Section 333 reasonably and adequately addresses the issue of drug testing for the illegal use of drugs among VA employees, contrary to the provisions of Executive Order 12564 that would subject all VA employees to such a drug testing program.
>
> In our view, there is insufficient proof that such a program is necessary or warranted in the case of VA health care employees. To date, the DAV has never received a complaint from any source, to include veterans using the VA health care system, that illegal drug use among VA employees is a problem or even a matter of concern.

Mr. President, I ask unanimous consent that the full text of the letter of November 16 be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DISABLED AMERICAN VETERANS, NATIONAL SERVICE AND LEGISLATIVE HEADQUARTERS,
Washington, DC, November 16, 1987.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: The Senate will soon consider the provisions of S. 9—the Omnibus Veterans' Benefits and Services Act of 1987. In this regard, I want to bring to your attention the view of the Disabled American Veterans concerning two provisions contained in this legislation.

The first relates to Section 333 of the bill—drug testing of Veterans Administration employees. This provision of the bill would prohibit the VA from implementing a widespread, random drug testing program of VA employees as defined under Executive Order 12564, effective July 31, 1987. The provision would, however, provide for testing of individual VA employees (1) when there is a reasonable suspicion that an employee uses illegal drugs, (2) in an examination authorized by the VA regarding an accident or unsafe practice, or (3) as part of or in follow-up to counseling or rehabilitation for illegal drug use through an employee assistance program.

The DAV believes that Section 333 reasonably and adequately addresses the issue of drug testing for the illegal use of drugs among VA employees, contrary to the provisions of Executive Order 12564 that would subject all VA employees to such a drug testing program.

In our view, there is insufficient proof that such a program is necessary or warranted in the case of VA health care employees. To date, the DAV has never received a complaint from any source, to include veterans using the VA health care system, that illegal drug use among VA employees is a problem or even a matter of concern.

Additionally, the DAV is very concerned about the potential negative effects random testing of VA employees may have upon the VA's ability to recruit and retain high quality health care professionals. As you know, the VA is already experiencing serious recruitment and retention difficulties with respect to nurses, pharmacists and certain other health care specialities. Random testing, in our opinion, could worsen the VA's current recruitment and retention difficulties.

Finally, it has been estimated that the first four years of a random drug testing program for VA employees will cost at least $10 million. Quite frankly, the DAV strongly believes that such resources could be better utilized for providing direct patient care to veterans. Based on the above, I strongly urge you to support the provisions of S. 9, as reported, relating to the drug testing of VA employees.

The other issue of concern to the DAV relates to Section 308 of S. 9—acquired immune deficiency syndrome matters. This section of the bill (1) would require the VA to establish a system-wide AIDS education and training program for patients and employees of VA health care facilities, (2) expand the scope of existing VA alcohol and drug treatment confidentiality and nondiscrimination provisions to encompass individuals who are infected by the human immunodeficiency virus (HIV) and (3) prohibit the VA from implementing any widespread HIV testing program unless Congress specifically appropriates funds for that purpose.

This section, in our view, sets forth a responsible approach to permit the VA health care system to realistically address one of the greatest health threats in our country. Clearly, the provision that permits the VA to offer HIV testing and counseling to those patients believed to be at high risk for infection, coupled with those provisions maintaining confidentiality of VA medical records, prohibition of discrimination in admission to VA hospitals and establishing system-wide programs of education and prevention for VA patients and health care personnel, responsibly addresses this serious health issue based upon current scientific and medical knowledge.

As you know, AIDS has been a major health issue for more than five years—claiming the lives of more than 20,000 Americans. The VA has treated nearly six percent of all AIDS cases in the United States and treated approximately 1,300 such patients in Fiscal Year 1987 alone.

Due to the gravity of this health issue there have been calls for more wide-spread testing of individuals for the presence of the antibody to the HIV and, in some cases, mandatory testing for the AIDS antibody.

Should the issue of wholesale mandatory testing for the HIV antibody of all VA inpatients be proposed through amendment to S. 9, I want you to know that the DAV is unalterably opposed to such a proposal or amendment.

Wholesale mandatory testing for AIDS fails to recognize the body of information that has been compiled by the Office of Technology Assessment, the Surgeon General of the United States and the Centers for Disease Control relating to the serious flaws that exist for mass testing programs directed at whole classes of people.

In addition, such a mass testing program for the VA could cost the agency at least $25 million a year in direct patient care funding. Consequently, the DAV strongly urges you to support Section 308 of S. 9 as reported by the Senate Veterans Affairs Committee.

In closing, on behalf of the more than 1.1 million members of the Disabled American Veterans and its Ladies' Auxiliary, I strongly encourage you to actively support the Senate Veterans Affairs Committee recommendations as contained in Section 308 and 333 of S. 9. Your support for these provisions will prevent further erosion of funding needed for direct patient care. I look forward to your support.

Sincerely,

GENE A. MURPHY,
National Commander.

Mr. MURKOWSKI. Mr. President, that letter also states:

> The DAV strongly believes that such resources could be better utilized for providing direct patient care to veterans.

Mr. President, as we reflect on the energetic discussion that is taking place here today, one wonders why it is not addressed to the basic drug problem that we have in the United States—the funding, the enforcement, the education, the rehabilitation.

It is an extraordinary action that we are contemplating. We have the input from White House, under a threat of veto; the Justice Department, under threat of uniformity, wants to do a sweeping evaluation of all Americans with little regard to the merits of whether or not it is needed.

Mr. President, before I go on with other examples, I would like to include a letter, dated November 16, 1987, from the Paralyzed Veterans of America, which includes their position on the matter before us.

> PVA believes that the vast majority of these VA employees, primarily physicians, nurses and other health care professionals, are not in the high risk groups normally associated with illegal substance abuse. . . . PVA also strongly believes the potential affront to the civil rights, morale and personal integrity of these federal employees does not warrant this massive and expensive effort to identify or deter any potential drug abuse problem among this particular population.

Mr. President, I ask unanimous consent that the letter from the Paralyzed Veterans of America be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PARALYZED VETERANS OF AMERICA,
November 16, 1987.

Hon. FRANK H. MURKOWSKI,
U. S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: Paralyzed Veterans of America (PVA) would like to express its strong support for Section 333 of S. 9, "The Omnibus Veterans' Benefits and Services Act of 1987." This section would limit the Veterans Administration's authority to conduct wide-spread random drug testing on VA health care personnel as currently defined under Executive Order 12564, (September 17, 1986).

Under current directive, the VA has proposed a plan to proceed with a drug testing program which would include employees selected under four circumstances: 1) reasonable suspicion; 2) accident or incident investigation; 3) follow-up for rehabilitation; and 4) random selection in sensitive positions. Section 333 of S. 9, while generally agreeing with the intent of the first three circumstances, would prohibit the implementation of the widespread drug testing program called for in the fourth instance as being ineffective, unnecessary, expensive and largely irrelevant to the provision of quality health care within the VA. PVA wholeheartedly agrees with this position.

Under the VA's proposal, approximately 135,000 employees, 90 percent of whom are involved in the provision of direct health care, would be subject to random testing. Approximately 65,000 applicants tentatively selected for VA employment would be randomly selected for drug testing as well. The VA estimates that 100,000 employees would be tested in the first four years of the program at an estimated minimum cost of $10 million.

PVA believes that the vast majority of these VA employees, primarily physicians, nurses and other health care professionals, are not in the high risk groups normally associated with illegal substance abuse. Apart from identifying the documented unreliability of certain drug testing methods and procedures, PVA also strongly believes the potential affront to the civil rights, morale and personal integrity of these federal employees does not warrant this massive and expensive effort to identify or deter any potential drug abuse problem among this particular population. The testing program, exept in those instances mentioned above, where there is reasonable suspicion of abuse which could affect the well-being of a veteran patient or the rehabilitation of the employee, will not have any positive impact on the provision of quality care within the VA or the prevention of illegal drug use in society at large.

At a time of high federal deficits and limited VA dollars, PVA believes that the targeted approach to testing expressed in S. 9 is the most reasonable and effective way to address any potential problem of drug abuse among VA employees. We urge your full support for Section 333 and the entire bill as approved by the Senate Committee on Veterans' Affairs.

Sincerely yours,

GORDON H. MANSFIELD,
Associate Executive Director for Government Relations.

Mr. MURKOWSKI. Mr. President, there are other references that I think need some examination. Let us look at the private sector. I have a letter, dated November 17, 1987, from the California Association of Hospitals and Health systems. This is a letter to the chairman, Senator CRANSTON. I quote from paragraph 3:

> To the best of our knowledge, no private California hospital has a random drug testing policy unless there is a reasonable suspicion of drug abuse.

Further, we have examined the record and understand that the American Hospital Association has no evidence—no evidence, Mr. President—of any private hospital having a mandatory random drug testing program unless there is reason to believe that there is a problem within the institution.

We heard the Senator from South Carolina, the Senator from New Mexico, and the Senator from Arizona asking, "Why should we treat the VA different?"

We have, Mr. President, a legitimate issue: Why treat VA differently than other departments and other agencies? Well, let us look at a few Government agencies.

Let us look at the Department of Defense. Is there a comparison between the two agencies? Both are Federal agencies. But in terms of relative size, the VA is miniscule. So that is what we are really talking about. We are talking about a comparison on the basis of need, of practicality, between the Department of Defense and the VA. I submit that mandatory random drug testing in the Department of Defense is obviously appropriate. It is in our national interest.

In the Department of Transportation, such tests are appropriate in light of the agency's mission and the demographics of the employee population. Similarly, servicemen are exposed—younger, single, moving around the world—exposed to drugs as a result of duty assignments and other overseas duties. Is that far different than administering, in a hospital or providing nursing or other direct care to veterans? Of course, it is different, far different.

If I can draw a comparison, it would be this: Should we mandate drug testing in the National Institutes of Health? Well, of course not. That is not where the exposure is. It is not in the provision of veterans's health care in the Veterans' Administration. We should be focusing our attention appropriately in the areas where the exposure exists. And to suggest we should make it mandatory, uniform for consistency or to accommodate a White House concern—and I again question the White House suggestion that it would veto this legislation when it includes a COLA increase for our veterans—is to avoid the real issue before us.

The fact is we are down to a question of whether mandatory random drug testing belongs within the VA. We have been responsible by indicating that we have a program to see if we in fact need it in the VA, a 1-year program, random testing in areas where there may or may not be a threat. We are being responsible. We are a committee that undertook the responsibility of addressing how best to handle the drug threat within the VA.

We have a proposal, Mr. President, that is responsible. I would suggest to my colleagues who are suggesting that uniformity is the mandate that, indeed, there is a difference. The difference is just as significant in relationship to the question of whether we should mandate drug testing in the National Institutes of Health in order to maintain uniformity, as we should in the VA. I commend my colleague from California and the others who have sat through hearings. We have listened to the veterans. We have listened to the VA address what they responsibly feel is an appropriate method of combating this threat. That is, indeed, to recognize that the VA is a special organization and should be treated as such. It is a health care organization; an organization providing benefits to the veterans. It is not the area of high risk in the sense of drug abuse. So it should be recognized as different; that is what we have attempted to do within our committee with this legislation.

I would urge my colleagues to support what is a responsible compromise, my compromise, which, again, very clearly meets the responsible mandate of what to do about the drug abuse in the VA by mandating a 1-year program, initiating random testing, but to recognize, Mr. President, that the VA, indeed, is different from the Department of Defense.

I thank the Chair and I will urge the adoption of my amendment at the appropriate time.

I yield to the Senator from California.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **CRANSTON**. Mr. President, I would like first to be clear about a few things on which my friend from South Carolina just spoke. First, because of all the good things in this bill it will not be vetoed. Second, we do not exempt the VA from drug testing. Rather, the committee's provision would permit the VA to test VA employees for the use of illegal drugs in three specified circumstances applicable to individual employees, namely: First, when there is a reasonable suspicion that an employee uses illegal drugs; second, in an examination authorized by the VA regarding an accident or unsafe practice, which in the provision of health care would be defined to be an unsafe practice that has resulted or could reasonably be expected to result in an adverse patient outcome; or third, as part of or in followup to counseling or rehabilitation for illegal drug use through an employee assistance program. In effect, we are allowing testing to proceed in these specified circumstances. We propose to prohibit only mandatory random drug testing.

THE RUSH TO TEST

Mr. President, before I move to table the DeConcini amendment, I would like to comment on what I consider to be a most disconcerting trend—the rush to test as some sort of mystical cure for two of our Nation's major health problems, AIDS and drug abuse. Effectively combating drug abuse and AIDS are very complex and multifaceted undertakings. Testing, as a first response, is a visible, simplistic answer to these crises. Unless testing is conducted in a rational fashion, however—as one tool used in coordination with many others, including education, counseling, and treatment—it could very likely destroy more lives than it could save.

We have the technology to test for a number of medical conditions, not just drug abuse and AIDS. However, as with many other new technologies, our testing technologies are being perfected faster than society can develop the appropriate ethical, moral, legal, and medical framework for their appropriate use. Before we further encourage and heighten this "testing frenzy" that has arisen over the last 2 years, I strongly urge that we in the Senate and policymakers everywhere seriously consider the ramifications of sanctioning mass testing for AIDS, drug abuse or whatever is the current ill.

Mr. President, scientists have made tremendous breakthroughs over the last few years in deciphering the genetic basis for many serious diseases and disorders. The gene that causes Huntington's chorea, better known as Woody Guthrie's disease, has been identified. Genes associated with Alzheimer's disease and manic-depression have also been found. And, as we learn more about our genetic makeup, tens and even hundreds more genes may be found that cause or contribute to cancer and other diseases. I have every confidence that this knowledge will enable us to treat more effectively and perhaps even prevent the onset of many terrible and tragic diseases.

However, that technology also has the potential to do great harm to millions of individuals. Many employers may not want to hire an individual who in 5 or 10 years will develop Huntington's chorea or who has a "genetic susceptibility" to certain occupation-related illnesses. Insurance companies may want to exclude from coverage those individuals who are predisposed to Alzheimer's disease. We've already seen evidence of such exclusion with regard to AIDS. Are we setting the stage for creating a society in which only individuals free from disease or susceptibility to disease will be accepted into our work force or will be able to obtain health insurance?

Indeed, the current AIDS antibody test was developed not to screen people but to ensure that the blood supply was free from the AIDS virus. No sooner was the test approved, than calls were made for mass testing in order to identify and label those who have been exposed to the AIDS virus.

Yet, advocates of such testing seldom focus on what to do after the test result is in. AIDS testing is valuable only as a tool—in conjunction with education and counseling—to help persuade individuals to modify their behavior. But testing, in and of itself, especially mandatory testing, or testing of low-risk populations, will accomplish very little at a very high price, in both financial and human terms; it may even be counterproductive, not just cost-ineffective—a big investment is a bad, harmful idea.

Before embarking on any mass testing program for AIDS or any other disease, for that matter, we must be prepared first to ensure that anyone who carries the AIDS virus—or a bad gene, for that matter—is not turned into a modern-day socioeconomic leper and denied housing, employment, insurance, or medical care. I have not heard the proponents of mandatory testing give those assurances. Indeed, while President Reagan has proposed that immigrants, inmates, marriage applicants, and hospital patients be tested for the AIDS antibody, he has provided little support or leadership for increasing education, research, or care or for providing clear assurances against discrimination for those dying from this tragic disease.

Likewise, many of the same issues also hold true for drug testing. Last year, there was great interest among politicians and the public in taking decisive action against drug abuse. Congress responded with the Anti-Drug Abuse Act of 1986, which authorized $1.7 billion for various law-enforcement, prevention, and treatment programs. Although that law did not specifically address drug testing, President Reagan had earlier issued Executive Order 12564 requiring all Federal agencies to develop random drug testing programs.

Now, a scant 1 year later, drug treatment centers still have immense waiting lists, and education and prevention efforts have not moved forward. Congressional studies have concluded that the Federal Drug Policy Board—the interagency task force designed to coordinate antidrug abuse efforts—has not taken the leadership to ensure that the best programs were implemented. Indeed, President Reagan proposed cutting funding for drug treatment, education, and prevention efforts just 3 months after he signed into law that omnibus piece of legislation.

Mr. President, I ask unanimous consent that an October 26, 1987, New York Times article, "U.S. Drug 'Crusade' Is Seen as Undermining Itself," which describes how many provisions of the law have failed to be fully implemented, be inserted into the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. I mention all this, Mr. President, because I believe it demonstrates the lack of commitment by this administration to do what is necessary to reduce drug use. Instead, this administration has focused on testing. It is asking that hundreds of thousands of innocent people be subjected to a drug test in the hopes of identifying a tiny minority of people that may have used an illegal drug. This deceptively simplistic solution to the problem of drug abuse in the workplace offers a pair of blinders that we are asked to put on so we can ignore the realities of the problem and the needs of those afflicted and society as a whole.

Mandatory testing will not create the environment needed to encourage an addict to stop using drugs or to prevent the spread of AIDS. I am urging the Senate to reject the easy way out—to reject the notion that testing and labeling people as drug users or carriers of the AIDS virus will help bring an end to either epidemic. I am urging caution before we head down the testing road, which surely will not end with drugs or AIDS, to consider why we want to test and where we will draw the line.

EXHIBIT 1

U.S. DRUG "CRUSADE" IS SEEN AS UNDERMINING ITSELF

(By Peter Kerr)

WASHINGTON, October 25.—One year after President Reagan declared a "national crusade" against illegal drugs, critics say the effort has been stymied by poor coordination and the failure of the Administration to follow through.

"There is no major drug crusade," said Senator Alfonse M. D'Amato, Republican of New York, who is one of several Congressional critics. "It is a sham."

Administration officials point to achievements, including a sharp increase in manpower at Federal law enforcement agencies and increases in arrests and drug seizures. For example, the Customs Service seized more than 86,000 pounds of cocaine in the past year, up 60 percent from the year before.

And Administration spokesmen say the President and Mrs. Reagan have helped shift public attitudes through public appearances and by encouraging employers and schools to fight drug abuse.

But in recent interviews, former Administration officials, members of Congress, drug treatment and education specialists and academic experts pointed to examples of poor planning and coordination that they said undermined the anti-drug effort. Among them are these:

Less than three months after the President signed a bill authorizing $1.7 billion in new money for anti-drug programs in 1987, the White House proposed cutting back money for treatment, education and local law enforcement for 1988.

Although the campaign sent a new wave of offenders into the Federal prisons, no one had prepared for the resulting overcrowding, which threatens to interfere with enforcement activities. The Federal system, designed to hold 28,000 prisoners, is already at 160 percent of capacity and expected 72,000 prisoners by 1992. Only now is the Administration considering doubling prison capacity, which could take years.

A year after the President set a goal of increasing the spaces in drug treatment programs, experts say the programs still can only treat a small fraction of the half million intravenous drug users in the United States. In some cities addicts must wait up to a year to get into programs. Treatment providers say Federal cutbacks and regulations are hampering attempts to expand programs and contain the AIDS virus, which is being spread by addicts who share needles.

Experts in preventing drug use say not enough is being done to assure that $200 million allocated for drug education last year is being used to establish effective programs in primary and secondary schools. Research indicates that the wrong type of curriculum can be ineffective or even harmful.

The Justice Department never established 23 task forces to fight the use of crack, a highly addictive form of cocaine, after their creation was announced last fall by Attorney General Edwin Meese 3d. And the White House Conference on Drugs, a gathering of experts that had been scheduled to report on anti-drug strategies last spring is just beginning its work.

Congressional studies contend that the National Drug Policy Board, the body established to coordinate Federal drug efforts, has not been able to resolve interagency conflicts that have limited the effectiveness of some programs. The Coast Guard and the Customs Service, for example, were locked in a jurisdictional battle over smuggling for more than a year.

"It was an Administration without adult supervision," said Deborah Steelman, a former associate director of the Office of Management and Budget who left the White House earlier this year. "Over all, the details were left to implement themselves."

BETTER COORDINATION NOW

Administration officials say that problems in coordinating national anti-drug programs have troubled the Federal Government for a quarter of a century and that they have done more to improve anti-drug efforts than any of their predecessors.

"You have better coordination now you have more progress and you have more cooperative activity taking place now than you ever had in the history of the Government," Mr. Meese said in a recent interview.

The Anti-Drug Abuse Act of 1986 that President Reagan signed last Oct. 27 provided $1.7 billion in Federal funds in addition to the $2.2 billion already spent each year, to improve enforcement, treatment and education programs. It also toughened sentences for drug violators. Several weeks earlier the President ordered widespread drug testing of Federal employees.

According to former White House aides, the Reagan drug policy was forged in the heat of a highly political summer when crack was appearing in enormous quantities on city streets, and two major sports stars died of cocaine overdoses.

DRUGS AS POLITICAL ISSUE

Although no one doubted that the Reagans were genuinely troubled by drug abuse, it was also true that polls showed the drug issue had a particular resonance with voters. The Democratic Leadership in Congress was calling for major new drug legislation and the President's political advisers felt the Administration should make drugs its premier issue as it faced the fall Congressional campaign.

"The Democratic Party has finally found its legs and was prepared to take some measures—we couldn't let them take the issue," said Mitchell E. Daniels, Jr., the former political director of the White House.

But in the weeks after Mr. Reagan signed the anti-drug bill, some of the most important decisions about the drug crusade—how much money each program would receive in the following year—were left to mid-level fiscal experts in the Office of Management and Budget who were not specialists in drug issues.

Ms. Steelman, who was in charge of determining financing levels for drug education and treatment, said she received little guidance from superiors. Her main concern, she recalled, was to keep the budget in line.

CUTS TERMED AN AFFRONT

"The people on my level, the program associate directors, were on our own," Ms. Steelman said. "When you have $460 billion to deal with, you can't really look closely at $100 million. You can't spend enough time on everything you like to."

Ms. Steelman's recommendations for cuts in spending on drug programs for the 1988 fiscal year were approved by the President, but brought a torrent of criticism from Congress.

Representative Charles B. Rangel, a New York Democrat and chairman of the Select Committee on Narcotics Abuse and Control, called the cuts an affront and said they "seriously call into question the Administration commitment to an effective national drug abuse strategy."

In the weeks following the signing of the drug bill the White House became enmeshed in the Iran-contra scandal, and aides recall that discussion of the drug issue quickly waned. Many top aides, including Dr. Carlton Turner, the chief aide on drug policies, soon left.

Responsibility for putting dozens of new programs into effect fell to administrators in dozens of agencies, from the Central Intelligence Agency to the Bureau of Indian Affairs.

LEGAL EFFORTS AND PRISONS

Many programs experienced delays, including the plan to test Federal employees in "critical" jobs for drug use. With the exception of the Department of Transportation, Federal agencies are mostly still months away from beginning to test employees.

Nonetheless the 1986 Drug Law resulted in the hiring of thousands of new Federal agents and a buttressing of efforts to stop drugs on the nation's borders. Drug arrests have risen significantly, officials say. Federal law enforcement agencies have a far greater presence along the Mexican border, and those arrested face stiffer penalties.

"We are making some real progress," said Michael H. Lane, Deputy Commissioner of the Customs Service. "We are doing more now than we ever have before."

One result, however, is that a new wave of offenders is pouring into the Federal prisons, overwhelming facilities that were already crowded, according to a recent study by the United States Sentencing Commission, an independent Federal agency.

The Federal prison system, with a capacity of 28,000 prisoners now has 44,000. The commisison estimated that by 1992 the prisons will hold from 72,000 to 79,000 prisoners, and by 1997 the prison population could grow to 118,000.

Federal law-enforcement officials have expressed concern that their efforts will be jeopardized by a backup in the judicial system and a reluctance of judges to send convicts to prison.

The Justice Department estimates that at least half the convicts entering the system will be drug violators by the end of this decade. The bill allocated money to create only 2,400 new prison spaces a process that will take at least three more years to complete.

THE DEMAND FOR TREATMENT

Despite the President's stated commitment to expanding drug abuse treatment centers around the country, providers say publicly financed drug treatment is woefully inadequate to meet demand. The $231 million in additional funds allocated under the drug bill last year, they say, will have only a small effect on the extreme shortage of space in programs. And experts say some Federal rules and regulations have seriously limited the ability of programs to expand.

Last year, publicly financed programs were able to treat 100,000 of the estimated 500,000 to 1.2 million intravenous drug users in the nation, according to Diane Canova, a spokesman for the National Association of State Alcohol and Drug Abuse Directors.

Waiting lists for people seeking to enter drug treatment range up to one year in some cities, partly as a result of a reduction in Federal financing of drug treatment programs between 1981 and last year.

POOR PLANNING AND A LACK OF FOLLOWTHROUGH IS BLAMED

A lack of drug treatment spaces could turn out to be a major failure in efforts to contain the AIDS virus, health experts say. The virus is being spread at an alarming rate in poor neighborhoods by addicts who share needles and have sexual contact with non-addicts.

NO AID FOR CONSTRUCTION

The announcement that the Administration planned to cut back the additional financing in 1988 made many treatment centers reluctant to use last year's money to start new programs, Ms. Canova said, since operators were not sure how they would pay for them in the future.

Another problem was that the Federal aid could not be used to construct new buildings, Ms. Canova said. That is a critical limitation because residential programs must expand living quarters to bring in more patients.

In addition, Federal regulations require methadone programs, which give addicts a substitute for heroin, to offer counseling and other support services that are desirable but not essential. Operators of methadone programs say they could bring thousands of additional addicts into treatment if those regulations were changed.

Dr. Donald Ian McDonald, director of the White House Abuse Policy Office, said the Administration has decided it will change the methadone regulations. But, critics charge, the Administration's slow response to the issue reflected a lack of attention to small but critical details.

"There has been a failure by this Administration," said Paul N. Samuels, executive vice president of the Legal Action Center, a public interest law firm that specializes in drug abuse issues, "to examine existing laws and regulations to determine ways in which treatment could be expanded without increasing appropriations."

PREVENTION AND EDUCATION

Academics who have studied drug prevention education programs voice another concern: that the Department of Education has not done enough to ensure that the money for drug education is financing effective programs.

Studies of drug prevention programs over the last 15 years show that many are ineffective and some that supply detailed information on drugs may stimulate use among curious teenagers.

"All too often what happens is that states or school districts allow what they think are good ideas but ones that aren't based on empirical research," said Dr. David M. Murray, associate professor of public health of the University of Minnesota. "And generally most things don't work. You can get a lot of activity and not a lot of results."

The Education Department issued a booklet last year that included suggestions for drug education, but Dr. Murray and other researchers urged that the department institute curriculum guidelines using Federal money.

John P. Walters, an assistant to the Secretary of Education, said the department shared the researchers' concern about curriculum and was planning to review the issue. But he said getting parents and communities to support the anti-drug lessons learned in schools was of paramount concern.

It is in changing public attitudes that Administration spokesman say they may have had their greatest successes. They say the appearances of Nancy Reagan and the President, their support of parents' groups, their "Just Say No" programs and their encouragement of companies to adopt drug testing has helped make the use of illegal drugs less acceptable. It is a view shared by some experts outside the Government.

"The Administration has been remarkably successful in changing attitudes and norms," said Mark H. Moore, a professor of criminal justice policy at Harvard University's John F. Kennedy School of Government. "The President's public role has legitimized the drug issue."

QUESTIONS OF LEADERSHIP

Since the drug bill was signed, a main topic of debate between Administration officials and Congressional critics has been: Who is responsible for making Federal drug efforts work?

The job of coordinating the Federal agencies involved is assigned to the Federal Drug Policy Board, an interagency group headed by the Attorney General.

But recent reports by the General Accounting Office and by the House Committee on Government Operations have charged that responsibility for drug policy is diffuse and overlapping. The House study found that the board was unable to resolve jurisdictional disputes that delayed the implementation of studies and programs. The Congressional study also said the board did not regularly review budgets for drug programs, and did not assess which programs work and which do not.

In recent interviews, Dr. McDonald, Attorney General Meese, Associate Attorney General Stephen S. Trott and other Justice Department officials who work with the board could not give an example of one Federal program that they had found lacking in the past two years, or one for which they wished to reduce financing.

However, Mr. Meese and his assistants said the House report was unfairly critical. The board, they said, has greatly increased its effectiveness this year by including representatives of more agencies and designating "lead" agencies for various tasks.

The Attorney General said, however, that the Administration preferred to let administrators work out policy disputes rather than impose decisions from above.

"This is something that has to be done by the heads of executive departments—we are the people who know what is happening out there," Mr. Meese said. "Most of the things that happen in Government the White House doesn't get involved in. I think when the White House has gotten involved you have had some disasters. Arms transfers to Iran come to mind."

Mr. CRANSTON. Mr. President, before moving to table, I yield the floor so that the Senator from Hawaii may speak.

The **PRESIDING OFFICER.** The Senator from Hawaii is recognized.

Mr. MATSUNAGA. Mr. President, I thank the distinguished chairman of the Veterans' Affairs Committee for yielding.

Mr. President, I rise in strong opposition to the DeConcini amendment to strike section 333 of S. 9, the Veterans' Benefits and Services Act of 1987. The amendment would permit the administration to carry out an unwise program of mandatory random drug testing in the Veterans' Administration. The result could well result in unjust, adverse effects on careers, high testing costs, and a decline in the VA's ability to deliver adequate health care.

Mr. President, the accuracy and reliability of drug testing depends on a extended chain of assumptions concerning the frequency of testing, the quality of the methods used, the abilities of the administering technicians, and the continuous control and oversight of test sample and records. According to the Office of Technology Assessment [OTA] the reliability of positive test results rises in proportion to the prevalence of drug use among the sample population. That is, the less a target population uses drugs the less reliable are the positive tests for any one individual. OTA estimates that if drug use is confined to less than a tenth of the target population, less than half of the initial positive screenings will be reliable. Assuming that drug use in the VA is less than 10 percent—and there is no reason to believe otherwise—it is obvious that there will be a great many false indications of drug use. Given this unreliability, is it wise for us to proceed with such a program? We need to examine further the consequences of implementing such a wide-scale testing program in the VA, such as the adverse effects false-positive tests can have on employees' careers.

Mr. President, a general drug-testing program in the VA would not be cost effective. Under the President's "Drug Free Workplace" Executive order, which the DeConcini amendment would permit to be implemented, fully 135,000 VA employees, or over half the agency, could be targeted for random drug testing. The best available evidence from the military's drug testing program indicates that the total cost per sample test could be as high as $100, when administrative and other expenses are included. Considering the fact that there is no evidence to indicate that physicians and nurses, either in the private sector or in the VA, have a higher degree of drug use than the population as a whole, and given the fact that the reliability of drug tests declines as drug use incidence in a given population declines, it is questionable whether such a comprehensive program is worth the energy or the expenditure. Our efforts to combat drug use in the VA or in any Federal agency is more appropriately channeled in the direction of employee education and counseling programs.

But, Mr. President, what concerns me most about the DeConcini amendment is its effect on the VA's ability to recruit and retain qualified health care professionals. The VA is facing critical shortages in the number of registered nurses, pharmacists, physical and occupational therapists, and other health care professionals. One of the primary reasons for this problem is that VA salaries are lower than industry standards. VA staff nurses, for example, make an average of $25,000, while commercial staff nurses make $27,000. The $2,000 differential is in itself deceptive since VA hospitals tend to be located in urban areas, where private sector nursing salaries are higher than average, thus posting an even greater hiring and retention problem. It is obvious that, all else being equal, nurses and other in-demand health care professionals will choose to work for organizations which pay more for their services, and which respect their professionalism and personal privacy to a greater degree. As such, a comprehensive VA drug testing program would be a disincentive to VA employment.

The DeConcini amendment would undermine the committee's efforts to address the problem of recruitment and retention in this very bill. S. 9, as reported by the committee, does contain provisions which would give the VA the ability to attract and retain key health care personnel. For example, the bill extends premium pay for nurses working on Sundays to those working on Saturdays; it establishes a tuition reimbursement program for full-time nursing and other health care personnel; it extends eligibility for health professional scholarships to physical therapists and others who provide direct patient care services; and it authorizes the VA to disburse up to $20,000 in bonus pay to health professionals who agree to work for the VA in a specific geographic area or in a specialty experiencing recruitment and retention problems. So we can only conclude, Mr. President, that the amendment offered by the senior Senator from Arizona asks us to take away with the left hand what we have just given with the right.

Mr. President, I urge my colleagues to reject his amendment.

Mr. MURKOWSKI. Mr. President, I think my colleague from Hawaii, who is also a member of the committee, has very eloquently outlined the position that I support as well. When we talk about Federal employees, Mr. President, we really mean the Department of Defense and the VA. These agencies by far have the largest proportion of employees in the Federal Government. The Defense Department has, if my memory serves me correctly, over a million civilian employees and over 2 million uniformed personnel in the services. The VA has 240,000 employees. In contrast, other agencies are much smaller. For example, GSA has 22,000 employees. Testing most agencies will not affect a large number of people in reality, but testing VA employees will. Testing in the Defense Department can be justified because of the unique mission of our Armed Forces. That has been evidenced in this debate. However, testing VA employees does not have that justification.

I cannot help but compare proposals to test VA employees, Mr. President, to going on a fishing expedition. Testing VA employees is not the best way of addressing the issue of drug abuse. This is not the way to address this issue any more than the National Institutes of Health, as I have enunciated before, should be the area where we concentrate drug testing.

We have a responsibility put in a check and balance—my amendment would authorize a year's program to randomly test VA employees in areas where there is reason to believe we do have a problem. But to suggest that drug testing should be mandated within the VA is simply inappropriate. It simply does not belong for the simple reason that the VA is different. I will urge at the appropriate time that the motion to table the DeConcini amendment be agreed to.

Mr. DANFORTH. Mr. President, I support the amendment offered by my distinguished colleague from Arizona, Senator DECONCINI.

The question before us, Mr. President, is whether those employees within the Veterans' Administration whose jobs are directly related to the health and safety of our veterans shall be exempted from having to undergo random drug testing.

I might point out that the Senate has spoken at least twice already on the issue of random drug testing of employees in key safety positions. The first time was when we passed the supplemental appropriations bill in July. That bill called for the development of a governmentwide program of drug testing for employees in positions that directly affect public safety. Not only the Veterans' Administration, but also every other Federal department and agency, was directed to devise a comprehensive plan for testing employees for the use of illicit drugs.

The second time that the Senate spoke on this issue was just 3 weeks ago on an amendment that I offered to S. 1485, the Air Passenger Protection Act. That amendment passed by an overwhelming margin, the vote being 83 to 7. It required random drug and alcohol testing of key transportation safety workers, including pilots, air traffic controllers, railroad engineers and brakemen, and truck drivers. Mr. President, I submit that there is no fundamental difference between that amendment and the current one, which requires the random drug testing of doctors, nurses, and pharmacists working within the VA. Both amendments address exactly the same issue—how are we to protect the health, safety, and well-being of individuals who must place themselves in the hands of professionals, too many of whom are impaired by the effects of drug and alcohol abuse.

The 1986 annual survey conducted by the National Institute on Drug Abuse found that fully 19 percent of all Americans over age 19 had used illicit drugs over the previous year. More specifically, evidence suggests that drug and alcohol abuse is a substantial problem among those whose jobs directly affect public safety. During debate on the drug testing amendment to the air passenger safety bill, I gave statistics on the problem of drug abuse among pilots, railroad engineers, and truck drivers. For example, in a study conducted by the Insurance Institute for Highway Safety, 30 percent of 359 truck drivers who agreed to be tested were found to have drugs or alcohol in their system with potential for drug abuse. Prompted by this and other strong evidence of substance abuse in the transportation industry, Congress voted to institute a comprehensive drug testing program in that industry.

But the problem of drug and alcohol abuse goes far beyond the transportation industry. It is a significant problem spanning all professions, including the medical one. An article that appeared in the New England Journal of Medicine in 1986 found that almost 60 percent of all physicians had used psychoactive drugs in their lifetimes. For pharmacists, the number was 46 percent; for medical students, 77 percent; and for pharmacy students, 62.4 percent. Approximately 33 percent of physicians had used drugs within the past year, as had 19 percent of pharmacists, 43 percent of medical students, and 41 percent of pharmacy students. To quote from that article,

> [R]ecreational drugs used by young physicians now include not only marijuana but the full spectrum of psychoactive drugs, and . . . recreational drug use has become an important cause of drug-related impairment for them.

Given this and other strong evidence that substance abuse in the medical profession is no less common than in any other profession, I can find no justification for exempting doctors, nurses, and pharmacists within the VA from the random drug testing component of the Governmentwide Drug Testing Program.

During debate on the transportation bill, I argued—and the vote on that bill assures me that most Senators agreed with me—that drug testing only for probable cause is not enough to protect public safety. An argument is often made that a supervisor should be able to observe the signs of drug use among safety-sensitive employees. The tragic railroad accident that occurred in Chase, MD, in 1986, in which 16 people were killed, illustrates two problems with this argument. First, the signs of drug use can be extremely difficult to detect. Both of the operators of the Conrail train tested positive for marijuana after the accident. Their supervisor, who had seen both men just minutes before the crash, failed to detect any impairment. Second, employees might not use an illegal substance until they are sure that there will be little chance that they will be in the presence of their supervisor. More recent reports on the Conrail accident indicate that the train operators may have used the drugs after they entered the locomotive and had driven away from their supervisor. Whatever the case, "reasonable cause" testing was not enough to prevent a terrible accident.

Moreover, Mr. President, postaccident drug testing is not satisfactory, either. I ask you, did the postaccident drug testing in the Chase, MD, accident satisfy the families of that accident's victims? No, it did not. Nor would postaccident testing satisfy VA patients who might be the victims of accidents in the operating room, who might receive the wrong medication, or whose prescriptions might be administered improperly. Any of these situations are likely to occur when medical personnel are under the influence of drugs. Indeed, as Senator DOMENICI has already pointed out, similar situations already have occurred within the VA as a result of drug abuse among its employees. Just as the victim of a train collision or an airline crash, the patient's life could be jeopardized because his safety had been placed in the hands of an impaired professional.

Mr. President, I believe that random drug testing is an essential part of any program to control drug abuse among personnel whose daily decisions affect the health and safety of the public. It is only through the deterrent effect of random testing that we can stop drug abuse before accidents occur, before innocent lives are taken or permanently disabled. For this reason, it is absolutely essential that we not exempt the Veterans' Administration from its statutory requirement to administer random drug testing to all employees in key safety positions. Remember, the lives of our veterans are at stake.

Mr. HELMS. Mr. President, I strongly support the amendment proposed by the distinguished Senator from Arizona. The pending amendment would delete a committee amendment to exempt the Veterans' Administration [VA] from the Federal random drug testing program.

Mr. President, random drug testing is particularly appropriate within the VA. As the committee points out, the VA is the largest Federal employer of health care professionals and millions of veterans are treated each year by these medical workers. These doctors, nurses, pharmacists, therapists, anesthetists, aides, and technicians perform surgery, prescribe and dispense drugs, nurse, and care for patient medical needs 24 hours a day. Veterans fulfilled the call to defend the Nation and they rightfully trust the Government to provide them with quality health care in return. Drug free medical workers are a prerequisite to quality health care. Without the pending amendment's passage, the Federal Government will be unable to meet veteran expectations that individuals treating them in VA hospitals are drug free and clear thinking.

Mr. President, the committee's amendment to exempt the VA from drug testing is noteworthy in a larger context because it constitutes the first assault on the compromise reached this past summer between the administration and Congress about Federal drug testing programs. That compromise permits Government agencies to randomly test employees in sensitive positions for illegal drug use. Random drug testing, by virtue of the fact that it is random, is the most effective deterrent to drug use in the workplace. The premise for the compromise was that testing would be truly random and accurate before it could begin. The committee's arguments supporting an exemption for the VA from the Federal testing program call into question the Federal Government's ability to ever ensure that drug testing programs are acceptably accurate.

The committee is primarily concerned about false positives and their effect on innocent people. The inference from the committee report is that the incidence of false positives in random drug testing programs is unacceptably high. This is not true. According to the Department of Defense [DOD], no false positives have been recorded over the last 3 years in any of the military services' drug testing programs despite the fact that DOD conducts over 3 million tests annually. Court challenges to various DOD testing programs have never been upheld on the grounds that a chemical test result was inaccurate. The few prevailing cases in the courts have been based on chain of custody problems in handling specimens.

The National Institute on Drug Abuse [NIDA] has proposed guidelines for Federal drug testing programs modeled on the Navy's program which has been refined after almost a decade of use. NIDA reports that its proposed two-step confirmatory drug testing procedure it has proposed is as close to 100-percent accurate as is technologically feasible. Dr. Miicke of the Office of Technology Assessment testified before the Subcommittee on Human Resources of the House Post Office and Civil Service Committee on September 16, 1986, that when positive results from the screening tests are confirmed with a specific test such as the gas chromatography/mass spectrometry (g.c./m.s.) test, the results are highly reliable and difficult to dispute. On May 20, 1987, he testified that confirmatory testing and the high reliability and accuracy of urine tests, when performed properly, have shifted concerns about drug testing away from the technical capabilities of the tests themselves and to the performance of testing laboratories and their personnel.

To ensure conscientious performance by laboratories, NIDA has also proposed standards for a national certification program for laboratories engaged in urine testing for Federal agencies. The Navy's drug program and the standards developed under it to ensure proficiency in naval drug testing laboratories once again served as a model for NIDA. The proposed certification program would require that specimens containing no drugs, a single drug, or a combination of drugs be submitted to all testing labs on a regular basis without notice. Inaccurate test results would prompt an investigation of a lab's procedures. Unless an acceptable explanation for the error is found the lab would be decertified. The stringency of the certification requirements have prompted many smaller laboratory companies to complain that only the largest testing labs will be able to compete for Federal drug testing contracts.

NIDA's reliance on the Navy's drug program in developing its proposals is particularly noteworthy at this time because the Navy has agreed to conduct the urinalysis testing for the VA drug program. The Navy tests over 2 million personnel each year, more than all the other military branches combined. The accuracy and reliability of its laboratory work in this field is acknowledged by experts as among the best in the Nation.

Mr. President, drug testing technology is accurate; procedures can safeguard against chain of custody problems; and the quality of the Navy's laboratory drug analysis is the best available. Concerns about unacceptably high percentages of false positives in the VA's proposed random drug testing program are unfounded.

The committee also contends that the VA's proposed drug testing program would not be cost effective because drug abuse among physicians is low. Mr. President, drug abuse among health care professionals may not be rampant, but it cannot be assumed that the profession is immune from the drug abuse problem afflicting the Nation. The committee concedes in its report that recreational drug use among physicians and medical students is "similar to or lower than that among other professionals and occupational groups."

Mr. President, it is obvious that this Nation has a drug problem and that the problem is not confined to the poor, the ignorant, or nonprofessional segments of society. Until recently, cocaine had a reputation as the drug of the rich and upwardly mobile. No extensive studies have been conducted on the incidence of drug use among health care professionals. Therefore, no basis exists for concluding that drug abuse is prevalent among them. But neither can it be assumed, as the committee has, that drug abuse has penetrated their ranks to a lesser degree than it has society as a whole.

Mr. President, even conceding low levels of drug abuse among health care workers in the VA, the cost effectiveness argument is still unfounded. The committee's cost effectiveness determination is based solely on the average cost of identifying each truly positive drug user. This measure of cost effectiveness for random drug testing programs is seriously flawed.

First, it measures the program's effectiveness in identifying actual drug users and not its effectiveness in deterring drug use. The primary benefit of random testing is deterrence, not identification. The committee's cost effectiveness evaluation is gauged by a secondary benefit of the program rather than by the program's primary value as a drug abuse deterrent.

Second, Mr. President, the committee confuses the statistical argument. The committee is correct that the average cost of identifying a drug user under the program increases when the incidence of drug use in the test population is low. This is because the total costs of the program must be spread over a smaller number of users which can be identified by the testing. However, Mr. President, the program's average cost in detecting an actual user should not be confused, as the committee appears to, with the average cost of testing all individuals, both users and nonusers.

The average cost of testing all individuals in a two-step testing program actually decreases as the incidence of drug use in a tested population decreases. Test populations with fewer users create fewer positive test results in the initial screening process. This, in turn, reduces the need for expensive confirmatory tests to verify that the positives obtained in the initial screening process are truly positive.

What all of this means, Mr. President, is that both the total and average costs of conducting a two-step drug testing program are lower when the incidence of drug use in a tested population is low. This fact runs directly counter to the inference engendered by the committee's language concerning the average cost of a two-step program in spotting and confirming individual drug users.

Mr. President, the committee also argues that permitting the VA to institute a random drug testing program would adversely affect worker morale and exacerbate recruitment problems. While there is an acknowledged shortage of workers in the health care field, the committee has not offered anything but anecdotal evidence that random drug testing would seriously affect morale or personnel recruitment. Mr. President, medical malpractice due to illegal drug use poses a far greater risk to the Nation's veterans than any morale or recruitment problems possibly engendered by testing VA employees for illegal drug use.

Mr. President, I urge Senators to support Senator DeConcini's amendment because it allows the VA to assure the Nation's veterans that the health care they receive at VA hospitals is rendered by drug-free professionals in full possession of their faculties.

I urge the adoption of the amendment offered by the Senator from Arizona.

Mr. CRANSTON. Mr. President, for all the reasons that have been advanced by my good friend from Alaska, Senator Murkowski, by Senator Matsunaga, myself, and others who have not spoken but share our views that random drug testing would invade privacy, not be cost-effective and set back rather than move forward the effort to cope with drug abuse. I move to table the DeConcini amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. Dole] is necessarily absent.

The result was announced—yeas 29, nays 67, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—29

Adams
Baucus
Biden
Boren
Burdick
Chafee
Conrad
Cranston
Daschle
Dodd
Durenberger
Harkin
Heinz
Inouye
Kennedy
Leahy
Matsunaga
Melcher
Metzenbaum
Murkowski
Pell
Sanford
Sarbanes
Simpson
Specter
Stafford
Stevens
Weicker
Wirth

NAYS—67

Armstrong
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Levin
Lugar
McCain
McClure
McConnell
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sasser
Shelby
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—4

Dole
Gore
Simon
Stennis

So the motion to lay on the table amendment No. 1234 was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that my pending amendment, which I believe is the next order of business, be withdrawn.

The PRESIDING OFFICER (Mr. Reid). Without objection the amendment is withdrawn.

AMENDMENT NO. 1234

Mr. DeCONCINI. Mr. President, is the pending business then the DeConcini-Domenici-Mikulski-Thurmond amendment? Is that the pending business?

The PRESIDING OFFICER. The Senator is correct. That is the pending business.

Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1234) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, at this time, I want to thank the distinguished Senator form California and the distinguished Senator from Alaska, the chairman and ranking member of the Veterans Committee respectively. They fought a good fight here and I appreciate the consideration they gave us in order to have as near an up-or-down vote as you can have on something that is so very important, as I believe drug testing is and as they believe this is. And although we have a slight disagreement on drug testing here, I do appreciate their positions and have the greatest respect for their positions. I thank them for their efforts as well as their staffs' efforts in working out procedures so that we could get this cleared away by 1:25 p.m.

Mr. CRANSTON. Mr. President, I thank the Senator from Arizona for his generous words and I congratulate him on his victory.

Mr. MURKOWSKI. I thank my colleague, the chairman of the Veterans' Affairs Committee, and congratulate the effort made by the senior Senator form Arizona.

I think we had a question here of degree and obviously the will of the Senate has been done.

Senator CRANSTON and I will be working with the VA and the service organizations in application of this, assuming this bill, S. 9, proceeds.

Again, I recognize the Senator from South Carolina, who very eloquently debated the issue, although we were on the other side. I think again his sincerity and perseverance on behalf of our mutual concerns—expressed by virtually all of us who have spoken today—are what we feel is in the best interest of veterans, although we differed. That is the way the process should work and we will be working within that process.

So again let me commend my colleagues.

I believe there is another amendment pending.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1237

(Purpose: To provide certain recordkeeping and testing requirements relating to infection with the human immunodeficiency virus)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1237.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, strike out lines 7 through 24 and insert in lieu thereof the following:

(d) TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—(1) Within 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration offers (A) to test each in-patient receiving health-care treatment from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus, and (B) to provide counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior written consent of the patient tested.

(2) Testing procedures and quality control requirements provided in the regulations promulgated under paragraph (1) shall be consistent with those procedures and requirements provided under the human immunodeficiency virus testing program conducted by the Department of the Army for persons receiving health care from such department.

AMENDMENT NO. 1238 TO AMENDMENT NO. 1237

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is amendment to the amendment just offered.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 1238 to amendment 1237.

Mr. CRANSTON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 of the amendment, strike out all after "within" and insert in lieu thereof: 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration offers (A) to test each patient who is at high risk for infection with the HIV virus, and is receiving inpatient hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus, and (B) to provide * * * counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior written consent of the patient tested.

(2) Testing procedures and quality control requirements provided in the regulations promulgated under paragraph (1) shall be consistent with those procedures and requirements provided under the human immunodeficiency virus testing program conducted by the Department of the Army for persons receiving health care from such department.

(3) Except as provided in paragraph (1), the Administrator of Veterans' Affairs may not conduct a widespread testing program to determine infection with the human Immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year.

(4) For the purpose of this subsection, the term "widespread testing program" means a program for the testing of any category of Veterans' Administration health-care patients to determine whether such patients are infected with the human immunodeficiency virus, but such term does not include any program for offering testing and counseling to patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, who are receiving treatment for a disease associated with the human immunodeficiency virus, or who are otherwise at high risk for infection with such virus.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1239

(Purpose: To provide certain recordkeeping and testing requirements relating to infection with the human immunodeficiency virus)

Mr. HELMS. Mr. President, I withdraw my amendment and I send a modified version to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1239.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendment is as follows:

On page 83, strike out lines 7 through 24 and insert in lieu thereof the following:

(d) Testing for Infection With the Human Immunodeficiency Virus.—(1) Within 210 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration offers (A) to test each in-patient receiving health-care treatment from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus, and (B) to provide counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior written consent of the patient tested.

(2) Testing procedures and quality control requirements provided in the regulations promulgated under paragraph (1) shall be consistent with those procedures and requirements provided under the human immunodeficiency virus testing program conducted by the Department of the Army for persons receiving health care from such department.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on the amendment offered by the Senator from North Carolina.

The PRESIDING OFFICER. Is there a second?

Mr. HELMS. Mr. President, I hope the Senator will withdraw that. The purpose of calling off the quorum call was to withdraw the amendment because suggestions have been made by the distinguished manager of the bill on this side of a modification which may be appealing to the Senator from California.

Mr. CRANSTON. I would be glad to suggest the absence of a quorum so we can discuss it.

Mr. HELMS. In any case, based on the conversation we have had with the Senator from Alaska [Mr. Murkowski] and members of his staff, the amendment at the desk is not the one that I think we should vote on and, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator from California asked for the yeas and nays on the amendment. Is there a sufficient second? Does the Senator withdraw the request for the yeas and nays?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. The Senator withdraws the request for the yeas and nays.

The Senator from California has the floor.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Adams). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I will speak generally on the bill and for no other purpose, because I know there are some procedural matters going on at the present time. I want to say a few works in support of the Omnibus Veterans Benefits and Services Act of 1987 and just to describe very briefly for my colleagues some aspects of the bill with which I have some very strong disagreement.

This is an exceedingly complex bill, obviously, and it is only natural there will be areas on which not all members of the committee would be able to agree. But the provision of this bill with which I have the greatest concern is that which would add the disease of systemic lupus erythematosus to the list of conditions presumed to be service connected if manifested within 1 year of service.

Some history of previous efforts to add this condition to the list of those disabilities presumed service-connected might be helpful. Our dear and generous friend, Jennings Randolph, former Senator, introduced a similar proposal in 1983 and the Senate Committee on Veterans' Affairs held hearings and two markups, finally voting against the bill and I think doing so for some very good reasons.

The chronic presumptive disease list was established in its entirety between 1921 and 1948, and since then adjustments have been made, but no new diseases have been added now. To understand why that would be within these times, we need to look at the rationale for the presumptions themselves and ask whether there is any good reason at all to add another disease to the list at this time. I think there is no reason to add another disease. That is the answer.

These presumptions of service connection may have been justified when there was little or no accurate scientific or medical knowledge about causation, but medicine has made some rather extraordinary advances since 1948. And most of the diseases that are now on this list could probably not in any way be justified on the basis of current medical knowledge.

Another justification for "presumptions" was that medical service records were inadequate or lost, and that was especially the case during World War II. And that was true. Today these records are detailed, very accurate, and carefully maintained by the services. But as a matter of current practice, the VA already gives—and this is important—a 1-year presumption for all illnesses which manifest themselves to a degree of 10 percent within 1 year of discharge from service. The VA tells us with regard to this disease that it does not know of even a single case of lupus manifested to a degree of 10 percent that is not already being compensated. In fact, there are 559 veterans who are service connected for lupus.

No hearings were held on the bill; no justification for adding the disease was presented. There are already an extraordinary number—I think people do not realize this—of diseases considered to be service connected, and they are the diseases with which a large percentage of the general populous is afflicted; hardening of the arteries, heart disease, malignant tumors, arthritis, and ulcers, all presumed to be service connected—that's hard to believe. We sometimes miss those kind of things in this remarkable arena, because those are the same diseases that happen to other people who are nonveterans or veterans within the general population.

So I think the days are over when we would just add a benefit simply because it would be a very generous act. I know what lupus is. It is a ghastly disease. I know, too, that when we discussed this in the Veterans' Affairs Committee there was a great deal of emotion about it. I know how that goes in this place. I have the utmost compassion for those who suffer from this hideous disease. But those of us who are in responsible positions I think have to face the fact that the VA budget must also play its part in bringing down the Federal deficit. In allocating resources to the VA, we have to make some difficult choices, and often for the first time. We have been a very generous Nation to the veterans of our country. Twenty-seven billion dollars of your money goes to 28 million veterans. That is almost $1 billion per million veterans.

I am a veteran. I am very proud to be a veteran. I served overseas at the end with the army of occupation in Germany. I have never had a live round fired at my head, and I am very pleased about that, too. I was not involved in combat but I was there. You have to remember that maybe 3 to 4 million of these 28 million veterans were ever in a personal terrifying combat experience.

This whole system of compensation has reached such a bizarre result that now a service-connected disabled veteran who has never seen combat can receive more benefits from the system than does a combat-disabled veteran. I hope you hear that, Mr. President. That is one of the absurdities we have reached with veterans' benefits. And then the presumptive disease list, as I say, has 41 diseases on it that happen to everybody, and yet there it is in black and white. It is presumed that you contracted this or that specific disease in the service and it is thus service connected. Read that list. I think you will find it surprising that all of these physical and mental disabilities can be presumed to arise from duty in the armed service.

Mr. President, I ask unanimous consent that this list be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TRANSLATION OF "CHRONIC DISEASES" LISTED IN SECTION 301

1. Anemia, primary—anemia, "low blood"; a reduction below normal in the number of red blood cells in the blood.

2. Arteriosclerosis—"hardening of the arteries"; narrowing of the arterial passageways.

3. Arthritis—inflamatory lesions formed on the joints.

4. Atrophy, progressive muscular—muscle deterioration.

5. Brain hemorrhage—"stroke", bleeding into the brain.

6. Brain thrombosis—"stroke", blood clotting in the brain.

7. Bronchiectasis—chronic dilation of any of the larger air passages in the lung (bronchi).

8. Calculi of the kidney, bladder or gallbladder—"kidney stones"; "gall stones".

9. Cardiovascular-renal disease, including hypertension—"diseases of heart, blood vessels and kidneys, including high blood pressure".

10. Cirrhosis of the liver—destruction of the normal lobular architecture of the liver often with formation of fibers and nodules.

11. Coccidioidomycosis—respiratory infection caused by inhaling spores; a fungous disease.

12. Diabetes mellitus—a metabolic disorder usually due to faulty activity of the pancreas which disturbs the insulin mechanism.

13. Endocardities—inflammatory alteration of the lining membrance of the cavaties of the heart and the underlying connective tissue.

14. Encephalitis lethargica residuals—"sleeping sickness" or Parkinson's disease following the Flu Epidemic of 1918. Inflammation of the brain.

15. Endocrinopathies—"diseases of the endocrine or glandular system".

16. Epilepsies—"seizure" or "fits"; paroxysmal transient disturbances of brain function due to electrical activity of brain.

17. Hansen's disease—"leprosy"; a communicable disease caused by a specific organism. It produces lesions in the skin, mucous membranes and peripheral nervous system.

18. Hodgkin's disease—malignant condition characterized by the progressive enlargement of the lymph nodes, spleen and general lymphoid tissue.

19. Leukemia—malignant disease of the blood-forming organs; there are quite a few different forms of leukemia.

20. Myasthemia gravis—a disorder of the neuromuscular function affecting any muscle of the body, but especially those of the eye, face, lips, tongue, throat and neck.

21. Myelitis—inflammation of the spinal cord (most commonly seen in polio or Guillain-Barre syndrome).

22. Myocarditis—inflammation of heart muscle (as in viral infections and Rheumatic Fever).

23. Nephritis—inflammation of the kidney (example: "Brights Disease").

24. Organic diseases of the nervous system—non-psychiatric disorders of the brain, spinal cord and peripheral nerves.

25. Osteitis deformans (Paget's Disease)—an inflammatory cancerous disease of the breast.

26. Osteomalacia—softening of the bones (Calcium and Vitamin D deficiency).

27. Palsy, bulbar—paralysis of the muscles of breathing as in polio, diptheria, etc.

28. Paralysis agitans—Parkinson's disease; a neurological disorder characterized by tremors and muscular rigidity.

29. Psychoses—a general term for any major mental disorder of organic or emotional origin.

30. Purpura idiopathic, hemorrhagic—bruising of unknown cause.

31. Raynaud's disease—a vascular disorder usually attacking the fingers, toes, nose or ears.

32. Sarcoidosis—a tumor-like mass of tissue forming in almost any organ.

33. Scleroderma—hardening and shrinking of the connective tissues of any part of the body; belongs to the arthritis family of diseases.

34. Sclerosis, amyothropic lateral—Lou Gehrig Disease; progressive degeneration of the neurons and motor cells of the brain stem and spinal cord.

35. Sclerosis, multiple—"MS"; disease where patches of lesions grow in the white and/or gray matter of the central nervous system causing weakness and loss of coordination.

36. Syringomyelia—a condition marked by abnormal cavities filled with liquid in the substance of the spinal cord.

37. Thromboangiitis obliterans (Buerger's disease)—inflammation of blood vessels with clotting.

38. Tuberculosis—"T.B."; disease of the lung (most commonly) caused by infection by mycobacteria (there are numerous kinds).

39. Tumors, malignant, or of the brain or spinal cord or peripheral nerves—all cancers plus benign tumors of the brain, spinal cord and nerves.

40. Ulcers, peptic (stomach or duodinal)—a local excavation of the surface of an organ or tissue produced by the sloughing of inflammatory dying tissue.

Mr. SIMPSON. Mr. President, and now we are going to broaden that to the disease of lupus and allocate more resources to the VA, and we have tremendous problems there with regard to the veterans being treated. And yet over half of the veterans in the veterans' hospitals are being treated for some kind of alcohol-related disease. Many of them are being treated for non-service-connected disabilities—maybe tearing up your knee while you are mowing your lawn—and there are lots of things that can be in the category of non-service-connected disability. I am not at all saying those people should not be treated. I am just saying that people need to know that the professional veterans do a continual tattoo on our heads out here as if somehow we were not providing properly for America's veterans. That sign on the edge of the Veterans Administration building says "For those who bore the battle and their widows and orphans," and we have surely come far, far from that.

There are people who still are drawing a green check because of a relative killed in World War I. There is no means test, no nothing to qualify for it. And they are second generation, or they may be children and grown children in their seventies. I do not think that is what we had in mind when we talked about children of veterans, somehow, especially for those who never served in the combat area.

I have always said, look, show me a combat veteran and I will give them anything they want, and they deserve everything we can give. But for Heaven's sake we must rein in this generosity. I have seen the debate go on on this floor many times where someone will get up and begin to speak for veterans and compensation or disability payments and always wanting more. But you never see our marvelous colleagues, Senator DAN INOUYE, or Senator BOB DOLE, or Senator STROM THURMOND, or Senator LLOYD BENTSEN involved in that debate. And yet they are people that left parts of their anatomies on foreign shores defending this country. The debate is most often presented in a spirited way by somebody who has not even been in the Civil Air Patrol. That is a tedious process for this Senator to watch. That is no crack against the Civil Air Patrol, but those persons are not veterans and the nonveteran comes in here and seems to get everybody all juiced up that we are doing nothing. That is a far, far cry from reality.

In fact, I notice as we discuss often the Vietnam war some of the people that seem to be so compassionate about the veterans of that war are people who sat it out while the war was going on, being fought by people who were not exempt from the draft and not at some of our fine colleges and universities, were probably protesting the war, and now they are filled with such contrition and guilt that they come up with all of this other stuff with regard to these veterans.

My chief of staff was a combat veteran in the Vietnam war. He does not like to be referred to as a walking time bomb. Some of them are. You bet they are. But most of them are not. And I think they are offended at the stereotype of what is going on in this country, movies like "Platoon," "Hamburger Hill," "Full Metal Jacket," and all the rest of it that goes with it. I would think a Vietnam veteran would be offended by a lot of that, and they are. We never hear from them because if you speak out, you are "antiveteran" or you are not compassionate enough, or whatever it might be.

Well, that is a little far range from my original remarks. I want to conclude. I know there is work to be done. But I think we are going to have to make some difficult choices and often for the first time. The addition of another disease to the presumptive disease list, which has not been touched since 1948, is but a step in the wrong direction. Go look at it, and you will be stunned at what is on it. These diseases might happen to all of us. I fully realize the hazards of rendering this particular series of remarks.

There are two other things in the bill that cause me particular concern: The bill has a change in the Federal cost-sharing arrangement for State veterans' homes, and under current law this VA per diem payment is offset against Medicaid payments to State nursing homes.

I think this provision in the bill would change that arrangement, and it effectively increases the Federal share of the State nursing home costs. I think that is an unfortunate result.

Finally, the bill contains a provision which is disturbing to me which permanently prohibits the VA Administrator from declaring certain lands in California as being excess. The compromise was worked out I think last year in good faith on this matter under which agreement the land could not be declared excess before January 1, 1988. There was a "report and wait" requirement imposed on the Administrator before the land could be declared excess, and with this bill we abandon the compromise and simply prohibit the excessing of two parcels of land in California. There has been no evidence presented that the VA needs this land to perform its mission of service to veterans. That is why it wanted to get rid of it. In fact the land in west Los Angeles consists of a vacant ravine, golf course, recreational areas, and land used for parking. The land in Sepulveda contains a baseball field, a golf course, a vacant halfway house, and an orange grove. The land is not now being used to benefit veterans. The Administrator said the VA has no plans to use the property and yet this bill by statutory language would take away the Administrator's discretion with respect to the property. I think that is a very dangerous precedent to set with a Veterans' Administration that may wish to rid itself of excess property.

But the bill again as always represents a major effort on the part of the Senate Committee on Veterans' Affairs. I cannot support all of its provisions but the committee has labored mightily to come up with this major package of veterans' legislation. And I commend Chairman CRANSTON. He was the chairman when I served as ranking member, and then I chaired the committee for 6 years and he was the ranking member. So I know the gentleman. I have the highest admiration and respect for him. We have always worked closely together. And when we disagree, we do it with great vigor, which is a good way to do business.

And I just think there are a couple of things in there that I have shared with him that are a mistake, but I commend Senator CRANSTON and Senator MURKOWSKI for their efforts. Senator MURKOWSKI was a splendid chairman and he serves so capably as ranking member. He and AL CRANSTON work well together. They have worked very hard. I know the perils of the task because I chaired that committee.

But I think we have to begin to pay attention to what we do with veterans' benefits. We also really set them outside of Gramm-Rudman-Hollings in the sense that we said you could not take over 1 percent away or 2 percent away from VA medical care. We are losing track of the fact that many of these veterans served less than a year, never left the United States, and were never involved in any kind of combat activity.

I would make a hazardous statement that as a veteran of 2 years who served overseas, I am probably among a majority of us who are just like that. I never got near any firing at all. I figured it was an honor to serve. I do not remember keeping score of what my benefits would be or being told, "Simpson, you are going to get the G.I. bill; Simpson, you are going to get this, you are going to get G.I. life insurance, and then be allowed to borrow on that G.I. policy at 5 percent interest." I thank the American taxpayers for allowing me to do that. Some of it is absurd. But as I say, I have already been through the grinder with the professional veterans. I have said that the time will come when they will come for me in my bunk, take me to the parade ground, strip my epaulets, play taps, and good heavens knows what else will go on with the operation.

But I think it is time to be realistic and honest and not just believe that every single veteran in the United States, 28 million of them, deserve every single tribute from the Treasury that a combat veteran draws. It is not right. It is not fair. And it is not what we originally had in mind.

Thank you.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1240

(Purpose: To require actual testing of containers for plutonium transported by aircraft through the air space of the United States)

Mr. MURKOWSKI. Mr. President, in order to expedite Senate Consideration of the pending amendments, I ask unanimous consent that the amendment of the Senator from North Carolina be temporarily set aside and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Helms amendment is set aside.

The clerk will report the amendment to the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself, Mr. STEVENS, and Mr. PROXMIRE, proposes an amendment numbered 1240.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 164, after line 6, add the following new section:

SEC. 405. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE AIR SPACE OF THE UNITED STATES.

(a) Notwithstanding any other provision of law, plutonium in any form may not be transported by aircraft from a foreign nation to a foreign nation through the air space of the United States unless—

(1) the possible routes for shipment, including landing sites and refueling points, if any, have been evaluated in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law, and

(2) such plutonium is transported in a container which the Nuclear Regulatory Commission has certified to Congress as safe in accordance with subsection (b) and all other applicable law including Public Law 94-79 and related regulations.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft carrying a sample full scale container loaded with test material;

(2) conduct an actual drop test from maximum cruising altitude of a sample full scale container loaded with test material;

(3) certify to the Congress that a safe container for use in the transport of plutonium by aircraft has been developed and tested—

(A) in accordance with paragraphs (1) and (2),

(B) in a way which uses the best practicable means to simulate actual transport conditions, and

(C) which did not rupture and release its contents into the environment during such tests; and

(4) evaluate the container certification required by Public Law 94-79 and paragraph

(3) in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law.

(c)(1) The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission after public notice and a reasonable opportunity for public comment on the design of such tests.

(2) The results of all tests under this section shall be available to the public and submitted to the Congress.

(d) Plutonium in any form contained in a medical device designed for individual human application is not subject to the provisions of this section.

AMENDMENT NO. 1241

(Purpose: To make Mr. Murkowski's amendment effective December 15, 1987)

Mr. CRANSTON. Mr. President, I send an amendment to the amendment just offered and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. Cranston] proposes an amendment numbered 1241 to Amendment No. 1240.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment of Mr. Murkowski, strike out the period and insert in lieu thereof ": *Provided,* That this section shall take effect on December 15, 1987."

Mr. CRANSTON. Mr. President, I will not speak to the amendment since it simply locks in this amendment that is offered by Senator Murkowski.

I have no objection to the adoption of his amendment.

Mr. MURKOWSKI. I appreciate the willingness of my colleague to accept my amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I ask unanimous consent at this time to add Senator Glenn as a cosponsor of the amendment along with Senator Stevens and Senator Proxmire as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, today I am offering an amendment that will ensure that plutonium, a byproduct of the world's reliance on nuclear energy, is transported in a safe and sound manner.

My amendment concerns the transportation of plutonium by aircraft. It is very simple and straightforward. It simply requires the Nuclear Regulatory Commission [NRC] to conduct actual crash and drop tests of containers before they are certified as safe containers for the air transport of plutonium. The certification process will also require public input and be in accordance with all other laws including the National Environmental Policy Act [NEPA]. It is my understanding that NRC certification of containers as safe for the shipment of plutonium, is a major Federal action affecting the quality of the human environment and therefore, will be evaluated in an environmental impact statement as required by NEPA. This merely strengthens and does not replace existing regulations.

Mr. President, the need for this amendment is readily apparent. Although it is not now the policy of the United States to reprocess spent nuclear waste, that is the policy of certain other countries, including Japan, France, and Great Britain.

A recent agreement worked out between the United States and Japan for the use of reprocessed nuclear fuel specifies air transport as a means of moving the plutonium generated by that reprocessing from Europe to Japan. The agreement requires those shipments to take a polar route or another route selected to avoid areas vulnerable to natural disasters or civil disorders. This means that air shipments of plutonium could fly over Canada and Alaska—including a possible landing for refueling in Alaska or Canada.

And, Mr. President, if Canada objects, these flights may cross over the 11 northern tier States from Maine to Washington, possibly refueling in Washington.

Mr. President, I do want to ensure that we move with the utmost caution. The NRC has yet to certify for air transport a container capable of carrying the sizable quantities of plutonium envisioned by the Japanese. Already the Japanese have launched a concerted effort to design and build a container that can be certified by the NRC.

Unfortunately, the NRC regulations will permit certification of such a container based merely on simulations of an airplane crash. No actual crash test is required.

Mr. President, there is no reliable way to simulate an airplane crash in a laboratory. One need only look back a few years, to the development of a jet-fuel additive that was supposed to prevent postcrash fires, as confirmation on this point. After 17 years of research and development and numerous laboratory aircraft accident simulations, the Government was ready to certify that the avgard fuel additive would prevent a fire in the event of an actual airplane crash. Just to be sure, however, they decided to crash a Boeing 720 at Edwards Air Force Base. They did, and the plane exploded into a fireball.

That experience raises the obvious question: How can we be sure that a container carrying plutonium will actually survive intact an airplane crash unless such a container is subjected to an actual crash of a cargo plane fully loaded with test material?

The only way to be sure is to test the container in an actual crash.

Some may ask, why do this amendment on this particular bill? What does it have to do with the veterans bill?

In fact, it is very relevant to the legislation at hand. Title II of the bill before us deals with the problem of veterans who have been exposed to radiation. Many veterans may have been exposed to dangerous levels of radiation during nuclear weapons tests or the American occupation of Hiroshima and Nagasaki, Japan. Title II addresses the needs of those veterans who have suffered as a result of their exposure to radiation.

Mr. President, there are over 70,000 veterans living in my State, the State of Alaska. Veterans constitute a higher percentage of the population of Alaska than they do in any other State. Many could be exposed to highly toxic radioactive material if one of the contemplated air shipments of plutonium should crash in Alaska and release plutonium into the environment.

But more importantly, the experiences of our veterans teach us an important lesson. In our efforts to accomplish important objectives in the past, we were not careful enough to avoid serious health risks associated with radioactive materials. It is imperative that we avoid placing the health and safety of U.S. citizens at risk in the future by unnecessarily risking exposure to highly toxic radioactive material. When we give our consent for airplanes carrying commercial quantities of plutonium to fly over and land in the United States, we must insure that those shipments will be safe.

In summary, Mr. President, I would say that this amendment is correct on the merits—I do not believe that anyone can reasonably oppose it—and it is appropriate to include it in the veterans bill.

I urge my colleagues to support the amendment.

As I said, the amendment I am offering today will ensure that plutonium, which is a byproduct of the world's reliance on nuclear energy, is transported in a safe and sound manner.

As a consequence, this is something that is very germane to all the northern tier States, including Alaska and Canada.

What we are asking for is that the contemplated movement of plutonium be addressed by the Nuclear Regulatory Commission and that the NRC be directed to have actual crash and drop tests of any containers before the containers are certified as safe for air transportation. The certification process would require public input and be in accordance with other laws including the National Environmental Policy Act or NEPA.

My understanding is that the Nuclear Regulatory Commission certification of containers as safe for the shipment of plutonium is a major Federal action affecting the quality of the human environment and therefore the provisions of NEPA would apply.

The need is readily apparent as we look at the utilization of nuclear fuels, and the movement of those fuels from Europe to the Orient, and the concern we have that those shipments move in a safe manner.

As a consequence, it is necessary as well to provide assurance that the containers will indeed be crashproof and meet a failsafe criteria. Therefore, there is a requirement that there be not just a simulated test but that indeed an aircraft be crashed carrying the containers. Of course, it would be an experimental aircraft.

Further, plutonium is no stranger to the affairs of veterans in that the VA has considerable experience with radiation related issues as a result of the exposure to radiation of veterans. Presently there are many, many veterans living who have had an unfortunate experience with radiation; therefore, it is appropriate that this amendment be included on S. 9.

Mr. President, my staff has consulted with the staffs of the Energy and Natural Resources Committee and Governmental Affairs Committee and the chairmen of those committees have interposed no objection to this amendment and I believe my colleague from California has indicated the amendment is acceptable to that side as well.

The PRESIDING OFFICER. Is there any further debate on the amendment to the amendment?

Is there any further debate on the amendment? If not, the Chair will put the question on the amendment to the amendment.

The amendment (No. 1241) was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Alaska as amended by the Senator from California.

The amendment (No. 1240) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I thank the Chair and I thank my colleague from California.

AMENDMENT NO. 1242

Purpose: To deny funds for projects of the Veterans' Administration that use the engineering, architectural, and construction services of any foreign country that does not provide such services of the United States access to the markets of the foreign country.

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Helms amendment will be set aside.

The clerk will report the amendment of the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. Murkowski] proposes an amendment numbered 1242.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) In General.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any construction project of the Veterans' Administration which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a project if the Administrator of Veterans' Affairs determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) Determination.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) Listing of Foreign Countries.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) Definitions.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

AMENDMENT NO. 1243

(Purpose: To make Mr. Murkowski's amendment effective December 15, 1987)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. Cranston] proposes an amendment numbered 1243 to amendment No. 1242.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment of Mr. Murkowski, strike out the period and insert in lieu thereof ": *Provided*, That this section shall take effect on December 15, 1987."

The PRESIDING OFFICER. Does the Senator from California seek recognition?

Mr. CRANSTON. I have no remarks to make on that amendment since it simply locks in the Murkowski amendment.

Mr. MURKOWSKI. I thank my colleague from California.

Mr. President, the amendment I am proposing is intended to insure reciprocity on bidding for construction services associated with our VA construction projects.

It is not a new amendment. Similar provisions have been adopted by the Senate on military construction appropriations, DOT appropriations, airport and airways authorization, and energy and water appropriations.

The issues at hand are fairness and reciprocity, it is my strong feeling that foreign firms whose home countries do not allow U.S. firms fair access to Government-funded public projects should not be given unrestrained access to participate in similar projects in the United States. Quite simply, this amendment addresses this problem by using the leverage of our marketplace to encourage our trading partners to open up their markets to competitive U.S. services.

We know the barriers United States firms face in Japan, as well as the fact that Japanese firms are expanding their activities in the United States market at an astonishing pace. It is interesting to note that in one State, Hawaii, the Japanese construction firm Kumagai Gumi is the largest builders. In 1980, Japanese firms won approximately $50 million in contracts, by 1986, that figure has grown to over $2.2 billion. At the same time, a United States firm hasn't won a major contract in Japan since 1965.

We have been negotiating with our friends in Japan on this issue for over 2 years. Former Prime Minister Nakasone intervened personally offering his assurances he would act to open Kansai Airport and all future projects to foreign firms on a fair and nondiscriminatory basis.

Mr. President, in the final hours of Mr. Nakasone's administration, even he was unable to override the entrenched bureaucracy and the domestic industry and get an acceptable resolution to this issue.

The Government of Japan issued a communiqúe to Secretary Verity outlining steps the Japanese Government was willing to take in addressing this issue. While these steps were progress, they fell short of our minimum requests and were thus presented as a unilateral proposal from the Japanese Government rather than a bilateral agreement.

The GOJ would not agree to apply nondisciminatory procedures to all major projects—as former Prime Minister Nakasone had indicated. Instead, they would only agree to apply the procedures to the final phase of Kansai Airport and the Tokyo Bay Bridge project—insisting any additional application to $62 billion in other public projects would not be possible.

This view was clearly reasserted by Mr. Nakasone's successor, Prime Minister Takeshita during Secretary Verity's regent visit.

I think my colleagues can agree that after 2 years of negotiations, what we have is far from a broad bases agreement that will result in significant market opening. It's clear that real leverage is what we need. This amendment is an important aspect of our efforts to address this inequity.

I want to make it perfectly clear that this is not a buy-America provision. Our market for these services will remain wide open to those firms whose home markets are open to U.S. participation. It's an attempt to open markets, not close them. This is how the amendment works:

USTR shall determine which countries deny fair, equitable opportunities for U.S. design engineering, construction, and architectural firms seeking to participate in public projects. USTR already does this as part of its annual report on foreign trade barriers which was mandated by Congress in 1974. Barrier countries would then be listed in the Federal Register, and thus precluded from bidding on these Federal projects.

The bill also includes an escape clause which would waive these provisions if the Administrator of the VA determine that:

Exclusion would not be in the national interest.

Services offered by U.S. firms or firms from eligible countries are of insufficient quality or are not available.

Or exclusion would raise the project cost over 20 percent. This figure is based on legislative precedent.

This amendment is critical to our efforts to gain access to the Japanese construction market. It is an important signal we can send to our friends in Japan, to the new Prime Minister and his administration, reaffirming our commitment to see a responsive resolution to this important issue. I urge my colleagues to join me in supporting its adoption.

Mr. President, my staff advises me that contact has been made with the Appropriations Committee and the other appropriate committees, as well as my colleague, the senior Senator from California, and that there are no known objections to this amendment. I, therefore, urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question occurs on agreeing to the amendment to the amendment, which was offered by the Senator from California.

The amendment (No. 1243) was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Alaska [Mr. MURKOWSKI].

The amendment (No. 1242) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. MURKOWSKI. I am wondering if the Senator from Florida, who is going to chair very shortly, wished to take the floor. He is with us now. I understand he had one amendment which is agreeable on this side.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina is pending. There was a reservation of the right to object.

Is there objection?

Mr. HELMS. Mr. President, I intend to withdraw my underlying amendment and I so request.

The PRESIDING OFFICER. The Senator, as I understand it, requested that the quorum call be rescinded.

Mr. HELMS. I thought the Chair had ruled on that.

The PRESIDING OFFICER. That is done. Is there objection to that?

The Chair rules that the quorum call has been dispensed with.

Now, the Senator from North Carolina stated that he was withdrawing his amendment. Did the Chair hear that correctly?

Mr. HELMS. Yes.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. HELMS. I thank the Chair.

Mr. MURKOWSKI. Mr. President, I wonder if my colleague from California knows that the Senator from Florida is ready with his amendment.

AMENDMENT NO. 1244

(Purpose: To require the Administrator of Veterans' Affairs to submit to Congress a report on the health care resources allocated by the Veterans' Administration to Veterans' Administration facilities in each State in fiscal years 1982 through 1986 and the utilization of the health care resources allocated to such facilities in each such fiscal year)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1244.

Mr. GRAHAM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, between lines 15 and 16, insert the following:

SEC. 348. REPORT ON HEALTH CARE RESOURCES ALLOCATION.

(a) Report Required.—Not later than 120 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to Congress a report on (1) the health care resources allocated by the Veterans' Administration to Veterans' Administration facilities (including contract facilities) in each State in fiscal years 1982 through 1986, and (2) the utilization of the health care resources allocated to such facilities in each such fiscal year.

(b) Content of Report.—(1) The report required by subsection (a) shall include, with respect to each State and VA Medical District in each fiscal year referred to in such subsection, the following information:

(A) The number of Veterans' Administration hospital beds, domiciliary care beds, and nursing home beds located in the State and Medical District.

(B) The percentage of the total amount of the funds available to the Veterans' Administration for health care that was allocated for obligation and expenditure by Veterans' Administration hospitals, outpatient clinics, domiciliary care facilities, and nursing homes located in the State and the Medical District.

(C) With respect to each category of veterans described in subsection (c)—

(i) the number of veterans who, received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in the State in which they reside and the number of veterans who received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in a state other than the State in which the veteran resides;

(ii) the total cost of furnishing the health care referred to in clause (i);

(iii) the total cost of furnishing such health care with respect to each diagnostic category;

(iv) the total cost of furnishing such health care on an outpatient basis with respect to each diagnostic category;

(v) the total cost of furnishing such health care on an inpatient basis with respect to each diagnostic category;

(vi) the total number of patient encounters in which the Veterans' Administration furnished such health care on an outpatient basis with respect to each diagnostic category;

(vii) the total number of patient encounters in which the Veterans' Administration furnished such health care on an inpatient basis with respect to each diagnostic category; and

(viii) a comparison of the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in adult day care centers located in the State and the medical district with the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in nursing homes located in the State and the Medical District.

(2) The Administrator may include in the report submitted under subsection (a) any additional information that the Administrator considers appropriate.

(c) Veterans' Categories Defined.—The categories of veterans referred to in subsection (b)(1)(C) are as follows:

(1) Category A: Veterans who are eligible to receive health care from the Veterans' Administration because they have service-connected disabilities, are retired from active duty for a disability incurred or aggravated while in active military, naval, or air service, are in receipt of a pension under laws administered by the Veterans' Administration, are eligible to receive benefits under a State plan approved under title XIX of the Social Security Act (commonly known as "Medicaid"), are former prisoners of war (as defined in section 101(32) of title 38, United States Code), are veterans referred to in section 610(a)(1)(G) of title 38, United States Code (relating to veterans exposed to a toxic substance or radiation) or (in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies) have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) not greater than the Category A threshold (as defined in section 622(b)(1) of title 38, United States Code).

(2) Category B: Veterans who are eligible to receive health care from the Veterans' Administration because they have non-service-connected disabilities and, in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies, have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) that—

(A) in the case of veterans who have no dependents, is greater than $15,000 but less than $18,000; or

(B) in the case of veterans who have one or more dependents, is greater than $18,000 (increased by $1,000 for a second and each additional dependent) but less than $25,000 (increased by $1,000 for a second and each additional dependent).

(3) Category C: Veterans not described in paragraph (1) or (2).

AMENDMENT NO. 1245 TO 1244

(Purpose: To make Mr. Graham's amendment effective December 15, 1987)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California (Mr. Cranston) proposes an amendment numbered 1245 to amendment numbered 1244.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment of Mr. Graham, strike out the period and insert in lieu thereof ": *Provided*, That this section shall take effect on December 15, 1987."

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, the amendment, as modified by the amendment of the Senator from California, calls upon the Administrator of the Veterans' Administration to submit to the Congress information relative to the use of veteran medical facilities by nature of service, by benefit, by number, and by the State in which those services are rendered.

The purpose of this amendment, as modified by the amendment of the chairman of the committee, is to provide to the Congress the factual basis upon which it can evaluate the distribution of Veterans' Administration medical services in relationship to the needs of American veterans.

We know that American veterans are a changing population, changing in terms of where they live, changing in terms of the type of care they require.

A veteran who entered the service in the beginning of World War II is now entering the phase of life in which he is increasingly going to be in need of long-term services, services that are related to the aging process. Congress is going to have to shape some new policies to respond to these new needs.

Mr. President, this amendment will provide us the data base upon which to more effectively do so.

The PRESIDING OFFICER. Does the Senator from California seek recognition?

Mr. CRANSTON. Yes, Mr. President.

Mr. President, I am aware of the interest of my colleague from Florida [Mr. Graham] in obtaining statistical information as to how the VA allocates its health-care resources among the various States and, in fact, have been attempting to assist him in acquiring such information. I ask unanimous consent that a recent exchange of letters between us on this subject appear at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, November 25, 1987.

Hon. Alan Cranston,
Chairman, Senate Veterans Affairs Committee, Washington, DC.

Dear Mr. Chairman: As a member of the Senate Veterans Affairs Committee, I have a request. I am interested in determining, on a state-by-state basis, how the Veterans' Administration allocates its health care resources. In particular, I would like the VA to segregate the health care data for each category of veteran by state, by inpatient/outpatient utilization, by diagnostic component, and by long-term care resources. Through discussions with the Committee staff, we found existing data that, if compiled and reformulated according to new specifications, might produce this information. I would appreciate any help you and the Committee staff could provide in procuring this data from the Veterans' Administration.

If any questions arise about this request, I hope the SVAC staff will call upon Dr. William Kirsh or Rena Coughlin of my staff for clarifications.

I appreciate your cooperation in this matter.

Sincerely,

Bob Graham, *U.S. Senator.*

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 25, 1987.
Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR BOB: Thank you for your letter of November 25, 1987, which set out your request for my assistance in obtaining statistical information as to how the Veterans' Administration allocates its health-care resources among the various states.

As you may know, in follow-up to a meeting between members of your staff and Committee staff earlier this Fall, I have requested such data from the VA and have been assured that it is being developed and that it should be available within the next two weeks. I'll be pleased to provide you the information when it is received.

Thanks for your continuing interest in and assistance to the Committee.

With warm regards,
Cordially,
ALAN CRANSTON, *Chairman.*

Mr. CRANSTON. Although I do not believe that it is necessary to proceed legislatively to gather the information the Senator is seeking, I am willing to accept his amendment. I am constrained, however, to point out that some of the detail the Senator is seeking may not be available or may be prohibitively expensive to collect, and we may have to refine the details later on.

Mr. MURKOWSKI. Mr. President, I commend the Senator from Florida for this amendment. Ordinarily, this information should be available to the VA. It is appropriate that the Congress have it and that the VA have it available for planning in the future. It is critical that we have accurate information to plan for the implementation of further veteran programs and facilities. The amendment of the Senator from Florida will certainly assist in that information. Construction dollars are limited, as we know, so we must assure that they are well utilized wherever such moves may occur.

This amendment, of course, moves us as well in following the Sun. I have no objection to the amendment. We will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California to the amendment of the Senator from Florida.

The amendment (No. 1245) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Florida, as amended.

The amendment (No. 1244), as amended, was agreed to.

Mr. GRAHAM. Mr. President, I express my appreciation to the Senator from California for his support in drafting this amendment.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, we have had about an hour, maybe an hour and a half, of negotiations in which I tried to accommodate the wishes of the distinguished manager of the bill, Mr. CRANSTON. I have been advised that that is not possible.

Let me discuss for a while what it is that I am proposing and all that I am proposing. The amendment that I would like a vote on—if I win, fine; if I lose, fine—would ensure that the American veteran receives the same high level of medical care afforded our active duty military personnel.

Now, the committee amendment, Mr. President, would prohibit not only widespread mandatory testing, but it would also prohibit the Veterans' Administration even from offering an AIDS test to patients entering the VA hospital, with the exception of drug users and those being treated for AIDS-related disease or those "otherwise at high risk."

The administration is strongly opposed to this committee language.

So my amendment, Mr. President, would strike section 308(d)(2).

In lieu of the committee language, it requires the Veterans' Administration to implement a voluntary testing program for AIDS similar to the program used in our Nation's military medical facilities.

Now, that is all it does, and the Senator from California, Mr. CRANSTON, is opposed to this, for whatever reason satisfactory to himself.

Let me emphasize at the outset that my amendment would not—for purposes of emphasis, I repeat, would not—require mandatory testing in VA hospitals. It would simply require the Veterans' Administration to offer an AIDS test to an inpatient receiving hospital care in a VA facility as described in the amendment.

The Veterans' Administration would have to get prior written consent from the patient before the VA could conduct the test under my amendment. The veteran would have a right to refuse the test if he or she wants to remain ignorant about his or her infection status. The Veterans' Administration shall also offer pretest and posttest counseling to the patient as described in the committee report on page 125.

I am constrained to ask, what is wrong with that? Absolutely nothing. I know that the homosexual community does not want any kind of legislation of this type, but this Senator does, and I dare say that the vast majority of the American people do.

Let us look at the facts, Mr. President. Routine testing is necessary for three reasons: First, it will ensure an accurate diagnosis. It gives the veteran an opportunity to obtain the most up-to-date care in AIDS treatment, and it will provide a valuable opportunity to educate the veteran about AIDS, whether or not he decides to be tested for the disease.

Now, the patient makes that call. It cannot be forced on him. There is no disclosure of the offer or the rejection.

Routine AIDS testing will help to ensure an accurate diagnosis.

Mr. President, when certain AIDS-related infections attack the human body, they leave visible signs of their presence. These infections provide identifiable signs of the presence of AIDS, but other side effects are now being discovered which do not provide visible signs of their presence and could result in a missed or inaccurate diagnosis.

Now, I am talking, Mr. President, about AIDS-related dementia, the AIDS virus assault on the central nervous system. Dementia affects the victim's ability to think, to feel, to talk, to move.

And AIDS-related dementia has been far more widespread than was originally thought. In fact, according to one article I read the other day, studies of AIDS patients after death indicated that 50 percent of them had experienced damage to the central nervous system that could be traced directly to the AIDS virus. Some researchers believe that nearly two-thirds of the AIDS patients in the United States will show symptoms of dementia before they die. One in ten AIDS patients develops dementia or other neurological problems as the first sign of the disease and sometimes they die without ever showing the more common physical symptoms of AIDS.

Other reports, Mr. President, confirm the intensity of this problem. According to the October 1986 report of the Institute of Medicine and the National Academy of Sciences entitled "Confronting AIDS," as many as 90 percent of the patients dying of AIDS-related conditions have tissue abnormalities of the nervous system at death and a majority of them have had some manifestation of neurological disease sometime during their lifetime.

The report further states that neurologic complaints are the first evident symptoms in about 10 percent of patients infected with the AIDS virus.

Mr. President, dementia can strike in the early or late course of the disease. It can manifest itself in the form of a slight memory lapse, or an impulsive action, or slowness in thought, or a quickness to anger. Or the mind can be dissolved into what one writer described as "a massive incapacitating dementia that from outward appearances looked very much like Alzheimer's disease."

In the report to which I alluded, Confronting AIDS, the National academy of Sciences acknowledges:

> Central nervous system involvement of HIV may lead to neurologic deficits that mimic many psychological problems, posing difficulties in diagnosis.

Without knowing about the presence of the AIDS virus, misdiagnosis can occur, Mr. President. And that is what led me to this amendment. The possibility of dementia alone warrants the offering of an AIDS test to the incoming veteran checking in at a hospital.

I have also mentioned that the AIDS test will ensure optimum care for the veteran infected with the AIDS virus. Research has suggested that early detection and treatment of individuals infected with the AIDS or those with AIDS-related Complex [ARC] reap more favorable results than treatment of patients with full-blown AIDS. In a July 23 article of this year appearing in the New England Journal of Medicine entitled, "The Efficacy of . . . (AZT) in the Treatment of Patients With AIDS-Related Complex," researchers found that ARC patients on AZT for 12 months had a 94-percent survival rate compared with an 86-percent survival rate for AIDS patients taking AZT.

Furthermore, Mr. President, researchers have found that patients in the earlier stages of AIDS who are treated with AZT are less likely to experience certain adverse reactions to the drug than patients with full-blown AIDS. In a study reported in the July 23, 1987 edition of the New England Journal of Medicine entitled, "The Toxicity of AZT and the Treatment of Patients With AIDS-Related Complex," Dr. Douglas Richman, the principal researcher made this conclusion.

> Patients with more advanced disease (AIDS rather than AIDS-related complex) were more likely to have hematologic toxic effects, possibly because of reduced reserves of bone marrow. Patients who have had AIDS longer or who are more debilitated may be more susceptible to the toxic effects of AZT.

So, routinely offering an AIDS test for incoming patients at veterans hospitals will provide patients with the opportunity to be treated for the AIDS virus before they reach the final stage of the disease. Routine testing also provides an invaluable opportunity for AIDS education. In the June 24 hearing the committee heard testimony from the association of State and Territorial Health Officials who stated:

> Hospital entry does provide an excellent opportunity for a physician to offer HIV testing. The act of offering the test opens the door for education, which is needed, whether or not the individual is tested and whether or not the individual test is positive.

Mr. President, the committee brought up a number of interesting reasons for prohibiting widespread testing. First, in its report, the committee cites the inaccuracy of the AIDS test. And somehow, to try to substantiate its conclusion, the committee cited a study by the Office of Technology Assessment submitted in testimony on September 22 before the House Committee on Energy and Commerce. The close scrutiny of that study, Mr. President, shows that it is not the test that is inaccurate but rather the laboratory that performed the test. In the OTA study, the researchers did not require that any quality standard be met by the labs used in that study.

Mr. President, the quality control standard improves the acurracy of the test. In fact, in the same hearing on September 22, Col. Donald Burke of Walter Reed Hospital, testified that the military, in their mandatory testing program, requires that all labs meet accuracy standards of 95 percent accuracy. My amendment will not prohibit the Veterans' Administration from requiring the same standards.

The amendment that I would like to offer, I would like for the Senate to consider without some gutting second-degree amendment, will not prohibit the Veterans' Administration from using the same procedures that are used in the military. And by this I mean that the Veterans' Administration can conduct the same series of tests as those provided by the Defense Department. The Defense Department provides three ELISA's and two Western Blots, technical names, and the costs of these tests contrary to what is suggested so often are about $5.

The committee also stated that testing would deter some veterans from seeking care and counsel. But I have looked and looked. I found absolutely nothing that substantiates that claim.

So, I would repeat for the sake of emphasis, Mr. President, the amendment which I perhaps will propose does not impose mandatory AIDS testing in the Veterans' Administration facilities. It simply requires the VA to give the veteran, the incoming patient, an opportunity to be tested which he or she can reject according to his or her own wishes.

Senators cannot argue that AIDS is one of the most, if not the most, deadly epidemic in history. As of November 16, AIDS had attacked 46,083 Americans, and 26,229 of them as of this date had died.

In New York City, in 1986, AIDS was the leading cause of death for women age 25 to 34 and the second most frequent cause of death at age 35 to 39.

AIDS in New York City continues to be the leading cause of death for men between the ages of 25 and 44.

Mr. President, I hope that we all understand that the prognosis of AIDS is frightening. There is no cure for AIDS. Neither is there a vaccine. Conservative estimates indicate that between 1.5 and 2 million people in this country are infected with the virus at this time, and there is growing evidence that all who are infected will eventually die.

Mr. President, those who develop AIDS die not long after diagnosis. According to a report by Ann Hardy of the Centers for Disease Control, 98 percent of those who develop AIDS will die within 3 years after diagnosis.

Mr. President, there is not one case of AIDS in this country that cannot be traced originally to homosexuality. A lot of people do not want that mentioned, but there is not one case. You have innocent children who have been infected with the blood provided by homosexuals with AIDS, but there is not one case on record in the United States that did not have its origin with sodomy.

AIDS, I say again, is spread into the heterosexual population by blood transfusions, tainted blood, and through other processes known to all of us. It has infected our blood supply. It is killing children. It is killing newborn babies.

Mr. President, the purpose of this amendment, if the Senate is allowed to vote on it, is to provide every veteran when receiving medical treatment from the Veterans' Administration, when he or she is seeking to be admitted to a VA hospital, with the opportunity to find out precisely what is their HIV status.

Mr. President, AIDS testing will help to ensure more accurate diagnosis of veterans in terms of whether they have the virus or do not. It will foster better medical care for the veteran infected with the AIDS virus, and it will provide an invaluable opportunity to educate the veteran about the deadly AIDS virus, whether he or she decides to be tested.

Mr. President, many of our veterans have risked their lives for the protection of our freedoms, and I simply cannot join those who would prohibit our veterans from receiving the same level of medical care that this Nation provides to its active duty military personnel. If a veteran has contracted the AIDS virus, he needs to know and he needs to be treated with the best medical care this Nation can provide.

Mr. President, I am prepared to sit here a while this afternoon, and maybe I will speak another hour or so, but I want to be assured that the Senate will vote on my amendment. I say with all friendship and candor that while I do not enjoy speaking virtually alone in this Chamber on a Thursday afternoon, I am prepared to do it. We can conclude this matter if my amendment lacks merit. Let the opponents say why, and then let us have a vote on it, and the Senate can conclude its work for the day.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

AMENDMENT NO. 1246

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1246.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, strike lines 7-24 and insert in lieu thereof the following:

(d) RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—(1) The Administrator of Veterans' Affairs may not conduct a wide-spread testing program to determine infection with the human Immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year except as provided in paragraph (2).

(2) Within 210 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration (A) offers to test each [in] patient receiving hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus in the following conditions: patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and patients who are otherwise at high risk for infection with such virus and veterans who are younger than 40 years of age, and (B) provides pre- and post-test counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior informed and separate written consent of the patient tested.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1247 TO AMENDMENT NO. 1246

Mr. HELMS. Mr. President, I send a second-degree amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1247 to amendment No. 1246.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the word "virus" on line 2 insert the following:

(1) The Administrator of Veterans' Affairs may not conduct a wide-spread testing program to determine infection with the human Immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year except as provided in paragraph (2).

(2) Within 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration (A) offers to test each [in] patient receiving hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus in the following conditions: patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and patients who are otherwise at high risk for infection with such virus and veterans who are younger than 40 years of age, and (B) provides pre- and post-test counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior informed and separate written consent of the patient tested.

Mr. HELMS. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Is there debate on the second amendment?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise to speak in regard to the amendment offered by the Senator from North Carolina. Let me stress first that I agree with so much of the Senator's amendment as would require voluntary testing and counseling for VA hospital patients who are receiving treatment for IV drug abuse or are otherwise at high risk of AIDS.

Inasmuch as the bill does that, fine. But I strongly oppose the portion of the amendment by the Senator from North Carolina that would alter section 308(d) of the committee bill to require that the antibody test be routinely offered to all VA hospital patients under the age of 40.

As reported, section 308(d) would prohibit the VA from conducting a widespread testing program for AIDS unless funds have been appropriated specifically for that purpose. I want to make clear that our provision explicitly would not preclude the VA from establishing programs for offering testing and counseling to patients who are receiving treatment from the VA for intravenous drug abuse, who are receiving treatment for a disease associated with AIDS, or who are otherwise at high risk for infection. In fact, the bill specifically encourages that counseling and testing be offered routinely to veterans seeking drug abuse treatment or who have risk factors for AIDS. In addition, the bill would not prohibit anonymous epidemiological testing to determine the incidence of the HIV infection among VA patients.

Nor would our provision in any way preclude individual VA physicians from offering the test to any patient they believe may have been exposed to the virus—indeed, it would encourage that practice as well. What section 308(d) would do is preclude any wide-ranging program of testing—which we know would be cost-ineffective—on veteran-patients with no risk factors for AIDS from being carried out unless funds are specifically appropriated for that purpose.

If all VA inpatients under the age of 40, that is, 280,000 people, were to be tested in fiscal 1988, the cost would easily be $5 million according to VA estimates. That is $5 million that would be diverted from patient care services for a counterproductive purpose. Indeed, this cost estimate is the lowest possible one.

The Senator from North Carolina estimated that each test would cost only $5. That is not an accurate estimate. It is very, very low compared to more informed estimates. The VA uses a figure of $18. In Tuesday's Washington Post, a hospital administrator estimated that the cost of testing and counseling per patient would be $100, more than five times greater than the $18 figure that the VA has used for its estimate. As I said, the VA estimate is $18, and this hospital administrator, $100 per individual tested.

At a time when cutting all conceivable unnecessary spending in order to reduce the deficit is of such paramount importance and when numerous pressing veterans' health-care problems, including AIDS, are in need of more funding, not less, to spend up to $25 million on testing of individuals who are at low-risk for AIDS would be a shocking waste of valuable resources. If the Senator from North Carolina believes that such a program is that important to stopping the spread of AIDS, I would suggest that he urge the Appropriations Committee to provide that funding, rather than purge other vitally important health services at the VA.

Mr. President, without respect to the cost, there is an equally valid reason why the VA should not conduct widespread testing of its patients. There have been numerous studies concerning the high rate of false-positivity—a positive test result even though the individual has not been exposed to the HIV—in low-incidence populations. The Office of Technology Assessment, for example, recently conducted a study regarding the accuracy and reliability of HIV antibody testing and found that even under ideal testing and laboratory conditions, antibody-positive specimens will be missed and antibody-negative specimens will be falsely identified as positive, because, for example, of infections with other viruses. Moreover, the OTA found that the confirmatory test that is used after the initial screen can often produce ambiguous results, even when properly performed and analyzed.

In fact, and this is startling, in low-risk populations up to 90 percent of the positive tests could be wrong.

Thus, in testimony presented before a House committee on October 19, the OTA concluded—

> These [examples] show that the problem of false positives can take on startling dimensions when applied to low-risk populations, and the false positive problem is a principal reason why concerns have been expressed over proposals for mass testing programs directed at whole classes of people such as hospitalized patients and the general public.

Mr. President, the grave human consequences of false positives have often been overlooked in discussions about AIDS testing.

I submit that the consequences in terms of human tragedy are incredibly severe when there is a false test. People who undergo the test base major life decisions—such as whether to marry or have children—on these test results. Discrimination in jobs, housing, and insurance also often occurs because of this test result. How much are we willing to ask how many individuals to sacrifice in order to identify a few persons with the virus whom we might more easily and efficiently reach through other prevention and education programs? Thousands of healthy individuals could be needlessly frightened into thinking they are under a death sentence.

I leave it to your imagination as to how they may act when they are told that they face—although it is false, and they believe it—a death sentence.

Mr. President, I would like to read from a letter to the editor printed in the New York Times magazine of August 2 on this subject. The writer stated:

> A friend of mine * * * [who] had no reason to think she had been infected, was plunged into a profound depression when her first test result came back positive and she was warned never to have children and to inform previous sexual partners of the result. My friend didn't dare believe the second AIDS test result, which was negative. She has taken the AIDS test a third and fourth time (with both results negative) yet has become convinced—neurotically, she admits, but also helplessly—that she still may be infected with the virus. If this can be the outcome of a false positive result, it's obvious that those who truly test positive for AIDS need the kind of counseling programs the Reagan administration, in its zeal to introduce mandatory antibody testing, seems unwilling to provide.

Mr. President, if the AIDS antibody test were foolproof, if there were a medical intervention available, and if a positive test result were not completely devastating, then there might be merit to testing inpatients routinely. However, given the tremendously high false-positivity rate among low-incidence populations, the lack of effective treatment, and the widespread discrimination against persons with AIDS, we should not be encouraging every veteran-patient to be tested—particularly with the high cost associated with widespread testing.

In my November 17 and 23 "Dear Colleague" letters, I attached letters from five veterans' service organizations and numerous health associations in support of the committee provision and opposing widespread AIDS testing in VA facilities. They oppose money intended for necessary medical care of veterans being diverted to unnecessary purposes. I have copies of letters from the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, the Vietnam Veterans of America, the American Nurses Association, the American Hospital Association, the National Association of VA Physicians, the American Public Health Association, and the American Psychological Association available for any Senator who would like them.

I have already inserted all of these letters in the RECORD except for the December 2, 1987, American Psychological Association, which I ask unanimous consent, Mr. President, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN PSYCHOLOGICAL ASSOCIATION,
December 2, 1987.

Senator ALAN CRANSTON,
Chairman, Senate Veterans Affairs Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the 90,000 members and affiliates of the American Psychological Association (APA), I am contacting you regarding an amendment I understand may be offered when the Senate takes up S. 9. The amendment would require AIDS antibody testing at Veterans Administration (VA) hospitals. APA is the largest national organization representing the concerns of psychologists, both in health care and academic settings. Our membership is vitally concerned with the need for appropriate and compassionate national leadership in dealing with the AIDS epidemic—a leadership informed by the cutting edge practices of public health. In this regard, we oppose any use of the AIDS antibody test which would compromise the principles of public health, informed consent, or confidentiality.

The public health goal in dealing with the AIDS epidemic is to stop HIV transmission. In the absence of a vaccine the only way to stop the spread of the human immunodeficiency virus (HIV) is through behavior change. Behavior change requires education and counseling. Public health officials are in agreement that voluntary HIV testing may be a useful adjunct to counseling in the effort to stem transmission of the virus. But testing should never be used in the absence of counseling.

Psychological literature indicates that behavior change programs must be voluntary if they are to work. People seldom adopt lasting behavior changes, which are basically voluntary actions, as a result of coercive tactics. Mandatory testing (i.e., for admission to hospitals or IV drug use clinics) is compulsory and will ultimately discourage lasting behavior change. Throughout the debate around the use of the HIV antibody test, there has been frequent reference to the "routine" use of the antibody test. When this means the routinized testing of individuals in an institutional setting (such as hospital admissions), the concept becomes nothing more than a thinly disguised substitute for mandatory testing.

In the case of hospitals, mandatory preadmission testing presents some particularly troublesome issues. Individuals being admitted to Veterans Administration hospitals reflect groups (e.g., the elderly) that are particularly unlikely to be infected. Hence such testing is an inappropriate use of limited resources. Moreover, for the small number of persons from such groups who are infected with the virus, such a policy may well discourage them from getting the services they desperately need.

Some have argued that testing in hospitals is necessary for the protection of health care workers. Standard precautions for infectious diseases should be adopted by all health care workers that come into contact with body fluids. Given the lack of reported cases of HIV transmission in health care settings through the direct delivery of health care services, the risk is very minimal. Greater occupational risks are posed to health care workers from hepatitus B, a disease for which there is no widespread antibody testing despite the fact that 300 health care workers die each year from such exposure.

Moreover, such indiscriminate testing ignores the profound impact of positive HIV antibody test. The intrusive and draconian nature of widespread antibody testing becomes all the more apparent when one weighs the limited benefit of testing against the human outcome in terms of problems such as false positives. A recent New York Times editorial reported on data indicating that in a population with a low risk for AIDS, false positive test results may be identified in as many as 90 percent of the individuals whose blood is tested, despite the use of a confirmatory Western Blot test. This is particularly troublesome given that individuals response to a positive test result.

For the last several years APA members have been developing a data base indicating the adverse social and psychological consequences associated with an individual's knowledge of seropositive status. These consequences include depression, breakups of relationships, social isolation, and disabling levels of anxiety. As more testing has been done throughout the country, however, reports have emerged of HIV-testing-related suicides. For the Health Crisis Network in Florida, a report has surfaced of a young man who upon learning of a positive test result killed himself. Tragically, an autopsy indicated that the positive test result was incorrect—a function of the margin of error in the HIV test. If this young man had received counseling, his life might have been spared. Data emerging from the Florida program, which points to the incidence of several suicides over a very short period of time, suggest that suicide and suicidal ideation may be a much more common reaction to a positive test than previously believed.

From Washington, D.C., we have received a report of the man who upon receiving a positive test result from his physician without any counseling, became deeply depressed and began to abuse alcohol for the first time in his life. By the time he reached therapy, he was in desperate straits. His therapist encouraged a retest which indicated that the man was negative for exposure to the virus. These stories are typical of the dramas occurring across the country as a function of this disease. They not only illustrate the deep emotional and psychological ramifications of testing but they underscore the need to pay close attention to the mental health needs of persons tested for the AIDS virus.

These needs must not be minimized. A document endorsed by 23 national health and mental health organizations earlier this year argued for careful and thorough mental health counseling attendant to HIV testing. This document suggested that in a high risk area, the cost of such a program at an alternate test site would average $80 per each person tested. This figure does not include the long-term mental health treatment that may be needed to achieve behavior change and mental health for many of the test subjects. A copy of this document is appended for your information. Clearly, the cost of such a program—a program which is vitally needed if behavior change and mental health are important goals in our battle against the AIDS epidemic—argue against widespread application of the test among low incidence populations, such as patients at VA hospitals, when our resources are so vitally needed elsewhere.

For these reasons, APA strongly opposes any effort to institute mandatory or routine testing at any Veterans Administration hospital. Please hold fast in your opposition to any attempts to introduce such language.

Sincerely,

LEONARD GOODSTEIN, PH.D.,
Executive Vice President and Chief Executive Officer.

Mr. President, it would be absurd for Congress arbitrarily to declare that individuals under 40 years old are somehow at high risk for AIDS. Why not under 45? Why not under 35? What the public health officials tell us is that we should be concerned about high-risk behaviors, not categories of people. Because a man or a woman is 39, he or she is not automatically at risk. What happens when that person turns 40? No more risk?

Mr. President, the Senate does not have more medical expertise than the Chief Medical Director of the VA; nor does it have greater expertise than the Surgeon General. The Surgeon General's report stressed that individual high-risk behavior must change. Testing people by virtue of who they are should not be the issue. It is the type of behavior that an individual engages in that puts him or her at risk. Establishing a new so-called risk group of people under 40 is totally contrary to good public health policy.

Another significant problem with Congress establishing this age-40 benchmark is that it creates the totally misleading impression that persons under the age of 40 are, as a group, at risk for AIDS. Since there is no medical basis for this categorization, Congress establishing it by fiat is essentially the same as Congress spreading a false rumor about AIDS.

What we need when we face an epidemic is truthful, accurate information. Congress must not contribute to confusion and distrust by broadcasting false and misleading information.

Moreover, Mr. President, clearly, when the Government offers a test to a patient, the implication is that the Government believes that it is a good idea for the patient to take the test. "Otherwise," the patient would ask, "why is the test being offered to me?"

However, the public health experts tell us that AIDS testing of patients who are not at risk is not a good idea. To the contrary, the strong consensus of public health experts is that programs for offering AIDS tests should be targeted to those who are at high risk for infection with the AIDS virus.

Finally, I would note, Mr. President, that by the term "written . . . separate consent," in the pending amendment, words incorporated by the Senator from North Carolina at my request, I intend that the patient's consent be obtained through the use of a document that serves no other purpose. I feel very strongly that consent should not be permitted to be obtained on the type of lengthy, multipurpose form that hospital patients routinely sign and rarely read.

We should make every effort to ensure that the decision to take the test be fully informed, and this requirement is aimed at that goal.

Mr. President, I am confident that if the veterans' organizations believed that widespread AIDS testing was in the best interests of their members, they would certainly favor it. I am also sure that if these medical, nursing, and hospital groups believed that testing would reduce the risk of infection for their members, they would strongly oppose—not strongly support, as they do—the provision that the Veterans' Affairs Committee unanimously agreed to.

Finally, Mr. President, I would like to stress that the committee provision is completely consistent with the views and recommendations of the Chief Medical Director of the VA. Although the OMB and political appointees in the White House may disagree with this policy, it is the wise and prudent one, supported by public health experts and physicians throughout the country.

For all of the reasons I have given, Mr. President, I strongly oppose the HELMS amendment, and will, at the appropriate time move to table it.

Mr. MURKOWSKI. Mr. President, we have been on this a good deal of the afternoon, attempting to reach a compromise, and I think substantial progress has been made.

If I may attempt to clarify the situation, the Senior Senator from California opposes the provision in the Helms amendment which would require that the VA offer an AIDS test to veterans in VA hospitals under the age of 40. The case is made that there is a cost objection. I believe a figure of $5 million was the annual cost which Senator CRANSTON mentioned. I do not believe cost should be a criterion.

Furthermore, the position of my colleague assumes that all veterans under the age of 40 would want to be tested. Obviously, that is not the case. Some may not want to be tested. It is a voluntary requirement that the AIDS test be offered. The only mandate—and this is important—is that the VA ask the veteran. Why not allow veterans to learn their AIDS status if they choose to. That is really what is before us here.

It is important to point out that the letters by the various veterans' service organizations primarily address the issue of mandatory AIDS testing. Obviously, I would oppose such mandatory testing at this time. However, the amendment proposed by Senator HELMS would only allow the veteran the option, the free option, to decide if he or she wanted to be tested. One might ask, why not? Should not an individual have the opportunity to be tested? That is what we are talking about here.

Mr. President, I think that as we reflect on the merits of the amendment offered by the Senator from North Carolina, we should recognize that the proposed amendment would require the VA to offer the AIDS test to the following classification of veterans: those receiving treatment for drug abuse, a high-risk area; those receiving treatment for a disease associated with AIDS, obviously appropriate; and others who are at high risk of infection to AIDS.

The areas generally identified in those groups are those younger than the age of 40. The amendment also requires the offering of an AIDS test for those veterans younger than 40.

Let us be clear: The conducting of the test, again, is voluntary. A veteran would have to agree in writing—to make a conscious decision—that he wanted to be tested.

Mr. President, I remain convinced that the testing of the elderly veteran patient is indeed inappropriate and totally unnecessary. The age of the average veteran, I am told, in the VA hospitals is somewhere in the area of 60 to 63 years old. However, it will be useful to offer this voluntary AIDS test to individuals at risk of AIDS, such as those proposed in the Helms amendment.

When we reflect on this, this indeed may be the compassionate avenue to pursue. Let us remember that we do not have a cure for AIDS. If indeed we can help identify and counsel those victims carrying AIDS we may be able to voluntarily help to prevent a spouse or a loved one from contracting the disease.

Remember again, these people are making the conscious decision, they are making it in writing, they are volunteering. Goodness. Should we not offer them that opportunity. This may be the most compassionate response to what we currently know about this dreaded disease.

Mr. President, if a veteran patient wants to learn of possible infection with the virus I believe that the VA should perform the test. Again, if adopted, the VA would offer voluntary AIDS tests to certain veteran patients.

I believe that this is a responsible compromise and, as a consequence, I would intend to support the amendment of the Senator from North Carolina, Senator HELMS.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to oppose the amendment of the Senator from North Carolina, and I know the arguments have been made very clear and very effectively by my good friend from California and my good friend from Alaska.

But I would just, before reaching the time when the Senate will make a judgment on this issue, review the bidding for all the Members of the Senate.

Last May 30, this administration's position was that all veterans should be tested, a mandatory testing system for all the veterans that were going to be treated in the VA medical system.

Then on June 10, the Senator from North Carolina introduced S. 1352 that propounded that in a legislative form.

Then we find this morning, December 3, that the Senator offers an amendment that makes it mandatory to make it available to all VA patients.

This is a dramatic movement, quite frankly, going from mandatory testing of all the veterans to just making it available, and I do not think we should lose track of that particular fact. They moved significantly from what I think would have been a grossly unwise policy for reasons that have been mentioned during the course of the debate here this afternoon into the very sound recommendations that have been made by the various public health service offices and the Centers for Disease Control. Now, in the late afternoon, at 5 o'clock, we are talking about mandating the offering of testing to all veterans under 40. That is a dramatic change, even from this morning.

I think the membership ought to know we are really drafting these amendments effectively by the seat of our pants in the few hours, altering and changing the amendment itself, and I think that readily illustrates what the problem basically is.

The public health community has indicated that what is really required to deal with the whole issue of AIDS—a research program, an education program, a program that is going to encourage voluntary testing. This program is going to have confidentiality and also have antidiscriminatory recommendations and provisions.

On all of those elements we are having extensive and exhaustive hearings in our Human Resource Committee.

We have legislation on the calendar now that deals with the research programs, the education programs, the training programs, and home health service programs.

I am very hopeful that we will be able to consider that legislation.

We had tried to work out with the Senator from North Carolina an opportunity for the Senate to address that issue even before the August recess but were unable to work that out in a timely fashion.

I, for one, am quite prepared to see a debate and see a timely disposition of any of the amendments that should be offered.

But I want to just remind our colleagues, as has been stated by the Senators from Alaska and California, what we are basically now talking about is health priorities.

This group of young veterans under 40 are not considered a high-risk group. That is the conclusion of the Public Health Service. What we are doing basically, at the urging of the Senator from North Carolina, is diverting health resources that could be utilized by our veterans, resources that are necessary for the treatment of our veterans, whether it is in the areas of cancer or heart disease or other kinds of health needs, and diverting those resources to a very inefficient, ill-conceived, and ill-advised program which is being made upon the back of an envelope at 5 o'clock this afternoon.

I daresay, if there is going to be the judgment of the Senate to accept this amendment, let them know that there are going to be legitimate health needs of the American veterans in those VA hospitals that will not or may not be served. We are diverting resources.

The other issues and questions about false and positive are very legitimate ones. They have been mentioned, and I think the case has been made that undue alarm and undue concern may very well be developed or caused. There is the whole issue of the questions—which I am not going to take the time of the Senate to debate—that are going to be asked: did you take the test, or did you not take the test? And let us find out the names of those that took the test and those who did not take the test, with all the potential that that has.

I think the bottom line issue question about this amendment is whether we are going to use scarce financial resources that ought to be devoted toward the legitimate health needs of our veterans or divert them into an area of health policy which does not have the kind of health justification that has been suggested.

It is really as simple as that—priorities and needs.

And that, I think, commends the Senator from North Carolina for moving and changing significantly, dramatically, his whole approach on this issue. I think this recognition of the importance of voluntary testing is a significant movement. And the fact that it is limited now to veterans under age 40 is even further movement.

But the membership ought to know that on these issues involving not only life and death, but resource allocation, this kind of test is an incredibly unwise and poor utilization of scarce resources for the veterans of our country. They deserve better and that is why veterans groups have opposed this and why the VA system basically has opposed it.

I would hope that the amendment would not be accepted.

The PRESIDING OFFICER. Is there further debate?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Helms amendment. I do not see why anyone would oppose this Helms amendment.

The groups which are covered by this are these. There are four different groups: patients receiving treatment for intravenous drug abuse, patients receiving treatment for a disease associated with AIDS, patients with a high risk for AIDS, and veterans under 40.

Mr. President, I just want to say if a veteran himself feels it would be helpful for him to take this test, why should anyone object? This test is purely voluntary. No one compels him to. In fact, he has to state in writing that he wants to do it. Well, if the veteran wants to do it, why should anybody object?

Mr. KENNEDY. Will the Senator yield on that point?

Mr. THURMOND. I would be pleased to yield.

Mr. KENNEDY. As I understand the existing bill, if they are in a high-risk group, they can do that. So if you are in a high-risk group, under the existing bill, that process is available to you. I think the floor managers have made that case.

Mr. THURMOND. Mr. President, these are the four groups in the Helms amendment that I just recited. And if a veteran has been taking treatments for intravenous drug abuse, he might want to know further, he might want to know if he is in danger to have AIDS. If he is getting treatment for a disease associated with AIDS, he might want to know if he has any symptoms of AIDS and if he has a high risk for AIDS.

Suppose he has been exposed. If he has been exposed, he may want to know if he caught AIDS. What is the objection to the VA finding out if he has caught AIDS. It is to the veteran's benefit as well as the public's benefit.

Then veterans under 40. Well under 40, I guess they would probably be more susceptible and that is the reason that category is in there.

But I want to emphasize this: The Veterans' Administration does not make anybody take it. It is purely voluntary. But if the veteran wants to take it, if he thinks it is helpful and if the VA thinks it is helpful, why should he not be allowed to take it?

Written consent. They cannot compel him to take it. They will not even take his word for it. They will make him sign up. He will have to put it in writing that he wants the VA to give him this test.

For that reason I see no objection to it. I think we ought to pass this amendment. I think it is important. I think it is in behalf of the veteran. I think it is in behalf of the public. I really cannot see why anyone would oppose this amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

Sometimes when I listen to debate on the Senate floor, I feel I am with Alice in Wonderland, we stray so far from the facts.

Mr. President, I listened to the distinguished Senator from Massachusetts implying, if he did not say it explicitly, that some programs of the Veterans' Administration hospital may be wrecked by the approval of this amendment. There are only 280,000 veterans under 40 in the VA hospitals, and that is out of 28 million veterans.

Mr. President, I also heard an allusion to how much it would cost per test. Well, the Defense Department tests for AIDS for an estimated $5. The Veterans' Administration itself said they can do it for $18. But using the Defense Department's figure, that comes to $1.4 million out of a budget of what?—out of $28 billion.

Now the Senator from Massachusetts, with a straight face, warned of the terrible implications of spending $1.4 million. But let us take the VA's figure and multiply by 4, and you get about $5 million out of the multibillion dollar figure that I just cited, Mr. President.

Now I recognize that some Senators, when they were contrained to vote for a previous Helms amendment relating to AIDS, caught a lot of flak from the homosexual community and maybe they are gunshy.

But I say to them: Suppose this amendment did not do any more than to save one life? Suppose it did not do any more than to save one baby's life who received a blood transfusion from somebody having AIDS? Maybe the person did not even know it. And if you are talking about human life, let us talk about that.

Mr. President, my good friend from California, Senator CRANSTON, cited the inaccuracy of a test. I believe he cited the Office of Technology Assessment's study. As I said before in my earlier comments, when you look carefully at that study, Mr. President, it shows that it is not the test that is inaccurate, but rather the laboratories that do the testing.

Mr. President, in the OTA study, the researchers did not require that any quality standards be met by the labs used in the study. Now, a quality control standard improves the accuracy of the test. In fact, in the same hearing that I alluded to earlier this afternoon, the one on September 22, Col. Donald Burke, of Walter Reed Hospital, testified that the military, in its mandatory testing program, requires that all labs meet accuracy standards of 95 percent.

My amendment does not—and I repeat for the purpose of emphasis, does not—prohibit VA from requiring the same level of accuracy as that required by the Department of Defense.

Now, for whatever reason may be satisfactory to each Senator, the Senate may vote to table this amendment. But I suspect that they, if they do so, will hear from veterans who resent the fact that they are not given the same quality and level of medical treatment and diagnosis that members of the armed services receive.

Mr. President, this is a modest cost. If you use the military estimate, it will cost, at most, $1.4 million.

Mr. President, how much is one life worth? Now all the rest of it could be obfuscated if Senators want to handle it that way. But I am simply saying that the veterans are entitled to this. There is only group—one group—that opposes this kind of legislation.

And even the figure that I mentioned, the $1.4 million, that presumes that all will be tested, all 280,000. Of course, Mr. President, that will not be the case. So the actual cost will be substantially less than $1.4 million.

Mr. President, the veteran has a right to decline to be tested. I think he will be foolish if he does decline, but he has that right. And the fact that he has been offered and he has declined the test is confidential. And I would think that any and all veterans would want to know, for the sake of their spouses, not to mention themselves. I would think that they would appreciate early treatment if the test proved positive.

So, Mr. President, let the loud and profane group that opposes this kind of legislation—let them make all the noise they want to. But let us think first of the veteran and his welfare.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina has yielded the floor. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened with interest to the points that were made by the Senator from North Carolina in terms of the costs and the funding of his particular proposal. Of course, his extrapolations on figures are exceedingly inaccurate.

The fact is that when you have a testing of active military personnel you do it for a very sound reason. You do it as a matter of requirement because, under combat conditions with blood transfusions you are going to have to be able to make that kind of determination and, therefore, it is basically routine and virtually automatic.

But, as anyone who has spent any time in studying this issue of testing understands, once you make it voluntary you are talking about counseling. You are talking about pretest and posttest counseling. And the Center for Disease Control, that has studied this issue hour after hour, week after week, month after month—it is the leading public health agency in the country—believes that the cost is not $5 or $15; it is up to $100 for counseling. I do not think the Senator from North Carolina thinks that we ought to give less counseling to those that have served in the Armed Forces. Does he want to shortchange those veterans? He does not want to provide the same kind of counseling for them that somebody outside could get?

I would hope if this amendment is accepted, that we would understand that we are going to give them the same kind of counseling and professional guidance that are going to be given to any of those that are going to be involved in voluntary testing: $100. There are 280,000 veterans under age 40. The Senator cannot have it both ways. He cannot say we want to give it to 280,000 and say there will only be a handful that will use it. You cannot make the argument both ways. If you say it is 280,000 and you do that at a cost of up to $100, it is $28 million—$28 million.

Now, let us use this group that we are talking about here, which is basically a low-risk group, and compare it to what we find in another very, low-risk group: those who made donations to a blood bank in a very low-incidence area. What you are basically talking about is 1 in 100,000 for this type of very low-risk group. I will submit the study and the report on this as part of the record.

One in 100,000. So you test for $28 million the 300,000 and you could find three AIDS cases. Three AIDS cases.

What is going to be the result of doing the test on the false positive cases? Those that will indicate that they have been exposed to AIDS but really have not? Under the best statistics that are available now to the Public Health Service, after very detailed analysis of the material, it would indicate that there are going to be up to 15 false positives, 15 veterans that are tested that do not have AIDS antibodies and are going to be shown to have AIDS antibodies under this particular procedure.

What is going to happen to their lives? Who is going to make sure that you are going to have the absolute confidentiality to protect those American veterans—15 are going to be found out. What is going to be the impact upon those individuals? Both personally in terms of their family, in terms of the possibilities that that information is leaked? All of us who know this particular issue know the times that lists have been leaked in different centers across this country where the names have been listed and seized and exploited.

Fifteen false positives; three actual cases of AIDS. What does it generally cost for the Veterans' Administration to treat a cancer patient? Approximately $10,000. We are talking—in order to find three individuals that will have AIDS, 15 individuals have false positives—if the VA were treating cancer patients at $10,000 a cancer patient, about 280 veterans that have cancer that need attention may very well not get it.

Now, come on! Now, come on! Are we talking about health policy or are we talking about ideology on this floor?

Mr. President, no matter how you cast it, this amendment does not make sense. It is a poor allocation of resources; it is not well thought out; it is not well thought through. Mr. President, I think we do a serious disservice for health policy, as well as to the veterans in this country, if we accept this particular amendment.

I remind the Senate, we are prepared to deal with the issues of information, research, home health service, public health training of personnel. Those are things that this Senate ought to be debating tonight. And tomorrow we ought to be debating the issues of testing, the issues of confidentiality, antidiscriminatory situations. These are complex and difficult areas where men and women who have serious concerns about this issue may well differ and probably will—and we ought to make a judgment on it.

But, Mr. President, for us to take this amount of time on this issue, when the bill already provides the opportunities for those that are high risk—whether they are drug users or the kinds of individuals which have been outlined as being particularly vulnerable—to have that opportunity to receive adequate counseling and adequate protection and testing, we do a real disservice, I think, to the American veterans and I think to our whole effort to try to come to grips with this issue in a serious and thoughtful manner and with a balanced judgment. I hope the amendment is defeated.

Mr. President, I ask unanimous consent the article I previously mentioned be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

How Accurate Is Aids Antibody Testing?

(By Lawrence Miike)

Note.—This statement has been submitted to the Subcommittee on Health and the Environment, House Energy and Commerce Committee, to be incorporated into the record of hearings on "AIDS Research and Education," held by the Subcommittee on September 22, 1987. In a discussion between Dr. Miike and Subcommittee member William Dannemeyer on the accuracy of AIDS antibody testing, Dr. Miike stated that he would submit a more extended written statement on AIDS antibody testing.)

SUMMARY

Tests to detect antibodies to the AIDs virus (HIV, for human immunodeficiency virus) consist of two tests performed in sequence. The first test, EIA (enzyme immunoassay), detects antibodies to whole and partial virus and measures the total amount of antibodies present in serum, the liquid portion of blood. The second test, the Western blot, is designed to detect antibodies against the major individual proteins that make up the AIDs virus. If an initial EIA test is positive, the test is repeated; if the test is again positive, then a Western blot is performed.

This sequence of tests provides a very accurate assessment of whether a person's blood contains antibodies to the AIDs virus, and hence, presumptive evidence that the person is infected with and a carrier of the AIDS virus. The Centers for Disease Control (CDC) estimate that the EIA test: 1) could detect 99 percent of antibody-containing specimens (a test sensitivity with a 1 percent false negative rate) and 2) would incorrectly identify as positive 1 of every 100 negative specimens (a test specificity with a 1 percent false positive rate). The Western blot test was estimated to have a test sensitivity equal to that of the EIA test (sensitivity of 99 percent). After both EIA and Western blot testing, 2 percent of positive specimens would be missed. The false positive rate after both EIA and Western blot testing was estimated to range from 1 in 100,000 to 5 in 100,000 (0.001 to 0.005 percent).

Even with this degree of accuracy, some persons infected with the AIDS virus will be missed, and some will be incorrectly identified as being infected. Moreover, as the prevalence of persons with antibodies to the AIDS virus in the tested population decreases, the percent of positive results that will be falsely positive will increase. The relationship between prevalence of antibody-positivity and the percent of positive tests that will be incorrect is illustrated in the following examples.

Suppose four groups of 100,000 persons each are tested, with the prevalence of antibody-positive persons in the tested population at 10, 0.83, 0.1, and 0.01 percent, respectively. The 10 percent prevalence rate might represent a high-risk population. The 0.83 percent is the prevalence rate if the approximately 2 million persons who are thought to be infected with the AIDs virus in the United States is divided by the total U.S. population of approximately 240 million, and is also the prevalence rate that would trigger mandatory testing of marriage applicants in a law enacted in Texas in 1987. The 0.1 percent is the prevalence rate that the Centers for Disease Control has suggested might justify premarital testing. The 0.01 percent might represent the prevalence rate in low-risk groups.

There will be from 1 to 5 false positives in each group, but the probability that a positive result is correct will decrease as the prevalence of antibody-positive persons in the group undergoing testing decreases.

In the 10 percent prevalence group, after EIA and Western blot testing, of 10,000 persons with antibodies, 9,801 would be identified, and 199 would be missed. Of the positive results, 1/9,802 to 5/9,806 would be incorrectly identified as being antibody positive. The probability that a positive result is correct would range from 99.95 percent to 99.99 percent.

In the 0.83 percent prevalence group, of 830 persons with antibodies, 814 would be identified, and 16 would be missed. Of the positive results, 1/815 to 5/819 would be incorrectly identified as being antibody positive. The probability that a positive result is correct would range from 99.4 percent to 99.9 percent.

In the 0.1 percent prevalence group, 98 would be identified, and 2 would be missed. Of the positive results, 1/99 to 5/103 would be incorrectly identified as being antibody positive. The probability that a positive result is correct would range from 95.1 percent to 99.0 percent.

In the 0.01 percent prevalence group, 10 would be identified, and none would be missed. Of the positive results, 1/11 to 5/15 would be incorrectly identified as being antibody positive. The probability that a positive result is correct would range from 66.7 percent to 90.9 percent.

These estimates of false negative and false positive rates after EIA and Western blot sequential testing represent results with currently available tests performed under optimal laboratory conditions. Errors do occur even in the Western blot test, and furthermore, there is no standard for determining when a Western blot is positive. For example, when the U.S. Army sent 15 negative samples and 5 positive samples to 5 commercial laboratories that performed Western blots on a fee-for-service basis, 6 of the negative samples were reported as positive. Four of the 5 laboratories reported at least one false-positive test result, and one laboratory did not detect one of the positive specimens.

DESCRIPTION OF THE TESTS

Tests to detect antibodies to the AIDS virus (HIV, for "human immunodeficiency virus") in blood consist of two types of tests applied in sequential order to the same blood specimen. If the first test is positive, it is repeated. If the repeat test is again positive, then the second test is performed. Testing is not repeated on specimens that are negative on the first test, nor is the second confirmatory test performed on initially negative specimens.

The first tests are enzyme immunoassays (EIAs), in which antibodies to whole and partial virus are measured in the aggregate. The second, more specific test, called a "Western blot," identifies antibodies to the major individual proteins which make up the AIDS virus.

Most of the EIAs are "ELISA" (enzyme-linked immunosorbent assay) assays. Here, serum is placed in wells or on beads that contain HIV antigen (derived from disrupted HIV that has been grown in cell cultures). If the specimen contains antibodies, they will bind to the test kit's antigens. After an incubation period, any unbound antibody is washed from the bead or well, and an enzyme-labeled antibody to human immunoglobulin (all antibodies are immunoglobulins) is added. The bead or well is again washed to remove any unbound antibody. A reagent is then added that will react with any bound, enzyme-labeled antibodies, and the reaction produces a color change that is measured by an instrument called a "spectrophotometer." The color intensity is quantifiable and the numerical value is called the "optical density." The result is interpreted by comparing it to positive and negative control samples containing known quantities of antibodies.

There are also competitive EIAs, in which enzyme-linked antibodies to HIV are added to the well containing HIV antigens at the same time as—instead of after—the test specimen. If the specimen contains antibodies to HIV, they will compete with the test kit antibodies in binding with the HIV antigens. If there is a lot of antibodies to HIV in the specimen, there will be little enzyme-linked antibodies found bound to the HIV antigens. If the specimen contains no antibodies to HIV, all bound antibodies will be the enzyme-linked antibodies from the test kit.

Western blot testing is based on identifying antibodies to the major proteins of the AIDS virus. Purified HIV antigens are separated electrophoretically on a gel, which results in their separation by their molecular weights. They are then blotted onto special paper. A sample of serum is applied to the paper and if antibodies to HIV are present, they will bind to the viral antigens. A radioactive- or enzyme-labeled antibody to immunoglobulin is then applied to the paper. If antibodies to HIV are present in the sample and have bound to the HIV antigens, they will appear as distinctive bands on the blot. The location of the band indicates reaction to a specific viral protein (See bands depicting the "positive control" specimen in figure 1).

HIV proteins are grouped into three classes, two structural and one regulatory. The structural proteins consist of: (1) proteins that provide the internal, or "core" (also known as "gag") structure of the virus, and (2) proteins that provide the external or "envelope" (also known as "env") structure of the virus. The regulatory proteins (also known as "pol") represent the regulatory enzymes (reverse transcriptase, endonuclease) of the virus. Envelope proteins also have non-protein elements (glycogen) incorporated into them. The core proteins include p17/18, p24/25, and p55, which are shorthand designations for proteins with molecular weights in the thousands (or "kilodaltons"). Thus, "p24/25" refers to a protein with a molecular weight of 24 to 25 thousand. The envelope proteins are gp41, gp110/120, and gp160, where "gp" refers to "glycoprotein" (the first vaccine undergoing preliminary testing produces antibodies against gp120). The regulatory proteins are p31/32, p51/53, and p65/66.

ACCURACY OF THE TESTS

When performed in the best laboratories, the tests are very accurate. One estimate is that the false positive rate after both ELISA and Western blot testing is only 1 in 20,000 specimens tested (0.005 percent false positive rate).[1] This is based on the assumptions: (1) that the EIA test is 100% sensitive (i.e., that it will identify *all* antibody-positive blood specimens)[2] and 99.6% specific (i.e., that of 1,000 antibody-*negative* blood specimens, only 4 will be identified as positive for antibodies to HIV), and (2) that when EIA-positive blood specimens are tested by Western blot, the false-positive rate for the Western blot test is 1.17%. Multiplying the false-positive rate for the EIA test (0.4%) by the false-positive rate for the Western blot (1.17%) results in a joint false-positive rate of 0.005% ($0.004 \times 0.0117 = 0.0000468 = 0.005\%$).

One study of six commercially available EIA tests used to test blood donors found a false positive rate of zero to 0.42 percent.[3] However, there can be variations in the false positive rates for the EIA tests, even among different batches of one manufacturer's test kit,[4] and the false positive rate of the EIA test can be as high as 6.8 percent among hospitalized patients.[5] Thus, a false positive rate of 0.4% for the EIA test represents a best-case scenario.

The 1.17% false positive rate for specimens that were repeatedly positive on EIA testing and then subjected to Western blot testing comes from a U.S. Army study.[6] Only specimens that are repeatedly positive on the EIA test are subjected to Western blot testing, so labs perform the Western blot test on specimens that they know are already presumed to be positive. The false positive rate might be higher if specimens that were negative were also tested by Western blot; i.e., if laboratory personnel conducted the Western blot test on specimens that the labs did not know were positive or negative on EIA testing. For example, as part of the U.S. Army's quality assurance program for AIDS antibody testing, five large commercial laboratories that offered Western blot testing on a fee-for-service basis were sent 15 samples that were known to be negative for antibodies to the AIDS virus, and 5 samples that were positive. There were six false-positive results reported, all on different normal specimens, suggesting that the errors were due to technique. The most common error was detection only of p24/25, and labeling that result as a positive Western blot test. Four of the five laboratories reported at least one false-positive test result. One laboratory did not detect one of the positive specimens.[7]

False positive Western blot tests have resulted from reactivity to the cultured human cells in which the AIDS virus that is used in Western blot testing has been grown.[8] For example, the American Red Cross reports that Western blot testing on specimens that are positive with Abbott's EIA test result in "indeterminate" readings 10 to 20 percent of the time, while Western blot testing on specimens that are positive with Genetic Systems' or DuPont's EIA tests results in "indeterminate" Western blot readings 40 to 50 percent of the time.[9] Furthermore, subsequent blood specimens obtained from the same patient can be Western blot negative after an initial specimen was Western blot positive.[10]

The Centers for Disease Control (CDC) has estimated that currently licensed EIA tests have a sensitivity of 99 percent or greater and a specificity of approximately 99 percent.[11] The CDC also states that the sensitivity of the Western blot is comparable to that of the EIA. While no specificity is given for the Western blot (described as "highly specific when strict criteria are used for interpretation"), CDC does state that: "Under ideal circumstances, the probability that a testing sequence will be falsely positive in a population with a low rate of infection ranges from less than 1 in 100,000 (Minnesota Department of Health, unpublished data) to an estimated 5 in 100,000 (citing as references Meyer and Pauker and Burke et al., see footnotes 1 and 6, supra)."

There is at present no standard for determining when a Western blot test is positive. A Consensus Conference from the Office of Medical Applications of Research, National Institutes of Health, stated that p24/25 together with gp41 (a "gag" protein and an "env" protein) "is unequivocally positive."[12] The Department of Defense (DoD), in its mandatory testing of active duty personnel and civilian applicants for U.S. military service, classifies as positive those Western blot tests in which, at the minimum, either gp41 (an "env" protein) alone or p24/25 plus p55 (two "gag" proteins) are detected.[13] The

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Footnotes at end of article.

American Red Cross requires that at least one protein from each of the three types of proteins ("gag," "pol," and "env")—for example, p24/25 plus gp41 plus p51/53—be detected before the donor is notified that he/she has been found to be positive for antibodies to the AIDS virus.[14]

The Red Cross standard applies only to whether the blood donor will be notified that he/she has had a positive antibody test to HIV. All repeatedly positive EIAs are discarded, regardless of the results of Western blot testing. If some antibodies to HIV antigens are detected but not against at least one protein from each of the three types of HIV antigens, the results are reported to the blood bank as "indeterminate" (all of these specimens are also discarded, because all repeatedly positive EIAs are discarded, and only repeatedly positive EIAs are subjected to Western blot testing). The individual blood banks determine whether to inform persons with indeterminate Western blots of their test results. Indeterminate Western blots that contain antibodies to p24/25 and gp160 are tagged as probably representing the early stages of conversion to positive antibody status. Approximately 80 percent of persons with this Western blot pattern have progressed to positive Western blots as defined by the American Red Cross.

In reference to the NIH Consensus Conference definition that a positive Western blot consists of p24/25 plus gp41, and the DoD definition of either gp41 alone or p24/25 plus p55, there may not be that much difference in results. The American Red Cross reports that it is very unusual to find only these minimal types of proteins on the Western blot test. Nevertheless, American Red Cross and the Department of Defense have clearly different criteria for when a person will be labeled as being infected with HIV and being informed of the results, and research studies often use yet another criterion, the NIH Consensus Conference definition, for a positive Western blot (i.e., p24/25 plus gp41).[15]

[Figures 1 thru 6 not repreducible for the RECORD.]

Figure 1 depicts a hypothetical situation involving three persons, two of which would be identified as having a positive Western blot by DoD and one of which would be identified as positive by the American Red Cross. In this hypothetical situation, note that: (1) neither of the DoD positives would be identified as positive by the American Red Cross, (2) the Red Cross positive would be negative by DoD criteria, and (3) neither the Red Cross nor DoD positives would be indentified as positive according to the NIH Consensus Conference definition.

TEST ACCURACY DEPENDS ON THE POPULATION UNDERGOING TESTING

Even when the tests are conducted under optimal laboratory conditions, there will be antibody-positive persons who will be missed, and some persons who will be incorrectly identified and hence, assumed to be infected and carriers of the AIDS virus. Furthermore, among persons identified as having antibodies to the AIDS virus, the proportion of incorrectly identified persons (i.e., the percent of false positives) will increase as the prevalence of antibody-positive persons among the population undergoing testing decreases. These unavoidable errors are illustrated in the accompanying figures.

In figure 2, the relationship between sensitivity, specificity, false negatives, and false positives are summarized. In figures 3 to 6, the false positive rates after both EIA and Western blot testing are calculated for populations where the prevalences of antibodies to the AIDS virus are 10 percent, 0.83 percent, 0.1 percent, and 0.01 percent, respectively. A population with 10 percent prevalence of antibodies to HIV would represent a high-risk population. The 0.83 percent prevalence represents the threshold for mandatory marriage license applicant testing under a law passed in Texas in 1987,[16] and is the prevalence obtained if the 2 million persons estimated to be infected with HIV in the United States is divided by 240 million, the current estimated population of the U.S. The 0.1 percent represents the prevalence of HIV infection that CDC has suggested may justify premarital testing (see footnote 11, supra). The 0.01 percent might represent the prevalence rate in low-risk groups.

In these examples, CDC estimates (see above) of the sensitivity and specificity of the EIA and Western blot tests have been used. For the EIA test, sensitivity and specificity are both assumed to be 99 percent (1 percent false negatives, 1 percent false positives). For the Western blot, sensitivity is assumed to be 99 percent, and specificity, from 99.5 to 99.9 percent. The false negative rate after both EIA and Western blot testing is 2 percent and is derived by *adding* the false negative rates for each test, because Western blot testing is done only on specimens that test positive. After EIA testing, 1 percent of positive specimens will be missed (0.01 x (# of positive specimens)). Western blot testing of EIA-positive specimens will miss 1 percent of these specimens, or approximately an additional 1 percent of the total number of positive specimens (0.01 x 0.99 x (# of positive specimens) = 0.0099 x (# of positive specimens)).

The false positive rate after both EIA and Western blot testing is derived by *multiplying* the false positive rates for EIA and Western blot testing, because Western blot testing is conducted only on those negative specimens that tested falsely positive on EIA. If the joint false positive rate is 1 in 100,000 (0.00001) to 5 in 100,000 (0.00005) and the EIA false positive rate is 1 percent (0.01), the false positive rate for the Western blot therefore ranges from 0.001 to 0.005, or 0.1 to 0.5 percent (0.01 x (0.001 to 0.005) = 0.00001 to 0.00005), or 1 in 100,000 to 5 in 100,000).

The examples all assume that 100,000 persons are being tested. For the group with 10 percent of its members having antibodies to HIV in their blood, and EIA test sensitivity of 99 percent means that, of 10,000 antibody-positive persons, 9,900 will test positive (true positive), and 100 will test negative (false negative). Of the 90,000 persons without antibodies to HIV, an EIA test with a specificity of 99 percent means that 89,100 will test negative (true negative) and 900 will test positive (false positive). The predictive value of a positive EIA test is thus 9,900 divided by 9,900 plus 900, or 92 percent; i.e., after only EIA testing, the probability that a positive result is truly positive is 0.92.

The results after Western blot testing are as follows. A test sensitivity of 99 percent means that, of the 9,900 persons testing positive after EIA testing and who actually have antibodies to HIV present, 9,900 x 0.99, or 9,801 persons will be correctly identified as positive, and 99 persons will be incorrectly identified as being antibody-negative. Therefore, after both EIA and Western blot testing, a total of 100 plus 99 antibody-positive persons, or 199 of 10,000, will be missed. Western blot specificity of 99.5 to 99.9 percent means that, of the 900 persons without antibodies that were falsely positive in the EIA test, 0.1 to 0.5 percent will still be falsely positive after Western blot testing, or a total of 1 to 5 persons. Therefore, of the 90,000 antibody-negative persons, 1 to 5 persons will be falsely identified as positive, compared to 9,801 persons correctly identified as antibody positive. The predictive value after both EIA and Western blot testing ranges from 9,801/(9,801 + 5) to 9,801/(9,801 + 1), or from 99.95 to 99.99 percent, as compared to a predictive value of 0.92 after only EIA testing (see figure 3 for summary).

Similar computations have been made for populations of 100,000 each, with prevalence rates of antibodies to HIV of 0.83, 0.1 and 0.01 percent, respectively.

In the 0.83 percent prevalence group, the probability of a positive test being correct after EIA testing would be only 0.45, but would rise to 0.994 to 0.999 after Western blot testing (814/819 to 814/815). Sixteen of 830 antibody-positive specimens would be missed. As in the case of the 10 percent antibody-positive prevalence population, 1 to 5 persons would be incorrectly identified as antibody positive, compared to 814 persons correctly identified as antibody positive (see figure 4 for summary).

In the 0.1 percent prevalence group, the probability of a positive test being correct after EIA testing would be only 0.09, but would rise to 0.951 to 0.990 after Western blot testing (98/(98+5) to 98/(98+1). Two of 100 antibody-positive specimens would be missed. One to 5 persons would again be incorrectly identified as antibody positive, but at a prevalence of 0.1 percent, only 98 persons will be correctly identified as antibody positive (see figure 5 for summary).

In the 0.01 percent prevalence group, the probability of a positive test being correct after EIA testing would be only 0.01, rising to 0.667 to 0.909 after Western blot testing (10/(10+5) to 10/(10+1). All 10 of the antibody-positive persons would be identified. One to 5 persons would again be incorrectly identified as antibody positive, but only 10 persons will be correctly identified as antibody positive, even though no positives will be missed (see figure 6 for summary).

In summary, the percent of false negatives and false positives will be identical in populations with different prevalences of antibody-positive persons. However, in higher prevalence populations, the absolute number of antibody-positive persons who will be missed (false negatives) after both EIA and Western blot testing will be much higher than in lower prevalence populations. For example, among 100,000 persons tested, 199 of 10,000 antibody-positive persons will be missed if the prevalence were 10 percent, compared to 2 of 100 antibody-positive persons being missed if the prevalence were 0.1 percent. Turning to the false positives, the absolute number of false positives will remain essentially the same with varying prevalences of antibody-positivity, but false positives as a percent of total positives will increase as prevalence decreases. For example, if prevalence were 10 percent, only 1/9,802 to 5/9,806 positive results would be false positives, whereas if prevalence were 0.1 percent, 1/99 to 5/103 positive results would be false positives, and if prevalence were 0.01 percent, 1/11 to 5/15 positive results would be false.

These are best-case estimates. In actual practice, laboratories can be expected to perform at lower levels of accuracy, missing more positive specimens and incorrectly identifying as positive more negative specimens.

FOOTNOTES

[1] Meyer, K.B. and Pauker, S.G., "Screening for HIV: Can We Afford The False Positive Rate?" New England Journal of Medicine 317:238-241 (1987).

[2] The sensitivity of the tests—i.e., false negatives, or the percent of anti-body containing specimens that would not be detected by the test—is not at issue in this discussion of false positives. Moreover, while the ELISA tests are accepted as having a sensitivity of 100 percent, these tests cannot identify all persons infected with the AIDS virus, nor those persons in the early stages of antibody production. For example, HIV-infected persons may go as long as 6 to 14 months before they develop detectable levels of antibodies to HIV (Ranki, A., Krohn, M., Allain J.P., et al., "Long Latency Precedes Overt Seroconversion in Sexually Transmitted Human-Immunodeficiency-Virus Infection," Lancet ii:589-593 (1987)). Increased sensitivity results in decreased specificity. This relationship is reflected in the following two examples. First, the World Health Organization (WHO) developed a clinical case-definition of AIDS, in which three major and six minor symptoms are used. AIDS is diagnosed if at least two major and one minor symptom are present. Based on correlations with the presence of antibodies to the AIDS virus or with antigens of the AIDS virus itself, the sensitivity of this clinical case-definition is 54%, and its specificity, 92%. By adding a fourth major symptom to the original three and continuing to use the requirement that at least two major and one minor symptom need to be present in order to make the diagnosis of AIDS, the sensitivity increased from 54% to 75%, but the specificity decreased from 92% to 87% (Bygbjerg, I.C., Schiodt, M., Bakilana, P.B., et al., "Usefulness of a Clinical Case-Definition of AIDS in East Africa," Lancet ii:569 (1987)). Second, the strength of a positive ELISA test is directly related to whether a subsequent Western Blot test will be positive. For example, in one study, highly reactive specimens in the ELISA test were strongly associated with a positive Western Blot, while moderate to weakly reactive ELISA tests were weakly associated with a positive Western Blot (Ward, J.W., Grindon, A.J., Feorino, P.M., et al., "Laboratory and Epidemiologic Evaluation of an Enzyme Immunoassay for Antibodies to HTLV-III," Journal of the American Medical Association 256:357-361 (1986)).

[3] Reesink, H.W., Lelie, P.N., Huisman, J.G., et al., "Evaluation of Six Enzyme Immunoassays for Antibody Against Human Immunodeficiency Virus," Lancet ii:483-486 (1986).

[4] Fust, G., Ujhelyi, E., Hejjas, M., and Hollan, S.R., "Traps of HIV Serology: Independent Changes in Sensitivity and Specificity of ELISA Kits," Presented at the 3rd International Conference on AIDS, Washington, D.C., June 1-5, 1987:49.

[5] Cockerall, F.R., Edson, R.S., Chase, R.G., Katzmann, J.A., and Taswell, H.F., "'False-Positive' Antibodies to Human Immunodeficiency Virus (HIV) Detected by an Enzyme-Linked Immunosorbent Assay (ELISA) in Patients at Low Risk for Acquired Immunodeficiency Syndrome (AIDS)," presented at the 3rd International Conference on AIDS, Washington, D.C., June 1-5, 1987:34.

[6] Burke, D.S., Brandt, B.L., Redfield, R.R., et al., "Diagnosis of Human Immunodeficiency Virus Infection by Immunoassay Using a Molecularly Cloned and Expressed Virus Envelope Polypeptide: Comparison to Western Blot on 2,707 Consecutive Serum Samples," Annals of Internal Medicine 106:671-676 (1987).

[7] Burke, D.S. and Redfield, R.R., "False-Positive Western Blot Tests for Antibodies to HTLV-III," Journal of the American Medical Association 256:347 (1986).

[8] Saag, M.S. and Britz, J., "Asymptomatic Blood Donor with a False Positive HTLV-III Western Block," New England Journal of Medicine 314:118 (1986); Roy, S., Portnoy, J., and Wainberg, M.A., "Need for Caution in Interpretation of Western Blot Tests for HIV," Journal of the American Medical Association 257:1047 (1987).

[9] Chyang Fang, coordinator of quality control laboratory, American Red Cross, National Headquarters, personal communication with the Office of Technology Assessment, September 25, 1987.

[10] Sandstrom, E.G., Schooley, R.T., Ho, D.D., et al., "Detection of Human Anti-HTLV-III Antibodies by Indirect Immunofluorescence Using Fixed Cells," Transfusion 25:308-312 (1985); Stoneburner, R.L., Chiasson, M.A., Solomon, K., and Rosenthal, S., "Risk Factors in Military Recruits Positive for HIV Antibody," New England Journal of Medicine 315:1355 (1986).

[11] Centers for Disease Control, "Public Health Service Guidelines for Counseling and Antibody Testing to Prevent HIV Infection and AIDS," Morbidity and Mortality Weekly Reports 36 (#31):509-515 (1987).

[12] OIffice of Medical Applications of Research, National Institutes of Health, Bethesda, Maryland, "The Impact of Routine HTLV-III Antibody Testing of Blood and Plasma Donors on Public Health," Journal of the American Medical Association 256:1778-1783 (1986).

[13] Burke, D.S., Brundage, J.F., Herbold, J.R., et al., "Human Immunodeficiency Virus Infections Among Civilian Applicants for United States Military Service, October 1985 to March 1986," New England Journal of Medicine 317:131-136 (1987).

[14] Chyang Fang, coordinator of quality control laboratory, American Red Cross, National Headquarters, personal communication with the Office of Technology Assessment, September 22 and 25, 1957.

[15] Fleming, D.W., Cochi, S.L., Steece, R.S., and Hull, H.F., "Acquired Immunodeficiency Syndrome in Low-Incidence Areas," Journal of the American Medical Association 258:785-787 (1987).

[16] Texas House Bill No. 1829, section 9.02, signed into law in 1987, contained the following provision: "When the prevalence rate of confirmed positive HIV infection is .83 percent, as reported under the Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), the Texas Board of Health shall promulgate emergency rules for mandatory testing for HIV infection as a condition for obtaining a marriage license."

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has yielded the floor. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to oppose the amendment. I do so, not just in terms of the substance of this amendment but in terms of opposing the efforts of those that feel the war against AIDS can be won politically on the floor of the Senate rather than in the laboratories of this Nation.

The last time we went through the exercise of an amendment of the distinguished Senator from North Carolina, it had to do with the AIDS education process. Clearly, with that amendment, the finger was pointed at the homosexual community in terms of what education they should or should not receive. It was clear, according to the best knowledge available, that full education on the matter of AIDS should be made available to all high-risk groups. But, for whatever reason, when the issue was raised here on the floor and the finger was pointed at the homosexual community, they were put into a special category. The education which they could receive was restricted.

For whatever reason, be it politics, be it fear, this body denigrated itself by allowing that amendment to pass with only two votes in opposition.

I think the time has come to stand up against all these amendments and allow the doctors and the scientists and the teachers to do their work. That is what is at issue here; not the philosophy of the distinguished Senator from North Carolina or the philosophy of Senator Kennedy or the philosophy of Senator Thurmond. it does not add one whit for us to micromanage the war against AIDS from the floor of the U.S. Senate.

I would ask, in regard to the present amendment, very simple questions: Has the matter that has been requested of the U.S. Senate by the distinguished Senator from North Carolina been requested by the Surgeon General? Has it been requested by the Centers for Disease Control? Has it been requested by the National Institutes of Health? Has it been requested by the Veterans' Administration itself?

The answer that comes back is a clear-cut no, none of these.

Just as the earlier amendment on another bill, the Labor and Health and Human Services appropriations bill, what was requested of the Senate by the Senator from North Carolina had not been requested by any of the health, science, or education institutions or experts.

That is really what is at issue. If you want a war against AIDS, then let it be fought by those who have the expertise and the knowledge. Nothing could be more dangerous to victory in that war than to allow ideology to take hold.

You make certain, for example, that only a portion of the risk groups are not educated, and you have gone a long way toward losing the war. For the information of my colleagues, there is right now a battle raging under the surface which, in effect, because of the efforts of the distinguished Senator from North Carolina and others, would deny complete education to the children of this Nation, just as it has been denied to the homosexual community already by action of this body.

Nobody asked for what is being asked for here.

I see my distinguished colleague from North Carolina on the floor. I would ask one question of him. He mentioned in the course of his comments that only one group opposes this, and then failed to mention what group that is. I would ask him, what group that is that opposes this amendment.

Mr. HELMS. The Senator knows what group I am talking about.

Mr. WEICKER. I do not. I cannot fathom the distinguished Senator's mind. What group is it?

Mr. HELMS. He may not be able to fathom my mind, but he knows exactly what group I am talking about. I am talking about the homosexual lobby in this country that has so terrified Members of this body because they voted for my previous amendment.

Mr. WEICKER. I would say to my distinguished friend from North Carolina, does he place me in this group? I opposed his amendment to the Labor-HHS appropriations bill.

Mr. HELMS. The two Senators from Massachusetts, according to the

Boston Globe, have been attacked. There was a long story in the Boston Globe. I do not know anything about the Senator's constituency. I do not know how they feel about testing for AIDS or anything else. I have not found out. He is the best judge of that.

Mr. President, I ask unanimous consent that an article from the Boston Globe of October 29 be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Oct. 29, 1987]

GAYS UPSET OVER AIDS VOTE BY KENNEDY, KERRY

(By Bruce Mohl)

Local gay and lesbian groups are furious with the Massachusetts congressional delegation, especially Sens. Edward M. Kennedy and John Kerry, for voting for legislation that would withhold AIDS educational funds from groups or programs that "promote or encourage, directly or indirectly, homosexual activity."

The local activists are angry with Kerry and Kennedy for not speaking against the amendment filed by Sen. Jesse Helms (R-N.C.) that was attached to a $946 million AIDS bill. The Senate approved the amendment 94-2 and the House subsequently directed its conference committee to accept the Senate language.

Of the 11-member Massachusetts congressional delegation, Reps. Barney Frank, Gerry Studds, Edward Markey, Joseph Kennedy 2d and Joseph Early voted against the amendment.

Spokesmen for Kennedy and Kerry said the two senators considered the amendment so watered down as to be meaningless. Kennedy said in a statement that the amendment "will not make a constructive contribution to the battle against AIDS," but he said it was harmless. "It may not do any good, but it will not do any harm," he said.

But Larry Kessler, executive director of the AIDS Action Committee in Boston, said the vaguely worded amendment could result in the withholding of federal funds for any AIDS educational materials that do not discourage homosexual activity. He said the amendment requires AIDS education groups to promote abstinence from homosexual activity, from sex outside marriage and from drug use.

Kessler said the amendment could be interpreted in such a way that even a publication like the AIDS bulletin recently mailed out by Gov. Dukakis to every Massachusetts household wouldn't be eligible for federal funds. "That brochure doesn't stress sex only in marriage," Kessler said.

Emotions reportedly ran high on the issue at a Friday night dinner of the Human Rights Campaign Fund, a national political action committee of the lesbian and gay community.

"There was incredible anger toward Kennedy and Kerry," Kessler said. "People were furious."

Vincent McCarthy, a prominent attorney, said he raised $11,000 in 10 minutes to place an advertisement in today's Boston Globe to protest the amendment. "That gives you some sense of the passion on the issue," he said.

"It's bizarre. It's stupid. It's a disgrace it passed by the margin it did," said Arline Issac, cochairman of the Gay and Lesbian Political Caucus.

Timothy Barnicle, legislative director for Kerry, said the senator believes the Helms amendment, as worded, is harmless. He said opposing the amendment on the Senate floor would have been a futile effort. Only Sens. Daniel P. Moynihan (D-N.Y.) and Lowell Weicker (R-Conn.) opposed the amendment.

"I guess people felt it was not dangerous," Barnicle said. "Nobody took this as a serious threat."

Barnicle said Kerry would take action if the Reagan administration were to interpret the Helms amendment in a more restrictive manner.

Rep. Chester Atkins (D-Mass.) said he voted for the language of the amendment in the House because to do otherwise would have undermined the consensus that has formed on the need for AIDS education.

Kessler and others said they understood the strategy of Kennedy, Kerry and the others but felt their representatives should stand up to officials like Helms, who they say play to people's homophobia.

Rep. Barney Frank (D-Mass.), who is gay, declined to comment on the votes of his colleagues in Washington. He said the impact of the amendment, if it emerges from the House-Senate conference committee intact, is unknown. "It's very badly drafted," he said, "It could mean a lot and it could mean very little."

Mr. WEICKER. I would suggest there are a lot of people who are opposed to the amendment before us today, including this Senator, and including other Senators on this floor, and including anybody who has a fair concept of what is involved in winning this war against AIDS. It is not just a homosexual lobbying group. I have no doubt they have an interest in the matter. So would I, if my life and the lives of my friends and family were at risk.

But I think what we are getting down to here is, Does this body feel that it has the competence to wage and win this war by virtue of our own philosophies or our own knowledge, limited as it is, in this most complex of areas? Please understand, I speak not only to my colleagues, but to those who watch these proceedings. The scientific community will tell you that indeed they are faced with the most complex problem of all time.

Are we going to sit here and potshot and try to go ahead and impose an uninformed will on the battle or the winning of the battle?

We have been through this exercise, as I said. An amendment was passed and it is in conference and it is being debated. Very frankly, it stands as a blot on the escutcheon of this body, but most important, I suppose we could all take that, were it not for the fact that it is one more shackle around the feet of a Nation that is in the most desperate medical battle of all time.

Are we all prepared to go ahead and make these decisions? Is everybody at the point where they can say that what is being proposed in this amendment is of benefit in the winning of this war? Why is it, then, that it has not been requested by one solitary competent medical body in this Nation?

The Senator from Massachusetts alluded a few minutes ago to what our business truly is. I want to emphasize that point because as recently as yesterday, the Centers for Disease Control and the Department of Health and Human Services had a press conference indicating their plans to try and accurately estimate the number of people in the United States who are infected with the AIDS virus. This is going to be a massive effort and it is going to require an enormous expenditure of personnel. What my concern is, for example, is that they are going to have to dip into the present pool of personnel who are doing other things, and we do have other medical problems in this Nation, and divert them from those problems to AIDS. We do not have enough personnel to go ahead and conduct the study to ascertain exactly the dimensions of the AIDS problem without taking people from other important public health matters. That is something we should be addressing: Is there adequate money and staff to conduct such a study?

Do we have the programs and the personnel in place to take care of those who are infected? Are the medical schools prepared to handle the disease? Is the training of such a caliber that we can both discover a cure and develop better treatments? Those are appropriate issues for this body.

I truly hope that we do not feel that in the vote on this amendment we are passing some sort of a collective moral judgment. The hour is late and the fight is desperate. I would hope, rather, that in defeating this amendment we allow the scientists, the doctors, and the teachers to go about their business. And I would hope that we give them the support that we are capable of, that of an intelligent policy, not one born of fear but one born of courage and knowledge.

On the other hand, if every time we have legislation on this floor we are going to have an AIDS amendment, then go ahead and vote for what we have before us. Innocent though it might seem, it accomplishes nothing but to divert some resources, scarce resources, of this Nation away from a very real problem that confronts us.

I would remind my colleagues that we are all going into a budget-cutting exercise.

And already the moneys that are available across the board for every aspect of the disease are inadequate. They may even be more so by the time we get through with this budget exercise, and yet we feel we can divert another $28 million to a matter that has not been requested by the scientific community at this juncture.

I do not think we can do it as a matter of resources unless the same persons who propose these programs are willing to see that the programs are paid for, and that is not the case with this amendment.

Mr. President, I hope the amendment will be rejected. It adds nothing in terms of a fight we have to win. Rather, it continues to pump us up to where all of a sudden we are going to think that we are capable of handling something we are totally incapable of handling as a matter of our own knowledge. Health policy, that is our job. How best to treat the patient in this instance, we are not capable of that. Who has asked for this? Secretary Bowen, the member of the Cabinet responsible for alerting this body to the health needs of the Nation? No. The President of the United States? No. The Centers for Disease Control? No. National Institutes of Health? No. The Surgeon General? No.

Mr. President, let us get on with the business of veterans' affairs, which as I understand—after all this talk—is the real matter before the Senate. Let us get on with that business assured in the fact that the health interests of our veterans are going to be cared for both at the hospitals within the Veterans' Administration and all the adjunct facilities that are available for the health care of the people of the United States and not continue to try to raise this matter of AIDS in a way that shames us all.

I hope the amendment is defeated and I hope in defeating it—and I mean defeating it—we send a message for all subsequent legislation that comes on this floor when it relates to the matter of AIDS.

This body did itself proud in the Labor-HHS bill as to the matter of funding, and there is subsequent comprehensive legislation that is going to come to the floor on the matter of AIDS and we will have a chance to debate that. All of this is appropriate, not taking a shot here and shot there, or making a few remarks here and a few remarks there everytime a bill comes to the floor. I think we understand what is at the basis of all of this, and I repeat what I said throughout all the rest of the debates. I hope when my times comes, or the time comes for any other person in this Chamber or outside this Chamber, that nobody is going to question why it is that I am hurting but rather the sight of that hurt will be enough to prod them to action. That has always been the basis of American compassion and I hope it stays.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut yields the floor.

The Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator from Connecticut for his eloquent, forceful, and I think highly intelligent statement in regard to this measure. He made the point that there were many groups, not one group, that are opposed to the approach that this amendment represents. Among those are professional health care providers, doctors, scientists, researchers.

Mr. President, as I said earlier, I fully support the idea that the decision to test should be made by medical doctors and public health experts and not by politicians. That is precisely why the committee included section 308(d).

The Chief Medical Director of the VA, who has responsibility for the entire Department of Medicine and Surgery and is among this country's most distinguished public health officials and experts and certainly the public health official with the greatest direct responsibility for patient care, has made clear on numerous occasions his view on testing—that it should be voluntary and with informed consent, and—and I repeat "and" that it should be targeted to individuals who may be at high risk for exposure to the HIV. That is not what the pending amendment does.

Unfortunately, I do not believe that that view is shared by the White House or by the Office of Management and Budget, which often appear to be making policy on AIDS issues. They clearly are doing just that in the case of the issue before us. In a November 10 statement of administration policy opposing section 308(d) of the bill, OMB indicated that the administration opposed "any provision prohibiting VA from implementing a widespread program of testing patients for the presence of the AIDS virus that would be contrary to sound medical practice."

Mr. President, section 308(d) sets forth a policy consistent with the Chief Medical Director's recommendation. Thus, section 308(d) is intended to be a shield, protecting the Chief Medical Director and veteran-patients from the political appointees in the White House and OMB who may force the VA to take action contrary to its best public health judgment.

I would like to ask what expertise does the OMB have in making policy to deal with the AIDS epidemic? Is the OMB more qualified than the Chief Medical Director of the VA? If I felt confident that the administration would listen to the physicians and public health experts in developing AIDS policies, our prohibition would not be necessary. However, I think it is clear that this administration, in promoting widespread testing, in direct opposition to the recommendations of the Surgeon General and the Centers for Disease Control, has demonstrated that it is the political appointees not the public health experts who at times prevail on the AIDS issue in this administration.

Mr. President, to elaborate further on the VA's position on this issue, on June 24, the day on which the Committee on Veterans' Affairs held an extensive hearings on AIDS, the New York Times published an article titled "Mandatory Test for AIDS Virus Opposed by Doctors at the VA." That article described a confidential memorandum to the White House from VA Chief Medical Director Dr. John Gronvall, stating that "Testing—in the VA—will not curtail the spread of infection * * * will cause some veterans in need of care to avoid the VA * * *. And represents a scattered, less focused use of resources than a more targeted program." I ask unanimous consent that this New York Times article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MANDATORY TEST FOR AIDS VIRUS OPPOSED BY DOCTORS AT THE V.A.

(By Robert Pear)

WASHINGTON, June 23—Medical experts at the Veterans Administration are vigorously opposing White House suggestions that all people admitted to veterans' hospitals be routinely tested for infection with the AIDS virus.

In a confidential memorandum to the White House, V.A. doctors contend that mandatory testing "will not curtail the spread of infection" and that it would be "legally unacceptable" to do the testing without obtaining the patient's consent.

Meanwhile, American Medical Association policy makers adopted recommendations calling for mandatory AIDS tests for immigrants and prison inmates, saying they hope it would be a framework for a national policy

VOLUNTARY TESTING SUPPORTED

The veterans' agency, which operates 172 hospitals, said in the memorandum that it "supports expanded voluntary testing" of patients who believe themselves to be at risk of infection with the deadly virus.

But it said that mandatory testing "may arguably be coercive policy" exceeding both the intent of Congress and the legal authority of the agency.

Experts estimate that 20 percent to 30 percent of people infected with the AIDS virus will develop symptoms of the disease within five years. All those infected are presumed to be capable of transmitting the virus to others.

In a speech on May 31, President Reagan called for a wide range of testing for infection with the AIDS virus, and a week later the Justice Department announced plans to test Federal prisoners and would-be immigrants. In his speech, Mr. Reagan said that he had asked for a review to see if mandatory testing might be appropriate at Government hospitals run by the Veterans Administration.

In its memorandum, prepared as part of that review, the V.A. doctors listed objections to a mandatory testing program, saying that it did these things:

"Raises serious legal questions with regard to authority, informed consent and patients' rights.

"Will not curtail the spread of infection.

"Covers large numbers of patients who are at very low risk of infection.

"Will cause some veterans in need of care to avoid the V.A., or be compelled to submit to testing against their wishes.

"Represents a scattered, less focused use of resources than a more targeted program."

The memorandum, which bears the name of Dr. John A. Gronvall, chief medical director of the V.A., reflects the views of many doctors in the agency, according to officials. It is consistent with the views expressed by the Surgeon General of the United States, Dr. C. Everett Koop, and other medical authorities.

Officials at the veterans' agency said today that they had been urged by members of the White House staff to endorse routine testing of all patients admitted to V.A. hospitals.

REAGAN AIDE BACKS TESTING

Gary L. Bauer, the President's domestic policy adviser, said he favored such testing, "so the hospital staff can take appropriate precautions" and so patients would know if they had been infected. Education Secretary William J. Bennett has also urged Mr. Reagan to order testing at veterans' hospitals.

Mr. Bauer said the President would probably decide the extent of testing at veterans' hospitals next month after he discusses the issue with his Domestic Policy Council.

Nationwide, the Government has recorded 37,386 cases of acquired immune deficiency syndrome and 21,621 deaths. The disease, for which there is no cure, cripples the body's immune system, leaving victims exposed to infections and cancers. It is caused by a virus that spreads through sexual intercourse with an infected partner or through exchanges of blood, such as in sharing hypodermic syringes. Numerous studies indicate that the virus does not spread through casual social or household contact. The Veterans Administration cares for nearly 6 percent of all AIDS patients.

SPECIAL OFFICE AT V.A.

Dr. Gronvall said in an interview today that the V.A. was establishing a special office to coordinate treatment, research and all other activities related to AIDS.

The memorandum to the White House bears Dr. Gronvall's name, but he declined to discuss it, saying his advice was confidential.

According to the memorandum, the V.A. treats 3.5 million patients at its hospitals, clinics and other facilities each year. The agency estimated that 700,000 patients, or 20 percent of the total, would volunteer for AIDS testing.

For this group, testing and counseling would cost $12.2 million a year and would require the services of 348 V.A. employees, it estimated.

The agency also expressed concern that positive test results might be improperly disclosed to insurance company employees or other people outside veterans' hospitals. "Mandatory testing would likely result in a greater incidence of disclosure of this stigmatizing information," the agency warned.

V.A. officials said they saw little need to require testing of elderly people admitted to veterans' hospitals, and they estimated that one-third of the hospital patients were 65 years old or over.

R. Jack Powell, executive director of the Paralyzed Veterans of America, which has more than 12,000 members, said his group opposed mandatory testing. "There appears to be an attempt to single out veterans as a target group," he said.

Donna St. John, a spokeswoman for the Veterans Administration, said its current practice was to test patients who displayed symptoms of AIDS or who were in certain high-groups. These groups include homosexual and bisexual men, intravenous drug users and their sexual partners.

Mr. CRANSTON. Mr. President, the Chief Medical Director stated at our hearing that this article was accurate, and he subsequently provided our committee with a copy of the memorandum. I would note that the White House has not yet acted on the recommendation.

That memorandum also stated:

> The VA supports expanded voluntary testing for the HIV antibody, targeted to those at highest risk of infection.

That, Mr. President, is exactly the policy set forth in the committee bill. The memorandum further stated that:

> Screening programs must consider the responsibility for creating significant numbers of false results, which are inevitable. . . . Therefore, labeling patients or their blood and body fluids cannot be relied upon to protect care givers or the community. For that reason, false negatives may be the greatest concern to society at large. However, false positives create tragedy that can ruin lives. A false positive can wrongly render a person unmarriageable, can deny the opportunity for responsible parenthood, and can lead to great personal loss—of jobs, insurability, access to neccesary health care, and even a home.

Finally, Mr. President, I would note that an October 15, 1987, memorandum from Dr. Gronvall to all directors of VA facilities regarding testing and informed consent for AIDS procedures restated the VA policy as one of voluntary testing based on clinical—I repeat clinical—indications. I ask unanimous consent that that memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CHIEF MEDICAL DIRECTOR'S LETTER

In reply refer to: 10A7.

To: Regional Directors; Medical District Directors; Directors, VA Medical Center Activities, Domiciliary, Outpatient Clinics, and Regional Offices with Outpatient Clinics.

Subject: Informed Consent and Testing for HIV (Human Immunodeficiency Virus) Antibodies.

1. PURPOSE

In view of the increased use of HIV (formerly known as HTLV III) antibody tests both inside and outside the VA, this letter summarizes the recommendations for informed consent in relation to HIV testing.

2. BACKGROUND

The HIV antibody test which was approved by the FDA for screening donated blood uses the ELISA (enzyme-linked immunosorbent assay) technology. It is being widely used as a screening test for persons at risk of HIV infection in combination with the confirmatory Western Blot test. VA medical centers are reporting increased interest in HIV testing on the part of patients and staff. Testing in the VA is voluntary and includes counseling before the test is performed and when the results are given to the patient. Many VA medical centers have decided that written informed consent should be obtained and a variety of consent forms have been developed to document consent and provide some of the elements involved in counseling patients about the test.

3. DISCUSSION

It is VA policy that every patient receiving treatment at a VA facility has the right to informed participation in decisions involving his or her health care. Chapter 23 of M-2, Part I, dated August 27, 1982, outlines the requirements of the VA's informed consent policy set out in VA regulations at 38 C.F.R. Section 17.34. Such regulations are required by law. The chapter pre-dated the advent of HIV testing. However, the General Counsel has given the opinion that written informed consent for the blood test for HIV antibody is not legally required because "informed consent" is not necessarily a written permission for treatment from the patient, but rather an exchange of information between the health care practitioner and the patient which results in the patient's (or their representative) freely consenting to a medical procedure or treatment while being aware of the consequences. A written consent form, even if signed by the patient will not constitute legally sufficient informed consent unless preceded by the requisite exchange of information. Indeed, suits have been brought by patients who alleged that their informed consent was not obtained despite signed consent forms. Reliance on a form carries a risk that the health care provider will:

(a) Rely on the form instead of providing information to the patient that the patient can understand about the consequences of the HIV test, and

(b) Fail to record that the exchange of information took place in the patient's record.

4. RECOMMENDATIONS

(a) HIV testing in the VA is voluntary and based on clinical indications such as known or suspected exposure or clinical symptoms.

(b) Counseling is an integral part of any testing program and should occur prior to the test and at the time the results are given.

(c) The patient should be aware that their medical record will contain the test results. The VA is not an anonymous test site but many communities do have services or test sites where patients can be referred.

(d) Consent forms are neither required nor recommended. However, if used as a local option they are legal documents and should be reviewed for their lucidity, medical content and legal implications.

5. REFERENCES

(a) M-2, Part I, Chapter 23. Informed Consent, August 27, 1982.

(b) IL 11-85-12—Clinical Affairs Letter—HTLV-III Testing in VA Facilities, December 31, 1985.

(c) Circular 10-86-119—Follow-up on VA Patients who have Received Blood Products from Donors who have Tested Positive for Antibody to HTLV-III. October 31, 1986.

Questions may be referred to the Chairman, AIDS Working Group (10A7), FTS 373-2621 or 373-3631.

JOHN A. GRONVALL, *M.D.*,
Chief Medical Director.

Mr. CRANSTON. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California yields the floor.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I rise to speak in opposition to the amendment from the distinguished Senator from North Carolina, and I join my colleague from Massachusetts and the distinguished Senator from Connecticut in their comments. I think the most important thing for us to ask is why it is that we might be allowing this program of testing to apply to veterans within veterans' hospitals and particularly to all veterans under the age of 40.

Mr. President, I believe that the answer to this question was well stated by the Senator from Connecticut. If we enact this amendment, we will not be doing it because it is in the best medical interests of this country. We will not be doing it because the best medical advice of the Nation have suggested that it is necessary. We are not doing it because the Surgeon General of the United States has said please do this, this will help in the fight against AIDS. We are not doing it because the Center for Disease Control or any other entity in this country has come to us and suggested logically, rationally, that on its merits this makes sense in the battle against AIDS. If the U.S. Senate does this, it does it because it is succumbing to fear and to panic, and to an ideological diatribe that suggests that somehow we are uncapable of reasoning for ourselves about what it is we ought to be doing in this battle.

I heard the distinguished Senator from North Carolina say groups all support this. Mr. President, the American Legion, the Disabled American Veterans, the Paralyzed Veterans of America, the Vietnam Veterans of America, and other groups have all opposed unnecessary and mandatory testing and I'm sure have reservations about this amendment. In addition, the American Medical Association, the American Hospital Association, the National Association of VA physicians, the American Nurses Association, as well as the Chief Medical Director of the Veterans' Administration are all on record as opposing routine testing of hospital admissions. And while this amendment does not require mandatory testing it would lead to some of the very same problems.

I believe we must stop at some point and think about what we are doing here today. I heard the Senator from North Carolina suggest that perhaps the two Senators from Massachusetts were responding to an article in the Boston Globe and that somehow the lobby, as he referred to it, the homosexual lobby, has somehow reached people.

Mr. President, I voted for the Helms amendment to the Primary and Secondary Education Act. I voted for it because as I read the amendment I did not believe it affected our ability to disseminate information on the AIDS virus. I voted for that amendment because I do not believe the U.S. Senate should urge or encourage any kind of explicit sexual morality of one kind or another.

Maybe that was a mistake as a vote, if in fact the Senator from North Carolina intends for it to be restrictive because this Senator does not want to restrict our ability to be able to educate people. But that is not the issue here. The issue here is what will be served by this amendment? Why on Earth do we take a low-risk group and encourage the expenditure of funds when there are at least 10, maybe 20, maybe 30 other demands, not just within the VA system but the entire medical care system of this country, that ought to take precedence over this particular testing program? Once again, I say the answer is fear. If we vote for this amendment it will be because somehow we do not want to be on record as discerning, as discriminating, as exercising our judgment between what is a good program and what is a bad program because, my gosh, anything to do with AIDS means you have got to test.

I do not know, Mr. President. But in a New York Times article reported on June 24 of this year, Dr. John Gronvall, Chief Medical Director of the VA wrote in a confidential memorandum to the White House, as confidential as I suppose these reports are in the New York Times, and he said that mandatory AIDS testing at VA hospitals is a bad idea. This amendment would cause some of the very same problems. The Director, wrote considering mass testing, "It raises serious legal questions with regard to authority and informed consent and patients' rights." This article says that mass testing "will not curtail the spread of infection." It will not curtail the spread of infection. The Director further states that testing would cover a "large number of patients who are at very low risk of infection. It will cause some veterans in need of care to avoid the VA." Why on Earth would we take any risk in deterring people from using the VA which is in fact its very purpose? And in this amendment they may be compelled to submit to testing against their wishes.

These are the views of the VA's chief medical expert. And these views are consistent with those of the Surgeon General of the United States who opposes that mandatory testing.

Mr. President, just last week—and I think the Senator from California referred to it a moment ago—the Office of Technology Assessment estimated that among people at very low risk for AIDS 9 out of 10 who test positive would not really be infected with the virus; the so-called false positives. That estimate is based on actual laboratory performance compiled by the College of American Pathologists and the American Association of Blood Banks.

Mr. President, I think that even one false positive reading is too many. The Senator from Massachusetts referred to how many there would be, and concluded that 15 false positives would service for every three cases that might be discerned. Fifteen people who are told that they have a terminal illness, 15 people whose lives are changed, and literally whose marriages, jobs, life may be totally disrupted as a consequence of our fear in the U.S. Senate floor. I do not think that is acceptable.

False positives have been proven to actually lead some people to commit suicide because they view no other alternative to their life. Mr. President, I hope that before we subject ourselves to what I think the Senator from Connecticut referred to as the sort of process by which every bill is going to become a vehicle for some ideological statement about AIDS, that we will exercise better judgment here. Mr. President, what we are talking about here is Vietnam veterans. All the Vietnam veterans who are under 40 and other veterans coming out of the service are now going to be creating as a whole new class viewed as potential AIDS carriers, and suddenly we are going to assert that they are an at risk population and that they should not be protected from possible future random AIDS testing when in all likelihood 15 of them out of every 100 are going to wind up with a positive reading.

That simply is unacceptable to me, Mr. President. I hope that this institution is going to say it is unacceptable to the Senate to be goaded into voting again and again when logic, medical science, and all rational analysis says something to the contrary.

I urge that we reject this amendment.

Mr. MURKOWSKI. I wonder if my colleague from Massachusetts would respond to a question.

The ACTING PRESIDENT pro tempore. Does the Senator yield for a question?

Mr. KERRY. I yield for a question.

Mr. MURKOWSKI. I wonder if the Senator from Massachusetts perhaps misunderstood the intent of what is meant here. The Helms amendment does not provide for mandatory testing, but a voluntary opportunity for the veteran going into the hospital to make a decision whether he or she wants to have a AIDS test. The amendment would just offer as opposed to mandate AIDS testing. The Senator from Massachusetts has used the word "mandatory,".

Mr. KERRY. I understand what is offered here in the bill. What I am saying is even the offering of the test for those under 40 constitutes a prohibitive cost. Under the current system those patients who are at high risk of infections, and such viruses, are allowed and encouraged to be tested. This amendment singles out those who are younger than 40 years of age indicating that they are part of a high-risk group contracting AIDS. In addition, you still are going to wind up with an allocation of resources that is going to take away from the current allocation. That is point No. 1.

Point No. 2: The current plan that is in the committee report, the current policy, sufficiently permits testing of those people we ought to be testing, those who can be discerned, for various empirical reasons, to be at risk.

What we are doing here is broadening that class and creating, I think, a host of problems that will still result in 280,000 low-risk veterans who are going to be covered at an expense of some $25 million to $28 million. That is unacceptable, when measured against the other demands of this disease.

Mr. MURKOWSKI. Mr. President, I recognize that there are legitimate differences of opinion on this issue.

This comes down to an issue of those who are against testing period. And those who feel that testing has an application under certain conditions.

We are faced with a human catastrophe, and we are going to have emotions running high. That is evident here today. But I believe it is important to clarify certain representations that have been made in this body regarding cost.

The VA estimates that to test all of 1.4 million inpatients, including counseling, is about $25 million. I find it difficult to understand how it would cost $28 million to offer—as some have alleged—the tests to about 280,000 veterans. Clearly, not all the 280,000 veterans would like to have the AIDS test. It is going to be voluntary. They are going to make a free choice.

If the senior Senator from Massachusetts is correct, that it will cost $100 to conduct counseling and a blood test, then I submit that we have to review the VA's ability to deliver health care in a cost-effective manner. It is simply not so.

I do not understand what is so terribly wrong with offering voluntarily AIDS tests to individuals who are receiving hospital care from the VA. We can argue the merits of high risk-low risk groups. We can argue the merits of the righteousness of the individual to have the discretion of determining what he wants to subject himself to an AIDS test.

I think it is appropriate that the Senator from North Carolina has not required that this be a mandatory testing. We have heard a great deal of discussion intimating that ultimately that is what it is all about.

I ask my colleagues, in conclusion, to consider the other side of this delemma: The compassionate obligation we all have to try to address a problem where there is no known cure. Again, is it not in the interests of humanity that if we can help identify this for a veteran who voluntarily wants to have his blood tested for AIDS, we may help to prevent a spouse or a loved one from contracting the disease?

We are not asking for anything mandatory. We are not asking for anything unreasonable. We are simply giving the veteran the right to ask the hospital to do an AIDS test.

Mr. President, I think the question has been clouded by an awful lot of rhetoric here, and I think that is unfortunate. I think it has been clouded by the issue of homosexuality, which is another issue that stands for another debate, at another time. The reality is, what are we going to do about the AIDS problem? You just cannot throw money at it. You can identify it. By identifying it, it can be addressed. We can do more research on it. We can take care of those with AIDS and, hopefully, we can stop the spread by the individual subjecting himself voluntarily to the test. As a consequence of that, perhaps he or she will see fit, as a consequence of the knowledge that he or she may have AIDS, to communicate to their loved ones, to prevent them from getting it. Is that not a responsible alternative to the dilemma we have debated extensively today?

As a consequence, I do not feel that the amendment of the Senator from North Carolina is unreasonable, by any means. Make no mistake about it, it is voluntary. The veteran can make the choice.

To throw money at it is absolutely ridiculous. Money and the cost of the program begs the question. The question is, should the veteran have the right to ask the hospital to do it? I maintain that he should.

I yield the floor.

Mr. CRANSTON. Mr. President, I serve notice that I will make a motion to table in about 2 minutes or less, so that all concerned can be ready, at long last, to bring this matter to a head.

The basic issue here, Mr. President—and I say this to all Senators—is the requirement for the VA to offer the AIDS test to veterans under 40.

With respect to the categories of patients who actually are at risk, the committee bill provides for and encourages testing and counseling for those groups. Let me read from the committee report, because there is no problem in those areas. The committee report states:

> The Committee bill would prohibit any widespread routine HIV testing program of VA patients—that is, a program for offering testing to patients other than substance-abuse patients and other patients at high risk for AIDS—unless Congress specifically appropriates funds for that purpose. Although the Committee advocates that the VA make readily available voluntary testing and counseling service to high-risk veteran-patients and provide testing and counseling to others who seek to know their HIV antibody status, it considers questionable the siphoning of significant amounts of patient-care funds to pay for offering testing to veterans at low-risk of infection. Hence, the Committee strongly recommends that the VA undertake a focused voluntary AIDS testing and counseling program along the following lines:
>
> First, counseling should be routinely provided and HIV testing routinely offered to any VA patient who is believed to be at high risk for infection and such patients should be encouraged to undergo testing.
>
> Second, all VA substance-abuse programs should routinely offer HIV testing and counseling and substance-abuse counselors should be trained to encourage all intravenous drug-abuse patients to agree to undergo testing and (as required by the Committee bill) give each of their patients a copy of the Surgeon General's report on AIDS. Generally, intravenous drugs abusers who test positive for the HIV antibody should be given a priority for admission to VA substance-abuse programs. * * *
>
> Third, in order to help VA health-care facilities expedite the establishment of programs as well as to provide valuable information and guidance on these very complex issues, the Committee urges the CMD to provide all VA health-care facilities with specific guidelines regarding counseling and testing for the HIV. These guidelines should include policies ensuring the confidentiality of results and nondiscrimination against AIDS patients or those infected with the HIV, applicable policies regarding reporting of cases to state and federal public health officers pursuant to federal or state law, and guidance on specific safety precautions to be followed by VA health-care workers and support staff in order to avoid HIV infection. Also, based on information from experts in this field, the Committee recommends that the guidelines stress the importance of pre- and post-test counseling.
>
> As to pre-test counseling the Committee urges that the CMD's guidance cover counseling individuals on measures to take to prevent the transmission of the HIV and, among other things, information regarding (1) the accuracy and reliability of testing for the HIV; (2) the probability of developing AIDS if the individual is found to be infected with the HIV; and (3) the confidentiality of results within the VA and the VA's policy regarding compliance with any federal or state public-health-reporting laws.
>
> With regard to post-test counseling, the Committee recommends that the guidelines stress that the physician or other health-care professional give the results of the test to the individual in person and, among other things, provide the individual (1) if the test result is negative, with counseling regarding the limited significance of a negative result; and (2) if the test result is positive, with (a) information regarding the availability within the VA and the community of appropriate social, support, and health services, including mental health care; (b) counseling regarding the impor-

tance and benefits of locating and counseling any individual whom the infected individual may have exposed to the HIV virus; and (c) information regarding the availability of the services of public health authorities for locating and counseling individuals who may have been exposed to the virus.

It is simply a waste of precious health-care dollars, and contrary to the best medical advice, to establish a program of offering testing to a group that is not at high risk—that is, veterans under 40.

The Senator from North Carolina spoke of lives at stake. Lives indeed are at stake in many ways, and among the lives at stake are those who take the test needlessly; it comes out false and comes out giving them the indication that they have AIDS. That has apparently led to at least one suicide already, perhaps more. It has destroyed lives in many ways, and that is one concern that motivates me to being opposed to this amendment.

Mr. President, for all the reasons I and others have stated—privacy, confidentiality, good medical practice, cost effectiveness, compassion, avoiding misleading or frightening individuals in a truly terrible and tragic way—I now move to table the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator give me 1 minute, before he moves to table?

Mr. CRANSTON. Yes, I will.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. I thank the Senator for his courtesy.

Mr. President, there have been, unintentionally, many misrepresentations of fact here. I do not suggest and I do not believe that any Senator has the liberty to confuse the issue.

One Senator, for example, read a list of organizations which he said were opposed to this amendment. That is absolutely not so. The American Legion is opposed to mandatory testing. This amendment is voluntary testing.

The Senator from Massachusetts identified the American Legion, among others, as being opposed to this amendment. It is not accurate to say that. It is not true.

The American Nurses Association is opposed to mandatory testing. This amendment is voluntary. So on down the line. There is not one organization with which I am familiar that is opposed to this amendment.

I submit that we ought to vote on what the facts are and not what the emotions are.

I thank the Senator for yielding to me.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina has yielded the floor.

The Senator from California.

Mr. CRANSTON. Mr. President, I would simply respond to that latest statement by noting that the various veterans' organizations that have been mentioned just now support the committee bill, support the reported bill, which advocates and urges testing of high-risk individuals. But these organizations oppose—as does the committee bill—wasting money and creating havoc and diverting funds from other needed medical purposes by testing low-risk groups like those that the Senator's amendment would target—the under-40 veterans—under circumstances where they would be led to believe that this was Government policy and therefore might say "Sure, go ahead and test me," and this could lead to tragedy in their lives.

I believe that the organizations that have been listed on the other side of this issue are on the other side of the issue in a fundamental sense from that of the Senator from North Carolina.

I now move to table.

Mr. ADAMS. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. Very briefly. I very urgently want to get home before the snow starts to fly.

Mr. ADAMS. Mr. President, I want to support the Senator's motion to table.

It seems to me that this is a pressure of demanding consent as everyone comes in. I know those who have been in the service understand what happens when you come in and they say the test is offered and then you have to decline.

I hope the Senator's motion to table is approved. I hope he makes it right now, and I am prepared to vote on it.

Mr. CRANSTON. I thank the Senator very much and I move to table the amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Does the Senator move to table the first-degree amendment or the second-degree amendment?

Mr. CRANSTON. I move to table the first-degree amendment.

The ACTING PRESIDENT pro tempore. The motion is on tabling of the first-degree amendment.

The question is on agreeing to the motion of the Senator from California to lay on the table the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. EVANS], the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 68, as follows:

[Rollcall Vote No. 396 Leg.]

YEAS—24

Adams
Biden
Byrd
Chafee
Cranston
Daschle
Glenn
Graham
Harkin
Hatfield
Kennedy
Kerry
Leahy
Matsunaga
Melcher
Metzenbaum
Moynihan
Packwood
Pell
Proxmire
Riegle
Rockefeller
Weicker
Wirth

NAYS—68

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
DeConcini
Dixon
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Lautenberg
Levin
Lugar
McCain
McClure
McConnell
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Reid
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—8

Dodd
Dole
Evans
Gore
Kassebaum
Simon
Stennis
Wilson

So the motion to lay on the table was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. REID. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I have sought recognition at this point to see if we can ascertain what the program will be for the rest of the evening. I would like to ask the managers of the bill what their estimates are as to where we are going.

Mr. CRANSTON. Mr. Leader, I believe that we are through with the veterans aspects of this veterans bill. But there is one other amendment that may be offered by the Senator from Ohio and what that will lead to I do not know.

Mr. BYRD. So what is the wish of the managers? That we keep the bill up and keep going this evening or not?

Mr. CRANSTON. Well, if it would be possible to get the amendment offered, have a very brief debate and then a tabling motion and see how that went, we could perhaps dispose of it that way. We could at least find out whether we could dispose of it that way.

Mr. MURKOWSKI. I would agree, Mr. Leader, although I do question whether we are likely to get a vote quickly on this particular amendment of the Senator from Ohio involving the plastic gun, and there probably will be several Senators wanting to speak.

Mr. McCLURE. Would the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. McCLURE. Mr. President, I would say to the distinguished Democratic leader that, indeed, what has been outlined by the manager of the bill is acceptable to me personally. I cannot speak for a great number of others, but I would hope that if the amendment is laid down, that after a brief period of debate, the more brief, the more certain we could be that we could move to a motion to table soon and find out what the situation is. Also, I would have to say in all candor that if a motion to table failed, then I think, indeed, you can wait for the snowstorm.

Mr. BYRD. Mr. President, does the distinguished Senator from Ohio wish to make any comment?

Mr. METZENBAUM. Yes. We indicated earlier this afternoon that we are prepared to move. The managers of the bill indicated that they wanted to take up the Helms matter first and, certainly, Senator HELMS had priority, he had been acting at that point, at this hour of the evening, Mr. Leader, I do not believe that we are prepared to move forward with our amendment. We will be ready the first thing in the morning.

Mr. BYRD. All right. I gather, then, from the comments of the two managers and other Senators, that it would be futile to proceed further on this bill this evening.

As to the vote which will occur tomorrow at 10 o'clock a.m. on passage of the farm credit bill, could we move that to 11 o'clock? It is anticipated that there may be some snow this evening late. It may continue into the early morning tomorrow. There are supposed to be some meetings at the White House early tomorrow to which the leadership has been invited. I wonder if we could move that vote to 11 o'clock tomorrow morning?

Mr. MURKOWSKI. Mr. Leader, I know of no other amendments on this side.

Mr. BYRD. Mr. President, if the distinguished Senator will allow me, I ask unanimous consent that the vote on final passage of the farm credit legislation begin at 11 o'clock tomorrow morning.

Mr. WIRTH. Reserving the right to object, I would like to, if I might, pose a question to the leader.

Mr. BYRD. Yes.

Mr. WIRTH. Why can we not have the vote on the farm credit bill this evening?

Mr. BYRD. Because the order has been set for 10 o'clock tomorrow morning. It would take unanimous consent to change it.

Mr. WIRTH. If I might, further reserving the right to object, Mr. President—we, as I understand it, have put off the time for a vote on the farm credit bill for the purpose of accommodating people on the other side of the aisle who could not be here yesterday at the time of that vote. There are many of us who would like to be accommodated as well, and it seems to me that putting off the vote on the farm credit bill even further into tomorrow discombobulates many of us on this side of the aisle.

Why would it not be possible—I know that this is a procedure that may not have been done before—but to begin the vote on the farm credit bill something like—it can be the last item of business tonight, and finish tomorrow morning, for those of us who are interested in the possibility of getting out of here?

Mr. BYRD. Mr. President, just to be absolutely frank, that is the most ridiculous suggestion I have ever heard in 29 years in the Senate.

Mr. WIRTH. Further reserving the right to object——

Mr. BYRD. Mr. President, I have the floor.

Mr. WIRTH. Further reserving the right to object.

Mr. BYRD. I withdraw my request.

Mr. President, there are Senators on this side of the aisle who insisted that that be a rollcall vote.

One Senator on the other side of the aisle to whom the Senator is referring is Mr. DOLE. Mr. DOLE was perfectly willing to have a voice vote. He is willing even at this time to have a voice vote. But the vote has been set for 10 o'clock tomorrow. I am trying to accommodate Senators who have to be at the White House tomorrow morning by moving it to 11 o'clock. It is within the right of any Senator to object to my request.

Mr. WIRTH. Still reserving the right to object, can the Senator ask for a rollcall vote tomorrow morning?

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays be withdrawn on the vote on farm credit tomorrow morning and that the Senate proceed to have a voice vote tonight.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I can see the frustration level and I understand it, having seen it on both sides of the aisle. But we have a unanimous consent agreement for 10 a.m. tomorrow morning on this vote. There are many persons on our side of the aisle who have made that accommodation in their schedule to be here for that vote. I think they want to cast a rollcall vote. Under those circumstances, I could not agree.

I believe the unanimous consent request was to vitiate the order for tomorrow and go to a voice vote.

Mr. BYRD. That is correct.

Mr. SIMPSON. I believe there are people on our side of the aisle who want to cast a rollcall vote on that issue. Therefore, I would respectfully object to that.

The PRESIDING OFFICER. Objection is heard to the unanimous consent request.

Mr. BUMPERS. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. BUMPERS. Is the request for a vote at 11 o'clock tomorrow morning on the farm credit bill?

Mr. BYRD. Yes.

Mr. BUMPERS. I would not tell the majority leader what to do, but I think if he renews the request it would not be objected to.

Mr. BYRD. Mr. President, I ask unanimous consent that the rollcall vote on the farm credit legislation occur at 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators and particularly the Senator from Arkansas for his suggestion.

Mr. CRANSTON. Would the majority leader be willing to make the unanimous-consent request that no further amendments be in order except the one amendment to which we have referred?

Mr. MURKOWSKI. I will ask the Senator from North Carolina about his amendment.

Mr. CRANSTON. We can accept that one now. We can do that now. Can we do a unanimous-consent request to that effect?

Mr. McCLURE. I believe that would be unwise.

Mr. LEAHY. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. LEAHY. I thought there was a discussion about the vote on farm credit. I was not here. I have no problem with voting on it tonight.

Mr. President, somebody just told me there was objection to voting on it tonight.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on tomorrow on final passage of the farm credit legislation be a 30-minute rollcall vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Does the majority leader yield the floor? The majority leader still has the floor.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. BYRD. Mr. President, I ask unanimous consent that the vote set for 11 o'clock tomorrow morning be changed to 10:30 tomorrow morning and that it be a 1-hour rollcall vote.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. METZENBAUM. Is the Senator from Ohio correct in his assumption that we will not be returning, then, to the veterans bill until after the farm credit bill is disposed of?

Mr. BYRD. That is correct.

Mr. METZENBAUM. I thank the majority leader.

Mr. BYRD. Is there a desire on the part of the managers to continue this evening?

Mr. CRANSTON. Just for one moment. It will only take one moment.

Mr. BYRD. Very well. I yield the floor.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Helms amendments be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I urge adoption of the Helms amendments.

The PRESIDING OFFICER. The question is on agreeing to the Helms amendment, amendment numbered 1247.

The amendment (No. 1247) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Helms amendment numbered 1246, as amended by amendment numbered 1247.

The amendment (No. 1246), as amended, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider en bloc the vote by which the two amendments were agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I rise to express my enthusiastic support for the provisions of title II of S. 9, the Omnibus Veterans' Benefits and Services Act of 1987. Although S. 9 contains a wide array of beneficial provisions that I support, I would like to focus my remarks at this time on title II. Title II would provide compensation to veterans who were exposed to radiation as a result of their participation in the atmospheric nuclear weapons testing program of the United States or the occupation of Hiroshima and Nagasaki.

In recent years, it has become apparent that the U.S. Government has not treated these veterans fairly, as the Veterans' Administration has refused to grant them the compensation to which they are entitled. I have introduced legislation to remedy this mistreatment in the last two Congresses, and enactment of title II would go far in rectifying this injustice.

Between 1945 and 1962, the U.S. Government, like other nations developing atomic arsenals, detonated nuclear weapons in the atmosphere. The United States conducted a total of 235 atmospheric detonations of nuclear weapons in 20 separate series of tests. The first of these tests was at Trinity Site, outside of Alamogordo, NM.

An estimated 200,000 military personnel participated in these tests. Another 25,000 servicemen were assigned to the occupation forces in Hiroshima and Nagasaki after atomic bombs were dropped there in World War II. These men, collectively known as atomic veterans, significantly contributed to the safety and security of the Nation.

A significant portion, if not all, of these atomic veterans were exposed to some quantity of low-level ionizing radiation. As a result of this exposure, a number of atomic veterans have contracted a variety of illnesses, including various types of cancers, which they attribute to radiation exposure.

These atomic veterans have filed claims with the Veterans' Administration [VA] to obtain compensation for their radiation-related injuries. Under the law, the VA is obligated to provide health care and compensation for any injury that arises in the course of an individual's military service. However, the overwhelming majority of the claims of atomic veterans have been denied.

Since 1978, over 6,000 claims for VA benefits have been filed by atomic veterans and their survivors for disabilities resulting from exposure to radiation. The VA has granted benefits in only 28 of these cases. That means that 99.5 percent of all atomic veterans' claims have been denied. The VA has denied the claims because it has been unable to conclude that the veterans' exposure to radiation during the atomic tests caused the illnesses.

It is beyond dispute that scientific research over the years has proven that exposure to ionizing radiation can endanger human health. However, scientists state that it is very difficult at this time to determine the correlation between specific doses of ionizing radiation and development of cancer. Doctors are unable to say whether any particular individual's illness results from exposure to radiation or from some other factor.

At the time of the atmospheric nuclear weapons tests, the Federal Government was aware that exposure to radiation could lead to illness. It attempted to monitor the exposure of the participants in the atomic tests by having participants in the tests wear film badges designed to detect radiation exposure. A film badge consists of a small piece of film sensitive to ionizing radiation that is encased in a metal or plastic container. It was usually clipped to the wearer's clothing.

These film badges have become important because they have enabled the Defense Nuclear Agency [DNA] to determine which individuals were exposed to radiation and to what degree. The VA has relied upon these exposure estimates in adjudicating claims based on radiation exposure.

Only a small number of the participants were issued film badges. It has now been determined that the film badges were terribly inaccurate in their recording of radiation exposure. In addition, the badges were incapable of recording radiation that may have been ingested or that lingered in clothing. Furthermore, the exposure records for a number of nuclear tests have been lost. These problems with the film badges have led DNA to understate the level of radiation exposure for many atomic veterans.

As a result of the impossibility of determining whether a certain individual's illness is caused by radiation exposure rather than some other factor and the underestimation of radiation exposure by the DNA, the Veterans' Administration has denied 99.5 percent of the claims of atomic veterans who seek compensation and health care for radiation-related illnesses.

Fairness dictates that the Federal Government has an obligation to compensate individuals who have suffered injuries as a result of their participation in the nuclear testing program or the occupation of Hiroshima and Nagasaki.

Over the past few years, Congress has passed various bills that attempt to give the atomic veterans the relief that they deserve.

In 1981, Congress enacted Public Law 97-72, the Veterans' Health Care Act of 1981, which expanded the eligibility for VA health-care services of veterans exposed to radiation as a result of their participation in the atmospheric testing program or the occupation of Hiroshima and Nagasaki. The VA was directed to provide health care, notwithstanding that there may be insufficient medical evidence to conclude that the veteran's illness was associated with his or her exposure to radiation.

The effect of Public Law 97-72 is to provide veterans suffering from diseases that they believe to be a result of their exposure to radiation—but for which there is insufficient medical evidence to establish the linkage—with

VA health-care services for those illnesses. This authority is set to expire on September 30, 1989.

The Veterans' Health Care and Programs Improvement Act of 1983, Public Law 98-160, directed the VA to carry out an epidemiological study of all veterans exposed to radiation to determine their current health status. Unfortunately, because of the relatively small number of atomic veterans, the high incidence of cancer in the general population, and the difficulty in locating test participants 25 to 40 years after the tests, it was determined that such a study was not feasible. As a result, in 1986 the study was revised to focus on the mortality rates of participants in 2 of the 235 atomic tests.

Finally, in 1984, Congress enacted Public Law 98-542, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act. The purpose of Public Law 98-542 was to ensure that the VA provides disability compensation to atomic veterans who are suffering from radiation-related disabilities as a result of their service in the Armed Forces.

In Public Law 98-542, Congress directed the VA to promulgate regulations establishing guidelines for the resolution of radiation-related claims. The VA was also instructed to determine whether any presumptions regarding service connection should be applied in the case of certain illnesses, which would make it easier for atomic veterans to receive the compensation to which they are entitled.

Unfortunately, it is clear that this legislation has not worked as intended. Atomic veterans are not receiving compensation. The VA has determined that no radiation-related illnesses should be classified as presumptive illness. Only 13 claims have been granted since the law went into effect.

It is equally clear that Congress can no longer simply rely on the VA benefits claims adjudication process to provide the relief that atomic veterans deserve. As a result, title II of the bill now before the Senate would establish new standards for providing compensation to atomic veterans.

Because of the failure of the VA to provide adequate relief to atomic veterans, a number of proposals have surfaced in Congress in recent years to provide alternative avenues of relief. Some of these approaches, I believe, although well-intentioned, are misguided.

For instance, one of these proposals would repeal the Warner amendment. The effect of this would be to allow the atomic veterans to sue the national laboratories that assisted the Federal Government in carrying out the nuclear weapons testing program over their participation in the program. I believe that this is a misguided approach for two reasons.

First, it is the Federal Government, and not the national laboratories, that bears responsibility for the nuclear weapons testing program. The nuclear weapons testing program was developed at the highest levels of the American Government. The national laboratories took no part in the formulation of that policy, and were used solely to implement the policy of the Government in this area of vital national interest. It would be unfair to hold the national laboratories accountable for that policy. The Federal Government must own up to its responsibility.

Second, the courts are an unpredictable, costly, time-consuming, and inefficient avenue of relief. As stated by Boley H. Caldwell III, Chairman of the National Association of Atomic Veterans, "Recourse to the courts, in our view, does not serve the immediate or long-term interests of the veteran." Similarly, regarding VA compensation for atomic veterans, the National Commander of the Disabled American Veterans, Kenneth G. Musselmann, states that "Providing immediate resolution of the issue and relief to the claimants * * * represents a far more cost-effective option than time-consuming, expensive, and most likely, inconclusive litigation in the courts."

The atomic veterans could be embroiled in court battles for years, and they would not even be assured of receiving compensation. They deserve to be treated better than that.

For these reasons, I very strongly oppose legislation that would repeal the Warner amendment. It is not part of this bill, and I hope that it would not become part of it.

Mr. President, I would not want any of my colleagues to misinterpret my opposition to repeal of the Warner amendment as opposition to compensation for atomic veterans and other individuals who were injured as a result of the atmospheric testing program of the U.S Government. To the contrary, as I have repeatedly stated, those who suffered injuries as a result of our Nation's atomic tests deserve to be compensated for their injuries by this Nation.

In order to meet its responsibility to these individuals, Congress must ensure that there exists a fair, predictable, efficient, and systematic program for compensating persons with radiation-related claims.

To assure that an equitable system of compensation exists, I supported measures to improve the health care and compensation procedures for atomic veterans, such as the Veterans' Dioxin and Radiation Exposure Compensation Standards Act. I also supported the establishment of a trust fund to compensate local residents in the Western United States who were accidentally exposed to radiation as a result of the atomic tests. Unfortunately, this measure was defeated.

This is not enough, however. We need to do more.

Therefore, last year, I introduced S. 2898, the Atomic Veterans Relief Act of 1986. The bill would have allowed veterans who are entitled to receive medical care under current law for radiation-related diseases also to receive disability compensation for those diseases, unless the Veterans' Administration could demonstrate that the disability was not related to the atomic veteran's exposure to radiation.

S. 2898 also would have allowed the atomic veterans to sue the Federal Government directly for their radiation-related injuries. Although I personally believe that the courtroom is the improper forum for providing compensation for the atomic veterans, I included that provision because of the very strong desire expressed by a number of atomic veterans that they be able to present their cases to a court of law.

I was joined in this effort by my distinguished colleague from Illinois, Senator SIMON, whose concern and compassion for the atomic veterans is surpassed by no Member of this Congress.

This year, I joined another of my distinguished colleagues who has worked for years to provide justice for the atomic veterans, the former chairman and now ranking Republican member of the Veterans' Affairs Committee, Senator MURKOWSKI, in drafting S. 453, the Veterans' Ionizing Radiation Compensation Improvement Act of 1987. We introduced the act last February.

The Veterans' Ionizing Radiation Compensation Improvement Act of 1987 sought to ensure that there exists within the VA a fair, predictable, efficient, and systematic program for compensating veterans with radiation-related claims. It would have added three radiation-related diseases to the list of presumptive diseases and would have allowed atomic veterans with those diseases to receive compensation through the existing VA compensation system.

The Veterans' Ionizing Radiation Compensation Improvement Act also would have adjusted the radiation exposure estimates that the VA uses in evaluating other radiation-related claims. This would compensate for the uncertainty surrounding those estimates.

The Veterans' Ionizing Radiation Compensation Improvement Act was supported by the National Association of Atomic Veterans, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed American Veterans, and the American Legion.

The chairman of the Veterans' Affairs Committee, who is another of the tireless advocates on behalf of atomic veterans, subsequently introduced a measure that built on the approach proposed by Senator MURKOWSKI and me. That measure provided the framework for the compensation provisions that are embodied in the compensation provision of title II of S. 9.

Title II would provide disability benefits, based on the percentage of disability, to veterans who were exposed to radiation as a result of the atmospheric nuclear weapons testing program or the occupation of Hiroshima and Nagasaki and who: First, have leukemia—except chronic lymphatic leukemia—or thyroid cancer; or second, were exposed to more than 1 rem of radiation and suffer from cancer of the bile ducts, gall bladder, liver—except where cirrhosis of hepatitis B is indicated—pancreas, small intestine, or stomach, lymphomas—excluding Hodgkin's disease—or multiple myeloma.

Veterans exposed to radiation who are suffering from cancers of the bladder, bones or joints, brain or nervous system, colon, esophagus, kidney, liver—where cirrhosis of hepatitis B is indicated—lung, pharynx, rectum, salivary glands, or urinary tract, or cutaneous melanoma would qualify for special consideration of claims for benefits. The VA would have to grant conclusive weight to explicit congressional findings relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors.

Atomic veterans suffering from other illnesses that they believe are associated with their exposure to radiation will retain their rights under current law to prove their entitlement to compensation.

The survivors of atomic veterans would be entitled to death benefits. The standards for awarding those benefits would be the same as for awarding compensation benefits to atomic veterans.

In addition, the radiation exposure estimates prepared by the DNA would be adjusted upward by a formula based on the estimated radiation exposure of other participants in a particular nuclear weapons testing operation. Radiation exposure estimates would be increased for approximately 123,000 atomic veterans. That means that 62 percent of all atomic veterans would have their exposure estimates raised. This will bring the exposure estimates closer to the actual exposure levels and will make it easier for atomic veterans to prove their entitlement to benefits.

The deadline for applications for benefits under these provisions would be September 30, 1991.

Finally, title II would extend the authority of the VA to provide medical benefits to atomic veterans to September 30, 1991, the same sunset date as is established for the compensation provisions. Under current law, the health care entitlement would terminate after September 30, 1989.

The study on radiation mortality mandated by the Veterans' Health Care and Programs Improvement Act of 1983 is scheduled to be completed before the 1991 sunset date for health care and compensation benefits. This study is anticipated to provide additional evidence on the relationship between radiation exposure and various illnesses. Therefore, Congress could adjust the compensation and health care benefit programs in 1991 as appropriate in light of the study results.

Although I am concerned that the procedures and standards that would be established by title II are unduly complicated, I enthusiastically support title II as a means for finally resolving the longstanding controversy over compensation for atomic veterans.

Mr. President, I would be remiss if I did not point out the great contribution that the National Association of Atomic Veterans has made to resolving this issue. Their tireless work on behalf of servicemen who were exposed to radiation has brought this matter to the attention of Congress and has made it possible for us to provide atomic veterans with the relief to which they are entitled.

Mr. President, the atomic veterans of this country served this Nation with honor and distinction. In the course of that service, a number of them suffered grievous injury. It is time that we recognized that fact and set to work righting the wrong that was committed over 40 years ago. These men served this Nation well, and it is time for this Nation to serve them well. Title II does just that, and I encourage its adoption.

Mr. SARBANES. Mr. President, today I rise in support of S. 9, the Omnibus Veterans' Benefits and Services Act of 1987. This measure, as reported by the Senate Veterans' Affairs Committee, is designed to protect veterans from the despair of old age, poverty, and illness. I commend the members of the Veterans' Affairs Committee for their outstanding job in crafting this legislation which will help continue meeting many of the needs of our Nation's veterans.

The Veterans' Affairs Committee, as a rule, has invariably scrutinized programs affecting the lives of veterans and their dependents, seeking ways to make these programs better; and S. 9 is no exception. It makes significant improvements to certain VA programs, including: increasing the rate of disability compensation and dependency and indemnity compensation for veterans and survivors; providing additional eligibility for educational and rehabilitation assistance to veterans with drug or alcohol abuse disabilities; increasing the maximum amount of a VA home loan guarantee; and improving housing, automobile, and burial assistance programs for service-disabled veterans.

I am particularly pleased that S. 9 makes a number of improvements in VA health-care programs, including language which makes it possible for VA hospitals to recruit and retain essential health-care specialists. It also extends eligibility for the VA Health Professional Scholarship Program to health professionals providing direct patient-care services, and provides for preventive medical counseling.

S. 9 also addresses the special needs of elderly and disabled veterans by authorizing a pilot program to develop demonstration projects for noninstitutional alternatives to institutional care. These are but a few of the very good steps taken in this legislation to ensure adequate medical care for this country's veterans.

I applaud the members of the committee for having the foresight to include a provision which would safeguard veterans' benefits from the erosive effects of inflation. S. 9 would continue to exempt veterans benefits and COLA's from the automatic cuts of Gramm-Rudman-Hollings and increase the rates and ceiling for compensation paid to veterans with service-connected disabilities.

Indeed, one of my greatest concerns about our Nation's veterans is the matter of the unaddressed problems faced by those who suffered injuries resulting from exposure to ionizing radiation. The committee has taken a direct approach to address these problems fairly and compassionately. S. 9 provides compensation for disabilities possibly related to exposure, upwardly adjusts the Defense Nuclear Agency radiation exposure estimates through the use of a formula based on the estimated radiation exposure, and extends the eligibility deadlines for health care and benefit applications to September 30, 1989 and September 30, 1991, respectively. Additionally, S. 9 preserves current rights to compensation for radiation-exposed veterans and their survivors.

The programs addressed in this bill are essential to meeting the needs of veterans. The citizens of our country owe a debt to the fine, dedicated individuals who took on the responsibility of defending our country, to ensure that they receive the quality health care, educational, and employment benefits to which they are entitled. I urge my colleagues to support S. 9, which is before the Senate.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business, not to extend beyond 7 o'clock p.m. today, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will please be in order.

Mr. BYRD. Mr. President, there will be no more rollcall votes tonight.

SOUTH AFRICAN BLACKS OPPOSE UNITED STATES SANCTIONS

Mr. PRESSLER. Mr. President, as we look toward the second session of this 100th Congress, it now appears obvious that one of the issues which will be before this body at some time in the election year of 1988 will be that of further sanctions against South Africa. I opposed the Comprehensive Anti-Apartheid Act of 1986 passed by Congress over President Reagan's veto last year; and, barring unforeseen events, I will oppose the imposition of more stringent sanctions against South Africa next year. Although like all Americans I have no sympathy with apartheid, I believe that economic sanctions do nothing to hasten its demise and only cause hardships for the very people we would seek to help in South Africa, the black population.

The December 5, 1987, issue of Human Events contains a very up-to-date article on the effects of last year's economic sanctions against South Africa. Written by an associate editor of that publication after an extensive trip this past September, the article clearly shows what I predicted—that U.S. sanctions have not hastened reforms by that country's government, but instead have endangered the already tenuous economic opportunities of black sugarcane growers, blacks employed in the fruit-growing industry, and black farmers in general, not to mention blacks, coloreds, and Indians engaged in industry allied with farming, such as mills and packing plants. This article, which I commend to all our colleagues, sets forth what is actually taking place in South Africa and accurately reflects how most South African blacks view United States sanctions. Unlike what many self-appointed leaders would have us believe, most blacks are very much opposed to what our Congress did to them—threaten their jobs and their very livelihoods. Listen to what several in one group of farmers told the article's author:

> Sanctions are not a good thing, they are a bad thing. They could result in general financial hardship. Life is more difficult if there are less jobs, people depend for their livelihood on being employed somewhere. Blacks will suffer the most because they depend so much on their jobs.

When asked whether sanctions and sacrifices involved might not be worthwhile if they would end apartheid, another answered:

> We cannot go more than a few days without work. By the time freedom comes, we will be dead. We believe in dialogue.

And, another farmer replied:

> By destroying the economy—not much good can come of this.

And I leave to my colleagues to read what many blacks feel about Archbishop Tutu and the Rev. Allan Boesak—that they are rich, international figures who will not be hurt by sanctions and who do not speak for the majority of South African blacks on the subject of sanctions. That, as well as statistics on jobs already lost and jobs threatened because of U.S. sanctions, are clearly set forth in this article.

It has been almost 2 years since I was in South Africa and my trip occurred prior to the imposition of sanctions. But the information contained in this article—which every Senator should read—is affirmed by many who have visited that country during the last few months. One who recently made the trip was the ranking Republican on Senate Foreign Relations, the senior Senator from North Carolina. In an article in the November issue of Conservative Digest which was completely devoted to South Africa, Senator HELMS concludes after having talked with farmers and workers throughout South Africa—whites, coloreds, blacks, and Indians:

> Without exception, these people bitterly denounced the destruction of jobs that the U.S. Congress callously caused when it sanctimoniously rejected President Reagan's warning that sanctions would create havoc and hardship among the very people whom Congress piously pretended to help.

His conclusion is:

> * * * that the imposition of U.S. sanctions against South Africa was self-defeating and contradictory.

It is no surprise to those of us who opposed sanctions, like Senator HELMS and myself, that sanctions have not worked. But I sense a growing mood in this country among thinking people and even here in this body that says:

> Sanctions have not worked, and further sanctions would be even more counterproductive.

We all want the abolition of the last vestiges of apartheid, but few want the complete devastation of the economy of a country which has been our staunch ally over the years and which is of vital strategic importance to the United States and the free world.

As the first session draws to a close and we begin the second session of this historic 100th Congress, I will be speaking out on other aspects of the effects of United States sanctions in South Africa and on alternatives which should be considered with regard to United States policy toward that country. For now, I urge all Senators to read this article, and ask unanimous consent that it be printed at this point in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO BENEFITS FROM SANCTIONS?

(By Gene Tarne)

Standing on an overlook among the small sugar cane farms in KwaZulu, the city of Durban—an international center of trade and commerce and South Africa's busiest seaport—appears little more than a speck. Its skyline is barely discernible on the horizon.

"You see, when you are in a big, modern city like Durban, you think you're at the center of the world. It's easy to forget about places like this," an official of the South African Sugar Association says, indicating the surrounding countryside.

The area is dotted with muzis, the traditional Zulu homestead—a circular arrangement of numerous round, hut-like structures. Up front stands the largest such structure for the family headman. To the left and right extend smaller dwellings for wives and children (Zulu law and custom allow polygamy) and, if necessary, for other members of an extended family. In the center stands the kraal, the cattle pen, cattle being the traditional gauge of wealth among the Zulus.

"The people who want sanctions back in America, they don't know about areas like this in South Africa, they never see this. They want to punish South Africa's First World, without realizing what harm it will do to our Third World."

But while Americans can afford such ignorance, the blacks who make up South Africa's Third World—an underdeveloped world of poverty, poor housing and lower standards of education—cannot. They realize all too well the impact of sanctions on their lives.

"These people here are not helped at all by sanctions," Maxwell Ngubane, the principal of the Umsunduze Farmer's Training Center in Ndwdwe tells me. "The farmers here do not want sanctions, they must be able to sell their sugar so they can feed themselves, so they can support their families."

SCHOOL TEACHES FARMERS AGRICULTURAL TECHNIQUES

The school at which Ngubane teaches helps farmers to learn the latest agricultural techniques so they may increase their productivity. It was built with funds from the South Africa Sugar Association, a non-government body of sugar growers and millers. But because of sanctions, many fear funds for such projects will be in increasingly short supply.

Agriculture employs about 1.2 to 1.3 million blacks and colored in South Africa. Taking into account the "multiplier factor"—that each worker supports, on the average, a family of five—six million blacks and colored depend on agriculture for their livelihood. The majority of this six million—75 percent—are blacks, and those working in agriculture account for just over 20 percent of South Africa's entire black population.

Sugar farming is a major industry in the Natal-KwaZulu region. There are 25,000 sugar farms here, 23,000 of which are small holdings operated by blacks. Out of 350,000 blacks employed in this region, 150,000 are connected with sugar farming. When figuring in the multiplier factor, this means almost 1.8 million blacks in the Natal-KwaZulu area rely on farming for a living, 750,000 of them on sugar farms.

With the imposition of sanctions by Congress last year, all South African agricultural products were banned from the U.S., thus immediately affecting 20 per cent of South Africa's blacks. Sugar growers lost their export quota to the U.S., which for 1986/87 would have been 24,500 tons. That is not a large fraction of the country's total sugar exports, which have averaged over the last few years about one million tons.

But the size of the U.S. share belies its importance. The world sugar market has been depressed in recent years, with prices hovering at five to six cents per pound. Because of this, the U.S. market, with prices set at about 20 cents per pound, was one of the few profitable export markets. With the elimination of this market, South African sugar farmers will have to turn elsewhere to sell their quota at 14 to 15 cents less per pound. The potential loss in profit is thus 12 to 15 million rands ($6 to $7.5 million).

The farmers who need to fear this the most are, of course, the small black farmers who operate on the margin.

Entumeni is the site of one of the smallest of the 16 sugar mills in South Africa. It is used by about 1,200 black farmers and processes about 225,000 tons of sugar cane per year.

SANCTIONS COULD BE "THE LAST STRAW"

Financially, this mill was already on shaky ground even before sanctions. But sanctions, according to Rex Hudson, the general manager of the S.A. Cane Growers Association, could be "the last straw" in pushing the mill over the brink. "Should the mill close, to the extent that it was precipitated by the loss of the U.S. quota—and it's really that sensitive, the loss of income in cases like this from the loss of the quota—then sanctions would have been the last straw which broke the mill."

The result? "Those 1,200 farmers would be totally exposed," according to Hudson. "Those farmers were only fairly recently enticed to the area to develop their farms. They would have no options. The next nearest mill is 60 kilometers away and most of the farmers could not afford the transportation costs. They would simply be out of a livelihood."

The white farmers who own the larger farms enjoy numerous options in this situation that are simply unavailable to the black farmers.

For example, if these farmers can no longer make a profitable go at growing sugar, they could sell their farms to the timber industry. But timber is far less labor intensive than sugar—about one-third of the labor force would have to be let go. This means another 2,000 blacks out of work—with the multiplier factor added in, 10,000 blacks with no means of support. The situation is a perfect example of what Hudson refers to as the "First World simply being forced to protect itself at the expense of the Third."

Most black farmers do not have a similar option to sell because most don't actually "own" the land. Rather, they hold the land under a traditional system of tribal grants. The Sugar Association has taught these farmers how to develop the land they hold and has helped them enter the market economy through growing sugar cane, a cash commodity. Should that market become completely closed to them—which is what comprehensive sanctions, now being urged by some quarters in Congress, will do—they will have to revert to subsistence farming or even leave the land and migrate to the already overcrowded urban areas where employment is in short supply.

While 1,200 or even 2,000 does not seem a large number, in some areas this amounts to an entire community. An entire community and its way of life would simply be ended.

"It's entirely callous to so affect a community because some do-gooders overseas in a remote country want to display their morals," says Tony Erskine, president of the Natal Agricultural Union. "The people are unaware of the whole pro- or anti-sanctions debate in the U.S. and elsewhere, but the result comes home when a farmer they work for tries to explain that countries over there no longer want to buy their product because of an attitude toward the government.

"How do you explain to them that they must sacrifice their whole way of life for some nebulous project that might change some things in the years to come?"

Even should these farmers weather the sanctions storm, they will do so just barely—there will be no opportunities for them to improve their lives.

In 1973, for example, the Sugar Association established the Small Cane Grower's Financial Aid Fund, designed to help growers too small to take advantage of credit facilities offered through commercial banks. The black grower has been the biggest beneficiary of this fund. At the time the fund was established with a five-million-rand grant from the association, there were about 6,000 small black growers. Today there are 23,000 black growers and the total amount lent from the fund is close to 30 million rand.

The fund is a revolving fund—as growers repay their loans, the Association, in turn, lends out money to help new farmers start up operations or to assist already established growers in improving their facilities to become more profitable.

But should these farmers, because of sanctions, find they can no longer sell their sugar, they will have no way to repay their loans. With more and more farmers defaulting, the fund will simply shrink, with resources going simply to maintain, rather than improve farms or develop new ones. Again, it is the small black farmer who suffers the most.

It is hardly surprising, then, that most black farmers in the area are dead set against sanctions.

I had the opportunity to speak with about 25 black sugar cane farmers from KwaZulu. Our meeting took place by chance—they had come to Durban for a seminar at the same time I was in the city. They were not told an American would be at their seminar.

SANCTIONS COULD RESULT IN FINANCIAL HARDSHIP

Through an interpreter, I asked them about sanctions. They hesitated, looking from one to another, waiting for the first one to speak. Finally, one man broke the ice: "Sanctions are not a good thing, they are a bad thing. They could result in general financial hardship. Life is more difficult if there are less jobs, people depend for their livelihood on being employed somewhere. Blacks will suffer the most because they depend so much on their jobs."

But isn't it worthwhile to make whatever sacrifice is necessary to end apartheid? Another farmer speaks up: "We cannot go more than a few days without work. By the time freedom comes, we will be dead. We believe in dialogue." Another: "By destroying the economy—not much good can come of this."

The group of farmers became animated, each volunteering his opinion: "The sugar we are growing we must sell somewhere for our livelihood. With sanctions, where will we sell?" "Sanctions and disinvestment hamper communications, which is most important." "Might be better to explore other avenues than disinvestment." "Those who advocate disinvestment do not express what the majority want. The majority want existing bonds of trade to stay."

The concerns expressed by these farmers were shared by farmers at the other end of South Africa in the rural areas of Paarl, Cires and Stellenbosch.

Just as sugar cane dominates the agricultural economy of Natal-Kwa Zulu, deciduous fruit production—apples, pears, plums, apricots, nectarines and grapes—prevails in this region just outside of Cape Town in the Cape Province.

Producers of deciduous fruit in South Africa are highly dependent on the export market for their product—about 70 per cent of such fruit grown in South Africa is for export. These exports provide all of the industry's profits, since farmers just break even on the earnings made in the domestic market.

The deciduous fruit industry is also highly labor intensive. Most of the permanent workers who live with their families on the fruit farms are colored; they number about 213,000. In addition, there are about 30,000 to 40,000 temporary, seasonal workers who derive much of their income from their farm labor; these are mostly black. "Temporary," in this case, must be carefully defined, for many of these workers are actually employed under contracts for as long as 11 months at a time.

With the imposition of sanctions on South African fruit by the U.S., as well as by Canada and the Scandinavian countries, the fruit growers lost about 17 per cent of their profitable export markets. Farmers attempted to soften this blow by diverting the produce intended for these markets to domestic and other export markets, mainly European. But the domestic market is already saturated and increasing the supply to Europe—already a major purchaser of South African deciduous fruit—only served to drive prices down. In all, farmers lost an estimated 20 per cent of their net earnings, or about 16 million rand.

U.S. PRESSURING OTHERS TO IMPOSE SANCTIONS

"The American sanctions concern me, but they are only part of the story," Freddie Kirsten says at his farm in Paarl. "The other part that concerns me is that some in the American government are actively busy talking to other governments, putting pressure on them to apply the same types of sanctions."

At his farm in Paarl, Kirsten grows mainly table grapes. This farm supports 30 colored families on a permanent basis, and for four to five months each year provides daily employment for about 400 temporary laborers. "Should there be stricter sanctions, should other countries follow America, these temporary workers will be the first to go," Kirsten says. All the other farmers I spoke with in Cape Province said the same thing. Yet these temporary workers, many of them poor blacks from the "independent" homelands of the Transkei and Ciskei that border Cape Province, are the ones who can least afford to lose the income they derive from this seasonal labor, as well as the food and housing the farmers provide, at no cost, for them.

Already, some temporary workers have lost their income because of sanctions. All apples for the export market are individually wrapped by hand before shipping. Such packaging is highly labor intensive and many blacks, especially women, do this work on a seasonal basis to supplement family incomes. But since fruit for the domestic market is not wrapped, exports diverted to this domestic market because of sanctions need far less labor for packaging. According to estimates, some 22,000 workers, because of sanctions, no longer earn income from such apple packing.

Should comprehensive sanctions be applied, according to Kirsten, many farmers, just to survive, may have to convert their operations to products less labor intensive than fruit. "But if, because of this, people are pushed off the farms, where will they go? Probably to Soweto, to the squatter camps. If Congress is really so concerned with the underprivileged, they would lift sanctions."

Moreover, switching production away from deciduous fruit would hurt not only South African workers, but also the rest of the continent, for almost 90 per cent of Africa's deciduous fruit comes from South Africa.

Even should farmers be able to avoid this drastic outcome, the quality of life for their workers will suffer greatly. The farmers I spoke with were proud of the work they were doing, at their own expense, to improve the lot of their permanent workers.

These farmers were busy building new homes for their workers as well as improving older dwellings by installing plumbing and electricity. Most of these homes had room for gardens so the workers could grow produce for their own use or to sell in local markets. Many were also providing new facilities for the seasonal laborers; at one such facility I visited, the farmers had hired a cook to prepare meals just for these laborers. Farmers have built 4,600 schools to provide education and technical training for their workers. The fruit growers have also funded pension schemes and provide medical care for their workers.

All of the deciduous fruit growers I met were members of the Rural Foundation. The Foundation is a private, non-racial organization that operates throughout all of South Africa to improve the quality of life in the agricultural sector. Farmers contribute 25 per cent of the foundation's funds. Among its accomplishments, the foundation has helped to establish 277 schools for almost 4,000 children, preschoolers to age six. The foundation works to train the wives of farm workers to be teachers for these schools, creating 487 new jobs for these women to supplement the family income. Since it was begun four years ago, the foundation has given 2.9 million rand to help farmers with housing for their workers.

But the success of these projects depends on the economic health of the farms. "When things are good, we can afford to get our house in order, to undertake these projects," another farmer told me.

"I was able to upgrade the housing for my permanent workers because the financial situation was good for the past two years. But now there are the sanctions. I grow pears on this farm. But instead of them going to the U.S., they went to Germany, creating a surplus there and prices fell almost 50 per cent. This makes it very difficult to fund projects like the Rural Foundation."

Herman Bailey, a colored who is the public relations manager for the Rural Foundation, was also concerned about what the harder times brought on by sanctions will mean for the work his organization is doing to improve the standard of living for South Africa's rural blacks and coloreds. America thinks it necessary to punish the blacks and colored economically for what is politically wrong? They did not cause our political problems."

Business, as well as government, have also seen their efforts at reform, of bridging the gap between South Africa's First and Third Worlds, hampered by sanctions and disinvestments.

"When there is disinvestment there are sellouts of companies into the hands of South African entrepreneurs, they get good prices at good terms," E. Abramjee, a member of the Indian House of Delegates tell me at his office in Parliament. "But the people whom the Americans want to help—the poor and the black—they are hurt. We are proud that these companies [now in local hands] still work to uplift blacks. But the majority of change came from the multinationals.

WHITES TAKE ADVANTAGE OF DISINVESTMENT

Indeed, American companies' disinvestment in South Africa has certainly worked to the advantage of white investors who have the money to buy up a departing company's holdings at bargain basement prices. But this has been especially harmful to blacks.

According to Saul Marzullo, the chairman of the Industry Support Unit, Statement of Principles Companies, which monitors the compliance of U.S. companies in South Africa with the Sullivan principles. "For most multinationals, their South African operations amounted to 1 per cent or less of their total world sales." Still, because they were big multinationals, they had the resources to develop numerous uplift programs for their black employees.

Aside from merely supplying blacks with jobs, these companies often provided education grants and improved housing for them, as well as support for local schools. But many South Africans I spoke with said they feared that with the holdings of big companies like GM and IBM now in local hands, the new owners, relying on their South Africa earnings alone, will not be able to sustain these uplift programs as the multinationals could.

Allen Cook, the deputy chairman of the Coal Division of Rand Mines, told me that Rand already has had to dismiss 800 black workers "and if you are black there is little chance of finding another job, with the way the economy is now." But even if the companies hit by sanctions and disinvestment are able to avoid mass firings of black workers, those workers will still suffer in other ways.

In order to offset any negative effects of sanctions and disinvestment, companies will simply freeze wages and benefits for workers. As profits go down and companies pour more capital into skirting sanctions and developing alternative markets, there will be less money for pensions, health insurance and other benefits for workers. Training and education for workers, especially black workers, to assume managerial positions in the workplace, will decline.

Bailey tells me of an incident regarding the American company Tenneco, which owns J.I. Case, a South African company that produces farm equipment. Case has contributed two million rand to the Rural Foundation; the money has been used to develop new schools and housing for farm workers.

"An official from Tenneco came to South Africa last year to make a decision on disinvestment. He visited all his branches in this country, 14 branches, to speak with his black workers. The message he brought them was that his company felt great pressure to pull out of South Africa. But then these workers requested Tenneco to please stay. 'What will happen to us if the company just leaves?' That's when Tenneco decided to stay here, at all costs, and continue to help these workers."

The black I spoke with in South Africa expressed the same fears about what will happen to them because of U.S. sanctions and disinvestment.

Isaac is a black man who works as a driver for a private company in Pretoria, and drove me around during the time I spent in Pretoria and Johannesburg. At 30, he is struggling to save 650 rand—about $325—so he can buy a home in Soshagawe, the black township outside of Pretoria where he lives with his wife and baby daughter.

"WHERE WILL PEOPLE GO FOR JOBS?"

"I don't think these sanctions are such a good thing," Isaac tells me. Most of his friends, he says, believe the same thing. "Where will people go for jobs if companies keep leaving South Africa and go black to America?"

But what about Bishop Tutu? I ask him. People in the United States who support sanctions and disinvestment say that South African blacks welcome these measures and point to Desmond Tutu as a spokesman for the majority of blacks in this country when he calls for such action.

At this, Isaac laughs. He denied Tutu was his spokesman. In fact, he surprised me by saying President P.W. Botha was sincere in his efforts to make reforms and that he deserved support for these efforts, not sanctions. "Look, Bishop Tutu is a rich man. He does not have to worry about losing his job. He does not have to worry about getting food for his stomach. But I am concerned every day about having food for my wife and child."

In Soweto, I stopped to talk with an older man in one of the squatter camps, just a few miles from Tutu's and Winnie Mandela's spacious homes. He has set up a rickety old table on which he displays some onions he has for sale. Are sanctions good? I ask him. "No" he firmly responds. Why not? "People need jobs. People need work."

"Disinvestment and sanctions are the worst things. They can only cause unemployment," Justus Tsungu emphatically tells me. Tsungu, an ordained minister, is a popular broadcast personality in South Africa. For 20 years he has hosted his own radio program and, recently, his own television show. The show arose from his work as head of the independent Dunneylong Agency for Communications which teaches the different languages and cultures of South Africa in an educational effort to bridge the gap between the country's blacks and whites. He too is black.

"Bishop Tutu and Reverened Boesak are rich. They are international figures with many connections outside this country. Even if this country goes up in smoke, they are covered. People, ordinary black people, come to me and ask for jobs. I give them Bishop Tutu's number. I say 'Tell him. Tell Bishop Tutu the situation you are in, as he goes around the world calling for more sanctions and more disinvestment.'"

Mmeli Mkwanaze is a director of the National Leadership Youth Brigade of Inkatha, the black political movement headed by Zulu chief Mangosotho Buthelezi. With 1.3 million members—non-Zulu as well as Zulu—Inkatha is one of the largest black political movements in South Africa.

On the subject of sanctions and disinvestment he is firm. "Inkatha rejects these measures. But often the upper people manipulate the lower people. Bishop Tutu tells blacks they should boycott schools. But his own children go to school in America. Boesak says to boycott schools, but he is colored and no colored schools have been boycotted.

"Inkatha is against this boycott. Who will rule if there is no education? Having no education is just another, a new chain for black people. Bishop Tutu and Reverend Boesak are not saying what the people say. In May 1986 for May Day, 120,000 members of the United Workers of South Africa met at King's Stadium here in Durban and they rejected sanctions and disinvestment."

The black leaders of the so-called "Front Line" states bordering South Africa, despite their loud public calls for sanctions and disinvestment, are also under no illusion what such measures against South Africa will mean for their own economies. Privately, they understand the costs.

The South African economy—the strongest on the entire continent—provides jobs for approximately 1.9 million blacks who cross the borders from neighboring countries in search of work their own countries cannot provide. Since, on the average, each black worker supports a family of five, their South African earnings go to support 10 million blacks outside of South Africa itself. Countries such as Mozambique, whose economy has been ruined by years of Socialist experimentation since gaining independence from Portugal, are helpless to provide alternative employment.

Thus, Allen Cook told me about an incident involving Mozambique's late dictator, Samora Machel.

Machel had been outspoken in his attacks on South Africa. "Yet when the European Economic Community first began to seriously consider sanctions, including bans on coal imports, Machel privately pleaded with Portugal to take a firm stand against such sanctions. He feared for Mozambican workers. It was one of the few positive things he ever did toward South Africa. As it turned out, Portugal, as well as West Germany, opposed sanctions and the EEC rejected them."

There are, of course, blacks in South Africa just as firm in their support for the U.S. sanctions. But it is certainly questionable if that support is as widespread as the pro-sanctions lobby in this country often claims.

Prof. Lawrence Schlemmer of South Africa has analyzed the results of 10 major surveys of black public opinion on sanctions and disinvestment in South Africa. Part of his conclusion:

"The main point at this stage [spring, 1986] is that it can still be said that no survey in which questions were posed in simple, descriptive language has proved that a majority of blacks are willing to endorse comprehensive, punitive economic sanctions that would reduce the capacity of the economy to create jobs and welfare. It is certainly true that a majority of black spokespeople, members of the middle-class intelligentsia, students and clergymen support sanctions. This is not surprising, since their interests are political rather than economic."

"Black Americans today advocate sanctions without coming here and asking us what solutions should we take to better the situation," Mkwanaze says. "If black Americans are sincere, they should let us fight apartheid in a way that will let us survive. The poorest here are black Africans and they can least afford to survive sanctions and disinvestment."

The South African economy certainly has played and must continue to play a vital role in improving the lives of blacks in that country. Sanctions and disinvestment merely make this more difficult.

"Political freedom is the most important freedom," Dr. J. S. Mohlamme tells me at Vista University in Soweto where he teaches history and serves on the executive committee of the Senate. "But it goes with economic freedom."

For example, the government has legalized unions for blacks in South Africa. "This reform is not cosmetic," John Davies, an official in the Economic Planning Directorate of the Department of Foreign Affairs points out. "There is no other country in Africa where miners have the freedom to strike for higher wages and the government keeps out, as recently happened in the coal mine strikes." But the importance of the unions goes beyond demands for higher wages. Unions, now legal, give blacks an opportunity to organize; they provide blacks with a platform from which they can make their voices heard on a variety of subjects not limited to the economic, but political as well.

"The important thing for the black man is to make himself economically powerful. If blacks have jobs, firms, businesses, no one will dictate terms to him. The economically strong black man will get his political rights. This can only take place if we are strong economically," Tsungu says.

After a year of sanctions it is also clear that in putting an unwanted burden on South Africa's economy, they have also stalled government efforts to help blacks.

"Reforms are expensive," Davies notes. "At a time when the Western countries opt for sanctions to bring about reform is the time we most need a strong economic base for such reforms."

Harry Schwarz, the leading economic spokesman for the government's liberal opposition, the Progressive Federal party, expressed the same concerns.

"South Africa hasn't the resources for all that it wants to achieve. We have a large population that is increasing, particularly the black population. The growth rate of the economy is now equal to the population growth rate, which means, in effect, a zero percent growth rate in the economy.

"We need social services, old age pensions, equal quality of education for all. This requires vast sums of money and South Africa hasn't the sums for meeting these expectations. The more you change, the more you need to change because of higher expectations that you must meet. We can't do all these things without money. We need foreign capital."

SANCTIONS HAVE HAMPERED PACE OF REFORM

Proponents of sanctions and disinvestment argue that such steps are necessary to force the government into ending apartheid. But there is no evidence for this. To the contrary, the most sweeping measures leading to an end of apartheid were adopted before sanctions were in place and, if anything, sanctions have only served to hamper the pace of reform.

"Ten years ago I would have been with Tutu and others like him. We had nothing to lose," Tsungu told me. "But now black people have come to have a stake in this country. Why sanctions, why this agitation now, when things are beginning to go right?"

Indeed, Tsungu's telling me this during dinner with his wife at a rather elegant restaurant in a four-star hotel in Pretoria drove home his point. "Ten years ago I would not have even been allowed in this hotel. Whites said if we open hotels to blacks, where will we go? We will be swamped. Opening the hotels was a challenge for the whites. But they were opened and now they advertise for the blacks' business."

Beginning in the '70s, the government moved to desegregate sports and athletic competition as well as universities, unions and the workplace. Black and multi-racial trade unions were made legal and statutes were passed giving them the right to strike and to collective bargaining. Today South Africa stands virtually alone on the African continent as a country with truly independent trade unions.

Job reservations, which excluded blacks from better paying jobs, have been abolished. The pass and influx control laws, restricting the movements of blacks in South Africa, have also been eliminated. There were among the most hated laws by South Africa's blacks. "The pass laws were vicious," Tsungu told me. "Urban areas were accessible only if the white man said you could be there or if he gave you employment. If you did not please him you had to get out. A black could walk the streets for 36 hours. But those laws are now dead. Many foreigners complain of these things, but they are dead. Foreigners only hear about apartheid, but apartheid is dead."

The government has ended the forced resettlement of blacks into "homelands" and restored South African citizenship to blacks, including those who previously had been forced to become citizens of a "homeland."

Blacks have been given the right to own land and commercial districts in the cities, at one time closed to blacks, have been opened to all races.

In April 1985 the Mixed Marriages Act, which outlawed interracial marriages, was eliminated and the Immorality Act was amended so as to eliminate those parts which made sexual relations between the different races a crime.

This reform had far-reaching implications for the whole concept of apartheid in South Africa. "Once mixed marriages were allowed, philosophically, apartheid became dead," R.A. Norton, the president of the Johannesburg Stock Exchange explained. "The principle of apartheid is racial separation, an 'apartness' of races. Mixed marriages are de facto segregation. Eliminating that law was like sounding the death-knell for apartheid."

That same year a new multi-chambered Parliament—whites, coloreds and Indians—met for the first time in South Africa. Towards the end of the year, the government had moved to establish "Regional Service Councils." These councils are multi-racial bodies, comprised of representatives selected by the people from the white, colored, Indian and black communities in a particular region.

Members of these councils decide together issues of common concern to all the communities in the region, such as allocation of funds and provision of services such as water and electricity. The result of this, according to the Southern African Editorial Services, is that "in most cases a RSC will derive most of its revenues from white communities and send the bulk of its funds to black communities."

But the most important effect of the RSC was to bring blacks into the process of political power-sharing in South Africa; the RSCs gave blacks a political say in government decisions directly affecting them.

FIRST STEP TOWARD POWER SHARING

Although this participation was only at the local level, the government realized it was a first step toward power sharing at the national level.

In January 1986, President Botha called for the establishment of a National Council. This council would consist of representatives elected by members of all racial groups, including blacks, who would then meet together to work out a new constitutional framework for South Africa that shares power among all racial groups at the national level.

What all these reforms reflect—indeed, what made these reforms possible—is the massive change in attitudes and perceptions among white South Africans regarding blacks and apartheid.

"There is clear support for a systematic breakdown of apartheid," Conrade Sedago, a black deputy manager of Public Relations for the Anglo-American Corporation told me over lunch.

Sedago, who was critical of what he and many others believe to be the slow and haphazard way the government is carrying out reform, further noted that "It is the mood of the people that is the real opposition to government, pushing them to make reforms. In past years people would look outside of South Africa for solutions. But today we rely on our own strength and form our own organizations."

Professor P. A. K. Le Roux, an expert on labor law at the University of South Africa, notes the economic costs of apartheid in changing white attitudes toward the system.

"In the past 10 to 15 years, apartheid has become just too expensive. White Afrikaners now realize the current system won't work.

"Apartheid is not just about homelands. Blacks just couldn't have certain jobs, there was a ceiling on what people could do. Blacks couldn't enter certain jobs under job reservations. There were absured situations. At one point, if you wanted to have a house painted, a black could do the undercoat, but a white had to do the overcoat. The wage costs of apartheid alone were fantastic.

"Then the government places blacks in townships outside the cities. But then the government subsidizes the transportation costs of blacks into the cities where they work. The costs of implementing apartheid are simply enormous. It is a failed experiment."

Perhaps the most important example of how attitudes have changed in South Africa was the statement on apartheid handed down by the Dutch Reformed Church in October of last year.

The DRC is the largest and most powerful white denomination in South Africa, the church of the Afrikaner. The church had always provided moral legitimacy to apartheid by claiming a biblical justification for it.

But in October 1986, the church recanted this position, saying it had been wrong to interpret Scripture as supporting apartheid. As a result, the church opened its doors to all South Africans, regardless of race.

Although the statement was handed down at roughly the same time Congress was debating sanctions, it was the product of many years of intense debate and soul-searching within the church leadership. And it has caused similar soul-searching in the Afrikaner community.

"You have to remember the nature of the Dutch Reformed Church," Norton explained. "It is a thunderbolt church, where the minister in the pulpit tells the people what's right and what's wrong and the congregation takes him very seriously. The church had always told them apartheid was morally right. But now their own church was telling the Afrikaner that apartheid was immoral. This caused an enormous churning in the society that will take time."

Most of these reforms took place long before the imposition of sanctions, and are routinely ignored by the pro-sanctions lobby.

Those who have been most vociferous in their support of sanctions are usually the same ones who fall all over themselves in heaping praise on Gorbachev's "glasnost."

In a recent New York *Times* article, Sen. Bill Bradley (D.-N.J.) outlined what the West's strategy must be to encourage Gorbachev in his reforms. That strategy "should not include embargoes or boycotts," the senator wrote. "Mr. Gorbachev's reforms depend on a dramatic increase in domestic investment," Bradley continued ". . . [I]mplementation of his far-reaching program will be difficult: He will be opposed at each step . . . That is why the West . . . should treat its capital as a strategic asset and develop a plan for its flow westward."

What the senator is in effect asking for the Soviet Union is a policy of constructive engagement, the very same policy his party so violently opposes for South Africa. In their eyes, South Africa merits only sanctions and disinvestment.

The irony in all this is that Gorbachev's reforms, compared to South Africa's, are minor, *Glasnot* is only skin deep, for Gorbachev has done nothing to challenge the basic Marxist-Leninist ideology that has been responsible for his country's woes.

South Africa's reforms, on the other hand, have been sweeping; they mark, in effect, a rejection of the whole ideology of apartheid. "A whole political, social and economic structure developed over the course of 300 years," Piet Coetzer, a member of parliament for the Nationalist party, noted. "The government program is to break down these structures and this entrenched way of life."

In passing sanctions, Congress said it intended to send a signal to South Africa. But the signal as the South Africans interpreted it was hardly the one intended. "The attitude here has increasingly become that we are trying to solve our problems and the West just throws it in our face," LaRoux said. "Reformers need encouragement, not brickbats," Norton said about sanctions.

Who then really wants sanctions for South Africa?

There were two almost universal replies to that question.

The first is ignorant congressmen and senators who are unaware of what is really happening in South Africa and who supported sanctions only to curry favor with their constituents, particularly their black constituents.

"Is it possible to end apartheid?" Sedago wondered. "Americans are really naive about this. The U.S. thinks, 'We did it, why can't you?' We are in a phase, the people know their power and their strength. But there is also much uncertainty and insecurity. People have been assisted in this insecurity by the left wing in America, by the Kennedy types. Even we in South Africa don't expect that the angel Gabriel would come to Botha and announce that all would now be opened."

The second reply to the question of who wants sanctions was: those who want a violent solution for South Africa's problems.

"We oppose sanctions and disinvestment because they are counter-productive to peaceful change. The PFP is against violent change. But sanctions and disinvestment are helpful only for people who want violence. If we had a stronger economy, the capital and foreign investment to help carry out reforms and provide jobs, if we could do these things, the chances of violence would be remote."

That came from a white member of Parliament. But Isaac, the black driver, made much the same point when I asked him about this. "Those people who throw stones and make violence, some of them are children who don't know any better. Most of them have no jobs and nothing else to do. Me, I have a job I work at all day. At night I am tired, I want to go home to my wife and children. I am too tired to throw stones."

The greatest tragedy is that this violence which sanctions encourage is directed mainly against blacks by other blacks. Supporters of sanctions call for an immediate end to the state of emergency, but there are many blacks who think differently.

"In the township where I live, Atteridgeville, outside of Pretoria, there are about 120,000 people. Before the emergency about 10 per cent of these openly intimidated the people, frightened them, coerced them," Tsungu told me. "My wife and I would actually discuss escape routes from our own home should someone throw in a bomb or try to break in.

"Less than 20 people were taken under the emergency. Overnight, normality returned. Twenty people could intimidate 120,000. Just burn a bus, just 'necklace' someone. Before the emergency you could not walk the street, fear was everywhere. Even in church you didn't know who might be the one who threw the bomb the night before. The man next to you? Even the pastor?"

Isaac told me. "The police only arrest the people who make violence, not the others. I am not afraid of the police. But the other day when I drove you into [the black township of] Mammalodi, I was afraid. I was afraid some people would see me and would try to hurt me, saying. "Why do you drive this white man around? Why are you with this white man?' "

Toward the end of my stay in South Africa, I was having dinner alone in an Indian restaurant in Durban. It was rather late and another man came in and sat at the table next to me. We struck up a conversation and ended up having dinner together. It turned out he was a member of Parliament for the PFP from Natal.

After a lengthy conversation he said, "I'm all with the conservatives in America in being against sanctions. But the one place where I think the conservatives and President Reagan go wrong is in identifying change and reform with the government."

Of course, as a member of an opposition party, it was only to be expected that he would be critical of the ruling Nationalist party. And there is certainly room for criticism regarding the often touch-and-go atmosphere surrounding much of the government's reform efforts.

But he had a point. It is certainly wrong to identify the desire for reform, the awareness that apartheid must give way, with any one segment or political group in South Africa. That desire and that awareness are pervasive throughout all of South Africa: The debate on whether apartheid can be kept or not has been settled. The small showing of the Conservative party, vastly outnumbered by those behind the Nationalists and the PFP, shows that the pro-apartheid position is now the decided and tiny minority position among the whites.

The real debate is not whether to end apartheid, but how, and what type of society, in which all races can equally participate, will follow. "Apartheid will go—that is not the issue," according to Schwarz. "The real issue is what is post-apartheid South Africa? Is it oriented to the East or the West? Is it free market, or is it socialism?"

"All the conditions Congress laid down in the sanctions bill—lifting the state of emergency, releasing those held in detention—we don't disagree with any of those conditions. We don't need Congress to tell us. We agree with these, but the question is, how best to achieve them?" Frederich Conradie, the director of the America Office, S.A. Department of Foreign Affairs, pointed out.

Sanctions are probably the worst possible instrument in helping South Africa to answer these questions. They are an essentially negative weapon: They can do nothing to encourage those struggling to bring about real reform, and can only serve to harden the attitudes of those most opposed to such reform. They are also a blunt weapon, their punitive effects striking at the whole society: reformers as well as those opposing change, blacks as well as whites, coloreds and Indians, South Africa's Third World as well as its First.

The tragedy is that South Africa's First World will find the resources to weather the sanctions storm, while the largely black Third World may well go under; that efforts to bridge the gap between the two worlds will falter as the gap widens and those lusting for a violent solution find it easier to step in to fill the breach.

"Is this what the world hopes to achieve? Is this what the West wants?" C. H. Ebrahim, a member of Parliament in the Colored House of Representatives, asked me. "If so, if this is what they want to encourage, then I must question their morality."

CANADIAN DUMPING FINDING AGAINST HYUNDAI

Mr. RIEGLE. Mr. President, I rise for the purpose of discussing a recent development in Canada regarding a dumping finding against Hyundai. The Canadian Department of Revenue has recently ruled that several models of Hyundai cars have been dumped on the Canadian market, that is, have been sold below cost in order to gain market share.

The case, which now is before a tribunal to determine if the domestic industry has been materially injured, was filed by Ford Motor Co. of Canada and General Motors of Canada. They are to be commended for doing so. The result, for the time being, is that Canada has imposed provisional duties on the Hyundai Pony of 37.3 percent, the Hyundai Stellar of 36.6 percent, and the Hyundai Excel of 35 percent.

How will this action impact the United States? Last year, according to Korean statistics, a total of 202,557 Korean cars were sold in the United States, 64,388 were sold in Canada. It would seem logical that if the prices in Canada are increased by between 35 and 37.3 percent, that Korea will seek another outlet for these cars. They won't be selling them in Canada, by the company's own admission, and they won't be selling them in Korea. That leaves the largest market for their products—the United States.

With the excess capacity which presently exists in the U.S. automobile market, it is likely that if Hyundai is not currently pricing their exports to the United States unfairly, it is probable that they will in an effort to maintain or increase market share.

Although the Korean won has not appreciated nearly as much as the Japanese yen and is still undervalued against the dollar, as the won appreciates, we must be vigilant of Korean pricing, making sure that prices reflect the changed currency. I urge the Commerce Department to follow this closely in the months ahead.

Should prices indicate that these cars are being sold below the home-market price, an amendment to the trade bill which I sponsored would require the International Trade Commission to take into consideration foreign dumping findings as evidence in determining threat of material injury in a dumping action. The Senate report states, and I quote:

> If in addition, the foreign manufacturers have already achieved a substantial market penetration and also maintain substantial production capacity that could be diverted to the U.S. market, the combination of their willingness—as evidenced by final positive unfair trade determinations against them in other major markets—and their power to cause injury in the United States.

Next fall, a Hyundai assembly plant in Canada will be operational. It is likely that eventually they will be shipping these cars to the United States from the Bromont, Quebec, facility. As we consider the proposed free trade agreement with Canada, it is important to remember that the United States duty on imported cars is 2.3 percent. Should Hyundai meet the standard of preference, which is presently to be 50 percent, they will come into the United States duty free. I have urged our negotiators to increase the standard of preference to at least 60 percent to assure a higher level of North American content in these cars. The Hyundai example is a clear indication of why we need the standard of preference increased to at least 60 percent.

E. RUSSELL BAXTER

Mr. BUMPERS. Mr. President, it is a very special honor for me to recognize a public servant, a constituent and a personal friend who is retiring from service December 31, 1987. E. Russell Baxter has been the director of the vocational rehabilitation agency in Arkansas for 22 years and has established a reputation for his dedicated service to disabled citizens.

Russell Baxter attended Hendrix College in 1943 and graduated from the University of Arkansas in 1952. His college education was interrupted by a stint in the Army Air Force in 1944-45 and by a long period of recuperation from tuberculosis. He stayed at the University of Arkansas to complete his master's degree in education in 1953 and took advanced graduate work in 1954. He was a math instructor and counselor at Little Rock Central High in 1954-55.

Russell began his career as a rehabilitation counselor with the State agency for the blind in 1955. He moved up to a supervisory position in that agency and then to others in the combined agency serving all disabled persons. When the director's position was vacated in 1965, Russell Baxter was recommended by his fellow supervisors and administrators to become director. He soon earned the respect and the loyalty of all employees and guided the agency steadily through years of expansion and of cutbacks, through fat and lean years, and through changes in administration.

His reputation grew beyond the State of Arkansas, and he served as president of the Council of State Administrators of Vocational Rehabilitation in 1974. His dedication and expertise helped make the Arkansas agency a superior provider of services to persons with handicaps. He became a trusted adviser to policymakers in Washington and often testified before congressional committees on behalf of programs that would enable disabled people to become productive and independent.

Russell Baxter's extensive knowledge of rehabilitation is unmatched. He has the ability to convince any uninitiated listener of the value of the vocational rehabilitation program. His own determination to improve the quality of life for handicapped persons, coupled with his intelligence and experience, has indeed significantly improved that quality of life—not only in Arkansas but throughout the Nation.

Russell's departure will create a void in Arkansas and the Nation. Russell's leadership will be a hard act to follow, but it will also serve as an inspiration.

I know I am only one of thousands who will miss this man in many ways, but we all wish him good luck.

THE INF TREATY AND ITS CONSEQUENCES

Mr. EXON. Mr. President, the head of the Soviet Union, Mikhail Gorbachev, will arrive in Washington in a few days for a summit meeting with President Reagan. The principal goal of this meeting is to sign a treaty abolishing intermediate range nuclear forces. Under such an agreement both sides would eliminate theater or intermediate rate nuclear missiles with a range of greater than 300 miles worldwide.

While verification of a ban is easier than verification of limits on existing weapons, many issues in this area remain to be solved. Verification is extremely important, not only with respect to this prospective treaty. The agreement seemingly breaks new, positive ground on enhanced verifiability. A United States-Soviet agreement now will set a new precedent for future arms control agreements, including a hopeful reduction in conventional and strategic nuclear weapons which the President would like to finish negotiating and sign next year before he leaves office. Indeed, this has been a goal of the United States for two decades ever since President Johnson met with Soviet Leader Kosygin at Glassboro, NJ, in 1967. I caution against a rush to judgment on the follow-on, so-called start agreement, since it must be coupled with agreements on conventional forces.

Despite the nearing of these long-sought goals we must proceed, but not without caution, clear thinking, and an eye toward protecting our long-term security and that of the free world. It is important that we place the upcoming treaty signing in its true perspective. It is only a chance for a beginning in meaningful arms reductions and not an accomplishment of that goal.

Mr. President, before outlining areas of concern and caution, let me congratulate the President for helping to get us where we are today. It took the President a long time to agree to negotiations—perhaps longer than necessary. However, the Soviets are formidable negotiating foes. Patience and perseverance are necessary virtues in dealing with them.

The abolition of an entire category of nuclear weapons would be a real accomplishment. If done correctly, with proper safeguards, it could be a big step toward reduced tensions and providing a safer world for our children and grandchildren. However, before rushing to judgment, I want to outline my thoughts on the context of any such agreements. As a member of the Armed Services Committee since coming to the Senate in 1979, and as chairman of the Strategic Forces and Nuclear Deterrence Subcommittee, I have given special consideration to this subject for a long time.

While not necessarily a desirable situation, the facts are that since its inception in 1949 NATO's deterrent has more or less been dependent on nuclear weapons. All of them, of course, are not eliminated by the upcoming agreement. This is as it should be given the real world situation.

If left to a conventional defense overnight, NATO could be in trouble. The conventional defense of Europe relies upon reinforcements from the United States. The eventual success of that reinforcement is not assured. We have to move several divisions of men and many tactical fighter wings to Europe while simultaneously evacuating 300,000 dependents back home. A successful defense of Europe depends upon political leaders here and there making timely mobilization decisions based on strategic warning and intelligence.

Going to zero in nuclear missiles with a range greater than 300 miles is equitable—as far as it goes. What would remain, shorter-range battlefield nuclear weapons with ranges of less than 300 miles, can help redress existing conventional force imbalances. But there are problems.

Bluntly stated, if there is war in Europe the Soviets will have started it. NATO will be on the defensive at the outset. Short-range, conventional battlefield systems will therefore be exploding all over friendly territory. If we would be forced to go to nuclear weaponry to stave off an early defeat as some highly qualified experts have suggested, by the time we do it their usefulness will be severely degraded. The Soviets have many more of these short-range systems, both conventional and nuclear, not to mention thousands of chemical weapons. Both sides maintain bombers and submarine-based weapons; in the latter category the western alliance seems to have the edge.

While air- and sea-based nuclear systems could continue and should be enhanced as NATO Commander-in-Chief General Galvin advocates, I think NATO is getting close to a critical situation with very little margin for error. Everything would have to work right for NATO to be reasonably assured of success. Of course, everything working as it should rarely happens in war.

NATO doctrine calls for attacking Soviet follow-on forces early in an engagement so they cannot exploit their early gains. That is why we need long-range systems. If NATO can retain conventional long-range systems, we can still deal with Soviet conventional strength in Europe. If not, I will have serious concerns. This point must be emphasized.

Mr. President, during the Senate deliberations on this treaty I call on President Reagan to announce a European summit meeting of all heads of state, either before ratification or shortly thereafter. We should all agree on one condition, that is to take specific steps to enhance NATO security and conventional weapons. President Carter took a similar step in 1978, but it took the form of a pledge for a 3-percent annual increase in defense spending. While the intention was good, it invited bookkeeping games and was too general to be effective.

Since we are outnumbered in conventional strength by the Soviet Union, we must exploit the technological lead we have. A new generation of conventional weapons, combined with "force-multiplier" command, control, communication systems, and modernization of standoff nuclear and conventional forces are needed to counter the still-growing and ever-improving Soviet conventional force. In the near term it is my view that the Warsaw Pact forces are magnified in comparison with NATO's strength by this treaty.

NATO must also increase its ammunition stockpiles to have the capability to fight a longer conventional war—and thereby deter it from ever breaking out in the first instance. The important thing is to set tangible goals which, if met, would yield concrete improvement to NATO's conventional deterrent. It is time to foster a clear understanding of our obligations before euphoria breaks out all over the place on the INF Treaty, and this requires understanding on both sides of the Atlantic.

Once again, the INF Treaty can be productive and could lead to world stability. But it can only do so if the United States and our allies take the necessary steps I have outlined today to ensure that our long-range security is protected.

Mr. President, I have heard it said many times that any arms control treaty negotiated by Ronald Reagan is likely to be in our national interest given his anti-Soviet rhetoric. Similar things were said when President Nixon opened diplomatic relations with mainland China in the early 1970's. We all heard, "If Nixon could go to China after his long history of opposing the Communists there, it must be OK." Such reasoning may be an oversimplification and a convenient truism or, on the other hand, history may be repeating itself once again as it often does.

President Nixon was right and his China policies proved correct. I hope and pray history may cast President Reagan's policies toward the Soviets in the same favorable light. The goals and results should be clarified. The Nixon policies did not make China go away as a world power and communism thrives there today. There are some tinges of capitalism, but certainly no democratic principles have flourished. Likewise, if our long-term initiatives succeed we should not expect Soviet communism to decline or expire. Rather, hopefully, we might remake them into what we have come to tolerate as acceptable Communists. Such is evidently a brand of Communist state that is not a directly military threat to us or our allies.

Based on what we now know, the treaty is not without risk. I want to support a treaty, especially one which requires the Soviet to dismantle more warmaking systems than the United States. I do not believe that President Reagan will sell out the store. Nor do I believe the experienced negotiators who completed the agreement are naive to Soviet intentions.

The nuclear balance and the conventional balance in Europe, and indeed around the world, are interrelated and cannot be divorced one from another. If there is a shortcoming with this treaty it is that we have all but lost sight of this fact. It would have been preferable to address this problem simultaneously or before the INF agreement. But that is not the option about to be presented to the Senate. It is sufficient to say that treatymaking is not an exact science. From my current knowledge I intend to support the INF Treaty during the Senate ratification process. I am positive and not negative. I am not looking for a reason to be against it. We must understand that a lower balance of nuclear weapons only, without follow-on agreements to correct the conventional imbalance in Europe, solves little. The longer term goal must be a reduction in nuclear weapons and a balance in conventional forces as part of our overall strategy. We must view the INF Treaty as only a first step, a first step we take with our eyes open and certainly not in and of itself as a major settlement of United States-Soviet differences.

MESSAGES FROM THE HOUSE

At 10:41 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2939) to amend title 28, United States Code, with respect to the appointment of independent counsel.

ENROLLED BILL SIGNED

At 12:29 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2939. An act to amend title 28, United States Code, with respect to the appointment of independent counsel.

The enrolled bill was subsequently signed by the Acting President pro tempore [Mr. GRAMM].

At 6:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2142. An act to designate certain lands in the State of Nevada as wilderness, and for other purposes;

H.R. 2802. An act for the relief of Fleurette Seidman;

H.R. 2973. An act for the relief of Junior Achievement of Sacramento, California; and

H.J. Res. 318. Joint resolution to authorize and request the President to designate the month of December 1987 as "Made in the U.S.A. Month".

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2142. An act to designate certain lands in the State of Nevada as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2802. An act for the relief of Fleurette Seidman; to the Committee on the Judiciary.

H.R. 2973. An act for the relief of Junior Achievement of Sacramento, California; to the Committee on Finance.

H.J. Res. 318. Joint resolution to authorize and request the President to designate the month of December 1987 as "Made in the U.S.A. Month"; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Stephen S. Trott, of Virginia, to be United States Circuit Judge for the Ninth Circuit;

Jerome Turner, of Tennessee, to be United States District Judge for the Western District of Tennessee;

Sam R. Cummings, of Texas, to be United States District Judge for the Northern District of Texas;

Franklin S. Van Antwerpen, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania;

Dean Whipple, of Missouri, to be United States District Judge for the Western District of Missouri;

Alfred M. Wolin, of New Jersey, to be United States District Judge for the District of New Jersey;

Robert S. Gawthrop, III, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania;

William S. Rose, Jr., of South Carolina, to be an Assistant Attorney General;

Robert J. Wortham, of Texas, to be United States Attorney for the Eastern District of Texas, for the term of 4 years;

Samuel A. Alito, Jr., of New Jersey, to be United States Attorney for the District of New Jersey for the term of 4 years;

John A. McKay, of Alaska, to be United States Marshal for the District of Alaska for the term of 4 years;

Alphonso Solis, of New Mexico, to be United States Marshal for the District of New Mexico for the term of 4 years; and

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1990.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD (for himself and Mr. DOMENICI):

S. 1911. A bill to amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies; to the Committee on Governmental Affairs.

By Mr. BINGAMAN:

S. 1912. A bill to authorize a study of the feasibility of establishing a national Mimbres Museum in Silver City, New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 1913. A bill to designate the third week of June of each year as "National Dairy Goat Awareness Week"; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. RUDMAN, and Mr. DURENBERGER):

S. 1914. A bill to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic River System; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (by request):

S. 1915. A bill to amend title XIX of the Social Security Act to provide incentives to States to increase enrollment of medicaid recipients in prepaid risk-based health care plans, to clarify the conditions of participation under the medicaid program with respect to risk-based health care providers, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. ARMSTRONG, Mr. BINGAMAN, Mr. BOREN, Mr. DOLE, Mr. DOMENICI, Mr. GARN, Mrs. KASSEBAUM, Mr. NICKLES, Mr. SIMPSON, Mr. STEVENS, Mr. WALLOP, and Mr. WIRTH):

S. 1916. To provide for the transfer of certain properties in Denver, Colorado to provide facilities for the courts for the Tenth Circuit; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 1917. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Finance.

By Mr. GARN:

S. 1918. A bill to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. GRAHAM, Mr. KERRY, Mr. LEAHY, Mr. MCCAIN, Mr. LUGAR, Mr. DURENBERGER, and Mr. DECONCINI):

S. Res. 336. A resolution condemning the government of Haiti for the collapse of the November 29 elections and expressing support for democracy in that country; placed on the calendar.

By Mr. HATFIELD:

S. Con. Res. 93. A concurrent resolution to express the sense of the Congress that Dr. Frank G. Burke is recognized for his faithful service to the National Archives of the United States of America; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD (for himself and Mr. DOMENICI):

S. 1911. A bill to amend title 5, United States Code, to allow all forest firefighting employees to be paid overtime without limitation while serving on forest fire emergencies; to the Committee on Governmental Affairs.

FOREST WILDLIFE EMERGENCY PAY EQUITY ACT

Mr. HATFIELD. Mr. President, what Time magazine called A Just War, has been fought in this country during the past several months, not with guns and ammunition, but with shovels and saws. This just war has been fought by thousands of brave men and women against forest fires.

Since late August, this country has suffered the worst loss of forest resources since 1910: More than 1 million acres in the West and nearly 300,000 acres of forest in the South have been destroyed by fire. In the 1987 fire season, Federal firefighters from 43 States battled more than 2.3 million acres of burning forests throughout the United States. Those fires have finally been extinguished, but the extent of the damage and the bravery of the men and women who fought them are just now becoming clear.

The majority of fires started with a split second strike of lightning, and it took a battle force of thousands of determined men and women, working endlessly on a battlefield of burning trees and shrubs, to bring the fires under control. For the forests, the property, and the lives they saved, our debt of gratitude to the firefighters can never be repaid.

But to some of them, Mr. President, our debt is even larger—for it is not only a debt of gratitude that we owe, but also a debt of dollars. Because of a cap on overtime pay for Federal workers, more than 2,000 of those who battled these fires will be paid substantially less than the men and women they fought along side.

On the fireline, in the midst of the dangers of fire, smoke, and exhaustion, the issue of pay equity seems of little concern. But as the smoke clears and the checks arrive in the mail, the discrepancies become obvious. These brave men and women deserve better.

Under the current law, two firefighters working together do not necessarily receive the same overtime pay. One can be receiving overtime pay equivalent to or above their normal pay rate and the other may be being paid less than the rate received during regular hours. If the firefighter had already reached the overtime pay limitation, that individual then could be working without compensation.

Mr. President, Senator DECONCINI joins me in cosponsoring this legislation to help resolve this long time problem of inequity in emergency overtime pay. This bill would effect only a very small number of employees of the U.S. Departments of Agriculture and the Interior and would apply only to emergency wildfire situations. This measure would cover all wildland and forest fires on Federal lands.

Mr. President, most of the fire locations are remote, the work is rigorous, and the firefighters seldom are able to stray beyond the base camps. Once these Federal firefighters have reached their overtime pay limitation, their options are few, but to keep fighting the fire. This legislation would amend title 5 of the United States Code to lift the overtime pay cap for Federal employees in emergency wildfire situations only. Presently, title 5 limits the aggregate pay for Federal employees exempt from the Fair Labor Standards Act to the maximum biweekly pay for a GS level 15. Most of these firefighters are GS level 7 who work with State and local employees whose pay continues as long as they are on duty. Additionally, these exempt employees are limited to an hourly rate equivalent to that of a GS-10, and this limitation creates a serious morale problem.

The cost of correcting this situation is estimated at approximately $1 million for the 1987 fire season. In the 1986 fire season, a more typical season, the estimate is less than $200,000. In the long term, this legislation may have a positive budgetary impact by creating greater efficiency and effectiveness on the fireline by reducing the number of staff changes required. I am hopeful that we will see its passage this Congress so that Federal employees in emergency wildfire situations will not have to endure another season with this disparity in overtime pay.

Mr. President, I ask unanimous consent that an article titled "A Just War" from the October 26 issue of Time be inserted in the RECORD. I also ask that a summary statement from the U.S. Forest Service and a copy of the bill be inserted in the RECORD immediately following my statement.

I strongly urge my colleagues to join me in cosponsoring this much needed legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest Wildfire Emergency Pay Equity Act of 1987".

SEC. 2. Section 5547 of title 5, United States Code, is amended to read as follows:

"§ 5547. Limitation on premium pay

"(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), and 5546 (a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS-15. The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

"(b)(1) The provisions of subsection (a) shall not apply to the pay of any forest firefighter for any pay period in which such firefighter is assigned to work on, or in support of, forest wildfire emergencies.

"(2) For purposes of this subsection, the term 'forest firefighter' means any employee of the Department of Agriculture or the Department of the Interior who is assigned to work on, or in support of, forest wildfire emergencies.".

AMERICAN SCENE: A JUST WAR

Fire Fighter Jeff Brand looks like hell. His unshaven face is covered with grime, his eyes are swollen and bloodshot, and his raspy speech is punctuated with third-degree coughs and sniffles. "I'm sick as a dog," he growls. The dense smoke on the fire line in Northern California's Klamath National Forest has cut visibility to a lung-searing 150 ft. It is eclipsing the sun like a primordial fog and slowly choking the solemn line of fire fighters. Brand, 26, from Kentfield, Calif., pauses occasionally on the steep slope to vomit discreetly in the woods. "This is unhealthy as hell." he says, directing his crew toward a smoldering hot spot. "But I love fighting fires. When these things get going, the adrenaline really kicks in."

More than seven weeks after a series of dry lightning storms ignited a wave of fires across the West, thousands of weary fire fighters remain on the lines, battling a dangerous combination of flame, smoke and exhaustion. So far at least ten people have died. In one tragic incident, a five-person "helitack" team was dropped by helicopter into a remote spot in Northern California and promptly overrun by fire before it could be rescued. The terrified team members quickly crawled into the fire-resistant shelters strapped around their waists, but 31-year-old D. Lee Cullins, of Arcata, Calif., was overcome by smoke and flames.

Since late August, more than 900,000 acres have been destroyed, the worst loss of timber since 1910. When one fire is contained, crews are quickly dispatched to other outbreaks. "They are just putting them out by sheer force of will," says Matt Mathes a spokesman for the U.S. Forest Service in San Francisco. Hardest hit: California, where over 700,000 acres, an area almost the size of Rhode Island, have burned. It's the third severe fire season in a row for the West, where drought conditions are so extreme that bears have been forced down from the mountains to imbibe from residential swimming pools.

"The trick is to keep your energy up," says Jerry Midder-Rider, 32, a veteran fire fighter from the Blackfeet Reservation in Browning, Mont. "You just work sleep and eat." Midder-Rider is warming himself by a gas heater at a base camp deep in the Klamath National Forest, scene of the worst fires and several deaths. Exhausted after twelve hours on the line, he enjoys relaxing briefly with companions from as far away as Maine and Alaska. "We're all equal out here," he says. "That makes all the difference."

Nearby, other fire fighters with faces like chimney sweeps exchange tales of close calls and prior battles. Their constant coughing sounds like a tuberculosis ward. As they talk, each fire takes on its own mischievous personality, some quick and cagey, others plodding and stubborn. Despite the laughter, some fire fighters appear homesick. The constant, tortuous line at the only two available pay phones is full of long faces. After waiting for 2½ hours to call his wife, one man is greeted by an answering machine, and his howls echo through the smoke as he storms back to his tent.

The fire fighters sleep, eat and work in the worst ways possible. The base resembles a cluttered MASH unit, littered with the makeshift tents of 1,600 firel fighters from several dozen states. Others endure the 40 degree nights in U.S. Government-issued sleeping bags that resemble disposable diapers. Some days the smoke gets so bad that flashlights must be used to read maps at midday, and the fire fighters can be found sprawled out in a twelve-person oxygen tent called the fresh-air lounge. A 20-bed hospital run by the National Guard and equipped for surgery and X rays awaits disaster. One luxury: a long military tent called the Bijou that offers two new movies each day on a generator-powered VCR.

At the command post, the fires are charted on huge, colored maps, and meteorologists use portable computers to monitor the weather. Each night planes carrying infrared devices capable of detecting a glowing coal 1 ft. in diameter from 15,000 ft. crisscross the sky like silent bombers, tracking the fires. But the real work is done by the ground crews. Trucked each day to the fire lines in lumbering military transports, buses and pickups, they often trudge the last few miles by foot, lugging shovels and their trusty hoe-ax combinations, called Pulaskis. Despite sporadic assistance from helicopters and planes that dump fire retardant, their backbreaking work remains the same; they scratch out broad fire lines in the dirt, ignite counterfires from these lines that will burn toward the oncoming fire and watch for spot fires caused by airborne embers. Says Lee Poague, a fire-information officer from Tucson: "The old groundpounder is still the one who turns the tide."

Sometime before being put on the line, the fire fighters have each received at least 32 hours of classroom training and eight hours in the field. Starting pay is about $5 an hour, along with a 25% hazard bonus for fighting on the line of an uncontrolled burn. Divided into crews of about 20, they work twelve-hour shifts, night and day. Most are given a five-day break after 20 days on the line, though some have worked since the fires began. Fiercely proud, many crews have worked together for years, abandoning college, odd jobs and families each fire season to search for adventure. All prefer to be first on the scene, and they dread the mop-up work that requires them to dig through ashes in search of warm coals. Despite the conditions, their mood remains good. For many fire fighting is the ultimate war game, complete with battle lines, a just cause, and a deadly foe.

The conflagration grows eerie at night, and the fire fighters stay close together for protection. Their sooty faces, set against the foreboding backdrop of a pitch-black forest, are lit by a crackling orange glow. The flames, as they are dimmed by the cooler air, creep through the dense brush like a flow of lava, casting strange shadows behind the smoke. "You hear trees falling constantly, but you can't see them through the smoke," says Bill Thompson, 51, a timber cruiser from Salem, Ore. "It gets real spooky out here."

Anything less exciting might send many fire fighters packing. "A fire is quick and dirty," explains Larry Humphrey, 40, a natural-resource specialist from Safford, Ariz., who is in charge of 250 fire fighters. "I guess I don't have the patience for any other job." A 15-year veteran of forest fires, Humphrey has had only one day off in a month, but says he would keep on working for free. As he talks, nearby flames shoot several hundred feet up a Douglas fir in a matter of seconds. The tremendous roar is followed by the thunder of a "widowmaker"—a falling tree—crashing through the dense smoke. Soon other trees ignite almost spontaneously in an effect known among fire fighters as crowning. "Those flames can leap across the treetops faster than you can run," warns Humphrey. "This fire is a real tenacious son of a gun."

A hundred yards down the fire line, Greg Geisen, 32, from Alderpoint, Calif., blasts away at a burning tree with a hose. He wears the regulation fire-retardant green pants, yellow shirt and hard hat, and a dirty cloth is stretched across his mouth and nose. "My wife was crying when I told her I'd be going out," he says, leaning against the force of the water. "But I love it out here. It's just me against this fire." Bill Ream, a 40-year-old from Weaverville, Calif., puts it another way: "I sleep in the back of my pickup, I eat old food out of a bag, I breathe smoke, and I haven't washed my clothes in days. But you've got to understand: this is war."

Arthur Cavanaugh Jr., 27, agrees. While crossing a steep slope one morning, he slipped and tumbled 60 feet into a river, severely spraining his left ankle. It took 45 minutes just to get him back up the hill. For Cavanaugh, the war was a welcome respite from unemployment. "I tried working in an office once, but I spent all day just gazing out the windows," he says, sitting on a plane bound for home, still proudly adorned in his smoke-ridden fire-fighting clothes. "This job gets me outside, fighting to protect something I believe in."—By Jon D. Hull

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Date Prepared: November 13, 1987.

Topic: Maximum Pay Limitation for Employees Who Are Exempt from the Fair Labor Standards Act (FLSA). The maximum pay authorized under Title 5, U.S.C. 5547 for a biweekly pay period may not exceed the rate of pay for a GS-15 step 10. In 1987, this amounts to $2,682.40 per pay period.

Forest Service employees impacted by the pay cap imposed by 5 U.S.C. 5547 are usually involved in wildfire emergency suppression or support activities in remote areas where resupply of personnel is very difficult, or during extended fire emergencies when multiple fires are spreading and demand for fire suppression personnel exceeds the forces that can be mobilized. When this occurs, employees assigned to fire activities must put in long shifts to minimize resource and property damage. Usually, after only a few days enough crews and support personnel can be mobilized to meet fireline needs. At that point extended shifts are reduced and problems with the premium pay ceiling cease to be much of a problem.

(1) Would it be possible for an employee involved in emergency fire suppression activities to earn exorbitant amounts of money if the premium pay ceiling were eliminated?

The average grade of FS employees is GS-8 step 9. A GS-8 step 9 must work 80 hours regular time plus 95 hours at premium pay rates, for a total of 175 hours to reach the pay ceiling during any given pay period.

To reach the pay ceiling on an annual basis would require that this employee accumulate 2470 hours of premium pay. The pay year is broken into 2088 hours for purposes of regular pay calculation. Thus, to equal the pay ceiling on an annual basis our "average" employee would have to work more than twice the base hours per year to exceed the existing annual limitation on premium pay.

1987 is one of the most severe fire seasons experienced by the Forest Service in recent history. During the worst period of fire incidence (pay period 18), a total of 1,423 FS employees lost more than $485,000 due to the premium pay ceiling.

The maximum amount of pay lost by any one employee in this pay period was $1,682.31. This employee was a GS-13 step 6, who worked the equivalent of 227.5 hours. This employee would have to work the equivalent of 3,835 hours of premium pay to maintain this rate of salary over a year; virtually impossible considering the number of hours to be worked and the seasonal nature of wildfire activity. For an employee to equal this rate of earnings for more than one pay period is extremely unusual, let alone for a whole year.

(2) Is it possible for an employee to earn more than the individual that is that person's supervisor?

Yes. We will use a non-exempt GS-8 step 1 being supervised by an exempt GS-11 step 1 for our example.

The GS-8 is earning $9.74/hour base rate of pay and $14.61/hour overtime.

The GS-11 is earning $13.02/hour base rate of pay and $17.78/hour overtime.

The GS-11 will reach the pay ceiling after working 80 base hours and 92 hours of overtime, for a total of 172 hours per pay period.

Until the GS-11 reaches a total of 172 hours worked, the relationship of salaries (base and overtime) will remain constant between the two employees, with the GS-11 supervisor earning more than the supervised employee.

On the 173 hour the GS-11 ceases to receive reimbursement. The GS-8, on the other hand, continues to receive base or overtime rates of pay for hours worked. Although the GS-11 is receiving no hourly compensation, the GS-11 has still earned more in total than the GS-8 until the GS-8 works 210 hours.

When the GS-8 has worked 210 hours, the employee has earned an amount equal to the ceiling imposed on the GS-11. After the 210th hour the GS-8 employee continues to receive compensation beyond the aggregate ceiling imposed on the exempt GS-11 employee, resulting in a situation where the GS-11 supervisor is not only not being reimbursed for hours worked but also not being paid as much in total as the GS-8 being supervised.

(3) Are there any non-GS (Wage Grade) employees exempt from FLSA that would benefit from lifting the cap on premium pay?

The only other employees affected by the maximum earning limitation are Wage Grade and this is limited to the Wage Supervisors (WS). The ES must be full supervisors and not working supervisors. WS positions are mainly responsible for supervision of road maintenance crews and nursery workers. The number of WS workers Service-wide is 145. Probably less than a half dozen were involved in the fires in the West this Fall.

(4) Are there any other limitations on the amount of premium pay an exempt employee can earn?

The maximum hourly rate of pay for overtime cannot exceed one and one-half times that of a GS-10, step 1 or $17.78 per hour.

Anyone whose base rate of pay exceeds this receives something less that the maximum premium rate calculation. Anyone earning GS-12 step 6 or greater is actually paid less per hour when on premium pay status than they are during their base 80 hours.

(5) What are the number of hours that an employee must work in order to reach the premium pay ceiling?

Step	1	2	3	4	5	6	7	8	9	10
GS-7 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	149	143	137	131	126	121	116	111	107	103
Max out	229	223	217	211	206	201	196	191	187	183
GS-8 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	130	124	118	113	108	103	99	96	95	93
Max out	210	204	198	193	188	183	179	176	175	173
GS-9 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	112	107	102	97	96	94	92	91	89	87
Max out	192	187	182	177	176	174	172	171	169	167
GS-10 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	97	95	94	92	90	88	86	85	83	81
Max out	177	175	174	172	170	168	166	165	163	161
GS-11 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	92	90	88	86	84	82	80	78	76	74
Max out	172	170	168	166	164	162	160	158	156	154
GS-12 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	80	78	76	73	71	69	66	64	61	59
Max out	160	158	156	153	151	149	146	144	141	139
GS-13 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	67	64	61	59	56	53	50	47	45	42
Max out	147	144	141	139	136	133	130	127	125	122
GS-14 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	52	48	45	42	39	35	32	29	25	22
Max out	132	128	125	122	119	115	112	109	105	102
GS-15 base hours	80	80	80	80	80	80	80	80	80	80
Overtime hours	34	31	27	23	19	15	11	7	3	0
Max out	114	111	107	103	99	95	91	87	83	80

Note.—Night differential (10 percent for each base hour worked between 6 p.m. and 6 a.m.) and Sunday differential (25 percent for those base hours when Sunday is a regularly scheduled work day) are included in the computation of gross wages subject to the maximum pay limitation. Therefore, the number of overtime hours in this chart would be reduced when an employee is entitled to Sunday or night differential. Hazard pay (25 percent of base rate for all hours of the day) is not included when calculating the maximum earnings.

(6) Which states sent National Forest personnel to fires in the West during the Fall of 1987? (The following figures do not reflect internal assignments from California, Oregon and Washington, only those personnel assigned through BIFC.)

State	Miscellaneous overhead	Number of 20-person crews	Total personnel
Alabama	55	2	95
Alaska	160	6	280
Arizona	330	34	1,010
Arkansas	61	12	301
California	0	3	60
Colorado	267	17	607
Connecticut	00	1	20
Florida	56	6	176
Georgia	69	5	169
Idaho	446	23	906
Illinois	4	1	24
Indiana	0	2	40
Kentucky	32	3	92
Louisiana	26	7	166
Maine	1	2	41
Maryland	3	0	3
Massachusetts	2	0	2
Michigan	18	12	258
Minnesota	53	23	513
Mississippi	21	7	161
Missouri	10	9	190
Montana	630	59	1,810
Nevada	97	3	157
New Hampshire	1	2	41
New Mexico	228	32	868
New York	1	0	1
North Carolina	47	17	387
North Dakota	6	0	6
Oklahoma	2	0	2
Oregon	292	6	412
Pennsylvania	3	3	63
Puerto Rico	2	0	2
South Carolina	36	1	56
South Dakota	47	6	167
Tennessee	29	8	189
Texas	19	0	19
Utah	146	8	306
Vermont	2	0	2
Virginia	53	17	393
Washington	61	8	221
West Virginia	1	2	41
Wisconsin	8	2	48
Wyoming	82	11	302
Total	3,407	7,200	10,607

(7) Which States sent State crews and other personnel in support of Federal suppression efforts in the West during the Fall of 1987? (Forty-two states sent crews in support of Forest Service fire suppression efforts. The following table lists number of crews by state.)

State:	*Number of crews*
Alaska	51
Alabama	3
Arkansas	6
Arizona	51
Colorado	16
Connecticut	1
Florida	7
Georgia	4
Idaho	13
Illinois	1
Indiana	3
Kentucky	7
Louisiana	1
Maine	1
Massachusetts	1
Michigan	6
Minnesota	18
Missouri	7
Mississippi	3
Montana	120
North Carolina	8
New Hampshire	2
New Jersey	2
New Mexico	101
Nevada	4
New York	1
Ohio	1
Oklahoma	1
Oregon	15
Pennsylvania	9
Rhode Island	1
South Carolina	2
South Dakota	9
Tennessee	8
Texas	1
Utah	11
Virginia	11
Vermont	1
Washington	3
Wisconsin	7
West Virginia	1
Wyoming	16

By Mr. BINGAMAN:

S. 1912. A bill to authorize a study of the feasibility of establishing a National Mimbres Museum in Silver City, NM, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL MIMBRES CULTURAL ACT

Mr. BINGAMAN. Mr. President, the Mimbres, the Gila, and the Casas Grandes Indians of southwestern New Mexico have left an enduring presence in their beautiful pottery and other artifacts. Unfortunately, we have not done enough to protect, preserve or commemorate this legacy. I rise today to introduce The National Mimbres Cultural Act of 1987, legislation that will increase awareness and understanding of the significant cultural and historical contributions of these prehistoric Indian tribes.

The Mimbres culture, in particular, left a significant legacy of unique pottery that remain in private and public collections throughout the United States. Unfortunately, most of these collections are only available in museums on the east coast and are not readily accessible to the citizens of New Mexico.

MIMBRES CULTURE AND ARCHAEOLOGY

The classic Mimbres culture lasted from A.D. 100 until its collapse in A.D. 1150. This thousand-year period produced remarkable pottery, stone tools, and a wide variety of decorative objects and ornaments. The book, "Mimbres Pottery—Ancient Art of the American Southwest," gives us a unique look at the culture and archaeology of the Mimbres era.

It was during the 1870's and 1880's that accounts of ruins in the Southwest began to receive widespread attention in the East. These accounts focused on the cliff dwellings of Mesa Verde and the ruins of Chaco Canyon, but the ruins of the Mimbres area were also known to the early archaeologists.

It was not until the second decade of this century that J. Walter Fewkes of the Smithsonian Institution made a reconnaissance of the Mimbres area and brought back the first collections of Mimbres pottery to the Smithsonian and the Museum of the American Indian in New York. His discovery led to a wave of scientific excavations in the 1920's and early thirties. It was at this time that most of the Mimbres archaeological exploration was carried out and most of the material now in museums was collected.

Harriet and Cornelius Cosgrove began work at the Treasure Hill site and later carried out 4 years of research and excavation at the Swarts ruin under the auspices of the Peabody Museum of Harvard University. Wesley Bradfield did major excavations at the Cameron Creek site for the Museum of New Mexico. Albert Jenks soon followed with an extended excavation program at the Galaz site for the University of Minnesota. Also during this period Paul Nesbitt worked at the Mattocks site for the Logan Museum of Beloit College, and Earl Morris did limited excavations on a small number of sites near the Swarts ruin, recovering material that is now housed at the University of Colorado.

These excavations produced the first good evidence of the full range of Mimbres material culture. Several hundred rooms were excavated and over 2,500 painted bowls were recovered. However, neither the origins of the Mimbres culture nor the reasons for its demise have been fully discovered.

My legislation would authorize the National Park Service to take several steps to protect and preserve this important part of our past. It calls for a feasibility study for a National Mimbres Museum/Cultural Center in Silver City, NM; requires a recommendation of how to properly commemorate Mimbres sites in the region; and authorizes a thorough study of the significance of the Mimbres culture and its relationship to the other cultures of the area.

NATIONAL MUSEUM

The National Mimbres Museum would serve several purposes. It would be a repository and exhibition museum for Mimbres pottery and artifacts; an interpretive center for the Mimbres culture; a visitors' information center for the Gila Cliff dwellings and Masau Trail; and a means for promoting tourism in the local area. The facility would be managed by the Park Service in cooperation with the State of New Mexico, the town of Silver City, Western New Mexico University, and the U.S. Forest Service.

MIMBRES SITES

There are many Mimbres sites, excavated and unexcavated, in the region. The NPS would study the sites and recommend the most appropriate way of commemorating the Mimbres culture, whether with a specific single central site or a historic trail linking all the sites.

CULTURE STUDY

There needs to be a thorough study of the Mimbres culture, the significance of that culture to the Southwestern part of the State, and its link to other prehistoric cultures such as the Gila and Casas Grandes Indians. This research would immeasureably enhance efforts to promote the importance of the culture.

Related legislation will complement my initiative. The El Malpais legislation, which is expected to pass in the near future, includes the creation of a vehicle route, the Masau Trail, that will link existing national park units from Chaco Canyon in the north to the Gila Cliff dwellings in the south. The Mimbres Museum would highlight the significance of this trail and encourage tourism in the region.

CONCLUSION

There is a growing interest in Congress in preserving the rich Indian cultural legacy of our past. With the introduction of the American Indian Museum Act, the American Indian Regional Museum Act, and the El Malpais legislation, we are indicating our intent to protect and preserve the important contributions of the Indian peoples. I am pleased to further this important effort with the legislation I am introducing today. I encourge my colleagues to support the measure, and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Mimbres Cultural Act of 1987".

SEC. 2. AUTHORIZATION OF FEASIBILITY STUDY FOR A NATIONAL MIMBRES MUSEUM.

(a) Authorization of Study.—The Secretary of the Interior is authorized, through the National Park Service, to conduct a study of the feasibility of establishing a museum in Silver City, New Mexico, which would commemorate the Mimbres Indian culture. The museum would be owned by the United States and managed on a cooperative basis with State and local authorities.

(b) Purposes of Museum.—The purposes of the museum would be to serve as—

(1) a repository and exhibition museum for Mimbres pottery and artifacts;

(2) an interpretive center for Mimbres culture; and

(3) a visitor's information center for the Gila Cliff Dwellings and Masau Trail.

(c) Locating a Site for the Museum.—The study authorized by this section shall include—

(1) a review of potential sites for the museum with an identification of appropriate existing structures focusing on—

(A) location;
(B) parking;
(C) condition of the building;
(D) renovative costs;
(E) suitability for exhibits; and
(F) other appropriate features; and

(2) a review of the integrity of the potential sites, their distance from Silver City, the relationship of the sites to each other, the history and significance of each site, their availability for purchase or donation, and whether or not the site has research value.

(d) Report to Congress.—The Secretary shall report the results and conclusions of the study conducted pursuant to subsection (a) no later than one year after the date of enactment of this Act.

(e) Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 3. COMMEMORATING EXISTING MIMBRES SITES.

(a) Study.—The Secretary of the Interior, acting through the National Park Service, shall conduct a study of the many excavated and unexcavated Mimbres sites in the Silver City, New Mexico, vicinity in order to determine whether such sites are suitable for designation as a National Monument, National Landmark, or National Historic Site for the purpose of commemorating the Mimbres culture.

(b) Report to Congress.—The Secretary shall report the results and conclusions of the study conducted pursuant to subsection (a) no later than 1 year after the date of enactment of this Act.

(c) Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 4. STUDY OF MIMBRES CULTURE.

(a) Study.—The Secretary of the Interior, acting through the National Park Service, shall conduct a study of the Mimbres culture and the significance of that culture to the southwestern part of the State and its link to other prehistoric cultures such as the Gila and Casas Grandes Indians. The purpose of the study shall be to provide appropriate recognition and commemoration of the Mimbres culture.

(b) Report to Congress.—The Secretary shall report the results and conclusions of the study conducted pursuant to subsection (a) no later than 1 year after the date of enactment of this Act.

(c) Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

By Mr. HELMS:

S. 1913. A bill to designate the third week of June of each year as "National Dairy Goat Awareness Week"; referred to the Committee on the Judiciary.

NATIONAL DAIRY GOAT AWARENESS WEEK

● Mr. HELMS. Mr. President, I send to the desk a resolution to designate the third week of June as "National Dairy Goat Awareness Week." I ask that it be appropriately referred.

For more than 5,000 years, dairy goats have supplied mankind with food and shelter. Dairy goats were an important part of the necessities that the early settlers brought to these shores. As pioneers moved across our land, dairy goats went with them. These animals have always been a part of the typical American farm in every region of the United States. Today there are over 250,000 dairy goats in this country. Exports of these efficient, structurally sound animals increase each year.

While goat milk, ice cream, and yogurt are sold in various parts of the United States, the best-known goat milk product is goat cheese or chevre. During the last decade there has been a tremendous increase in consumer interest in domestic goat cheeses. The number of domestic producers of chevre has increased dramatically, and there is an extraordinary array of American-made goat cheeses today.

These facts are well-known to dairy goat breeders, but few consumers are aware of the role played by the dairy goat in the American economy. Passage of this resolution expressing the sense of the Senate that the week commencing June 11, 1988, and ending June 18, 1988, is recognized as "National Dairy Goat Awareness Week," will do much to educate the American people to the potential of the dairy goats and their products.

I proudly sponsored this resolution last year in coordination with Chairman DE LA GARZA. Last year's national dairy goat awareness week was a great success: children and adults alike were given demonstrations in milking dairy goats and tasted the products that are becoming so popular.●

By Mr. HUMPHREY (for himself, Mr. RUDMAN, and Mr. DURENBERGER):

S. 1914. A bill to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic River System; to the Committee on Energy and Natural Resources.

DESIGNATION OF WILDCAT RIVER AS A WILD AND SCENIC RIVER

● Mr. HUMPHREY. Mr. President, on behalf of Senators RUDMAN and DURENBERGER, and on my own behalf, I am introducing legislation to designate Wildcat River in Jackson, NH, as a wild and scenic river under the Wild and Scenic Rivers Act. Similar legislation is being introduced today in the House by Representative ROBERT SMITH of New Hampshire.

The Wildcat River, from its quiet headwaters above the Carter Lakes in the White Mountain National Forest to the rushing waterfall which tumbles through Jackson Village, clearly qualifies for protection as a unit of the National Wild and Scenic River System.

In 1983, at the behest of the town of Jackson, Senator RUDMAN and I introduced legislation to authorize a study of Wildcat River for inclusion in the Federal Wild and Scenic Rivers System. This legislation, drafted carefully to emphasize a strategy based on a Federal-State-local government and private landowner partnership, was included in the New Hampshire Wilderness Act. The legislation was enacted in June, 1984.

The National Park Service has recently completed its "interim report to Congress" on the Wildcat Brook Wild and Scenic River study concluding that 14.51 miles of Wildcat River and its tributaries are eligible and suitable for addition to the National Wild and Scenic Rivers System.

The citizens of Jackson strongly support preservation of the scenic qualities of the free-flowing Wildcat River and have expended considerable efforts to facilitate wild and scenic designation. With the assistance of the Wildcat Brook Advisory Committee, the town of Jackson has developed an extensive river conservation plan including a conservation easement program to protect riparian lands, new zoning ordinances to further protect the Wildcat River corridor, and a riverfront restoration plan to improve the aesthetics of the Jackson Falls area. In March 1987, the town of Jackson voted unanimously in favor of pursuing wild and scenic designation of the Wildcat River.

In true New Hampshire fashion, the citizens of Jackson have rallied successfully to promote this important cause. Due to the outstanding efforts of the town of Jackson, the National Park Service has determined that no Federal land acquisition is necessary to ensure the protection of the Wildcat River for "the benefit and enjoyment of present and future generations." Under this legislation, management of the Wildcat River will be implemented through a Wildcat River advisory commission consisting of representatives from the town of Jackson, the State of New Hampshire and the U.S. Forest Service.

This legislation is supported by the Society for the Protection of New Hampshire Forests, the New Hampshire Wildlife Federation, the Appalachian Mountain Club, the National Audubon Society and the American Rivers Conservation Council.

Mr. President, without the efforts of the town of Jackson, we would be unable to introduce this legislation. I am hopeful that the Committee on Energy and Natural Resources will act expeditiously on this matter.

I ask unanimous consent that the text of the bill be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. DESIGNATION OF THE WILDCAT RIVER.

That in order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Wildcat River in the State of New Hampshire, Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) WILDCAT RIVER, NEW HAMPSHIRE.—Wildcat River, a 14.51 mile segment including the following tributaries, Wildcat Brook, Bog Brook, and Great Brook (as depicted on a map entitled Wildcat River dated October 1987) to be administered by the Secretary of Agriculture hereinafter referred to as the Secretary. Those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest shall be managed by the Secretary. Those segments located outside the boundary of the White Mountain National Forest shall be managed by the Secretary through a cooperative agreement with the Board of Selectmen of the Town of Jackson and the State of New Hampshire as described in Section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the segment located outside the boundary of the White Mountain National Forest and should be consistent with the River Conservation Plan as developed by the Town of Jackson. To assist with the implementation of this paragraph the Secretary shall establish a Wildcat River Advisory Commission within three months after the date of enactment of this paragraph composed of seven members appointed by the Secretary as follows: one member from among persons nominated by the Governor of the State of New Hampshire; four members to be nominated by the Jackson Board of Selectmen, of which at least two members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member to be nominated by the Jackson Conservation Commission; and one member by the Secretary. No lands or interest in lands outside of the boundary of the White Mountain National Forest shall be acquired by the Secretary except by donation. There are authorized to be appropriated such sums as necessary for the purposes of this paragraph."●

● Mr. RUDMAN. Mr. President, I am pleased to join the senior Senator from New Hampshire today in introducing legislation to preserve and protect one of our State's natural treasures—the Wildcat River.

Emerging from the White Mountains at Carter Notch, the Wildcat flows through forest and farm country for roughly 14 miles before it reaches the town of Jackson, NH. There, the river cascades down a series of gentle falls into the center of town. The river has attracted visitors to Jackson for more than 100 years and is considered to be a central feature of the town, as much a part of Jackson's identity and well-being as the townhall behind which it flows.

The importance which the people of Jackson attach to the Wildcat River is clearly demonstrated by the steps they have taken to protect it. Individuals in the community have donated to the town approximately 466 acres of lands within the river corridor for recreational use. In addition, the town has developed an effective conservation easement program to protect the lands adjacent to the river. Landowners have donated conservation easements to the town of Jackson and to the Society for the Protection of New Hampshire Forests for 431 acres of riparian lands, restricting new development in perpetuity. In March 1987, the town of Jackson approved the creation of a river conservation district which prohibits future building on the flood plains of Wildcat River and increases building setback requirements for new construction near the river. The town also approved a soils-based minimum lot size law, which bases zoning density on the capacity of the soils to assimilate sewage effluent.

More than half of the river and its tributaries are located on Federal land, in the White Mountain National Forest. Therefore, a comprehensive effort to protect the river must involve cooperation between Federal, State, and local authorities. The town of Jackson unanimously approved a town warrant in March 1987, formally requesting their congressional delegation to seek National Wild and Scenic River designation for the Wildcat River.

In 1984, the Congress approved legislation which Senator HUMPHREY and I offered, calling for a study of the Wildcat for possible Wild and Scenic designation. That study, conducted by the National Park Service, was completed this summer and recommends the Wildcat River for Federal designation as part of the Nation's system of wild and scenic rivers.

In my view, New Hampshire's Wildcat River would be a valuable addition to the Nation's wild and scenic river system for several reasons. First, there is the simple beauty of the river itself and the unspoiled country through which it flows. By extending Federal protection to this river, we will ensure that no hydroelectric facility or other such development will occur to impair the scenic and recreational value of the river and its environs. Another important aspect of this particular addition to the Nation's Wild and Scenic River System is the example it sets for the country of an effective partnership between local and Federal entities to protect a valuable natural resource.

The legislation we are offering today recognizes the key role the town of Jackson has played and will continue to play in the ongoing job of protecting the Wildcat River. Our bill states that river will be managed by the Secretary of Agriculture through a cooperative agreement with the board of selectmen of the town of Jackson and the State of New Hampshire, and that an advisory commission will be established to assist with the long-term protection of the river. Local, State, and Federal representatives will work together on the commission to ensure the river's protection.

Our legislation is unique in that it requires no expenditure of Federal funds for land acquisition. In its interim report on the Wildcat River, the National Park Service stated that in light of the actions taken by the town of Jackson there is no need for any additional Federal acquisition beyond the boundary of the White Mountain National Forest. This is consistent with the intent of our study legislation and with the Wild and Scenic Rivers Act itself, which prohibits the Federal Government from acquiring by condemnation private land for the purposes of Wild and Scenic River protection in the case of a river more than half of which is already located on Federal land.

Mr. President, it is my sincere hope that the Senate will take this bill under serious consideration. This legislation could set an exciting precedent for future Wild and Scenic River bills, encouraging to cooperative effort among various levels of government to protect the Nation's most valuable river resources.●

By Mr. DURENBERGER (by request):

S. 1915. A bill to amend the title XIX of the Social Security Act to provide incentives to States to increase enrollment of Medicaid recipients in prepaid risk-based health care plans, to clarify the conditions of participation under the Medicaid Program with respect to risk-based health care providers, and for other purposes; referred to the Committee on Finance.

MEDICAID RISK-BASED HEALTH CARE ACT

● Mr. DURENBERGER. Mr. President, I rise to introduce, on behalf of the administration, the Medicaid Risk-Based Health Care Act to 1987. This bill amends title XIX of the Social Security Act to authorize a program which is designed to encourage States to increase enrollment of Medicaid recipients in prepaid risk-based health care plans.

The capitation approach to health care creates incentives for cost-effectiveness which benefits both Federal and State governments, as well as the program's enrollees. Since providers are placed at financial risk for their enrollees, they have every incentive to be efficient, and this includes emphasizing high quality preventive care which will help keep their patients healthy.

States can contract with prepaid plans now, but provider capitation has not caught on yet. Growth in this area has been slow for a variety of reasons.

The bill I am introducing today contains a financial incentive to States to convert portions of their open-ended, fee-for-service programs into capitated plans. The advantages would be a wider access to providers for Medicaid recipients and cost savings for States and the Federal Government. Furthermore, quality of care would be enhanced.

The bill would substitute the term "risk-based health care entity" [RHCE] for the term health maintenance organization [HMO] in the Medicaid law in order to clarify that the entities that may participate as providers of Medicaid services on a prepaid capitation or other risk basis include, but are not limited to, HMO's, as defined in section 1310(d) of the Public Health Service Act.

States could initiate 3-year projects which would cover selected geographic areas. These projects could involve all Medicaid recipients or selected categories of recipients. At least two participating RHCE's would have to be available to each individual in the project.

To encourage States to initiate these plans, they would receive increased Federal matching dollars. In light of the current focus on the need to reduce health care costs, I would note that this proposal is budget neutral over the first 3 years and the administration projects that it will yield savings in the long run.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Risk-Based Health Care Act of 1987".

SEC. 2. CLARIFICATION OF CONDITIONS OF PARTICIPATION UNDER MEDICAID PROGRAM WITH RESPECT TO RISK-BASED HEALTH CARE ENTITIES.

(a) IN GENERAL.—Section 1903(m)(1)(A) of the Social Security Act (42 U.S.C. 1396b(m)(1)(A)) is amended by striking "health maintenance organization" the first place it appears and inserting in lieu thereof "risk-based health care entity".

(b) CONFORMING AMENDMENTS.—

(1) Section 1903(k) of such Act (42 U.S.C. 1396b(k)) is amended by striking "health maintenance organization" and inserting in lieu thereof "risk-based health care entity".

(2) Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (1)(B), by inserting "qualified" before "health";

(B) in paragraphs (2)(A)(i), (2)(C), and (2)(D), by striking "health maintenance organization" each place it appears in such paragraphs and inserting in lieu thereof "risk-based health care entity";

(C) in paragraph (2)(E), by striking "health maintenance organization" the first place it appears and inserting in lieu thereof "risk-based health care entity";

(D) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(E) in paragraph (3) (as redesignated by subparagraph (D))—

(i) by striking "health maintenance organization" the first place it appears in subparagraph (A) and inserting in lieu thereof "risk-based health care entity";

(ii) by striking "organization" each place it appears after the term "qualified health maintenance organization" and inserting in lieu thereof "entity"; and

(iii) by striking "such entity" in the matter following clause (iii) of subparagraph (A) and inserting in lieu thereof "such other entity".

(3) Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking "health maintenance organization" each place it appears in such subsections and inserting in lieu thereof "risk-based health care entity".

SEC. 3. INCENTIVES TO STATES TO INCREASE ENROLLMENT IN RISK-BASED HEALTH CARE ENTITIES.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) by redesignating section 1921 as section 1922; and

(2) by inserting after section 1920 the following new section:

"INCENTIVES TO STATES TO INCREASE ENROLLMENT IN RISK-BASED HEALTH CARE ENTITIES

"SEC. 1921. (a) The purpose of this section is to encourage States to increase enrollment of individuals receiving medical assistance under this title in prepaid capitation or other risk-based health care plans of risk-based health care entities (as defined in section 1903(m)(1)(A)), while ensuring competition among such entities in the provision of medical care.

"(b)(1) Each State with a plan approved under this title may implement an incentive project (or projects) under this section in any geographic area (or areas) in the State.

"(2) Each project under this section shall be conducted for a nonrenewable three-year period selected by the State to begin on the first day of a calendar quarter beginning on or after January 1, 1988.

"(c)(1) In order to qualify for increased Federal financial assistance in accordance with subsection (d) with respect to a project under this section, a State shall submit to the Secretary an application for each such project which specifies—

"(A) the geographic area or areas in the State to be included in the project, which area may be defined as a city, county, or other unit of local government (or group of adjoining units of local government), a metropolitan area, or such other area or areas as the Secretary may permit;

"(B)(i) the category or categories of individuals eligible for medical assistance under the State plan to be included in the project (to be selected from permissible categories of individuals specified by the Secretary in regulations); and

"(ii) the total number of individuals in such category or categories receiving medical assistance under the State plan who were enrolled in a risk-based health care entity under a contract under section 1903(m)(2)(A) at the end of the most current quarter, for which complete data are available, ending before the date on which the project begins;

"(C) the services to be provided on a prepaid basis under the project, together with an explanation of why other services for which medical assistance is available under the State plan on a fee-for-service basis are not provided on a prepaid basis under the project; and

"(D)(i) the total payments on a per capita basis to be made to risk-based health care entities in the project area during the project period and the reimbursement rates that would be paid under the State plan for the same services if provided on a fee-for-service basis to an actuarially equivalent population; and

"(ii) the methodology used by the State to calculate the fee-for-service reimbursement rate used for the comparison under clause (i).

"(2) Each application under paragraph (1) shall—

"(A) contain assurances satisfactory to the Secretary that all individuals in categories included in the project have access to and are eligible to enroll in at least two participating risk-based health care entities in the project area;

"(B) be accompanied by an application for a three-year waiver pursuant to section 1915(b) with respect to the project; and

"(C) specify that the State agency will require enrollment (subject to the provisions of sections 1903(m) and 1915(b)) in a risk-based health care entity by all individuals in categories included in the project.

"(3) An application submitted by a State agency under this section shall be deemed approved unless the Secretary, within 90 days after the date of its receipt, either denies approval in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the request shall be deemed approved unless the Secretary, within 90 days of such date, denies approval in writing.

"(4)(A) In the case of individuals receiving medical assistance who are included in a project approved under this section, a State may restrict, for the duration of such project, the period in which requests for termination of enrollment without cause are permitted (as provided in section 1903(m)(2)(F)) without regard to whether the entity in which the individual is enrolled meets the requirement of section 1903(m)(2)(A)(ii).

"(B) Notwithstanding section 1915(d), the Secretary may grant waivers for three years pursuant to section 1915(b) with respect to projects conducted in the State under this section.

"(d)(1) For each calendar quarter in which a project approved under this section is in effect, the State shall be entitled to Federal financial assistance at the rate specified in paragraph (2) for expenditures for medical assistance attributable to a net increase in total enrollments of such individuals in such entities in the project area above such enrollments in the calendar quarter preceding the quarter in which the project began.

"(2)(A) Subject to subparagraph (B), the payment rate for purposes of paragraph (1) for each year of a project approved under this section shall be the Federal medical assistance percentage, increased by three percentage points for the first year, two percentage points for the second year, and one percentage point for the third year.

"(B) The total amount expended by a State as medical assistance with respect to a project under this section for which payment may be made under this title shall not exceed the lesser of—

"(i) the actual payment by the State to the risk-based health care entity, or

"(ii) 97, 96, and 95 percent (in the first, second, and third project years, respectively) of the reimbursement rate under the State plan for the same services when provided on a fee-for-service basis to an actuarially equivalent population.".

(b) CONFORMING CHANGE.—Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting ", and increased in accordance with section 1921(c)" after "subject to subsections (g), (h), and (j) of this section".

SEC. 4. STATE OPTION TO ESTABLISH MINIMUM ENROLLMENT PERIOD FOR ALL PARTICIPATING RISK-BASED HEALTH CARE ENTITIES.

(a) IN GENERAL.—

(1) Section 1902(e)(2)(A) of the Social Security Act (42 U.S.C. 1396a(e)(2)(A)) is amended to read as follows:

"(2)(A) In the case of an individual who is enrolled—

"(i) with any risk-based health care entity under a contract under section 1903(m)(2)(A),

"(ii) in the case of an individual who is eligible for benefits under title XVIII, with any health maintenance organization under a contract with the Secretary under section 1876, or

"(iii) in a case management system approved under section 1915(b)(1);

and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such organization, entity, or system.".

(2) Section 1903(m)(2)(F) of such Act (42 U.S.C. 1396b(m)(2)(F)) is amended by striking "a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" and inserting in lieu thereof "an entity".

(b) CONFORMING CHANGE.—Section 1902(e)(2)(B) of such Act (42 U.S.C. 1396a(e)(2)(B)) is amended by striking "organization or entity" each place it appears and inserting in lieu thereof "organization, entity, or system".

SEC. 5. RISK-BASED PREPAYMENTS FOR DUAL ELIGIBLES TO MEDICARE-ONLY HMOS

Section 1903(m)(2)(B) of the Social Security Act (42 U.S.C. 1396b(m)(2)(B)) is amended—

(1) by striking the period at the end thereof and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new clause:

"(iv) has in effect a risk-sharing contract with the Secretary under section 1876, but only to the extent payment—

"(A) is for items and services for individuals eligible for benefits under this title and title XVIII;

"(B) is for items and services for which medical assistance is available under the State plan; and

"(C) does not exceed the actuarial equivalent of the coinsurance and deductibles that would be applicable on average for such services furnished on a fee-for-service basis.".

SEC. 6. REPEAL OF REQUIREMENT THAT HEALTH INSURING ORGANIZATIONS MEET STANDARDS FOR RISK-BASED HEALTH CARE ENTITIES.

Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended in the matter preceding clause (i) by striking "(including a health insuring organization)" and "(directly or through arrangements with providers of services)".●

By Mr. HATCH (for himself, Mr. ARMSTRONG, Mr. BINGAMAN, Mr. BOREN, Mr. DOLE, Mr. DOMENICI, Mr. GARN, Mrs. KASSEBAUM, Mr. NICKLES, Mr. SIMPSON, Mr. STEVENS, Mr. WALLOP, and Mr. WIRTH):

S. 1916. A bill to provide for the transfer of certain properties in Denver, CO to provide facilities for the courts for the tenth circuit; to the Committee on Governmental Affairs.

PROVISION OF FACILITIES FOR THE COURTS OF THE TENTH CICRUIT

Mr. HATCH. Mr. President, today I am introducing legislation that will transfer the old post office building in Denver to the Tenth Circuit Court of Appeals. The court is in need of additional space, and for some time now has been interested in moving into the main post office building in downtown Denver. This legislative proposal provides a transfer so that the court of appeals receives the additional space it needs and the Postal Service is made whole for the sale of its property.

The Tenth Circuit Court—which includes the States of Colorado, Utah, Wyoming, New Mexico, Oklahoma, and Kansas—was originally housed in the old post office from 1929 until 1965. The post office building was one of the assets which later became part of the Postal Service's equity under the Postal Reorganization Act.

After a thorough review of the situation in Denver, I am convinced that the Tenth Circuit Court of Appeals should be relocated to the historic courthouse. A move across the street to the post office building makes the most sense both in terms of location and cost to the taxpayer.

The Postal Service has expressed a willingness to sell the Denver property, but all attempts to negotiate a sale between the Postal Service and the General Services Administration [GSA] have been unsuccessful, largely because estimates on the value of the property differ greatly.

Recognizing the difficulty the Postal Service and GSA have had in reaching an agreement, my legislation which has the support of all my colleagues whose States comprise the tenth circuit, transfers the main post office building to the General Services Administration for use by the court. It also requires the General Services Administration to transfer its portion of land known as block III in downtown Denver to the U.S. Postal Service. The General Accounting Office [GAO] will make an independent appraisal of the value of the properties in order to insure that the Postal Service and the GSA will be fairly compensated. Additionally, the legislation allows the Postal Service to retain the property's development rights.

I wish it were possible for the Postal Service and the General Services Administration to negotiate a settlement, but unless that occurs, I feel this legislative measure is the most equitable and fair way to provide for this exchange. And, at a time when we are faced with tremendous budget cuts and a looming deficit, I believe this measure provides the most cost-effective means of resolving this situation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) the General Accounting Office shall, within 60 days after the date of enactment of this Act, submit an estimate of the fair market value of block 111 located at 20th and Curtis Streets in Denver, Colorado and of the main post office in Denver located at 1823 Stout Street to the entities listed in subsection (b); and

(b) the parties who shall receive the estimate are the General Services Administration, the Congress and the Administrative Office of the United States Courts.

SEC. 2. (a) Within 30 days after obtaining the estimates made pursuant to the first section—

(1) the General Services Administration shall transfer the use and benefit of block 111 in Denver, Colorado to the United States Postal Service and from such date, such lot shall be considered to be held for the use and benefit of the United States Postal Service; and

(2) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located, along with such post office building, improvements and any other structures on such lot, but excluding any air rights on such lot, to the General Services Administration and from such date, such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(b) The air rights on the lot on which the main post office is located shall be transferred to block 111.

(c) In making the transfers pursuant to subsection (a), the General Services Administration and the United States Postal Service shall use, as the market value of such lots, the estimates submitted by the General Accounting Office pursuant to the first section.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

SEC. 3. There are authorized to be appropriated such sums as are necessary to obtain such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) reimbursement to the United States Postal Service for any difference between the value of the interests transferred by this Act;

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such court; and

(3) the transfer of such court from their current building to such post office building.

By Mr. HEINZ:

S. 1917. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Finance.

CORRECTION OF "NOTCH" EFFECT IN THE SOCIAL SECURITY ACT

● Mr. HEINZ. Mr. President, today I am introducing legislation to correct an unfairness in Social Security that is beginning to erode public confidence in the program. That unfairness, Mr. President, is the so-called Social Security "notch."

A group of Social Security beneficiaries, born between 1917 and 1921, have done a good job in recent years of making the Congress aware of their concerns about unfair benefits. This group, calling themselves "notch babies," were the first people to receive Social Security benefits under a new benefit formula enacted in 1977. While the new benefit formula affects everyone born after 1916, this group of notch babies were supposed to have the advantage of a special rule to create a smooth transition to the new formula. The actual transition was anything but smooth, Mr. President, and the result has been huge differences in benefits paid to people solely due to their year of birth.

This past year, the last of the "notch-year" beneficiaries reached the age of 65 and, in most cases, have retired. It is now apparent that the transition has not worked the way Congress intended, and there are clear inequities in the amount of benefits people are receiving.

I'd like to take a moment, Mr. President, to talk about the problem with the Social Security transition formula which created this unfairness and its effect on notch-year beneficiaries. By now, most people know that the Social Security notch resulted from the 1977 Social Security Amendments that were enacted to save Social Security from outright bankruptcy. A benefit calculation method that had gone into effect in 1975 was causing huge annual increases in benefit levels. Congress changed the benefit formula to stop this unintended but massive series of increases, but applied this new formula fully only to people born after 1921. In effect, those born after 1921 will receive benefits completely proportional to those received by people retiring at the "normal" pre-1975 benefit and earnings levels. Congress left those born before 1917 under the faulty method, and applied a special transition formula to those born from 1917 to 1921. The transition was to allow benefits to rise above levels possible under the new formula, but not as much as was possible under the old formula. As we know now, the transition backfired. Benefits for people born from 1912 to 1916 were allowed to shoot way up, benefits for those born from 1917 to 1921 were held way down—even below levels to be paid under the new formula to those born in 1922 and later. The differences in benefits under the various formulas were as much as 20 percent in some cases. This meant benefits for an individual born in 1917 that were $100 or more a month lower than for someone with the same wage history born in 1916. Those who have become aware of these benefit differences resulting only from their year of birth have felt, justifiably, that the system is unfair.

The inequities associated with the notch will not go away unless we take action to eliminate them. Today, after long and careful consideration of this issue, I am taking that action. The bill that I am introducing is a responsible solution to a problem that has been with us long enough. I am pleased to sponsor this legislation which is closely modeled on the measure our House colleague, HAL DAUB, has introduced in the other body.

Mr. President, this bill will adjust benefit levels for those born between 1917 and 1921 to eliminate the unfairness of the faulty transition. The formula used will allow benefits to increase to the levels Congress originally intended.

Mr. President, these are difficult times to propose expensive solutions to problems, no matter how serious the problems or how necessary the solutions. Other proposals for solving the notch would raise benefits for everyone to the unintentionally high levels paid to those born in 1916 at costs close to $100 billion over the next 7 years. These proposals would endanger the solvency of Social Security and raise spending to levels that would jeopardize our economic growth and financial markets.

The proposal I am offering is not only fair, it is much less costly. The Social Security actuaries have told me that the bill would cost $2.2 billion the first year—a total of $24.3 billion through 1996. I am actively pursuing proposals that would help fully pay for this bill and hope to have those ready when this legislation is considered by the Congress. While this is a time when we are all expected to tighten our belts, I do not believe that it is the intention of Congress to do so by discriminating against a group of individuals based on their age. Just last year, by eliminating the mandatory retirement age, we sent a clear message to the people of this country that discrimination based on age is unacceptable and yet we allow that very policy—discrimination based on age—to exist in one of our most valued Federal programs. I urge my colleagues to give this bill their careful consideration and to support a sound and fair solution to the Social Security notch.●

By Mr. GARN:

S. 1918. A bill to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Bank of the Shoshoni Nation, and for other purposes; to the Select Committee on Indian Affairs.

ECONOMIC DEVELOPMENT PLAN FOR THE NORTHWESTERN BANK OF THE SHOSHONI NATION ACT

● Mr. GARN. Mr. President, today I am introducing legislation to provide for the establishment of an economic development plan for the Northwestern Bank of the Shoshoni Nation.

The Northwestern Bank of the Shoshoni Nation is comprised of nearly 300 members, according to the latest figures available from the Bureau of Indian Affairs [BIA]. The tribe is located in Box Elder County in northern Utah near the Idaho border, and its reservation consists of a group of unrestricted Indian homesteads located in this remote area.

I am concerned about the economic viability of the Northwestern Band of the Shoshoni Nation. Like many Indian tribes throughout this country, the Northwestern Band of the Shoshoni suffers from a severe unemployment rate. According to the BIA, only 32 percent of the tribe's 200 members over the age of 16 are employed. This means that 68 percent of the tribe's adult population are not employed at this time. It is encouraging to note that the BIA indicates the large majority of this unemployed group is able to work. Hence, the need for an economic development plan.

This economic development plan is important to assist the Northwestern Band of the Shoshoni to become self-sufficient. A necessary means to achieving this end is a tribal economy that is carefully planned, thoughtfully constructed, and vigorously pursued. These objectives should produce an economy that is solid, productive, and able to expand in the future. My legislation will allow the Northwestern Band to take a first step toward this goal.

Mr. President, the bill requires the Secretary of the Interior to develop an economic plan for the band and submit it to Congress within 2 years. During this process, the Secretary will consult with all pertinent State and local officials regarding the plan to ensure that legitimate State and local interests are not prejudiced by the proposed plan. I am pleased that at a recent hearing held on October 31 in Salt Lake City, representatives of a large majority of these interests voiced support for the development of an economic plan.

Mr. President, a companion bill to this legislation has been introduced in the House by Representatives OWENS and HANSEN. It is my hope that this vital legislation providing considerable economic benefit to an economically poor area of Utah will be considered expeditiously, and I urge my colleagues to support its passage.●

ADDITIONAL COSPONSORS

S. 708

At the request of Mr. PROXMIRE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 927

At the request of Mr. DASCHLE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 927, a bill to protect caves resources on Federal lands, and for other purposes.

S. 1220

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1567

At the request of Mr. BUMPERS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1567, a bill to provide for refunds pursuant to rate decreases under the Federal Power Act.

S. 1673

At the request of Mr. Chafee, the name of the Senator from Maryland [Mr. Sarbanes] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1724

At the request of Mr. Daschle, the names of the Senator from Kentucky [Mr. Ford] and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of S. 1724, a bill to amend the Petroleum Marketing Practices Act to require retail gasoline dispensing devices to post health hazard warning labels informing the consumer of the presence of elevated levels of benzene.

S. 1729

At the request of Mr. Leahy, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 1729, a bill to promote rural development, and for other purposes.

S. 1787

At the request of Mr. Daschle, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1808

At the request of Mr. Bumpers, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 1808, a bill to require the Secretary of Health and Human Services to determine the appropriate regulatory classification of the transitional devices of the Medical Device Amendments, and for other purposes.

S. 1834

At the request of Mr. Chiles, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of S. 1834, a bill to assure the right of passengers in air commerce to have access to certain courtesy vehicles operated at airports.

SENATE JOINT RESOLUTION 141

At the request of Mr. Nickles, the name of the Senator from Missouri [Mr. Danforth] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution designating August 29, 1988, as "National China-Burma-India Veterans Appreciation Day."

SENATE JOINT RESOLUTION 215

At the request of Mr. Durenberger, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial to women of the Armed Forces of the United States who served in the Vietnam war.

SENATE CONCURRENT RESOLUTION 93—RECOGNIZING THE SERVICE OF DR. FRANK G. BURKE TO THE ARCHIVES OF THE UNITED STATES OF AMERICA

Mr. HATFIELD submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. Con. Res. 93

Whereas Dr. Frank G. Burke has spent the past two-and-a-half years in the Presidentially appointed role of Acting Archivist of the National Archives;

Whereas in the capacity of Acting Archivist he also has served as Acting Chairman of the National Historical Publications and Records Commission;

Whereas from 1975 through 1985 he served as the Executive Director of the National Historical Publications and Records Commission;

Whereas from 1974 through 1975, he also served as an assistant to the Archivist of the United States;

Whereas from 1968 through 1974, he served as Director of Educational Programs for the National Archives;

Whereas in all of these positions he has demonstrated leadership and dedication in the preservation and availability of historical documents in both National and State archives;

Whereas he worked tirelessly to achieve the goal of returning the National Archives and Records Administration to the status of an independent Federal agency;

Whereas as Acting Archivist he directed the transition of the National Archives from the General Services Administration to its independent status;

Whereas taking immediate advantage of the new status of the National Archives and Records Administration, he led an aggressive campaign to rejuvenate and establish healthy growth in the Archives;

Whereas he implemented a program focusing upon technological advancement to enhance archival preservation and the overall documentation of historical records;

Whereas such program pioneered an electronic imaging system and a life-cycle system of records;

Whereas representing the Office of Presidential Libraries in the National Archives he joined President Reagan in Atlanta, Georgia, on October 1, 1986, in order to preside over the Opening of the Carter Presidential Library;

Whereas in an effort to enhance the collection of important historical documents he secured the transfer of the Vietnam War Records from the United States Army to the National Archives on April 27, 1986;

Whereas he successfully organized the National Archives celebration of the 200th anniversary of the signing of the Constitution of the United States of America, which is preserved and displayed at the National Archives; and

Whereas through his long and decorated service to the National Archives and the field of public records he has remained steadfast in his quest to protect our national memory and keep the ties to our history alive for the future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress to recognize and express the sincere gratitude of the Congress with respect to the tremendous contributions to the United States of Dr. Frank G. Burke.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to Dr. Burke.

● Mr. HATFIELD. Mr. President, on November 20 the Senate unanimously supported the nomination of Donald Wilson to be Archivist of the United States. When Dr. Wilson is sworn into office by President Reagan tomorrow, his installation as the first permanent Archivist of the newly independent National Archives and Records Administration will mark the beginning of an exciting new era of this institution.

However, today I want to pay tribute to the man who will complete a very active and successful 2-year tenure as Acting Archivist of the United States tomorrow. On December 4, 1987, Dr. Frank Burke will relinquish his duties and bring to a close a very important chapter in the life of the National Archives and Records Administration.

It has been my privilege to work with Dr. Burke, both in his role as Acting Archivist and as a member of the National Historical Publications and Records Commission, of which he has been the Acting Chairman for the past 2 years. He has made outstanding contributions to the Archives which are enumerated in a concurrent resolution of commendation that I am submitting today. Mr. President, I urge my colleagues to join me in recognizing this dedicated public servant.●

SENATE RESOLUTION 336—CONDEMNING THE GOVERNMENT OF HAITI FOR THE COLLAPSE OF THE NOVEMBER 29 ELECTIONS

Mr. KENNEDY (for himself, Mr. Graham, Mr. Kerry, Mr. Leahy, Mr. McCain, Mr. Lugar, Mr. Durenberger, and Mr. DeConcini) submitted the following resolution; which was placed on the calendar by unanimous consent:

S. Res. 336.

Whereas, on February 7, 1986, the President of Haiti, Jean-Claude Duvalier, fled Haiti and a National Governing Council was formed to bring about a peaceful transition to a democratically elected government;

Whereas, on March 29, 1987, the Haitian people approved overwhelmingly in a referendum a new Constitution which guarantees human and civil rights, freedom of speech, assembly, religion, and press and a format for democratic elections of a new government;

Whereas, on May 13, 1987, the National Governing Council established a Provisional Electoral Council in accordance with the Constitution to draft and execute an electoral law for local elections in the summer of 1987 and for presidential and national legislative elections in November 1987;

Whereas, on June 5, 1987, the Provisional Electoral Council submitted a draft electoral law in accordance with the Constitution;

Whereas, on June 22, 1987, the National Governing Council attempted to take control of the electoral process, an action protested by the people of Haiti in a series of anti-government demonstrations during which a number of civilians were killed and injured by Haitian security forces;

Whereas, on June 30, 1987, the head of the National Governing Council, Henri Namphy, stated his interim government would respect the constitution and on July 2, 1987, promulgated a new law giving the Provisional Electoral Council power to organize and execute the democratic elections in accordance with the Constitution;

Whereas, the Haitian government failed to prevent a series of violent incidents involving paramilitary groups and members of the Haitian security forces in the months leading up to the November national elections during which scores of innocent civilians were killed, hundreds were injured, foreign journalists were attacked and detained illegally, union, community and church leaders were intimidated by Haitian security forces and two presidential candidates were killed;

Whereas, the National Governing Council actively thwarted the electoral process and failed to provide adequate funding, security or logistical support to the Provisional Electoral Council and its members, including access to municipal buildings for polling sites or government transportation for ballots and other election material;

Whereas, on November 2, 1987, the Provisional Electoral Council approved 23 candidates for the Presidency and excluded 12 individuals associated with the former Duvalier regime in accordance with the Constitution;

Whereas, on November 3, 1987, the headquarters of the Provisional Electoral Council was burned and the homes and businesses of several candidates were attacked;

Whereas, on November 27, 1987, the National Governing Council refused to permit entry into Haiti of three members of the U.S. House of Representatives;

Whereas, on November 28, 1987, the National Governing Council denied flight permission to two helicopters to distribute election ballots in the countryside and to two international observer teams that had been invited by the Provisional Electoral Council to observe the elections;

Whereas, on November 29, 1987, the Haitian people demonstrated a determination and a will to vote despite the serious logistical and security problems with the elections;

Whereas, on November 29, 1987, the Haitian security forces in collusion with paramilitary gangs, attacked hundreds of citizens lined up at polling booths, killing at least 25 and wounded over 60 and attacked international observers and journalists, killing one journalist, and forcing a halt to the election process;

Whereas, on November 29, 1987, the National Governing Council disbanded the Provisional Electoral Council;

Whereas, on November 29, 1987, the U.S. government announced its intention to suspend all non-humanitarian aid to Haiti and to withdraw all military training personnel; now therefore be it *Resolved*, that the United States Senate,

A. deplores the failure of the Haitian interim government to bring about democratic elections and to secure the safety of the Haitian people, international observers and journalists;

B. condemns the disbanding of the constitutionally mandated Provisional Electoral Council;

C. hold the National Governing Council responsible for the attacks on innocent civilians and disruption of the election process by security forces and paramilitary groups;

D. lacks confidence in the commitment of the National Governing Council to fulfill its purpose of bringing about democratic elections in Haiti;

E. supports the United States government's decision to suspend all non-humanitarian U.S. aid to Haiti and withdraw all military trainers personnel;

F. calls on the United States government and all nations to cut off all assistance and sale of arms to the government of Haiti while providing humanitarian assistance to the people through non-governmental organizations.

Mr. KENNEDY. Mr. President, all Americans were deeply alarmed by the brutal and ruthless attack on democracy in Haiti last Sunday. We had watched with anticipation over the past 2 years as the people of Haiti worked to bring about a peaceful transition to democracy in their country; we then listened with horror to the reports of brutal violence and murder as the ruthless forces aligned with the former Duvalier regime struck out against the forces of justice and democracy in Haiti.

Hundreds of journalists and representatives from democracies around the world gathered to observe what was to be an historic occasion. One of the organizations to sponsor a group of international election observers was the National Democratic Institute for International Affairs, one of the two party institutes of the National Endowment for Democracy. NDI has worked with democratic forces in Chile, Taiwan, South Korea, Northern Ireland, Latin America, and Africa and won high praise for its work and election observation in the Philippines.

Since the 1986 departure of the Duvalier regime, NDI has been working with the democratic forces in Haiti to assist their efforts to bring about a peaceful transition to a democracy. Their work has included a seminar on party building, an analysis of technical aspects of the election process, and the observation of the constitutional referendum. The observing of last Sunday's election was the next stage in that ongoing program.

Over the weekend, NDI sent a prestigious 30-member international delegation to observe the Presidential and legislative elections in Haiti. Led by the president of the National Democratic Institute, Brian Atwood, and the former Prime Minister of Belize, George Prize, the delegation included representatives from different countries who shared a wide range of experience with democratic elections.

I call to the attention of my colleagues the insightful report issued by the delegation upon their return to the United States. As we debate the crisis in Haiti, the experiences of this delegation provides a timely and firsthand assessment of the events. I ask unanimous consent that the text of the NDI statement, and an article from today's Los Angeles Times by Brian Atwood may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE NDI INTERNATIONAL OBSERVER DELEGATION ON THE ABORTED HAITIAN ELECTION—NOVEMBER 30, 1987

The 30-person international delegation organized by the National Democratic Institute for International Affairs observed an unprecedented event on November 29, 1987 in Haiti—the cancellation of an election in progress because of rampant violence unleashed against peaceful, defenseless, determined and patriotic voters and election officials. The provisional Haitian government, the CNG, which took office promising to maintain order until a new government could be elected, failed in its self-proclaimed task.

The delegation, led by former Belize Prime Minister George Price and NDI President J. Brian Atwood, including party leaders from twelve countries, was invited to observe the November 29 Haitian elections by the Provisional Electoral Council (CEP) and by the CNG.

The President of the CNG, in a meeting on October 23, 1987, with former Prime Minister Price and former U.S. President Jimmy Carter, welcomed the presence of observers for the elections. This welcoming of international observers by the Haitian Government was confirmed in writing by the Haitian Ambassador to the U.S. in a letter to NDI.

While Haitians assumed the primary responsibility for administering and monitoring the November 29 elections, the invitation to international election observers was consistent with established practice. Such election observer missions are common among the nations of the international community which are governed democratically.

The conclusions contained in this statement are based on the delegation's observations in Port-au-Prince, Gonaives, Jacmel and Les Cayes. Our attempts to observe the process in other regions were prevented when the Armed Forces refused to clear chartered aircraft to fly to remote areas.

On election day, the delegation observed numerous incidents of shooting at defenseless and innocent people on the streets of Port-au-Prince. Two groups of NDI observers were fired upon, with three shots hitting the vehicle of one of the groups. The delegation also heard reports of the many people who died as a result of the violence which prevailed in much of the country and which was clearly orchestrated to frustrate the voting process.

The delegation also observed for several hours an election process which was operating despite intimidation and adverse conditions. It observed large numbers of voters waiting in lines to cast their ballots with democratic fervor in the first free Haitian election in more than three decades. We observed exultant election officials arriving at polling places with election materials, having survived a night of gunfire, fire bombings and grenade attacks. We saw Haitians from across the political spectrum volunteering in order to make the election successful. Indeed, in one region, we observed the election officials and the armed forces working together, with the latter providing the security essential for the conduct of a peaceful election.

From its observations both before and on election day, the delegation is convinced that the Provisional Electoral Council did its utmost to meet its constitutional mandate. As the delegation expected, on election day we did observe some deficiencies in the process: there were some administrative difficulties but most problems resulted from the lack of cooperation provided by the CNG on security and other matters. In particular, the CNG failed to secure the roads and denied the CEP permission to use helicopters chartered by the CEP with the full knowledge and consent of the CNG. This prevented the distribution of election materials in several regions of Haiti. It is our view that the armed forces and the police tolerated and in some cases abetted the violence which disrupted the elections.

Despite all the adversities sustained in the period leading up to the elections, the Haitian people wanted to vote. They were deprived of this opportunity only when the CEP found it necessary at 9:00 a.m. on election day, but hours after polls had opened, to postpone the election to prevent the likelihood of further massacres. Based on our observations, we reject unequivocally the CNG's attempt to cast blame on the CEP for the failure of the elections; this was clearly caused by the violence which only the CNG was in a position to prevent.

As an international delegation, we commit ourselves to follow closely the situation in Haiti and to urge our governments to do all in their power to prevent the further loss of life and to ensure Haitians their right to freely choose their own Government. Haiti's neighbors and the Organization of American States, of which Haiti is a member state, have a major responsibility in this regard.

We will also urge our governments and our parties to consider the crisis facing Haiti as a matter of the utmost urgency.

Finally, we are confident that the people of Haiti will ultimately prevail in conducting a free, fair and peaceful election in the future. We commit ourselves to return to observe that event and to continued solidarity with the people of Haiti as they pursue their democratic aspirations.

MEMBERS OF THE NDI DELEGATION

George Price, Co-Leader, Belize, J. Brian Atwood, Co-Leader, U.S.

Herman Alvino, Venezuela; Graeme Bannerman, U.S.; Enrique Carreras, Costa Rica; Vivian Lowery Derryck, U.S.; Neville Gallimore, Jamaica; Larry Garber, U.S.; Juan Manuel Garcia-Passalacqua, Puerto Rico; Steve Horblitt, U.S.; Julian Hunte, St. Lucia.

Ellen Johnson-Sirleaf, Liberia; Anthony Maingot, Trinidad & Tobago; Billie Miller, Barbados; Gildas Molgat, Canada; M. Ousmane Ngom, Senegal; Mariano S. Quesada, The Philippines; Nancy Soderberg, U.S.; Antonio Blavia, Venezuela; Roberto Tovar, Costa Rica; Casimir Yost, U.S.

NDI STAFF

Sean Carroll, Ron Davidson, Leticia Martinez, Michael Stoddard, Ingrid Thomas, Geraldine Thompson.

[From the Los Angeles Times, Dec. 3, 1987]

Haiti Debacle Cries for Intervention—Democratic Community Must Give Voters Alternative to Guns

(By Brian Atwood)

Policy-makers around the hemisphere are this week considering their options for dealing with a military government in Haiti that has sabotaged an election fervently desired by its own people. The policy alternatives can become clear only after a realistic analysis of what caused this aborted election.

I was the co-leader, with former Prime Minister George C. Price of Belize, of an international observer delegation to the Haitian elections, sponsored by the National Democratic Institute for International Affairs. Our group of 30 men and women from 12 nations represented the full ideological spectrum, yet we had little trouble developing a strong consensus view of what happened.

Most prominent in our minds was the commitment of the Haitian people to vote. Before the 6 a.m. opening of the polls the lines began to form. In many cases 500 voters, the maximum registered for a polling station, were already in line at the opening.

Only a few hours later some would be massacred and thousands shot at in a systematic effort to either kill them indiscriminately or scare them away. Our lasting impression will be of those who courageously picked themselves up after the first volley of gunfire to return defiantly to the voting line.

Some governments, evidently including our own, want to describe the Haitian government as simply being too passive in failing to protect and facilitate the electorial process. The growing evidence of complicity between the military and the terrorists is dismissed with the rationale that these were isolated incidents involving individuals—as in, "Every police force has its bad elements."

It may be diplomatically convenient to see the situation this way in order to retain some relationship, and some leverage, with the Haitian government. The cost is a total loss of credibility with a Haitian people who will one day prevail over the thugs.

The evidence that the Haitian government actively planned to sabotage the election may be circumstantial, but it is both overwhelming and utterly persuasive. Military vehicles were seen accompanying the hit squads. Military and police officials fired at defenseless voters, journalists and observers (one of our groups was fired on by a police officer). We were not permitted to fly to remote areas to observe the election. The election council was not permitted to use available helicopters to fly voting materials to the provinces. Roads out of the capital were blocked by thugs and military personnel working together. Police and military personnel stood by or participated in the burning of ballots and voting places on election eve. Adding all this up, it is difficult to picture the government as being merely "passive."

Our government is now urging this same group of officials to make good on a hollow promise to conduct a fair election before Feb. 7, 1988, when a constitutionally elected government is supposed to take over. This is a waste of effort. Even if these malicious conspirators were to see a vision on the road to Damascus, the Haitian people would not participate in an election run by government leader Lt. Gen. Henri Namphy and his cohorts.

The real fear that the international community ought now to have is that, once burned, the Haitian people may resort to bullets to remove the Duvalierists and give up on ballots.

It is too early to conclude that these courageous voters who braved gunshots to reform their voting lines have given up on democracy. Their political institutions may be weak, and they themselves may be uneducated, but clearly they like the notion that they as individuals can make a free choice. This is a time for the community of democracies to come to their assistance.

The diplomatic pressure should be on Namphy to step aside in favor of a provisional civilian government that will conduct a credible election. If he refuses, as expected, then the Organization of American States should urgently consider a peacekeeping force that will respond to the humanitarian need of the Haitian people for protection under a rule of law and to the need for a secure environment within which to conduct a free, fair and open election.

Military intervention is a politically charged issue in Latin America, but in the case of Haiti it takes on a different cast. One of our institute's Latin American delegates, who opposed the invasion of Grenada and aid to the Nicaraguan Contras, said: "There is interventionism, and there is interventionism; the Haitian people will welcome a multinational peacekeeping force with flowers."

This election day will live in infamy in the minds of Haitians. The new reality created by that tragedy cannot be ignored as the options are considered. We can use the techniques of traditional diplomacy and try to negotiate with the discredited government. Such an approach will not head off the revolt of people who want a new Haiti, but it will convince them that the international community was on the wrong side when it really counted. Or we can treat Haiti as the special case that it is and begin now to create an active hemisphere-wide policy of escalating pressure, possibly culminating with a positive response to a request by the Haitian people to send a peacekeeping force.

(Brian Atwood is the president of the National Democratic Institute for International Affairs in Washington.)

AMENDMENTS SUBMITTED

OMNIBUS VETERANS BENEFITS AND SERVICES ACT

DeCONCINI (AND OTHERS) AMENDMENT NO. 1234

Mr. DeCONCINI (for himself, Mr. Domenici, Ms. Mikulski, Mr. Thurmond, Mr. Danforth, Mr. Wallop, and Mr. Helms) proposed an amendment to the bill (S. 9) to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administra-

tion; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes; as follows:

Beginning on page 146, line 21 of the bill, strike section 333 in its entirety.

MURKOWSKI AMENDMENT NO. 1235

Mr. MURKOWSKI proposed an amendment to the bill S. 9, supra; as follows:

On page 146, strike out line 23 and all that follows through page 147, line 7 and insert in lieu thereof the following:

(a) In General.—The Administrator of Veterans' Affairs shall not conduct any program of testing of Veterans' Administration employees for the use of illegal drugs as defined in section 7(c) of Executive Order 12564 as in effect on July 31, 1987, except (1) in the circumstances described in section 3(c) of such order as so in effect, and (2) that the term "accident or unsafe practice" in such section 3(c) means, in relation to the furnishing of healthcare services, an unsafe practice which has resulted or could reasonably be expected to result in an adverse patient outcome.

(b) Mandatory Random Drug-Testing.—Notwithstanding subsection (a), during the one-year period beginning on the date on which the Administrator of Veterans' Affairs begins employee drug testing under the executive order referred to in subsection (a) (to the extent permitted by that subsection), the Administrator may conduct mandatory random employee drug-testing as defined in section 3(a) of such executive order.

(c) Report.—(1) At the end of the one-year period referred to in subsection (b), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the conduct and results of employee drug testing permitted under subsection (a) and employee drug testing carried out under subsection (b).

(2) The report under paragraph (1) shall include the following matters:

(A) The number of employees tested during the one-year period referred to in such paragraph as follows:

(i) The total number of employees tested.

(ii) The number of employees tested under subsection (b).

(iii) The number of employees tested under each of the sets of circumstances described in section 3(c) of the executive order referred to in subsection (a).

(B) The number of cases in which the results of a drug test indicate use of an illegal drug referred to in subsection (a) and a description of the types of jobs held by the employees in such cases.

(C) The number of cases in which the results referred to in subparagraph (B) have been determined to be erroneous.

(D) A discussion of the actions taken by the Administrator in each case referred to in subparagraph (B), including adverse employee actions and referrals to employee assistance programs.

(E) The direct and indirect costs of conducting the drug testing referred to in subsection (b) during the one-year period referred to in that paragraph.

(F) The Administrator's assessment of the effects that the drug testing referred to in subsection (b) have had on the morale of employees of the Veterans' Administration and on the ability of the Veterans' Administration to recruit and retain employees.

(G) The Administrator's assessment of the effectiveness of the drug testing referred to in subsection (b) in deterring the use of illegal drugs and improving job performance.

(H) The number of employees who refused to submit to drug-testing permitted by this section, including those employees who terminated their employment in order to avoid such drug-testing.

CRANSTON AMENDMENT NO. 1236

Mr. CRANSTON proposed an amendment to the amendment No. 1235 proposed by Mr. Cranston to the bill, supra; as follows:

At the end of the amendment of Mr. Murkowski, add the following new subsection:

(d) Effective Date.—This section shall take effect on December 15, 1987.

HELMS AMENDMENT NO. 1237

Mr. HELMS proposed an amendment to the bill S. 9, supra; as follows:

On page 83, strike out lines 7 through 24 and insert in lieu thereof the following:

(d) Testing for Infection With the Human Immunodeficiency Virus.—(1) Within 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration offers (A) to test each in-patient receiving health-care treatment from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus, and (B) to provide counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior written consent of the patient tested.

(2) Testing procedures and quality control requirements provided in the regulations promulgated under paragraph (1) shall be consistent with those procedures and requirements provided under the human immunodeficiency virus testing program conducted by the Department of the Army for persons receiving health care from such department.

CRANSTON AMENDMENT NO. 1238

Mr. CRANSTON proposed an amendment to amendment No. 1237 proposed by Mr. Helms to the bill S. 9, supra; as follows:

On page 2 of the amendment, strike out all after "Within" and insert in lieu thereof: 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration offers (A) to test each patient who is at high risk for infection with the HIV virus, and is receiving inpatient hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus, and (B) to provide * * * counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior written consent of the patient tested.

(2) Testing procedures and quality control requirements provided in the regulations promulgated under paragraph (1) shall be consistent with those procedures and requirements provided under the human immunodeficiency virus testing program conducted by the Department of the Army for persons receiving health care from such department.

(3) Except as provided in paragraph (1), the Administrator of Veterans' Affairs may not conduct a widespread testing program to determine infection with the human immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year.

(4) For the purpose of this subsection, the term "widespread testing program" means a program for the testing of any category of Veterans' Administration health-care patients to determine whether such patients are infected with the human immunodeficiency virus, but such term does not include any program for offering testing and counseling to patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, who are receiving treatment for a disease associated with the human immunodeficiency virus, or who are otherwise at high risk for infection with such virus.

HELMS AMENDMENT NO. 1239

Mr. HELMS proposed an amendment to the bill S. 9, supra; as follows:

On page 83, strike out lines 7 through 24 and insert in lieu thereof the following:

(d) Testing for Infection With the Human Immunodeficiency Virus.—Within 210 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration offers (A) to test each in-patient receiving health-care treatment from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus, and (B) to provide counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior written consent of the patient tested.

(2) Testing procedures and quality control requirements provided in the regulations promulgated under paragraph (1) shall be consistent with those procedures and requirements provided under the human immunodeficiency virus testing program conducted by the Department of the Army for persons receiving health care from such department.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 1240

Mr. MURKOWSKI (for himself, Mr. Stevens, Mr. Proxmire, and Mr. Glenn), proposed an amendment to the bill S. 9, supra; as follows:

On page 164, after line 6, add the following new section:

SEC. 405. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE AIR SPACE OF THE UNITED STATES.

(a) Notwithstanding any other provision of law, plutonium in any form may not be transported by aircraft from a foreign nation to a foreign nation through the air space of the United States unless—

(1) the possible routes for shipment, including landing sites and refueling points, if any, have been evaluated in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law, and

(2) such plutonium is transported in a container which the Nuclear Regulatory Commission has certified to Congress as safe in accordance with subsection (b) and all other applicable law including Public Law 94-79 and related regulations.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft carrying a sample full scale container loaded with test material;

(2) conduct an actual drop test from maximum cruising altitude of a sample full scale container loaded with test material;

(3) certify to the Congress that a safe container for use in the transport of plutonium by aircraft has been developed and tested—

(A) in accordance with paragraph (1) and (2),

(B) in a way which uses the best practicable means to simulate actual transport conditions, and

(C) which did not rupture and release its contents into the environment during such tests; and

(4) evaluate the container certification required by Public Law 94-79 and paragraph (3) in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law.

(c)(1) The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission after public notice and a reasonable opportunity for public comment on the design of such tests.

(2) The results of all tests under this section shall be available to the public and submitted to the Congress.

(d) Plutonium in any form contained in a medical device designed for individual human application is not subject to the provisions of this section.

CRANSTON AMENDMENT NO. 1241

Mr. CRANSTON proposed an amendment to amendment No. 1240 proposed by Mr. MURKOWSKI (and others) to the bill S. 9, supra; as follows:

At the end of the amendment of Mr. MURKOWSKI, strike out the period and insert in lieu thereof "": *Provided,* That this section shall take effect on December 15, 1987."

MURKOWSKI AMENDMENT NO. 1242

Mr. MURKOWSKI proposed an amendment to the bill S. 9, supra; as follows:

At the end of the bill, add the following:

SEC. . DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any construction project of the Veterans' Administration which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a project if the Administrator of Veterans' Affairs determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraph (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

CRANSTON AMENDMENT NO. 1243

Mr. CRANSTON proposed an amendment to amendment No. 1242 proposed by Mr. MURKOWSKI to the bill S. 9, supra; as follows:

At the end of the amendment of Mr. MURKOWSKI, strike out the period and insert in lieu thereof "": *Provided,* That this section shall take effect on December 15, 1987.".

GRAHAM AMENDMENT NO. 1244

Mr. GRAHAM proposed an amendment to the bill S. 9, supra; as follows:

On page 160, between lines 15 and 16, insert the following:

SEC. 348. REPORT ON HEALTH CARE RESOURCES ALLOCATION.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to Congress a report on (1) the health care resources allocated by the Veterans' Administration to Veterans' Administration facilities (including contract facilities) in each State in fiscal years 1982 through 1986, and (2) the utilization of the health care resources allocated to such facilities in each such fiscal year.

(b) CONTENT OF REPORT.—(1) The report required by subsection (a) shall include, with respect to each State and VA Medical District in each fiscal year referred to in such subsection, the following information:

(A) The number of Veterans' Administration hospital beds, domiciliary care beds, and nursing home beds located in the State and Medical District.

(B) The percentage of the total amount of the funds available to the Veterans' Administration for health care that was allocated for obligation and expenditure by Veterans' Administration hospitals, out-patient clinics, domiciliary care facilities, and nursing homes located in the State and the Medical District.

(C) With respect to each category of veterans described in subsection (c)—

(i) the number of veterans who, received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in the State in which they reside and the number of Veterans who received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in a State other than the State in which the veteran resides;

(ii) the total cost of furnishing the health care referred to in clause (i);

(iii) the total cost of furnishing such health care with respect to each diagnostic category;

(iv) the total cost of furnishing such health care on an outpatient basis with respect to each diagnostic category;

(v) the total cost of furnishing such health care on an impatient basis with respect to each diagnostic category;

(vi) the total number of patient encounters in which the Veterans' Administration furnished such health care on an outpatient basis with respect to each diagnostic category;

(vii) the total number of patient encounters in which the Veterans' Administraton furnished such health care on an inpatient basis with respect to each diagnostic category; and

(viii) a comparison of the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in adult day care centers located in the State and the medical district with the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in nursing homes located in the State and the Medical District.

(2) The Administrator may include in the report submitted under subsection (a) any additional information that the Administrator considers appropriate.

(c) VETERANS' CATEGORIES DEFINED.—The categories of veterans referred to in subsection (b)(1)(C) are as follows:

(1) Category A: Veterans who are eligible to receive health care from the Veterans' Administration because they have service-connected disabilities, are retired from active duty for a disability incurred or aggravated while in active military, naval, or air service, are in receipt of a pension under laws administered by the Veterans' Administration, are eligible to receive benefits under a State plan approved under title XIX of the Social Security Act (commonly known as "Medicaid"), are former prisoners of war (as defined in section 101(32) of title 38, United States Code), are veterans referred to in section 610(a)(1)(G) of title 38, United States Code (relating to veterans exposed to a toxic substance or radiation), or (in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies) have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) not greater than the Category A threshold (as defined in section 622(b)(1) of title 38, United States Code).

(2) Category B: Veterans who are eligible to receive health care from the Veterans' Administration because they have non-service-connected disabilities and, in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies, have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) that—

(A) in the case of veterans who have no dependents, is greater than $15,000 but less than $18,000; or

(B) in the case of veterans who have one or more dependents, is greater than $18,000 (increased by $1,000 for a second and each additional dependent) but less than $25,000 (increased by $1,000 for a second and each additional dependent).

(3) Category C: Veterans not described in paragraph (1) or (2).

CRANSTON AMENDMENT NO. 1245

Mr. CRANSTON proposed an amendment to amendment No. 1244 proposed by Mr. GRAHAM to the bill S. 9, supra; as follows:

At the end of the amendment of Mr. GRAHAM, strike out the period and insert in lieu thereof ": *Provided*, That this section shall take effect on December 15, 1987.".

HELMS AMENDMENT NO. 1246

Mr. HELMS proposed an amendment to the bill S. 9, supra; as follows:

On page 83, strike lines 7-24 and insert in lieu thereof the following:

(d) RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—(1) The Administrator of Veterans' Affairs may not conduct a widespread testing program to determine with the human Immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year except as provided in paragraph (2).

(2) Within 210 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration (A) offers to test each patient receiving hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus in the following conditions: patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and patients who are otherwise at high risk for infection with such virus and veterans who are younger than 40 years of age, and (B) provides pre- and post-test counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior informed and separate written consent of the patient tested.

HELMS AMENDMENT NO. 1247

Mr. HELMS proposed an amendment to amendment No. 1246 proposed by him to the bill S. 9, supra; as follows:

In the pending amendment, strike all after the word "virus" on line 2 and insert the following:

(1) The Administrator of Veterans' Affairs may not conduct a widespread testing program to determine infection with the human immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year except as provided in paragraph (2).

(2) Within 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration (A) offers to test each patient receiving hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus in the following conditions: patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and patients who are otherwise at high risk for infection with such virus and veterans who are younger than 40 years of age, and (B) provides pre- and post-test counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior informed and separate written consent of the patient tested.

LAKE ANDES-WAGNER UNIT AND MARTY II UNIT, SOUTH DAKOTA

DASCHLE AMENDMENT NO. 1248

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill (S. 1431) to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, SD; as follows:

1. On Page 4, line 7. Strike the period following "Secretary" and add "or which may be acquired for that purpose by the Secretary."

2. Page 5, line 1. Redesignate Section 4 as Section 5 and insert a new Section 4 as follows:

SEC. 4. COST SHARING.

The proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate), pursuant to which the State of South Dakota (hereinafter referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereinafter referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit and the District would also assume certain responsibilities with respect thereto, is approved. The Secretary shall promptly enter into negotiations with the State and the District to conclude an agreement between the United States, the State and the District implementing the proposal. The agreement shall provide, among other things:

(a) For the establishment and capitalization of the non-federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(b) For the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(c) For financing, from moneys in the fund referred to in clause (a), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States: *Provided*, That construction of the ring dike shall not commence earlier than the sixth year of full operation;

(d) For financing, from moneys in the fund referred to in clause (a), the construction cost of the Unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States: *Provided*, That construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary: *Provided further*, That the District, in addition to such annual assessments as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after construction of the Unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in clause (a), to finance construction over a period of thirty-five years of the closed drainage system as specified in this clause (d).

(e) That the Secretary will request that there be included in the annual budget documents submitted by the President to Congress funds permitting completion of construction of the Lake Andes-Wagner Unit (other than the ring dike and closed drainage features) over a period of six years beginning no later than the fiscal year that commences in the second calendar year following the calendar year in which this act becomes law: *Provided*, That in the event of a delay in construction occasioned by an act of God, or of the public enemy, or any major catastrophe or other unforeseen and unavoidable cause of a similar nature, appropriate extensions of time shall be afforded the District in the making of assessments to finance construction of the closed drainage system as specified in clause (d).

Mr. DASCHLE. Mr. President, today I have introduced an amendment to S. 1431, on behalf of myself and Gov. George Mickelson of South Dakota, which lays out South Dakota's proposal for sharing the cost of the Lake Andes-Wagner/Marty II irrigation project.

With South Dakota's economy reeling in the throws of the farm crisis and our per capita income now ranked among the lowest in the Nation, the State treasury is hardly flush with revenue. Still, the State of South Dakota, led by Governor Mickelson, agrees with President Reagan that the State and Federal Governments should work in partnership to construct Federal water projects like Lake Andes-Wagner. That philosophy of joint responsibility for non-Federal cost-sharing is the basis of the proposal I submit today.

I will not belabor the specifics of the amendment in this testimony, but instead will submit for the RECORD a copy of a letter sent by Governor Mickelson to Senator BRADLEY on this subject and a copy of my amendment specifying the State's proposal. I am, of course, pleased to answer any questions the committee may have about the amendment.

Some observers have suggested that the fact that the Bureau of Reclamation is proposing to close its doors in Washington and radically alter the way it reviews the feasibility of projects in such a way as to make it all-but-impossible for any new agricultural projects to be constructed indicates that the White House really has no intention of building any new projects and is in the process of dismantling the Bureau of Reclamation.

In South Dakota, however, we have taken a more positive attitude and have tried to play by the administration's rules. We have kept the Lakes Andes-Wagner project small and close to the source of water. We have adopted state-of-the-art technology to make the project as cost-efficient as possible. We have incorporated a model wildlife mitigation program into the project to allay original concerns voiced by conservationists. We have submitted a proposal for dealing with the so-called double subsidization problem. And finally, we have jumped through the Bureau's final hoop and submitted what I consider to be an extremely responsible offer to share the cost of the project.

If the administration will not now support this project, I frankly cannot imagine a Bureau of Reclamation project it will ever support. S. 1431 will be the litmus test to determine whether the West can look forward to any future water development initiatives, or whether the longstanding goals of "reclaiming the West" and meeting the Pick-Sloan commitment to South Dakota are simply dead letters as far as the Reagan administration is concerned.

The fact that the State of South Dakota is willing to commit its scarce State resources to reduce Federal costs by nearly 30 percent shows how very serious we are about authorizing this project. It is my hope that the introduction of this cost-sharing amendment will secure the active support of the White House for S. 1431, and that Lake Andes-Wagner will serve as a model project for future Bureau of Reclamation projects to emulate.

I ask that a letter from Governor Mickelson be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF SOUTH DAKOTA,
Pierre, SD, September 29, 1987.

Hon. WILLIAM BRADLEY,
Chairman, Subcommittee on Water and Power Resources, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BRADLEY: The state of South Dakota and the Lake Andes-Wagner Irrigation District are pleased to submit a non-federal cost sharing proposal for congressional consideration in conjunction with the authorization of the Lake Andes-Wagner/Yankton Sioux project (H.R. 2671 and S. 1431).

We firmly believe the Lake Andes-Wagner/Yankton Sioux project can provide substantial benefits for the state, the local project sponsors, and the Yankton Sioux Indian Tribe. In addition to improving the economic well-being of all concerned, the project will also enhance area fish and wildlife resources. The project enjoys strong state and local support, meets all federal requirements, and is ready for your support and authorization.

Our cost sharing proposal would reduce federal appropriations for construction of the Lake Andes-Wagner unit by $45,950,000. This is approximately 29 percent of the total Bureau of Reclamation cost estimate (October 1984 prices).

Under our proposal, the United States would be relieved of the estimated cost of the ring dike ($3,500,000) and of the closed subsurface drainage system ($36,000,000). The United States would, in addition, save approximately $6,450,000 of the amount that would otherwise have to be appropriated from the federal treasury to cover the cost to the Bureau of Reclamation of administering the design and construction of the unit distribution system because the district has agreed to administer those functions. In addition, the district would be willing to administer the design and construction of the unit's ring dike. This would result in an additional, but as yet unquantified, savings in administration costs that would otherwise be incurred by the Bureau of Reclamation.

The mechanics of the proposal are as follows: As soon as actual construction of the unit is initiated by the United States, the state of South Dakota will pay, in cash, $6,974,000 into a non-federal sinking fund that would be established for the purpose of financing construction of the closed subsurface drainage system and the ring dike. Funds in the sinking fund would be invested until needed for actual construction and the interest earned on those investments, as well as the monies to be paid into the fund by the state and by the Lake Andes-Wagner Irrigation District, would accrue to the sinking fund.

The Lake Andes-Wagner Irrigation District, beginning with the year following the two-year development period, will pay into the sinking fund an annual assessment of not less than $1.00 per acre levied on each of the 45,000 irrigable acres in the Lake Andes-Wagner unit. These funds would be in addition to the district's assessments levied annually for O&M and, when repayment of construction costs is initiated by the district, it would be in addition to the annual assessment for that purpose as well. The district's payment into the fund, together with the money paid into the fund by the state, and the interest earned from investments of the fund's principal, will provide the necessary monies to cover construction of the closed subsurface drainage system and of the ring dike.

The Bureau of Reclamation's plan for the unit calls for drainage construction over a 35-year period starting after the fifth year of full operation of the unit. The ring dike would also be constructed after the fifth year of full operation. The minimum assessment of $1.00 per acre annually assumes that monies in the fund will earn an annual return of 7 percent. If that rate is not realized, it will be necessary to increase the $1.00 per acre annual payment that the district makes into the fund in order to accomplish financing by the district of the estimated $39,500,000 cost of the closed subsurface drainage system over the 35-year period and of the ring dike.

In summary, our cost sharing proposal is quantified as follows:

Drainage cost	$36,000,000
Ring dike cost	3,500,000
Distribution system administration	6,450,000
Total	45,950,000

As you view this proposal, we ask you to bear in mind that the state and local sponsors have already put forth $1,778,000 (70 percent) of the $2,528,000 in study costs for this project. In addition, a recent study indicates that the federal construction of the Ft. Randall Dam has resulted in a $256 million loss in total economic activity within the state. The construction of the Lake Andes-Wagner unit would be a positive step toward correcting this economic inequity.

Obviously, in offering the cost sharing proposal herein outlined, both the state and the Lake Andes-Wagner district assume that Congress will be prepared to include in the legislation necessary assurances relative to federal funding upon which the state and the district's contributions are premised.

We respectfully request that you look favorably upon authorization of the Lake Andes-Wagner/Yankton Sioux project including the cost sharing proposal presented herein. We look forward to working with you, the committee and its staff, and are prepared to respond to any questions about our proposal.

Very truly yours,

GEORGE S. MICKELSON.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to meet during the session of the Senate on December 3, 1987, to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, December 3, 1987, to continue hearings on S. 1886, the Financial Modernization Act of 1987, and, S. 1891, the Financial Services Oversight Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, December 3, 1987, to hold hearings on the Federal Advisory Committee Act and the President's AIDS Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HAZARDOUS WASTES AND TOXIC SUBSTANCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Hazardous Wastes and Toxic Substances, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on December 3, 1987, to conduct an oversight hearing on the implementation of subtitle D, Resource Conservation and Recovery Act in regard to municipal solid waste.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on December 3, 1987, to hold a hearing on S. 1619, Visual Artists Rights Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER AND THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Subcommittee on Water and Power/Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, December 3, 1987, SD-562, to hold a joint hearing to receive testimony regarding S. 1415, the Colorado Ute Indian Water Rights Settlement Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Thursday, December 3, 1987, to hold a hearing on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on December 3, 1987, to hold hearings on S. 473, the General Aviation Accident Liability Standards Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE RIGHTS OF SOVIET JEWRY

● Mr. DODD. Mr. President, as a participant in the Congressional Call to Conscience, I rise to speak about the cause of Soviet Jewry. With General Secretary Gorbachev to arrive in Washington next week for the summit with President Reagan, it is especially appropriate to raise this issue.

On the question of a citizen's right to emigrate, the Soviet Union today stands alone among developed nations. By routinely citing a law that excludes those in possession of "State Secrets" from emigrating, the Soviet Union manages to repress and violate the rights of its Jewish population. It is readily evident that Soviet officials apply this rule to whatever extent they deem necessary to prevent any individual or group of individuals from leaving. This fraudulent application of the law is obvious and, I would suggest, only serves to raise the anger and determination of those working to bring freedom and justice to the refuseniks.

Since the beginning of this year, more than 6,000 Jews have been given permission to leave the Soviet Union. While that compares quite favorably with the first part of the 1980's when the annual number was barely over 1,000, I urge my colleagues in the Senate to continue the fight for these victims of the Soviet's oppressive system. In spite of the recent improvement, the handling of emigration requests remains very unsatisfactory and the treatment of Jews in the Soviet Union remains entirely unacceptable.

The position of international law on the question of the right to emigrate is clear. For example, according to the Universal Declaration of Human Rights, article 13 states that, "Everyone has the right to leave any country, including his own. * * *" Two other agreements, the International Covenant on Civil and Political Rights and the 1975 Helsinki accords, are similarly unambiguous. The former asserts that "Everyone shall be free to leave any country, including his own." The latter incorporates reference from previous human rights documents including the Universal Declaration of Human Rights and provides for the right of family reunification.

It is particularly noteworthy that the Soviet Union holds its policies on emigration to be in accord with the provisions of these two agreements, as the First Deputy Minister of Justice recently stated in an interview. It would be good if this were a sign of a Soviet desire to comply with those agreements. We, however, cannot ease the pressure until all Jews who so desire can leave the Soviet Union. The lives of these people are not something we will barter in exchange for more congenial relations.

Perhaps as well as any, the story of Mikhail and Eugenia Kalendarev illustrates the repugnant nature of the Soviet system and its use of the "State Secrets" law. A short time ago, Mikhail visited the United States while Eugenia remained in Russia, essentially as a hostage to guarantee that her husband would return. Mikhail and his son Boris, who lives in Philadelphia, recently came to my office to discuss their predicament. In November 1973, the Kalendarevs applied for permission to emigrate. Two months later, their request was denied on the grounds of "State Secrets" to which Eugenia allegedly was exposed during her work at a scientific institute. Eugenia designed boxes in which electronic devices were installed. Clearly, the flimsly nature of this pretext is not a secret to anyone.

Just after filing the visa application, Mikhail, a prominent Leningrad managing engineer with over 30 years of experience, was demoted and informed that he no longer had the authorization to sign official documents. The humiliation continued as Mikhail and Eugenia sought to find work, eventually settling for a series of odd jobs until retiring in 1982. Throughout the period, the couple was routinely harassed, searched and detained.

Through all the agony, Mikhail and Eugenia remain active members of the Refusenik community in Leningrad. The Soviet Government is quite powerful but cannot break the spirit of the Kalendarevs. The call to help this couple is a call to conscience and our Nation will respond.

Mr. President, the sides in the cause of Soviet Jewry are clear. It is right versus wrong. I am hopeful that we are approaching a significant breakthrough with the Soviet Union on the topic of arms control. It is reasonable, therefore, that we also seize the opportunity to achieve a similar breakthrough in the rights of Soviet Jewry. By remaining steadfastly supportive of this worthy cause, we will eventually prevail.●

BICENTENNIAL CELEBRATIONS AT THE QUEENS BOROUGH PUBLIC LIBRARY

● Mr. D'AMATO. Mr. President, in this, the Bicentennial of the U.S. Constitution, it is important that we recognize the role of libraries in our heritage of freedom. The delegates to the 1787 Constitutional Convention found local resources at the nearby Library Company of Philadelphia; in subsequent years, the Library of Congress has played an important part in preserving and exhibiting these precious parchments. But the most important and far reaching has been the part that libraries have played in providing an understanding of—and a protection for—the freedoms brought to us in this great document. Our libraries help produce an educated citizenry, enlightened in democracy and the political process; our libraries help preserve our freedom of speech, bringing us all points of view; our libraries provide open forums for the discussion of community issues; our libraries are the forts of intellectual freedom, making our diversity of ideas accessible to all.

The bicentennial celebrations at the Queens Borough Public Library on September 17, 1987, clearly proved that today, the Constitution is still truly a document by the people, for the people. Simultaneous read-ins were held across the borough of 2 million residents. The range of elected officials, community leaders and involved citizens who came to their neighborhood libraries to take a turn at reading was indeed representative of the multicultural spirit of Queens, where one out of every three persons is foreign born. Readers at one branch library represented at least nine different ethnic groups; at other libraries, participants ranged from veterans of foreign wars to schoolchildren in a remedial reading class. Rabbis and ministers, members of community planning boards and a host of civic organizations read aloud during the afternoon. And all had a sense of being part of something larger than themselves—beyond their local celebration, they felt a part of America. One of the most poignant, meaningful and well attended read-ins took place at Queens' smallest library, located in a housing project.

Maybe one reason why people flocked to the libraries that day is that the people of Queens have really made their libraries part of their lives. The Queens Borough Public Library has the highest circulation of any urban library in the Nation. Part of this is due to the fact that the library is always looking for new ways to serve the people of Queens—from longtime residents to new Americans. And now, thanks to Library Services and Construction Act [LSCA] funds, the library is able to take important new steps to encourage parents and children to read together. Through a specially funded parenting program, parents will be guided in various aspects of child development. Parent and child will interact through games, songs, toys and other activities which help children learn. If we can stress the importance of reading to children at a very young age, if we can get them excited about the world of ideas and knowledge through books, perhaps we can make real progress in eliminating illiteracy in the Borough of Queens.

The freedom to read is particularly precious to all of us as we participate in the many activities of this bicentennial year. I am pleased to share with you the rewarding moments that occurred with the reading of the Constitution in Queens libraries and to tell you of the plans to make reading an even more integral part of daily family life in Queens.●

THE AMERICAN ASSEMBLY REPORT ON ECONOMIC COMPETITIVENESS

● Mr. BINGAMAN. Mr. President, on November 19-22, 1987, The American Assembly, a national nonpartisan organization founded in 1950 by Dwight D. Eisenhower and affiliated with Columbia University, called together 65 leaders from business, labor, government, and academia to consider the problems of this Nation's economic competitiveness. The report of this 74th American Assembly, "Running Out of Time: Reversing America's Declining Competitiveness," deserves our careful attention. I ask that the full text of the report be printed in the RECORD following my remarks.

The report succinctly points out the dangers of our current situation—economic stagnation and recession, social inequity, political paralysis, and global decline. As the report states, "we are gambling recklessly with our destiny."

To counter these dangers, the report suggests a number of measures in economic policy, in the private sector, and in education. Some of these measures are controversial, such as a national consumption tax. Some are areas in which action is already underway, such as strengthening the teaching of math, science, and foreign languages. While I do not agree with all of the suggestions contained in this report, I do believe they should at least be considered seriously. I urge my colleagues to heed this timely report.

The report follows:

FINAL REPORT OF THE 74TH AMERICAN ASSEMBLY

At the close of their discussions, the participants in the Seventy-fourth American Assembly, on *Running Out of Time: Reversing America's Declining Competitiveness,* at Arden House, Harriman, New York, November 19-22, 1987, reviewed as a group the following statement. This statement represents general agreement; however, no one was asked to sign it. Furthermore, it should be understood that not everyone agreed with all of it.

PREAMBLE

America's economy is growing more slowly than it used to, more slowly than we need it to, and more slowly than our competitors' economies. We are consuming far more than we produce and earn—and we are having growing difficulty paying the bills. Our prosperity is threatened, as is our capacity to provide world leadership and to achieve a more just and competitive society.

The evidence is unmistakable. We have the largest budget deficit, trade deficit, and foreign debt in our history. Individual debt, corporate debt, and government debt are all perilously high, while our savings rate is among the lowest in the industrial world.

We cannot long continue on this path without profound consequences. Economically, we risk a continued slide of the dollar, higher real interest rates, accelerating inflation, still slower growth, and prolonged recession at home and abroad. Socially, we are staring at the possibility of even deeper domestic inequities than those we have allowed to fester in recent years. Insufficient attention to the problems of the growing American underclass will erode the capacity of the United States to be a more competitive international society. Politically, we may well suffer increased polarization and paralysis. Globally, as economic competition grows in importance relative to military confrontation, we face a possibly irreversible U.S. decline, with an attendant erosion of our ability to protect vital national interests. This would be accompanied by growing threats to Western values, influence and prosperity, and to democratic interests throughout the world.

In short, we are gambling recklessly with our destiny. That we are not alone in this judgment is evidenced by the October 19th stock market crash, the ensuing turmoil in the world's financial markets, and the broad urging by world leaders that the United States put its house in order.

Because of these deeply troubling realities, the American Assembly examined the governmental, private sector, and individual and societal dimensions of America's declining competitiveness. We also examined the complex connections among these different sectors because of their importance in getting America back on track.

Our sense of urgency results from the fading opportunities to make the necessary changes before grave, perhaps irreparable, consequences are upon us. We recognize that the immediate future holds painful changes for us. We do not know whether those changes will be constructive or destructive, whether we manage the change and spread the burdens or let random forces control us, or whether we emerge stronger or weaker for the longterm challenges ahead.

Building on the nation's formidable strengths, this Assembly report offers a vision of what we must do, including concrete first steps to control an uncertain future and move the United States toward sustained competitiveness at home and abroad.

By this we mean that the average annual growth of the U.S. economy and of each American's standard of living must be both as fast as practical and at least as rapid as the other major industrial economies. Only then can we hope to achieve our economic, political, social, and geopolitical aims.

Our economic troubles, it should be emphasized, were primarily made in America, and the solutions must primarily be made in America as well. We should begin by enhancing the will and capacity of individuals and businesses to compete more successfully, bringing our trade and current account back into balance, and restoring our economic vitality. But the need to accomplish the foregoing does not stop at individual firms and other institutions or at our own borders. International cooperation to achieve faster and more balanced world trade and growth are also essential to improve the prospects for increasing our global competitiveness as well as producing potential gains for all nations.

I. PUBLIC SECTOR

Macroeconomic policies must be used to fundamentally alter our national behavior of consuming more than we produce, shifting the emphasis from "buy now, pay later" to "pay now."

In the near term, this will require difficult steps to further reduce our national budget defict. Reductions in both domestic spending and defense outlays and increases in taxes beyond the measures adopted in November 1987 are essential to economic health and enhanced competitivenss.

On the revenue side, because of our excessive consumption relative to production, a phased-in national sales or value-added tax—with protections against regressivity—is one valuable anti-deficit weapon. A phased-in gasoline tax and suspension of the next round of individual tax reductions is another. It should be noted, however, that a signficiant minority dissented from this recommendation. Finally, we recommend gradually tightening the limit on home mortgage interest deductions for the middle- and upper-income taxpayers—a subsidy we can no longer afford on either economic or equity grounds.

On spending side, equally dramatic actions are required, again with questions of both economics and fairness at the fore. We should, for example, fully tax Social Security benefits, reduce veterans' benefits, and reduce agriculture subsidies to those who do not need them—those in the middle and upper classes who can live comfortably without them.

Cutting unnecessary defense spending must begin with reducing ineffective and inefficient weapons systems, installations, and bureaucracies. The president's steps toward arms reduction with the Soviet Union may lead to additional accords that could open the way for further restraint in defense spending. This should be coupled with greater sharing in defense responsibilities by other industrial nations.

The billions of dollars provided by all of these steps must be sufficient to meet two critical goals. First, they must reduce our annual budget deficit. We recommend eliminating interest deductions for the part of first home mortgages above $1 million, as a means of equitably and very gradually phasing out the home mortgage deductions. We also recommend eliminating all second home mortgage interest deductions. Second, they should then be used to enhance our competitive position at home and abroad primarily through increased spending for civilian research and development, both basic and applied, and for retraining and education.

To further enhance the competitiveness of our private sector it would be important to accomplish this while keeping total government spending as a portion of gross national product below recent historically high levels.

With a sounder fiscal approach, monetary policy will have a greater chance of guarding against recession. On the monetary front, moreover, we suggest not relying on a declining dollar to improve our trade balance, particularly because it may weaken our will to make other changes that are critical to our longer-term position.

In any case, a reduced budget deficit by itself can be expected to have immensely beneficial effects on America's trade balance. Reducing the budget deficit also might ease protectionist pressures, which we strongly oppose, especially because foreign competition has been a major factor in improving U.S. manufacturing productivity and thus competitiveness.

Affirmative steps are needed to restore U.S. trade, not negative ones that threaten to diminish all of our futures. We need new and creative international economic statesmanship and cooperation. We need more balanced global trade and growth. (Surplus nations, especially Germany and Japan in the near term, must assume more responsibility for these two goals by stimulating faster economic growth and importing more from the United States and other trade deficit nations.) We need special steps to help less developed nations that are struggling with immense debt burdens to resume faster growth, increase their distribution of benefits, and reestablish some of our important export markets.

There are times when the U.S. government should act forcefully to protect the legitimate trading rights of U.S. industries. However, in the global marketplace, as at home, we must remember that we are all in the same boat, that protectionist actions in one nation risk being answered by protectionist actions in other nations, threatening mutually assured economic destruction. That is why the leadership of the United States is so critical in achieving a more efficient, effective, and comprehensive world trading system through the successful conclusion of the Uruguay Round.

Together, all these measures not only will expand world trade for everyone but help Americans recapture a larger share of our own growing markets.

Beyond these broad budgetary and trade stances, various federal policies have indirect but profound effects on American industry, workers, and other institutions. This has long been known and accepted. What is not known is how these sometimes conflicting policies specifically affect our global competitiveness.

We therefore urge that the President's Council of Economic Advisers or the legislature's Congressional Budget Office be required to issue reports examining these existing policies and their competitive effects.

For similar reasons—as well as the need to keep the competitiveness issue on the front burner for both government officials and the nation at large—we also urge the adoption of competitiveness impact statements for all new laws, rules, and regulations adopted in Washington.

Finally, we come to the additional issue of whether and when the national government should continue to intervene explicitly in the economy in ways that help or harm specific sectors, industries, or companies. Although some strong sentiments against such practices were expressed by a good number of participants, a small majority believe that this would be appropriate for three discrete purposes related directly to economic competitiveness:

1. In cases where national security is at stake. This could mean both positive cases, as when a particular industry is deemed critical to national security, or negative ones, as when the unrestricted export of certain strategically sensitive products is deemed similarly dangerous. In the latter case, however, U.S. export control policies have been too arbitrary and have led to a declining confidence abroad in the security of contracts with U.S. companies as well as unnecessary lost export sales. Reform is necessary to improve U.S. competitiveness.

2. In cases where the evidence is unmistakable that other governments are creating significant unfair advantages for a particular industry. It should be emphasized that, even then, taxpayer aid, in whatever form, must be geared to the removal of the foreign unfair trade practice.

3. In instances where short-term government assistance would help restore a significant U.S. company or industry suffering from or threatened with serious import injury. But this should be done only on the condition that there is a quid pro quo requiring increased capital or human investment and sufficient gains in productivity by the company or industry itself. Also, remedies should be implemented in order to minimize trade distortions and to allow the collection of revenues that might be used to finance much needed investments. Thus, tariffs or authorized quotas should be preferred to foreign export restraints.

The reason usually given for lack of progress is political difficulty. We believe that while individual elements are indeed controversial, there exists strong political support for an overall solution. Those leaders who offer a coordinated, equitable attack on the forces that threaten our standard of living will be rewarded by the electorate. Similarly, those who only point to political obstacles to justify their inaction will be defeated.

II. PRIVATE SECTOR

Once leaders in the world, American companies have lost command of markets to international competitors. Through macroeconomic factors like the exchange rate and trade policies have harmed our ability to compete, a strong case was made that these problems were chiefly the result of ineffective management practices as well as a cause of other problems. There are businesses and markets in which U.S. companies no longer compete at all. Those who try to compete find that working harder is not enough, that fundamental changes are necessary.

While the entrepreneurial sector has fortunately provided our economy with its unique dynamism, the spirit of risk-taking and the ability to innovate and to anticipate the customer's wants and needs have too often been submerged by our focus on short-term goals. American management has neglected the opportunity to mobilize the knowledge of its own work force. We noted a growing bias against unions in some quarters. This has caused many companies to turn out low-quality products at high cost, when their competitors were doing preciously the opposite, leaving many American managers wondering why customers began to distrust the label, "Made in the U.S.A." or why they cannot even buy certain products with such labels.

We call for union and worker commitment to industrial competitiveness; management commitment to more cooperative, less adversarial collective bargaining relationships; and employment security for its work force. We also agreed that increased employment security requires a more mobile and flexible work force, and we urge greater public and private efforts to help workers move from redunant jobs to needed employment.

In addition, there has been an orgy of financial manipulations, which has led to speculation and takeover attempts. Wall Street has taken management's eye off the ball. The excesses of the system have contributed ineluctably to the stock market collapse.

The crash has at least shocked the system back to reality and focused the attention of U.S. business again. There is a growing realization that the broader problems of the economy will have to be solved at the level of the business firm. It is therefore fortunate that signs of light are discernible in some quarters of American business. We heard of major firms that have gone back to their fundamentals. "What is our purpose?" they have asked, and answered that it was to bring the highest quality products and services to the customer at the lowest possible cost, and thereby create jobs and improve the living standards of all Americans.

We considered a giant company that listened once again to suggestions from its work force on product development and was able to recapture markets once thought lost forever to competitors from Japan. We also heard of numerous smaller firms that have succeeded, through innovation and quality, in exploiting profitable niches around the world.

An increasing number of American firms are now bringing back home the lessons of industries masters such as W. Edwards Deming and Joseph Juran, who taught Japanese industry long ago when U.S. companies would not listen. Those lessons are deceptively simple. And after hearing from experts for three days, we have collected some basic principles of what makes a firm competitive, the first of which is quality—an emphasis on making the product or service right the first time. Together, all these principles are:

Quality.—This does not mean quality merely to specifications but quality that improves constantly, quality that is characterized by constant innovations that create a loyal customer. It means achieving this attitude from top to bottom, from the board room to the factory floor.

Low-cost.—This is not instead of quality but as a result of quality. It may seem cheaper to shove as many products or services out as fast as possible, but if quality is ignored, the cost in rework, scrap, supervision, and, most of all, disappointed customers will be more expensive than any business can bear.

Customer-driven.—The customer is part of the process. The business exists not merely to satisfy the customers' needs today but to anticipate their needs of tomorrow.

Employee involvement.—The successful business no longer sees employees as a cost of production but as a resource for production. Although job uncertainty will never be eliminated, it must be recognized that long-term commitment of and to workers is at least, if not more, important than machinery or technology. Employee involvement in efforts to improve productivity and quality is vital, and they must also be able to share in the gains.

Continuous improvement.—This means never being satisfied, not only with the products or services, but with the way the organization makes the goods, distributes, sells, and services them. Innovation is required in all of these activities. It means changing our attitude from America's traditional "if it ain't broke, don't fix it" to "if it ain't perfect, don't leave it." There are a number of American firms taking leadership in implementing these innovations, and there is a critical need to accelerate this process.

We also note that since business firms exist in an environment heavily influenced by government policies, government should be mindful that its policies not frustrate but foster efforts of American business to be globally competitive.

III. THE INDIVIDUAL AND SOCIETY

Education, we believe, is the single most critical element in enhancing the individual's contribution to our society's long-term competitiveness; increasing the educational attainment of all Americans is in the direct self-interest of each American. There is widespread dissatisfaction with our schools at the elementary and secondary levels, and concern for both the quality of U.S. technical education and the very relevance to a modern, globally competitive economy of its graduate curricula in business and management. Therefore, continuously improving education must become a first priority for competitiveness.

We face a particlarly acute problem—threatening this and future generations—in failing to ensure that all our students are literate and mathematically able before leaving school. Emerging from that, we have a related problem in equipping our college students for an internationally interdependent world.

We see the need for action on many fronts, with the understanding that some steps will take more than a few years to show results. We must:

Do a better job of teaching math, science, and language. (There was an intense, balanced, and unresolved debate about also developing communications skill in our common language.)

Significantly upgrade teacher training, with emphasis on preparing teachers and students to understand and initiate change.

Encourage innovation and experimentation.

Correct inadequacies of the education system's response to the needs of the inner cities, where attendance and ability to educate are unresolved problems.

In higher education, training in engineering, science, and technology must be expanded and improved. Of special relevance to competitiveness is the need to restore the link between engineering education and the production system, between the campus and the factory floor.

In a changing world, our schools of business must adapt their curricula to contemporary conditions and the future challenges of management. Many aspects of existing business school curricula encourage business practices that weaken rather than strengthen the ability of U.S. firms to compete effectively at home and abroad. We must place increased emphasis on teaching students to work in and eventually to manage organizations consistent with the basic requirements for global competitiveness. Business schools must internationalize the entire course of study, including comparative business practices and foreign languages and the analyses of other countries and cultures. We should also renew emphasis on the teaching of production and operations.

Business has taken many initiatives to train and retrain workers and staff in recent years. Those efforts should be strengthened and become more widespread. In addition, government and business must assume greater responsibility for revising and implementing effective training programs.

Related to that, vocational and technical training at the high school level must be reexamined and, wherever necessary, modified and upgraded in light of changing technology and job markets.

Education is a national priority. We recommend that in all matters governing elementary and secondary schools, primary and continuous responsibility must remain at the state and local levels. The federal government, too, has a vital responsibility to assist financially in ways that supplement state and local efforts, especially in our inner city school districts.

In all of our recommendations, we also recognize that the preparation of the individual young person for adulthood and citizenship is a shared responsibility of the family, the schools, and the society as a whole. The schools must focus on and be judged by how well they teach, not by whether they can solve all other problems with which their community weighs them down. Also beyond the schools, we find a widening disparity in standards of living for important segments of society to be increasingly troubling. A society with growing inequality will find it difficult to maintain its competitive place in the world.

On the equally important subject of values, we discuss a marked deterioration in traditional values essential to competitiveness. A lack of both individual and institutional leadership has eroded respect for community and nationhood. We conclude that values of integrity, social justice, and moral leadership are not only necessary in themselves, but lead directly to competitive advantage. Our standard of living and our standard of values are inseparable.

In the end, it is not simply companies, or even countries, which compete—it is entire societies. We believe that a society that advances the opportunities of each of its people will best advance the prospects for all of its people.●

MISSION TO PLANET EARTH

● **Mr. KERRY.** Mr. President, I rise today to call the attention of my colleagues to an editorial which appeared in the December 1987 issue of Earthwatch. The publisher, Brian A. Rosborough, is a personal friend with a clear perspective of the impact human endeavors have had on our planet Earth. We the inhabitants have only begun to realize the fragile nature of the complex ecological systems that support life on this planet. We must keep this realization in perspective and continue to move forward against the dangers that face our planet.

I applaud the efforts of Mr. Rosborough in suggesting that the U.S.S.R. and the United States undertake a joint mission to planet Earth. The activity that Earthwatch has initiated to promote a proposed joint United States-Soviet expedition program should not go unheralded. As a world leader, our Nation has a major responsibility to address worldwide environmental concerns. In the current climate of United States-Soviet discussions it is reasonable to seek a mutual effort in developing solutions to our Earth's major environmental problems.

I ask that the following editorial, titled "Mission to Planet Earth," be printed in the RECORD.

The article follows:

MISSION TO PLANET EARTH

A little distance improves perspective. Artists and architects often step back from their creations to gain insight into what they are saying. Some details go unnoticed close up. Distance allows the eye to take in the relationship of things, one to another. It gives us a better sense of equivalents and a deeper appreciation of the grand design of life.

It was no surprise to hear 41 cosmonauts and astronauts at the 30th anniversary celebration of Sputnik speak of the unique beauty and apparent fragility of earth as seen from outer space with awe and conviction. Given the high cost and vast technological back-up required to put a few humans into orbit, their unanimous concern for the condition of our ecosystem was a poignant contribution to the recent Cosmos Forum on cooperation in space convened in Moscow.

Earthwatch was invited to participate in the proceedings by USSR academician Dr. Roald Sagdeev, the charismatic director of the Soviet Space Research Institute. His agenda was straightforward. Space exploration has become too expensive for nations to go it alone, yet politics keeps us apart. Do we transpose chauvinism to the heavens, or do we find overriding reasons to cooperate? Using the impressive resources available to space science to measure global change might be common ground for an agreement. But is the US ready to commit to open, harmonious relationships with the USSR? Perhaps a little *perestroika* and *glasnost* would be good for our side as well.

One inescapable fact was noted. Closer cooperation between Soviet and American scientists is more easily achieved here on earth than at high altitudes. All agreed our home planet is in dire need of assessment, if life support systems are to be here for future explorers to return home to. Global changes can occur in mere decades, irrevocably affecting the quality of life on the planet. What corrective steps might be orchestrated between world nations to mollify human patterns of use and abuse of diminishing natural and cultural resources? Before leaving this world for new frontiers in space, I suggest that we undertake a joint mission to planet earth.

Assisted by earth observation satellites, scientists will be able to accumulate vast amounts of environmental data that will help us predict the impact of human and climactic activity on Mother Earth. But more data alone won't effect change. Scientists must have access to each other to argue their theses and forge sensible recommendations. That is where Earthwatch can help.

To bridge the cultural distances imposed on citizens and scientists of the USSR and USA, Earthwatch has proposed a joint US-Soviet Expedition Program involving various institutions of the USSR Academy of Sciences, the Cultural Foundation of the USSR, and the Soros Foundation. Scientists from either side may propose field research expeditions in the USA and USSR whose outcome will speed human understanding of the condition of this planet to more inhabitants. We anticipate collaboration in the physical, biological, and social sciences. While details have yet to be worked out, we expect that both sides will mount expeditions in the coming season. Soviet-American expeditions will offer a fresh venue for scientific exchange while enabling both societies to explore global change in the company of experts. The perspective can't get any better than that.●

INFORMED CONSENT: INDIANA

● Mr. HUMPHREY. Mr. President, my office has received hundreds of letters from women in every State detailing the traumatic aftereffects of abortion. The tragedy of their stories is the reality that the women were not warned prior to their abortions about the potential side effects. This is an injustice.

I urge my colleagues to end this injustice and support my informed-consent legislation, S. 272 and S. 273. The bills would require medical personnel to fully inform women considering abortion so that they can make a truly knowledgeable decision.

I ask unanimous consent that two letters from Indiana be entered into the RECORD.

The letters follows:

MARCH 1987.

DEAR SIR: I am a 32 year old mother of two. When I was 24 years old, I became pregnant 9 months before my wedding day. Being very afraid because of finances and finishing nurses training, I told my fiance I was terminating the pregnancy. He did not agree with the decision but was supportive to me personally. I made arrangements at a clinic in Orlando, Fla. (I was living in Gainesville, Fla.). My fiance decided we should marry now and the day after the wedding I had the appt. When I entered I immediately wanted to leave, the room was filled with women. After sitting ½ hr, they called me into a counseling room first and then my husband and asked us why we made the decision and then proceeded to tell us the procedure. At this time, I would like to add that we were never informed of fetal development (I was 8 weeks), never approached as to seeking financial assistance through a O.B. clinic for lower socio-economic groups which I now know exists. As a matter of fact, we were told the procedure was relatively painless and that I should be up and around in a day or two. I then was separated from my husband to proceed for the next 2 hours of pure hell! It was like an assembly line. They took blood and u/a and told to undress from waist down. Given nothing for relaxation like they told us in counseling. The M.D. supposedly was the first founder of abortion clinics in Florida, and advertised his book everywhere. I found him rude, insensitive and yelling at me when I experienced pain which was constant—I felt raped. He told me it was a little late to be crying. Did not explain anything to me! Then placed in a room with loungers and given cookies and coke and left to weep and weep and weep—no one comforting. It was cold, calculated and very business like. Informed of danger signs post AB and given B.C. pills to start in 2 days.

I am truly convinced that this is a holocaust. It is a lie—I would dare another woman to look at me in the eye and tell me this procedure is "nothing to experience, and relatively painless.

Sir, I hope this is helpful. God bless you in your efforts. I am most grateful for a loving and forgiving Creator.

Thank you,

MRS. DAVID CAMPBELL,
Indiana.

2/7/87.

DEAR MR. GORDON HUMPHREY, I highly support you in your effort to help women by law to be fully informed of the decision they are making. I wish now, (which is far too late) I had realized then what on Earth I was really doing. Men in law think they help women like me by making an easy way out. What a grave error . . . literally for all those children. I believe, as you, women need to be aware of the physical as well as the emotional consequences of the very decision. Some advice was given to me from the abortionist, as he saw my despairing face, "If you want to dance, you must pay the piper." And oh what a price the piper has for us all. Help them fully realize what they are doing.

ANONYMOUS, *Indiana.*●

THE CANCELLATION OF ELECTIONS IN HAITI

● Mr. CHILES. Mr. President, I am both saddened and outraged by the events in Haiti this past weekend.

Last month, violence aimed at candidates and election officials revealed that forces opposing democracy in Haiti were willing to take drastic measures to prevent the first elections in 30 years from taking place.

Tragically for Haiti, they have been successful.

On the eve of the long-awaited elections, explosions and gunfire in the capital served notice to the citizens of Haiti that election day would not be free of violence.

The popular Catholic radio station, Radio Soleil was destroyed by firebombs. Three other stations were sprayed with gunfire. Soldiers with hand grenades and automatic weapons besieged the home of the electoral council's treasurer.

Still, despite the violence of the night, courageous Haitians lined up early at voting precincts. But by 7:30 in the morning the slaughter had begun. Men wielding machetes and guns stormed into one voting precinct leaving at least 15 people dead and several wounded. These men are believed to be members of the Ton-Tons Macoute.

At least two dozen people have been killed, and more than 60 wounded in these senseless, heinous slaughters.

In the wake of the terror, the provisional government called off the elections and disbanded the electoral council. Although the head of the government, General Namphy, pledged that fair elections will take place, obviously it is time for grave doubt.

The United States provided over $108 million in economic assistance to Haiti this year. Our aid was contingent upon that government's promise to hold elections on November 29. That promise was broken.

Last Sunday, all nonhumanitarian aid to Haiti was halted. I support this cutoff. It is inconceivable that those who are brutally seeking power in Haiti are so indifferent to the needs of their impoverished countrymen that they would knowingly cause an end to this much-needed aid.

It is also inconceivable that a person could be murdered for attempting to exercise what to us is such a fundamental right—the right to vote. It flies in the face of the democratic values and principles we hold so dear. Yet, this is exactly what happened in Haiti.

Time and time again, the Haitian people have shown their willingness to sacrifice for democracy. This week, at least 25 gave their lives for that cause. What will it take for the insidious minority to heed the will of the Haitian people?

We in the United States gave our support and aid to the provisional government because we hoped that they would be able to guide Haiti through the transition to democracy.

Mr. President, it is my great hope that this strong message will be received and heeded. The military government must make good on its pledge to turn over the leadership of Haiti to a democratically elected government.

At this time I cannot support immediate military intervention. But, we must continue to watch the events in Haiti carefully, and be ready to reassess our policy if necessary. Meanwhile, our hopes and prayers go out to all Haitians during this sorrowful time.●

BICENTENNIAL MINUTE

DECEMBER 2, 1907: THE "CHEROKEE STRIP"

● Mr. DOLE. Mr. President, when the first session of the 60th Congress convened on December 2, 1907, 80 years ago yesterday, Senators found themselves in a pleasant quandary. Since the 1860's, Republicans had dominated almost every Congress, and since 1900, they had controlled the Senate by increasingly large majorities. The November 1906 elections had given the Republicans their most decisive victory ever. The Senate party composition in the new Congress would be a lopsided 61 Republicans to 31 Democrats. The immediate problem became how to find space for all of those Republicans on the east side of the center aisle, where party members had sat ever since the Civil War.

In the old Senate Chamber, an equal number of desks had been placed on either side of the aisle, without regard to party size. There was no firm rule as to placement, and during the 1840's, and 1850's, some Democrats could be found sitting at random on the Whig side. The new Chamber, however, was large enough to permit a more flexible seating arrangement, and since the 1870's, desks had been moved back and forth across the aisle to permit all members of each party to sit together.

Party leaders finally decided that 10 Republicans, all junior members, would have to sit with the Democrats in the rear row or on the end seats. Their new location became known as the "Cherokee Strip," meaning that the overflow majority party members were off their reservation. (The Cherokee Strip in Oklahoma referred to land belonging to neither the Indian Territory nor the States.) The "Cherokee Strip" has only been called into play one other time since 1907. In 1937, during the 75th Congress, 13 of the 76 Democrats sat with the 16 Republicans and 4 independents.●

COLORADO'S TEACHER OF THE YEAR

● Mr. WIRTH. Mr. President, recently an English teacher at the Palmer High School in Colorado Springs, Richard Del Margo, was named the 1987 Colorado Teacher of the Year.

His philosophy as an educator is an especially uplifting one and I am proud to offer him my congratulations. In honor of his achievement, I would like to have printed in the RECORD a profile of this inspirational teacher that was printed in the Colorado Springs Gazette Telegraph on Monday, November 30, 1987.

The profile follows:

SPRINGS MAN WINS TOP TEACHING HONOR—I CONSIDER TEACHING AN ART

(By Kathryn Martin)

Teaching is an art that must be developed over an educator's career, despite obstacles within the classroom that sometimes discourage teachers, said Richard Del Margo of Palmer High School, who will be named the 1987 Colorado Teacher of the Year today in Denver.

Gov. Roy Romer will present the award to Del Margo, who will now go on to the national competition.

The Palmer English teacher said that, too often, even experienced teachers are overburdened. Since the 1960s, when he first began teaching, things have changed dramatically. Students are no longer as well-behaved as they once were and more social ills are interfering in the classroom, Del Margo said.

"You have one out of six kids you face who is not predisposed to learning," Del Margo said. "He is fighting you most of the way. I think that makes teaching a more difficult job.

"And there are other things. The drama teacher (Karen Kennedy) is teaching a class with nine deaf kids from (the Colorado School for the Deaf and the Blind). Now, she wouldn't have it any other way. But the mere fact that she must deal with nine deaf kids as well as the 25 regular kids is a wonder. And there are more examples."

When teachers become overburdened, they begin to compromise, Del Margo said.

"But what happens as you compromise is that you are not able to do the job you want to do and you lose self-esteem in your profession. I think that is happening to our teachers. . . . We are losing a number of very good teachers."

But Del Margo is still enamored of his profession. He is also modest about his contributions.

"I think of myself as merely a good teacher who works hard, and I think that describes thousands of teachers in the state of Colorado," Del Margo said. "I'm a good representative because I'm so like the rest of them. I don't know what makes me special."

A native Coloradan, Del Margo became a Jesuit after studying electrical engineering at Regis College in Denver. He then earned a degree in English and philosophy at St. Louis University in 1971.

During his seven years as a Jesuit, he taught in Belize, Central America. Del Margo earned a master's degree in political and social philosophy from the University of Denver while teaching at Colorado Northwestern Community College.

Since 1972, Del Margo has been with Colorado Springs School District 11, first as a junior high school teacher and, since 1975, at Palmer. He also completed one year of study on a Fulbright Scholarship in Edinburgh Scotland.

In 1984, Del Margo piloted Palmer's Gifted and Talented program. Included in that was the "Shot of Excellence" program, in which more than 50 area professionals were invited into the classroom to speak.

In 1985, he developed a districtwide gifted and talented program.

"I consider teaching an art," Del Margo said. "I think quality teaching is something we strive for for a lifetime. Even the most experienced teachers failed. Or were not fully prepared.

"Teaching is an art you develop. I think that we need to treat new teachers as apprentices that nurse the art of teaching rather then demand it from them."

Del Margo is the second District 11 teacher to win the state award. The first was Marjorie Swearingen in 1975.

The finalists for this year's award were Wanda L. Greer Beauman of Morey Middle School in Denver; Dr. Glenn James Endsley of Cherry Creek High School in Aurora-Englewood; Nannette Messenger Colaizzi of Slater Elementary School in Jefferson County; Bill Lee Alerick of North Arvada Junior High School in Jefferson County; and Dalton Holsteen of Arapahoe High School in Littleton.

Ann Brgoch of John Mall High School in Walsenburg received special recognition.

MAN WAXES POETIC OVER PROFESSION—QUALITY TEACHING LIKE A BUTTERFLY—ELUSIVE

"Quality teaching is an ideal like justice or love. We reach for these ideals; sometimes we attain them, sometimes we fall short, sometimes we fall miserably short," wrote Richard Del Margo in his application for 1987 Colorado Teacher of the Year Award.

His application was successful. Del Margo, a Palmer High School English teacher, will receive the state teacher award today in Denver.

Finalists for the statewide competition are required to complete an eight-page application. Following are several other comments Del Margo made in his application.

"The rewards of teaching are the 'ah-ha' experiences of your students and the company of the colleagues with whom you work. The quality teaching experience is like a butterfly, elusive."

"Diligent, knowledgeable, the ability to communicate and tough describe the characteristics of a teacher. This is the strange combination of skills needed to teach."

"Nothing happens in the classroom if the teacher cannot communicate the message. This ability grows with sensitivity to yourself and your listeners. The teacher also has to listen to the body language of the students. It is skill that is developed with long years of study, sensitivity training and evaluation. One cannot teach without it."

"There is adversity in the public school system today because students are the victims of the chemical abuse, child abuse, disturbed homes and the pressure of growing teen-agers. These problems are not related to school or the classroom; however, the student, like all of us, brings the dark side of his/her life with him when he comes to school."

"When one understands the challenges that the teacher faces daily, those that make a career of teaching are commendable and admirable. Combining the qualities of diligence, knowlege, ability to communicate and toughness is quite an accomplishment."

"If those members of the business community who are critical of the teaching profession could do the job for a week or a month, teaching would re-establish its place of respect in our society." ●

THE LONG ISLAND POWER AUTHORITY'S TAKEOVER OF THE LONG ISLAND LIGHTING CO.

● Mr. D'AMATO. Mr. President, I rise today to discuss a provision in the House reconciliation legislation that effectively denies local government the option of buying an electric utility so as to reduce ratepayer costs. This seemingly esoteric, but vital, issue will be decided by the conferees on the tax portion of reconciliation. It is my hope that they do not cave-in to the lobbying pressure of the electric utility companies.

Today, a number of localities are considering the public takeover of private utilities. Municipalities have been motivated to take this drastic step because of the burden of paying for newly completed nuclear powerplants. A public takeover is a drastic step, but should be seriously considered if it results in savings to the ratepayer.

For a public takeover to make economic sense, the issuance of low-interest rate tax-exempt bonds is essential. If taxable bonds had to be issued, a public takeover of a private utility would never be economically feasible.

New York State has established the Long Island Power Authority [LIPA] to pursue acquiring the Long Island Lighting Co. [LILCO]. LIPA's financial adviser has determined that a takeover is feasible under certain circumstances. The critical element in this plan is the issuance of $8 billion of tax-exempt bonds.

Mr. President, the House reconciliation legislation would require tax-exempt bonds issued by a Government entity to acquire all or part of a private utility to be included in a State's tax-exempt bond volume limitation. The purpose of this provision was to derail a possible takeover of a private utility in Chicago. For this reason, the House exempted the LIPA acquisition of LILCO.

But the utility industry and LILCO's lobbyists have been urging Treasury to fight the LIPA transition rule. If the transition rule were deleted in a House-Senate conference committee, the LIPA takeover of LILCO would be dead. This is because New York State's bond volume cap will only be $820 million in 1988; roughly 10 percent of the $8 billion of tax-exempt bonds needed to complete the takeover.

If the transition rule were dropped by the reconciliation conference committee, the Federal Tax Code would have been used to kill a purely local initiative. The Treasury Department should not become involved in an issue that is between a private utility and an authority of the State of New York.

Mr. President, I have written to the Assistant Secretary for Tax Policy, Don Chapoton, urging him not to succumb to pressure from LILCO's lobbyists. I intend to contact the Senate conferees on the tax portion of reconciliation urging them not to cave-in to the electric utility industry. The Tax Code should not be used to thwart a purely local issue.

I ask that my letter to the Assistant Secretary for Tax Policy be reprinted in the RECORD at the conclusion of my remarks.

The letter follows:

U.S. SENATE,
Washington, DC, November 5, 1987.

Hon. DONALD O. CHAPOTON,
Assistant Secretary for Tax Policy, Department of Treasury, Washington, DC.

DEAR DON: As you know, the House Reconciliation legislation contains a provision requiring tax-exempt bonds used by a government entity to finance the acquisition of all or part of a private utility to be included in the state bond volume limitation.

It is my understanding that the sponsor of this provision intended it to limit the ability of the City of Chicago to acquire the service territory of the local private utility, Commonwealth Edison Company. For this reason, the House specifically exempted the proposed takeover of the Long Island Lighting Company (LILCO) by the Long Island Power Authority (LIPA). Clearly the House did not want a provision designed to affect the City of Chicago to unintentionally preclude the possibility of a LIPA takeover of LILCO if it could be shown to be in the interest of Long Island ratepayers.

Placing the LIPA issued bonds in the state volume cap would effectively kill the takeover of LILCO. In 1988, New York's bond volume cap will be roughly $820 million. Lazard Freres, financial advisory to LIPA, has estimated that issuance of $8 billion of tax-exempt bonds would be needed for a takeover of LILCO.

Obviously, putting these bonds in the state volume limitation would force the issuance of taxable bonds, and thus, kill the benefits of the takeover. Any benefits to Long Island from a takeover of LILCO will come as a direct result of the issuance of low-interest, tax exempt bonds by LIPA.

I feel strongly that the proposed takeover of LILCO should be decided by local officials and not a change in federal tax policy. I hope you do not succumb to pressure from the electric utility industry, and more specifically LILCO's lobbyists, and oppose the LIPA exemption contained in the House Reconciliation legislation. The tax code should not be used as a vehicle to thwart a purely local initiative.

I stand ready to meet with you to discuss this issue at a mutually acceptable time.

Sincerely,
ALFONSE M. D'AMATO,
U.S. Senator.●

IN RECOGNITION OF THE COLORADO MUSIC FESTIVAL

● Mr. WIRTH. Mr. President, I would like to recognize a festival of music that has, for more than a decade, brought world renowned orchestral musicians to Colorado each summer. The Colorado Music Festival has attracted musicians from across the country and around the globe. And each year, my fellow Coloradans and I have been treated to world class performances.

This past summer was no exception. The 1987 season was a tremendous success in many ways, but especially in terms of the high quality of the music that was performed. I believe, Mr. President, that this is well reflected by a review published in the Colorado Springs Gazette Telegraph. I ask that this review be published in the RECORD at the conclusion of my remarks. I recommend to my colleagues that, should they visit my home State during the summer months, they make every effort to attend this festival and enjoy its orchestra.

The review follows:

COLORADO MUSIC FESTIVAL ORCHESTRA BEST IN THE STATE

(By Gilbert R. Johns)

Here is the answer: "The Colorado Music Festival Orchestra."

What is the question?

There are a number of possibilities, but the best is this: "What is the best symphony orchestra in Colorado?"

When I reviewed a July 1986 program, I answered the question with a (uncharacteristically) timid "yes."

I attended the season-opening concert in Boulder a few nights ago and, from what I heard, my 1986 timidity was inappropriate.

Now in its 11th season, the orchestra is led by musical director and conductor Giora Bernstein, who was born in Vienna and is a former Israeli citizen. Performances are in Boulder's 89-year old Chautauqua Auditorium, a National Historic Monument located in Chautauqua Park, on Baseline Road, a few blocks off the Denver-Boulder turnpike.

This has not been a banner year for those Coloradans who require a steady diet of first-rate, live symphonic music. Despite the appointment of world famous pianist-conductor Philippe Entremont, the Denver Symphony has been in disrepair, with almost insurmountable financial problems and virtually a 100 percent turnover in management and development personnel, so, despite many fine players, the orchestra is no better than third best in the state.

Because the Aspen Festival opens today, I have not yet heard this year's orchestra, but it has a good track record going back many years. While almost always exciting, the players don't have the opportunity to develop as they should. While Bernstein directs the lion's share of Colorado Music Festival programs, Aspen Musical Director Jorge Mester conducts very few in Aspen, sharing his duties with 15 other conductors. I would judge the Aspen orchestra to be second in the state.

The Colorado Springs Symphony has faced a declining audience and an often enervated and demoralized orchestra. The conductor of 17 years, Charles Ansbacher, resigned last fall and the search for his successor is under way. In its present state, I would judge it no better than fourth in the state.

Its great contribution to symphonic music in the state was to bring in to the Pikes Peak Center at great expense to two of the finest orchestras in the world, The Cleveland Orchestra and the Warsaw Philharmonic.

The hallmark of the CMFO is a felicitious selection of performers, a high proportion of which are principals from orchestras all over the world. Bernstein hasn't simply selected players from, say, the Southern Louisiana Symphony Volunteer Firemen and Blackened Redfish Society who like to spend their summers in Colorado.

Bernstein's players have included principals from such organizations as the Israel Philharmonic, Chicago Lyric Opera, St. Louis Symphony and Orchestra de la Suisse Romande.

While some of them had played with CMFO in previous years, this year's orchestra only played together as a group for three days before the opening concert. They wisely chose standard repertoire, works that I imagine most of them had played many times before, but they gave anything but a standard, down-the-middle reading.

They opened with Mendelssohn's "Overture to a Midsummer's Night Dream." This youthful work is full of musical programmatic refereneces to Oberon, Titania and Puck, and contains even a bray of Bottom, who has been changed into a donkey.

Bernstein and the CMFO had even developed into a smooth ensemble and were able to deliver the dotted rhythms and the sprightly 3/8 time in the scherzo.

Aspen has always had the reputation of attracting the best brass section around, not surprising since the management staff includes some of the finest brass players in the world. But, juding from what I heard in Boulder, CFMO is fierce competition, and their brass may be easily forgiven for showing off and overplaying a tiny bit.

I couldn't help noticing after the Mendelssohn that many of the orchestra members exchanged pleased-as-punch, sly-pussycat smiles. They knew how good they had been at such short notice and were charmingly unable to conceal it.

The second work was another programmatic work, Schumann's Symphony No. 1 in B-flat, the "Spring Symphony." It is a work that the youthful Schumann sketched in four days, orchestrated in 23 and rehearsed in three before the first performance. Schumann's orchestration is somewhat slapdash and even indifferent, but Bernstein and company managed to conceal its shortcomings and deliver the work with the fanfares and flourishes it should have.

After intermission, we heard the evening's masterwork, Beethoven's Violin Concerto in D, with Joseph Swensen as featured soloist.

Swensen appeared with the Colorado Springs Symphony in late February, playing the Sibelius Violin Concerto. Later this summer, he will play the Khachaturian Violin Concerto with Aspen.

Swensen's delicate, finely etched sound was an interesting contrast to Bernstein's robust, full-bodied, almost Viennese sound. The work requires that orchestra and soloist be equal partners and both men made sure they were.

An extras bonus: One usually hears the Kreisler cadenza in this work, but Swensen developed an almost modern-sounding transcription of the piano (and tympani) cadenzas that Beethoven wrote and had the audience mesmerized with his fluid technique.

The acoustics in the drafty barn-like hall are superb, whether due to brilliant design, thousands of square feet of exposed weathered wood, divine providence—the Chautauqua movement has always been associated with temperance—or dumb luck. No man knows.

The festival continues through July 31 and offers 29 concerts of both chamber and symphonic works. The programming becomes more and more inventive as the season progresses. There are all-Beethoven and all-Mozart programs. The season's special project is "Stravinsky—the Late Works," during which Stravinsky scholar and conductor Robert Kraft will be brought in to join the distinguished array of world-class invited musicians.●

SMOOT-HAWLEY STRIKES AGAIN!

● Mr. HEINZ. Mr. President, in the wake of the stock market crash, we are once again plagued with "expert" analyses explaining more than we will ever want to know about what happened and why it happened. Virtually without exception these pieces cannot resist a passing reference to Smoot-Hawley as the source of our troubles in 1929 and warning against similar action this time around.

For the uninitiated, if there are any left in this age of information, Smoot and Hawley are not a Depression Era Abbott and Costello or Laurel and Hardy, although their work product has no doubt provided more than a few moments of unintended humor in succeeding years. They are the authors of the Tariff Act of 1930, which forms the basis of much of our current trade law, particularly that pertaining to unfair trade practices like dumping and subsidies. The fact that it also contained high tariffs has made it, depending on the economist, the scapegoat for the Great Crash, notwithstanding the fact that it was not enacted until 9 months later, the entire Depression, World War II, and, no doubt, the decline of the nuclear family as the basic element of American society.

This is a bit too much baggage for even the most ambitious piece of legislation to carry, and in the past few years a growing number of analysts have taken a new look at Smoot-Hawley and have come to some unexpected conclusions. Beyond the obvious—that it is hard to blame an event on a bill that was signed long afterward—it is also clear that the tariffs raised by Smoot-Hawley actually covered a relatively small portion of U.S. trade, and that much of the statistical decline in trade during this period was a decline in value due to falling prices rather than a decline in volume. Further, it has also proved difficult to reconcile the economic events of the 1930's with those of the 1920's, which featured a period of genuine growth also at a time of extraordinarily high tariffs.

What seems clear from these revisionist analyses is that the causes of macroeconomic events are complex, and that international trade has never been a driving force in any of them, if only because of the historical insularity of our economy and our relative lack of dependence on foreign trade. That is changing, but not fast enough to revise significantly this kind of analysis.

I have done so before, Mr. President, but I would like to again bring Senators' attention to one of these analyses—by Don Bedell, an experienced Washington trade consultant now living in Palm Desert, CA. I have placed Mr. Bedell's piece in the Record twice before, but it is apparent from the confusion in the press now masquerading as economic wisdom that a reminder is necessary. Therefore, Mr. President, I ask that Mr. Bedell's article be once again printed in the Record at the conclusion of my remarks today.

Now, Mr. President, having criticized facile media analyses of what is wrong with our economy, I want to provide one that I believe may be on target. It appeared in the November 2 issue of Grant's Interest Rate Observer and is titled, "Capitalized for Prosperity." This article also rejects the simplistic notion that laws or tariff policies were responsible for the Great Crash or that they could be responsible for similar developments in 1987. The author, does, however, raise some disturbing parallels between the present and the past in his review of our credit policies and our current credit structure. In brief, the article notes that corporate equity is down while credit is up. Domestic nonfinancial debt as a percentage of GNP is at a level exceeded only by the level in 1932-33. If, as the evidence suggests, banking and credit crises lag downturns in stocks and business activity by roughly 18 months, then we are heading into much more difficult times. The Wall Street Journal's "Heard on the Street" column in late October, 1929, said, "One banker says the decline has been due to too much credit rather than strained credit." The Grant's article suggests that may be the case in 1987 as well, something which should give us serious pause and cause for reflection.

Mr. President, I ask that this article also be printed in the Record.

The articles follow:

Tariffs Miscast as Villain in Bearing Blame for Great Depression—Smoot/Hawley Exonerated

(By Donald W. Bedell)

SMOOT/HAWLEY, DEPRESSION AND WORLD REVOLUTION

It has recently become fashionable for media reporters, editorial writers here and abroad, economists, Members of Congress, members of foreign governments, UN organizations and a wide variety of scholars to express the conviction that the United States, by the single act of causing the Tariff Act of 1930 to become law (Public Law 361 of the 71st Congress) plunged the world into an economic depression, may well have prolonged it, led to Hitler and World War II.

Smoot/Hawley lifted import tariffs into the U.S. for a cross section of products beginning mid-year 1930, or more than 8 months following the 1929 financial collapse. Many observers are tempted simply to repeat "free trade" economic doctrine by claiming that this relatively insignificant statute contained an inherent trigger mechanism which upset a neatly functioning world trading system based squarely on the theory of comparative economics, and which propelled the world into a cataclysm of unmeasurable proportions.

We believe that sound policy development in international trade must be based solidly on facts as opposed to suspicions, political or national bias, or "off-the-cuff" impressions 50 to 60 years later of how certain events may have occurred.

When pertinent economic, statistical and trade data are carefully examined will they show, on the basis of preponderance of fact, that passage of the Act did in fact trigger or prolong the Great Depression of the Thirties, that it had nothing to do with the Great Depression, or that it represented a minor response of a desperate nation to a giant world-wide economic collapse already underway?

It should be recalled that by the time Smoot/Hawley was passed 6 months had elapsed of 1930 and 8 months had gone by since the economic collapse in October, 1929. Manufacturing plants were already absorbing losses, agriculture surpluses began to accumulate, the spectre of homes being foreclosed appeared, and unemployment showed ominous signs of a precipitous rise.

The country was stunned, as was the rest of the world. All nations sought very elusive solutions. Even by 1932, and the Roosevelt election, improvisation and experiment described government response and the technique of the New Deal, in the words of Arthur Schlesinger, Jr. in a New York Times article on April 10, 1983. President Roosevelt himself is quoted in the article as saying in the 1932 campaign, "It is common sense to take a method and try it. If it fails, admit it frankly and try another. But above all, try something."

The facts are that, rightly or wrongly, there were no major Roosevelt Administration initiatives regarding foreign trade until well into his Administration; thus clearly suggesting that initiatives in that sector were not thought to be any more important than the Hoover Administration thought them. However, when all the numbers are examined we believe neither President Hoover nor President Roosevelt can be faulted for placing international trade's role in world economy near the end of a long list of sectors of the economy that had caused chaos and suffering and therefore needed major corrective legislation.

How important was international trade to the U.S.? How important was U.S. trade to its partners in the Twenties and Thirties?

In 1919, 66 percent of U.S. imports were duty free, or $2.9 Billion of a total of $4.3 Billion. Exports amounted to $5.2 Billion in that year making a total trade number of $9.6 Billion or about 14 percent of the world's total. See Chart I below.

CHART I.—U.S. GROSS NATIONAL PRODUCT, 1929–33

[Dollar amounts in billions]

	1929	1930	1931	1932	1933
GNP	$103.4	$89.5	$76.3	$56.8	$55.4
U.S. international trade	$9.6	$6.8	$4.5	$2.9	$3.2
U.S. international trade percent of GNP	9.3	7.6	5.9	5.1	[1] 5.6

[1] Series U., Department of Commerce of the United States, Bureau of Economic Analysis.

Using the numbers in that same Chart I it can be seen that U.S. imports amounted to $4.3 Billion or just slightly above 12 percent of total world trade. When account is taken of the fact that only 33 percent, or $1.5 Billion, of U.S. imports was in the Dutiable category, the entire impact of Smoot/Hawley has to be focused on the $1.5 Billion number which is barely 1.5 percent of U.S. GNP and 4 percent of world imports.

What was the impact? In dollars Dutiable imports fell by $462 Million, or from $1.5 Billion to $1.0 Billion, during 1930. It's difficult to determine how much of that small number occurred in the second half of 1930 but the probability is that it was less than 50 percent. In any case, the total impact of Smoot/Hawley in 1930 was limited to a "damage" number of $231 Million; spread over several hundred products and several hundred countries!

A further analysis of imports into the U.S. discloses that all European countries accounted for 30 percent or $1.3 Billion in 1929 divided as follows: U.K. at $330 Million or 7½ percent, France at $171 Million or 3.9 percent, Germany at $255 Million or 5.9 percent, and some 15 other nations accounting for $578 Million or 13.1 percent for an average of 1 percent.

These numbers suggest that U.S. imports were spread broadly over a great array of products and countries, so that any tariff action would by definition have only a quite modest impact in any given year or could be projected to have any important cumulative effect.

This same phenomenon is apparent for Asian countries which accounted for 29 percent of U.S. imports divided as follows: China at 3.8 percent, Japan at $432 Million and 9.8 percent, and with some 20 other countries sharing in 15 percent or less than 1 percent on average.

Australia's share was 1.3 percent and all African countries sold 2.5 percent of U.S. imports.

Western Hemisphere countries provided some 37 percent of U.S. imports with Canada at 11.4 percent, Cuba at 4.7 percent, Mexico at 2.7 percent, Brazil at 4.7 percent and all others accounting for 13.3 percent or about 1 percent each.

The conclusion appears inescapable on the basis of these numbers; a potential adverse impact of $231 Million spread over the great array of imported products which were Dutiable in 1929 could not realistically have had any measurable impact on America's trading partners.

Meanwhile, the Gross National Product (GNP) in the United States had dropped an unprecedented 13.5 percent in 1930 alone, from $103.4 Billion in 1929 to $89 Billion by the end of 1930. It is unrealistic to expect that a shift in U.S. international imports of just 0.2 percent of U.S. GNP in 1930 for example ($231 Million on $14.4 Billion) could be viewed as establishing a "precedent" for America's trading partners to follow, or represented a "model" to follow.

Even more to the point an impact of just 0.2 percent could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

Note should be taken of the claim by those who repeat the Smoot/Hawley "villain" theory that it set off a "chain" reaction around the world. While there is some evidence that certain of America's trading partners retaliated against the U.S. there can be no reliance placed on the assertion that those same trading partners retaliated against each other by way of showing anger and frustration with the U.S. Self-interest alone would dictate otherwise, common sense would intercede on the side of avoidance of "shooting oneself in the foot," and the facts disclose that world trade declined by 18 percent by the end of 1930 while U.S. trade declined by some 10 percent more or 28 percent. U.S. foreign trade continued to decline by 10 percent more through 1931, or 53 percent versus 43 percent for world-wide trade, but U.S. share of world trade declined by only 18 percent from 14 percent to 11.3 percent by the end of 1931.

Reference was made earlier to the Duty Free category of U.S. imports. What is especially significant about those import numbers is the fact that they dropped in dollars by an almost identical percentage as did Dutiable goods through 1931 and beyond: Duty Free imports declined by 29 percent in 1930 versus 27 percent for Dutiable goods, and by the end of 1931 the numbers were 52 percent versus 51 percent respectively.

The only rational explanation for this phenomenon is that Americans were buying less and prices were falling. No basis exists for any claim that Smoot/Hawley had a distinctively devastating effect on imports beyond and separate from the economic impact of the economic collapse in 1929.

Based on the numbers examined so far, Smoot/Hawley is clearly a mis-cast villain. Further, the numbers suggest the clear possibility that when compared to the enormity of the developing international economic crisis Smoot/Hawley had only a minimal impact and and international trade was a victim of the Great Depression.

This possibility will become clear when the course of the Gross National Product (GNP) during 1929-1933 is examined and when price behaviour world-wide is reviewed, and when particular Tariff Schedules of Manufacturers outline in the legislation are analyzed.

Before getting to that point another curious aspect of the "villain" theory is worthy of note. Without careful recollection it is tempting to view a period of our history some 50-60 years ago in terms of our present world. Such a superficial view not only makes no contribution to constructive policy-making. It overlooks several vital considerations which characterized the Twenties and Thirties:

1. The international trading system of the Twenties bears no relation to the interdependent world of the Eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the General Agreement for Tariffs and Trade (GATT) for example for resolution of disputes. There were no trade "leaders" among the world's nations in part because most mercantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the "economy-critical" context as currently in the U.S. As indicated earlier neither President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. foreign trade was relatively an amorphous phenomenon quite unlike the highly structured system of the Eighties; characterized largely then by "caveat emptor" and a broadly laissez-faire philosophy generally unacceptable presently.

These characteristics, together with the fact that 66 percent of U.S. imports were Duty Free in 1929 and beyond, placed overall international trade for Americans in the Twenties and Thirties on a very low level of priority especially against the backdrop of world-wide depression. Americans in the Twenties and Thirties could no more visualize the world of the Eighties than we in the Eighties can legitimately hold them responsible for failure by viewing their world in other than the most pragmatic and realistic way given those circumstances.

For those Americans then, and for us now, the numbers remain the same. On the basis of sheer order of magnitude of the numbers illustrated so far, the "villain" theory often attributed to Smoot/Hawley is an incorrect reading of history and a misunderstanding of the basic and incontrovertible law of cause and effect.

It should also now be recalled that, despite heroic efforts by U.S. policy-makers its GNP continued to slump year-by-year and reached a total of just $55.4 billion in 1933 for a total decline from 1929 levels of 46 percent. The financial collapse of October, 1929 had indeed left its mark.

By 1933 the 1929 collapse had prompted formation in the U.S. of the Reconstruction Finance Corporation, Federal Home Loan Bank Board, brought in a Democrat President with a program to take control of banking, provide credit to property owners and corporations in financial difficulties, relief to farmers, regulation a stimulation of business, new labor laws and social security legislation.[1]

So concerned were American citizens about domestic economic affairs, including the Roosevelt Administration and the Congress, that scant attention was paid to the solitary figure of Secretary of State Cordell Hull. He, alone among the Cabinet, was convinced that international trade had material relevance to lifting the country back from depression. His efforts to liberalize trade in general and to find markets abroad for U.S. products in particular from among representatives of economically stricken Europe, Asia and Latin America were abruptly ended by the President and the 1933 London Economic Conference collapsed without result.

The Secretary did manage to make modest contributions to eventual trade recovery through the Most Favored Nation (MFN) concept. But it would be left for the United States at the end of World War II to undertake an economic and political role of leadership in the world; a role which in the Twenties and Thirties Americans in and out of government felt no need to assume, and did not assume. Evidence that conditions in the trade world would have been better, or even different, had the U.S. attempted some leadership role can not responsibly be assembled. Changing the course of past history has always been less fruitful than applying perceptively history's lessons.

The most frequently used numbers thrown out about Smoot/Hawley's impact by those who believe in the "villain" theory are those which clearly establish that U.S. dollar decline in foreign trade plummeted by 66 percent by the end of 1933 from 1929 levels, $9.6 billion to $3.2 billion annually.

Much is made of the coincidence that world-wide trade also sank about 66 percent for the period. Chart II summarizes the numbers.

CHART II.—UNITED STATES AND WORLD TRADE, 1929–33

[In billions of U.S. dollars]

	1929	1930	1931	1932	1933
United States:					
Exports	5.2	3.8	2.4	1.6	1.7
Imports	4.4	3.0	2.1	1.3	1.5
Worldwide:					
Exports	33.0	26.5	18.9	12.9	11.7
Imports	35.6	29.1	20.8	14.0	[1] 12.5

[1] Series U. Department of Commerce of the United States, League of Nations, and International Monetary Fund.

The inference is that since Smoot/Hawley was the first "protectionist" legislation of the Twenties, and the end of 1933 saw an equal drop in trade that Smoot/Hawley must have caused it. Even the data already presented suggest the relative irrelevance of the tariff-raising Act on a strictly trade numbers basis. When we examine the role of a world-wide price decline in the trade figures for almost every product made or commodity grown the "villain" Smoot/Hawley's impact will not be measurable.

It may be relevant to note here that the world's trading "system" paid as little attention to America's revival of foreign trade beginning in 1934 as it did to American trade policy in the early Thirties. From 1934 through 1939 U.S. foreign trade rose in dollars by 80% compared to world-wide growth of 15%. Imports grew by 68% and exports climbed by a stunning 93%. U.S. GNP by 1939 had developed to $91 Billion, to within 88% of its 1929 level.

Perhaps this suggests that America's trading partners were more vulnerable to an economic collapse and thus much less resilient than was the U.S. In any case the international trade decline beginning as a result of the 1929 economic collapse, and the subsequent return by the U.S. beginning in 1934 appear clearly to have been wholly unrelated to Smoot/Hawley.

As we begin to analyze certain specific Schedules appearing in the Tariff Act of 1930 it should be noted that sharp erosion of prices world-wide caused dollar volumes in trade statistics to drop rather more than unit volume thus emphasizing the decline value. In addition, it must be remembered that as the Great Depression wore on, people simply bought less of everything increasing further price pressure downward. All this wholly apart from Smoot/Hawley.

When considering specific Schedules, No. 5 which includes Sugar, Molasses, and Manufactures of: maple sugar, cane sirups, adonite, dulcite, galactose, inulin, lactose and sugar candy. Between 1929 and 1933 import volume into the U.S. declined by about 40% in dollars. In price on a world basis producers suffered a stunning 60% drop. Volume of sugar imports declined by only 42% into the U.S. in tons. All these changes lend no credibility to the "villain" theory unless one assumes, erroneously, that the world price of sugar was so delicately balanced that a 28% drop in sugar imports by tons into the U.S. in 1930 destroyed the price structure and that the decline was caused by tariffs and not at least shared by decreased purchases by consumers in the U.S. and around the world.

Schedule 4 describes Wood and Manufactures of: timber hewn, maple, brier root, cedar from Spain, wood veneer, hubs for wheels, casks, boxes, reed and rattan, toothpicks, porch furniture, blinds and clothespins among a great variety of product categories. Dollar imports into the U.S. slipped by 52% from 1929 to 1933. By applying our own GNP as a reasonable index of prices both at home and overseas, unit volume decreased only 6% since GNP had dropped by 46% in 1933. The world-wide price decline did not help profitability of wood product makers, but to tie that modest decline in volume to a law affecting only 6½% of U.S. imports in 1929 puts great stress on credibility, in terms of harm done to any one country or group of countries.

Schedule 9, Cotton Manufactures, a decline of 54% in dollars is registered for the period, against a drop of 46% in price as reflected in the GNP number. On the assumption that U.S. GNP constituted a rough comparison to world prices, and the fact that U.S. imports of these products was infinitesimal. Smoot/Hawley was irrelevant. Further, the price of raw cotton in the world plunged 50% from 1929 to 1933. U.S. growers had to suffer the consequences of that low price but the price itself was set by world market prices, and was totally unaffected by any tariff action by the U.S.

Schedule 12 deals with Silk Manufactures, a category which decreased by some 60% in dollars. While the decrease amounted to 14% more than the GNP drop, volume of product remained nearly the same during the period. Assigning responsibility to

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[1] Beard, Charles and Mary, New Basic History of the United States.

Smoot/Hawley for this very large decrease in price beginning in 1930 stretches credibility beyond the breaking point.

Several additional examples of price behaviour are relevant.

One is Schedule 2 products which include brick and tile. Another is Schedule 3 iron and steel products. One outstanding casualty of the financial collapse in October, 1929 was the Gross Private Investment number. From $16.2 Billion annually in 1929 by 1933 it has fallen by 91% to just $1.4 Billion. No tariff policy, in all candor, could have so devastated an industry as did the economic collapse of 1929. For all intents and purposes construction came to a halt and markets for glass, brick and steel products with it.

Another example of price degradation world-wide completely unrelated to tariff policy is Petroleum products. By 1933 these products had decreased in world price by 82% but Smoot/Hawley had no Petroleum Schedule. The world market place set the price.

Another example of price erosion in world market is contained in the history of exported cotton goods from the United States. Between 1929 and 1933 the volume of exported goods actually increased by 13.5% while the dollar value dropped 48%. This result was wholly unrelated to the tariff policy of any country.

While these examples do not include all Schedules of Smoot/Hawley they clearly suggest that overwhelming economic and financial forces were at work affecting supply and demand and hence on prices of all products and commodities and that these forces simply obscured and measurable impact the Tariff Act of 1930 might possibly have had under conditions of several years earlier.

To assert otherwise puts on those proponents of the Smoot/Hawley "villain" theory a formidable challenge to explain the following questions:

1. What was the nature of the "trigger" mechanism in the Act that set off the alleged domino phenomenon in 1930 that began or prolonged the Great Depression when implementation of the Act did not begin until mid-year?

2. In what ways was the size and nature of U.S. foreign trade in 1929 so significant and critical to the world economy's health that a less than 4% swing in U.S. imports could be termed a crushing and devastating blow?

3. On the basis of what economic theory can the Act be said to have caused a GNP drop of an astounding drop of 13.5% in 1930 when the Act was only passed in mid-1930? Did the entire decline take place in the second half of 1930? Did world-wide trade begin its decline of some $13 Billion only in the second half of 1930?

4. Does the fact that duty free imports into the U.S. dropped in 1930 and 1931 and in 1932 at the same percentage rate as dutiable imports support the view that Smoot/Hawley was the cause of the decline in U.S. imports?

5. Is the fact that world-wide trade declined less rapidly than did U.S. foreign trade prove the assertion that American trading partners retaliated against each other as well as against the U.S. because and subsequently held the U.S. accountable for starting an international trade war?

6. Was the international trading system of the Twenties so delicately balanced that a single hastily drawn tariff increase bill affecting just $231 Million of dutiable products in the second half of 1930 began a chain reaction that scuttled the entire system? Percentage-wise $231 Million is but 0.65% of all of 1929 world-wide trade and just half that of world-wide imports:

The preponderance of history and facts of economic life in the international area make an affirmative response by the "villain" proponents an intolerable burden.

It must be said that the U.S. does offer a tempting target for Americans who incessantly cry "mea culpa" over all the world's problems, and for many among our trading partners to explain their problems in terms of perceived American inability to solve those problems.

In the world of the Eighties U.S. has indeed very serious and perhaps grave responsibility to assume leadership in international trade and finance, and in politics as well.

On the record, the United States has met that challenge beginning shortly after World War II.

The U.S. role in structuring the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund, the Bretton Woods and Dumbarton Oaks Conferences on monetary policy, the World Bank and various Regional Development Banks, for example, is a record unparalleled in the history of mankind.

But in the Twenties and Thirties there was no acknowledged leader in international affairs. On the contrary, evidence abounds that most nations preferred the centuries-old patterns of international trade which emphasized pure competition free from interference by any effective international supervisory body such as GATT.

Even in the Eighties examples abound of trading nations succumbing to nationalistic tendencies and ignoring signed trade agreements. Yet the United States continues as the bulwark in trade liberalization proposals within the GATT. It does so not because it could not defend itself against any kind of retaliation in a worst case scenario but because no other nation is strong enough to support them successfully without the United States.

The basic rules of GATT are primarily for all those countries who can't protect themselves in the world of the Eighties and beyond without rule of conduct and discipline.

The attempt to assign responsibility to the U.S. in the Thirties for passing the Smoot/Hawley tariff act and thus set off a chain reaction of international depression and war is, on the basis of a preponderance of fact, a serious mis-reading of history, a repeal of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to re-write history, not learning from it. Nothing is more worthwhile than making careful and perceptive and objective analysis in the hope that it may lead to an improved and liberalized international trading system.

CAPITALIZED FOR PROSPERITY

* * * The biggest decline in history has taken place without a failure of importance.—The Wall Street Journal, October 31, 1929.

Whether a recession is likely or not is one of those questions that economists dispute on the MacNeil/Lehrer Newshour. What is almost beyond debate, however, is that an economic downturn would disappoint broad segments of the American public. Indebted consumers, leveraged corporations and money-center banks have had difficulty enough in the fat years. In 1986, a time of macroeconomic milk and honey, records were established in corporate bond downgrades, corporate bond defaults, bank failures and personal bankruptcies. It is sobering to consider that that was prosperity.

Merely because a slump would be inconvenient, of course, does not guarantee that it can't happen. On the contrary, the not-quite spontaneous profession of optimism by the nation's political and financed leadership in the days that followed the crash would seem a bad omen, like the show of "organized support" in late October 1929. "There has been a little distress selling on the Stock Exchange," said Thomas W. Lamont offhandedly in that Crash, and the Reagan White House, suddenly conversant in technical analysis, was almost as dismissive of something worse than 1929 two weeks ago. If official pronouncements can be taken as a kind of reverse leading indicator, the odds of a downtown have increased, not diminished. In any event, a crash, let alone a global crash, does not often presage two chickens in every pot.

It is a truism that the real money was lost not in 1929 but in the slump and debt liquidation of 1930 to 1932. The Crash, as it was crashing, was written off as a hard, but localized, aberration. (From the October 31, 1929, Journal: "The panic, or triple panic as some call it, was not due to anything fundamentally weak in either business or finance. It was confined to the market itself. That's the only place one could find inflation.") In point of fact, everything had changed, although it would be a full year before the credit repercussions were felt. Late in 1930, Caldwell & Co., the "Morgan of the South" (Grant's, January 12), and Bank of United States, a New York lender with a big book of real estate business, failed. What had been Wall Street's problem overnight became the nation's, and what might have been another brief, if violent, panic instead became the Great Depression.

What location is to real estate, timing is to investments. The 1929 experience may or may not be duplicated today—nothing is ever exactly duplicated—but it will be useful to remember that the credit crisis, then, took time to develop. Historians, debating cause and effect, have blamed the Depression on protectionist tariffs and a stringent Federal Reserve. That, from the 1987 vantage point, is the hopeful assessment, because public policy can be more easily revamped than the credit cycle. If, however (as we believe), the problems run deeper than laws and pronouncements, another question presents itself: Is today's credit structure any sounder than that of 1929? If not—and our conclusion is not—the implications for 1987 and 1988 are not happy ones. The truth is that the nation is capitalized for prosperity and expects nothing less. It requires nothing less, which is also the rub.

The antique conservative flavor of the passages on leverage in Graham and Dodd's Security Analysis, published in 1934 suggests how standards of banking and corporate finance changed in the great postwar prosperity. Banks are less liquid, corporate balance sheets more leveraged and public finances more bollied up than in the 1920s. In the 1930s, politicians and historians rushed to condemn the financial arrangements of the 1920s, and it is now received wisdom that the federal safety net of bank-deposit insurance, brokerage-account insurance, credit guarantees and income supports will suffice to stave off anything like another Great Depression. To be sure, there was no FDIC, SIPC, FSLIC or Full Employment Act of 1946 the last time out. On the other hand, there was no pre-Crash crisis in money-center banking either, and no economy-wide consensus that financial leverage is a one-way ticket to Golconda. (On the Friday after the crash, an all-news radio station in New York, WINS, broadcast a brief personal-finance commentary. Addressing any business executive caught up in an LBO, an announcer advised that it was all right to take out a second mortgage on one's home in order to buy stock in one's leveraged company.)

Perhaps the trouble with a weak dollar, high real interest rates and big budget deficits in a business expansion is that there is no public-policy account on which to draw in case of a rainy day. In 1929, long-dated U.S. government securities yielded 3.6 percent and the sovereign obligations of Peru fetched something close to par. The dollar was as good as gold, and the Federal Reserve, if it chose to reliquify (as, in fact, following the break, it did) did not encounter a paranoid bond market. Although constricted by an international gold standard and by the financial norms of the day, the authorities enjoyed a certain measure of maneuvering room.

For the past half century, under a regulatory system that all but warrants that the banking system can't collapse, liquidity has diminished. Lending has become more speculative, assets have become slower and financial guarantees more commonplace. Sixty years after the crash to end all crashes, we have had another crash. Credit is weaker than it was; government (in the scope of its promises) is stronger. The question is, how does one thing net against the other? Is the government as strong as the credit structure is weak?

Everyone has read about the leveraging of America. It is no news that corporate equity has actually shrunk in every year since 1983 or that certain key financial ratios of U.S. industrial companies have been declining despite the expansion in business activity (Grant's, June 20). As if by reflex action, scores of corporations announced stock repurchases in the wake of the crash, thereby pledging themselves to even higher leverage in advance of what could be a business downturn. Benjamin Anderson, author of the definitive, it awkwardly titled, "Economics and the Public Welfare: A Financial and Economic History of the United States, 1914-1946," wrote that a very different state of affairs prevailed on the eve of the 1929 break:

"The credit structure of business was generally extremely strong. Almost any business that could make a reasonable showing of earning power, and not a few that could make only a prima facie showing, had been able to issue stocks in the enthusiastic stock market that had preceded the crash. Businesses refunded a great many bond issues with the proceeds of stock issues, had reduced their debts to the bank with money obtained from the stock market, and had increased their holdings of cash. The financial structure of business was exceedingly strong."

As noted last issue, the negative trend in corporate-bond rating changes reversed itself in the third quarter, and a number of companies have retired debt with the proceeds of equity sales. However, what is striking about this improvement in balance sheets is how late it has come and how modest it has been. Until the recent crash, or until the tax fright that preceded the crash, the case for high-yield securities appeared airtight. Anderson's assessment of corporate finance in 1929 is surely more upbeat than any that might be made in this year. Perhaps Anderson overstated things (though not by much, we think), or perhaps Grant's has overdrawn the negatives in 1987. However, it is hard to escape the conclusion that American business was on a more orthodox financial footing in 1929 than it is in 1987.

In his new autobiography, "The Banker's Life," George Moore, the man who preceded Walter Wriston as chairman of Citicorp, formerly National City Bank, relates some facts on the stature of banks and banking at the 1929 top. In that summer, National City common was quoted at $492 a share, "a remarkable price," as Moore says, "even in 1929 for a company with a book value of fifty dollars a share and a dividend of four dollars a share." If one can grasp those numbers, one can also understand how low the estate of banking has fallen in our generation. Citicorp, then as now the nation's largest banking organization, was strong on the eve of the Great Depression. One crash later finds it bruised, (although optimistic enought to announce a post-crash stock buyback of its own).

Some additional perspective on credit is furnished in "Citibank: 1812-1970," the bank's official corporate history, by Harold van B. Cleveland and Thomas F. Huertas. What everyone remembers of Depression-era banking is the 1933 Bank Holiday, the humbling of the leading bankers of the day and the enormous losses suffered in ostensibly safe assets. But "Citibank" also highlights the strengths of that era. "Liquidity was high too," the authors write of National City at the time of the Crash. "During 1929 the bank's holdings of cash, government securities, and other liquid assets in New York had averaged 63 percent of its net domestic deposits. Despite the Crash, profits were running at a record pace." As late as the end of 1932, the book goes on to note, "the proportion of net domestic deposits invested in cash and paper eligible for rediscount at the Federal Reserve had risen above 60 percent, a ratio that prompted Time to call National City's balance sheet the envy of every bank in the United States."

It was not until 1931 that Peru defaulted on it foreign debts; and not until 1933, according to Moore, that National City's exposure to the illiquid loans of what was then the world's leading problem creditor, Germany, exceeded it common equity ($95 million in German loans vs. $77.5 million of diminished capital). What must strike the contemporary reader of this history, however, is how strong the bank was before its world fell in on it. And how much banking has changed. Moore relates a story of the redoubtable William A. Simonson, a senior vice president of National City Bank:

"I had an opportunity to see Mr. Simonson in acton when one of our Cleveland correspondent banks wanted a line of credit from National City to be secured by their mortgage portfolio. "We don't do that," Mr. Simonson said, stiff-backed. "The day they want to use that line will be the very day you don't want to make the loan—and on that day, those mortgages will be no good."

The 1986 Citicorp balance sheet reveals standby letters of credit outstanding in the sum of $22 billion. "Standby letters of credit are irrevocable assurances that Citibank will make payment in the event a Citibank customer cannot perform it obligations, the annual report explains. Simon left his job as senior lending officer in 1936.

Enumerating the differences between 1987 and 1929 in the Journal Wednesday morning, Irving Kristol wrote, "In addition, there is practically no possibility of a collapse of the banking system today, as occurred then." When Professor Kristol speaks, of course, one is bound to listen, although if the banking system is any sounder today than it was in 1929, it is no thanks to the average big-city banker, in New York or Tokyo. That point was forcibly impressed on anyone who happened to read the article on Japanese banking ("Japanese Capital Is Not What It Seems to Be") in the September issue of Euromoney. The piece recites a list of horribles that may jolt even a hardened observer of Japanese finance, notably lending practices of banks in the Tokyo real estate market. Exact figures are unavailable, the piece says, although the scope of lending is known to be extensive:

"The banks' lending in the real-estate area probably dwarfs anything they have been doing in stocks. The trend, according to Tait Ratcliffe, president of the Tokyo financial consulting firm of IBI, is doubly troubling; the banks have not only extended their exposure dramatically in an industry whose insidious charms have often in the past led other countries' bankers astray, but in doing so they have also driven up real-estate prices to unrealistic levels for their own borrowers.

"There is another danger. The banks have been propping up many near-solvent industrial companies on the grounds that they possess vast hidden assets. In most cases, the assets are unrealized gains on land and buildings the companies own. * * *

"As for the flow of bank funds into real estate, Sadaaki Hosoya, an economist at the Bank of Japan, pointed out that such lending accounted for 46 percent of all bank lending in the first quarter of 1987. In addition, the banking industry pumped trillions of yen into residential property."

In the United States in the 1929 crack-up, the first banking and credit crisis lagged the downturn in stocks and business activity by a full year and a half. The bear market in credit (the bull market in cash) accelerated into 1931 and 1932, winding down with the Bank Holiday of March 1933, almost eight months after the stock market scraped bottom. It may be hard to accept the idea that the structure of credit is actually more precarious in 1987 than it was in the distant (and discredited) times of the late 1920s. However, that is what the evidence tells us. If that assessment is correct, it does not suggest an early resumption of the great bull market. It suggests that credit—its volume and quality—may yet have its day in the headlines. "One broker says the decline has been due to too much credit rather than strained credit," said the Journal's "Head on the Street" column on October 25, 1929, which may not be a bad working hypothesis for the 1987 decline either.●

WHY ABORTIONISTS QUIT

● Mr. HUMPHREY. Mr. President, abortion takes its toll on many of the parties involved in the procedure. The mother, the father, and family are all affected emotionally, psychologically, and physically. Not the least affected, of course, is the preborn child. We are now seeing that medical personnel who perform or assist in the performance of an abortion are also greatly affected by the abortion. It is no wonder they are: abortion destroys a living, feeling human being in a way too gruesome for words.

I ask that an article appearing in the Herald describing a recent conference of former abortionists and abortion clinic workers, be inserted in the RECORD.

The article follows:

[From the Boston (MA) Herald, Nov. 29, 1987]

EX-ABORTIONISTS TELL WHY THEY QUIT

(By Don Feder)

Bernard Nathanson needn't feel lonely any more.

A founder of the abortion movement, now an eloquent exponent of the unborn, Dr. Nathanson once was anomaly. Today he is joined by a growing number of colleagues.

Earlier this month the Pro-Life Action League held a seminar in Chicago of former abortion providers, and they offered poignant witness against their erstwhile occupation.

Dr. Anthony Levatino did abortions for eight years as part of his Albany, N.Y., practice, performing dilation and evacuation in late-term abortions. "In a D&E abortion, you are pulling out pieces of unborn children," the doctor disclosed.

From the outset, Levatino was vaguely troubled by the work, but continued to do it for the money. "It's highly profitable. I could do three abortions in my office, in an hour and a half, and make more than caring for a woman nine months and delivering her baby."

It took a personal tragedy to prompt a change of heart. While he was doing abortions as a resident, he and his wife were trying desperately to have a child. "There I was throwing kids in the garbage, five or six a week. Just give me one, I thought."

Eventually, they adopted a child. Several years later, their daughter was killed by an auto in front of their home. The girl died in Levatino's arms. "If you lose a child, you look at things differently. What was once uncomfortable becomes intolerable. You feel that you're destroying a human being for money, like a paid assassin." At that point, the doctor disconnected his suction machine.

Dr. Joseph Randall of Atlanta had a different experience. Randall, the operator of a clinic, estimates he performed 32,000 abortions. Like Levatino, he used the D&E procedure.

After the operation, "you have to reassemble that baby—arms, legs, head, chest—everything [to be sure no pieces remain in the mother]. That's when it got rough, even for old-timers like me," Randall recalled.

He used ultrasound to determine the child's development. "When you looked at an ultrasound, there was no mistaking that this was a baby." Which is why "ladies who came in for midtrimester abortions were shielded from the images." "Several nurses quit. They would bond with the baby they saw on the screen; they couldn't take it."

Randall finally stopped performing pregnancy terminations when a Christian woman, who had come to work in his office, convinced him of their immorality. Today he does volunteer counseling at a facility offering alternatives to abortion.

A certified medical assistant, Debra Henry worked at a Detroit-area abortion mill for six months in 1984. "Hearing the baby's bones breaking, as the doctor was taking it out of the woman—it was just an experience you never forget," she declared.

Clinic workers weren't allowed to refer to the unborn child as a baby, only as "tissue" or a "cluster of cells." Women were never told about the possibility of sterility or other complications, Henry claimed.

She quit after an encounter with a right-to-lifer who was picketing the clinic. Today, Henry is assistant director of the Michigan Pro-Life Action League.

Carol Everett was a merchant of death, operating two clinics in Dallas from 1977 to 1983. Although not a health professional, she also assisted in the procedures, holding the woman's abdomen, to mark the position of the child's head and buttocks for the abortionist. Says Everett, "I could feel the babies fighting, struggling to escape the forceps."

She maintains gross malpractice occurs at many clinics, which the medical establishment usually succeeds in covering up. ("We were maiming or killing one woman in every 500.") "A beauty of 21 came into the operating room. I'll never forget. My left hand held the baby in place. First the doctor pulled out the placenta, then her bowel. She had to have a colostomy."

Consumed by guilt, Everett finally sold her lucrative business, contributing most of the proceeds to the right-to-life movement, which she continues to support by maintaining a heavy speaking schedule.

Perhaps these deserters from the death-head's brigade will at last turn the tide. Surely their heart-rending testimony cannot be ignored.●

HUFFY'S OHIO PLANT: PREPARING FOR THE FUTURE

● Mr. GLENN. Mr. President, I want to call my colleagues' attention to an article which appeared in the November 30, 1987, issue of the Wall Street Journal. It seems that these days we hear endlessly about the inability of American manufacturing to compete in the world marketplace. It is important that we recognize American companies that are making achievements in this area. Today, I want to congratulate Harry Shaw, chairman and chief executive officer, and other managers and employees of the Ohio-based Huffy Corp., for their successful efforts to upgrade an older factory, increase productivity, and improve product quality.

As the Wall Street Journal reports, Huffy has a sprawling factory in Celina, OH, that is 32 years old. During recent years, Huffy has established new manufacturing and management practices to increase its international competiveness. Just-in-time inventory managment, tighter quality controls, and an employee "gain sharing" program are just three of the improvements which have made Huffy's Celina, OH, facility the most productive bicycle factory in the world. Seventeen hundred employees turn out more than 15,000 bicycles a day, compared to 5 years ago when it required 2,200 employees to make 10,000 bicycles a day. Only 0.7 hour of work is required to make a bicycle at Celina. The workers and managers are constantly setting new goals for plant efficiency.

I ask to have the November 30, 1987, article from the Wall Street Journal printed in the RECORD.

The article follows:

[From the Wall Street Journal, Nov. 30, 1987]

UPGRADING OF FACTORIES REPLACES THE CONCEPT OF TOTAL AUTOMATION

(By Ralph E. Winter)

FLEMINGTON, NJ.—A decade ago futurists envisioned robots operating factories, with only a few white-coated technicians on hand to tend to any problems.

Unisys Corp.'s factory of the future here isn't quite like that. It does have computerized robots. But instead of white-coated technicians, it has workers like Joan Dudley. The 45-year-old Mrs. Dudley feeds electronic parts to a robot, which inserts electronic chips into 8-by-10-inch circuit boards, and then she checks the robot's work. The job is important because the boards are the brains for the computer terminals and work stations made at the plant.

From Mrs. Dudley at the start of the manufacturing process to 22-year-old, 6-foot-4 Richard Clader who packs the finished machines into corrugated cartons, the 299 production workers here aren't much different from hourly workers at many of the nation's traditional manufacturing plants. But automation of materials handling and other steps have helped raise their efficiency.

The totally mechanized factory, once seen as the only answer to low-wage foreign competition, continues to recede into the next century. But accelerated upgradings of operations like the Unisys plant are helping to restore this country's manufacturing might.

WORKERS STILL NEEDED

Instead of the futuristic models once envisioned, factories of the 1990s will be more efficient versions of the 1970s models—partnerships of man and machine. Workers like Mrs. Dudley will remain essential to a plant's operation for a long time to come, contends Ronald A. Sampson, the manager of plant operations here. Complex machinery to replace them would cost too much and wouldn't provide the necessary flexibility.

Plant automation, in fact, is much more complex and costly than was forecast a decade ago. The decision to upgrade plants with available technology follows a pattern set by the Japanese. "In the last five years, there's been a shot of insight into how the Japanese have reduced their costs," says Leonard G. Friedel, vice president of Boston Consulting Group, which has guided its clients in rejuvenating their plants. "We've learned it doesn't always require massive investment and fully automated production systems."

Instead, manufacturers from Caterpillar Inc., a maker of heavy equipment, to Huffy Corp., a bicycle maker, are using new production methods, imaginative management, a more cooperative work climate, and some of the latest computer-controlled equipment in their existing plants. The cost is far below that of new automated plants, if indeed the technology exists for total automation.

Caterpillar, of Peoria, Ill., claims its upgrading program has helped trim costs 20% since 1982. The company, which adopted the slogan "Plant With a Future" to underline its belief that older plants can be made competitive for years to come, says the savings result mainly from lower materials and labor costs in manufacturing, fewer defective parts, and better control of inventories.

INCREASED OUTPUT

At Huffy's 32-year-old Celina, Ohio, bicycle factory, 1,700 employees turn out more than 15,000 bicycles a day. Five years ago, it required 2,200 employees to make 10,000 bikes daily.

Visits to Huffy's sprawling factory in western Ohio and to the Unisys plant here in New Jersey illustrate principal elements in upgrading programs. Although workers at the Huffy plant are represented by the United Steelworkers union and the Unisys workers have no union, the two facilities are using similar methods to become more competitive.

At both plants, fresh attention is being paid to blemish-free products and to ensuring a smooth and rapid flow of parts through the plant. Both plants use the popular just-in-time inventory management system, in which suppliers furnish parts and materials precisely when they are needed. Employees get involved in the decisions, making them more willing to continue to change. Officials talk constantly of new goals, in contrast to the old factory maxim "If it ain't broke, don't fix it."

As a result, Huffy says, the Celina plant has become the most productive bike factory in the world, requiring only 0.7 hour of work to make a bike. That is a quarter to a third of the time needed in the Orient, says Barry J. Ryan, Huffy's vice president for finance. "Rust Belt manufacturing plants can compete," he says.

GOING WITH THE OLD

Huffy in 1983 closed a brand-new plant in Oklahoma, as imported bikes kept taking a larger share of market and the automated equipment at the plant didn't live up to expectations, among other things. So Huffy concentrated on improving the Ohio plant.

Huffy says the program has helped it meet the foreign competition. "Our two big advantages over Taiwan bike producers are quality and the ability to respond to the market," says John L. Mariotti, the president and general manager of Huffy's bicycle unit.

Reducing the number of production workers is secondary in most plant upgrade programs because direct labor usually isn't any more than 10% of the total manufacturing cost. Many plants today buy the most labor-intensive parts abroad.

The Unisys plant buys power-supply units, disk drives, monitors and keyboards from the Far East, holding direct labor costs to a mere 2% of total expenditures. "We put our effort where it will do the most good, on product quality and reducing materials costs," rather than on eliminating production jobs, says Patrick J. Brassil, vice president and plant general manager.

All this attention directed at quality, materials management and product flow contrasts with the 1960s and 1970s, when industries emphasized new machines that eliminated production jobs.

While those previous investments have helped most U.S. plants make some parts very efficiently, parts now often languish in the warehouse for months before they are retrieved for assembly into a salable product. As a result, inventories are high, and so are the numbers of materials handlers, parts inspectors, supervisors and other employees who don't produce anything. Frequently, workers stand around waiting for materials because of poor scheduling.

Furthermore, traditionally operated plants often lack flexibility to meet shifts in demand quickly, and product quality is frequently mediocre as well. The Japanese were quick to exploit those weaknesses.

Upgrading does require investment, of course. At the Unisys plant, Litton Industries Inc.'s industrial automation unit recently completed installation of a computerized materials-handling system. The system is the major element in an $8 million modernization that doubled the plant's capacity without adding to bricks and mortar, Mr. Brassil says.

COMPUTER'S ROLE

The new Litton system keeps track of every item in the plant. At the receiving dock, the parts are loaded onto a conveyor. The conveyor takes the parts directly to the assembler who uses them or to an automated storage area if the assembler already has a full carrier waiting. Even final testing of the finished product is controlled by the system's computers.

Before making hefty investments to upgrade facilities, many companies tackle the Big Three: quality, production and inventory. Consider quality, "At the end of 1983, we sat in this room, looked each other in the eye and said, 'If we don't do something about quality, we'll have to shut the doors,' " says Unisys's Mr. Brassil.

Nearly one in eight of the machines failed to function properly when it reached the customer at the time. Now 99.5% of the machines arrive defect-free, he claims.

At both Huffy and Unisys, quality improvement begins with their suppliers, who now must certify that parts and materials meet specifications. Those who can't or won't are dropped. Besides ensuring better computer terminals or bicycles, this emphasis on certification eliminates inspectors who formerly culled out bad parts.

FEWER SUPPLIERS

The Unisys plant has reduced the number of suppliers to 107 from 750 five years ago, enabling it to work more closely with each on quality and delivery. "If we didn't get 99% of our material as acceptable quality, our production system wouldn't work," Mr. Sampson says.

Even something as basic as good housekeeping can foster quality. Both plants are clean, well-lighted and brightly painted. "You can't have the right mentality about quality if the place where you work is a mess," says Huffy's Mr. Mariotti.

The computer age has spawned another quality-control tool: statistical-process control to make sure that every step in production is done correctly. Minimum and maximum measurements are prescribed for everything from the tension level of bicycle spokes to the operating temperature of computer terminals. If a part or a process isn't within a given range, a worker either makes a correction or calls for help.

Both plants also expect workers to inspect their own work and to act as a quality control on the person or machine just ahead of them in the production process. Problems are corrected before dozens of defective bikes or terminals are produced.

TESTING BY "BURN-IN"

A visitor gets a first-hand glimpse of the emphasis on quality at the end of the production lines, where the bicycles and computer terminals are tested. Each Unisys terminal and work station is plugged into a computerized test system for 10 to 24 hours of "burn-in" testing to ensure that all circuits work.

At Huffy, "quality associate" Clifford Beougher takes apart a randomly selected blue bike and fills out a three-page report on his findings. "The quality is a lot better than it used to be," the 20-year veteran says. He has found nothing wrong with this bike. "Most of the time, there are no defects. The company has trained the employees to do a better job," he says. "And we're more of a team."

To improve customer service, a major goal is to reduce the time required to deliver new orders. At Flemington five years ago, Unisys products left the plant about 30 days after receipt of an order.

"Our goal is to get the production time on circuit boards down to minutes instead of days," says Mr. Sampson; that reduction will sharply shorten the current 4.5-day production cycle on complete terminals.

INVENTORY CONTROL

Shorter production cycles also help cut costs by reducing inventories, the third major goal of plant upgrades. Many manufacturers formerly tried to lower costs and guard against shortages by buying in large quantities. Now, however, computerized production planning and electronic communications between customer and supplier eliminate the need for big stockpiles of materials.

Both Unisys and Huffy require suppliers to ship frequently to meet production schedules. Huffy receives steel daily from Armco Inc.'s Middletown, Ohio, plant. About a week after steel comes into the Huffy plant, it goes out as a bicycle. Five years ago, the process took three times that long. "We're relentless in seeking improvement," Mr. Mariotti says. "Our goal is to have things come in in the morning and go out that evening."

He measures the inventory cut by the drop in the number of big tubs that are used to store and move parts. Only 700 are needed now, down from about 3,000 five years ago. Back then, he recalls, "you could hardly walk through the aisles because of stacks of parts."

At the Unisys plant in Flemington, about 200 deliveries arrive daily. Instead of giving suppliers a delivery date, "now in many cases we give them a date to have the product on their dock, in Malaysia or wherever," Mr. Sampson says. "We take responsibility to arrange shipping to our plant."

The combination of just-in-time inventory management and a faster process time has allowed Unisys to pare inventories to a 1.3-month supply from seven months in 1981. "And we'll cut it in half again as we get the system fine-tuned," Mr. Sampson predicts.

EMPLOYEE SUPPORT

Enlisting employees' support also is important in upgrading production. Says Mr. Mariotti: "They must understand their jobs are best protected by their own productivity and product quality."

Huffy drives home that message by issuing monthly checks separate from the paychecks, with each employee receiving his or her share of a 50-50 split of cost savings. Savings are measured by improvements in the ratio between bikes completed and hours recorded at the plant's time clocks. Usually this check it about 5% to 8% of the basic wage.

Mr. Mariotti says he prefers this socalled gain sharing to profit sharing because it isn't affected by bike prices, "which employees can't do anything about."

PRODUCTION BONUS

At both plants, a team approach is used for some jobs. For instance, Huffy's Connie Stolenburg, Carolyn Phillips and Craig Myers operate a production cell making the forks that hold the front wheels. Machines shape the parts, weld them together, grind the welds smooth, drill holes and cut threads. The three workers feed the machines, inspect the parts and determine when something is amiss.

They are paid a base rate of $7.65 an hour and can earn more if they exceed a quota. But only perfect forks count, and they must fix any that are defective.

At another cell, eight people assemble bicycle wheels. They switch jobs periodically so they don't get bored. One afternoon, Joann Wilkins is lacing the 36 spokes into each wheel hub. Before the afternoon is over, the 11-year veteran will lace 264 hubs, a task that keeps her moving steadily, but not frantically. "I like working in a group a lot better than doing one job by myself," she says.

Managers at both plants are becomming adept at mixing people and electronically controlled machines. At Huffy, for instance, an electrostatic painting system applies the basic coat of paint to the bike frames. But experienced workers with hand-held spray guns apply touch-up paint to areas that didn't get a thick enough coat. Robots don't have the judgment to do that.●

UNITED STATES-JAPAN TELECOMMUNICATIONS TRADE

● Mr. MURKOWSKI. Mr. President, recently I received word from the Japanese Embassy that after 1½ years of negotiations, the first international consortium has been granted an operating license to provide international telecommunications services in Japan. International Digital Communications [IDC], a consortium of firms from the United States, the United Kingdom, and Japan has been granted an operating license which will permit IDC to become a fully fledged, international carrier in competition with the existing telecommunications monopoly in Japan, Kokusai Denshin Denwa [KDD].

IDC proposes to build a fiber optics cable system from Japan to Alaska and down to the lower 48. The cable, expected to come on line by 1993, will provide an important state-of-the-art telecommunications link between Japan and the United States for both civilian and military users.

As part of the operating license, the Japanese Ministry of Post and Telecommunications also approved, in principle, the construction of the cable, pending final approval of the construction and maintenance agreement.

This is a significant event in that it marks the first time the Japanese Government has issued a license to a consortium with 33 percent foreign ownership. The Japanese Government is following through on the commitment made during the MOSS [Market Oriented Sector Specific] telecommunications talks to allow foreign firms to participate in Japan's market for international telecommunications services.

In this time of growing trade friction, I feel it is important to give credit where credit is due and commend the Government of Japan for the expeditious manner in which the operating license was handled. I hope that final approval for the cable will be treated in the same prompt manner.

While I remain concerned about our overall trade problems with Japan, this action taken by the Japanese Government demonstrates a commitment on their part to following through with the letter and spirit of our bilateral telecommunications agreement. I look forward to continued development of our trade relations with Japan in this important area.●

MILTON FRIEDMAN DISPELS ECONOMIC MYTHS

● Mr. KASTEN. Mr. President, I call to the attention of my colleagues an excellent article by Nobel economist Milton Friedman which dispels the myths about the economy that many in the press and in the Congress have been espousing since the stock market crash.

Getting the facts straight is important. These myths are leading Congress to enact the disastrous economic policies such as sweeping protectionism and tax increases. More important, they deflect attention from more important economic problems such as high-interest-rate monetary policy, volatility in exchange rates, and sluggish world economic growth.

I ask that Dr. Friedman's article, entitled "An Economist's Growing Garden of Fallacies," be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Dec. 2, 1987]

AN ECONOMIST'S GROWING GARDEN OF FALLACIES

(By Milton Friedman)

"Black Monday" has been followed by something I had thought almost impossible: an increase in the level of economic illiteracy in public discussions of economics. The substitution of adjectives for both logic and fact, reliance on economic fallacies, and the absence of any sense of proportion have reached highs as the Dow reached lows.

As documentation, herewith a few quotes extracted at random from the news media and public discussions of current economic policies. I do not attribute the quotes to individuals. That would be invidious, since I could readily have found dozens of similar quotes. However, I assure you that these are all from reputable publications (including The Wall Street Journal), some quoting from statements by high public officals.

1. *"Stupendous Budget Deficit"*

Facts:

GOVERNMENT DEFICIT (—) OR SURPLUS (+) AS A PERCENTAGE OF GNP

	1975	1980	1986	2d quarter	
				1986	1987
Federal	−4.3	−2.2	−4.8	−5.6	−3.4
State, local	+0.3	+0.9	+1.5	+1.4	+0.9
Total	−4.0	−1.3	−3.3	−4.2	−2.5

2. *"Crushing Federal Debt"*

Facts:

Net Federal debt [1] as percentage of GNP

1945	107
1960	46
1970	22
1974 (low point)	18
1980	22
1987 (estimate)	[2] 37

[1] Gross interest-bearing debt of U.S. government less amounts held by federal government agencies and the Federal Reserve.

[2] About same as in prosperous 1960s.

3. Foreign Trade: *"We Are Consuming More Than We Produce"*

Fact: Total personal consumption plus government purchases of goods and services in 1986 as percentage of

Gross production (GNP)	87.2
Net production (NNP)	97.1

4. *"The U.S. Is the World's Largest Debtor Nation"*

Fact: U.S. Estimated Net Investment Income (1986): $20.844 billion.

(a) If your income from investments exceeds the cost of carrying your investments, you are clearly not a net debtor. Similarly here. The available estimates are contradictory. Balance-sheet estimates record a large net debt. Income-account estimates record a large net investment income that has been roughly stable for years. Both estimates are subject to wide margins of error. No one can be confident whether in any sense the U.S. is a net debtor or a net creditor.

(b) Whatever the figure, the so-called net debt is the estimated difference between the dollar value of all the assets in the United States owned by foreigners and the dollar value of all the assets outside the United States owned by U.S. residents (including state, local, and federal governments). There is no single entity corresponding to the nation that is either a debtor or creditor. Insofar as individuals are net creditors or net debtors, they receive the corresponding income and are liable for the corresponding payments.

To illustrate the key point concretely, the net external debt (of all the residents and governmental units) of the State of California, including that owed to residents of other states as well as of other countries, almost surely dwarfs the comparable total for the nation. That fact has caused no economic or political problems in California. There undoubtedly would be a political uproar if such an estimate were compiled and given publicity.

The so-called net external debt of the U.S. is a political, not an economic, problem.

5. *"The Gramm-Rudman Cuts Would Be Starvation Diet"*

Fact:

Gramm-Rudman cuts (billions)	$23

As percentage of:	
Proposed federal spending	2.2
GNP	0.5

6. *"Tax Reductions of 1981 . . . Produced . . . a Huge Federal Deficit"*

Facts:

PERCENTAGE OF GNP

	First half	
	1980	1987
Federal spending	22.5	23.9
Federal tax revenues	20.3	20.4

7. Black Monday produced *"A $1 Trillion Loss in Wealth" that will lead to a "Tremendous Shock to Consumption"*

Facts:

(a) The Dow is now roughly at the same level as in December 1986. The level of wealth then did not lead to a "tremendous shock to consumption."

(b) Prices of bonds have risen more than 10% since Black Monday. Total value of fixed-income securities outstanding is a multiple of total value of equities. Increase in value of fixed-income securities partly or wholly offsets decrease in value of equities (just as decrease in value of fixed-income securities in first nine months of 1987 partly or wholly offset increase in value of equities).●

DEATH OF APOLLO ASTRONAUT DONN EISELE

Mr. GLENN. Mr. President, it is my sad duty, as I see it, to rise to pay homage to a good friend of mine who died, Apollo Astronaut Donn Eisele, a friend of mine from Ohio. I worked closely with him at one time in the Space Program. We are saddened today by the news of his death. He died of a heart attack yesterday in Japan while on a trip. He is a man who will be remembered for his warmth, his good humor, and for his commitment to this country.

Donn was a fellow Ohioan and we shared many interests, including our work in aviation and the Space Program. He made tremendous contributions to America through his work on Apollo 7 and later in the Peace Corps as Director of the Peace Corps in Thailand for a lengthy period of time.

His passing is a terrible loss for his family and those of us lucky enough to have been his friend. Annie and I send our prayers and condolences to his family.

Mr. President, I ask unanimous consent that the text of Donn Eisele's obituary in the Washington Post be printed in the CONGRESSIONAL RECORD. It details his service as an astronaut, it details his services in the Peace Corps in Thailand, and some of the other activities in which he participated. He was an outstanding man. I am proud to call him a friend. We shared many good times together. It is indeed a tragic loss.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

APOLLO ASTRONAUT DONN FULTON EISELE DIES AT AGE 57

FORT LAUDERDALE, FL.—Donn Fulton Eisele, 57, an Apollo moon program astronaut who went on to serve as director of the Peace Corps in Thailand, died Dec. 1 in Tokyo after an apparent heart attack. He had business interests in Japan.

He had served as a crew member on the first shakedown flight of an Apollo moonship in Earth orbit. The flight of Apollo 7 in 1968 put America's moon program back on track after a launch pad fire Jan. 27, 1967, that claimed the lives of three astronauts originally set to make the pioneering flight.

Mr. Eisele, commander Walter Schirra and Walter Cunningham blasted off atop a Saturn 1B rocket on Oct. 11, 1968, for the 11-day mission that took them around the world 163 times. The new Apollo command module, redesigned to prevent accidents like the disastrous fire that destroyed the first Apollo, performed well throughout extensive tests of its big maneuvering rocket, electrical and navigational systems.

A series of live television pictures beamed down from orbit showed the astronauts their lighter side and earned an Emmy Award. Apollo 7 splashed down in the Atlantic Ocean on Oct. 22 to end the first test flight of America's moon ship.

Mr. Eisele was born in Columbus, Ohio. He was a 1952 graduate of the U.S. Naval Academy at Annapolis and earned a master's degree in astronautics in 1960 from the Air Force Institute of Technology.

After graduation from the Naval Academy, Mr. Eisele joined the Air Force. He was a project engineer and experimental test pilot at the Air Force Special Weapons Center at Kirtland Air Force Base, NM.

At Kirtland, he flew experimental and developmental test flights in jet aircraft to support special weapons programs. In October 1963, he was selected by NASA as an astronaut. He later was named senior pilot for the second Apollo mission, which was later canceled.

He then was named to the backup crew for the first Apollo flight and after the launch pad fire, he was assigned as pilot for Apollo 7, which became the first manned Apollo flight under a new numbering system.

In May 1970, Mr. Eisele transferred to the space agency's Langley Research Center in Hampton, Va., to serve as a consultant. He resigned from NASA in 1972 to become director of the Peace Corps in Thailand. After returning to the United States, he became sales manager for Marion Power Shovel Co. and later moved on to the investment firm of Oppenheimer & Co.

Survivors include his wife Susan and their children, Kristin and Andrew, all of the home in Fort Lauderdale. He also had four children by a previous marriage that ended in divorce.

AUTHORIZATION FOR CONTINUED PRESENCE OF U.S. ARMED FORCES PERSONNEL IN THE PERSIAN GULF REGION

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 456, Senate Joint Resolution 217.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 217), providing specific authorization under the War Powers Resolution for the continued use of United States armed forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States.

Mr. BYRD. Mr. President, I make a point of order that the pending measure is not a privileged measure under the War Powers Resolution, Public Law 93-148.

The **PRESIDING OFFICER.** The Chair will submit the point of order to the Senate. The question is, Is the point of order well taken? All those in favor will please specify by saying, "Aye." All those opposed, "No."

The ayes have it. The point of order is well taken.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, the decision of the Senate to deny my resolution which protects the expedited procedures agreed by the War Powers Act is in my view an error and I am concerned about the precedent this action may appear to create. I want to explain it is on a very narrow ground that this has been done and that I anticipate we will have a unanimous-consent basis for proceeding in the future. And I would ask the majority leader and the acting minority leader if this is the case? Because the existence of hostilities—and the Chair having to make a decision about the existence of these hostilities—is something that I think should be referred to the Senate.

I yield at this time to the majority leader about future action.

Mr. BYRD. Mr. President, I say to the distinguished Senator I have a group of Senators waiting on me in my office, who are very much involved in the reconciliation bill.

And I want very much to get that reconciliation bill up next Tuesday. So if the Senator will allow me, I really need to get there.

Mr. ADAMS. If the majority leader will yield, it is my understanding that we do have an agreement on both sides of the aisle. And it was not clear in my mind that the unanimous-consent request had been presented for future action.

Mr. BYRD. No.

Mr. ADAMS. I believe that had been agreed upon because that was the basis on which I would either ask for a rollcall or make any statement with regard to the action on this narrow ground of the particular resolution.

Mr. BYRD. Mr. President, I have not presented a unanimous-consent request for future action. We have been up and down the hill on that today. I want to thank the distinguished Senator from Washington for his understanding and cooperation. But I simply have not been able to clear that request on all sides up to this point. So the action that has just been taken went only to Calendar Order No. 456, only to the instant case.

POSTPONEMENT OF CALENDAR ORDER NO. 456

Mr. BYRD. And I ask unanimous consent that Calendar Order No. 456 (S.J. Res. 217) be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I still hope to do a unanimous-consent request.

Mr. ADAMS. Mr. Leader, it was my understanding that the basis on which other Senators cleared the determination of the expedited procedures here was that it had been agreed upon on both sides of the aisle—certainly, it was this Senator's understanding—that there would be a future statement that went as follows: That by unanimous consent, in the future any final determinations as to whether a measure is privileged for consideration on the War Powers Resolution, if so initially identified by the Chair, be determined by a yea and nay vote of the Senate on the question: "Is this measure privileged on the War Powers Resolution," which question should be decided after 4 hours of debate equally divided and controlled by the majority and minority leaders or their designees after any such measure is introduced," and then it was my understanding that the part that had been cleared was "* * * and after the matter has been referred to the committee." And it was on that basis that I have consented to the procedure that has taken place. And I simply have a number of other Senators who are of the same understanding. It was my understanding it had been cleared by all parties.

VITIATION OF ACTION ON CALENDAR ORDER NO. 456

Mr. BYRD. Mr. President, as I have indicated, I was unable to clear that request. I ask unanimous consent that all actions in connection with Calendar Order No. 456 be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. That will return it to its previous position. It was my understanding that the request which I made had been cleared. I am talking about the request dealing only with this particular resolution. I understood that had been cleared on all sides.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Hearing none, it is so ordered.

Mr. ADAMS. I thank the majority leader, and maybe we can reconsider the matter tomorrow because I understood both tracks had been cleared and they were tied together. I thank the majority leader.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 6:54 p.m. the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 7:45 p.m., when called to order by the Presiding Officer [Mr. CONRAD].

CLARIFICATION OF ORDER PERTAINING TO SENATE JOINT RESOLUTION 217

Mr. BYRD. Mr. President, when I obtained consent earlier to "vitiate the action," I meant the action that had been taken this afternoon or this evening in relation to Senate Joint Resolution 217. I did not intend to include in that request the order of November 30, 1987.

The PRESIDING OFFICER. The Chair understands the order.

ORDERS FOR FRIDAY

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be reduced to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATING A TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees under the order, there be a period for morning business not to extend beyond the hour of 10:30 a.m., and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTE AT 10:30 A.M.

Mr. BYRD. Mr. President, I believe the order has been entered now for a vote to occur at 10:30 a.m. on passage of the farm credit legislation, and I believe that an order has been entered to the effect that that vote will be a 1-hour vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the following requests have been cleared with the leadership on the other side.

TRAIL OF TEARS NATIONAL HISTORIC TRAIL

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 578.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 578) entitled "An Act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail", do pass with the following amendments:

Page 1, line 6, strike out [“(14)(A)], and insert: *“(16)(A)*

Page 2, line 19, after "Kentucky", insert: *, Fort Smith, Arkansas, Trail of Tears State Park, Missouri, and Tahlequah, Oklahoma*

Page 3, strike out lines 1-3, inclusive, and insert:

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(c)(2) is amended by striking "through (13) and (15)" and inserting ", (10), (11), (12), (13), (15), and (16)".

Mr. BUMPERS. Mr. President, I rise in strong support of S. 578, a bill to designated the Trail of Tears as a component of the National Trails System.

This legislation was introduced by Senator FORD on February 23, 1987. A hearing was held by the Subcommittee on Public Lands, National Parks and Forests, which I chair, on July 30, 1987. The committee ordered S. 578 reported in late September, and it passed the Senate unanimously on October 1.

I am pleased that the House has acted expeditiously on this important bill. This is especially significant since next year marks the 150th anniversary of the Trail of Tears. This trail route has been studied by the National Park Service and found to have significant historical values worthy of inclusion in the National Trails System. The Trail of Tears traces the forced evacuation of the Cherokee Nation westward from North Carolina to Oklahoma in the 1830's. Hundreds, perhaps thousands, of native Americans died from sickness and disease along what has come to be known as the Trail of Tears.

I am especially pleased to note that S. 578 includes a provision encouraging the Secretary of the Interior to establish an interpretive trail facility in the vicinity of Fort Smith, AR. Fort Smith was a very important site along the trail route. The National Park System study on the Trail of Tears identified numerous nationally significant historic sites and structures in the vicinity of Fort Smith associated with this trail. I will be contacting Secretary Hodel in the near future to urge him to look closely at the possibility of establishing such a facility near Fort Smith.

Mr. President, I am pleased that the Senate is acting so quickly on this measure, and I urge my colleagues in joining me in supporting this legislation.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

IMPOSITION AND COLLECTION OF CRIMINAL FINES

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3483.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the amendment of the House to the amendment of the Senate to the bill (H.R. 3483) entitled "An Act to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes.".

Resolved, That the House agree to the amendment of the Senate numbered 2 to the amendment of the House to the amendment of the Senate to the aforesaid bill with an amendment as follows:

In lieu of the matter proposed to be stricken and inserted by the said amendment, strike out lines 10-16 on page 16 of the House engrossed amendment to the Senate amendment to the aforesaid bill.

Resolved, That the House disagree to the amendment of the Senate numbered 3 to the amendment of the House to the amendment of the Senate to the aforesaid bill.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment numbered 2.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move that the Senate recede from its amendment numbered 3.

The PRESIDING OFFICER. The question is on agreeing to the motion to recede.

The motion was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motions be reconsidered en bloc and that that motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent to place Senate Resolution 336, a resolution submitted earlier today by Senator KENNEDY and others dealing with the situation in Haiti, on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL WOMEN IN SPORTS DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 458.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 196) to designate February 4, 1988 as "National Women in Sports Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution? Without objection, the Senate will proceed to its consideration.

The joint resolution (S.J. Res. 196) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 196

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being and women need strong bodies as well strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 4, 1988, is hereby designated as "National Women in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. BYRD Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Order No. 439.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

DEPARTMENT OF THE INTERIOR

The legislative clerk read the nomination of Henry M. Ventura, of California, to be an Assistant Secretary.

The Senate proceeded to consider the nomination.

Mr. McCLURE. Mr. President, on November 13, 1987, the Energy and Natural Resources Committee held a hearing to review the nomination of Henry M. Ventura to be Assistant Secretary for Policy, Budget and Administration at the Department of the Interior. The committee ordered favorably reported his nomination by a vote of 19 to 0 on December 2.

As Assistant Secretary for Policy, Budget and Administration, Mr. Ventura will participate in the development of policy, the analysis and evaluation of management initiatives, and budget oversight. As my colleagues are well aware, the limited personnel and financial resources pose challenges to the planning and management systems of the bureaus and their field organizations. The job of setting sound policies and planning efficient budgets requires commitment and dedication as never before.

During Mr. Ventura's nomination hearing, he addressed his commitment to these goals:

If confirmed, I would look forward to playing a significant role in advancing the prudent, effective allocation of the Department's human and financial resources by continuing to encourage within the Department a heightened sense of accountability for operations, and an increased commitment to organizational effectiveness in the conduct of our activities. Above all, I believe that the allocation of the Department's resources must reflect our program priorities.

Mr. Ventura comes to the Department from ACTION, where he has served as Deputy Director since 1985. From 1982 to 1985, he was the executive director of the National Advisory Council on Adult Education.

Mr. President, I believe that Mr. Ventura is well-qualified to serve as Assistant Secretary of the Interior, and I urge my colleagues to join me in supporting his confirmation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 7:53 p.m., the Senate recessed until tomorrow, Friday, December 4, 1987, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 3, 1987:

DEPARTMENT OF THE INTERIOR

HENRY M. VENTURA, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, December 3, 1987*

The House met at 10 a.m.

The Reverend Wilbur Daniel, Antioch Missionary Baptist Church, Chicago, IL, offered the following prayer:

Eternal and all wise God our Heavenly Father, we enter today into Your presence to ask for Your guidance, to ask for Your goodness, to ask for Your love. We come, dear Lord, thanking You for the love, faith, and opportunities You have granted to us. O God, we thank You for the great privilege of coming together in these Halls of Congress. We thank You for all of the blessings we have experienced, and we pray Your guidance upon us as we bring our littleness to Your greatness, as we bring our weakness to Your strength. We humbly beg You, dear Lord, to guide each Member by the power of Your Spirit. May the homes and loved ones be blessed today in a special way, and dear Lord, when we must come to that great Chamber above, may we be received and kept by Your power.

In the name of our Holy Christ I pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BUNNING. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BUNNING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 279, nays 122, not voting 32, as follows:

[Roll No. 451]

YEAS—279

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Frank
Frost
Gallo
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Patterson
Pease
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rowland (GA)
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—122

Armey
Badham
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Clay
Clinger
Coble
Coleman (MO)
Coughlin
Courter
Craig
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Gradison
Gregg
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hyde
Inhofe
Ireland
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Parris
Pashayan
Penny
Porter
Rhodes
Ridge
Roberts
Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—32

Archer
AuCoin
Biaggi
Byron
Crane
Dixon
Dowdy
Flake
Ford (MI)
Ford (TN)
Garcia
Gephardt
Gray (IL)
Hawkins
Holloway
Hunter
Kemp
Konnyu
Latta
Leath (TX)
Lott
MacKay
McGrath
Montgomery
Neal
Nichols
Oakar
Pelosi
Pepper
Pursell
Roemer
Roybal

☐ 1015

Mr. DONALD E. LUKENS changed his vote from "yea" to "nay."

Mr. ALEXANDER and Mr. GRAY of Pennsylvania changed their votes from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 92. Concurrent resolution to encourage the State and local governments and local educational agencies to include among the requirements for secondary

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

school graduation a thorough knowledge and understanding of our Nation's founding documents.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 860) "An act to designate 'The Stars and Stripes Forever' as the national march of the United States of America."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair is going to recognize only one Member on the 1-minute speeches, and then we will move on with the business of the day.

THE REVEREND WILBUR DANIEL

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, and fellow colleagues, today we were privileged to have as our guest my personal pastor, the Reverend Wilbur Daniel, who offered today's prayer. Reverend Daniel has been my pastor since 1973, but he has been a spiritual and community leader for many years. He grew up in Kentucky, the State of his birth, and later moved to Fort Wayne, IN, where he married and began his ministry. He moved to Tennessee, where he attended the American Baptist Seminary at Tennessee State University. After graduation, he completed his education by earning a masters degree at Austin Peay University. In 1957, along with 500 members of his church, he moved to Chicago where he has lived and worked to this day.

His church Antioch Missionary Baptist Church, has grown to 5,000 members, and Reverend Daniel has become one of Chicago's community leaders. He is chairman of the Chicago Police Board, chairman of the board of the Highland Community Bank, a member of the National Baptist Publishing Board, and a board member of the National Congress of Black Churches. Reverend Daniel has helped to build four major housing developments in the community and for the last 28 years he has broadcast a daily radio show through which he has spread his message of faith. I would like to thank him for taking the time to share his message with all of us today, and also for giving me his longtime counsel and spiritual guidance.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 395, FURTHER CONTINUING APPROPRIATIONS, 1988

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 321 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 321

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes and the first reading of the joint resolution shall be dispensed with. All points of order against the consideration of the joint resolution for failure to comply with the provisions of section 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177) are hereby waived. After general debate, which shall be confined to the joint resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be considered as having been read for amendment under the five-minute rule. The amendments printed in section one of the report of the Committee on Rules accompanying this resolution shall be considered as having been adopted in the House and in the Committee of the Whole. No other amendments to the joint resolution shall be in order except the amendments printed in section two of the report of the Committee on Rules, which may be offered only by the designated Member, shall be considered only in the order specified and debatable as specified in said report. Said amendments shall not be amendable except as specified in said report and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against said amendments are hereby waived. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions, and a motion to recommit with instructions shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto.

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

□ 1030

Mr. DERRICK. Mr. Speaker, House Resolution 321 is a modified closed rule providing for the consideration of House Joint Resolution 395, making further continuing appropriations for fiscal year 1988. The rule provides for 1 hour of general debate on the joint resolution, with the time equally divided between the chairman and ranking minority member of the Appropriations Committee. The rule also waives section 302(f) of the Budget Act against consideration of the joint resolution. Section 302(f) of the Budget Act prohibits consideration of legislation which would cause the appropriate section 302(b) allocation of new discretionary budget authority, new entitlement authority or new credit authority to be exceeded. While the new discretionary budget authority contained in House Joint Resolution 395 is consistent with the Appropriations Committee's 302(b) subdivision, the waiver is necessary because section 132 of the joint resolution provides for a 3-percent pay raise for Federal employees. This constitutes new entitlement authority, and since the section 302(a) allocation to the Appropriations Committee did not contain any new entitlement authority, the 302(b) limit is exceeded.

The rule provides that three amendments printed in section 1 of the report accompanying the rule (H. Rept. 100-466) shall be considered to have been adopted in the House and in the Committee of the Whole. These amendments are:

An amendment providing that any pay increase for Federal employees in fiscal year 1988 will not apply to Members of Congress, judges or high level employees of the executive, legislative, or judicial branches;

An amendment prohibiting the implementation of a proposed Department of Transportation regulation concerning foreign repair stations for U.S. airlines; and

An amendment providing that the amounts provided by House Joint Resolution 395 for defense and nondefense domestic spending will be adjusted in conference to ensure that the spending levels specified by the President and the joint leadership of Congress in the economic summit will not be exceeded.

The rule also provides that no other amendments to the joint resolution will be in order except seven amendments printed in section 2 of the committee report accompanying the rule, if offered by the designated member. These amendments must be offered in the order specified in the report and are debatable as specified in the report, with the allotted time equally divided between the proponent of the amendment and an opponent. The amendments are not amendable except as specified in the report and are not subject to a demand for a division of the question. All points of order against the amendments are waived. The seven amendments are:

An amendment by Representative CONTE to delay the imposition of sanctions under the Clean Air Act for 8 months beyond the current law date of January 1, 1988, to be debated for 30 minutes;

An amendment by Representative Murtha, which will be offered as a substitute for the Conte amendment unless the Conte amendment is not offered, in which case it may be offered to the joint resolution itself. This amendment would delay the Clean Air Act sanctions for 21 months. It is debatable for 30 minutes;

An amendment by Representative de la Garza dealing with transfers of appropriations for the Commodity Credit Corporation, to be debated for 60 minutes;

An amendment by Representative Dingell to reinstate the Federal Communications Commission fairness doctrine, to be debated for 30 minutes;

An amendment by Representative Oberstar to prohibit assistance to Haiti, other than humanitarian aid, unless the democratic process is adhered to by the Government of Haiti, to be debated for 30 minutes;

An amendment by Representative Brooks to prohibit the use of funds in the joint resolution to enter into a contract for the construction or repair of a public building or public work in the United States with a Japanese company, to be debated for 30 minutes; and,

An amendment by Representative Williams reallocating unspent title III formula funds of the Job Partnership Training Act, to be debated for 15 minutes.

Finally, Mr. Speaker, the rule provides for a motion to recommit, with or without instructions, and provides that if the motion to recommit does contain instructions, it is debatable for 1 hour, with the time equally divided between the proponent and an opponent of the motion.

Mr. Speaker, it will be easy for Members to find some reason to vote against this rule or against the continuing resolution if they want to. You can argue that the continuing resolution does not cut spending enough, that the Economic Summit Agreement is not the best possible answer to the deficit, that you think that certain amendments should or should not have been included in the rule. But, while I have the greatest respect for my colleagues who sincerely believe there is a better way to deal with the deficit, I am convinced that the implementation of the Economic Summit Agreement is the only game in town. And in that game we are down a touchdown late in the fourth quarter. I think we have a good chance to run a 2-minute drill and score as the clock runs out on this session of Congress, but if somebody sacks the quarterback and causes a fumble on the first play, I am not sure that we will be able to come back. We need to pass this rule and this continuing resolution and move ahead expeditiously with the implementation of the summit agreement. I urge a "yes" vote on the rule and the joint resolution.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this rule and this bloated spending bill are unacceptable, and I ask for a "no" vote on both.

The Rules Committee convened yesterday morning at 10:30 a.m. and adjourned at 6 p.m. after hearing testimony from over 50 Members on this rule. Despite their arguments, their amendments were summarily rejected by the committee, and many of these amendments have considerable merit. On the other hand, a mixed variety of amendments, many of them wholly unrelated to fiscal year 1988 spending, were made in order. For this reason, there is really little justification for this rule. Except for those favored few who had their amendments made in order, there is little if any reason to vote for this rule. Because of this, I ask for a "no" vote on the rule.

As to the appropriations bill itself, it falls far short of what is required to begin our forced march toward fiscal responsibility and significant reductions in Federal spending. At a time when the international financial markets are looking to Washington for leadership and when the American people demand it, we are about to take up an omnibus spending bill which does not contain specific spending cuts in line with the budget agreement.

This is not leadership. This is the same old runaround, and I ask Members to vote down this rule and this bill. We must step forward and provide leadership in achieving significant reductions in Federal spending. We can do better than this. We must do better than this.

Vote "no" on the rule.

Mr. Speaker, the continuing resolution process really is a hoax. We should give the Appropriations Committee and its subcommittees the power to act, bring those bills to the House floor, pass them and send them to the Senate and let the President sign or veto them.

I would like to say that this continuing resolution brought to the floor of the House today is no fault of the Appropriations Committee. In fact, we all know that a continuing resolution is a necessity in order to keep this Government moving. We must do whatever is necessary to correct the situation in the future.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. Mr. Speaker, once again, unfortunately, I am in the well asking for the defeat of a rule on a major piece of legislation, and I quite frankly am getting a little bit exasperated with my own leadership's continued refusal to allow those of us in this body, each elected by some 550,000 constituents, an opportunity to have voted upon certain amendments when others continue to have a free rein at offering theirs.

Mr. Speaker, not only am I tired of it, I believe the 550,000 people in the 17th District of Texas are getting tired of it. It is not unreasonable for those of us who want to improve upon the summit to be allowed to have that vote. There is nothing unreasonable about that.

I hope 218 of my colleagues on both sides of the aisle will join in opposition to this rule today so that we might be able to have an answer to the question: Are we willing in this body, us Indians, so to speak, instead of our chiefs, to do more.

Why I am here today is quite simply this article from Business Week. If my colleagues have not read it, they ought to.

> Wake up, America!
>
> The stock market may recover somewhat, but the message underlying the crash remains largely unheeded. We have spent too much, borrowed too much, and imported too much. We have lived beyond our means, relying on foreigners to finance our massive budget and trade deficits. The bill is now coming due: America's standard of living seems bound to suffer, unless * * *.

Unless we who are elected by the people of America do our job, and our job should be today to have a true freeze on appropriations. It is not necessary to increase spending in any area. That is all that I asked when I went before the Rules Committee yesterday, allow us a chance to vote on the floor of the House to freeze, and we were denied.

That is not democratic, folks, that is not democratic, and I hope we defeat this rule, come back with a simple, clean rule that allows the Appropriations Committee to do its work and allows all of us to heed this warning of, "Wake up, America."

If we do not do it, we are going to wake up and guess what, the American people are going to hold "us" responsible, not themselves.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Ridge].

Mr. RIDGE. Mr. Speaker, I rise in opposition to the rule.

The Rules Committee, understandably reluctant to allow amendments to the CR, nonetheless believed six additional issues should be considered. The gentlelady from Connecticut, Barbara Kennelly, and I believed there should have been a seventh.

As presently designed, the 1990 census will exclude those defending us overseas in the Armed Forces and will include millions of illegal aliens.

Those serving in the Persian Gulf, Philippines, Korea, Germany, will not be counted nor will their dependents.

Those whose contributions, sacrifice, and bravery we laud every Memorial Day, Fourth of July, and Veterans Day, will be excluded from the census.

The preamble of the Constitution does not read "We the people of the United States who happen to be in the United States on any given day." It reads, "We the people of the United States."

Think about it. For purposes of representation here in this Chamber—the people's house—these men, women, and children are without a country. The Rules Committee and the Census Bureau has said you don't count.

However, they will count illegal aliens. We will always support those who seek refuge and escape from desperate situations. We will continue to provide economic and educational support to them.

But these people have citizenship in another country and should not be allowed to dilute the votes of American citizens.

Our amendment would simply give this Chamber and opportunity to direct the census bureaus to include Americans and exclude illegals. It would not have affected the distribution of Federal funds.

The question is one of fairness and self government. By definition, our servicemen and women are members of our political community and must be counted. Similarly, illegals are not members of that community and should not be counted.

The exclusion of servicemen and their dependents is a disgrace.

The inclusion of illegal aliens is a travesty. We have been denied the opportunity to correct this injustice and I encourage my colleagues to vote "no."

□ 1045

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the chairman of the Committee on Appropriations in a colloquy, if I may.

Mr. Chairman, it is my understanding that the intent of the continuing resolution in addition to appropriating some $300,000 earmarked in the report for Kenaf nematode research at Weslaco, TX, and Lane, OK, I also understand the committee intends to have $300,000 from undesignated funds to be allocated for a continuation of the ongoing cooperative research in developing critical harvest machinery and to conduct field testing for sustained yield. Is that correct?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. ENGLISH. I yield to the chairman of the committee.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct.

Mr. ENGLISH. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, ladies and gentlemen, here we are 2 months into fiscal year 1988. This Congress has not yet passed nor has the President signed a single appropriations bill.

In the ordinary business of this Congress, if we were in conformity with all the rules of our body and the law of the land, we would have passed 13 separate appropriations bills in a timely fashion in order for the President to sign them or reject them and then for them to be subsequently reworked and passed into law prior to the beginning of the fiscal year. Because of our failure to do that, we now must wrap all of the remaining spending for fiscal year 1988 into one omnibus continuing resolution.

Now in doing that and especially doing it this late in the year, what we have done is effectively repealed the President's existing constitutional veto authority and cut him out of the final decisionmaking processes regarding how we spend the taxpayers' money.

In order to replace that participation by the President and to do so at this time by way of extending the spirit of the budget summit wherein the Members of Congress asked the White House and the President to participate in the process of formulating a summit reconciliation package, I am asking today as I asked in the Rules Committee yesterday and was turned down by the Members of this body to support me in an effort to achieve enhanced recision authority for the President over this continuing resolution and this continuing resolution alone. Enhanced recision authority is like a line-item veto in that the President is able, with this authority, to examine the continuing resolution and take out on a line-item basis, or reduce on a line-item basis that expenditure which he thinks is excessive or unnecessary to the public interest.

It is unlike a line-item veto in that rather than taking two-thirds of the body to override the President's decision, his decision can be overridden with a simple majority.

The House does then have the chance to pass the final word on the matter and the President has an opportunity to participate in the process.

In order to provide the opportunity for this body to vote on this important issue I am forced by the refusal of the Rules Committee to grant my request in the rule, to ask the Members of the body to join with me in voting against the moving of the previous question on the rule. At that point I will call for a vote and I ask you to please vote "no."

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, the Washington Times of November 20 announced that the Japanese would not allow American companies to bid on 60 billion dollars' worth of public works projects spread out over the next 10 years. The Japanese said specifically they did not need any outside help and in fact only allowed one American company to bid, that was Bechtel Group, Inc., of San Francisco, on a $7 billion airport job and they allowed Bechtel Group to bid on a consultancy contract that amounted to $200,000, probably because the Japanese—and I am not here to bash the Japanese—probably because the Japanese could not provide the service for themselves.

Now take into consideration that in 1986 alone the Japanese got over 2 billion dollars' worth of public works in America in 1986, alone.

Ladies and gentlemen, what is wrong with Congress here? The official automobile of the United States Olympic skiing team is a Subaru. The Pentagon purchased 5,000 Japanese-made trucks 2 years ago. They got a $30 million computer contract just a month ago. And those generals and admirals keep coming before our committees and keep telling us if we cannot buy those cheaper made foreign goods, we are going to hurt our national security.

I am tired of hearing that. I say here it is time to tell the Pentagon we can hire generals a lot cheaper from Korea, if we want to use that argument. I am saying that we support the Brooks amendment today—and it does not even go far enough. I think it is time we put some "buy American" legislation into our dollars and our procurement programs.

Take a look at what their public works projects are: five major airports construction. They want to ship more goods to America. They have a $60 billion surplus with us now. We are opening the gates and they are telling us, "You can't even bid."

I say this today, if we do not send a message today folks, we will have a rice paddy in the next 5 years on the East Lawn of the White House. We are acting like a bunch of fools. I do not blame the President. I do not blame the American businessman. I say I blame the Congress of America if you are going to let this Nation get raped any further.

I am asking for a "yes" vote on the Brooks amendment and I am asking the committees to look at my "buy

American" legislation and let us let the Japanese know that we mean some business.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. Michel], our distinguished leader on this side of the aisle.

Mr. MICHEL. Mr. Speaker, I am told by a reliable source that the shortest book review on record appeared in a 19th-century British publication. In its entirety the review read, "This will never do." Those same words can serve as our review of this legislation. Now what we have before us is one of those curious hybrids that the majority, in its role as a legislative Dr. Frankenstein, likes to create. It is neither fish nor fowl, a curious amalgam of bits and pieces from the wishbook of the spenders mixed and mingled and presented to us piping hot as a continuing resolution.

But that is precisely the problem. This legislation is all continuing and no resolution. It continues the onslaught on the budget because it does not reflect, it certainly does not implement the budget summit agreement. It lacks resolution because it fails to live up to even the bare minimum of the agreement that constituted the summit agreement. It leaves that to an untouchable, relatively unaccountable conference.

That is the problem with a House dominated by those who neither know nor care what budget responsibility means. One day we are at the summit and the next day we begin to plummet.

Whatever happened to the appropriations process? We have "bombs" instead. I am talking about "bloated omnibus money bills." And they are bombs with baggage to boot.

In other words, as much authorizing legislation as appropriating language in this particular process.

The arms control provisions are unacceptable, especially at a time when the President is about to negotiate a true arms reduction. They were unacceptable not just to Republicans but to a majority in the House who adopted something far different in the defense authorization bill.

I guess I do not have time to paint in detail the grim and often horrific picture of the damage done to this institution and this country by legislation through bloated omnibus money bills. You all know what I am talking about, the kind of thing we have here in this continuing resolution where three bills, not even considered on the House floor, defense, foreign aid and agriculture appropriations, are presented to us today for the very first time without any opportunity for amendment by the rank and file of our Members.

Now that is just absolutely a lousy, rotten way to legislate in this body where we are supposed to be given an opportunity to express our will. Both sides of the aisle, all shades of thinking and particularly significant money bills, probably the three largest ones we have to contend with. They are all lumped together again in one ball of wax.

The majority demands that we deal with clean air and the fairness doctrine in this bill. It is ironic that both of these should be urged upon us in this legislation. Clean air? Why? The majority is polluting the legislative atmosphere with smog like this.

Fairness? The fairness doctrine has already been the subject of a Presidential veto but the majority obviously believes that once is not enough and wants to override his veto not by the required two-thirds majority of a constitutional veto, but by simply a majority vote in this body.

Our problem, however, is that we need some kind of vehicle to drive over to the other body so we can get this process moving along in a very limited timeframe.

Unfortunately, this particular vehicle is so loaded down with junk we may not even start the engine to get it over to the other body.

So once again the inability or unwillingness of the Democratic leadership to put some restraint on the political giftgiving in this legislation thwarts what we really need to do in an orderly fashion.

It is Government by appetite. And I respectfully suggest the Democratic leadership put itself on a legislative diet.

At this point, I guess I am supposed to fall back on that old reliable cliche by saying "it is business as usual." But that would frankly be an insult to business.

No, this is Democratic leadership as usual, directing our eyes to the high ground of the summit with its rhetoric while dragging us into the valley of economic and legislative despair with this omnibus appropriation bill.

Well, Mr. Speaker, there is one kind of continuing resolution that you cannot rely on today and that is complacement Republicans.

We cannot accept this. As I said when I began, this will never do. We Republicans are going to give voice to the wishes of the vast majority of Americans outside of this Chamber and continue with resolution to vote against this and any other similar bloated bills that so heartlessly and blatantly go back on the solemn pledge we made at the summit to really make some meaningful reductions in the deficit.

I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I want to thank my friend from South Carolina for yielding the time and I appreciate his work on the committee yesterday before which I appeared. I have to say in candor that I am very disappointed that the committee did not permit this gentleman from Kentucky to offer an amendment which I think would have been a sensible and a thoughtful solution to a problem which is in this continuing resolution today. And that is an amendment offered by the gentleman from California [Mr. Roybal] which really reverses the whole idea of the Immigration Reform and Control Act of 1986. Many of you who were here in the 99th and now in the 100th Congresses remember my saying so often that the legalization section of the immigration bill was not meant to be an amnesty but was meant to be a case-by-case examination.

□ 1100

What the amendment of the gentleman from California does, and it is very sympathetic and I can understand why, because he is a very sympathetic gentleman, it goes too far. It basically says that every family-related member of one seeking legalization under the immigration bill cannot be deported.

Furthermore, those individuals could be felons. They could be criminals. Under current existing law, they would have to be expelled, but under the amendment of the gentleman from California now in the bill, they could not be deported. Furthermore, people who qualify do not even now have to be in the United States. They could be abroad and if they sneak into the country through some artifact, through some device, they then cannot be deported.

I offered an amendment yesterday, not allowed at all, which would have made it the sense of Congress that the Immigration Service be extremely cordial to the idea of keeping families together, to be extremely sensitive and compassionate toward families, trying not in every case to break them up. That I think would be a solution.

I hope my friends who will serve on the conference who will decide what comes back to this body will be very sympathetic to the idea of revising the amendment of the gentleman from California, not defeating, not throwing it out, not striking it entirely, but revising it to make it do what the gentleman perhaps unwittingly did, which is to allow felons to perhaps stay in this country who under current law would be excludable and which allows people to qualify who are not even now in the United States, which acts as another attraction for illegal entry.

So I appreciate the problems my friends in the Rules Committee had. They cannot accommodate every amendment, but I think in fact mine should have been accommodated. Lacking that, I hope when the conference does convene that some thought be given to correcting the error which I think is now in the bill.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, most Americans, including some Members of Congress, do not understand all the jargon relating to the budget process, whether it be the CR, CBO, OMB, the difference between outlays and authorities, the difference between appropriations and authorizations, which base line, whether it be current services, Gramm-Rudman, sequestration, presummit, postsummit, the difference between rescissions and deferrals, or enhanced rescissions and deferrals, all of this can sometimes be confusing, but the American public does understand fairness, and they understand a budget freeze—not spending anymore this year than we spent last year.

Many of us have been working with a Bipartisan Appropriation Task Force, BATF, and we have a "fairness" amendment, a real discretionary spending freeze amendment.

We asked the Rules Committee yesterday in testimony to have the opportunity today to offer that amendment to the CR. Many believe that a majority of Members of this body would support such a freeze, especially if we were allowed to vote on it, but we will never know, especially if this rule passes.

I urge my colleagues to vote against this rule, to insist on having the opportunity to vote for fairness, something that will really reduce the deficit. That is the bottom line and the American people do understand that.

Vote against the rule and for the motion to recommit.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN]. The gentleman from Texas [Mr. CHAPMAN] is the author of the self-executing amendment in the rule that will do away with a pay raise for Members of Congress, as well as other high Government officials, including judges.

Mr. CHAPMAN. Mr. Speaker, let me make basically just three points in the brief time that I have. Yesterday before the Rules Committee, I requested that the rule of debate on the continuing appropriation bill contain a self-enacting provision that would strip the congressional pay raise and other high official pay raises from the budget agreement that hopefully we will adopt in the next few days. A few days ago, amidst some rather emotional declarations and partisan rhetoric, I cast a vote for the budget reconciliation bill. Since that time, my colleagues on the Republican side of the aisle have blistered me back in my district and in the press with a line that the House of Representatives has increased revenues to give itself a raise. As I told the people of my district, I intend to see to it that the House of Representatives votes on this pay issue. Well, today is the day we get to vote to remove that pay increase from any legislation that passes the Congress.

To my friends on the Republican side, let me say that today is the day that a vote for this rule will do away with that pay raise; and as surely as a vote against reconciliation was a vote against the congressional pay raise a few days ago, today a vote against this rule will be a vote for a congressional pay raise, make no mistake about it. Support the rule if you want to strip out the outrageous congressional pay increase.

As to what the distinguished minority leader said about this bill not enacting the budget summit agreement, he is just plain wrong. Let me read from the report of the Rules Committee. It says, very simply, that the purpose of this rule under section 1 is "in order to achieve the levels of deficit reduction agreed to in the economic summit by the President and the Joint Leadership of Congress"; and "In order to carry out the levels agreed to in the economic summit, the Committee on Appropriations shall take such steps as are necessary to apportion these levels among the various subcommittees and shall make such recommendations in the conference report on this resolution as insure that these levels are not exceeded."

My friends, this is a rule that permits passage of a bill that will enact and take the first step toward enacting a budget agreement that is the bipartisan agreement of the President and the joint leadership of this Congress. The first step is to enact this rule, and by so enacting this rule, vote against that congressional pay raise and move a bill that will help reduce our incredible budget deficits.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am sorry that the gentleman from Texas who just spoke in the well, my friend from Texas, who cast the deciding vote to put the pay raise into place now comes to the House trying to fool it again with regards to what we are really doing here.

This rule is one more attempt to put a congressional pay raise into place without giving the House a clear vote up or down on the issue. Let me tell you why that is true.

First of all, as the gentleman from South Carolina has very accurately pointed out, section 302(f) of the Budget Act is waived in this rule in order to put the pay raise into place. That is right. Section 132 of the bill puts the pay raise in place in terms of spending and in this rule that the gentleman from Texas just asked us to vote for is a provision waiving the Budget Act so that pay raise can go into place.

Second, if you take a look at what we are doing in this rule, it prevents the House from voting on a pay raise. Rather than getting a clear vote on the pay raise, up or down as we could if we could strike section 132, no, instead we are going to have a self-executing provision here that prevents the House from having that kind of clear vote.

I would remind this House that according to news stories published immediately after the vote on the reconciliation bill to which the gentleman from Texas referred, the Speaker promised a separate vote on the issue of the pay raise. A clear up-or-down vote was certainly implied at that point. This rule reneges on that promise. This rule again buries the pay raise in a sea of confusion and procedure.

Let me tell the House what this is all about. Once again, what we are trying to do is get a vehicle over to the conference committee without any kind of clear vote on the issue so that the conference committee can once again play games and come back, telling us that we cannot really vote on this because Members of Congress automatically get the pay raise, there is no money in the bill. That is exactly where we are going to be again.

What we needed was the opportunity to specifically strike section 132 of the bill. This rule prevents us from having that clear vote on the pay raise issue, and in fact, waives the Budget Act in order to get us to the provision that is in the bill.

I would say to the House that if you vote for this rule, you are voting for one more phony mechanism designed ultimately to assure that Members of Congress get the 3-percent increase down the pike a ways.

I would hope that no Member of Congress would vote for this rule thinking it has anything to do with preventing the pay raise, because if you do, you are voting for one more phony attempt.

Let me tell you, these are the same people who told us when the reconciliation bill came to the floor that there was no pay raise in it. They came out to the floor and said that any kind of pay raise, of course, would be covered by the appropriation bill.

Well, if you check the appropriations bill on page 24, they are absolutely right. Section 132 on page 24, in fact, has the pay raise in it and we are being told by this rule that you cannot strike that provision.

Now, I would say to the House, let us not vote again for a phony procedure. Let us vote against this rule and get a real chance to stop this pay increase.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I regret very much that we are here going through this confusing diatribe over what does or does not constitute a good faith effort on the part of the House to eliminate a pay raise for Members of Congress, the judiciary and the top grade executives.

This rule is the operative way to do it. This puts us explicitly on record as not providing any money to those who fall in the category of those who received the raise from the Quadrennial Commission in February.

Members of both parties for their political futures sake should be clear on that. There should be no obfuscation or confusion. This is the opportunity to go on record if you do not believe it is appropriate for us and others in our income bracket in the Federal service to get a raise.

I regret, frankly, that we are going through this. I regret that it becomes a political football, becomes so contentious and ends up in full-page political ads, causing both parties to react the way we do, but that is the reality. And this is the opportunity to declare yourself. Do not be confused, because regrettably you could pay with demagogic attacks on you in your next campaign.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, we can all regret contentious behavior on many parts of this rule and there is one easy way to take care of it. Do not vote for it.

We all agree there are problems in this rule, and everyone knows them.

First of all, the obvious, it waives points of order for violating the Budget Act, but one can argue that we have done that so consistently that it should not bother the majority of our people, but we do also waive points of order on all amendments that are allowed, and let us look at some of the amendments that are allowed.

On our side of the aisle there is no reason whatsoever to vote for this rule. As usual, with one exception, all Republican amendments were disallowed by the Rules Committee. Sometimes, for my friends on the Democratic side of the aisle, we are asked why the Republicans are being contentious, why are we not going along with what would seem to be good for the body as a whole?

Well, this gives you the obvious reason, because time after time after time the minority is disallowed from the most obvious of all amendments. In this case the one Republican amendment is amendable, but only by a Democrat.

I am sure Americans get sick of just whining about what the majority does to the minority, so there are more reasons than that to vote against this rule.

Even if you like voting on amendments that you have not seen, I believe virtually every Member of this Congress has given a speech about the deficit. We oppose the deficit. We want to do something about the deficit. This rule is to be your answer. This rules does not allow the House to choose how the deficit will be addressed. In fact, what it does is send back to the very committee that has been unable to cope with the spending problems the whole decisionmaking process, and let me quote from that committee's report on their last go-round:

> The $6.8 billion reduction achieved by the committee is more than its share of the original components.

Does anybody in the entire House believe this? More than its share? Who else brings about the spending bills?

If you believe in deficit reduction, then you cannot possibly agree to give carte blanc to the committee that has proved its inability time and time again to do anything about what Democrats and Republicans alike are addressing as the major problem for all Americans.

It is time, for once, for the House to show some courage about the Appropriations Committee and, yes, I name it by name.

For all of us that have had projects, for all of us that have asked, we can be grateful, but it is time for the larger issue. Vote no on a lousy rule to prevent the problems that have occurred in America.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Arkansas [Mr. ANTHONY].

□ 1115

Mr. ANTHONY. Mr. Speaker, I would recommend to my Republican colleagues to continue to take a walk. You started taking a walk earlier this year when you walked away from the budget process. As a result, my Democratic colleagues were forced to pass the budget. We were forced to pass the budget reconciliation. As a result of the October 19 stock market crash, President Reagan finally came and started negotiating. Our leadership decided to meet with him and negotiate.

Your President has come public and said, "Please join hands with us for America's future."

Now my Republican colleagues are taking another walk and I do not blame them. That side of the aisle has taken a walk all year, and ought to take a walk on your President today.

I was on a platform the other day with the gentleman from Michigan [Mr. VANDER JAGT] and he was blasting the Democrats for raising the telephone excise tax by extending it in order to pay for this, quote unquote pay raise. I now ask him, "Were you not one of the 27 Republicans that voted for the President's budget? 150 of your colleagues voted "no," but 27 voted "yes." Does the gentleman realize that in the President's own budget he recommended that the 3-percent telephone excise tax be extended?

It seems to me that is contradictory. First the minority tries to walk on us and then tries to walk on its own President. I say to my colleagues you cannot have it both ways. If you do not want to lead and you do not want to be part of the leadership, you ought to take a walk and get another job. That is what this job is all about. We stood here in January, raised our hands and said that we would try to do the proper thing.

That is all we are asking today.

Now let us talk about this pay raise for a moment.

It is not a pay raise, No. 1.

President Reagan under the authority that we granted him recommended earlier in the year that we get a comparability pay adjustment between the private sector and the public sector of 2 percent.

I would ask my friend, the gentleman from Pennsylvania [Mr. WALKER], if he is trashing the President of the United States. Is he walking on the President?

The President recommended a 2-percent adjustment.

What is the gentleman from Pennsylvania [Mr. WALKER] mad about? Is he mad at the President? Why does the gentleman not come down here and trash the President of the United States about that? Why does he just try to trash this side of the aisle?

Let us make it a bipartisan trashing or a bipartisan walking.

The Democratic side has provided the leadership all year long and it is clear that they are going to provide the leadership today.

But the gentleman from Texas [Mr. CHAPMAN] happens to represent an adjoining town, Texarkana. I represent Arkansas side and he represents the Texas side. I have seen the hall of shame ads. I wrote my letter back and said that I had already filed for reelection as a fifth-term Democrat. I hope they get a coupon candidate down there, because I would like to run against coupon candidates.

The gentleman from Texas [Mr. CHAPMAN] was right, let us make it clear, a "no" vote on the rule is a clear vote for a pay increase, and expect the hall of shame full-page ads back in your districts.

What is fair on one side is fair on the other side.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, there is nothing unusual in this rules. It starts out as the rule on every appropriation bill starts out—by waiving the budget. Remember that that is the document which we spent the first 6 months of 1987 on adopting, the one that was due by law on April 15 and that we finally adopted on June 24. Remember that one?

So here we are, one spending bill for the entire year, $600 billion on one vote with a single hour of general debate and just six or seven amendments, and we are going to waive all the budgetary guidance that took us the first 6 months of the year to adopt.

In other societies the chairman of the Budget Committee might resign in disgrace or at least slink off into the woodwork. But not in ours. This is business as usual. We lump everything into one massive bill, throw away the budget, pass it with minimal debate an little chance to amend it. That is how business is done right here in Washington, DC.

It all fits. It all fits perfectly. We have a budget summit and we agree to $30 billion in revenue and cuts, when everyone knows that spending is still going to increase by $50 billion over the previous year.

So we serve every special interest and no one is willing to give anything to really solve the problem. We fail to make any substantial progress on the budget deficit. We put our economy at risk. We destroy the economic opportunity that ought to be there for our children and grandchildren. We fail and then we declare victory and we hope the markets and the American people will not notice or understand.

Life in the world's greatest deliberative body. Business as usual, Mr. Speaker, in Washington, DC. Vote "no" on this atrocious rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. Penny].

Mr. PENNY. Mr. Speaker, it was not an easy decision for me to oppose this rule but I must.

The continuing resolution which we will bring up later today is the largest single spending bill ever brought to the House floor. Yet not one of the amendments made in order under this rule would substantially address the spending level. Yesterday, a bipartisan group including myself, the gentleman from Minnesota [Mr. Frenzel], the gentleman from Delaware [Mr. Carper], the gentleman from Texas [Mr. Bartlett], the gentleman from Iowa [Mr. Tauke], and the gentleman from Texas [Mr. Stenholm] asked for an amendment to freeze spending at fiscal year 1987 levels. That amendment would have resulted in an additional savings of $4 billion. We were turned down.

Yet seven other amendments were made in order under this rule. For example, we will be given a chance to vote on the fairness doctrine. We will be given two opportunities to vote on a delay in the implementation of standards under the Clean Air Act. Those amendments and others were made in order under this amendment but no amendments addressing spending, including our freeze proposal, were made in order.

The simple fact is that even if the summit agreement is implemented, next year's deficit will be bigger than this year's deficit.

So much for the delusion that the summit plan will cut the deficit. It does not.

That is why the membership here deserves a shot at an amendment to further cut spending. This rule does not give us that opportunity. That is why the rule should be rejected.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Houghton].

Mr. HOUGHTON. Mr. Speaker, I would like to speak briefly against the rule and tell my colleagues why.

There are two reasons. First, this is a preliminary maneuver to a vote on a continuing resolution. The continuing resolution may wrap warmly in its arms virtually every single cost of discretionary money this country will spend in 1988. That amounts to roughly $600 billion. There will be no votes, no amendments to the funds we will spend, on anything related to the operating budget of this country. That budget is a seesaw budget which the world has been nervously watching unfold since the morning of October 19. The continuing resolution in its present form is no remedy to our woes. The plain fact is that we are in trouble and we are not forcing the process to resolve the issues which keep peering back at us from the looking glass.

We will be offered no separate opportunity to vote on the funds for defense, for foreign operations, or for agriculture which are over 50 percent of the discretionary expense dollars. We will not be given a chance to even eliminate this seductive but suffocating omnibus, throw-it-all-in continuing resolution. Instead, we will be offered on a platter amendments relating to such things as the previous speaker indicated, the fairness doctrine, airline maintenance, public works projects from Japanese firms. So I ask, where are we going? The world watches apprehensively for some real signal. What sort of signal is this?

The second reason I object to the rule is strictly personal. It is a gut reaction from a new boy on the block to what I consider a rather sharp parliamentary trick.

I want to get the 1988 budget put to bed. We are late. We should have had it in July. It is now December. We are going into the new year and we have not yet signed off on the numbers, and next month we will be looking at the following year's 1989 budget.

I want to vote for the budget summit. I want to support the bipartisan effort. We have got to move, but suppose I did not want that, and suppose I do not like the compromise and I feel that there are better solutions. Perhaps more expense dollars could be cut, and less taxes raised. If I vote against the rule, I am put into an impossible situation. A vote against the rule could be construed, no matter what the arguments are to the contrary, as a vote to allow a second pay increase for Congress within a 12-month period.

I resent that. It is a legal maneuver I think it is unbecoming.

I will still vote against the rule and seek other ways to fight the pay raise.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. Carper].

Mr. CARPER. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, the budget summit agreement is not a bad start in addressing our Nation's deficit work. That plan is preferable to the across-the-board cuts that would otherwise occur under Gramm-Rudman sequestration. Rather than stopping with the budget summit agreement, however, I believe we should build on it.

If all we accomplish is adoption of that plan, the fiscal year 1988 deficit will actually be bigger than our 1987 deficit was. Regrettably, at least $5 billion of the $30 billion summit package is flimflam—asset sales—which will make deficits in the out years even bigger than would otherwise be the case.

Two weekends ago, I held several town meetings in central and southern Delaware. The theme that emerged from those meetings was, "You can do better than the plan our leaders have agreed upon. You must do better." I agree. We can and we must. A 1988 deficit that is slightly larger than our 1987 deficit is not the kind of progress we can be proud of.

Over the past decade or so, America has dug itself into a real hole, a deficit hole. Dennis Healy, former Chancellor of the Exchequer in England has a "Theory of Holes" that he talks about. It goes something like this: "When you find yourself in a hole, stop digging."

If we permit defense or nondefense discretionary spending to grow in 1988 over 1987 levels, we dig our hole a little deeper. If we raise the pay next year of Members of Congress, Federal judges, executive branch officials or other Federal employees, military and civilian, we dig our hole a little deeper.

VA bipartisan group of House Members yesterday asked the Rules Committee to report a rule that would enable us to stop the digging by freezing defense and nondefense discretionary spending in 1988 at 1987 levels. The rule before us today does not make our amendment, or any amendment to reduce the growth of spending, in order.

I believe that decision to be a bad one, and I will oppose this rule because of it.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in opposition to the rule.

I believe we must have the opportunity to vote on an amendment to reduce spending more than was agreed to at the economic summit.

The bipartisan summit agreement is good as far as it goes but it doesn't go far enough.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I intend to support the rule on the continuing resolution. However, I am dismayed that an amendment I felt very strongly about was not made in order by this rule. This amendment sought to include military personnel abroad and exclude illegal aliens for apportionment purposes.

I appreciate the importance of keeping amendments to the continuing resolution to a minimum. There are obvious benefits in doing so. Yet this issue is a timely one. I am afraid that if the House does not address this issue in the near future, the Census Bureau preparations for the 1990 census will be too far along for us to make this change in who and how the Bureau counts for apportionment.

In a perfect world, this House would have the opportunity to vote on this amendment today. We will not do so. But I am heartened that at yesterday's hearing on the rule for the continuing resolution, I was given assurances on expeditious action on this matter. I am heartened by this commitment and I intend, with the Congressmen from Pennsylvania, TOM RIDGE, to see that this change in the way the Census Bureau counts, is made.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Speaker, the fact of the matter is there are many reasons to vote against this rule but one of the most significant reasons is the fact that no amendment was made in order yesterday dealing with the amnesty provision that is in this bill. A lot of people do not know it, but there is a section in this bill, section 110, that greatly expands amnesty for illegal aliens beyond what we did in the immigration bill last year.

Mr. Speaker, section 110 means that the Immigration and Naturalization Service will be prohibited from deporting any immediate family relative—even criminals—of somebody who is seeking legalization under the immigration bill. That gives a person seeking legalization a status that is greater than anyone who is presently a permanent resident alien in this country.

The illegals do not have to stand in line if they are immediate family relatives of somebody who is seeking legalization.

If someone is a permanent resident alien from anyplace in the world here in a legal fashion, they cannot get their immediate family over here unless they stand in line and go through the procedures which may take years.

Section 110 is absolutely a radical provision.

There are roughly 600,000 immediate family relatives who will be eligible to come in here for every person who is legalized. It means another 50-percent or better expansion of the number of illegals who are immediately going to come into this country.

Since we did not get the right to offer an amendment to the provision or to strike that particular section of this bill, I urge a "no" vote on this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. MICHEL], our minority leader.

Mr. MICHEL. Mr. Speaker, it is obvious from some of the expressions that have been made on the floor of this House from both sides of the aisle that there is great discontent. I do not know whether or not so much on the rule itself, but discontent on the whole process here and I think that is something that has to be taken into account.

Yes, we can be criticized on our side for walking away from this rule, but frankly we do not control that Committee on Rules. We do not control the scheduling or the flow of events over here.

We are opposed to this rule because frankly it is far more than the usual kind of continuing resolution. We are living in different times today after that summit meeting. It cannot be business as usual. All the old rules ought to be trashed in favor of starting out fresh, anew. That is what it is all about, but we have reverted by virtue of this kind of an omnibus money bill to the old days. Agriculture, defense, foreign aid have never come before this House. And now we get them in one lump sum together with everything else as an extension for the balance of the year, trashed up with all the trinkets of the extraneous amendments that ought not to be a part of it.

Do my colleagues believe the President is going to sign this kind of a continuing resolution?

Of course not.

The whole budget summit said that eventually he is going to get at the same time a continuing resolution, and reconciliation.

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And it has got to be consistent with what he agreed to in additon to those of us who served in that summit, and he could never possibly sign on to a continuing resolution of this magnitude and of this nature.

So when the criticism is there to be passed around, I want it to be made abundantly clear why there is going to be a significant negative vote, maybe not unanimous, on this side, to really reflect that antagonism we have over the whole process that frankly becomes tainted when we find all of the individual Members who want to have free expression to offer amendments, as they have a right to do, being scuttled in favor of only those elected few. The gentlewoman from Illinois so well pointed out why we get the short end of the stick every time, and we are supposed to then, all in the spirit of bipartisanship, vote for it because something has got to move.

I tell my colleagues to have something move and get some votes on this side we have got to have something to be for, and when you give us nothing to be for but only to trash something that frankly has no sense being on this bill, then, of course, the whole process becomes tainted.

I do not know if this will go down eventually, but my feeling is that there is so much resentment around here that it could very well go down. And if that is the case, I want to just make it clear this is only a procedural process. This is not implementation of the summit agreement. And if it has to go down to finally get the message across that maybe it ought to be stripped down to what it ought to be, simply a continuation of what current levels of spending are, to get us into the process that will develop over in the other body, then so be it. And it may have to be first of next week before that gets done, but there will be an opportunity to do that.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I am all in favor of the summit agreement, so it is with great regret that I must say that I am very much opposed to the rule.

For some strange and inexplicable reason the Rules Committee has refused to make in order an amendment to the CR which would make a resumption of our aid to Pakistan contingent on a cessation of the Pakistani Nuclear Weapons Program. I cannot for the life of me understand how they give us a rule which permits a number of amendments, which however important they may be to the Members who are offering them, are not a matter involving the fate and future of mankind, while simultaneously refusing a rule which would make it possible for the House to work its will on an issue which goes to the heart of our nuclear nonproliferation policy and our ability to prevent the nuclear arms race on the subcontinent.

So with great regret I urge a defeat of this rule and a new rule which will make it possible for the House to speak on the issues of whether or not we want to resume aid to Pakistan while it continues its Nuclear Weapons Program.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from Michigan [Mr. Wolpe].

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to reinforce the concerns that have been expressed by the gentleman from New York [Mr. Solarz].

Let us be clear: To permit the unconditional resumption of a full assistance program to Pakistan in the face of its deception, in the face of its lies, and in the face of its failure to abide by the pledges it has made to our Government in the past, is not only to raise questions about our bilateral relationship with Pakistan, but to throw into question the entire nuclear nonproliferation policy of this country.

For the past 6 years, United States policy toward Pakistan has attempted to maintain a delicate balance. The United States sent Pakistan more than $3 billion in aid because of the strategic importance of that South Asian nation; at the same time our Government insisted that Pakistan curb its drive toward a nuclear weapons capability. A veritable mountain of evidence was accumulated that Pakistan's Nuclear Program is not peaceful. By our inaction today, we make a travesty of our nuclear nonproliferation regime and prove ourselves incapable of confronting a dangerous truth.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 seconds to the gentleman from California [Mr. Levine].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding me this time and I rise to commend the gentleman from New York [Mr. Solarz] and the gentleman from Michigan [Mr. Wolpe], and to join them in their comments with regard to extraordinary importance of addressing the issue of nonproliferation at this time and in this context. Not addressing this issue is a serious abandonment of our nonproliferation policy, puts at risk much of the security of the world, and extends the proliferation of nuclear weapons.

Mr. Speaker, we face a difficult situation today in our longstanding relationship with Pakistan. Over the past 40 years, we have established many strong bonds between our two nations. We have found many common causes to support. It should be clear to all that this friendship is very important to the United States, and that our fundamental interest will always lie in Pakistan's security and integrity.

But our relationship with Pakistan does not exist in a vacuum. It must be placed in the context of other vital U.S. interests.

The proliferation of nuclear weapons throughout the world poses a grave danger to our future. It significantly increases the danger of both accidental and intentional nuclear war. While our concern about nuclear proliferation can coexist with our other vital interests, it cannot take the back seat to any other interest. It is simply too important to the survival of this Nation and this world.

If a nation has not yet built a nuclear weapon, but has demonstrated the intention to, we must do what we can in the context of our relations with that nation to dissuade it from going ahead and taking that drastic and dangerous step. To do otherwise would be to abdicate our longstanding commitment to nuclear nonproliferation, and to further endanger the future of this world.

For many years a tension has existed in our relationship with Pakistan between our interest in close and warm relations with that nation and our interest in preventing the spread of nuclear weapons. In 1979, subsequent to the Soviet invasion of Afghanistan, we granted Pakistan a special waiver from United States nonproliferation law in order that it might receive United States aid. Supporters of the waiver justified it both on the basis of the situation in Afghanistan, and on the grounds that a substantial military aid package would inhibit Pakistan's efforts to acquire a nuclear weapons capability.

Unfortunately, since that time Pakistan's nuclear activities have become ever more ominous. Over the past 6 years evidence has accumulated that Pakistan has:

Procured sophisticated nuclear technology through a network of agents in Western Europe;

Obtained nuclear weapons designs from China;

Attempted on more than one occasion to illegally export nuclear weapons components and technology out of the United States; and

Produced bomb-grade uranium and tested a triggering package for a nuclear device.

It is clear that Pakistan has now reached a turning point in its nuclear program. It has acquired, by all indications, everything it needs to construct a nuclear weapon. It has not, however, to the best of our knowledge, actually put a bomb together.

We apparently can no longer prevent Pakistan from achieving a nuclear weapons capability. However, we can still try to prevent it from building up a nuclear arsenal.

On a number of occasions in the past, in response to our concerns about its nuclear program, Pakistan has pledged that it will not enrich uranium above the 5-percent level associated with normal peaceful-use nuclear programs.

This amendment asks only that Pakistan comply with these past commitments. We do not seek any new commitments from Pakistan, nor do we seek international safeguards or onsite inspection. We do not seek to have Pakistan dispose of whatever weapons-grade nuclear material it may already have accumulated. We ask only that Pakistan comply with its past commitments.

The relative mildness of this request belies the significance that our decisions for dealing with this issue hold. Even as Pakistan is at a crossroads in terms of its nuclear program, America is at a crossroads in terms of its nonproliferation policy. The other nations of the world have watched for 8 years now as Pakistan has brazenly manipulated the United States. Nations like Brazil and Argentina, who made preliminary moves toward acquiring an advanced nuclear capability, are watching our every move now to see if our resolve on this issue has grown soft.

Members are naturally concerned about the consequences that any congressional mandate regarding Pakistan's Nuclear Program may have for the Afghan situation. I think the record shows that my support for the Afghan resistance has been as strong as that of any Member of this body, with the possible exception of the gentleman from Texas. I would not support this amendment if I believed it was in any way detrimental to the Afghan resistance.

What needs to be made clear is that Pakistan has its own best interests in mind in supporting the Afghan resistance. Pakistani officials have stated time and time again that their support for the Mujahidin predates United States assistance and will continue regardless of any action the United States might take. Pakistan, more than any other nation on the face of the Earth, has no choice but to oppose the consolidation of a Soviet puppet regime in Afghanistan. Three million Afghan refugees, not to mention their own national security interests, demand that they do no less.

United States policy toward Pakistan is one of the more complex issues that we face as legislators in this House. In shaping U.S. policy toward this strategically located nation, we must balance a number of competing national interests. There are no easy answers to the questions that arise. Neither are there simple solutions to the dilemma we now face.

But the solution which the gentleman from New York has proposed strikes an effective compromise between our desire to continue assisting Pakistan, and our need to prevent Pakistan's Nuclear Program from progressing any further on the dangerous course it is embarked on now.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, if my colleagues were concerned last year when we passed the immigration bill about the amnesty portion of that bill, and it only carried by six votes, bear in mind this continuing resolution violates completely the amnesty provisions delicately worked out last year.

This continuing resolution prevents the United States from deporting any immediate member of the family of a person who is eligible for amnesty under last year's bill.

My colleague from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary was denied by the Rules Committee a chance to change that provision in this rule.

I urge my colleagues to defeat this rule. Let the Rules Committee go back and clean up these onerous attachments in this bill. Our colleagues, both liberals and conservatives have voiced opposition to. Reject the rule and let the Rules Committee go back and bring back a clean continuing resolution.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the House will vote on the most important bill of the year. It contains all the spending of our Government for the current year. But, although the bill covers all of our appropriations, the rule is closed.

Only Democrat amendments are allowed. No amendments on the sums appropriated are allowed. Debate is restricted. Rules are waived.

The arrogance of the majority continues to expand. King Caucus has risen from the grave, and rules triumphantly.

The rule is outrageous and ridiculous. It should be defeated as an afront to House. it will insure that all the debate will occur on extraneous matters. It guarantees that the vital spending questions will get minimum debate, and no separate votes.

I urge Members to defeat the previous question. If that does not happen, the rule should be defeated. If the resolution is taken up, it should be defeated.

The motion to recommit which would add $4 billion in spending reductions should be approved.

On our votes today depends American and world confidence in our ability to manage our fiscal affairs. So far, public opinion says we have not done enough. Unless we can slow down spending more effectively, we will imperil the economies of the United States and the world.

Mr. RAY. Mr. Speaker, I rise today in opposition to the rule governing the continuing resolution.

I do so, Mr. Speaker, because the Rules Committee has refused the request of Congressman STENHOLM and many of our colleagues to consider a freeze on appropriations at the 1987 level which would reduce 1988 appropriations by $3.9 billion.

Mr. Speaker, this country is, in my opinion, in a serious economic danger.

While the Gramm-Rudman-Hollings trigger would make genuine cuts in the amount of $23 billion, it would do considerable damage in an indiscriminate manner.

The summit compromise raises $9 billion in hard taxes, and cuts $12.8 billion in programs and sells assets and does other things to raise $6.40 billion for a total of $30.5 billion in deficit reduction.

This measure is too little, too late and, in my opinion, has $5 billion in flim-flam, smoke, and mirrors.

This gutless action was taken at a time when every community in America has finally gotten the word that real action by Congress and the administration is imperative.

In my opinion, there hasn't been any time in recent history when Americans are more ready to face up to the real world, than right at this moment.

So Mr. Speaker, we must cut where we can, and a freeze would save $3.9 billion. I resent the fact that the Rules Committee denied many of us the right to debate this issue.

The Rules Committee also is getting cute with the rule. It is crafted to play on the sensitivities of Members who can't see beyond the next election and who are nervous about voting for a pay raise.

This rule has a provision whereby, a vote for the rule would eliminate the proposed cost-of-living increase for Congress and for Government executives. A vote against the rule would put Members in a political bind, thereby, forcing a vote in some cases for this very bad rule.

Mr. Speaker, I'm going to vote against the rule. My position against a pay increase during these fragile times is well-known. I was one of the first to cosponsor H.R. 3599 by Congressman NEAL which would deny a pay increase for Members of Congress in 1988.

I, therefore, urge a vote for fiscal responsibility and against this biased rule.

Mr. KOLBE. Mr. Speaker, this may be the easiest vote I've had to cast since I arrived in Congress. As a member of the House Appropriations Committee, I'm embarrassed to be associated with this product. This bill, and the procedures surrounding it are so corrupt as to defy description. Constituents who harbor any faith that Congress makes decisions based on full and thorough debate can not comprehend how bad this bill is.

But the rule defining debate for this legislation allows for no consideration of any alternatives. We aren't permitted the opportunity to promote a real plan for deficit reduction. House members as a whole, Democrats as well as Republicans, are left to stand on the sidelines while an oligarchic assemblage is permitted to dictate to us and our constituents what we must accept in terms of government spending. This rule is utterly disenfranchising. Sure we can attempt to vote against the rule, and the bill as a whole—and that's what I'm going to do—but what kind of governing is that?

In a free and open society, the Congress should be permitted the opportunity to review a responsible and reasonable alternative to address the deficit situation, and to vote on its merits. But in this Congress, we're permitted only procedural votes and Quixotic protests. Somehow, the Democratic leadership assumes that we should all be satisfied with that. We're not.

I urge my colleagues to stand up, tell the leadership to pack up their tents, and come back with a rule that allows for a real deficit cutting amendment. We deserve the opportunity to make some touch choices, and we owe it to our constituents to "face the music."

Mr. BRENNAN. Mr. Speaker, I rise today in support of House Resolution 321, a rule providing for the consideration of House Joint Resolution 395, a measure making continuing appropriations for fiscal year 1988. I urge my colleagues to closely review this resolution because it contains a very important provision relating to repeal of the congressional pay raise set to go into effect on January 1, 1988.

The recent budget summit negotiations which took place between the Congress and the President underscored the serious economic conditions which our Nation faces. One message I hear from my constituents back in Maine is the need for Congress to get serious about reducing the deficit. The first step toward showing how serious the Congress is about addressing the deficit is to repeal the pay raise for Members of Congress, judges, and other high Government officials.

To increase congressional salaries at a time when our constituents are being asked to sacrifice in order to make real progress on deficit reduction would send the wrong signal. Our constituents believe their elected Representatives should receive fair compensation for their efforts. However, a pay raise at this time simply makes no sense. There appears to be a consensus reached between the White House and the Congress on cutting Government spending. Increasing Members salaries is not the type of congressional activity which will restore confidence on Wall Street or on Main Street.

As with other rules, there may be some provisions of the measure which generate controversy. However, I believe Members should welcome the opportunity to vote up-or-down on the schedule pay raise through adoption of this rule. I am pleased to have this opportunity to vote yes on this rule which will effectively repeal the congressional pay raise and restore faith in congressional efforts to achieve meaningful deficit reduction progress.

I urge my colleagues to join me in support of House Resolution 321.

Mr. JEFFORDS. Mr. Speaker, less than 2 weeks ago there was a considerable amount of euphoria in Congress and around the Nation at the announcement of an economic summit agreement that would reduce the Federal deficit by $30.2 billion in fiscal year 1988 and $45.85 the following year. It seemed that Congress and the administration had finally summoned the political courage to put partisan politics and pork barrel legislating aside and make the tough choices necessary to reduce the deficit and revoke the Gramm-Rudman cuts. Now it seems that we've slipped back into business as usual. We're being asked to vote for a rule on the continuing resolution that merely incorporates the overall guidelines of the budget summit agreement. Implementation of the $2.6 billion cuts in discretionary spending will be left up to the wisdom of the continuing resolution conferees. There will be no opportunity for Members to discuss or amend the decisions of the conferees, as Members will be faced with only a yes or no vote on the entire conference agreement. While I have always objected to rolling all funding for the entire Government into one omnibus bill, rolling the budget agreement changes into the conference agreement is even worse.

At the same time, the Democratic leadership has seen fit to make in order a series of policy amendments to this bill—issues that should have been dealt with in the regular authorization-appropriations cycle and which have no place on a continuing resolution. However, if the Rules Committee was going to allow this type of legislating on the continuing resolution, at the very least, should have allowed some other deserving amendments requested by Republicans.

Finally, let me speak to one of the most contentious aspects of this rule—the congressional pay raise. Following the uproar over the lack of language on the omnibus reconciliation bill to cancel the scheduled 3 percent pay raise for Members of Congress, the Speaker indicated that Members would be given a chance to vote on a rejection of the pay raise. Now we find this provision stuck in a very controversial, self-executing rule with no chance for a free-standing vote. Once again, the leadership of the House has stooped to parliamentary tricks in order to keep an up-or-down pay raise vote from coming to the House floor in the appropriate fashion.

The formulation of this rule indicates to me that we have lost the momentum and resolve generated by the budget agreement and have slipped once again into partisanship and narrow-minded bickering. This is no way to instill confidence in the ability of Congress to make tough decisions or be honest with the American people about the difficult issues that surround Federal spending. Unfortunately, I have no choice but to oppose this rule.

Mr. KYL. Mr. Speaker, some here today are incorrectly trying to portray the vote on the rule as a referendum on the congressional pay raise.

The real vote on the pay raise occurred 5 weeks ago when we considered the budget reconciliation bill. That was the legislation that authorized the pay increase. I'm on record opposing the increase when it really counted.

Today, we've got a smoke-and-mirrors rule that appears to block the pay raise, when in reality it paves the way for the pay increase to take effect.

Today's vote on the rule actually has little to do with the pay raise. Why not a single, clear, recorded vote on the pay raise, and the pay raise alone?

Mr. Speaker, take a close look at this rule. Nowhere does it mention the congressional pay raise. The raise is presumably blocked through indirect reference to language in the committee report. Furthermore, the rule prevents any effort to strike section 132 of the bill. That section puts the pay raise into effect in terms of funding. So, what does the rule really mean?

If we count on this rule to block the pay raise, we're sorely mistaken. We're only casting a procedural vote that can easily be ignored by the conference committee.

Let's look at what the rule really does—or doesn't do. It doesn't give us an opportunity to cast a clear-up or down vote on the pay raise.

It waives points of order for Budget Act violations.

It fails to allow us to consider any real alternatives to the continuing appropriations bill itself. We're only given the opportunity to vote "yes" or "no" on a $593 billion bill.

The rule disallows every Republican amendment except one, the Conte clean air amendment. We're denied the opportunity to offer a budget freeze amendment.

It's a bad rule, and I intend to vote against it.

Before we finish consideration of the bill today, we will have one real opportunity to try to clean up the bill somewhat by voting for the motion to recommit. That motion will specifically prohibit funding for any pay raise for Members of Congress, and it will provide for an additional $4 billion in spending cuts.

The American people are watching. Let's take the responsible route and begin to deal with congressional pay and the deficit problem seriously.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Washington [Mr. FOLEY], the distinguished majority leader.

Mr. FOLEY. Mr. Speaker, this is the first step that I believe must be taken in order to implement what is an unusual, if not historic, bipartisan agreement among the administration and the leadership of the House and the Senate in both parties to undertake together a coordinated effort to find a basis for cooperation in reducing the deficit.

The package is often said to be not big enough, and there are in this body and elsewhere alternatives that people have brought forward and urged as better. Indeed, I suppose if I were asked to state what my own preference would be, it would not be of the exact nature of the so-called summit agreement.

However, it is an agreement, I think, that can be implemented, and it is extraordinarily important in these times that we tell the American people and international community that the United States can achieve a bipartisan coherence on this critical subject.

This rule is the first step, as I say, in bringing that about. There are other issues here, some of which are contentious. While we all realize that, I would hope that Members would put aside their differences on some of the less serious ones to focus on the basic legislation that is before us, the continuing resolution, and adopt the rule as well as the bill. This is by no means the last step in the process, but it is an essential and positive one.

The bill must then go to the other body, the Senate, from where it will undoubtedly come back in the form of a conference report. That conference report and a parallel bill on reconciliation will be presented to the President of the United States simultaneously. At that point he will have the opportunity to judge, through the Office of Management and Budget, whether they met the requirements of Gramm-Rudman-Hollings and, in doing so, lift the sequestration order.

There is no risk that the administration will be presented with a bill which it must sign unless the President is convinced that it meets the terms of the agreement.

We all have an interest in working together in that regard and toward that end. While that most likely will not be accomplished until the last week of our session, when it is achieved, as I believe it will be, it is going to be an enormously important signal to the entire world community as well as to the people of the United States that we stand together in finding a means to reduce our Federal deficit to bring about financial stability and economic growth.

The rule is the first step. I hope the Members on both sides will find it possible to adopt it and move forward.

The SPEAKER pro tempore (Mr. HALL of Texas). All time has expired.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARMEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 171, not voting 14, as follows:

[Roll No. 452]

YEAS—248

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—171

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Billey
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—14

Biaggi
Crane
Dowdy
Gephardt
Hawkins
Kemp
Latta
Lott
MacKay
Miller (WA)
Montgomery
Oakar
Pursell
Roemer

□ 1200

Mr. GOODLING and Mr. SMITH of Texas changed their votes from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Hall of Texas). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 177, not voting 20, as follows:

[Roll No. 453]

AYES—236

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Daub
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schuette
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—177

Archer
Armey
Badham
Baker
Ballenger
Barnard

Bartlett
Barton
Bateman
Bates
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Ford (MI)
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slattery
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—20

Biaggi
Crane
de la Garza
Dowdy
Gephardt
Hawkins
Huckaby
Kemp
Kostmayer
Latta
Lott
Lukens, Donald
MacKay
Montgomery
Oakar
Pickle
Pursell
Roberts
Roemer
Swift

The Clerk announced the following pairs:

On this vote:

Mr. Gephardt for, with Mr. Kemp against.

Mr. Montgomery for, with Mr. Crane against.

Mr. de la Garza for, with Mr. Roberts against.

Mr. MacKay for, with Mr. Donald E. Lukens against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PICKLE. Mr. Speaker, I thought I cast an "aye" vote on House Resolution 321, the rule to accompany the continuing resolution. This was my intention.

I have been informed that the computer failed to register the vote for some reason. I ask that the record show I would have voted "aye" on rollcall No. 453.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on (H. Res. 321), the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, 1988

The SPEAKER pro tempore. Pursuant to House Resolution 321 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 395).

□ 1219

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes with Mr. Flippo in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, we bring you today the continuing resolution. This is the second straight year that your committee has had to bring together all the appropriations for the operations of the Government.

I have had a number of colleagues today say they have never voted for a continuing resolution. I assure you that handling the bills this way does not come from any desire on the part of the Appropriations Committee. It comes because primarily on the other side of the Capitol they have been unable to complete their work in time to handle their regular bills.

I say for the record that on this side of the Capitol, we have pursued our hearings. The Record shows that during consideration of the 13 appropriation bills, we have some 4,188 witnesses, on 221 separate days of hearings, and produced 94,228 pages of hearing records.

The bills were handled in the regular way by the regular subcommittees and the way they appear in this resolution is the way they were either passed by the House or reported to the House in their entirety.

When we go to conference, it will be my intention to recommend to the Speaker that every member of each subcommittee will be appointed to the section that he handled as a member of the subcommittee; so insofar as the House is concerned, this will be handled in the regular way.

I repeat again, Mr. Chairman, our problem primarily has been and we are here because there is no other way to keep the Government operating.

I ask my colleagues to understand that it is not of our making. This is the fourth time in the history of the country that we have brought everything forward in one bill. Last year and this year are two times. The time before that was in 1952; but I do want to call attention to the fact that your Committee on Appropriations has always held to the line as far as appropriation bills are concerned.

It is true that in the last 6½ years the debt of the Nation has increased from $988 billion to something like $2.3 trillion; but during that period of time the Appropriations Committee bills which we have had discretion with have been below the President's recommendation by over $17 billion for the period of time he has been President.

Mr. Chairman, House Joint Resolution 395, as amended by the resolution just adopted, provides full year appropriations for fiscal year 1988 limiting appropriations to the limits recommended by the "economic summit."

The existing continuing resolution expires on December 16, a date selected by the leadership to coincide with the scheduled completion of legislative business for the first session of the 100th Congress. Adoption of this resolution by the House today can permit us to complete action, under the present schedule of the Senate, by that date.

The committee has completed action on the 13 regular appropriations bills and 10 have passed the House and Senate. Conferees have been appointed, and we are working out our differences, though we do not have enough time left to handle them individually. The 10 bills which passed the House were within our budget allocation and the three bills which were reported by the committee were also within our total allocation.

Our 13 appropriations bills are $4.7 billion below the President's outlay request; $3.5 billion below our 302(b) allocation; and $7.8 billion below the Gramm-Rudman baseline. The resolution just adopted further reduces those bills by $1.5 billion in discretionary outlays. This continues the record of the committee of staying below the President's budget. Since 1981, we have been $17.1 billion below the budget requests.

LEVELS OF FUNDING UNDER THE RESOLUTION

Section 101(a)-(m) provides funding for each of the 13 regular appropriations bills at levels that reflect the latest actions of the House. The committee adopted this approach in order to keep faith with actions already taken by the House. It is hoped that this method of proceeding will both minimize controversy since the House has previously worked its will on these matters and also that it will preserve the position of the House on these important matters.

Funding levels for the 13 regular appropriations bills are provided at the following rates of operations in section 101 as follows:

(a) Commerce, Justice, and State, the Judiciary, and Related Agencies: H.R. 2763 as passed the House July 1, 1987.

(b) Defense: H.R. 3576 as reported to the House Oct. 28, 1987.

(c) District of Columbia: H.R. 2713 as passed the House June 26, 1987.

(d) Energy and Water Development: H.R. 2700 as passed the House June 24, 1987.

(e) Foreign Operations and Export Financing, and Related Programs: H.R. 3186 as reported to the House Aug. 6, 1987.

(f) HUD-Independent Agencies: H.R. 2783 as passed the House Sept. 22, 1987.

(g) Interior and Related Agencies: H.R. 2712 as passed the House June 25, 1987.

(h) Labor-HHS, and Education, and Related Agencies: H.R. 3058 as passed the House Aug. 5, 1987.

(i) Legislative Branch: H.R. 2714 as passed the House June 29, 1987.

(j) Military Construction: H.R. 2906 as passed the House July 14, 1987.

(k) Rural Development, Agriculture, and Related Agencies: H.R. 3520 as reported to the House Oct. 20, 1987.

(l) Transportation and Related Agencies: H.R. 2890 as passed the House July 18, 1987.

(m) Treasury, Postal Service, and General Government: H.R. 2907 as passed the House July 15, 1987.

These rates are expected to be modified in conference with the Senate to conform to the limits recommended by the economic summit.

Due to the economic summit group, a meeting of Members of the House and Senate and representatives of the executive branch during the month of November, we were asked to delay action on the continuing resolution until completion of recommendation by the summit group. The agreement, as I understand it, calls for a further reduction of some $2.6 billion in discretionary domestic funding. The sequestration now in existence cuts 8½ percent, more than twice as much. We have now been asked to move our bill forward and conclude the essential work of the Congress. With regard to such summit, I would respectfully point out that there are two places where the Congress must protect itself.

1. ASSET SALES

It has been made clear that such sales would have to be approved in advance by the Congress. This is absolutely essential. Sale of assets to pay current expenses is questionable to say the least.

We still have many forces who wish to sell public power operations; who believe everything operated by the public should be sold so that private interests could make a profit. Efforts to sell power agencies are now being made, in the Southeast first, and if successful it would reach every section of the Nation. We see what is happening to the land taken from farmers, which is being reduced in value prior to sale largely to insurance companies or large landowners.

You are familiar with what happened last year in the Senate about payments by REA's, where those who paid their loan would be barred from future loans. This was misrepresented to the House as pertaining only to Alaska but was set straight on the floor. Even now, after language in the supplemental permitting prepayment of REA loans without penalties, according to the press, any REA associations which refinance its loans from private sources are required to agree that they are not eligible for future loans from the Government.

2. SCORING OF REDUCTIONS

I also call attention to the fact that it was not agreed upon that CBO would determine what reductions would be counted without any restriction or controls recommended by the summit group. If money is saved to the Treasury, it must be counted.

WE MUST PRODUCE OUR WAY TO FINANCIAL STABILITY

Mr. Chairman, the real way to restore our great Nation to a sound financial road is to provide increased income which could and should come from giving our industry the same support which other countries give to theirs.

We have largely given our domestic market for textiles, shoes, steel, and even agriculture to our foreign competitors.

I am advised that many major American corporations are even having their major components manufactured abroad.

Our law provides that upon a finding by the Tariff Commission that imports are jeopardizing a domestic industry, the President may then limit, tax, or stop such imports.

Our efforts to get other countries to let our products in is, in my opinion, clearly an effort to cover up the fact that we will not use our own law to protect our industry, our labor force and our agriculture as other countries do theirs.

I am not talking about protectionism; I'm talking about common senseism.

Mr. Chairman, in 1981 we had a favorable international trade balance of $6.9 billion. Each year since then, we have had a negative balance for a total through 1986 of $419.7 billion. The balance for this year is expected to be the worst of all—in excess of $150 billion. That means we buy that much more from foreign countries than we sell. Hundreds of thousands of Americans are without jobs. It is said that 4 years from now, if our present policies are followed, 90 percent of our jobs will be service jobs. That is like trying to make a living by taking in each others laundry.

This growth in the trade deficit contributed greatly to the growth of the national debt from $932.3 billion in 1980 to $2.3 trillion at the beginning of 1987, and means we must get our finances in order. Any actions to do so, however, must not be at the expense of our real wealth, the physical assets of the Nation. We must distinguished between investment spending and other spending.

THE RECORD

Between 1980 and 1988—

Military spending has increased +50.5 percent.

Interest on the national debt has increased +82.3 percent.

Payments to individuals—including Social Security, Medicare and Medicaid—have increased +20.6 percent.

"All other" Government spending—essentially discretionary domestic programs—has decreased −26.7 percent.

During this same period, there was a loss of income of $601.2 billion.

□ 1225

The Nation's budget and accounting system does not count Government investment as an investment. But much Government spending is investment—the development of our rivers and harbors, the acquisition of land for national parks and wildlife refuges, and the construction of our schools, highways, airports, subways, and sewage and water systems.

In order to ensure our continuation as a great nation, we need a strong national defense that is backed by a strong country and public support—strength that can come only by protecting and developing our Nation's resources—our real wealth, our lands and waters.

The more serious our financial problem is, the more imperative it is that we take care of our real wealth.

Mr. Chairman, today I have introduced bills which are to authorize appropriations to meet our economic problems with essential productive jobs; to resume payments to over

39,000 local governmental units; and a bill to establish the Reconstruction Finance Corporation to make loans and loan guarantees to individuals or concerns engaged in industry, agriculture, and commerce, who would otherwise be unable to obtain needed financing or refinancing essential for continued operation, thereby preventing unemployment and resulting disruption of the economy, and for other purposes.

The total cost of these bills is less than one-half of that recommended for foreign aid for much of the same type of activity overseas.

While we must work toward a balanced budget, in the final analysis we must produce if we are to straighten out our finances. These bills are just introduced, however I am concerned that in less than 15 months, you will see the need for a return to productive jobs in the United States as against buying on credit from foreign countries.

We are facing a serious situation, and I want my colleagues to know that the Committee on Appropriations is doing its share. In this bill here again we stay under the President's recommendation.

The summit committee, and I was on that committee, they say to cut some more, but I have to tell my colleagues, although I am going along with them, but they do not have the least idea what we are spending now or what for. I do say that we need to do what we can to balance the budget, and we are trying to do it here. We not only reduce more than $6 billion but we are going along and trying to cut it another $2.6 billion.

I have had several folks ask me whether we can get home for Christmas, and I say, "which year," because we are controlled by our friends on the other side. The supplemental appropriation bill that we passed on April 24, they passed on June 2, with 437 amendments. This year I was presiding at the conference, with 437 amendments I announced that we would take a 10-day recess so we could study those amendments so we could tell them what they had done.

I say to my colleagues here that when we can go home is when we can get some cooperation on the other side of the Capitol because they are already $2 billion ahead of us.

What we are going to do about it, I do not know, but I do want my colleagues to know that the resolution is necessary because otherwise the Government will close on December 16, just 9 legislative days from now.

May I say again that the Senate, despite the efforts of the Members on the supplemental appropriations bill, took 6 weeks under their rules to get the bill up. So I do not know what to tell my colleagues here. There is one thing I would say though, years ago about 4 o'clock in the morning a Senator Fergusson from Michigan said, "JAMIE, there are only two ways our Senate can act, either by unanimous consent or exhaustion."

So we will have to hope we have the cooperation with our friends on the other side of the Capitol. I say again, we are doing a thankless job in many ways, and a whole lot of work is involved in this. A lot of work is involved in this to bring a bill that can be supported and I repeat, if we are going to handle our situation we will have to get our people back to work and give our people the same support as other countries give to their people.

As I pointed out, 7 years ago we had a figure in the black insofar as trade is concerned, in the meantime we have gone down about $500 billion in trade business. We cannot continue that way.

Mr. Chairman, I reserve the balance of my time.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this continuing resolution, which provides funding authority for every agency in the Federal Government from December 16 through the end of the fiscal year.

Although I strongly object to the process that makes this resolution necessary, I see no acceptable alternative to the adoption of this resolution.

Mr. Chairman, the budget process is a disaster, and this continuing resolution is the prime example of what is wrong with it.

Here we are 2 months into the new fiscal year, and not one of the 13 regular appropriations bills has been through conference and sent to the White House. How did this happen? First, through a failure to meet deadlines in adopting a budget resolution.

Second, by not scheduling appropriations bills on the floor as soon as they were ready. And third, by the failure of the other body to act expeditiously on the appropriations bills passed by the House.

In this continuing resolution, we have included by reference the 10 regular appropriations bills as adopted by the House. Those bills have been subjected to the will of the House, and their inclusion in this resolution is both regular and proper.

But what especially troubles me, is that the continuing resolution also contains reference to three bills, Defense, Foreign Assistance, and Rural Development and Agriculture, that have not previously been before the House.

In this resolution, there will be no opportunity for amendments to those three bills—just one vote, up or down, on some of the most controversial issues in the Federal budget. In my view, this process does a real disservice to my colleagues, and we need to find a better way.

Unfortunately, at this point we have no real alternative. There are only 9 legislative days scheduled as remaining in this session. We are all anxious to wrap up the remaining items of legislative business and adjourn. And so we must adopt this resolution.

Of particular note is the fact that as a result of the self-executing amendment contained in the rule on this measure, the continuing resolution provides the outline of the deficit reduction agreement reached in the bipartisan summit between the Congress and the administration.

As one of the negotiators in that summit, I support the agreement and strongly urge its implementation through this continuing resolution. Although some may argue that we should have had the specifics of the agreement locked up by now, in fact there just was not time.

With an agreement finally reached just before Thanksgiving, there has been no opportunity to implement that agreement in the individual appropriations bills.

The outline now contained in this resolution is what is required to put the agreement into effect, where the details can be worked out bill-by-bill in conference with the Senate.

While everyone may not agree with all of the agreement, this is as much as anything a political agreement.

And as we all know, politics is the art of the possible. I can assure my colleagues that this was the best agreement possible. And so I would ask for my colleagues' support.

If nothing else, let us remember that the alternative to this resolution is worse.

The alternative to this continuing resolution and the deficit reduction agreement that it contains, is the Gramm-Rudman-Hollings sequester. And that would be an unqualified disaster.

Ripping through higher and lower priority programs alike with its large-bladed machete, the sequester would disrupt critical programs. Programs that are vital to our security, well-being, and even to deficit reduction would be severely cut back under a sequester.

We would have a major cutback in IRS enforcement, critical to many of the revenue assumptions contained in our budget agreement. We would have major cutbacks in customs enforcement, critical to maintaining the integrity of our borders against drug smuggling and unfair foreign competitors.

Under a sequester, we would be looking at a major cutback in our air traffic control system, in Federal law enforcement, and in our national defense. Defense Secretary-designate Carlucci said that he would not live with the sequester figure.

Under a sequester, we would not have adequate funds to gear up for the 1990 census, including provision for an accurate count of military personnel overseas by congressional district. There would be no funds for a trial run of the computerized counting operation. Congressional redistricting would be a mess.

Under a sequester, you would be cutting a quarter of a billion dollars from anti-crime and anti-drug activities authorized by this Congress. The USIA would be cut by $47 million, just as we are working to extend it into news-starved areas of the Soviet Union.

Those of you who support U.S. international security assistance programs would see those programs cut by three quarters of a billion dollars. Those are the programs for the base rights countries just as the administration is facing very difficult negotiations over the future of those bases.

For the human services programs that are near and dear to my heart—the programs for the elderly, the young, the sick, and the unemployed—the sequester would be a disaster.

To the 335 Members of this House who joined me in supporting our Labor, Health and Human Services, and Education bill last August 5, I say we must adopt the summit agreement and prevent the sequester.

Mr. Chairman, for 22 days we met in negotiating this agreement. It was the best we could do. Now the President supports it, and it will be up to us to go to conference with the Senate and make it work.

The financial markets of this country, and indeed, the world, are watching us to see if we have the resolve to implement this agreement. It may not be the ideal solution to our deficit problem, but it is an important first step.

There is no question that it would cost more, to our economy and to our world standing, to miss this opportunity and simply let the sequester go into effect. Let us not cut off our noses to spite our faces. Let us adopt this resolution and the budget agreement that it contains.

Mr. Chairman, I urge the adoption of this resolution.

Mr. Chairman, at this point I would like to include in the RECORD summaries of several of the sections of the CR that deal with individual subcommittees.

ENERGY AND WATER DEVELOPMENT

For programs under the jurisdiction of the Subcommittee on Energy and Water Development, the continuing resolution provides funding at the rate, and according to the provisions of, the regular energy and water development appropriations bill (H.R. 2700), as it passed the House on June 24.

DES MOINES, IA—CORPS

Section 113 of the continuing resolution directs the Corps of Engineers to continue with planning, design, engineering, and construction of the Des Moines Recreational River and Greenbelt project. This language reaffirms a directive that has been carried in previous appropriations bills but which the corps has so far ignored.

SAN JOAQUIN RIVER, CA

Section 114 of the continuing resolution modifies the current authorization for the San Joaquin River project to provide additional project features and to increase the cost ceiling from $5 million to $8 million for the project.

BUREAU REORGANIZATION

Section 115 of the continuing resolution prohibits the use of appropriated funds by the Department of the Interior to implement a proposed reorganization of the Bureau of Reclamation. The purpose of the provision is to give Congress additional time in which to review the budgetary and policy implications of the proposed reorganization.

MC GEE CREEK, OK

Section 116 of the continuing resolution prohibits the Bureau of Reclamation from declaring the McGee Creek, OK, project completed and requiring the initiation of repayments for the project until all authorized project features, including access roads and recreation features, have been completed.

LOMA LINDA CANCER CENTER

Section 117 provides $8.5 million, from available energy supply, R&D program funds, for the Loma Linda University Medical Center Proton-Beam Demonstration Cancer Treatment Center.

EAST CENTRAL UNIVERSITY

Section 118 of the continuing resolution provides $2 million from available energy supply, R&D funds for the Center for Physical and Environmental Science at East Central University in Ada, OK, for the construction of the facility and fixed equipment costs.

FERC EXTENSION

Section 119 of the continuing resolution authorizes the FERC to extend the time period required for commencement of construction of certain water quality features of a dam at Westernport, MD, for up to 2 years. In the absence of this provision, which the FERC supports, the construction license will expire in December 1987.

HUD-INDEPENDENT AGENCIES

For HUD and the 17 independent agencies, section 101(f) folds in the regular fiscal year 1988 appropriations bill, H.R. 2783, as passed the House on September 22, 1987. This bill included $57.9 billion in new BA, $1.3 billion over fiscal year 1987-enacted levels and $6.3 billion over the budget requests.

The Senate passed its version of the bill on October 15; no conference meeting has yet been held to work out our many differences.

The resolution also contains language in section 122 to extend the deadline for obligating HUD housing development grants from 36 to 48 months. Language in section 123 has been included to correct a unique Federal deposit insurance problem facing seven cooperative banks.

LABOR-HHS-EDUCATION AND RELATED AGENCIES

The fiscal year 1988 appropriations bill for the Departments of Labor-HHS-Education and related agencies, H.R. 3058, passed the House on August 5. This section incorporates that bill as passed by the House.

Regarding ongoing programs where the authorizing legislation has expired and no new authorization bill had yet been signed into law, H.R. 3058 deferred consideration of these programs until the House-Senate conference. These programs include, for example, the Older Americans Act programs, the developmental disabilities programs, the preventive health services block grant, and more. In the meantime, for these programs, this section provides funding at the current fiscal year 1987 rate so that they may continue to operate pursuant to the terms and conditions that defined the programs in fiscal year 1987.

It is particularly important to implement the summit agreement rather than the sequester for the programs in this bill. Of the 13 appropriations bill, Labor-HHS-Education ranks 11th in terms of its total growth in discretionary spending since fiscal year 1980. Between fiscal year 1980 and fiscal year 1987, discretionary spending for these programs have grown only 7.8 percent. In fact, last year was the first year that discretionary spending for these programs exceeded its fiscal year 1980 level—in every other year, total discretionary spending for the programs in this bill was below its fiscal year 1980 level.

These programs—which include funding for AIDS research, education, and counseling, funding for education programs for our children, and funding for those programs that are the nucleus of any future welfare reform—are finally regaining their footing and getting funded at levels consistent with their importance to the American people. The sequester will gut that progress; the summit agreement, on the other hand, will protect it, and will allow us to make policy choices, not mindless procedural cuts.

RURAL DEVELOPMENT, AGRICULTURE AND RELATED ACTIVITIES

Section 101(k) of the resolution folds in the committee-reported Rural Development, Agriculture and related agencies appropriations bill, H.R. 3520. This bill includes $50.9 billion in new budget authorization, a level that is $527 million below 1987-enacted levels and $508 million below the budget requests.

I regret that we have not had an opportunity to work our will on this measure separately in the House. There's no good reason why this is the only chance we have to review the largest domestic discretionary spending bill.

For, while we have done our best to maintain funding for priority research, extension and conservation activities, and while we have been able to recommend a $140 million increase for the WIC program, the bill as reported includes a number of provisions that the administration finds totally unacceptable.

The provisions to which the administration most strongly objects include: various administrative limitations; language prohibiting the use of funds to alter the current method of computing normalized prices; language precluding the sale of loans made by the Agricultural Credit Insurance Fund; and language deleting the authority of the Secretary of Treasury to disallow premium-free repayment of REA-guaranteed FFB direct loans.

The administration has also expressed strong objections a CCC funding mechanism that will require significant changes in accounting and management systems that will only pave the way for a series of spring supplementals or CCC shut-down. I understand that there will be an amendment offered by the chairman of the authorizing committee to provide the USDA with some flexibility in making transfers between accounts. The Department considers this an improvement over the current provision, but I hope we can do better in conference.

There are many controversial issues to work out in conference with the Senate on its committee-reported version of our bill, S. 1800.

In conclusion, I will point out that the resolution before us also contains one general agricultural provision, section 125, to permit USDA to continue to enter into agreements with State agencies for animal damage control programs for the protection of human safety and health.

TRANSPORTATION

The continuing resolution provides for programs under the jurisdiction of the Subcommittee on Transportation at the rate, and according to the provisions of, the regular Transportation appropriations bill (H.R. 2890), as it passed the House on July 13.

VIRGINIA STREET BRIDGE

Section 126 of the continuing resolution exempts the Virginia Street Bridge in Charleston, WV, from a requirement that limits the amount of bridge replacement money available to any particular State.

PETOSKEY, MI, DEMONSTRATION

Section 127 of the continuing resolution authorizes $28 million and appropriates $500,000 for a highway demonstration project in Petoskey, MI.

□ 1240

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Chairman, first I want to express my deep appreciation to the chairman of the full Appropriations Committee for doing an absolutely extraordinary job under difficult circumstances in fashioning this continuing resolution for the fiscal year.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to my distinguished colleague, the gentleman from Illinois.

Mr. RUSSO. Mr. Chairman, in the continuing resolution we are debating today there is a provision that would remove for 2 years numerical quotas on the immigration of Amerasian children if they are issued immigrant visas, and if they leave Vietnam during the 2-year period beginning 90 days after enactment of this bill.

I rise in support of this provision, not only because the unification of these families is a positive humanitarian gesture during this holiday season, but because I feel that it provides an opportunity to raise an equally pressing humanitarian issue, the continuing question of the hundreds of American servicemen who are still missing and may be held against their will in Southeast Asia.

Although I am encouraged by the efforts of the last few months, all U.S. citizens and all Members of this body must continue the pressure on the Vietnamese and the Reagan administration to take all possible steps to secure a full accounting. I believe the issue of enabling thousands of Amerasian children and their families to come to the United States is a worthy humanitarian goal, but us not forget the still unresolved question of the full and complete accounting of all POW's and MIA's.

I thank the gentleman for yielding this time to me.

Mr. MRAZEK. Mr. Chairman, I also thank the gentleman and wish to express to him my appreciation because of his efforts at the forefront of the movement to try to make sure that we get a full accounting for the more than 2,400 MIA's and POW's who are not yet accounted for. I know all of us in this House will continue our efforts to try to get that full accounting. I thank my colleague.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN], a member of the Appropriations Committee.

Mr. COUGHLIN. Mr. Chairman, this continuing resolution is a hog's breakfast.

Certainly at some point we must have a continuing resolution, but it does not have to be this continuing resolution.

It does not make significant spending reductions. It, in fact, increases spending over last year's levels by $5.1 billion.

It does not implement the budget agreement reached at the summit between the President and the bipartisan leadership in Congress on November 20.

It already contains legislative provisions that have been inserted with no hearings, such as one would undo the carefully tailored immigration reform law the Congress passed just last year.

And with the rule just adopted we have effectively refused to consider spending reductions, but have ensured we will pour into the hog's trough a full platter of other legislative initiatives that should be considered separately and on their merits instead of serving them up with this hog's breakfast.

It has been said we have to send this resolution to the other body, where it will be cleaned up. But does anyone really believe the Senate will clean it up rather than add their own pet projects?

So, we will go down veto road rather than take responsible action.

Why can't we approve a meaningful continuing resolution and not a hog's breakfast?

Mr. WHITTEN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. CHAPPELL].

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I thank the distinguished chairman of the Defense Appropriations Subcommittee for yielding.

I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a colloquy regarding the Trident Submarine Program.

As you know, the Navy recently accepted proposals for construction of the next three Tridents from both the Newport News and Electric Boat Shipyards. This is the first time that the Navy has officially sought a second source for the Trident submarine, which is currently solely produced at the Electric Boat Shipyard in Groton, CT. While I have no problems with competition in general, I am concerned that in the Trident Program, which is over two-thirds complete, we might have to expend a great deal of money to entice another competitor into the business at this late date.

At this point I seek only the assurance of the distinguished chairman of the Defense Appropriations Subcommittee that this bill does not appropriate any funds, including funds to tool up another contractor, that could properly be expended to establish a second production source for the Trident Program.

Mr. CHAPPELL. I assure the gentleman that that is indeed so.

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, the world is now engaged in an evaluation process of the summit results. Early results indicate that, based on judgment, economists, editorialists, analysts, central bankers, finance ministers, and men and women in the street, the summit agreement is being judged to be inadequate. There seems to be a consensus that the problem requires sterner measures than the summit negotiators were willing to undertake.

If we lose the confidence of the American public and world markets, we imperil our own economy and that of the world. That is just what we are doing if we accept this particular resolution.

Let me illustrate. First, the summit did not cut the congressional budget resolution spending totals at all.

This resolution, which purports to put the summit agreements into law, or which purports to be able to get us there, allows an actual increase of $3.5 billion in military spending over 1987, a $30 billion increase in entitlement spending over 1987, and a $20 billion increase in domestic discretionary spending. There is a total of $60 billion more spending than 1987. And we are telling people we are saving something.

The worst of it is when we get down to biting this bullet, or this marshmallow, we are going to find that there is no reduction in the 1987 deficit. In fact, even under rosy budget assumptions, the deficit is expected to rise slightly.

That is a ridiculous situation. When the public understands the number, it will be understandably upset.

There is a way to do a better job. It is to pass the motion to recommit which will provide for $4 billion of additional spending reductions in discretionary spending accounts. That will give us a real freeze compared to last year, and I urge that that motion be adopted.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to the measure before us today. I cannot in good conscience vote for the largest spending bill ever brought before the Congress. Moreover, it is a travesty of the legislative process to contend that, in supporting this budget-busting $600 billion spending bill, Members are voting to eliminate the pay raise for Members of Congress which was enacted against my opposition when the House barely passed a $12 billion tax increase on October 29.

I oppose the pay increase now just as I oppose this deficit-feeding spending bill, and I refuse to play politics by knuckling under to this cynical linkage of two completely unrelated issue. Mr. Chairman, if the leadership really wants to repeal the pay raise, let us have an up or down vote on that issue alone. I look forward to the opportunity to cast that vote against the raise.

However, I cannot in good conscience support the largest budget-busing legislation ever brought before the Congress simply to dodge a calculated political manuever designed to embarrass and my colleagues who oppose Federal overspending.

I urge my colleagues to vote "no" for uncontrolled spending, to vote no "on" this issue.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, mention has been made of the salary raise. This came up in a bill where we had no chance to have a separate vote. I call attention to the fact that this is the first opportunity that has come our way to repeal that.

Under present conditions, I am of the opinion that we should accept the amendment, because the minute we try to match inflation, we double the rate of inflation. I say again, this is the first vote we have had along that line.

May I add again this is not a budget-busting bill. It is some $6 billion below what the President recommended.

May I say again on behalf of the Appropriations Committee that through the years the Appropriations Committee has been below the budget. During the years of our present President of the United States we were over $17 billion below the budget. It is entitlements and other things that come from our legislative committees that keep increasing this debt.

As I pointed out earlier, two-thirds of the debt or about half of the debt that we have is because we have quit producing and selling. We are buying on the credits of foreign countries. We have quit protecting or at least supporting our domestic industries. It is said that our major corporations are having their parts made abroad on account of cheap labor. I know that Japan is buying land and buildings all over the United States. They own most of the office buildings. Recently it was pointed out that 19 of the largest banks are Japanese. I know they are coming in here everywhere. I have now letters trying to get Japanese capital which is our dollars which they have earned while we supported their defense.

I say we have a very serious matter. But the one thing my colleagues better keep in mind, we are going to have to have a strong economy and public support to pass what we do, and sooner or later we are going to have to protect American labor, American industry, and the American people as the law provides.

I say again, the law that is now used is jeopardizing our domestic industry. We can have a recommendation of tariffs and the President can block them and limit them or tax them. That is what we are attempting to do.

I repeat again that today I have introduced bills replacing the public works bill you might say that I introduced and handled in 1985. I am reintroducing the revenue-sharing bill which serves 39,000 American communities and counties throughout the country. It was in existence for 14 years and was reauthorized last year by the regular authorization committee by a vote of 28 to 10, by the Appropriations Committee by a vote of 29 to 15. Yet we could not get a rule.

Mr. Chairman, investment spending measures such as these should not be charged to annual expenses but should be counted as a many-year benefit in most cases.

May I say again that at that same time we had more than twice the amount for foreign aid for much of the same type of thing. And I say there is no program we have ever had in the history of this country where we get more for our dollar and in the 39,000 communities where they fought it out on the local level, this little pittance, for 14 years, but this Congress turned it down because we could not get a rule.

I call attention here because I think in 15 months we are going again to have to put our folks to work. We cannot continue to borrow on credit and continue to run up trade deficits, now said to be $171 billion this year.

Mr. DREIER of California. Mr. Chairman, I rise today in opposition to House Joint Resolution 395, the continuing resolution for fiscal year 1988. This bill demonstrates clearly that the spending priorities of this Congress are skewed. If we were serious about deficit reduction and eliminating unnecessary spending, the CR would be the best place to start. It's unfortunate that we are forcing upon the President a bill with a price tag of nearly $575 billion, over half the total Federal budget. Clearly, the entire budget process is in serious need of reform.

The report I received from the Appropriations Committee pathetically states, "Once again the committee faces the necessity for having a comprehensive continuing resolution simply because there is no other way." Well, I am unconvinced that there is no other way, and I am surprised that the committee wants us to believe this. Not only are we expected to pass every appropriations bill in one lump sum, but we are also supposed to accept many other programs which are unauthorized by the Congress. A step in the right direction would be to reject this budget busting spending bill and demand a more responsible piece of legislation.

CR's of this nature weaken the appropriations process by allowing Congress to circumvent normal procedures. Again this year, congressional leadership has presented us with an enormous spending bill because Congress has failed to get its House in order and complete its appropriations work. As in the past, this year's enormous package also adds entire authorizing bills to the CR, each of which should be debated and enacted separately.

We need to strengthen the appropriations process. Earlier this year, I introduced a resolution (H. Res. 210) which would outlaw CR's effective for more than 90 days. In turn, Congress would be required to approve each regular appropriations bill on its own, as the budget process was designed to do. My resolution would also subject CR's to the same points of order as regular appropriations bills, which include a ban on additional legislative language.

Of course, Mr. Chairman, let me add that I strongly support the provision added to this bill to exempt Members of Congress from the 3-percent Federal employee pay raise. Given the need to make a substantial reduction in the Federal deficit, it is irresponsible to even consider giving ourselves what would amount to three raises in less than 1 year. In fact, I believe this provision should go a step further by repealing the 12 percent pay raise Congress received in February. In the event that this continuing resolution is defeated—which I sincerely hope—then I would urge the leadership to bring to the floor a separate measure to repeal the proposed pay raise.

In the meantime, I urge my colleagues to vote down this CR, and bring back to the floor a bill which reflects the serious budgetary constraints we now face.

Mr. BUNNING. Mr. Chairman, a good many of my Republican colleagues today are unhappy with the way the continuing resolution and the White House budget compromise are being brought to the floor and they are making it clear that when they vote against the continuing resolution today they are not voting against the compromise per se, they are voting against the procedures and the way the whole matter is being handled.

I just want to make it clear that when I vote against the continuing resolution today that it is because I am opposed to the White House budget compromise itself.

There is no question that the procedures under which we are considering this proposal do stink. But unfortunately, the proposal itself stinks just as badly.

What started out as a deficit summit has ended up to be a deficit molehill.

This compromise deficit reduction proposal is nothing more than the House-passed reconciliation bill in drag. It has been dressed up with high sounding phrases like "bipartisan" and "compromise," when in reality this is nothing but the same partisan Democrat tax bill that was defeated and then passed by the House in October by one vote.

The passage of that bill in October did not win cheers and bolster confidence in the financial markets around the world. There is no reason to believe passing this charade will do so now.

The only good thing about this compromise is that it reduces the size of the tax increase a little bit. It is still deficit reduction built on the back of taxpayers, fancied up with flim flam and just enough token budget cuts to make it look legitimate.

This is not compromise, it is retreat. And I intend to vote against it.

Mr. BURTON of Indiana. Mr. Chairman, on November 20, 1987, the President and the House and Senate leadership announced a budget compromise plan to cut $76 billion from the deficit over the next 2 years.

I believe that there are substantial flaws with this proposal. This proposal raises taxes which could be around for 10 years or maybe even longer. At this point, we don't know exactly where the tax money will come from. The spending cuts announced are not substantial and would be for only 2 years. With the market confidence shaken, we certainly do not need to threaten the business community with more taxes.

Quite frankly, I reject the notion that we must raise taxes to reduce the deficit. What we need to do is to reduce Government spending. Everyone knows that the Government is living beyond its means. The Government spends more than it takes in and covers the deficit by borrowing. Over the past 6 years Federal revenues have increased 11 percent, or $73 billion in real dollars, while Federal spending has increased 19 percent, or $136 billion in real dollars. Spending must be controlled if we are to get the Federal Government back on the road to a balanced budget and fiscal responsibility.

I am well aware that there are Members of Congress who would like to raise taxes to reduce the deficit. A recent Los Angeles Times poll indicated that, although 70 percent of Americans consider the Federal deficit a serious problem, 64 percent do not want their taxes raised to reduce it. The American people know what Congress refuses to admit: tax increases have had and will continue to have a detrimental impact on families, working men and women, businesses, and the economy as a whole. That is why the President and Congress must make every effort to seek deficit reduction through spending reduction instead of burdensome tax increases. This will be a very tough, but necessary, decision to make.

The Democrats in Congress claim that they have historically appropriated less that the President has requested. A closer look, however, shows this argument to be misleading. Congress has appropriated less than the President has requested, but for defense and defense only. Congress has appropriated far more than the President has requested for nondefense areas of the budget. Nondefense appropriations for fiscal years 1982 through 1987 exceeded the President's budget requests by nearly $103 billion. It was only because defense requests were slashed by nearly $116 billion over the same period that it can be claimed that Congress "underspent" the administration.

Another reason to reject the compromise tax hike is to look back just a few years at the Tax Equity Fiscal Responsibility Act [TEFRA]. Congressional leaders promised the President and the American people that for every dollar raised in taxes, spending would be cut by $3. The tax increase became a reality but the promised spending cuts never materialized. Instead, the Treasury Department reports that we got $1.14 in spending increases for every dollar raised. Well, TEFRA is still with us and over the past 6 years, the TEFRA taxes have added up to over $229 billion.

A tax increase would send economic growth and prosperity on a downward path. Increased taxes will result in lower growth, investment and productivity, fewer jobs and ultimately, less revenue. An increase in taxes would cause a decline in U.S. competitiveness in the world market. The Government should help American productivity by improving economic incentives for production.

There are many serious questions about the budget proposal that we must ask ourselves.

How are the $11 billion in new taxes going to be raised?

How are the $40 billion in new taxes in 1989 and 1990 going to be raised?

What groups will suffer due to the increase in hard taxes?

What is the guarantee that in light of the market troubles, a policy of increased taxation won't cause the very thing that the deficit compromise is trying to avert; namely, a recession?

What guarantee is there that the revenue increases will be used to offset the budget deficit and not used to increase spending, especially so close to election time?

Does this plan mean that welfare reform and other big budget items are off the table?

How much of the spending cuts are real cuts, which ones are one-time short solutions, and which ones will have to be dealt with again next year?

I am not convinced that the budget compromise offers any serious progress toward reducing the deficit. The budget compromise has already been rejected by the National Federation of Independent Businesses, the National Association of Manufacturers, the U.S. Chamber of Commerce and the Farm Bureau. If we are to reduce the deficit, we must make meaningful and substantial spending cuts. I am opposed to the budget compromise and I urge my colleagues to ask themselves the questions I just raised before they cast their vote.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise to express my somewhat reluctant support for the rule and for final passage of House Joint Resolution 395. Speakers on this floor have repeatedly pointed out the short comings of this continuing resolution and I share many of the concerns expressed.

I believe our budget priorities in America remain badly distorted and I had hoped that greater progress on deficit reduction could have been accomplished. Nonetheless, it is all too apparent that at this late time, pressed against imminent Gramm-Rudman sequestration, that the product of House Joint Resolution 395 is the best that a bipartisan meeting of the President and congressional leadership can accomplish. The alternative now to this resolution is the complete unravelling of the budget summit agreement and the sequestration which would then take place.

Budget sequestration, with its unprioritized cuts, would be devastating to all of rural America and, among other things, would cause a massive loss of farm income in my home State of South Dakota. Our elderly and our students will also be great losers if this Congress cannot pass this continuing resolution, as imperfect as it may be.

Another issue of great significance to me has been alluded to on this floor today. I have been a vocal and consistent opponent to any pay raise, whatsoever, for Members of Congress this year. I strongly disagree with both the method and the substance of a pay raise earlier this year, and when it unfortunately went into effect over my objections, I committed myself to donating my share of that pay raise to South Dakota charities. I have followed through with that commitment. At a time when enormous budget cuts are being made in important domestic programs and new revenue is being raised to address our Nation's massive deficits, I can think of few things more inappropriate, more outrageous, than another congressional pay raise.

While we have been conflicting statements on the floor today, it appears to me that a vote for this rule and subsequently the continuing resolution will be a vote against another congressional pay raise. I have earlier this year voted against legislation because it contained authorization for a congressional pay raise and I would once more today vote against this resolution if I thought, based on my own judgment and judgment of legal experts, that it would provide for a congressional pay raise.

Mr. Chairman, I have written to you personally to express my strong opposition to the inclusion of any congressional pay raise in this bill. I will not support a congressional pay raise at this time, nor will I accept one if it were to be granted over my vociferous objection. This House in the future must do a better job of addressing the Nation's deficit, of prioritizing the needs of our people, and of moving beyond the heated partisan rhetoric heard on the floor today and toward real substance and accomplishments on the matter of deficit reduction.

Mr. McCANDLESS. Mr. Chairman, perhaps we should slow the legislative railroad down long enough to carefully look at the bill on which we are about to vote.

Once again, Congress has failed to complete action on a single 1 of the 13 appropriations bills that make up the Federal budget. Once again, we are threatened with a Government shutdown caused by our own inaction. Once again, we are going to vote on funding the entire Federal Government with one vote—up or down. Once again, Congress is going to dump a bill with a $600 billlion price tag on the President's desk and ask him to sign the legislation without allowing him to veto unnecessary and wasteful Government spending. Once again, we do nothing about reducing the Federal deficit. Mr. Chairman, that is unacceptable, and I rise in strong opposition to House Joint Resolution 395, the omnibus continuing resolution.

Several weeks ago, amid much fanfare, it was announced that a "great budget compromise" had been reached, and that Congress would take the action necessary to calm the markets and restore fiscal confidence. However, the markets have failed to respond. Why? Because there is nothing in the compromise that guarantees a long-term commitment to deficit reduction. The only spending cuts that we can guarantee are those which we enact this year. Yet, House Joint Resolution 395 does not specify spending cuts. In fact, House Joint Resolution 395 represents an increase in spending levels over fiscal year 1987. Promises of spending cuts in the out-years have a way of never materializing. Performance demonstrates that we are not fooling the financial markets. The lack of confidence that Congress will honor its commitment to out-year reduction in obvious.

Governing by continuing resolution is the worst of all possible worlds. There are inherent problems in the budget process that must be addressed if we are ever to put our fiscal house in order.

It's time for Congress to own up to the reality that the budget process is not working and ought to be scrapped. Some fundamental changes should take place. For example, we now begin the budget process at a point known as the current services base line. That figure is the amount of money needed to carry on all existing programs at their current level under current law. Under such a system, it is very difficult to reduce spending. I would propose that we begin at a zero base line. Each program and every dollar spent on it should be justified every budgetary cycle. By starting at zero, it would expedite and simplify the task of eliminating waste and duplication from Federal programs. We could streamline programs, making them more effective at a lower cost. Programs of a high priority could be funded at a higher level, and programs of a low priority could be funded at a lower level or eliminated.

Another change needs to be made in the appropriations process. This is the second year in a row that Congress has failed to complete action on even 1 of the 13 appropriations bills. In fact, the budget history of Congress during the past several years has been that of one continuing resolution after another. Continuing resolutions are a significant reason why we have had such massive Federal deficits and their use must end.

I would propose that we switch to a biannual budget process. For a multitude of reasons, some valid, others not quite so valid, Congress cannot complete the budget process every year. Therefore, a 2-year budget cycle, which would correspond to the 2-year terms of the Members of the House of Representatives, is needed.

Another flaw in the system is the way Congress packages legislation. By funding the entire Government, if everything works the way it is supposed to, with only 13 bills, each one of those bills is massive. When the bill arrives on the President's desk, he must either sign the bill or veto it. What happens if the bill is 90 percent good and 10 percent pork barrel projects? The President has no discretion. He must either approve the good along with the bad, or else veto the entire bill. What I would propose is to give the President a line-item veto. He could then veto single provisions of legislation without having to derail the entire bill. The Governors of 43 States have the line item veto and it has worked well. A lot of wasteful Federal spending could be eliminated if we were to allow the President to have a line-item veto.

My last recommendation is the passage of the balanced budget/tax limitation amendment to the Constitution. The passage of the Gramm-Rudman Balanced Budget Act was a responsible first step toward restoring fiscal sanity to the Federal Government. However, without an effective enforcement mechanism, Congress can continue to thwart its provisions. What is needed is a constitutional amendment that cannot be waived. Such an amendment would require Congress to make difficult budgetary decisions, and would put an end to this inexcusable cycle of massive deficits.

There is a provision in this legislation that has my complete support—the cancellation of the proposed 1988 pay raise for Members of Congress. The proposed pay raise was carefully tucked away in H.R. 3545, a 2,247-page piece of legislation known as the Omnibus Reconciliation Act. I vigorously opposed H.R. 3545 and voted against it. Only by resorting to some very unusual and highly controversial procedural maneuvers was the Democratic leadership of the House of Representatives able to pass the bill by the slimmest of margins, 206 to 205.

Nor was that the first time the Democratic leadership of the House has resorted to questionable tactics on the issue of a pay raise. Earlier this year, despite assurances given by the leadership, we were not given the opportunity to vote on the issue. Consequently, I introduced H.R. 997 to retroactively repeal the 1987 pay raise.

While I am pleased that the proposed pay increase will be canceled by House Joint Resolution 395, I am again concerned that the House is not given the opportunity to vote on the issue without the subterfuge of other issues.

In conclusion, Mr. Chairman, we have an opportunity today to restore the confidence of the American people in Congress' ability and willingness to make the tough decisions necessary to reduce the deficit. We can do that by defeating House Joint Resolution 395 and sending it back to the Appropriations Committee so that they can give us a bill with real spending reductions. Therefore, I urge my colleagues to vote "no" on House Joint Resolution 395.

Mr. KOSTMAYER. Mr. Chairman, I rise today in support of House Joint Resolution 395, the continuing resolution for fiscal year 1988 because it contains, among other things, a provision which is of particular importance to the Eighth Congressional District of Pennsylvania.

I am referring to the transportation section of House Joint Resolution 395 which contains approximately $12 million in discretionary funds which I and others have requested for the Commonweath of Pennsylvania.

This money is desperately needed for the completion of the Newtown Bypass in Bucks County. In fact, PennDOT originally requested an additional $5 million of discretionary funds be set aside for completion of this project. Due to budget cuts, however, the total PennDOT request for discretionary funds has been pared to $10 million by the Senate Appropriations Committee and to $12 million by the House Committee.

This four-lane bypass is very much needed by Newtown, a community which sits in the midst of one of the most rapidly growing areas in the State. Development of the Newtown area has only accentuated the need for better traffic management. If local officials are to effectively manage the growth and meet the demands which accompany such growth, the Newtown Bypass must be completed. Traffic in and around Newtown has become increasingly and unbearably congested and Federal funds are needed if this project is to come to fruition.

Mr. Chairman, I want to thank the House and Senate conferees and other members of the Appropriations Committee for their help. In spite of our budget problems and the inability of the committees to fund the full amount sought by PennDOT, I will be working with State and local officials to ensure the completion of this very important project.

Mr. GALLEGLY. Mr. Chairman, it was with great regret that I and many of my colleagues were forced today to vote against the rule allowing for consideration of House Joint Resolution 395 which provides for further continuing approporiations for fiscal 1988.

It's hard to know where to begin to comment on such a back-door attempt to allow those Members wishing to give themselves a pay raise the opportunity to do so without demanding that they be put on record for their actions. The fact that we are being asked yet again to vote to rely on "government by continuing resolution" is bad enough. To add insult to injury, we are also being asked to vote for a bad rule which negates a 3-percent pay increase for Members while simultaneously ignoring the important budget issues at hand.

The most pressing issue facing our country is reducing our skyrocketing deficit. So what does the majority-run Rules Committee offer us? A rule which waives the Budget Act and allows consideration of a number of extraneous amendments addressing issues having nothing to do with the budget or the deficit. Not one of the amendments made in order addresses spending levels for fiscal 1988. In fact, it's my understanding that the Rules Committee rejected an amendment to freeze spending at 1987 levels.

After passage of the budget reconciliation bill, House Members were promised by the majority leadership that we would have the opportunity to consider the pay raise issue on a straight up-or-down vote. Being asked to vote for a bad rule which has only one redeeming component—rejecting the pay raise for Members of Congress—is an improper and inappropriate way to approach either the budget process or the pay raise. The rule was a blatant attempt to embarrass those Members willing to stand up and be counted as being against the budget busting compromise while encouraging the adoption of a measure which obscures the pay raise issue. Unfortunately, it's politics as usual, and that's not what America needs.

As a Member of this House, I want to put myself on record as opposing both this pay increase and the excessive spending policies of the majority party.

Mr. DORGAN of North Dakota. Mr. Chairman, the continuing resolution has become a self-fulfilling prophecy. It no longer provides stop-gap funding to keep a few agencies in operation until Congress can complete work on regular funding bills. Instead, the continuing resolution has become a vehicle for funding the entire Federal Government for the whole fiscal year.

The continuing resolution has become a behemoth funding monster, a virtual fourth branch of Government. I contend that it's high time that Congress say "no" to this practice and start acting to bridle runaway deficits.

Consequently, I will vote against the fiscal year 1988 continuing resolution.

Routinely passing continuing resolutions is the wrong way to handle Federal appropriations. Instead of debating and voting separately on each of 13 regular appropriations bills, the catch-all spending bill forces Members of Congress to cast a single vote on funding for the entire Federal Government. Forced to say "yes" or "no" to a $600 billion omnibus bill deprives Members of the chance to weed out useless programs or to strengthen useful ones. It forces Members like myself to vote against the entire bill, even though it contains many programs we need, merely because there is no way to reduce either the total funding level or to cut back on particularly wasteful agencies.

Passing a catch-all spending bill also violates the presumed congressional commitment to deficit reduction. The rule for the bill did not make in order even one amendment to cut or freeze spending in a bill which totals $600 billion and which increases spending by about $4 billion over 1987 levels.

This particular continuing resolution is even worse than most. It includes a proviso that conferees on the bill will work out with their Senate counterparts the spending levels which implement the budget summit agreement between the White House and Capitol Hill. What this does is to deny each representative the chance to vote on which programs to cut, which to freeze, and which to increase. That is left to a handful of members on the Appropriations Committee and I believe that abrogates both the responsibility and privilege of each Member to represent his or her constituents.

The only voice we have in implementing summit increases of $1 billion for defense and $500 million for foreign aid and summit cuts of $1 billion in farm price supports and $2 billion in other domestic programs is an up-or-down vote on the compromise bill.

Even worse, this bill contains over $350 billion in spending which the House has not even considered before in regular debate. The $284 billion defense title, with $3 billion for spanking new star wars research, will not be debated or subject to even one restraining amendment. Imagine the average householder deciding to spend half of his annual income without so much as considering whether the total amount and underlying accounts were wise choices. This would constitute madness for the average worker and it amounts to sheer madness for the Federal Government.

Yet that is precisely what we do today.

Not only that, but in passing the foreign aid title, we say "yes" to the continuing trend of packing in more military aid while cutting food aid and development assistance. The bill boosts military aid by $132 million over last year's level, even as it cuts food aid by $76 million and development aid by $120 million. Yes, the continuing resolution locks in without a whimper the sorry practice of shipping more and more guns around the world while 15 African nations face a food crisis.

Our foreign aid accounts are out of whack, because the Reagan administration has offered no leadership, yet we have no chance to realign priorities in this bill.

May I also point out to my colleagues that the budget summit caveat in the bill will not really tackle our deficit problems. It provides only a spoonful of medicine when the patient is so sick as to need the whole bottle. Even with the so-called deficit reduction package, the 1988 budget deficit will still be higher than last year's. Remarkably, this "CR" caveat will actually allow a combined increase in defense and foreign aid of $1.5 billion over the House reported levels.

Again, this reflects more the dearth of White House leadership than free spending by the Congress.

In sum, enacting the fiscal year 1988 continuing resolution is a prescription not for budget restraint but a cover for ducking the tough choices which Congress ought to make. So to that extent, Congress may not pass the fiscal buck to the President—however meager his leadership—but face the fact of its own irresponsibility. Without facing up, we will continue to waste 14 percent of annual Federal spending simply on interest payments for a $2 trillion national debt.

I vote "no" on continuing resolution. I ask my colleagues to join instead in an effort to pass regular appropriations bills that pass budget muster. Only then will we start to free our Nation from the tyranny of interest payments on the national debt.

Mr. CONTE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the joint resolution is considered as having been read for amendment under the 5-minute rule.

Amendments printed in section 1 of House Report 100-466 are considered as having been adopted.

The text of House Joint Resolution 395, as amended by section 1 of House Report 100-466, is as follows:

H.J. RES. 395

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. In order to achieve the levels of deficit reduction agreed to in the Economic Summit by the President and the Joint Leadership of Congress, notwithstanding any other provision of this resolution, the levels for defense spending (budget function 050) for fiscal year 1988 shall not exceed $292.0 billion in budget authority and $285.4 billion in outlays and the levels for discretionary non-defense domestic spending for fiscal year 1988 shall not exceed $162.9 billion in budget authority and $176.8 billion in outlays, and individual accounts within this resolution shall be adjusted to meet the requirements of this sentence.

In order to carry out the levels agreed to in the Economic Summit, the Committee on Appropriations shall take such steps as are necessary to apportion these levels among the various subcommittees and shall make such recommendations in the conference report on this resolution as ensure that these levels are not exceeded.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2763, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on July 1, 1987.

(b) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3576, the Department of Defense Appropriations Act, 1988, as reported to the House of Representatives on October 28, 1987.

(c) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2713, the District of Columbia Appropriations Act, 1988, as passed by the House of Representatives on June 26, 1987.

(d) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2700, the Energy and Water Development Appropriations Act, 1988, as passed by the House of Representatives on June 24, 1987.

(e) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3186, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988, as reported to the House of Representatives on August 6, 1987.

(f) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2783, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988, as passed by the House of Representatives on September 22, 1987.

(g) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2712, the Department of the Interior and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on June 25, 1987.

(h) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3058, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on August 5, 1987.

(i) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2714, the Legislative Branch Appropriations Act, 1988, as passed by the House of Representatives on June 29, 1987.

(j) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2906, the Military Construction Appropriations Act, 1988, as passed by the House of Representatives on July 14, 1987.

(k) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3520, the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, as reported to the House of Representatives on October 20, 1987.

(l) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2890, the Department of Transportation and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on July 13, 1987.

(m) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2907, the Treasury, Postal Service, and General Government Appropriations Act, 1988, as passed by the House of Representatives on July 15, 1987.

(n) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1987, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1987, at the current rate: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1987:

activities authorized by the Older Americans Act;

dislocated worker assistance programs authorized by title III of the Job Training Partnership Act;

activities authorized by titles III, V, X, XVII, XIX, and XX of the Public Health Service Act and the Anti-Drug Abuse Act of 1986;

Work Incentives (WIN) activities authorized by title IV of the Social Security Act;

child abuse and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act, as amended, title II of Public Law 95-266, and by sections 402-409 of Public Law 98-473;

activities authorized by the Family Violence Prevention and Services Act;

activities authorized by the Developmental Disabilities and Assistance and Bill of Rights Act;

activities authorized by the Native American Programs Act;

activities of the United States Mint in the Department of the Treasury; and

activities of the White House Conference on Drug Abuse and Control in the Executive Office of the President.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 20, 1987, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1988, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) whenever a bill in which such applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) is contained is enacted into law.

SEC. 105. Section 1515 of title 31 of the United States Code is amended by striking subsection (a) and inserting in lieu thereof the following: "(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.".

SEC. 106. The provisions of appropriations Acts within the purview of this joint resolution, and the provisions of appropriations Acts within the purview of the following joint resolutions making continuing appropriations (section 101(c) of Public Law 96-86 (93 Stat. 657), section 101(f) of Public Law 98-151 (97 Stat. 973), section 101(b) of Public Law 98-473 (98 Stat. 1837), section 101 (a) and (c) of Public Law 99-190 (99 Stat. 1185, 1224), and section 101 (g), (i), and (l) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 1783-287, 1783-308, 3341-242, 3341-287, 3341-308)), shall (to the extent and in the manner specified in the pertinent section of any such joint resolution) be effective as if enacted into law. Those provisions are effective on the date of enactment of the pertinent joint resolution except to the extent a different effective date is specified in the joint resolution or pertinent appropriations Act.

SEC. 107. Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House.

SEC. 108. In addition to any sums otherwise provided herein, there is appropriated $500,000 to the United States Information Agency, "Educational and Cultural Exchange Programs", which shall be made available to the Seattle Goodwill Games Organizing Committee for cultural exchanges of persons and other exchange-related activities associated with the Goodwill Games to be held in 1990 in Seattle, Washington.

SEC. 109. Section 210(d) of the Immigration and Nationality Act is amended by inserting the following new paragraph:

"(3) No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(b) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

"(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS shall not exclude from entry or deport any alien and shall grant, where applicable, admission to the United States, work authorization, and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a nonfrivolous application for adjustment of status subsection (a).

"(B) During the application period as defined in section 210(a)(1)(A) of the INA the INS shall permit any alien who presents a nonfrivolous application for adjustment of status under subsection (a) to file an application for adjustment of status within the United States as provided for in section 210(b)(1)(B) or outside the United States as provided for in section 210(b)(1)(B) and, specifically, under the procedures contained in 8 CFR § 210.6.

"(C) 'Nonfrivolous' application is defined as a declaration by the alien under penalty of perjury that the alien has in fact worked the required number of man-days, that identifies the type or nature of documentation the alien intends to later produce in conjunction with a complete application, that identifies current or immediate past employer(s), if known and that acknowledges that false statements concerning eligibility constitute a violation of title 18, United States Code, and/or as an application defined in 8 CFR § 210.6(c).".

SEC. 110. No funds appropriated in this or any other Act may be used to deport or otherwise require departure from the United States of an alien who either is the spouse of a legalized person through a marriage entered into before November 6, 1986, or was the child of a legalized person as of November 6, 1986: *Provided*, That the terms "child" and "spouse" have the meanings given such terms in section 101 of the Immigrant and Nationality Act, and the term "legalized person" means an alien who has been granted lawful resident status under section 210 or 245A of the Immigration and Nationality Act.

SEC. 111. In addition to any sums provided under this joint resolution, there is appropriated $1,000,000 to the Commission on the Bicentennial of the Constitution for a grant to the We The People 200 Committee.

SEC. 112. None of the funds made available under this joint resolution or any subsequent appropriations Act for fiscal year 1988 for the Small Business Administration shall be used for the implementation of section 921 of Public Law 99-661 and section 921 of Public Law 99-591 prior to September 30, 1988.

SEC. 113. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering and construction of the Des Moines Recreational River and Greenbelt project in accordance with the General Design Memorandum dated September 1987 and Public Law 99-591 using funds heretofore, herein, or hereafter appropriated.

SEC. 114. PROJECT MODIFICATION.—The project for flood protection on the Lower San Joaquin River, California, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 901), is modified—

(1) to authorize the Secretary of the Army, acting through the Chief of Engineers, to perform, in connection with the clearing and snagging authorized to be performed on such river from Stockton, California, to Friant Dam as part of such project by the Supplemental Appropriations Act, 1983 (97 Stat. 310)—

(A) clearing and snagging in the area of the North Fork of the Kings River in Mendota Pool from the southernly boundary of the James Reclamation District Number 1606 to Mendota Dam;

(B) fish and wildlife mitigation; and

(C) such rip-rapping in the area of the clearing and snagging on such rivers as may be necessary to prevent erosion from such clearing and snagging; and

(2) to increase the estimated cost of the clearing and snagging on the Lower San Joaquin River, including the activities authorized by paragraph (1), from $5,000,000 to $8,000,000.

SEC. 115. Notwithstanding any other provision of law, none of the funds appropriated under this Act or any other Act shall be used by the Department of the Interior to implement a reorganization of the Bureau of Reclamation.

SEC. 116. (A) The McGee Creek Project of the Bureau of Reclamation shall not be deemed completed until such time as construction of all authorized components of the project are completed, including access roads and recreation areas.

(B) The Bureau of Reclamation shall not transfer title of the project to any other entity or require repayment of the project or permit refinancing of the project until such time as the project is completed according to the terms of (A) above.

SEC. 117. From within funds available for Energy Supply, Research and Development Activities, $8,500,000 shall be made available as a grant for the Loma Linda University Medical Center Proton-Beam Demonstration Cancer Treatment Center and shall remain available until expended.

SEC. 118. From within funds available for Energy Supply, Research and Development Activities, $2,000,000 shall be made available as a grant for the Center for Physical and Environmental Science at East Central University, Ada, Oklahoma, and shall remain available until expended.

SEC. 119. The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an additional extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest, taking into consideration the comprehensive review requirements of the Federal Power Act.

(RESCISSION)

SEC. 120. Of the funds made available in fiscal years 1985 and 1986 for expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $64,000,000 which was allocated for the Republic of Korea and which remains as uncommitted balances is rescinded.

SEC. 121. In addition to the provisions of section 101(e) for Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 insert the following:

"(a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in section (b) to the United States as immigrants if—

"(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

"(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act.

"(2) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

"(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

"(b)(1) An alien described in this subsection is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

"(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this subsection referred to as a 'principal alien');

"(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

"(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

"(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such percentage.

"(3) For purposes of this subsection, the term 'child' has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

"(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

"(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this Act and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

"(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.".

Sec. 122. Section 17(d)(4)(G) of the United States Housing Act of 1937 is amended by striking "36 months" and inserting "48 months".

Sec. 123. Any cooperative bank established under the law of any State which was directed by the State banking authority of such State to obtain Federal deposit insurance between January 1, 1985, and January 1, 1987, shall be deemed to be an insured institution described in section 21(f)(4)(F) of the Federal Home Loan Bank Act.

Sec. 124. No funds shall be expended for the purposes of preparing necessary documentation for and issuance of a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until both of the following conditions are met:

(1) A joint study is completed and submitted to the Congress by the United States Forest Service and the California Department of Parks and Recreation regarding the project's impact on the aesthetics of Corlieu Falls, together with a finding that the Lewis Fork Creek project will not substantially impact the flow at Corlieu Falls.

(2) A study is completed and submitted to the Congress by the United States Forest Service concerning the project's impact on the Chukchansi Indian Tribe, together with a finding that there will be no impact on the tribe's adjacent sacred hot springs.

Sec. 125. Hereafter, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

Sec. 126. Section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

Sec. 127. For 80 percent of the expenses necessary to carry out a highway bypass project in the vicinity of Petoskey, Michigan, that demonstrates methods of improving economic development and regional transportation, there is authorized to be appropriated $28,000,000, to remain available until expended, of which $500,000 is hereby appropriated, to remain available until expended: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

Sec. 128. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

Sec. 129. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

Sec. 130. Interest on Back Pay for Federal Employees.—(a) In General.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following:

"(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

"(B) Such interest—

"(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

"(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described clause (i); and

"(iii) shall be compounded daily.

"(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

(1) Generally.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

(2) Exception.—

(A) Cases in which a right to interest was reserved.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

(B) Method of computing interest.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

(C) Source.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

(D) Deadline.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

Sec. 131. The Administrator of the General Services Administration shall initiate the planning process necessary to design and construct a facility for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of Public Law 99-591.

Sec. 132. Pay Increase for Federal Employees.—(a) 3 Percent Increase.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

(b) Effective Date.—Each increase in a pay rate or schedule which takes effect pursuant to subsection (a) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period beginning on or after January 1, 1988.

(c) Funding Limitation.—Notwithstanding any other provision of law, amounts appropriated in order to provide for the adjustment described in subsection (a) in fiscal year 1988 shall cover not to exceed 35 percent of the increase in total pay for such fiscal year.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such year;

(2) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

(3) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

SEC. . (a) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for that office or position as of September 30, 1987, if, as of that date, such rate (or maximum rate) is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate of maximum rate (as the case may be) of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. . None of the funds in this or any other Act shall be used to promulgate or otherwise implement the notice of proposed rulemaking on foreign repair stations (14 CFR Parts 135 and 145) that was published by the Department of Transportation and the Federal Aviation Administration in the Federal Register on November 24, 1987.

The CHAIRMAN. No other amendments are in order except the amendments printed in section 2 of House Report 100-466, which shall be considered only in the order listed and if offered by the Member indicated in said report. Except as specified in House Report 100-466, the amendments shall not be subject to amendment or to a demand for a division of the question and shall be debatable as specified in said report.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: At the end of the joint resolution add the following new section:

SEC. . EXTENSION OF ATTAINMENT DEADLINES.

(a) NONATTAINMENT AREAS FOR OZONE OR CARBON MONOXIDE.—No restriction or prohibition under section 110(a)(2)(I), section 176 (a) or (b), or section 316 of the Clean Air Act shall be enforced in any State before August 31, 1988, by reason of the failure of any State to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, the failure of any State to adopt and submit to the Administrator an implementation plan which meets the requirements of part D of title I of that Act and provides for attainment of such standards by December 31, 1987, the failure of any State to implement such a plan, or any combination of the foregoing. If any such restriction or prohibition took effect in any State before the enactment of this Act by reason of any such failure, the enforcement of that restriction or prohibition shall be suspended until August 31, 1988. Prior to August 31, 1988, the Administrator shall apply the provisions of section 173 (1) and (4) of that Act without regard to the December 31, 1987, attainment date.

(b) EVALUATIONS AND DESIGNATIONS.—Prior to August 31, 1988, the Administrator shall evaluate air quality data and make determinations with respect to the degree to which areas throughout the nation have attained, or failed to attain, either or both of the standards referred to in subsection (a) and shall designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

□ 1255

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

Mr. MURTHA. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from Pennsylvania will be recognized for 15 minutes.

AMENDMENT OFFERED BY MR. MURTHA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CONTE

Mr. MURTHA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MURTHA as a substitute for the amendment offered by Mr. CONTE:

At the end of the joint resolution add the following new section:

SEC. . INTERIM EXTENSION OF OZONE AND CARBON MONOXIDE ATTAINMENT DEADLINE TO PREVENT SANCTIONS PENDING CONSIDERATION AND ENACTMENT OF PERMANENT CLEAN AIR ACT AMENDMENTS.

(A) LIMITATION ON SANCTIONS.—Notwithstanding any other provision of law relating to the attainment of the national primary ambient air quality standards established by the Administrator of the Environmental Protection Agency for photochemical oxidants (ozone), or or carbon monoxide (or both), during the period beginning on November 1, 1987, and ending 21 calendar months thereafter, no prohibition on construction, modification, or permitting, nor any restriction on funding, under sections 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect, directly or indirectly, with respect to any area designated under such Act as nonattainment for ozone or carbon monoxide, or both, except upon a determination made during such period by rule by the Administrator that the State is failing to make in the area during such period reasonable good faith efforts—

(1) in the case of sections 110(a)(2)(I), 176(a), and 316, to submit an implementation plan for the area that meets the applicable requirements of section 172 of the Clean Air Act,

(2) in the case of section 173(4), to carry out the applicable implementation plan as defined in section 110(d) of such Act, and

(3) in the case of sections 176(b) and 316, to implement such plan.

During such period and consistent with such prohibitions, the issuance of a permit (including offsets) under section 173 of such Act for the construction or modification in any such area shall not be denied solely or partially by reason of the reference contained in section 171(1) of such Act to the applicable date established in section 172(a). During such period, no disapproval of a State Implementation Plan for failing to meet the applicable requirements of section 172 of such Act shall affect, in any way, any prohibition on construction or modification in effect prior to November 1, 1987, and on the date of enactment of this section.

(b) LIMITATION ON FEDERAL PLAN PROVISIONS.—During the period referred to in subsection (a), the Administrator of the Environmental Protection Agency shall not propose or promulgate under the Clean Air Act, in whole or in part, any implementation plan provisions relating to ozone or carbon monoxide for any area referred to in subsection (a).

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Under the rule the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 15 minutes, and a Member opposed to the substitute shall be recognized for 15 minutes.

Mr. CONTE. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] is the gentleman who is opposed.

The gentleman from Massachusetts [Mr. CONTE] is first recognized on his original amendment.

Mr. CONTE. Mr. Chairman, I have offered the amendment, have I not?

The CHAIRMAN. The gentleman is correct.

Mr. CONTE. Mr. Chairman, this amendment provides a short term, 8-month extension of the nonattainment deadlines for ozone and carbon monoxide.

Under the Conte-Waxman amendment, no sanctions could be imposed for 8 months in any area, without exception.

The amendment freezes the status quo from January 1 to August 31 so that the Congress can continue to work on a comprehensive reauthorization of the Clean Air Act.

The amendment addresses two concerns associated with the impending deadlines.

First, without congressional action, the construction moratorium and the Federal funding cutoff will result in severe economic disruption to local communities across the country.

The construction ban creates uncertainty in private investment and slows economic growth, and it also prevents the construction of much needed waste treatment facilities. The Federal funding cutoff has an obvious impact on local public works projects.

Second, the Conte amendment would provide the incentive necessary to deal with clean air issues in this Congress. As opposed to a longer delay, an 8-month extension should give Congress enough time to complete work on a comprehensive reauthorization of the Clean Air Act—without compromising the integrity of the air quality standards and deadlines.

Mr. Chairman, it's time to stop stalling and address all the issues surrounding the reauthorization of the Clean Air Act. We have the time and the obligation to consider these issues in the 100th Congress.

I urge my colleagues to support the short-term extension provided in the Conte-Waxman amendment.

The CHAIRMAN. The Chair would like to inform the Members that since only two Members have been recognized on both amendments, the Chair will treat the time as fungible time with 30 minutes total allocated to each Member.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, the Murtha amendment does not amend the Clean Air Act, nor does it make permanent substantive changes in that law. Rather, it establishes an interim period of 21 months beginning November 1, 1987, during which sanctions, such as a construction ban, a prohibition on permits to construct, and highway fund cutoff, will not be imposed by the Environmental Protection Agency or any court in the case of ozone and carbon monoxide nonattainment areas. This period is needed while the legislative committee and the Senate develop during the remainder of the 100th Congress permanent changes in the Clean Air Act.

EPA can disapprove State implementation plans as proposed last July, but sanctions will not follow from that disapproval.

According to EPA, there are over 120 areas in the country that are in nonattainment for reasons of ozone or CO, or both. At least 14 of these areas, including Los Angeles, Denver, Sacramento, Cleveland, Atlanta, Fresno, and Dallas, are presently threatened with sanctions. Others, like Boston, Nashville, Detroit, Miami, El Paso, and Hartford may be faced with sanctions. The amendment would preclude sanctions in these areas during this interim period.

The November 1 date is established because of the Abramowitz case of November 3, 1987, which affects Los Angeles. In that decision, the Ninth Circuit Court of Appeals directed EPA to "disapprove" the State implementation plan for the south coast area which covers Los Angeles. EPA expects to act this month pursuant to the court's decision. Under present law, a sanction would trigger automatically. My understanding of the Conte-Waxman amendment is that the EPA action and sanction could occur before Conte is enacted and Los Angeles would be adversely affected. That is not my objective. Murtha clearly prevents sanctions in Los Angeles.

Unlike the Conte-Waxman amendment, my amendment does not affect sanctions imposed earlier in this decade. Indeed, I think elimination of such sanctions is bad from an air quality standpoint.

The provision also gives EPA flexibility to impose, in EPA's discretion, sanctions by rule where a State is not making reasonable good-faith efforts during the designated period. This avoids stagnation in the efforts of States to improve and implement existing implementation plans and does not halt clean air efforts.

Nothing in my amendment would relieve any area of its present duties to seriously address under the Clean Air Act the problem of unhealthy air.

The amendment would also provide that during the designated period EPA may not be required to promulgate Federal implementation plans.

The amendment does not affect the offset requirements of that Clean Air Act or the enforcement thereof. It does not affect EPA's ability to disapprove State implementation plans or revisions thereof. It merely affects sanctions. It is not a direct amendment to the Clean Air Act. It makes no substantive changes in that act.

To my knowledge, there are few, if any, people or groups, including labor and industry, who are not in favor of some interim extension. However, there has been some difference of view over what the extension period should be.

I understand that Congressman WAXMAN, who apparently first proposed the idea of an extension, suggested 6 or 10 months. EPA, which prefers a permanent bill urged "at least 2 years." The National Governors' Association has suggested 8 or 9 months. The National Association of Counties suggests 1 year. The U.S. Conference of Mayors gave no preference but said:

> While it is not reasonable to believe that Congress could enact a full and comprehensive amendment of the Clean Air Act in the remaining days of the 1st session of the 100th Congress, there is time enough to enact an interim extension of the Act's deadline. Such an extension would serve two purposes. It would allow Congress the needed time to fully and fairly amend the Clean Air Act, while protecting municipalities from both EPA and court imposed sanctions for failing to attain ambient air quality despite their good faith efforts.

The Murtha amendment includes all of the remainder of the 100th Congress to allow time to legislate and a few months of the 101st Congress to provide breathing room for permanent legislation enacted in the 100th Congress to be effective. If such legislation is not enacted in the 100th Congress, a further extension will have to be considered early in the 101st Congress. It is in reality a 19-month extension after December 31.

My amendment is fair. It is reasonable. It is environmentally sound as observed in a December 1 letter to Chairman DINGELL. It will provide certainty for a limited period to the States and the cities. I urge an "aye" vote on my amendment.

Mr. Chairman, at this point I insert a list of areas having sanctions, my "Dear Colleague" letter of December 2, 1987, and Chairman DINGELL's letter, with attachments, to the Committee on Rules:

EPA LIST OF NONATTAINMENT AREAS HAVING CONSTRUCTION MORATORIUM AS OF OCTOBER 1987

State	Pollutant	City/County	Approx. Date	Reason
NH	CO	Nashua	Oct. 1981	No approved plan; There is a pending proposal to lift the sanction.
KY	Ozone	Kenton Co., Campbell Co.	Dec. 1980	Disapproved attainment demonstration

EPA LIST OF NONATTAINMENT AREAS HAVING CONSTRUCTION MORATORIUM AS OF OCTOBER 1987—Continued

State	Pollutant	City/County	Approx. Date	Reason
Il	Ozone	Cook, DuPage, Kane, Lake, Macoupin, Madison, Monroe and St. Clair Counties.	May 1981	No Approved New Source Review Plan (NSR); Recent proposal to approve plan that could lift ban.
MN	CO	Ramsey Co., Sherburne Co., Stearns Co.	July 1979	No approved NSR.
NM	CO	Albuquerque	Mar. 1985	Lack of Inspection and Maintenance Program.
AZ	CO	Maricopa Co., Pima Co.	Oct. 1986	Inadequate Part D Plan.

House of Representatives,
Washington, DC, December 2, 1987.

Support Murtha Amendment

Dear Colleague: Tomorrow the House is scheduled to consider H.J. Res. 395, the Continuing Resolution. I have asked the Rules Committee to provide for consideration of a limited amendment to provide an interim period of extension during which sanctions in ozone and carbon monoxide (CO) nonattainment areas would not be imposed by the Environmental Protection Agency or the courts. The period is 21 months from November 1, 1987.

WHO SUPPORTS AN INTERIM EXTENSION?

Labor, industry, environmentalists, the National Governors' Association, the National Conference of State Legislators, the National Association of Regional Councils, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the Environmental Protection Agency. To my knowledge, no public or private group opposes an interim extension. At issue is the date the extension ends.

WHAT ARE SANCTIONS?

The Clean Air Act provides a series of mandatory and discretionary provisions called "sanctions" that ban construction of stationary sources emitting ozone precursors (called NOx and volatile organic compounds) and CO, stop permits for construction of such sources, cut off Federal highway funds, cut off air and sewage treatment grants.

WHAT AREAS ARE THREATENED WITH SANCTIONS?

According to EPA, there are over 120 areas in the Nation in nonattainment due to ozone or CO, or both. While they encompass both urban and rural areas, they are often identified by EPA as Metropolitan Statistical Areas such as San Diego, Atlanta, Boston, El Paso, Baltimore, Sacramento, New York, Houston, Chicago, Miami, Fairbanks, Las Vegas, Seattle, Raleigh-Durham, Pittsburgh, Memphis, and Los Angeles. Of these 120, at least 14 areas are immediately threatened with sanctions, such as Fresno, Cal, Cleveland, Dallas, Denver, Sacramento, and Los Angeles.

WHY ANY EXTENSION PERIOD?

First, many of these nonattainment areas have made good faith efforts to reduce ozone and CO and achieve attainment by the date established by Congress in 1977 and have made significant reductions. But attainment has been elusive. Better information shows that 1977 projections of attainment by the end of 1987 were not soundly based for many areas. Penalizing these areas won't improve the air quality situation. In fact, new construction will be cleaner and even highways can help to relieve congestion and benefit air quality. Cutting off air and sewage grants makes no sense.

Second, time is needed for the legislative committee to develop Clean Air Act legislation that can get broad support. Bills have been introduced, hearings held, and discussions are underway. An extension will not delay that effort.

WHY NOT LIMIT THE EXTENSION TO 8 MONTHS AND VOTE AGAIN FOR A SECOND EXTENSION NEXT SUMMER?

There is no "magic" in 8, 10, 12, 15, 18, 21, or 24 months. But we know now that it is highly unlikely that both Houses will have passed thru Conference for Presidential signature Clean Air Act legislation by midsummer 1988.

Permanent Clean Air Act legislation covering nonattainment, acid rain, mobile source, outer continental shelf, hazardous waste, municipal incinerators and other controversial and complex issues was reported by the Senate Committee only a few days ago. It took over 5 months for Senate Committee consideration.

In the House, nonattainment, acid rain, outer continental shelf, and municipal incinerator bills were introduced only last summer. Hearings have been held, but Subcommittee markup has not started. No hazardous waste bill has been introduced. Subcommittee Chairman Waxman reportedly agrees that bill will not be reported this year.

The congressional legislative schedule probably won't begin in 1988 until late January and will be abbreviated in the summer due to the two political conventions. It is obvious that a further vote for an extension in midsummer would undoubtedly be needed if an 8-month extension were passed. There surely is *no* certainty that such a vote would be successful in the middle of presidential politics. In my view, no extension is preferable to an 8-month extension.

IS THE MURTHA AMENDMENT BETTER ENVIRONMENTALLY?

I believe it is. But don't take my word. Hear what EPA Administrator Thomas said on December 1, 1987 about the Conte and Murtha proposals:

"First, it could undermine the national policy and, more generally, the development in the near-term of attainment SIPs. It would shield from any sanction a State has yet to obtain approval of a Part D plan for its ozone and carbon monoxide nonattainment areas and is failing, even after EPA issues a finding of SIP inadequacy, to make reasonable efforts to develop such a plan. Moreover, the bill would lift sanctions EPA has already imposed. The lifting of past sanctions would be especially inappropriate where the State at present is not making reasonable efforts to create an adequate Part D Plan.

"Second, the draft bill does not address the potential for sanctions being imposed under sections 173(1), 173(4), and 176(b). It seems obvious that, if relief is appropriate at all, it is appropriate across the board.

"Finally, the Conte language would not shield areas from the promulgation of Federal implementation plans. Federal plans are not likely to be as helpful as local programs in assuring attainment and maintenance in the long run, and, under present budget levels, EPA does not have the resources to promulgate or implement Federal plans. The promulgation of Federal plans in the near-term is a real possibility. A Federal district court already has ordered EPA to promulgate an implementation plan for carbon monoxide for Phoenix and Tucson by the end of March 1988, and Wisconsin has filed suit to compel EPA to promulgate a plan for ozone and carbon monoxide for the greater Chicago metropolitan area."

In contrast, if long-term legislation is not possible in the next few months, I could support the amendment offered by Congressman Murtha to the Continuing Appropriations Resolution. It does not substantively change existing Clean Air Act requirements for attainment, but instead even-handedly addresses the problem of potentially-imminent sanctions. It would preclude the imposition of sanctions in areas that, while not attaining air quality standards, are making reasonable progress, but it would preserve the thrust of sanctions for areas that are not making reasonable good faith efforts. Thus, it would help to maintain momentum in the direction of air quality improvement while the Congress deliberates, by allowing EPA to impose sanctions should a State fail to make reasonable efforts either to strengthen its SIP in response to a finding of SIP inadequacy by EPA or to implement its current SIP fully. In addition, by barring the promulgation of Federal plans during the interim period, the bill would help to assure that the solutions to these difficult air quality problems are generated at the State and local level, rather than imposed from a distance by the Federal government or the courts.

The National Clean Air Coalition, in a December 1 letter, said "we disagree with the provision of the Conte amendment that would lift previously imposed sanctions." I stress that the Murtha Amendment does not lift those sanctions.

Also, as Mr. Thomas points out, Murtha requires these areas to act responsibly during the interim period and continue in good faith to address the problem of unhealthy air.

I should add that neither amendment affects in any way the post-1987 policy recently proposed by EPA. That policy must undergo public scrutiny and could well be changed or abandoned.

I urge your support for the Murtha amendment which is enclosed.

Sincerely,

John P. Murtha.

Committee on Energy and Commerce,
Washington, DC, December 1, 1987.

Hon. Claude Pepper,
Chairman, Committee on Rules, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Whip Notice for this week indicates that the House will consider H.J. Res. 395, the Continuing Resolution, subject to a rule being granted. I understand that your Committee will consider the rule tomorrow.

When H.J. Res. 395 was considered in the Appropriations Committee, Congressmen Murtha and Conte offered interim extension amendments relative to the Clean Air Act deadline of December 31, 1987 for ozone and carbon nonoxide. I understand that neither amendment would amend the Clean Air Act or make permanent substantive revisions in that Act. The amendments were not adopted in Committee. In correspondence about that Committee's action on the CR, Chairman Whitten advised me on November 16 as follows:

"I appreciate your letter expressing an interest in learning what I may propose to the

Rules Committee regarding an interim extension of the Clean Air Act deadlines.

"When these matters were raised in Committee, I agreed that I would ask the Rules Committee to permit amendments which would provide for consideration of a deadline extension when the Continuing Resolution is considered on the floor. I made no commitment as to what any amendment would include, only that the floor, where the Committee of jurisdiction could participate, is a better place for such a discussion to occur."

I share Chairman Whitten's view and would support a rule that provides for consideration in the House of the Murtha and Conte interim extension amendments to H.J. Res. 395.

The idea of an extension was first broached by Subcommittee Chairman Henry Waxman several weeks ago in a letter to me. Many State and local officials and Members of Congress, including Chairman Waxman, have convinced me that an interim extension to prevent sanctions is fair and reasonable. Sanctions do not achieve air quality. They tend to be draconian and harmful economically. Indeed, Chairman Waxman's bill, H.R. 3054, seeks to eliminate some of the present sanctions.

Enclosed is a letter I recently received from the Mayor of Fort Worth, Texas explaining his views on the need for an extension.

In granting a rule, I strongly urge that your Committee require both Congressmen Murtha and Conte to make available their amendments to your Committee to ensure that they do not, in fact, deal with the substantive provisions of the Clean Air Act now under consideration in our Committee. In the case of Congressman Murtha, he has kindly shared his amendment with me and I am satisfied that his amendment does not make such substantive changes. Congressman Conte, in a November 3 letter to you which he so kindly provided to me, indicates that his amendments would also make no such changes. However, I have not actually reviewed his amendment. An earlier version, which I understand was offered in the Committee on Appropriations, met this test.

Finally, enclosed is a letter I received today from the Environmental Protection Agency about the Conte and Murtha amendments as offered in the Committee on Appropriations. Like myself, EPA Administrator Thomas prefers permanent legislation. However, he states that "if long-term legislation is not possible in the next few months," he "could support the amendment offered by Congressman Murtha" to the CR. As to the Conte approach, Administrator Thomas says:

"I would oppose the Conte bill."

After receiving the EPA letter and the criteria I set forth in a letter to Chairman Whitten (which are spelled out in the EPA letter) about any extension, I conclude that I could not support the Conte amendment. It clearly does not meet these criteria from any standpoint, including clean air objectives. I particularly do not think it fair to terminate or suspend sanctions imposed earlier in this decade. Only the Murtha amendment meets the criteria and I plan to support that amendment. I support Mr. Murtha's request that the rule for H.J. Res. 395 provide for the consideration of both amendments.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

THE CITY OF FORT WORTH, TX,
November 13, 1987.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DINGELL: My colleague, Mayor Annette Strauss of Dallas, and I would like to thank you for your work on the Clean Air issue. As we approach the December 31, 1987, deadline for ozone and carbon monoxide attainment and over 300 cities are not in compliance, it becomes apparent that the existing Clean Air program is not working. There is a need for substantial changes to the Clean Air Act and we appreciate the time you have spent on the issue.

Unfortunately, there is much more to be done before Congress will be ready to pass a comprehensive Clean Air bill. It seems unlikely that Congress will act before the end of the year at which time nonattainment cities will be subject to sanctions. We know that you are considering an interim extension which would place a moratorium on sanctions while Congress develops a more comprehensive solution. We are writing in support of such an extension.

Given that it may be difficult to move Clean Air legislation much further this year and that 1988 is an election year, we believe that a two year extension makes the most sense. Clean Air is an extremely technical and important issue which both deserves and requires careful consideration. Congress should be allowed plenty of time.

There is also the possibility that a nonattainment bill will be unable to make it through Congress without dealing with acid rain. The acid rain issue is technical, divisive and will take a significant amount of time to resolve. It could easily take two years to pass a comprehensive reauthorization of the Clean Air Act. EPA's post-1987 ozone and carbon monoxide policy would ensure that cities continue their Clean Air efforts during that time.

A simple extension which places a moratorium on sanctions would be the best approach. Our concern is that the moratorium be placed on all sanctions, including those that have been proposed by EPA but not finalized. Our particular concern, of course, is the inclusion of Tarrant and Dallas Counties.

EPA has proposed sanctions for Tarrant and Dallas Counties. We are working with the Texas Air Control Board to revise our state implementation plan with the knowledge and guidance of EPA. Our new SIP is a tough, solid plan that will bring us into attainment by the end of 1992. The purpose of sanctions is to encourage cities to meet the requirements of the Clean Air Act, not to punish them. In our case, the proposed sanctions have served this purpose and there is nothing to be gained by finalizing them.

The Sierra Club has notified EPA that it plans to bring a suit against the agency immediately after the deadline. Undoubtedly, there are other citizens and groups that will bring suits directly against cities. It is important that any interim extension protects cities from this type of legal action.

Again, we thank you for your work on the Clean Air issue and support your proposal for an interim extension.

Sincerely,

BOB BOLEN,
Mayor.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 1, 1987.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of November 20, 1987, in which you ask for my views on a bill proposed by Congressman Conte that would bar, until June 30, 1988, any enforcement of any sanction under sections 110(a)(2)(I) or 176(a) of the Clean Air Act, including sanctions that are already in effect.

I would oppose the Conte bill. My preference would be to work with this Congress to develop legislation along the lines of the national policy proposed by the Agency on November 17, 1987, to deal with ozone and carbon monoxide non-attainment, rather than consider any extension. In addition, I see several deficiencies in the bill itself.

First, it could undermine the national policy and, more generally, the development in the near-term of attainment SIPs. It would shield from any sanction a State that has yet to obtain approval of a Part D plan for its ozone and carbon monoxide nonattainment areas and is failing, even after EPA issues finding of SIP inadequacy, to make a reasonable efforts to develop such a plan. Moreover, the bill would lift sanctions EPA has already imposed. The lifting of past sanctions would be especially inappropriate where the State at present is not making reasonable efforts to create an adequate Part D plan.

Second, the draft bill does not address the potential for sanctions being imposed under sections 173(1), 173(4), and 176(b). It seems obvious that, if relief is appropriate at all, it is appropriate across the board.

Finally, the Conte language would not shield areas from the promulgation of Federal implementation plans. Federal plans are not likely to be as helpful as local programs in assuring attainment and maintenance in the long run, and, under present budget levels, EPA does not have the resources to promulgate or implement Federal plans. The promulgation of Federal plans in the near-term is a real possibility. A Federal district court already has ordered EPA to promulgate an implementation plan for carbon monoxide for Phoenix and Tucson by the end of March 1988, and Wisconsin has filed suit to compel EPA to promulgate a plan for ozone and carbon monoxide for the greater Chicago metropolitan area.

In your letter, you asked me to address criteria (b)-(e) to be used in evaluating any extension as detailed in your letter of November 5, 1987, to Congressman Whitten, namely:

"(b) It is adequate and effective;

"(c) It is otherwise nonsubstantive in nature;

"(d) It is prospective in regard to sanctions; and

"(e) It does not have the effect of halting or delaying the clean air efforts of the Environmental Protection Agency, the States or the cities."

In sum, the bill does not satisfy criteria (b), (d), and (e). It also does not appear to satisfy criterion (c), in that it would imply that a failure to attain by the end of 1987 could be a sufficient ground under the Act for imposing a construction ban. As you know, I think the 95th Congress did not intend a failure to attain by itself to be a basis for imposing such a ban.

In contrast, if long-term legislation is not possible in the next few months, I could support the amendment offered by Congressman Murtha to the Continuing Appropriations Resolution. It does not substantively change existing Clean Air Act requirements for attainment, but instead even-handedly addresses the problem of potentially-imminent sanctions. It would preclude the imposition of sanctions in areas that, while not attaining air quality standards, are making reasonable progress, but it would preserve the thrust of sanctions for areas that are not making reasonable good faith efforts. Thus, it would help to maintain momentum in the direction of air quality improvement while the Congress deliberates, by allowing EPA to impose sanctions should a State fail to make reasonable efforts either to strengthen its SIP in response to a finding of SIP inadequacy by EPA or to implement its current SIP fully. In addition, by barring the promulgation of Federal plans during the interim period, the bill would help to assure that the solutions to these difficult air quality problems are generated at the State and local level, rather than imposed from a distance by the Federal government or the courts. Finally, the two-year period in the Murtha bill would end at about the same time that the States under the policy would be submitting their new attainment plans. Thus, the bill would not only give the policy a chance to work, it would also generate more information on what it will take to produce attainment in the more severely-polluted areas. Two years, of course, is not quite enough time to give the policy a full chance to work, but it is acceptable.

If you have any questions about this response, please contact me or EPA's General Counsel, Frank Blake.

Sincerely,

LEE M. THOMAS.

Mr. Chairman, I should explain some of the provisions of my amendment.

On July 14, 1987, EPA proposed to disapprove State Implementation Plans [SIP's] and impose section 110(a)(2)(I) construction sanctions in the following extension areas granted extensions to December 31, 1987:

Area	Pollutant
Los Angeles (south coast)	Ozone and CO.
Fresno, CA	Do.
Ventura County, CA	Ozone.
Sacramento, CA	Do.
Washoe County, NV. (Reno)	CO.
Denver, CO	CO.
E. St. Louis, IL	Ozone.
Chicago, IL	Do.
East Chicago, IN	Do.
Indiana Suburbs of Lousiville	Do.
Cleveland	CO.

All of the above are, according to EPA, potentially subject to all sanctions, not just a construction ban. The nonextension areas for which EPA proposed on July 14 a section 173(4) nonimplementation construction ban are:

Area	Pollutant
Atlanta	Ozone.
Dallas	Do.

In addition, EPA provides the following additional information:

Area	Pollutant
Detroit	Ozone and CO.
Cleveland	Ozone.
Cincinnati, OH	Do.

The Murtha amendment would prohibit any mandatory and discretionary sanction in these areas during the 21-month interim extension period, except where an area is not making reasonable good faith efforts during this period.

The possible sanctions are:

Provisions	Effect
Sec. 110(a)(2)(I)	Construction ban.
Sec. 176(a)	Highway and air grant fund cutoff.
Sec. 173(4)	Nonimplementation of SIP requirements for construction ban.
Sec. 176(b)	Nonimplementation of SIP requirements for air grant cutoff.
Sec. 316(b)	Sewage treatment grant cutoff.

Mr. Chairman, I want to comment briefly on my exception to the general prohibition on sanctions. The sole purpose of this provision is to keep up progress on reducing ozone and CO pollution. Like Administrator Thomas, I do not want to let these cities halt progress. They must continue to feel the heat to improve air quality and implement their SIP's.

Thus, I give—or rather retain—EPA discretionary authority during the 21-month period to impose sanctions through rulemaking initiated during this period. In starting a rule, EPA must determine whether an area is making reasonable good-faith efforts in this interim period. EPA makes this determination not based on the period prior to the Murtha amendment, but on actions taken or not taken from November 1, 1987. This is an important provision.

The good-faith test is one frequently mentioned by the U.S. Conference of Mayors in correspondence on Clean Air Act issues. It is a reasonable test, but it is not intended as a loophole. The cities must show they are acting in good faith. Action, not words, will be the key to that determination.

At this point, I note a controversy is brewing between EPA and the city of Philadelphia over a SIP amendment submitted in 1985. I understand that EPA proposed to disapprove that proposal and the city challenges EPA as shown by the following letter to EPA:

OCTOBER 7, 1987.

MR. DENIS LOHMAN,
Acting Chief, Pennsylvania/West Virginia Section, EPA Region III, Chestnut Building, Philadelphia, PA.

DEAR MR. LOHMAN. This is in response to EPA's proposed rulemaking of Tuesday, September 8, 1987. The Commonwealth of Pennsylvania strongly opposes EPA's proposed denial of Pennsylvania's amendment (Supplement No. 2) to the State Implementation Plan (SIP) for photochemical oxidants in Southeast Pennsylvania submitted September 23, 1985. We believe this SIP amendments clearly demonstrates that strategies in place will achieve the 44% reduction in VOC emissions as required by the June 30, 1982 Pennsylvania State Implementation Plan for Photochemical Oxidants. Emission data collected by the Bureau of Air Quality Control through 1986 demonstrates that reductions are being achieved on schedule.

In EPA's proposed rulemaking there are several misleading and inaccurate statements which need to be corrected. First, EPA states that Pennsylvania has "not adequately demonstrated progress towards meeting the 44% VOC emission reduction". This is completely inaccurate and unsupported. The EPA logic of using an emissions inventory projected from 1978 data rather than using the most recent data to predict 1987 emissions is clearly flawed. Pennsylvania has submitted reasonable further progress (RFP) reports for 1983, 1984, and 1985. We are now preparing the 1986 RFP report. All of these reports show that the Commonwealth of Pennsylvania is meeting reasonable further progress as defined by EPA. Our review of the current data indicates that the 44% reduction in VOC emissions will be achieved by December 31, 1987 (see enclosed charts).

Second, EPA states that "the majority of purported emission reductions are not enforceable." We take exception to EPA's use of the term "purported" implying that these emission reductions are not real. Pennsylvania has the hard data collected by our field personnel from the various industries to substantiate the emission reductions (see enclosed charts). Pennsylvania prepares its emission inventory in compliance with EPA guideline procedures and submits data to EPA, as required by EPA rules and regulations. EPA annually audits the emission inventory program and has always been pleased with the quality of the inventory. These emission data reflect a true and accurate picture of actual emissions of volatile organic compounds in Southeast Pennsylvania by point sources.

Third, EPA indicates ambient levels are still above the air quality standard. Pennsylvania agrees that measured ozone levels exceed the ambient standard, and we have cooperated with EPA in submitting recent air quality data. However, to judge a plan based on 1984 data, two years after the submission of the plan, by looking at 1987 air quality data seems inappropriate. The ambient air quality has not improved as much as expected since 1984. However, for EPA to use these data years later in a proposed SIP denial places Pennsylvania at a considerable disadvantage in SIP work because EPA is so slow in evaluating submissions.

Fourth, the EPA notice states that "Supplement No. 2 suggests that there is no longer any need to implement additional control measures to make up the 5.5% VOC emission reduction shortfall projected in the 1982 SIP revision." Supplement No. 2 conclusively states that Pennsylvania will meet the 44% planned reduction, and that Pennsylvania will make up the 5.5% VOC emission reduction shortfall. In mid-1987 the actual emission data still shows this to be true (see enclosed charts).

Fifth, EPA implies that Pennsylvania has done nothing additional to control emissions. Pennsylvania is in the process of adopting regulations covering Round III VOC emissions and wood furniture finishing and sulfonate manufacturing, of which the latter two go beyond Round III sources. Additionally, Pennsylvania's point source regulations are adopted statewide for sources with emissions greater than 50 tons per year. This also goes beyond EPA requirements. Further, transportation control measures continue to be implemented in Southeast Pennsylvania even though we have chosen not to include them as specific SIP requirements. Thus, Pennsylvania has come forward with additional measures.

A number of charts are enclosed demonstrating Pennsylvania's progress in achieving the 44% reduction requirement for your review.

We believe there are two central issues to EPA's proposed denial:

1. EPA's insistence that Pennsylvania committed to implement new explicit emission control programs to achieve the full 5.5% reduction.

2. EPA's insistence that production decreases are unenforceable and therefore, unusable.

Pennsylvania committed, in its July 26, 1983 letter referenced by EPA in their September 3, proposed rulemaking, to "achieve the 44% emission reduction and revise the State Implementation Plan to explicitly state this commitment." In addition, Pennsylvania committed to examining several potential new emission reduction measures and stated that "any new regulations that may be needed will be developed according to this schedule." As EPA is generally aware, Pennsylvania has reviewed the measures that were enumerated in the State Implementation Plan. A brief summary of our review is enclosed. Because the 44% reduction and RFP are, have been, and will be met, Pennsylvania did not proceed to implement all of these extraordinary measures. Pennsylvania disagrees with EPA that new regulations must be adopted to meet the 5.5% shortfall. Pennsylvania did not commit to adopt regulations. We committed to achieve reasonable further progress, to review potential new emission reduction measures and to achieve the 44% reduction required by the federal State Implementation Plan process. We believe our commitments have been met.

The second issue relates to the enforceability of the emission reductions projected in Supplement No. 2 as the proposed SIP amendment. The 1982 SIP includes data for 1980 and 1987 which was projected forward from 1978 data. No requirements are included in that implementation plan or any other implementation plan throughout the United States requiring controls on levels of production. Production levels are clearly allowed to fluctuate throughout the country. Thus, every State Implementation Plan is subject to the same alleged "enforcement problems" EPA states Pennsylvania has. The same "enforcement programs" would exist if additional new regulations were adopted. The same "enforcement problems" exist for the current SIP approved regulations. EPA is not concerned about production level variations in the 38.5% reduction approved in the SIP, but finds fault with those variations concerning the additional 5.5% reduction.

Pennsylvania believes that additional reductions beyond the 44% reduction are necessary in the Southeast Pennsylvania Interstate Air Quality Control Region to achieve the photo-chemical oxidant standard. We believe these reductions will exceed the 5.5% with which EPA seems so concerned and which Pennsylvania has already achieved. Denial of Pennsylvania's Supplement No. 2 is a paper exercise on EPA's part. It ignores the fact that Pennsylvania has achieved the emission reductions to which it is committed. It ignores the fact that throughout the entire United States, the federally required Ozone State Implementation Plan process failed and that in most areas where emission reductions were achieved, air quality did not improve as projected.

If EPA proceeds to deny Supplement No. 2, EPA may view Pennsylvania as failing to implement the SIP. We believe Pennsylvania has tried and, in fact, succeeded in achieving the SIP required emission reduction. However, Pennsylvania has tried but failed to achieve the air quality standard. Denial of this 1985 SIP submission implies that Pennsylvania has failed to try, that Pennsylvania has failed to meet its commitment.

We request that EPA specifically respond to the question of whether denial will lead to a non-implementation decision for Southeast Pennsylvania by EPA, and therefore, the imposition of sanctions. We further request that EPA reverse its proposed action and approve Supplement No. 2 with the reservation that additional reductions beyond the 1982 SIP are required in the post-87 period to attain standards. It is most important for Pennsylvania and EPA to get on with the job of achieving air quality rather than fighting legal battles in an appeal from EPA's denial of Supplement No. 2 over questions of paper emission reduction credits that have nothing to do with the quality of the environment.

Sincerely,

JAMES K. HAMBRIGHT,
Director, Bureau of Air Quality Control.

Mr. Chairman, we cannot today resolve this controversy, except to say that the exception in my amendment is not intended to apply to that situation. My amendment does not stop EPA from disapproving that amendment during the interim period. But a sanction would not follow from that disapproval. EPA could not apply the good-faith test to what has or has not occurred prior to November 1. EPA must look to the city's actions since November 1. It is my hope and expectation that EPA and the city will resolve these problems consistent with the law.

Finally, Mr. Chairman, I call attention to the last paragraph of subsection (a) of my amendment. The sentence was included to ensure consistency. The Murtha, Conte, and Waxman amendments clearly intend to preclude sanctions, but not disapprovals, for the 14 areas proposed for disapprovals last July 14. One such area includes the Chicago area which is already under sanction. The Murtha amendment, as I have said, does not lift that sanction. But it also is not intended to allow EPA, with this new disapproval, to breathe new life into that old sanction. This is the intention of the second sentence of the last paragraph. Under Murtha, the disapproval during the interim period is only that—a disapproval. It does not carry with it a sanction or the effect of a sanction.

Additionally, the first sentence of the paragraph was included to ensure that during this period, permits—with appropriate offsets—can be issued, notwithstanding the December 31, 1987, attainment date referenced in section 172(a) of the Clean Air Act. The word "denied" is intended to apply to the permitting agency and any court. To do otherwise would defeat the purpose of both Murtha and Conte. Stopping permitting is the same thing as a construction moratorium. Without a permit, construction is not possible.

Again, Mr. Chairman, I urge an "aye" vote on Murtha and a "no" vote on Conte.

Mr. Chairman, on the Murtha-Madigan-Regula-Dingell amendment, I yield 3 minutes to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. I appreciate the gentleman from Pennsylvania yielding.

Mr. Chairman, I rise to support the amendment offered by the gentleman from Pennsylvania [Mr. MURTHA].

Because the debate time on the continuing resolution was so brief, we get to this issue of the Conte amendment versus the Murtha amendment a little bit quicker than I think the House had anticipated. I know there are a number of Members on both sides of the aisle and on both sides of this issue who want to be heard. I hope that they will have the opportunity to get here and to be heard.

But in the meantime, I want to express my strong support for the 21-month extension contained in the Murtha language. The gentleman from Michigan [Mr. DINGELL], the gentleman from Iowa [Mr. TAUKE], the gentleman from New York [Mr. LENT], myself, and many other members of the Committee on Energy and Commerce have struggled for some months with this issue of what to do about this deadline extension. And it is, I think, a consensus opinion, certainly not one held by every member of the Commerce Committee, but a consensus opinion on the part of a majority of the members of the Commerce Committee that it is appropriate to support the Murtha 21-month extension simply because the extension being proposed by the gentleman from Massachusetts [Mr. CONTE] would expire again in the middle of next year when Members of this assembly from both political parties would be caught up in their national conventions, or in other issues with which we must have to deal next year and, realistically, there is no expectation that the communities that are affected by this ozone deadline are going to be in compliance by the middle of next year, even those making good-faith efforts who tell us they are not going to be able to be in compliance by the middle of next year.

For that reason alone, that communities cannot possibly be in compliance with the short-term extension being offered by Mr. Conte from Massachusetts, and it makes much more sense to go with the gentleman from Pennsylvania [Mr. Murtha] for the 21-month extension. That gives us time to see how many of these communities will be able to be in compliance and it gives us time to contemplate exactly what it is that we want to do with those communities that are not in compliance. Some communities like the city of Los Angeles, for example, tell us that they cannot be in compliance 20 years from now. That is what officials from the California EPA tell us; they cannot comply with the standard 20 years from now let alone 6 months from now.

Well, I do not think we can decide what we want to do about a situation like the Los Angeles circumstance within the next 6 months when we have so many other things with which we must contend.

For that reason alone I would urge that all the Members of the House would favorably consider the Murtha amendment.

Mr. CONTE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I take this time to engage in a colloquy with the gentleman from Florida, the chairman of the Subcommittee on Defense of the Committee on Appropriations on the status of funding for the space shuttle facilities at Vandenberg Air Force Base.

Mr. Chairman, as you know, the shuttle launch facilities at Vandenberg Air Force Base have been reassigned to minimum caretaker status. Unfortunately, this year the House Appropriations Committee zeroed out this program. The Senate subcommittee, however, has provided the full $50 million requested by the Air Force necessary to keep this important national asset preserved and maintained for future space shuttle launches.

As this issue will apparently now be deliberated in the House-Senate conference, would you carefully consider the facts provided by the Air Force and reassess the House's position on funding for this important program during the conference? Would you reconsider your previous decision and provide appropriate funding to keep the Vandenberg facility at minimum caretaker status?

Mr. CHAPPELL. Mr. Chairman, if the gentleman will yield, I assure the gentleman we will have a look at it.

Mr. LAGOMARSINO. Mr. Chairman, as you may know, since the *Challenger* tragedy, space shuttle operations have been on hold and the space shuttle Vandenberg launch site has been reduced to minimum facility caretaker status. In this capacity, the launch complex and its 53 buildings and structures are carefully preserved and maintained, providing the capability to launch a shuttle within 4 years of the order to reactivate.

Unfortunately, this year the House appropriations did not provide any of the requested $50 million for this mininum caretaker program. The cost of these facilities is over $3 billion, but their value is incalculable. Vandenberg is the only site from which we can launch manned vehicles into important polar orbits. We need two launch facilities. Zeroing out maintenance would result in irreparable damage to this national asset.

In fact, the Air Force has informed me that to "walk away" or totally abandon this program would cost $47 million in fiscal year 1988 and an additional $20 to $35 million in years thereafter. Compare this to the $50 million cost to preserve the facilities and retain, rather than liquidate properties and critical space assets. In essence, we really don't save much money but we eliminate almost all capability. Reactivation would take much longer and be substantially more expensive. The Senate Appropriations Committee realizes the importance of Vandenberg and the logic of fully funding the Air Force's $50 million request. I am concerned about the House position and the negative impact it may have on our national security and the Space Program.

VANDENBERG LAUNCH SITE OPTIONS

Minimum Facility Caretaker Status: $50M annually; maintains facilities/equipment configuration control for shuttle operations (facilities/equipment lent to NASA/alternate users will be returned in proper configuration to support shuttle operations); provides shuttle launch within four years of direction to reactivate.

Mothball: $50M in FY 88; $40M annually thereafter; preserves reactivation capability for shuttle, titan IV, or ALS; reduces active maintenance and corrosion control (increases reactivation time due to greater degraduation of exposed facilities/equipment).

Orderly Termination: $55M in FY 88; $20M—$35M Annual Alternate User Funding; transfer facility/equipment total responsibility to current/future users; loss of capability to maintain shuttle configuration (severe schedule delay and increase in cost of shuttle reactivation); creates unfunded requirement in FY 89 for maintenance, configuration management, engineering and property management of facilities by alternate users; creates significant property disposal requirement for Defense Logistics Agency.

Abandonment: $47M IN FY 88 ($33.5M (3400) for sunk costs and termination, $13.5M (3020) for deactivation of a fully safe condition); additional $15M—$30M required in FY 88 by alternate users and $20M—$35M annually thereafter; precludes shuttle reactivation without substantial reinvestment; creates significant property disposal task for Defense Logistics Agency.

VANDENBERG LAUNCH SITE SUMMARY

Option	VLS fiscal year 1988	Fiscal year 1989	Deactivation and property liquidation	Long term preservation	Reactivation
Maintain minimum facility caretaker status.	$50M	$52M	Not required	Yes	4 years.
Phase-down to mothball status.	$50M	$40M	do	Yes	4+ years.
Initiate orderly termination.	$55M	$20M to $35M [2].	Required	No	Very difficult.
Walk-away now (abondonment).	$47M [1] + $15M–$30M [2].	$20M to $35M [2].	do	No	Extremely difficult.

[1] $13.5M (3020) included for deactivating to a fully safe condition.

[2] 3,400 funds required for alternate users to assume maintenance, configuration management, engineering and property management for the facilities they are using (unfunded requirement).

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. Weber].

Mr. WEBER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Murtha amendment and in strong support of the Conte-Waxman amendment.

Mr. Chairman, this amendment provides a short term, 8-month extension of the nonattainment deadlines for ozone and carbon monoxide, and keeps the pressure on this Congress to resolve this issue. The amendment freezes the status quo from January 1 to August 31 so that the Congress can continue to work on a comprehensive reauthorization of the Clean Air Act.

The amendment addresses two concerns associated with the impending deadlines.

First, without congressional action, the construction moratorium and the Federal funding cutoff will result in severe economic disruption to local communities across the country. The construction ban creates undertainty in private investment and slows economic growth, and it also prevents the contruction of much needed waste treatment facilities. The Federal funding cutoff has an obvious impact on local public works projects.

Second, the Conte amendment would provide the incentive necessary to deal with clean air issues in this Congress. As opposed to a longer delay, an 8-month extension should give Congress enough time to complete work on a comprehensive reauthorization of the Clean Air Act—without compromising the integrity of the air quality standards and deadlines.

Mr. Chairman, it's time to stop stalling and address all the issues surrounding the reauthorization of the

Clean Air Act. We have the time and the obligation to consider these issues in the 100th Congress.

I urge my colleagues to support the short-term extension provided in the Conte-Waxman amendment, and to vote "no" on the Murtha substitute.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, over the last few months we have been moving rapidly toward a major crisis for metropolitan areas across the country. The problem, in short, are the deadlines in the Clean Air Act enacted 10 years ago. Because many areas across the country have been unable to meet these deadlines, EPA will be forced under the act to impose construction bans on at least 14 areas of the country.

Mr. Chairman, these areas are not little, out-of-the-way places. They are among the larger metropolitan areas of the country, including Los Angeles, Sacramento, Denver, Chicago, Dallas, Atlanta, and Cleveland. If we do not act today, we will be sentencing these areas to severe economic hardships. Without action, similar construction bans will fall on other cities, such as New York, despite their good faith efforts and progress toward reaching the standards. Let me emphasize that these bans are nondiscretionary. EPA cannot administratively avoid imposing them as we have been advised by EPA's Lee Thomas.

In the face of these bans, cities and States have come to Congress and asked for the relief we should grant them. Ten years ago, when we passed these deadlines, we did not know that reaching attainment in some areas would mean eliminating all vehicle traffic or relocating major industries. In New York alone, the costs of meeting the standards would mean the imposition of extremely unpopular and unworkable restrictions, such as requiring alternate driving days, gasoline rationing, or $20 bridge toll fares.

Mr. Chairman, in light of this impending disaster, the only real meaningful relief we can provide the cities is a vote for the Murtha amendment. The Murtha amendment is superior for several reasons. First, it would provide Congress with a realistic time period to arrive at a more permanent solution to the problem. Any shorter time period is not only unrealistic—it is a sham. Those who argue that the Murtha amendment spells only delay, are not being realistic—they are being foolish.

Second, Mr. Chairman, and more importantly, the Murtha amendment would require areas to continue to make progress in reducing pollution. This is important. We cannot afford to rest in our fight against dirty air. The Conte amendment, although well intended, would strip EPA of all authority to penalize areas, even if they stop making any progress toward clean air. The results would be disastrous all around.

Finally, Mr. Chairman, I question whether it is fair to give cities less than 21 months. We in Congress get too used to living on a day-to-day, even moment-to-moment, basis. At a minimum, it is not a pattern we should ask our cities to emulate. Let us be reasonable and fair and provide a timeframe that we can realistically meet and cities can realistically live with. I ask all of my colleagues to vote for the Murtha amendment.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to my dear friend, the gentleman from California [Mr. WAXMAN], the chairman of the subcommittee handling this legislation in the authorizing committee.

Mr. WAXMAN. I thank the gentleman for yielding to me.

Mr. Chairman, I am speaking today in strong support of the Conte amendment to the concurrent resolution, which would delay the imposition of sanctions, including a construction ban, for cities that fail to attain air quality standards by the end of this year.

As many of my colleagues know, about 60 of the Nation's major metropolitan areas including New York, Houston, Los Angeles, Boston, Cleveland, Chicago, Dallas, Atlanta, and Detroit, will not comply with the Clean Air Act's December 31, 1987 deadlines.

Earlier this year, I tried to address the nonattainment issue with H.R. 3054, a comprehensive clean air bill that would extend the deadlines, repeal the law's construction ban, and impose new air pollution control requirements. A similar legislative approach has passed the Senate Environment and Public Works Committee and is awaiting floor consideration.

Unfortunately, it now appears that there will not be enough time for the Congress to fully consider and enact comprehensive legislation by the end of this year to give meaningful congressional guidance concerning achievement of air quality standards. I don't believe that it is in the best interests of our Nation's cities or those concerned with strengthening the Clean Air Act to risk the economic disruption that the temporary imposition of sanctions would cause. The point of the construction ban, after all, is to encourage compliance with the requirements of the act, not halt construction in the Nation's cities.

For these reasons, I support Mr. CONTE's amendment to extend the December 31, 1987, deadline in the law for 8 months in order to give Congress the time to enact comprehensive amendments to the Clean Air Act. This short-term timeframe will keep the pressure on us to continue with consideration of the legislation without imposing a construction ban in the vast majority of the Nation's cities.

It is my view that a longer extension of 18 months would remove all pressure for Clean Air Act consideration in the 100th Congress and make it difficult to complete work even in the 101st Congress. I oppose efforts to push these important issues, with their vital public health repercussions, off until 1989 or later.

Other than the timeframe difference of 19 months versus 8 months, there is another important reason for those Members concerned about the impact of sanctions to support the Conte amendment over the Murtha amendment.

Under the Murtha amendment, sanctions, including a construction ban, cutoff of highway money and sewage treatment grants, could be imposed if the Administrator finds that a State is failing to make reasonable good faith efforts.

The Conte amendment doesn't contain this provision for the following reasons. How can a State make a good faith effort to submit a plan to meet a deadline that has already passed. How can the Administrator evaluate that effort. What factors does he take into account? Does he consider prior bad faith and if so from what date? Does the Administrator consider the degree of difficulty of attaining the standard and if so where in the amendment does it say this? What determination would the Administrator make if the State had acted in good faith 95 percent of the time and in bad faith 5 percent of the time? Would EPA expect to go through rulemaking to develop criteria under this amendment? If not, why not? How long would such rulemaking take to complete?

State and local officials have told us that they are very worried that EPA will act in an arbitrary manner under the Murtha approach. That's not surprising. The Murtha language is loaded with ambiguity. I think it is better public policy, particularly since the Conte extension extends for only 8 months, to remove the possibility of sanctions for everyone.

There are two very different policy approaches in the two amendments that this difference highlights well. The Conte amendment takes the approach that we should rewrite the law in this Congress so there is no need to rely upon EPA for such a short period of time. The Murtha amendment, on the other hand, shifts the responsibility back to EPA by kicking clean air over to the next Congress, so greater guidance is needed for EPA in the longer interim.

In Mr. Murtha's "Dear Colleague" it is stated that neither amendment affects EPA's new proposed nonattainment policy. I don't agree. And neither does EPA's Administrator Lee Thomas. Yesterday, Thomas told a Senate subcommittee that he prefers the Murtha amendment because it will enable him to proceed to sanction areas under his policy. EPA intends to ban construction in 14 areas of the country early next year. This list includes Cleveland, Chicago, Denver, Reno, Sacramento, and Los Angeles. In addition, under Murtha sanctions would stay in effect in Phoenix, Tucson, Kentucky, and Cincinnati. EPA also intends to sanction cities that can't show attainment in the near term. This list includes virtually every major metropolitan area in the United States. New York, Houston, Chicago, Philadelphia, Atlanta, St. Louis, and Dallas are all likely to be sanctioned under the EPA policy when coupled with the Murtha amendment. None of these areas would be sanctioned under the Conte amendment. I understand that EPA is telling Members that call that they don't know whether sanctions will be imposed under the Murtha amendment but they do know that there will be no sanctions under the Conte amendment for the 8-month period.

Why shouldn't we have greater certainty about these questions than the Murtha amendment provides? Isn't it better policy to hold off on the sanctions across the board until Congress has a chance to act?

Obviously, State and local governments across the country think that makes the most sense. The Conte amendment has the support of the National League of Cities and the 15,000 cities that it represents, the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties and the 3,100 county governments that it represents, the National Clean Air Coalition, the Audubon Society, the Sierra Club, and the United Steelworkers of America.●

Mr. Chairman, I urge the Members to defeat the Murtha amendment, vote for the Conte amendment, and then get on with our job.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Chairman, I first want to thank my colleague, the gentleman from Pennsylvania [Mr. MURTHA], for yielding us this important time. I would like to compliment the subcommittee chairman, the gentleman from Massachusetts [Mr. BOLAND], on preparing a superb bill dealing with the 1988 appropriations for HUD and independent agencies.

As we know, Mr. Chairman, the Long Island Sound borders my congressional district, as well that of the gentlemen from New York [Mr. DIOGUARDI] and from Connecticut [Mr. MORRISON]. Our concern surrounds the Long Island Sound Study, which is authorized under the National Estuary Program in the Water Quality Act.

As the gentleman is aware, there has been some concern that the study would not be funded at the same levels as in fiscal year 1987.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I am happy to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, let me assure the gentleman from New York and also the gentleman from Connecticut that I share their support for these studies. In fact, the committee initiated the Long Island Sound Study in 1985, well in advance of the estuary program's formal authorization in the clean water amendments.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I want to thank the gentleman from New York for organizing this colloquy, and I would like to thank the chairman of the subcommittee for his important endeavor of assuring that the Long Island Sound Study goes forward with the many aspects that are necessary for the long-term preservation of the environment of the sound.

Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. DIOGUARDI. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I am happy to yield to the gentleman from New York.

Mr. DIOGUARDI. Mr. Chairman, Members may be aware that this past summer significant findings were reported concerning the condition of Long Island Sound. As one New York Times headline read, "A Portion of Long Island Sound Has No Oxygen Or Fish." This was referring to Hempstead Harbor, which is in the district of the gentleman from New York [Mr. MRAZEK]. Sadly, fishermen pulled up one dead lobster after another. These findings lead me to believe that our research is even more critical now than ever before.

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, I agree that the continuation of the Long Island Sound study is vital to the future of the sound, and I am pleased to report that EPA has given the committee assurances that $1.2 million is being included in the Agency's 1988 operating plan for these studies.

The CHAIRMAN. The time of the gentleman from New York [Mr. MRAZEK] has expired.

Mr. MURTHA. Mr. Chairman, I yield 30 additional seconds to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Chairman, I thank the gentleman for his generosity.

Mr. Chairman, I greatly appreciate the support of the subcommittee chairman for maintaining the Long Island Sound study funding at $1.2 million, which is in addition to the $1 million that is coming out of the NOAA budget. It will allow the sound study to go forward at its optimum funding level of $2.2 million.

Mr. MORRISON of Connecticut. Mr. Chairman, if the gentleman will yield, let me say that I certainly appreciate the work of the gentleman from New York [Mr. MRAZEK], the gentleman from New York [Mr. DIOGUARDI], and other members of the Long Island Sound caucus who have worked together with the Appropriations Committee to try to see to it that the funding is maintained.

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, I thank all the gentlemen who have been involved in this endeavor.

Mr. MRAZEK. Mr. Chairman, I thank all the gentlemen involved, as well as the gentleman from Pennsylvania [Mr. MURTHA].

Mr. CONTE. Mr. Chairman, I yield 30 seconds to the beautiful gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Massachusetts for yielding the time to me.

Mr. Chairman, I rise in support of the Conte amendment to the Clean Air Act. I am proud to say that my State, Maryland, which is struggling in two major population areas to attain air quality standards, has launched an active lobbying effort to convince Congress to keep as close as possible to the scheduled date of compliance.

True, Maryland has had a long history of support for clean air, clean water, and even clean land with such programs as Program Open Space. But there is a practical reason, too. A 2-year postponement flies in the face of the demands of our citizens who have long insisted that we get on with the job and do what we know can and should be done for a cleaner environment.

I urge my colleagues to cast their vote for the short-term 8-month extension compromise—which will show that Congress recognizes that the States are to be commended for their efforts to date, but also signals that their efforts must be unrelenting. We will all be healthier—especially those that live or work in the very areas begging the hardest for a delay in reaching attainment. We in the 100th Congress should take responsibility for this.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I thank my good friend and colleague, the gentleman from Pennsylvania, for yielding this time to me. I would like to use some of my time to enter into a colloquy with my good friend and colleague, the gentleman from Florida [Mr. CHAPPELL].

Mr. Chairman, the report language accompanying fiscal year 1988 defense appropriations bill on the Navy 5-inch guided projectile program seems to favor sole-source procurement, by recommending that existing and fiscal year 1988 funds requested for competition be used to further sole-source procurements. Since the report language was written the Secretary of the Navy has indicated substantive savings in the ongoing competitive program for the 5-inch guided projectile.

With new competition cost figures available on these programs, does your bill preclude the Navy from exercising the choice to continue the current Navy competition on this program.

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Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, I assure the gentleman that it will not, and as a matter of fact, our committee always supports cost-savings competition.

I will further say that we will be working very closely with the Navy to assure that this policy be carried out in a very effective way.

Mr. BEVILL. I would like to thank the gentleman from Florida for those comments, because as we know, at the time the language was written, we did not have these figures, but now we do have these competitive figures and the Secretary of the Navy has written a letter stating that we could save as much as $355 million by having open competition on these bids on this 5-inch projectile.

I assure the gentleman we will do that.

May I add, Mr. Chairman, that I support the Murtha amendment.

Mr. CHAPPELL. I can assure the gentleman we are looking into that very carefully.

Mr. DYSON. Mr. Chairman, as you are aware, the 5-inch guided projectile is an important component of the Navy's strategic planning for the future. In order to assure completion of this vital program, which has already been canceled once due to excessive production costs, we must heed the Navy's request for competition and second-source selection for future procurement of this crucial program. Mr. Chairman, the Navy has indicated that this competition and second-source procurement will provide a minimum savings to the Navy of $355 million. If the Maryland firm currently competing is selected, it will mean lower costs per missile to the Navy, an increase of approximately 1,000 jobs throughout Maryland, and a positive economic impact of approximately $500 million.

As my distinguished colleague from Alabama has noted, we are concerned that the Appropriations Committee's language will favor the current sole-source procurement and will lead to the second cancellation of this vital Navy program. The Navy recognizes and supports a second-source procurement concept as necessary to realize the benefits of a cost reduction as evidenced in a typical competitive environment. Furthermore, the cost savings included in the second-source procurement effort will enhance the affordability of the program.

Mr. Chairman, I fully agree with your recognition of the importance of the competitive procurement process and I applaud your endorsement of the Navy's need for an affordable 5-inch, laser-guided projectile.

I wish to thank the distinguished chairman and the entire subcommittee and its excellent staff for their valuable assistance in providing the guidelines necessary to permit the Navy to proceed with this vital program.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I rise in opposition to the Conte-Waxman amendment.

Mr. Chairman, we are faced with widespread nonattainment of the ambient air quality standards for ozone and carbon monoxide with areas in the most blatant violation apparently making little effort to mitigate the health and environmental threat posed by their failure to come into compliance.

This gentleman from West Virginia is not enthused with the prospect of granting these worst offenders an additional reprieve from Clean Air Act sanctions aimed at forcing reductions in smog and carbon monoxide pollution.

And this is the central issue in today's debate over the pending amendment and the one that is being offered by the gentleman from Pennsylvania.

If you want the strongest progress possible made toward greater compliance with the air quality standards for ozone and carbon monoxide in this country, in light of the two options before us today I would submit that the choice is clear: Vote against the Conte-Waxman amendment and vote for the Murtha amendment.

Let me repeat that: A vote for the Murtha amendment is in the best interest of this Nation's environmental integrity.

I have heard the arguments from my friends in the environmental community that since the Conte amendment would suspend sanctions until August 31, 1988, Congress will have to reauthorize the Clean Air Act next year.

They argue that the Murtha amendment—by extending the deadline for 2 years—would delay congressional efforts to reauthorize the act until the 101st Congress.

With all due respect to their good intentions, in the view of this gentleman, a key consideration is the fact that the Conte amendment would prohibit the EPA from imposing any new sanctions on areas that make no effort to come into compliance during its proposed 8-month period of reprieve.

But that is not all. To make matters worse, under the Conte amendment this prohibition would apply even against those 14 worst case areas for which the EPA has already proposed economic sanctions.

The Murtha amendment, on the other hand, would still permit the EPA to impose sanctions against areas that are not making reasonable efforts to comply. And this is the crux of the matter.

As long as we continue to defer these economic sanctions on the worst offenders little progress will be made to come into compliance. This is a fact supported by the history of this program.

Let me remind my colleagues that extending these sanctions are nothing new. Many areas of the country failed to meet the original deadline set forth by the Clean Air Act of 1970. In the 1977 amendments, Congress extended the attainment deadline until December 31, 1982, and for areas where even reasonable measures would not produce attainment until December 31, 1987.

However, EPA has imposed construction bans in certain areas and in July of this year announced that it would propose bans on construction of major new pollution sources in 14 metropolitan areas because even their revised implementation plans fell far short of reaching compliance in the near future.

The simple fact of the matter is this: The Conte amendment will let these 14 areas of the hook. The Murtha amendment would not.

And what if you buy the contention that this Congress will actually reauthorize the Clean Air Act in 1988?

What if you firmly believe that even though the act's authorization expired in 1981, I repeat, in 1981, that this Congress will in the midst of an election year finally get around to cracking down on violations of these ambient air quality standards?

What can we expect then?

Delays and more delays. We have pending over in the other body a bill which would provide deadline extensions of up to 15 years depending on the severity of the pollution problem.

And, we have a House proposal pending in committee that would give these environmental offenders extensions of up to 10 years.

While both of these measures would require additional control measures, Mr. Chairman, I must view this with a bit of skepticism. If these measures were enacted into law today, I can assure you we will be back here 10 years hence granting nonattainment areas additional extension.

If you are in support of prohibiting the EPA from cracking down on the worst polluting areas, then vote for the Conte amendment.

If you are in support of Congress moving ahead next year with legislation granting additional sanction postponement, then vote for the Conte amendment.

But if you agree with me that it is high time we enforce the existing Clean Air Act, crack down on these worst-case offenders, vote against the Conte amendment and for the Murtha amendment.

The Murtha amendment will put an end to the most flagrant violations of these air quality standards by allowing EPA to move ahead with sanctions in the worst cases thereby forcing compliance with these air quality standards.

This is something that has apparently been lost on my well-meaning friends in the environmental community. I hope it is not lost on my colleagues in the House.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, the moment of truth is here. I doubt if there are any Members in this Chamber who do not express great concern back home about the quality of our environment. But what do they do here in Washington?

I doubt if there are any Members in this House who do not claim to the people back home that in dealing with the crisis in our environment they are part of the solution, rather than perpetuators of the problem.

But what do they do here in Washington? Today in this continuing resolution there is an opportunity to back up words with deeds. Talk is cheap. It is action that counts.

We now have before us two amendments for consideration, one sponsored by the gentleman from Pennsylvania [Mr. MURTHA], and the other by my colleague, the gentleman from Massachusetts [Mr. CONTE]. Both proposals offer an extension of the deadline, Murtha for 21 months, Conte for 8 months.

In an ideal world, I would prefer no extension. Let us get on with cleaning up our air. Let us be tough, apply the pressure. Let us impose sanctions. But this is an imperfect world. We have to deal realistically with the problem. Some extension is simply in the cards. Should it be long term or short term?

The gentleman from Pennsylvania [Mr. MURTHA] proposes long term, taking us into the 101st Congress, delay, put it off, do not add any pressure, do not push; not the gentleman from Massachusetts [Mr. CONTE], he says let us deal with it on the short term, just 8 months from now. He forces us all upon sober reflection to address this critically important, health-sensitive issue in this Congress, in the middle of an election year when the American people are focusing with greater intensity on what we are doing and how we are doing it.

We judge an issue by the support it earns. The list of those who support this is long and distinguished; the League of Women Voters, the National Governors Association, the National League of Cities, the National Association of Counties, the Sierra Club, the National Wildlife Federation, and the list goes on and on.

The American people are concerned about the quality of the air we breathe. They are concerned about this issue. They want us to deal with it and deal with it now. Support CONTE.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in support of the Conte-Waxman amendment to postpone the imposition of economic sanctions against areas that fail to meet ozone and carbon monoxide standards by the end of this year.

The Clean Air Act was not intended to penalize cities that have tried—with good-faith efforts—but failed to meet their requirements under the Clean Air Act.

The 8-month extension in this amendment will give Congress the time it needs to finish the job of reauthorizing the Clean Air Act.

The extension still keeps the heat on the 100th Congress to pass the clean air reauthorization during the 1988 session.

Many communities, including New York City, are working to meet the clean air standards.

The Conte-Waxman amendment will prevent the sanctions from going into effect and prevent totally unnecessary economic disruptions for many American cities.

I urge my colleagues to support this amendment—it is the responsible and reasonable approach.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I rise in support of the Murtha amendment and I urge my colleagues to support it as the realistic approach to addressing an extension to the Clean Air Act.

While most of us agree that an extension of the Clean Air Act beyond its December 31, 1987, deadline is necessary, I believe it is vital that areas continue to work toward achieving their clean air attainment goals during the extension.

A vote for the Murtha amendment is a proenvironmental vote which allows for the Environmental Protection Agency to continue to work with States and areas toward achieving clean air standards. Under its provisions, the EPA would still be permitted to impose sanctions on those areas which are not making good faith efforts toward improving air quality. The Conte amendment, however, provides no pressure for the cities to continue to work toward clean air.

The Murtha amendment allows the proper committee which has been given the task of drafting the Clean Air Act's reauthorization to continue with its work. At the same time, the EPA may continue with its authority to impose sanctions should areas not make good faith efforts toward compliance with the act. With the Murtha amendment in effect, the committee may still act, and it is the committee's responsibility to do so during the next year.

Additionally, the Conte amendment would provide a major step away from the achievements which we have already accomplished toward clean air attainment. That option would impose a moratorium on all sanctions against nonattainment areas for the duration of the extension. This policy strategy, Mr. Chairman, is irresponsible. We must, instead, move forward with plans to achieve clean air.

We can best attain these goals by moving ahead with the current plans and continuing to work within the legislative framework to draft a new clean air bill. The complexity of drafting this legislation and the time involved in reaching a compromise on it promise to be time-consuming. Therefore, the responsible vote toward continuing on the path toward clean air is the Murtha amendment.

I urge a "yes" vote on this proenvironment amendment.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in strong support of the amendment offered by our distinguished colleague from Massachusetts [Mr. CONTE] in the continuing resolution postpones the implementation of Clean Air Act nonattainment sanctions for a period of 8 months. The Conte amendment is clearly superior to the substitute language offered by the gentleman from Pennsylvania [Mr. MURTHA], which would only serve to further the interests of delay and avoidance of the critical problem of air pollution.

Mr. Chairman, the time has long passed for Congress to take decisive action on the Clean Air Act. Unfortunately, despite the best efforts of Members on both sides of this issue we have been unable to overcome the substantial political obstacles which block the effort to achieve a workable compromise on this legislation. Due to the deadlock in the authorizing committee of jurisdiction, we have once again arrived at the point where we are forced to legislate substantial policy decisions on appropriations legislation.

Mr. Chairman, we cannot afford this type of backdoor deliberation on an issue of such grave importance as the quality of the air we breath. It is imperative, therefore, that we deal with this problem in a forthright manner, and we deal with it now. I urge my colleagues not to heed the pleas for any undue delay. While we grant our colleagues on the Energy and Commerce Committee some additional time to negotiate in good faith; let us not allow this issue to drag on beyond the 100th Congress. Accordingly, I urge my colleagues to support the Conte amendment as a more acceptable alternative to the amendment offered by Mr. MURTHA which would effectively allow us to sidestep the issue of air quality for too lengthy a time period.

Mr. MURTHA. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I rise in opposition to both the Conte amendment and the Murtha substitute. I do not believe that either measure is necessary or beneficial to any area of the country. In fact, I'm afraid that the adoption of either could stymie efforts to come up with comprehensive Clean Air Act amendments in this Congress.

Moreover, these amendments are not fair to other communities—particularly small communities—which have had to comply with expensive pollution-control laws, and have not had the benefit of plentiful votes in Congress to bail them out.

I recall that 4 years ago, when this body was voting on the Dannemeyer-Waxman amendment to prevent EPA from imposing sanctions, we were told that adoption of that amendment would give the Congress the additional time it needed to legislate comprehensive amendments. Well, I voted for that amendment, as did a majority of the House. And I think that that was a good vote. In June 1983, we were trying to pick up the pieces of an agency that, under Anne Burford, had gone rogue.

As many of my colleagues will recall, in early 1983, Mrs. Burford took the position that sanctions were mandatory on all areas that had failed to meet the December 31, 1982, air quality deadlines, even if they had undertaken reasonable, good-faith measures to achieve compliance. The Dannemeyer-Waxman amendment was needed in order to tell the new leadership down at EPA that the Congress did not agree with this interpretation of the law. As the gentleman from California [Mr. WAXMAN] said in the debate on that amendment:

> This amendment puts an end to any confusion over Congress' intent in its sanctions program. The amendment merely confirms what everyone, except EPA, at least under the previous regime, knows. Sanctions cannot be imposed on areas that despite good faith efforts failed to meet the air quality standards.

Moreover, with respect to the construction ban in particular, the gentleman commented that it could "only be imposed in areas which have not adopted or carried out air quality plans."

I believe that the Congress was correct in 1983 in indicating to EPA that it should not penalize States that were trying to achieve compliance in good faith.

The message got through too. In November 1983, EPA issued a final rule which adopted the more flexible policy toward sanctions that the Congress had indicated was appropriate.

As we approach the December 31, 1987, deadline for the attainment of ozone and carbon monoxide air quality standards, we again find ourselves presented with last-minute floor amendments to an appropriation bill. We are again told that these amendments will give us the time we need to come up with a comprehensive bill. But today the situation is different.

Today we do not vote on whether or not EPA should demonstrate reasonable flexibility in their application of the law. EPA's interpretation of the law—which was at the core of the 1983 vote—is not at issue here, and is not affected by either the Murtha or Conte amendments.

Today we do not vote on giving relief to communities that have tried, using their best good-faith efforts, to comply with the law, but have failed to attain the standards. Under EPA's recently proposed policy, no sanctions would apply in any community for at least 2 years. Now you may agree or disagree with EPA's proposed policy, but neither the Conte nor the Murtha amendment affects that policy—and if that policy is approved, both of them are essentially pointless.

What we do vote on today is whether we want to continue efforts to develop a comprehensive set of Clean Air Act amendments in this Congress. Members of the Committee on Energy and Commerce have been meeting regularly the last several weeks for informal discussions aimed at trying to come up with Clean Air Act legislation that can achieve the support of most, if not all, of the committee members. I've been attending those meetings, and frankly progress is not coming easily.

Regardless of the outcome of today's votes, I want those efforts to continue. But I do not believe they will—not if either of these amendments passes.

The Murtha amendment would certainly mean the end of any meaningful chances to amend the Clean Air Act in this Congress. Under that amendment, there would be no sense of a need to act until August 31, 1989—and we all know that adoption of the Murtha amendment means that there will not be another vote on the Clean Air Act in the 100th Congress.

If we adopt the Murtha amendment, I believe that our meetings to achieve a consensus clean air bill will come to a quick end. There might be one or two additional meetings—because some of us will try to keep the effort going. But I just don't believe that will continue to get the kind of attendance and participation in these meetings that we have had for the last several weeks.

Many people will agree that adoption of the Murtha amendment would end our hopes of a clean air bill in this Congress, but they think that the Conte amendment will actually improve the chances for legislation. The argument goes that in the pressure of an election year—especially a Presidential year—Congress will have to act. They are wrong.

First, I would point out that the 1984 election year didn't produce a clean air bill, even though one of the arguments made for the Dannemeyer-Waxman amendment in June 1983 was that it would give Congress an additional year to enact legislation.

But more to the point of our present circumstances, I believe that there is a fatal flaw in the assumption that the 1988 campaign will put pressure on Congress to enact legislation. The flaw is that while the campaign will probably put pressure on many Members to enact legislation, it will just as likely put pressure on many others to prevent legislation—no matter how reasonable or necessary that legislation may be.

In the fall of 1988, how many Members from coal-mining districts will be able to vote for such legislation? How many Members from districts that get their electricity from high-sulfur coal-fired powerplants will be able to go home with such a bill? How many Members from districts with auto manufacturing plants, or petroleum refineries, or chemical processing facilities will be able to support a bill, even if it is a reasonable and fair compromise?

I could go on. My point is that if we adopt the Conte amendment, we will be inflaming the kinds of regional antagoisms that have made clean air legislation so difficult for nearly a decade. We will be sending a message to everyone that it's time to go to their corners and prepare to do battle. And when the next crisis comes, in the fall of 1988, we will once again find ourselves in a stalemate—unable to act.

I believe that our only realistic hope of getting a clean air bill is to reduce the tensions, and to continue the ongoing efforts to come up with a consensus bill. If we inflame the issue—which I'm afraid would be the effect of the Conte amendment—I believe that we will have destroyed the chances of legislation in this Congress.

We need to amend the Clean Air Act. We need acid rain legislation. We need a long-term policy for dealing with dirty-air areas. I would like to see us explore the possibility of improving the act in other ways as well. But if this House votes for the Conte or the Murtha amendment today, I doubt that we will see substantive clean air legislation for at least another 2 or 3 years.

Therefore, I echo the view expressed by Mr. Lee Thomas, Administrator of the Environmental Protection Agency in a letter to the chairman of the Committee on Energy and Commerce. Mr. Thomas states:

> My preference would be to work with this Congress to develop legislation . . . to deal with ozone and carbon monoxide nonattainment, rather than consider any extension.

Mr. Thomas does express a preference, which I do not necessarily share, for the Murtha amendment over the Conte amendment. But I believe it is significant that he couches this by stating that he supports the Murtha amendment "if long-term legislation is not possible in the next few months * * *."

I believe that long-term legislation is still a possibility in this Congress, and that we should not do anything to endanger such legislation.

I also believe that these amendments are not fair. I represent a district with a lot of small towns. Four of those small communities in my district were recently ordered by the EPA to install secondary sewage treatment facilities.

Now these communities thought they had two rock solid reasons for not installing secondary treatment. First, there is substantial evidence that secondary treatment is not necessary to protect the quality of their adjacent waters. Second, several years ago, the EPA urged waivers on these communities.

But a couple of years ago, EPA came back and said, "Never mind all that. you now have to install secondary treatment. No, we don't have as much money to help you now as we did when we suggested waivers, but that is not relevant."

In my view, this was a totally irrational application of the law. If these communities were polluting the water, then I would certainly agree that they should install the facilities to stop that pollution. But the evidence is to the contrary. Unfortunately, my protests—as well as those of the communities I represent—fell mostly on deaf ears.

Now we have a couple of amendments before us that, their supporters say, are intended to prevent the EPA from carrying out an irrational application of the clean air law.

Well, I look at the list of communities who would be affected by Clean Air Act sanctions, and I notice that they are mostly big cities.

The fact is that this House is structured on proportional representation, and big cities simply have a greater ability to get institutional focus on inequities in the law than do small communities. I am convinced that if the clean air sanctions were leveled primarily at small communities in this country, we would have no amendment on the floor—let alone two such amendments—and the chances of passing such an amendment would be negligible.

Frankly, I want to use this opportunity to explain to my colleagues not that urban areas deserve no relief from unjust laws, but that they deserve it no more than do small communities. When next small-town America has problems with the irrational application of environmental laws, I would hope that there would be more consideration given to them.

However, while I want to raise this inequity, I am not voting against either of these amendments today out of spite. I am voting against them because I simply think that no extension is needed at this time to deal with these problems of the cities, and because any such extension will interfere with efforts to come up with comprehensive legislation, which is so badly needed.

For this reason then, I ask my colleagues to vote against both the Murtha amendment and the Conte amendment. Instead of pointless stopgap amendments, let's continue the work of developing comprehensive Clean Air Act amendments.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Murtha amendment. Let me state some reasons why I think it is important that we adopt Murtha today, rather than the Conte amendment. The Murtha amendment would protect nonattainment areas for 21 months against nondiscriminatory sanctions, but would allow the EPA to impose sanctions if any areas fail to continue reasonable efforts or progress to meet planning or implementation requirements.

The Conte amendment would protect nonattainment areas against all sanctions for 6 months, even if an area fails to take any steps to improve air quality.

So we have a situation where everything is going to be suspended for a 6-month period of time, with perhaps no progress, versus a situation where we have the ability to go ahead and make plans and move forward and have the EPA involved in a process in which we can make progress on this difficult question.

The Murtha amendment insures this continued progress, and as I said, the Conte amendment temporarily halts this progress.

Also, the Murtha amendment offers a reasonabletime frame in which to accomplish necessary action on clean air issues.

Let us face it, we are not going to be able, given the structure of the Congress in the next year, in an 8-month period of time, to deal with all the difficult issues that we have before us. We are going to need a longer period of time to resolve these issues in a satisfactory way.

I encourage Members to give us that necessary amount of time that is provided under the Murtha amendment.

Third, the Murtha amendment compliments major features of the EPA post-1987 ozone and carbon monoxide policy. The Conte amendment, by providing for a moratorium, hinders this policy.

Finally, the Murtha amendment protects areas against the imposition of court-ordered federally imposed State implementation plans, while the Conte amendment does not.

For these and other reasons that have been stated, I urge my colleagues to support the Murtha amendment and reject the Conte amendment.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I am always reluctant to oppose my colleague and friend, the gentleman from Pennsylvania, but I rise to urge a yes vote on the Conte amendment to the fiscal year 1988 continuing appropriations bill.

My colleague, Mr. CONTE, has clearly and concisely explained the need for his amendment. Therefore, I will not go into the details of his proposal, nor discuss the alternative sanction delay under consideration.

Rather I want to touch on another aspect.

The Clean Air Act of 1970, a measure I cosponsored, required EPA to establish standards for seven air pollutants and set a 1975 deadline for the attainment of the standards. I emphasize the 1975 deadline.

The deadlines were later extended in recognition of the difficulties many cities and counties were experiencing in meeting the standards. The new deadlines were the end of 1982, or the end of 1987 for more polluted areas. Today we are up against the 1987 deadline, and EPA has reported that 76 areas in the Nation may not attain the ozone standard and another 88 areas may not meet the carbon monoxide standard. Moreover, the law provides for economic sanctions against areas which fail to take adequate steps to meet the standards—standards which were established to protect the public's health.

Millions of our constituents continue to be exposed to unhealthy levels of air pollution and it is incumbent upon us to assure you that we will take action against air pollutants. One way to assure them is to vote for the Conte amendment which, while granting a short-term attainment deadline extension, will guarantee that the Congress will be forced to reauthorize the Clean Air Act—a law which was last reauthorized in 1977.

The Conte amendment will provide some necessary relief against the threat of economic sanctions. But at the same time, adoption of the Conte amendment will not forestall the job of reauthorizing the Clean Air Act. The committees with jurisdiction over the Clean Air Act have held numerous hearings since the law's authorization lapsed, and a substantial amount of work has already been accomplished in the 100th Congress. These efforts should be fostered so that an effective reauthorization bill can be signed into law during the 100th Congress.

Too many delays have already occurred in revamping the Clean Air Act. By voting for the Conte amendment, we can assure our constituents that the goals of protecting public health, the environment, and the economy are not mutually exclusive.

We need timely action on urgent air pollution problems. A vote for the Conte amendment is one way to ensure that such action is taken this Congress.

□ 1335

Mr. MURTHA. Mr. Chairman, I yield 2½ minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, since 1973 I have been working on this issue, the date of the first Arab oil boycott. In the late 1970's, in 1978, 1979, even in 1980, I served as a member of the National Alcohol Fuels Commission. It was during that period of time, while a fuel commissioner that I heard expert witnesses testify on the energy issue; experts in the field of energy technology, with that experience I became convinced that the United States has both the technology and the resources to become energy independent. The Commission issued a report in 1980 urging the President and Congress to adopt a national energy policy. Since 1981 nothing has been done to achieve energy independence, in fact, there is no energy policy. However, in 1978, the Nation adopted national air quality standards which put the cities in the dilemma that we face today.

The President and Congress have not well-served the people by ignoring the energy problem.

It is a disgrace that our Nation has no energy policy. It is a disservice that the Government has ignored this commanding national need. However, it is not the cities' fault that they cannot comply. It is the fault of our National Government.

The problem of air pollution will not go away and during the 100th Congress we should establish a national energy policy so that the people of this country could breathe clean air and we would not be dependent upon foreign oil for our energy needs. I will vote against extending the time for compliance to force the Government to accept its responsibility.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time, and I rise to oppose the Murtha substitute.

Mr. Chairman, it is plain that the Murtha substitute is intended to perform one key function, and that is to deny the Members of this 100th Congress the right to vote on the many issues that face us with respect to clean air. Because of the limited time available under the rule, I shall speak of only one of those issues, the acid rain issue.

It is plain that had the Committee on Energy and Commerce in the ordinary course of business brought us a Clean Air Act bill, an amendment to that bill to deal with the acid rain issue would have been in order unless the Committee on Rules had decreed otherwise. Because we are instead being given this end-run around our normal procedures, we are being denied the right to consider issues like acid rain.

I should point out to my colleagues that last year when the acid rain bill was introduced, 171 Members of this House joined in sponsoring it. This is an issue that a large portion of this House wants to deal with and wants to deal with in this Congress.

If the Murtha substitute passes, it will deny us the right to deal with it.

I am very disturbed that the Democratic leadership through the Committee on Rules has put us in this position today where we face the possibility of an extension of the Clean Air Act beyond the expiration of this Congress without an opportunity to vote on the acid rain issue.

If my colleagues want the opportunity as Members of the 100th Congress to work their will on acid rain and on all the other important issues that pertain to the Clean Air Act, the only way to do it is by defeating the Murtha substitute.

I urge all my colleagues to join me in doing just that.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in support of the Murtha amendment to House Joint Resolution 395, the continuing resolution. In speaking in support of the Murtha amendment, I also will speak in opposition to the Conte amendment.

Mr. Chairman, as a member of the Energy and Commerce Committee who has been an active participant in weekly discussions regarding the Clean Air Act for the past months, I can attest to the fact that we have a long way to go toward amending the act. I sincerely believe that most of my colleagues on the committee would agree.

I represent the Houston area. Under current law and the proposals that are under discussion, my city and county—my constituents—would be significantly affected. According to current measurements of air quality, the Houston area is considered in severe shape. Although I may take issue with current measurements, the fact remains that the citizens of Houston and Harris County must have a serious interest in the substance of any legislation regarding the Clean Air Act. I want to be sure that the 3 million citizens in my area have a voice.

Issues under the Clean Air Act are very complex. One of the major reasons we are here today considering a moratorium on mandatory Federal sanctions under the act is because our original understanding of the ozone problem, we seen with hindsight, was evidently poor, if not half-baked. Therefore, the blueprint for the solution to the problem was either inadequate, inappropriate, or downright wrong. I, for one, will not not stand by and consent to building on something so flawed without ample opportunity to reexamine the Clean Air Act afresh.

I support the Murtha amendment which will provide a 19-month moratorium on sanctions and also will provide us with an adequate amount of time to reexamine some of the basics to the satisfaction of at least some of us who have legitimate questions and concerns.

The Conte amendment would do nothing but escalate the hysteria level of the debate to the detriment of reason, rationality, and reality. In 1988 there will be fewer legislative days than usual, making very short time of the 8 months as proposed by Conte. The pressure to act in an election year would preclude the development of a new legislative proposal which truly reflects the deliberations of the Energy and Commerce Committee. I do not want to be shortchanged. Neither do Houstonians.

Moreover, the Environmental Protection Agency has serious concerns that the Conte amendment could, and I quote, "undermine the national policy and, more generally, the development of near-term attainment of SIP's—State implementation plans." Furthermore, Lee Thomas notes that the Conte amendment would "lift sanctions EPA has already imposed." Mr. Thomas correctly states that this would be inappropriate where the State is not now making reasonable efforts to create an adequate plan.

While I may have some quarrel with the Clean Air Act as it presently is written, I reiterate that we should have an adequate amount of time to reexamine the basic issues in an objective fashion and this position works both ways. During this interim period, the status quo of the integrity of the act should be maintained.

Mr. Chairman, again, I state my strong support of the Murtha amendment and even stronger opposition to the Conte amendment. When the vote occurs on the Murtha amendment to the Conte amendment, I urge a "yes" vote.

Mr. Chairman, I include for the RECORD a letter dated December 2, 1987, from Kathryn J. Whitmire, mayor of the city of Houston, TX, and a letter dated November 13, 1987, from the mayor of the city of Fort Worth, TX, Bob Bolen:

OFFICE OF THE MAYOR,
Houston, TX, December 2, 1987.

Hon. JOHN D. DINGELL,
Member of Congress, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: I appreciate your writing to me with regard to the ongoing efforts of members of Congress to amend the Clean Air Act.

I understand there are currently proposals to postpone the implementation of sanctions in order to afford Congress adequate time to address the complex issues associated with new clean air legislation. From the perspective of the City of Houston, we are eager to see the Clean Air Act amended, however, we are also concerned that the changes be thoughtful and realistic and bring forward true opportunities to clean up the air. Recognizing that this may not be feasible within the short amount of time left before December 31, 1987, we are supportive of proposals to forestall the implementation of sanctions and to protect against litigation, for two years. This would be an ideal opportunity to initiate new research on the formation of ozone and methods to reduce ozone.

Your leadership on this issue is greatly appreciated.

Sincerely,

KATHRYN J. WHITMIRE.

THE CITY OF FORT WORTH, TEXAS,
Fort Worth, TX, November 13, 1987.

Hon. HENRY A. WAXMAN,
Chairman, Subcommittee on Health and the Environment, Washington, DC.

DEAR CHAIRMAN WAXMAN: My colleague, Mayor Annette Strauss of Dallas, and I would like to thank you for your work on the Clean Air issue. As we approach the December 31, 1987, deadline for ozone and carbon monoxide attainment and over 300 cities are not in compliance, it becomes apparent that the existing Clean Air program is not working. There is a need for substantial changes to the Clean Air Act and your proposal (HR 3054) is an important step in that direction. We applaud your efforts.

Unfortunately, there is much more to be done before Congress will be ready to pass a comprehensive Clean Air bill. It seems unlikely that Congress will act before the end of the year at which time nonattainment cities will be subject to sanctions. We know that you are considering an interim extension which would place a moratorium on sanctions while Congress develops a more comprehensive solution. We are writing in support of such an extension.

Given that it may be difficult to move Clean Air legislation much further this year and that 1988 is an election year, we believe that a two year extension makes the most sense. Clean Air is an extremely technical and important issue which both deserves and requires careful consideration. Congress should be allowed plenty of time.

There is also the possibility that a nonattainment bill will be unable to make it through Congress without dealing with acid rain. The acid rain issue is technical, divisive and will take a significant amount of time to resolve. It could easily take two years to pass a comprehensive reauthorization of the Clean Air Act. EPA's post-1987 ozone and carbon monoxide policy would ensure that cities continue their Clean Air efforts during that time.

A simple extension which places a moratorium on sanctions would be the best approach. Our concern is that the moratorium be placed on all sanctions, including those that have been proposed by EPA but not finalized. Our particular concern, of course, is the inclusion of Tarrant and Dallas Counties.

EPA has proposed sanctions for Tarrant and Dallas Counties. We are working with the Texas Air Control Board to revise our state implementation plan with the knowledge and guidance of EPA. Our new SIP is a tough, solid plan that will bring us into attainment by the end of 1992. The purpose of sanctions is to encourage cities to meet the requirements of the Clean Air Act, not to punish them. In our case, the proposed sanctions have served finalizing them.

The Sierra Club has notified EPA that it plans to bring a suit against the agency immediately after the deadline. Undoubtedly, there are other citizens and groups that will bring suits directly against cities. It is important that any interim extension protects cities from this type of legal action.

Again, we thank you for your work on the Clean Air issue and support your proposal for an interim extension.

Sincerely,

BOB BOLEN,
Mayor.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time.

I, too, am not comfortable rising against my good friend from Pennsylvania [Mr. MURTHA] because I understand what he is trying to achieve, but let me say that I think we have fooled around far too long on this business of trying to get us a Clean Air Act that means something. I think it is high time that we force Congress to a position of having to act. I think if we are going to deal with acid rain and a lot of other environmental issues, issues that this country faces, we need to get action and we need it now.

The Conte amendment moves us toward that deadline. It assures that this House is going to act on this key environmental issue in the near future, not the distant future.

Mr. Chairman, I urge a vote for the Conte amendment in order that we might solve our environmental problems now and not just talk about them later.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, when I first decided to run for this job, I came up here looking for PAC money. One of the first people I ran into asked me, "aren't you the liberal in that race down there?" "By virtue of what?" I asked. "You've been a big supporter of environmental issues in your legislature," he answered.

"Well," I said, "if that makes me a liberal, put me at the head of the class!"

A vote on Mr. CONTE's amendment will be the most important environmental vote you'll cast this year.

If you're for the environment, you'll vote for it.

If you're against the environment, you'll vote against it.

Stand up and be counted time for the environment is now. The friends of the environment vote for their friends in elections—not for Democrats or Republicans.

Mr. MURTHA. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, this Member serves on the Subcommittee on Health and the Environment of the Committee on Energy and Commerce. It has been my privilege to serve on that subcommittee in my 9 years in the House of Representatives. I can share with my colleagues that the last time our subcommittee took this issue up in detail was in 1982, the 97th Congress.

We came very close to solving many of the problems that are being talked about today. We reached an impasse on a provision relating to the definition of hazardous substances, and that ended a lot of work that had gone into it in the full committee and in the subcommittee.

My reason for mentioning this is very simple: If we were unable to resolve these differences from 1982 to 1987, some 5 years, when we all knew this deadline was coming, by what stretch of the imagination do we believe that we are going to be able to solve them within the next 8 months?

It is just not going to happen. That is why I am supporting the Murtha amendment, a 21-month extension, because I think it is the rational step to take.

In my home area of southern California, it is estimated that we would have to place roughly half of the automobiles up on blocks, and probably we would not even achieve attainment then. Some people in southern California think that is a pretty good idea, because it would then leave more room for the rest of us to drive the freeways of that area, but we should not have a law that imposes ridiculous conditions and that is why I support the Murtha amendment.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding me this time. In my former life in the State Legislature of California I had the questionable privilege of being the chairman of a standing committee on air quality. In that process I authored much of the legislation that involved the efforts whereby we attempted to provide for clean air in that area of the country that is most impacted by the difficulties of auto emissions as well as industrial emissions.

It is very important for this House to recognize that reauthorization of the Clean Air Act is long overdue. The progress that we have made in the past has only been made because of the effective pressure of the Clean Air Act on the process.

Nobody wants to face sanctions. We are going to have some extension but to suggest that out of sight and out of mind is good enough for clean air is to ignore the serious necessity for attention to this problem.

The Congress will ignore it until we take it to the crunch.

The suggestion of the gentleman from Massachusetts [Mr. CONTE] is to provide for some extension but to keep the pressure on the process. It is interesting to note who has opposed the movement of the Waxman legislation proposed for reauthorization, a bill which I cosponsored. In opposition to that bill are primarily Detroit and major industries such as oil. Those people do not want to keep the pressure on.

At this moment those who are strongly supporting the Conte amendment involve the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the State of California including the Governor, the South Coast Air Quality Management District, and those people who have to face the tough decisions if we are going to get a handle on this very difficult and critical health problem.

I urge those of my colleagues who are concerned about clean air and good health for our people, to support the Conte amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for his statement and join him in his support of the Conte amendment and join him in opposition to the Murtha amendment.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I rise in support of the Murtha amendment.

I am particularly pleased with the fact that this amendment is evenhanded. On the one hand, it prevents for a limited time the imposition by the Environmental Protection Agency or the courts of draconian sanctions that do not really achieve clean air. On the other hand, it provides clear notice to all cities that they cannot delay efforts to achieve the ozone and carbon monoxide national ambient air quality standards. If they do, the Environmental Protection Agency Administrator retains discretionary powers to impose appropriate sanctions by rule where the cities demonstrate a lack of "reasonable good faith efforts." That balance—which is lacking in the Conte amendment—is fair and reasonable and most importantly, environmentally sound. Clean air, not forgiveness is the obvious objective. I applaud Congressman MURTHA.

It is also notable that the Murtha amendment, unlike Conte, does not repeal sanctions issued in 1979, 1980, 1981, 1985, and 1986 in six States. To my knowledge, the cities and States have not asked for this forgiveness. There is no need for it.

Indeed, in its December 1 letter to Members, the National Clean Air Coalition said "we disagree with the provision in the Conte amendment that would lift previously imposed sanctions." I share that disagreement. It alone is cause to oppose the Conte amendment and support Murtha. I cannot imagine why the coalition does not oppose the Conte amendment for that reason alone.

Given the legislative situation of permanent Clean Air Act changes now in both Houses of Congress, I think it is reasonable to assume that final enactment is not likely in 8 months. Unquestionably, the governors and the mayors would be back in 8 months—just before the Republican Convention—for a new extension. I see no reason for Congress to have to address the matter twice or more in the 100th Congress. Twenty-one months from November 1, 1987, is not overly long. It barely extends into the 101st Congress. It gives us time to enact a permanent law.

I urge support for the Murtha amendment and rejection of the Conte amendment. No extension is preferable to 8 months.

□ 1350

Mr. CONTE. Mr. Chairman, I yield 30 seconds to my dearly beloved friend, the gentlewoman from Hartford, CT [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of the Conte amendment to provide for an 8-month extension of the deadline for those areas of the country not in compliance with the standards mandated by the Clean Air Act. This amendment, while providing some relief for nonattainment cities, will keep us on track and not delay the enormous task this Congress has before it to amend the Clean Air Act.

Many of us have been firmly committed to cleaning up our air and providing for a healthier environment for our children and our future. As a Member from the Northeast, I know the magnitude of this threat to our health but sometimes I wonder how much Congress wants to confront this problem which lies so clearly in front of us, around us, and on top of us.

I was concerned, for example, to hear recently that an air quality report showed that exposure to unhealthy levels of smog in the Northeast continues to be a very serious public health problem. Smog, as we all know is not limited to the Northeast but is invasive throughout the country. But the clear message from reports such as this is that the standards in place are not stringent enough to make substantial reductions in the elements that plague our air.

The time to act is now. Now, before it gets much worse and not after the longer extension proposed by our colleague from Pennsylvania. We should use this opportunity to make a statement about our dedication and concern for providing clean air for future generations. By waiting a year and a half we are allowing the dirty air to continue to permeate our breathing space and suffocate our intentions to pass legislation to take care of this problem once and for all.

Everyone talks about the weather, but no one does anything about it. This is the oldest cliche in the book. Unfortunately, it is true when we are talking about dirty air. It's high time we stopped talking and started doing something. I urge my colleagues to support the short-term extension and show they are serious about getting down to business on clean air.

Mr. CONTE. Mr. Chairman, I yield 30 seconds to my good friend, the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Chairman, the Murtha amendment is an attempt to rain on responsible environmental legislation.

If we are going to get any effective action on the issue of acid rain and on the many other issues which surround clean air, we cannot possibly do it if we pass the Murtha amendment. The only way we can do it is if we pass the Conte amendment.

I strongly support the Conte amendment, and hope that the rest of the Congress will join me and the gentleman from Massachusetts [Mr. CONTE] in passing this responsible piece of legislation.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is the decade of the deficit: trade imbalances and budget shortfalls, consumer loans and corporate debts. But there is another deficit that dogs us. It is called dirty air. And like our pattern of action or inaction on deficits, Congress' pattern on clean air has been to delay, to extend and extend again. And like our failure to confront the fiscal deficit, our inability to bite the bullet on dirty air will lead only to bigger costs later on. More Americans will suffer heart and lung disease, more streams and lakes will be lost, more forests and farmlands ruined. As with the deficit our children will pay for what we failed to do.

Today we have the opportunity to choose action over inaction, clean air over dirty air. Like our actions on the budget deficit, the American people will today have a chance to take our measure, to judge our courage, our competence and our determination.

It is time to stand up for clean air. Vote against the Murtha amendment to delay clean air deadlines for almost 2 years, almost a full term of Congress, and vote for the Conte amendment to protect American cities from economic sanctions for 8 months while we craft clean air legislation in the 100th Congress.

Ms. SNOWE. Mr. Chairman, I rise in support of the amendment offered by my friend, the gentleman from Massachusetts.

While this amendment is directly addressed to the critical question of the air quality standards deadline, there is a greater issue at stake as well. It will, I hope, push the 100th Congress to tackle one of our greatest environmental priorities: reauthorizing the Clean Air Act, and to finally take action on acid rain, airborne toxics, and other well-recognized national environmental hazards.

There is no sensible reason to delay action on clean air any further. We know that acid rain is doing permanent damage to forests, and thousands of lakes in this country. We know that millions of residents in our major cities suffer immeasurably from the effects of smog. And we know that our constituents want and have every right to expect decisive action from this Congress.

We are halfway into this session of Congress, and we are once again finding every reason in the book to delay a basic national mandate to clean up the air Americans breathe. Can it be that we are addressing in a responsible, concerted fashion, one of the most serious environmental issues of this century?

For 5 years we have seen nothing but delay and inaction from this body, and this is nothing short of a national disgrace. We now have a December 31 Federal deadline imposed many years ago on urban and rural areas to achieve a curtailment of carbon monoxide and ozone pollutants. Let's not push this off beyond this Congress, or find reason to push off, once again, our major environmental concerns about air pollution.

I urge adoption of this amendment to help compel action and floor consideration by next summer on legislation to reauthorize and strengthen the Clean Air Act.

Mr. DREIER of California. Mr. Chairman, over 400 cities, including many in my congressional district in Los Angeles County, are unable to meet air quality standards and will face economic sanctions at the end of the year. Obviously, Congress will be unable to complete action on a substantive rewrite of the Clean Air Act by the time sanctions take effect. As a result, I support the Conte amendment, which would delay the imposition of economic sanction until August 31, 1988.

Many of the cities, like Los Angeles, have made reasonable, but unsuccessful efforts to meet air quality standards, and economic sanctions at this time would be counterproductive. The Los Angeles basin, for instance, is not in compliance with four of the six pollutants regulated under the Clean Air Act. The ozone levels there are up to three times the national standard, and carbon monoxide is twice the national standard.

Local air quality officials have been successful in recent years in drastically reducing the level of these pollutants, but the problem is becoming more difficult because of tremendous population growth. The population of the region is expected to increase by 5 million new residents over the next 20 years. As a result, attainment will require an aggressive pollution reduction program, with leadership from Congress and the EPA.

An 8-month extension would give Congress sufficient time to complete a Clean Air Act reauthorization, and provide the necessary encouragement for cities such as Los Angeles to make continued successful efforts to attain national air quality standards. However, I share the view of my colleague from Massachusetts that 8 months is long enough. The longer period proposed in the Murtha substitute would relieve many State and local health officials from their responsibility to clean up unhealthy air. In addition, it would prolong uncertainty about our commitment to improve our Nation's air quality and protect public health.

Mr. Chairman, the Conte amendment is supported by most environmental groups, as well as the State of California, Los Angeles County, the Southern California Association of Cities [SCAG], and the South Coast Air Quality Management District [SCAQMD]. It has my support as well.

Mr. KOLBE. Mr. Chairman, I'd like to express my support for the Conte amendment to delay sanctions for 8 months on cities found to be in nonattainment for ozone and carbon monoxide. The largest cities in my State, Phoenix and Tucson, are having clean air problems, and no one wants to see sanctions imposed on them. But even these cities recognize the importance of keeping our feet to the fire. We're very close to reaching agreement on plans to attain the clean air standards. There are some drastic measures being discussed as well. Not everybody's going to be happy with what has to be done. But with the Conte amendment, Phoenix and Tucson feel confident that they can get their plans accepted, and start to make real headway against their pollution problems.

Congress has some difficult work ahead on the clean air amendments, and I plan to be an active participant in that effort. If we wait for the next Congress to address the issue, we muddle the clean air issue in this Congress. I've got some concerns about the direction we're taking in this Congress, but that's no excuse to delay consideration until 1989.

For my State of Arizona, the Conte amendment reflects our needs. Arizonan's don't abide dirty air. We used to be a sanctuary because of our air quality. In many parts of the State, that's still true. But our cities have been the victims of their own success. Now, however, the citizens of my State are beginning to realize that there are some sacrifices you don't have to make. We don't have to accept dirty air just because we're prospering.

The Conte amendment is the best choice for Congress right now. This will make the work that much harder for us in 1988. But that's work we need to do.

Mr. HALL of Texas. Mr. Chairman, I must vote against the amendments being proposed to postpone the actions required of the Environmental Protection Agency under the Clean Air Act to deal with those areas which could not or would not attain the air quality set forth in the Clean Air Act.

The amendments offered today to prevent the EPA from exercising the law and imposing the sanctions necessary to deal with those areas appears to me to be unnecessary.

The EPA says it will take them some months to actually impose the construction ban and it is only required on the construction that would greatly increase air pollution—not on our residential and small industry.

The Committee on Energy and Commerce has been working for months to reauthorize the Clean Air Act and we want to continue this effort.

A long-term moratorium on the sanctions has been interpreted as bringing our efforts to a halt. As I have stated, I believe something reasonable and prudent can be worked out and I want to keep that effort going.

Having met frequently with my constituents on the need for further refining of our clean air laws, it gives me a great deal of difficulty to be asked to support efforts to delay this issue. For Congress to say they cannot address these issues is unacceptable to many of my constituents. I have pledged to them to work for legislation that is not punitive to my State nor the industries whose jobs we need in these economic times. The Conte amendment unfairly punishes my State financially. The Murtha amendment takes us away from continued negotiations.

The short term postpones sanctions where States have not even submitted adequate plans for meeting the standards. EPA should not be prevented from enforcing these sanctions.

A truly environmental vote and a true probusiness vote is a "no" vote on both the Conte and Murtha amendments and a pledge to keep working on reauthorizing the Clean Air Act.

The sanctions are not immediate on January 1, but EPA would have the authority to continue working toward clean air goals we have set for them. A "no" vote on both amendments keeps us at the negotiating table.

Mr. GALLO. Mr. Chairman, I rise today in support of the Conte-Waxman amendment to extend the existing Clean Air Act attainment deadline 8 months.

It is important to realize that an 8-month extension will provide ample opportunity for Congress to complete a comprehensive revision of the Clean Air Act. The Conte-Waxman amendment will ensure that the issue of strong clean air legislation will be addressed during the 100th Congress.

The Clean Air Act that was enacted in 1970 and revised in 1977 required States to develop and implement plans specifying measures to reduce pollution to Federal air quality standards by the end of 1982. Extensions through the end of 1987 were available for States with serious ozone and carbon monoxide problems. Most of the more than 60 urban areas that are expected to be in violation after the December 31, 1987, deadline have made good-faith efforts to comply.

The 21-month extension proposed by my colleague from Pennsylvania, Congressman MURTHA, will remove the sense of urgency inherent in establishing long-term guidelines for preserving the quality of the air we breathe. We have repeatedly postponed compliance dates and delayed consideration of a comprehensive and workable Clean Air Act.

The Conte-Waxman amendment enjoys the support of numerous environmental, labor, and health organizations. The health and well-being of millions of Americans are riding on the establishment of permanent pollution control measures.

The Conte-Waxman amendment is a necessary step in our efforts to develop comprehensive legislation to decrease acid rain, smog, and airborne toxins in urban areas, protect our ozone layer, and preserve overall air quality for future generations.

Mr. KOSTMAYER. Mr. Chairman, today the House will vote on the most important environmental issue facing the 100th Congress—clean air.

Opponents of the Clean Air Act and opponents of strong enforcement of that landmark law, seek today to delay for nearly 2 years the imposition of mandatory Federal sanctions on areas which fail to attain the National Ambient Air Quality Standards [NAAQS] for ozone and carbon monoxide.

The House is faced with two options: the Murtha amendment which would dely implementation of the Clean Air Act for nearly 2 years and the Conte amendment which would extend the deadline for 8 months.

I support the Conte amendment and believe it may be the most important clean air vote we will have this year because it will set the course for further congressional action on this very important issue.

The health of approximately 100 million people is at stake on this vote. Over 70 areas around the country have been identified as failing to meet the NAAQS standards. Several cities face a construction ban and restriction on highway, air, and sewage treatment grants. No one wants to see that happen.

But if we delay sanctions for 21 months, we reward those areas which have delayed adopting plans to clean their air and delayed adopting plans to bring themselves into compliance with the Clean Air Act.

If we adopt this amendment we are essentially saying, "We can't have highways and clean air. We can't have industry and clean air." That's not true. Cars and clean air are not incompatible. Factories and clean air are not incompatible.

The Clean Air Act must be enforced and in fact strenghtened if we are to effectively address the very pressing health and environmental problems caused by acid rain, by high levels of ozone and by carbon monoxide and airbone toxics. The defeat of this amendment will demonstrate our commitment to clean air. I urge my colleagues to defeat the Murtha amendment.

The CHAIRMAN. The Chair would like to inform the Members that as the offeror of the original amendment, the gentleman from Massachusetts [Mr. CONTE] shall be permitted to close the debate.

Mr. MURTHA. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, environmental issues ought to be the concern of every American. As benefactors of abundant resources, Americans have an obligation to protect these precious natural resources for our children and grandchildren. All too often our technological achievements surpass our ecological advancements. We in private enterprise and government share the responsibility for protecting our land, air, and water from human abuse.

However, there comes a point when it is worthless to pour more dollars into an environmental protection program which yields scant beneficial results. Proponents of tightening up the Clean Air Act and imposing harsh, unrealistic penalties are totally ignoring this fact. Time after time, the environmentalists force government and business to buckle under to their demands. These demands often require ever stricter pollution standards that are exceedingly costly to comply with if not unattainable altogether. Houston, for example, is having a horrendous time wrestling the ozone pollution problem. Dallas Evans, chief of the Houston Air Quality Control Bureau stated:

> We have done everything EPA told us to do to control the sources of ozone, but we are not going to get there. Not this year, not next, and maybe ever.

Because of its geographical proximity, Houston may never be able to come into compliance.

Another problem is centered around the demands set out by EPA. In many instances, the demands are within reach only by the large multinational companies that have the technology and capital resources to appropriate or divert to such ends. The small or medium business often finds these environmental demands crippling or even bankrupting. Yet, the environmentalist would state that this is simply a necessary byproduct of environmental protection.

Many of the demands made by the environmentalists are not only unattainable by many companies, but do not result in any appreciable increase in environmental quality.

You will be interested to know that there are studies that suggest that the ozone problem is much less serious than generally thought. Researchers at the American Petroleum Institute here in Washington analyzed the scope of the ozone nonattainment problem using EPA data. The study was critical of EPA's method of measuring attainment.

The EPA's method of determining noncompliance ignores the fact that the ozone levels in nonattainment areas meet the standard most of the time. A much different picture emerges if average readings from all the monitors in an area are examined. In other words, EPA should look at the exposure levels for the vast majority of the citizens in this area.

Mr. Chairman, I have a table that I will submit for the RECORD later. The table shows—with exception of the Los Angles area—that by using an average of all monitor readings in an area, the out-of-compliance cities shown are actually within the ozone standard 99.47 percent of the time or better. The well known purity standard for Ivory soap is only 99 and 44/100 percent pure!

We all recognize areas of concern in the environment that need to be dealt with. Yet, often the environmentalists require action in areas where there is little room for improvement under existing technology and concurrently ignore the benefits gained by focusing on other areas where less costly improvements could be made.

What about costs? What will the environmentalists policy cost American businesses? Our global competitiveness is being destroyed by unnecessary, wasteful, and foolish demands. Every time we increase the costs of doing business through environmental requirements, we further lessen our competitive ability. Reduced competitiveness is a virus that spreads quickly throughout an otherwise healthy economy.

The Murtha amendment offers us an avenue that we can use to act responsibly while continuing efforts to protect our businesses and economy from unrealistic, anticompetitive demands. I urge the adoption of the Murtha amendment. Give us time to work a commonsense bill.

Mr. CONTE. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I rise in favor of the Conte amendment and against the Murtha amendment.

This is a continuing resolution. Its intent is to straighten out our appropriations process, and where necessary to extend programs a sufficient length of time to allow the appropriate authorizing committees to take action, and then to allow this body to work its will.

The Conte amendment allows this process to go in a normal fashion. The Murtha amendment is a gross violation of this continuing resolution function. The Murtha amendment would effectively prevent for 21 months the appropriate committee from taking action, and this body to do what must be done to maintain and improve our air quality standards.

We deserve the opportunity, we need that opportunity. If we pass the Murtha amendment, we may just as well throw the Clean Air Act in the garbage can and admit Congress is no longer concerned about the health and environmental impacts of air pollution.

I have always believed positive action should be rewarded. The Murtha amendment sets it backward. It rewards inaction.

First of all, it rewards the inaction of those regions of the country that have ignored the

Clean Air Act. Even worse, it encourages them to continue to ignore the act. It would effectively remove any incentives to comply with the act by removing the threat of punative sanctions for all but the very worst violators.

Second, it rewards the inaction of the Energy and Commerce Committee. This amendment would take all heat off the committee to address clean air issues in the 100th Congress. And don't be fooled by claims that more time is needed to carefully consider such complex clean air issues. Legislation to address the acid rain problem passed the subcommittee on March 12, 1986. So we've had 18 months to consider the bill that was carefully crafted by the Environment Subcommittee. And the full Senate Environment Committee reported out a comprehensive clean air package over a month ago.

Finally, this amendment would reward the EPA for ignoring congressional intent on the Clean Air Act sanctions. By postponing sanctions for 2 years, it would take the heat off EPA to sanction nonattainment areas.

Granted, the recently announced EPA policy is disastrously inadequate and, in my opinion, ignores not only the spirit but the letter of the law. But I believe that legal action against EPA will be successful and EPA will be required to take strong action. Of course, passage of this 2-year delay would prevent any challenges to EPA's policy of inaction and delay.

Make no mistake about it. The Murtha amendment guts the Clean Air Act. I urge a "no" vote on the Murtha amendment.

I am very concerned that any delay in the imposition of sanctions will further undermine the effectiveness of our environmental laws. In many environmental protection statutes, from Superfund to the Clean Water Act, EPA has repeatedly let deadlines slide. As a result, businesses, States, and local governments have come to regard the EPA sanctions and penalties as paper tigers.

The situation we find ourselves in with Clean Air Act compliance fits this pattern perfectly. Congress already granted a reprieve on sanctions back in 1982. But during these last several years, the overwhelming majority of air quality regions have taken few, if any, good-faith steps to attain compliance. In fact, so blatant is the disregard for the Clean Air Act, some areas still do not even have approved State implementation plans filed with the EPA.

Given my opposition to further delays in sanctions, it is with some reluctance that I am supporting the Conte amendment. The Conte amendment would postpone sanctions for 8 months, even though some of the cities getting a reprieve have blatantly ignored the Clean Air Act.

However, past EPA performance has convinced me that we cannot count on the EPA to apply sanctions as the law requires. And legal challenges to EPA policy, which I think would be successful, could drag on longer than the delay proposed in the Conte amendment.

Some Members argue that it is unfair to impose sanctions across the board because some cities have made good-faith efforts while others have been uncooperative. I agree. Legislation is pending in the Energy and Commerce Committee that would address these issues. But the committee is afraid to consider a range of other pressing changes needed in the Clean Air Act, such as legislation I have been pushing since 1983 to control emissions of pollutants responsible for acid rain. The committee leadership knows that supporters of acid rain controls have the votes to pass a bill.

The fact that we are even considering an extension of the deadlines on the continuing resolution is disturbing. It sends a signal to the authorizing committees that they can avoid making tough decisions and count on the Appropriations Committee to bail them out. This procedure also allows the leadership of the Energy and Commerce Committee to limit debate. An hour of debate on what might be the most important environmental vote of the 100th Congress is ridiculous.

One hundred and eighty-three Members wrote to Chairman DINGELL urging action on clean air during the 100th Congress. This procedure, and the Murtha amendment which is made in order under it, runs roughshod over these Members. It ignores the fact that in the 99th Congress we had a bipartisan acid rain bill with 172 cosponsors. Members of all political philosophies and regions threw their support behind this approach, which gained approval of the Environment Subcommittee on May 20, 1986. But the debate went no further. The full committee never even took up the bill, which was cosponsored by 40 percent of the Members of the House.

This year, the case for House action on acid rain is even stronger. The Senate Environment Committee reported out a comprehensive Clean Air Act overhaul on October 22, 1987. This was not some hastily conceived bill. It was the product of 5 months of hearings and numerous markup sessions. And it received wide bipartisan support within the committee.

I urge the defeat of the Murtha amendment. Let's send a message to the Energy and Commerce Committee, and to the American people, that Congress will not abandon its commitment to clean air.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Chairman, we can debate whether we should extend the deadlines at all, or for how long and for who but the point of all of this is to give Congress adequate time to reach agreement on revisions in the Clean Air Act which will bring ozone and carbon monoxide nonattainment areas into compliance with the law. I do not see the point in forcing this body to come back and vote on this issue again next year at the peak of the campaign season after the breaks for the Presidential conventions and the summer recess with the adjournment date looming dead ahead. As evidenced by the debate today, this is a highly divisive issue which will not be done justice if we set outselves up to act hastily next year.

Each one of us supports doing something about the ozone problem and other Clean Air Act issues. Over the last 6 months, the Energy and Commerce Committee has met informally on a regular schedule to seek out the basis for an agreement on the Clean Air Act issues. We have seen progress in these discussions and believe that this forum is the one most likely to produce an agreement that this Congress can support. This process is hindered not helped by imposing unrealistic time constraints on the orchestration of what must be a carefully balanced agreement on ozone, carbon monoxide, and other air pollutants. For that reason, I believe the longer extension offered by the gentleman from Pennsylvania is preferable.

I must also emphasize that an extension of any length of time does nothing to preclude our forging ahead with efforts to reach an agreement. I believe my colleagues already know that I am committed to the process which we have begun in the Energy and Commerce Committee and I fully expect that process to continue in full vigor without regard to today's proceedings.

EXISTING EPA SANCTIONS

A vote to extend the deadline to 1989 is not a vote to do nothing for the environment for 2 years. With the Murtha amendment, sanctions already implemented will remain in place.

The EPA will have the discretion to impose sanctions in areas that fail to make good-faith efforts to clean up the air, thus ensuring continued progress on air quality.

If we adopt the Murtha amendment the Federal Government will continue to apply pressure to nonattainment areas. The EPA has already indicated that it will begin the process of demanding upgrades in the pollution control programs of other areas and will immediately start the clock on an air pollution 15-percent reduction due in 1993. On the other hand, a vote to extend the deadline for 8 months would likely preclude States from taking any further action with their pollution control plans pending further congressional action.

The Murtha amendment allows adequate time for the informal discussions now underway to bear fruit and allows the EPA to apply pressure to cities currently out of attainment. I believe the Murtha amendment deserves our support. I yield back the balance of my time.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise today in opposition to the Murtha amendment, and in support of the Conte amendment before the House today.

Mr. Chairman, a vote for this Murtha amendment is a vote for delay, inaction, and procrastination on the urgent problem of air pollution in our country. This Murtha amendment now before us, by delaying the imposition of sanctions for 21 months, would effectively remove all pressure to act on clean air legislation in the 100th Congress. Urban areas not meeting Federal smog standards would be reluctant to implement needed control measures because of the lack of imminent sanctions and the uncertainty about possible Federal control measures.

By delaying congressional action on the Clean Air Act until mid 1989, we will be sentencing local governments to uncertainty about measures they need to take to come into compliance with Federal standards. Furthermore, we will be condemning millions of Americans to breathe unhealthy air for 2 more years.

Mr. Chairman, I think it is important to consider that State and local governments are opposed to this amendment. St. Paul, MN, in my congressional district will be out of attainment for carbon monoxide, yet the city is opposed to the long-term extension. The director of the Minnesota Pollution Control Agency expressed strong opposition to a long-term extension because it would "undermine efforts to reduce carbon monoxide to acceptable health limits throughout the Twin Cities area." I am aware of no municipal association which has endorsed the long-term extension. On the other hand, the Conte short-term extension has been endorsed by the National League of Cities, the National Governors' Association, the National Association of Counties and the National Conference of State Legislatures. We cannot overlook the strong message being sent by our fellow elected officials on the State and local level.

Mr. Chairman, we are told a long-term extension is necessary because an election year is a bad time to consider major amendments to this important law. Unfortunately, Congress does not have the luxury of being able to pick a convenient time to consider such an important issue as the quality of the air we breathe. We do not put off consideration of other controversial issues simply because they all happen to coincide with an election. Furthermore the wholesale rulemaking power and rulemaking to the EPA Administrator will seriously undermine the Clean Air Act. It is buck passing to an EPA Administrator, Mr. Thomas, who has demonstrated no capacity to address this issue.

Mr. Chairman, progress is being made on comprehensive legislation to address air pollution problems. The momentum for clean air legislation must not be derailed by a long-term extension which would take all pressure off of Congress to act in the 100th Congress.

I urge my colleagues to reject this amendment and support the Conte amendment which provides short-term deadline extension. A short-term extension, while providing relief to cities, also keeps pressure on Congress to pass legislation in 1988. The Conte compromise is an appropriate response-permitting democracy to work at the national level and decisions to be made in the 100th Congress. Lets make the 100th Congress a Congress that works! That works for clean air and the environment.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. Miller].

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the Conte amendment and in opposition to the Murtha amendment to the continuing resolution. I urge that we use this vote to send a clear message to American public and to the key committees which have jurisdiction over the Clean Air Act that the time for action has arrived. The Conte amendment is a second best option. The best option would have been to have a Clean Air Act before us this year.

Clean air is a national priority and deserves the attention of Congress this session. If we adopt the Murtha amendment we postpone facing the issue for 2 more years. Two more years of delay. Two more years before we face up to our national responsibility to address this crucial issue.

I understand that after December 31, over 60 metropolitan areas encompassing hundreds of counties and cities will not meet clean air standards including the city of Seattle. The issue of how to treat these cities should be addressed in a new Clean Air Act, not in an amendment to the continuing resolution.

My colleague, Congressman Conte, has proposed an 8-month delay in implementation of sanctions for areas which do not comply with clean air standards. This has been supported by many of the national environmental organizations and keeps the pressure on for us to act this session on this crucial issue. This is an acceptable option, but it is not the preferred option. Mr. Chairman, I strongly urge the Committee on Energy and Commerce to get off the dime. To move a Clean Air Act to the floor as soon as possible.

Mr. Chairman, we are considering an act today, this continuing resolution, which should have been passed before the fiscal year started last October 1. If we adopt the Murtha amendment we are sending still another signal to the American public that Congress does not want to face the tough issues. Let's tell the American people that Congress can face up to the challenge of clean air and pass the Conte amendment today and a Clean Air Act next year.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Dingell] to close the debate on our side.

Mr. DINGELL. Mr. Chairman, there is a great deal of misunderstanding of the Murtha amendment. The statement has been made that it would preclude the Congress from considering the issue of clear air legislation in the 100th Congress. That is either knowingly or unknowingly false.

The hard fact of the matter is the chairman of the subcommittee has full authority to program legislation at any time he considers it appropriate in his subcommittee. In fact acid rain, nonattainment, incinerator, and Outer Continental Shelf legislation was introduced last summer and hearings have been held.

I rise in strong support of the Murtha amendment, and I rise in strong opposition to the Conte amendment. There are some hard facts that have to be considered.

The Murtha amendment permits EPA to continue to place pressure upon nonattainment areas not engaged in good faith in a cleanup of air pollution problems during the interim period established by Murtha. The Conte amendment does not. If my colleagues want an environmentally sound proposal endorsed by EPA, then they will support the Murtha amendment. Even the National Clean Air Coalition criticized the anticlean air provisions of the Conte amendment.

The Conte amendment changes existing law. It says the EPA shall set up designations for nonattainment. Murtha does not.

If my colleagues want to throw some dice on how their area would be affected, then this is a fine way to do so, because they might find that their area will suddenly become a nonattainment area at the end of 8 months, just before the national political conventions when Members will be incapable of addressing the matter on the floor of the House or in the committee.

The EPA opposes the Conte amendment. The U.S. Conference of Mayors supports the Murtha amendment, as does EPA. Labor and the chamber of commerce all support the Murtha amendment. Mayor Whitmire of Houston in a letter I received today urged a 2-year extension.

I would urge my colleagues to vote to give the Congress and to give the committee long enough to address this question. We are trying to do so through informal discussions that have been helpful and will continue next week.

The issue of delay and prevention of this matter being considered in the committee is a red herring of the purest sort.

The Murtha amendment states right at the beginning:

> **Interim Extension of Ozone and Carbon Monoxide Attainment Deadline to Prevent Sanctions Pending Consideration and Enactment of Permanent Clean Air Act Amendments.**

The very objective of the distinguished gentleman from Pennsylvania is to help the legislative process move, while preventing the imposition of sanctions that do not improve air quality.

Let me stress that the Conte amendments make a significant change in the Clean Air Act. It says:

> (b) EVALUATIONS AND DESIGNATIONS.—Prior to August 31, 1988, the Administrator shall evaluate quality data and make determinations with respect to the degree to which areas throughout the Nation have attained, or failed to attain, either or both of the standards referred to in subsection (a) and shall designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

The provision directs EPA to make by next August new designation of nonattainment. This could expose cities like Houston, New York, Boston, Atlanta, St. Louis, and others to new planning and sanctions. The continuing resolution is no place to make permanent changes, direct or indirect, to the Clean Air Act.

Murtha gives EPA discretion to require cities to make reasonable good-faith efforts toward attainment so as not to halt the Clean Air Program. Conte would stagnate the Clean Air Program.

Murtha does not wipe out sanctions imposed before 1987.

The letter of Mayor Whitmire follows:

OFFICE OF THE MAYOR,
Houston, TX, December 2, 1987.
Hon. JOHN D. DINGELL,
Member of Congress,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN DINGELL: I appreciate your writing to me with regard to the ongoing efforts of members of Congress to amend the Clean Air Act.

I understand there are currently proposals to postpone the implementation of sanctions in order to afford Congress adequate time to address the complex issues associated with new clean air legislation. From the perspective of the City of Houston, we are eager to see the Clean Air Act amended, however, we are also concerned that the changes be thoughtful and realistic and bring forward true opportunities to clean up the air. Recognizing that this may not be feasible within the short amount of time left before December 31, 1987, we are supportive of proposals to forestall the implementation of sanctions and to protect against litigation, for two years. This would be an ideal opportunity to initiate new research on the formation of ozone and methods to reduce ozone.

Your leadership on this issue is greatly appreciated.

Sincerely,
KATHRYN J. WHITMIRE.

Mr. Chairman, I urge a "yes" vote on the Murtha amendment.

Mr. CONTE. Mr. Chairman, I yield myself the balance of my time.

Mr. MARTIN of New York. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from the Adirondacks in New York.

Mr. MARTIN of New York. Mr. Chairman, I rise in total support of the Conte amendment and in opposition to the Murtha amendment.

It is now 6 years and 11 months since I came to Congress and in that time the Democrat leadership of this House has frustrated every attempt we have made in good faith to bring clean air legislation, particularly with respect to the issue of acid rain, to the floor. We are not even asking for the Democrat leadership's help in passing the bill. Just give us the opportunity, in an arguably democratic forum, to debate the issue. The continuing resolution may not be the best place to do so but if not here, then where? The Democrat leadership denies us the opportunity and right to even discuss this on the floor.

We must keep the pressure on for the Democrat leadership to stop their stalling tactics and permit congressional action on these important issues. We must proceed with the vital task of cleaning our Nation's air.

I thank the gentleman from Massachusetts [Mr. CONTE] for yielding to me. His amendment is appropriate and he, himself, is a work of art.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I rise in support of the Conte amendment and opposed to the Murtha-Dingell amendment.

Although it is always difficult to oppose a powerful committee chairman, particularly the gentleman from Michigan, the chairman of the Energy and Commerce Committee, I am compelled to do so to protect this Nation's health and environment.

In September, I joined 184 of my colleagues in sending a letter to Chairman DINGELL voicing concern over the future of the Clean Air Act. Congress had made a promise to the American people to protect and enhance the quality of the Nation's air—a promise that would be broken if we were to inordinately delay tough decisions for another year, allowing the clean air deadlock to continue into the next Congress.

Close to 60 cities around the Nation will not be able to comply with the Clean Air Act's December deadline—and this number includes cities, like Portland, OR, that the EPA admits is making every effort to meet the deadline. Portland is just one of four cities in my State that have been working overtime to meet this deadline, and while they are making these good faith efforts, I think we need to help them come into compliance.

Nearly every State in the country has a city that will fail to meet these standards. The Conte-Waxman short-term extension will remove the possibility of construction bans and sanctions—without putting Clean Air Act on the back burner. The short-term extension will ensure that Congress puts additional air pollution control efforts in place for continued improvements in the quality of our air, while not unnecessarily penalizing those cities who are not trying to avoid the goals of the Clean Air Act.

Evidence continues to mount on the detrimental health effects of air pollution. Millions of people breathe air which does not meet the ozone or carbon monoxide standard. How many of these people know that ozone has been found to cause chest pain, pulmonary and nasal congestion, breathing difficulties, sore throat, nausea, and lung disorders? How many of these people suffer from cardiovascular disease? These individuals are particularly at risk when exposed to carbon monoxide which reduces the flow of oxygen to the heart. This doesn't even begin to touch on the damage our environment is suffering every day we allow the pollution to continue.

The Clean Air Act is an example of good public policy. Let's set another good example and show Congress' commitment to this Nation's health and safety.

Mr. CONTE. Mr. Chairman, on the rocky path to reauthorization of the Clean Air Act, there's a fork in the road today, a choice to be made. The House has the option to take the short road to clean air or the long road of delays, excuses, stalling, environmental decay and economic dislocation.

The choice is relatively simple. The Conte-Waxman amendment extends the deadlines for 8 months, and the Murtha amendment delays for 21 months. It's a straightforward difference on the surface, and Members have the right to ask: "What's the big deal?" or "Why all the controversy?" The questions are legitimate, and the answers center around two considerations.

First, a long delay, like the one proposed by Congressman MURTHA, will cause economic disruption and uncertainty for private investment in many cities and towns across the country. The looming sanctions combined with incomplete action on clean air for another 2 years will slow economic growth in the 70 or so areas not in attainment.

If you don't believe me, ask the organizations who represent these communities. The National Association of Counties, the National League of Cities, the United Steel Workers Union, the National Governors Association, the National Conference of State Legislatures all support the Conte-Waxman amendment, and they oppose the Murtha amendment.

Second, a long term delay, like the Murtha amendment, will ring the death knell for clean air in this Congress.

Many Members have worked hard and waited patiently to consider clean air issues like acid rain. Two years ago, with 175 cosponsors, an acid rain bill was reported from subcommittee, but it died an untimely death at full committee.

Meanwhile, the environment in my district and around the country continues to decay. Acid rain is destroying lakes, streams, our forests and our health. And in Washington, someone else is to blame for no action.

The Democrats blame the Republican President. The Senate blames the House. Environmentalists blame industry, and so on. It's time to stop the delays, the stalling and the excuses. Before we can go to conference with the Senate, before the President has a chance to use his veto, the Democratically controlled House must pass a Clean Air bill. The Conte-Waxman Amendment will open the door for clean air. It's the most important environmental vote in 1987.

Finally, the opponents of Conte-Waxman amendment contend that it's impossible to act on clean air in 8 months. Well, in my 29 years in Washington, where there's a will to act, there's a way to get the job done.

If the committee is really concerned about this issue, if they want to avoid local economic disruption and if they want to deal with important environmental issues, we'll see a bill on this floor next spring. I have confidence in my good friend, JOHN DINGELL. If there's a way to get a bill on the floor, he'll do it.

Mr. Chairman, I urge my colleagues to vote "no" on the Murtha amendment and support the Conte-Waxman short term extension.

One other thing, Mr. Chairman, the League of Cities supports my amendment, and I have a letter here from Ed Koch, mayor of one of our largest cities. He says, "A short-term revision process is necessary if these initiatives are to be developed and implemented successfully."

Mayor Koch supports a short-term extension. I think many mayors in this country support my amendment.

THE LEAGUE OF CONSERVATIVE VOTERS,
Washington, DC, December 2, 1987.

DEAR REPRESENTATIVE: The League of Conservation Voters regularly issues a voting chart and voting score covering the record of each member of Congress on environmental issues. This chart and score are looked to by the media and by environmentally-minded voters nationwide as a key measure of the record of each incumbent.

We will be issuing our chart for the 100th Congress well before the November 1988 elections.

I am writing now to alert you to the priority importance we will attach to the issue of Clean Air in the 100th Congress—and specifically the votes you will cast on this issue in a few days.

When the Continuing Resolution is under consideration, it appears likely that the House will vote on proposals to extend the existing Clean Air Act's December 31, 1987 deadline for compliance with the ozone and carbon monoxide health standards.

The major environmental organizations oppose any extension of the existing deadline longer than eight months (that is, beyond the end of August 1988). A deadline extension beyond this time would condemn millions of Americans to several more years of unhealthy air, and would make it unlikely that the 100th Congress enacts comprehensive legislation to solve the air pollution crisis whch plagues America. Rep. Silvio Conte is expected to offer a compromise deadline extension amendment to the FY 1988 Continuing Resolution. The major environmental organizations urge you to vote for the Conte Amendment to briefly extend clean air deadlines while allowing Congress time to pass clean air legislation in 1988.

Please note that the Conte Amendment is also supported by the National Governors Association, the National League of Cities, the National Association of Counties, and the professional associations of air pollution control officials.

Opponents of strengthening the Clean Air Act are working assiduously to push the non-attainment deadline off into the next Congress. This could easily lead to failure of the 100th Congress to pass the comprehensive Clean Air legislation necessary to protect our health, environment, and economy. Rep. John Murtha is expected to offer a deadline extension amendment to the FY 1988 Continuing Resolution to extend clean air deadlines for up to two years. The major environmental organizations strongly urge you to vote against the Murtha Amendment to delay the Clean Air Program and legislation.

As I write, the Rule has not yet been completed. We want to stress that we will treat any vote which results in a long-term extension (longer than eight months) as a significant vote against clean air, however, the parliamentary procedures may run.

Passage of strong clean air legislation is essential to protect public health and the environment. Reauthorization and strengthening of the Clean Air Act is of the utmost priority to the nation's major conservation organizations. The votes on the Conte and Murtha deadline extension amendments will be the first critical clean air votes of the 100th Congress. Rep. Conte's compromise deadline extension amendment is essential to enable Congress to complete passage of clean air legislation in 1988.

Sincerely,

BRENT BLACKWELDER,
Chairman of the Board.

P.S.—183 Members of Congress have joined as co-signers of the "Vento-Green Letter", which calls upon the Energy & Commerce Committee to act promptly to report a strong Clean Air bill. The letter specifies the key elements its co-signers support for a truly strong Clean Air bill. Because of the importance we attach to this letter as a demonstration of support for clean air, I will recommend treating the co-signing of that letter (which remains in circulation by Reps. Vento and Green for additional co-signers) as equivalent to a "vote" in our 100th Congress chart and in computing the LCV voting score for each member. Co-signing the Vento-Green Letter will be scored as a "yes" vote for clean air; failure to co-sign will be scored as a "no" vote.

THE CITY OF NEW YORK,
New York, NY, October 20, 1987.

Hon. HENRY WAXMAN,
Chairman, House Energy and Commerce Subcommittee on Health and the Environment, Rayburn House Office Building, Washington, DC.

DEAR HENRY: New York City strongly supports passage of a short-term extension of the December 31, 1987 Clean Air Act deadlines for attaining the carbon monoxide and ozone standards.

I believe many other cities share our feeling that such an extension is essential in order to avoid serious legal ambiquities that would arise in its absence after the end of this year and could disrupt the economies of the nation's cities. It would also provide additional time for Congress to complete the technically complex task of making comprehensive revisions to the Clean Air Act.

As you know, New York City has made excellant progress in achieving cleaner air. We fully intend to continue implementing responsible new initiatives to accomplish the goal of attaining the Clean Air Act's standards. A short-term extension of the deadlines to enable Congress to complete the revision process is necessary if these initiatives are to be developed and implemented successfully.

I therefore urge the Energy and Commerce Committee to take prompt action to assure passage of a short-term deadline extension.

Sincerely,

EDWARD KOCH,
Mayor.

NATIONAL CLEAN AIR COALITION,
Washington, DC, December 1, 1987.

DEAR CONGRESSMAN: Amendments may be offered to the Continuing Resolution to delay imposition of the Clean Air Act's sanctions.

The National Clean Air Coalition urges you to support the Conte Amendment and oppose the Murtha Amendment to the Continuing Resolution.

The amendment expected to be offered by Rep. John P. Murtha (D-PA) would extend by two years the deadline for imposition of sanctions for failure to comply with the Clean Air Act. This would have the effect of delaying Congressional efforts to renew and revitalize the Clean Air Act until the next Congress. Pollution control, achieved by updating the Clean Air Act, is needed to solve the pressing air quality problems confronting our nation. We recognize that it may be impossible for the House to act on clean air legislation prior to the December 31, 1987 deadline but procrastination to late 1989 unacceptably postpones legislative efforts. Therefore we support the Conte amendment with the expectation that it will be interpreted as a commitment by the House to proceed soon with solutions to the nation's pressing air pollution problems.

The amendment expected to be offered by Rep. Silvio O. Conte (R-MA) would suspend sanctions until August 31, 1988, during which time EPA would be directed to identify those areas which have failed to attain the health-based air quality standards. This amendment would relieve cities from the immediate threat of sanctions, while keeping the 100th Congress focused on the need to reauthorize the Clean Air Act to address the public health and environmental threats posed by air pollution. While we disagree with the provision in the Conte Amendment that would lift previously imposed sanctions, the amendment as a whole is superior from an environmental standpoint to the Murtha Amendment, and is therefore supported by the broad range of public health, labor, religious, civic and environmental organizations represented by the National Clean Air Coalition.

We understand that the Conte amendment is also supported by the National Governor's Association, the National League of Cities, the National Association of Counties, the National Conference of State Legislators, and the State and Territorial Air Pollution Control Administrators.

Please vote to approve the Conte Amendment and reject the Murtha Amendment to the Continuing Resolution.

Sincerely yours,

RICHARD E. AYRES,
Chairman.

NATIONAL CLEAN AIR COALITION,
Washington, DC.

The National Clean Air Coalition includes these national organizations:

Amalgamated Clothing and Textile Workers.
Americans for Democratic Action.
American Lung Association.
Asthma and Allergy Foundation of America.
Center for Auto Safety.
Citizens for a Better Environment.
Environmental Action.
Environmental Defense Fund.
Environmentalists for Full Employment.
Friends of the Earth.
Garden Club of America.
International Association of Machinists and Aerospace Workers.
Izaak Walton League of America.
League of American Wheelmen.
League of Women Voters of the United States.
National Association of Railway Passengers.
National Audubon Society.
National Consumers League.
National Farmers Union.
National Parks and Conservation Association.
National Urban League.
National Wildlife Federation.
Natural Resources Defense Council.
Oil, Chemical and Atomic Workers International Union.
Sierra Club.
Union of American Hebrew Congregations.
United Methodist Church—Board of Church and Society.
U.S. Public Interest Research Group.
United Steelworkers of America.
The Wilderness Society.
Western Organization of Resource Councils.

The National Clean Air Coalition is also a network of thousands of individuals and state and local organizations concerned with the environment, health, labor, parks and other resources threatened by air pollutants.

NATIONAL WILDLIFE FEDERATION,
Washington, DC, December 1, 1987.

Hon. SILVIO O. CONTE,
Rayburn House Office Building,
Washington, DC.

DEAR SIL: The National Wildlife Federation urges you to oppose an amendment by Representative Murtha to the continuing resolution which would extend the Clean Air Act deadline for cleaning up urban smog by two years. This amendment would remove one of the major incentives for urban areas to clean up their unhealthy air.

More than 60 urban areas around the country are failing to meet health standards for ozone and carbon monoxide. Under the present Clean Air Act, these cities are obligated to attain federal standards by the end of the year. Many will fail to do so.

The National Wildlife Federation believes Americans have waited long enough for healthy air. We cannot afford the human suffering, nor can we afford the price tag of further delay. The American Lung Association has concluded that the health consequences of air pollution cost as much as $40 billion per year in health care and lost productivity.

To give cities the tools they need to control smog and other pollution problems, the Clean Air Act must be reauthorized. The Murtha amendment would unnecessarily delay this consideration. Rather than spurring Congressional action, it would mean more years of dirty and toxic air.

We urge you to oppose the Murtha amendment. Thank you for your consideration.

Sincerely,

JAY D. HAIR.

OPPOSE MURTHA AMENDMENT TO DELAY CLEAN AIR PROGRAM

SIERRA CLUB,
Washington DC, December 1, 1987.

Hon. SILVIO O. CONTE,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CONTE: As one of the 183 signatories of the Vento-Green Clean Air Act letter, we urge you to oppose Rep. John Murtha's amendment to delay the clean air program. Rep. Murtha is expected to propose an amendment to the FY 1988 Continuing Resolution which would extend the Clean Air Act deadline for attaining air quality standards by two years. Rep. Silvio Conte is expected to offer a compromise amendment which would extend the deadline by only eight months, to enable Congress to legislate on Clean Air in 1988.

The Sierra Club strongly urges you to oppose the Murtha amendment. If the Murtha amendment passes, it would unnecessarily sentence millions of Americans to breathe unhealthy air for another two years. Passage of the Murtha amendment would make Congressional enactment of the clean air program to clean up air pollution in cities outlined in the Vento Green letter much more difficult to achieve.

We urge you to support Rep. Conte's amendment to extend the clean air deadline for eight months which would enable the 100th Congress to complete work on clean air legislation without unduly penalizing cities violating health standards in the interim.

Under the Clean Air Act, cities are required to meet federal health standards by the end of 1987. At least 60 cities with 90 million residents still have unhealthy levels of air pollution. To address this and other major unsolved air pollution problems, the Clean Air Act must be strengthened to meet the law's promise of healthy air quality for all Americans. The American people need to have Congress strengthen the Clean Air Act in the 100th Congress. By opposing the Murtha amendment and supporting the Conte amendment, you can help to achieve this goal.

On behalf of the 434,000 members of the Sierra Club, I thank you for your prior support for strengthening the Clean Air Act. The vote on the Murtha and Conte amendments will be the first critical clean air vote of the 100th Congress. We hope to once again receive your support.

If you have any questions about these amendments, please call Daniel Weiss or Melanie Griffin at 547-1141.

Sincerely yours,

LAWRENCE D. DOWNING.

AMERICAN LUNG ASSOCIATION,
Washington, DC, December 1, 1987.

DEAR REPRESENTATIVE: The American Lung Association, and the American Public Health Association strongly urge your support for an amendment by Representative Silvio Conte (MA) which would provide an eight month deadline extension for those areas of the country which will remain in ozone and/or carbon monoxide nonattainment past the December 31, 1987 deadline mandated in the Clean Air Act. It is anticipated that this amendment will be offered as a substitute to an amendment by Representative John Murtha (PA), which would provide a two year extension.

Currently, the health and well-being of nearly 100 million people are affected by the failure of over 70 areas of the United States to attain National Ambient Air Quality Standards (NAAQS) for ozone and/or carbon monoxide. Between 60 and 65 of these areas will remain in nonattainment past the December 31 deadline. It is estimated that 20 to 30 million people who are particularly sensitive to ozone live in the major areas where ozone levels significantly exceed the federal health standards.

Ozone is one of the most critical outdoor air pollution problems in the United States today, and this pollutant can seriously irritate the eyes, nose, throat, and the entire respiratory system. It can cause shortness of breath and coughing, even in healthy people who exercise.

It must also be noted that, in excessive amounts, carbon monoxide, over two thirds of which is released in the air from motor vehicle exhaust, can also pose health threats to healthy and particularly sensitive individuals. In excessive amounts, CO weakens the contractions of the heart, reducing the amount of blood pumped to various parts of the body. Excessive levels result in a reduction of oxygen available to the muscles and various organisms. Also, excessive levels diminish the functioning of even healthy individuals and can be life/threatening to those with heart disease. Individuals with emphysema, chronic bronchitis and other lung diseases, as well as cigarette smokers and those living at high altitudes, are likely to be more susceptible to the effects of carbon monoxide.

Congress will act this year to provide limited deadline extensions. It is most important to realize, however that the longer extension period contained in the Murtha proposal will essentially relieve many areas of their responsibility to seriously address the problem of unhealthy air.

Consideration of nonattainment deadline extensions is a public health issue of great importance. We urge your leadership in ensuring adoption of the Conte amendment to provide an eight month extension.

Sincerely,

FRAN DU MELLE,
Director of Government Relations,
American Lung Association.

———— ————,
American Public Health Association.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, November 17, 1987.

Hon. CLAUDE PEPPER,
2239 Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE PEPPER: Tomorrow, you will be considering a rule for H.J. Res. 395, the Continuing Resolution for fiscal year 1988. On behalf of the National Association of Counties, and the more than 3,100 county governments across the nation, I respectfully urge that you vote for a rule that allows a floor vote on the Conte amendment for an 8-month extension of the sanctions deadline of the Clean Air Act.

As I am sure you know, after December 31, 1987 over 60 metropolitan areas, encompassing hundreds of counties and cities, will be non-attainment for ozone and carbon monoxide under EPA's ambient air quality standards. While most of these communities have made bona fide good faith efforts to meet the standards, under the present law, all of them will be potentially subject to disruptive, punitive economic sanctions.

Because we believe that it is important for the 100th Congress to enact a new clean bill, we support Congressman Conte's proposal for an 8-month extension. This time period should be long enough to allow the Energy and Commerce Committee and the whole Congress to work their will on the complex issues involved in reauthorizing the Clean Air Act. While this process is going forward, it is imperative that Congress act quickly to prevent the imposition of sanctions and to lift the threat of citizens' suits that will be facing hundreds of counties in less than two months. This can be accomplished simply with an amendment to the FY '88 Continuing Resolution. We hope that you will approve a rule that affords the entire House the opportunity to vote on this approach, when it considers H.J. Res. 395.

Sincerely,

RALPH TABOR,
Legislative Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, November 16, 1987.

Hon. CLAUDE PEPPER,
Chairman, Committee on Rules.

DEAR MR. CHAIRMAN: On behalf of the National League of Cities and the 15,000 cities and towns we represent, we urge you to support a rule for consideration of the Continuing Resolution that would permit a vote on Rep. Silvio Conte's amendment extending the Clean Air Act deadline for compliance with the National Ambient Air Quality Standards by eight months.

We also urge you to oppose inclusion of an amendment incorporating changes in the applicability of the Davis-Bacon Act when Community Development Block Grants and Urban Development Action Grants are used to finance construction work.

CLEAN AIR

While it has always been our preference that Congress complete action on a Clean Air Act reauthorization proposal prior to the deadline, it is clear that this will not occur. We therefore support the Conte proposal, a measure that will provide Congress with additional time to resolve the many remaining controversial issues involved in reauthorizing the Clean Air Act and that will prevent the imposition of sanctions on the over 400 cities and towns that will not attain the national standards by the end of this year.

We believe a moratorium on sanctions or an extension of the deadlines that exceeds the eight month time frame would be inappropriate at this time. We believe it is essential for Congress to act as soon as possible in the second session on a reauthorization proposal. A more lengthy delay would merely extend the current economic uncertainty at the local level and leave local governments without the appropriate tools to move forward in attaining the national standards.

We hope you share our commitment to a full reauthorization of the Clean Air Act in the 100th Congress and look forward to working with you in the coming session to develop mutually supportable legislations.

DAVIS-BACON

We object to inclusion of the Davis-Bacon provision on both the substance of the amendment and the procedure for enacting a significant expansion of section 110 of the Housing and Community Development Act of 1974 as part of the rule on an omnibus continuing resolution.

The amendment which we oppose would reinterpret section 110 to require payment of Davis-Bacon prevailing wages not only for workers engaged in federally assisted construction work, but also for workers engaged in activities "integrally and proximately related to the construction." This would severely reduce the value of federal assistance to physically distressed cities and towns to meet low income housing, community and economic development needs in targeted neighborhoods. The proposed amendment would overturn a recent Justice Department decision clarifying a dispute between HUD and the Department of Labor without any prior legislative debate on this issue.

Sincerely,

CATHY REYNOLDS,
President, Councilwoman-at-Large.
DENVER, CO.

NATIONAL AUDUBON SOCIETY,
Washington, DC, November 4, 1987.

DEAR REPRESENTATIVE: When the Continuing Resolution is considered on the floor of the House on Thursday, November 5, Congressman Murtha will offer an amendment which would effectively extend the ozone nonattainment deadlines by an additional two years. As you know the deadline for attainment is December 31, 1987.

The National Audubon Society is strongly opposed to any deadline extension, such as the Murtha amendment, which would preempt action on clean air legislation in this Congress. We urge you to defeat the extension as proposed by Congressman Murtha.

The vote on the Murtha amendment is considered by environmentalists to be the first clean air vote in this Congress. As concern grows among the American public about the health threats posed by airborne toxics, acid rain pollution and unsafe levels of ozone and carbon monoxide, the need for action by this Congress becomes ever more apparent. Further delay on this vital public health issue is intolerable.

Clearly, we would prefer no deadline extension. Realistically, however, a small deadline extension may be necessary to provide legislators with the time they need to act on clean air legislation, and the National Audubon Society is prepared to support a limited extension. However, such an extension must be short-term and it must carry with it, either explicity or implicitly, a commitment by this Congress to deal with this pressing problem. The time for unnecessary delay is past.

We respectfully ask that you cast a vote for clean air by voting no on the Murtha amendment.

Sincerely,

ELIZABETH RAISBECK,
Vice President for Government Relations.

☐ 1405

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURTHA] as a substitute for the amendment offered by the gentleman from Massachusetts [Mr. CONTE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MURTHA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 257, not voting 14, as follows:

[Roll No. 454]

AYES—162

Akaka
Andrews
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bevill
Bliley
Boggs
Bonior
Borski
Bosco
Boucher
Boulter
Brooks
Bruce
Bunning
Burton
Bustamante
Callahan
Carr
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Combest
Cooper
Craig
Crockett
Daniel
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeLay
DeWine
Dickinson
Dingell
Dornan (CA)
Durbin
Dyson
Edwards (OK)
Emerson
Erdreich
Fields
Flippo
Foglietta
Foley
Ford (MI)
Gaydos
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Herger
Hertel
Hiler
Holloway
Hopkins
Houghton
Hubbard
Inhofe
Jenkins
Jones (NC)
Jones (TN)
Kanjorski
Kasich
Kildee
Kolter
Leath (TX)
Leland
Lent
Levin (MI)
Lloyd
Luken, Thomas
Lukens, Donald
Mack
Madigan
Manton
Marlenee
Martin (IL)
McCloskey
McEwen
McMillan (NC)
McMillen (MD)
Michel
Miller (OH)
Mollohan
Murphy
Murtha
Myers
Natcher
Nichols
Nielson
Olin
Ortiz
Oxley
Pepper
Perkins
Pickett
Price (IL)
Quillen
Rahall
Ray
Regula
Ritter
Robinson
Rogers
Rowland (GA)
Saiki
Sharp
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Spence
Staggers
Stallings
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Taylor
Thomas (GA)
Towns
Traficant
Traxler
Watkins
Whitten
Wilson
Wise
Wolpe
Wylie
Yatron
Young (AK)

NOES—257

Ackerman
Alexander
Anderson
Annunzio
Aspin
Atkins
AuCoin
Badham
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bilirakis
Boehlert
Boland
Bonker
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bryant
Buechner
Byron
Campbell
Cardin
Carper
Chandler
Clarke
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Courter
Coyne
Daub
DeFazio
Dellums
Derrick
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Duncan
Dwyer
Dymally
Early
Eckart

Edwards (CA)
English
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Florio
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Grandy
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hefley
Hefner
Henry
Hochbrueckner
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lowry (WA)
Lujan
Lungren
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McGrath
McHugh
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Petri
Pickle
Porter
Price (NC)
Rangel
Ravenel
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (NH)
Snowe
Solomon
Spratt
St Germain
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas (CA)
Torres
Torricelli
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Williams
Wolf
Wortley
Wyden
Yates
Young (FL)

NOT VOTING—14

Biaggi
Crane
Dowdy
Gephardt
Hawkins
Kemp
Latta
Lott
MacKay
Montgomery
Pursell
Roemer
Roth
Solarz

□ 1420

The Clerk announced the following pair:

On this vote:

Mr. Roth for, with Mr. Hawkins against.

Messrs. VANDER JAGT, WHITTAKER, BERMAN, KLECZKA, GOODLING, UPTON, PACKARD, and HUCKABY changed their votes from "aye" to "no."

Mrs. MARTIN of Illinois and Mr. KOLTER changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE].

The amendent was agreed to.

□ 1430

The CHAIRMAN. Under the rule, the next amendment in order is the amendment by the gentleman from Texas [Mr. DE LA GARZA].

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: On page 4, before the period at the end of line 16, insert the following:

: *Provided,* That any of the funds appropriated as provided in the line items under the heading:

CORPORATIONS

COMMODITY CREDIT CORPORATION

OPERATING EXPENSES

in title I of such bill may be transferred among such line items of may be used to reimburse the Commodity Credit Corporation during fiscal year 1988 for net realized losses sustained, but not previously reimbursed (pursuant to the Act of August 17, 1961)—

(1) if the Secretary of Agriculture determines such transfer or use is necessary to ensure the efficient and effective implementation of the programs under the Food Security Act of 1985, and

(2) the Secretary provides advance notice of the transfer or use to Congress.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Missisippi.

Mr. WHITTEN. Mr. Chairman, I presume the Clerk was reading the amendment. I could not understand a word. Therefore, I ask that the amendment be read again, and I rise in opposition to the amendment.

The CHAIRMAN. The Clerk will reread the amendment.

The Clerk re-read the amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, this amendment is a very simple amendment. I appreciate the Rules Committee allowing us to present it. I will be very brief and explain it to my colleagues.

This amendment deals with the Commodity Credit Corporation, which plays a central role in implementing the farm programs authorized under the Food Security Act of 1985.

Traditionally, the Commodity Credit Corporation has operated with money borrowed from the Treasury and later reimbursed in an Appropriation Act. The use of Treasury borrowing authority gives the Secretary of Agriculture the flexibility he absolutely needs to manage the programs efficiently through the Commodity Credit Corporation. This funding mechanism insures that obligations to farmers are paid on time and that the program can respond effectively to unpredictable shifts in the agricultural economy.

H.R. 3520, as reported, which is incorporated into House Joint Resolution 395 by reference, proposes not to replenish the Commodity Credit Corporation's Treasury borrowing authority, rather it proposes to move to a system of individualized advance appropriations.

This procedure is not authorized in law and it would endanger the programs which the CCC operates, allocating funds for specific functions, so that target price payments, price support loans, commodity purchases, and so on, would be allocated specific funding.

What this amendment does, it would allow the Secretary, after advance notice to the Congress, to transfer funds from one CCC appropriation item to another.

It is a very simple amendment, as I say, Mr. Chairman. It allows the Secretary to shift funds within the CCC programs from one category to the other, after advance notice to the Congress.

I would ask my colleagues to support our amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hope my colleagues will listen to this, if I could have the attention of the Members.

In the first place, the amendment is not needed, if I may so say, Mr. Chairman.

We, in the Congress, have had lots of difficulty getting the department to spend the money like we appropriated. The law says that the Appropriations Committee can recommend and Congress can appropriate money for specific purposes. We have had lots of difficulty with the Department at the top level not using money for that purpose which the Congress has directed; so in our bill this time we provide appropriations for specific purposes which are in accordance with the law and in accordance with the Corporation's activities.

Now, the gentleman from Texas is right that they need to do other things. You may recall that the Department held up payments to dairymen and other farmers at a time when I tell you they had billions of dollars. Their purpose was to get the Senate to act.

We passed a supplemental appropriations bill on April 24. The Senate did not get it up until June 2. In that period of time, the Department held up payments to dairymen and other farmers, when they actually had money available for payments. They were trying to put the heat on the Senate to act on the supplemental appropriations bill.

Now, let me repeat again, the Commodity Credit Corporation under their estimates will collect over $9 billion which is available for what the gentleman from Texas says he would like to do.

What the gentleman does here is to offer an amendment that the Department, regardless of the fact that Congress appropriated money for specific purposes, that it can use that money somewhere else.

Now, I will tell you, they have been doing that, so we had to put it where we appropriated the money for specific purposes. We had to do that because within the Department they were taking money which the Congress had appropriated for particular purposes, and using it for other purposes.

I say to my friend, the gentleman from Texas, I will join with him right now and tell them that where they have hundreds of millions of dollars, that is not committed, they should go ahead and pay the dairymen and everyone else. I will tell the gentleman that right now, we are turned in the same way; but the money was held up before, and not because they did not have it, but because they were trying to get the Senate to act.

So I hope my friend will withdraw his amendment, because it is not necessary and it runs right counter to the appropriations process.

I will have to honestly tell you that should it pass, I do not see how we could go to conference, because you are just tying the hands of the Congress.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, is the gentleman saying then that the Department of Agriculture or the CCC will have a completely free hand and can ignore the wishes of the Congress or the direction of the Congress if this amendment passes?

Mr. WHITTEN. May I say, by way of example, we had this Conservation Reserve. We went along with it, but we provided in law that it could not be substituted for the program they had, but they did not pay any attention to that.

I had the general counsel of the department before us. He did not even know the law was there. I had one of the Assistant Secretaries before our committee, and he did not know the law was there.

We agreed to go along with the Conservation Reserve, but only if they did not get rid of the old conservation programs. So we have had lots of trouble with them.

But the point I make is that we directed the money that we appropriated to them be used for specific purposes. We have done that here, but they also have over $9 billion that is not affected by this provision. I offered to my friend from Texas that I would go along with him for those funds that are not committed. They had the money before, if I may tell you so. They just would not use it.

The idea last spring was to make the Senate act. May I repeat again, the Senate took from April 24 to June 2 just to get the bill up. They have a rule over there about having 60 votes to bring something up and they just could not get going.

So the amendment is not needed. It would run head-on into the Appropriations Committee, which under the law has the right to appropriate for specific purposes. The law says money appropriated by the Congress shall be used for the purpose for which it is appropriated. We can only recommend to the Congress.

So I hope the gentleman will take us up on that, and withdraw his amendment. I will be glad to cooperate with the gentleman in what he wants to do, but I cannot go along with the gentleman taking away the rights of the Congress and turn them over to the Secretary of Agriculture.

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman for that clarification.

Mr. WHITTEN. Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, will the gentleman from Texas yield?

Mr. DE LA GARZA. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, the chairman of the Agriculture Committee has an indepth understanding of the needs of agriculture. One of the problems that we have in agriculture is that producers are not getting their payments out on time, payments that they have earned, payments that they have fulfilled their obligations for.

My question to the chairman of the Agriculture Committee is, Will his amendment help to alleviate this problem of late payments to producers?

Mr. DE LA GARZA. Yes, it will. Under current law there is general authority for transfers, but this authority has a limitation of I think 7 percent. But what we do, in this amendment, is say that money can be transferred from one account to another within the Commodity Credit Corporation, so this does not happen. That is the problem the amendment addresses.

That is our problem with appropriated funds only. We could hit the top and then you are going to be in a worse situation than with the amendment. And this I say to my distinguished colleague from Maryland: If the Congress is not in session, if we are not here, if the other body does not act, we could be in a worse situation by going along with the language of the Appropriations Committee, for which, in any case, there is no basic authorization in law, as far as I am concerned.

□ 1445

Mr. MARLENEE. Mr. Chairman, would the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I thank the chairman of the committee for yielding. It is my understanding that we are not appropriating any money. We are allowing the transfer of these funds, these transfers will then help alleviate the problem of payments not going to the farmers once they have fulfilled their obligation. If that is correct, I urge support of the amendment.

Mr. DE LA GARZA. We continue the traditional mechanisms for the Commodity Credit Corporation and we maintain funding for the 1985 Food Security Act which will be implemented as we expected it to be, as the Congress passed the law, and as it should be implemented under the present law.

Mr. MARLENEE. Mr. Chairman, I thank the gentleman from Texas for yielding.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Mississippi.

Mr. WHITTEN. If I may say so, this will not do anything to make the department pay out. They have the money. They had the money before, but in order to get the Senate to go ahead, they held up these payments last spring.

Now I repeat again, what this does is where the Congress recommends that money be appropriated for specific purposes in line with the budget request, this amendment would let the Secretary transfer it to a different use even though they had $9 billion additional coming in beyond what we appropriate.

So it will not cause any change by what the Secretary does. I will go along with the gentleman, if his amendment is not from money committed here. We will go along with that. That is what he needs, he needs instructions to do it. He does not need to interfere with the money that the budget requested, and we appropriate for special purposes.

So I offer to go along with my friend from Texas on his amendment if it is limited to funds not committed.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I rise to support the de la Garza amendment. It is the minimum action necessary to contain the damage to farm programs created by this appropriations bill.

The funding mechanism of the Commodity Credit Corporation and the flexibility it has made possible are vital elements in the continued success of Federal farm programs. The Appropriations Committee attempt to eliminate this successful system and replace it with a rigid system of advance appropriations would mean further delays in payments to farmers who are depending on those payments to continue the recent improvement in their financial circumstances.

The Congress overwhelmingly passed the 1985 farm bill, and it has proven to be even more successful than many of us hoped. As a result of utilizing the CCC revolving fund to implement the farm bill provisions, farm income has risen, land values have stabilized and, after initial high costs, Federal spending on farm programs is declining. The use of discretionary authority to adapt to these changing circumstances will be a key element in the continued success of these programs. Without a flexible funding source, like the current CCC revolving fund, we will fail to meet the farmer's changing needs and will probably be wasting money, as flexibility declines.

I support my chairman's amendment, which will at least allow the Department of Agriculture to transfer money from one account to another as the needs of farmers become apparent. If this small step is not taken, we need only look back to the recent experience of delayed supplemental appropriations bills and long forced delays in payments to farmers to see what kind of chaos awaits the farmer. This is especially a problem in light of the pledge the leadership made to avoid supplemental appropriations under the budget summit agreement.

I hope this House will adopt the de la Garza amendment, but I must make clear there are many more problems in this agriculture appropriations bill. It is my hope that before this bill becomes law, further changes in the agriculture title will be made to prevent the disruption of our successful farm programs.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I would just make one point in support of the de la Garza amendment. The Appropriations Committee is attempting to do what is indicated, but it is really micromanagement of the farm bill, and it really offers a tremendous potential for some extreme mischief as far as farmers are concerned because it assumes there will be supplementals if in fact expenditures in any one area go over and above the amount being appropriated.

The budget summit that we have agreed to, at least it appears the majority of this body have agreed to, and the President has agreed to, is assuming there will be no supplementals. Therefore, if, in fact, in the wisdom of the Committee on Appropriations they have not in fact picked the right number we could, in fact, see an absolute shutdown of some of the very programs, I say to the gentleman from Mississippi [Mr. WHITTEN] that he is attempting to address by his amendment. So I believe it is extremely important that we go with the chairman of the Committee on Agriculture, the de la Garza amendment, in this case to avoid some potential real damage to our farmers.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

I want to show my colleague that I have been working and trying to take care of the CCC and the farmer for a long time. I am still that way.

The record here shows that they can expect over $9 billion in repayments. What they have done is that which the Congress has said to do, they have used the money for other purposes.

What we do is tell them to use this money for these specific purposes. They have all this other carryover money they can use if they need. We have not stopped them from having or using that money, that money is available in the revolving fund. What they collect is available for whatever they want to do.

I will join with the gentleman from Texas [Mr. STENHOLM] on this, tell them to get off dead center.

They had billions of dollars available last spring and they still would not pay farmers. They were trying to make the Senate act, so they withheld payments saying they were out of money.

So I am saying I will go along with the gentleman on that but if we take away the right of the Congress to appropriate for specific purposes, and let the Secretary of Agriculture do what he wants, which is what this amendment will do, we are making a mistake.

I will go with my colleagues on that, and I will go anywhere in the world to accomplish this, but they did not pay farmers last spring because they were trying to put heat on the Senate to act not because they were out of money. I assure you that the records here show that in addition to this money in our bill they have over $9 billion that they expect to collect. We are not trying to control the use of those funds.

We say to do these things which we recommend to the Congress.

But I will go along with the gentleman, if we just tell them to meet any additional needs from these other moneys. That is what is needed. It is not lack of money. But I am saying if we give away the power of Congress to control the money and give it to the Department of Agriculture that we are making a mistake.

I hope my colleagues will vote against the amendment unless it is changed.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the comments made by the gentleman from Mississippi [Mr. WHITTEN]. Let me say that agriculture does not have any better friends than the gentleman from Mississippi [Mr. WHITTEN], the gentleman from Texas [Mr. DE LA GARZA] or all the people who have spoken this afternoon. Our Committee on Appropriations and the Committee on Agriculture have worked together in a great way and again and again to try to solve the problems that are tearing at agriculture. Let me point out that if we can cause the Department of Agriculture, if the Committee on Appropriations action can cause the Department of Agriculture to make more efficient estimates, to have more accurate accounting, to have more fiscal responsibility in handling agriculture problems, we will have done something that is good for farmers.

Let me also point out that currently the Secretary of Agriculture has the authority to take from any program up to 7 percent and he can take from two or three programs to give to another program that he feels needs more money. He does not currently have the authority to take away more than 7 percent from any one program and thereby gut a different program.

Mr. DE LA GARZA. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Texas.

Mr. DE LA GARZA. May I say that is exactly what we are trying to arrive at. I was told that he already has that authority. But I understand it is a limitation. We allow in our amendment transfer authority, not limited, and if you switch the operations of the Commodity Credit Corporation solely to appropriated funds then we force them to come in with one supplemental after another because they can run out of money even though some is in the pipeline coming in.

With all due respect and with the admiration and respect that I have for the gentlewoman from Nebraska [Mrs. Smith], this is the reason for the amendment. The Committee on Appropriations is in fact authorizing or changing what basically is the prerogative of the legislative committee.

Goodness knows the last thing I want to do is challenge the dean of the House, the chairman of the Committee on Appropriations. This is very painful for me. What we need to do is not change the basic traditional use of the Commodity Credit Corporation and give the necessary leeway with instructions so that the bill that the gentlewoman from Nebraska [Mrs. Smith] worked for and helped us pass, the Food Security Act, cannot be obstructed by having to come to Congress if appropriated funds run out. It is a very awkward process at best.

Mrs. SMITH of Nebraska. Mr. Chairman, I appreciate so much the comments of the gentleman from Texas [Mr. de la Garza].

Let me say that I think none of us wants to allow any Federal agency to spend just as it pleases. We do not always want to leave the door open for more spending.

Mr. de la GARZA. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SMITH of Nebraska. Yes, I yield to the gentleman from Texas.

Mr. de la GARZA. The Committee on Appropriations has, and we accede to the rule and law, that they have the authority to appropriate. Our argument is that they do what the Committee on Appropriations can do under the rules. What we are saying very simply is do not legislate. That is our position.

Mrs. SMITH of Nebraska. Let me just say in closing that we were just trying to see that we had some control over the money that had been authorized and had been appropriated by the committee.

Mr. de la GARZA. If the gentlewoman will continue to yield, that control is there.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. Madigan].

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from Texas for yielding me this time. If I might engage the gentleman in a colloquy in an attempt to make sure that we all understand this, the Commodity Credit Corporation presently has a revolving fund and that revolving fund which is something already authorized in law enables them to keep a flow of money available with which they can make payments to farmers any time they fashion.

The attempt here is to change and to eliminate that structure and subject each element, each element within that revolving fund to limitations annually by the Committee on Appropriations so that the flexibility of the Commodity Credit Corporation to respond, the flexibility that they have in existing law would be removed. Is that a correct understanding?

□ 1500

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Chairman, the gentleman is correct, and he put it more succinctly and more plainly than I could have expressed it.

Mr. MADIGAN. If I might pursue that colloquy just another step, the consequence of this, if the gentleman's amendment is not successful at maintaining current law, the consequence will be that as one category falls short, even though another category in the revolving fund could have helped it, that flexibility will no longer exist, and there will have to be an appropriation, a supplemental appropriation to fund that particular function? Then that supplemental appropriation can become a vehicle upon which all kinds of other things can be attached, is that not correct?

Mr. de la GARZA. The gentleman is correct, and that is one of the major dangers of the legislation, and that is the reason for our amendment.

Mr. MADIGAN. So in fact, what is in the bill can be described as nothing more than an attempt to change existing law so as to ensure in the future that there must be supplemental appropriation bills. Is that a correct conclusion?

Mr. de la GARZA. That has a very correct sound to me.

Mr. MADIGAN. I thank the gentleman for yielding.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I beg to differ with the gentleman completely. Your amendment would let the Secretary do what he pleases even though the Congress appropriated money for specific purposes.

Let me go back on the CCC. I have it all here and I will not read it. The primary purpose was to support prices and to support exports. The other authorities which they had in the original act were incident to carrying out their prime responsibilities.

If my colleague will listen, in their budget business, I made a fight, helped by my friend, the gentleman from Iowa Neil Smith, to exempt the corporation so it could continue carrying out its duties, which were to support prices and move our exports. That is the pirmary job. Since they would not do what the Congress said, we appropriated for specific purposes. but it is a corporation. It says right here in CCC's budget that they expect over $9 billion in collections. I give the gentleman my word, they were not out of money when they did not pay farmers before. They were trying to get the Senate to go ahead with the supplemental appropriation. Now that is the situation.

I will go along with the gentleman saying "You shall, from the money that you have, pay these folks." "Do not do like you did past spring."

But to say that Congress cannot give them money for specific things and see they do it is weakening our hand. I say that the record of the Department in the last year or so is just such that they do not deserve it, because they have used money for things we in Congress said do not do, and I can prove it.

So what I am trying to say is I am agreeing with the gentleman. He is mistaken when he is saying we are trying to legislate. We are saying for what purposes the money is appropriated. The gentleman is saying take it and use if for anything they want to. It is not necessary, and it would be a mistake. I would go along with the gentleman in telling them though to go ahead and use this $9 billion they have coming in that we do not say anything about.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. de la GARZA. I appreciate my colleague yielding. But that is a problem, Mr. Chairman, and that is our major disagreement here, that under the legislative act, the 1985 Food Security Act, these are entitlements. They go and enter into contracts. They now have to abide by those contracts or they will get taken to court by a farmer that is entitled to it under the law.

Now the gentleman can appropriate or not appropriate, but the gentleman keeps insisting that the Congress has discretion—it is not a question of the discretion of Congress, really.

I do not know. I wish I could understand what my colleague's problem is between the administration or the Department of Agriculture and the Senate. I do not know what the problem with the Senate is. All I know is I want our farmers to receive their check on time. All I know is that were it not for this program, mid-America and rural America would have died, and this is a safety net. The basic contention that we have is that if you put them solely on appropriated funds, then you run contrary to the entitlement concept, you endanger the contracts and you have to have supplementals if they run out of money.

How do they get money when they run out of appropriated funds?

Mr. WHITTEN. They are supposed to sell what they have and to collect debts. They do have the money, and they estimate they will have over $9 billion coming in, this year and it is available to meet those purposes.

The gentleman is saying use the money over here, and we are saying use it over there. What I offered the gentleman was that for money not committed they shall do so and so, and I will buy it. But the gentleman is trying to interfere with Congress telling them to do what they have been neglecting. We need a different amendment to tell them to do just what the gentleman said.

Mr. DE LA GARZA. The Committee on Agriculture of the House of Representatives is a part of the Congress, and we have the legislative responsibility and we try to responsibly meet that responsibility. Our contention is focused on this amendment, even though this bill which has some 60, or I do not know how many, other legislative items.

Mr. WHITTEN. Will the gentleman yield to me on my time?

Mr. DE LA GARZA. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Will the gentleman agree to ask unanimous consent for us to change the amendment and say from funds available you shall do what you want, and I will buy it. But when you interfere with us telling them to do specific things with other money, you make a mistake. But I will go along with you if you ask unanimous consent to say from funds available you shall go ahead and do these things. I will buy it. That is OK. They ought to have to do that.

Mr. DE LA GARZA. Will the gentleman from Mississippi yield to me for that purpose?

Mr. WHITTEN. Yes, I yield to the gentleman from Texas. We will work out the language satisfactorily.

Mr. DE LA GARZA. I have the language.

Any moneys otherwise available with respect to the CCC line items, any moneys otherwise available to the Commodity Credit Corporation, not otherwise obligated. That is what the gentleman said.

Mr. WHITTEN. That is right.

Mr. DE LA GARZA. Including this: The funds from repayments of price support loans made on the 1987 or previous crops and any proceeds of sales of commodities from Commodity Credit Corporation stocks may be transferred to such line items or may be used to reimburse the Commodity Credit Corporation during fiscal year 1988 for net realized losses sustained, but not previously reimbursed.

Mr. WHITTEN. I would go on more than that, but that suits me.

Mr. DE LA GARZA. We have a little bit more.

Mr. WHITTEN. That suits me, if the gentleman will ask unanimous consent.

MODIFICATION TO AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that I be allowed to modify my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. DE LA GARZA: On page 4, before the period at the end of line 16, insert the following: ": *Provided*, That with respect to the line items for which monies are appropriated in the paragraph under the heading:

CORPORATIONS

COMMODITY CREDIT CORPORATION

OPERATING EXPENSES

in title I of such bill, any monies otherwise available to the Commodity Credit Corporation not otherwise obligated (including the proceeds of repayments of price support loans made on the 1987 or previous crops and any proceeds of sales of commodities from Commodity Credit Corporation stocks) may be transferred to such line items or may be used to reimburse the Commodity Credit Corporation during fiscal year 1988 for net realized losses sustained, but not previously reimbursed (pursuant to the Act of August 17, 1961)—

"(1) if the Secretary of Agriculture determines such transfer or use is necessary to ensure the efficient and effective implementation of the programs under the Food Security Act of 1985, and

"(2) the Secretary provides advance notice of the transfer or use of Congress.".

The CHAIRMAN. The modification is agreed to.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman from Texas yield to me?

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I think this helps a great deal. I did not intend to get into this, but I think the discussion here has left things very confused.

Suppose they have $30 billion, which is an estimate, and all we can have is an estimate down at Commodity Credit Corporation, but they would have had $9 billion to do with as they pleased. But my understanding now is that the gentleman did not intend to, but I believe that his amendment did permit them, for example, to take all of the money out of the old conservation program, which they opposed and did not want, they could take that money out and use it for some other purposes.

As I understand it, under this amendment as it is now modified, is that correct, they will be able to do as they please with this $9 billion, transfer it around to cover entitlements, but they will not be able to take money that was appropriated for a specific purpose. Is that the gentleman's intent?

Mr. DE LA GARZA. "Not otherwise obligated" is what we say, "not otherwise obligated."

Mr. SMITH of Iowa. Does the gentleman intend for them to be able to take money out of the old conservation program and use it for another purpose?

Mr. DE LA GARZA. No. There is still the general authority for that program, because we are only dealing here with the Food Security Act and its entitlement programs only. So he can still do whatever he could do beforehand on the conservation program. We are dealing solely with the farm entitlement program.

Mr. SMITH of Iowa. We are dealing with the Commodity Credit Corporation funds.

Mr. DE LA GARZA. Yes, but only for some specific items, not the entirety.

Mr. SMITH of Iowa. As the gentleman knows, I supported the Food Security Act of 1985 and still do. But I do not think that it is right to tell them that they should be able to take money out of some program they did not want to start with and to use it for some other purpose.

Mr. DE LA GARZA. We are back to the concept of authorizing legislation and to the basic farm law. And, the gentleman from Mississippi, my distinguished colleague and friend, whom I admire and respect greatly, had concerns along those lines and with respect to other items, so that even though we feel the bill language is a basic usurpation of our committee, we yielded to him and his concerns and did not ask for more comprehensive amendments. Nor have we raised objections in the past when something of that sort happened and he acted.

We offered this amendment because the bill was such a radical change for the Commodity Credit Corporation. We believe that it should be done only after hearings, in the normal legislative process.

Mr. SMITH of Iowa. I really do not believe it was, but nevertheless, as I understand it, the gentleman's interpretation of this amendment now, it makes it so that it does not permit them to do what some people did not want them to do before, and that is transfer money that was specifically appropriated for one purpose for use in another way?

Mr. DE LA GARZA. That is not our intent, and let that be the legislative history.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, is the essence of the gentleman's amendment that as funds flow into CCC, as farmers repay these loans that this money then becomes available to CCC to turn around and make additional loans or payments to farmers on target prices or other payments?

Mr. DE LA GARZA. The gentleman is correct.

Mr. HUCKABY. So in effect, what we are saying by this additional cash flow being available to farmers is we will not run into a problem of possibly capping out and reaching a max?

Mr. DE LA GARZA. The gentleman is correct. Let me say again, and I would make it clear that the amendment does not give the Secretary of Agriculture discretion to decide which program he wishes to fund. On the contrary, the Secretary would be bound, as he is now, to follow the programs set out in the Food Security Act of 1985 to the letter. Should they deviate from that, then the chairman of the Appropriations Committee, the chairman of the Agriculture Committee, and I am sure all of our colleagues behind us would march arm in arm to see that the intent of the law is carried out. But not with the bill language, based on something like "the problem with the Senate." That we cannot understand.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, therefore what we have is a compromise which limits the power of the Secretary to spend obligated funds. But at the same time, at the same time it protects specific program categories so that if we run out of money in the deficiency payment account, but have money left in the loan account, under the gentleman's amendment we would be able to shift moneys within those two accounts as long as they stayed within the cap to make sure a farmer would not be able to get his target price, but he would be able to get his loan? Under the Whitten amendment as proposed, once we reached the cap limit we could not move within those obligated accounts?

Mr. DE LA GARZA. He has to come then to the Congress.

Mr. GLICKMAN. But the gentleman's amendment would permit the flexibility within the total cap level?

Mr. DE LA GARZA. The gentleman is correct.

Mr. GLICKMAN. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my colleague, the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I believe I understand what the amendment does, and certainly it is a vast improvement over the present situation in the bill.

However, I have serious reservations about first of all leaving anything in this bill which in essence puts a cap on the expenditures of the CCC. As I understand it, still if all of the moneys are expended, even those that have come in, then there would be refusal to purchase, for instance, and I am always interested in dairy, there would be an inability to purchase by the CCC the commodities which are offered for purchase from the various dairy coops. If that would occur, then they would have a collapse in the market, and we would have a serious shortfall of income to the dairy farmers.

□ 1515

And I assume similar things are true although I do not know the programs as well, as to the grain farmers. So I still think it is a very bad way to leave the bill in a present dissent at this time. We already had that situation with the dairy farmers right now, or modified with the situation under Gramm-Rudman. But this would be infinitely worse, obviously, if we would have all the funds utilized and those that come back in, we could have a collapse in the dairy markets and a number of others. And if that were to occur at a time when we are not in session, or a supplemental could not be passed or whatever, we could really raise havoc with the markets, as I understand it.

I would hope that the chairman of either of the committees could straighten me out if I am wrong in my assumptions that in the event those funds are not available we would have a serious problem.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I thank the gentleman for yielding.

May I say again, we have a hard job financing everything. But we have given every dollar that was requested by the budget. In addition, their own records show they will collect over $9 billion, which is available to them to use as needed. I have been for agriculture as long as any of you and have been as active as any of you. What we face is somewhat the same situation you have faced. They would not do certain things so we appropriated money for certain things, but we also mean for them to do this other. I give you my word they had billions of dollars available when they said they were out of money and could not pay the dairymen and the other farmers. They were using the fact that they were not paying them to put the heat on the Senate, so the Senate would pass the supplemental.

And that is a fact. So anything you can ask me to help you do to make them do what they are supposed to do I will be with you. All we do is do the same thing you are trying to do. We told them "you take care of this." I do not want to leave so many things up to their discretion in some areas, but I will go with you as to what you want to do.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. I thank the gentleman for yielding.

Mr. Chairman, I want to join the gentleman from Vermont, my colleague [Mr. JEFFORDS] in saying that the substitute amendment being offered by the gentleman from Texas is a clear improvement over the language in the appropriation bill. It is not in my judgment as good as the original language offered by the gentleman from Texas. But I understand the need to make accommodations and I understand it is going to be a long day and that we have to keep moving along here. But I would like to suggest to the chairman of the Committee on Agriculture and to the chairman of the Committee on Appropriations that the colloquy between the gentleman from Texas [Mr. DE LA GARZA] and the gentleman from Kansas, taken just a moment ago is a very important colloquy. And if the amendment of the gentleman from Texas does what the gentleman from Kansas was assured that the amendment does, then we are in good shape. But I would suggest that that may not be exactly the case.

So even though I am rising in support of the amendment of the gentleman from Texas, I would hope that the gentleman from Texas and the gentleman from Mississippi would look at that colloquy between the gentleman from Texas and Mr. GLICKMAN and try to insure that this amendment, as this process moves on, does accurately reflect the commitments that were made to the gentleman from Kansas [Mr. GLICKMAN]. I thank the gentleman for yielding.

Mr. DE LA GARZA. I thank the gentleman. Does the gentleman wish to continue at this time?

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield for a question?

Mr. DE LA GARZA. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I apologize for not being on the floor earlier to hear the earlier colloquy. I was in another committee. But I have a question on your modified amendment, your amended modified amendment as it pertains to any moneys otherwise available to the Commodity Credit Corporation, not otherwise obligated. Then you go on to say "including the proceeds of repayment of price support loans." What other money except price support loan payments would be available to the Commodity Credit Corporation?

Mr. DE LA GARZA. There are other funds like repayment for foreign loans and sales. That is another account that could have moneys.

Mr. MYERS of Indiana. If the gentleman will continue to yield, what bothers some of us is we have seen instances through the years where the Commodity Credit Corporation was refusing to take certain action and reserving money out. I wonder if this might not encourage the Commodity Credit Corporation not to carry out the intent of Congress and to have those reserve funds that they might use as they please instead of what Congress might wish for those funds to be used. Do you think that might happen?

Mr. DE LA GARZA. As I mentioned, you still have a basic law the Department must obey. They would be going contrary to the law. The fact of the matter is that the obligations under the law are clear, but because of whatever happened with the Senate which I still have yet to understand, you are prejudicing the whole darned farm program. Under the bill, there are some 18 line items, for example. If they would run out of funding for any one line item they have got to come back here. It sounds good to say "to the Congress," but you would have a complete disruption of the process if they run out of money in a specific account under the appropriated process.

It may not be the perfect writing, but what we are trying to do is at least assure that the intent of the Congress and the law is that moneys available to the CCC be utilized to pay the farmer in time from the available moneys enunciated in the amendment, unobligated funds.

Mr. MYERS of Indiana. Is there anything that could be permitted under your modified amendment that could not be done today under the reprogramming provisions?

Mr. DE LA GARZA. That is our basic problem, that under the reprogramming process, the Secretary has authority to transfer but with a limitation of 7 percent. We were trying to get around that in offering our amendment. But it is like six of one, a half dozen of the other; ours we feel would be less disruptive than just running out of funds and having to come up here. If we are not in session, if we pass it here and it does not pass over there on the other side; anything can go wrong along the line. But yet if the legislation says "shall transfer" that is "shall transfer" and the courts have ruled on that time after time.

Mr. MYERS of Indiana. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I want to pursue a little bit my previous dialog with the chairman and I ask this question: As I understand the amendment and the situation we would be left with that you would be allowed to transfer, to utilize, if the dairy program should run out of money, unobligated funds. But what I do not know is if you have the bulk of your money that is unexpended, but obligated, such as in the grain programs which might not be utilized for 4, 5, 6 months, under the gentleman's amendment would it be possible to utilize those funds or would those be considered unobligated funds and not available? And if that is the answer, as I believe it is, yes, they would not be available, then what are we talking about as to the likelihood of what kind of available funds we are likely to have, or are most of us going to be obligated?

Mr. DE LA GARZA. The fact is that funds would not be obligated until actually spent, one. But again, you have the obligations under the basic law as far as all the other programs are concerned. We do not touch the funds for more programs because we are going to unobligated funds, not otherwise obligated.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

The question is, At what point are they obligated? It is my understanding, after talking to staff, that they are obligated as they cut the checks. As you know, they cut the checks in the county offices. So I do not think your fear is justified.

In addition to that, I say I do not think it is justified anyway, because in this particular year—and this applies for 1 year, this is a 1-year appropriation—in this particular year soybeans are already above the loan rate. So there are going to be virtually no soybeans left out there that they are sending money which is owed on. Corn is bumping the loan rate right now. I think that most of this discussion is really not a material issue in view of this.

Mr. DE LA GARZA. I thank the gentleman. I think he has hit the point exactly on the 1 year.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

Mr. Chairman, I would like to echo the concerns of the gentleman from Vermont.

The CHAIRMAN. The gentleman from Louisiana will suspend for just a moment so that the Chair might inform the gentleman from Texas that he has 3 minutes remaining and the gentleman from Mississippi has 13 minutes remaining.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

Mr. Chairman, the bottom line is we are still changing the way the Commodity Credit Corporation did business, the way it will be doing business in the future. It has worked well in the past. I think the chairman of the Committee on Agriculture has gone a long way in the compromise that he is offering. I would urge the distinguished dean of the House, the chairman of the Committee on Appropriations, to accept this because some of us still have grave concerns that something unforeseeable in the future out there could happen that could disrupt the flow of the CCC funds to our farmers whether they be grain farmers, cotton farmers, or dairy farmers.

Mr. WHITTEN. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, I go along with the chairman of the Committee on Agriculture. What we cannot afford to do is to have them ignore what the Congress tells them to do. We also need to tell them to go ahead and pay these things when they have the money. And I agree with that.

Let me tell you this, tracing the history of the Commodity Credit Corporation, because I started way back yonder, it was a corporation with a corporation's right to do all these things. The principal obligation was to support prices and export commodities.

With time we have used this as a handy instrument to do specific things. You see, it had the money and you could pass a law to do this and they had the money on hand. So you have a mixture there of a corporation carrying farm programs and certain other things. Then we used this—I am talking about the Congress—to do this, that, and the other. We told them to do it and you tell them and they do something else. They need to do what Congress says. That is what I object to. Now I will agree with you to tell them to do what you are talking about. But they had the money before and would not use it because they were trying to get the Senate to act. You can take my word on that.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

Mr. Chairman, granted this instance occurred one time, but the CCC has been functioning this way as an entitlement program rolling over for many years.

Mr. WHITTEN. It was a change, it was a corporation that stuck to corporation things.

But the Congress said "you do this, that and the other" to them, because it was handy. It is a corporation and we have all been using it for various things to go ahead and find out the way to do it, this, that, and the other. I agree with you. We can work out whatever is in disagreement in conference if there is anything that needs smoothing. But I am in accord with what you all are saying, I do no want this to be done by cutting out what Congress has told them to do.

Mr. DE LA GARZA. Mr. Chairman, I am somewhat embarrassed.

Mr. WHITTEN. I will yield whatever time the gentleman requests.

Mr. DE LA GARZA. I ask to avail myself of the generosity and kindness of my distinguished colleague. My ranking member, Mr. MADIGAN along with Mr. JONES would like to engage in a colloquy with respect to some aspects of the Federal Crop Insurance Program. I wonder if I might borrow a couple of minutes that we will pay at some later time.

Mr. WHITTEN. I would be glad to, but if you know what to do I would be glad to listen to you. The overhead cost has increased 260 percent since 1981 and the volume is the same. If you can explain it I would be glad to listen.

Mr. DE LA GARZA. No, this is just a colloquy. I think I know what the gentleman's concern is—I am not sure—I just want to borrow 2 minutes. I am not involved in the colloquy. It would be Mr. MADIGAN and Mr. JONES.

Mr. WHITTEN. Well, we live close together and we cannot afford to fall out. So I am glad to let you do it.

Mr. DE LA GARZA. Would the gentleman kindly yield to my colleague, Mr. JONES a couple of minutes?

Mr. WHITTEN. If he needs additional time I will give it to him.

Mr. DE LA GARZA. I thank my distinguished colleague.

The CHAIRMAN. The gentleman from Tennessee [Mr. JONES] is recognized for 2 minutes.

Mr. JONES of Tennessee. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of Chairman DE LA GARZA's amendment. The Commodity Credit Corporation has traditionally served American agriculture outstandingly well. To make the CCC subject to prior appropriations as contained in House Joint Resolution 395 would severely handicap the smooth operation of our farm programs, and I believe the de la Garza amendment is a good middle ground solution and I urge my colleagues to support it.

Mr. Chairman, on another matter, as chairman of the Subcommittee on Conservation, Credit, and Rural Development, which has jurisdiction over Federal crop insurance programs, I wish to express my objections to certain sections of the Appropriations Committee report which accompanies H.R. 3520, the "Rural Development, Agriculture, and related agencies appropriations bill" for fiscal year 1988, as incorporated into the pending continuing resolution. Specifically, I have reference to language contained in the House Report 100-386, regarding the Federal Crop Insurance Corporation.

Our subcommittee labored long and hard to produce the Federal Crop Insurance Act of 1980. Despite strong opposition in some quarters, we felt it necessary to enact this legislation to establish a national crop insurance program that was universally available to all farmers. We did so because the haphazard, contradictory system of Federal disaster programs which then existed were subject to so many abuses and inequities. As then Secretary of Agriculture Bob Bergland repeatedly said, "the disaster programs are themselves a disaster."

Unfortunately, the Crop Insurance Program that we attempted to replace these programs with, has not fully lived up to our expectations. After huge initial gains in sales in 1981, the program has been beset with a number of administrative problems. Additional problems have resulted from the temporary and unanticipated actions in past years when the administration has used its authority to implement disaster payment programs, as it did in 1982, and when the administration has implemented extensive production adjustment programs, as it did in 1983 under the Payment-in-Kind Program. The Congress is not totally innocent in this regard either. Just last year, we enacted legislation to provide disaster payments to producers impacted by drought and floods. The crop insurance program will gain acceptance and build integrity only when we stop sending these contradictory and confusing signals to farmers and the insurance industry.

There have been innumerable frustrations and setbacks for those of us who are committed to seeing the crop insurance program work. No one has been as active in the oversight of this program as has our Subcommittee on Conservation, Credit, and Rural Development. Whenever we have perceived a problem, we have addressed it very directly in our communications with the Federal Crop Insurance Corporation.

Upon hearing reports of irregularities in the loss adjustment activities of the Federal Crop Insurance Corporation and the private companies that are reinsured by the Corporation, the subcommittee requested that the U.S. General Accounting Office initiate an extensive review. The results of this review were made available on April 29, 1987, in testimony by the GAO before our subcommittee, and the GAO's report was issued November 20, 1987. I was extremely shocked and dismayed by the high level of errors that was uncovered by the GAO investigation. While the private companies involved and the FCIC have taken exception to many of the findings of the General Accounting Office, I have made it clear that, if the situation is even one-half as bad as the GAO review indicated, drastic changes must be made.

Subsequent to GAO's testimony in April, I have received several communications from the manager of the FCIC which indicate that great many positive steps have been taken and are being taken to correct the procedural deficiencies which led to the unduly high error rate found in the GAO review. It has been pointed out that several tough compliance improvements have been initiated since the period in question, 1985, which was the subject of the GAO review.

While I have every confidence that the FCIC management is taking the necessary steps to make the needed corrections in the administration of the Federal Crop Insurance Program, the subcommittee is following through with continued GAO audits through the current year, 1987, to assure that the necessary improvements are achieved.

Mr. Chairman, I as well as the other members of the Subcommittee on Conservation, Credit, and Rural Development yield to no one in our determination to make the Federal Crop Insurance Program work more efficiently for both farmers and the taxpayer. However, we feel that the proper way to achieve this objective is through continued strong oversight by our subcommittee rather than the directive of the Appropriations Committee to have FCIC assume all loss adjustments.

I would like to submit for the RECORD, a letter from FCIC manager, Ray Fosse, commenting on the Appropriations Committee directive. As Mr. Fosse points out, the directive would have many undesirable affects, including the failure of farmers to receive timely claims service, poorer quality control, abrogation of the reinsured companies' contracts, possible mass cancellation of crop insurance contracts and a devastating reduction in participation in the program.

Already, FCIC has included in the reinsured companies' contracts an agreement that FCIC will take over any company's loss adjustment function performance if the company's performance is not acceptable. This case-by-case approach gives the FCIC authority to take action against offenders while not penalizing companies that are doing a good job. I have already made it clear, in meetings with the FCIC management and the crop insurance industry as well, that I strongly support the FCIC in using its full range of authorities to clamp down on abuse and incompetency in the program.

Mr. Chairman, one of the main problems that the crop insurance program has had is a lack of administrative stability and continuity. The program has been changed so often it is hard for anyone involved—agents, adjusters, and farmers—to understand it. I am delighted that it appears that finally the crop insurance program has achieved a measure of stability. I would not want to see all of these new found gains undone by precipitous action by Congress. Therefore, on behalf of the Subcommittee on Conservation, Credit, and Rural Development, I object to the directive of the Appropriations Committee that the Federal Crop Insurance Corporation assume 100 percent of loss adjustment.

U.S. DEPARTMENT OF AGRICULTURE,
FEDERAL CROP INSURANCE CORPORATION,
Washington, DC, November 17, 1987.

Hon. ED JONES,
Chairman, Subcommittee on Conservation, Credit, and Rural Development, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: The Federal Crop Insurance Corporation (FCIC) is pleased to respond to your request for information concerning the impact of certain language concerning the FCIC contained in the Report accompanying H.R. 3520.

I will first address the impacts of such a directive on the specific areas you listed, in order. In addition, I submit an analysis of the reinsurance delivery system about which I regret there may be some misunderstandings.

1. On the structure and resources of FCIC: inasmuch as the amount of business written on FCIC policies has stabilized at no more than 20% of the total business written, our field organization for claims adjustment remains in place. The major work force required for actual claims adjustment is a group of loss adjustment contractors who work on an assignment basis. They are recruited, trained and supervised by a structure of regional field service offices, each with a subordinate group of area full-time and part-time specialists.

Thus, we do have a structure for servicing claims in all states and regions. However, it would be impossible for the agency to expand this work force to assume a five-fold increase in claim work for the 1988 fiscal year, sufficient to assure timely claims service.

2. On the farmers who are served by the FCIC program: because of the resource limitations indicated in (1) above, there would undoubtedly be many producers who would not receive timely examination of their claims and, worse yet, who would experience unacceptable delays in indemnity payments. The agency could be reduced to a practice little or no better than accepting the producer's claim and paying without benefit of normal adjustment scrutiny. While mechanically we could do that, experience does not commend it as a feasible alternative.

3. On the private reinsured companies who deliver over 80% of the business to the program:

a. Every reinsurance agreement in place since July 1, 1987 (effective for the 1988 crop year) would have to be abrogated at the considerable risk of litigation;

b. It is even more likely that most of the existing agreements would be terminated, before or after the 1988 crop year, resulting in the cancellation of more than 350,000 crop insurance contracts. The reason for this likelihood obtains from the probability that capital of private companies would not be permitted by stockholders to be put at risk by government-employed claims adjusters.

c. With the high possibility that the in-place institutional systems of the private companies and their 15,000 or more agents would thus be lost, a devastating reduction in participation in the crop insurance program would occur.

4. On current attempts to improve the quality of program administration and claims adjustment: I cannot think of any action which would more nearly negate the effects of our efforts the past 18 months to achieve the level of program integrity desired by everyone. The proposed requirement, disrupting the agency's highest priority efforts in such a fashion, cannot possibly serve the best interests of crop insurance. Indeed, it would not even address the fact that nearly half of the errors identified by GAO are associated with program functions other than the actual claims adjustment function. And even as to the claims adjustment process, there is nothing magical about the "G.I." label on a loss adjuster; the potential for error and abuse is not changed by the change of the paymaster.

You inquired further about steps FCIC has taken relative to the preliminary GAO report. I am attaching, as an exhibit, a copy of FCIC's comprehensive response to the GAO report which provides some detail. But here permit me to call attention to an important addition to the Reinsurance Agreement for 1988, quoted as follows:

"6. If FCIC determines that the Company's loss adjustment performance and practices are not in accordance with the provisions of this Agreement, FCIC may assume and perform the loss adjustment obligations of the Company. After notification to the Company by FCIC of such determination, the Company will no longer perform such loss adjustment activities and the expense reimbursement due the Company under Subsection II A will be reduced to reflect the cost incurred by FCIC. The Company will be required to reestablish its loss adjustment capability in order to qualify for renewal of this Agreement under Section VII."

I assure you that we mean business with this provision and are quite prepared to invoke it if conditions warrant. In view of this initiative we deem the idea of requiring FCIC to assume all claims adjustments to be not only premature but also unfair to companies who are performing up to standard.

Please be aware, also, that we have declined to renew one reinsurance agreement for reasons of failed performance. Also, we are further proceeding with recovery of identified overpayments, already exceeding $600,000.

Lastly, you inquired about costs, a comparison of FCIC assumption of all adjusting vs. the continuation of efforts to improve claims handling. First, it should be noted that costs of FCIC operations exceed the costs of reinsured company operations. This obtains largely because (1) the expense reimbursement to those companies is directly and immediately relative to level of business done; (2) the cost of maintaining the structure to service insurance business varies little with level of business activity and much time is required, particularly in government, to vary the principal cost component (staffing level).

Further than that comparison, our costs for efforts to improve program administration are almost altogether attributable to expansion of our compliance and other oversight capability. The cost of related actions required of the companies are borne by the companies as a part of their servicing responsibility. Hence, there is a most favorable comparison in favor of rectification *vs* assumption of the total adjustment function. Quality control and review of claims work is much to be preferred; at the least, it deserves a chance to work under current emphasis.

The following information is provided in the hope some better appreciation of the reinsurance delivery system may accrue if it is better understood.

At various times in recent months there has been discussion of the proposition that FCIC administer all crop insurance claims determinations.

While there are more than enough administrative problems associated with such a system to discourage serious consideration of it, it is highly probable that unless the image indicated above is repaired a proper evaluation of the idea is not likely.

The most frequently indicated appeal of such a system rests on the assumption that the reinsured companies fare well by the program irrespective of loss experience and thus it is assumed they may not enforce integrity in claims handling. Therefore, we should first review the reinsurance system features which have a bearing on the issue.

The reinsurance agreement is designed to accomplish three vital functions.

1. To protect the participating companies against catastrophic losses.

2. To encourage aggressive marketing efforts, pursuant to our participation objectives. Only with the catastrophic protection is this possible.

3. To channel the premium subsidy to the producer and the administrative subsidy to the companies.

Through a combination of standard reinsurance devices the companies cede to FCIC varying amounts of their written liability, premium and losses. However, they must retain to their own risk account a standard minimum of their total written risk, currently 43%. Also, they are at some (varying amount) risk on each and every policy they issue.

Hence, there is no situation within which without risk to their capital they may take lightly the determination of any claim.

It is also important to understand that the provision for sharing in underwriting gain limits that sharing to only the retained portion of the company's writings. On the retained portion, they profit only when the net total paid indemnities are less than net premium and they share in the accounting loss from the first dollar that net indemnities exceed net premiums. Thus, it is not possible for a reinsured company to profit by paying excess indemnities and they are at risk to their own capital when indemnities exceed premium income. For the 1986 crop year, companies writing about 25% of the reinsured business took a capital loss of almost two million dollars, even after all reinsurance recoveries.

It appears that some assume there is an undue or questionable allowance to the companies for cost of administration. At various times we have submitted for the record ample evidence for the conclusion that, on average, the expense allowance is not excessive. Indeed, in comparison with the published expense ratios incurred in the general property and casualty insurance industry and with the corporation's recorded cost of operations, the allowance to the companies is most reasonable. This is especially so given the complexity of the program, heavily attributable to its being government oriented.

Any criticism or exception taken to the expense allowance must perforce be at the margin. The margin of error, if any, certainly is not enough to offset the risk, slightly greater than 15%, the company bears on underwriting results.

Having said all this, however, there is the matter of the GAO audit of claims and the unfavorable report which is still in the making. In addition to all else we have presented as positive steps to correct the provable procedural deficiencies, there is a critical context within which the GAO findings deserve consideration.

Preliminary analysis of the detail data (at long last provided to FCIC by GAO only in October) indicates that a very high concentration of the overpayments is attributable to two company operations and, further, is regionally concentrated in three states. It seems highly probable that some difficulties these companies had arose from agent and producer intentions to improperly benefit from crop insurance.

That they succeeded (to a point) requires the greater diligence which our corrective measures are expected to achieve. What seems fairly obvious is that the conditions identified by GAO heavily concentrated thusly should not be taken as across-the-board generalization, certainly not to the point of a pre-emption of the corrective process well under way.

Thank you for this opportunity to respond to your concerns.

Sincerely,

E. Ray Fosse,
Manager.

□ 1530

Let me say here that no one has been more active in the oversight of the Crop Insurance Program than has our subcommittee. I have worked along with the subcommittee and the gentleman from Illinois [Mr. Madigan], who was at one time the ranking member of our subcommittee.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. Jones] has expired.

Mr. WHITTEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Tennessee [Mr. Jones].

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman very much.

But our subcommittee has been hard at work on trying to do something on Federal crops. I yield to no one in trying to make the determinations that the Federal Crop Program has worked more efficiently for both the farmers and the taxpayers than it has in recent years. Although we have our problems, I honestly believe we are on the way to curing some of the real problems we have in the Federal Crop Insurance Program.

Mr. Chairman, I will at this time yield to my good friend, the gentleman from Illinois [Mr. Madigan], and I would remind the Members that the two of us really put this bill together in the first place.

Mr. MADIGAN. Mr. Chairman, I want to associate myself with the remarks of the distinguished chairman of the subcommittee, the gentleman from Tennessee [Mr. Jones], and acknowledge that are problems in the loss adjustment function of the Crop Insurance Program. But I say to the Committee of the Whole that these problems are well known to the gentleman from Tennessee [Mr. Jones] and the members of his subcommittee, and under the close watch of that subcommittee and the Federal Crop Insurance Corporation they are together working to correct the problem.

Mr. Chairman, I rise to express my disagreement with the particular section of the language in the committee report on this bill dealing with the Federal Crop Insurance Corporation. The Crop Insurance Program has experienced many difficulties over the years, and many of those problems have been the result of constant changes to the program, both from FCIC and Congress. I firmly believe that adoption of this report's directive would only add to that disruption, causing harm to the insured farmers that we are trying to help.

The Appropriations Committee report language directs the FCIC to assume 100 percent of all loss adjustments and amend all reinsurance agreements accordingly. I have two objections to this language.

First, the problems with loss adjustments identified by the Government Accounting Office are well known to the Agriculture Committee. Under the able direction of its chairman and my friend, the gentleman from Tennessee, the Subcommittee on Conservation, Credit, and Rural Development is closely monitoring the problem and the work of the FCIC to correct that problem. Mr. Jones' subcommittee has held hearings on the loss adjustment issue this year and is conducting close oversight of the steps underway at FCIC to improve crop insurance claims handling.

If additional congressional action proves to be necessary, the appropriate forum for such action is the legislative committee of jurisdiction, which has long experience in addressing crop insurance problems. Certainly, FCIC should not be directed to make major changes in the Crop Insurance Program by report language.

Beyond this procedural concern, any attempt to implement the Appropriation Committee's suggestion would seriously disrupt the function of the Crop Insurance Program. Placing loss adjustment totally in the hands of Federal adjusters overnight would jeopardize the functioning of the entire claims system. The only result could be an increase in errors and further delays in making proper payments to policyholders.

Just as destructive would be the necessity to renegotiate every reinsurance contract in existence, and a probable requirement to amend each of the 350,000 policies outstanding. This would completely overburden the Crop Insurance Corporation and lead to erosion of policyholder interest in participating in the program.

I do not believe that whatever problems the Crop Insurance Program faces can or should be addressed by report language accompanying an appropriations bill. We have a committee of jurisdiction that is doing a good job of oversight, based on long experience with this issue. If there is one thing the farmer does not need right now, it is the kind of help that disrupts the programs he depends on and delays the payments of his insurance claims.

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman from Illinois [Mr. Madigan], and I want to say to my dear friend, the gentleman from Mississipi [Mr. Whitten], that I appreciate his yielding me the time.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, let me explain matters a little bit to the degree that I know the facts. The overhead has greatly increased. There are lots of reports—and I do not say they are true—that reinsurers have gotten wealthy out of this, and that the program is absolutely bankrupt. Now, that is rumor. We have an investigation going on where we hope to bring out the facts. We would be glad to share those facts with my friend, the gentleman from Tennessee, and see what we can do to straighten it out.

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman very much.

Mr. SCHUETTE. Mr. Chairman, I rise in support of the distinguished chairman of the Agriculture Committee's amendment. Accepting the agricultural appropriations language as it is would do our farmers a serious disservice. It would again expose them to severe funding shortages within the CCC, similar to what farmers experienced last summer. Such funding shortages would mean that the CCC would be unable to meet its commitments to Michigan and American farmers.

The 1985 farm bill is still young, but during these first 2 years of implementation it has been successful in increasing exports and farm income, while the cost of the program is decreasing rapidly. To pass this budget bill as it stands before us, would seriously undermine the future of the farm bill. Farmers cannot, and should not, be exposed to the risks of the Government not making good on its commitments. It is not good business, it is not good for rural America. And, it is simply not right.

Chairman DE LA GARZA's amendment will not prevent farmers from being exposed to the risk of the Government defaulting or delaying its payments.

I support this amendment, and I urge my colleagues to do the same. Its passage is in the best interest of Michigan, indeed American, agriculture.

Mr. RAY. Mr. Chairman, today the House is considering House Joint Resolution 395, continuing appropriations for fiscal year 1988.

House Joint Resolution 395 incorporates the provisions of H.R. 3520, the rural development, agriculture, and related agencies appropriations for fiscal year 1988, as well as funding for other programs whose fiscal year 1988 authorizations have not been enacted.

This bill appropriates $555 million for the Agricultural Research Service which conducts research in fields such as plant sciences, entomology, and soil and water conservation. In the committee report accompanying the bill, the committee recommends $399,000 be provided for research on the pecan aphid, an increase of $175,000 above the budget request.

In recent years, pecan aphids have posed a serious threat to the pecan industry, causing serious economic losses and near panic in the industry. Additional research is needed to develop biological control and/or new insect specific insecticides for the pecan aphids.

Georgia is the No. 1 pecan producing State, producing about 50 percent of all pecans. Pecan growers in all Southern and Western States are extremely concerned about the widespread resistance of pecan aphids to insecticides and their inability to control this pest.

In the Southeastern region, there are two USDA/ARS laboratories that conduct pecan aphid research—Stoneville, MS, and Byron, GA. The Southeastern Fruit and Tree Nut Research Laboratory in Byron, GA, is in the Third District of Georgia, and it has the physical facilities and most of the staff necessary for the additional research. It has made many outstanding contributions to agriculture in nut research. Because this facility has proven its capability in doing this research, I expect that it will receive a good portion of the increased funds for pecan aphid research.

I commend Chairman WHITTEN and the committee for recognizing the need to expand current research efforts on the pecan aphid.

Mr. DE LA GARZA. Mr. Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The Chair will state to the gentleman from Texas [Mr. DE LA GARZA] that his time has expired. The gentleman from Mississippi [Mr. WHITTEN] controls the remaining time, and he has 9 minutes remaining.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding me this time.

I would just conclude, Mr. Chairman, by thanking the gentleman for his cooperation and his agreement and for accepting our compromise amendment, which we offer in good faith.

Mr. Chairman, let me say, as I said earlier, that this procedure is not easy for me. It is, in fact, rather painful that we have to do this from time to time. But, I have my responsibilities as chairman of the Agriculture Committee. My members look to me to assume responsibility and to act in those areas when we have legislative interest, and whether intended or not, from time to time my distinguished colleague and friend goes beyond the borderline, as far as we understand it, concerning legislation on appropriation bills. This is not the normal process. Therefore, we must act as we have today.

Nonetheless, the gentleman did not have to accept a compromise. He was in his rights under the rules to insist on the legislation, and we would have had no ability to assert points of order. For his willingness to compromise we are greatful.

I would like to restate the standing commitment I have that I repeat today and have repeated time and time again: Any time the gentleman has concerns and feels that we in the legislative committee need to work with him, we are there. I would be so brazen as to say that we would consider him as an ad hoc, ex officio friend of the committee. I make this commitment so that we can work together, and so that my distinguished friend and colleague and I would not have to be doing this every time we have a CR or a supplemental. It is very difficult at best.

Mr. Chairman, I think what the gentleman has tried to say is that if the Department of Agriculture does not adhere to the spirit or to the wording of the law, then they should be made accountable for it. I join the gentleman in that, and we can go forward arm in arm and hand in hand any time the gentleman feels there is a legitimate area we should look at. So I offer not only my commitment but that of my committee so that we can do it together.

But at times when the appropriation bill passes over the boundary, then it makes it very difficult for us, and those are areas that I would rather not have to get involved in. So my commitment stands. My admiration and respect for the distinguished chairman is enhanced every time I have an opportunity to debate with him, and I certainly would hope that we can continue working together, as best we can understand each other, between his Mississippi speech and my Texan.

Mr. WHITTEN. Mr. Chairman, we look forward to it. But let me say that with what is happening in 84 percent of this country; the rural areas, it is going to take all of us working together. What has happened to American agriculture where we have lost about two-thirds of our market because we do not give them the same degree of protection we should. Where they do not carry out the law. We have got our hands full.

I look forward to working with my friend. I do say there are a good many things under the House rules, and there is nothing to keep us from putting limitations on appropriations. Unfortunately, regulations and their administration come under the executive branch. They do not come under the gentleman's jurisdiction or under mine, and sometimes we have trouble trying to reach them. That is what happened last spring. They had money when they held up these payments, and we worked together to see that when they got it, if they owed it, they paid it.

Mr. DE LA GARZA. Mr. Chairman, if I may continue, there were countless other items in the agricultural appropriations bill that we felt could have transgressed into our jurisdiction. We did not act on them, because we felt that the gentleman had just cause, and we sympathized and, in fact, agreed with what he was trying to do.

So I think we can do it together, Mr. Chairman, and I would hope that the money for farm programs is not considered my problem as such, because on the support programs, when you say they cost $20 or $25 billion, we must realize that we are now down to about 2 percent of the total budget, and if American agriculture is not deserving of 2 percent of $1 trillion budget, I do not know who is.

But we are trying to reduce costs. The farm bill is working. The costs are coming down. The dairy cost is coming down, the cotton cost is coming down, and the programs are working. I know the gentleman may not agree with me, but that is how I see it.

I think here we have reached an agreement, thanks to the generosity of my distinguished friend, the chairman of the committee, and I hope we might be able to go forward from this day on, working together to see that what we do for agriculture is done for America.

We are the best fed people in the world, in the history of the world, for the least amount of disposable income per family; and more often than not the farmer sells for less than it cost him to produce. In that regard, we are trying to give him a little boost. If he cannot get it in the market, sometimes the Government has to intervene, but only for very brief periods of time. The gentleman and I agree in that respect.

Mr. WHITTEN. Mr. Chairman, we have worked together, I am sure, and I look forward to working with the gentleman in the future. But when we have about $40 or $50 billion of foreign goods coming in here and just breaking our markets, we have a problem right in front of us. I am glad to work with the gentleman.

Mr. DE LA GARZA. Mr. Chairman, that is a problem we can work on together. I thank the gentleman for his kindness and generosity.

Mr. WHITTEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Texas [Mr. de la Garza].

The amendment, as modified, was agreed to.

FURTHER MODIFICATION OF AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent, in my amendment, to change the second to the last word of the modified amendment from "of" to "to".

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the amendment, as further modified, offered by Mr. de la Garza is as follows:

Amendment offered by Mr. de la Garza, as modified: On page 4, before the period at the end of line 16, insert the following:

": *Provided*, That with respect to the line items for which monies are appropriated in the paragraph under the heading:

CORPORATIONS

COMMODITY CREDIT CORPORATION

OPERATING EXPENSES

in title I of such bill, any monies otherwise available to the Commodity Credit Corporation not otherwise obligated (including the proceeds of repayments of price support loans made on the 1987 or previous crops and any proceeds of sales of commodities from Commodity Credit Corporation stocks) may be transferred to such line items or may be used to reimburse the Commodity Credit Corporation during fiscal year 1988 for net realized losses sustained, but not previously reimbursed (pursuant to the Act of August 17, 1961)—

"(1) if the Secretary of Agriculture determines such transfer or use is necessary to ensure the efficient and effective implementation of the programs under the Food Security Act of 1985, and

"(2) the Secretary provides advance notice of the transfer or use to Congress".

□ 1540

The CHAIRMAN. Under the rule, the next amendment in order is an amendment by the gentleman from Michigan [Mr. Dingell].

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dingell: At the end of the joint resolution add the following new section:

Sec.   . (a) Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

(2) by inserting before subsection (b) the following new subsection:

"(a)(1) The Congress finds that—

"A despite technological advances, the electromagnetic spectrum remains a scarce and valuable public resource;

"(B) there are still substantially more persons who want to broadcast than there are frequencies to allocate;

"(C) a broadcast license confers the right to use a valuable public resource and a broadcaster is therefore required to utilize that resource as a trustee for the American people;

"(D) there is a substantial and continuing governmental interest in conditioning the award or renewal of a broadcast license on the requirement that the licensee assure that widest possible dissemination of information from diverse and antagonistic sources by presenting a reasonable opportunity for the discussion of conflicting views on issues of public importance;

"(E) while new video and audio services have been proposed and introduced, many have not succeeded and even those that are operating reach a far smaller audience than broadcast stations;

"(F) even when and where new video and audio services are available, they do not provide meaningful alternatives to broadcast stations for the dissemination of news and public affairs;

"(G) for more than thirty years, the Fairness Doctrine and its corrollaries, as developed by the Federal Communications Commission on the basis of the provisions of this Act, have enhanced free speech by securing the paramount right of the broadcast audience to robust debate on issues of public importance; and

"(H) the Fairness Doctrine (i) fairly reflects the statutory obligation of broadcasters under this Act to operate in the public interest, (ii) was given statutory approval by the Congress in making certain amendments to this Act in 1959, and (iii) strikes a reasonable balance among the First Amendment rights of the public, broadcast licensees, and speakers other than owners of broadcast facilities.

"(2) A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(3) The enforcement and application of the requirement imposed by this subsection shall be consistent with the rules and policies of the Commission in effect on January 1, 1987.".

(b) This section and the amendment to the Communications Act of 1934 added by this section—

(1) shall take effect upon the date of enactment of this Act;

(2) shall apply to all cases within the jurisdiction of the Federal Communications Commission on or after such date; and

(3) shall supersede the holding and findings of the Commission in its memorandum opinion and order of August 6, 1987, *in re* Complaint of Syracuse Peace Council Against Television Station WTVH, Syracuse, New York, (F.C.C. 87-266).

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. Dingell] will be recognized for 15 minutes, and a Member opposed, the gentleman from Iowa [Mr. Tauke], will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Dingell].

Mr. DINGELL. Mr. Chairman, I rise in strong support of this amendment, which would codify the fairness doctrine. Earlier this year, a bill embodying almost exactly the same language as we now have before us passed the House by about 300 to about 100. There was a clear majority in favor of the language of better than 200 votes. It was vetoed by the President later.

The expression of the doctrine in the amendment is the fairness doctrine and the language of this is almost identical to H.R. 1934. It is my intention and understanding that the legislative history of that bill, including House Report 100-108 of the Committee on Energy and Commerce should be interpreted as the legislative history of this amendment.

In an inexcusable display of arrogant disregard for congressional intent the FCC abolished the doctrine on August 4.

The amendment which I offer today does not impose license transfer fees on broadcasters, nor does it require that broadcasters who violate the fairness doctrine be charged any supplemental license fee. The amendment simply makes the doctrine a clear and incontrovertible part of the Communications Act of 1934. This would statutorily establish a doctrine held to be the law for better than 40 years which simply required that broadcasters, when they presented a controversial issue, also present another view to the public.

The broadcasters hold a public trust. They are given the absolute monopoly over a portion of the publicly owned radio and television spectrum, for which they are asked only to operate in the public interest.

In its interpretation of the public interest, the FCC required the broadcasters to utilize this device, the fairness doctrine, to see to it that there was the widest possible diverse expression of views by the broadcasters as licensees of this important trust.

On August 4, the FCC suddenly overturned better than 40 years of solid and consistent support of this particular view.

Both this amendment and the legislation vetoed earlier are supported by the AFL-CIO and General Motors, by Mobil Oil and Ralph Nader, by the B'nai B'rith, Protestant Church organizations and the Catholic bishops. It is supported by Phyllis Schlafly, and as I have mentioned, Ralph Nader. It is supported by the Catholic bishops, the Union of Concerned Scientists, and all of the individual union groups of the AFL-CIO. Catholics, Protestants, and Jews alike, support this. It passed the House overwhelmingly.

I urge my colleagues to support this amendment.

I rise in strong support of the amendment to codify the fairness doctrine. This amendment is substantially identical to H.R. 1934 which was passed by the House just months ago by an overwhelming margin of 200 votes. It was vetoed by the President on June 23.

Because the expression of the doctrine in this amendment is the same as H.R. 1934, it is my intention and understanding that the legislative history of that bill, including Report 100-108 of the Committee on Energy and Commerce, should be interpreted as the legislative history of this amendment.

In an inexcusable display of disregard for congressional intent, the FCC abolished the doctrine on August 4.

The amendment which I offer today does not impose license transfer fees on broadcasters, nor does it require that broadcasters who violate the fairness doctrine be charged a supplemental license transfer fee.

The amendment I offer today unambiguously makes the doctrine a part of the Communications Act of 1934. In passing this legislation we would reestablish the long held doctrine which for some 40 years has required broadcasters to be fair in their presentation of controversial issues.

The only difference between this amendment and the congressionally passed H.R. 1934 is the inclusion of provisions which explicitly supersede the findings and holdings of the FCC in the Meredith decision when they attempted to abolish the doctrine. The FCC overextended its mandate in this instance by presuming to create policy in defiance of clearly expressed congressional intent.

Opponents of the fairness doctrine argue that scarcity of broadcast frequencies no longer exist, but that argument simply does not hold water. The fact is that it is necessary for the Federal Government to license broadcasters to prevent cacaphony on the airwaves; broadcast frequencies, therefore, remain a scarce and valuable national resource. The FCC's decision would mean that the American people are no longer guaranteed balanced information on vital, controversial issues. Furthermore, many groups which have relied in the past on their ability to air their views would be excluded from debate in a meaningful forum.

If my colleagues would take a moment to read this amendment, they would discover that the doctrine is embodied in one very simply sentence; "A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views." Mr. Chairman, this is not an onerous burden upon the broadcasters when put in the context of the Government's overriding duty to guarantee the people's right to be informed in a democracy. In addition, over 40 years of successful experience with the doctrine is more than sufficient to demonstrate that the Government is capable of enforcing fairness in broadcasting without interfering in the substance of issues.

I would also like to point out to my colleagues the diverse collection of groups which have assembled to support this amendment. Representatives from all parts of the political spectrum favor codification of the doctrine. Rarely, if ever, does such a broad coalition of interests ally for a cause, but this is one such momentous occasion. Now, my colleagues may ask themselves why this group came together; the simple answer is that everybody wants to be treated fairly, and when Government-sponsored monopolies are no longer required to be fair, everybody loses.

I urge you to support this amendment to codify the fairness doctrine and, in doing so, restore the standard of balance in broadcast journalism which Americans have a right to expect.

Vote "yes" on fairness.

Groups Supporting Legislation To Codify the Fairness Doctrine

Accuracy in Media.
Action for Children's TV.
AFL-CIO.
American Baptist Churches.
American Civil Liberties Union.
American Clothing & Textile Workers' Union.
American Conservative Union.
American Federation of State, County and Municipal Employees.
American Heart Association.
American Jewish Committee.
American Lung Association.
Americans for Democratic Action.
Anti-Defamation League of B'nai B'rith.
Black Citizens for a Fair Media.
Center for Science in the Public Interest.
Center for Study of Responsive Laws.
Church Women United.
Christian Church (Disciples of Christ).
Citizens Communications Center.
Common Cause.
Communications Workers of America.
Conservative Caucus.
Consumer Federation of America.
Consumers Union.
Department for Professional Employees, AFL-CIO.
Eagle Forum.
Environmental Action.
Environmental Policy Institute.
Episcopal Church-Office of Communication.
Friends of the Earth.
Fund for Renewable Energy and the Environment.
General Motors.
International Ladies Garment Workers Union.
Media Access Project.
Mobil Oil Corporation.
Morality in Media of Massachusetts.
Motion Picture Association of America.
National Association of Arab Americans.
National Association of Black Journalists.
National Conservative Political Action Committee.
National Council of Churches-Communications Commission.
National Education Association.
National Federation of Local Cable Programmers.
National League of Cities.
National Organization for Women.
National Rifle Association.
People for the American Way.
Public Citizen.
Safe Energy Communication Council.
Seagrams and Sons, Inc.
Sierra Club.
United Auto Workers.
United Church of Christ-Office of Communications.
United Food and Commercial Workers International.
Upjohn.
U.S. Catholic Conference-Department of Communications.
Union of Concerned Scientists.
U.S. Public Interest Research Group.

Vote for Fairness in Broadcasting

Congress must act now to require broadcasters to provide balanced coverage of public affairs.

If broadcasting were open to all, this Fairness Doctrine would not be necessary.

But broadcast scarcity still exists—available frequencies cannot accommodate all who want to broadcast.

The Fairness Doctrine increases discussion on the electronic media of conflicting sides on important public issues.

The Supreme Court found the Fairness Doctrine to be a constitutional means of furthering the public's paramount right to be informed.

Without the Fairness Doctrine:

Coverage of public affairs could become dangerously one-sided;

Non-media voices would lose what little access they now have to the airwaves;

In some communities one or two stations would dominate coverage of local affairs;

The "bad actor" stations who have broadcast racist and anti-semitic material would escape any duty to air contrasting views;

Candidates would lose the right to reply to station endorsements of their opponents;

The party out of power would lose the right to reply to presidential statements, and

Supporters of one candidate or one side of a ballot issue could be completely excluded from the airwaves.

The Federal Communications Commission has repealed this decades-old policy.

Vote for the Fairness Doctrine amendment to preserve a free and fair electronic marketplace of ideas!

Mr. TAUKE. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, it is unfortunate that the fairness doctrine as an issue is before us today. It is unfortunate for both procedural and substantive reasons.

Let me first begin with the procedural reasons. Normally we confine the continuing resolution to appropriations matters and we attempt to avoid legislating on the continuing resolution. Obviously, however, there are a few times when legislating on the continuing resolution is important because of emergency circumstances, such as the Clean Air amendment that was adopted a few moments ago, but this is not an instance in which we have an emergency circumstance. In fact, there is no evidence at all that the Nation has suffered because the fairness doctrine has not been with us for the last several months. No complaints have been filed, no outcry has been heard as a result of the absence of the fairness doctrine. There is no reason, as a result, to legislate on a continuing resolution.

But beyond that aspect of the procedural problem, there is another aspect and that is, frankly, that we are subverting the normal legislative process in order to override a Presidential veto with a majority vote, rather than with a two-thirds vote. Obviously, the proponents of this measure were not able to get enough to override a Presidential veto, so they are using this method to overcome the veto of the President on the fairness doctrine bill.

It seems to me that it is inappropriate for us to try to do that on a continuing resolution.

Finally, under the procedural category, I might note that the Office of Management and Budget and the White House confirm that this addition to the continuing resolution makes the continuing resolution veto bait. The President feels strongly about this question.

But there are good substantive reasons to oppose the fairness doctrine. Basically, the fairness doctrine is inimical to the first amendment. The first amendment attempts to ensure that we will have robust, open, free speech. It does not intend that we have the Government determine what is or what is not fair speech, and that is precisely what the fairness doctrine does.

The fairness doctrine says to Members of Congress and to people across the country, "Don't trust your local radio station or your local TV station to determine what is fair. Instead, rely on the Government bureaucracy to determine what is fair." That is absolutely contrary to the whole intent of the first amendment, which was that Government should not be in the position of determining what is good or bad speech, but instead we should have free and open speech in this Nation.

It appears to me that it is important to recognize that the rationale for the fairness doctrine when it was adopted in 1949 was that we had a scarcity of broadcast outlets. That rationale no longer makes sense. We now have thousands of radio and television stations all across the Nation and broadcast outlets are much less scarce than newspaper outlets; but if we adopt this provision, what we will do is we will say that we will regulate the content of the local evening news, but we will not do it on the networks or on the local stations. We will not do anything on CNN. We will not touch newspapers or other media outlets. That does not make sense.

For this reason and because there is no necessity to act now, I urge my colleagues to oppose this amendment.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. Markey], the chairman of the subcommittee.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I rise in support of the Dingell amendment. I do so for a number of reasons.

First and foremost is that approximately 60 years ago in exchange for the exclusive licensing of particular portions of our very scarce spectrum, we received some agreements from the broadcast industry with regard to what their relationship would be to the public. A doctrine, something called the fairness doctrine, was put in place over 40 years ago, which basically said that people out in America who cared about an issue would be able to get access to television and radio stations to make their point of view. It was primarily a rule which was meant to protect minority points of view, no matter what they were, liberal or conservative. That is why Phyllis Schlafly and Ralph Nader support this, because if you have an unpopular point of view, you do not want to, in fact, to be able to get on to a television or radio station only at the sufferance of the owner of that particular television or radio station at that particular point in time. That would not lead to the full and fair kind of debate which we want in this country on many, many important issues, regardless of how you might feel about that issue.

We passed in this Congress by a vote of 302 to 102 earlier this year a law which would codify the fairness doctrine. In August, the Federal Communications Commission, acting arbitrarily, moved the fairness doctrine from the books, even as they knew we were moving forward through this legislative process.

We are here today basically taking up an issue which properly belongs in the congressional purview, not in any administrator or group of administrators in any particular administration. This has been a policy which has been on the books and accepted for over 50 years. We are not breaking new ground here. In fact, in the Red Lion decision at the Supreme Court, they ruled that this doctrine is in fact constitutional, and in ruling they said that the primary intention of the first amendment is not to protect publishers or broadcasters, it is to protect the public, so that the viewers or the listeners or the readers would be able to have access to the media so that they would be able to read or listen, or in fact view controversial issues from all perspectives. That is what this debate is all about.

All we are doing here is taking settled law upheld at the highest court level in this country, the Supreme Court, and putting it on the books as a law.

We for years believed it was a law, but it was ruled earlier this year that it was only an administrative law, and therefore it could be repealed, so we have begun this process.

There is no more fundamental protection that you can offer to America. I hope, wholeheartedly, that we give a ringing endorsement to the Dingell amendment before we leave here this afternoon.

Mr. TAUKE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Chairman, when this issue came before the House last June as a free-standing piece of legislation, H.R. 1934, I voted for it along with 301 of my colleagues. I want to make it unequivocally clear that I am in favor of fairness. Let there be no misunderstanding.

However, Mr. Chairman, when this amendment was offered in our Committee on Appropriations, I could not support adding it to this continuing resolution. I joined my good chairman, Congressman Whitten. I voted against it, and the amendment failed by a vote of 20 to 28.

I voted against putting it on this bill because the fairness doctrine, all by itself, is prime veto bait.

Let me read from the Statement of Administration Policy on this bill dated December 2:

> The administration is strongly opposed to efforts expected on the House floor to add entire authorizing bills to the continuing resolution. For example, inclusion of the fairness doctrine, which the President has already vetoed, would certainly lead to a veto recommendation. An omnibus continuing resolution is not the appropriate vehicle for legislation that should be debated and enacted separately. Any attempt to ensure passage of legislation in this way would result in a veto recommendation.

That is the administration's statement, and it does not sound like they are mincing their words when it comes to the fairness doctrine. Even if by some Christmas miracle we are able in conference to dump some of the other veto baggage in this bill, and I hope we will, if the fairness doctrine remains in the bill, the bill is going to be vetoed, and we are going to have to start all over again. We will be back here in a couple months, 3 or 4 months. I am certainly for the fairness doctrine. I will be with my good friend, Chairman Dingell, when it comes up again, but I hope we will not put it in this bill.

Mr. Chairman, I urge a vote against this amendment at this time.

□ 1555

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. TAUKE. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in strong opposition to this amendment, and for all the same reasons as have been stated by my ranking member on the Committee on Appropriations. A number of us on the full Committee on Appropriations fought this battle in the full committee and the committee rejected a similar amendment just a few weeks back.

Our forefathers fought years to gain our independence and secure our freedom.

We fought wars ever since to gain and secure our freedom, among them the freedom of speech, the first amendment to the Constitution, and it is disturbing that here in these frenzied days of the end of a congressional session with 30 minutes of debate we will seek to dismantle those efforts.

It is as if we gave King Edward editing power over Tom Paine's newsletter.

Make no mistake about it, this amendment would make the Government the Federal Communications Commission, the editor in chief of every radio and television station in the country.

I believe there are also compelling reasons to oppose this amendment on procedural grounds as the gentleman from Massachusetts [Mr. CONTE] has already outlined, regardless of the merits of the case. Clearly, it constitutes heavy legislation in an appropriations bill. The President has already vetoed this legislation one time last year and has now placed it on the priority list of provisions which would draw a veto of the continuing resolution.

The authors of this amendment, lacking the votes to override the President's veto last year, are seeking to force his hand by attaching it to the continuing resolution, therefore, with a majority vote and in so doing holding hostage the entire Government of the United States. They will probably prolong the uncertainty over passage of the continuing resolution and disrupt the orderly funding of our Federal programs by insisting on this amendment being placed in the continuing resolution. They will send more confusing signals to the already troubled financial markets in so doing. In so doing they will also, even though this amendment is not germane to anything here, they will cause the CR to draw a veto. Even if my colleagues support the passage of the fairness doctrine, this procedure is so profoundly flawed that it should be voted down forthwith.

Second, as the gentleman from Iowa [Mr. TAUKE] has said, a "no" vote is warranted on substantive grounds alone. When the doctrine was first formalized in 1949 it sought to guarantee a diversity of viewpoints on controversial issues in view of the few number of broadcast outlets, but that world has changed. Today there are thousands of broadcast outlets, 10,000 broadcast stations, 1,600 daily newspapers, a constantly expanding cable system, video, satellite technologies, and a wide diversity of opinion is guaranteed. All of this contributes to the wide diversity that exists in America today. We do not need the Government to insure a diversity of viewpoints. The marketplace is already providing it.

Incidentally, when our Founding Fathers guaranteed freedom of the press they did it when there were just eight daily newspapers in the country.

This is not an equal-time amendment. This is fairness. We urge a "no" vote.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to my dear friend, the gentleman from Virginia [Mr. BLILEY], a member of the committee.

Mr. BLILEY. Mr. Chairman, I rise to express my unqualified support for the gentleman's amendment, which would codify the fairness doctrine. The fairness doctrine is essential to the preservation of the first amendment rights of Americans. Codifying the fairness doctrine does not impose new and radical obligations on broadcasters. The fairness doctrine simply enforces their commitment not to impose a single viewpoint on the American public by requiring them to air conflicting views on issues of public importance.

The fairness doctrine has enabled nonmedia groups to challenge the power of the media and to force it to be responsive to community wishes. Some groups of concerned citizens have found the fairness doctrine an indispensible tool in their fight against pornography. Joyce Tuomy, president of Morality in Media of Massachusetts wrote, "If it were not for the fairness doctrine we would be helpless against pornographic peddlers for a profit."

The fairness doctrine is supported by a diverse coalition of civic, political, business, labor, consumer, and religious groups. Included in the list of supporters of the fairness doctrine are Eagle Forum, Accuracy in Media, and the Conservative Caucus. These groups all understand that the fairness doctrine is essential to bring the full range of opinion to the American people.

We will hear some argue that the fairness doctrine is unconstitutional and that broadcasters ought to be treated like newspapers. The Supreme Court rejected this argument in its 1969 Red Lion case when it ruled that the fairness doctrine vindicates the paramount first amendment right of viewers and listeners to a diversity of opinion on issues of public importance. We will also hear arguments that the repeal of the fairness doctrine does not affect the "equal opportunities" provisions of the Communications Act. My colleagues should understand that in the Red Lion case the court ruled that constitutionally the fairness doctrine and equal time were "indistinguishable," a view echoed by Robert Bork this past summer in deciding the Branch case.

During subcommittee hearings on this legislation, we had the privilege of hearing Phyllis Schlafly reply to the contention that the fairness doctrine violates the first amendment. She noted, "It is unacceptable that the first amendment right to speak on radio and television should be limited only to those who have the money to buy a station."

Mr. Chairman, I agree with that statement. Broadcasters are given the right to the exclusive use of a scarce public resource. As such they have a responsibility to use that spectrum in a manner consistent with the public interest. I urge my colleagues to strike a blow for the first amendment by adopting this amendment.

Mr. TAUKE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY], a distinguished member of the Subcommittee on Telecommunications and Finance.

Mr. OXLEY. Mr. Chairman, I rise to oppose the amendment. My good chairman and I stood shoulder to shoulder in support of the Murtha-Dingell amendment a few minutes ago, but I certainly have to stand toe to toe against him on this very important amendment.

There is no question in my mind that the whole question of the fairness doctrine is at best an anachronism and should have in fact been eliminated from the law. After all, who decides what is fair? When we get down to it, under the fairness doctrine as we have come to know it the Federal Government makes that determination. Nobody else. Not the people, not the listeners, no one but the Federal Government makes that decision.

I do not think we want to be put in a position of having to say that the Federal Government is going to be the ultimate arbiter in these kinds of situations.

The proponents, it seems to me, who wish to put the fairness doctrine back into law have a burden of proof to prove to the majority of Members and ultimately to the President that this is the best policy.

Clearly, they have not sustained that burden.

Certainly this amendment is predicated on that very question of whether in fact a monopoly exists in the broadcasting industry. Our colleagues, the gentleman from Iowa [Mr. Tauke], and the gentleman from Kentucky [Mr. Rogers], have told us, and we are well aware that there are thousands of these kinds of broadcast outlets, far more I might point out than many daily newspapers. Yet we find ourselves in a situation where in almost every major city in this country we have one newspaper and yet we have many, many radio stations and television stations. So the predicate for this monopoly power that is talked about by the proponents certainly does not exist in today's world.

Finally, it is going to have a chilling effect on broadcasters. Broadcasters are literally scared to death that they are going to do something that will bring about the wrath of the Federal Government and cause them some serious grief with their license, so consequently they take the easy route and do not do anything. I think that is unfortunate for political debate in this country. All we have to do is look at the other body to see what they are doing with the fairness doctrine. Not only do they want to put the fairness doctrine back in but they want to require the stations who allegedly violate this fairness doctrine to pay a higher tax when they ultimately sell that station.

Nothing could be of more obvious an attempt at a blatant effort by the Federal Government to control free speech than what is being done in the other body.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. Smith].

Mr. SMITH of Iowa. Mr. Chairman, procedure has been referred to. I do not think anybody is holier than thou on procedure but I think it is worthwhile to point out exactly what has happened in the past year.

A year ago when the appropriations bill was considered, we provided that funds appropriated for the Federal Communications Commission shall be used to consider alternative means of administration and enforcement of the fairness doctrine and to report back to the Congress by September 30, 1987.

Mr. Chairman, the subcommittee that I am the chairman of, has been very good to the Federal Communications Commission. We have been very understanding. In many years they have gotten more money than they were able to get approved by OMB. In the conference report on the fiscal year 1987 appropriations bill we also said that the Federal Communications Commission shall not change the regulation concerning the fairness doctrine without submitting the required report to the Congress on this matter.

The Commission did consider alternatives, but they changed the fairness doctrine permanently on the same day they submitted the report.

Here are some of the alternatives the Commission considered. They could have lessened the degree of regulation. They could have had an experimental moratorium. They could have limited the enforcement of the fairness doctrine in certain markets or even limited it to television.

They did not recommend any of these alternatives and give the Congress a chance to consider the report to try to make a judgment between these alternatives. Instead of that, they made a permanent, not temporary change in the fairness doctrine; they did not even have a temporary moratorium, it was a permanent elimination of the fairness doctrine.

I do not think anybody is in a position to criticize the procedure. I do not like authorization language on an appropriation bill any more than anybody else does, but nobody, including the Commission, is clear of criticism on procedure.

Mr. TAUKE. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE. Mr. Chairman, what will it take for this body to come to its senses and prevent the so-called fairness doctrine from becoming law? What must we do to keep the Federal Government from second-guessing the editorial discretion of broadcast journalists?

The President vetoed the doctrine earlier this year when we tried to codify it. Congress did not challenge that veto. So, this summer, the commissioners of the Federal Communications Commission—two Democrats and two Republicans—voted unanimously to rid the doctrine from their regulations.

Yet now a handful of our colleagues, bowing to pressure not from the majority, but from the most narrow special interests, are trying to force the doctrine down our throats. This time they've tucked it away in a bill that funds everything from foreign aid to education to every department and agency of the Federal Government.

These legislative tactics are outrageous. But they are not nearly as outrageous as the doctrine itself.

We are dealing with a regulatory dinosaur, an FCC rule adopted in 1949. Think of the changes that have taken place in electronic communications since 1949.

In 1949, there were 2,600 radio stations and 51 television stations in the entire United States. Today, we have more than 10,000 radio stations and more than 13,000 television stations. Most Americans can receive at least seven television channels just from over-the-air stations. We have 7,300 cable systems, with a cable penetration rate approaching 50 percent of the Nation's household. There are 1.6 million satellite dishes and millions upon millions of videocassette recorders, technologies undreamed of at the time the fairness doctrine was conceived.

Contrast this with daily newspapers, which have steadily declined through the years. Seventeen hundred daily newspapers exist today and most large U.S. cities have only one or two. But no one is suggesting we create a Federal Newspaper Commission to regulate a fairness doctrine for the print media. We all agree that would be censorship. I ask you, what right do we have to judge broadcasters by a double standard?

The whole basis for having a fairness doctrine was the alleged scarcity of broadcast outlets in this country nearly 40 years ago. While the rationale was arguable then, it is unconscionable today. If anything, the increased role of the electronic media in our society calls for less government intrusion, not more.

Nearly every major newspaper in the United States has editorialized against the fairness doctrine. Journalists call it the "censorship doctrine." They object to a policy that allows a handful of political appointees at the FCC to "balance" and "correct" what they write. They say the doctrine puts a damper on their news and public affairs coverage.

I don't always agree with everything the press says. I don't think any of us ever will. But only journalists free from Government control have the power to check the Government. Protecting their freedom ensures ours.

By voting against the amendment, we can end the doublespeak and expose the fairness doctrine for what it is. It is censorship, and it has no place in our democracy.

□ 1610

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Chairman, I rise in strong support of the Dingell amendment, and I commend my good friend, the chairman of the House Energy and Commerce Committee, Mr. Dingell, for his leadership on this important issue.

The amendment is virtually identical to H.R. 1934 which was adopted by this body by a 302-102 vote on June 3 of this year. The amendment has the strong support of the leadership, has broad bipartisan support and is supported by virtually every civic, religious, labor, civil rights and public interest organization and group in our Nation. In fact, it is supported by virtually everyone who cares about a free and informed citizenry.

The fairness doctrine, which has its origins in the Federal Radio Act of 1927, has been described as the cornerstone of our Nation's broadcast policy, and that is an apt description. The fairness doctrine formed a crucial component of broadcasters' public trustee obligations.

The constitutionality of the fairness doctrine was unanimously upheld by the Supreme Court in the Red Lion decision 17 years ago. The Court held that in the context of broadcasting, the rights of the viewing and listening public are paramount, and that the fairness doctrine is both a permissible and effective method of vindicating those rights.

The Court also noted that a license to use the public airwaves is a privilege. It is not for the personal or private use of any individual or group of individuals. Broadcasters do not own the airwaves, the American people do! As the Supreme Court stated in Red Lion, and I quote, "the first amendment confers no right to licensees to prevent others from broadcasting 'their' frequencies and no right to an unconditional monopoly of a scarce resource which the Government has denied others the right to use."

A vote for the Dingell amendment is a vote for the first amendment rights of the American public.

Let me clarify one remaining point. Adoption of this amendment would not result in the imposition of any new or additional fees or taxes on broadcasters, nor would it impose any monetary penalty for violations of the fairness doctrine. This amendment merely serves to repair the FCC's misguided and ill conceived repeal of the fairness doctrine.

I urge my colleagues to cast their vote for this amendment and to reaffirm this seminal doctrine.

Mr. TAUKE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Chairman, I rise in opposition to this amendment. There are few freedoms we as a Nation cherish so deeply as those in the first amendment. Legislation that restricts or affects these freedoms demand the closest of scrutiny.

I am convinced that the justification employed in the 1940's, 1950's, or 1960's for the fairness doctrine has been passed by technology and other events.

I start off at a very basic premise, the news reporters, news editors, feature writers and managers of a TV or radio station in my district are treated the same as their counterparts from the local newspaper. After all, they both serve the same function. Print or electronic media cover my activities in roughly the same fashion and report these occurrences to my constituents. Frankly, it makes little difference to the votes of the 10th District of Georgia how they receive the information, as long as they get it.

Since the same work is being done for the same purpose, provided to the same people, it is implausible to believe that constitutional protections afforded to the print press do not reach to radio and TV because the human race failed to discover radio transmissions when the Bill of Rights was adopted.

I have not always been happy with the way radio, television or newspapers have reported on a certain subject, but I know that the degree of professionalism exhibited by my local reporters from radio and television is as high as that found in the print media.

Now there are those who argue that the fairness doctrine needs to be preserved because it is from the requirements found in the doctrine that preserves the public interest responsibility of all broadcasters. Since August when the doctrine was repealed by the FCC I haven't notice any great deviation of news or journalistic practices by radio and TV reporters or their bosses. This vision of broadcasters failing to serve their local communities has not come to pass and will not. It is the local "angle" of the radio and TV broadcasting which makes it unique when compared to other media. It is difficult to believe that this competitive advantage would be surrendered.

I think the fairness doctrine is an outdated and constitutionally flawed proposal. I urge my colleagues to reject this amendment.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I rise in opposition to the amendment offered by the distinguished chairman of the Energy and Commerce Committee, Mr. DINGELL, to strike the fairness doctrine from the continuing resolution. In considering this amendment, I think it is important for us to question the constitutionality of the fairness doctrine, examine whether it has achieved its intended goals, and challenge the validity of the arguments for codifying the doctrine, particularly at this time.

First, I fear that the fairness doctrine contradicts important constitutional principles by restricting journalistic freedoms of broadcasters. Certainly we all expect broadcasters to cover controversial issues and to be fair in their reporting of news; but I do not believe we want these things to occur as the Government determines. This bill is more than simply a codification of the fairness doctrine, it is symbolic of whether the Federal Government has the authority to tell the broadcasters what to program, when, and how views should be presented.

Second, I question whether the fairness doctrine has achieved its intended goals. In fact, a compelling case can be made that just the opposite has occurred. Broadcasters tell me they will shy away from controversial topics, despite the public's need to be fully informed, for fear of unfounded challenges under the fairness doctrine.

I should note that the fairness doctrine was implemented to assure that controversial issues were covered by broadcasters using a public resource—the airwaves—by virtue of a Federal license. This was justified because of the "scarcity" of licenses. With the advent of cable systems, video cassette recorders, low-power television stations, multipoint distribution services, and satellite master antenna systems, the scarcity rationale breaks down. In fact, today there are 10,000 radio and television broadcasting stations, and cable television is available to roughly 80 percent of all television households; but there are less than 1,700 daily newspapers nationwide. Yet the bill before us would regulate a larger scarce resource—broadcasters—and exclude the much more limited newspaper publishers from the effects of the law.

It seems to me that if what we are trying to accomplish here today is an assurance that fairness and the right to respond is preserved, so that differing views can be aired, it would seem that is at least partially why we have a licensing process to protect the public interest. When there is a relicensing procedure, this should be a factor the FCC takes into consideration.

With regard to the validity of the arguments for codifying the doctrine, I have trouble understanding the necessity for moving forward on the legislation at this time. Earlier this year, the President vetoed this legislation. Now we are attempting to override the President's veto—not by separate vote requiring a two-thirds majority—but by attaching it to an appropriations bill where it needs only a simple majority. Where is the urgency that requires us to pass this legislation now, instead of considering the fairness doctrine next year when we can follow the normal legislative process?

In conclusion, it seems that there are groups supporting the codification of the fairness doctrine that come from very divergent points of view, and legislation of this type, in my opinion, allows them to use the media to further their objectives. A more balanced approach would be to trust the integrity of the journalistic system, rather than inject the Federal Government into making editorial judgments.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes, the balance of my time, to the distinguished gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the opponents of this legislation have built here a wonderful "little shop of horrors," and it is made out of "goin' tos"; the horrible things this bill is goin' to do. And it is a very persuasive argument except for one simple thing.

One of the "goin' tos" is this is "goin' to" cause a chilling effect throughout broadcasting and change its very nature from what we have known all of these years. That is persuasive except for one thing.

Another one of the "goin' tos" is this is "goin' to" have Government dictating what is good and Government is going to become, we have heard, the editor-in-chief of every radio and television station across the land.

The reason this "little shop of horrors" is no more real than the fantasy that it is named after is that it is not a case of "goin' tos' at all. The fairness doctrine was in place for 38 years, and what their "goin' tos" are are in fact in reality are "never weres." Those things never happened in the 38 years that this doctrine was fundamental policy of this country. That is the first point.

The second point, and it is a terribly important one to this body, is the question of who is going to make fundamental communications policy in this country. Is the Congress going to make fundamental communications policy or is it simply going to be derelict in its responsibility and permit the FCC to usurp that authority?

This Congress, by an overwhelming majority and on a bipartisan basis, said what it wanted the policy to be with regard to the fairness doctrine, and the FCC could not move fast enough to thumb its nose at the Congress and do, 180 degrees, the opposite thing that this overwhelming bipartisan majority said it should do.

The question is: Are we going to stand up for our constitutional responsibilities and insist that we will provide basic communications policy, or are we going to wimp out?

I say a strong yes, not a weak no.

Mr. DAUB. Mr. Chairman, I am opposed to the amendment brought forth by the esteemed chairman of the Energy and Commerce Committee for several reasons.

First, despite the fact that codification of the fairness doctrine would do little to change the existing multimedia environment which continues to provide a wide range of information guaranteed by the first amendment, codification represents Government intrusion in the decisions of broadcasters at its worst.

It will actually suppress information in certain parts of the country. For example, in rural areas it is oftentimes difficult for broadcasters to assemble all the views of an issue given the time constraints of airing timely news events.

With the so-called fairness doctrine looming over the shoulders of broadcasters, they may be forced to withhold broadcasting on controversial issues because they cannot assemble all the views in one room.

The effect of codification will be to tie the hands of professional broadcasters and suppress information in rural areas.

In forcing the fairness doctrine down the throats of broadcasters, Congress says in effect that freedom is relative when it comes to technology and the airwaves.

The fairness doctrine has never been law and it never should become law. The backdoor approach taken today on the floor during consideration of the continuing resolution muddles the budget process, controls freedom of broadcasters at the expense of the listening and viewing audience, and it should be defeated.

Mr. SLATTERY. Mr. Chairman, I rise in support of the amendment codifying the fairness doctrine that is being offered by the distinguished chairman of the Energy and Commerce Committee, my good friend, JOHN DINGELL.

For more than 50 years, the fairness doctrine has been a cornerstone of our Nation's broadcasting policies. The FCC developed this doctrine in response to its statutory mandate that broadcasters must serve the public interest, convenience, and necessity. Simply stated, the doctrine requires broadcasters to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

Broadcasters are granted the ability to use a scarce public resource, the broadcast spectrum. I disagree with opponents of the fairness doctrine who have argued that recent technological breakthroughs, such as cable, backyard satellite dishes, VCR's, videodiscs and other technologies, have greatly increased the number of sources of information and programming outlets available. While new video and audio services have been proposed and introduced, many have not succeeded and even those that are operating reach a far smaller audience than do broadcast stations. Furthermore, even when and where new video and audio services are available, they do not necessarily provide meaningful alternatives to broadcast stations for the dissemination of news and public affairs.

In addition, I do not believe that the fairness doctrine is an abridgment of the freedom of the press. The doctrine is a legitimate time, place, and manner restriction upon the first amendment, as the Supreme Court held in 1969 in the Red Lion case. In that decision, the Court stated that broadcasters are public trustees of the broadcast frequency, and, as such, they owe a duty to the public to present balanced coverage of important issues. The Court further stated that it is the first amendment rights of viewers and listeners to receive information on vital issues that are paramount.

President Reagan, and his appointees to the Federal Communications Commission, however, do not share my views on this matter. Earlier this year, both Houses of Congress approved legislation that would explicitly write the fairness doctrine into Federal law. The President vetoed that bill. Recently, the FCC repealed its fairness doctrine rules, so at this time the doctrine is no longer on the books. Recently, however, the Senate Commerce, Science, and Transportation Committee voted to add language codifying the fairness doctrine to the Senate budget reconciliation package. I believe that overwhelming support exists among the American people for codification of the fairness doctrine.

I am concerned that if the fairness doctrine is permanently removed, some broadcasters might not be willing to report news or air views contrary to the interests of a parent or sister company, an employee, an advertiser, or the station itself. The competitive marketplace can lead to a direct incentive to avoid unpopular or controversial speech. I do not believe that we should allow broadcast licensees, who are entrusted with control of a public forum, the opportunity to provide incomplete, biased information concerning the major controversial public issues of the day.

Mr. Chairman, I urge my colleagues to support this important amendment, and I commend the leadership of the Energy and Commerce Committee for their efforts on this issue.

Mrs. COLLINS. Mr. Chairman, as an original cosponsor of H.R. 1934, the Fairness in Broadcasting Act of 1987, I rise in support of this needed and important amendment.

I want to also commend my distinguished colleagues, the chairmen of the Energy and Commerce Committee, Mr. DINGELL, and the Telecommunications Subcommittee, Mr. MARKEY, for bringing this issue before the House Rules Committee. It is time to finally reverse an irresponsible decision made by the Federal Communications Commission.

If any Member has the slightest doubt why the fairness doctrine should and must be codified, they should recall the demise of a longstanding public affairs program, "Panorama," here in Washington.

Like most public affairs programs, this one was a victim of low ratings. But if ratings were the sole criterion, this program would have disappeared long ago. Instead, it survived for 20 years because the FCC used to require broadcasters to devote a portion of their stations' air time to a discussion of issues in the public interest.

Today, however, that requirement is gone. It fell victim to the FCC's deregulation of the broadcasting industry.

Deregulation has meant one thing—the exchange of vital public information on the Nation's airwaves has been sacrificed to the cutthroat competition among broadcasters for ad revenues.

The need for, and the fate of, the fairness doctrine is tied closely to what has happened with this public affairs requirement.

Simply stated, the doctrine requires broadcasters to provide an opportunity for discussion of conflicting viewpoints on these issues. It does not, however, dictate what specific issues a broadcaster must cover.

Since 1959, Congress has reaffirmed its strong support for this doctrine. And, until recently, the FCC monitored the activities of broadcasters to ensure reasonable and good-faith compliance with the doctrine.

In its unrestrained zeal to deregulate the industry, the current Commission has first challenged, then argued against, and, finally, tried to destroy the doctrine. Worse, a Federal appeals court has recently endorsed the FCC's actions.

Contrary to the Commission's views, there is a defined segment of the broadcasting spectrum to which the public is "tuned into." Unless broadcasters are required to present differing views on controversial issues, the public will be deprived of a critical exchange of information. The public is not going to turn the dial to find an obscure cable station to listen to such a debate. They also are not going to run down to their local video tape store and rent a tape to learn about such issues, assuming such tapes were even available commercially.

The time has come to tell the FCC, "You're wrong. Deregulation does not work. And, even if you disagree, Congress has established a legal mandate which you must follow and uphold."

In view of the Commission's actions, and the recent Federal appeals court decision, I urge my colleagues to support this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 157, not voting 17, as follows:

[Roll No. 455]

AYES—259

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Burton
Bustamante
Campbell
Carper
Carr
Chandler
Chapman
Clarke
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gray (IL)
Gray (PA)
Guarini
Hamilton
Harris
Hayes (IL)
Hefner
Herger
Hertel
Hochbrueckner
Houghton
Howard
Hoyer
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Lukens, Donald
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCollum
McCurdy
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Pease
Pelosi
Pepper
Pickett
Pickle
Price (IL)
Price (NC)
Rangel
Regula
Richardson
Ridge
Rinaldo
Ritter
Rodino
Roe
Rose
Roukema
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Vucanovich
Walgren
Waxman
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOES—157

Alexander
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bevill
Boehlert
Boggs
Bosco
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Callahan
Cardin
Chappell
Cheney
Clinger
Coats
Coble
Combest
Conte
Coughlin
Courter
Daniel
Daub
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Espy
Fawell
Fish
Frenzel
Gallegly
Gekas
Gingrich
Gordon
Gradison
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Hiler
Holloway
Hopkins
Horton
Hubbard
Hunter
Inhofe
Ireland
Kasich
Kolbe
Konnyu
Kyl
Leath (TX)
Lewis (CA)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moody
Moorhead
Morrison (CT)
Myers
Nagle
Natcher
Nielson
Ortiz
Oxley
Packard
Patterson
Penny
Perkins
Petri
Porter
Pursell
Quillen
Ravenel
Ray
Rhodes
Roberts
Robinson
Rogers
Rostenkowski
Rowland (CT)
Rowland (GA)
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sweeney
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Volkmer
Walker
Watkins
Weber
Whittaker
Whitten
Wortley
Wylie
Young (AK)

NOT VOTING—17

Biaggi
Byron
Crane
Dowdy
Gephardt
Hall (OH)
Hawkins
Kemp
Latta
Lott
MacKay
McEwen
Montgomery
Rahall
Roemer
Roth
Solarz

□ 1625

Messrs. JENKINS, SWINDALL, and SMITH of Florida, and Miss SCHNEIDER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR: At the end of the joint resolution add the following:

SEC. 133. HAITI.—(a) SUSPENSION OF ASSISTANCE.—During fiscal year 1988, none of the funds made available by this joint resolution or by any other Act or joint resolution may be obligated or expended to provide assistance for Haiti, other than humanitarian assistance through private and voluntary organizations, unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligiblity for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti, through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

□ 1640

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I further ask unanimous consent that my amendment be modified in accordance with the substitute text pending at the desk.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR, as modified: Page 25, after line 7, insert the following:

SEC. 133. HAITI.—(a) SUSPENSION OF ASSISTANCE.—During fiscal year 1988, none of the funds made available by this joint resolution or by any other Act or joint resolution may be obligated or expended to provide assistance for Haiti (other than the assistance described in subsection (b)) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—Subsection (a) does not apply with respect to humanitarian assistance provided through private and voluntary organizations or nongovernmental organizations or to assistance provided in order to enable the continuation of migrant and narcotics interdiction operations.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti, through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the unanimous consent request of the gentleman from Minnesota for modification of his amendment?

There was no objection.

The CHAIRMAN. The amendment is debatable for not to exceed 30 minutes, the time to be equally divided and controlled by the gentleman from Minnesota [Mr. OBERSTAR] and a Member opposed.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to commend the gentleman from Minnesota [Mr. OBERSTAR] for his amendment and state that the minority has no objection to it.

Mr. Chairman, the minority strongly supports this amendment cutting off all aid to the Government of Haiti because of the tragic and criminal acts of last Sunday.

In this regard, let me read a statement I have received from the administration:

> Economic assistance to the government of Haiti has been suspended. For FY 1988, this includes economic support fund ($30 million) and P.L. 480 Title III ($18 million), which provide balance of payments support to the government.
>
> We will also suspend development assistance which goes through the government of Haiti ($12.2 million). However, we do not wish to punish Haiti's poor for the failure of the National Governing Council to fulfill its pledge to carry out meaningful elections. Therefore, we will continue our direct assistance to the Haitian people through American and Haitian non-governmental organizations. This includes P.L. 480 title II ($7.8 million) and development assistance ($27.8 million). We are also examining our development assistance pipeline with these criteria in mind.

That statement is from the Agency for International Development. Of course, the administration has also terminated all military assistance—$1.6 million—for Haiti.

In view of these actions by the administration, this amendment is unnecessary. However, I will support the amendment as an additional signal to the Government of Haiti and others in that country that the people of the United States abhor the violence there and support free elections.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Certainly on behalf of the subcommittee on this side of the aisle, we accept the gentleman's amendment. I hope that we can get on to a quick vote on the amendment because of the storm that is coming.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR] and commend him for offering the amendment at this time.

I join my colleagues in condemning the brutal action of elements of the Namphy regime and Duvaliarist gangs in murdering innocent voters on their election day this past Sunday, dismissing the Electoral Commission, and canceling the election.

We had given military aid to Haiti only under strict controls, aimed at helping that Government to control smuggling and migration. We have not provided any lethal aid—and that point should be clearly understood. There is no blood on our hands in this matter.

Mr. Chairman, we should take the action contemplated today primarily as a strong signal of support for the administration's actions and as an opening shot in our campaign to demonstrate to the Haitian regime just how deeply appalled and dismayed we are with regard to their violent actions. Accordingly, I urge my colleagues to fully support the amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the distinguished chairman of the Foreign Affairs Committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the gentleman's amendment, and I also wish to commend him and the others who worked so diligently with respect to this entire matter.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment, and I commend the gentleman from Minnesota [Mr. OBERSTAR] for offering it.

I think we have to make it absolutely clear that we are for democracy in Haiti and will take whatever steps are necessary and appropriate. We want to make it clear that we condemn violence and are very concerned about the actions the Government of Haiti took or did not take.

Mr. Chairman, I appreciate the gentleman's offering this amendment, and especially fine-tuning it so that it makes it a very constructive and appropriate response to what has happened.

Mr. Chairman, I rise in support of the amendment by the gentleman from Minnesota [Mr. OBERSTAR].

I join my colleagues in strongly condemning the violence occurring over recent weeks in Haiti and the Government of Haiti's inability to control that violence. I further deplore the government's decision to cancel Sunday's election and to throw obstacles in the way of moving toward democracy in Haiti.

I believe it is essential that we demonstrate strong bipartisan support for promoting a peaceful, orderly transition to democracy in Haiti. The administration responded promptly and appropriately in cutting off all but humanitarian assistance to the Government of Haiti, and I applaud that decision.

It must be made absolutely clear to the government of General Namphy that the United States is prepared to cooperate with our allies in the region and to consider all possible alternatives to encourage a prompt and peaceful reinstatement of the electoral process.

It is imperative that we give our President the backing and the flexibility to carry out the diplomatic initiatives necessary to influence positively events in the Caribbean. We must support the Haitian people so that they can live without fear and can reach the goals of economic development and personal security under a democratic government.

I commend the gentleman for his amendment and urge my colleagues to give it strong, bipartisan support.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his remarks.

Mr. OLIN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Virginia.

Mr. OLIN. Mr. Chairman, I rise in support of the Oberstar amendment. I believe it is imperative that Congress take a strong stand insisting that free and fair elections be allowed to take place in Haiti.

One of my staff members represented her church as an election observer in Haiti on Sunday. She came back with two dominant impressions of the day—that the Haitian people themselves are determined to participate in an open democracy and that the unimpeded violence which shut down Sunday's elections was at least condoned—if not actually orchestrated—by the provisional government.

The international community must express its outrage that the will of the Haitian people was thwarted. It is not at all clear to me that any election scheduled while the Namphy government remains in control will be an honest election. But it is clear, as the Oberstar amendment states, that the independent electoral council must be reestablished in accordance with the Haitian constitution. It is an important first step toward Haiti achieving a true democracy.

My staff member was forced to flee from an armed mob; she found refuge in a Haitian home and remained in hiding for 25 hours while the barrage of gunfire and grenade attacks terrorized Port-au-Prince. Through the night, in the darkness imposed by a blackout, carloads of armed men passed slowly in front of the house.

We take our voting privileges so much for granted; the Haitian people are intense in their desire to elect their own leaders. This amendment puts us on record as supporting the will of the people of Haiti.

I urge adoption of the amendment.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Virginia for those remarks.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding, and I rise in strong support of his amendment.

I would like to express my strong support for the amendment offered by my colleague, the gentleman from Minnesota [Mr. OBERSTAR]. Basic humanity demands that this Congress speak out against the terror and thuggery which rules in Haiti. It must be clearly understood that a government at war with its people cannot be considered a member of the family of civilized nations enjoying the benefits of participation in the world community. The measures called for in this amendment do not represent unwarranted intervention. A government which rules by terror, not popular mandate, cannot hide behind the banner of self determination. The Haitian ruling cliques have lost their legitimacy by their war against the spirit and dignity of the Haitian people whose inherent democratic spirit has been so apparent since the fall of Duvalier. In fact, the atrocities in Haiti to some extent represent an intervention in our Nation's affairs as the ruling elite clearly intends to create a climate of hopelessness which will cause many Haitians to seek refugee in our great Nation further straining our limited resources.

I certainly hope that the Army and other forces in Haiti understand the message that the American people are sending today. That message emphatically states that the terror against the Haitian people must end. Those who participate on the electoral council and as candidates must be protected and not have to fear for their lives and the lives of their families. The authorities cannot turn a blind eye or promote these threats. They must prosecute, not ignore or support, those who are guilty. Past injustices must be redressed. There must be justice for the victims of terror in the past. Those who have lost property, both Haitian and foreign, must have a fair means of redress. There must be a good faith effort to promptly resolve, through negotiation, the expropriation claims of American citizens, victims of the Haitian regime. The rule of law must come to Haiti, anything less would be an abandonment of the democratic dream which we all believe in.

Mr. DORGAN of North Dakota. Mr. President, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman's amendment.

Let me say that we have a responsibility to help our neighbors. The Haitians are our neighbors. They have a dream of democracy.

I was in Haiti several months ago, and I could not help but see the courage in the eyes of the Haitian people but also the dream of a democracy in the eyes of the Haitian people. They came to election day and discovered forces that we do not quite understand, whether it is the military, the President, or the Ton-Tons Macoute, forces that conspired to prevent that election from happening.

Many of the Haitian people put themselves at great personal risk. People were killed witnessing for democracy. As a neighbor, we have a responsibility to help. The gentleman's amendment is a step in that direction.

But let us also understand and let us tell the American people and the people of the world that the White House and Congress must work together as neighbors to do what is necessary to further the dream of the Haitian people toward freedom and democracy.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for those remarks.

Mr. Chairman, it gives me great pain to offer this amendment because it does mean depriving the Haitian people of some needed assistance, not the humanitarian assistance that goes to babies whose bout with diarrhea has caused them to be dehydrated, not to those who have lost their homes, not to those who are in need of food, but it will deny the Government of Haiti development assistance that could help build that country's economy up. Anything we take away from Haiti is going to hurt the people of Haiti, but this is the only action we can take that means something to two groups of that country, the Government of Haiti that ambushed democracy on Sunday and the democratic forces in that country that are looking to the United States for some concrete, clear action that says not just that we stand for democracy but that we are doing something to help get democracy back on track. That is what this amendment will do.

I appreciate the support of many who labored so long to help bring this act about, to bring about the process of democracy. I thank the gentlemen who have already spoken, plus our colleague, the gentleman from the District of Columbia [Mr. FAUNTROY] who has given long hours of support to the process of democracy in Haiti. I think it is vitally important that we continue the process.

Mr. Chairman, events in Haiti have been moving quickly; my amendment to the continuing resolution was developed in response to the horrible violence in Haiti surrounding last weekend's elections which left many dead and wounded. It is, therefore, necessary to take a moment to briefly explain the amendment. The amendment enacts into law the administration's recent suspension of military and nonhumanitarian economic assistance to Haiti. It requires that as a condition for reinstatement of that assistance the Government of Haiti must begin to adhere to the constitutionally mandated election process, including most importantly the reestablishment of the independent, nongovernmental Provisional Electoral Council composed of representation from various sectors of Haitian society. Further, the amendment urges the President to immediately suspend Haiti's eligibility for benefits under the Caribbean Basin Initiative, and seek an international cooperative effort to impose an international arms embargo and comprehensive trade and financial sanctions on the Government of Haiti unless they demonstrate a willingness to actively support the election process mandated by the Haitian Constitution ratified by the Haitian people on March 29, 1987.

I offer this amendment reluctantly, Mr. Chairman, but I believe it is necessary to send clear and unambiguous signals to the two most important participants in the drama unfolding in Haiti. To the CNG, a signal that the United States will respond forcefully to the violence perpetrated by Duvalierist forces against the people of Haiti, and a requirement that they must exercise their power to support the election process, protecting the innocent Haitians who want desperately to vote. To the members of the CEP, and to the people of Haiti, a sign of our willingness to not only talk about our commitment to the democratic process in Haiti, but to take concrete action to demonstrate that commitment.

In offering this amendment, I am keenly aware that the people of Haiti, many of whom were victimized by the violence of last weekend, must not be further victimized by the actions of the U.S. Government. I have carefully constructed my amendment to ensure that it will not suspend humanitarian assistance to private, voluntary, and nongovernmental organizations, but only assistance to the Government of Haiti. For this fiscal year, this provision suspends approximately the following amounts of U.S. assistance to the Haitian Government: economic support funds, $30 million; Public Law 480, title III, $18 million; development assistance, $11.4 million; section 416 Sugar Program, $1.6 million; military assistance, $1.6 million, for a total of $62.6 million in nonhumanitarian assistance. These economic assistance figures are preliminary estimates from the Agency for International Development and may change slightly. The final levels will depend upon both what Congress provides for Haiti in the final foreign assistance bills or continuing resolution and what A.I.D. calculates once it has completed its ongoing review of the Haiti program totals affected by Sunday's events.

In the term "humanitarian assistance," I intend that the provision would allow, but not be limited to, the following types of U.S. assistance: Public Law 480, title II, $7.8 million; and development assistance, $20.6 million; for a total of $28.4 million. These figures are also preliminary estimates which are subject to slight modification. In addition, I intend to exempt from the suspension of aid projects currently underway in Haiti including such humanitarian projects as agroforestry outreach, community water systems projects, swine repopulation, coffee cooperative programs, Mobilizing Mothers for Child Survival, the Development Finance Corporation, the Crafts Exports Center, the investment and export promotion program, and other similar programs that are underway or that may be undertaken to address the economic or social development of the Haitian poor.

Mr. Chairman, the Nation recoiled last weeked at the horrible violence of the antidemocratic Duvalierist elements in Haiti, often with the acquiescence and ocassionally the complicity of Haitian military personnel. These violent attacks on electoral officials and facilities, journalists, international election observers, and Haitian citizens exercising their right to vote must be addressed by the U.S. Congress quickly and effectively; my amendment meets that goal.

Since the fall of the brutal Duvalier dictatorship on February 7, 1986, the people of Haiti have consistently demonstrated their strong support for a democratic system. The administration has made clear the U.S. Government's deep concern about the events of last weekend; it is now time for the American people to make clear through their representative in the U.S. Congress their outrage over the recent violence and their support for the election process. Today the U.S Government speaks with one clear voice on the crisis in Haiti: The reinstatement of the Electoral Council and a guarantee of the personal safety of its members in an environment free of intimidation and violence is the minimum requirement for restoration of the democratic process.

Finally, I'd like to share with my colleagues an old creole saying: "Deyes Mornes, Gan Mornes." Behind the mountains are more mountains. Today that can be rephrased: "Deye Problemes, Gans Problemes." Behind the problems are more problems. I have been deeply saddened by the events of the last few days in Haiti, especially as I recall the high hopes of the Haitian people as they embarked 18 months ago on the path toward a new and democratic Haiti. The situation there today is dangerous and volatile, and I do not harbor illusions about the prospects for a stable and peaceful outcome to the political dilemmas faced by the Haitian Government and by the Electoral Council. I do know that by passage of this amendment we put the U.S. Congress clearly on the side of the democratic forces in Haiti who long to cast their first vote in a free and fair election. That is where we should be; standing alongside the people of Haiti in their struggle to overcome the weight of years of repression and poverty that characterized the Duvalier era.

In conclusion, I want to say that there is a novel written by a Haitian writer entitled "The Pencil of God Has No Eraser." The pencil of God indeed cannot erase what happened on Sunday, but we can help reestablish the process that was snuffed out and get democracy back on track with this amendment and the actions that it will engender. I urge my colleagues to support my amendment.

Mr. STUDDS. Mr. Chairman, I rise in support of the amendment. The cancellation of Haiti's first national elections in 30 years should not have surprised anyone who has followed the tragic events of the past several months. A good measure of the blame for this failure lies squarely with President Reagan.

Now that calamity has struck, and after the pointless and in many cases preventable murder of hundreds of Haitians over the past 6 months, the administration is starting to do the things that it should have been doing all along. It reminds me of the nurse who was recently indicted for allegedly giving lethal injections to patients so that in the throes of death he could appear to be their savior.

On Sunday the administration cut off military and other nonhumanitarian aid to Haiti's provisional government and, in the words of Assistant Secretary of State Elliott Abrams, is "supporting the people of Haiti, not this specific government." But consider briefly the record of American policy toward Haiti since the February 1986 collapse of the Duvalier government.

In 1986, the United States moved quickly to support the transitional Conseil National de Gouvernement [CNG]. Aid to Haiti was almost doubled to over $100 million, and our AID mission expanded to 170 personnel, operating as a shadow ministry of economic affairs. The essential premise of this policy was that the CNG, with its close ties to the military, was the only power center in Haiti and offered the best hope for securing a transition to an elected government.

The CNG is led by a six-member council, which in turn is dominated by two men, Gen. Henry Namphy and Gen. William Regala. Both of these men achieved the rank of general under Duvalier, and the entire governing council was selected by Duvalier just prior to his departure. While Namphy had a reputation for staying out of politics, Regala was one of the leaders of Duvalier's secret police.

After the flurry of optimism that followed Duvalier's departure, the Haitian people became increasingly disaffected from the CNG. The almost unanimous adoption in March 1987 of a new constitution—which contains several provisions designed to prevent a return to Duvalierist rule—again briefly raised public hopes. In June, however, the CNG, acting more and more like a standard-issue military junta, attempted to usurp the power of the Commission Electoral Provisionale [CEP], which under the new constitution had been mandated to ensure fair elections.

This attempt was met with general strikes effective enough to force the CNG to back down. In the course of the strikes, however, over 30 people died, many gunned down by the police, and over 200 suffered wounds. The unrest has persisted sporadically to the present. There has been an increasingly clear pattern to the violence, clear enough that by early November the New York Times stated that the Haitian people were being subjected to a "campaign of terror."

That campaign is orchestrated by those who have benefited most from Duvalier's rule—which includes many members of the CNG and the security forces—and who want to prevent the rise of a popularly elected leader. It has been waged primarily by remnants of Duvalier's hideous thug squad, the Tontons Macoute.

The Macoutes have been implicated in arson attacks on the electoral commission's offices and on the homes and offices of presidential candidates. They cruise the streets of Port-au-Prince at night, packed into pickups, firing an occasional volley into the air or at unfortunate passersby.

Worst of all, their actions have been overlooked by the army and the police, who have recruited hundreds of ex-Macoutes into their number. In fact, the distinction between the security forces and the Macoutes has been increasingly blurred, as the police have themselves been impicated in numerous incidents. On October 13, presidential candidates Yves Volel was gunned down—clutching a copy of Haiti's constitution—by plainclothes policemen while delivering an afternoon speech in front of the Port-au-Prince police station.

Through all of this, the U.S. Government remained largely impassive. Even the most egregious acts of violence in which the security forces were clearly implicated drew nothing more than general denunciations of violence. In late August, after the summer's atrocities, the State Department certified that the human rights situation in Haiti, though "mixed," was on the whole improving. The certification allowed the Department to leap a congressional hurdle and send more military aid to the CNG.

The State Department has argued that it is best to work behind the scenes with the CNG to get them to protect the electoral commission, the presidential candidates, and to otherwise curb violence. Yet few in Haiti have been persuaded by this argument, knowing that in the absence of public scrutiny the CNG can say whatever Americans want to hear, and then persist with what, at the very least, has been permissiveness toward the campaign of terror.

The terrible inefficacy of these American efforts became all too apparent on the bloody election day, when in the midst of the violence the police just watched, and when the police themselves were reported to have attacked voters at polling stations outside Port-au-Prince. By day's end, 34 Haitians had been killed, no one had been arrested.

The real reason for the Reagan administration's reticent, behind-the-scenes policy had little to do with a belief that it would be the most effective course. It had to do—once again—with the administration's misguided view that all trouble spots must be viewed in an East-West context, and that we have to stand with the right in order to demonstrate our resolve against leftists everywhere.

Richard Holwill, formerly of the Heritage Foundation and among the top policymakers on Haiti as Deputy Assistant Secretary of State for Caribbean Affairs, said in a recent interview that—

> Haiti is one nation. If we abandon the field there, we might be undercutting ourselves in El Salvador, Nicaragua, and Panama. We have to look at the country in a broader context.

Holwill went on to observe that, since Duvalier's departure—

> There has been substantial Soviet support for the Communist Party in Haiti and an increase in broadcasts by Radio Havana and Radio Moscow in Creole.

According to Holwill, the election—

> Offers the Soviets a chance to embarrass the United States and create a defeat for it.

Of any country in the entire Western Hemisphere, Haiti is probably the least suitable for placement in the context of Soviet-American competition. There is virtually no Soviet presence in Haiti; the Communist Party is very small and moderate; and anti-Communist sentiment runs deep. For example, in August the leader of a moderate political party, Eugene Athis, was set up and killed with machetes and clubs by a crowd of peasants. This was not a spontaneous act. Rather, prior to Athis' arrival, the local police chief had gathered the villagers and, fallaciously, characterized Athis as a Communist. That was enough for much of the village to beat Athis to death.

The combination of the administration's silence about barbarities and insistence on sending military assistance to the CNG—which has amounted to $1.6 million this year—has led to a dramatic growth in anti-American sentiment in Haiti. During the past year, the wife of a U.S. Embassy political officer was stabbed, and a Peace Corps volunteer was raped at gunpoint. Safety has become a primary concern for the 15,000 Americans living in Haiti. When Secretary Shultz stopped off in Haiti for a few hours in August, taking the opportunity to call for $6 million in new military aid for the CNG, Haitians gathered en masse for their first anti-American protests in over 20 years.

The best United States policy would have recognized that Haiti cannot be placed on the administration's tally sheet of Soviet and American possessions. It would have understood that military aid and efforts to teach crowd control to feared security forces, no matter how well intentioned, only build popular resentment of the United States. Especially after the CNG's effort to usurp the powers of the Electoral Commission, the best American policy would have involved repeated public assertions of support for the Haitian people and for the Electoral Commission, which since then has been the only widely credible political institution in the country. Lastly, we should have promoted a multilateral effort, perhaps directed by the OAS, to publicly pressure the CNG to rein in the Tontons Macoute, to get ex-Duvalierists out of positions of power before the elections, and to protect the lives and freedoms of voters on election day.

Of course, it is considerably easier to argue in retrospect than to guide policy as events unfold. Yet now that the administration appears to recognize that its earlier policy of siding uncritically with the CNG was ill considered, now that it appears to recognize that this policy has only helped to further polarize Haiti rather than promote the atmosphere of reconciliation necessary for elections to take hold, perhaps there is an opportunity for America to play a constructive role.

On election Sunday, the CNG announced that it was dissolving the Electoral Commission, though Commission members subsequently have refused to comply with this clearly unconstitutional demand. Several of the strongest presidential candidates, including Sylvio C. Claude and Louis Dejoie II, have stated that they would boycott elections held under the auspices of the CNG. Two other leading candidates, Marc Bazin and Gerard Gourgue, have described the CNG's move as a "power grab."

Notwithstanding our sluggish and misguided approach to date, the United States must now insist that any elections in Haiti be controlled by the Electoral Commission. Elections held by the CNG would have no credibility, and would likely be boycotted by most if not all of the most popular candidates. To back up our insistence, we should cut off all aid not channeled through private organizations, and should end all trade preferences under programs like the Caribbean Basin Initiative.

In addition, we should consider supporting a multilateral effort to enable Haiti to hold fair elections, perhaps by offering an OAS peacekeeping force to Haiti. Such a plan would only be acceptable if it was supported by the Electoral Commission, the leading presidential candidates and the majority of the Haitian people.

In Nicaragua 3 years ago, the administration denounced the presidential elections as unfair. Today in Haiti the administration has the chance to be consistent. A strong American voice in Haiti, responding to the now well-demonstrated aspirations of the Haitian people, could contribute to the rise of real democracy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR], as modified.

The amendment as modified, was agreed to.

□ 1650

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BROOKS: At the end of the joint resolution add the following new section:
>
> SEC. . (a) None of the funds appropriated for fiscal year 1988 by this Joint Resolution or any other law may be obligated or expended to enter into, renew, extend, amend, or otherwise modify any contract for the construction, alteration, or repair of any public building or public work in the United States with any contractor, subcontractor, or supplier if such contractor, subcontractor, or supplier—
>
> (1) is a citizen or national of Japan;
>
> (2) is a corporation, partnership, or other entity organized or existing under the laws of Japan, any subdivision thereof, or any instrumentality of Japan or such a subdivision; or
>
> (3) is owned or controlled, directly or indirectly—
>
> (A) by a citizen or national of Japan;
>
> (B) by a corporation, partnership, or other entity organized or existing under the laws of Japan, any subdivision thereof, or any instrumentality of Japan or such a subdivision; or
>
> (C) by any combination of two or more of the persons or entities, or both, described in subparagraphs (A) or (B) of this paragraph.
>
> (b) The President or the head of a Federal agency may waive the restrictions of subsection (a) of this section with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under this subsection may not be delegated.
>
> (c) As used in this section, the terms "construction", "alteration", "repair", "public building", and "public work" have the same meanings such terms have under the Act of March 3, 1933 (41 U.S.C. 10 et seq.), commonly referred to as the Buy American Act.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am sure all Members of Congress have seen recent reports of the Japanese Government's refusal to change its policy of discriminating against United States firms in awarding public works contracts. Personally, I find it outrageous that while Japanese firms annually sell billions of dollars in construction goods and services in the United States, the Japanese construction market is virtually closed to United States competition.

United States construction firms—which are the most competitive and experienced in the world—have made almost no sales in the Japanese market, which reportedly is nearly three-quarters the size of America's market. I was shocked to learn that no United States construction firm has been awarded a contract for a major Japanese construction project since 1965. Apparently, U.S. firms need not apply.

In stark contrast, the United States has become the largest overseas market for the Japanese construction industry. Japanese firms have increased their sales in the United States construction market from less than $50 million in 1981 to a projected $3 billion in 1987. Of this, at least $100 million is directly connected with public works projects funded by the U.S. Government. Projects which Japanese firms have won contracts on include the Washington Metrorail and the United States Embassy/Chancery building in Cairo, Egypt.

Why have United States construction firms been unable to penetrate the Japanese public works market? The answer is clear: The Japanese Government has deliberately and openly discriminated against them in awarding public works contracts. By using a discriminatory procurement system, through which essential information is surreptitiously provided only to designated Japanese firms, the Japanese Government has erected barriers protecting its domestic construction industry from tough United States competition.

During a recent visit to Tokyo, Commerce Secretary Verity asked that nondiscriminatory procedures be applied to all Japanese public works contracts. In a well publicized statement, the Japanese Foreign Minister himself replied that his Government would not comply with the Secretary's request and that United States construction companies would continue to be blacklisted from all Japanese public works projects.

Under current law, the only recourse for the U.S. Government is to initiate a corrective action under section 301 of the Trade Act of 1974. These procedures can take up to 10 years or more to conclude. Clearly, the Japanese know that time is on their side and that they have no pressing need to change their blatant practice of totally excluding American contractors from this market.

Mr. Chairman, my proposed amendment should get their attention. My amendment takes immediate reciprocal action against Japan's blatant discrimination against American construction firms. It would prohibit the use of Federal funds for procuring construction services and products for United States public works projects from Japanese firms during fiscal year 1988. The only exception is that the President or the head of an agency would be allowed to waive the prohibition if such action is needed in the public interest.

This amendment is not legislating any broad new foreign trade policy for the United States. It is not interfering with the construction of any public works project in the United States. It simply means that Japanese firms are not going to get any of the contracts funded by these United States tax dollars to build any more of the D.C. subway system. build Federal buildings, dredge our harbors, or develop our Army bases unless and until Japan opens up its projects to United States bidders.

All we are asking is that U.S. companies be given a fair chance to compete. The rest is up to Japan. One thing is certain. If United States construction firms are to have access to the $200 billion in public works projects planned for the next decade by the Japanese Government, the time for Congress to take a stand is now.

I urge you to support my amendment.

The CHAIRMAN. For what reason does the gentleman from New York rise? Is the gentleman opposed to the amendment?

Mr. HORTON. I am not opposed to the amendment, Mr. Chairman. I rise in support of the amendment.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. Horton] will be recognized for 15 minutes.

There was no objection.

Mr. HORTON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, nearly 25 years ago the United States recorded its first trade deficit with Japan. That $350 million deficit prompted the United States to enter into bilateral negotiations with Japan to address the situation. We have been negotiating ever since. Our deficit with Japan today has mushroomed to over $60 billion annually. Negotiations haven't worked.

Good-faith efforts to construct mutually beneficial trade relationships have produced little. Japan's compliance with major international trade agreements, such as the GATT, or the Government Procurement Agreement, have been and continue to be minimal.

Most recently, senior Japanese Government officials have publicly stated their intention to bar American corporations from participation in Japanese public works projects. The market value of these projects in Japan is expected to reach $190 billion over the next decade. This figure is nearly 75 percent of the projected U.S. public works program for the next 10 years. The big difference between the two countries' programs, however, is this: Japanese corporations are allowed virtually unlimited access to bid for and participate in our construction and public works projects.

What is our usual course of action in these situations where blatantly unfair trade practices are identified? First, we file a 301 trade action against Japan and wait the several years it often takes to produce a finding. Then we weigh the options available to respond once a finding is made. One of the options most often used is negotiation with Japan over some form of voluntary restraint to help curb the unfair trade practice. Japan continues its practices with virtual impunity throughout this process and, more often than not, after the process is concluded. Meanwhile, American corporations, and often entire industry sectors, lose market share. American workers continue to lose their jobs.

It is time that the Congress "just say no" to Japan. This amendment will prohibit any fiscal year 1988 funds contained in this continuing resolution to be used by Japanese corporations, professional firms, or other business arrangements in the performance of United States Government-funded public works and construction projects. Mr. Speaker, I support this amendment, commend my Chairman Jack Brooks for his leadership in getting it to the floor, and urge its adoption today.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. SCHULZE. Mr. Chairman, I rise in support of the amendment offered by Mr. Brooks. This measure offers an appropriate and necessary response to Japan's growing reliance on protectionist trade barriers for purposes of enhancing its position in the world trading system.

It is important to note that this measure does not represent the imposition of United States will on Japan. What it does signify, however, is our impatience with their refusal to tear down the barriers which effectively prevent our firms from bidding on, and being awarded, construction contracts in Japan.

On September 21 of this year. Mr. Nakasone promised President Reagan that procurement procedures for the Kansai Airport project would serve as a model for future construction projects in Japan. Three weeks ago, however, Ambassador Matsunaga informed us that these procedures will serve as a model only for the coming Tokyo Bay Highway project, and not for all future projects.

The time has long since passed for Japan to send a clear signal as to whether or not it is going to behave like a responsible trading partner.

It is inconceivable that Japan can criticize our trade bill while maintaining some of the most stringent import barriers in the world. The Japanese talk about a commitment to free trade, but their actions have proven otherwise.

Although we would prefer not to engage Japan in an unwise and potentially destabilizing game of tit-for-tat protectionism, Japan's actions convince us that they don't feel playing Russian roulette in the international trading arena is such a bad idea.

If Japan wants free and fair trade with the United States, most Members in this Chamber are behind that 100 percent. If, however, Japan wants to prevent market access to our construction services, we simply have no choice but to send a clear message that the American people will no longer tolerate Japan's instransigence on this issue.

Your strong support for the Brooks amendment will send just that message.

Mr. HORTON. Mr. Chairman, I thank the gentleman for his support.

I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I would just say to my colleagues that the very foundation of our free enterprise system is to get something for your assets, a quid pro quo, to receive something for that which you give to your trading partners.

Our public works business market, if you will, is an asset. Right now we are giving away that asset without receiving anything in return.

The Japanese will only respect us if we demand some type of quid pro quo for the assets that we are offering to them and allowing them to do some 2 billion dollars' worth of public works in this country, as we did last year.

So I would say this would be a good place for us to indulge in smart trade, not dumb trade, by demanding something for American assets that are presently being offered to the Japanese industry without receiving anything in return.

This is the only thing that will motivate Japanese politicans to move toward opening up part of their very massive public works bidding to Americans.

Mr. HORTON. Mr. Chairman, I thank the gentleman for his support and his comments. They are right to the point.

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding.

There is an airport project taking place in Japan. It is called the Kansai Airport project. It is a $9 billion project. American construction firms bid on this project. To date, with most of the bids contracted, we have some $160,000 worth of contracts on that project. We bid in the hundreds of millions of dollars.

We have some of the finest large construction companies in the world with an excellent reputation for quality worldwide, yet we were frozen out of one of the largest public works projects in history.

Mr. Chairman, this amendment is a good amendment. The trade bill, I might add, already has a section on the Kansai Airport, so it is not as if this is coming out of the blue. It is related to our efforts in the Energy and Commerce Committee.

The gentleman from New Jersey [Mr. FLORIO] and I have been active in seeking redress in this area of public works. There needs to be some reciprocity.

Mr. HORTON. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I rise in favor of the Brooks amendment. A lot of us around here who have been concerned about protectionist legislation feel that this is very important, because this is reciprocity, reciprocity in its best sense.

The Japanese Government has made it clear, Americans need not compete in their country. In this case, what we are saying is if that is their attitude, then the Japanese need not apply for competition with the American Government.

I think this is an excellent amendment, and I thank the gentleman for yielding.

Mr. HORTON. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I simply want to say as we have been going along, we have been told all the time, and even on the floor of this House, that the Japanese do it better, their products are better, they work better, they save more. I will tell you what I think they do best. They do best at protecting their markets, their jobs, all the while flying the flag of free trade. It has proved to be a flag of convenience. It is a great ploy on their part.

I now propose that we emulate the Japanese, starting with this amendment. Let us begin to do what they do best, protect our own. Let us vote for fair trade today.

I cannot stress too much my support for the Brooks amendment. For several years we have been suffering through chronic balance-of-payments deficits with the Japanese trying to find remedies inside this country for a problem being created in Southeast Asia.

Japan has asked for unlimited access to our markets. And in many market sectors she has been given an open door. Not only have we accepted her products, we have also allowed her corporations to enter this country—many times with economic incentives being offered by our State governments and forgiveness being given by our tax law—conditions under which no American corporation has ever been welcomed into the nation of Japan.

Now, the American construction industry is running into a host of stumbling blocks in trying to get contracts inside Japan—restrictions and qualifications deliberately designed to disqualify any bidder other than a Japanese firm, while their construction firms bid freely and openly inside the United States to the tune of an estimated $3 billion in business in 1987.

We are being told all of the time—even from the floor of this House—that the Japanese do it better. Products are better, they work harder, they save more. I'll tell you what I think they do best—they do the best at protecting their people, their markets, their jobs all the while flying the flag of "free trade." It has proved to be a "flag of convenience."

It's a great ploy on their part. I now propose that we emulate the Japanese—starting with this amendment. Let's begin to do what they do best—protect our own. Let's vote for fair trade today. Let's stand up for what is the right thing to do for our industry—I have for many years pushed for a trade policy of reciprocity. Any article traded in international commerce should carry a common international restriction or none at all.

Any system more complicated that that is not "free trade."

We have been working for much too long under a bastardized trading program. It has not been free trade for the United States into any export markets. And it has not been fair trade for the United States into any export markets. It has been a "heads-they-win, tails-we-lose" kind of trading system for all too long. For proof of my statement—look at the balance-of-payments deficit.

All of the talk of the threat of a trade war convinces me that few people study those figures, few people understand them. At the end of this year we will owe the world in excess of $700 billions. Trade war? We are smack in the middle of it and we are losing big.

Lets' begin to draw the line with the Brooks amendment.

Mr. HORTON. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Chairman, I rise in support of this amendment. It represents the golden rule of trade and reciprocity and it is deserving of support.

Mr. Chairman, the Japanese Government's recent announcement that all United States and other foreign construction and engineering firms will be prohibited from participating in Japanese public works projects is probably the most direct and most serious step Japan has taken to close its construction market to foreign firms. Apparently, Japan feels completely free to close its doors to American firms without fear of similar restrictions being placed on Japanese firms in this market.

This kind of one-sided free trade should never have been allowed to continue this long and certainly now must be stopped once and for all. We must now show Japan, and any other country that takes similar action, that the price they will pay for closing their markets to our firms will be equally harsh restrictions on their firms in our market. I, therefore, wholeheartedly, support the amendment proposed by our colleague, Mr. BROOKS, which would prohibit funds appropriately by this continuing resolution for public works projects in the United States to be used for contracting or procuring construction services and products from Japanese firms during this fiscal year.

Mr. Chairman, I would like to review briefly some of the background on this issue.

For more than 15 years, the United States has been talking with the Japanese about opening up the bidding on their public works projects to U.S. firms. These talks have failed completely, as was made clear by Foreign Affairs Minister Uno's recent statement that no foreign construction and engineering firms will be awarded contracts on Japanese public work projects.

During this period of bilateral discussions, the Japanese began one of the biggest building projects in its history, the construction of the new Kansai Airport on a manmade island in Osaka Bay. This project alone has an estimated value of $8 billion.

Despite assurances from the Japanese that it would open up major parts of the Kansai Airport project to foreign bid, U.S. contractors, to date, have been awarded contracts valued at less than $17 million. In fact, it is widely believed that the major element of this project, the construction of a bridge connecting the Airport to the mainland, has already been secretly awarded to Japanese firms.

Mr. Chairman, pursuant to hearings last spring, my subcommittee added provisions to the House trade bill that would institute an unfair trade-practices case against Japan for its treatment of U.S. construction firms. Since the trade conference will not conclude its work until next year, I have written the President and asked that he use authority he already has to initiate a trade case against Japan for its barriers to U.S. construction firms.

Given the likelihood that most of the Kansai Airport contracts have already been let to Japanese firms, it is especially important that we move quickly and directly to take the kind of action that will give Japan the incentive it obviously does not now have to allow foreign firms to participate in an estimated 54 billion dollars' worth of construction projects to be undertaken over the next 10 years.

In direct contrast to the closed Japanese construction market, our Government allows Japanese or other foreign construction and engineering firms to bid on most U.S. public works projects. Projects that raise a national security concern are an exception to this rule.

In fact, the State Department last year awarded the contract for the completion of the U.S. Embassy in Cairo to a joint venture controlled by one of Japan's major construction firms. Similarly, foreign construction and engineering firms have won State Department contracts totaling $31 million in just the last 2 years.

Industry sources estimate that Japanese management and construction firms have increased their share of U.S. construction contracts from $50 million in 1981 to $2 billion in 1986. This year the total could reach $3 billion.

Japanese construction and engineering firms are enjoying benefits from our Government that the Government of Japan does not extend to American construction and engineering firms bidding on work in Japan. This unfair trade relationship must be changed. But, unfortunately Japan has not responded to our direct discussions with them on this subject over the last 15 or more years.

The time for direct action is long overdue. This amendment gives us the opportunity to take the needed action. I urge my colleagues to support the amendment.

Mr. BROOKS. Mr. Chairman, I yield to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Chairman, I rise in strong support of this amendment.

I saw an article in the paper a few weeks ago that said our Cabinet is split over pressing Japan on these projects. Let us show them that Congress is not split on pressing. Let us pass this amendment and assure that we have fair trade in the international marketplace.

Mr. BROOKS. Mr. Chairman, I yield to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the Japanese activities in our construction market grew from $50 million in 1981 to almost $3 billion in 1987. Japanese penetration into the U.S. construction market increased by 170 percent in 1 year.

In the next decade, over $60 billion of major public works projects will be built in Japan, but not one penny of that money will go to an American construction firm, no matter how competitive, no matter how superior our firms, unless the Japanese change their exclusionary laws and allow us to compete fairly for their projects, as they have for ours.

I rise strongly in support of this amendment. It is the only way that we are going to change this unfair exclusion of the Japanese keeping American firms out of their market.

Mr. LOWERY of California. Mr. Chairman, I rise in support of the Brooks amendment. I am not a protectionist and generally oppose efforts to prevent foreign participation in the American economy. However, the Japanese Government's blatant discrimination against the American construction industry cannot be tolerated. While Japan enjoyed $3 billion in sales in the U.S. construction market in 1987, U.S. firms have been denied any significant participation in the Japanese construction market. To add insult to injury, the Japanese Government has indicated that it will continue to use procedures that will effectively exclude American firms from bidding on Japanese Government public works projects.

The Brooks amendment would prohibit Japanese firms from providing goods and services for U.S. public works projects during fiscal year 1988. This is a necessary step to demonstrate to the Government of Japan that we will not tolerate the direct discriminatory measures they are employing to protect their construction industry. We welcome open and fair competition in our economy, Japan can and should permit this same competition.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 399, noes 17, not voting 17, as follows:

[Roll No. 456]

AYES—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—17

Beilenson
Chandler
Conyers
Dannemeyer
Foley
Frenzel
Gradison
Lewis (CA)
Lungren
Mack
Michel
Oxley
Petri
Shumway
Stump
Thomas (CA)
Wheat

NOT VOTING—17

Badham
Biaggi
Crane
Dicks
Dowdy
Gephardt
Hawkins
Kemp
Latta
Lloyd
Lott
MacKay
McEwen
Montgomery
Roemer
Roth
Solarz

□ 1720

Mr. WHEAT and Mr. LEWIS of California changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAMS: At the end of the joint resolution add the following:

SEC. . From funds appropriated under this Act, a State's allotment for the program year beginning July 1, 1988, under section 301(b) of the Job Training Partnership Act (P.L. 97-300) shall be reduced by an amount equal to the unexpended balance of such state's allotment as of June 30, 1988, in excess of the allowable unexpended carry forward. The term "allowable unexpended carry forward" shall be defined as twenty per centum of the State's allotment under section 301(b) of the Job Training Partnership Act for the program year beginning July 1, 1987. Funds not allotted to States that exceeded the allowable unexpended carry forward shall be allotted by the Secretary in accordance with section 301(b) among States giving primary consideration to States which have not exceeded the allowable unexpended carry forward amount as of June 30, 1988, and have an average unemployment rate for the most recent twelve months greater than the national average for such period. In no case shall such funds be reallotted to any State which had an unexpended balance as of June 30, 1988, in excess of thirty-five per centum of its allotment under section 301(b) for the program year beginning on July 1, 1987.

Mr. WILLIAMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] is recognized for 7½ minutes.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to urge your support of an amendment to House Joint Resolution 395 in behalf of myself and the chairman of the Education and Labor Committee, Mr. HAWKINS and its ranking member, Mr. JEFFORDS. This amendment has been developed in negotiations with the Department of Labor and has their approval. It is identical to the language on reallocation of worker readjustment moneys in section 336(a) of the House passed trade bill and is consistent with language in the administration's proposal.

The amendment addresses the continuous problem of unspent funds under title III of the Job Training Partnership Act. Under this act, 75 percent of these funds is allocated by formula while 25 percent is reserved for the Secretary's discretion. As of June 30, 1987, there was $106 million in unexpended carry-in in this title. This is occurring when we are only serving 3 to 5 percent of the need nationally/and compares to an appropriation of $200 million which will be available July 1, 1988.

Our amendment responds to this problem by giving 7 months notice to the system that after June 30, 1988, unspent title III formula funds in excess of 20 percent would be reallocated. We believe that this amendment is also consistent with the approach that the Labor-HHS-Education appropriations subcommittee has taken with the Summer Youth Employment Program.

Current law only permits the Secretary of Labor to reallocate unobligated funds. This amendment would require the reallocation of unspent funds in excess of 20 percent of a State's allotment.

It is my intention that this amendment would result in reallocation of funds first to those States that have unemployment rates in excess of the national average and have spent their moneys and then to other States which do not have excess carry forward moneys.

We also believe that this amendment is necessary at this time to preserve the integrity of the title III effort.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Kentucky, the chairman of the Subcommittee on Labor, HHS and Education of the Committee on Appropriations.

Mr. NATCHER. Mr. Chairman, we have no objection to the amendment on this side. We accept the amendment.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I have a problem with the gentleman's amendment. I do not want to derail the amendment because its basic purpose is a sound one. But I am concerned that the technical word in the gentleman's amendment is "unspent," because the people who run this program in my State tell me that typically they will be in a situation where they will have the money obligated, but it will not actually have been spent yet. But they are, nonetheless, committed to the expenditure of the money.

That obviously would create a problem if money then gets yanked back that they are legally committed to others to spend. I should hope that the gentleman could tell us here that he would look forward to developing language to deal with that problem between now and the conference so that we could include this in the final bill in a perfected form that would not create that kind of problem for my State and I presume for other States.

Mr. WILLIAMS. I want to assure the gentleman that the amendment is not meant to create any unnecessary problems for the gentleman's State or other States that have full, good intentions to spend obligated moneys.

However, I hasten to add to the gentleman that States have been using this matter of obligated funds that are to be spent for 5 years, and yet those moneys are not spent.

However, I want to protect those States that in good faith are obligating and trying to spend their money out within the calendar year.

Mr. GREEN. I hope I can work with the gentleman to try to get some language which will deal with his concerns, but yet protect those who in good faith obligate funds and thus are under contractual obligations which would obviously leave them in a bad way if the money got called back.

Mr. WILLIAMS. I thank the gentleman for his expression of concern.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to my friend, the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

I can understand what the gentleman is trying to do in the amendment. I agree with what he is trying to do in the amendment.

I do want to make sure that when this goes to conference the conferees understand that there will be some emergencies and some contingencies that we have to think about. I will give one quick illustration. In my State just recently Volkswagen General has said they are going to close a plant, not in my district but in my State. If they spend all of that money now within that next 7-month period, then of course when they need it, when the plant actually closes, then we are going to have a problem. So my hope is that when we go to conference, whoever the conferees are, they consider those contingencies and those emergencies that will arise such as this Volkswagen problem that Pennsylvania is going to be faced with.

Mr. WILLIAMS. The gentleman from Pennsylvania raises a valid point, and I want to assure him that because of his work with me this afternoon, the author of this amendment in the House Education and Labor Committee is fully cognizant of the special problem the gentleman's State of Pennsylvania might have here, and we in no way want to be injurious toward the appropriate retraining of those workers. I do want to remind the gentleman that title III not only allows for retraining of workers who are laid off, but also retraining of workers who are likely to be laid off. So the gentleman's State can prepare now for it and start spending now for the retraining of those workers.

Mr. GOODLING. But part of that, of course, would then be caught in that unobligated fund.

Mr. WILLIAMS. We want to try to protect the gentleman.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, I am, of course, rising to commend the gentleman on this amendment and I rise in support of it. One of the beautiful benefits of this, if we can enact it, is not only are we going to get this money in motion, but then the money that will stay within the State is going to be distributed down to the local service delivery areas a lot faster than it has been in the past, and we are going to accelerate the business of local training. So I commend the gentleman on his effort.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I rise to commend the gentleman and point out that this has been one of the serious problems we have had with title III, that is, to ensure that the money that is actually appropriated gets used at some point. I think it is an excellent amendment and I certainly support the gentleman.

Mr. WILLIAMS. I thank the ranking member of the House Education and Labor Committee. As the gentleman knows, the chairman of the House Education and Labor Committee is also supportive of this amendment.

Mr. JEFFORDS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Montana. As he is aware the issue of carryover funds under title III of JTPA has been troublesome. In fact, in our deliberations regarding a worker readjustment program in the trade bill, we have included language similar to that in this amendment to address this problem in the longer term.

According to our figures, nationally the carryover in the title III program for both 1986 and 1987 approximated the appropriations for the program in each year. When we know there is a need for programs to address the problems facing dislocated workers, we cannot allow such carryover of funds to continue unabated.

This amendment does not require that funds be paid back. Instead, it provides a 7-month period of time in which States can adequately plan. If at the end of that time States carry forward more than 20 percent of their allotment, their subsequent allotment will be reduced by the excess. The Secretary will then have the authority to reallot these funds to those States that have greater need for the funds as determined by unemployment rates or expenditures.

I commend the gentleman from Montana for his amendment, and support its inclusion in this resolution.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman. I rise in strong support of the amendment offered by the gentleman from Montana, Congressman WILLIAMS, which would reallocate unspent title III formula funds of the Job Partnership Training Act.

While many States currently do not utilize their entire allotment of funds, certain States such as West Virginia are in desperate need of additional funding. West Virginia's regular allotment is rapidly depleted due to the fact that the State continues to suffer under one of the highest rates of unemployment in the Nation, currently 9 percent. The rate of unemployment in my congressional district in the southern part of the State is close to 14 percent.

The so-called dislocated workers of West Virginia—coal, glass, and steelworkers, among others—are in dire need of title III retraining funds. These workers have little hope of regaining employment in their previous occupations and therefore are eagerly seeking retraining to enable them to reenter the work force. These men and women want to work but must rely on retraining programs for future employment; unfortunately, in States such as West Virginia, funding for these programs is not adequate to address the needs of the vast numbers seeking help.

It is only common sense to spread unspent title III funds to those States which are in such desperate need of assistance. Keep in mind that these would not be new, additional funds but previously allocated, unused funds. On behalf of States such as West Virginia which are facing an uphill struggle toward higher employment rates, I urge my colleagues to support the Williams amendment.

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman's kind words and want to note that the gentleman's State is one of those who consistently spends all of the money attempting to retrain those displaced workers who are citizens of the State of West Virginia.

Mr. RAHALL. The gentleman is absolutely correct.

Mr. WILLIAMS. Mr. Chairman, I rise in support of the gentleman's amendment, which would reallocate unspent title III funds under the Job Training Partnership Act.

Dislocation of workers due to business closures and permanent layoffs has reached serious proportions, requiring an immediate and viable, response. It is estimated that, on average, about 2.3 million workers were dislocated annually between 1979 and 1984. Further, despite the economic recovery taking place in 1983 and 1984, over 16,000 establishments with 50 or more employees experienced a closure or permanent layoff affecting about 1.4 million workers in this 2-year period.

The ability of the economy to reemploy dislocated workers has been of much concern to this body. The Job Training Partnership Act was enacted to address the problems of dislocated workers, and between 1982 and 1986, $650 million in Federal funds has been provided for the JTPA title III program.

However, because the program allows States considerable latitude in designing and implementing dislocated workers programs there has been considerable variation in the size, focus, and effectiveness of the program. Some States have effectively carried out the intent of the program to train and relocate workers. Others, however, have failed to use available funds for this purpose. This amendment is necesary because it fills a critical need by taking unspent title III funds and placing them where they are most needed. I believe this action will go a long way in addressing problems of chronic unemployment. I urge my colleagues to support this amendment.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Tennessee.

Mr. COOPER. Mr. Chairman, I thank the gentleman for yielding.

I would just like to ask for consideration, as did the gentleman from New York [Mr. Green], because there are some States like Tennessee that have unspent funds. We have had an administration for several years in the past that did not really believe in the full use of the program. However, now we do have an administration that believes in that full use, so we would like some consideration.

□ 1735

Mr. WILLIAMS. Mr. Chairman, I appreciate the remarks of the gentleman.

Mr. PEASE. Mr. Chairman, I move to strike the last word.

I would like to enter into a colloquy with the gentleman from Montana [Mr. Williams].

I have heard people in my State JTPA office who are concerned because they say that they enter into 18-month to 24-month contracts and the money is, therefore, obligated but not spent. And, furthermore, they say that they are increasingly using performance-based contracts so they are continually holding money out that they are obligated to pay at some point to make sure that there is performance. I am wondering if the gentleman can tell me what the situation is, whether that is a valid complaint or not.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from Montana.

Mr. WILLIAMS. I thank the gentleman for yielding.

If there are contracts that are longer than normal year in the gentleman's State I am unaware of them. However, the gentleman is obviously correct and I take his word for it that there are. I suggest that might be a unique situation.

Indeed, if it is, I want to assure the gentleman that we will work with him on both the Senate side, as best as we can, and in conference to assure that unique situations such as the gentleman propounds are protected.

Mr. PEASE. I appreciate the remarks of the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana [Mr. Williams].

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. Flippo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes, pursuant to House Resolution 321, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the amendments in section 1 of House Report 100-466 are considered as adopted in the House, and the previous question is considered as ordered.

Is a separate vote demanded on any amendment contained in section 2 of House Report 100-466 adopted by the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. LEWIS of California. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Lewis of California moves to recommit the joint resolution, H.J. Res. 395, to the Committee on Appropriations with instructions that the committee report it back to the House forthwith with the following amendment:

At the end of the joint resolution add the following new section:

SEC. . DISCRETIONARY SPENDING FREEZE.

(a) In addition to budget outlay savings otherwise provided for in this Act pursuant to the summit agreement between the President and the joint leadership of Congress, dated November 20, 1987, appropriations in this Act not required to be made by law shall be reduced by the amount necessary to result in a reduction of budget outlays for the fiscal year ending September 30, 1988, of $3,400,000,000, which reduction shall be distributed between total defense and total nondefense budget outlays according to the distribution of such outlays under Public Law 100-120 (as amended). Individual accounts funded by this Act shall be adjusted to meet the requirements of this section. The Committee on Appropriations shall take such steps as are necessary to apportion these levels among the various subcommittees and shall make such recommendations in the conference report on this joint resolution as ensure that these levels are not exceeded.

(b) None of the funds appropriated or otherwise made available by this Act may be used for the payment of the salaries of members of Congress in excess of amounts

paid for such purposes in the fiscal year ending September 30, 1987.

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California [Mr. Lewis] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER. The gentleman from Mississippi [Mr. Whitten] will be recognized in opposition.,

The Chair recognizes the gentleman from California [Mr. Lewis].

Mr. LEWIS of California. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I thank you for your courtesy. I rise at this point by way of a motion to recommit with instructions regarding the bill before the House.

Mr. Speaker, I am a bit hesitant to address you, the Speaker of the House, in quite this way but I would like to say that from this Member's viewpoint, October 29 took us to the edge of disaster as the U.S. House of Representatives.

During that day we were considering the first step of our efforts moving in the direction of trying to make some sense out of our economy. It was a first step in the direction of reducing spending and developing a revenue base that will lead eventually to balancing our budget. We saw in the reconciliation action on the floor a most disconcerting abuse of power on the part of the Speaker. Indeed, when we are attempting in a bipartisan fashion to wend our way to a most difficult process leading us to sizable spending reduction and a balanced budget, it is most difficult to find the House almost divided against itself. To see us in a circumstance where there was an exercise of authority that brought the House to such partisan contention that business was almost brought to a halt—should cause those who care about the institution to want to step back again.

Mr. Speaker, I do not think the House has forgotten October 29. It is my view that the vote of 205 to 206 or perhaps it was 206 to 205 is a reflection of the frustration of the Members.

Today we have before us a package called the continuing resolution, another step in our effort to move in the direction of sizable spending reduction and, ideally, a balanced budget.

Mr. Speaker, today we have heard in very forceful terms objections to a process whereby we carry forward the spending of Government in a single bill in which the Members, for all intents and purposes, will today have a single meaningful vote.

The continuing resolution to the people of America must be an astonishing process. You take virtually all of the spending of Government, over one-half trillion dollars of Government spending, put it into one huge basket, ask people to make sense out of it, and then you have an up-or-down vote on that package.

My greatest concern in that connection, Mr. Speaker, is the reality that the committee on which I serve finds its credibility being undermined by this process.

We have 13 subcommittees in the Committee on Appropriations, and each spends many, many hours during the year working out its responsibility. To not have their work come to the floor and be dealt with by the Members individually is unacceptable. And anybody who is not on the Committee on Appropriations knows what we are talking about. Appropriation members hear day in and day out, "what is wrong with your committee that you won't give us a chance in the House to work our will as well." Should the Appropriations Committee be imposing its will in this form upon all the other Members of the Congress?

I suggest this example is taking us down the path of destroying the believability of our committee. Our Members do not deserve that sort of reflection as a result of the procedures of the House.

Beyond that, we have heard much discussion today about legislating on an appropriations bill. We would suggest we never do that in the House. But today's debate would suggest that such a comment at best is ludicruous.

The debate that centered around today's air quality questions, a very important issue. To have that discussion in the middle of an appropriations bill that involves over one-half trillion dollars of other items is unacceptable.

The debate regarding the fairness doctrine should not have been in this bill. Indeed, the fact is we all know that each appropriations subcommittee report should be considered separately here in the House. This process flies in the face of responsible government insofar as appropriating the taxpayers' dollars is concerned.

Mr. Speaker, my motion to recommit is a relatively simple and straightforward item. It is a motion that includes instructions to the committee to make certain that through this continuing resolution process we will be spending no more as a result of these appropriations in the 1988 appropriations year than we will have spent in the 1987 year. That means that the motion will lead to approximately a $3.4 billion reduction in spending.

We are in the midst of a great debate that involves the integrity of the House. We are also involved in a crisis that faces not just our country but indeed the world. Our national and international economic circumstances are very, very dicey, to say the least. Indeed, the crash in the stock market was sending a message and a part of that message was that the House of Representatives had better get its House in order.

The sum of $3.4 billion is a small token to suggest the point that the House is willing to move in the direction of at least not spending more next year than we are spending this year; $3.4 billion out of a half trillion dollar package is at best a drop in the ocean. But indeed it at least says the House Members are willing to begin to draw some of the tough lines today.

Mr. Speaker, these cuts will take place in nondiscretionary domestic spending. The cuts will lead to a package that is very close to a 50-50 reduction between defense and nondefense spending of those items we are addressing.

There is little doubt that each of our Members has been home to their district of late and talked about their commitment relative to balancing our budget. The critical necessity for the House to lead, to send a message to the world that we are going to play a role in making sense out of our economy. The place to start is with this recommittal motion at this moment.

Mr. Speaker, let me make this final point: If you are in support of this continuing resolution, indeed if you do not agree with my concern about the process, the least that you can agree with and recognize is that this $3.4 billion freeze at the 1987 level is a tiny but important message for the House to be sending at this critical time in our history.

□ 1750

The SPEAKER. The gentleman from Mississippi [Mr. Whitten] is recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I yield myself 5 minutes, and I rise in opposition to the motion to recommit.

Mr. Speaker, may I point out that there are some things that we just have to accept. One is that this country has got to continue to operate if we are going to get out of the situation we are in. The bottom line is that we have got to have public support and keep the public facilities operating.

I hope the Members will listen to this. The Senate has appropriated $2 billion more than the House bill that we brought to the Members. Already, the Appropriations Committee has passed or reported bills that are $4.7 billion below the President's outlay request; $3.5 billion below our 302(b) allocation; and $7.8 billion below the Gramm-Rudman baseline. The resolution just adopted further reduces those bills by $1.5 billion in discretionary outlays. This continues the record of the committee of staying below the President's budget. Since 1981, we have been $17.1 billion below the budget requests. Here we would cut it again $3.4 billion. That means that we are going to cut $11.2 billion below the baseline.

I do not see how we can go to conference until we persuade the Senate to back up on the $2 billion that they added before we go to conference. It is easy to offer a motion to recommit to cut something. Whatever we had recommended, they could offer the same motion. I am just saying to the Members, from the practical side, we have got to get the Senate to back up on the $2 billion add on before we get to conference, and then when we do that, we have got to further reduce the $2.6 billion that we have cut over here. Then you want us to cut $3.4 billion more.

This is thoroughly impractical. I hope we will vote against it. I do not think this effort here will surprise anybody, because on the face of it, it is absolutely impossible.

Mr. Speaker, I hope the Members will vote against the motion to recommit.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, it is with reluctance that a number of us on the Democratic side enter into this activity. It is not fun to have to come to the floor and argue for more deficit reduction than the leadership in our party is willing to give us.

Many of us several weeks ago argued that we should not move forward with reconciliation because we wanted to put our faith in the budget summit. We had high hopes for what that budget summit could achieve. We have been sadly disappointed. The summit did not achieve what we all had hoped for.

Deficit reduction under that plan falls short partly because entitlements were left off the table, partly because the President insisted that a $5 billion increase in the military was his bottom line, and that then made it virtually impossible for further reductions in other areas of the budget to be achieved.

Worse yet, that summit agreement was only a hollow shell. None of the specifics on taxes or spending were actually agreed on—only targets. Filling in the details invites the same kind of partisan wrangling here in Congress that has led to an impasse in the past and could lead to inaction again.

Furthermore, if that summit was designed to bring a sense of bipartisanship to our deficit reduction efforts, then why has it not delivered support from the Republican side of the aisle here in Congress? I suggest it is because there is something about this particular CR that is not consistent with what was understood to be part and parcel of that summit agreement.

Mr. Speaker, we can do more. As I mentioned earlier today in discussing the rule, the biggest problem with this deficit reduction plan, if implemented, is that it will leave us next year with a deficit bigger than this year's deficit. We cannot go home and tell the folks that we have cut the deficit when in fact the numbers say otherwise. By implementing the budget summit plan, we will be implementing a bigger deficit next year than last year.

Mr. Speaker, that does not make sense. We can do better. This amendment, this freeze across the board in defense and domestic accounts, will help us do what we ought to do.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I certainly am not going to suggest to anyone that the summit agreement reached by representatives of the White House and our congressional leadership on both sides of the aisle is perfect. I do not think it is. I do not think it does enough. But the reason it does not do enough has nothing to do with them. It has a whole lot to do with the nature of the country. It has a whole lot to do with all of us. What the people in that room had to decide is what was achievable.

There is a great call around the country for leadership. I agree with that call. But in a legislative body, once in a while we need more than good leadership; we also need good followship. The fact is that if we do not follow the lead that has been suggested by all of our leaders in that summit conference, inadequate though some may think it is, if we do not follow that lead, we are going to inexorably unravel the only chance we have to reach any significant deficit reduction.

In a body composed of 435 different human beings, the worst thing that we can do is to let the perfect become the enemy of the good, and if each of us insists only on our version of what that summit conference ought to be, we are going to wind up with a big fat nothing.

So I would suggest that if Members want to go down that road, they can vote for the recommittal motion. If they think something else is more important, then they should vote to stick with the resolution. What is important at this juncture is not what I think the budget deficit cutting mix ought to be or what anybody else in this House thinks the mix ought to be. What is important is that eventually the White House and the Congress get together on something, whatever it can be, and the only way to get a chance to do that is by sticking with this resolution.

Mr. Speaker, I would make one other point. Let us not let anybody kid us that this is a balanced recommittal motion unless we happen to think that we should achieve additional savings by taking 80 percent of those savings out of the domestic side of the budget and only 20 percent of those savings out of the military side of the budget.

Mr. Speaker, that is not what the public opinion polls show the country wants, and that is not what equity and justice wants and good sense requires.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in strong support of this motion to recommit with instructions, and I believe that this motion to recommit with instructions ought to be supported by both sides of the aisle.

I bring to the attention of the House several facts. First of all, this is not a cut. That is to say this is a mandate that we set the level of spending for discretionary programs only for fiscal year 1988 at the same level of fiscal year 1987, giving full jurisdiction and full ability for the conference committee and the conferees to say where those cuts will be, so long as the freeze level is the same between defense and nondefense.

No. 2, this is not even a freeze although it at least approaches a freeze. This would only freeze at the programmatic levels that are contained in the temporary 1987 CR. It does allow for demographics. It does allow for entitlements. It simply says that of those new budget outlays, of new program spending, the new budget outlays, we would set the level of outlays for 1988 at the same level as they were in fiscal year 1987.

Mr. Speaker, this recommittal motion does not destroy the continuing resolution. It does not destroy the summit. It is with instructions. It relates to the summit. It acknowledges that a majority of the House Members believe that the summit can do better. It says specifically that we can and should do better by precisely $3.4 billion. It says that the summit reduced the total level of spending, discretionary spending by only $7.5 billion, and the majority of the House believes that the level of reductions ought to be $1.5 billion. If the majority of this House believes we can do better with the summit, then in fact this is the vote to make those cuts and to make those adjustments.

□ 1800

Without this amendment, without the Stenholm amendment that is the motion of the gentleman from California [Mr. LEWIS] to recommit, without this amendment, there will be no deficit reduction.

With the CR before us as it is today, we will increase the deficit in fiscal year 1988 to $149 billion, which is $1 billion over what it was in fiscal year 1987.

The fact is the only way to begin reducing the deficit is to begin reducing the deficit.

I urge a yes vote on this motion to recommit with instructions.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in opposition to this motion because, make no mistake about it, if it is adopted it undercuts the summit agreement that was arrived at by the joint leadership on both sides.

I realize there are those who disagree with the summit agreement, and I respect those views. There were many of us who were not pleased with what was finally in the summit agreement, but nevertheless, those who participated in that, the leadership on both the Republican and the Democratic side, came together, announced it and pledged support for it.

If the Democrats had offered this kind of recommittal motion, we would justifiably have been labeled as undercutting the summit agreement, and that is exactly what this motion does.

A number of Members on both sides, plus the leadership, said that this was the way on a bipartisan basis for both sides to come together and to arrive at an agreement. It represents our best chance to avoid sequestration, to try to implement some kind of deficit reduction and to try to restore some degree of trust between the executive and legislative branches.

The passage of this amendment would undercut that effort, make no mistake about it.

One of the decisions in the summit was to balance hard cuts with hard taxes. If we adopt $3.4 billion in additional cuts, there is every reason to ask for $3.4 billion in additional revenue increases. That undercuts the whole thrust of the summit agreement.

Last, any time you adopt a freeze approach, it takes the same approach that Gramm-Rudman does. It does not set priorities, and part of the problem here is the failure to try to set priorities.

What a freeze would do is attack low-income programs, AIDS research, the WIC Program, the FAA, and other programs on the same basis, whether they work or not. That, it seems to me, undercuts what this institution is supposed to do, which is to set priorities.

The purpose of the summit agreement was not just to arrive at a deficit reduction package. It was to try to restore some degree of trust between both sides of the aisle and between the executive and legislative branches.

If we pass this amendment, we destroy that trust. It seems to me the summit agreement, if anything, gives us a basis on which to adopt further deficit reductions in the future if we can just trust one another.

Please do not adopt the recommittal motion.

Mr. TAUKE. Mr. Speaker, will the gentleman yield on that point?

Mr. PANETTA. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Speaker, I think the gentleman suggested this was a freeze category by category, or program by program, and it is not. This is a freeze or cap on overall discretionary spending, allowing the committees to make the cuts.

Mr. PANETTA. This allows, as I understand it, a $3.4 billion freeze across the board. It attacks the WIC Program. It attacks low-income programs and it does not establish priorities. We need to establish priorities, and that is what we tried to do in the summit agreement.

Mr. LEWIS of California. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, if Members will take a good quick look at this chart, you will see what this amendment is all about.

Contrary to the last statement of my good friend, the gentleman from California, he is somewhat erroneous in his statement about the manner in which the freeze was made. The gentleman from Iowa is totally correct.

This is my amendment. It is one we worked on for the last several days. Basically what it tries to do is it enhances the summit, the summit that we talked about.

You notice on this chart if we do not do a little more spending reductions, the deficit in 1988 is going to be greater than it was in 1987, and that is the message that this House is going to send to the world.

This amendment freezes congressional pay. In fact, let us go a little stronger than that. This amendment prohibits any congressional pay raise from being funded by this CR in any possible manner. That is a good message that this body, the Representatives of the people, should be sending. This one does it.

It freezes total discretionary appropriations at current levels. This is a summit enhancement amendment, a summit enhancement amendment.

It does not affect entitlements. Personally, I think it should, and anybody who studies this budget as we have been studying it knows the mistake we are making there, but this amendment does not touch entitlements, and I want to repeat that. This amendment does not touch entitlements in any shape, form or fashion.

It freezes total discretionary appropriations for fiscal year 1988 at fiscal year 1987 levels, with allowances for demographics, for participation levels, et cetera. This is the same approach we have taken in the short-term CR now in effect.

Contrary to my good friend, the gentleman from California, who is very knowledgeable on the budget process, what he said just is not so. We are doing it like the short-term CR. We are trying to get another $3.4 billion to $3.9 billion, and the reason we got that difference is because we have staff involved again, staff looking at numbers and saying this and that, so we are going to accept the appropriations level. We are going to accept the $3.4 billion, and that is what it is going to be.

This is consistent, Mr. Speaker, with the Appropriations Committee. We are not getting into their bailiwick. We are not telling you how to do it. We are just saying take the total cap, defense and nondefense discretionary spending, and reduce it by $3.4 billion. We can do that, I say to the chairman and members of this committee. We provide that the conferees on this CR and the Appropriations Committee will take the necessary actions to conform individual accounts to the new categories. We want you to do that. We just do not want you to spend an additional $3.4 billion that we do not have, that we have to borrow from our children and grandchildren in order to provide it.

Let me sum up real quickly by saying, a vote yes on this amendment does these things. It will help in a small way to stem the tide of red ink by cutting spending.

A vote to freeze spending freezes congressional pay. It improves the summit package. Vote for this amendment and approve the summit.

Just to sum up again, this amendment freezes total discretionary appropriations at current levels. It prohibits any congressional pay raise from being funded by this CR.

This is the summit enhancement amendment. It does not reject the summit agreement between the President and the joint congressional leadership, but improves on it and builds on it.

It is $3.9 billion in deficit reductions over and above what is in the summit. This additional reduction comes from restraining spending growth.

This amendment would not affect any entitlements. It freezes total discretionary appropriations for fiscal year 1988 at fiscal year 1987 levels, with allowance for changes in demographics, participation levels, status of contract completion, personnel costs associated with the new Federal retirement system, et cetera. This is the same approach we have taken in the short-term CR now in effect.

We are consistent with the Appropriations Committee's own request as to how amendments should affect the individual spending levels in the CR.

Yesterday, Chairman WHITTEN told the Rules Committee:

> Any amendment should leave to the Appropriations Committee the right to allocate these reductions among the various subcommittees.

We provide that conferees on this CR and the Appropriations Committee will take necessary actions to conform individual accounts to the new totals required by our amendment. Our amendment complies exactly with Chairman WHITTEN's request, with the sole exception that it freezes at current levels the two major overall categories of defense and nondefense spending.

This two-category distinction was made: First, to produce a true, overall appropriations freeze in which defense and nondefense programs make equal sacrifices; and second, to protect either category, domestic or defense, from being cut below a freeze to benefit the other.

Even under the summit agreement, the deficit for 1988 will be $1.1 billion higher than 1987. Recommitting the CR and adopting this amendment is our first real chance to actually cut the deficit in real terms. Because our amendment allows for demographic changes, actual spending in both categories still goes up from 1987, by $8.7 billion for nondefense programs, and $3.4 billion for defense.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, there are a number of misimpressions that exist in the Nation, and certainly sometimes on this floor, about what we have done to reduce spending and to deal with deficits in recent years. One of these the administration talks about frequently and occasionally we join in. We should remember that we have cut the deficit $75 billion, from $225 billion to $150 billion in the last fiscal year.

Another is the way in which the little progress we have made in cutting spending in the last several years has come almost totally from domestic discretionary appropriations.

We have cut $300 billion from the base line in the last six budgets. Domestic discretionary programs is the only area we ever really take the ax to making spending cuts.

Obviously, we are afraid to deal with entitlements. We have heard the gentleman from Texas [Mr. STENHOLM] assure everybody that we have not touched entitlements, because we do not have the political gumption to do that, even though most of the informed critics of the summit agreement said that was its major failing.

We have obviously done little to cut defense spending. It has been reduced from the President's request, but still we are spending more in outlays this year than last.

We cannot touch interest. So what is it that this motion would have us do once again? It would have us come back and cut into domestic discretionary appropriations again, cut into the infrastructure, cut into education, cut into the WIC Program and cut into law enforcement.

I would like to give you a little bit of meat on the bone because it is so easy to vote for across-the-board cuts if you really do not know what it is you are doing.

We are going to be cutting from the administration's request for an 8-percent increase in the Drug Enforcement Administration that we agreed to. In the middle of our war on drugs, this would have us reverse our priorities in that area.

We would cut back on the Immigration and Naturalization Service; just as we are attempting to implement immigration reform. This would be a cutback of 11 percent.

There is a 15-percent cut in the Federal prision program, while there is a growing prison population and overcrowding that produces riots.

We are cutting back on the Federal courts over $200 million, and all of us decry the backlog of criminal and civil cases in the courts. We are about to do it right now without thinking with this across-the-board cut. We would cut back $186 million on the FBI, cutting back 13 percent from the administration's request that has already been agreed to by the House bill.

This motion would simply not pay attention to the details because it is painful to know. We do not want to touch checks that go into the mail, so this motion forces us into the box of reducing the overall General Government that the American public depends on, that they have in fact a right to get a return on in terms of their tax dollars; including important low income programs that, although some are in the entitlement category, there are many in the area included in the reductions contained in this motion.

Kids do not get COLA's. When we try to put money out to help poor kids, we do it through these programs in discretionary domestic appropriations. Let us not cut them anymore. In addition, Mr. Speaker, I would like to point out a glaring error embodied by the amendment in the motion to recommit. It is supposed to contain language that denies the Members of Congress a pay raise.

As a matter of fact, it does not do that at all. It merely says that no funds from this bill can be used to raise congressional salaries.

But there are no funds in this bill for Members salaries. Those funds are provided elsewhere.

Therefore, the amendment would have absolutely no effect on denying a pay raise.

That has already been taken care of. The rule adopted earlier today contained a self executing amendment that denies a pay raise for Members of Congress, judges, Cabinet officers, and all senior employees. That restriction is already in the bill.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, somewhere along the line we have had a problem with messages in this institution over the last couple months. When the summiteers got together, the message they got from the average Member of this House apparently was that if you cut spending, we are not going to be there to back you up. That was the wrong message.

So the summiteers, quite naturally, sent a message to the Nation and that message was, "Well, we didn't cut spending too much, and in fact, the deficit will go up next year over this year." Again, the wrong message.

This gives us, the average Members of the House, an opportunity to send the right message to the leaders in the Nation. It says to the leaders, "If you give us the opportunity to hold the line on spending, restrain the growth in spending, we will be there to vote for it," and it says to the Nation, "We want to have a lower deficit in fiscal year 1988 than in fiscal year 1987," and that, too, is the right message.

It is critically important for Members to understand that if we do not do something today, that the message that will be sent to the Senate and to the summiteers and the conferees is that what the summiteers have done is good enough. It is not good enough, because it allows the deficit to grow in fiscal year 1988, not decline.

This amendment is simple. It sets a cap on total discretionary spending, a cap which is equivalent to a freeze level. It allows the Appropriations Committee members who will be conferees to set priorities, to deal with the AIDS issue or the *Challenger* question, or the prison problem, or the other issues that I mentioned. It allows them discretion to set priorities within the cap level, but it says overall in the discretionary category that we are not going to spend a lot more than we did last year.

I believe we should look at this as enhancing the summit, as allowing our leaders to move forward by sending them the message that we will be there to back them up when they make the hard decisions to control spending.

So, Mr. Speaker, I urge support for this effort to recommit.

Mr. WHITTEN. Mr Speaker, I have no further requests for time, and I reserve the balance of my time.

□ 1815

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise in strong support of the motion to recommit with instructions.

As many of my colleagues did, I had very high hopes for the summit that took place over the period leading up to this bill. Since the package that was developed by the summit, I have been told over and over and over again, and we just heard the point from the gentleman from Wisconsin. Our leaders thought and the gentleman from Wisconsin made that point earlier, that we could not do better than the summit package that they developed. I have heard that from leaders themselves. I have heard that from other Members. We have been told on the floor today that we have to accept this package because our leaders assumed that we could not do any better.

Mr. Speaker, this is our chance, our chance to demonstrate that we can do better and we have the responsibility to do better.

The most important job for the 100th Congress is to reduce this deficit.

Black Monday was a signal. The trade deficit is a symptom. Economic chaos is an absolute certainty unless we take decisive action.

The 1987 deficit is $148 billion. With the budget summit agreement it goes up to $149 to $150 billion. We do not have a deficit reduction package before us, it is a deficit increase package.

We must do better than that. We can do better than that by freezing defense and nondefense discretionary and we can save somewhere in the range of $3.5 billion to $3.9 billion.

We do not have but two choices. Our leaders have told us that we have the choice between sequestration, the Gramm-Rudman automatic deficit cuts; or the summit agreement.

I disagree. I think we have a third choice.

We have this package which will enhance the summit agreement.

As our friend from Texas pointed out, your vote today is the only chance that my colleagues may have to vote for deficit reduction. If my colleagues vote "no" on this package I am convinced that that is for a higher deficit.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the motion to recommit with instructions. I do so because, I say to my colleagues, I think it is important for us to focus on what we are doing here this evening. We are about to vote on a $594 billion appropriation bill and that level of appropriation is about $30 billion higher than last year's level of appropriation. What we are talking about doing is reducing that increase by $3.4 billion and we are giving the Committee on Appropriations significant authority in terms of determining where that $3.4 billion reduction will come from.

I think that it is possible for us and hopefully consistent with the effort that has been made on a bipartisan basis at the economic summit to build on that economic summit. Some may want to come down here and blame our leaders for the failure to do more than the economic summit, but I think that is a cheap shot. The fact of the matter is our leaders are reflecting the votes in this body. Unless we as individual Members are prepared to deal with revenues, Social Security, and entitlements as most of our leaders were prepared to do at the economic summit, then let us not be pointing the finger of blame at our leaders because there are three fingers pointing back at us. Unless we are willing to put it all on the table and talk about it, then we as individuals are part of the problem.

I think we should have everything on the table but we do not. I think that we can and we should build on the economic summit package this evening.

I say to my colleagues this evening we have an opportunity to do that. And we can do that through this $3.4 billion out of a $594 billion continuing resolution that is up $30 billion from last year's level. In that amount, $265 billion last year was for discretionary, and that discretionary money has actually been cut this year. The Committee on Appropriations should be given some credit for that. However, I say to my colleagues, the increase is in the mandatory programs.

The mandatory programs contained in this continuing resolution have increased from $299 billion to $330 billion. I refuse to accept that we cannot find $3.4 billion in that mandatory part of this particular continuing resolution. I do not care how this particular amendment is drawn up, there is latitude to the Committee on Appropriations as they go into the conference to get that amount out of both mandatories and maybe a little bit more out of discretionary.

Mr. Speaker, I urge my colleagues to help us this evening to build on the economic summit and get another $3.4 billion in spending reductions and send an even better message to the Wall Street community and financial community around the world.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the Members of the House have heard what this motion is. Briefly it establishes a freeze in discretionary spending at the level of the continuing resolution now in effect. It is calculated to save $3.4 billion and is the only way this House will have a chance to vote on one issue that will cause a reduction in the deficit for fiscal year 1988.

If my colleagues vote against this, they are voting for an increased deficit in 1988.

The second part of the amendment is an absolute freeze on congressional salaries. If we are going to ask for sacrifice, it is reasonable that we should start with ourselves. I do not like to raise this question, it is one that I do not even like to talk about but we have to, I believe, in this case.

If we pass this very modest reduction we will show the Senate and our conferees that there is still a tinge of fiscal sobriety in this House. We know that the people are ahead of the Congress, and the Congress is ahead of our leaders, but we must show our leaders that we are willing to take a little more of a cut to get started. We have this one chance to rise above business as usual.

Are my colleagues going to be willing to go home and say that I wish I could have cut the deficit, I wish I could have reduced spending but I could not because my leaders would not let me?

Any person that thinks he or she can go and blame their leaders for not reducing the deficit, I believe, is making a sad mistake.

I urge a vote for the freeze and, if so, then we can all vote to send the continuing resolution forward to the conference committee. Absent that, we might just as well defeat the resolution because that is what it deserves.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in support of the motion to recommit with instructions.

A fellow named Dennis Healy was Chancellor of the Exchequer in Great Britain. He had a theory called the theory of holes. The theory of holes goes something like this: when one finds oneself in a hole, stop digging.

We in this country are in a hole, and the hole is getting deeper and we need to stop digging. To the extent that we spend more money in 1988 on defense discretionary spending than we spent in 1987, we make that hole deeper. To the extent that we spend more money in domestic discretionary spending in 1988 than in 1987, we make that hole deeper.

We can vote yes on this motion to recommit and stop putting ourselves into yet a deeper hole. We should vote yes.

The budget summit plan that is before us is not a bad plan. Its primary virtue, I think, is that it is a better alternative than sequestration. A lot of people in this well today have said that we can build on that summit, we should build on it, and I think we can further reduce the growth of spending in defense and nondefense discretionary spending by supporting this motion to recommit with instructions.

My hope is that when we finally get this measure through the House and Senate, and we come out of conference, we will have a freeze package where we freeze defense spending, freeze domestic spending, and show a little restraint in the entitlement programs which need restraint, as well.

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, I rise in support of the motion to recommit.

Mr. DeLAY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Texas.

Mr. DeLAY. Mr. Speaker, I rise in strong support of the motion to recommit with instructions.

Mr. Speaker, all my life I have heard that the Democratic Party is a party of fairness. But the way the majority leadership of this House has brought us this huge spending bill is not fair.

We heard during debate on the rule about a number of amendments that were proposed for this bill but denied by the Rules Committee. The most important of these was an amendment to make further cuts in spending.

With the financial markets hanging in the balance, waiting to see if the Congress will act, why in the world were the Members of this House denied the opportunity to vote on the Stenholm amendment? We were denied because the leadership of the majority party knew that further cuts would pass. They knew that Members of the House would vote in favor of spending cuts that are demanded by the American people.

But the leadership doesn't agree with the American people. The leadership doesn't want more spending cuts. They want more taxes. They have wanted more taxes all along.

Now we are left with one last opportunity to vote for the wishes of the American people. Vote for the motion to recommit so we can make the further cuts that will make the financial markets and the American people cheer.

Mr. DICKINSON. Mr. Speaker, I think it is a reasonable way through the motion to recommit to approach the problem for the reasons that have been set out here this evening. I am in strong support of the motion to recommit with instruction.

In the event that the motion to recommit does not succeed, than I would feel constrained to vote against final passage of this bill. The reason I say that, Mr. Speaker, is that during the last part of last month the leadership of the Senate and the House Committee on Armed Services met for almost 2 weeks to come to an arms control agreement which is embodied in the authorization bill. The President is scheduled to sign this tomorrow, and it was the explicit understanding of both the House and Senate and the leadership of both sides that this would be it. As you know, a compromise was agreed to and Congress expressed its support for that compromise during the House and Senate votes on final passage of the defense authorization conference report. During the negotiations with the administration, it was explicitly understood by all parties involved that if agreement was reached, there would be no "second bites at the arms control apple."

However, on the CR before us today, there are a number of arms control amendments that have no business being there. These issues have already been resolved and the arms control compromise arrived at with the administration is scheduled to be signed into law tomorrow morning at the White House.

Mr. Speaker, it appears that the House leadership has decided not to honor what all parties understood to be a good faith agreement. The Senate Appropriations Committee is marking up their defense bill this week and it is my understanding that there will be no arms control language attached to it. The only possible explanation for the decision by the House leadership to leave these unnecessary and obsolete arms control provisions on the CR is to somehow use them for leverage in conference. If this is the Congress' definition of good faith, it is little wonder that the administration is skeptical about entering into negotiations with us.

Arms control legislation was negotiated in the defense authorization conference because all parties involved wanted to reach closure before General Secretary Gorbachev arrived in town for the summit. A lot of hard work went into the final compromise, and we managed to finish 2 weeks ago. Let's end the arms control debate for this budget cycle and allow the President to negotiate with Gorbachev without any additional constraints imposed by Congress. We owe it to the President, and to ourselves.

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I think we can improve on the summit. I for one Member of this Chamber am ashamed that we did not do better in the so-called summit agreement. I do not think it is much of an agreement when we are going to spend somewhere between $50 and $70 billion more in this fiscal year than we did in the 1987 fiscal year. We have a window of oppportunity here that was given to us by the stock market crash of October 19. This does not touch entitlements, it does not make a very heavy-handed hit on anything. It is $3.4 billion. This is the opportunity for every Member in his body to do just a little bit better than what the summit did, the so-called summit did which did not do anything to try and cut the deficit.

We have talked about cutting the deficit but we have not really looked at the total dollars of spending. We went from $1.2 trillion to somewhere in the neighborhood of $1.06 trillion to $1.07 trillion. That is an abominable bill. We should vote to recommit this bill, and if we do not get that we should vote against the continuing resolution.

I rise in strong opposition to House Joint Resolution 395, a resolution providing for continuing appropriations for fiscal year 1988. This bill is an abomination, and it is an insult to the taxpayers of this country.

We can no longer afford this "business as usual" approach to the budget, the budget process, and fiscal policy. As with every continuing resolution that we have passed, this bill is flawed in many ways. But more is at stake this time around. Financial markets at home and abroad are looking closely at what we are doing here. The media of this country is focusing more attention on the summit and the actions of Congress. The taxpayers of this country are demanding that we do something to balance the budget and we have failed them.

It is time that we were honest with the taxpayers of this country. The fact is that regardless of what we do here today, regardless of whether or not we adopt the summit agreement, regardless of whether or not we accept sequestration, regardless of whether or not we complete the budget process as mandated by law, the Federal Government will spend more money in 1988 than we did in 1987.

That is a fact that often gets lost, or is buried, in the course of our discussions. We debate deficit levels and deficit targets. We debate percentage changes and baselines. We debate whether we should spend for domestic, military or entitlement programs. We debate about every aspect of deficit reduction and fiscal policy except the actual numbers that the Federal Government will spend.

In 1987, the Federal Government spent $1.002 trillion. Under the Gramm-Rudman-Hollings sequestration, which many have claimed would lead to "devastating cuts" for many programs, the Federal Government would spend $1.053 trillion, an increase of $51 billion. According to the Congressional Budget Office in its October 15 sequestration report, the Federal Government would spend $1.076 trillion, an increase of $74 billion. Under the budget resolution adopted earlier this year (H. Con. Res. 93), which has long since been ignored, the Federal Government was to have spent $1.039 trillion in 1988, an increase of $37 billion.

Revenues to the Federal Government have risen every year, including the years after the

1981 tax rate cut that many blame for our deficits. Revenues are scheduled to rise by more than $12 billion in the House-passed reconciliation bill (H.R. 3545), and by $9 billion in 1988 and $14 billion in 1989 under the budget summit agreement. Over the past 50 years, we have enacted over 200 bills which have raised taxes on the American public. Yet deficits continue. The fact is that spending has increased at a faster rate than revenues, and we will not be able to balance our budget and address our national debt until we get spending under control. This bill won't do that.

There are more reasons to oppose House Joint Resolution 395 than simply the money figures. The continuing resolution is once again being used as a vehicle to enact legislative proposals—a violation of House rules—but only those proposals offered by the Speaker and his supporters. This bill will allow the Census Bureau to continue a policy of counting illegal aliens, and not U.S. military personnel stationed overseas, for the purpose of redistricting after the 1990 census. This policy will mean lost congressional districts in States in the Northeast and Midwest, and gained seats in Texas, home of the Rules Committee chairman; and California, home of the Democrat Whip and other key committee chairmen.

House Joint Resolution 395 also includes codification of the fairness doctrine, even though the rules of the House prevent the addition of legislative proposals to an appropriations bill, and the House defeated it last year. It includes extension of the Clean Air Act deadlines, although this has not been debated in the pertinent committees. An amendment disallowing a pay raise for Members of Congress was hidden in the rule after the Speaker had promised a free-standing vote in the House on the issue.

But the most important reason for opposing this legislation is that it does not address the budget deficit. This is the largest spending bill ever passed by the House of Representatives, $600 billion, it violates numerous budget laws and House procedures. It attaches the loose language of a summit agreement that the Congress has not had an opportunity to accept, reject or modify on its merits. It asks us to trust a House leadership that has consistently abused the rights of the minority party in the House and the people we represent. It asks us to trust a House leadership that refuses to allow open and honest debate on issues of this importance. It asks us to trust a House leadership that has waived and ignored our budget laws 106 times in the 99th Congress and more than 20 times during the 100th.

Passage of another continuing resolution will not solve our problems, it will make them worse. It will take the Congress "off the hook" for not doing the job it was elected to do. It will send the wrong signal to the markets and the taxpayers. It and will not solve our deficit problems in 1988 or the years ahead.

It is irresponsible that we are 2 months into fiscal year 1988, and we have yet to sign into law any of the 13 appropriation bills that should have been enacted by now. In one month we are scheduled to receive the preliminary budget for fiscal year 1989 from the President. We can no longer afford to continue in this manner. The President should veto this bill as soon as it comes to the Oval Office and force the House and Senate to come up with a responsible package that contains real and permanent deficit reduction.

We should continue to push for an across-the-board freeze on ALL Federal spending at the previous year's level, allowing only for new entrants into the retirement programs.

No one can claim opposition to the current budget process and then vote for this bill. You can't be for deficit reduction and then vote for this bill. It is impossible to say your for fiscal sanity and responsibility and then vote for this bill. It is a lie to say that you care for the taxpayers fo this country and then vote for this bill. House Joint Resolution 395 is, quite simply, bad policy and bad politics.

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I want to call to the attention of our colleagues some of those arguments that have been used in opposition to this motion to recommit with instructions. Some people say this is going to somehow destroy or delay the summit. I am not a big fan of the summit agreement but I have to tell my colleagues that we have been very much, in constructing this motion to recommit, very careful so that we in no way delay, we in no way destroy that summit agreement. Rather, we build upon it. If my colleagues would read the motion to recommit with instructions, it instructs the committee to report back immediately with the freeze resolution as a part of it.

Second, it has been suggested that somehow or another this is an unfair allocation of cuts.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, I rise in support of the motion to recommit.

Mr. Speaker, the economic summit plan was advertised as a package deal. Yet, it's being sold to Congress in parts and without specifications. If we were buying a car—say, the "deficit accord"—we'd be signing on the dotted line today, but getting the chassis next Monday, the motor 2 weeks from Friday, and the body, say, on Christmas eve, if at all.

Worst of all, once we got all the parts of our "deficit accord," we can be pretty sure it wouldn't get us to where we need to go.

Our car would be so loaded with costly gimmicks and added junk it would be sure to break down on its first drive out of the showroom. Even if it ran, it would be hauled back in the garage for costly supplemental repairs.

There is another model available in the showroom, the "sequester supra" which will give us something no other vehicle has—$23 billion in real cuts. Sequestering imposes intense pain on only 20 percent of the budget. That's not good. But it may convince us that the only fair answer is a new vehicle, one in which all programs make a small sacrifice—yes, entitlements included.

Mr. Speaker, we really can't buy the "deficit accord." Even if its timid savings were enacted, we'd have a bigger deficit in 1988 than 1987.

I support the Stenholm-Lewis amendment because it is a step in the right direction. It builds on the summit by freezing discretionary spending. It increases the summit discretionary savings by over 50 percent. Given the seriousness of our economic situation, how can anyone argue with such a limited freeze?

Bruce Babbit hit the nail on the head during the recent Presidential debate when he said it is time for America's leaders to "stand up" and do what must be done to save our economic future.

I urge the adoption of the motion to recommit, and the Stenholm amendment. It's the least we can do.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I rise in support of the motion to recommit with instructions.

Mr. Speaker, we're forced to make a decision again. And once more we must choose between a gall bladder attack and acute appendicitis; one is just marginally preferable to the other.

The attached chart illustrates what is wrong with sequestration. The supposition that cuts are imposed equally between defense and nondefense discretionary programs is more than a charade, it is a blatant lie. Defense incurs a real cut under sequestration, below fiscal year 1987 levels. But nondefense spending not exempt from sequestration grows by double the inflation rate. Exempt entitlements and low-income programs. Decimate defense. And, by all means, pad the pork. This is unacceptable.

The other option is to buy the budget compromise package, another euphemism for tax increase. The worst action we can take at this juncture—both economically and fiscally—is to increase taxes. If we are intent to shut down the economy altogether—stifle investment, curtail business expansion, deter savings, and further impoverish American taxpayers—then let's confiscate income. As an option for reducing budget deficits or nurturing the economy, however, this is self-destructive.

By process of elimination, we should reject both inequitable sequestration and the compromise tax increase. Note that baseline increases—fiscal year 1987 to 1988—for defense and nondefense sequestrable programs total $34.9 billion. If we apply a freeze, we can add back $11.7 billion—still realizing $23.2 billion in savings as per sequestration—equally to defense and nondefense programs, allowing increases of 2.1 and 2.9 percent, respectively.

The chart referred to follows:

GROWTH IN FEDERAL SPENDING PRE- AND POST- GRAMM-RUDMAN-HOLLINGS

[Outlays in billions of dollars]

Categories	Estimated fiscal year 1987	Baseline fiscal year 1988	1987–88 percent change	G-R-H sequestration	Post-GRH fiscal year 1988	Post-GRH percent change
National defense	282.0	289.6	+2.7	−11.5	278.1	−1.4
Social Security benefits	202.5	218.2	+7.8	0	218.2	+7.8
Federal retirement benefits	43.8	46.3	+5.7	0	46.3	+5.7
Low-income programs: AFDC, child nutrition, SSI, food stamps, Medicaid, WIC	66.9	70.5	+5.2	0	70.4	+5.2
Veterans compensation and pensions	14.4	14.5	+.7	0	14.5	+.7
Medicare	75.1	80.3	+6.9	−1.4	79.0	+5.2
Unemployment benefits	15.4	14.9	−3.2	0	14.9	−3.2
Net interest	138.5	145.9	+5.3	0	−145.0	(+4.7)
Undistributed offsetting receipts	−36.6	−40.6	(+10.9)	0	−40.6	(+10.9)
Other non-defense	200.1	227.4	+13.6	−10.3	217.1	+8.5
Total outlays	1,002.1	1,067.0	+6.5	−23.2	1,043.8	+4.2
Receipts	854.1	903.0	+5.7		903.0	+5.7
Deficit	−148.0	−164.0	+10.8		140.8	−4.9

Note—CBO estimated CPI: 4.3 percent in fiscal year 1987 and 5.1 percent in fiscal year 1988.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I rise in strong support of this motion to recommit with instructions.

Mr. Speaker, consideration of this fiscal year 1988 continuing resolution marks the first action to carry out the decisions of the economic summit agreement. That agreement called for specific budget authority and outlay levels for defense and nondefense discretionary spending. Although those specified levels are not achieved in this bill, the rule provides that accounts in the bill will be adjusted to conform to those levels and that 302(b) allocations to the Appropriations Subcommittee will also be adjusted accordingly.

As a participant in those many weeks of discussion, I believe an insufficient amount is being taken out of discretionary spending. Not one program is being eliminated as a result of this summit agreement. Not one appropriation is being zeroed out. In fact, for domestic discretionary programs, budget authority which currently stands at $154.2 billion under the short-term continuing resolution will rise under the terms of the summit agreement to $162.9 billion. As a result of this BA increase, new outlays will go from the present $89.2 to $92.3 billion.

Only here in the Capitol can anyone seriously argue that when outlays go from $89.2 to $92.3 billion, it constitutes a spending cut. I can tell you that our taxpaying constituents know it's not a cut. They know that it is a spending increase of $3.1 billion. We need to pass this motion to recommit with instructions to make, and I emphasize, make a further reduction of $3.4 billion even though I don't believe this is enough. Although the economic summit agreement is a start, it is possible to do a whole lot more.

Mr. McMILLAN of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from North Carolina.

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in strong support of the notion to recommit with instructions.

Mr. Speaker, I rise today in strong support of the notion to recommit with instructions.

Let me put this in the simplest way possible. No one in this body, the other body or in the administration has expressed for the summit compromise. Everyone says we need to do more. Financial markets have responded with no positive confirmation of the compromise. No one in our districts has told us that they think Congress has taken bold steps to reduce in budget deficit.

In short, my friends and colleagues, this package falls woefully short of seriously reducing the projected baseline increases in total outlays of $65 billion in the next fiscal year.

But we can make the summit package better and more acceptable if we send it back to committee with instructions. The instructions are simply this: Make $3.9 billion more in discretionary spending reductions than the summit agreement, bring us back to the freeze level at fiscal year 1987 outlays.

Unless we do this, we are going to be voting on a package that increases discretionary spending for fiscal year 1988. It defies common sense to allow any increase in discretionary spending when we are trying to reduce the budget deficit.

In the national interest, our home districts and the future health of our economy, vote for the motion to recommit with instructions to come back with a bold proposal.

Mr. GUNDERSON. Mr. Speaker, I was in the process of saying that we have been very careful to leave to the Committee on Appropriations the authority to determine the 302(b) allocation. We are not in the process of freezing programs in 1988 at the 1987 level and I think it is important for every Member of this body to understand. We do not destroy the summit. We do not destroy the integrity of the Committee on Appropriations.

Mr. Speaker, we do say hold the line on spending.

□ 1830

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I rise in support of the motion to recommit.

Mr. Speaker, 5 years ago I started calling for a freeze on all spending by function. For the last 3 years, TIM PENNY, BILL FRENZEL, HANK BROWN, and I offered our own budgets predicated upon a freeze.

People understand a freeze—no cuts for anyone, but no increase either.

If the President would say, "This is a crisis for America and I call on all Americans to contribute to its solution," the people would understand that.

What they don't understad is each side calling for reducing the deficit by cutting the other side's spending priorities while protecting their own. Because they understand instinctively and correctly that that won't work.

The only way to get people—however reluctantly—to go along is to convince them they are going along together.

So when the President asks for more military spending in the face of these huge deficits, or the Speaker calls for more social spending, and each asks for cuts only on the other's priorities, the agreement is doomed.

Despite the budget summit, everyone knows spending will increase $50 billion next year. It's a sham and it won't fool anyone, not the markets, not foreign investors, and not the American people.

I wonder when we'll get serious about deficit reduction. I suspect only when the economy is crashing around our ears.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from California.

Mr. LEWIS OF California. Mr. Speaker, I appreciate the gentleman yielding. I want for the record to make clear to the Members that a portion of the instructions in this motion involves the following language: that none of the funds appropriated or otherwise made available by this act may be used for payment of the salaries of Members of Congress in excess of amounts paid for such purposes in fiscal year 1987.

The SPEAKER. The gentleman from California [Mr. LEWIS] has 2 minutes remaining.

The gentleman from Mississippi [Mr. WHITTEN] has the right to close debate. The Chair understands the gentleman from Mississippi has only one more speaker.

Mr. LEWIS of California. Mr. Speaker, do we not have the right to close debate?

The SPEAKER. The gentleman from Mississippi [Mr. WHITTEN] has the right to close debate, and if the Chair is rightly informed, the gentleman from Mississippi has only one additional speaker.

PARLIAMENTARY INQUIRY

Mr. LEWIS of California. Mr. Speaker, by way of parliamentary inquiry, did I hear the Speaker say that the gentleman from Mississippi has the right to close debate rather than the maker of the motion?

The SPEAKER. The gentleman is correct. Under the rules, the gentleman from Mississippi would have the right to close debate.

Mr. LEWIS of California. I thank the Speaker.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, first a note of information. The Senate has passed their portion of the tax bill. The market dropped 72 points. I would argue that that means that the face of America is looking to the House and to what we are doing with spending.

There has been much ado. Let me quote from the text of the summit agreement.

> The agreement will provide ceilings for defense and nondefense domestic spending. The Continuing Resolution or other appropriations legislation will carry them out. The paltry spending reductions of the summit agreement are supposed to be contained in this CR, but not even these reductions are included. Indeed, the CR before us today was written and molded before the budget summiteers even reached agreement.

So what is the leadership of this body asking us to do? Why are we voting now for this particular piece of legislation? Is it possible that there is really no intention whatsoever to achieve real spending cuts, real spending changes? Is this too much for us to ask as a body? Is it this process that some have blamed us and other Democrats for staying away from? Is this the responsible participatory role that your voters elected you to achieve?

I would urge that the leadership is asking this House to participate in a charade, and the way to answer that invitation is to say no to the CR, and the way to do that is by accepting a motion to instruct conferees and by making this shift.

Years ago, eons ago, men sought to explain the inexplicable by myth and legend, and there was a legend of Lorelei who lured boatmen to their deaths and their boats to destruction on the Rhine. These are Loreleis speaking a siren song today that seeks to destroy the ship of state. I would say to my colleagues there is no Member that should agree to this destruction. Ignore this song and vote with us, Republican and Democrat alike.

Mr. WHITTEN. Mr. Speaker, I yield my remaining time to the distinguished gentleman from Washington [Mr. FOLEY], the majority leader and the chairman of the budget summit.

The SPEAKER. The gentleman from Washington is recognized for 17 minutes.

Mr. FOLEY. Mr. Speaker, I assure the membership I will not take 17 minutes.

Mr. Speaker, on October 23 a distinguished group of Members of Congress from both parties, from the House and the Senate, began meeting with the Secretary of the Treasury, the Chief of Staff of the President of the United States, the National Security Adviser, and the Office of Management and Budget Director for a period of almost a month, and on November 20 announced what was in the view of many a historic agreement between the two parties and between the administration and the Congress on a policy for achieving deficit reduction.

Certainly not since 1983 with the highly important Social Security Act and agreement have our two national parties come to an agreement as far reaching and as important as this one. Its importance does not derive from the numbers arrived at. People can complain that they would like a billion dollar change here or a billion there. What is important is the agreement itself and the possibility it creates for a path of cooperation, of coherence and coaction by the two parties in meeting what is not only the greatest fiscal problem our country faces today, but one recognized by all the world.

You, I, all of us can sit down and redesign that plan and that agreement. It would not be my first choice if I could implement any plan I wished. It would not be the first choice of any of the Members I think of that summit agreement; but it was a consensus, and solemnly entered into by the leadership of the Republican Party in the House of Representatives, by the leadership of the Democratic Party in the House of Representatives, by the representatives of the President, approved by the President himself, and by the Democratic and Republican leadership of the Senate.

I have heard speakers say that this agreement will not be jeopardized by simply building on it, doing a little bit more. It is simply not true. If the motion to recommit is adopted we will have violated the terms of that agreement, and if the terms of that motion were in the final legislation presented to the President of the United States it would be in clear violation of the undertakings which he made on behalf of the administration, and which the Republican and Democratic leadership of the House and Senate made to each other and to him.

This afternoon I spoke with James Miller, the Director of the Office of Management and Budget, and told him of the plan that the motion to recommit would present in terms of the cuts in domestic, discretionary, and defense funds. Mr. Miller called me back about an hour later and informed me that if the motion to recommit were adopted it would be considered in violation of the agreement with the President, that they would oppose such numbers being enacted, and would be required to veto any legislation that contained such numbers.

I think for much too long we have taken advantage, one or the other of our two parties. I frankly believe that the Democratic Party went too far in 1982 in a campaign that stressed Social Security. I know that the attitudes of many of the people on the other side of the aisle have been conditioned by that experience. I also frankly believe that the Republican Party went too far in 1984 in the successful Presidential election in espousing a no-tax policy as the only foundation for fiscal planning for the future.

If we are going to deal with the deficits that plague our country, imperil its future economic growth and that of the rest of the world, we have to put aside partisan politics and rancoring to get on with the job of dealing in a responsible, determined way with the reduction of these deficits. Gramm-Rudman-Hollings sets that course. The deficit reduction requirement for this year as set out in that bill was $23 billion, a level which received widespread agreement in the two parties, won the overwhelming support of all of the conferees and was signed by the President.

It was anticipated that we would try to reach a legislative alternative to the across-the-board cuts. This summit agreement and this continuing resolution reach that goal.

We should not allow somebody's notion of a better plan to defeat a good plan. We should not allow somebody's notion of how to improve an agreement destroy an agreement. We should for the first time in too long signal to the world that the U.S. Congress, Democrats and Republicans, can stand together, with the President in formulating economic policy.

With greatest respect, I tell my colleagues on the Republican side that this motion to recommit is a mistake, that it works against an agreement that was solidly and solemly entered into.

So I say to my colleagues, let us pass the continuing resolution, let us move this policy forward, and let us present to the President of the United States, before we adjourn, a reconciliation bill together with an appropriation and continuing resolution package, which can become law. By doing so we will not only lift the Gramm-Rudman sequestration but send the best of all signals to the financial community here and abroad. I am personally convinced that by this clear demonstration of coherence, of cooperation, and bipartisanship we will speak louder than any numbers of the future of our design and joint policy.

I ask the Members to vote down the motion to recommit and to pass the continuing resolution.

The **SPEAKER**. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The **SPEAKER**. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. **LEWIS** of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 220, not voting 15, as follows:

[Roll No. 457]

YEAS—198

Andrews
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Courter
Craig
Dannemeyer
Daub
Davis (IL)
DeFazio
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Glickman
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Myers
Neal
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—220

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Beilenson
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Cardin
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gonzalez
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sikorski
Sisisky
Skaggs
Skelton
Smith (FL)
Smith (IA)
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—15

Badham
Biaggi
Crane
Dowdy
Gephardt
Gordon
Hawkins
Kemp
Lloyd
Lott
MacKay
McEwen
Montgomery
Roemer
Solarz

□ 1900

The Clerk announced the following pairs:

On this vote:

Mr. Badham for, with Mr. MacKay against.

Mr. Crane for, with Mr. Hawkins against.

Mr. **LOWERY** of California and Mr. **MOODY** changed their votes from "nay" to "yea."

Mr. **BEREUTER** changed his vote from "present" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The **SPEAKER**. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. **FRENZEL**. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 248, noes 170, not voting 15, as follows:

[Roll No. 458]

AYES—248

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar

Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Regula
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOES—170

Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hansen
Hastert
Hefley
Henry
Herger
Hertel
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Pickett
Porter
Pursell
Quillen
Ravenel
Ray
Rhodes
Ritter
Roberts
Rogers
Roth
Rowland (CT)
Russo
Savage
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skaggs
Skeen
Slattery
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wortley
Wylie
Young (FL)

NOT VOTING—15

Badham
Biaggi
Crane
Dowdy
Gephardt
Gordon
Hawkins
Kemp
Lloyd
Lott
MacKay
McEwen
Montgomery
Roemer
Solarz

□ 2110

The Clerk announced the following pairs:

On this vote:

Mr. Gephardt for, with Mr. Kemp against.

Mr. Montgomery for, with Mr. Crane against.

Mr. MacKay for, with Mr. McEwen against.

Mr. Hawkins for, with Mr. Badham against.

Mr. SLATTERY changed his vote from "aye" to "no."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3646

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3646.

The SPEAKER pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may include extraneous and tabular material, on House Joint Resolution 395, making further continuing appropriations for the fiscal year 1988, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONGRATULATING KING BHUMIBOL ADULYADEJ OF THAILAND ON HIS 60TH BIRTHDAY

Mr. CONTE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 412) to congratulate King Bhumibol Adulyadej of Thailand on his 60th birthday on December 5, 1987, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 412

Whereas His Majesty is the only reigning monarch in the world who was born in the United States, having been born on December 5, 1927, in Cambridge, Massachusetts, where his father was a medical student;

Whereas on July 2, 1988, he will become the longest reigning monarch in the history of Thailand, having served 42 years;

Whereas His Majesty is most revered by his subjects and respected by people throughout the world; and

Whereas on the occasion of his 60th birthday in December, 1987, His Majesty will be honored with the establishment of an International University in Thailand: Now, therefore, be it

Resolved by the Senate and House of Representatives in the United States of America in Congress assembled, That the Congress of the United States congratulates His Majesty King Bhumibol Adulyadej of Thailand on the occasion of his 60th birthday and expresses appreciation for his long and valued friendship with the United States.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: In the text following the resolving clause, strike out "the Congress of".

Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 412, which congratulates King Bhumibol Adulyadej of Thailand on the occasion of his 60th birthday. I thank the chairman and ranking minority member of the Foreign Affairs Committee for their beneficial assistance in quickly approving this resolution, and I'd like to especially thank Subcommittee Chairman SOLARZ and Ranking Member LEACH for their work in moving the resolution through committee. Also, my thanks go to Senator DOLE for his initiative in getting this resolution started, and I hope it is quickly approved by the Senate.

On December 5, 1927, the King was born in Cambridge, MA, while his father was attending medical school. The unique circumstance of his birth distinguishes him from all other monarchs past and present: he is the only reigning monarch in the world who was born in the United States.

The King's 60th birthday is of special significance. Those familiar with the Government of Thailand know that the King is a constitutional monarch, who wields strong, if informal, influence on his people, and whose people hold him in great respect. Under the Thai constitution the monarch is required to be Buddhist. The completion of the fifth cycle of 12 years is an important date for Buddhists, so the King's 60th birthday has religious as well as secular importance.

Amongst the many honors to be bestowed on the King will be the establishment and naming of an international university in Thailand in his honor. A university dedicated to human understanding and achievement will begin a legacy of education for the benefit of Thailand and students from around the world.

I would also note that soon, on July 2, 1988, the King will reach a milestone in Thai history. On that date he will officially become the longest reigning monarch in Thai history, having served 42 years as king. My resolution recognizes these achievements and King Bhumibol Adulyadej's valued friendship with the United States, and congratulates him on his 60 years of distinction.

Mr. LEACH of Iowa. Mr. Speaker, I congratulate the gentleman from Massachusetts

[Mr. CONTE] for bringing this resolution before the House. The completion of the fifth cycle of the 12-year calendar, in much of the Far East, is regarded as a particularly auspicious event. This fact, plus the reverence with which the King is held, has led the people of Thailand to prepare a year of celebrative activities. Such are particularly appropriate because the King's reign has marked more changes in Thailand than any since that of the reign of Ramkamhaeng 700 years ago. We in this body congratulate the King for his and his country's remarkable accomplishments, culture, and friendship.

The SPEAKER. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE SCHEDULE

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican leader yield?

Mr. MICHEL. I am happy to yield to the distinguished gentleman from Washington.

Mr. FOLEY. Mr. Speaker, this concludes the program for today.

It will be my intention to ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The program for Monday, December 7, is as follows: The House will meet at noon to consider the Consent Calendar and five bills under suspensions of the rules:

S. 945, Abandoned Infant Assistance Act;

H.R. 2370, to provide for the establishment of an economic development plan for the Northwestern Band of the Shoshoni Nation;

H.R. 3399, to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy;

H.R. 2683, Nuclear Safety and Security Improvements Act of 1987; and

H.R. 2628, to amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such act.

On Tuesday, December 8, the House will meet at noon and consider H.R. 3100, the International Security and Development Act, to continue consideration.

Recorded votes will then be had on all suspensions debated on Monday, December 7.

So to repeat, there will be no votes on Monday, other than the possibility of procedural votes on the suspensions. They will be ordered taken on Tuesday, December 8.

On Wednesday, December 9, the House will meet at 10 a.m. to consider H.R. 3100, the International Security and Development Act, to complete consideration.

On Thursday and Friday, December 10 and 11, the House will meet at 10 a.m. to consider H.R. 1720, the Family Welfare Reform Act of 1987, under a modified closed rule with 4 hours of debate; and H.R. 1467, to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, subject to a rule being granted.

Conference reports, of course, may be brought up at any time, and any further programs will be announced later.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, DECEMBER 7, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, December 9, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1925

RADIUM CLEANUP

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, yesterday this body approved legislation to improve Federal, State, and local ground water protection efforts. One very important provision of this bill will provide assistance to smaller communities in Illinois and throughout the country in financing the installation of expensive technology to remove naturally occurring radium in drinking water and bring those affected water systems into compliance with stringent standards set by the EPA.

When I came to Congress last January, one of my top priorities was to address this pressing problem. Local officials and concerned citizens throughout my district voiced concerns about the tremendous cost involved in taking the necessary steps to meet the EPA standards. Together with other concerned colleagues in the House, we sought an alternate route of relief for these communities that will assist them in obtaining the much needed financing, while keeping the Federal costs relatively low.

I am pleased that this legislation will not only target Federal dollars to smaller communities that otherwise could not afford to comply with the EPA standards, but will provide for safer and cleaner drinking water.

NEWS ON THE HUMANITARIAN FRONT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, today we have been informed of news from the Soviet Union on the humanitarian front.

It is good news.

Mr. Speaker, six longstanding immigration cases have been resolved. Four of the cases are refuseniks, one a divided spouse, and one a blocked marriage case. These are all cases that I have followed closely, the Helsinki Commission has followed closely, and indeed this Congress has followed closely.

I share with all these individuals, as I know so many in this House do, particularly the gentleman from New York [Mr. GILMAN], the great relief that the family members here in the United States and around the world feel.

Mr. Speaker, I am happy to yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Maryland for yielding me this time. I want to commend the gentleman from Maryland for all of his outstanding work and consistent efforts on behalf of Soviet Jewry and on behalf of human rights around the world as the cochairman of the Joint Commission on the Helsinki Accords and Cooperation in Europe.

He has done an outstanding job of keeping this issue before the Congress, before our Nation, and before the entire world.

We are pleased to hear this good news today of the release of Alexei Kholmiansky, Pavel Abramovich, Judith Ratner-Bialy, Victor Faermark, Victor Novikov, people who have been held behind the Iron Curtain for more than, in one of the cases, 16 years without permission to leave.

This is an encouraging sign and yet we are optimistically cautious because we truly do not know at this point whether glasnost is cosmetic or whether there is true substance to it. At the same time, immigration figures are increasing so, too, is the oppression on civil rights increasing in the other direction. It is for that reason we have a great deal of caution and a great deal of reservation as we commend the Soviets for beginning to open the door.

We are hoping that on Sunday at the demonstration here in Washington of thousands of people who will be coming from all over the Nation to show their support for the Soviets, will give greater recognition of the need to improve their human rights and civil rights stand and will encourage Secretary Gorbachev in his meeting at the summit to keep this issue in mind. It is for that reason that I am pleased to join with my colleague who has done so much good in this area, the gentleman from Maryland [Mr. HOYER] in expressing our appreciation and our commendation for the release of these long-lingering prisoners.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his statement and for the years of commitment that he has shown. The gentleman from New York [Mr. GILMAN] is known to many for his advocacy of human rights here in this country as well as in the Soviet Union.

Mr. Speaker, Victor Faermark, Victor Novikov, Alexander Ioffe, Judith Ratner-Bialy, Pavel Abramovich, and Alexander Kholmiansky, names mentioned by my good friend from New York [Mr. GILMAN] are free. We are pleased that the Soviets have taken this action. We are encouraged that they have taken this action on the eve of the General Secretary's visit to the United States for a historic summit, a summit during which we will move forward in the area of arms control and world security.

We are hopeful that the steps made today and other steps taken recently, the increase although small in emigration figures, signal that in fact a change has occurred, that glasnost is not cosmetic, as my friend from New York has said, but is substantive. We are hopeful that there will be a change in the policy of the Soviet Union by a recognition of their commitment in the field of human rights as represented by their signature to the Helsinki Final Act, and by their support of the Universal Declaration on Human Rights and other documents incorporated by reference in the Helsinki Final Act.

I have said on five different occasions over the last 2 weeks that I hoped Mr. Gorbachev would act on individual cases. But, in a larger sense, what I believe ought to happen is that the door is opened wide enough so that we are not debating individual cases or referencing individual cases but discussing full and complete performance under the Helsinki Final Act.

Mr. Speaker, I hope that we will be learning of additional cases being resolved in the very near future; that there will be no names left for us to raise on this floor or on the Capitol steps, or in Moscow or in Vienna; and that these human tragedies cease. We urge the Soviets not to impede those who desire to reunite with their family members, or those who desire to obtain medical services, or people who desire to be united in marriage merely because they happen to reside in another nation under another government.

Mr. Speaker, this is, for six families, a happy day but it is for so many a reminder that they are not together. I mentioned particularly Dr. Galinas Velishina whose husband is in the Soviet Union. She is a resident of the congressional district of the gentleman from Florida [Mr. SHAW]. There were tears in her eyes today. She was of course happy for Andrea Wine who will be reunited with Victor Faermark, her husband, in the near future but she was poignantly reminded of the absence of her own husband.

Mr. Speaker, let us all hope as I said just a minute ago that all of the litany of names will soon be resolved and that on that basis relations between the Soviet Union and the United States, and indeed relations between the East and the West will lead to a more secure, more open and more cooperative world.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, during the consideration of House Joint Resolution 395, providing further continuing appropriations for fiscal year 1988, it was necessary for me to be in my congressional district and I was unable to cast my vote on rollcalls 451 through 457.

Had I been able to cast my vote, I would have voted "yes" on rollcall 451 on approving the Journal; "yes" on rollcall 452 on ordering the previous question on the rule; and "yes" on rollcall 453 on passage of House Resolution 321, the rule providing for consideration of the continuing resolution.

During consideration of amendments to House Joint Resolution 395, providing further continuing appropriations, on rollcall 454, the Murtha amendment, I would have voted "no"; on rollcall 455, the Dingell amendment, I would have voted "yes"; on rollcall 456, the Brooks amendment, I would have voted "yes."

On rollcall 457, the motion to recommit with instructions, I would have reluctantly voted "no." I say reluctantly because I strongly share the desire of those who offered the motion to achieve more deficit reduction than the agreement of the budget summit is likely to produce. Nevertheless, I believe it is both risky and dangerous to inject still more confusion, doubt, and uncertainty over the implementation of the summit agreement into the financial markets, both here and, especially, abroad. The goal of this motion—to freeze discretionary spending at last year's level—is admirable. However, as reasonable as this cut is I am afraid such a freeze cannot be adopted. Its consideration reopens painful partisan wounds just as some were beginning to believe that the summit agreement was offering the hope of healing similar wounds. This crisis will not be solved by a narrow majority—of either side—defeating a strong minority. We can only solve this problem together. Hopefully, together, we can do more in the near future.

On rollcall 457, the final passage of House Joint Resolution 395, I would have voted "yes."

I appreciate having this opportunity to state my position on votes for the RECORD.

THE DISASTER OF OUR WELFARE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware [Mr. CARPER] is recognized for 5 minutes.

Mr. CARPER. Mr. Speaker, I think if we in the Congress and in the Federal or State governments of our country set about deliberately to design a welfare system that was more likely to keep people on the welfare rolls, it is difficult to imagine designing a worse system than the current system.

Let me just tell my colleagues what I mean.

Today for a welfare family of a mother or father who goes to work outside the home, they may lose their AFDC cash welfare payments, they may lose their Medicaid health benefits, they may lose their housing assistance, they may lose their food stamp assistance.

What they may gain is the right to start paying taxes, the right to pay Social Security taxes, the right to pay State income taxes, and the right to pay Federal income taxes.

□ 1940

If someone can show me a system that is more botched up, provides more incentives for people to stay on welfare, provides fewer incentives for people to go to work, I will eat this podium. It is a screwed-up system, it is one that cries out for reform.

Hopefully next week we in the House of Representatives will have a chance to do something about the system. Regrettably, our choices may be but two: A plan proposed by the Ways and Means Committee, developed by the Democratic majority, which has merit but it is flawed, and is expensive; on the other hand, a proposal developed by House Republicans which again has some merit but is very cheap and requires great things of the States, but gives them relatively little money to accomplish those goals.

I have prepared, with the assistance of officials in the State of Delaware, and really by drawing on the best efforts of House Democrats, House Republicans, and the efforts of Senator MOYNIHAN in the Senate a proposal and alternative that I have introduced here today with the support of five Democrats and five Republicans as original cosponsors. I would like to take just a minute to tell my colleagues about our bill.

Our bill spends less money than the Democrat bill. Instead of spending $6 billion over 5 years we would spend about $2.5 billion over 5 years. And we primarily use that money for three purposes.

First, when welfare parents go off welfare and begin working, we want to encourage them to do that, and we will provide day-care assistance for 12 months to that family so that they, when going to work, will know that their children are cared for. We provide 12 months of assistance for day care.

Second, we would provide under our proposal 12 months of assistance for health care. A family would not have to worry about their children going unattended. For 1 year we would provide extended healthcare benefits for that family if the parent goes to work.

Third, our current system really discourages the formation of two-parent families. Our current welfare system says if two-parent families are together they are not eligible for AFDC and they cannot be eligible for Medicaid or health benefits. Our bill says that what we would do would be to mandate States to permit two-parent families to draw AFDC and health-care benefits through Medicaid for 1 year and to require them during that period of time to go to work, to be looking for work or to be getting the kind of training that they need in order to become employable, to provide full transition assistance.

Those are the three areas where we spend our money in our bill. It is an idea that I think has merit.

The rule proposed by the Rules Committee is a closed rule and permits a Democrat Ways and Means plan and only one substitute, Republican substitute. No other amendments are in order. I do not think that is fair. I am not convinced that it is good policy or good politics.

My hope is that when next Thursday arrives and we do vote on a rule that we may have a different rule than the Rules Committee contemplated, that we might have a rule that would give others in this House, Democrats or Republicans, some opportunity to let our voices be heard, to offer some ideas of our own on this very important issue.

Mr. Speaker, with those comments I conclude my remarks.

NEW MATH—FREE TRADE-FREE DOLLARS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, graduate business schools one and all have been singing the praises of free trade. Economists and politicians have joined the chorus. Free trade fosters competition—or so the song goes.

The problem is that our business students have only been looking at part of the equation—the prices at the local store, and not at the barriers to American goods overseas.

The solution offered for low cost foreign goods was devaluation of the U.S. dollar and not a demand for reciprocity to U.S. goods.

We were told the strong dollar was the source of our economic woes. The dollar has been devaluated 60 percent vis-a-vis foreign currencies. And lo and behold—the trade deficit is growing larger.

But, according to the new math, we can drop the dollar lower. And with any luck, Japan may buy 5,000 American cars instead of the 2,500 purchased last yar. And who knows, maybe the last U.S. manufacturer of TV's might be able to sell one TV in that country where the average price of a set still exceeds $1,000.

We can drop the value of the dollar until it's free. And then the world can line up and buy U.S. assets with our free dollars. With any luck, maybe we can lease the country from the new owners.

But what will we do if the rent is in yen, and will the song of the nineties be: "Hey mister can you spare a yen?"

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. LLOYD (at the request of Mr. FOLEY), for the balance of today (after 4:30 p.m.), on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

Mr. CARPER, for 5 minutes, today.

(The following Members (at the request of Mr. BUNNING) to revise and extend their remarks and include extraneous material:)

Mr. LUNGREN, for 60 minutes, on December 9 and 10.

Mr. JEFFORDS, for 60 minutes, on December 8.

Mr. BENTLEY, for 60 minutes, on December 8, 9, and 10.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SOLARZ, for 60 minutes, today.

Mr. CONYERS, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB, to revise and extend his remarks prior to the vote on the Dingell amendment in the Committee today.

Mr. DYSON, after remarks of Mr. BEVILL and Mr. CHAPPELL, in Committee of the Whole, today.

Mr. LEACH of Iowa, on House Joint Resolution 412, in House today.

(The following Members (at the request of Mr. BUNNING) and to include extraneous matter:)

Mr. LUJAN in two instances.
Mr. SMITH.
Mr. BEREUTER in two instances.
Mr. MOORHEAD.
Mr. COUGHLIN.
Mr. BOEHLERT.
Mr. RITTER in four instances.
Mr. BADHAM.
Mrs. VUCANOVICH.
Mr. GALLEGLY.
Mr. MCEWEN in two instances.
Mr. SCHAEFER.
Mr. SHAYS.
Mr. BUNNING.
Mr. CRANE.
Mr. WOLF.
Mr. COURTER.
Mr. MCMILLAN of North Carolina.
Mr. BURTON of Indiana.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. BONIOR of Michigan in two instances.
Mr. LANTOS in three instances.
Mr. PENNY.
Mr. SMITH of Florida.
Mr. TALLON.
Mr. COELHO.
Mr. MARKEY.
Mr. TRAFICANT.
Mr. KOLTER.
Mr. STARK.
Mr. ST GERMAIN.
Mr. MAVROULES.
Mr. DYSON.
Mr. LEHMAN of Florida.
Mr. KOSTMAYER in three instances.
Mr. WOLPE.
Mr. OBERSTAR.
Mr. HOYER.
Mr. TORRES.

Mr. MINETA.
Mr. MCMILLEN of Maryland.
Ms. OAKAR.
Mr. DARDEN.
Mr. SLATTERY.
Mr. HALL of Ohio.
Mr. WYDEN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 92. Concurrent resolution to encourage the State and local governments and local educational agencies to include among the requirements for secondary school graduation a thorough knowledge and understanding of our Nation's founding documents; to the Committee on Education and Labor.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found a truly enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2939. An act to amend title 28, United States Code, with respect to the appointment of independent counsel.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 860. An act to designate "The Stars and Stripes Forever" as the national march of the United States of America;

S.J. Res. 35. Joint resolution relating to the commemoration of January 28, 1988, as a "National Day of Excellence";

S.J. Res. 105. Joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; and

S.J. Res. 146. Joint resolution designating January 8, 1988, as "National Skiing Day".

ADJOURNMENT

Mr. CARPER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until Monday, December 7, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2478. A letter from the Deputy Secretary of Defense, transmitting one report of a violation which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2479. A letter from the Deputy Secretary of Defense, transmitting one report of a violation which occurred in the Department of the Army pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2480. A letter from the Director, Office of Management and Budget, transmitting a report proposing alternative sequestration reductions for the Department of Defense, pursuant to Public Law 100-119; to the Committee on Appropriations.

2481. A letter from the Assistant Secretary of the Army (Installations and Logistics), Department of Defense, transmitting notification of munitions disposal, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services.

2482. A letter from the Assistant Secretary of the Army (Installations and Logistics), Department of Defense, transmitting notification of munitions disposal, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services.

2483. A letter from the Acting Secretary of the Navy, transmitting notification of the proposed transfer of the obsolete submarine ex-*Blenny* (ex-SS 324) to the State of Maryland for use as an artificial fishing reef, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

2484. A letter from the Deputy Assistant Secretary of Defense, transmitting the Navy's determination and findings indicating the necessity to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the United Kingdom Government for the procurement of the Engine Monitoring Unit, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2485. A letter from the Deputy Assistant Secretary of Defense, transmitting the Air Force's determination and findings indicating the necessity to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the Government of Portugal which covers the standard depot level overhaul of the T56 engine and accessories, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2486. A letter from the Executive Director, D.C. Retirement Board, transmitting the personal financial statement for Board member Orlando W. Darden, pursuant to D.C. Code section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

2487. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Review of Funds Appropriated for Official Expenses," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

2488. A letter from Secretary of Agriculture, transmitting the fiscal year 1986 annual report on the Youth Conservation Corps Program, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

2489. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of proposed approval of a commercial technical assistance agreement for the assembly of the Hellfire (RBS-17) Shore Defense System for the Government of Sweden (Transmittal No. MC-40-87), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2490. A letter from the Assistant Secretary for Legislative Affairs, transmitting the ninth 90-day report on the Camarena investigation, the investigations of the disappearance of U.S. citizens in the State of Jalisco, Mexico, and the general safety of U.S. tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

2491. A letter from the Assistant to the President of National Security Affairs, transmitting a letter concerning the general issue of United States security cooperation with the moderate Gulf States, to the Committee on Foreign Affairs.

2492. A letter from the Secretary of Agriculture, transmitting the semiannual report on the activities of the Department's Inspector General covering the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2493. A letter from the Secretary of Education, transmitting the semiannual report on the activities of the Department's Inspector General for the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2494. A letter from the Inspector General, Department of Health and Human Services, transmitting the semiannual report on the activities of his office covering the period April 1, 1987, through September 30, 1987, pursuant to 42 U.S.C. 3524(a); to the Committee on Government Operations.

2495. A letter from the Secretary of Health and Human Services, transmitting a report of surplus real property transferred in fiscal year 1987 for public health purposes, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2496. A letter from the Secretary of Housing and Urban Development, transmitting the semiannual report on the activities of the Department's Inspector General covering the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2497. A letter from the Administrator, General Services Administration, transmitting the semiannual report on the activities of the Department's Inspector General for the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2498. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled, "The Federal Debt Collection Procedures Act of 1987"; to the Committee on the Judiciary.

2499. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report on the boundary delineation and fencing practices study conducted at Corps of Engineers Civil Works projects, pursuant to Public Law 99-662, section 718 (100 Stat. 4161); to the Committee on Public Works and Transportation.

2500. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the design and construction of space shuttle support facilities at Yundum International Airport, Banjul, Gambia, to provide contingency landing capabilities, pursuant to Public Law 98-361, section 103 (98 Stat. 424); to the Committee on Science, Space and Technology.

2501. A letter from the Secretary of Health and Human Services, transmitting a report on an equitable method of reimbursing sole community hospitals under Medicare's prospective payment system, pursuant to 42 U.S.C. 1395ww nt.; to the Committee on Ways and Means.

2502. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to amend title 28 of the United States Code to authorize the establishment of a Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; jointly, to the Committee on the Judiciary and Post Office and Civil Service.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS:

H.R. 3690. A bill to approve the International Convention on the Harmonized Commodity Description and Coding System, to implement the nomenclature established by the Convention, and for other purposes; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 3691. A bill to designate the Federal building located at 600 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building"; to the Committee on Public Works and Transportation.

By Mr. CARPER (for himself, Mrs. Johnson of Connecticut, Mr. Stenholm, Mr. Gradison, Mr. Penny, Mrs. Roukema, Mr. Brown of California, Mr. Bartlett, Mr. Spratt, and Mr. Petri):

H.R. 3692. A bill to amend title IV of the Social Security Act to improve the program of aid to families with dependent children by establishing a two-tier system for AFDC families, to require each State to establish a comprehensive work program with an organized intake and registration process for such families, to make necessary improvements in the child support enforcement program, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. DERRICK:

H.R. 3693. A bill to designate Clarks Hill Lake, Clarks Hill Dam, and the highway traversing Clarks Hill Dam as the "J. Strom Thurmond Lake," the "J. Strom Thurmond Dam", and the "J. Strom Thurmond Highway"; to the Committee on Public Works and Transportation.

By Mr. JONES of North Carolina (for himself, Mr. Lancaster, Mr. Rose, Mr. Price of North Carolina, Mr. McMillan of North Carolina, Mr. Tallon, and Mr. Pickett):

H.R. 3694. A bill to direct the Administrator of the Small Business Administration to declare the recent North Carolina coast red tide contamination a disaster for purposes of providing disaster assistance under the Small Business Act, and for other purposes; to the Committee on Small Business.

By Mr. KONNYU:

H.R. 3695. A bill to require each State to establish certain reporting requirements with respect to individuals infected with the etiologic agent for acquired immune deficiency syndrome and to establish certain requirements with respect to the notification of spouses of such individuals; to the Committee on Energy and Commerce.

By Mr. KOSTMAYER:

H.R. 3696. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and limited deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia:

H.R. 3697. A bill to establish a grant program for local rape prevention and control projects; to the Committee on the Judiciary.

By Mr. MOORHEAD:

H.R. 3698. A bill to authorize appropriations for the strategic petroleum reserve, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OBERSTAR:

H.R. 3699. A bill to amend the Merchant Marine Act, 1936, to repeal the requirements both for additional cargo preference imposed on certain agricultural exports and for allocations of a share of such exports to Great Lakes ports; to the Committee on Merchant Marine and Fisheries.

By Mr. SAVAGE (for himself, Mr. Howard, Mr. Sunia, Mr. Hayes of Illinois, Mr. Russo, Mr. Davis of Illinois, Mr. Lipinski, Mr. Hyde, Mrs. Collins, Mr. Evans, Mr. Michel, Mr. Bruce, Mr. Durbin, Mr. Price of Illinois, Mr. Gray of Illinois, Mr. Porter, Mr. Annunzio, Mr. Fawell, Mr. Madigan, Mr. Yates, Mr. Rostenkowski, and Mrs. Martin of Illinois):

H.R. 3700. A bill to designate the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center"; to the Committee on Public Works and Transportation.

By Mr. SHAW:

H.R. 3701. A bill to amend the Immigration and Nationality Act to make use of the employment verification paperwork system voluntary; to the Committee on the Judiciary.

By Mr. SIKORSKI:

H.R. 3702. A bill to establish a loan repayment for the Indian Health Service, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. SMITH of New Hampshire (for himself, Mr. Gregg, Mrs. Johnson of Connecticut, and Mr. Kemp):

H.R. 3703. A bill to designate the Wildcat River in the State of New Hampshire as a unit of the National Wild and Scenic Rivers Act; to the Committee on Interior and Insular Affairs.

By Mr. WALGREN (for himself, Mr. Boehlert, and Mr. Lujan):

H.R. 3704. A bill to amend the Federal Fire Prevention and Control Act of 1974 to direct the Director of the Federal Emergency Management Agency, acting through the Administrator of the U.S. Fire Administration, to propose and promulgate a model code and guidelines governing the use and installation of automatic sprinkler systems in places of public accommodations affecting commerce, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. WHITTEN:

H.R. 3705. A bill making appropriations to resume payment to the local government fiscal assistance trust fund for the fiscal year ending September 30, 1988; to the Committee on Appropriations.

H.R. 3706. A bill making appropriations to meet our economic problems with essential productive jobs for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

H.R. 3707. A bill to establish the Reconstruction Finance Corporation to make loans and loan guarantees to individuals or concerns engaged in industry, agriculture, and commerce, who would otherwise be unable to obtain needed financing or refinancing essential for continued operation thereby preventing unemployment and resulting disruption of the economy, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WILSON (for himself and Mr. Leach of Iowa):

H.R. 3708. A bill to amend the Foreign Assistance Act of 1961 for the purpose of establishing policy with respect to aid to Pakistan and India; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. WOLF (for himself, Mr. Bateman, Mr. Bliley, Mr. Boucher, Mr. Daniel, Mr. Olin, Mr. Parris, Mr. Pickett, and Mr. Sisisky):

H.J. Res. 415. Joint resolution designating April 1, 1988, as "Run to Daylight Day"; to the Committee on Post Office and Civil Service.

By Mr. BURTON of Indiana:

H. Res. 323. Resolution expressing support for groups working for freedom and against communism in South West Africa/Nambia; to the Committee on Foreign Affairs.

By Mr. HAMILTON:

H. Res. 324. Resolution to provide for the disposition of the records of the Select Committee to Investigate Covert Arms Transactions with Iran, and for other purposes; jointly, to the Committees on Rules and House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 190: Mr. Fazio.

H.R. 225: Mrs. Bentley.

H.R. 245: Ms. Slaughter of New York.

H.R. 468: Mr. Solomon.

H.R. 537: Mr. Fawell.

H.R. 612: Mr. Sawyer, Mr. Florio, Mr. Hayes of Louisiana, Mr. Packard, and Mr. Gilman.

H.R. 639: Mr. Vento.

H.R. 916: Mr. Herger.

H.R. 1036: Mr. Bonker.

H.R. 1082: Mr. Upton.

H.R. 1115: Mr. Upton.

H.R. 1142: Mr. Lewis of Florida.

H.R. 1417: Mr. Smith of New Jersey, Mr. Barnard, Mr. Sabo, and Mr. Crockett.

H.R. 1516: Mr. McCurdy and Mr. Coyne.

H.R. 1742: Mr. Stratton.

H.R. 1794: Mr. Jeffords.

H.R. 2173: Mr. Solarz and Mr. Savage.

H.R. 2260: Mr. Espy.

H.R. 2423: Mr. Coyne and Mr. Foglietta.

H.R. 2559: Mr. Applegate.

H.R. 2565: Mrs. Patterson and Mr. Emerson.

H.R. 2666: Mr. Dwyer of New Jersey, Mr. Mfume, and Mr. Carper.

H.R. 2859: Mr. Broomfield, Mr. Wortley, Mr. Torres, Mr. Fauntroy, and Mr. Hughes.

H.R. 2872: Mr. Slattery.

H.R. 3049: Mr. Foglietta.

H.R. 3101: Mr. Garcia.

H.R. 3160: Mr. Miller of California.

H.R. 3174: Mr. Beilenson, Mr. Evans, Mr. Skaggs, Miss Schneider, Mr. Savage, and Mr. Morrison of Connecticut.

H.R. 3193: Mr. Shays, Mr. Kostmayer, and Mr. Moody.

H.R. 3195: Mr. Mineta, Mr. de Lugo, Mr. Annunzio, Mr. Edwards of Oklahoma, Mr. Sikorski, and Mr. Nowak.

H.R. 3250: Mr. Chandler, Miss Schneider, Mr. Dornan of California, Mr. Daub, Mr. Moorhead, and Mr. Lewis of California.

H.R. 3280: Mr. Bliley.

H.R. 3312: Mr. Biaggi and Mr. Ballenger.

H.R. 3330: Mr. Atkins, Mr. Bonker, Mrs. Boxer, Mr. Bustamante, Mr. Clay, Mr. Coyne, Mr. de Lugo, Mr. Dixon, Mr. Dymally, Mr. Edwards of California, Mr. Evans, Mr. Fazio, Mr. Garcia, Mr. Jacobs, Mr. Kolter, Mr. Lantos, Mr. Lehman of Florida, Mr. Leland, Mr. Levine of California, Mr. Lewis of Georgia, Mr. McCloskey, Mr. Matsui, Mr. Mavroules, Mr. Mfume, Mr. Pepper, Mr. Rinaldo, Mr. Savage, Mrs. Schroeder, Mr. Sikorski, Mr. Towns, Mr. Traficant, Mr. Williams, Mr. Wilson, Mr. Ford of Tennessee, and Mr. Gray of Pennsylvania.

H.R. 3332: Mr. Gilman, Mr. Gejdenson, Mr. Conyers, Mr. Tallon, Mr. St Germain, and Mr. Bereuter.

H.R. 3342: Mr. Emerson.

H.R. 3377: Mr. Foglietta.

H.R. 3410: Mr. Traficant.

H.R. 3448: Mr. Lancaster.

H.R. 3454: Mrs. Bentley, Mr. Biaggi, Mr. Clarke, Mr. Foglietta, Mr. Gilman, Mr. Jacobs, Mr. Kostmayer, Mr. Mack, Mrs. Meyers of Kansas, Mr. Price of North Carolina, Mr. Ridge, Mr. Sikorski, and Mr. Smith of New Jersey.

H.R. 3486: Mr. Traficant, Mr. Owens of Utah, Mr. Berman, Mr. Spratt, Mr. Watkins, Mr. Fazio, Mr. Torres, Mrs. Boxer, Mr. Boucher, Mr. Madigan, and Mr. Dellums.

H.R. 3502: Mr. Bereuter.

H.R. 3523: Mrs. Collins, Mr. Neal, Mr. Weiss, Mr. DeLay, and Mrs. Boxer.

H.R. 3565: Mr. Foglietta and Mr. Penny.

H.R. 3598: Mr. DioGuardi.

H.R. 3628: Mr. Schaefer, Mr. Morrison of Connecticut, Mr. Martin of New York, Mr. Dorgan of North Dakota, Mr. Lujan, Mr. Brennan, Mr. Dicks, Mr. Studds, Mr. Coats, Mrs. Johnson of Connecticut, Mrs. Collins, Mrs. Meyers of Kansas, Mr. Roe, Ms. Kaptur, Mr. Evans, Mrs. Boxer, Mr. Inhofe, Mr. Rowland of Connecticut, Mr. Lowry of Washington, Mr. Lipinski, Mr. Daub, Mr. Goodling, Mr. Price of Illinois, and Mr. Bustamante.

H.J. Res. 240: Mr. Chandler and Mr. Wilson.

H.J. Res. 315: Mr. Mineta and Mr. Hughes.

H.J. Res. 373: Mr. Foglietta, Ms. Kaptur, Mr. Frost, Mr. Kolbe, Ms. Oakar, Mr. Lancaster, Mrs. Meyers of Kansas, and Mrs. Bentley.

H. Con. Res. 83: Mr. Rose.

H. Con. Res. 169: Mrs. Bentley, Mr. Wolpe, Mr. Courter, Mr. Lancaster, and Mr. Dreier of California.

H. Con. Res. 190: Mr. Fauntroy.

H. Con. Res. 211: Mr. Moody, Mr. Gray of Illinois, Mr. Penny, Mr. Garcia, Mr. Horton, Mrs. Johnson of Connecticut, Mr. Wortley, and Mr. Konnyu.

H. Res. 272: Ms. Kaptur, Mr. Matsui, Mr. Skeen, Mr. Hunter, Mr. Fascell, Mr. Mfume, Mr. Nelson of Florida, Mr. Denny Smith, Mr. Howard, Mr. Daub, Mr. Oxley, Mr. Gilman, Mr. Roth, Mr. Bennett, Mr. Smith of Florida, Mr. DioGuardi, and Mrs. Collins.

H. Res. 306: Mrs. Johnson of Connecticut.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3646: Mr. Gray of Pennsylvania.

PETITIONS, ETC.

Under clause 1 of rule XXII:

101. The SPEAKER presented a petition of the Navy League of the United States, Arlington, VA, relative to its support of the Coast Guard funding level for fiscal year 1988; which was referred to the Committee on Merchant Marine and Fisheries.

EXTENSIONS OF REMARKS

THRIVING ON CHAOS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. COELHO. Mr. Speaker, as we approach the 21st century, this Nation needs forward-thinking ideas to prepare for the increasingly competitive world in which we now live. One person who has shown the necessary initiative to address these tough questions is Tom Peters, author of such best selling books as "In Search of Excellence," and "A Passion for Excellence."

From personal experience, I can attest to Tom Peters' brilliance, an innovator, author and lecturer. He has been my guest at events in my district, and my constituents have been enthralled with his provocative intellect. Although many of his ideas are geared to the business world, we in Government can undoubtedly learn from him as well. I want to share with my colleagues this recent article from "Industry Week," about Mr. Peters, and his latest book, "Thriving on Chaos."

TOM PETERS: INVITES CHAOS FOR SURVIVAL

(By Perry Pascarella)

"We need faster failure. It is fair to say that if we can't increase the gross national failure rate, we're in for a very rough ride indeed."

So says Tom Peters, the man who brought you *In Search of Excellence* (with Robert Waterman Jr.) and *A Passion for Excellence* (with Nancy Austin). He's back again with a book entitled *Thriving on Chaos,* published by Alfred A. Knopf this month.

Old industrial economies have two options, writes Mr. Peters. "The first path—toward stable mass production—relies on cutting labor costs and leaping into wholly new product lines as old ones are played out." This has meant layoffs, moving to lower wage areas, farming work out to low-cost suppliers, and diversification.

"The second path involves increasing labor value." This means "continuously retraining employees . . . , accepting flexible job classifications and work rules, agreeing to wage rates linked to profits and productivity improvements," and more permanent relationships with all of those who have a stake in the firm.

Mr. Peters' book emphatically supports the second path—one that requires a revolution in management practices and structures. The traditional path is causing us to do "dumb things," he says. "We are, for example, letting work drift offshore in pursuit of the lowest-cost production. But to lose control of the plant is to lose control of the future—of quality, responsiveness, and the source of most innovation."

THE IMAGE

Since the publication of his blockbuster book in 1982, Tom Peters has been perceived as an angry young man pacing one stage after another, citing examples of the poor quality of product and service we know all too well. His thousands of speeches and several TV programs have created, in some eyes, the image of a person who is negative on what American business is doing.

But Mr. Peters' early writing was very much grounded in heavy research, and he continues to be the ultimate student of business. His "showmanship" has become a vehicle for further research, drawing to him more and more examples of what to do right. His newest book is thoroughly upbeat, offering enough inspiration and information to feed American management for years to come—plenty for followup action.

If there hadn't been an *In Search of Excellence* to take business-book sales to unprecedented highs, this book might have done it. The content and timing of Mr. Peters' first book helped create this age of concern for excellence and began to raise interest in change that is the route to the ever-moving target of quality. This book could capitalize on that intense interest.

CHAOS NEEDED

Subtitled "Handbook for a Management Revolution," the new book calls for boldness in breaking the corporate mind-set. The man who brought quality to the fore now invites chaos. He demonstrates the advantages of anarchy over the outdated strengths of autocracy.

"To meet the demands of the fast-changing competitive scene, we must simply learn to love change as much as we have hated it in the past," he says. Yet the author's call to action is tempered with the knowledge that a successful revolution comes about through incremental changes—by the thousands. And that includes some wrong actions, some failures. His call to raise the gross national failure rate is a challenge to the nation to increase its hustle. Readers of the Peters-Waterman book will recall that a "bias for action" was one of the eight characteristics of the excellent companies selected.

On the surface, the manager of the future that Mr. Peters has in mind might appear more like a fast-moving videogame player than the chess or poker player of old. But that, by no means, implies being in a reactive mode. Throughout the book Mr. Peters urges developing the skills and flexibility to anticipate and capitalize on market opportunities, rather than letting the market dictate the shape of the company. What could be more proactive?

TOMORROW'S SUCCESSES

Taking what he observes working in Corporate America today, Mr. Peters sketches the characteristics of the successful firm of the future:

"Flatter [he insists on no more than five layers of management no matter how large the organization].

"Populated by more autonomous units.

"Oriented toward differentiation, producing high value-added goods and services, creating niche markets.

"Quality-conscious.

"Service-conscious.

"More responsive.

"Much faster at innovation.

"A user of highly trained, flexible people as the principal means of adding value."

This handbook lacks the literary smoothness of *In Search of* but seems better organized than *A Passion for.* But it is a handbook designed to stimulate action. Following its convincing opening chapter on the need for change are five sections that offer 45 major prescriptions, each of which contains still more tips.

In keeping with Mr. Peters' penchant for taking action, each section ends with suggested "first steps." Address all these prescriptions at once, he advises, since no one technique or area of attention can be successfully dealt with unless the others are being attended to at the same time.

The five sets of prescriptions have to do with:

"1. An obsession with responsiveness to customers.

"2. Constant innovation in all areas of the firm.

"3. Partnership—the wholesale participation of and gain-sharing with all people connected with the organization.

"4. Leadership that loves change and instills and shares a worthwhile vision.

"5. Control by means of simple support systems aimed at measuring the 'right stuff' for today's environment."

TO ACTION

Mr. Peters is at his best in writing about customer responsiveness, innovation, and empowering people. The sections on leadership and corporate systems taper off a bit in originality and care. Yet, overall, this powerful treatment of the issues surrounding industry's need for change and innovation presents a wealth of examples and viewpoints, and at a pace that should stir many management readers to action.

Picking up the "close-to-the-customer" trait cited in his first book, Mr. Peters says: "The customer responsiveness prescriptions add up to a revolution in corporate life—the wholesale external orientation of everyone in the firm, the achievement of extraordinary flexibility in response to what in the past would have been called customer whims."

The company that follows this prescription may have to make a radical change from traditional inward attention to cost reduction." . . . Our obsession for the last few decades has been with cost containment rather than revenue enhancement," says Mr. Peters. In an interview with IW, he said, "The average senior executive hasn't got his hands around the quality issue yet."

Many managers do not see through the quality/cost paradox. "Cost-reduction campaigns do not often lead to improved quality; and, except for those that involve large reductions in personnel, they don't usually result in long-term lower costs either. On the other hand, effective quality programs yield not only improved quality but lasting cost reductions as well. And all this doesn't even touch upon increased revenues from more sales resulting from improved quality." Mr. Peters says.

PEOPLE-DEPENDENT

Each of Mr. Peters' books has stressed the importance of people relationships inside and outside the corporation. This time he

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

points out that "despite the accelerating technology/automation revolution, our organizations must become more dependent on people (line workers)." And a related paradox: "The successful manufacturing firm is turning to a 'service-added/responsiveness-added' strategy that is people-intensive."

As companies become people-intensive, they will have to become less management-intensive. Mr. Peters asserts that self-managing teams should become the basic organizational building block. Management's role is no longer to "give commands and inspect," but to practice Mr. Peters' well-known concept of "managing by wandering around."

When he was interviewed, he referred to IW's companion notion of "managing by stepping aside" (June 1, Page 7). True, you're really in "control" of things only when you can walk away and have them get done, he said. Managing is a balancing act of getting out of the way and letting the regular chain of command perform the followup action, while also being highly visible as a listener and facilitator.

HORIZONTAL MANAGEMENT

We will have to "reconceive the middle-management job as one of facilitator and functional-boundary basher, instead of expert and guardian of functional units," Mr. Peters insists. Self-managing teams make no sense unless we make this change, he tells IW.

In this new role, the middle manager "must become (1) expeditor/barrier destroyer/facilitator, (2) on-call expert, and (3) diffuser of good news. In short, the middle manager must practice fast-paced 'horizontal management,' not traditional, delaying 'vertical management.' "

Again and again, in both the interview and the new book, Mr. Peters refers to "horizontal management." The concept is central to his "Chaos" book since the barriers between groups and departments get in the way of responding to the customer and making continual improvements in productivity and quality.

Mr. Peters distinguishes between this "protective skid greasing" in order to get things done and conventional "coordination," which generally "emphasizes that horrid role of protecting one's function."

LAYING IT ON THE LINE

Self-managing groups need to act horizontally "to seek out fast connections with other functions, without checking up." Unfortunately, Mr. Peters tells IW, "the average executive doesn't appreciate the ability of the first-line supervisor to do anything." But successful companies will change the role of this first rung of management. Included in the shift:

From ten people reporting directly to a manager, to 50 to 75 doing so.

From scheduler to coach and sounding board.

From rule enforcer to facilitator.

From planning to wandering.

From transmitting management's needs down, to selling teams' ideas and needs up.

From being focused "down" or "up," to horizontally, working with other functions to speed action-taking.

From providing ideas for workers to helping them develop their own ideas.

Where does this shift from a vertical axis to a horizontal one leave middle managers? Without a job in many cases, Mr. Peters implies. He is concerned about today's huge excess of middle managers. He does not offer himself as an expert on dealing with this national socioeconomic problem.

He does, however, recommend that attention be paid to retaining and repositioning these people as much as possible within a company.

"The manager, in today's world, doesn't get paid to be a 'steward of resources,' a favored term not so many years ago. He gets paid for one and only one thing—to make things better (incrementally and dramatically), to make things different, to change things, to act," Mr. Peters writes.

WHAT'S THE GOAL?

One of the continuing responsibilities of upper-level managers is to set goals. But Mr. Peters stresses the importance of setting goals that create a winning situation. "The prime objective of goal-setting should be to turn 90% of the people in your firm into confident winners who take the new and always greater risks required by the times we live in." Leave room for "stretch," but create achievable targets, he advises. "The right attitude is one I call 'degrees of winning' rather than 'winners and losers.' "

Despite Mr. Peters' invitation to chaos, he warned in his interview with IW that a framework of mission, or vision, or purpose has to be put in place before any of his prescriptions will work. In the book he uses the term "vision" and describes it as "the sea anchor—the basis for keeping people from running around as the waves of the change roll in."

Bold change should be called for in top management's vision, but it will materialize only as "the result of a hundred thousand tiny changes. . . ."

The vision provides a form of stability (not the paper-driven kind, he points out). "If there is no vision, or if the edges of the vision are very fuzzy, you don't know what is 'risk for risk's sake.' "

That's the difference between successful revolution and utter chaos.

TOM PETERS DEFINES THE QUALITY REVOLUTION

1. Management if obsessed with quality.
2. There is an ideology.
3. Quality is measured.
4. Quality is rewarded.
5. Everyone is trained in technologies for assessing quality.
6. Teams involving multiple functions/systems are used.
7. Small is very beautiful.
8. There is constant stimulation.
9. There is parallel organization structure devoted to quality improvement.
10. Everyone plays: Suppliers especially, but distributors and customers, too, must be a part of the organization's quality process.
11. When quality goes up, costs go down. Quality improvement is the primary source of cost reduction.
12. Quality improvement is a never-ending journey.

A TRIBUTE TO PAUL SZASZ

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. LANTOS. Mr. Speaker, I would like to recognize today Mr. Paul Szasz of Vancouver, BC, who will turn 83 on December 13. An outstanding citizen of the world, Mr. Szasz has survived two world wars and has participated in more historic, economic, political, and social changes than several previous generations combined.

He was born in 1905 in Hungary, at a time when the Austro-Hungarian monarchy headed by the Hapsburgs seemed safely in charge of the world. When he was 9, that world began changing unrecognizably. That was when the assassination of Archduke Ferdinand at Sarejevo exploded into World War I.

Young Paul was reared near Badacsony in one of Hungary's more famous wine-growing regions, and he quickly developed an interest in viticulture. His family hoped to send him to university, but the odds seemed slim. Moson Magyarovar, Hungary's elite agricultural college, traditionally admitted only the sons of noblemen. But Paul's excellent academic performance in secondary school, plus his extensive practical experience in agriculture, won him admission in 1922.

While there, he at first faced snobbishness and, because of his Jewish background, anti-Semetism. But he soon earned the respect of his classmates with his own academic accomplishments, along with his willingness to help friends study for examinations.

After graduation, Paul returned to the family business and began developing new processes and procedures for making wine. He increased the popularity of Hungarian wines by exporting them to Austria, Czechoslovakia, Poland, and other Eastern European countries. His efforts did not go unrecognized, and they led to a new career far from the vineyards. In 1931, when the head of Intercontinental Packers visited Budapest in search of a good man to run meatpacking plants, Paul was recommended for the job by the Hungarian Minister of Agriculture. In the years before World War II, Paul rose in Intercontinental to manage packing operations in Hungary, Romania, Bulgaria, and Yugoslavia.

When war broke out, managers with Jewish backgrounds were not tolerated in Hungarian business, but Paul's employees so admired him that they acknowledged his indispensability by demanding that he stay on to run the plant, which supplied meat to the Hungarian Army.

In 1944, after the German occupation of Hungary, Paul witnessed the deportation of his entire family to Auschwitz; he never saw them again. He was placed in a detention camp, escaped and found refuge in the Portuguese Embassy in Budapest. As the Soviet Army descended upon the Hungarian capital, Paul left the country with the Portuguese Deputy Ambassador and eventually wound up in Paris.

There, in September 1946, he married Mary Seidner-Tilleman. Soon, Intercontinental Packers, which had lost all its plants in Eastern Europe, asked Paul to help in expanding new operations in Australia. Paul agreed and began a successful 18-year career Down Under. In 1966, at the request of his wife, and also because he wanted to be nearer his family in San Francisco, he asked for a transfer to Vancouver, BC, where he worked for the company until his retirement in 1976. Since then, Paul and Mary have been traveling the world, entertaining grandchildren, golfing, and visiting with friends and family. One important project: Paul is writing his memoirs, which will be fascinating.

Mr. Speaker, Paul Szasz is a cultured gentleman and a capable business executive, but that is not all. He is a survivor who beat long odds to live a full and productive life. I wish him a happy birthday now, and best wishes for many more.

SMOKE ALARMS AND SPRINKLERS OFFER AFFORDABLE PROTECTION FROM FIRE HAZARDS

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. LUJAN. Mr. Speaker, today, I am introducing legislation calling for installation of sprinkler systems in U.S. hotels and motels. Hotel fires have the potential for large-scale loss of life by just one incident. Private dwellings, on the other hand, account for the highest fire death rates in the United States. Therefore, in addition to introducing the "Hotel and Motel Fire Safety Act of 1987," I would like to enter into the CONGRESSIONAL RECORD a recent article which appeared in the July 1987 issue of Mayo Clinic Health Letter.

From 1965 to 1985, Canada had the largest number of fires and fire-related deaths of any country in the industrial world. The United States ranked a close second.

From 1977 to 1983, almost 7,000 Americans died annually in home fires. That's equivalent to the crash of two large jet airplanes each month. People at greatest risk: children younger than age 10, the handicapped and adults past age 65.

Fire is the third-leading cause of accidental death and injury in the United States. Each year it causes 20 times more deaths than hurricanes, tornadoes, floods, and earthquakes combined.

Home fires make up only 25 percent of all fires, but they account for 76 percent of fire-related deaths. Fatalities more often are due to inhalation of carbon monoxide and other gases in the smoke than to heat and flame. Careless smoking leads to the greatest number of deaths. Cooking is responsible for most injuries. Arson creates the bulk of property damage.

We strongly discourage smoking, but if you do smoke, remember that it's especially dangerous to smoke in bed. Your risk of death from a home fire increases if you smoke when you are tired or if you have been drinking. A practical approach to home safety is vital.

For added security, equip your home with smoke detectors or a spinkler system or both. Improved technology and competitive pricing make these devices more accessible today.

The U.S. Department of Health and Human Services states that detectors are of special help in fires caused by careless smoking, or if you're asleep when the fire starts. The first detectors for home use were introduced in 1921, but their cost was prohibitive. Since 1970, battery-operated alarms have brought down the price. Today's models cost from $10 to $50.

Three types of detectors offer home protection. One sounds an alarm in response to heat (a specific temperature or a rate of increase in temperature). The other two respond to smoke or various particles in the air.

The Journal of the American Medical Association reports a safety comparison of homes with and without detectors. In a house fire, your chance of death is 2.5 times greater if the home does not have detectors. In an unprotected mobile home, your chance of death is two to four times higher.

Although detectors sound an early warning, handicapped persons, the elderly, and the young may not be able to escape.

Commercial sprinklers have been available for more than a century; the first models for residential use came on the market in 1978.

Here is how they work: Normally, a metal link keeps the sprinkler's water valve closed. The heat of a fire softens the link, thus releasing the valve and a spray of water. Hot gases and carbon monoxide levels tend to rise fast in homes. Therefore, look for a home sprinkler system that reacts quickly; some respond within half a minute.

Installation of a sprinkler system typically costs about 2 percent of a new home's value and 3 to 4 percent of the cost of an existing structure. When local codes permit, piping made from synthetic materials reduces expense.

In the event of fire, sprinklers can cause water damage, but it is less severe than destruction from smoke and flame. The risk of water damage from leaks is extremely low.

The National Fire Protection Association, the American Medical Association, and many other organizations advocate installation of alarms in all new residential and commercial buildings. We agree. Tax incentives and insurance adjustments could make this plan attractive to more people.

Smoke detectors alone could reduce home fire deaths by about 50 percent. Detectors and sprinklers combined could save up to 73 percent of the people who die each year in fires.

If you get a detector or sprinkler system, carefully follow all instructions for installation. Inspect the equipment regularly. Plan and rehearse an escape route from your home. If you're caught in a fire, these simple precautions might save your life.

AN ACKNOWLEDGMENT OF THE CONTRIBUTIONS OF THE IROQUOIS CONFEDERACY OF NATIONS

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. INHOFE. Mr. Speaker, today I am introducing a concurrent resolution to acknowledge the contributions of the Iroquois Confederacy of Nations in the development of the U.S. Constitution and to reaffirm the continuing relationship between the Indian tribes and the U.S. Government.

On the 200th anniversary of our Constitution it is right and proper for us to acknowledge the historical debt that our Nation owes the Iroquois Confederacy. Prior to the Constitutional Convention of 1787, the Iroquois Confederacy was a model for the enlightened principles of democratic government upon which our own Republic was founded.

We in this House should also reaffirm the constitutionally recognized government-to-government relationship with the Indian tribes that has been the bedrock of our Indian policy. We should specifically acknowledge the obligations and responsibilities our Nation has for the preservation and enhancement of the Indian tribes. It is for us to ensure that these obligations continue to be met, and that our relationship with the various Indian tribes be characterized by goodwill and mutual trust for the benefit of all Americans.

H. CON. RES. —

Concurrent resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution

Whereas the original framers of the Constitution, including most notably George Washington and Benjamin Franklin, are known to have greatly admired the concepts, principles and governmental practices of the Six Nations of the Iroquois Confederacy;

Whereas the confederation of the original Thirteen Colonies into one republic was explicitly modeled upon the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself;

Whereas, since the formation of the United States, the Congress has recognized the sovereign status of Indian tribes and (through the exercise of powers reserved to the Federal Government in the Commerce Clause of the Constitution (art. I, s. 8, cl. 3)) has dealt with Indian tribes on a government-to-government basis, and the Federal Government (through the treaty clause (art. II, s. 2, cl. 2)) has entered into three hundred and seventy treaties with Indian tribal nations;

Whereas, in the first treaty entered into with an Indian nation—the treaty with the Delaware Indians of September 17, 1778—and thereafter in every Indian treaty until the cessation of treatymaking in 1871, the Congress has assumed a trust responsibility and obligation to Indian tribes and their members to "exercise the utmost good faith in dealings with the Indians" as provided for in the Northwest Ordinance of 1787, (1 Stat. 50);

Whereas the Congress has consistently reaffirmed these fundamental policies over the past two hundred years through legislation specifically designed to honor this special relationship; and

Whereas the judicial system of the United States has consistently recognized and reaffirmed this special relationship: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress, on the occasion of the two hundredth anniversary of the signing of the United States Constitution, acknowledges the historical debt which this Republic of the United States of America owes to the Iroquois Confederacy and other Indian nations for their demonstration of enlightened, democratic principles of Government

and their example of a free association of independent Indian nations;

(2) the Congress also reaffirms the constitutionally recognized government-to-government relationship with Indian tribes which has historically been the cornerstone of this Nation's official Indian policy;

(3) the Congress specifically acknowledges and reaffirms the trust responsibility and obligation of the United States Government to Indian tribes, including Alaska Natives, for their preservation, protection and enhancement, including the provision of health, education, social, and economic assistance programs as necessary, to assist tribes to perform their governmental responsibility to provide for the social and economic well-being of their members and to preserve tribal cultural identity and heritage; and

(4) the Congress also acknowledges the need to exercise the utmost good faith in upholding the treaties entered into by the Federal Government with the various Indian tribes, as the tribes understood them to be, and the duty of a great Nation to uphold its legal and moral obligations for the benefit of all of its citizens so that they and their posterity may also continue to enjoy the rights they have enshrined in the United States Constitution for time immemorial.

MY 16,000TH VOTE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BENNETT. Mr. Speaker, I am happy to advise that I have just now cast my 16,000th vote in the House of Representatives, and although I have not researched the matter accurately enough to be entirely positive, I believe this is probably the most number of votes cast by any Member of Congress in history. My reaction to this is one of tremendous gratitude to the people of Florida who have allowed me to be their Congressman for now almost 40 years, and my gratitude to heaven for letting me have such good health all of these years. Another record which is a product of all of this is that on June 5, 1987, I completed a record of not having missed a legislative vote in more than 37 years. This record is still going forward. Again, I express my appreciation to my constituents for allowing me to serve them here, and my gratitude for the good health which I enjoy.

The life of a Congressman has joys and disappointments, and my life here in the House has been one of both, but by far the joys outweigh the disappointments, and disappointments are all of my own making; therefore, I hold no ill will toward anyone about them. Since the job of a Congressman is primarily to legislate. I would also like to express my gratitude to my colleagues who have allowed me to pass a number of very important pieces of legislation in the recent past and throughout the years preceding.

MIDDLE INCOME FAMILY HIGHER EDUCATION SAVINGS ACT OF 1987

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. KOSTMAYER. Mr. Speaker, today I am introducing the Middle Income Family Education Savings Act, to help parents save and pay for their children's college education.

One of the great strengths of American society, Mr. Speaker, has been the ability of qualified students to get a college education. Higher education has been affordable. With hard work, and a willingness to save and sacrifice, parents and students have known that a college education is a possibility for every American.

Today, that is simply no longer true.

Today's parents with youngsters headed for post-secondary education face a huge financial burden. Since 1980, tuition costs are up 75 percent—a rate much higher than that for any other major expenditure a family makes. With tuition costs rising at such a rapid rate, parents are finding the burden of financing their children's education overwhelming.

Ernest Boyer, the respected former Commissioner of Education, in a Carnegie Foundation report entitled, "College, the Education Experience in America," reached this disturbing conclusion:

> In the end, money, for most families, is the crucial issue. Indeed the growing gap between tuition and family resources is one of the most urgent challenges colleges and universities confront.

Mr. Speaker, is this acceptable? Can this country move into the next decade, and then the next century with the threat that our best students will not go to college, that our brightest young men and women will not fulfill their ambitions, that our future professionals, scientists, academics, and business leaders and public servants may not achieve their goals?

The Middle Income Family Higher Education Savings Act says, "No," Mr. Speaker.

America's post-war economic dominance is under attack today. We face tremendous competition from abroad. We can't shrink from that competition. We won't be the greatest country in the world for long if we do. We've got to be more productive. We've got to work harder, and we've got to work smarter.

We need the best educated and trained work force in the world. And it's clear we won't have that work force if we don't address the problem of financing higher education now.

While there is student aid available, these programs have been curtailed sharply. And the ratio of grants versus loans has changed markedly. Ten years ago grants comprised 75 percent of a student aid package; loans 25 percent. Today loans have far surpassed grants and comprise about two-thirds of the typical student aid package. Students are graduating today with large indebtedness.

Student aid that remains available is means-tested. Very few middle income families can qualify. This leaves most families on their own as they seek to meet the costs of their children's college tuition.

The National Institute of Independent Colleges and Universities has conducted a survey and found that many parents have unrealistic notions regarding how much they need to save for their children's education. Only 50 percent of the parents of children who are expected to go to college are currently saving at all, and while most parents are willing to pay for their children's education, their efforts are woefully inadequate in the face of what the costs are likely to be.

What we need is a two-track approach.

First, current aid programs aimed at the lowest-income students—those with the greatest need for assistance at the time of their enrollment in college—must be strengthened. No qualified student in America, no matter how poor, should be denied the opportunity to get the best possible education.

Second, the Federal tax laws should be amended immediately to encourage families to save for postsecondary education costs. The legislation I am introducing today will allow families to create tax-free savings accounts for their children, accounts similar to individual retirement accounts.

Increasingly middle-income families feel shut out from the current system—they are generally ineligible for Federal aid or State grant programs and have few options available to them to help pay tuition bills.

My legislation will provide middle-income families with the means to more easily save for their children's education costs. Under the Kostmayer proposal parents would be allowed to contribute up to $1,000 a year to a child's education trust account. The contributions themselves would be deductible from taxable income, as would interest the account accrues until the child finishes his or her undergraduate education.

If a family started an account at the birth of a child, and contributed $1,000 per year for 18 years, at 8 percent interest, this account would accrue to $37,450.

According to projections done by the Congressional Research Service, if tuition continues to go up at 6 percent per year for the next 18 years, this hypothetical family saving $1,000 each of those 18 years would meet 71 percent of the costs of a public 4-year college, or 35 percent of a private 4-year college.

This legislation, Mr. Speaker, would therefore coincide with current Federal and State aid programs. For most families, college education would be financed at three levels.

First, pre-college, by the savings of the parents from the tax-free Kostmayer account;

Second, during college, by work study and student aid; and

Third, post-college, by repaying student loans.

The tax-deductible college savings account will provide families with the means to begin this crucial financing effort.

Mr. Speaker, thousands of middle class families I represent in Bucks and eastern Montgomery counties want their children to have the best educational opportunities. They want a better life for their children. That is what I want, too, Mr. Speaker, for all the children of America and for America's future in the world.

I urge my colleagues to join with me and support the Middle Income Family Higher Education Savings Act.

THE NORTHAMPTONTOWNE MILITIA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. RITTER. Mr. Speaker, the Northamptontowne Militia was founded under the auspices of the Lehigh County Historical Society in order to recreate an important historical time—the bicentennial year of the Revolutionary War, 1976, and its climax for Lehigh County—the movement of the Liberty Bell from Philadelphia to Allentown.

Throughout the bicentennial year of 1976, the militia was involved in just about every event held in the county, a total numbering in the excess of 120 events. For the years 1977 through 1981, known as the "Bicentennial Era," the militia participated in battle reenactments and living history demonstrations as far north as Bennington, VT, and as far South as Savannah, GA.

In 1981, an excess of 5,000 uniformed troops performed with the organization's second identity, the Fusilier Regiment of Lezun's Legion, in the reenactment of the surrender ceremonies in Yorktown, VA. In 1984, the militia adopted the unit's third identity, that of the Sixth Pennsylvania Regiment, to accommodate research on the period between 1776 and mid-1777.

The National Park Service, within the U.S. Department of the Interior, has requested battle reenactments by the militia over the past decade. The militia has contributed four appearances at Valley Forge National Historical Park each year. Barbara L. Pollarina, supervisory park ranger, has written to commend the militia and especially the captain, Mr. James Shedlauskas, for friendly, cooperative and considerate volunteer help.

Mr. Speaker, I offer a commendation and citation to Capt. A. James Shedlauskas of the Northamptontowne Militia:

Whereas, the Northamptontowne Militia has presented the story of the American Revolution and the life of the Continental soldier to the public and has paid special attention to the Liberty Bell in its movement from Philadelphia to Allentown; and

Whereas; the Captain, A. James Shedlauskas, in a friendly and considerate manner, has accomplished the smaller and larger deeds, including historical research, which truly recreates Revolution events; and

Now therefore, Congressman Don Ritter pays tribute to Captain A. Shedlauskas for invaluable contributions to the Lehigh Valley, the Commonwealth of Pennsylvania and the United States of America;

And further directs that a copy of this document, sponsored by Don Ritter, be transmitted to Captain A. Shedlauskas.

WE SHOULD NEVER FORGET

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. McEWEN. Mr. Speaker, recently I had the opportunity to meet with Mr. Tony Pivac of Akron, OH, a man of intense political beliefs who is carrying the message of Communist tyranny to his fellow Americans.

In particular, Mr. Pivac, a Croatian, wants to make certain that our Nation never forgets the slaughter of more than 200,000 of his countrymen at the hands of Yugoslavian Communists shortly after World War II near the Austrain border town of Bleiburg.

An American historian, C. Michael McAdams, once said of the Bleiburg massacre, "The name Bleiburg donates more than just a place to the Croatian people . . . it is a feeling; it is a synonym for sorrow, destruction and pain. Bleiburg is to a Croatian what Dachau is to a Jew; what Lidice is to a Czech; or Katyn to a Pole . . . more than just a place, very much more."

The slaughter at Bleiburg, ironically came at the end of the worst war in the world's history, while most of the family of man was thinking of peace and of rebuilding what had been destroyed. But there was to be one final indignity to the human race—the genocide of more than 200,000 men, women and children simply because they happen to be members of the same race.

No one ever stood trial for the blood massacre at Bleiburg and no monument was ever erected in its memory. But freedom loving people throughout the world should never forget the lessons of Bleiburg, and the "Killing Fields" and the Stalinist purges and the mountains of Afghanistan and the deserts of Ethiopia and . . .

Tony Pivac and his countrymen have learned those lessons. The lessons of intolerance, comtempt for human life and tyranny. Now he wants to teach others.

FEEDING THE HUNGRY IS MORE THAN MORAL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BEREUTER. Mr. Speaker, American interest in Third World development is practical as well as moral.

I commend to my colleagues the wisdom contained in an opinion editorial by the Honorable Orville L. Freeman, a distinguished former Secretary of Agriculture, in the November 15, 1987, edition of the Los Angeles Times. It will be appropriate to review these words by Secretary Freeman before we vote again on the pending foreign assistance bill and before the Appropriation Committee's conferees complete their work on the fiscal year 1988 spending decisions.

[From the Los Angeles Times, Nov. 15, 1987]

FEEDING THE HUNGRY IS MORE THAN MORAL

(By Orville L. Freeman)

Hunger. Long the forgotten issue on the world agenda, it blazed briefly in public consciousness during the African famine of 1985 and abruptly faded from attention again.

But even if hunger has vanished from public debate, the gnawing problem continues—and grows. Half a billion people endure numbing malnutrition each day, often too weak to work or too debilitated even to produce the food they need to energize themselves. That number is growing, not diminishing.

The growth of chronic hunger not only presents the glaring paradox of want in the midst of plenty; in fact, the grinding poverty itself actually helps create gluts of unsold food. The ample surpluses of American agriculture, with production capacity 40% in excess of domestic needs, would find eager buyers in the fast-growing countries of the developing world if only their people could earn money with which to buy them.

A decade ago hunger emerged as a major issue on the global agenda. As Secretary of State, Henry Kissinger went so far as to set an ambitious goal for both the United States and the world community: the elimination of world hunger by 1980. Long-range programs to accomplish both food and development strategies were established, funding was provided and considerable progress was made, even if the goal was not quite reached.

After 1980 hunger disappeared as an issue. The United States' multilateral development aid was slashed from $2.3 billion in 1980 to $949 million this year. Our three-year commitment to the International Fund for Agricultural Development fell from $254 million pledged for 1981-83 to $80 million pledged for 1987-89. Our Food for Peace allocation was halved in just two years, from $2 billion in 1985 to $1.1 billion today. And for 1986-87, payments on our $101-million obligation to the United Nations' Food and Agricultural Organization have amounted to only $13 million.

No wonder the numbers of chronically hungry are growing once again. The United States has gone into default on a serious moral obligation, which is hardly attenuated by the episodic response to public concern about outright famine two years ago. This is the thrust of a new report titled "A Time To Plant: International Cooperation to End Hunger" by the United Nations Assn. of the United States: There is an urgent need "for a renewed commitment, by our own countries and the international community, to the goal of a world where no child goes to bed hungry—to the elimination of hunger before this century's end."

This is truly a moral obligation of first priority. At the same time, it is an economic issue of inestimable importance for American agriculture. For an all-out development war to conquer world hunger is also at the core of building future markets for agricultural products.

The plain fact is that the necessary markets for American farmers are not in Japan and the countries of Western Europe. The fastest-growing markets today for U.S. food exports are the developing countries that are undergoing rapid economic growth. South Korea, once a poverty-stricken recipient of U.S. food aid, is now purchasing more than $2 billion a year in American farm products—even as its own food output grows by a healthy 3% a year. Brazil, while expanding its agricultural production by 5% a year (and becoming a stiff U.S. competitor in the soybean sector), increased the volume of its imports of U.S. farm commodities by 15% over the last decade.

There is, in short, a fundamental relationship between the crisis of hunger in the developing world and the crisis of surplus in U.S. agriculture. The solution to both crises lies in rapid growth of earning power in the Third World. And economic expansion in developing countries must be led by rising purchasing power in the rural sector, where the bulk of Third World people live. This underscores the importance of carefully targeted international development aid that can spark increased productivity and an economic take-off.

It is increasingly clear that poorer nations' development policies need to be targeted to the poor in rural villages. Growth in their purchasing power both fuels local consumer industries (generating increases in urban income) and allows them to buy more varied foods. Similarly, development aid provided by wealthier countries, both directly and through multilateral institutions, should focus more on investment in productive "micro-enterprises" among the poor. Happily, initiatives in Congress to do just that have recently gained ground.

One of the most innovative recommendations in the new U.N./U.S. Assn. report, reflecting the fundamental relationship between trade and aid, calls for re-allocating some of the budget savings from a worldwide phase-out of grower subsidies to food purchase subsidies for the poor in key developing countries. The aid, channeled back into higher food purchases, would enrich the diets of the hungry poor—and would also expand markets for our growers. Just as food stamps expanded the food purchases of America's poor by 24%, in Sri Lanka they have increased the volume of food sold to the poor by 30%.

This is the epiphany that American policymakers must recognize: American interest in Third World rural development is practical as well as moral. The dollars invested in multilateral development banks are creating consumers, not competitors, are carefully targeted food aid stimulates productivity, not passivity. The possibility becomes ever more real of restoring a broad constituency against hunger amid this "action" triangle of interests: humanitarian aid, Third World development and commercial market-building.

FREEDOM SUNDAY FOR SOVIET JEWS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. YOUNG of Florida. Mr. Speaker, Americans throughout our Nation will gather together Sunday, on the eve of the United States-Soviet Summit meetings, to urge Soviet General Secretary Gorbachev to free the more than 400,000 Soviet Jews who have requested permission to emigrate to a land where they can worship freely.

The Jewish Federation of Pinellas County is sponsoring such a rally in Florida where residents there this week have learned of the special hardships faced by Soviet Jews. It was on Tuesday that Georgy, Faina, and Ilona Sakovich walked off an airline in Tampa to end a 6,000 mile trip from the Soviet Union and be reunited with their family for the first time in 8 years. The Sakovich's were one of thousands of families that have been intentionally separated by Soviet authorities, who allow some but not all family members to emigrate together.

The Sakovich's parents, sister, and brother-in-law were allowed to emigrate in 1980, but permission for the remainder of the family was withheld by the Soviets. Repeated requests to emigrate during the following 8 years were also refused, without an explanation by the Soviet Government.

The Congress again this year has approved resolutions urging the Soviet Union to expedite approval of emigration requests for separated families and urging the Soviets to restore emigration rights for all Jews wishing to leave the Sovet Union. President Reagan has already indicated that these human rights concerns will be a top priority in his discussions with General Secretary Gorbachev.

Without strong showings of public support such as those being organized Sunday, I'm convinced that the emigration of Soviet Jews would still be a mere trickle and that there wouldn't even be a glasnost policy for Soviet leaders to discusss on their visit here. Glasnost is a policy that has raised the hopes of many Soviet Jews, but Soviet leaders first must prove that they are serious about opening up their society to protect many of the basic human rights and values that have long been denied the Soviet people. Remember that last year, these same Soviet authorities allowed only 914 Jews to emigrate, the second lowest annual total in the past 20 years.

Soviet officials can bring credibility to their glasnost program and their negotiations on the wide-range of issues to be considered next week, by demonstrating their resolve and sincerity to free Soviet Jews waiting to emigrate. This would come at an important time when we are discussing what would be important and lasting nuclear arms and military accords.

Efforts this Sunday to demonstrate our concern about the continual denial rights to Soviet Jews will be heard by visiting Soviet officials. Just as importantly though, our concerns will also be heard by those Jews who have indicated a desire to leave the Soviet Union and who will draw strength from our words of support. Summit Sunday will help keep alive their dreams to someday be free to worship in the land of their choice and I want to salute the efforts of the Jewish Federation of Pinellas County and all those groups and individuals who have organized these types of programs which bring hope to many thousands of Soviet families.

TRIBUTE TO WHITE PLAINS CABLE TELEVISION COMMISSION, INC.

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today to recognize the White Plains Cable Television Access Commission, Inc., an organization in my congressional district. The commission is celebrating its fifth year of success and service in Westchester County, NY.

Serving the community in an advisory capacity, a board of 15 directors comprises the White Plains Cable Television Access Commission, Inc. The board members are appointed by the mayor and the common council and serve on a volunteer basis. Furthermore, the production staff consists primarily of volunteers who play an integral role in the daily operations of the studio. Since 1982, when the commission was first organized, over 300 trained volunteers have dedicated their time and service to the production and operation of the commission's programs.

The commission broadcasts programming over two cable television channels. A recent survey indicated that more than 5,000 viewers watch these public access and government access channels every night on a regular basis; these viewers also rely on the channels for current and relevant information about their community.

Sensitive to the needs of the people of Westchester, the commission provides a vital service to this complex community. The commission has focused many programs on current local concerns, such as the homeless, child abuse, drug abuse and senior citizens programs. One weekly production, hosted by the mayor of White Plains, critically examines the homeless problems throughout the county. Another homeless program, which focused on five homeless men, has been aired at least five times and has been nominated for a National Cable Television Award. Even schoolchildren were touched by this program; many youngsters wrote to these men, enclosing pencils and stamped envelopes to encourage responses, offering help and assistance. If it were not for the commission, such important community issues would not receive such needed public attention.

From 1982 to 1987, the White Plains Cable Television Access Commission, Inc. has served the community of Westchester County. I am proud to have such an organization in my congressional district, and I am happy to congratulate the commission on its 5 years of service.

THE AMERICAN HIMALAYAN FOUNDATION: PROVIDING HUMANITARIAN AID TO THE PEOPLES OF THE HIMALAYAN REGION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. LANTOS. Mr. Speaker, I would like to pay tribute today to the American Himalayan Foundation, which is headquartered in San Francisco. Headed by my good friend Richard Blum, an investment banker and honorary consul to Nepal, the AHF is concerned with the entire Himalayan region. For years it has supported such diverse programs as Sir Edmund Hillary's Himalayan Trust, which helps Sherpas, to electrification of Napal's Tengboche Monastery. The Queen of Nepal's Health Outpost Program in Mustang is another AHF interest.

The AHF, however, also has a growing interest in Tibet, and intends to devote part of its 1988 budget to helpful activities there and to displaced Tibetans elsewhere in the region. For example, the foundation is providing medical equipment and supplies for the Rajpur Women's Center in Dehra Dun to help Tibetan refugees. Another AHF project is the Tibetan Children's Village and Delek Hospital in Dharamsala, India.

In Tibet itself, the AHF is quite active, although not as active as it would be if Tibet were peaceful. It has renewed contributions to the Xigare Hospital. Until the recent riots, the foundation was helping to build several new schools for Tibetan children. There are plans to supply books to Tibet, as the AHF does already through the Asia Foundation for Nepal and Bhutan. Referring to Chinese oppression of Tibet, the AHF says in its annual report that "we find the Chinese action most regrettable and we will continue to do whatever we can to encourage a more enlightened human rights policy for the Tibetan people." I thank the AHF, and for sounding another voice for freedom there.

Mr. Speaker, the work of the AHF on behalf of Tibet, Nepal, Bhutan, and the entire Himalayan region is to be commended. I hope their excellent example, under Richard Blum's able leadership, will inspire others to undertake similar humanitarian activities.

LEGISLATION AIMED AT USING SPRINKLERS IN HOTELS AND MOTELS ACROSS THE UNITED STATES

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. LUJAN. Mr. Speaker, today I am joining two colleagues on the Science, Space, and Technology Committee in introducing legislation aimed at promoting the use of sprinklers in hotels and motels across the United States.

This legislation is an amendment to the Federal Fire Prevention and Control Act of 1974 which established the U.S. Fire Administration and the National Fire Academy. Since 1974, the volunteer and full-time fire service community, the building and construction industry, and the scientific and engineering community have been working with the Federal Government to maximize efforts to reduce the loss of lives and property due to fires.

The positive impact of smoke detectors in public buildings and private dwellings has proved that "an ounce of prevention is worth a pound of cure." While statistics indicate that the highest fire death rates in the United States occur in private dwellings, hotels and motels cannot be overlooked. In fact, in comparison, hotel fires cause large loss of life—sometimes over 100 deaths in a single fire. Recent tragedies such as the Dupont Plaza Hotel fire in Puerto Rico on December 31, 1986, and the Doubletree Hotel fire in New Orleans demonstrate that had automated sprinkler systems been installed, these tragedies would not have occurred. The National Bureau of Standards recently released a study of the Dupont fire analyzing the positive effects had sprinklers and smoke detectors been present, NBSIR 87-3560.

The bill I am introducing today would bridge that gap of adequately addressing hotel safety. The combined efforts of the fire community, the building industry, the hotel and motel industry with the leadership of the Federal Government is the first step toward developing a state-of-the-art approach to fire safety in hotels. I look forward to working with all interested parties in developing this legislation further to have an effective mechanism which helps address this critical problem.

According to a recent National Fire Protection Association [NFPA], a nonprofit fire safety organization, property losses due to hotel and motel fires in the United States is estimated at $580 million from 1980–1986, based on annual surveys of roughly 2,000 fire departments.

Installing sprinkler systems could reduce this cost, as well as the escalating costs this industry is paying in liability insurance coverage.

WE SHOULD REJECT HOUSE JOINT RESOLUTION 395, THE OMNIBUS CONTINUING APPROPRIATIONS RESOLUTION

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. INHOFE. Mr. Speaker, I would like to take a few moments to clarify my position on a number of votes that the House took today concerning the 1988 continuing appropriations resolution (H.J. Res. 395).

I voted against the rule to the continuing resolution [CR] and final passage because of the following reasons:

As drafted, the rule did not allow a separate up or down vote on the pay raise issue for the Judiciary, Executive, or Congressional Branches of the Government.

The rule allowed for a tax increase of $30 billion. By incorporating the budget summit agreement announced by the President the $600 billion CR—the most expensive bill ever passed by any legislative body in the world—effectively would raise taxes by over $30 billion.

I oppose raising taxes, and for that reason I voted against the rule of the CR and against passage of the bill. I have offered a better alternative to tax increases in House Resolution 319. My legislation calls for a total spending freeze for all of 1988.

Most importantly, by passing a CR in place of the 13 regular appropriations bill, Congress has abrogated its responsibilities by dumping all of the spending bills into one massive CR bill.

I also oppose the manner in which the foreign repair stations issue was handled in the rule. Rather than allowing it as a separate amendment so that each Member of the House of Representatives had an opportunity to clearly state his position, the rule mixed the foreign repair station amendment up with a vote on the rule itself.

Controversy about the rule covers very broad issues of fiscal responsibility, Government spending and priorities, and procedural fairness in the House of Representatives. The Democrats purposely crafted a rule that virtually excludes Republicans from offering amendments to a $600 billion continuing resolution that funds the entire Government for a year. This is completely contrary to our democratic tradition.

Regarding the foreign repair station issue, I am calling for a moratorium on any implementation by the Federal Aviation Administration [FAA] and the Department of Transportation [DOT] of a final rule on foreign repair stations. This can be done without legislation. I am not satisfied that the FAA and DOT gave sufficient consideration to the economic impact of their proposed rule if it were finalized. I also am not satisfied that safety standards would be adequately enforced.

Congress, and particularly the Aviation Subcommittee, needs to focus more closely on these issues so that we all can develop a clearer picture of the probable benefits and costs of any such rule change. A moratorium would give the FAA an opportunity to give more thorough consideration to the economic impact, especially the impact on jobs, of its proposed rule.

PERSONAL EXPLANATION

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. MAVROULES. Mr. Speaker, I was absent and was, thus, unable to cast my vote on rollcall Nos. 427 and 428 during House consideration of H.R. 435, uniform poll closing legislation on November 10. Had I been present I would have voted nay on rollcall No. 427 and yea for rollcall No. 428.

GOVERNOR HAYDON BURNS, A REAL LEADER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BENNETT. Mr. Speaker, former mayor of Jacksonville and former Governor of Florida, Haydon Burns, passed away last week. He was a "get things done" leader of great ability and enthusiasm. He was also a fine husband for his lovely wife and a thoughtful father of their children. In fact, he led a very constructive and positive life in every way and he will be greatly missed. I include at this point editorials from the Florida Times-Union and the Jacksonville Journal, which pay to him well-deserved tribute.

[From the Florida Times-Union, Nov. 24, 1987]

MAYOR HAYDON BURNS LED CITY INTO LAST HALF OF THE CENTURY

Master showman Walt Disney summed it up best, perhaps, when he called Haydon Burns "a man who knew how to get things done."

After World War II, Jacksonville's bustle subsided. Its naval bases went into peacetime mode and the shipyards that were so busy turning out Liberty and Victory ships reduced employment.

The suburbs kept growing in the post-war baby-boom period, but downtown fell stagnant.

Wooden piers and wharves lining the riverfront were rotting havens for rats. What skyline there was seemed dominated by large hotels dating to the Florida boom in the 1920s.

In 1949, the office of mayor fell after a hard-fought campaign to Mr. Burns, who had a vision of a Jacksonville as a modern urban area where business would thrive and flourish.

A civil aviator and Naval Reserve officer during the war, Mr. Burns was the son of a former county commissioner and had worked in political campaigns as a high school student, learning the ropes and how to get things accomplished in the political arena.

He worked hard along with the Chamber of Commerce to get new business into town and was especially successful in selling insurance companies on the benefits of being in Jacksonville, benefits that included special tax treatment for at least one large company.

[From the Jacksonville Journal, Nov. 24, 1987]

HAYDON BURNS' LEGACY IS VISIBLE ALL OVER DOWNTOWN

Anybody who stays in political office for a considerable length of time makes a lot of enemies, and is the focal point of controversy. Haydon Burns, former mayor of Jacksonville and former governor of Florida, who died Sunday at the age of 75, was no exception.

But if a single word can be used to describe Burns' career in politics, it isn't controversial but effective. Walt Disney said Burns was "a man who knew how to get things done."

Burns' tenure as mayor was one of the longest in the city's history. His tenure as governor was brief: not quite two years, from Jan. 5, 1965, to Jan. 3, 1967, because he failed to win re-election after a term deliberately shortened so that elections for governor wouldn't take place in the same year as presidential elections.

Burns' 15 years as mayor of Jacksonville extended from 1949 to 1964. It began as Jacksonville was settling back to normality after World War II, and ended as Florida was embarking on the population explosion that continues today.

It was during the Burns administration that the city became a major insurance center, and that the transformation of downtown Jacksonville and the city's "rediscovery" of the St. Johns River as a major economic, recreational and aesthetic asset can be said to have started.

Through most of the 1950s, downtown Jacksonville's waterfront was a dismal landscape of decrepit wharves and warehouses on the north bank of the river and the Southside waterfront area featured a shipyard, a marsh and the declining remains of the once-independent city of South Jacksonville.

When Burns and the Chamber of Commerce persuaded the Legislature to provide tax breaks for insurance companies putting major offices in the city, the Southbanks' revival began with erection of the first Prudential tower on the riverfront.

This was followed by construction on the opposite bank of the river of the Atlantic Coast Line Railroad tower (now the CSX Transportation building), Civic Auditorium, a series of parking lots in place of the old docks, and the construction of the Duval County Courthouse, City Hall and the Duval County Jail adjacent to the parking areas.

Also, Friendship Park on the Southside waterfront, and the Haydon Burns library and the Coliseum arose inland.

All those improvements aided Burns' quest for the governorship. He traveled the state with photographs of those improvements and titled his presentation "The Jacksonville Story."

Critics gifted with hindsight later bemoaned the use of valuable riverfront property for parking cars and for nontaxable governmental buildings instead of private developments.

Today the parking areas are vanishing in favor of such attractions as The Jacksonville Landing, and office towers are foreseen in the riverfront's future as the governmental center is resited inland. But few people foresaw private-interest desire for the downtown waterfront when Burns was mayor.

During Burns' term as governor, Walt Disney decided to erect Walt Disney World near Orlando, and the old state Board of Control was replaced by the state Board of Regents to oversee the expanding university system. But during his governorship, Burns tasted a major defeat. He failed to win approval of a $300-million-dollar bond issue to four-lane 1,241 miles of state highways.

It would be interesting to know if critics who later questioned Burns' downtown redevelopment strategy in Jacksonville regret their opposition to the state road improvements. We're further behind than ever in roadbuilding needs today, and $300 million will buy only a small fraction of what it would have in the mid-1960s.

TRIBUTE TO THE HONORABLE DOMINICK SPADACCINO

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. KOSTMAYER. Mr. Speaker, today I wish to honor a distinguished citizen from the Eighth District of Pennsylvania, the Honorable District Justice Dominick Spadaccino.

Judge Spadaccino has faithfully served Middletown township in Bucks County for almost 24 years, and on January 4, 1988, he is retiring from his position.

Dominick Spadaccino began serving his country as a member of the U.S. Army during World War II. He was a pilot, stationed in Southeast Asia. He served 14 months with the Flying Tigers under the command of Gen. Claire Chennault. He was later assigned to a flying medical unit which performed daring, behind enemy line rescues of downed American flyers. He volunteered for the first convoy to go to China, via the Burma-Stillwell Road, a 63-day journey.

Upon his return to the States, Dominick worked as a steelworker, and then served Bucks County as a constable for 8 years. In 1964, Dominick Spadaccino was elected to what was then called the Office of the Justice of the Peace for Middletown Township, Bucks County.

Judge Spadaccino has served Middletown with a straightforward, honest approach that is a rare quality in today's public service. Friend and foe alike have immense respect for Judge Spadaccino and all agree that he is tough, but very fair. His knowledge and experience have been a crucial part of his court, which is the most active in Bucks County and one of the busiest in the State of Pennsylvania.

I rise today to ask my colleagues to join me in honoring a man who has given a lifetime to public service not only in his hometown, but to his country as well.

LEHIGH VALLEY JEWISH AMERICANS MARCH IN SOLIDARITY WITH SOVIET JEWS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. RITTER. Mr. Speaker, as the ranking House minority member of the Helsinki Commission, I would like to call attention to and register my support for the Jewish Pre-Summit Demonstration, held in solidarity with the estimated 2.5 to 3 million Soviet Jews, to be held in Washington, DC, on Sunday, December 6, 1987.

Close to 300 Jewish-Americans from the Lehigh Valley of Pennsylvania are planning to make the trip to Washington in support of their brethren who live virtually incarcerated behind the Iron Curtain. I applaud their commitment to human rights and stand with them in solidarity with their cause.

In the words of Rabbi Jonathan A. Schnitzer, of B'nai Abraham Synagog in Easton, PA, the purpose of the event is twofold. "It tells the people themselves that they're being remembered, but it also communicates to the Soviet authorities that the fate of the refuseniks is being monitored very, very carefully." There are currently an estimated 11,000 Soviet Jews who have applied for emigration to Israel and have been refused, therefore making them "refuseniks."

In support of the Lehigh Valley effort, Allentown, PA, Mayor Joseph Daddona, on behalf of himself, Mayor Gordon Mower, and Mayor Sal Panto, has declared December 6, Solidarity Day for Soviet Jewry in the cities of Allentown, Bethlehem, and Easton respectively. I commend him, and the other majors, for their action.

As we approach the summit between President Reagan and Secretary-General Gorbachev, it is appropriate to demonstrate to the Soviets that the American people are fully aware of their deplorable treatment of Jews and their culture.

According to the 1979 Soviet census, there are approximately 1.8 million Jews in the U.S.S.R., placing them 16th among the 118 national Soviet minorities. Many outside observers believe the actual total is closer to 2.5 to 3 million.

Yet, given their numbers, Jewish cultural and religious expression has long been restricted and there are apparent obstacles to its preservation. There are no Hebrew or Yiddish schools; Yiddish publications and Yiddish language instruction are extremely limited; and fewer than 60 synagogues remain open. Rabbinical training is nonexistent.

To add insult to injury, the Soviets have severely restricted Jewish emigration. From 1980 to 1986, Jewish emigration dropped dramatically (see chart below). At its peak in 1979, over 51,000 Jews were permitted to leave. In 1985, only 1,140 Jews were reported to have emigrated and in 1986, only 914 were permitted to emigrate. According to the U.S. Council on Soviet Jewry and the Israeli Embassy, nearly 400,000 more have shown an interest in leaving the Soviet Union.

Jewish emigration from the U.S.S.R. statistics

1970	4,235
1971	13,022
1972	31,681
1973	34,733
1974	20,628
1975	13,221
1976	14,261
1977	16,736
1978	28,864
1979	51,320
1980	21,471
1981	9,447
1982	2,688
1983	1,314
1984	896
1985	1,140
1986	914
1987	[1] 7,250

[1] To date.

Source: Congressional Research Service.

While we have seen a recent increase in Jewish emigration from the Soviet Union, there remains cause for alarm. Recent laws which have enabled this outflow appear to be far more restrictive than past laws. If the new laws are strictly enforced, it appears that only Soviet Jews, who have members of their immediate family—parent, spouse, child or sibling—in Israel, will be allowed to emigrate. The U.S. State Department estimates only 30,000 to 40,000 people would be eligible for such family reunification, and, once these have gone, no additional Soviet citizens would qualify.

If "glasnost" or "peristroika" is real, if the Soviet signing of the Helsinki accords which call for free emigration is real, if the Soviet "desire" for greater friendship with the United States is real, then let them prove it by honoring the agreements which they have signed and by allowing each and every Soviet Jew to practice his or her religion freely and or to emigrate should they desire to do so. Arms control is important but, human rights are the ultimate insurance policy for treaties being fulfilled. We must continue to tie closer relations between our two nations to Soviet improvements in human rights.

HONORING CAROLYN W. BOBO

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. McEWEN. Mr. Speaker, too often we do not take the time to say "thank you for a job well done" to members of our communities who work diligently and tirelessly on our behalf.

Today, I would like to take this opportunity to say thank you to Mrs. Carolyn W. Bobo, of Athens, OH. Mrs. Bobo has been named "1987 Outstanding Staff Person" by the Ohio Prosecuting Attorneys Association and will be honored by this association in a ceremony December 4, 1987.

This September, Mrs. Bobo began her 32d year of continuous service with the Athens County Prosecuting Attorney's Office. During her tenure, Mrs. Bobo has served under eight different appointed and elected prosecuting attorneys—Republicans and Democrats alike. Needless to say, this is an accomplishment in and of itself.

In addition to supervising three full time secretaries, two full time assistants and a felony investigator on a daily basis, Mrs. Bobo is in charge of all personnel records and supervises the flow of written information. As her current employer, Athens County Prosecuting Attorney Michael Ward, shares with us, "In short, Mrs. Bobo makes sure that everything that needs to get done is accomplished in a timely and professional fashion. Mrs. Bobo is very dependable and hard working. She is very conscientious and willingly works after the office closes and on Saturdays whenever necessary. As an example of her loyalty to the office, although Carolyn is entitled to 5 weeks vacation each year, she rarely takes more than 1 or 2 weeks off annually."

Mr. Speaker, Carolyn Bobo exemplifies all that we strive for in work experiences—dedication, loyalty, diligence, and professionalism. Mrs. Bobo has been married for 29 years, has two grown children, is an active member of the Professional Secretaries International, the county and State legal secretaries association, is a charter member of the Athens County Legal Secretaries Association at the Athens High School.

I join with the many families and friends of Carolyn Bobo in saying "thank you for a job well done." We congratulate you as you receive the well-deserved honor of 1987 Outstanding Staff Person Award and look forward to having you touch our lives for many years to come.

FOR ALL HIS MODERNITY, INTELLIGENCE—GORBACHEV SEEN CONVENTIONAL CHAMPION OF SOVIET IDEOLOGY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BEREUTER. Mr. Speaker, during the next few weeks the activities and comments of Soviet General Secretary Mikhail Gorbachev will be reported extensively by the American news media. We have seen an example of this in the November 30 NBC television interview.

On the eve of Secretary Gorbachev's visit to the United States I commend to my colleagues the Lincoln Journal's astute analysis of the Soviet leader's recent comments during an interview on an NBC television program.

[From the Lincoln Journal, Dec. 1, 1987]

FOR ALL HIS MODERNITY, INTELLIGENCE—GORBACHEV SEEN CONVENTIONAL CHAMPION OF SOVIET IDEOLOGY

American who absorbed NBC's hour-long television interview with Soviet General Secretary Mikhail Gorbachev Monday night engaged in a useful learning exercise.

Gorbachev's responses to fairly tough questions put by the network's Tom Brokaw should have made clear the nimble intelligence, verbal skills and command and depth of knowledge of the current Kremlin leader. Just as impressive is the profoundly different historical and social way he sees human nature and the world.

It is that latter which is about as depressing as frightening.

Putting quite aside the possibility of rank cynicism buried for the sake of performance, Gorbachev appears to have slight appreciation of what is meant by the concept of human freedom and liberty.

The highest expressed theological attainment for the Communist state remains security—with security for the individual being found in guaranteed work and basic necessities, i.e., food, shelter, medical services, education. It was stunning to hear Gorbachev unconditionally proclaim that the Marxist order, for the last seven decades, had been free of unemployment. Well, well, such a paradise.

But if Communist societies—in Russia, in China, in Poland, in Cuba and elsewhere—have ended man's historical exploitation of fellow man, why do they all seem so uniformly joyless states, as repeated people contacts demonstrate? Why is freedom of movement restricted? Why do citizens within their borders—from ordinary working folk to artists and scholars and scientists—constantly press to leave?

It is not, as Gorbachev passed off Monday night, exhortations from outside. The soured view of a society constructed along Gorbachev's mock-utopian design and imposed from the top surely drew some validation by the negative results of a first-time-ever Communist referendum in Poland over the weekend.

Conceding our own many false starts, slips and failures, external as well as internal it still was jaw-dropping to hear Gorbachev casually rewrite history describing the Soviet Union as a faithfully good neighbor. Tell that to the Latvians, the Czechs, the Afghans.

Of course we Americans badly err when measuring other societies and cultures by our own standards and development. So perhaps this is too harsh an assessment of the Soviet leader. We have to live with him and deal with him.

Therefore, we should encourage the moderating impulses of Gorbachev in Moscow—and the pragmatists in Beijing—away from 19th century Marxist dogma. We know such efforts encounter great internal resistance because they mean change, and change in dogmatic, conservative societies is rarely welcomed.

For all his conventional Soviet Communist world, and historical view, Gorbachev is a modern man. He is obviously receptive to outside ideas. If he has things to remind us about ourselves and our shortcomings, we have a multitude to teach him. A visit to the Lincoln Memorial in coming days would be a great place to start.

THE BURNING DESIRE FOR PEACE IN CENTRAL AMERICA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BONIOR of Michigan. Mr. Speaker, our former colleague, Mike Barnes, has authored an impressive op-ed piece on the Central American peace process that was published in the November 27 Los Angeles Times. Based on Mike's trip to Central America, the article points out how much hope there is in Central America that the peace process will work, how much positive movement has already taken place in the region—and particularly in Nicaragua—as a result of the Guatemala agreement, and how tragic it would be if our own country were to maintain its current posture of what Mike calls "sullen contempt" for the peace process.

The article calls on us to announce two things: first, that we support Central America's efforts to resolve its own conflicts and we are halting all Contra aid in compliance with Central America's request; and second, that when the conflicts are resolved, we are prepared to help Central Americans reconstruct their region.

I hope my colleagues will read and heed the message of this important article, which appeared in the Los Angeles Times on November 27, 1987:

[From the Los Angeles Times, Nov. 27, 1987]

A Burning Desire for Peace—Central America Has Done Its Part, Now United States Must Back Off

(By Michael D. Barnes)

I have just returned from a trip to Central America to evaluate progress under the Arias peace plan, and I am struck by three lingering impressions.

The first is that there is a vast difference between the hopefulness, the prayerfulness and the guarded optimism with which Central Americans view their peace process, and the attitude of sullen contempt of our own government—evidenced most recently by high-level attacks on House Speaker Jim Wright's constructive role.

There is in Nicaragua today a burning desire for peace, a yearning that is matched elsewhere in the region. Nicaraguans are sick of war, sick of death, sick of shortages, sick of the oppressive political environment that the war and the Sandinistas have created. Sandinista leaders see the goals of the revolution being overwhelmed by war and scarcity.

The Administration concludes from this state of affairs that its policy is working—that the Contras are forcing the Sandinistas to sue for peace, and that therefore more Contra aid will improve the terms. That is a dangerous delusion. What made the five-nation accord in Guatemala possible was not the Contra threat but the fact that the Central Americans made the Sandinistas an offer they could accept—that is, one that did not entail Sandinista suicide. Once such an offer was made, agreement was possible, and once agreement was struck, an astounding degree of positive movement was unleashed throughout Central America.

My second impression is that Sandinistas have shown by their own positive steps that they are prepared to go the extra mile to make the process work. The most compelling evidence of that is their selection of Cardinal Miguel Obando y Bravo to head the National Reconciliation Commission and to be the intermediary for arranging a cease-fire with the Contras. No other Central American government has been prepared to grant such a role to a leading sympathizer with its armed opposition. The Sandinistas' absolute commitment to the peace process is demonstrated by their willingness to put their future in the hands of a person they consider to be an archenemy of the regime.

But that is not the only positive sign. In three short months a dramatic reversal has taken place in Nicaraguan politics. The Sandinistas have:

Announced the imminent release of nearly 1,000 political prisoners.

Announced legislation that would free the remaining 3,000 to 4,000 and lift the state of emergency on a determination by the accord's verification commission that U.S. and Honduran aid to the Contras had ceased.

Offered, for the first time, indirect talks with the Contras to arrange a cease-fire.

Permitted the opposition newspaper and the Catholic radio station to reopen, and halted prior censorship against them.

These are only partial responses. Much remains to be done, and the skepticism of Nicaragua's critics is well founded. But the fact remains that Nicaragua has done more to comply with the agreement than any other country. No one could have predicted—certainly, no one did predict—such progress at the time the agreement was signed. What a contrast with the attitude of the Contras, who have taken out full-page ads in Costa Rican newspapers—paid for, no doubt, by the U.S. taxpayers—urging Costa Ricans to oppose their president's peace plan.

The agreement that was drawn up by President Oscar Arias Sanchez asks so little of the United States, compared with the wrenching political and military steps that the Central Americans have required themselves to take. This country is asked only to stop funding a rebel movement that violates international law and that is completely unnecessary for our own security. Yet Central America is making the difficult choices necessary to retain the momentum toward peace while our own government haughtily swears never to take the one action that is required of it to nurture the region's hopes.

My third impression is that it would be a tragedy if the peace plan were to fail and the United States were perceived by the world to be responsible—as we surely would be. It would be scarcely less tragic if the plan were to succeed over U.S. opposition, not only because of the damage that would do to our image and our relations with Latin America, but also because the conditions to sustain peace in the area cannot be built without U.S. help. Central America cannot achieve lasting peace unless we help it to rectify existing conditions of economic stagnation, grinding poverty, vast social inequities, disrespect for human rights and weak civilian institutions confronted by strengthened and overbearing militaries.

Central America's governments and people have placed on the Guatemala agreement their hopes for better lives in a peaceful region. To support them. We should immediately announce two things: that we are totally in favor of Central America resolving its conflicts on its own terms, and that we will comply with Central America's request that we halt all aid to the Contras; then we should assure Central America that when its conflicts end, we will help with the reconstruction of the region.

SHOWDOWN AT OK CONGRESS CORRAL

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. CHAPMAN. Mr. Speaker, just a month ago I cast a tough vote on the deficit reduction bill. Because of my misgivings about the bill, particularly a pay raise for Members of Congress, I initially cast a "no" vote for the bill.

As I watched the conclusion of the vote from my office, I became concerned that the process of deficit reduction was more important than my objections to a pay raise for Members of Congress. I made the longest walk of my life back to the House floor and switched my vote, providing the one-vote margin necessary to pass the bill, and vowed a showdown on the House floor at a later date over the pay raise. I am pleased to inform my colleagues that today is the day of reckoning; today is the showdown at the OK Congress Corral.

My colleagues, I felt so strongly about this issue that immediately following the vote on the deficit reduction bill I sent a letter to the

House Rules Committee requesting that the pay raise for top Federal employees be removed from the continuing appropriation resolution.

I believe that a pay raise for top Federal employees—however modest—is absurd and outrageous. In the face of deficit reduction, a pay raise to Members of Congress is not only fiscally wrong, but just plain wrong.

I have always opposed pay increases to Members of Congress, and will continue to oppose unjustified raises until the budget is balanced.

The present fiscal crisis strapping our country has come from the borrow-and-spend policies of the administration and the inability of Congress to come to grips with enormous budget deficits. Without any doubt, according to the vast majority of my constituents in east Texas, the national debt, which has more than doubled since 1981, and the annual budget deficits, are the top concern facing this country.

This administration is just going to have to be honest with the American people and tell them you can't have it all. You can't have growing defense budgets, expensive programs like star wars, and increasing entitlements without the ability to pay for these programs.

My amendment will deny the cost-of-living increase to all employees level V and above. This would limit a COLA for 1988 to nearly 10,000 top Federal employees, and will save $27 million. Those affected would include, among others, the President, Cabinet Secretaries and Under Secretaries, all Federal judges, and Members of Congress.

My provision will strip the pay increase out from the bill before it ever gets to the floor and is the best way to put this issue to rest so that we might move on to the bigger task of assembling a budget for next year. I believe this will enhance the chances for adoption of the rule by the House, and thereby enhance the chance of passage of the continuing resolution.

With Wall Street and the American people—nay, the world—now focused on Washington for signs of fiscal wisdom, it would be shirking our responsibility completely to provide a pay raise to Members of Congress at this time. I urge my colleagues to send a signal to the American people: No pay raises until Congress earns them.

THE NATIONAL NEIGHBORHOOD RAPE PREVENTION ACT OF 1987

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing the National Neighborhood Rape Prevention Act of 1987, legislation to provide funds for demonstration projects and other neighborhood services for rape prevention throughout the Nation.

As many of you may know, the incidence of rape has risen sharply in the past 10 years. According to the most recent FBI statistics, 84,223 rapes were committed in 1984. Unfortunately, however, rape is the most underreported crime: only 5 percent of rapes were reported that year. In a 1984 study, 44 percent of adult women disclosed that they have been a victim of a rape or attempted rape. And 55 percent of girls 15 to 18 had already experienced a sexual assault.

Mr. Speaker, I feel compelled to initiate this measure to answer the call of the Atlanta community, as Atlanta ranks No. 1 in the incidence of reported rapes. Until the advent of the Reagan administration, the Federal Government had periodically made funds available to study rape, provide services to victims, and briefly develop rape prevention programs. In the early eighties the Federal commitment to the antirape movement and the search for the causes and consequences of rape have been undercut.

The National Neighborhood Rape Prevention Act would make funds available on a competitive basis to community-based organizations to conduct neighborhood-based rape prevention projects and activities. This legislation calls for a 5-year authorization, to be funded at $5 to $10 million each year. Federal grants would be used as seed money to leverage local matching funds, to be administered through the Department of Justice. It also calls for the maximum feasible involvement by community groups in the development of regulations and selection of grantees.

Ladies and gentlemen, as we all know, rape devastates its victims. Rape does more damage than other massive trauma because it is a degradation inflicted by another person, often someone the victim trusted. Rape violates a fiercely protected aspect of a person. It is stigmatizing, and the victim is often viewed as partially responsible. Rape reduces a person's status to that of an object, and is brutally used for purposes contrary to her own.

Rape challenges deeply held beliefs about life and one's personal liberty. Recovery from rape requires rebuilding a belief system that can account for the rape and still allow a sense of security about the future. Rape-related symptoms include anxiety, fear of being alone with men, depression, deteriorated social adjustment, and sexual dysfunction. A large number of victims still report symptoms 1 or more years after the rape—intrusive images and thoughts of the rape alternate with numbness and avoidance.

The most effective means to stop rape is through grassroots primary prevention activities: efforts to reduce rape incidence by promoting healthier values in the general population, risk awareness and self-defense competence among women. Primary prevention involves social activism and community change. Thus, I have introduced this measure which would fund primary rape prevention activities.

Mr. Speaker, in closing, rape is largely invisible and almost universally misunderstood. Dozens of widely held myths about rape blame the victim and paint a distorted picture of the offender. These myths help make the rape epidemic possible because they lead to quietism in the community. Exhaustive, reliable information is crucial. Knowledge reduces fear and dependence; knowledge increases power and control. I urge your support of this important and much needed legislation.

NAT ROTH

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. LEHMAN of Florida. Mr. Speaker, I am very proud today to honor one of Florida's most decent human beings, Nat Roth of Miami. His personal and professional achievements in the field of sales representation are to be admired, but even more so are his contributions to helping others less fortunate.

Now, 2 months after his 91st birthday, he plans to retire from active service as chairman of a benevolent fund for colleagues who are disabled and indigent. He founded the Bureau Foundation, Inc., and this month he relinquishes the responsibilities he has shouldered through the years.

At the turn of the century, Nat Roth was a pioneering sales representative. He traveled by train and by less safe methods of transportation as well.

Roth moved to Florida from New York City's East Side in 1912. During the course of his career, he has had many great achievements. Among them, he helped to organize the association we know today as the Bureau of Wholesale Sales Representatives, the Nation's largest of its kind, which speaks for 14,000 members.

In addition to starting the Bureau Foundation, Roth organized and is the president emeritus of the National Benevolent Auxiliary, which provides a death benefit at no charge to members age 70 and older.

He fought to make certain that Social Security benefits were applied fairly, and included independent sales representatives whose employers were not deducting from their compensation to provide retirement income.

His residence is filled with awards, plaques, honors, and testimonials from people he has touched in his business and civic lives. He became a Shriner, an Elk, and an active member of the Jewish War Veterans.

Roth has battled the anti-Semitism that once plagued south Florida when Jewish people were not allowed on exclusive beaches.

I am sure that my colleagues join me in congratulating Nat Roth on a career distinguished by many achievements of note.

NATIONAL HOME CARE WEEK

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. COUGHLIN. Mr. Speaker, I would like to call the attention of my colleagues to a most worthy commemoration: National Home Care Week, November 30–December 4, 1987.

I think it is especially fitting to pay tribute to home care during a session in which the House passed legislation to protect Medicare beneficiaries from the financial ravages of catastrophic illness.

In the course of that effort, we struggled with a dilemma: how to do more to meet the health care needs of Medicare beneficiaries, while also meeting our responsibilities to lower the budget deficit that threatens the Nation's economic health.

Home care can help us accomplish those seemingly contradictory goals. As a substitute for institutionalization, home care is both popular and cost effective—saving Medicare millions of dollars.

But the value of home care is not measured in dollars alone. Who wouldn't prefer being at home with friends and family to staying in even the most pleasant of hospitals? Such feelings are especially acute in children with chronic medical problems.

Not long ago, many of these children faced lives of institutional confinement. Today such children often can live and play at home, thanks to dramatic advances in medical technology and to the people who make it available.

Home health services are provided by a team, often including the patient's physician, a home health agency for nursing services and a home equipment company for technological services.

I am proud to report that the headquarters of the leading national medical equipment company providing home care services, Foster Medical Corp., is in my district in Conshohocken, PA. More than a half million patients receive care annually through Foster's nationwide network of service locations.

Today, Foster and most of the other major home medical equipment companies, offer "high-tech" devices and services formerly available only in hospital intensive care wards—if they existed at all. State-of-the-art equipment and advanced technical support services give patients, their families, and physicians confidence in knowing they are receiving excellent care and services while enjoying the security of home.

It is a privilege to salute National Home Care Week.

CONGRATULATIONS TO DR. KENNETH A. BLENKARN AND DR. KERMIT E. BROWN ON THEIR ELECTION TO THE NATIONAL ACADEMY OF ENGINEERING

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. INHOFE. Mr. Speaker, I rise before this distinguished body and the people of the United States to offer my congratulations to two exceptional men from my district who were elected this year to the prestigious National Academy of Engineering.

Dr. Kenneth A. Blenkarn, retired research director of offshore technology for Tulsa's Amoco Corp., and Dr. Kermit E. Brown, trustees professor of petroleum engineering at the University of Tulsa, are among 82 new members elected to the academy this year. Membership in the National Academy of Engineering is a singular honor conferred upon distinguished engineers by their peers.

Dr. Blenkarn is recognized for his major contributions in technology leading to safe and practical systems for drilling in ice-laden and very deep waters.

Dr. Brown is honored for his exceptional teaching of university and industry courses, and for the promotion of cooperative oil and gas drilling and production research.

Oklahoma is proud to have these gentlemen working within its boundaries, and I am proud to pay tribute to their engineering contributions to America's future.

RAY A. BARNHART, FEDERAL HIGHWAY ADMINISTRATOR AND DEDICATED PUBLIC SERVANT, TO RETIRE AT THE END OF THE YEAR

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. RITTER. Mr. Speaker, I would like to take this opportunity to offer some comments on behalf of a very dedicated public servant who has directed our national highway program for the last 7 years. I'm speaking, of course, about Federal Highway [FHWA] Administrator Ray A. Barnhart and the tremendous effort he has put forth on behalf of America's highway program.

As the longest serving FHWA Administrator in history, Ray Barnhart has been an outstanding leader of our country's $14 billion a year highway program. His strong leadership and dedication to the highway program were instrumental in assisting Congress in passing the 1982 Surface Transportation Assistance Act. The mainstay of this legislation was the pay-as-we-go provision Barnhart worked the hardest for—the 5-cent-a-gallon increase in the gasoline tax, the first of its kind in 23 years. This "users' tax" raised significant revenues for the badly needed improvement of America's roads and bridges.

Administrator Barnhart has also been a staunch defender of the integrity of the highway trust fund. His efforts to eliminate gasoline and diesel fuel tax evasion has been impressive and he has certainly championed the cause of sufficient highway funding—correctly pointing out how vital our interstate and intrastate highway systems are to our everday lives.

These are only a few of the many significant contributions Ray Barnhart has made to our revitalized highway program. While many of us, particularly in Congress and the administration, know what Ray has done for transportation on the national level, I would like to point out that the residents of the 15th District of Pennsylvania are also aware of and grateful for the contributions Administrator Barnhart has made to the infrastructure in the Lehigh Valley.

Ray has been very receptive to the concerns of my constituents and endorsed first our efforts at securing Federal assistance for the Dorneyville Bypass and then my bill concerning the Basin Street demonstration project in Allentown which became part of the Federal Aid Highway Reauthorization Act of 1987, now Public Law 100-17. In addition, Ray also met with the "33 Connection Coalition," taking time from a hectic schedule to come to my office to discuss the extension of this route.

He not only listened to the detailed comments of the members of the coalition but at the conclusion of the meeting, offered support for the project which I have now included as a demonstration project in my bill H.R. 3284. This section of Route 33 which connects I-80 and I-78 near Bethlehem is very important to job creation and economic growth in the area and has now been given priority commercial status by PennDOT.

Mr. Speaker, this is just one example of Ray's "open door" policy. Whether it was a construction worker from the Lehigh Valley or a U.S. Congressman, anyone wishing to see him had an open invitation and everyone felt comfortable in his presence. Ray has a unique way of making everyone feel at home.

Ray was also very cooperative in the funding of the Minsi Trail Bridge in Bethlehem. Again, this project needed Ray's special assistance and his knowledge of and support for the rehabilitation of the bridge resulted in Federal funding for the project.

Mr. Speaker, we will miss Ray Barnhart. His contributions to our national highway program will serve as lasting evidence of his efforts in our districts—but memories of his hard work on behalf of the average American taxpayer and highway user will remain with us all for years to come.

Last but not least, I will personally miss his always up-beat, can-do spirit. I will miss my friend and colleague, Ray A. Barnhart.

EUROPEAN COMMUNITY PROPOSED TAX ON FATS AND OILS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. SMITH of New Jersey. Mr. Speaker, tomorrow the European Council will begin 2 days of meetings in Copenhagen during which it is reported that the EC will once again call for the imposition of a consumption tax on vegetable and marine fats and oils.

EC Commission President Delors and Agriculture Commissioner Andriessen continue to insist that the fats and oils tax is an integral part of an economic stabilization package proposed by the Commission.

Yet this back door to a tariff will greatly harm U.S. exports of soybeans to the EC by essentially doubling the price of soyoil in the EC and make soyoil and soyoil-based products less competitive with other oils and animal fats in the EC Market.

Mr. Speaker, when I offered an amendment to the trade bill (H.R. 3) in the Foreign Affairs Committee condemning this proposed back door to an import tariff and calling for immediate and strong countermeasures should it be implemented, my amendment was approved unanimously and remains a part of the House-passed bill.

Mr. GLICKMAN, a distinguished member of the Committee on Agriculture has also sponsored legislation, House Concurrent Resolution 51, which is equally strident in its condemnation of the tax and which enjoys strong bipartisan support with 106 Members of the House cosponsoring. Senator DANFORTH of Missouri introduced a companion measure in the Senate which enjoys 35 cosponsors and was approved on the Senate floor 99-0 in March.

Still further, numerous Members of both Houses of the Congress have eloquently voiced adamant opposition to the EC vegetable and marine fats and oils tax through letters and speeches. Yet Mr. Delors, Mr. Andriessen, and the Commission continue to consider this tariff as a viable option.

This country will not stand idly by while our trading partners move to harm U.S. trade and U.S. penetration into their markets while they simultaneously shore up their own oilseed producers through a big fat subsidy financed by the very tax which prevents U.S. producers from competing. That is not free trade. That is not fair trade.

With the meetings in Copenhagen set to begin tomorrow. I urge our friends at the EC Commission to promptly and unequivocally reject the fats and oils consumption tax. Congress has as yet not finished its consideration of the omnibus trade bill and any precipitous action by the Commission may force a reassessment of provisions currently a part of the measure.

HOPEFULLY MOVING TOWARD INDEPENDENCE OF NAMIBIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BURTON of Indiana. Mr. Speaker, in the past several weeks Assistant Secretary of State Chester Crocker has been shuttling back and forth between Washington and Angola trying to beg or wheedle the Soviet-puppet, Marxist-Leninist government in Luanda to agree to withdrawal of some estimated 45,000 Cuban combat troops in Angola.

Apparently Mr. Crocker is unconcerned about the 5,000 to 10,000 East German, Soviet, and other Soviet-block so-called military advisers, who along with Cubans, are operating Soviet Mig 21 fighter aircraft and Soviet tanks on behalf of the Angolans in their campaign against Jonas Savimbi and his freedom fighters.

According to news dispatches, the Angolan Government has responded to Mr. Crocker's desperate efforts by hardening their bargaining position. Now the Angolans insist that Castro and the Cubans be parties to the talks, and have limited their offer to remove Cuban combat troops to a limited area in southern Angola over a timeframe of 2 years. This is exactly the kind of promise that the Soviets never keep, such as the unfulfilled Angolan Government promise to hold free elections within 2 years of the Soviet-backed takeover of Angola in 1976.

Mr. Crocker should include in his proposals a demand that the Soviet-backed SWAPO terrorist bases in southern Angola be closed. There can be no peace in Angola as long as the South West Africa Peoples Organization [SWAPO] terrorist forces are allowed to carry on hit-and-run raids across the border into northern Namibia.

It is time for Mr. Crocker to begin insisting that the U.N. General Assembly terminate its designation of SWAPO as the "sole and authentic" representative of the Namibian people, and terminate its bestowal of permanent observer status at the U.N. to SWAPO, and stop financing SWAPO propaganda offices and meetings in New York, London, and throughout the world. As U.S. taxpayers annually supply 25 percent of the U.N.'s $4 billion yearly budget, it is not too much to hope Mr. Crocker keeps this in mind before he bargains away our national security.

Only when the U.N. demonstrates its impartiality can there ever be hope for a U.N. supervised free and fair election under U.N. Security Council Resolution 435 leading to independence for Namibia. I am introducing today the following resolution which hopefully will help protect U.S. national security by moving us in the direction of independence for Namibia.

SUPPORT THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1987

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BOEHLERT. Mr. Speaker, almost a year ago, a tragic fire at the Dupont Plaza Hotel in San Juan, Puerto Rico, took the lives of 96 people from across the Nation.

The most appalling fact about these deaths was that they could have been prevented so easily.

If the building had been fully covered by an automatic sprinkler system, it's likely the fire would have been put out before it even had spread to the populated portion of the hotel. The need for sprinklers has been proved in fire after fire, tragedy after tragedy, yet we seem to refuse to learn the lesson.

While there has been some progress in recent years, about 85 percent of the hotels in this country still lack adequate sprinkler protection. The reason for this laxity is not price. Experts estimate that hotel owners could recoup the cost of sprinkler installation through lower insurance rates within 5 years.

The only reason we continue to allow ourselves to be put at risk in hotels is complacency. We just haven't paid attention to this serious, yet easily remedied danger.

Today, I am introducing a bill with Mr. WALGREN and Mr. LUJAN that will end this careless disregard for human life and property.

The bill would direct the U.S. Fire Administration to establish a fire code for hotels and motels, which States would have to incorporate in their own codes or lose Federal fire training assistance.

The bill would keep fire code enforcement at the State and local level, but would increase the pressure on States to hold their hotels to the strictest fire standards.

Existing hotels would have 7 years to be retrofitted with sprinklers—a grace period found reasonable in those few States that have mandated sprinklers.

With minimum expense to any level of government or to the hotel industry, the Hotel and Motel Fire Safety Act would greatly reduce the risk Americans face from fire.

THE RAYMOND E. HOLLAND AUTOMOTIVE ART AND TOY COLLECTION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. RITTER. Mr. Speaker, Allentown, PA, situated in the lovely Lehigh Valley, is now the permanent home of the premiere Raymond E. Holland automotive art and toy collection. Ray Holland's automotive art collection is truly world class since it stands alone in the world as a foremost collection regarding the subject.

This November, 1987, volume of Antique Toy World honored Ray by producing a lavish, 12-page cover story on the more than 4,000 objects consisting of bronze, gold-plated and silver sculpture; bisque, ceramic, china and porcelain items which are now permanently housed in a beautiful restored Victorian house at 111 North Fourth Street, Allentown. A whole section of the city of Allentown has been graced by this unique building and collection.

I have personally experienced the wonder and joy of this special house and the objects which make their home inside. Exposure to this art is like taking a walk through time when time's passage is symbolized by the art objects from different periods. The sense of fun, of play, of quality and of achievement that is part of the history of the automobile is experienced as one passes through the exhibits.

Ray began with a deep, passionate love for the automobile. When he achieved financial success through a beauty salon chain and various real estate holdings, he allowed himself to indulge his love for the automobile. By 1981, he has amassed a score of cars ranging from Corvettes and Thunderbirds to Ferrari and Rolls-Royce.

David K. Bausch, a friend and internationally respected toy collector introduced Ray to the world of toys, in particular—the world of automotive toys. Ray focused on the objects because of "their strong aesthetic values and the history of the pioneering effort relating to the automobile."

Mr. Speaker, Ray and Thelma Holland—with her "woman's touch"—have achieved a great service for the Lehigh Valley and the Nation. By composing such a visual record of history, we are granted a leisurely opportunity for reflection upon what we have achieved. What better school for us and what better materials by which to evision the future we are about to forge?

A TRIBUTE TO NORMA B. LEFTWICH

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. MAVROULES. Mr. Speaker, last month Norma Leftwich resigned her position as Director of Small and Disadvantaged Business Utilization for the Office of the Secretary of Defense. She had served in that capacity since July 1979, when she was first appointed to that position under the Carter administration.

In 1978, Congress enacted a law that required each Federal buying agency to establish an Office for Small and Disadvantaged Business Utilization to be headed by a director that would be responsible for that agency's implementation of programs to help small and small disadvantaged business concerns. Since the passage of that law, we on the Small Business Committee have witnessed a rather sizable, turnover of Directors at various agencies of the Government.

Some Directors have been quite good and have advocated aggressively for their small and minority business constituency. Others have been more concerned about keeping their jobs than doing their jobs properly and have fallen short of what was expected of them when Congress enacted the law in 1978.

Norma, I am proud to say, has been the best and finest example of what a Director for Small and Disadvantaged Business Utilization should be. Not only has she advocated vigorously for this constituency, but she has made considerable personal sacrifice to do what was right simply because it was the right thing to do. Undaunted by the sometimes bitter debates that can accompany political posturing, and unyielding to the varied pressures that high visibility programs seem endlessly capable of producing, Norma had the courage to remain steadfast in her commitment to her responsibilities and the law that established them.

To hold this position in the Department of Defense must be the most difficult among all the directors throughout Government. Not only must the incumbent, as all DOD employees, advocate for the defense of the Nation, but that individual must also help to make this Nation a better place to defend. Norma has accomplished this task with professionalism, dedication, and considerable success.

It is not often that Congress may point to a particular individual as a justification for what it has done in the past. But we can proudly point to Norma Leftwich and say this is why we enacted the law in 1978; this is why we created the position of Director of Small and Disadvantaged Business Utilization—so that we may all benefit from the skills and efforts of people like Norma.

While Norma has left the Department of Defense, it is my sincerest hope that we will not be deprived of her expertise as she enters the private sector. Our work in this area is far too valuable and Norma's contributions are far too valued to let this happen.

PAVEL AND MARTA ABRAMOVICH

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BEILENSON. Mr. Speaker, I would like to thank my colleagues who have organized this special order, and take a moment to focus attention on the plight of Pavel and Marta Abramovich.

Pavel and Marta first applied to emigrate from the Soviet Union in 1971, and their first and subsequent requests for emigration have all been denied on "security" grounds. However, in 1970, Pavel left his position as an engineer with Yausa Radio Technical Institute, and he has not worked in his profession since that time. Pavel was one of the first Hebrew teachers in the Soviet Union, having taught himself the language, and has been a leading Jewish activist in the Moscow refusenik community. As a result of his activities, he has been arrested and harassed by Soviet authorities on numerous occasions.

The Abramovich family has been waging their battle to exercise their right to emigrate for more than 17 years, and they are now the longest waiting refuseniks still in the Soviet Union. The Abramovichs' son, Felix, is now in Israel, and their brother and sister have recently been granted exist permission. Pavel and Marta are the only ones left behind.

I urge the Soviet Union to honor its international commitments as expressed in the Helsinki Final Act, of which they are a cosignatory, and allow Pavel and Marta Abramovich to join their family in Israel. Such action would be a positive example of the progress of the "glasnost" campaign, and would serve to highlight the success of the summit talks. I look forward to a day when pleas like this will no longer be necessary—a day when families can be reunited in Israel.

NATIONAL SOIL AND WATER CONSERVATION WINNERS

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mrs. VUCANOVICH. Mr. Speaker, I would like to call attention to the achievement of two fine Nevada ranchers who are here in Washington this week as national soil and water conservation winners.

Fred and Mary Howell, who ranch in the northeastern part of my State, near Wells, have been selected as one of three winners of the Fifth Annual Conservation Farmer/Rancher Awards, presented by the National Endowment for Soil and Water Conservation.

Mr. Speaker, my State has historically presented a major challenge to agriculture, and that challenge has been lack of an abundant and reliable water supply.

The Howells have very ably met that challenge, without using any alternative energy sources. Their ranch lies at the foot of the Ruby Mountains, and by using a reservoir and gravity, the Howells have developed a system to irrigate their agricultural land. Their system does not require any electricity or use of underground water, and relies upon the natural snow-melt in the Ruby Mountains to give them a water supply that lasts through the hot desert summers.

Mr. Speaker, I would like to commend Fred and Mary Howell on their ingenuity and their careful attention to available resources and water and energy conservation. I would also like to commend them on being the first winner of this award from the State of Nevada, and on being one of three national winners selected from a highly qualified number of applicants nationwide.

The Howells represent the very best in the spirit of Nevada pioneers, who have faced the challenges and succeeded in making our State, not a wasteland or a wilderness, but a place that provides a rich and abundant life for its citizens.

THE WILDCAT RIVER IN JACKSON, NH

HON. ROBERT C. SMITH

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. SMITH of New Hampshire. Mr. Speaker, today I am proud to introduce legislation with Representative GREGG, Representative KEMP, and Representative JOHNSON to designate a segment of the Wildcat River and its tributaries in Jackson, NH, as a part of our National Wild and Scenic River System.

In June 1984, Congress enacted legislation to authorize a study of the Wildcat River for inclusion in the Federal Wild and Scenic River System as part of the New Hampshire Wilderness Act. The National Park Service recently completed the study and has recommended that 14.51 miles of the river and its tributaries be included in the System.

The town of Jackson, NH, has put a tremendous amount of work and dedication into this designation. I commend its conservation efforts and am proud to introduce this bill in the House on the people of Jackson's behalf. In addition to the citizens of Jackson, the Society for Protection of New Hampshire Forests, the New Hampshire Wildlife Federation, the Appalachian Mountain Club, the American Rivers Conservation Council, and the National Audubon Society are among the supporters of this legislation.

The Wildcat River, the State of New Hampshire's first candidate for addition to the System, exemplifies the rugged natural beauty of our State. Spilling down river out of Carter Notch in the White Mountain National Forest, the Wildcat's cascading waterfall that winds through the heart of Jackson has enchanted visitors to the town for over 100 years. In fact, some would say that the Wildcat is the spirit and heart of this community in the north country. Judging by the dedication and commitment the people of Jackson have shown to protect this river, I would have to agree.

The town of Jackson, together with a group of active local citizens, the Wildcat Brook Advisory Committee, has developed several major initiatives to assist in designation. An extensive river conservation plan includes new zoning ordinances to protect the Wildcat River corridor, a riverfront restoration plan to enhance the aesthetics of the Jackson Falls area, creation of a river conservation district which prohibits future building on the flood plains of the river and increases building setback requirements for new construction near the river, and an effective conservation easement program to protect land adjacent to the river.

Individuals in the community have donated approximately 466 acres of lands within the corridor to the town for recreational use. Landowners have donated conservation easements for an additional 431 acres to the town of Jackson and the Society for the Preservation of New Hampshire Forests, prohibiting their development into perpetuity. In March 1987, a town warrant was unanimously approved to formally request the New Hampshire congressional delegation to seek national wild and scenic designation for the Wildcat River.

Because of these efforts we have the legislation introduced today by myself in the House and New Hampshire Senators GORDON HUMPHREY and WARREN RUDMAN in the Senate. The bill has been carefully drafted to emphasize the major role the town of Jackson has and will continue to have in protecting the Wildcat. A preservation partnership is envisioned between the different levels of government and private landowners. Specifically, the Wildcat will be managed by the Secretary of Agriculture through a cooperative agreement with the Board of Selectmen of the town of Jackson and the State of New Hampshire.

In addition to the cooperative management envisioned by this legislation that includes a significant role for local government, it is important to point out that no expenditure of Federal funds for land acquisition will be necessary to ensure the preservation of a free-flowing Wildcat River. More than half of the Wildcat and its tributaries are located on Federal land in the White Mountain National Forest that is managed by the U.S. Forest Service of the Department of Agriculture. The National Park Service, in its interim study report to Congress, cited the significant conservation steps taken by the town of Jackson in its recommendation that no further Federal land acquisition is needed.

Our State's first candidate for designation, the Wildcat River in Jackson, NH, has been carefully selected and its designation strongly supported and nurtured by the local community. It is a remarkable natural treasure, certainly among the most scenic of this Nation's rivers, and deserving of congressional support.

THE STRATEGIC PETROLEUM RESERVE ENHANCEMENT ACT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. MOORHEAD. Mr. Speaker, I am today introducing legislation to strengthen our Nation's primary energy emergency response mechanism—the strategic petroleum reserve. The Strategic Petroleum Reserve Enhancement Act would authorize appropriations for fiscal years 1989, 1990, 1991, 1992, and 1993 sufficient to fill the reserve with crude oil at an annual average rate of 100,000 barrels a day.

Mr. Speaker, no one questions the crucial significance of the SPR to our energy security. This strategic stockpile not only ensures that this Nation will have adequate supplies of crude during a cutoff of imports; its mere presence substantially reduces the probability that any country, or group of countries, would attempt such a cutoff. With a completed SPR, our Nation would be able to withstand an oil boycott better and longer than could many of the boycotters, who rely primarily on oil revenues to fund their economies.

The SPR is also a key component of our participation in the International Energy Agency emergency response plan. We have encouraged our allies to build up their own strategic stockpiles, so that we can achieve an effective, coordinated response by oil consuming nations to an attempted boycott of supplies. This kind of international cooperation is essential. Oil moves in a worldwide market in which no nation, no matter how well prepared, can escape severe economic damage, if other nations are vulnerable to price shocks and supply disruptions. Thus, our Government has urged other member states of the IEA to build up their governmentally owned strategic stockpiles.

Since its creation pursuant to the Energy Policy and Conservation Act of 1975—Public Law 94-163—the SPR has been injected with crude oil at various fill rates. At the end of this calendar year, the SPR will contain approximately 540 million barrels of crude oil. President Reagan has recently affirmed that the administration's goal is to have a total of 750 million barrels in the reserve. This would be enough oil to replace all imports of crude oil—at today's level of imports—for about 4 months. We should do better. I believe that this Nation should have a 1 billion barrel SPR. We cannot, in any practical sense, have too much oil in storage.

I believe that this Government should strive to complete the SPR as soon as feasible. The Strategic Petroleum Reserve Enhancement Act would authorize funding for a 100,000 barrel per day fill rate for 5 years. This means that at the end of fiscal year 1993 the SPR would contain over 720 million barrels of oil, and that the figure of 750 million barrels in storage could be reached early in fiscal year 1994. By authorizing now a five-year fill rate, this country would be unequivocally reaffirming its commitment to at least a 750 million barrel SPR and putting in place a specific plan for achieving it.

The 100,000 barrel a day fill rate contained in this legislation is endorsed by Republicans and Democrats alike. President Reagan has also recently stated his support for this fill rate. Thus, there appears to be a consensus for accelerating the completion of the SPR. Such unanimity on a key issue of energy policy is rare. We should seize the opportunity for acting upon this convergence of views and enact this legislation promptly.

LET'S IMPLEMENT THE HARMONIZED SYSTEM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. CRANE. Mr. Speaker, buried in the 900-plus page omnibus trade bill that is currently bogged down in conference, is a provision that would implement the harmonized commodity description and coding system. The harmonized system is a new standardized international product nomenclature, developed under the auspices of the Customs Cooperation Council in Brussels, being proposed for worldwide use for the classification, description, and coding of articles in trade for customs tariff, statistical, and transport documentation purposes.

The United States, as well as our trading partners will benefit significantly from adoption of the harmonized system. The harmonized system represents an overdue updating of our tariff and statistical nomenclatures to bring them in line with today's commercial practices. The domestic and international harmonization of the language of trade will create economies of scale for our business community involved in international trade and will permit greater automation of business transactions. In short, it will simplify world trade by putting the entire world on the same commodity classification system.

Although this nonpolitical provision has bipartisan congressional support, has the endorsement of the administration, and is supported by the business community, the United States may well be the only major trading nation that has not made the transition to the harmonized system as of January 1, 1988. Failure by Congress to approve the harmonized system will be very costly, especially since a change of the magnitude of adopting a new tariff system needs to be introduced at the beginning of a calendar year to minimize disruption of statistical and quota programs. Any slippage would mean the loss of an entire year. Yet, the implementation of the harmonized system may well be sacrificed to congressional partisan politics.

To prevent this economic blunder, a bipartisan effort is underway to introduce legislation that would provide for the adoption of the harmonized system. In the rush to adjourn this year, this legislation will need widespread support to stand a chance of being passed. I urge your support of the harmonized system.

CONTRIBUTIONS OF THE LATE NATHAN PERLMUTTER

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. RITTER. Mr. Speaker, I rise this morning to reflect on the contributions of the late Nathan Perlmutter, former national director of the Anti-Defamation League of B'nai B'rith, and humanitarian. I was fortunate to have known this great American personally, and in the 6 months since his passing, we have only begun to realize the magnitude of the legacy for which he will be long remembered.

Nathan Perlmutter was an author, lecturer, lawyer, former Marine infantry officer, and former vice president of Brandeis University. His essays on social and political issues were landmark in proportion, as were his books, "A Bias of Reflections," and "The Real Anti-Semitism." I remember him, as a courageous man whose life was dedicated to human rights, freedom and a better world. It was these for which he was awarded the Presidential Medal of Freedom, and with his passing America and humanity have lost a true friend. His legacy, his daily examples of courage, dedication and tenacity, his intellectual grasp of how the world really works, his service, his achievements, his constant effort to make the world a better place, all these serve as shining examples to all of us in public life. In that way, he lives on in our hearts and memories.

A PLEA TO GENERAL SECRETARY GORBACHEV TO PERMIT THE FAMILY OF BORIS LIFSHITZ TO EMIGRATE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. HALL of Ohio. Mr. Speaker, last year I traveled to the Soviet Union where I met with a number of refuseniks—Jews who have been refused permission to emigrate. Upon my return to the United States, I "adopted" three of the refuseniks by making a commitment to press for their right to leave the Soviet Union.

Since that time, one refusenik, Valery Lerner, has been granted permission to emigrate. Unfortunately, the others remain unable to leave. The case of one of them, Boris Lifshitz, is particularly tragic. He is being held because he allegedly knows state secrets. However, two commissions convened by the U.S.S.R. Academy of Sciences have reportedly recommended the secrecy restrictions be lifted.

Lifshitz's wife, Galena suffers from many medical problems. However, that has not stopped her from going on a hunger strike to protest the refusal to grant her family permission to emigrate. Recently, I received an open letter from Galena Lifshitz to Congress, the text of which follows:

To the Congress of the United States:

For 22 years after an operation on my spine and the protracted paralysis of my legs, I have suffered from chronic blood poisoning and hematogenical osteomyelitis. For me, every day I live is a gift.

Almost nine years ago, my family, myself, my husband and son, applied for permission to leave the USSR for Israel. After more than eight years of groundless refusals because of my husband's "secrecy," our family announced a hunger strike beginning on May 1st of this year. As a consequence of this two month hunger strike, the Presidium of the USSR Academy of Sciences created a commission to reconsider my husband's secrecy.

On the third of July this Commission passed a positive decision regarding our leaving the USSR. However, the President of the USSR Academy of Sciences, Academician Marchuk, invented bureaucratic blockages to the spirit of policies of Perestroika. He reduced the Commission's work to nothing. He formed a new Commission and stretched out the reconsideration of the case for four-and-a-half months.

Finally, on the 25th of November, my husband was invited to the Presidium of the USSR Academy of Sciences where, under the threat of an "eternal refusal", he refused the cynical proposal to return to work in the USSR Academy of Sciences. He has been jobless, having been defamed and over the course of eight years was deprived of the opportunity to work in the scientific field. Day by day, calling on the Almighty for Help, I struggle for Life. But the mockeries of the Academic Commissions towards my husband, prolong my torture and push me closer to my grave daily. All this is happening during the time of the new thinking, the premise of which is the survival of mankind. Protesting against the arbitrariness of the President of the USSR Academy of Sciences, Marchuk, we telegrammed to General Secretary Gorbachev, the creator of Perestroika and the new thinking politics. But silence was my answer.

Therefore, on the eve of the Summit Meeting, I apply in an open letter to President Ronald Reagan and the Congress of the USA and also to the Heads of Parliaments of the leading States of the world. I apply to scientists and physicians and all people of Good Will. Help me to survive. Help me to get to Israel alive, not as ashes in an urn.

GALINA LIFSHITZ.

MOSCOW.

TRIBUTE TO MAJ. ALICE M. WESTERBERG

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. SHAYS. Mr. Speaker, today I am happy to recognize the 75th anniversary of a special organization, the Visiting Nurse Association of Stamford, and an outstanding individual whom they are honoring this evening, Maj. Alice M. Westerberg.

The VNA is a nonprofit organization which provides nursing care to those requiring medical attention who are unable to leave their homes. The goal of the VNA according to its own construction is to serve as an "educator in the community, teaching the essentials of health care of the sick and prevention of illness." Their services include basic skilled care, physical and speech therapy, maternal and child health care, all rendered without consideration of the patient's ability to pay.

The people of Stamford are fortunate to have been served by such a competent and committed organization for 75 years. Tonight's celebration honors the hard work and dedication of VNA workers of the past and present, and serves as a renewed commitment to their work for the future.

Tonight's celebration also honors a very special individual, Maj. Alice M. Westerberg. Major Westerberg has dedicated many years to the medical field, administering to the needs of the people of Stamford and elsewhere. During World War II, she attended to our country's need by serving 3 years as a nurse overseas. A dedicated nurse committed to providing quality health care to our fellow citizens, Major Westerberg exemplifies the goals of the VNA organization.

Mr. Speaker, I am sure that my colleagues will want to join me in commending the service of the Visiting Nurse Association of Stamford and of Major Westerberg. Their dedication to health care and the well-being of the Stamford community is to be applauded.

A NEW OPENNESS OR GLASNOST

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. TALLON. Mr. Speaker, next week the entire Western world will be focused in optimistic anticipation on the historic arms control meeting between President Reagan and General Secretary Gorbachev. This meeting and Mr. Gorbachev's commitment to a new openness, or glasnost, holds the promise of a new era of peaceful relations.

Yet, while we all share in the desire for a safer, saner world through arms control, I believe we should not lose sight of the most essential of government responsibility—human rights. It is in this area that the gap between the Soviet Union's promise and reality is the widest. And, no where is this neglect more evident than in the plight of the Soviet Jews.

The veneer of glasnost loses its sheen upon close inspection of emigration rates from the Soviet Union which continue to be extraordinary low. Last year, only 914 persons were allowed to leave. Our hopes for peace should not blind us to the 400,000 refuseniks who want desperately to reunify with family members abroad and who daily ride a roller coaster of hope and despair.

The tragic bottom line is that today over 2.5 million Jews are trapped in a country that's impossible for them to live in and yet impossible to leave. Since 1979, Jewish emigration from the Soviet Union has dropped by a shocking 98 percent.

As the pace of United States-Soviet diplomatic activities accelerates, the issue of human rights in the U.S.S.R. must emerge as the true test of the Soviet commitment to reforms. Improving humans rights is a reasonable litmus test. Certainly Jewish emigration policies are easier by far to change than restructuring the Soviet economy or ending the war in Afghanistan.

As committed as Mr. Gorbachev may be to reform, it is vital to recognize that not all Soviets are comfortable with glasnost. To many, it is organically wrong, even threatening. Some of them view the accounts of failures and open criticism in the press as Gorbachev's failures. They never read of such things before; therefore, they reason, such things did not exist under his predecessors. And Gorbachev himself knows that there is an ominous body of hardline officials, and that confrontation may come sooner or later.

Improvements in the Soviet performance affecting Jews have been, at best, marginal by the standards of any Western democracy. We can rejoice with the high-profile and long-term refuseniks who have been given permission to leave. But we should have no illusions. Those who have fought this battle for long know that Soviet human rights gestures are usually just that; that officially sanctioned anti-Semitism continues in the Soviet Union; that in the past month alone, three Soviet newspapers, among them the powerful Izvestia, have published blatantly anti-Semitic attacks on refuseniks.

So we must continue to watch, hope, and pray that the Soviets will deliver on their promise of freedom. We must all join in urging the administration to pressure the Soviet Union to recognize the requests of the Refuseniks to emigrate. We must remember that anti-Semitism is only one form of an evil of the spirit that threatens all groups; that none of us can permit to pass without some form of intelligent reaction. Not only because we are morally obliged to protect the Jewish people as our brothers and sisters, but because in the process we protect ourselves.

The German theologian Martin Niemoeller expressed the reality of this self-interest when he wrote about the terror that spread under Hitler. "In Germany, they came first for the Communists, but I was not a Communist, so I did not object; then they came for the Catholics, but I was not a Catholic, so I did not object. Then they came for me, and there was no one left to object." Hope for the refuseniks lies in our strength and courage to object. I think it was best summarized by Vladimir Slepak, when he said, "If you turn your eyes, even for a moment, we will cease to exist."

THE 10TH ANNIVERSARY OF THE MALLEY SENIOR CENTER

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. SCHAEFER. Mr. Speaker, it is with great pride that I recognize the 10th anniversary of the Elsie Malley Senior Recreation Center in Englewood, CO.

The center was built by the city of Englewood with the help of many private donations. Its main benefactress, Elsie Malley, is now 97 years old and remains a vibrant and active member. The center now serves over 9,000 members from Englewood and the surrounding metro Denver area.

I am continually impressed at the array of activities available through the center. As well as a number of social gatherings, seniors can participate in fitness programs, outdoor recreation, art classes, and numerous other educational programs. The center often opens its facilities to outside groups, too. I have used the meeting rooms on numerous occasions, and have always felt very welcome by the members and staff alike.

The center recognizes the vast potential of senior citizens, and does the utmost to give each member an appropriate outlet for their talents. The staff provides the facilities and activities that the community wants, so the attitude of the members is very positive and uplifting. This is a place that people come to learn and have fun.

The Elsie Malley Senior Recreation Center has provided 10 years of invaluable service to the community. I would not be exaggerating to say that it is a model senior center. It has enhanced the health and well-being of many citizens, and I am very proud to have it located in my congressional district.

ABRAHAM H. FOXMAN

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. RITTER. Mr. Speaker, the Anti-Defamation League of B'nai B'rith can look back with pride and ahead with confidence as Abraham H. Foxman takes up the reins of ADL as its fifth national director. Born in Poland in 1940, and surviving the Holocaust, this man has adopted as his own goal the building of a human community which has no need of scapegoats or pariahs, and where hatred and bigotry are archaisms that will have slipped away from world consciousness.

The ADL has a long history of vigilance in pursuit of enduring liberty. In a world where opposition to bigotry and prejudice helps to diminish those unhealthy manifestations of human behavior, it is reassuring to find a man of absolute commitment and integrity taking on the mantle of leadership. As we all work toward universal human freedom and respect for the inalienable rights of individuals, I join ADL's Abraham H. Foxman in his quest for human rights and a better world.

HUMAN RIGHTS IN CHILE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Ms. OAKAR. Mr. Speaker, for the past 14 years the nation of Chile has suffered under the despotic rule of Gen. Augusto Pinochet's military regime. Journalists have been threatened, dissidents have been imprisoned and tortured, and hundreds of innocent have been killed in cold blood. In the meantime, General Pinochet has remained aloof, denying any personal involvement in these heinous crimes but making no effort to punish those who are responsible.

As the Presidential plebiscite scheduled for March of 1989 approaches, the violence in Chile has worsened. Even those who are champions of peace are not safe. The New York Times recently reported that 77 of Chile's most eminent actors, directors and playwrights received death threats. I support the artists in their resistance to the regime's scare tactics, and ask that this article be inserted in the RECORD as a reminder to all of my colleagues that we have a responsibility to ensure that human rights are secured in Chile.

[From the New York Times, Nov. 20, 1987]

NEW INTIMIDATION IN CHILE

(By Ariel Dorfman [1])

DURHAM, NC.—Fourteen years after Gen. Augusto Pinochet's military coup destroyed democracy in Chile, his reign of terror not only is continuing but has noticeably worsened in the last month.

Why? Is General Pinochet deliberately spreading fear in order to control an increasingly militant opposition that may vote him out of office in a presidential plebiscite that must take place before March 1989?

Youngsters are again disappearing, journalists are being imprisoned, prominent citizens are being outlawed for personal opinions, housewives are being tortured in their own homes and dissidents are being shot in cold blood.

Until now, death squads had always singled out individuals for their warnings: a judge who was investigating a torture incident, a trade-union official who led a general strike, a bishop who had called for the resignation of General Pinochet.

But on Nov. 4, a new form of intimidation was inaugurated: 25 of Chile's most eminent actors, directors and playwrights (among whom are some of my closest friends) received letters giving each until the end of the month to leave the country or be executed.

That same morning, seven alternative-theater groups, comprising 52 actors, collectively got similar messages.

All of the messages were signed by a death squad that called itself "Trizano." It is named for a Chilean frontiersman who became notorious for organizing vigilantes who hunted down and massacred Indians by the thousands more than a century ago.

Like so many Chileans who have remained in their country and struggled to keep a semblance of decency alive, these 77 people dedicated to the dramatic arts have decided not to be scared off.

On Nov. 30, the day they are supposed to abandon the country, they will instead hold a free, nonstop theater festival in Santiago, the capital, as a declaration of their intention of staying.

What can United States citizens—and particularly the United States Government—do to help save these people, who are ready to risk their lives for their democratic beliefs? To protest this new act of barbarism is essential—but insufficient.

The root of the problem must be attacked. Chilean death squads operate with total impunity. Independent human rights organizations in Chile and abroad have accused the Government and the military of complicity. Even if General Pinochet is not personally involved in these murderous activities, he is ultimately responsible for not having made the slightest effort to bring the criminals to justice. This tyrant, after all, once declared that in Chile not a leaf moves without his willing it.

In all the years of persecution and indiscriminate murder, not one human rights violator has been condemned. Until these miscreants—who roamed the streets freely during curfew hours, who use vehicles with official license plates—are put on trial and punished, and until they know that they will be held accountable for each life they have taken, there is no reason why they should cease their onslaught.

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[1] Ariel Dorfman, a Chilean writer, teaches literature and politics at Duke University and, he says, returns to Chile "when I can."

The Reagan Administration, in a welcome move, recently stepped up its public criticism of the Pinochet regime. It is time, however, for the use of stronger leverage.

General Pinochet's regime depends on foreign loans to keep afloat. Washington should condition its support for such loans upon Chile's promptly bringing to justice—certainly before the plebiscite is called—those responsible for the wave of abductions, assassinations and death threats.

General Pinochet promised law and order when he led his military takeover of a country proud of its democratic tradition. Instead, he has given us nothing but lawlessness, disorder and misery. His own public opinion polls demonstrate the extent of opposition: They show that less than 20 percent of the prospective voters support him.

If General Pinochet cannot guarantee the people of Chile—including its greatest actors, directors and playwrights—life without endless death threats, he deserves to be ousted.

1,400 LETTERS FROM BRUYERES, FRANCE, IN SUPPORT OF THE CIVIL LIBERTIES ACT OF 1987

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. MINETA. Mr. Speaker, during the Second World War the 442d Regimental Combat Team/100th Battalion, which was comprised of Americans of Japanese ancestry, became one of the most highly decorated military units in United States history. I know of no finer testament to their legacy and sacrifice than the 1,400 letters which have been sent to President Reagan by the citizens of Bruyeres, France.

Bruyeres has urged that President Reagan sign the Civil Liberties Act of 1987, the legislation which would at long last redress the grievous wrongs endured by the 120,000 Americans of Japanese ancestry who were forcibly interned during the War by the Government of the United States without charge, trail, or jury.

The Civil Liberties Act of 1987 was passed by the House on September 17 and our action was a true celebration of the U.S. Constitution on what was the 200th anniversary of the signing of that great document. But so that my fellow colleagues may continue to know of the heartfelt determination that the injustices endured by Americans of Japanese ancestry should never happen again, I urge your attention to the following article which appeared in the November 24 issue of the Nichi Bei Times. The article reveals that the spirit of our great Constitution extends far beyond our borders.

BRUYERES CITIZENS STILL REMEMBER 442ND SACRIFICES

(By John Ota)

Strong support for the Japanese American redress bill known as the Civil Liberties Act of 1987 is coming from an unexpected quarter—Bruyeres, France.

Rudy Tokiwa of Mountain View, California, told members of the National Coalition for Redress/Reparations (NCRR) that Serge Carlesso and Pierre Moulin, residents of this French town near the border with Germany, gathered 1,400 letters to President Ronald Reagan asking him to sign the redress bill into law. Carlesso and Moulin plan to collect thousands more.

Why are French citizens thousands of miles away concerned with the issue of redress and reparations for Japanese Americans? During World War II, it was Japanese American soldiers who liberated Bruyeres from Nazi occupation.

"They feel what the U.S. government did to Japanese Americans was wrong, and they'll back us up 100 per cent," says Tokiwa, referring to the U.S. wartime internment of 120,000 Japanese Americans on suspicion of disloyalty.

442ND LIBERATED BRUYERES

Tokiwa is a veteran of the segregated, all-Japanese American 442nd Regimental Combat Team/100th Battalion, one of the most highly decorated military units in U.S. history. He volunteered for the 442nd from Poston internment camp in Arizona, where he was detained with his family, including his father, a World War I veteran. the 18,000 men of the 442nd sustained a casualty rate over five times higher than the U.S. average in the war.

Bruyeres was the site of one of the 442nd's bloodiest battles in World War II. After a four day, see-saw battle with crack German Panzer forces that had surrounded the U.S. 36th Division, the 442nd succeeded in driving out the Nazis in 1944. The 442nd sustained a 30 percent casualty rate in the fierce fighting.

The townspeople still remember the 442nd's sacrifices. With their own money, they built a small monument to the fallen soldiers of the 442nd in 1957.

Each year around October 24, Liberation Day is celebrated in Bruyeres and a number of 442nd veterans go to France to join the townspeople in commemorating the fallen fighers of the 442nd and French resistance.

Carlesso founded and is president of the Go for Broke club in France, which helps to organize visits and exchanges between the people of Bruyeres and the 442nd veterans. He also is president of an organization of handicapped veterans in France. Moulin is secretary for the Go for Broke club and wrote a book about the liberation of Bruyeres. "Go for Broke" was the 442nd's slogan.

In early October, during the opening of the Smithsonian exhibit on Japanese Americans, Tokiwa told Carlesso and Moulin about the letter-writing campaign to urge Reagan to sign the redress bill. The idea of getting letters from France emerged. When the two returned to France, they extended their vacations from work to organize the letters. They went to Kiwanis and Lion's Clubs and asked shop owners to collect signatures on letters and petitions.

Typically, the letters call for Reagan to carry on the U.S. tradition of upholding freedom and justice by signing the redress bill.

Carlesso called Tokiwa on about Oct. 10 and told him of the initial successes in collecting letters.

NCRR WELCOMES SUPPORT

Bert Nakano, NCRR national spokesperson, commenting on the letter-writing effort in France, said, "While some in the U.S. seem to want to forget or gloss over the internment, the people of Bruyeres will never forget the terrible sacrifices the men of the 442nd made to win their freedom, even though many of their families were held behind barbed wire back in the states.

"We in the redress movement should take inspiration from this tremendous show of support from people so far away. Just as with the support we are receiving from people of all nationalities here at home, this should strengthen us in our belief that the vast majority of people can recognize and support our just cause.

"At the same time, we cannot sit back and let the people of France do all of our fighting for us. We too should remember and honor the 442nd/100th, MIS and all those who were interned by working even harder towards our goal of at least 10,000 letters to Reagan urging him to sign the redress bill."

TRIBUTE TO RUSSELL WATSON

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to Russell Watson, this year's recipient of the Citizen of the Year Award, awarded annually by the Prince Georges County Board of Trade. Active in both civic and professional organizations, Mr. Watson has been chosen to receive the award in recognition of his commitment to serving his community.

Mr. Watson's list of accomplishments and service in community organizations is an impressive one, Mr. Speaker. A farmer by profession, he has served as both president and director of the Maryland Pork Products Association, as an all-American, representting Maryland, at the National Pork Producer's Convention, on the Prince Georges Beautification Committee, as director of the Prince Georges County Fair Association, and as a sponsor of Ducks Unlimited. Mr. Watson has also been a leader in the crusade against cerebral palsey; he is on the board of the United Cerebral Palsy Foundation and is the VIP panelist for channel 5 on issues related to cerebral palsy.

In his activities, Mr. Watson's outstanding efforts have already been recognized with the Prince Georges County Community Service Award, the Prince Georges County Beautification Award, and as the Prince Georges County Soil Conservation Farmer of the Year Award. Mr. Watson has exemplified the spirit of volunteerism and community action in his service to others, Mr. Speaker. It is a pleasure to call the attention of the House to this outstanding citizen in my district.

TRIBUTE TO CAROLYN STRADLEY

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. DARDEN. Mr. Speaker, the potential for success and greatness which our American system offers to individuals is exemplified by the story of Carolyn A. Stradley, who rose from poverty to the presidency of her own thriving business enterprise. The achievements of this remarkable woman were recognized this week, when she was named Woman of the Year by the Cobb County YWCA in my hometown of Marietta, GA.

I am proud to say that my wife Lillian and I have known Carolyn Stradley for a number of years, and that we consider her a dear friend. Her story is nothing less than remarkable and inspiring.

She was born into poverty in the remote mountains of north Georgia. When she was orphaned at 11 and left to fend for herself in her parent's two-room house—which had neither electricity nor running water—Carolyn Stradley survived by scrounging for wild animals and vegetation. By age 15 she was married to a man 11 years her senior, and a year later she became a mother.

For years, she worked by day as a secretary and bookkeeper; at night, she attended Georgia Tech. She continued striving for success after the death of her husband Arthur in the early 1970's, and in 1979 formed C&S Paving Inc. along with her brother Eldon Jones and his wife, Shirley.

Four years ago, the firm's sales reached the $1 million mark. That remarkable growth continues today and has helped earn for Carolyn Stradley the title of Entrepreneur of the Year from Venture magazine. In 1982, U.S. News & World Report selected her as one of the eight women in the United States most likely to succeed.

Mr. Speaker, I invite my colleagues to join me in saluting the achievements of Carolyn Stradley—an ambitious and courageous woman who stands as proof that the American dream endures and can be realized, no matter how modest an individual's beginnings might be.

Mr. Speaker, I also would like to have included in the RECORD an article from the December 2 edition of the Atlanta Constitution which provides further details of the life and accomplishments of Carolyn Stradley.

COMPANY CHIEF WHO OVERCAME POVERTY IS COBB YWCA'S WOMAN OF THE YEAR

(By Alma Hill)

Carolyn A. Stradley, who rose from poverty to the presidency of C & S Paving Inc. in Marietta, was named Woman of the Year on Tuesday by the Cobb County YWCA.

She received the honor at the YWCA's third annual Tribute to Women and Industry, held at the Atlanta Marriott Northwest in Cobb County.

Born into poverty in the North Georgia mountains, Mrs. Stradley climbed to the top rung of the ladder of success, despite all odds.

She was orphaned by her mother at 11, abandoned by her father days later and left to fend for herself in her parents' two-room house, which had neither electricity nor running water. She survived by scrounging for wild animals and vegetation. At age 15, she married a man 11 years her senior, at 16 she became a mother.

Today, Mrs. Stradley is president and principal owner of one of the most successful female-owned businesses in the country.

"Success didn't come overnight," Mrs. Stradley, 41, said as she accepted the award. "My motivation was, I was hungry, I was cold and I wanted a place to live."

The tribute is given by YWCAs across the country to recognize professional women who have made significant contributions to business and industry in their managerial or executive roles. Jackie Ward, chairwoman of the Board of Regents of the University System of Georgia was the keynote speaker at the banquet.

Mrs. Stradley's rise from poverty to president of C & S wasn't easy. She worked for years as a secretary and bookkeeper at Bankhead Enterprises in the company's asphalt paving division, while studying at night at Georgia Tech. When a heart attack claimed the life of her husband, Arthur Stradley, in the early 1970s Mrs. Stradley poured herself into her work.

The desire for more upward mobility and recognition in her career led to Mrs. Stradley to start her own business.

C & S began in 1979 at the kitchen table of Mrs. Stradley's Cobb County home with her brother Eldon Jones, his wife, Shirley, a ¾ ton pickup, a rented steel-wheel roller, some hand tools and lots of determination.

The letters in the asphalt paving company's name stand for Carolyn & Shirley.

By 1983, sales at C & S had sored past $1 million. In 1985, the company was awarded a $774,000 contract by Dobbins Air Force Base to repair and pave the base's roads, runway and taxiway. It was the largest single contract ever awarded to a female-owned business by any Air Force reserve base, according to Dobbins officials, and the largest project C & S had ever worked on.

Mrs. Stradley was named Entrepreneur of the Year by Venture Magazine in 1987, and was chosen in 1982 by U.S. News & World Report as one of eight women in the United States most likely to succeed.

Mrs. Stradley is one of 13 founding directors of the Women's Commerce Club, serves on the board of directors on Women in Construction, Women Business Owners and Associated Builders & Contractors.

A BURNING DESIRE FOR PEACE IN CENTRAL AMERICA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. MILLER of California. Mr. Speaker, Central Americans have embarked on the road to peace with extraordinary courage. More progress for peace has been made since the August 5 signing of the Arias accord than in the last 6 years of this administration's failed policy of war and deceit.

But instead of putting the weight of its influence behind the process, the administration shows its contempt for the accord by continuing to fund the Contras. The administration also has revealed, as our former colleague, Congressman Mike Barnes, points out in the excellent piece below, its contempt for the people of Central America, who desperately want to stop the killing.

Congressman Barnes provides an insightful analysis of recent events and the need for our country to rally behind the call for peace. I urge my colleagues to read his article:

A BURNING DESIRE FOR PEACE

(By Michael D. Barnes)

I have just returned from a trip to Central America to evaluate progress under the Arias peace plan, and I am struck by three lingering impressions.

The first is that there is a vast difference between the hopefulness, the prayerfulness and the guarded optimism with which Central Americans view their peace process, and the attitude of sullen contempt of our own government—evidenced most recently by high-level attacks on House Speaker Jim Wright's constructive role.

There is in Nicaragua today a burning desire for peace, a yearning that is matched elsewhere in the region. Nicaraguans are sick of war, sick of death, sick of shortages, sick of the oppressive political environment that the war and the Sandinistas have created. Sandinista leaders see the goals of the revolution being overwhelmed by war and scarcity.

The Administration concludes from this state of affairs that its policy is working—that the Contras are forcing the Sandinistas to sue for peace, and that therefore more Contra aid will improve the terms. That is a dangerous delusion. What made the five-nation accord in Guatemala possible was not the Contra threat but the fact that the Central Americans made the Sandinistas an offer they could accept—that is, one that did not entail Sandinista suicide. Once such an offer was made, agreement was possible, and once agreement was struck, an astounding degree of positive movement was unleased throughout central America.

My second impression is that the Sandinistas have shown by their own positive steps that they are prepared to go the extra mile to make the process work. The most compelling evidence of that is their selection of Cardinal Miguel Obando y Bravo to head the National Reconciliation Commission and to be the intermediary for arranging a cease-fire with the Contras. No other Central American government has been prepared to grant such a role to a leading sympathizer with its armed opposition. The Sandinistas' absolute commitment to the peace process is demonstrated by their willingness to put their future in the hands of a person they consider to be an arch-enemy of the regime.

But that is not the only positive sign. In three short months a dramatic reversal has taken place in Nicaraguan politics. The Sandinistas have:

Announced the imminent release of nearly 1,000 political prisoners.

Announced legislation that would free the remaining 3,000 to 4,000 and lift the state of emergency on a determination by the accord's verification commission that U.S. and Honduran aid to the Contras had ceased.

Offered, for the first time, indirect talks with the Contras to arrange a cease-fire.

Permitted the opposition newspaper and the Catholic radio station to reopen, and halted prior censorship against them.

These are only partial responses. Much remains to be done, and the skepticism of Nicaragua's critics is well founded. But the fact remains that Nicaragua has done more to comply with the agreement than any other country. No one could have predicted—certainly, no one did predict—such progress at the time the agreement was signed. What a contrast with the attitude of the Contras, who have taken out full-page ads in Costa Rican newspapers—paid for, no doubt, by the U.S. taxpayers—urging Costa Ricans to oppose their president's peace plan.

The agreement that was drawn up by President Oscar Arias Sanchez asks so little of the United States, compared with the wrenching political and military steps that the Central Americans have required themselves to take. This country is asked only to stop funding a revel movement that violates international law and that is completely unnecessary for our own security. Yet Central America is making the difficult choices necessary to retain the momentum toward peace while our own government haughtily swears never to take the one action that is required of it to nurture the region's hopes.

My third impression is that it would be a tragedy if the peace plan were to fail and the United States were perceived by the world to be responsible—as we surely would be. It would be scarcely less tragic if the plan were to succeed over U.S. opposition, not only because of the damage that would do to our image and our relations with Latin America, but also because the conditions to sustain peace in the area cannot be built without U.S. help. Central America cannot achieve lasting peace unless we help it to rectify existing conditions of economic stagnation, grinding poverty, vast social inequities, disrespect for human rights and weak civilian institutions confronted by strengthened and overbearing militaries.

Central America's governments and people have placed on the Guatemala agreement their hopes for better lives in a peaceful region. To support them, we should immediately announce two things: that we are totally in favor of Central America resolving its conflicts on its own terms, and that we will comply with Central America's request that we halt all aid to the Contras; then we should assure Central America that when its conflicts end, we will help with the reconstruction of the region.

PERSONAL EXPLANATION

HON. ESTEBAN E. TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes 441 and 442 on Thursday, November 19. Had I been present on the House floor, I would have voted "no" on the Smith amendment and "aye" on the Torricelli amendment to the foreign aid authorization bill.

I was also absent for rollcall vote 448 on Wednesday, December 2. I would have voted "aye" on approval of the Journal.

THE RISE AND FALL OF MIRROR FUSION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. STARK. Mr. Speaker, last year the nearly $400 million Mirror Fusion Test Facility at Lawrence Livermore National Laboratory was mothballed the day after it was dedicated. More than 9 years had been spent planning, designing, fabricating, installing, and testing this facility. $20 million in additional funding would have saved the program. It didn't get the money.

The budget deficit was blamed. In fact, the facility could have been funded, but the Department of Energy preferred to put its money into star wars.

The result was a set-back for fusion power research. Fusion power offers unlimited, safe, clean energy. Its successful development would be a tremendous boon to the world.

The short-sighted decision not to fund the Mirror Fusion Test Facility is discussed in the following essay by the Oakland Tribune's science writer Peter Aleshire.

THE RISE AND FALL OF A $400 MILLION DREAM

At Lawrence Livermore National Laboratory sits a vast, $400 million, mothballed machine intended to harness the fusion energy of the stars.

It should be opened for public tours as a monument to the selfishness of a political system that seems incapable of taking the long view.

The Mirror Fusion Test Facility is big enough to drive a train through, packed with a decade of brilliant insight and ingenuity. And had it ever been given a chance, it might have helped ease life for generations to come.

But is was shut down the day after it was dedicated back in February 1986, a victim of the federal budget deficit.

The rise and fall of mirror fusion is like a political symphony. The trumpets and piccolos of ego, brinksmanship, competition and self-delusion chase one another through the score. But underneath the flourishes is the somber lament of the basses whose theme is our unwillingness as a society to make sacrifices today the sake of our children and grandchildren.

The real question here is whether nuclear fusion will enable humanity to sustain its extravagant lifestyle in the 21st century.

There are two kinds of nuclear reactions. Fission reactions—which occur when atoms are split apart—destroyed Hiroshima and power all current nuclear power plants.

But fusion reactions take place when atoms are fused together, and this powers hydrogen bombs and the sun.

Electricity-generating nuclear-fusion reactors could be fueled with hydrogen distilled from seawater, would produce little radioactive waste and would be incapable of a runaway chain reaction or meltdown. They would spew out none of the climate-changing, forest-killing pollution of oil and coal.

However, harnessing fusion requires building a reactor that can contain a plasma of hydrogen atoms in conditions that rival the heat and pressure inside the sun.

Scientists have developed two different ways of using magnets to keep such superheated plasma away from the walls of the reactor, which they would otherwise burn through immediately.

Most of the money has gone into producing experimental, doughnut-shaped machines called Tokamaks. However, the Tokamaks' use of a pulsed current and its odd pretzel-like shape would make it an engineering and maintenance nightmare as a commercial reactor, some experts say.

But in the early 1970s, Livermore scientists said they could avoid these problems with a tube-like machine with magnetic plugs at each end. They persuaded the Department of Energy in 1975 to underwrite their mirror fusion machines.

The Livemore scientists, led by genial soft-spoken physicist-bureaucrat Kenneth Fowler did a masterful job of selling their untested ideas. They convinced the Energy Department to bet on the hope of a winner, then brought one long-shot innovation after another across the finish line just in front of a funding cutoff.

After obtaining good results on a very small-scale machine, they pried loose enough to build a $372 million machine on which they could develop their ideas.

And on the very brink of being able to prove whether the gamble would pay off, the Energy Department pulled the plug. And not just on Livermore's pride and joy. In all, the department had invested $720 million on mirror fusion at Livermore and another $55 million elsewhere. It all came crashing down, not because it didn't work but because the Energy Department had to concentrate its dwindling resources on the better-developed Tokamak.

It is symbolic of what's happening to America in many areas. America's once unchallenged economic and scientific supremacy is now up for grabs. We are challenged on one hand by the tightly controlled, centrally planned nations like the Soviet Union who have been spending money steadily on things like fusion research and space exploration—the tortoise to our hare. And, on the other hand, we face frugal, intensely cooperative societies like the Japanese who have concentrated their energies on high-impact technologies and are taking steps apparently designed to ensure that they sell the world it's fusion reactors in the 21th century.

So the question becomes how we'll compete. How long can we sputter along with our horizons limited by politicans who can not bring themselves to demand that we make the hard political choices?

"RISKY AND DUBIOUS—AMERICA'S RESEARCH BUDGET IS OFF BALANCE AND OFF TARGET" BY REPRESENTATIVE CLAUDINE SCHNEIDER

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. WOLPE. Mr. Speaker, Representative CLAUDINE SCHNEIDER, our colleague from Rhode Island, has raised urgent questions regarding a decline in Government-funded, civilian sector R&D and the impact of that decline on the economic competitiveness of United States industry. The questions are raised in a lively, probing, and authorative article in the December 1987 edition of American Politics. Representative SCHNEIDER, bolstering her article with the observations of Simon Ramo, former president of TRW, and John Young, president of Hewlett-Packard, calls for a change in national research and development priorities. Reversing the decline won't "cost us one dime to remedy . . . most dimes are put into the wrong account," the article says. Representative SCHNEIDER continues to provide leadership as Congress seeks to constrain what she aptly describes as the "gluttonous military consumption of the R&D pie." I commend the article to my colleagues.

The article follows:

[From American Politics, December 1987]

RISKY AND DUBIOUS—AMERICA'S RESEARCH BUDGET IS OFF BALANCE AND OFF TARGET

(By Claudine Schneider)

("We just are not competitive. We don't have the technology, and the bulk of our engineering talent is not being used to build our security—economically. Defense spending is the reason."—Theodore Williams, chairman and CEO, Bell Industries, Inc.)

With the United States and the Soviet Union poised to launch the first salvos of trust that we have seen in some time, the defense carnival of the past decade seems to have been lulled, at least for a moment. People of both countries may feel the safer for it, but in the end, the Soviets will probably benefit most—not because the nuclear balance has been shifted in their favor, but because Soviet leaders have recognized what ours fail to: that military spending greedily siphons fuel from the economic tank of the superpower machine.

The Soviets seem to believe that a reversal in the nuclear buildup promises their country an opportunity for economic revitalization. The United States, on the other hand, has made no move to redirect military dollars elsewhere.

The United States needs to compare its nuclear apples with the Soviet's, but a look at economic oranges also provides food for thought. While the two nations may have nuclear parity, American economic dominance is overwhelming. America ranks third in the world in socioeconomic standing; the Soviets rank 23d. Hence, Gorbachev's motive for moving toward the double-zero. To turbocharge the Russian economy into the modern era, the Soviet leader is set on refunneling valuable capital away from a military buildup into a domestic one.

Nonetheless, despite our economic upper hand, there is a lesson for the United States in this Soviet transformation. Although the two countries spend roughly comparable amounts on defense, the quality of Soviet life has been the loser. If the United States continues to spend defense dollars as its current pace, our economy—our industrial growth and international competitiveness—will suffer as well. In fact, it already has.

"There is an inverse relationship between military spending and industrial performance throughout the Western world. Britain and the United States, which tend to spend more than other Western countries on military research, tend to score low in gauge of economic competitiveness compared to West Germany and Japan."—Lloyds Bank Review

Nowhere is the misguided nature of our budget priorities clearer than in the area of research and development. The R & D budget of the United States is painfully skewed in favor of the military, an over-emphasis on defense research at the expense of civilian R & D that is plaguing our nation's economy in ways our leaders have as yet failed to recognize. We may be outdistancing the Soviets in economic might, but on that score, it isn't the Soviets we really have to worry about. Rather, our off-balance R & D program has given us wobbly legs when it comes to competing with the rest of the industrialized world.

R & D is a critical component of the engine that drives our economy. According to the National Science Foundation, new technology—the byproducts of civilian R & D—has been responsible for nearly half of all productivity increases in the United States since the end of World War II. American scientists and engineers created new products and innovative technologies that led to economic windfalls: robust business expansion, new business development, higher employment, increased exports and sweeping capital expansion. As a result, post-war America became a nation of ideas and opportunity with unprecedented economic growth.

"The United States now has economic competitors who are its technological equals. When our nation had a technological edge over its international competition, it could be somewhat relaxed about diverting investment funds and scarce talent to military efforts. We can't afford that attitude today."—Lester Thurow, professor, M.I.T.

Despite soild evidence of the cause-and-effect relationship of civilian R & D and economic prosperity, this decade has witnessed not only stagnation, but an actual decline in government-funded, civilian-sector R & D.

Once more than half the government's research budget, civilian R & D has decreased by 15 percent (in constant 1982 dollars) since 1980. In contrast, according to the Office of Management and Budget, military research has increased by a whopping 96 percent! (In fact, just the increase in the President's proposed military R & D budget for this fiscal year is larger than the R & D budget of any civilian research agency.) Military research now claims 72 percent of the $67.6 billion Federal research budget.

How does this huge investment in military R & D compare with that of our chief global competitors? Clearly, they have different priorities. Japan spends only 2.8 percent of its research budget on defense, while West Germany commits less than 10 percent. As a fraction of the G.N.P., U.S. funding of civilian research (1.9 percent) is significantly less than that of Japan (2.6 percent) and West Germany (2.5 percent). And the percentages of Government research funds allocated to promoting industrial growth stack up this way: 14 percent in West Germany, 13 percent in Japan and 8 percent in France. The United States lags far behind at just 1 percent.

"If this pattern persists, the country may someday find itself in the absurd position of having a formidable and bugely expensive strategic system standing guard over an industrial rust bowl."—Daniel S. Greenberg, Science and Government Report

There may have been a time when military research spawned many technological advancements for use in the private sector. If that were ever true, however, almost all who have studied the situation agree that, today, such a consequence is far from the case. In fact, there are so many problems with defense R & D that even a casual analysis points up enough deficiencies to drive us back to postwar research priorities.

John Young, president of Hewlett-Packard, has given the issue more than an offhand study. Young chaired President Reagan's Commission on Industrial Competitiveness and observes, "Military research is so exotic and so slow that it offers little commercial use, and, in fact, the Pentagon is now a 'net user' of commercial research."

Despite its massive funding, in other words, defense research now borrows heavily from civilian research and yet gives little in return. Whereas military R & D was once expected to act as benefactor to the civil sector, the opposite now holds true. The list of civil-sector technological breakthroughs that have had military applications is impressive and includes transistors, microchips, lasers and superconducting materials. Dr. Erich Bloch, director of the National Science Foundation, points out that, in most cases, civilian technology is now more advanced than that used by the military.

Defense R & D suffers from its largely secretive nature. In FY 1980, less than 5 percent of the R & D budget was classified. Last fiscal year, more than quarter of it was stamped "secret." Thus, many R & D achievements in military labs are made unavailable to American industry, which means that their nonmilitary ramifications and commercial possibilities can never be explored.

Military research that is not classified becomes unproductive in another way. Defense engineers, far removed from the world marketplace, often develop innovations with little regard for their cost-competitiveness. Hence, what constitutes a technological breakthrough on the drawing board might never see the light of day because of its prohibitively high production costs.

"Defense industries have come to preempt 7 out of 10 new engineering and science graduates, leaving makers of civilian goods to scramble for a dwindling pool of less-trained people."—Yoshi Tsurumi, professor, Baruch College, N.Y.

Military research siphons off more than just money. Hewlett-Packard's Young points out that defense contractors are draining the scientific pool as well. Japan trains more engineers per capita and has no "huge defense establishment competing for talent," he notes, adding, "It's one of the single most important reasons they're doing well." If you consider that many of those Japanese engineers are getting their training at American universities, the sting is doubly smart.

Ironically, even those prestigious American colleges are being hurt by the tilt toward military R & D. More than half of our country's academic research facilities were built or last renovated before 1970, and half of those were built or renovated before 1960. According to an analysis prepared by nine higher-education organizations, nearly one-third ($2 billion) of all Federally funded academic R & D is performed in facilities that are considered to be in fair or poor condition.

A report issued last year by the White House Science Council's Panel on the Health of U.S. Colleges and Universities—the Packard-Bromley Report—called for the establishment of a 10-year, $10-billion fund to restore American university facilities. A House bill to provide $250 million a year for 10 years to upgrade the facilities would require a shift of just six-tenths of 1 percent of our current military R & D budget.

"In the past 30 years, had the total dollars we spent on military R & D been expended instead on those areas of science and technology promising the most economic promise, we probably would be today where we are going to find ourselves arriving in the year 2000."—Simon Ramo, former president, TRW

To most of us, the chorus of experts lamenting over the growth of defense R & D at the expense of civilian research would seem enough to cause an about-face in the Government's R & D priorities. Yet, despite almost universal wisdom to the contrary, the gluttonous military consumption of the R & D pie continues unabated.

Most disturbing is that reversing this trend does not require the budgeting of new expenditures. In fact, the situation won't cost one dime to remedy. The problem is not that there aren't enough dimes, but that most of the dimes are being put into the wrong account. No additional strain on the budget deficit is necessary; we simply need to reapportion current and future R & D budgets. We must retarget and rebalance our R & D efforts—with the emphasis on the "re," for it wasn't so long ago that the research pie was sliced fairly.

Economists tell us that there are several factors contributing to America's declining industrial competitiveness: Our budget deficit is weighing us down, our work force needs greater flexibility, our trade policy requires a firmer and fairer stance and our schools need rejuvenated science and math programs.

Rehabilitating many of these culprits will require new capital, coordinated energies and years of commitment—not very tasty medicine for politicians accustomed to sating their appetites with quick, tangible results. But one of the cogs in the competitiveness machine—the R & D component—can be up and running in relatively short order without any additional overall cost. All it will take is a change in attitude, a change in priorities.

While the Soviet Union is on the threshold of igniting its entire bureaucratic economy, the United States refuses to take even the smallest steps toward stimulating its technological base. Instead, we continue to gear up to match the Soviet threat, when the real threat comes not from our foes, but our friends.

THIRTY YEARS OF SERVICE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BADHAM. Mr. Speaker, the Boys Club of Santa Ana dedicated its facility 30 years ago tomorrow. During its three decades of service to our community, this organization has promoted the mental, physical, emotional, educational, and vocational development of thousands of our youth. It is a model for the more than 1,000 Boys Clubs of America affiliates in more than 700 communities across the Nation.

Thirty-five of Orange County's finest citizens serve on the board of directors of the Santa Ana Club. They run an organization that provides an alternative for our youth to serving as fodder for the urban violence that we see in so many of our communities. My colleagues should be especially pleased with the Boys Club Code, which expresses very simply some of the most important ideas that we support in this body and in this Republic:

I believe in God and the right to worship according to my own faith and religion.

I believe in America and the American Way of Life, in the Constitution, and the Bill of Rights.

I believe in fair play, honesty, and sportsmanship.

I believe in my Boys' Club which stands for all of these things.

On December 12, the Boys Club of Santa Ana will celebrate its anniversary with its 30th annual awards ceremony, cosponsored by the Santa Ana Police Benevolent Association. Mr. Speaker, I'm sure my colleagues join me in wishing the Boys Club continued success and congratulating its leaders and members on this important occasion.

TRADE BILL CONFERENCE—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. MARKEY. Mr. Speaker, as part of the omnibus trade bill, both the House and Senate have passed differing packages of amendments to the Foreign Corrupt Practices Act. Conferees from both Houses are currently discussing a reconciliation of the two versions, but as one of the House conferees, I want to assure that the final product upholds the purposes of this valuable law.

In 1977, Congress enacted the Foreign Corrupt Practices Act as a response to a series of investigations by the Securities and Exchange Commission which uncovered large numbers of illegal payments to foreign officials by American corporation. These illicit payments ran counter to the interests of the United States and the shareholders of the corporation involved. The law includes standards for corporations to maintain adequate accounting of corporate payments and an explicit bar against bribery. While there are valid reasons to clarify certain provisions in the original law, there is no justification for any retreat from the important policy bases behind the original legislation.

In this regard, I would like to bring to Members' attention a recent article from Legal Times concerning the Foreign Corrupt Practices Act Amendments contained in the trade bill. I would urge all conferees as well as Members to support a strong FCPA:

[From Legal Times, Nov. 16, 1987]

BUSINESS LOBBY HIT FOR "BRING-BACK-BRIBERY" BILL

(By Greg Rushford)

Mention of the Securities and Exchange Commission's aggressive anti-corruption investigations of the 1970s, which uncovered millions in questionable or illegal foreign payments by more than 450 corporations, still elicits shudders in some business circles.

But a little-noticed provision of the Senate-passed omnibus trade bill would strip the once-feared SEC of its civil enforcement powers in foreign bribery cases. In fact, the Senate trade bill, say critics, would weaken several key provisions of the Foreign Corrupt Practices Act of 1977.

"I have always called this [the 1987 bill] the bring-back-bribery bill," complains Sen. William Proxmire (D-Wis.), the original sponsor of the FCPA.

Buried deep within the massive trade bill, the FCPA amendments have received scant attention. But prominent former prosecutors—including Wilmer, Cutler & Pickering's Arthur Mathews, a one-time top enforcement official at the SEC, and William Pendergast, a former Justice Department official and now a partner in the D.C. office of Chicago's Seyfarth, Shaw, Fairweather & Geraldson—express reservations.

The FCPA was enacted in response to the Watergate-era disclosures of widespread corporate bribery scandals that shook governments in Japan, Europe, and Latin America. It contains an anti-bribery prohibition and strict standards for maintaining corporate records.

Behind the effort to weaken the bill is Calman Cohen, vice president of the Emergency Committee on American Trade, called ECAT. Cohen's group is a powerful trade coalition of 60 major U.S. multinationals, including United Technologies, Pfizer Inc., General Motors, Bank of America, IBM World Trade, and R. J. Reynolds Industries Inc.

The SEC's revelations of questionable overseas payments of such ECAT members as Exxon Corporation and The Boeing Company inspired Congress to pass the FCPA. Another ECAT member, the International Harvester Co., was prosecuted under the FCPA in 1982. International Harvester subsequently dropped out of ECAT.

ECAT's members have long complained that the law's bribery provisions contain ambiguities, that its accounting provisions are unduly burdensome, and that the FCPA impairs the ability of U.S. corporations to do business abroad.

As ECAT's lobbyist, Cohen is an influential, behind-the-scenes player in trade matters. Formerly the congressional relations director at the Office of the U.S. Trade Representative, he also once served as a legislative assistant to Senate Majority Leader Robert Byrd (D-W.Va.).

At ECAT, Cohen's views carry weight with senators because he has a direct pipeline to corporate chief executive officers, according to several Senate staffers. Cohen's effectiveness, the *National Journal* once said, "comes from being almost invisible."

"Cal appears to consider the FCPA as a personal insult," observes one Senate staffer. Cohen declined to be interviewed.

FRONTAL ASSAULT

In 1981, Cohen began a frontal assault on the FCPA, working closely with Sen. John Chafee (R-R.I.). Chafee had introduced a bill to amend the FCPA; the bill passed the Senate, but died in the House that year.

Cohen and Chafee's 1987 effort to weaken the FCPA began last March. With Cohen supplying position papers and top industry leaders to plead the anti-FCPA case, Chafee lined up other Senate allies on the Banking, Housing, and Urban Affairs Committee, including Sens. John Heinz (R-Pa.), Jake Garn (R-Utah), and Alfonse D'Amato (R-N.Y.).

The Cohen-Chafee group was supported by the Reagan Commerce Department, and by such business lobbies as the U.S. Chamber of Commerce and the National Association of Manufacturers.

Another lobbyist who worked with Cohen on the FCPA amendments was Julia Christine Bliss, well-connected because she once worked for Chafee as a legislative aide.

Bliss, a former deputy general counsel at the USTR, is now an associate in the D.C. office of New York's Mudge Rose Guthrie & Alexander. She also would not comment.

Chafee originally introduced his 1987 amendments to the FCPA in the Banking Committee. The Chafee bill—

Curtails the SEC's role in enforcing civil provisions of the act, consolidating enforcement at the Justice Department. (The SEC has brought three civil actions under the FCPA during the Reagan years.)

Redefines the rigorous accounting standards in the 1977 bill.

Rewords the FCPA standard on criminal intent, long criticized as vague by both prosecutors and defense lawyers.

Critics of the Chafee bill including Gene Kimmelman, legislative director for the Consumer Federation of America, contend that it significantly weakens the FCPA by switching sole enforcement jurisdiction to the Justice Department, where resources may be lacking; by relaxing the bill's accounting standards; and by inadequately redefining the standard on criminal intent.

Proxmire, who chairs the Senate Banking, Housing and Urban Affairs Committee, says he considers his role in passing the FCPA one of his major legislative achievements. In 1986 and again in 1987, he threatened to filibuster against any attempts to dilute the bill. Sen. Howard Metzenbaum (D-Ohio), was another outspoken opponent to weakening the measure.

NOVEL STRATEGY

Worried that Proxmire and Metzenbaum might stage a successful filibuster, Chafee, lobbyist Cohen, and their pro-business allies came up last spring with a novel strategy—insert the FCPA amendments into the Senate's version of the omnibus trade bill.

The trade bill was loaded with so many pro-labor provisions that Proxmire and Metzenbaum were thought unlikely to mount a filibuster against it, congressional aides relate.

Metzenbaum wrote Senate Majority Leader Byrd on June 16 to express his opposition to inserting the FCPA amendments into the trade bill.

"These amendments would totally undermine the anti-bribery provisions of the FCPA." Metzenbaum argued. "At a time when leaders on Wall Street, Members of the House and key Administration officials are under criminal investigation for illegal and unethical conduct, it is particularly inappropriate for the United States Senate to include in the Trade Bill package provisions that would encourage American corporations to engage in bribery," the Ohio liberal added.

But Byrd denied the request. On July 14, Metzenbaum, Proxmire, Chafee, and their aides met in Metzenbaum's office to try to resolve their differences. Patrick Mulloy, Proxmire's Banking Committee general counsel, then followed up in a series of meetings with Chafee's key FCPA aide, former business executive John Hauge.

Proxmire and Mulloy say they turned for some of their key arguments to Mathews, a former SEC Enforcement Division deputy under Stanley Sporkin and now a Wilmer, Cutler partner. Mathews maintained that Chafee's amendments threaten the integrity of the FCPA's stringent bookkeeping provisions, especially the requirement that any SEC-registered corporation keeps its books in "reasonable detail" and maintain strict "internal accounting controls."

"This statute has had a more significant effect on corporate accountability than any statute I have seen in some 25 years in and out of government." Mathews argues.

But the Senate bill, while preserving some of the language Proxmire and Mathews wanted, relaxes the accounting standards, according to several pro-business lobbyists.

Proxmire and Mulloy did win at least one contested point. Chafee's original bill would have dropped foreign agents from the FCPA. Proxmire, however, used to his advantage the testimony of John Keeney, a veteran Justice Department Criminal Division deputy assistant attorney general, who pointed out that "the majority of the FCPA cases which have been investigated involve payments made to agents."

According to a Senate aide, Chafee consulted ECAT's Cohen before agreeing to leave untouched the agents provision in the FCPA.

"Cal didn't like it one bit," says this aide. "Apart from the accounting provisions, getting foreign agents out of the FCPA was his top priority."

Metzenbaum's Judiciary antitrust counsel, Mary Louise Westmoreland, was able to negotiate further changes with Chafee aide Hauge. Metzenbaum and Westmoreland also enlisted help from Wilmer, Cutler's Mathews; the Consumer Federation's Kimmelman; and Seyfarth Shaw's Pendergast, who was instrumental in advising the group on the law's criminal standard.

"Our greatest battle was over the gifts exemption," Westmoreland recalls. "We spent a tremendous amount of time trying to make it clear that the word *nominal*, which means, of course, small, was not a loophole designed to permit luxury items such as Rolls Royces to be considered allowable business gifts."

Chafee accepted Metzenbaum's language.

Chafee declined to be interviewed, but aide Hauge defends the final product and says it does not gut the FCPA.

THE COMPETITIVENESS ISSUE

Asked about taking the SEC out of the enforcement business, Hauge says. "Our feeling was it was preferable to have one agency, the Justice Department, enforcing both civil and criminal violations.

"I think it is important to stress that we are in a global economy. We have to look at U.S. competitiveness," Hauge argues. "This bill tries to clear up existing ambiguities and remove the FCPA as an export disincentive, while preserving the chief purpose of the FCPA—to outlaw bribery of foreign officials by American corporations."

With a significant, though not total, victory in the Senate, Cohen is busy now trying to sell the amended FCPA provisions to the House-Senate conference committee working out a trade bill compromise. This will be a tall order, since the House last April passed its own, more stringent, FCPA amendments.

And some of Cohen's foes are threatening to mount an assault on the entire trade bill if the conference committee does weaken FCPA.

"The Senate's weakening of the antibribery law as part of the trade bill, if it survives the conference, could bring consumer groups out against the entire trade package," observes Kimmelman. "We feel that strongly."

But whether Kimmelman can muster a significant opposition force is still an open question. Even some former prosecutors, who are largely supportive of the old FCPA bill, agree that some of its provisions needed fine-tuning.

"Frankly, the existing FCPA accounting provisions are too broad," says John Wing, former head of the Fraud Unit in the U.S. Attorney's Office for the Southern District of New York and now a partner at New York's Weil, Gotshal & Manges. "This is an area where a lot of responsible companies have sweated a great deal, and there are so many reasons why records might not be 100 percent accurate."

But the man who is credited, along with Proxmire, with doing the most to inspire the FCPA sees no need to revise the antibribery law. Former SEC enforcement chief Sporkin, who led the investigations in the 1970s and who now sits on the U.S. District Court for the District of Columbia, says he is unfamiliar with the details of the current legislation and could not comment anyway.

But Sporkin believes the FCPA has been a good law. "If it ain't broke," he asks, "why fix it?"

FEDS OUGHT TO LEAVE WELL ENOUGH ALONE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. WYDEN. Mr. Speaker, the Small Business Administration is proposing new rules for a highly successful program, the Small Business Development Centers [SBDC's]. I think those new rules are unreasonably harsh and could erode the carefully constructed partnerships the SBDC's have built up over the years.

If enacted, these new regulations could preclude State development center involvement in all State or Federal legislative activity. That prohibition could include negotiations for funding some SBDC's—including the model development center network in my own home State of Oregon—receive from State sources. Other language in the new regulations specify that these centers develop relationships with university systems, seemingly to exclude community colleges and other institutions.

I would point out that 16 of my home State's 21 service centers are located on community college campuses.

These prohibitions are suggested at a time when 3 out of every 4 used by the Oregon Small Business Development Center Program come from State and local government sources. As chairman of the Subcommittee on Regulation and Business Opportunities of the Small Business Committee, I also have concerns about several other provisions in the new regulations. These concerns were detailed in a letter to the SBA, which I wrote with my Oregon colleague, Congressman PETER DEFAZIO. The letter pointed out that in Oregon alone last year, the program served 6,000 clients in one-on-one counseling, and 14,000 individuals through workshops and seminars. Thanks to this program, new businesses and jobs have been developed that my State sorely needs. Boiled down, the question we ask is why fix it if it ain't broke?

I think the issue is summarized succinctly in an editorial written by Mr. Mike Francis, editor of the Portland, OR, Business Journal, and published last week. I would like to share it with my colleagues.

[From the Portland Business Journal, Nov. 30–Dec. 6, 1987]

FEDS OUGHT TO LEAVE WELL ENOUGH ALONE

The Federal Small Business Administration, which already has had to win a political battle for its own survival, again finds itself in a state of siege. And again, the conflict may be detrimental to small business in the Northwest—and elsewhere.

Last year, the agency, aided by aggrieved operators of small businesses, staved off a White House effort to transfer its operations to the netherworld of the Commerce Department. The proposed move would have killed the Small Business Administration as an independent bureau.

Now, prompted by the Federal Office of Management and Budget, the Small Business Administration is pondering ways it can streamline its operations. It has done so by proposing a too-sweeping set of regulations to govern the Small Business Development Center program—a particularly useful program that is partly funded with Small Business Administration money.

At Small Business Development Centers, such as the 21 in Oregon, business operators can get much-needed help in writing business plans and applying for lending packages. The centers also provide practical workshops designed to aid small-business persons. The whole program is a shining example of a productive partnership between the public and private sectors.

But now, thanks to pressure from above, the Small Business Development Centers face new uncertainty. The feds, who supply roughly a quarter of the funding for Oregon's Small Business Development Center program, want to implement rules that are more appropriate for a federal bureaucracy than a state-federal joint venture.

The proposed new rules carry implications that are overly broad—probably the result of too-technical, too-sweeping language. For example, as written, the proposed rules would eliminate the ties between the development centers and two-year, community colleges in favor of four-year universities. That would be devastating for the Oregon network of business centers, which are tied to community colleges in places like Ontario, Pendleton, Roseburg, Bend and Coos Bay. Those are places that four-year schools don't usually reach.

The real issue is between Small Business Administration advocates and detractors—inside and outside the agency. And while the federal government is entitled to review the merits of its own agencies, those agencies shouldn't be entitled to tell states like Oregon how to run their own Small Business Development Centers. Especially when states like Oregon pay more to operate the programs than the feds do.

A TRIBUTE TO SGT. GLENN YOUNG

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. KOLTER. Mr. Speaker, today I am especially honored to rise before the House of Representatives and recognize Sgt. Glenn Young of the New Sewickley Township Police in Beaver County, in my Fourth Congressional District of Pennsylvania.

Sergeant Young is the deserving recipient of a 1987 National Crime Prevention Award from the Crime Prevention Coalition.

Sergeant Young has labored to improve child safety by successfully promoting the Kids in Danger Program throughout the Fourth District. This highly touted program appeals to children through the use of a scaled-down version of the computerized Trans Am "Kitt" car that stars in the "Knight Rider" television show.

Sergeant Young not only founded the children's program, he built the car replica, known as "KID (for Kids in Danger)," which not only resembles the TV car but duplicates its electronic features.

Glenn Young built the car for his then 6-year-old daughter, Amanda, a "Knight Rider" fan, who made this unusual request of her father.

Now the car and Sergeant Young travel to shopping malls, schools and other public places to teach children safe practices that will prevent and combat crimes against youth.

Sergeant Young's success story is now reaching fruition as his program is being recognized as a true and important community service by this national difficult-to-receive award. That is why I honor Sgt. Glenn Young today and wish him the very best in his fight to help and protect children.

COLOMBIAN NEWSPAPER EDITORIAL ON DRUG WAR

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. SMITH of Florida. Mr. Speaker, one of the most eloquent, well-written analyses of the drug problem recently appeared in El Tiempo, a respected paper in Bogota, Colombia. I urge my colleagues—and everybody else interested in doing something positive about this growing problem—to read the following commentary.

"LOSING GROUND"

We have lowered our guard. Valuable ground has been lost in the relentless war against drug trafficking and we have begun turning in our weapons. This new attitude has led to a dangerous atmosphere of tolerance and permissiveness. The mafia chieftains move around freely in broad daylight throughout Colombian cities. If we look closely we will see how they have steadily returned to their privileged positions, reappeared at their businesses, and are using their money and the law to undermine the weak morale of government organizations. Under such circumstances, one can only reach the conclusion that we will lose the war if we do not react as soon as possible.

The figures available on arrests, cocaine seizures, and confiscated laboratories are absurd, and the sophisticated drug trafficking organization and its leaders seem untouchable. Drug production and transportation networks are intact. Their financial systems are impenetrable, and the terror which arises when someone must approach them to enforce the law has become a stigma; they have some sort of carte blanche to continue operating at will. The country's legal structure is not strong enough to counter such a powerful empire, which can buy off anyone. Whoever refuses their millions in bribes, or whoever does not respect their rules, is eliminated. Impunity is their best ally.

It is also true that our fragile judicial system has allowed drug trafficking organizations to consolidate themselves very well. The extradition treaty—the only instrument that the chieftains fear—has failed; a minister, judges, and journalists have been murdered; the justice sector is terrorized; the authorities have been infiltrated; and the country remains indifferent. Thus, the drug traffickers are guaranteed a sanctuary without risks.

The government says it is studying some formulas to continue extraditing drug traffickers to the United States. There is a feeling here that too much time has elapsed and that the problem now demands greater and more immediate attention, given the corrupting power of the drug trade and the way in which the nation's moral strength has been weakened. We understand the current administration's priorities, but the damage inflicted by drug traffickers in all social and institutional organizations is undeniable. Their noxious actions affect the nation as a whole, and the leaders of the drug trade have steadily occupied positions of power from which they can act at will. The struggle against drug trafficking allows no respite. We have seen the level of sophistication that the drug traffickers have achieved to keep their criminal business operating. Meanwhile, our only legal recourse is that which we apply to lesser criminals.

Drug trafficking cannot be fought with a simple declaration of good will. The judicial system and the police force must be modernized; more solid and secure guarantees should be offered to judges who want to enforce their authority; important actions must be carried out—not the occasional operations in which a few grams are seized and two or three caretakers are arrested. Why have the drug lords not been arrested when everyone, even the authorities, knows where they are? Is there perhaps a truce with drug trafficking since the extradition treaty was declared unconstitutional, even though it is the only instrument that puts them on the defensive?

We need the political willingness to adequately prepare our obsolete institutions for the challenge put before us by the unscrupulous drug trafficking industry. We must use our imaginations, allocate the necessary resources, and find the methods to gain ground in this battle, which the enemy has been winning thus far. If we have to continue turning over Colombian citizens to U.S. Justice Department authorities, then let us do so. They apparently enforce the law over there, judging from the 240-year sentence issued to a former Narino senator—much to our shame. We will gain nothing by claiming that this is not a Colombian problem and that the effort must be exerted by countries where the drugs are consumed. We must implement radical solutions to counter a problem that is deeply undermining our morale and image. They say abroad that we have surrendered the country and that the affront to our nation has been answered with evasive words, quibbling, fear, codes that always seem to prevent the drug lords' arrest, and indifference regarding the fact that many vital activities in our national life and democracy are being financed with drug trafficking money.

The intensive effort extended by the news media to catch the country's attention was ignored. Discouragement and despair prevail. No demands are being made to those who should wage part of the battle from their respective trenches. Congress has not taken matters seriously, and the government has taken too long in embarking on the road to recover lost time. Meanwhile, society remains unprotected, watching passively as the basic social structure is being undermined. We will support any measure, no matter how unpopular, aimed at the heart of this criminal organization, which has humiliated and terrorized the country. We cannot let powerlessness and indifference defeat us.

EVIDENCE OF SOVIET ATROCITIES IN AFGHANISTAN DOCUMENTED

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. DREIER of California. Mr. Speaker, I wish to bring to my colleagues' attention the conclusions of the Independent Counsel on International Human Rights on the targeting of civilians in the Afghan war by Soviet and Afghan Government forces. The following analysis and conclusions are taken from the "Report of the Independent Counsel on International Human Rights on the Human Rights Situation in Afghanistan."

Having just returned from a 5-day trip to Pakistan, I can speak from first-hand knowledge of the tragic and widespread human costs of the 8-year-old war being waged against the Afghan people. My colleagues and I visited refugee camps along the Pakistan-Afghanistan border and witnessed many of the millions of Afghans who are fortunate enough to have fled further Soviet aggression. But, Mr. Speaker, the Afghans who remain in their homeland are continually subjected to rape, torture, Soviet forced relocation policies, prolonged attacks on their villages and indiscriminate killings. I would like to insert into the CONGRESSIONAL RECORD the section of the report concerning many of these atrocities committed against innocent Afghan civilians inside Afghanistan by Soviet and Afghan troops.

B. TARGETING OF CIVILIANS

32. It has been alleged that civilians have been both the victims of indiscriminate attacks and also purposefully targeted. In some instances, it has been claimed that the latter has been by way of reprisal. Women and children, entitled to special protection under humanitarian law, have allegedly been the object of attack.

1. INDISCRIMINATE ATTACKS

33. It has been claimed that attacks have been launched against targets such as villages which make it impossible to distinguish between military and civilian objectives and that weapons have been used which are either indiscriminate by nature or have been used in an indiscriminate fashion.

34. One of the fundamental rules of the laws of war is the principle of distinction. Combatants are obliged to distinguish between civilians and combatants. Common Article 3 of the Geneva Conventions also requires that "persons taking no active part in the hostilities . . . shall in all circumstances be treated humanely". Furthermore, Article 6(1) of the International Covenant on Civil and Political Rights, to which no derogation is permitted under Article 4(2), provides that "No one shall be arbitrarily deprived of his life." Deaths resulting from indiscriminate attacks in breach of the laws of war would appear, from the very nature of the attacks, to represent an aribtrary deprivation of life.

35. As discussed in section D.1 of this report, the use of aerially dispersed mines is widespread in Afghanistan. Carpet bombing frequently occurs and the Independent Counsel received numerous testimonies that prolonged bombardment of villages for from 3 hours to 5 days invariably precedes a ground attack by Soviet troops.

36. The evidence received by the Independent Counsel confirms that in the Report of the Special Rapporteur of the Commission on Human Rights (A/41/778), who reported that "the action taken against the opposition movements and civilian population has been intensified since last year. . . . The bombardment of villages, attacks on convoys of civilians heading for Pakistan in search of refuge and regular house searches make it impossible for the civilian population to lead a normal life." (para. 37) In the annex to that document, at para. 28, the Special Rapporteur lists typical examples of indiscriminate attacks resulting in high civilian casualties. The Independent Counsel received evidence that such attacks had continued even after the announcement of "National Reconciliation" by the Government of Afghanistan in January 1987.

2. PURPOSEFUL TARGETING OF CIVILIANS

37. It is claimed that civilians have been the target of attacks. Such attacks must be distinguished from those which occur during hostilities between combatants or against military objectives. In this context, it is alleged that troops in a position to distinguish between mujahedeen and civilians, principally soldiers on foot, are not merely failing to identify civilians, but are attacking civilians, including women and children.

38. The evidence presented to the Independent Counsel suggests that there are three distinct situations in which groups of civilians find themselves the object of attack. The first seems directed to the depopulation of areas of strategic value. The second involves the killing of individual civilians as part of a general attack on the civilian population of a village. The third situation is that of attacks on individual civilians, such as village elders or religious leaders, usually as a form of punishment or warning.

39. Heavy bombardment of frontier regions close to Pakistan, Iran and the Soviet border appears designed to prevent civilians, including the injured, from seeking refuge outside Afghanistan, as well as to protect borders from infiltration. For example, the Independent Counsel received evidence of the flattening of a village in Kunduz Province by bombardment in order to clear the area and establish a Soviet post. The village was bombed and then surrounded at night by a mixed force consisting principally of Soviet troops who attacked the next day. Many persons were killed in the bombardment and more were killed in the land-based attack. The crops were burned, livestock killed and most of the houses destroyed. This pattern is repeated in many border areas. Similarly, a 2 kilometer-wide band has apparently been cleared along the Salang Highway to protect the movement of troops and equipment from the Soviet Union to Kabul. The attacks appear designed to clear the areas in question of all persons, including civilians.

40. In addition to these strategic attacks, the Independent Counsel heard much credible testimony that villages with no connection to the resistance were attacked. In fact, a number of witnesses claimed that attacks were launched against villages in which there were no mujahedeen, the fighters being based in the countryside away from settlements precisely in order to spare civilians from attack.

41. Frequently, individual civilians are chosen for execution by Soviet troops upon their occupation of a village. In certain circumstances, persons are killed in retaliation for a mujahedeen operation nearby, especially if there have been Soviet casualties, or because they are related to a suspected mujahedeen. Just as frequently, village elders or religious leaders are rounded up and killed. Although in most cases these persons are shot, one popular technique appears to be to burn village leaders alive, with the Independent Counsel receiving a number of reports of persons being thrown while alive into a room filled with burning wood.

3. ATTACKS ON WOMEN AND CHILDREN

42. The situation of women in Afghanistan deserves special note. It has been alleged that Afghan women have been raped by Soviet soldiers. There are more than the usual difficulties in investigating such claims in Afghanistan. It is not merely that Afghan women do not want to talk about such attacks, but that there is a conspiracy of silence on the part of Afghan men who feel shamed by their inability to protect their women. Evidence which corroborates this abhorrence of rape throughout Afghan society and which helps to explain why allegations are made against Soviet and not DRA troops came from one eyewitness to an attack on a village in Jowzjan Province by mixed Soviet-DRA forces in January 1987. Soviet soldiers were searching house to house for draft-age men. A twelve year old girl who ran away was caught by a Soviet soldier who started dragging her screaming to a tank. A DRA soldier shot and killed the girl while she was in the hands of the Soviet soldier. The witness was adamant that the Afghan was not trying to shoot the Soviet soldier, not least because there were many more Soviet than Afghan soldiers.

43. In addition to rape, the Independent Counsel occasionally heard testimony of other types of attacks on women. One particularly startling report was that given by a former Afghan Air Force pilot. A fellow officer's wife had been found praying. Her husband was on duty at the time. The following morning the pilots were called together and given a political lecture and told that their families should not be praying. The breasts of the pilot's wife were then dropped in front of him in a plastic bag.

44. Certain weapons which are of an indiscriminate nature appear to be particularly designed to injure children. In this category fall the various "toy bombs" and attractive booby-traps which are discussed in greater detail in section D.2 of this report. The hospitals and streets of Peshawar and Quetta are filled with Afghan children who have lost limbs to these deadly "toys."

CONCLUSIONS ON TARGETING OF CIVILIANS

45. In a conflict being fought within one state where the non-government forces are suspected of having the support of the civilian population, it may well be difficult to distinguish between military and civilian objectives. Based upon their investigations, however, the Independent Counsel seriously question whether any attempt is being made to distinguish between military and nonmilitary targets by Soviet and DRA forces. On the basis of the evidence received by the Independent Counsel and confirmed in general terms by the reports of the United Nations Special Rapporteur, the Independent Counsel can state that civilians have been the victims of indiscriminate attacks and attacks by means of indiscriminate weapons in violation of the laws of war and international human rights law.

46. The evidence presented to the Independent Counsel further suggests the regular breach of each of the prohibitions of paragraphs 1(a), (c) and (d) of Common Article 3 during the course of deliberate attacks on civilians. Under the Geneva Conventions, States are obliged to seek out and bring to trial alleged perpetrators of grave breaches of the conventions and can be held responsible for the failure to do so. The State is certainly responsible for the acts of its armed forces when those acts recur in a consistent fashion over the course of time. The evidence that massacres of civilians by Soviet troops are a not infrequent occurrence in Afghanistan suggests at least the tolerance and quite possibly the encouragement of that state of affairs on the part of Soviet officers all the way up the chain of command.

NORTH CAROLINA SOCCER DYNASTY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to recognize the latest dynasty in college sports: the University of North Carolina at Chapel Hill women's soccer team.

On Sunday, November 22, the Tar Heels defeated the University of Massachusetts 1 to 0 to capture their second consecutive national title and their sixth such title in the past 7 years. Since the women's soccer team was established in 1979, the team has compiled a record of 164-7-5. Their last loss was in 1985.

Anson Dorrance deserves special recognition for his outstanding coaching and recruiting. He started the program and has developed it into a powerhouse.

Mr. Dorrance also coaches the men's soccer team at UNC which also has been very successful. In fact, the men's soccer team has reached the semifinals of this year's NCAA tournament.

I wish the men's team the best of luck in their upcoming game. Regardless of the outcome, the University of North Carolina has one of the most successful soccer programs in the country. And a new dynasty to boot.

SUMMIT MUST FOCUS ON ISSUE OF SOVIET JEWRY AND HUMAN RIGHTS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. TRAFICANT. Mr. Speaker, I rise today to urge the President to make the plight of Soviet Jews and the issue of human rights a top priority in his upcoming summit meeting with Soviet leader Mikhail Gorbachev. Mr. Speaker, all Americans should be heartened by the fact that we are sitting down to talk with the Soviets about pressing issues such as arms control and regional conflicts. But as a nation dedicated to the sacred principles of freedom and basic liberties, I believe it is equally important that, in dealing with the Communist leaders of the Soviet Union, we continue to emphasize the central importance of human rights.

General Secretary Gorbachev appears to be a new type of Soviet leader. Compared to his geriatric predecessors, Gorbachev is young, vigorous, and more pragmatic. Gorbachev dresses well and is comfortable in front of the camera. He has made many bold proposals on nuclear testing, arms control, regional issues and fostering better relations with the West. He is trying hard to reform the Stalinist, centrally controlled economy of the Soviet Union. Gorbachev realizes that to accomplish his lofty goals of modernizing and revamping the Soviet economy he needs Western technology.

But behind the slick public relations campaign and détente rhetoric lies a regime that continues to tightly control its society; a regime that continues to repress its people; a regime that continues to hold thousands of Soviet Jews inside the Iron Curtain; a regime that, in terms of human rights, has not changed much. The Soviet Union is still a country where anti-Semitic sentiment has the tacit, if not overt, approval of the Communist government.

However, Mr. Gorbachev is a new leader and we should deal with him. He does want to reform the Soviet economy. He is willing to make concessions to the West to achieve his domestic policy goals. It is for this reason that we in the West must seize the opportunity and put pressure on Gorbachev to move to end the repression of Soviet Jews and other minorities and demand that the Soviet Union honor the Helsinki accords.

We in the West must not be mesmerized by Gorbachev's style. True, he may be serious about arms control and ending regional conflicts. True, he wants to revamp the Soviet economy. But it is also true that, aside from a few token public relations ploys, he has not done anything to alleviate the suffering of Soviet Jews, ethnic Ukranians, ethnic Armenians and other minorities wishing to express and retain their cultural and religious heritage. Gorbachev and his new public relations team tried to score points in the West by pointing to the recent release of activists such as Natan Shcharansky. Many in the West also looked with hope at the new Soviet emigration law. Unfortunately, the enactment of this law is yet another attempt by the Soviet authorities to look good to the West, while further repressing the Jewish community.

Instead of making it easier for Soviet Jews and others to leave the Soviet Union, the new emigration law will crush the hopes most Soviet Jews have of gaining the freedom they yearn for. This new emigration law limits eligibility to apply for an exit visa only to those who have blood relatives of the first degree—parents, children or siblings—living abroad. What has gone largely unreported in the West is the sad fact that under this law, more than 90 percent of the 400,000 Soviet Jews who have indicated a desire to leave will be ineligible to apply for an exit visa. This is glasnost?

The Soviets also point to the fact that monthly emigration figures are up from previous years. But the level is still significantly lower than the record high figures of the late 1970's. Most importantly, the figure in no way is a reflection of the hundreds of thousands who want to leave the Soviet Union.

Mr. Speaker, I certainly share the hopes and aspirations for peace that all Americans have. In that spirit, I wish President Reagan the best of luck in the summit. I hope that we can work with Mr. Gorbachev to gain agreements to reduce both our nuclear arsenals and the vast array of conventional forces the Soviets have. But let us not be fooled by Mr. Gorbachev's public relations campaign. If Mr. Gorbachev wants to open up to the West and accrue the benefits of a new relationship, he must make true reforms in Soviet society and he must vastly improve the dismal human rights record of the Soviet Union. It is essential that the emigration of Soviet Jews be a central topic next week. The President must stand firm and insist upon a relaxation of the strict emigration process and insist that the Soviet Union respect and protect the basic human rights and civil liberties of all its citizens.

At the very time President Reagan and General Secretary Gorbachev will be signing the INF agreement, Jewish dissidents remain in Soviet prisons; refuseniks continue to live in anguish—outcasts in their own society; Soviet Jews and Christians continue to be oppressed for expressing their religious beliefs; and ethnic minorities continue to struggle to retain their own indentity. The United States is a nation that was built by immigrants. In fact we draw strength and greatness from our ethnic and religious diversity. In America we enjoy so many precious freedoms—freedoms that are nonexistent behind the Iron Curtain.

Mr. Speaker, on the eve of this important summit, I urge the President and the American people not to lose sight of the plight of Soviet Jews and others in the Soviet Union who desire the basic freedoms many of us take for granted.

IN TRIBUTE TO FRED FISKE'S 40 YEARS IN RADIO

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mrs. MORELLA. Mr. Speaker, for 40 years, Fred Fiske has kept Washington-area listeners informed and entertained with his unique brand of radio programming. We honor Fred Tuesday evening, December 8, at a reception and dinner to help raise funds for a broadcast internship program at the American University.

Fred was in broadcasting almost from his first day on the job: First as a child actor in radio dramas, then under actor Jimmy Stewart—Col. Jimmy Stewart, his squadron leader—as an Air Force gunner, and radio operator, in World War II.

In 1947, Fred signed on with Mutual Radio's WOL in Washington, which later became WWDC. Fred announced for the original "Meet the Press" and covered the inaugurations of Presidents Truman and Eisenhower. He always seemed to be at the head of the radio class. During the 1950's, he had the highest ratings of any "deejay" in the Washington area. He proved equally at home as an interviewer. In the early 1970's, he literally had the only show in town—his "Empathy" talk show, that is.

In the radio business, change is one of the constants. WWDC changed formats, and so the Fred Fiske Show moved to WAMU in 1977, where it remained until Fred's semiretirement in September. While he has left his 5-day-a-week full-time schedule, he remains at WAMU-FM for a weekly Saturday morning show, "Fred Fiske Saturday."

Mr. Speaker, I salute Fred Fiske as a fan and listener. Whether "jocking" or hosting a talk show, Fred is truly "the man behind the microphone" in Washington radio.

PRO COMPETITION CARGO ALLOCATION ACT OF 1987

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. OBERSTAR. Mr. Speaker, today I have introduced the Pro Competition Cargo Allocation Act of 1987. This bill would repeal two of the most objectionable provisions of the 1985 farm bill's Merchant Marine Act Amendments: The extra 25 percent U.S.-flag set-aside, and the Great Lakes set-aside. This would restore the historic 50-percent cargo preference requirement for humanitarian food aid such as the Food for Peace Program, and remove the Great Lakes ports' mandatory allocation of approximately 250,000 tons of food for peace, Public Law 480 title II bagged, processed, and fortified commodities.

In the almost 2 years these provisions have been in effect, they have created only dissatisfaction and objection on the part of Great Lakes Port Authorities.

Great Lakes port communities are intensely dissatisfied. We were highly competitive with other port ranges under the historic 50/50 cargo preference requirements. In fact, our low bids kept the lid on total program prices in all transportation modes and through all port ranges, saving tax dollars and stretching our Public Law 480 resources. Now, as the U.S.-flag set-aside rises to 70 percent this program year, and to 75 percent next year, lakes ports see their ability to compete, even to remain viable, rapidly disappearing. If our set-aside terminates at the end of 1989, as now scheduled, we may well lose even the few foreign flag lines now serving the Great Lakes/St. Lawrence Seaway System.

Other port ranges are also dissatisfied, and have complained loudly and long that the lakes' set-aside has deprived them of cargoes.

The U.S. Department of Agriculture, which has to administer the program, is not satisfied with it because the Department has had to take into account the legislated set-asides rather than allocating purely on the basis of lowest landed cost.

The U.S. taxpayers should not be satisfied because the two set-asides have already cost them an estimated $27 million in the first program year. Costs will rise this year as the U.S.-flag set-aside has risen to 70 percent, and will rise again when it reaches the permanent level of 75 percent.

USDA says the lakes ports' set-aside cost has been modest—under $500,000 for the first quarter of the 1987 program year as compared to $1.5 million for the U.S.-flag set-aside. Lakes ports are willing to forgo this set-aside in exchange for the right to compete on the open market for 50 percent of Public Law 480 title II bagged and processed cargoes. We believe we can compete, and welcome the other port ranges to try to meet our costs.

Mr. Speaker, let me say that the lakes did not welcome the set-aside. Rather, we were forced into it in self-preservation.

Under the Merchant Marine Act amendments in the 1985 farm bill certain agricultural goods are exempted from cargo preference altogether. Carriage of other agricultural goods on U.S. flags, including the food for peace, Public Law 480 cargoes, rose from their historic 50 to 60 percent last year, to 70 percent this year, and will rise to 75 percent in 1988.

Because Great Lakes ports have no regular U.S.-flag service, the 75-percent U.S.-flag set-aside is clearly detrimental to the lakes. The Great Lakes delegation was able to secure a brief palliative, a guaranteed set-aside of Public Law 480 title II bagged, processed, and fortified commodities, through calendar year 1989 only. After that, if the set-aside is not extended, lakes ports will be able to compete with the other port ranges for—not necessarily to win—only the 25-percent non-U.S.-flag-designated cargo.

Since foreign-flag vessels serve all four port ranges, the incentive to enter the Seaway/Great Lakes System will deteriorate drastically once the set-aside is gone. The uncertainties of the monthly allocation process will have a marked, discouraging effect on the five foreign-flag carriers now serving Great Lakes ports. Why should they schedule their ships into the lakes if there is no assurance of cargo once they get there?

Public Law 480 title II cargoes are the lifeblood of our ports. Because their handling is labor intensive, they provide jobs for dockworkers who would otherwise be unemployed. These cargoes in addition act as magnets to our ports, drawing ships which then pick up other cargoes as well. Without title II, we stand to lose the vessels entirely.

Mr. Speaker, I have long supported cargo preference as necessary to a strong U.S. merchant marine. I will continue to do so. I regret having to introduce this bill, but the lakes ports' experience of the last 2 years gives me no choice. The adamant refusal of U.S. lines to serve Great Lakes ports deprives the lakes not only of vessels but, under the 1985 farm bill, of cargoes, dockside employment and associated economic benefits for ports, cities, and the region, and will mean further economic deprivation in the future unless we take this action.

I have tried to reach some accommodation with other interests on this issue, and am ready at any time to continue those discussions, particularly on ways to invite, or to create, a viable Great Lakes U.S.-flag fleet.

I also invite other port ranges, who claim they can compete with our Great Lakes ports, and who have spoken most loudly against the Great Lakes set-aside, to join us on this bill.

The Pro Competition Cargo Allocation Act would help to lower the costs of shipping U.S. agricultural goods abroad, and preserve our Great Lakes ports. If it is enacted, the farmers, dockworkers, stevedores, exporters, and ports of the Great Lakes region will benefit from the more open, evenhanded opportunity to bid for Public Law 480 shipments, and the taxpayer will save money on the return to 50/50 cargo preference regardless of which ports get the allocations.

A TRIBUTE TO JAMES L. MAHER

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. ST GERMAIN. Mr. Speaker, today I would like to pay a small but well-deserved tribute to one of my most esteemed and accomplished constituents, James L. Maher of Newport, RI.

Mr. Maher celebrated his 80th birthday just 1 week ago, and throughout his many years he has served as an admirable model of civic dedication, government service, and personal leadership. His accomplishments have been, to say the least, remarkable.

After working his way through Providence College, Jim Maher graduated in 1931 and started a trucking firm, the beginning of a successful business career that continues to this day. His work in the private sector, however, is but a chapter in a history filled with ambitious and important endeavors.

In his early years, Jim served on the Newport City Council, and from 1959 to 1961 he held the office of mayor of the city of Newport. After his tenure as mayor was complete, Jim continued to be a positive force in local and State politics. But though he made his political presence felt, Jim's primary desire was to help people.

For years, the scene was the same. Walk into Jim Maher's office at Safeway and what would you see? People lined up, waiting to see him and ask for his help. Jim Maher was an ad hoc social worker, psychologist, lending officer, employment agent and plain, simple friend—all at the same time.

All throughout his intense involvement in the community, there was one area where Jim concentrated with particular devotion. In 1953, he had been one of the founders of the Newport County Chapter for Retarded Citizens. From that seed grew a lifetime of statewide leadership in advocacy for the handicapped. The Newport chapter expanded to serve more than 350, with 11 group homes, two workshops, a school and a horticulture center. As a 35-year member of the chapter's board of directors and four-time president, Jim Maher can take much of the credit for the organization's continued success.

Indeed, it was due primarily to his efforts that the first group home for the handicapped in New England was established in Newport in 1968. In some instances, when programs were short of funds or space, Mr. Maher reached into his own pocket, or offered his own home for use.

His commitment to helping others is wonderfully obvious. I am far from the first to note it. He has been awarded an honorary doctorate in humanities from Salve Regina College, the John E. Fogerty Distinguished Service Award, the Providence College Alumni Award, the Rhode Island Association for Citizens Award for Leadership, the Hugh McGowan Award for working with the retarded in sports and a special citation from the President's Committee on Retardation. In 1972 the Newport City Council honored Mr. Maher by naming their center for retarded citizens after him.

No, I am not the first to pay a tribute to James Maher and all that he has accomplished, and I suspect I will not be the last. When one has done so much so well for so long, praise is both inevitable, and justified.

HUMAN RIGHTS IN RUSSIA

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Ms. PELOSI. Mr. Speaker, as the President is preparing for his historic summit with General Secretary Gorbachev, I would like to take the opportunity to urge him to place the issue of Soviet Jewry high on his priority list for discussion and for action. The recent flurry of refusenik releases is wonderful, however, we cannot be complacent and believe that this activity signals a true change in Soviet emigration policy.

Over the past 9 months, an increased number of Soviet Jews have received permission to emigrate. U.S. officials predict that a total of 8,000 Soviet Jews will receive visas in 1987. This number, while greater than in any year since 1981, falls well below the 1979 high of over 51,000 Jews allowed to emigrate and does not reflect any real improvement in the underlying problem of Soviet emigration policy. Hundreds of thousands of Soviet Jews still wait to leave the Soviet Union.

A great deal of attention has been focused on Mr. Gorbachev's "glasnost." Glasnost has involved some easing of media censorship and encouragement of public debate on some social and economic policies. It has not had a great deal of impact on emigration. Large numbers of longtime refuseniks are routinely being denied visas and now new applications are being accepted from first-time emigrants.

I rejoice for those individuals and families who have been given permission to emigrate from the Soviet Union. At the same time, I add my voice to the others proclaiming that while we rejoice, we shall not forget the thousands and thousands of people who are still not permitted to leave the Soviet Union.

The case of the Belostotsky family has recently been brought to my attention by the Bay Area Council for Soviet Jews. I would like to commend the Bay Area Council for their work on behalf of Soviet Jewry. They have an excellent record of organization, mobilization, and resolution of individual cases. The work of the Bay Area Council for Soviets Jews and groups like them provides a vital glimmer of hope for Soviet Jews who are desperately trying to emigrate.

Dr. Albert Belostotsky has been trying to emigrate from the U.S.S.R. with his wife, Victoria, his daughter, Irina and his mother-in-law, Elena Mastbaum. The family has applied for and been refused exit visas four times dince 1980. Dr. Belostotsky, an internationally respected scientist who was head of the Laboratory of Energy Systems at the Institute for High Temperatures of the Academy of Sciences of the U.S.S.R. is working as a mechanic. Victoria is treated very badly at work. Their life in the Soviet Union is difficult. They have been deprived of the basic rights of freedom of worship and freedom of movement.

Over 300 residents of the Bay Area have signed a petition to the President requesting his assistance in this case. I am pleased to be able to assist in resolving this case by forwarding their petition to the President and by writing letters to General Secretary Gorbachev and Mr. Rudolf Kuznetsov, the Chief of Ovir, the Emigration Bureau, in Moscow. I have asked the President to raise the case of the Belostotsky family during the summit and to request Mr. Gorbachev to resolve it positively. These people have waited long enough; they should be allowed to leave the U.S.S.R.

I urge the President and the Secretary of State to focus, during their summit meetings, on the need for real and lasting human rights actions on the part of the Soviet Union. We will continue to act, case by case, family by family, individual by individual, on the emigration requests of Soviet Jews. We will not give up. Real glasnost would make our actions unnecessary. Openness on the part of the Soviet Union should, and must, open the doors to freedom for Soviet Jews.

TRIBUTE TO WILLIAM E. HARDY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. CARDIN. Mr. Speaker, I rise to commend Mr. William E. Hardy in honor of his retirement after 33 years of service to the Maryland Highways Contractors Association, Inc.

As executive secretary to the trade association, he was a leader in the highway industry for the State of Maryland. In the broadest sense, William Hardy has been one of the most effective professionals working with the Maryland State Highway Administration promoting progressive legislation, necessary revenues, advanced designs and long-range goals to benefit all Maryland motorists.

Throughout his tenure in office, William E. Hardy maintained excellent relations with elected officials in Maryland State government. He was friend and adviser to Governors and administrative executives. In addition, William Hardy has been an outstanding community activist, serving as president of the Junior Chamber and the Chamber of Commerce of Frederick, president of the Chesapeake Association, and district governor of Rotary International District 267, to mention only a few of his many accomplishments.

I am proud to commend William E. Hardy for his 33 years of outstanding contributions to the people of Maryland, and wish him the best in his future endeavors.

RUN TO DAYLIGHT DAY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. WOLF. Mr. Speaker, I am pleased to introduce a joint resolution to designate April 1, 1988, as "Run to Daylight Day." The purpose of the run is to increase public awareness of the causes, traumatic effects, and rehabilitation needs of head injured survivors, as well as to raise funds for the National Head Injury Foundation.

On April 1, 1988, Doug Walker of Annandale, VA, will begin a 90-day transcontinental run from San Francisco to Boston in an effort to increase this Nation's awareness of the causes, effects, and needs of head-injured survivors as well as to raise $3.6 million for the National Head Injury Foundation. The impetus behind "Run to Daylight" comes from two young Virginians who are desperately trying to overcome the results of their head injuries. They, like many other head-injured survivors, described their return to consciousness as coming from darkness into daylight.

The estimated prevalance of head injuries in the United States is between 1 and 1.8 million. Most head injuries are the result of a motor vehicle or sports accident. Although it is estimated that 100,000 persons die annually from head injuries, more than 50,000, two thirds of whom are under the age of 30, survive their serious head injuries. Twenty years ago, 90 percent of those with severe head injuries died; however, at least 50 percent now survive.

What do these statistics mean in terms of the health status of U.S. citizens? As a result of modern emergency-room, surgical, and intensive-care treatment, thousands of those who are head-injured survive. But for many survivors, the quality of their lives changes drastically. They are in need of physical and psychological long-term rehabilitation. Many require instruction in basic living skills such as bathing, dressing, cooking, and reading. Many have persistent memory problems and changes in personality as a result of their accident. We need to recognize that these survivors have their own unique needs.

Because a majority of the head-injured survivors are under the age of 30, we especially need to look at the quality of their lives. Many survive at least 40 years, but do not return to the productive and promising lives that they were leading before their injuries. The reasons for this range from lack of established specialized head injury rehabilitation programs to inadequate support group networks for head-injured survivors and their families. In addition, the average life-time care for a severe head-injured survivor costs a staggering $4 million.

Six years ago, Doug Walker was hit by a car while crossing a street. At that time, doctors told Doug that we would never walk again. The tenacity and efforts of Doug to make this transcontinental run to benefit the National Head Injury Foundation deserve our recognition and support.

With the realization that our Federal budget has been stretched to its limit, this private sector initiative—"Run to Daylight"—will help provide the needed funding that is necessary to assist these individuals. I urge my colleagues to lend their support and be a part of this courageous and vitally important effort by cosponsoring this joint resolution.

H.J. RES. —

Joint resolution designating April 1, 1988, as "Run to Daylight Day"

Whereas between 1,000,000 and 1,800,000 people in the United States suffer head injuries each year;

Whereas 20 years ago 90 percent of the people who suffered severe head injuries died as a result of such injuries, but currently the survival rate for such injuries is 50 percent;

Whereas most people who suffer head injuries are under 30 years of age and will survive such injuries for at least 40 years;

Whereas more than 50,000 of the people who survive head injuries annually are unable to resume their normal lifestyles without intensive physical and psychological therapy;

Whereas the long term rehabilitation that is available for survivors of head injuries has not improved at the same rate as the medical treatment of such injuries;

Whereas Run to Daylight, a nonprofit corporation concerned with improving the rehabilitation that is available for survivors of head injuries, is sponsoring a 3600 mile rule across the United States called the "Run to Daylight";

Whereas the purpose of the "Run to Daylight" is to raise the awareness of the people of the United States about the rehabilitation needs of survivors of head injuries and to raise funds to support the National Head Injury Foundation, an organization dedicated to improving the quality of life for survivors of such injuries and their families and to developing and supporting programs to prevent such injuries; and

Whereas the "Run to Daylight" will begin in San Francisco, California, on April 1, 1988, and will end in Boston, Massachusetts, on June 30, 1988; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1, 1988, is designated as "Run to Daylight Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

WRIGHT IS WRONG

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. COURTER. Mr. Speaker, the New Republic magazine has published an excellent lead editorial which I hope all Members will read.

The unprecedented intervention of the Speaker of the House in the delicate Nicaragua peace negotiations which followed the Arias plan has unbalanced the talks and made the achievement of peace in that region more difficult. At the very time when there is some prospect of democratizing Nicaragua, the Speaker's involvement has raised new doubts that democracy can be achieved in that nation short of a military solution.

When the U.S. Constitution placed the conduct of international diplomacy in the executive and not the legislative branch, there were sound practical reasons for doing so. One of them is the risk of undermining our Nation's interest in promoting peace when adversaries get a chance to set the branches of our Government against each other. This is precisely what the Speaker unwittingly did by negotiating with Daniel Ortega, who instantly saw the opportunity and seized it.

The following editorial illuminates the trouble we get into when Congress tries to become its own separate State Department.

[From the New Republic, Dec. 7, 1987]

WRIGHT IS WRONG

Maybe it's time to get serious about the Logan Act. A stretch in Allenwood might be a mite too harsh a sanction for House Speaker Jim Wright's bizarre intervention in the negotiations to end Nicaragua's civil war. But a televised trial might be instructive (as the Iran-*contra* hearings were on the subject of executive overreaching) and a deterrent to other amateur diplomatists.

We are being kind to call Wright an amateur, because that implies that he knows not what he does. And what he is doing, in effect, is supporting the Sandinistas' position in delicate negotiations. Their aim is to narrow as much as possible the political opening they are willing to give in exchange for disarming the *contras.*

For years the Sandinistas have said that they would negotiate only with the United States, as a way to demonstrate that the *contras* are nothing but a U.S. creation. Only two weeks ago, however, the Sandinistas, under intense pressure, agreed to negotiate with the *contras.* This step was significant not just because it gave legitimacy to the *contras* as an equal party to a civil war. It also held out the hope that in the course of the cease-fire negotiations the *contras* might force Daniel Ortega to make the democratic opening called for in the Arias plan.

Enter Jim Wright. Within one week of the dramatic Sandinista announcement, he's huddling with Ortega at the Capitol, hammering out the Sandinista cease-fire offer. Not only does Wright bring in Cardinal Obando y Bravo, the chosen intermediary for the Sandinista-*contra* talks. He brings in Paul Warnke too, an arms control expert whose specialty is concession.

Who needs Warnke? Who needs Wright? The more the Sandinistas deal with Americans, the less they have to deal with the *contras.* Even the venue suits Ortega. Talks in Washington support his claim that he is fighting not rebels but American mercenaires. The *contras* want talks in Managua. Costa Rica seems a fair compromise. Wright's solution is to bring the talks into his Capitol Hill office. Either he is blind to the symbolism or he likes it.

These may seem like peripheral issues, but they are central to the question of what kind of legitimacy and political space the Sandinistas will grant the country's opposition. Whatever Wright may think about the *contras,* the more leverage they have, the more Ortaga will have to open up his society in order to disarm them. For Wright willfully to detract from the legitimacy that the Sandinistas are being forced to grant the Nicaraguan resistance is unpardonable. Whose interest, after all, is he serving by supplanting and thus diminishing the *contras?*

Even more important than procedure is substance. After his long huddles with Speaker Wright, Ortega emerged to present a cease-fire plan that calls for the unilateral disarming of the *contras* over the period of a month in return for the vaguest promises of democracy. Ortega has every right to take an opening position that guarantees the continued rule of his Marxist-Leninist party. But for the Speaker of the House to give Ortega's position his imprimatur is unpardonable. It puts him far to the left of President Oscar Arias, who has insisted on the principle of simultaneity; peace and democratization must occur together, not peace now and democratization later. That approach was tried in 1979. The consequence was dictatorship and war.

The *contras* will demand a cease-fire in place that lets them keep the gains they have achieved on the battlefield as a guarantee against Sandinista bad faith. With a cease-fire in place one can talk about disarmament, reconciliation, and, most important, political space (democracy). Wright's pseudo-diplomacy can only weaken the *contras'* hand and thus narrow that space.

George Shultz's diplomatic mission to Capitol Hill to publicly make up with Wright changed nothing. What Wright has in effect done is to take the partisanship that has developed over Nicaragua policy to its logical and most absurd extreme. In effect, we now have two policies: an administration policy, which is allied with the *contras,* and a congressional policy, which has allied itself with the Sandinistas. The Democrats have long argued that they are not so allied. Speaker Wright is sorely testing that proposition. He may think his maneuvering clever. He is just opening his door to old friends, he protests. In fact, he is helping close the door on the one party to these talks that can bring to Nicaragua a hint of the freedom he and we enjoy in America. Wright aspires perhaps to be a statesman. He is becoming a stooge.

NEW IDEAS FOR THE CHESAPEAKE BAY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. DYSON. Mr. Speaker, I would like to bring to the attention of my distinguished colleagues an article written by Mr. H. James Howe, regarding the cleanup of the Chesapeake Bay. Mr. Howe shares my concern for the preservation of the bay and has some new and interesting ideas on how we can proceed with our cleanup efforts.

SAVING THE CHESAPEAKE BAY

(By H. James Howe)

The existing programs for, "Saving the Chesapeake Bay", are broadly based in that they include all levels of government, numerous educational and scientific institutions, and many citizen groups. The programs are far reaching in that they recognize we must deal with a watershed extending into six states; Maryland, Virginia, West Virginia, Pennsylvania, Delaware, New York

State and the District of Columbia. Some of the programs are extraordinary in that they may bring about fundamental changes in the way we exercise our stewardship of these lands and waters. Laws to preserve tidal and nontidal wetlands, and Maryland's Critical Area Law are remarkable since they recognize that the Chesapeake Bay ecosystem includes not just the waters we see as we look bayward, but a system of many complex natural processes which encompass both land and water.

In the past, we have generally thought of planning only within political boundaries, State, County and municipality. Now, because of the essential character of the problem we are forced to consider planning within natural boundaries, that is, the Chesapeake Watershed of about 74,000 square miles lying within six states. This is because nature creates watersheds which function as a single unit, and encompass all of the natural processes upon which life depends. The term watershed has a profound meaning for us because water, in a practical way means life. Where there is water there can be life; where there is no water, there is no life. The "Chesapeake Bay Problem" is one of water quality and habitat preservation. The quality of our water determines not just the quality of our lives, but what species will continue to live here and what species will not. The term shed in this context means that all water within the watershed, and all that is carried by it, both good and ill, flows into our streams and rivers, and thence into the Chesapeake Bay where this mixture, along with an inflow from the ocean, makes up the sediments and the water column. The natural carrying capacity of the bay and it's tributaries shows signs of failure to endure the pressures we have placed upon it. The decline in living resources is obvious, while other effects are not as obvious but will show up over a period of time.

As we look out across the watershed we see what is a large part of the eastern megalopolis now growing from Boston to Norfolk. We see industries and developments of major proportions. We see the natural world rapidly slipping from view and from our daily lives. Though we try to hold onto small fragments of nature in our parks and open spaces, our lives are increasingly dominated by a vastly altered environment. How this diminishes our lives and will diminish the lives of our children and grandchildren can only be assessed by each individual. Many realize that behind the recreational pleasure and the pure joy of natural things seen in our lives, there must lie a greater thing unseen.

We have become alarmed at what we see happening around us and from our governors down to the concerned citizen we have begun many programs to, "Save the Bay." While these programs are excellent, still there is a realization that most of them address the receiving end of the problem, where destructive elements flow into the bay; they do not address the root causes of growth, development and environmentally insensitive technology.

I suggest that we are at another type of "watershed", a time when we start looking at regional problems and begin to be concerned by the threat to the entire quality of life throughout our Chesapeake Bay Watershed. I believe that if we formulate a plan for the kind of Watershed we wish to live in, we can in that process, "Save the Bay". I believe that the preservation of a resource of nature, including a viable Chesapeake Bay, can only be assured by a strong plan for the whole Watershed. As we think of what we want this plan to accomplish, I suggest we begin with the quality of life we want for ourselves and for future generations. We should decide that this quality of life includes sufficient preservation of natural lands, water systems and living resources so that we may always be blessed with the enjoyment and economic benefits of the natural world.

Nature ministers to both the physical and spiritual needs of our people. The effect of natural beauty on the mental and moral life of a person is, of course, incalculable, but certainly immense. Once we decide that a high quality living environment is our first priority, then priorities for growth and development can be established. For too long we have sought out development at whatever its cost, and accepted whatever remained as our living environment. It is time we changed our priorities. If we really look around the Nation we find businesses and industry wishing to locate where the living environment is of the highest quality. While we see this happening, we still act as though we must sacrifice our natural values to entice more industry and development.

You may wonder what I mean when I say we should include in our regional plan, "Sufficient preservation of natural lands, water systems and living resources". To this question there is both a scientific and a cultural answer. From a scientific viewpoint, we should preserve those habitats which will sustain a viable natural complex within our Watershed. From a cultural viewpoint, we should preserve natural habitats where we live in each segment of our watershed so that each person can enjoy the physical, spiritual and economic benefits of a resource of nature that is readily accessible to him. By this I mean that each person should be able to enjoy a natural scene and resource in the few hours that may be available on a weekend. I believe this concept should be part of a regional, watershed-wide plan which would address the root causes of the threat which we see to the Chesapeake Bay. The problem we are faced with is not limited to the Chesapeake Bay. What we are seeing in the bay is only a symptom of the environmental problems throughout the watershed, and can be solved only with a unified, comprehensive Watershed-wide plan.

I hope to address more specifically how we can accomplish the preservation of lands and waters in a future article.

JAMES BEGGS: A MAN OF VISION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1987

Mr. BROWN of California. Mr. Speaker, several weeks ago I had the good fortune to attend an American Astronautical Society luncheon. The guest speaker was James M. Beggs, former Administrator of the National Aeronautics and Space Administration. I was so impressed by Mr. Beggs' remarks, that I felt that my colleagues could benefit by his words. The message is full of insight that is refreshing in the current state of uncertainty surrounding U.S. space policy.

I would also like to take this opportunity to praise the work of Mr. Beggs during his tenure at NASA. In my capacity as a member of Science, Space, and Technology Committee, I have known Mr. Beggs to be a capable and inspiring administrator. It would be a sad footnote in the history of the U.S. space program if Mr. Beggs were described as anything other than a committed and dedicated leader—one who showed true vision in the execution of his responsibilities. I would be perfectly comfortable entrusting the space agency to Mr. Beggs again in the future.

Mr. Speaker, James Beggs was wrongfully accused by the Department of Justice of attempting to defraud the U.S. Government. His name was seemingly arbitrarily swept up in the frenzy to crack down on defense contractor abuse. Although the Justice Department was unable to substantiate the indictment against Mr. Beggs, the ensuing investigation took a sorrowful toll on the man and his family. It is my hope that before too long Mr. Beggs' reputation will be restored to the status befitting his accomplishments.

With the accusations behind him, James Beggs is pressing forward. He is devoting much of his time promoting the space program. His dedication to a vital space agency has not diminished. Mr. Beggs deserves an apology as well as warm thanks for his contributions to the advancement of the space exploration and development.

Mr. Speaker, at this time I request that the remarks made by James M. Beggs on October 16, 1987, be included for the RECORD below:

JAMES M. BEGGS LUNCHEON ADDRESS BEFORE THE AMERICAN ASTRONAUTICAL SOCIETY, OCTOBER 16, 1987

Thank you David. It is always a pleasure to return to an AAS luncheon.

In 1871, John Wesley Powell began an exploration of the western lands of the United States with an expedition down the Grand Canyon of the Colorado. It was the first attempt to traverse the full extent of the canyon and was fraught with peril. Powell had lost the lower part of his right arm in the Battle of Shiloh during the War between the States, but he remained in the Union Army till the end of the war when he resigned as a major. With only one arm, it was an especially difficult trip for him.

Powell built three boats at the head of the canyon and assigning a group to each started down the canyon. While we now view the canyon as a beautiful and restful place to visit, Powell's crew saw it as fearsome and forbidding. They, of course, had no idea what lay ahead, for all they knew there were great falls just around the bend. One of the boats lagged behind and the men abandoned it, scaled the walls of the canyon and simply disappeared from history. Powell and the rest completed the adventure and published the first accounts of the great canyon. I like to think of the group that disappeared as the mid-19th century equivalent of the small group of journalists and politicians who now would abandon or cut back on our great adventure in space, because of difficulties and hazards.

A great deal has been written recently that we have no direction in our space program, that the Russians are moving ahead of us, that perhaps we should re-evaluate our involvement in space since the payoff does not appear to be substantial. Most of this critique, I believe, misses the mark.

The current approved program not only includes provision for a new shuttle and space station development, but it also calls for continuing our efforts in planetary exploration, scientific investigation of the earth and the universe, as well as practical applications of space technology to commercial activity. NASA will also continue working on space and aeronautics research, and the extension of mankinds reach into this still new environment. Within the economic resources allocated to the program by the Congress, this program is well balanced and will lead to very significant returns, both scientific and economic, within the coming decade.

Of course, we would all like to have more. And there are many opportunities waiting to be exploited if additional resources were available. It is interesting that very few, if any, of the critics suggest that budgets be raised, rather they concentrate on things they perceive to be wrong. We should build a cheap, big dumb booster; we should develop cheaper, smaller space craft; we should build our space station to look like the Russian Mir; or we should chuck the space projects and reallocate the available resources to programs here on earth. These are the same people who criticize NASA for not spending enough when something goes wrong.

I, however, suggest that we continue to move as quickly as we can to exploit the opportunities we have before us. To do important work these days requires large, expensive facilities large telescopes; large, sophisticated spacecraft with expensive sensors and computer capability; and launch systems which are not only exceedingly reliable but also have heavy lift capability. Such systems are expensive but the potential returns are enormously significant. We are right on the verge of solving some of the great mysteries of science and perhaps developing the unified field theory that will enable a more complete understanding of the universe.

Moreover, there is a way that we can stretch our resources. The wise men and women who wrote the enabling legislation for our space program mandated that we should seek out and encourage as much international cooperation as possible. Such cooperation in our current situation is not only desirable, it is essential. None of the space powers has sufficient resources to exploit even a fraction of the opportunities, but together we can do for more. ESA, Japan, Canada, and yes, even the Soviets can be effective partners in the great missions. We should be willing to enter into cooperative activities not only as the senior partner, but also as a junior partner in selected areas, if a given project furthers our over-all program.

Unfortunately, there seems to be growing barriers to such cooperative activities. Concerns over technology transfer, national security, commercial return, etc. seem to be dominating our thinking when we discuss joint activities. Certainly they are legitimate concerns and we should draw our agreements to protect our interests. But to become completely inflexible will simply drive our foreign partners away and insure eventual Soviet dominence in international cooperative efforts. Such a result would be disaster.

Finally, while we should cooperate, we must also compete in space applications with our foreign friends and adversaries. There seems to be a developing debate about the nature of that competition. In assessing our objectives, we should keep in mind that the truly important technology is that which we put into orbit, i.e., the technology in the spacecraft. The U.S. has dominated the communication satellite market because we have offered superior technology at prices which make space based communication facilities extremely attractive. We have also pioneered the earth observation area, until recently, because of our technology. If we permit the Europeans, the Japanese, or even the Soviets to offer equivalent or superior technology at a lower total cost, we will lose the world market that we have dominated for over 25 years.

A few weeks ago, I raised the issue of an American launch services corporation, which I believe would enable the United States to compete most effectively against the many countries which are offering (or soon will) launch services. This should be considered and debated, for a U.S. policy of trying to close the U.S. market will surely fail and we will lose the international market in communications satellites, earth observation, etc. to our foreign competitors who will be able to offer equivalent, or eventually even better, technology and much lower cost.

We are approaching a magic year, a year with three zeros, the beginning of a new millenium. By that year we will be operating permanently in space, learning the hazards and the opportunities of long duration space travel. We will have our way station to the future. If we continue to explore on the endless frontier our future will continue to be bright and America's space program will continue to be the envy of the world.

SENATE—*Friday, December 4, 1987*

(*Legislative day of Thursday, December 3, 1987*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Reverend John E. Stait, Assistant to the Chaplain, offered the following prayer:

Let us pray:

And the angel said unto them, Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people.

For unto you is born this day in the city of David a Saviour, which is Christ the Lord.—Luke 2:10-11.

Thank You, Lord, for reminding us through this approaching season that we should "Fear not" and that we have reason for "great joy."

We have a Saviour who not only helps us through our personal pressures and decisions, but also enables us to give to others.

Glory to God in highest and on earth peace, good will toward men.—Luke 2:14. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 4, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized for not to exceed 5 minutes.

Mr. DIXON. Mr. President, I ask unanimous consent to reserve the time of the majority leader and the minority leader and I will yield the floor to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein.

TRIBUTE TO SENATOR STAFFORD

Mr. PROXMIRE. Mr. President, I should like to pay a tribute to the distinguished Senator from Vermont, ROBERT STAFFORD.

There is a fine editorial, a superb editorial, in the Washington Post this morning that pays him tribute. It says:

Too often the modern senator seems to be a telegenic wonder with an attention span measured in nanoseconds—all hare, no tortoise. Senator STAFFORD is by contrast substantive, unassuming, patient, and effective. He is not an ink hound.

It is a fine editorial on the solid accomplishments that Senator STAFFORD has achieved in the U.S. Senate, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOLID SENATOR

Those who lament the decline of the Senate will soon have further cause. Robert Stafford of Vermont is retiring. The Senate will be both a louder and a lesser place for his departure.

Sen. Stafford, now 74, has spent his entire adult life in public service and not lost sight of what that term means. His career has been the old-fashioned, orderly kind, proof of the virtues of unhurried apprenticeship. He was prosecutor, state attorney general, lieutenant governor, governor, then spent 10 years in the House before his 15 in the Senate.

Too often the modern senator seems to be a telegenic wonder with an attention span measured in nanoseconds—all hare, no tortoise. Sen. Stafford is by contrast substantive, unassuming, patient and effective. He is not an ink hound. He has actually been known to pass a bill before its deadline.

His areas of greatest interest have been the environment and education. In the six years from 1981 to 1986 when the Republicans controlled the Senate, he was chairman of both the environment committee and the education subcommittee. He remains the ranking Republican on each.

Environment and education were two of the areas in which the early Reagan administration exhibited its greatest revolutionary zeal. You remember James Watt. You may also remember the president's proposals, some of which sadly continue to be made, to slash federal aid to higher education more or less in two.

Sen. Stafford quietly helped to stave off the craziness. Administration efforts to hollow out the major environmental statutes in the name of deregulation were turned aside. For a while, environmental policy was a nasty draw. More recently, some of the protective statutes have actually been refreshed and strengthened. The senator from the Green Mountain State played an important part in this turnaround. He did the same in education. Last year, his last as chairman, Congress reauthorized and secured the basic forms of aid to higher education. This year it is doing so at the elementary and secondary levels. The elementary and secondary bill passed the other day, 97 to 1. The vote is a tribute to a climate that Sen. Stafford helped produce. The Senate named the bill after him.

Sen. Stafford helped to save something else in the Reagan years. By virtue of the efforts he and others made, there continues to be room in his party for its moderates. When quiet men like Robert Stafford go, they are missed.

THE INF TREATY

Mr. PROXMIRE. Mr. President, I want to pay tribute to my good friend, TOM HARKIN, of Iowa, for organizing an opportunity for Senators to speak this morning on the INF Treaty.

This is very important legislation. It is going to come before this body for ratification next year. The fact that the distinguished Senator from Iowa has led this opportunity for Senators to speak on it is a great tribute to him.

I spoke on this yesterday, and I want to speak on a related arms control matter this morning.

UNITED STATES AND SOVIET PUBLIC OPINION SUPPORTS ARMS CONTROL

Mr. PROXMIRE. Mr. President, Newsweek magazine recently reported separate polls of public opinion in the United States and in the Soviet Union on arms control. In the United States, the poll was conducted by the Gallup professional polling organization. Public opinion in this American democracy is entirely different from public opinion in the Soviet Communist dictatorship. In our country, public opinion is formed by differing newspapers, magazines, television, and radio. The American news and opinion media is largely independent of Government. It is frequently critical of Government policy. The American people have frequent opportunities to change the policies of our country by electing those persons to office with whom they agree. The Russians do not have any of these opportunities. Their ruling officials are not elected in a popular election where there is any kind of a real choice. We have competing political parties. The Soviet Union does not. Public opinion fundamentally determines the policies of the American Government. In the Soviet Union, the Government determines and controls public opinion by totally controlling the media and what is heard and read by the public. Russian public opinion as reported from the Soviet Union is generally the opinion that the Soviet Government wishes the Russian public to express. This is particularly true of Soviet public opinion reflected in the kind of poll reported in Newsweek. Here was a poll done by the Soviet press agency Novosti. This Soviet poll reflects the views the Soviet Communist Party wants the United States to believe are the views of their citizens.

With that big reservation in mind, consider the public opinion in this country on arms control compared to the Soviet public opinion party line on arms control: respondents in both countries indicated their agreement or disagreement with policy statements of pollsters.

The first policy statement was: "There would be no winner in an all-out nuclear war. Both the United States and the Soviet Union would be completely destroyed." Eighty-four percent of U.S. respondents agreed. Eighty-one percent of Soviet respondents agreed. Thirteen percent of U.S. respondents disagreed. Four percent of U.S.S.R. respondents disagreed.

The second policy statement: "A further increase and improvement in nuclear weapons would not give either the United States or the U.S.S.R. a real advantage over the other." Sixty-five percent of U.S. respondents agreed. Seventy-nine percent of the U.S.S.R. agreed. Twenty-seven percent of U.S respondents disagreed. Six percent of U.S.S.R. disagreed.

The third policy statement: "The total elimination of all nuclear weapons is possible." Response on this statement and on this statement alone were strikingly different from citizens of the two countries. Thirty-six percent of United States agreed. Seventy-five percent of U.S.S.R. agreed. Sixty-one percent of United States disagreed. Six percent of Soviets disagreed.

The fourth policy statement: "Neither the United States nor the Soviet Union should put weapons into outer space." Seventy-two percent of United States agreed. Ninty-five percent of Soviets agreed. Twenty-three percent of United States disagreed. One percent of Soviets disagreed.

The fifth statement: "A total United States-Soviet ban on any nuclear weapons testing would help ease the arms race." Seventy-one percent of United States agreed. Ninety percent of U.S.S.R. agreed. Twenty-one percent of United States disagreed. Three percent of Soviets disagreed.

Mr. President, this poll shows consistent and overwhelming support of arms control by Americans in our free democratic society. This is the view of citizens of this country with our enormous diversity. This is the view of people nurtured on information and opinions emanating from private, independent news agencies and private independent critics and supporters of government policy.

The poll also shows that the people who live in the great Communist dictatorship of the Soviet Union with the total control of all organs of information and opinion by the Communist Party have opinions on arms control that are strikingly similar to the opinion of American citizens. The one area of difference between our two peoples is in response to the policy statement that "the total elimination of all nuclear weapons is possible." On that issue alone, our two peoples differ.

U.S. citizens disagree—I repeat, disagree—with that statement by a nearly 2-to-1 margin. Soviet citizens, on the other hand, agree with the statement overwhelmingly. Why the difference? In this Senator's judgment, it is because the American citizen is more realistic. The American understands the truth so ably argued a few years ago by distinguished Harvard scholars in their book "Living With Nuclear Weapons." The plain fact is that we have no choice. Nuclear weapons are here to stay. There is no way they can be eliminated. Even if they were somehow eliminated, with thousands of scientists understanding how to reconstruct nuclear weapons, they would return in a matter of months, if not weeks, after a war involving major powers broke out.

But the big story is that the citizens of both these countries—the citizens of our free democracy and the citizens of Communist totalitarian Russia—agree overwhelmingly on the following four major elements of arms control.

First, the underlying driving conviction, "there would be no winner in an all out nuclear war. Both the United States and the Soviet Union would be completely destroyed." It follows from this agreement that citizens of both countries yearn for arms control agreements that will help prevent such a war.

Second, "Further increases and improvements in nuclear weapons would not give either the United States or the U.S.S.R. a real advantage over the other." It follows that citizens of both countries want arms control to end the arms race both in the vast buildup on both sides of more and more nuclear weapons and the constant testing of nuclear weapons to make them more and more lethal and devastating.

Third, "Neither the United States nor the U.S.S.R. should put weapons into outer space." It follows from this United States-Soviet citizen agreement that there is solid and overwhelming concurrence by citizens in both countries that we should strictly abide by the ABM Treaty that provides for precisely this prohibition.

Fourth, "A total United States-Soviet ban on any nuclear weapons testing would help ease the arms race." It follows that there again the citizens of both countries are solidly behind arms control. Public opinion in both countries decisively supports a treaty to provide a comprehensive end to nuclear weapons testing. We should keep the promise both countries pledged to negotiate a comprehensive end to nuclear weapons testing when both superpowers signed and ratified the 1963 Limited Test Ban Treaty.

OPPOSITION TO INF AGREEMENT

Mr. PRESSLER. Mr. President, I am very concerned about the phenomenon that is happening in the United States regarding Gorbachev's visit and glasnost. I speak as a Senator who, if I were to vote today, would vote against this treaty. I am preparing several amendments in the Foreign Relations Committee regarding verification and if they are not accepted or adopted, I will almost certainly vote against it in that forum.

Let me state my concern about the INF Treaty. First of all we have this phenomenon of Gorbachev coming; of public opinion polls showing Gorbachev almost as popular as our own President with the American people; of Gorbachev being on television answering what I think were puffball questions with no followups. The whole thing is a phenomenon. Let me say, as I have often said, that I thought Ronald Reagan could negotiate an arms control agreement at some point, just as Richard Nixon went to China. But the whole euphoria about it causes me to say let us be very careful.

First of all, I think we may be being swept along by a White House that is desperately looking for alternatives to some hard domestic problems. I know that the President and his staff have worked a lot on this, but I see a President and his staff who seem to be looking for some escape from certain domestic problems such as the budget. I don't see very much in this budget compromise that we have and I don't see the White House and its staff working very much on the budget issue. That's a tough domestic issue.

It's more fun to be talking about an international arms control agreement and seeming to get an accomplishment.

I haven't seen any White House lobbyists or people putting much time into the difficult issue of the Clean Air Act or the issue of airline safety. These are all tough domestic issues. But the White House seems to be avoiding them in its last year. Such things as product liability and tort reform are other tough domestic issues that deal directly with our economic competitiveness. Rather than deal with these issues, it seems that the President and the White House staff in their last year will talk about arms agreements with the Soviets and sign them. There seems to be a decision to sign them and to pressure Republican Senators to get on the bandwagon even before we read the INF Treaty.

Let us be careful. There are two areas of concern to me. First, the area of Soviet cheating. The President has just found another example of this under the ABM Treaty. The missiles we are talking about now are mobile missiles which you can move around, hide in a garage or put somewhere else. Two weeks after finding cheating in this area, that same President plans to sign a major agreement with the head of the Soviet Union. That is very ironic.

Second of all, in terms of basic national security I have some problems with this treaty because it will leave the Soviets with advantages in tanks and troops on the European borders. We're playing their game. We're letting their trump cards dominate in this game. We are putting ourselves in the position where we may have to ask taxpayers to upgrade troops and tanks in Europe which I am very skeptical of because I am one who would like to bring our forces home from Europe on a gradual basis. The INF Treaty will make it almost impossible to do that. In fact there will be great pressure when those missiles are gone to have more traditional ground troops, as Margaret Thatcher has pointed out. We are playing to the Russians. We're letting them play the trump cards in that area.

So for those two reasons I am concerned. First, the possibility of cheating and I shall go into that a bit. Second, the issue of basic national security.

Mr. President, I think it is very appropriate that we seek arms control agreements. I think that this President's record is strong in the area of national defense. But, I also feel that we are in a period of time that could be very dangerous in terms of our long-term security interests. The phenomenon has been created perhaps by the Irangate hearings, and by the White House seemingly faltering in its last year. Also, by a combination of a Soviet leader who is very adept on TV together with a desire to show some accomplishment here in Washington.

Let's face it, Washington has had a tough time. We haven't been able to balance the budget and that's as much the President's fault as it is ours. But its the fault of all of us. The point is that Washington is looking for a bright day, a way out, a way to say to the American people we are accomplishing something. The President signs an arms control agreement, the Senate ratifies it, and here is an accomplishment. We can have lots of White House state dinners and celebrations and patting on the back and maybe even a Nobel Peace Prize before we are finished. But under all that euphoria let us be careful.

We must not be guilty of leaving to future generations and future taxpayers a situation under this treaty that could compromise our national security after the large Reagan administration arms buildup. We must recognize the verification problems. The missiles we are talking about are mobile missiles, Mr. President. Indeed, the President has found that the ABM Treaty was violated. He published a report to that effect and those missiles are not necessarily mobile, they are standard radar sites. These are mobile missiles. Also, it is not clear whether the Soviets have not cheated already, in terms of the numbers of missiles they have declared they possess. Those are some of my concerns.

Margaret Thatcher spoke very well on the issue of the security of the West. And I think that some of our European allies are going along out of pressure from us. When she was in Moscow she talked about the deterrent benefit of nuclear weapons and the fact that Europe hasn't seen a major ground war since 1948. She also addressed the fact that the Soviets would like to get us back on their playing field—with ground troops, tanks, et cetera.

So, Mr. President, in conclusion on this subject, I would say that if this treaty were voted on today this Senator would vote no. This Senator will offer amendments in the Foreign Relations Committee on verification and on linkage to certain other things.

I just returned from Nicaragua this weekend where the Soviet Union is spending a billion dollars a year on a country with 3½ million people and that concerns me. I'm concerned about what has happened in Afghanistan and other places. So, Mr. President, I would like to say that I am working with my colleagues on amendments. We will be working hard on this treaty. But I hope that the Senate of the United States will carefully do its duty and send the treaty back to the President with appropriate amendments. Then it will have to go back to the Soviets. I hope we will not be caught up in this dangerous euphoria.

FARM CREDIT

Mr. PRESSLER. Mr. President, I would also like to speak briefly this morning on the subject of the farm credit bill which this Senate will vote on in 1½ hours.

I believe that the farm credit bill is a good bill. It provides a secondary mortgage market for banks to make loans to farmers and ranchers. It also provides a restructuring of farm debt and a restructuring of the Farm Credit System.

I know that this bill has a certain amount of taxpayers' money in it which will help pay for some of the bad loans. I hope in the future that we will not have those bad loans, and I think by having a secondary mortgage market the same as we have in housing, the same as we have for student loans, will be a very positive thing.

The farm credit restructuring means that there will be more flexibility for banks to work with farmers and ranchers in terms of their loan structure.

Mr. President, I am hopeful that through the use of international markets, through the use of more efficient marketing here at home, farm prices can go up, but an integral part of our farm policy has to be farm credit, and the bill we will vote on this morning is a key part of that.

The Farm Credit System will favorably affect my State of South Dakota and other farm and ranch States. I know that it still has to go through the conference committee. There are questions about it, but it represents the best kind of a bill that we can get at this time.

I would especially like to say that the secondary market mortgage provisions of this bill is important because it means that banks can sell a portion of their farm loans. It means that a bank will not have to carry the total debt equity permanently. A lot of small town banks will be able to make more loans and be more flexible just as in the housing area and this can be done without cost to the taxpayer.

So, Mr. President, in conclusion, I shall vote for the farm credit bill with a great deal of pride having worked on portions of it. I commend the committee members who worked long and hard on this bill. It is also of particular concern to my State because we are trying to have a recovery in terms of the agriculture crisis that we have found ourselves.

I think the working of the new farm bill, plus expanded exports with the dollar falling rightly or wrongly, this is an opportunity for agriculture.

It is frequently said in the Midwest, the concept of a low dollar is favored. States that produce basic raw materials, such as agricultural materials or timber or gold or mining products as South Dakota, like a low dollar and very frankly would rather have a rather modestly priced stock market in terms of their interests. That is the reason throughout our history we have William Jennings Bryan and others who have formed the Populist movement. They perhaps take a different view of high stock market and a high dollar than Wall Street does.

So in this lowering of the dollar, we have an opportunity to export more farm products and also to export more manufactured products. Of course, we have to produce high quality clean grain just as we have to produce high quality machinery and cars, and so forth, for other export opportunities.

But we may be turning a corner in agriculture. As the dollar weakens, the number of exports will be up. Combined with this farm credit bill, combined with the farm bill which is in effect, I am seeing some brightness on the farm picture, although there is a long way to go. But this bill is another step in that direction. It will stabilize the farm credit thing again which we have been so worried about. People will know what the rules are and there will be stability out there, particularly with the secondary mortgage.

THE INF AGREEMENT

Mr. HARKIN. Mr. President, I take the floor this morning to follow up on the comments made by my distinguished colleague from Wisconsin, Senator PROXMIRE, and the Senator from South Dakota, Senator PRESSLER, regarding the INF Treaty.

Next Monday, General Secretary Gorbachev will arrive in the capital of the free world, Washington, DC. I do not know how many days he is going to stay here, but during that period of time a significant treaty will be signed between the United States and the Soviet Union. It will then be up to this body to ratify that treaty or not ratify it, as the case may be—I hope that is not the case—sometime after the first of next year.

I would like to take this time this morning, Mr. President, to outline some of my views on this INF Treaty and how I feel that we ought to keep it in perspective with regards to other arms control measures that have come before and what we are looking at in the future.

I guess I could start by saying that one's view of the INF Treaty depends on whether you are kind of looking ahead or looking back. I guess, compared to past arms control achievements, the INF Treaty is historic, breaking new ground by eliminating a whole class of nuclear weapons, the first time this has ever happened.

However, compared to what could be negotiated and compared to existing nuclear arsenals, the INF agreement is almost insignificant.

Now, that may come as somewhat of a shock when you say that we are eliminating a whole class of missiles, intermediate range missiles, a number of warheads, and to say that it is insignificant. But when you compare it to the arsenals, it is. And I will get to that in a moment.

Having said that, however, the INF agreement, I believe, is still an excellent first step toward a more sane and rational world. In addition to requiring the destruction of missiles, this agreement would break new ground in verification, as the Senator from South Dakota was just talking about. It breaks new ground in verification through instrusive, onsite inspections. And it would break a 7-year drought in arms control accomplishments opening the door, hopefully, for real significant reduction in strategic arms in the future.

So, for these reasons, I basically support the proposed treaty. I would be the first to admit I have not read it. I have had staff look at different elements of the reported agreement. But from what I have seen so far, perhaps with some minor modifications, it might be adopted in the Foreign Relations Committee or here on the Senate floor. I believe the outlines and the structure of the treaty are sound and I applaud the President for concluding this agreement in the face of opposition from those few hardliners in his own party who have condemned all of these treaties with the Soviet Union.

I might also just add parenthetically, Mr. President, that I hope we do not get into micromanaging this treaty. Enough has been said on this floor and in the press around this country about this body micromanaging foreign affairs. Now, I would be the first to say, Mr. President, that we have a legitimate role to play in both fashioning our foreign policy with the President and we have a legitimate role to play in carrying out that foreign policy.

However, when it gets down to fine-tuning things like these agreements, we could undo all of the good in this agreement if each one of the 100 Senators here wants to change every little jot and tittle to fit his or her own wishes. We can have 100 different amendments; maybe 200 or 300 different amendments. I know I have just a couple of things in the treaty itself that I am aware of that I perhaps would like to change. But, when I consider the whole agreement, I say, "Well, why should I do that and endanger it? If I do that, then maybe another Senator will do it and another Senator will do it, and we will get bogged down here in trying to change every little thing in that treaty to fit our own little view of how it ought to be done."

So I hope that Senators will refrain from getting into that micromanaging. That is not to say that we cannot make some changes and some modifications in it that will be meaningful.

But, Mr. President, assuming that the verification provisions are as robust as has been reported to date, I am hopeful again that we will approve this treaty without "killer" amendments and without, as I say, micromanaging.

I would like to take this opportunity to look at the INF agreement against the backdrop of history, contrasting it with meager accomplishments of past arms control efforts, and then I would like to compare it and look at the future at what needs to be done.

If we look back in time, the two previous arms control agreements on offensive nuclear weapons, the SALT I interim agreement and SALT II, merely set ceilings that were equal to the maximum numbers of weapons then deployed or planned at some time in the future. At worst, the superpowers were simply forced to retire older, obsolete weapons as new models were added. These agreements placed a lid on the arms race, but did nothing to reduce any of the arsenals.

The INF agreement, if ratified, however, would require the destruction, the actual destruction, of missiles that could now be used. So this is an historic step, much different than SALT I or SALT II which just placed lids on it.

The INF agreement actually says we are going to physically destroy these missiles and retire their warheads. This agreement would require the destruction of missiles that now carry 364 American nuclear warheads and 1,565 Soviet warheads. And, acccording to recent news reports, the Soviet Union might destroy another 1,300 spare or reload warheads associated with their INF missiles.

So I just ask the world, would we not all be safer with 2,000 to 3,000 fewer nuclear bombs deployed in Europe? Well, possibly. But let us not forget that there are thousands of tactical short-range nuclear weapons in Europe that are not covered by the INF agreement.

I think there is a misconception that if the INF agreement is signed and we destroyed these missiles that we remove the nuclear missile terror. But there are, as I said, thousands of short-range nuclear weapons—battlefield nuclear weapons, carried on airplanes, short-range missiles fired from artillery pieces and even carried by jeep or helicopter in the case of nuclear land mines. I believe these are potentially more dangerous than the INF weapons since they are closer to the front lines and are more than likely to be overrun earlier in a battle, which means, once again, that if you do not use them right away you are going to lose them.

And so I think that, in concert with this INF agreement, we ought to be looking at these tactical battlefield nuclear weapons that are still over there, thousands of them.

I might also point out, Mr. President, even before the INF agreement is concluded, the Defense Department is discussing options to compensate for the loss of the INF weapons. These options include increasing the range of the Lance nuclear-tipped missile, increasing the range of NATO dual-capable aircraft, adding short-range air-launched cruise missiles, or possibly adding sea-launched cruise missiles.

So, on the one hand, we are talking about an INF agreement to get rid of all these warheads and missiles and yet we hear the Defense Department talking about other options on how to make up for that by doing all these other things.

So, again, I have to ask: If we are going to destroy all these missiles and warheads, are we then going to start building them up someplace else? I certainly hope not.

In addition, Mr. President, each superpower has about 10,000 long-range strategic weapons that could be reaimed at targets previously covered by the INF missiles. The Soviet Union could, for example, aim some of their new single warhead SS-25 or SS-24 multiple warhead missiles at European targets. The United States could use some of the new Trident submarine warheads or assign more fighter bombers to delivering nuclear weapons.

But one small advantage of exchanging intermediate range weapons with long-range weapons would be the increased reaction times. There would be more time to respond to an attack from more distant missiles or airplanes and less pressure to react quickly in a crisis. So that is one advantage.

In terms of cost savings, the INF agreement would have a marginal impact, even without compensating increases in other conventional or nuclear weapons systems. The total cost of all nuclear weapons, including operating as well as capital costs, amounts to about 23 percent of the defense budget. The other 77 percent supports our worldwide conventional forces.

The INF agreement would remove about 1.2 percent of all United States nuclear warheads and 7.5 percent of all Soviet warheads. Based on these numbers, the INF agreement would at best reduce our defense expenditures by only three-tenths of 1 percent. So those who think the INF agreement is going to make substantial budget savings in outlays are sadly mistaken; three-tenths of 1 percent of savings in the total defense budget.

But still, Mr. President, I point those out—I guess again following up a little bit what the Senator from South Dakota said—we should not be too euphoric about this INF agreement. It is significant. It is an important first step toward what I hope will be following agreements next year in strategic forces. But we should not look upon it as the cure-all—the end-all of everything. People think it is going to save us all this money. Well, it is not, but it is still a remarkable accomplishment.

I recall the uproar on this side of the aisle several years ago when President Reagan first proposed his zero option. We called the proposal absurd. It called on the Soviet Union to give up existing missiles in exchange for our not deploying missiles still on the drawing board. We said the Soviet Union would never, ever accept a zero option. We said it was conjured up by the administration hardliners to be intentionally unacceptable to the Soviets. Indeed, that may have been the case. But something has happened.

Soviet leadership has changed. Under Secretary Gorbachev they have agreed to substantial asymmetric reductions in short- and intermediate-range missiles. The INF Treaty, as I said, would remove almost twice the number of Soviet launchers; over four times the warheads, and those Soviet warheads have nine times the explosive power of the United States counterparts.

I think it would be good for the RECORD to read into it just the exact dimensions of what we are doing here and the data, the number of megatons, number of warheads being given up in the INF Treaty.

The INF Treaty eliminates all intermediate-range missiles, all shorter-range missiles and bans flight tests and modernization of missiles for an indefinite period of time.

The Soviets have to give up a lot more than we do. The Soviets have to give up 1.9 times the number of launchers that we do. They give up 683 launchers versus 364 of ours. The Soviet Union has to give up 4.3 times the number of warheads. They remove 1,565 warheads, we remove 364. The Soviet Union has to destroy 6.3 times the percentage of warheads in their arsenal. They have to destroy 7.5 percent of their total warheads; we only destroy 1.2 percent or ours. And the Soviet Union gives up nine times the total megatonnage. They give up 422 megatons versus 47 megatons on our side.

As long as I am talking about the megatonnage, Mr. President, I think this is an important point to make. The total explosive power removed by the INF Treaty, about 450 megatons, corresponds to over 100 times the explosive power of all the bombs used in World War II. World War II used about 4.5 megatons for all the years and in all the theaters of World War II. The INF Treaty will destory 450 megatons, or 100 times the explosive power used in all of World War II; over 3,000 times the power of the Hiroshima bomb.

That sounds like a lot and it is a lot. That is looking backward. Let us look ahead.

Compared to what we have right now in our arsenals, the superpowers would remove only 3.8 percent of all nuclear warheads, a fraction of what is out there.

So, while it looks big compared to what we did in World War II, compared to what we have already, ready to go, it is only 3.8 percent of all of the nuclear warheads. So I think that is an important point to keep in mind. Again, as I said, as we look ahead, we cannot think that now we can rest because we have an INF agreement. Only a little over 3 percent of our total megatonnage, our warheads, are destroyed by this agreement.

I want to get to the point, Mr. President, of the onsite inspections. Some have said that the Soviet Union would never agree to this. It was argued that onsite inspections were necessary so that treaties could be actively verified.

Well, now the Soviets have agreed to unprecedented onsite inspection provisions. Indeed, the Soviet Union, the bastion of secrecy and suspicion, has insisted on intrusive verification procedures. In fact, I might point out it was the intelligence and defense establishments of the United States that objected to the degree of intrusiveness being explored this fall in the INF negotiations.

All of a sudden we discovered that onsite inspection is a double-edged sword and that we have our own national security secrets, too, that we do not necessarily want intrusive onsite inspections to discover

There are a lot of people, I think, who have a mistaken idea that onsite inspection will solve everything; if we only have onsite inspection that takes care of everything. Partially true but not entirely true.

Onsite verification is not a panacea. It has to be used in conjunction with our "national technical means," our spy satellites. The two of them together can work but we cannot rely exclusively on onsite inspections. Nor would we ever allow the Soviets to just freely roam our countryside at will, poking their noses into everything.

So an onsite inspection works if you know where to look but if you do not know where to look, what good would onsite inspection do? The Soviets could hide their missiles someplace else. It is a big country. So what good does onsite inspection of a certain location do if they have hidden their missiles? I guess the same could be said of us. That is why you use the spy satellites in conjunction with inspections to pick up possible violations of agreements.

So I just want to point out that while onsite inspections are important and I think we have reached a milestone in intrusive onsite inspections in the INF Treaty agreement that is now about to be signed—and I believe those are valuable—we cannot lead ourselves into thinking that we do not need the other kinds of verification procedures that are necessary to back up the onsite inspection. We do.

Whatever the original motivations that led to the zero option proposal in the early 1980's, I think we really have to acknowledge the benefits of removing all missiles in this category. The 364 Pershing II and ground-launched cruise missiles on the U.S. side carry nuclear warheads with a combined explosive yield of up to 47 million tons of TNT, as I said.

The 1,323 warheads in the Soviet SS-20 missiles have a combined explosive power of almost 200 million tons of TNT. So the INF Treaty will remove about 100 times all the explosive power used during the entire World War II. So I want to be one of those to congratulate President Reagan for his perseverence in concluding this INF agreement and I think we should also congratulate Secretary Gorbachev for agreeing to asymmetric reductions—they are reducing more than we are—and for his agreeing to these intrusive onsite inspections.

Mr. President, I was not able to watch the television press conference with the President last night. I read about it in the paper this morning. I thought there was a very interesting statement made by the President that was reported in this morning's newspaper, and I would like to read it.

> President Reagan,

This article said in the Washington Post this morning—

> charged yesterday that conservatives who oppose the medium-range missile treaty "have accepted that war is inevitable" between the superpowers and he predicated there will be a summit next year in Moscow to make "another gigantic step forward in the elimination of nuclear weapons".

This is very significant.

Let me read something else the President said:

> I think that some of the people who are objecting the most and just refusing even to accede to the idea of ever getting any understanding, whether they realize it or not, those people basically down in their deepest thoughts have accepted that war is inevitable and that there must come to be a war between the superpowers.

The President went on:

> Well, I think as long as you've got a chance to strive for peace, you strive for peace. But you don't have peace and surrender. And there's no way that we're going to surrender.

Again, I want to congratulate the President for making that statement last night. I believe there are elements in our society who have accepted that war is inevitable between the superpowers and that no meaningful agreement can ever be concluded with the Soviet Union.

Well, I do not agree with that. I agree with what the President has said.

We must have a vision of a peaceful world and a world free from the threat of nuclear weapons.

INF COMPARED TO POSSIBLE ARMS CONTROL

Mr. President, I would now like to explore what could be done to improve our national security through significant arms control agreements, after the INF Treaty. Our fundamental, overriding consideration in all future negotiations should be to improve crisis stability and arms race stability. We should strive to reduce the chances of either superpower ever using nuclear weapons in a crisis, by minimizing any and all incentives to use nuclear weapons first. By definition, if neither side uses nuclear weapons first, there will be no nuclear holocaust.

And we should eliminate any incentive to build more nuclear weapons, so that we can both end the costly nuclear arms race which diverts our national resources from pressing societal needs.

There are two characteristics of nuclear weapons that undermine crisis stability:

First, weapons that are vulnerable to attack, and second, weapons that are capable of destroying the opponent's retaliatory weapons.

The most destabilizing weapons possess both characteristics. Thus the Soviet SS-18 and the United States MX missiles with accurate, multiple warheads in vulnerable, fixed silos are doubly destabilizing. They are both vulnerable to the opponent's first strike and capable of destroying the adversary missiles in a preemptive strike. Both sides would have strong incentive to "use them or lose them" in some future international crisis.

But we should also acknowledge that removing one of these destabilizing attributes does not eliminate the danger. For example, the Trident-II (D-5) missile is not vulnerable on board submarines at sea, but it would still have the accuracy to destroy Soviet silo-based missiles. The D-5 missile, due for deployment beginning late in 1989, would be particularly destabilizing since it could be launched from waters close to the Soviet land mass, reducing reaction times from 25 minutes down to 10 to 15 minutes.

If we go ahead and deploy hundreds of these accurate D-5 missiles carrying thousands of nuclear warheads, and if the Soviet Union continued to rely on fixed-base ICBM's—which currently carry about 59 percent of all Soviet warheads—then the Soviet Union would come under strong pressure to fire those missiles first in a crisis, or at least to move to a "launch on warning" status, turning control over the launching of nuclear tipped ICBM's to an early warning sensor and a computer system. Would we really be more secure if a Soviet sensor and computer system could decide to start a nuclear war?

To improve crisis stability, then, we should limit the deployment of all accurate, multiple warhead missiles such as the United States MX, the Soviet SS-18, SS-19, and SS-24's, and the United States D-5 and any future Soviet accurate submarine-launched missiles.

Some still say that we need the D-5 so that we have the accuracy to attack military targets, implying that the existing Trident-I (C-4) missiles can only attack cities. In a crisis, this reasoning holds that we would have to choose between attacking Soviet cities or doing nothing.

This argument never was valid: the existing Trident-I (C-4) missile is perfectly adequate for retaliation, and has the accuracy to destroy all Soviet military and industrial assets except underground missile silos and command and control bunkers. The existing Trident-I missile can destroy airfields, military barracks, submarine pens, naval stations, radar sites, research laboratories, supply depots, and so on. We aren't limited to attacking cities now. We don't need the D-5 missile to maintain our retaliatory capability.

Others say that we need the threat of the accurate D-5 missile to force the Soviets to move to mobile missiles. Since mobile missiles are less vulnerable than fixed-base missiles, the Soviets would be more secure, knowing they could always retaliate, and crisis stability would be improved.

But notice that this argument only has validity if the United States acquires accurate weapons. If we never built the MX or the D-5 missiles, then the Soviets would never fear losing their retaliatory capability. We could have unilaterally improved crisis stability by refraining from adding destabilizing weapons.

In any case, the Soviet Union is already moving forward with mobile missiles. The SS-20's, which are being removed as part of the INF agreement, the single warhead SS-25, and the 10-warhead SS-24 are all mobile missiles. Now that they are moving in that direction, there is no longer any need to deploy our D-5 missiles.

Some say we still need the D-5 to threaten the Soviet leadership, to give us the capability for "decapitation." This argument claims that if we put the Soviet leadership at risk, then they would be less likely to start a nuclear war—as if total annihilation of their civilization were not enough to deter nuclear war, we must have monogramed nuclear bombs personally delivered to the Soviet leadership.

I fail to see how decapitation improves our security. From a practical viewpoint, how could we expect to locate the Soviet leadership if a crisis developed? Wouldn't they disperse to multiple remote sites? Wouldn't this give United States leaders incentive to strike early in a deteriorating situation, trying to catch Soviet leadership before they moved into their remote sites?

And knowing that they might lose control if their Moscow command centers were potentially vulnerable, wouldn't future Soviet leadership be under strong pressure to strike first in a crisis? In short, it appears to this Senator that accurate missiles such as the D-5 would significantly decrease crisis stability without offering the United States any military advantage over existing nuclear weapons.

Mr. President, the administration is currently discussing what is advertised as 50 percent reductions in strategic nuclear weapons. The proposed limits of 6,000 warheads and 1,600 launchers would represent reductions of 49 percent in warheads and 18.5 percent in launchers for the United States, and 45 percent in warheads and 36 percent in launchers for the U.S.S.R. These reductions would seem to be a truly significant accomplishment.

But judged by our standard of improving crisis stability, a 50-percent reduction might not even be desirable. For example, if we reduced our bomber forces and our older and less accurate Minuteman missiles while keeping the accurate MX and Trident-II nuclear missiles, and if the Soviet Union kept primarily land-based missiles, a world with 50 percent fewer weapons could actually be more dangerous.

One or both sides could be more vulnerable after the reductions. Each side would have stronger incentives to strike first in a crisis, or to escalate from conventional to nuclear war.

Therefore our negotiators must be careful in selecting the types of weapons which would remain after a 50-percent reduction. The remaining weapons should be invulnerable, and they should be incapable of destroying the opponent's retaliatory forces. Ideally they should carry only one warhead—to reduce their value to a first strike attacker—and their flight time should be maximized—to reduce the propensity for going to launch on warning.

The primary crisis-stable nuclear weapon is the inaccurate submarine-based missile. Today military experts agree that these submarines are safe from attack. A few centimeters of seawater is opaque to the radar waves that are used routinely to detect and track aircraft. Under certain circumstances, sound waves may provide crude information about the presence, but not the precise location of today's submarines.

To reduce the chances that future advances in antisubmarine warfare [ASW] might render these weapons vulnerable in the future, we should be working to establish submarine sanctuaries near the land-mass of each superpower. No attack submarines or other ASW equipment would be allowed in these sanctuaries. These sanctuaries would provide a safe haven for the retaliatory forces of both superpowers until future conditions permitted the safe elimination of all nuclear weapons.

The second-best crisis-stable weapon is the single-warhead mobile missile, such as the Soviet SS-25 or the proposed United States Midgetman. The mobile missile has many basing problems, as our recent experience with MX has demonstrated, however, and they could stimulate another round in the arms race as each side tried to develop space-based sensors—and weapons—to find and attack the mobile missiles. Mobile missiles will not be a panacea for stable deterrence. Space-based phased-array radars may be capable of locating mobile missiles in the distant future.

I would add that the Senate Appropriations Committee just yesterday approved the termination of the single-warhead Midgetman missile in favor of the rail-mobile MX missile. This is an example of making the wrong choices. In my opinion we don't need more nuclear weapons, but if we must waste taxpayer money on more weapons of mass destruction, then we should at least choose the least destabilizing weapons, not the most destabilizing.

Mr. President, make no mistake. This emphasis on crisis-stable weapons would be a landmark change in strategic thinking for this administration. Throughout the Reagan years, this administration has been pushing for more and more accurate, first-strike capable weapons such as the Pershing II, the MX, and the Trident-II missiles. These weapons, along with the slower but equally accurate cruise missiles, fulfill the stated need to hold the nuclear weapons and leadership of the Soviet Union "at risk," a prime motive of the nuclear war-fighting strategy.

We must abandon any notion of fighting or winning a nuclear war. We must renounce the first use of nuclear weapons and any desire to regain nuclear superiority. And we must give up our obsession with accurate nuclear weapons to attack Soviet retaliatory forces or to "decapitate" Soviet leadership.

In summary, numerical reductions should not be the paramount measure of success in future negotiations. Reductions of 50 percent are not as important as establishing a crisis stable regime. I would rather have 10,000 invulnerable nuclear warheads on each side than 5,000 vulnerable weapons.

A few hundred warheads would decimate either civilization. Does it really matter whether each side has 10,000 or 5,000, if 300 survivable hydrogen bombs are enough to deter the opponent? Once we have abandoned our nuclear war-fighting fantasies, even a 50-percent cut in our vast overkill capabilities makes very little difference.

REAL ARMS CONTROL

What, then, should we be doing to reduce the risk of nuclear annihilation? How can we minimize the chances of these weapons of mass destruction ever being used again, while at the same time protecting our own security and restoring fiscal responsibility?

Fortunately, there are several positive steps that could be implemented within the next few months and years, given adequate leadership:

We could initiate a comprehensive test ban on all nuclear explosions within days.

We could negotiate a flight test ban within a year.

We could ban star wars testing in space and agree to prohibit deployment until all offensive nuclear weapons have been removed.

We could agree to halt the production of fissile material, the fuel of all nuclear weapons.

And, finally, we could negotiate deep reductions in conventional forces, returning to normal peace-time levels common before World War II.

I will briefly discuss the advantages of each of these steps:

COMPREHENSIVE TEST BAN

The development of the next generation of nuclear weapons represents one of the biggest threats to the security of the world. As bad as they are, existing nuclear weapons deliver their vast power isotropically: the energy spews forth in all directions in an expanding sphere of radiation, pressure, and debris. Most of this energy is wasted, expanding upward and away from intended ground targets. Hydrogen bombs must be exploded within a few miles of a target to assure destruction.

That may all change if we allow the weaponeers at Los Alamos and Livermore—and their counterparts at the Soviet weapons laboratories—to continue their deadly trade. They are now working on techniques to focus nuclear explosive energy into a narrow cone. For example, one project is exploring the possibility of projecting small pellets by a nuclear explosion: a nuclear shotgun. Other programs are using nuclear explosions to generate narrow beams of light, microwaves, or the famous x-ray laser.

These developments, if successful, would allow future military forces to project the power of the hydrogen bomb over long distances. These weapons would be particularly devastating in space, threatening all of our space-based satellites, including, ironically, any possible star wars sensor or weapon battle station.

But future nuclear pumped, directed energy weapons could also be used from space to attack ground, air, and sea targets. A nuclear pumped microwave weapons, for example, could in principle attack most of our military and industrial targets from space.

Would we really be more secure with long-range nuclear pumped weapons based in space? I think not.

We can stop the development of this new generation of nuclear weapons with a nuclear test ban. The Soviet Union unilaterally stopped all testing for 19 months, inviting the United States to join them. This administration refused, at first claiming that we could not verify a ban on underground explosions. When mounting scientific evidence proved this claim to be false, the administration switched and claimed that we needed to test nuclear weapons to assure their reliability.

Reliability testing has no more validity than verification to justify 20 to 30 nuclear explosions per year at the Nevada test site. At most one test per year has been devoted to reliability testing. The other tests have been used to develop new nuclear weapons, and to test the survivability of star wars and other military components in a nuclear environment.

We do not need nuclear testing to assure our retaliatory capability. We do need testing to produce the next generation of destabilizing weapons. This we should not do.

FLIGHT TEST BAN

The next logical step to stop and reverse the nuclear arms race would be to ban all ballistic missile and long-range cruise missile flight tests. Such a ban would have been even more effective 10 or 15 years ago, before both sides improved the accuracy of their nuclear delivery stystems.

Technology will not stop, however, unless both sides stop testing new weapons. Other possible developments that could decrease our security without a flight-test ban include depressed trajectory submarine-launched missiles and maneuvering reentry vehicles [MARV's]. Maneuvering reentry vehicles could increase accuracy even further, and could even be used to attack airplanes or ships at sea. Both developments would lead to weapons that could evade the proposed star wars defensive systems. Combined with new developments in space-based radars, these weapons could be used to attack mobile missiles in the future. This would eliminate the mobile missile as a "safe" haven for retaliatory forces.

STOP PRODUCTION OF FISSILE MATERIAL

Another worthwhile treaty would ban the production of weapons grade fissile material. All hydrogen bombs require an atomic bomb trigger, and all atomic bombs require several tens of kilograms of either enriched uranium or plutonium to start the fission chain reaction. These fissionable or "fissile" materials are produced at large, energy intensive facilities.

A cutoff in the production of these crucial materials would put a cap on nuclear warheads. Unfortunately that ceiling is much too high, but it could become an important ingredient in the future to stop proliferation of nuclear weapons. Existing fissile material now in the inventories of both superpowers and material from dismantled warheads could in principle be burned in commercial nuclear powerplants, gradually reducing the world's supply of these deadly materials.

While we were reducing fissile material inventories, onsite inspections at nuclear power plants, at spent fuel reprocessing plants, and at uranium enrichment facilities could prevent the diversion of weapons grade fissile materials to clandestine bomb-making factories.

In short, by stopping the production of fissile fuel now, we could pave the way for significant, verifiable reductions of nuclear weapons in the future, and at the same time prevent other countries from joining the nuclear club.

And, some day, with changed thinking, with changed relations, we should not rule out the elimination of all nuclear weapons. We need a vision of nuclear-free future. It may seem implausible now, but, if we devoted a small fraction of our military budget to developing global verification techniques to detect the production of fissile material, and if we worked diligently to improve relations, we may be able to wean ourselves from our fix on nuclear weapons.

I would suggest that we need such a long-range vision. We need to work toward the goal of eliminating all nuclear weapons, however difficult and implausible that may seem today.

BAN WEAPONS TESTS IN SPACE

Banning weapons tests in space. I know this gets to the heart of star wars, but, nonetheless, we ought to reach significant agreements with the Soviet Union that will ban all weapons tests in outer space. I think that can be accomplished.

Future arms control and disarmament agreements must not be based on our national security versus Soviet national security. We must come to the realization that agreements in the nuclear age must address our common security. We must learn to live together, despite our differences, or we will perish together.

One area that exemplifies our mutual security requirements is outer space. We each rely on space sensors for early warning of ballistic missile attack, for communications, for navigation, and for verification of treaty compliance. The loss of these space-based assets could be very destabilizing in a crisis. We must all work diligently to keep weapons out of space.

Space is also where two of President Reagan's cherished dreams come into mutually exclusive conflict: Star wars and meaningful arms reductions. Star wars would never work without space assets and large reductions in offensive weapons, bordering on nuclear disarmament. But the Soviet Union could never agree to large reductions in strategic nuclear weapons unless defensive weapons were kept out of space.

Whenever we discuss star wars or the strategic defense initiative, we need to distinguish between SDI research and actual star wars deployments. Both superpowers are conducting research into ballistic missile defense technologies, as permitted by the ABM Treaty. The problem is not research, but the deployment or attempt to deploy global defenses.

Thus the current SDI research program is not threatening, and the technologies are not adequate to provide for anything approaching an effective defense for many years if not decades. Future advances in technology could change this situation. Once either superpower began testing effective, lethal star wars weapons, particularly space-based weapons, then the opponent's retaliatory capability would be threatened.

Under the current strategic environment based on mutual vulnerability, deployment or threats of deployment of global defenses is destabilizing. Until we can replace our mutual dependence on the threat of nuclear retaliation for our security, star wars deployment would be destabilizing, creating conditions for an accelerated arms race—arms race instability, and the conditions which would provide incentives for both sides to strike first in a crisis—crisis instability.

For these reasons, star wars deployment, and testing of lethal star wars technologies must be postponed until after the threat of nuclear weapons is reduced by negotiation and major changes are made in our international security arrangements.

Star wars deployment and meaningful arms control reductions cannot occur together. Reductions, if not nuclear disarmament must come first. Indeed, star wars could never work without arms control:

Star wars requires arms control to substantially reduce offensive nuclear weapons.

Star wars requires arms control to prevent the Soviet Union from developing nuclear pumped, directed energy weapons that could shoot down needed SDI space-based sensors and battle stations.

Star wars requires arms control to prevent the Soviet Union from developing maneuvering reentry vehicles or depressed trajectory missiles to evade SDI defenses.

Star wars requires arms control to limit Soviet deployment of ground-based interceptor missiles that could attack our space-based assets.

And, ultimately, star wars requires arms control to prevent the Soviet Union from developing their own versions of star wars weapons that could be used to shoot down our star wars weapons in space.

In other words, star wars contains the seeds of its own destruction. If we proceed without any negotiated limits on the development of defense lethal weapons, then they could be used by a future adversary to disable our star wars defense.

Therefore, star wars requires arms control, but the deployment or threat of deployment of star wars would prevent any meaningful arms control. If we threaten to deploy a strategic defense by testing lethal weapons in space, for example, then the Soviet Union would surely increase their offensive weapons and accelerate their development of weapons to destroy our star wars battle stations.

Thus, star wars requires arms control, but the deployment of star wars precludes arms control.

There is only one way out of this impasse: We must rely on arms control and disarmament first, while restricting deployment or lethal testing—but not research—of star wars. At some time in the indefinite future, when conditions permit a safe transition, we could shift from offensive to defensive posture with regard to nuclear weapons.

At the present time, it appears to this Senator that this transition from offense to defense could only occur safely if we achieve nuclear disarmament first. If we did destroy all nuclear weapons by mutual agreement, then a ground-based territorial defense would be mutually beneficial to guard against an attack from a third country or as an insurance policy against a breakout from a nuclear weapons ban. A defensive system would be stabilizing in a zero nuclear weapons regime.

CONVENTIONAL ARMS REDUCTIONS

Lastly, we should not forget that there are agreements that can be reached on reducing defensive forces in Europe. There are those who are saying that with the INF agreement taking the missiles out, we ought to beef up the conventional forces. That is not the right idea. If we reduce the missiles, how can we reduce the conventional forces in Europe? How can we get the Soviet Union to agree to a lower state of readiness, moving their depots and fuel supply mechanisms further back into the Soviet Union, outside of the eastern European nations, lowering that state of readiness, so that conventional forces will not be that big a threat, and also reaching asymmetrical reductions.

If they have agreed to asymmetrical reductions in missiles, why not the same in men under arms, tanks, combat aircraft?

I believe that ought to be explored after we sign the INF agreement.

The INF agreement provides that basis for moving ahead toward asymmetrical reductions in conventional forces in Europe.

I hope we do not get bogged down in the argument that now that we are taking the missiles out, we ought not to reduce the conventional forces. The opposite should be true. Reduce the INF threat and reduce the conventional forces.

I do want to elaborate further on this, Mr. President, but I have taken quite a bit of time. I see my distinguished colleague from Vermont on the floor. He is a great leader in the arms control community. I do not want to take any further time at this point.

Mr. President, I yield the floor.

DESERVED PRAISE FOR SENATOR STAFFORD

Mr. DOMENICI. Mr. President, I am certain that my colleagues share the pride I felt when I read the editorial in today's Washington Post discussing the very distinguished career of our colleague from Vermont, Senator ROBERT T. STAFFORD.

I share the view of the Post that this body will be "a lesser place" when Senator STAFFORD retires at the end of next year.

For 14 years, Senator STAFFORD and I worked together on the Committee on Environment and Public Works. For 6 of those years, he was my chairman.

Throughout that period, as well as during the 11 months since I left the committee, I have held BOB STAFFORD in the very highest regard. He is my friend. He is a man of uncommon fairness and generosity. I look forward to one more wonderful year of working closely with this true gentleman.

Mr. President, I ask unanimous consent that the Post editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOLID SENATOR

Those who lament the decline of the Senate will soon have further cause. Robert Stafford of Vermont is retiring. The Senate will be both a louder and a lesser place for his departure.

Sen. Stafford, now 74, has spent his entire adult life in public service and not lost sight of what that term means. His career has been the old-fashioned, orderly kind, proof of the virtues of unhurried apprenticeship. He was prosecutor, state attorney general, lieutenant governor, governor, then spent 10 years in the House before his 15 in the Senate.

Too often the modern senator seems to be a telegenic wonder with an attention span measured in nanoseconds—all hare, no tortoise. Sen. Stafford is by contrast substantive, unassuming, patient and effective. He is not an ink hound. He has actually been known to pass a bill before its deadline.

His areas of greatest interest have been the environment and education. In the six years from 1981 to 1986 when the Republicans controlled the Senate, he was chairman of both the environment committee and the education subcommittee. He remains the ranking Republican on each.

Environment and education were two of the areas in which the early Reagan administration exhibited its greatest revolutionary zeal. You remember James Watt. You may also remember the president's proposals, some of which sadly continue to be made, to slash federal aid to higher education more or less in two.

Sen. Stafford quietly helped to stave off the craziness. Administration efforts to hollow out the major environmental statutes in the name of deregulation were turned aside. For a while, environmental policy was a nasty draw. More recently, some of the protective statutes have actually been refreshed and strengthened. The senator from the Green Mountain State played an important part in this turnaround. He did the same in education. Last year, his last as chairman, Congress reauthorized and secured the basic forms of aid to higher education. This year it is doing so at the elementary and secondary levels. The elementary and secondary bill passed the other day, 97 to 1. The vote is a tribute to a climate that Sen. Stafford helped produce. The Senate named the bill after him.

Sen. Stafford helped to save something else in the Reagan years. By virtue of the efforts he and others made, there continues to be room in his party for its moderates. When quiet men like Robert Stafford go, they are missed.

Mr. QUAYLE. Mr. President, I want to go on record, along with my distinguished colleague from New Mexico, in congratulating Senator STAFFORD on an outstanding career.

The Washington Post editorial speaks for itself. Senator STAFFORD certainly is a man who is committed to public service. He has served the public well. His integrity and his straightforwardness will certainly be missed. We wish him the very best.

I am sure that he has a lot of good, productive years ahead of him in a private life, which he has not had for a number of years.

Mr. LEAHY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

SOLID SENATOR STAFFORD

Mr. LEAHY. Mr. President, before speaking on arms control I would like to take just a moment on a more personal matter.

This morning's Washington Post has an editorial entitled "Solid Senator." It is an editorial referring to Senator ROBERT STAFFORD, who is retiring next year. I would read the first paragraph. It says:

> Those who lament the decline of the Senate will soon have further cause. Robert Stafford of Vermont is retiring. The Senate will be both a louder and a lesser place for his departure.

How fitting this is when they speak of Senator ROBERT STAFFORD, a voice of quiet integrity, total competence, and overwhelming dedication to public service; a man who served in Vermont as State's attorney of Rutland County, deputy attorney general of the State, attorney general of the State, Lieutenant Governor, Governor, Member of the House of Representatives, and now U.S. Senator.

He served in this body with distinction as the chairman of the Environment and Public Works Committee. In fact, he is a man who is recognized throughout the country by both Republicans and Democrats as a leading voice in environmental matters.

I will, during the year, be speaking more about Senator STAFFORD, but I did want to bring this editorial to the attention of my colleagues. I have stated many times that he is the closest friend that I have here in the U.S. Senate. More than even that, he is a man whose leadership I have followed and whose example I have admired and tried in some small way to emulate. I might suggest we can all benefit by trying the same thing.

He is, in the truest sense of the word, a Vermonter, exhibiting that integrity and honesty we want in our leaders in that State.

It is unfortunate, in many ways, that the best in this body are the ones who often decide to leave. That is the case with Senator STAFFORD.

Mr. President, I ask unanimous consent that the editorial from this morning's Washington Post be included in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

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THE SUMMIT AND ARMS CONTROL

Mr. LEAHY. Mr. President, I thank my good friend from Iowa, Senator HARKIN, who has been a strong advocate for arms control here in the Senate and also when he was a Member of the other body. The other body was enhanced in their debate on the question of arms control when he was there, and our debate on arms control improved in this body when he came here. I mean that sincerely.

Mr. President, following the discussion begun by the distinguished Senator from Iowa and others, I would like to talk about the summit and arms control.

Mr. President, I am delighted that President Reagan and General Secretary Gorbachev will hold the third superpower summit of this administration, to begin next week on Monday. For several years now, I have been urging the two world leaders to hold annual summit meetings and to do it in good times and bad. These are the leaders of the two nuclear powers, the two superpowers, in the world. Talks between the two people with their fingers on the nuclear trigger are even more important when relations are strained than when they are not. If we can have summits once a year, one time in Washington and the next time in Moscow, we might get away from the sense of urgency and media hype that we see surrounding these meetings.

If the world knew that the leaders of the two superpowers would sit down every year, in good times and bad, after a while we would not look for a treaty or for a major pronouncement to come out of it. Rather, we would look at it with a sense of renewed security. It would give these two leaders a chance to known each other and to know the country and the people.

Think of the myths that would be dispelled, myths that sometimes are held by our President, sometimes held by the leader of the Soviet Union. The world would be a safer place.

When the leader of our country sits down with the leader of the Soviet Union, as President Reagan will when he goes to this 3-day summit, he needs the support of all Americans, and he will have it, whether we are Republicans, Democrats, or Independents.

When he sits down across the table from Mikhail Gorbachev, the President represents the hopes of all of us for a safer, more peaceful world. It is a time when all Americans will unite behind him.

The summit agenda is very broad. It covers arms control, regional issues like Afghanistan, the Middle East, Central America and Southern Africa, human rights, trade and other matters. But the centerpiece will be the signing of the treaty eliminating intermediate range missiles from the arsenals of the two superpowers.

This will be the first arms control treaty signed since June 1979, when the ill-fated SALT II Treaty was concluded in Geneva. That makes the INF Treaty extremely important. It proves that the arms control process has survived the setbacks of the early and mid-1980's.

It points the way to a follow-on agreement aimed at cutting deeply the massive strategic nuclear stockpiles. Those are stockpiles that now exceed 25,000 warheads.

Mr. President, I am generally familiar with the terms of the INF Treaty. Barring some surprises, especially in the area of verification, I expect not only to support ratification of it but to work hard to build support for it in the Senate and in my own State of Vermont.

The treaty has some very useful accomplishments, as we understand it. It eliminates an entire class of nuclear missiles. It has some extraordinary verification provisions, including onsite inspections not only of missile bases but of the assembly plants. It reduces Soviet nuclear advantages in Europe. It cuts their forces by 1,500 nuclear warheads while it cuts ours by about 400.

Mr. President, this is a very valuable treaty, and I expect to fight for it. But

I will also keep it in perspective. It does, after all, eliminate only 3 or 4 percent of the nuclear arsenals of the world.

So its main importance is that it may open the way to a treaty to cut by 50 percent the nuclear weapons aimed at American and Soviet cities. That is where the real danger to the world lies, and that is where we must need real arms control.

There are some 50,000 nuclear warheads, strategic, intermediate, tactical, in the arsenals both of the United States and of the Soviet Union. The INF Treaty will eliminate only 4 percent of them. Unless there is a strategic arms treaty next year, the building up of intercontinental missiles on both sides would wipe out this reduction in only a few months.

Simply by removing the limits of SALT II, we add in 18 weeks as many nuclear warheads to the U.S. arsenal as will be eliminated by the INF Treaty.

By itself, the INF Treaty is not really a very significant reduction in the arms race. But in context with a drive toward real arms control it takes on major importance because it does eliminate for the first time a class of nuclear weapons. If we can build a sense of trust between the two countries, if we can have verification that is reliable and is understandable, then it can lead toward steps that may see for the first time major cuts in that arsenal of 50,000 nuclear warheads.

Many Members of the Senate will recall—in fact, some recall rather painfully—partisan attacks on the SALT II Treaty of 1980. That was a treaty the Joint Chiefs of Staff endorsed as a "modest but useful" contribution to U.S. national security. In fact, the SALT II Treaty instead was made a political issue against President Carter by then-candidate Reagan, who called it fatally flawed, and it was used against a number of other Democrats, myself included.

The INF Treaty is going to be signed by a Republican President, but the strongest support for it will come from the Democrats in the Senate. The bitterest opposition is already coming from members of the President's own party. Be that as it may, controlling nuclear weapons is far, far too important to be exploited for partisan advantage. The only way this treaty can get the advice and consent of the Senate is if it has solid bipartisan support. It takes 67 votes to approve a treaty—67 votes to advise and consent before the President can ratify—and there are only 54 Democrats. The President is going to have to rally a lot of votes from the other side of the aisle.

Mr. President, I offer President Reagan my full support and my best wishes for a successful summit. I assure him, as I have assured Secretary of State Shultz and Ambassador Max Kampelman, on the assumption the treaty is verifiable and balanced, I will work hard to secure the advice and consent of the Senate to its ratification.

I should also note, Mr. President, that a Vermonter has been involved in the INF Treaty. Ambassador Maynard Glitman has been one of the chief negotiators of this INF Treaty. In fact, it is a little bit ironic that this INF Treaty, after all the years of Ambassador Glitman's work on it, is finally going to be signed the day after his birthday. I am going to tell him, "I wish you a happy birthday but I hope you are out of a job tomorrow, that you won't have to be negotiating an INF Treaty." I say that semifacetiously because I hope the Ambassador, who has been such a valuable member of the negotiating team, will find a way to help negotiate far greater cuts in this strategic arms area.

So in summary, Mr. President, an administration that for years avoided even a semblance of an interest in arms control is finally moving forward with a small step, but a step that could pave the way for significant arms control agreements, whether in the waning days of this administration or in the beginning of the next administration.

Mr. President, when this summit begins we do not stand as Republicans or Democrats or Independents. We stand as Americans supporting the President of the United States, the only person who can sit down and negotiate with Mikhail Gorbachev. I wish him Godspeed because all of us benefit if he does well and all of us, and unfortunately our children and our children's children, will bear the brunt if it goes against him.

Mr. President, I see my distinguished colleague from Maine here on the floor and I yield to him.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

SENATOR ROBERT STAFFORD

Mr. MITCHELL. Mr. President, I should like to associate myself with the remarks of my colleague, Senator LEAHY, regarding his distinguished colleague, the senior Senator from Vermont, who is retiring and who was the subject of a laudatory editorial in the Washington Post this morning.

Since entering the Senate, I have had the privilege to serve with Senator STAFFORD on the Senate Environment and Veterans' Affairs Committees. For 6 of those years, he served as chairman of the full Committee on Environment and Public Works. I believe that all of my colleagues will agree there has been in the Senate in this decade no finer gentleman, no person more committed to the causes in which he believes, primarily, as the editorial indicates, protection of the environment and creating opportunities for education for all American children. The Senate, the Nation, and those of us who have had the opportunity to work closely with him will all very much miss ROBERT STAFFORD.

In one of the mysterious and uplifting ways in which democracy works, he characterized personally and represented qualities that people have come to associate with the citizens of his State—total independence, total integrity, deep commitment, and he was able to do it all and accomplish what he has wanted to accomplish in what I would characterize as a distinctly unpolitical manner, quiet persuasion, never offensive, never loud, always persistent, always dealing with the merits.

So I commend my colleagues for calling the Senate's attention to the editorial, and to the qualities which Senator STAFFORD has brought to the Senate.

REGARDING THE INF AGREEMENT

Mr. MITCHELL. Mr. President, I commend President Reagan and Secretary of State Shultz for their persistent and successful efforts to negotiate an agreement eliminating short- and medium-range nuclear weapons from Europe. The agreement can be an important first step toward reducing nuclear arsenals and preventing nuclear war.

I will reserve judgment on my vote on treaty ratification until I have the opportunity to examine the text of the agreement. If, as I expect, the treaty's provisions are consistent with the information provided to date, and include verification measures that are consistent with U.S. national security, I will look forward to supporting the agreement when it comes before the Senate.

The treaty is significant because it would be the first arms control agreement to actually reduce nuclear arsenals, and it would be the first to eliminate an entire class of nuclear weapons. Under the agreement, all land-based missiles with ranges between 300 and 3,400 miles would be destroyed. The Soviets would eliminate over 1,500 warheads, including those deployed on the SS-20 missile, while the United States would eliminate more than 350 warheads on its Pershing II and ground-launched cruise missiles. In addition, the future production and testing of land-based intermediate range weapons would be banned.

The treaty's importance also stems from the unprecedented verification measures that apparently have been established. Various types of novel inspection methods would be employed for up to 13 years after the treaty is ratified. Among the most important would be the stationing of inspectors outside a missile production facility in each country; short-notice inspections of launcher production plant and missile storage and basing sites; and arrangements to facilitate satellite photographs of many missile sites in Europe.

While welcoming this arms control agreement, we must recognize that the prospect of eliminating intermediate range nuclear weapons requires a close examination of the conventional military balance in Europe. Although the destruction of intermediate nuclear forces would still leave NATO with thousands of nuclear warheads dedicated to deterring conflict in Europe, we cannot neglect the need to maintain a strong conventional defense. Stability is as important for a conventional balance as for a nuclear balance.

The Soviet advantage in conventional forces is in my judgment not as great as some analysts suggest. But the Soviets do have superiority in several important categories, such as main battle tanks and artillery. The United States, in conjunction with our NATO allies, must continue to improve and upgrade nonnuclear forces to ensure that conventional conflict will be deterred. In addition, we should make every effort to explore with the Soviets an equitable agreement to stabilize and reduce conventional force levels in Europe.

It is crucial to remember that arms control cannot be a one-shot effort, and that no single agreement can guarantee stability. The intermediate range weapons treaty would eliminate only about 4 percent of superpower arsenals, and would not affect the long-range strategic weapons aimed directly at the United States and Soviet Union. Furthermore, the Soviets could still threaten Europe by aiming their strategic weapons at targets now covered by their intermediate weapons. These facts demonstrate the need to maintain the SALT II limits on strategic forces, and also illustrate the importance of a comprehensive approach to arms control.

An agreement to reduce strategic arsenals would reinforce the value of an intermediate force agreement, and would affect the vast majority of nuclear weapons currently deployed by the superpowers. I am encouraged by the American and Soviet commitment to pursuing the concept of 50-percent reductions as discussed at the Reykjavik summit. The two countries are now exploring specific sublimits on the types, numbers, and characteristics of strategic weapons. Although there is still significant disagreement, both sides have great incentive to control the weapons they have aimed at one another.

The Intermediate Force Treaty lends important political and psychological momentum to efforts in other areas of arms control. The treaty demonstrates that the United States and Soviet Union can work together toward their shared goal of avoiding nuclear war despite the differences that separate us. Moreover, the treaty will provide important verification tools that can be used to facilitate a START agreement to reduce strategic arsenals.

This is why the Senate should immediately proceed to review the text of the treaty to be certain that the agreement does provide adequate verification measures and will enhance U.S. national security. I look forward to examining the agreement, and I am hopeful that my colleagues will work to give the treaty a fair and speedy hearing.

I fully agree with Secretary Shultz that the intermediate range weapons treaty is "a good beginning." It is an important first step toward confronting what is clearly the most overriding issue of our time—the need to restrain the nuclear arms race. And I am hopeful that it will enhance the prospects of further agreements to eliminate nuclear weapons and reduce the risk of nuclear war.

Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Maine has yielded the floor.

The Senator from Iowa.

THE INF TREATY

Mr. HARKIN. Mr. President, I do not see many of my colleagues here. I would like to take a few more moments to follow up on the discussion we are having on the INF Treaty, to thank my distinguished colleague and friend from Maine for his contribution, long-term interest, and insight into this, and to thank him for his contribution this morning.

Mr. President, at the time that I yielded the floor to the Senator from Vermont I began a discussion about the post-INF world.

Again, to repeat, I hope that we do not look upon the INF agreement as something that we can settle or that—hopefully—the Senate will ratify it and then we move on to something else. We have to begin thinking about what is next—real arms control; real arms control, including a comprehensive nuclear test ban treaty, a possible flight test ban, a ban on weapons testing in space, a halt in the production of fissie material, deep reductions in conventional forces.

I believe that these are all areas in which we must move ahead very aggressively right after the INF agreement is signed by the President and Secretary Gorbachev.

What has come about in INF—the first time we have destroyed missiles, destroyed a whole class of missiles, and the first time we have had this intrusive onsite inspection—leads, I believe, to the next step, and that is toward the comprehensive nuclear test ban treaty and deep cuts in our strategic forces.

I see my distinguished colleague from Oregon on the floor, and I want to yield in 1 minute, but I want to make a final point in this regard on the strategic forces.

There was a recent poll taken. It was reported in a news magazine in the United States. It was a poll taken both in the United States and the Soviet Union. This poll, reported in Newsweek magazine, asked citizens in the United States and the Soviet Union if the total elimination of all nuclear weapons is possible: "Is the total elimination of all nuclear weapons possible?" That was the question.

In the United States, only 36 percent thought we could eliminate all nuclear weapons. In the Soviet Union, 75 percent thought we could eliminate all nuclear weapons.

I ask myself, why is this? Why is it that only one out of three Americans feels that we can do away with nuclear weapons but three out of four Soviet citizens believe we can do away with nuclear weapons? Why do not our people in this country have any hope of escaping the threat of nuclear weapons?

Why have our leaders not offered any vision of a nuclear-free future? I suggest that we need that vision, that long-range vision, of a nuclear-free world. We need to work toward the goal of eliminating all nuclear weapons on the face of the Earth, however difficult and implausible that may seem today.

I hope that the statements by President Reagan reported in the paper this morning on the press conference last night, where he said war is not inevitable, that we must seek peace and all avenues of peace, now lead us to the next steps, after INF, of reaching those real, significant arms control agreements.

I see my distinguished colleague from Oregon, and at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I first express my deep appreciation for the leadership provided by our colleague from Iowa, Senator HARKIN, not only on this particular issue but also on many issues that seek to stabilize the world into a peaceful one and to provide answers to the problems that really are part of the creation of that destabilization we face on all sides, domestically and internationally.

Mr. President, there is a legitimate and obvious question that many of us in the arms control community seem afraid to ask. Those of us who have been working for—pushing for—mutual and verifiable arms control in years past have learned all too well that technology is the engine of the arms race. We have learned all too well that until you address technology, old weapons systems will be replaced with new ones—weapons systems negotiated away will be replaced with new ones, usually more lethal than before.

That simple fact—a fact which proves and reproves itself every day we destroy three old weapons and produce five new ones—has been behind efforts to impose a mutual and verifiable underground test moratorium, efforts to preserve the Anti-Ballistic Missile Treaty, efforts to maintain the antisatellite test moratorium, and efforts to control the militarization of space before it gets uncontrollably out of our hands. That simple fact is not, however, behind the treaty which will be signed next week: That treaty has nothing at all to do with technology.

So the legitimate and obvious question: Why support it? Why should we in the arms control community get behind this treaty?

I suppose we are afraid to ask that question because we are afraid there is no good answer. We are afraid that all those speeches we have given about the need for addressing technology will lose their integrity—that we will lose our integrity.

I come to this debate as one of the three Senators who threatened to vote against ratification of the SALT II Treaty because it did not go far enough. I felt in 1979 that an immense opportunity for meaningful arms control was within our grasp—and we had ignored it. To the legitimate and obvious question then, I was compelled to answer no—no, the treaty did not deserve my support. But to the legitimate and obvious question today I answer yes—and I want to explain why.

It is true that this treaty does not address technology. It addresses 1,047 weapons—2,297 warheads. That is it. And for those of you who think we will create a "nuclear free zone" in Europe, let me remind you that there will be some 4,000 nuclear weapons left in Europe after this treaty goes into effect—on bombers, remaining missiles, and nuclear artillery shells.

But I suggest to you that there is good reason for those of us in the arms control community to support this treaty. In fact, let me make that plural—there are good reasons for us to support this treaty.

First, on its face, this treaty will rid the world of more than 2,000 nuclear warheads. Granted—that must be considered in the context of more than 50,000 in the world. The world is not necessarily going to be a safer place the next morning. But getting rid of nuclear warheads—any nuclear warheads—is a good thing.

Second, this treaty is premised upon—literally built on—the most intrusive onsite inspections ever accepted by both the United States and the Soviet Union. Administration opposition to a variety of other arms control agreements—and I allude here specifically to a moratorium on underground nuclear testing—has centered around verification, on the claim that they cannot be verified. If that objection is genuine, the onsite inspections in this treaty set an exciting precedent. I must add at this point that I am not convinced that Administration interest in verification is entirely genuine—when Senator **Kennedy** and I incorporated the administration's own verification requirements into our test moratorium bill, the administration changed its position and said it supported unlimited testing anyway.

But that leads me to my third—and I think by far my most important—point. We cannot risk extending the legacy of arms control wreckage—the legacy of the 7 years preceding this treaty—into the next administration. This treaty is not for this President, but for the next President. Its principal benefit—and this is why I think we ought to not only not oppose it but also actively support it—its principle benefit is to deny the next cadre of arms control saboteurs a breeding ground for their tactics of fear and distortion. If we can make an onsite inspection regime work under this President, it will be far more difficult for the next President to avoid arms control. And if the next President actively seeks to secure mutual and verifiable arms control treaties which deal not only with weapons systems but also with nuclear technology, his job will be that much easier.

To the President, to the Vice President and to Secretary of State George Shultz—I send my thanks. And to my friends and colleagues in the arms control community—I send my answer to the legitimate and obvious question: yes, this treaty is deserving of our support.

Mr. President, I want again to express my appreciation to the Senator from Iowa, Mr. **Harkin**, and the Senator from Vermont, Mr. **Leahy**, and others who have organized this discussion this morning.

Not only am I delighted to help create a bipartisan flavor to it but also, recognizing the long record of the battlefront duty that the Senator from Iowa particularly has been engaged in, I am very pleased to be associated with him.

Mr. HARKIN. Mr. President, I thank the Senator from Oregon. He is a great friend of mine. He is a man of peace and conscience in the Senate.

He has far exceeded me in the number of years that he has been in the forefront of the battle for a peaceful resolution of differences that confront us with our adversaries in other parts of the world.

I just am honored that he would take the time this morning to come over here and speak about this treaty.

I know we can all count on his judgment, his guidance in the months ahead when the treaty comes to the floor of the Senate, and for his help in again not only seeking a ratification of the treaty but, as I said earlier, in moving beyond that to those other things we have to resolve in arms control, the comprehensive test ban treaty, and of indeed looking ahead with a vision to the future of having a nuclear free world where we do indeed reduce the arsenal of both powers, where nuclear weapons no longer will be a threat to anyone anywhere on the face of the Earth.

I thank the Senator from Oregon for his long-time leadership in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa has yielded the floor.

The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I too, associate myself with the remarks of Senator **Harkin** and the praise given to the Senator from Oregon. I do not know of a person in the Chamber who has more credibility and more courage in speaking out on this very critical issue to all humanity than the Senator from Oregon. His presence here raises the stature of this colloquy and certainly has enhanced the discussion this morning.

Let me also compliment the Senator from Iowa. This is the second in a series of colloquies that we are doing to bring together the broad range of those of us, Republican and Democrat, who are very concerned about the future of the INF Treaty and other negotiations ongoing today. Senator **Harkin**'s efforts and leadership in demonstrating once again our concern, our interest, and our determination to see this through is exemplified by his presence, and I commend him for his leadership and success in this colloquy this morning.

Mr. President, I want to join my colleagues in congratulating President Reagan, Secretary Shultz, and other administration officials for their efforts toward the proposed signing of an Intermediate-Range Nuclear Forces [INF] Treaty. They deserve a great deal of credit for this historic agreement. I would like to take this opportunity to explain why I hope the Senate will welcome the treaty and, at the same time, to put it in the larger context of overall arms control.

THE INF TREATY

Although the INF Treaty will eliminate only a small percentage of the United States-Soviet nuclear arsenal, it is a landmark achievement. For the first time, we will have the opportunity to eliminate entire classes of weapons and to achieve actual reductions in nuclear warheads. And, for the first time in this administration, we are seeing the results of committed, good faith arms control negotiations that will reduce the threat of nuclear war.

I must say that I was very pleased with the President's statement last night. It is not easy for any President, Democratic or Republican, to take a broad new departure in negotiations with the Soviet Union, but I think when it comes to verification, when it comes to the concept of actually reducing warheads for the first time, truly the President deserves accolades and a tremendous amount of support on the part of those of us in the Senate who must be called upon ultimately to ratify this treaty.

It is important to note that the INF Treaty is a good deal for the United States. The Soviets would be required to eliminate almost four warheads for every warhead we eliminate. Based on systems deployed as of November 3, 1987, the United States would eliminate 436 single-warhead launchers, and the Soviets would eliminate 683 launchers with a total of 1,565 warheads.

The removal of these missiles from Europe would eliminate the "gray area" weapons systems that have caused the Western Europeans great concern, and gotten in the way of strategic arms talks. The INF Treaty has a great potential to reduce tensions between the Warsaw Pact and NATO in Europe and to reduce the risk of "tactical nuclear battles" or escalation from conventional to nuclear war.

Perhaps the INF Treaty's real significance is the role it can play in ongoing arms control efforts. Strong verification procedures can restore confidence in the benefits of arms control and will facilitate similar verification methods for future agreements. A successful negotiating effort and Senate ratification of the INF Treaty will pave the way for future arms control, including the limits on and reductions in strategic weapons systems.

Ratification of the INF Treaty would mark approval of the first arms control treaty since the 1972 ABM Treaty. Serious progress toward arms control is long overdue, and the INF Treaty offers us an important opportunity to join the administration in a bipartisan effort to address this situation.

Some Senators have stated their opposition to the INF Treaty. They are concerned about verification procedures. They would prefer we not enter into any agreements with the Soviet Union. They say we cannot trust the Soviets. I think it is important for my colleagues to realize, Mr. President, that trust is not the issue. If it were, I would understand these Senators' objections because I do not think we can afford to base national security matters on trust. But this treaty is not based on trust. It is based on mutual self-interest and reliable verification procedures characterized by intrusive, on-site, in-country monitoring of weapons production and testing both scheduled and challenge inspections of possible treaty violations, and explicit rules governing the removal of weapons systems.

Based on the the evidence I have seen, the proposed INF Treaty is a significant achievement that certainly deserves my support and, I believe, the support of my colleagues. I commend the President for his efforts in this matter, and I urge my colleagues to join me in supporting this and other meaningful arms control measures.

THE FUTURE OF UNITED STATES-SOVIET ARMS CONTROL

Having stated my support for the INF Treaty, I also believe some important words of caution need to be heard. While the INF Treaty is a significant step forward, it is just that—a step. It cannot stand alone. It is important only if we make it so by ensuring its place in an integrated, long-term arms control policy. That is to say, that we cannot simply ratify the treaty and believe that our work is over. Treaty ratification is, in my view, only the beginning, and if we do not move forward with strategic arms reductions, we could very well nullify whatever positive impact this agreement will have had.

I am going to restate something that has been said on this floor several times because I think it is worth repeating until its truth and significance become evident to all Senators. I believe it was the Senator from Arkansas, Mr. BUMPERS, who said it first. The numbers have changed slightly to reflect increases that have occurred since the Treaty was first proposed.

The INF Treaty would cause the United States to eliminate 436 warheads. We should eliminate them, but we should not have a false sense of euphoria about the difference these weapons, in and of themselves, will make. I say this because it will take about 2 months to cancel out the progress made by INF reductions if we continue to produce strategic warheads at our present rate. Currently, we are producing more than 436 new—and more advanced—strategic warheads every 14 weeks. To continue this progressive net increase in nuclear warheads, we are spending about $1 million every hour. The nuclear weapons, locomotive is picking up steam, and we have to face the fact that the INF Treaty alone has no chance of stopping it.

How do we stop it—or just slow it down? First, we can insist on bilateral adherence to the SALT and ABM limits. Legislation to do that has passed both Houses of Congress, and it is my hope that the President and my colleagues who opposed SALT and ABM legislation will soon see that bilateral adherence to these limits is in our Nations' best interest. We can continue the ban on Asat weapons, and we can limit nuclear testing.

Second, we can negotiate deep reductions in strategic weapons. Once the INF Treaty is ratified, the President's START proposal is the next logical negotiating step in the arms control process. The START proposal would reduce 50 percent of strategic weapons systems and could mark the beginning of genuine reductions in the United States and Soviet nuclear arsenals.

Finally, we can keep arms control on the agenda. We should address—through legislation and negotiation—the remaining arms control issues facing us. We should continue to ban the testing of ASAT weapons and to limit nuclear testing. We should enter into negotiations to deal with the 8,000 nuclear warheads that will remain in Europe even after INF reductions are made. In short, we should remember the costs of nuclear war and devote sufficient resources to reducing the nuclear threat.

Mr. President, we have a monumental opportunity developing before us—a chance for peace and real reductions in nuclear weapons. If we move quickly to ratify the INF Treaty—without crippling amendments—and to complement that action with serious reductions in the bulk of our nuclear arsenals, including strategic weapons, we will have truly made a great achievement. The choice is ours. I pledge my support for this effort and hope my colleagues will join me.

I yield the floor.

SENATOR ROBERT STAFFORD

Mr. HARKIN. Mr. President, I also want to join with those who have spoken earlier today about the editorial in this morning's Washington Post about the senior Senator from Vermont, Senator STAFFORD, and to also pay my respects, and my highest esteem to the distinguished Senator from Vermont.

It has been my privilege to have worked with Senator STAFFORD now for the last year on the Labor and Human Services Committee, and to watch him in his very quite, very judicious way to lend an air of real professionalism, and deep study into the problems that confront that committee, especially in education. It goes without saying that

Senator STAFFORD really has been, and remains today, the leader in that area.

This body is going to be diminished greatly by the retirement of Senator STAFFORD.

He is indeed one of the finest examples of what it means to be a public servant in the finest sense of that word.

THE FARM CREDIT ACT AMENDMENTS OF 1987.

Mr. THURMOND. Mr. President. I rise in favor of the Farm Credit Act Amendments of 1987. I am pleased to be a cosponsor of this bill.

The farm recession of the early 1980's has contributed to problems in our Farm Credit System. The Farm Credit System, which holds between one-fourth and one-third of all farm debt, has seen a flight of borrowers from the system and is projecting a possible impairment of stock.

It would be a travesty to permit that system to collapse just when our farmers are starting to get back on their feet again.

The bill before us today meets the dual goals of providing much needed funds for the Farm Credit System and minimizing the impact of such assistance on the Federal budget deficit.

However, regarding third quarter capital preservation assessments, I am concerned that any such payments required of contributing banks should be made in accordance with the terms of those private agreements. I would like to associate myself with the remarks of Senator BENTSEN regarding the refunding of the 1986 third quarter capital preservation assessments. I understand that the managers of the bill have agreed to work out this issue in conference and I hope that they are able to come to an equitable solution.

The bill is truly a bipartisan package and the members of the Agriculture Committee are to be commended for their efforts. I will vote for final passage of this bill and I urge my colleagues to follow suit.

Mr. DIXON. Mr. President, I rise today in support of S. 1665, the proposed Farm Credit Act Amendments of 1987.

For most of this decade, the U.S. farm economy has been experiencing a depression. Since 1980, farmers have lost one-third of their accumulated wealth. Nationwide, since 1982 farmland has dropped in value 35 percent. In some regions, notably the Corn Belt, declines have been far worse.

While land values have been dropping precipitously for some time, current indicators suggest that prices have bottomed out. When adjusted for inflation, however, farmland values in the United States are now at their lowest level since 1967. For Illinois, the inflation adjusted values are even lower—reflecting 1950 levels.

It is important to recognize that farm related businesses have also been severly hurt in the overall depression in the farm economy. Financial institutions serving agriculture are no exception. Thirty-four percent of the institutions listed as in danger of failing by the FDIC are farm banks. Forty-seven farm banks have closed this year alone.

Of course, borrowers are among those who suffer the most when a bank fails or threatens to fail. In the recent past, the extent to which commercial banks could offer forebearance was limited because the FDIC and the Comptroller of the Currency were enforcing normal capital standards on them. The problem was that times were not "normal" for AG banks. Regulatory forbearance was needed in dealing with well run but financially stressed institutions. To remedy the situation, several of my colleagues and I introduced legislation to allow farm banks with less than $100 million in assets to amortize losses on agricultural loans over a 7-year period.

The Farm Credit System has not been immune to the problems besetting the farm economy. In part, because it is a one industry lender, the Farm Credit System has experienced more extreme financial problems than other lenders serving agriculture. Congress has not ignored these problems. In 1985 and in 1986 Congress took special steps to equip the System with the means of helping itself. Unfortunately, both the 1985 and 1986 acts were nonfinancial steps, and proved to be insufficient to cure the problems being experienced by the System.

The financial problems confronting farm credit are not uniformly distributed throughout the System. In some districts, the problems appear more manageable today than they did a year ago. For example, the St. Louis Farm Credit District, which serves Illinois, Missouri, and Arkansas, reported a third quarter profit of $1.9 million. Banks in several other districts, however, are on the verge of insolvency. If Congress fails to act this year, there is a grave danger that one or more district banks will become insolvent. If this occurs, all district banks will be affected. Insolvency in any of the districts could severely shake investor confidence in the System's securities, as well as accelerate borrower flight.

Mr. President, it is critical that Congress act this year to deal with this looming financial crisis. The legislation before us today is a constructive and responsible response to the crisis. Furthermore, this bill will benefit not only the Farm Credit System, but more importantly, American farmers and the U.S. economy as a whole.

S. 1665 provides needed assistance to System institutions in a manner which minimizes the cost to the U.S. taxpayer. Assistance would be provided to the System in the form of a loan. Realistic terms and conditions for the repayment of the loan are established. To minimize the draw on Federal moneys, a new Federal oversight entity is created. This assistance board will not automatically provide services to a troubled institution; rather, it would decide whether it is more expensive for the institution to be made viable or liquidated.

Existing borrower stock is protected in this bill. Immediate protection for the stock that producers and farm coops have invested in the System is also included. I believe it is of critical importance that this protection for farmers be extended.

Another major provision creates new opportunities for the System to achieve greater operational efficiencies through voluntary mergers. This bill would allow the merger of unlike entities within a district, subject to approval. Through such mergers, substantial reductions in the now excessive operating costs of System institutions can be expected. Officials of the St. Louis Farm Credit Banks inform me that their need for external assistance will be greatly reduced, and perhaps eliminated, if their real estate and production lending systems are merged.

The bill expands the rights of those who borrow from the System. Taken as a whole, S. 1665 ensures borrower rights in a way that still makes it possible for System institutions to operate under sound business principles.

Finally, S. 1665 would establish a Federal Agricultural Mortgage Corporation to link primary mortgage lenders with capital markets. The idea is to allow farm loan originators such as commercial banks, Farm Credit System institutions, insurance companies and other institutional lenders to sell to poolers loans they make to farmers. In turn, poolers would package these farm loans as "mortgage backed securities" and sell them through the proposed Federal Agricultural Mortgage Corporation [Farmer Mac]. Farmer Mac will accomplish in farm lending what the Government National Mortgage Association [Ginnie Mae] the Federal Home Loan Mortgage Corporation [Freddie Mac] and the Federal National Mortgage Association [Fannie Mae] have accomplished in home mortgage lending. The final outcome would be more competition among loan originators, resulting in lower prices and better service for farmers. The secondary title was framed in a way which will not adversely impact the Farm Credit System. Farmer Mac should not operate in a way that destabilizes the very System this legislation is designed to restore.

Mr. President, I wish to commend members of the Senate Agriculture Committee for fashioning a legislative proposal which helps not only farm credit institutions but their borrowers and American agriculture as a whole. Given the urgency of the farmer's situation and the obvious merit of S. 1665, I hope that the Congress will act on this legislation in time for the President to sign it into law in 1987.

Mr. NICKLES. Mr. President, I come to the Senate floor today in great expectation of the passage S. 1665, the Farm Credit Act Amendments of 1987. I am glad to see that this much needed bill has finally reached the point of the Senate approval, and I am pleased to say that I support the bill and the benefits it will most assuredly confer to the agriculture producers of America.

I also congratulate my friend and colleague from Oklahoma, Senator BOREN, for his monumental efforts in drafting this bill. Senator BOREN's commitment to the needs of Oklahoma's farmers and ranchers is evident in his time expended on the bill, and in the bipartisan attitude he displayed in the necessary compromises. Rarely does an act that is as controversial and encompassing as this one receive a unanimous vote in both its subcommittee and full committee consideration. Senator BOREN and all the members of the Agriculture Committee are to be commended and praised for the creation and management of this delicately crafted compromise.

Mr. President, it is also satisfying to see provisions in the bill providing for the restructing of loans for Farm Credit System and Farmers Home Administration borrowers. On March 5, 1986, I first introduced similar legislation known as the Landowner Protection Act, S. 2144. At the time, this legislation was largely unique in that not only would it help farm and ranch borrowers and strengthen a lender's financial position, but it could do so at no cost to the taxpayers.

In the 99th Congress, S. 2144 was incorporated into a comprehensive credit package introduced by Senator BOSCHWITZ, S. 2332. On May 7, 1987, I reintroduced the Landowner Protection Act as S. 1147, which later was the basis for a House-passed resolution, a Senate resolution with 60 cosponsors, and farm credit legislation cosponsored by the entire Oklahoma delegation.

Earlier this year, the Landowner Protection Act was adopted by Senator BOREN, chairman of the Subcommittee on Agriculture Credit, as part of S. 57. Thankfully, the concept these bills have promoted for nearly 2 years is embodied in S. 1665. With the passage of this bill today, farm and ranch borrowers can finally be offered real hope in the wake of their past troubles.

Mr. President, in conclusion I would simply say thank you once again to those who were actively involved in making this bill a reality. I feel it is a reality that will bring the needed aid to the Farm Credit System without breaking the taxpayers' backs. I urge my colleagues to expedite the passage of this bill for the prosperity of the American agricultural community.

Mr. STENNIS. Mr. President, I appreciate the opportunity to speak today on a matter of great importance to the people of Mississippi and the Nation. I refer, Mr. President, to the Farm Credit System bill.

We all know the tremendous problems that have plagued the American farmer over the past several years. Declining land values, depressed food prices and dramatically increased production costs have driven many farmers into bankruptcy and many more stand on the brink of financial ruin. While recent trends in the agricultural community point to better times ahead, many farmers still struggle to keep their farms.

Mississippi and the South have been particularly hard hit by changing agricultural market forces. Family farm foreclosures and distress sales are a sad everyday occurrence.

Because of this strain on individual farmers, the system which provides necessary financing to America's farmers has suffered tremendous losses. The Jackson, MS, division of the Farm Credit System has been particularly hard hit. The challenge faced by the U.S. Congress is to find a reasonable way to return solvency to the Farm Credit System and its member banks without exceeding our own serious budgetary constraints.

I am proud of the Senate Agriculture Committee's efforts in this regard. Faced with the challenge of a bankrupt National Farm Credit System and the limited Federal resources available to rescue it, the members of this committee worked long and hard to forge a consensus within the Senate and the agriculture community and to fashion a workable solution. The bill brought forth from that effort which is before us today is certainly a credit to those committee members.

Rather than authorizing a direct infusion of massive sums of money from the Federal Treasury, this bill authorized the issuance of bond obligations for the Farm Credit System and provides reasonable financial help in the form of Federal payment of the interest on that indebtedness. This solution allows the Farm Credit System and its member banks the opportunity to work their way toward solvency without a massive drain on the Federal Treasury.

The bill also authorizes a secondary market for agricultural loans issued through the Farm Credit System. This new provisions will help provide the necessary capital market for American agriculture to regain its financial footing.

I commend the members of the Senate Agriculture Committee for their efforts on this important matter and I strongly support the fruits of their labor.

Mr. KARNES. I have a question about the representation of regional financial institutions on the Secondary Market Corporation's interim Board of Directors. Will regional financial institutions be considered for membership on this Board?

Mr. LEAHY. The Senator raises an interesting question. Regional financial institutions can play a material role in carrying out this legislation. These regional firms deal with hundreds of rural banks on a day-to-day basis and some are experts in designing pooled mortgages and asset-backed securities for distributing in the national capital markets. The regional firms can help fill in the details associated with the workings of this market and make it viable for hundreds of agricultural lenders.

I believe these regional financial firms will be important candidates for membership on the interim Board of Directors and that representatives of such firms can be considered for this interim Board. Of course, all regional financial institutions that are considered for interim Board membership must meet the eligibility criteria specified in the bill; that is, they must be originators or poolers of qualified loans.

Mr. KARNES. I thank the Chairman.

Mr. GRAMM. Mr. President, while it is evident to me that action needs to be taken to shore up the Farm Credit System as a whole, I do not believe it wise to do so to the detriment of Farm Credit districts like the Texas district which have followed more conservative lending practices.

The bill we are voting on today would partially fund the bailout of the financially distressed districts by taking $39 million from Texas production credit associations, Federal land bank associations and the Texas Bank for Cooperatives to help establish the trust fund used to guarantee repayment of the bonds. This means that Texas, which holds only 7 percent of the total assets of the system, will be picking up 23 percent of the tab on this trust fund. Furthermore, this trust fund will not be returned to the contributing districts, but will be used to retire part of the principal on the 15-year bonds.

What is even more disturbing about H.R. 3030 is that it requires that $72 million in third quarter 1986 capital preservation payables from the Texas district, which are currently tied up in litigation, must be paid to the receiving districts. This is in direct contrast to the House-passed version of H.R. 3030 which reverses these payables and requires they be repaid to the contributing districts.

Mr. President, it would be my hope that the conferees on H.R. 3030 work out a package more equitable to Texas. It's simply not fair to force a district like Texas that has been well-managed to pay some $111 million to help bail out other districts, when paying this sum may threaten the viability of the Texas district. Should the conference report be equitable, I will give it my full support.

FARM CREDIT ACT AMENDMENTS OF 1987

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now proceed to vote on passage of H.R. 3030, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from California [Mr. WILSON] would vote "yea."

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 6, as follows:

[Rollcall Vote No. 397 Leg.]

YEAS—87

Adams
Armstrong
Baucus
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wirth

NAYS—6

Bentsen
Garn
Gramm
Humphrey
Proxmire
Rudman

NOT VOTING—7

Dodd
Evans
Gore
Kassebaum
Matsunaga
Simon
Wilson

So the bill (H.R. 3030), as amended, was passed, as follows:

H.R. 3030

Resolved, That the bill from the House of Representatives (H.R. 3030) entitled "An Act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit Act Amendments of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to the Farm Credit Act of 1971.

TITLE I—FARM CREDIT SYSTEM ASSISTANCE

Sec. 101. Farm Credit System assistance.

"TITLE VI—FARM CREDIT SYSTEM ASSISTANCE

"Subtitle A—Assistance Board

"Sec. 6.0. Establishment of Board.
"Sec. 6.1. Purposes.
"Sec. 6.2. Board of Directors.
"Sec. 6.3. Corporate powers.
"Sec. 6.4. Certification of eligibility to issue stock.
"Sec. 6.5. Assistance.
"Sec. 6.6. Special powers.
"Sec. 6.7. Restructuring System borrower debt.
"Sec. 6.8. Administration.
"Sec. 6.9. Limitation of powers.
"Sec. 6.10. Succession of the Corporation.
"Sec. 6.11. Effect of regulations; audits.
"Sec. 6.12. Termination.
"Sec. 6.13. Transitional provisions.

"Subtitle B—Financial Assistance Corporation

"Sec. 6.20. Establishment of Corporation.
"Sec. 6.21. Purpose.
"Sec. 6.22. Board of Directors.
"Sec. 6.23. Stock.
"Sec. 6.24. Corporate powers.
"Sec. 6.25. Accounts.
"Sec. 6.26. Debt obligations.
"Sec. 6.27. Preferred stock.
"Sec. 6.28. Payments.
"Sec. 6.29. One-time stock purchase.
"Sec. 6.30. Termination.
Sec. 102. Revolving fund.
Sec. 103. Unsafe or unsound practices.
Sec. 104. Financial report.
Sec. 105. Regulatory accounting procedures.
Sec. 106. Conforming amendments.

TITLE II—RESTRUCTURING THE FARM CREDIT SYSTEM

Sec. 201. Farm Credit Administration Board.
Sec. 202. Farm Credit Administration organization.
Sec. 203. Farm Credit System reserves.
Sec. 204. Protection of borrower stock.
Sec. 205. Merger of system institutions.

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

"Sec. 7.0. Power to merge.
"Sec. 7.1. Board of directors for the district.
"Sec. 7.2. Powers of merged banks.
"Sec. 7.3. Capital stock.
"Sec. 7.4. Earnings, reserves, and distributions.
"Sec. 7.5. Reports by merged banks for cooperatives.

"Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"CHAPTER 1—TRANSFERS BY PRODUCTION CREDIT ASSOCIATIONS TO BANKS

"Sec. 7.6. Transfer of loan-related assets and lending authority.

"CHAPTER 2—TRANSFERS BY FEDERAL LAND BANKS TO FEDERAL LAND BANK ASSOCIATIONS

"Sec. 7.7. Transfer of lending authority.

"CHAPTER 3—MERGER OF ASSOCIATIONS INTO BANKS

"Sec. 7.8. Power to merge.

"CHAPTER 4—MERGER OF LIKE AND UNLIKE ASSOCIATIONS

"Sec. 7.9. Prerequisite to mergers of unlike associations.
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SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

TITLE I—FARM CREDIT SYSTEM ASSISTANCE

SEC. 101. FARM CREDIT SYSTEM ASSISTANCE.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—FARM CREDIT SYSTEM ASSISTANCE

"Subtitle A—Assistance Board

"SEC. 6.0. ESTABLISHMENT OF BOARD.

"On the date which is 15 days after the date of enactment of the Farm Credit Act Amendments of 1987, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation and shall charter the 'Farm Credit System Assistance Board' (referred to in this Act as the 'Assistance Board') that, subject to this subtitle, shall be a Federally chartered instrumentality of the United States.

"SEC. 6.1. PURPOSES.

"The purposes of the Assistance Board shall be to carry out a program to provide assistance, to and protect the stock of, borrowers of the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates.

"SEC. 6.2. BOARD OF DIRECTORS.

"(a) MEMBERSHIP.—The Board of Directors of the Assistance Board shall consist of five members, of which—

"(1) one member shall be the Secretary of the Treasury;

"(2) one member shall be the Secretary of Agriculture;

"(3) one member shall be the Chairman of the Board of Governors of the Federal Reserve System; and

"(4) two members experienced in financial matters shall be appointed by the President, by and with the advice and consent of the Senate, who shall not be members of the same political party.

"(b) CHAIRMAN.—The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"(c) TERMS OF OFFICE, SUCCESSION, AND VACANCIES.—

"(1) TERMS OF OFFICE AND SUCCESSION.—The term of each member of the Board of Directors appointed under paragraph (4) of subsection (a) shall be until such time as the Assistance Board is terminated.

"(2) VACANCIES.—Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled.

"(d) COMPENSATION OF BOARD MEMBERS.—Members of the Board of Directors of the Assistance Board—

"(1) appointed under paragraphs (1), (2), and (3) of subsection (a) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors of the Assistance Board, except that such level shall not be in excess of the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

"(2) appointed under paragraph (4) of subsection (a) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors of the Assistance Board, except that such level shall not be in excess of the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

"(e) RULES AND RECORDS.—The Board of Directors of the Assistance Board shall

adopt such rules as it may deem appropriate for the transaction of the business of the Assistance Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(f) Quorum Required.—A quorum shall consist of three members of the Board of Directors. All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(g) Chief Executive Officer.—A chief executive officer of the Assistance Board shall be selected by the Board of Directors of the Assistance Board and shall serve at the pleasure of the Board.

"SEC. 6.3. CORPORATE POWERS.

"(a) In General.—The Assistance Board shall be a body corporate that shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) adopt a salary scale for officers and employees of the Assistance Board, in accordance with title 5, United States Code, for officers and employees of the United States;

"(5) prescribe by its Board of Directors its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general business is conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this title;

"(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(10) obtain insurance against loss;

"(11) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this title;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise other powers as set forth in this title, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this title.

"(b) Power to Remove, and Jurisdiction.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Assistance Board shall be a party, shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Assistance Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.4. CERTIFICATION OF ELIGIBILITY TO ISSUE STOCK.

"(a) Eligibility To Request Certification.—

"(1) In general.—At such time as the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities, such institution shall be eligible to request certification to issue preferred stock under section 6.27, and may request that the Assistance Board grant such certification.

"(2) Consideration of request.—The Assistance Board, on a request by a System institution for certification, shall consider such request, taking into consideration the purposes of this title, and may, at its discretion, grant such certification.

"(b) Mandatory Determination of Eligibility.—

"(1) In general.—The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 6.27, if—

"(A) the institution requests such certification;

"(B) the book value of the stock, participation certificates, and other similar equities of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

"(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 6.6.

"(2) Effective date of certification.—If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

"SEC. 6.5. ASSISTANCE.

"(a) In General.—The Assistance Board shall assist an institution that has been certified under section 6.4 by one or more of the following—

"(1) authorizing the institution to issue preferred stock, as described in section 6.27, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c);

"(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock, as described in section 6.27, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at current market value;

"(3) on a request by the institution, authorizing the issuance of preferred stock, as described in section 6.27, so as to provide assistance to facilitate the merger of the requesting institution with one or more other System institutions if such merger is approved by the stockholders of the merging institutions in accordance with title VII; or

"(4) providing assistance by such other methods as the Assistance Board determines appropriate.

"(b) Definition of High-Cost Debt.—For purposes of subsection (a)(2), the term 'high-cost debt' means securities or similar obligations issued prior to January 1, 1986, that have a maturity date of December 31, 1987, or later and bear a rate of interest in excess of the current market rate for similar securities or obligations.

"(c) Minimum Equity Value.—The Assistance Board shall authorize the issuance, by a certified institution, of amounts of preferred stock sufficient to—

"(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

"(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

"SEC. 6.6. SPECIAL POWERS.

"(a) In General.—In the case of a System institution that requests certification under section 6.4, the Assistance Board may—

"(1) require approval of the business, operating, and investment plans and policies for the institution;

"(2) direct the Farm Credit Administration Board, if one or more of the conditions described in section 4.12(b) are met, to appoint a conservator for the institution, in accordance with such section, with instructions, acceptable to the Assistance Board, to evaluate the operations of the institution and report to the Farm Credit Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

"(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

"(A) approve or require a merger or consolidation of the institution to the extent authorized under this Act;

"(B) initiate action to liquidate the institution or to appoint a receiver under section 4.12(b); or

"(C) exercise an enforcement power authorized under this Act;

"(4) require approval of the terms and conditions of any debt issuances of the institution;

"(5) require approval of the policy on credit standards used, and the policy on rates of interest charged on loans, by the institution, including requiring that—

"(A) the institution set interest rates at levels necessary to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

"(B) loans primarily secured by real estate mortgages shall not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the current market value of the real estate security, whichever is greater;

"(6) require approval of the design of management information and accounting systems at the institution, and the continued use by the institution of regulatory accounting practices in accordance with sections 4.8(b) and 5.19(b);

"(7) require approval of—

"(A) the hiring policies of the institution;

"(B) the salary scale for the chief executive officer, other managers, and directors of the institution, except that to the extent that the exercise of authority by the Assistance Board under this subparagraph overlaps or duplicates the authority of the Farm Credit Administration under sections 5.5 and 5.17(a)(15), the Assistance Board shall have

exclusive responsibility for providing such approval;

“(C) any change in the management of the institution; and

“(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B); and

“(8) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

“(b) LIQUIDATION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, if the Assistance Board determines that the cost of making assistance available to an institution under this title exceeds the cost of liquidating the institution, the Assistance Board may—

“(A) refuse to provide, or continue, certification to the institution under section 6.4; and

“(B) request the Farm Credit Administration to liquidate such institution.

“(2) COST OF LIQUIDATION.—As used in this section, the term ‘cost of liquidating the institution’ includes—

“(A) the amount by which the par value of stock, and the face value of participation certificates and other similar equities exceed the book value, as determined under generally accepted accounting principles, of such stock, certificates, and other equities, at the time of liquidation;

“(B) the difference between the outstanding amount of principal due on loans made by the institution (less an allowance for loan losses) and the amount at which such loans can be sold to third parties at the time of liquidation;

“(C) the difference between the carrying values for financial reporting purposes, as defined under generally accepted accounting principles, of all other assets of the institution and the amount at which such assets can be sold to third parties at the time of liquidation;

“(D) the amount in excess of the carrying values of liabilities of the institution for financial reporting purposes, as defined under generally accepted accounting principles, required to be paid to third parties at the time of liquidation for the agreement of such parties to pay or assume such liabilities;

“(E) the estimated costs of holding any or all assets and liabilities of the institution until such assets and liabilities are disposed of;

“(F) the estimated costs of terminating employees of the institution, including the costs of severance pay and benefit programs that are available to employees on termination of employment;

“(G) the estimated required costs of terminating employee benefit plans of the institution;

“(H) the estimated costs of terminating leases and other contractual obligations entered into by the institution;

“(I) the estimated costs of administrative, legal, and all other actions necessary to dispose of all assets and liabilities of the institution; and

“(J) all other costs reasonably expected to be incurred by the institution or by other System institutions as a result of the liquidation.

“(3) EXPANSION OF TERRITORY.—If the Farm Credit Administration liquidates a System institution in accordance with paragraph (1), the Farm Credit Administration shall ensure that the credit needs of eligible persons in the territory formerly served by the liquidated institution are adequately met through—

“(A) the expansion of the territory of an existing System institution to cover the territory affected by the liquidation;

“(B) the chartering of a new institution to cover such territory; or

“(C) a combination of the alternatives provided for in subparagraphs (A) and (B).

“(c) REPORT.—On January 1, and July 1, of each year, the Assistance Board shall submit, to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the manner in which System institutions that are certified to issue preferred stock under section 6.27 are using amounts received under such certification to—

“(1) lower interest rates charged to borrowers on loans made by such institutions; and

“(2) restore financial solvency to such institutions.

“SEC. 6.7. RESTRUCTURING SYSTEM BORROWER DEBT.

“(a) NATIONAL SPECIAL ASSET COUNCIL.—

“(1) ESTABLISHMENT.—A National Special Asset Council shall be established by the Assistance Board to—

“(A) monitor compliance with the restructuring requirements of this section by System institutions certified to issue preferred stock under section 6.27, and by special asset groups established under subsection (b); and

“(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

“(2) REVIEW OF DETERMINATION.—The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure each loan.

“(3) RESTRUCTURING.—With regard to any determination reviewed under paragraph (2), if the National Special Asset Council determines that restructuring the loan will be more advantageous to the System institution than foreclosure or other collection procedures—

“(A) the Council shall prepare a restructuring plan for the loan; and

“(B) the System institution shall be required to implement that restructuring plan.

“(4) NONCOMPLIANCE.—If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to assure that such group complies with this section.

“(b) SPECIAL ASSET GROUPS.—

“(1) ESTABLISHMENT.—If a System institution in a district is certified to issue preferred stock under section 6.27, within 30 days of such certification, the district board of such district shall establish a special asset group that shall review each determination by such institution in the district that a loan will not be restructured.

“(2) RESTRUCTURING PLAN.—If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the System institution shall be required to implement.

“(3) EVALUATION.—With respect to loans designated as ineligible for restructuring by a special asset group, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan cannot be restructured. If, within 30 days after the submission of such report, the special asset group has received no notification from the National Special Asset Council that the loan must be restructured, the determination of the special asset group shall be considered to be affirmed.

“(c) RESTRUCTURING STANDARDS.—In determining whether a loan will be restructured, the National Special Asset Council, each special asset group, and each System institution certified under section 6.4 shall take into consideration the restructuring standards specified in section 4.14A(b)(1).

“(d) REQUIREMENTS FOR RESTRUCTURING BY SYSTEM INSTITUTIONS.—

“(1) EXISTING NONACCRUAL LOANS.—Within 9 months after a System institution is certified under section 6.4, such institution shall review each loan that has not been previously restructured and that is in nonaccrual status on the date of the certification of the institution and determine whether the loan will be restructured.

“(2) NEW NONACCRUAL LOANS.—For loans placed in nonaccrual status after an institution is certified, the institution shall determine, within 6 months after any such loan is placed in nonaccrual status, whether the loan will be restructured.

“(e) EFFECT OF RESTRUCTURING ON BORROWER STOCK.—

“(1) FEDERAL LAND BANKS.—

“(A) IN GENERAL.—If a Federal land bank forgives any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder, with respect to the loan for which principal is forgiven, shall cancel borrower stock by the same percentage as the loan principal is reduced, and may cancel the same dollar amount of borrower stock.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), the borrower shall be entitled to retain one share of stock in order to maintain membership and a voting interest in the association.

“(2) PRODUCTION CREDIT ASSOCIATIONS.—

“(A) IN GENERAL.—If a production credit association forgives any of the principal outstanding on a loan made to any borrower, with respect to the loan for which principal is forgiven, the production credit association shall cancel borrower stock by the same percentage as the loan principal is reduced, and may cancel the same dollar amount of borrower stock.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), the borrower shall be entitled to retain one share of stock in order to maintain membership and a voting interest in the association.

“(f) APPLICATION.—This section shall not apply to the Central Bank for Cooperatives, a bank for cooperatives, or any System institution that is not certified under section 6.4.

“(g) DEFINITIONS.—As used in this section, the terms ‘application for restructuring’, ‘cost of foreclosure’, ‘foreclosure proceeding’, ‘restructure’, and ‘restructuring’, shall have the same meanings given such terms in section 4.14A(e).

“SEC. 6.8. ADMINISTRATION.

“(a) EXPENSES.—The administrative expenses of the Assistance Board, including the expenses of the National Special Asset Council, shall be paid for by the Financial Assistance Corporation, established in sec-

tion 6.20, from funds in the Assistance Fund established in section 6.25, except that the total administrative expenses of the Assistance Board shall not exceed—

"(1) in fiscal year 1988, $2,000,000; and

"(2) in each subsequent fiscal year, an amount equal to the ceiling for the prior fiscal year, increased by 5 percent.

"(b) INTERIM FUNDING.—Prior to the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 4.0. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

"(c) ACCESS TO FCA DOCUMENTS.—The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material for the purpose of carrying out the special powers of the Assistance Board under section 6.6, under terms and conditions that are acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials.

"SEC. 6.9. LIMITATION OF POWERS.

"(a) PURPOSES.—The powers of the Assistance Board under this title shall be exercised only for the purposes specified in this title and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and the cooperatives of such.

"(b) ADMINISTRATION OF LOANS.—The powers of the Assistance Board under this title shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions, except as otherwise specifically provided for in section 6.6.

"SEC. 6.10. SUCCESSION OF THE CORPORATION.

"(a) LIABILITIES.—On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this subtitle, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Farm Credit System Capital Corporation (hereinafter referred to in this section as 'the predecessor corporation') chartered under part D1 of title IV (prior to the repeal of such part by section 106(a)(5) of the Farm Credit Act Amendments of 1987), matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation.

"(b) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this subtitle.

"(c) ADJUSTMENT OF ASSESSMENTS.—Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 4.28G(a)(14) or 4.28H as in effect before the date of enactment of the Farm Credit Act Amendments of 1987, at the book value of such obligations (as determined as of such date of enactment) and, shall pay such amounts to the holders of such debt and equity obligations.

"(d) SURPLUS FUNDS.—To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the predecessor Corporation on the basis of the relative amount of funds so contributed by each institution.

"(e) PRESERVATION AGREEMENTS.—In consideration of the benefits, both direct and indirect, received by each System bank and association, individually and collectively, under this Act, any amount paid by a System bank to another System bank under the Federal Land Bank Capital Preservation Agreement, and the 37-Bank Capital Preservation Agreement, shall be retained by the recipient bank, and any obligation accrued by a System bank under such agreements on or before September 30, 1986, but not paid on or before the date of enactment of the Farm Credit Act Amendments of 1987, shall be paid in accordance with such agreements by such contributing bank in the amounts as stated in the 1986 audited financial reports of such banks, notwithstanding any reservation, qualification, or condition expressed by the System bank accruing or reporting the obligation.

"SEC. 6.11. EFFECT OF REGULATIONS; AUDITS.

"(a) ISSUANCE.—The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this title, all of which shall be issued and enforced without regard to subchapter II of chapter 5, of title 5, United States Code.

"(b) REGULATION BY FARM CREDIT ADMINISTRATION.—The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

"(c) AUDITS.—The Assistance Board shall not require an audit or examination of a System institution that would be duplicative of an audit or examination that is conducted under other provisions of law.

"SEC. 6.12. TERMINATION.

"The Assistance Board and the authority provided by this title shall terminate on December 31, 1992.

"SEC. 6.13. TRANSITIONAL PROVISIONS.

"(a) EXERCISE OF POWERS OF THE ASSISTANCE BOARD.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the powers of the Assistance Board under this title shall be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

"(2) LIMITATION.—Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not be in excess of, the amounts contained in the revolving fund established under section 4.0.

"(b) ISSUANCE OF STOCK.—Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a)(1), in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (c) shall be considered to be payments to each such institution for such stock.

"(c) REPAYMENT.—The Financial Assistance Corporation shall pay to the Farm Credit Administration the full amount of all financial assistance provided by the Administration in accordance with this section, from all, or part of, the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 6.26.

"Subtitle B—Financial Assistance Corporation

"SEC. 6.20. ESTABLISHMENT OF CORPORATION.

"Not later than 5 days after the date of enactment of the Farm Credit Act Amendments of 1987, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (referred to in this Act as the 'Financial Assistance Corporation') which shall be—

"(1) an institution of the Farm Credit System; and

"(2) a federally chartered instrumentality of the United States.

"SEC. 6.21. PURPOSE.

"The purpose of the Financial Assistance Corporation shall be to carry out a program to provide capital to institutions of the Farm Credit System that are experiencing financial difficulty.

"SEC. 6.22. BOARD OF DIRECTORS.

"(a) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The Board of Directors shall consist of the Board of Directors of the Federal Farm Credit Banks Funding Corporation (referred to in this Act as the 'Funding Corporation'.

"(2) CHAIRMAN.—The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"(3) COMPENSATION.—Members of the Board of Directors of the Financial Assistance Corporation shall receive compensation for the time devoted to meetings and other activities of the Board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board in amounts not in excess of levels set by the Farm Credit Administration Board.

"(b) RULES AND RECORDS.—The Board of Directors of the Financial Assistance Corporation shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(c) QUORUM REQUIRED.—No business may be conducted at a meeting of the Board of Directors of the Financial Assistance Corporation unless a quorum of the members of the Board is present, and a vote to approve an action requires a majority vote of the members voting.

"(d) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Financial Assistance Corporation shall be selected by the Board of Directors of the Financial Assistance Corporation and shall serve at the pleasure of the Board.

"SEC. 6.23. STOCK.

"The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this subtitle, and such stock shall not be transferable.

"SEC. 6.24. CORPORATE POWERS.

"(a) IN GENERAL.—The Financial Assistance Corporation shall have the power under its charter to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

"(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general business is conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(9) obtain insurance against loss;

"(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) perform such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this subtitle.

"(b) POWER TO REMOVE, AND JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation shall be a party, shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.25. ACCOUNTS.

"(a) FARM CREDIT ASSISTANCE FUND.—

"(1) ESTABLISHMENT.—The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this Act as the 'Assistance Fund') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this subtitle. The monies of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States.

"(2) FUNDING.—The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 6.26, and payments, as provided in section 6.28.

"(b) FINANCIAL ASSISTANCE CORPORATION TRUST FUND.—The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (referred to in this Act as the 'Trust Fund') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from purchase of stock from the Financial Assistance Corporation by System institutions under section 6.29.

"SEC. 6.26. DEBT OBLIGATIONS.

"(a) ISSUANCE.—During the period beginning 61 days after the date of enactment of the Farm Credit Act Amendments of 1987 and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d), with semiannual interest coupon payments and a maturity period of 15 years—

"(1) in an aggregate amount not to exceed $2,800,000,000; and

"(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

"(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

"(B) the Assistance Board determines that such additional funds are needed to carry out this title; and

"(C) the Assistance Board submits a report to Congress, at least 90 days prior to the issuance of any debt obligations under this subsection, that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination.

"(b) CONDITIONS.—The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and sold at such prices as may be prescribed by the Financial Assistance Corporation.

"(c) INTEREST PAYMENTS.—

"(1) PAYMENT OF INTEREST DURING FIRST 5-YEAR PERIOD.—During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

"(2) PAYMENT OF INTEREST DURING SECOND 5-YEAR PERIOD.—

"(A) IN GENERAL.—During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation.

"(B) PAYMENT BY SYSTEM INSTITUTIONS TO FINANCIAL ASSISTANCE CORPORATION.—During each year of the second 5-year period, System institutions shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System institutions shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System, under generally accepted accounting principles, exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

"(C) ALLOCATION.—Each System institution shall pay to the Financial Assistance Corporation a proportionate share of the interest due by System institutions under this paragraph, according to the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year) in relation to the total performing loan volume of the System.

"(3) PAYMENTS BY TREASURY.—The Secretary of the Treasury shall pay to the Financial Assistance Corporation, in a timely manner, the balance of the interest not paid by the System institutions as set forth in section 6.28.

"(4) PAYMENT OF INTEREST AFTER FIRST 10-YEAR PERIOD.—During each year of the third 5-year period of the 15-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System institutions shall pay the entire amount of interest due on the obligation according to the procedures set forth in paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

"(5) REPAYMENT BY SYSTEM INSTITUTIONS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) TIME OF PAYMENT.—Institutions of the Farm Credit System shall commence making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to commence making such payments until the obligations issued under subsection (d)(1)(C) have been fully repaid.

"(C) TERMS OF PAYMENTS.—

"(i) IN GENERAL.—Institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would result in jeopardizing the financial viability of any such institution.

"(ii) LIMITATIONS.—Institutions of the Farm Credit System shall not be required to make such repayments—

"(I) in a manner that shall impair the stock of such institution; or

"(II) in a manner that shall jeopardize the minimum capital requirements of the institution.

"(iii) UNCOLLATERALIZED OBLIGATION.—Obligations to make repayments under this section shall not be required to be collateralized.

"(D) REGULATIONS.—The Farm Credit Administration, after consulting with the Secretary of the Treasury, shall issue regulations governing—

"(i) the determination of the financial viability of System institutions;

"(ii) the time for payment of interest on the debt obligations issued under subsection (a);

"(iii) the amount of the payments made pursuant to this subsection; and

"(iv) the terms and conditions of such payments.

"(d) Refinancing and Payment of Principal.—

"(1) In general.—

"(A) Time of repayment.—Upon maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

"(B) Payments by institutions.—In order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27 with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, prior to the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.

"(C) Funds for payments.—Payments under subparagraph (B) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, without a collateral requirement and without any guarantee by the Secretary of the Treasury.

"(2) Refinanced obligations.—The refinanced obligations issued under paragraph (1) shall be solely the obligation of the institutions refinancing such, and sections 4.3 and 4.4 shall not be applicable to such obligations.

"(3) Defaults.—

"(A) Interest.—

"(i) Payment by corporation.—If a System institution defaults on the payment of interest due under this subsection during the first 15 years after an obligation is issued under subsection (a), the Financial Assistance Corporation shall pay the amount of the interest due by the System institution out of the Trust Fund, and shall recover the amount of the interest due from the defaulting System institution, and such amount shall be paid to the Trust Fund.

"(ii) Payment by reserve account.—If the Financial Assistance Corporation has not recovered the full amount of interest due from the defaulting institution by the end of the 12-month period beginning on the date of default, such uncollected interest shall be paid to the Trust Fund from the Reserve Account established under section 4.9A, to the full extent of funds available in the Reserve Account as of the date the Financial Assistance Corporation notified the Reserve Account Board of amounts due under this section.

"(iii) Payment by remaining institutions.—To the extent that the payment from the Reserve Account is insufficient to result in the reimbursement of the Trust Fund, the remaining balance shall be added to the amount of interest due by remaining System institutions, under this subsection, and each remaining System institution shall pay a proportionate share of the uncollected interest according to the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year) in relation to the total performing loan volume of the System, and such amounts shall be paid to the Trust Fund.

"(B) Principal.—

"(i) Evaluation.—Not later than 90 days prior to the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 6.27 with respect to such obligation to determine whether such System institution (or the successor thereto) will be able to redeem such stock at par value on the maturity of the obligation, and continue to remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates.

"(ii) Availability of evaluation.—A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

"(iii) Purchase by secretary of the treasury.—If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required in clause (i), that a System institution will be unable to redeem such stock at par value in a timely manner, either directly or through the use of funds obtained by such institution through the issuance of uncollateralized and nonguaranteed obligations, and remain a viable and competitive institution, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 6.27 to enable the institution to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Reserve Account an equal amount, at par value, of preferred stock of such institution. To the extent that the trust fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Reserve Account shall be used by the Reserve Account Board to purchase, at par value, the preferred stock issued by such institution under section 6.27 to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Reserve Account is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which such securities may be issued under such title are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Reserve Account Board under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Reserve Account Board and such institution.

"(C) Recourse by other system institutions.—A defaulting institution shall be liable to the remaining System institutions for the amount of any interest paid by the remaining institutions under this paragraph.

"(4) Payment by united states.—

"(A) Inability to pay.—Notwithstanding any other provision of this Act, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation, issued under subsection (a), as required in this subtitle, the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

"(B) Recovery.—

"(i) Interest payments.—In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System institution on interest due from such System institution under subsection (c), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting institution, from such defaulting institution. If the Secretary has not recovered the full amount due from the defaulting institution by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Reserve Account established under section 4.9A.

"(ii) Principal payments.—In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 6.27, the Reserve Account Board shall use funds deposited in the Reserve Account to repurchase, at par value, such stock from the Secretary of the Treasury as funds become available for such repurchase.

"(iii) Priority.—Notwithstanding any other provision of this Act except for section 4.9A(e)(4), during any year in which payments are due to the Secretary of the Treasury from the Reserve Account under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Reserve Account under clause (ii), the funds in such Account, and all funds deposited in such Account during such year, shall be used first for the purposes specified in clauses (i) and (ii).

"SEC. 6.27. PREFERRED STOCK.

"(a) Issuance.—

"(1) In general.—Each System institution that is certified under section 6.4 may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

"(2) Dividends.—

"(A) General rule.—Dividends shall not be payable on stock issued under this section.

"(B) Exception.—Notwithstanding subparagraph (A), the stock issued under this section shall provide for the payment of dividends to the Secretary of the Treasury if such stock is purchased by the Secretary under section 6.26(d)(3)(B). Such dividends shall be paid at a rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, and a premium to reflect the cost of capital for institutions in financial distress.

"(3) Voting rights.—A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

"(b) Purchase.—The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsection (a) to the extent that the issuance of such stock is approved by the Assistance Board.

"SEC. 6.28. PAYMENTS.

"(a) In General.—Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation paid in interest charges under section 6.26(c)

during fiscal year 1988, and the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 6.26(c).

"(b) LIMIT ON LIABILITY OF THE SECRETARY OF THE TREASURY.—

"(1) INITIAL PAYMENTS.—The first $2,000,000,000 of assistance payments made by the Secretary of the Treasury pursuant to subsection (a) shall not be subject to repayment by institutions of the Farm Credit System.

"(2) EXCESS PAYMENTS.—

"(A) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) in excess of $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

"(B) ALLOCATION.—Each System institution shall pay a proportionate share of the amount due under this paragraph, according to the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year) in relation to the total performing loan volume of the System.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this subtitle.

"SEC. 6.29. ONE-TIME STOCK PURCHASE.

"(a) AMOUNT OF STOCK PURCHASE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.10(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit association or a Federal land bank association, 13 percent of assets.

"(2) REALLOCATION.—The district board of a district, subject to the unanimous consent of the bank and associations within the group that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability to pay of the banks and associations, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) a district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by Production Credit Associations among such associations and the district Federal Intermediate Credit Bank; and reallocation of the amount of stock required to be purchased by Federal Land Bank Associations among such associations and the district Federal Land Bank. Other reallocations than those enumerated above shall not be permitted.

"(b) COMPUTATIONS.—The unallocated retained earnings and assets referred to in subsection (a) shall be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the System institution on December 31, 1986.

"(c) NOTICE.—Not later than 15 days after the retirement of the obligations of the Capital Corporation under section 6.10—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a).

"(d) INSTITUTION REQUIREMENTS AFTER NOTICE.—Not later than 15 days after the date on which each System institution is notified of the amounts due under subsection (c), each System institution shall make purchases from the Financial Assistance Corporation of the amount of stock required to be purchased by such System institution under this section. No further stock purchases, obligations, or assessments shall be required beyond that provided in section 6.26 and this section.

"(e) JURISDICTION OVER ACTIONS.—Notwithstanding any other provision of law, the United States district court for the District of Columbia shall have exclusive jurisdiction over any action brought under or arising out of this section. No suit or proceeding shall be maintained for the recovery of any amount of stock alleged to have been erroneously or illegally purchased, and no suit or proceeding shall be maintained to enjoin or otherwise prevent or impede the giving of notice or the purchase of stock required under this section, unless and until the amount of stock required to be purchased under this section has been purchased and paid for in full.

"SEC. 6.30. TERMINATION.

"(a) FINANCIAL ASSISTANCE CORPORATION.—The Financial Assistance Corporation and the authority provided to such Corporation by this subtitle shall terminate on the maturity and full payment of all debt obligations issued under section 6.26(a).

"(b) ACCOUNTS.—Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a), any funds in the accounts established under section 6.25 shall be transferred to the Reserve Account established under section 4.9A.".

SEC. 102. REVOLVING FUND.

Section 4.0 (12 U.S.C. 2151) is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"(a) REVOLVING FUND.—The revolving fund established by this section (as it existed before the amendment made by section 102 of the Farm Credit Act Amendments of 1987) shall be available to the Farm Credit Administration—

"(1) during the period, and for the purposes provided for in sections 6.8(b) and 6.13; and

"(2) during the period beginning January 1, 1993, to advance funds to the Reserve Account established under section 4.9A if the Account does not have sufficient funds to carry out section 4.9A(e)(3).

"(b) RESERVE ACCOUNT.—Any funds advanced from the revolving fund to the Reserve Account under subsection (a)(2) shall be repaid from the Reserve Account in accordance with the terms and conditions established by the Farm Credit Administration.".

SEC. 103. UNSAFE OR UNSOUND PRACTICES.

Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(4) the term 'unsafe or unsound practice' shall—

"(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order; and

"(B) during the period beginning on the date of enactment of the Farm Credit Act Amendments of 1987 and ending December 31, 1992, mean any noncompliance by a System institution, as determined by the Assistance Board in consultation with the Farm Credit Administration, with any term or condition imposed on the institution by the Assistance Board in connection with the exercise of the powers authorized under section 6.6.".

SEC. 104. FINANCIAL REPORT.

During the period beginning September 30, 2001, and ending December 31, 2001, the Farm Credit Administration shall review and evaluate the financial condition of the Farm Credit System and report to the Secretary of the Treasury and the appropriate committees of Congress on—

(1) the general financial condition of each System institution;

(2) the total outstanding principal of debt obligations issued under section 6.26 of the Farm Credit Act of 1971 (as added by section 101 of this Act); and

(3) the ability of each System institution to retire, at par value, preferred stock issued by the institution in accordance with section 6.27 of the Farm Credit Act of 1971 (as added by section 101 of this Act).

SEC. 105. REGULATORY ACCOUNTING PROCEDURES.

(a) DATES FOR PURCHASE AND SALE OF OBLIGATIONS.—Section 4.8(b) (12 U.S.C. 2159(b)) is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) ANNUAL REPORTS.—Section 5.19(b) (12 U.S.C. 2253(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In accordance with the regulations of the Farm Credit Administration and section 6.6, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in this section.

"(3) Any preferred stock issued under section 6.27 shall be subordinated to, and impaired prior to, other stock or equities of the institution.".

SEC. 106. CONFORMING AMENDMENTS.

(a) REPEAL.—Effective 15 days after the date of enactment of this Act—

(1) section 4.1 (12 U.S.C. 2152) is repealed;

(2) section 4.36 (12 U.S.C. 2219a) is repealed;

(3) section 5.17(a)(8) (12 U.S.C. 2252(a)(8)) is repealed; and

(4) Part D1 of title IV (12 U.S.C. 2216 et seq.) is repealed.

(b) DEFINITION OF BANK.—Section 4.4 (12 U.S.C. 2155) is amended by striking out subsection (c).

(c) REDESIGNATION.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "Capital Corporation" and inserting in lieu thereof "Financial Assistance Corporation".

TITLE II—RESTRUCTURING THE FARM CREDIT SYSTEM

SEC. 201. FARM CREDIT ADMINISTRATION BOARD.

(a) RULES AND RECORDS.—Section 5.8(c) (12 U.S.C. 2242) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.".

(b) CHAIRMAN.—Subsection (a) of section 5.10 (12 U.S.C. 2244(a)) is amended to read as follows:

"(a)(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

"(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

"(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal government.

"(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

"(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 4.2;

"(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

"(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.".

(c) FUNCTIONS AND APPOINTMENTS.—Section 5.11 (12 U.S.C. 2245) is amended to read as follows:

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.

"(a) POLICIES OF THE BOARD.—The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this Act, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

"(b) APPOINTMENTS.—The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

"(c) PERSONNEL.—

"(1) APPOINTMENTS BY BOARD MEMBERS.—Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

"(2) OFFICERS AND EMPLOYEES.—The officers and employees of the agency shall be—

"(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

"(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code; and

"(C) subject to section 5315 of title 5, United States Code.

"(3) DELEGATION.—The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and employees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this Act without Board approval.

"(d) FUNDING.—The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15.".

(d) ADVISORY COMMITTEES.—Section 5.12 (12 U.S.C. 2246) is amended by inserting ", subject to the approval of the Board," after "Chairman of the Board".

(e) POWERS.—Section 5.17(a) (12 U.S.C. 2251(a)) is amended—

(1) in paragraph (2), by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations."; and

(2) in paragraph (15)—

(A) by inserting "by the Board" after "determined"; and

(B) by adding at the end thereof the following new sentence: "The Board may not delegate its responsibilities under this paragraph.".

(f) SPECIAL DISTRICT RULE.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end thereof the following new subsection:

"(c)(1) On request, the Farm Credit Administration Board may permit a production credit association, located in a district in which there are no more than three such associations, notwithstanding any territorial limitation in the charter of such association, to provide credit and technical assistance to any borrower who is denied credit by a production credit association that—

"(A) has an adjoining service territory; and

"(B) is located in the same district,

if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards.

"(2) If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after the receipt of the application from the borrower.".

(g) CONFORMING AMENDMENT.—Section 4.12 (12 U.S.C. 2183) is amended by inserting "Board" after "Farm Credit Administration" each place it appears in subsection (b) other than in clause (5) of the first sentence.

SEC. 202. FARM CREDIT ADMINISTRATION ORGANIZATION.

(a) OPERATING EXPENSES FUND.—Section 5.15 (12 U.S.C. 2249) is amended to read as follows:

"SEC. 5.15. FARM CREDIT ADMINISTRATION OPERATING EXPENSES FUND.

"(a) DETERMINATIONS REQUIRED.—

"(1) GENERALLY.—Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

"(A) the cost of administering this Act for the subsequent fiscal year, including expenses for official functions;

"(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

"(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under title VIII.

"(2) APPORTIONMENTS.—On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

"(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

"(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

"(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount specified in paragraph (1)(C).

"(b) DEPOSITS INTO FUND.—

"(1) TREASURY FUND.—The amounts collected under subsection (a) shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard to the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) or any other law, to pay the expenses of the Farm Credit Administration.

"(2) NONGOVERNMENT FUNDS.—The funds contained in the Expense Account shall not be construed to be Federal government funds or appropriated monies.

"(3) INVESTMENT.—

"(A) AUTHORITY.—On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

"(B) RETURNS.—All income earned from such investments and reinvestments shall be deposited in the Expense Account.

"(C) TYPE.—Such investments shall be made in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) EXAMINATION OF FEDERAL LAND BANK ASSOCIATIONS.—Section 5.19(a) (12 U.S.C. 2253(a)) is amended—

(1) in the first sentence, by striking out "Each" and inserting in lieu thereof "Except for Federal land bank associations, each";

(2) by inserting after the first sentence the following new sentence: "Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years."; and

(3) by striking out "the Chairman of" each place it appears in such subsection.

(c) POWER TO REMOVE DIRECTORS AND OFFICERS.—Part C of title V (12 U.S.C. 2260) is amended by adding at the end thereof the following new section:

"SEC. 5.38. POWER TO REMOVE DIRECTORS AND OFFICERS.

"Notwithstanding any other provision of this Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association.".

SEC. 203. FARM CREDIT SYSTEM RESERVES.

Section 4.9A (12 U.S.C. 2161) is amended to read as follows:

"SEC. 4.9A. FARM CREDIT SYSTEM CENTRAL RESERVE ACCOUNT.

"(a) IN GENERAL.—Effective January 1, 1992, the Farm Credit Administration Board shall establish and maintain the Farm Credit System Central Reserve Account (referred to in this Act as the 'Reserve Account').

"(b) FORM.—The Reserve Account shall be held in the form of securities, with such maturities as are determined by the Reserve Account Board to be appropriate to enable the Board to carry out the obligations of the Board under this section.

"(c) RESERVE ACCOUNT BOARD.—

"(1) ESTABLISHMENT.—The Reserve Account shall be managed by a Reserve Account Board of Directors that shall consist of the members of the Farm Credit Administration Board.

"(2) CHAIRMAN.—The Reserve Account Board shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

"(d) PREMIUMS.—

"(1) IN GENERAL.—The Reserve Account Board shall assess and collect such premiums from System banks as are necessary to carry out this section, except that the annual premium due from any System bank for any calendar year shall not exceed the sum of—

"(A) the average principal outstanding during the prior calendar year on all loans made by such bank that are in accrual status, multiplied by 0.0015; and

"(B) the average principal outstanding during the prior calendar year on all loans made by such bank that are in nonaccrual status, multiplied by 0.0025.

"(2) DETERMINATION OF PRINCIPAL OUTSTANDING.—For the purpose of paragraph (1), the principal outstanding on all loans, in accrual and nonaccrual status, made by a Federal intermediate credit bank shall be determined based on all loans in accrual and nonaccrual status made—

"(A) by the production credit associations in the district in which such bank is located;

"(B) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2), that is able to make such loans because such entity is receiving, or has received, funds provided through the Federal intermediate credit bank; and

"(C) by such Federal intermediate credit bank (other than loans made to any party described in subparagraph (A) or (B)).

"(e) USES.—The Reserve Account shall be used by the Reserve Account Board to provide assistance to System institutions as needed—

"(1) to satisfy notes, bonds, debentures, or other individually issued obligations that issuing System institutions are unable to satisfy independently;

"(2) to satisfy consolidated or System-wide obligations to the extent that a participating System institution is unable to make payments of principal and interest, or both, for which such institution is primarily liable;

"(3) to satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 6.26(d)(3); and

"(4) to ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 4.9B(c)(2).

"(f) LIABILITY.—If the Reserve Account Board is called on to make payment of principal or interest, or both, of any obligation described in paragraph (2) of subsection (e), on behalf of a System institution that is unable to make such payment without assistance, and if the amount due exceeds the funds available in the Reserve Account—

"(1) the Reserve Account Board shall make a partial payment on the obligation to the extent of the funds available in the Reserve Account; and

"(2) each System bank shall be jointly and severally liable under section 4.4 for the payment of any additional amounts due or called on by the Farm Credit Administration to the extent necessary to retire the full amount of such obligation.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Farm Credit Administration shall issue such regulations as are necessary to carry out this section, including regulations concerning—

"(A) the basis on which System institutions are to be assessed premiums to be paid to the Reserve Account;

"(B) the method by which premiums shall be collected from System institutions for the Reserve Account;

"(C) the maximum amount of funds that may be held by the Reserve Account at one time;

"(D) the circumstances under which payments shall be made by the Reserve Account, consistent with subsection (e); and

"(E) the method by which payments shall be made pursuant to subsection (e).

"(2) IMPLEMENTATION.—The Farm Credit Administration shall issue—

"(A) proposed regulations to carry out this section not later than October 1, 1990; and

"(B) final regulations to carry out this section not later than July 1, 1991.

"(3) NOTIFICATION OF CONGRESS.—Notwithstanding any other provision of law, final regulations issued by the Farm Credit Administration pursuant to this section shall be presented to Congress not later than 30 days prior to publication of such final regulations.".

SEC. 204. PROTECTION OF BORROWER STOCK.

Part A of title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.9B. PROTECTION OF BORROWER STOCK, PARTICIPATION CERTIFICATES, AND OTHER SIMILAR EQUITIES.

"(a) GUARANTEE.—Notwithstanding any other provision of law, with respect to any loan made by a System institution to a borrower that is secured by stock, participation certificates, or other similar equities held by a person other than a System institution or entity described in section 2.3(a)(2), that is repaid in full—

"(1) in the case of stock, the stock shall be retired and paid for at par value by the lending institution; and

"(2) in the case of participation certificates or other similar equities, the certificates or equities shall be retired and paid for at face value by the lending institution.

"(b) APPLICATION.—This section shall only apply to any borrower stock, participation certificate, or other similar equity referred to in subsection (a) that—

"(1) was frozen, or retired at less than par value, by an association after January 1, 1983, in connection with the liquidation of an association;

"(2) is outstanding on the date of enactment of the Farm Credit Act Amendments of 1987; or

"(3) is required to be purchased, and is purchased, as a condition of obtaining a loan made after the date of enactment of the Farm Credit Act Amendments of 1987, but prior to the earlier of—

"(A) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 4.9B; or

"(B) the date that is 9 months after the date of enactment of the Farm Credit Act Amendments of 1987.

"(c) FINANCIAL ASSISTANCE TO RETIRE STOCK.—

"(1) CERTIFICATION.—During the 5-year period beginning on the date of enactment of the Farm Credit Act Amendments of 1987, if a System institution is unable to retire any of the borrower stock, participation certificates, or other similar equities described in paragraph (2) or (3) of subsection (b) in accordance with subsection (a), such institution shall apply to the Assistance Board for certification of eligibility to issue preferred stock under section 6.4. The Assistance Board shall so certify the issuance of stock by such institution in an amount sufficient to assure redemption of the stock, certificates, or equities.

"(2) AMOUNTS OF ASSISTANCE.—After the 5-year period beginning on the date of enactment of the Farm Credit Act Amendments of 1987, if a System institution is unable to retire any of the borrower stock, participation certificates, or other similar equities described in paragraph (2) or (3) of subsection (b) for the amounts described in subsection (a), financial assistance sufficient to assure redemption of such stock, certificates, or equities at par or face value shall be provided to the System institution by the Farm Credit System Central Reserve Account.

"(d) PROCEDURES.—The Assistance Board shall develop and implement procedures under which the Financial Assistance Corporation is directed to provide funds to stockholders or receivers of an association specified in subsection (b)(1) not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation under section 6.26, to carry out the stock guarantee provided for in subsection (b)(1).".

SEC. 205. MERGER OF SYSTEM INSTITUTIONS.

(a) IN GENERAL.—The Act (12 U.S.C. 2001 et seq.) (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new title:

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

"SEC. 7.0. POWER TO MERGE.

"Two or more banks within a district may merge into a single entity (hereinafter in this title referred to as a 'merged bank') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective boards of directors of the banks involved;

"(3) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"SEC. 7.1. BOARD OF DIRECTORS FOR THE DISTRICT.

"(a) COMPOSITION.—

"(1) IN GENERAL.—Following a merger pursuant to section 7.0, the district Board of Directors shall continue to be composed of seven members as provided in section 5.1.

"(2) REGULATIONS.—The Farm Credit Administration shall issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial Board of Directors of the merged bank.

"(b) ELECTION.—Following a merger pursuant to section 7.0, the members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2.

"SEC. 7.2. POWERS OF MERGED BANKS.

"(a) IN GENERAL.—Except as otherwise provided in this title, a merged bank shall have all of the powers granted to, and shall be subject to all of the obligations imposed on, any of the constituent entities of the merged bank.

"(b) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank.

"SEC. 7.3. CAPITAL STOCK.

"(a) PLAN OF MERGER.—Subject to subsection (c), the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the banks involved, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(b) BOARD OF DIRECTORS.—Subject to subsection (a), the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, shall be determined by the Board of Directors of the merged bank established under this subtitle.

"(c) VOTING STOCK.—Voting stock of a merged bank shall be held only—

"(1) by associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

"(2) by farmers, ranchers, or producers or harvesters of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank.

"SEC. 7.4. EARNINGS, RESERVES, AND DISTRIBUTIONS.

"(a) USE OF NET EARNINGS.—The Board of Directors of a merged bank shall determine the use or other application of net earnings after payment of operating expenses.

"(b) RESTORATION OF VALUE OF IMPAIRED CAPITAL STOCK.—Net earnings shall first be applied to restore the value of impaired capital stock.

"(c) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(1) additions to an allocated reserve account;

"(2) additions to an unallocated reserve account;

"(3) payment of a dividend on capital stock; and

"(4) payment of patronage refunds in cash or in stock or other notices of allocation.

"(d) USE OF CAPITAL AND RETAINED EARNINGS.—All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

"SEC. 7.5. REPORTS BY MERGED BANKS FOR COOPERATIVES.

"(a) IN GENERAL.—When two or more banks for cooperatives merge, the resulting bank shall, not later than December 31 of each year of the succeeding 5 years following the date of the merger, file an annual report with the Farm Credit Administration that—

"(1) analyzes the effect of the merger;

"(2) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

"(3) describes the adequacy of credit and other assistance services provided to smaller cooperatives.

"(b) AVAILABILITY.—A copy of the report required in subsection (a) shall be made available to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"CHAPTER 1—TRANSFERS BY PRODUCTION CREDIT ASSOCIATIONS TO BANKS

"SEC. 7.6. TRANSFER OF LOAN-RELATED ASSETS AND LENDING AUTHORITY.

"(a) ASSIGNMENT AND TRANSFER.—

"(1) ASSIGNMENT.—A production credit association may assign the authority conferred on the association to make and participate in loans and related authorities, to the Federal intermediate credit bank in the district, or to a merged bank having the Federal intermediate credit bank as one of its constituents, if the assignment is approved by—

"(A) the Farm Credit Administration Board;

"(B) the Board of Directors of both institutions; and

"(C) a majority of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting.

"(2) TRANSFER.—The production credit association shall transfer all of the association's loan portfolio or other assets, or both, to the bank for such consideration as may be agreed on by the boards of directors of the association and the bank.

"(b) DIRECT LOAN AUTHORITY.—After a transfer described in subsection (a), the Federal intermediate credit bank or the merged bank shall possess the direct loan authority under this Act formerly possessed by the transferring production credit association in the territory served by the association.

"(c) ASSOCIATION DIRECT LOANS.—After a transfer described in subsection (a), the provisions of subsections (f), (g), and (h) of section 2.13 and section 4.3A, previously applicable to the association, with respect to the direct loans of the association to borrowers in the territory formerly served by the production credit association, shall be applicable to the bank.

"(d) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of associations that make assignments or transfers are consolidated, and to the extent necessary, reconciled in the bank referred to in subsection (a).

"CHAPTER 2—TRANSFERS BY FEDERAL LAND BANKS TO FEDERAL LAND BANK ASSOCIATIONS

"SEC. 7.7. TRANSFER OF LENDING AUTHORITY.

"(a) ASSIGNMENTS.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may assign to a Federal land bank association, and the association may assume, the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9 if the assignment is approved by—

"(1) the Farm Credit Administration Board;

"(2) the Board of Directors of both institutions; and

"(3) a majority of the stockholders of the bank and of the association, in accordance with the voting provisions of sections 7.0 and 7.6.

"(b) DIRECT LOANS AND FINANCIAL ASSISTANCE.—After an assignment described in subsection (a)—

"(1) the Federal land bank association shall possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and

"(2) the Federal land bank may provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association under subsection (a).

"(c) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a). Following a transfer or assignment under subsection (a), the provisions of section 4.3A shall be applicable to the association.

"CHAPTER 3—MERGER OF ASSOCIATIONS INTO BANKS

"SEC. 7.8. POWER TO MERGE.

"(a) IN GENERAL.—On approval of a plan of merger by the Farm Credit Administration Board, and the Boards of Directors of the merging institutions and a majority vote cast by the stockholders of the bank and of the association in accordance with the voting provisions of sections 7.0 and 7.6, as applicable to each, a production credit association or a Federal land bank association may merge into its supervising bank.

"(b) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the bank and association that form the merged bank are consolidated and, to the extent necessary, reconciled in the merged bank. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged bank.

"CHAPTER 4—MERGER OF LIKE AND UNLIKE ASSOCIATIONS

"SEC. 7.9. PREREQUISITE TO MERGERS OF UNLIKE ASSOCIATIONS.

"There shall be no merger of one or more production credit associations with one or more Federal land bank associations until—

"(1) either—

"(A) the direct lending authority of each of the merging production credit associations has been vested in the supervising bank of the association under section 7.6; or

"(B) the bank supervising the Federal land bank association has transferred all of its direct lending authority of the bank to such associations under section 7.7; and

"(2) a plan of merger is developed that shall designate one of the supervising banks of the associations being merged, as the bank responsible for the merged association.

"SEC. 7.10. MERGER OF ASSOCIATIONS.

"(a) IN GENERAL.—Two or more associations within the same district, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this title referred to as a "merged association") if—

"(1) the associations desiring to merge comply with section 7.9, as applicable; and

"(2) the plan of merger is approved by—

"(A) the Farm Credit Administration Board;

"(B) the boards of directors of the associations;

"(C) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(D) the supervising bank.

"(b) POWERS, OBLIGATIONS, AND CONSOLIDATION.—

"(1) POWERS AND OBLIGATIONS.—Except as otherwise provided by this title, a merged association shall—

"(A) possess all powers granted under this Act to the associations forming the merged association; and

"(B) be subject to all of the obligations imposed under this Act on the associations forming the merged association.

"(2) CONSOLIDATION.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged association.

"(c) STOCK ISSUANCE.—

"(1) PLAN OF MERGER.—Subject to section 4.3A, the number of shares of capital stock issued by a merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends), shall be determined by the plan of merger adopted by the merged associations.

"(2) PLAN OF CAPITALIZATION.—The number of shares of capital stock, and the rights and privileges thereof, issued by a merged association after a merger shall be determined by the Board of Directors of the merged association, with the approval of the supervising bank, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(3) VOTING STOCK.—Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers or harvesters of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of such merged association.

"(d) USE OF EARNINGS.—

"(1) NET EARNINGS.—In accordance with standards established by the Farm Credit Administration and subject to the approval of the supervising bank, the Board of Directors of a merged association shall determine the use or other application of net earnings after the payment of operating expenses.

"(2) RESTORATION OF IMPAIRMENT OF CAPITAL STOCK.—Net earnings shall first be applied to restore the value of any impaired capital stock.

"(3) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(A) additions to an allocated reserve account;

"(B) additions to an unallocated reserve account;

"(C) payment of dividends on capital stock; or

"(D) payment of patronage refunds in cash or in stock or other notices of allocation.

"(4) OTHER CAPITAL AND EARNINGS.—All capital and retained earnings of a merged association shall be available for the uses described in this subsection and for use in the activities of the merged association as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

"SEC. 7.11. RECONSIDERATION.

"(a) PERIOD.—A stockholder vote in favor of—

"(1) the merger of districts under section 5.17(a)(2);

"(2) the merger of banks within a district under section 7.0;

"(3) the transfer of the loan related assets and lending authority of a production credit association under section 7.6;

"(4) the transfer of the lending authority of a Federal land bank or a merged bank having a Federal land bank as one of its constituents, under section 7.7;

"(5) the merger of an association into a bank under section 7.8;

"(6) the merger of two or more associations under section 7.10;

"(7) the termination of the status of an institution as a System institution under section 7.12; and

"(8) the merger of similar banks under section 7.15;

shall not take effect except in accordance with subsection (b).

"(b) RECONSIDERATION.—

"(1) NOTICE.—Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a), the officer or employee that records such vote shall ensure that all stockholders of the voting entity receive notice of the final results of the vote.

"(2) EFFECTIVE DATE.—A voluntary merger, transfer, or termination that is approved by a vote of the stockholders of two or more banks or associations, shall not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote in accordance with paragraph (1).

"(3) PETITION FILED.—If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of the notification required under paragraph (1)—

"(A) a voluntary merger, transfer, or termination shall not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

"(B) a special meeting of the stockholders of the affected banks or associations shall be held during the period referred to in subparagraph (A) to reconsider the vote.

"(4) VOTE ON RECONSIDERATION.—If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote against the proposed merger, transfer, or termination, such action shall not take place.

"(5) FAILURE TO FILE PETITION.—If a petition for reconsideration of such vote is either not filed prior to the 60th day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination shall become effective in accordance with the plan of merger, transfer, or termination.

"(c) SPECIAL RECONSIDERATION.—

"(1) ISSUANCE OF REGULATIONS.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of enactment of the Farm Credit Amendments Act of 1987, may petition for the opportunity to organize as a separate association.

"(2) REQUIREMENTS.—The regulations issued by the Farm Credit Administration shall require that—

"(A) the petition be filed within 1 year after the date of the implementation of such regulations;

"(B) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

"(C) the petition describe the territory in which the proposed separate association will operate;

"(D) if the petition is approved—

"(i) the loans of the members of the new association will be transferred from the current association to such new association;

"(ii) the stock, participation certificates, and other similar equities of the current association held by members of the new association will be retired at book value and the proceeds of such will be transferred to the new association, and an equivalent amount of stock, participation certificates, and other similar equities will be issued to the members by the new association; and

"(iii) the other assets of the current association will be distributed equitably among the current association and any resulting new association.

"(3) NOTIFICATION.—Not later than 30 days after the filing of the petition for organization, the current association shall notify its stockholders that a petition to establish the separate association has been filed. Such notification shall contain the date of a special stockholders' meeting to consider the petition for organization and an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established. All notifications under this paragraph shall be submitted to the Farm Credit Administration Board for approval prior to being distributed to the stockholders. The Farm Credit Administration Board shall require that, prior to the distribution of the notification to the stockholders, the notification be amended as it determines necessary to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association. The special stockholders' meeting to consider the petition shall be held within 60 days after the filing of the petition. If, at the special stockholders' meeting, a majority of the *stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration shall, within 30 days of such vote, issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association.*

"CHAPTER 5—TERMINATION AND DISSOLUTION OF INSTITUTIONS

"SEC. 7.12. TERMINATION OF SYSTEM INSTITUTION STATUS.

"(a) Conditions.—A System institution may terminate the status of the institution as a System institution if—

"(1) the institution provides written notice to the Farm Credit Administration Board not later than 90 days prior to the proposed termination date;

"(2) the termination is approved by the Farm Credit Administration Board;

"(3) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

"(4) the institution pays to the Farm Credit Assistance Fund, as created under section 6.25, if the termination is prior to January 1, 1992, or pays to the Reserve Account, if the termination is after such date, the amount by which the total capital of the institution exceeds, in the case of a System bank, Federal land bank association, or production credit association, 6 percent of the assets;

"(5) the institution pays or makes adequate provision for payment of all outstanding debt obligations of the institution;

"(6) the termination is approved by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the Farm Credit Administration Board; and

"(7) the institution meets such other conditions as the Farm Credit Administration Board by regulation considers appropriate.

"(b) Effect.—On termination of its status as a System institution—

"(1) the Farm Credit Administration Board shall revoke the charter of the institution; and

"(2) the institution shall no longer be an instrumentality of the United States under this Act.

"SEC. 7.13. DISSOLUTION OF BANKS BY ASSOCIATIONS.

"(a) Dissolution of Land Banks by Land Bank Associations.—The Federal land bank associations in a district may cause the Federal land bank in the district to be dissolved and liquidated if—

"(1) the lending authority of the Federal land bank has been assigned to and assumed by the Federal land bank associations of the bank pursuant to section 7.7;

"(2) not later than 90 days prior to the proposed dissolution date, the associations submit to the Farm Credit Administration Board written notice of the proposed dissolution and a plan of dissolution that provides for—

"(A) the distribution of the assets of the bank in accordance with the regulations of the Farm Credit Administration Board; and

"(B) the payment, discharge, or adequate provision for all debts, obligations, and liabilities of the bank;

"(3) the plan of dissolution is approved by the Farm Credit Administration Board;

"(4) the plan of dissolution is approved by a majority vote of the stockholders of the bank present and voting, or voting by written proxy, at a duly authorized stockholders' meeting, and

"(5) the associations comply with such other requirements as are provided in regulations of the Farm Credit Administration Board.

"(b) Dissolution of Intermediate Credit Banks by Production Credit Associations.—The production credit associations in a district may cause the Federal intermediate credit bank in the district to be dissolved and liquidated if—

"(1) not later than 90 days prior to the proposed dissolution date, the associations submit to the Farm Credit Administration Board written notice of the proposed dissolution and a plan of dissolution that provides for—

"(A) the distribution of the assets of the bank in accordance with the regulations of the Farm Credit Administration Board; and

"(B) the payment, discharge, or adequate provision for all debts, obligations, and liabilities of the bank;

"(2) consent to the dissolution and approval of the plan of dissolution are granted by the Farm Credit Administration Board;

"(3) the plan of dissolution is approved by a majority vote of the stockholders of the bank voting in person or by proxy at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) the associations comply with such other requirements as are provided in regulations of the Farm Credit Administration Board.

"(c) Definition.—For purposes of this section, the term 'dissolution' shall include liquidation.

"Subtitle C—Approval of Disclosure Information and Issuance of Charters by the Farm Credit Administration Board

"SEC. 7.14. APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS.

"(a) Disclosure of Information.—

"(1) Approval of plan.—With respect to any plan of merger, transfer or assignment of lending authority, dissolution, or termination, after approval by the boards of directors of the affected institutions and prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such institutions, such plan shall be submitted to the Farm Credit Administration Board, together with all information that is to be distributed to the voters with respect to the contemplated action, including an enumerated statement of the anticipated benefits and potential disadvantages of such action.

"(2) Notice of approval.—On notification that the Farm Credit Administration Board has approved such plan for submission to the stockholders, or after 60 days of no action on the plan by the Board, the submitting institutions may submit the plan, together with the disclosure information, to the voters for the prescribed vote.

"(b) Notice of Reasons for Disapproval.—If the Farm Credit Administration Board disapproves the plan for submission to the stockholders, notification to the submitting institutions shall specify the reasons for the determination by the Board. If such plan is determined to be inadequate, it shall not be submitted to the voters for a vote.

"(c) Federal Charter.—Each plan of merger or transfer of lending authority may include a proposed new or revised Federal charter for the merged or transferee entity. The Farm Credit Administration Board shall issue such charter on the approval of the plan, as prescribed in this title, unless the Board determines that the charter submitted is not consistent with this Act.

"Subtitle D—Mergers of Like Entities

"SEC. 7.15. MERGER OF SIMILAR BANKS.

"(a) In General.—Banks organized or operating under title I, II, or III, respectively, may merge with banks in other districts operating under the same title if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the banks involved;

"(3) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"(b) Procedures.—The provisions of sections 7.2 through 7.5 shall apply to banks merged under this section.

"(c) Board of Directors.—

"(1) In general.—After a merger under subsection (a), a board of directors shall be created for the resulting bank.

"(2) Composition.—The board shall be composed of—

"(A) two directors elected by each of the district boards, with at least one such director from each district being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

"(B) one outside director elected by the members elected under subparagraph (A).

"(3) Outside director.—

"(A) Qualifications.—The outside director elected under paragraph (2)(B) shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System.

"(B) Failure to elect.—If the other members of the board fail to elect an outside director, the Farm Credit Administration Board shall appoint a qualified person to serve on the board of directors until such member is so elected.

"(4) Bylaws.—Notwithstanding paragraph (2), the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors to be selected in a different manner, except that the bylaws shall provide for at least one outside director.

"(5) Powers and duties.—The board created under paragraph (1) shall have such separate and distinct powers, functions, and duties as are normally exercised by a district board related to the operations and policies of the banks which merged.

"SEC. 7.16. MERGER OF SIMILAR ASSOCIATIONS.

"(a) In General.—Associations organized and operating under titles I and II may voluntarily merge with other like associations if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the associations involved;

"(3) a majority vote of the stockholders of each association voting, in person or by

proxy, at a duly authorized stockholders' meeting; and

"(4) the supervising bank.

"(b) PROCEDURES.—The provisions of subsections (b), (c), and (d) of section 7.10 shall apply to associations merged under this section.".

(b) ANTIDISCRIMINATION.—The second sentence of section 5.17(a)(2) (12 U.S.C. 2251(a)(2)) is amended by striking out "; and the Farm Credit Administration shall ensure" and all that follows through "discriminated against in the provision of any financial service and assistance" and inserting in lieu thereof ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this Act at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district".

SEC. 206. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Paragraph (2) of section 3.8 (12 U.S.C. 2129(2)) is amended to read as follows:

"(2)(A) Notwithstanding any other provision of this title, a cooperative or other entity, that under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) has—

"(i) received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration;

"(ii) received a loan or loan commitment from the Rural Telephone Bank; or

"(iii) been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee,

and subsidiaries of such cooperatives or other entities, shall be eligible to borrow from a bank for cooperatives.

"(B) Notwithstanding paragraph (1), a legal entity, more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under paragraph (1) or subparagraph (A), shall be eligible to borrow from a bank for cooperatives, if such entity complies with paragraph (1)(c).

"(C) An association or other entity that is eligible to borrow from a bank for cooperatives under this paragraph shall, for purposes of section 3.7(a), be considered an 'eligible cooperative association' and a 'stockholder eligible to borrow from the bank'.".

SEC. 207. COLLATERAL.

(a) IN GENERAL.—Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended to read as follows:

"(c) Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this Act or real or personal property acquired in connection with loans made under this Act, obligations of the United States or any agency thereof direct or fully guaranteed, other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.".

(b) CALLS.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended to read as follows:

"(a)(1) Each bank shall be fully liable on notes, bonds, debentures, or other obligations issued by the bank individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same title of this Act.

"(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called on by the Farm Credit Administration in order to make payments of interest or principal that any bank primarily liable therefor is unable to make.

"(B) Such calls shall be made on all nondefaulting banks in accordance with the proportionate share of the available collateral of each bank compared to the aggregate available collateral held by all such banks.

"(C) For purposes of subparagraph (B), the term 'available collateral' means the amount of eligible collateral (at the end of the calendar quarter immediately preceding such call) in excess of the collateral required (as of such date) to satisfy the collateral requirement of section 4.3(c) with respect to the outstanding notes, bonds, debentures, or other similar obligations of the bank.

"(D) Any bank that, pursuant to a call by the Farm Credit Administration, makes a payment of interest or principal to a holder of any issue of consolidated or System-wide obligations of a defaulting bank shall be subrogated to the rights of the holders or former holders of such consolidated or System-wide obligations.

"(E) On making such call, the Farm Credit Administration Board shall appoint a receiver for the defaulting bank for the purpose of expeditiously liquidating the bank.".

SEC. 208. FEDERAL LAND BANK LOAN SECURITY.

Section 1.9 (12 U.S.C. 2017) is amended to read as follows:

"SEC. 1.9. FEDERAL LAND BANK LOAN SECURITY.

"(a) MAXIMUM LEVEL OF LOANS.—

"(1) IN GENERAL.—Loans originated by a Federal land bank, or in which a Federal land bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(2) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(3) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(b) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(c) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(d) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(e) FINANCIAL STATEMENT.—Each Federal land bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.".

SEC. 209. UNIFORM CHART OF ACCOUNTS.

Part B of title V is amended by inserting after section 5.22 (12 U.S.C. 2257) the following new section:

"SEC. 5.22A. UNIFORM CHART OF ACCOUNTS.

"(a) IN GENERAL.—A System institution shall comply with a uniform chart of accounts, approved by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

"(b) COMPUTERIZED SYSTEM.—If the accounts are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

"(c) SUBMISSION OF PROPOSAL.—Within 6 months of the date of enactment of the Farm Credit Act Amendments of 1987, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform chart of accounts.".

SEC. 210. CONFORMING AMENDMENTS.

(a) FEDERAL LAND AND INTERMEDIATE CREDIT BANKS.—

(1) FEDERAL LAND BANKS.—Section 1.3 (12 U.S.C. 2003) is amended in the third sentence, by striking out "section 4.10" and inserting in lieu thereof "title VII".

(2) FEDERAL INTERMEDIATE CREDIT BANKS.—Section 2.0 (12 U.S.C. 2071) is amended in the third sentence, by striking out "section 4.10" and inserting in lieu thereof "title VII".

(3) SHORT- AND INTERMEDIATE-TERM LOANS.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end thereof the following new subsection:

"(c) In any case in which one or more production credit associations merge with, or assign lending authority to, a Federal intermediate credit bank responsible for the district involved, loans made, guaranteed, or participated in under subsection (a)(2) shall be subject to limitations imposed by the board of directors of the Federal intermediate credit bank and Farm Credit Administration regulations.".

(b) PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM.—

(1) FINANCE COMMITTEE.—Section 4.5 (12 U.S.C. 2156) is amended to read as follows:

"SEC. 4.5. FINANCE COMMITTEE.

"(a) ESTABLISHMENT.—There shall be established a System-wide finance committee composed of a representative of each bank.

"(b) OFFICERS AND SUBCOMMITTEES.—The committee may have such officers and subcommittees for such terms and representation as may be agreed to by the banks.

"(c) DUTIES.—The finance committee and subcommittees acting for the banks of the System shall, subject to approval of the Farm Credit Administration, determine the amount, maturities, rates of interest, and participation by the several banks in each issue of joint, consolidated, or System-wide obligations.".

(2) DISSOLUTION AND MERGER.—

(A) PART HEADING.—The part heading of part B of title IV (12 U.S.C. 2181 et seq.) is amended by striking out "AND MERGER".

(B) MERGER.—Section 4.10 (12 U.S.C. 2181) is repealed.

(C) BOARDS OF DIRECTORS.—Section 4.11 (12 U.S.C. 2182) is repealed.

(D) DISSOLUTION.—Section 4.12(a) (12 U.S.C. 2183(a)) is amended—

(i) by striking out the third sentence; and

(ii) in the fourth sentence, by striking out "may require such merger" and inserting in lieu thereof "Board may require an association to merge with another association".

(c) DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION.—

(1) FARM CREDIT DISTRICT BOARD OF DIRECTORS.—Section 5.1(b) (12 U.S.C. 2222(b)) is amended—

(A) by inserting ", or membership on a farm credit Board consisting of banks merged from different districts," after "credit district board"; and

(B) by inserting "(if banks of different districts are merged, a resident of any district of a merged bank)" after "resident of the district".

(2) NOMINATION AND ELECTION OF THE BOARD.—Section 5.2 (12 U.S.C. 2223) is amended—

(A) in the second sentence of subsection (c), by striking out ", the directors of each land bank association" and inserting in lieu thereof "or by a merged association consisting of production credit associations and Federal land bank associations, the directors of each association involved"; and

(B) by adding at the end thereof the following new subsection:

"(e) In any case in which an association has merged into the supervising bank under chapter 2 of subtitle B of title VII, the voting strength provisions and voting procedures described in this section shall be applied under regulations issued by the Farm Credit Administration that are designed to give appropriate weight to the votes of voting stockholders of banks other than associations.".

(3) FARM CREDIT ADMINISTRATION POWERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(A) by striking out "; approve mergers of banks" and all that follows through "territories" and inserting in lieu thereof "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories"; and

(B) by striking out "4.10" and inserting in lieu thereof "7.0".

SEC. 211. EXPORT FINANCING AND OTHER FINANCIAL INSTITUTION AUTHORITIES.

Section 4.20 (12 U.S.C. 2208) is repealed.

TITLE III—CAPITALIZATION

SEC. 301. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) MINIMUM CAPITAL ADEQUACY STANDARDS.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c)) that establish minimum capital adequacy standards for Farm Credit System institutions.

(B) BASIS FOR ESTABLISHMENT.—The standards established under subparagraph (A) shall be based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

(C) PHASE-IN PERIOD.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of enactment of this Act.

(D) RELATIVE RISK FACTORS.—The standards established under subparagraph (A) shall take into consideration relative risk factors as determined by the Farm Credit Administration.

(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(b)(2)) with respect to the issuance of the proposed regulations required under paragraph (1)(A).

(3) PROHIBITIONS DURING TRANSITION PERIOD.—During the 5-year period specified in paragraph (1)(C), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified as eligible to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 101 of this Act), solely because of the failure of such institution to meet minimum capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 101 of this Act).

(b) CAPITALIZATION BYLAWS.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following new section:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS.

"(a) DEFINITIONS.—As used in this section:

"(1) CAPITAL.—The term 'capital' means current year retained earnings, allocated and unallocated earnings, all surplus less allowances for losses, and stock.

"(2) STOCK.—The term 'stock' means voting and nonvoting stock, equivalent contributions to a guaranty fund, and participation certificates.

"(b) ADOPTION OF BYLAWS.—Subject to approval by shareholders under subsection (c)(2), each bank and association shall adopt bylaws that provide for the capitalization of the institution in accordance with subsection (c)(1).

"(c) REQUIREMENTS OF BYLAWS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the bylaws adopted under subsection (b)—

"(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, except that no stock may be issued by an institution, after the adoption of bylaws under subsection (b), that may be retired by the holder thereof on repayment of the loan of the holder, or otherwise retired at the option or request of the holder;

"(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

"(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 4.3(a);

"(D) shall provide for the issuance of voting stock, which may only be held by—

"(i) borrowers who are farmers, ranchers, or producers or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this Act;

"(ii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

"(iii) in the case of banks other than banks for cooperatives, System associations;

"(E) shall require that—

"(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount equal to $1,000 or 2 percent of the amount of the loan, whichever is less; and

"(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to nonvoting stock;

"(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

"(G) shall require that any holder of stock, issued before the adoption of bylaws under this section, exchange a portion of such stock for new voting stock;

"(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower;

"(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under regulations issued under section 4.3(a); and

"(J) shall permit stock to be transferable.

"(2) EFFECTIVE DATE.—The bylaws adopted by the Board of Directors of a System institution under this section shall take effect only upon approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

"(d) REDUCTION OF CAPITAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) and in section 4.9B, the Board of Directors of a System institution shall not reduce the capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities if, after or due to such action, the capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 4.3(a).

"(2) EXCEPTION.—Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash, if—

"(A) the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes; and

"(B) the remaining portion of the refund paid qualifies as capital.

"(e) COMPLIANCE.—The Farm Credit Administration may issue a directive that requires compliance with subsection (d), to the Board of Directors of any System institution that fails to comply therewith.

"(f) EFFECT.—This section shall not be construed to affect the provisions of this Act that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

"(g) CONTROLLING AUTHORITY.—To the extent that any provision of this section is inconsistent with any other provision of this Act, other than section 4.9B, the provision of this section shall control.".

TITLE IV—BORROWERS' RIGHTS

SEC. 401. DISCLOSURE BY BANKS AND ASSOCIATIONS.

(a) IN GENERAL.—Section 4.13 (12 U.S.C. 2199) is amended to read as follows:

"SEC. 4.13. DISCLOSURE.

"In accordance with regulations of the Farm Credit Administration, banks and associations (except banks for cooperatives) shall provide to borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure not later than the time of the loan closing, of—

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the lending institution in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of any loan origination charges or purchases of stock or participation certificates in the institution on the effective rate of interest;

"(4) any change in the interest rate applicable to the borrower's loan;

"(5) except with respect to stock guaranteed under section 4.9B, a statement indicating that stock that is purchased is at risk; and

"(6) a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and rights that apply to each type of loan.".

(b) PRIOR REGULATIONS.—Any regulation issued or approved by the Farm Credit Administration that implements, interprets, or applies section 4.13(b) (12 U.S.C. 2201(b)) (as such section existed before the amendment made by subsection (a)) shall remain in effect for 120 days after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 4.13A (12 U.S.C. 2200) is amended by striking out "System institutions" and inserting in lieu thereof "banks and associations (except banks for cooperatives)".

SEC. 402. ADMINISTRATION OF LOANS TO FAMILY FARMERS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to family farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially-distressed family farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.

(b) NOTICE OF ACTION ON APPLICATION.—Section 4.13B (12 U.S.C. 2201) is amended to read as follows:

"SEC. 4.13B. NOTICE OF ACTION ON APPLICATION.

"(a) IN GENERAL.—Each applicant for a loan from a bank or association (except banks for cooperatives), and each borrower from a bank or association (except banks for cooperatives) who is a family farmer, as defined in section 4.14A(f)(3), and who submits an application for restructuring a distressed loan, shall be entitled to prompt written notice of—

"(1) the action on the application;

"(2) if the loan applied for is reduced or denied, or the application for restructuring is denied, the reason for such action; and

"(3) the applicant's right to seek review of the decision by the lender under section 4.14.

"(b) NOTICE OF THE RIGHT TO APPLY FOR RESTRUCTURING.—Not later than 14 days before accelerating the loan, or otherwise commencing a foreclosure proceeding on the distressed loan of a borrower who is a family farmer, the System institution shall notify the borrower in writing of the right of the borrower to submit an application for restructuring.".

(c) RECONSIDERATION OF CERTAIN ACTIONS.—Section 4.14 (12 U.S.C. 2202) is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF CERTAIN ACTIONS.

"(a) CREDIT REVIEW COMMITTEES.—

"(1) IN GENERAL.—The Board of Directors of each bank and association (except a bank for cooperatives) shall establish one or more credit review committees. Such committees shall include at least one representative of producers in the area served by the bank or association.

"(2) ASSOCIATION-PRODUCER REPRESENTATION.—As applied to associations, the requirement in paragraph (1) that committees include at least one representative of producers shall be satisfied if—

"(A) a member of the credit review committee is a stockholder-member of an advisory or similar Board of an association; and

"(B) the member is duly elected to the Board by stockholders of the association.

"(3) BANK-PRODUCER REPRESENTATION.—As applied to banks, the requirement in paragraph (1) that committees include at least one representative of producers, shall be satisfied if, at the option of the bank, a member of the committee is also a member of the Board of Directors of the appropriate Federal land bank or Federal intermediate credit bank.

"(4) MEMBERSHIP.—In no case shall a loan officer, involved in the initial decision on a loan, serve on the credit review committee when the committee reviews such loan.

"(b) REVIEW OF DECISIONS.—

"(1) DENIALS OR REDUCTIONS.—Any applicant for a loan from a bank or association (except a bank for cooperatives) that has received a written notice issued under section 4.13B of a decision to deny or reduce the loan applied for may submit a written request, not later than 30 days after receiving a notice denying or reducing the amount of the loan application, to obtain a review of the decision by a credit review committee.

"(2) DENIALS OF RESTRUCTURING.—Any borrower from a bank or association (except a bank for cooperatives) who is a family farmer, as defined in section 4.14A(f)(3), and has received a written notice issued under section 4.13B of a decision to deny an application for restructuring, may submit a written request, not later than 7 days after receiving notice of such denial for restructuring, to obtain a review of such decision before a credit review committee.

"(c) PERSONAL APPEARANCE.—An applicant for a loan or for restructuring, who is entitled to and has requested a review under this section, may appear in person before the credit review committee, and may be accompanied by counsel or by any other representative of such person's choice, to seek a reversal of the decision on the application of the applicant that is being reviewed by the committee.

"(d) INDEPENDENT APPRAISAL.—

"(1) IN GENERAL.—An appeal filed with a credit review committee under this section may include, as a part of the request for a review of the decision filed under subsection (b)(1), a request for an independent appraisal, by an accredited appraiser, of any interests in property securing the loan other than the stock or participation certificates of the institution held by the borrower.

"(2) ARRANGEMENT AND COST.—Within 30 days of a request for an appraisal under paragraph (1), the credit review committee shall present the borrower with a list of three appraisers approved by the appropriate lending institution, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower, and shall consider the results of such appraisal in any final determination with respect to the loan.

"(3) COPY TO BORROWER.—A copy of any appraisal made under this subsection shall be provided to the borrower.

"(e) NOTIFICATION OF APPLICANT.—Promptly after a review by the credit review committee, the committee shall notify the applicant in writing of the decision of the committee and the reasons for the decision.".

(d) RESTRUCTURING LOANS.—Part C of title IV is amended by inserting after section 4.14 (12 U.S.C. 2202) the following new section:

"SEC. 4.14A. RESTRUCTURING DISTRESSED LOANS.

"(a) RESTRUCTURING POLICY.—

"(1) ESTABLISHMENT.—Each farm credit district Board of Directors shall develop a policy within 60 days after the date of enactment of the Farm Credit Act Amendments of 1987, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each bank and association (except a bank for cooperatives) within the district.

"(2) CONTENTS OF POLICY.—The policy established under paragraph (1) shall include an explanation of—

"(A) the procedure for submitting an application for restructuring; and

"(B) the right of borrowers with distressed loans who are family farmers to seek review by a credit review committee in accordance with section 4.14 of a denial of an application for restructuring.

"(3) AVAILABILITY OF RESTRUCTURING POLICY.—

"(A) IN GENERAL.—Each bank and association (except a bank for cooperatives) shall post in each loan office and provide to borrowers, not later than the time of the loan closing and on request, a copy of the policy of the institution concerning restructuring, as provided in subsection (d).

"(B) ON SUBMISSION OF APPLICATION.—Unless the borrower has previously been furnished a copy of the policy of the institution on restructuring, a borrower and who submits an application for restructuring shall be provided with a copy of the policy of the institution on restructuring at the time of the application.

"(4) INSTITUTION PROPOSED PLANS.—This section shall not prevent a bank or association from proposing a restructuring plan for an individual borrower in the absence of an application for restructuring from a borrower.

"(b) RESTRUCTURING STANDARDS.—

"(1) IN GENERAL.—When a bank or association (except banks for cooperatives) receives an application for restructuring from a borrower, the bank or association shall determine whether or not the loan shall be restructured taking into consideration—

"(A) whether the cost to the System institution of restructuring the loan is equal to or less than the cost of foreclosure;

"(B) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

"(C) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration; and

"(D) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis.

"(2) COMPELLED RESTRUCTURING.—If the bank or association determines that the potential cost to the institution of restructuring the loan is less than or equal to the potential cost of foreclosure, the bank or association shall restructure the loan in accordance with the proposed restructuring plan.

"(c) COMPUTATION OF COST OF RESTRUCTURING.—In determining whether the potential cost to the institution of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a bank or association shall consider all relevant factors, including—

"(1) the present value of interest income and principal foregone by the bank or association in carrying out the restructuring plan;

"(2) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

"(3) whether the borrower has presented a restructuring plan and cash-flow analysis taking into account income from all sources proposed to be applied to the debt and all assets intended to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

"(4) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.

"(d) PERMITTED FORECLOSURES.—Nothing in this section shall prevent a bank or association from commencing a foreclosure proceeding, or taking such other lawful action as considered appropriate by the institution, if the institution has reasonable grounds to believe that a borrower is likely to dissipate assets or divert collateral or that collateral is in imminent danger of deterioration.

"(e) DEFINITIONS.—As used in sections 4.13B, 4.14, and 6.7 and in this section:

"(1) APPLICATION FOR RESTRUCTURING.—The term 'application for restructuring' means a written request—

"(A) from a borrower for the restructuring of a nonaccrual distressed loan in accordance with a restructuring plan proposed by the borrower as a part of the application;

"(B) submitted on the appropriate forms prescribed by the bank or association; and

"(C) accompanied by sufficient financial information and repayment projections, where appropriate, as required by the institution to support a sound credit decision.

"(2) COST OF FORECLOSURE.—The term 'cost of foreclosure' includes—

"(A) the difference between the outstanding amount of principal due on a loan made by an institution and the value of the collateral used to secure the loan;

"(B) the estimated cost of maintaining a loan as a nonperforming asset;

"(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure;

"(D) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

"(E) all other costs incurred as the result of the foreclosure or liquidation of a loan.

"(3) DISTRESSED LOAN.—The term 'distressed loan' means a loan that the borrower does not have the financial capacity to pay according to its terms, but that is not yet subject to a foreclosure or bankruptcy proceeding, and that exhibits one or more of the following characteristics:

"(A) The borrower is demonstrating adverse financial and repayment trends.

"(B) The loan is delinquent or past due under the terms of the loan contract.

"(C) One or both of the factors listed in subparagraphs (A) and (B), together with inadequate collateralization, present a high probability of loss to the institution.

"(4) FORECLOSURE PROCEEDING.—The term 'foreclosure proceeding' means—

"(A) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

"(B) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under title I or II, to effect collection of a nonaccrual or distressed loan.

"(5) RESTRUCTURE AND RESTRUCTURING.—The terms 'restructure' and 'restructuring' include—

"(A) forbearance actions on a loan that result in rescheduling, renewal, settlement of debt or other similar actions that result in modification of the loan terms;

"(B) deferral or forgiveness of payment of all or part of the principal or interest due on the loan;

"(C) extension of the term of the loan through reamortization; and

"(D) refraining from exercising a right with respect to a loan that is granted by the loan agreement or by law,

but do not include normal loan servicing actions, such as reschedulings, renewals, extensions, partial releases of collateral or changes in interest rate pricing, on loans that are not nonaccrual or distressed loans.".

SEC. 403. DIFFERENTIAL INTEREST RATES.

(a) ESTABLISHMENT.—Section 1.7 (12 U.S.C. 2015) is amended—

(1) by inserting "(a)" after the period and dash following the section heading; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) A bank shall not implement a differential interest rate program for loans by members of any Federal land bank association unless the Board of Directors of such an association approve such a program.

"(2) For purposes of this section, a differential interest rate program shall be any program under which different rates of interest are charged on loans made to producers based on the creditworthiness of the borrower, the type of agriculture involved, or any other factors.".

(b) REVIEW.—Section 4.13 (12 U.S.C. 2201) (as amended by section 401(a) of this Act) is further amended—

(1) by striking out "In" and inserting in lieu thereof "(a) IN GENERAL.—In"; and

(2) by adding at the end thereof the following new subsection:

"(b) DIFFERENTIAL INTEREST RATES.—A bank or association (except a bank for cooperatives) offering more than one rate of interest to borrowers shall, at the request of a borrower of a loan—

"(1) provide a review of the loan to determine if the proper interest rate has been established;

"(2) explain to the borrower in writing the basis for the interest rate charged; and

"(3) explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.".

SEC. 404. RIGHT OF FIRST REFUSAL.

Part F of title IV (12 U.S.C. 2219) is amended by adding at the end thereof the following new section:

"SEC. 4.37. RIGHT OF FIRST REFUSAL.

"(a) Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as 'acquired real estate') shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

"(b)(1) When an institution of the System first elects to sell acquired real estate, the institution shall, within 15 days after such election, notify the previous owner by certified mail of the owner's right—

"(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

"(B) to offer to purchase the property at a price less than the appraised value.

"(2) To be eligible to purchase the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

"(3) An institution of the System receiving an offer from the previous owner to purchase the property at the appraised value shall, within 15 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

"(4) An institution of the System receiving an offer from the previous owner to purchase the property at less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

"(5)(A) An institution of the System that rejects an offer from the previous owner to purchase the property at less than the appraised value may not sell the property to any other person—

"(i) at a price equal to, or less than, that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

"(B) Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

"(c)(1) Whenever an institution of the System elects to lease acquired real estate, the institution shall, within 15 days after such election, notify the previous owner by certified mail of the owner's right—

"(A) to lease the property at a rate equivalent to the fair market value of the property for rental purposes, as established by an accredited appraiser; or

"(B) to offer to lease the property at a rate less than the appraised value for rental purposes.

"(2) To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

"(3) An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the fair market value of the property for rental purposes shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the in-

stitution determines that the previous owner—

"(A) does not have the resources available to conduct a successful farming or ranching operation; or

"(B) cannot meet all of the payments, terms, and conditions of such lease.

"(4) An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised value of the property for rental purposes may accept such offer and lease the property to the previous owner.

"(5) An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised value of the property for rental purposes shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

"(6)(A) An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised value of the property for rental purposes may not lease the property to any other person—

"(i) at a rate equal to or less than that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

"(B) Notice of the opportunity in subparagraph (A) shall be given to the previous owner by certified mail, and the previous owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions.

"(d)(1) If an institution of the System elects to sell or lease acquired property through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property, and such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

"(2) If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

"(3) No institution of the System may discriminate against a previous owner in any public auction, competitive bidding process, or other similar public offering of such person's former property that has been acquired by the institution.

"(e) For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

"(f) Notwithstanding any other provision of this section, a System institution is not required to provide financing to the previous owner in connection with the sale of acquired real estate.

"(g) Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the former borrower.

"(h) The rights provided in this section shall be in addition to any such right of first refusal under the law of the State in which the property is located.".

SEC. 405. ADDITIONAL COLLATERAL.

Title IV of the Act is amended by adding a new section as follows:

"No institution of the Farm Credit System may—

"(1) require any borrower to provide additional collateral to secure the loan if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any loan as a result of the failure of a borrower to provide additional collateral to secure a loan if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 406. ACCESS TO DOCUMENTS AND INFORMATION.

Section 4.13A of the Act is amended by striking the period at the end thereof and inserting in lieu thereof: "and copies of each appraisal of the borrower's assets made or used by a bank or association, other than a bank for cooperatives.".

SEC. 407. APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.38. APPLICATION OF UNINSURED ACCOUNTS.

"(a) IN GENERAL.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect prior to the date of enactment of the Farm Credit Act Amendments of 1987), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, immediately prior to the capital depletion or insolvency of such institution, be applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) REGULATIONS.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

SEC. 408. TRANSITIONAL AUTHORITY.

Between the date of enactment of this Act and January 1, 1989, the current regulations implementing part C of title IV (12 U.S.C. 2201), to the extent that such regulations are not contrary to this title, and the amendments made by this title, shall remain in effect.

TITLE V—STATE MEDIATION PROGRAM

SEC. 501. PURPOSES.

It is the purpose of this title to—

(1) establish guidelines for State mediation programs;

(2) establish matching Federal grants for operations of qualifying State mediation programs;

(3) require certain Federal agencies that make, guarantee, or insure farm loans to participate in the mediation process; and

(4) require Farm Credit System institutions to participate in the mediation program.

SEC. 502. QUALIFYING STATES.

(a) IN GENERAL.—A State is a qualifying State if the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") determines that the State meets the following requirements:

(1) FARM LOAN MEDIATION PROGRAM IN EFFECT.—The State has in effect a farm loan mediation program that meets the requirements of section 503.

(2) NOTICE TO BORROWER OF AVAILABILITY OF STATE MEDIATION SERVICES.—The law of the State requires that, not less than 21 days before the creditor of a farm borrower engages in conduct described in any paragraph of section 362(a) of title 11, United States Code (but not described in any paragraph of subsection (b) of such section), with respect to the farm borrower, the creditor shall—

(A) notify the farm borrower that—

(i) the creditor intends to engage in such conduct;

(ii) the farm borrower or creditor may apply to the farm loan mediation program of the State to obtain mediation services with respect to any farm loan made to the farm borrower;

(iii) the farm borrower to be eligible for the program must apply to the mediation program within 21 days after receipt of the notice; and

(iv) the conduct of the creditor described in paragraph (2), shall be suspended during the pendency of State mediation with respect to the loan; and

(B) prominently include on the notice an address and telephone number where information may be obtained by a farm borrower about—

(i) the farm loan mediation program of the State; and

(ii) obtaining help in preparing debt restructuring proposals.

(3) SERVICES REQUIRED TO BE PROVIDED BY A STATE.—

(A) IN GENERAL.—The law of the State must require the State—

(i) to make farm management counseling and technical support available to any farm borrower to whom a farm loan has been made and who faces substantial financial difficulties, or to the creditors of such farm borrowers who request such support, for not more than a reasonable fee; and

(ii) to provide to a farm borrower, for not more than a reasonable fee, financial advice necessary for such farm borrower to assist in the preparation of a proposal for the restructuring of the farm loans made to that farm borrower.

(B) COMMUNITY-BASED ORGANIZATIONS AND EDUCATIONAL INSTITUTIONS.—The law of the State must require the State to give priority to community-based organizations and educational institutions with an established history of service to family farming enterprises in the provision of any service described in subparagraph (A) that is to be provided on a contractual basis.

(b) DETERMINATION BY SECRETARY.—

(1) IN GENERAL.—Within 15 days after the Secretary receives from the Governor of a State, a description of the farm loan mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (a), the Secretary shall determine whether the State is a qualifying State.

(2) REQUIRED NOTICE.—If the Secretary denies certification of a State as a qualifying State, the Secretary shall notify the Governor of such State of the denial, and of the reasons for such denial.

(c) WAIVER.—

(1) IN GENERAL.—The Secretary shall waive the determination of qualification required under this section for each State that has in effect on January 1, 1988, a farm mediation program that meets the requirements of paragraph (3).

(2) APPLICATION.—A State that has a farm loan mediation program in effect on January 1, 1988, may apply for consideration as a qualifying State under this subsection.

(3) REQUIREMENTS OF STATE PROGRAMS.—Not later than 15 days after the Secretary receives a description of a State farm loan mediation program in effect on January 1, 1988, and a request for a waiver under this subsection, the Secretary shall waive the definition of qualifying State in this section if the State program—

(A) provides for a dispute resolution process by an impartial third party who shall assist the producer, and the creditors of the producer, in negotiating a settlement of the dispute over the farm related debts of the producer;

(B) is authorized or administered by an agency of the State government or by the Governor of the State;

(C) provides for the training of mediators;

(D) provides that the mediation sessions shall be confidential; and

(E) ensures that all lenders and borrowers of agricultural loans, receive adequate notification of the mediation program.

SEC. 503. MEDIATION PROGRAM.

(a) IN GENERAL.—Except for States for which the Secretary grants a waiver under section 502(c), the farm loan mediation program of a State meets the requirements of this section if the program is conducted as follows:

(1) TRAINING OF MEDIATORS.—The head of the mediation program (hereinafter in this title referred to as the "Director") shall select and train, for each county or other local region of the State, mediators in such numbers as the Director determines are necessary to carry out the duties of mediators under the program, regarding the procedures appropriate to ensure reasonable competency (including a basic understanding of Federal and State agricultural debt relief programs and Federal income support and agricultural price support programs) and a lack of bias.

(2) ACCEPTANCE OF APPLICATIONS FOR MEDIATION.—The mediation program shall accept applications for mediation from a farm borrower, or the creditor of a farm borrower, who receives a notice described in section 502(a)(2), and from any other farm borrower as the State determines is appropriate.

(3) ACTIONS BY MEDIATION PROGRAM AFTER RECEIPT OF APPLICATION.—On receipt of an application for mediation from any farm borrower or creditor described in paragraph (2), the mediation program shall—

(A) notify each financial counterpart of the farm borrower that the farm borrower has applied for mediation; and

(B) appoint a mediator to facilitate negotiations between the farm borrower and each financial counterpart of the farm borrower.

(4) INITIAL MEETING.—The mediator appointed to facilitate negotiations between a farm borrower and the financial counterpart of the farm borrower shall arrange for an initial meeting to be held between such parties within 21 days after the date the program receives the application.

(5) DUTIES OF MEDIATOR DURING NEGOTIATIONS.—The program shall require mediators to facilitate negotiations by—

(A) listening to each farm borrower desiring to be heard;

(B) advising each farm borrower as to the existence of available assistance programs;

(C) attempting to mediate between the farm borrower and each financial counterpart of the farm borrower;

(D) encouraging each farm borrower to adjust, refinance, or provide for the payment of the debts involved;

(E) advising, counseling, and assisting the farm borrower and each financial counterpart of the farm borrower in arriving at an agreement for the future conduct of the financial relations of the parties;

(F) obtaining a copy of any qualified debt restructuring agreement reached by the farm borrower and each financial counterpart of the farm borrower; and

(G) ensuring that all parties to the mediation sign the agreement.

(6) GOOD FAITH PARTICIPATION.—The program shall contain reasonable guidelines to ensure that each farm borrower (or representative of the farm borrower with the authority to enter into contracts on behalf of the farm borrower) and each financial counterpart of the farm borrower (or representative of such financial counterpart with the authority to enter into contracts on behalf of the financial counterpart) participates in good faith in efforts to restructure the loans involved by attending all mediation meetings and providing all relevant financial information.

(7) MEDIATION PERIOD.—The program shall provide for mediation with respect to the farm loans made by or to a farm borrower, during a period of not less than 21 days beginning on the date the program receives the application for mediation of the farm borrower.

(b) FINANCIAL COUNTERPART DEFINED.—For purposes of subsection (a), the term "financial counterpart" means, with respect to a farm borrower who has applied for mediation after receipt of a notice described in section 502(a)(2), a creditor of the farm borrower.

SEC. 504. MATCHING GRANTS TO STATES.

(a) MATCHING GRANTS.—Within 60 days after the Secretary certifies the State as a qualifying State under section 502, or grants a waiver to a State under subsection (c) of such section, the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the farm loan mediation program.

(b) AMOUNT OF GRANT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 50 percent of the cost of the operation and administration of the farm loan mediation program within the State.

(2) MAXIMUM AMOUNT.—The Secretary shall not pay more than $750,000 per year to a single State under subsection (a).

(c) USE OF GRANT.—Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the farm loan mediation program of the State.

(d) PENALTY.—If the Secretary determines that a State has not complied with subsection (c), such State shall not be eligible for additional financial assistance under this title.

SEC. 505. PARTICIPATION OF FEDERAL AGENCIES.

(a) DUTIES OF THE SECRETARY OF AGRICULTURE.—The Secretary shall prescribe rules requiring that each program under the jurisdiction of the Secretary that makes, guarantees, or insures farm loans to—

(1) cooperate in good faith with requests for information or analysis of information made; and

(2) present and explore debt restructuring proposals advanced, in the course of mediation under any farm loan mediation program described in section 503, or any farm loan mediation program in a State for which the Secretary has granted a waiver under section 502(c).

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System to—

(1) cooperate in good faith with requests for information or analysis of information made; and

(2) present and explore debt restructuring proposals advanced, in the course of mediation under any farm loan mediation program described in section 503, or any farm loan mediation program in a State for which the Secretary has granted a waiver under section 502(c).

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $7,500,000 for each of the fiscal years 1988 through 1991.

SEC. 507. REGULATIONS.

Within 60 days after the date of enactment of this title, the Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this title.

TITLE VI—FARMERS HOME ADMINISTRATION LOAN RESTRUCTURING

SEC. 601. DEFINITIONS.

Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in sections 307(e), 309 (i) and (j), 331D, 335(e), 335(f), 338(f), 351(f), 352 (b) and (c), and 353:

"(1) The term 'borrower' means all Farmers Home Administration borrowers, including farmer program borrowers whose debt obligation to the Secretary have been accelerated but not foreclosed upon or liquidated, voluntarily or otherwise.

"(2) The term 'loan service program' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

"(3) The term 'preservation loan service program' means—

"(A) homestead retention as authorized under section 352; and

"(B) a leaseback or buyback of farmland authorized under section 335.

"(4) The term 'primary loan service program' means—

"(A) loan consolidation, rescheduling, or reamortization;

"(B) interest rate reduction, including the use of the limited resource program;

"(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).".

SEC. 602. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans, made, insured or guaranteed under this subtitle, except that the outstanding amount of the loans due may not exceed the total value of the collateral used.".

SEC. 603. ADDITIONAL COLLATERAL.

Section 307 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may not—

"(1) require any borrower to provide additional collateral to secure a farmer program

loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 604. PAYMENT OF LOSSES ON GUARANTEED LOANS.

Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end thereof the following new subsections:

"(i) The Secretary may negotiate the settlement of a guaranteed loan with a lending institution to enable the Secretary to honor a portion of a guarantee and avoid foreclosure of the loan.

"(j)(1) Within 90 days after a court of competent jurisdiction approves a bankruptcy or reorganization plan under title 11, United States Code, for any borrower of a farmer program loan guaranteed under this title, for the purpose of the guarantee, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the guaranteed portion of the loss incurred under the bankruptcy or reorganization plan by the lender.

"(2) If the lender of a farmer program loan guaranteed under this title takes any action to cancel part of the loan and restructure the remainder consistent with such requirements and conditions as determined by the Secretary, and the Secretary approves such action, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which the outstanding balance of the loan immediately before such action exceeds the outstanding balance of the loan immediately after such action.

"(3) The Secretary shall approve the taking of an action by the lender of a guaranteed farmer program loan if such action meets the requirements and conditions as determined by the Secretary. Within 90 days of approval, the Secretary shall pay to the lender the guaranteed portion of the amount of the loss described in paragraph (2).

"(4) Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment toward satisfaction of the loan guarantee.".

SEC. 605. NOTICE OF LOAN SERVICE PROGRAMS.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331C (7 U.S.C. 1981c) the following new section:

"SEC. 331D. NOTICE OF LOAN SERVICE PROGRAMS.

"(a) REQUIREMENT.—The Secretary shall provide notice by certified mail to each farmer program borrower who is at least 180 days delinquent in the payment of principal or interest on a loan made or insured under this title.

"(b) CONTENTS.—The notice required under subsection (a) shall—

"(1) include a summary of all primary loan service programs and preservation loan service programs, including the eligibility criteria, and terms and conditions of each program;

"(2) include a summary of the manner in which the borrower may apply, and be considered for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive the borrowers right to appeal, or waive any rights to be considered for any other programs carried out by the Secretary;

"(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

"(4) provide any relevant forms, including applicable response forms;

"(5) advise the borrower that a copy of regulations is available on request; and

"(6) be designed to be readable and understandable by the borrower.

"(c) CONTAINED IN REGULATIONS.—All notices required by this section shall be contained in the regulations implementing this title.

"(d) TIMING.—The notice described in subsection (b) shall be provided—

"(1) at the time an application is made for participation in a loan service program;

"(2) on the written request of the borrower; and

"(3) prior to the earliest of—

"(A) initiating any liquidation;

"(B) requesting the conveyance of security property;

"(C) accelerating the loan;

"(D) repossessing property;

"(E) foreclosing on property; or

"(F) taking any other collection action.

"(e) LOAN SERVICE PROGRAMS.—The Secretary shall consider a farmer program borrower for all loan service programs if, within 45 days of receipt of the notice required in this section, the borrower requests such consideration in writing.".

SEC. 606. PLANTING AND PRODUCTION HISTORY GUIDELINES.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331D (as added by section 605 of this Act), the following new section:

"SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

"The Administrator of the Farmers Home Administration shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by declared natural disasters.".

SEC. 607. COUNTY COMMITTEES.

Section 332(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end of subsection (a) the following: "prior to conducting any county committee election. The Secretary shall publish any regulation promulgated under this subsection, and complete elections consistent with this section."; and

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall assure that farmers have—

"(A) at least 45 days to submit nominations following the general public notice of any procedure by which to submit nominations for county committee elections in each county; and

"(B) at least 30 days, following the general public notice of an election in each county, before an election is held.

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member subject to the provisions of section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.

"(5) For purposes of this subsection, the term 'farmer' shall include the spouse of a farmer otherwise eligible under this section.".

SEC. 608. ADMINISTRATIVE APPEALS.

Section 333B of the Consolidated Farm and Rural Developments Act (7 U.S.C. 1983b) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall establish and maintain within the Farmers Home Administration a national appeals division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Farmers Home Administration who shall have no duties other than hearing and determining formal appeals arising under this section.

"(e) Hearing officers within the appeals division shall hear and determine all formal appeals from decisions subject to this section made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working within a State. Such hearings shall be held within the State of the appellant. The decisions of hearing officers shall, upon the request of the appellant, be reviewed by the State director in the appellant's State. On request of the appellant, the decisions of the State director on review shall be subject to further review by the director of the national appeals division. Upon request made to a State director for review, the State director may, if the appeal presents particularly important administrative, policy, or legal questions that require decision, decline review and transmit the matter to the director of the national appeals division for immediate review.

"(f) Hearing officers within the national appeals division shall report to the principal officers of the division, and shall not be under the direction and control of, or receive administrative support (except on a reimbursable basis) from, offices other than the national appeals division.

"(g) The Secretary shall ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals within the State of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties upon initial employment and at regular intervals thereafter. The Secretary may spend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of this subsection in the event that necessary appropriations sufficient to fund the division are not available.".

SEC. 609. DISPOSITION AND LEASING OF FARMLAND.

(a) CLASSIFICATION OF PROPERTY.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Secretary on the date of enactment of the Farm Credit Act Amendments of 1987) that is farmland, as being suitable for meaningful farming operation for such disposi-

tion unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for loans but who not yet receive such on the date of enactment of the Farm Credit Act Amendments of 1987;

"(B) offer suitable land at a price no higher than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or caused to be published three consecutive weekly announcements at least twice annually of the availability of such farmland in at least one newspaper that is widely circulated in a county in which the land is located until the property is sold.".

(b) Disposition and Leasing.—Section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A)(i) During the 180-day period beginning on the date of acquisition, or during the applicable period under State law, whichever is longer, the Secretary shall allow a borrower-owner to purchase or lease real property that has been—

"(I) used to secure any loan made to the borrower-owner under this title; and

"(II) foreclosed, purchased, redeemed, or otherwise acquired by the Secretary.

"(ii) The period for the purchase or lease of real property described under clause (i), by a person described in clauses (i) or (ii) of subparagraph (C), shall expire 190 days after the date of acquisition, or after the applicable period under State law, whichever is longer.

"(iii) The rights regarding the purchase or lease of real property provided by this paragraph and accorded a person described in subparagraph (C), may be waived by such person if such waiver is freely and knowingly given.

"(B) Any purchase or lease under subparagraph (A), shall be on such terms and conditions as are established in regulations promulgated by the Secretary.

"(C) The Secretary shall give preference in the sale or lease, with option to purchase, of property that has been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in the following order:

"(i) The immediate previous Farmers Home Administration borrower-owner of the acquired property.

"(ii) If actively engaged in farming—

"(I) the spouse or child of the previous borrower-owner; or

"(II) a stockholder in the corporation, if the previous borrower-owner is a corporation held exclusively by members of the same family.

"(iii) Operators (as of the time immediately after such sale or lease is entered into) of not larger than family-size farms.

"(D)(i)(I) In the case of any property located within an Indian reservation, if the period for the right of purchase or lease of real property by the persons provided in clauses (i) and (ii) of subparagraph (A) has expired, the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

"(II) For purposes of this subparagraph the term 'Indian reservation' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, land located within the jurisdictional boundaries of a federally recognized tribe in the State of Oklahoma, or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

"(ii) The Secretary shall, within 90 days after the rights of purchase or lease of the previous borrower-owner and the immediate family have expired, afford an opportunity to purchase or lease the lands in the following order, to—

"(I) an Indian member of any federally recognized Indian tribe;

"(II) an Indian corporate entity; or

"(III) the federally recognized Indian tribe with jurisdiction over the Indian reservation within which the lands are located.

The government of any Indian tribe having jurisdiction within an Indian reservation may revise the order of priority in which the lands shall be offered for purchase or lease by the Secretary, and may restrict the eligibility for such purchase or lease to persons who are members of that tribe, Indian corporate entities that are authorized by the tribe to lease or purchase lands within the boundaries of that tribe's reservation, or limit the eligibility for such purchase or lease of such lands to the Indian tribe itself. If the Indian tribe is unable to purchase or lease the lands, the Secretary shall transfer such lands to the Secretary of the Interior who shall administer such lands as if the lands were held in trust by the United States for the benefit of such Indian tribe.

"(iii) All rental income derived from the lease of the real property, and all other income generated from lands transferred to the Secretary of the Interior pursuant to this subparagraph, shall, after payment of applicable State, county, municipal, or other local taxes, be deposited in the miscellaneous receipts of the United States Treasury until an amount is paid that is equal to the lesser of—

"(I) the amount of the outstanding lien of the United States against such land, as of the date the land was acquired by the Secretary;

"(II) the fair market value of the land, as of the date of the transfer; or

"(III) the capitalized value of the land, as of the date of the transfer.

"(iv) If the conditions of clause (iii) have been satisfied, title to the subject land shall be held in trust by the United States for the benefit of the Indian tribe within whose Indian reservation the lands are located.

"(v) Notwithstanding clauses (ii) and (iii), the Indian tribe within whose Indian reservation the acquired lands are located may, at any time after the lands have been transferred to the Secretary of the Interior, offer to pay the remaining amount on the lien, or the fair market value of the land, whichever is less. On payment of such amount, title to such lands shall be held by the United States in trust for the tribe.

"(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.".

(2) in paragraph (3)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (B) (as redesignated by subparagraph (B)), by striking out "give special consideration to a previous owner or operator of such land if such owner or operator" and inserting in lieu thereof "determine if the lessee"; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) Notwithstanding any other provision of law, Indian reservation land, as defined in paragraph (1)(D)(i)(II), that is subject to State, county, municipal, or other local taxation on the day before it is—

"(i) purchased by an Indian member of any federally recognized Indian tribe;

"(ii) purchased by an Indian corporate entity;

"(iii) purchased by the federally recognized Indian tribe with jurisdiction over the Indian reservation within which the lands are located; or

"(iv) transferred to the Secretary of Interior under paragraph (1)(D)(ii);

shall not be exempt from any such taxation by operation or implementation of this section.

"(E) The Secretary may enter into a contract with a borrower of a farmer program loan made or insured under this title, to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary actually legally acquires such land.";

(3) in subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into logical parcels of land, the value of which shall not exceed the individual loan limits as prescribed under section 305.".

(4) in paragraph (6)—

(A) by striking out "and" after the semicolon at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) provide written notice of the availability of such farmland to the immediate previous owner of such land within 30 days of acquisition of the property."; and

(5) by adding at the end thereof the following new paragraph:

"(9) Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 333B.".

SEC. 610. INCOME RELEASE.

Subsection (f) of section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(f)) is amended to read as follows:

"(f)(1) As used in this subsection, the term 'normal income security' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herds and flocks, that are the basis of the farming or other operation, and are the basic security for a Farmers Home Administration farmer program loan.

"(2) The Secretary shall release from the normal income security provided for such loan, an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

"(3) A borrower whose account was accelerated between November 1, 1985 and May 7, 1987, but not thereafter foreclosed or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

"(A) as of October 30, 1987, continues to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

"(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 353.

"(4) The county committee in the county in which borrower's land is located shall determine whether the borrower complies with the requirements of paragraph (3)(A).

"(5)(A) The Secretary shall provide notice, by certified mail, within 45 days of the date of enactment of the Farm Credit Act Amendments of 1987, to the borrowers described in paragraph (3), of the right of such borrowers to apply for the benefits of such paragraph.

"(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days of receipt.

"(C) With regard to each borrower who has requested restructuring under section 353, the Secretary shall make a final determination on the request for restructuring within 12 months. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to each such borrower until a denial or dismissal of the application of the borrower for restructuring under section 353 is made. The amount of essential household and farm operating expenses may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary, for any such borrower eligible for such releases after 12 months.

"(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

"(A) notify the borrower of such requirement; and

"(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

"(7) The Secretary shall issue regulations consistent with this section that—

"(A) ensure the release of funds to each borrower; and

"(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.".

SEC. 611. LOAN MARKETING.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end thereof the following new subsection:

"(f)(1)(A) The guaranteed portion of any loan under this title may be sold by the lender, and by any subsequent holder, in accordance with regulations prescribing such sales as the Secretary shall establish, subject to the following limitations:

"(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

"(ii) The loan is to have been fully disbursed to the borrower before the sale.

"(B) After a loan is sold in the secondary market, the lender shall remain obligated under its agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

"(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for assessing the increase in the access of producers to capital at reasonable rates and terms as a result of secondary market operations.

"(D) This subsection shall not impede or extinguish the duty of the borrower, or the successor in interest to the borrower, to repay (in whole or in part) any loan made under this title.

"(2)(A) The market makers approved by the Secretary may issue pool certificates representing ownership of part, or all, of the portion of any loan guaranteed by the Secretary under this title. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

"(B)(i) The Secretary may, on such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal and interest on pool certificates by approved market makers. Such guarantee shall not exceed the extent of principal and interest on the guaranteed portions of the loans that compose the pool.

"(ii) If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest represented in the pool by the prepaid loan.

"(iii) During the term of the pool certificate, the certificate may be called for redemption due to repayment or default of all loans constituting the pool.

"(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may use the Agricultural Credit Insurance Fund for payments on such guarantees.

"(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

"(E)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

"(ii) No Federal, State, or local law shall preclude or limit the exercise of the ownership rights of the Secretary in those portions of loans constituting the pool against which the certificates are issued.

"(3) On the adoption of final rules and regulations, the Secretary shall do the following:

"(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates. Such information shall include, with respect to each original sale and any subsequent sale—

"(i) identification of the interest rate paid by the borrower to the lender;

"(ii) the servicing fee of the lender;

"(iii) whether interest on the loan is at a fixed or variable rate;

"(iv) identification of each purchaser of a pool certificate, and the interest rate paid on the certificate; and

"(v) such other information as the Secretary considers appropriate.

"(B) Provide such credit enhancement, through private sources or otherwise, as is reasonably necessary to recover estimated costs of paying claims under guarantees issued under this section.

"(C) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this title and, to each prospective purchaser of a pool certificate issued pursuant to paragraph (2), information on the terms, conditions, and yields of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term 'seller' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

"(D) Provide for adequate custody of any pooled guaranteed loans.

"(E) Require each market maker—

"(i) to service all pools formed, and participations sold, by the market maker; and

"(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments and prepayments to or from the reserve fund which the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

"(F) Regulate market makers in pool certificates sold pursuant to subparagraphs (A) and (B).

"(4)(A) Not later than March 31 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the secondary market operations under this subsection during the preceding calendar year.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market with a distribution by size of loan, interest rate, and premium;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed and variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess the access of farmers to capital at reasonable rates and terms as a result of secondary market operations.".

(b) REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section.

(c) POOL CERTIFICATES ISSUED AFTER FINAL REGULATIONS.—The Secretary shall not implement section 338(f)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988(f)(2)) (as added in this section) until the final regulations governing the administration of such paragraph take effect.

SEC. 612. CONSERVATION EASEMENTS.

Section 349 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997) is amended—

(1) in subsection (c)(4), by inserting "and other wildlife habitat" after "wetland"; and

(2) in subsection (e), by striking out the last sentence and inserting in lieu thereof the following new sentence: "In no case shall the amount so canceled exceed the difference between the amount of the outstanding loan secured by the land and the current value of the land.".

SEC. 613. INTEREST RATE REDUCTION PROGRAM; DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.

(a) EXTENSION OF INTEREST RATE REDUCTION PROGRAM.—Section 1320 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1532) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) DEMONSTRATION PROJECT.—Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended by adding at the end thereof the following new subsection:

"(f)(1) The Secretary shall establish and carry out, during the 3-year period beginning on the date of enactment of the Farm Credit Act Amendments of 1987, a demonstration project in accordance with this subsection under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and Farm Credit System institutions to purchase acquired properties owned by institutions of the Farm Credit System that are certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971.

"(2) To be eligible to participate in the project, a borrower must—

"(A) meet the requirements of subsection (b)(1);

"(B) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

"(C) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under this title.

"(3) A certificate of eligibility issued under this subsection may be used to reduce the interest rate payable by an eligible borrower on a guaranteed loan by not more than 4 percent.

"(4) A certificate of eligibility issued under this subsection shall reduce the interest rate on a guaranteed loan for a term equal to the outstanding term of such loan, or 5 years, whichever is less.

"(5) Notwithstanding any other provision of law, if the lender of a guaranteed loan assisted under this subsection reduces the interest rate payable on the loan by at least 1 percent, the Secretary may guarantee the repayment of 95 percent of the principal and interest due on the loan.

"(6) In carrying out this subsection, the Secretary may—

"(A) certify the eligibility of borrowers to participate in the demonstration project;

"(B) process applications for participation in the project;

"(C) provide certificate of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System that are certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971; and

"(D) set aside the largest practicable portion of funds made available to guarantee farm ownership loans under this title (including unobligated funds) to carry out this subsection.

"(7) To carry out this subsection, the Secretary may transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

"(8) In carrying out this subsection, Farm Credit System institutions shall—

"(A) sell land to eligible borrowers under this subsection at fair market value;

"(B) to the extent practicable, set aside each fiscal year for purchase by eligible borrowers, in accordance with this subsection, land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value; and

"(C) if necessary, subdivide tracts of land made available under this subsection into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under this title.

"(9) Not later than 60 days after the date of enactment of the Farm Credit Act Amendments of 1987, the Secretary and the Farm Credit Administration shall develop a joint memorandum of understanding governing the implementation of this subsection.".

SEC. 614. HOMESTEAD PROTECTION.

Section 352 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)(3), by inserting before the period ", including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual";

(2) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The Secretary or the Administrator shall, on application by a borrower who meets the eligibility requirements of subsection (C)(1), permit the borrower to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

"(A) the Secretary forecloses, holds in inventory on the date of the enactment of the Farm Credit Act Amendments of 1987, or takes into inventory, property securing a loan made or insured under this title;

"(B) the Administrator forecloses, holds in inventory on the date of the enactment of the Farm Credit Act Amendments of 1987, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

"(C) the borrower of a loan made or insured by either entity referred to in subparagraphs (A) and (B) files a petition in bankruptcy or agrees to voluntarily liquidate or convey such property in whole or in part.";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator shall—

"(A) apply for such occupancy not later than 90 days after the property is acquired by the Secretary or Administrator, or for property in inventory on the date of enactment of the Farm Credit Act Amendments of 1987, the borrower shall apply for occupancy not later than 90 days after such date;

"(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

"(i) the size and location of the farming unit of the borrower; and

"(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

"(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in subparagraph (B);

"(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

"(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

"(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

"(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

"(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term 'farming or ranching operations' shall include rent paid by lessees of agricultural land during any period in which the borrower, due to circumstances beyond the control of the borrower, is unable to actively farm such land.

"(3) For the purposes of paragraph (1)(E), the failure of the borrower to make timely rental payments shall constitute cause for the termination of all rights of such borrower to possession and occupancy of the homestead property under this section.

"(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner,

except that such period shall not exceed 5 years.

"(B) At any time during the period of occupancy, the borrower shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.

"(5) No rights of a borrower under this section, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower or by operation of any law, except that in the case of death or incompetency of such borrower, such rights and agreements shall be transferable to the spouse of the borrower if the spouse agrees to comply with the terms and conditions thereof.

"(6) Within 30 days of the acquisition of the homestead property securing a loan made or insured under this title, the Secretary shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this section. For property already in inventory on the date of enactment of the Farm Credit Act Amendments of 1987, the Secretary shall make a good faith effort to notify the borrower of the availability of homestead protection rights under this section within 60 days of such date.";

(3) in subsection (d), by adding at the end thereof the following new sentence: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer."; and

(4) by adding at the end thereof the following new subsections:

"(f) The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

"(g) If a conflict exists between any provision of this section and any provision of State law relating to the right of a borrower to designate for separate sale, or to redeem, part or all of the real property securing a loan foreclosed on by the lender, such provision of State law shall prevail, unless the provision of this section affords greater protection to the owners of real property than is afforded by such provision of State law.".

SEC. 615. DEBT RESTRUCTURING AND LOAN SERVICING.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 353. DEBT RESTRUCTURING AND LOAN SERVICING.

"(a) In General.—The Secretary shall modify delinquent loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible—

"(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

"(2) to ensure that borrowers are able to continue farming or ranching operations.

"(b) Eligibility.—To be eligible to obtain assistance under subsection (a)—

"(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary;

"(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

"(3) the borrower must present a plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

"(A) meet the necessary family living and farm operating expenses; and

"(B) service all debts, including those of the loans restructured; and

"(4) the loan, if restructured, must result in a net recovery to the Federal government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal government from an involuntary liquidation or foreclosure on the property securing the loan.

"(c) Restructuring Determinations.—

"(1) Determination of net recovery.—In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

"(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

"(B) the value of the restructured loan, in accordance with paragraph (3).

"(2) Recovery value.—For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

"(A) the amount of the current appraised value of the property securing the loan; less

"(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

"(i) the payment of prior liens;

"(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

"(iii) resale expenses, such as repairs, commissions, and advertising; and

"(iv) other administrative and attorney's costs.

"(3) Value of the restructured loan.—

"(A) In general.—For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

"(B) Present value.—For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

"(4) Notification.—Within 60 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

"(A) make the calculations specified in paragraphs (2) and (3);

"(B) notify the borrower in writing of the results of such calculations; and

"(C) provide documentation for the calculations.

"(5) Restructuring of loans.—If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this title through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

"(d) Principal and Interest Write-down.—

"(1) In general.—In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be required in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

"(2) Participation of creditors.—Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

"(e) Shared Appreciation Arrangements.—

"(1) In general.—As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

"(2) Terms.—Shared appreciation agreements shall have a term not to exceed 10-years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

"(3) Percentage of recapture.—The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

"(4) Time of recapture.—Recapture shall take place at the end of the term of the agreement, or sooner—

"(A) on the conveyance of the real security property;

"(B) on the repayment of the loans; or

"(C) if the borrower ceases farming operations.

"(5) Transfer of title.—Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

"(f) Determination To Restructure.—If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

"(g) Prerequisites to Foreclosure or Liquidation.—No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

"(1) until the borrower has been given the opportunity to appeal such decision; and

"(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

"(h) Time Limits for Restructuring.—Once an appeal has been filed under section 333B, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

"(i) Notice of Ineligibility for Restructuring.—

"(1) In general.—A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

"(2) Contents.—The notice required under paragraph (1) shall contain—

"(A) the determination and the reasons for the determination;

"(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

"(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

"(j) Independent Appraisals.—An appeal filed with the appeals division under section 333B may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

"(k) Termination of Restructured Loans.—

"(1) Notice.—If, at any time after the end of 18 months after the obligations of a farmer program borrower have been restructured in accordance with this section, the borrower is, and has for a period of at least 180 days remained, delinquent in the repayment of the restructured loan, the Secretary shall give notice to the borrower of the intention of the Secretary to accelerate the loan and foreclose on all collateral used to secure the loan and to terminate all additional assistance to the borrower.

"(2) Termination.—Unless, within 60 days after issuance of the notice required by paragraph (1), the borrower becomes current with respect to all obligations as restructured, the Secretary shall terminate all further assistance to the borrower and shall proceed to acceleration, foreclosure, or liquidation. The Secretary, at the Secretary's discretion, may waive this paragraph in exceptional circumstances.

"SEC. 354. TARGET PARTICIPATION RATES.

"(a) Establishment.—

"(1) In general.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) Group population.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) Reservation and Allocation.—

"(1) Reservation.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) Allocation.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) Report.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) Definition.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to the individual qualities of such.".

SEC. 616. TRANSFER OF INVENTORY LANDS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997 et seq.) (as amended by section 615 of this Act), is further amended by adding at the end thereof the following new section:

"SEC. 354. TRANSFER OF INVENTORY LANDS.

"The Secretary, without reimbursement, may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired;

"(2) that is determined by the Secretary to be suitable or surplus; and

"(3) that—

"(A) has marginal value for agricultural production;

"(B) is environmentally sensitive; or

"(C) has special management importance.".

SEC. 617. REGULATIONS.

Not later than 150 days after the date of enactment of this Act, the Secretary shall issue final regulations, after considering public comment obtained under section 553 of title 5, United States Code, to carry out the amendments made by this title.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKET

SEC. 701. PURPOSES.

It is the purpose of this title—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation referred to in paragraph (1); and

(3) to provide for a secondary marketing arrangement for qualified agricultural mortgage loans—

(A) to increase the availability of long-term credit for producers at stable interest rates;

(B) to provide greater liquidity and lending capacity for agricultural lenders in extending credit to producers; and

(C) to provide an arrangement to facilitate long and intermediate-term agricultural funding, including funds at fixed rates of interest.

SEC. 702. AGRICULTURAL MORTGAGE SECONDARY MARKET.

The Act (12 U.S.C. 2001 et seq.) (as amended by section 204 of this Act) is further amended by adding at the end of the Act the following new title:

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

"SEC. 8.0. DEFINITIONS.

"Unless the context otherwise requires, as used in this title:

"(1) Agricultural property.—The term 'agricultural property' means an agricultural commodity or product, or personal property used in the production, storage, processing, marketing, or distribution of an agricultural commodity or product.

"(2) Agricultural real estate.—The term 'agricultural real estate' means—

"(A) a parcel or parcels of land, or a building or structure affixed to the parcel or parcels, that—

"(i) is used for the production, storage, processing, marketing, or distribution of one or more agricultural commodities or products;

"(ii) consists of a minimum acreage or is used in producing minimum annual receipts, as determined by the Mortgage Corporation; or

"(B) a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding any community having a population in excess of 2,500 inhabitants.

"(3) Board.—The term 'Board' means the Board of Directors of the Mortgage Corporation established under section 8.2(a).

"(4) Certified facility.—The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 8.5.

"(5) Guarantee.—The term 'guarantee' means the guaranty of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans, in accordance with this Act.

"(6) Mortgage corporation.—The term 'Mortgage Corporation' means the Federal Agricultural Mortgage Corporation established under section 8.1.

"(7) Originator.—The term 'originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, association of agricultural producers, agricultural cooperative, commercial finance company, trust company, credit union, or other entity that originates and services agricultural mortgage loans.

"(8) Qualified loan.—The term 'qualified loan' means an obligation that—

"(A) is—

"(i) secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(ii) secured by a first lien on agricultural property located in the United States; or

"(iii) a loan made by a bank for cooperatives of the System pursuant to section 3.7(a); and

"(B) is an obligation of—

"(i) a person, corporation, or partnership that has training or farming experience that, under criteria established by the Mortgage Corporation, is sufficient to assure a reasonable likelihood that the loan will be repaid according to its terms; or "(ii) a cooperative meeting the eligibility standards prescribed in section 3.7(a).

"SEC. 8.1. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

"(a) Establishment.—

"(1) Charter.—There is created the Federal Agricultural Mortgage Corporation. The Mortgage Corporation shall be a body corporate under the direction of a Board of Directors. The Mortgage Corporation shall be a federally chartered instrumentality of the United States that is subject to this Act. The Mortgage Corporation shall be deemed to be an institution of the Farm Credit System.

"(2) Liability.—

"(A) Mortgage corporation.—The Mortgage Corporation shall not be liable for any of the debts or obligations of any other institution of the Farm Credit System.

"(B) System institutions.—The Farm Credit System and System institutions (other than the Mortgage Corporation) shall not be liable for any debts or obligations of the Mortgage Corporation.

"(b) Duties.—The Mortgage Corporation shall—

"(1) in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Mortgage Corporation for guarantee of specific mortgage pools; and

"(3) provide guarantee for the repayment of principal and interest due on pools of qualified loans.

"(c) Treasury Loan to Mortgage Corporation.—

"(1) In general.—The Secretary of the Treasury is authorized to loan to the Mortgage Corporation, on such terms and conditions as may be prescribed by an agreement between the Mortgage Corporation and the Secretary of the Treasury, funds that, in the judgment of the Board of the Mortgage Corporation, are from time to time necessary to carry out this title, but in no event shall such loans exceed in the aggregate $1,500,000,000 at any one time.

"(2) Authorization.—The authority provided to the Secretary of the Treasury under paragraphs (1) and (5) shall be effective for any fiscal year only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(3) Use of loans.—A loan made under this subsection shall be used by the Mortgage Corporation solely in carrying out functions of the Mortgage Corporation as prescribed in this title.

"(4) Interest.—

"(A) In general.—Notwithstanding any other provision of law, interest shall accrue to the Department of the Treasury on the amount of any outstanding loans made to the Mortgage Corporation pursuant to this subsection on the basis of the average daily amount of the outstanding loans to be determined at the close of each fiscal year.

"(B) Payment.—The Mortgage Corporation shall pay the interest accrued under subparagraph (A) to the Secretary of the Treasury annually as miscellaneous receipts.

"(C) Rate.—The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be determined by the Secretary of the Treasury but shall not be less than the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan.

"(5) Repayment of principal and interest.—As long as any loans made under this subsection are outstanding, the Mortgage Corporation shall devote the net earnings of the Corporation to the repayment of the principal and accrued interest on such loans.

"(6) Public-debt transaction.—For the purpose of making loans under this subsection, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, after the date of enactment of the Farm Credit Act Amendments of 1987. The purposes for which securities may be issued under chapter 31 of title 31 are extended to include such loans. All loans and repayments under this subsection shall be treated as public-debt transactions of the United States.

"(7) Information.—If any loans to the Mortgage Corporation are outstanding, the Secretary of the Treasury shall provide to the Mortgage Corporation, at least once each fiscal year, information that shall be necessary for the Mortgage Corporation to determine whether the balance of the loan is in excess of the amount that is needed to meet the requirements of the Mortgage Corporation. The Mortgage Corporation shall pay the excess to the Secretary of the Treasury to be credited against the loans to the fund.

"SEC. 8.2. BOARD OF DIRECTORS.

"(a) Interim Board.—

"(1) Establishment.—Not later than 90 days after the date of enactment of the Farm Credit Act Amendments of 1987, an interim Board of Directors shall be appointed by the President, one of whom shall be designated by the President as interim Chairman.

"(2) Composition.—The interim Board shall consist of 15 members, of which—

"(A) five members shall be representatives of banks, other financial institutions, and insurance companies;

"(B) five members shall be representatives of System institutions; and

"(C) five members shall be farmers or ranchers experienced in financial matters, who are not presently, and who have not been, officers or directors of any financial institutions, of which not more than three of the appointed members shall be members of the same political party, and not more than two of which shall be stockholders of any System institution.

"(3) Voting common stock.—

"(A) Initial offering.—The interim Board shall arrange for an initial offering of voting common stock and shall take whatever other actions are necessary to proceed with the operations of the Mortgage Corporation.

"(B) Purchasers.—Subject to subparagraph (C), the voting common stock shall be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim Board may adopt.

"(C) Distribution.—The voting stock shall be fairly and broadly offered to assure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class and that capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A and class B stock.

"(b) Permanent Board.—

"(1) Establishment.—Immediately after the date that banks, other financial institutions, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Mortgage Corporation, the Mortgage Corporation shall arrange for the election and appointment of a Board of Directors.

"(2) Composition.—The Board shall consist of 15 members, of which—

"(A) five members shall be elected by holders of common stock that are insurance companies, banks, or other financial entities;

"(B) five members shall be elected by holders of common stock that are System institutions; and

"(C) five members shall be appointed by the President, who are experienced in financial matters and who are not, and have not been, officers or directors of any financial institutions, and are representatives of the general public, of which not more than three of the appointed members shall be members of the same political party, and at least two of which shall be experienced in farming or ranching.

"(3) Presidential appointees.—The President shall appoint the members of the Board referred to in paragraph (2)(C) not later than the later of—

"(A) the date referred to in paragraph (1); or

"(B) the date that is 270 days after the date of enactment of the Farm Credit Act Amendments of 1987.

"(c) Term of Directors.—

"(1) Elected members.—The members elected under subparagraphs (A) and (B) of subsection (b)(2) shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Mortgage Corporation and shall serve until their successors are elected and qualified. Any seat on the Board that becomes vacant after the annual election of the directors shall be filled by the members of the Board from the same category of directors, but only for the unexpired portion of the term.

"(2) Appointed members.—The term of office of members appointed under subparagraph (C) of subsection (b)(2) shall be 3 years and until their successors have been appointed and qualified, except that with regard to the initial appointments of such members the terms of two of the members shall expire 2 years after the date of appointment and the term of one of the members shall expire 1 year after the date of appointment.

"(d) Chairman.—The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"SEC. 8.3. POWERS AND DUTIES OF THE MORTGAGE CORPORATION AND BOARD.

"(a) Guarantee.—After the Board has been duly constituted, subject to the other provisions of this title and other commitments and requirements established pursuant to law, the Mortgage Corporation may provide guarantee on terms and conditions determined by the Mortgage Corporation to securities issued on the security of, or in participation in, pooled interests in qualified loans.

"(b) Duties of the Board.—

"(1) In general.—The Board shall—

"(A) determine the general policies that shall govern the operations of the Mortgage Corporation;

"(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Mortgage Corporation; and

"(C) assign to such persons such executive functions, powers, and duties as may be pre-

scribed by the bylaws of the Mortgage Corporation or by the Board.

"(2) EXECUTIVE OFFICERS AND FUNCTIONS.—The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Mortgage Corporation and shall discharge the executive functions, powers, and duties of the Mortgage Corporation.

"(c) POWERS OF THE MORTGAGE CORPORATION.—The Mortgage Corporation shall be a body corporate and shall have the power to—

"(1) operate under the direction of its Board;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for a president, one or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons;

"(4) prescribe bylaws, through the Board of Directors, not inconsistent with law, that shall provide for—

"(A) the classes of the stock of the Mortgage Corporation; and

"(B) the manner in which—

"(i) the stock shall be issued, transferred, and retired;

"(ii) the officers, employees, and agents of the Mortgage Corporation are selected;

"(iii) the property of the Mortgage Corporation is acquired, held, and transferred;

"(iv) the commitments and other financial assistance of the Mortgage Corporation are made;

"(v) the general business of the Mortgage Corporation is conducted; and

"(vi) the privileges granted by law to the Mortgage Corporation are exercised and enjoyed;

"(5) prescribe such standards as may be necessary to carry out this title;

"(6) enter into contracts and make payments with respect to the contracts;

"(7) make and perform contracts, agreements and commitments with persons and entities both inside and outside of the Farm Credit System;

"(8) sue and be sued in its corporate name and complain and defend in a court of competent jurisdiction;

"(9) acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, provide guarantee, sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Mortgage Corporation; and

"(10) exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Mortgage Corporation in accordance with this title.

"(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the Farm Credit Act Amendments of 1987, the Comptroller General of the United States shall conduct a study, and submit to appropriate committees of Congress a report, on the implementation of this title by the Mortgage Corporation and the effect of the operations of the Mortgage Corporation on producers, the Farm Credit System and other lenders, and the capital markets.

"SEC. 8.4. VOTING COMMON STOCK.

"(a) CLASSES OF STOCK.—The Mortgage Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time. The stock may be issued only to originators and certified facilities. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 8.2(a). The stock shall be divided into two classes with the same par value per share. Class A stock may be held only by entities that are not System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(A). Class B stock may be held only by System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(B).

"(b) MAXIMUM NUMBER OF SHARES.—The maximum number of shares of voting common stock that the Mortgage Corporation may issue and have outstanding at any one time shall be fixed by the Board from time to time. A common share issued shall be fully transferable except as provided in this section, and except (1) in the case of the Mortgage Corporation, a share shall be transferable only on the books of the Mortgage Corporation, and (2) as the Mortgage Corporation may restrict in the bylaws of the Mortgage Corporation. No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 10 percent of the outstanding shares of that class of the voting common stock of the Mortgage Corporation.

"(c) CAPITAL CONTRIBUTIONS.—The Mortgage Corporation may require each originator and each certified facility to make, or commit to make, nonrefundable capital contributions to the Mortgage Corporation if the capital contributions are reasonable and necessary to carry out this title. The Mortgage Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

"(d) DIVIDENDS ON COMMON STOCK.—Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Mortgage Corporation to the holders of the voting common stock of the Mortgage Corporation pro rata based on the total number of shares of both classes of stock outstanding.

"(e) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board of Directors of the Corporation from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation.

"(f) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board of Directors of the Corporation from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred stock shall be entitled to such rate of cumulative dividends and such holders shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"SEC. 8.5. CERTIFICATION OF FACILITIES.

"(a) STANDARDS.—

"(1) ISSUANCE.—Not later than 120 days after the appointment and election of the Board, the Mortgage Corporation shall issue standards for certification of agricultural mortgage marketing facilities, including eligibility standards established in accordance with paragraph (2).

"(2) ELIGIBILITY.—To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of any State or the District of Columbia;

"(B) have adequate capitalization;

"(C) have as one of its purposes the sale or resale of securities representing interests in, or obligations backed by, pools of qualified loans that are provided guarantee by the Mortgage Corporation;

"(D) demonstrate acceptable managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing;

"(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures, in conformity with uniform standards established by the Mortgage Corporation;

"(F) permit the Mortgage Corporation to examine the books, records, and loan files of the facility with respect to the operations of the facility and enhancement of pools of the facility; and

"(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Mortgage Corporation.

"(3) NONDISCRIMINATION.—The standards referred to in paragraph (1) shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

"(b) CERTIFICATION.—Within 60 days after receiving an application for certification under this section, the Mortgage Corporation shall certify the facility if the application of the facility meets the standards referred to in subsection (a).

"(c) TERM.—Any certification by the Mortgage Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Mortgage Corporation of not to exceed 5 years.

"(d) REVOCATION.—

"(1) IN GENERAL.—After notice and an opportunity for a hearing, the Mortgage Corporation may revoke the certification of an agricultural mortgage marketing facility if the Mortgage Corporation determines that the facility no longer meets the standards referred to in subsection (a).

"(2) EFFECT OF REVOCATION.—Revocation of a certification shall not affect any pool guarantee that has been issued by the Mortgage Corporation.

"SEC. 8.6. GUARANTEE OF QUALIFIED LOANS.

"(a) GUARANTY AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation

shall consider appropriate, the Corporation shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guaranty has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

"(3) POWER OF CORPORATION.—Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

"(b) LIMITATIONS.—In the case of any pool referred to in subsection (a), the Mortgage Corporation shall—

"(1) provide guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

"(2) provide guarantee only if a reserve in an amount equal to at least 10 percent of the principal amount of the loans constituting the pool has been established in accordance with this title;

"(3) in any case in which an originator has agreed to contribute to a reserve as provided in section 8.7, require the certified facility to establish a reserve in United States Treasury securities or other securities issued, guaranteed, or insured by an agency of the Federal Government in an amount equal to at least 10 percent of the principal amount of the loans constituting the pool;

"(4) in any case in which an originator has not agreed to contribute to a reserve as provided in section 8.7, require the certified facility to establish a reserve in an amount equal to at least 10 percent of the principal amount of the loans constituting the pool in such manner as the Mortgage Corporation considers appropriate;

"(5) require that the certified facility cause the reserves required under paragraphs (2), (3), and (4), exclusive of the earnings on the reserve, to be held for the benefit of the holders of securities representing an interest in, or obligation backed by, the pool to assure the timely receipt of principal and interest due to the security holders;

"(6) in any case in which a certified facility or originator has not established a reserve, require the certified facility or originator to retain a subordinated participation interest equal to 10 percent of the principal amount of the loans constituting the pool, as provided in section 8.7;

"(7) require that such reserves and retained subordinated participating interests must be first exhausted before any demand be made by the certified facility with respect to the guarantee of the Mortgage Corporation;

"(8) assure the timely receipt of principal and interest due to security or obligation holders only after exhaustion of such reserves and retained subordinated participating interests;

"(9) require that a certified facility act in accordance with the standards of a prudent institutional lender to resolve loan defaults;

"(10) provide that, to the extent that the certified facility receives proceeds of collateral, judgments, settlements, or guarantees with respect to a loan in the pool, the proceeds shall be first applied, after payment of costs of collection, by the Mortgage Corporation to repay any loans made under section 8.1(c) with respect to the pool, and second, to reimburse the Mortgage Corporation for the amount of guarantee payments made with respect to the pool by the Mortgage Corporation;

"(11) permit reserves to be reduced at certain times to provide for the distribution of earnings to originators required by section 8.7, subject to the limitation provided in such section;

"(12) not provide guarantee with respect to a pool if the pool contains any single loan the principal amount of which exceeds 5 percent of the total principal amount of the pool at the time the application for guarantee is submitted;

"(13) in the case of each loan originated for a pool, provide guarantee only if the originator may retain the servicing of the mortgage in connection with the borrower; and

"(14) provide guarantee only if each qualified loan has been sold to the certified facility without recourse to the originator.

"(c) AGGREGATE PRINCIPAL AMOUNTS OF QUALIFIED LOANS.—

"(1) INITIAL YEAR.—During the first year after the date of enactment of the Farm Credit Amendments Act of 1987, the Mortgage Corporation may provide guarantee for securities representing interests in, or obligations backed by, qualified loans with an aggregate principal amount not in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

"(2) SECOND YEAR.—During the year following the year referred to in paragraph (1), the Mortgage Corporation may provide guarantee for securities representing interests in, or obligations backed by, qualified loans with an additional principal amount not in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(3) THIRD YEAR.—During the year following the year referred to in paragraph (2), the Mortgage Corporation may provide guarantee for securities representing interests in, or obligations backed by, qualified loans with an additional principal amount not in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(4) SUBSEQUENT YEARS.—In years subsequent to the year referred to in paragraph (3), the Mortgage Corporation may provide guarantee without regard to the principal amount of the qualified loans so enhanced.

"SEC. 8.7. RESERVES AND SUBORDINATED PARTICIPATION INTERESTS OF CERTIFIED FACILITIES.

"(a) CONTRIBUTIONS.—For each pool of loans, a certified facility and the participating originators may each contribute a share of the 10 percent minimum reserve required under section 8.6(b)(2).

"(b) DISTRIBUTION.—In the case of each applicable loan pool, a certified facility shall—

"(1) distribute to originators, at least semiannually, any earnings on the contributions of the originators to the reserve, except that the distributions shall not cause the reserve to fall below 10 percent of the outstanding aggregate principal and accrued interest of the loans then remaining in the pool; and

"(2) maintain separate loan loss accounting for each loan in the pool in those pools in the case of each pool in which the originator has contributed to the reserve.

"(c) LOSSES.—Except for that portion of losses absorbed by a contribution of a certified facility to the reserve as provided in subsection (a), each originator participating in the pool shall absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool.

"(d) SUBORDINATED PARTICIPATION INTERESTS.—The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Mortgage Corporation to enhance the likelihood of regular receipt by the other holders of interests in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"(e) COMPOSITION OF RESERVES.—The reserves required under this section, other than retained subordinated participation interests, shall be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency of the United States Government.

"SEC. 8.8. STANDARDS FOR QUALIFIED LOANS.

"(a) STANDARDS.—Not later than 120 days after the appointment and election of the Board, the Mortgage Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans. In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans which are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

"(b) SMALL LOANS OR ORIGINATORS.—The standards referred to in subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000.

"SEC. 8.9. EXEMPTION FROM RESTRUCTURING AND BORROWERS' RIGHTS PROVISIONS FOR POOLED LOANS.

"(a) Notwithstanding any other provision of law, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 shall not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Mortgage Corporation provides guarantee. The loan servicing standards established by the Mortgage Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

"(b) At the time of application for a loan, originators shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 10 days of such notice, an applicant has the right to refuse to allow the loan to be pooled thereby retaining those rights given persons under applicable State laws and under sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7, if applicable.

"SEC. 8.10. FUNDING FOR GUARANTEE; RESERVES OF MORTGAGE CORPORATION.

"(a) Guarantee.—The Mortgage Corporation shall provide guarantee for securities representing interests in, or obligations backed by, by pools of qualified loans through commitments issued by the Mortgage Corporation providing for guarantee.

"(b) Guarantee Fees.—

"(1) Initial fee.—At the time a guarantee is issued by the Mortgage Corporation, the Mortgage Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans.

"(2) Annual fees.—Beginning in the second year after the date the guarantee is issued under paragraph (1), the Mortgage Corporation may assess the certified facility an annual fee, at the end of each year, to be established by the Board of Directors of the Mortgage Corporation of not more than ¼ of 1 percent of the principal amount of the loans then constituting the pool.

"(3) Determination of amount.—The Mortgage Corporation shall establish such fees based on the risks associated with such pool and shall take into account the reserves maintained by qualified facilities and originators pursuant to section 8.7 and the level of capital and reserves of the Mortgage Corporation.

"(c) Mortgage Corporation Fees.—The Mortgage Corporation may impose charges or fees in reasonable amounts in connection with the administration of the activities of the Mortgage Corporation under this title to recover the costs of the Mortgage Corporation for performing the administration.

"(d) Reserves.—As much of the fees collected under this section as are necessary shall be set aside by the Mortgage Corporation to establish an adequately funded reserve against losses arising out of its guarantee activities. Such reserve shall be used to fulfill the guarantee assurances of the Mortgage Corporation before the Mortgage Corporation borrows from the Secretary of the Treasury under section 8.1(c).

"SEC. 8.11. SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.

"(a) Regulation.—

"(1) Authority.—Notwithstanding any other provision of this Act, the regulatory authority of the Farm Credit Administration with respect to the Mortgage Corporation shall be confined to—

"(A) providing for the examination of the condition of the Mortgage Corporation; and

"(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Mortgage Corporation by this title.

"(2) Considerations.—In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

"(A) the purposes for which the Mortgage Corporation was created;

"(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

"(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) Examinations and Audits.—

"(1) In general.—The financial transactions of the Mortgage Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Farm Credit Administration.

"(2) Frequency.—The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

"(3) Access.—The examiners shall—

"(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Mortgage Corporation and necessary to facilitate the audit; and

"(B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Mortgage Corporation conducts transactions.

"(c) Annual Report of Condition.—The Mortgage Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Mortgage Corporation shall be audited by an independent public accountant.

"SEC. 8.12. SECURITIES IN CREDIT ENHANCED POOLS.

"(a) Federal Laws.—

"(1) Exemption from federal securities laws.—Notwithstanding any other provision of law, securities representing an interest in, or obligations backed by, pools of qualified loans for which guarantee has been provided by the Mortgage Corporation shall be exempt from the laws administered by the Securities and Exchange Commission to the same extent as securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States.

"(2) Nonfederal obligations.—The securities and obligations shall clearly indicate that such securities and obligations, together with interest thereon, are not guaranteed by the United States or constitute a debt or obligation of the United States or of any agency or instrumentality of the United States other than the Corporation.

"(3) Federal jurisdiction.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

"(A) Agency status.—The Mortgage Corporation shall be considered an agency under sections 1345 and 1442 of such title.

"(B) Civil actions.—All civil actions to which the Mortgage Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

"(C) Removal.—Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Mortgage Corporation is a party may at any time before trial be removed by the Mortgage Corporation, without the giving of any bond or security—

"(i) to the District Court of the United States for the district and division embracing the place where the same is pending; or

"(ii) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Mortgage Corporation is located;

by following any procedure for removal for causes in effect at the time of such removal.

"(D) Attachment or execution.—No attachment or execution shall be issued against the Mortgage Corporation or any of the property of the Mortgage Corporation before final judgment in any Federal, State, or other court.

"(4) Securities.—Nothing in this title is intended to expand the authority of a national bank, State bank, or bank holding company, or an affiliate, to deal in or underwrite securities.

"(b) State Securities Laws.—Any security or obligation that has been provided guarantee by the Mortgage Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

"(c) Authorized Investments.—

"(1) Securities requirements.—

"(A) In general.—Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Mortgage Corporation has provided guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either, and shall be eligible for unlimited purchase, sale, and underwriting by national banks.

"(B) State limitations on purchase, holding, or investment.—If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Mortgage Corporation has provided guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

"(2) State limitations on charges.—To facilitate the orderly and necessary flow of long-term loans and funds from agricultural lenders and certified facilities for agricultural loans, the provisions of law of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any qualified loan made by an originator or a certified facility pursuant to this title.

"(3) Contractual preemption.—Notwithstanding any Federal, State, or local law *(other than title 11 of the United States Code), an originator may provide by contract with the borrower whether before or after default, for the settlement or extinguishment, on default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in, any agricultural real estate or agricultural property that constitutes the security for an agricultural mortgage loan that is included in a pool of qualified loans for which a guarantee is provided under section 8.6, and concerning the terms of repayment of such a loan on the sale of collateral securing the loan.*

"(4) Nonapplicability of provisions.—

"(A) Subsequent state law.—Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 3-year period beginning on the date of enactment of the Farm Credit Act Amendments of 1987, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

"(B) Effect of subsequent state law.—The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.".

SEC. 703. CONFORMING AMENDMENTS.

(a) Federal Land Banks.—Section 1.4 (12 U.S.C. 2012) is amended by adding at the end thereof the following new paragraph:

"(23) Operate as an originator and to become certified as a certified facility under title VIII.".

(b) Federal Land Bank Associations.—Section 1.15 (12 U.S.C. 2033) is amended by adding at the end thereof the following new paragraph:

"(22) Operate as an originator and to become certified as a certified facility under title VIII.".

(c) Federal Intermediate Credit Banks.—Section 2.1 (12 U.S.C. 2072) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(d) Production Credit Associations.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(e) Banks for Cooperatives.—Section 3.1 (12 U.S.C. 2122) is amended by adding at the end thereof the following new paragraph:

"(19) Operate as an originator and to become certified as a certified facility under title VIII.".

TITLE VIII—MISCELLANEOUS

SEC. 801. SALE OF RURAL DEVELOPMENT NOTES.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end thereof the following new subsections:

"(f) Right of First Refusal.—

"(1) In general.—Prior to the conduct of a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

"(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

"(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

"(2) Determination of offering price.—

"(A) Authority.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

"(B) Price.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

"(3) Prohibitions.—

"(A) Purchase of obligation not tied to purchase of other obligations.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

"(B) Offer to be made without regard to financing.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

"(g) Applicability of Prohibition on Curtailment or Limitation of Service.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

SEC. 802. OUTSIDE DIRECTORS.

(a) Repeal.—Sections 1.14 and 2.11 (12 U.S.C. 2032 and 2092) are repealed.

(b) Association Directors.—Section 4.15 (12 U.S.C. 2203) is amended—

(1) by designating the matter following the section heading as subsection "(b)";

(2) in the second sentence of subsection (b) (as designated in paragraph (1)), by striking out "farmers from the association territory" and inserting in lieu thereof "nominees"; and

(3) by inserting before subsection (b) (as designated in paragraph (1)) the following new subsection:

"(a)(1) Each production credit association and each Federal land bank association shall elect a board of directors that shall consist of members selected from citizens of the United States, one of whom shall not be a borrower from, a shareholder in, or an officer, employee, or agent of any institution of the Farm Credit System (referred to in this Act as an 'outside director').

"(2) The bylaws of each association shall prescribe the procedures pursuant to which the directors shall be nominated and elected, including procedures requiring the election of the outside director by the other members of the board of directors, and the number, term of office, and qualifications required of directors.".

(c) Outside District Director.—Section 5.2 (12 U.S.C. 2223) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The seventh member shall be elected by the six members elected under paragraph (1). Such seventh member shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of, any institution of the Farm Credit System. If the six members fail to elect a member under this paragraph, the Farm Credit Administration Board shall appoint a qualified person to serve on the Board of Directors until a member is so elected.";

(2) in the second sentence of subsection (b)—

(A) by inserting "and" before "in the case of an election by cooperatives"; and

(B) by striking out "; and in the case of an election by the borrowers at large, such notice shall be sent to all borrowers at large in the district"; and

(3) in subsection (c), by striking out the sixth sentence.

(d) Conforming Amendment.—The second sentence of section 3.2(a) (12 U.S.C. 2123(a)) is amended by striking out "Farm Credit Administration" and inserting in lieu thereof "other members of the Board, and shall not be a shareholder of, a borrower from, or an officer, employee, or agent of a System institution,".

SEC. 803. ELIGIBILITY OF CROPLAND TO BE PLACED IN THE CONSERVATION RESERVE.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end thereof the following new subsection:

"(g) For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subtitle, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary prevented the land from being planted to the commodity during the crop year.".

SEC. 804. OWNERSHIP REQUIREMENT UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately prior to the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.".

SEC. 805. PLACEMENT OF INVENTORIED PROPERTY INTO CONSERVATION RESERVE.

(a) In General.—Section 1235(a) of the Food Security Act of 1985 (16 U.S.C. 3835(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Paragraph (1) shall not apply to highly erodible cropland that is administered on the date of enactment of the Farm Credit Act Amendments of 1987 by—

"(i) an institution of the Farm Credit System under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.);

"(ii) the Secretary under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.); or

"(iii) a private lender.

"(B) Notwithstanding any other provision of law, in the case of any highly erodible cropland that is placed in the conservation reserve as a result of this paragraph, the Secretary shall make payments under this subtitle only to family farmers who purchase or lease such cropland and who enter into a contract under this subtitle.

"(C) If the Secretary receives contract offers for participation in the program established by this subtitle from owners or operators who satisfy the requirements of paragraph (1) and family farmers who satisfy the requirements of this paragraph, the Secretary shall give priority to the offers submitted by owners or operators who satisfy the requirements of paragraph (1).

"(D) As used in this paragraph, the term 'family farmer' means an owner or operator (as of the time immediately before such sale or lease) of not larger than a family-size farm located in a State, as defined by the Secretary for farms in the State under the Consolidated Farm and Rural Development Act.".

SEC. 806. COMPENSATION FOR DIRECTORS.

Section 5.5 of the Act is amended by inserting before the period at the end thereof the following: ": Provided, That no director may receive compensation under this section during any year in a total amount exceeding $15,000.".

SEC. 807. TRANSITIONAL AUTHORITY.

(a) REGULATIONS.—The Farm Credit Administration Board shall issue such regulations as the Board considers necessary for the orderly and efficient implementation of this Act and the amendments made by this Act.

(b) CURRENT PROVISIONS.—Except as provided in subsection (a), the provisions of the Farm Credit Act of 1971 (as it existed before the amendments made by this Act) that are relevant to current regulations of the Farm Credit Administration Board governing the Farm Credit System shall remain in effect until such provisions are revoked, superseded, amended, or modified by regulations issued pursuant to the Farm Credit Act of 1971 (as amended by this Act).

SEC. 808. REGULATIONS.

To the extent that the Farm Credit Administration is required to issue regulations under this Act, such regulations shall be issued within 1 year after the date of enactment of this Act unless otherwise provided for in this Act.

Mr. LUGAR. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Madam President, I move that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of both Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Madam President, I ask unanimous consent that the Senate amendment to H.R. 3030, the farm credit bill, be printed as adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask unanimous consent that S. 1665, Calendar Order No. 452, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Madam President, what is the pending business before the Senate?

Mr. LUGAR. Madam President, I announce that Senator KASSEBAUM, the distinguished Senator from Kansas, has expressed her especially strong support for this legislation. She is necessarily absent today, but wished to have her strong support announced.

I thank the Chair.

ENERGY AND WATER APPROPRIATIONS—CONFEREES

Mr. JOHNSTON. Madam President, would it be in order at this time to ask unanimous consent that the energy and water appropriation bill be called up, that the Senate insist on its position and ask for the appointment of conferees?

Does the Chair have a list of conferees?

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has a question pending before the Chair. Does the Senator from Washington wish to comment on that?

Mr. ADAMS. Yes, Madam President. We would object to the appointment of conferees and ask that the question be divided and ask for the yeas and nays if there is an effort to go to conference and appoint conferees on the energy and water bill.

It has been very controversial so far as nuclear waste is provided and this is one of the areas in which we have previously stated to the Senator from Louisiana and to the leadership that we wish to debate the matter of conferees, who they would be, and the appointments since it involves both the Appropriations Committee and the Environment and Public Works Committee, and I believe also the Senator from Wyoming, Senator SIMPSON, has indicated that he wishes to be heard on the matter of conferees being appointed.

The bill at this point, as I understand it from the statement of the Senator from Louisiana, is that there is a request for conference and that there is a request that conferees be appointed. Each of these is subject to debate and we will be able to debate that.

I yield for a question without yielding my right to the floor.

Mr. JOHNSTON. I thought it was cleared. I am sorry. I will not bring up the matter at this time.

Mr. ADAMS. I thank the Senator from Louisiana. If he will confer with me perhaps we can work something out.

I yield the floor.

The PRESIDING OFFICER. Which Senator seeks recognition?

Mr. LUGAR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS VETERANS' BENEFITS AND SERVICES ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 9) to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

The Senate resumed consideration of the bill.

Mr. BYRD. Madam President, I thank the distinguished Senator from South Carolina for his courtesy in yielding.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1249

Mr. THURMOND. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 1249.

At the end of the substitute, add the following:

SECTION 1. (a) PROHIBITION OF HARD-TO-DETECT FIREARMS.

AMENDMENT NO. 1250

Mr. METZENBAUM. Madam President, I send a second-degree amendment to the pending amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, Mr. THURMOND, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. KENNEDY, Mr. Simon, Mr. Chafee, Mr. Moynihan, and Mr. Lautenberg, proposes an amendment numbered 1250 to amendment No. 1249.

Mr. METZENBAUM. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following:

Section 922 of title 18, United States Code, is amended by adding at the end thereof a new subsection (p) as follows:

"(p)(1) It shall be unlawful for any person to manufacture, import, sell, possess, transfer, receive, ship, or deliver any firearm that the Secretary determines, after consultation with the administrator of the Federal Aviation Administration.

"(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors approved by the Federal Aviation Administration for use at airports in the United States; or

"(B) is not identifiable as a firearm or readily detectable by cabinet X-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1020.40(b)(3)) designed for inspection of carry-on baggage; Provided, however, nothing in this section shall be construed as requiring that the Federal Aviation Administration utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(2) As used in this section—

"(A) the term 'firearm' does not include a firearm described in subsection 921(a)(3)(B) of this title; and

"(B) the term 'Minimum Security Standard Exemplar' means a firearm substitute that resembles a North American Arms .22 caliber rim fire weapon, is 4½ inches in length, 2 inches in height, is made of material type 17-4 PH stainless steel or 1040 mild steel, and weighs 8½ ounces."

(b) Section 925 of title 18, United States Code, is amended by adding at the end thereof a new subsection (f) as follows:

"(f)(1) The Secretary shall not authorize, under subsection (d) of this section, the importation or bringing in of any firearm that—

(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors approved by the Federal Aviation Administration for use at airports in the United States; or

"(B) is not identifiable as a firearm, or readily detectable by cabinet x-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1040.20(b)(3)) designed for inspection of carry-on baggage.

"(2) As used in this section, the terms 'firearm' and 'Minimum Security Standard Exemplar' have the meanings given those terms in section 922(p) of this title.".

(c) The first sentence of section 925(d) of title 18, United States Code, is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in subsection (f) of this section, the Secretary".

(d) The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems with respect to detection of firearms prohibited by section 922(p) of title 18, United States Code.

(e) When appropriate because of change technology, the Secretary of the Treasury shall submit to the Congress proposed legislation (including technical and conforming provisions) to amend the definition of the term "Minimum Security Standard Exemplar" contained in the amendments made by this Act.

(f) Except as provided in subsection (g), the amendments made by this section shall take effect upon the enactment of this Act.

(g) It shall be a bar to prosecution for an offense involving the possession or receipt to a firearm in violation of subsection (p) of section 922 that the defendant first possessed or received the firearm before the data of enactment.

The PRESIDING OFFICER. The Chair, in her capacity as a Senator from Maryland, asks to be added as cosponsor.

Mr. METZENBAUM. Madam President, I ask unanimous consent that the Senator from Maryland, Senator Mikulski, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I yield the floor to the Senator from South Carolina.

Mr. THURMOND. Madam President, I am pleased to cosponsor an amendment to this bill designed to protect the citizens of this country. This important amendment will outlaw the importation, manufacture, distribution, and possession of firearms that are not readily detectable by standard airport equipment. The prohibition on these dangerous weapons will not only provide for greater security in airports, it will also increase safety in our Federal courthouses and other buildings in which metal detectors are used to protect the public.

As well as protecting the general public, passage of this bill could save the lives of the President and other high-level officials of the United States. In its testimony before the Constitution Subcommittee of the Senate Judiciary Committee, the Secret Service expressed concern over its reliance on metal detection equipment at the White House and at other events attended by the President, because this equipment can be circumvented by firearms with insufficient metal. As a result, the lives of the President and other high-level officials who depend on this equipment are at great risk—a risk which will be reduced by adoption of this amendment.

Despite these dangers, some have argued that this amendment is not necessary because no firearm yet exists which is made solely of plastic or other nonmetallic substances. Therefore, they argue that all firearms in existence can be detected by standard metal detectors. However, one company claims to have the technology to create nonmetallic firearms. Although this company promises not to use its technology to produce a nondetectable firearm, others who develop a nonmetallic firearm may not be so honorable. We must take steps to protect the public from the misuse of this firearms technology.

Madam President, some say that this amendment violates the constitutional rights of gun owners and will interfere with the development of new firearm technology. That is clearly not the purpose of this amendment. Firearms owners can still own, trade, and purchase detectable firearms. This bill only outlaws any guns manufactured after the passage of this bill that are designed to circumvent standard airport security devices. Persons lawfully possessing undetectable firearms prior to the enactment of this amendment will not be in violation of its provisions.

As well, this bill does not prohibit the development or use of new firearm technology. An "all-plastic gun" could easily satisfy the prohibitions of this amendment by containing an unremovable metal implant sufficient to alert standard metal detection equipment. This weapon of the future would then contain all the benefits of polymer construction without the risks to public safety; this is the best of both worlds.

The arguments against enactment of this vital legislation are simply smokescreens that should not defeat this amendment. The need to protect the public from terrorists and others who would commit violent acts with nondetectable firearms outweighs the minor restrictions imposed by this amendment. Before closing, it is important to note that the following organizations strongly support undetectable firearm prohibition legislation.

Madam President, I want to repeat and I want the Senators to know this and the staffs who are listening on the loudspeakers, I want them to know that these organizations that I am now going to list support this amendment, and these are the chief law enforcement organizations in the United States.

First, the International Association of Chiefs of Police. They strongly favor this amendment, as others I shall mention.

Second. The Fraternal Order of Police.

Third. The International Brotherhood of Police Officers.

Fourth. The National Association of Police Organizations.

Fifth. National Organization of Black Law Enforcement. Executives.

Sixth. National Sheriffs' Association.

Seventh. National Troopers Coalition.

Eighth. Police Management Association.

Ninth. The Police Executive Research Forum.

Tenth. The Police Foundation.

Eleventh. The Airline Pilots Association.

Twelfth. The Air Transport Association.

Thirteenth. The American Association of Airport Executives.

Fourteenth. The Association of Flight Attendants, and.

Fifteenth. The Airport Operators Council International.

Madam President, I just want to say that the International Association of Chiefs of Police, the National Sheriffs Association, the Airline Pilots Association, and these other organizations I have mentioned would not favor this amendment if they did not consider it in the public safety. They consider this in the public safety. Here are your pilots, they want this protection. Here are your sheriffs, they want this protection. Here are your chiefs of police, they want this protection.

All of these law enforcement officers I mentioned favor this amendment. There is really no excuse not to pass this amendment. This amendment does not hurt anybody. It merely protects the public.

Finally, it is sometimes difficult to balance the rights of lawful gun owners and the need to protect the public. However, I believe this measure demonstrates this appropriate balance. Therefore, I urge the adoption of this vital amendment.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 336

Mr. BYRD. Madam President, I ask unanimous consent that when the Senate considers Senate Resolution 336, a resolution deploring the failure of the electoral process in Haiti, it be considered under the following time limitation:

Thirty minutes on the resolution, to be equally divided between Senators PELL and HELMS or their designees; no amendments be in order; no motions to commit the resolution with or without instructions be in order; that there be a time limitation of 10 minutes, to be equally divided, on any debatable motion or appeals; and that the majority leader may call up the resolution at any time after consultation with the minority leader.

Mr. WARNER. Madam President, this unanimous-consent request has been cleared by the Republican leader, Mr. DOLE.

The PRESIDING OFFICER. The unanimous-consent request by the majority leader is agreed to.

A SPECIAL DAY IN DECEMBER

Mr. BYRD. Mr. President, while consulting my calendar, I have discovered that tomorrow is an eventful day in American history.

On December 5, 1776, Phi Beta Kappa was organized at the College of William and Mary in Williamsburg, VA.

On December 5, 1933, the 21st amendment to the Constitution was ratified by the 36th State needed—Utah—and prohibition was officially repealed.

Those were colorful and important events, but for our purposes here in the U.S. Senate, December 5, 1902, was equally important.

On that day 85 years ago, the Thurmond household in Edgefield, SC, was blessed with a new arrival.

For that reason, I know that all of our colleagues will want to join me in wishing our friend and colleague, the distinguished senior Senator from South Carolina, STROM THURMOND, the very happiest of birthdays. Though that well-wishing is 1 day early, I hope that Senator THURMOND will accept our recognition of his birthday as warmly and sincerely as it is extended.

May Senator THURMOND also recognize that with our birthday wishes go the deepest admiration toward him for all that he contributes to our work in the Senate, and gratitude for the spirit and the wisdom that he brings to our labors together on Capitol Hill. And may Senator THURMOND, his lovely family, and all of the people of South Carolina enjoy the best of December 5's, as they celebrate a notable date on their calendars.

PHI BETA KAPPA

Mr. WARNER. Mr. President, I would like to express my appreciation to the distinguished majority leader for his comments recognizing the anniversary of the founding of Phi Beta Kappa 211 years ago tomorrow.

Phi Beta Kappa, the fraternal organization which has been honoring excellent scholarship in higher education for more than 200 years, is still a badge for honor where it began at the College of William and Mary in Virginia. Students of the college founded Phi Beta Kappa on December 5, 1776, and each year new members are inducted into William and Mary's Alpha of Virginia Chapter in ceremonies at the restored Capitol in Colonial Williamsburg.

This year 31 senior undergraduates at William and Mary have been named to Phi Beta Kappa. Henry Rosovsky, former dean of the faculty of arts and sciences at Harvard University and an alumnus of the college, returned to campus this fall to preside at the induction ceremonies.

When Phi Beta Kappa was established by William and Mary students in 1776, the times were threatening and the future uncertain. The American colonies were at war with England, having declared their independence on July 4 of that year. The college was also immersed in the political controversy, its faculty split by conflicting political loyalties, its students caught up in the rebellious spirit of the times.

One William and Mary almnus, Thomas Jefferson, had given a voice of the spirit of the times in the Declaration of Independence. Students at the college organized a militia company and spent as much time drilling as they did studying. Many stayed only a few months at the college, leaving to join the fight for independence.

In the midst of this turmoil, however, five William and Mary students formed the secret society which was to bcome a renowned scholarly organization with international membership. Since its inception, Phi Beta Kappa has evolved into a nonsecret organization emphasizing scholarship and the humanities.

Phi Beta Kappa also became the model for the present Greek letter collegiate fraternity system: It was the first such organization to have a constitution, a form of initiation, a motto, a medal or badge of membership, a grip, a seal, the name "fraternity," regular meetings and social occasions, the bond of brotherhood, and the plan of expanding to other campuses.

The medal of membership chosen by the first members was engraved on one side with the Latin initials "SP" for "Societas Philosophiae," and on the other, the Greek letters phi, beta and kappa, with an index finger pointing to three stars representing friendship, morality and literature. In later years, the badge became a key with the addition of a stem on the bottom for winding pocket watchers and a circlet on top to hang upon a watch chain.

John Heath of Northumberland County, VA, was elected first president of Phi Beta Kappa and was the organization's acknowledged leader until he left William and Mary to enter the war in 1779. His political career included serving as a member of the Virginia General Assembly when he was barely 21 years old, and as a Member of Congress from 1793-97. He died in Richmond, VA, in 1810 while serving in the council of Gov. John Tyler.

In the 18th century, Phi Beta Kappa met at least once each month to debate and socialize. The topics of concern between 1778 and 1880 ranged from "the justice of African slavery," to "whether anything is more dangerous to civil liberty in a free State than a standing army in time of peace," to "whether any form of government is more favorable to public virtue than a commonwealth," and "whether poligamy is a dictate of nature or not."

In December 1779, members voted to charter chapters of the society at the "College of New Haven in Connecticut" and at "the University of Cambridge." Consequently, the Alpha Chapter of Connecticut was established at Yale University in 1780 and the Alpha Chapter of Massachusetts at Harvard in 1781.

Phi Beta Kappa at William and Mary has survived trying times. Early in 1781 when British troops led by Benedict Arnold threatened the Virginia Peninsula, it became necessary to close the College. Accordingly, on Saturday, January 6, a meeting of Phi Beta Kappa was called for the "purpose of securing the papers of the society during the confusion of the times and the present dissolution which threatens the university."

The Civil War also brought hard times to the college, and again the society had to reorganize. Since 1893, however, Phi Beta Kappa at William and Mary has grown steadily and prospered.

The role of the College of William and Mary in founding Phi Beta Kappa is memorialized in the name of its main center for the fine and performing arts. Phi Beta Kappa Memorial Hall was the setting in December 1976 for the triennial congress of Phi Beta Kappa, which met in Williamsburg. It was also the setting that same year for the final Presidential debate between President Gerald Ford and candidate Jimmy Carter.

Phi Beta Kappa Memorial Hall will undoubtedly be the site for celebration events marking the tricentennial of the glorious revolution—1688-89, the anniversary of the accession to the throne of England by King William III and Mary II. The College of William and Mary was designated the official U.S. representative to the celebration in a resolution introduced May 8, 1987, by Senators JOHN WARNER and PAUL TRIBLE of Virginia.

The College of William and Mary was founded in 1693 by King William III and Queen Mary II of England.

CONDEMNING THE GOVERNMENT OF HAITI FOR ELECTION COLLAPSE

Mr. BYRD. Madam President, having consulted with the distinguished Republican leader, I ask that Senate Resolution 336 be laid before the Senate.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 336) condemning the Government of Haiti for the collapse of the November 29 elections and expressing support for democracy in that country.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, as I understand it there is a half-hour time limitation on this resolution that will be evenly divided, is that correct?

The PRESIDING OFFICER. The Senator is correct. It will be evenly divided between the Senator from Rhode Island [Mr. PELL], and the Senator from North Carolina [Mr. HELMS], or their designees.

Mr. KENNEDY. Madam President, I ask unanimous consent that I be the designee for the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Would the Senator want to get the yeas and nays on this?

Mr. KENNEDY. Madam President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I yield myself such time as I might use. Yesterday, I submitted, with Senators GRAHAM, KERRY, LEAHY, MCCAIN, LUGAR, DURENBERGER, and DECONCINI, a resolution condemning the Government of Haiti for the collapse of the November 29 elections and urging swift and strong action in support of democracy in that country. The resolution condemns and holds responsible the National Governing Council for the violent collapse of elections last Sunday in Haiti; expressed the lack of confidence of this body in that government in bringing about democratic elections in Haiti; supports the administration's cutoff of all nonhumanitarian aid to Haiti and urges the United States and all nations to suspend all bilateral and multilateral aid to the Government of Haiti while providing humanitarian aid through private voluntary organizations;

This resolution lays the blame for last Sunday's elections on the current Government of Haiti and puts the United States Senate out front in the effort to isolate that government. I urge the Senate to agree to this resolution swiftly and overwhelmingly.

Over the weekend, the forces of democracy throughout the world were dealt a severe blow in Haiti. As the people of that troubled land gathered to vote in what was to be the first democratic election in three decades, the ruthless, murderous forces of the old Duvalier regime snuffed out the peaceful, democratic elections in that country.

After months of actively undermining the democratic efforts of the Haitian people, the Government unleashed a brutal gang of former ton ton Macoutes and paramilitary gangs to halt by force what they were unable to stop by deceit and deception. For a few hours Sunday morning, the Haitian people thought their quest for peace and freedom might at last succeed. They lined up at polling places throughout Port-au-Prince, voter registration card in hand, and waited patiently in line for their turn at democracy.

As was expected, there were numerous logistical problems with the process; some polling stations did not have ballots, others did not open on time. But the will for democracy was prevailing. People volunteered their own cars to transport ballots, took collections to buy gasoline, built their own polling stations, guarded their ballots through the night amidst gunfire from the ton ton Macoutes and came out to vote by the thousands Sunday morning. After 30 years of repression and deprivation at the hands of the Duvaliers, their chance for democracy had at last arrived.

Then at roughly 8:30 a.m.—2½ hours into the voting—chaos erupted. Ton ton Macoutes and paramilitary gangs burst into the streets, escorted by the army as the police stood by, and began shooting at people lined up at the polls and at anything that moved. The armed gangs shot into the air, scattering voters—who then lined up again to vote. Others opened fire directly at Haitians waiting to vote and then chased them down and finished them off with machetes.

They shot at and pursued journalists and shot at international observers in clearly marked cars. The blood bath continued for a half hour or so—at which time the Provisional Election Council was forced to call off the elections.

No one can miss the message of Sunday's bloody events: the corrupt and ruthless forces of the old Duvalier regime have no intention of relinquishing their long hold on power and privilege—and the interim government appointed by Jean-Claude Duvalier as he fled the country almost 2 years ago is part and parcel to that plan; it will not permit democracy to come to Haiti. That government does not serve the interests of the people of Haiti or of democracy and should not be considered legitimate by any nation on Earth.

The United States must act unequivocally to isolate the current Government in Haiti. Agreeing to this resolution is an essential first step in making the current Government of Haiti understand that we will not tolerate its assault against democracy. We must next consider a series of steps to ensure the forces of democracy are allowed to function in Haiti and I am hopeful the Senate Foreign Relations Committee will hold hearings early next week on additional measures.

First, we must withdraw our Ambassador to Haiti and suspend all diplomatic relations with the government of Henri Namphy. The sole purpose of that government is to ensure a peaceful transition to democracy and its claim to legitimacy evaporated in the gunfire of Sunday morning in the streets of Port-au-Prince; we should treat them as the outlaws they are.

Second, we must cut off the life-line of the interim Government in Haiti. I have long called for a suspension of military aid to the interim Government of Haiti and I support the administration's decision to suspend all nonhumanitarian economic and military aid to Haiti. I would also urge the administration not to provide even humanitarian assistance to this Government but rather channel it through private voluntary organizations.

Third, the United States should suspend all benefits under the Caribbean Basin Initiative to Haiti and work to cut off all sale of arms to the murderous Haitian security forces.

The United States must also use its voice and vote in the multilateral financial institutions to cut off all multilateral assistance provided to Haiti. And we should also consider economic and trade sanctions aimed at isolating the supporters of the Government and remnants of the Duvalier regime. We should not be encouraging trade with or providing funds to a government that has no respect for democracy or the rule of law.

The international community must also mobilize quickly and forcefully to put the country back on the track to democracy.

I would urge all nations to join the United States in these efforts to isolate this outlaw government. In addition to the political and economic steps I have just outlined, I strongly urge the Organization of American States, to act quickly to fulfill its mandate to protect freedom and democracy in this hemisphere. It must move to isolate the Government of Haiti and consider an international peace keeping force in Haiti to ensure the safety of the Haitian people as they struggle to bring democracy to their country.

The current National Governing Council has proven it will not protect the citizens of Haiti—that task now falls to the democracies of the world.

The recent effort by the Government of Haiti to appoint a new Provisional Election Council was a thinly designed effort to steal control of the electoral process and ensure the old Duvalierist elements are able to remain in power.

The original Provisional Election Council is a group of courageous individuals who demonstrated an extraordinary determination and ability to move forward on the election process despite the hostility of the Government. It is not the Provisional Election Council that should go—but the National Governing Council.

The events of last Sunday did not come without warning; rather, they were the grand finale of a sophisticated and well orchestrated campaign by the interim government to undermine the efforts of the Haitian people to bring about a peaceful transition to democracy. Last summer the interim government seized control of the electoral process but was forced to hand it over to the constitutionally mandated electoral council after the Haitian people took to the streets in protest. From that point on, the hostility of the democratic process by the interim Government became clear.

First, the Government refused to cooperate with the determined and courageous efforts of the Provisional Electoral Council to bring about peaceful and democratic elections. The Government failed to provide adequate logistical or financial support to the Provisional Electoral Council or security to the members of the Council.

Two Presidential candidates were killed—Louis Eugene Athis was hacked to death and Yvel Volel was shot and killed directly in front of a police station—yet no effort has been made to bring their murderers to justice. The headquarters of the Electoral Council was burned down and the homes and businesses of several members of the candidates have been attacked.

Second, the Government failed to protect the basic freedoms of association, of speech, of press, and of the labor unions.

Paramilitary gangs, including former ton ton Macoute—at times aided and abetted by Government security personnel—terrorized poor neighborhoods, rounded up and beat innocent civilians, and shot randomly into homes. Hundreds of innocent civilians were killed and wounded. Foreign journalists were shot at, wounded, beaten and detained illegally. Their equipment was broken and their film stolen. Union, church and community leaders were attacked and intimidated.

Third, the Government actively thwarted the efforts of the Provisional Electoral Council to organize and execute free and fair elections and refused to allow the international community to freely observe the elections.

It did not provide adequate transportation to distribute the ballots and refused permission to fly two helicopters that had been flown into Haiti for that purpose. The Government also refused permission for three Members, Congressmen WALTER FAUNTROY, BENJAMIN A. GILMAN, and JAIME FUSTER, of the United States Congress to visit Haiti as part of President Reagan's official delegation.

They also refused flight permission to two groups of international observers who had been scheduled to observe the elections in the towns outside of Port-au-Prince. Roadblocks were set up around the Capitol which prevented the distribution of ballots to several areas and kept journalists and international observers from visiting a number of areas.

This is not a government committed to democracy but a band of outlaws struggling to keep themselves and their cohorts in power. I urge the Senate to act swiftly to isolate the Government of Haiti and to put Haiti back on the track to democracy.

I ask unanimous consent that articles relating to the crisis in Haiti be printed in the RECORD and that the text of the resolution be printed following these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 29, 1987]

VOTING CANCELED AS HAITI IS CAUGHT IN WAVE OF TERROR: U.S. SUSPENDS AID—MOVE ANNOUNCED AFTER MILITARY RULERS OUST ELECTORAL COUNCIL

(By Neil A. Lewis)

WASHINGTON, November 29.— The United States announced tonight that it had suspended virtually all military assistance and economic aid to Haiti after violence there caused the cancellation of elections.

In a statement issued this evening, the State Department said it took these actions in response to the action of Haiti's provisional Government in "dissolving the Provisional Electoral Commission and abrogating all electoral legislation."

The statement gave no indication of how long the suspension would continue or under what circumstances it might be lifted. The suspension does not apply to humanitarian aid.

"FREE AND FAIR ELECTIONS"

"The United States Government reaffirms its support for the Haitian people in their efforts to secure a democratic political system through free and fair elections," the statement said.

The action included the removal of all United States military assistance personnel from Haiti. A State Department spokesman said figures were not immediately available on the number of personnel involved, but he said American military assistance to Haiti in the latest fiscal year totaled $1.2 million.

Total economic assistance, which includes both humanitarian and other aid, was approximately $108 million in the fiscal year that ended Sept. 30, the spokesman said. New foreign aid programs are pending before Congress.

SOME AID TO CONTINUE

Under the suspension, humanitarian assistance and military assistance for anti-narcotics activities will continue, the spokesman said, adding that he did not have an immediate figure on what portion of the $108 million was represented by aid other than humanitarian programs. Such aid typically includes road construction, telecommunications equipment, public works and technology transfers.

The State Department announcement came as a surprise after a day in which senior Administration officials had expressed disappointment over the developments in Haiti, while suggesting that no action would be taken.

VIOLENCE IS DEPLORED

Earlier, Marlin Fitzwater, the President's chief spokesman, said the violence that prompted the cancellation of the elections in Haiti was "regrettable" and expressed concern for the safety of all that country's people.

"This regrettable situation will obviously set back the democratic processes," Mr. Fitzwater said aboard Air Force One as President Reagan returned to the capital today from California. "We hope stability and calm will be restored as soon as possible."

Mr. Fitzwater said the United States would "continue to monitor the situation, but no other actions are planned."

That statement was apparently superceded by the State Department announcement, which followed the dissolution of the electoral council.

REAGAN IS BRIEFED

President Reagan was briefed on developments in Haiti by Lieut. Gen. Colin L. Powell, the national security adviser, Mr. Fitzwater said.

Secretary of State George P. Shultz blamed supporters of Jean-Claude Duvalier, the deposed Haitian ruler, for the violence and said he expected the balloting to be rescheduled.

The violence and cancellation of the election appeared to be a setback for the Administration, which had attempted to maintain a low American profile during the campaign.

Officials had said they feared that too much public comment would project an unwelcome image of American involvement. The officials said they were hoping to get past today's balloting, which was designed to narrow the electoral field to three or four parties.

"SADDENED AND DISAPPOINTED"

"The U.S. Government is saddened and disappointed at the suspension of today's election in Haiti" the State Department said. "We condemn the perpetrators of the violence."

In a television interview, Mr. Shultz said, "As far as we know, the violence was caused by supporters of the deposed dictator Duvalier." Mr. Shultz also said he did not believe the denial of a place on the ballot to the Duvalier faction contributed to the violence.

But some critics like Representative Walter Fauntroy of the District of Columbia, faulted the Administration for not being more forceful with the Government of Lieut. Gen. Henri Namphy about the need to provide a secure atmosphere for the election.

Larry Birns, the head of the Council on Hemispheric Affairs, a Washington-based advocacy group, said the Administration bore some responsibility for today's events because it refused to threaten Gen. Namphy with a cutoff of aid if he failed to keep order or help in the distribution of voting equipment.

Representative Stephen J. Solarz, Democrat of New York, expressed the hope that a cut-off of military aid to Haiti would "sober them up somewhat."

"They have to understand that to maintain a relationship with the United States, they must complete free elections and establish democracy," he said today.

Mr. Solarz suggested that if efforts to persuade the Haitian Government to hold free elections fail, the United States should seek the cooperation of the other countries in the hemisphere to establish a regional peace-keeping force that would supervise elections.

"It isn't as if they had tried and failed," Mr. Solarz said of the Haitian authorities. "It's that they haven't tried at all."

[From the New York Times, Nov. 30, 1987]

DOZENS ARE SLAIN: GUNFIRE IN THE CAPITAL—SOME CANDIDATES GO INTO HIDING

(By Joseph B. Treaster)

PORT-AU-PRINCE, HAITI, Nov. 29—Haiti's first attempt in 30 years at a presidential election was abruptly called off by election officials today after a frenzy of attacks on voting stations, churches and radio stations in which more than two dozen people were killed.

More than 60 other men and women were wounded, some of them in blasts of gunfire sprayed from the windows of speeding cars.

Several election officials and presidential candidates went into hiding.

ELECTORAL COUNCIL DISBANDED

Within hours, the army-dominated provisional Government, which had refused to provide the election with either protection or administrative and logistical support in the face of a withering terror campaign, disbanded the civilian electoral council that had tried to organize the voting.

The Government said the council had "imperiled the unity of the nation" and violated the electoral law, which the council itself had written.

In a statement telephoned from a hiding place, Ernest Mirville, the president of the electoral council, said the elections were being postponed "to a later date." In disbanding the electoral council, the army-dominated Government gave no indication of whether it would try to reschedule elections.

In a nationally broadcast television address, Lieut. Gen. Henri Namphy, the head of the provisional Government, renewed his pledge to turn over power to a civilian Government next February, on the second anniversary of the collapse of the dictatorship of President Jean-Claude Duvalier. But he gave no details.

GENERAL FAULTS ELECTION COUNCIL

In his speech and in an earlier government communique, General Namphy recalled the bitter feuding that had raged between the Government and the electoral council since last summer. That was when he tried to shift control of the elections from the council to the army, which historically has manipulated Haitian elections.

General Namphy accused the council, which appears to have been widely respected in Haiti, of failing to conduct its mission with "dignity, independence and patriotism."

In an apparent criticism of the United States and other countries that had assisted the council with the elections, General Namphy charged that the council had invited "foreign powers to interfere in the internal affairs of the country."

DREAD OF THE NIGHT

By mid-afternoon, gunshots and explosions were no longer being heard in the capital, but the streets were deserted except for an occasional truck loaded with steel-helmeted soldiers. Many Haitians were dreading nightfall and perhaps another onslaught of violence.

Many witnesses said the thugs, who were believed to be allies of the deposed Duvalier dictatorship, had been either ignored or joined by Government soldiers in many of the assaults.

Robert E. White, a former United States diplomat who came under fire twice today while acting as one of more than 200 foreign observers of the election, said two people were killed and three others wounded in a pair of attacks before the polls opened in a church a few doors from a station manned by security forces.

A BRUTAL ATTACK

In the most stunning attack, a pack of 50 or more men in civilian clothes set upon about 100 voters waiting to cast their ballots at a private school 10 blocks from the presidential palace and shot or slashed to death at least 15 men and women. Not satisfied with merely disrupting the voting, the attackers chased down and brutally executed their victims.

Journalists who tried to observe the violence were also chased with guns and machetes. One television cameraman from the Dominican Republic was killed. Two television crewmen for the American Broadcasting Company—one Mexican, the other Salvadoran—and a Haitian driver, were wounded and evacuated by jet. The windows of several cars carrying journalists were shot out.

One freelance photographer, Steven Wilson of Wadsworth, Ohio, said gunmen forced him to kneel near a corpse on a deserted street and cocked their weapons behind him as if they were preparing to execute him. They then let him go, but took his camera equipment and shot out the windows of his car as he drove away.

Several journalists who had been trapped by thugs in Haitian homes and alleyways were rescued in a series of daring missions in an armor-plated van by Jeffrey Lite, the chief spokesman for the American Embassy here.

The elimination of the electoral council immediately suggested the possibility of further violence in a country that has been wracked by massacres, lynchings, political murders, strikes and bloody street protests since the collapse of the dictatorship of President Jean-Claude Duvalier 22 months ago.

When the provisional Government, headed by General Namphy tried to shift control of the elections to the army last summer in contravention of Haiti's new Constitution, thousands of Haitians poured into the streets and the army gunned down 30 people and wounded scores of others before the Government reversed itself.

BLOW TO U.S. POLICY

The collapse of the election was a devastating blow to United States policy in Haiti. The basis of that policy was the contention that the army-dominated provisional Government should be supported as the best hope for guiding Haiti, the poorest country in the hemisphere, to democracy. This ran counter to widespread and pervasive Haitian distrust of the Government.

A spokesman for the United States Embassy said that the American Ambassador here, Brunson McKinley, had no comment today.

Richard N. Holwill, the highest State Department official in charge of Caribbean affairs, had been in Haiti to observe the elections, but he left on a United States Government jet this afternoon without making a statement.

While the United States had taken the lead in backing the provisional Government, it had been supported by an array of nations including Canada and France.

The United States and the other countries had privately expressed grave reservations about the provisional Government, but they said they faced the problem that there appeared to be no organization other than the army that might be able, if it chose, to hold the country together.

The United States and the others put their faith in General Namphy and the army and stuck with them, even though for months they stolidly refused to make a concerted effort to restore order to the troubled country or to help make the elections a success.

WONDERING WHAT WENT WRONG

Diplomats from the United States, Canada and France were clearly shaken by the election disaster today and were trying to figure out how they might have worked more effectively to prevent it.

"I frankly don't know if we trusted the wrong people or if they just couldn't handle the job or if they just lied to us," one diplomat said.

Several diplomats said that they had been encouraged by a promise that there would be security on Election Day, made Friday by Maj. Gen. Williams Regala, who serves with General Namphy in the three-member provisional Government. This promise, the diplomats said, was taken to mean that the Government recognized the overwhelming enthusiasm for elections among Haiti's six million people and had decided to clearly align itself with this group, rather than with the minority that was trying to restore the old order of the dictatorship by disrupting the elections.

On Saturday, however, there were ominous signs. The Government, which had been promising for days to let the election officials use at least one army helicopter, finally said it was not going to provide the aircraft. In addition, it refused to give the election officials permission to operate two rented helicopters, virtually assuring that some voting places would not receive ballots and ballot boxes.

Still, diplomats remained optimistic. "I guess we were hoping that the majority, by their numbers, would win the battle," one diplomat said. "We've discovered now that the others are much more aggressive than we had expected and there doesn't seem to be anybody in their way."

"We are all trying to figure out where we go from here," the diplomat said, "and we find it very, very difficult."

THE BEGINNING: AN ARSON FIRE

The terror campaign that destroyed the election started in early November, hours after the electoral council rejected 12 former associates of the Duvaliers as candidates for the presidency. They did so in accordance with a provision in Haiti's new Constitution that bans key figures from the dictatorship from public life for 10 years.

The first target of the terrorists was the national election headquarters, which was ruined by an arson fire that left the council wondering for several days whether it could proceed.

The final drive started at about 1 A.M. today, with bursts of submachine gunfire, hand-grenade explosions and fires. The capital district voting office, the headquarters of a labor union that was to be used as a voting station and a gas station were burned down. A hand-grenade riped open the facade of Radio Haiti Inter and a spray of bullets shattered windows at Radio Antilles International.

Just outside town, according to witnesses, 16 men in army uniforms destroyed the transmitter of Radio Soleil, the influential Roman Catholic station that played a pivotal role in the fall of Jean-Claude Duvalier on Feb. 7, 1986, and knocked it off the air.

From the gray cement houses in one of the broad-shouldered hills that rise up near the heart of the city came the alarm of the poor, terrified calls for help on whistles and conch-shell horns and the banging together of pots and pans. The pleas went on all night. But the only response was more gunfire.

During the middle of the night, a half-dozen handgrenades were thrown at the front of the home of Alain Rocourt, the treasurer of the electoral council. According to a daughter of Mr. Rocourt, a gunman burst in the front door and unloosed hundreds of shots while she and her parents hid.

Fifteen minutes before the polls were scheduled to open, more than 40 armed men forced open the locked doors of the Sacred Heart Roman Catholic church, where several dozen people were attending early Mass. The gunmen smashed the altar with rocks, overturned furniture and beat old men and women. The church courtyard had been designated as a polling place and it eventually managed to open for a while.

Three more churches, including the main cathedral, were attacked as well.

When some of the polling places began opening, the dull bark of heavy weapons reverberated across town. As dawn broke, a few journalists started venturing out. By 7:30 A.M. they had counted 10 bodies in the streets.

At about 8:30 A.M., the marauders hit the voting station in the private school near the presidential palace. Word of the attack spread quickly. Shortly before 9 A.M., word went out over local radio stations that the elections had been called off.

The international airport outside Port-au-Prince was closed to commercial traffic today because of the violence.

Later, in his telephone call from hiding, Mr. Mirville said the council was asking the Haitian people "not to continue to expose themselves to the barbarous Duvalierist acts, to remain in their homes, all the while zealously guarding their election card, which is the principal weapon in the fight for democracy."

In the statement that he asked journalists to help disseminate, he said the council wanted to emphasize "to national opinion as well as to international opinion, that it was unable to obtain from the competent authorities the general security conditions demanded and indispensable for the taking place of honest and free elections."

[From the New York Times, Nov. 29, 1987]

100 HAITIANS, TRYING TO VOTE, ARE CAUGHT IN VAST "BLOOD BATH"

(By Howard French)

PORT-AU-PRINCE, HAITI, Nov. 29.—About 100 Haitians lined up to vote at a small school near the downtown area on the capital this morning, and, according to witnesses, were set upon by a mob of 50 to 100 men believed to be remnants of the Tontons Macoute, the old bodyguard of the deposed dicator, Jean-Claude Duvalier.

The attackers rushed the panicked voters at the Ecole Argentine de Bellegarde, hacking with machetes and firing guns indiscriminately into the frenzied crowd, according to the witnesses.

The voters fled into the school. Several caught in the school's central courtyard were dismembered with machetes or shot to death, despite their pleas to be spared.

The carnage appeared no less horrifying for those trapped inside the classrooms, who attempted to hide in corners, behind partitions and under piles of overturned school supplies.

The killers moved from classroom to classroom, the witnesses said, killing their victims. Those who were shot died huddled together, to be found and photographed by journalists who arrived soon afterward. Others lay sprawled in pools of blood.

The early-morning blood bath followed a night of sustained automatic gunfire and occasional explosions in the capital. In bright daylight, the courage of the voters who dared line up at polling stations was met with brazen attacks by armed marauders, while soldiers and policemen looked on and, according to some witnesses, took part.

Haitian radio reports, supported by the accounts of numerous witnesses said "at least 15 people" were killed in the incident at the Ecole Argentine de Bellegarde. Some journalists who visited the school after the massacre thought the death toll was much higher.

"There was a lot of blood all over the place," said Les Stone, an American photographer. "The place was all smashed to pieces. I couldn't count all the bodies. We were shot at and just got out as best we could."

Another journalist, David Gollob, a reporter for the Canadian Broadcasting Corporation, followed a fire truck commandeered by heavily armed soldiers along a stretch of several blocks from the capital's major international hotel to the school.

"AN UTTER BLOOD BATH"

"It was an utter blood bath," Mr. Gollob said. "Some of the dead were children. There were about 20 journalists there, with some screaming at others to help remove the injured."

"The first thing we saw as we approached the school was a group of smashed-up cars, some bullet-riddled some apparently forced off the road," abandoned just outside of the school's courtyard, Mr. Gollob said. "There were dead bodies in the courtyard, and in classrooms everything was turned upside down, books, sewing machines, clothing."

"Dead bodies were crouched together" in classrooms, he said. "Others were piled on the ground behind a wall. The police carried away a girl whose leg had been ripped apart. When another woman who had been shot saw them, she began screaming wildly."

Another group of reporters who arrived at the school soon afterward were fired upon by soldiers, leaving one television cameraman from the Dominican Republic, Carlos Grullon dead, and at least four others wounded some seriously.

JOURNALISTS "CORNERED"

Peter T. Bentley, a contract photographer for Time magazine, said, "They had us cornered in the school."

"We heard the guns start popping," Mr. Bentley said, still visibly shaken. "We just hopped over walls I couldn't believe I could scale." At about the same time, a camera crew for ABC news was attacked at the school. The crew's Haitian driver was shot in the back. Two American crew members were also wounded, one shot in the arm and another in the thigh.

The ABC News crew managed to return to a downtown hotel that has served as the center for the international press corps, and were treated by doctors summoned by the United States Embassy.

Joyce Kravitz, a spokeswoman for ABC News in New York, identified the wounded crew members as Javier Carillo, 33 years old, a Mexican cameraman who was shot in the thigh, and Alfredo (Chino) Mejia, 29, a Salvadoran soundman who was shot in the elbow.

NEW OUTBREAK OF FIRING

As an ambulance screeched to a stop in front of the hotel to take the Haitian driver—the most seriously wounded member of the ABC News crew—to a local hospital, bursts of automatic gunfire sounded several hundred yards away, on the other side of the downtown area's public park and amphitheater. Hundreds of reporters and international observers scrambled for cover.

A handful of French and American reporters who were at the school when the soldiers began their attack on journalists fled over schoolyard walls and took refuge in neighboring homes.

A group of French reporters, alerted that their colleagues were stranded in the neighborhood, mounted a convoy to attempt their rescue, but were turned back by gunfire only two blocks from the hotel.

SOLDIERS' HELP IS ASKED

A van driven by a Haitian officer accompanied by a soldier armed with an automatic rifle approached the hotel and the French reporters implored them to help extricate their friends.

The officer replied, "I am a member of the medical corps, go call the police," and drove away.

An American photographer, J. B. Diederich, who was trapped with another reporter inside a house near the school, managed to telephone the hotel. Reporters then called the American embassy, which dispatched an armored car to rescue him. It was followed by a crew of French reporters, and when it approached the house where Mr. Diederich was hiding, honked four times. The stranded reporters ran out and were whisked away.

Riding back to the safety of the hotel, Mr. Diederich said: "The army did the shooting. They shot at me. They just massacred everybody."

[From the New York Times, Dec. 1, 1987]

WHO CAN PROTECT THE HAITIANS?

When Sunday's election in Haiti was voided, it shattered hopes for democracy and denied Haitians their first chance in 30 years to elect a President. The culprits are Gen. Henri Namphy's junta, and the murderous Tontons Macoute thugs whose rampages gave the junta the pretext it needed to call off the vote.

The Reagan Administration seems finally to have caught up with reality, and is suspending all but humanitarian aid to Haiti until the junta reschedules elections. Depending on how much is actually cut, this begins to atone for past wishful thinking about the general and his ability to protect democrats from gangs loyal to the deposed President for Life, Jean-Claude Duvalier.

The danger remains that better-off neighbors will shrug off impoverished and anarchic Haiti as a hopeless case, and thus doom Haitians to life under dictatorships. Doing so also would shamefully betray Haitian democrats who returned after decades in exile to fight for freedom and human rights. It would undermine Washington's protestations about the need for free elections in Nicaragua.

Here is an opportunity for Latin American leaders to show they care about democracy, and to demonstrate their seriousness about wanting to play a greater role in hemispheric affairs.

Democracy flourishes in the English-speaking West Indies, as it does in the Dominican Republic, Haiti's Hispanic neighbor. With the right kind of external encouragement, an elected succession is possible in Haiti. Even would-be dictators realize Haiti's desperate need for international help, and that gives outsiders leverage.

Washington has taken the right first step in linking renewed help to a renewed commitment to elections. The next step should be to consider more direct action by Latin American democracies, perhaps even an inter-American force to help keep the peace and oversee the election. As matters stand, the junta can't or won't do the job.

Outside intervention is a drastic step. But Latin Americans themselves, at a summit meeting in Mexico City last weekend, lamented the moribund nature of the Organization of American States. If nothing can be done for Haiti, then what can a revitalized O.A.S. do? Turning to the O.A.S. is preferable to doing nothing, or certainly to direct U.S. intervention, which was tried from 1915 to 1934.

Washington may well lose sight of Haiti as Mikhail Gorbachev's meeting with President Reagan approaches. That would only compound Sunday's tragedy. There is no excuse, however, for other neighbors to offer lamentations and do nothing.

[From the New York Times, Dec. 1, 1987]

COMRADES IN TERROR—SOLDIERS AND THUGS ARE REPORTEDLY ALLIED IN THE CAMPAIGN IN HAITI TO CANCEL ELECTION

(By Joseph B. Treaster)

PORT-AU-PRINCE, HAITI, Nov. 30—The violent disruption of Haiti's elections Sunday seemed to destroy a notion that some mysterious, uncontrollable force had been wreaking violence on the land.

In several attacks on polling places Sunday, the shooting was done not only by the usual thugs in civilian clothing but also reportedly by uniformed soldiers of the provisional Government.

Finally, after months of killing and terror attacks by unidentified gunmen, there was evidence that these people were working in concert with the armed forces, the institution that the United States had counted on to bring Haiti to democracy.

"A RECIPROCAL RELATIONSHIP"

Robert E. White, the former United States Ambassador in El Salvador, said that as an observer of the disrupted elections, he witnessed soldiers cooperating with civilian thugs and was told by a clergyman about an attack carried out by soldiers. There were many similar reports.

"It seems clear to me," Mr. White said, "that there is a reciprocal relationship between the military and the Macoutes."

Macoutes is short for the Tontons Macoute, a collection of killers, torturers and extortionists that François Duvalier, the founder of the family dictatorship, created shortly after his fraudulent election to the presidency in 1957.

Residents of the capital began a timid return to a normal life today after the violence of Sunday. While some stunned survivors and curious onlookers caused a small traffic jam at a school that was the scene of the worst atrocity, other people began picking up the routine of their lives, hawking cigarettes, changing money and offering vegetables for sale amid the light downtown traffic.

OFFICERS REPORTED ANGERED

Mr. Duvalier and his son Jean-Claude used the Macoutes as enforcers and as a counterweight to the army, which had brought the elder Mr. Duvalier to power. But the Macoutes were also used to carry out onerous, extralegal tasks that even in bloodstained Haiti were considered potentially damaging to the reputation of the armed forces.

The paramilitary forces appear to have functioned in a similar way in regard to the army in attacks that were carried out before election day. Some Haitians say some army officers were angered when soldiers and Macoutes were seen working together on election day. They blame Lieut. Gen. Henri Namphy, the head of the provisional Government, for having damaged the army's reputation and have reportedly been discussing trying to push him aside. Haitians with knowledge of these meetings say that these officers share General Namphy's view of how elections should be conducted.

From the time of the collapse of the dictatorship of President Jean-Claude Duvalier 22 months ago and General Namphy's emergence as the provisional Government's head, the general had been saying that his main goal is to turn over power to an elected civilian government. The United States and other major donors of aid to Haiti believed the general. As violence grew before the elections, some diplomats said it appeared that it was being carried out by people beyond his control.

But after watching the attacks Sunday, diplomats said that the election violence was "obviously aided and abetted by the Haitian Army."

In one of his first public acts as head of government, General Namphy, who is 53 years old and who rose to Chief of Staff under Jean-Claude Duvalier, disbanded the Macoutes. But he did not disarm most of them and they did not go away. Some Haitians say that many of these former Macoutes have become members of a paramilitary force, available for hire when needed.

INTIMIDATION CONTINUES

Not surprisingly, no one has publicly admitted being a member of a paramilitary force, and the structure and control of the force as well as who pays its members remains unclear. But it is these people who are generally referred to as Macoutes who are believed to be responsible for the terror that is continuing in Haiti.

Even though the opponents of elections accomplished their objective, they are continuing their intimidation, presumably in hopes of suppressing a reaction from the millions of Haitians who were hoping for a chance to fairly choose their next leader. There were few people in the streets in the heart of the capital today, and as night fell scattered shooting was heard. There was a report that a man had been shot to death on a main avenue a few blocks from the presidential palace.

The term Macoute has taken on a broader meaning these days and is being applied to all of those in the minority that have been trying to block democracy with the hope of preserving as much as possible of the social structure created by Francois Duvalier.

These people are also often referred to as Duvalier loyalists. They benefited from a system of privileges but many of them despised the younger Duvalier. They do not discuss affairs in Haiti with him and they do not want to see him make a comeback as supporters of Ferdinand E. Marcos hoped in the Philippines.

General Namphy said Sunday that he remained committed to holding elections in time to have a civilian inaugurated as President next February. He disbanded the civilian council that organized the elections, and some Government officials say they think it is unlikely that civic and political groups will be willing to nominate replacements for the original members.

"General Namphy wants to have elections," a businessman said. "But he wants to control them so he can make sure that the next President does not cause problems for the army."

[From the New York Times, Dec. 1, 1987]

U.S.,

SEEKING WEDGE, PINS AID RESUMPTION TO ELECTION

(By Elaine Sciolino)

WASHINGTON, Nov. 30—After violence that promoted the cancellation of presidential elections in Haiti on Sunday, the Reagan Administration is struggling to find a way to bring American influence to bear on the military-dominated Government of Lieut. Gen. Henri Namphy.

The State Department spokesman, Charles E. Redman, said today that the United States would not consider rescinding Sunday's cutoff of military and other nonhumanitarian aid to Haiti until the electoral process was resumed.

Since American aid to Haiti totaled only $110 million in fiscal 1987, and most of that has already been disbursed, the aid suspension is important mainly for its symbolic value. Mr. Redman said he did not know how much aid was affected by the suspension.

If Congress approves the pending budget for fiscal 1988, about $56 million in economic aid to Haiti would be suspended, including cash grants and food commodity and development aid. State Department officials said they did not know how much military aid for fiscal 1988 might be involved.

WORKING GROUP SET UP

Neither President Reagan nor Secretary of State George P. Shultz issued any statement today about Sunday's violence and the White House referred all inquiries to the State Department. The Deputy Assistant Secretary of State for Human Rights, Paula Dobriansky, the Administration's only representative on an official observer delegation to Haiti, was described as adamant in refusing to respond to press inquiries.

The State Department today set up an informal working group of mid-level officials under Elliott Abrams, Assistant Secretary of State for Inter-American Affairs, that will monitor developments in Haiti and handle consular problems of American citizens. And the White House held an interagency meeting this afternoon to review Sunday's events and discuss further steps that could be taken by Washington.

Among those who attended the meeting were Michael H. Armacost, Under Secretary for Political Affairs, John Negroponte, acting deputy national security adviser, and Mr. Abrams.

The United States has also begun consultations with Canada and France, which have large aid programs to Haiti, urging them to ask Haitian officials to reschedule the elections, and with members of the Organization of American States about a possible resolution on the need for democracy in Haiti.

In Ottawa, Canada's Secretary of State for Foreign Affairs, Joe Clark, told the House of Commons today that while his Government was "shocked and deeply disappointed" by the events in Haiti, it had not yet decided whether to follow the Reagan Administration and cut off aid to Haiti. Canadian aid to Haiti runs about $11 million a year.

NOT A HIGH PRIORITY

Haiti has not been a high priority for the Reagan Administration, which has devoted most of its attention in the region to Central America. Policy decisions have generally been formulated at the American Embassy in Port-au-Prince and by mid-level State Department officials, according to independent experts on the Caribbean.

And with a few exceptions, members of Congress have not pressed the Administration to change its low-key approach toward Haiti as they did, for example, in the final days of President Ferdinand E. Marcos's Government in the Philippines.

In a telephone interview, Mr. Shultz devoted "tremendous attention" to Haiti, noting that Mr. Shultz had visited Haiti once and he had visited three times. "There may be criticisms of our Haiti policy, but lack of high-level attention is not one of them," he said.

But the collapse of the elections can be interpreted as a setback for the Administration, which threw its support behind the Namphy Government after the fall of the Duvalier family. The Administration provided the Haitian military with $1.6 million in military aid, including funds for riot gear to help the military maintain stability until elections could be held.

APPROACH IS DEFENDED

In the months leading to the election, the Administration gambled that by refraining from strong policy pronouncements about the election it would help promote the democratic process in Haiti.

"The pragmatic policy of supporting the military backfired," said Alex Stepick, visiting associate professor at Johns Hopkins University, who is completing a study on United States policy toward Haiti. "Behind the scenes persuasion was obviously not enough."

Mr. Abrams strongly defended the Administration's approach, saying that the cancellation of elections was always regarded as a possibility.

"I wouldn't say it took us by surprise," Mr. Abrams said. "We were always aware of the dangers and never thought the election was a sure thing. It looked as if things were very much on track, but the Government clearly decided to handle it in a way that turned out to be inadequate. I don't think our policy backfired at all."

Mr. Abrams said that the United States could have done nothing to change the course of events Sunday. "What happened yesterday would not have been avoided by a different U.S. policy," adding that the limits to the United States influence "has been made very clear in the last 24 hours."

Military intervention to insure a presidential election was never considered and is "not being contemplated," Mr. Abrams said. "Even to discuss it runs the risk of adding fuel to the problems in Haiti."

He added that the Haiti situation was "just not comparable" to the situation in Grenada when the United States sent troops to overthrow a leftist Government that had seized power in a coup.

Both Mr. Abrams and Mr. Redman criticized the Haitian Government for dissolving the civilian commission responsible for carrying out the elections and for abrogating all electoral legislation, steps that prompted the United States to suspend virtually all aid.

But Mr. Redman added that the Reagan Administration still had confidence that the Haitian Government was capable of insuring a secure environment for a fair and free election. "We believe the Government has the capability to provide a secure environment if it's willing to put sufficient energy into that," Mr. Redman said.

Mr. Abrams was more circumspect, saying: "What we are doing now is what we can to get the election back on track. If that proves to be impossible, it won't be for lack of U.S. Government efforts."

S. RES. 336

Whereas, on February 7, 1986, the President of Haiti, Jean-Claude Duvalier, fled Haiti and a National Governing Council was formed to bring about a peaceful transition to a democratically elected government;

Whereas, on March 29, 1987, the Haitian people approved overwhelmingly in a referendum a new Constitution which guarantees human and civil rights, freedom of speech, assembly, religion, and press and a format for democratic elections of a new government;

Whereas, on May 13, 1987, the National Governing Council established a Provisional Electoral Council in accordance with the Constitution to draft and execute an electoral law for local elections in the summer of 1987 and for presidential and national legislative elections in November 1987;

Whereas, on June 5, 1987, the Provisional Electoral Council submitted a draft electoral law in accordance with the Constitution;

Whereas, on June 22, 1987, the National Governing Council attempted to take control of the electoral process, an action protested by the people of Haiti in a series of antigovernment demonstrations during which a number of civilians were killed and injured by Haitian security forces;

Whereas, on June 30, 1987, the head of the National Governing Council, Henri Namphy, stated his interim government would respect the Constitution and on July 2, 1987, promulgated a new law giving the Provisional Electoral Council power to organize and execute the democratic elections in accordance with the Constitution;

Whereas the Haitian Government failed to prevent a series of violent incidents involving paramilitary groups and members of the Haitian security forces in the months leading up to the November national elections during which scores of innocent civilians were killed, hundreds were injured, foreign journalists were attacked and detained illegally, union, community and church leaders were intimidated by Haitian security forces and two presidential candidates were killed;

Whereas the National Governing Council actively thwarted the electoral process and failed to provide adequate funding, security or logistical support to the Provisional Electoral Council and its members, including access to municipal buildings for polling sites or government transportation for ballots and other election material;

Whereas, on November 2, 1987, the Provisional Electoral Council approved 23 candidates for the Presidency and excluded twelve individuals associated with the former Duvalier regime in accordance with the Constitution;

Whereas, on November 3, 1987, the headquarters of the Provisional Electoral Council was burned and the homes and businesses of several candidates were attacked;

Whereas, on November 27, 1987, the National Governing Council refused to permit entry into Haiti of three members of the United States House of Representatives;

Whereas, on November 28, 1987, the National Governing Council denied flight permission to two helicopters to distribute election ballots in the countryside and to two international observer teams that had been invited by the Provisional Electoral Council to observe the elections;

Whereas, on November 29, 1987, the Haitian people demonstrated a determination and a will to vote despite the serious logistical and security problems with the elections;

Whereas, on November 29, 1987, the Haitian security forces in collusion with paramilitary gangs, attacked hundreds of citizens lined up at polling booths, killing at least twenty-five and wounding over sixty and attacked international observers and journalists, killing one journalist, and forcing a halt to the election process;

Whereas, on November 29, 1987, the National Governing Council disbanded the Provisional Electoral Council; and

Whereas, on November 29, 1987, the United States Government announced its intention to suspend all nonhumanitarian aid to Haiti and to withdraw all military training personnel: Now, therefore, be it

Resolved, That the United States Senate—

(A) deplores the failure of the Haitian interim government to bring about democratic elections and to secure the safety of the Haitian people, international observers and journalists;

(B) condemns the disbanding of the constitutionally mandated Provisional Electoral Council;

(C) holds the National Governing Council responsible for the attacks on innocent civilians and disruption of the election process by security forces and paramilitary groups;

(D) lacks confidence in the commitment of the National Governing Council to fulfill its purpose of bringing about democratic elections in Haiti;

(E) supports the United States Government's decision to suspend all nonhumanitarian United States aid to Haiti and withdraw all military trainers personnel; and

(F) calls on the United States Government and all nations to cut off all assistance and sale of arms to the Government of Haiti while providing humanitarian assistance to the people through nongovernmental organizations.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President, the people of Haiti tried to hold an election this past Sunday—the first election in 30 years. Instead of casting ballots, however, Haitians who lined up to vote ended up dodging bullets. Another bloody chapter has been added to the turbulent history of that nation. The cancellation of those elections last Sunday, already cut short by bursts of automatic weapons fire and the deadly blows of machetes, was a grievous and intolerable shame.

We witnessed the jubilation of Haiti at the departure of President-for-life Jean-Claude Duvalier and the end of a 30-year nightmare of repression and sanctioned terror.

We shared the certainty of Haitians that overwhelming ratification of a new constitution calling for free and fair elections would open the door to democracy and eventual economic progress.

We were outraged at the actions—and absence of action—of the National Governing Council, as thugs and murderers disrupted the electoral process, assassinated candidates, massacred voters.

By the end of election day, the carnage stood at at least 25 dead and more than 60 wounded. In one polling place alone, less than 10 blocks from the Presidential palace, at least 15 men and women were coldly shot to death.

The blame for this brutality rests on the shoulders of the National Governing Council, the provincial government which had as its primary charter to provide a secure process for the restoration of democracy in Haiti.

The United States acted properly and promptly by cutting off all military and nonhumanitarian aid to a regime which seems determined to scuttle Haiti's one real chance for peace and prosperity. The dialog of diplomacy appears to have fallen on deaf ears in Haiti and our response to events there must hereafter be articulated in action, not words.

General Henri Namphy, head of the interim government, has stated that he will reconstitute an electoral council and reschedule elections for early January. Despite widespread belief that the military bears complicity, if not outright guilt, for the frenzy of murders at polling places, no assurance has been proffered that the assassins would be identified and justice meted out.

The United States cannot be a party to such ruthless abrogation of the Haitian constitution and the respect for law and human life. The existing and lawful provisional electoral council must be reassembled, and their security and freedom of movement guaranteed.

The attackers of innocent civilians, of journalists and of international observers must be immediately identified and held for trial and just punishment under a democratically elected government. Moreover the tontons macoutes, the cause of so much pain and suffering over the years, must not only be disbanded—they must be disarmed.

In addition to sustaining the cutoff of nonhumanitarian and military aid and military training, the United States should:

Hold the National Governing Council responsible for the attacks on innocent civilians and the disruption of the elections.

Insist on the full restoration of the Provisional Electoral Council.

Call upon all nations to join us in terminating all assistance and sale of arms to the Government of Haiti, while at the same time, providing humanitarian assistance to the people of Haiti through nongovernmental organizations.

This resolution is meant as a message and a herald of harsher measures to come. The Namphy regime has shown a disinclination to listen to reasoned arguments for fair elections and a nonviolent transition to democracy.

It is our hope that with timely Senate action on this resolution followed by Senate hearings on the broader aspects of United States-Haitian relations and appropriate United States action we can send in the strongest terms a message which will result in a recommitment to the constitution and democratic process.

It is our hope that early next week the appropriate Senate committee could schedule hearings on this matter and that we could address the full response of the people of the United States to the wrongs committed against the people of Haiti.

It is my view—a view shared by many of my colleagues—that the United States should:

Terminate the issuing of visas to anyone involved in any way in human rights violations or in activities undermining Haiti's transition to democracy.

Use our considerable voice and vote in the World Bank and the Inter-American Development Bank to urge a cessation of all assistance to Haiti.

Immediately suspend all benefits to Haiti under the Caribbean Basin Initiative.

The United States should now urge the Organization of American States, the United Nations, the Caribbean Community and Common Market, Caricom, the Organization of Eastern Caribbean States, and the relevant regional organizations to consider an international peacekeeping force as a guardian of the freedom and the lives of the Haitian people as they struggle courageously to realize their enduring dream of democracy.

Mr. President, the reasons for the United States interest in Haiti are historic and expansive. This Nation was the second republic in the New World to establish its independence. This nation occupies a strategic location in our hemisphere. This Nation has with a population of over 6 million people one of the largest populations in the Western Hemisphere and particularly in the Caribbean basin. Ten to fifteen percent of the Haitians today live in the United States and therefore we are bound together by close personal ties.

We have seen the potential of this nation to have a destabilizing effect in this region, its potential to undermine the emerging democracies in the Caribbean basin, and its potential to relocate many of its problems through refugees' illicit activities, drugs and otherwise, to its neighboring countries. But most of all, we share the hope of the people of Haiti in the ability to achieve peace and prosperity through those democratic institutions which we as a nation are celebrating with the 200th year of benefits of sharing. We reach out to our friends in Haiti with the hope that together we can build the next 200 years as 200 years of good neighbors, a 200-year period in which we will see the island of nations begin to share in the benefits of democracy and respect for human rights.

Mr. President, I call upon this Senate to act today with a strong overwhelming vote to favor this resolution and to begin the process of bringing the full moral, economic, and political power of the United States to bear on a government which has thus far denied those fundamental values to its own people.

Mr. President, I ask unanimous consent to submit for the Record various news items which give further voice and articulation to the sad circumstances in Haiti which make this resolution necessary.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the St. Petersburg Times, Nov. 30, 1987]

Haitian Election Canceled After at Least 22 Slain

(By Jim Mannion)

Port-au-Prince, Haiti.—Haiti's first presidential election in three decades was canceled Sunday, almost before it began, in a flurry of bloodletting that appeared to be orchestrated by the military government.

Armed goons massacred voters at least one polling station, killing 15 people who had crowded into a school to vote, witnesses said. Other polling stations were shot up by gunmen firing from speeding cars.

And Haitians who hoped to end one of the world's harshest dictatorships by ballots instead found themselves dodging bullets and fleeing for their lives. At least 22 people, including one journalist, were killed in the violence. Two other journalists—a cameraman and a soundman for an ABC television crew—were wounded.

Unable to protect voters against the violence, the Provisional Election Council called off the voting three hours after the 6 a.m. opening of the polls.

The three-member ruling junta, headed by Lt. Gen. Henri Namphy, then abolished the independent election body and declared that in the future that the government would run elections in Haiti. Namphy said Haiti will hold elections by Feb. 7; he didn't specify a date, but said a new president will be inaugurated by then.

The government made no response to widespread charges of military complicity with armed supporters of the Duvalier dictatorship, which was overthrown in 1986.

The U.S. State Department reacted to Sunday's events by cutting off military assistance and suspending economic aid to Haiti.

"In effect, the military abandoned Port-au-Prince to terrorists, and that is inexcusable," said former U.S. ambassador to El Salvador Robert White, an election observer.

Journalists and international observers were pursued through the capital's narrow streets and alleys by gunmen firing volleys of gunfire.

The attacks began shortly after midnight. Through the night and into the morning, the city reverberated with the sounds of automatic rifle fire and grenade explosions. Haitians reported that Tanton Macoutes—Creole slang for the goon squads of the Duvalier era—shot up homes and polling stations in an anti-election rampage.

A church-run radio station, Radio Soeil, was set afire.

Through it all, the military did nothing. Polling stations were left unprotected and the streets were left to the Macoutes.

"My conclusion is that the military and the Macoutes have established some kind of reciprocal relation where one acts as the enabler of the other," White said.

The Namphy government retreated behind a wall of silence until mid-afternoon.

Then it issued a decree abolishing the nine-member Electorial Council, accusing it of "putting the unity of the country in peril," Namphy also complained of foreign interference in the election through the Electorial Council.

The formal collapse of elections was announced at 9:10 a.m. when election council president Ernst Mirville made a brief telephone call to journalists gathered at a press center in the city's downtown Holiday Inn.

Mirville, who went into hiding and described himself and other commission members as "walking dead men," said the election council could not guarantee the safety of the voters.

"The government is totally responsible for what happened today," said Mirville. "Since the beginning it refused to collaborate with the CEP (the French acronym for the Electoral Council). The difficulties have been multiplied."

In a statement dictated by telephone, Mirville said the decision to suspend the elections "is motivated by the kind of numerous disturbances of all kinds perpetrated by criminals who visibly seem to be assured of immunity."

"The CEP asked the public not to continue to expose themselves to the barbarous Duvalierists' acts, to remain in their homes, all the while jealously guarding their election cards, which is the principal weapon in the fight for democracy," the statement said.

Mirville held out hope that the elections for president and the National Assembly could be rescheduled before Feb. 7, the day the Namphy government is supposed to turn over power to a democratically elected president.

On assuming power after the fall of Jean-Claude Duvalier in February 1986, the government pledged to restore democratic rule in Haiti. As elections approached, however, the military's attitude changed.

In June, it attempted to seize control of the electoral process from the election council. When that failed, it stood by while armed guards waged an increasingly bloody campaign to derail the vote.

Despite the onslaught of violence early Sunday, thousands of Haitians lined up before dawn at polling stations throughout the city to cast their first vote for president since the 1957 election for Francois "Papa Doc" Duvalier, the founder of the Duvalier dictatorship.

"It is the beginning" said Caleb Josef, 24, using a Bible to shield his eyes against the sun as he stood in line at a polling station. "Haiti must change. After the election we go back to work."

"It's not the same Haiti," agreed another man in line, 32-year-old Prosper Damitise. "Haiti is changing right now."

But across town, the old Haiti of murdering goon squads was striking back with terrifying effect.

Near the downtown intesection of Martin Luther King and John Brown, gunmen stormed into the Argentine Belle Garde School, firing automatic weapons at people waiting inside for their turn to vote.

[From the St. Petersburg Times, Nov. 30, 1987]

"Bodies Lay Sprawled Atop One Another. I Felt Like Crying"

(By Ian Simpson)

Port-au-Prince, Haiti.—Ian Simpson was on the scene of one of the grisly scenes in Haiti Sunday. Here is his report:

The bodies lay sprawled atop one another. Wounded women screamed. I felt like crying.

I counted 10 dead and seven wounded in one polling place, a school built around a dusty courtyard.

A woman, bleeding from gunshot wounds, lay on her side, moaning and calling for help in her native Creole language.

I don't know if there were children among the dead but some of the bodies were small.

There was blood everywhere. Furniture was overturned. Voting materials were scattered in the classroom where the balloting was to have taken place.

I arrived at the scene with other journalists perhaps 20 minutes after the attack. French television cameraman Gilbert Merciner, present when the assailants stormed the school, told me: "We have seen a massacre."

Merciner said he and a member of his crew fled the courtyard when the attack began. He told me the bloodbath lasted about 15 minutes.

Others at the scene, stunned by the violence, shrugged off our questions.

I arrived at the school behind two fire engines loaded with armed troops who put the wounded on stretchers for evacuation in ambulances.

I doubt if there had been any soldiers at the school to protect those who had waited in line to vote before they were gunned down by marauding civilians.

As I left the school in central Haiti for the press center at a downtown hotel, I saw a half-dozen cars outside riddled with gunfire.

I heard a lot of automatic weapons fire. Armed civilians, many of them in cars, were everywhere. I believe they were mostly supporters of the former Duvalier dictatorship.

The attack was carried out by 50 to 100 masked gunmen in civilian clothes. About 100 people waiting to vote fled for their lives. The dead and wounded did not.

Streets were filled with fire engines guarded by troops, heavily armed police, ambulances racing to scenes of attacks and at least two armored cars, but the gunmen rampaged with relative impunity.

They fired at random at passing cars and pedestrians and wherever people were gathered to vote.

[From the Tallahassee Democrat, Dec. 2, 1987]

BATTLE FOR DEMOCRACY WAGES ON

In less than two hours on Sunday, 34 voters trying to take Haiti toward democracy were killed by men wielding guns and machetes. To prevent further bloodshed, the council trying to conduct the elections called them off.

In response, the head of the provisional government—selected by ousted dictator Jean Claude Duvalier as he fled the country 22 months ago—disbanded the council. In a speech Sunday, Lt. Gen. Henri Namphy, blamed the electoral council for "failure . . . in the historical mission that was entrusted to it."

The failure is Namphy's. And by placing faith in him, the United States' as well. Until bloody Sunday, the Reagan administration insisted Namphy's goals were honorable. The administration said that—despite the increasing violence—Namphy and the other two military men of the ruling junta would turn over the reins of government to a democratically elected president next February.

But nothing Namphy did backed up the assurances he apparently gave Washington. Sunday night, electoral council members as well as presidential candidates took shelter in foreign diplomatic residences in Port-Au-Prince. They feared for their lives. Namphy and the two other junta leaders did not. And no wonder U.S. election observers reported Haitian Army soldiers were among those openly killing on Sunday. This is the Army Namphy is in charge of.

In response to the election debacle, the United States halted military and non-humanitarian aid to Haiti. But only a few million of the $110 million allotment for 1987 remains. So the action is mostly symbolic. And, as one Western diplomat observed: "No leader of Haiti ever cared about the country or its people. Aid is not a lever here."

World opinion—particularly of the world nearest Haiti—could have some sway. But Washington is merely muttering its objections. While President Reagan and Secretary of State George Shultz make passionate speeches about the need for democracy in Nicaragua, their indignation about the events in Haiti—trying to hold its first democratic election in 30 years—is mute. Spokesmen are left to express diplomatic concern.

Haiti is a desperately poor country. And since 1957, its people have had to deal with a wasteful, repressive government. Perhaps because of this history, their longing for democracy is especially strong. Even among a very illiterate population, the electoral council registered 75 percent of eligible voters.

Those voters are the freedom fighters of Haiti. The United States owes more to them than misplaced faith in a provisional government so strongly tied to the corrupt Duvalier family. Namphy has said he will adhere to the February timetable for turning over power. But candidates and voters alike have no faith that elections conducted by his government would be fair.

Namphy must reinstate the electoral council and give it complete control to run the elections. And if his government cannot guarantee protection for election workers and voters, a United Nations peacekeeping force should be sent in.

Voters in Haiti should not have to put their lives on the line to cast ballots. And the United States must be more than a whispering spectator as Haiti's people pull toward democracy.

[From the Orlando Sentinel, Dec. 2, 1987]

SHAM AND SHAME OF HAITI

Never have Haiti's temporary rulers acted more like the dreaded Duvalier regime they replaced. Sunday, they sat passively as machete-wielding goons slashed and slaughtered dozens of Haitians waiting to vote. Buried in the carnage was the provisional government's promise to hold a free and fair election.

Appropriately, the White House responded by cutting off most U.S. aid to Haiti. The hope is that this will jolt Haitian leader Lt. Gen. Henri Namphy into holding the election and protecting voters.

If not, the Organization of American States, which is charged with protecting the security of its members, may need to land peacekeeping forces to rescue Haiti's chances for democracy. That may be the alternative to more bloodletting and even anarchy. Just the possibility that the OAS might send in forces could be enough to set Haiti's democracy on track.

Mr. Namphy's intentions will be obvious soon enough. To have a new president take office Feb. 7, as he has promised, a new election must be scheduled quickly.

Admittedly, Haiti's case is an unusual one for the OAS. The threat to the island's security comes from within in the form of thuggish sympathizers of the former Duvalier dictatorships, which terrorized and brutalized Haitians for nearly 30 years. If the OAS did intervene, its purpose should be limited to restoring order and allowing the promised elections to take place.

In truth, the provisional government could avoid such drastic action by respecting the rights of its people. It serves no one in Haiti for the government to risk losing most of the $93 million in aid that the White House has requested for next year.

What's more, the World Bank and other international groups will hesitate to help Haiti if its government ignores human rights. International help—especially in slowing land erosion and replacing trees—is the only thing that can keep Haiti from turning into a desert.

The next move is Mr. Namphy's. His only prudent choice is to nudge Haiti away from the legacy of the Duvaliers by letting its people choose their next government.

[From the Miami Herald, Dec. 1, 1987]

TIME TO INVADE HAITI

The outrageous government-sanctioned murder and mayhem that canceled Haiti's first democratic election in 30 years make it abundantly clear that the time has come for multinational troops to impose order in that tiny, oppressed nation. The army-controlled provisional government of Lt. Gen. Henri Namphy must be replaced and armed supporters of the deposed Duvalier regime put down. Only then can the seeds of democracy, planted with the adoption earlier this year of a new constitution, begin to take root.

Such an invasion likely would draw the same charges of imperialism and violated sovereignty as did the October 1983 U.S.-led multinational invasion of Grenada. This newspaper supported that invasion. In doing so, *The Herald* said that Western democracies never have defined the right to self-determination as the right of a group of local thugs to import guns with which to overturn established democractic institutions.

That rationale applies with equal force to Haiti, were innocents were slaughtered as they waited to vote to *establish* democracy. Shouldn't they have what their new constitution and even their supposedly temporary leader, General Namphy, promised them? Shouldn't—*mustn't?*—the Free World help them achieve that promise? The answer is a resounding "Yes!"

General Namphy has been propped up by the United States ever since dictator Jean-Claude Duvalier was forced to flee two years ago. The general on Sunday dissolved the independent electoral council, yet he promises an election and an elected civilian president by February.

But why believe him, even if such a timetable could be met? He has used up the American people's patience. He opposed the election from the start, left polling places vulnerable to attack, and either loosed his agents to kill voters or was powerless to stop them. He must go.

To that end, Washington now should apply the Grenada example to Haiti. The United States should ask other democracies in the hemisphere to join a U.S.-led military force to free Haiti of Duvalierism for good. Let the hemisphere's democracies—or the United States alone, if need be—invade Haiti. Let order be imposed. Let Haitians have their elections, free and fair. And let the invaders stay only long enough to ensure that the seed thus planted can survive without them.

The alternative is as clear as the democracies's moral duty to prevent it.

MIAMI HAITIANS DEMONSTRATE SOLIDARITY WITH HOMELAND

(By Adrian Walker)

Roaring anti-Duvalier, anti-Namphy and anti-U.S. slogans, about 500 Haitians packed Little Haiti's main street last night in an impromptu demonstration of solidarity with the people of Haiti.

The peaceful, hour-long demonstration attacked the cancellation of nationwide elections Sunday and showered abuse on the Reagan administration, which had supported the provisional government led by Lt. Gen. Henri Namphy.

"Down with the junta! Power to the people!" the crowd chanted. Many were carrying signs that read "We Need Castro!" "Namphy must go, Duvalier must go!" and "CIA stop killing Haitians!"

"As a Haitian, the problem is very critical," said Sonny Agustin, 30, a taxi driver. "We need a new government. The United States should support the people. They don't do nothing for us." They send arms to kill people. We're just trying to show that we are together."

"My opinion is that this is the responsibility of Mr. Reagan and Mr. Shultz. The support the United States gave is part of the problem," said Bonaparte Moise, 32, a construction worker. "If you want to help people, develop schools, develop hospitals, develop roads, develop sanitation. People died on the sea for nothing. The U.S. helped people in power kill. We don't need that kind of help!"

About 300 protesters had been meeting at the Little Haiti Activity Center, 58 N.E. 54th St., for about an hour when a spirited discussion broke out over whether the group should call on Miami's Haitians to march from the refuge center to the Torch of Friendship today. As leaders debated whether a permit for a march could be secured overnight, Abel Jean-Simon of the center urged the crowd to take up placards and march immediately to protest the nation's canceled elections.

With little warning, the group spilled out of the activity center and onto 54th Street in the heart of Little Haiti, expressing dismay with the turn of events in Haiti that has left 34 dead, 75 injured and prospects for the nation's first free presidential elections in 30 years twisting in the wind.

Out on the street, the protesters were joined by hundreds of others.

Miami police tried in vain to lead the crowd onto the sidewalks, but settled for cordoning off a block of the street from Miami Avenue to Northeast First Avenue.

"There wasn't much we could do," admitted police spokesman Sam Harlan. "It was just too big a crowd."

Before the demonstration, the crowd listened to speakers shout down a proposal of U.S. intervention in Haiti by Rep. Walter Fauntroy, chairman of the Congressional Task Force on Haiti.

"There is a faction that wants U.S. intervention. That's another form of slavery," said Abel Jean-Simon, 30, a paralegal on the staff at the Haitian Refugee Center. "The fact that people risked death to vote showed our desire to run our own affairs. We are not another Grenada, and this is not 1915."

Jean-Simon, like other speakers, blasted the United States for its support of the Duvalier regime and the Namphy-led provisional government that followed it.

"It (U.S. involvement) is good, but it is very late. It is shameful that U.S. dollars and weapons have gone to massacre the people of Haiti."

Jean-Simon indicated that "intervention" was a step away from freedom for the island nation.

"We will fight before we will let anyone—American, Russian or French— invade our shores. We will not go from one dictatorship to another. We will go from dictatorship to freedom. The Haitian people deserve a better society."

Speakers were even more forceful in their denunciation of proposed U.S. intervention.

"Reagan is responsible for all the deaths in the country since February 1986," said Tony Jeanthency. "He has sent representatives to Haiti to tell Namphy and (Brig. Gen. William) Regala they are doing a good job. They know this is an outlaw government. We've got to take to the streets and tell them what we've got in our hearts."

Some other Haitian leaders indicated interest in Fauntroy's proposal.

"I agree with Fauntroy," said Jacques Despinesse, chairman of the Haitian-American Democratic Club., "I know I am in contradiction with my Haitian brothers. You have an army the people don't trust. These people don't care about the press. They don't give a damn. Reagan could stop this with a phone call."

Mr. GRAHAM. Thank you, Mr. President.

The PRESIDING OFFICER. The time has expired.

The majority leader.

Mr. BYRD. Madam President, I ask unanimous consent to proceed for not to exceed 3 minutes without the time charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMIGRATION OF SOVIET CITIZENS WISHING TO JOIN SPOUSES IN THE UNITED STATES

Mr. BYRD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 450.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 376) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, the Senate will proceed to the consideration of the joint resolution.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 1251

(Purpose: To provide that the project referred to as the Clarks Hill Dam, Reservoir and Highway transversing the dam on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the Strom Thurmond Dam, Reservoir, and Highway.)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. WARNER, Mr. SIMPSON, Mr. BYRD, Mr. NUNN, and Mr. D'AMATO proposes an amendment numbered 1251.

At the end of the joint resolution add the following, that in honor of J. Strom Thurmond, and in recognition of his long and outstanding service as a United States Senator, Governor of South Carolina, and South Carolina State Senator, to promote flood control, soil conservation, and rural electrification, the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the J. Strom Thurmond Dam, Reservoir, and Highway, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the J. Strom Thurmond Dam, Reservoir, and Highway.

Mr. DOLE. Mr. President, let me first ask unanimous consent that the distinguished Senator from Georgia, Senator NUNN, be added as a cosponsor of the amendment, along with myself, Senator BYRD, Senator SIMPSON, Senator WARNER, and any others who may wish to be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I rise to offer an amendment that is designed to rename a public works project constructed by the Army Corps of Engineers along the Georgia-South Carolina border. Specifically, the amendment renames the Clarks Hill Dam, Reservoir, and Highway transversing the dam in honor of our distinguished colleague, Senator THURMOND.

The Clarks Hill Dam was authorized by Congress as part of the Flood Control Act of 1944. Construction began in 1946 and the dam was finalized in 1954. Clarks Hill is one in a series of three dams along the Savannah River that are designed to control flooding, produce hydroelectric power, and provide recreational opportunities to the citizens of that area.

Mr. President, during his tenure as a South Carolina State senator, as well as during his term as Governor of that State, Senator THURMOND was at the forefront of promoting measures to provide adequate flood control, soil conservation, and rural electrification in the State senate and in the U.S. Senate.

In the State senate Senator THURMOND authored legislation that created an authority responsible for stimulating Federal participation in the Clarks Hill project. Since his election to the U.S. Senate he has continued to place a high priority on those important issues. In addition, Senator THURMOND has been actively involved in efforts to stimulate the economic development of communities along Clarks Hill Lake. Senator THURMOND recently helped negotiate agreements with the Army Corps of Engineers that will allow the proper authorities in Georgia and South Carolina to develop lakefront property in an environmentally and economically sound fashion.

Mr. President, it is evident that Senator THURMOND has long supported and worked to achieve the many goals associated with the Clarks Hill Dam and Reservoir. In an effort to recognize Senator THURMOND's accomplishments, and to remind future generations of his dedication in the areas of flood control, soil conservation and rural electrification, I urge the Senate to adopt this amendment.

Mr. BYRD. Mr. President,

Not gold, but only men can make a nation
great and strong;
Men who for truth and honor's sake stand
fast and labor long;
Real men who work while others sleep,
Who dare while others fly.
They build a nation's pillars deep
And lift them to the sky.

Mr. President, STROM THURMOND is such a man. I am happy to be associated with the remarks of the distinguished Senator from Kansas, the Republican leader. I am pleased to be a cosponsor of the amendment.

Mr. WARNER. Mr. President, I would like to join the majority and minority leaders as a cosponsor of the pending amendment. This amendment, which redesignates the Clarks Hill Dam and Reservoir on the Savannah River as the J. Strom Thurmond Dam and Reservoir, gives due recognition to Senator Thurmond for his many accomplishments as a public servant.

Mr. President, I have often heard it said in this Chamber that while he may be the Senator from South Carolina, both Carolinas and to a certain extent Georgia look to him for his leadership.

Senator Thurmond has long been a champion of efforts to provide adequate and inexpensive rural electrification, as well as sound flood control and soil erosion projects. As a State senator, Strom Thurmond authored initiatives that provided the direct forerunner to the work done by the Army Corps of Engineers at Clarks Hill. In 1966, as a Member of the U.S. Senate, Senator Thurmond helped fashion a compromise among the Corps of Engineers, private power companies, and local communities which led to the passage of a provision in the Flood Control Act of 1966 that authorized the Trotter Shoals Dam project. Trotter Shoals Dam was subsequently renamed in honor of the late Senator Richard B. Russell of Georgia. The Richard B. Russell Dam and the Clarks Hill project are two of the three dams that make up the water control system along the Savannah River.

Mr. President, recently the Clarks Hill Authority unanimously adopted a resolution requesting that Clarks Hill Dam, Reservoir and Highway transversing the same be renamed in honor of Senator Thurmond. I ask unanimous consent that the resolution be placed in the Record at the conclusion of my remarks.

There being no objection, the document was ordered to be printed in the Record, as follows:

Resolution

Whereas, legislation is being introduced into the Congress of the United States by Representative Butler C. Derrick, D-SC, to rename the Clarks Hill Dam, that portion of U.S. Highway 221 crossing the dam, and Clarks Hill Lake in honor of Senator J. Strom Thurmond, R-SC; and

Whereas, the Clarks Hill-Russell Authority of South Carolina, an economic development agency with responsibility for the Savannah River Basin in South Carolina, supports the effort to recognize Senator Thurmond's longstanding and tireless work for the economic development of the Savannah Lakes Region of both South Carolina and Georgia; and

Whereas, Senator Thurmond has played a key role in establishing the development area known as Savannah Lakes Village along the shores of Clarks Hill Lake;

Now Therefore, Be It Resolved that the Clarks Hill-Russell Authority Board of Directors strongly supports the proposed legislation to rename the Clarks Hill Dam, that portion of U.S. Highway 221 crossing the dam, and Clarks Hill Lake in honor of Senator J. Strom Thurmond, R-SC, and urges its passage at the earliest possible time.

Be It Further Resolved that the Clarks Hill-Russell Authority Board of Directors commends this bipartisan effort to recognize the selfless and dedicated service provided by Senator Thurmond to his country and to his constituents.

Mr. WARNER. Mr. President, Senator Thurmond is certainly deserving of this honor. I urge the pending amendment be adopted.

Mr. HOLLINGS. Mr. President, today is the birthday celebration of our distinguished colleague, Senator Strom Thurmond. The occasion is being celebrated in the Dirksen Office Building, and I've just come from the festivities. In fact, Mr. President, while there I was alerted to the pending initiative via television from the Chamber, and so notified. I appreciate this opportunity to come to the floor and speak favorably for it. To rename the Clarks Hill Dam, Bridge and Lake for the distinguished senior Senator from South Carolina is fitting and appropriate for not only that section of the State, but the entire State of South Carolina.

Senator Thurmond has been in the vanguard of leadership in my State for my entire political life. When I first came to the South Carolina General Assembly he was our State Governor.

Incidentally, I wish you could see the record he has because he is known, and appropriately known, as one of the strong conservatives of America, but at the State level what we needed was a kind of liberal leadership in the course of the World War II period.

It was Strom Thurmond, if you could see his initiatives, the Governor, who saw the need for industrial development, education, aviation development, women's rights, and otherwise. Read his inaugural address and you will see that he has been in the vanguard of leadership. He was No. 1 in organizing a third party successfully and running for the President, taking several States. He was, of course, the first Senator in our time to ever be elected on a write-in ballot. And he has a record here on the Senate floor with respect to extended debate, on the strength of feel he has had on an issue, that is still a national record. There is no question that he has brought character and integrity and honor to the State of South Carolina and the renaming before us is a fitting tribute to that fine record.

I must observe, however, that even George Washington, with his first in war and first in peace, married a widow. You cannot be first in everything.

I noted earlier that I had one little lead over my distinguished senior colleague, and that was that I have got six wonderful grandchildren, and I am waiting on Strom to have his.

But be that as it may, if you want to see the real accomplishment of my senior Senator, I ask everyone to visit room 325 of the Russell Building and that magnificient celebration, and you will see no more beautiful family than what Strom has. We really honor him today in the Senate, but we have continually honored him over the many, many years, 50, 60 years now. I know in the midthirties he was not only a superintendent of education and a circuit judge, but he was in the State senate. We have the Santee-Cooper project in South Carolina—it was discussed recently in this body. He came to Washington in the midthirties to start that one, so for over 50 years of magnificent service we do honor him today.

While I did not know of this particular action, I commend my colleagues, the majority leader, the Senator from Virginia, and others, on their initiative and I highly support it. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1251) was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the time be extended for 3 minutes and that it not be charged to either side on the other matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I rise today in support of House Joint Resolution 376, a joint resolution calling upon the Soviet Union to grant permission to emigrate to all those who wish to join spouses in the United States. This is the House version of Senate Joint Resolution 203, a measure I introduced in the Senate.

I want to commend the distinguished majority leader and the distinguished minority leader for their support for this measure. Without their assistance, this resolution could not have been acted upon in time to get it to the President's desk for signature before the forthcoming summit meeting.

House Joint Resolution 376 addresses one of the four main areas of our relationship with the Soviet Union—human rights. In particular, it calls upon the Soviet Union to resolve immediately the issue of divided spouses and blocked marriages, an issue which is a major irritant to our bilateral relations.

Since Senate Joint Resolution 203 and House Joint Resolution 376 were introduced, respectively, on October 15 and 14, three of the cases named in them have reportedly been resolved. Those cases are the Michelson case, the Balovlenkov case, and the Kaplan case.

This is a good sign, but it does not remove the need for Senate passage of this measure or the need for additional emphasis by the President on resolution of the remaining cases during his meetings with General Secretary Gorbachev.

Let me be plain—there is no justification for keeping family members separate. It is a barbaric practice. The Soviet Union has committed itself to abide by the provisions of the Helsinki Final Act and its treatment of these cases is in direct contravention of that commitment.

The language of the final act is clear. President Brezhnev understood its meaning when he signed the final act in Helsinki on August 1, 1975. Yet the Soviet Union has not kept its word on this matter.

During his interview on NBC television yesterday, General Secretary Gorbachev was asked about emigration and family reunification. His answer was, and I quote:

> Family reunification—we believe that to be a problem, and we shall do our best to have those problems resolved. * * * I think that right now we have among those who have not received permission only those who cannot leave because of state security reasons. There are no other reasons, and we will continue to act in that way.

Gorbachev's statement holds out a reason for hope and also reiterates positions which are simply wrong. His promise to do his best to have those problems resolved gives me hope that the divided-spouse cases and blocked-marriage cases will finally be solved. His reference to security reasons for denying permission to emigrate raises, however, the same old discredited barrier to open borders and free movement of peoples Soviet authorities have relied upon since they first addressed the issue.

Conspicuously, General Secretary Gorbachev's statement in Paris that access to state secrets would only be a barrier to emigration for 10 years has not been followed in practice by Soviet officials. Many people who last had access to state secrets more than 10 years ago are still denied permission to emigrate on state security grounds.

We too readily act as though we accept this assertion of state security as a reasonable basis for denial of permission to emigrate. It is neither reasonable nor legitimate, because Soviet law and practice is contrary to generally accepted international standards.

The point is that under international agreements freely entered into by the Soviet Union, the right to leave one's country is a fundamental human right. Restrictions on this right are extraordinary and exceptional in nature and are applied only for compelling reasons.

Any such restrictions must be general and nondiscriminatory in their application. Administratively imposed restrictions must be subject to review and reversal if they were unreasonable or arbitrary. Lastly, any restriction on the basis of national security must demonstrate a real and actual danger to the security of the state.

It appears that while state security is the ostensible reason for denying permission to emigrate, the real reason is that the Soviet Government has always viewed people desiring to leave the Soviet Union as traitors to their motherland. Thus, in a very broad sense, allowing them to leave damages the security of the state. This view is not based upon an applicant's personal knowledge of specific state secrets whose disclosure might do specific harm to the Soviet Union, the international standard I just stated.

This disturbing aspect of Soviet policy was revealed in another part of Gorbachev's remarks during his NBC interview. Discussing emigration, Gorbachev said, and again I quote:

> As regards the question that you touched upon—that is exit, entry—well, I understand the concern of the American side to some extent, since that is a nation that was formed as a—largely as a result of emigration processes. And therefore our views are different.
>
> But you know, as is the case in the United States or in Canada, they don't really want to allow into the United States people from Mexico or from other countries, those who don't have the skills that are required. But as soon as in the 1970's there was especially a big flow of those who wanted to emigrate from the Soviet Union, there was one highly placed representative of the administration who declared that we've resolved the problems of mathematicians by 50 percent.
>
> The United States wants here through these channels making this out to be—making themselves out to be an active defender of the rights—of human rights, to resolve their own problems, and what they're organizing is a brain drain. And of course we're protecting ourselves. That's number one. Then, secondly, we will never accept a condition when the people are being exhorted from outside to leave their country. * * *

This, frankly, was an extraordinary statement. I question whether General Secretary Gorbachev really believes that we were organizing a brain drain or exhorting from outside Soviet citizens to leave their country.

I must conclude either that Gorbachev is much worse informed than I had hoped, or that he imputes a malicious purpose to our support from human rights which is simply not there. In either case, this statement is not encouraging.

It is very important that we pass and send on to the President this resolution. It expresses the view of the House and the Senate that human rights remains a very important aspect of our relationship with the Soviet Union, an aspect which must be addressed at the summit.

This resolution stresses the need for actual compliance with the Helsinki Final Act. It seeks urgent and immediate resolution of these outstanding bilateral divided-spouse and blocked-marriage cases.

Our action today on this measure is necessary and timely. It sends General Secretary Gorbachev a clear message that our dedication to human rights is nonpartisan, permanent, and principled. It says that human rights can't be swept under the carpet of the diplomatic salons, that it must be dealt with as a major and serious issue.

Very significantly, it says to the U.S. partners in these divided-spouse and blocked-marriage cases that the United States has not forgotten them. It says that the summit holds real hope for resolution of their cases.

It offers the promise that these families can be united in this country in time for the holidays. I join with them in a deep desire that this promise may be fulfilled so that they will be able to experience the same joy and togetherness which we all look forward to at this time of year.

In closing, I want to commend all of my colleagues who cosponsored Senate Joint Resolution 203. They have demonstrated their commitment to this issue. House Joint Resolution 376, which the House passed by a unanimous 414-to-0 vote, is a powerful expression of the will of Congress on this vital matter.

Mr. President, I urge passage of this measure. I call upon President Reagan to sign it into law before he meets with General Secretary Gorbachev.

The PRESIDING OFFICER. Is there further debate on the joint resolution. If not, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The joint resolution (H.J. Res. 376), as amended, was passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ADAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONDEMNING THE GOVERNMENT OF HAITI FOR ELECTION COLLAPSE

The Senate continued with the consideration of the resolution.

Mr. BYRD. Mr. President, is the pending amendment the amendment by Mr. METZENBAUM?

The PRESIDING OFFICER. Senate Resolution 336 is pending at this time.

Mr. BYRD. I thank the Chair. I yield the floor.

A MESSAGE TO THE GOVERNMENT AND THE PEOPLE OF HAITI

Mr. PELL. Mr. President, I join my colleagues in deploring the Provisional Government of Haiti for not fulfilling its promise to conduct a peaceful election designed to finally install in Haiti a democratic civilian government. The performance of the Provisional Government in the days leading up to the election as well as on election day itself leads us in the Senate to hold the Provisional Government responsible for the unleashing of the Ton-Tons Macoutes and soldiers to commit bloody carnage against innocent people who were exercising their right to vote.

This resolution sends a strong message to the Haitian Government that the Senate supports the administration's decision to suspend all nonhumanitarian aid and to withdrawal all military personnel because of the blatantly antidemocratic and vile actions. It also sends a message to the people of Haiti that we in the Senate stand solidly behind them in their efforts to democratically elect a civilian government so Haiti can finally emerge out of the dark ages of the Duvalier regime. This resolution deserves the unanimous support of this body and I am proud to be a cosponsor.

The PRESIDING OFFICER. Fifteen minutes remain.

Mr. BYRD. Mr. President, I am authorized by the minority to yield back that time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the resolution. The yeas and nays have been ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum so that Senators may be alerted that a rollcall vote is imminent.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico [Mr. BINGAMAN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 398 Leg.]

YEAS—90

Adams
Armstrong
Bentsen
Biden
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker

NAYS—0

NOT VOTING—10

Baucus
Bingaman
Dodd
Evans
Gore
Kassebaum
Sanford
Simon
Wilson
Wirth

So the resolution (S. Res. 336) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 336

Whereas, on February 7, 1986, the President of Haiti, Jean-Claude Duvalier, fled Haiti and a National Governing Council was formed to bring about a peaceful transition to a democratically elected government;

Whereas, on March 29, 1987, the Haitian people approved overwhelmingly in a referendum a new Constitution which guarantees human and civil rights, freedom of speech, assembly, religion, and press and a format for democratic elections of a new government;

Whereas, on May 13, 1987, the National Governing Council established a Provisional Electoral Council in accordance with the Constitution to draft and execute an electoral law for local elections in the summer of 1987 and for presidential and national legislative elections in November 1987;

Whereas, on June 5, 1987, the Provisional Electoral Council submitted a draft electoral law in accordance with the Constitution;

Whereas, on June 22, 1987, the National Governing Council attempted to take control of the electoral process, an action protested by the people of Haiti in a series of antigovernment demonstrations during which a number of civilians were killed and injured by Haitian security forces;

Whereas, on June 30, 1987, the head of the National Governing Council, Henri Namphy, stated his interim government would respect the Constitution and on July 2, 1987, promulgated a new law giving the Provisional Electoral Council power to organize and execute the democratic elections in accordance with the Constitution;

Whereas the Haitian Government failed to prevent a series of violent incidents involving paramilitary groups and members of the Haitian security forces in the months leading up to the November national elections during which scores of innocent civilians were killed, hundreds were injured, foreign journalists were attacked and detained illegally, union, community and church leaders were intimidated by Haitian security forces and two presidential candidates were killed;

Whereas the National Governing Council actively thwarted the electoral process and failed to provide adequate funding, security or logistical support to the Provisional Electoral Council and its members, including access to municipal buildings for polling sites or government transportation for ballots and other election material;

Whereas, on November 2, 1987, the Provisional Electoral Council approved 23 candidates for the Presidency and excluded twelve individuals associated with the former Duvalier regime in accordance with the Constitution;

Whereas, on November 3, 1987, the headquarters of the Provisional Electoral Council was burned and the homes and businesses of several candidates were attacked;

Whereas, on November 27, 1987, the National Governing Council refused to permit entry into Haiti of three members of the United States House of Representatives;

Whereas, on November 28, 1987, the National Governing Council denied flight permission to two helicopters to distribute election ballots in the countryside and to two international observer teams that had been invited by the Provisional Electoral Council to observe the elections;

Whereas, on November 29, 1987, the Haitian people demonstrated a determination and a will to vote despite the serious logistical and security problems with the elections;

Whereas, on November 29, 1987, the Haitian security forces in collusion with paramilitary gangs, attacked hundreds of citizens lined up at polling booths, killing at least twenty-five and wounding over sixty and attacked international observers and journalists, killing one journalist, and forcing a halt to the election process;

Whereas, on November 29, 1987, the National Governing Council disbanded the Provisional Electoral Council; and

Whereas, on November 29, 1987, the United States Government announced its intention to suspend all nonhumanitarian aid to Haiti and to withdraw all military training personnel: Now, therefore, be it

Resolved, That the United States Senate—

(A) deplores the failure of the Haitian interim government to bring about democratic elections and to secure the safety of the Haitian people, international observers and journalists;

(B) condemns the disbanding of the constitutionally mandated Provisional Electoral Council;

(C) holds the National Governing Council responsible for the attacks on innocent civilians and disruption of the election process by security forces and para-military groups;

(D) lacks confidence in the commitment of the National Governing Council to fulfill its purpose of bringing about democratic elections in Haiti;

(E) supports the United States Government's decision to suspend all nonhumanitarian United States aid to Haiti and withdraw all military trainers personnel; and

(F) calls on the United States Government and all nations to cut off all assistance and sale of arms to the Government of Haiti while providing humanitarian assistance to the people through nongovernmental organizations.

OMNIBUS VETERANS' BENEFITS AND SERVICES ACT

The Senate continued with consideration of S. 9.

Mr. HATCH. Mr. President, are we back on the Metzenbaum amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Mr. President, I would like to make a few remarks on that.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I notice the distinguished Senator from Ohio is on his feet.

Mr. METZENBAUM. I wonder if my colleague from Utah will be good enough to let me make an opening statement. I yielded the floor on this in order to take up the Haiti matter.

I feel as the author of the amendment I should have an opportunity to be heard.

Mr. HATCH. Does the Senator know how long he would take.

Mr. METZENBAUM. I would say 10 or 12 minutes.

Mr. HATCH. I am happy to yield.

Mr. METZENBAUM. I do not think there will be any other speakers.

Mr. HATCH. If I could immediately follow the Senator from Ohio I would appreciate it and I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, I do want this in order to get some idea what the landscape is. I have had a number of requests from people who are trying to catch airplanes before a snowstorm strikes. How long will it be before we can reach a vote on this matter?

From my standpoint I can state my case in less than 5 minutes and be ready to move to table the amendment.

The Senator from Utah has indicated a desire to speak and the Senator from Alaska, Senator STEVENS, has indicated a desire to speak, both briefly, I believe.

Unless there are other requests, we could get to the vote relatively soon, I should think.

Mr. METZENBAUM. It sounds to me, knowing the previous situation before the Senate, that when you have four or five able speakers as you mentioned, you are not going to move quite that rapidly. I think the Senator from Idaho knows the Senator from Ohio would be agreeable, and I think it would meet with the approval of the majority leader if we were to set the vote for a time certain such as 1:30 on Monday.

Mr. McCLURE. If the Senator will yield, reserving the right to object, I do have some objection on this side to the Monday afternoon vote.

Mr. METZENBAUM. I think we both will agree that we want to give the maximum number of people the opportunity to vote.

Mr. McCLURE. I am much more anxious to give them an opportunity to vote than I am to give them an opportunity to speak. I am not going to cut off their right to speak.

Mr. METZENBAUM. I am not certain this would be acceptable, but at an earlier point there was indication this would be acceptable to the majority leader. But would the Senator from Idaho be willing to accept a vote at a time certain, at 9:30 Tuesday morning?

Mr. McCLURE. Speaking for myself, yes.

Mr. METZENBAUM. Would the majority leader find that agreeable? A number of Members are pressing us to leave. I am not at all certain that by 1:30, which is the time everyone thought that we were going to have on this, that we will come to a conclusion. I wonder if the majority leader, since the Senator from Idaho and I are in agreement—I do not know about others—whether you would be willing to have a vote on the motion to table set at a time certain, say, 9:30 on Tuesday morning?

Mr. BYRD. Mr. President, if that is the best we can hope for, I would not object to that. I had hoped that we would have the vote, first of all, today, because we have got to know where we are headed after this particular vote we are talking about.

If we vote today, we know that we are either going to go on or we are not going to go on without a filibuster. If we wait until Monday, that would suit me better than Tuesday, because at least we would still have some time to finish action on the bill, depending on the outcome of this amendment, which I, by the way, support.

But if we wait until Tuesday, I am hoping we will be able to bring the reconciliation bill up by Tuesday. And once the reconciliation bill has been acted on, sent to conference and acted on there, and brought back and the CR has been acted on, we are going to go out and relieve the pressures around here for a month or 4 or 5 weeks.

So, in essence, I will agree to almost anything, but the sooner the better.

Mr. HATCH. Let me make a suggestion. I do not see any reason for prolonged debate here. If we can proceed with the distinguished Senator from Ohio, Senator METZENBAUM, if he can get his remarks down to 10 minutes, I will cut mine to 5, Senator McCLURE will cut his to 5, and maybe another one to 5, and we will vote and let us get it over with.

Mr. METZENBAUM. Let me make a further observation. There are about 8 or 10 cosponsors of this amendment—Senator THURMOND, Senator KASSEBAUM, Senator MOYNIHAN, Senator KENNEDY, Senator LAUTENBERG, and several others. I am not certain whether some of them intend to come to the floor.

But I want to make this point: If the Senator's motion prevails, whether it is today or Monday or Tuesday, that is the end of the ball game. If the Senator's motion does not prevail, then it is my understanding that the Senator from Idaho intends to speak to the merits of the subject for a rather long period of time; sometimes described as a filibuster around here, but I know he would not be engaged in such a matter.

Therefore, I am wondering whether or not, instead of everybody being so constrained—I am really not that anxious to tie my remarks down to 2 minutes or 5 minutes or 10 minutes—I wonder if it would not serve everybody's purpose if we could agree to set the vote at 9:30—I do not care whether it is a 15-minute vote or a 30-minute vote, whatever the leader desires—on Tuesday. Or, if there is any chance of prevailing on the Senator from Idaho to do it on Monday, that is totally agreeable.

Mr. McCLURE. Will the Senator yield further?

Mr. HATCH. I am happy to yield.

Mr. McCLURE. Mr. President, it had been my hope that we would be able to vote on it this afternoon. I understand exactly what the Democratic leader is up against in trying to determine what should be done on the CR.

Maybe it would be better to move the reconciliation when it is ready and set this vote late Tuesday or Wednesday. Because I suspect that what we are running into now is travel plans for individuals that are just making it very difficult for the Senator from Ohio to agree to a vote this afternoon. It is difficult on our side to agree to a vote on Monday. I am told there are some Members, at least one that I know of, who will not be here Tuesday morning until late Tuesday morning.

Mr. METZENBAUM. We are going to have to miss some at some time.

Mr. McCLURE. I would rather miss yours than mine.

Mr. EXON. Will the Senator yield for a question?

Mr. BYRD. Mr. President, let me just say that I would not agree to have any vote set for Tuesday or Wednesday on this matter. Because if reconciliation is up, I do not want anything else to interfere with that. That is a very privileged matter.

The date that the Congress adjourns sine die depends, in very considerable measure, as does the welfare of this Nation, on the outcome of reconciliation.

So just forget about any vote Tuesday evening or Wednesday evening on this matter.

Why do we not agree to a vote in 30 minutes from now?

Mr. HATCH. That is fine with us.

Mr. BYRD. We could at least see whether or not we are going to go on with this bill or not.

Mr. EXON. Will the Senator yield for a question?

Mr. BYRD. I do not have the floor.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. I yield to the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, I am not going to tie this matter up. I think maybe all of the Members of the Senate are entitled to know what we are doing.

The majority leader finds himself right back in the position that he always finds himself in trying to get us out of here on time. We were supposed to work on Fridays. We were supposed to work on Mondays. The scenario I am hearing is that maybe we should have made other plans for the weekend.

I guess right now we are only going to have one more vote today. Are we going to have votes Monday?

Mr. BYRD. I had hoped if we could not resolve this matter today, we could work on it on Monday. This is an important bill. We ought to reach some conclusion, one way or the other, on it.

I have alerted all Senators on both sides that the Senate will be in on Mondays and ready to do business in these last 2 or 3 weeks before adjournment, in the hope and expectation that coming in on Mondays would help to facilitate an earlier adjournment.

Mr. EXON. If the Senator will yield further for a moment.

Mr. HATCH. I am happy to yield.

Mr. EXON. This is one Senator who is a little bit weary of making my plans along the lines that have been agreed to, to work on Fridays and Mondays, and yet we just had an episode this week where we delayed for 2 days the bill on the farm credit legislation because somebody could not be here.

Now, if you are not going to be here, that is fine. But if you are going to set things over for one Senator, then I think the rest of us are entitled to the same consideration. I say, let us work; let us stay here and work on Friday and work on Monday or all make other arrangements. I do not think it is quite fair to the other Members what we continually go through with this exercise.

Mr. BYRD. Mr. President, I hope we are not going back to last evening's discussion about accommodating one Senator. I try to accommodate all Senators. I suppose that over the years, I have made agreements here that have, in one instance or another, accommodated practically every Senator in this body.

There is a history behind that accommodation of the Senator on yesterday. It does not need to be laid out here. But I think I was perfectly justified in making the arrangements that I did which accommodated, in that instance, not only the Senator on the other side, but Senators on this side of the aisle as well.

I appreciate what the distinguished Senator from Nebraska is saying about the difficulty that we are all put in here by Senators who try to accommodate themselves at the inconvenience of the Senate and the inconvenience of all other Senators. We could have this vote this afternoon. It is not a world-shaking matter. I know how I am going to vote. I am going to vote with the Senator from Ohio. But if he loses, I am not going to look backward. I am going to go on to the next matter.

Or we could have it on Monday. If we have it this afternoon, dispose of this bill this afternoon, I do not know of any reason why we would even be in on Monday, because the only other things I am waiting on are the reconciliation measure and the CR.

Mr. HATCH. Mr. President, I agree with the majority leader. He has an impossible job trying to get everything put together, get everybody accommodated, and work this out and all the other things that have to be done by the end of this year.

As far as I know, there are people on our side who are not here for this vote today. I do not know who is here; I do not know who is not here.

But we are prepared to proceed to a vote on this matter and we are prepared to limit our remarks on this side so we can vote today. And then everybody knows that Monday is a day when there would not be any rollcall votes.

I think that is the only way to accommodate this matter. I am willing to reduce my remarks, which would have been 15 minutes long, to under less than 5 minutes. If necessary, I will do that. But let us get it done.

I do not see any reason why we cannot move to a vote. Is there any problem with that, I ask my distinguished colleague from Ohio?

Mr. METZENBAUM. Well, let us be very candid. We can vote today because it is obvious that the Senator from Ohio has no intention of holding the floor to preclude you getting the floor and when you are on the floor you have the right to make the motion to table. When you make the motion to table, you may cut off some others who may have the right—who may want to vote but the Senator from Ohio does intend not to constrain the time with respect to his remarks.

It is now 1 o'clock. I do not know what time we will get to it. We may get to it at 1:30, we may get to it at 2.

Mr. HATCH. I am yielding to you on the basis you would be 10 or 12 minutes. On the other hand, I would just as soon go ahead and give my remarks and then I can go and if we do not have a vote today, we will not.

I will be glad to yield to you. This is not world shattering. It is something we can resolve; it is something we can vote on today, you may win, we may. I do not know. But let us vote. I will be happy to yield.

Mr. METZENBAUM. Let me start speaking right now.

Mr. MURKOWSKI. Will you yield for one moment? As one of the managers of the bill, I would like to remind my colleague and I think the leader has indicated, we have got to go to conference with this. We have about 80 provisions. It is a veterans bill, first of all. It all due respect to my friend from Ohio on the proposed plastic guns, there are COLA's here for veterans and the time is moving on as the leader indicated. I would hope, too, that we could dispatch this in the balance of the hour and still accommodate the Senator's travel plans. I would hope that the Senator from Ohio and my colleague, the other manager of the bill, Senator CRANSTON, would work toward that end.

It is pretty much up to the call of the Senator from Ohio, in my judgment, Mr. Leader.

Mr. HATCH. Let me yield to the distinguished Senator from Ohio in good faith that he will proceed with dispatch. May I have the attention of my colleague? I yield to my distinguished colleague. If he will proceed with dispatch we will, and we will just resolve this and get the majority leader back on track and get this bill moving for the veterans and have it resolved one way or the other. I do not know how it is going to end up but this is a serious issue.

The PRESIDING OFFICER. Is the Senator from Utah withdrawing his initial request that he yield to the Senator from Ohio provided that at the conclusion of the remarks of the Senator from Ohio that he be recognized? He, the Senator from Utah then be recognized in that order?

Mr. HATCH. Let me just change that; either I or the distinguished Senator from Idaho be recognized.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered. The Senator from Ohio.

Mr. BYRD. Will the distinguished Senator yield?

Mr. President, let me say once again that if we complete action on this bill today there will be no session on

Monday. If we do not complete action on the bill today I see no alternative but to come back in on Monday to attempt to work our way out.

The PRESIDING OFFICER [Mr. ADAMS]. The Senator from Ohio.

AMENDMENT NO. 1250

Mr. METZENBAUM. Mr. President, I rise to support this amendment that has strong bipartisan support. The original amendment in the first degree is offered by the Senator from South Carolina, Senator THURMOND; amendment in the second degree was offered by the Senator from Ohio, with the support of the Senator from South Carolina, Senator THURMOND, and the support of the Senator from Kansas, NANCY KASSEBAUM and the support of about six or eight other Members of this body.

This amendment is needed if we want to do something about terrorism. We can talk a lot about terrorism. Or we can think we are doing something. But this is an amendment that would actually have some impact upon terrorists who go on planes or could go on planes with plastic guns, go through the detector at the airport and take over the plane. I would do it, not sometime in the future, it would do it now. Not when an airline has been hijacked, or a Presidential candidate assassinated, or an effort made to assassinate a Presidential candidate. It would ban plastic guns before they became widely available.

I would prefer not to add this amendment to this bill but I am frank to say that I offered it as an amendment to the airline safety bill and it was supported by the minority manager of the bill, Senator KASSEBAUM, and by the ranking minority member of the Judiciary Committee, Senator THURMOND, but it was met—may I have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senate will come to order.

The Senator from Ohio.

Mr. METZENBAUM. I thank the chair.

It was met with the threat of an all-out filibuster. We scheduled a subcommittee markup so that we could follow the normal procedures but a procedural objection was made and we were not able to go to the markup. We are advised that whenever it is brought up, it will be filibustered.

Frankly, Members of the Senate, enough is enough. I think it is time for all of us to speak up for our ordinary citizens and let us talk about what this amendment does and what it does not do.

The amendment is important to protect millions of American airline passengers from the threat posed by the potential technology gap that will result if nonmetallic firearms become available before detection equipment is in place.

The FAAF, BAT, and Secret Service all testified in July that legislation was needed now to avoid potential threat to safety of airline passengers, Government officials and others.

The security equipment capable of detecting nonmetallic firearms carried on the body does not exist now and, according to the FAA, they say it could take as long as 10 years before such equipment would be available. So what you would have now is, if there is a plastic gun that comes to market—and there are two plastic guns now that are available, very small ones—they cannot be detected.

What we are trying to say is that you ban the sale or transportation or importation of that kind of gun. Plastic firearms may be available soon; in fact, according to the Office of Technology, they said in May 1986 the plastic firearms could be available in 2 years. My calendar reading means that that indicates they could be available by May of 1988.

Twelve major police organizations: The Federal Law Enforcement Officers Association, the Fraternal Order of Police, the National Sheriffs' Association, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, Major City Chiefs, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, the Police Management Association, and the Ohio Highway Patrol, all say legislation is needed.

So do the Air Transport Association, Airline Pilots Association, the Airport Operators Council International, the American Association of Airport Executives, the Association of Airline Flight Attendants, the U.S. Conference of Mayors and the National Association of Counties.

Frankly, this legislation is not anti-gun. There is nothing in this bill that would deny any person the right to own a gun, transport a gun, buy a gun. All it provides is that the plastic gun may not be transported, may not be sold, may not be imported. We are talking about plastic guns. We are not talking about all guns. We are just talking about plastic guns.

It is antiterrorist. The amendment does the following: It bars manufacture, import, sale, possession, transfer, receipt, shipment or delivery of any firearm that first, is not as detectable as the minimum security standard exemplar; and second, is not identifiable as a firearm or readily detectable by x ray used at airports.

Minimum standard security exemplar is defined as a "firearm substitute used for testing, resembling a North American arms .22 caliber rim fire weapon, which is 4½ inches in length, 2 inches in height, material type 17-4 PH stainless steel or 1040 mild steel weighing 8½ ounces.

I confess I do not know what that means, but that is the definition provided by those far more knowledgeable than I who are part of our governmental services.

It is important to point out that this exemplar was developed by the Bureau of Alcohol, Tobacco and Firearms in conjunction with the Federal Aviation Administration. They are the experts—this is the standard they need.

The amendment specifically grandfathers the possession of any gun manufactured prior to amendment.

We put that in because two guns are now in existence that are undetectable. We do not want to take away those guns from people who own them.

This amendment would not turn law-abiding citizens into criminals merely because today they may own a gun affected by this legislation.

The amendment contains a provision requiring the FAA to report to Congress when security equipment is in place to detect non-metallic guns.

This I want to point out. Once such security equipment is in place, plastic guns can be legalized so that there would be no denial of the right to own them. In other words, when the technology is there to detect the pastic guns, the bill provides a procedure for permitting those guns to be bought, sold, and transported.

Plastic guns can be legalized once security equipment is in place that can detect nonmetallic firearms. The bill is aimed at closing a technology gap, not at foreclosing firearm technology.

The only groups opposing legislation are the pro-gun lobby which has offered no credible criticism. No sporting weapon now available in the United States will be affected by this legislation.

I want the sportsmen of this country and the sportswomen of this country to be aware that there is nothing in this amendment that has anything at all to do with their right to own a gun or to use a gun.

No one will be denied right to own a gun for self-defense. Legislation will impact only on those guns that are not detected by screening devices like those used at airports, at the White House, in congressional office buildings and in court houses across America.

Consider testimony given this July by Stephen E. Garmon, Deputy Director of U.S. Secret Service:

> The U.S. Secret Service supports this very important proposed legislation and, indeed, any efforts to deal with the serious issue of nonmetallic handguns and the potential threat they pose.

In addition, Mr. Garmon testified that if this legislation were not passed, and nonmetallic firearms were available, sensitive areas like the White House might have to be closed to the public.

Finally, consider the widespread public support. Over 80 editorials from newspapers large and small from all across country call upon us to act now to protect the public from this serious threat.

Within recent days, the Cleveland Plain Dealer, in my own home community, and the Washington Post have carried editorials supporting this legislation. I ask unanimous consent that the editorial from the Washington Post of December 1, 1987, be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 1, 1987]

STOCKING STUFFERS FOR TERRORISTS

If there were a Christmas mail-order catalogue for globe-hopping terrorists, next year's hot item would surely be a snappy new plastic and—here's the best part—undetectable hand-gun, perfect for breezing right through those annoying security devices at airports and other places where unknowing victims gather. But if enough members of a Senate subcommittee vote today to side with the Secret Service, law enforcement organizations and every major association connected with air travel, legislation to ban this nasty little firearm could be on its way through Congress. While they're at it, these same senators can—and should—vote for another life-saving proposal strongly supported by law enforcement groups: a reasonable waiting period on handgun sales.

As always, there is a thick gunpowder smoke screen being fired up by the National Rifle Association, strong political arm of the world's suppliers of deadly weapons. The NRA line on plastic handguns is that they don't really exist yet and that this is much ado about nothing. But at least one gun manufacturer has testified that the production of plastic handguns is just a year away, while security devices capable of detecting these weapons are two to 10 years in the future. S. 465—whose bipartisan supporters include Sens. Strom Thurmond, Howard Metzenbaum, Edward Kennedy, Nancy Kassebaum, John Chafee, Chris Dodd, and Paul Simon—would ban these weapons.

At a hearing on the Hill in July, Stephen Garmon, deputy director of the Secret Service, endorsed this measure, noting that protection of presidential candidates would become extremely difficult if the production of plastic guns were allowed. An official of the Air Transport Association has noted that over the past 14 years, nearly 8 billion people have been screened at U.S. airports, with more than 36,000 firearms detected, resulting in roughly 16,000 related arrests and the prevention of an estimated 117 hijackings.

The pivotal vote in the six-member subcommittee today is said to be that of Sen. Arlen Specter of Pennsylvania. The decision for all members should be to support the men and women in law enforcement who are on the front lines to protect themselves and the public from the all-too-free trafficking in concealable deadly weapons. A vote for S. 465 is a vote for public safety.

Mr. METZENBAUM. Mr. President, I hope the Senate will see fit to adopt this amendment. I yield the floor.

The PRESIDING OFFICER. Under the order previously entered, who seeks recognition?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I am going to be very brief. It is my present intention at the end of my remarks to move to table the amendment. I say that so that Senators who might desire to speak can indeed let me know. I do not wish to cut anyone off, but I think in view of the time and in view of the process they might expedite this matter and we can get to a vote quickly on a Friday afternoon.

Mr. President, first, I will talk about process. I will not spend a great deal of time talking about the substance of the amendment, though I will take 2 or 3 minutes for that purpose, or perhaps a little bit more.

First, I thank the Senator from Ohio for being faithful to his word, as he usually is. He was indeed brief in his opening remarks. I think that serves the Senate well.

I want to address a question to the distinguished Senator from Utah who is on the floor and who has been participating in these matters since noon.

I want to ask the Senator the question so that we might get for the RECORD whether or not this bill is pending before the Judiciary Committee, of which he is a member, and whether or not it has been reported by the Judiciary Committee.

Could the Senator from Utah enlighten us?

Mr. HATCH. Mr. President, the bill is pending before a subcommittee of the Judiciary Committee and has not been reported to the full committee yet nor out of the full committee. We were going to have a markup in the subcommittee this past week but for some reason that did not result. So it is a matter of great concern that this matter is brought as an amendment to this very important veterans' bill without having been fully studied by the Judiciary Committee.

However, I will say the distinguished Senator from Ohio had made it clear that if it did not come out this week he was going to go forward with this amendment on one vehicle or another, as I understood.

Mr. METZENBAUM. Will the Senator yield for a moment?

Mr. McCLURE. I am happy to yield without losing my right to the floor.

Mr. METZENBAUM. Is it not a fact, may I ask either Senator McCLURE or Senator HATCH, that the subcommittee that was to consider this bill was precluded from doing so by reason of an amendment filed reportedly by one who opposed this legislation?

Mr. HATCH. If I could answer that——

Mr. McCLURE. I can answer that question very directly.

Mr. HATCH. I do not know the answer to that, whether somebody objected or not. All I know is that was the first time it was called up. It has been before the subcommittee for a year. Of course, I am in the minority, so I do not particularly bring those matters up.

Mr. McCLURE. I can answer the question directly. I did lodge an objection to the committee sitting. That is a tactic I learned from the Senator from Ohio repeatedly when I was a member on the same committee with him and could not get matters moved on the committee because of the Senator from Ohio.

Mr. HATCH. There was an objection to the subcommittee meeting in the Judiciary Committee, but even had the subcommittee met, I am not sure that the bill or the amendment would have come out of the subcommittee let alone the full committee, without full debate, without full elucidation, and without everybody understanding what is involved here.

Now we find ourselves on the floor on a matter of great importance that is, I think, largely misunderstood, and on a bill that really it does not deserve to be on, at a time which is critical in the Senate's history in this particular year and under circumstances that I think are somewhat disastrous.

Nevertheless, I think that needs to be pointed out, and I am glad the distinguished Senator from Idaho gave me the opportunity.

Mr. President, I must rise today in opposition to this amendment dealing with undetectable firearms. Aside from the fact that the actual result of this legislation will be to ban several existing and totally detectable handguns, now is not the appropriate time for the consideration of this measure.

This amendment is patterned after S. 465, a bill to prohibit the manufacture, importation, sale or possession of firearms not detectable by metal detection and x-ray systems commonly used at airports in the United States. That legislation is currently before the Subcommittee on the Constitution, where we have held hearings, but have yet to vote on the issue. While we were previously unable to obtain unanimous consent for an afternoon markup of this legislation, to the best of my knowledge, all members of the subcommittee were, and still are, prepared to move forward with the consideration of the bill at that level. It therefore seems inappropriate for us to be dealing with the issue at this time on the Senate floor without the benefit of committee consideration and recommendation.

If, however, we must debate and decide the issue without the benefit of committee reports, then let us carefully examine what the bill will and will not do.

The stated purpose of this legislation is to ban firearms which are not detectable by metal detection and x-ray systems commonly used at airports. While undetectable weapons would surely pose a serious threat in security in a variety of settings, it must be noted that there are presently no firearms which fall within this category. There are no firearms constructed completely out of plastic or other nondetectable materials.

This fact was emphasized in testimony before the subcommittee earlier this year. In his statement, Daniel M. Hartnett, the Deputy Associate Director of Law Enforcement at the Bureau of Alcohol, Tobacco and Firearms stated: "As of today, we have seen no evidence that any firearm currently being produced is intrinsically capable of passing undetected through conventional xray and metal detector systems." He was joined by Mr. Raymond A. Salazar, the Director of Civil Aviation Security for the Federal Aviation Administration who also noted that "[i]t is important to recognize * * * that we are aware of no current 'nonmetal' firearm which is not reasonably detectable by present technology and methods in use at our airports today."

Given the legislation's stated purpose and the fact that no such undetectable firearm currently exists, this bill seems fairly straightforward. But such is not the case. While the purpose of the bill is to ban "undetectable" firearms, the provisions then turn around and set up standards that in fact ban firearms that are detectable.

The bill specifies that it is unlawful for any person to manufacture, import, sell, possess, transfer, receive, ship, or deliver any firearm that is not as detectable as the Minimum Security Standard Exemplar, a North American Arms .22 caliber rim fire weapon which contains 8½ ounces of material type 17-4 PH stainless steel or 1040 mild steel. By adopting the requirement of 8½ ounces of steel, the bill bans not only hypothetical undetectable firearms but also several models of detectable handguns. It is the 8½ ounce requirement that has drawn serious criticism to this bill.

The appropriateness of this requirement was strongly questioned in testimony before the subcommittee by Stephen P. Halbrook, an attorney from Virginia who is highly respected on issues involving firearms. In his written testimony he states:

> S. 465 does not specify which model of the North American Arms .22 caliber rim fire weapons it intends to use as the Minimum Security Standard Exemplar. Several models of mini-revolvers are currently manufactured by North American Arms and Freedom Arms chambered for .22 short, long, long rifle, and magnum cartridges.
>
> Requiring 8½ ounces of steel is arbitrary and unnecessary, in that both companies manufacture mini-revolvers that weigh as little as 4 ounces, and the FAA states that airport metal detectors are set to detect less than 4 ounces of metal. Indeed, even with the cylinder, pin, and grips removed, leaving only the barrel and frame, the mini-revolver weighs 3 ounces and is still fully detectable by magnetometer.

In reality, the amendment we are dealing with is a small handgun ban. There are no handguns that cannot be detected by current security measures and the minimum 8½ ounces of steel is simply a method of legislating against lawful, private ownership of pistols and revolvers under the politically appealing guise of banning "undetectable" firearms.

It was also readily apparent from our hearing on the issue that the security risks that we are currently experiencing do not come from undetectable firearms but are the result of serious problems in airport security. The FAA and GAO reported this past summer that there is a widespread failure of detection of firearms and explosives at airports not because these items are undetectable, but because of problems in security efforts. Security equipment is incorrectly operated and security personnel are poorly trained, understaffed, and underpaid. In such a situation, any firearm can be undetected.

Clearly, if our concern is with weapons that may avoid security detection measures, our resources should be directed to improving security efforts. The technology is present to detect any firearm that can now be produced. Furthermore, the technology exists to detect explosives, plastic explosives, and the powder used in ammunition. This technology is being tested as a possibility for use in detecting so called "plastic" guns.

If these guns are the true concern of this amendment, then our efforts should be concentrated in finding ways to detect them. Our efforts should be directed toward taking meaningful steps in preparing for the future. For surely, when the technology to build such weapons does exist, it will be utilized. Even if we prohibit the manufacture, sale, possession, and use of such weapons in this country, they will be built somewhere in the world, and those who would use them for improper purposes will obtain and use them. If we have not developed detection capability by then, this legislation will not have accomplished anything, other than to ban some already detectable handguns.

If that is the true purpose of this legislation, then let's be open and up front with the American public and say so. If all this legislation does is ban already detectable handguns, and that is how it appears to me, then let's not hide behind the guise of prohibiting some futuristic weapon that does not yet exist.

Let the private owners of the handguns that this legislation will ban understand that the burden will now fall in their laps to prove when their guns were made and when they came into their possession and use. Let them understand that even though these handguns are fully detectable and their intentions in owning these weapons may be totally lawful, we will now curtail their second amendment rights simply because already adequate security measures are improperly applied. And if such is the case, let owners of other weapons be forewarned that further lax security practices could lead to the ban of their firearms as they become "undetectable."

Mr. President, at this time I would like to insert in the RECORD a copy of the statement of the National Rifle Association from our hearing on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JAMES JAY BAKER, DIRECTOR, GOVERNMENTAL AFFAIRS DIVISION, NATIONAL RIFLE ASSOCIATION, INSTITUTE FOR LEGISLATIVE ACTION

Mr. Chairman, The National Rifle Association of America appreciates the opportunity to testify in opposition to S. 465.

One year ago, NRA testified against so-called "plastic" gun legislation. Those bills were generated in large part by inaccurate press reports of a new, supposedly undetectable pistol, the Glock 17. Before commenting on the specific problem with S. 465, I would like to update your information on this particular firearm.

The Glock 17 contains over 19 ounces of steel and is fully detectable with current airport security systems. Further, even the mostly plastic lower receiver of the Glock 17 is detectable by a magnetometer that has been set to FAA specifications.

The National Rifle Association is unalterably opposed to S. 465, the Metzenbaum bill, or any similar bill that would outlaw any firearm on the grounds that it may cause terrorist crime.

Specifically, the National Rifle Association is opposed to S. 465 as it deals strictly with non-detectable firearms of which there are still currently no available examples. While there are real, difficult-to-detect threats such as some plastic explosives, non-detectable firearms are not on the list of those realistic threats.

The Metzenbaum bill, although it has been advertised as a "Terrorist Special" bill, is deceptive. It would outlaw many other handguns which are neither plastic nor "undetectable". The Metzenbaum bill is designed, and intended, to put a cap on small arms technology despite the fact that demand for "plastic," high tech firearms comes from law enforcement and the military, in addition to law-abiding citizens.

The bill's sponsors have complained that partial or fully-plastic firearms—which are in fact non-existent today—might evade airport security. But most astonishingly, rather than improve airport/airline security, their approach would make firearms contraband rather than punish terrorist violence or lax security personnel and procedures.

S. 465 gives the Secretary of the Treasury the discretion to determine which firearms will be produced based on a "standard" of detectability. Criminal statutes must clearly and concisely dictate the conduct that is proscribed in order to pass constitutional muster. The "standards" in this bill are vague and completely arbitrary. S. 465 is constitutionally void for vagueness.

Given the reported laxity of airport security personnel and the lack of adequate—and in some cases any—training in the use of existing detection equipment, the "standards" embodied in S. 465 could be used to outlaw every firearm currently in production. In other words, if the security personnel don't use the security equipment as they should—and there are many indications they don't—every firearm is potentially not "readily detectable."

Some months ago, we pointed out the difficulty of defining the so-called "plastic" gun. It is becoming increasingly clear that there can be no legislative definition. "Plastic" gun or "Terrorist Special" have become very elastic epithets, much like the "Saturday Night Special," used by politicans who are antagonistic to the private ownership of firearms to describe a firearm they don't like, meaning all handguns, or at least every handgun they think they have a chance to outlaw.

Every new bill on this subject has progressively broadened the purported definition of a "Terrorist Special." The alleged connection between the so-called "plastic" gun and terrorists has become a Trojan Horse to attack the ownership of all guns owned by honest, law-abiding Americans—citizens who are not responsible for terrorist threats and who have done no wrong. There have been a series of attempts to define "plastic" guns with criteria that makes no sense to anyone, and, in fact, are wholly illogical unless the goal is a total handgun ban. It makes no sense that possession of a finely made handgun constructed of partial plastic or less than 8.5 ounces of steel and is fully detectable, costing many hundreds of dollars, should be made illegal. It makes no sense that a handgun made of partial or all "plastic" that is detectable by security equipment should be made contraband.

These purely arbitrary distinctions make no sense to me, and I dare say, they make no sense to the many millions of law-abiding citizens who own handguns which could be declared contraband by one or another of the various "plastic" gun bills.

The emotional arguments that are being made against "plastic" guns apply not only to all handguns, they can be directed just as easily against all firearms of any kind. If any article possessed by the public should be banned just because a terrorist may also possess it, that misguided argument will very shortly be made against rifles and shotguns too.

My point is that this issue is much broader—and reaches more people—than it suggested by focusing on "plastic" guns or on handguns. It potentially affects every American who owns a firearm.

Law-abiding people, and particularly firearms owners, are tired of being blamed for crime, and they are appalled at now being blamed for terrorism. They are sick of being harassed with federal bureaucracy and having their freedom progressively and incessantly chipped away because of the inability or unwillingness of government officials to deal with those responsible for crime, namely violent criminals and terrorists.

For reasons nobody has explained to the American people, supporters of this legislation seem unable to grasp the fact that there are mindless, cold-blooded and evil people who threaten to commit terrorist acts, who will not be deterred by legislation that seeks to ban an object rather than attack perpetrators of violent terrorism. It is incomprehensible that legislation would be considered that does not make even a pretense of improving airport security or training of screening personnel at our nation's airports, but instead focuses on banning an object as a panacea in thwarting potential terrorist violence.

As you know, it was recently documented by the Federal Aviation Administration (FAA) that airport security personnel and equipment fail to detect, on average, 20% of existing threats presented in tests. Furthermore, it is naive to believe that international terrorists are going to be affected by banning small arms technology in this country.

Experts from both FAA and the Bureau of Alcohol, Tobacco, and Firearms (BATF) recognize that the approach embodied in S. 465 is the wrong one. In the last Congress, the Director of Civil Aviation Security for FAA testified that:

". . . despite a relatively common impression to the contrary, there is no current nonmetal firearm which is not readily detectable by present technology and methods in use at our airports today, nor to my knowledge is anyone on the threshold of developing such a firearm."

This year, BATF Associate Director of Law Enforcement Phillip C. McGuire testified that:

". . . there is still no evidence that a firearm intrinsically capable of passing undetected through conventioinal x-ray and metal detectors systems exists, or is feasible under current law or technology."

S. 465 shows more clearly why Handgun Control, Inc., and the National Coalition to Ban Handguns are actively lobbying in support of this new agenda. Though introduced as a "plastic gun/anti-terrorist" measure, this bill would also ban the future manufacture, sale, and transfer of thousands of steel handguns that are currently produced and legally owned.

S. 465 mandates that all firearms be "as detectable as the Minimum Security Standard Exemplar"—essentially a facsimile firearm made of 8½ ounces of steel. Thus, S. 465 would give the Secretary of the Treasury absolute discretion to ban any firearm that is composed of less than 8½ ounces of steel and is not subjectively "readily detectable" by anyone who might be assigned to operate airport x-ray machines. This gun ban legislation calls for it to be "unlawful for any person to manufacture, import, sell, possess, transfer, receive, ship or deliver any" such firearms.

This proposal is nothing more than the old "Saturday Night Special" legislation masquerading as anti-terrorism. In fact, there are only two differences between this legislative proposal and more traditional anti-"Saturday Night Special" legislation: First, the name of the alleged misusers of the guns to be banned has been changed from criminals to terrorists; second, there is greater hypocrisy, since advocates of "Saturday Night Special" bills actually believed, wrongly, that criminals disproportionately misused smaller handguns whereas this proposal was actually spurred by guns developed for military and law enforcement personnel.

S. 465 is additionally offensive because of what we have learned—at the cost of hundreds of thousands of tax dollars—about criminal misuse of firearms during the past decade of criminological research. For example, we know that the more serious the crime and more predatory the criminal, the larger and less concealable the firearm used. Robbers use bigger guns than petty thieves; career criminals prefer larger guns. Though we fortunately have limited direct experience with terrorist incidents in this country, we know that European terrorists prefer more intimidating weaponry to carry out their nefarious deeds.

Further, the bill would ban thousands of miniature firearms—owned only by collectors and unusable in crime—that are functional and are composed of less than 8½ ounces of steel, as well as tens of thousands of conventional firearms that currently exist. Current magnetometers can be activated by objects as small as a nail file, thus any "standard" dictating 8½ ounces of steel bears no relationship to what is "readily detectable" at airports today.

To ban guns containing less than a certain amount of metal dangerously invites security devices to be set to that amount of metal. To "grandfather" certain guns which have less metal than the security devices will be set at invites the carrying of such arms through airports, as well as providing no response to other lower-metal content items such as knives, plastic bombs, other explosives and weaponry.

The attempt to "grandfather" in firearms that may not meet the standards but are currently possessed by law-abiding citizens if, in the words of the bill, "such firearm was manufactured prior to the date of enactment of this Act," would throw the legal status of tens of thousands of handguns into doubt unless their exact date of manufacture could be proved. The Treasury Department itself finds it difficult to "prove" a gun's date of manufacture; citizens would find such a task impossible. Further, the "grandfather" provision applies to the immediate possessor only, and indeed the possessor would have to prove ownership of the firearm before the date of enactment.

There is a very real security problem at airports in this country, but it has nothing to do with firearms, be they "plastic" or steel. The FAA has concluded that ". . . the first line of defense" must be "improved methods of screening as well as improving technology." More effective efforts include better training and screening of airport personnel and better equipment.

S. 465 shifts the focus away from the real problems and real solutions at airports. It is increasingly clear that terrorists don't need a "plastic" gun to breach airport security—all that a potential terrorist needs to do is apply for a job with airport security or any of the many airline jobs that provide access to restricted areas. While FAA regulations exist as to employee qualifications, security personnel training, and security equipment, it is well known that these minimal safeguards are not being compiled with on a national level.

Legislation that seeks to ban handguns is nothing new. It is new, however, to attempt to do so in the name of airport security. This legislation simply gives a new label, "airport security," to the reason for banning small handguns. As Prof. Gary Kleck has concluded, "gun control measures aimed at reducing general availability of SNSs (Saturday Night Specials) . . . are aimed at, and would have their greatest impact on, handgun ownership for defensive purposes among the law-abiding poor." Simply put, SNS legislation and "anti-terrorist" legislation that would ban several handguns is discriminatory. Instead of focusing on documented threats that currently exist, S. 465 is just one more attempt to penalize legitimate gun owners while having no effect on crime, terrorism, or airport security.

Any law passed in this country dictating restrictions on manufacturing methods or materials will not impact on terrorists who will obtain their tools of terror illegally or outside the United States. Terrorists will not feel compelled to comply with either manufacturing restrictions or import restrictions and, therefore, the purpose of the legislation under consideration today will not be achieved. The NRA believes that the only workable approach to the interdiction of existing threats such as plastic explosives and hypothetical threats such as an all-plastic firearm are better security measures at our nation's airports.

In this regard, there are new and better x-ray machines already available that are no on-line at our nation's airports. There are effective explosive detection devices that are not on-line. Additionally, our nation's airport security functions are contracted out to the lowest bidder rather than the most qualified, and FAA security guidelines are often ignored during peak passenger times. Given these facts, we believe that the clear and compelling priority is for better security personnel with state-of-the-art detection equipment that is available now and on-line in many foreign airports. Attempting to deal with a contingent hypothetical threat is not responsive to the issue of existing terrorist threats.

S. 465 would give the Secretary of the Treasury the authority to decide which firearms can and can't be manufactured and/or possessed in this country based on the vague criteria of "readily detectable." These criteria would allow an anti-gun Treasury Department to ban many firearms currently in use. That is why the American gun-owning community considers this so called "plastic gun/anti-terrorist legislation," S. 465, as pure and simple anti-gun legislation.

We believe the issue would be more properly framed if it focused upon the entire airport security system: personnel, equipment, and procedures. We oppose legislation aimed at hypothetical threats and containing vague definitional "standards" that, given the current state of airport security, could be used to outlaw the manufacture of all firearms, be they steel or plastic.

Mr. Chairman, the National Rifle Association opposes S. 465.

Mr. McCLURE. Mr. President, I am continually astonished at the simplistic approach some of my colleagues take to the serious problems of crime and terrorism. We have heard about guns that are somehow more dangerous because they are too little, or do not cost enough. Reliable studies have shown these assertions to be fallacious, but those who oppose firearms rights are good at making up even more unsubstantiated tales to frighten themselves and the unwary. Now we are faced with the threat of a supposedly undetectable gun, a plastic gun, that foils security measures, and is thus an ideal terrorist's tool.

There is presently no such thing as an all plastic gun. Panic was first aroused by a firearm called the Glock 17, which is in fact 83 percent steel. It would be hard to imagine that over a pound of steel could pass undetected through a metal detector. In addition, the Glock looks exactly like what it is on an x-ray screen. In either case, only incompetent surveillance on the part of security personnel could overlook the Glock. Even so, those who jump at any chance to ban firearms presented questionable evidence that the Glock could pass undetected through metal detectors. What they failed to mention was that the detection procedures were so sloppy that ordinary firearms failed this test as well. Now, Senator METZENBAUM has offered legislation that would ban firearms containing less than 8½ ounces of steel. Current magnetometers can be activated by objects as small as a nail file. The standard in this bill bears no relationship to what is readily detectable at airports.

Raymond Salazar, Director of Civil Aviation Security, Federal Aviation Administration, recently testified before the House Committee on Judiciary, Subcommittee on Crime;

> * * * It is important to recognize, however, that as FAA representatives testified last year, we are aware of no current non-metal firearm which is not reasonably detectable by present technology and methods in use at our airports today. * * * Even if laws were on the books prohibiting "non-detectable" firearms in the United States, the possibility would still remain that a terrorist or criminal could obtain access to such technology once it exists elsewhere in the world. Consequently, improved methods of screening as well as improved technology must continue to be the first line of defense to combatting the threat of hijackings or terrorist activity in our air transportation system as a result of future technological advancements in weaponry.

I am pleased to see that the FAA is actively pursuing more sophisticated methods of detecting all terrorist weapons, some of which, like plastic explosives, are a present reality, not some imaginary Buck Rogers item. If we think we are protecting ourselves by banning a gun simply because it has plastic components, we are lulling ourselves into a sense of false security.

Senator METZENBAUM's bill is a thinly disguised Saturday night special bill, aimed not at real terrorist threats, but at some imaginary hobgoblin, created by those who think the second amendment is a throwaway, and that crime is controlled by taking guns away from honest citizens. Such legislation is like snake oil. It doesn't work, so the patient doubles the dose. This is the real danger to America's law abiding firearms owner.

Mr. President, I fear that this bill would have a chilling effect on technology important to our defense. We have already seen the development of high grade polymers for use in stocks and grips. The only U.S. company with patents on polymer technology is presently working with the military. Currently under development is a 40 millimeter machinegun grenade launcher. Other possible applications include improvements in the A-10 air support for the Stealth bomber, and development of lighter, cheaper, higher caliber weapons for the marines. This same company, by the way, is aware of the concern about nondetectability, and maintains that it is possible to make an all-metallic firearm even more detectable than present firearms.

The Bureau of Alcohol, Tobacco and Firearms has testified that there are presently no firearms that can evade proper airport security. However, they fear that future technology will devise a firearm containing no steel to trigger airport metal detectors. I do not believe that such a concern justifies the enactment of the plastic gun bill for a number of practical reasons. In all my investigations of this matter, I have found no reason to believe that such firearms could be developed for sale in the foreseeable future. Although various companies have claimed that they are on the way to producing a nonmetallic firearm for sale to the general public, these claims are conjectural. It is my observation that research on airport security is ahead of nonmetallic firearm technology.

The very real danger in passing legislation banning a phantom firearm is that we will be lulled into a false sense of security. For all the good this bill will do, we might as well be outlawing invisible guns, or any other science fiction possibility. The purported aim of Senator METZENBAUM's bill is to protect general aviation from terrorist threats. Although he contradicted this goal in his hearing this July by stating that he didn't care about airport security, and that all he wanted to do was ban plastic guns, we must assume that this public statement was made in the heat of debate.

Does the Senator believe that this law will affect the R&D efforts in the Soviet Union? Does he think that Abu Nidal is curbed by U.S. law? There is nothing we can do to prevent determined terrorists, or foreign governments from devising assassination weapons. As stated by the BATF in recent testimony,

> * * * This standard [the standard in S. 465] would not affect foreign-made firearms not intended for import, or those individuals who would operate outside of the law. The answer seems again to lie in improved security and technology operations.

What we must do, and every agency involved in this issue agrees on this point, is to continue an intensive pursuit of airport security technology and training.

In the words of the BATF in their testimony before the Senate Judiciary Subcommittee on the Constitution on July 28, 1987:

A security approach which focuses on firearms construction alone is not the most effective way to tackle the problem. Security operations and technology must be continually examined to find ways to keep pace with rapidly developing firearms technology.

Investigation of the progress being made in this area is most encouraging. The FAA is to be commended for its determined quest for practical improvements in airport security systems. I'd like to outline for my colleagues the progress made in this area.

Checked baggage can now be searched by a device that bombards each piece of luggage with a stream of slowed neutrons that detect the presence of nitrogen, a component of all known explosives. The neutrons interact with nitrogen, which produces gamma rays that are analysed by a computer to measure energy and distribution of the rays.

The presence of nitrogen is also pivotal in sniffer technology used to scan boarding passengers and carry on items. The vapor detection system can identify the specific chemicals producing the vapors. This mechanical dog can pick up vapors that are extremely faint—less than one part per million parts of air. This technology will be ready for testing in real life circumstances by summer next year.

Another promising technology is infrared imaging. This method, like the vapor detection method, comes to grips with the most difficult aspect of airport security; detection of explosives or other weapons on the actual person of the passenger. Infrared imaging picks up on irregularities in temperature that signal some anomaly in body pattern, and can trigger a more extensive search. Further down the line are increasingly sophisticated infrared systems that can more readily pass through clothing.

Existing methods are also being improved. A key ingredient in airport security is well trained and alert security personnel. Personnel are being trained in pattern recognition of objects viewed through an x-ray machine—guns, knives—any possible weapons. X-ray surveillance is being improved by the use of dual energy machines that view luggage contents from two different angles.

Security personnel are being educated to recognize suspicious behavior and other visual signals that indicate a passenger may be dangerous.

Mr. President, I think we should take a positive approach to this problem. Let's devote our efforts to methods that will work, and not waste our time on nonexistent threats.

We must continue our efforts to protect the American public from terrorists, but we must go about this in a sensible, workable way. I am confident that U.S. technology and determination can meet the challenge without arbitrarily and uselessly banning any firearm.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Why Not Ban Plastic Guns?" which was published in Handloader magazine.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Handloader magazine, January-February 1988]

WHY NOT BAN PLASTIC GUNS?

(By Neal Knox)

Suppose, a little over a century ago, on the eve of the last major breakthrough in firearms technology, Congress had proposed a ban upon privately owned cartridge arms—which today account for 99 percent of the nation's guns.

A lot of arguments could have been made that they should be banned, and that—like today's "plastic guns" issue—such a ban would have minimal effect upon the law-abiding gun-owning public. It would have been true at the time.

Cartridge repeaters were rare, were expensive, had weak actions, were sometimes unsafe, were always low-powered, and were condemned by the military as being ammunition-wasters. And compared to the muzzle loading rifles then in use, multi-shot rifles were certainly "unsporting" for hunting.

It's a historical fact that some politicians and newspaper editorial writers "sounded the alarm" that the proliferation of repeating cartridge arms would almost certainly result in their getting into the hands of Indians—whose hit and run guerrilla tactics against invading white men would be immensely enhanced by repeating firearms.

Since there were only a few low-powered but expensive Volcanic, Henry and Winchester Model 1866 rifles, and even fewer of those puny Smith & Wesson .22 pocket guns so favored by gamblers, prostitutes and other unsavory characters, a proposal to ban cartridge guns could have drawn quite a few votes—if it weren't for the Second Amendment, which still was considered to guarantee an individual freedom.

Today, editorial writers and some Congressmen are "sounding the alarm" that if an all-plastic gun is developed it could escape detection by airport security. (If pressed, they will admit that no such commercial gun presently exists.)

Since there are no all-plastic guns, why are firearms owners so concerned? First, the "plastic gun" bans violate the Constitution—not only the right to keep and bear arms, but the provisions against unreasonable searches and seizures.

On a more pragmatic basis, a "plastic guns" ban would prohibit, or at least inhibit, the guns of the future. The next generation of firearms is going to use lighter weight, non-corrosive, stronger-than-steel plastics, polymers, graphites, carbon fibers, composites, and ceramics in an unprecedented advance in firearms design—provided the United States Congress doesn't prevent it.

What isn't widely understood is that plastics are commonly used in many of today's guns, and have been for almost 50 years. The pre-World War II German Schmeisser had a plastic stock, as does the current U.S. Army M-16 rifle.

Almost four decades ago Savage produced an inexpensive double barrel shotgun with plastic stock. It looked—and kicked—awful. But in the early 1960's Remington introduced a .22 Rimfire rifle with one-piece plastic stock and receiver; due to the self-lubricating Nylon receiver, it was—and may still be—the most-reliable .22 autoloader ever made.

And 16 years ago Publisher Dave Wolfe and I helped revolutionalize bench rest shooting by using the first fiberglass-stocked gun on the bench circuit—the stock that is now almost universal in that demanding area of accuracy competition. Because of its greater stability and lighter weight (allowing heavier barrels and more powerful scopes), it cut group sizes in half, and is now common in other accuracy competitions and lightweight hunting rifles.

During the 1987 season I sampled Western New York pheasant hunting with a 25-year old Winchester Model 59 with fiberglass barrel. The gun was truly ahead of its time, for it's better liked now than when it was first introduced.

What started the "plastic gun" flap was sensationalist columnist Jack Anderson's discovery of the plastic-framed Austrian-made Glock 9mm pistol. According to Anderson, 300 of the guns had been purchased by Libya's nutcake dictator Omar Khadaffy—"to arm terrorists with a gun that couldn't be detected by airport security checks."

If Khadaffy thought he was buying a gun that couldn't be detected, he was mistaken. Maybe he just wanted a good sidearm for his police or military. The gun—which is an evolutionary rather than a revolutionary design—has been adopted by the Austrian army and several U.S. police departments.

Contrary to wide-spread reports, the Glock is readily detected by existing security equipment—as the Federal Aviation Administration has repeatedly testified in both the House and Senate. However, FAA security checks show that about 20 percent of conventional guns are not being detected by the minimum wage operators, using relatively obsolete equipment, at airport checkpoints.

How a common, conventional gun can escape detection was demonstrated during Senate hearings before Mr. Metzenbaum last summer. A security expert carried a S&W .38 pistol in his sock through a magnetometer set to FAA standards. It never peeped. But that trick cannot be done with an assembled Glock pistol.

Not surprisingly, that demonstration wasn't mentioned by the Washington Post, which editorially demanded passage of the Metzenbaum bill, S. 465, a few days later.

What would be funny, if this issue weren't so serious, is that the Glock pistol, the supposed target of that legislation, wouldn't be affected by the Metzenbaum bill, or any of the other so-called "plastic gun" bills, for it contains more than a pound of steel (well over S. 465's 8.5 ounce minimum) and is readily detectable with existing magnetometers and X-ray machines.

Neither would any U.S. law prohibit manufacture of the ten-year old, three-shot Troika pistol—which is made entirely of plastic, and uses ceramic bullets. It is made in Russia for the KGB—for the express purpose of evading existing security systems.

That's why the solution to the "plastic gun" problem is to develop and deploy security systems that will reliably detect both foreign-made all-plastic guns and plastic explosives, whether carried on the person or in luggage.

The technology for such a system is well along—and it can be deployed before a com-

> mercial all-plastic gun is likely to be developed or marketed.
>
> However, any law banning U.S. manufacture and importation of "plastic guns" is likely to give such a false sense of security that the improved technology will never be developed.

Mr. McCLURE. Mr. President, that is the immediate danger of this bill—that it will lull this body into doing nothing about improving security at airports and in this building, not just against U.S.-made plastic guns which may exist in the future, but against the KGB's plastic gun and plastic explosives—which exist right now.

Mr. President, I want to point out that this matter has been before the Judiciary Committee. There has not been the opportunity for a markup in the subcommittee. There are substantial questions about its format, its provisions, and perhaps possible amendments.

I am not going to go into those questions at any length here today, except that that is where it should be considered. It should not be at the last minute in the session, virtually, on a bill that has to pass and go to the President for signature dealing with veterans' benefits and veterans' programs. That is an important piece of legislation which should be moving forward rather than being concerned with this discussion today.

Certainly, I want to address briefly the issue of plastic guns.

I note, for instance, that the bill will provide for the Director of the FAA to have certain supervisory administrative authority with respect to standards.

The gun that really touched this whole debate off is a gun manufactured in Austria, which is an issue to their armed services, known as the Glock. I think the Glock gun deserves at least a little bit of explanation here so we will know what we are talking about and what we are not talking about.

The gun has a receiver made of plastic and it has machined parts made of steel, and it registers on magnetometers. It is not the kind of gun that can sneak by a security checkpoint, but it is the thing that has caused the emotional furor that caused this legislation to be introduced. The Glock gun also, as is easy to see from photographs that have been taken, is readily discernible on x ray. This is not a great threat to security that demands an immediate, irrational, emotional response without analyzing what can and cannot be done with respect to guns of different manufacture than we are used to. I quote Mr. Vincent, Director of Civil Aviation security for FAA in testimony given before the Congress:

> Any failure to detect that weapon, the Glock 17, is operator error, not failure to see the weapon because it is discernible easily on x ray.

That is what we are talking about here. That is why we have this legislation.

There are no all-plastic guns that exist today. The standard in the Metzenbaum amendment that is pending before us today is far above the FAA minimum that exists today under regulations.

There is a necessity, and I hope a desirability, for the opportunity to develop new technologies in both plastics and ceramics that can be applied to military applications of firearms. And we ought not lose the opportunity by passing a hastily, ill-thought-out piece of legislation to chill the opportunity for the technological development that may indeed assist the armed services of the United States as well as expand the opportunities for legitimate, lawful gun owners in America.

I think the danger that can come from this springs exactly out of Mr. Vincent's statement that the failure to detect is operator failure, not the inherent danger of this firearm, because you pass a piece of legislation like this, and then suddenly the security operators, whether they be at airports or at the door of this building, are lulled into the sense of security that, indeed, nobody can get by and they become complacent or less conscious of the need for security which if indeed were exercised would easily detect these guns.

If you are talking about terrorism—and I have heard some comments about "We must do something about this because of terrorism"—handguns are a very small part of terrorist manipulation or terrorist apparatus. A much more dangerous thing, whether it be terrorism in a public place or a public building or terrorism with respect to hijacking aircraft, is plastic explosives, explosives of any nature, not handguns. We sometimes forget what it is we are trying to get at. When we talk about terrorism, we change the focus and divert our attention toward things, inanimate objects, rather than the people who are the terrorists.

So for a variety of reasons—I think the legislation is ill-considered, has not been considered in the appropriate forum, should not be here today, and if it is to be on this bill or any other legislation, it needs to have careful scrutiny and amendment, if at all adopted—Mr. President, I am prepared to move to table the amendment. I see the distinguished senior Senator from Alaska. He had indicated earlier today that it was his desire to speak. I do not wish to cut off anyone who wants to speak, but I do know that people wish to get on with this measure and get to a vote very soon.

Mr. METZENBAUM. Will the Senator yield for the purpose of inserting a letter in the RECORD?

Mr. McCLURE. I will yield for that purpose, retaining my right to the floor.

Mr. METZENBAUM. Of course.

Mr. President, I send a letter to the desk and ask unanimous consent that it be inserted in the RECORD. It is a letter signed by Sarah Brady, the wife of Jim Brady, who was shot at the time there was an effort made to assassinate the President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 2, 1987.

Attention: M.L. Westmoreland.
Hon. HOWARD M. METZENBAUM,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: I am writing to urge your support for S. 465, legislation to prohibit the manufacture or importation of plastic handguns which are not detectable by equipment currently in use at our nation's airports and government buildings. Unfortunately, opponents of this bill have blocked its consideration by the Subcommittee on the Constitution. Because of its critical importance, the bill will be offered as an amendment to legislation being considered on the Senate floor.

As you may know this legislation has the bipartisan support of Senators John Chafee (R-RI), Chris Dodd (D-CT), Nancy Kassebaum (R-KS), Edward Kennedy (D-MA), Howard Metzenbaum (D-OH), Paul Simon (D-IL) and Strom Thurmond (R-SC).

The measure is also backed by the U.S. Secret Service, the nation's law enforcement organizations and the airline industry. (See attached list of organizations endorsing legislation to prohibit plastic guns.)

The technology to produce plastic handguns exists today, according to Florida gun manufacturer David Byron. However, the Chief of Civil Aviation Security for the FAA has stated that even with the all-out effort now being conducted to develop the detection technology, it could be ten years before the technology to detect plastic guns is perfected.

According to Richard Lally, Assistant Vice President for Security of the Air Transport Association, in the last 14 years, almost 8 billion people have been screened at U.S. airports and more than 36,000 firearms have been discovered. This has resulted in almost 16,000 related arrests, and the prevention of at least 117 hijackings or related crimes.

Plastic handguns pose a threat not only to airline safety but to the security of public officials. At a Senate Subcommittee hearing in July, Stephen Garmon, Deputy Director of the U.S. Secret Service, endorsed S. 465. Mr. Garmon testified (attached) that protection of presidential candidates would be extremely difficult if the production of plastic guns is allowed. Garmon further stated that even the White House might have to be closed to visitors if plastic guns enter the marketplace, as these weapons would pose a direct threat to the President.

The Senate has the opportunity to promote public safety by barring the manufacture of these terrorist specials. I urge you to support law enforcement and vote for S. 465.

Sincerely,

SARAH BRADY,
Vice Chair.

Mr. McCLURE. Mr. President, I understand what the Senator from Ohio just did, and I would not interfere with his right to do that at all, but it does indicate once again how we try to hype emotions rather than deal with facts. There is no connection, no connection with the terrible thing that happened to Jim Brady and plastic guns, none whatsoever.

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. McCLURE. I will be happy to yield for a question without losing my right to the floor.

Mr. STEVENS. Mr. President, I would like to ask the distinguished senior Senator from Idaho whether it is possible to interpret the amendment of the Senator from Ohio so as to apply it to rifles, to those rifles that are primarily made of wood, having very short barrels? I am looking at this now and it has come at us so quickly that one of the questions that has been raised by my people is as to whether or not it would apply to weapons that have wooden stocks and use other nonmetal parts but have the required amount of steel to come under the terms of this amendment, because this says "any firearm," not just handguns.

Mr. McCLURE. Mr. President, there is no doubt that the Senator from Alaska is correct. Although very few firearms utilize a nonmetal barrel, there is at least one that has been on the market for a number of years that uses a nylon barrel. It is lighter and less expensive and therefore has had a niche in the consumer market, primarily for youngsters target shooting, I believe. So the Senator is correct. This is not so refined as to deal only with the subject matter which it ostensibly is to deal with.

Mr. STEVENS. Mr. President, will the Senator yield for one more question?

Mr. McCLURE. I will be happy to yield without losing my right to the floor.

Mr. STEVENS. It is my understanding that both the FAA and the Bureau of Alcohol, Tobacco and Firearms oppose this legislation and have testified that there is no nonmetal firearm that cannot be detected by airport detection equipment. Is that the Senator's understanding?

Mr. McCLURE. The Senator is exactly correct. Both of those Federal Government agencies have testified in opposition to this legislation.

Mr. STEVENS. I thank the Senator.

Mr. METZENBAUM. Will the Senator from Idaho yield. Would the Senator be good enough to repeat which organization testified against the bill?

Mr. McCLURE. The Director of the FAA Security Division has said that the Glock 17 would be easily detectable.

Mr. METZENBAUM. This bill does not affect the Glock 17. Every Federal agency that testified, testified for the bill. Every single one testified for the bill.

Mr. McCLURE. The Senator may well be correct. That is not the information that I have.

Mr. STEVENS. Nor me. That is not the information I have.

Mr. KENNEDY. Mr. President, I am pleased to join Senator Metzenbaum in cosponsoring this amendment to bring an important new control on handguns in our society—banning the production and sale of nondetectable handguns, the so-called plastic guns.

For the past 6 years we have been engaged in the fight to stop efforts to weaken our Nation's laws on the sale of handguns. We have fought efforts by the National Rifle Association to gut the 1968 gun control law—to make it easier for criminals to obtain handguns, the "snubbies" and "Saturday Night Specials" that are the preferred instruments of criminals.

We nearly lost this battle in the last two Congresses, and we would have were it not for cries of protest from the police and law enforcement agencies all across this country. When the NRA came out against laws to ban "cop killer bullets" and to make it easier to get handguns across State lines, the law enforcement community mobilized to help us resist efforts to weaken already weak handgun control laws.

Today, Mr. President, we have an opportunity to launch a new beginning, to get the debate on handgun control back on the right track—to talk about what we can do to keep plastic handguns out of the wrong hands, rather than how to weaken our laws.

Again, thanks to the law enforcement agencies and police groups, we have an opportunity to take some positive action, and not retreat. With their strong support we have a chance today to take a modest step to advance public safety and law enforcement:

> Ban the sale of "hard-to-detect" firearms, such as the plastic guns now coming onto the market, which can possibly slip by metal detectors at airports and elsewhere.

Mr. President, this is an extremely modest proposal which even this administration cannot bring itself to oppose, and which the Secret Service—for understandable reasons—strongly supports.

As Senator Metzenbaum has indicated, the list of organizations supporting this legislation is the clearest indication of why it is needed. It stretches across the entire law enforcement community as well as the airline transportation industry. They know the dangers plastic guns would pose, and they are urging us to act now before it is too late—before the worst fears are real fears.

Mr. President, I would like to close by inserting into the Record an eloquent letter from Sarah Brady, the vice chair of handgun control. She speaks with the conviction of someone who has been touched by handgun violence, and with the logic of someone who has studied the issue and seen the compelling need for additional handgun controls.

I ask that it be inserted in the Record, and I urge my colleagues to support this amendment.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 2, 1987.

Attention: Jerry Tinker.
Hon. Edward M. Kennedy,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Kennedy: I am writing to urge your support for S. 465, legislation to prohibit the manufacture or importation of plastic handguns which are not detectable by equipment currently in use at our nation's airports and government buildings. Unfortunately, opponents of this bill have blocked its consideration by the Subcommittee on the Constitution. Because of its critical importance, the bill will be offered as an amendment to legislation being considered on the Senate floor.

As you may know this legislation has the bipartisan support of Senators John Chafee (R-RI), Chris Dodd (D-CT), Nancy Kassebaum (R-KS), Edward Kennedy (D-MA), Howard Metzenbaum (D-OH), Paul Simon (D-IL) and Strom Thurmond (R-SC).

The measure is also backed by the U.S. Secret Service, the nation's law enforcement organizations and the airline industry. (See attached list of organizations endorsing legislation to prohibit plastic guns.)

The technology to produce plastic handguns exists today, according to Florida gun manufacturer David Byron. However, the Chief of Civil Aviation Security for the FAA has stated that even with the all-out effort now being conducted to develop the detection technology, it could be ten years before the technology to detect plastic guns is perfected.

According to Richard Lally, Assistant Vice President for Security of the Air Transport Association, in the last 14 years, almost 8 billion people have been screened at U.S. airports and more than 36,000 firearms have been discovered. This has resulted in almost 16,000 related arrests, and the prevention of at least 117 hijackings or related crimes.

Plastic handguns pose a threat not only to airline safety but to the security of public officials. At a Senate Subcommittee hearing in July, Stephen Garmon, Deputy Director of the U.S. Secret Service, endorsed S. 465. Mr. Garmon testified (attached) that protection of presidential candidates would be extremely difficult if the production of plastic guns is allowed. Garmon further stated that even the White House might have to be closed to visitors if plastic guns enter the marketplace, as these weapons would pose a direct threat to the President.

The Senate has the opportunity to promote public safety by barring the manufacture of these terrorist specials. I urge you to support law enforcement and vote for S. 465.

Sincerely,

SARAH BRADY,
Vice Chair.

Mrs. KASSEBAUM. Mr. President, I support the amendment of the Senator from South Carolina.

This amendment makes it unlawful for any person to manufacture or distribute in the United States any firearm not readily detectable as a firearm by the standard security equipment commonly used at airports in the United States. In short, if a firearm is detectable by the typical metal detector or x-ray machine such as the Austrian Glock 17, it would not be covered by the proposed legislation.

Although the technology for nondetectable firearms appears to be still in the developmental stage, it is rapidly advancing. We need time to improve our detection equipment before such weapons become marketable. Metal detectors and x-ray machines form the backbone of our airport and government office security. The availability of nondetectable firearms would enable terrorists to penetrate our most sophisticated security systems, including all domestic and international airports, the Supreme Court, both Houses of Congress, and the White House.

The proposal's purpose is to buy the time we need to counter this new threat to the safety of the public. Research by the Federal Aviation Administration promises improved detection equipment within 2 years. As soon as our security technology could detect the presence of such weapons, they would no longer be subject to the prohibition. In the interim, however, we cannot close our eyes to this threat and react only after a tragedy occurs.

We must not naively think that terrorists will fail to exploit the most advanced technologies available to achieve their purpose. Three Americans have already been killed as a result of a plastic bomb blast over Greece, and another 400 travelers faced a similar threat in London. I feel the threat is real and immediate.

I think it is important to note the legislation is endorsed by the U.S. Secret Service, the International Association of Chiefs of Police, the Fraternal Order of Police, the National Sheriffs' Association, the International Brotherhood of Police Officers, the National Association of Police Organizations, the Police Executive Research Forum, Major City Chiefs of Police, the National Troopers Coalition, the Police Foundation, the Police Management Association, the Airline Pilots Association, the Air Transport Association, American Association of Airport Executives, the Association of Flight Attendants, and the Airport Operators Council International. Given its specific purpose and this support, I believe this amendment deserves strong support.

Mr. BYRD. Mr. President, I support the amendment offered by Senator METZENBAUM to ban the importation and sale of plastic or other nondetectable firearms.

At the present time, we have no surveillance equipment that can detect plastic guns. This presents not only a problem in maintaining security at our airports, it also presents a problem in trying to detect plastic firearms at our Federal buildings, including the U.S. Capitol, and at our military installations.

It makes absolutely no sense on the one hand to increase security personnel and equipment, while on the other hand permit the sale of firearms that will escape detection. At a time in our history when airplane hijackings and terrorism are becoming commonplace, it is utterly absurd to give any advantage to the would-be criminal or terrorist. I support this amendment, and I urge my colleagues to do likewise.

Mr. CHAFEE. Mr. President, I am a cosponsor of S. 465, legislation to ban the manufacture, sale, importation, or possession of plastic handguns. I am pleased that the Senate today has an opportunity to discuss the hazards posed by plastic guns.

The alarming rise in international terrorism in recent years has focused increased attention on the need for improved airport security measures. There has also been a growing concern about technological developments which make possible the manufacture of firearms which may not be detectable by security devices currently in use. Until we have in place the technology to provide for the detection of weapons made with nonmetal materials, I believe we must take steps to prevent such weapons from being manufactured, imported, or sold.

This amendment would ban those firearms which are not readily detectable by metal detection and x-ray systems commonly used at airports and other security checkpoints in the United States. Efforts are under way by the Federal Aviation Administration, the Customs Service and private industry to develop more advanced detection instruments, but it could be years before these are in use. In the meantime, the development of weapons made with plastic or other nonmental materials could continue.

The U.S. Secret Service testified in favor of S. 465 in a hearing held earlier this year by the Subcommittee on the Constitution. According to that testimony, in 1986, 240 dangerous weapons were identified by screening efforts at the White House, of which 74 were handguns. In Secret Service screening activities away from the White House from October 1986 to June 1987, 198 handguns were detected.

There are people who possess handguns who disregard the laws and regulations governing use of such weapons. That is why detection systems are in place in airports and in many public buildings. To put into the hands of these individuals a handgun which is more difficult to detect certainly jeopardizes the safety and security of all of us.

This legislation is endorsed by a number of distinguished organizations. Twelve organizations, both labor and management, representing over 400,000 police officers are united in their support of this legislation. In addition to law enforcement organizations many other groups also support this legislation.

Here is a partial list of the supporters of this legislation: Airline Pilots Association; Air Transport Association; National Sheriff's Association; Fraternal Order of Police; U.S. Conference of Mayors; and National Troopers Coalition.

We have an opportunity through the passage of this legislation to act before a terrible tragedy occurs, rather than after the fact. I urge my colleagues to join me in voting not to table.

Mr. SPECTER. Mr. President, I am voting to table the pending amendment to bar the manufacture and distribution of the so-called plastic gun, because it is extraneous to the pending important veterans legislation and because no such plastic gun is now in existence.

Injecting a provision concerning the plastic gun on the pending veterans legislation poses a real impediment to the prompt passage of this comprehensive veterans legislation. This legislation includes cost-of-living adjustments, incentives for the recruitment and retention of VA health-care providers, increased educational and rehabilitation assistance, and other much needed and deserved services and benefits. The extraneous amendment on the plastic gun, while technically permitted under the Senate rules and could be placed on any pending bill, might well defeat prompt passage of the veterans legislation.

As to the merits of the amendment itself, the evidence presented at hearings before the Judiciary Subcommittee on the Constitution on July 28, 1987, disclosed that no such plastic gun is in existence. Mr. H.L. Bradley, chairman of the National Flight Security Committee, Air Line Pilots Association, testified that he did "not know of plastic weapons that are available today"—notes of testimony, page 47. Mr. Daniel M. Hartnett, Deputy Associate Director of Law Enforcement, Bureau of Alcohol, Tobacco, Firearms, testified that there is "no evidence that any firearm currently being produced is capable of passing undetected through conventional x-ray and metal-detector systems"—notes of testimony, page 11. Mr. Raymond A. Salazar, Director of Civil Aviation Security, Federal Aviation Administration, testified that he was "aware of no current nonmetal firearm which is not reasonably detectable by present technology and methods in use at our airports today"—notes of testimony, page 20.

Notwithstanding that evidence, the potential risks involved with nonmetal or plastic guns are sufficient to warrant anticipatory action to detect them if, as, and when they are produced. Mr. Salazar testified that in 1986 his department "issued a multiphase solicitation for new detection concepts for nonmetallic weapons"—notes of testimony, page 22. "Eleven proposals were received, and two successful bidders proposed infrared techniques"—notes of testimony, page 22. In response to a question about the expectation of when nonmetallic weapons could be detected, Mr. Salazar testified that he "was looking at 2 years"—notes of testimony, page 25—and that "field tests by the summer of next year has [sic] the potential at being able to find these particular weapons"—notes of testimony, page 27.

Legislation is currently being considered which could potentially solve the problem of the plastic gun if, as, and when it is developed by requiring that a dye be inserted in such a gun which would make it detectable and by further requiring that any such plastic gun contain a specified quantity of metal which would be detectable by existing devices but significantly less than the quantity of metal contained in the pending amendment.

For these reasons, it seems to me that this amendment should not be considered at this time.

Mr. HOLLINGS. Mr. President, I rise today as a cosponsor of the amendment of the Senator from Ohio that would stop the manufacture, importation, sale or possession of firearms that cannot be detected by ordinary airport metal detectors. Let me make clear that I will continue to be a strong supporter of the interests of the sportsmen of this Nation, however, a plastic or ceramic gun simply serves no need. Just like cop-killer bullets, these firearms serve no legitimate sporting interest, but only serve to put law enforcement and the public at enormous risk.

The Senate Commerce Committee is charged with oversight of the commercial airline industry, and as chairman of the committee, I feel a special responsibility to see that our flights are as safe as possible. Current security systems have been successful, but would be rendered useless by these weapons—they would literally be a loaded gun pointed at the head of the traveling public.

Mr. President, I applaud the efforts of the Senator from Ohio, and would like to note the broad based support for his amendment. The major police groups, airline operators and the Secret Service have all endorsed this legislation and I am pleased to join with them in working to see that the threat posed by these firearms is eliminated.

Mr. MOYNIHAN. Mr. President, I rise today to join Senator METZENBAUM in offering an amendment, to S.9, to ban the sale, manufacture or importation of nonmetal guns, better known as plastic guns, which are not detectable by standard security metal detectors. This amendment is based on S. 465, which Senator METZENBAUM introduced on February 4, 1987 and of which I am a cosponsor.

At this time, we do not have the technological capacity to adequately detect nonmetal guns—we cannot wait until this equipment is developed—possibly 5 to 10 years from now. We must prevent the widespread manufacture and sale of these guns, immediately, before they result in the loss of even one life.

According to the Air Transport Association, the Nation's airlines transported more than 415 million passengers last year. These passengers passed through 1,200 screening points at 400 airports using over 2,500 weapons detectors. Clearly the airlines are doing an adequate job of screening detectable weapons—it is the nondetectable weapons which present a future threat.

And these plastic guns will not erode or fade away. We are in no great need of additional handguns in the United States. At present, we have 60 million metal handguns in the United States and if properly cared for, these guns will last a near infinite lifetime.

But guns don't kill people, bullets do. A handgun is of no use without bullets. While we have a two century supply of handguns, we have a mere 4 year supply of ammunition. Defang the cobra. Impossible? No. Just last year the President signed into law a bill I introduced in the 99th Congress to ban the use of cop-killer bullets.

On the first day of the 100th Congress, I continued the attack on ammunition by introducing S. 25, a bill to address the problem of crimes committed by small metal handguns by banning .25 and .32 caliber ammunition.

Why ban this ammunition? I give you a case in point: On November 19, 1986, Larry Davis, wanted for five drug related murders in New York City shot his way through a police cordon. Six officers were wounded. Davis had with him an arsenal of crime: shotgun, .45 automatic pistol, and .32-caliber revolver.

How often are .25 and .32 caliber guns used? In 1981, Cox newspapers did a survey of 14,268 crime guns seized by police in 18 metropolitan areas during the first 9 months of 1979. Cox found that of the 15 most popular crime guns, 4 were of .25 or .32 caliber.

Of handguns fired at New York City police officers, 1975-85, one quarter were .25 or .32 caliber. These are the choice weapons of criminals. They are not the choice weapons of hunters or marksmen.

Would this end the problem, the awful problem of handgun killings? No. It would reduce it. It would take one weapon out of the hands of a Larry Davis. And it might just save lives.

Would banning plastic guns from our airplanes end all terrorism? No, but it might reduce it. If we can prevent one loss of one life by banning plastic guns which are not detectable by security at airports, we should do so.

Mr. McCLURE. Mr. President, which is the primary amendment and which is the underlying amendment?

The PRESIDING OFFICER. The primary amendment is the amendment by the Senator from South Carolina, Senator THURMOND. The amendment to the amendment is by the Senator from Ohio, Senator METZENBAUM, and the Metzenbaum amendment to the amendment is what is pending before the body at the present time.

Mr. McCLURE. Mr. President, I move to table the Thurmond amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "nay".

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON], are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas [Mrs. KASSEBAUM] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 42, as follows:

[Rollcall Vote No. 399 Leg.]

YEAS—47

Armstrong
Bentsen
Bond
Burdick
Cochran
Cohen
Conrad
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Johnston
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Quayle
Roth
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Symms
Trible
Wallop
Warner

NAYS—42

Adams
Biden
Boren
Boschwitz
Breaux
Bumpers
Byrd
Chafee
Chiles
Cranston
D'Amato
Daschle
Exon
Fowler
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Stafford
Thurmond
Weicker

NOT VOTING—11

Baucus
Bingaman
Bradley
Dodd
Evans
Gore
Kassebaum
Sanford
Simon
Wilson
Wirth

So the motion to table the amendment (No. 1249) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I rise to discuss an issue related to the veterans' benefits bill before us today—the Veterans' Home Loan Guaranty Program. The program is of critical importance to veterans and the Nation.

The program is important to veterans: Over 12 million home loans have been guaranteed. Veterans of all wars and peacetime service are eligible. It is one of the most widely used of veterans' benefits, and in my view, one of the finest veterans benefits.

The program is important to the economy: Home builders and their suppliers, mortgage bankers, real estate brokers all depend on this program to fuel and protect the homebuilding industry that provides: Shelter to veterans, jobs for Americans, veterans, and nonveterans alike.

The program is important to the Congress: The Congress must ensure these vital benefits will continue. The Congress must appropriate substantial funds to maintain the financial health of this vital program.

I am proud that the Committee on Veterans' Affairs has developed legislation which responds to the serious problems which theraten the financial health of this vital program. In a bipartisan effort, the distinguished chairman of the committee, committee members and I developed legislation which would, among other things:

Reduce VA losses through: Improved underwriting; requiring that buyers desiring to assume a VA guaranteed loan be credit worthy; improving appraisal practices; and improving VA property management and marketing.

It would provide revenue to the loan guaranty revolving fund through: continuing for 2 years the now expired 1 percent loan origination fee; and applying a loan origination fee of one-half percent to assumptions of VA guaranteed loans.

Without this fee, appropriations from the Treasury would be needed to keep the program operating.

S. 9, when reported to the Senate on July 31 included these provisions.

In September, it became apparent the Senate would be unable to consider S. 9 until near the end of the session. Because these Home Loan Program reforms are so important, Senator CRANSTON and I agreed to report them as a separate bill which we did as S. 1801.

On October 30, the Senate passed this important legislation as an amendment to H.R. 2672. We immediately began negotiations with the House, and on November 17, the House amended the bill to reflect a compromise agreement between the two bodies.

Mr. President, since November 17, this legislation has been ready for final Senate action.

Since November 17, all that has been between this legislation and the President is Senate action.

Since November 17, the Government has been losing $1 million per day because the Senate has not acted on this bill.

Since November 17, vital program reforms have been held in limbo because the Senate has not acted on this bill.

I find it incomprehensible that we have not acted on this bill before today.

This bill contains reforms and provisions which are the fruits of hard work and compromise in both bodies and from both sides of the aisle.

Failure to act on this bill has a direct cost of over $1 million per day.

Failure to act on this bill delays the implementation of reforms which will restore the financial health of this program.

Mr. President, if we are truly concerned about the deficit we must act on the bill today. I am pleased to learn that may be the case.

Mr. MITCHELL. Mr. President, I rise today to join with the distinguished chairman and the ranking member of the Veterans' Affairs Committee in support of S. 9, the Omnibus Veterans' Benefits and Services Act of 1987. This legislation contains a number of provisions affecting a wide range of Veterans' Administration health care and benefits programs that deserve the support and endorsement of the U.S. Senate.

First off, I want to express my strong support for the increases in service-connected benefits, especially the cost-of-living adjustment in disability compensation rates and indemnity compensation for surviving spouses and children effective December 1, 1987, that are authorized in title I of this legislation.

I also strongly support title II which authorizes a mechanism to provide disability and death benefits to veterans—and their survivors—exposed to ionizing radiation in connection with the Atmospheric Nuclear Weapons Testing Program or the American occupation of Hiroshima or Nagasaki, Japan.

The provisions of title II are derived from the provisions of S. 1002, which was introduced by the chairman in April. I was pleased to be an original cosponsor of that legislation.

The benefits would be provided in a new chapter 4 of title 38, U.S.C. to veterans suffering from one of a series of specified cancers chosen after careful scrutiny of the existing scientific evidence regarding radiation-based diseases.

In addition, claims based on other cancers would have to receive special consideration from the VA during adjudication, including giving conclusive weight to the congressional findings on the relationship between a particular disease, its susceptibility to radiation exposure, and its link to other risk factors.

Title II also requires that Defense Nuclear Agency exposure estimates used in VA adjudicatory proceedings be adjusted upwardly through the use of a formula based on the estimated radiation exposure for all participants in the nuclear weapons testing operation or branch of service in an operation in which the claimant was involved.

These provisions are carefully crafted and were adopted by the committee in recognition of this Nation's responsibility to resolve the longstanding controversy concerning compensation for veterans exposed to ionizing radiation while in service.

In creating a series of presumptive disorders and adjusting the process by which radiation-based claims are adjudicated by the VA, S. 9 judiciously responds to the growing realization that the present process, which has granted only a handful of radiation-based claims for benefits, is simply not working.

Having praised these provisions Mr. President, I am pleased that the chairman and ranking member have agreed to accept and join in my amendment which would improve title II by extending this benefits scheme, as warranted, to those Americans held in Japanese POW camps, at the time of the bombing of Hiroshima and Nagasaki.

The Defense Nuclear Agency says there were approximately 9,000 Allied soldiers held in POW camps in Japan at the end of the war, 1,101 of which were Americans. DNA has investigated and calculated the possible exposure levels for those individuals.

DNA says the POW's would have been exposed to only minimal radiation under two scenarios: First, exposure to fallout/rainout that occurred at the camps; or second, residual radiation while enroute to Allied evacuation processing centers. Based on those calculations, and other available material about the possible exposure of American POW's, I do not believe that it would be prudent at this time to extend the presumptive benefits of title II of this class of veterans.

Nonetheless, I would be less than frank if I did not say that given the experiences the Veterans' Affairs Committee has had in the reliability and validity of DNA's exposure dose estimates in atmospheric nuclear tests, I would be uneasy if S. 9 failed to address this subject in at least some fashion.

The amendment which was offered on my behalf and joined in by Senators CRANSTON and MURKOWSKI would expand the present definition of radiation-exposed veteran in title II to include veterans who in connection with their internment as a prisoner of war in Japan had an opportunity for radiation exposure which the Administrator of Veterans' Affairs finds comparable to that of veterans who participated in the American occupation of Hiroshima or Nagasaki prior to July 1, 1946.

This language very much leaves open the door for veterans who were POW's in Japan at the time of the bombings of Hiroshima and Nagasaki to have their claims for benefits considered on the same basis as veterans who participated in the Allied occupation of those two cities or in America's Atmospheric Nuclear Testing Program.

Mr. President, I want to discuss several other sections of S. 9 which are of significant importance to the veterans of Maine. Two of those sections, 310 and 312, affect the VA's per diem payments to State veterans' homes.

A State home is a facility established by a State for veterans disabled by age, disease, or otherwise, who by reason of such disability are incapable of earning a living. The term also includes facilities which furnish nursing home care for veterans.

The VA promotes the care and treatment of veterans in State veterans homes as one means of developing and maintaining the highest possible quality of care for this Nation's elderly veterans. The establishment, control, and administration of a home is the responsibility of the State which it serves.

Congress has established two programs under which the VA provides assistance to State homes. One provides grants to construct new homes or to expand, remodel, or alter existing facilities.

Under the second program, the VA contributes funds directly to help meet the cost of care for eligible veterans in the homes. These so-called per diem payments are made for domiciliary care, nursing home, and hospital care at set rates.

Section 310 of S. 9 is derived from S. 216, legislation I introduced. It would increase VA per diem payments to State veterans homes for domiciliary, nursing home, and hospital care effective 30 days after the beginning of the first full month beginning after the date of enactment.

It would also authorize the VA to increase these rates annually, beginning in fiscal year 1989, by a percentage similar to the percentage increase in the VA's maximum cost for contract care in community nursing homes.

Section 312, derived from S. 1517, legislation I introduced with Senator COHEN, would preclude per diem payments from being considered third-party liability under Medicaid.

Generally, States fund their share of the homes' operation through direct appropriation. Four States, including Maine, fund the home through the Medicaid Program. Under such an arrangement, the home's operating revenues consist of Medicaid and VA per diem payments.

In determining the extent of assistance Medicaid may provide for an individual applicant or recipient, States must consider whether there exists any third party liability for the individual's care and services that arises out of injury, disease, or disability.

Under Medicaid statutes, 42 U.S.C. 1396a(25), third party liability is to be considered "as a resource of the individual on whose behalf the care and services are made available." If a State discovers that a third party is in fact liable for some portion of a Medicaid applicant's or recipient's care, the State must reduce its Medicaid payments to the extent of such third party liability.

The VA and the Department of Health and Human Services have ruled that VA per diem payments to State homes must be treated as a third party liability for purposes of Medicaid.

As a result, State agencies which administer Medicaid are forced to reduce the Medicaid payments to homes by an amount equal to the VA per diem payments made on behalf of the Medicaid-eligible veterans residing in the home.

Veterans in Maine have repeatedly and strongly voiced their objection to the present arrangement. They argue that it makes no sense for the Congress to authorize the VA make payments to State veterans homes on behalf of veterans only to have those funds used by State agencies to replace State and Federal Medicaid dollars, with no benefit to the veteran.

They also argue that the VA per diem should not be considered a resource of the individual because the VA makes the payment to the home, not the individual veteran and not for any particular veteran.

I am pleased that the committee, after examining this question has voted to make the language of S. 1517 part of the omnibus veterans benefits package we are debating today. It is identical to a provision which was reported by the committee and passed by the Senate last year.

I also want to express my support for section 315. It would require the VA to implement a 2-year pilot program of four projects using appropriately equipped mobile vans to furnish health care in rural areas where veterans live at least 100 miles from the nearest VA health-care facility.

Not more than $2.5 million annually could be expended on this program. One project is to be carried out in each of four geographic regions—one in the Northeast, one in the South, one in the Midwest, and one in the West.

This is an innovative way to explore methods to improve health care delivery to veterans residing in rural areas. This issue has been one of great concern to me since I entered the Senate. Maine, with its large geographic area and isolated veteran population would be an excellent region to locate one of the projects.

Before yielding the floor, I want to again congratulate the chairman and the ranking member for their leadership in crafting this important legislation which should greatly benefit all of America's veterans.

I urge the Senate to approve this important legislation. I thank the distinguished floor managers.

Mr. ROCKEFELLER. Mr. President, as a member of the Senate Veterans' Affairs Committee, it has been my pleasure and honor to have had the opportunity to work on the legislation before us. I know all of the major veterans groups join us in recognizing the importance of this legislation, and I sincerely hope that we will succeed in gaining the Senate's approval quickly so that its measures become law as soon as possible.

I'm sure that all of our veterans will feel even more gratitude toward my friend and distinguished colleague, Senator CRANSTON, as they learn about the specifics of this legislation. With the help of his talented committee staff, the chairman of the Senate Veterans' Committee carried out a serious and constructive process that resulted in S. 9, the bill now before us. I commend Senator CRANSTON, Senator MURKOWSKI who is the ranking member of the committee, and my other distinguished colleagues on the committee for their contributions to this effort.

S. 9, the Omnibus Veterans' Benefits and Services Act of 1987, is legislation that addresses a wide range of issues that affect our veterans. I was an original cosponsor of S. 9, as it was introduced on January 6, and have joined Senator CRANSTON and other colleagues in cosponsoring many of the other veterans bills that were subsequently incorporated into S. 9. On July 31, I enthusiastically voted with all of the members of the Veterans' Committee in reporting S. 9, as amended to the full Senate for approval.

This legislation responds to some major concerns of our veterans. In S. 9, we authorize a number of changes that will extend compensation benefits to veterans with special needs and in special circumstances. In addition to the cost-of-living adjustment included for veterans with disabilities that stem from their military service and for their survivors, this bill includes provisions to strengthen benefits for former prisoners of war, extends further assistance through the special housing program for blinded and other severely disabled veterans, and directs more attention on the effects of exposure to agent orange on Vietnam veterans. Through hearings and deliberations, we looked at these issues indepth and ultimately agreed on the actions included in this bill. In my view, the compensation sections represent timely responses to significant needs and justifiable concerns of our country's veterans.

Mr. President, I am especially proud of the fact that this legislation contains long overdue action on behalf of the veterans who were exposed to radiation when participating in the nuclear weapons tests conducted by the United States and in the occupation of Hiroshima and Nagasaki, Japan. When I joined the Senate Veterans' Affairs Committee, I became immediately concerned about the unique problems of our "atomic veterans."

After spending time with veterans from my State of West Virginia who had served in these special circumstances, and hearing from them about their special circumstances, and hearing from them about their suffering from forms of Leukemia or cancer that have been linked by science to radiation exposure, I knew Congress simply had to act. And at some point, we will be too late. Each year, atomic veterans die from these crippling conditions, never to receive assistance from the Government that I believe they deserve. When I learned their story, my heart went out to atomic veterans, and I have strongly supported legislation since my first days in the Senate to extend the compensation that I believe we owe to this courageous group of veterans.

Mr. President, the record on how the United States has treated atomic veterans is shameful so far, I believe. Though more than 6,000 claims for compensation have been filed by veterans who believe they have suffered physically from radiation exposure, the Veterans' Administration reports that it has awarded benefits to only 28 of these cases.

Though I respect the argument that science has yet to trace the exact linkages between radiation exposure and different types of illnesses, I nevertheless reach the conclusion that we owe these veterans the benefit of the doubt. They did not question their Government when duty called and when they were sent to far away places to participate in dangerous weapons tests. They could hardly know what risks they were facing in being exposed to radiation, since distinguished scientists and medical experts understood very little at the time about those risks. In return for the service that these veterans willingly rendered, I don't believe we should shirk from our obligations to them and their survivors in their time of suffering.

Today, I look forward to passing this legislation and reporting to the atomic veterans of West Virginia and their families that the Senate does recognize the debt we owe to them and that we are prespared to extend to them long overdue, well-deserved assistance in addressing their medical needs. I am sorry it took this long. But fortunately it is not too late for many thousands of veterans who served so heroically many, many years ago and remain with us today.

Mr. President, this legislation contains many other provisions to address specific aspects of veterans health care programs and needs. They represent modest steps that perhaps would be even more ambitious if the Federal deficit weren't such a constraint. But veterans realize, as did our committee, that this is not the time to pursue major new programs or big increases in spending. Instead, in S. 9, we attempt through demonstration programs, additional research, and changes in policy to meet the health care needs of our veterans more effectively and with greater compassion.

With over 230,000 veterans in my own State, I have come into contact with just about all of the issues, the questions, and the problems addressed in this omnibus legislation. West Virginia is immensely proud of its of military service, and its citizens expect Congress to focus on veterans. This legislation is in the Nation's interest and it's in the veteran's interest. I urge all of my colleagues to give it their full support.

Mr. SHELBY. Mr. President, I rise today to urge my distinguished colleagues to support S. 9, the proposed Omnibus Veterans' Benefits and Services Act of 1987.

The legislation, supported by many veterans organizations, will enhance the viability of programs provided to veterans. S. 9 responds to changes in the needs of veterans and to developments in the economy. I am pleased to cosponsor the measure and look forward to its final passage.

Service men and women provided and continue to provide protection for the ideals of democracy, individual liberties and civil justice. Over the years, the pursuit and maintenance of these ideals have cost our service people not only their lives—but in many instances, their freedom. Many of these veterans, because of their service in the Armed Forces, have missed opportunities for establishing a personal life.

Thus Congress has a responsibility to seek ways to ease the readjustment, both economically and socially of returning service men and women to civilian life. S. 9 is a strong step toward fulfilling this responsibility.

I am strongly supportive of furnishing programs that will create A-1 quality health care for our veterans. S. 9 is effective in this endeavor. The proposed legislation addresses in a reasonable and effective manner health-related problems that affect our veterans.

I have received numerous letters and phone calls from my constituents who are either veterans or have family members who are veterans, concerned over the circumstances affecting them. Some of those letters were from veterans exposed to radiation while in Hiroshima or Nagasaki, Japan. The proposed legislation addresses their concern by providing presumptive disability and death benefits, or special consideration in the adjudication of claims for benefits. Other correspondence came from veterans who wanted to pursue further education but were, for varying reasons, unable to attend the college of their choice. S. 9 allows those veterans to achieve a college education. Further, many of my veteran constitutents are not able to travel to medical care facilities because of long distances. S. 9 allows those veterans to obtain medical care. A pilot program, created by the bill, allows veterans who live in selected rural areas, at least 100 miles from the nearest VA health-care facility, to recieve medical attention without hardship. Medical attention comes to them. I think this program is quite innovative and should be further explored. These are only a few examples of how the proposed legislation answers many of the problems plaguing our veterans.

Mr. President, we have November 11 as a special day to honor the 28 million veterans still living. On that day we honor those veterans who are still among us, who sacrificed and endured the horrors of war so that their children and grandchildren—and ours—might live in a just world where all people are free from oppression. We must not taint that honor by denying our veterans certain basic services when those services are needed the most.

I feel that S. 9 places a limits the scope of missed opportunities faced by our veterans. S. 9 provides a better standard of living for our veterans.

Mr. President, I strongly urge my colleagues to vote for final passage of S. 9, the Omnibus Veterans' Benefits and Services Act of 1987.

Mr. THURMOND. Mr. President, I rise today in support of S. 9, the Omnibus Veterans' Benefits and Services Act of 1987. Although I have some concerns as indicated in the minority views of the committee report, I believe, on the whole, this bill is meritorious. It is a comprehensive bill, making several improvements in the areas of disability compensation and health care. Some of these improvements include a 4.2-percent cost of living adjustment for veterans receiving compensation for service-connected disabilities; an increase from $35,500 to $40,000 in the maximum amount of specially adapted housing assistance for certain service-connected disabled veterans; an increase from $1,000 to $2,250 in the burial allowance for a veteran who dies of service-connected causes; an increase from $17.05 to $20.35 in the VA per diem payments for State nursing care; incentives for the recruitment and retention of registered nurses, physical therapists, and other direct patient-care providers; and improved efficiency in the procurement of medical and pharmaceutical products. These matters represent just a few highlights of the many changes contained in this bill.

Finally, as mentioned in the minority views, I have some concerns with section 112, which includes lupus on the list of diseases presumed to be service connected; section 312, dealing with the Federal contribution to the State Veterans' Home Program; section 401, dealing with the excessing of certain lands at VA medical centers in California; and title II, dealing with disability compensation and certain radiogenic diseases. Despite these concerns, I believe this bill is worthy of consideration, and I intend to offer my support at this time.

Mr. DOLE. Mr. President, I want to join my colleagues in thanking the distinguished managers of this extremely important legislation for their hard work on behalf of this Nation's veterans. The bill goes far in ensuring well deserved benefits to this special group of Americans who served and sacrificed for all of us. We couldn't enjoy this democratic process were it not for the many men and women who put country before self when that country called.

SPECIFIC PROVISIONS

This bill has many highlights but the more notable are in the area of compensation. In addition to the 4.2 percent COLA provided for the compensation paid to disabled veterans, service connection for specific diseases has been added for two special groups of veterans, former POW's and those exposed to ioning radiation while on active duty. These two groups endured particularly unique circumstances and deserve a grateful nation's thanks and consideration.

I would also point out the noteworthy provision that permanently exempts from GRH sequestration the rehabilitation programs for service-connected disabled vets. Many well deserving vets depend heavily on this critical program and keeping it immune from the roller coaster ups and downs of our budget deficit problems will help keep it responsive to those disabled from their service.

HEALTH CARE PERSONNEL

I would also like to add that I'm encouraged to see the incentives provided for certain health care professionals, particularly VA nurses. Because of personal experience following World War II, I can personally attest to the fine job done by these nurses and the critical need to attract and retain them.

DRUG TESTING

I'm also aware that concerns have surfaced during this bill's consideration that some personnel within the VA might find the administration's policy of random drug testing unsatisfactory. The Veteran's Affairs Committee provided for a somewhat modified procedure of testing, but I think it's quite clear that the Senate is now on record in supporting the President's policy of a drug free workplace. My thanks to Senators DOMENICI and DECONCINI for their floor efforts on behalf of this very important issue. The President's policy has been tested time and time again in the courts and is a sound one.

PLASTIC GUN AMENDMENT

Mr. President, with respect to the amendment by Senators THURMOND and METZENBAUM, I am just as concerned as anyone else about terrorists gaining a step on law enforcement through some kind of high technology in handguns.

From what the experts say, 100 percent plastic guns do not exist—yet. They are manufactured nowhere in the world, none are possessed by terrorists, and none have been slipped through any security check points.

That's not to say we should drop our guard and let the terrorists of the world find a way to make all-plastic, nondetectable weapons. Because of my association with those who have been involved with assuring air safety and the prevention of acts of terror on U.S. airlines, I can pledge to my colleagues that if plastic guns become a security risk, I will work with them arm in arm to ameliorate the problem.

However, the approach suggested in the amendment would place an arbitrary minimum limit on the amount of steel which would be required for all firearms. The most significant impact of the amendment would be to ban all small handguns, whether or not they contained plastic or synthetic components. Therefore, I would suggest that if, in the future, we do find a security problem with plastic guns, we work to fashion a solution which directly addresses the problem.

SUMMARY

Finally, I would just state this legislation clearly meets the needs to the nearly 80 million veterans, surviving spouses, and dependents who depend on the VA. This past Veterans Day I had the pleasure of speaking in Columbia, SC, and my attention couldn't help but focus on the long row of wheelchair bound veterans wrapped in blankets in front of me. They represented to me the very essence of why this great Nation cares and provides for those who served and are now service disabled. A grateful nation will never abandon them, nor will we ignore our reponsibilities to the dependents of those who made the ultimate sacrifice. S. 9 helps us fulfill that commitment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be dis-

charged from further consideration of H.R. 2616 and that the bill be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The bill clerk read as follows:

A bill (H.R. 2616) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration.

The Senate proceeded to consider H.R. 2616.

Mr. MITCHELL. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 2616 be stricken and the text of S. 9, as amended, be inserted in lieu thereof and that the bill, H.R. 2616, then be advanced to third reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there will be no more rollcall votes today after this rollcall vote, and having passed a very important bill, I would see no reason for the Senate to be in on Monday.

The next very important item will be the reconciliation bill. I hope that we can be ready to proceed to that on Tuesday under expedited procedures.

I hope that all those who are involved in working out the problems in respect to the package that was agreed upon among the President and the House and Senate leaderships will be present on Monday with their staffs so that we can proceed and have that matter ready by Tuesday.

Therefore, I am happy to say to all Senators there will be no more rollcall votes today after this rollcall vote and the Senate will not be in on Monday. We will be in on Tuesday. I hope that all Senators will enjoy a restful weekend.

The PRESIDING OFFICER. The bill having been read the third time, the question is on the passage of the bill. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] and the Senator from New Mexico [Mr. BINGAMAN] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 400 Leg.]

YEAS—88

Adams
Armstrong
Biden
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker

NOT VOTING—12

Baucus
Bentsen
Bingaman
Bradley
Dodd
Evans
Gore
Kassebaum
Sanford
Simon
Wilson
Wirth

So the bill (H.R. 2616), as amended, was passed, as follows:

H.R. 2616

Resolved, That the bill from the House of Representatives (H.R. 2616) entitled "An Act to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration," do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Veterans' Benefits and Services Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFITS

PART A—COMPENSATION AND RELATED COST-OF-LIVING ADJUSTMENTS

Sec. 101. Disability compensation and dependency and indemnity compensation.
Sec. 102. Specially adapted housing assistance.
Sec. 103. Automobile assistance allowance.
Sec. 104. Service-connected death benefits.
Sec. 105. Effective dates.

PART B—OTHER COMPENSATION-RELATED PROVISIONS

Sec. 111. Improved benefits for former prisoners of war.
Sec. 112. Presumption of service connection for Lupus.
Sec. 113. Reinstated entitlement for certain survivors.
Sec. 114. Service-connected rehabilitation and education exemptions extensions.
Sec. 115. Study of scientific evidence regarding health effects of exposure to agent orange.
Sec. 116. Effective dates.

PART C—EDUCATION PROVISIONS

Sec. 121. Measurement of Laboratory Instruction.
Sec. 122. Tolling of delimiting periods.
Sec. 123. Authority to waive compliance surveys.
Sec. 124. Effective date of awards under the post-Vietnam era veterans' education assistance program.
Sec. 125. Repeal of expired program of accelerated-payment loans.

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Sec. 408. Denial of funds for projects using certain services of foreign countries that deny fair market opportunities.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or a repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFITS

PART A—COMPENSATION AND RELATED COST-OF-LIVING ADJUSTMENTS

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) IN GENERAL.—(1) The Administrator of Veterans' Affairs shall, as provided in paragraph (2), increase, effective December 1, 1987, the rates of and limitations on Veterans' Administration disability compensation and dependency and indemnity compensation.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by amendments made by title I of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99-238), the Administrator shall further increase such rates and limitations, as in effect on November 30, 1987, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1987, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Administrator may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1988, the Administrator shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 102. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$40,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,775".

SEC. 103. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,530".

SEC. 104. SERVICE-CONNECTED DEATH BENEFITS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$2,250".

SEC. 105. EFFECTIVE DATES.

(a) COMPENSATION RATE INCREASES.—The provisions of section 101 shall take effect on the date of the enactment of this Act.

(b) OTHER INCREASES.—The amendments made by sections 102, 103, and 104 shall take effect on October 1, 1987.

PART B—OTHER COMPENSATION-RELATED PROVISIONS

SEC. 111. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

(a) DEFINITION OF FORMER PRISONER OF WAR.—Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

(b) PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES.—Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

(c) INTERNMENT PERIOD REQUIRED FOR VETERANS' ADMINISTRATION DENTAL CARE.—Section 612(b)(1)(G) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 112. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 113. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended—

(1) in subparagrah (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (A), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

SEC. 114. SERVICE-CONNECTED REHABILITATION AND EDUCATION EXEMPTIONS EXTENSIONS.

Section 113 is amended—

(1) in clauses (4) and (5) of subsection (a), by striking out "(but only with respect to fiscal year 1987)" each place it appears;

(2) by striking out subsection (e); and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 115. STUDY OF SCIENTIFIC EVIDENCE REGARDING HEALTH EFFECTS OF EXPOSURE TO AGENT ORANGE.

(a)(1) Within 60 days after the date of the enactment of this section, the Administrator of Veterans' Affairs is directed to conclude negotiations for and enter into an agreement with the National Academy of Sciences under which the Academy will conduct a review of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and prepare the comprehensive report described in subsec-

tion (b). The Academy will conduct the review and prepare such report under an arrangement under which the actual expenses incurred by the Academy in conducting the review will be paid by the Administrator.

(2)(A) If the National Academy of Sciences is not willing to conduct the review and prepare the report described in paragraph (1) under the type of arrangement described in such paragraph, the Administrator shall enter into a similar arrangement with an appropriate nonprofit private scientific entity for such purposes.

(B) The Administrator may not obligate any funds under such an arrangement with a nonprofit private scientific entity as described in subparagraph (A) until specifically authorized to do so by a law enacted after the date on which this section is enacted.

(b) Not later than October 1, 1988, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives and make available to the public a comprehensive report prepared pursuant to an arrangement described in subsection (a)—

(1) describing the review conducted under such subsection; and

(2) containing a statement of the conclusions of the Academy or such other entity as conducts the review, based on such review, as to the weight of the evidence on the human health effects of exposure to agent orange and its component compounds.

(c) The authority provided in this section to enter into a contract shall be effective for a fiscal year to the extent or in such amount as is provided for in an appropriation Act.

SEC. 116. EFFECTIVE DATES.

(a) AMENDMENTS TO TITLE 38.—(1) The amendments made by sections 111 and 112 shall take effect on October 1, 1987.

(2) The amendments made by section 114 shall apply with respect to a sequestration ordered, or a sequestration law enacted, for a fiscal year after fiscal year 1986.

(b) OTHER AMENDMENTS AND PROVISIONS.—(1) The amendments made by section 113 shall take effect on October 1, 1987.

(2) The provisions of section 115 shall take effect on the date of the enactment of this Act.

PART C—EDUCATION PROVISIONS

SEC. 121. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) Section 1788 is amended by—

(1) inserting in clause (B) of the first sentence of the matter following clause (7) of subsection (a) "(or two fifty-minute periods)" after "two hours"; and

(2) inserting in subsection (c) "(or two fifty-minute periods)" after "two hours".

(b) The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act.

SEC. 122. TOLLING OF DELIMITING PERIODS.

(a) EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ALL-VOLUNTEER FORCE.—Section 1431(d) is amended—

(1) in clause (1), by inserting, "or because of a condition (and under the circumstances described in paragraph (2) of this subsection" after "misconduct";

(2) in clause (2) by redesignating subsclauses (A) and (B) as subclauses (i) and (ii);

(3) by redesignating clauses (1) and (2) as clauses (A) and (B);

(4) by inserting "(1)" before "In";

(5) by inserting at the end the following new paragraph:

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection is an alcohol or drug dependence or abuse condition of an eligible individual in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such individual has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1)(B) of this subsection, an eligible individual's application for and extension of the 10-year period for use of entitlement under this chapter because of such a condition may be granted if such individual files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) The period of time during which, based on the existence of such a condition, such 10-year period does not run shall not exceed the lesser of—

"(I) the period during which the eligible individual was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such individual demonstrates, to the satisfaction of the Administrator, that such individual was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the 10-year period with respect to the individual will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the fourth year of the extension.".

(b) PROGRAMS OF REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Section 1503(b) (1) is amended—

(1) by inserting "(A)" before "In";

(2) by inserting "(other than a condition described in subparagraph (B) (ii) of this paragraph)" after "medical condition" in subparagraph (A), as so redesignated; and

(3) by inserting at the end the following new subparagraph:

"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines, under regulations which the Administrator shall prescribe, that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for the veteran to participate in such a program, the 12-year period of eligibility shall not run during the period of time that the veteran was so prevented from participating in such a program.

"(ii) A condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) the veteran has received recognized treatment or has participated in a program of rehabilitation for the condition, and

"(II) the condition is sufficiently under control to enable the veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph not later than one year after whichever of the following last occurs:

"(I) The last date of the period of eligibility otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register.

"(iv) The period of time during which, pursuant to clause (i) of this subparagraph, the 12-year period of eligibility does not run shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for a condition described in clause (ii) of this subparagraph plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, or

"(II) 4 years.

"(v) When pursuant to clause (i) of this subparagraph a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on whichever of the following first occurs—

"(I) the first day, following such condition becoming sufficiently under control to enable the veteran to participate in such program of vocational rehabilitation, on which it is reasonably feasible, in accordance with under the regulations prescribed pursuant to clause (i) of this subparagraph, for the veteran to participate in such a program, or

"(II) the period of time during which that 12-year period of eligibility has, pursuant to such clause, been stopped from running equals 4 years.".

(c) EDUCATIONAL ASSISTANCE FOR POST-VIETNAM ERA VETERANS.—Section 1632(a) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct,"; and

(B) by inserting "(except as provided in paragraph (4)(B) of this subsection)" after "length of time";

(2) in paragraph (3) by inserting "because of such disability" after "subsection"; and

(3) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date of which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

(d) Education Assistance for Vietnam-Era Veterans.—Section 1662(a) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and

(B) in the second sentence, by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) the veteran has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such a condition if the veteran files an application for the extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the veteran was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the delimiting period with respect to the veteran will again begin running on whichever of the following first occurs—

"(I) the first day, following such condition becoming sufficiently under control to enable the veteran to pursue the veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for the veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

"(e) Educational Assistance for Survivors and Dependents.—Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4)(A) of this section," after "misconduct";

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person has received recognized treatment or participated in a program of rehabilitation for the condition, and

"(ii) the condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such a condition if such person files an application for such extension not later than one year after whichever of the following last occurs:

"(I) The last date of the delimiting period otherwise applicable under this section.

"(II) The termination of the last period of such treatment or such program of rehabilitation.

"(III) The date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register.

"(ii) An extension of the applicable delimiting period because of such a condition shall not exceed the lesser of—

"(I) the period during which the eligible person was receiving treatment or participating in a program of rehabilitation for the condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by the condition from initiating or completing such program of education, or

"(II) 4 years.

"(iii) When such an extension is granted, the delimiting period with respect to such person will again begin running on whichever of the following first occurs—

"(I) the first day, following the condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with the regulations prescribed pursuant to subparagraph (A) of this paragraph, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter, or

"(II) the day after the end of the fourth year of the extension.".

SEC. 123. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons where at least 300 veterans or persons are enrolled under provisions of this title or when the course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if such an institution has a demonstrated record of compliance with all the applicable provisions of chapters 31, 34, 35, and 36 of this title warranting a determination that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 124. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

SEC. 125. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

Sections 1682A, 1686, 1737, and 1738 are repealed.

Part D—Insurance Provisions

SEC. 131. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter 1 of chapter 19 is amended by adding at the end the following new section:

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Notwithstanding sections 702, 723, and 725 of this title, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiv-

ing such proceeds under a life annuity settlement option. The Administrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound for the program of insurance concerned.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly annuity amounts authorized in sections 702, 723, and 725 of this title shall remain the minimum rates payable.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is further amended by adding at the end the following new section:

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Notwithstanding section 744 of this title, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving such proceeds under a life annuity settlement option. The Administrator may make such adjustments only in accordance with a determination that the adjustments are administratively and actuarially sound.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) In no event shall calculations of the monthly installment amount be less than that authorized in section 744 of this title.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 132. EXEMPTIONS FROM STATE TAXATION.

Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority thereof, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

SEC. 133. MORTGAGE PROTECTION LIFE INSURANCE.

(a) In General.—Section 806 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Administrator is authorized—

"(1) to establish a program that provides the insurance benefits specified in this section and to obligate the United States to pay the insurance benefits under such program; or

"(2) to purchase from one or more life insurance companies, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), a policy or policies of mortgage protection life insurance on a group basis to provide such benefits.";

(2) in subsection (b), by striking out "Any policy of insurance purchased by the Administrator under this section" and inserting in lieu thereof "Any program established under subsection (a)(1) of this section and any policy of insurance purchased by the Administrator under subsection (a)(2) of this section";

(3) in subsection (d)—

(A) by inserting ", in the case of insurance purchased under subsection (a)(2) of this section," in the second sentence after "Veterans' Administration and"; and

(B) by striking out "directly to the insurer or insurers" in the third sentence and inserting in lieu thereof "directly to the United States (in the case of an insurance program established under subsection (a)(1) of this section) or directly to the insurer or insurers (in the case of insurance purchased under subsection (a)(2) of this section)";

(4) in subsection (e)—

(A) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively;

(B) by inserting after paragraph (1), as designated in subclause (A), the following new paragraph:

"(2) Premiums collected for insurance under any program established under subsection (a)(1) of this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation and all disbursements of insurance proceeds under such program shall be made from that appropriation."; and

(C) by inserting "subsection (a)(2) of" in paragraph (3), as designated in subclause (A), after "purchased under";

(5) in subsection (h)—

(A) by striking out "contracted for" each place it appears and inserting in lieu thereof "provided"; and

(B) by striking out "policy" in the third sentence and inserting in lieu thereof "Administrator (in the case of a program established under subsection (a)(1) of this section) or by a policy purchased under subsection (a)(2) of this section";

(6) in subsection (i)—

(A) by striking out "Insurance contracted for" and inserting in lieu thereof "Insurance provided in the case of any veteran"; and

(B) by striking out "the entire contract or agreement" in clause (5) and inserting in lieu thereof "the insurance program or, in the case of insurance contracted for under subsection (a)(2) of this section, the contract.";

(7) in subsection (j), by striking out "of the mortgage protection life insurance" and inserting in lieu thereof "life insurance under this section"; and

(8) by adding at the end the following:

"(k)(1) There may not be in effect at the same time any program under subsection (a)(1) of this section and any insurance contract purchased under subsection (a)(2) of this section.

"(2) The Administrator may terminate any program referred to in paragraph (1) of this subsection or any contract referred to in such paragraph in order to comply with the requirements of such paragraph.

"(l) The Administrator shall ensure that a veteran who is insured under a program or life insurance policy terminated under subsection (k) of this section shall continue to be insured under any successor program established under subsection (a)(1) of this section or any successor policy purchased under subsection (a)(2) of this section.

"(m)(1) In the case of any policy of insurance purchased in accordance with this section that is terminated under subsection (k) of this section—

"(A) the amount equal to the total amount of the premiums collected or received by an insurer under such policy on or after the date of the termination, and

"(B) any positive balance in the contingency reserve maintained by the insurer under such policy that remains after all charges have been made to such reserve,

shall be paid to the Administrator and shall be deposited in the Treasury of the United States.

"(2) Any insurer that is required to pay an amount out of funds in a contingency reserve under paragraph (1) of this subsection may, upon the election of such insurer, pay such amount in equal monthly installments over a period of not more than 2 years.

"(n) No right of a veteran or mortgage loan holder under an insurance program or policy terminated under subsection (k) of this section shall be impaired by reason of such termination if such right matured before the date of the termination.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect October 1, 1987.

Part E—Pension Provision

SEC. 141. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) In General.—(1) Clause (5) of section 503(a) is amended to read as follows:

"(5) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount to be excluded exceed the greater of the fair market value or reasonable replacement value of the property involved immediately preceding the loss;"; and

(2) Clause (I) of section 415 (f)(1) is amended to read as follows:

"(I) reimbursement of any kind for any casualty loss, as defined in regulations which the Administrator shall prescribe, but in no event shall the amount to be excluded exceed the greater of the fair market value or reasonable replacement value of the property involved immediately preceding the loss;".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 1987.

TITLE II—VETERANS' RADIATION EXPOSURE

SEC. 201. SHORT TITLE.

This title may be cited as the "Veterans' Radiation Exposure Disability and Death Benefits Act of 1987".

SEC. 202. FINDINGS AND CONCLUSIONS; STATEMENT OF PURPOSE.

(a)(1) The Congress makes the following findings:

(A) In November 1985, the General Accounting Office (hereinafter in this section referred to as the "GAO") released the results of a two-year study requested by the Congress of radiation exposure and radiation safety measures during "Operation Crossroads", the 1946 nuclear weapons test series in the Pacific in which over forty-two thousand members of the Armed Forces participated, the largest number of participants of any such test series. The GAO concluded that the estimates of radiation exposure prepared by the Defense Nuclear Agency (hereinafter in this section referred to as the "DNA") for that operation may have significantly understated the actual ionizing radiation exposure received by participants in Operation Crossroads. Specifically, the GAO found:

(i) The DNA radiation exposure estimates were derived primarily from readings taken from film badges designed to detect radiation, which were worn by participants in Operation Crossroads. However, only 15 percent of the participants actually were issued film badges, and the badges were not worn throughout the entire course of Operation Crossroads.

(ii) The DNA radiation exposure estimates failed to take into account problems related to the film badges which could have resulted in readings that were inaccurate by as much as 100 percent as a result of defects in the film or in its processing.

(iii) The DNA radiation exposure estimates failed to take into account the extent to which Operation Crossroads participants received additional radiation exposure as a result of a lack or violation of comprehensive decontamination procedures.

(iv) The DNA radiation exposure estimates did not adequately measure internal radiation exposure which could have resulted from ingestion or inhalation, thereby likely further underestimating total radiation exposure.

(B) In February 1986, the GAO began a Congressionally-requested study of three nuclear weapons test series (Operation Tumbler-Snapper, a 1952 Nevada test series, Operation Redwing, a 1956 Pacific test series, and Operation Dominic I, a 1961 Pacific test series) in order to determine the radiation exposure of personnel manning or decontaminating aircraft that flew through nuclear clouds at those tests. The GAO's preliminary findings from this study of approximately 900 Air Force personnel from these operations involved in cloud sampling parallel its findings in the Crossroads study that DNA radiation exposure estimates significantly understate actual radiation exposure and that radiation safety measures were inconsistently applied, and also found that, contrary to DNA assertions, a substantial number of the participants in these operations received significant amounts of radiation exposure.

(C) On the basis of the GAO reports, the Congress has concluded that the DNA's radiation exposure estimates provide an incomplete measure of the radiation exposure received by participants in Operation Crossroads, Tumbler-Snapper, Redwing, and Dominic I and that serious questions have been raised about the accuracy of such estimates in general.

(D) The DNA radiation exposure estimates have been relied on by the Veterans' Administration (hereinafter in this section referred to as the "VA") in evaluating, and generally denying, claims made by veterans or veterans' survivors for compensation in connection with radiation exposure received during Operation Crossroads.

(E) Including more than forty-two thousand veterans who participated in Operation Crossroads, approximately 200,000 veterans participated in 235 detonations of nuclear devices in connection with the nuclear weapons testing program. As outlined in paragraphs (8) and (9) of section 2 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), enacted on October 24, 1984, Congress found in that Act:

(i) The film badges which were originally issued to members of the Armed Forces in connection with the nuclear weapons testing program have previously constituted a primary source of dose information for veterans and survivors of veterans filing claims under chapter 11 or 13 of title 38, United States Code, for VA disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(ii) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses, were not issued to most of the participants in the tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

(F) Studying the radiation exposure and long-term health effects of the tests other than Operation Crossroads and of the cloud-sampling operations other than Operations Tumbler-Snapper, Redwing, and Dominic I, would entail many years, and the delay in providing relief to veterans suffering radiation-related diseases would be unacceptable.

(G) Because of the relatively small size of the population of ionizing radiation-exposed veterans, the high incidence of cancer in the general population, and the great difficulty in locating individuals twenty-five to forty years after their radiation exposure, no scientifically feasible morbidity study has yet been designed of the veterans who participated in the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan. A mortality study of a group of veterans from one series of detonations—Operation Crossroads—is only now in its early stages. An earlier mortality study of the veterans from five test series was severely criticized because of the failure to utilize a scientifically appropriate control group.

(H) Scientific research over many years has proven conclusively the dangers to human health from exposure to ionizing radiation.

(2) On the basis of the foregoing findings, the Congress concludes that a significant portion, if not all, of the veterans present at the nuclear detonations were exposed to some quantity of ionizing radiation from inhalation, ingestion, or external exposure and that no fully acceptable or reliable method has been developed to estimate those levels of exposure.

(3) The Congress makes the following further findings:

(A) It has become clear that the present process for adjudicating radiation-exposure claims that has been based on such radiation exposure estimating methods as are described in paragraph (1) of this section has resulted in a lack of fairness and consistency in the adjudication of those claims. As the Congress found in 1984 in section 2(12) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), such claims—particularly those involving health effects with long latency periods—present adjudicatory issues which differ significantly from the issues presented in claims based upon the more usual types of injuries incurred in military service. Although since 1978 substantially more than six thousand claims for compensation or dependency and indemnity compensation have been filed by veterans and their survivors with the VA for disabilities claimed to have resulted from radiation exposure received during participation in the nuclear weapons testing program or in the occupation of Hiroshima or Nagasaki, Japan, the VA has awarded benefits in only twenty-eight of those cases.

(B) There is some evidence that officials of the United States Government were aware as early as 1945 of the risks of long-term, adverse health effects from exposure to ionizing radiation and much evidence of such awareness on the part of such officials by the early 1950's. Nevertheless, military personnel repeatedly were exposed to ionizing radiation in connection with the nuclear weapons testing program from 1945 to 1962. These military personnel were not informed of the risks associated with their participation in the program; nor was their health status systematically monitored thereafter.

(C) Accordingly, exposing these military personnel to such risks in experiments relating to the development and potential use of nuclear weapons, and making no systematic effort to monitor their health thereafter, places an even greater than usual responsibility on the Government to ensure that these veterans receive appropriate compensation as well as necessary health care through the VA for any disabilities resulting from such exposure.

(D) The precise correlation between specific doses of ionizing radiation and the probability of cancer induction in a particular body organ or tissue in a given individual is not known at this time. What is known, however, is the following:

(i) Certain body organs and tissues have been shown to have a high susceptibility to induction of cancers by ionizing radiation, and not to be associated with any other risk factors. The resultant diseases are cancer of the thyroid and leukemia (excluding chronic lymphocytic leukemia).

(ii) Other body organs and tissues have been shown to be moderately susceptible to induction of cancer by radiation and to not be as associated with any other risk factors. The resultant diseases are cancer of the small intestine, cancer of the stomach, cancer of the liver (except where cirrhosis or hepatitis B is indicated), cancer of the bile ducts, cancer of the gallbladder, cancer of the pancreas, lymphomas (excluding Hodgkin's disease), and multiple myeloma. The link between such diseases and radiation exposure, and therefore the likelihood that the disease was incurred during service, is less well-established than it is between the diseases referred to in division (i) of this subparagraph.

(iii) Certain other body organs and tissues have been shown to be moderately suscepti-

ble or somewhat susceptible to induction of cancer by radiation, but either generally much less susceptible than those described in divisions (i) and (ii) of this subparagraph or equally or even more associated with other risk factors than they are susceptible to induction by radiation. The resultant diseases are cancer of the lung, cancer of the colon, cancer of the esophagus, cancer of the rectum, cancer of the pharynx, cancer of the liver where cirrhosis or hepatitis B is indicated, cancer of the kidney, cancer of the urinary tract, cancer of the bladder, cancer of the brain and nervous system, cancer of the salivary glands, cancer of the bones and joints, and cutaneous melanoma. The link between such diseases and radiation exposure, and therefore the likelihood that the disease was incurred during service, is much less well-established than it is between the diseases referred to in division (1) of this subparagraph.

(E) As stated in section 2(13) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542), it has always been the policy of the VA, and it is the policy of the United States, that when, with respect to individual claims for service connection of diseases and disabilities, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

(b) It is therefore the purpose of this Act to establish a process within the VA for carrying out the findings and conclusions of the Congress set forth in subsection (a) in order to—

(1) provide a monthly disability or death benefit equal to that provided in chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph (D)(i) of this paragraph, which has been shown to be strongly susceptible to induction by radiation and which has not been shown to be strongly associated with any other risk factors;

(2) provide such a monthly disability or death benefit based on the exposure of such a veteran to more than one rem of ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran develops a disease, described in subparagraph (D)(ii) of this paragraph, which has been shown to be moderately susceptible to induction by radiation and which has not been shown to be associated with other significant risk factors; and

(3) provide special consideration of claims for compensation or dependency and indemnity compensation under chapter 11 or 13 of title 38, United States Code, based on the exposure of a veteran to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, when the veteran (A) has an estimated service-related radiation exposure of more than 1 rem as computed pursuant to subsection (c) of section 354 of title 38, United States Code (as added by section 204 of this Act), develops a disease, described in subparagraph (D)(iii) of this paragraph, which has been shown to be moderately susceptible or somewhat susceptible to induction by radiation, but generally much less so than those diseases referred to in paragraphs (1) and (2) of this subsection, or is equally or more strongly associated with other risk factors than with radiation.

SEC. 203. PROVISION OF DISABILITY AND DEATH BENEFITS FOR CERTAIN VETERANS AND THEIR SURVIVORS.

Title 38 is amended by inserting after chapter 13 the following new chapter:

"CHAPTER 14—DISABILITY AND DEATH BENEFITS FOR CERTAIN VETERANS EXPOSED TO IONIZING RADIATION AND THEIR SURVIVORS

"Sec.
"451. Definitions.
"452. Disability and death benefits for radiation-exposed veterans and their survivors.
"453. Rates of disability and death benefits.
"454. Special consideration in connection with other diseases.
"455. Contrary affirmative evidence.
"456. Other benefits.

"§ 451. Definitions

"For the purpose of this chapter, the term 'radiation-exposed veteran' means a veteran (including a person who died in the active military, naval, or air service) who during such veteran's service (1) participated on site in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, or (2) in connection with such veteran's internment as a prisoner of war in Japan during World War II, experienced an opportunity for exposure to ionizing radiation from a nuclear detonation which the Administrator finds to have been comparable to the opportunity for such exposure of a veteran who so participated in such occupation.

"§ 452. Disability and death benefits for radiation-exposed veterans and their survivors

"(a) In the case of a radiation-exposed veteran who suffers or has died from a disease specified in subsection (c)(1) of this section, the Administrator shall pay a monthly disability benefit to such veteran or a monthly death benefit to the survivors of such veteran in accordance with section 453 of this title.

"(b) In the case of a radiation-exposed veteran who suffers or has died from a disease specified in subsection (c)(2) of this section and whose estimated service-related radiation exposure, as computed pursuant to section 354(c) of this title, exceeds 1 rem, the Administrator shall pay a monthly disability benefit to such veteran or a monthly death benefit to the survivors of such veteran in accordance with section 453 of this title.

"(c)(1) The diseases referred to in subsection (a) of this section are the following:

"(A) cancer of the thyroid, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radiation-exposing activity;

"(B) leukemia (except for chronic lymphocytic leukemia), when manifested within 30 years after the last date on which the radiation-exposed veteran participated in the ionizing radiation-exposing activity.

"(2) The diseases referred to in subsection (b) of this section are the following, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radiation-exposed activity:

"(A) cancer of the small intestine;

"(B) cancer of the stomach;

"(C) cancer of the liver, except where cirrhosis or hepatitis B is indicated;

"(D) cancer of the bile ducts;

"(E) cancer of the gallbladder;

"(F) cancer of the pancreas;

"(G) lymphomas (excluding Hodgkin's disease); and

"(H) multiple myeloma.

"(d) A benefit may not be paid under this section with respect to a disease or the death of a radiation-exposed veteran for any month for which compensation is payable to that veteran for that disease under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

"§ 453. Rates of disability and death benefits

"A disability benefit payable to a veteran for a disease specified in section 452(c) of this title shall be paid at the rate at which compensation would be payable under chapter 11 of this title for the disability resulting from such disease if the disability were determined to be service connected, and a death benefit payable to the survivors of a radiation-exposed veteran pursuant to section 452 of this title shall be paid based on the eligibility requirements (other than any requirement relating to the service-connection or compensability of a disability) and at the rates that apply to benefits under chapter 13 of this title.

"§ 454. Special consideration in connection with other diseases

"(a) When a claim is filed by a radiation-exposed veteran or a survivor of a radiation-exposed veteran for benefits under chapter 11 or chapter 13 of this title, in connection with any disease specified in subsection (b) of this section and such veteran's estimated service related radiation exposure, as computed pursuant to subsection (c) of section 354 of title 38, United States Code (as added by section 204 of this Act), exceeds 1 rem, the Administrator shall give special consideration to the adjudication of such claim, including giving conclusive weight to the findings of the Congress set forth in section 2 of the Veterans' Radiation Exposure Disability and Death Benefits Act of 1987 relating to the relationship between the disease for which benefits are claimed and ionizing radiation exposure, in the process of evaluating the claim using the radiation-exposed veteran's estimated service-related radiation exposure as computed pursuant to section 354(c) of this title.

"(b) The diseases referred to in subsection (a) of this section are the following, when manifested 5 or more years after the first date on which the radiation-exposed veteran participated in the ionizing radition-exposing activity:

"(1) Cancer of the lung;

"(2) cancer of the colon;

"(3) cancer of the esophagus;

"(4) cancer of the rectum;

"(5) cancer of the pharynx;

"(6) cancer of the liver where cirrhosis or hepatitis B is indicated;

"(7) cancer of the kidney;

"(8) cancer of the urinary tract;

"(9) cancer of the bladder;

"(10) cancer of the brain and nervous system;

"(11) cancer of the salivary glands;

"(12) cancer of the bones and joints; and

"(13) cutaneous melanoma.

"§ 455. Contrary affirmative evidence

"The provisions of this chapter shall not apply with respect to a disease occurring in a radiation-exposed veteran—

"(1) where there is affirmative evidence that the disease was not incurred as the result of the veteran's participation in the United States Government's test of a nuclear device or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946; or

"(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of the disease was suffered by the veteran between the date of the veteran's most recent participation in such a test or in such occupation and the onset of such described disease.

"§ 456. Other benefits

"(a) Any disease establishing eligibility for a disability or death benefit under this chapter shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of this title) as if such disease were service connected.

"(b) Receipt of any disability or death benefit under this chapter shall be treated for purposes of all other laws of the United States as if such benefit were compensation under chapter 11 of this title or dependency and indemnity compensation under chapter 13 of this title, respectively.".

SEC. 204. RADIATION EXPOSURE ESTIMATES.

(a) Section 301 is amended by adding at the end the following new paragraphs:

"(5) The term 'radiation-exposed veteran' has the same meaning given such term in section 451 of this title.

"(6) The term 'DNA estimate' means the radiation exposure estimate calculated by the Defense Nuclear Agency of the Department of Defense pursuant to the guidelines, as in effect on July 31, 1987, prescribed by the Secretary of Defense pursuant to section 7(a)(1) of the Veterans' Dioxin and Radiation Compensation Standards Act (Public Law 98-542).".

(b) Section 354 is amended by adding at the end the following new subsection:

"(c) For the purpose of adjudicating a claim for benefits under chapters 11, 13, or 14 of this title, submitted by a radiation-exposed veteran or by the survivor of a radiation-exposed veteran, the veteran's estimated service-related radiation exposure shall be the total of the highest radiation exposure estimate determined by the Director of the Defense Nuclear Agency (or any other appropriate office of the Department of Defense) for that individual, as established by film badge reading, reconstruction, or a combination of film badge reading and reconstruction, plus—

"(1) in the case of a radiation-exposed veteran who participated on site in an operation in the United States Government's nuclear weapons testing program—

"(A) an additional 5 rems, if the DNA estimates indicate that 25 percent or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 25 percent or more of the total number of participants in the operation, were exposed to more than 3 rems of ionizing radiation;

"(B) an additional 3 rems, if the DNA estimates indicate that 25 percent or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 25 percent or more of the total number of participants in the operation, were exposed to more than 1 rem of ionizing radiation; or

"(C) an additional 1 rem, if the DNA estimates indicate that 20 percent or more of the members of the radiation-exposed veteran's service branch participating in the operation, or 20 percent or more of the total number of participants in the operation, were exposed to more than 0.5 rem of ionizing radiation;

"(2) in the case of a radiation-exposed veteran who (A) participated on site in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, or (B) was interned as a prisoner of war in Japan during World War II, an additional 1 rem; or

"(3)(A) in the case of a radiation-exposed veteran (i) who (I) participated on site in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, or (II) was interned as a prisoner of war in Japan during World War II, and (ii) participated in one or more nuclear weapons tests, the total of the highest numbers of rems determined for such veteran under subclauses (A), (B), and (C) of clause (1) of this subsection plus any number of rems determined under clause (2) of this subsection; or

"(B) in the case of a radiation-exposed veteran who participated on site in more than one nuclear weapons test, the total of the highest numbers of rems determined for such veteran under subclauses (A), (B), and (C) of clause (1) of this subsection.".

SEC. 205. DEFINITIONS.

For the purpose of this Act, the term "radiation-exposed veteran" has the same meaning given such term in section 451 of title 38, United States Code (as added by section 203 of this Act).

SEC. 206. PRESERVATION OF EXISTING RIGHTS.

Nothing in this Act shall in any way operate or be construed to prevent the granting of service connection under chapter 11 or 13 of title 38, United States Code, in the case of any disease or disability from which a radiation-exposed veteran suffers or has died, including those diseases or disabilities described in this Act, otherwise determined through the exercise of sound judgment to have been incurred in or aggravated by active military, naval, or air service, including such veteran's participation in the United States Government's nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946.

SEC. 207. EXTENSION OF HEALTH-CARE ELIGIBILITY.

The provisions of section 610(a)(1)(G) of title 38, United States Code, as such provisions relate to eligibility for hospital care on the basis of exposure to radiation, shall, notwithstanding any such provision, terminate no earlier than the date on which, pursuant to section 210 of this Act, the provisions of the amendments made by sections 203 and 204 of this Act terminate.

SEC. 208. REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE REPORTS.

Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives".

SEC. 209. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE AIR SPACE OF THE UNITED STATES.

(a) Notwithstanding any other provision of law, plutonium in any form may not be transported by aircraft from a foreign nation to a foreign nation through the air space of the United States unless—

(1) the possible routes for shipment, including landing sites and refueling points, if any, have been evaluated in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law, and

(2) such plutonium is transported in a container which the Nuclear Regulatory Commission has certified to Congress as safe in accordance with subsection (b) and all other applicable law including Public Law 94-79 and related regulations.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft carrying a sample full scale container loaded with test material;

(2) conduct an actual drop test from maximum cruising altitude of a sample full scale container loaded with test material;

(3) certify to the Congress that a safe container for use in the transport of plutonium by aircraft has been developed and tested—

(A) in accordance with paragraphs (1) and (2),

(B) in a way which uses the best practicable means to simulate actual transport conditions, and

(C) which did not rupture and release its contents into the environment during such tests; and

(4) evaluate the container certification required by Public Law 94-79 and paragraph (3) in accordance with the National Environmental Policy Act (Public Law 91-190) and all other applicable law.

(c)(1) The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission after public notice and a reasonable opportunity for public comment on the design of such tests.

(2) The results of all tests under this section shall be available to the public and submitted to the Congress.

(d) Plutonium in any form contained in a medical device designed for individual human application is not subject to the provisions of this section: Provided, That this section shall take effect on December 15, 1987.

SEC. 210. EFFECTIVE DATE.

(a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 203 and 204 shall take effect on January 1, 1988. No benefit may be paid for any period before such date by reason of the enactment of this Act.

SEC. 211. TERMINATION OF PROVISIONS.

The amendments made by sections 203 and 204 shall not apply with respect to any claim for benefits filed after September 30, 1991.

TITLE III—HEALTH CARE

PART A—HEALTH-CARE PROGRAMS

SEC. 301. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

Clause (A) of section 601(6) is amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse where such services are necessary to overcome a service-connected disability impairing the veteran's procreative ability, (iii) dental services and appliances as described in sections 610 and 612 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiv-

ing care or services under this chapter) preventive health-care services as defined in section 662 of this title, (vi) (except under the conditions described in section 612(f)(1)(A)(i) of this title) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

SEC. 302. FEE-BASIS AUTHORITY EXPANSION.

(a) Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "facility" the first time it appears;

(2) in clause (6), by striking out "or" at the end;

(3) in clause (7), by striking out the period at the end and inserting in lieu thereof "; or"; and

(4) by adding at the end the following new clause:

"(8) diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

SEC. 303. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is amended by striking out all after "implementation of" and inserting in lieu thereof "sections 603 and 620 of title 38, United States Code, and on the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in each of the categories described in—

"(1) the following provisions of subsection (a) of such section 603: subclauses (A) and (B) of clause (1); subclauses (A), (B), and (C) of clause (2); clause (3); clause (4); clause (5), with a breakdown showing inpatient care and outpatient treatment separately; clause (6); clause (7); and clause (8) (as added by section 302 of this Act), with a breakdown showing inpatient care and outpatient treatment separately; and

"(2) subsections (a) and (f) of such section 620.".

SEC. 304. CONTRACT CARE FOR SERVICE-CONNECTED DISABLED VETERANS OVERSEAS.

Section 624(b) is amended to read as follows:

"(b) The Administrator may furnish to any otherwise eligible veteran who is sojourning or residing abroad such hospital care and medical services as the Administrator determines are needed (A) for a service-connected disability, or (B) as part of a rehabilitation program under chapter 31 of this title.".

SEC. 305. ELIGIBILITY FOR DOMICILIARY CARE.

(a) In General.—Subsection (b) of section 610 is amended to read as follows:

"(b) The Administrator, through Veterans' Administration facilities, may furnish such domiciliary care as the Administrator determines is needed by a veteran for the purpose of receiving treatment or rehabilitation if the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that the veteran—

"(1) has a service-connected disability, or

"(2) is incapacitated from earning a living and has no adequate means of support.".

(b) Conforming Amendment.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

SEC. 306. PILOT PROGRAM OF NONINSTITUTIONAL ALTERNATIVES TO INSTITUTIONAL CARE.

(a) Establishment of Pilot Program.—Subchapter II of chapter 17 is amended by adding at the end the following new section:

"§ 620D. Noninstitutional alternatives to institutional care; pilot program

"(a)(1) The Administrator, during the period beginning January 1, 1988, and ending December 31, 1991, and subject to subsection (c) of this section, shall conduct a pilot program under which veterans eligible under this chapter for and otherwise in need of hospital, nursing home, or domiciliary care will be furnished medical, rehabilitative, and health-related services in noninstitutional settings at not less than five nor more than ten demonstration project sites.

"(2) In selecting veterans for participation in the program, the Administrator shall accord priority to veterans who have service-connected disabilities, to veterans who are sixty-five years of age or older, to veterans who are totally and permanently disabled, and to veterans who are suffering from Alzheimer's disease or other forms of dementia.

"(b)(1)(A) In the conduct of the program, the Administrator shall (i) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (ii) in the case of each veteran furnished services under the program, appoint a Veterans' Administration health-care employee to furnish case management services.

"(B) For the purposes of subparagraph (A) of this paragraph, 'case management' includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by the Veterans' Administration, either directly or through a contract, or by an entity other than the Veterans' Administration) monitoring, reassessment, and follow up.

"(2) In order to evaluate the cost-effectiveness of utilizing certain health services of agencies other than the Veterans' Administration in cases in which no Veterans' Administration facility in the vicinity of a demonstration project provides such services, the Administrator, in not more than two of the demonstration projects, may utilize appropriate health services of appropriate public and private agencies that furnish such services.

"(3) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility furnishing services to veterans under subparagraph (1)(A)(i) of this subsection. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the facility concerned. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

"(c) The total cost of conducting the pilot program under this section shall not exceed 60 percent of the cost that would have been incurred by the Veterans' Administration during the period of the pilot program if the veterans furnished services under the pilot program had been furnished, instead, nursing home care under section 610 of this title. In any fiscal year, the cost of carrying out the pilot program shall not exceed 65 percent of the cost that would have been so incurred during such year in furnishing the veterans who received services under the pilot program with nursing home care under such section 610.

"(d) Not later than April 1, 1991, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Administrator's evaluation, findings, and conclusions regarding the pilot program, and its results for the participating veterans, during its first 36 months. The report shall include a description of the conduct of the program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.".

"(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 620C the following new item:

"620D. Noninstitutional alternatives to institutional care; pilot program.".

SEC. 307. COMMUNITY NURSING HOME CARE IN ALASKA AND HAWAII.

Clause (A) of section 620(a)(2) is amended to read as follows:

"(A) the amount equal to 45 percent of the cost of care (as determined annually by the Administrator)—

"(i) (except as provided in subclause (ii) of this clause) furnished by the Veterans' Administration in a general hospital under the jurisdiction of the Administrator, or

"(ii) in the case of care in a State in which there are no general hospitals under such jurisdiction furnished by a non-Veterans' Administration hospital under contract with the Veterans' Administration; or".

SEC. 308. ACQUIRED IMMUNE DEFICIENCY SYNDROME MATTERS.

(a) Confidentiality of Medical Records.—Section 4132 is amended—

(1) in subsection (a), by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,";

(2) in subsection (b)—

(A) in paragraph (1), by striking out "pursuant to section 4134 of this title";

(B) in paragraph (2)—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local government agency or instrumentality charged under Federal or State law with the protection of the public health or safety and to which such Federal or State law requires

disclosure of such record if a qualified representative of such agency or instrumentality has made a written request that such record be provided as required pursuant to such law for a purpose authorized by Federal or State law.";

(3) in subsection (c), by striking out "(b)(2)(C)" and inserting in lieu thereof "(b)(2)(D)", and

(4) in subsection (e)—

(A) by inserting "(1)" before "The";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(C) by adding at the end of the following new paragraphs:

"(2) The provisions of this section shall not prohibit any disclosure of information or records relating to any patient's or subject's infection with the human immunodeficiency virus that is required or authorized by a law having general applicability to Federal health-care services programs.

"(3)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section shall not prohibit the disclosure of such information or records by a physician or a professional counselor if—

"(i) the disclosure is made to the spouse of the patient or subject concerned or to an individual whom the patient or subject has, during the process of professional counseling or testing, identified as being a sexual partner of such patient or subject, and

"(ii) such physician or counselor, after making reasonable efforts to counsel and encourage such patient or subject to inform such spouse or sexual partner, reasonably believes that the disclosure is medically appropriate and that such patient or subject will not inform such spouse or sexual partner about the information involved.

"(B) The disclosure under this paragraph of the identity of a patient or subject shall be made only in a case in which the physician or professional counselor determines that such disclosure is necessary in order to protect the health of such spouse or sexual partner.".

(b) NONDISCRIMINATION.—(1)(A) Section 4133 is amended to read as follows:

"§ 4133. Nondiscrimination in the admission and treatment of certain individuals by Veterans' Administration health-care facilities

"Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection. The Administrator shall prescribe regulations for the enforcement of the nondiscrimination policy established by this section. Such regulations, with respect to the admission and treatment of alcohol or drug abusers, shall be prescribed in accordance with the provisions of section 3134 of this title.".

(B) The table of sections at the beginning of chapter 73 is amended by striking out the item relating to section 4133 and inserting in lieu thereof the following:

"4133. Nondiscrimination in the admission and treatment of certain individuals by Veterans' Administration health-care facilities.".

(2) Section 4134(a) is amended by striking out "section 4133 of this title," and inserting in lieu thereof "section 4133 of this title with respect to alcohol and drug abusers,".

(c) AIDS PREVENTION INFORMATION AND TRAINING.—(1)(A) The Administrator of Veterans' Affairs shall establish and carry out an acquired immune deficiency syndrome (hereafter referred to as "AIDS") information program for employees and consultants of the Veterans' Administration and beneficiaries of programs administered by the Veterans' Administration.

(B) The Administrator, in conducting the program under paragraph (1)—

(i) shall develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(ii) shall provide for periodic dissemination of publications (including the 1986 Surgeon General's Report on AIDS) other materials containing such information;

(iii) shall make publications and other suitable materials containing such information readily available in public waiting rooms at Veterans' Administration facilities;

(iv) shall disseminate to Veterans' Administration substance abuse treatment personnel and each person being furnished treatment by the Veterans' Administration for drug abuse, information (including the 1986 Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus associated with intravenous drug abuse; and

(v) shall disseminate, to each veteran-patient believed to be at high risk for AIDS, information (including the 1986 Surgeon General's Report AIDS) on preventing the transmission of the human immunodeficiency virus.

(2) The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of health-care personnel and health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration.

(d) RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—(1) The Administrator of Veterans' Affairs may not conduct a widespread testing program to determine infection with the human immunodeficiency virus in any fiscal year unless funds have been appropriated to the Veterans' Administration specifically for the conduct of such program in such fiscal year except as provided in paragraph (2).

(2) Within 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall promulgate regulations providing for a program under which the Veterans' Administration (A) offers to test each inpatient receiving hospital care from the Veterans' Administration in order to determine whether such patient is infected with the human immunodeficiency virus in the following conditions: patients who are receiving treatment from the Veterans' Administration for intravenous drug abuse, patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and patients who are otherwise at high risk for infection with such virus and veterans who are younger than 40 years of age, and (B) provides pre- and post-test counseling on acquired immune deficiency syndrome to each such patient. No such test may be conducted under such program without the prior informed and separate written consent of the patient tested.

SEC. 309. RULES AND REGULATIONS RELATING TO HOSPITAL, NURSING HOME, DOMICILIARY AND MEDICAL CARE.

The text of section 621 is revised to read as follows:

"The Administrator shall prescribe all rules and regulations which are necessary and appropriate to govern the furnishing of hospital, nursing home, and domiciliary care and medical services under laws administered by the Veterans' Administration and which are consistent therewith (including such rules and regulations as are necessary and appropriate in order to promote good conduct on the part of persons who are receiving such care or services in Veterans' Administration facilities), except that the Administrator may prescribe, in such rules and regulations, limitations in connection with the furnishing of such care during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 310. INCREASE IN PER DIEM RATES FOR CARE IN STATE HOMES.

(a) IN GENERAL.—(1) Section 641 is amended—

(A) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home and hospital care,"; and

(B) by adding at the end the following new subsection:

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(2) Payments pursuant to the amendments made by subsection (a)(1) shall be subject to the availability of appropriations.

(b) EFFECTIVE DATES.—The amendment made by subsection (a)(1)(A) shall take effect on October 1, 1987.

(2) The amendment made by subsection (a)(1)(B) shall take effect on October 1, 1988.

SEC. 311. CONDITIONAL APPROVALS OF APPLICATIONS FOR STATE HOME GRANTS.

Section 5035(b) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (4)—

(A) by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(B) by striking out "July 1" and inserting in lieu thereof "September 30"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project, conditionally award a grant for the project under this section, and obligate funds for the grant if the Administrator determines that the project drawings and specifications submitted with the application for the grant are at least 80 percent complete and that the State submitting the application will meet all the requirements referred to in paragraph (1)(A) of this subsection not later than 180 days after the date on which the Administrator conditionally approves the project. The Administrator may finalize the award of the grant and pay the amount of the grant to *such State only if the State has met all of such requirements.*

"(B) If a State does not take the action necessary to meet all of the requirements referred to in paragraph (1)(A) of this subsection not later than 180 days after the date on which the Administrator conditionally approves the application, the Administrator shall rescind the award of a grant to the State in connection with the application and shall deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant intitially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

SEC. 312. MEDICAID TREATMENT OF PER DIEM PAYMENTS TO STATE VETERANS' HOMES.

Section 641 is further amended by adding at the end the following new subsection:

"(e) Payments made to States pursuant to this section—

"(1) shall not be considered to be a third-party liability for any purpose under section 1902(a)(25) of title XIX of the Social Security Act; and

"(2) shall, for purposes of determining under such title XIX the reasonable costs of services provided by a State home, not be deducted directly or indirectly from the operating or other costs of such State home.".

SEC. 313. THERAPEUTIC AND REHABILITATION REVOLVING FUND RESTORATION.

(a) Notwithstanding subsection (b) of section 601 of the Veterans' Benefits Improvements and Health-Care Authorization Act of 1986 (Public Law 99-576), clause (2) of subsection (b) of section 113 of title 38, United States Code, as added by subsection (a) of section 601 of such Act, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for a fiscal year after fiscal year 1985.

(b) The Secretary of the Treasury shall take such action as is necessary to implement subsection (a) and shall, not later than 60 days after the date of the enactment of this Act, report to the appropriate committees of the Congress on the actions taken by the Secretary pursuant to this section.

SEC. 314. VETERANS' ADMINISTRATION RECREATION SPONSORSHIP AUTHORITY.

Section 612 is amended by adding at the end the following new subsection:

"(l)(1) The Administrator may provide or, in cooperation with any organization named in or approved under section 3402 of this title, assist in providing recreational activities which would further the rehabilitation of disabled veterans if—

"(A) such activities are available to disabled veterans on a national basis, and

"(B) a significant percentage of the individuals participating in such activities are eligible for rehabilitative services under this chapter.

"(2) The Administrator, notwithstanding any other provision of law, may accept contributions of funds and other assistance from any appropriate source for the support of such activities and may permit any individual, organization, or corporation which has made such a contribution, or provided such assistance, to advertise the activity or their participation therein, if—

"(A) the Administrator has approved any such advertisement, and

"(B) such advertisement contains a clear statement that any product, project, or commercial line of endeavor has not been endorsed by the Veterans' Administration.".

SEC. 315. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

(a)(1) In order to evaluate the impact on access to Veterans' Administration health-care services by eligible veterans residing in isolated rural areas which are at least 100 miles from the nearest Veterans' Administration health-care facility, the Administrator of Veterans' Affairs shall conduct a pilot program for a period of not less than 24 months, in four geographic regions, pursuant to which eligible veterans shall be furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics.

(2) The pilot project mandated by paragraph (1) shall be carried out utilizing at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

(b) The amount spent in any 12-month period to carry out the pilot program mandated by subsection (a) of this section may not exceed $5,000,000.

(c) The Administrator shall conduct an evaluation of the efficacy and cost-effectiveness of furnishing care to eligible veterans utilizing mobile health-care clinics pursuant to subsection (a).

(d) Not later than 20 months after the beginning of the pilot program carried out pursuant to subsection (a), the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Such report shall include—

(1) information on the health-care services, and a detailed breakdown of the costs thereof, that were furnished under such pilot program;

(2) information on the veterans furnished services under the pilot program, with a detailed breakdown with respect to service connection, age, prior access to and utilization of Veterans' Administration care and services, and the financial need of such veterans;

(3) the preliminary or final results of the Administrator's evaluation; and

(4) any plans for administrative action, and any recommendation for legislation, that the Administrator considers appropriate to include in the report.

SEC. 316. MENTAL ILLNESS RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic, and health-care-services research, and stressing research into (A) spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities, and (B) post-traumatic stress disorder, dementias, and other mental disorders)".

SEC. 317. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) The Congress makes the following findings:

(1) In view of the estimate that, by the year 2030, the percentage of the United States' population that is age sixty-five and older will have risen to nearly 22 percent from the current level of approximately 12 percent, responding appropriately to the future health-care needs of the increasing elderly population of the United States represents one of our Nation's greatest challenges.

(2) Because veterans cluster in age groups related to periods of major conflicts, the aging of the general population is accelerated in the case of veterans, and veterans of World War II and the Korean conflict will enter in the near future the age range with the greatest need for health and health-related services and constitute a very significant portion of the total veteran population.

(3) In response to the needs of the growing number of older veterans, the Veterans' Administration, pursuant to congressional guidance and direction, has increased its efforts with respect to the development of new approaches to furnishing such care, the training of health-care professionals in the care of older patients, and the carrying out and funding of research into diseases and disabilities associated with aging and into the aging process.

(4) As a result of the Veterans' Administration's affiliation arrangements with one hundred and one medical schools, fifty-nine dental schools, approximately five hundred nursing schools, and approximately three hundred and fifty other health-care professional training institutions through which over one hundred thousand students and trainees receive training in Veterans' Administration facilities annually and the important role which those arrangements fulfill in those schools carrying out their education and training missions, the Veterans' Administration has a vital opportunity to improve efforts to train health-care professionals in the care of older patients and to heighten research activity into diseases and disabilities associated with aging and into the aging process.

(5) As an indication of the importance of the Veterans' Administration's role in promoting efforts by affiliated health-care professional training institutions, the Congress in Public Law 96-330, provided that no Veterans' Administration medical center could be designated as the site for a Geriatric Research, Education, and Clinical Center—centers of excellence in the area of aging research, education, and treatment—unless the Veterans' Administration medical center has arrangements with affiliated schools which provide education and training in geriatrics and which provide medical residents and nursing or allied health personnel with training and education in geriatrics through regular rotation through all bed components of the Veterans' Administration medical center.

(b)(1) In light of the findings in subsection (a), not later than March 1, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administra-

tion's activities, and the success of those activities, designed to promote increased efforts by affiliated medical and other health-professional training schools (1) in training health-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

(2) The report shall include—

(A) information, for each academic year from 1980-1981 through 1986-1987, on the number of institutions affiliated with the Veterans' Administration (hereinafter in this paragraph referred to as "affiliated institutions"), broken down by type of institution and type of training, that—

(i) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary care facilities, or other units providing extended care to veterans; or

(ii) have a formal program providing education and training in geriatrics; or

(iii) have both such programs;

(B) information on the number of affiliated institutions (broken down by type of institution) that are planning to establish programs as described in clause (A), together with a timetable for such actions;

(C) estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in clauses (A) and (B);

(D) estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in clauses (A)(i) and (B);

(E) a description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in clause (A); and

(F) the views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C) (i) or (ii) of section 4101(f) of title 38, United States Code.

PART B—HEALTH-CARE ADMINISTRATION

Subpart 1—Health-Care Personnel

SEC. 321. ORGANIZATION OF THE DEPARTMENT OF MEDICINE AND SURGERY.

(a) OFFICE OF THE CHIEF MEDICAL DIRECTOR.—Section 4103(a) is amended—

(1) by inserting "persons, each of whom shall be qualified in the administration of health services" after "following";

(2) in clause (3), by striking out "shall be a qualified doctor of medicine" and inserting in lieu thereof "shall be a person with specified qualifications";

(3) in clause (4)—

(A) in the first sentence, by striking out "who shall be" the first place it appears and inserting in lieu thereof "all of whom shall be persons with specified qualifications,";

(B) in the second sentence, by striking out "qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines" and inserting in lieu thereof "who are persons with specified qualifications solely by reason of clause (ii) of the last sentence of this subsection"; and

(C) in the last sentence, by striking out "qualified physician" and inserting in lieu thereof "person with specified qualifications";

(4) in clause (5)—

(A) by inserting a comma and "all of whom shall be persons with specified qualifications," after "Directors";

(B) by striking out the commas after "Administrator" and "Director"; and

(C) by striking out the second sentence;

(5) in clause (6), by inserting "upon the recommendation of the Chief Medical Director" after "Administrator";

(6) in clause (7)—

(A) by inserting ", each of whom shall be licensed in the appropriate service field" after "Optometric Service"; and

(B) by inserting "upon the recommendation of the Chief Medical Director" after "Administrator"; and

(7) by adding at the end the following new sentence:

"For the purpose of this subsection, the term 'person with specified qualifications' means (i) a person meeting the requirements set forth in clause (1), (2), (3), (5), (6), (7), or (8) of subsection (a) of section 4105 of this title, or (ii) a person who meets or has met the requirements set forth in clause (4) of such subsection.".

(b) TECHNICAL AMENDMENT.—Section 4103(b)(3) is amended by inserting a comma after "reappointed" and after "extended" and by striking out the comma after "reappointment".

SEC. 322. MAKING NURSE ADDITIONAL-PAY AUTHORITIES AVAILABLE TO ASSIST IN RECRUITMENT AND RETENTION OF PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) Section 4107(f) is amended in the second sentence—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 323. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other federal law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions shall be addressed under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 324. DISCIPLINARY ACTIONS AND GRIEVANCES.

(a) Section 4110 is amended—

(1) in subsection (a)—

(A) by striking out "of inaptitude, inefficiency, or misconduct" and inserting in lieu thereof "in disciplinary actions for performance or conduct during tenure with the Veterans' Administration, except with respect to matters described in subsection (f) of this section,"; and

(B) by adding at the end the following new sentence: "The Chief Medical Director may delegate the function of appointing a board to an employee of the Department of Medicine and Surgery who is not involved in deciding whether or not to file charges against the employee and who is not subordinate to any official involved in so deciding.";

(2) in the first sentence of subsection (d), by striking out "suitable" and all that follows and inserting in lieu thereof "that the proposed disciplinary action be sustained or modified within limitations prescribed by the Administrator."; and

(3) by adding at the end the following new subsection:

"(f)(1) An employee against whom disciplinary action (on any grounds other than grounds involving questions of clinical competence in matters involving direct patient-care activities) consisting of a suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment is proposed is entitled to—

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) be represented by an attorney or other representative; and

"(D) a written decision and the specific reasons therefor at the earliest practicable date.

"(2) Actions taken under paragraph (1) of this subsection shall be subject to review, at the discretion of the employee, under either the provisions of section 4120A of this title or an agency review procedure to be established by the Administrator, but not under both. Any such agency review procedure established by the Administrator shall include—

"(A) an informal review of the decision on the disciplinary action by an official of a higher level than the official who made the decision;

"(B) a prompt decision by such higher level official and a right to formal review by an impartial examiner within the agency;

"(C) a prompt report of the findings and recommendations by the impartial examiner; and

"(D) a prompt review of the examiner's findings and recommendations, together with any comments by the employee and the agency on such findings and recommendations, by an official of a higher level than the official who conducted the review pursuant to clause (A) of this paragraph.".

(b) Subchapter I of chapter 73 is further amended by adding at the end the following new section:

"4120A. Grievances and certain disciplinary reviews

"(a) For the purpose of resolving (1) grievances of employees appointed under authority of this title who are members of a bargaining unit recognized under chapter 71 of title 5, or (2) disciplinary actions as described in subsection 4110(f)(1) of this title involving such employees, the Administrator shall authorize review of agency actions on grievances or disciplinary actions under the procedures negotiated under the authority of chapter 71 of title 5.

"(b) For the purpose of resolving (1) grievances of supervisors and employees appointed under authority of this chapter who are not members of a bargaining unit recognized under chapter 71 of title 5, or (2) disciplinary actions as described in subsection 4110(f)(1) of this title involving such employees, the Administrator shall, at the request of the employee, authorize review of agency action on such grievances or disciplinary action pursuant to the procedures negotiated for such purposes under the authority of such chapter 71 for the Veterans' Administration facility with respect to which the grievance is filed or at which the *disciplinary action is taken. In the case of a facility at which there is no negotiated procedure in effect, the Administrator, for purposes of this subsection, shall utilize the procedure negotiated with the national labor organization having the largest membership of Veterans' Administration employees. In the case of an employee who is not a bargaining unit member and who appeals under this subsection, such employee may have representation of his or her choosing, not provided by a union, during such review and the employee and the agency each shall bear half the expense of any arbitration.*

"(c) For the purposes of this section, the term 'grievance' means a matter of concern by an employee appointed under this title (as may be negotiated under authority of chapter 71 of title 5) with respect to his or her employment but does not include matters similar to those excluded from grievance procedures under chapter 71 of title 5.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by adding at the end of subchapter I the following new item:

"4120A. Grievances and certain disciplinary reviews."

SEC. 325. PREMIUM PAY FOR SATURDAY WORK.

Section 4107(e) is amended—

(1) in paragraph (3), by striking out "Saturday" and inserting in lieu thereof "Friday"; and

(2) in paragraph (10)—

(A) in subparagraph (A), by striking out "Administrator—" and all that follows and inserting in lieu thereof "Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection.";

(B) in subparagraph (B), by striking out "(A)(i)" and inserting in lieu thereof "(A)"; and

(C) by repealing subparagraph (C).

SEC. 326. EDUCATIONAL ASSISTANCE PROGRAM.

(a) Subchapter IV of chapter 73 is repealed.

(b) Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Establishment of program; purpose.
"4302. Eligibility; application; written contract.
"4303. Breach of contract; liability; waiver.
"4304. Exemption of educational assistance payments from taxation.
"4305. Program subject to availability of appropriations.

"SUBCHAPTER II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"4311. Duration of program.
"4312. Eligibility; application; written contract.
"4313. Obligated service.
"4314. Breach of contract; liability.

"SUBCHAPTER III—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL TUITION REIMBURSEMENT PROGRAM

"4321. Eligibility; application; written contract.
"4322. Obligated service.
"4323. Breach of contract; liability.
"4324. Allocation and distribution of funding.

"SUBCHAPTER I—GENERAL

"§ 4301. Establishment of program; purpose

"There is hereby established a program to be known as the Veterans' Administration Health Professional Educational Assistance Program (hereinafter in this chapter referred to as the "Educational Assistance Program"), which shall comprise (1) a scholarship program as provided for in subchapter II of this chapter, to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program"), and (2) a tuition reimbursement program as provided for in subchapter III of this chapter, to be known as the Veterans' Administration Health Professional Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program"). The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel who provide either direct patient-care services or services incident to direct patient-care services for the Veterans' Administration and for the Nation.

"§ 4302. Eligibility; application

"(a) To be eligible to participate in the Educational Assistance Program, an individual, in addition to meeting the criteria specified in section 4312 of this title for participation in the Scholarship Program or in section 4321 of this title for participation in the Tuition Reimbursement Program, must—

"(1) be accepted for enrollment or be currently enrolled as a student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading toward completion of any degree in an appropriate discipline (as determined by the Administrator);

"(2) submit an application to the Administrator for participation in the Educational Assistance Program;

"(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of educational assistance and to serve a period of obligated service as provided in section 4313 of this title for the scholarship program or in section 4322 of this title for the Tuition Reimbursement Program; and

"(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

"(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms—

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4314 of this title with respect to the Scholarship Program or section 4323 of this title with respect to the Tuition Reimbursement Program, if the individual breaches the contract; and

"(B) a full description of the terms and conditions that would apply to the individual's participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(c) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator, in addition to according priority as set forth in section 4312(b)(1) of this title with respect to the Scholarship Program or in section 4321(b) of this title with respect to the Tuition Reimbursement Program, shall give priority to the applications of individuals who have previously received educational assistance under this program and have not completed the program of education undertaken under such section.

"(d)(1) An individual becomes a participant in the Educational Assistance Program only upon the Administrator's approval of the individual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

"(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Educational Assistance Program.

"(e) The written contract (referred to in subsection (a)(3) of this section) between the Administrator and a participant in the Educational Assistance Program, in addition to the provisions specified in section 4312(b) of this title with respect to the Scholarship Program or in section 4321(d) of this title with respect to the Tuition Reimbursement Program, shall contain—

"(1)(A) subject to clause (2) of this subsection, the Administrator's agreement—

"(i) to provide the participant with educational assistance as authorized in this chapter and specified in the agreement, and

"(ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

"(B) subject to clause (2) of this subsection, the participant's agreement—

"(i) to accept such educational assistance;

"(ii) to maintain enrollment and attendance in the course of training until completed; and

"(iii) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this chapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for educational assistance under this chapter;

"(3) a statement of the damages to which the United States is entitled under section 4314 of this title with respect to the Scholarship Program or section 4323 of this title with respect to the Tuition Reimbursement Program, for the participant's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and

consistent with the provisions of this chapter.

"(f) The maximum amount of (1) the monthly stipend paid to a participant in the Scholarship Program, specified in section 4312(d)(1)(B) of this title and as previously adjusted (if at all) in accordance with this subsection, and (2) the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program, specified in section 4321(e) of this title and as previously adjusted (if at all) in accordance with this subsection, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1988, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend or tuition reimbursement multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"(g) The Administrator shall report to Congress not later than March 1 of each year—

"(1) the number of students receiving educational assistance under the Educational Assistance Program, broken down to show the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program;

"(2) the education institutions providing such training to students in each program;

"(3) the number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence;

"(4) the average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program;

"(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years;

"(6) the number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted; and

"(7) the number of participants who complete a course or course of training in each program each year and for all years such program (or predecessor program) has been in existence.

"(h) The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§ 4303. Breach of contract; liability; waiver

"(a)(1) Any obligation under the Educational Assistance Program (or a written contract thereunder) of a participant in the Educational Assistance Program for service or payment of damages shall be canceled upon the death of the participant.

"(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

"(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"(b) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

"(1) any period of obligated service required to be performed under this chapter to be performed in another Federal department or agency or in the Armed Forces; and

"(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"§ 4304. Exemption of educational assistance payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.

"§ 4305. Program subject to availability of appropriations

"The authority of the Administrator to make payments under this chapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.

"SUBCHAPTER II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"§ 4311. Duration of program

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"§ 4312. Eligibility; application; written contract

"(a) To be eligible to participate in the Scholarship Program, an individual, in addition to meeting the requirements specified in section 4302 of this title, must be accepted for enrollment or be enrolled (as described in clause (1) of section 4302(a) of this title) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (e)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of section 4302(a) of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(b)(1) In selecting applicants who are pursuing a course of training in nursing for acceptance in the Scholarship Program, the Administrator, in addition to according priorities as set forth in section 4302(c) of this title, shall give priority to the applications of individuals who have completed three years of a four-year course of training leading to a baccalaureate degree.

"(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than sixty days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(c) The written contract referred to in section 4302(a)(3) of this title between the Administrator and a participant in the Scholarship Program, in addition to the requirements set forth in such section, shall contain—

"(1) the Administrator's agreement, subject to section 4302(e)(2) of this title, to provide the participant with a scholarship (described in subsection (d) of this section) for from one to four school years (or in a case in which an extension is granted under subsection (e)(3) of this section, the number of school years provided for as a result of such extension) during which period the participant is pursuing a course of training described in section 4302(a)(1)(B) of this title; and

"(2) subject to section 4302(e)(2) of this title, the participant's agreement—

"(A) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of two calendar years for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program (to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event, to less than one year);

"(B) if the participant's period of obligated service is deferred under section 4313(b)(3)(A)(i) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4313(b)(4)(B) of this title; and

"(C) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(d)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

"(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

"(i) the tuition of the participant in such school year; and

"(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

"(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with section 4302(f) of this title) for each of the twelve consecutive months beginning with the first month of such school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (e)(2) of this section.

"(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses de-

scribed in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"(e)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of section 4302 of this title and on the date on which such individual becomes a participant in the Scholarship Program.

"(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

"(A) the maximum amount of the stipend payable to such participant under subsection (d)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

"(B) a stipend may not be paid to such a participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

"(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of 6 school years if the Administrator determines that such an extension would be in the best interest of the United States.

"(f) Notwithstanding any other provision of law, participants in the Scholarship Program shall not by virtue of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

"§ 4313. Obligated service

"(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4302(a)(3) of this title.

"(b)(1) Not later than sixty days prior to (A) the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program who is a full-time student, or (B) the date provided for under paragraph (5) of this subsection with respect to a participant who is a part-time student, the Administrator shall notify the participant of the date described in the applicable such paragraph for the beginning of such participant's period of obligated service.

"(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.

"(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the later of (i) the date upon which the participant completes such participant's courses of training, or (ii) the date upon which the participant becomes registered as a graduate nurse in a State.

"(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

"(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

"(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; and

"(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.

"§ 4314. Breach of contract; liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4302(a)(3) of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) A participant in the Scholarship Program who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator),

"(2) is dismissed from such education institution for disciplinary reasons,

"(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training,

"(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator, or

"(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

"(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\,\Phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4313(b)(4)(B) of this title; and 's' is the number of months of such period served by the participant in accordance with section 4313 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

"SUBCHAPTER III—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL TUITION REIMBURSEMENT PROGRAM

"§ 4321. Eligibility; application; written contract

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual, in addition to meeting the requirements specified in section 4302 of this title, must—

"(1) be a full-time Veterans' Administration Nursing Service employee permanently assigned to a Veterans' Administration health-care facility and be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (A) an associate or higher degree in nursing or (B) a masters or doctoral degree in a field related to nursing; or

"(2) if the Administrator determines that it is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in any other health profession, be a full-time Veterans' Administration employee in such profession providing either direct patient-care services incident to direct patient-care services who is permanently assigned to a Veterans' Administration health-care facility and be enrolled in a course of training offered by such an institution, and approved by the Administrator, leading toward completion of a masters or doctoral degree in an appropriate field.

"(b)(1) In selecting applicants described in paragraph (1) of subsection (a) of this section for acceptance in the Tuition Reimbursement Program, the Administrator, in addition to according priorities as set forth in section 4302(c) of this title, shall give priority, in the following order, to the applications of (A) individuals who have been employed as a full-time Veterans' Administration Nursing Service employee for at least 2 years and have demonstrated superior proficiency and performance, as determined by the Chief Nurse of the facility at which the individual is employed, in consultation with the local career development committee, (B) individuals who have been employed as a full-time Veterans' Administration Nursing Service employee for at least 2 years, and (C) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(2) In selecting employees described in paragraph (2) of subsection (c) of this section for acceptance in the Tuition Reimbursement Program, the Administrator, in addition to according priorities as set forth in section 4302(c) of this title, shall give priority, in the following order, to the applications of (A) individuals who have been employed as a full-time Veterans' Administration employee in the health profession concerned for at least 2 years and have demonstrated superior proficiency and performance, as determined by the appropriate supervisory employee in the same health profession at the facility at which the individual is employed, in consultation with the local career development committee, (B) individuals who have been employed as a full-time Veterans' Administration employee in the health profession concerned for at least 2 years, and (C) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) Before approving tuition reimbursement assistance in any course of training other than nursing, the Administrator, not less than 60 days before awarding such assistance, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award assistance in such course of training and of the reasons why the award of such assistance in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(d) The written contract referred to in section 4302(a)(3) of this title between the Administrator and participant in the Tuition Reimbursement Program, in addition to the requirements set forth in such section, shall contain—

"(1) the Administrator's agreement, subject to section 4302(e)(2) of this title, to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (i) a course or courses required for the course of study described in subsection (a)(1)(B) of this section, or (ii) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites; and

"(2) subject to section 4302(e)(2) of this title, the participant agrees—

"(A) to maintain employment while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in the Department of Medicine and Surgery for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(e) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program shall not exceed $2,000 per year (adjusted in accordance with section 4302(f) of this title).

"(f) The Administrator may contract with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Pursuant to the contract, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

"§ 4322. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered under section 4302(a)(3) of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4321(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4321(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§ 4323. Breach of contract; liability

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) shall not receive reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

"(b) If a participant in the Tuition Reimbursement Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the amount paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were *loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service; and 's' is the number of months of such period served by the participant in accordance with section 4322 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.*

"§ 4324. Allocation and distribution of funding

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for nursing personnel, and (2) the recruitment and retention needs of that facility, as determined by the Administrator.".

(c) The provision of subchapter IV of chapter 73 as in effect on the date of enactment of this Act shall be deemed to remain in effect with respect to scholarships awarded under such subchapter.

SEC. 327. RECRUITMENT AND RETENTION BONUS PAY.

(a) IN GENERAL.—Subchapter I of chapter 73 is amended—

(1) in section 4107(d), by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120"; and

(2) by inserting after section 4119 the following new section:

"§ 4120. Recruitment and retention bonus pay for certain health-care personnel

"(a) Notwithstanding any other provision of law, in order to recruit and retain the services of personnel in a category described in clause (A) or (B) of section 4107(g)(1) of this title, except for physicians and dentists when the Administrator determines upon the recommendation of the Chief Medical Director, that there is a critical shortage of such personnel in the Department of Medicine and Surgery, the Administrator may pay a bonus to any such personnel as provided in this section and in regulations prescribed by the Administrator under subsection (i) of this section.

"(b) The bonus which may be paid under this section may not exceed $20,000, and may be paid only to an individual who executes a written agreement with the Administrator—

"(1) to be or to continue to be employed on a full-time basis in the Department of Medicine and Surgery for a specified period of service not less than 4 years; and

"(2) to serve during that period in a specific geographic location or a professional capacity with respect to which the Administrator has determined under subsection (f) of this section there are significant recruitment and retention problems.

"(c) A bonus may not be paid under this section (1) to any individual who is obligated to serve in the Veterans' Administration for a period of employment until such time as such individual completes such period of employment in accordance with any terms or conditions which such individual was obligated to satisfy, and (2) unless all personnel serving in the same professional capacity in the recruitment area for that category of employment are offered the opportunity to receive such a bonus under the same terms and conditions.

"(d)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement described in subsection (b) of this section.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commence under an agreement described in subsection (b) of this section.

"(B) In the event that the Administrator makes a payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement described in subsection (b) of this section.

"(e)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which such individual is entitled.

"(2) The amount of any bonus paid under this section shall not be considered as basic pay for the purposes of sections 551, 552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(f) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific geographic locations and professional specialties, if any, as to which there are significant recruitment and retention problems in the personnel categories described in subsection (a) of this section. Upon making any such determination, the Administrator shall promptly notify the Committee on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis therefor.

"(g)(1) Any individual who receives a lump-sum bonus payment under subsection (d)(2) of this section and who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the first year of the period of obligated service provided in the agreement shall refund to the United States Treasury the amount of such lump-sum bonus payment, unless the Administrator determines, in accordance with regulations prescribed under subsection (i) of this section, that such failure is necessitated by circumstances beyond the control of such individual.

"(2) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(h) The Administrator shall prescribe regulations to carry out this section.

"(i) For the purposes of this section, the term 'recruitment area' means, with respect to persons in a health-care profession, a geographic area in which a health-care facility located in such area generally competes with all other health-care facilities located in such area in the recruitment of employees in that profession.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4120. Recruitment and retention of bonus pay for certain health-care personnel.". law.".

(c) EFFECTIVE DATE.

The amendments made by subsections (a) and (b) shall take effect on October 1, 1987.

SEC. 328. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) Notwithstanding any other provision of law, an individual—

"(A) who (i) is employed in a position listed in paragraph (3) of section 4104 of this title, or (ii) meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section, and

"(B) who is employed in a work unit for which on-call premium pay is authorized, and

"(C) who is officially scheduled to be on call outside such individual's regular hours or on a holiday designated by Federal statute or Executive order,

may be paid at the rate provided in subsection (e)(8) of this section except for such time as such individual may be called back to work.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection with respect to the rate of on-call premium pay, an individual who is scheduled to be on call pursuant to such paragraph and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection, shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay equal to the greater of (A) the amount of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the amount of pay which such employee is entitled to receive including on-call premium pay described in such paragraph.".

SEC. 329. NURSE REPRESENTATION.

Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief, Nursing Service, or the designee of the Chief, at each Veterans' Administration health-care facility be included in the membership of each policymaking and fiscal committee at each such facility, including, but not limited to (1) committees relating to (A) budget, (B) education, (C) position management, (D) clinical executive issues, (E) planning, and (F) resource allocation, and (2) the deans committee or other advisory committee established pursuant to subsection (b) of this section.".

SEC. 330. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual will (i) be employed to conduct research or serve in an academic position, and (ii) have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or reg-

istration is in the country in which the individual is to serve.".

SEC. 331. RATES OF PAY FOR CERTAIN PSYCHOLOGISTS.

Notwithstanding any other provision of law, the Administrator of Veterans' Affairs, not later than 90 days after the date of the enactment of this Act, shall utilize the authority set forth in section 4107(g) of title 38, United States Code, to increase the rates of pay of clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator unless the Chief Medical Director of the Veterans' Administration determines that such psychologists are not needed to furnish appropriate quality of psychological services for veterans. The amount by which such rate of pay shall be increased shall be the amount determined by the Administrator, upon recommendation of the Chief Medical Director, to be necessary to make the pay for such psychologists competitive with the pay of psychologists with the same qualifications and credentials serving in non-Veterans' Administration capacities.

SEC. 332. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) In General.—The Administrator of Veterans' Affairs shall conduct a study in order to determine (1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incidental to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and (2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) Matters Required To Be Studied.—The Administrator, in conducting the study under subsection (a), shall determine the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate it and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(4) Whether it is feasible and desirable for recruitment and retention purposes for the Veterans' Administration to provide, without significant diminution of the health-care services furnished by the Veterans' Administration to veterans, each of the following benefits, in return for a fee not exceeding the amount of the cost incurred by the Veterans' Administration in providing such benefit, to each category of employees referred to in subsection (a) and how much would be the gross and net costs of providing such benefits:

(A) Diagnostic tests ordered by a physician who is not employed by the Veterans' Administration.

(B) Medications prescribed by any such physician.

(C) Laboratory services ordered by any such physician.

(D) Radiology services ordered by any such physician.

(5) Whether it is feasible and desirable for recruitment and retention purposes for the Veterans' Administration to provide opportunities for registered nurses who have received advanced degrees to carry out research in clinical, administrative, or educational areas.

(6) Whether it is feasible and desirable to establish programs which foster interdisciplinary professional collaboration and collegial relationships between physicians, registered nurses, and, as appropriate, other direct health-care personnel, and what effects such programs would have on the ability of the Veterans' Administration to recruit and retain registered nurses.

(7) Whether it is feasible and desirable to expand the administrative and supervisory responsibilities of the position of Chief of the Nursing Service, where such Chief has the requisite qualifications and experience, to include responsibility for support services and clinical departments other than nursing.

(c) Consideration of Flexible Employee Benefits Programs.—The Administrator of Veterans' Affairs, in conducting the study under subsection (a), shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees, the advantages of such programs for such employers and employees, and the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) Pilot Program.—In order to evaluate the effectiveness of various pay and other personnel management practices in enabling the Veterans' Administration to recruit and retain sufficient employees who are qualified to provide direct patient-care services, or services that are incidental to direct patient-care services, the Chief Medical Director of the Veterans' Administration shall conduct a pilot program during calendar years 1988, 1989, and 1990, in not less than five Veterans' Administration medical centers to gain information and experience with respect to the matters required to be studied under subsections (a), (b), and (c). In the course of such pilot program, the Administrator—

(1) shall—

(A) at not less than three sites, expand the administrative and supervisory responsibilities of the Chief of the Nursing Service to include responsibility for support services and clinical departments other than nursing;

(B) at not less than one site, establish a collaborative-practice committee involving physicians, nurses, and, as appropriate, other direct health-care personnel; and

(C) at not less than one site, significantly increase the pay differential for evening and night service; and

(2) may implement changes in personnel management practices as otherwise authorized by law so as to gain information with respect to any of the matters described in subsection (a), (b), or (c).

(e) Reports.—(1) Not later than the one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a), except with respect to the results of any activity pertaining thereto undertaken as part of the pilot program required by subsection (d). The report shall contain—

(A) the determinations of the Administrator; and

(B) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of such study.

(2) Not later than 30 months after the date of the enactment of this Act, the Administrator shall submit to such Committees a report on the results of the first 24 months' experience under the pilot program required by subsection (d). The report shall contain—

(A) the evaluation of the Administrator of the effectiveness of each management practice undertaken in the pilot program on the Veterans' Administration's ability to recruit and retain healthcare employees;

(B) information on the cost factors associated with each such management practice; and

(C) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of such pilot program.

(3) Not later than 42 months after the date of the enactment of this Act, the Administrator shall submit to such Committees a final report on the pilot program. The report shall contain—

(A) updates on all information provided in the report submitted pursuant to paragraph (2) of this subsection; and

(B) the Administrator's final assessment of the pilot program based on 36 months of operation.

SEC. 333. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

"(a) In General.—Section 233 is amended by adding at the end the following new subsection:

"(c)(1) Subject to this subsection and regulations prescribed to carry out this subsection, the Administrator, to the extent that the Administrator determines that it is in the best interest of the Veterans' Administration and practicable to do so based on the demand for such care, shall provide for the establishment of onsite child-care centers at Veterans' Administration facilities for the care of the children of Veterans' Administration employees and, to the extent space is available, other Federal employees and other non-Federal employees.

"(2) In connection with the establishment of centers pursuant to paragraph (1) of this subsection, the Administrator—

"(A) shall furnish, at no or nominal cost to the centers, space in existing Veterans' Administration facilities, utilities, and other amenities necessary for the health and safety of the children; and

"(B) may, on a reimbursable basis, convert such space for use as a center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be furnished by the Administrator without reimbursement.

"(3) The Administrator shall prescribe regulations to carry out this subsection. Such regulations shall include provisions which—

"(A) provide for the participation of the parents of the children in a child-care center, either directly or through parent-advisory committees or both, in the establishment of policies to govern the operation of such center and in the oversight of such center's operation;

"(B) require the development and utilization of a process for determining the fitness and suitability of perspective employees of or volunteers at such centers;

"(C) authorize the parents of children in such centers to conduct fundraising activities in order to help defray the cost of the operation of such centers;

"(D) require the establishment of a schedule of charges for the provision of child-care services for each such center (including a sliding-scale schedule, based on the income and assets of a child's parents) sufficient to cover the expenses of operating each such center; and

"(E) require in connection with the operation of such centers compliance with all State and local laws, ordinances, and regulations relating to the operation of child-care centers.

"(4) In carrying out the provisions of this subsection, the Administrator may—

"(A) enter into contracts, under section 5022(a) of this title, for the operation of such centers with non-profit organizations comprised of parents of children who would receive child-care services in such centers;

"(B) enter into contracts, under such section, for the operation of such centers with other non-profit organizations which have a demonstrated expertise in the operation of child-care centers, except that any such organization must establish a parent advisory committee; and

"(C) provide for the direct management of such centers by the Veterans' Canteen Service created pursuant to chapter 75 of this title or otherwise by the Veterans' Administration, except that such management shall include provision for a parent advisory committee.

"(5) The Administrator may carry out the provisions of this subsection through such Canteen Service or otherwise.

"(6) A parent advisory committee referred to in this subsection shall be comprised of, and selected by, the parents of children in a center and be fully involved in the establishment of policies to govern the operation of the center and the oversight of the implementation of such policies.".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 233 is amended to read as follows:

"233. Special services for employees".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"233. Special services for employees.".

Subpart 2—Other Medical Administration Matters

SEC. 341. REPEAL OF AUTHORITY TO FURNISH TOBACCO TO HOSPITALIZED VETERANS.

Section 615 is repealed.

SEC. 342. HOSPITAL COST COLLECTIONS.

Paragraph (2) of section 629(b) is amended by adding at the end the following new subparagraph:

"(C) A legal proceeding under subparagraph (B) of this paragraph with respect to care or services furnished to any veteran under this chapter may not be sustained if such proceeding is instituted more than 6 years after the last day on which such care or services are furnished to such veteran.".

SEC. 343. TORT CLAIMS.

(a) INAPPLICABILITY OF AN EXCEPTION RELATING TO FEDERAL TORT CLAIMS IN MEDICAL MALPRACTICE AND NEGLIGENCE CASES.—Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(b) Increased Authority to Adjust Tort Claims Administratively.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative award of tort claims

"Notwithstanding the limitation contained in the proviso in the first paragraph of section 2672 of title 28, the maximum amount of an award, compromise, or settlement that the Attorney General may authorize the Administrator to make under such section in the case of any claim for money damages under section 1346(b) of title 28 or chapter 171 of such title shall be equal to the maximum amount of an award, compromise, or settlement which the Attorney General authorizes a United States attorney to make in the case of any such claim.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative award of tort claims.".

SEC. 344. ANNUAL VETERANS' ADMINISTRATION MEDICAL FACILITY CONSTRUCTION AUTHORIZATION.

Section 5004 is amended—

(1) in subsection (a)—

(A) by amending paragraph (2) to read as follows:

"(2)(A) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project unless (i) such bill, resolution, or amendment specifies the amount to be appropriated for such project, and (ii) the amount to be appropriated for such project is no more than the amount authorized, by a provision of law enacted in legislation which had been reported from the committees, to be appropriated for such project for that fiscal year.

"(B) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation which may be expended for a major medical facility lease unless such appropriation for such lease is authorized by a provision of law enacted in legislation which had been reported from the committees.";

(B) by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection—

"(A) the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange; and

"(B) the term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.";

(2) by amending subsection (c) to read as follows:

"(c) The amount obligated for any construction project, alteration project, or acquisition project that is authorized by a law described in subsection (a)(2)(A) of this section shall not exceed by more than 10 percent the amount authorized for such construction, alteration, or acquisition project in such law unless the Administrator, not less than 30 days before obligating any amount that would cause the amount so authorized for the project to be exceeded by more than 10 percent, provides the committees with notice of the Administrator's intention to do so and the reasons for doing so.";

(3) by striking out subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 345. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS.

Not later than the beginning of the third fiscal year beginning after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items where such procurement is more cost-effective than procurement of a name-brand pharmaceutical item except where the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the availability of a name-brand item is necessary in the interests of effective patient care.

SEC. 346. REQUIREMENTS FOR THE PROCUREMENT OF MEDICAL AND PHARMACEUTICAL ITEMS.

(a) IN GENERAL.—Subchapter II of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 5025. Procurement of medical and pharmaceutical items

"(a) Except as provided in subsection (b) and (c) of this section, the Administrator shall procure medical and pharmaceutical items only under national contracts.

"(b)(1)(A) Except as provided in subparagraph (B) of this paragraph, a medical or pharmaceutical item for use by the Veterans' Administration may be procured under a local contract instead of a national contract awarded by the Veterans' Administration only if—

"(i) the procurement is within the limits prescribed in paragraph (2) of this subsection, and

"(ii)(I) the item is not available for procurement under a national contract, or

"(II) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe.

"(B)(i) Subparagraph (A) of this paragraph shall not apply to an emergency procurement.

"(ii) In the case of the need for an emergency procurement of a medical or pharmaceutical item, no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(2)(A)(i) Except as provided in division (iii) of this subparagraph and in subparagraph (B) of this paragraph, not more than 20 percent of the total of all medical and pharmaceutical items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such medical and pharmaceutical items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

"(ii) Local contracts for the procurement of medical or pharmaceutical items shall, to the maximum extent feasible, be awarded to regular dealers or manufactures engaged in the wholesale supply of medical and pharmaceutical items.

"(iii) The President may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the President, based on the experience of the Veterans' Administration during the 2 fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may be delegated only to the Director of the Office of Management and Budget and may not be redelegated.

"(B) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) Any provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a medical or pharmaceutical item for use by the Veterans' Administration.

"(d)(1) Not later than December 1 of each fiscal year (beginning on December 1, 1988), the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity, and the cost therefor, of each medical and pharmaceutical item procured at that medical center under a local contract during the preceding fiscal year.

"(2) Not later than February 1 of each year (beginning on February 1, 1989), the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out the provisions of this section during the most recent fiscal year.

"(e) For the purposes of this section.

"(1) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a veteran being furnished health-care services by the Veterans' Administration, for a medical or pharmaceutical item.

"(2) The terms 'medical or pharmaceutical item' and 'medical and pharmaceutical items' include any item (in the case of the former term) or items (in the case of the latter term) listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, 73, or 89 in the document published by the Veterans' Administration, dated April 1986, and entitled 'Federal Supply Catalog, Centrally Managed Items,' or the document published by the Veterans' Administration, dated October 1985, and entitled 'Federal Supply Catalog, Nondepot Items,' but does not include any surgical instruments.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of medical and pharmaceutical items.".

(c) APPLICATION.—Subsection (b)(2) of section 5025 of title 38, United States Code (as added by subsection (a)), shall apply to medical and pharmaceutical items procured for use by the Veterans' Administration on or after October 1, 1990.

SEC. 347. MULTIYEAR MEDICAL PROCUREMENTS.

(a) Section 213 is amended—

(1) by inserting "(a)" before "The" in the first sentence; and

(2) by adding at the end the following new subsection:

"(b)(1) The Administrator may enter into a multiyear contract if the Administrator determines that—

"(A) appropriations are available and adequate for obligations that are necessary for—

"(i) total payments that would be required during the full term of the contract; or

"(ii) total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charges payable under the contract; and

"(B) the contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(i) reducing costs;

"(ii) achieving economies in contract administration or in any other Veterans' Administration activities;

"(iii) increasing quality of performance by or service from the contractors; or

"(iv) encouraging effective competition;

"(C) during the proposed contract period—

"(i) there will be a continuing or recurring need for the supplies or services being procured;

"(ii) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(iii) the specifications for the supplies or services are expected to be reasonably stable;

"(D) the risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive;

"(E) the use of a multiyear contract will not inhibit small business concerns in competing for the contract; and

"(F) in the case of the procurement of a pharmaceutical item for which a patent has expired less than 4 years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of contract.

"(2)(A) A multiyear contract authorized by this subsection shall contain—

"(i) a provision that the United States' obligation under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year in which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to subparagraph (B)(i) of this paragraph) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(ii) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by clause (i) of this subparagraph.

"(B)(i) If, during a fiscal year subsequent to the fiscal year in which a multiyear contract is entered into, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall promptly cancel such contract pursuant to the provisions required by subparagraph (A)(i) of this paragraph.

"(ii) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds appropriated for a subsequent fiscal year or years for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(3) Nothing in this subsection shall be construed so as to supersede any other provision of law which authorizes multiyear contracts or to eliminate or restrict the Administrator's exercise of the right to terminate for convenience such a multiyear contract.

"(4) The Administrator shall prescribe regulations implementing this subsection.

"(5) For the purposes of this subsection:

"(A) The term 'appropriations' has the meaning provided such term in section 1511 of title 31.

"(B) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(C) The term 'multiyear contract' means a contract which (i) is for the procurement of supplies or services for use in a Veterans' Administration health-care facility, and (ii) by its terms is to remain in effect for a period which extends beyond the end of the fiscal year in which such contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such *term does not include a contract for construction or for a lease of real property.*

"(D) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under paragraph (5) of this subsection) are generally incurred on a one-time basis and include, but are not limited to, such costs as plant or equipment relocation, plant rearrangement, special tooling, special test equipment, preproduction engineering, and specialized work force training.".

SEC. 348. REPORT ON HEALTH CARE RESOURCES ALLOCATION.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to Congress a report on (1) the health care resources allocated by the Veterans' Administration to Veterans' Administration facilities (including contract facilities) in each State in fiscal years 1982 through 1986, and (2) the utilization of the health care resources allocated to such facilities in each such fiscal year.

(b) CONTENT OF REPORT.—(1) The report required by subsection (a) shall include, with respect to each State and Veterans' Administration Medical District in each fiscal year referred to in such subsection, the following information:

(A) The number of Veterans' Administration hospital beds, domiciliary care beds, and nursing home beds located in the State and Medical District.

(B) The percentage of the total amount of the funds available to the Veterans' Administration for health care that was allocated for obligation and expenditure by Veterans' Administration hospitals, out-patient clinics, domiciliary care facilities, and nursing homes located in the State and the Medical District.

(C) With respect to each category of veterans described in subsection (c)—

(i) the number of veterans who, received health care in Veterans' Administration facilities referred to in subparagraph (B) which are located in the State in which they reside and the number of veterans who received health care in Veterans' Administration facilitics referred to in subparagraph (B) which are located in a state other than the state in which the veteran resides;

(ii) the total cost of furnishing the health care referred to in clause (i);

(iii) the total cost of furnishing such health care with respect to each diagnostic category;

(iv) the total cost of furnishing such health care on an outpatient basis with respect to each diagnostic category;

(v) the total cost of furnishing such health care on an inpatient basis with respect to each diagnostic category;

(vi) the total number of patient encounters in which the Veterans' Administration furnished such health care on an outpatient basis with respect to each diagnostic category;

(vii) the total number of patient encounters in which the Veterans' Administration furnished such health care on an inpatient basis with respect to each diagnostic category; and

(viii) a comparison of the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in adult day care centers located in the State and the Medical District with the cost-effectiveness of the Veterans' Administration furnishing long-term health care to veterans in nursing homes located in the State and the Medical District.

(2) The Administrator may include in the report submitted under subsection (a) any additional information that the Administrator considers appropriate.

(c) VETERANS' CATEGORIES DEFINED.—The categories of veterans referred to in subsection (b)(1)(C) are as follows:

(1) Category A: Veterans who are eligible to receive health care from the Veterans' Administration because they have service-connected disabilities, are retired from active duty for a disability incurred or aggravated while in active military, naval, or air service, are in receipt of a pension under laws administered by the Veterans' Administration, are eligible to receive benefits under a State plan approved under title XIX of the Social Security Act (commonly known as "Medicaid"), are former prisoners of war (as defined in section 101(32) of title 38, United States Code), are veterans referred to in section 610(a)(1)(G) of title 38, United States Code (relating to veterans exposed to a toxic substance or radiation), or (in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies) have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) not greater than the Category A threshold (as defined in section 622(b)(1) of title 38, United States Code).

(2) Category B: Veterans who are eligible to receive health care from the Veterans' Administration because they have non-service-connected disabilities and, in the case of veterans to whom section 19011(f)(1) of Public Law 99-272 applies, have an attributable income (as defined in section 622(f)(1) of title 38, United States Code) that—

(A) in the case of veterans who have no dependents, is greater than $15,000 but less than $18,000; or

(B) in the case of veterans who have one or more dependents, is greater than $18,000 (increased by $1,000 for a second and each additional dependent) but less than $25,000 (increased by $1,000 for a second and each additional dependent).

(3) Category C: Veterans not described in paragraph (1) or (2) : Provided, That this section shall take effect on December 15, 1987.

TITLE IV—MISCELLANEOUS

SEC. 401. PROHIBITION AGAINST EXCESSING OF CERTAIN VETERANS' ADMINISTRATION PROPERTIES.

(a) Section 234 of Public Law 99-576 is repealed.

(b) The Administrator of Veterans' Affairs may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code.

SEC. 402. NATIONAL CEMETERY GRAVE MARKERS.

(a) Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located nearby a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers if the Administrator determines, upon the recommendation of the Chief Medical Director, that the use of upright markers at such cemetery would have a detrimental effect on the health of veterans receiving care at such facility; and

"(D) in the cases of the national cemeteries in Riverside, California, Bourne, Massachusetts, and Augusta, Michigan, and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California, the Administrator shall provide for flat grave markers for interments occurring after the date of the enactment of this clause.".

SEC. 403. LEASE OF FORMER MEDICAL CENTER (MINOT, NORTH DAKOTA).

(a)(1) Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall, upon the satisfaction of the conditions specified in paragraph (2), lease to the Department of Labor for nominal consideration the 20.6 acres of land, in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost lease from the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(2) The conditions referred to in paragraph (1) are as follows:

(A) Sufficient funds are appropriated to the Department of Labor for fiscal year 1988 to establish a Job Corps Center in North Dakota.

(B) The property is selected by the Department to establish such a Job Corps Center.

(C) The Department agrees to use the property as a Job Corps Center for the duration of the lease.

(b) The lease to the Labor Department under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

SEC. 404. NATIVE HAWAIIAN REPRESENTATION ON THE ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

Section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) is amended—

(1) in subsection (b), by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians";

(2) in subsection (c)(3)(A), by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians,";

(3) in subsection (f)(1), by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989";

(4) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

"(2) the term 'Native Hawaiian' has the same meaning given that term in section 813(3) of the Native American Programs Acts of 1974 (42 U.S.C. 2992c(3)).''; and

(3) in subsection (h), by striking out "second" and inserting in lieu thereof "third".

SEC. 405. SALES OF LOANS MADE BY THE VETERANS' ADMINISTRATION TO FINANCE THE SALE OF FORECLOSED PROPERTIES.

Section 2 of Public Law 100-136 is repealed.

SEC. 406. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—The Administrator of Veterans' Affairs shall accept on behalf of the United States, without consideration, all right, title, and interest in the Arizona Veterans Service Commission in and to the Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres, if such right, title, and interest are so offered to the United States.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator of Veterans' Affairs, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey conducted at no charge to the United States that is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator of Veterans' Affairs may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the acceptance of the Arizona Veterans Memorial Cemetery by the Administrator of Veterans' Affairs, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) Except as provided in paragraph (2), during each of fiscal years 1988 and 1989, the Administrator may not expend, from appropriated funds, for the operation and maintenance of the Arizona Veterans Memorial Cemetery funds in excess of the amount that the Administrator estimates that the Administrator would have paid during the year involved to the State of Arizona pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration, or the amount so paid during fiscal year 1987, whichever amount is greater.

(2) The limitation in paragraph (1) may be exceeded in a fiscal year to the extent that the Administrator determines that expenditures in excess of the limitation are necessary and appropriate in connection with the need to make repairs of damage to such cemetery resulting from a fire, flood, or other natural disaster.

(3)(A) Subject to subparagraph (B), in each of fiscal years 1988 and 1989, the Administrator shall use for the operation and maintenance of such cemetery amounts available for payments under such section 903(b)(1).

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1) without regard to paragraph (2).

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery.

SEC. 407. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

The Veteran's Administration Medical Center in Shreveport, Louisiana, shall after the date on the enactment of this Act be known and designated as the "Overton Brooks Veteran's Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

SEC. 408. DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any construction project of the Veterans' Administration which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a project if the Administrator of Veterans' Affairs determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding, for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country: Provided, That this section shall take effect on December 15, 1987.

Amend the title so as to read: "An act to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to improve housing, automobile, and burial benefits for service-disabled veterans, to provide for presumptions of service connection for certain disabilities of former prisoners of war, to provide disability and death benefits for certain veterans and their survivors based on exposure during service to ionizing radiation from a nuclear detonation, to improve Veterans' Administration health-care programs and their administration, and to provide authorities to help the Veterans' Administration overcome difficulties in recruiting and retaining health-care personnel and the disciplinary and grievance processes for such personnel, and for other purposes.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SARBANES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I move that the title be amended with the title amendment in S. 9 as reported.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move that S. 9 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The motion was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business not to extend beyond 3 p.m. and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DIXON. I thank my friend from Maine, and may I say to my friend from New York I will be reasonably brief. I am just introducing a bill to name the Federal building in Chicago after my old friend, the former distinguished mayor of Chicago, Mayor Harold Washington.

(The remarks of Mr. Dixon pertaining to the introduction of legislation are printed later in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New York is recognized.

KASSEBAUM BUDGET FREEZE

Mr. D'AMATO. Mr. President, only in Washington can a $30 billion deficit reduction package really mean a $47 billion increase in spending.

The budget package that was an outgrowth of the summit will result in an increase in budget outlays from $923 billion in fiscal year 1987 to some $970 billion in fiscal year 1988.

Mr. President, budget negotiations started in earnest after Black Monday, the day the stock market crashed. The market's decline was triggered by a series of events that cannot be blamed on any one person, policy, or factor.

This time investors are sending Congress a very clear message, Mr. President. They are saying quite clearly, "Cut the deficit. The market is not fooled by phony savings."

Mr. President, let us look at what the market sees happening in Washington. The budget summit agreement would increase fiscal year 1987 spending by inflation before imposing so-called cuts. What results is $47.1 billion more in outlays in fiscal year 1988 over fiscal year 1987.

The American public does not know that the budget agreement be aware when we say dramatically increases spending. It is an improvement from baseline, but a 5 percent increase in budget outlays over fical year 1987.

Those people in the economic community understand that the budget agreement does not attack the deficit. The investment world has promptly assimilated the budget accord. That is why we have a crisis of confidence and have rejected it. The market wants to know if we have the stamina, the courage and the intellect to make the tough decisions.

If we cannot do it, Mr. President, in a time of crisis, when will we be able to do it? What kind of crisis do we need?

Let me turn to the revenue side of the budget summit package. The budget agreement envisions $5 billion of savings by refinancing rural electrification loans. This represents short-term savings and long-term losses for the Treasury.

Then the agreement picks up $1.6 billion from improved Internal Revenue Service enforcement. I would like to ask the committees who worked on this idea, do you mean if you had not come together to create this package you would not increase IRS enforcement $1.6 billion? What a sorry state of affairs. Why not say $10 billion, $12 billion? Pick any number.

If our purpose is to restore confidence in the capital markets, this is not a credible approach, it is not straightforward, and it is not fair.

So today, Mr. President, I am adding my name as a cosponsor to Senator Kassebaum's budget freeze legislation. The heart of this plan is a 1-year freeze on virtually all spending and taxes. No gimmicks, no inflation adjustments before administering fake cuts.

First, this plan imposes a 1-year freeze on spending. We are going to freeze the budget at the 1987 levels. Cost-of-living adjustments would be eliminated on all entitlement programs with two important exceptions: The 2-percent cost-of-living adjustment for Social Security recipients would be provided for, and the full inflation adjustment for the poorest of the poor, those receiving supplemental security income.

This means that 38 million retirees will have their benefits rise from an average of $492 per month to roughly $502 a month. It means that over 4 million elderly, blind, and disabled, poor individuals would have seen their average monthly benefit rise from $249 to roughly $259.

In aggregate, the spending side of the Kassebaum plan would reduce the deficit $18.2 billion. That is the kind of savings the financial community is looking for. These are real reductions and they are distributed fairly.

On the revenue side of the plan a virtual freeze would also be imposed. Corporate and individual tax rates would be held at the 1987 levels for 1 year. The corporate tax rate would remain at 40 percent, and five individual tax rates ranging from 11 to 38.5 percent would stay in effect in 1988. But for individuals the standard deduction and personal exemption would rise as scheduled under current law. Some very interesting results take place.

As Senator Bumpers has articulated, freezing the Tax Code has interesting results: 88 percent of all individual taxpayers would receive, as a result of a 1-year freeze in the Tax Code, a cut or no increase in taxes next year.

So by freezing the Tax Code for 1 year, 88 percent of the individual taxpayers of America would not be harmed as a result of freezing the rate schedule and the increase in the standard deduction personal exemption. Taxpayers earning $50,000 or less will almost uniformly receive a tax cut. We talk about fairness in times of budget crisis. Mr. President, it seems to me this is fair. And I have spoken to people who earn over $50,000 and I have said to them, "If we could achieve real budget reductions, if we could really demonstrate that we are working to keep our financial house in order, what would your feelings be about a 1-year freeze on tax rates?" I have not heard one dissent as of now, not one.

The Kassebaum freeze would raise $13 billion in new revenues in 1988, and again this is real money. No phony revenues rasied from asset sales or hoped for IRS enforcement or hoped for reduced interest rates. If people want to put that in on top of this, fine, let them do that.

Mr. President, a 1-year budget freeze is compassionate, it is tough but the pain of deficit reduction is evenly distributed and the marketplaces will appreciate the savings. What are those savings? Mr. President, over 3 years we save $100 billion. If we say that we will hold spending for 1 year at this level, we will reduce the budget deficit by $100 billion over a 3-year period of time. That is accountability.

What will take place? Mr. President, I think you would see the kind of response that we have looked for in the markets. You would see interest rates come down. The economic expansion would continue.

I know the members of the summit labored long and hard. Theirs was a difficult task. I hope pride of authorship does not force the leadership to oppose the freeze plan and instead enact one that fails to do the job. The markets want action. More important, the markets we are talking about are the American people. When we talk about stockholders, we are talking about tens of millions of Americans whose retirement plans are in the stock market. We all have a stake in a sound financial marketplace

I think the American people are waiting for us to do the business of the people and not looking for us to continue to do that which is politically expedient.

Thank you, Mr. President.

LINE-ITEM VETO

Mr. WALLOP. Mr. President, to begin with, I ask unanimous consent that an op-ed piece by Stephen Glazier in today's Wall Street Journal stating Reagan already has the line-item veto be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 4, 1987]

REAGAN ALREADY HAS LINE-ITEM VETO

(By Stephen Glazier)

Contrary to popular misconception, the Constitution already grants the line-item veto to the president. President Reagan should immediately use it to reduce federal spending and the budget deficit without raising taxes.

The line-item veto lies in the language of the Constitution. Article I, Section 7, Clause 2 gives the president veto power over all bills passed by Congress. Any veto may be overridden by a two-thirds vote of each house.

At the Constitutional Convention in Philadelphia, on Aug. 15, 1787, according to James Madison's published notes of the debate, Madison commented on Clause 2: "Mr. Madison, observing that if the negative of the President was confined to bills, it would be evaded by acts under the form and name of Resolutions, votes, etc.—proposed that 'or resolve' should be added after 'bill.'"

In other words, Madison was concerned that Congress would subvert the presidential veto by merely labeling its actions "Resolutions, votes, etc." instead of "bills." ("Etc." apparently refers to whatever an imaginative future Congress might invent.) The "or resolve" language was Madison's first shot at all-inclusive language. But the convention did not find it adequate. "After a short and rather confused conversation on the subject," it rejected Madison's wording and adjourned for the evening.

That night, Madison apparently talked with Edmund Jennings Randolph. The next morning, the convention came to order to hear an improved and expanded proposal. "Mr. Randolph, having thrown into a new form the motion putting votes, Resolutions, etc. on a footing with Bills, renewed it" with the language that was accepted that day by the convention and was inscribed as Clause 3 of Section 7 of Article I.

"Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary" would also be subject to the presidential veto in the same manner as described for bills in Clause 2, Randolph had found the broadest possible formula in the language of his day to describe the inventions that Madison feared. It remained only for future Congresses to invent them and name them, in order for the president to be able to veto them.

Madison records only one note on the debate that preceded the convention's adoption of Randolph's proposal. "Mr. Sherman thought it unnecessary, except as to votes taking money out of the Treasury." Although Roger Sherman appeared to be no great fan of the veto, he did comprehend that Congress's main motivation to subvert the veto, and the main reason the Constitution needed to defend it, would be the temptation for Congress to spend irresponsibly.

Why does the Constitution not speak specifically about the "line-item veto"? At the time of the convention, the phrase did not exist. It was not until the chaos preceding the Civil War that Congress, in order to subvert the presidential veto and experiment with large deficits, first began the abusive practice of attaching appropriations riders to bills. It was only after this practice was invented that the term "rider" was developed along with the term for the corrective response—"line-item veto." Only in the Civil War environment of national fratricide and a weak, minority president could Congress have initiated this subversion of the executive.

When the Confederacy wrote its own constitution during the war, on many procedural points it merely restated the U.S. Constitution in light of the practice and language of the day. President Jefferson Davis was provided with a line-item veto described as such.

After the Civil War, Congress returned to fiscal responsibility, although the use of riders continued. Much later, however, when the welfare state ideology created by the Depression ran headlong into the demands of World War II and the Cold War, Congress responded with a "tax a lot and spend more" formula for fiscal fairy tales. The Republican Renaissance has stemmed from the tax side of this formula, but the Democratic Congress remains unchecked on the spending side, with a metastasized deficit as a result. The recent world-wide collapse of the equity markets is merely the first serious symptom of this potentially fatal disease.

Since no president has ever vetoed a line item, the courts have never had an opportunity to bless the action. In fact, judges have had almost no chance to say anything about Clause 3, although what little they have said has been correct. Hence, if the Supreme Court ever gets a chance to pronounce on the line-item veto, it will be directly interpreting, on first impression, fairly clear and unobstructed constitutional language. The prognosis for any such decision would be favorable.

There is one 1889 Supreme Court case, *U.S.* v. *Stockslager*, that states that a joint resolution of both houses approved by the president has the same effect of law as if it were called a bill. Presumably, such a joint resolution could also be vetoed by the president. By extension, a president could determine that a "bill" contained implicit "joint resolutions" by Congress for each line item or appropriations rider, and then veto selected "resolutions" within a bill at his discretion. If Congress plays the game of "form and name" to subvert the president, then the president must likewise defend himself. This is the point of Clause 3.

The only other Clause 3 case of interest, a 1982 case from the U.S. Court of Appeals for the District of Columbia, *Consumer Energy* v. *FERC*, comes no closer to explicit comment on the line-item veto. However, citing Madison's notes, the court states: "Clause 3 was inserted to prevent Congress from evading the requirements of Clause 2 by merely calling its actions something other than a 'bill.'" Or, if a line item has the force of law, then a line item may suffer a veto.

A possible Democratic response might state that budgets may be vetoed, but not line items or riders. At first glance, this appears to have some merit. But this argument would allow Congress to destroy the veto by bunching bills together. Taken to its extreme, each Congress, which sits for two years, could determine that all its actions for that period would, on the last day, be bunched together into one huge bill. All the individual bills that would have passed over the course of the two years would be merely "preliminary" procedural steps to the leviathan bill. The president then would have the choice of forgoing the veto or vetoing two complete years of legislation and perhaps destroying our government in the process.

This is the very game of "form and name" that inspired Clause 3. If the clause means anything, it means that the president can unbunch such bills by vetoing line items and riders.

Congress is already using this bunching gambit for the budget. Under the budget rules, Congress passes only one "omnibus" budget bill per year. Obviously, today's line item is yesterday's bill, and the president can veto either.

Whatever result the courts ultimately may reach, the presdient's use of the line-item veto offers everything to gain and nothing to lose. The courts can deliver no worse than the status quo. Any other legal result would be an improvement over current practice.

Indeed, with the collapse of the world equity markets on Oct. 19, and the subsequent drift toward the fiscal abyss by a Congress that has no seniority system, no party discipline, too many subcommittee chairmen, and, under its current rules, no leader with the institutional means to cut a deal and make it stick, President Reagan has no choice but to use his constitutional power to act unilaterally. The question is not one of narrow partisan contest, but whether we shall have effective government and a productive economy, or increasing chaos and poverty.

ARTICLE I, SECTION 7, CLAUSE 2

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objection, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. . . .

ARTICLE I, SECTION 7, CLAUSE 3

Every order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

THE INF TREATY

Mr. WALLOP. Mr. President, storm clouds gather over America. They are clouds of appeasement disguised as sunshine. The President and the Secretary of State have taken unto themselves the role of the world's weather-men, responsible alone for the climate at the summit. That climate can be one of a cheerful, strong, summer day or it can be one of gathering clouds.

I believe that if we are to be realistic, ignore that climate and pretend that the world exists in some kind of harmony where the lion lies down with the lamb. If we do, we only fool ourselves and the people that we serve.

Last night, the President claimed that we who, in the exercise of our constitutional role in the Senate of the United States, may question the terms and conditions of his new arms control treaty are either ignorant or in our hearts given over to the inevitability of war.

Mr. President, what an appalling charge for the President of the United States to make. What a concept. Where is this President's knowledge of our Constitution? This Senate has a role given to it by the Constitution to provide its advice and consent to the ratification of treaties. It does not have that role simply to provide a rubberstamp.

Does the President of the United States alone think himself to be wise or are there men with experience in this body who might in the pursuit of knowledge of this agreement come to a conclusion that is different from his?

Would it not occur to the President of the United States that perhaps our questions need answers, not accusations?

Does the President now think that he alone worries about war? What an appalling charge to say that those who serve in this Chamber and other places have no concern for war and have given over to the inevitability of it.

Mr. President, if this Senator had given over to the inevitability of war, he would go home and enjoy the rest of life on the most beautiful ranch that God has given the world and Wyoming.

What does the President think has kept war at bay? Good will on the part of the Soviet Union or perseverence and political will backed up by the strength to assure that?

Why does he suppose Europe has had its longest period of peace in history? Because we have given ourselves over to the inevitability of war? Surely not.

Are we wrong to cede those proven tools of that peace over to the Soviets without questioning what is to replace them? Surely that is a question that can be answered if this treaty is all that he says it is, but it is not answered with an accusation of our ignorance.

Does the President not owe us these answers instead of his accusations? Is the strength of his logic on this treaty based on this? If it is, may the good Lord help us all.

Can the President give us these answers while his negotiators are still, while he is making this charge, negotiating at the Soviet mission in Geneva trying to finish the terms of this treaty?

Mr. President, while this charge was being leveled and while this interview was taking place, American negotiators were in the Soviet mission trying yet to finish it.

How can he explain to us what his treaty contains at the moment when it still is yet unratified? No, sir. This Senator does not cede the inevitability of war. That, by damn, is why I dare question what might be in this treaty. The President quotes his Russian proverb which says "Trust but verify." Better he were to quote Ronald Reagan who once said "When we are strong we no longer have to trust. We can defend and assure our interests."

Peace is in all our interests. Peace is this conservative's interest. And I defend my right to seek it. It may be that in seeking it I agree with the President of the United States in the treaty that he will sign next week. But clearly we are entitled to see it and receive answers about it before we are required to rubberstamp that wisdom and that judgment.

Yet, in all of this, Mr. President, my prayers are with Ronald Reagan during this summit. They are, indeed, but they are above all prayers for my country and the peace which has endured for over 40 years. May the good Lord grant that our peace exist with freedom and that the wisdom to secure it be with us all.

Mr. President, I yield the floor.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

WHAT'S WRONG WITH RAILROAD ACCIDENT REPORTING?

Mr. HEINZ. Mr. President, the issue of rail safety has been a paramount concern of mine and of many of my distinguished colleagues for some time. Over the past 18 months, there have been at least eight serious freight train accidents in western Pennsylvania alone. Earlier this year, and during the span of only 5 months, there were two major derailments in Confluence, PA. During one in May, the entire population of Confluence had to be evacuated from their homes. In April 1987, 16,000 residents of Pittsburgh had to be evacuated as a result of a train derailment. In August, 700 residents of McKeesport had to be evacuated because of a 16-car derailment. In all of these cases, the derailed cars included tank cars carrying federally classified hazardous materials.

On August 25, Senator SPECTER, Congressman GAYDOS and I wrote to the General Accounting Office urging an investigation of Federal regulatory oversight of railroads in western Pennsylvania and to examine safety regulation in the Nation as a whole. While the GAO is in the process of completing its investigation, a revealing article in the November issue of the Washingtonian has uncovered some deeply disturbing facts.

The article explains that official figures on rail accidents, compiled every year by the Federal Railroad Administration, come from accident reports supplied by the railroads themselves. While it is understandable that it is the railroad's responsibility to fill out the report, what concerns me is the question of whether the FRA has procedures to double-check the railroad's report.

In light of the fact that railroad's determine the cause of accidents when filling out accident reports, what is most disturbing about this article is that human error is often described as the sole contributing factor in a rail accident. Two questions immediately come to mind: What prevents a railroad from erroneously determining that an accident was the result of human error, and how can remedial action on mechanical and track problems be taken if accidents are repeatedly blamed on "human error?" Moreover, if an accident has been erroneously reported to have resulted from human error and the FRA does not have procedures to double-check the railroad's report, this risks wrongful dismissals of railroad employees.

Mr. President, these observations are alarming enough by themselves, but even more startling and frightening is the fact that the accident figures most often publicized by the Department of Transportation do not include a term called "incidents." As the Washingtonian magazine explained, when DOT announced that 1986 was another record-breaking year in improved rail safety, the Department was referring solely to the 2,761 accidents. But, Mr. President, what they omitted, what they were not referring to, is the 6,407 incidents. Mr. President, we might well ask what are the so-called "incidents" and how are they different from accidents? After all, 6,256 people were injured in those incidents and 980 people were killed in those so-called incidents. Why do not these people count?

Mr. President, maybe it is because these injuries and fatalities are embarrassing, but whatever the reason, the Federal Railroad Administration does not bother to publish statistics unless money, at least $5,200, is involved in what we would normally call an accident. If it is less than $5,200, it is an incident and it is not reported, no matter how many deaths or how many serious injuries result. No accident is reported unless enough money is involved.

Mr. President, it is bad enough that this represents a triumph of materialism over humanity, but to my mind it also represents a coverup, a coverup that is serious and in the same league as that of the Iranian arms for hostages deal which we took a long time to ferret out. Mr. President, it is my view that 980 people's lives do count, and that the Federal Railroad Administration has some pretty serious explaining to do as to why they do not count them unless there is $5,200 or more in property damages that are included.

I commend the Washingtonian magazine for this excellent example of investigative journalism. But I caution that these revelations may be only part, and may be only a small part, of the extent of serious reporting deficiencies on rail accidents.

I urge our colleagues to read the article, "Safety in Numbers?" and to join me in efforts that are now underway, and in additional steps that I plan to take, to ensure that the safety of those touched by our railroads is indeed subject to the strongest and most stringent Federal oversight.

Mr. President, I ask unanimous consent that the text of the article I have referred to, "Safety In Numbers?" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washingtonian magazine, Nov. 7, 1987]

SAFETY IN NUMBERS?

The numbers look good. Railroad accidents have declined steadily since Congress deregulated the industry. In 1981, the first full year of deregulation, there were 5,781 train accidents. Last year there were 2,761.

What's in those numbers, though—and what's not in them—is not so reassuring.

First of all, official figures on rail accidents, compiled each year by the Federal Railroad Administration, come from accident reports supplied by the railroads themselves. The FRA doesn't have enough inspectors to investigate every accident, so it has forms that railroads fill out whenever an accident occurs. The railroad describes the accident and reports the cause—faulty equipment, bad weather, human error.

Railroad unions contend that the reporting system allows railroads to tell the FRA whatever they want to tell about the accident. If a railroad's managers don't want to admit that a train fell off the track because the track should have been replaced twenty years ago, they just tick off "failure to control speed" on the accident form, and the train's engineer, not the railroad, takes the rap.

The FRA admits that it double-checks only about 10 percent of the accidents each year, but insists that the system is reliable because the FRA's findings almost always agree with what the railroads report.

The accident figures most often publicized by the FRA do not include a class of events called "incidents." Incidents result in many more injuries and deaths each year than accidents.

According to the FRA, a railroad accident happens when a train causes a certain amount of monetary damage—this year, at least $5,200. If a couple of tank cars bump each other too hard and there is $5,200 worth of damage, that is an accident, whether or not anyone is hurt.

A railroad incident happens when someone is injured or killed but there is less than $5,200 in damage. If a loaded boxcar unexpectedly moves and crushes a worker's arm—or the worker—that is an incident. The train is not damaged, so no accident has occurred.

When then-Secretary of Transportation Elizabeth Dole announced in June that 1986 was "another record-breaker" in railroad safety, she was referring to the 2,761 accidents, not to the 6,407 train incidents, in which 6,256 people were injured and 980 people were killed.

Those safety figures cover all the railroads. How safe is Amtrak?

Statistically, Amtrak has always been considered quite safe. From 1982 through 1986, Amtrak trains traversed about 150 million miles, carrying 100 million passengers over 24,000 miles of track. During that time, 11 Amtrak passengers were killed, a rate of 0.5 deaths per billion passenger miles. Until the January fatalities, no Amtrak passengers had been killed since 1984.

The fatality rate on domestic airline flights from 1982 through 1986 was about the same as Amtrak's, but automobiles were nearly 25 times more deadly, with a rate of about 12 deaths per billion passenger miles. You're much more likely to get killed in a taxi on the way to Union Station than on any Amtrak train.

How many people get hurt riding Amtrak? *The Washingtonian* looked into it and found a puzzling inconsistency. Comparing records of the Federal Railroad Administration to those of the National Transportation Safety Board, we noticed that the number of injuries reported by the FRA in some recent Amtrak accidents was much lower than the number of injuries reported by the NTSB.

We discovered a pattern of sharply lower FRA injury figures going back at least to 1975, when a collision in Illinois injured 41 people—according to the NTSB—but only 4 people according to the FRA. A derailment in Montana injured 115 people or 31; a sleeping-car fire in California injured 61 people or 6; a New York City collision in 1984 injured 140 people or 23, depending on whose report we read.

In 25 of the Amtrak accidents we reviewed, the safety board found a total of 1,388 injured people. In those same accidents, the FRA reported 494 injuries.

When we asked the FRA what was going on, high-ranking staff members were surprised to learn of the discrepancies. They reminded us that most FRA statistics come directly from railroads—in this case, Amtrak. One suggested that the differences might be due to the fact that the NTSB usually takes longer than Amtrak to conduct investigations and would have more time to count injured people.

The NTSB told us that it reports any injury caused by an accident. Most train-accident injuries are relatively minor—strained muscles, facial lacerations, broken teeth. "We count them all," an NTSB spokesman said, "even the cuts and bruises. An injury is an injury."

We went to Amtrak. Its policy, we learned, is to count as injured only those passengers who are admitted to a hospital. "It is an unwritten rule . . . that we don't count 'treat and release' as injuries," an Amtrak spokesman said.

So if you are in a Amtrak accident and get glass in your eye, break your arm, or sustain a mild concussion, but you aren't admitted to a hospital, you haven't been injured.

By whose authority, we asked, was Amtrak using this method? By the FRA's, we were told.

We showed FRA head John Riley what we had learned. He said someone would get back to us.

A couple of weeks later, an FRA spokesman called and said, "We plead guilty. The injury statistics are obviously misleading." The FRA would decide what to do about it, he said, and he would let us know.

He called back a few days later. First, he said, the FRA had asked Amtrak to review the records of the accidents that we had studied and to tally, if possible, the non-reported injuries. Second, the FRA's own accident inspectors had been told to be "more NTSB-like" in counting injuries. Since the inspectors study most Amtrak accidents, however, the FRA was not going to ask Amtrak to change its injury-counting criteria.

Finally, he said, the FRA will generate a new statistic to represent all injuries, not just hospitalizations, in passenger-train accidents.

It all seemed like impressively quick action for government bureaucracy. Before hanging up, we asked if that new safety statistic would now be the one used in official FRA reports of Amtrak injuries, or if Amtrak's own numbers would continue to be used.

"We're still not sure," the FRA spokesman said.—Steven D. Kaye.

Mr. HEINZ. Mr. President, I further ask that a letter that I am sending today to John H. Riley, Administrator of the Federal Railroad Administration, demanding an explanation of these issues also be printed at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, December 4, 1987.

Mr. JOHN H. RILEY,
Administrator, Federal Railroad Administration, U.S. Department of Transportation, Washington, DC.

DEAR JOHN: As you are aware, the issue of railroad safety has been of paramount concern to me. Over the past eighteen months, there have been at least eight serious freight train accidents in Western Pennsylvania alone and many other train accidents thrughout the Commonwealth of Pennsylvania.

Earlier this year, and during the span of only five months, there were two major derailments in Confluence, Pennsylvania. During one in May, the entire population of Confluence had to be evacuated from their homes. In April 1987, 16,000 residents of Pittsburgh had to be evaculated from their homes as a result of a train derailment. In August, 700 residents of McKeesport had to be evacuated because of a 16-car derailment. On October 12, 1987, a mother and her daughter were struck by a train and killed while attempting to drive their vehicle across a private crossing in Annville.

On August 25, Senator Specter, Congressman Gaydos and I wrote to the General Accounting Office urging an investigation of federal regulatory oversight of railroads in

Western Pennsylvania and to examine safety regulation in the nation as a whole. While the GAO is in the process of completing its investigation, it has recently come to my attention that the Federal Railroad Administration (FRA) has serious deficiencies in its reporting of railroad accidents.

It is my understanding that official figures on rail accidents, compiled by the FRA, come from accident reports supplied by the railroads themselves. What prevents a railroad, which does not want to admit an accident resulted from a mechanical or track problem, from merely blaming the accident on "human error" or an "act of God?" Does the FRA have in place procedures to double-check a railroad's accident report? If so, what are they and how many accidents are double-checked each year?

Furthermore, it is my understanding that accident figures, which are compiled by the FRA and which are most often publicized by the Department of Transportation do not include "incidents." Incidents result in many more deaths and injuries than do accidents. For example, the Department recently publicized that there were 2,761 train-related accidents in 1986. However, there were an additional 6,407 train incidents, in which 6,256 people were injured and 980 were killed.

When a railroad publicized its accident record it is permitted to use only the FRA figures, not the National Transportation Safety Board's which does publish incident figures. It is apparent, then, that the FRA's figures are misleading to the public. Does the FRA have in place plans to report all injuries and fatalities related to train accidents and incidents? Is the FRA prepared to direct all train companies to publish all injury and fatality statistics?

The public deserves to be as well informed as possible. In light of the investigation by the GAO, I would appreciate your prompt attention to the issues that this letter raises and I look forward to a timely response.

Sincerely,

John Heinz,
U.S. Senator.

Mr. HEINZ. Mr. President, I thank the Chair. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INF TREATY

Mr. QUAYLE. Mr. President, I rise to address the concerns and the interests of the upcoming summit and, in particular, the INF Treaty; and, perhaps even more particularly—which I had not intended to address today—the interview that the President had with the four anchormen last night in the Oval Office concerning the summit and the INF Treaty and the prospects for the future in peace.

Perhaps some Members of the Senate have already decided that they are going to vote for the treaty, no matter what, and some have decided that they are going to vote against the treaty, no matter what. For the record, I and a number of others are undecided about how we are going to vote. Frankly, the vote for or against this treaty will depend upon the discussion and how we go about answering the concerns and the questions that will come up.

I have to be honest, Mr. President, that I was particularly appalled by the rhetoric last night by the President of the United States directed to those who would raise concerns about this treaty. Rhetoric that perhaps people were ignorant. Nonsense. Rhetoric that perhaps those who raised concerns thought that war was inevitable. Nonsense.

Many of us—and I include myself in that camp—have in fact worked very hard to invest in national security, to provide for peace, to provide for stability. We have worked very hard to put this administration and this President in a position where they can effectively negotiate.

I believe it would be counterproductive to continue to engage in this kind of rhetoric. If we have to resort to a very shrill line of attack on those who raise concerns and try to hurry up and stampede this treaty forward, I believe it will not work. I can only say to those who would rush this treaty through the Senate, who want to continue in this kind of dialog and want to use this kind of rhetoric, go ahead. Go ahead, but it is not going to be productive. As a matter of fact, I guarantee that it will slow down the treaty. It may, in fact, even in a premature way, push people to say: "OK, if that's the way it's going to be, maybe there is more opposition to this treaty than we thought." But to use these kinds of tactics of intimidation, to try to say that people are ignorant or to say that they believe war is inevitable, is not going to fly. It is not going to fly because, first of all, we have not even seen the treaty. Nobody in the Senate has read the treaty.

The treaty of 200 pages will be offered to the Senate and there will be full discussion and, yes, there will be a lot of concerns raised about this treaty.

So I hope that this kind of tactic will cease and desist. It does not belong in the public dialog. It is not going to do anybody any good, particularly those who advocate and want to see quick ratification of this treaty. If we are going to have this kind of debate and this kind of rhetoric, in my judgment, it shows weakness on the part of those who are advocating a quick judgment on this treaty, that they have to resort to accusations, calling one's opponents ignorant warmongers. How ugly a situation that is.

If we resort to that kind of attack, perhaps there is something in this treaty that we do not know about or they do not want us to know about or they do not want to take our time. Why do they not want us to take our time? We ought to. This is the Senate. It is a 200-page treaty I am told, and they think it is going to go through here without being read? Yet, we are expected to take that very quickly and not raise any questions, not raise any concerns, just ratify it. Some may want to do that. I do not.

Let me outline a few of the concerns that are going to be raised during this debate.

First, what are we going to do as we begin to have the withdrawal of the Pershing II's and ground-launched cruise missiles? The Soviets withdraw their SS-20's and other intermediate nuclear forces. What are we going to do about the imbalance of conventional forces? Are we going to address that? Are we going to leave it alone?

One question I have is, What kind of linkage or relationship will there be between the conventional force buildup that will have to take place with respect to the INF Treaty? Is the linkage going to be direct or indirect?

We know the force asymetries in Europe. We know the 10-to-1 advantage the Soviets enjoy in tactical ballistic missiles under 500 kilometers range; the 2.5-to-1 advantage they enjoy in the area of tanks; the 3-to-1 advantage they enjoy in artillery. We know the numerical asymetries. We also know the qualitative asymetries, that the Soviets can reinforce much more quickly than NATO can. This has been pointed out by the RAND Corp. and a number of people in a number of articles. It is not only a perception but also a reality that we have a tremendous force imbalance.

What has the administration prepared to address this problem?

One of the amendments in the defense authorization bill on a post-INF report that addressed this question asked the Department of Defense to spell out what we are going to do in a post-INF environment.

Is this a concern? Certainly it is a concern. I know it is a concern of many in this Senate—what we are going to do and what is going to be the linkage between our conventional efforts and the INF Treaty? How direct is it going to be in reservations or understandings or in law that may be adopted in this area? That is a concern.

Another concern is verification. We are always interested in verification. We are interested in verification because of the Soviets' past history of noncompliance. In this treaty verification is good as far as getting onsite inspection. However, if the Soviets want to cheat, which we presume that they would, they are going to be able to do it. The verification is not going to be, as some would like to see it, airtight.

The verification is not going to be 100 percent or even 95 percent effective. It would be much less. I imagine it would be closer to 50 percent or 55 percent.

The Soviet Union is a large country. If they want to engage in covert activity, deception, deceit, and hide these missiles that are very small, they can. As a matter of fact, it took us a while to even know the SS-20's were even deployed in Eastern Europe.

Verification is important. But it is not as important on the INF Treaty as it is going to be on the START Treaty. On the START Treaty, if you do not have airtight verification, you have a fundamental problem. You may have a major military upset.

You have a much greater challenge in START on verification than you do in INF. On the START Treaty we are going to have to go much further on the onsite inspection. Is this a concern? Should this be addressed? Certainly. Will this be addressed? Absolutely.

There will be discussions. There will be reservations. There will be understandings on what kind of verification procedures we would like to see in future treaties, whether INF verification procedures are adequate.

We also have the issue of the conventional cruise missile. I believe personally it is a mistake to give up on long-range ground-launched conventional cruise missiles. This treaty does that. It does this under the argument that you cannot tell the difference between nuclear and nonnuclear missiles. Yet, at the same time we are banning these missiles we are talking about building up our conventional forces in Western Europe to match the asymmetrical imbalance that we have. We are willing to concede a very important and vital weapons system on a conventional ground-launched cruise missile of intermediate or even long range. We have given that up. Yet we say we have to have an improvement in our conventional forces. These missiles are very effective, particularly in any kind of a follow-on force attack which is a NATO strategy now on deep interdiction.

Certainly the conventional cruise missile on a conventional basis is going to enhance our deterrence on a conventional basis. Yet, we have given this up. Will we give it up on the START agreement when it applies to the bombers or when it is applied to submarines or ships? If we do, that would really be a major mistake.

Is that a concern? Certainly. Is that going to be expressed as far as the reservation or understanding and a discussion in the Senate? Certainly.

Where do we go in our future negotiations? What are we going to do about the Montebello guidelines? At Montebello NATO agreed to reduce its nuclear arsenal but modernize the weapons that it kept.

Are we going to continue forward on that?

The President implied last night that perhaps you might link up discussions on eliminating battlefield weapons with a discussion on conventional arms control. That is not the position the administration had until last night.

Perhaps it is a new position. I do not believe that we ought to move toward the so-called triple-0 option. It could be a tragic mistake. I think it would be a mistake until we build our conventional forces up. We are going to have to have a nuclear deterrent and nuclear deterrence has worked. It has worked rather well in Europe. It has worked rather well for the world because we have had peace and we have had stability. And we have provided for peace and we have deterred war. We have deterred war through the investment of the nuclear deterrence, deterrence, peace. Not war.

That is what we are all striving for. It is to have peace and to have that stability.

Is that going to be an issue, is that going to be a concern, is that going to be something that is going to be discussed? You bet it is. It is a very important issue on how we are going to proceed on these negotiations with our conventional Armed Forces. What were we going to do about the Montebello decision? What were we going to do about the shorter range tactical battlefield weapons? These both are issues.

Another issue is compliance. Are we simply going to ignore compliance, ignore the fact that there has been noncompliance on every arms treaty that we have signed? Are we simply going to ignore that and say that is something we are going to have to accept? If so, it is rather ironic; it stands logic right on its head in many ways. This administration properly revealed a new element of cheating on the ABM Treaty by the Soviet Union. Yet they are prepared, no matter what, to go ahead and sign this treaty and apparently, according to the President's statement last night, go ahead and sign a Strategic Arms Treaty when the President goes to Moscow next year.

What were we going to do about compliance? Nothing, forget about it, say it is not important? When we sign up to it we abide by it, but it is OK if they do not?

We know they have cheated in the past and we expect them to cheat in the future. So what?

I do not think I am going to just say so what. Just to say so what encourages that further cheating.

So there are many, many issues: conventional forces, verification, conventional cruise missiles, Monbello, compliance, and there will be other issues when the 200 pages that are going to be sent to the Senate on this treaty are examined.

So I would hope, Mr. President, that we would cool the rhetoric, and we would lower the thermostat somewhat, because what was said last night was just totally irresponsible. In my judgment it was appalling rhetoric, something I hope that does not happen again and if it does, I am convinced beyond any reasonable doubt it will not help the cause of this administration to push through this treaty.

It will be counterproductive because those of us who have legitimate responsible concerns and interests in this are going to raise those and we would like to do it in a deliberate, dispassionate, objective, substantive way and if we cannot do it that way and people are going to resort to name calling and innuendos and things of that sort, so be it, but we are going to do our job.

We are going to do our job because we believe it is not only our responsibility, but because what we are talking about, Mr. President, is the security of this country. We are talking about maintaining peace. We are talking about our future. We are talking about national security and national security is not going to be dealt with in a slipshod manner. It is far too important. It is too serious. It is going to take our time. It demands our attention. We must examine the detail and we must know what is in store for us in the future.

If we want a lasting peace, if we want to make sure that we can have peace, which that better be the goal of everybody, then we better examine what this treaty is and what it will lead to. This is going to be done in a very, very deliberate, a very, very detailed manner, no matter what those who want to rush this through happen to say.

INF: FOUR QUESTIONS, FOUR RESERVATIONS

Mr. QUAYLE. Mr. President, several questions have been raised concerning the upcoming agreement on intermediate nuclear forces [INF]. What do both sides give up under the treaty? How tough is the verification? Can the treaty be ratified in its current form?

Answering these questions, of course, is of great interest. Yet, considered in isolation, none of them have any hope of getting directly to the critical issue the Senate must address—will the INF Treaty be in our national security interest?

The reason why is simple. Although counting how many more nuclear weapons the Soviets must destroy under the treaty or detailing the treaty's unprecedented onsite inspection procedures may be pleasing, emphasizing these points in isolation ignores the relative importance of the weapons to each side. Where our theater nuclear weapons were deployed to compensate for our conventional weakness and lack of long-range nuclear missile warheads in Europe, the Soviets' were deployed to supplement a clearly superior European conventional force and to augment an overwhelming land-based ballistic missile warhead arsenal.

This makes it clear why the Soviets like INF. They not only can afford to comply with this treaty, but can actually do so and improve their relative military advantage over NATO. When the Soviets pull out the nuclear missiles covered by this agreement they can still accurately target Europe with a variety of new, highly survivable mobile land-based ICBM's, and a vast array of tactical ballistic missiles such as the Scud, which can reach nearly every air base and port in Germany, Belgium, and the Netherlands and which the Soviets are now upgrading.

In contrast, when the United States pulls out the nuclear missiles it has covered by the treaty, it pulls out every long-range unmanned nuclear system it has in Europe and leaves behind only a handful of obsolete, battlefield-range tactical missiles that the Germans are loath to use. More important, the missiles the United States destroys are the very ones NATO approved to assure that if NATO's weaker conventional forces were ever overrun, NATO could credibly threaten to escalate with survivable NATO nuclear weapons that were certain to reach Soviet territory.

Finally, with these nuclear missiles out of the way, the Soviets can continue to build up and improve their superior conventional forces against NATO without facing anywhere near as credible a threat of NATO nuclear escalation. NATO, meanwhile, will have extreme difficulty playing conventional catchup.

All of this, then, explains why viewing this agreement in isolation is a mistake as far as national security is concerned. It also explains why simply focusing on verification questions is hardly telling. Again, viewed in isolation, the INF agreement would be against our security interest even if we could verify all we want.

Should we then conclude that the agreement is not in our interest? No. As has been noted so frequently in the press, this agreement is the first of its kind in the postwar period actually to reduce arms, do so through major asymmetrical reductions, and to allow intrusive onsite inspection of military facilities. All of these precedents are critical to any sound arms control agreements in the future.

These key benefits of INF, however, are themselves only comprehensible or possible by considering what might follow the agreement itself. Not surprisingly, the same is true with regard to the treaty's national security implications.

In fact, whether the treaty will be in our national security interest will depend on four things outside of the treaty. First, will the treaty lead to the further denuclearization of NATO? Will it lead to a triple zero option, the elimination of even battlefield nuclear weapons based in Europe?

Second, will the treaty allow the current conventional imbalance to continue? Will efforts to tie its implementation to an effective, sensible arms build up and a sound approach to conventional arms reduction fail?

Third, will some of the precedents established in the treaty later be used to undermine our security in START? Will the treaty's relatively loose verification procedures for cruise and mobile ballistic missiles, for example, be simply extended verbatim to START, where Soviet cheating will have much more significant military implications? And, just as important, will the treaty's restrictions on ground-launched conventional cruise missiles be extended to air- and sea-launched versions—despite our lead in this critical technology—in START?

And finally, will the treaty be backed by effective United States actions if the Soviets violate it? Will we have inadequate national technical means to verify the treaty? Will our Government fail to withdraw or seriously reconsider its commitment to the treaty if we discover Soviet cheating?

If the answer to these questions is yes, then, we ought not to sign. Making sure that the answers are no, however, will not be easy. At a minimum it requires a deeper understanding of each of the concerns raised.

On the first concern, denuclearization, it's critical to understand just why European NATO needs nuclear weapons on its soil. These weapons are needed not because NATO wants to launch a nuclear strike against the Warsaw Pact. Nor is it because we want to force the Soviets to strike NATO with nuclear weapons. Rather it is because we want to prevent any attack—nuclear or conventional.

In fact, the key impact of deploying nuclear weapons in Europe is to make our conventional defense against a Soviet conventional attack feasible. As the Soviets themselves have made clear both in their military writing and actions, NATO's deployment of nuclear weapons makes concentrating conventional forces prior to any attack risky.

The reason why is fairly clear. If you concentrate enough armour to launch an overwhelming attack the way we traditionally launched attacks in the Second World War, you invite NATO to use only one or a few nuclear weapons to knock out these concentrations.

The way the Soviets got around this problem is by dispersing or echeloning their troops in offensive waves. The first echelon now in place in Eastern Europe is geared to find and exploit weak spots in NATO's front. Its initial operation would be coordinated with a major conventional air and missile attack designed to pin down or knock out NATO airfields and other NATO nuclear related facilities. After this first echelon had probed deeply against NATO's weak points, it would receive reinforcement from second and third echelon forces deployed in Western Russia and Poland.

This Soviet approach would be fatal to NATO were it not for existing and emerging technology that will make it possible to anticipate the movement and location of Soviet forces and strike at them at key choke points deep in the Warsaw Pact's rear. Blocking these choke points at the right time can prevent the Soviets from getting their second and third echelon forces to reinforce initial victories at the front. This, in turn, would make Soviet war planners think twice about launching an attack in the first place.

The key for NATO here, however, is not just having deep strike conventional capabilities, but having enough survivable nuclear capability to disperse or echelon Soviet conventional forces and to make it impossible for the Soviets to find and conventionally destroy much of NATO's ground-based nuclear capabilities.

Some might argue that American nuclear strategic missiles and planes are all NATO needs in the way of nuclear guarantees. NATO, however, does not agree. In fact, NATO rejected precisely this argument back in the late 1970's when it was suggested that we could defend NATO with nuclear cruise missiles launched from the sea.

Their concern—and a reasonable one—is that if deterrence fails and the Soviets begin to win conventionally, the United States might not launch unless our ships' and planes' home bases were threatened. As for planes based in Europe, these would be tied to only a relative handful of vulnerable air bases and might be knocked out early in the war.

This, then, brings us to the first category of concerns or reservations about INF. If we are to have any hope of meeting the Soviet conventional challenge with conventional forces of our own, we cannot afford to do away with nuclear weapons in Europe. We must make it clear that eliminating battlefield nuclear weapons is simply not in our interest.

More important, we need to modernize the nuclear weapons we have in Europe as we pledged to do under the Montebello decision of 1983. Under this NATO guideline agreement, we agreed to withdraw 1,400 nuclear weapons from Europe on the understanding that the remainder of the stockpile—some 4,600 weapons—would be modernized.

We pulled out all 1,400 of the weapons but we've done little to modernize. We've upgraded some of our 8-inch battlefield artillery shells but we've hardly made any progress on deploying improved 155 millimeter shells. More important, we have yet to begin any serious work on a timely follow-on to our obsolete Lance missiles. General Rogers, the former Supreme NATO Commander, testified earlier this year that moving ahead with this project was his No. 1 military priority for NATO. The Senate took the first step toward meeting this requirement when allowed studies to be made on the suitability of making ATACMS a dual-capable system.

More needs to be done. We also need to develop new air-launched standoff missiles for a dual-capable aircraft.

This, then, suggests the first reservation. In law Congress needs to commit to follow through with the Montebello modernizations and to accelerate work on a Lance follow-on. In addition, the Senate should consider attaching an explicit reservation to the treaty stating that nothing in it should be construed to restrict our right to follow through with these modernizations.

This, then, brings us to the second concern—will the treaty allow the current conventional imbalance to continue. Clearly, it must not.

Currently, the Soviets enjoy at least a 2-to-1 overall military advantage over NATO in Europe. What compounds this advantage is the Soviets' even more pronounced lead in several key offensive weapons categories such as artillery—where they enjoy a 3-to-1 advantage in Europe—tanks—a 2.5-to-1 advantage in Europe—combat helicopters—a 3-to-1 advantage in Europe—and tactical ballistic missiles below 500 kilometers in range—a 10-to-1 advantage in Europe. Also, by going on the offensive, the Soviets can concentrate these forces locally to achieve combat advantages of 6 to 1 or more without losing ground elsewhere.

To cope with this problem, NATO will have to more than just modernize its nuclear weapons; it will have to extend its conventional air defenses to prevent the Soviets from delivering surprise conventional knockout blows against NATO airfields and depots where most of NATO's air and nuclear assets will be located.

In addition, NATO will have to push ahead with the weapons it will need to delay and disrupt any Soviet offensive with deep strikes to the Warsaw Pact's rear areas. Long-range cruise missiles, improved command and control and intelligence systems no longer will be luxuries; they will be critical to NATO's defense.

To assure that these systems are procured, Congress should pay special attention to the suggestions of the Secretary of Defense that will be made in the post INF report requested in the defense authorization bill due early next year. In addition, greater attention needs to be paid to NATO cooperation in buying developed or nearly developed systems. If Congress is unwilling to commit to extended air defense and buying deep strike interdiction systems, Congress would be ill-advised to approve this treaty.

Equally important, the administration must devise a conventional arms control proposal that recognizes that anything but grossly asymetrical Soviet reductions in conventional arms will do nothing to reduce the threat of Soviet attack. This point was driven home recently in an excellent RAND study by James Thomson. His prescription: Major Soviet reductions of equivalent offensive ground units on the order of six Soviet units to one NATO unit, but keep NATO's air forces untouched.

Finally, given the Soviets' ability to move two divisions a day into Eastern Europe and NATO's probable inability to respond to warning quickly, these reductions should be achieved by destroying Soviet forces, not just by removing them from Eastern Europe.

Again, without a commitment to such significant destruction of Soviet armaments and/or an appropriate NATO arms buildup, Congress should reconsider what it is doing in INF. It may even be desirable to pass a law requiring a 5- or 10-year commitment to redress the conventional force imbalances before the last INF missile is dismantled and clearly stating that the lack of such an authorized and funded plan would constitute grounds for withdrawal.

This, then, brings us to our third concern—INF as a precedent for START. Here there are two points. The first is that although loose verification procedures might be politically tolerable for an INF agreement, they would be militarily disastrous under START. The reason why is simple: The military advantages the Soviets might achieve by cheating on INF would be insignificant in comparison to what they might gain by cheating on START once an INF agreement is in place.

My own judgment is that the INF Treaty's verification procedures will only give us 50 percent confidence that the Soviets are not cheating. We don't really know, for example, how many missiles they have stowed away. Out of a declared arsenal of some 2,000 deployed warheads, the Soviets claim they only have another 225 stored in reserve. This should be viewed with suspicion since we ourselves have more INF missiles stored in reserve—430—as we have deployed in Europe—364.

Nor can we determine the range of any new missile with any degree of accuracy—particularly in the case of cruise missiles. Change the warhead to a lighter nuclear one and you extend the range of any missile significantly. Change the engine or run it at a slower speed and again you extend the range. In fact, we probably can determine the range of a cruise missile only within a factor of 2 if all we have are its exterior dimensions.

This, then, suggests the need for an explicit treaty reservation stating that the INF Treaty is at best only a minimum verification standard for any START agreement.

The second point concerning START involves conventional cruise missiles. I believe we made a serious mistake in the INF agreement when we agreed to ban nonnuclear ground-launched cruise missiles with a range beyond 500 kilometers. General Galvin, the Supreme NATO Commander, in fact, was about to issue a requirement for such missiles when the administration announced we had agreed to ban them.

Such cruise missiles would have helped Galvin build up NATO's capability to delay and disrupt a Soviet attack using conventional weapons. Survivable and highly accurate version of these missiles could block a Soviet offensive at key Warsaw Pact choke points such as train lines, bridges, tunnels and the like and make Soviet war planners think twice. These same missiles, moreover, could be used to substitute for many nuclear weapons we currently have dedicated to targets in the Soviet Union.

We have a clear lead in conventional cruise missile technology and it is critical that we not give up this competitive advantage in the sea and air launched versions in START. If the concern is to assure that no nonnuclear missiles carry nuclear warheads, we can use INF-like verification procedures to assure no nuclear warheads are present at specific dedicated air and sea bases.

In any case, the Senate ought to see to it that the INF Treaty carries a specific reservation warning that nothing in the treaty should be interpreted to require that similar bans be placed on air and sea launched nonnuclear cruise missiles.

Finally, there is the concern that the treaty lacks any specific provision for appropriate action if the Soviets do cheat. To date this has been a problem on every arms limitation treaty we have reached with the Soviets. The Soviets violate, the President certifies the violation, Congress even protests, but we continue to abide by the treaty and nothing more is done.

This suggests the need to look more closely at the suggestion of Senator MALCOM WALLOP that once the President certifies a violation of this agreement, it must be sent back to the

Senate for reconsideration for advice to the President as to whether we should withdraw.

The Congress should also take care to assure that our intelligence services have all the national technical means they need to verify the agreement even at modest levels.

These are concerns and reservations, that we already know deserve our attention. Others are likely to emerge once the Senate has a chance to examine the nearly 200 pages of treaty text and its associated protocols.

Still we should be clear now on what we are already getting into and what, at a minimum, we should be focused on before the textual analysis of the treaty begins.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am very proud to join the distinguished Senator from Oregon [Mr. HATFIELD] as a sponsor of the Forest Wildfire Emergency Pay Equity Act, S. 1911.

This is legislation to correct a glaring inequity that currently exists in our Federal law, that prevents some of our firefighters from being paid for their long hours and emergency work. This bill makes possible fair treatment for all the brave men and women who protect America's wildlands by fighting forest fires. It recognizes that firefighting is not a 9 to 5 job and it assures that firefighting supervisers and specialists will be compensated for their long hours of hard and hazardous work.

Last month, I spoke to the Senate about the heroic efforts of the firefighters battling the worst series of forest fires in many decades. During September, an army of 25,000 men and women worked almost nonstop in heat and smoke to save as much as they could of our precious natural resources.

I was particularly proud of the way the States responded to support each other during these crises. Fires in the West were fought by firefighters from 43 States. For example: the Southwestern States sent more than 4,000 firefighters and 149 engines. Montana and New Mexico supplied over 100 organized crews. Over 50 crews flew in from Alaska.

Many of these same people left their successful effort in the West to battle eastern fires, a fact that meant they were on the fire lines almost continuously for over 2 months.

Army and National Guard units pitched in. The lumber industry contributed skilled woodsmen and machinery.

Twelve brave firefighters gave their lives in these battles.

Yet, during this saga of teamwork and heroism, many of our Federal firefighters were not paid for a portion of the long overtime hours they spent in the heat, smoke, and dust.

Unfortunately, more than 2,000 of these dedicated Federal employees exceeded the allowable statutory overtime limit. These limits on premium pay can be reached quickly when the firefighters are engaged in prolonged emergency firefighting assignments.

As unfair as it may seem they must donate their time while working in these stressful, high-risk situations. Often they work side by side with employees from State and county organizations who receive full pay.

A typical example is Ron Bahm from Albuquerque, NM. Ron writes, "I just returned from 3 weeks in California where I was helping on 2 of their forest fires as a ground support unit leader—in charge of all ground transportation. During the first 2-week pay period I worked 111 hours of overtime and can only be paid for 68 hours * * *." Ron goes on to ask "What other agency or company expects their employees to work for nothing when there is a real need for their services?" And appeals to us to help.

Mr. President, I ask unanimous consent that this letter along with articles from the September 13 issue of the Sacramento Bee and the November 12 edition of the Los Angeles Times be inserted in the RECORD. The article entitled "Firefighters working for free" came out during the heat of battle and pointed out that one firefighter could have been donating work when he was killed. It quotes one engine captain "So here I am, 500 miles from my family, sleeping in the dirt on my 40th birthday, catching poison oak and risking my life for 4 days for free," he said "I believe that's wrong."

Mr. President, I, too, believe that's wrong.

These firefighters were GS level 7 and higher with exempt status. They are covered by title 5 of the United States Code. Under section 5547 of this title, an employee may be paid premium pay only to the extent that the payment does not cause his or her aggregate rate of pay for any pay period to exceed the maximum rate for a GS-15.

The intent of this policy was to prevent Federal employees from receiving more pay than high-level Federal executives.

Under this policy the typical GS-11 fire superviser working a 16-hour emergency shift reaches nonpay status in 10 days. After the 13th day, it is possible for the employee to accumulate less pay than those they are supervising.

Several of the large fires this fall burned for over a month.

Applying standard workday and workweek principles to emergency situations is inadvisable. Personnel should not leave the fire line or the disaster scene because we are concerned over how much money they are making.

Key people in many cases must stay with the emergency until it's over or controlled. Often there is no time for bringing in replacements. Sometimes, as occurred this fall, we simply run out of skilled people to carry on.

The bill modifies the application of the Fair Labor Standards Act and 5 U.S.C. 5547 to allow employees assigned to, or working in support of, emergency wildlife suppression to receive compensation for however long they are required to work.

While this bill provides a prospective solution, we want you to be aware that we are attempting through an amendment to the continuing resolution to correct the unfair treatment of those not paid for overtime during this past record fire season.

The cost of implementing this bill in the more typical fire season is estimated to be less than $200,000. To continue to pay these people already working on and familiar with the fire situation will certainly result in a savings, as morale is improved and the cost of bringing in and briefing replacements is avoided.

Mr. President, I ask that we act quickly to rectify an unjust situation and show our support for the dedication of our wildland firefighters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 29, 1987.

Senator PETE V. DOMENICI,
Dirksen Building, Washington, DC.

DEAR SENATOR DOMENICI: I work for the U.S. Forest Service and through the years have acquired expertise in the management of large forest fire camps. Many of us have these skills which are very valuable to the Forest Service in times of disaster. We are called upon to aid when needed and also to work when we have "maxed out" for overtime pay status. This is one concern that causes this letter.

I just returned from 3 weeks in California where I was helping on 2 of their forest fires as a Ground Support Unit Leader (in charge of all ground transportation). During the first 2 week pay period I worked 111 hours of overtime and can only be paid for 68 hours (that is my limitation of hours before "maxing out"). This results in a gross of $765.00 of overtime lost while being away from family during just this one pay period. This old limitation of paid overtime must be changed. We must either (1) get compensation in pay or (2) get compensable time off after the incident. What other agency or company expects their employees to work for nothing when there is a real need for their services? I appeal to you that if there is something you can do to change this old thinking, please do it.

Another issue of importance is the limitation of overtime pay at 1½ times a GS-10 step 1. That causes many of us to work for less per hour on overtime than our usual hourly rate. I usually work for $18.50 per hour and when on overtime I work for $17.78 per hour! We were working side-by-side with California State employees who were getting much better compensation while having a motel bed every night. We do not nor do I expect the motel feature. I appeal to you to get the Forest Service to change these overtime pay limitations.

I appreciate your position and how well you have represented the people of New Mexico. I sure hope you can help with these situations.

Sincerely,

RONALD D. BAHM.

[From the Sacramento Bee, Sept. 13, 1987]

FIREFIGHTERS WORKING FOR FREE—FEDERAL LAW LIMITS OVERTIME PAY

(By Ron DeLacy)

SONORA.—David Ross Erickson, the first firefighter to die fighting the Stanislaus Complex blaze, might have been working for free when he was killed late Firday.

Because of a federal ceiling on overtime pay, a lot of firefighters in mainly supervisory positions had "maxed out," as forest service people call it. They had worked so much overtime in the past two weeks that they can't earn any more money until the next pay period begins today.

By law, federal employees at the GS-7 level and above cannot earn more than $2,682.40 for a two-week period, no matter how much they work or how little sleep they get, disaster or no disaster.

That figure is based on the regular salary of a GS-15 Step 10.

Erickson, a foremen of the Callahan Fire Station in the Klamath's Scott River Ranger District, probably fell into that category, said Dick Wisehart, fire information officer.

Marcia Callenberger, wife of an El Dorado County fire crew chief, protested the policy earlier this week in a letter to Rep. Norman Shumway, R-Stockton.

She said her husband and many other supervisors would be maxing out this week.

"And because of the nature of the firefighting spirit, very few, if any, of these employees would leave their assignments because of pay restrictions," she wrote. "They risk it all because they've committed themselves to preserving our forests no matter how many hours it takes."

Mrs. Callenberger pointed out that employees below GS-7, including members of her husbands crew, are exempt from the max-out law.

"It seems a disservice," she wrote, "that those who have advanced to supervisory positions, and who are held more responsible for the fires, are the ones who are feeling the squeeze."

The Stanislaus fires, the worst in the history of the forest, began almost at the beginning of a two-week period. Some firefighters were working 20-hour days, so it has been a fire that maxed a lot of people out.

A GS-7 Step 8, for example, maxes out after 111 hours of overtime. That would happen after about nine 20-hour days.

Brisco Price, a forest service information officer, said the subject has been a hot one in the past few days.

'A lot of us are affected by it, said Price, who had maxed out this week. "For me it's no problem. I've been in this agency many years and it's happened to me before. I knew about it then, I know about it now, and that's just the way it is.

A fire engine captain working out of the Paper Incident base in Tuolumne looked at it differently.

The Captain, a GS-7 from Southern California, did not want his name used. He said he had "maxed out" Wednesday. "So here I am, 500 miles from my family, sleeping in dirt on my 40th birthday, catching poison oak and risking my life for four days for free," he said. I believe that's wrong.

On the other hand, he said, he likes the challenge of fighting fires. And as long as there is a ceiling on his wages, he was glad to have reached it.

"What would be real nice," he said, "is if somebody could arrange to have the fire out right when I maxed out."

[From the Los Angeles Times, Nov. 12, 1987]

FIREFIGHTERS BURNED UP OVER GLITCH IN PAY RULES

(By Edmund Newton)

Like hundreds of other U.S. Forest Service personnel, Vicente Romo fought in the recent war against wildfires in Northern California. His enemy was a blaze that, for two weeks in August and September, danced maddeningly along the eastern edge of the Shasta-Trinity National Forest.

Nine days after he arrived at the scene, 600 miles from his regular assignment as an engine foreman in the Angeles National Forest, somebody told Romo that he had "maxed out." He wouldn't get paid any more during that two-week pay period because of a federal regulation that puts a ceiling on the amount of overtime pay most federal employees can earn.

For the next five days, including one round-the-clock stint, the burly firefighter performed his tasks of chopping, digging and hosing as a "volunteer."

"I don't mind going and fighting the fires, but let's get paid for it," the 46-year-old Romo said.

Under Title V of the U.S. Code, no federal supervisor can exceed in a given pay period the normal biweekly pay of upper-management officials classified as GS-5, who earn $69,976 a year. The cutoff for a two-week period is now $2,682.40.

The same restriction does not apply, however, to state, county or local firefighters, whose employers are reimbursed with federal funds for fighting fires in national forests. For example, state Department of Forestry firefighters are paid for 24 hours a day while on out-or-town assignments, including time-and-a-half for every hour after the first 72 in a week.

A state firefighter of a rank equivalent to Romo's would earn $4,103.10 for 245 hours during a two-week period, state accounting officials said.

This year, the fires in the Western states were the biggest in 30 years, with about 800,000 acres blackened in 17 national forests. So were the hours of overtime recorded. More than 20,000 people were involved in the firefighting effort. Preliminary reports indicate that during the first two weeks in September—were as many as 86 fires were raging in Northern California, with others in Oregon and Idaho—more than 1,400 Forest Service employees had reached the maximum pay level before the end of the pay period.

The total loss to employees was $485,000, a spokeswoman said.

"This does happen periodically," said Don Winstead, chief of pay administration for the federal Office of Personnel Management. "It was especially serious this year because of the large number of fires in the Western states."

He said that his agency's director, Constance Horner, is preparing a legislative proposal to remedy the situation, perhaps by allowing the policy to be waived in some emergency situations.

But aggrieved federal employees, including some assigned to fires by the National Parks Service, the Bureau of Land Management and the Bureau of Indian Affairs, remain skeptical.

"I think it stinks," said Kenneth Duvall, another Angeles National Forest worker, who "maxed out" after 211 hours on the fire lines in the Tahoe National Forest, although he put in 290 hours during the two-week pay period. "I was working with state parks workers, state firefighters, people from New Jersey and Pennsylvania. We were the only ones 'maxing out.'"

Federal firefighters, some of whom have started a petition and a letter-writing campaign, are particularly irked by the fact that many state and county firefighters were paid with federal money.

They also complain that some federal employees—air traffic controllers and test pilots, for example—are specifically exempted from the salary ceiling. "It seems like a double standard there," said Michael Bergdahl, manager of the Angeles National Forest's communications center, who "maxed out" during firefighting work last year.

Though the salary restriction is aimed at upper management, Bergdahl said, lower-level manager such as Romo and himself are often hit harder because their pay is lower.

Romo, a 27-year veteran of the Forest Service who has two sons in college, earns $22,642 a year plus overtime.

"It's a real hardship for people at that level," said one Forest Service administrator who asked to remain anonymous. "The base pay for an engine foreman is about $18,000. That's not a lot of money, especially in the L.A. Basin. If you're interested in having a refrigerator or shoes for your kids, you really depend on that overtime."

Romo said that when he reached the maximum pay level in September, he asked to be relieved by a replacement worker. "They came back and said, 'Hey, tough luck. A lot of people are maxing out. There's nothing you can do.' So I stayed there," Romo said.

Others said they were offered the option of going out on the fire lines with their colleagues or staying in the fire camp, doing nothing. "I wouldn't want to do that," said Romo, who supervises four men on a truck that carries 500 gallons of water. "It's good money for my workers [who are not covered by the salary ceiling]. They'll never make that again. Plus, I've got to be there for their safety."

Forest Service administrators are sympathetic with their employees, but say there is nothing they can do. "The law says there's a maximum they can earn, but the ongoing emergency doesn't stop when they reach that point," said Gary Wilson, the service's wage and classification specialist.

There is a chance that the firefighters will get some back pay. Rep. Norman D. Shumway (R-Stockton) has proposed a one-time measure to reimburse federal employees who reached the maximum pay level during the September and October fires. "It's not a proposal to change the law, just to compensate these people for that time," said Shumway's press secretary, Tracy Smith.

But the disgruntled federal workers are doubtful, given the climate of austerity in Washington. "The word is out," said the Forest Service administrator who asked that he not be named. "Anything that's liable to cost the Administration money, we're not going to do."

TRIBUTE TO WARREN ROBBINS, FOUNDER, NATIONAL MUSEUM OF AFRICAN ART

Mr. PELL. Mr. President, on December 3 an event took place that will be of particular interest to the Congress: A celebration marking the dedication of the library of the Smithsonian's new National Museum of African Art in the name of the museum's founder, Warren M. Robbins. Because the Senate had a special hand in both the merger of the museum with the Smithsonian and in the creation of the splendid new edifice on the Mall to house it, it seems fitting at this time for us to honor the man whose personal vision, dedication, and tenacity, over a period of some 25 years, nurtured a dream that began with a few objects of African art acquired in Europe and resulted ultimately in the establishment of a world class museum in the Capital of the United States. Warren Robbins' fulfillment of that dream and his gift to the Nation of that museum in 1979 was realized through special authorizing legislation—passed by "unanimous consent" in this body and by vote of 350 to 54 in the House, making the Museum of African Art a bureau of the Smithsonian Institution. Such overwhelming support by the Congress of the United States underscores the truly remarkable achievement of one strongly motivated individual working to promote social equality in America through improved interracial understanding. The presence of a National Museum of African Art on the Federal Mall today attests to the lasting significance of that achievement.

As chairman of the Rules Committee, I conducted hearings in 1978 to consider the feasibility of the proposed merger of the museum and the Smithsonian. At that time, S. Dillon Ripley, Secretary of the Smithsonian, testified:

> The Museum of African Art is an institution of great national and even international significance * * * a successful and dynamic organization * * * [it] is highly regarded in the museum profession and recognized as one of the most significant and relevant cultural resources in the city of Washington.

Mr. Ripley concluded his testimony with the statement:

> Warren Robbins * * * is by far the finest director of this sort of museum that I know of in the world.

The Secretary's sentiments echoed those I expressed myself at the hearings, that Warren Robbins had "done so much to make the museum a vital and viable force in the museum world. I am convinced," I stated, "that without him we would not have this museum today."

My praise of Mr. Robbins in 1978 was not the first given from this floor, Mr. President. In 1975, Senator Hubert Humphrey, who served as chairman of the museum's national council and was its strongest advocate over the years, referred to Robbins as a "national treasure," describing him as "a man of great depth and understanding not only of the cultures of the African continent, but of our own society as well." Upon Senate passage of authorizing legislation for the new national museum, Senator KENNEDY observed from the floor that:

> Under the inspired directorship of Warren Robbins—a Massachusetts native—the museum has given thousands of Americans a special opportunity to experience and appreciate the importance of African culture to the American black experience.

Similar views on the museum's significance were expressed by our colleagues in the House. Congresswoman BOGGS of Louisiana, cosponsor of the House legislation, stated:

> The success of the museum and its promise for future important contributions to the understanding of the art of the African Continent has been based substantially upon the interplay between its excellent collection of objects, its dedicated staff, its corollary collections of photographic and reference materials, its ambitious educational programs and the ambience of its physical setting and exhibition space. * * * I think we all recognize the tremendous support and enthusiasm that exists for this museum in academia, in the community at large, and here in Congress.

Mr. FRENZEL of Minnesota, speaking in support of the legislation, concurred:

> In everything the gentlewoman said except I am not an expert in ambiance. * * * But I will trust the gentlelady from Louisiana on that score and assume we will get that in the package as well.

During the years prior to the passage of the legislation many Members and staff colleagues of both Houses of Congress had, through personal visits, become familiar with the museum located nearby on Capitol Hill. They found it to be a unique institution with a broadly humanistic approach to public education, integrating, and fostering, the vital social and cultural concerns which both black and white Americans share.

During the 15 years prior to its Smithsonian affiliation, the museum, which opened its doors to the public in 1964, grew from modest and tentative beginnings in the first Washington residence of the 19th century black abolitionist orator, publisher, and government official, Frederick Douglass, to occupy a complex of nine Capitol Hill row houses, ancillary buildings, and a new wing named in honor of its principal benefactors Mr. and Mrs. David Lloyd Kreeger. Some $5½ million was raised to launch and operate the museum during these years. By 1979 the museum's budget was approaching a million dollars a year, supporting a staff of up to 40 people. Its collection, primarily formed from donations, had grown to some 6,000 objects. Its photo archives, bequeathed by the world renowned Life photographer and Africanist Eliot Elisofon, numbered more than 150,000 photos, slides, and film sequences—a unique educational resource for African art and culture, originally intended to have been willed to Harvard University.

A HISTORIC ENDEAVOR

With his establishment of the Museum of African Art Warren Robbins pioneered a unique, twofold educational program which emphasized the social implications of the art as well as its aesthetics. Preceding and then riding the crest of public concern for equal rights for black Americans, Robbins created, in effect, a prototype institute, which utilized the instrument of a museum not only for art but also for social education. History will undoubtedly bear out the significant role this museum played as a multileveled, interdisciplinary demonstration project during a crucial period of social upheaval and political maturation of this young Nation.

More than a million people visited the Museum of African Art during its pre-Smithsonian years, with an equal number participating in its extension programs and exhibitions. Some 15,000 groups of schoolchildren, college students, church and community organizations, and conference participants attended museum orientation lectures and events. At the university level, the museum conducted some 25 credit courses on African art in cooperation with area institutions of higher learning.

TEACHER/COMMUNICATOR

The story of how the Museum of African Art came to be is affirmation of an "American Dream." Warren Robbins was born in 1923 in Worcester, MA—the youngest of 11 children of a second-generation immigrant Jewish family from Ukrania. Beginning his career as a high school teacher of social studies and English with a special interest in semantics and the dynamics of cross-cultural communication, he accepted an assignment with the U.S. Army Dependent School System in Germany in 1949, teaching the children of American military presonnel stationed there. Later he joined the American Diplomatic Service, becoming successively an education adviser, public affairs officer, and cultural attaché assigned to the U.S. Embassies in Austria and Germany. Lecturing widely in those two countries on American democracy, history, culture, society, and education, while administering cultural exchange programs, he was finally put in charge of the entire U.S. Cultural Program in West Germany in 1958 with responsibility for the supervision of 25 American Cultural Center/Libraries operated there by the U.S. Information Agency. It was during this period that Robbins first discovered African sculpture in a small curio shop in northern Germany, became intrigued by its potential for fostering interracial understanding in America and decided to make a complete change in his career as a public official.

Upon returning to the United States in 1960, Robbins served for a time in the Department of State as Assistant Staff Director of the U.S. Advisory Commission on Educational and Cultural Exchange, later chairing a foreign area analysis course at the Department's Foreign Service Institute. In 1963, at the age of 40, he resigned from the Foreign Service to establish the Center for Cross Cultural Communication, and international educational institute concerned with the interdisciplinary application of social science and art perspectives to problems of intercultural understanding. Garnering the support of such leading social scientists, literary figures, and artists as Margaret Mead, Buckminster Fuller, S.I. Hayakawa, Hadley Cantril, Joseph Campbell, Saul Bellow, Ralph Ellison, Ben Shahn, and Jacob Lawrence, Robbins made the center's primary focus the establishment of "the first museum in the United States devoted exclusively to the rich creative heritage of Africa." His stated purpose was, "fostering among both black and white Americans greater public awareness and deeper appreciation of the cultural antecedents of that one-tenth of the American population that traces its ancestry in part to Africa."

MUSEUM PUBLICATIONS

Now director emeritus and senior scholar at the National Museum of African Art, Robbins has just completed a major work, "African Art in American Collections" (vol. II) featuring 1,600 illustrations representing 230 different styles of traditional African sculpture from 250 private and 73 public collections in the United States and Canada. To be published by the Smithsonian Press, the book reveals the growing interest in African art in the United States which is fast becoming the principal center in the world for its collection, study, and display.

Robbins' special area of scholarly interest during the past 20 years has been the impact of African sculpture on modern art. He has lectured on this and other topics at more than 100 museums and universities throughout the United States including the National Gallery of Art, the Corcoran Gallery, the Hirshhorn Museum, the Smithsonian, and the Phillips Collection in Washington DC; the Baltimore Philadelphia, Cleveland, Cincinnati, St. Louis, New Orleans, Richmond, Houston, Dallas, Worcester, and San Diego museums; and at Harvard, Georgetown, Johns Hopkins, Northwestern, Howard, Hofstra, Southern Methodist, and New York Universities, as well as the Universities of Minnesota, Virginia, Maryland, Massachusetts, Missouri, and Texas. In addition, he has served as a consultant to many museums, universities, and government agencies throughout the United States and in seven African countries.

In 1973 Mr. Robbins and several colleagues were instrumental in the purchase and return to the Kingdom of Kom in Cameroon of a sacred African statue that had been stolen and eventually placed on sale in a New York art gallery. For this deed, he was awarded the Order of Merit from the Republic of Cameroon.

SPECIAL RECOGNITION

In 1982 the Smithsonian awarded Robbins its prestigious Joseph Henry Medal in recognition of his "inspired and untiring efforts in establishing, building and bringing to the Smithsonian Institution the extension collections, staff, properties and public good will which together constitute today the National Museum of African Art." He was the recipient in 1981 of 1 of 12 international medals for "commitment to truth and freedom" awarded by Mrs. Dominique Menil on the occasion of the 10th anniversary of the Rothko Chapel in Houston, TX. Other awards have included selection as a Washingtonian of the Year in 1976, the D.C. Mayor's Art Award in 1985 and the Washington Art Dealers Association Award for Cultural Achievement in 1987.

Educated at the University of Michigan—MA history, 1949—and the University of New Hampshire—BA English, 1945—he was granted an honorary degree from the latter institution in 1979, from International College, Los Angeles in the same year, and from Lebanon Valley College in Pennsylvania in 1976.

Mr. President, the great debt of gratitude we owe to Warren Robbins was very succinctly put by Dillion Ripley, Secretary Emeritus of the Smithsonian, who, as quoted in the September 16, 1987, edition of the Washington Post, said to Robbins, regarding the new National Museum of African Art on the Mall: "if it weren't for you, we wouldn't have it."

MEAT TO THE LIONS: REFLECTIONS ON PRESIDENT REAGAN'S PRESUMMIT MEAL FOR THE POLITICAL RIGHT

Mr. PELL. Mr. President, 3 days from now the leader of the Soviet Union will journey to the United States for a brief but potentially historic superpower summit. General Secretary Gorbachev arrives in Washington amidst much speculation about the significance of his emerging policies. "Glasnost" and "perestroika"—Russian words virtually unknown in the West a few months ago—have moved quickly into everyday parlance as pundits debate the implications of Mr. Gorbachev's initiatives for the Soviet people and for the world.

The immediate purpose of the Reagan-Gorbachev summit will be the signing of a treaty eliminating intermediate-range nuclear missiles. This in itself will be a scant contribution to nuclear sanity, eliminating only a small fraction of superpower arsenals now containing almost unimaginable destructive power. But an INF treaty could nonetheless attain historic moment if it becomes the stepping stone to more substantial progress in nuclear arms control and United States-Soviet relations.

Two considerations offer hope that an INF Treaty could play such a seminal role. First, the draft treaty outlines verification procedures that represent a remarkable decision by the Kremlin to open Soviet military production and basing facilities to foreign inspection. Americans of all stripes—proponents of arms control and skeptics alike—share surprise at the degree of scrutiny these provisions would allow. Extensive procedures verifying missile dismantlement, once institutionalized through an INF Treaty, could provide the key to a strategic arms accord sufficiently far-reaching to brake the nuclear arms race. Mr. Gorbachev's decision of offer this verification breakthrough contributes impressive evidence that he may seriously aim to transform his nation's political and military relationship with the West.

A second, equally significant aspect of the INF Treaty as a portent of major superpower progress lies on the American domestic front—in the very fact of President Reagan's participation. For an administration populated by long-standing opponents of arms control to produce and support an INF accord, and possibly a sweeping strategic arms reduction as well, could change the terrain of American politics. For decades, advocacy of detente has been risky business in American political life. President Reagan's active role in presiding over a landmark agreement in superpower arms control would almost certainly alter ingrained attitudes and expectations, shifting the political center and providing a sounder basis for a coherent United States policy toward the Soviet Union.

The principal burden for a genuine superpower detente lies, of course, on the Soviet side, in a true change in purpose and behavior. Whether this will occur remains problematic. One can take General Secretary Gorbachev as a man of good will and still recognize that he is a man of his system and that, if indeed he does seek revolutionary change in Soviet Society, his path is strewn with entrenched barricades of resistance.

We can only speculate, for example, about Mr. Gorbachev's difficulties in obtaining agreement within the Soviet hierarchy to dismantle an entire class of new missiles and to crack the hermetic seal of traditional Russian secreacy by agreeing to instrusive measures of treaty verification. Yet these steps, while impressive, pale against the task of overhauling the Soviet economy, introducing elements of democracy into Soviet political life, and permitting steadily increasing autonomy in Eastern Europe. The potential for turmoil, and for ultimate failure, is daunting.

For its part, the United States can have only a marginal impact on the process of Soviet transformation. We cannot even be certain of the effect of our actions, however intended, as their repercussions move through a Soviet system which remains a mystery not only to us but to most Soviet citizens as well. But we can follow the dictates of common sense, which compel us to provide diligently for our own security, to make clear to the Kremlin leadership were our own interests are jeopardized by Soviet behavior, to stand ready to negotiate where our interests would be soundly served, and to improve superpower relations where possible. As leader of the West, the United States is expected by our allies—as we should expect of ourselves—to perform this role with a sense of gravity and solemn purpose.

It is thus only with a sense of lament that one witnesses the performance this week of the Reagan White House in the days leading to the summit. Having taken the decision to enter into a significant arms accord, the President seems nonetheless habituated to attacking arms control and our Soviet adversaries even as he prepares to welcome Mr. Gorbachev. At least twice, President Reagan has spoken aggressively about his plans for the summit, boasting to a conservative group that he intends to tell Mr. Gorbachev to "bite the bullet" in Afghanistan and generally reverting to the anti-Soviet rhetoric on which he built his political career. Yesterday, this process culminated—virtually on the eve of the summit—in a White House decision to accuse the Soviets anew of violating the ABM Treaty, an allegation which would be militarily insignificant if true and which is based flimsily on intelligence that many professional analysts in the administration itself regard as ambiguous.

Clearly, the President intends to tout Mr. Gorbachev's signature on the INF Treaty as a major diplomatic breakthrough. Yet it appears that, in announcing that "the Russians are coming" to sign it, President Reagan cannot decide whether to speak with pride or alarm. We are witness to schizoid diplomacy.

In throwing meat to lions on the conservative right the President is, of course, doing no more than responding to his traditional political constituency, which is deeply devoted to its fear and loathing of the Soviet Union. But one would hope that our political process, and our President, could muster the solemnity to receive Mr. Gorbachev in the United States for a brief summit without producing a circus of anti-Communist bluster. One need not carry a brief for the Soviets in order to expect more of ourselves.

FEDERAL JUDICIAL NOMINEES

Mr. **LEAHY**. Mr. President, the Judiciary Committee this afternoon approved seven Federal court nominations for action by the full Senate. All these nominees were examined at Judiciary Committee hearings in November, and full investigations were conducted by committee staff. For the benefit of Senators who will soon vote on whether to confirm these nominees to the Federal courts, I offer the following brief summaries of their qualifications, and of the testimony elicited at the hearing and in response to written questions by committee members.

1. Stephen S. Trott has been nominated to the U.S. Court of Appeals for the Ninth Circuit. Since September of 1986, Mr. Trott has served as Associate Attorney General of the United States, and before that as Assistant Attorney General for the Criminal Division, U.S. Attorney for the Central District of California, and Deputy District Attorney for Los Angeles County. The nominee is 47 years old, and is a graduate of Wesleyan University and Harvard Law School. He appears to be well regarded by his professional colleagues, and was rated Well Qualified by the ABA committee.

At the hearing on November 13, Mr. Trott was examined by Senator Heflin about his involvement in several aspects of the Iran-Contra affair, his willingness to follow Supreme Court precedent on the exclusionary rule, his views on forfeiture of attorneys fees, and his participation in a controversial prosecutorial decision made by the Justice Department when he was head of the Criminal Division. He also responded to written questions on these subjects as well as on his views of the proper role of a judge, on conflicts of interest arising from his wife's professional activities, and on the use of civil racketeering actions against labor unions. His answers were satisfactory. As to the nominee's involvement in the Iran-Contra affair, a preliminary review of the Report of the Congressional Committees Investigating the Iran-Contra Affair indicates no improprieties on Mr. Trott's part.

2. Jerome Turner has been nominated to the U.S. District Court for the Western District of Tennessee. For the past 20 years, Mr. Turner has engaged in the private practice of law in Memphis, Tennessee, where he has specialized in civil litigation. The nominee is 45 years old, and has both an undergraduate and law degree from Washington & Lee University. He appears to be well regarded by his professional colleagues, having been elected to the Presidency of the Memphis and Shelby County Bar Association, and was rated Well Qualified by the ABA committee.

At the hearing on November 5, Mr. Turner was examined by Senator DeConcini about the nature of his pro bono work, his attitudes toward judicial efficiency and the role of precedent, and concerns that had been raised about a contested divorce proceeding in which he was the respondent. His answers were satisfactory, and after the hearing, the Committee staff conducted an investigation into the divorce matter, receiving satisfactory answers to the concerns that had been raised about the matter.

3. Alfred M. Wolin has been nominated to be U.S. District Judge for the District of New Jersey. The nominee has served since 1980 as a trial court judge in New Jersey, where he has presided over civil and criminal matters and exercised significant administrative responsibilities. Judge Wolin spent the previous twenty years in the general practice of law with several firms in Elizabeth, New Jersey. The nominee, who is 55 years old, graduated from the University of Michigan and Rutgers University Law School. He is generally well regarded by his professional colleagues, and was rated Well Qualified by the ABA, with a minority of the ABA committee voting Qualified.

At the hearing on November 13, Judge Wolin responded satisfactorily to questions posed by Judge Heflin on the following topics: settlement of civil cases; managing the criminal case docket; an incident in 1982 which led to a private reprimand from the state Supreme Court; presiding over death penalty cases; sentencing philosophy; and federal court experience. The nominee also gave satisfactory responses to written questions from Senator Thurmond on judicial temperament and judicial activism.

4. Sam R. Cummings has been nominated to be U.S. District Judge for the northern District of Texas. The nominee has spent his entire professional career in a litigation-oriented practice with a law firm in Amarillo, Texas. He is 43 years old, and is a graduate of Texas Tech University and Baylor University Law School. Mr. Cummings' professional reputation is good, and the ABA committee rated him Qualified.

At the hearing on November 13, the nominee was questioned by Senator Heflin concerning his lack of experience in criminal law; his approach to sentencing; the transition from advocate to judge, particularly in light of his practice concentration in the defense of personal injury and professional malpractice cases; his experience on a regional bar grievance committee; and his pro bono activities. His responses were satisfactory, as were his responses to written questions from Senator Thurmond on legislative intent and impartiality.

5. Dean Whipple has been nominated to the U.S. District Court for the Western District of Missouri. For the past 12 years, the nominee has been a judge of the 26th Judicial Circuit in Missouri. Before that, he

worked both as a county prosecutor and as an attorney in private practice, specializing in litigation and real estate matters. Judge Whipple is 49 years old, and is a graduate of Drury College and the University of Missouri School of Law. He has been extremely active in the Missouri Bar and appears to be well regarded by his professional colleagues. He was rated Qualified by the ABA committee.

At the hearing on November 17, Judge Whipple was examined by Senator Leahy about his lack of federal law experience, his view of the exclusionary rule and Miranda warnings, and about two cases in which he declined to recuse himself. He also responded to written questions about judicial activism. His answers were satisfactory.

6. Franklin Van Antwerpen has been nominated to the U.S. District Court for the Eastern District of Pennsylvania. For the past 8 years, the nominee has been a judge of the Court of Common Pleas in Pennsylvania. Before that, he worked as an in-house corporate attorney, a legal services attorney, and a private practitioner specializing in litigation. Judge Van Antwerpen is 46 years old, and is a graduate of the University of Maine and the Temple University School of Law. He appears to be well regarded by his professional colleagues, and was rated Well Qualified by the ABA committee.

At the hearing on November 5, Judge Van Antwerpen was examined by Senators DeConcini and Thurmond about his federal court experience, his experience as a draftsman of legislation, his views of judicial activism and judicial temperament, and his handling of a case in which he sent a woman to jail for coming to court intoxicated. His answers were satisfactory. After the hearing, the Committee staff conducted an investigation into a complaint about Judge Van Antwerpen's treatment of minorities and women. These complaints appear to be unsubstantiated.

7. Robert S. Gawthrop III has been nominated to be U.S. District Judge for the Eastern District of Pennsylvania. The nominee has served since 1978 as a state trial court judge, and previously as an Assistant District Attorney and private practitioner. Judge Gawthrop is 45 years old, and is a graduate of Amherst College and Dickinson School of Law. He appears to enjoy a good reputation in the community and among his professional colleagues. A majority of the ABA committee rated him Well Qualified, with a minority finding him Qualified.

At the hearing on November 17, Judge Gawthrop was questioned by Senator Leahy about criminal sentencing under a guidelines system; about the use of per se rules to ensure compliance with constitutional standards in law enforcement; about his health; about his organizational memberships; and about his lack of federal court experience. Senator Thurmond questioned the nominee about constitutional interpretation and limitations on jurisdiction of the lower federal courts. The nominee's responses were satisfactory.

Mr. President, most of these nominations are for Federal judicial posts that have been vacant for some time, in some cases almost a year or more. All these nominations have been carefully but expeditiously considered by the Judiciary Committee, are ready for action by the full Senate.

This year, the Judiciary Committee has reported to the Senate 47 Federal judicial nominations—nearly 70 percent of the judicial nominations referred to the committee. Once this group of 7 nominees is confirmed, the Senate will have given its consent to 46 nominees—every one but Judge Bork. In its work this year, the Judiciary Committee has set a valuable precedent for thorough, tough but fair examination of nominees to the Federal courts. While I will be reporting in more detail to my colleagues on the operations of the Judiciary Committee's judicial nominations task force, I believe that the new approach to the Senate's constitutional duty to advise and consent to judicial appointments has been successful, and has helped to assure the American people of a competent, effective and independent Federal judiciary. The days of rubber stamp confirmations are behind us, and the American people can have greater confidence that the men and women who assume lifetime posts on the Federal bench will do credit to our system of justice and will actively protect our constitutional rights.

KEVIN VICTOR SCHIEFFER

Mr. PRESSLER. Mr. President, I am very proud of the accomplishments and hard work of my staff. Today, I wish to point with special pride to the successful efforts of my new chief of staff, Kevin Victor Schieffer. Kevin assumed this key position after several years of outstanding work on my legislative staff, principally in the areas covered by the Senate Commerce, Science, and Transportation Committee.

Over the years ahead, I hope that many of our distinguished colleagues will become aware of his charming personality, intellectual seriousness, and political and administrative skills. The Senate is indeed fortunate to be able to attract such highly qualified and hard working staffers as Kevin Schieffer.

Mr. President, I ask unanimous consent that an article on Mr. Schieffer from the November 30, 1987, Yankton Press and Dakotan be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPLOSION CHANGES SCHIEFFER'S LIFE

(By Jeff Donner)

A service station explosion permanently altered Kevin Schieffer's life.

Eight years ago, Schieffer was in the process of purchasing the Phillip's 66 service station at 515 W. Fourth St. in Yankton when it was completely destroyed by fire in July of 1979. At that point, Schieffer saw no option but one, to go back to school.

"Everything was set on track and ready to go until the fire, then I saw only one way to go. I decided to go to college," Schieffer said.

Schieffer had graduated from Crofton High School in 1976. During high school and for three years afterwards, he worked for service stations and a construction company out of Yankton. He was also a foreman for a construction company out of western South Dakota. While in high school, he was active in football and Future Farmers of America.

"I figured college was the last place I would end up. My grades in high school were not spectacular until Lillian Hegar and Steve Kyriss turned me around and set me in the right direction," he said.

Schieffer graduated with honors from the University of South Dakota at Vermillion with a bachelor of arts degree in Political Science in the spring of 1982.

He then accepted a job with the city of Crofton as a night city cop to help pay for college. It was during this time that he decided he wanted to be a lawyer.

"I was offered a scholarship to the New York University of Law School in New York City and that worked out perfect," Schieffer said.

"I went to Europe for a month between graduation and graduate school and when I returned, I started my internship with the Public Defenders office in D.C.," he added.

In addition to his internship, he started a part-time job at another service station in the Washington area to help pay for law school in the fall.

"I went to Congress to hear the South Dakota delegation speak, and on a whim I left a resumé in the office of then-Congressman Larry Pressler to see if there were any job openings," Schieffer said.

Schieffer was hired for a mail room position in Pressler's office. Included in his duties, he had to report on the Senate ABSCAM investigation. ABSCAM was the Senate investigation that offered bribes to public officials in return for political favors.

"I was very impressed with the fact that Larry Pressler was the only congressman who turned down the bribe that the Senate committee offered and that is when I knew I wanted to work for Larry," Schieffer said.

Schieffer never attended the New York law school. He continued to work in Washington for Pressler and enrolled in Georgetown University, Washington, D.C., at nights to complete his law degree.

Schieffer moved out of the mail room and was assigned legislative work in Pressler's office. He was recently promoted to Chief of Staff.

Schieffer said that he has the best of both worlds and looks forward to getting back to South Dakota and especially to the Yankton areas as often as he can.

Schieffer married Jill Watkins of Sioux Falls in May 1986. They met in Pressler's office, where she is also employed.

Schieffer is the son of Dorothy Kralicek and the late Victor Schieffer, both of Yankton.

BICENTENNIAL MINUTE

DECEMBER 4, 1815: SENATE CONVENES IN "OLD BRICK CAPITOL"

Mr. DOLE. Mr. President, on December 4, 1815, 172 years ago today, the Senate met as usual on Capitol Hill, but its meeting place was hardly regular, and the circumstances of its displacement were far from commonplace. The Senate was meeting for the first time just across the street from the Capitol in a new, red brick building, which would eventually become known as the "Old Brick Capitol." In August 1814, the British had marched into Washington and burned the Capitol, leaving it a blackened mass of cracked sandstone.

An old hostelry that had stood at First and A Streets, N.E. since 1795 was pulled down in 1815 to clear space for a temporary meeting place for Congress, which had been meeting in Blodgett's Hotel since the British attack. Fearing that the Congress might move the capitol to another city, local citizens had quickly raised $25,000 to erect the three-story, Federal-style building that would be the Congress' home until the Capitol was repaired. Congress met in the "Old Brick Capitol" for 4 years, with the Senate meeting on the first floor, the House on the second.

The Capitol was restored in time for the Congress to return in December 1819. Afterwards the "Old Brick Capitol" was used as a private school, then as a boardinghouse for Congressmen. Senator John C. Calhoun died in his apartment there in March 1850. During the Civil War, the building was used as a prison for political prisoners, the most notorious being the beautiful Southern spies Belle Boyd and Rose O'Neal Greenhow. The "Old Brick Capitol," scene of events both triumphant and tragic, finally disappeared from the cityscape in the early 1930's when it was demolished for the new Supreme Court Building.

SENATE PASSAGE OF THE REAUTHORIZATION OF FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

Mr. SARBANES. Mr. President, I was very pleased to strongly support Senate passage this week of S. 373, a bill to reauthorize through fiscal year 1993 nearly every program the Federal Government supports for elementary and secondary education. As you know, the centerpiece of this legislation is the vital chapter I program, which provides compensatory education services for disadvantaged children. The chapter 2 block grant program is also reauthorized, as well as the math and science program to upgrade instruction in math, science, foreign languages and computers.

Several programs are authorized to address some very critical needs in our society including a new program of demonstration grants to local school districts to find ways to prevent students from dropping out of school and to encourage students who have left to return, and a program of grants for the identification and instruction of gifted and talented students with special emphasis on economically disadvantaged students. Various other important existing education programs are reauthorized including adult education, impact aid, bilingual education, and magnet school programs.

I was pleased to note that the House companion measure, which is similar in almost every respect to S. 373, passed the House of Representatives in May by an overwhelming majority of 401 to 1. The Senate bill of course also enjoyed overwhelming support, and I am glad to note that Congress has once again demonstrated its bipartisan support for renewed and increased Federal involvement in education.

It is especially encouraging to note Congress' continued strong support for education in light of a national administration which has repeatedly attempted to drastically reduce the Federal role in education. Over and over, Congress has rejected the administration's budget recommendations which would slash Federal funding for education programs and destroy our Nation's longstanding commitment to educational access, choice, and opportunity.

For the past 7 years, the administration has consistently attempted to undermine Federal support for education, and submitted a budget this year that requested only $14 billion for education in fiscal year 1988—that represents a 30-percent reduction from the current services estimates for fiscal year 1988, and 28 percent below the fiscal year 1987 congressional appropriation of $19.5 billion. The House and Senate have again rejected the administration's draconian cuts in their versions of the fiscal year 1988 Labor, HHS, and Education appropriations bill, with the Senate voting $21.2 billion for education, and the House $20.6 billion. Time and time again Congress has decided that funding education programs is a wise investment in making our country strong and competitive.

As we confront a world that is increasingly complex both technologically and economically, it is critical that we continue to meet the educational needs of our Nation's young people. Passage of legislation reauthorizing Federal elementary and secondary education programs sends an important message that our Federal Government intends to continue its longstanding commitment in this vital area. It is in my view imperative that we maintain strong Federal support to ensure the successful continuation of education programs serving our country's young people. I want to once again express my own strong support for this critical legislation, and to reiterate my personal commitment to the goal of meeting the educational needs of all our Nation's citizens, which in turn meets the needs of our Nation.

RESIGNATION OF JUSTIN DART

Mr. DOLE. Mr. President, I take this opportunity to recognize Mr. Justin Dart, who recently resigned as Commissioner of the Rehabilitation Services Administration.

The calls I have received since Mr. Dart's resignation have confirmed what I have always known. Mr. Dart is well respected by the disability community and rehabilitation specialists as a strong advocate and spokesperson for disabled Americans who seek equal participation in this society. His nomination to become the Commissioner of RSA and the bipartisan support his appointment received demonstrates the level of respect that he has.

Mr. Dart has a long history of involvement in issues affecting persons with disabilities. As a disabled American himself, he knows what the disabled in our society experience and has worked diligently for years to eliminate unnecessary barriers to equal participation for persons with disabilities.

During his term in office he strove to make RSA as responsive to the needs of disabled Americans as Congress expected the program to be. Vocational rehabilitation services which RSA manages represent a very significant commitment by Congress and the people of the United States to the disability community. This program indicates we want disabled Americans to work and to benefit from and contribute to this great society, and the RSA is evidence to that fact. Congressman MAJOR R. OWENS, in his statement for the record at a recent House oversight hearing on RSA, stated:

> Ongoing and widespread bipartisan support has guaranteed continual reasonable authorization and appropriations for Federal programs for disabled people. A great amount of dedication and commitment as well as political skill has been utilized by the policymakers and legislators who have made necessary resources available.

The Senate and House and this Senator in particular are committed to providing the resources disabled Americans need to overcome existing barriers and to join in benefiting from the fruits of this society.

Yet in oversight hearings in the Senate and the House it was felt that RSA had not done what might have been expected of it given the level of support and funding that it received. While I am not sure what the problems are, I do know that we cannot stand by and let such an important program be less than what Congress intends. There are too many people in the United States whose future depends on RSA and its programs for us to allow these problems to interfere with the effective and efficient provision of services.

I have been and will continue to be in contact with the members of the Senate Subcommittee on the Handicapped to ensure that steps are taken to determine what the problems are. I intend to be part of the solution to this problem.

Again Mr. President, I want to publicly thank Mr. Dart for his years of dedication and I look forward to working with him in different capacities in the near future to achieve the goals for disabled Americans that we share.

MIKHAIL AND RAISA: JUST LIKE US?

Mr. HELMS. Mr. President, when I returned to my office immediately following the last vote I found on my desk a copy of a column published this morning in the Greensboro (NC) Daily News. It was written by Rosemary Yardley, an editorial writer for the paper.

I need not discuss the column; Senators can read it for themselves. It is sensible, and it gives all Americans fair warning. I might add that I have sent a copy of Rosemary Yardley's column to the President.

I ask unanimous consent, Mr. President, that this column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Greensboro (NC) Daily News, Dec. 4, 1987]

MIKHAIL AND RAISA: JUST LIKE US?

(By Rosemary Yardley)

Good heavens, What's happening on the eve of the Reagan-Gorbachev summit? Are we being conned?

In Washington, they're hawking Gorbachev T-shirts, hammer-and-sickle pins and Lenin posters. In a wide-open interview with NBC's Tom Brokaw, the Soviet leader seemed every bit a nice guy. He laughed, he charmed, he used slang words like "OK." He sounded savvy about America and talked about the Republican and Democratic parties.

Can this amiable, articulate man possibly be the reigning demon of the "evil empire?"

Until now, we never really knew any Soviet leaders. Brezhnev, Andropov, Chernenko—all were wheezing, old men cut from the same drab, monochromatic cloth. They were secretive, unsmiling and obsessively private. Nobody even knew that Andropov had a wife until she showed up weeping at his funeral.

But Gorbachev, and his attractive wife Raisa, are modern and vibrant. They're an out-and-about 'couple who like to travel, dress stylishly, read Western authors and enjoy bantering with sidewalk crowds.

They're also well-educated alums of Moscow University, with impressive degrees to hang on the wall. He talks to her about everything, he says, and they were even spotted holding hands once. Altogether, a thoroughly 1980s' couple.

Naturally we begin feeling closer to Mikhail Gorbachev. Deep down, we suspect, he's just like we are; not the devil incarnate but a human being. And better yet, he expresses our own human yearnings. He wants to reduce nuclear weapons, bring peace to the world, improve U.S.-Soviet relations and open the closed society of the Soviet Union.

At least, that's what he told us on television and in his book, *Perestroika*, which his American publisher is touting as "the book of the year by the statesman of the year."

But could it be that our enthusiasm for Mikhail and Raisa tells us more about ourselves than about the Gorbachevs? Could it be that Americans are the gullible victims of a seductive public-relations campaign?

It's important to pause for a moment and reflect on what wise heads tell us about Americans. We are a warmly open and optimistic people with a profound belief in progress and the ability to change for the good. Most important, we like to think that everybody wants to be like us, the inhabitants of the greatest nation on earth.

Thus we secretly believe that within every communist there beats the heart of a wistful democratic capitalist. And when we encounter a man like Gorbachev, who seems intensely human right down to the birthmark on his forehead and who talks of glasnost in Russia and peace on the planet, it's easy to imagine that he's a like-minded friend. Just folks like us.

What our short memories forget, however, are the disturbing differences. Let's recall a few:

It was under Gorbachev's watch that American journalist Nicholas Daniloff was seized by KGB agents on hoked-up espionage charges a year ago. It was under Gorbachev's watch that the nuclear plant at Chernobyl spewed deadly radioactive gas over Russia and Western Europe while Gorbachev kept mum and refused to warn millions in the path of the toxic clouds.

It is under Gorbachev's watch that thousands of Jews are forbidden to leave the Soviet Union and political dissidents languish in the gulags. It is under Gorbachev's watch that the Red Army booby-traps toys that will kill and maim Afghan children.

Gorbachev as "just folks" like you and me? Hardly. He may be a smiling face with some new ideas called glasnost and perestroika, but he also cut his teeth in the old Kremlin schoolhouse.

Let's prepare to be charmed by Gorbachev, not conned. His arrival date, furthermore, is significant. It was 46 years ago on Dec. 7 that we were visited by other foreigners, this time from the Land of the Rising Sun. After Pearl Harbor, we promised ourselves to be prepared. That pledge applies to adversaries armed with smiles.

TRIBUTE TO WILLIAM E. PURSLEY, JR.

Mr. JOHNSTON. Mr. President, it is with a great sense of loss and sadness that I pay tribute to the memory of William E. Pursley, Jr., who passed away on Wednesday, November 25, 1987.

Bill was a close and long-time friend to many of us. Before becoming a lobbyist with Shell Oil Co. 5 years ago, he had a distinguished record of service in the U.S. Senate. He began his career in Washington in 1970, first as a lawyer with the Senate Judiciary Committee and former Senator Sam Ervin. He was legislative director in the office of former Senator Richard Stone. He then spent a year on the staff of Senator FRANK MURKOWSKI before joining Shell.

Throughout Bill's career in Washington he had a particularly close association with members and staff of the Energy Committee. His expert knowledge of the oil industry was of crucial assistance to the committee on numerous occasions. We enjoyed a productive, successful working relationship with him over the years. During this time he proved himself to be an individual of dedication, integrity, and talent. Bill will be greatly missed by his friends on Capitol Hill, but he will long be remembered for his sense of humor, his easy manner and his courageous spirit in the face of his illness.

I wish to extend my deepest sympathy to Bill's family, in particular his parents, Mr. and Mrs. William E. Pursley, Sr., of Charlotte, NC.

LAW DAY USA

Mr. HOLLINGS. Mr. President, for some time, May 1 of each year has been designated as Law Day USA. The purpose of this to advance equality and justice under law and to encourage citizen support of both law enforcement and law observance. This special day is also used to foster respect for law and an understanding of its essential place in the life of all citizens in this country.

This traditional observance of Law Day has been mostly done in courtrooms and classrooms. It is essentially for judges and lawyers, those people at the end of the system who function in a sterile environment, and who are theorists rather than practitioners.

But law does not begin or end in the courtrooms and classrooms. It operates on the beat, in the precinct stations and inside our prisons. Sheriff's deputies, highway patrolmen, police officers, detectives, evidence technicians, and all other law enforcement men and women are the centerpiece and backbone of the legal system. For many of them, a workday is one often filled with danger and the possibility of death and injury. They have difficult obligations to uphold and meet these challenges without hesitation.

Mr. President, 66 police officers in the United States were killed last year while doing their job and another 64,259 were shot or otherwise assaulted and injured. So far during this year, 60 police officers have been killed. Each day, law enforcement people walk their beat and perform their duties without flinching. They are devoted to their jobs, underpaid for their efforts and tireless in their work. For all of this, there has been little recognition given them and so I am introducing this legislation.

And so, Mr. President, I rise now to introduce a joint resolution to expand the traditional confines of Law Day. A portion of this commemorative event ought be set aside for those who enforce our laws. We owe the officers of the law in this Nation no less. I offer this resolution to accomplish this end, and I urge its favorable consideration.

AIDS COMES TO A SMALL TOWN

Mr. BOSCHWITZ. Mr. President, in this holiday season of cheer and good will, I have a story of a group of Minnesotans who have shown kindness and compassion to a victim of the deadly disease AIDS.

Their story has been chronicled by Dirk Johnson and reported in the New York Times, and I ask unanimous consent that the article be entered in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOSCHWITZ. There is a feeling among some that AIDS is a "big-city" disease that affects only a small minority of people. There is a hope among some that if you just stay far away, hidden in your own little niche, that you can avoid being affected by the disease.

That's not true, Mr. President, and this touching story tells of how AIDS affected the community of Waseca, a town of about 8,000 in southern Minnesota. It's a wonderful town, Mr. President, where I have campaigned many times, and it is filled with wonderful people who I am extremely proud to represent in the U.S. Senate. I might also add that a member of my staff, Gordon Hoff, is from Waseca, and is a former schoolteacher who once taught the young man involved in this story.

The story involves a young man named Dean Lechner, who grew up in Waseca. Earlier this year, he was diagnosed as having AIDS, and he worried about how he would be treated by the people of his community.

The New York Times story tells about Dean's high school reunion, and about how one person went out of her way to telephone Dean and tell him to stay away from its high school reunion because of his disease.

If that were the end of the story, it would be a tragic tale indeed. But it isn't the end. Instead, the story tells of the wonderful kindness and tenderness of the people of Waseca. It tells of the friends who dropped by to visit, or who sent him a note.

It tells of the nearly 200 cards of support he received in the mail. It tells of the nun who brought him a flower. And it tells of the classmates who called to invite him to dine with them at the class reunion.

Mr. President, I take pride in the basic decency of people from the Midwest in general, and of Minnesota in particular. When people from other parts of the country travel with me in Minnesota, they often mention the exceptional warmth and friendliness of Minnesotans.

Beneath that warmth and friendliness is a foundation of sound basic values and common decency that is a way of life for Minnesotans. And I'm proud that these people have maintained that decency in the face of a disease that causes much fear, even dread among the public. I'm so proud that I would urge my colleagues to read the enclosed story of Dean Lechner, and of the people of Waseca. It truly is a touching story that goes to the very essence of the Minnesota spirit.

Mr. President, I yield the floor.

EXHIBIT 1

COMING HOME, WITH AIDS, TO A SMALL TOWN

(By Dirk Johnson)

WASECA, MINN.—The night before his high school class reunion, the telephone rang for Dean Lechner.

A classmate he had known since kindergarten was calling on behalf of the reunion organizing committee, she said, to tell him not to come.

"If you come," she warned, "people will leave."

And for the first time since Mr. Lechner had been diagnosed as having AIDS, he sat down and cried.

AIDS strikes most often in big cities, but many of its victims have come from small towns like Waseca, a quiet place of 8,000 people in the farm country of southern Minnesota.

Often just out of college, many young people had left for New York or Chicago or San Francisco, ambitious and bursting with notions about life in a glamorous metropolis. For gay men, there loomed all this and more: the promise of tolerance in the city, a chance to live out loud a way of life that had been unspeakable back home.

But their dreams have been mocked by AIDS. And they return to their small towns, not in triumph over successes in the city, but instead to die.

They most often return to Mom, because her arms are usually open, even as so many doors are slamming shut. And Elvira Lechner, a tiny, 68-year-old woman with painful arthritis, embraced her son with a love he termed better "than any medicine at any hospital."

But he did not know how Waseca would greet its native son, back from a life in San Francisco.

In other small towns around the country, he knew, AIDS victims had been excluded from schools, restaurants, swimming pools. In one case, a house was burned.

"Is my hometown any different?" he wondered.

For most of his adult life, Mr. Lechner has lived in San Francisco, where he became assistant to the president of a political fund-raising company. He worked with John Anderson when he ran for President 1976 campaign, and with Bella Abzug when she was a New York Congresswoman. He attended the inaugural ball for Supreme Court Justice Sandra Day O'Connor.

"It was everything a small-town boy from the Midwest could dream of," Mr. Lechner said.

Last Thanksgiving he returned to Waseca to explore the idea of starting a business with his brother, a woodworker, to sell crafts. The plan never got off the ground, and then Mr. Lechner became ill in the spring. When he was diagnosed as having the deadly disease, he knew that staying here would mean facing certain risks.

SOLEMN YOUNG MAN

Dean Curtis Lechner was born Nov. 10, 1953, in Waseca Community Hospital, the son of Elvira and Edward Lechner, a civil engineer, and the grandson of immigrant farmers from Germany and Sweden.

He grew up in a 19th-century, white clapboard house on a nameless country road here. He was baptized and confirmed at St. Peter's Lutheran Church, about 100 steps from his front door, and he played Little League baseball at Clear Lake Park, under the watchful eye of his father, a former semi-professional ballplayer, who died in 1985.

He attended Waseca public schools from kindergarten through high school, where his yearbook shows a smiling but solemn young man with brown hair in the longish style of the early 1970's and a few whiskers straining to amount to a mustache. Beneath his name, it listed his credits: Football, 9, 10, Basketball, 9, 10, 11, 12; Tennis, 10, 11; Declamation, 11, Chorus, 9, 10, 12; National Honor Society, 12.

The yearbook gave no clue that classmates called him "queer" behind his back or that his car was scrawled with venomous graffiti.

I THOUGHT I WAS SAFE

At a school dance, he was hit over the head with a beer bottle. He picked himself off the floor to leave, only to be followed by his tormentors in a car and a pickup truck that tried to run him off the road. At home that night, he closed the garage door and left the car motor running for a time. And he pondered taking his 17-year-old life.

Years later, when death became no longer a matter of his own choice or timing, he wondered what lay ahead on his road home.

When Mr. Lechner caught a cold in May, marked by persistent wheezing and coughing, he thought the culprit was the wind-swept dust on his sister's farm, where he sometimes stayed. He saw a doctor in Waseca and was diagnosed with bronchitis.

"Never once did I even imagine it could be AIDS," said Mr. Lechner. "For the last three years, I had either been celibate or practiced 'safe sex.' I thought I was safe."

But his condition worsened. He felt so weak that he stayed in bed for 14 days. On the afternoon of June 2, he felt his neck tighten as though he was being strangled by invisible hands. His temperature soared to 104 degrees. He was taken by ambulance to the Mayo Clinic in Rochester.

From a hospital bed, he overheard someone say, "Better start him on Bactran."

He knew about Bactran. It is used for AIDS patients.

SPARING FAMILY THE PAIN

The next few days were devoted to tests, which confirmed the worst, and calling the family. Doctors gave him "months to a year" to live.

Bone-thin, his beard shaggy and his eyes bleary, Mr. Lechner told his family he would not be staying in Waseca, but would return to San Francisco. He said he refused to put them through the pain that lay ahead.

"Do you know what happens to people with AIDS?" he asked them. "Did you know that I'll lose my mind before I die?"

But this was a family that knew something about sickness, and about stigma. In 1948, five years before Mr. Lechner was born, the state Health Department nailed a black and white sign to the family's front door, warning the public to stay away. His brother was stricken with polio.

For six weeks, the family was quarantined. Their groceries were left on the back steps.

His sister, who was then 12 years old, had squared off with the boys who would knock her younger brother down and throw his crutches in the snowdrifts.

And now the sister, Barbara Crumb, spoke up again. This family could stand the heat, she said, and anybody else be damned.

"Dogs go off to die, Dean—and you're no dog," said Mrs. Crumb, a church organist. "You're a son; you're a brother. And you are loved."

CLIPPING NEWS ARTICLES ON AIDS

It was decided that the family members would take turns caring for Mr. Lechner. Most of the time, he would stay in the house where he grew up, with his mother.

When her son first came home, Mrs. Lechner did not sleep for seven days. She stopped going to bingo so she could watch over him and make sure he took his prescribed pills every four hours. She now spends time clipping newspaper articles about AIDS research and experimental treatment. She brings her son coffee every morning, cooks him hearty meals and pesters him about not going outside in the chill air.

And when she cries, she goes into her bedroom and shuts the door. She does not want him to worry.

"I have trouble talking about it, even with my minister," she said. "But Dean has my support all the way."

He has known that for a long time. Not long after he moved to San Francisco, she had gone to visit him. At the time, he did not know quite how he would explain his way of life.

When she arrived, she saw that he was living with a man in an apartment with one bedroom.

Not a woman at ease with words, she had stammered a bit in trying to explain her feelings. Her son does not remember precisely what she said that day, but the meaning was clear: "You are my son, and I love you."

After the diagnosis, Mr. Lechner began an experimental treatment at the Mayo Clinic. The drug AZT brought his weight back to 165 pounds. And the pain subsided.

EARNING A BANNER HEADLINE

To look at him, it is impossible to know that Mr. Lechner has AIDS. But it is no secret here. The week he was diagnosed, The Waseca County Daily News ran a banner headline announcing his condition. "AIDS has moved into Waseca County," the first paragraph read.

Mr. Lechner did not know what would come next. As far as he knew, Waseca had no experience with anyone who was openly gay, and certainly not anyone infected with the AIDS virus.

"How can you possibly live in that little town?" a friend in San Francisco asked over the telephone.

The answer would come at the grocery store, the lunch diner, the post office, the barber shop.

The owner of a hair salon here, which Mr. Lechner had stopped patronizing for fear he would chase away customers, spotted him downtown and wrapped her arms around him.

"We miss you," said Susan Burn, the owner of Classic Cuts.

"Who are we to judge?" asked Florence Lohmann, the 57-year-old owner of the Busy Bee Cafe, who does not throw away the dishes Mr. Lechner has used. She washes them with the rest.

"That could be my kid or brother," said Dave Condon, 32, who runs the Condon Farm Service feed store. "You don't kick a guy when he's down."

FLOWERS AND TELEPHONE CALLS

Nearly 200 cards of support were mailed to Mr. Lechner. People sent books, poems, prayers, money. "You're going to need something to read," said a card clipped to a $5 bill. "Take this and buy a magazine."

Telephone calls came from people that Mr. Lechner had not seen in years. Flowers of every color were brought to him. A Roman Catholic nun brought a long-stemmed rose, a symbol of hope, she said. And long after the other flowers had wilted, the rose lived.

"People would come up and seem to say, 'I'm with you.'" said Mrs. Crumb.

But when the call came from the woman on the reunion committee, he wondered if he had given the town too much credit.

The next afternoon, he went to the home of Wayne and Bonnie Brown. Mr. Lechner is a friend and former classmate of their daughter, Laurie, and has visited their home for years. More than once, Mrs. Brown recalled, her daughter would come home and complain, "I would have gotten the best mark in the class if it wasn't for that Dean Lechner."

When he walked in the door, Mrs. Brown greeted him with a hug and some instructions.

"You're going to that reunion," she said, "with your head held high."

By then, word of the phone call and the reunion committee's vote to exclude Mr. Lechner had swept around town.

But in fact, there had been no vote. The woman, frightened by the prospect of catching AIDS, had fabricated the story. And when the other committee members learned what she had done, they were angered.

"This is a bunch of horse manure," said Kent Huntington, a barber and member of the reunion committee. "This poor guy is dying, and now we're shunning him? Dean Lechner went to school here for 12 years and never hurt anybody."

He called his wife, Nancy, who had been a good friend of Mr. Lechner in high school, and explained the ruse. In tears, Mrs. Huntington called Mr. Lechner.

"If you need someone to eat dinner with at the reunion please come with us," she said.

It would not be the only invitation. Mr. Lechner attended the reunion. And no one left.

At the reunion, Mr. Lechner saw the faces of those who had tormented him in high school. One by one, they came to him and apologized.

Mr. Lechner accepted each apology with a handshake. And later, he turned to the woman who had warned him not to come. He raised a glass of champagne and said, "I understand."

She turned and walked away.

COMMENDING ATTORNEY GENERAL EDWIN MEESE ON HIS ROLE IN RESOLVING THE ATLANTA PRISON CRISIS

Mr. SIMPSON. Today we celebrate the safe release of hostages from the Federal penitentiary in Atlanta. I do very much want to commend the Attorney General, Ed Meese, for his excellent and stable leadership in resolving this difficult and complex situation. His patient and calm guidance has been remarkable. And the level of coordination the Attorney General achieved among the involved Federal law enforcement agencies has been unprecedented. We are indeed fortunate to have had an Attorney General at the helm during this time who is truly a law enforcement professional—and enjoys the respect and admiration of the entire law enforcement community.

Sometimes in the political rough and tumble of Washington it is so very easy to lose sight of excellence in the performance of one's duties. I hope that all of us, in bipartisan unity, will join in raising a voice of thanks to Ed Meese on a tough job—well done.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 3, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolutions:

S. 860. An act to designate "The Stars and Stripes Forever" as the National March of the United States;

S.J. Res. 35. Joint resolution relating to the commemoration of January 28, 1988, as a "National Day of Excellence";

S.J. Res. 105. Joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; and

S.J. Res. 146. Joint resolution designating January 8, 1988, as "National Skiing Day."

The enrolled bill and joint resolutions were subsequently signed on today, December 4, 1987, by the President pro tempore (Mr. STENNIS).

MESSAGES FROM THE HOUSE

At 2:18 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 122. Joint resolution to designate the period commencing on October 18, 1987, and ending on October 24, 1987, as "Gaucher's Disease Awareness Week."

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 791. An act to authorize the water resources research activities of the United States Geological Survey, and for other purposes;

H.R. 1807. An act to amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes; and

H.J. Res. 412. Joint resolution to congratulate King Bhumibol Adulyadej of Thailand on his sixtieth birthday on December 5, 1987.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 791. An act to authorize the water resources research activities of the United States Geological Survey, and for other purposes; to the Committee on Environment and Public Works.

H.R. 1807. An act to amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes; to the Committee on Small Business.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, December 4, 1987, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 860. An act to designate "The Stars and Stripes Forever" as the national march of the United States of America;

S.J. Res. 35. Joint resolution relating to the commemoration of January 28, 1988, as "National Day of Excellence";

S.J. Res. 105. Joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor;

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; and

S.J. Res. 146. Joint resolution designating January 8, 1988, as "National Skiing Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3479. A bill to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes (Rept. No. 100-234).

By Mr. STENNIS, from the Committee on Appropriations, without amendment:

S. 1923. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-235).

By Mr. INOUYE, from the Committee on Appropriations, without amendment:

S. 1924. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-236).

By Mr. CHILES, from the Committee on the Budget, without amendment:

S. 1920. An original bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, One Hundredth Congress).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 1919. A bill for the relief of Michael Wilding; to the Committee on the Judiciary.

By Mr. CHILES:

S. 1920. An original bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, One Hundredth Congress); from the Committee on the Budget; placed on the calendar.

By Mr. DIXON (for himself and Mr. SIMON):

S. 1921. A bill to designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center"; to the Committee on Environment and Public Works.

By Mr. DURENBERGER:

S. 1922. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of, and a credit for contributions to, longterm health care savings accounts; to the Committee on Finance.

By Mr. STENNIS:

S. 1923. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. INOUYE:

S. 1924. an original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DECONCINI (for himself, Mr. MCCAIN, Mr. ADAMS, Mr. BOREN, Mr. COCHRAN, Mr. HOLLINGS, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LUGAR, Mr. MATSUNAGA, Mr. NUNN, Mr. QUAYLE, Mr. SANFORD, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP and Mr. WILSON):

S.J. Res. 226. Joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "National Soccer Week."; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S.J. Res. 227. Joint resolution to express gratitude for law enforcement personnel; to the Committee on the Judiciary.

By Mr. HEINZ (for himself and Mr. SPECTER):

S.J. Res. 228. Joint resolution commemorating the bicentennial of the December 12, 1787, ratification of the Constitution of the United States of America by the Commonwealth of Pennsylvania and congratulating the citizens of the Commonwealth of Pennsylvania on the occasion of such bicentennial; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATSUNAGA:

S. Res. 337. A resolution to designate December 8, 1987, as "Pearl Harbor Shipyard Day"; to the Committee on the Judiciary.

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 338. To authorize the reprinting of Senate Document 87-64, entitled "History of the United States Senate, 1787-1801"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself and Mr. SIMON):

S. 1921. A bill to designate the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center"; to the Committee on Environment and Public Works.

HAROLD WASHINGTON SOCIAL SECURITY CENTER

Mr. DIXON. Mr. President. Today, I rise to pay tribute to an old friend and colleague of mine, Mayor Harold Washington. His recent death is a loss to the city of Chicago, the State of Illinois, and the entire country. I, like everyone who ever had the privilege of knowing this remarkable man, am left with a profound sense of sadness.

Harold gave a lot to all of us throughout his career. So, I would like to—along with Senator SIMON—give something back to him. With this purpose in mind, I introduce a bill, previously introduced in the House by Congressman SAVAGE, designating the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center." Hopefully, this memorial will remind Chicagoans of the legacy of Harold Washington for many years to come.

He devoted his life to public service. It is only fitting that his name adorn a building designed to serve the public.

Harold Washington was born in Chicago, on April 15, 1922, to Roy and Bertha Washington. His father was a Methodist minister, a lawyer, and a public servant. A remarkable man in his own right, Roy Washington served as a Democratic precinct captain and became the first black attorney to ever work in the office of the city's corporation counsel. Thankfully, later on Harold chose to follow in his father's footsteps.

Roy sent Harold away to boarding school as a youngster. Even then, Harold demonstrated his devotion to Chicago by running away from the school three times in order to come back to the city.

Finally, his father relented and let him stay. Consequently, Harold attended Forrestville Elementary School and Du Sable High School in the city.

However, Harold did not graduate with the rest of his high school class. He left high school to start his career in public service. He joined the Civilian Conservation Corps and planted trees in Michigan and Illinois.

In 1942, he was drafted by the Army. He became a sergeant and served the country in Guam. After being discharged in 1946, Harold picked up his high school diploma from Du Sable and enrolled at Roosevelt University. There he studied political science and became the president of the student council. His formidable political skills were becoming readily apparent.

After graduation, he entered Northwestern Law School. He was one of the few blacks to graduate with the law school class of 1952.

Roy Washington passed away in 1953 and Harold took over his father's jobs as Democratic committee precinct captain and as assistant corporation counsel. Later, he became an arbitrator for the Illinois Industrial Commission. During that time, he became an important advisor to then alderman Ralph Metcalfe.

In 1964, Harold began his career in electoral politics. The people of the 26th District overwhelmingly chose him as their representative to the Illinois House of Representatives. He served 12 years in the House, followed by 4 in the Illinois Senate.

I came to know Harold Washington in the State capital. When he served in the house, I served in the senate and as State treasurer. Later on, as secretary of state I worked with him during his stint as a State senator.

I, like many others in Springfield, came to know Harold as an exceptional orator and legislator. He became a strong advocate for civil rights and sponsored a number of tough reform bills.

In 1980, Harold and I both left Springfield for Washington. I came to the Senate and Harold came to the House of Representatives to serve the people of the first congressional district—the district formerly represented by Harold's old menter, Ralph Metcalfe.

Congressman Washington quickly became someone to be reckoned with. As a first-term representative, he lead the fight to extend the Civil Rights Act and became known as a strong and effective advocate for civil rights and labor.

Then in 1983, Harold won the hotly contested mayoral race. His first term was divisive and difficult. But, after winning a majority in 1986, Harold began to implement his reform agenda. He courageously took on the long established patronage system and won. Harold encouraged honest government and genuinely made city government a truly honest place.

Mayor Washington won big in his 1987 reelection campaign. The majority of Chicagoans were pleased with his performance and overwhelmingly decided to return him to his office.

After a tumultuous period of readjustment, it finally appeared that Chicago once again had a strong leader at the helm. Then tragically, on Wednesday, November 25, Harold Washington died and left Chicago with a huge vacuum to fill.

In his 1983 inaugural address, Mayor Washington said:

> I hope someday to be remembered by history as the mayor who cared about people and who was above all fair. The mayor who helped, really helped, to heal our wounds and stood the watch while the city and its people answered the greatest challenge in more than a century.

Harold, you achieved your goal!

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building known as the "Great Lakes Program Service Center" and located at 600 West Madison, Chicago, Illinois, shall be known and designated as the "Harold Washington Social Security Center."

SECTION 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or any other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Harold Washington Social Security Center."

By Mr. DURENBERGER:

S. 1922. A bill to amend the Internal Revenue Code of 1986 to provide the establishment of, and a credit for contributions to, long-term health care savings accounts; to the Committee on Finance.

LONG-TERM HEALTH CARE SAVINGS ACCOUNTS

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would allow individuals to set aside up to $2,000 per year in tax-exempt savings accounts, the proceeds of which could be used for long-term health care. This is the third bill that I have introduced which offers individuals another opportunity to finance their long-term health care needs.

Under this legislation, an individual would be permitted to establish a long-term care savings account, the interests on which would be exempt from taxation. In addition, taxpayers would qualify for a 10-percent tax credit for contributions to such accounts, with a maximum credit of $200 per year. The tax credit mechanism will equalize the tax benefit available to all taxpayers, and unlike a tax deduction, will not discriminate in favor of upper income taxpayers.

Mr. President, the fastest growing part of our population is the elderly. And as these members of our society live longer, their health care needs become more acute, while their ability to live on their own becomes more difficult. How we facilitate the financing of long-term care for the elderly and the disabled is an issue that we must come to grips with in the near future.

That is why I have offered three separate approaches to address this problem. While I am currently considering additional options, I hope that my colleagues will study these approaches and work with me next year to develop a fiscally sound alternative to the long-term care financing problem. We can no longer sidestep this issue.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25, the following new section:

"SEC. 25A. LONG-TERM HEALTH CARE SAVINGS ACCOUNT.

"(a) CREDIT ALLOWED.—In the case of an individual who makes a contribution to a qualified long-term health care savings account, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) 10 percent of such contribution for the taxable year, or

"(2) $200.

"(b) LIMITATIONS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—A long-term health care savings account may not be established for the benefit of more than 1 individual.

"(2) AMOUNT OF CONTRIBUTION.—With respect to any individual, no contribution under subsection (a) shall be allowed for the taxable year in excess of $2,000.

"(3) NO OTHER LONG-TERM HEALTH CARE PLAN AVAILABLE.—No credit shall be allowed under subsection (a) in the case of an individual for whom an employer provides a long-term health care plan during the taxable year if such plan provides substantially the same benefits as defined in subsection (c)(5).

"(4) INDIVIDUAL MAY NOT BE BENEFICIARY OF MORE THAN 1 ACCOUNT.—If an individual is the beneficiary of more than 1 long-term health care savings account during any calendar year, no credit shall be allowed under subsection (a) for any amount paid or transferred for such calendar year to any account established for the benefit of such individual.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) LONG-TERM HEALTH CARE SAVINGS ACCOUNT.—For purposes of this section, the term 'long-term health care savings account' means a trust created or organized in the United States exclusively for the purpose of paying only 1 individual's long-term health care expenses, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradeable on an established securities market.

"(B) No contribution will be accepted unless it is from the individual for whose benefit the trust is established.

"(C) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(D) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(E) The assets of the account may be invested in accordance with the direction of the individual contributing to the account.

"(F) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (not including extensions thereof) with or within which the calendar year ends.

"(3) STOCK, ETC., TO BE VALUED AS OF TRANSFER DATE.—The fair market value of stocks, bonds, and other securities shall be determined as of the date on which they are transferred to the account. If the date of transfer falls on a Saturday, Sunday, or public legal holiday, then the fair market value shall be determined by reference to the last preceding day on which they could have been traded on an established securities market.

"(4) LONG-TERM HEALTH CARE EXPENSES.—The term 'long-term health care expenses' means—

"(A) the cost of insurance that provides long-term health care benefits, or

"(B) the cost of long-term health care benefits.

"(5) DEFINITION OF LONG-TERM HEALTH CARE BENEFITS.—

"(A) IN GENERAL.—For purposes of this section, the term 'long-term health care benefits' means a benefit which—

"(i) consists of the providing of necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by a chronically ill or disabled individual, and

"(ii) is provided in a qualified facility by a qualified provider.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, or

"(II) an individual's home if a medical practitioner, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is not greater than the cost of similar services provided in a facility described in subclause (I).

"(ii) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' means an individual who has been certified by a medical practitioner, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iii) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any service the primary purpose of which is—

"(I) to provide needed assistance with any of the activities of daily living described in clause (ii), or

"(II) to provide needed assistance with any of the following instrumental activities of daily living: housekeeping, shopping, errands, food preparation, laundry, and chores.

"(iv) QUALIFIED PROVIDER.—The term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid, or homemaker, but does not include a relative or other person who ordinarily resides in the home.

"(6) BENEFITS PROVIDED THROUGH INSURANCE MUST BE UNDER GUARANTEED RENEWABLE CONTRACTS, ETC.—An account plan shall not be treated as meeting the requirements of this subsection unless—

"(A) the renewal of the insurance contract (if any) through which the long-term health care benefits are provided is guaranteed, and

"(B) the renewal of coverage of covered individuals is guaranteed.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount received from a long-term health care savings account shall be included in gross income of the recipient for the taxable year in which the amount is received, except to the extent that paragraph (2) or (3) applies to such amount.

"(2) EXCEPTION FOR DISTRIBUTIONS FOR LONG-TERM HEALTH CARE EXPENSES.—Paragraph (1) shall not apply to any payment or distribution which is used exclusively to pay for long-term health care expenses incurred by the individual for whose benefit the account is established.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to long-term health care savings account to the extent that such contribution exceeds the amount allowable under subsection (b)(2) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(e) TAX TREATMENT OF LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Each long-term health care savings account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) EFFECT OF ENGAGING IN PROHIBITED TRANSACTION.—

"(A) DISQUALIFICATION OF TRUST.—If the individual for whose benefit a long-term health care savings account is established or any individual who contributes to such account engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a long-term health care savings account as of the first day of the taxable year of such individual during which such prohibited transaction begins.

"(B) ASSETS TREATED AS DISTRIBUTED.—In any case in which any account ceases to be a long-term health care savings account by reason of subparagraph (A) on the first day of any taxable year, subsection (d)(1) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a long-term health care savings account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR LONG-TERM HEALTH CARE EXPENSES.—Except as provided in paragraph (2), if a distribution—

"(A) is made from a long-term health care savings account, and

"(B) is not used in connection with the payment of long-term health care expenses of the individual for whose benefit the account was established,

the tax liability (for the taxable year in which such distribution is received) of the individual who contributed to the account shall be increased by an amount equal to—

"(A) 25 percent of the amount of the distribution which is includible in the gross income of such individual for such taxable year if such individual has not attained age 59 before the close of such individual's taxable year, or

"(B) 20 percent of the amount of such distribution if such individual has attained age

59 before the close of such individual's taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includible in the gross income of an individual for a taxable year under subsection (e), the tax liability of such individual under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DEATH OF INDIVIDUAL FOR WHOM ACCOUNT ESTABLISHED.—Paragraphs (1) and (2) shall not apply if the payment or distribution is made after the individual for whose benefit the long-term health care savings account dies.

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) REPORTS.—The trustee of a long-term health care savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individual at such time and in such manner as may be required by those regulations."

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "long-term health care savings accounts," after "accounts," in the heading of such section,

(2) by striking out "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a long-term health care savings account (within the meaning of section 25A(c)), or", and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—For purposes of this section, in the case of a long-term health care savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 25A(b)(2) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the long-term health care savings account in a distribution to which section 25A(d)(3) applies shall be treated as an amount not contributed."

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—An individual for whose benefit a long-term health care savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a long-term health care savings account by reason of the application of section 25A(e)(2)(A) to such account.", and

(2) by inserting ", a long-term health care savings account described in section 25A(c)," in subsection (e)(1) after "described in section 408(a)".

(d) FAILURE TO PROVIDE REPORTS ON LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "or on long-term health care savings account" after "annuities" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 25A(h) to file a report regarding a long-term health care account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(e) EXCLUSION FROM GROSS INCOME.—

(1) Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. LONG-TERM HEALTH CARE SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, gross income does not include distributions from a long-term health care savings account used exclusively for the payment of long-term health care expenses of that individual (within the meaning of section 25A(c)(4))."

(2) The table of sections for such part III is amended by striking out the item relating to section 135 and inserting in lieu thereof the following new items:

"Sec. 135. Long-term health care savings account distributions.

"Sec. 136. Cross references to other Acts."

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Long-term health care savings accounts."

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, long-term health care savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on long-term health care savings accounts" after "annuities" in the item relating to section 6693.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.●

By Mr. DECONCINI (for himself, Mr. MCCAIN, Mr. ADAMS, Mr. BOREN, Mr. COCHRAN, Mr. HOLLINGS, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LUGAR, Mr. MATSUNAGA, Mr. NUNN, Mr. QUAYLE, Mr. SANFORD, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. WILSON):

S.J. Res. 226. Joint resolution to designate the week of May 8, 1988, through May 14, 1988, as "National Soccer Week"; to the Committee on the Judiciary.

NATIONAL SOCCER WEEK

● Mr. DECONCINI. Mr. President, today I am pleased to introduce a joint resolution calling for the designation of May 8, 1988–May 14, 1988, as "National Soccer Week." Mr. MCCAIN and I are proud to be joined by 16 of our colleagues as cosponsors.

We recognize the rocket-like growth in the popularity of soccer across this country. Boys and girls of all ages enjoy participating in this exciting and healthy sport. In the past decade, young people have taken to playing soccer the same way that many of us took to baseball or football. They enjoy the constant movement of a sport termed the "fastest game off ice".

Soccer is also one of the best noncontact, coeducational sports in the world. Physical strength is not a prerequisite for being an able soccer player. That is perhaps why it has become so popular among the youth of today.

Soccer is a sport which improves a young persons motor skills and coordination while increasing their aerobic capabilities. As soon as a child can run, he or she is able to play this stimulating game. Additionally, it provides children an opportunity to learn the importance of teamwork and cooperation in a nonthreatening atmosphere.

Unlike many other popular athletic activities, soccer has been embraced by small towns and school districts across the country because it is relatively inexpensive. With only a ball and a net, any empty lot or playground can be transformed into a soccer field.

Today, hundreds of thousands of American young people are participating in a sport enjoyed by millions the world over. Since this body has passed a resolution supporting efforts to bring the 1992 World Cup Soccer Tournament—the World Series of Soccer—to the United States, we should also encourage the soccer players of America and spotlight their achievements with National Soccer Week. I urge all my colleagues to support early approval of this resolution.●

ADDITIONAL COSPONSORS

S. 229

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 229, a bill to provide for adherence with the MacBride Principles by United States persons doing business in Northern Ireland.

S. 998

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act".

S. 1401

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1401, a bill to restore, on an interim basis, certain recently amended procedures for determining the maximum attorney's fees which may be charged for services performed before the Secretary of Health and Human Services under the Social Security Act and to require a report by the Secretary of Health and Human Services regarding possible improvements in such procedures.

S. 1562

At the request of Mr. STEVENS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1562, a bill to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships.

S. 1601

At the request of Mr. MCCAIN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1601, a bill to permit the immigration of Vietnamese Amerasians to the United States.

S. 1665

At the request of Mr. LEAHY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1665, a bill to amend the Farm Credit Act of 1971 to ensure the continuation of the Farm Credit System as a source of agricultural credit at fair and competitive rates; to increase farmer and rancher participation in the Farm Credit System; to restore the impairment of borrower stock in Farm Credit System institutions; to reform the lending practices on the Farm Credit System; to require forbearance on and restructuring of certain high-risk and nonaccrual loans; and for other purposes.

S. 1727

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1797

At the request of Mr. THURMOND, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from North Carolina [Mr. HELMS], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1797, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 1844

At the request of Mr. KARNES, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1844, a bill to provide for the orderly implementation of Environmental Protection Agency programs established to comply with the Endangered Species Act of 1973.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. MELCHER, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution to facilitate the convening of a Silver Haired Congress.

SENATE RESOLUTION 329

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Resolution 329, a resolution to urge significant deficit reduction by enacting at a minimum an across-the-board freeze of all Federal spending and existing Federal tax rates.

SENATE RESOLUTION 336

At the request of Mr. KENNEDY, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of Senate Resolution 336, a resolution condemning the government of Haiti for the collapse of the November 29 elections and expressing support for democracy in that country.

SENATE RESOLUTION 337—DESIGNATION OF "PEARL HARBOR SHIPYARD DAY"

Mr. MATSUNAGA submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas December 8th, 1987, commemorates the 46th anniversary of the rescue of 32 trapped crew members of the capsized battleship, USS OKLAHOMA, at Pearl Harbor Naval Base as a consequence of the December 7th, 1941 attack by aircraft of the Japanese Imperial Navy;

Whereas this rescue was achieved by 19 civilian shipyard employees of the Naval Base working with pneumatic chipping guns to free the crew members entrapped in pitch black compartments which were slowly filling with water;

Whereas this rescue effort commenced an hour before the fighting of the December 7th attack had subsided and was performed throughout that evening under the illumination of fires from the vessel's sister ship, the USS ARIZONA, sinking nearby, and continued into the following day, December 8th, until each and every one of the 32 entrapped survivors was found and freed;

Whereas December 8th, 1941, is a day to be remembered not in infamy, but, in honor to the heroic spirit of our country's Naval shipyard workers;

Whereas on this 46th anniversary of this gallant rescue there will be held a memorial ceremony at Pearl Harbor to be attended by the last of these survivors to be freed, Mr. Albert Ellis of Los Angeles, California, then the ship's paymaster; and by Richard Goings of Kanehoe, Hawaii, the last surviving member of the 19-member shipyard rescue team, as well as by the present Commander-in-Chief of the US Pacific Forces, Admiral Ronald Hays: Now, therefore, be it

Resolved, That it is the sense of the Senate that December 8, 1987, should be designated as "Pearl Harbor Shipyard Day" and that the President should issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

SENATE RESOLUTION 338—AUTHORIZING THE REPRINTING OF "HISTORY OF THE UNITED STATES SENATE, 1787-1801"

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 338

Resolved, That Senate Document 87-64, entitled "History of the United States Senate, 1787-1801"; shall be reprinted, with a suitable cover commemorating the Bicentennial of the Senate and a new preface prepared by the Majority Leader and the Minority Leader, and an additional 2,500 copies shall be printed for distribution by the Secretary of the Senate.

AMENDMENTS SUBMITTED

OMNIBUS VETERANS BENEFITS AND SERVICES ACT

THURMOND AMENDMENT NO. 1249

Mr. THURMOND proposed an amendment to the bill (S. 9) to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain education or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes; as follows:

At the end of the substitute, add the following:

Section 1 (a) PROHIBITION OF HARD-TO-DETECT FIREARMS.

METZENBAUM (AND OTHERS) AMENDMENT NO. 1250

Mr. METZENBAUM (for himself, Mr. THURMOND, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. KENNEDY, Mr. SIMON, Mr. CHAFEE, Mr. MOYNIHAN, Mr. LAUTENBERG, and Ms. MIKULSKI) proposed an amendment to amendment No. 1249 proposed by Mr. THURMOND to the bill (S. 9) supra; as follows:

At the end of the amendment insert the following:

Section 922 of title 18, United States Code, is amended by adding at the end thereof a new subsection (p) as follows:

"(p)(1) It shall be unlawful for any person to manufacture, import, sell, possess, transfer, receive, ship, or deliver any firearm that the Secretary determines, after consultation with the administrator of the Federal Aviation Administration.

"(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors approved by the Federal Aviation Administration for use at airports in the United States; or

"(B) is not identifiable as a firearm or readily detectable by cabinet X-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1020.40(b)(3)) designed for inspection of carry-on baggage; Provided, however, nothing in this section shall be construed as requiring that the Federal Aviation Administration utilize the Minimum Security Standard Exemplar as a Federal Aviation Administration detection standard.

"(2) As used in this section—

"(A) the term 'firearm' does not include a firearms described in subsection 921(a)(3)(B) of this title; and

"(B) the term 'Minimum Security Standard Exemplar' means a firearm substitute that resembles a North American Arms .22 caliber rim fire weapon, is 4 inches in length, 2 inches in height, is made of material type 17-4 PH stainless steel or 1040 mild steel, and weighs 8 ounces."

(b) Section 925 of title 18, United States Code, is amended by adding at the end thereof a new subsection (f) as follows:

"(f)(1) The Secretary shall not authorize, under subsection (d) of this section, the importation or bringing in of any firearm that—

(A) is not as detectable as the Minimum Security Standard Exemplar, after removal of grips, stocks, and magazines, by walk-through metal detectors approved by the Federal Aviation Administration for use at airports in the United States; or

"(B) is not identifiable as a firearm, or readily detectable by cabinet x-ray systems, as defined in regulations prescribed by the Food and Drug Administration (21 C.F.R. 1040.20(b)(3)) designed for inspection of carry-on baggage.

"(2) As used in this section, the terms 'firearm' and 'Minimum Security Standard Exemplar' have the meanings given those terms in section 922(p) of this title.".

(c) The first sentence of section 925(d) of title 18, United States Code, is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in subsection (f) of this section, the Secretary".

(d) The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems with respect to detection of firearms prohibited by section 922(p) of title 18, United States Code.

(e) When appropriate because of changed technology, the Secretary of the Treasury shall submit to the Congress proposed legislation (including technical and conforming provisions) to amend the definition of the term "Minimum Security Standard Exemplar" contained in the amendments made by this Act.

(f) Except as provided in subsection (g), the amendments made by this section shall take effect upon the enactment of this Act.

(g) It shall be a bar to prosecution for an offense involving the possession or receipt of a firearm in violation of subsection (p) of section 922 that the defendant first possessed or received the firearm before the date of enactment.

URGING THE SOVIET UNION TO ALLOW THE EMIGRATION OF THOSE WHO WISH TO JOIN SPOUSES IN THE UNITED STATES

DOLE (AND OTHERS) AMENDMENT NO. 1251

Mr. DOLE (for himself, Mr. WARNER, Mr. SIMPSON, Mr. BYRD, Mr. NUNN, and Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 376) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States; as follows:

At the end of the joint resolution add the following: that in honor of J. Strom Thurmond, and in recognition of his long and outstanding service as a United States Senator, Governor of South Carolina, and South Carolina State Senator, to promote flood control, soil conservation, and rural electrification, the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River Georgia and South Carolina, shall hereafter be known and designated as the J. Strom Thurmond Dam, Reservoir, and Highway, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such Project is referred to shall be held and considered to refer to such Project by the name of the J. Strom Thurmond Dam, Reservoir, and Highway.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Wednesday, December 16, 1987, beginning at 9:30 a.m. in Senate Russell 485 on Bureau of Indian Affairs seizure of Crow Tribal Records.

Those wishing additional information should contact the committee at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following:

On Wednesday, December 9, 1987, beginning at 3 p.m. in Senate Russell 485, a markup on S. 1703, Amendments to the Indian Self-Determination and Education Act; a hearing on S. 1236, to reauthorize housing relocation under the Navajo-Hopi Relocation Program.

Those wishing additional information should contact the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, December 4, 1987 to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, December 4, 1987 at 3:30 P.M. to receive a closed briefing on the situation in the Persian Gulf.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Friday, December 4, 1987 at 2:30 p.m. to consider the committee's budget reconciliation recommendations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO EUGENE McCULLOUGH

● Mr. LAUTENBERG. Mr. President, it always gives me great pleasure to learn of the accomplishments of a member of New Jersey's educational community. Recently, I learned that Eugene McCullough, an outstanding member of the Monmouth County school system retired this past summer after 37 years in education. Mr. McCullough had served as assistant superintendent for pupil services in the Howell Township Public Schools for over 20 years. I would like to take this opportunity to pay tribute to this remarkable New Jerseyite.

Mr. McCullough grew up in Bloomfield, NJ and attended Montclair State College where he earned a B.A. and an M.A. Subsequently, Mr. McCullough began a 37-year career in education that earned him the love and respect of countless colleagues, parents, and students. The focus of Mr. McCullough's work was in the area of preschool and elementary education and administration. He has spent the past 26 years with the Howell Township school system, a 1,000-pupil school district. In addition, for several years, he served on the board of directors of Monmouth County Head Start, one of the Nation's most successful educational programs. Head Start provides special assistance to needy preschool children. Mr. McCullough was also an active member of the New Jersey Association of Federal Program Administrators and the Association of School Administrators.

Mr. McCullough will also be remembered for his tireless efforts on behalf of children with special needs. Besides his day-to-day responsibilities in the Howell Township school system, Mr. McCullough devoted many summers to directing the Monmouth County Special Olympics Program. He always gave generously of his time and energy to this special program, and encouraged the active participation of his coworkers.

Mr. McCullough is being honored by his many friends and admirers at a special dinner on December 10, 1987. I am proud to join in this tribute and I wish him and his wife Sophie the very best.●

MARY ETTA ROSE, NOTED INDIANA EDUCATOR, RETIRES

● Mr. LUGAR. Mr. President, I am pleased to call to the attention of the Senate the accomplishments of Ms. Mary Etta Rose, who, after 44½ years of service to the students and public schools of Indiana, has announced her retirement.

Earlier this year, I had the opportunity to host this dedicated educator along with parents and sponsors of the advanced choir of Shortridge Junior High School of Indianapolis, Indiana. On this occasion, Mary Etta Rose introduced her students, firsthand, to the arts, culture and history of our Nation's Capital. To the delight of many, the students had the opportunity to perform several concerts under the direction of Ms. Rose. This is but one example of this very special educator who is best characterized by her unique ability to challenge not only the minds, but touch the hearts and spirit of her students.

Her accomplishments are many both in her community and in her chosen profession. As a music educator she has shared her great love for this art form and extended it to her students and the numerous choirs she has organized and directed throughout the years. As an educator she has authored articles, papers, and lectured on a diversity of topics including Africa and China. She speaks from experience as she has traveled extensively throughout Europe, the Mideast, and the People's Republic of China, furthering her life experiences and sharing her knowledge with others.

I take great pleasure in acknowledging Mary Etta Rose for her career and life achievements, and I speak for the citizens of Indiana in thanking her for her many contributions.●

ALPENA BABE RUTH ALL-STARS

● Mr. LEVIN. Mr. President, back on July 22, 1986, the Alpena Babe Ruth Junior Division all-star team captured the 1986 Michigan championship. We were so proud of them that we put a notice of their achievement, along with the names of the team members, in the CONGRESSIONAL RECORD. I am afraid the list was incomplete. The complete list of those Michigan heroes follows: Charlie Koss, James Kroll, Raury LeFave, Rick Pearson, Rob DeWyre, Pat Ashley, Todd Glawe, Eric Corwin, Paul Geyer, Brian Haight, Dave Talbot, Dave Shhaedig, Brad Mills, Tom Sharp, and Tim Kieliszewski.

They—and their manager Bob Ross, and their coaches Dick Gouin and Mike Anderson—won the first State championship for Alpena's junior division. Their spirit still soars.●

FRAUD OF THE DAY—PART 19

● Mr. HEINZ. Mr. President, in my discussion of customs fraud thus far, I have addressed violations of U.S. Customs laws. Today, I want to suggest that customs fraud is an international problem. I also want to stress, however, that even when it is another country's laws that are broken, it is often the United States that is the chief victim. Today's fraud is a good example. Japanese export laws were broken; yet the United States is the main loser.

After extensive investigation, the Hyogo Prefectural Police of Japan determined that Shigero Hirota, the president of Shinyo, a textile trading company in Osaka, was violating the foreign exchange and foreign control law as well as the customs law. This violation involved the forging of export permission stamps, export reports, and export visas. Through this fraud, Hirota illegally exported 523,000 yards of synthetic fiber textiles worth $21.5 million to the United States. The Ministry of International Trade and Industry will decide on his punishment, which will involve at least export prohibition for Shinyo. In addition, as a result of this one investigation, police officials have now discovered 378 similar cases.

Mr. President, one might wonder why I am devoting time to a customs fraud involving the breaking of Japanese export laws. This fraud is important, however, because the laws broken, though Japanese, were created as a response to global textile pressures, that came from the United States among other places.

Mr. President, customs fraud has to be fought. It is an international problem, with international repercussions. Although I am sure that Shinyo's would be considered a violation of U.S. law as well, had it taken place in this country, that is not the most important thing. What is important is that this fraud, regardless of its status in U.S. law, did severe harm to a U.S. industry. Obviously, we need to demonstrate to the international community that we will not tolerate customs fraud or other abuses of this kind. Increased funding for the Customs Service is desirable, but not a realistic option under present budgetary restraints. Even if its budget were doubled, however, prosecution of customs fraud cases would be no easier to obtain. I continue to believe that a private right of action, as embodied in an amendment currently in conference, could go a long way toward decreasing the high incidence of customs fraud due to its strong deterrent value and the fact that it would make prosecution in these cases more likely.●

STATEMENT OF SENATOR CHILES ON THE RECONCILIATION BILL

● Mr. CHILES. Mr. President, yesterday, the Budget Committee reported the reconciliation bill required by the budget resolution without recommendation—and without a determination of whether the Commerce Committee provisions are in compliance.

Although normally the committee would also file a formal report with the Senate, doing so in connection with this bill would needlessly delay the consideration of the bill because of the provisions of Senate rule 17. Consequently, in order to facilitate consideration of this bill early next week, I have determined with Senator DOMENICI's concurrence not to issue a formal report and instead to submit for the RECORD at this time the views of the Budget Committee, a summary of the bill, and minority, additional, and supplemental views.

The contents of most of what would be in the report were printed and made available as a committee print about a month ago. Further copies of that print are available through the committee. As we fully expect that most, if not all, of the bill will be replaced by an amendment anyway, I think it is appropriate to avoid the costly process of printing the report language here.

The material follows:

VIEWS OF THE COMMITTEE

Reconciliation is an integral part of the Congressional Budget process. It represents the Senate authorizing committees' combined efforts to carry out the fiscal policy set forth in the Budget plan adopted by the Congress.

This year's budget called for $36.8 billion in deficit reduction in 1988 and $150.6 billion in savings over the next three years. Nearly two-thirds of these reductions are achieved through the reconciliation process.

Reconciliation takes on a new significance this year as Congress works towards achieving the $23 billion in savings required under the amended Gramm-Rudman-Hollings Act.

Reconciliation savings, along with reductions in appropriations and other measures, are required to avoid the automatic across-the-board cuts in defense and domestic programs mandated by the Act.

During the reconciliation process, authorizing committees in both the House and the Senate recommend changes in laws under their jurisdiction that would reduce Federal spending by amounts specified in the budget resolution. As part of the 1988 Budget plan, nine Senate and House Committees were directed to reduce Federal spending by $4.0 billion in 1988 and by $23 billion over the period 1988 to 1990.

In addition, the Senate Finance Committee and the House Ways and Means Committee received instructions to recommend legislation to increase revenues by $19.3 billion in 1988 and by $64.3 billion over the period 1988 to 1990.

All Senate committees involved in the reconciliation process were instructed to submit their recommendations to the Senate Budget Committee. The Senate Budget Committee is responsible for combining these legislative recommendations into a single bill and reporting them to the Senate without substantive revision.

SUMMARY OF RECONCILIATION RESPONSES

The savings as reported by the nine Senate Committees total $23.1 billion in 1988 and $78.4 billion from 1988 to 1990. These estimates were prepared by the Congressional Budget Office using the economic and technical assumptions in the 1988 Budget Resolution. Table 1 compares the reconciliation instructions with the savings achieved by all nine committees.

TABLE 1.—RECONCILIATION SAVINGS

[In billions of dollars]

	1988	Total 1988–90
Instructions to committees:		
Reductions in outlays	4.0	23.0
Increase in contributions	7.2	5.6
Increase in revenues	19.3	64.3
Reduction in deficit	30.5	92.9
Recommendations in bill:		
Reductions in outlays	4.4	23.1
Increase in contributions	7.7	6.0
Increase in revenues	11.0	49.2
Reduction in deficit	23.1	78.4

The combined spending and revenue measures achieve $13 billion of the $23 billion in savings required under the Balanced Budget Act as amended. These savings estimates are based on a revised set of economic and technical assumptions, specified in the Balanced Budget Act as amended.

The spending savings included in this year's reconciliation bill, under the budget resolution baseline, total $4.4 billion in 1988 and $23.1 billion over the next three years. These savings consist of program reductions, program reforms and increased receipts for government services.

The program reforms and reductions in this year's reconciliation bill encompass changes to Medicare and Medicaid, farm program reforms, Nuclear Waste amendments, increases in cash sales of Veterans Administration vendee loans, governmental cash management reform, an extension of improved government debt collection, reform of the Pension Benefit Guaranty Corporation, and banking reform. The fees for government services cover a broad range of programs and include broadcast license fees, oil and gas leasing, park service fees, fees for Environmental Protection Agency services, and fees for Coast Guard services.

The revenue increases included in reconciliation total $11.0 billion in 1988 and $49.2 billion over the next three years. The principal revenue raising provisions include repeal of the wage limit on the Medicare tax, elimination of installment sales rules for dealers, changes in the estimated tax rules for corporations, and extension of the telephone excise tax. Together, these options raise more than $7 billion in 1988. In addition, technical corrections to the 1986 Tax Reform Act are estimated to increase revenues by an extra $1.3 billion this fiscal year.

Most provisions increasing Treasury receipts are expected to have little, if any, impact on lower and middle income households. No new revenue is to be raised by increases in personal income taxes.

LOAN SALES

In addition to program reforms, the Agriculture, Forestry, and Nutrition Committee reported provisions to increase contributions to the government from the prepayment, without penalty, of Rural Electrification Administration loans and Rural Telephone Bank loans. Although these provisions meet the instructions in the budget resolution, these savings cannot be counted towards achieving the required $23 billion in savings. Under the stipulations of the amended Gramm-Rudman-Hollings bill, the one-time sale of assets or prepayment of loans are not considered permanent deficit reduction and therefore are not attributable towards achieving the deficit reduction goals.

RECONCILIATION OR SEQUESTRATION?

The reconciliation process has become increasingly important since the passage of the amended Gramm-Rudman-Hollings' law. Reconciliation is one of the ways Congress enacts the budget savings that eliminate the need for sequestration.

However, this does not mean that reconciliation and sequestration should be considered comparable budget reduction strategies. Reconciliation is one component of a coherent plan for reducing the federal deficit. Sequestration is arbitrary, across-the-board cuts in government programs. Reconciliation represents a political consensus on the hard choices that must be made if the deficit is to decline. Sequestration represents the failure to reach such a consensus.

Sequestration would reduce outlays for defense accounts by $11.5 billion. This would result in the first year-to-year decline in defense outlays since 1975. Domestic programs would also lose $11.5 billion in outlays. Discretionary spending programs would bear the brunt of the cuts forfeiting $7.6 billion in outlays—a uniform 8.5 percent reduction.

Furthermore, sequestration would send a dangerous message to the already faltering world markets. It would indicate that the Administration and Congress are unwilling to construct a plan to reduce the deficit. Those operating in the markets cannot be expected to react positively to the news that the United States has no coherent strategy for dealing with one of the huge structural imbalances responsible for destabilizing today's world economy.

Reducing the budget deficit in a responsible, considered manner is a first step toward a healthy United States' economy and stable world markets. This reconciliation bill is part of the Congressional attempt to take that step.

Reconciliations Procedure

Just as the Budget Act provides for the reconciliation procedure, it provides in sections 310(e) and 305 special rules for the consideration of reconciliation bills.

The following rules apply to the consideration of a reconciliation bill in the Senate:

Debate on any reconciliation bill and all amendments thereto and debatable motions and appeals in connection therewith is limited to 20 hours.

Debate on the bill (including amendments, debatable motions, and appeals) shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

Debate on any amendment is limited to 2 hours, divided between the mover of the amendment and the manager of the bill.

Debate on any amendment to an amendment, debatable motion, or appeal is limited to 1 hour, divided between the mover and the manager.

A motion to limit debate to less than 20 hours is not debatable.

A motion to recommit is not in order unless it contains instructions to report back within a specified time, not to exceed 3 days, and debate on such a motion is limited to 1 hour, divided between the mover and the manager.

Any germane amendment which amends the bill in more than one place and which achieves or maintains mathematical consistency is always in order.

Amendments to the bill must be "germane to the provisions of" the legislation. The germaneness rule has been interpreted in the same fashion as for cloture. That is, an amendment is only germane if it: strikes a provision, changes a number, restricts some power in the bill, or states a sense of the Senate or Congress within the jurisdiction of the Budget Committee or a reporting committee.

The instructed committees, therefore, set the parameters of germaneness, as the Budget Committee reports what is submitted to it without any substantive revision.

The germaneness rule does not apply to a motion to recommit the bill with instructions to report a specific amendment, if a committee has not complied with its reconciliation instructions, and if the effect of the motion would be to bring the bill into compliance with the reconciliation instructions.

An amendment which would cause the bill to reduce outlays by less than the amount instructed, or which would cause the bill to increase revenues by less than the mount instructed, is not in order. An amendment to strike is always in order.

An amendment affecting social security benefits is not in order.

Floor consideration of the conference report on a reconciliation bill is in order any time after the third day following the day on which the conference report is reported and is available to Senators. Debate on the conference report is limited to 10 hours, divided equally, with debate on any appeal or motion limited to 1 hour divided between the mover and the manager.

Under the Byrd Rule on extraneous matter in reconciliation legislation (section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986 and section 205 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987), a provision of reconciliation legislation is extraneous if it—

Increases outlays or decreases revenues, and the committee reporting it fails to meet its reconciliation instructions,

Increases outlays or decreases revenues during a fiscal year after the fiscal years covered by the reconciliation bill, and those changes are greater than deficit reduction resulting from other provisions in that title,

Produces changes in outlays of revenues merely incidental to the non-budgetary components of the provision,

Is not in the jurisdiction of the committee reporting it, unless—

(A) it is an integral part of a provision that is in the jurisdiction of that committee, and it sets forth the procedure to implement the substantive provisions that were reported and that are within the jurisdiction of that committee, or

(B) it states an exception to, or a special application of, the general provision of which it is a part and that general provision is not the jurisdiction of that committee, or

Does not produce a change in outlays or revenues, unless the chairman and ranking minority member of both the Budget Committee and the reporting committee certify that—

(A) it mitigates direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit,

(B) it will result in a substantial reduction in outlays or a substantial increase in revenues during years after the years covered by the reconciliation legislation,

(C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of certain regulations, court rulings, or the relationships between economic indices and stipulated statutory triggers, or

(D) it will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, that change cannot be reliably estimated.

Points of order with regard to germaneness, deficit neutrality, social security benefits, and extraneousness, among others, require the affirmative vote of 60 Senators to waive. Sixty Senators must also vote affirmatively to overrule the ruling of the Chair on a point of order under these provisions.

SUMMARY OF RECONCILIATION RECOMMENDATIONS

The following tables summarize the savings achieved by the committees instructed by the Congress to make changes in programs in their jurisdiction to reduce spending and increase revenues in fiscal years 1988-1990. The tables compare the legislation reported by the committees to the reconciliation instructions they received from Congress in the 1988 Budget Resolution.

The instructions to the committees in the Budget Resolution were based on the Congressional Budget Office's February baseline (reconciliation baseline). In determining whether a committee met its reconciliation targets, the savings from the reported provisions are measured against the same baseline.

The estimates of certain provisions, however, differ when measured against the baseline specified in the amended Gramm-Rudman-Hollings law (GRH baseline). The baseline incorporates a more current set of economic and technical assumptions and all legislation enacted since January, but does not count one-time savings such as asset sales and loan prepayments.

Table 1 provides an overall comparison of the reported bill to the reconciliation instructions, as measured under the assumptions of reconciliation baseline. It shows that the recommended bill achieved $23.1 billion in deficit reductions in fiscal year 1988, $7.4 billion less than the instructions to the committees. Over three years, the recommendations save $78.4 billion which is $14.5 billion below the reconciliation target. Overall, the recommended bill exceeds the reconciliation instructions for outlay reductions and increases in contributions but does not meet the reconciliation targets for revenue increases.

Table 2 provides a summary of the recommended reconciliation savings for 1988, 1989, and 1990 by Senate Committee. Table 3 compares, in aggregate, the instructions for each committee to the savings reported, as measured under both the reconciliation baseline and the GRH baseline. Table 4 shows the details of the reconciliation and GRH savings within each committee submission.

The dollar amounts in the tables have been estimated by the Congressional Budget Office based on the submissions of the nine committees to the Budget Committee.

TABLE 1.—SUMMARY OF SAVINGS

[In millions of dollars]

	1988	1989	1990	Total 1988–90
Recommendations in bill:				
Reductions in budget authority	−2,086	−3,742	−5,454	−11,282
Reductions in outlays	−4,379	−7,823	−10,914	−23,116
Increase in contributions	−7,694	824	825	−6,045
Increase in revenues	10,981	18,793	19,449	49,223
Reduction in deficit	−23,054	−25,792	−29,538	−78,384
Resolution instructions to committees:				
Reductions in budget authority	−2,394	−4,536	−6,755	−13,685
Reductions in outlays	−3,976	−7,713	−11,318	−23,007
Increase in contributions	−7,218	788	788	−5,642
Increase in revenues	19,300	22,000	23,000	64,300
Reduction in deficit	−30,494	−28,925	−33,530	−92,949

TABLE 2.—SUMMARY OF SENATE-REPORTED RECONCILIATION SAVINGS BY COMMITTEE

[In millions of dollars]

	1988	1989	1990	Total 1988–90
Commerce, Science, and Transportation:				
Budget authority	−263	−325	−325	−913
Outlays	−263	−325	−325	−913
Energy and Natural Resources:				
Budget authority	−229	−347	−301	−877
Outlays	−160	−244	−284	−688
Environment and Public Works:				
Budget authority	−96	−128	−132	−356
Outlays	−96	−128	−132	−356
Finance—Spending:				
Budget authority	0	0	0	0
Outlays	−2,093	−3,444	−4,837	−10,374
Finance—Revenues	10,831	18,584	19,340	48,755
Governmental Affairs:				
Budget authority	−26	−1,254	−2,677	−3,957
Outlays	−27	−1,276	−2,761	−4,064
Labor and Human Resources:				
Budget authority	0	0	0	0
Outlays	−380	−260	−220	−860
Revenues	−35	−100	−200	−335
Veterans Affairs:				
Budget authority	−56	−32	0	−88
Outlays	−56	−32	−13	−101
Agriculture, Nutrition and Forestry—Spending:				
Budget authority	−1,294	−2,324	−2,682	−6,300
Outlays	−1,294	−2,324	−2,682	−6,300
Agriculture, Nutrition and Forestry—Contributions	−7,694	824	825	−6,045
Banking, Housing, and Urban affairs:				
Budget authority	0	0	0	0
Outlays	−400	−300	−200	−900
Recommendations in bill, total:				
Budget authority	−2,086	−3,742	−5,454	−11,282
Outlays	−4,379	−7,823	−10,914	−23,116
Contributions	−7,694	824	825	−6,045
Revenues	10,981	18,793	19,449	49,223

TABLE 3.—SUMMARY OF SENATE-REPORTED RECONCILIATION SAVINGS 1988–90

[Savings in millions]

	Instructions		Reconciliation savings achieved		GRH savings 1988
	1988	1988–90	1988	1988–90	
Commerce, Science and Transportation	−376	−860	−263	−913	−263
Energy and Natural Resources	−170	−730	−160	−688	[1] −90
Environment and Public Works	−150	−450	−96	−356	[2] −96
Finance:					
Spending [3]	−1,600	−9,200	−2,093	−10,374	−2,264
Revenues [4]	−19,300	−64,300	−10,831	−48,755	−10,745
Governmental Affairs	−100	−5,239	−27	−4,064	−1
Labor and Human Resources:					
Spending	−100	−500	−380	−860	−380
Revenues	0	0	35	335	35
Veterans Affairs	−50	−90	−56	−101	−111
Agriculture, Nutrition and Forestry	−8,548	−11,480	−8,988	−12,345	1
Spending	(−1,330)	(−5,838)	(−1,294)	(−6,271)	(1)
Prepayments (REA & RTB)	(−7,218)	(−5,642)	(−7,694)	(−6,045)	[5] (−5,326)
Banking, Housing and Urban Affairs	−200	−600	−400	−900	[6] 0
Total [7]	−8,498	−11,070	−8,839	−11,809	95
Revenues	−19,300	−64,300	−10,981	−49,223	[8] −10,895
Spending	10,802	53,230	2,142	37,414	10,990

TABLE 3.—SUMMARY OF SENATE-REPORTED RECONCILIATION SAVINGS 1988–90—Continued

[Savings in millions]

	Instructions		Reconciliation savings achieved		GRH savings 1988
	1988	1988–90	1988	1988–90	
Without REA	(−3,976)	(−23,007)	(−4,379)	(−23,116)	(−2,814)

[1] Excludes $70 million in savings that are counted against appropriations.

[2] NRC fees included as outlay savings as in the budget resolution.

[3] CBO estimate, adjusted to include PBGC outlay savings and Debt Collection savings that the Committee included on the revenue side.

[4] Joint Tax Committee estimate, adjusted to exclude Debt Collection savings and PBGC outlay savings (PBGC revenue effect included).

[5] REA & RTB prepayments included in reconciliation estimates but are not included in GRH savings.

[6] October GRH baseline already includes savings from this provision.

[7] Total includes savings from PBGC only once, although table shows PBGC savings for both Finance, and Labor and Human Resources (reported totals include Labor and Human Resources provision).

[8] Revenues, total = Finance revenues (−10,831) + Labor revenues (35) — Finance, PBGC revenue loss (185).

TABLE 4.—SUMMARY OF SENATE-REPORTED RECONCILIATION SAVINGS

[Savings in millions]

	GRH savings 1988	Reconciliation savings			
		1988	1989	1990	1988–90
Commerce, Science, and Transportation:					
FCC transfer fee: [1]					
Budget authority	−225	−225	−275	−275	−775
Outlays	−225	−225	−275	−275	−775
Coast Guard user fees:					
Budget authority	−38	−38	−50	−50	−138
Outlays	−38	−38	−50	−50	−138
Total spending reduction:					
Budget authority	−263	−263	−325	−325	−913
Outlays	−263	−263	−325	−325	−913
Total spending instruction:					
Budget authority	NA	−394	−394	−94	−882
Outlays	NA	−376	−391	−93	−860
Energy and Natural Resources:					
Oil and gas receipts:					
Budget authority	−10	−10	−20	−20	−50
Outlays	−10	−10	−20	−20	−50
National Park Service fees:					
Budget authority	−35	−35	−34	−34	−103
Outlays	−35	−35	−34	−34	−103
Tongass Timber Supply Fund:					
Budget authority	−45	−45	−45	0	−90
Outlays	−45	−45	−45	0	−90
Nuclear Waste Amendments:					
Budget authority	0	−139	−248	−247	−634
Outlays	0	−70	−145	−230	−445
Total spending reduction:					
Budget authority	−90	−229	−347	−301	−877
Outlays	−90	−160	−244	−284	−688
Total spending instruction:					
Budget authority	NA	−170	−280	−280	−730
Outlays	NA	−170	−280	−280	−730
Environment and Public Works:					
EPA user fees:					
Budget authority	−20	−20	−40	−40	−100
Outlays	−20	−20	−40	−40	−100
Nuclear Waste Fund fees:					
Budget authority	−25	−25	−35	−36	−96
Outlays	−25	−25	−35	−36	−96
NRC annual charges: [2]					
Budget authority	−51	−51	−53	−56	−160
Outlays	−51	−51	−53	−56	−160
Total spending reduction:					
Budget authority	−96	−96	−128	−132	−356
Outlays	−96	−96	−128	−132	−356
Total spending instruction:					
Budget authority	NA	−150	−150	−150	−450
Outlays	NA	−150	−150	−150	−450
Finance—spending:					
PBGC: [3]					
Budget authority	0	0	0	0	0
Outlays	−390	−390	−510	−540	−1,440
Debt collection: [4]					
Budget authority	−300	0	0	0	0
Outlays	−300	0	0	0	0
Medicare reforms:					
Budget authority	0	0	0	0	0
Outlays	−1,794	−1,909	−3,369	−4,846	−10,124
Medicare reforms:					
Budget authority	0	0	0	0	0
Outlays	70	70	378	489	937
Social Services and Income Security:					
Budget authority	0	0	0	0	0
Outlays	150	136	57	59	252
Total spending reduction:					
Budget authority	−300	0	0	0	0
Outlays	−2,264	−2,093	−3,444	−4,837	−10,374
Total spending instruction:					
Budget authority	NA	0	0	0	0
Outlays	NA	−1,600	−3,150	−4,450	−9,200
Finance—revenues:					
Revenues	10,745	10,831	18,584	19,340	48,755

TABLE 4.—SUMMARY OF SENATE-REPORTED RECONCILIATION SAVINGS—Continued

[Savings in millions]

	GRH savings 1988	Reconciliation savings			
		1988	1989	1990	1988–90
Total revenue increase	10,745	10,831	18,584	19,340	48,755
Total revenue instruction	NA	19,300	22,000	23,000	64,300
Governmental Affairs:					
Federal pay:					
Budget authority	0	−25	−1,243	−2,631	−3,999
Outlays	0	−26	−1,265	−2,715	−4,006
Cash management:					
Budget authority	−1	−1	−11	−46	−58
Outlays	−1	−1	−11	−46	−58
Total spending reduction:					
Budget authority	−1	−26	−1,254	−2,677	−3,957
Outlays	−1	−27	−1,276	−2,761	−4,064
Total spending instruction:					
Budget authority	NA	−100	−1,752	−3,253	−5,105
Outlays	NA	−100	−1,782	−3,357	−5,239
Labor and Human Resources:					
PBGC: [3]					
Budget authority	0	0	0	0	0
Outlays	−380	−380	−260	−220	−860
Total spending reduction:					
Budget authority	0	0	0	0	0
Outlays	−380	−380	−260	−220	−860
Total spending instruction:					
Budget authority	NA	0	0	0	0
Outlays	NA	−100	−200	−200	−500
Revenue offset [5]	−35	−35	−100	−200	−335
Veterans' Affairs:					
Real property cash sales:					
Budget authority	−111	−56	−32	0	−88
Outlays	−111	−56	−32	−13	−101
Total spending reduction:					
Budget authority	−111	−56	−32	0	−88
Outlays	−111	−56	−32	−13	−101
Total spending instruction:					
Budget authority	NA	−50	−30	0	−80
Outlays	NA	−50	−30	−10	−90
Agriculture, Nutrition, and Forestry—Spending:					
Oat acreage set-aside:					
Budget authority	−12	−12	2	−15	−25
Outlays	−12	−12	2	−15	−25
Triggered acreage reduction:					
Budget authority	0	−1,220	−2,570	−3,000	−6,790
Outlays	0	−1,220	−2,570	−3,000	−6,790
Dairy price supports:					
Budget authority	10	−65	5	25	−35
Outlays	10	−65	5	25	−35
Meat and cheese pizza labeling:					
Budget authority	0	0	−14	−15	−29
Outlays	0	0	−14	−15	−29
Increased storage payments:					
Budget authority	3	3	53	53	109
Outlays	3	3	53	53	109
Program yield adjustments:					
Budget authority	0	0	200	270	470
Outlays	0	0	200	270	470
Total spending reduction:					
Budget authority	1	−1,294	−2,324	−2,682	−6,300
Outlays	1	−1,294	−2,324	−2,682	−6,300
Total spending instruction:					
Budget authority	NA	−1,330	−1,730	−2,778	−5,838
Outlays	NA	−1,330	−1,730	−2,778	−5,838
Agriculture, Nutrition, and Forestry—Contributions:					
REA and RTB loan prepayments:					
Budget authority	0	−122	668	663	1,209
Outlays	0	−7,694	824	825	−6,045
Total instruction—Contributions	NA	−7,218	788	788	−5,642
Total Agriculture:					
Budget authority	1	−1,416	−1,656	−2,019	−5,091
Outlays	1	−8,988	−1,500	−1,857	−12,345
Total instructions:					
Budget authority	NA	−1,330	−1,730	−2,778	−5,838
Outlays	NA	−8,548	−942	−1,990	−11,480
Banking, Housing, and Urban Affairs:					
Bridge banks:					
Budget authority	0	0	0	0	0
Outlays	0	−400	−300	−200	−900
Total spending reduction:					
Budget authority	0	0	0	0	0
Outlays	0	−400	−300	−200	−900
Total spending instruction:					
Budget authority	NA	−200	−200	−200	−600
Outlays	NA	−200	−200	−200	−600

[1] CBO scores FCC transfer fees as a revenue increase. They are shown on this table as an offsetting receipt to maintain comparability with the Committee instructions.

[2] CBO scores NRC annual charges as a revenue increase. They are shown on this table as on offsetting receipt to maintain comparability with the Committee instructions.

[3] The budget resolution reconciled the PBGC instructions to both the Finance Committee and the Labor and Human Resources Committee. The totals only include the estimates for the Labor Committee's provision.

[4] The savings from the debt collection provision were included already in the reconciliation baseline. Because the savings were not included in the baseline specified by the Gramm-Rudman-Hollings (GRH) law, the provision producers savings measurable against the GRH targets.

[5] Revenue reduction associated with the Committee's PBGC provision.

NA=Not available.

Rollcall Votes in Committee

Votes taken during Committee consideration of this legislation were as follows:

Chiles motion to report the reconciliation bill to the floor without recommendation and without a determination of whether the Commerce Committee provisions are in compliance.

YEAS

Mr. Chiles.
Mr. Hollings.
Mr. Johnston (by proxy).
Mr. Riegle.
Mr. Exon.
Mr. Lautenberg (by proxy).
Mr. Sanford.
Mr. Wirth.
Mr. Fowler.
Mr. Conrad.
Mr. Dodd (by proxy).
Mr. Domenici.
Mrs. Kassebaum (by proxy).
Mr. Danforth.
Mr. Rudman (by proxy).

NAYS

Mr. Boschwitz (by proxy).
Mr. Symms.
Mr. Grassley.
Mr. Kasten (by proxy).
Mr. Quayle (by proxy).
Mr. Nickles.

NOT VOTING

Mr. Sasser.
Mr. Simon.
Mr. Armstrong.

Additional Views of Mr. Danforth

The Budget Committee reported this measure without recommendation and without a determination of whether the Commerce Committee provisions are in compliance. By reporting the bill in this manner, the Committee expressly declined to rule on this important issue.

All committees were instructed to report reconciliation instructions to the Budget Committee by Monday, October 19. The Commerce Committee did not act until Wednesday, October 21. The Commerce Committee was the only committee that did not act in a timely fashion. In failing to meet the congressional deadline, the committee failed to comply with its instructions. Regardless of the provisions' merits, the committee simply did not meet its instructions.

On Friday, October 23, the majority leader asked the minority leader to clear a unanimous consent request to extend the reconciliation deadline until midnight, October 23, to allow the Budget Committee to accept the Commerce Committee's reconciliation provisions. There were objections. Unanimous consent was not obtained.

Until a few days before markup, the Republicans on the Budget Committee understood that title III would not be a part of this package. They understood that the title would be voted on separately. Title III was not only filed late, it includes provisions irrelevant to budget reconciliation, controversial provisions such as fairness doctrine codification and establishment of a public broadcasting trust fund. However, despite the failure of the unanimous consent request, and despite our earlier understanding that there would be a separate vote on title III, the Budget Committee chairman chose to include title III in the committee's markup vehicle. I believe that this was a mistake. By including title III in its reconciliation bill, this committee breaks its own guidelines and risks future confusion and uncertainty in the budget process.

Following the failure of the unanimous consent request, I spoke with the Commerce Committee chairman. I explained that Republican objections were raised because many Commerce Committee members were unaware of the breadth of the chairman's proposals prior to the Commerce markup. I suggested that the committee reconvene and work out a reconciliation proposal dealing solely with budget matters. He suggested that we wait, since the reconciliation process might be superseded by the budget summit.

As Senator Packwood testified during this committee's markup, the participants in the budget summit did, in fact, discuss the proposals contained in title III. He stressed that they specifically agreed that the title III provisions would not be a part of the final budget reconciliation package. Moreover, the participants understood that the budget summit package would supersede any reconciliation bill reported out by this committee.

It is my hope that the agreement of the budget summit will be reflected in a leadership amendment that will supersede and eliminate these provisions. If such a floor amendment does not eliminate title III, I will raise the issue that the Commerce Committee's provisions were not filed with the Budget Committee in a timely manner and move to strike the title.

It is ironic that, as a supporter of public broadcasting and codification of the fairness doctrine, I am objecting to the inclusion of these provisions in the fiscal year 1988 reconciliation bill. I am a cosponsor of the original fairness doctrine legislation, S. 742. Along with Senator Hollings, I fought to move the measure through the Commerce Committee and the full Senate. I supported my chairman's motion to refer to the Commerce Committee the Presidential veto message on S. 742. However, reconciliation is not the place for this significant legislative action.

We must preserve the integrity of the budget process. By arbitrarily ignoring deadlines, the Budget Committee risks its credibility and its effectiveness.

Minority Views of Senator Dan Quayle

While I wish to remain open to the White House/congressional leadership budget summit package, some concerns over the course of legislation necessary to the implementation of this package have led me to vote against reporting the reconciliation bill to the full Senate.

The reconciliation bill is intended to become the underlying vehicle for the budget summit agreements on certain spending cuts and the $23 billion, 2-year tax increase. The reductions in discretionary appropriated cuts, however, must come through the appropriations process.

At the time the Senate Budget Committee met, the Appropriations Committee of the House of Representatives had reported a continuing resolution which makes no consideration for the limits on discretionary spending. This $587 billion spending bill was subsequently passed by the House of Representatives. An element of the summit agreement provided that the spending reductions and the tax increases be presented to the President concurrently. I believe, therefore, that implicit in this agreement, Congress should, in good faith, address both the spending and revenue portions of this package concurrently. As the appropriations process has begun without consideration of the agreed reductions, I believe the process that facilitates consideration of the tax increases should be likewise slowed.

Despite these reservations, I remain open to supporting and helping to craft a responsible and workable package which meets the structures of the summit agreement. Likewise, I reserve my right to oppose any final product which I believe is a breach of the agreement or provides for particularly bad policy.

Summary of Reconciliation Provisions Recommended By Senate Committees For 1988–90

The 1988 Budget Resolution contained instructions to nine committees of Congress to make changes in programs within their jurisdiction to reduce spending or increase revenues in 1988 through 1990. This summary provides a description of the major provisions recommended by each committee to meet their reconciliation instructions.

In total, the provisions described below save $23.1 billion from the reconciliation baseline in 1988 and $79.6 billion for 1988 through 1990. Under the GRH baseline, the reconciliation provisions save $13.7 billion in 1988 and $60.1 billion for 1988 through 1990.

TITLE I—COMMERCE, SCIENCE, AND TRANSPORTATION

Coast Guard User Fees

Directs the Secretary of the department in which the Coast Guard is operating (currently Transportation) to collect payments from users of Coast Guard services during fiscal years 1988 through 1990. The Secretary is directed to establish and implement a system for selling "Support of Services" (SOS) stamps for specified services. For users of Coast Guard services who do not purchase SOS stamps, the Secretary is directed to develop a schedule of fees to be charged for such services. The Coast Guard is not restricted in its ability to charge for all of the non-emergency services it performs, including those provided to commercial vessels and structures and to individuals. CBO estimates 1988 budget authority and outlay savings of $38 million due to late implementation. In 1989 and 1990, these savings rise to $50 million per year.

FCC Transfer Fee

Directs the Federal Communications Commission (FCC) to assess and collect a 2-percent fee from sellers of construction permits, station licenses, or radio licenses. The fee is increased to 4 percent if a broadcast station construction permit or broadcast license is disposed of within 7 years of being acquired. The fee is increased by 1 percent if a seller is found to have violated the Fairness Doctrine.

Reauthorizes the Public Telecommunications Facilities Program beginning in 1989 at $36 million and reauthorizes the Corporation for Public Broadcasting beginning in 1991 at $254 million. Establishes a trust fund to support these two programs utilizing a portion of the revenues from the transfer fees.

Savings from the transfer fee are estimated to be $225 million in 1988 and $275 million in 1989 and 1990.

TITLE II—ENERGY AND NATURAL RESOURCES

Nuclear Waste Policy Act Amendments

Amends the Nuclear Waste Policy Act of 1982 and redirects the nuclear waste program by making major changes in the site characterization process for the permanent geologic repository. Authorizes a monitored retrievable storage (MRS) facility to prepare and package spent fuel before shipment to a permanent repository. Also authorizes benefit payments to affected states and Indian tribes and delays work on a second repository. Reduces authorization levels for the nuclear waste program which are scored as part of reconciliation contingent on an adjustment in the 302 allocation for the Appropriations Committee and the Energy and Water Appropriations Subcommittee. Achieves savings of $139 million in budget authority and $70 million in outlays.

Onshore Oil and Gas Leasing

Directs the Secretary of the Interior to provide for competitive bidding on almost all Federal land made available for oil and gas leasing. Sets a minimum bid of at least $10 per acre. Provides receipts of $10 million in budget authority and outlays in 1988.

Park Service Fees

Permanently increases maximum prices for Golden Eagle Passports and for entrance fees to units of the National Park Service. Permits new fees and other services as well as annual admission. All fees collected would be deposited in a special account in the U.S. Treasury and made available for appropriation to the collecting agency in the following year. Provides receipts of $35 million in budget authority and outlays in 1988.

Tongass Timber Supply Fund

Temporarily repeals the permanent appropriation of funds for the Tongass Timber Supply Fund until September 30, 1989. Saves $45 million in budget authority and outlays in 1988.

TITLE III—ENVIRONMENT AND PUBLIC WORKS

EPA User Fees

Authorizes the EPA Administrator to assess and collect fees and charges related to agency activities. All fees collected would be deposited in a special account in the U.S. Treasury and made available for appropriation for Agency activities. Provides receipts of $40 million in budget authority and outlays in 1988.

Nuclear Waste Policy Act Amendments

Directs the Nuclear Regulatory Commission to increase its annual charges to licensees for fiscal years 1988 to 1990 thus increasing receipts by $50 million in budget authority and outlays for each of those years. Mandates an increase in the "mil per kilowatt-hour" fee levied on electricity from nuclear power plants to 1.063 mil/kwh thus increasing receipts by approximately $25 million in budget authority and outlays in 1988. Makes numerous other changes in the Nuclear Waste Policy Act of 1982 relating to site characterization, creation of a National Academy of Sciences Oversight Board and a Monitored Retrievable Storage (MRS) facility. Also reduces authorization levels for the nuclear waste program.

TITLE IV—FINANCE, SPENDING

Medicare and Medicaid

DRG Rates

Increases Diagnosis Related Group payments for 1988 by 1 percent for urban hospitals, 4.2 percent for rural hospitals, and 2.9 percent for hospitals exempt from the prospective payment system. Also sets increases for 1989 and 1990 at 3.4 percent and 4.1 percent, respectively, for urban and rural hospitals, and at 5.4 percent and 5.7 percent for exempt hospitals. Current law would increase rates for all categories of hospitals by 2.9 percent in 1988, with increases for 1989 and 1990 at Secretarial discretion. Saves $500 million in 1988, $1.5 billion in 1989, and $2.4 billion in 1990.

Medical Education

Reduces indirect medical education payments to hospitals by 1.8 percent in 1988, reflecting more recent data on allowable education costs. Saves $370 million in 1988, $525 million in 1989, and $585 million in 1990.

Periodic Interim Payments

Eliminates advance interim payments to certain hospitals with relatively high indigent admissions as of July, 1989, and shifts the last 1988 payment to 1989. Saves $365 million in 1989 and $40 million in 1990.

Capital

Reduces hospital capital payments by 3 percent in 1988, and 10 percent in 1990. Saves $125 million in 1988, and $585 million in 1990.

Hospital Outpatient Departments

Eliminates returns on equity payments to proprietary hospital outpatient departments, and limits aggregate payments to all hospital outpatient departments for radiology services. Saves $25 million in 1988, $110 million in 1989, and $225 million in 1990.

Physician Payments

Provides for a 3.2 percent increase in payments to physicians for primary care services, and a 1 percent increase for other physician services. Reduces payments for certain surgical procedures. Sets new procedures for establishing charge levels for new physicians. Also establishes bonus 5 percent payments for physicians practicing in rural underserved areas who accept Medicare as payment in full. Saves $270 million in 1988, $410 million in 1989, and $450 million in 1990.

Prompt Pay

Establishes a floor for payment of Medicare claims of 10 days in 1988, 11 days in 1989, and 12 days in 1990. Current law requires that most claims be paid within 26, 25, and 24 days, respectively. Saves $490 million in 1988, $190 million in 1989, and $210 million in 1990.

Premiums

Extends current law provisions requiring premium financing to cover 25 percent of Part B costs through 1989. Saves $375 in 1989 and $520 in 1990.

Mental Health

Broadens Medicare coverage for psychiatric services and clarifies coverage of psychological services in certain hospital and outpatient settings. Cost of $90 million in 1988, $125 million in 1989, and $200 million in 1990.

Rural Concerns

Contains several Medicare provisions to examine and improve the financial viability of rural hospitals and improve access to health care in rural areas. Direct spending cost of $87 million over three years.

Other Medicare Savings

Limits payments for certain types of therapeutic footwear, and sets, guidelines for lease and purchase of covered medical equipment. Saves $40 million in 1988, $60 million in 1989, and $70 million in 1990.

Spousal Impoverishment

Requires States to allow the spouse of a Medicaid nursing home patient to maintain for their own living expenses a minimum income of $750 per month, and one-half of the couple's assets within certain limits, rather than apply all resources toward nursing home costs. Helps offset cost by tightening existing law restrictions against disposal of assets at less than fair market value prior to obtaining Medicaid eligibility. Net cost of $40 million in 1988, $175 million in 1989, and $195 million in 1990.

Infant Mortality

Expands Medicaid to allow States to provide targeted coverage to pregnant women and children with incomes up to 185 percent of the Federal poverty level, and to allow coverage of children up to age 8. Cost of $15 million in 1988, $100 million in 1989, and $120 million in 1990.

Nursing Home Quality

Establishes additional standards for nursing home quality of care, including nursing and training requirements and protection of resident's rights. Cost of $267 million over three years.

Other Miscellaneous Health Provisions

Includes several Medicare and Medicaid provisions to provide for studies and demonstrations, improve collection of data and program administration, provide for expedited resolution of claims disputes, and enhance beneficiary protections. Net direct spending savings of $29 million over three years.

Social Services and Income Security

Title XX

Increases authorization for Title XX social services block grant by $100 million for 1988 only.

Foster Care

Includes several provisions to improve eligibility and program administration for foster care. Cost of $9 million over three years.

Supplemental Security Income

Increases by $5 and $10 the amount that SSI individuals and couples in Medicaid institutions are allowed to keep from their monthly SSI checks for personal needs. Sets procedures for eligibility determination for those who are temporarily institutionalized, provides for continued Medicaid eligibility for certain SSI recipients, and extends energy aid disregard. Cost of $144 million over three years.

Other

Makes several additional small eligibility determination and program administration changes in SSI and AFDC Child Support Enforcement, and Unemployment Insurance.

Pension Benefit Guaranty Corporation

Increases PBGC premiums for $8.50 to $14 per participant. Imposes a variable rate premium on underfunded pension programs equal to $6.00 per $1,000 of underfunding. Tightens rules on payment of minimum contributions, restricts granting of funding waivers and plan terminations under Chapter 11. Provides the plan with a lien against employer assets for significant unfunded liabilities under certain circumstances. Net deficit reduction of $205 million in 1988, $201 million in 1989, and $231 million in 1990. (For other changes to pension rules, see Title VIII, Labor and Human Resources Committee provisions.)

Extension of Debt Collection

Increases IRS refund offset authority for three years for all Federal agencies. Collections of $300 million in 1988, $425 million in 1989, and $425 million in 1990 were assumed in the reconciliation baseline.

TITLE IV—FINANCE COMMITTEE, REVENUES

Revenues Proposed by President (modified)

Requires user fees for certain IRS services including letter rulings, determination letters, opinion letters and other written statements requested by individuals and organizations. Increases BATF occupational taxes of the Bureau of Alcohol, Tobacco and Firearms. Amends and extends current Customs Service user fee schedules. Increases railroad retirement taxes. Revenues would be increased by $500 million in 1988, $700 million in 1989 and $1.1 billion in 1990.

Extension of Current Tax Rates

Maintain 3 percent telephone excise tax through 1990. Extends 0.2 percent FUTA tax for three years through 1990. Makes permanent the 55 percent gift and estate tax. Together these provisions generate additional receipts of $2 billion in 1988, $3.5 billion in 1989 and $3.7 billion in 1990.

Repeal Hospital Insurance Wage Base Limit

Removes the Medicare payroll tax cap so that all income is subject to the hospital insurance tax. Provision raises tax collections by $2.2 billion in 1988, $6.3 billion in 1989 and $6.9 billion in 1990.

Modify Estimated Corporate Tax Provisions

Consolidates all corporate estimated tax rules into one section of the tax code with several modifications to current law. Revisions to estimated tax provisions bring in $1.8 billion of additional revenues in 1988, $400 million in 1989 and $300 million in 1990.

Correction of ESOP Estate Provision

Modifies ESOP estate tax provision to correct technical drafting errors incorporated as part of the 1986 Tax Reform Act. Provision also limits maximum allowable deductions to 50 percent of taxable estates and limits deductions to proceeds of sales of employer securities that are issued by domestic corporations that have no publicly traded stock outstanding. Closing loophole generates $1.3 billion in 1988, $1.6 billion in 1989 and $1.9 billion in 1990.

Further Reform of the Tax Code

Accounting Provisions

Repeals the completion-capitalized cost method of accounting for long-term contracts, and the use of installment method accounting by dealers. The special rule that permits taxpayers a deduction for additions to a reserve for vacation pay is also terminated. Clarifies that amortization, depreciation of similar deductions are denied for intangible assets that are renewing or for intangible assets with an indeterminate useful life. Reforms to accounting provisions increase tax collections by $2.8 billion in 1988, $4.6 billion in 1989 and $4.1 billion in 1990.

Corporate Provisions

Modifies computation of earnings and profits for intercorporate dividends and basis adjustment, limits consolidated return pass-through, repeals graduated tax rates for personal service corporations, alters provisions affecting liquidation of corporate subsidiaries and increases the distribution required by regulated investment companies to avoid the penalty excise tax. Corporate provisions generate new revenues of $1.2 billion in 1988, $1.3 billion in 1989 and $1.6 billion in 1990.

Partnership Provisions

Suspends at the partnership level, losses and deductions of publicly traded limited partnerships; allows them to be used against income from that partnership with a carryforward mechanism. Reforms to partnership provisions increase taxes by $100 million in 1988, $100 in 1989 and $200 million in 1990.

Miscellaneous Provisions

Exempts Eurobond interest paid through the Netherlands Antilles. Modifies full-funding limitation for pension plans (150% rule). Requires collection of diesel fuel and special motor fuel tax on sales to retailers. These provisons increase taxes by $800 million in 1988, $2 billion in 1989 and $1.6 billion in 1990.

TITLE V—GOVERNMENTAL AFFAIRS

Federal Pay

Provides for a 3 percent pay increase in 1988 for all Federal civilian employees (except members of Congress) and rounds down the pay raise in each pay check during 1988 to the next lowest dollar. These provisions save $26 million in 1988 and $27 million in each of the outyears. Delays pay raise to January in 1989 and 1990, saving $759 million and $878 million respectively and requires the President to present pay proposals which achieve additional outlay savings of $480 million and $1,810 million in those years.

Cash Management

Mandates the establishment of procedures governing transfers of funds between the federal government and state governments in an effort to minimize time between the availability and outlay of federal funds for programs administered by the States. Provides for reciprocal interest payments on funds held for overlong periods of time. Results in receipts of $45 million in budget authority and outlays in 1988.

Disability Payments Under the Federal Employee Compensation Act

Makes the transfer of certain Federal funds from agencies to the Labor Department automatic. These funds provide payment to injured workers under the Federal Employees Compensation Act (this has no spending impact).

TITLE VI—LABOR AND HUMAN RESOURCES

Pension Benefit Guaranty Corporation

Increases PBGC premium from $8.50 to $20 per participant. Increases minimum funding standard for employer contributions. Limits granting of funding waivers to hardship employers and holds employers liable for termination of underfunded pension plans. Establishes certain conditions to be met to withdraw assets form pension plans and imposes excise tax if an amount in excess of permitted amount is withdrawn. (For other changes to pension rules, see Title VII, Finance Committee provision.)

TITLE VII—VETERANS AFFAIRS

Increasing Cash Sales of Acquired Foreclosure Properties

Requires the Veterans Administration to increase the proportion of acquired foreclosed properties sold on a cash basis, rather than through a refinanced loan. Current law requires cash sales for between 25 and 40 percent of foreclosed properties. The bill requires cash sales for between 40 and 60 percent of foreclosed properties. Reduces outlays by $56 million in 1988, $32 million in 1989, and $13 million in 1990.

TITLE VIII—AGRICULTURE, NUTRITION AND FORESTRY

The Agriculture title of the reconciliation bill contains seventeen provisions. Four of these provisions result in savings relative to the reconciliation baseline; two authorize loan prepayments; seven provisions have no or minimal budgetary impact and four provisions would result in new spending. Relative to the GRH baseline, only two of the provisions would lead to savings, eleven of the proposals would have no impact and four of the proposals would increase spending.

Cost Reduction Proposals

Oat Acreage Set-Aside Requirements

Allows the Secretary of Agriculture to establish a different acreage reduction requirement for oats than is provided for feed grains. Reduces budget authority and outlays by $12 million in 1988; $25 million over 3 years.

Triggered Acreage Reduction Program

Allows the Secretary to increase acreage reduction requirements for wheat and feed grain programs if certain carryover stock levels are breached. Saves $1.2 billion in 1988; $6.8 billion over 3 years relative to the reconciliation baseline. Saves nothing, however, relative to the GRH baseline because the specified carryover stock levels would not be exceeded under those estimates.

Dairy Price Support Program

Directs the Secretary to impose an assessment to promote dairy products and limits the amount of price support reductions if certain dairy purchase levels are exceeded. Reduces budget authority and outlays by $65 million in 1988; $345 million over 3 years relative to the reconciliation baseline. However, costs $10 million in 1988; $125 million over 3 years relative to the GRH baseline. This difference in estimates is due to differing assumptions regarding the Secretary's intention to impose price support cuts in the two baselines.

Meat and Cheese Pizza Labeling

Requires that meat and cheese pizza be labeled as containing imitation, or cheese alternate, if more than one-third of the cheese is not standardized cheese. Saves nothing in 1988; $29 million over 3 years.

Prepayments and Asset Sales

Rural Electrification Administration (REA) Loan Prepayment

Allows REA borrowers to prepay their guaranteed loans requiring only that a processing fee be paid. Increases contributions by $7.4 billion in 1988. However, these savings cannot be counted towards the $23 billion needed to avoid sequestration due to prohibitions against scoring loan prepayments in recently enacted Gramm-Rudman-Hollings legislation.

Rural Telephone Bank (RTB) Prepayments

Allows RTB borrowers to prepay their loans without penalty and makes accounting changes. Increases receipts by $230 million in 1988 but costs $27 million per year in the future.

Provisions With No or Minimal Budgetary Impact

Advanced Deficiency Payments

Mandates the use of advanced deficiency payments at current levels.

Wheat Final Deficiency Payment

Mandates early disbursement of wheat deficiency payments.

Use of REA Funds

Allows an REA borrower to invest up to 15 percent of its total utility plant in non-Act purposes without prior Administration approval.

REA Cushion of Credit

Allows REA borrowers to voluntarily prepay direct loans thereby establishing "cushions of credit". Interest income from this fund would be available to finance rural development projects.

Rural Industrialization Assistance

Allows private nonprofit corporations to participate with public bodies in a Farmers Home grant program.

Commodity Credit Corporation (CCC) Borrowing Authority

Authorizes current, indefinite borrowing authority for CCC programs. If this provision is adopted by the Appropriation Committees, it would negate the need for annual CCC supplementals.

Ethanol Sense of the Senate

Encourages the Environmental Protection Agency to take appropriate action under the Clean Air Act to increase the consumption of ethanol.

Plant Variety Protection Fees

Redirects current plant variety protection fees from General Revenues to the Agricultural Marketing Service.

Spending Provisions

Increased Storage Payments

Mandates an increase in farmer held reserve storage payments from the current rate of 26.5 cents/bushel to 28.5 cents/bushel. Increases budget authority and outlays by $3 million in 1988 and over $80 million over 3 years.

Loan Rate Adjustments

Limits adjustments in county loan rate differentials to no more than 1 percent per year from the national average loan rate, beginning with the 1988 crop. Costs $75 million in 1989-1990 relative to the GRH baseline.

Program Yield Adjustments

Provides supplemental payments to producers whose payment yield adjustments are greater than 5 percent of their 1985 base. Increases budget authority and outlays by $470 million over 3 years.

TITLE IX—BANKING, HOUSING AND URBAN AFFAIRS

Bridge Banks

Allows the FDIC to establish "bridge banks" as temporary vehicles for dealing with bank failures. The assests and liabilities of a failed bank would be assumed by the bridge bank until such time as the FDIC could arrange for a purchase by another institution. By giving the regulators more time to find a suitable buyer for the failed bank, the bridge bank proposal would help reduce the losses to the FDIC that otherwise would have occurred if the failed bank were sold immediately. CBO estimates outlay savings of $400 million in 1988, $300 million in 1989, and $200 million in 1990. This proposal is also contained in Section 503 of the Competitive Equality Banking Act of 1987, which was signed into law on August 10, 1987 (Public Law 100-86).●

ARTISTS' RIGHTS

● Mr. PELL. Mr. President, a very thoughtful piece recently appeared on the op-ed page of the New York Times in regard to Senator KENNEDY's Visual Artists Rights Act of 1987 (S. 1619). The piece was written by two of the most distinguished members of New York's cultural community, Schuyler Chapin and Alberta Arthurs, who currently serve as the chairman and president of the New York-based Independent Committee on Arts Policy.

The Visual Artists Rights Act earns this committee's endorsement for the very correct reason that our visual artists deserve certain basic protections in recognition for the incalculable contributions they have made to our national life.

I also want to congratulate my colleague Senator KENNEDY for proposing this legislation and thereby opening up an important dialog on just what our responsibility, as legislators, should be toward America's creative artists. It is a very thought-provoking bill and the following article discusses it in a most enlightening manner. I commend it to my colleagues.

I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, Oct. 29, 1987]

A BILL OF RIGHTS FOR ARTS

(By Schuyler Chapin and Alberta Arthurs)

Last fall, Jasper John's painting "Out the Window" was auctioned for $3.6 million, the highest sum ever paid for a work by a living artist. The painting had been acquired in 1960 for $2,250. None of the $3.6 million went to the artist.

A private collector purchased a work, two figures lying on a bed with soiled sheets, by the sculptor George Segal. The buyer subsequently removed the figures from the bed and placed them on a pedestal. The buyer ignored all letters from the sculptor protesting this mutilation, including one in which Mr. Segal offered to buy the piece back.

Both of these stories reflect something unique to the visual arts as compared with other arts. Because these works of art are original, ownable pieces of property, there is a complete severing of the artist's connection to his or her work once it is sold. In this country, the right of private property takes precedence over artists' moral or economic rights.

A bill that maintains a connection between a visual artist and that artist's work has been initiated by Senator Edward M. Kennedy, Democrat of Massachusetts, and introduced in both houses of Congress. This connection is one we already recognize with reproducible works of art, and is a link central to the incentive and protection we as a society grant to artists.

Called the Visual Artists Rights Act of 1987, the bill has two primary objectives: to secure the rights of visual artists to prevent the intentional mutilation or destruction of their work, and to provide for resale royalties.

This simple and rather modest bill elicits impassioned arguments. It requires a fundamental examination of attitudes our society holds about the nature of art; who benefits from art, what its value is and what value we place on those who create it. From this broader perspective, the Visual Artists Rights Act is a very important piece of legislation, and its passage could be a milestone in the cultural maturation of America.

This artists and arts leaders in the independent Committee on Arts Policy examined this bill and the detailed arguments for and against it. Our decision to support the bill came after rigorous debate and analysis.

Art—physical, tangible, visual art—is more than a piece of property that some one or some institution owns. And, yes, it is even more than a valuable commodity with one of the highest rates of return on the market.

Works of art are much more than that. In some real way they belong to no one because they belong to all of us. They are among the most salient examples of the breadth and depth and complexity of human nature.

Throughout time, our species, has used the arts—this richer set of symbols that only humans have devised—to transmit the heritage of people and to express most profoundly their deepest human joys, sorrows and institutions. "Art," Elliot Eisner has said, "helps us know what we cannot articulate."

This bill says that the country wants the owners of art to protect what they have for all of us and for posterity. We don't want owners—either intentionally or through gross negligence—to mutilate or destroy what they own. We don't want Blue Cross and Blue Shield, for example, to paint John Raimondi's red sculpture "Blue Cross blue."

This bill says that we value the vision of the artist. It say that those gifted with the insight, imagination and inventiveness to create fine art are due recognition and protection from Congress.

And because we value artists and value what they do, when their works command handsome prices on the resale market, we think it only fair that some small portion of that profit return to the originator, the creator, the artist.

Opponents of this bill say that the thriving art resale market, known to be in the billions (Sotheby's recently announced record worldwide sales of $1.3 billion, and Christie's sales were just short of another billion) is so delicate that an artist royalty would be a significant deterrent to trade, thereby hurting artists instead of helping them. Investors will be so repelled by the added cost, the bill's opponents say, that they will buy and sell outside the United States or go underground.

Although comments of this sort are not surprising, the truth is that the Kennedy bill is a very reasonable proposal. The artist would be entitled to 7 percent of the appreciated value of the work, provided that the resale price is more than 150 percent of the original price and that the work cost more than $1,000 to begin with.

There are many indicators that belie the "delicacy of the market" argument. Investors have not balked, for example, at the 10 percent buyer's premium imposed by auction houses. And New York City has continued to be the art commerce capital of the world, despite our whopping sales tax of 8.25 percent.

The issue is something larger than marketplace friction. It has to do with that connection between artists and their work that we want to recognize. It has to do with knowing that the artist is the indispensable element here. And it has to do with a kind of elemental fairness intrinsic to our American values.

Ideas, even good ideas, have a hard time surviving without strong support. The Independent Committee on Arts Policy tenaciously supports and endorses this bill, applauds the senators and representatives who are working for its passage, and urges all Americans to recognize its vital importance.

A TRIBUTE TO WILLIAM VICTOR SINNOTT

● Mr. HECHT. Mr. President, on October 4, 1987 Nevada and, indeed, America lost a great citizen. William Victor Sinnott succumbed to cancer, a disease he fought quietly yet courageously for the past several years.

Among Bill's numerous contributions to his state and country was his service to our friend and former colleague, Senator Paul Laxalt. Senator Paul was terribly saddened by Bill's passing, and understandably so, for Bill had ably and faithfully assisted Paul Laxalt for many years.

I think it appropriate that Senator Laxalt's reminiscenses about William V. Sinnott be included in the CONGRESSIONAL RECORD. They are as follows:

Bill Sinnott was the quintessential public servant.

Never in my 30 years in public office did I come across an individual who handled the affairs of government service with such competence and dedication. Bill set a standard that the rest of us could only hope to achieve.

He was a patriot, a pioneer, a family man and a dear friend.

Bill's story began on March 31, 1916 in Jersey City, New Jersey when he arrived as the third child of John L. and Margaret Casserly Sinnott.

After attending local schools, Bill attended Villanova University on an athletic scholarship. He was elected junior class president and played on the Villanova basketball team that went to the National Collegiate Athletic Association tournament in 1940.

After attending Georgetown University Law School in Washington, D.C., Bill began his distinguished career in public service when he joined the Federal Bureau of Investigation. He served as an FBI agent for nine years, working in the southern, eastern and northeastern sections of the United States.

A former FBI colleague, Robert Maheu, called Bill "one of the greatest agents of the entire Bureau."

In a lighthearted remark that described Bill's characteristic avoidance of public acclaim, Mr. Maheu said, "Bill and I were the only former agents who didn't claim to have killed John Dillinger.'

Mr. Maheu concluded on a serious note: "I've never met a person who could exude so much confidence while at the same time having the ability to temper that confidence with humility."

Bill left the FBI to become the assistant chief of staff of the Senate Appropriations Committee's Investigations Division. His sponsor on the committee was former New Hampshire Senator Styles Bridges.

It was during Bill's service in the Senate that the Laxalt family first came into contact with this remarkable individual. My brother John, then an employee of the Appropriations Committee, worked on many matters with Bill.

At about the same time, the federal government was becoming increasingly skeptical of Nevada's ability to eradicate organized crime from the state's gaming industry.

Governor Charles Russell decided to strenghthen gaming enforcement by replacing the old tax commission with a gaming commission and a gaming control board, the latter having investigative responsibilities.

In appointing people to the gaming control board, Governmor Russell was looking for law enforcement professionals who were combat veterans in the war against organized crime. My brother John felt that Bill was a natural for the position and I recommended him to the Governor who wholeheartedly agreed that Bill had exactly the qualifications he wanted for the sensitive position. Bill accepted the appointment and moved to Carson City to become a member of the original gaming control board.

Bill was a central figure in the establishment of many of the gaming enforcement policies that are still in place today. He was instrumental in establishing mechanisms by which the state could ferret out hidden and unsavory ownerships. Nevada gaming survived and prospered in large part due to Bill's efforts.

It was during this period that Bill Sinnott took under his wing a young Carson City district attorney named Paul Laxalt. I looked up to Bill as the ideal public servant, a person lacking any ambition other than to carry out his responsibilities in an honest and effective fashion.

When I was elected Lieutenant Governor in 1962, Bill was there to offer valuable advice. When I was elected Governor in 1966, one of my first actions was to hire Bill Sinnott. it was probably the wisest decision I made as Governor.

In his capacity as "special assistant," Bill served as my link with the state legislature, my closest advisor on gaming matters and my "sounding board" on issues as diverse as the environment at Lake Tahoe and the top secret activities at the Nevada Test Site.

During my governorship, we passed a law that would allow for the first time "corporate" ownership of gaming establishments. Our administration felt that by permitting publicly traded corporations into the gaming business, we would be taking a significant step toward legitimizing an industry that was economically indispensable to Nevada. Bill was "on the point" during the ensuing fight to pass this legislation and he, as much as anyone, was responsible for its eventual success.

Bill's maturity and calmness were valuable assets in those days. When a particularly unpleasant news story would appear, Bill was always there to put perspective on the situation. I remember one of his more profound lines: "The extent of a crisis can be measured in direct proportion to the reaction to that crisis." Those words of wisdom often prevented us from turning "brush fires" into "forest fires."

When I left politics for a brief period during the early 1970s, the Laxalt family opened a hotel-casino in Carson City. Bill came with us and he was as valuable in the private world as he was in the public.

When I was elected to the Senate in 1974, I hired Bill once again as a special assistant. He ran my regional office in Carson City and continued to serve as a close confidant and advisor until my retirement in 1987.

Paul Laxalt was not the only person to benefit form the wisdom of Bill Sinnott. I've often said that Bill was the "E.F. Hutton" of Nevada: When he spoke, people listened. Senators, Governors, state legislators, staff officials, all came to Bill for advice.

Sought after as he was, Bill never confused his priorities. His real pride was his beautiful family. He and his lovely wife Peggy, who passed away in 1979, were blessed by four sons and a daughter. They are great people and a credit to their wonderful parents.

In recent years, cancer took its toll on this courageous man. But he handled even the most difficult periods with courage and dignity, right to the very end.

I thank the good Lord for giving Bill a graceful exit. I'm so pleased that he will now have his richly deserved rest in peace with Peggy.

Following Bill's funeral service, a reporter came up to my brother Robert and asked him for his thoughts. Bob simply replied, "The quiet man went down." How true. But Bill's contributions, understated as they were, continue to have influence and impact across Nevada and the nation. Indeed, he lives through his legacy of accomplishments.

All of us owe a profound debt of gratitude to this fine man and I, more than any other public servant, thank the good Lord for having blessed our presence with the likes of a Bill Sinnott.

Mr. President, I associate myself with the thoughts of Senator Laxalt and commend them to each Senator for consideration and appreciation.●

THE REAGAN 2,000

● Mr. GLENN. Mr. President, I was disappointed to learn yesterday that President Reagan had expressed strong opposition to the budget reconciliation provision freezing the top estate tax rate, which is scheduled to drop next year. I was especially outraged when I discovered for whose benefit the President took this extraordinary step. About 2,000 individuals. Thankfully, the Finance Committee ignored the President's protests.

Who are the "Reagan 2,000" but America's richest individuals and the heads of our wealthiest families. While this elite, little group is not your run-of-the-mill special interest, it obviously has influence where it counts—in the White House.

Unless the law is changed, the top rate of 55 percent, which now applies to estates valued at over $3 million, will drop to 50 percent on estates over $2.5 million. Consider that just a little over 10 years ago, the top rate was 77 percent. A further reduction in the tax rate will be nothing more than another windfall for the silver-spoon set.

We, here in Congress, are asking the elderly, the disabled, the poor, college students, civil servants, small businesses, corporations, and others to sacrifice a little—and for some, a lot—to help lower the Reagan deficit.

To what extent are the very rich going to be asked to help pick up the tab for the fiscal binge we have been on since 1980? Very little, it seems.

Under the Tax Reform Act of 1986, the top rate on income will drop next year from 38.5 percent to 28 percent. (Although I supported tax reform, I still believe that it could be more progressive.) And if the President's efforts are successful, the estate tax rates, which apply to the fortunes of the rich, will be cut once again. Recall that these reductions will be on top of the steep cuts made in the President's 1981 tax bill.

The President's defense of the very rich is embarrassing, coming at a time when Americans of much lesser means are being asked to take a hit under the budget reconciliation bill. This says much about the politics of Ronald Reagan. It may have been morning in America when the President was reelected 3 years ago, but for those Americans who do not have the sympathies of the President, darker, leaner days may lay ahead.●

INFORMED CONSENT: KENTUCKY

● Mr. HUMPHREY. Mr. President, I ask that a letter in support of informed consent from a woman in Kentucky be entered into the CONGRESSIONAL RECORD. Unfortunately, her experience is very similar to the experiences of many women who have undergone abortions without the benefit of full disclosure. I urge my colleagues to support S. 272 and S. 273 as necessary measures to ensure that women will be provided with the information they need to make an informed choice on such a life changing decision.

The letter follows:

JUNE 21, 1986.

DEAR SENATOR HUMPHREY: I am writing you in support of the "Informed Consent Bill" which you are presenting for those of us who were not informed before we had our abortions. Speaking as a women who had an abortion almost 11 years ago, I thank you for your concern for those of us suffering from "Post-Abortion Trauma" and are unable to be in the position to do anything about changing our law.

I hope and pray that you will push onward in passing this bill to help those women who don't understand what they are setting themselves up for.

When I was 16, I was shuffled through an assembly line abortion. I was number 13 of 17 who went through the morning session at one abortion clinic on June 25, 1975. My anniversary date is approaching fast. That date continues to be fresh in my mind. Physically, I had no problems with my abortion, but, emotionally I created a "Living Hell" that continues on a daily basis.

Immediately following the "SIMPLE-BAND-AID PROCEDURE" I became heavily involved with drugs and alcohol. (I didn't have to think if I was HIGH). I became promiscuous (Anything to reaffirm my low self-esteem.) I continued for eight years, beating myself into the ground. But the "heartache" never stopped. I began seeing a psychologist in college, but he wouldn't let me talk about my abortion. He said it was over and done with and I should forget it.

I couldn't talk to my family because they didn't know about my "removal of tissue". So the self inflicted destruction continued. After 8 years I decided that I could "make up" for my abortion by having another baby. So I intentionally went and got pregnant again, only this time I had the baby and placed it for adoption. She was born June 25, 1983. She was placed for adoption in the same city that my abortion took place in. If you hadn't noticed the psychological scars run deep. I am not sure that the tears will ever stop. I have been waiting almost 11 years now and they never seem to cease.

It is difficult to lay your head down at night knowing that I "chose" to allow someone to invade my body and remove my child. If I had known that it would be difficult to sleep at night and that every time I saw a child about the same age as the one I got rid of my insides would flinch, or that I felt I had to have another child to "justify" my actions as a teenager, I hope and pray I would have made another decision.

So thank you Senator Humphrey for your concern for those of us who in the midst of a hormonal change and overcome with fear, may at least be informed that abortion does have side effects. I hope that by sharing what abortion did to me, it will save one woman from the low self-esteem and continual self-abuse that was a direct result of my abortion. Thank you in behalf of the women who don't even know how much pain you are trying to save them from.

Sincerely,

TERESA WIBBELSMAN.

KENTUCKY.●

HUMAN RIGHTS IN AFGHANISTAN

● Mr. HUMPHREY. Mr. President, a group of six eminent legal experts on international law recently released a compelling report on human rights in Afghanistan. The group, known as the Independent Counsel on International Human Rights, has spent much of the past 15 months preparing the timely and well-documented report on war crimes and the human rights situation in Afghanistan.

The Independent Counsel on International Human Rights is a group of six lawyers from Sweden, the United Kingdom, Malta, and the United States. The group began its project in August 1986 with the support of the Committee for a Free Afghanistan.

In February 1986, the United Nations special rapporteur on human rights, Dr. Felix Ermacora, warned that Soviet policies in Afghanistan would lead inevitably to a "situation approaching genocide." The U.S. Senate, in two resolutions, called on the State Department to investigate allegations of genocide against the Afghan people. As far as I can determine, no report was ever completed. In fact, earlier this year, Senators BYRD and DOLE joined me in a letter to Secretary Shultz asking why no action was ever taken.

The Independent Counsel for International Human Rights, prompted by the warnings of the United Nations and the inaction of the State Department, undertook their study to determine if, in fact, there was substantial evidence of war crimes in Afghanistan.

Since January 1987, a period coinciding with the announcement of the PDPA's so-called policy of "national reconciliation" the group spent more than 177 man-hours in Pakistan interviewing, examining and cross-examining hundreds of witnesses. In reaching their conclusions, the Independent Counsel followed strict and narrow interpretations of the laws of war and genocide.

I am sure all of my colleagues are aware of the reported abuses of human rights in Afghanistan. Just last month, the Congressional Task Force on Afghanistan held an exhaustive 4-hour hearing on the human rights situation in that war-torn country. The testimony was compelling.

The Independent Counsel's report unfortunately confirms all of our worst concerns. And it goes one step further. I quote: "In the view of the Independent Counsel on International Human Rights, there is considerable evidence that genocide has been committed against the Afghan people by the combined forces of the DRA [Democratic Republic of Afghanistan] and the Soviet Union."

I am pleased that on November 17, 1987 the United States introduced the Independent Counsel's report to the United Nations as an official document. The report is now on record at the United Nations and has been translated into all official United Nations languages, including Russian, Chinese, and Arabic. This step will go far in increasing international pressure on the Soviet Union for its atrocious behavior in Afghanistan. It is my hope that the circulation of this report will ensure the Court of world public opinion does not stand in silence while the Soviets continue pursuing deliberate policies of genocide in Afghanistan.

I urge my colleagues to read this compelling and timely report on human rights in Afghanistan, and ask that the full text of the report be printed in the CONGRESSIONAL RECORD.

The report follows:

REPORT OF THE INDEPENDENT COUNSEL ON INTERNATIONAL HUMAN RIGHTS ON THE HUMAN RIGHTS SITUATION IN AFGHANISTAN

1. In order to assist governments considering the question of the current state of human rights in Afghanistan, the Independent Counsel on International Human Rights present this report on their recent inquiries in this area.

I. BACKGROUND OF THE INDEPENDENT COUNSEL ON INTERNATIONAL HUMAN RIGHTS

2. The Independent Counsel on International Human Rights is an independent ad hoc multinational panel of experts in international law. In particular, the members of the group are scholars who have special expertise in the law of international human rights, especially humanitarian law.

3. Professor Goran Melander is Assistant Professor of International Law at the University of Lund in Sweden and Director of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law. Professor Melander has written articles and books on the subject of human rights law, with particular emphasis on refugees. He has made many trips to Africa and Asia to assess con-

ditions in refugee camps against international legal standards.

4. Professor W. Michael Reisman, another member of the Independent Counsel on International Human Rights, is Hohfeld Professor of Jurisprudence at Yale Law School in New Haven, Connecticut, U.S.A. Professor Reisman has published many articles and books in the field of human rights and international law. He has also been an expert witness on international legal issues before numerous U.S. and international judicial bodies.

5. Miss Francoise J. Hampson is a Lecturer in Law at the Centre of International Human Rights Law at the University of Essex in the United Kingdom. She did her postgraduate work in international law and armed conflicts and has written on various subjects in the field, including works on mercenaries and international crimes. Professor Hampson regularly presents cases to the European Commission of Human Rights.

6. Dr. Mark A. Miggiani is a lawyer in private practice in Malta. In addition to his post-doctoral work on the laws of booby-traps and mines at the Institute de Hautes Etudes Internationales in Geneva, Dr. Miggiani was the rapporteur of the United Nations Conference on the Removal of War Remnants from North Africa.

7. The staff of the Independent Counsel on International Human Rights consists of Charles H. Norchi and James J. Busuttil. Mr. Norchi, who directs the project, is currently Visiting Scholar in residence at Yale Law School in New Haven, Connecticut, U.S.A. He has studied widely in the area of international human rights and has visited Southwest Asia on many occasions. Mr. Busuttil, the rapporteur of the project, is an attorney in private practice with the law firm of Porter & Travers in New York City, specializing in international matters. Two research associates, Rebecca Thompson of Canada and William R. Sims of the United States, and an Afghan interpreter, Moossa Rafey, have also assisted the Independent Counsel.

II. SCOPE AND NATURE OF INQUIRY

A. Legal terms of reference

8. It is apparent that the human rights situation in Afghanistan is a complex one. The state of armed conflict which exists in many parts of the country and the fact that the country is effectively closed to world media makes a general analysis of the status of human rights problematic. Nonetheless, questions have been raised by international institutions, including the United Nations, and certain nongovernmental organizations, such as Amnesty International, about the adequacy of the protection of fundamental human rights in Afghanistan and a number of disquieting reports concerning the situation have been published. The Independent Counsel is concerned about violations of human rights and humanitarian law by anyone, including governments and opposition groups. Governments have the responsibility for dealing with such abuses, acting in conformity with international standards for the protection of human rights and humanitarian law.

9. The Special Rapporteur on Afghanistan appointed by the United Nations Commission on Human Rights has provided much needed information on the situation in Afghanistan. However, his visits to the area, most recently including a stop in Afghanistan, have been brief and his access to persons limited. In their inquiry into the state of human rights in Afghanistan, the Independent Counsel have sought to provide a broader perspective than can be provided by a single individual working within certain constraints and with only limited time and resources.

10. Disagreement is possible concerning what constitutes the full spectrum of internationally protected human rights which should be available to the Afghan people. This disagreement arises in part because of the state of armed conflict which exists in Afghanistan. The scope and content of certain internationally protected human rights may be open to some legitimate debate, but it is also beyond doubt that there exists a core of rights from which no derogation is possible without censure. The Independent Counsel wished to limit themselves to those fundamental rights which apply in the current Afghan context without any question. As its point of departure, and as its main reference, the Independent Counsel therefore adopted Common Article 3 of the Geneva Conventions of 12 August 1949, the relevant text of which follows:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions;

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with, respect to the above-mentioned persons;

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording: all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

11. Although Common Article 3 of the 1949 Geneva Conventions does not need much elaboration, it is appropriate to sketch quickly its terms. The scope of application of Common Article 3 is to armed conflicts which are not of an international character. The fundamental safeguards which it provides and from which no derogation is possible have been accepted by the 165 States which have ratified the Geneva Conventions. The basic tenet of Common Article 3 is the affirmative obligation to treat humanely all persons taking no active part in hostilities. Among the outstanding features of Common Article 3 applicable to the Afghan situation is its prohibition of torture and extrajudicial executions.

12. In addition to Common Article 3, certain other provisions of international humanitarian law and of international human rights law applicable during times of armed conflict completed the legal terms of reference of the Independent Counsel. Two of the fundamental customary principles of international humanitarian law which have also been enshrined in the Regulations annexed to the 1899 Hague Convention and the 1907 Hague Convention are that parties to an armed conflict do not have an unlimited choice of methods and means of warfare and that the use of weapons which are calculated to cause unnecessary suffering is prohibited. As these customs developed at a moment in time when hostilities were conducted exclusively between sovereign, independent states, the Independent Counsel have therefore kept in mind that these norms do not necessarily apply automatically in their totality to the Afghan situation; similarly for the provisions of the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases (especially as it relates to the use of chemical warfare against civilian populations) and Protocol II to the 1981 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (which relates to the use of mines, booby-traps and other devices directed against civilians). These provisions have, nonetheless, provided the Independent Counsel of International Human Rights with guidance as to what is internationally expected and demanded of belligerents in contemporary armed conflicts.

13. In addition to the foregoing rules of international humanitarian law, the non-derogable provisions of the International Convenant on Civil and Political Rights were within the terms of reference of the Independent Counsel. In particular, Articles 6, 7, and 18, which to some extent overlap and reinforce humanitarian law principles already discussed, were used by the Independent Counsel. Article 6 protects the right to life, including within its terms protection from extrajudicial executions. Article 7 prohibits torture and cruel, inhuman or degrading treatment or punishment. Article 18 protects the right to freedom of religion. The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment provides further guidance in this area.

B. The fact-finding trips

14. These legal terms of reference were applied by the Independent Counsel during their visits to the region. It was clear to the Independent Counsel that a short visit would not be sufficient to adequately assess the enormous amount of information available on the human rights situation in Afghanistan. A series of trips were therefore planned. A preliminary trip to establish contacts and make an initial assessment was to be followed by a trip by the full group and then another visit would be undertaken to fill in missing or incomplete information and confirm other information, all within a relatively short period of time. This would provide as complete a picture as possible and allow a full and fair analysis of the status of the protection of human rights in Afghanistan within the legal terms of reference which the Independent Counsel have adopted.

15. Because of the complexity of the situation, the Staff undertook a three week trip to Pakistan in January 1987 to establish initial contacts with those persons who would be able to assist the Independent Counsel in their fact-finding missions. The Project Director and the Rapporteur spent five days in Islamabad, meeting with diplomatic agents and United Nations officials involved in the relief operations among the Afgan

refugees. They then travelled to Peshawar, North West Frontier Province, Pakistan, and spent two weeks among the Afghans there. They visited refugee camps in Baryalai and Motta and a camp located in the immediate vicinity of the Afghan-Pakistan border, interviewing in depth over 170 persons who provided first-hand testimony concerning their experiences in Afghanistan. These refugees came from many provinces including Balkh, Kunduz, Baghlan, Herat, Ghardiz and Nangarhar. In Peshawar, more than a dozen persons from Kabul, Paktia and Wardak Provinces who claimed that they were victims of torture were interviewed. Most claimed to have been held in Pul-e-charki Prison in Kabul, although other prisons were also mentioned as places where torture took place. The Staff also visited a number of relief organizations, such as the Saudi Red Crescent, Aide Medicale International, Medecins Sans Frontiers, Afghan Aid, International Committee of the Red Cross and German-Afghan Committee. Representatives of these organizations and journalists who had spent time in Afghanistan were able to present both analytical information of patterns of activities in Afghanistan based on their organizations' many contacts with Afghans and direct evidence grounded in personal experience.

16. The Independent Counsel on International Human Rights visited Pakistan for approximately three weeks during March 1987. The panel spent three days in Islamabad meeting with officials of the Government of Pakistan and diplomatic agents. Nine days were spent in Peshawar where the Independent Counsel visited Monda and other camps. During these interviews with refugees, persons from Nangarhar, Qandahar, Farah, Parwan, Kabul, Lowgar, Laghman, Kunduz, Herat, Kapisa, Kunar, Badghis, Ghazni, Wardak, Takhar and Jowzjan Provinces provided testimony. Over 40 torture victims from Kabul, Takhar, Lowgar, Parwan, Kunduz and Baghlan Provinces were interviewed by the Independent Counsel at the Psychiatric Centre for Afghans in Peshawar. These persons claimed to have been tortured in Pul-e-charki, Saddarat, Shashdarak and other prisons. In all, the Independent Counsel interviewed over 150 Afghan refugees in Peshawar. In Peshawar, the Independent Counsel also met with doplomatic personnel, the leaders of Afghan resistance groups, workers in international relief organizations and representatives of the Government of Pakistan active in Afghan refugee affairs. The Independent Counsel also spent four days in Quetta, capital of Baluchistan Province. While in Quetta, the Independent Counsel visited a number of refugee camps including Pishin/Sorhab, and interviewed over 100 Afghan refugees from Badghis, Helmand, Qandahar, Zabul, Takhar, Jowzjan and Kunduz Provinces. They also met with former officials of the Government of Afghanistan and representatives of international relief organizations, including the International Committee of the Red Cross.

17. Following this visit, the Independent Counsel on International Human Rights wrote to the Government of Afghanistan on May 18, 1987 requesting permission to visit Afghanistan in order to continue their investigations inside the country. The Independent Counsel recognized the desirability of receiving information on the human rights situation in Afghanistan from citizens of Afghanistan who are still in their country and not yet in exile. The Independent Counsel have not yet received a response to their letter.

18. In order to confirm certain facts and update information, the Project Director and Research Associate spent three weeks during August and September 1987 in Pakistan. The Staff spent three days in Islamabad, speaking with officials of the Government of Pakistan and diplomatic agents. They spent four days in Chittral, visiting Orghoch, Dungshora and Goram Chasma camps. While in Chittral, they interviewed 22 persons from Kunar, Kapisa, Kunduz, Badakhshan, Laghman, and Takhar Provinces who described events with Afghanistan occurring during 1987. The balance of the Staff's time was spent in Peshawar, where they interviewed over 50 persons from Parwan, Kabul, Nangarhar, Kapisa, Badakhshan, Kunduz, Junar, Lowgar, Paktika, Paktia, Ghazni, Balkh, Takhar, and Laghman Provinces. Relief workers, journalists, and diplomatic personnel were also interviewed in Peshawar. Following this trip, the Staff also visited the Stiftung Bibliotheca Afghanica Foundation in Liestal, Switzerland to continue its research.

19. In all, during 1987 members of the Independent Counsel on International Human Rights spent 177 man-days in Pakistan and uncounted days outside that country investigating the human rights situation in Afghanistan.

C. *Investigative techniques*

20. Aware of the gravity of the matter which they were investigating, the Independent Counsel on International Human Rights sought to use methods which would allow them to make an accurate evaluation of the information which they received. The Independent Counsel interviewed many persons, seeking in numbers to ascertain patterns of testimony that evidenced truth rather than focusing on individual events. Geographic diversity was also sought and persons from nearly every province of Afghanistan have been interviewed by the Independent Counsel. Among the Afghans in exile, there are seven major parties, and persons from all such parties were interviewed. The Independent Counsel visited camps spread along the Afghan/Pakistan border from Chittral to Quetta.

21. Many interviews took place in a random fashion, with the Independent Counsel stoping in a hut or tent and conducting interviews with the persons who inevitably gathered around. So as to further minimize the possibility of coaching of witnesses, guides were not informed of areas of interest to the Independent Counsel and questioning ranged over a number of topics. The persons interviewed included village elders. mujahedeen commanders. ordinary Afghans and children. Some witnesses were university educated, while others were peasants or artisans. All interviews were taped so that the translations could later be checked. Except for certain torture victims, no witnesses were prescreened. Witness demeanor was very important, with some testimony being rejected because of the witness' behavior and credibility. Arrangements were sometimes made to interview a witness again. An adversarial, probing interview technique was adopted which, because of the Afghan cultural emphasis on speaking the truth among peers, occasionally met with surprise and anger. Anything other than eyewitness testimony was discouraged and discounted. Taken together, the Independent Counsel on International Human Rights believe that these methods, applied during the lengthy period of their investigations, provide them a firm basis for the conclusions which they have reached concerning the situation of the protection of human rights in Afghanistan.

III. CONCLUSIONS OF THE INDEPENDENT COUNSEL

A. *Torture*

22. Torture has been defined by the United Nations General Assembly (G.A. Res. 3452) as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession. . . . Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment." Article 7 of the International Covenant on Civil and Political Rights (ICCPR) provides that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 4(2) of the ICCPR specifically precludes any derogation from Article 7, even in time of war or other public emergency. Afghanistan acceded to the ICCPR in 1983 and the USSR ratified the treaty in 1973. Afghanistan also signed on 4 February 1985 the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which has recently entered into force. The prohibition of torture and cruel, inhuman or degrading treatment is absolute.

23. Torture is prohibited under Article 30 of the Fundamental Principles (the provisional constitution), and is punishable under Article 275 of the penal code, of Afghanistan and is also contrary to Article 3 of the Afghan law on the Implementation of Sentences in Prisons (1982).

24. The Human Rights Committee, in its General Comment on Article 7 of the ICCPR noted "that it is not sufficient for the implementation of this article to prohibit such treatment or punishment or to make it a crime. Most States have penal provisions which are applicable to cases of torture or similar practices. Because such cases nevertheless occur, it follows from Article 7, read together with Article 2 of the Covenant, that States must ensure an effective protection through some machinery of control. Complaints about ill-treatment must be investigated effectively by competent authorities. Those found guilty must be held responsible, and the alleged victims must themselves have effective remedies at their disposal, including the right to obtain compensation."

25. In July 1985, during the consideration of Afghanistan's initial report under Article 40 of the ICCPR by the Human Rights Committee, reference was made to the allegations of torture cited in the February 1985 report of the United Nations Special Rapporteur on the situation of human rights in Afghanistan. The Afghan representative stated that the information in the report was "totally fallacious" but gave no information to indicate that the allegations had been investigated or that effective action had been taken against those responsible.

26. It has been alleged that Afghans captured by the KHAD (Khedamat-e-Etelá to at-e Dawlati, i.e., State Information Services) are routinely tortured, particularly at KHAD bases in Kabul. Soviet advisers are allegedly often present, either in the same room or in an adjacent room. In addition, there have been reports of Soviets torturing Afghan prisoners. The conditions in Pul-e-charkhi prison are claimed to be both inhuman and degrading.

27. The Independent Counsel received the testimony of over forty alleged torture victims. Most had been captured in their homes. In most cases, the KHAD were seeking a specific individual but some were arrested as part of a general roundup of villagers. Only one person interviewed was detained immediately following a military operation. Those arrested outside Kabul were usually taken initially to the KHAD center in the nearest city before being transferred to Kabul. Torture is reported from such centers as Jalalabad and Qandahar. Some prisoners were sent straight to Kabul. The most common pattern is for people to be taken to the KHAD headquarters at Shashdarak for initial interrogation, then being transferred to the central interrogation office at Saddarat, where the interrogation may extend over a few months. Torture is reported at both these centers and also at other KHAD offices in Kabul (e.g., "No. 5") and at Khad-e Nezami, the military intelligence wing of the KHAD.

28. The alleged torture was sometimes accompanied by interrogation and in other cases occurred between periods of questioning. The information sought included links with the mujahedeen and details of foreign involvement in the conflict.

29. A common pattern emerged from the testimonies. Torture begins with a "softening up" process, consisting of beating (with wire cables and/or sticks) and kicking. Several witnesses stated that they lost teeth and in some cases one or more of their nose, ribs or fingers were broken. One person reported having his hands crushed under a table leg. Torture then escalates. Several people reported having been subjected to electric shock treatment, in some cases to the point of unconsciousness. One witness reported having to sit in a chair in a small room and being forced to put his hands on the arms of the chair, through which he received a shock of such strength as to throw him out of the chair. More commonly, an instrument resembling a telephone with a handle was used. Wires from the machine were attached to the prisoners' fingers and/or toes and the handle was turned to produce the electric shock. In some cases the wires were attached to the prisoner's tongue, testicles or penis. Another technique involved wires from sockets in the walls being attached to the prisoner. The electric shocks were usually administered from two to five times a day for around twenty minutes at a time. This continued from a few days to a few months. Torture by electric shock was most commonly reported from Shashdarak and Saddarat but was also occasionally reported from other locations.

30. Some witnesses reported that doctors were present whilst they were tortured. Their function appeared to be to say when torture could take place and when it had to stop on account of the condition of the prisoner. The torture was usually administered by Afghans. In one case, the witness reported that Doctor Najibullah, then head of the KHAD and now leader of the Afghan Communist Party, came eight times to watch. In many cases, witnesses reported that Soviet "advisers" were in an adjacent room whilst the torture and interrogation took place. They knew they were Soviets by their language and appearance. They gave instructions to the interrogators. In some cases the "advisers" were present in the room during interrogation or torture or both. The witness capture after a military engagement was allegedly interrogated and tortured at the 37th Division of Afghan troops in Kabul by Afghans during the day and by Soviets at night. One of the Soviets was a Tadjik and spoke a little Farsi. The other was a Russian. The prisoner was kicked, beaten, subject to electric shock treatment and mock executions.

Conclusions on torture

31. There are inherent difficulties in the proof of allegations of torture, the Human Rights Committee has said that where specific allegations of torture and ill treatment are made and the respondent government merely dismisses them as "totally fallacious" (as did the Afghan government) giving no specific response or any indication that it has even investigated them "the Committee cannot but draw appropriate conclusions on the basis of the information before it." The evidence given to the Independent Counsel strongly suggests a systematic practice of torture carried out by members of the KHAD in the presence sometimes of doctors and of Soviets. In addition, evidence was received in one case of torture by Soviet officials. Using the Human Rights Committee's standard of proof, the delegation concludes that Afghans who are detained are routinely subjected to torture during interrogation.

B. Targeting of civilians

32. It has been alleged that civilians have been both the victims of indiscriminate attacks and also purposefully targeted. In some instances, it has been claimed that the latter has been by way of reprisal. Women and children, entitled to special protection under humanitarian law, have allegedly been the object of attack.

1. Indiscriminate attacks

33. It has been claimed that attacks have been launched against targets such as villages which make it impossible to distinguish between military and civilian objectives and that weapons have been used which are either indiscriminate by nature or have been used in an indiscriminate fashion.

34. One of the fundamental rules of the laws of war is the principle of distinction. Combatants are obliged to distinguish between civilians and combatants. Common Article 3 of the Geneva Conventions also requires that "persons taking no active part in the hostilities . . . shall in all circumstances be treated humanely". Furthermore, Article 6(1) of the International Covenant on Civil and Political Rights, to which no derogation is permitted under Article 4(2), provides that "No one shall be arbitrarily deprived of his life". Deaths resulting from indiscriminate attacks in breach of the laws of war would appear, from the very nature of the attacks, to represent an arbitrary deprivation of life.

35. As discussed in section D.1 of this report, the use of aerially dispersed mines is widespread in Afghanistan. Carpet bombing frequently occurs and the Independent Counsel received numerous testimonies that prolonged bombardment of villages for from 3 hours to 5 days invariably precedes a ground attack by Soviet troops.

36. The evidence received by the Independent Counsel confirms that in the Report of the Special Rapporteur of the Commission on Human Rights (A/41/778), who reported that "the action taken against the opposition movements and civilian population has been intensified since last year. . . . The bombardment of villages, attacks on convoys of civilians heading for Pakistan in search of refuge and regular house searches make it impossible for the civilian population to lead a normal life." (para. 37) In the annex to that document, at para. 28, the Special Rapporteur lists typical examples of indiscriminate attacks resulting in high civilian casualties. The Independent Counsel received evidence that such attacks had continued even after the announcement of "National Reconciliation" by the Government of Afghanistan in January 1987.

2. Purposeful targeting of civilians

37. It is claimed that civilians have been the target of attacks. Such attacks must be distinguished from those which occur during hostilities between combatants or against military objectives. In this context, it is alleged that troops in a position to distinguish between mujahedeen and civilians, principally soldiers on foot, are not merely failing to identify civilians, but are attacking civilians, including women and children.

38. The evidence presented to the Independent Counsel suggests that there are three distinct situations in which groups of civilians find themselves the object of attack. The first seems directed to the depopulation of areas of strategic value. The second involves the killing of individual civilians as part of a general attack on the civilian population of a village. The third situation is that of attacks on individual civilians, such as village elders or religious leaders, usually as a form of punishment or warning.

39. Heavy bombardment of frontier regions close to Pakistan, Iran and the Soviet border appears designed to prevent civilians, including the injured, from seeking refuge outside Afghanistan, as well as to protect borders from infiltration. For example, the Independent Counsel received evidence of the flattening of a village in Kunduz Province by bombardment in order to clear the area and establish a Soviet post. The village was bombed and then surrounded at night by a mixed force consisting principally of Soviet troops who attacked the next day. Many persons were killed in the bombardment and more were killed in the land-based attack. The crops were burned, livestock killed and most of the houses destroyed. This pattern is repeated in many border areas. Similarly, a 2 kilometer-wide band has apparently been cleared along the Salang Highway to protect the movement of troops and equipment from the Soviet Union to Kabul. The attacks appear designed to clear the areas in question of all persons, including civilians.

40. In addition to these strategic attacks, the Independent Counsel heard much credible testimony that villages with no connection to the resistance were attacked. In fact, a number of witnesses claimed that attacks were launched against villages in which there were no mujahedeen, the fighters being based in the countryside away from settlements precisely in order to spare civilians from attack.

41. Frequently, individual civilians are chosen for execution by Soviet troops upon their occupation of a village. In certain circumstances, persons are killed in retaliation for a mujahedeen operation nearby, especially if there have been Soviet casualties, or because they are related to a suspected mujahedeen. Just as frequently, village elders or religious leaders are rounded up and killed. Although in most cases these persons are shot, one popular technique appears to be to burn village leaders alive, with the Independent Counsel receiving a number of reports of persons being thrown

while alive into a room filled with burning wood.

3. Attacks on women and children.

42. The situation of women in Afghanistan deserves special note. It has been alleged that Afghan women have been raped by Soviet soldiers. There are more than the usual difficulties in investigating such claims in Afghanistan. It is not merely that Afghan women do not want to talk about such attacks, but that there is a conspiracy of silence on the part of Afghan men who feel shamed by their inability to protect their women. Evidence which corroborates this abhorrence of rape through Afghan society and which helps to explain why allegations are made against Soviet and not DRA troops came from one eyewitness to an attack on a village in Jowzjan Province by mixed Soviet-DRA forces in January 1987. Soviet soldiers were searching house to house for draft-age men. A twelve year old girl who ran away was caught by a Soviet soldier who started dragging her screaming to a tank. A DRA soldier shot and killed the girl while she was in the hands of the Soviet soldier. The witness was adamant that the Afghan was not trying to shoot the Soviet soldier, not least because there were many more Soviet than Afghan soldiers.

43. In addition to rape, the Independent Counsel occasionally heard testimony of other types of attacks on women. One particularly startling report was that given by a former Afghan Air Force pilot. A fellow officer's wife had been found praying. Her husband was on duty at the time. The following morning the pilots were called together and given a political lecture and told that their families should not be praying. The breasts of the pilot's wife were then dropped in front of him in a plastic bag.

44. Certain weapons which are of an indiscriminate nature appear to be particularly designed to injure children. In this category fall the various "toy bombs" and attractive booby-traps which are discussed in greater detail in section D.2 of this report. The hospitals and streets of Peshawar and Quetta are filled with Afghan children who have lost limbs to these deadly "toys."

Conclusions on targeting of civilians

45. In a conflict being fought within one state where the non-government forces are suspected of having the support of the civilian population, it may well be difficult to distinguish between military and civilian objectives. Based upon their investigations, however, the Independent Counsel seriously question whether *any* attempt is being made to distinguish between military and non-military targets by Soviet and DRA forces. On the basis of the evidence received by the Independent Counsel and confirmed in general terms by the reports of the United Nations Special Rapporteur, the Independent Counsel can state that civilians have been the victims of indiscriminate attacks and attacks by means of indiscriminate weapons in violation of the laws of war and international human rights law.

46. The evidence presented to the Independent Counsel further suggests the regular breach of each of the prohibitions of paragraphs 1 (a), (c) and (d) of Common Article 3 during the course of deliberate attacks on civilians. Under the Geneva Conventions, States are obliged to seek out and bring to trial alleged perpetrators of grave breaches of the Conventions and can be held responsible for the failure to do so. The State is certainly responsible for the acts of its armed forces when those acts recur in a consistent fashion over the course of time. The evidence that massacres of civilians by Soviet troops are a not infrequent occurrence in Afghanistan suggests at least the tolerance and quite possibly the encouragement of that state of affairs on the part of Soviet officers all the way up the chain of command.

C. Executions in the field of captured combatants and civilians

47. Protection against extrajudicial executions, either of civilians or of combatants, is one of the fundamental aspects of the Geneva Conventions. The "passing of sentences and the carrying out of executions [against noncombatants in a non-international armed conflict without previous judgment pronounced by a regularly constituted court" is a violation of Common Article 3 of the Geneva Conventions. Before the death penalty on a prisoner of war can be executed "a period of at least six months" must pass so as to ensure against a judgment "too often affected by emotional considerations." See Pictet's *Commentary* on Article 101 of the Third Geneva Convention. Further, non-derogable Article 6 of the International Covenant on Civil and Political Rights protects the right of life of all persons, including within its terms protection from extrajudicial executions.

48. The guarantee against extrajudicial executions contained in the laws of war and the international law of human rights appears to be completely ignored in Afghanistan by the Soviet and DRA forces. Time after time the Independent Counsel heard of the execution by Soviet and DRA forces of innocent civilians taking no active part in the war. The testimony demonstrates a pattern of aerial and ground bombardment of a village followed by the occupation of the village by mixed DRA and Soviet forces followed by the execution of village elders or leaders, such as the mullah, as a public demonstration of power by the occupying forces.

49. On numerous occasions the Independent Counsel also received credible and confirmed testimony that mujahedeen captured on the battlefield were killed by Soviet and DRA military forces. It appears that mujahedeen commanders are chosen for special treatment, i.e., they are held for later torture to extract information about contacts and supply sources, while the rank and file mujahedeen is executed on the spot usually by automatic weapons fire. Without regard to their classification as prisoners of war in an international armed conflict or persons who have laid down their arms in an armed conflict not of an international character, such extrajudicial executions are a gross violation of the fundamental dictates of humanity and of international law.

D. Use of weapons

50. The Independent Counsel approached the issue of the weapons being utilized by the Soviet and DRA armed forces from two perspectives: that of the unlawful use of lawful weapons and that of the use of unlawful weapons.

1. Unlawful use of lawful weapons

51. In this context, Protocol II to the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to be Excessively Injurious or, to Have Indiscriminate Effects enlightened the provisions of Common Article 3 for the Independent Counsel. The civilian population is much more likely to be injured by the dispersal of mines or other explosives by means which make it impossible to keep such explosives away from civilian populations. Those persons taking no active part in hostilities can hardly be protected from violence to life and person as required by Common Article 3 if explosives are dropped from high altitudes or dispersed by artillery.

52. The Independent Counsel heard countless reports of small land mines being dropped from helicopters or scattered from airplanes over fields, mountains and farm land. These bombs can readily be seen in Pakistan where a number of diffused "butterfly bombs" were shown to the Independent Counsel. While these types of mines might even be illegal weapons under the 1981 Convention when directed at combatants, they are certainly illegal when distributed in such a way as to demonstrate at a minimum a disregard for the safety of the civilian population and more likely, given the widespread nature of their use, the deliberate targeting of civilians and their livestock.

53. Area or "carpet" bombing has been reported for many years in a number of regions of Afghanistan, including most notably the Panjsher Valley of Paktika. The Independent Counsel received testimony from members of international relief organizations who personally witnessed sustained carpet bombing in the Panjsher Valley and from Afghans whose villages where destroyed in this way. This type of high altitude bombing of large areas without regard to the distinction between military installations and civilian populations is inconsistent with the obligations of Common Article 3.

54. The disregard of accurate recordkeeping of mines vis-a-vis the civilian population is most telling when the situation of anti-personnel mines surrounding DRA and Soviet posts is considered. Afghans involved in the armed conflict report that DRA and Soviet outposts are surrounded by anti-personnel mines. Villagers living near rural outposts report that when one set of Soviet troops relieves another at a post, some Soviet soldiers are invariably killed when they venture into the minefield to plant new mines. The conclusion reached is that no records of mines are maintained even for transmittal to the next force of Soviet soldiers in a post.

2. Use of unlawful weapons

(i) Booby-traps

55. Throughout, its investigations the Independent Counsel was presented with testimony concerning the use of booby-traps by Soviet forces against the civilian population. The placing of mines, grenades and other explosives in positions where such explosives are calculated to or would reasonably be expected to cause injury to civilians and not to combatants is in violation of Common Article 3.

56. Dozens of witnesses told stories of returning to their villages and homes following attacks by Soviet soldiers to find bombs and grenades placed in doorways so as to explode when a door is opened, along paths to fields and by plants and bushes which will be collected for firewood and food. Therefore, in addition then to the random placing of uncharted land mines and the aerial dispersal of anti-personnel mines, the Independent Counsel received evidence of the international placing of explosive material where it was calculated to cause injury to civilians when they returned to their homes following an attack.

57. Besides the classic booby-traps described briefly above, it has been alleged that "toy bombs", i.e., explosive material in

the form of children's toys, cassette recorders, pens, radios, watches, cigarette packets, etc. have been left scattered throughout villages and surrounding fields following armed attacks by Soviet troops. The Independent Counsel heard repeated testimony of the use of such weapons. The items included a small red doll which exploded when pushed with a stick (which was filmed and shown on national television in the USA), pens, tape-recorders, money, naswar boxes (a form of snuffbox) and cigarette packets. The accounts were consistent but not identical, which adds to their credibility. So, for example, the descriptions given of the "cassette recorders" varied but the eyewitnesses were certain that what they had seen was supposed to be such a machine. It was clear from the detailed description of the pens that they were not being confused with "time pencils". The overwhelming evidence suggests (1) the fake items are designed to be attractive to civilians; (2) not all objects are fake—some of the objects, such as pens, are real to increase the likelihood that someone will investigate and handle the objects; and (3) the items are not likely to be attractive to the mujahedeen, who know of the likely dangers.

(ii) Chemical weapons

58. The use of chemical warfare by Soviet forces was raised by certain of the testimony the Independent Counsel heard. Many persons provided evidence on the use of chemicals to poison food and water supplies. In some instances, chemical weapons were used directly against the civilian population. For example, it is known that villagers in Afghanistan hide in tunnels which branch off of water wells. One man, hiding in a house during a Soviet attack on his village, testified that he saw a Soviet tanker truck pull up to a well in the village and a person completely covered in a protective suit pour an unknown chemical into the well from a pipe attached to the tanker. After the truck left, the person in the protective suit threw a small device into the well and ran away. Shortly thereafter, a cloud of gas or smoke emerged from the well. After the Soviet troops left his village, the witness and others went to investigate and found everyone in the well, including many members of the witness' family, had died.

59. Use of chemical weapons against civilians is a serious violation of the laws of war, including the Geneva conventions and the 1925 Protocol for the prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases. Although the Independent counsel cannot determine what particular chemical weapons have been utilized, it seems clear that chemical weapons have been used by Soviet armed forces against civilians on a number of occasions in Afghanistan.

Conclusions on use of weapons

60. The DRA and Soviet armed forces engaged in the war in Afghanistan do not appear to be inhibited in their choice or use of weapons. These troops continuously use potentially lawful weapons in an unlawful manner. Moreover, and more disturbing, Soviet troops use booby-traps and explosive household objects as part of their ordinary arsenal in blatant violation of the most fundamental laws of war.

E. Unlawful targets

61. Both the law of the Hague and the law of Geneva regulate, restrict and, in certain instances, prohibit the choice of targets by parties to an armed conflict. Certain targets unrelated to the armed conflict are illegal. In the course of their interviews the Independent Counsel noted that, in addition to such legitimate targets as mujahedeen installations, attacks appeared to be regularly launched against a variety of targets which are entitled to protection under international law. The frequency with which such attacks were described leads the Independent Counsel to believe that the reports they received were not of isolated mistakes, but of deliberate target acquisition by Soviet and DRA forces.

62. A previous portion of this report has been devoted to a description of attacks which have taken place on civilians. The targeting of civilians is of course in direct contravention to the affirmative obligation of Common Article 3 which requires that persons taking an active role in hostilities be treated humanely.

63. Intimately related to the lives of the civilian population is their food and water supply. A number of international relief organizations indicated that their attention was shifting from the provision of medical care to the provision of food, usually in the form of seed for planting. The shortage of food caused by the destruction of food supplies was independently stressed by a number of Afghan village elders and resistance leaders. As part of their usual practice in the occupation of a village, Soviet troops are reported to destroy crops and kill livestock. The methods described ranged from setting food on fire with tracer bullets or flares to contaminating food by urinating and defecating on stored grains. The water supply is not neglected by the Soviet armed forces. Irrigation canals are reported to be regularly bombed and the Independent Counsel received a number of credible reports of the poisoning of wells and other water sources.

64. Medical facilities and personnel identified as such by the display of the internationally recognized symbols of the red cross or the red crescent are entitled to special protection. They certainly are not legitimate targets of attack. The Independent Counsel learned from international relief organizations which operate inside Afghanistan that such organizations are reluctant to identify their facilities by use of the red cross. This is because they have learned from experience that identifying such a location appears to draw attacks. For example, reports were received that on two instances buildings in Paktika identified as medical facilities were bombed, in each case by MiG's whose sole action was to attack those facilities.

65. A place of worship, such as a mosque, is not a legitimate target of attack, unless it is being used as a military installation. The Independent Counsel, during the course of their interviews, learned that following the occupation of a village or other area, Soviet forces usually use the local mosque as a latrine. To further compound the insult, pages of the Holy Koran are used as toilet paper. The fundamental role which religion plays in the life of the Afghans will be discussed in greater depth later in Section G.2 of this report. However, from the manner in which this attack is carried out it is clear that the choice of mosques as targets is not made out of military necessity, but as a means to degrade and humiliate the people, in violation of paragraph 1(c) of Common Article 3.

66. Refugees fleeing their country or outside their country are protected against attack. Yet, a Pakistani Government official responsible for Afghan refugee affairs told the Independent Counsel that, while accompanied by the United Nations Special Rapporteur, he and the Special Rapporteur personally witnessed an attack within the Afghan/Pakistan border area on a refugee column in which a number of people were killed. It is incontestable that the number of aerial attacks on Afghan refuge camps in the border areas of Pakistan has increased dramatically in the last year. During the visit of the Independent Counsel to Pakistan, a number of such attacks took place, with many reported deaths. Attacks on refugees within Afghanistan by ambush or helicopter strafing were also reported. While in Quetta, the Independent Counsel heard extremely disquieting testimony that a group of refugees in the Rigistan desert on their way to Pakistan in 1987 were captured by Soviet troops in helicopters and thrown while alive into a bonfire made up of the possessions they had been carrying with the result that all captured were killed.

Conclusions on unlawful targets

67. The evidence adduced by the Independent Counsel on International Human Rights indicates that little if any discrimination is made by Soviet and DRA forces between legitimate and illegitimate targets of attack. Rather to the contrary war is being waged without restraint on the civilian population of Afghanistan and the physical and religious structure that supports it. Even those persons who have given up their country and are going or have gone into exile are not immune from attack. Unlawful attacks by Soviet and DRA forces on illegitimate targets is widespread and systematic.

F. Obligation to disseminate the laws of war

68. While hardly ranking in importance with some of the other provisions of international humanitarian law which have been reviewed in this report, the obligation to disseminate the laws of war should be addressed, if only briefly. The scope and magnitude of the war crimes committed by the armed forces of the Soviet Union and Afghanistan caused the Independent Counsel on International Human Rights to wonder whether international humanitarian law is disseminated among Soviet officers and soldiers as is required by the Geneva Conventions. The Geneva Conventions unequivocally require that the parties thereto disseminate the texts of the Conventions and "include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereto may become known to all their armed forces and to the entire population." See, as an example, Article 127 of the Third Convention.

69. The Soviet Union is itself aware of this obligation since I.P. Blishchenko and V.A. Grin, authors of the booklet "International Humanitarian Law and the Red Cross", published in Moscow in 1983 by the Executive Committee of the Order of Lenin Alliance of Red Cross and Red Crescent Societies of the USSR, state on page 36 of that booklet, "The Geneva Conventions make it incumbent on the states to disseminate their texts as widely as possible and to include them in the programmes of military and civilian education." Later, on page 39, Blishchenko and Grin state that "[t]he members of the Soviet Armed Forces study the provisions of international humanitarian law regularly and systematically. . . . All members of the Armed Forces are familiarized with the texts of the Geneva Conventions. . . . The officer corps thoroughly study the provisions of international humanitarian law."

70. During its interviews the Independent Counsel were able to speak with a former Afghan Air Force pilot. This officer trained on a number of occasions in Soviet military academies. He described in detail the manner in which assignments were given him and others to carpet-bomb villages. When he was asked about how he was able to reconcile these blanket attacks which were likely to kill civilians with the dictates of the laws of war which prohibit attacks on noncombatants, he expressed surprise. After some questioning it became apparent that he had never heard of the concept of "the laws of war" before that interview. While this certainly speaks poorly for Afghan military training, it also indicts the Soviet Union which had played a large role in his training. Moreover, the unremitting pattern of violations of the laws of war by Soviet forces bespeaks a complete lack of awareness of these basic international norms which the Soviet Union has bound itself by treaty to observe.

71. The Independent Counsel were not able to gather much information concerning dissemination of the laws of war by the Afghan resistance. While the Independent Counsel were informed by military officials of the Afghan resistance that they comply with the requirements of international humanitarian law, Helsinki Watch reported testimony in 1985 that Soviet and Afghan prisoners held by the resistance were treated in a manner inconsistent with humanitarian law.

G. Possible intentional destruction of the Afghan people

72. Allegations of genocide practiced by DRA and Soviet forces have been lodged frequently. A brief comment on the international law in this matter is necessary before seeking to apply it to the facts which were presented to the Independent Counsel on International Human Rights.

73. Genocide in an international crime with particular standards, and should be disassociated from the popular conception and historical connotations of the word. Genocide has both a customary and a conventional or treaty dimension. The customary dimension derives from the aggregate of developments in the law regarding the protection of human rights. The conventional dimension is to be found in the Convention on the Prevention and Punishment of the Crime of Genocide, a multilateral treaty to which Afghanistan and the USSR are parties. Article II of the Convention defines genocide to mean:

> Any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
>
> (b) Causing serious bodily or mental harm to members of the group;
>
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) Imposing measures intended to prevent births within the group;
>
> (e) Forcibly transferring children of the group to another group.

74. While perhaps the crimes of Nazi Germany show the greatest number of genocidal acts and the clearest intent, it should be noted that Article II does not require that the acts in question sought the *physical* elimination, in whole or in part, of a national, ethnical, racial or religious group. Under subparagraphs (b) and (e), the crime of genocide is accomplished not by physical elimination but by forcible transformation of the indigenous identity of the group. In contrast, subparagraphs (a), (c) and (d) declare, as crimes of genocide, acts intended to eliminate physically all or part of the membership of the group. The contrasting language is instructive. The destruction of a targeted group within the meaning of the Convention refers both to the physical elimination of its members and the coercive transformation of the identity of group members. In the calculus of the Convention, both of those acts destroy the group and are genocidal.

75. The scope of the "intent" which must accompany the designated acts has also been the subject of extensive scholarly interpretations. The Convention does not limit itself to massive and comprehensive iniquities. Any of the designated acts in paragraphs (a) to (e) are deemed to be genocidal if they were committed with the intent to destroy, in whole *or in part*, the targeted group as such.

76. While intent to destroy a group in whole speaks for itself, the intent requirement for efforts to destroy *part* of a group would appear to be fulfilled if the actor targeted whatever is the minimum quantitative requirement of group members "as such". Once again, to avoid controversy about the Law to be applied the Independent Counsel have adopted a strict textual construction consistent with the leanest and most minimal interpretation of the Convention: an intention to kill many members of a particular group because they are members of that group fulfills the Convention's requirement of intent, for the act is directed to destroy part of the group.

77. With this brief clarification of the law in the matter, we may turn to the specific allegations that have been lodged with regard to the commission of genocide in the Afghan conflict. Four distinct allegations have been made: depopulation; attacks on religion; forced removal of children; and strategic attacks on society. These will be treated *seriatim*.

1. Depopulation

78. According to accounts the Independent Counsel received, many of which have been reported elsewhere, substantial programs of depopulation have been conducted in the following provinces: Ghazni, Nangarhar, Laghman, Qandahar, Zabul, Badakhshan, Lowgar, Paktia, Paktika, Kunar. In addition, the Wakhan corridor bordering on China has been almost entirely depopulated and effectively annexed by the Soviet Union. The following methods were used to accomplish depopulation: repeated targeting of villages in certain areas; the commission of atrocities in villages with the predictable result of substantial flight of the civilian population; the intentional destruction of food supplies, irrigation canals and wells, making it impossible for the civilian population to survive in their villages; looting of property.

79. The Independent Counsel has not been able to examine documents of the government of the DRA or of the USSR, and hence cannot document whether or not these acts were conducted with specific intent. However, the fact that these actions have been persistently committed for eight years, with the dismaying cumulative result that one-third of the Afghan population has been forced to leave its country and another one-third is in internal exile cannot be ignored. These acts and the resultant exodus continue. Pakistani officials in charge of refugee influx reported to us that about ten thousand Afghans continue to cross the border monthly. International refugee officials allowed that that figure was probably conservative.

80. Where actions with predictable results are taken over an extended period of time and the consequences of those actions regularly confirm what their outcome will be, it is, to say the least, reasonable to infer that those responsible for those actions are accomplishing them with specific intent.

81. In the view of the Independent Counsel on International Human Rights, there is substantial evidence to support the allegation that the DRA and the Soviet Union have been pursuing strategies necessarily securing and therefore presumably aimed at a forced depopulation of substantial areas of Afghanistan. In our view, the flight of a substantial part of the more than five million Afghans who have been forced to leave their country since 1979 and the other five million in internal exile would appear attributable to actions undertaken by the DRA and the USSR.

2. Attacks on religion

82. Even the briefest contact with Afghans drives home the extraordinary importance to them of their religion. The Independent Counsel on International Human Rights were struck, in the course of their interviews with Afghans, by the extent to which even those who were Westernized and quite worldly shared this basic view. All the Afghans who were engaged in the resistance describe themselves as mujahedeen, literally those who are engaged in a religious war. Many spoke with a calm dispassion about the probability of their becoming shahedeen or martyrs. The impression we gained is confirmed in the scholarly and ethnographic literature about the Afghans. Religion is one of the basic factors which establishes their identity and binds them together. Its role in the life of an Afghan cannot be overestimated.

83. The war in Afghanistan is, in a substantial part, a result of governmental actions directed against these views in an effort to supplant them with the materialistic conceptions of Marxist-Leninism. Hence, these religious views are frequently targeted. That fact has increased popular resistance and become a basic feature of the war. The Independent Counsel gathered a great deal of evidence confirming that a standard technique of torture is the taunting of the victims about their religion. Many witnesses, after describing a variety of chilling physical tortures to which they were subjected, testified that the cruelest torture involved slurs on their faith and such taunts as "Where is your God now?" or "Why isn't your God helping you now?". We also gathered evidence of the targeting of mosques and religious schools and, in one case, the intentional desecration of a mosque.

84. Given the values of the Afghan people, there is good reason to believe that such actions constitute genocide within the meaning of Article II(b) of the Convention, in that they are acts committed with the intent to humiliate a religious group and hence cause serious mental harm to members of the group.

3. Forced removal of children

85. The Independent Counsel collected evidence indicating a coordinated policy of forcibly transferring children from Afghanistan to the Soviet Union. The objective appears to be to deculturate the transferred children from the values of their parents and environing group and to forcibly inculcate in them the values of the Soviet Union.

The procedure, as testified by witnesses, is as follows: Without warning, officials enter a classroom and, giving no explanation, choose a certain number of children who leave with the officials. When the children do not return home that evening, no explanation is given to the parents. But several days later, the parents are told that their children have been sent to the Soviet Union. Some children who are taken are kept for one to two months, with the idea of inculcating in them favorable attitudes toward Russia. Some are kept in the USSR for several years. There is also testimony to the effect that some of the children who are taken are programmed to be saboteurs and assassins and are trained to target a particular mujahedeen commander. Accounts of the forcible transfer of Afghan children from their families to the Soviet Union have also been reported elsewhere.

86. Article II(e) of the Genocide Convention defines genocide to include acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group by "forcibly transferring children of the group to another group". The text is not explicit as to whether transfers for a period of time in order to change perspectives of identification with the targeted group's values are included in Article II(e). In the view of the Independent Counsel, however, such an interpretation is consistent both with the language of Article II and the obvious policy animating the provision. The anguish and despair caused to the parents of these children would certainly appear to constitute "mental harm" within the meaning of Article II(b), but it is not certain, from the testimony we received, whether this obvious and foreseeable consequence was sought with the intent to destroy the older generation of the targeted group.

4. Strategic attacks on society

87. Much evidence suggests that the DRA and the Soviet Union are involved in a complex and premeditated attack on a traditional society and its values and that the attack is being pressed at every level of social organization: the village and its agricultural infrastructure, the religion, education and the children, and health and life itself. Article II(c) defines genocide to include acts "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part". The cumulative effect of the variety of programs which have been developed and directed against the civilian society of Afghanistan would appear to fall within the ambit of this provision.

Conclusions on genocide

88. In the view of the Independent Counsel on International Human Rights, there is considerable evidence that genocidal acts have been committed against the Afghan people by the combined forces of the DRA and the Soviet Union. The repetition of many of the acts described above and their consistency makes it difficult to avoid the conclusion that the inevitable consequences of those acts are intended. Those consequences are inconsistent with obligations undertaken by the Soviet Union and DRA in ratifying the Genocide Convention.

IV. THE SITUATION SINCE THE ANNOUNCEMENT OF NATIONAL RECONCILIATION

89. A prominent development in this tragic conflict has been the announcement of a policy of "National Reconciliation" at the beginning of 1987 by the Government of the Democratic Republic of Afghanistan. The DRA has promoted this policy as a step toward peace. However, an examination of the facts related to the situation in Afghanistan since the announcement of this policy which have been gathered by the Independent Counsel indicates that the Government of Afghanistan is acting inconsistently with its announced desire for peace. A short review of some of the substantive points covered in this report as related to events since the announcement of "National Reconciliation" may be enlightening.

90. The Independent Counsel received reliable testimony alleging incidents of torture occurring as late as July 1987. One witness released from Pul-e-charki prison during July 1987 had electric shock applied to his toes and testicles. He had been shackled to a wall while an empty, heated soda bottle was repeatedly forced in and out of his rectum. Another witness had been released from Pul-e-charki prison in June 1987. He had been shuffled from one cell to another during the visit of an international fact-finding team and had been denied permission to meet with the group. Electric shock had been applied to his feet, toes and rectum and hot water had been poured into his ears. On one occasion, his urinary tract was tied off, he was forced to consume a large quantity of liquid and was then beaten on the stomach. These and other incidents reported to the Independent Counsel occurred since the January 1987 announcement of "National Reconciliation" indicate that there has been no change in the use of torture in Afghanistan.

91. Civilians continue to be the target of deliberate attack. One old woman testified that she lost her daughter and four grandchildren when their refugee caravan was bombed en route from Kunduz to Pakistan during June 1987. Several witnesses testified to the destruction of the village of Jamma in Kunduz province. The men of the village were assembled at a mosque on a Friday at prayertime. While they were praying, helicopters and planes arrived and bombed the mosque. The mosque and most of the village was destroyed. Tanks were arriving as the witnesses escaped. Approximately 200 people were killed during this attack.

92. Cross-border aerial attacks on refugees in Pakistan have not merely continued but actually increased in pace since the announcement of "National Reconciliation". Such raids have killed an officially estimated 860 people from the beginning of the conflict through August 1987. In February 1987 at least 58 people were killed and 190 injured when Soviet-Afghan warplanes bombed three Pakistani border villages near Miranshah in the North Waziristan tribal agency. During a 30 minute period of that attack, 16 planes in two formations bombed the village of Moza Qilli Ghulam Khan as Afghan refugees shopped in the bazaar. In March 1987 between 15 and 20 Soviet-Afghan planes violated Pakistani airspace over the Kurrum tribal agency and bombed the village of Terri-Mangal, killing at least 51 people and injuring more than 100. The number of cross-border violations and bombing of civilian targets indicates the war is spreading into Pakistan despite the policy of "National Reconciliation".

93. Every segment of Afghan society remains under assault. It is noteworthy that of the millions of Afghans forced to flee their homeland, only a very small percentage of refugees have sought to return. Neither the incidents of civilian attacks nor the occurrence and intensity of torture seem to have subsided. The Independent Counsel has encountered no evidence to indicate a change in these patterns. When examined in its factual context it is clear that "National Reconciliation" has failed to contribute to a restoration of the minimal standards of human rights which the people of Afghanistan should enjoy pursuant to international law.

V. SEPARATE STATEMENT WITH REGARD TO THE APPLICATION OF COMMON ARTICLE 3 TO AFGHANISTAN

94. All members of the Independent Counsel on International Human Rights have agreed to the working assumption of this report, i.e., that the law to be applied is not that expressed in the totality of the Geneva Conventions of 1949 and the First Protocol Additional to those Conventions of 1977, but only Common Article 3 of the 1949 Conventions. That working assumption is premised on the view that the conflict in Afghanistan is not international but is internal in character.

95. Professor Reisman, Miss Hampson, Dr. Miggiani, Mr. Norchi and Mr. Busuttil have agreed to that view in the interests of a unanimous report and a desire not to divert attention from the facts of the conflict to controversy over legal issues. The working assumption of the Independent Counsel has permitted the group to move directly to an examination of the allegations made by Afghan and foreign witnesses. Common Article 3 establishes sufficient basic principles to apply to most of the allegations. Nevertheless, those persons named in this paragraph wish it understood that they believe that the war in Afghanistan is an international conflict as between the Soviet Union and the Afghan fighters and civilians and, as such, is subject to the totality of the 1949 Geneva Conventions and, insofar as they are in effect, as conventional or customary law, the provisions of the First Protocol of 1977.

96. Those members of the Independent Counsel believe that position is based on the factual record. On December 28, 1979, the Soviet Union intervened militarily in Afghanistan. Its forces murdered the President of the country, Hafizullah Amin, and replaced him with Babrak Karmal. The intervention was allegedly effected at the invitation of Babrak Karmal, but that alleged invitation could have neither international nor domestic legal value. At the time it was issued, Karmal had no post in the Afghan Government. He had most recently been the Afghan Ambassador to Czechoslovakia, a post from which he was dismissed. He then went to Moscow, in effect in political exile, and from the USSR issued the invitation to the USSR to intervene in his country. Since the Soviet military intervention, ample evidence indicates that the Soviet Union is conducting the war directly and using the constantly shrinking Afghan army insofar as it still has any utility. The notion that Afghan generals are ordering Soviet troops is, in the opinion of those members of the Independent Counsel, untenable.●

ADVANCE NOTIFICATION

PROPOSED ARMS SALES

● **Mr. PELL.** Mr. President, as the result of a 1976 agreement, the executive branch provides Congress with advance notification of proposed arms sales under the Arms Export Control Act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has not less than 20 calendar days for informal review and consultation with the administration on the proposed sale. If the executive branch wishes to proceed with the sales proposal following the informal review period, section 36(b)(1) requires that the executive branch submit a formal notification to Congress of the proposed arms sale. Upon such notification, the Congress has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. Portions of the notifications which are classified have been deleted for publication, but are available to Senators at the Foreign Relations Committee.

The notification follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, DC, November 27, 1987.
In reply refer to: I-17401/87ct.
Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost $50 million or more.

Sincerely,
CHARLES W. BROWN,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, November 18, 1987.
In reply refer to: I-17180/87ct.
Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost $50 million or more.

Sincerely,
CHARLES W. BROWN,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, November 18, 1987.
In reply refer to: I-17199/87ct.
Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Secton 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost $50 million or more.

Sincerely,
CHARLES W. BROWN,
Director.●

TREATMENT OF RIVER BLINDNESS

● Mr. HATCH. Mr. President, on October 21, Merck & Co. announced it would donate its full supply of a new drug, Mectizan, to the World Health Organization. The drug is to be used for treatment of river blindness, a debilitating disease affecting 18 million people in the Third World.

These two remarkable organizations deserve our thanks and our praise. It is with great pleasure that I commend both Merck and the World Health Organization for this singular effort toward eradicating river blindness in more than 20 nations where river blindness is endemic.

River blindness, or onchocerciasis, is transmitted by black flies. The flies introduce the infective parasite into their victims, eventually causing many to lose their sight. Mectizan was initially produced by Merck for use against parasites in livestock, but has now been found to be effective against river blindness as well.

Previous drugs used to combat the disease had severe side effects and their use required close medical supervision. Since most victims of river blindness do not have access to health care, treatment was limited and often unsuccessful. Mectizan is well tolerated and only given once or twice a year, thus allowing treatment without further medical intervention. Now, those who need help the most can be reached, thanks to this singular effort.

I would like to pay special tribute to Merck for making Mectizan available, free of charge, to river blindness sufferers. Merck has given many of the world's most distressed people a new chance in life.●

HISTORIC RUGBY: A COMMUNITY'S RESTORATION OF ITS PAST

(By request of Mr. BYRD, the following statement ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, recently I was invited by the Historic Rugby Second Century Campaign in Rugby, TN, to join its advisory committee. I consider this invitation both a great honor and a unique opportunity. In 1880, Thomas Hughes, a noted author and social reformer of his time, sought to establish a cooperative class-free community in Rugby, which rests at the head of the Cumberland Plateau. This area continues to be one of the more picturesque areas of our Nation.

For a few years, the utopian experiment flourished rapidly, boasting more than 400 residents, hundreds of visitors, and necessary yet attractive structures. Unfortunately, this excitement was smothered in the wake of a typhoid epidemic and a failed economy. Even so, today Rugby is home for 75 residents, and countless visitors are able to view and appreciate 20 original Victorian buildings in this east Tennessee village.

Rugby's re-emergence as a treasured village is a result of an idea of a 16-year-old resident of the nearby Deerlodge, TN. Brian Stagg initiated an all-out effort to restore and preserve the historic beauty and significance of Rugby. This project soon developed into a full-fledged community effort and into the founding of Historic Rugby, Inc. In the past two decades the restoration of this historic village has made remarkable progress.

In 1972 the entire village received the distinction of being placed on the National Register of Historic Places. By this time, daily tours of the historic buildings and other projects had become a permanent part of the initiative. Today, Rugby thrives as a precious remnant from the 18th century. I have had the pleasure of visiting this charming village; I was inspired by its richness and the immense effort and devotion put into every inch of the town by a century of residents. It is truly an invigorating experience to see the newly restored Newbury House Inn, Pioneer College, and Town Commissionary guided by the pictorial "Rugby: Tennessee's Victorian Village," by Doug and Dawn Brachey. Tour guides offer guests an education on the town's history while walking through the Rugby Schoolhouse or viewing the Town Printing Works.

The success and pressing needs of the preservation effort have culminated in the launching of the $1 million Historic Rugby Second Century Campaign. Barbara Stagg, the executive director of Historic Rugby, has successfully obtained the support of Tennessee leaders, authors, and educators in the beginning stages of the statewide campaign. Funds will be used for a 4-year restoration project, construction of educational facilities, and a permanent endowment, necessary to ensure long term financial support. The restoration project will include preservation of the library built in 1882 and its collection of authentic Victorian literature. Wilma Dykeman, a noted historian and author, is serving as the honorary chairwoman of the campaign, heading a list of distinguished Tennesseans.

Mr. President, the past and present history of Rugby, TN, and the preservation of its rich cultural heritage can serve as an outstanding example of the strength which lies in a strong rural community. It is my hope that the second century campaign continues to receive widespread support. All Tennesseans can consider Rugby and its many friends a source of pride for the State.●

EXTENDING MORNING BUSINESS UNTIL 4 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that there be an extended period for morning business not to extend beyond the hour of 4 o'clock p.m. and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, my good friend, Mr. COHEN, is here, the acting Republican leader. I inquire of him as to whether or not the three following calendar numbers on the Executive Calendar have been cleared on his side: Calendar Nos. 440, 441, and 442.

Mr. COHEN. Mr. President, we have no objection.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned three calendar numbers, that they be considered en bloc, confirmed en bloc, a motion to reconsider en bloc be laid on the table, that the President be immediately notified of the confirmation of the nominees, that they be spread separately on the record, and that the Senate return to executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF TRANSPORTATION

Alfred A. DelliBovi, of New York, to be Urban Mass Transportation Administrator.

DEPARTMENT OF THE TREASURY

Cynthia Jeanne Grassby Baker, of Colorado, to be Superintendent of the Mint of the United States at Denver.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Dianne E. Ingels, of Colorado, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1988.

CONFIRMATION OF THE NOMINATION OF ALFRED A. DELLIBOVI TO BE ADMINISTRATOR OF THE URBAN MASS TRANSPORTATION ADMINISTRATION

Mr. LAUTENBERG. Mr. President, I rise to express my support for the nomination of Alfred DelliBovi to the position of Administrator of the Urban Mass Transportation Administration.

As Administrator, Mr. DelliBovi will have great responsibilities. As a former regional administrator, and as Deputy Administrator of UMTA, he has the experience necessary to do the job well.

My State depends heavily on adequate transit. The most densely populated State, New Jersey relies on public transportation to move its people and its goods. We depend on transit to keep our State on the move, and to maintain and promote our economic well-being.

Mr. President, for years this Senator, along with many of my colleagues representing urbanized States, have fought this administration over the need for Federal support of transit. The administration has sought to gouge support for transit, ignoring the needs of so many of our citizens.

Mr. President, this attitude is shortsighted and ill-advised. It would cheat our cities of important infrastructure needs, and deprive millions of Americans of the only means they have of getting to work and moving about. It is a policy that would put more and more Americans in cars, further clogging already congested streets. It's also a policy that ignores the realities of our energy needs. Transit saves energy. It helps reduce our dependence on sometimes shaky foreign oil sources. That can only make America stronger. And, Mr. President, this policy ignores the environmental gains resulting from increased use of mass transit. Our ability to meet clean air goals can be greatly boosted through better use of transit. Transit should be encouraged, not orphaned.

In short, a policy that would give transit the short end of the stick just doesn't make sense.

Al DelliBovi has spent much of his career at UMTA in the New York-New Jersey metropolitan region. He understands how important transit is to our region. Coming from our region, he should appreciate the role the Federal Government should play in transit.

I hope Mr. DelliBovi will bring his understanding of our region with him at his new post. Many in our region have expressed their support for his nomination, and have placed their faith in his ability to do the job that needs to be done.

I am voting to confirm Mr. DelliBovi, and urge my colleagues to join me. I wish him well in his new job, and, as both the chairman of the Transportation Appropriations Subcommittee and as a Senator for New Jersey, I look forward to working with him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

CONGRATULATING KING BHUMIBOL ADULYADEJ OF THAILAND ON HIS 60TH BIRTHDAY

Mr. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 412, congratulating the King of Thailand on his 60th birthday, on December 5, just received from the House of Representatives, be laid before the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 412) to congratulate King Bhumibol Adulyadej of Thailand on his 60th birthday on December 5, 1987.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the joint resolution.

The Senate proceeded to consider the joint resolution.

KING OF THAILAND'S 60TH BIRTHDAY

Mr. DOLE. Mr. President, tomorrow, December 5, 1987, marks the 60th birthday of a great friend of the United States and one of the longest reigning monarchs in the history of Thailand. His Majesty King Bhumibol Adulyadej has a unique relationship with America, having been born in Cambridge, MA, where his father was a medical student.

Since assuming the throne on July 2, 1946, His Majesty has had a tremendous impact in improving Thailand's health care and educational systems. His Majesty's longstanding commitment to educational exchanges and promotion of international understanding is widely respected, and on this 60th birthday—an important milestone in the life of all Thais—King Adulyadej will be honored with the establishment of an International University in Thailand. I am especially pleased that I have had the opportunity to work with an outstanding educator in my own State, Dr. Don Wilson of Pittsburgh State University, on this important project.

Mr. President, I am sure all Senators would be delighted to join Representative CONTE and me in passing House Joint Resolution 412 to wish His Majesty a very happy birthday and join with all of our friends in Thailand in congratulating King Bhumibol Adulyadej on this national day of celebration in Thailand.

BIRTHDAY TRIBUTE TO KING OF THAILAND

Mr. HATFIELD. Mr. President, I rise today to pay special tribute to His Majesty Bhumibol Adulyadej, the King of the Royal Thai Government on the occasion of his 60th birthday which is celebrated tomorrow in America and at this moment in Thailand.

In Southeast Asia, Thailand represents a miracle of history. Thailand has never been colonized. It has never been swept over by communism, despite the fact that today it is surrounded on all of its borders by Communist governments. Despite being boxed in by these hostile governments, Thailand not only has seen its constitutional monarchy flourish but has developed a reputation worldwide as a government which respects the rights of its people and which provides asylum to those fleeing the cancer of communism spreading across that region.

On June 9, 1946, King Rama IX, His Majesty King Bhumibol Adulyadej, ascended to the throne with the solemn vow "To reign with righteousness for the benefit and happiness of the people of Siam." In doing so, he followed in the footsteps of his predecessors who since King Rama I, the King who established the Royal House of Chakria and the beautiful capital city of Bangkok, have made Thailand the splendid country it is. Next year, the King will become Thailand's longest reigning monarch in history. In the more than four decades of his reign, King Rama IX has provided the spiritual, visionary leadership that has allowed Thailand to prosper and be a model for economic development among developing countries. And as a sure sign of his delicate touch, the people of Thailand are happy. I was in Bangkok a year ago and what impressed me the most was the graciousness of the people—truly the Thai people are generous hosts and whether you are talking about the people in Bangkok or the people of Udorn or the many small villages, the Thai people are world-renowned for their kindness and compassion.

These characteristics have been most evident in the Thai's generous assistance to the hundreds of thousands of refugees who have fled the tumult of the Vietnam war, and later the carnage of the Pol Pot regime. Along the Thai border today live hundreds of thousands of refugees whom the world seems to have forgotten. But Thailand hasn't and has led an international effort to provide asylum for these desperate refugees until such time as circumstances in Vietnam, Cambodia, and Laos allow safe repatriation. The United States and Thailand's longstanding friendship has been bolstered by our partnership in dealing with the millions of refugees from Southeast Asia. The United States has resettled nearly a million of these refugees, and a great number of them came to the United States from Thai soil.

Of course, Thailand's role in providing asylum for these refugees has not been an easy one. Many areas within Thailand are poor, rural areas with a standard of living not much above the subsistence level. Were it not for the courageous leadership of the King and Her Majesty, the Queen—and I point out here that she has taken a personal interest in the plight of these refugees—the great humanitarian chapter in world history being written for 12 years, known as the Indochinese resettlement and protection program, never would have been possible.

While there have been times that I have quarreled with the Thai over specific refugee decisions or policies, I have never taken issue with their honorable intentions and instincts. I look forward to continuing to work with Thailand and all of the ASIAN countries in maintaining a safe asylum program in the region until Cambodia is settled and the hostilities in the region cease. Many would like to put this whole refugee issue behind us. Indeed, the world press has grown weary of reporting on the misery in the camps—camps where some refugees have been born and are now entering adolescence. When civilians are assaulted in the camps, when pushbacks occur, when pirates attack the boats still coming out of Vietnam, the press seems tired of reporting about it.

And this apathy is not limited to the press alone. Governments including the United States have elements with the policymaking apparatus which believe that the free world has done its part and that we should now cut clean from our responsibility for the refugees.

Thanks to Thailand and our Government under the leadership of President Reagan, Secretary Shultz and his Department and the Senate in its 2 to 1 majority in favor of a generous refugee program, and key Members of the House, that negative sentiment has been contained. I recall meeting with Foreign Minister Siddhi and General Pichitr where we spoke with one voice on the need for safety for these helpless refugees, and of course in their voices I was hearing the voice of the King whose pronounced support for the refugees has guided Thai policy.

So on this day of great celebration for the birthday of King Bhumibol Adulyadej, I join with my colleagues to wish the King a happy birthday, to thank his people for their humanitarian support for the Indochinese refugees, and to pledge my continued desire to maintain with Thai Ambassador Arsa Sarasin and his government, the wonderful friendship which characterizes United States-Thai relations.

Mr. SIMPSON. Mr. President, I am pleased to associate myself with the remarks of my colleagues.

In a time when we are assaulted daily by news of wretched and unkind events, it is refreshing and welcome news that Thailand is taking time out for happy celebrations and events commemorating its proud history. I have been there and enjoyed the study of its land and the kindness and generosity of its people.

The 60th birthday of His Majesty King of Thailand Bhumibol Adulyadej is the occasion for national reflection and national celebration.

Perhaps His Majesty is not altogether thrilled each and every time he is reminded of his 60th birthday but he has accomplished so very much in that span of life. His Majesty has distinguished himself internationally and gained the affection of his countrymen through his hard work on behalf of the Thai people. These birthday tributes and reminders come very sincerely from us all.

Friendship among the peoples of many nations is the surest guarantor of international harmony. We are so very pleased to salute the special friendship between the people of the United States and the people of Thailand at this time of joy and celebration in Thailand.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 412) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. COHEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' HOME LOAN PROGRAM IMPROVEMENTS AND PROPERTY REHABILITATION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2672.

The PRESIDING OFFICER laid before the Senate the following mes-

sage from the House of Representatives:

***Resolved,* That the House agree to the amendments of the Senate to the bill (H.R. 2672) entitled "An Act to amend title 38, United States Code, for the purpose of improving veterans' housing programs", with the following amendments:**

In lieu of the matter inserted by said amendment to the text, insert:

SECTION 1. SHORT TITLE; REFERENCE.

(A) SHORT TITLE.—This Act may be cited as the "Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987".

(b) REFERENCE.—Whenever in this Act an amendment, repeal, or redesignation is expressed in terms of an amendment to, or repeal or redesignation of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code, unless otherwise specified.

SEC. 2. LOAN FEE.

(a) EXTENSION.—Section 1829(c) is amended by striking out "1987" and inserting in lieu thereof "1989".

(b) WAIVER.—Section 1829(b) is amended by striking out "described in section 1801(b)(2) of this title" and inserting in lieu thereof "of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability".

SEC. 3. GUARANTY AMOUNT.

(a) PURCHASE OR CONSTRUCTION OF HOMES.—(1) Section 1803(a)(1) is amended to read as follows:

"(a)(1) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed—

"(A) in the case of any loan of not more than $45,000, 50 percent of the loan; or

"(B) in the case of any loan of more than $45,000, 40 percent of the loan or $36,000, whichever is less, except that the amount of such guaranty for any such loan shall not be less than $22,500;

reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title."

(2) Section 1810(c) is repealed.

(b) MANUFACTURED HOMES.—Section 1819(c) is amended—

(1) in paragraph (3), by striking out the first sentence and inserting in lieu thereof the following: "The Administrator's guaranty may not exceed 40 percent of the loan, or $20,000, whichever is less, reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title."; and

(2) in paragraph (4), by striking out the first sentence and inserting in lieu thereof "The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing such loan."

(c) DIRECT LOANS.—Section 1811(d)(2)(A) is amended by striking out "$27,500" each place it appers and inserting in lieu thereof "$36,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.

SEC. 4. FINANCIAL INFORMATION AND COUNSELING ASSISTANCE FOR VETERANS.

(a) ASSISTANCE TO VETERANS.—Section 1816(a) is amended by adding at the end the following new paragraph:

"(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

"(i) provide the veteran with information and, to the extent feasible, counseling regarding—

"(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by section 1816(a)(2) of this title; and

"(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

"(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Administrator has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

"(B) The Administrator shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

"(C) The authority to carry out this paragraph shall terminate on March 1, 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on March 1, 1988.

SEC. 5. ACTIONS WITH RESPECT TO DEFAULTED LOANS.

(a) DETERMINATION OF TOTAL INDEBTEDNESS.—Section 1816(c) is amended—

(1) in paragraph (1)(D), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (D) of paragraph (10) of this subsection, the";

(2) in clause (ii) of paragraph (1)(D), by striking out "of the liquidation sale" and all that follows in such clause and inserting in lieu thereof the following: "applicable under paragraph (10) of this subsection, and";

(3) in clause (iii) of paragraph (1)(D), by striking out "such regulations" and inserting in lieu thereof "regulations prescribed by the Administrator to implement this subsection"; and

(4) by adding at the end the following new paragraphs:

"(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan.

"(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forebearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forebearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

"(ii) The Administrator may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph (7)(A) of this subsection, to accept conveyance of the property.

"(C) In any case in which there is an excessive delay in such liquidation sale caused—

"(i) by the Veterans' Administration (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

"(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

"(D) For the purpose of determining the liability of the United States under a loan guaranty under clause (B) of paragraphs (5), (6), (7), and (8) of this subsection, the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Veterans' Administration in the liquidation sale of the property securing such loan, any interest which had accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

"(11) This subsection shall cease to have effect on October 1, 1989.".

(b) REPEAL.—Paragraph (2) of section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1117) is repealed.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to defaults which occur more than 60 days after the date of the enactment of this Act.

SEC. 6. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) NUMBER OF VENDEE LOANS.—(1) Section 1816(d)(1) is amended by striking out "not more than 75 percent, nor less than 60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

(2) The amendment made by paragraph (1) shall take effect as of October 1, 1987.

(b) MAXIMUM AMOUNT AND REHABILITATION LOANS.—(1) Section 1816(d) is amended by adding at the end the following new paragraphs:

"(4)(A) Except as provided in subparagraph (B) of this paragraph, the amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 95 percent of the purchase price of such real property.

"(B) The Administrator may waive the provisions of subparagraph (A) of this paragraph in the case of any loan described in paragraph (5) of this subsection.

"(5) The Administrator may include, as part of a loan to finance a purchase of real property from the Administrator described in paragraph (1) of this subsection, an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

"(6) This subsection shall cease to have effect on October 1, 1990."

(2) The amendment made by this subsection shall apply to loans made more than 30 days after the date of the enactment of this Act.

(c) Report.—The Administrator of Veterans' Affairs shall, by March 1, 1990, transmit to the Congress a report of the activities carried out, through December 31, 1989, under paragraphs (4) and (5) of section 1816(d) of title 38, United States Code, as added by subsection (b) of this section.

SEC. 7. REFINANCING HOME LOANS.

(a) Loans Guaranteed or Insured By the Veterans' Administration.—Section 1810 (e)(1) is amended—

(1) in clause (B), by striking out "and such" and all that follows through "home"; and

(2) in clause (D), by striking out "and";

(3) in clause (E), by striking out the period and inserting in lieu thereof "by more than 10 years; and"; and

(4) by adding at the end the following new clause:

"(F) the veteran must own the dwelling or farm residence securing the loan and—

"(i) must occupy such dwelling or residence as such veteran's home;

"(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied such dwelling or residence; or

"(iii) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy such residence or dwelling as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, such dwelling or residence as such spouse's home and must certify such occupancy in such form as the Administrator shall require.".

(b) Manufactured Housing Loans.—Section 1819(a)(4)(A) is amended—

(1) in clause (ii), by striking out "and such" and all that follows through "veteran's home";

(2) in clause (iv), by striking out "and";

(3) in clause (v), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new clause:

"(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

"(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;

"(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

"(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Administrator shall require.".

(c) Amounts of Other Refinancing Loans.—Section 1810 is amended by adding at the end the following new subsection:

"(h) The amount of a loan guaranteed for the purpose specified in subsection (a)(5) of this section may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator.".

(d) Effective Date.—(1) The amendments made by subsections (a) and (b) of this section shall apply to loans made more than 30 days after the date of enactment of this Act.

(2) The amendment made by subsection (c) of this section shall apply to loans for which commitments are made more than 60 days after the date of the enactment of this Act.

SEC. 8. OCCUPANCY REQUIREMENTS.

(a) Original Loans.—(1) Section 1804(c) is amended—

(A) by striking out "(c) No" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2) of this subsection, no";

(B) by striking out "No loan" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, no loan";

(C) by adding at the end the following new paragraph:

"(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

"(A) paragraph (1) of this subsection;

"(B) paragraphs (1) through (5) and paragraph (7) of section 1810(a) of this title;

"(C) section 1819(a)(5)(A)(i) of this title; and

"(D) section 1819(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.".

(2) Section 1810(a) is amended by striking out "(a) Any" and inserting in lieu thereof "(a) Except as provided in section 1804(c)(2) of this title, any".

(b) Manufactured Housing Loans.—(1) Section 1819(a)(5)(A)(i) is amended by inserting "(except as provided in section 1804(c)(2) of this title)" after "by the veteran".

(2) Section 1819(e)(5) is amended by inserting before the semicolon the following: "; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2)".

(c) Effective Date.—The amendments made by this section shall apply with respect to loans made more than 30 days after the date of the enactment of this Act.

SEC. 9. PROPERTY MANAGEMENT.

(a) Homeless Program.—(1) To assist homeless veterans and their families acquire shelter, the Administrator of Veterans' Affairs may enter into agreements described in paragraph (2) of this subsection with—

(A) nonprofit organizations, with preference being given to any organization named in, or approved by the Administrator under, section 3402 of title 38, United States Code; or

(B) any State, as defined in section 101(20) of such title, or any political subdivision thereof.

(2) To carry out paragraph (1) of this subsection, the Administrator may enter into agreements to sell real property, and improvements thereon, acquired by the Administrator as the result of a default on a loan made or guaranteed under chapter 37 of title 38, United States Code. Such sale shall be for such consideration as the Administrator determines is in the best interests of homeless veterans and the Federal Government.

(3) The Administrator may enter into an agreement under paragraph (1) only if—

(A) the Administrator determines that such an action will not adversely affect the Veterans' Administration's ability—

(i) to fulfill its statutory missions with respect to the Veterans' Administration loan guaranty program and the short- and long-term solvency of the Loan Guaranty Revolving Fund under such chapter 37; or

(ii) to carry out other functions and administer other programs authorized by law;

(B) the entity to which the property is sold agrees to (i) utilize the property solely as a shelter primarily for homeless veterans and their families, (ii) comply with all zoning laws relating to the property, (iii) make no use of the property that is not compatible with the area where the property is located, and (iv) take such other actions as the Administrator determines are necessary or appropriate in the best interests of homeless veterans and the Federal Government; and

(C) the Administrator determines that there is no significant likelihood of the property being sold for a price sufficient to reduce the liability of the Veterans' Administration or the veteran who had defaulted on the loan guaranteed under such chapter 37.

(4) Any agreement, deed, or other instrument executed by the Administrator under this subsection shall be on such terms and conditions as the Administrator determines to be appropriate and necessary to carry out the purpose of such agreement.

(b) Job Training Program.—(1) To assist veterans to obtain training pursuant to the Veterans' Job Training Act (29 U.S.C. 1721 note), the Administrator of Veterans' Affairs may convey to persons described in paragraph (2) of this subsection real property and improvements described in subsection (a)(2) of this section for an amount not less than 75 percent of the fair market value of such real property and improvements.

(2) The Administrator may convey such property to persons who enter into an agreement with the Administrator to—

(A) use veterans in a program of job training under the Veterans' Job Training Act in the rehabilitation of residences on such real property; and

(B) provide a priority to veterans in the sale of such rehabilitated residences.

(3) The Administrator may include appropriate enforcement provisions in any agreement described in paragraph (2), including provision for reasonable liquidated damages.

(4) The Administrator shall reduce the amount of any liability that a veteran has with respect to any property conveyed under this section by an amount equal to the reduction in the sale price of the property below the fair market value of the property.

(c) Termination.—The authority provided in subsections (a) and (b) shall terminate on October 1, 1990.

(d) Report.—The Administrator of Veterans' Affairs shall, by March 1, 1990, transmit to the Congress a report of the activities carried out, through December 31, 1989, under this section.

SEC. 10. LOAN ASSUMPTIONS.

(a) In General.—(1) Chapter 37 is amended by inserting after section 1817 the following new section:

"§ 1817A. Assumptions; release from liability

"(a)(1) If a veteran or any other person disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter *and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Administrator with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—*

"(A) the loan is current; and

"(B) the purchaser of the property from such veteran or other person—

"(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

"(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

"(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Administrator shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 1802.

"(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

"(A) notify the transferor and the Administrator of such determination; and

"(B) notify the transferor that the transferor may appeal the determination to the Administrator.

"(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Administrator shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Administrator made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Administrator shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Administrator.

"(B)(i) If the Administrator determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Administrator with respect to such loan.

"(ii) If the Administrator determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Administrator may direct the holder to approve the assumption of the loan if—

"(I) the Administrator determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Veterans' Administration and the transferor;

"(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Administrator approve the assumption; and

"(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

"(C) if—

"(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

"(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

"(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

"(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Administrator of such action.

"(2) If the holder fails to notify the Administrator in such a case, the holder shall be liable to the Administrator for any damage sustained by the Administrator as a result of the holder's failure, as determined at the time the Administrator is required to make payments in accordance with any insurance or guaranty provided by the Administrator with respect to the loan concerned.

"(d) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and ½ times larger than the regular type on such page the following: 'This loan is not assumable without the approval of the Veterans' Administration or its authorized agent.'

"(e) The Administrator shall establish in regulations a reasonable amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

"(f) This section shall apply only to loans for which commitments are made on or after March 1, 1988.".

(2) Section 1817 is amended by adding at the end the following new subsection:

"(c) This section shall apply only to loans for which commitments are made before March 1, 1988.".

(3) The table of sections for chapter 37 is amended by inserting after the item for section 1817 the following new item:

"1817A. Assumptions; release from liability."

(b) Protection Against Transfers to Persons Not Creditworthy.—Section 1804 is amended by adding at the end the following new subsection:

"(f) Any housing loan which is financed through the assistance of this chapter and to which section 1817A of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 1817A.".

(c) Loan Fee.—Section 1829 is amended by adding at the end the following new subsection:

"(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section 1817A of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property.".

SEC. 11. APPRAISALS.

(a) Qualifications of Appraisers.—(1) Section 1831(a)(1) is amended—

(A) by striking out "(1)" and inserting in lieu thereof "(1) subject to subsection (b)(2) and"; and

(B) by inserting before the semicolon at the end the following: ", including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers".

(2) Section 1831(b) is amended—

(A) by striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Administrator may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.".

(b) Review of Appraisals.—Section 1831 is amended—

(1) in subsection (c), by striking out "The Administrator shall, upon request," and inserting in lieu thereof, "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall";

(2) in subsection (d), by inserting "(other than a lender authorized under subsection (f) of this section to determine reasonable value)" after "lender"; and

(3) by adding at the end the following new subsection:

"(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Administrator may, in accordance with standards and procedures established in regulations prescribed by the Administrator, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 1802(d) of this title. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the

lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Administrator.

"(2) In exercising the authority provided in paragraph (1) of this subsection, the Administrator shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

"(3) The authority provided in this subsection shall terminate on October 1, 1990.".

(b) CONFORMING AMENDMENT.—Section 1810(b) is amended—

(1) in paragraph (5), by striking out "by the Administrator" and inserting in lieu thereof "pursuant to section 1831 of this title"; and

(2) by striking out the final sentence.

SEC. 12. SEQUESTRATION EXEMPTION.

(a) IN GENERAL.—Section 113 is amended—

(1) in subsection (a), by adding at the end the following new clause:

"(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.";

(2)(A) by striking out subsection (e); and

(B) by redesignating subsections (f) and (g) as (e) and (f), respectively; and

(3) in subsection (c)(2), by striking out "34, or 36" and inserting in lieu thereof "31, 34, 35, or 36".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on November 19, 1987.

SEC. 13. DETERMINATION OF MINIMUM RESIDUAL INCOME.

Paragraph (3) of section 1810(g) is amended by adding at the end the following new sentence:

"If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Administrator shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Administrator determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region.".

SEC. 14. MARKETING VETERANS' ADMINISTRATION-ACQUIRED PROPERTIES.

Section 1832 is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.".

In lieu of the matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United States Code, to modify the amount of the Veterans' Administration home loan guaranty and to make other improvements in the loan guaranty program, and for other purposes.".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise in support of the compromise agreement on H.R. 2672, the proposed "Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987," and urge my distinguished colleagues to join with me in approving its final passage today.

BACKGROUND

At the outset, I would like to express my gratitude to the ranking minority member, the Senator from Alaska [Mr. MURKOWSKI], for the many contributions he has made to this legislation and the great cooperation he has shown in helping to develop a truly bipartisan home loan measure.

I also would like to express my appreciation to our counterparts in the House of Representatives, House Veterans' Affairs Committee Chairman SONNY MONTGOMERY and Ranking Minority Member GERALD SOLOMON, as well as House Veterans' Affairs Subcommittee on Housing and Memorial Affairs Chairwoman MARCY KAPTUR and Ranking Minority Member DAN BURTON, for their work and cooperation in reaching a compromise on the most comprehensive VA Home Loan Program legislation which our two committees have ever produced.

This measure is now before the Senate as a privileged matter in lieu of a formal conference report. The compromise agreement is derived from provisions contained in S. 1801 as passed by the Senate on October 30, 1987, and in S. 477 as passed by the Senate on March 31, 1987—relating to homeless veterans—and from provisions of H.R. 2672 as passed by the House of Representatives on August 3, 1987. I made extensive floor statements on S. 1801 and S. 477 at the time of Senate passage of each of these measures and refer my colleagues to those statements in the RECORD at pages 30324 (October 30) and 7488 (March 31), respectively, by way of background.

Mr. President, I believe that it is imperative that we ensure that the VA Home Loan Program continues to meet the needs of our veterans and help them—as it already has helped over 12 million veterans and their families—to achieve the American dream of owning their own homes, which many of them could not do without a VA home loan guaranty.

Accordingly, since I reassumed the chairmanship of the Senate Veterans' Affairs Committee last January, a major emphasis has been to carry out a careful examination of all aspects of the VA Home Loan Guaranty Program. Following the committee's June 17 hearing on legislation and oversight pertaining to the Home Loan Program, Senator MURKOWSKI and I developed a comprehensive package of legislative proposals, which we included in S. 1801, the provisions of which became the Senate-passed version—hereinafter referred to as the "Senate amendment"—of H.R. 2672, to improve the financial solvency of the VA Home Loan Program and the program benefits available to our veterans. I am pleased that our initiatives in the Senate resulted in these issues receiving a great deal of study and consideration and that the final compromise agreement contains provisions to address our major concerns.

PURPOSE OF THE LEGISLATION

Mr. President, we have included in the compromise agreement provisions to reduce the increasing default and foreclosure rates which threaten the Home Loan Program, to improve program administration, and to ensure that program benefits remain accessible to all veterans, regardless of the area of the country in which they live or the type of housing which they seek to buy. The bill would modify the VA's operation of various program functions, including property acquisition and disposal, as well as increase protections and assistance for veterans participating in the program.

Beyond specific program needs, however, I believe that responsible legislation must take into account the great need to reduce the towering Federal deficit with respect to all Federal programs of benefits and services. I believe that H.R. 2672 will both make improvements in home loan program benefits that will enhance their value to veterans as well as address areas of the program and make changes that would maintain the program's solvency and reduce its dependency on taxpayers' funds without compromising basic program purposes.

COST SAVINGS

The Congressional Budget Office estimates that the savings resulting from the enactment of the compromise agreement would be, in both budget authority and outlays, $281 million in fiscal year 1988 and $733 million for fiscal years 1988 through 1990, as scored against the current-law baseline used for purposes of Gramm-Rudman-Hollings—Public Law 99-177, as amended by Public Law 100-119. Such savings would be $55 million in budget authority and outlays for fiscal year 1988 and $108 million in budget authority and $146 million in outlays for fiscal years 1988 through 1990, as scored against the budget resolution—House Concurrent Resolution 93—baseline.

SUMMARY OF THE COMPROMISE AGREEMENT

Mr. President, the compromise agreement on H.R. 2672 would:

1. Extend the 1-percent VA loan guaranty fee through September 30, 1989. (Section 2(a).)

2. Clarify that the exemption from the 1-percent loan fee for a veteran receiving or entitled to receive VA compensation or for the surviving spouse of a veteran who died from a service-connected disability includes the surviving spouses of veterans who died from service-connected causes and who themselves are veterans. (Section 2(b).)

3. Change the maximum VA loan guaranty amount (a) for conventional homes from 60 percent of the amount of the loan or $27,500, whichever is less, to (1) 50 percent of the amount of the loan for loans of $45,000 or less, and (2) 40 percent of the amount of the loan or $36,000, whichever is less, with a minimum guaranty of $22,500, for loans greater than $45,000, and (b) for manufactured homes, manufactured-home lots, or manufactured homes and lots, from 40 percent of the amount of the loan or $20,000, whichever is less, to 40 percent, with no change in the dollar maximum. (Section 3.)

The Senate amendment had proposed an increase in the conventional home loan guaranty dollar maximum to $36,000, with no change in the percentage maximum. The House bill had proposed maximums of 40 percent and $40,000 for conventional home loans and 30 percent, with no change in the dollar maximum, for manufactured housing loans.

4. Require, as proposed in the Senate amendment, a 5-percent downpayment on VA-guaranteed, insured, or made manufactured housing loans. (Section 3(b)(2).)

5. Require the VA, as generally proposed in the Senate amendment, for a 3-year trial period ending March 1, 1991, upon receipt of a 90-day default notice from the lender, to provide the veteran with information regarding alternatives to foreclosure appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, and regarding the veteran's and the VA's liabilities in the event of foreclosure and the availability of counseling, and, to the extent feasible, counseling. This requirement would not apply in the case of a lender which the Administrator has found to have demonstrated its effectiveness in providing veterans with adequate loan servicing generally, including providing them with the above information on a timely and acccurate basis. Also, as generally proposed in both versions, the VA would be required, to the extent of available appropriations, to provide sufficient personnel to implement this provision effectively. (Section 4.)

6. Extend for 2 years the sunset date of the formula for determining whether, at the liquidation sale of property securing a VA-guaranteed loan, the VA acquires the property or pays the guaranty (the so-called "no-bid formula"). (Section 5(a) and (b).) The Senate amendment had proposed a one-year extension.

7. Modify the no-bid formula to exclude interest accruing after (a) as proposed in the Senate amendment, substantial delay in the liquidation sale caused by VA-requested forbearance from the no-bid calculation and, if based on that calculation the VA may acquire the property, from the VA's payment to the lender under the guaranty; and, as generally proposed in the House bill, (b) VA-caused "excessive delay in the liquidation sale including any VA failure to provide bidding instructions in a timely fashion", but such interest would be included in the VA's payment to the lender, and (c) "excessive delay in the liquidation sale" caused by a voluntary bankruptcy case under title 11 of the United States Code. The Administrator would be required to prescribe regulations to implement all three provisions. (Section 5.)

8. As proposed in the Senate amendment, extend the sunset date of section 1816(d) of title 38, relating to the proportions of properties acquired as the result of defaults on VA-guaranteed loans which can be sold for cash and by means of loans financed by the VA (so-called "vendee loans") until September 30, 1990. (Section 6(b).)

9. As proposed in the House bill, increase, for fiscal years 1988, 1989, and 1990, the current-law proportion of acquired foreclosed properties which the VA is required to sell on a cash rather than vendee-loan basis from a minimum of 25 percent and a maximum of 40 percent to a minimum of 35 percent and a maximum of 50 percent. (Section 6(a).)

10. As generally proposed in the House bill, for fiscal years 1988, 1989, and 1990, allow the Administrator to increase a vendee loan by an amount to be used only to rehabilitate the property to be purchased with the loan, to be limited to the amount necessary to rehabilitate the property to a habitable state, and to be made available periodically as the rehabilitation is completed, and require the Administrator to submit a report on the program to the Committees by March 1, 1990. (Section 6(b) and (c).)

11. As generally proposed in the Senate amendment, for fiscal years 1988, 1989, and 1990, limit the amount of a vendee loan to 95 percent of the purchase price of the property and permit the Administrator to waive this 5-percent downpayment requirement where the vendee loan includes an amount for rehabilitation of the property pursuant to section 6(b) of the compromise agreement. (Section 6(b).)

12. As generally proposed in the Senate amendment, modify the requirements for obtaining VA-guaranteed interest-rate-reduction conventional housing refinancing loans by providing that the veteran—or, in the case of an active-duty military service member who is unable to occupy the home because of such status, the service member's spouse—could certify that he or she previously occupied the home as an alternative to meeting the requirement for current veteran occupancy. ((2)) (Section 7(a).)

13. As generally proposed in the Senate amendment, modify the restriction limiting the maximum term of an interest-rate-reduction conventional housing refinancing loan to permit the term of the new refinanced loan to exceed the remaining term of the loan being refinanced by up to 10 years. (Section 7(a).)

14. As proposed in the Senate amendment, require that the amount of equity-payout refinancing loans under section 1810(a)(5) be limited to 90 percent of appraised property value. (Section 7(c).)

15. As proposed in the House bill, provide that the requirement that the veteran occupy the home which would secure a VA loan would be satisfied in the case of a veteran who is an active-duty service member and who is unable to occupy the home because of such status if the spouse of such service member occupies the home and certifies same. (Section 8.)

16. As generally proposed in both versions, authorize the VA, during fiscal years 1988, 1989, and 1990, to sell VA-acquired foreclosed properties for use as shelters primarily for homeless veterans and their families to any organizations named in or approved under section 3402 of title 38, any State or any political subdivision of any State, the District of Columbia, or other nonprofit organizations, for such consideration as the Administrator determines to be in the best interests of homeless veterans and the Federal Government. Veterans' service organizations would be accorded a preference in such property sales. Such sales would be permitted only if (1) the Administrator determines the sale would not adversely impact the solvency of the LGRF or the VA's ability to fulfill its statutory missions and to carry out other VA functions and administer other VA programs; (2) the purchaser agrees to utilize the property solely as a shelter as described above, to comply with applicable zoning requirements, and to make no use that is incompatible with the area in which the property is located, (3) the Administrator determines there is no significant likelihood the property could be sold for a price sufficient to reduce the defaulting veteran's debt to the VA, and (4) the transferee satisfies such other terms and conditions as are set by the Administrator. The Administrator would be required to include in the VA's annual report, required under section 214 of title 38, certain information regarding transferred properties. (Section 9(a).)

17. As generally proposed in the House bill, for fiscal years 1988, 1989, and 1990, allow the sale of VA-acquired foreclosed properties for a minimum of 75 percent of the fair market value of the property and improvements where the purchaser agrees to use veterans in a Veterans' Job Training Act (29 U.S.C. 1721 note) training program to rehabilitate the homes and to give veterans a preference in the resale of the rehabilitated properties. The Administrator would be required to reduce the former veteran-owner's liability to the VA by the amount of the reduction in the property sales price below fair market value. The Administrator would be required to submit a report to the Committees on this program by March 1, 1990. (Section 9(b).)

18(a). As generally proposed in both versions, require that, before a VA loan could be assumed by the purchaser of the home, the VA or the holder of the loan (when the holder is a lender approved under section 1802(d) of title 38 to make automatically-guaranteed loans) would evaluate the creditworthiness of the purchaser, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan. If the loan is current or would be made current at the time of settlement and the purchaser is found creditworthy, the veteran or subsequent purchaser of the property (hereinafter referred to as the "obligor"), automatically would be released from liability to the VA. (Section 10(a).)

As proposed in the House bill, when the evaluation of the proposed assumption is performed by an approved lender and the assumption is not approved, the veteran or obligor could appeal that determination to the VA. (Section 10(a).)

As generally proposed in both versions, when the loan is current or would be made current at the time of settlement and the purchaser meets the required creditworthiness standards, the VA or holder would be required to approve the assumption. If the creditworthiness of the purchaser is not approved, the Administrator, at the request of the veteran or obligor, may approve the assumption if the veteran or obligor expressly agrees to be secondarily liable on the loan, as long as the Administrator finds that (1) the veteran or obligor is unable to make the payments in light of his or her overall economic situation, (2) the veteran or obligor has made reasonable efforts to find a creditworthy purchaser and has been unable to do so, and (3) as a result, the sale is in the best interest of the VA and the veteran or obligor. The Administrator would be required to notify the veteran or obligor of this option at the time the veteran or obligor is notified of the Administrator's determination regarding the disapproval of the assumption based on the creditworthiness of the purchaser and the status of the loan. (Section 10(a).)

If the assumption is not approved under either option, the loan would become due and payable in full upon sale of the property. (Section 10(a).)

(b) Require the holder to notify the VA when it obtains knowledge of a veteran's transfer of the property securing a VA loan. A holder knowingly failing to notify the VA would be liable for any damages the VA sustains as a result of such failure. (Section 10(a).)

(c) As generally proposed in the Senate amendment, require that the instruments evidencing a VA loan, including the mortgage, contain provisions to be specified by the administrator to implement the requirements of this provision and language specified in the provision regarding the non-assumability of the loan without approval. (Section 10(a).)

(d) As proposed in the Senate amendment, for fiscal years 1988 and 1989, impose on a buyer assuming a VA loan a fee equal to one-half-percent of the loan balance, for deposit in the LGRF. (Section 10(c).)

(e) As generally proposed in the Senate amendment, require the Administrator to establish in regulations (a) reasonable limits on the fee a lender may charge for determining the creditworthiness of a purchaser assuming a VA loan, and (b) requirements for the timely processing of applications for acceptance of assumptions. (Section 10(a).)

19. As generally proposed in the House bill, add as qualification requirements for appraisers approved by the VA to make appraisals in connection with loans guaranteed, insured, or made by the VA that appraisers pass a written test, submit a sample appraisal, certify to an appropriate number of years of experience, and submit recommendations from other appraisers. If government-wide appraiser standards are established, the VA's qualification requirements are to be no less stringent than those standards and if such standards prescribe a written test, the VA would be required to use only that test. (Section 11(a).)

20. As generally proposed in both versions, for fiscal years 1988, 1989, and 1990, authorize the Administrator to permit the direct review, by those lenders approved to make automatically-guaranteed loans under section 1802 of title 38, of appraisals and determinations of reasonable value of property for purposes of determining the amount of VA loans, with this discretion to authorize lender review of appraisals, as generally proposed in the Senate amendment, tied to the VA's assigning sufficient personnel to monitor the review process effectively. (Section 11(b).)

21. As proposed in the Senate amendment, effective beginning with respect to fiscal year 1988, provide a permanent exemption from sequestration for the VA home loan programs. (Section 12.)

22. As generally proposed in the Senate amendment, require the VA to give appropriate consideration to state rather than broad regional statistics in evaluating the sufficiency of residual income—income remaining for the necessities of life after fixed obligations, including the proposed mortgage payment, have been satisfied—used in determining whether a veteran meets the credit-underwriting standards for VA loans, when the Administrator finds there are reliable data available for the particular state. (Section 13.)

23. As proposed in the Senate amendment, require the VA to list all of the foreclosed properties it acquires as the result of defaults on VA loans with real estate brokers, selected from a rotating list, under arrangements which the Administrator determines to be the most appropriate and cost effective. (Section 14.)

Mr. President, as the foregoing summary indicates, the compromise agreement effectively vindicates the Senate-passed version of this legislation and deals with many diverse issues, all of which are described in greater detail in the explanatory statement, prepared by the two Committees, which I will insert in the RECORD at the close of my remarks. However, I wish to discuss several major provisions designed to improve the VA's ability to assist veterans in achieving—and maintaining—home ownership.

GUARANTY AMOUNT

Mr. President, section 3 of the compromise agreement would change the VA's home loan guaranty, which is designed to substitute, in large measure, for the downpayment that would otherwise be required when a veteran purchases a home. Housing prices have risen substantially since the most recent increase in the VA loan guaranty maximum enacted by the Congress, effective October 1, 1980, so that many veterans cannot find any decent housing for the maximum price—$110,000—for which the current VA loan guaranty maximum generally makes no-downpayment loans possible. That is why I included in S. 9, as I had in bills in both the 98th and 99th Congresses, a provision—from which the provision in S. 1801 is derived—to increase the maximum guaranty. Indeed, both the Senate and House bills recognize the need to increase the maximum guaranty, to more closely keep pace with the effects of inflation on housing prices. For loans made to veterans at the higher end of the income scale—which generally are less likely to go into default than are loans made to veterans at the lower end—the dollar limitation of the guaranty, rather than the percentage limitation, has been a critical factor in determining whether a lender makes a loan and whether a downpayment will be required.

Section 3 of the compromise agreement thus contains the Senate provision to increase to $36,000 the dollar maximum of the VA home loan guaranty. This increase should help ensure that the Loan Guaranty Program continues to play the role the Congress intends of helping veterans become homeowners in all areas of the country, without excluding those who live in higher-cost areas, such as California, for example. However, the reduction in the percentage limitation of the guaranty to 40 percent for loans in excess of $45,000—which would still provide substantial protection for the lender in comparison to the conventional market downpayment of 20 to 25 percent—would reduce the VA's potential liability in the case of defaults on VA loans without, we believe, significantly reducing the willingness of lenders to make these higher amount loans.

In addition to preserving the value of the guaranty for veterans at the higher end of the market, however, I strongly believe that it is important that such value be maintained for veterans at the lower end as well. Credit-underwriting standards for VA-guaranteed loans are more flexible than the standards used for conventional loans, which provides more veterans with the opportunity to participate in the program. For many of those veterans who might not qualify for conventional loans, the VA program often provides the only chance for home ownership.

The VA guaranty provides substantial protection for lenders making loans—particularly loans under $45,000—to veterans who might not meet conventional loan underwriting criteria. Although loans under $45,000 account for a disproportionately high percent of VA loan foreclosures, even among these "higher risk" veterans, the rate of foreclosure was less than 10 percent for fiscal years 1980 through 1986. The VA guaranty thus allows the vast majority of such veterans to purchase and remain in homes—which most likely could not have happened if they had had to rely on the conventional market for loans.

Unlike the Senate amendment, the House bill, while increasing the dollar amount of the guaranty, would have lowered the percentage limitation from 60 percent to 40 percent. I share the House Committee's concern with the higher default rates on lower end loans—which not only hurt the Home Loan Program but the veterans who lose their homes. However, such a substantial reduction in the percentage amount of the maximum guaranty would likely have served as a disincentive to lenders—many of whom raised this very possibility in response to the proposal to reduce the guaranty percentage limitation to 40 percent—to make loans to veterans who need the program most. It would be unfair to deny access to those veterans most in need of it—and the vast majority of whom will not default on their VA loans—merely because a small proportion of those veterans are not good credit risks.

Accordingly, the final agreement adopted a compromise I proposed that would provide, for loans $45,000 and under, a maximum guaranty of 50 percent of the loan amount, which would still provide substantial protection against default for lenders. The compromise agreement thus takes steps to lower program costs and reduce the default rate while still ensuring that a substantial guaranty remains to allow all veterans access to the VA Loan Program.

ASSUMPTIONS OF VA-GUARANTEED LOANS

Mr. President, section 10 of the compromise agreement, derived from provisions in the Senate and House versions, would require that the creditworthiness of the purchaser of a veteran's home be established as a condition of assuming a VA loan. In S. 1801, I proposed, along with Senator MURKOWSKI, creditworthiness determinations for assumptions in order to reduce the tremendous increase in defaults on VA-guaranteed loans over the past 4 years—approximately 14 percent of which were on assumed loans—and to protect veterans by facilitating their release from liability to the VA. Under current law, there are no restrictions regarding the assumption of VA-guaranteed loans. In contrast to conventional loans, which generally cannot be assumed, the purchaser of the veteran's home may assume the veteran's loan without undergoing a credit check or meeting any underwriting criteria. Unlike the original veteran borrower, such a purchaser also does not have to pay any origination or processing fee. The same free assumability applies to all subsequent purchasers long after the veteran has sold the house.

Mr. President, the free assumability of low-rate VA-guaranteed loans has made it easier for veterans to sell their homes, which has certainly helped some veterans avoid defaults in certain circumstances. Unfortunately, there are also certain disadvantages associated with the easy assumability of VA-guaranteed loans. The veteran—whose creditworthiness already has been approved—generally remains liable for the loan after it has been assumed, and often bears the responsibility for repayment if there is a default on the loan. In some cases, the assumability feature of VA-guaranteed loans has enabled persons to buy a home even though their creditworthiness would not otherwise allow them to achieve homeownership. Such persons may thus eventually default on the loan—doing so at the expense of the veteran and the VA.

The Senate provision would have allowed the veteran—or a subsequent purchaser of the property—to elect between having a credit check performed on the purchaser and generally being released from liability to the VA or becoming jointly and severally liable on the loan with the purchaser. Under either alternative, a person whose credit had been approved by the VA—the purchaser or the veteran—would have been liable to the VA on the loan. However, the second option would have allowed the veteran to avoid the expense and delay of a credit check when the veteran deemed it necessary in order to allow the sale to proceed.

The House bill would have required a mandatory credit check on all purchasers seeking to assume VA loans from veterans and provided for no alternative method of permitting assumptions.

Unfortunately, despite our most persistent efforts, our colleagues in the House remained adamantly opposed to permitting the veteran to choose entering into joint and several liability as an alternative to having a credit check performed on the purchaser. However, at my insistence, we were able to achieve a compromise under which the House ultimately agreed to allow the veteran, when the purchaser has not met the credit underwriting standards, to request that the VA approve the assumption if the veteran agrees to be secondarily liable on the loan, as long as the Administrator finds that the veteran would be unable to make the loan payments, the veteran had made reasonable efforts to find a creditworthy buyer and could not, and the sale therefore would be in the best interest of the VA and the veteran. These provisions also would apply to subsequent purchasers and sellers of the property. I certainly encourage the VA to carefully review and consider all applications from veterans for approval of assumptions under the secondary-liability alternative, and in appropriate cases, to approve such assumptions.

Mr. President, although I believe the Senate provision would have provided a fairer and more flexible procedure, the compromise agreement would still give veterans some greater flexibility to sell their homes than would the House bill, while providing significant protections for the Home Loan Program.

WITHOUT RECOURSE LOAN SALES

Mr. President, the Cranston-Murkowski floor amendment to S. 1801 added a provision to repeal the requirement in section 2 of the just-enacted Public Law 100-136 which restricts the VA from selling loans made to certain purchasers of VA-acquired foreclosed properties—known as "vendee loans"—without recourse unless the amount received is equal to an amount which is not less than the unpaid balance of the loan—that is, for 100 percent of par value. This provision effectively prohibits without recourse sales.

The without recourse prohibition was inserted by the House in Public Law 100-136 as its price for agreeing to temporarily extend until November 15 the VA loan fee—necessary to protect the solvency of the LGRF—which had a sunset date of September 30, 1987. In light of the VA's one attempted sale last May of loans without recourse—which had to be withdrawn because the bids ranged from only 15 to 65 percent of par value—and of the Administration's policy to require, beginning in fiscal year 1988, that all vendee loans be sold without recourse and that $900 million of loan assets be sold over the next 3 fiscal years, I agree with my colleagues on the House Committee that restrictions are needed to govern any future without recourse sales. As that attempted sale indicates, at least if current VA selling practices are used, in order to sell vendee loans without recourse the VA will very likely have to discount these loans greatly. Thus, any revenues achieved through such sales would likely to far less over the long-term than the revenues would be if the loans were sold with recourse.

Thus, if the House-originated provision simply ensured that nonresource sales could be made only if the VA obtains fair value for the loans, I could probably have endorsed it. However, as I indicated when the Senate reluctantly accepted the House amendment on October 1 in order to keep the 1-percent fee alive, I believe that it went too far in a number of respects.

The without recourse prohibition has the effect of permanently prohibiting the VA from selling the vendee loans without recourse. I do not believe such a permanent and rigid limitation on without recourse sales is good public policy. There is nothing wrong with a without recourse sale as long as the sales price of the loan is not discounted from what the price would be if the loan were sold with recourse.

Mr. President, in addition to my concern that the LGRF must be protected against the administration's attempt to provide quick cash for one-time reductions of the budget deficit at the expense of the Home Loan Program and the veterans who benefit from it and to use without recourse sales as a means of "privatizing" the program, OMB and CBO, as a result of a recent, dubious shift in budget scorekeeping methodology, have attributed to the enactment of section 2 of Public Law 100-36 a cost of over $600 million in fiscal year 1988 outlays. Although not caused by any increase in actual spending, this scorekeeping requires that equivalent savings be made under the Gramm-Rudman-Hollings (Public Law 99-177, as amended by Public Law 100-119) requirements.

As I did during Senate consideration of S. 1801, I intend to propose an amendment to the Senate reconciliation legislation as well as to S. 9, the "Omnibus Veterans' Benefits and Services Act of 1987," to repeal the without recourse provision. I am encouraged by the President's statement issued upon signing Public Law 100-136 that the "Administration will work with [me and Senator MURKOWSKI] and other Members of Congress to repeal the unwise recourse loan amendment * * *." Further, it is my understanding that the House has agreed to consider this matter again in the context of reconciliation. I intend to work closely with our colleagues on the House Veterans' Affairs Committee and in the administration to try to reach an acceptable compromise which would allow without recourse sales where that would be to the benefit of the LGRF. I believe that we should be able to find a solution that will address the concerns which have been raised in both bodies of Congress while allowing the VA to sell vendee loans without recourse when that would be in the interest of the LGRF.

HOMELESS PROGRAM

Mr. President, section 9 of the conference agreement contains a provision which is designed to assist homeless veterans, which is derived directly from a provision in S. 477 as reported by our committee on March 18 of this year and passed by the Senate on March 31. I deeply regret the long delay in gaining House action and approval of this provision which I believe has the potential to provide significant assistance to some homeless veterans and their families.

Section 9(a) would authorize the VA, during the current fiscal year and in fiscal years 1989 and 1990, to sell VA-acquired foreclosed houses to certain entities—any State or political subdivision of any State or other nonprofit organizations—for use as shelters primarily for homeless veterans and their families. Veterans' service organizations would be given a preference in such property sales.

As is set forth in our committee's report accompanying S. 477, S. Rept. 100-15, our committee recognizes that the roots of homelessness, in the population in general and among veterans, are many and that no one program or specific effort will be adequate to resolve this difficult problem. Nevertheless, it is the view of the committee that providing emergency and temporary shelter can be an important step in any overall program of assistance and it is the need for such shelter arrangements that this provision is intended to address.

Mr. President, in order to ensure that transfers of property for the purpose of providing shelter to homeless veterans do not have an adverse effect on the integrity of the LGRF, the compromise agreement would expressly limit the sales to those where the Administrator determines the sale would not adversely affect the solvency of the LGRF or the VA's ability to fulfill its statutory missions.

Mr. President, S. 477 as passed by the Senate in March included provisions that would have required the Administrator to accord a preference in the sale of properties to entities that have plans for utilizing the voluntary services of homeless individuals and others to rehabilitate the property so as to improve its inhabitability and also to use the volunteer services of VA employees, members of veterans' services organizations, homeless individuals, and others to operate and maintain the shelter. Although those express provisions are not in the final compromise agreement, section 9(a)(3)(B) and (4) provide that the Administrator may not enter into an agreement unless the entity to which the property is sold agrees to "take such . . . actions as the Administrator determines are necessary or appropriate" and that any agreement regarding such a sale shall be "on such terms and conditions as the Administrator determines to be appropriate and necessary". I continue to believe that rewarding the kinds of initiatives described in S. 477 would be appropriate and therefore urge the VA to adopt such preferences and incentives as the agency implements this program to assist in the provision of shelter.

NO-BID FORMULA

Mr. President, I also am pleased that the compromise agreement, based on provisions from the Senate and House bills, would extend and modify the provisions—the so-called no-bid formula—establishing the circumstances under which, based on whether it is financially advantageous to the Government to acquire at the liquidation sale the property securing a VA-guaranteed loan, the VA either acquires the property or pays the lender under the guaranty.

In its first 3 years of implementation, the no-bid formula appears to have been generally beneficial for the home loan program. By requiring the VA to factor its full acquisition and disposition costs—including property taxes, liens, and the cost of property maintenance and improvements—into its calculation of the net value of foreclosed property, the no-bid formula results in a realistic computation of net value.

However, the Mortgage Banker's Association, which represents the mortgage bankers who make over 80 percent of all VA-guaranteed loans, has raised concerns that the no-bid formula has increased the cost to lenders of VA-guaranteed loans, and indicated that, because the VA increasingly is paying the guaranty rather than acquiring foreclosed properties, many lenders are reevaluating their participation in the VA Home Loan Program.

In the compromise agreement, we therefore have sought—in light of the experience gained since the no-bid provision was enacted in 1984—by blending together the House and Senate no-bid provisions, to balance the equities and the costs involved with VA loans in what I believe is a more appropriate way than the current no-bid formula does. Accordingly, interest accruing during a period of substantial delay in the liquidation sale of the property caused by VA-requested forbearance or a period of excessive delay in such sale caused by the VA or resulting from a voluntary bankruptcy case commenced under title 11 of the United States Code, would be excluded from the no-bid calculation. In cases of VA-requested forbearance where the VA does not acquire the property, and in cases of VA-caused delay, the accrued interest would be included in the payment to the lender, so that lenders are not unfairly penalized for delays requested or caused by the VA.

Also, the explanatory statement which the committees adopted regarding the compromise agreement directs the VA to collect and provide to the Senate and House Veterans' Affairs Committees specified data regarding the VA's and lenders' losses on foreclosed properties when the VA acquires such properties and when it pays the guaranty.

MANUFACTURED HOUSING LOANS

Mr. President, the compromise agreement includes two provisions designed to reduce the high default rate on VA-guaranteed manufacturing housing loans while preserving these important program benefits for the lower income veterans and active-duty service members who are the primary users of the benefits. First, section 3(b)(2)—as provided in section 11 of the Senate amendment—would require a 5-percent downpayment on all such loans, which would provide the buyer with an equity interest in the property. Experience has demonstrated that the buyer having an equity interest reduces the likelihood of default.

Second, section 3(b)(1) of the compromise agreement would decrease the percentage amount of the manufactured housing loan guaranty from 50 percent of the loan amount to 40 percent.

Mr. President, the House bill would have reduced the percentage amount to 30 percent. However, I strongly opposed such a substantial reduction in the guaranty because it would likely have caused many manufactured home lenders to stop making such loans. In addition to the concerns I discussed earlier with respect to the effects that decreasing the guaranty on lower priced conventional home loans would have on lenders—the decreased protection against no-bids and the reduced guaranty payments to lenders—substantially decreasing the guaranty on VA-guaranteed manufactured housing loans would also prevent lenders from selling them in the secondary market through inclusion in Government National Mortgage Association [GNMA] loan pools backing GNMA-issued securities. Current GNMA guidelines require a guaranty equal to at least 50 percent of the loan balance on such VA-guaranteed loans for inclusion in those loans pools.

The ability to sell VA manufactured housing loans in the secondary market in an important factor in lenders' decisions to make these VA loans. As I stated earlier, I believe that we must ensure that veterans and service personnel who may not be able to afford conventional housing retain the opportunity for home ownership which the VA Manufactured Home Loan Program offers. Accordingly, I could not accept such a drastic reduction in the guaranty.

Although the compromise agreement would provide for a modest reduction in the guaranty, to 40 percent, when that guaranty is combined with the 5-percent downpayment requirement, these loans would have a total of 45-percent protection to offer with respect to the GNMA loan pools. Thus, I am writing to GNMA to urge that it adjust its guidelines to continue to allow these loans to be included in its loan pools in light of the new downpayment requirement which should make defaults on these loans less likely.

MARKETING FORECLOSED PROPERTIES

Mr. President, I am pleased that section 14 of the compromise agreement includes a provision—as provided in section 15 of the Senate amendment—which would require the VA to list all of its foreclosed properties with real estate brokers. Staffing shortages at VA regional offices, combined with the increase in recent years in the foreclosure rate, have resulted in a great increase in the number of properties held by the VA. Listing such properties for sale with real estate brokers would enable the VA to make use of the services of those professionals who are best able to sell properties expeditiously and in a cost-effective manner. As expressed in the explanatory statement which I have asked to be printed at the conclusion of my remarks, it is the intention of the committees to encourage the VA to develop innovative solutions to facilitate property disposal in the most cost-effective manner possible and to take the necessary steps to market its property inventory more aggressively.

The explanatory statement also sets forth the committees' expectation that the VA select the real estate brokers to market these properties from a rotating list. The general suggestion to use a rotating list, however, does not mean that the VA would be required to parcel out listings one at a time, with property No. 1, going to the first broker on the list, the next property to the second broker, and so on. Rather, the basic intent is to encourage the VA to allow all interested real estate brokers the opportunity on an equitable basis to participate in the VA's Property Disposition Program and to bring about far wider broker participation in the program. I would expect that the Administrator would develop a means to ensure that this goal is met, consistent with the language of section 14 itself, which requires that listings be made "under such arrangements as the Administrator determines to be most appropriate and cost effective."

The critical point here is that the system used for allocation of properties to brokers must treat all brokers fairly and equitably.

Mr. President, the Senate committee, in proposing the original provision, was concerned with facilitating the disposition of large inventories of foreclosed properties which certain VA regional offices—perhaps because of staffing shortages—had found difficult to sell. As our committee stated in the report on S. 1801, "[t]he requirement that listing be under conditions the Administrator determines to be appropriate and cost effective is intended to allow the VA the flexibility to market properties through other means if listing alone would clearly not be cost effective." That is still my goal.

I certainly do not intend that the Administrator interpret the provision in the compromise agreement to mean that existing property disposal programs and methods which regional offices are using successfully to dispose of foreclosed properties must be abandoned or changed. Programs such as the HUD-VA Inventory Property Disposition Program—begun in 1985, under which the VA works with local real estate broker boards to disseminate its listings—which are now or soon will be in place, would not necessarily be expected to use the type of rotating list I mentioned earlier where such programs can dispose of properties in a rapid and cost-effective way without one.

Finally, I want to stress that I am not suggesting by the foregoing explanation regarding our intent underlying section 14 that we are content for the VA to continue business as usual on property management and disposition. We are not. We intend significant changes, innovatives, and improvements generally and will be monitoring the program to see that they occur.

S. 1801-DERIVED PROVISIONS

Mr. President, I am pleased that the final compromise agreement includes many other significant provisions derived from S. 1801 which would provide protections for veterans and the LGRF while also improving the VA's assistance to veterans using their home loan benefits. These provisions would ease the veteran-occupancy requirement on refinancing VA loans (section7); require the VA to provide financial information and counseling assistance to veterans in default on VA loans (section 4); permanently exempt the Home Loan Program from Gramm-Rudman-Hollings sequestration (section 12); provide for direct review of appraisal by lenders authorized to make VA-guaranteed loans without the VA's prior approval, in order to expedite the loan approval process, subject to VA monitoring of this new procedure (section 11(b)); require a 0.5-percent fee on assumptions of VA-guaranteed loans (section 10(c)); require the Administrator to give appropriate consideration to State rather than broad regional statistics in evaluating the sufficiency of residual income when underwriting VA loans, to provide fairer and more realistic requirements for veterans living in areas with low costs of living (section 13); and require a 5-percent downpayment on vendee loans (section 6(a)), to reduce the high default rates on such loans.

CONTRACT SERVICES PAID FROM THE LGRF

Mr. President, I am greatly disappointed that the compromise agreement does not include a provision from the Senate which would have expanded the VA's authority to pay from the LGRF Loan Guaranty Program administrative expenses for supplemental contractual services and equipment purchases not otherwise authorized to be paid from the LGRF when the Administrator makes a finding that such supplementary contracting and equipment are in the best interest of the long-term stability and solvency of the LGRF.

Staffing shortages have severely hampered the VA's ability to provide many Loan Guaranty Program services on an adequate and timely basis. Between fiscal years 1984 and 1987, the VA estimates that the number of VA loan originations increased 74.9 percent, from 251,588 to 440,000; the number of defaults on VA-guaranteed loans increased 22.9 percent, from 158,387 to approximately 194,000; the number of foreclosures on VA-guaranteed loans increased 49.1 percent, from 28,036 to 41,802; and the number of properties which the VA-acquired increased 34.1 percent, from 22,817 to 30,600, Despite this tremendous increase in the volume of activity in the Home Loan Program, the number of FTEE in the program rose by only 1.6 percent—from 2,031 to 2,063—over these 4 fiscal years. Not surprisingly, the provision of discretionary services has at times been abbreviated or discontinued, regardless of their cost effectiveness or long-term impact on the program. Indeed, the VA has expressed strong support for the Senate provision.

Mr. President, I believe that permitting the Administrator to use the LGRF to pay for certain additional administrative costs and for certain supplemental acquisitions of equipment would allow for a more consistent, comprehensive, and cost-effective provision of services in the Home Loan Program. Although the House would not agree to include the Senate provision in the compromise agreement, I intend to continue to pursue this approach in the future.

CONCLUSION

Mr. President, I want to take this opportunity again to express my appreciation to our committee's ranking minority member, Senator MURKOWSKI, and the very effective minority staff—Tony Principi, Tom Roberts, Annie Rothgeb, Laura Stepovich, and Chris Yoder—for their fine efforts and cooperation on this legislation.

Of course, I also extend thanks to the committee's majority staff for their excellent work in this bill—Charlotte Hughes, Claudia Kashin, Jennifer Loporcaro, Cathy Chapman, Loretta McMillan, Ingrid Post, Lawson Bader, Iris Coblitz, Jane Wasman, Ed Scott, and Jon Steinberg—and our fine editorial director, Roy Smith.

Finally, I also want to thank again the worthy leaders on the House Veterans' Affairs Committee and its Subcommittee on Housing and Memorial Affairs, as well as their hard working staffs, Mack Fleming, Pat Ryan, Gloria Royce, Lee Ann Mayo, Charlie Peckarsky, Rufus Wilson, and Kingston Smith, and Joe Womack of the Office of the House Legislative Counsel.

I urge all of my colleagues to support this important measure. Each element of this bill has an important role to play in ensuring that home loan guaranty benefits continue to help our veterans reach their dreams of home ownership. Through the passage of the compromise agreement on H.R. 2672, the Senate can help ensure that economic downturns at either the national or local level do not diminish the value of, or reduce the opportunity for veterans to use, these benefits earned in service to our country.

Mr. President, I ask unanimous consent that the House/Senate explanatory statement which has been prepared in lieu of the joint statement which would accompany a formal conference report be printed in the RECORD at this point as it was earlier inserted as the definitive legislative history for this measure during the debate in the other body.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT OF HOUSE BILL (H.R. 2672), SENATE AMENDMENT (S. 1801), AND COMPROMISE AGREEMENT ON THE "VETERANS' HOME LOAN PROGRAM IMPROVEMENTS AND PROPERTY REHABILITATION ACT OF 1987"

Mr. CRANSTON. This document explains the provisions of H.R. 2672 as passed by the House of Representatives on August 3, 1987 (hereinafter referred to as the "House bill"), the provisions of the bill as passed by the Senate on October 30, 1987 (hereinafter referred to as the "Senate amendment"), with an amendment incorporating the provisions of S. 1801 as reported and a floor amendment, the provisions of section 101 of S. 477 as passed by the Senate on March 31, 1987 (hereinafter referred to as "S. 477"), relating to the sale of certain VA-acquired foreclosed properties for use as shelters for homeless veterans, and the provisions of a compromise agreed to by the House and Senate Committees on Veterans' Affairs. The differences between the House bill, the Senate amendment, and the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by agreements reached between the Committees, and minor drafting, technical, and clarifying changes.

NON-RECOURSE VENDEE LOAN SALES

The House bill (section 2), but not the Senate amendment, would state certain findings regarding adverse effects resulting from the Office of Management and Budget's and the Congressional Budget Office's (CBO) recent change in accounting for loans sold with recourse by the Veterans' Administration (VA) and express the sense of the Congress that the CBO should reverse its decision and that any change in the assets sales policy of the VA should not be considered in future budget resolutions as a means of achieving deficit reduction.

The compromise agreement does not contain this provision.

The Senate amendment (section 16), but not the House bill, would repeal section 2 of Public Law 100-136, which prohibits the sale of vendee loans without recourse unless an amount equal to the unpaid balance of the loan is obtained.

The compromise agreement does not contain this provision.

LOAN FEE

Both the House bill (section 3(a)) and the Senate amendment (section 13) would amend section 1829(c) of title 38, relating to the imposition of a fee equal to 1-percent of the total loan amount on all persons, except those excluded under section 1829(b), who obtain a loan guaranteed, insured, or made by the VA, to extend the loan fee through September 30, 1989.

The compromise agreement (section 2(a)) contains this provision.

The House bill (section 3(b)), but not the Senate amendment, would amend section 1829(b) of title 38, relating to the exemption from the loan fee for a veteran receiving or entitled to receive VA compensation and for the surviving spouse of a veteran who died from a service-connected disability, to clarify that the exemption includes the surviving spouses of veterans who died from service-connected causes and who themselves are veterans.

The compromise agreement (section 2(b)) contains this provision.

GUARANTY AMOUNT

A. Purchase or construction of homes

Both the House bill (section 4(a)) and the Senate amendment (section 2(a)) would amend section 1803(a)(1) of title 38, relating to the maximum VA loan guaranty amount for conventional homes. The House bill would change the current-law maximum of 60 percent of the amount of the loan or $27,500, whichever is less, to 40 percent of the amount of the loan or $40,000, whichever is less. The Senate amendment, effective for a fiscal year only to such extent as is or in such amounts as are provided in appropriation Acts, would increase the dollar maximum to $36,000 and make no change in the 60-percent figure.

The compromise agreement (section 3(a)) would, effective with respect to loans approved by the VA for which guaranty commitments—*i.e.*, a commitment to issue a certificate of guaranty—are issued after December 31, 1987, and loans for which settlement occurs after January 31, 1988, change the maximum VA loan guaranty amount for conventional homes (a) to 50 percent of the amount of the loan for loans of $45,000 or less, and (b) to 40 percent of the amount of the loan or $36,000, whichever is less, with a minimum guaranty of $22,500, for loans greater than $45,000.

B. Manufactured homes

The House bill (section 4(b)), but not the Senate amendment, would amend section 1819(c) of title 38, relating to the maximum VA loan guaranty amount for manufactured homes, manufactured-home lots, or manufactured homes and lots, to change the current-law maximum of 50 percent of the amount of the loan or $20,000, whichever is less, by reducing the 50-percent figure to 30 percent and making no change in the $20,000 figure.

The compromise agreement (section 3(b)) contains the House provision with an amendment changing the 30-percent figure to 40 percent, effective with respect to loans approved by the VA for which guaranty commitments are issued after December 31, 1987, and loans for which settlement occurs after January 31, 1988.

MANUFACTURED HOMES DOWNPAYMENT

The Senate amendment (section 11), but not the House bill, would amend section 1819(e)(4) of title 38, relating to restrictions on and requirements for manufactured housing loans, to limit the amount of such loans to 95 percent of the purchase price of the property securing the loan. The effect of this provision would be to require a 5-percent downpayment.

The compromise agreement (section 3(b)(2)) contains this provision, effective with respect to loans approved by the VA for which guaranty commitments are issued after December 31, 1987, and loans for which settlement occurs after January 31, 1988.

FINANCIAL INFORMATION AND COUNSELING ASSISTANCE FOR VETERANS

Both the House bill (section 5) and the Senate amendment (section 5) would amend section 1816(a) of title 38, relating to procedures on default of VA-guaranteed loans. The House bill would require the VA, upon receipt of a 90-day default notice from the lender, to provide the veteran with information regarding alternatives to foreclosure, including possible methods of curing the default, and, in the case of foreclosure, the VA's and the veteran's liabilities and ways to reduce the veteran's liability, unless the VA has received satisfactory assurances that the lender had adequately advised the veteran with respect to such matters. The Senate amendment would require the VA, for a 2-year trial period ending December 30, 1989, within a reasonable time after receipt of a 90-day default notice from the lender, to provide the veteran with information regarding alternatives to foreclosure appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, the veteran's and the VA's liabilities in the event of foreclosure, and the availability of counseling, and, to extent feasible, counseling.

The compromise agreement (section 4), would require the VA upon receipt of a 90-day default notice from the lender, to provide the veteran with information regarding alternatives to foreclosure appropriate in light of the veteran's particular circumstances, such as the availability of counseling, the liabilities of the VA and the veteran in the event of foreclosure, and possible methods of curing the default, and, to the extent feasible, with counseling. This requirement would not apply in the case of a lender which the Administrator has found to have demonstrated a record of consistently providing veterans the above information on a timely and accurate basis. This provision would be effective for a 3-year trial period beginning March 1, 1988.

The House bill (section 5) would require the VA, to the extent of available appropriations, to provide sufficient personnel to implement the above-described notification requirement effectively. The Senate amendment (section 5) would require the VA, subject to the availability of appropriations and funds made available from the Loan Guaranty Revolving Fund (LGRF) pursuant to the proposed expanded authority to pay for supplementary contractual services from the LGRF, proposed in the Senate amendment, section 12 (discussed below under "CONTRACT SERVICES PAID FROM THE LGRF"), to provide sufficient personnel to implement this provision effectively.

The compromise agreement (section 4) contains the House provision.

ACTIONS WITH RESPECT TO DEFAULTED LOANS

Both the House bill (section 6(a) and (c)) and the Senate amendment (section 6) would extend the sunset date of and modify section 1816(c) of title 38, relating to the formula for determining whether, at the liquidation sale of property securing a VA-guaranteed loan, the VA acquires the property or pays the guaranty (the so-called "no-bid formula").

The House bill (section 6(c)) would extend the no-bid formula until September 30, 1989. The Senate amendment (section 6) would extend the no-bid formula until September 30, 1988.

The compromise agreement (section 5) contains the House provision.

The House bill (section 6(a)) would exclude from the no-bid formula interest accruing after unreasonable delay in the liquidation sale of the property caused by (1) the VA, (2) a voluntary bankruptcy case commenced under title 11 of the United States Code, or (3) VA-requested forbearance. Such interest would be included in the VA's payment to the lender under the guaranty in cases of VA-caused delay, but no in cases of voluntary bankruptcy or VA-requested forbearance. The Senate amendment (section 6) would exclude interest accruing after substantial delay in the liquidation sale caused by VA-requested forbearance from the no-bid calculation and, if based on that calculation the VA may acquire the property, from payment to the lender.

The compromise agreement (section 5) contains the Senate provision with respect to VA-requested forbearance. The compromise agreement also contains the House provision with respect to VA-caused delay, with an amendment describing such delay as "excessive delay in [the] . . . liquidation sale, . . . caused by the Veterans' Administration (including any delay caused by its failure to provide bidding instructions in a timely fashion)" and the House provision with respect to delay caused by voluntary bankruptcy cases, with an amendment describing such delay as "excessive delay in [the] . . . liquidation sale". The Administrator would be required to prescribe regulations to implement all three provisions. All three provisions would be effective with respect to defaults which occur more than 60 days after enactment.

The Committees intend that the Administrator define in regulations the term "excessive delay" as used in the provisions pertaining to VA-caused and bankruptcy-caused delay. With respect to VA-caused delay, the Committees intend that the Administrator include in the definition of "timely" a requirement that the VA issue bidding instructions at least 48 hours in advance of the sale if the lender has fulfilled all of its obligations, including returning a completed loan-status form to the VA in a timely fashion. The Committees do not intend that all VA-caused delays be deemed "excessive". With respect to delay resulting from cases of voluntary bankruptcy, the Committees intend that the Administrator provide in the definition of "excessive delay" that a period of delay would not necessarily be excluded from being considered "excessive" merely because the period of delay approximated the average time for the property to become available for a liquidation sale following the initiation of such a bankruptcy proceeding.

The Committees note that, in the report on the Senate amendment (S. Rept. No. 100-204, page 29), the Senate Committee directed the VA, by February 1, 1988, to report to both Committees data for fiscal years 1986 and 1987 regarding the average loss to lenders on foreclosed properties when the VA pays the guaranty instead of bidding on the property and on the average loss to the VA when it acquires such properties, together with any recommendations by the Administrator for administrative or legislative action regarding the no-bid formula, with such data to include statistics indicating, for both the cases where the VA pays the guaranty and where it acquires the property, the average amount paid, the number of loans in each of these two categories broken down by price intervals of $5,000, and the different types of costs which the VA and the lender each incur upon acquisition and disposition of such properties.

In lieu of the direction to provide such data for fiscal years 1986 and 1987, the Committees direct the VA to collect and provide such data for each fiscal year beginning in fiscal year 1988. The VA should also include data regarding such losses to lenders and the VA on a property-by-property basis for at least 5 percent of such properties selected on a random-sampling basis in addition to the average losses. In those instances where the VA acquires property, there should be an indication of the property disposal method, such as VA-finance or cash sale, and whether the cash sale was made through the auction process. The Committees further expect this information to be broken down by regional offices. The Committees expect the first report to include data for October 1, 1987, through April 30, 1988, and to be submitted to the Committees by June 30, 1988, and each report thereafter by each February 1 for the prior fiscal year.

CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES

A. Number of vendee loans

Both the House bill (section 6(b) and (c)) and the Senate amendment (section 8(b)) would extend the sunset date of section 1816(d) of title 38, relating to the proportions of properties acquired as the result of defaults on VA-guaranteed loans which can be sold for cash and by means of loans made by the VA (so-called "vendee loans"), the House bill (section 6(c)) until September 30, 1989, and the Senate amendment (section 8(b)) until September 30, 1990.

The compromise agreement (section 6(b)) contains the Senate provision.

The House bill (section 6(b)) would amend section 1816(d) to increase, for fiscal years 1988, 1989, and 1990, the current-law proportion of acquired foreclosed properties which the VA is required to sell on a cash rather than vendee-loan basis from a minimum of 25 percent and a maximum of 40 percent to a minimum of 35 percent and a maximum of 50 percent. The Senate amendment (section 8(a)) would increase the required proportion of cash sales to a minimum of 40 percent and a maximum of 60 percent.

The compromise agreement (section 6(a)) contains the House provision, effective as of October 1, 1987.

The Senate amendment (section 8(a)(2)), but not the House bill, would reduce from 80 percent to 70 percent the level to which the Administrator may, when necessary for the effective functioning of the LGRF, increase the proportion of acquired foreclosed properties which are sold on a vendee-loan basis.

The compromise agreement does not contain this provision.

B. Maximum amount and rehabilitation loans

Both the House bill (section 10) and the Senate amendment (section 7) would change certain requirements with respect to loans made to purchasers of VA-acquired foreclosed properties, known as "vendee loans".

The House bill, but not the Senate amendment, would amend section 1816(d), relating to vendee loans, to allow the Administrator to include as part of a vendee loan an amount to be used only to rehabilitate the property to be purchased with the loan. That amount would be limited to the amount necessary to rehabilitate the property to a habitable state, and would be made available periodically as the rehabilitation is completed.

The compromise agreement (section 6(b)) contains the House provision, effective with respect to loans made more than 30 days after the date of enactment, with amendments terminating it at the end of fiscal year 1990 and requiring the Administrator to submit a report on the program to the Committees by March 1, 1990.

The Committees intend that VA regional offices would be delegated authority to include in a vendee loan a total amount not to exceed $10,000 for such rehabilitation. In the case of an application for a rehabilitation loan in excess of $10,000, the Committees intend the VA Central Office to determine whether and in what amount such a rehabilitation loan should be made.

The Senate amendment (section 7(a)), but not the House bill, would amend section 1816(d) to limit the amount of a vendee loan to 90 percent of the purchase price of the property.

The compromise agreement (section 6(b)) contains the Senate provision, effective with respect to loans made more than 30 days after enactment, with amendments changing the 90-percent figure to 95 percent, terminating the restriction at the end of fiscal year 1990, and permitting the Administrator to waive this 5-percent downpayment requirement where the vendee loan includes an amount for rehabilitation of the property (as described above).

The Senate amendment (section 7(b)), but not the House bill, would amend section 1829(a), relating to the 1-percent fee (discussed above under "LOAN FEE"), to increase the fee imposed on persons receiving vendee loans to 2.5 percent.

The compromise agreement does not contain this provision.

DIRECT LOANS IN AMERICAN SAMOA

The House bill (section 7), but not the Senate amendment, would amend section 1811 of title 38, relating to direct VA loans to eligible veterans for the purposes for which VA-guaranteed loans can be made as provided in section 1810 or 1819 of title 38, to require the Administrator to make direct loans to eligible veterans in American Samoa in an amount equal to the amount provided to the veteran by the American Samoa government.

The compromise agreement does not contain this provision.

The Committees urge the VA to undertake the development of creative solutions to the land ownership situation in American Samoa that would permit veterans living there to use their home loan guaranty entitlements, as the VA has done in the case of the Navajo Indians with long-term leases.

REFINANCING HOME LOANS

Both the House bill (section 8(a)) and the Senate amendment (section 3) contain provisions relating to the requirements for refinancing VA-guaranteed loans. The House bill (section 8(a)) would amend section 1810(e)(1) of title 38, relating to the requirements for obtaining VA-guaranteed interest-rate-reduction conventional housing refinancing loans, and section 1819, relating to such VA-guaranteed manufactured housing loans, to eliminate for both types of refinancing loans the requirement that the veteran occupy the home securing the loan at the time of refinancing. The Senate amendment (section 3(a) and (c)) would modify that requirement for both types of refinancing loans by providing that the veteran could certify that he or she previously occupied the home as an alternative to meeting the requirement for current occupancy.

The compromise agreement (section 7 (a) and (b)) contains the Senate provision, effective with respect to loans made more than 30 days after enactment, with an amendment allowing the occupancy requirement to be satisfied also in the case of an active-duty military service member who is unable to occupy the home because of such status, by the spouse of the service member occupying or certifying that the spouse previously occupied the home.

The Senate amendment (section 3(a)), but not the House bill, would eliminate the restriction limiting the maximum term of an interest-rate-reduction conventional housing refinancing loan to the remaining term of the loan being refinanced.

The compromise agreement (section 7(a)(3)) contains this provision, effective with respect to loans made more than 30 days after enactment, with an amendment limiting the maximum term of such a loan to the remaining term of the loan being refinanced plus 10 years.

The Senate amendment (section 3(b)), but not the House bill, would amend section 1810 of title 38, relating to restrictions and requirements for VA loans for the purchase or construction of conventional housing, to add a requirement that the amount of equity-payout refinancing loans under section 1810(a)(5) be limited to 90 percent of appraised property value.

The compromise agreement (section 7(c)) contains this provision, effective with respect to loans as to which commitments are made more than 60 days after enactment.

OCCUPANCY REQUIREMENTS

The House bill (section 8(b)), but not the Senate amendment, would amend section 1804(c) of title 38, relating to occupancy requirements with respect to obtaining a loan guaranteed, insured, or made under chapter 37 of title 38, to provide that the requirement that the veteran occupy the home which would secure the VA loan to be satisfied also in the case of an active-duty service member who is unable to occupy the home because of such status, by the spouse of the service member occupying the home and certifying same.

The compromise agreement (section 8(a)) contains this provision, effective with respect to loans made more than 30 days after enactment.

HOMELESS PROGRAM

Both the House bill (section 9(a)) and S. 477 (section 101) would authorize the sale of VA-acquired foreclosed properties for use as shelters primarily for homeless veterans and their families under certain circumstances.

The House bill, in a freestanding provision, would authorize the VA to sell such foreclosed properties to any organizations named in or approved under section 3402 of title 38, any political subdivision of any State, or the District of Columbia, for such consideration as the Administrator determines to be in the best interests of homeless veterans and the Federal Government.

Such a sale would be permitted only if (1) the Administrator determines the sale would not adversely affect the solvency of the LGRF or the VA's ability to fulfill its statutory missions with respect to the VA loan guaranty program and to carry out other VA functions and administer other VA programs; (2) the purchaser agrees to utilize the property solely as a shelter as described above, to comply with applicable zoning requirements, and to make no use of the property incompatible with the area where it is located; and (3) the Administrator determines there is little likelihood that the property could be sold for a price sufficient to reduce the defaulting veteran's debt to the VA.

S. 477 (section 101) in a freestanding provision, would authorize the VA, during fiscal years 1987, 1988, and 1989, to sell VA-acquired foreclosed properties for use as shelters primarily for homeless veterans and their families to any organizations named in or approved under section 3402 of title 38 as recognized by the Administrator, or any other governmental, public, or nonprofit organization or entity working on behalf of homeless individuals.

Such sales would be permitted only if (1) the Administrator determines the sale would not adversely affect the VA's ability to fulfill its statutory missions or carry out other VA functions and administer other VA programs; (2) the entity to which the property is to be transferred demonstrates an intention to utilize the property solely as a shelter as described above, to comply with applicable zoning requirements, and to make no use of the property incompatible with the area where it is located; (3) the Administrator determines there is no likelihood the property could be sold for a price sufficient to reduce the defaulting veteran's debt to the VA; and (4) the transferee satisfies such other terms and conditions set by the Administrator.

The Administrator would be required to accord preferences, in transferring foreclosed properties, to entities which either have a demonstrated commitment to working on behalf of homeless individuals and a demonstrated ability to operate shelters for homeless individuals or are recognized by the Administrator under section 3402, and which have plans for using homeless individuals to rehabilitate transferred properties and for using the volunteer services of VA employees, members of veterans' service organizations, homeless individuals, or others in operating the shelter.

The Administrator would be required within 30 days to evaluate all VA-acquired foreclosed properties which are located in geographic areas in which there are significant numbers of homeless veterans and which have been held by the VA for at least 12 months in order to determine which of these properties are appropriate for sale. Finally, the Administrator would be required to submit to the Committees by February 1, 1988, a report on the results of the evaluations and inventory and on property transferred, including information as to each property regarding the price for which the VA acquired it, the VA's cost in maintaining it, the name of the buyer, and the price paid by the buyer. The Administrator would be required to submit an updated report by February 1, 1989.

The compromise agreement (section 9(a)) would authorize the VA, during fiscal years 1988, 1989, and 1990, to sell VA-acquired foreclosed properties for use as shelters primarily for homeless veterans and their families to any nonprofit organizations or any State (as defined in section 101(20) of title 38) or political subdivision thereof, for such consideration as the Administrator determines to be in the best interests of homeless veterans and the Federal Government. Veterans' service organizations (*i.e.,* organizations named in or approved under section 3402 of title 38) would be accorded a preference in such property sales. Such sales would be permitted only if (1) the Administrator determines the sale would not adversely affect the solvency of the LGRF or the VA's ability to fulfill its statutory missions with respect to the VA loan guaranty program and to carry out other VA functions and administer other VA programs; (2) the purchaser agrees to utilize the property solely as a shelter as described above, to comply with applicable zoning requirements, to make no use that is incompatible with the area in which the property is located, and to take such other actions as the Administrator determines to be necessary and appropriate in the best interests of homeless veterans and the Federal Government; and (3) the Administrator determines there is no significant likelihood the property could be sold for a price sufficient to reduce the defaulting veteran's debt to the VA. Any agreement or other instrument executed under this provision would be on such terms and conditions as the Administrator determines to be necessary and appropriate.

The Administrator would be required to submit a report on this program to the Committees by March 1, 1990.

JOB TRAINING PROGRAM

The House bill (section 9(b)), but not the Senate amendment, would permit the sale of VA-acquired foreclosed properties under certain circumstances related to the Veterans' Job Training Act (VJTA) (29 U.S.C. 1721 note) program.

The House bill, in a freestanding provision, would allow the sale of such properties for a minimum of 75 percent of the fair market value of the property and improvements where the purchaser agrees to use veterans in a VJTA training program to rehabilitate the homes and to give veterans a preference in the resale of the rehabilitated properties. The Administrator would be required to reduce the former veteran-owner's liability to the VA by the amount of the reduction in the property sales price below fair market value.

The compromise agreement (section 9(b), (c), and (d) contains this provision with amendments limiting the program to fiscal years 1988, 1989, and 1990, authorizing the Administrator to include in the agreements with the purchasers appropriate enforcement provisions, and requiring the Administrator to submit a report to the Committees on this program by March 1, 1990.

LOAN ASSUMPTIONS

Both the House bill (section 11) and the Senate amendment (section 10) would amend section 1817 of title 38, relating to the release of the veteran from liability to the VA under a loan guaranteed, insured, or made by the VA in connection with the veteran's disposal of the property securing the loan. The House bill would provide that, if a veteran disposing of property securing a VA-guaranteed loan notifies the holder of the loan before disposing of the property, the veteran would be released from liability to the VA if the loan is current and the purchaser (1) is obligated by contract to purchase the property and to assume full liability for repayment of the loan and has assumed the obligations of the veteran regarding the loan and (2) qualifies from a credit standpoint, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan.

Under the House bill, if the holder determines that the loan is not current or that the purchaser does not meet the creditworthiness standards, the veteran could appeal to the VA. If the VA finds that the loan is current and approves the purchaser's creditworthiness, the assumption could proceed. If the loan is not current or the creditworthiness of the buyer is not approved, the loan would become due and payable in full upon sale or the property.

The Senate amendment would provide that, if a veteran disposing of property securing a VA-guaranteed loan notifies the holder of the loan in writing prior to the proposed assumption and the acceptability of the assumption is established, the veteran would be released from liability to the VA. Acceptability would be established if the loan is current and the purchaser (1) is obligated by contract to purchase the property and to assume full liability for repayment of the loan and has assumed the obligations of the veteran regarding the loan and (2) qualifies from a credit standpoint, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan. If the purchaser is found creditworthy, the veteran—or subsequent purchaser of the property, if the veteran has transferred it (hereinafter referred to as the "obligor")—automatically would be released from his or her liability to the VA, unless the Administrator determines that this would not be in the interest of the solvency or stability of the LGRF.

Alternatively, under the Senate amendment, the veteran or obligor and the purchaser could request that, instead of the credit check, the veteran or obligor and the purchaser be made jointly and severally liable for the loan. If, after 5 years, a foreclosure proceeding had not been initiated (or had been initiated and withdrawn), the veteran or obligor automatically would be released from liability to the VA. The VA or approved lender would be required to explain in writing the veteran's or obligor's rights and liabilities, including the joint-and-several-liability alternative, before a credit check could be instituted, and the veteran or obligor would have to certify that he or she was so advised.

Under the Senate amendment, if the acceptability of the assumption is not established by either a creditworthiness determination or by the joint-and-several-liability alternative, the loan would become due and payable in full upon sale of the property.

The compromise agreement (section 10) would require in a new section 1817A, effective with respect to loans for which commitments are made on or before March 1, 1988, that, before a VA loan could be assumed by the purchaser of the home, the VA or the holder of the loan (when the holder is a lender approved under section 1802(d) of title 38 to make automatically-guaranteed loans) would evaluate the creditworthiness of the purchaser, using the same standards as are used to evaluate the creditworthiness of a veteran applying for a guaranteed loan. If the loan is current and the purchaser is found creditworthy, the veteran or other person selling the home automatically would be released from liability to the VA.

Under the compromise agreement, when the evaluation of the proposed assumption is performed by an approved lender and the assumption is not approved, the veteran or other seller could appeal that determination to the VA. In the event that the Administrator made the determination regarding the assumption, a redetermination by the VA would be required upon the request of the veteran or other seller.

When the loan is current and the purchaser meets the required creditworthiness standards, the VA or holder would be required to approve the assumption. If the creditworthiness of the purchaser is not approved, the Administrator, at the request of the veteran or other seller, would have discretion to approve the assumption if the veteran or other seller expressly agrees to the secondarily liable on the loan, as long as the Administrator finds that (1) the veteran or other seller is unable to make the payments in light of his or her overall economic situation, (2) the veteran or other seller has made reasonable efforts to find a creditworthy purchaser and has been unable to do so, and (3) as a result, the sale would be in the best interest of the VA and the veteran or other seller. The Administrator would be required to notify the veteran or other seller of this option at the time the veteran or other seller is notified of the Administrator's determination regarding the disapproval of the assumption based on the creditworthiness of the purchaser and the status of the loan.

If the assumption is not approved under either option, the loan would become due and payable in full upon sale of the property.

The Committees note with approval the VA's existing practice of releasing veterans from liability to the VA under section 1817(a) of title 38 in cases where the purchaser, as part of the sale agreement, agrees to make the loan current at the time of the settlement and does so. (See VA Manual M-26-3, paragraph 2.50(f) and 2.51(f), Feb. 1979.) The Committees fully expect that this interpretation of the requirement that a loan be "current", as that term is used in existing law and in the compromise agreement, will be followed by the VA and approved lenders in making determinations as to the acceptability of assumptions.

Both the House bill and the Senate amendment would amend section 1817 to require the holder to notify the VA when it obtains knowledge of a transfer of the property securing a VA loan. If the holder fails to notify the VA when it has such knowledge, it would be liable for any damages the VA sustains as a result of such failure.

The compromise agreement contains this provision in a new section 1817A, effective with respect to loans for which commitments are made on or after March 1, 1988.

The House bill would require that the Administrator provide that contracts for VA loans contain provisions implementing the requirements of this section. The Senate amendment would require that the instruments evidencing a VA loan, including the mortgage, contain provisions to be specified by the Administrator to implement the requirements of this section and language in conspicuous position specified in the provision regarding the non-assumability of the loan without approval.

The compromise agreement contains the Senate provision, effective with respect to loans for which commitments are made on or after March 1, 1988.

The Senate amendment (section 10(c)), but not the House bill, would amend section 1829 of title 38, relating to the 1-percent fee on VA guaranteed, insured, or made loans (discussed above under "LOAN FEE") to impose on a buyer assuming a VA loan a fee equal to one-half-percent of the loan balance, for deposit in the LGRF.

The compromise agreement (section 11(c)) contains this provision, effective with respect to loans for which commitments are made on or after March 1, 1988, with an amendment limiting it to fiscal years 1988 and 1989.

The Senate amendment (section 10(c)), but not the House bill, would require the Administrator to establish in regulations (a) reasonable limits not to exceed $500 on the fee a lender may charge for determining the creditworthiness of a purchaser assuming a VA loan and not to exceed expenses of up to $50 for processing an application for an assumption where the veteran or obligor and the purchaser accepted joint and several liability and no credit check was performed, and (b) requirements for the timely processing of applications for acceptance of assumptions.

The compromise agreement (section 10(c)) contains the Senate provision, effective with respect to loans for which commitments are made on or after March 1, 1988, with amendments eliminating the $500 permissible maximum on fees charged for performing a credit check and deleting the provision concerning processing an assumption where the veteran or obligor and the purchaser agree to accept joint and several liability.

In eliminating the $500 ceiling on credit-check fees—which is the Federal Housing Administration maximum—the Committees do not intend that the VA establish a maximum higher than $500.

MORTGAGE PAYMENT ASSISTANCE

The House bill (section 12), but not the Senate amendment, would, for a 2-year period from the date of enactment, add a new section to title 38 to allow the VA to provide mortgage payment assistance for the purpose of avoiding foreclosure to veterans in default on VA-guaranteed loans. The Administrator would be permitted to make an interest-bearing loan or series of loans in a total amount not exceeding $8,400 to a veteran when the veteran (a) currently occupies the home securing the loan, (b) is at least 6 months delinquent in payments on the loan, (c) is unemployed or has had a substantial reduction in household income through no fault of the veteran, and (d) the Administrator determines there is a reasonable prospect the veteran will be able to resume payment on the primary loan within 6 months. The Administrator's decisions regarding assistance under this provision would not be subject to court or other review.

Loans made under this provision would be advanced to the holder of the primary loan to be applied first to the amount delinquent on that loan, including taxes and other required payments, with any remaining amount to be retained by the holder and applied to future required payments as they became due.

The veteran would be required to execute an agreement to pay back the mortgage-payment-assistance loan within a reasonable period of time not to exceed 15 years from the date of the loan. The Administrator, upon determining that the veteran had sufficient income or other resources to do so, could require the veteran to make partial payments on the primary loan during the period when the holder of the loan was applying the amount of the mortgage-payment-assistance loan to payments due on the primary loan.

The Administrator would be permitted to employ attorneys to bring suit to collect amounts due on a defaulted loan made under this provision.

The compromise agreement does not contain this provision.

QUALIFICATIONS OF APPRAISERS

The House bill (section 13(a)), but not the Senate amendment, would amend section 1831(a)(1) of title 38, relating to the establishment of uniform qualifications for appraisers approved by the VA to make appraisals in connection with loans guaranteed, insured, or made by the VA, to add as qualification requirements for VA appraisers that they must pass a written test, submit a sample appraisal, certify to an appropriate number of years of experience, and submit recommendations from other appraisers.

The compromise agreement (section 11(a)) contains the House provision with amendments providing that, if government-wide appraiser standards are established, the VA's qualification requirements may be more stringent than those standards but that, if such standards prescribe a written test, the VA shall use only that test.

REVIEW OF APPRAISALS

Both the House bill (section 13(b)) and the Senate amendment (section 14) would amend section 1831 of title 38, relating to appraisals performed in connection with loans guaranteed, insured, or made by the VA. The House bill would permit the Administrator to authorize certain lenders to review appraisals and make determinations of the reasonable value of property for purposes of determining the amount of VA loans.

The Senate amendment would provide, for the period ending September 30, 1989, for the direct review by those lenders approved to make automatically-guaranteed loans under section 1802 of title 38 of appraisals and determinations of reasonable value of property for purposes of determining the amount of VA loans. The Administrator's discretion to authorize lender review of appraisals would be tied to the VA establishing, through the proposed expanded authority to pay for supplemental contractual services from the LGRF (proposed in Senate amendment section 12, discussed below under "Contract Services Paid From the LGRF"), an appraisal review system on at least a random-sampling basis to monitor the making of appraisals by appraisers and the determinations of reasonable value of properties by lenders.

The compromise agreement (section 11(b)) contains the Senate provision with amendments extending it through fiscal year 1990, deleting the reference to the proposed Senate amendment section 12 authority, and tying the discretion to authorize lender review of appraisals to the VA's assigning sufficient personnel to monitor the review process effectively.

DEEDS IN LIEU OF FORECLOSURE

Both the House bill (section 14) and the Senate amendment (section 9) would amend title 38 to add requirements with respect to an offer by a veteran whose VA-guaranteed loan is in default to convey the property securing the loan by a deed in lieu of foreclosure. The House bill would add a new section to title 38 to exclude from the veteran's liability to the VA interest and other charges, including foreclosure costs, incurred beginning 30 days after the veteran offered to convey the property to the VA.

The Senate amendment would amend section 1816 of title 38, relating to procedures on default of VA-guaranteed loans, to exclude from the veteran's liability to the VA foreclosure costs if the veteran timely offers to convey the property to the VA by a deed in lieu of foreclosure (if the VA could accept the deed under section 1816(c) if this were a liquidation sale) without being released from his or her debt to the VA, and if the VA refused to accept the conveyance.

Under the Senate amendment, where the veteran has offered to convey the property to the VA by a deed in lieu of foreclosure and has agreed to remain liable for any remaining debt after the VA's acceptance of the deed, state "anti-deficiency" statutes eliminating the mortgagor's remaining indebtedness after a non-judicial foreclosure would be overriden to the extent necessary to preserve the veteran's remaining debt to the VA after the deed is accepted.

The compromise agreement does not contain either provision.

Although the Committees have not adopted a provision with respect to the VA's use of deeds in lieu of foreclosure, the Committees favor and encourage the increased use of such deeds by the VA as an alternative to foreclosure in appropriate cases.

ARMS DEMONSTRATION PROGRAM

The House bill (section 15), but not the Senate amendment, would require the Administrator to carry out a 2-year demonstration project at one regional office for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act (12 U.S.C. 1701 *et seq.*). The Administrator would be required to submit to the Congress a report on the results of the project and to continue to make annual reports with respect to the default rate and other information concerning loans guaranteed under this section.

The compromise agreement does not contain this provision.

SEQUESTRATION EXEMPTION

The Senate amendment (section 2(b)), but not the House bill, would amend section 113 of title 38, relating to treatment of certain VA programs under a Gramm-Rudman-Hollings sequestration. Under the Senate amendment, effective on November 19, 1987—*i.e.,* beginning with respect to fiscal year 1988—benefits under a subchapters I, II, and III of chapter 37 of title 38, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain service-disabled veterans, would be exempted from sequestration under the Balanced Budget Act and Emergency Deficit Reduction Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), commonly referred to as Gramm-Rudman-Hollings, as that Act may be amended, or under any other sequestration law which may be enacted.

The compromise agreement (section 12) contains this provision with a technical amendment relating to the implementation of any sequestration of benefits under chapters 31 (rehabilitation for service-disabled veterans) and 35 (educational assistance for the survivors and dependents of service-disabled veterans) of title 38.

DETERMINATION OF MINIMUM RESIDUAL INCOME

The Senate amendment (section 4), but not the House bill, would amend section 1810(g) of title 38, relating to credit-underwriting requirements for VA loans, to require the VA to use state rather than regional statistics in evaluating the sufficiency of residual income—income remaining for the necessities of life after fixed obligations, including the proposed mortgage payment, have been satisfied—used in determining whether a veteran meets the credit-underwriting standards for VA loans, when the Administrator finds there are reliable data available for the particular state.

The compromise agreement (section 13) contains the Senate provision with an amendment requiring the VA to give appropriate consideration to such state data when it is available.

CONTRACT SERVICES PAID FROM THE LGRF

The Senate amendment (section 12), but not the House bill, would amend section 1824 of title 38, relating to the LGFR and the use of LGRF funds, to provide that, to such extent as is or in such amounts as are provided for in appropriation Acts, the Administrator's authority to pay from the LGRF for certain loan guaranty program administrative expenses would be expanded to include supplementary contractual services and equipment not otherwise authorized to be paid for from the LGRF when the Administrator makes a finding that it would be in the best interest of the long-term stability and solvency of the LGRF to use the LGRF for such purposes. "Supplementary" services and equipment would include services and equipment which were not available during, or are to be provided at a level in excess of what was provided, for fiscal year 1987. In each fiscal year, there would be available for such contracting the additional amounts collected as a result of increasing from 1 to 2.5 percent the fee on vendee loans and imposing a one-half-percent fee on assumptions, as proposed by sections 7 and 10, respectively, of the Senate amendment, plus $2 million in fiscal years 1988 and 1989, but not to exceed a total of $15 million in any fiscal year.

The compromise agreement does not contain this provision.

MARKETING VETERANS' ADMINISTRATION-ACQUIRED PROPERTIES

The Senate amendment (section 15), but not the House bill, would amend section 1832 of title 38, relating to furnishing information to real estate brokers to facilitate the disposition of foreclosed properties acquired by the VA as the result of defaults on VA loans, to require the VA to list all of its acquired properties with real estate brokers under arrangements which the Administrator determines to be the most appropriate and cost effective.

The compromise agreement (section 14) contains the Senate provision.

The Committees expect the VA to select the real estate brokers to list these properties from a rotating list. The Committees urge the VA to develop innovative solutions to facilitate property disposal in the most cost-effective manner possible and to take such steps as are necessary to market its property inventory more aggressively.

Further, the Committees believe that the auctioning of VA-acquired properties should be used by the VA only as a last resort after all creative marketing approaches have been tried and proven unsuccessful.

TECHNICAL AMENDMENTS

The House bill (section 16), but not the Senate amendment, contained a series of technical amendments to chapter 37 of title 38.

The compromise agreement does not contain these technical amendments.

The Committees will consider this matter further in the context of H.R. 2945/S. 9, veterans' compensation legislation.

Mr. MURKOWSKI. Mr. President, I am pleased to rise to ask my colleagues to join me in supporting the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987. Earlier this year, the Senate amended H.R. 2672 by substituting for it the language of S. 1801, the Senate-passed Veterans' Home Loan Program Improvements Act of 1987. The bill before us today would implement a compromise agreement reached between the members of the Senate and House Committees on Veterans' Affairs which resolves the differences between H.R. 2672 as first passed by the House and H.R. 2672 as amended by the Senate.

It is hardly necessary to restate the importance of the Home Loan Guaranty Program to America's veterans or to America's housing and housing finance industries. All Americans, not just veterans, have at least an indirect stake in the health of this program. And, as I have previously noted, there is substantial evidence that the Veterans' Home Loan Guaranty Program is in poor economic and policy health. The symptoms include:

Repeated appropriations to replenish the loan guaranty revolving fund;

The VA's inability to reduce the record-sized inventory of VA-owned homes;

Continuing high levels of foreclosures, even during an economic expansion of record duration and with unemployment rates at a low level compared to the last decade; and

Continued high average losses to the VA for each foreclosure.

It was in recognition of the vital importance of the VA Home Loan Guaranty Program, and the necessity for reforming the problems which are draining the health of the program, that I began working toward reform legislation in 1985. I am pleased that my concerns and efforts were shared by other members of the committee and the Senate. I have been privileged to work on this issue with the distinguished Senator from California, first when I was chairman of the committee and later as ranking minority member. Together we devised a reform package, many provisions of which are reflected in the legislation before the Senate today. Chairman CRANSTON's and my concerns for the health and importance of the program are shared by our colleagues in the House of Representatives; and the bill before us has the benefit of the insight and the initiative of Chairman MONTGOMERY and Representatives SOLOMON, KAPTUR, and BURTON, and other Members of the House. I commend all of the Members of both bodies and both parties who have worked so hard to bring this necessary bill to fruition.

I am particularly pleased the bill contains provisions which will protect the financial integrity of this important program. For example:

The VA loss on a foreclosed home is frequently increased because the market value of the home is not equal to the loan amount which was based on an appraised value. The compromise agreement contains a provision establishing qualification standards for appraisers.

The VA loss on a foreclosed home is frequently increased because the property remains in the VA inventory for an inordinately long period of time. The compromise agreement contains a provision which will direct the VA to better utilize the talents and energy of the private sector real estate industry in marketing VA-acquired homes.

The VA frequently loses money when a veteran buyer sells his or her home through an assumption if the assuming buyer subsequently defaults on the loan. Amazingly, although the VA is still required to honor the guaranty on the loan, current law provides no mechanism for the VA to protect itself and the taxpayers by ensuring that the new buyer, who need not be a veteran, is creditworthy. The compromise agreement requires the VA, or an approved lender, to determine that the assuming buyer is creditworthy. The agreement also includes a provision to deal with those rare instances where it may actually be in the veteran's and the VA's interest to permit an assumption by a buyer who cannot meet creditworthiness standards. For example, a veteran may be irremediably in default and unsuccessful in finding a creditworthy buyer. In such a case it is conceivable that a buyer with an unsound credit history may offer a higher probability of making his or her payments than the defaulting veteran homebuyer.

The compromise agreement increases the maximum amount of the VA home loan guaranty from $27,500 to $36,000. The increased guaranty amount will reflect increases in housing cost by making no- or low-downpayment VA-guaranteed loans available for the purchase of more expensive homes. This provision will be particularly important in areas of the country, such as Alaska, with a high cost of housing.

I am particularly pleased that the increase in the maximum guaranty amount is linked to a reduction, from 60 percent to as low as 40 percent, in the percentage of the loan guaranteed by the VA. This reduction will provide a more equitable distribution, between lenders and the VA, of the risk in loans guaranteed by the VA. The free market is most efficient in allocating resources only when all parties to a transaction share in the risks of the transaction. If lenders share some of the risk, they are more likely to take steps to ensure the loans are sound. I note that a 40 percent guaranty still provides lenders with double the coverage of the 20 percent downpayment and thus provides ample protection for a sound loan.

The compromise agreement contains a provision giving the VA discretionary authority to sell VA-acquired homes for use in sheltering homeless veterans and their families. The agreement is clear that such sales must not adversely impact the solvency of the loan guaranty revolving fund, and the VA must determine there is no significant likelihood the property could be sold for a price which would reduce the defaulting veteran's debt to the VA. These conditions are important because they make it clear that this provision provides a mechanism for making shelter available to the homeless without having the costs borne by the defaulting veteran or the homebuying veterans who depend upon a healthy loan guaranty revolving fund. This provision will allow the VA to sell homes for use in sheltering veterans if the home's condition or surroundings have reduced the market value to a nominal level. It allows the VA to assist the homeless without compromising the sound business standards which are necessary for the long-term stability of the Home Loan Guaranty Program.

Section 6(b) of the compromise agreement includes a provision allowing the VA to include in VA financing of the sale of a VA-acquired property—so-called vendee loans—an amount to be used to restore the property to a habitable State. Regrettably, some VA-owned properties have been allowed to deteriorate to a condition in which they do not meet basic standards of habitability. By providing buyers with financing for the rehabilitation work needed to restore habitability, this provision should provide the VA with another tool it can use in marketing the home if it determines a house is so deteriorated it is not otherwise salable. The goal of increasing the salability of these deteriorated homes is further encouraged by a provision which would allow the VA to waive, in the case of deteriorated properties for which financing includes an additional amount for rehabilitation, the requirement of a 5-percent downpayment. I believe the 5-percent downpayment requirement for vendee loans, which originated in the Senate-passed S. 1801, will be an important step in reducing losses to the loan guaranty revolving fund. Vendee loans are made to veterans and nonveterans alike and have the same favorable interest rate and terms as VA-guaranteed loans for veterans. The default rate on vendee loans is inordinately high and therefore causes inordinate losses to the loan guaranty revolving fund. I believe it is appropriate for buyers of VA-acquired properties, who finance their purchase by means of a VA-made vendee loan, to make a small downpayment. Their equity in their homes should reduce defaults and VA's loss if defaults occur. A 5-percent downpayment and a VA interest rate would still represent very favorable financial terms for a buyer.

I am pleased the compromise agreement contains a provision directing the VA to give appropriate consideration to available State economic data, when such data is available, for establishing standards of residual income for potential homebuyers. The use of State economic data, rather than regional data, should help make VA underwriting standards more equitable between high cost-of-living States and low cost-of-living States in the same region.

I am also pleased the compromise agreement includes a provision relaxing the occupancy requirement for veterans or service members who seek to refinance their VA-guaranteed loan. Homeowners whose careers subject them to frequent moves may be temporarily living away from their homes at a time when interest rates go down. This provision will allow these individuals to refinance their homes if they certify they previously occupied the home. In the case of those homeowners who are on active duty, the requirement can also be met by a certification from the service member's spouse that the spouse previously occupied the property. While this provision applies to everyone, it should be particularly important to the members of our Armed Forces. A similar provision allows the occupancy requirement to be satisfied for service members seeking an original loan if the service member's spouse occupies the home. I am particularly pleased with these provisions because they accommodate the frequent moves and temporary, but sometimes lengthy, absences from home imposed on those to whom we look for our national security.

Mr. President, in summary, the legislation before us improves the VA Home Loan Guaranty Program by making the program more useful to the homebuying veteran or service member. At the same time, it makes historic reforms in the operation of the program which should serve to ensure that the program will be as healthy and useful for veterans of the next 44 years as it has been for veterans of the last 44 years.

Before the Senate considers this legislation, I would like to express my appreciation to the staff members whose hard work was essential in drafting legislation from the ideas and concepts developed by the committee. Anthony Principi, Chris Yoder, Tom Roberts, Susan Theroux, and Annie Rothgeb are now with the committee minority staff and are here to see the fruits of their labor. Julie Susman, Cathy McTighe, and Brian Bonnet, while no longer on the committee staff, played an essential role in developing, nurturing, and perfecting the information and ideas upon which this legislation is based.

We are also indebted to Jon Steinberg, Ed Scott, Jane Wasman, Jennifer Loporcaro, Ingrid Post, Charlotte Hughes, and Loretta McMillan, of the committee majority staff, for their efforts on this bill. We are also indebted to our GPO detailed printer, Roy Smith, whose hard work was necessary for the committee's work to succeed.

I urge my colleagues to join me in support of this legislation.

Ms. MIKULSKI. A 1985 Senate-passed bill, S. 1788, included a proposal for a pilot program to contract with commercial organizations to perform the functions of management and disposal of property acquired by the Veterans' Administration. Section 12 of H.R. 2672/S. 1801 as initially passed by the Senate contained a provision granting the VA the authority to fund from the Loan Guaranty Revolving Fund certain supplementary services relating to property disposal. How does the deletion of section 12 affect the VA's authority to carry out the pilot program?

Mr. CRANSTON. Although the Senate proposal for the pilot program was never enacted into law, I am informed that the Administrator of Veterans' Affairs, under his general authorities with respect to the administration of the Home Loan Program, has been developing a pilot program similar to that which was in the Senate proposal.

As I indicated in my earlier remarks on the bill today, I am very disappointed that the House refused to accept that Senate provision, which would have expanded the VA's authority to pay for certain supplementary contractual services and equipment from the Loan Guaranty Revolving Fund when that would have been in the best interest of the long-term stability and solvency of the revolving fund. However, I want to reassure my colleague from Maryland [Ms. Mikulski] that the absence of that provision in the final compromise agreement will not affect the Administrator's current-law authority to pay for certain home loan program expenses—which do not include administrative expenses—from the revolving fund. Accordingly, the Administrator would be able to pay from the revolving fund for those expenses of a property management and disposal pilot program which he currently may pay for from that fund, and the VA's existing authority to carry out such a pilot program would not be affected in any way by the deletion of section 12.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. COHEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF A RESOLUTION—SENATE RESOLUTION 288

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 288, Calendar Order 346, a resolution dealing with bills implementing trade agreements, be referred to the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTORS' FUND OF AMERICA APPRECIATION MONTH

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House

Joint Resolution 199, to designate April 1988 as "Actors' Fund of America Appreciation Month," that the joint resolution be called up, that it be considered, that it be advanced to third reading, passed, and a motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATING JAZZ AS AN AMERICAN NATIONAL TREASURE

Mr. BYRD. Mr. President, I ask unanimous consent to discharge the Judiciary Committee from further consideration of House Concurrent Resolution 57 designating jazz as an American national treasure, that the concurrent resolution be immediately considered and passed, and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING REPRINTING OF SENATE DOCUMENT 87-64

Mr. BYRD. Mr. President, I send a printing resolution to the desk on behalf of myself and Mr. Dole, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 338) to authorize the reprinting of Senate document 87-64 entitled "History of the United States Senate, 1787 to 1801."

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolution.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 338) was agreed to, as follows:

S. Res. 338

Resolved, That Senate Document 87-64, entitled "History of the United States Senate, 1787-1801", shall be reprinted, with a suitable cover commemorating the Bicentennial of the Senate and a new preface prepared by the Majority Leader and the Minority Leader, and an additional 2,500 copies shall be printed for distribution by the Secretary of the Senate.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. COHEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT ACT AMENDMENTS OF 1987

Mr. BYRD. Mr. President, I understand the Chair will announce the conferees on the farm credit legislation.

The Presiding Officer appointed Mr. Leahy, Mr. Boren, Mr. Harkin, Mr. Daschle, Mr. Breaux, Mr. Melcher, Mr. Lugar, Mr. Boschwitz, Mr. Helms, Mr. Cochran, and Mr. Karnes conferees on the part of the Senate.

AUTHORIZATION FOR CONTINUED PRESENCE OF UNITED STATES ARMED FORCES PERSONNEL IN THE PERSIAN GULF REGION

Mr. BYRD. Mr. President, under the order previously entered—I believe it was on November 30—I call up Calendar Order No. 456, having consulted with the minority leader, Senate Joint Resolution 217.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 217) providing specific authorization under the War Powers Resolution for the continued use of United States armed forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States.

The Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I make a point of order that the pending measure is not a privileged measure under the War Powers Resolution, Public Law 93-148.

Let me briefly indicate that the War Powers Resolution creates expedited procedures which go into effect if and only if "United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances. * * *" Thus, treating this resolution under expedited procedures assumes the existence of hostilities or imminent hostilities. Now some of us may believe that such a situation currently exists in the Persian Gulf. But collectively, the Senate of the United States has not made that judgment and, in fact, has explicitly refused to make that judgment. Earlier this year, when attempts were made to invoke the War Powers Resolution during consideration of the Defense authorization bill and during consideration of Senate Joint Resolution 194, the Senate declined to decide that hostilities exist. Granting this resolution privileged status under the law would negate those previous actions of the Senate. Accordingly, I raise the point of order that this resolution is not entitled to the expedited procedures created by the law.

The PRESIDING OFFICER. The Chair will submit the question to the Senate. Is the point of order well taken? All those in favor signify by saying, "Aye." Opposed, "No."

The point of order is well taken.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the joint resolution be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that for the remainder of the 100th Congress, a point of order raised by any Senator against the privileged status of a measure that has been laid before the Senate and been initially identified as privileged for consideration upon its introduction under the War Powers Resolution, Public Law 93-148, shall be submitted directly to the Senate; provided that the point of order, "The measure is not privileged under the War Powers Act," shall be decided by the yeas and the nays after 4 hours of debate, equally divided and controlled by the majority and minority leaders or their designees; provided further, that such point of order shall not be considered to establish precedent for determination of future cases.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I want to thank the majority leader for the actions that have taken place. And I want just briefly to state the position that this Senator has with regard to what has occurred and to indicate the following: Mr. President, the decision of the Senate to deny my resolution on the protection of the expedited procedures created by the War Powers resolution, I believe, was not a correct one. However, I am in complete agreement with the procedure that has now been established in that I believe that the Senate should have an opportunity to pass its will on whether or not circumstances of imminent hostilities do exist. We were prevented from doing that, Mr. President, through a series of filibusters and we had a long number of procedural motions which indicated that a majority of the Senate in fact believed that imminent hostilities were occurring.

However, these occurred on procedural motions and not a straight up and down motion. I think what the majority leader has done today, and I compliment him for his efforts in this matter, is to establish a clear procedure by which the matter can be presented.

I think the decision of the Senate today was on narrow grounds and I accept those grounds, and I accept the decision of the Senate. The existence of hostilities, imminent or otherwise, which triggers the War Powers Act, provides a very difficult decision for the Chair, and I think that it should be referred to the entire Senate. We have now established for the 100th Congress a procedure by which this can be done and by which it can be done within a limited period of time with ample debate on both sides, but that decision would be reached.

We had a lot of votes, Mr. President, on this matter. And I want to express right now my appreciation to the majority leader for his courtesy and for the patience of all of my colleagues in this matter. But it is a matter to this Senator of enormous importance. It is the power of whether or not this Nation will be at war; it is the power of the Congress of the United States to determine under the Constitution whether or not a war situation exists and whether or not the Nation should be mobilized.

I want to make this final comment. If we simply had not acted, my resolution might have been deemed to have been completed by the running of the clock. I did not want that result. My resolution provided for a 6-month period during which the issue of reflagging should have been considered. I believe we in the Senate, those in the House, the entire Congress, have an obligation and a right to determine what should be done in the gulf in terms of an escalating situation. We do not want a Vietnam undeclared-type war. We do not want to have offensive actions unless we have unified as a Nation.

Given the fact that we have been unable to directly vote on this, I do not believe that we should state that the Senate or the House has passed on a final legal determination either way. That may be decided or may not in due course. But I want to express, Mr. President, the fact that I have been working on this issue since May. There have been numerous votes, both in the Foreign Relations Committee and on the floor of the Senate. I think it has demonstrated both strengths and weaknesses of the War Powers Resolution.

It can be used only if the Congress exercises its will to do so. This was well stated by the original proponents and those who passed the act in 1973, and those who have commented on it recently. However, I believe that this should be done in a straight up or down fashion and can now be done in that fashion, and not in a series of parliamentary maneuvers.

Mr. President, I had a prepared statement which I would have given had my resolution been made the pending business before the Senate. And for the purpose of assuring that my views and motives are clear to my colleagues and constituents, I ask unanimous consent, Mr. President, that those remarks be made a part of the RECORD and that the RECORD clearly reflect that they were remarks I would have made only if my resolution had been pending.

There being no objection, the statement ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ADAMS

Mr. President, let me begin with a little history. When the administration first announced its intention to reflag Kuwaiti vessels and provide US naval protection to them, a number of us were concerned about the wisdom of that policy. The Senate expressed that concern initially on May 21 when we adopted, by a vote of 91 to 5, an amendment offered by Senator Byrd to the Supplemental Appropriation bill which required the Secretary of Defense to submit a report to the Congress prior to implementing any agreement to provide protection for Kuwaiti shipping.

By the end of June, the Foreign Relations Committee had reported out two pieces of legislation—S. 1343 and S. 1327—which also expressed doubts about the wisdom of the administration's reflagging policy and the risks associated with it. S. 1327 would have prohibited reflagging; S. 1343 concluded that the reflagging and escorting operation placed our forces in a situation where imminent hostilities were possible and thus required the President to submit, under the War Powers Resolution, the report required in section 4(a)(1) of that law and secure Congressional authorization for the operation.

By July 9, the Senate was considering an amendment to the Trade bill, offered by Senator Moynihan, which expressed the sense of the Senate that reflagging should be delayed. A filibuster developed and while a majority of Senators voted for cloture on July 9 (57 to 42) and again on July 14 (53-40), the 60 * * *. In order to assure that my legislation meets all the requirements of the law, I also filed a pared down version of that Resolution, S.J. Res. 217, on November 10. Both Resolutions were referred to the Foreign Relations Committee. While the Committee did meet to discuss those Resolutions on November 19, no final action was taken on them.

Despite the fact that the Committee did not act, I believed that the Resolution was protected by the procedures contained in the War Powers Resolution; that is, I believed it was entitled to be considered under the expedited procedures established in law. The parliamentarian agreed with that conclusion and ruled that the Committee was discharged and that, under the law, S.J. Res. 217 was required to become the pending business before the Senate on Monday, November 30.

However, at that time, the Majority Leader sought and received unanimous consent that the Resolution not become the pending business until the Majority Leader, after consulting with the Minority Leader, called it up. That is where we are at the moment.

Mr. President, so far I have been looking at recent history. But to understand the full thrust of "where we are now," I think we have to go back to where we were, specifically back to the law we have been all wrestling with since it was passed over President Nixon's veto in 1973, the War Powers Resolution.

There is no doubt that the War Powers Resolution was largely a response to the Vietnam War. But its core concept is really a response to the Constitution and the decision made by the Founding Fathers to give the power to declare war to the Congress of the United States. This law based on the Constitutional powers is very simple: It says that "in the absence of a declaration of war, in any case in which United States Armed Forces are introduced * * * into hostilities or into situations where imminent involvment in hostilities is clearly indicated by the circumstances" the President shall submit a report to the Congress detailing the circumstances necessitating the need for that action, explaining the authority under which he acted, and estimating the scope and the duration of the hostilities. After that report is submitted—or after it should have been submitted—the Congress is required to pass a Resolution authorizing the continued deployment of those forces. The law is very clear on what happens if no such Resolution is passed: It says "within sixty calendar days after a report is submitted or is required to be submitted * * * the President shall terminate any use of United States Armed Forces with respect to which such a report was submitted (or required to be submitted) unless the Congress * * * has declared war or has enacted a specific authorization for such use of United States Armed Forces * * *."

That is what the law says. And nothing that we say here can change the clear language of the law, adopted by the Congress of the United States over the objections of the President. We can speculate about the Constitutionality of the law—but we cannot decide that issue; only the Supreme Court can.

What we can decide is if we are going to follow the law, if we are going to pass a Resolution authorizing the "use of United States Armed Forces * * *." S.J. Res. 217 does authorize the use of those forces. And if we do not enact it, either as introduced or as amended, the law says that "the President shall terminate any use of United States Armed Forces."

Now let us be very clear on that point: This is not one of those situations in which Congressional inaction has no consequence. We all know that there are a lot of deadlines which we miss—and nothing happens. Life goes on and no one seems to notice that we haven't adopted a Budget Resolution by the date specified in law or missed some other self-imposed obligation. But this is different. This is analogous to failing to pass a Continuing Appropriation. If we miss the deadline, the government shuts down. We have seen that happen. It is analogous to missing the Gramm-Rudman-Hollings targets by a date certain. If we miss the targets a sequester goes into effect. We are seeing that right now. Failure to act in those instances has consequences. And a failure to act on this Resolution will have consequences as well—consequences spelled out in the law which requires that if we fail to act, "the President shall terminate any use of United States Armed Forces."

Now, Mr. President, that is not what I want to see happen. That is not what this Resolution requires. That is not the result that I want. My Resolution recognized our right and obligation to be in the Persian Gulf. In fact, it authorizes our continued presence in the Gulf. And I'll talk more about that in a moment. But before I get to the policy contained in this Resolution, I want to finish discussing the procedures surrounding it to make sure my colleagues understand the situation we are in.

I believe that the War Powers Act has officially been triggered and the sixty day clock that it created is formally ticking. Even more, I believe it is ticking down quickly. As I read the law, the Senate is required to act on S.J. Res. 217 by December

6. If we fail to do so, it is possible that the House will not have the bill available for floor action "no later than fourteen calendar days before the expiration of the sixty day period" as required by law. We may not have gotten a Conference Report on the bill before the sixty days have expired. In short, we may not have met our legal obligation to authorize continued deployment before the sixty day clock runs out.

If that happened, Mr. President, we would be in dangerous and uncharted areas. I assume that someone would file a law suit claiming that since the Act was operative and since the Congress did not authorize continued deployment, the President is obligated to bring the troops home. The President would appeal, the issue would go to the Courts and, hopefully, be resolved relatively quickly. But no matter how quickly it was resolved, there would be a period of confusion and uncertainty which might give aid and comfort to our adversaries. Passage of this Resolution, as written or amended would not have that effect—after all, it authorizes continued deployment.

Now some of my colleagues may not like the premise of the law—that if we do not authorize continued deployment, the President has to withdraw. But it is the law. The Resolution is fully amendable and if they object to the restriction on reflagging, let them offer an amendment to strike it and let the Senate decide the issue. If there are other changes that Senators wish to make, let them offer amendments to make them. I can live with any decision the Congress makes—what I cannot live with, and what the country cannot live with, is a refusal by the Senate to make a decision.

One final word about procedure. I have gone back and read the 1973 debate surrounding the passage of the War Powers Resolution. I am totally convinced that the actions I have taken and the rulings which have been made relative to my Resolution are totally consistent with the language and intent of the law. The debate contains numerous references to the fact that any Senator can introduce the sort of Resolution that I introduced. The debate contains numerous promises that the law will require the Congress to act; that inaction by filibuster or Committee pigeonholeing is not possible. Some may ask why we waited to introduce this Resolution until now. The answer is twofold. First, as I have indicated, I was willing to live with Byrd-Warner but it simply has not become law and is not operational. Second, initially, I had focused on trying to get the administration to join with the Congress in developing a common position. The amendments which were debated earlier this year were all attempts to get the administration to file the report required by law and get their input into the process. Only when those efforts failed, only when it became clear that the administration would not cooperate and that some of our colleagues were unwilling to sit down and try to develop a true consensus, was I persuaded that there was no choice but to act as I have. And again, I tell my colleagues that this action is consistent with the law and consistent with our desire to retain a presence in the Gulf in order to protect our national interests and international law.

Having said all that, Mr. President, let me say a few words about the policy I am proposing in this Resolution. Again, I emphasize the fact that the Resolution authorizes our continued deployment in the Gulf. If passed as introduced, not a single ship, not a single sailor, not a single aviator or plane would be removed. What would change would be this: the escorting of the reflagged Kuwaiti vessels would terminate in six months.

Now let me explain why I have objected to this element of our policy in the Gulf.

To begin with, I find the reflagging policy both unjustified and provocative. I think we all know why the policy developed: in the wake of the Iran-Contra affair, there was a need to assert our role in the region again. The government of Kuwait is confronting Iran but it also shares the objective of keeping the Gulf open for the free flow of oil. Senator Nunn in commenting on this administration policy stated "the only plausible reason for protecting the Kuwaiti tankers and, thereby, encouraging further ship attacks by Iraq is the possibility that these events would influence the Iranians to end the ground war * * *. But the Administration has produced no witnesses and no evidence that there will be any effect on the ground war. Thus, the United States proposes to play an expanded military role which is counter to one objective (ending the 'tanker war') and which will not be effective in attaining the second (ending the ground war)."

Now, I want to be clear that those were arguments which Senator Nunn made in opposing the initiation of the reflagging policy. He may believe that once we started reflagging, there are reasons to continue it no matter how absurd its initial justification was. He will have to address that issue himself. My point is that the initial policy made no sense. And, as it has developed, it still does not make sense.

Has the tanker war been slowed? The answer is no. In fact, in many respects, the frequency of the attacks and the nature of the threat has expanded. Has the ground war been slowed? Again the answer is no. Indeed, despite our intervention and involvement, the staff of the Foreign Relations Committee after visiting the region, concluded that the possibility of an Iranian victory was very real.

And there are other signs, unrelated to the original purposes of the policy, which suggest that reflagging has failed. Just last week, Kuwait announced that one its tankers—the largest tanker—would no longer travel through the Gulf. Even with US protection, Kuwait did not feel that the ship was safe. So I am not at all sure that we have demonstrated, in light of all the events which have taken place, that we can achieve even a tactical purpose by protecting reflagged Kuwaiti vessels in the Gulf.

The point, Mr. President, is simple: reflagging was a bad policy in the beginning and it hasn't gotten any better. We ought to terminate it. But we ought to terminate it in a way which does not give comfort to Iran or give Iraq cause for concern; we ought to terminate it in a way which retains our role in the Gulf; and we ought to terminate it in a way which makes the continuing nature of our commitment clear. This Resolution, I believe, does that.

The Resolution combines the termination of reflagging with an authorization for continued deployment of forces in the region. Our commitment is not called into question—indeed, it is reaffirmed. In fact, only a failure to adopt a Resolution like the one I have introduced can cast doubt on our willingness to protect our interests in the Gulf.

Beyond that, my Resolution does not terminate the escorting of the reflagged vessels over night. I recognize that having started this policy, we need to find a way to back out of it rather than just end it. We need to de-escalate, not withdraw; slow down, not walk away. The six month sunset provision included in this Resolution allows us to do that. Some may want to change the time frame—make it either longer or shorter—but I think six month represents a reasonable compromise, a reasonable middle ground between a pull out and indefinite commitment to a policy that does not make sense.

Let me conclude this statement by emphasizing just a few points. First, under the law, we must act on this Resolution or face the consequences. Second, this Resolution is not "cut and run"—it authorizes continued deployment of US Forces. Third, this Resolution is fully amendable and if people have concerns about the policy it contains, then they ought to offer their amendments and let the Senate make a judgment; I am prepared to do that and I welcome suggestions to improve the Resolution and debate about its elements. Finally, I want to say to my colleagues that there is nothing tricky or secretive in the strategy I have followed to bring this Resolution before the body. I have done what the law and the Senate Rules allow me to do; I have done what my conscience requires me to do; now I simply hope that the Senate and the House will do what the law, and our national interests, require.

Mr. ADAMS. Let me conclude, Mr. President, by thanking the majority leader for his patience and for his support. We have not always agreed on the substance but I have found him to be fair and dedicated protecting my rights and those of the other Members of the Senate. He has also demonstrated, as shown many times before, an ability to craft solutions which satisfy the needs of all parties, even if they do not make all of those parties completely happy.

So, I want to express my appreciation to the majority leader for the way in which this matter has been handled. I think that we will undoubtedly revisit this issue before the 100th Congress has adjourned. I appreciate the cooperation of the Members of the minority who have worked on this, and the majority leader for what is done today.

I yield the floor, Mr. President.

Mr. BYRD. Mr. President, let me simply say that the distinguished Senator from Washington, Mr. ADAMS, did what he felt he should do and what he had to do. I respect his right to act as he did. He behaved as a Senator is supposed to behave. He followed the rule. The followed his own conscience. I believe he acted in the best traditions of the Senate. I believe his cooperation in allowing me to raise this point of order allowed us also to avoid what might potentially have been a very difficult position. In conclusion, let me say that I agree with his conclusion that the precedent set here was a very narrow one, and I also agree with him that there is a need to improve the War Powers Resolution.

I am working on that. And I promise to work with the able Senator from Washington Mr. ADAMS, in that effort.

ORDER OF PROCEDURE

Mr. BYRD. Mr. president, I understand that the distinguished Senator from Maine has a statement that he wishes to make. I ask unanimous consent that morning business be extended throughout the time for his making his remarks, that he may be permitted to speak therein, and that upon the conclusion of the Senator's statement and upon his yielding the floor, the Chair automatically put the Senate over until Tuesday next, at the hour of 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

THE PRESIDENT'S STATEMENT ON SIGNING THE INTELLIGENCE AUTHORIZATION ACT

Mr. COHEN. Mr. President, I feel compelled today to share with my colleagues in the Senate my deep sense of frustration and concern over the statement made by the President on Wednesday, December 2, when he signed into law H.R. 2112, the Intelligence Authorization Act for fiscal year 1988.

As vice chairman of the Senate Select Committee on intelligence it has been my honor and pleasure to work with President Reagan and the intelligence community officials in the effort to ensure that adequate resources are provided for our Nation's intelligence activities.

I believe the President deserves great credit for the initiatives which have been undertaken with his leadership and direction to bolster our intelligence capabilities.

One area in which President Reagan has strengthened capabilities has been of special interest to me, and that is the counterintelligence area. As my colleagues know, I have worked to reduce the espionage threat in this country by reducing the number of Soviet spies posing as diplomats, both at the United Nations, the Soviet Embassy, and consulates. Some administration officials, particularly in the State Department, strongly resisted our efforts, but I think the President has shown great courage and resolve in implementing our initiatives and reducing the number of spies in the United States.

It is thus with a sense of sadness that I must report today that the statement of the President on signing the intelligence authorization bill contains a characterization which reflects what can only be charitably viewed as bad advice. Specifically, the President said at the conclusion of his statement, and I am quoting:

> Finally, I must express my view that section 501 of the bill is unconstitutional. This section would require the Attorney General to report to the Congress internal disagreements between executive officials about the admission of foreign officials to the United States. These internal disagreements reflect communications and deliberations that are protected from disclosure because of the need for candor and objectivity among executive officials. The President, of course, has the exclusive constitutional authority to "receive ambassadors and other public ministers." Since the Presidency of George Washington, it has been consistently recognized that the executive branch cannot be made to disclose to the Congress information relating to actions taken pursuant to an authority assigned by the Constitution exclusively to the President. Accordingly, requiring this annual report by the Attorney General would violate long-established constitutional principles and, pursuant to my constitutional authority, I will instruct the Attorney General not to submit an annual report to the Congress pursuant to section 501. I do not, however, believe the unconstitutionality of section 501 affects the validity of the remainder of the bill.

This is an extraordinary, and regrettable, statement. The President is saying that he does not intend to implement a law which Congress enacted and he has signed. In effect, the President is exercising a "line-item" veto over this provision of the Intelligence Authorization Act.

The Constitution and laws of the United States recognize no such power. If the President thought this provision was unconstitutional, he should have vetoed the bill. but since he did not, he is constitutionally bound to faithfully execute its provisions.

I also feel obliged to comment upon the rationale cited in the President's Statement for concluding that the provision in the bill is unconstitutional. As I read the statement, it seems to say that since the Constitution gives the President exclusive authority to "receive ambassadors and other public ministers," Congress cannot constitutionally require information of him regarding the exercise of this function. Leaving aside the question of whether Soviet nationals admitted to the United States legally qualify as "ambassadors and other public ministers," the proposition that Congress cannot, where the Constitution gives exclusive powers to the President, constitutionally ask for information concerning the exercise of such powers has extremely troubling implications for this Congress and the country. Congress cannot perform its legislative functions without information. It cannot perform oversight, nor can it appropriate funds for Government activities without information from the executive. To contend that where the Constitution gives exclusive powers to the President, he can deny Congress information regarding the exercise of such powers, thereby precluding it from exercising its own constitutional responsibilities, seems to me to raise serious constitutional objections from this end of Pennsylvania Avenue.

As it happens, no constitutional objection was lodged against this particular provision of the Intelligence Authorization Act by the administration at any point during the legislative process, although there was ample opportunity to do so. Moreover, had such objections been raised, there were alternative methods of satisfying the requirement which would not raise the same constitutional concerns. But none of this was raised until the bill reached the President's desk for signature. The Intelligence Committee was advised of the concern when it was at the President's desk. I find this incredible and intolerable.

Unlike any of the other committees on which I am serving or have served during my time in Congress, the Intelligence Committee invites intelligence community representatives to sit in as we mark up legislation. In this light, it is all the more incomprehensible that such strong language is included in the President's signing statement at the behest of the Attorney General's Office of Legal Counsel.

Let me reiterate, the issue was never raised at any point in the process prior to the signing statement, despite repeated opportunities to do so. Prior to reporting the bill to the Senate in May, the committee provided language to the Acting Director of Central Intelligence, who represented the administration on the measure and sat in on our markup. No question was raised about this provision. After the committee reported the bill, it was circulated for comment within the executive branch. The Justice Department's Office of Legislative Affairs specifically consulted the Office of Legal Counsel. No question was raised. After the Senate passed the bill and it went to conference with the House bill, which had no similar provision, the bill was again circulated within the executive branch, specifically including the Office of Legal Counsel in the Justice Department. Again, no question was raised.

This provision is simply the latest in a series of Senate Intelligence Committee initiatives to restrict the hostile intelligence presence in this country. Prior legislation, which I cosponsored in 1985 and 1986, established the policy of substantial equivalence between the number of United States and Soviet Embassy, consulate, and U.N. mission personnel, unless waived by the President. The President implemented this legislation in October 1986, when over 80 Soviet intelligence officers were expelled.

The new reporting requirement reflects concern that the Soviets may rebuild their intelligence capabilities by replacing legitimate diplomats with KGB and GRU officers. In January 1987, press reports indicated a conflict between the Justice and State Departments over the granting of visas to Soviet intelligence officers, with the State Department favoring a more lenient policy. Later articles quoted then FBI Director William Webster as expressing concern about this problem. The committee's initiative seeks to ensure that Congress is informed when counterintelligence concerns are overruled in the granting of such visas. Such information is necessary to assess the hostile intelligence threat and the effectiveness of U.S. counterintelligence policies.

I reiterate: At no time in the Congressional consideration of this proposal did any executive branch official express any constitutional reservation. Rather, counterintelligence experts indicated to committee staff that this narrow reporting requirement—limited only to those cases where visas are granted over FBI objections—was preferable to a requirement to report every case where a visa is granted to a Soviet intelligence officer.

So we acceded to the intelligence community's recommendation. We could have phrased it and legislated in a different fashion, but we acceded to the intelligence community's recommendation. So if there were any constitutional concerns raised at that time, it could have been revised to meet those House concerns by framing the report so as not to require information on predecisional advice to the President. Alternatively, the committee could have exercised its oversight and budget authority directly to ask the FBI for the necessary information on admission of Soviet intelligence officers.

For the Justice Department to have raised this only at the very last minute—and to have not even had the simple courtesy to contact the committee about it—is a disservice to the President, to the Intelligence Committees, to the Congress, and to the brave professionals responsible for countering the espionage threat against this Nation.

Finally, Mr. President, we simply cannot allow the proposition to stand that the President of the United States is allowed to pick and choose which provisions of legislation he has signed into law he shall faithfully execute. His choices are rather simple. He can sign a measure and faithfully execute its provisions until that law is successfully challenged or reversed by the Supreme Court, or he can veto the measure and send it back to Congress to be corrected.

What he cannot do is sign the legislation and declare certain of its provisions unconstitutional and direct executive agencies to disregard provisions of that law.

If Congress remains silent in the face of such conduct, I believe it will invite a subversion of its own constitutional role and responsibilities.

Quoting the President's statement, he would like to retain the powers of George Washington, and we agree. What we cannot agree to is that he have the powers of George III.

I have spoken with White House officials this morning and I had hoped to have this issue clarified by late this afternoon. That was not possible to achieve. But I am told that the President, indeed, will seek to clarify any misunderstanding that has come about as a result of the signing statement. I look forward to the President's statements next week.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR APPROPRIATIONS COMMITTEE TO HAVE UNTIL 6 P.M. TODAY TO FILE REPORTED BILLS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Appropriations Committee may have until 6 p.m. this evening to file reported bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, DECEMBER 8, 1987

ADJOURNMENT TO 9:30 A.M.

Mr. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over on Tuesday next and that the call of the calendar under rule VIII be waived on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Tuesday next, there be a period for morning business not to extend beyond 10 a.m., that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I had hoped that the Senate would be able to proceed on the reconciliation bill next Tuesday, but as of the moment some problems remain with respect to the budget deficit-cutting package. I hope that that package can be prepared legislatively and otherwise, to offer as an amendment to the reconciliation bill, at such time as it is brought up.

That bill, as we all know, will be brought up under expedited procedures. I hope that, if we cannot bring the bill up at some point on Tuesday, it will be ready to bring up on Wednesday.

I state all that to say at this point that I am not sure as to what the Senate will be doing on Tuesday next. Once the reconciliation bill and the continuing resolution are passed—and by "passed" I mean have gone to conference, returned in the form of conference reports, and have been sent to the President and signed, or we get indications from the White House that they will be signed—then the Senate and House can adjourn sine die. In the meantime, if there are other measures that can be brought up and debated and acted upon, then we will attempt to move forward on them.

Mr. President, I see my good friend, the distinguished Senator from Maine, Mr. Cohen, here, who is the acting Republican leader at this time.

Anent the program, which I was stating, I should mention a possible Saturday session next week, if necessary, to finish work on the reconciliation bill and continuing resolution. The reconciliation bill has been sent over from the House. A continuing resolution has been sent over from the House. And, so, all Senators should read the Record carefully and note carefully that if there is a necessity for the Senate's being in session on next Saturday or the following Saturday or both, the Senate will be in session on either or both Saturdays.

They will be important Saturdays because the reason would be, as I have already indicated and implied, that of expediting action on the reconciliation measure and on the continuing resolution, both of which have to be finally enacted before the Senate can or will adjourn sine die for the year.

I would hope that all staffs will call this portion of the Record to the attention of Senators if Senators are not in a position at the moment to listen to what has just been said.

ADJOURNMENT UNTIL TUESDAY, DECEMBER 8, 1987, AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Tuesday, December 8.

Thereupon, the Senate, at 4 p.m., adjourned until Tuesday, December 8, 1987, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 4, 1987:

DEPARTMENT OF THE TREASURY

MARK SULLIVAN III, OF MARYLAND, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY, VICE ROBERT MICHAEL KIMMITT, RESIGNED.

DEPARTMENT OF THE INTERIOR

TS ARY, OF OKLAHOMA, TO BE DIRECTOR OF THE BUREAU OF MINES, VICE ROBERT CARLTON HORTON, RESIGNED.

FEDERAL TRADE COMMISSION

SUSAN E. PHILLIPS, OF VIRGINIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1987, VICE PATRICIA PRICE BAILEY, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

ALVIN H. BERSTEIN, OF RHODE ISLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1982, VICE CHARLES RAY RITCHESON, TERM EXPIRED.

THE JUDICIARY

RUDY LOZANO, OF INDIANA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF INDIANA VICE MICHAEL S. KANNE, ELEVATED.

DEPARTMENT OF JUSTICE

GRACE FLORES-HUGHES, OF TEXAS, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS, VICE GILBERT G. POMPA, DECEASED.

DEPARTMENT OF DEFENSE

THOMAS F. FAUGHT, JR., OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE MELVYN R. PAISLEY, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS) IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 593 AND 8351, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

MEDICAL CORPS

To be lieutenant colonel

GERALD M. FRIEDMAN, [redacted]
RONALD J. GELZUNAS, [redacted]
CHARLES T. MACY, [redacted]
DEAN E. SORENSEN, [redacted]
STEWART A. VERNOOY, JR., [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

CARY D. HARDISON, [redacted]
DONALD K. JODER, [redacted]

To be lieutenant colonel

RANJAN H. PAREKH, [redacted]
HOWARD L. RITTER, JR., [redacted]

To be major

HORACE R. CARSON, [redacted]
EDWARD J. MARKUSHEWSKI, [redacted]

To be captain

STEPHEN E POPPER, [redacted]

DENTAL CORPS

To be lieutenant colonel

THOMAS E. BOYTIM, [redacted]
MARIO M. MENDOZA, [redacted]
JAMES W. PREISCH, [redacted]
PAUL W. RECORD, [redacted]
LEE J. SLATER, [redacted]
DAVID J. ZANER, [redacted]

To be major

JOSEPH D. CAMACHO, [redacted]
ROBERT A. CRAIG, [redacted]
DAVID W. FALSEY, [redacted]
DALE C. GULLICKSON, [redacted]
BRUCE K. HALL, [redacted]
RODNEY C. KNUDSON, [redacted]
WILLIAM P. NAYLOR, [redacted]
RONALD L. PLEIS, [redacted]

To be captain

LAWRENCE H. KENT, [redacted]
RICHARD R. MILLER, [redacted]
JAMES L. PAUKERT, [redacted]
LAWRENCE J. SCOTT, [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be major

DANIEL E. BETHARDS, [redacted]

To be captain

JOHN E. BREWER, [redacted]

NURSE CORPS

To be major

PATRICIA C. STRADLEIGH, [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE ACTIVE DUTY LIST OF THE REGULAR AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 1210 AND 1211, TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be lieutenant colonel

THOMAS W. PETER, [redacted]

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

MICHAEL H. ALAYNICK, [redacted]
PAUL B. CHRISTIANSON, [redacted]
FRANK J. CRIDDLE, [redacted]
KENNETH E. HOLSTEN, [redacted]
ROBERT J. KORCHIK, [redacted]
AVIS MERYL KOW, [redacted]
ANDREW W. KRASUSKI, [redacted]
ROCHELLE LOPEZ, [redacted]
ROGER L. MEHL, [redacted]
JAMES J. MURTAGH, [redacted]
ELWOOD P. REID, [redacted]
CLAUDIUS A. SMITH, [redacted]
WILLIAM B. TATE, [redacted]
HUGH D. THORFINNSON, [redacted]
JAI C. WHANG, [redacted]

THE FOLLOWING INDIVIDUAL FOR APPOINTMENT AS RESERVE OF THE AIR FORCE (ANGUS), IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593 AND 8351, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

JOSEPH E. BOTTA, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate December 4, 1987.

DEPARTMENT OF TRANSPORTATION

ALFRED A. DELLIBOVI, OF NEW YORK, TO BE URBAN MASS TRANSPORTATION ADMINISTRATOR.

DEPARTMENT OF THE TREASURY

CYNTHIA JEANNE GRASSBY BAKER, OF COLORADO, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT DENVER.

NATIONAL INSTITUTE OF BUILDING SCIENCES

DIANNE E. INGELS, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1988.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, December 7, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At times when we are so aware of the might of weapons and the strength of armies, we seek in this our prayer a power of the spirit that comes not with roll of drums but rather with a reconciling word, acts of kindness and deeds of grace. May we see, O God, that all the world's wealth and might are yet no power compared to freedom of the spirit, to compassion of the heart, to forgiveness and love. Grant this power, O God, to every person of good will. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 199. Joint resolution designating April 1988 as "Actors' Fund of America Appreciation Month";

H.J. Res. 412. Joint resolution to congratulate King Bhumibol Adulyadej of Thailand on his sixtieth birthday on December 5, 1987; and

H. Con. Res. 57. Concurrent resolution expressing the sense of Congress respecting the designation of jazz as a rare and valuable national American treasure.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and a joint resolution of the House of the following titles:

H.R. 3030. An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, and

H.J. Res. 376. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3030) "An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Leahy, Mr. Boren, Mr. Harkin, Mr. Daschle, Mr. Breaux, Mr. Melcher, Mr. Lugar, Mr. Boschwitz, Mr. Helms, Mr. Cochran, and Mr. Karnes to be the conferees on the part of the Senate.

The message also announced that the Senate has passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 196. Joint resolution to designate February 4, 1988, as "National Women in Sports Day."

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar.

The Clerk will call the eligible bill on the Consent Calendar.

ESTABLISHING PROCEDURES FOR REVIEW OF TRIBAL CONSTITUTIONS AND BYLAWS OR AMENDMENTS

The Clerk called the bill (H.R. 2677) to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the act of June 18, 1934 (48 Stat. 984).

There being no objection, the Clerk read the bill as follows:

H.R. 2677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), is amended to read as follows:

"Sec. 16. (a) Any Indian tribe, or tribes, residing on the same reservation, or any Indian tribe in the case of landless tribes or tribes without reservations, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such a reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior.

"(1) Within one hundred and eighty days following the receipt of an appropriate tribal request for an election pursuant to this subsection of a proposed tribal constitution, the Secretary shall complete a formal technical and legal review of the proposed constitution. Following the completion of this review and prior to the requested election, the Secretary shall notify the tribe in writing whether the proposed constitution is inconsistent with Federal law.

"(2) Within ninety days following the receipt of an appropriate tribal request for an election pursuant to this subsection of any amendment to a tribal constitution or new or amended bylaws to a tribal constitution, the Secretary shall complete a formal technical and legal review of the tribal request. Following the completion of this review and prior to the requested election, the Secretary shall notify the tribe in writing whether the proposed constitution is inconsistent with Federal law. A complete revision of an existing tribal constitution shall be subject to the review in paragraph (1) and shall not be considered an amendment.

"(3) The Secretary shall call the election within thirty days of the completion of the review in subparagraph (1) or (2), if such review determines that the proposal is consistent with Federal law. If such proposal is inconsistent with Federal law, the tribe shall have the opportunity to cure any defects and to resubmit the proposal. Upon receipt of a resubmission, the Secretary shall call for an election within thirty days if such resubmission is consistent with Federal law.

"(4) Following tribal adoption of a proposed constitution, bylaws, or amendments at an election called under this subsection, the Secretary shall certify the validity of such election on the proposal within forty-five-days after the election. If the Secretary does not act on the certification of the proposed constitution, bylaws, or amendments within the specified forty-five day period, such proposal shall be considered approved by the Secretary.

"(5) Constitutions and bylaws, ratified and approved by the Secretary pursuant to this subsection shall be revocable by an election open to the same class of voters and conducted in the same manner as provided in this subsection.

"(b) In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.".

Sec. 2. Nothing in this Act is intended to amend, revoke, or affect any tribal constitution, bylaw, or amendment ratified and approved prior to this Act.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert in lieu thereof, the following:

That section 16 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476) is amended to read as follows:

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"SEC. 16. (a) Any Indian tribe or tribes shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when (i) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe and (ii) approved by the Secretary pursuant to subsection (c) of this section. Such constitution and bylaws, when ratified as aforesaid and approved by the Secretary of the Interior, shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the manner as the original constitution and bylaws.

"(b)(1) The Secretary shall—

"(A) within one hundred and eighty days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws or to revoke such constitution and bylaws, or

"(B) within ninety days after receipt of a tribal request for an election to ratify an amendment to the constitution and bylaws,

call and hold an election as required by subsection (a).

"(2) During the time periods established by paragraph (1), the Secretary of the Interior shall—

"(A) provide such technical advice and assistance as may be requested by the tribe or as he feels may be needed, and

"(B) review the final draft of the constitution or amendment to determine if any provision thereof is contrary to Federal law.

"(3) After the review provided in paragraph (2) and at least thirty days prior to the calling of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary of the Interior has found the proposed constitution, bylaws or amendment to be contrary to Federal law.

"(c)(1) If an election called under subsection (a) results in the adoption by the tribe of the proposed constitution and bylaws or amendment, the Secretary shall approve the constitution and bylaws or amendment within forty-five days after the election unless the Secretary finds that the proposed constitution is contrary to existing Federal law.

"(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

"(d) In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary of the Interior shall advise such tribe or its tribal council of appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.".

SEC. 2. For the purpose of this Act, the term—

(1) "appropriate tribal request" means receipt in the Area Office of the Bureau of Indian Affairs having administrative jurisdiction over the requesting tribe, of a duly enacted tribal resolution requesting a Secretarial election as well as a copy of the proposed tribal constitution.

(2) "contrary to Federal law" means that one or more provisions in the proposed constitution is clearly contrary to existing judicial interpretations of Federal statutory or case law that is applicable to the tribe.

SEC. 3. Nothing in this Act is intended to amend, revoke, or affect any tribal constitution, bylaw, or amendment ratifies and approved prior to this Act.

The committee amendment in the nature of a substitute was agreed to.

Mr. RHODES. Mr. Speaker, H.R. 2677 was considered on today's Consent Calendar. As sponsor of the measure, I am greatly pleased with its passage. Under section 16 of the Indian Reorganization Act of 1934, Indian tribes were given the option to reorganize their tribal governments by adopting new tribal constitutions. The Bureau of Indian Affairs has been criticized—possibly unfairly—in how they work with tribes to approve or disapprove proposed tribal constitutions. Recently, a Federal court in California held that under the 1934 act, the Secretary can always refuse to approve the constitution after it has been ratified but he does not have the right to refuse to call the election.

In response to this case the BIA has promulgated regulations instituting a timeframe for calling and holding of the election and approval or disapproval of the proposed constitution. I introduced H.R. 2677 to legislate timeframes and set a standard for refusing to call an election.

Under H.R. 2677, the Secretary may still approve or disapprove the proposed constitution, if ratified by the tribe under an election, but disapproval must be based on a finding that a provision is contrary to Federal law. The committee considered and adopted most of the amendments suggested by the administration, and it consulted with the Native American Rights Fund.

Mr. Speaker, I believe H.R. 2677 is a positive step in assisting the development of tribal government.

My hope is the Senate will act quickly and adopt this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
December 4, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received on Friday, December 4, 1987 the following messages from the Secretary of the Senate:

(1) At 10:55 a.m.: That the Senate agreed to the House amendments to S. 578 and agreed to the House amendment to Senate amendment No. 2 and receded from Senate amendment No. 3 to H.R. 3483.

(2) At 4:30 p.m.: That the Senate agreed to the House amendments to the Senate amendments to H.R. 2672.

With great respect, I am,

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

RESIGNATION AS MEMBER OF COMMITTEE ON MERCHANT MARINE AND FISHERIES AND CONGRESSIONAL BOARD OF VISITORS TO THE UNITED STATES MERCHANT MARINE ACADEMY

The SPEAKER laid before the House the following resignation as a member of the Committee on Merchant Marine and Fisheries and the Congressional Board of Visitors to the United States Merchant Marine Academy:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 6, 1987.

Hon. JAMES WRIGHT,
Speaker of the House,
H-204, The Capitol,
Washington, DC.

DEAR MR. SPEAKER: As a result of my election to the House Committee on Banking, Finance and Urban Affairs, I have resigned my seat on the House Committee on Merchant Marine and Fisheries.

Without the Merchant Marine Committee assignment, I believe that it would be appropriate that I also resign from the Congressional Board of Visitors to the United States Merchant Marine Academy.

I would appreciate your favorable consideration of my request.

Sincerely,

JOSEPH J. DIOGUARDI,
Member of Congress.

The SPEAKER. Without objection, the resignations are accepted.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, November 17, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enclosed is a corrected copy of a Committee Resolution that was originally forwarded to you by the Public Works and Transportation Committee on October 29, 1987. Please note the additional information and make the appropriate substitution.

Every best wish.
Sincerely,
James J. Howard,
Chairman.

A MESSAGE FOR MR. GORBACHEV

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, even as we speak, the General Secretary of the Soviet Union is winging his way toward Washington. I would like to address a word to him.

Mr. Gorbachev, you must be hearing reports of yesterday's magnificent rally involving more than 200,000 people, including the topmost leaders of our Government, who urged that you go the full mile to achieve a quantum jump in respect, credibility, and trust for yourself and for the Soviet Union by conforming your immigration policies for Soviet Jews and others to the standards accepted by the civilized world.

Nothing could more enhance the progress that is demonstrably being made toward arms control and the solution of regional conflicts than to cure this one fatal flaw in the Soviet Union's policy, a flaw that has produced such a drumbeat of criticism and resentment around the world.

I say this with a full heart, a respectful heart: Show the people of the world that we can trust you, that we can put our faith in your bond and in that of the Soviet Union for the solution of these other problems. Please bring your country into conformity with the obligations freely accepted by your country under the Helsinki accords and please, Mr. Secretary, I urge you, let my people go.

PEARL HARBOR DAY

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, every generation has a day forever emblazoned in its consciousness. For my parents, it was the 11th hour of the 11th day of the 11th month in 1918, when the guns fell silent on the western front of Europe. For another generation, it was an autumn afternoon when the crack of gunfire snuffed out the life of our young, vibrant President Kennedy in a Dallas motorcade.

But for my generation, the day we will never forget was 46 years ago today, when a quiet Sunday afternoon was interrupted by the shocking news that the Japanese Empire had launched an unexpected, unprovoked air attack upon our naval base at Pearl Harbor, HI.

Anyone who was around on December 7, can tell you exactly where they were and what they were doing when these deadly bombs fell. Other images of that day are vivid in all of our minds: The thousands of American soldiers, sailors, and airmen performing personal acts of heroism in the midst of that sudden vicious attack, and a nation suddenly united with a common purpose.

There is another lingering thought about Pearl Harbor. The knowledge that we must never again allow the oceans along our shorelines to lull us into a sense of complacency—that never again should we allow our national defense to be so ill-prepared for any hostile action. From December 7, 1941 on, we Americans knew that we would have to strengthen our defenses and bear the mantle of world leadership, recognizing that events anywhere in the world would henceforth affect us here at home.

Pearl Harbor day taught our Nation an unforgettable lesson—that never again can we allow ourselves to be unprepared.

PERSONAL EXPLANATION

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, due to a death in my family last week, I was unable to be here for the Wednesday and Thursday sessions. Had I been present, I would have voted in favor of the rule on House Joint Resolution 395, the continuing resolution, which among other things, deleted the provision allowing for a cost-of-living adjustment for Members of Congress.

I would also have voted in favor of final passage of the resolution.

MR. GORBACHEV SHOULD NOT GET A BLANK CHECK

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, there is a warning in today's Wall Street Journal editorial:

> Western lenders and investors would be quite wise to forget the political games and think of the Soviet bloc as a credit risk. And it might not hurt for them to exercise a bit more hardheadedness in their credit analysis than they have displayed in the past.

As is plainly detailed in today's front page Washington Times article, "The Real Name of Gorbachev's Game is $$$." One of Mr. Gorbachev's chief goals this week will be to increase Soviet access to Western capital markets.

Already, Western banks are lending over $2 billion every month to the Soviet bloc. Eighty percent of those loans are untied to any specific trade sale. It's just cash, pure and simple, which can be used for any purpose. No questions asked.

The cash that we lend to the Soviets only enables them to prop up their client states and to fund Toshiba diversion schemes.

The financing of the Soviet bloc under present terms is not in the national interest of the United States. That is why I have introduced legislation with Congressman Jack Kemp to bring transparency to Soviet bloc lending.

Let us make it clear to Mr. Gorbachev this week. We will give him our hospitality, but not a blank check.

SPEAKER NEWMAN RETIRES AFTER 40 YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. Montgomery] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to pay tribute today to a good friend of mine and one of Mississippi's most outstanding public servants, the Speaker of the Mississippi House of Representatives, Hon. C.B. (Buddie) Newman.

Buddie is retiring this year after serving in the Mississippi Legislature for 40 years. He will be honored next week in Jackson with a portrait unveiling in the Mississippi Capitol Building and then at a dinner that evening. It is a deserving celebration for one of our State's most committed and dedicated public officials.

I served with Buddie in the Mississippi Legislature for 10 years and have followed his career for 20 more years after that. In that association of 30 years, I can say that I don't know anyone in government who has worked harder than Buddie Newman. He has always been on the job for Mississippi and I think he will be remembered as one of the greatest Speakers our State has ever had.

We will miss Buddie's leadership in Jackson. His experience and knowledge of how our State government works have been a great asset to him and our State over the years.

I wanted to share with my colleagues the news of his retirement and to extend to Buddie and his wife, Betty, my best regards and my appreciation for a job very well done.

STATE AND LOCAL LAW ENFORCEMENT COMPENSATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Stark] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today Representatives Barbara Vucanovich, Norm Dicks, Bill Nelson, and I are introducing a bill to provide compensation to State and local jurisdictions for extraordinary law enforcement costs resulting from demonstrations against Federal nuclear activities.

It's not fair to take scarce funds from local law enforcement programs to protect national nuclear programs. Why should State and local taxpayers foot the bill for protests against Federal nuclear policies?

Most law enforcement budgets can absorb the costs of smaller demonstrations. But the costs of policing massive antinuclear demonstrations can be high enough to force cuts in needed local programs.

Our bill, the State and Local Law Enforcement Compensation Act, would protect State and local law enforcement agencies from incurring extraordinary costs. It requires reimbursement of reasonable and necessary costs that exceed the lesser of $50,000 or 1 percent of the law enforcement agency's budget. The threshold amount will keep the costs to the Federal Government minimal, while providing "stop-loss insurance" for law enforcement agencies hit with a huge bill for protecting Federal property.

It is only right that the Federal Government minimize the burdens it places on State and local jurisdictions. The State and Local Law Enforcement Compensation Act does this. We hope our colleagues will support it.

H.R. 3711

A bill to provide for compensation to State and local law enforcement agencies for expenses resulting from demonstrations against Federal nuclear-related activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Law Enforcement Compensation Act".

SEC. 2. COMPENSATION TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES FOR EXPENSES RESULTING FROM DEMONSTRATIONS AGAINST FEDERAL NUCLEAR-RELATED ACTIVITIES.

(a) IN GENERAL.—The United States Government shall compensate State and local law enforcement agencies for eligible expenses incurred by such agencies as a result of demonstrations against Federal nuclear-related activities.

(b) APPLICATION FOR COMPENSATION.—Application for compensation under this Act shall be made at such time and in such form and manner as may be required by the department, agency, or entity of the United States Government that is responsible for the nuclear-related activity involved.

(c) GEOGRAPHICAL LIMITATION.—Compensation shall be provided under this Act only with respect to nuclear-related activities conducted within the United Statess.

SEC. 3. AMOUNT OF COMPENSATION.

A State or local law enforcement agency shall be entitled to compensation with respect to eligible expenses incurred in a calendar year, as follows:

(1) For expenses incurred on or after the date of the enactment of this Act, in an amount equal to the amount by which such expenses exceed the lesser of $50,000 or 1 percent of the budget of the law enforcement agency for such year.

(2) For expenses incurred not more than 7 years before the date of the enactment of this Act, in an amount equal to the amount by which such expenses exceed the lesser of $50,000 or 1 percent of the budget of the law enforcement agency for such year.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "nuclear-related activity" means an activity involving nuclear materials, and such term includes nuclear research, nuclear testing, storage of nuclear materials at fixed sites, and shipment of nuclear materials and weapons;

(2) the term "Federal nuclear-related activity" means a nuclear-related activity conducted by the United States Government;

(3) the term "eligible law enforcement expense" means a reasonable and necessary expense incurred by a State or local law enforcement agency as a result of a demonstration against a Federal nuclear related activity, including any personnel expense and any expense of booking and holding demonstrators;

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States; and

(5) the term "United States", where used in a geographical sense, means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

□ 1215

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today being, as one of the previous colleagues said and reminded us, Monday, December 7, Pearl Harbor day, I want to once again invoke the symbolic title of several special orders that I entitled "My Advice to the Privileged Orders." This was a phrase that was used by the great Joel Barlow, the great Revolutionary pamphleteer, chaplain for George Washington's army, and also quite a versifier, a thinker, a philosopher, and quite an intellectual of the Revolutionary epoch.

I would remind my colleagues that that coincided with the beginnings of what turned out to be that great convolution known as the French Revolution which in that time and in that world we could roughly equate within the 20th century the Russian Revolution. It created that kind of an impact throughout the world, particularly in Europe where the terrible violence ensuing during the French Revolution was much decried, and instead of the so-called Bolsheviks of our 20th century, the British would call those forces the Jacobins, so in America you had figures such as Joel Barlow and Tom Paine who were equally known and active on both continents. In fact, Tom Paine was a hero of the French Revolution. Joel Barlow to a certain extent was too, but history has dealt more famously with Tom Paine than with Joel Barlow.

However, in my book he was the greatest. It was he who wrote the Columbiad, which was in verse form a great epic in which he in effect was predicting, unless the enslavement of the Africans, as he called it, did not cease in the United States, he could, as he said, peer into the future and foresee what we later suffered as an equal convolution known as the American Civil War of 125 years ago, more or less.

So in his study of the social systems, at the forefront of this great rebellion known as the American Revolution, and to this day the basic principles are still radical and revolutionary, the concept in that day and time in the context of that world where the entire world was governed by divine right or by czars or potentates or a few oligarchs, the concept that people would be the source of power was highly revolutionary and radical indeed. It still is, except as I will bring out in another context. As we have strayed from that principle, we have seen the rise of erstwhile adversaries and opponents in great wars and subsequent to that other nations that our present President calls as still our adversaries. Whether history will eventually write it that way or not, God only knows. All I can say is that these men were precursors of the modern-day world that we have learned to enjoy, and the blessings to gratefully pray for, and with the hope and the challenge that we in our time beneficiaries of this inheritance will act in such a way that rather than diminishing by one iota we shall rather pass it on to those who follow us greatly expanded and enlarged. In fact, I will add my note to those who have always believed in the people's inherent ability to govern themselves and the basic principle embodied in America's foundation and through its history, and that is that in the long run the people know best what is best for them rather than having a few selected, high minds, great individuals who would save the people or lead the people.

But history shows that these are the two basic divisions in mankind's history of government. What were governments founded for in the very beginning; what is the basic purpose and exactly what shall constitute the governing power? All of this was decided in the very preamble of our Constitution where we the people of the United States, not the Congress, not the President, not the judiciary, but we the people of the United States, in order to form a more perfect union. That means that that is the sovereign source of power, the people.

But today when we say that, immediately one is assailed as a socialist, or what is worst, a Communist. We have strayed so far away from that principle, and we have through omission as well as commission, by delegation of constitutional grants of power created of the office of the Presidency that which the men who wrote the Constitution feared the most. This was what was uppermost in their minds as they were struggling little better than 200 years ago and eventually coming forth with this great document and the charter of our Government and liberties, the Constitution.

So if we stray from the principle that all power emanates from the people, we are going to be in trouble. The idea that we would have executives and great appointees of the Chief Executive saying we do not consider this law passed by the Congress as being constitutional so we do not see fit to obey it would have been so abhorrent, so shocking that those who advocated no creation of such an office as the Presidency would have won hands down. As a matter of fact, the first 10 years of our history as a Nation, that is as a national entity, the 10 years preceding, 13 years more or less preceding the adoption of the Constitution and its effective implementation with the First Congress on March 3, 1789, those first 10 years nobody even thought of creating such an office as the Presidency. As a matter of fact, that is one reason given by the historians for the failure of the Articles of Confederation, because there was no unitary source that could readily act in the name of the collective States, then originally 13. So a lot of history is forgotten and a lot of things have happened, and societal developments in the 20th century have been of such a magnitude that there is reason why they could be not only forgotten but kind of taken for granted, and imperceptibly reached points of behavior that are in direct and have been in direct contradiction with the basic thrust of the Constitution.

All through our history and from its very beginning, as well as in every land that I know of, the financial, some call it the banking, some call it the financial sources of revenue or financial ability to exert action and power has always been the most challenging issue confronting any set of people in their attempts to erect, create, and sustain a government. This day, December 7, should cause us to sit back and say why is it that on that terrible date of December 7, except I vividly remember it was a Sunday, at least in our part of the country down in Texas, that we suffered an attack and went to war, a vastly devastating war known as the Second World War, the first one having been fought for the preservation of democracy only to find that just a matter of no more than a little bit, two and a half decades, in the midst of an even more terrible conflagration, and that day we are inundated and actually occupied by the very conquered people that we sacrificed so much in blood and treasure to defeat.

I think it is time to ponder because at this time, like never in history, our individual citizens are the most vulnerable in their existence. No longer does the average American have access to the source of production of those means that provide his sustenance and well-being, from food to clothing to shelter. How vulnerable is the average citizen in a city such as this, the great Nation's Capital, living in these crowded tenements, whether it is the affluent kind or the impoverished kind? Compared to our elbow-spacious situations and environments down in my State of Texas, even in the worst of the slums in Texas we have a little bit more space than some of the best apartment dwellings here in the District of Columbia. But there is no access on the part of those citizens today in America to those fountainheads of maintenance and support of life, the key elements, food, shelter, clothing.

What would happen if the water supply was cut off today in the District of Columbia. What would these apartment dwellers do for water? What if, as some of us saw during the periods of riot and turbulence and tumult in the 1960's, frightening occurrences that as I was growing up in childhood and heard from my mother, still very much traumatized by her parents' experience in their country of birth where great convolutions, revolutions had taken place, compelling my parents to flee for their lives, for my father had been placed up against a wall to be shot, and was saved only by the grace of God and a woman revolutionary, Juana Lopez, whose husband and son my father had helped save just 2 years before from the so-called Federal or Federales or Rurales in that part of northern Mexico where they came from.

□ 1230

And I can still remember the fear, even in later years as the tumult continued and the revolution, and counterrevolution and counter-counterrevolution and with it ejecting hundreds of thousands of its citizens into areas such as my hometown and birthplace, San Antonio. I remember that as if it were yesterday. And I never thought I would live to see the time when I would be walking from my office in one of the office buildings to the apartment where I dwell here on the Hill at about 11:30 at night and being challenged by some soldiers in a Jeep as to where I was going and what I was doing. That was during the rioting.

When the gasoline stations were all closed, by the middle of the day, grocery stores were not accessible after certain hours, also. This was here in America, here in the Nation's Capital; pretty much forgotten, overlooked but it brought home to me that which I always felt ever since I came up and saw what the East was all alike and saw for the first time what we call here as row-housing at great prices which back home would have purchased not one but five different single family dwelling places, at least at that time. Since then we have gone a long way in nationalizing homelessness and uprooting American families from the only thing that identifies them with the land and the country, and that is a little place they can call their own, their home. That is something that in my State the Founding Fathers of that State, those who followed, for many years made sure that every Texan would have some minimal right to that. So we still have, even though there have been heavy assaults in the latest legislative sessions to undo the great Texas Homestead Act, which preserves even the reading of the original act not only the home, but the tools of living then on the farm such as the plow and the utensils. All those were exempt from the tax assessor's hammer.

And now with all of this crunch there have been attempts, legislative session after legislative session, to try to water down or do away in the name of providing cash accessibility to home-rich but cash-poor families in Texas. Fortunately, and I have taken part in trying to dissuade the legislators from succumbing to the very same interests that have sold out the greatest interests of the country, that have made our country a debtor nation for the first time since 1914. But how did this all come about? Is it not time that we sit here and ponder and see our markets controlled and invaded by the Japanese products? But why so? Well, there are a lot of reasons. But I recall in my 10 years as chairman of the Subcommittee on International Finance, I had a great opportunity to study and ponder and dwell and discuss and meet many of these foreign finance and trade ministers. And I will never forget one of the representatives from a Japanese group in which he said, "Ah, yes, but we look upon this as war."

But why is it? Was the invasion one such as that? Well, no, not exactly because you can say the same thing about Taiwan-produced goods. But that what has happened that adds to the dimensions of the same thing that happened after World War I, naturally in different contexts, different countries and the like, is the globalization of production.

Now we had had the famous cartels before World War I. Part of the war booty or prizes of war were the formulas and things that we were able to obtain from the great German cartel I.G. Farben, but whose financial actual destinies were never much touched because we had globalization of financial resources and control based in Switzerland through what is known as the International Bank for Settlement. These are really the central banks of all these countries.

This is why with the globalization then of production and the formation of the megatransnational corporations we saw that money has no nationality. And we find that ever since the devaluation of the dollar and President Nixon's decision to take the dollar off what was known as the gold exchange system, which had been actually since the early 1960's predictably considered to be moribund. And I want to make reference, because all of this ties into this phenomena that though we won the war, this great and horrible war, we in effect are now prostrate before the erstwhile defeated opponent with our so-called allies in the same role as they did after World War I and the emergence of the Great Depression.

One of the points I wanted to make was that we hear all this talk about the stock market decline or bust, whatever you want to call it, of October 19, being "different; it is not the same thing, it really does not mean much." But it does, of course. And what is not mentioned in the American press is that today you have the globalization of these great trade bursas as they call them in Europe or bolsas, as we say in Spanish, literally meaning pockets.

The Tokyo Exchange, for example, has about 500 percent more volume of the New York Stock Exchange. You would not think so by reading the American press. But it so happens that it is so intertwined today that naturally you have the repercussions in these other capitals, London, to a lesser extent, but to some extent Paris. Then since 1961, to be specific, because that was the first year of John Kennedy's term and it was the year of my election to the Congress, and since I have been ever since I can recall specifically interested in these matters of finance both domestic as well as international, I was very sensitive to what was developing as a No. 1 issue. And that was the great, great headline on the financial pages that the United States was registering or was going to register a $10 billion trade deficit in 1961, having begun that deficit in 1960. Actually, President Eisenhower was in power in 1960.

In 1963, however, by then President Kennedy had one thing to his everlasting glory and credit; he did not duck issues, he did not try to blame somebody else.

This, by the way of parenthesis is the greatest fault I find with President Reagan from the very beginning. He came in blaming Jimmy Carter for everything from recession, high interest rates to fallen arches and carbuncles, and he still is except that now almost 8 years after he has been in power he finds it quite difficult to blame Jimmy Carter so he blames the Congress. I think this is atrocious because what it does is to reveal to the world, if not to America which has not perceived it yet as the world does, that the country is rudderless, no leader and no leadership.

Now this is what the Europeans for some time have perceived but clearly and openly have said so just within the last 3 years. At the last economic summit meeting in Venice in Italy it was painful to me to read the journals from that country in French. They were openly ridiculing, scoffing at the President of the United States, considered him a nincompoop. And with that the American people have got to realize that they are facing a horrendous crisis and situation that at least they ought to be informed about and offered some kind of leadership so that we can anticipate and not find ourselves flailing around particularly at this time of such global vulnerability to the average citizen, as I said at the very beginning. In 1963, I was in my second year, after having been sworn in, and of all of the six Presidents with whom I have had the great honor to work, President Kennedy was by far the most personally acquainted. I had known him since 1951 and developed the greatest intimacy of friendship. Even with my next door fellow Texan, President Lyndon Johnson, I never developed quite that friendship and intimacy.

And there were a couple of occasions in which the President felt that I had not cooperated with his great program. One of them was the so-called Kennedy round in 1962, of the General Agreement on Trade and Tariffs. So he sent me all of the personal envoys, Henry Wilson, his special assistant from North Carolina; he sent another, Charles Roach, then special assistant after the 1960 campaign during which I had met him. And I said, "Well, I don't know that I am going to vote for this." They said, "Why not? This is essential."

I said, "Well, you know I have been looking over and there are 10 volumes of collected speeches and addresses of President Eisenhower and not one time does he ever make reference to the European Common Market which has been developing.

Now in this trade bill here that you want me to vote for I notice one paragraph. You say "this is good for American trade and manufacture, but why do you have this—" and I think it was title VII if I remember correctly, "—why do you have this proviso saying that in order to determine any possible adverse impact a commission shall be created herewith that will evaluate this and make recommendations to the Congress as to what do do?" I said, "That seems like it contradicts what you tell me that this is all beneficent, that it is all good, that there is no danger to nothing." I said, "It just doesn't work that way. Unless you can explain this better I just don't understand it."

So finally they sent me one of the big economists. He still could not tell me to my satisfaction. So I voted "no."

Now I have been very critical of President Reagan above all because he has epitomized everything against which I have struggled all during my elected-held positions, almost 35 years.

We visualized in poverty-stricken San Antonio when I was growing up the day when people would have enough to eat. I used to see families languishing, emaciating, and dying of tuberculosis. San Antonio was known as the tuberculosis capital of the United States. Then later there was an area there on that west side which at that time was very much ghettoized, that is about 100 percent Mexican-descended Americans, and they called it "Death Triangle" over by what we call Cassiano Park.

□ 1215

And the reason it was called "Death Triangle" was that it had the highest degree of infant diarrhea mortality, not only in the United States but anywhere else. So I made up my mind, never thinking once that I would be in politics, that I would work towards whatever it would take communitywise or whatever other way to make a change. So I grew up and finally went to college, in fact, although none of my contemporaries went, and most of them never even went to high school, much less to college. But I was blessed at the time then, and after the war I ended up being the special assistant director in charge of new development and family relocation for the great $26 million expansion program of the public housing authority of San Antonio, and I went into that very area, the "Death Triangle," negotiated the purchase of that area, and we built one of the most functional and safe and decent housing projects that had been built anywhere.

Then we went to work. The biggest challenge was education. San Antonio had one of the highest, if not the highest, rates of illiteracy. Years went by, and I finally had a chance in politics to act as a city councilman. I first proposed the basic programs. I was laughed at, ridiculed, cursed by some, and accused by others.

Then I got elected to the State senate and introduced some bills. One I called a bill for the Texas Youth Conservation Corps, and I discovered the whole State of Texas was appropriating $250,000 a year for the maintenance and sustenance of the Texas State parks, which, incidentally, make up one of the most beautiful systems you will find anyplace. But that is all. I came from the city of San Antonio where I had been instrumental in increasing the budget to $2.5 million for the city of San Antonio park system.

And here was a whole State spending just $250,000.

So I was responsible for getting some action taken after a great acrimonious debate with the powerful chairman of the Finance Committee, and for the first time we got more than $1 million for the Texas State system. But I could never get a hearing on my Texas Youth Conservation Commission. I had visualized it as working hand in glove rougly along the lines of the old CCC of the Depression era. We wanted to put the youth to work instead of being idle as they are today. I wanted to put our engineers to work instead of being idle as they are today. And here we are vulnerable, as never before, abandoning our hearth and home, registering the whole collapse of the infrastructure of our Nation throughout the whole country.

After all, I think I know something about this, for I have been chairman of the biggest subcommittee in the whole Congress, the Subcommittee on Housing and Community Development, and as such, I have taken advantage of the opportunity to go from one end of the country to the other, starting at the eastern seashore where, in just 1 hour and 15 minutes' drive I can show you some of the worst migrant working conditions, some that even match those that I saw in the Depression. And that is saying a lot. And I have gone all the way to California, and in-between to Minnesota and Texas, to the work camps up in the panhandle of Texas, Oklahoma, New Mexico, even down to Alabama, and Florida, where the Haitain work stream first took place and then came up the eastern seashore, all around our environment here, up in the Carolinas and clear on up to Long Island in some cases.

Then I went to the great densely populated urban areas. Here in Washington I have been to every single public housing facility there is. There is nobody else in the District of Columbia who can say that.

In my city of San Antonio I am in closer contact with the inhabitants of the public housing program than the $95,000-a-year director. And the situation is abysmal. America is on the threshold of a great domestic crisis. Only the time and the circumstances can tell how great. But it awaits like a rag soaked in a bottle of gasoline, just awaiting the time to ignite.

I always thought it was foolish to wait. If we are charged with knowledge—and we are—then what should we do about it? What I have been able to reduce it to is a fruitless attempt to shape legislation. The great House of Representatives, to its everlasting glory, has adopted legislation against some great odds. On some of it I had to deal on a purely partisan basis with some of my party members who were somewhat doubtful abut it, but somehow we got it passed, only to see it languish and die in the Senate, where for 6 years the U.S. Senate—well, I do not know if it is against the rules to refer to it that way, but I will just call it "the other body," or the equivalent of the large spiritual and temporal body. Well, let me say that perhaps that it is not so spiritual, but pretty much temporal. There was not one hearing in 6 years or more on housing or community development.

I go to the Bronx and I see the devastation, but I also see the great glory of the American people and what they can do if they are just given a little modicum of help. We should give them some help at this time when they are the most vulnerable. They do not have access to anything, not even their own means of sustenance. Yet given a chance, I have seen those people, mostly because of church and government leadership, make advances. I will say this for the city of New York and the State of New York: progress has been made because of a sensible and responsible municipality and state that have taken the leadership in this respect, over all of the States in the country, and through that help, given the absence and withdrawal of Federal funds since the advent of President Reagan, they have gone ahead. I will take you there myself and show you, whether it is the southwest or southeast Bronx or even in southeast Brooklyn, and I will show you one street dividing a war-town-like area, and then on the other side, 5,000 brand new single-family homes. Even though they are row, they are single-family dwelling units for just low- and moderate-income families who live in that area.

Now, this is where the American people are. But where are the leaders?

I was the author and the one who based a bill on a study of the Home Owners Loan Corp. of the Depression that enabled millions of American families to save their little homes. Did they abuse that trust? No, when they closed out the Home Owners Loan Corp., it had brought to the U.S. Treasury over $300 million, but the American families who were going to lose their homes to the auctioneer's hammer kept their homes. So I perfected it and got it out of the subcommittee. Then I got it out of the committee and got it out on the floor on a purely partisan basis, because unfortunately, we could not convince even the most progressive of the minority Members of the party. But we got it out. I introduced it as the Emergency Home Owners Loan Assistance Act.

Finally, on or about May 12, we passed it out of the House on a partisan basis, it went to the Senate, and it died. It did not even move. There was not one voice from either the majority or the minority speaking for it in the Senate. One of the statistics I brought out was that in the city of Pueblo, CO, they were registering over 100 home foreclosures a month because the steel mill, the biggest and only source of employment there, was closed down and 5,000 workers were thrown out on the street.

□ 1255

The Senator from Colorado just the following year a candidate for the U.S. Presidency, wanted to know when he solicited as to why I was not interested, and I think my colleagues know the reasons that I gave. This is the way I feel about all of the presumptive candidates for this great office of the Presidency, both coming from membership as well as from out of the membership of the Congress, and what I see is this vast wasteland of leaderless American people at one of the most crucial moments on the critical domestic issues.

I do not think we have to worry about an invasion physically. If that were the case, we would have been invaded when we were the most vulnerable, when we were wasting our substance and our youth in far-off lands for still-hard-to-explain reasons to the American people. Is it any wonder there was no will to fight, and divisiveness?

If that were the case, the erstwhile enemy would have moved then easily. That is simplifying and making a bunch of dolts of our enemies. If such they be and indeed they are, then they are very able, very capable, and therefore opponents to be carefully gauged and measured while we strengthen our bulwarks.

What are we out to defend? Is it homelessness? We have created a whole class of American refugees who are rootless, homeless, wandering the country, and not the old proverbial ne'er-do-well, but they are families. I have seen father and mother and 2-year-old child living in a car in cold weather.

Is that America? Why should we have reached that point while others are basking in great luxuriant wealth like never before in the history of America?

Mr. Speaker, it goes back to what I have been trying to develop, and that is that maybe inperceptibly, maybe perceptibly, we have in effect traded our inheritance for a mess of pottage. When we see the mega-corporations and they are all now so interlocking that we now estimate that less than 6 percent of our elements in American society control over 80 percent of our resources. When we see the modern "buckaneers" riding the high main of these contests and mergers and takeovers and Wall Street paper structures, remembering that each one of those is depriving some sector or other of the average American's credit resources, as negative as that may be, this is the name of the game.

I have denounced it and saw it coming since 1966 in the credit crunch of June 1966.

But coming back to the theme that I was developing about how these coming crises are seen. In reading history one gets the impression that all of a sudden the Wall Street crash of 1929 was brought on in one convulsion. I remember it was as if it were today. I was 12 years old but I have a vivid recollection. As I said the other day, it is either a curse or a blessing but I have almost total recall.

There was not any perceptible filtering down effect until 2 or 3 years later from the stock market crash of October 1929, but if one reads the financial history, one sees that in 1922 and 1923 and up to 1929 we had more than 500 American banks fail. But what was the great thing that should have caused Americans to think? The anomaly after World War I that the erstwhile vanquished were now becoming the not so vanquished and that the United States by the mid-1930's was in such a state of disarray that again millions of Americans were wandering from one end around the country, riding the rods, as they called it.

I remember meeting so many of the those as playmates at what we call San Pedro Park. I made friends of some, took them home, gave them something to eat, and then took them to the train yards of the old INGN, now later known as the Missouri Pacific. I still have one friend who communicates since that day. They were just 14- and 15-year-old American boys, with no roots, they had to live wherever they were, just wandering around the country.

I think it is a tragedy. I have always thought that the American people were there, and please do not get me wrong, I think it is a fact that those in power tend to underestimate and look down on the citizen.

I have detected that ever since I got into politics. I am still learning. I never intended, never planned, never thought I would be in politics but it has been the greatest education ever and just by trying to work at it I discovered that I am here because the average American citizen no matter what his background, black, brown, white, or blue, is very much an American citizen and wants the same thing, has the same hopes and aspiration, just the same as we all do.

When I filibustered the race bills, 30 years ago, 30 years and 6 or 7 months ago, in the environment of that day it was considered radical. It was before Martin Luther King was much known about. I am still here, however, and have been chosen by the people with limited economic resources even to this day. So I think that I cannot testify to anything but that the American people are there but that I sense they are desperately wanting to find what kind of a choice they will be given of an informed nature, of a qualified leadership nature.

I have had political scientists, professors, chairmen of political science departments ask me, "Why do you think Americans are not voting but instead are turning out less and less?"

In Texas, with the great accomplishment of the legislature in 1966 providing one of the most liberal voter registration laws, and I was one of those that as soon as I took my oath of office I introduced a resolution calling for the abolition of the payment of a poll tax as a prerequisite for the right to vote, but I knew better than to think that was going to solve the problem. But a lot of people did think that was going to solve the problem.

They thought that that was the panacea. The downtrodden minorities will be given the opportunity and this will get them to the voting place. It will do that because of the liberal registration law, that they are getting registered like never before, however at voting time they are voting less than ever before percentagewise, proportionwise, and every other-wise.

But why? My reply is that I do not really know but I will hazard a guess.

I have noticed and I am very careful to note that when a choice is given between two candidates, that is really a perceptible choice. It is just not one plastic candidate A and another plastic candidate B that just happen to have two different labels but talk the same, and offer the same programs. The American people cannot see any reason what there is to go out and vote on even though it is a right that has been fought for, men and women have sacrificed for and even died for, that right to vote, and we ought to exert it, but I think that is one big reason. That is what I have told this U.S. Senator from Colorado who asked me the same thing and wanted to know why I would not support him. I asked him, "When did you ask a question of the Senate Leadership about our bill that would have helped save at least 500,000?"

The SPEAKER pro tempore (Mr. LANCASTER). The Chair must remind the gentleman from Texas [Mr. GONZALEZ] that references to individual Senators, and categorization of Senate action is not in order.

Mr. GONZALEZ. Mr. Speaker, I stand corrected and as I said a while ago, I had a feeling that even mentioning such a body by name might violate the rules. That is why I said that maybe I should refer to the other side of the rotunda as the equivalent of our large spiritual and temporal since the other parliament is our mother parliament.

I do wish to point out that in 1963 these same issues were beginning to appear, just somewhat glimmering on the horizon. It was still hard to believe that America was not invulnerable, but President Kennedy as I said was not one to turn the other way. He had intellectual ability and depth to realize the significance of the issue. He had the ability to make sure that in the Treasury Department there was an Assistant Secretary of the Treasury who was really knowledgeable in international finance. His name was Robert Roosa.

In 1963 I, being interested in that, preserved the then writings of that time.

Mr. Speaker, I include for the RECORD at this point an article entitled "Alternatives to Key Current Currencies" by J. Carter Murphy, which comes from the Yale Review of October 1963.

ALTERNATIVES TO KEY CURRENCIES

(By J. Carter Murphy)

The United States dollar and the British pound sterling are key currencies of international finance. This means that treasuries and central banks of a number of other countries use bank deposits and short-term investments in the United States and Britain as part of their own national monetary reserves. This system, in which a few national moneys serve to supplement gold as the world's international reserve money medium, has a tragic history and has reappeared in spite of design at Bretton Woods to avoid it. It has reappeared because no suitable alternative was planned. Its costs are now becoming apparent, and among them are responsibilities which hang oppressively over the key currency countries, denying them an adequate sustained rate of growth.

Forty years ago, monetary experts meeting in Genoa faced the problem that national money supplies everywhere were expanding (or had expanded during the First World War) more rapidly than the gold stock which served as their reserve. The experts at that time, sensing that the alternative to finding a supplement to gold was worldwide deflation as each nation sought to earn the reserve metal through restraints on its national spending, recommended use of a key-currency system. Lesser nations would use the currencies of greater nations in settling their international accounts, and the latter would hold the gold. This system disastrously collapsed in 1931 when the non-key-currency countries had reason to doubt that the United Kingdom could and would continue to provide free gold convertibility of pounds sterling at a fixed price.

Twenty years ago, at Bretton Woods, financial experts faced the same problem once more. This time, determined to avoid old mistakes, they eschewed a key-currency structure and established instead the International Monetary Fund to supplement the ever-lagging gold supplies. But the secondary reserves assembled here were not large—recently expanded to $15 billion, the Fund's resources are still only the value of about three years' imbalance in payments among Free World nations—and their utility was marred by the fact that the Fund was constituted largely of subscriptions in national currencies. At present little more than half of the Fund's assets are in the form of gold or the currencies normally used for international payments; and with its supply of each currency limited, the Fund can never guarantee members that it will be able to provide them a particular currency they may need even though they have unused drawing rights. Considering further that a member country is not assured automatic access to the fund beyond the first one-fourth of its subscription, one can see why countries have been unwilling to regard the Fund as a substitute for wholly liquid reserves.

As a result of the International Monetary Fund's inadequacies, governments since 1952 have begun to accumulate dollars. Some of the dollars foreign authorities have acquired in this period have been exchanged for gold—the United States monetary gold loss has reached $7.4 billion. But because dollar deposits have certain advantages over gold as a reserve asset, this country's currency has come increasingly to serve as a gold substitute. Deposits are less costly than gold for banks to handle, and they can be invested in short-term securities to earn interest. The key-currency structure, then, has returned to visit the world. But it is no stauncher friend than before, and survives only with costly support. It probably has reached its capacity for growth.

Basically, the system's faults are three. The *first* is its inherent fragility. Serious flight from the dollar to gold could even now have grave consequences for the Free World. Whereas the United States retains some $15.9 billion of gold reserves against its $19.9 billion of short-term liabilities to foreigners, there is in fact no theoretical limit, short of the total number of dollars in existence, to the amount of dollars which might be used to demand gold. United States residents may not obtain gold from the Treasury, but they may exchange dollars freely for foreign currencies, and foreign central banks, which acquire the dollars in the process of stabilizing exchange rates, may then request gold. The London market for bullion, since 1962 stabilized in some degree by cooperative intergovernment action, remains, in spite of this action, a vehicle for private speculation which could accelerate any incipient uneasiness about the dollar's future.

Whether or not a convertibility crisis would cause this country to devalue the dollar or impose restrictions on currency exchanges would depend on the magnitude of the capital flight and the cooperation obtained from foreign authorities. But it cannot be denied that a costly crisis is possible and that any extension of the present system, which makes dollars and sterling substitutes for gold without the certainty that they can be converted into it, increases the likelihood that a crisis will sometimes occur and that diluted gold reserves will be inadequate to avert unwanted change. Devaluation of the dollar or sterling, as a result of a convertibility crisis, may not be a bad thing in itself, but if it impairs further use of the depreciated currency as a reserve medium, then the world will have only its gold to lean on, and this is an inadequate reserve.

A *second* fault in the financial framework is that now usually referred to as the "liquidity problem." The problem here is simply that the system provides no means for increasing the stock of reserve money in keeping with the expansion of world trade without intensifying the structure's fragility. The world's physical monetary gold stocks increase at a rate which is less than half the rate at which the value of world trade is expanding. Therefore, if nations wish to keep reserves which are some given proportion of their annual payments, there must be a source of expansion in the supply of reserve media other than increases in the gold stock. Whereas accretions to foreign-held dollar deposits made available through United States balance of payments deficits have supplied this need in the recent past, further additions to international liquidity through this means exaggerate the danger of a gold convertibility crisis.

The *third* fault with the financial structure which has emerged from the postwar years is the limitations it places on the financial policies of the two key-currency Powers. Faced with protracted unemployment and rates of economic growth which are lower than those of most other industrialized countries, both the United States and the United Kingdom feel debarred from devaluing their currencies to protect their balances of payments while they pursue domestic policies for recovery. Currency depreciation is a means of pricing a nation's exports more competitively on the world market and pricing imports less attractively at home. While it is never a panacea, devaluation is a proper means of correcting balance of payments disequilibrium expressly recognized in the charter of the International Monetary Fund and one which has been used at least once by most countries other than the United States since the Second World War. Even the pound sterling was devalued in 1949, although this was before that currency regained its status as a freely convertible reserve medium. Officials in both the United States and the United Kingdom feel now that a devaluation, or even talk of a devaluation, of the key currencies would weaken the foundations of a functioning, if unplanned, financial system.

Failing access to exchange depreciation, both governments must resort to the "classical" prescription for a balance of payments deficit, monetary and fiscal policy aimed at suppressing national spending. The tax cut the Kennedy Administration has requested for this country in 1963 has been long delayed, and even now, if implemented, may have to be tempered by a tight rein on private credit. There can be no doubt that a good share of the unemployment and aging of capital equipment the United States and the United Kingdom have suffered over the past four years is a bitter taste of the cost of providing key currencies.

The most discussed single plan for reform of the financial structure in recent years has been that proposed by Professor Robert Triffin of Yale. Triffin's plan calls for a wholesale reorganization of the International Monetary Fund (IMF) to make it an intergovernmental central bank. Perhaps most important, he would create a new international reserve money to supplement, maybe ultimately replace, gold. Governments which participated in the new organization would acquire the money by turning in their present holdings of dollars and sterling for it and, to some extent, by turning in their gold. The new currency, called "bancor" after Lord Keynes' terminology in a similar plan of twenty years ago, would exist only on the books of the IMF, but would be acceptable among governments as a means of settling international accounts and hence usable as a national monetary reserve. Bancor would differ from gold in that its supply would be expandable at the will of those voting in the IMF. New "issues" of bancor could be put into circulation through loans by the international organization or by open market purchases by the organization of securities traded in national markets—much as the Federal Reserve System puts money into circulation in this country. Bancor would be the international counterpart of a national managed money.

Triffin claims as advantages for the plan that it would provide an elastic international currency which would remove the present danger of a scramble for scarce liquid reserves. Beyond solving the liquidity problem, it would ultimately relieve the United States and the United Kingdom of the heavy burdens they now bear as key currency countries, although it would not provide any palliative to the immediate balance of payments problems of these nations. Transfer of alien holdings of dollars and sterling to the IMF would remove the threat of a run on key-currency gold reserves. The Fund, however, would have to be guaranteed the gold value of its holdings in case of a dollar or sterling devaluation. Whenever the key-currency countries bought back their moneys with bancor or gold, they could be parted forever from their special banker obligations.

Three important lines of criticism against the Triffin Plan have emerged. All can be effectively answered, although in some cases only with the aid of substantial amendments to the original proposal.

One important line of criticism deals with the liquidity of Triffin's new organization itself. Triffin would make bancor freely convertible into gold for member governments of the institution. But Oscar L. Altman of the IMF has pointed out that circumstances could easily arise in which the Fund was unable to meet this obligation. Fund ability to do so would tend to decline as the stock of bancor in circulation grew relative to the world's monetary gold, and it might do so particularly if the Fund made loans to underdeveloped countries, as Triffin suggests, and if poor credit performance on these securities damaged international confidence in the Fund's solvency or ability to meet its convertibility responsibilities.

Triffin offers several lines of defense against this criticism. First of all, he would entice countries to keep their reserves in the form of bancor rather than gold by offering interest payments on bancor deposits. As a second line of defense he would empower the organization to require a limited fraction of each member country's monetary reserves to be held as bancor. Indeed, this fraction could be made variable as necessary to maintain the convertibility into gold of some "free" level of bancor reserves. Third, he would limit the amount of bancor created annually, and thus in some degree limit the organization's vulnerability to a gold crisis. The simple step of demonetizing gold altogether could, of course, be taken if the organization, once established, required member governments to hold all of their international reserves as bancor. Monetary gold turned in at the new organization could be hoarded until it was safely displaced as a peculiar object of men's loyalties.

A second line of criticism of Triffin's plan condemns the means by which he would have the international organization expand supplies of bancor. It has been mentioned above that the plan to make loans directly to governments or agencies of underdeveloped countries is objectionable on the grounds of the possibly dubious credit-worthiness of such loans. Likewise, critics object to the proposal to allow the organization to engage in open market operations in established financial centers. Here the objection is twofold: open market operations by the international organization could conflict with domestic monetary policies or at least have important and not always welcome implications; and further, since there are no securities which have a genuinely worldwide market, purchase of securities by the IMF would necessarily allocate the new supplies of bancor to the governments in whose countries the sellers of the securities are concentrated. If the IMF purchased securities from the United States residents, for example, it would buy dollars with bancor from the United States government to settle its debts. The result would be that the United States would get the new international reserves by loan, and other countries would share in them only insofar as this country spent them overseas. Poorer countries feel they would be discriminated against in this process.

The best defense against these attacks on Triffin's scheme is retreat. In actuality, there is no reason for an international central bank to expand the money supply by loans and investments. As an alternative, if gold is disarmed in the system, bancor deposits can simply be enlarged by writing up accounts in an appropriate manner. In a clearing bank from which deposits may not be withdrawn, there are no liabilities in the strict sense and there need be no assets. New deposits of bancor can be distributed among member countries according to any criteria of timing and allocation which the group can agree upon. The only important qualification is that new deposits should not be distributed according to need. Any international financial arrangement must contain incentives for governments to follow non-inflationary monetary and fiscal policies. A government which insists on deficit financing and monetary expansion such as induces its citizens to spend the country's foreign exchange reserves on trade deficits must not be enabled to continue its policies perennially through access to an endless supply of new reserves. Otherwise additions to the supply of bancor might be allocated as rewards to governments for doing whatever international opinion extols. Conceivably the allocations might be rewards for contributions to peace. More prosaically, new bancor could be distributed according to the growth in value of national exports or growth in the value of each nation's overall trade, imports plus exports.

A third line of criticism against the Triffin proposal stems from distrust of further grants of power to an international organization. In fact, however, an international financial organization limited to clearing international accounts and occasionally increasing all clearing balances would consist of a minimal sacrifice of national sovereignty by any nation and no greater delegation of authority than has already implicitly been made to the United States, which augments or reduces the world's supply of reserve currency without any formal responsibility for its actions. It is a simple step *de facto* from the present arrangement in which currency powers are assigned to the key currency countries to a new arrangement in which they would be assigned to an international organization, although admittedly the step can encounter *de jure* obstacles.

Such an arrangement need not displace present lending operations of the International Monetary Fund which help to tide member countries over temporary balance of payments deficits with careful supervision of the circumstances. A clearing union with powers to expand the reserve currency could be appended to the present Bretton Woods organization, could be established as a separate and complementing institution, or could be designed to incorporate, perhaps in a new guise, the functions the Fund now effectively performs.

In the September 1962 meetings of the Board of Governors of the International Monetary Fund, the Chancellor of the Exchequer for the United Kingdom, Mr. Reginald Maudling, provided a bare sketch of a British plan for an international clearing system which would leave the United States and Britain freer than they now are to undertake domestic expansion without fear of consequent balance of payments deficits. Quite interestingly, the plan is similar, though not identical, to one that the United States Congress Subcommittee on International Exchange and Payments has endorsed. According to the Maudling Plan, countries with balance of payments surpluses would deposit their excess earnings in the International Monetary Fund and receive a credit there which had a guaranteed gold value, that is, was insured against loss through devaluation of any currency. The Fund, which would become the recipient of currencies in excess supply, would presumably have in turn a guarantee of the gold value of its holdings from each country whose currency it held. Then, with a system of gold guarantees in effect, deficit countries could go on expanding their economies (and their deficits), and surplus countries would store up claims against the world economy against the day when deficits might become their turn. Since net payments would be financed through IMF holdings of the currencies of the deficit countries, the world would never run short of a payments medium.

Experts have not yet produced a detailed Maudling Plan, but deficiencies in the general concept inspire misgivings. Most glaring of the deficiencies is the incentive it provides to inflation. Designed to permit the United States and Britain in the near future to undertake expansion without concern for the enlarged holdings of their currencies it will induce, the plan could allow credit creation and deficits to go unchecked when applied to inflation-ridden economies.

Last we turn to some proposals which are being tentatively put forward by United States authorities. Again the suggestions lack detail, but in a number of recent essays the Under Secretary of the Treasury for Monetary Affairs, Mr. Robert V. Roosa, has alluded to Treasury thinking on the subject. Instead of turning back from the jerry-built financial structure based on key currencies which has emerged from post-Second World War experience, the Treasury proposes to enlarge it.

The American plans sprout from recent departures in policy by this country in which the Treasury and the Federal Reserve System have begun to hold foreign currencies as part of their own monetary reserves. These holdings, acquired by a "swap" of dollar deposits against foreign deposits by the Federal Reserve and by borrowing and outright purchase by the Treasury, have been used to back up United States intervention in the markets for forward exchange in several currencies and to buy back dollars that would otherwise have resulted in a gold loss to this country. Taken together with the new stand-by borrowing powers acquired by the International Monetary Fund and with agreed measures among a number of central banks to cooperate in stabilizing the price of gold in the bullion market and to insure that an increasing share of newly-mined gold enters world monetary reserves rather than private uses, the new initiatives are described by Mr. Roosa as "an entirely new dimension" in our international financial system.

The longer-run outlook for the system is pictured as follows:

Looking further ahead, the new arrangements also are capable of providing for a steady growth in the monetary reserves needed to service the trade requirements of an expanding world. Dollars are still the currency to which all countries turn for a substantial part, if not the entire amount, of their international payments. Our financial institutions and our markets are increasingly well equipped to service the payments requirements of the world. It is a role which naturally accompanies our leading economic and political position. . . .

Once the United States has its balance of payments fully under control, the rate of increase in the supply of dollars available to serve the international liquidity requirements in the world can also be managed. Whether or not there is a corresponding proportionate increase in the underlying supply of gold in the world's monetary reserves, additional increases in the supply of dollars can rest upon an accumulation by the United States of incremental amounts of currencies of other leading countries. (Robert V. Roosa, "Assuring the Free World's Liquidity," Business Review, Supplement, September 1962, Federal Reserve Bank of Philadelphia.)

It is significant that the authorization given by the Federal Reserve System's Open Market Committee to the Federal Reserve Bank of New York for open market transactions in foreign currencies also takes as a specific aim, "In the long run, to provide a means whereby reciprocal holdings of foreign currencies may contribute to meeting needs for international liquidity as required in terms of an expanding world economy."

The United States Treasury-Federal Reserve plan seems to be, then, that the United States will accumulate short-term assets in foreign currencies in periods of United States balance of payments surplus as necessary to prevent other countries from undesirably drawing down their dollar deposits and will otherwise swap dollar deposits against foreign ones so as to provide measured increases of dollar reserves to the world's economy to finance expansion. United States short-term liabilities to the rest of the world will be backed in part by gold but increasingly by holdings of other currencies.

What can we make of these proposals? They would free changes in foreigners' dollar reserves from capricious changes in this country's international balance of payments and would provide the United States some reserves to back up growing demand obligations to the world. But the plan is immensely dangerous on two counts and at least cumbersome on a third. Its prosecution by this government will unavoidably intensify the faults intrinsic to the key-currency structure.

The plan is cumbersome in that it necessitates everlasting bilateral discussions, the sum of which determines the rate and distribution of accretions to the world's monetary reserve medium. It places the United States at the center of this decisionmaking process and in a role which may not be regarded with complete equanimity by other governments at all times.

It is dangerous, in the first instance, because it looks forward to the unbounded extension of a system which is inherently fragile. While it is unclear whether the United States would or would not be willing to provide some guarantee to foreigners of the value of their dollars assets in the event of a gold devaluation of the dollar, it seems dubious, on the evidence of Mr. Roosa's condemnation of gold value guarantees, that anything more than a guarantee to each foreign country of the value of its dollar deposits in terms of its own currency is contemplated. An "own-currency" value guarantee to each country could be given by continued reciprocal repurchase contracts such as those the Federal Reserve concluded in 1962 in its currency swaps. In this technique, each country agrees in the initial currency exchange to repurchase its own currency three to six months hence at the original exchange rate. This provides each one a "covered" foreign exchange position.

But even if this country makes this degree of guarantee to foreigners, such a guarantee leaves dollar holdings inferior to gold, and this constitutes a critical fault in the plan. Under such an agreement, if the United States should reduce the gold value of the dollar, any country which followed it in whole or in part would lose a claim on the world which that country could have retained had it held gold. Should the United States, for example, devalue the dollar by 20 percent and France respond by devaluing the franc half as much, French claims on dollars would grow by approximately 10 percent, but the value of French dollar reserves vis-à-vis countries which did not devalue, say Germany, would decline by some 10 percent, a loss which would not have been endured had France held gold.

The fragility of such an arrangement is, of course, all the greater if no guarantees at all are provided for dollar holdings, and Mr. Roosa has recently indicated that, for the Treasury's part, its present foreign currency holdings are uncovered. While it may be the intent of this country's government to regard a $35 gold price as immutable, nothing that we can say can provide foreigners of complete assurance of this. Providing assurance is all the more difficult in that the need to curb speculation in anticipation of exchange rate adjustments has repeatedly required monetary authorities publicly to disavow intention to devalue, even when the change is imminent.

A technical consideration is the key weakness in the Treasury's proposals. This is the likelihood that the particular stock of foreign exchange reserves this country is holding at a time of crisis will not be the assortment of currencies needed. In this circumstance the United States might well be unable to redistribute its reserves in adequate amount and in time. Like the International Monetary Fund, which holds specific national moneys and depends on the open markets to provide multilateral convertibility, so a dollar-standard supported by reserves of national currencies would depend on the open market to convert ready reserves into the currencies needed when there was a drain on the dollar. But a currency needed to supply speculative movements of funds would probably be one in short supply as a result of current trade, and countries other than the United States, depending on the spendability of their stocks of dollars, could not be looked to as holders of large hoards of the short currency. If the United States had inadequate reserves in that currency, and if the government of that country were unwilling to sell or lend its currency against dollars, the United States would be unable to finance a currency flight except with gold. Since gold must, in time, if it is not revalued, become a relatively small component of world monetary reserves, the United States could face a situation in which it would be unable to finance the drain at all.

The condition necessary to avoid the convertibility trap is that the United States negotiate with every country that has a well organized banking structure an irrevocable agreement that the local foreign currency will be provided against dollars in large amounts under predetermined conditions tolerable to us. But most governments will be reluctant to sign a pledge to accept and hold dollars under unspecified circumstances. The safeguards which ten nations wrote into the 1962 contract providing for emergency loans to the IMF illustrate this reluctance.

The other element of immense danger in the American proposals is the shackle it places on United States foreign exchange rate policy for a long future. Adjustment of the exchange rate is often the only instrument a country has to gain leeway for resuming economic growth or for avoiding foreign depressions. But it is an instrument denied the world's banker. By debarring itself from this dimension of policy the United States needlessly insures that circumstances will arise time and again in which the domestic economy must be sacrificed to international responsibilities. And as if losses in output and employment were not enough, the United States must reckon with the tarnish that lethargic economic performance here places on the world's image of democratic capitalism. This is the meaningful view of the costs of making this nation's domestic coin also the coin of the world.

In the end, only two approaches to the complex of problems the reserve situation presents provide opportunities for reasonably secure worldwide economic expansion, and neither of these solutions is perfect. One approach, favored by many economists, is to abandon altogether the attempt to keep exchange rates between national currencies "pegged" to officially determined parities. If the dollar-pound exchange rate, and that between every other pair of currencies, is free to fluctuate with the tides of demand and supply, international balances of payments will seek their equilibria without the need of any medium to settle temporary deficits and surpluses. Tendencies to imbalance in any nation's payments will be reflected in changes in the price of its currency in terms of others, instead of in gains or losses of an international reserve medium. Gold and key currencies can be dispensed with, except as governments wish to employ small reserve holdings to moderate temporary exchange-rate fluctuations.

Of course, in this system, too, "convertibility crises" can occur, but they take the form of run-away speculation against a currency that is expected to depreciate and which does then depreciate under the speculative pressure. Such "perverse" shifts of assets from one currency denomination to another can be intensely disturbing, but, as the University of Chicago's Professor Milton Friedman—one of the leading proponents of this policy—points out, speculators in this system may be restrained by the knowledge that they can be guessing wrong. Whereas in a system of pegged rates speculation is invited because a suspect exchange rate is sustained until speculators have no doubt of the direction the rate is likely to move, in a system of fully flexible rates the speculator has no hope but to guess at the fickle market's future course. Taken together with the fact that judicious minor intervention in the exchange markets by governments with limited reserves can prevent many temporary disturbances from impelling deceptive movements in the rates, this suggests that a flexible rate system may be more conducive to general economic stability and growth than any system of pegged exchange rates which rests on an inadequate reserve base can be.

The only realistic alternative to a system of highly flexible rates is a stable exchange rate system backed by an international reserve money more elastic than gold and not imperiled by a questionable promise of gold convertibility. Exchange rates whose variation through time is strictly limited have a number of advantages. They are simple, they facilitate international price comparisons through time, and at least in the short run they give stability to price relationships between internationally and intranationally traded products. But gold, adopted by the ancients as a practicable medium of exchange, has run its course in history; the world's trade grows more rapidly than gold is mined and cannot suffer waiting. Revaluation of gold from time to time would give rise to hopeless monetary uncertainty. Logic requires in these circumstances that consideration be given to a wholly new money medium for settling temporary international imbalances.

Such a step does not require changes in the monetary habits of masses of people, and it surely involves less sacrifice of national "sovereignty" than does the further development of a dollar or sterling system. At a time when the Western alliance is becoming an alliance in fact, rather than a cluster of satellites captured by dependence on the economic and military strength of the United States, there is a case for institutionalizing understandings concerning currency arrangements, rather than leaving them to informal intergovernmental discussions such as those that have produced recent United States foreign exchange policies. General de Gaulle's declaration of independence from "Anglo-Saxon" constraints undoubtedly heralds a new era of problems for this country in achieving a coherent approach by the free nations to common problems, and in this new era formal organizations may displace informal discussion processes which sufficed in the years just past.

With the United States balance of payments remaining in deficit and this country as banker facing enormous short-term liabilities, Washington's cautious approach to a changed role for the dollar is understandable. But the advocacy by this country of a dollar standard as a long-term solution to the world's international currency needs is a design for a castle upon sand. The construct can scarcely be expected to endure a severe financial storm, and its maintenance will periodically bleed the key currency country of its capacity for growth. Wisdom dictates that quiet discussions with our allies in the bankers' cloister at Basle explore means of finding an alternative to key currencies. With encouragement, the non-banker nations may "insist" that we join them in a task of reconstruction.

He starts out by saying:

The United States dollar and the British pound sterling are key currencies of international finance. This means that treasuries and central banks of a number of other countries use bank deposits and short-term investments in the United States and Britain as part of their own national monetary reserves.

On Tuesday, December 31, 1963, in the Christian Science Monitor, at a time when the Christian Science Monitor was published newspaper size, I clipped out an article because it seemed to encapsulate the issue so well, entitled "Navigation Debated: U.S. Plumbs Monetary Reefs." This article was written by George Favre.

Mr. Speaker, I include for the Record this article for the benefit of my colleagues who are interested in the subject matter:

[From The Christian Science Monitor, Dec. 31, 1963]

Navigation Debated: U.S. Plumbs Monetary Reefs

(By George H. Favre)

The United States is embarked on a monetary course which involves navigating rip tides and crosscurrents. But the ship is sound, the hand at the helm is confident, and please don't anyone rock the boat.

That, in capsule form, is the assessment of the balance-of-payments deficit situation, as seen by the man whose hand is most felt at the tiller—Robert V. Roosa, Undersecretary of the Treasury for Monetary Affairs.

He made his points as clearly and unequivocally as one professional economist can make points on a complex subject to his peers, in the key address before the Allied Social Science Associations meeting over the weekend in Boston.

Mr. Roosa told his audience that not only is United States monetary policy weathering the balance-of-payments storm, but that it has done so with the help of and in company with the other signatory nations of the Bretton Woods agreement.

In this international monetary flotilla, the United States, thanks to its role as a key-currency country in which the dollar is literally as good as gold, looms as large as the Queen Mary surrounded by a covey of rowboats. Any sudden move to get the United States out of rough water involves running the risk of swamping the boats that follow in its wake.

Mr. Roosa aimed his remarks at theoretical economists who have advocated various sweeping remedies for the balance-of-payments situation. The Roosa speech, incidentally, comes at a moment when the outflow of gold has been resumed after an 18-week period of stability.

He specifically chose as his targets three plans for using purely monetary moves to resolve United States difficulties with the balance-of-payments deficit. These are:

1. Abandonment of the international gold exchange standard.

This theory holds that the United States in the postwar years has financed its continuing deficit of payments by deliberately building up the holdings of dollars abroad. This process, it is charged, has generated excessive international liquidity that has caused inflation in Europe.

Mr. Roosa agrees that dollar holdings abroad were deliberately built up, but for the purpose of restoring free trade and convertibility of currency. He also agrees that the policy overshot its mark, leading to excessive gold losses. But he denies that the current European inflation stems from this. He points instead to escalating wage rates, prices and demand—and internal problems within Europe.

2. Tightening of United States monetary policy.

This solution of offered on the theory that the gold-exchange standard is valid, but that the United States has generated internally more liquidity than it could absorb at home. This excess liquidity is said to have spilled over, seeking higher returns abroad and causing the payments imbalance.

By tightening interest rates at home, it is argued, a self-imposed policy of deflation would begin that would promote exports, discourage imports, and attract foreign capital to the United States.

Such a solution, argues Mr. Roosa, ignores the domestic situation of high unemployment, which it would aggravate. Also, the huge United States economy plays a strategic role in world markets which, if interrupted, would "disrupt the orderly evolution of the world economy." Other nations would be forced to respond by raising their own bank rates, to the detriment of all.

3. Increase international liquidity and credit arrangements on a large scale.

This suggestion, which reflects the findings of a recent major Brookings Institution study, is based on the theory that liquidity today is seriously inadequate at home and abroad and should be made more readily available on a much larger scale. The idea is that in this way deficits could be financed and orderly adjustments encouraged.

Mr. Roosa challenges the implication that the disciplines that exist can be "spirited away" by cheap money. Current United States monetary policy is geared to such purposes as keeping prices stable, to spurring exports, cutting military spending abroad, "tying" foreign aid to United States purchases, encouraging enlargement of foreign capital markets, and cutting taxes as a spur to productivity at home. Such considerations make monetary policy sometimes look like a tortuous juggling act, he admits, but as hard facts they must be dealt with, not circumvented.

Despite all this, Mr. Roosa does not deny the usefulness or the need of thinking through appropriate liquidity arrangements for today and the future. He is deeply involved in such study himself.

What does concern the Undersecretary for Monetary Affairs is the assumption that a rearrangement of liquidity availability—or, for that matter, any combination of purely monetary moves—can of itself provide a simple answer to a highly complex problem.

The underlying premise, he insists, is this: "A stable system of international economic relations among sovereign nations can be sustained only if tendencies and pressures exist toward equilibrium in the external accounts of each. . . . No form nor volume of liquidity can relieve [a] country from the inescapable necessity of ultimately reaching a satisfactory balance."

Under the present international monetary system, which Mr. Roosa clearly endorses, there are no simple formulas. Every country must take into consideration not only its own internal needs, but also the impact upon other nations of every monetary move it makes.

SYSTEM OF COOPERATION

To this end, a highly useful and sensitive system of cooperation and coordination between Western nations has been worked out. It operates officially in such arrangements as the "working party" of the Organization for Economic Cooperation and Development, and unofficially in the private tête-à-tête sessions of international bankers in Basel.

There can be no fixed or unvarying formula under today's system of interrelated economies, says Mr. Roosa, but rather "a continually evolving mix of policies—some fiscal, some monetary, some affecting market structure, some affecting private incentives."

This variety of decisions, including difficult and harsh ones on occasion, he says are necessary "if the main line of advance is to continue toward the full array of objects that most modern countries now accept for modern economic society."

Meanwhile the United States balance-of-payments deficit is being gradually but effectively narrowed, Mr. Roosa reports, and this trend will continue. The outlook "is somewhat more reassuring," though he acknowledges "there is no scope for relaxation, only for intensified effort."

Mr. Speaker, both of those articles, with just a few name changes, could be written today except that today the Europeans looking out as I think we cannot fault them for, looking out for No. 1, announced as I have said repeatedly on this House floor since 1979 the emergence of what is known as the ECU, the European Currency Unit, and the European Monetary Fund, EMF. This was the last sentence in a brief succinct communique issued by the leaders, President Jimmy Carter, at that time the German leader Helmut Schmidt, and the French leader Valery d'Estaing, and this was at the great economic summit meeting in Bonn of 1979. All it said was, "we accept the principle of the development of the European Monetary System and the European Currency Unit."

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As far as I know, not one person ever discussed it, either columnist, economist, or has since. No Member of Congress that I know of other than myself has even addressed, even mentioned these two things. Yet, this is at the heart of the supplanting of the dollar as the international reserve unit.

The Japanese made for the first time considerable heavy use of this just about 3½ months ago. The reason is that once it was very well contemplated by the French leaders, central bankers that the United States was: First, not going to offer any kind of leadership; second, at a time when it could have, could have exerted considerable leadership and pressure to bring about a stability in the international currency exchange which had gone into the so-called floating exchange system after President Nixon took the United States off the gold exchange system in 1971, and the devaluation of the dollar by 10 percent followed by the second devaluation in 1973. I will guarantee my colleagues that even those Members who are still on the Committee on Banking, Finance and Urban Affairs, and I guess there would be just two of us now, but even 5 years ago would not have remembered that is what was done, that we had two devaluations. There was not one American newspaper that called it a devaluation. But this is exactly what all of the European press was defining it as and of course it was. It is just like the so-called falling dollar.

The other day before the committee, and I say the other day but I believe it was in June or July as the former Chairman of the Federal Reserve Board was singing his swan song he came before the committee and I asked him a question, just one key question. That is about all of the time I had, about 5 minutes. That was what about such a thing as an ECU and an EMS, and what about the fact that you have every day, every night more than $250 billion—he said oh, it is more than that—billions of dollars chasing each other from New York, to London, to Paris, to Bonn, to Tokyo, to Sydney, Australia. I said this is what we call hot speculative money because what it is doing is chasing other money, that is currencies. It is speculative inasmuch as it is not being invested to manufacture one good, to employ one worker, but rather just speculative. What were they speculating on, currencies?

The Chairman did not say anything about the ECU or the EMS. He looked at me as if to say what in the world are you talking about, such jibberish. But with respect to the other, you are very conservative, it is much more than $200 billion or $250 billion. But what do you want to do about it? What is wrong with that?

I said the same thing as is wrong with the speculative ballooning on the stock market in the United States. How long can you go on borrowed money prosperity, so-called?

Naturally these are all bubbles, and all through mankind's history we have had them, but never in the United States have we had them in such rapid succession. I estimate we have had more than five money manias or bubbles just in the last 15 years.

The SPEAKER pro tempore (Mr. LANCASTER). The time of the gentleman from Texas has expired.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 2677, passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SMITH of New Hampshire) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 60 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on December 8.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, today, December 8, 9, 10, and 11.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on December 8 and 9.

Mr. SOLARZ, for 60 minutes, on December 11.

Mr. LEVIN of Michigan, for 60 minutes, on December 15 and 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SMITH of New Hampshire) and to include extraneous matter:)

Mr. RHODES.

Mr. GILMAN.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. LANTOS in two instances.

Mr. SKELTON.

Mr. DELLUMS.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. PENNY.

Mr. DONNELLY in two instances.

Mr. BONIOR of Michigan.

Mr. KILDEE.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 196. Joint resolution to designate February 4, 1988, as "National Women in Sports Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 578. An act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on the following dates present to the President, for his approval, a bill and joint resolution of the House of the following titles:

On December 2, 1987:

H.J. Res. 404. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

On December 4, 1987:

H.R. 2939. An act to amend title 28, United States Code, with respect to the appointment of independent counsel.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 15 minutes p.m.) the House adjourned until tomorrow, Tuesday, December 8, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2503. A letter from the Acting Comptroller General of the United States, transmitting a review of the deferrals reported in the President's first special impoundment message for fiscal year 1988, pursuant to 2 U.S.C. 685 (H. Doc. No. 100-143); to the Committee on Appropriations and ordered to be printed.

2504. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Bank Conservation Act to enhance the ability of the Comptroller of the Currency to appoint a conservator for a national bank in certain circumstances; to the Committee on Banking, Finance and Urban Affairs.

2505. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. act 7-115, "District Ceremonial Funds Amendment Act of 1987" and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2506. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles under contract in the amount of $50 million or more involving the export to Taiwan of anti-submarine warfare [ASW] mission equipment (Transmittal No. MC-36-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2507. A letter from the Director, Defense Security Assistance Agency, transmitting reports of all outstanding letters of offer to sell any major defense equipment for $1 million or more, for the quarter ending September 30, 1987, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

2508. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by Leonard H.O. Spearman, Sr., of Texas, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Rwanda, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2509. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to U.S.C. 112b(a); to the Committee on Foreign Affairs.

2510. A letter from the Deputy Secretary of Labor, transmitting the semiannual report on the activities of the Department's inspector general for the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2511. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report on the activities of the agency's inspector general for the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2512. A letter from the Administrator, Veterans' Administration, transmitting the semiannual report on the activities of the agency's inspector general for the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Operations.

2513. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use of the Crow Creek Sioux's judgment funds in Docket 115 before the U.S. Claims Court, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Interior and Insular Affairs.

2514. A letter from the Deputy Assistant to the President and Director, Office of Administration, transmitting information concerning personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (Domestic Policy Staff), and the Office of Administration, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

2515. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report on the status of hydroelectric power studies at existing Corps of Engineers projects in States of Illinois, Indiana, Michigan, Ohio, Wisconsin, Iowa, Minnesota, Pennsylvania, and West Virginia, pursuant to Public Law 99-662, section 723 (100 Stat. 4162); to the Committee on Public Works and Transportation.

2516. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting information sheets on the current status of several incomplete projects, pursuant to Public Law 99-662, sections 205(i), 401, 613, 719, and 925; to the Committee on Public Works and Transportation.

2517. A letter from the Administrator, Veterans' Administration, transmitting the report on the Sharing of Medical Resources Program for fiscal year 1987, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

2518. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a draft of proposed legislation to amend section 29 of the Atomic Energy Act of 1954, as amended; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2519. A letter from the Secretary of the Army and Secretary of Agriculture, transmitting notice of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of lands in connection with the Libby Dam and Lake Koocanusa project, Lincoln County, MT, Kootenai National Forest, and Forest Service acquired land within the Kootenai National Forest, pursuant to 16 U.S.C. 505a; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

2520. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the administration's position on H.R. 2851, the Federal Onshore Oil and Gas Leasing Reform Act of 1987; jointly, to the Committees on Interior and Insular Affairs, Agriculture, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted Dec. 4, 1987]

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1622. A bill to provide that all United States cotton producers participate in defraying costs of their research and promotion program and that imported cotton and products be subject to the program assessments, and for other purposes; with amendments (Rept. 100-339, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 7, 1987]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1467. A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992; with amendments (Rept. 100-467). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced, and severally referred as follows:

By Mr. ROBERTS:

H.R. 3709. A bill to authorize the construction by the Secretary of Agriculture of a plant science research and education facility at Kansas State University, Manhattan, KS; to the Committee on Agriculture.

By Mr. ROBERT F. SMITH

H.R. 3710. A bill to amend title 23, United States Code, to authorize transfer of not more than 20 percent of amounts apportioned to a State for Interstate System highways to the apportionment to the State for Federal-aid secondary system highways; to the Committee on Public Works and Transportation.

By Mr. STARK (for himself, Mrs. Vucanovich, Mr. Dicks, and Mr. Nelson of Florida):

H.R. 3711. A bill to provide for compensation to State and local law enforcement agencies for expenses resulting from demonstration against Federal nuclear-related activities; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1467: Mr. Fauntroy and Mr. Lowry of Washington.

H.R. 1782: Mr. Mazzoli, Mr. Edwards of Oklahoma, Mr. Hopkins, Mr. Ballenger, and Mrs. Bentley.

H.R. 2793: Mr. Ravenel and Mr. DioGuardi.

H.R. 2801: Mr. Borski.

H.R. 3010: Mr. Konnyu, Mr. Richardson, Mr. Oberstar, Mr. Evans, Mr. Valentine, Mr. Gunderson, Mr. Foglietta, Mrs. Collins, Mr. Flake, Mr. Gingrich, Mr. Morrison of Connnecticut, Mr. Clarke, and Mr. Kolter.

H.R. 3407: Mr. Miller of Ohio.

H.R. 3511: Mr. Moody.

H.R. 3627: Mr. Ritter and Mr. Dornan of California.

H.J. Res. 370: Mr. Evans, Mr. Fauntroy, Mr. Studds, Mrs. Collins, Mr. Solarz, Mr. Conyers, Mr. DeFazio, Ms. Kaptur, Mr. Fazio, Mr. Martinez, Mr. Mavroules, Mr. Feighan, and Mr. Savage.

H. Con. Res. 183: Mr. Pickle, Mr. Udall, Mrs. Boxer, Mr. Bruce, Mr. Flake, Mr. Wolpe, Mrs. Meyers of Kansas, Ms. Slaughter of New York, Mr. Oberstar, Mr. Shaw, Ms. Oakar, Mr. Feighan, Mr. Kolter, Mr. Weiss, Mr. Hochbrueckner, Mr. Vento, Mr. Fish, Mr. Atkins, Mr. Buechner, and Mr. Savage.

H. Con. Res. 192: Mr. Price of North Carolina, Mr. Robinson, Mr. Hawkins, Mr. Wilson, Mr. Akaka, and Mr. Rose.

PETITIONS, ETC.

Under clause 1 of rule XXII,

102. The SPEAKER presented petition of general assembly of the World Tourism Organization, Omtour, Madrid relative to world tourism; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

PROGRESS IN REGARD TO HOUSE JOINT RESOLUTION 217

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. DE LUGO. Mr. Speaker, I am pleased to inform the Congress of the progress made with regard to House Joint Resolution 217—proposing an amendment to the Constitution of the United States to provide for the appointment of electors of President and Vice President by the U.S. territories.

The National Conference of State Legislatures at their annual meeting in July 1987 adopted a resolution proposed by Senator Clement "Cain" Magras, the majority leader of the Virgin Islands Legislature in support of House Joint Resolution 217. The resolution reads as follows:

APPOINTMENT OF ELECTORS BY THE TERRITORIES

The Constitution of the United States requires equal protection under the law.

The twenty-third article of amendment to the Constitution of the United States enabled the people of the District of Columbia to vote for the President and the Vice President of the United States.

Citizens of the United States who relocate from any of the fifty states to any of the American territories lose their constitutional right to vote for the two highest public offices in the nation.

American citizens who are residents of the American territories are denied equal protection and are thus discriminated against as a result of being denied the franchise to vote in the national elections of the United States.

Americans living in foreign countries are not denied the right to vote for President and Vice President of the United States.

One hundred and eighteen members of the United States House of Representatives introduced House Joint Resolution 217, which proposes an amendment to the Constitution of the United States to provide for the appointment of electors of President and Vice President of the United States by the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

House Joint Resolution 217 is currently pending before the United States House of Representatives' Committee on the Judiciary.

As American citizens the residents of the American territories are entitled to the privilege of voting in the national elections of the United States.

The National Conference of State Legislatures hereby expresses its support of House Joint Resolution 217, "Proposing an amendment to the Constitution of the United States to provide for the appointment of electors of President and Vice President by the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands," and urges all members of the United States Congress to give this pending legislation their support.

A copy of this resolution shall immediately upon its passage be fowarded to the President of the United States, the Vice President of the United States as presiding officer of the United States Senate, the Speaker of the United States House of Representatives and the members of the United States Senate and House Committees on the Judiciary.

In addition, the local legislature of the Northern Marianas Islands through the president of the senate, Julian S. Calvo and the floor leader of the house of representatives, Gregorio B. Sablan have endorsed the resolution by letter dated August 11, 1987. The letter reads as follows:

FIFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE,
Saipan, CM, August 11, 1987.

Hon. CLEMENT MAGRAS,
Senate Majority Leader, Legislature of the Virgin Islands, St. Thomas, Virgin Islands.

DEAR SENATOR MAGRAS: Although we did not receive your letter of July 14, 1987, and copy of House Joint Resolution 217, until July 30, 1987, at which time it was too late to express our full support for the Resolution prior to the July 26-31 1987 Annual Meeting of the National Conference of State Legislatures, we do though want to state for the record that the Legislature of the Commonwealth of the Northern Mariana Islands is in full support of the Resolution.

With President Reagan's November 3, 1986 Declaration that the provisions of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America are in full force and effect, the people of the Commonwealth joined the American family.

However, although we are pleased that our many years of waiting were finally over and the aspirations which we sought were finally realized, we now want to become a regular member of the American family by being able to cast our vote for the President and Vice President of the country which we have chosen to cast our destiny with.

Some may argue that the Commonwealth of the Northern Mariana Islands has a small population and our votes would make no real impact in the election of our President and Vice President. But, that is not the position we hold because we believe in the concept of "one man one vote" and our vote can make a difference in the political process which we must live within.

We respectfully request that you include in the list of endorsements of House Joint Resolution 217 that of the Commonwealth of the Northern Mariana Islands.

Si Yuus Maase,

JULIAN S. CALVO,
President of the Senate.
GREGORIO B. SABLAN,
Floor Leader, House of Representatives.

These two events collectively represent another step in the right direction toward securing the support of the Congress for House Joint Resolution 217.

I believe the message is clear that the people in the offshore territories want to be fully integrated into the American family with all the rights and privileges thereto.

The 200th anniversary of our Constitution is an appropriate time, Mr. Speaker, to enact the principle of "one man, one vote" which has worked so well in the creation of this Nation and make it applicable to every citizen of the United States.

MOTHER IS DEDICATED TO VIETNAM VETERANS' MEMORIES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. DONNELLY. Mr. Speaker, I would like to share with my colleagues a story about Theresa Davis, of Holbrook, MA. The article, which appeared in the Holbrook Sun, chronicles the efforts of a woman whose son was killed in Vietnam. Her purpose is not to mourn the loss of a loved one, but to help the living through volunteer work on behalf of veterans' organizations. I commend her efforts which exemplify the ideals and goals of the Gold Star Mothers.

MOTHER IS DEDICATED TO VIETNAM VETERANS' MEMORIES

(By Marie O'Neil)

The American flag is always flying proudly outside the South Franklin Street home of Thereas Davis, where she lives with daughter Penny, son-in-law Ron, and grandsons Heath and Brett Ericson.

Theresa has been president of the Ladies Auxiliary to the Veterans of Foreign Wars Paul J. Surette Post 9813 for the past two years. She is also junior vice president of the District 5 Ladies Auxiliary of the VFW.

She is a volunteer at the VA Hospital in West Roxbury and a VAVS (Veteran Administration Voluntary Services) Deputy. She belongs to the Military Order of the Cooties, whose purposes is to do hospital work. "Cooties were cooties bug pins," she said, "and if anyone touches it, they pay us $1." The pins can be placed anywhere on the clothes. The men wear their hats sideways.

The VFW is a service organization. They raise money to help the community in many ways. Each Thursday night, the Surette Post runs bingo at the K of C Hall, where Terry works. They also have bake sales and yard sales for fundraisers. One of the organizations they have been very generous toward is the music students.

The Ladies Auxiliary sponsors a Poster and Essay Contest each year to promote patriotism among schoolchildren.

Davis is state Chaplain of the Gold Star Mothers, Inc. She joined the group after coming home from the Vietnam Memorial

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

dedication in Washington, D.C. Congressman Brian Donnelly collected donations to hire two buses and to provide motel rooms so any parent whose child's name was on the memorial could attend the dedication. He said he could not imagine being a parent and not being able to go. He made all his guests feel welcome, inviting them to his office, providing special bleachers and a box lunch for them the day of the parade.

Terry spent all of her married life as a service wife and loved it. Her husband was in the Navy when they were married, but transferred to the Army after the birth of their second child. She was widowed in 1959, eight months before the birth of their fifth child. Her three sons served in the army.

"I loved moving around and traveling," she said. They lived in Maryland, Virginia, Washington, Alabama, France and New Mexico. "Sometimes, we didn't even get to unpack the suitcases before we were transferred."

One year they moved on Halloween. Terry got out costumes so the kids could go Trick-or-Treating. The next morning they had to pack to move again.

She still loves to travel every chance she gets. This summer she spent five weeks in Texas with her oldest daughter and her family. During the visit they travelled to Angel Fire, New Mexico to see the Disabled American Veterans (DAV) Vietnam Veterans National Memorial. It was built by the family of David Westphall who was killed in Vietnam with 12 of his comrades.

His father, Dr. Victor Westphall, said "it is a statement of homage to all the veterans of the fighting in that Asian nation, particularly to the maimed in body and spirit, and most especially to those who gave the most previous gift of all—life itself."

Terry said, "I always wanted to see it, but never thought I would. I should have known I'd find some way to visit it."

Last Friday, Terry attended the dedication ceremonies of the Marina Bay Memorial Clock Tower at which William Westmoreland was the guest speaker. The clock tower was erected by the O'Connell Brothers in memory of all the boys from Quincy who were killed in Vietnam. The name of Specialist Four Richard S. Davis, Jr., Terry's oldest son is engraved on the tower. He was killed in Vietnam on June 6, 1968.

Dick was turned down six times for the service; he tried every branch. Finally they let him join after bringing in two buddies. Just as he worked hard to be an Eagle Scout, he was determined to be the best in this.

He became a Green Beret, a paratrooper who had to overcome his fear of heights. He was awarded the Silver Star, the Army's highest ribbon, "for gallantry in action * * * Specialist Four Davis distinguished himself by exceptionally valorous actions on 6 June 1968 while helping lead a relief column to a beseiged strike force outpost. Its members came under heavy small arms and mortar fire which wounded Specialist Davis. Despite his injuries, he coordinated artillery counterfire and helped reorganize his force. During the advance, he was wounded several more times * * * Specialist Four Davis' gallantry in action was in keeping with the highest traditions of the military service and reflects great credit upon himself, his unit, and the United States Army."

He was the first from Quincy to receive the Silver Star. He also received many other medals, among them the Purple Heart, Army Commendation Medal, Combat Infantryman's Badge, National Defense Service Medal, Vietnam Campaign Medal and the Vietnam Gallantry Cross with palm.

Terry said the Gold Star Mothers is a service organization. "We are looking for more members, especially Vietnam mothers. The meetings are social gatherings. We don't sit around talking about our losses, but we are a very close-knit group who share a common bond."

Terry has five children, two girls and three boys, seven grandsons and one granddaughter. For 14 years she worked as a bookbinder at Semline in Braintree. She knits, sews, reads and often goes camping, but her favorite hobby is traveling which she does as often as possible.

THE JOHN D. DALY FAMILY—FOUNDING FAMILY OF DALY CITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. LANTOS. Mr. Speaker, during this 200th anniversary of the U.S. Constitution, the finest blueprint for self governance ever created, it is only fitting that we also recognize the great work done by the founding families of the Peninsula.

The 11th Congressional District, which I have the privilege to represent, has been particularly fortunate to have been settled by men and women of vision, strength, and determination. This certainly describes the man we have chosen to honor today, John Donald Daly whose name was given to Daly City.

Born in Boston, MA, October 22, 1841, Daly was traveling to California with his mother in 1854 when she took ill and died on the strenuous jungle trip across the Isthmus of Panama. Alone and without any resources other than his own personality and talents, the young man of 13 worked his way to San Francisco where he obtained odd jobs.

By the time he was 15, he was "riding the mail," carrying mail sacks on horseback from the old San Mateo Rancho to San Francisco. A year later, he went to work in a dairy in Millbrae.

During the next few years, which he spent learning the business and gradually saving enough to buy a small place of his own, Daly met and married Lillie Frances Carrick, a 16-year-old visitor to the ranch where he was working. By the time he took Miss Carrick as his bride, Daly had a dairy of his own, a small one near Millbrae, one that was ultimately to be replaced with a larger spread, 250-acres on a hill then called Vista Grande near San Francisco.

Always a hard-working and astute businessman, Daly specialized in milk and egg production at his hilltop ranch and distributed them to the city from a building at 1010 Valencia Street in San Francisco.

John and Lillie Daly had four daughters, Minnie, Sarah, Lillie, and Ida, and one son, Irving, all born and raised on the ranch. By 1906, the daughters were all married and Irving was working in San Francisco for the family's Dairy Delivery Co. When the devastating earthquake sent people fleeing from the fire-ravaged city of San Francisco, Daly opened up his ranch as campsites and helped provide food for the refugees. Daly sold the ranch soon after the quake to developers who divided the hillsides into town-sized lots where houses were built and a town was born on Daly Hill a town that would take his name when it was incorporated in 1911.

Although Daly and his wife moved to a new house at 22nd and Guerrero in San Francisco, he remained active in the new town, founding the Daly City Bank and giving the new community a library, which also bears his name. Every day, he could be seen on the busy streets, his trademark white vest a signal that John D. Day was about his business. He earned many accolades, too many to list here today, but one of the most prominent is the long avenue that stretches from the San Bruno foothills to the Pacific Ocean, John D. Daly Boulevard.

A gregarious, able man, his friends included John McLaren, creator of the Golden Gate Park, and James Rolph, onetime San Francisco mayor.

He is also remembered as strong and loving family man. His granddaugher, Frances Levensaler Bishopric, has as one of her fondest early memories—she was only three at the time—the occasion when Grandfather Daly presented her and her five-year-old brother with a pony. Though she cried when placed atop the pony, her grandfather's present started a lifetime of pleasure with horses.

It gives me great pleasure today to honor Mrs. Bishopric, and her grandfather John Donald Daly, a founding family of Daly City.

AIDS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. BONIOR of Michigan. Mr. Speaker, The ostrich is truly an amazing bird. It has a very small head compared to its body size and believes that by hiding its head, usually in the sand; it can safely ignore what it does not want to see.

Mr. Speaker, I believe the U.S. Congress assumed the ostrich position when it recently attemped to deal with the question of AIDS, the disease that has already taken the lives of 25,000 Americans and will soon be the number one health threat in this country. A disease, Mr. Speaker, that has become a global epidemic.

On October 20, 1987, this House voted to instruct its conferees to accept a Senate amendment to the Health and Human Services funding bill that would prohibit the Center for Disease Control from sending out certain types of publications in its efforts to inform Americans about the AIDS disease. When I learned that the distribution of U.S. Surgeon General's report on AIDS could be prohibited under this amendment, I saw no choice but to recognize it as a dangerous move away from shouldering the responsibility Congress must take to protect all Americans from this disease.

Mr. Speaker, I joined 46 of my colleagues in voting against this amendment because it could seriously hurt the efforts of the major organizations, including the medical community, to educate our Nation very clearly on how this disease is and is not spread and how it can be prevented. I have already sent the Surgeon General's report to the medical community in my district and I plan to distribute it more widely. Reasoning which suggests AIDS can be stopped by avoiding the subject is as tragically flawed as the reasoning the ostrich uses in burying his head in the sand when a tiger is on the prowl.

Mr. Speaker, whenever this country has faced challenges, we met those challenges with education. In the area of public health, our Nation has achieved remarkable results in stemming heart disease through nutrition education, and in reducing the risk of stroke by blood pressure monitoring and stress reduction. The National Center for Health Statistics shows a 50-percent decline in the death rate from stroke between 1973 and 1985; and, a 35-percent decline in the death rate from heart disease during the same period. Education works. It can work in stopping the transmission of AIDS. And, it can work quickly because we know the steps that must be taken immediately by all Americans to protect themselves from this disease.

Certainly, Mr. Speaker, the situation is urgent and it is upon us. We cannot allow ignorance to scar our country's future by robbing it of the minds and bodies of young Americans. Studies show that by 1991, AIDS will be the leading cause of death for people between 25 and 44. We must act swiftly and decisively. A national education campaign should be launched with the goal of reaching every group of Americans. It is critical that this campaign have the flexibility to make education materials understood by every American whether they live in the barrios of New York City's Spanish Harlem; in a subdivision in Mt. Clemens, MI; or in the mansions of Beverly Hills, CA.

I think the requirements of the Senate amendment may well result in education materials that do not address AIDS as it exists in the real world. It is the real world that we must deal with, Mr. Speaker. Let us not lose sight of this as we work thoughtfully and effectively to stop the spread of AIDS.

AN APPEAL TO SOUTH KOREA'S PRESIDENT CHUN

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. DELLUMS. Mr. Speaker, I rise today to direct our attention to the situation facing a prisoner of conscience, one of several political prisoners currently held in detention by the Government of South Korea. I appeal to South Korea's leader—President Chun—to review the case of this political prisoner, to halt the continuing practice of detaining people in essence for their political beliefs.

Kang Jong-hon was a 36-year-old medical student at Seoul National University when he was put on trial in March of 1976. He was accused under South Korea's anti-Communist and national security laws on two counts: First, purportedly working as an accomplice for the North Korean Government; and second, supposedly infiltrating student groups for the purpose of inciting anti-Government demonstrations in South Korea. Kang Jong-hon was alleged to have visited North Korea for espionage; and Kang Jong-hon was alleged to have been recruited—via Japan—by a North Korean agent, to whom he somehow informed regarding student unrest in South Korea.

In May 1976 Kang Jong-hon was sentenced to death for three reasons. First he was charged for visiting North Korea. Second he was convicted for reportedly passing information on South Korea to North Korean agents, agents residing in Japan. Third he was charged for inciting students to demonstrate against the Government of South Korea.

During his interrogation, he confessed to the charges. However at his trial he rejected his confession, saying he made his confession under torture.

He denied having visited North Korea and his defense lawyer submitted an alibi in support of his denial. Furthermore he denied having taken part in student demonstrations, and witnesses testified for him.

He did admit, though, to having been in contact with members of a pro-North Korean association in Japan: He admitted both to having read their books and seen their films on North Korea. He also admitted having talked to them. First, about his experiences in South Korea and second, about what he read in South Korea's newspapers. But he denied having communicated national secrets. Still he did admit having talked to students in South Korea about information on North Korea that he acquired in Japan.

In March 1982 Kang Jong-hon's death sentence was reduced to life imprisonment. Furthermore in August 1984 his sentence of life imprisonment was reduced to 20 years' imprisonment under Presidential amnesties.

Today I appeal to South Korea's President Chun to review the case of Kang Jong-hon. As with the situation facing numerous other political prisoners in South Korea, the continued imprisonment of Kang Jong-hon is inimical both to Korean law and to international law. President Chun, I call on you to provide Kang Jong-hon a new trial; to do so would further the political improvements that have very recently begun to take place in your country.

HAMILTON FISH, SR., AT 99

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. GILMAN. Mr. Speaker, today one of the most distinguished residents of our mid-Hudson Valley in the State of New York celebrates his birthday. Now that he is 99 years young, we in Congress can reflect on his outstanding, unique career of public service.

Hamilton Fish, Sr.'s unique career spans nearly 40 percent of the entire history of the United States since the ratification of our Constitution. A 1910 graduate of Harvard—and an all-American star of that college's football team—Ham Fish was shortly elected to the New York State Legislature. His promising career in that body was interrupted, however, by the outbreak of World War I. As a division commander on the western front, he became one of the most distinguished, honored veterans of that conflict. Upon his return home, Colonel Fish was elected to Congress in a special election to fill a vacancy in 1919. Among his earliest contributions as a Member of this body was his bill to establish a tomb of an unknown soldier in Arlington National Cemetery, and legislation expanding the Veterans' Administration. Outside of this Chamber, he was one of the organizers and first officers in the American Legion. During those years, Congressman Fish was the first Member of Congress to sponsor a resolution calling for a Jewish homeland in Palestine.

In later years, Congressman Fish served as ranking minority member on the House Foreign Affairs Committee, and as one of the initial members of the House Committee on Un-American Activities. In these positions, he became known nationally and internationally for his outspoken defense of American traditions and institutions.

Upon leaving the Congress in 1945, after 26 years of dedicated service, Ham Fish remained active in community and national affairs. He is still eagerly sought throughout New York as an after-dinner speaker and toastmaster. In 1980, at the age of 91, he was elected and served as an alternate delegate to the Republican National Convention in Detroit. A year later, Congressman Fish entered show business with a part playing himself in Warren Beatty's epic motion picture, "Reds."

Congressman Fish is also a prolific author, having published a number of works on international communism, national defense, remembrances of World War II.

Today, on his 99th birthday, Ham Fish, Sr., remains as active and concerned as ever. His letters to the editors of our local newspapers throughout the mid-Hudson Valley continue to touch upon the many issues of which he remains concerned, including national defense, international affairs, and the current record of the Harvard football team. He is a weekly columnist in the Sentinel, a weekly newspaper published in Vails Gate, NY.

And, of course, Ham Fish, Sr., is extremely proud of the sterling record compiled by his son, our distinguished colleague from New York, Mr. HAMILTON FISH, JR.

The Veterans' Administration has announced that the new wing at the Castle Point Hospital in Dutchess County, NY, will be named in honor of Hamilton Fish, Sr. We salute this long-overdue tribute and we are hopeful that the opening of this new veterans facility can take place 1 year from today, in conjunction with Congressman Fish's 100th birthday.

We know that Mr. Fish will be on hand, reminding us all of our debt to our veterans, and like always reminding us of the love of the United States that he holds in his heart and that he urges all of us to share.

Mr. Speaker, I invite all of our colleagues to join with me in saluting Hamilton Fish, Sr., on his 99th birthday. He has been an outstanding legislator, a great patriot, and an inspiration to us all.

TRIBUTE TO LES EUGENE ABRAHAMSON

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. CHAPMAN. Mr. Speaker, I rise to draw attention of my colleagues to the recent retirement of Mr. Les Eugene Abrahamson, most recently public information specialist of the city of Texarkana, TX. "Les Eugene," as he is more popularly known, came to Texarkana in mid-August 1946 to serve as program director and chief announcer of what is now the second oldest of the several Texarkana radio stations. In later years he performed nearly a decade with KTAL-TV. Back in 1968, at the beginning of the Model Cities Program, Les joined the city staff as information specialist and in later years has continued in this capacity. The city of Texarkana, and northeast Texas for that matter, have been treated to knowledgeable reporting through the use of all available media, print and broadcast alike. His efforts are appreciated by the citizens and have been recognized by them as well as by Federal agencies with which the city has necessarily dealt.

In addition, Les—having served the city nearly two decades—has become the key person of the city administrations in dealing with day-to-day requests for information and/or city assistance. Having served thus as spokesman, he has been in touch with the bulk of nearly 200 city organizations, and because of the unique bicity location of Texarkana—Texas and Arkansas—both cities have benefited from his experience with media and variety knowledge and feeling for the desired response. Annually, at least 120 organizations call on him for bicity mayoral proclamations. These include civic, educational, fraternal, religious and governmental entities. His very last proclamation was for the upcoming "Volunteer Income Tax Assistance Day," which will be proclaimed by Texarkana Mayors Joe Frost and Bobby Ferguson on Monday, January 25, 1988. His frequent radio and television city-related news and/or interview programs no doubt will be missed.

City hall personnel tendered Les a retirement roast, at which he was lightly taken to task by city department heads with whom he had served. It might just as well have been the citizens speaking, because we are reliably told "that city hall, indeed Texarkana will never be the same, if ever Les slows down to take a rest and go fishing, as he has been known to suggest." His family, consisting of Juanita, and daughters, Gail, of Torrance, CA and Debbie, of Washington, DC, will no doubt encourage a deserved period of relaxation as they join to enjoy yet another "family type at home Christmas" during that blessed period just ahead. It is my pleasure to call this period of unique and professional service to your attention and sense that each of you join me in this timely felicitation to my friend, Les Eugene Abrahamson, "a servant of the people."

ALTON ADAMS, SR.

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. DE LUGO. Mr. Speaker, I sadly rise to note the passing of one of the U.S. Virgin Islands' most accomplished native sons, Alton Adams, Sr.

Mr. Adams, who died recently at age 98, left his mark on the Nation as well as on our islands. He was a dedicated musician from a young age, who shared his gift with us for almost a century. His music is still played daily in the U.S. Virgin Islands because he composed our anthem, "The Virgin Islands March," which fully captures the beauty of our islands and spirit of our people.

Back in 1917, when the United States acquired the Virgin Islands, this young musician captured the attention of the U.S. Navy, and Mr. Adams was named the first black bandmaster in the U.S. Navy. He and his band of Virgin Islanders toured widely, sharing their music and serving as the Virgin Islands' first good will ambassadors. His music was played and praised by John Phillip Sousa.

After a 30-year military career, Mr. Adams went on to be one of our leading journalists, and to open a guesthouse. As a founding member and early president of the St. Thomas Hotel Association, he helped develop our tourism industry.

Alton Adams, Sr., never lagged in his dedication to the welfare of the Virgin Islands. He supported many civic causes, and was always there with wise, well seasoned advice for our people. As a young man entering politics 30 years ago, I often turned to him for counsel and, like so many others, I was always well rewarded. I can speak for all Virgin Islanders in saying we will miss him deeply.

GOLDEN WEDDING ANNIVERSARY OF RICHARD AND GLADYS MAPP

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. DONNELLY. Mr. Speaker, today I bring to the attention of my colleagues the wonderful occasion of Richard and Gladys Mapp's 50th wedding anniversary. Mr. and Mrs. Mapp are from Brockton, MA, and I am pleased to have the opportunity to congratulate Gladys and Dick on such a milestone in their life.

Married on December 6, 1937, the Mapps have spent their first 50 years together raising a family of six children; Richard, George, Chester, Christopher, Melbourne, David, running a successful business, the R.W. Mapp Co., and serving the city of Brockton in a most admirable way.

For the past 40 years Dick Mapp has been operating his wholesale fruit and vegetable business in Brockton. He is known to his clients as a tireless hands-on operator of a customer-oriented company. It is not uncommon for Mr. Mapp to start work at 5 a.m. and not quit until 7 or 8 at night. He has never taken a vacation. As a civic leader Dick Mapp has been a member of the Brockton School Board and the Planning Board; he was also an incorporator of the Peoples Savings Bank. Dick has also been involved in Brockton Little League and church basketball, serving as a positive role model for Brockton's youth. Before coaching sports, Dick Mapp played professional baseball in the 1930's.

Gladys Mapp, born in Brockton, studied at the New England Conservatory of Music, wrote plays, and an accomplished concert pianist. She give up her artistic endeavors to concentrate on raising her family.

The Mapps many accolades and love for each are a tribute to commitment and the pursuit of excellence. I join Dick and Gladys' family and many friends in celebrating their success, past and future, and wishing them many more years of happiness together.

THE BULLIVANT FAMILY—A FOUNDING FAMILY OF REDWOOD CITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. LANTOS. Mr. Speaker, on this 200th anniversary of the U.S. Constitution, that matchless document left us by the Founding Fathers, we also deem it appropriate to recognize the contributions of the founding families to the growth, stability and vitality of the 11th Congressional District, which I have the honor to serve.

The family we honor today has particular appeal to me, because of the lasting contributions made by its founder, Edward Bullivant, Sr., to the concept of family stability and public service in Redwood City.

Edward Bullivant moved to California from New Haven, CT, with his parents in 1870, settling in a little peninsula village that began as the shipping point for redwood logs hauled down from the Santa Cruz Mountains. The village became Redwood City.

Edward, second-born of five children, met, and on May 4, 1884, married Annie Maria Early, one of the first white children born in the area. They moved into a house on Spruce Street that still stands and is being used as a family home today.

Edward and Annie Bullivant had 10 children, 8 of whom grew to adulthood. Edward Bullivant was a simple, hard-working man—he was a butcher all his life—who enjoyed the outdoors, hunting ducks on the teeming mudflats around Redwood Creek, and having his family around him.

The grandchildren remember and loved their grandfather for his rough and tumble ways. They remember, too, a house filled with family and friends and the delicious odors of Sunday dinners. They remember as well the family gatherings when someone passed on, the wakes that could last 48 hours.

Edward and Annie Bullivant also instilled some very basic values in their children. All eight surviving children took active roles in the community.

Edward, the first born son, worked as an engineer for San Mateo County for 39 years. First-born daughter Marion, became a homemaker. Ann was the first deputy county clerk. Henry became a painter. Charlotte worked at the Redwood City Lumber Yard. Grace was a gracious and familiar face at the First National Bank. Albert worked in the county controller's office. Earl, the youngest son, surveyed the first Skyline Boulevard that was later to be set aside as scenic route.

This tradition of community involvement still exists down to the fourth generation with family members active in county government and the local branch of the post office.

As one who enjoys his own family around him, it is with particular pleasure that I recognize the contributions of Edward and Annie Bullivant in establishing a family tradition that still makes us strong.

This award to the founding family of Redwood City, the Bullivants, will go to their granddaugther, Lorraine Bullivant Schemel.

THE DEDICATION OF A MONUMENT IN HONOR OF THE FALLEN OF EXERCISE TIGER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. SKELTON. Mr. Speaker, recently our colleague, BEVERLY BYRON of Maryland, made an address in Torcross, England on the event of the dedication of a monument in honor of the fallen American soldiers of "Exercise Tiger". It is a very fitting and proper tribute to the American fighting men of yesteryear and I commend it to the members.

The article follows:

REMARKS GIVEN BY U.S. REPRESENTATIVE BEVERLY BYRON, NOVEMBER 14, 1987 TORCROSS, ENGLAND ON DEDICATION OF A MONUMENT IN HONOR OF THE FALLEN OF EXERCISE TIGER

REMARKS FOR OPERATION TIGER

General Sir Peter Whiteley, Mrs. Verniquet, Mr. Small, General Watts, Mr. Clark, members of the Armed Forces and honorable guests.

I am deeply honored to be a participant in todays dedication to the brave men who sacrificed their lives in Exercise Tiger. It is on occasions such as these that we must invariably and justifiably ask ourselves why? Could it have been prevented? However, I believe that the answer to that question must be examined in the larger context of "how best can we keep the peace."

This year, the United States celebrated the 200th anniversary of the birth of our Constitution. Our Nation's rights are directly descended from the institutions formed in this Nation. We, and the world owe so much to the British people and for the values for which they stand. You have always been a beacon of freedom in a dark world where democracy is a mere flicker of light. Today we still see that freedom is foreign to many because their governments view freedom as a threat to their own self-survival. When freedom has been challenged as it was in World War Two by the Nazis, it was the British people who rose to the task of defending it—and defending it valiantly.

Last June 6, on the forty third anniversary of D-Day, I commissioned the U.S.S. *Antietam*, an agelis cruiser. For those who are not familiar with this ship, the aegis cruiser is a state of the art surface warfare vessel. There is nothing more powerful or formidable in the United State's surface fleet. There is no doubt that in terms of our capability to wage war, the technology we have today could be used with far more devastating results on any potential adversary than that used in the Second World War. However, what has not changed since World War Two is the desire of men and women in our Armed Forces and those of NATO to wage not war—but—to wage peace. No one knows the value of peace more than those in our Armed Forces who put their lives on the line to defend it.

D-Day—one of the momentus days in the history of mankind—A day for that those of us who don't mind admitting our age—will always remember. I was 11 years old and I was attending a graduation ceremony at the U.S. Military Academy at West Point, New York, when I heard the news that allied troops had stormed Nomandy. It is a day that I will never forget. And for you who do remember—look around. A generation of Americans and Europeans have grown up knowing D-Day as an intangible, distant event told only by history books and old newsreel footage. And that knowledge leads me to say this: It is we who enjoy democracy every day of our lives who sometimes forget the terrible price that has been paid by many for the peace we often take for granted.

There is a story I told at the commissioning of the Antietam about the invasion of Normandy that I think is particularly relevant today where the invasion was planned and practiced by the allies in secrecy. It was said that during the first terrible day of fighting at Normandy, where American casulties alone number 6,000, a French baker at the town of Ste. Marie-Du-Mont wept when he saw the allied soldiers for the first time. One of the allied soldiers who spotted the baker weeping yelled, "Viva La France!" A smile curled on the bakers lips for the first time in many, many months, and that he shouted back: "No, the victory is not for France, it is for all of us who love liberty." For it is they who knew liberty and were denied it that understand the terrible toll that living under the tyranny can take. And it was those men who died during Exercise Tiger, as did thousands of allied soldiers during the war who paid with their lives the price of liberty.

Some may argue that the lives of these men 749 soldiers and sailors who perished in Exercise Tiger were lost in vain—that this was merely a tragic accident which could have been avoided. What disturbs me about this particular line of thinking is that it belittles the supreme sacrifice made by these men. There were mishaps, military bungles and tragic accidents which occurred during the war invasion. War is not something that can be fought in the abstract. It has been said that in war, the side which makes the least mistakes will prevail. The alliance made their share of mistakes—but we prevailed. Why did we prevail? We prevailed because men such as those commemorated on this plaque carried in their hearts and minds a vision of liberty which is shared by our nations and by all free thinking people.

Many moved on from these shores to Normandy. My father was one. So it is especially moving to me today on his 87th birthday to stand here on ground he walked to dedicate this monument to those lost in an exercise, Exercise Tiger, that he watched and wrote about.

Let us always remember those who we honor today and the vision of liberty which we all share. Let us always remember the terrible price which must be paid when we let the forces of tyranny go unchallenged. And finally, let us pledge that the bonds of democracy which are our great nations share together remain forever strong so that together we may always "keep the peace". Thank you.

LIEF: BATTLES MUST BE CARRIED ON

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. PENNY. Mr. Speaker, I would like to pay tribute to pioneer Red Wing activist Julia B. Nelson who exerted great leadership in the late 1890's and early 1900's on behalf of temperance, racial equality, and women's rights. Julia Nelson was educated in Red Wing and considered it her home base while teaching in black freedmen's schools in Texas and Tennessee. In addition, she lived in Red Wing while she was an organizer and lecturer for the temperance and suffrage movement. Julia Nelson's home has been put on the National Register of Historic Places and October 7 was proclaimed Julia B. Nelson Day by Gov. Rudy Perpich and Mayor Joanell Dyrstad. I am including below a news article from the Red Wing Republican Eagle.

The article follows:

LIEF: BATTLES MUST BE CARRIED ON

(By Ruth Nerhaugen)

JULIA B. NELSON HONORED

The fight for racial equality and women's suffrage may be won, but that doesn't let anybody off the hook, according to Julia Wiech Lief.

Pioneer Red Wing activist Julia B. Nelson, Lief's great-aunt, and others who paid a high cost for the privileges we enjoy today expect us to carry on the fight for peace, the environment and human dignity.

Lief brought that message to about 50 people gathered Wednesday morning to dedicate a plaque at 221 W. Fifth St., which was Nelson's home from 1899 to 1914.

RECOGNITION UNIQUE

Another message came clear, too. Speakers pointed out that Red Wing and Goodhue County are unique, not only because they produced so many women who earned national acclaim, but also because those women have been acknowledged here more than women elsewhere have been recognized for their achievements.

It pleased her enormously, Judy Yaeger Jones said, to walk into the Goodhue County Museum and see a photograph of Nelson's modest home, which is on the National Register of Historic Places, displayed with photos of more architecturally significant houses.

Here, obviously, people recognize that historical preservation must extend beyond buildings. History is people.

Traditional history perpetuates the roles of males—usually white—while ignoring the accomplishments of the other half of the population, the females, Jones said.

Jones, from St. Paul, is state coordinator for a committee of historians that organized Minnesota Women's History Month Inc. That organization co-sponsored Wednesday's celebration with Nelson's family and the Goodhue County Historical Society.

The plaque dedication and the proclaiming of Wednesday as Julia B. Nelson Day by Gov. Rudy Perpich and Mayor Joanell Dyrstad was the second of three 1987 events supported by the organization, Jones noted. Earlier, a marker was erected in St. Paul's Rice Park commemorating the site of a Women's Christian Temperance Union fountain, and later the Stillwater home of a pioneer black family will be the first of its kind placed on the National Register.

Red Wing claims Nelson because she was educated here, considered it her home base while teaching in black freedmen's schools in Texas and Tennessee, and lived here while she was an organizer and lecturer for the temperance and suffrage movements. She edited the WCTU paper, the Minnesota White Ribbon, from her Fifth Street home.

CHESLEY PRESIDES

County Historical Society Director Jean Chesley presided over the ceremonies, held on the lawn and walk fronting the former Nelson home which now is owned by the Usem family. The Rev. Hugh Stevenson gave the invocation and Shirley Brunner led the group singing "God Bless America."

Dyrstad, Red Wing's first woman mayor, read Perpich's proclamation and reminded the assembly that women always have played a significant role in this community's history. City support for efforts to preserve the cultural heritage embodied in people as well as in buildings was cited by Planning Coordinator Brian Peterson.

Marcy Doyle Espenson, representing the Heritage Preservation Commission, noted the two-story house was built around 1880 by James Lawther and has changed little in the past century, although one of today's porches is a replacement.

Jones and Espenson urged people to write down their own and their familes' histories. "Celebrate your mothers and your grandmothers—and your great-aunts," Jones said, because they have a profound influence on us today. Locally, Espenson pointed out, the effort is led by a Women's Study Group that is open to everyone.

Jones, whose mother was the late Georgia Meincke Yaeger of Red Wing, urged participation in Women's History Month during March along with recognition of other minorities, including blacks and Native Americans, and suggested people encourage local educators to share the story of key local women with their students.

Lief capsulized the life of her famous ancestor and role model, including Nelson's tendency to "decry the foolish customs of the day." In Red Wing, that included shocking residents by shortening her skirts so they didn't drape in the mud.

FEATS OUTLINED

Nelson's work, travel and hardships were outlined, including her ability to handle hecklers. When told women shouldn't vote because they didn't go to war, she once responded, "Women don't bear arms, but they bear armies."

Lief carried that philosophy a step further as she urged the crowd to keep the banner aloft. "We must have reverence for all life," she said, listing equally important causes such as abolishing war, alleviating global starvation and suffering, protecting wildlife and the environment and maintaining eternal vigilance over the things we care about.

Lief and Dyrstad jointly unveiled an engraved bronze plaque designated by Lief's husband, Walter, a retired commercial artist who joined her at the ceremony. The plaque, affixed to the west porch, cites Nelson's accomplishments as teacher, writer, suffragist and temperance organizer.

KILDEE PAYS TRIBUTE TO THE LAPEER COUNTY CITIZENS PROBATION COUNCIL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. KILDEE. Mr. Speaker, I am honored to bring to the attention of my colleagues the distinguished and effective record of the Citizens Probation Council [CPC], which was started in 1970 in Lapeer County, MI, in the Seventh Congressional District, to help rehabilitate first-time offenders. This unique organization, run by volunteers, offers counseling, practical assistance, and an alternative to fines or imprisonment to first-time offenders in nonviolent, non-drug-related cases. It also offers something less easily quantified, but surely just as important—hope for a better way of life.

The Lapeer County CPC is made up of 85 volunteer caseworkers across the country, helping 17 to 72 year olds who have committed crimes such as shoplifting, writing bad checks, vandalism, and breaking and entering. Once the program has been explained to an offender, they are assigned to experienced, volunteer caseworkers. Each offender must visit the caseworker's home at least once a week for 7 months. Once they successfully complete the program, the charges are dropped. The program's 85 percent success rate speaks for itself. Clearly this unique approach to preventing first time offenders from becoming hardened criminals works.

Offenders know that coming into the program means paying restitution for anything they have damaged, as well as paying a nominal fee to CPC. I mention this last fact, Mr. Speaker, to underscore the message that the Lapeer program uses no tax dollars. The Lapeer County CPC saves the county approximately $150,000 each year. There are no attorney's fees, court time, or imprisonment costs spent on clients who successfully go through the program. I consider this remarkable accomplishment to be worthy of special note in light of the scarce resources available to those who operate our court and law enforcement agencies. Responsibility, and change of attitude are the message here, and that message gets phenomenal results. This program is a striking example of what community cooperation can accomplish. It works because the people who participate care. The CPC volunteers who give their personal time to helping others get back on the right track deserve our highest praise.

Mr. Speaker, the Citizens Probation Council has proven itself to be a valuable asset to the Lapeer County community. Because of CPC's dedicated workers, many who may have chosen a life of crime have instead become productive, contributing members of our society. And I am extremely pleased to know that the positive experience in Lapeer and other parts of Michigan has caught the interest of several communities across our Nation and has resulted in replication as well as the evolution of national organizations. It is a great honor for me to pay tribute to this organization. The Citizens Probation Council has made a tremendous contribution to the lives of countless Americans and to our society as a whole. Please join with me in commending this fine organization and its dedicated volunteers.

PERSONAL EXPLANATION

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 7, 1987

Mr. DYMALLY. Mr. Speaker, on November 5, I voted "yes" on a short-term continuing resolution, House Joint Resolution 394, which provided $3.2 million for nonlethal aid for the Contras. Due to misinformation, my "yes" vote was given with a belief that there had been an incorporation of the Bonior amendment which calls for the removal of Contra aid from the bill.

Had I known that the language authorized the use of funds which provide logistical support and intelligence sharing for the Contras to use in targetting civilian populations, I would have opposed the continuing resolution and voted "no."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 8, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 9

9:30 a.m.

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on the Southern States Energy Board report on the Tennessee Valley Authority.
SD-406

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.

Banking, Housing, and Urban Affairs
To continue hearings on S. 1886, to modernize and reform the regulation of financial services, and S. 1891, to establish a Financial Services Oversight Commission.
SD-538

Foreign Relations
To hold hearings on the nominations of John R. Davis, Jr., of California, to be Ambassador to Poland, Bill K. Perrin, of Texas, to be Ambassador to the Republic of Cyprus, and Henry A. Grunwald, of New York, to be Ambassador to the Republic of Austria.
SD-419

Governmental Affairs
To hold hearings on the elevation of the Veterans Administration to cabinet status.
SD-342

2:00 p.m.

Judiciary
To hold hearings on pending nominations.
SD-226

2:30 p.m.

Foreign Relations
To hold hearings on the U.S. role and international efforts to control and prevent the global spread of the AIDS epidemic on U.S. foreign policy.
SD-419

3:00 p.m.

Environment and Public Works
Nuclear Regulation Subcommittee
Business meeting, to consider proposed legislation authorizing funds for the Nuclear Regulatory Commission.
SD-406

Select on Indian Affairs
Business meeting, to further consider S. 1703, to strengthen the self-determination aspects of contracting, as contained in the Indian Self-Determination and Education Assistance Act (Public Law 93-638), by clarifying that Federal procurement laws and Federal acquisition regulations do not apply to Indian self-determination contracts; to be followed by hearings on S. 1236, authorizing funds for programs administered by the Navajo and Hopi Indian Relocation Commission.
SR-485

DECEMBER 10

9:30 a.m.

Armed Services
To hold hearings on the nomination of Kenneth P. Bergquist, of Virginia, to be an Assistant Secretary of Defense.
SR-222

Environment and Public Works
Superfund and Environmental Oversight Subcommittee
To hold hearings to examine the question of delays and inefficiencies in the Superfund program.
SD-406

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on computer reservation systems.
SD-226

10:00 a.m.

Banking, Housing, and Urban Affairs
To continue hearings on S. 1886, to modernize and reform the regulation of financial services, and S. 1891, to establish a Financial Services Oversight Commission.
SD-538

2:00 p.m.

Armed Services
To continue hearings on the nomination of Kenneth P. Bergquist, of Virginia, to be an Assistant Secretary of Defense.
SR-222

Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings of the modified final judgment regarding AT&T divestiture.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 850, to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.
SD-366

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 1804, to designate the coastal plain of the Arctic National Wildlife Refuge in Alaska as a wilderness area, and related matters.
SD-406

Foreign Relations
To hold oversight hearings on the Law of the Sea Treaty.
SD-419

2:30 p.m.

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 1346, Performing Arts Labor Relations Amendments.
SD-430

DECEMBER 11

9:00 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings of the modified final judgment regarding AT&T divestiture.
SR-253

9:30 a.m.

Judiciary
Immigration and Refugee Affairs Subcommittee
To hold hearings on S. 1611, to revise the numerical limitation and preference system for immigrant admissions.
SD-226

Joint Economic
To resume hearings to review the current state of Federal research and development programs
SD-628

10:00 a.m.

Finance
Business meeting, to mark up H.R. 1207, to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, and to ban certain resale of drugs by hospitals and other health care entities.
SD-215

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on default in the Guaranteed Student Loan program.
SD-430

10:30 a.m.

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To hold hearings on the Voice of America transmitter in Northern Costa Rica.
SD-419

DECEMBER 14

10:00 a.m.

Judiciary
To hold hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.
SR-325

DECEMBER 15

10:00 a.m.

Banking, Housing, and Urban Affairs
Securities Subcommittee
To resume hearings on S. 1380, to prohibit certain trading or communication by those who possess material, nonpublic information, and related proposals.
SD-538

Judiciary
To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.
SR-325

2:00 p.m.

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1416, to authorize the Lyman-Jones, West River and Oglala Sioux Rural Water Development Projects, and S. 1431, to authorize the Secretary of the Interior to construct, operate and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, South Dakota.
SD-366

DECEMBER 16

9:30 a.m.

Select on Indian Affairs

To hold oversight hearings on activities of the Bureau of Indian Affairs, focusing on the seizure of Crow Indian Tribal records.

SR-485

10:00 a.m.

Judiciary

To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.

SR-325

SENATE—*Tuesday, December 8, 1987*

The Senate met at 9:30 a.m., and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard D. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *and they shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more.*—Isaiah 2:4.

Blessed are the peacemakers, for they shall be called sons of God.—Matthew 5:9.

Eternal God, Sovereign Ruler of history and the nations, we pray for a special visitation of Your Spirit on our own city this week. We thank You for Isaiah's vision of peace and Jesus' blessing upon makers of peace. You know, Lord, how the world languishes for peace and yet how continually we violate it. The world is full of peace advocates—but peacemakers are rare. Advocating peace for the nations is easy—making peace in our homes, our neighborhoods, our work, is quite different.

Mighty God, for whom the nations are as a "drop in the bucket," be present at the summit meeting—work Your will in the minds and hearts of President Reagan, Your servant, and Secretary Gorbachev, Your servant. Move in power as they and their teams meet. Let justice and righteousness prevail—in spite of them if necessary. Overrule insincerity, dishonesty, hidden agendas. Let the penetrating light of truth expose any deceptions. Your will be done on Earth as it is in heaven, we pray in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 8, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOPE FOR COMMON GROUNDS FOR PEACE

Mr. BYRD. Mr. President, I found the pastor's prayer to be very much in tune with the state of things and also with our hopes and our hearts and our fears. I think we should be upbeat as we look to the next few days. But I think that we should also keep communications with our inner selves so that we will not become overly euphoric, but positive, believing that there are common grounds in the interests of peace, in the interests of the peoples of both superpowers, and in the interest of peoples of the alliance. And we ought to strive to reach those common grounds, strive with a realism that will avoid our becoming caught up in too much momentum but for this instance believing that, with common sense, we can achieve something that is positive and good.

Edwin Markham, I think, caught a clear vision of a time like this when he said:

Man comes, a pilgrim of the universe.
Out of the mystery that was before the world.
Out of the wonder of old stars.
Far roads have touched his feet;
Forgotten wells have glassed his beauty, bending down to drink.
At altar fires, anterior to earth, his soul was lighted
And it will burn on after the suns have wasted on the void.
His feet have felt the pressure of old worlds
And are to tread on others yet unnamed,
Worlds sleeping yet in some new dream of God.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

DO INF CRITICS REALLY BELIEVE NUCLEAR WAR IS INEVITABLE?

Mr. PROXMIRE. Mr. President, on the night of December 3, President Reagan told the country in a nationwide TV interview that conservative critics of the INF Treaty have accepted the idea that nuclear war with the Soviet Union is inevitable. In a New York Times editorial the following day, the Times reported that Paul Weyrich, a leader of conservative opinion has conceded that those conservatives who oppose the INF Treaty "loathe the idea of coming to any agreement with the evil empire." That is right, any, I repeat any, agreement, Mr. President. This flat all-out opposition to any arms control agreement with the Soviet Union certainly goes a long way to explain the startling opposition by some in the Senate and several of the Republican candidates for President to the proposed INF Treaty. Frankly, it is hard to conceive of any arms control treaty with the Soviet Union these Senators could support if they cannot support this one.

Here is a treaty that requires the reduction of more than three times as many Soviet nuclear warheads as United States warheads. Here is a treaty that permits the French and United Kingdom NATO allies to retain their own medium-range nuclear weapons. The Soviet Union's Warsaw pact partners on the other hand have no nuclear weapons. And above all here is a treaty that provides for the most thorough and meticulous verification ever. It provides for frequent short-notice, on the spot inspection at every missile production site in the Soviet Union. And it does much more. It provides for opening up to satellite inspection—cameras in the sky—literally hundreds of sites in Eastern Europe and the Soviet Union where the Soviets have deployed nuclear weapons. Has there been a single word from the critics of INF suggesting where or how the verification could be more effective? There has been none.

Now keep in mind, Mr. President, that the Soviet Union has a great deal more to lose in this kind of verification than we do. This country of ours is an open society. Americans and foreigners alike are free to travel virtually wherever they like, photograph whatever they wish, inquire, snoop,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

expose, uncover and do all this freely. We have a wide open press which glories in its revelations. Those of us who serve in the Congress take pride in probing what goes on in the military and then rushing to tell it to the press. So what do we as a country have to lose by the most intrusive kind of on-the-spot or satellite inspection? The Soviet Union is almost precisely the opposite. In their closed society the provisions in the INF Treaty that rip open their concealed nuclear production and deployment represents two things. First, these open-up-the-U.S.S.R. requirements provide effective verification in a measure we have never had before and most of us did not expect. Second, these verification provisions cost this open society, which has always been largely public and exposed practically nothing. So the Soviets give up a lot in these astonishing verification provisions. The United States gives up very little.

So how can any sane American oppose this treaty? President Reagan offered a very interesting answer when he said on December 3 speaking of the conservative critics of the INF Treaty: "They believe nuclear war is inevitable." Think about that for a long minute. What does it mean if nuclear war with the Soviet Union is inevitable? It means in the view of President Reagan that both the United States and the Soviet Union would lose. The President said a nuclear war can never be won more than a year ago. He is right. We would, indeed, lose a nuclear war. So would the U.S.S.R. And it would be quite a loss. Every major Soviet and United States city would be reduced to radioactive ashes. Most American and Soviet Union citizens would be dead or dying. It is even worse. The freedoms we cherish more than life itself would disappear for decades, perhaps forever in a tight, tough military state that allowed no dissent, no differences, no criticism, no competing political parties, no freedom of speech, or the press. Democracy would have little chance. The iron discipline of fascism or communism or some other military emergency system of mass subservience would necessarily assume control. Of course, our adversary the Soviet Union would also suffer massive losses in human life. But their totalitarian, one-party state would survive. They have no freedom to lose. We do.

Those Americans including those United States Senators who would reject any arms control treaty with the Soviet Union because they believe nuclear war with the Soviet Union is inevitable, should think through the consequences of such a war to the end. They should examine the full significance of President Reagan's assertion that "a nuclear war can never be won." They may be ready to die. They may be ready to consign their own children and grandchildren to nuclear death. But are they ready and willing to see American freedom and democracy perish too? If the answer is no, let them tell us what the option is to arms control agreements with the Soviet Union to prevent a nuclear war.

Mr. President, I ask unanimous consent that the editorial from the December 4, New York Times, to which I have referred be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 4, 1987]

THE RIGHT TREATY, TIME AND PRESIDENT

The American political right has never found an arms control treaty it liked. Now it is marshaling forces for a Senate fight over the treaty eliminating Euromissiles that Mikhail Gorbachev and President Reagan plan to sign Tuesday.

Let the battle be joined. This is the right treaty, the right time and the right President finally to clear the air over arms control.

For decades, the far right—often joined by other conservatives—has generated hysteria about Soviet military superiority, the dangers of limiting nuclear weapons and the risks of monitoring such accords. Often, these alarms have intimidated moderates and retarded improvement of relations with Moscow.

The stakes of the impending fight go beyond the medium-range missile accord. As Senator Richard Lugar, the moderate Indiana Republican, writes in the winter issue of Foreign Affairs, "I suspect that much of the debate surrounding ratification will have little to do with the actual contents of such a treaty." The real issues are the next arms talks on strategic and conventional weapons, military spending and Soviet-American relations.

The treaty would require destruction of missiles based in Europe and Asia with ranges between 300 and 3,000 miles. Moscow would eliminate 3,000 deployed and reserve missile warheads compared with fewer than 1,000 for the U.S. To make this deal verifiable, Moscow did the previously unimaginable: presented detailed information on missile sites and agreed to on-site inspections.

The arguments against the treaty are familiar. Representative Jack Kemp opposes signing until Soviet troops leave Afghanistan and Moscow adopts Western standards on human rights. Senator Jesse Helms opposes the treaty unless Moscow accepts Administration charges of violating other treaties and corrects the violations. Alexander Haig wants the Soviet Union to commit itself now to give up in later negotiations its "superiority" on strategic and conventional forces.

The idea that the treaty should await Soviet capitulation on all other issues is silly. President Reagan, who used to thunder the same nonsense, now understands that statesmanship calls for agreement where desirable and opposition, in varying degree, to all else. "I'd say a certain amount of inconsistency is justified," he said Wednesday.

What's eating the opponents runs deeper than this treaty. As Paul Weyrich, an outspoken conservative, boldy admits, they loathe the very idea of coming to *any* agreement with "the evil empire." If they were truly concerned with the merits of the treaty, they would find reassurance in the identity of two of its fathers: Max Kampelman, the chief arms negotiator, and Paul Nitze, the chief arms control adviser. Tried and true Administration hawks, they were leaders, too, of the Committee on the Present Danger, a prime opponent of past arms control accords.

The opposition of the far right is remote from what America thinks. The latest New York Times/CBS News Poll found that Republicans approve the prospective treaty by as wide a margin as does the public at large, 2 to 1; even Republican conservatives approve, 5 to 3.

It's fair to argue, as have experts like Gen. Brent Scowcroft, that the treaty might have served deterrence better had it preserved some 3,000-mile missiles. But the agreement remains militarily sound, politically supportable and a long step toward the strategic arms pact Mr. Reagan now hopes to sign in Moscow next year. Ratifying the Euromissile treaty is the best way to fight those who would strangle all arms control.

Mr. BYRD. Mr. President, the distinguished Senator from Alaska is about to seek recognition. After he obtains recognition, will the Senator yield to me?

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield to my good friend, the majority leader.

SCHEDULE

Mr. BYRD. Mr. President, the party conference on my side of the aisle will begin today at 11:45 a.m. because of the events that are occurring in the city, which we all know about.

I will ask shortly that the Senate stand in recess at 11:45 a.m.

For the information of my colleagues on my side of the aisle, our Democratic conference will begin at 11:45 a.m. and will go until 1 p.m. So it will be 1 hour and 15 minutes, as is the usual case. The only difference is that the conference will begin earlier than usual.

However, there will be a need for certain Senators to attend the signing ceremony at the White House this afternoon. Consequently, the recess which I shall seek will last beyond 1 p.m.

Another reason for extending the recess beyond 1 p.m. is the fact that I want to do two things this week: one, I want to get started on the reconciliation measure today, sometime in the afternoon, hopefully around 3 o'clock, have opening statements, at least, and attempt to finish action on the reconciliation measure tomorrow or Thursday at a reasonable hour.

Then, we would follow reconciliation with the continuing resolution. This is a big order. These are the two remaining measures that have to be passed before the Senate and the House can adjourn sine die.

Passing these two measures in the Senate is only part of our work. They have to go to conference and there will be some time spent on both matters there. Then the conference reports must come back to both Houses.

This means in all likelihood a session this Saturday, and Senators should be very much aware of that fact because it is important that both measures, if at all possible, go to conference before this week is out.

The date for the continuing resolution to expire is on the 16th. That is next Wednesday. We do not want to see another short-term continuing resolution have to be passed, but it could become a necessity. The 16th of December, at midnight, is the expiration date for the continuing resolution. That means that the continuing resolution, which comes behind the reconciliation measure here, has to go to conference, be passed by both Houses and be signed by the President by midnight on Wednesday, to avoid another short-term extension.

Mr. STEVENS. I agree with the majority leader. The Congress has to make certain that the President will sign both of those measures before we can adjourn sine die.

Mr. BYRD. Yes. So Senators should not only count on a session this Saturday but also ought to be prepared for a session the next Saturday, Saturday a week from this coming Saturday. We have to complete this work before we go home sine die, and we all hope to be out the week of Christmas, which is the week after next.

I say all this to emphasize the need for us to look at our schedule realistically, and realistically we have some hard work ahead of us. While we would all like to count on being off this Saturday, we cannot do it. Progress will depend upon how willing Senators are to put aside amendments that otherwise they might have a great interest in, and their willingness to restrain themselves, to work together to try to put these two packages across the goal line. So, let us act accordingly.

Mr. STEVENS. Mr. President, in terms of those of us from the West, and I am from the far Northwest, the problem of getting transportation to our homes for ourselves and our families is very critical this year. I do hope we can find an agreed time when we will be going into a sine die period so that we may get home to be with our loved ones at Christmas.

ORDER FOR RECESS FROM 11:45 A.M. UNTIL 3 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess today from the hour of 11:45 a.m. until the hour of 3 p.m.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank my distinguished friend for yielding. I hope he will have all the time that he needs and that this discussion will not be charged against his time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

THE BUDGET SUMMIT AGREEMENT VERSUS A SEQUESTER

Mr. STEVENS. Mr. President, as the Congress works toward implementation of the November 20 budget summit agreement, which I call the leaders' agreement, I believe it is vital for all Senators to keep in mind the choice that we are facing.

A budget sequester for fiscal year 1988 is now in effect. A pro rata sequester amount is being withheld from appropriations under the short-term continuing resolution. Under the provisions of Gramm-Rudman-Hollings, as soon as a full-year continuing resolution is enacted, the sequester is required to be fully implemented. This would mean an across-the-board cancellation of budget authority in the CR sufficient to achieve the required $23 billion in outlay reductions.

Our choice is clear, Mr. President: we can accept across-the-board reductions of an automatic sequester, or we can substitute in its place legislation to implement the November 20 leaders' budget summit agreement. After reviewing both options, I am convinced that the leaders' budget summit agreement is more acceptable than a sequester.

Unlike a single-year sequester, the budget summit mandates significant deficit reduction over a 2-year period. This 2-year approach is a vitally important element of the package. If we are to achieve the Gramm-Rudman-Hollings objective of a balanced budget by fiscal year 1993, we must use enforceable, multiyear budgeting.

The budget summit agreement is also a more balanced package than a budget sequester, by spreading the deficit reduction burden across all components of the budget: defense spending, nondefense, entitlements, and revenues, but without touching the new tax rate structure established in last year's Tax Reform Act.

Most importantly, I believe the budget summit agreement would be far less damaging to our Nation's programs than the irrational and harsh budget reductions of an automatic sequester.

Let me hasten to add that I supported Gramm-Rudman-Hollings because I believe the threat of this automatic sequester will bring us to our senses.

Let me illustrate how devastating a full-year sequester would be to the various functions of government:

DEFENSE

As a member of the Defense Appropriations Committee, its former chairman, I have compared the budget agreement which would cut defense by $5 billion from the Gramm-Rudman-Hollings baseline and the sequester which would cut defense by over twice as much—$11.5 billion in outlays.

Under a sequester, budget authority for defense operations and maintenance accounts would end up $7 billion less than under the bipartisan budget agreement. In practical terms, this would represent the largest reduction in readiness funding in the post-Vietnam era. Let me give some specific examples of the differences between sequester and the leadership agreement.

If we force ourselves into the automatic sequester period:

We would not be able to deploy fully trained crews for our ships, which could produce problems for military planners in areas such as the Persian Gulf;

Air crews in the Air Force, Navy, and Army would be forced to reduce flying hours, which could force some units to cease operations;

Equipment maintenance would be disrupted;

Field exercises to develop combat preparedness would be curtailed; and

Delays or cancellations in production at defense plants could lead to a loss of skilled workers or contract renegotiation and termination costs.

In other words, the Graham-Rudman-Hollings automatic sequester will damage our readiness.

Although military personnel have been exempted from the sequester, DOD's civilian personnel have not. The Department of Defense has estimated that an automatic sequester would require up to 100,000 layoffs of civilian personnel.

LAW ENFORCEMENT

If the bipartisan leaders' budget agreement is not adopted, there will have to be a $327 million reduction in the Justice Department's law enforcement activities. Specifically, let me just point out a few:

The FBI would be forced to cut back training and investigations;

The Drug Enforcement Administration would be forced to furlough employees, cutting back our ability to reduce the flow of drugs into the United States;

Staffing reductions at the Immigration and Naturalization Service would slow enforcement of our new immigration laws; and

The Bureau of Prisons, which has just come through these two traumatic problems, would be unable to staff three new prisons and begin construction of two new prisons, at a time when the number of inmates is expected to grow by 10 percent per year.

AVIATION

We all worry about aviation safety. As compared with the bipartisan leaders' agreement, a sequester would cut at least $192 million from air traffic control, maintenance, and aviation inspections activities. This could involve a 3-month furlough of up to 16,000 FAA employees at the time Congress is pressing the FAA to hire more.

COAST GUARD

This area is vital to my State, Mr. President. The bipartisan leaders' budget agreement would provide at least $120 million more for Coast Guard marine safety and drug enforcement operations than would be available under sequestration. A sequester could necessitate:

Decommissioning of 10 patrol boats and 8 cutters which are currently devoted to drug interdiction; and—again very vital and would have terrible results as far as Alaska is concerned; and

Closing 10 search and rescue stations.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

For NOAA, a sequester would mean:

RIF's of up to 76 employees at the National Marine Fisheries Service and a significant reduction in enforcement activities;

A 23-day furlough of all National Weather Service employees—just think what that would do to our National Weather Service predictions;

Reductions in acid rain and ozone research;

A layup of five ships in the National Ocean Service; and

A reduction of 23 percent in hurricane reconnaissance activities, at a very difficult time for many parts of the country.

FOOD INSPECTION

Federal meat and poultry inspectors would have to be furloughed for as much as 30 days under a sequester.

AGRICULTURE

While the budget leader's summit agreement provides discretion in how to achieve farm program savings, a sequester would slash farm programs across the board. For the typical small farmer, these across-the-board cuts could translate into an income loss of $4,200.

HEALTH

A sequester would result in the National Institutes of Health facing a funding reduction of $550 million in budget authority and $260 million in outlays. This would reduce biomedical research 4.9 percent below the 1987 level, affecting AIDS, cancer, heart, and on vital ongoing research of the National Institutes of Health.

EDUCATION

The Department of Education would be hit hard by a sequester, absorbing 12 percent of the total domestic cuts. As an example, between 150,000 and 200,000 needy students in postsecondary education would lose their grants, and a comparable number would receive reduced grants.

HEAD START

Under a sequester, Head Start would be cut by over $100 million from the level assumed in the budget agreement, eliminating services for 29,000 children.

ADMINISTRATION ON AGING

A sequester would mean 15,700 fewer meals served to our Nation's elderly.

LABOR

A sequester would result in a loss of job training for 100,000 disadvantaged youths and adults. An additional 60,000 disadvantaged youths would not be provided with summer jobs.

ENVIRONMENT

A sequester would result in a budget authority cut of $128 million for the Superfund we created in the last Congress to clean up toxic wastes, despite growing demands on the fund.

HIGHWAYS

A sequester would reduce Federal-aid highway programs by about $1.2 billion.

Mr. President, these are just a few examples of the irrational and dangerous way a full-year sequester would achieve $23 billion in deficit reduction for fiscal year 1988.

That is why the framers of Gramm-Rudman-Hollings brought it to us. It was something to hammer into our brains the result of automatic reductions.

What it really means, as I have told my people at home, is that we would be building thousands of 97-foot bridges to cross 100-foot streams. It makes no sense. It is irrational. The sequester budget action has no ability to make choices. Under that procedure we cannot acknowledge that some programs can absorb greater cuts and others less. The sequester mechanism was never intended to be reasonable. It is not reasonable. It is an irrational mechanism, and therefore, ought to scare us into our senses. And I hope that all of us in the Congress will look at this as being just what it is—a mechanism for discipline rather than a mechanism to achieve budget results. It was conceived as an incentive to move Congress and the President to action.

I believe that the worst part about an automatic sequester is the danger to our internal security. Our internal security is the domestic spending high priority as far as I am concerned. And there is no way to protect the FBI, the CIA, the drug enforcement people, and all of the assistance we give throughout the country to assure our internal security if we face an automatic sequester.

Mr. President, I am hopeful that the Senate will listen to the leader, our majority leader, and that we will get to work now on this reconciliation bill, and that we will finish it and the appropriations bill by the end of this week so that we can accomplish our results and prevent the automatic sequester.

I remind the Senate, as I said in the beginning, if we pass the continuing resolution for the full year without dealing with the budget problems, the Gramm-Rudman-Hollings sequester is automatic.

I thank the President.

The ACTING PRESIDENT pro tempore. The majority leader.

CONVENING OF THE SECOND SESSION

Mr. BYRD. Mr. President, as a footnote, I say for the convenience of Senators in planning, that at such time as the Senate and the House adjourns sine die for this first session it will be the plan of the leadership on this side at least to discuss with the other side—and there have been preliminary discussions already—that the Congress come back into session for the second session of the 100th Congress on January 19. This will have to be done by law, by joint resolution, but I would hope that the Senate could go over until the 19th of January without coming in on the 3d, 4th, or 5th, or 6th preliminary to the 19th.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue until the hour of 11:45 a.m. today, that Senators be permitted to speak therein but that when Senators are not seeking recognition or speaking, that the Senate recess at the call of the Chair up until 11:45.

The PRESIDING OFFICER (Mr. SHELBY). Is there objection? If not, it is so ordered.

The Senator from South Dakota is recognized.

INF TREATY REQUIRES CAUTIOUS EXAMINATION

Mr. PRESSLER. Mr. President, the Intermediate Nuclear Forces [INF] Treaty is scheduled to be signed today at the White House. I urge all of our colleagues to withhold support for this agreement until we have had an opportunity to carefully scrutinize it in committee hearings.

We have not yet seen all of the important details in the treaty. However, enough has been revealed publicly to raise serious questions whether it is in the best interest of United States and free world security. Each day this week, I would like to comment on some concerns regarding the direction we seem to be taking in arms control negotiations with the Soviet Union.

It is clear beyond doubt that the Soviets have violated prior or existing agreements with the United States. The latest confirmation of this important fact occurred just last week in the latest annual Presidential report to the Congress on Soviet noncompliance with arms control agreements. That report from the President documents a new instance of Soviet violation of the Anti-Ballistic Missile [ABM] Treaty. The Soviets have installed in the Ukraine two sophisticated radar systems of a type prohibited by the ABM Treaty, except as part of the ABM system circling Moscow.

Mr. President, although I do not yet have a copy of it, I believe that the INF Agreement could well be the Trojan horse which will lead to other arms control agreements next year that might compromise the U.S. strategic position. I say that as a long-term advocate of arms control negotiations, but I am very fearful that the unique set of circumstances in Washington have caused the White House to want this arms control agreement.

For example, in the last 2 days there has been almost no discussion about the budgetary crisis we are in. This Chamber has to produce a budget within 2 weeks. The budget compromise in my view is very weak. The White House lobbyists are not up here worrying about the biggest domestic crisis we have. For the last 2 days there has been nothing in our papers about the budget crisis. It has been about the arms control agreement, and indeed it is an important thing. The point is, I think, we may be overcome by the arms control treaty by a desire of the White House to conclude one and maybe two agreements. We seem to be overlooking some basic priorities in this course of action.

I raise questions about this agreement in the form it is presently written because, first of all, it is not linked to other key issues. No linkage to the way Jews in the Soviet Union are treated; no linkage to Afghanistan or Nicaragua; no linkage to any other Soviet behavior. I fear that a Strategic Arms Reduction [START] Treaty perhaps already has been agreed to unbeknownst to the U.S. Senate, and the START Treaty will be the true result of the Trojan horse that has entered our city.

Second, I believe very strongly that we should have assurances as to what will be in a START Treaty or what has been agreed to with the Soviets before we commit ourselves on such a treaty.

Third, as I have mentioned before in this Chamber, only 2 weeks ago the President of the United States made a finding that the Soviets have cheated on the ABM Treaty. I shall have some further remarks on that.

Finally, this agreement could result in a higher cost to American taxpayers to replace with conventional forces some of the nuclear forces in Europe.

Let me first touch briefly on the issue of linkage. It is my strongest feeling that the sense of euphoria in this city is tapering over some very great problems here and abroad. I already have mentioned the domestic problems, but regarding linkage, suddenly we are saying that there is no concern for the minorities, for Soviet Jewry, for the various other minorities that have been demonstrating on the streets of Washington. We are embracing a regime that we have called the "evil empire."

Also, we do not know what commitments have been made by this President and this administration regarding a START Treaty which will be much more serious. Therein will lie the threat to the SDI program, and some of our basic security interests here in the continental United States.

On the issue of cheating, I find it most phenomenal that on the very eve of the INF Treaty the President of the United States made a finding that the Soviets were in fact cheating on the ABM Treaty. In fact, the Soviets previously prohibited radars at two other locations far beyond Moscow.

According to the U.S. Arms Control and Disarmament Agency [ACDA], other Soviet violations of arms control agreements include: Deployment of the SS-25 ICBM; exceeding the strategic nuclear delivery vehicle limits of the unratified SALT II Treaty; concealment of ballistic missile test data and the relation between ICBM's and their launchers; chemical, biological and toxin weapons violations; and nuclear testing violations. In total, ACDA has documented violations and probable violations of arms control provisions of at least seven treaties and agreements entered into by the Soviet Union and the United States.

So, Mr. President, this administration has found the Soviets to be in violation of seven agreements, and all this is being swept under the rug in the euphoria of signing this agreement.

The significance of these violations for the INF agreement debate is that we must consider whether this new treaty will be regarded any differently by the Soviet Union. Will it tie our hands but not the Soviets'? This is a serious matter that will require the best judgment of all Senators. It is not something we can afford to ignore.

Another major area of concern is verification of the INF Treaty. We know that elimination of the Soviet SS-20 missile, if fully carried out, would remove a powerful weapon from the Soviet arsenal. That would seem to be an accomplishment of some great merit.

I saw pictures of some of these SS-20's on TV last night. However, we cannot forget that the SS-20 is a mobile missile. It can be moved almost anywhere its transporter can take it. How do we verify compliance with the INF Treaty's requirements for the elimination of these mobile missiles over a 3-year period? The treaty's verification procedures as discussed in the media may be inadequate to the task of ensuring compliance on this key point. For example, I question how the limited onsite verification at sites defined in the treaty will protect against the potential concealment of mobile SS-20's at locations not identified in the treaty, and there are many areas not identified in the treaty. Apparently, there will be no provisions for broad challenge inspections under this treaty. Do we have a reliable count of the actual number of existing SS-20's? Would it be possible for the Soviet Union to maintain the operational capability of SS-20 missiles concealed in violation of the INF Treaty? These questions will haunt the debate on this treaty for the next several months. I will be prepared to offer amendments, reservations or understandings in the Senate Foreign Relations Committee, of which I am a member, to strengthen the onsite verification provisions if satisfactory answers to these questions are not obtainable. We cannot risk dismantling our European INF deterrent force if it is impossible to verify that the Soviets have destroyed all of their SS-20's and other missiles covered by the treaty.

Closely tied to the issue of verification is the question of the credibility of NATO conventional deterrence in the absence of INF nuclear force options.

This is something that I think needs to be explained to the American people. It may well cost our taxpayers more to maintain conventional forces or expand them in Europe than to maintain the INF missiles. This is hard to understand at first blush. But Margaret Thatcher has given a fine speech in which she pointed out that the missiles have worked as a deterrent force. Since the end of World War II, there has not been a major ground war in Europe.

It has been my feeling—and I voted for the Nunn amendment—that we should send clear signals to our allies that they should share more of the burden in that area of the world, because we cannot have American troops forever in Germany. This agreement, everyone should understand, will give the Soviets' superior ground force and superior tank forces even more weight.

As I wrote in my book on the strategic defense initiative, Star Wars: The Strategic Defense Initiative Debates in Congess:

> Ultimately . . . U.S. strategy depends upon the use of tactical nuclear weapons to defend against a Soviet attack in Europe.

This was the thing that bothered the Soviets the most. Their style of warfare is ground troops and tanks in Europe. They have a draft. They are oriented toward it. They have combat-ready divisions. We value human life so highly that it is hard for us, as s democracy, to maintain combat-ready divisions. They are doing it. We are taking the missiles away, leaving Europe more exposed to the Soviet tanks and troops.

What is going to happen in a year or 2, perhaps after the Reagan administration leaves office? The Europeans are going to get very nervous. The Soviets will become bellicose. Suddenly we will realize that we are at a disadvantage in Europe, and everybody will cry for us to increase our troops there, and I do not think our taxpayers should bear that burden.

Let us look ahead from an economic point of view. I wonder if people realize that we are abandoning our trump cards to their conventional cards, and there are going to be more of their conventional cards there after our trump cards are gone.

I agree with British Prime Minister Margaret Thatcher's assessment of the important role nuclear weapons have played in maintaining the peace in Europe for 40 years.

If NATO becomes more vulnerable to nonnuclear aggression by the Soviet Union and its Warsaw Pact allies as a result of the elimination of short- and long-range intermediate missiles, the question arises, "What will we and our allies do to strengthen our deterrent capability?" Our European allies for years have failed to contribute enough to conventional defense modernization. As a result, the United States spends one-half of its defense budget on European-related defense. We spend one-half of our defense budget on European-related defense, and we are taking away our most effective weapons in this treaty. Most of the NATO allies' economies are prosperous by any standards. They can afford to do more, but appear unwilling to do so. What I fear, Mr. President, is that the NATO allies will not take the necessary steps to strengthen conventional defenses in Europe. That will leave it to the United States to strengthen those defenses, and that is something we cannot afford.

Indeed, I draw everyone's attention to the budget we are struggling with in this Chamber and that no one is paying any attention to in town, but it is probably the most serious domestic problem we face—coming up with a budget that will bring us closer to a balanced budget. It is our Achilles' heel, so to speak, and it has been swept under the rug by discussions of this treaty.

I do not mean to be a party pooper, but I doubt that anyone at the White House is going to be thinking about the budget of the United States for the next 3 weeks or maybe longer. I think it is as serious a topic as the one being discussed.

Already, we are doing more than our fair share. If elimination of INF forces means a much greater U.S. defense spending burden, I do not believe the taxpayers of this country will want to assume that burden. Thus, during the ratification hearings and debates, a crucial line of questioning should focus on the conventional military balance or imbalance in Europe and elsewhere. We need to scrupulously analyze the implications of this agreement for our overall defense posture and commitments to our allies.

Another question regarding the INF Treaty is its relationship to agreements or assurances on possible limitations on strategic defense initiative research. I have strongly supported the SDI program and opposed efforts to subject it to a fiscal filibuster; that is, giving it less money than it needs to achieve scientific breakthroughs. Thus, I am alarmed at reports that assurances may be given to the Soviets that the United States will sharply restrict SDI research in order to maintain the momentum for additional arms reduction agreements. This would be a serious mistake, given Soviet leader Gorbachev's admission on United States television last week that his country has a major space defense program of its own. It also would be a great waste of the money we already have invested in the SDI.

It is generally assumed that SDI is an American program. That is not true. It is both a Soviet and an American thing. I think there will be a great deal of debate about that here. We are very much in an atmosphere, with the current White House staff and their attitude, in which assurances regarding limits on SDI may be given.

Perhaps it will be necessary to offer amendments to the INF Treaty to protect the flexibility of our Government to engage in appropriate SDI activities. It would be unfair and unreasonable for our program to be limited if the Soviet program is not treated similarly.

Finally, we cannot ignore Soviet behavior in other areas of international relations. In my view, it is appropriate to link United States approval of this and other arms control agreements to Soviet human rights violations, the invasion of Afghanistan, massive support for the Marxist-Leninist Sandinista regime in Nicaragua, and continuing adherence to a doctrine of world domination.

Mr. President, these are just a few preliminary concerns I have regarding the INF Treaty. Many others in Congress and beyond these Halls share these concerns. We will be subjected to an intensive hard-sell campaign to approve ratification of the treaty as signed. In view of the many questions surrounding this historic agreement, it would be a serious mistake for the Senate to simply rubber stamp its approval on the treaty. The American people and people throughout the free world deserve more consideration than that. So, once again, I urge our colleagues to avoid being stampeded into endorsing the INF Treaty before it has been given the closest, most careful scrutiny by the Foreign Relations Committee and the Senate as a whole.

Mr. President, in the coming days and weeks, I plan to speak in more detail on each of these concerns, as well as others.

I should like to conclude by saying that at this moment, when the Soviet leader is arriving at the White House and the signing is taking place, I speak as probably a lonely voice; but I think that by next April, when this Chamber votes on that treaty, things will have changed. I believe strongly that as more facts about this treaty become known, there will be questions and there will be demands for amendments and other changes.

Another thing that is not widely understood is the Senate's responsibility in this area. There is almost an assumption that we have a responsibility to vote for this treaty without asking any questions. That is not true.

The Foreign Relations Committee will hold hearings on this. The Armed Services Committee will hold hearings. The Intelligence Committee will hold hearings.

Under our unique constitutional setup, the Senate has the final say in ratifying a treaty and can offer reservations, amendments, or other conditons and the treaty can go back to the Soviets, similar to other treaties that have been ratified by this body.

So we are in a position where it is our responsibility to take a careful look at this, to not be caught up entirely in the euphoria, and not to be swept along. Let us take a very careful look at this.

I look upon it as a potential Trojan horse, as the first step toward the year 1988, when we may see another arms control agreement which may basically compromise the security of the United States.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess subject to the call of the Chair.

Thereupon, at 10:18 a.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 11:46, when called to order by the Presiding Officer [Mr. REID].

The PRESIDING OFFICER (Mr. REID). Under the previous order, the Senate now stands in recess until 3 p.m. today.

There being no objection, the Senate, at 11:47 a.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Florida, suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue for 1 hour and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECONCILIATION BILL

Mr. BYRD. Mr. President, perhaps I should say that I had hoped we would be able to begin debate and action on the reconciliation bill this afternoon, but it appears, or at least it appeared during our conference that the language would not be ready for the leadership package, and so I anticipate that tomorrow will be the time of beginning on the reconciliation measure, which will include the leadership package as an amendment.

THE INF TREATY AND THE FUTURE OF NATO

Mr. BYRD. Mr. President, I have just returned from the ceremony at the White House in which the President and the Soviet leader, Mr. Gorbachev, added their signatures on a treaty which is intended to eliminate whole classes of intermediate range and short range nuclear weapons. I have had an opportunity to review the details of the draft of the treaty as, I am sure, have other Senators. I am optimistic regarding the treaty. There are some attractive features to the proposal. Besides the elimination of whole categories of nuclear missiles, there clearly have been breakthroughs in verification. A new, intrusive regime of onsite verification and inspection has been formulated. It is novel and will need intense scrutiny by the Senate. The American people will need to fully understand the verification procedures and their implications for future treaties.

I intend to give the treaty very careful study, as I am already giving it careful study. Three committees of the Senate will give it a thorough examination—the Foreign Relations Committee, the Armed Services Committee, and the Intelligence Committee. I have had a least three meetings with the chairmen of these three committees in anticipation of our being able to go about this matter in an orderly and thorough and effective way, a way in which we will not find ourselves falling over one another but a way in which we will not leave any stone unturned in the effort to bring clearly to the attention of the Senate and to the American people all aspects of the treaty, the verification procedures, and where we will be going after this treaty has been approved of ratification.

The committees are ready to go. Our work will be coordinated. We intend to ferret out and evaluate all areas of possible ambiguity, so that the whole Senate can make an informed judgment and fulfill its constitutional role.

Mr. President, this is not just an American treaty, not just a Soviet treaty. This is a treaty for the alliance. It is a European treaty. As a major piece of alliance politics, we must ask where does the alliance go from here? How can American leadership be exercised to get NATO moving in the right direction? There is concern on both sides of the Atlantic that the elimination of these weapons systems from the European theater highlights the disparity between NATO and the Warsaw Pact in the area of conventional armaments. Indeed, let us look at some of these disparities. As far as equipment inventories are concerned, there are some alarming gaps in main battle tanks, artillery, antiaircraft guns, infantry combat vehicles, antitank guided weapons, and surface-to-air missiles. A similar story can be told regarding land-based helicopters and fixed-wing aircraft. Warsaw Pact interceptor fighter inventories are almost six times as large as NATO's, and its armed helicopter inventory is more than twice the size of NATO's.

Of course, equipment disparities, some have argued, can and may be offset by some intangible considerations such as better NATO training and morale, and by more advanced Western technology. But the balance is still disturbing and needs to be addressed.

The INF Treaty debate is not the place for the Senate to dictate a formula for the rebalancing of conventional forces in Europe, but it is the place for substantial debate to occur on this topic, and it will occur on this topic. The future of NATO, of deterrence, of modernization, of burden sharing, and of the vitality of the alliance—all of these—are of supreme importance in our deliberations on this treaty over the next several months.

If we ask what will be necessary to chart a course toward a conventional arms agreement between NATO and the Warsaw Pact, we need only review what was necessary to achieve a successful negotiation with the Soviets on INF weapons. What will bring the Soviets to the table to discuss the conventional forces imbalance? Will it be the glow of good glasnost generosity to ease the fears of Western Europeans about the possibility of a conventional war in Europe? Will they do it to save money? The Soviets walked out of the Geneva negotiations in 1983, and it was only the demonstration of NATO resolve to go forward with the deployment of United States Pershing II and cruise missiles that caused the Soviets to return in early 1985. The result of NATO resolve is the document that was signed today and it is the reason that the Soviet leader is in Washington today. It took courage on the part of our NATO allies, their governments, and their peoples.

It will take a commitment by the United States, as the leader of the alliance, and by our European partners in the alliance, to do what is necessary—whatever it takes—to deter Warsaw Pact aggression or intimidation. This will require a reevaluation of NATO defense budgets, and fresh attempts to achieve weapons standardization across the European continent. It will take a political commitment which may not be popular. NATO has galvanized political will on the INF weapons case over the course of this decade, and there is no reason it cannot be done on the conventional side as well.

The President must encourage the Soviet leader to put reduction of conventional forces at the top of his priority list. The treaty fever has seized Washington. The treaty fever has seized the media. The treaty fever has seized parts of Western political communities. The treaty fever that has seized us seems confined to nuclear weapons pacts.

We are going on now to another step. The next step is to be the big one in the reduction of nuclear weapons.

Progress on a START accord, reducing the inventories of intercontinental ballistic missiles, is to be the next focal point of superpower attention and bargaining. Indeed, Mr. Gorbachev has been hinting that he has some new ideas to put forward, in this direction. An equitable reductions treaty in this area is, of course, important; let there be no doubt, if it can stop the upward spiral of inventories of such horrendous weaponry, no sane person could find fault with that result. But, Mr. President, let us look at all sides of this question. The conclusion of a START agreement will do nothing to reduce European concerns about the American nuclear umbrella to protect Europe, nothing to deter a conventional blitzkreig by Warsaw Pact forces.

Furthermore, the money we save on nuclear weapons, which are the cheapest form of deterrence, will be more than counterbalanced by the need for increased conventional forces budgets, both in the United States and in Europe. I should note that, according to Lord Carrington, Secretary General of NATO, only four NATO countries out of 16 expect increases in defense budgets next year. What are those countries?—Turkey, Italy, Norway, and Luxembourg. All of the largest contributors to the defense of NATO will have budget reductions or no growth next year—including the United States. Additionally there is little political sentiment in either Europe or the United States to allow for the necessary commitment in dollars required to beef up conventional forces, to the extent that NATO would be on a parity with the other side.

So, Mr. President, I believe it is imperative that the President put significant movement on a conventional weapons agreement with the Soviets at the top of his agenda. And I hope he will make that point forcefully to Mr. Gorbachev while he is in town.

It is imperative that immediately after the summit is concluded, renewed and vigorous efforts be made to bring the alliance together on a comprehensive and detailed strategy—the development of a NATO plan for a challenging conventional arms reduction proposal and an appropriate forum in which to conduct the negotiations.

The mutual and balanced force reduction task [MBFR], engaged in since 1973, have been singularly unproductive. Those talks have been aimed at reducing the number of military forces currently deployed in central Europe. This is a structural approach to the problem with the goal of scaling down the military equipment inventories, units and manpower on both sides. Another approach on conventional weapons has been somewhat more successful. I refer to the more dynamic approach embodied in the so-called Stockholm talks. The focus there has been on the regulation of activities of military forces, such as the observation and notification of military exercise, exchange of information, inspection of suspicious activities, and the development of procedures for communication between NATO and the Warsaw Pact forces to avoid misunderstandings. There has been some limited success in this confidence-building effort, culminating in the 1986 document of the Stockholm Conference on confidence and security building measures [CSBM]. More ground needs to be plowed in the confidence-building arena, and I would hope that whatever breakthroughs have been achieved by the negotiations on INF in the verification arena can be built upon in the European theater. It would, I believe, be easier to enhance the military budgets of the allies if the taxpaying public were convinced that a very ambitious and aggressive program to gain real progress in both the structural and operational approaches to conventional force reductions were underway. The INF Treaty can be a first step toward greater security for the NATO alliance.

The President has finished his part of the job today. The Senate is about to embark on its part. I look forward with eagerness and hope to the promise which this first step may hold.

TREATY INTERPRETATION RESOLUTION

Mr. SPECTER. Mr. President, I am submitting a sense-of-the-Senate resolution to deal with major problems which have been presented by the proceedings on the vast negotiating record on the ABM Treaty which if repeated on the INF Treaty could have the practical effect of defeating the INF Treaty because the proceedings would be so voluminous, so protracted that the Senate might not be able to take the matter through to full consideration.

This day, Mr. President, has been a very inspirational day for many reasons, and it is an historic day in the era of arms control, more accurately stated by the President in his signing speech, of arms "reduction".

To be present at the White House when General Secretary Gorbachev and Mrs. Gorbachev pulled up in their limousine to be greeted by President Reagan and Mrs. Reagan was a very, very unique experience. And then to have the two leaders of the world, the two leaders of the superpowers, addressing the assembled group and the world by television portends a potential breakthrough of great magnitude, not only in terms of the INF Treaty itself but in what may follow the INF Treaty as a start for strategic arms reduction, defense in space, the trouble spots around the world like Afghanistan, Angola, and Cambodia, and other places, and the consideration of human rights and Soviet Jewry. This important step may be preliminary to really vast changes in the climate and relationship between the United States and the Soviet Union.

The INF Treaty now proceeds to the U.S. Senate for consideration under the ratification process.

It is our constitutional responsibility to look very closely at this treaty. There is not widespread understanding of the expansive role of the U.S Senate on this kind of undertaking, but we have the duty to make an independent check on the treaty, just as we have a responsibility on proceedings for the nomination of Supreme Court Justices to make a careful check on the qualifications of Supreme Court nominees—that is, the independent responsibility of the Senate. It will be up to the 100 Senators to check this voluminous treaty in detail, to read the fine print, to make certain that verification is adequate, and to make certain, in an independent way, that this treaty makes sense for the United States.

Mr. President, the purpose of my speaking today, and the purpose of the resolution which I am about to offer, relates to problems which were brought to light by the proceedings on the ABM Treaty, as there has been a considerable controversy between the so-called narrow and the so-called broad interpretation of the ABM Treaty, on the testing of exotics in outer space. As that matter has moved forward and as the proponents on each side have advanced arguments, very extensive reliance has been made not only on the ratification record and on the record of subsequent practices of the parties but also on the negotiating record.

It is my concern, Mr. President, that if the full negotiating record becomes a matter for protracted debate in the U.S. Senate on the INF Treaty, it may provide an opportunity for those who oppose the INF Treaty to have such protracted arguments that the Senate will never have an opportunity to finish the debate on this very important subject.

On the ABM Treaty, the voluminous records were made available in S-407, which is the room where secret briefings are held and where confidential documents are examined. The negotiating record of that treaty was so enormous that it was a practical impossibility to review it in appropriate detail.

Mr. President, it is the purpose of this resolution that the unilateral U.S. memoranda ought not be considered. Those memoranda, I estimate, constitute about 90 percent of the ABM negotiating record and probably a similar proportion of the INF negotiating record. What is appropriate for consideration on the negotiating record are the documents which have been tabled and presented to the Soviet Union.

We have in the ABM record many unilateral memoranda which relate to the version of the United States as to what the Soviet officials said; and, albeit unintentional, there is room and potential for great error in reliance on those documents, because they are never shown to the Soviets. There is a memorandum on September 15, 1971, attributing a statement to Mr. Karpov of the Soviet delegation, which has been a source of tremendous controversy. No one will know what Mr. Karpov's intent was or the accuracy of that statement, because it was never submitted to Mr. Karpov.

Unlike those unilateral United States documents, however, are the documents which were tabled and which were examined with the Soviet

Union, and those aspects of the negotiating record are appropriate for consideration.

The third problem which arises beyond, first, the fact that record is so voluminous and, second, that the unilateral U.S. records are not reliable and are not to be considered under existing practices and rules of international law, is the factor that the examination of this extensive negotiating record might well prejudice ongoing talks in START—strategic arms reduction—and defense in space. INF is supposed to be separate from the realistically overlapping aspects, and if we get into the details, unnecessarily so, on the negotiating record, we could have severe prejudice for the potential strategic arms reduction agreement.

Mr. President, the problems posed by the ABM Treaty and by the consideration of the negotiating record were the subject of extensive hearings, jointly, by the Judiciary Committee and the Foreign Relations Committee. My questioning of Senator NUNN on March 11, 1987, illustrated the problem, when Senator NUNN said that what had happened was a "first-class royal mess." My own characterization was and is that the problems of examining the negotiating record pose a conceptual quagmire.

That arises because where you have a treaty, the essential doctrine is that it is an agreement between the party of the first part, the United States, and the party of the second part, the Soviet Union, and it depends upon the state of mind and the understanding of the parties as to whether there is an agreement; and, as an indispensable aspect, there must be mutuality of obligations, to have any obligations at all. But in terms of the understanding or state of mind of the party of the first part, the United States, it depends upon the submission by the President in his negotiation with the Soviet Union and on the ratification by the United States Senate.

Where the issue is that the President makes a different presentation to the Senate from that which was made in the agreement with the Soviet Union, that involves the quagmire and that involves the first-class royal mess; because the issue is posed in ABM that there was a different agreement between the United States, as represented by the President, and the Soviet Union and the matters which were submitted to the United States Senate.

So that in consideration of the INF Treaty, it is indispensable that we be sure that what the Senate considers is the same agreement which was submitted to the Soviet Union; because, if the United States and the Soviet Union, as ratified by the Senate, do not have a clear understanding, then the treaty may be voidable, and the legal consequences are not totally clear, because it is a matter of first impression.

Certainly, the Soviets would not be bound by any provision which was part of the agreement with the President and the legislative branch, whether or not it was presented to the Senate. If the Soviet Union is not bound, then neither is the United States, under the principle that there could be no binding effect unless there is mutuality of obligations.

So the experience from the ABM Treaty dispute, I submit, should be followed very closely, to avoid the problems which are with us to this day. The ABM Treaty was entered into in 1972. It was the source of extended debate this year on the Department of Defense authorization bill, a filibuster, and later an agreement whereby the provision would be deleted after a Senate vote which favored the narrow interpretation; but the provision was deleted from the Department of Defense authorization bill, with the administration agreeing that there would be no testing without prior approval by the Congress of the United States.

Mr. President, if the proceedings under INF are to go forward on the ratification process in a sensible way, I submit that we must limit the negotiating record to a matter which is practicable and which can be examined, and that would limit it to documents which are tabled and would exclude the unilateral U.S. memoranda which have caused such a problem in the consideration of the ABM Treaty.

Mr. President, that constitutes a brief summary of my more lengthy statement which follows.

Today, December 8, 1987, marks a momentous day in the history of arms control with the signing of the Intermediate Nuclear Forces [INF] Treaty by President Reagan and General Secretary Gorbachev. The attention of the world now turns to the next step, the ratification proceedings in the U.S. Senate.

Critical issues of U.S. constitutional law and international law require the Senate to clarify our procedures on what portions of the negotiating record we will consider on ratification of the INF Treaty, as a result of controversy arising from the interpretation of the ABM Treaty. These problems were raised earlier this year in joint hearings held before the Judiciary Committee and the Foreign Relations Committee on the ABM Treaty. The interpretation of the Senate's constitutional role on ratification was within the purview of the Constitution Subcommittee of the Judiciary Committee, on which I am the ranking minority member, with the broader treaty issues being within the jurisdiction of the Foreign Relations Committee.

In an effort to support arguments on the narrow versus the broad interpretation of the ABM Treaty, each side made extensive use of the negotiating record. If such unlimited use of the negotiating record is made in the Senate ratification proceedings on the INF Treaty, including unilateral U.S. memoranda, three major problems are posed:

First. The negotiating record is so voluminous that its review could be used to delay and frustrate the ratification process by taking up so much time so as to preclude a final decision by the Senate.

Second. Unilateral U.S. memoranda, such as "memcons" and other documents which are not submitted to the Soviet Union, are not sufficiently reliable for consideration by the Senate; and such materials are excluded under international law.

Third. Review, with attendant debate and potential public disclosure of the entire INF negotiating record, might prejudice other possible treaties covering strategic arms reduction and defense in space.

The controversy on the current interpretation of the ABM Treaty has arisen because the executive branch may have made representations to the Senate in the ratification hearings which were different from agreements reached between the United States and the Soviet Union. State Department Legal Advisor Abraham D. Sofaer, the main proponent for the broad interpretation, and Senator NUNN, the main opponent of the broad interpretation, made extensive use of the negotiating record in their analyses interpreting that disputed interpretation of the ABM Treaty.

After extensive review of the negotiating record, the ratification proceedings and documents on the subsequent practices of the parties, it is my judgment that the preponderance of the evidence favors the broad interpretation. This controversy was the subject of extensive Senate debate, a filibuster, a Senate vote favoring the narrow interpretation and ultimately a compromise involving the Reagan administration where the relevant provision was deleted from the Department of Defense authorization bill with the administration agreeing to certain limits in testing of SDI without prior congressional approval.

Summaries of the arguments by Judge Sofaer and Senator NUNN appear in the Autumn 1987 volume of the Washington Quarterly. Because those articles show the extensive use of the negotiating record and provide insights into the underlying problems for the INF Treaty from the ABM controversy, I will ask unanimous consent that both articles be printed in the RECORD at the conclusion of this floor statement.

CONCEPTUAL QUAGMIRE; A FIRST CLASS, ROYAL MESS

If the ratification proceedings on the INF Treaty follow the ABM Treaty procedures, then we may become embroiled in an impossible conceptual quagmire or as Senator NUNN categorized it "a first class, royal mess."

The problems from the ABM Treaty procedures and the unlimited reference to the negotiating record were illustrated in my questioning of Senator NUNN at the joint hearing on March 11, 1987. The ABM Treaty and the Constitution, 100th Congress, first session, Senate Hearing 100-110, page 72:

> Senator SPECTER. The concern that I have as we talk about the negotiating record is we may be getting ourselves into an impossible quagmire.
>
> I cited your reference, as best as I could copy it down, when you testified about the President choosing between a contract with the Soviet Union and a contract with the Senate. I do not believe that the President has a contract with the Senate. I do not think there is a contract with the Senate like there is a contract with the Soviet Union. You have two parties to this agreement. There is the U.S. and the Soviet Union. The U.S. position is formulated by what the executive branch does and what the legislative branch ratifies. But those two components are as to one party to the agreement.
>
> The United States has a contract with the Soviet Union. The President and the executive branch have obligations to the Senate, to the legislative branch.
>
> Senator NUNN. I do not disagree with that, Senator Specter. What I tried to say, and what I thought I said, was that we could have a situation, theoretically, where one contract was entered into between the two superpowers and another contract was ratified by the Senate. I did not mean to say that the executive branch had a contract with the Senate. I don't think that is what I said.
>
> Senator SPECTER. Well, if you have that situation—and I believe you said it is a matter of first impression—then what you may have is no treaty at all and no contract at all. To have a treaty and to have a contract, there has to be a meeting of the minds.
>
> The United States and the Soviet Union have to have a meeting of the minds and agree on what they are doing here. If you have the agreement between the United States and the Soviet Union accurately reflecting the negotiating record, and if you have the United States position, to which the Senate has concurred or which it has ratified being at variance with the negotiating record, then you have the party of the first part, the United States, as embodied by the Executive and the Senate position, at variance with what the Soviet Union agrees to.
>
> The question that arises in my mind is whether we are pursuing a course which is wise in getting into the negotiating record. The negotiating record we have touched on to some extent here today. If this treaty conceptually is upset because the negotiating record was not accurately represented to the U.S. Senate, then, for future treaties, any party dealing with the United States may have what it expects to be an agreement, a treaty, upset at a later time because the executive branch does not make an accurate representation to the Senate.
>
> Now, it may be the Soviets or the other party have to be policemen. Maybe they have to come to all the sessions. And you have testified about an attendee. But I do not think in any stretch you can conclude that the Soviets are warranting to the process that they have checked what the executive branch is representing to the Senate and are satisfied with it.
>
> Senator NUNN. I agree with that assessment.
>
> I think it would be a first class, royal mess if that proves to be the case.
>
> Senator SPECTER. That may be where we are heading.

The problem with the ABM Treaty arises because:

First, a treaty is not effective unless there is an understanding or a meeting of the minds between the party of the first part, the United States of America, and the party of the second part, the Soviet Union, and there is mutuality of obligations;

Second, the understanding and state of mind of the party of the first part, the United States, is determined by the joint action and understanding of the President and the Senate when the President enters into an agreement with the Soviet Union and that agreement is ratified by the Senate;

Third, there may be a difference—the rights of the parties to test SDI in outer space—between what the President agreed to with the Soviet Union and what was presented by the President to and ratified by the Senate.

The Soviet Union is obviously not bound by different provisions, unknown to the U.S.S.R., represented by the President to the Senate. Where the Soviet Union is not bound, neither is the United States since there is no mutuality of obligations. Accordingly, the treaty may be void or voidable although all of the legal consequences are unclear because it appears to be a matter of first impression.

The lessons from the ABM controversy are: First, be absolutely certain that the Senate considers the same agreement reached by the President and the Soviet Union; second, do not consider in the Senate ratification process unilateral United States documents, not shown to Soviet negotiators, which lack reliability on the agreement actually reached where the vast size of such a negotiating record may cause a breakdown of the ratification process.

AN IMPOSSIBLY VOLUMINOUS NEGOTIATING RECORD

Some Senators have already asked the State Department to make available the entire INF negotiating record to the Senate in order to be sure the Senate's understanding conforms to the agreements between the President and the Soviet Union. To avoid potential pitfalls from the ABM experience, the Senate should sharply limit our reference to the negotiating record in the ratification process.

The difficulty with examining the entire negotiating record is that it is so voluminous. For example, the ABM negotiating record consisted of hundreds of pages of draft memoranda of conversations [memcons] summarizing unrecorded discussions between United States and Soviet negotiators, and other such documents. I visited S-407, the Senate room in the Capitol where secret briefings are held and highly classified documents are maintained, and spent hours reviewing the ABM negotiating record. Accordingly, I can confirm that it is a very difficult, if not impossible, task for an individual Senator to review such an enormous negotiating record. I also noted that although these assorted documents had been on file since August 1986, a relatively small number of Senators have been able to find the time to review them.

These ABM documents, which of course are all classified and must remain in S-407, consist primarily of papers composed by United States personnel for our internal use, were never organized into an integrated whole, and, except for drafts that were tabled, were never shown to the Soviet negotiators. I estimate that about 90 percent of the total volume of documents on the ABM Treaty were of this unilateral character. Because what we call "the negotiating record" is not at all like a court record, it is very cumbersome to read and understand. Aside from its sheer volume, it is confusing with internal conflicts and gaps that are nowhere reconciled or explained. Therefore, to reach any conclusions from reading these documents is extraordinarily time consuming.

It has been represented that the INF negotiating record is even more voluminous and also more complex. It too is supposedly unintegrated, nonverbatim and classified. Moreover, it spans many years of negotiations. In fact, the origin of the new agreement goes back to 1978-79 when the United States and its NATO allies decided to deploy new missiles in Europe after the Soviets refused to limit or reduce deployments, particularly of the longer range, high accuracy, three warhead SS-20. Accordingly, it can be anticipated that the record may run to many thousands of pages, perhaps even tens of thousands of pages.

The reality, I suspect, is that we simply cannot complete a review of the INF negotiating record within a realistic timeframe for ratification of the INF Treaty. As busy as Senators are with so many important matters and votes, we simply will not be able to read it. Nor is it practical to have staff read it for us. Only a few staffers on each side of the aisle have been cleared to read the ABM record. What are the other Senators to do? For staff to read it and summarize it for us is problemsome. It takes time to read it all and to write such summaries. As sensitive and classified documents themselves, these summaries might have to be read in S-407, as documents concerning ABM must be.

Reading just a few selected documents can be misleading as the ABM review proved. One really must read practically the whole record to see how it all fits together. If we can neither review vicariously through staff nor selectively for ourselves, how can we get a grasp of what is in there?

Certainly, it is inadequate to rely on other Senators' characterizations of these documents because each of us may reach conclusions about them that are colored by our preconceptions or prior pronouncements. It is noteworthy that in the articles published in the Autumn 1987 Washington Quarterly, Senator NUNN and Judge Sofaer read the same memcons but described them so differently. For example, Senator NUNN concludes:

> Based on my review, I believe that Judge Sofaer has identified some ambiguities in the record. . . . Notwithstanding these ambiguities, however, the negotiating record contains substantial and credible information which indicates that the Soviet Union did agree that the development and testing of mobile/space based exotics was banned. (p. 50.)

Judge Sofaer disagrees:

> The documentary records establish that American negotiators persistently sought, during the 1971-72 negotiations, to persuade the Soviets to agree to prohibit the development, testing and deployment of all mobile ABM systems * * *. The Soviets refused to agree to this, as the negotiating record shows. (p. 64.)

A TACTIC FOR DEBILITATING DELAY

Examination of the entire negotiating record might allow opponents of the INF to defeat the treaty by exhausting the process. If one assumes an intent to delay or altogether block a vote on whether or not to consent to ratification, what better tactic than to initiate a rolling debate on the meaning of first one memcon, then another, then another? Soon the ratification proceeding would simply collapse. Senators simply could not do all the necessary reading and analysis. With the entire INF negotiating record having already been formally requested by some Senators, the potential is apparent for a determined opponent to defeat the treaty through this procedure.

UNRELIABILITY OF UNILATERAL RECORDS

Another problem with most documents in the negotiating record is that they are not reliable. Their accuracy is not proven. In fact, it is suspect from the very nature of the documents themselves. The memcons, for example, are not based on stenographic notes or tape recordings. Thus, they are not verbatim. Many are not even contemporaneous, having been written, perhaps just from memory, hours or even days later. More importantly still, they do not reflect what the Soviet negotiator said but what an American negotiator believed the Soviet said. The key point is obviously that because they were not shown to the Soviet at the time, we do not know if what they reflect is actually what he said and meant.

By contrast, other parts of the negotiating record are plainly accurate and indeed are self-authenticating. For example, a draft proposd by either side is handed to the other side with copies retained by the proposing side. This, unlike a memcon, is verbatim, and there is no question of its accuracy. Therefore, drafts should be considered in treaty interpretation disputes after implementation or in the context of ratification proceedings in the Senate.

Let me give just one illustration that was central to the dispute over whether the ABM Treaty covered exotic systems based on future technology. On September 15, 1971, United States and Soviet delegates met and discussed such futuristic systems. The Soviet delegates objected to language previously proposed by the United States to cover ABM devises based on future technolgy—"devices for performing the functions" of current ABM components: ABM launchers, missiles and radars. The Soviets wanted that language stricken. In its place they proposed some broad general language. There then occurred this critical exchange between Soviet Delegate Victor Karpov and United States Delegate Sidney Graybeal: "Karpov agreed with Graybeal's interpretation that the Soviet text meant 'any type of present or future component' of ABM systems." That sentence appears in a memcon composed by a U.S. delegate present at the meeting but Mr. Karpov was never shown the memcon.

The statement attributed to Karpov was ambiguous. On the one hand, it could have meant any type of component based on current technology even if manufactured in the future. On the other hand, it could have meant—and Mr. Graybeal then and now clearly took it to mean—any device whether based on present technology or future technology. Unfortunately, because the American memo of the Soviet statement was not shown to the Soviet delegate making it, which of the two meanings he actually intended was not clarified.

As the full sense of these memcons is important to get, the full text of the September 15, 1971 memcon quoted above is set forth:

> Date: September 15, 1971.
> Time: 10:00.11:30 a.m.
> Place: Soviet Embassy.
> Subject: Discussion of Articles 2 and 6(V).
> Participants: U.S.: Mr. S.N. Graybeal, Col. Charles FitzGerald; USSR: Mr. Viktor Karpov, Mr. A.A. Fedenko.
>
> At the September 15 meeting between Graybeal and Karpov, accompanied by FitzGerald and Fedenko, the Soviets tabled new Articles 2 and 6(V). (See attachment.)
>
> The discussion started with Article 6(V). Karpov argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6(V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2. The Soviets were proposing to eliminate specific listing of ABM system components (launchers, interceptors and radars) and substitute the word "components" (using the literal Russian word (Komponenty) for this instead of the word for "components" (sredstva) used in Article 2 when referring to launchers, interceptors, and radars. Karpov agreed with Graybeal's interpretation that the Soviet text meant "any type of present or future components of ABM systems.
>
> Karpov said they would give favorable consideration to Graybeal's suggestion that the phrase "specially constructed for such systems" be dropped from the Soviet wording.
>
> Agreement was also reached that, consistent with the "new Article 6," the Soviet text would use "and" between systems and components, while the U.S. text would retain "or" between systems and components.
>
> Graybeal said he would take the new Soviet formulation into consideration and refer it to the U.S. Delegation. It was agreed that paragraph 1 of U.S. Article 6 would remain bracketed as a U.S. proposal.

By contrast, the United States draft proposed for article 6 was not only verbatim but also explicit, unambiguous and was shown to the Soviets:

> Each party undertakes not to develop, produce for or test or deploy in sea-based, air-based, space-based or mobile land-based modes, ABM interceptor missiles, ABM launchers, ABM radars, or *other devices to perform the functions of these components.* (Italic added.)

This language was rejected by the Soviets. In its place, as summarily discussed above, they proposed nonexplicit language whose ambiguity was further compounded by Mr. Karpov's ambiguous oral statement as reflected in the U.S. memcon of September 15 quoted in full above.

Thus, there is no issue of the integrity or intelligence of the American author. The problem is purely mechanical. With nonverbatim, noncontemporaneous memos, there is simply no assurance of accuracy. Because they are not shown to and verified by the speaker whose statement they purport to summarize, they simply lack reliability.

The critical distinction between such unilateral documents and documents such as drafts that were tabled has long been recognized by international law authorities which excluded them from consideration.

INTERNATIONAL LAW EXCLUDES SUCH UNILATERAL RECORDS

The basic rule of international law is set forth in the Restatement of the Law of Foreign Relations of the United States, (2d) (St. Paul, Minn., 1965), chapter 4, "Interpretation of

Agreements," section 147, "Criteria for Interpretation." As to negotiating records, subparagraph (1)(d) allows use of "drafts and other documents submitted for consideration." Subparagraph (e) also authorizes use of "unilateral statements of understanding * * * that were communicated to * * * the other signatory * * *." These "unilateral statements of understanding" are written documents submitted by one party to the other. The comment to this section, however, makes clear that the unilateral papers—that is, those created by one side and not shown to the other—may not be used for interpretive purposes. The comment states:

> Position papers of delegations, conference records kept by delegations for their own use * * * will usually be excluded * * *.

The U.S. Supreme Court has taken the same position. The reporter's notes to section 151 of the Restatement of the Law of Foreign Relations of the United States cites the case of *Arizona* v. *California*, 292 U.S. 341, 360 (1934), where the Court discussed the above rule allowing consideration of drafts and similar papers in the negotiating record as a guide to treaty interpretation. The court said:

> But that rule has no application to *oral statements* made by those engaged in negotiating the treaty which were not embodied in any writing and were *not communicated to the government of the negotiator* or its ratifying body. (Italic added.)[1]

The requirement that to be admissible the record of a statement must be reduced to writing and shown to the other side is further clarified in the comment to section 147. The comment defines useable negotiating records to include:

> In general, all manifestations of intention made during the course of negotiation, *provided* that such manifestations are contained in the official record of the Conference available to the negotiators.

Finally, in his treatise, International Agreements (1961), at p. 336, Lord McNair says:

> In particular, it [negotiating history] should only be admitted when it affords evidence of the *common intention* of both or all parties. (Italic added.)

Thus, so-called preparatory papers which would include the memoranda of conversations composed by United States negotiators of what Soviet negotiators said could not be used. The bulk of the ABM negotiating record, which has been made available to Senators, consists of such memcons.

I submit, therefore, that we should agree right now to avoid resort to unilateral preparatory papers. Although there are good and sufficient legal reasons as noted previously, the most important reasons are practical. If we do not forgo reliance on the unilateral part of the negotiating record, our ratification process will almost certainly break down when the next treaty is submitted to the Senate.

The INF Treaty will probably be submitted to the Senate as the first major order of business when the 2d session of the 100th Congress convenes next January. Because, for the first time in history, the treaty would completely eliminate an entire class of nuclear missiles, it is of enormous importance to our national security. It is also likely to determine the future course of arms control and perhaps even of deficit reduction. Its expeditious and proper consideration is very much in our national interest.

The INF Treaty cannot receive prompt and proper consideration unless the Senate frees its ratification process from the shackles of the ABM dispute. In view of the fallout on the ABM Treaty, I predict that unless we expressly return to the traditional Senate approach which excludes reliance on unilateral negotiating records, the INF Treaty will not be disposed of satisfactorily. The risks are high that it will fail of ratification, not because the Senate advises against it, but because the Senate is not able to conclude its ratification process in order to advise one way or the other.

PREJUDICE OF OTHER ARMS REDUCTION TREATIES

An examination of the voluminous INF Treaty negotiations may also seriously prejudice the possibility of treaties on strategic arms reduction and weapons in space. The treaty discussions on strategic arms reduction and weapons in space have been, in a sense, treated separately from INF, but there are significant overlapping factors. Accordingly, a prospective strategic arms reduction treaty could be prejudiced by the disclosure of the INF negotiating record. The possibility of achieving a treaty on weapons in space could be similarly prejudiced. Those weighty considerations require a procedure which would exclude the overlapping negotiating record to the maximum extent practical so that appropriate parts of the record bearing on INF could be examined without trespassing inappropriately on strategic arms reduction or weapons in space.

Accordingly, Mr. President, today I introduce a sense of the Senate resolution to recommit us to the traditional and legally sound approach to treaty disposition. That approach has been characterized by this cardinal principle: We look to the text of the treaty and, as to any ambiguities, to the subsequent practices of the parties and to the ratification record. What we have not and should not rely on to understand the meaning of the treaty is the unilateral negotiating record. Further, to the extent we utilize anything in the negotiating record, we must, in accordance with the best authorities of international law and principles of practicality, limit ourselves to drafts or memoranda of conversations shown to the other side.

Not only is the unilateral negotiating record legally inadmissible, but it is unmanageable. The negotiating record of the INF Treaty, for example, reportedly consists of thousands of pages of classified documents covering many years and several different sets of arms control talks. The same is true of possible follow-on treaties on strategic arms and space weapons.

This resolution is simply a matter of the Senate committing itself to this approach which we certainly are empowered to do. The approach is the traditional Senate approach. It does not compel or even favor approval or disapproval of the anticipated INF Treaty. Nor does it directly or indirectly resolve the ABM dispute. It merely returns us for purposes of ratifying future treaties to considering these matters on the basis of legally and practically appropriate documents.

Mr. President, I think the Senate can readily agree on the resolution I propose. I ask colleagues to consider it.

Mr. President, I ask unanimous consent that the full text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 339

1. Whereas, the Senate will very likely soon be presented with a treaty between the United States and the Union of Soviet Socialist Republics eliminating Intermediate Range Nuclear Forces (INF) and be asked to advise and consent to its ratification, the expeditious and proper consideration of which would be in the national interest of the United States.

2. Whereas, expeditious and proper consideration of the ratification of such a treaty is threatened by the aftermath of the devisive debate in the Senate with respect to the proper interpretation of certain provisions of the Anti-Ballistic Missile (ABM) Treaty, particularly the view that the unilateral, United States negotiating record may be used to establish what, exactly, the parties agreed to.

3. Whereas, consequently, some senators have already requested the entire secret record of the INF negotiations. That record includes many thousands of pages summarizing complex negotiations over a period of many years. If declassified upon submission, its presentation to the Senate may have a serious chilling effect on current and future negotiations. If not declassified, however, this voluminous negotiating record would be all the more cumbersome, burdensome and difficult, if not impossible, for senators to review. In either event, its length and complexity will cause such inordinate delay and confusion in consideration of the INF treaty as to jeopardize the Senate's capability to reach any conclusion on the treaty itself. Therefore, it is in the national interest to reject such reliance and henceforth to ex-

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[1] Although the Court was construing an interstate compact, not an international treaty, the Court was reasoning by analogy.

clude resort to unilateral negotiating documents in ratification proceedings.

4. Whereas, the United States and the Soviet Union are now negotiating treaties on reducing strategic arms and banning weapons in space, and some of the factors in these two talks overlap with those from the INF talks, and therefore disclosure of the INF negotiating record could prejudice the other two negotiations.

5. Whereas, the Senate should not rely on unilateral negotiating documents because they are barred from being considered by the Restatement of the Law of Foreign Relations of the United States.

6. Whereas, if the Senate returns to its traditional approach to treaty interpretation that facilitates expeditious consideration of treaties by excluding unilateral United States negotiating records, the efficacy of the Senate's ratification process would be restored and the secrecy of international negotiations respected. Now, Therefore, let it be resolved that:

1. It is the sense of the Senate that with respect to treaties hereafter submitted to the Senate for it to advise and consent, the Senate, as it seeks to determine the meaning of the Treaty, should not request, review or rely on those documents in the negotiating record that were not shown to the other party.

2. The Secretary of the Senate shall transmit a copy of this Resolution to the President.

Mr. SPECTER. Mr. President, finally, there is reference in my statement to articles which have been submitted by Judge Abraham Sofaer and Senator SAM NUNN in the Washington Quarterly for Autumn of 1987 which bear directly on the issue of the ABM Treaty and the use of the negotiating record. These articles illustrate the problems which ought to be avoided. While they are somewhat lengthy and I have some reluctance to burden the RECORD I think they are worth the consideration of the U.S. Senate. I ask unanimous consent that the full text be included following my statement and following the resolution itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Quarterly 1987]

THE ABM TREATY: LEGAL ANALYSIS IN THE POLITICAL CAULDRON

(By Abraham D. Sofaer)

The controversy over the meaning of the Anti-Ballistic Missile (ABM) Treaty's meaning is far more than a legal dispute. It concerns, ultimately, the extent of the authority of the United States to develop, test, and deploy "exotic" forms of ABM systems and components to which the nation must ultimately turn to be able to defend itself against ballistic missile attack. This issue triggers strong passions, from those who oppose and those who support activities designed to determine the efficacy of such systems and components, and thus a reorientation of strategic doctrine. Secretary of State George P. Shultz has written:

"The vehemence of some of the criticism of the President's Strategic Defense Initiative (SDI), in my view, comes less from the debate over technical feasibility—which future research will settle one way or another in an objective manner—than from the passionate defense of orthodox doctrine in the face of changing strategic realities."

And while passion and politics go hand-in-hand, passion is no friend of reasoned legal debate.

The legal issues in this controversy are in fact distinct from the political judgments to be made. The office of the State Department legal adviser has examined the scope of the president's lawful discretion under international and domestic law to develop, test, and deploy exotic ABM systems and components. The president will decide what weight to give my legal opinions, and other opinions—legal, technical, political—that he receives within and outside the executive branch; and the president will determine, in consultation with his political and military advisers, Congress, and our allies, what judgments to make regarding strategic defenses.

Senator Sam Nunn (D-Georgia), chairman of the Senate Armed Services committee, has said some strongly critical things about the administration's position on the ABM Treaty. Yet, criticism, however ardent, is no substitute for a sound argument, based on informed legal analysis, a thorough evaluation of the entire record, and reliance on appropriate assumptions concerning the rules of diplomatic negotiations, especially those involving the Soviet Union.

THE DISPUTE DEFINED

In the ABM Treaty and the Interim Agreement of 1972, the United States and the Soviet Union agreed to a strategic relationship in which deployments of ABM defenses were strictly limited, and a nuclear first strike was to be deterred by the threat of a nuclear retaliation. This was supposed to provide the precondition for the effective limitation of offesive arms, thereby enhancing strategic stability. Soviet activities over the past 15 years indicate, however, that Moscow did not share the U.S. view of what had been agreed. The USSR has massively increased its offensive forces and devoted major resources to defenses, including ABM-related activities in clear violation of the ABM Treaty, such as the Krasnoyarsk radar.

While the current ABM Treaty debate has centered on disagreements as to the treaty's meaning, widespread agreement exists on the meaning of the treaty's most fundamental requirements. The administration and Senator Nunn agree, among other things, that:

The parties may deploy only conventional ABM systems and components in the restricted areas and numbers provided in Article III;

The parties may not develop, test, or deploy conventional ABM systems that are other than fixed, landbased;

The parties are free to create fixed, land-based ABM systems based on physical principles other than those used in conventional systems (referred to as "exotics" or "OPP"), including components capable of substituting for conventional ABM components;

When permitted OPP systems or components are created, the parties must discuss and agree on limitations for such systems or components "to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty . . . "; and

The parties are free to engage in any type of research short of field testing of prototype ABM systems and their components, or their OPP equivalents, in any basing mode.

These areas of agreement are substantial. Under both views of the treaty—the version more "restrictive" of the parties' rights, and the less restrictive or "broader" version-neither party is free to threaten the treaty's basic purposes. Only deployment allowed by Article III are permitted, unless the treaty is amended by agreement or abandoned. The difference between the restrictive and broader versions amounts to this:

Under the restrictive interpretation the parties may "create" through development and testing OPP AMB systems including components capable of substituting for conventional ABM components that are fixed, land-based; whereas

Under the broader interpretation, the parties may create, not only fixed, land-based OPP ABM systems, but all types of OPP AMB systems, regardless of basing mode.

The difference between the restrictive and broader versions, though significant in terms of the effectiveness of the SDI program, is remarkably undramatic in terms of the treaty's basic purposes. Consider the laser, for example. Under both views:

A laser ABM device is OPP and cannot be deployed without amendment of the treaty;

The parties are free to perform ABM research and experimental testing with laser devices in any basing mode (including space-based), so long as they do not give such devices ABM capability;

The parties are free to create laser ABM devices that are fixed and land-based; and

The parties are free to develop, test, and deploy non-ABM laser devices in any basing mode, including air-borne or sea-based devices that can shoot down anything but strategic ballistic missiles or their elements.

The broader view enables both parties to learn the defensive potential of mobile ABM lasers against intercontinental ballistic missiles (ICBMs) more rapidly, less expensively, and with greater confidence than under the restrictive view. But the parties could learn the same lessons through activities permitted by the restrictive view, though over a longer time and at much greater cost. It is therefore irresponsibly exaggerated to assert that the broader view undermines the treaty's objectives.

THE ISSUES

With this important perspective in mind, what are the legal questions that must be answered to determine the president's lawful discretion under the treaty? With respect to international law, the answer depends upon what the parties agreed. The United States is free to develop and test any mobile OPP device unless the treaty prevents the parties from doing so. To determine what the parties agreed, we look to the treaty language and its context; if they are ambiguous, then to its negotiating history and the practical construction placed upon its terms through the parties' subsequent conduct. With respect to domestic law, the scope of the president's lawful discretion depends upon whether the Congress specifically intended a limitation more stringent than required by the treaty. To determine what Congress intended, we must look beyond the treaty and its history to executive branch representations to the Senate or Congress, and for indications on the part of the Senate or Congress of such an intent.

Established rules guide the evaluation with respect to what was accepted by both parties as an enforceable restriction on their sovereign authority to defend their nations and peoples. First, the evidence must be relevant to have probative value. In this con-

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Footnotes at end of article.

nection, no doubt exists that our negotiators sought the restrictive interpretation; the relevant question is whether the Soviet Union agreed to it. In determining whether the Soviets actually agreed to be bound, one must take into account that under established Soviet legal doctrine the Soviet Union accepts as binding only those commitments which are unambiguously set forth in the text of agreements. This is a point of fundamental importance, since it makes ambiguities in the text and negotiating record highly significant.

In applying this legal standard to the record, moreover, the evidence considered must be properly weighed. Not all relevant evidence is entitled to equal weight. Formal documents making up the agreed, documentary record of the negotiation, such as proposed drafts and joint draft texts, authoritatively reflect the parties' positions on specific issues at various points in the process. Oral discussions usually have less weight than the agreed documentary record, unless these discussions are recorded in an agreed transcript or minute. Where no agreed record is made, such discussions represent only one party's record of what was said. Furthermore, the weight to be accorded oral statements will vary depending on the authority of the speaker and the nature of the meeting; a lead negotiator's statement at a plenary session will generally be entitled to greater evidentiary weight than the statement of a relatively junior negotiator made at a sparsely attended working session. In connection with subsequent practice, the general rule is that a practice must constitute conduct that is consistent, common, and concordant to be probative of agreement. Unilateral U.S. positions are not binding, unless the Soviets agreed to abide by the same theory and followed the same practices.

Established rules also guide the evaluation of evidence that the president is bound to a particular interpretation under domestic law. The executive is empowered to interpret, or to reinterpret, treaties as long as the interpretation reached is reasonable and consistent with the expressed intent of Congress. Not every executive branch statement to the Senate of a treaty's meaning is binding. Rather, the evidence relevant to the Senate's intent must be evaluated by the standards applied in construing treaties and statutes. Far more weight would be given, for example, to a clearly expressed condition or understanding of the Senate, than to questioning in committees that reflect an understanding reached by a few senators on an issue of marginal importance at the time.

An examination of the treaty language and its negotiating history shows that a strong case exists for the proposition that the Soviets refused to be bound to the restrictive interpretation.

THE TREATY TEXT

Some proponents of the restrictive view have argued that the text of Article V(1) unambiguously supports their position. It provides:

"Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based."

This undertaking is absolute, but it leaves unclear the meaning of "ABM systems" or "components." Those terms are addressed in Article II(1):

"For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of: (a) ABM interceptor missiles . . .; (b) ABM launchers . . .; and (c) ABM radars . . ."

This definition can be read to treat as an ABM system any set of devices that serves the ABM function—i.e., countering strategic ballistic missiles or their elements in flight trajectory. Under this reading, any set of devices that could serve this function would be an ABM system; therefore, "ABM systems or components" in Article V(1) would include any system or device that is ABM-capable.

Article II(1) can also be reasonably read, however, to treat as an ABM system, "for the purpose of this Treaty," those systems capable of serving the ABM function, and "currently consisting of" ABM missiles, launchers, and radars. Under this view, ABM systems and components, in Article V(1), would include those systems known to the parties in 1972, consisting of the conventional components. "ABM systems" would not include, in the treaty text, "exotic" systems, consisting of devices other than the conventional components. This reading is supported by other uses of "ABM systems" in the treaty; by the fact that the treaty mentions only the three conventional; components and no unconventional devices; and because Agreed Statement D is the only provision expressly regulating "ABM systems based on other physical principles." The parties' decision to refer to a special category of ABM systems "including" devices other than the only three components mentioned in the treaty text suggests that the treaty provisions refer to "current" ABM systems, and Agreed Statement D refers to "OPP" ABM systems. The parties no doubt intended to cover *all* ABM systems, but they refer to only those based on the conventional components in the main text of the treaty, while they refer to those based on OPP and including other devices in Agreed Statement D.

The restrictive reading renders Agreed Statement D superfluous. If Article II(1) encompassed all ABM systems and components, including those based on OPP, then the treaty would ban the deployment of all such OPP systems and components, and would allow, by implication, the testing and development of nonmobile OPPs. Redundancy is not a favored result in treaty interpretation.

The claim is made that Agreed Statement D must be read to refer only to fixed, land-based OPP systems and components. The purpose of the statement is to "insure" that the deployment limitations of Article III are preserved, and only fixed, land-based components could "substitute" for those developed under Article III. This reading has serious deficiencies. Agreed Statement D is nowhere expressly limited to fixed, land-based OPPs, and the purpose of Article III is preserved under either reading. The provision refers, moreover, not merely to OPP systems with components that "substitute" for conventional components, but to those "*capable* of substitution for" such components, thus suggesting a functional rather that a one-for-one physical substitution, surely a reasonable reading of a provision dealing with devices of unknown form.

Senator Nunn argues, with respect to Article V(1), that "nothing in the express language . . . indicates that some types of ABM systems or components (i.e., those which are "exotic" in design are exempted." No one, of course, has ever made the claim that Article V(1) expressly indicates a distinction between "ABM systems" and "exotic" ABM systems. In contrast to the use of the phrase "ABM systems" in Article V(1), II(1), and III, however, Agreed Statement D uses the phrase "ABM systems based on other physical principles." In fact, this is precisely the manner in which Senator Nunn reads Agreed Statement D, explicitly recognizing that OPP systems means "exotics" ("ABM systems based on other physical principles [i.e., exotics] . . ."). He simply fails to read the provisions together.

In construing Article II(1), Senator Nunn argues that the provision defines an ABM system functionally, and then "*illustrates* the definition by decribing ABMs as 'currently consisting of' launchers, missiles, and radar." Nunn condemns the alternative reading supporting the broader interpretation as flying "directly in the face of the plain meaning" because it "converts an illustrative phrase into a limiting phrase through insertion of the conjunctive 'and' before the phrase 'currently consisting of.' Sofaer, in effect, has created an ambiguity by adding a word to the text that does not appear therein." And the senator? Does he not take precisely the same liberty? How after all does he reach the conclusion that the phrase involved "illustrates" the definition but by, in effect, treating the connective as the equivalent of "for example"? Furthermore, even if the phrase "illustrates," why does it not only illustrate those present ABM systems covered by the treaty, in contrast to those future, OPP ABM systems expressly distinguished by, and dealt with in, Agreed Statement D?

Senator Nunn's textual arguments about Articles III and IV are circular, depending upon the meaning of "ABM system," which is the very issue in contention. *Significantly, he in effect concedes that the restrictive reading renders Agreed Statement D redundant.* He argues that this result occurred only because of the order in which Ageed Statement D was negotiated, and in any event that the statement serves a legitimate purpose in that it is intended to make "explicit that which is otherwise implicit in the Treaty . . . ." The latter point is a good one in principle, but the only restriction "implicit" in the treaty is the nondeployment limitation of Article III. Furthermore, the negotiation record shows the parties attached great importance to Agreed Statement D, and they wrote it in the same obligatory terms as the treaty's regular provisions (i.e., "the Parties agree"), rather than in the manner of most of the other Agreed Statements and Common Understandings (e.g., "the Parties understand"). The suggestion that it was written to exclude "adjuncts" is speculative, and in any event makes it no less redundant; all of the treaty provisions apply to "components," thus implicitly exempting adjuncts.

The senator harshly denounces administration views on the importance of Agreed Statement D. Is such harshness truly called for in any reasoned debate, let alone concerning an issue on which Ambassador Gerald Smith, our lead negotiator, wrote in 1980 that "the AMB futuristic question" was resolved by "an agreed interpretation," and that "taking the agreed understanding together with Article III, systems employing possible future types of components to perform the functions of launches, interceptors and radars are banned unless the treaty is amended"? Smith said of the provision's legal force: "This statement was initialed by Semenov and me on the day SALT agreements were signed. As an initialed common understanding, it is as binding as the text of the ABM Treaty."

THE NEGOTIATING RECORD

The documentary records establish that American negotiators persistently sought, during the 1971-1972 negotiations, to persuade the Soviets to agree to prohibit the development, testing, and deployment of all mobile ABM systems, including not only the three conventional components but also all "other devices" capable of performing the function of any component. The Soviets refused to agree to this, as the negotiating record shows.

Article 6(2) of the U.S. draft, submitted on August 17, 1971, would have achieved this objective unambiguously and explicitly:

Each Party understakes not to develop or produce for or test or deploy in sea-based, air-based, space-based or mobile land-based modes:

ABM interceptor missiles;

ABM launchers;

ABM radars; or

other devices to perform the functions of these components.

The United States also sought, in Article 6(1) of the U.S. draft, unambiguously and explicitly, to ban the deployment of "ABM systems using devices other than than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of these components."

In addition to these clear provisions covering ABM systems other than those in use in 1972, the U.S. draft would have made clear the parties' intent to cover in all the treaty's provisions regarding "ABM systems" any system that served the ABM function. Article 2(1)(a) of the U.S. draft would have defined an "ABM system" as "a system constructed or deployed to counter strategic ballistic missiles or their components in flight trajectory." The definition then, separately, defined the three components in use. This draft proposal served to strengthen the already unambiguous U.S. intent in its draft Articles 6(1) and (2), to make clear the "ABM system" should include any system that could serve the ABM function, regardless of the components it contained.

These documented proposals were authorized by President Richard Nixon at Ambassador Smith's urging, but only after considerable doubt was expressed by Henry Kissinger and others about the need and desirability of such limitations. In particular, Kissinger was concerned that this strategy would lessen the chance of obtaining an ABM agreement that represented a practical first step toward strategic weapons reductions. The president therefore instructed that the U.S. delegation "should not invite a detailed negotiation or discussion of future systems. Our objective is to reach agreement on the broad principle that the agreement should not be interpreted in such a way that either side could circumvent its provisions through future ABM systems or components. We intend to handle any problems that may arise through the joint commission and the formal review procedures."

The documentary record establishes that the Soviet proposals were strikingly different in their intentions. The Soviet draft treaty covered only conventional ABM systems and components. Article V of the Soviet draft on the table in August 1971 would have prohibited the development, testing, and deployment of mobile "ABM interceptor missiles, ABM launchers, and ABM radars." The Soviet draft would have limited the locations at which, and quantities in which, ABM missiles, launchers, or radars could be deployed; but it made no effort to regulate ABM systems that used devices other than the three conventional components. Finally, in its definition of "ABM systems," the Soviet draft made clear the Soviet intention to limit the treaty's scope to current ABM systems and components: "The obligations provided for under this Treaty shall apply to systems specially designed to counter strategic ballistic missiles and their components in flight trajectory, namely: (A) ABM launchers, (B) ABMs," and ABM radars.

Viewed in the light of U.S. and Soviet negotiating objectives, the restrictive interpretation represents the extraordinary and unsubstantiated claim that, despite the changes accepted by the United States in its proposed drafts of what became Articles V(1) and II(1), the United States got *everything* it wanted, i.e., a ban on the development, testing, and deployment of mobile OPP ABM systems, including "devices" other than conventional components, as well as a ban on deployment of fixed land-based OPP ABM systems and components.

The broader interpretation, on the other hand, recognizes that *the parties reached a compromise between U.S. and Soviet positions.* The treaty proper uses "ABM system" to refer only to conventional ABM systems and components, and all OPP systems and components are regulated by Agreed Statement D, which permits their "creation" but requires agreement prior to deployment "in order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty."

Given the striking contract between the unambiguous provisions the United States sought in Article V(1) and II(1), and the ambiguous formulation actually achieved in the final treaty, proponents of the restrictive interpretation have some explaining to do. Why, if the Soviets agreed to the American position, did they refuse to agree to the U.S. proposals? Why did they insist on the deletion of references in the treaty proper to "other devices," and a definition of "ABM system" that included a reference to the current components?

Senator Nunn seeks to explain the serious discrepancies between what the United States sought and what was obtained, but the evidence fails to sustain his argument.

Article V(1), he argues, was intended to cover "other devices," because on September 15, 1971, at a working group meeting, Soviet lead negotiator Victor Karpov is reported to have "agreed with [U.S. negotiator Sidney] Graybeal's interpretation that the Soviet text meant 'any type of present or future components' of ABM systems." Another, more cautious reading, is that Karpov agreed by this statement to cover only future versions of conventional "components" of "ABM systems." The evidence supporting this reading is substantial and shows that not even the U.S. team then believed it had achieved the coverage Senator Nunn claims:

At no time did any U.S. negotiator suggest in a pleanary meeting, or in any relatively authoritative context, that Karpov had agreed to cover "other devices" in Article V(1) on September 15, even though, as Graybeal himself has written, important issues are rarely settled in informal, working group meetings;

At the time Karpov made his statement the Soviets had clearly articulated their opposition to regulating future, unknown ABM systems and components in the treaty;

Soviet opposition to the regulation of "unknown" systems or devices continued unabated after September 15, 1971, until Agreed Statement D was negotiated in February 1972, and the U.S. negotiators never—not once—pointed out to the Soviets during that period that the Soviets had already agreed to regulate unknown systems and devices in Article V(1);

The Soviet proposal to define "ABM system" in the treaty to include only the three conventional "components" remained its position until December 20, 1971;

While the U.S. delegation reported to the State Department on September 24 that the Soviets had agreed that Article V(1) would cover future "components," the same reporting cable also noted that the Soviets continued to insist that the "ABM systems" covered by the treaty include only those with the three conventional components;

In reporting to the President on the issues settled in the session that ended on September 24, 1971, Ambassador Smith made no claim that any coverage of future ABM devices had been obtained;

A history of the ABM negotiations from the Arms Control and Disarmament Agency (ACDA), completed in October 1972, concluded that the United States had failed to obtain coverage of future systems in Article V(1) as of September 24, noting that coverage would be achieved only if "ABM systems" were ultimately defined to include devices other than the three conventional components;

An authoritative internal U.S. government memorandum dated October 27, 1971, which summarized the issues that remained unsettled as of that date, recognized that the treaty's coverage of "devices" other than conventional components would depend on the definition of ABM systems ultimately agreed to in Article II.

This substantial record is what accounts for the fact that former negotiators who support the restrictive interpretation have since 1971 relied in part on provisions other than Article V(1) to prove their position. Raymond Garthoff, for example, relies on Article II(1), claiming that the Soviets agreed to include "other devices" within the definition of "ABM systems," thus making clear that Article V(1) applies to all ABM devices.

But the contention that the Soviets agreed to the U.S. approach in Article II(1) is demonstrably wrong. The parties were well aware in September 1971 that the definition of "ABM system" in Article II(1) could resolve the extent of the treaty's coverage of future systems. Smith and Graybeal called for a functional definition for the specific purpose of assuring such coverage. The Soviets adamantly refused, however, and for the very reason that they believed the definition should extend only to the "systems to be covered" by the treaty, not to "unknown" systems.

The negotiating strategy adopted by the U.S. team to overcome this fundamental difference was to devise a formulation that "did not prejudice" either side's position. The ACDA history explains the situation that prevailed on September 15, 1971, the day of Karpov's reported concession concerning Article V(1):

"On September 15, Mr. Garthoff persuaded Semenov of the need for a solution on Article II which did not prejudice the positions of the two sides on future systems. At the miniplenary two days later, Mr. Semenov said that inclusion of the future-systems provision would make the treaty amorphous and could not be considered legitimate.

"Later, Mr. Smith and Mr. Semenov privately agreed that an effort should be made to draft Article II without prejudicing the position of either side on future systems. At the same time, Mr. Smith said the United States attached great importance to the issue; they might think they had limited ABM systems only to discover that they had merely limited launchers, interceptors, and radars."

Smith's statement hows he was aware that the treaty could readily be construed to limit only the conventional components, unless some additional changes were made.

A compromise was reached on December 20 and 21, 1971, when the Soviets accepted the connective phrase "currently consisting of," and the U.S. side agreed to deal with future systems in a provision separate from the treaty proper. Despite his more recent claims that the Soviets agreed to the U.S. position, Garthoff in fact assured the Soviets that "the question of constraints on future systems would be settled elsewhere than in Article II . . ." The Soviets did agree "that there could be future systems," as Garthoff said, but they insisted that such systems be dealt with outside the treaty text, in a separate, agreed understanding. The definition in Article II(1) became one in which the parties recognized that the term "ABM systems" could include future devices, but that for the purpose of the treaty text it included only those systems "currently consisting of" ABM missiles, launchers, and radars; future "ABM systems"—eventually described as those based on "other physical principles"—would be dealt with outside the treaty text, in a separate understanding.

Senator Nunn contends that this record "demonstrates that the 'currently consisting of' language was adopted with express recognition that Article II would thereby apply to future systems." This is true, but only insofar as the record also reveals that the future systems encompassed by the functional aspect of Article II(1) would be dealt with outside the treaty test. Senator Nunn finds in Garthoff's explicit proposal that Article II(1) be written so that "the question of constraints on future systems would be settled elsewhere," confirmation "that the parties go ahead and agree then on a text for Article II that would define 'ABM systems' to include future ABM systems while leaving it to other provisions of the Treaty to settle the question of what *specific* limitations would apply to such systems." Senator Nunn ignores the obvious purposes of the detailed, formal proposal made by Garthoff for the U.S. delegation, and accepted by the Soviets, that the United States would agree to a formulation of Article II(1) that left the regulation of future systems to a separate agreed statement, a draft of which Garthoff simultaneously placed on the table. Senator Nunn's analysis makes unrecognizable the impact of what was actually said by Garthoff in his formal proposal:

"The Soviet Delegation has said on several occasions that it is opposed to the proposal by the United States to include a provision in the ABM agreement prohibiting ABM systems in the future which would use devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of those components. In order to contribute to negotiating progress, while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is a clear agreed understanding as part of the negotiating record. An Agreed Minute could read as follows: 'The Parties agreed that the deployment limitations undertaken in Article I and Article III are not to be circumvented by deployment of components other than ABM interceptor missiles, ABM launchers, or ABM radars, for countering ballistic missiles in flight trajectory. They agree that if such components are developed and the question of deployment arises, neither side will initiate such deployment without prior consultation and agreement in the Standing Consultative Commission.' "

This U.S. proposal eventually became Agreed Statement D. It would have allowed the development of "components other than ABM interceptor missiles, ABM launchers or ABM radars," but would also unambiguously have prohibited the deployment of such devices without mutual agreement. *The Soviets in fact never accepted even an express prohibition on the deployment of future systems.* The U.S. delegation managed, however, to develop a record of Soviet statements that made sufficiently clear that the treaty was intended to prohibit deployment of any OPP system absent amendment. This was a major achievement by the U.S. delegation, but it represents the broader interpretation of the treaty, not the restrictive view.

Senator Nunn relies on a statement by Garthoff on January 31, 1972, which set out "Five Points" representing the U.S. position on future systems, and concerning which the Soviets expressed "complete agreement." The public revelation of Garthoff's paper in fact puts to rest any claim that it established the restrictive interpretation. The paper states only that the *deployment* of future systems would be banned; it makes no mention of a limit on development or testing of such systems or components. In addition, the Soviets on February 1 objected to Garthoff's paper, and returned to the draft under discussion.

The negotiating record on Articles V(1), II(1), and Agreed Statement D confirms that the differences between the U.S. proposals and the treaty cannot responsibly be disregarded. To offset this record, Senator Nunn relies on the negotiating record of Article III. That provision reads: "Each Party undertakes not to deploy ABM systems or their components except that . . . ," and then it specifies the number of ABM "missiles," "launchers," and "radars" allowed as part of the two "ABM systems" permitted by the treaty. This language, as Senator Nunn argues, was drafted by John Rhinelander, legal adviser to the SALT I delegation, to ensure that Article III would preclude deployment of future systems. But the parties had clearly intended, even before the final form of Article III was written, to bar deployment of future ABMs by a combination of the main treaty text, including Agreed Statement D.

The words and history of Article III provide little support, however, for the proposition that its language establishes that Article V(1) bans the development and testing of mobile OPP systems. The argument for this result is strained and speculative, and departs from accepted interpretive norms. It goes essentially as follows: (1) the Soviets ultimately agreed to ban deployment of "other" ABM systems in Article III; (2) in doing so, the Soviets in effect acknowledged that "other" ABM systems were included in the ABM systems defined in Article II(1); and (3) this meaning for ABM systems in Article II(1) must be read into Article V(1), which then results in the restrictive view. No U.S. or Soviet negotiator even hinted at such a sequence of results from the reformulation of Article III. Nor did any U.S. negotiator ask the Soviets if their views as to Articles V(1) or II(1) had changed. Finally, this strained line of argument violates the norms of treaty construction by giving more weight to one side's unexpressed intentions than to the clear, documentary record of Soviet rejection of U.S. proposals that would in fact have established the restrictive interpretation.

THE RATIFICATION PROCESS

A treaty becomes law in the United States only after the Senate gives its advice and consent, and the parties thereafter proceed to ratify. Senator Nunn places unprecedented importance on the process of advice and consent relating to the ABM Treaty. He says the possible implementation of the broader view of the treaty is an issue that "goes to the heart of the Senate's constitutional role in treaty making." He argues that, because some Nixon administration witnesses presented testimony that supports the restrictive interpretation, and responded similarly in writing to a question from Senator Barry Goldwater, the United States is bound by the restrictive interpretation to the Soviet Union, and is in any event bound to the Senate in light of this allegedly authoritative understanding. This result is mandated, he contends, irrespective of whether the negotiation record and subsequent practice are unclear, and even if these bodies of evidence clearly support the broader interpretation. Any other result, he claims, "would mean that the Nixon Administration signed one contract with the Soviets and the Senate ratified a different contract. Such a conclusion would have profoundly disturbing consitutional implications—to say the least. In effect, the President would have to choose between the Executive Branch's obligations to the Senate and its contract with the Soviet Union. If he did not choose to honor the commitments to the Senate, the Senate would have to develop an appropriate response or risk having its role in the treaty-making process become meaningless."

Senator Nunn exaggerates both the clarity and legal significance of the ABM Treaty ratification record. He gives authoritative weight to a few, isolated statements by non-negotiators in committee hearings, and to a single written response by the Department of Defense. He gives no weight, on the other hand, to the most authoritative evidence of the executive's position—the transmittal documents, the testimony of Secretary of State William Rogers, and the testimony of Ambassador Smith. *These written and oral presentations specifically addressed future systems and stated only that their deployment was barred;* they also relied heavily on Agreed Statement D for this conclusion. We now know that these ambiguous presentations were consciously decided upon in lieu of transmittal documents and a statement by Secretary Rogers that would clearly have spelled out the restrictive interpretation. Had the claim been made that Article V(1) covered "other devices," as asserted by Mr. Rhinelander, the Senate may well have pursued the issue further. The few Senators who focused on this issue, moreover, learned nothing of the negotiating record, and their main concern was to insure that development and testing of fixed, land-based lasers, and other research, development, and testing, would continue. Finally, the record establishes that the issues of development and testing of OPPs were insignificant, relative to the many other questions of strategic importance debated at length, and the issue had no bearing on the Senate's approval.

The legal significance of this record is far from authoritative. The Senate has enormous power over the meaning of a treaty, but that power is most effectively exercised by the adoption of amendments, conditions, reservations, or understandings. When such actions are communicated by the President to the other party to a treaty, they become part of the treaty itself, or of the context in which a treaty is construed. Absent such actions, the ratification process has little if any significance as to the treaty's meaning under international law. The Senate has repeatedly evidenced awareness of this principle by qualifying its grant of advice and consent in appropriate and formal measures. A Senate Foreign Relations Committee Staff Memorandum of 1977, *The Role of the Senate in Treaty Ratification,* makes the point, in distinguishing between a treaty's international and its domestic effect, that committee reports are "purely domestic documents and of no concern to [the] other party."

Senator Nunn goes so far as to suggest that binding understandings can be conveyed to the Soviets through statements made at a Senate committee hearing, where a Soviet official is in the hearing room, if the Soviets thereafter remain silent. This suggestion has no basis in international law or practice, and when such an argument was made by U.S. negotiators in 1981, the Soviets rejected it, pointing out that U.S. deliberations were an internal matter to which the Soviets had no duty to respond, and that the Soviets were bound only by the letter of the agreement involved. Senator Nunn's theory would require the United States to monitor foreign ratification proceedings to know precisely the extent of its obligations, an untenable result.

Senator Nunn places great emphasis on the Senate's power of advice and consent, contending that the ratification record binds the President as a matter of domestic law. The administration recognizes that executive branch statements to the Senate concerning the meaning of a treaty are significant events and must be carefully weighed. But Senator Nunn's absolute bar on the President's discretion to depart from a record as ambiguous as the ABM Treaty's would create a radically new restrictive principle on the President's established authority to interpret treaties. The President is bound as a matter of law only when a record evidences an intention on the part of the Senate that a certain interpretation be binding. The study prepared by my office on this subject compiles numerous examples of actions the Senate has taken over the years to signal its intention as a body to limit the President's discretion on specific issues, such as inclusion of language in reports, colloquies, and exchanges of correspondence. No such indication of an intention by the Senate on the issues now being considered was made in 1972.

Under these circumstances, Senator Nunn's position would greatly expand the Senate's power at the expense of the President's, and in the process needlessly damage the interests of the United States by subjecting it to legal obligations to which its treaty partners are not bound.

Senator Nunn suggests that if the President is allowed to reinterpret treaties inconsistently with the manner in which they were presented to the Senate, the Senate then will have to determine independently the full meaning of all future treaties, and will be unable to trust the executive. The Senate's role in treaty review is already as broad as its interest in each treaty it considers; it is unlikely to be affected by the president's decision on the ABM Treaty's meaning. This is, as we have seen, a case in which the Senate failed to evidence an intent, in any form, to bind the president to the restrictive interpretation. It is therefore no precedent for a departure from such an expression of intent. Furthermore, presidents will be loath to depart from any interpretation presented to the Senate in any degree, and the Senate has ample means to ensure that its asuthority not be diminished. Finally, the law does require the president to weigh all executive statements to the Senate, as well as evidence of legislative reliance, in exercising his discretion. This is the standard recommended for such situations by the American Law Institute. it places the responsibility to decide in such ambiguous situations where it belongs—on the president—subject to the usual checks and balances of our constitutional system.

SUBSEQUENT PRACTICE

The administration's study of subsequent practice had not been completed in time to permit Senator Nunn to consider its conclusions. It will show in detail that neither the record of U.S.-Soviet dealings and actions, nor the internal U.S. government process, establishes an authoritative interpretation of the ABM Treaty's application to the development and testing of mobile OPPs. In order words, the notion that a "traditional" interpretation of the treaty has existed since 1972, which the Reagan administration revised in 1985, is hyperbole.

In our dealings with the Soviet Union between 1972 and 1985, our negotiators followed ACDA's position on the treaty—the restrictive interpretation—when relevant issues arose. The Soviets, however, from 1973 until 1978 asserted arguments supportive of the broader view, particularly that Article II(1) covered only conventional systems, and that future systems were dealt with in Agreed Statement D.

The Soviet position began to change after 1978, when ACDA submitted Arms Control Impact Statements to Congress that went into considerable detail on plans for ballistic missile defense (BMD). These statements were the first time since 1972 that the executive branch officially communicated the restrictive view to Congress, a practice which continued until 1985. The Soviets, after 1978, expressed increasing concern about U.S. BMD plans. In 1983, President Reagan announced the SDI program, and the Soviets then began articulating views of the ABM Treaty much narrower than the restrictive interpretation, and having no basis whatever in the treaty language or the negotiating record.

From 1972 through 1985, substantial doubts were periodically raised within the U.S. government concerning the treaty's proper interpretation. In October 1985, the broader interpretation was found by the President to be fully justified by the treaty language and the negotiating record. Nonetheless, as a matter of policy, the SDI program has been structured to achieve its goals while complying with the restrictive interpretation.

This record fails to bind the parties to the restrictive interpretation under international law. The practice of the parties as shown by the record fails to establish any particular meaning of the treaty on the basis of conduct that is consistent, common, and concordant. The Soviet positions since 1985 seem contentious of convenience, and are inconsistent with their positions from 1972 to 1978.

The record of executive representations to Congress also fails to create a legally binding obligation, but its consideration by the president is required by principles similar to those that require him to weigh executive representations during the ratification process. On several occasions, Reagan administration officials informed Congress that the restrictive view was the proper interpretation. The president will have to weigh this evidence in considering whether, when, and on what terms to adopt or implement the broader interpretation.

SENATOR NUNN'S INTERPRETIVE PRINCIPLES

The case for the broader interpretation is substantial and real. It is not, as Senator Nunn suggests, a fabrication. The arguments to which supporters of the restricitve view are being driven as the record is revealed and analyzed demonstrate the weaknesses in that position. To buttress his claims. Senator Nunn resorts to polemics, using the phrase "Traditional Interpretation," when none exists, and labeling as "Sofaer's Reinterpretation" a view shared by Ambassador Paul Nitze, ACDA Director Kenneth Adelman, and all other senior administration officials, and one actually based on what the Soviets argued and insisted upon during the ABM negotiations. While the broader interpretation may have policy implications that some dislike, it follows years of internal doubt as to the proper interpretation of the treaty, and is strongly supported by the first comprehensive studies done of the relevant bodies of evidence.

Senator Nunn resorts to several lines of reasoning, in defending the restrictive view, on which no negotiator could responsibly rely. His assumptions, taken together, could be used as a primer in improper interpretive principles.

Confusing American Desire with Soviet Agreement. Senator Nunn notes the important fact that Ambassador Smith recognized the need to have the Agreement "reflect explicitly" that it would apply to all future types of ABM systems, and not only to ABM systems employing ABM interceptor missiles, ABM launchers, and ABM radars. This statement underlies the U.S. effort to cover "other devices" in Article V(1) explicitly and unambiguously, as well as the U.S. proposal in Article 11(1) for a purely functional definition of "ABM system." The senator uses this statement—and other arguments by U.S. delegates for broad coverage of exotics—as proof that "the U.S. put great emphasis on restricting exotics." But this sort of argument gives more weight to evidence of what the U.S. team wanted than to evidence of what it obtained. The true significance of Smith's statement is that, despite his recognition of the importance of explicit coverage of future systems, the United States agreed at Soviet insistence to delete the explicit coverage it sought in Article V(1), and later to accept an ambiguous definition of ABM systems in Article II(1). Nations do not get credit for their wishes in international negotiations, irrespective of how openly and clearly they are stated. The relevant question is what was agreed, not what was desired.

This fundamental deficiency in analysis is also reflected in the weight given by Senator Nunn to the purely internal conclusions reached by the legal adviser to the SALT I delegation, John Rhinelander. The Rhinelander drafts actually showed his very real doubt that the Soviets ever agreed to the narrow interpretation. Despite specifically questioning whether the Soviets had agreed to coverage in Article V(1) of "other devices," and despite the delegation's failure to adopt his suggestion that the Soviets be asked what they understood the treaty covered, Rhinelander asserted that the Soviets had agreed to cover "other devices." His memorandum in effect contends that the United States had obtained a result precisely the same as would have been obtained through the language proposed by the United States but rejected by the Soviets. An attorney who proposed such a result in representing a private client, or who argued such a position in a court, would have a heavy burden of persuasion.

Senator Nunn asserts, nevertheless, that Rhinelander's "memoranda directly refute the claim that the negotiating records supports the Reinterpretation." In fact, Rhinelander's claims—unconfirmed by the Soviets—are merely the unilateral positions of a U.S. official. They do not constitute evidence of agreement with the Soviets, and cannot conceivably "refute" evidence in the negotiating record that supports the broader interpretation. A proper analysis would test Rhinelander's conclusions by the evidence in the negotiating record, rather than insist that such evidence is refuted because of Rhinelander's untested claims.

Discounting Soviet Positions. Senator Nunn cannot deny the repeated, documented, and unmistakable Soviet opposition to regulating "unknown" devices. Rather than facing up to these persistent claims, illustrated by the Soviet refusal to allow "other devices" in the treaty proper, the senator accepts the suggestion advanced by some former members of the U.S. delegation that the Soviets did not mean what they said on this subject, and were merely fishing for intelligence. This is a dangerously speculative approach to negotiations, allowing wishful thinking to displace reality. Furthermore, Soviet arguments of this sort continued after the U.S. delegation told the Soviets what "other" systems were contemplated.

Even more strange is Senator Nunn's crediting the suggestions of some Soviet negotiators that they had difficulties in obtaining the agreement of Soviet military officials to a proposed compromise. The senator notes that, on December 21, 1971, Soviet negotiators. O.A. Grinevsky and N.S. Kishilov in accepting the U.S. proposal concerning Article II(1) "emphasized 'a very delicate situation within the Soviet Delegation' wherein 'the expression "currently consisting of" had been strongly objected to by some members of the Soviet delegation,'" thus in Senator Nunn's view "revealing that it had taken a struggle to gain approval for Garthoff's proposal." Senator Nunn then faults me for not mentioning or explaining this information, which he credits fully, though it seems no more than the "good guy-bad guy" strategy that is a part of every negotiator's kit.

Disregarding Proper Evidentiary Standards. Senator Nunn takes inappropriate liberties in evaluating the negotiating record. He fails to recognize, for example, that documentary proposals, and other clear evidence, are entitled to far more weight than unconfirmed statements at informal working group meetings, such as Karpov's on September 15, 1971. He goes so far as to treat Mr. Rhinelander's memoranda—which recites the view of one U.S. official to other U.S. officials—as part of the negotiating record, arguing at one point exclusively on the basis of assertions in these memoranda that "the negotiating record demonstrates the parties' understanding that Article IV would apply to exotics." (In fact, Rhinelander recommended that the Soviets be asked about this conclusion, like his claim about Article V(1); but the delegation decided against getting Soviet confirmation.)

Another example of how Senator Nunn gives inappropriate weight to aspects of the record which he finds supportive is his point that the Soviets explicitly recognized that their definition of ABM systems did not preclude special understandings by the parties, some of which were recognized to exist in "Article V." The obligations referred to appear to have been the special provisions regarding multiple launchers and rapid reload capacity. But, in any event, the senator fails to keep in mind that, while the Soviets at one point proposed such language, they dropped the idea, and Article II(1) in its final form defines ABM systems "for the purposes of this treaty . . ."

Senator Nunn also fails to acknowledge that Soviet doctrine allows the Soviets to assert at will that they are not bound by ambiguous formulations. As Professor Abe Chayes has previously recognized, Soviet legal doctrine "holds that a government is bound only to the extent of its express consent." With this principle in mind, Senator Nunn should evaluate what it means, for example, when the United States wins Soviet agreement to a provision that "does not prejudice" the position of either side.

CONCLUSION

The ABM Treaty debate is a tribute to the seriousness with which this nation takes its legal responsibilities. On the other hand, the debate has taken on at times a tone wholly unwarranted by the evidence and the applicable law. The case for the broader interpretation is far too strong to dismiss with polemics and innuendo. In fact, had the Soviets announced an SDI program and claimed the broader interpretation, many who now oppose the administration would be arguing against abrogation of the treaty on the ground that the Soviets had made clear during the negotiation that they were unwilling to accept the U.S. position. That the Soviets have asserted a far more narrow version of the treaty than any responsible U.S. official recognizes as defensible only serves to demonstrate that they would take advantage of the broader interpretation, if they thought it in their interest to do so. Moreover, the widespread acceptance of the fact that the Soviets have materially violated the treaty has led some to claim that the president could renounce the treaty if he chose to do so. This would provide a separate basis in law for adopting the broader interpretation, as a lesser remedy than renunciation, to offset unlawfully gained Soviet advantage.

The Soviets' willingness to interpret the ABM Treaty to suit their needs at any given time, and their readiness to violate the treaty in material respects, need not lead the president to adopt similar standards of behavior. The United States has different standards of conduct and a different system of government than the Soviet Union. The president is committed to the upholding of the law and to consulting fully with Congress and the allies on the implementation of the treaty. But, contrary to Senator Nunn's suggestion, the nation does have an "honorable" basis for regarding the broader interpretation as an option. Indeed, the president and Congress must weigh carefully the interests of the United States in deciding whether to give up an option that the Soviets reserved for themselves, especially in light of material Soviet noncompliance. These are serious matters, worthy of serious, nonpartisan consideration. The American people are far too wise to permit anyone to use the law as a device for pretending that no policy choice was made.

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THE ABM REINTERPRETATION ISSUE

(By Sam Nunn)

For the past two years, the United States has been embroiled in a contentious and arcane internal dispute over the correct interpretation of those portions of the 1972 Anti-Ballistic Missile (ABM) Treaty which pertain to the development and testing of futuristic or so-called exotic ABM systems. This controversy was precipitated in October 1985, when the Reagan administration announced with no advance notice or congressional consultations that the interpretation of the treaty which successive U.S. administrations had upheld since 1972 was incorrect.

The debate on the reinterpretation issue has been necessarily legalistic. Treaties are, after all the law of the land, and the president is charged with executing the law. Moreover, the Senate has a crucial constitutional role in treaty-making and thus has a direct interest in ensuring that treaties are accurately presented and faithfully upheld. If the president can unilaterally change treaty obligations which were clearly understood and accepted by the Senate at the time it consented to ratification, it dramatically alters the Senate's constitutional role as a co-equal partner in this area.

It is imperative, therefore, to subject the administration's case for the reinterpretation to rigorous legal analysis. The following article condenses four reports issued by me during the spring of 1987 which examined in some detail the argumentation and documentation marshalled by State Department legal adviser Abraham D. Sofaer to support his case for the reinterpretation. My analysis finds that the Reagan administration is in serious error on its position on this crucial issue—wrong in its analysis of the Senate ratification debate; wrong in its analysis of the record of subsequent practice, at least insofar as we have been given information on that subject; and wrong in its analysis of the negotiation record itself.

Before examining each of these points in turn, it is essential to make two observations about the broader policy context within which this issue must be debated. First, I do not believe that the reinterpretation debate should be cast in terms of whether one is for or against the ABM Treaty. The treaty was accepted in 1972 on the assumptions first, that the Soviet Union would strictly observe its terms, and second, that significant reductions in strategic offensive arms would be accomplished within five years. Neither expectation has been fulfilled.

The Soviet Union must recognize that the U.S. commitment to the ABM Treaty cannot be deemed unalterable or open-ended—however one interprets the treaty. I am not at this time counseling a U.S. decision to withdraw from the ABM Treaty, a move that would be enormously controversial at home and abroad. Nonetheless, the American public and our allies need to understand that if we cannot solve current strategic vulnerabilities through arms control or our own strategic programs, we may have no recourse but to consider some form of strategic defense.

Second, those who would cast this issue as a question of whether one is for or against Soviet violations of arms control agreements miss the point: there are other, more honorable, responses available to the United States. These include, first, insisting that the Soviets correct the violations; second, proportional U.S. responses; and third, abrogation of the agreement.

HISTORY

The ABM Treaty was signed by President Richard Nixon and General Secretary Leonid Brezhnev on May 26, 1972. On the same day, the heads of the two negotiating delegations, Ambassador Gerard C. Smith and Soviet Deputy Foreign Minister V. S. Semenev, initialled a separate set of Agreed Statements, including Agreed Statement D. which is at the center of the dispute over the correct interpretation of the treaty. The Senate, after extensive hearings and lengthy debate, gave its consent to ratification of the treaty by a vote of 88-2 on August 3. The treaty entered into force on October 3, 1972.[1]

The traditional interpretation of the treaty has included the following principal elements: research on all ABMs, including those using exotic technologies, is permitted; testing and development of fixed, land-based ABM systems or components which are based on "other physical principles (OPP)" (i.e., "exotics") is permitted; testing and development of mobile/space-based exotics is prohibited; and the deployment of all exotics (whether fixed, land-based, or mobile/space-based) is prohibited unless the parties agreed to amend the treaty.

On October 6, 1985, the president's then-national security adviser, Robert C. McFarlane, revealed that the administration was preparing to adopt a new interpretation of the ABM Treaty. This new reading of the obligations undertaken in the treaty appeared to open the door to unrestricted development and testing of the actual components of a space-based strategic defense system utilizing exotic components. Not surprisingly, it provoked a sharply critical response by members of Congress, former ABM negotiators, allied leaders, and the Soviet government.

Five days after McFarlane's statement, the president decided that the Strategic Defense Initiative (SDI) program would continue for the indefinite future to be conformed to the traditional interpretation, though he noted his agreement with the legal validity of the broader interpretation. This decision was formally announced by Secretary of State George P. Shultz at a meeting of NATO parliamentarians in San Francisco on October 14.

The reinterpretation was based on a preliminary legal opinion which had been written early in October by Judge Sofaer. This opinion relied exclusively on Sofaer's reading of the treaty text and the negotiating record and omitted any analysis of either the Senate ratification debate or the record of subsequent practice. A highly flawed examination of these two important elements of the treaty interpretation process was submitted by Sofaer to the Congress in late October, 1985, but the legal adviser disavowed this analysis in 1987, conceding it was "inadequate."[2] Sofaer attributed this memo to unnamed "young lawyers" in his office. As of this date, the Congress has yet to receive an authoritative analysis by Sofaer of the record of subsequent practice. His examination of the Senate ratification debate was completed on May 11, 1987.

Taking Sofaer's latest reports into account, the main lines of the reinterpretation argument may now be summarized as follows. Sofaer concedes that the traditional interpretation of the treaty is "plausible" but argues that the text of the treaty is ambiguous and that it "can more reasonably be read to support a broader interpretation"[3]—i.e., that the treaty permits the development and testing of all ABM systems using exotics.

Sofaer argues further that the record of the Senate ratification debate "fails to establish that the Senate's consent to ratification was based on a generally held understanding of the Senate that the Treaty prohibits development and testing of mobile OPP devices."[4] However, Sofaer also concedes that the Senate ratification record "contains Executive representations to the Senate which support the restrictive interpretation, which were apparently cleared in the government by the NSC staff, and upon which Senators could justifiably have relied in granting advice and consent."[5]

Judge Sofaer attempts to reconcile these two apparently contradictory statements by arguing that the absence of any formal indication (e.g., a reservation, understanding, or condition) that the Senate as a body understood the treaty to ban the development or testing of mobile/space-based exotics suggests that senators had no such understanding—even though they could "justifiably" have achieved such an understanding.[6] This line of argument overlooks the fact that the Senate had no need to attach such an understanding or condition to its resolution of ratification, since, with one exception, the key senators who focused on this issue did not disagree as a matter of policy with the position explained by Nixon administration officials—that is, that the treaty banned the development or testing of all exotic ABMs except those which were fixed and land based. The one exception was Senator James Buckley, who cited his disagreement with the restriction on space-based exotics as a principal reason for his voting against the treaty.

With regard to the negotiating record, Sofaer now concedes that one "could make an arguable case" for the traditional interpretation.[7] Nevertheless, Sofaer still stands by his reinterpretation, declaring:

"This line of argument, based as it is on scattered, oral statements and unexpressed intentions, fails to undercut the strong case that the Soviets had not agreed to the U.S. view on all these issues."[8]

SENATE RATIFICATION

In *The Federalist Papers* (No. 75), Alexander Hamilton clearly illustrated the intent of the framers of the Constitution of the United States that treaty-making be a shared power between Congress and the president based on mutual trust: "The power in question seems . . . to form a distinct department, and to belong, properly, neither to the legislative nor the executive."[9] The Senate plays a full and critical role in the treaty-making of the United States, and consonant with these responsibilities, it carefully considered the ABM Treaty in 1972. It was the subject of nine days of hearings held by the Senate Armed Services Committee, six days of hearings by the Senate Foreign Relations Committee, and a thorough floor debate.

Nowhere in this record is there a single statement in which any senator or executive branch official explicitly states that the development or testing of mobile/space-based exotics is permitted under the treaty—a point Sofaer conceded at the March 26, 1987 joint Foreign Relations/Judiciary hearing. In contrast, the record does contain a series of authoritative statements and insertions for the record explicitly supporting the traditional view that the treaty prohibits testing and development of mobile/space-based exotics—a point which, as previously noted, Sofaer also concedes.

Furthermore, Senator Henry M. Jackson went to considerable lengths to address the question of exotics during the ratification debate. Senator Jackson elicited a written clarification of the meaning of the treaty on the subject of exotics from Dr. John Foster, director of defense research and engineering, a clarification that directly contradicts the reinterpretation of the treaty. Senator Jackson also elicited the testimony of the Joint Chiefs of Staff that "we can look at futuristic systems as long as they are fixed and land based."[10] General Bruce Palmer, Jr., acting army chief of staff, declared that "The Chiefs were aware of that and had agreed to that and that was a fundamental part of the final agreement."[11]

The record also contains various general statements about the development, testing, or deployment of exotics, without reference to their basing mode. But because these statements do not distinguish between fixed, land-based systems and mobile/space-based systems, they carry little probative value either way with respect to the correct interpretation.

In brief, the record clearly demonstrates that the key figures in the Senate debate—Senators Henry Jackson, James Buckley, Barry Goldwater, Strom Thurmond, John Sherman Cooper, and John Sparkman—understood that the development, testing, or deployment of space-based exotics was not permitted under the treaty. Moreover, there was clearly a perception within the Senate that the ratification hearings had served a crucial function in clarifying the treaty's terms. Senator Jackson, for example, observed in his final speech on the treaty just prior to the vote that "some of these provisions had been interpreted in several different ways depending on the witness commenting upon them. I believe the hearings were helpful both in clarifying the obligations we have undertaken and in understanding the implications for our future security."[12]

The record of these proceedings makes a compelling case for the conclusion that the Nixon administration presented the Senate with the traditional interpretation of the treaty's limits on mobile/space-based exotics and that the Senate clearly understood this to be the case at the time it gave its advice and consent to the ratification of the treaty. In my judgment, this conclusion is compelling beyond a reasonable doubt.

To defend his conclusions, Sofaer resorts to a new and profoundly worrisome new doctrine with regard to Senate ratification, one which risks serious constitutional confrontation between the executive and legislative branches. He argues that when the Senate gives its advice and consent to a treaty, it is to the treaty that was negotiated, "irrespective of the explanations it is provided."[13] This doctrine is totally unacceptable. If adopted, it would inflict serious long-term damage on the institutional relationship between the president and the Congress and have destructive consequences for the conduct of U.S. foreign policy. It is contrary to the long-term interests of the United States to assert that statements made to the Senate have no standing with other parties to a treaty.

Unless this doctrine is modified, a reasonably prudent Senate would have to take the following steps. First, the Senate would have to obtain the negotiating record for each treaty it reviews, since the Senate certainly could not trust executive branch witnesses. This would require the otherwise undesirable step of making public all confidential materials associated with the record. Second, the Senate would have to record each and every understanding it has as to the meaning of a treaty in its resolution of ratification. Obviously, Senate resolutions of ratification prepared under this doctrine would be so laden as to sink under their own weight. More fundamentally, they would effectively precipitate a renegotiation with all states party to the treaty since they might well object to the wording employed in stating the Senate's interpretation.

I sincerely hope that this course of action will not be required. I would much prefer to return to a method of conducting treaty ratification proceedings wherein the Senate can confidently rely upon the representations of executive branch officials. This approach has served the nation well for 200 years and can continue to do so.

SUBSEQUENT PRACTICE

Both international law and U.S. domestic law recognize that the practices of the parties, including their statements, provide evidence of their intent with regard to the meaning of a treaty. However, as previously noted, Sofaer has yet to complete his review of this crucial element of treaty interpretation—although almost two years have elapsed since the administration declared the reinterpretation legally correct.

Regarding Soviet practice, it is essential to note that neither the Reagan administration nor any of its predecessors has asserted that the Soviet Union has developed or tested a mobile/space-based system or component in contravention of the traditional view of the treaty. No such finding has ever been included in any compliance report submitted by this administration, including that of March 10, 1987.[14] Thus one must attempt to discern Soviet attitudes toward the correct interpretation of the ABM Treaty from statements by their Soviet officials, rather than by actual Soviet conduct or behavior.

On May 14, 1987, the State Department provided the Senate with a previously unavailable volume of classified documents bearing on the question of subsequent practice.[15] A review of this material reveals that the case for the reinterpretation is substantially weaker than the administration's previous analysis had indicated. In particular, Soviet statements in March 1976 during the SALT II negotiations and in May 1985 in the Standing Consultative Commission unequivocally support the traditional interpretation.

THE NEGOTIATING RECORD

Under both international and domestic law, resort may be had to the negotiating history of a treaty if other steps fail to reveal the meaning of a particular provision. Because Judge Sofaer concludes that the treaty text is ambiguous, he contends that the negotiating record must be examined. Indeed, advocates of the broader interpretation now appear to be hanging their hats on the negotiating record, arguing that it provides persuasive and compelling support for their case.

Unfortunately, there is no single document or set of documents that constitutes an official negotiating history. There is no transcript of the proceedings. Instead, we have a variety of documents of uneven quality. Some involve detailed recollections or conversations, others contain nothing more than cryptic comments. Having been through this material, I well understand why as a matter of international law, negotiating records are regarded as the least persuasive evidence of a treaty's meanings.

Based on my review, I believe that Judge Sofaer has identified some ambiguities in this record. One cannot help but wish that the negotiators had achieved a higher level of clarity and precision in their drafting of this accord. Of course, as we in the Senate well know, writing clear law is a worthy goal but one which is not easily attained. Notwithstanding these ambiguities, however, the negotiating record contains substantial and credible information which indicates that the Soviet Union did agree that the development and testing of mobile/space-based exotics was banned.

In the final analysis, Judge Sofaer's case for the reinterpretation rests on his connection that Agreed Statement D is the only provision in the treaty in which the Soviet Union consented to limit exotic ABM systems or components. Agreed Statement D reads:

"In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIV of the Treaty."

Consistent with this position, Sofaer originally claimed that:

(a) Article III, which restricts ABM deployments to two specified sites, did not establish a ban on the deployment of exotics;

(b) Article, II, which defines the terms used throughout the Treaty, did not cover exotics;

(c) Article IV, which deals with permissible development and testing, did not limit the development and testing, did not limit the development and testing of exotics to agreed test ranges; and

(d) Article V, which limits mobile/space-based ABM systems and components, did not apply to exotics.

For the reinterpretation to be valid, Judge Sofaer cannot simply be right on one of these four points; nor can he afford to be right on only two or three of these points. Rather, to substantiate his reinterpretation, Judge Sofaer must be right on four out of four of these points.

A careful review of the negotiating documents provided to the Senate reveals that Judge Sofaer is not right on four out of four of these points. He is not right on three of them; nor is he right on two of them. Indeed, Judge Sofaer is wrong on all four points.

1. *Article III.* Article III reads: "Each Party undertakes not to deploy ABM systems of their components except that . . . [200 fixed, land-based interceptors are permitted at two designated deployment sites]." The negotiating record established that on April 28, 1972, Oleg Grinevsky, the senior Soviet negotiator tasked with reaching agreement on this provision, accepted the final U.S. proposal for the introductory language in this article after he specifically acknowledged that it would have the effect of banning the deployment of what he called "other systems"—that is, by his own usage of those words, exotic ABM components.[16]

In the latest version of his review of the negotiating record, dated May 11, 1987, Sofaer concedes that Article III covers exotics:

"Discussions during the negotiation of Agreed Statement D, and thereafter during the final drafting of Article III's introductory language, indicate that the parties believed that Articles I, II, and III together expressed their intention to bar deployment of all OPP devices." [17]

Sofaer's concession on Article III exposes a fundamental deficiency in his entire line of reasoning. If Article III prevents the deployment of exotics, then the phrase "ABM systems or their components," as it appears in that provision, necessarily incorporates exotics. Since the definitions of terms used in the treaty are provided exclusively by Article II, the phrase "ABM systems or their components" must have the same meaning in Article II and Article III. In other words, the definition of "ABM systems or their components" in Article II necessarily incorporates exotics—thereby prohibiting the development, testing, or deployment of ABMs using exotics. In short, if it is established that Article III covers exotics—as Sofaer now concedes—then the entire case for the reinterpretation is undermined.

Sofaer recognizes this problem in his May 11, 1987 report and, in another extraordinary concession, now admits that it allows one to "make an arguable case" for the traditional interpretation:

"The argument could be made that this change showed that the Soviets had come to accept the U.S. view that 'ABM Systems' should be defined throughout the Treaty in purely functional terms. This assumed result, together with the references by [Soviet senior negotiator Victor] Karpov to 'collateral' obligations in the drafting of Article II(1), and his reference on September 15 to the inclusion of 'any type of future component' in Article V(1), could make an arguable case for the proposition that Article V(1) should be viewed in the final analysis as applying fully to all mobile OPP devices." [18]

Nevertheless, Sofaer stands by his reinterpretation, declaring:

"This line of argument, based as it is on scattered, oral statements and unexpressed intentions, fails to undercut the strong case that the Soviets had not agreed to the U.S. view on all these issues." [19]

It should be emphasized, however, that what Sofaer calls "scattered, oral statements" by Soviet officials were in fact statements made by the senior Soviet negotiators tasked with reaching agreement on specific articles of the treaty which were communicated to their American counterparts during precisely those formal negotiating sessions at which agreement was reached on these provisions. Moreover, these statements were communicated to the U.S. side for the express purpose of establishing the intent of the parties as to the interpretation of the meaning and effect of the texts on which agreement was then being reached.

2. *Article II.* Article II reads: "For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of . . . [ABM missiles,

launchers and radars]." The negotiating record reveals that on December 20, 1971, the U.S. side proposed a word change (adding the connective phrase "currently consisting of") after noting explicitly that both sides recognized that there were going to be "future systems" (i.e., exotics), and therefore the connective phrase used in the article had to take account of this fact.[20] Moreover, the negotiating record levels that when O.A. Grinevsky, the senior Soviet negotiator tasked with reaching agreement on this provision, accepted the U.S. proposal the next day, he confided in his American counterparts that the U.S. proposal had been accepted by the Soviet side over the strong opposition of some members within his delegation (i.e., the Soviet military).[21]

In his May 11, 1987 report, Sofaer insists that even though he now concedes that exotics are covered under Article III:

"This fact does not establish, however, that Article II(1) defined ABM systems, as used in the Treaty text, to include all OPP devices." [22]

This assertion not only flies in the face of logic, it is also inconsistent with yet another significant concession in his new report—Sofaer's admission that the language of Article II is "functional." In his May 11, 1987 report, Sofaer states:

"The Parties intended ultimately to regulate all ABM devices that could perform the ABM function, as reflected in the functional language of Article II(1)." [23]

In short, Sofaer is now conceding that Article II was expressly drafted by the two sides to reflect their recognition that there were going to be exotic ABM systems and that Article II was therefore made "functional" in scope. This concession forces Sofaer to try to reconcile his admission that the Soviets intended Article II to be "functional" in scope with his insistence that they did not intend Article II to limit "any ABM systems other than the ones currently consisting of ABM missiles, launchers, and radars."

Sofaer's approach to this conundrum appears to be to suggest that the Soviet side agreed to draft Article II in a functional form in anticipation of the need for limits on future systems and only after achieving a consensus with the U.S. side that the question of agreeing on precise limitations would be deferred until such time as such systems began to be developed and tested pursuant to Agreed Statement D. As noted above, Sofaer states that, "The Parties intended ultimately to regulate all ABM devices that could perform the ABM function, as reflected in the functional language of Article II(1)."

Sofaer fails to explain how Article II could have such a bifurcated effort—that is, banning the deployment of exotics under Article III immediately upon the treaty's taking effect while reserving until some future date the question of additional limitations on exotics in the area of development or testing.

In short, Sofaer's position on the applicability of Article II to other provisions in the treaty is inconsistent and unpersuasive. In conjunction with his concession on Article III, Sofaer's acknowledgement of the "functional" scope of Article II is devastating to his reinterpretation theory.

3. *Article IV.* Article IV reads: "The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges." The internal working documents of the U.S. delegation reveal that prior to the signing of the treaty on May 26, 1972, the delegation formally and collectively agreed that the Soviet negotiators had agreed that this provision restricted the development and testing of fixed, land-based exotics to agreed test ranges. The final article-by-article analysis of the treaty prepared by John Rhinelander, the delegation's legal adviser, two days before the treaty was signed describes Article IV in the following terms:

"This Article would permit development and testing only at current or additionally agreed test ranges of fixed, land-based devices capable of substituting for fixed, land-based ABM interceptor missiles, ABM launchers, or ABM radars, the deployment of which is prohibited by Article III." [24]

Sofaer offers no convincing rebuttal of this evidence.

4. *Article V.* Article V reads: "Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based." The negotiating record reveals that on September 15, 1971, U.S. negotiator Sidney Graybeal obtained a binding commitment from Victor Karpov, the senior Soviet negotiator tasked with reaching agreement on this article, that the Soviet Union would interpret the words "ABM components" as they appeared in this provision as applying to "any type of present or future components" of ABM systems.[25]

Sofaer's case for the reinterpretation of the ABM Treaty rests in large measure on the hypothesis that Karpov did not mean what he appeared to say on September 15, 1971. Sofaer contends that Karpov did not intend to agree that all types of future components of ABM systems would be covered by Article V(1), but rather only some types. Specifically, Sofaer argues that Karpov was only agreeing that future versions or follow-on generations of then-current ABM components (i.e., ABM missiles, launchers, and radars) would be subject to this provision.[26] To illustrate, this would mean that the Soviet Union could not develop, test or deploy in a mobile/space-based mode the ABM missiles, launchers, or radars then-deployed around Moscow, nor could it develop, test or deploy a future version of any of these three fixed, land-based ABM components in any of these mobile basing modes, but it could develop and test all mobile/space-based ABM components other than missiles, launchers or radars (i.e., all exotics).

Sofaer presents no direct evidence that Karpov excluded exotics from coverage under Article V(1). He points to no explicit statement in the negotiating record wherein Karpov or any other Soviet negotiator expressly declared that this provision did not apply to such systems. Instead, Sofaer's case is basically deductive and inferential.

The central premise of Sofaer's argument is that the wording of the September 15 Karpov-Graybeal understanding consisted of narrow "words of art" which effectively excluded mobile/space-launched ABMs using exotics.[27] However, this hypothesis is inconsistent with Sofaer's own analysis of Agreed Statement D. Sofaer fails to explain how Agreed Statement D, which uses the world "components," can be read to ban deployment of exotics, while the September 15 Graybeal-Karpov exchange—which used the world "components"—cannot be read to apply to exotics because it did not expressly use the world "devices."

An even more substantial problem for Sofaer's suggestion that "components" and "devices" were narrow words of art is that it is directly contradicted throughout the negotiating documents. Although the original texts of the formal U.S. proposals for what became Article V(1) and Agreed Statement D used the words "other devices" in referring to futuristic systems, the negotiating documents are replete with examples in which Soviet and American negotiators routinely referred to "future systems" or "future components" when they were talking about lasers and other exotics. Rather than revealing a scrupulous observance of a narrow definition of the words "systems" and "components"—as Sofaer claims—the record indicates an extraordinary degree of interchangeability of such phrases as "future systems," "future components," "future devices," "future means," "future types," and "future kinds."

A second line of argument raised by Sofaer in challenging the traditional view of the September 15 Karpov-Graybeal understanding on Article V is that "Had the Soviets agreed to prohibit development, testing, and deployment of all future, unknown mobile 'devices' that could replace known systems or components, they should have been far more accommodating in accepting Article 6(1)." [30] Rather than being more receptive to limits on fixed, land-based exotics, however, Sofaer concludes that the record demonstrates that the Soviet opposition to attempting to regulate future, unknown substitute devices "continued unabated" after September 15.[31] This view reflects evidence in the negotiating record that the parties continued in November, December, and January to discuss exotics, without expressly distinguishing between fixed, land-based systems and mobile/space-based systems.

However, there is not a single instance in the negotiating record in which a Soviet delegate denies that the September 15 agreement on Article V(1) applied to mobile/space-based "exotics." There is no statement in the post-September time frame in which a Soviet negotiator says that Karpov had intended that the only "future ABM components" covered by this provision were future versions of the three then-current ABM components. Nor is there any indication in the documents submitted to the Senate in 1986 that the Soviets ever informed the U.S. delegation that it had decided to reverse its position on these questions, that it had been overruled by Moscow, or that Karpov had erred.

Moreover, Sofaer's hypothesis discounts the fact that as a result of the key September 15 discussion, the two sides agreed to remove the brackets from Article V(1) (thereby signifying agreement on that portion of the treaty dealing with mobile/space-based exotics) while agreeing to leave the brackets around the separate U.S. proposal dealing with fixed, land-based exotics (thereby signifying continued disagreement). In short, in the context of the September 15 breakthrough, it would have been abundantly clear to both parties that the discussions on future systems in November and December were focused on a provision in the Joint Draft Text that remained bracketed—that is, the provision proposed by the United States for limiting fixed, land-based exotics.

In addition to these deficiencies in Sofaer's analysis of the negotiating history of Articles II, III, IV, and V, the credibility of his analysis is undermined by a number of serious omissions. These include:

His failure to note or take into account numerous statements by Soviet negotiators indicating possible flexibility on the U.S. proposals on exotics;

His failure to note or take into account numerous statements by Soviet negotiators which contradict his hypothesis that the Soviets did not associate the word "components" with exotics;

His failure to note or take into account the fact that both sides agreed that Article II, standing alone, established no obligations;

His failure to note or take into account the split within the Soviet delegation over its acceptance of the U.S. proposal for Article II;

His failure to adequately present the role played in the negotiating record by the U.S. interest in protecting the right to deploy ABM "adjuncts";

His failure to note numerous comments in the analyses of the treaty text prepared by the U.S. delegation's legal adviser that substantiate the traditional interpretation;

His failure to note or take into account the overriding importance both sides attached to preventing any circumvention of the treaty's limits on deployment through clandestine deployments disguised as permitted deployment and testing activities—i.e., the central role of Article IV in maintaining the integrity of the agreement; and

His failure to consult with or interview all but one of the former U.S. ABM negotiators, even though he speculates on the intent which underlay the statements and actions of these U.S. officials at various points in the negotiations.

Based on my review, I have concluded that the preponderance of evidence in the negotiating record supports the understanding which the Senate held at the time it gave its advice and consent to the ratification of the treaty—that is, the traditional interpretation. In a situation where the U.S. Senate, the former U.S. ABM negotiators, and four successive administrations (including, prior to October 1985, the Reagan administration) have upheld the traditional interpretation, the burden of proof is on those who would claim that this has all been an extraordinary mistake. In light of the basic flaws and repeated omissions in Judge Sofaer's analysis of the negotiating record, I do not believe that the case presented to date by the administration meets this test.

CONCLUSIONS

For 200 years, the United States has stood for the rule of law as embodied in our Constitution. The reinterpretation issue must be approached not with an eye toward near-term gains, but rather with a decent respect for the long-term interests of the rule of law and the continued integrity of this Constitution—that magnificent document whose two hundredth birthday we celebrate this year.

With the legal issue behind us, I hope that we can now begin to address the real problems that confront our nation in the areas of arms control and strategic balance. We must recognize that by upholding the traditional interpretation of the treaty, we certainly will not eliminate all of the ambiguities with respect to the effect of the treaty. The United States and the Soviet Union have not reached a meeting of the minds on the precise meaning of such important words as "development," "component," "testing in an ABM mode," and "other physical principles." The appropriate forum for attempting to remove these ambiguities is the Standing Consultative Commission (SCC), as specified in the treaty. I strongly recommend that the SCC be tasked with the very important job of discussing these terms with the Soviet representatives and trying to come to mutual agreement.

More important, we must also continue to negotiate toward agreement in Geneva on a new accord limiting offensive as well as defensive systems which would supercede the ABM Treaty as well as SALT II. Nothing would be better than to render this whole "broad versus narrow" argument moot by entering into a comprehensive and stabilizing agreement on offense and defense, with all terms defined with precision, and move on into the new arms control era.

FOOTNOTES

[1] Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, 23 U.S.T. 3435, T.I.A.S. No. 7503 (hereinafter cited as AMB Treaty).

[2] Statement of Abraham D. Sofaer before the Senate Foreign Relations and Judiciary Committee, March 26, 1987, p. 3.

[3] Strategic Defense Initiative, *Hearings Before the Senate Committee on Armed Services*, 99th Cong., 1st Sess., at 142 (1985).

[4] Office of the Legal Adviser, Department of State, "The ABM Treaty, Part II: Ratification Process," May 11, 1987, p. 2.

[5] Id. at 4.

[6] Id. at 2.

[7] Office of the Legal Adviser, Department of State, "The ABM Treaty, Part I: Treaty Language and Negotiating History," May 11, 1987, p. 71.

[8] Id.

[9] *The Federalist Papers*, No. 75, *Treaties and Other International Agreements: The Role of the Senate*, S. Rpt. No. 205, 98th Cong., 2nd Sess. at 29 (1984) (prepared for the Senate Foreign Relations Committee by the Congressional Research Service).

[10] *Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on the Limitation of Strategic Offensive Arms; Hearings Before the Senate Committee on Armed Services*, 92nd Cong., 2nd Sess., at 443 (1972).

[11] Id.

[12] 118 *Congressional Record* at 26, 693 (1972).

[13] Supra, note 2 at 31.

[14] The President's Unclassified Report on Soviet Noncompliance with Arms Control Agreements, March 10, 1987.

[15] "Documents on Subsequent Practice: ABM Treaty," May 13, 1987, with transmittal letter, dated May 14, 1987, from the Acting Secretary of State Michael H. Armacost to Senators Pell and Helms, the Chairman and Ranking Member, respectively, of the Senate Foreign Relations Committee.

[16] U.S. SALT I Delegation Memcon #A-863 (April 28, 1972).

[17] Supra, note 7 at 6.

[18] Id. at 71.

[19] Id.

[20] U.S. SALT I Delegation Memcon #A-677 (December 20, 1971).

[21] U.S. SALT I Delegation Memcon #A-678 (December 21, 1971).

[22] Supra, note 7 at 6.

[23] Id.

[24] "Article-by-Article Analysis of ABM Treaty," Memo prepared for the U.S. SALT I Delegation by John B. Rhinelander, Legal Adviser, May 24, 1972.

[25] U.S. SALT I Delegation Memcon #A-503 (September 15, 1971).

[26] Supra, note 7 at 32-33.

[27] Id.

[28] NSDM 127 printed in Sofaer, supra, note 7 at 18-19.

[29] U.S. SALT I Delegation Cable #SALT 1056.

[30] Supra, note 7 at 33.

[31] Id.

Mr. SPECTER. I thank the Chair and I yield the floor.

The **PRESIDING OFFICER.** The resolution will be received and appropriately referred.

Mr. SPECTER. I thank the Chair.

The **PRESIDING OFFICER.** The Senator from Montana.

JAIME ONGPIN

Mr. MELCHER. Mr. President, this morning's news accounts reported the apparent suicide of Jaime Ongpin in Manila.

Jaime Ongpin was first of all a very capable, proven entrepreneur, business person, a financial expert, and a high government official in the Government of the Philippines.

I lament, Jaime Ongpin's death.

These are my remarks regarding that lament:

MY LAMENT ON JAIME ONGPIN'S DEATH

My God, Jaime, why couldn't you wait?

The continuing bitter conditions, political turmoil and conflict of Filipinos are not so desperate to cause you to end your personal turmoil by taking your own life. Jaime, my friend, whatever the circumstances were of political juggling within your government, they are not so bad as to cause you so much anguish and depression that you should feel that those problems could not be reconciled.

For the nine decades past, the lives of Filipinos and Americans have become intertwined through a special relationship of mutual benefits. You were one of the bright spots in the Philippine business community; you were a shining star in the Aquino cabinet; you were a force in the government of the Philippines who generated confidence in the U.S. Congress and government that the poor times for Filipinos would eventually end by rebuilding the economy and stabilizing the government.

My consultations with you here and by telephone when last we talked were confidence-builders in the capabilities of the Filipino people to overcome the difficult days of political transition. In planning for a January visit to Manila with a group of other Senators, you were high on my list for a continuation of consultations on how best to implement cooperation between our government and yours and our people and yours. Why could you not wait for us, Jaime? Frustration with the inability of government to act prudently and promptly to alleviate the suffering of people, to correct sagging economies, and to shore up mutual national defense relationships are problems that we all share in common.

I very much regret not having consulted with you by telephone two weeks ago when I placed your name on my list of appointments I would seek in Manila in January. It would have been a consultation that I highly valued. And who can tell but what it would have helped me to help you to help all Filipinos. For that was your goal and that is my goal, and that special respect we had for each other was one of the building blocks on which to build better days for our respective countries.

U.S. wheat sales have been re-established, a new and better arrangement for your sugar workers is coming, and seed funds for Filipino cooperatives are in the making. All of these had your input. I am saddened by your passing, Jaime, but could you not have waited?

God rest your soul, my friend. I pray for you in your passing, and I pray for all others that continue this work in our two countries that we not give up, that we continue to resolve the difficulties of these days, for they are resolvable.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **MATSUNAGA**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PEARL HARBOR SHIPYARD DAY

Mr. **MATSUNAGA**. Mr. President, I rise to note an anniversary being observed this day at Pearl Harbor Naval Shipyard in Hawaii, one that celebrates the triumph of life over the death which yesterday's date recalls.

The ceremony commemorates the rescue of 32 sailors trapped in pitch black compartments of the capsized battleship U.S.S. *Oklahoma*, slowly filling with sea water following the December 7, 1941, attack by Japan's Air Force. Their rescuers were 19 Pearl Harbor shipyard employees who had begun their efforts to free the imprisoned sailors in the midst of bombing and antiaircraft fire. Using pneumatic chipping guns they labored unceasingly until they succeeded in breaking through to those entrapped. Their work had taken them through a night illuminated by the eerie light from fires aboard the battleship U.S.S. *Arizona*, sinking nearby.

Among those at the observance today will be Mr. Albert Ellis of Los Angeles, CA, the *Oklahoma's* paymaster and the last 1 of the 32 sailors to be rescued. He will be recalling that day with Mr. Richard Goings of Kaneohe, HI, the last surviving shipyard employee of that intrepid group of rescuers. The dauntless efforts of the shipyard crew will be saluted in remarks by Adm. Ronald Hays, Commander-in-Chief of the U.S. Pacific Forces.

Today is a date to be remembered not in infamy, Mr. President, but in glory to the dedicated spirit of our country's naval shipyard workers.

So, Mr. President, for myself, Mr. INOUYE, Mr. BOREN and Mr. NICKLES, I send a sense of the Senate resolution to the desk to designate this day, December 8, 1987, as "Pearl Harbor Shipyard Day," and ask for its immediate consideration.

The **PRESIDING OFFICER**. Is there objection to the immediate consideration of the resolution?

Mr. **BYRD**. Mr. President, this matter has been cleared on this side of the aisle and I have been informed by the leadership on the other side that it has been cleared over there. So there is no objection.

The **PRESIDING OFFICER**. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 340) to designate December 8, 1987 as "Pearl Harbor Shipyard Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. **MATSUNAGA**. Mr. President, since it has been cleared on both sides of the aisle, I urge that the resolution be adopted.

The **PRESIDING OFFICER**. Is there further debate? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 340) was agreed to.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S. RES. 340

Whereas December 8th, 1987, commemorates the 46th anniversary of the rescue of 32 trapped crew members of the capsized battleship, U.S.S. *Oklahoma*, at Pearl Harbor Naval Base as a consequence of the December 7th, 1941 attack by aircraft of the Japanese Imperial Navy;

Whereas this rescue was achieved by 19 civilian shipyard employees of the Naval Base working with pneumatic chipping guns to free the crew members entrapped in pitch black compartments which were slowly filling with water;

Whereas this rescue effort commenced an hour before the fighting on the December 7th attack had subsided and was performed throughout that evening under the illumination of fires from the vessel's sister ship, the U.S.S. *Arizona*, sinking nearby, and continued into the following day, December 8th, until each and every one of the 32 entrapped survivors was found and freed;

Whereas December 8th, 1941, is a day to be remembered not in infamy, but, in honor of the heroic spirit of our country's Naval shipyard workers;

Whereas on this 46th anniversary of this gallant rescue there will be held a memorial ceremony at Pearl Harbor to be attended by the last of these survivors to be freed, Mr. Albert Ellis of Los Angeles, California, then the ship's paymaster; and by Richard Goings of Kaneohe, Hawaii, the last surviving member of the 19-member shipyard rescue team, as well as by the present Commander-in-Chief of the US Pacific Forces, Admiral Ronald Hays: Now, therefore, be it

Resolved, That it is the sense of the Senate that December 8, 1987, should be designated as "Pearl Harbor Shipyard Day".

Mr. **MATSUNAGA**. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. **BYRD**. I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. **MATSUNAGA**. Mr. President, I thank the distinguished majority leader for agreeing to the immediate consideration of the resolution.

Mr. **BYRD**. Mr. President, I thank the Senator.

Mr. **MATSUNAGA**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The Senator from Hawaii having suggested the absence of a quorum, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SENATOR DASCHLE RECEIVES GOLDEN GAVEL AWARD

Mr. **BYRD**. Mr. President, on December 3, at approximately 4:50 p.m., the Senator from South Dakota [Mr. DASCHLE] became the second Democratic Senator to preside for 100 hours during the first session of the 100th Congress. This qualifies him for the "Golden Gavel Award," which is presented to those Senators who preside for 100 hours during a session.

Presiding over the Senate is one of the best methods by which a Senator may become acquainted, in a cursory way, at least, with the rules of the Senate. For new Senators, it is a good learning experience.

The Senator from South Dakota [Mr. DASCHLE] has shown great enthusiasm for learning about the Senate's legislative process. This eagerness has now been expressed in a very tangible manner by the fact that he has now presided for 100 hours.

Senator DASCHLE has performed the duties of the chair with careful attention and fairness, in addition, he habitually arrives promptly on the floor for his scheduled presiding time.

The Senate relies on experienced presiding officers. Now that Senator DASCHLE has achieved the goal of presiding for 100 hours, I hope that he will continue to give us the benefit of this experience by presiding for another 100 hours during the second session of the 100th Congress.

Mr. President, it does come with some considerable degree of inconvenience and sacrifice on the part of those who preside. It is not that they do not have plenty of other things to do. There is committee work. There is work in their offices and there are letters on the Senator's desk who is now presiding, letters right now waiting for his attention from constituents and letters waiting for his signature. But, also, this is a duty here that has to be fulfilled and it is important duty.

So the Senator from Florida [Mr. GRAHAM] for the moment is presiding, and it means that he will have to be a little later tonight going home or he will have to take more work with him when he goes home.

So it is a duty that we should be cognizant of and I think we should pay tribute to those who give of their time, as our new Members are doing, to preside over the Senate.

The **PRESIDING OFFICER.** The Senator from Hawaii.

Mr. **MATSUNAGA.** I wish to join with the majority leader in congratulating Senator DASCHLE for becoming winner of the Golden Gavel. As a proud possessor of the Golden Gavel myself, I feel that perhaps, with the joining of Senator DASCHLE, the value of the gavel—which I have decorating my office—has appreciated.

So congratulations to you, Senator DASCHLE.

Mr. **BYRD.** The distinguished Republican leader has authorized me to proceed in executive session to call up and consider and confirm certain nominations on the Executive Calendar. Mr. DOLE has indicated that he does not need to be here for that. He knows what is going to be done, and he has given his approval and clearance of these nominations. So I will, therefore, proceed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. **BYRD.** Mr. President, the following nominations have been cleared on the other side of the aisle and on this side of the aisle: Calendar Order No. 444, on page 3 of the Executive Calendar under the judiciary, and going through Calendar Order No. 455, on page 4, inclusive.

I therefore ask unanimous consent, Mr. President, that the Senate go into executive session; that the Senate proceed with the consideration and confirmation of the aforementioned calendar orders on the Executive Calendar, that they be confirmed en bloc; that the motion to reconsider en bloc be laid on the table en bloc; that the President be immediately notified of the confirmations of the nominees; that they be spread severally upon the RECORD; that statements by Senators SASSER, BRADLEY, and LAUTENBERG appropriately appear in the RECORD as though read; and that the Senate return to legislative session.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Jerome Turner, of Tennessee, to be U.S. district judge for the western district of Tennessee.

Sam R. Cummings, of Texas, to be U.S. district judge for the northern district of Texas.

Franklin S. Van Antwerpen, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

Dean Whipple, of Missouri, to be U.S. district judge for the western district of Missouri.

Alfred M. Wolin, of New Jersey, to be U.S. district judge for the district of New Jersey.

Robert S. Gawthrop, III, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

DEPARTMENT OF JUSTICE

William S. Rose, Jr., of South Carolina, to be an Assistant Attorney General.

Robert J. Wortham, of Texas, to be U.S. attorney for the eastern district of Texas for the term of 4 years (reappointment).

Samuel A. Alito, Jr., of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years, vice W. Hunt Dumont, resigned.

John A McKay, of Alaska, to be U.S. marshal for the district of Alaska for the term of 4 years, vice William H. Opel, resigned.

Alfonso Solis, of New Mexico, to be U.S. marshal for the district of New Mexico for the term of 4 years, vice Rudolph G. Miller, resigned.

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1990 (reappointment).

CONFIRMATION OF JEROME TURNER AS FEDERAL DISTRICT JUDGE

Mr. **SASSER.** Mr. President, I am pleased that the Senate has acted quickly in confirming the nomination of Jerome Turner to be Federal district judge for the western district of Tennessee.

It is important that this seat be filled. It has been vacant since the beginning of the year and there is a serious backlog of cases that need to be cleared.

Jerry Turner brings a wide range of education and experience to this new position. He is a 1964 graduate of Washington and Lee University, and a 1966 cum laude graduate of Washington and Lee Law School.

At law school he was admitted to the Order of the Coif and was selected as the 1966 outstanding graduate of Phi Delta Phi legal fraternity. He served as comments editor of the Law Review and was also a contributor. He received the American Jurisprudence Award for Excellence in Taxation and was listed in Who's Who in American colleges and universities.

After law school, he was law clerk to Judge Robert McRae in the same western district of Tennessee to which he has now been confirmed. Since then, Jerry Turner has practiced law in Memphis and has been active in the Memphis and Shelby County Bar Association. He has served as an officer of the bar association since 1984, and would become president next month if not for this appointment.

Jerry Turner is admitted to a large number of courts in the South as well as the U.S. Supreme Court. He still appears regularly in court, more so than many senior attorneys. In fact, in the personal statement filed with the committee, he specifically mentioned that he welcomed trial work both as a variation from strictly commercial law and because it gave him the opportunity to be in court more often.

I find this point particularly interesting. It indicates to me that Jerry Turner's attitude toward the law is exactly what we need in a judge. He understands that law has practical effects on real people. He has kept himself involved in trial work and thus will have a more realistic appreciation of the demands placed on a Federal judge. It will also give him a sensitivity to the needs of those appearing before his court.

Further, in his statements to the committee, he has expressed a commitment to the fundamental individual rights and liberties which are guaranteed to the American people. Our courts are the final arbiter in conflicts between personal rights and governmental power. They are the ultimate protector of rights for millions of Americans. Jerry Turner recognizes that role and that duty of the judiciary.

So, Mr. President, I am pleased at the Senate's action today in filling this seat.

THE CONFIRMATION OF JUDGE ALFRED M. WOLIN

Mr. **LAUTENBERG.** Mr. President, I rise in support of the nomination of Judge Alfred M. Wolin to fill the vacancy on the district court in New Jersey created by the elevation of Judge Cowen.

Judge Wolin is a graduate of Rutgers University Law School. He was engaged in the private practice of law in Elizabeth, NJ, for roughly 20 years.

During that time, Judge Wolin distinguished himself by his contributions to the bar and the public. His commitment to ensuring equal justice under the law was reflected by his service as chief staff attorney to the Legal Aid Society of Union County. He served as secretary of the Union County Ethics Committee. He was also president of the Union County Bar Association. Judge Wolin also served for a time as a special assistant prosecutor.

In 1980, Judge Wolin was appointed to the State judiciary. He now serves on the State superior court, which is the trial court of general jurisdiction in our State's system. Judge Wolin sits in the criminal part, where he is the presiding judge. However, he has in the past heard civil cases. He began his judicial service as a judge on the juvenile and domestic relations court.

I have heard from lawyers who have appeared before Judge Wolin. They say he is a fair judge. It is worth noting that I have heard that from lawyers who have tried cases and lost. They also say he runs an efficient courtroom. In the face of a tremendous backlog and delays in the Federal court system in New Jersey, Judge Wolin's administrative skills would be most welcome.

Judge Wolin is not known to have an ideological agenda. Yet, in his answers to the committee's questionnaire, he recognizes that the Constitution is a "living and breathing" document.

Judge Wolin has received a rating of well qualified, the second highest rating from the ABA.

Mr. President, I believe Judge Wolin would be a credit to the Federal judiciary and would serve the people of New Jersey well. I urge his confirmation.

THE CONFIRMATION OF JUDGE ALFRED M. WOLIN

Mr. BRADLEY. Mr. President, I am very pleased that the Senate will today confirm Alfred M. Wolin as a Federal district court judge for New Jersey.

Judge Wolin has had a distinguished legal career in New Jersey. He currently serves as the presiding judge for the criminal part of the superior court in Union County, NJ. He has served on the superior court for 7 years, in both the civil and criminal parts.

Although I had not known Judge Wolin prior to his nomination, I have had the opportunity to solicit the opinion of many individuals in the legal community in our State—those who have tried matters before him as defense and prosecuting attorneys, colleagues of his in the judiciary, and those who know him only by reputation. Judge Wolin is universally well regarded by all whom I asked.

Judge Wolin has practiced law in New Jersey for 27 years, initially in association with his father, subsequently in his own law firms. His legal career has also included service as a special assistant prosecutor in Union County; as a town attorney to the Roselle Board of Adjustment; as a municipal prosecutor for the Town of Westfield; and as a legislative aide to then State senator—now Congressman—MATTHEW RINALDO. He has also served as president of the Union County Bar Association, and currently serves, at the direction of the chief justice of the Supreme Court of New Jersey, on the Statewide Speedy Trial Committee, the Conference of Presiding Criminal Judges, and the Criminal Practice Committee. In short, Judge Wolin will bring to the Federal district court a wealth of experience as a trial court judge and as a practicing attorney in both civil and criminal matters.

I am particularly grateful to the chairman of the Judiciary Committee and all the members of the committee for responding to the requests of Senator LAUTENBERG and me for prompt consideration of the New Jersey nominees. Two weeks ago, the committee reported the nomination of Nicholas Politan as a member of the Federal District Court for New Jersey.

The prompt consideration of the Judiciary Committee has been especially important to the people of New Jersey given the current backlog in our Federal district court. There are over 6,400 cases pending before our district court and each district court judge is assigned more than 500 cases. This is an impossible burden on the judges and results in unacceptable delays in prosecution and adjudication of important matters. And for much of this year, the district court has operated below the number of judges authorized by law. I would note that this understaffing has been the result of delays in submitting nominations by the President, not the result of any delays in committee consideration of the nominees.

Even with the confirmation of Judge Wolin, the New Jersey district will still be short one judge. I hope that position will be filled quickly, and hopefully with someone who has the experience and qualifications of Judge Wolin. I am pleased that the Senate will confirm him today.

THE CONFIRMATION OF SAMUEL A. ALITO, JR., AS UNITED STATES ATTORNEY

Mr. LAUTENBERG. Mr. President, I rise in support of the nomination of Samuel A. Alito, Jr., to serve as the U.S. attorney for the district of New Jersey.

Mr. Alito has been serving as U.S. attorney since March, having received interim appointments by the Attorney General and the court. He has brought to the position a distinguished academic and professional record. Mr. Alito graduated from Yale Law School, where he served on the law journal. He then held a succession of positions in the public sector, including that of law clerk to Judge Garth, on the third circuit; assistant U.S. attorney in New Jersey; assistant to the solicitor general; and deputy assistant attorney general in the office of legal counsel.

Any prosecutor, given finite resources, must exercise discretion and set priorities in the enforcement of the law. Where a U.S. attorney intends to allocate those resources can be as important as the skill and qualifications that he applies to the job. Mr. Alito has set out priorities for his office that I believe respond to New Jersey's most pressing Federal law enforcement needs.

New Jersey and its people bear the scars of years of environmental abuse. Unfortunately, the illegal disposal of garbage and toxic waste continues. The Congress has responded with the passage of comprehensive laws to protect the environment, backed by tough penalties for those who violate those laws. However, these laws have too often become a promise unfulfilled by the failure of the executive branch to commit itself to vigorous enforcement. I am pleased, therefore, that Mr. Alito has set out to increase the resources in his office dedicated to criminal and civil environmental law. The creation of a new environmental crime unit will, I hope, help bring more polluters to justice and deter those who would consider degrading the environment and threatening the public's health.

So long as illegal drugs plague our society, the prosecution of narcotics offenses must remain a high priority of our Federal law enforcement. The Congress passed comprehensive drug enforcement legislation last year and increased the budgetary resources allocated to drug enforcement. Mr. Alito has pledged to continue to place a high priority on narcotics law enforcement.

Mr. President, New Jerseyans also want to see a high priority placed on organized crime and white-collar crime prosecutions. Mr. Alito has reported an increase in the resources assigned to organized crime prosecutions, and has expressed a personal interest in investigations in the areas of securities fraud, defense contracting fraud, and bankruptcy fraud.

New Jersey has also made significant, welcome progress over the years, in addressing instances of official misconduct. Mr. Alito has appointed a new supervisor of special prosecutions and has taken a personal interest in this area.

While Mr. Alito has set forth priorities that respond to New Jersey's needs in the war on crime, he must also enter the battle with the necessary troops. Mr. Alito's predecessor sounded the alarm that New Jersey was being short-changed in the allocation of resources by the Department of Justice. I raised this matter with the Attorney General, in hearings and in correspondence. Thereafter, 2 of 40 new assistant prosecutors nationwide were assigned to the New Jersey district. These reinforcements were welcome. Yet, as Mr. Alito reports that "all attorneys are working long hours and weekends," it is clear that the matter of the staffing of the New Jersey office warrants continuing oversight.

The district of New Jersey is the third largest district in the Nation in terms of population. Its law enforcement agenda is a far-reaching one. It extends to the corporate suites, where complex, white-collar crime undermines the stability of our economic system; it goes down to the street, where the terror of drug-related crimes has overtaken whole neighborhoods; it reaches out to sea or along dark roads where midnight dumpers and polluters threaten our health and the environment in which we live.

Mr. Alito brings impressive credentials to the task. I support his confirmation and wish him well.

I ask unanimous consent that Mr. Alito's written responses to questions about the U.S. attorney's office and Federal law enforcement in New Jersey be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Answers to Questions Submitted by Senator Frank R. Lautenberg to Samuel A. Alito, Jr., Nominated to Serve as U.S. Attorney for the District of New Jersey

1. Your predecessor asserted before his departure that inadequate resources were hampering federal law enforcement in New Jersey. In light of those statements, and in view of the fact that you have served as U.S. Attorney since your interim appointment in March, please provide an evaluation of:

(a) The quality of federal law enforcement in New Jersey.

The quality of federal law enforcement is generally excellent. Substantial efforts have been made to coordinate the priorities and operations of this office with those of other federal and state law enforcement agencies.

(b) The skills and general morale of attorneys and staff in the U.S. Attorney's Office in New Jersey.

The skills of our experienced attorneys are excellent. The new attorneys we have hired have superior credentials, aggressiveness and enthusiasm. Morale in the office has improved, particularly since I have reorganized the office and appointed a full complement of senior supervisors.

2. Given finite resources, any prosecutor must exercise discretion and set priorities in the enforcement of the law.

(a) What are your office's priorities and how did you arrive at them?

This office's highest law enforcement priorities are prosecution of organized crime, official corruption, narcotics trafficking, environmental crime, and sophisticated white collar crime. I have determined these priorities after consulting with federal and state law enforcement agencies, members of the United States Attorney's Office, members of the Bar and others. My priorities are based on consideration of the State's most urgent crime problems and assessment of which of those problems are most appropriately addressed on the federal level.

(b) How would you rate the enforcement of criminal and civil environmental laws within the office's priorities? How have you implemented this priority since your arrival? How do you plan to implement it in the future? How many attorneys and investigators have been and will be assigned to this area? How does that differ from the assignments of your predecessor?

Enforcement of the criminal and civil environmental laws is one of my highest priorities. I have implemented this priority by creating a new environmental crime unit staffed by two attorneys, and I have launched an aggressive grand jury investigation into ocean garbage dumping, which includes an inquiry into the causes of last summer's pollution of the New Jersey beaches. I plan to continue to implement this effort by encouraging other agencies to devote more resources to investigating environmental crime and pollution. There are currently two criminal attorneys assigned to environmental crimes; five civil attorneys handle environmental matters. More attorneys will be assigned commensurate with the commitment of increased resources by the investigative agencies. Resources currently devoted to environmental criminal and civil law enforcement represent an increase over the commitment under my predecessor.

(c) What is the office's relative commitment to the enforcement of the anti-drug abuse laws? How have you implemented this priority since your arrival? How do you plan to implement it in the future? How many attorneys and investigators have been and will be assigned to this area? How does that differ from the assignments of your predecessor?

Narcotics law enforcement has traditionally been a very high priority for this office. Since arriving as United States Attorney, I have upgraded the status of the Chief of Narcotics by designating him a Deputy Chief of the Criminal Division. Moreover, I have implemented priority treatment of narcotic cases by personally seeking close cooperation with other federal and state enforcement authorities, and by lending full support for all major drug initiatives undertaken by the Drug Enforcement Administration, Federal Bureau of Investigation, and other investigative agencies. I plan to continue to do so. Currently, all Criminal Division attorneys—25—are assigned to devote a significant portion of their time to investigating and prosecuting narcotics trafficking cases. This reflects approximately the same level of staffing as under my predecessor.

(d) What is the office's relative commitment to addressing cases of white collar crime and organized crime? How have you implemented this priority since your arrival? How do you plan to implement it in the future? How many attorneys and investigators have been and will be assigned to this area? How does that differ from the assignments of your predecessor?

Both organized crime and white collar crime prosecutions are high priorities for me. I should note, however, that responsibility for investigating and prosecuting organized crime is shared with the Department of Justice Organized Crime Strike Force based in Newark.

Since arriving in Newark, I have implemented my white collar prosecution program by appointing a second senior supervisor in the Frauds Division, which is the prosecutorial unit devoted to investigating white collar criminal violations. Moreover, I have devoted a significant portion of my time to directing and reviewing major investigations and prosecutions in the areas of securities fraud, defense contracting fraud, and bankruptcy fraud. I plan to continue this commitment in the future.

In the area of organized crime, since joining the office I have increased joint participation with the Department of Justice Strike Force in ongoing investigations and prosecutions against numerous major organized crime figures. In the future, I expect to increase this office's involvement in investigating organized crime activity in conjunction with the Strike Force.

With respect to staffing, the Frauds Division, which has the main responsibility for prosecuting white collar crime, is assigned ten attorneys—approximately the same level of staffing as under my predecessor. I expect to maintain or increase that number. There is no separate organized crime unit within the United States Attorney's Office; however, six Assistant U.S. Attorneys are currently involved in organized crime investigations, either alone or working with Strike Force Attorneys. This represents an increase in the number of prosecutors investigating organized crime when compared with the assignments of my predecessor.

3. The Congress passed and the President signed major drug enforcement legislation in the 99th Congress. Associate Attorney General Stephen S. Trott maintains that major victories have been achieved "on every front", including "defendants in jail, organizations destroyed, assets seized."

(a) Do you agree that this is the case in New Jersey?

Yes, although drug trafficking remains one of our most significant criminal problems. Recently, the Drug Enforcement Administration made a record seizure of approximately 600 pounds of cocaine in Linden. Within the past few weeks, this office indicted members of a major Colombian narcotics trafficking organization which operated in Florida, New York, and New Jersey, using sophisticated mobile telephone communications equipment.

(b) Given the substantial State, responsibility for the enforcement of the law in this area, how would you describe the appropriate federal prosecutional role?

Our most appropriate role is to concentrate on investigating and prosecuting major drug enterprises which have substantial international or interstate components. We also believe it is important to cooperate with the State's own drug enforcement plan.

4. In the report of the Senate Appropriations Committee on the Commerce, Justice State and Judiciary Appropriations bill, the following direction was given to the Department of Justice:

The Committee is well aware of the tremendous caseloads currently being processed by the U.S. attorneys offices throughout the country. The Committee is very concerned that this caseload will become unprecedented with the enactment of the Anti-Drug Abuse Act, the new sentencing guidelines, and the Superfund Amendments and Reauthorization Act. Therefore, the Committee urges the Department to use its 1988 resources to distribute additional positions for assistant attorneys to those regions of the country where it is projected that the new drug, crime and environmental laws will have the most dramatic impact where additional positions were not provided under the Anti-Drug Abuse Act resources and the Operation Alliance initiative, or in areas experiencing unprecedented increases in workload resulting from environmental initiatives. [Sen. Rpt. 100-182 at 32-33]. Would compliance with this directive assist the New Jersey office of the U.S. Attorney? Please explain.

Compliance with the directive would assist the District of New Jersey. As you know, the Department of Justice has increased the number of attorney slots and other resources available to this office. The office is adequately staffed, but all attorneys are working long hours and weekends. In view of the increased workload that will flow from Congress' new legislation, additional attorney slots would be both productive and welcome.

5. Following requests for the assignment of additional attorneys, the Justice Department assigned two of 40 new assistants nationwide to the New Jersey office. How have these additional positions been utilized?

I assigned one additional attorney slot to the Trenton office in order to better reflect the distribution of population in, and the growth of, the central and southern parts of the State. I assigned the second additional slot to the official corruption unit, which was previously understrength.

6. New Jersey has made significant progress over the years in addressing instances of official misconduct. Do you intend to build on that progress?

Prosecution of official corruption has traditionally been in important focus of this office. The Special Prosecutions Division has responsibility for prosecuting corruption cases. After my arrival, I appointed new supervisors to head the Division; the division chief position had been vacant under my predecessor. In addition, I have increased staffing of the division by approximately forty percent. Both the First Assistant and I have been personally involved in directing and encouraging a significant expansion of our investigative effort into official corruption.

CONFIRMATION OF SAMUEL ALITO TO BE U.S. ATTORNEY FOR NEW JERSEY

Mr. BRADLEY. Mr. President, the confirmation of Sam Alito as U.S. attorney for New Jersey is testimony to the commitment he has shown and the success of his efforts as a law enforcement official. I am confident that he will continue to do all he can to uphold the laws of this Nation with the kind of determination and vigor that has been his trademark in the past.

THE CONFIRMATION OF JOHN MC KAY AS U.S. MARSHAL

Mr. MURKOWSKI. Mr. President, it is my pleasure to introduce to the Senate Mr. John McKay, of Anchorage, AK, for appointment as U.S. marshal for Alaska. Mr. McKay has been an outstanding member of the U.S. Marshal Service in Alaska for the past 15 years and is presently serving as the court appointed marshal for Alaska. His nomination for permanent appointment to this position received unanimous approval from the Judiciary Committee.

John McKay is well respected and is widely recognized by members of the Alaska law enforcement community as one of its most prominent members for his dedication and loyalty to the Service. He has had an excellent career in the U.S. Marshal Service and has served not only as the acting U.S. marshal but also as a witness security specialist, supervisory deputy, and chief deputy marshal. Throughout his career he has received outstanding performance awards.

Mr. McKay has proven to be a most valuable asset to the U.S. armed services as well, serving with distinction for over 25 years in the Air Force.

Mr. President, John McKay has loyally and efficiently carried out his responsibilities as acting U.S. marshal. He enjoys an excellent professional reputation.

I believe that he is exceptionally well qualified and deserving to be appointed permanently as U.S. marshal for Alaska. I ask that the Senate give his qualifications careful consideration and confirm this nomination.

CONFIRMATION OF THE NOMINATION OF ALFONSO SOLIS TO BE U.S. MARSHAL FOR THE DISTRICT OF NEW MEXICO

Mr. DOMENICI. Mr. President, I rise in support of the confirmation of Alfonso Solis to be U.S. marshal for the district of New Mexico.

Mr. Solis has had an outstanding career in law enforcement with the U.S. Marshals Service. I am confident that he will make an excellent U.S marshal.

Mr. Solis was recommended by Stanley Morris, the Director of the U.S. Marshals Service, who described him to me as an "American success story."

Mr. Solis was born in Texas, just across the border from New Mexico. He grew up in Anthony, NM, and although he has had numerous duty assignments throughout the United States, he still maintains his home in Anthony.

Mr. Solis graduated from Gadsden High School in Anthony and attended the University of New Mexico. Throughout his school years, Mr. Solis did farm work, picking cotton and onions, and then worked as a telephone repairman at White Sands Missile Range.

He served in the U.S. Army from 1968 to 1976 and is a Vietnam veteran.

Mr. Solis began his career in law enforcement in 1977 as an investigator for the El Paso Sheriff's Department. Later that year, he joined the U.S. Marshals Service.

For the past 10 years, he has occupied positions of increasing authority in the Marshals Service. His second assignment with the Marshals Service was in Santa Fe, where he provided security for U.S. district court Judge Santiago Campos. He later served 3 years in Albuquerque. He has also served in Texas, California, Puerto Rico, and most recently, Florida, where he was the chief deputy U.S. marshal in the Jacksonville district.

Mr. President, Mr. Solis has had a fine record in law enforcement. His experience makes him well qualified to serve as U.S. marshal. I encourage all Members of the Senate to support the confirmation of this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume a legislative session.

Mr. BYRD. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair but that at any time the Senate is in session between now and the hour of 5 p.m. morning business be in order and that Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 4:11 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:14 p.m. when called to order by the Presiding Officer (Mr. REID).

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Thank you, Mr. President.

THE OTHER SOVIET DELEGATION

Mr. WIRTH. Mr. President, I join in welcoming General Secretary Gorbachev and the Soviet arms control delegation to the United States. Most of us have high hopes that the treaty that he and President Reagan will sign, eliminating intermediate range nuclear weapons in Europe, will lead to further reductions in our nuclear arsenals. Long and difficult negotiations remain before we can take that next step, but I welcome this significant beginning.

Discussing the INF Treaty, however, is not the purpose of my remarks today, Mr. President. Rather I want to call attention to the other, much larger, delegation of Soviet citizens who did not make the trip with General Secretary Gorbachev. The Union of Councils for Soviet Jewry estimates that 385,000 Soviet Jews have expressed a desire to emigrate from the U.S.S.R. No one has an exact number of the number who have been refused exit visas. Israel lists some 11,000; others estimate the number of actual refuseniks at 30,000.

Moreover, the number of Jews permitted to emigrate both in total numbers and in proportion to those of other ethnic groups and nationalities has dropped significantly since the peak year of 1979. The Soviets have permitted over 19,000 people to emigrate this year. Only a third of that number are Jews. In 1979, more than 67,000 emigrated from the U.S.S.R., including 51,000 Jews.

During an interview broadcast on United States television November 30, General Secretary Gorbachev said the Soviets "are in favor . . . of the broad rights of the citizens." He supported the concept of family reunification, and said that only state security reasons blocked some from emigrating. Yet, in October 1985, General Secretary Gorbachev indicated in an interview for French television that the maximum period for refusals based on possession of state secrets was 10 years. In fact, more than 400 Jewish families in the Soviet Union have been waiting for permission to emigrate for longer than 10 years; some have waited for more than 15 years.

Let me give just one example. Prof. Naum Meiman is 76 years old. He is sick; he has cancer. His wife Inna is dead. She too had cancer. It was diagnosed in 1983. She was permitted to come to the United States for medical treatment in January 1987. She died of a heart attack here 15 days after her arrival. Professor Meiman is alone in the Soviet Union. His only daughter, Olga, received permission to emigrate in 1981, and now resides with her husband and children in Boulder, CO. Professor Meiman requested permission to emigrate more than 12 years ago. That request was refused on the ground that he possessed state secrets.

It has been more than 30 years since Naum Meiman worked on classified material in the Soviet Union. Dr. Andrei Sakharov, publicly acclaimed by Soviet Foreign Minister Shevardnadze before the United Nation's General Assembly as the highest authority on nuclear armament, wrote to the Federation of American Scientists 10 years ago to say that "Meiman without doubt possesses no information which might be classified as secret." What possible reason could the Soviets have for preventing this sick, old man from rejoining his family? The case defies logic and contradicts General Secretary Gorbachev's own words.

Recently Professor Meiman wrote to the Conference on Security and Cooperation in Europe to appeal his release. I ask unanimous consent that his letter be inserted in the RECORD. His plea deserves to be heard.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

To the Vienna Conference: At the current session of the UN General Assembly, both President Reagan and Soviet Foreign Minister Shevardnadze quoted Academitian Andrei Sakharov. President Reagan quoted his support for human rights; Mr. Shevardnadze his criticism of the Strategic Defense Initiative. Mr. Shevardnadze commented, "If Sakharov is to be trusted in one sphere, why not in another as well, in which he speaks with the very highest authority?"

What is important about this is that a key member of the Poltiburo, the center of the Soviet leadership, publicly acknowledged Dr. Sakharov as the highest authority on nuclear armament. This should be seen as the Politburo's official point of view.

Let me quote Dr. Sakharov now, on an issue of personal concern to me. In a letter to the Federation of American Scientists of August 19, 1977, he wrote: "All calculations in which Naum Meiman took part were of a conventional character. Divulgence of the information he had access to would never be of substantial importance. It is now more than 20 years since he participated in secret work. Meiman without any doubt possesses no information which might by classified as secret." That was written 10 years ago.

The same statement was quoted by a large group of eminent physicists and mathematicians in an Appeal to the Belgrade Helsinki Conference of October 1977. This Appeal also included an official Soviet certification attesting to my lack of relation to any classified work since 1955, when I changed my job to avoid any contact with potentially secret work.

Common sense shows how silly and absurd it is to consider as secret, calculations done more than 30 years ago. Dr. Sakharov's opinion makes this particularly convincing. After all, it is difficult to regard Sakharov as the highest authority in the field of nuclear armament and yet deny his common sense. Thus, it is incompatible to attach such importance to his criticism of SDI while disregarding, as OVIR, the visa office, does, his opinion in a much simpler matter in area of his expertise.

Still, for more than 12 years, I have been refused permission to emigrate to Israel for reasons of secrecy.

In the Soviet Union, refusal of permission to emigrate on the pretext of secrecy is decided mysteriously. Decisions are made secretively; no legal process is followed and the right of appeal is denied. This inevitably breeds misinformation, abuse of power and an unlimited opportunity for personal revenge.

I am convinced that the real reasons that I have been denied permission to emigrate is personal revenge. This was evident in the tragic death of my wife. Last December 17, Mr. Shevardnadze firmly assured Senator Gary Hart that there were no objections to my wife's departure from the USSR. Yet despite the extreme importance of every passing day, the visa office did everything possible to delay her departure. It took personal letters from Senator Hart and Ambassador Arthur Hartman to Shevardnadze and intervention by Soviet Ambassador Dubinin before my wife was finally given her exit visa a month later. It is quite possible that this delay proved fatal—my wife died of embolism three weeks after arriving in the United States.

I am 76 years old, seriously ill, and I have no relatives in Russia. My only daughter has been living in the United States for over ten years.

There are no grounds on which to refuse me the right to emigrate for reasons of secrecy. In view of the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights, which have been ratified by the Soviet Union, and of the Helsinki Accords—not to mention the humanitarian aspects of the matter—I insist on my right to emigrate. Moscow, September 29, 1987—Prof. Naum Meiman.

Mr. WIRTH. Last August, every Member of the U.S. Senate signed a letter to General Secretary Gorbachev on Naum Meiman's behalf. Did he receive it? Did he read it? I do not know. On the day of his arrival in the United States, I also request that this letter be reprinted in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 6, 1987.

MIKHAIL S. GORBACHEV,
Chairman, CPSU
The Kremlin,
Moscow, RSFSR, U.S.S.R.

DEAR MR. CHAIRMAN: We implore your government to permit Dr. Naum Meiman to emigrate from the Soviet Union.

Dr. Meiman has struggled valiantly for 13 years to rejoin his daughter, Olga, in Colorado. He has struggled against stiff bureaucratic resistance. He has struggled in spite of frail health and deep sorrow, over his beloved wife's death in exile. It is well past time to let Naum Meiman go.

For Naum is a man of peace. He poses no threat whatsoever to Soviet society, although your government repeatedly claims that Dr. Meiman's background as a mathematical physicist has made him privy to important state secrets.

Yet it has been 30 years since he performed any classified calculations and these were of a purely academic nature. His work has been openly published in Soviet journals for years. A signed letter from the director of the Soviet Institute of Theoretical and Experimental Physics confirms that Dr. Meiman's work is not classified. You yourself have noted the specious nature of the "state secrets" prohibition against emigration for those who have not served the government for more than 10 years.

Mr. Chairman, the Soviet Union has announced to the world that its new emigration policy will be streamlined and fairminded. Moreover, that new policy calls for the "speedy reunification of divided immediate families." Your government can demonstrate the sincerity of these new provisions by immediately examining Naum Meiman's case and determining his eligibility for an exit visa.

We thank you for your expeditious attention to this matter.

Unanimously endorsed by members of U.S. Senate.

Perhaps he will see it this time. The message is simple. Let Naum Meiman go. Let the thousands of Soviet Jews who want to emigrate go as well.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Maine is recognized.

THE INTELLIGENCE AUTHORIZATION ACT OF 1988

Mr. COHEN. Mr. President, last Friday I took the floor to discuss my deep concern over a reference made by the President in his statement on signing the Intelligence Authorization Act of 1988. In that statement, he indicated that he was signing the measure with some reluctance because of a report requirement in section 501 regarding individuals approved for admission to the United States by the State Department over the objections of those in the counterintelligence community.

The President expressed the view:

* * * That section 501 of the bill is unconstitutional. * * * the President, of course, has the exclusive constitutional authority to receive Ambassadors and other public ministers. Since the Presidency of George Washington, it has been consistently recognized that the executive branch cannot be made to disclose to the Congress information relating to actions taken pursuant to an authority assigned by the Constitution exclusively to the President. Accordingly, requiring this annual report by the Attorney General would violate long-established constitutional principles and, pursuant to my constitutional authority, I will instruct the Attorney General not to submit an annual report to the Congress pursuant to section 501. I do not, however, believe the unconstitutionality of section 501 affects the validity of the remainder of the bill.

I found that statement to be rather extraordinary, to say the least.

In my statement Friday, I took strong exception to this statement, which gave a clear indication of an intention to comply with those portions of the Intelligence Authorization Act which the President agreed with but to instruct the Attorney General not to comply with those provisions which the President disagreed with and believed to be unconstitutional. As I said then, if a President is firm in his belief that a provision of a bill sent to his desk for signature is unconstitutional, he should veto the legislation. Signing it but saying he will abide only by those provisions with which he agrees is not an option available to him.

The President has now written me to clarify his statement. His letter was hand delivered to me late Friday afternoon, and reads as follows:

> Dear Mr. Vice Chairman: In view of the final paragraph of the signing statement dated December 2, 1987, with respect to section 501 of the Intelligence Authorization Act, fiscal year 1988, and in order to avoid any misunderstanding or misapprehension, that paragraph does not instruct, and was never intended to instruct, the Attorney General to disregard valid Federal law, but to emphasize my constitutional concerns with respect to section 501. I have instructed my staff to examine this issue further to determine if these constitutional concerns can be eliminated and to work with the Senate Intelligence Committee in that regard.
>
> Sincerely,
>
> [Signed by Ronald Reagan].

I look forward to working with the President and other administration officials in the effort to find a mutually agreeable framework for compliance with section 501.

As I indicated last Friday, the Intelligence Committee had worked very closely with the entire administration to come up with language that we believed was acceptable to the administration. We were taken by complete surprise when someone in the Justice Department voiced concern at the final moment just as the President was about to sign the legislation itself.

I welcome the President's letter of clarification. My hope is that in the future those in the Justice Department or in other branches of the administration who have concerns on any matter affecting the intelligence-gathering capability of this country voice those concerns to us in advance so we may take them into account as we work our way through the legislative process. Coming in at the last minute and giving the President what I consider to be extraordinarily bad advice does not serve him well.

I appreciate the President's clarification on the issue. I intend to see to it that a framework is developed and established which will permit us to exercise effectively our oversight responsibilities and to reduce the espionage threat that continues to face our country.

PROTECTING THE OZONE LAYER FOR THE FUTURE

Mr. WIRTH. Mr. President, I would like to share with my colleagues excerpts from a recent article in Sports Illustrated about the depletion of the ozone layer, which shields the Earth and all living things from the Sun's ultraviolet radiation.

This article paints an ominous picture for the future of life in this country and around the globe if we do not act now to curb the use of ozone depleting chemicals. We must also accelerate our Nation's research on the question of global warming, so that we can begin to identify policies to protect our global environment.

The Congress and the administration must begin now to develop creative strategies to protect the Earth's delicate ozone layer.

I ask unanimous consent that two excerpts from this article be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From Sports Illustrated, Nov. 16, 1987]

Excerpt

The second hurricane of the year has struck the East Coast. The 15-foot seawalls built to protect Baltimore, Philadelphia, New York and Boston held against 12-foot tides, but a 25-foot storm surge swept over the eastern tip of Long Island, drowning 260 residents who had refused to leave their homes despite a federal evacuation order. The toll of dead on Martha's Vineyard, Nantucket and Cape Cod is estimated at 50. The 310 fatalities are still far fewer than the 5,600 people who drowned in last month's hurricane in south Florida.

Twenty-two inches of rain from the hurricane flooded Washington, D.C., breaking the heat wave that had gripped the city for 62 straight days of 90-plus temperatures. This fell short of the record set eight years ago when 72 consecutive 90-plus days caused the move of the nation's capital to the cooler environs of Marquette, Mich.

In Sepulvada, Calif., neighbors hammered an elderly widow to death when they learned she had been secretly watering a pot of geraniums. A footnote to this grim story: The woman's husband had died of thirst during the California drought of 1998.

Food riots broke out in France, where vineyards and farmlands have turned arid amid the rising temperatures.

Dust bowl conditions continue in the Plains States of the U.S., but orange production is up in Saskatchewan. In eastern Siberia the outlook for a good cotton harvest is promising.

In Stowe, Vt., botanists announced the death of the last red spruce. The species' demise is blamed on a combination of stresses—acid rain, global warming and ultraviolet radiation.

In baseball, the Anchorage Braves beat the New York Mets 5-3. In Los Angeles, the Dodgers' game against the Calgary Giants, scheduled for the usual 5:30 a.m. start, was postponed because of dust storms.

And now the weather. After leaving a swath of destruction in its wake along the East Coast, Hurricane Bruce is expected to move out to sea during the night. In the Midwest, Southwest and West, conditions remain normal—searing heat, drought and dangerous levels of ultraviolet radiation.

Dire Forecast

Fortunately, it's still possible to ameliorate the damage. Here's what we must do:

Reduce production of CFCs by 95% worldwide within the next six to eight years. Chafee and Baucus have introduced bills calling for such a reduction. Last winter Chafee told CFC manufacturers. "If the six-to eight-year phase-out in our bills is unrealistic, tell us how much time you need and show us how you will use that time. We are open to suggestions, but the burden is on you to justify a longer time frame. . . . Undoubtedly there will be testimony that we cannot ratchet down on production of CFCs too swiftly. It is well to recall that the ban on aerosols in the U.S. caused production of CFCs for aerosols to drop . . . to less than 25 million pounds . . . six years later. And our country survived. I am not convinced that American or any other producers have a constitutional right to continue to produce products that cause permanent harm to our world, to our citizens."

In September the U.S. and 23 other countries signed a treaty calling for a 50% cut in CFC production by mid-1999, but the new findings from the Antarctic demonstrate that the cut is neither big enough nor fast enough. "We've got to beat the clock," says Rafe Pomerance, a policy analyst who has been following the ozone problem for the World Resources Institute in Washington, D.C., for the past two years. "If the data from the Antarctic continues to build over the next few months, we may have to reconvene and strengthen the treaty."

Reduce dependence on fossil fuels. "We should focus on incremental steps that limit our dependence on coal and oil." Oppenheimer says, "Let's focus on the doable. No. 1, conservation. The U.S. still uses twice as much energy per capita as the European nations. We're wasting money, we're wasting energy, and we're producing too much carbon dioxide because of our overdependence on fossil fuels."

Reliance on these fuels can also be reduced through greater use of nonpolluting alternative sources of energy. Solar power is a prime example, but the U.S. seems to have given up leadership in photovoltaic research, and the Japanese are now forging ahead. Photovoltaic technology promises to deliver energy at a reasonable price without producing carbon dioxide.

Halt deforestation. "You have to do two things," says Dr. George M. Woodwell, former president of the Ecological Society of America and now director of the Woods Hole (Mass.) Research Center. "First, you have to stop deforestation around the world, not just in the tropics, and you have to do it on the basis of an international protocol. Second, you have to have an equally intensive and imaginative protocol that calls for reforestation so as to store one billion tons of carbon annually. A million square kilometers is 600 miles by 600 miles, and we will probably have to reforest on the order of four million square kilometers per year over good land to do the job."

Establish a national institute devoted to basic environmental research. Says Oppenheimer: "We need a national commitment comparable to the Manhattan Project, not only so we can understand what the consequences of global change are for man, but so that we can be in the forefront of the development of alternative energy sources that will help limit this problem. I envision a multibillion dollar scientific effort. It's as important as national defense. It is the national defense. If we do nothing waiting for the atmosphere to change and for unpleasant consequences to occur, it will be too late for us to avoid disruptive and devastating changes."

Discontinue basic environmental research by or funded by EPA and the Department of Energy. These agencies are unreliable because they are heavily influenced by political pressures. Last January, Broecker bluntly told the Senate Subcommittee on Environmental Protection, "I believe that most scientists would agree with me that the handling of research on greenhouse gases by DOE [the Department of Energy] and on acid rain by EPA has been a disaster."

Will the world act in time? As Rowland, who won eight varsity letters in basketball and baseball at Ohio Wesleyan and the University of Chicago, puts it, "The key thing about baseball is, there is always next year, another season. The question for the earth now is, will there be a next year?"

BICENTENNIAL MINUTE

DECEMBER 7, 1931: PRESIDENT HOOVER AND THE SENATE

Mr. DOLE. Mr. President, before the 20th amendment was added to the Constitution in 1933, new sessions of Congress traditionally began on the first Monday in December. Thus the first session of the 72d Congress met on Monday, December 7, 1931, 56 years ago today.

The Democrats had won the majority in the House, but Senate Republicans—who had held the majority in the Senate since 1919—claimed a one-vote margin, 48 to 47, with one independent. This statistic would not be worth commemorating had it not been for President Herbert Hoover's recommendation that the Republicans step aside and allow the Democrats to organize the Senate. This was remarkable and certainly unprecedented advice from a Republican President to the Members of his party in Congress.

By 1931 the United States was mired in a terrible economic depression, and Herbert Hoover was directing all of his considerable energy toward finding some way out. Historians credit Hoover with being the first President to accept national economic recovery as a responsibility of the Federal Government. While Hoover's programs were more restrained than those that followed during the New Deal, they were far more ambitious than anything that had preceded him.

Because he had an ambitious program, President Hoover believed that the opposition party might cooperate with him if they held the majority in both Houses. So he suggested that Republicans allow the Democrats to organize the Senate. However, Senate Republicans saw matters quite diferently. They knew the importance of committee chairmanships for setting the Senate's agenda, and were not about to abandon their majority, no matter how slim. Thus Republicans rejected Hoover's advice and continued their majority throughout the 72d Congress.

BICENTENNIAL MINUTE

DECEMBER 8, 1869: A SENATOR SEEKS PEACE AND QUIET

Mr. DOLE. Mr. President, 118 years ago today, on December 8, 1869, the Senate adopted a resolution requiring that the Senate Chamber be cleared of all unauthorized persons each day 10 minutes before the set time for meeting.

In those days before the existence of separate Senate office buildings, Members' desks in the Chamber were often all the office space Senators could claim. Increasingly, in the years immediately following the Civil War, constituents and reporters had begun crowding into the Chamber, buttonholing Members in the hours before the customary noon convening time. Senator Charles Drake of Missouri, for one, was sick of the increasing din. Accordingly, he proposed the successful resolution at the start of the new congressional session.

On the following day, Senator John Thayer of Nebraska, who had been absent on December 8, asked for reconsideration of the vote. He claimed he enjoyed visiting at his desk with journalists and constituents until the very moment the Senate was called to order. Thayer's action deeply annoyed Senator Drake. Perhaps, he suggested, not as many constituents visited the Nebraska Senator as he received from Missouri, or perhaps not as many reporters were interested in Senator Thayer's views to have made themselves a nuisance. He, however, was tired of having to "elbow my way through a crowd of people to get to my desk. If I wish to sit down at my desk probably there is somebody occupying my seat, or if I wish to examine any papers there, I have half a dozen standing behind my back, or if I wish to talk with one person there are half a dozen within hearing distance of me."

No one rose to support either Drake or Thayer. Finally, Thomas Tipton of Nebraska moved to amend the resolution to provide that the Chamber be cleared 5 minutes before convening, and it was quickly agreed to.

TRIBUTE TO KATHLEEN "KENT" THORNTON

Mr. THURMOND. Mr. President, on Wednesday, November 11, 1987, Kent Thornton, a vivacious 15-year old, was killed in a tragic car accident at Litchfield Beach, SC. Kent was a friendly, energetic, and happy teenager who was well liked by her teachers and fellow students at Socastee High School, where she was a sophomore.

Kent possessed a unique combination of enthusiasm and quiet determination which would have enabled her to achieve the many goals that she had already begun to pursue. She was a responsible teenager, someone who had a positive influence of those around her. She was a lovely person who was very special to me and to my wife Nancy, who was proud to be Kent's Godmother.

Kent was a great source of joy and pride to her family and friends, and she will be greatly missed. We are reminded of how precious and fragile life is, but we are thankful for Kent's life and the times that we shared with her. We are saddened by her death, and Nancy and I join with my colleagues in extending deepest sympathy to her mother, Julie, or Litchfield, her father, Ken, of Georgetown, her quadruplet siblings, Clay, Blake, Katie, and Olivia, and her grandparents Kate and John Blakely of Andrews. I also want to thank Rev. Charles H. Murphy III and Rev. Kent Belmore, Jr., who delivered such meaningful words of assurance during Kent's memorial service.

Mr. President, I ask unanimous consent that the text of the eulogy given by Rev. Robert McLeod at Kent's funeral service at All Saints Waccamaw Episcopal Church be printed in the RECORD following my remarks, along with articles from the Myrtle Beach Sun News and the Pawleys Island Coastal Observer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Myrtle Beach (SC) Sun News, Nov. 13, 1987]

15-YEAR-OLD GIRL DIES IN WRECK AFTER CAR STALLS

(By David Hill)

LITCHFIELD BEACH.—A 15-year-old girl, driving an unfamiliar car less than a mile from her home, was killed in a two-car crash here on U.S. 17 Wednesday.

Kathleen Kent Thornton, of Norris Street, Litchfield, died at approximately 8:20 p.m. Wednesday in the emergency room of Georgetown County Memorial Hospital, Georgetown County Coroner Wilson Williams said.

Miss Thornton, a 10th-grader at Socastee High School, died from injuries sustained in the 7:25 p.m. accident at the entrance to South Litchfield, Wilson said. She was the daughter of former Georgetown County Council member, attorney Kenneth W. Thornton Jr.

According to Wilson and state Highway Patrol Trooper J.R. Cox Jr., Miss Thornton's 1982 two-door Datsun stalled in the intersection of Litchfield Boulevard and the highway, her car remaining in the inside northbound lane. She was apparently going to turn left onto the highway's southbound lane.

Her car was struck by a 1973 Pontiac driven by John Randolph Brown, 32, of Myrtle Beach. No charges were filed or are expected, Cox said. Williams said the death was ruled accidental and no inquest is planned.

Miss Thornton had gotten the car recently and may not have been familiar with driving it, which may have contributed to the accident, Cox said.

"That car was loaned to her," Cox said. "She put it in the wrong gear and choked it off at the intersection." Because she had just left home, the car's engine was not very warm, which may have contributed to its stalling, Cox said.

"The witnesses [a driver of a car behind the Pontiac and two men in a nearby parking lot] said they could hear her trying to get the car cranked," and she got the car started, but not in time to avoid the oncoming car, Cox said.

The traffic light at the intersection was in the flashing caution mode, Cox and Williams said. The light for drivers on the highway was flashing yellow, meaning proceed with caution, and the light over Litchfield Boulevard was flashing red, meaning stop, then proceed.

Such flashing happens when power to the system is interrupted, according to Simon Forbes, a resident engineer with the state Highway Department in Georgetown. The Georgetown County Sheriff's Department notified the Highway Department that the lights were flashing, and a crew was dispatched, Forbes said. The two-man crew got to the intersection shortly after the accident, he said. Forbes said he didn't know why the lights were flashing.

Miss Johnson's 15th birthday was in August, and she could have gotten her driver's license only since then. Fifteen-year-olds may drive alone only during daylight under state law.

A 16-year-old women died in a similar crash Sept. 22 a few miles south of the Litchfield intersection. In that accident, a northbound truck struck a car headed west in the U.S. 17-Shell Road intersection. A Georgia man driving the truck was charged with reckless homicide following the crash.

At Socastee High, which Miss Thornton attended as an out-of-county student, she was described as a popular, bright girl who was very busy in school organizations. She was in honors classes and had been recommended to be a U.S. Senate page.

At the school Thursday, word of the accident had passed among students and faculty early, guidance counselor John Lorentz said. There was an announcement over the school intercom and a moment of silence observed.

"Students were very somber, very quiet," Lorentz said. "Many were crying. They were coming into the guidance office in tears."

Kent, the middle name by which Miss Thornton was known, was in the Princeton Model Congress, the Drama Club, the French Club and the National French Honor Society, which established a scholarship fund in her name.

Contributions to the scholarship fund may be mailed to the Kathleen Kent Thornton Scholarship, Socastee High School, c/o Danny Wilson, 4900 Socastee Blvd., Myrtle Beach, S.C. 29577, or to The All Saints, Waccamaw, Episcopal Church Memorial Fund, P.O. Box 175, Pawleys Island, S.C. 29585.

[From the Pawleys Island (SC) Coastal Observer, Nov. 19, 1987]

Friends of Kent Thornton Grasp for Meaning in Her Death

(By Zane Wilson)

Is there any hope, any solace to be found in the seemingly senseless death Nov. 11 of a lively, bright, attractive 15-year-old girl?

One of her ministers thinks there is.

"Kids think they're immortal," said the Rev. Robert McLeod, youth pastor at All Saints' Waccamaw Episcopal Church.

The death of Kent Thornton in a car wreck at the Litchfield traffic light, while on her way to the Senior Youth Group meeting at All Saints, showed her compatriots they're not immortal, McLeon said.

The sudden loss of someone "so popular and so loving and so beautiful" made those realizations of mortality all the more intense for those who knew her, McLeod said.

Others echoed those feelings.

Dick Marshall, father of one of Kent's best friends, Virginia Marshall, said "it was quite a shock—all these young people found out they're not immortal."

The loss has pulled the group together and made them more aware of others, Marshall also said; Kent's friends have shown great concern for her four surviving brothers and sisters.

The young people learned their relationships with one another, and with others, are important, Marshall added.

"All of us loved her very much—she was a real special girl."

Christy Lee of Murrells Inlet, one of a regular threesome along with Kent and Virginia, said "I think we should all learn that life is short—love life and love your friends and live each day like life is special."

She said that before Kent's death she never thought about life in such terms, and how some things that may seem insignificant can mean a great deal.

For instance, she and Virginia noticed the sunset and the stars the evening after Kent's death, "and we said, she's up there—she gave this to us."

Kent's death was tragic, but joyful in a way because "she's happy now," Christy added.

"I think she was a gift to everyone that knew her."

The South Litchfield resident was the daughter of Julie Thornton and Georgetown attorney Ken Thornton, a former county council member. Her parents were divorced.

She regularly attended Episcopal youth meetings, said McLeod. "She had done more stuff with us than most."

She was an acolyte, or altar girl, attended a church summer camp last summer, and was planning to go with the youth group to Israel next summer.

"She had time for wholesome stuff and understood that this was part of her life," McLeod said.

He said he teaches his youth members that "life is to be fun and secondly it's to be serious." Kent had that balance, he said.

"She was a complete person."

He said in his sermon for her funeral that "if you loved her, then be like her."

He said he believes he could see in the other young people's eyes that they understood his message in a way they never had before.

Kent was a student at Socastee High School. She was applying to be a page next summer for U.S. Sen. Strom Thurmond, who was one of her godfathers. His wife Nancy attended the funeral.

She was also to be maid of honor at the wedding Saturday of a close friend of the family.

Kent died at Georgetown Memorial Hospital about 55 minutes after the crash, in which her small foreign car was struck broadside by a large American car.

She hadn't had a driver's license for long, and was apparently struggling with the straight shift and popped the clutch too soon at the intersection stalling the car.

Witnesses reported she was able to get the car started again and moving through the intersection, from Litchfield Boulevard to turn south onto Highway 17, when she was hit by the other car.

At the time of the accident, the traffic light was on flash—yellow on Highway 17 and red on Litchfield Boulevard.

That happened after a power outage earlier in the day when a breaker tripped at the Litchfield substation.

The power was off less than an hour, but the traffic light, which automatically trips to flash mode when the power goes off, had not been manually set back to normal.

Had her car stalled when she had a green light, it's likely the cars coming the other way would have been stopped and would have seen her.

As it was, the other car pulled around cars in the right lane that slowed for Kent, and struck her as she got the car started again.

State trooper J.R. Cox said the driver of the other car was not at fault and no charges were to be filed.

None of the five people in the other car was seriously injured.

Georgetown County Coroner Willson M. Williams said the death was ruled accidental and no inquest was planned.

Burial Service for Kathleen Kent Thornton, November 13, 1987

The Gospel according to John, Chapter 14, verses 1-6.

Today's Gospel lesson records our Lord's admonition to *not* let our hearts be troubled. The reason he says this is that this is for us today, as it was for the disciples to whom he spoke; life is full of trouble. God never says our lives will be free from difficulties; rather, he promises that, come what may, he will be with us in that trouble.

It is always a tragedy to lose a young life, and Kent's death is a terrible tragedy to all who knew her. We would compound that loss, however, if we were not made better people by having known her. You might doubt a 15-year-old's ability to teach us, but in the six months I've known Kent, I've seen that she had at least two things we should learn.

First of all, she teaches that life is to be reckoned as fun. From what I gather, she was something of an expert at having fun. You older people would do well to remember this. Kent's sense of humor was legendary. Her little sister, Olivia, was clutching a photograph of Kent last night and when I asked to see it, I was appalled to see her staring cross-eyed at her 14th birthday cake. No less remarkable was her friendliness. Since her accident, I've run across fellow after fellow who conceded that they were in love with her from afar. Most girls with her beauty might become self-possessed, but not Kent. Whether with family or friends, she was a gracious and fun-filled person.

She also teaches a second lesson, however, and that is that life is also to be reckoned as serious. She, unlike many young people, had time for eternal matters. She came to church, she was an acolyte at an age when many of her friends had already stopped. She attended Youth group, and was on her way to one such meeting when this accident occurred. She went to Fun-in-the Son this summer at some sacrifice. When confronted with a conflict with her boy-friend's party back home, she was willing to finance half of the cost of a plane ticket so she could still go to most of the conference in Georgia. Next spring we are planning to go to Israel, and Kent was excited about going. We're not talking about Hawaii or the Bahamas, but an unspectacular piece of dirt in the Middle East; but one which had been made sacred by the footsteps of our Lord. She had time for her Lord and, as such, she was serious beyond her years.

So there we have it—a young person who lived a life of both fun and seriousness. I speak to the young people especially when I point out that we are all to have this kind of balance in our lives. To grow physically, you need vegetables as well as dessert; and to grow spiritually, you need serious times as well as fun times. If you loved Kent, then be like her! Make time for God in your lives the way she did. If you would honor her memory, then follow her example.

I can't make Youth Group as attractive as the delights of this world, but I can tell you that it's a whole lot more real. If you come to Youth Group, you will hear what Kent heard and that is—that God loves you, and has abundantly provided for your reconciliation through His Son Jesus Christ. We stand approved not because we are good people, but because of a cross erected 2,000 years ago. All this is offered for two simple works, "Thank You." It's one of those things where to admit your need, it is to receive it.

The Gospel lesson today tells why we loved Kent. She knew how to live because she knew where she was going. Life is full of trouble, but we're told to take comfort because we are a people of destiny. Kent is already at her destination, and the Good News is that there are many other rooms in our Father's mansion as well. Let us furnish ours with faith, as we walk in this brief life which is God's gift to us.

The Rev. Robert B. McLeod, Director of Youth Ministries, All Saints' Parish, Waccamaw Pawleys Island, South Carolina.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 7, 1987, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

S. 578. An act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

The enrolled bill was subsequently signed on today, December 8, 1987, by the Acting President pro tempore [Mr. SANFORD].

MESSAGES FROM THE HOUSE

At 11:47 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

At 4:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2677. An act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987).

MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2677. An act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987); to the Select Committee on Indian Affairs.

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 8, 1987, he had presented to the President of the United States the following enrolled bill:

S. 578. An act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MITCHELL, from the Committee on Environment and Public Works, without amendment:

S. 1788: A bill to protect the aquatic environment from certain chemicals used in antifoulant paints, and for other purposes (Rept. No. 100-237).

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.J. Res. 395: A joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes (Rept. No. 100-238).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

William Caldwell Harrop, of New Jersey, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William C. Harrop.

Post: Kinshasa, Zaire.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, Ann D. Harrop, none.

3. Children and spouses names: Mark D. and Lucy M. Harrop, none. Caldwell and Susan S. Harrop, no record of contributions for 1983; $250, 1984, Walter Mondale; $175, 1984, Democratic National Committee; $25, 1984, Fund for a Democratic Majority; $40, 1984, Democrats Vote Committee; $100, 1984, Democratic Victory Fund; $100, 1984, John Kerry for U.S. Senate; $75, 1985, Democratic National Committee; $15, 1985, Massachusetts Democratic Party; $20, 1986, Massachusetts Dollars for Democrats; $25, 1986, George Bachrach Committee 8th District Massachusetts. Scott N. and Caroline K. Harrop, none. George H. Harrop, none.

4. Parents names: George A. Harrop (deceased), Esther C. Harrop, none.

5. Grandparents names: George A. and Mary C. Harrop (deceased), Otis W. and Cora B. Caldwell (deceased).

6. Brothers and spouses names: George A. Harrop III (deceased), David C. Harrop, none.

7. Sisters and spouses names: Esther H. Godfrey (deceased), William Godfrey, none.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1925. A bill for the relief of the Precisa Calculating Machine Co.; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 1926. A bill to expedite reconciliation of inconsistent decisions of customs officers within the same customs region; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. GARN):

S. 1927. A bill to provide for the approval of a desert land entry in the vicinity of the Dinosaur National Monument and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. QUAYLE (by request):

S. 1928. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the regulation of medical devices, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BUMPERS (for himself and Mr. WEICKER):

S. 1929. A bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes; to the Committee on Small Business.

By Mr. SIMON:

S. 1930. A bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to education loans; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself, Mr. Kennedy, and Mr. Dodd):

S. 1931. A bill to amend part B of title IV of the Higher Education Act of 1965, relating to the guaranteed student loan programs, to reduce the high default rate under that program, and to improve debt collection under that program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. Durenberger, Mr. Boschwitz, and Mr. Riegle):

S. 1932. A bill to require the National Oceanic and Atmospheric Administration to compile an inventory of the pollutants discharged into the Great Lakes; to the Committee on Environment and Public Works.

By Mr. BENTSEN (for himself, Mr. Burdick, Mr. Conrad, Mr. Bingaman, Mr. Melcher, and Mr. Baucus):

S. 1933. A bill to improve the efficiency of operation of the Rural Electrification Administration loan guarantee programs and to prevent interagency disputes with the Federal financing bank from disrupting the working of these programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN (for himself, Mr. Burdick, and Mr. Stafford):

S. 1934. A bill pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States and for other purposes; to the Committee on Environment and Public Works.

By Mr. WARNER (for himself and Mr. Trible):

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988, as "Run to Daylight Day".

By Mr. HELMS:

S.J. Res. 230. Joint resolution to designate the third week of June of 1988 as "National Dairy Goat Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 339. Resolution expressing the sense of the Senate on what documents the Senate should not consider as establishing the meaning of treaties as it decides whether to consent to ratification; to the Committee on Foreign Relations.

By Mr. MATSUNAGA (for himself, Mr. Inouye, Mr. Boren, and Mr. Nickles):

S. Res. 340. Resolution to designate December 8, 1987, as "Pearl Harbor Shipyard Day"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1925. A bill for the relief of the Precisa Calculating Machine Company, Incorporated; to the Committee on the Judiciary.

RELIEF OF PRECISA CALCULATING MACHINE CO., INC.

● Mr. HATCH. Mr. President, today I am introducing legislation for the relief of the Precisa Calculating Machine Co., Inc., on behalf of my constituent, Mr. Eugene Wagner. The legislation directs the Secretary of the Treasury to pay Precisa the sum of $802,796, in full satisfaction of its claims for the losses sustained, expenses incurred, and damages suffered as a result of the seizure of the property of the corporation by the Internal Revenue Service resulting in the ultimate destruction of the company's business.

Legislation at this time is the only way Mr. Wagner may expect to receive any compensation for the inappropriate actions of the IRS between the period of 1954 and 1960. The Internal Revenue Service entered the picture in the fall of 1957 and decided that during the audit period of 1954 through 1956 they would extract the profitable portion of the company; namely, the orthopedic segment, from the office equipment segment which had substantial losses; thereby disallowing the offset of most of the business losses against the greatest portion of business income. The result of course was a substantial tax deficiency for the Service.

During the time Mr. Wagner was seeking administrative relief and was appealing the assessments of the IRS in the U.S. Tax Court for the tax period of 1954, 1955, and 1956, the IRS in January 1958, imposed jeopardy assessments against the corporation and its assets as well as against Mr. Wagner's personal assets. On June 10, 1959, the Service auctioned off some property being held on the premises of the corporation, but not actually belonging to the corporation. In April of 1960, the Service again held a public auction to sell assets of the corporation and again sold assets belonging to other parties as well as corporate assets. The case was still pending in the U.S. tax court when this latter auction took place.

The Senate Committee on the Judiciary has been requested to examine the merits of this legislative proposal as it pertains to the injustice done to this particular U.S. citizen taxpayer. This legislation is similar to the bill I introduced during the last Congress, and the legislation introduced by former Senator Wallace Bennett on June 6, 1974.●

By Mr. PACKWOOD:

S. 1926. A bill to expedite reconciliation of inconsistent decisions of customs officers within the same customs region; to the Committee on Finance.

CUSTOMS UNIFORMITY

● Mr. PACKWOOD. Mr. President, today I am introducing a bill amending the Tariff Act of 1930 to establish procedures to assure uniformity of Customs Service procedures throughout the country. Specifically, this legislation will help establish uniformity in the initial appraisement, classification, valuation, and duty assessment of merchandise entering the Customs territories of the United States.

This bill is not designed to affect either the overall determination of duty rates under current tariff schedules or procedures for protecting such determinations. Rather, this bill is aimed at providing an additional and timely mechanism for assuring that such determinations in all districts within the various customs regions—and ultimately on a national basis—will be consistent, uniform, and in accordance with established procedures.

In making determinations on Customs classifications—the identification of imported merchandise under the Tariff Schedules of the United States [TSUS]—as well as the appraisement and valuation of the merchandise for purposes of assessing the proper rate of import duty, Customs import specialists within each district are bound by precedent established by administrative and judicial rulings which are often reported in the Customs Bulletin. These initial determinations, however, may nevertheless vary, depending on the difficulty of the product's description and the opinion of the import specialist inspecting the merchandise in the particular port of entry.

Inconsistent decisions among Customs districts within the same region lead to the assessment of different duties on identical or substantially similar merchandise. The result is that importers and shippers will be biased toward those ports in those districts applying the more lenient standards and, consequently, lower duty rates. Selecting a port solely on the basis of achieving lower duty rates—commonly known as port-hopping or port shopping—disrupts the import process, increases transportation costs, creates an unwanted and unproductive competitive factor between ports, and runs counter to the purposes and goals of U.S. customs laws. Moreover, inconsistencies in customs rulings on the district level unfairly penalize other ports which lose business to ports in more lenient districts.

Although procedures do exist for challenging district classification determinations by protesting customs classifications, obtaining administrative rulings or internal advises in prospective transactions and seeking further relief in the form of administrative and judicial review, these remedies are wholly insufficient to assure the importer, or port officials, that customs classifications for identical or substantially similar merchandise will be uniform on an ongoing basis. In most cases, a protest can take up to 2 years to be decided. Further appeals to the U.S. Court of International Trade can take several years. Informal advises are required to be processed as expeditiously as possible. However, reaction time is usually slow. Moreover, Customs headquarters may refuse to even consider a request for an advise in certain circumstances.

The problem of nonuniformity in applying customs procedures on the district level is further exacerbated by the drastic increase in cargo handled by U.S. ports, together with a lack of commensurate staff growth to handle these increases. This problem was highlighted in a recent 18 month study conducted on behalf of the Western States Coalition for Effective U.S. Customs Service. This group is comprised of major west coast seaports, airports, and a broad spectrum of entities engaged in international trade, including other ports, importers, exporters, railroads, customs brokers, ocean carriers, and trucking companies.

The Western States Coalition commissioned an indepth study of the role of the U.S. Customs Service in facilitating the flow of cargo and passengers into the United States. Among other problems existing in this area, the coalition concluded that "the role of the Customs region is critical to insure reasonably equitable application of procedures at the district level and to act as an arbiter over issues at the district level." The report specifically found that "Customs should develop and provide for a mechanism for the timely review of inconsistent decisions between Customs districts within the region."

The study also stated that:

> * * * inspection and clearance procedures vary somewhat by Customs Districts but that flexibility allows each district to better respond to legal conditions. However, local flexibility also appears to promote non-uniform application of rules, regulations and classifications. Problems exist in communications and consideration between Customs and the trade community regarding new and/or changing policies and procedures.
>
> Seventy percent of the broker community believes that Customs' policies, procedures and regulations are not applied uniformly across districts. Twenty-three percent feels that procedures and regulations are sometimes applied uniformly and only seven percent think policies and regulations are uniformly applied. The trade's complaint regarding uniformity relates primarily to classification items, marking requirements and copyright and trademark enforcement and not specifically to physical inspection procedures. Customs house brokers cited numerous instances of differences in rulings or requirements between the different Customs Districts. This lack of uniformity among districts results in importers switching ports to those that are "easier" on their merchandise.

My proposal responds to and conforms with the recommendations of the Western States Coalition that a mechanism for a timely review of inconsistent decisions between Customs districts within a region should be developed.

The legislation I am introducing today would provide importers, customs brokers, and port authorities with such a mechanism. The expedited review process would allow petitions to be filed with the appropriate regional commissioner requesting immediate review of such an inconsistent decision. The regional commissioner would then be required to make a determination to remedy the inconsistency within 3 working days.

The bill that I am introducing today will assure that each port of entry in each Customs district enjoys a uniform application of the rules and procedures for the appraisement, classification, and valuation of imported merchandise. More importantly, it would prevent the selection of a port of entry solely on the basis that Customs officials in one port apply the rules more leniently than do Customs officials in other ports within the same region.

These are important goals for the fair and efficient operation of the U.S. Customs system. Others may have alternative views on how to best achieve these goals. I look forward to working with them and with the Customs Service on the best and most rapid way to promote uniformity in Customs districts.●

By Mr. BUMPERS (for himself and Mr. WEICKER):

S. 1929. A bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes; referred to the Committee on Small Business.

CORPORATION FOR SMALL BUSINESS INVESTMENT CHARTER ACT

● Mr. BUMPERS. Mr. President, I am very pleased to introduce today, along with Senator WEICKER, legislation to create the Corporation for Small Business Investment, or Cosbi, as the proposal has become known in the small business community.

The Cosbi Charter Act will establish a landmark new entity to provide venture capital for small but growing enterprises, and it will mark a new chapter for small business investment companies and their clients. First, I would like to regale the Senate with a little history lesson.

In 1958, the majority leader of the Senate, Lyndon B. Johnson, decided it was time to do something for small business. The Small Business Act and the Small Business Administration had been enacted in 1953, during Republican control of the Senate, and LBJ wanted to prove that Democrats were equally dedicated to the interests of small business. Johnson turned to the Small Business Committee, then chaired by Senator John Sparkman, and said he wanted a bill.

The committee obliged the majority leader by reporting out the Small Business Investment Act of 1958, which allowed for the creation of a network of venture capital companies licensed by the Small Business Administration and known as small business investment companies, or SBIC's. The SBIC industry, in my judgment, is one of the more ingenious and effective ideas Congress has ever conceived to meet a crucial need in our economy.

The idea is fairly simple. Banks are, of course, prohibited from making equity investments in their customers by the Glass-Steagall Act. While this was a wise precaution in light of the Depression, it left a void in the availability of capital to small business. SBIC's fill that void by their ability to make equity investments in small businesses. They are also empowered to make long-term loans and to arrange mixed financings which have both debt and equity features. Additionally, SBIC's were allowed the privilege of borrowing through the U.S. Treasury by the issuance of long-term debentures which were guaranteed by SBA.

In the current authorization for SBA, which President Reagan signed in April 1986, our committee reformed the SBIC financing program by providing for SBIC debentures to be sold in the private capital markets, with SBA's guaranty, rather than to the Federal financing bank. By taking the program out of the Federal Treasury, we achieved over $500 million in budget savings over 3 years. The current cost of money for SBIC's has, however, remained somewhat higher than we had hoped for, ranging from 80 to 120 basis points above the comparable Treasury rate.

The SBIC industry has matured over the years as it has produced enormous successes for our economy. Apple Computer, Federal Express, Digital Switch, Rolm Corp., Winnebago, Cray Research, and others are among the present-day corporate giants which would likely not be in business today had it not been for SBIC financing early in their history.

SBIC's however, and the small business community generally, were badly shaken by the Reagan administration's attacks on SBA in 1985 and 1986. The venture capital industry remains somewhat gun-shy of the SBIC program because of these attacks. Moreover, those who have watched the SBIC industry grow and mature believe that SBIC's are ready to become the master of their own destiny, and I agree.

The Corporation for Small Business Investment will fully privatize the SBIC industry by replacing SBA as the guarantor of SBIC debentures. It will also replace SBA as the day-to-day overseer of the program by conducting the annual audits which are now legally required to be conducted by SBA's inspector general. Cosbi will raise capital for the SBIC industry by issuing non-government-guaranteed securities on Wall Street in much the same manner that Fannie Mae and Ginnie Mae raise capital for the home mortgage industry.

Cosbi will be a privately owned but Government-chartered corporation, operated for profit. Owners will be the SBIC industry, which will invest $20 million of private capital by purchasing common stock. Additionally, the Government will take $200 million in preferred stock. No appropriations will be required for this stock, however, as it will form part of the purchase price for Cosbi's purchase of SBIC debentures now held by the Treasury.

Cosbi will be governed by a board of directors of 15 members, with 9 elected by the industry, 1 selected by the minority enterprise SBIC [MESBIC] industry, and 5 appointed by the President with confirmation by the Senate.

Cosbi will purchase the outstanding portfolio of SBIC debentures which are guaranteed by SBA and now held by the Treasury's Federal Financing Bank. These debentures will have a face value of $707.39 million on September 30, 1988, and carry an average interest rate in the neighborhood of 11.25 percent. They are worth more than face value if sold with recourse in today's market. Therefore, the sale will be with recourse, meaning the Government will continue to honor its existing guarantee against defaults in the portfolio purchased by Cosbi.

The Government will not, however, be liable for any debts incurred by Cosbi or for new Cosbi financings. A with-recourse sale will yield a much higher return for the Federal Government and also allow for the Government to take $200 million in preferred stock as part of the price while still yielding $527.9 million in cash. Of this amount, $150 million shall be paid directly into a trust fund designed to provide all funding for minority enterprise SBIC's. The purchase of this portfolio will be financed primarily by the issuance of debt securities by Cosbi, as will annual purchases of SBIC debentures. Although this Cosbi paper will not be federally guaranteed, the Secretary of the Treasury will be authorized, subject to the appropriation of funds, to purchase up to $500 million in Cosbi securities, as an emergency back-stop, if Cosbi needs additional Federal support at some time in the future.

The Government's preferred stock will be nonvoting and will carry a mandatory 5 percent noncumulative dividend payable after the first 2 years of operation, and then payable only on net earnings in excess of $2 million. Further, the Government will receive detachable, 15-year warrants to purchase nonvoting common stock equivalent to 28 percent ownership in Cosbi.

Substantial Federal budget savings will be achieved because Cosbi will also take over the minority enterprise small business investment companies program and will continue to provide a 3 percent subsidy for MESBIC debentures. Funding for MESBIC's will be generated by a trust fund of $150 million, which would be paid directly out of the purchase price. SBA would also transfer the MESBIC preferred stock which it now holds to the trust, which would terminate in 50 years.

I believe that both SBIC's and MESBIC's as well as the small business industry will flourish under the aegis of Cosbi. The virtually unlimited resources of the private markets will be available for small business venture capital, as opposed to the current level of $225 million in SBA guaranty authority set by appropriations. SBIC's will remain accountable to the Congress and the public through a number of reporting requirements included in the statute, and the industry will remain under the general oversight of the Small Business Administration.

Chairman JOHN LAFALCE has introduced very similar legislation in the House. This bill is also similar to legislation which Senator WEICKER and I cosponsored in the 99th Congress. There is one issue on which I have some difference of opinion with the House bill, and that is the degree of oversight of Cosbi by SBA and SBA's powers in that respect. The House bill writes the six major existing SBIC regulations into statute but provides for no future rulemaking power by the administration. My bill also codifies existing regulations, but allows for the possibility of future rulemaking by SBA if necessary.

I do not want SBIC's to be overregulated. But I do believe that some form of rulemaking power is necessary to protect the public interest and ensure effectuation of the congressional purpose, as well as accommodating strong objections by the White House and Treasury Department which were raised to last year's bill. The issue of regulation will be explored in depth by our committee in hearings on this bill.

Because this bill is virtually identical to the House version, I would like to refer my colleagues to the excellent section-by-section analysis drafted by the House Small Business Committee which follows Chairman LAFALCE's introductory statement on the House bill on page H8073 of the October 1, 1987, CONGRESSIONAL RECORD. The Senate bill varies from that description in the following five respects:

(1) The board.—Under new subsection 352(d), one of the directors that is appointed by the President shall be the Administrator of the Small Business Administration;

(2) Rules and regulations.—(a) under new subsection 358(A), the Corporation shall adopt rules and regulations as provided for in new subsection 360(h), but this section would not require adoption by a majority of the 5 board members appointed by the President; (b) under new subsection 360(h), the SBA is authorized to make such rules and regulations as necessary to ensure that the purposes of the act are accomplished. Any such rule or regulation shall be made on the record after opportunity for hearing in accordance with the Administrative Procedure Act;

(3) Audits.—Under new subsection 360(f), individual SBIC's and MESBIC's are subject to audit by the Inspector General of SBA at any time, but only if the Inspector General makes the proper "for cause's showing;

(4) Transfer of SBA securities to COSBI.—Under new subsection 361(a), the sale of the debenture portfolio shall occur no later than October 1, 1988, rather than on September 30, 1988; and

(5) Warrants.—Under subsection 361(d), the corporation shall issue warrants to the Secretary of the Treasury as opposed to the administrator of SBA.

Mr. President, this is an excellent bill. In my view, because of the many hours of deliberations which have gone into its drafting by our committee staff, both majority and minority, by the House committee staff, and by representatives of the industry, it is a much better bill than that which was reported by the House committee last year. I can promise that hearings will be held in the Senate Small Business Committee at the earliest opportunity, and I urge all Senators to examine and support this legislation.●

● Mr. WEICKER. Mr. President, I am pleased to join with the chairman of the Small Business Committee, Mr. BUMPERS, in introducing a bill to establish a Corporation for Small Business Investment [Cosbi]. I commend Senator BUMPERS for his willingness to push for enactment of this important legislation which will provide small and emerging businesses with a reliable source of venture capital.

The recently released report of the President on the State of Small Business documents that small businesses have been the engine driving our economic growth. According to this report, employment in small business dominated industries grew at almost eight times the rate of growth in large business dominated industries during 1986. Small businesses, the report notes, are disproportionately represented in the fastest growing sectors of the economy, with many small firms experimenting with new products, technologies, and new methods of distribution.

If these small innovative businesses are to continue to grow, they must have access to debt and equity capital. Traditional sources of financing, such as commercial banks and venture capital funds, have often been unavailable to those firms.

In 1958, Congress passed the Small Business Investment Act which established federally licensed, private small business investment companies [SBIC's] whose statutory mission was to provide long-term debt and equity financing, along with management counseling to small businesses. The Small Business Administration regulates the activities of these companies, which can issue federally guaranteed debentures, the proceeds of which are reinvested in small businesses.

The Congress, in an effort to channel needed investment dollars to minority enterprises, also created the Minority Enterprise Small Business Investment Company [MESBIC] in 1972. MESBIC's sell preferred stock to SBA and issue debentures at reduced interest rates. MESBIC's are required to finance only businesses owned by socially or economically disadvantaged individuals.

Both of these programs are classic examples of a public/private partnership that works. Before a company is eligible for the program, it must have $1 million in private paid-in capital and must commit a significant amount of private capital in order to access funds at attractive rates through the SBA.

SBIC/MESBIC's represent approximately 10 percent of the venture capital markets, and are unique in the size of their financings and the types of businesses they invest in as compared to private, independent venture firms. For example, SBIC's and MESBIC's concentrate their financings on firms in their early stages of development. Over 60 percent of their financings are directed to small firms who are 3 years old or less. Traditional venture firms tend to seek out firms in their expansion phase, usually their fourth to sixth year in existence. Furthermore, the average size financing of an SBIC is $178,000; MESBIC's average financing in 1986 was $87,000. Private, independent venture firms' average investment was $1.6 million during that same period.

The SBIC industry has filled an important void in the venture capital markets. These companies fund a wide range of firms, from high technology to franchise food operations. Since its inception, over $7 billion of venture capital invested have been made to nearly 85,000 businesses; through MESBIC's over $700 million of those funds went to almost 11,000 minority-owned businesses. Some of these firms, with the help of the industry's financing and training, have experienced tremendous growth, generating jobs and revenues. Some of those firms are industry leaders, such as Digital Switch, NBI, Cray Research, Essence magazine, and Federal Express.

In summary, the SBIC industry has witnessed a remarkable expansion and success over the past 30 years. However, in recent years the uncertainty of Federal funding, coupled with an unstable regulatory environment, has made long-term financing by SBIC's extremely difficult and has threatened the industry's further growth and development.

The legislation that Senator BUMPERS and I are introducing would provide SBIC's and MESBIC's with the ability to go directly to capital markets for their long-term financing at reasonable rates through the creation of a Government-sponsored enterprise, similar to Federal National Mortgage Association, Government National Mortgage Association, and Student Loan Marketing Association.

This legislative concept has now been before the Congress for over 4 years. During that time, this proposal has been carefully scrutinized and refined by the House and Senate Small Business Committees. I believe the proposal that we present today is an improvement is several aspects over earlier proposals.

By having characteristics similar to these other institutions chartered by the Congress to achieve certain public policy objectives, Cosbi Securities would be considered as having agency status resulting in rates of interest only slightly above U.S. Treasury bonds. First, Cosbi will have a 15 member board of directors, 5 of whom will be appointed by the President. Second, Secretary of the Treasury is empowered, to purchase, subject to congressional approval, Cosbi securities up to $500 million. Financial investors would view this "backstop" as a demonstration of significant Federal interest in this institution. Third, the securities of Cosbi would be exempt from SEC registration requirements. Fourth, Cosbi would be exempt from State and local taxation, similar to other federally sponsored institutions.

Throughout my extensive review of this legislation, I have expressed my concern that Cosbi, at its inception, would be undercapitalized. Under the revised formula set forth in this bill, I believe that issue has been addressed. First, Cosbi would start up with $20 million in common stock raised through capital contributions from SBIC's and MESBIC's who with to affiliate with Cosbi. Second, the Federal Government would purchase $200 million in preferred Cosbi stock. This infusion of Federal dollars is essential for Cosbi to be financially stable.

Furthermore, the bill has been strengthened to allow the Government to share in any up-side of Cosbi operations. After a 2-year grace period on paying dividends, Cosbi would be required to pay dividends on the preferred stock of 5 percent on its profits over $2 million each year. The Government would also receive warrants giving it the right to purchase Cosbi common stock up to 15 years after enactment at a price of 50 percent above the price at which Cosbi stock opens in 1988. If the warrants are exercised, the Government would have a 28 percent ownership in Cosbi.

Cosbi would establish its asset base, through the purchase of approximately $700 million of SBIC federally guaranteed debentures currently being held at the Federal Financing Bank [FFB]. The debentures would be sold to Cosbi with recourse, thus any losses would be paid by the Federal Government. Any further losses by Cosbi would not be the responsibility of SBA.

Cosbi would purchase these debentures through the issuance of debt securities—$150 million of the cash proceeds from the sale will be devoted to establishing the corpus of the MESBIC trust. The remaining funds from the purchase price would go to the Treasury. The trust would also raise money by the transfer to it of the MESBIC preferred securities and debentures currently held by the SBA. The trust would use its capital to redeem MESBIC debentures which go into default and to pay to Cosbi a 3-percent subsidy for MESBIC borrowing under the cost charged by Cosbi.

The issue of how Cosbi should be regulated is a matter still under active discussion. S. 1929 requires the Cosbi board to establish rules and regulations governing SBIC activity in six major areas:

Prohibition against conflict of interest transactions;

Restriction of investments to only qualified small business;

Prohibition against control of small firms;

Required diversification of investment risk; that is, an SBIC can invest no more than 20 percent of its private capital in any one small business;

Prohibition against investments in passive businesses, foreign companies, relending activities, or the acquisition of real estate; and

Prohibition against engaging in unlawful or non-SBIC activities; that is, operating other types of businesses.

Furthermore, the legislation provides a limitation on Cosbi's issuance of debt by setting a maximum debt to capital ratio of 15 to 1 and gives the Secretary of Treasury approval authority over the issuance of all Cosbi obligations. The bill requires that all of Cosbi's books and records be available to the Congress, SBA and its inspector general, and it also requires biannual compliance audits of SBIC's be conducted by Cosbi or an independent CPA commissioned by Cosbi.

Finally, the SBA's inspector general is empowered to audit an SBIC if he has "reasonable" cause to believe that an SBIC has committed civil fraud or has violated Federal criminal statutes.

Mr. President, I believe this regulatory structure is sufficient to insure that the financial performance of the bank is properly monitored and the public policy purposes of the act are achieved. Congress and the executive branch will have access to all the necessary information to determine whether Cosbi is acting appropriately.

Beyond the regulatory provisions I have described, the bill also provides SBA with the power to promulgate regulations controlling Cosbi initiatives. The SBIC/MESBIC industry is concerned that such a provision will create regulatory uncertainty, similar to the one that exists today. During committee hearings on the bill, this issue will be more fully explored. I look forward to working with the chairman in this effort to strike the necessary balance between the need to protect the significant Federal fiduciary interest in Cosbi and the desire on the part of the industry to control their future direction and growth.

I expect the committee will move expeditiously next year to consider this important legislation. I urge my colleagues to support this effort to provide a steady flow of equity capital to this Nation's small, emerging businesses.●

By Mr. SIMON:

S. 1930. A bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to education loans; referred to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. DODD):

S. 1931. A bill to amend part B of title IV of the Higher Education Act of 1965, relating to the guaranteed student loan programs, to reduce the high default rate under that program, and to improve debt collection under that program, and for other purposes; referred to the Committee on Labor and Human Resources.

GUARANTEED STUDENT LOAN DEFAULTS

● Mr. SIMON. Mr. President, there has been a great deal written and spoken in the last month about the problem of student loan defaults. While the Federal Government's default costs have grown tremendously in the past 4 years—reaching as high as $1.7 billion in fiscal year 1988 and projected to climb as high as $2 billion next fiscal year—I believe some rational thought should be brought to the impending debate on legislative solutions to this complex and difficult problem. It should go without saying that any solution must maintain our commitment to expanding postsecondary educational opportunities for low- and middle-income students, and their families, who seek to pay the rising cost of a college education.

In my view, many of the legislative and regulatory proposals advanced in the current climate will not solve the problem of high loan defaults and could exacerbate the ability of the Congress to provide adequate appropriations for the Pell grant, Supplemental Educational Opportunity Grant and College Work Study Programs.

In addition, several proposals to establish trust accounts, tuition savings plans, restore the tax deductibility of certain educational benefits, and to make the Pell grant an entitlement are pending. The Congress only recently reauthorized the Higher Education Act's student aid programs last year. High levels of student indebtedness and student loan defaults, as well as the inability of many middle-income students to qualify for the current "needs-based" programs, have spurred concern in the Congress.

Before we proceed with possible solutions, we need to be sure we really understand how we got where we are today. Guaranteed student loans [GSL's] are not really loans, they are an investment in the individual. No evaluation of the borrowers' "creditworthiness" is undertaken and no collateral is pledged. Lenders make these loans and the Federal Government guarantees them as an investment in the individual and his or her future earnings. GSL loans represent risk-taking under any circumstances—since we hope that by providing the student borrower with more education, we will increase earning potential and the borrower's ability to repay the indebtedness. The benefits to the individual and to society, when educational opportunity is expanded, are well-established. The inherent risk—in making an unsecured loan to a young man or woman with no employment or credit history—is magnified many times over when we dramatically increase student loan debt among low-income students.

Every student who demonstrates "need," that is, cost of attendance minus discretionary income, is eligible for a loan up to the level of demonstrated need. Students from family backgrounds which have provided them with little or no exposure to the concept of borrowing are just as eligible and just as likely to find themselves $10,000 in debt as their higher income colleagues. Student borrowing has become an all too acceptable route for students and parents who find themselves cash poor and unable to pay college costs. This "borrow now, learn later" phenomenon shifts the responsibility for paying for college from the parent to the student. It also results in mortgaging the educational futures of the current generation of college students, and raises serious questions about parental and societal commitment to advanced learning. Are we really saying to young people, "if you want an education, here's a loan, pay for it yourself?"

According to the Joint Economic Committee's report "Student Loans: Are We Overburdening a Generation?" student loan debt has tripled in the last 10 years. It is a common occurrence for a student to complete the baccalaureate degree with $10,000-$15,000 in loan debt. Acquiring more loan debt in general, but especially for low income students in particular, is a bad idea. Punishing postsecondary institutions—who have almost no role in the GSL process—ignores the real problem and offers no real solution.

A COSTLY BUT NECESSARY SOLUTION

I believe that making the Pell Grant Program an entitlement—thereby reducing the dependence of lower income students on loans—ought to be the first step we take. Given present budgetary constraints, that may not be a realistic option in the short term. Other legislative approaches which encourage higher income families to save for college costs, while providing additional campus-based aid—grants, low-interest loans and work study—for students from middle-income families, should be thoroughly explored.

Clearly, our current budgetary situation may make any legislative solution which involves making the Pell Grant Program an entitlement or significantly increasing funding for other grant programs difficult. Using the current $2,300 maximum, the cost of making the Pell Grant Program an entitlement—given all other current law assumptions—would rise to approximately $5 billion. Unless additional revenue is provided or reductions are made in other Federal programs, we face the real prospect of simply tinkering with the problem rather than solving it. The problem cannot be solved by making higher education less accessible and punishing schools for sins they did not commit.

THE LOAN DEFAULT PROBLEM DID NOT EMERGE OVERNIGHT

In 1978, in response to legislation to authorize tuition tax credits, the Carter administration proposed and the Congress enacted the Middle Income Student Assistance Act—Public Law 95-566—or MISAA which lifted the income "cap" on the Guaranteed Student Loan Program. The lifting of the $25,000 [AGI] income cap had two impacts: First, many middle-income families, who would have been eligible anyway, applied and received GSL loans; and second, students from families with higher incomes also entered the program, tripling the loan volume in 3 years from

$1.9 billion in 1978 to $7.8 billion in 1981. GSL volume has continued to grow, although GSL loan limits did not change until passage of the Higher Education Amendments of 1986. Increased access to GSL meant more loans to more students and increased Federal financial obligations due to the program's entitlement status.

Increased Federal expenditures for the GSL Program have also had a negative side effect on the Pell Grant Program. Rising GSL costs associated with higher loan volume—which trigger larger interest rate subsidies and special allowance payments to lenders—effectively "capped" the Pell grant appropriation. Congress' inability, due to budgetary pressures, to provide full funding for the Pell Program and the GSL entitlement resulted in two reductions in the Pell grant maximum award and only two real increases between 1978 and 1987. The academic year 1985-86 Pell grant maximum of $1,900 should have been $2,600 under the 1980 Amendments to the Higher Education Act. Even the more modest Pell grant maximum of $2,300 for the 1987-88 academic year, established under the 1986 reauthorization, has not been reached.

The principal cause of the recent surge in default payments has been the growing number of loans in repayment, a direct result of the rapid growth in loan volume that began in 1979. In fiscal 1978, the amount of loans in repayment was less than $3 billion; in fiscal 1986, loans in repayment approached $20 billion.

The increase in the GSL default rate is due primarily to the growth in new loans in repayment; a borrower who has already been making repayments for a period of time. Past experience in the GSL program suggests that over one-half of all defaults occur before the first repayment and roughly four-fifths of defaults occur in the first year of repayment. In fiscal 1978, about $1 billion of loans entered repayment; in fiscal 1986, nearly $8 billion of loans entered repayment.

The growth in loans entering repayment, however, does not entirely explain recent increases in GSL default payments and the growth in the default rate. Default payments and rates may also have increased because groups of borrowers who traditionally have been more likely to default have represented a larger proportion of borrowing since the GSL loan volume expanded after 1979. The "capping" of the Pell Grant appropriation and the failure of the Pell maximum to keep pace with rising college costs forced many low-income students to borrow increasing amounts of money. No nationwide data exist to confirm this impression, but guaranty agency information suggests that this is a plausible explanation of the growth in student loan defaults and default rates.

In sum, low- and middle-income families are relying increasingly on student borrowing to pay for college costs and low-income students—who formerly relied on grants to pay college costs—are borrowing more and more in order to gain access to some form of postsecondary education.

AN EMERGING TREND: LOANS VERSUS GRANTS AND STUDENT DEFAULTS

One of the most disturbing trends in the way parents and students finance postsecondary education has been the major shifts in the overall proportions of student aid awarded in the form of grants and loans. From 1970-71 to 1975-76, grant aid increased from 66 percent to 80 percent of the total aid awarded, while loans decreased from 29 to 17 percent. In the mid-1970's, however, the pattern reversed itself. In 1975-76 grant aid peaked at 80 percent of all aid awarded. Since then, grant aid has declined to 47 percent in 1986-87, while loans constitute about 49 percent of the total. The balance is work study. This dramatic shift in the form of aid provided has severe implications for both student loan defaults and minority access to higher education.

Minority access to higher education has been in decline since 1975. The "1987 Status Report on Minorities in Higher Education" called the decline in the participation of black Americans and Hispanics in postsecondary education a "crisis of substantial dimensions, " given the increase in the number of these minorities graduating from high school, but their declining college enrollments. The decline in minority enrollments parallels this shift from grants to loans. Although a direct connection cannot be established, the relationship is obvious. Pell Grant assistance is concentrated on low-income students, with approximately 80 percent of all recipients coming from families with incomes below $15,000 per year. Since black and Hispanic minorities tend to be concentrated in lower socioeconomic categories, any reduction in grant aid—in real or dollar value terms—would adversely affect minorities most.

According to the most recent data available from UCLA's Higher Education Research Institute "College Costs and Student Aid," only 16.9 percent of first-time, full-time freshmen received Pell Grants in the fall of 1986, compared to 31.5 percent in 1980. That represents a decline of 267,000 Pell Grant recipients. While some would argue that the Pell Grants and the recipients have been siphoned off by private, career schools—thus accounting for the decline. That misses the real point. Access to higher education for low-income students, especially minorities is primarily a function of ability to pay. Offering a low-income student the opportunity to acquire $10,000 in debt over 4 or 5 years is no real offer at all.

Student loans defaults tend to be concentrated in institutions where lower income students enroll in greater numbers. While student loan defaults have been mischaracterized as "a proprietary school problem"—that simply is not true. Of the 8,300 education institutions identified in the recent Federal funds information for States [FFIS] report, two-fifths has students borrowers with default rates in excess of 20 percent and more than one-tenth had default rates exceeding 40 percent. The schools with the highest default rates tended to be cosmetology schools; other private, career schools, community colleges and historically black colleges and universities. All of these postsecondary institutions serve very large numbers of low-income and minority students.

Special mention should be made regarding the role of private, career schools—which seem to have become the "whipping boy" in the loan default reduction debate. The presence of increasing numbers of low-income and minority students at private, career schools is a function of two factors:

These schools offer shorter courses, at less expense and closer to the student's home—with the promise of employment upon graduation or certification; and

The presence of a less threatening, but high quality learning environment and older, more mature students is critical for a person who may have failed in school before.

It is worth noting that the rise in the number of Pell recipients at private, career schools parallels a decline in Pell recipients in other sectors, especially public 2-year and 4-year colleges and universities. Historically, these had been the access points for low- and middle-income students. Pell grants follow poor students, not institutions. Evidently, these lower income students increasingly enroll in private, career schools for reasons we do not fully understand. One thing is clear, Pell grant awards are reaching their targets—poor students seeking a postsecondary education.

A NATIONAL STUDENT LOAN DATA SYSTEM—THE KEY TO PREVENTING DEFAULTS AND ENHANCING COLLECTIONS

Mr. President, the Higher Education Amendments of 1986—Public Law 99-498—as amended, authorized the establishment of a national student loan data system. It was my privilege to sponsor the amendment that would create the system. Critical to addressing the student loan default problem is the establishment of a sound and solid data base on which policy decisions can be based. In general, the Department of Education's current data on student loan defaults and the GSL Program is both incomplete and inaccurate.

The information contained in the guaranty agencies' guaranteed student loan program record dump data: First, inaccurately portrays the default picture at the institutional level because it is incomplete, that is, default data for some schools is not included, and in some instances recoveries, refunds and collections are not reflected in a "net" default amount; second, projects national default amounts on the basis of cumulative default totals, rather than an annual "net" amount in default; and third, uses a default rate, which is of limited value, since it does not indicate the amount of GSL dollars in default, for example, if 30 of 100 students at a cosmetology school borrow $1,500 and fail to pay the last $500 to the lender, a 30-percent default rate would result; however, if 30 students at a large research university with 15,000 students fail to pay $10,000 each, that would produce a 0.3-percent default rate. The difference between defaulting on $15,000 and $300,000 is substantial, while the default rate is almost irrelevant.

On March 13, 1987, the Department's Office of Inspector General wrote to Assistant Secretary for Postsecondary Education C. Ronald Kimberling about the GSL loan default information used by the Office of Student Financial Assistance. That memorandum contains some startling statements about the quality of information available to those making policy decisions about loan defaults. The March 13, 1987, memorandum states in relevant part:

> Management's use of the current data will result in ED *making incorrect decisions* in monitoring and managing the multibillion dollar GSLP.
>
> Evaluations of the data by OSFA and analyses by the Office of Inspector General (OIG) have shown that significant errors render the guarantee agency data of limited value in ED performing any oversight of the GSLP or for agencies evaluating their own operations.
>
> An analysis of the data *will not produce an accurate total of defaulted loans.*
>
> Currently, *over $4 million per year* is being expended *to prepare GSLP data and prepare reports that are of little or no value.* (emphasis supplied)

Mr. President, I ask unanimous consent to print Mr. Laine's entire memorandum to Assistant Secretary Kimberling in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
OFFICE OF INSPECTOR GENERAL,
March 13, 1987.

MANAGEMENT IMPROVEMENT REPORT NO. 87-06

To: C. Ronald Kimberling, Assistant Secretary for Postsecondary Education.
From: Mitchell L. Laine, Assistant Inspector General for Audit.
Subject: Guarantee Agency Record Dump Data Is Not Complete or Accurate.

The purpose of this memorandum is to advise you of the quality of the Guarantee Agencies' Guaranteed Student Loan Program (GSLP) Record Dump Data currently being used by the Office of Student Financial Assistance (OSFA). Our survey work on the Fiscal Year 1985 data evidenced that it is neither a complete nor an accurate picture of any guarantee agency's operation. Complete and accurate data is needed for OSFA to meet the requirements of establishing internal controls and properly monitoring and managing the $60 plus billion GSLP. Management's use of the current data will result in the Department of Education (ED) making incorrect decisions in monitoring and managing the multibillion dollar GSLP.

BACKGROUND

OSFA recognized in 1978 that there were few sources of information to determine what was occurring at the guarantee agencies regarding the operation of the GSLP. To address this problem, OSFA and the agencies worked together in 1980 to establish a system to gather information on the agencies' GSLP data. The system became known as the "Student Loan Guaranty Record Dump Procedures," (hereafter referred to as "Tape Dump Procedures").

The Tape Dump Procedures were created by a joint committee of OSFA and the Paperwork and Data Processing Committees of the National Council of Higher Education Loan Programs (NCHELP). Tape Dump Procedures were published as the "U.S. Department of Education, State Guarantee Agency, Student Loan Guaranty Record Dump Procedures." These Tape Dump Procedures contained 42 pages of instructions and six appendixes on how each guarantee agency should prepare loan data.

The participation by guarantee agencies in providing the data has been, and still is, on a voluntary basis. ED does not have any regulations strictly requiring guarantee agency participation. Current regulations issued on November 10, 1986, merely state that, "A guarantee agency shall submit to the Secretary . . . (4) Any other information concerning the loan insurance program, at such frequency as determined by the Secretary. (34 CFR 682.414)."

ED states in the "Tape Dump Procedures" that the actual purpose for guarantee agencies providing their loan data to ED is "not yet . . . fully defined." Nevertheless, an NCHELP committee published the following purposes for which ED planned to use the data: prepare materials for budget purposes, provide the General Accounting Office (GAO) with data, provide for program oversight capabilities, provide national statistical information by type of educational or lending institution, produce statistics by individual state program, provide each state with the identification of students receiving loans in more than one state, and produce comparative information on state programs.

OSFA contracts with Boeing Computer Services to process the guarantee agencies' tapes. Boeing receives each agency's data tapes, edits the tapes, and compiles them into the agencies' GSLP tape dump. Boeing then prepares various analyses of the data. OSFA's cost for contracting with Boeing for Fiscal Year 1986 guarantee agency tapes was $1,056,303. This did not include expenses incurred by the agencies to create the data tapes.

GUARANTEE AGENCY DATA IS NOT COMPLETE OR ACCURATE

Evaluations of the data by OSFA and analyses by the Office of Inspector General (OIG) have shown that significant errors render the guarantee agency data of limited value in ED performing any oversight of the GSLP or for agencies evaluating their own operations.

OSFA's evaluation of the guarantee agency tapes

OSFA evaluated the 1985 data to ascertain data fields left blank. Of 300 million data fields from more than 12.5 million borrower records, over 20.1 million or 6.7 per cent of the data fields were left blank as shown by the following examples:

Enrollment Status, an important data field for evaluating in-school interest, contained over 1.5 million blank fields. This equates to $3.75 billion in GSLP loans without loan status codes indicating whether the borrower is in-school or not (1.5 million blank enrollment status or borrowers x $2,500 per loan = $3.75 billion in loans).

Loan Status Code, a code that indicates if a borrower is in-school, in deferment, paid-in-full, or dead, etc., had almost 400,000 borrower records with blanks. This says that 3.5 percent of the records did not show a borrower's status, which equates to a billion dollars of loans without status codes (assuming a loan amount of $2,500 x 400,000).

Loan Status Date showing when the loan status was last checked by each lender had over 425,000 blanks, amounting to $1.25 billion of loans.

Total Amount Approved for Academic Year which is used to check if borrowers are exceeding loan limits, had almost 2 million blanks. Also, if the total of approved loans is used for budget purposes, the total amount will be understated by 15-20 percent.

Beginning Period of the Loan had over 174,000 blank fields.

Ending Period of the Loan had almost 1.7 billion fields with data missing. Beginning and ending loan periods are important data fields, in that they allow for a number of compliance checks, i.e., overlapping loans.

The OSFA evaluation indicated only two states did not use blank fields and that the remainder averaged over 350,000 blank data fields with one state having over 3.2 million blank data fields.

OSFA's 1985 quarantee agency data evaluation results call into question the use of the data as a source of analysis or oversight of the GSLP. This is based on the evaluation's results that showed on the average each borrower's record contains at least one blank data field. When key fields are left blank, neither ED nor the agencies have a reliable basis for using the data for budget or oversight purposes.

ED-OIG's analysis confirms the limited value of the data

ED-OIG analyzed 1985 guarantee agency data using an audit software program (Audit Analyzer). Audit Analyzer programs were created to: (1) review the data for compliance with laws and regulations; (2) sort the data based on volume of potential problem areas, i.e., schools with high defaulted loan amounts, lenders with high number of "never enrolled"; and (3) create profiles on agencies, schools, lenders, and borrowers. These programs indicated potential problem areas in the range of $100 million to $224 million.

The Audit Analyzer program revealed:

Never Enrolled Borrowers Sorted by Lenders—this program indicated more than 85,000 borrowers, who received loans of more than $224 million, were shown as not attending school. In other words, the borrower could have received the loan funds and not have used the funds for educational purposes.

In-School Status Loans 5 Years Old and No Loan Status Update for 2 or More Years—this program identified loans totaling over $100 million where it had been 5 years since the borrower received a loan, and the loan status had not been updated from an in-school status for over 2 years by the lender.

The extent of the ED-OIG's analysis of the GSLP data was severely limited because of the large number of blank data fields. For example:

An analysis of the data will not produce an accurate total of defaulted loans. OSFA's analysis indicated that almost 400,000 loan status fields were left blank and we noted that one agency did not include any defaulted loans. Therefore, an analysis of defaulted data would not be reliable because the data does not contain a complete universe of defaulted loans.

An analysis of schools obtaining 50 percent or more of their loans from one lender indicated that the data for loan status was inaccurate. For example, one lender had over 15,000 loans outstanding with none coded as defaulted. It is unlikely that a lender would have zero defaults with a portfolio of 15,000 loans.

Some agencies significantly overstated the number of borrowers and loans in their data by reporting all loans of a borrower rather than the last loan guaranteed.

ED-OIG's testing of the data base indicates some data inaccurate

To test "Never Enrolled" data, we identified schools and lenders with borrowers that never enrolled. Our objective was to determine whether borrowers actually attended school.

We reviewed 54 borrowers shown as "Never Enrolled" at a school and found 41 borrowers did attend school. Therefore, the "Never Enrolled" data for that school was only 24 percent accurate.

A prior ED-OIG audit (ACN 04-40115) also noted a low accuracy rate for the GSLP data. Verification of loan data on about 1,200 borrowers showed this data to be about 50 percent accurate.

Budget constraints

OSFA's previous Chief of the Guaranteed Student Loan Branch reported an underlying problem in that there is an insufficient budget amount to properly complete the guarantee agency data analysis. The former Chief stated in a memo dated 1985 and titled "Overview of Problem Areas, Major Issues and Initiatives Related to the Guaranteed Student Loan Program" that:

"Program budget constraints and contractual demands hamper the ability to receive, process, and analyze borrower specific data from the guarantee agencies via the annual tape exchange. Program needs and operational priorities are not always in alignment."

In conclusion, because of the problems noted, OSFA's and NCHELP's objectives of complete and accurate data have not been met. Complete and accurate GSLP data is essential to related analysis for properly monitoring and managing the $60 plus billion GSLP. Currently, over $1 million per year is being expended to develop GSLP data and prepare reports that are of little or no value.

The Federal Managers' Financial Integrity Act and OMB Circular No. A-123 require management to establish controls which act as safeguards against "waste, loss, unauthorized use, and misappropriation." Implementation of the following recommendations should assure: 1) not only the annual GSLP data processing expenditure of $1 million will be better better utilized, but 2) that ED has data to identify costly practices by the GSLP's agencies, lenders, schools, and borrowers.

The Higher Education Amendments of 1986 (P.L. 99-498) authorized ED to establish a national GSLP data base. However, because of start-up time needed to get a national GSLP data base operational, the current Guarantee Agency Record Dump of GSLP should be improved and used in the interim, then used as a crosscheck in developing and establishing the national GSLP data.

RECOMMENDATIONS

We recommend that OSFA:

1. Not use the GSLP data without qualifying the data to the potential user as an inaccurate and incomplete source,

2. Require agencies to submit complete and accurate GSLP data,

3. Establish a procedure to verify the agency data,

4. Issue regulations that act as Official Guarantee Agency Record Dump Data Guidelines, and

5. Complete recommendations 1 through 4 then use the GSLP data to establish trend analyses and appropriate controls required by the law.

We would appreciate your views and comments concerning our recommendations within 30 days of the above date. If you have any questions or would like to discuss our recommendations, please contact me on 245-0621 or Carol Lynch, Chief, Postsecondary Education Audit Branch, on 472-6155.

Mr. SIMON. Mr. President, despite these warnings and the failure to modify the current "tape dump" system from which the Department collects loan default information from guaranty agencies, inaccurate institutional default data has been published and used as the basis for the Secretary's loan default regulatory initiative. We must reduce loan defaults, but before we do anything we need to implement a data collection system which will allow us to have accurate information about the exact nature of the problem and what we can do to address it. Given the current lack of accurate institutional data, we are literally fishing in the dark.

Let's look at what we know and what we don't know.

There is no single place where one can obtain complete and accurate data about every guaranteed student loan made and guaranteed by the Federal Government.

We do not have current or accurate data on GSL defaults nationally, either by institution, sector or dollar amount.

Default data presented by the Department is not only incomplete, but misleading because default statistics are not presented on an annual basis, but cumulatively.

There is no standard definition of the term "default" which is uniformly used by the guaranty agencies in reporting defaults.

A LEGISLATIVE SOLUTION

We are at a critical point in the battle to reduce student loan defaults. In recent years, the Congress has added 26 different amendments to the Higher Education Act and related laws designed to improve loan collections and prevent loan defaults. Given the systemic nature of the loan default problem, legislative solutions will only go so far in preventing the problem. We can, and must do what will move us the furthest in bringing the default problem under control. Eliminating loan defaults entirely may be impossible!

Today, I am introducing the Student Loan Default Prevention and Debt Collection Act and a companion bill to extend the authority of the Internal Revenue Service [IRS] to offset defaulted loan amounts and tax refunds. The main bill, which is cosponsored by Senators KENNEDY and DODD outlines several critical steps to prevent and reduce student loan defaults.

The first step must be to require the Department to present default rate statistics on an annual basis. For a variety of reasons, the Education Department has traditionally calculated student loan default rates on a cumulative basis since the program began. A cumulative rate measures the probability that a loan will default sometime during the repayment cycle, but it fails to reflect accurately year-to-year changes in default activity. A cumulative rate is similar to measuring a baseball player's batting average over the course of a career, rather than for just one season. For this reason, a cumulative measure of student loan default rates should not be compared to the loss rates that banks publish for various types of consumer loans because bank loss rates are calculated on an annual basis—losses in 1 year are compared to loans in repayment in that year.

The Department of Education would also be required to publish an annual default rate for GSL so that year-to-year changes in default activity might better be measured and to allow for comparisons with other types of consumer loans. Based on available program data, the annual default rate for GSL was 7.3 percent in 1986. If collections on previously defaulted loans are taken into account, the net annual default rate for GSL was 5.2 percent in 1986. Both the gross and net default rates in 1986 represent increases over estimates of the annual GSL default rate in 1985.

Second, the Department must implement the National Student Loan Data System on-line so that accurate, complete and up-to-date information on student loans is available for enforcement and policy making purposes. Guaranty agencies, lenders and postsecondary institutions must provide accurate information to the Secretary in order to assure the accuracy and completeness of information in the system. We cannot prevent defaults or collect outstanding claims without this system being fully operational.

Third, we must enhance the role of institutions of higher education in preventing loan defaults and assisting in collections. My bill will ensure that students know they are receiving a loan and improve institutional requirements in connection with the exit interview. These new requirements have already been voluntarily adopted by most of the private, career schools. A Default Management Manual has been developed and published under the leadership of the Association of Independent Colleges and Schools [AIC's] and the National Association of Trade and Technical Schools [NATT's].

Fourth, the Department of Education must strengthen its monitoring efforts of institutional performance. There is a great deal more to reducing student loan defaults than making tough-sounding speeches and using the IRS to offset tax refunds against student debt obligations. Since 1981, the Department of Education has cut in half the number of reviews it conducts of institutional management of the title IV, student assistance programs. Financial recoveries as a result of these reviews have suffered as a result:

DEPARTMENT OF EDUCATION INSTITUTIONAL REVIEWS

1981–86

Fiscal year	Reviews conducted	Recoveries
1981	1,058	$16,412,694
1982	510	4,387,280
1983	648	5,877,265
1984	721	11,661,319
1985	763	6,955,832
1986	417	2,505,485

The same can be said about Departmental reviews of lenders and guaranty Agencies:

LENDER/GUARANTY AGENCY REVIEWS

Fiscal year	Reviews conducted	Recoveries
1981	919	$9,276,325
1982	812	10,612,995
1983	783	6,919,392
1984	773	7,506,799
1985	685	3,274,784
1986	473	1,696,217

It is clear that the Department's failure to aggressively monitor the management of title IV programs by postsecondary institutions and to recover defaulted loan funds is contributing to the default problem. The Student Loan Default Prevention and Debt Collection Act would require a review of all institutions every 3 years.

Fifth, while we increase institutional responsibility in preventing student loan defaults, we must acknowledge the inherent risk and conflict of providing "access" to low income students, when the price of that access is substantial student indebtedness. We must, in establishing student loan default criteria, provide exceptions for those institutions which enroll and educate significant numbers of low income, educationally disadvantaged students. I do not personally support the use of threshold levels of student loan defaults to determine continuing institutional participation in the title IV programs. However, if they must be used, they should be sensitive to the types of students enrolled and what we know about the tendency of certain types of students to become defaulters.

We should, however, take every possible step at the institutional level to reduce loan defaults, including the withholding of the transcripts of students who are in default. My bill would require institutions to withhold transcripts until a borrower enters repayment.

Postsecondary institutions can only help reduce defaults if they know a default has occurred. My bill would require lenders to notify institutions and guarantee agencies when the first delinquency notice and the final demand letter are sent to the students.

The problem of student loan defaults is one we should take seriously. Makeshift solutions which grab headlines and create the impression that loan defaults will be reduced should be rejected by the Congress. The Student Loan Default Prevention and Debt Collection Act provides a comprehensive approach to the default problem. It embodies many of the recommendations that have been discussed within the higher education community. It incorporates several of the steps being voluntarily undertaken by private, career schools to address the special default problems in the proprietary sector. Finally, it imposes critical new responsibilities on institutions, guarantors and the Department of Education which are essential to reducing loan defaults.

Mr. President, I ask unanimous consent that both bills be printed in the Record immediately following my full statement.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADMINISTRATIVE OFFSET DEBT COLLECTION PROVISIONS WITH RESPECT TO EDUCATION LOANS MADE PERMANENT.

Section 2653(c) of the Deficit Reduction Act of 1984 is amended by inserting "(other than with respect to past-due debts relating to loans made, insured, or guaranteed under part B and loans made under part E of the Higher Education Act of 1965)" after "1988".

S. 1931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Student Loan Default Prevention and Debt Collection Act of 1987".

STRENGTHENING GUARANTY AGENCIES WITH RESPECT TO DEBT COLLECTION

Sec. 2. (a) Assurances.—Section 428(b)(1) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "and" at the end of subparagraph (T);

(2) by redesignating subparagraph (U) as subparagraph (V); and

(3) by inserting after subparagraph (T) the following new subparagraph:

"(U) provides that, notwithstanding any other provision of this paragraph, a guaranty agency will comply with the provisions of section 428G; and".

(b) General Rules.—Part B of title IV of the Act is amended by inserting after section 428F the following new section:

"PROVISIONS FOR REDUCING DEFAULT

"Sec. 428G. (a) Improved Information.—(1) Each guaranty agency shall furnish the Department of Education with information on the amount of each loan made, insured, or guaranteed under this part for which the agency provides a guarantee and other relevant data with respect to such loan. The information furnished under this paragraph shall be used in the National Student Loan Data System established under section 485B of this title.

"(2) Each guaranty agency shall expand and standardize the confirmation reports required to be submitted on the date of enactment of the Student Loan Default Prevention and Debt Collection Act of 1987 in order to assure that such information is provided at least bimonthly on student loan delinquencies, defaults, and the change in the status of a borrower whose loan is delinquent or in default or delinquent.

"(3) Each guaranty agency shall provide the Secretary with complete and accurate data on a quarterly basis in order to facilitate the usefulness of the National Student Loan Data System under section 486B.

"(b) Payment of Defaulted Loans To Avoid Losing Eligibility.—Each guaranty agency may enter into an agreement with an eligible institution having loans insured by that guaranty agency under which the eligible institution may make the payments of principal and interest of loans in default from borrowers who attended that eligible institution and are insured by that agency. Each such agreement shall be designed to reduce the default rate of student loans insured under this part for students attending that eligible institution.".

(c) Information and Reporting Rules.—(1) The first sentence of section 428(k)(1) of the Act is amended by striking out "may" and inserting in lieu thereof "shall".

(2) The second sentence of section 428(k)(1) of the Act is amended by striking out "may" and inserting in lieu thereof "shall".

(d) Clarify Definition of Default.—Section 435(l) of the Act is amended by striking out "includes only such defaults as have existed" and inserting in lieu thereof "means the failure to pay the loan, when the payment is due,".

(e) Eligibility for Supplemental Loans for Students.—The matter preceding subparagraph (A) of section 484(b)(1) of the Act is amended by striking out "428A,".

(f) National Student Loan Data System Required.—The first sentence of section 485B of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

LIMITATION, SUSPENSION, OR TERMINATION OF ELIGIBLE INSTITUTIONS

Sec. 4. (a) Guaranty Agencies Assurances.—Section 428(b)(1)(T)(i) of the Act is amended by inserting at the end thereof a comma and the following: "subject to the provisions of section 428H".

(b) Determination of Limitation, Suspension, and Termination Actions.—Part B of title IV of the Act is amended by inserting after section 428G (as added by section 3) the following new section:

"DETERMINATION OF LIMITATION, SUSPENSION, AND TERMINATION ACTIONS

"Sec. 428H. (a) Basis for Action.—No limitation, suspension, or termination action taken pursuant to section 428(b)(1)(T) may be made by a guaranty agency with respect to an eligible institution based on a default rate at that institution unless the default rate is based upon an average of 3 years experience in the guaranteed student loan program prior to the date on which the action is taken.

"(b) Criteria for Limitation, Suspension, and Termination Actions.—The criteria required to be established under section 428(t)(1) shall include provisions giving eligible institutions credit for serving successfully high risk students in the calculation of the default rate for the purpose of that section. For the purpose of this subsection, the term "high risk student" means any student with an eligibility index of 0 in the needs analysis for Pell grants under subpart A of part 1 of title IV or a student who is characterized as an ability to benefit student or any combination of such students.".

ELIGIBLE LENDER RULES

Sec. 5. (a) Information on Delinquent Loans Required.—Section 435(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(6) Information on delinquent loans to be supplied to guaranty agencies.—To be an eligible lender under this part, each such lender or holder of a loan shall furnish the appropriate eligible institution a copy of the first delinquency notice and final demand letter to the guaranty agency. Each eligible lender or holder of a loan shall notify the borrower and the eligible institution within 30 days of the sale or other transfer of the loan made, insured, or guaranteed under this part.".

(b) Criteria for Disqualification of Eligible Lenders.—Section 435(d)(3) of the Act is amended—

(1) by striking out "The term" and inserting in lieu thereof "(A) The term"; and

(2) by inserting at the end of such paragraph the following new subparagraph:

"(B) In carrying out the provisions of this paragraph, the Secretary shall establish criteria including provisions giving eligible institutions credit for serving successfully high risk students in the calculation of the default rate for the purpose of subparagraph (A). For the purpose of this subparagraph, the term 'high risk student' means any student with an eligibility index of zero in the needs analysis for Pell grants under subpart A of part 1 of title IV or a student who is characterized as an ability to benefit student or any combination of such students.".

EDUCATIONAL INSTITUTION REQUIREMENTS TO REDUCE DEFAULT RATES

Sec. 6. (a) Additional Information To Be Supplied by Eligible Institutions.—Section 428(k) of the Act is further amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Each eligible institution shall, in addition, maintain and make available to guaranty agencies upon request additional information on student borrowers, including family addresses, the parents' place of business, and other information relevant to the collection of student loans that are delinquent or in default.".

(b) Requirements by Eligible Institutions.—Section 487(a) of the Act is amended by adding at the end thereof the following:

"(11) In the case of an eligible institution participating in a program under part B, the institution will require all student borrowers to sign a form at or before the time of the first disbursement of a loan made, insured, or guaranteed under this part outlining the terms and conditions of the loan and the rights and responsibilities of the borrower.

"(12) In the case of an eligible institution participating in a program under part B, the institution shall withhold academic transcripts of any borrower, unless this provision is waived pursuant to regulations by the Secretary because the borrower is unemployed or disabled, whose default is on loans made, insured, or guaranteed under this part until the eligible institution has received notice from the appropriate guaranty agency that the borrower has reentered payment status.

"(13) In the case of an eligible institution participating in a program under part B, the institution will develop, carry out, and periodically review a default prevention policy and plan.".

(c) Rule of Construction.—The Secretary may not promulgate regulations with respect to the policy and planning requirements of paragraph (13) added to section 487(a) by subsection (b) of this section.

(d) Exit Interview Information.—Section 485(b) of the Act is amended by inserting before the last sentence thereof the following new sentence: "Each eligible institution shall require that the borrowers submit to the institution the address of the borrower after graduation or other reason for leaving the institution, the address of the next of kin of the borrower, and the drivers license number of the borrower during the interview required by this subsection.".

IMPROVED FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

Sec. 7. (a) Default Responsibilities.—Section 485(a)(1)(D) of the Act is amended by inserting before the semicolon a comma and the following: "together with a statement on the consequences of defaulting on a loan made, insured, or guaranteed under part B of this title".

(b) Broadened Definition of Prospective Student.—Section 485(a)(2) of the Act is amended to read as follows:

"(2) For the purpose of this section, the term 'prospective student' means any individual who has applied for admission to the institution.".

ADMINISTRATIVE PROVISIONS RELATING TO REDUCTION OF DEFAULT

Sec. 8. Part B of title IV of the Act is amended by inserting after section 432 the following new section:

"ADMINISTRATIVE PROVISIONS RELATING TO THE REDUCTION OF DEFAULT

"Sec. 432A. (a) General Authority.—(1) The Secretary shall develop and publish an annual default report to the Congress beginning on September 30, 1988, which shall include the annual default rate for the student loan program under this part based upon business practice among commercial banks.

"(2) The report required by this section shall include a default rate on an annual and a cumulative basis, together with a net default rate which reflects the amount of collections in that year on the defaulted loan and any offsets against the loan principal received by the eligible lender or the guaranty agency. The report shall also include the net dollar volume in default by the eligible institution.

"(b) Program Review of Eligible Institutions and Eligible Lenders.—The Secretary shall develop a plan for the conduct of program reviews of all eligible institutions and all eligible lenders to be carried out at least once every 3 years. The plan shall be published in the Federal Register for public comment. The Secretary shall report to the Congress annually on the results of the reviews required by this subsection.".

CERTIFICATION OF ELIGIBILITY

Sec. 9. Section 428(a)(2) of the Act is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) In the case of a loan obtained by a borrower for the first period of instruction at an eligible institution, an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive a loan under this part prior to 30 days after classes have begun for the period of instruction for which the loan is obtained, or in the case of a period of instruction which is less than 4 months, 15 days.".

EFFECTIVE DATE

Sec. 10. This Act and the amendments made by this Act shall take effect with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1988, or for such periods beginning 30 days after the date of enactment of this Act, whichever occurs later.●

By Mr. GLENN (for himself, Mr. DURENBERGER, Mr. BOSCHWITZ, and Mr. RIEGLE):

S. 1932. A bill to require the National Oceanic and Atmospheric Administration to compile an inventory of the pollutants discharged into the Great Lakes; to the Committee on Environment and Public Works.

GREAT LAKES POLLUTANT DISCHARGE INVENTORY ACT

● Mr. GLENN. Mr. President, today, I am introducing, along with my colleagues, Senators DURENBERGER, BOSCHWITZ, and RIEGLE, the Great Lakes Coastal Pollution Discharge Inventory Act. A similar bill has been introduced in the House of Representatives by Mr. DAVIS and 20 of his colleagues.

This legislation shall authorize funding for the inclusion of the Great Lakes into the national coastal pollution discharge inventory, a computer data base developed by the national Oceanic and Atmospheric Administration for estimating coastal pollutant discharges. This inventory will enable Great Lakes researchers and managers to determine total pollutants loadings into the Great Lakes, construct mass balance models, and estimate total pollutant discharges into the lakes under different assumptions about economic conditions, technological options, meteorological and hydrological conditions and public policies.

In this act, NOAA would inventory the discharge of the following pollutants: oxygen-demanding materials, particulate matter, nutrients, heavy metals, petroleum hydrocarbons, chlorinated hydrocarbons, pathogens, sludges, and wastewater. The discharges would be differentiated according to source. These would include: point sources; urban, nonpoint sources; streamflow; irrigation return flow; oil and gas operations; marine transportation operations; accidental spills; dredging operations; and atmospheric deposition.

This legislation is consistent with the recently signed 1987 amendments to the United States-Canadian Great Lakes Water Quality Agreement. Those amendments acknowledge the urgency of our need to address the problem of toxic pollutants in the Great Lakes ecosystem. The amendments specifically call for the United States to "determine the mass transfer of pollutants between the Great Lakes Basin Ecosystem components of water, sediment, air, land and biota" (Annex 17, Section 2 (a)).

Mr. President, despite progress made in the last decade, severe environmental deterioration still exists throughout the Great Lakes. All States within the basin issue warnings regarding the consumption of contaminated fish. For children and women of childbearing age, most large game fish, for example, lake trout and salmon, are considered unsafe. In addition, the input of excess nutrients and sediments still choke our lower lakes and bays, depleting the bottom waters of oxygen and greatly accelerating the process of eutrophication.

Many crucial decisions will have to be made in the next decade regarding the environmental quality of the Great Lakes. What is the effect of constructing solid waste incinerator plants in the region? What will be the effect upon water quality if we artificially attempt to control water levels? How much of a decrease can we expect if we impose production bans? Hopefully, these decisions will be made based on clear and accurate data.

As the International Joint Commission recently acknowledged at their biennial meeting, "* * * further research and program development is now required to enable effective actions to be taken to address the continuing contamination of the Great Lakes." The first step in such a comprehensive research program is to identify what materials are entering the ecosystem and in what quantities.

Mr. President, I urge that the Senate give this legislation its early and favorable consideration. I ask unanimous consent that a summary of this legislation and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Great Lakes Pollutant Discharge Inventory Act".

DEFINITIONS

SEC. 2. As used in this Act, the term "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and the Saint Lawrence River to the Canadian border) and their tributaries; and

(2) the term "Under Secretary" means the Under Secretary for Oceans and Atmosphere, Department of Commerce.

INVENTORY OF POLLUTANTS

SEC. 3. (a) Within the 24-month period following the date of the enactment of this Act, the Under Secretary shall collect, organize, evaluate and inventory the categories and quantities of pollutants entering the Great Lakes from all sources for which data are available.

(b) In carrying out the collection, organization, evaluation, and inventory, the Under Secretary may use by agreement the personnel, services, and facilities of any Federal or State Department, agency or instrumentality on a reimbursable basis to carry out the purposes of this Act. In addition, the Under Secretary is encouraged to consult with the International Joint Commission and the Government of Canada.

(c) The Under Secretary, in consultation with the Secretary of State, may enter into an agreement with the Government of Canada to obtain all available information for purposes of this Act.

CATEGORIES OF POLLUTANTS

SEC. 4. (a) The categories of pollutants to be considered for inclusion in the inventory prepared under section 3 of this Act, shall include, at a minimum, the following:

(1) oxygen-demanding materials;
(2) particulate matter;
(3) nutrients;
(4) heavy metals;
(5) petroleum hydrocarbons;
(6) chlorinated hydrocarbons;
(7) pathogens;
(8) sludges; and
(9) wastewater.

(b) The pollution sources to be considered for purposes of the inventory prepared under section 3 of this Act, shall include, at a minimum, the following:

(1) atmospheric deposition;
(2) pollutants in streamflows entering the Great Lakes;
(3) point sources;
(4) urban, nonpoint runoff;
(5) nonurban, nonpoint runoff;
(6) irrigation return flow;
(7) oil and gas operations;
(8) marine transportation operations;
(9) accidental spills;
(10) dredging operations; and

DISTRIBUTION OF COPIES OF INVENTORY

SEC. 5. (a) Within 30 months following the date of the enactment of this Act, the Under Secretary shall make copies of the inventory available to the public upon request.

(b) The costs of reproducing and distributing the inventory prepared under section 3 of this Act may be recovered under section 9701 of title 31, United States Code.

AUTHORIZATIONS

SEC. 6. There are authorized to be appropriated $1,500,000 for each of fiscal years 1988 and 1989, to remain available until September 30, 1990.

EXECUTIVE SUMMARY—GREAT LAKES COASTAL POLLUTION INVENTORY

I. PURPOSE OF ACT

To authorize funding for the National Oceanic and Atmospheric Administration to include the Great Lakes in the National Coastal Pollution Discharge Inventory.

II. BACKGROUND OF STUDY

The National Coastal Pollutant Discharge Inventory (NCPDI) is a computer data base developed by the National Oceanic and Atmospheric Administration (NOAA) for estimating coastal pollutant discharges. This index enables nationwide assessments of the quantities of pollutants discharged into the estuarine, coastal or oceanic waters under different assumptions about the economic conditions, technological options, meterological and hydrologic conditions and public policies.

III. CATEGORIES OF POLLUTANTS INCLUDED IN INVENTORY

1. Oxygen-demanding materials.
2. Particulate matter.
3. Nutrients.
4. Heavy Metals.
5. Petroleum Hydrocarbons.
6. Chlorinated Hydrocarbons.
7. Pathogens.

8. Sludges.
9. Wastewater.

IV. SOURCES OF POLLUTANTS INCLUDED IN INVENTORY

1. Pollutants in Streamflows.
2. Point Sources.
3. Urban, Nonpoint Runoff.
4. Nonurban, Nonpoint Runoff.
5. Irrigation Return Flow.
6. Oil and Gas Operations.
7. Marine Transportation Operations.
8. Accidental Spills.
9. Dredging Operations.
10. Atmospheric Deposition.

V. AUTHORIZATION

There are authorized to be appropriated $1,500,000 for each of fiscal years 1988 and 1989, to remain available until September 30, 1989.●

By Mr. BENTSEN (for himself, Mr. BURDICK, Mr. CONRAD, Mr. BINGAMAN, Mr. MELCHER, and Mr. BAUCUS):

S. 1933. A bill to improve the efficiency of operation of the Rural Electrification Administration Loan Guarantee Programs and to prevent interagency disputes with the Federal Financing Bank from disrupting the working of these programs; referred to the Committee on Agriculture, Nutrition, and Forestry.

REA EFFICIENCY ACT

Mr. BENTSEN. Mr. President, today I am introducing legislation which will help our Nation's rural electric cooperatives and their customers by preventing a repetition of the problems we have had this year between the Rural Electrification Administration and the Federal Financing Bank.

Because of the failure of these two agencies to renew a very basic and fairly simple agreement, a major part of the REA Program was stopped dead in its tracks for 11 months. The rural electric cooperatives who held loan guarantees from the REA, including Brazos Electric Power Cooperative of Waco, TX, could not get their money. This caused unexpected financial trouble for the affected cooperatives. Brazos Electric had put the $55.5 million loan guarantee in their budget when they got it from the REA. The lack of an agreement meant that Brazos could not get that cash. Financial trouble for the co-ops, of course, means higher electric bills for their rural customers, such as the 229,000 customers which Brazos serves in central Texas.

My bill would require that the REA and FFB enter into that agreement no later than October 1, the start of the new fiscal year, each year. If REA and FFB cannot reach an agreement by that date, then the previous year's agreement would remain in effect until a new agreement is signed. This will prevent a repeat of this recent fiasco.

One of the basic mechanisms used in the programs of the Rural Electrification Administration is the loan guarantee. The co-ops who qualify for these loan guarantees then take them and use them as security for borrowing the money.

Federal Financing Bank is a very small agency within the Treasury that funds loan guarantees issued by a number of Federal agencies. The FFB, which was originated by the Nixon administration, allows Federal loan guarantee programs to work more efficiently, lowering the interest costs to borrowers. Since these are 100 percent guarantees by the Federal Government, there is no risk to the FFB in providing these funds.

Since 1973, the FFB has provided funding for loan guarantees issued by the REA. These transactions are carried out under a series of loan commitment agreements entered into annually by the REA and the FFB.

In 1983, this loan commitment agreement, which had been extended annually for 10 years, was delayed almost 5 months because of a dispute between the REA and FFB over servicing fees. This delay resulted in higher fees to REA borrowers, which resulted in higher costs to rural electric customers. But at least that time there was a reason for the delay.

Last year, the REA and FFB again had difficulty reaching an agreement. In fact, the delay lasted from December 1, 1986, to September 24, 1987, 1 week before the end of the fiscal year. As a result, none of the $175 million in REA loan guarantees approved for fiscal year 1987 were eligible for FFB funding until after September 24. Once again, a dispute between these two agencies delayed much needed construction and other projects, and once again the higher financing costs paid by REA borrowers were passed along to their rural customers.

The inability or unwillingness of these two Government agencies to develop and execute a loan agreement that was for many years consummated without incident clearly indicates the need for this legislation. The fact that this delay occurred for no apparent reason is even more troubling. The REA programs have been attacked by some previous administrations, and this administration has made no secret of their distaste for the REA.

Mr. President, millions of rural Americans depend on the electricity provided by rural electric cooperatives, which are dependent on these loan guarantees. This bill would ensure that our Nation's rural electric cooperatives will be able to continue to meet increasing demands, and, most importantly, that the citizens of rural America will not have to bear the burden of higher electricity costs resulting from a petty interagency dispute. I urge my colleagues to support this legislation, and I ask unanimous consent that a copy of this bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 6 of the Federal Financing Bank Act of 1973 is amended by adding at the end thereof the following:

"(d) Any agreement between the Bank and the Administrator of the Rural Electrification Administration (REA) with respect to the borrowing of funds from the Bank by the REA or its borrowers shall remain in effect until renewed or superseded by a subsequent agreement.".

By Mr. MOYNIHAN (for himself, Mr. BURDICK, and Mr. STAFFORD):

S. 1934. A bill pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes; to the Committee on Environment and Public Works.

AUTHORIZATION OF NEW JUDICIARY OFFICE BUILDING

● Mr. MOYNIHAN. Mr. President, it is my pleasure to introduce today, along with my colleagues from the Environment and Public Works Committee, Chairman BURDICK and former Chairman STAFFORD, a bill to construct a new Federal office building for the judiciary. In 1985, the Committee on Environment and Public Works passed S. 1706, which became Public Law 99-229, directing the Architect of the Capitol and the Secretary of Transportation to undertake a comprehensive study of the needs of the judiciary and the best way to meet those needs. The result was a thorough report endorsed by Chief Justice Rehnquist, and recently transmitted to Congress. The legislation I am introducing today is recommended by the Architect of the Capitol and the Administrative Office of the Courts and is designed to implement the findings of the report.

Currently, approximately 800 employees in the Administrative Office of the U.S. Courts, the Federal Judicial Center, and other judicial branch support offices are located in seven different buildings scattered throughout the D.C. metropolitan area. The arrangement is inefficient and expensive. GSA estimates that it would cost approximately $51 million over the next 10 years to continue to keep these employees in their present accommodations—without allowing for expansion. There is a need for a new building to consolidate these agencies, and to provide expansion space for retired justices and other needs of the Supreme Court.

Mr. President, a site adjacent to Union Station, on the Capitol grounds was designated in the 1981 master plan for the Capitol, for just such a purpose. If a building of suitable size were to be constructed using conventional financing, Congress would need to appropriate from $75 to $115 million in funds up front. Instead, the report recommends a lease to own plan, whereby the Federal Government will own the building built by a private developer after a 30-year lease period. The report contains a complete economic and market analysis provided by outside consultants which justify the market demand for private office space, and which conclude that a private developer can construct the building more efficiently than the Federal Government. The consultants' findings were based on competitive bids submitted by a number of well-qualified developer teams, five of which were selected to prepare final proposals. Competitors worked within designed guidelines prepared for the competition, because the Congress and Architect realized that the new building must complement, and not compete with the majestic Union Station designed by Daniel Burnham, and with the city post office building.

This approach to construction and financing is similar to the one employed in the Federal Triangle Development Act, also from our Committee on Environment and Public Works, which became law last August. We believe this is a sound and sensible way to get the Federal Government out of costly leased space, and into owned buildings.

I look forward to holding hearings in my Subcommittee on Water Resources, Transportation and Infrastructure early in the new year to examine this legislation in detail, and to hear from the General Services Administration, Commission on Fine Arts, and others with their views on the project.●

By Mr. WARNER (for himself and Mr. TRIBLE):

S.J. Res. 229. Joint resolution to designate the day of April 1, 1988 as "Run to Daylight Day"; to the Committee on the Judiciary.

RUN TO DAYLIGHT DAY

● Mr. WARNER. Mr. President, I am pleased to be joined by my Virginia colleague, Senator TRIBLE, in introducing a joint resolution to designate April 1, 1988, as "Run to Daylight Day." The purpose of the run is to increase public awareness of the causes, traumatic effects, and rehabilitation needs of head injured survivors, as well as to promote the vital efforts of the National Head Injury Foundation.

The estimated prevalence of head injuries in the United States is between 1,000,000 and 1,800,000. Most head injuries are the result of a motor vehicle or sports accident. Although it is estimated that 100,000 persons die annually from head injuries, there are some 50,000, two-thirds of whom are under the age of 30, surviving serious head injury. Twenty years ago, 90 percent of those with severe head injuries died, however, at least 50 percent now survive.

What do these statistics mean in terms of the health status of U.S. citizens? As a result of modern emergency-room, surgical, and intensive-care treatment, thousands of those who are head-injured survive. But for many survivors, the quality of their lives changes drastically. They are in need of physical and psychological long-term rehabilitation. Many require instruction in basic living skills such as bathing, dressing, cooking and reading. Many have persistent memory problems and changes in personality as a result of their accident. We need to recognize that these survivors have their own unique needs.

Because a majority of the head-injured survivors are under the age of 30, we especially need to look at the quality of their lives. Many survive at least 40 years, but do not return to the productive and promising lives that they were leading before their injuries. The reasons for this are largely due to the lack of established specialized head injury rehabilitation programs and inadequate support group networks for head-injured survivors and their families.

On April 1, 1988, a citizen of our State, Mr. Doug Walker, will begin a 90-day transcontinental run from San Francisco to Boston in an effort to increase the Nation's awareness of the causes, effects, and needs of head-injured survivors, as well as to raise $3.6 million for the National Head Injury Foundation. The impetus behind the "Run to Daylight" comes from Mr. Walker's friendship with two young Virginians who are desperately trying to overcome the results of their head injuries. They, like many other head-injured survivors described their return to consciousness as coming from darkness into daylight.

It is hoped that a significant level of funding to assist head-injured survivors will come as a result of this outstanding private sector initiative—"Run to Daylight." I applaud the tenacity and efforts of Doug Walker to make this transcontinental run to benefit the National Head Injury Foundation.

I urge my colleagues to lend their support and be a part of this courageous and challenging effort by cosponsoring this joint resolution.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 229

Whereas between 1,000,000 and 1,800,000 people in the United States suffer head injuries each year;

Whereas 20 years ago 90 percent of the people who suffered severe head injuries died as a result of such injuries, but currently the survival rate for such injuries is 50 percent;

Whereas most people who suffer head injuries are under 30 years of age and will survive such injuries for at least 40 years;

Whereas more than 50,000 of the people who survive head injuries annually are unable to resume their normal lifestyles without intensive physical and psychological therapy;

Whereas the long-term rehabilitation that is available for survivors of head injuries has not improved at the same rate as the medical treatment of such injuries;

Whereas Run to Daylight, a nonprofit corporation concerned with improving the rehabilitation that is available for survivors of head injuries, is sponsoring a 3600-mile run across the United States called the "Run to Daylight";

Whereas the purpose of the "Run to Daylight" is to raise the awareness of the people of the United States about the rehabilitation needs of survivors of head injuries and to raise funds to support the National Head Injury Foundation, an organization dedicated to improving the quality of life for survivors of such injuries and their families and to developing and supporting programs to prevent such injuries; and

Whereas the "Run to Daylight" will begin in San Francisco, California, on April 1, 1988, and will end in Boston, Massachusetts, on June 30, 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1, 1988, is designated as "Run to Daylight Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.●

By Mr. HELMS:

S.J. Res. 230. Joint resolution to designate the third week of June of 1988 as "National Dairy Goat Awareness Week"; to the Committee on the Judiciary.

NATIONAL DAIRY GOAT AWARENESS WEEK

Mr. HELMS. Mr. President, I introduce today a joint resolution to designate the third week of June as "National Dairy Goat Awareness Week."

For more than 5,000 years, dairy goats have supplied mankind with food and shelter. Dairy goats were an important part of the necessities that the early settlers brought to these shores. As pioneers moved across our land, dairy goats went with them. These animals have always been a part of the typical American farm in every region of the United States. Today there are over 250,000 dairy goats in this country. Exports of these efficient, structurally sound animals increase each year.

While goat milk, ice cream, and yogurt are sold in various parts of the United States, the best known goat milk product is goat cheese or chevre. During the last decade there has been a tremendous increase in consumer interest in domestic goat cheeses. The number of domestic producers of chevre has increased dramatically, and there is an extraordinary array of American-made goat cheeses today.

These facts are well-known to dairy goat breeders, but few consumers are aware of the role played by the dairy goat in the American economy. Passage of this joint resolution expressing the sense of the Senate that the week commencing June 11, 1988, and ending June 18, 1988, is recognized as "National Dairy Goat Awareness Week," will do much to educate the American people to the potential of the dairy goats and their products.

I proudly sponsored this joint resolution last year in coordination with Chairman DE LA GARZA. Last year's National Dairy Goat Awareness Week was a great success: children and adults alike were given demonstrations in milking dairy goats and tasted the products that are becoming so popular.

ADDITIONAL COSPONSORS

S. 62

At the request of Mr. STEVENS, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 62, a bill to improve efforts to monitor, assess, and to reduce the adverse impact of driftnets.

S. 465

At the request of Mr. METZENBAUM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 465, a bill to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems commonly used at airports in the United States.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 612

At the request of Mr. SIMON, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 1323

At the request of Mr. PROXMIRE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1323, a bill to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

S. 1347

At the request of Mr. SIMON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1347, a bill to facilitate implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

S. 1453

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1453, a bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

S. 1584

At the request of Mr. REID, the names of the Senator from Washington [Mr. ADAMS], and the Senator from North Carolina [Mr. SANFORD] were added as a cosponsor of S. 1584, a bill to assure compliance with the National Environmental Policy Act of 1969, and for other purposes.

S. 1757

At the request of Mr. D'AMATO, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 1757, a bill to amend the Internal Revenue Code of 1986 to provide that employer subsidies for mass transit and van pooling be treated as working condition fringe benefits which are not included in gross income.

S. 1918

At the request of Mr. GARN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1918, a bill to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes.

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 181, a joint resolution designating the week beginning February 1, 1988, as "National VITA Week".

SENATE JOINT RESOLUTION 208

At the request of Mr. REID, the names of the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 208, a joint resolution designating June 12 to June 19, 1988, as "Old Cars Week".

SENATE JOINT RESOLUTION 218

At the request of Mr. SPECTER, the names of the Senator from Utah [Mr. HATCH], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Texas [Mr. BENTSEN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Illinois [Mr. SIMON], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 218, supra.

SENATE RESOLUTION 270

At the request of Mr. LAUTENBERG, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 270, a resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

SENATE RESOLUTION 339—RELATING TO SENATE CONSIDERATION OF TREATIES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 339

Whereas, the Senate will very likely soon by presented with a treaty between the United States and the Union of Soviet Socialist Republics eliminating Intermediate Range Nuclear Forces (INF) and be asked to advise and consent to its ratification, the expeditious and proper consideration of which would be in the national interest of the United States.

Whereas, expeditious and proper consideration of the ratification of such a treaty is threatened by the aftermath of the devisive debate in the Senate with respect to the proper interpretation of certain provisions of the Anti-Ballistic Missile (ABM) Treaty, particularly the view that the unilateral, United States negotiating record may be used to establish what, exactly, the parties agreed to.

Whereas, consequently, some senators have already requested the entire secret record of the INF negotiations. That record includes many thousands of pages summarizing complex negotiations over a period of many years. If declassified upon submission, its presentation to the Senate may have a serious chilling effect on current and future negotiations. If not declassified, however, this voluminous negotiating record would be all the more cumbersome, burdensome and difficult, if not impossible, for senators to review. In either event, its length and complexity will cause such inordinate delay and confusion in consideration of the INF treaty as to jeopardize the Senate's capability to reach any conclusion on the treaty itself. Therefore, it is in the national interest to reject such reliance and henceforth to exclude resort to unilateral negotiating documents in ratification proceedings.

Whereas, the United States and the Soviet Union are now negotiating treaties on reducing strategic arms and banning weapons in space, and some of the factors in these two talks overlap with those from the INF talks, and therefore disclosure of the INF negotiating record could prejudice the other two negotiations.

Whereas, the Senate should not rely on unilateral negotiating documents because they are barred from being considered by the Restatement of the Law of Foreign Relations of the United States.

Whereas, if the Senate returns to its traditional approach to treaty interpretation that facilitates expeditious consideration of treaties by excluding unilateral United States negotiating records, the efficacy of the Senate's ratification process would be restored and the secrecy of international negotiations respected. Now, thereof, let it be Resolved that:

It is the sense of the Senate that with respect to treaties hereafter submitted to the Senate for it to advise and consent, the Senate as it seeks to determine the meaning of the Treaty, should not request, review or rely on those documents in the negotiating record that were not shown to the other party.

The Secretary of the Senate shall transmit a copy of this Resolution to the President.

SENATE RESOLUTION 340—DESIGNATING DECEMBER 8, 1987, "PEARL HARBOR SHIPYARD DAY"

Mr. MATSUNAGA (for himself, Mr. INOUYE, Mr. BOREN, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 340

Whereas December 8th, 1987, commemorates the 46th anniversary of the rescue of 32 trapped crew members of the capsized battleship, USS OKLAHOMA, at Pearl Harbor Naval Base as a consequence of the December 7th, 1941 attack by aircraft of the Japanese Imperial Navy;

Whereas this rescue was achieved by 19 civilian shipyard employees of the Naval Base working with pneumatic chipping guns to free the crew members entrapped in pitch black compartments which were slowly filling with water;

Whereas this rescue effort commenced an hour before the fighting of the December 7th attack had subsided and was performed throughout that evening under the illunination of fires from the vessel's sister ship, the USS ARIZONA, sinking nearby, and continued into the following day, December 8th, until each and every one of the 37 entrapped survivors was found and freed;

Whereas December 8th, 1941, is a day to be remembered not in infamy, but, in honor of the heroic spirit of our country's Naval shipyard workers;

Whereas on this 46th anniversary of this gallant rescue there will be held a memorial ceremony at Pearl Harbor to be attended by the last of these survivors to be freed, Mr. Albert Ellis of Los Angeles, California, then the ship's paymaster; and by Richard Goings of Kaneohe, Hawaii, the last surviving member of the 19-member shipyard rescue team, as well as by the present Commander-in-Chief of the US Pacific Forces, Admiral Ronald Hays: Now, therefore, be it

Resolved, That it is the sense of the Senate that December 8, 1987, should be designated as "Pearl Harbor Shipyard Day".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the information of my colleagues and the public that a nomination hearing has been scheduled before the full committee of the Senate Committee on Energy and Natural Resources.

The committee will hear testimony concerning the nomination of Chandler L. van Orman, of Maryland, for the position of Administrator of the Economic Regulatory Administration.

The hearing will be held on Tuesday, December 15, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building. For further information, please contact Mike Harvey at 224-0611.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, December 8, 1987, to continue hearings on S. 1886, the Financial Modernization Act of 1987, and, S. 1891, the Financial Services Oversight Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EXTENSION OF THE PRICE-ANDERSON ACT

● Mr. JOHNSTON. Mr. President, the Price-Anderson Act provides a unique benefit to the public in the form of swift, assured compensation in the event of a catastrophic nuclear accident. To be sure, our Nation's nuclear facilities—commercial reactors and facilities of the Department of Energy—have an enviable safety record. But, if a serious accident were to occur, the resulting damage could be very, very expensive.

Under the Price-Anderson Act, a form of no-fault insurance is in effect at each facility with a significant risk of a catastrophic nuclear accident. The operating entity—a utility or a contractor to the Department of Energy—would accept all liability for a catastrophic accident and would waive the legal defenses normally available. The issues in court would simply be the extent of the damages. Damages determined by the courts would be paid, quickly and without question.

Under current law the aggregate amount of damages that could be paid to the victims of a catastrophic nuclear accident is limited to just over $700 million in the case of an accident at a commercial reactor and to $500 million in the case of DOE facilities. Compensation above these limits would be available only if Congress enacted a law providing for such compensation.

Today, it is universally recognized that these limits are too low. But the limits are written into the law, so the law needs to be changed to reflect current costs.

Moreover, currently there is no authority to provide insurance under the Price-Anderson system for new reactor licensees and new or renewed DOE contracts. The authority to indemnify new licensees or contractors under the Price-Anderson Act expired on August 1, 1987.

So we need to extend the Price-Anderson Act and modify it to provide an increased level of protection for the public now and in the future.

I had thought that the need to extend the Price-Anderson Act was clear to everyone, so that the sure and swift compensation for members of the public provided by the act would continue to be available in the event of a serious accident at one of these facilities. Certainly there has been no doubt about the intent of the relevant congressional committees. Five committees reported legislation extending the act in the 99th Congress, only to be thwarted by just the sort of last minute obstructionism we are witnessing right now.

In the 100th Congress both the House and the Senate renewed efforts to extend the act, mindful of the August 1, 1987, expiration date for its important authorities. The House has passed a bill extending the act. That bill, H.R. 1414, is on the Senate Calendar, where it has been since July 31.

So no one could possibly be surprised about what we are proposing in extending the act. We have been at the task of revising and extending the Price-Anderson Act since 1985, in a Senate controlled by Republicans in the 99th Congress and in a Senate controlled by Democrats in the 100th Congress. There has always been strong bipartisan support of the extension of the Price-Anderson Act.

The 17 to 2 vote of the Committee on Energy and Natural Resources in reporting our Price-Anderson extension legislation is confirmation of this fact. S. 748 is our bill to extend the act and revise it as it affects contractors of the DOE. The bill has been on the Senate Calendar since June 12, 1987. We limited the coverage of S. 748 to

DOE contractors only because claims of jurisdiction and disagreements over policy prevented development of a bill of broader scope.

Unfortunately, S. 1865, the complementary legislation in this Congress to provide coverage for licensees of the Nuclear Regulatory Commission, was not ordered reported by the Committee on Environment and Public Works until just before the August recess, and the report was not filed with the Senate until mid-November. This delay set the stage for the obstructionist tactics that have now eliminated any chance for the Senate to vote this year to continue this coverage for the public.

I am sure that the overwhelming majority of the Senate would vote to continue this program, and to increase the level of protection of the public by nearly a factor of 10. But now there will be no chance to do that.

The junior Senator from Ohio has made it clear that if the issue were brought up at this time it would require "extended debate" for "days and weeks".

Because of this, we will have to make do with old levels of protection for the indefinite future. Worse, Price-Anderson coverage will be totally unavailable in the case of DOE contracts that are entered into or renewed before we are permitted to return to this legislation. In the case of these contracts there will be no opportunity whatsoever to make use of the streamlined no-fault coverage available under the Price-Anderson Act.

So contracts will be entered into that do not have the full level of public protection we would desire, because of the expiration of the authorities of the act and the refusal of the junior Senator from Ohio to permit the Senate to consider extension of these protections. We will have to undo these contracts after the fact, presuming we ever are allowed to enact legislation extending the act.

I find this all quite indefensible and very discouraging. Unfortunately, it is also a familiar situation. It ought to be absolutely clear that the only losers in our failure to make reasonable decisions on this issue in a timely manner are the members of the public who live near these facilities. There are no winners.

Delaying long-overdue decisions for no apparent reason results in a harvest of ridicule for Congress. If we permit these kinds of delay to continue, we will all have earned this ridicule.●

175TH ANNIVERSARY OF THE INCORPORATION OF OSSINING, NY

● Mr. D'AMATO. Mr. President, I rise today to pay special tribute to the village of Ossining, NY, on the 175th anniversary of its incorporation.

In 1813, the village of Ossining became the first incorporated municipality in Westchester County. Then known as Sing Sing, Ossining was a small, energetic community with a population of 2,200. Farmers came from miles around bringing their produce to the busy Sing Sing docks, and travelers arrived via the Albany Post Road where hotels, churches, and shops sprang up virtually overnight to accommodate the influx of people to the community.

Now, 175 years later, Ossining, population now of 21,000, continues to grow and develop. Providing jobs and housing for quite a diversified community and an award winning school system are but a few of Ossining's accomplishments.

The residents of Ossining have much to be proud of. I share their pride, congratulate them on this occasion, and deem it a high privilege to represent them in this body.●

FREEDOM SUNDAY

● Mr. SIMON. Mr. President, on "Freedom Sunday," the American people made a powerful and dramatic statement about the refusenik issue: 200,000 people from around the country gathered together in our Nation's capitol calling for compliance with the Helsinki accords. The folks at Sunday's rally were concerned with the plight of all refuseniks and all those persecuted as a result of their religious practices. Some people in the crowd were Holocaust survivors, carrying signs stating "I won't remain silent any longer." I hope this statement reflects the feelings of us all.

Naum Meiman is one of the refuseniks we were speaking about. We have heard his sad story, along with so many others, time and time again. Naum, a recent cancer victim, does not have a long life ahead of him, and he must be allowed to emigrate to Israel for his remaining years.

Unfortunately, the refuseniks were not allowed to gather together and hold a rally of their own. Their demonstration in Moscow on Sunday was violently broken up. We must continue to speak out for these brave people, because, as we have seen, they are not permitted to speak out for themselves. Therefore, I once again cry out for my friend Naum. On behalf of many concerned Americans, I am asking the Soviet officials to please allow Naum Meiman to emigrate to Israel, immediately.

Sunday was a day of human rights. We said what we have needed to say. Now something must be done.●

INFORMED CONSENT: MARYLAND

● Mr. HUMPHREY. Mr. President, I ask that two letters be entered into the CONGRESSIONAL RECORD following my remarks. The testimonies that I received from women in nearly every State in our Nation have convinced me that it is the right of every pregnant woman to have informed consent in her abortion decision. The following letters were sent to my office by two women in Maryland who were exploited by abortion because they were never apprised of the true nature of their situation. The freedom of choice is no freedom at all when women are manipulated into making decisions that favor expediency over their best interests.

I urge my colleagues to carefully consider the plight of these women and to support S. 272 and S. 273 which would correct this unjust situation. The letters follow:

> Hello, my name is Kathy Smith. When I was seventeen, I had an abortion. I'd like to take a few minutes to tell you the events leading to the abortion and why I know it was the wrong decision to make.
>
> It was June 1977 when I found myself pregnant, I felt like my whole life was crashing in. Nice girls like me don't get pregnant! I had just finished my junior year in high school and had made the Honor Roll. I had started making big plans for my life.
>
> What would everyone say when they found out I was pregnant? They would know what I had been doing in the first place. I had seen the shame and ridicule other girls had taken when they found themselves pregnant. I couldn't stand the thought of being publicly humiliated.
>
> When I told my parents, they "solved" the problem of embarrassment for me. They knew of a friend at work who was also a nurse. She would make arrangements for me to have an abortion.
>
> By this time I was in such an emotional state that I turned off all logical thinking processes. I let my parents take over and make the decisions for me. I gave no consideration for my boyfriend who said he wanted the baby. I gave no consideration for the baby that was growing inside me. I only thought of myself and what others would think of me.
>
> On the day of the abortion my mother drove me to the clinic. First I was given a pregnancy test. It was positive. Then I was taken into a small room for counseling. I was told a tube would suck away a "mass of cells" on the uterus wall. It would take only five minutes and I wouldn't feel much pain. She made it sound so easy. One minute I'm pregnant, the next I'm not.
>
> I was taken into the examination room. The abortionist came in and another girl was there to hold my hand. I remember her as being very jolly. The abortion started. I have never felt such great pain in my whole life than I felt in those few minutes. It was as if my whole insides were being ripped out by the suction machine. I cried throughout the whole ordeal.
>
> The first feelings I had afterwards were those of relief. My problem was gone and no one would have to know. My mother and I

went home. I was to continue my life as though this never happened.

After awhile though, I realized exactly what I had done at the abortion clinic. I knew that abortion was wrong but the more I learned the facts of abortion, the more I knew that I had murdered my baby.

The "mass of cells" that was sucked away was a six week preborn baby. My baby had arms, legs, and a beating heart. The suction was so powerful that the baby was torn to bits in the process.

I have learned that it is normal to grieve for my aborted child. I'll never know the joy of nurturing him (or her). But I know that God has forgiven me and has given me a real peace that my child is with Him in Heaven.

Abortion is not something you do and then just forget about. I tried blocking it from my mind but it is something I will always remember. God has forgiven me but it is a part of my life.

KATHY SMITH,
Riverdale, Maryland.

JUNE 23, 1987.

DEAR SENATOR HUMPHREY: I am single and 34 years old. When I was 19 years old I got pregnant, out of wedlock, and didn't know what to do. I confided in my older sister, who was 29 at the time, and she took me to Planned Parenthood. They set up an appointment for me to have an abortion at the University of Maryland, Baltimore Hospital. I went through the abortion and never had any counseling of fetal development, the abortion procedure, the side effects or complications, and most of all, no one told me I was killing a baby!

Since the procedure was done in a hospital, and I was put to sleep, the whole situation had little effect on me (I thought). But then about two years later the same thing happened. Since no one ever told me the truth about what was happening in my body—the developing baby, the alternatives, etc.—I took the same route again. This time I went on my own and was awake during the procedure. As before, no one told me of the fetal development, the abortion procedure, or the consequences or complications.

I became numb to what I had done. I never knew I had killed my baby! I thought it was a mass of blood! And so it happened a third time. The same scenario existed! I was so deceived! I was so ignorant. I knew nothing of fetal development at all!

Even though these three incidents didn't affect my life on the outside, on the inside it did.

First of all, I did not trust men. I did not and could not make a commitment to marriage. I would rather live with someone than marry them!

I was having problems in my female organs. I even ended up having surgery for the removal of ovarian cysts.

I developed the attitude that I never wanted children (that's strange since I always wanted them growing up!)

I was not happy, I was miserable inside.

I am presently doing volunteer work in a crisis pregnancy center run by Christians! I want to help others see the truth about fetal development, abortion, and sex without marriage. I believe that I was really deceived and blinded since no one ever told me the truth and I want to do my part in seeing that women are no longer deceived, lied to and exploited by abortionists, who only care about the money, *not* the girls and certainly not the babies.

I know we can't save every baby—but we can share with the girls alternatives that will give them peace: to keep their babies, or give them up for adoption, to abstain from sex outside of marriage, and to *value* their bodies and keep them pure until marriage.

All women should be told the facts in *all* pregnancy centers. That includes fetal development, abortion procedures and complications, adoption alternatives, etc.

Thank you for your help. I can't change my past but I can help someone change their future. So can you!

God bless you!

ANONYMOUS,
Suburban Maryland.●

CINDERELLA-PRINCE CHARMING BALL

● Mr. SIMON. Mr. President, last month, the Polish Roman Catholic Union of America's Adult Culture Group provided an evening of fun for all who attended the Cinderella-Prince Charming Ball in Hickory Hills.

The fairy tale theme of the dance does not mask the good results emerging from bringing people together to celebrate their culture. Several aspects of the celebration highlight areas of interest to me—the address was read in both Polish and English, some of the dance's proceeds go to scholarship awards, so it was an evening of educational enrichment as well as fund.

I ask that the following material be printed in the RECORD so my colleagues may share the joy of that evening.

The material follows:

CINDERELLA-PRINCE CHARMING BALL

The Adult Culture Group of the Polish Roman Catholic Union of America sponsored the Cinderella-Prince Charming Ball on November 7, 1987, at the Lexington House in Hickory Hills, Illinois. It was the 16th Annual Ball and was chaired by Shirley Dudzinski, National Director of PRCUA District 7 in Chicago, assisted by her committee consisting of: Barbara Marek, Raymond Dudzinski, Martha Kwiatt, Sue Buras, Lucjan Rozwadowski, Michaeline Drust, Czeslawa Koziol, Regina Ocwieja, Sophie Francis, Stella Kapalka, John and Barbara Frankowicz. Micheline Binkowski was Artistic Director and Choreographer.

Mistress of Ceremonies was Aurelia Marie Pucinski, Commissioner, Metropolitan Sanitary District, an attorney on the northwest side of Chicago, who is married to Jim Keithly and the mother of Rebecca, Annie and Jimmy.

The purpose of forming the Adult Culture Group was to activate a program for adults, instructing them in Polish folk, traditional and cultural dances. The Cinderella-Prince Charming Ball evolved under the guidance and dedication of Regina Ocwieja, Vice-President of PRCUA and foundress of the Cinderella-Prince Charming Ball. The event serves to bridge the gap between youth and adults of the organization and is a means of providing funds for scholarship awards to participants. For young Polish Americans, the Ball promotes pride in their Polish heritage and motivates them to become active not only in Polonia but also in their church and community, making them involved citizens. Serving as officers of the Adult Culture Group are: Michaeline Drust, President, Nikodem Brezezniak, Vice-President, Rose Zubko, Social Vice-President, Sue Buras, Secretary, Martha Kwiatt, Treasurer, Regina Ocwieja, Scholarship Fund, Edward Zubko, Sergeant-at-Arms, Barbara Marek and Lucjan Rozwadowski, Trustees, and Shirley Dudzinski, Historian.

The Ball began with a promenade of candidates, clergy and national officers of PRCUA, followed by the stately Polonaise danced by Sue Buras, Steven Cieslicki, Shirley Dudzinski, Michaeline Drust, Michael Dykla, John and Barbara Frankowicz, Richard Jaminski, Stella Kapalka, Boleslaw Krakowski, Patricia Lochen, Barbara Marek, Eugene Molek, John and Mary Skowyra, Robert Slezewski, Henry and Wanda Sliwa and Edward and Rose Zubko, members of the Adult Culture Group and guest dancers.

After the national anthems of America and Poland were sung by Edward Winiecki, National Director from District 8 on the southwest side of Chicago, and a welcome by the chairman, the Cinderella and Prince Charming of the previous year, Violetta Rycewicz and Rick Liptak, made their farewell speeches in the English and Polish languages. The Invocation was delivered by the Most Reverend Alfred L. Abramowicz, D.D., Auxliary Bishop of the Archdiocese of Chicago, a most ardent supporter of the youth programs of the Polish Roman Catholic Union of America. A sumptuous dinner followed the toast proposed by Michaeline Drust, President of the Adult Culture Group. Reverend Edwin F. Karlowicz, C.R., National Chaplain of the PRCUA, delivered the Benediction.

After a blessing of the ceremonial crowns by Bishop Abramowicz, the following candidates were presented: Agnes Bartoszek, Harriet Brewster, Teresa Diana Cieslak, Eileen DeLonka, Elizabeth Dynowski, Christine Frankowicz, Elizabeth J. Kowalski, Natalie Pietura, Regina Mariana Rosypal, Margaret Rycewicz, Sonia Skrzypczynski, Elizabeth Wargacki, Delilah Zak, Geniene Lochen, Christopher Bartoszek, Myron Cislo, Laurence Dudzinski, Jack Fornalewski, Mark Skowyra, Andrew Sliwa. Escorts included: Stanley Cieslak, Robert Cislo, Dennis Dadej, Peter Hinch, Mark Niemypski, Ricky Skowyra, Greagory Skrzypiec and Cleve Williams.

Edward G. Dykla, in his capacity as President of the Polish Roman Catholic Union of America, gave his address in the English and Polish languages, congratulating the youth and adults for their dedication and pride of ethnicity and proceeded, along with Bishop Abramowicz, to select the winners of the evening. A lottery system is used so that all candidates will have an equal opportunity. Selected were Natalie Pietura, Cinderella and Jack Fornalewski, Prince Charming. Runners-up were Christine Frankowicz and Andrew Sliwa. All candidates danced a beautiful waltz, which concluded the formal presentation.

A performance of the spirited Bialy Mazur by the Wesoly Lud Polish Folk Dance Ensemble, under the direction of Micheline Binkowski Bencik topped the evening's entertainment and the guests, numbering over 450, spent the rest of the evening dancing to the music of Anthony Kawalkowski. Similar presentation balls are also held in Michigan under the direction of Shirley Galanty, National Director of PRCUA District 10.●

RETIREMENT OF CORNELL C. MAIER, KAISER ALUMINUM AND CHEMICAL CORP.

● Mr. WILSON. Mr. President, I would like to take this opportunity to recognize a truly honorable Californian. On January 1, 1988, Cornell C. Maier will retire as the director of Kaiser Aluminum & Chemical Corp. In leaving, Mr. Maier brings to an end, a distinguished career of almost 40 years at Kaiser.

Born in South Dakota in 1925, Mr. Maier graduated from the University of California with a degree in electrical engineering. In 1949, he joined Kaiser Aluminum and proceeded to develop an expertise in almost every facet of the corporation's operations. Beginning his career in sales, he later held positions in production planning, marketing, and administration.

In 1964, Mr. Maier moved for 5 years into Kaiser's international operations, holding managerial positions in Great Britain and Germany.

In 1970, he was elected executive vice president and to the board of directors. And within the next 2 years he was elected president and chief executive officer. He reached the pinnacle of his career in 1978 when he was elected chairman of the board.

Mr. Maier's dedication to the welfare of American business, politics, and education are exemplified in his endeavors beyond his service to Kaiser. He is a member of the National Business Roundtable, a director of the California Chamber of Commerce, a cochairman of the California Commission on Campaign Financing, a member of the University of California at Berkeley Business School Advisory Board, a member of the board of the Alliance to Save Energy, and a national director of the Marcus A. Foster Educational Institute which provides grants to encourage innovative teaching techniques.

Mr. President, I am proud to recognize Cornell Maier as a man who exemplifies dedication to the prosperity of American business. I am proud, as well, to recognize his commitment to the students who will, one day, assume the leadership and pioneering spirit exhibited by his career. And, I know my colleagues join me in congratulating him and wishing him well as he retires from Kaiser Aluminum & Chemical Corp.●

THE HELMS AMENDMENT TO S. 9

● Mr. LEAHY. Mr. President, there can be no disputing that AIDS is a terrible disease. It has gone from absolute obscurity to the disease that the American people fear most. It has generated a public health emergency in this country.

The Senate has a responsibility to establish sound legislation to combat AIDS. Unfortunately, the full Senate has not had an opportunity to approach the problem the right way. All we have seen are scatter-shot amendments that touch on various Government programs. It is high time that we consider a comprehensive, medically sound, battleplan to fight this disease, consistent with the civil rights of all Americans.

Such legislation is ready and waiting for Senate consideration. It is the omnibus AIDS bill that was reported to the Senate by the Labor Human Resources Committee. The committee studied the problem in great detail. They held hearings with testimony from the most distinguished experts in the world. They produced a bill that will establish a comprehensive program of education, information, risk reduction, and training of health care professionals. The bill will foster prevention, treatment, long-term care, research, and international cooperation on AIDS.

I am not alone in my support for this bill. It has the support of the American Medical Association, the American Public Health Association, and a long list of respected professional organizations. In addition, many of the provisions in this bill were established using Surgeon General Koop's guidelines for fighting AIDS. The omnibus AIDS bill is the correct way for the Senate to fight the war on AIDS.

Mr. President, it is clear that some Senators are prepared to use every bill to offer any number of amendments that purport to combat AIDS. In my view, disparate amendments to a variety of bills is not the way to fight AIDS responsibly. An amendment offered yesterday evening by the Senator from North Carolina illustrates the problem with that approach. The Veterans' Committee had established sound legislation on AIDS in the omnibus veterans bill. The AIDS policy for this bill was determined in consultation with the Chief Medical Director of the Veterans' Administration. Again, the major medical societies supported the Veterans Administration's policy.

I agreed with certain aspects of the amendment. It makes sense to offer voluntary testing and counseling for VA hospital patients who are receiving treatment for intravenous drug abuse or those who are otherwise at high risk for AIDS. The problem with a patchwork of amendments—the ones that are unexpectedly tacked onto bills late in the day—is that some provisions of those amendments have not been subjected to the scrutiny of experts. The section of the Helms amendment that would require the antibody test to be routinely offered to all VA hospital patients under age 40 is one such provision. First of all, the cost of offering the test to all VA patients under 40 is prohibitive. The VA estimates that if all VA inpatients under the age of 40 were to be tested in fiscal year 1988, the cost could easily be $5 million. This $5 million would have to come from other patient care services. Other veterans would pay the price for AIDS testing of this low risk group.

There is another serious problem with using our scarce resources on widespread testing. The test is not perfect. Some people will test positive for AIDS when, in fact, they do not have the disease. These so-called "false positive" test results will have a devastating impact on healthy people. It will also impose an additional financial burden on the VA.

Finally, that amendment sends the wrong signal to the American people. How can the U.S. Senate recommend testing for all people under 40 when the medical experts have already pinpointed the high risk groups—male homosexuals, intravenous drug users, and those who use products made from whole blood. Is the Senate telling the American people not to believe the medical experts? Do we know something they don't know about the susceptibility of people under 40? No. Of course not. So if the Senate decides that AIDS testing makes sense, then we should make it available to those in the high risk groups and those who have a bona fide reason to believe they are at risk. It is a time for leadership, not a time to exacerbate misconceptions.

Mr. President, I look forward to expeditious action on the Labor Committee's omnibus AIDS bill. I will vote for amendments that are recommended by the medical experts and the committee after they have had the opportunity to thoroughly study the merits of those amendments. But I cannot give my support to these ill-considered amendments that come our way out of nowhere. I urge my colleagues to show restraint and sensitivity as we continue for fight on this dreaded disease.●

ENVIRONMENT AND PUBLIC WORKS COMMITTEE 302(b) ALLOCATIONS

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. BURDICK. Mr. President, on behalf of the Committee on Environment and Public Works, I send to the desk the committee's allocation of new budget, credit and outlay authority among the subcommittees pursuant to House Concurrent Resolution 93, the concurrent resolution on the budget for 1988. I ask unanimous consent that the allocations be printed in the RECORD.

The material follows:

The Committee on Environment and Public Works received the following estimated allocations for fiscal year 1988:

	Millions
Direct spending:	
Budget authority	$14,839
Outlays	777
Entitlements requiring appropriations:	
Budget authority	6
Outlays	6
Credit authority	280

Senate Committee on Environment and Public Works Budget Authority and Outlay Allocations to Subcommittees Pursuant to Section 302(b) of the Congressional Budget Act

	Millions
Water Resources, Transportation and Infrastructure Subcommittee:	
Budget authority	$14,421
Outlays	211
Credit	0
Environmental Protection Subcommittee:	
Budget authority	355
Outlays	323
Credit	0
Entitlements budget authority	6
Entitlements outlays	6
Nuclear Regulation Subcommittee:	
Budget authority	63
Outlays	243
Credit	280●

SALUTE TO THE GUARDSMEN

● Mr. WILSON. Mr. President, I am very pleased today to offer a special salute to the guardsmen, a select group of public-spirited individuals in the San Francisco Bay area.

Today, the Guardsmen will hold their annual holiday luncheon, a major event in the city that the entire community looks forward to each year as a symbol of the holiday season.

In the past, I have had the privilege of working with these truly upstanding citizens in their efforts to get Christmas trees to our sailors around the world. As a former marine, who knows what it is like to spend the holidays away from home, I am always eager to be of assistance to, and proud to work with those who help brighten the holidays for our "boys at sea."

The guardsmen's work certainly is not limited to the holiday season; it goes year round. Their efforts for boys and girls from throughout the Bay area are widely known—and widely appreciated.

Children are our future, and the guardsmen have brought happiness to thousands of children. For their selfless work on behalf of our community's youth and our country's defenders, I humbly salute them. Thanks, guardsmen, and keep up the great work!●

NOTICE OF HEARING CANCELLATION—THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. BUMPERS. Mr. President, I would like to announce for the public that the hearing on S. 850, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System, which was scheduled before the Subcommittee on Public Lands, National Parks and Forests on December 10, 1987, has been canceled. The hearing has been rescheduled for December 17, 1987, beginning at 1 p.m. in room SD-366.

Anyone who has questions should feel free to contact Tom Williams, of the committee staff, at 224-7145.●

APARTHEID

● Mr. SIMON. Mr. President, the Comprehensive Anti-Apartheid Act has been the law of the land for over a year, and yet the administration continues to reject this meaningful approach against apartheid. As we now consider how to strengthen current sanctions and increase pressure on the South African Government, I want to recommend to my colleagues the excellent New York Times op-ed piece by Randall Robinson, executive director of TransAfrica, which I think speaks for itself.

I ask that the article be printed in full in the RECORD.

The article follows:

[From the New York Times, Oct. 5, 1987]

TURN UP HEAT ON PRETORIA

(By Randall Robinson)

WASHINGTON.—President Reagan's report to Congress on what progress South Africa is making toward ending apartheid could consist of one word: none.

After one year of United States sanctions, Pretoria has demonstrated no willingness to dismantle apartheid. The state of emergency remains in force. State terrorism has not abated. The ruling white minority of 4.5 million has yet to seriously contemplate giving the vote to the black majority of 27 million. With Nelson Mandela and most black leaders locked away, President P. W. Botha plans no negotiations that might allow a democratic outcome.

Mr. Reagan says the sanctions—enacted in the Comprehensive Anti-Apartheid Act of 1986, over his veto—have not achieved their intended results. No one who supported them thought they would show measurable results by today.

If Pretoria is to yield, tough multi-national sanctions are required.

There are three reasons why the Reagan sanctions have not worked: The Administration, always opposing punitive sanctions against South Africa, eviscerated the law by seriously diluting some measures and ignoring others. To begin with, the sanctions were never strong enough. A year is far too short a time to evaluate the impact of sanctions.

Historically, economic sanctions have had the greatest impact when applied multinationally, with the strongest possible bite. With some understanding of this, Congress, in the act, said the President or Secretary of State "should convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions . . . to bring about the complete dismantling of apartheid."

Congress, believing Western cooperation would maximize the impact of economic sanctions, allowed the Administration 180 days to convene a conference of our allies. The Administration took no action.

Last Feb. 10, a special advisory committee set up by Secretary of State George P. Shultz reported that "the urgency of the situation demands" that a "multilateral program of sanctions should be put in place unless the South African Government releases all political prisoners, unbans the African National Congress and other political parties and terminates the state of emergency." Ten days later, in the United Nations Security Council, Washington and London vetoed a resolution calling for international adoption of American sanctions.

The law's bilateral provisions have also been diluted. Congress intended to bar importation of all South African uranium; the Administration opened a loophole to permit most of the uranium trade to continue. Congress intended to ban the import of iron, steel and iron ore; the Administration exempted certain alloys, significantly reducing the impact of these sanctions.

The Botha Government will seriously consider negotiations with South Africa's black leaders only if it finds itself tightly wedged between high-pressure and complex internal and external forces. Internal pressures have been building since 1984, but external pressure, largely diplomatic and economic, has lagged behind.

Vigorously enforced, American sanctions would stop only about 25 percent of what America buys from South Africa. When our sanctions are combined with those of the European Community and Japan, only 9 percent of South Africa's exports are affected. To salvage any chance for democracy, the world must quickly move toward global economic sanctions.

Pretoria will respect nothing less; overwhelmingly, black South Africans want nothing more. Washington must lead: We should ban all trade and investment, ending first the indefensible supply of vital products that American oil companies provide to the military and police.

In May 1968, the Security Council imposed comprehensive economic sanctions against Rhodesia. Prime Minister Ian Smith survived war at home and world pressure for 11 years before giving away to negotiations. Against the toughest sanctions, Pretoria could possibly hold on as long. America and the world simply must find the grit to take the only workable course, and steadfastly hold on.●

CONGRESSIONAL BUDGET ACT 302(b) ALLOCATION

● Mr. JOHNSTON. Mr. President, section 302(a)(2) of the Congressional Budget Act requires the Senate Budget Committee to allocate total budget authority, total budget outlays, and total credit authority among committees of the Senate. Each of the committees receiving a 302(a)(2) allocation is, in turn, required by section 302(b) to file its own report showing its respective allocation of those accounts to its own subcommittees. I previously filed a listing showing the assignment by subcommittee of each account allocated to the Energy and Natural Resources Committee. At the request of the Budget Committee, I am now filing a listing of each subcommittee's total budget authority and budget outlays for fiscal year 1988. I ask that the subcommittee allocations for the Committee on Energy and Natural Resources be printed at this point in the RECORD.

The information follows:

COMMITTEE ON ENERGY AND NATURAL RESOURCES—CONGRESSIONAL BUDGET ACT 302(b), ALLOCATION OF ACCOUNTS

[In millions of dollars]

Subcommittees	Budget authority	Outlays	Credit authority
Energy Regulation and Conservation	0	0	
Energy Research and Development	138	145	
Mineral Resources Development and Production	437	433	
Public Lands, National Parks and Forests	280	243	
Subcommittee of Water and Power	412	19	
Full committee	204	204	28
Subtotal	1471	1044	28
Less unspecified changes assumed in budget resolution	170	170	
Total	1301	874	28●

TRIBUTE TO POINT ROBERTS

● Mr. ADAMS. Mr. President, I rise today to bring to the attention of my colleagues one of the most unique communities in our Nation, the city of Point Roberts, WA.

The 4.6 square miles which make up Point Roberts were created when the 49th parallel was drawn in 1846. Located in the northwest corner of my State, Point Roberts is at the southern tip of a peninsula which is a part of the Canadian mainland. It is separated from the rest of Washington State by Boundary Bay. The 23-mile drive from Point Roberts to the continental United States entails two border crossings. Point Roberts schoolchildren make the long round trip each day.

Despite the isolation from the rest of the United States, the small community most definitely thrives. It is a popular shopping spot for Canadians and the focus of potential resort development. And the scenery, as those of you who have spent time in the northwest corner of our Nation know, is breathtaking.

I have the great honor of serving a magnificent State. It may well be the most diverse in the United States, ranging from the Palouse country in the east to the rain forests in the west, from the small farming communities of Central Washington to urban Seattle. But nowhere in our State or the 50 States is there a place quite like Point Roberts.

Mr. President, I rise simply to salute the people of Point Roberts. While they may reside closer to Vancouver, British Columbia, than Vancouver, WA, I can assure you that they are very much a part of the United States.●

AMERICA MUST REMAIN THE WORLD'S UNIVERSITY

● Mr. SIMON. Mr. President, today I am inserting in the RECORD an excellent article by Jean-Jacques Servan-Schreiber and Herbert Simon that recently appeared in the Washington Post. This article eloquently and accurately makes a strong case for foreign students in American universities.

Mr. President, I have written often and extensively on the subject of international exchange programs and on the need to broaden the horizons of our students and foreign students in our universities. The opportunity for American students who attend schools with students from other nations is an educationally enriching experience. We must understand more about the rest of the world and one of the best ways to do it is to attend school with students from other countries.

Currently, the largest number of foreign students in our universities study are in the technical fields. About half of these students choose to stay in our country which the attached article claims "multiplies the productivity and creativity of American science and engineering." I believe that we need to do more in our country to attract our own students to the technical graduate and doctoral level programs. But, I also believe that the students from other countries contribute to and even enhance the level of knowledge and competitiveness in our country.

Mr. President, I ask that this statement and the attached article be inserted in the RECORD.

The material follows:

[From the Washington Post, Nov. 15, 1987]

AMERICA MUST REMAIN THE WORLD'S UNIVERSITY

(By Jean-Jacques Servan-Schreiber and Herbert Simon)

America has had trouble in the 1980s with some aspects of world leadership, from industrial competitiveness to arms control, from the Pacific Rim to the Persian Gulf. But in one area—higher education—America today reigns supreme. And that has created a problem of its own: a tidal wave of foreign students.

American brain-power has always been enhanced by immigrants. What's new is the extent of foreign penetration of American higher education. As of 1986, more than 300,000 foreign students were enrolled in American universities, 60 percent of them in technical fields. In contrast, only 30,000 American students attend universities overseas. Of these, perhaps 3 percent study in areas such as engineering, computer science and physics.

Foreigners who win PhDs from American universities provide the most impressive (and to some U.S. taxpayers, shocking) evidence of the foreign-student boom. Over the past two decades, the National Science Foundation has monitored trends in engineering. The statistics show that from 1963 to 1983, the percentage of foreign-born doctoral students in industrial engineering grew from 7 percent to 68 percent; in mechanical engineering from 28 percent to 60 percent; in electrical engineering from 23 percent to 55 percent; in chemical engineering from 22 percent to 52 percent; in civil engineering from 37 percent to 63 percent.

The other most attractive field, embracing aspects of both science and engineering, is computer science (including artificial intelligence, robotics, software engineering and cognitive science). As of last year, foreign students made up 40 percent of PhD candidates in such fields as: cognitive science, at the crossroad of artificial intelligence and psychology, which examines the mechanisms of the brain; medical information science, leading to computerized expert systems in medicine; software engineering; and non-linear mathematics, which studies the behavior of turbulent and chaotic systems.

For the first time in modern history, one country seems to serve, in the advanced sciences, as the university of the world. "The United States is viewed, world-wide, as the place to come and study in the sciences" says John Reichard, vice president of the National Association for Foreign Students.

The intellectual migration has provoked an intense debate: Is it good for America to be educating the world's best and brightest? It is good for other countries to lose some of their best brains every year? What kind of policy is it that subsidizes America's corporate rivals with millions of dollars worth of vital research?

There's little doubt that American taxpayers are subsidizing the foreign-student boom. The tuition paid by foreign students is "less than half" of the yearly cost of training a graduate engineering student, according to the University of Michigan at Ann Arbor. This strikes a growing number of Americans as unfair. Why, they ask, should an American university charge a grad student from Tokyo the same as the kid from Toledo? If the Japanese student wants our education so badly, let him (or his government) pay for it.

Clearly, foreign governments aren't paying a significant share. An NSF inquiry covering over 100 leading research universities reveals that total foreign contributions accounted for less than 2 percent of their research budgets.

But that may not be the principal problem. "We don't have too many foreign students, we have too few Americans. We are not attracting enough of our students into graduate schools," declares the director of the American Society for Engineering Education, Karl Willenbrock. Moreover, according to the NSF, 57 percent of the 5,000 foreign students granted doctoral degrees in the sciences from American universities last year said they intended to remain in this country.

"We have done very well with the people we got from other countries. They include Albert Einstein and Enrico Fermi," concludes Peter Renz, administrator of the Conference Board.

The question remains; Has the great American university system really turned unconsciously, into a foreign Fifth Column undermining America's economic leadership and standard of living? We do not presume to pronounce a verdict. But some facts can help us prepare a balanced policy:

Foreign students give the United States as much as they get. They are paying for their long years of study with the most precious and expensive commodity, the one the United States most needs today; more knowledge, new knowledge, provided by their labor. By working in American laboratories for three to seven years of postgraduate study, thousands of young experts are by themselves the most efficient "subsidy" to scientific progress and economic development. And a large majority of them do not choose, at graduation, the well-paid jobs offered by industry but remain in the tough, competitive life of research and teaching.

Foreign students are needed to meet American research and development goals. If most of the foreign students were to return to their countries, it would be an American disaster. The fact that more than half of them choose to stay (a number that would increase if U.S. immigration rules were less restrictive), multiplies the productivity and creativity of American science and engineering.

The fact that a substantial number choose to return home is also very good. The great American knowledge-machine could not function for very long if it kept siphoning away the brain-power of America's partners around the world. The loss foreign countries experience when students come here is more than repaid by the new knowledge and skills they acquire when nearly half of them return.

We believe that a 50-50 trade is a fair ratio. It has become important to America that a substantial fraction of the trained foreign students remain at work here as long as there is a large deficit of U.S. applicants to the long, strenuous, underpaid, doctoral programs. The next 10 to 15 years are crucial. During that period, the number of competing international laboratories, corporations and learning-systems will continue to increase. These years, between now and the end of the century, will decide whether America remains in the first rank, or falls behind. The critical difference might well be made by the capacity to retain half of the best and brightest "foreign" students.

American universities need more American graduate students. The simple fact is that too few Americans apply to graduate programs. The vast majority accept a job after earning their bachelor's degree, or enroll in law or business colleges, opting for professors offering larger financial rewards than research does. They won't change this view because Congress passes new laws but because they are stimulated to compete with their colleagues from abroad.

We already see it today in the classroom. The pride of American students is on the line. They do not easily accept being surpassed by those who work with extra energy because they are immigrants. These "invaders" in scientific fields are often among the top 10 percent of graduate students and even at the very top. But a striking sign of America's natural generosity and courage in competition is that the excellence of foreigners here breeds almost none of the anti-foreign sentiments observed in many other parts of the world.

The historian Barbara Tuchman recently expressed her misgivings about the future: "In the United States one feels a deteriorating ethic in most spheres. . . . When people do not care and have no goal in view they do not function at their utmost. They grow lax and accept defeat. Incompetence is the companion of decline. Competence is the ability to do work expertly, neatly and correctly. To raise the level of public understanding from frivolity to a readiness to take things seriously will require a great and concentrated national effort—if we can figure how it may be done!"

In meeting this new challenge, everything will depend on maintaining this country's excellence in higher education and repairing the quality of primary and secondary education. If foreign students should ever stop pressing for admission to U.S. universities, it would be a sign that America has lost its last great resource.●

JAIME ONGPIN

● Mr. CHILES. Mr. President, Jaime Ongpin, former Philippine Finance Minister, was one of the leading advocates for measured structural reform in the Philippine economy. Last night he is believed to have committed suicide at age 49.

Ongpin was both an impressive intellect and one of those individuals who emphasized substantive solutions over political expediency.

Ongpin was a leading force in developing Cory Aquino's economic policy and, until 3 months ago, was one of her most influential advisers.

Ongpin's last fight was to complete an international agreement to restructure the Philippines $28 billion debt. While this restructuring package was controversial within the Philippines, it proved an honest and moderate approach to the Philippine debt situation.

When the Budget Committee staff visited the Philippines some 6 months before Aquino's rise to power, Ongpin proved to be both a gracious and unusually helpful host. He went well out of his way to explain the intricacies of the Philippines economic and political situation.

Ongpin remained sensitive throughout his tenure to the role of the United States in encouraging economic reform in the Philippines. While he did not agree with us at times over substantive issues, he never lacked enthusiasm for the future of his country.

Ongpin's contributions to the Philippines have been described by Cory Aquino as "priceless." His passing should not go unnoticed.●

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. COHEN. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 4:23 p.m., the Senate recessed subject to the call of the Chair; whereupon, at 5:03 p.m., the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

WHITE HOUSE ARRIVAL CEREMONY

Mr. DOLE. Mr. President, I was very honored this morning, along with many of our Senate colleagues, to have had the opportunity to witness a significant event in the history of our great Nation—the arrival of a Soviet leader at the White House. Not since 1973 has Washington played host to top Kremlin leadership. President Reagan recognized that this meeting represents the "coming together, not of allies, but of adversaries." I'm sure that all Senators in attendance would agree with me that the President's greeting this morning was another small step toward more constructive relations between our two countries.

The two leaders made eloquent addresses and I'd like to share those with the American people. Mr. President, I ask unanimous consent that the text of both President Reagan's and General Secretary Gorbachev's arrival statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY THE PRESIDENT AND GENERAL SECRETARY GORBACHEV AT ARRIVAL CEREMONY

The PRESIDENT. General Secretary and Mrs. Gorbachev, I have welcomed a good number of foreign leaders to the White House in these last seven years, and today marks a visit that is perhaps more momentous than many which have preceded it because it represents a coming together, not of allies, but of adversaries. And yet I think you'll find during your stay that the American people believe that a stranger is a friend they have yet to meet and that there is still a wellspring of good will here.

Indeed, I know that many of our citizens have written to you and Mrs. Gorbachev and have even sent to you the keys to their homes. That honest gesture certainly reflects the feelings of many Americans toward you and Mrs. Gorbachev and toward your people. I have often felt that our peoples should have been better friends long ago.

But let us have the courage to recognize that there are weighty differences between our governments and systems—differences that will not go away by wishful thinking or expressions of good will, no matter how sincerely delivered. This uncomfortable reality need not be reason for pessimism, however. It should provide us with a challenge—an opportunity to move from confrontation toward cooperation.

Mr. General Secretary, there is a saying in your country that a poor peace is better than a good quarrel. Well, it's up to us with hard work, commitment and a heavy dose of realism to change the poor peace that has existed between our countries and make it into a good one. Today we will take a giant step in that direction by signing a historic treaty that will rid the world of an entire class of U.S. and Soviet nuclear weapons. Mr. Gorbachev: "mir na nas smatret".—the world is watching and we've got something to show them, and over the next few days, it is my hope that progress will be made toward achieving another agreement that will lead to the cutting in half of our strategic nuclear arsenals.

Well, during the Second World War, Soviet General, later Marshall Chuikov, a front-line commander liked to tell the story of a soldier who said he had captured a bear, and he was asked to bring it along. "I can't," replied the soldier, "the bear won't let me."

Well, General Secretary Gorbachev, like the soldier in Marshall Chuikov's story, our peoples for too long have been both the masters and the captives of a deadly arms race. This situation is not preordained and not part of some inevitable course of history. We make history. Changing its direction is within our power. However, such change is not easy and can be accomplished only when leaders of both sides have no illusions, talk with candor, and meet differences head on. Such, I hope, will be the spirit of our upcoming meetings.

On the table will be not only arms reduction, but also human rights issues about which the American people and their government are deeply committed. These are fundamental issues of political morality that touch on the most basic of human concerns.

I would hope we will also candidly discuss regional conflicts. The parties to these conflicts should negotiate solutions that restore the peace and advance the rights and freedom of the peoples involved. We cannot afford to view these as far away brush fires. Even small flames risk larger conflagrations and undermine positive developments between our two countries.

Let us also consider ways to expand the contact between our own citizens. The Soviet and American peoples can and should know more about each other. The barriers between them should be taken down, restrictions on travel and communications lifted, personal relations between our young people fostered. Let disagreement between our governments not get in the way of friendships between our peoples.

Mr. Gorbachev, I hope that during your short time here you will see that we Americans are a dynamic and energetic lot, people of enterprise, and an abiding love of freedom. We believe in God and care about others who are in need. We are proud and independent. Like the peoples of your country, we believe our country should be strong, but we desire peace. Have no doubt about that. The longing for peace runs deep here, second only to our fervency for the preservation of our liberty. Americans believe people should be able to disagree and still respect one another, still live in peace with one another. That is the spirit, the Democratic spirit, that I will bring to our meetings.

So on behalf of myself and Mrs. Reagan, and on behalf of all the citizens of the United States, General Secretary Gorbachev, Mrs. Gorbachev, welcome.

General Secretary GORBACHEV. Esteemed Mr. President, esteemed Mrs. Reagan, ladies and gentleman, comrades, thank you very much, Mr. President, for the cordial welcome and kind words of greeting.

History has charged the governments of our countries and the two of us, Mr. President, with a solemn duty to justify the hopes of Americans and Soviet people, and of people the world over to undo the logic of the arms race by working together in good faith.

In the world's development much will depend upon the choice that we are to make—upon what is to triumph—fears and prejudice inherited from the cold war and leading to confrontation, or common sense which calls for actions to ensure the survival of civilization.

We, in the Soviet Union, have made our choice. We realize that we are divided not only by the oceans, but also by profound historical, ideological, socioeconomic and cultural differences. But the wisdom of politics today lies in not using those differences as a pretext for confrontation, enmity and the arms race.

We are beginning our visit 46 years after the days when the United States entered the Second World War, and it was in those same days in 1941 that the route of Nazi forces began near Moscow—that is symbolic. Those days mark the beginning of our common path to victory over the forces of evil, in a war which we fought as allies.

History is thus reminding us both of our opportunities, and of our responsibility. Indeed, the very fact that we are about to sign a treaty eliminating Soviet and U.S. intermediate and shorter-range nuclear missiles, which are now going to be scrapped, shows that at crucial phases in history, our two nations are capable of shouldering their high responsibility.

This will, of course, be the first step down the road leading to a nuclear-free world whose construction, you, Mr. President, and I, discussed at Reykjavik. Yet it is a great step into the future—the future to which our two peoples and the peoples of all countries aspire.

I have come to Washington with the intention of advancing the next and more important goal of reaching agreement to reduce, by half, strategic offensive arms in the context of a firm guarantee of strategic stability. We are also looking forward to a most serious and frank dialogue on other issues of Soviet-American relations.

Soviet foreign policy today is most intimately linked with perestroika—the domestic restructuring of Soviet society. The Soviet people have boldly taken the path of radical reform and development in all spheres—economic, social, political and intellectual.

Democratization and glasnost are the decisive prerequisites for the success of those reforms. They also provide the guarantee that we shall go a long way, and that the course we are pursuing is irreversible. Such is the will of our people.

In charting these ambitious plans, the Soviet people have a vital stake in preserving and strengthening peace everywhere on Earth.

Mr. President, ladies and gentlemen, may I express the hope that the Soviet Union and the United States, working together with all nations, will take their place in the history of the outgoing 20th century, not only as allies in the battle against Nazism, but also as nations that have paved mankind's way to a safe world, free from the threat of nuclear annihilation.

On behalf of the Soviet people, I declare that we are prepared to go all the way along our part of the road with the sincerity and responsibility that befit a great and peaceful power.

Thank you.

ORDERS FOR WEDNESDAY, DECEMBER 9, 1987

RECESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, after the two leaders have been recognized under the standing order on tomorrow, there be a period for morning business not to extend beyond 1 hour and that Senators may speak therein for not to exceed 5 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon tomorrow.

The motion was agreed to; and, at 5:04 p.m., the Senate recessed until Wednesday, December 9, 1987, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 8, 1987:

THE JUDICIARY

JEROME TURNER, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE.

SAM R. CUMMINGS, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS.

FRANKLIN S. VAN ANTWERPEN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

DEAN WHIPPLE, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI.

ALFRED M. WOLIN, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ROBERT S. GAWTHROP III, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

DEPARTMENT OF JUSTICE

WILLIAM S. ROSE, JR., OF SOUTH CAROLINA, TO BE AN ASSISTANT ATTORNEY GENERAL.

ROBERT J. WORTHAM, OF TEXAS, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

SAMUEL A. ALITO, JR., OF NEW JERSEY, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF 4 YEARS.

JOHN A. MCKAY, OF ALASKA, TO BE U.S. MARSHAL FOR THE DISTRICT OF ALASKA FOR THE TERM OF 4 YEARS.

ALFONSO SOLIS, OF NEW MEXICO, TO BE U.S. MARSHAL FOR THE DISTRICT OF NEW MEXICO FOR THE TERM OF 4 YEARS.

FRANK H. CONWAY, OF MASSACHUSETTS, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1990.

HOUSE OF REPRESENTATIVES—*Tuesday, December 8, 1987*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. Foley].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC,
December 8, 1987.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore today.

Jim Wright,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, for all people, and particularly for our leaders who are entrusted with the responsibility for the welfare of our Nation. We earnestly pray that they will be empowered with the spirit of understanding and of good will, and may Your guiding light brighten the path of peace and the road of justice for all the peoples of the world. May the prayerful words we say with our lips be believed in our hearts, and all that we believe in our hearts, may we practice in our daily lives. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. Foley). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RESTRAINED SUPPORT FOR INF TREATY

(Mr. LaFALCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LaFALCE. Mr. Speaker, the INF Treaty deserves our support but we should be restrained in that support. On the positive side for the first time ever the Soviets and Americans have agreed not just to limit their growth but to reduce nuclear weapons and that is a great precedent.

The treaty calls for uneven reductions in nuclear arsenals in our favor and that, too, is a great precedent.

The agreement represents the most intrusive verification requirements in the history of arms control, and that is a great precedent.

Mr. Speaker, those are three great precedents and therein lies my restraint because the INF Treaty deserves support not because of what it achieves but because of what it might achieve because of what it stands for as a precedent. Only if it achieves its promise, an agreement in reduction in conventional forces and strategic nuclear weaponry, will the great precedents be worthy of great support and great acclaim.

PRESIDENTIAL INITIATIVES HAVE PRODUCED THE INF TREATY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, today Ronald Reagan enters history as one of the great American Presidents. He does so because he signed an agreement which was brought about by his initiatives' very first actions when he came to be President of the United States.

How did that happen? He made it a priority to rebuild American defenses and strength right from the very first moment he took office. From that vantage point, as America began to rebuild, he proposed sweeping disarmament proposals. Those were coupled with his commitment to our NATO allies to establish intermediate range nuclear forces in Europe.

Having done that and having rebuilt that strength with the NATO allies, the Soviets even though they left the bargaining table, became awed at the American resolve.

It is Ronald Reagan's proposal that is being signed into a treaty today. It is Ronald Reagan's resolve that brought about this historic day.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS TODAY

Mr. FROST. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess today, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. FROST. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

BASE CAMP 1: THE INF TREATY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this is a very exciting day in Washington as we watch the two leaders of the two great superpowers of the world move toward a summit.

I come from a part of the country where we know a lot about mountains, coming from Denver, CO, and I really think maybe "summit" is misused. I think we ought to call it "base camp 1." That still makes it very important, but I think we have to put into context what is really happening.

Mr. Speaker, 4 percent of the world's nuclear arsenal will be destroyed if this agreement goes through, just 4 percent. That still leaves 96 percent more to go. So it is not quite peace on Earth, good will toward men yet.

Nevertheless, it is a very, very important first step because of the critical provisions that are being made about verification.

I hope we keep moving on to base camp 2, base camp 3, and whatever it takes to get to the real summit because I think that is the goal of all of us.

ACTION STILL NEEDED ON FARM CREDIT SYSTEM

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, the Farm Credit System recently announced its third quarter financial results, and while the numbers may be somewhat improved it is clear that action is still needed and soon to prevent the collapse of the Nation's largest agricultural lender.

House and Senate conferees should press on to complete action on this vital legislation which is designed to save the Farm Credit System.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The fact that the Farm Credit System turned in a $4 million profit in the last reporting period is dangerously misleading. A closer examination proves that if its loan volume continues to decline, the interest income continues to decline and several other problems persist.

Without taking funds away from accounts originally set aside for loan losses, the Farm Credit System would actually have lost $79 million in the last quarter.

The situation is still precarious and for some individual banks the situation is desperate. It is more important than ever that Congress demonstrate its resolve to stabilize the financial system.

Completing farm credit legislation before Christmas would be a welcome first step. After months of investigation and intense debate, both the House and the Senate have advanced vital farm credit legislation.

I urge my colleagues to push for completion of this legislation at the earliest possible time.

CHALLENGE TO GORBACHEV: RELIGIOUS FREEDOM IN THE SOVIET UNION

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, although the prime focus of attention of the summit is nuclear arms reduction, under the distinguished leadership of the gentleman from Michigan [Mr. HENRY], 250 Members of Congress wrote Mr. Gorbachev asking for an observance of religious freedom in the Soviet Union.

Next year when the President of the United States will visit Moscow, we shall celebrate the 1,000th anniversary of the arrival of Christianity in Russia. Nothing would be more appropriate than for the Soviet Government to allow Catholics, Protestants, Jews, and men and women of all denominations to practice their faith without harassment, and persecution, in peace and in harmony.

As the two leaders discuss nuclear disarmament, it is critical that the American people call on the Soviet leadership to recognize the inalienable right of men and women to practice their faith.

ANOTHER OREGON FIRST: FREE COMMUNITY TELEPHONES

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, Oregon has produced yet another first: a unique, information age public service known as the "community connection."

In response to a proposal I made several months ago, Pacific Northwest Bell, the regional phone company, has agreed to provide free, community telephones at 14 community centers throughout the State.

This means that local telephone service will be available, free of charge, to the almost 65,000 Oregon households without a phone. This new program will be a person-to-person lifeline for the elderly and disabled, those who must call doctors, potential employers, or keep track of a child at school. The service will be paid for by the company's shareholders—not built into the rate base.

This unprecedented effort can serve to break a silence that is almost inconceivable to those of us who take the phone for granted.

Mr. Speaker, we hear a lot about good corporate citizenship: here's a concrete example. Today, I call on the other regional phone companies to follow the lead of Pacific Northwest Bell, and move to develop their own program of free community phones so that all Americans of modest financial means have access to this critically needed service.

DANIEL ORTEGA'S CHRISTMAS SPIRIT

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the Contras have agreed to Cardinal Obando y Bravo's proposal for a temporary truce and immediate democratic reforms for Nicaragua; but the Sandinistas rejected the plan unless it included conditions that will make democracy impossible.

Obando's plan called for the Sandinistas to end the state of emergency, restore press freedom, and offer a general amnesty to political prisoners. But the Sandinistas said they would accept Obando's proposal only if the Contras ceased receiving outside support and could not use the territory of neighboring countries. The Contras were even willing to agree to that if the Sandinistas accepted democratization, including the dismantling of their Cuban and East German-run state-security apparatus. But Ortega said no.

Cardinal Obando responded to the Sandinista rejection by saying, "For the love of this people, which deserves to be supported and not abused, I ask for flexibility." The cardinal also urged a holiday truce. But Commandante Ortega replied, "our position is that there can be no truce with the Contras. * * * We are going to continue to hit them hard during this whole month of December." Mr. Speaker, I suppose that comment passes for the spirit of Christmas among the Sandinista commandantes.

A PLEA TO SECRETARY GORBACHEV IN BEHALF OF THE TUFELDS

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, on the off chance that Mr. Gorbachev might be bored tonight and is watching C-Span, there is a replay of this session, so I would like to address some remarks to him.

Mr. Secretary, I have a sense that you have the good sense to realize that it is better that your people and our people live together on this planet rather than to die together on this planet.

I sense that your people have that same feeling.

I know that our people have that same feeling.

In order to do so, in order to go on living together on this planet, it strikes me that for us to get along we ought to understand each other better. There is one thing I think that the American people, those of good will who want to live together on this planet with your people, find it very difficult to understand, and that is the question of an elderly couple in your country whose son has recently been allowed to emigrate to Israel and they are not being allowed to go to join their family there.

The name is Tufeld, but there are many others like them, I am sure. Vladimir and Izolda Tufeld are the couple I am speaking of.

It seems to me that our people would understand your people much better if we could believe that you have the same deep and abiding faith and feeling and love for family togetherness that we have engendered in ourselves in this country.

I do not know of anything that could contribute to the understanding between our peoples more than that.

Vladimir and Izolda Tufeld wish to be reunited with their son Igor who was permitted to leave the Soviet Union in May 1977 to live in Israel.

Vladimir has "second degree disability" status in the Soviet Union. He suffers from an acute spinal condition and kidney ailment. He suffered a heart attack in August 1977.

Izolda had a benign brain tumor removed in 1981. Last Thursday, a CAT scan revealed that the tumor has grown back. Izolda was released from the hospital because no beds are available.

Izolda has written in letters to the West "Separated from Igor, deprived of any means of livelihood, our health badly affected * * * we are full of fear and uncertainty about the future. We want to be near our son in Israel. * * * Reuniting with our only son is the dream of our whole life. * * *"

Vladimir and Izolda have two grandsons in Israel they have never seen. Time may be running out for them.

□ 1215

GETTING THE SOVIETS TO WITHDRAW FROM AFGHANISTAN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I was invited by the White House to come down this morning and greet General Secretary Gorbachev. I found that I could not do that. I do not criticize anybody that went. I came very close to going myself, but as I got off the Redeye this morning and dressed, and then drove into Washington, the words of Elie Wiesel to President Reagan last year kept coming back to haunt me. Remember, Mr. Wiesel is the survivor of Auschwitz as a young boy who has become a tremendous philosopher and poet. He said "Mr. President, your place is not there, speaking about a graveyard of Nazi SS officers. He said your place is with the victims."

So I walked across to Lafayette Park and I spoke to the Afghan freedom fighters and their supporters who have been assembled there for 3 days. I met a little girl whose hair was all burned off. I met a young man whose face was terribly mangled, and a young teenage boy whose arms were gone, all victims of Soviet aggression in Afganistan.

I do not know how we are going to get across to the General Secretary that although many of us support the INF Treaty, as I do, but we have severe reservations about the validity of a promise made by the head of a government which maintains occupation troops in Afghanistan. When the General Secretary told Margaret Thatcher at Brize Norton Royal Air Force Base yesterday that Afghanistan is an "internal problem," then I have doubts about his sincerity. If this Afghan war which is in its ninth year is not something that Gorbachev can withdraw his troops from, then he is not worthy of being called a leader of any country, even a Communist country. Those Russian tanks do have reverse gears, and those flying helicopter gun ship's can be grounded whenever the General Secretary says so.

ESTABLISHING A FREE TRADE AGREEMENT WITH JAPAN

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, 46 years ago Franklin Roosevelt stood right here and asked this Congress to declare war on Japan as a result of the Pearl Harbor attack and the failure of our negotiations prior to that time.

A lot of water has flowed over the dam in that time and a lot of things have happened. Japan has raised itself to be one of the nations with the highest standard of living. It has probably followed and capitalist mold as closely as any other country except the United States. It has no problems that I know of in the area of human relations, no political prisoners, and an open society.

We do have a problem with Japan. We are huge trade competitors.

I make a proposal, Mr. Speaker, and I hope everyone will think about it. Why do we not open negotiations with Japan to establish a free trade arrangement with Japan. Think about it. We have got nothing to lose and everything to gain if we could sit down at the bargaining table and come up with a trading arrangement with them that would open their economy to us and our economy to them.

SUPPORT FOR THE PRESIDENT ON THE INF TREATY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I rise often in the House to criticize the President when I think he is wrong. Today I rise to offer support to the President. In recent days he has been strong and unwavering in support of the Intermediate Nuclear Forces [INF] Treaty that he has negotiated with the Soviets. He has remained strong in the face of what I think is some irrational criticism from the far right.

We do not have much choice. This country and the Soviet Union have been involved in an escalation of the arms race, building weapons we can never use with money we do not have, and we must stop it.

Someone once said if this continues the United States and the Soviet Union will be first in missiles and second in everything else in the world. The arms race must come to an end.

The President is taking the first step with the signing of the INF Treaty. Yes, it is a small step, absolutely, but it is the first step. If we can negotiate and sign a treaty calling for weapon reductions and verification in the INF area, then we may be able to negotiate and sign a treaty in the START talk area as well—to cut strategic long-range nuclear arms.

This is the first step, I hope, in the long journey that we must take to achieve arms control in this world.

So Mr. President, I support you. Stay strong. Pay no heed to the extremist critics of the INF Pact. America supports your signing this treaty on arms control. We support what you are doing and we hope it is the first step in a long successful negotiation in the START talks as well.

WELFARE REFORM

(Mr. McMILLAN of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLAN of North Carolina. Mr. Speaker, this week, we take up welfare reform. We will be limited to consideration of the committee bill and a well-crafted substitute.

Are we going to adopt changes that provide a framework for people to move from dependency to self-reliance? Or, are we going to continue to operate on the insulting assumption that people on public assistance don't want to help themselves?

Welfare problems vary from State to State, city to city. H.R. 1720 assumes the same conditions for the whole Nation, providing little leeway for cities to devise their own solutions.

The substitute bill encourages local inititative. It recognizes that we cannot dictate a uniform policy in Washington with no local input. With the substitute, communities will be able to flexibly deal with 22 different welfare programs to best address their specific opportunities. Congress will still be able to review local proposals, but at least we will eliminate some of the redtape that kills innovation.

I urge my colleagues to give self-reliance a chance and vote for the substitute.

END THE KILLING IN NICARAGUA

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Mr. Speaker, I awoke this morning to two interesting news items on the radio. The first was a call by President Arias for an unconditional cease-fire in Nicaragua which would start today and continue until January 15. At that very same moment, the Nicaragua Government announced that an American pilot was shot down over Nicaragua, his mission presumably to aid the Contras.

I tried to find out more about exactly the mission and what was happening but was unable to do so because the government offices in Managua were closed in celebration of the Feast of the Immaculate Conception.

Mr. Speaker, I can think of no better way for this administration to honor the spirit of peace that washes over this Capital this week than by halting the war flights over Nicaragua. These CIA-operated flights have escalated to the point that the administration themselves is quoted as saying that the Contras have enough lethal supplies to carry them well into the next year.

Mr. Speaker, it is the height of hypocrisy to expect our Central American neighbors to abide by the Guatemala peace plan when our own administration continue to arrogantly flaunt the spirit of the peace plan.

Mr. Speaker, let us join the battle for peace. Let us deescalate this war and let us stop these flights. Let us end the killing.

IN MEMORY OF FORMER CONGRESSMAN EUGENE SILER

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, it is with great sadness that I inform the Members of the House of the untimely death this past Saturday of my predecessor, once removed, Eugene Siler. He was 87.

From 1955 through 1964, Congressman Siler represented what was at the time the Eighth Congressional District of Kentucky, which is now the Fifth Congressional District which I have the honor to represent. He was a native of Williamsburg, KY, graduating from Cumberland College there in 1920, and later finishing his law degree at the University of Kentucky and Columbia University.

During the First World War, Congressman Siler served as an enlisted man in the U.S. Navy, and was a captain in the Army during the Second World War. He was elected judge of the Court of Appeals in Kentucky in 1945 and served for 4 years, later ran a close but losing race for Governor in 1951.

Mr. Speaker, Congressman Siler until his death was still a revered figure in my district. He was always known for his integrity, his perseverance, and his hard work on behalf of his district. When he retired in 1964, he remained in Williamsburg until his death, continuing to serve the people whom he loved and who loved him.

I call upon all of us in this House to join me in extending to his family our heartfelt condolences and our prayers. Congressman Gene Siler will be sorely missed by all of all of us in the Fifth District who had the pleasure to have known and worked with him.

WELCOME TO WORLD WOMEN PARLIAMENTARIANS FOR PEACE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, in every poll taken in this country since the 1950's, the No. 1 issue for women is world piece. It does not matter whether one is Republican or Democrat, what age or what race, et cetera. That is why I along with the dean of the women in Congress, the gentlewoman from Colorado, PATRICIA SCHROEDER, and the gentlewoman from Rhode Island, CLAUDINE SCHNEIDER, and former Representative Bella Abzug and others are pleased to welcome the World Women Parliamentarians for Peace, which is an organization of women for 44 different countries founded in 1985 in order to increase the influence of women in decision-making process concerning peace and disarmament.

Women for a Meaningful Summit in addition is a network of women's organizations in the United States and abroad committed to reversing the arms race on Earth and in space and to create a more just and peaceful world. Apparently we in this country are not the only ones who care about this issue. Women across the world are very concerned about world peace, and indeed their families, and indeed they I am sure mirror the men across the world who are equally as concerned.

So we are delighted to have them in our country and we wish them a very, very pleasant stay here.

WELFARE REFORM

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, Thursday we will have the opportunity to debate welfare reform. But if the rule is not changed, we will not have the opportunity to build broad support for our welfare system. To truly reform welfare, we need to base it soundly in American values—not just American sympathy.

Poor women and children deserve more than sympathy. They deserve respect and a fair shake. If they complete education and work training and take a job, don't they deserve day-care subsidies that decline as their income grows?

Is cutting off day-care subsidies 6 months after they enter the work force—as the Ways and Means Democrats do—rational, fair, or decent? After 6 months they will be able to afford rent or child care?

Do the American people want us to waste our investment and that of welfare mothers by forcing them to return to welfare after such a fine start toward independence?

Isn't it right and democratic that this body, representing the values and good sense of all Americans, have the right to decide such fundamental issues? You, as a Member, deserve the right to vote on a bipartisan Carper/Johnson compromise bill that, among other things, enables States to provide the critical day-care subsidy until a woman's salary enables her to pay both rent and day care.

By limiting the ability of the House of Representatives to effectively restructure our welfare system you are foregoing the opportunity to base our welfare system on values broadly shared by the American people.

□ 1230

SUMMIT HOLDS OUT HOPE FOR IMPROVED RELATIONS AND LASTING PEACE

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, only minutes from now, President Reagan and Soviet leader Gorbachev will sign the Intermediate Nuclear Forces Treaty to wipe out an entire class of nuclear weapons. The President deserves high praise for his willingness to advance the cause of peace, in spite of the shrill and angry denunciations of the radical right wing of his own party. In concluding this treaty, the President has brought us to the threshold of a new era in United States-Soviet relations. It is an era that could be marked by enhanced understanding and mutual cooperation—not only on arms control, but on human rights and regional issues as well.

The American people overwhelmingly support the INF Treaty, and rightly so. But they also hope and pray that during this week's summit meeting, President Reagan and Soviet leader Gorbachev will build upon the achievements already made. I join them in expressing our heartfelt hope that the summit will improve relations between the superpowers on a long-term basis and bring the goal of a real and lasting peace closer to reality.

SUPPORT FOR RESOLUTION ON RELIGIOUS RIGHTS IN THE U.S.S.R.

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I am proud to be one of 73 original cosponsors of the resolution CHRIS SMITH will introduce tody concerning religious rights in the U.S.S.R. As cochairman of the Congressional Human Rights

Caucus and a member of the Helsinki Commission, I commend my able colleague for taking such an active lead in Congress on this important issue.

Next year marks the 1,000th anniversary of Christianity in Russia. Despite this long heritage, individuals of all faiths have been unable to freely exercise their rights to worship, practice, or teach their religions. Imprisonment and other acts of harassment, discrimination, control of religious teaching by the state, and denial of religious education, all blatantly violate the rights agreed to by the Soviets in numerous international documents.

The Congressional Human Rights Caucus knows the names of 260 religious prisoners in the U.S.S.R., including 171 Christian followers. Lately, we have stepped up our efforts on their behalf—as evidenced by Chris Smith's resolution, yesterday's press conference sponsored by Paul Henry, the renewed implementation of the Soviet Christian Adoption Program, and our upcoming plans to celebrate the 1988 Kievan-Rees Christian millennium.

Mr. Speaker, we will not rest until basic human rights are restored for every religious believer in the Soviet Union. I urge all Members to cosponsor the Smith resolution.

THE UNITED STATES SHOULD SUPPORT MULTINATIONAL PEACEKEEPING FORCE TO PROTECT ELECTIONS IN HAITI

(Mr. de LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de LUGO. The United States and the world cannot stand by as the people of Haiti cry out for an opportunity to build democracy in their country. The people of the United States Virgin Islands are particularly concerned about what is happening to our friends and neighbors in nearby Haiti.

Just over a week ago, tens of thousands of Haitians risked their lives to vote for a new government, and hundreds gave their lives or their blood in the massacres at the polls. Despite its promises to safeguard the election, the Haitian Government stood by, and perhaps even aided, as bands of thugs terrorized voters.

Further resolutions, diplomacy and economic sanctions cannot protect the people of Haiti. There is no sense in talking of a new round of elections if there is no security. Who will go to vote, or run for office, or serve on the Electoral Council if thugs with machetes and guns are given free reign at the polls? If we do not support a multinational peacekeeping force, we will just be giving the interim government a free hand to continue its violence.

In this dangerous and volatile situation, the United States cannot intervene alone. But our country can work with others to organize and support a multinational peacekeeping force to protect elections in Haiti. Ideally, such a force should be organized by the United Nations, and I urge this administration to do everything it can to get the United Nations to take up this task. In addition, I urge the administration to seek support from other Caribbean nations who are Haiti's neighbors.

"GOD BLESS YOU, MR. GORBACHEV—REMEMBER WHAT IS BEST FOR THE WORLD"

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, last Sunday I joined with a group of young men and women prior to the march in behalf of Soviet Jewry. They were from my area in St. Louis County and the rest of the State of Missouri and they presented me with five bags of letters. They were signed by children, children just barely old enough to write a few words and some that were very eloquent, some with poetry, some with historical analogies back to the time of the pharaoh.

The letters were all written to Secretary Gorbachev. They basically said, "Let our people go." They did not say that Gorbachev was the pharaoh and they did not say that the Kremlin was the pyramids; but the message was the same.

Two hundred thousand men and women, old, some on crutches, some in wheelchairs and some young, some not old enough to understand the Holocaust, some not old enough to understand what is religious oppression, to understand what the denial of basic freedom means, joined together.

I hope that Mr. Gorbachev in these halcyon days that he is here will find time to read those letters, to look into their hearts, to remember their families, those families that are closely related to them and those that are only related by religion and common decency.

Remember that, Mr. Gorbachev, when you sign this treaty that when you talk of arms remember the bodies.

God bless you, Mr. Gorbachev—remember what is best for the world.

THE FAMILY WELFARE REFORM ACT

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, when the welfare reform debate began many months ago in the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation, something everyone agreed upon was that one of our principal goals should be to reduce welfare dependency. Witness after witness testified that we needed to get people off the welfare rolls and into jobs.

The result of all that testimony is H.R. 1720, the Family Welfare Reform Act. However, this bill will not reduce the problem of welfare dependency; it will increase it. Instead of getting people off the welfare rolls and back to work, this bill adds more people to the rolls and makes it harder for them to go back to work.

Over 80 percent of this bill's immense price-tag is tied up in raising benefits. It's a simple reality: when benefits are raised to the point that welfare becomes more attractive than entry level jobs, people are going to stay on welfare. And yet, this bill contains over $5 billion in increased benefits.

In addition, H.R. 1720 contains other disincentives to work: First, a provision prohibiting States from requiring participants to accept jobs that do not have income at least equal to those given by welfare programs; and second, a little "Davis-Bacon" provision that prohibits assigning an AFDC client to work unless that job pays current pay scales. Not content with making welfare more attractive than work, this bill will make it illegal for a welfare recipient to take a job in some cases.

This bill even has a provision which prohibits States from keeping a welfare recipient in the Community Work Experience Program for more than 6 months. For many recipients, CWEP is the sum total of their work experience. Limiting that experience is wrong.

In spite of what this bill's title professes, H.R. 1720 does not reform the welfare system. More people will be added to the rolls and more people will be kept out of the job market—all at a whopping cost of $6.6 billion. H.R. 1720 ought to be defeated.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987

The SPEAKER pro tempore (Mr. Gray of Illinois). Pursuant to House Resolution 293 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3100.

☐ 1240

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, with Mr. AuCoin in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, November 19, 1987, title VII was open for amendment at any point. Subject to clause 6 of rule XXIII, 4 hours and 38 minutes were remaining on debate on all amendments printed in the Congressional Record on or before November 10, 1987.

Are there any amendments to title VII?

AMENDMENTS OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, pursuant to the rule, I offer en bloc amendments.

The CHAIRMAN. The Clerk will designate the en bloc amendments.

The text of the en bloc amendments is as follows:

Amendments offered en bloc by Mr. Fascell:

Page 117, line 24, before "The" insert "(a) Use of Existing Funds.—"; and page 118, after line 5, insert the following:

(b) Additional Funds.—

(1) Allocation.—Of the funds authorized to be appropriated for fiscal year 1988 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $3,500,000 shall be allocated for use for verification and peacekeeping activities in support of the Central American peace agreement signed in Guatemala on August 7, 1987.

(2) Recipient organizations.—Funds used for this purpose shall be paid to the international verification and follow up commission provided for in that peace agreement, the Organization of American States, or such other organization acting under multilateral auspices as may be involved in verification or peacekeeping activities in support of that agreement.

(3) Reprogramming.—Funds in an amount which is greater than or less than the amount allocated pursuant to this subsection may be used for verification and peacekeeping activities in accordance with this subsection if the Congress is notified 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

Page 121, after line 25, insert the following:

SEC. 713. ECONOMIC GROWTH IN CENTRAL AMERICA.

(a) Findings.—The Congress finds that—

(1) Central America is a region of great economic potential, which has significant natural resources, favorable location, and people justly celebrated for their intelligence, courage, vitality, generosity, and sense of personal honor;

(2) ultimately genuine democracy can only be rooted in the full economic growth and development of Central America's regional economy;

(3) this economic growth must be the product of Central American initiated economic reforms such as deregulating overly controlled economies, privatizing government owned corporations, offering a legal environment conducive to foreign investment, stabilizing regional currencies and possibly introducing a regional trade currency, and lowering high marginal income tax rates, creating efficient capital markets;

(4) the expansion of trade is essential to the economic success of Central America and this will require a more complete integration of the individual economies in the region;

(5) there is a crucial need within Central America for millions of Central Americans to become economic participants in their national patrimony;

(6) proposals for greater economic expansion must always be supplemented with policies to encourage development at the grassroots;

(7) additional emphasis should be placed on the creation of genuine local self-government, exercised in communities having their own independent revenue base, because free political parties, labor unions, solidarity associations, universities and research institutions, newspapers, fraternal organizations, and churches are essential to a fully functioning democracy; and

(8) no program for advancing the prosperity of the people of Central America can have any real chance of success until the people of the free democratic countries of the region can feel confident that they are secure against invasion and antidemocratic insurrection.

(b) Sense of Congress.—It is, therefore, the sense of the Congress that economic growth, development, and prosperity is possible in Central America if appropriate free market reforms are initiated and undertaken by the Central American nations themselves and these reforms are supported by the Western, free market democracies.

Page 121, add the following after line 25:

SEC. 714. RELATIONS WITH THE PRIVATE SECTOR IN EL SALVADOR.

(a) Findings.—The Congress finds that—

(1) the Congress has, sometimes reluctantly, supported massive flows of assistance to El Salvador in the hope that all elements of Salvadoran society would eventually work together for peace, social justice, and more equitable economic development; and

(2) United States fiscal resources, particularly for foreign assistance, currently are extremely limited and are likely to be restricted in the future to those programs which demonstrate positive returns.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the Government of El Salvador, the business community (including the small business community), the free labor unions, and all other potentially constructive groups should begin a new dialogue for nation building in El Salvador;

(2) none of these elements can be excluded from the national dialogue; and

(3) the Government of El Salvador and the private sector must abandon the distrust and antagonism that have characterized their relations in the past and must move forward in a cooperative and constructive manner to resolve the problems that threaten to undermine the democratic processes now underway in that country.

Page 123, after line 12, insert the following new section 723 (and redesignate subsequent sections accordingly):

SEC. 723. POLICY REGARDING CHILE.

It is the sense of the Congress that the Government of Chile should end its oppression of trade unions, opposition political parties, and freedom of expression. As the free and open expression of divergent views is essential for a free and open democratic society, the Congress especially condemns the recent actions by the Chilean Government which censor the expression of political views in that country's press. Congress calls upon the Government of Chile to rescind such laws and embark on a program of democratization.

Page 134, line 14, strike out "$16,000,000 for fiscal year 1989" and insert in lieu thereof "$20,000,000 for fiscal year 1989".

Page 121, after line 25, add the following:

SEC. 715. PEACE, PLURALISM, AND DEMOCRACY IN NICARAGUA.

(a) Findings.—The Congress finds that—

(1) in signing the Central American peace accord in Guatemala on August 7, 1987, the Nicaraguan Government pledged "to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice" and "respect for human rights"; and

(2) under the Guatemala Accord, Nicaragua is specifically required to establish "complete freedom of press, television and radio" "for all ideological groups" "without prior censorship"; to grant political groupings "broad access to communications media" and full exercise of the rights of association, free speech, and movement to decree an amnesty guaranteeing "freedom in all its forms"; and to terminate state of emergency laws while reestablishing "the full exercise of all constitutional guarantees".

(b) Reforms Which Should be Undertaken by Nicaragua.—It is the sense of the Congress that Nicaragua should undertake the following reforms to begin to bring about lasting peace, pluralism, and democracy in Nicaragua:

(1) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(2) Restore rights to security of person and home and freedom from unjustified arrest and detention.

(3) Ensure that no coercive pressure is employed to force any individual to join Sandinista party groups.

(4) Prevent discriminatory and punitive application of military conscription.

(5) Allow all citizens, including refugees and exiles, to return to Nicaragua.

(6) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including campesinos, Creoles, and Indians.

(7) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

(8) Permit independent human rights observers, including the International Committee of the Red Cross, to meet and travel freely and to visit prisoners, prisons, and tribunals.

(9) End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(10) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(11) Not subject opposition party activists to civil harassment or indiscriminate arrest.

(12) Hold free and open presidential, legislative, and municipal elections by December 31, 1990, as specified in the Nicaraguan Constitution.

(13) Abolish the suspension provisions of the Nicaraguan Constitution.

(14) Separate political parties from civil authority and military organizations.

Page 121, after line 25, insert the following:

SEC. 716. ARIAS PEACE INITIATIVE.

The Congress supports—

(1) the initiative of President Oscar Arias of Costa Rica toward ending the armed conflict in Central America;

(2) the active participation by all 5 signatory nations to the Central American peace agreement signed in Guatemala on August 7, 1987, in order to secure democracy in Central America in compliance with the Arias peace plan; and

(3) extending the date of complete compliance with the Guatemala Accord to January 4, 1988, as agreed to by the leaders of the 5 signatory nations.

Page 117, after line 21, insert the following:

(c) PEACE CORPS PROGRAMS.—In addition to amounts otherwise authorized to be appropriated to carry out the Peace Corps Act, there are authorized to be appropriated to carry out that Act $3,000,000 for each of the fiscal years 1988 and 1989. Amounts appropriated under this subsection shall be used for Peace Corps programs in Costa Rica under that Act.

Page 145, insert the following after line 18:

SEC. 766. ASSISTANCE TO NICARAGUA BY OTHER COUNTRIES.

(a) FINDINGS.—The Congress finds that—

(1) President Arias of Costa Rica proposed, and on August 7, 1987, the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua signed, an historic agreement to bring peace to Central America; and

(2) the peace plan in that agreement calls for ceasefires, amnesties, dialogue, democratic processes, and the reduction of military forces.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that unless and until—

(1) the Nicaraguan Government is in full compliance with its obligations under the Central American Peace Agreement signed in Guatemala City on August 7, 1987, and

(2) democratic institutions are established in Nicaragua which result in broad respect for fundamental human rights of all citizens of that country,

the Governments of the countries of Western Europe should not provide any direct assistance to the Government of Nicaragua. Any assistance to the Nicaraguan people should be limited to aid provided through organizations which are not under the direct or indirect control of the Government of Nicaragua.

Page 124, after line 20, insert the following:

(a) POLICY DECLARATIONS WITH REGARD TO HAITI.—

(1) FAILURE OF NATIONAL GOVERNING COUNCIL TO SUPPORT TRANSITION TO DEMOCRACY.—The United States condemns the failure of the National Governing Council of Haiti to fulfill its pledge to the Haitian people, to the United States, and to the international community to support a transition to democracy in accordance with the provisions of the constitution overwhelmingly approved by the Haitian people on March 29, 1987.

(2) FAILURE OF NATIONAL GOVERNING COUNCIL TO PROTECT HUMAN RIGHTS.—The United States condemns the National Governing Council of Haiti for its failure to provide security and protection for the internationally recognized human rights of the people of Haiti, to abide by international law with respect to human rights, and to provide adequate protection for diplomats as required by international law.

(3) POLICY REGARDING UNITED STATES ASSISTANCE.—It shall be the policy of the United States to suspend all assistance to Haiti (other than the types of assistance described in subsection (c)(3)) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) ACTIONS BY THE UNITED STATES TO PROMOTE HUMAN RIGHTS AND DEMOCRACY IN HAITI.—

(1) IN GENERAL.—The President shall take such steps, consistent with otherwise applicable laws, as the President deems appropriate—

(A) to encourage full respect for human rights in Haiti;

(B) to promote the Haitian Government's prompt adherence to the commitments it has made to the international community to hold free and fair elections and to respect human rights; and

(C) to assist the people of Haiti in securing a transition to a democratic form of government.

(2) SPECIFIC ACTIONS.—The Congress urges the President to take the following actions, by exercising existing authorities, to achieve the objectives specified in paragraph (1):

(A) Use the vote and influence of the United States to halt or discourage the provision of any assistance to Haiti by international financial institutions, international organizations, and other governments (other assistance of the types described in subsection (c)(3)).

(B) Undertake diplomatic initiatives to secure international cooperation to maximize diplomatic and economic pressure on Haiti.

(C) Immediately suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act.

(D) Furnish assistance to the news media in Haiti to assure freedom of speech and freedom of the press for the Haitian people.

(E) Furnish such assistance (including funding) as the President considers appropriate to—

(i) private and voluntary organizations and nongovernmental organizations;

(ii) foreign governments, including an entity recognized as the legitimate government of Haiti in accordance with subparagraph (G); and

(iii) international organizations.

Assistance under this subparagraph could include United States participation in international peacekeeping activities. It is the sense of the Congress that should the United States consider participation in peacekeeping activities in Haiti, the United States should undertake such activities jointly with other countries and only if the United States has clear indications, based on consultations with entities broadly representative of the Haitian people, that such activities would have the support of the Haitian people.

(F) Sever diplomatic relations with the National Governing Council of Haiti.

(G) Recognize an alternative entity, which is committed to a prompt transition to democracy, as the legitimate government of Haiti.

(H) Impose an arms embargo, impose trade and financial sanctions (under the International Emergency Economic Powers Act), and seek international cooperation for the imposition multilaterally of an arms embargo and trade and financial sanctions against the Government of Haiti.

(3) DENIAL OF VISAS.—In addition, in order to achieve the objectives specified in paragraph (1), the President is authorized and urged to deny visas to, and exclude from admission to the United States, aliens—

(A) who have been involved in the denial of human rights in Haiti or in activities designed to impair Haiti's transition to democracy, or

(B) who are the immediate members of the family and the associates of aliens described in subparagraph (A).

(c) RESTRICTIONS ON ASSISTANCE FOR HAITI.—

(1) SUSPENSION OF ASSISTANCE.—Funds made available by any Act or joint resolution may not be obligated or expended to provide assistance to Haiti (other than the assistance described in paragraph (3)) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(2) ELECTED CIVILIAN GOVERNMENT.—After February 7, 1988, the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, shall not be considered to have been fully and faithfully adhered to by the Government of Haiti for purposes of paragraph (1) unless—

(A) a civilian government is in office pursuant to the provisions for elections set forth in the Haitian Constitution approved on March 29, 1987; and

(B) that government was elected in elections held under the auspices of the Provisional Electoral Council, appointed pursuant to the Haitian Constitution, which was responsible for the organization and administration of the election scheduled for November 29, 1987.

(3) EXCEPTIONS TO BAN ON ASSISTANCE.—Paragraph (1) does not apply with respect to—

(A) assistance, provided through private and voluntary organizations or nongovernmental organizations, to meet humanitarian and developmental needs or to promote respect for human rights and the transition to democracy;

(B) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations; or

(C) assistance authorized by subsection (d).

(d) ASSISTANCE FOR ELECTIONS IN HAITI.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide such logistical, technical, and financial assistance through such departments and agencies of the United States Government as the President determines appropriate for purposes related to the organization and holding of elections under the auspices of the Provisional Electoral Council pursuant to the constitution approved by the Haitian people on March 29, 1987.

(2) CONGRESSIONAL REVIEW.—Not less than 15 days before providing any assistance pursuant to paragraph (1), the President shall notify the committees of the Congress specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section. The notification requirement of this subsection is in addition to any otherwise applicable requirements for notification to the Congress with respect

to such assistance. The notification requirement of this subsection does not apply to the extent that section 501 of the National Security Act of 1947 applies with respect to the assistance to be provided.

(e) Periodic Notification to the Congress.—The President shall keep the Congress advised, on a regular basis, of actions taken pursuant to subsections (b), (c), and (d) and on progress made toward achieving the objectives specified in subsection (b)(1).

Page 124, line 21, strike out "(a)" and insert in lieu thereof "(f)"; page 126, line 8, before the period insert ", subject to subsection (c)"; and after line 8, insert the following:

(5) Termination of earmarkings.—The requirements of this subsection that specified amounts of assistance shall be available only for Haiti shall cease to apply on February 7, 1988, unless as of that date the conditions specified in subparagraphs (A) and (B) of subsection (c)(2) have been satisfied. If assistance described in paragraph (1) or (2) of this subsection is provided for Haiti after that date, consistent with subsection (c), that assistance shall be provided subject to paragraph (3) of this subsection and, in the case of assistance under chapter 1 of part I of the Foreign Assistance Act of 1961, shall be provided in accordance with the last two sentences of paragraph (2) of this subsection.

Page 126, line 9, strike out "(b)" and insert in lieu thereof "(g)"; line 22, after "(1)" insert "is subject to subsection (c) and"; page 127, line 4, strike out "(c)" and insert in lieu thereof "(c)(2)"; and page 129, strike out lines 16 through 22.

Page 118, strike out line 6 and all that follows through line 20 on page 120 and insert in lieu thereof the following:

SEC. 710. RESTRICTIONS ON ASSISTANCE TO PANAMA.

(a) In General.—Unless the President has certified to the Congress that—

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces, and the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) the Government of Panama is conducting an impartial investigation into allegations of illegal actions by members of the Panama Defense Forces, including illicit drug-trafficking activities;

(3) freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people; and

(4) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections;

funds authorized to be appropriated by this Act may not be made available for assistance for Panama (other than the assistance described in subsection (c)), the Overseas Private Investment Corporation may not carry out programs for fiscal year 1988 or 1989 in Panama under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, and letters of offer may not be issued to Panama under the Arms Control Act during fiscal year 1988 or 1989.

(b) Additional Requirement for Fiscal Year 1989.—Unless the President has certified to the Congress that presidential elections were held in Panama as scheduled in 1989 and were free, fair, and honest—

(1) 50 percent of the funds, which are authorized to be appropriated by this Act for each foreign assistance appropriations account for fiscal year 1989 and which are allocated for assistance for Panama (excluding funds for the assistance described in subsection (c)), shall be withheld from obligation;

(2) 50 percent of the amounts allocated by the Overseas Private Investment Corporation for programs in Panama for fiscal year 1989 shall be withheld; and

(3) letters of offer may not be issued to Panama during fiscal year 1989.

The requirements of this subsection are in addition to the requirements of subsection (a).

(c) Exceptions.—Subsections (a) and (b) do not apply with respect to—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) which is provided through private and voluntary organizations or other nongovernmental organizations;

(2) assistance for international narcotics control under chapter 8 of part I of the Foreign Assistance Act of 1961;

(3) disaster relief assistance, including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961;

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act; and

(6) assistance necessary for the continued financing of education for Panamanians in the United States.

(d) Certification Requirements.—Each certification required by this section shall be submitted in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate at least 30 days before any assistance subject to this subsection is provided or any letter of offer subject to this subsection is issued, shall discuss fully and completely the justification for making the required determination, and shall describe fully the assistance proposed to be provided and the defense articles and defense services proposed to be sold, including the purposes to which the assistance or sale is directed.

(e) Nonapplicability of Other Conditions.—Section 761 of this Act shall not apply with respect to assistance for Panama.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. Fascell] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say first that it is our purpose to proceed here and I understand that we will recess at 1 o'clock so that those who have been asked to attend the signing ceremony at the INF at the White House can do that and we will resume thereafter.

It would be our intention to proceed to a reasonable hour this evening and then, continue with the bill tommorrow.

As the Chair has already announced, under the rule there are 4½ hours left for debate on all amendments and amendments thereto.

Let me first express my appreciation to everyone for the spirit and the cooperation that has been exhibited with respect to working out en bloc amendments.

I want to thank the staff on the minority and the majority side and my colleagues, and the ranking Member on the Republican side for helping us put all of these together and, in addition to that, the sponsors of these amendments.

We will continue to do that, Mr. Chairman, to expedite the consideration of this bill to the best of our ability. Nevertheless, there are a lot of amendments, there are many more titles yet to be considered in this bill and I would ask everyone to continue the spirit of cooperation that has existed so far.

With respect to the en bloc amendments, this en bloc amendment contains 11 amendments to title VII which were printed in the Record and therefore are in order. These amendments cover the following issues: funds for verification of a Central American peace agreement; the date for compliance with the Guatemala accord; peace and democracy in Nicaragua; negotiations with the Contras; economic growth and the private sector in El Salvador and Central America; policy toward Chile, Haiti, and Panama; funding for the Inter-American Foundation; funds for the Peace Corps in Costa Rica; assistance to Nicaragua by other countries.

These amendments were offered by Representatives Fascell, Gejdenson, Lagomarsino, Miller (Washington), Richardson, and Smith (New Jersey); Tallon; Leach. I would like to thank them for their cooperation in putting together this en bloc amendment, for which some of the amendments were modified—Gejdenson on verfication of Central American peace; Miller on Haiti; Richardson on Panama and Arias peace plan; Smith on $3 million for the Peace Corps; Tallon on peace and democracy in Nicaragua.

This en bloc amendment should facilitate the consideration of title VII and I urge its support by the members.

The amendments in the en bloc amendment are as follows:

By Representative Gejdenson—authorizing $3.5 million for use by the OAS or other organizations involved in verification or peacekeeping activities in support of the Guatemala accord.

By Representative Lagomarsino—Sense of the Congress regarding the necessity of free market reforms to economic growth in Central America.

By Representative Lagomarsino—Sense of the Congress regarding the necessity for better private sector/government cooperation in El Salvador.

By Representative Miller (Washington)—Sense of the Congress regarding democracy and human rights in Chile.

By Representative MILLER (Washington)—condemning the interruption of the election, suspending U.S. assistance to Haiti, setting forth other recommendations for United States policy, and authorizing assistance for the holding of elections.

By Representative FASCELL—increasing the authorization for the Inter-American Foundation to $20 million for fiscal year 1989.

By Representative RICHARDSON—suspending United States assistance to Panama until the restoration of democracy.

By Representative RICHARDSON—express support for extending the date for compliance with the Guatemala accord to January 4, 1989.

By Representative SMITH (New Jersey)—earmarks $3 million for Peace Corps activities in Costa Rica.

By Representative TALLON—Sense of the Congress detailing the conditions for peace and democracy in Nicaragua.

By Representative LEACH—Sense of the Congress that West European governments should not provide assistance to Nicaragua until it is in compliance with Guatemala accord.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. LAGOMARSINO] for 10 minutes.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment perfecting the language of the amendment on Haiti.

I joined my colleagues last week in strongly condemning the violence occurring over recent weeks in Haiti and the Government of Haiti's inability to control that violence as well as the Government's decision to cancel the Presidential elections called for in the March 1987 constitution.

I continue to believe it is essential that we demonstrate strong bipartisan support for promoting a peaceful, orderly transition to democracy in Haiti. The administration responded promptly and appropriately in cutting off all but humanitarian assistance to the Government of Haiti, and I believe that decision was appropriate.

The perfecting language in this amendment provides the President with a whole range of options where he already has authority or clarifies his authority in bringing pressure to bear on the Government of Haiti to fulfill its obligations to the Haitian people.

It must be made clear to the government of General Namphy that the United States is prepared to cooperate with our allies in the region and to consider all possible alternatives to encourage a prompt and peaceful reinstatement of the electoral process.

It is imperative that we give our President the backing and the flexibility to carry out the diplomatic initiatives necessary to influence positively events in the Caribbean. We must support the Haitian people so that they can live without fear and can reach the goals of economic development and personal security under a democratic government.

The language of this amendment reflects appropriately the sentiment of the House, and I believe it also reflects the attitude of the administration. We should give it our strong, bipartisan support. I commend the gentleman from Washington [Mr. MILLER] for his initiative in the first place and the gentleman from Florida [Mr. FASCELL] for his efforts to focus attention on this urgent issue. I urge my colleagues to vote for this perfecting amendment.

Mr. Chairman, I rise in support of my amendment.

A comprehensive program of economic policy recommendations has been developed by Central American leaders and North American specialists to promote economic development based on private enterprise and free market principles.

The basic concept has been promoted by the Global Economic Action Institute. GEAI discussed the proposals with President Arias who expressed great interest in them. President Arias asked his Foreign Minister to contact the other Central American leaders who then met with GEAI representatives this past weekend.

As an ongoing, private international organization, the GEAI seeks to identify and promote solutions to the problems threatening the health of the world's economic system. With its working paper, "Central America and the United States: Working Together for Freedom and Prosperity," the GEAI wishes to provide a viable framework for responsible policy recommendations. These macroeconomic proposals, being developed by Central and North American policy experts, addresses Central American needs for sustained economic growth through expanding the capital ownership base, strengthening democratic institutions, expanding grassroots development programs and assuring regional security. The result will be a comprehensive and consistent policy presented for consideration to policy makers in both the United States and throughout the Central American nations.

It is our hope that such initiatives will stimulate more creative thinking on new policies and new opportunities for building democracy and economic prosperity for the peoples of Central America.

The elements of the economic proposals depend on structural reforms in the Central American countries, such as follows:

Deregulation of State enterprises, privatization;

Promoting foreign investment;

Currency stabilization;

Promoting capital markets;

Strengthening judicial systems;

Promoting nontraditional exports;

Reestablishing the Central American Common Market, economic integration, regional trade monetary unit;

Production sharing;

Economic free zones;

Debt management;

Debt for equity swaps;

Employee ownership plans; and

Emphasis on grassroots development programs.

The economic proposals also depend on U.S. cooperation, including such activities as the following:

International assistance programs, promoting credit institutions, cooperatives, enterprise zones and technical assistance;

Opening U.S. markets;

Strengthening free democratic institutions; and

Promoting regional security.

The executive summary of the GEAI working paper follows:

EXECUTIVE SUMMARY—CENTRAL AMERICA AND THE UNITED STATES: WORKING TOGETHER FOR FREEDOM AND PROSPERITY

I. INTRODUCTION

Central America is a region of great potential, waiting to be achieved. It has significant natural resources, favorable location, and people justly celebrated for their intelligence, courage, vitality, generosity, and sense of personal honor. The most farsighted of Central America's leaders have come to discern a path leading to a more hopeful future of peace, freedom and justice. With a better understanding and continued assistance from the United States, the opportunity for building a new Central American system can be seized.

This report has its genesis at the First Central American Conference on Trade, Investment and Development, held in Tegucigalpa, Honduras in March 1987. The conference, co-sponsored by the GEAI and the National Congress of Honduras, gave rise to a number of significant economic policy recommendations to be considered by policy makers in Central America and the United States.

To the macroeconomic proposals which emanated from the Honduras conference were added new dimensions suggested by other experts from both the United States and the Central American region—notably its emphasis on expanding the capital ownership base, expanding grassroots development programs, strengthening democratic institutions, and assuring regional security. The result is a more comprehensive policy presented for consideration of policy makers both in the United States and throughout Central America.

This is the synthesis of many useful proposals integrated into one document, drafted jointly by Central Americans and North Americans, makes the report unique and legitimate.

II. ECONOMIC PROGRESS

On their part, the free nations of Central America must lead the way toward greater prosperity for their people by taking such steps as; deregulating their overly-controlled economies; privatizing government-owned corporations; offering a legal environment conducive to foreign investment; stabilizing regional currencies and possibly introducing a regional trade currency; lowering high marginal income tax rates; creating efficient capital markets; and strengthening legal doctrines which facilitate trade and investment. A new "Enterprise Award" is proposed to honor those most successful in creating new wealth through competitive free enterprise.

III. EXPANDING INTERNATIONAL TRADE

Essential to the economic success of Central America is expansion of trade. This will require a new willingness on the part of the U.S. to open its markets to Central American products. The Central American Common Market will need to be revived, with provisions made for resolution of the unpaid Nicaraguan trade balances and a new orientation toward open markets in place of import substitution strategies. Nontraditional export products should be emphasized, and increased use made of twin planting, Section 936 funds for regional investment, and free zones for export-oriented industries. The ultimate goal should be more complete economic integration, encouraged by a restructuring of U.S. AID to deal with regional matters rather than the separate problems of individual countries.

IV. DEBT MANAGEMENT

Debt for equity swaps, while not a panacea, nonetheless offer a useful way to convert government debt to equity investment funds. For this technique to be useful, the conditions attractive to foreign investment must be created within the country. In the U.S., accountants and bank regulators will have to agree on new techniques for valuing foreign debt in the portfolio of U.S. banks.

V. EXPANDING OWNERSHIP

A crucial need within the region is for millions more people to become proprietors of a part of their national patrimony. Employee Stock Ownership Plans (ESOPs) have been highly successful in the U.S. in facilitating employee ownership, and have often brought with it improved productivity. The debt for ESOP equity sway offers a promising technique for using a nation's foreign debt to finance the conversion of an industry to employee ownership. The U.S. should offer selected trade advantages to products of employee-owned enterprises in the region, such as lower tariffs and quota exemptions. Investment in such enterprises would be encouraged by authorizing tax preferences for U.S. Expanded Ownership Investment Corporations. Properly designed land reform can help to bring ownership to tenant farmers and their cooperatives, and land banks, such as those long used in Canada, might be helpful in facilitating land transfers.

VI. GRASSROOTS DEVELOPMENT

Proposals for macroeconomic expansion must always be supplemented with policies to encourage development at the grassroots, in the villages. Programs such as those of the U.S. InterAmerican Foundation, National Development Foundations, and small scale credit institutions need additional support. Genuine member-controlled cooperatives, appropriate technology, enterprise zones and programs of education for economic achievement are additional efforts that have been helpful to grassroots development programs.

VII. STRENGTHENING FREE DEMOCRATIC INSTITUTIONS

Additional emphasis should be placed on the creation of genuine local self-government, exercised in communities having their own independent revenue base. Free political parties, labor unions, solidarity associations, universities and research institutions, newspapers, fraternal organizations and churches are essential to a fully functioning democracy.

VIII. REGIONAL SECURITY

No program for advancing the prosperity of the people of Central America can have any real chance of success until the people of the free democratic countries of the region can feel confident that they are secure against invasion and foreign-supported insurrection. The Arias Plan of August 1987, by calling for a reversal of the arms buildup, the departure of foreign military personnel, a reintegration of all parties and forces into each nation's life, and the restoration of pluralism and democratic freedoms throughout the region, has raised new hopes for a peaceful resolution of current tensions. It also offers some hope for a negotiated solution. Regardless of the possible success of the Arias Plan in reducing threats to the democracies of the region, the U.S ought to consider offering a mutual security guarantee to a new Central American Democratic Community, a success to the Organization of Central American States created by the Charter of San Salvador in 1962. Nicaragua would be invited to join when it has a truly democratic regime.

IX. CONCLUSION

The report proposes a dramatic new relationship between the U.S. and the democracies of the Central American region. The U.S. would open its markets to Central American exports, and provide increased aid and new security for threatened democracies. On their part, the Central American nations would move expeditiously to replace a statist pseudo-capitalism with competitive free market capitalism, coupled with policies to encourage the broadening of the private property ownership base among the region's people and the decentralization of political power to levels at which true citizenship can be exercised.

This is admittedly a challenging task for all parties, but it must be faced if the common goal of all our peoples is to be achieved.

Mr. Chairman. I rise in support of my amendment on relations with the private sector in El Salvador.

The economic crisis that El Salvador has suffered in this decade has been a serious setback for the advancement of democracy and human rights. The combination of a devastating earthquake last year and the ongoing Marxist guerrilla war have combined to reduce the chance for economic development in El Salvador to almost zero.

The government of President Duarte has labored valiently to overcome the political and security challenges to his administration, but he has not been able to respond effectively to the economic challenges thus far. The role of the private sector in helping to boost the economy should not be overlooked.

In the early days of his Presidency, Duarte emphasized the effort he would make in reaching out to the private sector and named a special adviser for that purpose. In these past few years, however, the relationship between the executive and the private sector has not been cooperative.

In offering this amendment, I believe it is necessary for both sides to adopt an approach that will be constructive and conciliatory which will help promote the private sector so that it can realize the significant potential that free market principles offer for the development of El Salvador.

I believe it is important for the government to realize that if the private sector is not given a more constructive role in the economy of El Salvador, then the long term interests of that country could be severely damaged.

I urge the Government of El Salvador and the private sector to work together to strengthen the democratic process underway in that nation and to work together to build a strong, vital economic recovery that will provide hope and opportunity for all Salvadorans.

[I thank the chairman for including my amendment in his en bloc amendment.]

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Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Chairman, I thank the Chairman of the full committee for yielding this time to me, and I will take this time to speak briefly concerning my amendment on peace and democracy in Nicaragua.

Mr. Chairman, I believe the amendment I offer today is a very necessary step in filling a void as far as the expectations of this body relating to the implementation of a plan to bring about democracy and peace to the peoples of Nicaragua.

There must be a benchmark with which to measure the progress of a policy based on true democratic opportunity and respect for the rights and dignities of all Nicaraguans.

Mr. Chairman, the means have replaced the ends as the focus of America's debate and policy on Nicaragua. We have lost sight of any worthy goals we shared for Central America. Meanwhile the debate on America's role in the region has degenerated to a futile pattern of divisive bickering and second guessing between the supporters and opponents of Contra aid. As a result, about the only thing that's clear regarding our Central American policy is that we are sorely lacking one.

Thankfully, the Guatemala peace accords have presented us with the historic opportunity to break this spiral of mistrust and confusion. For despite their differences on the methods, those on both sides of the issue of United States aid to Nicaraguan resistance share common democratic goals—the same goals which were generally agreed to in the peace accords.

In signing the Central American peace accord on August 7, 1987, the Nicaraguan Government pledged "to promote respect for human rights" and to ensure "the full exercise of all civil and political rights." Under the peace plan, Nicaragua is specifically required to establish "complete freedom of press, television and radio," "for all ideological groups" "without prior censorship"; to grant political groupings "broad access to communications media," and full exercise of the rights of association, free speech and movement "in order to proselytize"; to decree an amnesty guaranteeing "freedom in all its forms" and to terminate state of emergency laws, while reestablishing "the full exercise of all constitutional guarantees."

Compliance with the peace plan goes beyond the mere reopening of La Prensa, and Catholic radio and the repatriation of three exiled Catholic priests. Sandinista restrictions on human rights extend to virtually every segment of society—the media, church groups, labor unions, opposition political parties, human rights groups, Indians, and Creoles, campesinos, prisoners, students, teachers and others. The Nicaraguan Government must take numerous, but fundamental, steps to meet its human rights commitments. These include but are not limited to the following:

INDIVIDUAL CIVIL LIBERTIES

Ensure to all citizens the rights to freedom of expression, association, assembly, and movement, currently restricted by the state of emergency decree.

Restore the Nicaraguan constitutional rights to security of person, the inviolability of the home, and freedom from warrantless arrests, all currently suspended by the state of emergency decree.

Stop coercive measures against citizens to join or attend Sandinista party groups, such as the neighborhood Sandinista Defense Committees.

Cease applying the military draft in a discriminatory or punitive fashion.

Ensure the right to academic freedom.

Allow the rights of all citizens, including refugees and exiles, to return to the country. Amnesty should extend to all political prisoners and rebels willing to lie down their arms.

POLITICAL PRISONERS

Release all persons imprisoned without due process or a fair trial, including all persons imprisoned under vague political charges, tried in extraordinary tribunals and police courts, or others covered under the envisioned amnesty decree. The number of such prisoners is believed to be several thousand, in addition to the about 2,300 imprisoned former Somoza national guardsmen.

Abolish the extraordinary tribunals, called Popular Anti-Somocista Tribunals. These courts, which are outside the Nicaraguan constitutional framework, are where most convicted political prisoners are tried. In the first part of 1986, these tribunals had a trial level conviction rate of 100 percent.

Rescind extraordinary powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms. On August 15, 1987, such powers were used by the Sandinista police to arrest, try, convict, sentence, decide the appeal and detain Alberto Saboria, the president of the Nicaraguan Bar Association, and Lino Hernandez, executive director of the Permanent Commission for Human Rights.

Reinstate the Nicaraguan constitutional rights to due process that are now suspended by the state of emergency. These rights include the rights of all prisoners to habeas corpus, to be informed of charges upon arrest, to appeal to a higher court, to be presumed innocent until proven guilty, to not testify against oneself, and to consult an attorney upon arrest.

Permit the International Committee of the Red Cross [ICRC] and independent human rights observers, families and lawyers to visit all detainees and prisoners and to inspect conditions in all places of confinement. Currently the jails of the Interior Ministry's State Security forces are off limits to the ICRC and the rest of the public.

End the practice of holding detainees and prisoners incommunicado. Currently state security prisoners are generally held in isolation for the first several weeks, or even months, of detention. It is during this period when torture is most likely to occur.

Abolish conditions of confinement that, themselves, constitute a form of torture. Numerous prisoners of the State Security forces report having been held in "Chiquitas" or underground, closet-size cells, cells partially filled with sewer water, or in covered holes in the ground.

End all other forms of torture and punish offenders. The most frequent reports of torture by former prisoners include prolonged food, water or sleep deprivation, severe beatings, and mock executions.

CHURCH GROUPS

Allow the Catholic Church to reopen its social welfare office, human rights office, newspaper, and radio station. All were closed by the Government between October 1985 and January 1986.

Allow Cardinal Obando y Bravo to resume his Sunday television broadcast of the Mass. The Mass was banned from television by the Sandinistas in 1981.

Allow the return of all 20 expelled Catholic priests. The expelled priests, none of whom received due process, include the spiritual director of the Nicaraguan Catholic Seminary and the founder of 352 peasant communities, the director of the Catholic Youth Center, the directors of the Managua and Masaya Catholic youth centers, and the director of a large grassroots conversion movement, as well as Bishop Vega, the vice president of the Nicaraguan Bishops Conference, and Monsignor Carballo, the spokesman for the Nicaraguan Church.

Repeal article 124 of the 1987 Nicaraguan Constitution, which in effect bars religious courses from the curriculum of even private religious schools.

Allow alternative service or conscientious objector status to those, on the basis of deep religious conviction, oppose the military draft.

Stop prohibiting certain Protestant evangelicals from holding or attending prayer meetings, evangelizing or preaching. Several evangelical pastors, now in Honduran and Costa Rican refugee camps, report that such religious restrictions forced them into exile.

End detention, intimidation, and other coercive measures on the basis of religious affiliation. Both Catholics and Protestants, who are members of churches not actively supportive of the Sandinista party, have been imprisoned, and threatened. Refugee pastors report that entire male congregations have been imprisoned.

End coercion against religious believers to join pro-Sandinista groups or to incorporate Sandinista ideology into religious teachings.

LABOR UNIONS

Ensure labor unions the right to strike—banned since 1981—to bargain collectively, to demonstrate, to meet publicly, and to take other nonviolent collective action to press for labor rights.

Release all labor unionists currently imprisoned in connection with nonviolent union activities. Hundreds of independent unionists have been imprisoned over the past 8 years, including all 7 directors of the CTN, one of Nicaragua's democratic labor confederations.

End all harassment and pressure against independent unions. Bodies of both the ILO and the Organization of American States have publicly criticized the Nicaraguan Government for using such pressures as the withholding of food rations, cooking oil, bank loans and fertilizers, job dismissals, turba attacks and threats to coerce unionists away from independent unions and into Sandinista-controlled unions.

Allow union publications to reopen and give legal recognition to all democratic labor unions, including those affiliated with the democratic confederation CUS, which have been seeking legal status for several years.

POLITICAL PARTIES

Allow political parties to hold marches and public outdoor meetings, which are currently restricted by the state of emergency.

End the practice of jailing opposition party activists, and drafting them or their children in reprisal for nonviolent political activity. The Social Christian Party, the Independent Liberal Party, the Social Democratic Party, and the Conservative Party report that many hundreds of their members, particularly the midlevel leadership in the countryside, have been imprisoned over the past 8 years.

End Government infiltration of party meetings and all pressure against opposition party membership to spy on party activities or incriminate party leaders.

Permit the democratic opposition free access to the media and allow them to operate their own publications.

Permit opposition parties to freely publicize party meetings and to travel within the country to attend such meetings.

THE MEDIA

Allow the establishment of all publications, including those previously shut down by the Government, including La Prensa, the private newsletter Prisma, the bulletins of the CUS and CTN labor confederations, Iglesia, the newspaper of the Catholic Church, and the bulletins of the various political parties.

End prepublication censorship, currently imposed on all newspapers, and journals.

End restrictions of newsprint. La Prensa, a 40–60 page paper at the time of the revolution, was by the time of its closing limited by the Government to 6 pages of newsprint daily.

End economic harassment of independent publishers. La Prensa, at the time of its closing, was threatened by bankruptcy from state-imposed employee salary increases concomitant with state-imposed restrictions on the price of the newspaper.

Allow private television broadcasting. Two private groups of Nicaraguans—a business group headed by Enrique Bolanos and another group led by the well-known former news executive Fabio Gadea Mantilla are currently seeking television broadcasting licenses from the Government.

Allow the reopening of the same 25 private news programs, closed or taken over by the Government beginning in 1982.

Limit censorship to that which is strictly necessary for "the protection of national security, or of public order or of public health or morals," as provided under international human rights law. In the last year of its operation, La Prensa reported that between 40 and 60 percent of its copy was deleted by censorship.

End all arbitrary arrests and turba attacks against journalists, writers, and publishers.

HUMAN RIGHTS DEFENDERS

End all jailings, the deprivation of food rations, threats and other pressures directed in reprisal against the women in the Mothers of Political Prisoners Movement, Lino Hernandez and the staff of the Permanent Commission for Human Rights [CPDH], Alberto Saborio, President of the Nicarguan Bar Association and defense attorneys. A number of members of each of these groups have been joined in the past, the most recent example being the imprisonment without due process of Saborio and Hernandez during August 1987.

Allow independent human rights defenders to hold meetings and travel freely throughout the country to monitor human rights conditions.

Give the CPDH, attorneys and foreign independent human rights defenders access to all tribunals to observe proceedings and to all places of detention to inspect conditions and meet with prisoners.

Permit human rights defenders to report freely on their findings both in their own reports and through the general media.

INDIANS AND CREOLES OF THE ATLANTIC COAST

Permit free access to and movement within the Atlantic coast region. Freedom of movement and access should be guaranteed all indigenous residents and leaders—whether currently in Nicaragua or in exile—and for members of the news media, for independent human rights and humanitarian organizations, church leaders, labor leaders and others. The government should stop requiring Indians and other Atlantic Coast residents to carry special identification cards and permits to travel, hunt, fish, farm and carry out commercial activities.

Permit the Indians and other indigenous peoples and their organizations freely to assemble, speak, publish, disseminate written material, and broadcast. The Government should return to its prior owners the independent Atlantic Coast radio station, previously known as Radio Ver, which Sandinista officials took over in 1981.

Seek to establish peace with armed Indian and Creole opposition forces through negotiations leading to an agreement that would redress past grievances and guarantee autonomy for the indigenous peoples of the Atlantic Coast; cease Sandinista military occupation and control over civilians; and permit return to indigenous civilian rule in all towns and villages in the region.

End arbitrary arrests, detentions and threats against the residents of the Atlantic coast.

Permit the return of all Indian and Creole refugees and exiles to their homes in Nicaragua; provide compensation for the reconstruction of houses and communities destroyed by the Government; and grant amnesty to all returnees.

End the practice begun in 1981 of forcible relocation and permit Atlantic coast residents to return to their home communities. Several thousand Indians still remaining in the "Tasba Pri" relocation camps should be given all assistance necessary to return to their homes.

Cease all aerial bombing and strafing attacks on civilians and their villages, homes and property. Cease burning and destruction of Indian farms, livestock and crops. Such actions have been part of the Sandinista counterinsurgency strategy since the early 1980's.

Permit Indians and Creoles freely to engage in farming, fishing, hunting, and commercial activities necessary for their subsistence in the Atlantic coast region. Cease the imposition of restrictive licensing and marketing controls that now deny basic necessities to the people.

Permit all independent Indian and Creole political, cultural, economic, and social organizations to operate freely in the region.

CAMPESINOS (PEASANT FARMERS)

Abolish the current practice of preventive detention of campesinos in areas where contras are present.

Release all campesinos currently imprisoned without charges or due process. According to reports of journalists, human rights groups, refugees and the Inter-American Commission on Human Rights of the OAS, many hundreds of campesinos have been detained on the slightest suspicion of Contra involvement.

Cease all aerial bombing and strafing attacks against civilians, their villages, homes and property. Refugees report such attacks between late 1984 and late 1986, particularly in the areas of Contra presence around Nueva Guinea, in southern Zelaya department.

Cease the counterinsurgency practice of burning and destroying crops, livestock and food supplies of campesinos.

End the policy of forcibly resettling campesinos in areas of contra presence to Sandinista-controlled resettlement camps; release and facilitate the return of campesinos currently held in such camps to their homes.

End pressures against campesinos to join Sandinista farming cooperatives, or to join and attend meetings of Sandinista political organizations, such as Sandinista Defense Committees.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, today I offer two amendments on Haiti and Chile which express this Nation's unwavering support of emerging democratic movements throughout the world. I want to thank Mr. FASCELL, the chairman of the Foreign Affairs Committee, for his help in perfecting and improving my amendment on Haiti.

Recently the world watched in horror while the bright promise of democracy in Haiti was dashed by a wave of convulsive violence. Murder and terror were used to deny the Haitian people free and fair elections. The National Governing Council has utterly failed the Haitian people.

This amendment sends an unequivocal message to that government, and I use the term loosely, that the United States will not support or tolerate those who would deny the Haitian people their right to freedom and democracy.

The Pinochet regime in Chile also seeks to sail against the tide of emerging democratic movements in the Americas. Through continued and new restrictions on the press and opposition political parties, General Pinochet apparently seeks to perpetuate his regime and suppress any viable democratic opposition.

This amendment tells General Pinochet that we see through his actions and states our true intentions—the support of emerging democratic movements in the Americas.

The CHAIRMAN. The Chair will state that the gentleman from California [Mr. LAGOMARSINO] has 2 minutes remaining and the gentleman from Florida [Mr. FASCELL] has 6 minutes remaining.

Mr. FASCELL. Mr. Chairman, I have no requests for time now, and I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes, the balance of my time, to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my friend, the gentleman from California, for yielding this time to me.

Mr. Chairman, I rise in support of the provisions offered en bloc by the chairman of the full committee to title VII and would like to call attention to an amendment included in the package which I am offering to boost the budget authority of the Peace Corps from $142.2 million to $145.2 million for fiscal year 1988 and fiscal year 1989.

Mr. Chairman, I think it is important to point out that my amendment has been slightly modified. Instead of earmarking funds within the ESF account for Peace Corps activities in Costa Rica, the amendment draws on new funds made available in the bill by the House-passed Dorgan amendment. As a result, the Peace Corps will receive an added $3 million in budget authority to be used for its programs in Costa Rica.

Mr. Chairman, I think it is prudent for the House to take this opportunity to transfer this money in the bill to the Peace Corps. Members may recall that the 1985 Foreign Assistance Act required, to the maximum extent possible, the Peace Corps to expand its volunteer service to 10,000. To achieve this mandate, the Peace Corps developed an effective and gradual plan of expansion. This modest 5-year program calls for an increase to nearly 6,600 volunteers in fiscal year 1988 and approximately 7,700 volunteers in fiscal year 1989.

Mr. Chairman, during committee markup, we fought hard to expand the Peace Corps budget authority beyond the administration's request of $130 million. While the $142.2 million currently authorized in the bill is a significant improvement, the added $3 million authorized through my amendment will bring the Peace Corps closer to the mandate of 10,000 volunteers.

Mr. Chairman, the Congressional Research Service has estimated that it costs only $20,000 to recruit, train, place, maintain, and pay the readjustment allowance for one volunteer. In the last 25 years, over 120,000 Americans have served in over 90 countries around the world. When compared to the global impact and good will the Peace Corps provides for our country around the world, one has to agree that the Peace Corps is one of the most successful, cost-efficient foreign policy initiatives we have today.

In conclusion, Mr. Chairman, I must say that the Peace Corps has conducted a most vital mission. It is one of the most successful American responses to long-term problems of hunger, poverty, illiteracy, and disease. For this reason, I am pleased to have authored the amendment which will help us further expand the Peace Corps and enable it to reach more and more people around the world.

Mr. BEREUTER. Mr. Chairman, I rise in strong support of the amendment offered by my Republican colleague from the State of Washington. I commend him for his timely effort to focus attention on the need for a transition to democracy in Chile and in particular for focusing on the role of press freedom in effecting such a transition.

For several years the Congress has rightly focused attention to Chile's deplorable human rights situation. We are entering a new phase, however, when the Congress will and appropriately should focus public attention to the lack of progress toward democracy in that country.

Human rights violations still continue in Chile. We must not forget, however, that they are part of a larger pattern of repression and are but symptoms of a deeper problem—namely, the lack of just representation.

During the next year Chile is scheduled, according to its 1980 Constitution, to conduct a plebiscite where a junta-appointed candidate for President, who is to be nominated by the heads of the three military services and the national police, will be subject to a "yes" or "no" vote by the electorate.

Free, contested, pluralistic elections are essential prerequisites to the existence of a democracy. The upcoming plebiscite does not constitute such a free and genuine election because voters are not given a choice among more than one candidate, and they have no role in selecting the candidate.

In several respects, therefore, Chile's constitutional mechanism for public representation, created by the Pinochet regime, is similar to that found in other nondemocratic countries, where pro forma rituals are used to establish the appearances of just representation, but lack the substance thereof.

The plebiscite provided for falls far short of the free and genuine elections necessary to provide just representation. Nonetheless, for some Chileans, the plebiscite represents an opportunity to mobilize the population in establishing a democratic momentum and thus may represent a first step, albeit imperfect, toward an eventual return to democracy.

In August 1987, International Human Rights Law Group, a highly respected organization of lawyers dedicated to promoting respect for human rights, sent a factfinding mission to Chile as part of its election observer project.

The purpose of their mission was to observe and examine the conditions affecting the fairness of the upcoming electoral exercise. I commend their entire report to the attention of my colleagues and have taken the liberty of citing a few of their observations in support of Mr. MILLER's timely amendment.

The Pinochet regime has made some progress in the last few months in opening up political space to permit a partial restoration in some of the freedoms normally associated with democratic nations.

The delegation found that, at present—

There is a very active opposition press that publishes articles critical of the government and covers the opposition political parties.

However, a number of newspaper and magazine publishers and reporters have been indicted before the military courts for allegedly "defaming" the armed forces in their publications, and many have been imprisoned. Even more frequently, the government has harassed journalists by detaining them without subsequently bringing charges. In September 1986, the managing editor of one opposition magazine was murdered.

Television, the most important mass communications medium in Chilean society, is completely controlled by the government. Television viewers therefore receive a very one-sided view of the political process. There are no present plans to allow political parties access to free television time during the campaign process.

Moreover, freedom of political assembly in Chile is still seriously curtailed.

Theoretically, under Chilean law, political parties in the process of formation have the right to solicit members, but the delegation was informed that such parties have been prevented from doing so in public and that permits to hold outdoor rallies have not been granted. Groups such as the committees for free elections have not been granted permission to meet outdoors and have not been allowed to put up posters announcing legally permitted events.

In August of this year with the cosponsorship of the House Foreign Affairs Committee chairman, DANTE FASCELL, and our colleague SAM GEJDENSON, I introduced a resolution that asks the Chilean junta to ensure that prior to any electoral process, freedom of assembly and expression are fully restored and nonviolent government opponents be given early and fair access to every means of communication, including television. Presently, this bipartisan measure is being cosponsored by over 100 Members of this body.

In summary, the Congress must keep careful watch on the progress being made toward the restoration of democracy in Chile. Our own standing as a democratic nation demands that we support the aspirations of people aspiring to return to democracy and freedom-loving people everywhere.

To this end, I encourage all the Members of this Chamber, and the other body, to consider carefully the "minimum standards and recommendations" proposed by the International Human Rights Law Group, which I will add as extraneous material to the RECORD.

Moreover, I strongly urge my colleagues to support the timely amendment offered by my Republican colleague on the Foreign Affairs Committee, Mr. MILLER.

Additional material follows:

MINIMUM STANDARDS AND RECOMMENDATIONS

To encourage a meaningful electoral process in Chile, the Law Group respectfully urges that the following minimum standards be met. These standards are based on international criteria for the conduct of free and fair elections derived from international conventions and declarations and explained in Guidelines for International Election Observing, a publication of the International Human Rights Law Group.

Following each minimum standard, the Law Group makes specific recommendations for their practical implementation. These recommendations are drawn from the findings of the Law Group delegation that visited Chile in August 1987.

I. GENERAL

As a member of the international community and a signatory of the International Covenant on Civil and Political Rights, the Chilean Government should comply with all the provisions of the various international human rights instruments, including those pertaining to the conduct of free elections.

A. The government should end all states of exception and, at the very least, should terminate any such existing states prior to the occurrence of any electoral event.

B. The use of military courts to prosecute civilian crimes should end. Individuals imprisoned solely because of their political beliefs should be released immediately.

C. In order for Chileans to participate fully and effectively in the electoral process, they should be free from the fear of arbitrary arrest, torture, exile and other violations of human rights. Such violations should cease completely, and harassment of human rights workers should end immediately.

II. THE PLEBISCITE

International human rights instruments require that the government conduct free and genuine elections. To comply with this precept, the upcoming electoral exercise in Chile should offer voters a free and genuine choice among competing candidates, and not be limited to a yes or no vote on the government's candidate. Adequate time should be given to allow a sufficient number of voters to register. Political parties should be given adequate time to register and campaign.

A. The government should announce officially as soon as possible its intention to hold the plebiscite on a date certain. That date should be far enough in advance to allow compliance with Recommendation B below and to allow the political parties time to register.

B. The government should commit itself to refrain from holding the plebiscite until at least six million voters have registered.

C. The government should lengthen the period which the plebiscite campaign is to be conducted. Absent a constitutional amendment extending this period, the government should at least commit itself to using the longest period now permitted, sixty days.

D. The President should announce the plebiscite immediately upon receiving the name of the President-Designate from the junta or the National Security Council.

E. Voter registration should be allowed to continue for at least thirty days after the public announcement of the date for the plebiscite.

III. FREEDOM OF EXPRESSION AND ACCESS TO THE MEDIA

A fair electoral exercise requires that the rights of freedom of expression, association and assembly be respected for a period adequate to allow political organizing and campaigning and to inform citizens about the candidates and the issues.

A. Political parties and free elections committees should have access to free television time during any electoral campaign period and should be able to purchase television time at reduced rates so as to enable them to appear on television.

B. Television and other government-controlled media should not be prohibited from reporting about political activity, including activity engaged in by opposition parties and organizations.

C. Harassment of opposition print media should cease and the use of the military courts to intimidate journalists should be foresworn. Efforts should be made to distinguish clearly between proscribed terrorist activity and the mere reporting of such activity.

D. The government should refrain from shutting down opposition media and should remove the requirements for approval of new publications or new publishing schedules.

E. Political parties, whether or not legally constituted, and groups such as the committees for free elections, should be allowed to hold outdoor rallies and put up posters and other signs.

IV. VOTER REGISTRATION

To ensure that all Chileans have an opportunity to participate in the political process, adequate opportunity should be given for all voters to register. The registration process should be conducted in a fair, impartial manner and the rolls of registered voters should be made public.

A. National identity cards should be made available to indigents without cost. The waiting period for obtaining identity cards should be shortened and the government should consider making the cards available on weekends.

B. As provided for in the draft amendment to the electoral registration law, the hours for voter registration should be extended and registration on Sundays should be permitted. On-site registration at the workplace, church, or other settings should be allowed.

C. The electoral registration law should be amended to provide a sanction against employers who do not release employees without salary reduction in order to register to vote or obtain an identity card. The government should stress the importance of compliance with this provision of the law and prosecute violators.

D. The electoral registration law should be amended to provide for the participation of individuals or commissions not appointed directly or indirectly by the President in the appointment of officials of registration and election boards.

E. A broad array of organizations should be allowed to observe the registration process at local election boards. These organizations should include committees for free elections, political parties (whether or not legalized), civic organizations and similar entities.

F. The Election Service should make available the computer rolls of registered voters to any interested organization or individual. Any fee charged for such access should be nominal.

G. The committees on free election should review the computer rolls to detect irregularities in the registration process.

H. All allegations of improper or fraudulent registration should be investigated expeditiously and, if appropriate, prosecuted vigorously in the criminal courts as provided for by the electoral registration law.

V. POLITICAL PARTIES

A free electoral process requires respect for freedom of association. Thus, the government should review the requirements for the participation of political parties in the electoral process to remove unreasonable limitations, particularly the requirement that parties be registered for four months before they can exercise any rights under the electoral law.

A. All political parties that desire to participate peacefully in the democratic process should be permitted to do so.

B. The government should reduce the number of signatures required to form a party, and should allow for a lengthier registration period if necessary. The government should explore with a wide range of political parties any additional problems that may exist with the current party registration process.

C. Individuals should not be subjected to reprisals such as the loss of jobs solely because they have registered in a political party.

D. The right of political parties to hold rallies and demonstrations for the purpose of attracting members should be respected.

E. The requirement that parties be officially registered for four months before being able to participate in the election observation process should be eliminated.

VI. ELECTORAL EXERCISE

A free electoral exercise requires that the integrity of the balloting process be respected. Thus, any electoral exercise should be announced clearly and well in advance of the event. An electoral law should provide adequate safeguards against fraud and intimidation, and those safeguards should be strictly enforced. Elections should be conducted in a fair and impartial manner, and independent observers should be allowed to monitor the exercise.

A. The government should finalize the electoral law and all pertinent draft laws so as to provide some certainty in the electoral and registration process.

B. The government should assure that *vocales* and *apoderados* are appointed independently, and that the plebiscite is not scheduled so as to preclude the participation of independent citizens in these positions.

C. The government should clarify whether there are any provisions of the electoral law that it deems inapplicable to the upcoming plebiscite.

D. The provisions of the electoral law prohibiting military personnel from serving as *vocales* should be strictly enforced. The sanctions for military interference in the electoral process should be strengthened.

E. The electoral results should be announced as soon as practicable by the Electoral Service.

VII. INTERNATIONAL OBSERVATION

In accordance with contemporary practice, particularly in Latin America, the government should permit international observation of the upcoming electoral exercise and of the environment in which the process occurs.

□ 1255

The CHAIRMAN. All time has expired.

The question is on the en bloc amendments offered by the gentleman from Florida [Mr. FASCELL].

The en bloc amendments were agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 123, after line 6, insert the following:

SEC. 722. NONLETHAL MILITARY ASSISTANCE FOR URUGUAY.

Of the amounts authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), not less than $5,000,000 for each of the fiscal years 1988 and 1989 shall be available only for use in providing nonlethal defense articles to Uruguay.

And renumber subsequent sections accordingly.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Mr. Chairman, my amendment would authorize a $5-million grant military assistance program [MAP] for nonlethal assistance to Uruguay in fiscal year 1988 and fiscal year 1989. This earmark would greatly assist the reestablished civilian government in helping the Uruguayan military resume its traditional, nonpolitical role in a democratic society. I am introducing this amendment because of a request made to me by key leaders in the Uruguayan Government.

I have asked the administration to investigate the Uruguayan Government's request as to whether this money is vital, necessary, and could be spent wisely. Key officials in the administration have told me that the money, if appropriated, would be very well spent. Moreover, the Administration has already expressed its support for MAP for Uruguay in its own congressional presentation documents.

Of course, the administration routinely objects to earmarking of funds and this is no exception. I have had very early and favorable indications though from key responsible personnel in the Department of State and from the Department of Defense on this. I would have brought this proposed amendment to the attention of the full Committee on Foreign Affairs if in fact I had received the information before we considered this action in full committee.

I did not receive it early enough for the committee markup session of this legislation.

When we in the Congress request earmarking I think it is essential that we have some substantial justification for that action, and I intend to make that case today. I would say, however, that this, the Congress, is indeed an appropriate place to set priorities, and I do believe that there may be no one in the Congress that has greater information or contact with Uruguay than this Member. Therefore, I feel confident in presenting you a case for earmarking of military aid for the nation of Uruguay.

If the Congress earmarks the amount my amendment proposes, the administration plans to allocate in fiscal year 1988 the following amounts: $2.25 million to the Uruguayan navy for ship-to-shore communications, drug interdiction, a computer system, and S-2 aircraft spare parts; $0.75 million to the army for engineering equipment; $1.5 million to the air force for a jet engine test stand and spare parts for aircraft; and $0.5 million for communications equipment for all services.

After more than a decade with almost no United States military materiel assistance, Uruguayan military hardware—much of it of United States origin—is in poor condition. In late fiscal year 1987 with reprogrammed funds, $500,000 was made available to the Uruguayan Government in grant military assistance; this is a start and an indication of good will, but it does not begin to meet the real need.

I would like my colleagues to know that the Uruguayan request for military assistance must also be viewed in the context of the consolidation of democracy in Uruguay and the relationship between civilian and military leaders in that country.

President Sanguinetti and Foreign Minister Inglesias have made repeated, strong appeals to the United States for grant military assistance. If the United States could meet this request, President Sanguinetti would be able to demonstrate that a democratic government recognizes and appreciates that the military indeed has a role in a democracy and that it must be adequately prepared to assume that role.

The Uruguayan Government has had to make some difficult economic decisions. Uruguay is not one of the largest debtors, but external debt remains high relative to gross domestic product. Nevertheless, it has taken a responsible approach to its debt-related problems and in March 1987 successfully completed an 18-month IMF standby agreement.

Domestic budgetary pressures, however, are intense and the Uruguayan Government finds it very difficult to allocate funds for spare parts and replacement equipment needed to build a professional military with confidence in its ability to serve the nation.

The President of Uruguay, nevertheless, desires to signal his support for a rehabilitated military that is loyally subordinate to duly elected civilian government. During the period of the restoration of civilian rule, Mr. Sanguinetti and then-Army Commander in Chief, General Medina, played key roles in planning a democratic transition after 12 years of military rule. The transition process began when the military organized a plebiscite which resulted in its commitment to return authority to the civilians.

The responsible conduct of the Uruguayan military personified by retired General Medina should be recognized. General Medina traveled to the United States in March to participate with fellow Uruguayan civilian political leaders in a USIA-sponsored, multinational conference on transitioning from military to civilian rule. After the conference he traveled to Washington to meet with senior U.S. officials, where he made a strong plea for military assistance and impressed U.S. Government officials with his commitment to democratic government.

On November 19, President Sanguinetti invited this retired general to join his impressive Cabinet as Minister of Defense.

United States grant military assistance could not play a crucial role in strengthening democratic institutions in Uruguay and helping to develop a professional, competent, and confident military, ready to resume its traditional and needed role in Uruguay, under the direction of a civilian government.

I urge my colleagues, therefore, to support this amendment as a demonstration of American congressional support for continued civilian democratic rule in Uruguay.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California [Mr. LAGOMARSINO], my colleague and ranking minority member of the Subcommittee on Western Hemisphere Affairs.

Mr. LAGOMARSINO. Mr. Chairman, I want to tell the gentleman from Nebraska [Mr. BEREUTER] that I support his amendment although I have some reservations about earmarking in general, and especially about earmarking limited MAP funds. However, the reasons that the gentleman has so eloquently pointed out are compelling. I think it is very important for us to demonstrate to new democracies that we support them and there is not a penalty for becoming a democracy but that there should be a recognition of the fact, and it is a fact, that we welcome that initiative, that we support it, and we want to do what we can to make sure that it continues.

Mr. BEREUTER. Mr. Chairman, I appreciate the remarks of the gentleman from California [Mr. LAGOMARSINO], and for his endorsement.

Mr. RICHARDSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend the Committee on Foreign Affairs for their efforts at unifying some of the amendments that have been offered. I have an amendment that is in the package that has been modified that deals with assistance to Panama. Basically what the changed amendment does is it makes two points, first it talks about U.S. policy being in favor of the resignation of General Noriega, a sense-of-Congress statement.

Second, it endorses the executive branch prohibitions on assistance, but I think what has to be made clear in this amendment are several factors. One is that this is not an amendment against the people of Panama. This is not an amendment against the Government of Panama. This is not an amendment that in any way is intended to jeopardize the democratic process in Panama.

This is an amendment directed at General Noriega.

Mr. Chairman, I do not believe we have enough time in this Chamber to catalog the damage that General Noriega has done not just to United States bilateral relations with Panama, but to the democratic process in Panama. Here we have a man who has offered his services on assassination. Here we have a man who is reputed to be active in the narcotics trafficking in the area. Here we have a man who has expelled United States personnel, AID personnel from Panama.

General Noriega has been active in inciting riots against the U.S. Embassy. Here we have an individual with very close ties to regimes on the extreme right and extreme left that are unfriendly to American interests. Here we have an individual with no respect for the democratic process in Panama. He has a President who does whatever he says, and he has suspended freedom of the press.

I would like nothing better than to have a recorded vote as a signal from the House of Representatives to General Noriega that the United States does not back him, and that it is in the best interests of the democratic process in Central America for him to step aside and to allow free elections in that fine nation in which we enjoy a number of strategic interests.

So I want to make very clear first of all that I think the Committee on Foreign Affairs has handled the Panama issue extremely well. Second, this language tracks with what is done in the other on reinforcing the prohibitions on assistance to Panama in effect by the executive branch, and last, that this amendment should not be intended against the people of Panama, but it is an anti-Noriega amendment. It is an amendment that General Noriega should read very carefully.

The Senate has acted and this body has acted, and it is our hope that General Noriega will take the message and recognize that it is in the best interests of this hemisphere and of his nation that he step aside, or that he allow free elections and the democratic process to proceed.

Once again I commend the chairman of the Subcommittee on the Western Hemisphere who has been a leader on Central America, and I commend the gentleman from Florida [Mr. FASCELL], the chairman of the full Committee on Foreign Affairs, and the gentleman from California [Mr. LAGOMARSINO], the ranking minority member, and the gentleman from Nebraska [Mr. BEREUTER].

I think this is an important step, to adopt this series of amendments, but I did want to note that one that is very important, perhaps the most important, on General Noriega be noted and that the message be sent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The amendment was agreed to.

Mr. CROCKETT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the order of the House of earlier today, the Chair declares the House in recess subject to the call of the Chair.

The Chair will notify Members 15 minutes prior to reconvening.

Accordingly (at 1 o'clock and 6 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GRAY of Illinois) at 2 o'clock and 55 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5. An act to improve elementary and secondary education, and for other purposes; and

H.R. 2616. An act to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5) "An act to improve elementary and secondary education, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. DODD, Mr. SIMON, Ms. MIKULSKI, Mr. STAFFORD, Mr. HATCH, Mr. QUAYLE, Mr. THURMOND, and Mr. WEICKER, to be the conferees on the part of the Senate.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 293 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3100.

□ 1456

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, title VII was open to amendment at any point. Subject to clause 6 of rule XXIII, 4 hours and 15 minutes of debate were remaining on all amendments printed in the CONGRESSIONAL RECORD on or before November 10, 1987.

Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER: Page 121, line 12, before the period insert "or under chapter 5 of part II of that Act (relating to international military education and training)".

Mr. KOSTMAYER. Mr. Chairman, this is a little bit complicated, but I am going to try to explain it.

This amendment has to do with police aid to El Salvador, Guatemala, and Honduras. Now, there is a ban on all police aid to all countries currently, but we have created a waiver for El Salvador, Guatemala, and Honduras, so we are currently in a position to provide police aid to these three countries.

My original amendment, as the Members might imagine, would change that, and it would bar police aid funneled through three programs, through the Military Assistance Program [MAP], through the International Military and Education Training Program [IMET], and through the Antiterrorism Assistance Program [ATA].

So my original amendment blocked all police aid which flows to the national police, the treasury police, and the national guard in El Salvador through these three programs, until the President can certify that the Salvadoran judicial system is functional.

The chairman of the full committee, the gentleman from Florida [Mr. FASCELL], asked me whether or not I would exempt the Antiterrorism Assistance Program. So we have done that, and we are now left with MAP and with IMET.

Now, in the drafting of the legislation which is before the committee—and I think the chairman of the full committee or, in his absence, the chairman of the subcommittee, the gentleman from Michigan [Mr. CROCKETT], will testify to this—although the full and the subcommittee approved my effort to block assistance through MAP and through IMET, they inadvertently left IMET out. The staff apparently regarded my provision as implicit in the language. I think it is not implicit, and I would like to make it explicit, that IMET is included under the language in section 712 of the bill.

That in short, Mr. Chairman, is what my amendment does. To sum up in a few words, the Kostmayer amendment conditions police aid to El Salvador, Guatemala, and Honduras funded through not only the MAP program but through the IMET program as well.

Before I yield to my friend, the gentleman from Indiana [Mr. BURTON], I would remind my colleagues that there is now a ban on U.S. military police aid to all countries except for these three countries, which have a special waiver provision.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. If I have any time left, I will yield to my friend, the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding.

Let me ask the gentleman, why this amendment?

Mr. KOSTMAYER. Mr. Chairman, I left that out, but not deliberately.

□ 1500

This is contingent on El Salvador putting in much better shape—and I apologize for neglecting to mention this—for putting in much better shape its judicial system and the President would certify that the judicial system of El Salvador, which I think my colleague would agree with me, has not worked very well bringing people to justice in terms of committing various crimes in El Salvador, the President would have to certify that the judicial system in El Salvador is in good working order, in his judgment, in the President's judgment, and when he does that, police aid can be provided under both MAP's IMET, even with this amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield further?

Mr. KOSTMAYER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Well, the purpose of the aid to the law enforcement agencies down there was to try to assist them in dealing with the right wing death squads and the terrorist activities. The gentleman knows full well that I believe five American military personnel were killed in a sidewalk cafe down there, and one of the biggest problems they have had is in making sure they had adequate law enforcement over and above the military down there.

So it seems to me, rather than urging a curtailment of funds for the law enforcement agencies, we should be enhancing that.

So I really do not understand the rationale for the gentleman's amendment and the explanation thus far really, at least as far as this gentleman is concerned, is not sufficient.

Mr. KOSTMAYER. Well, if I could say to the gentleman, we do continue to provide police aid to El Salvador under the Antiterrorism Assistance Program.

Remember, if I can just remind my friend, the gentleman from Indiana, that is the program that we exempted from this at the request of Chairman FASCELL, who now supports this.

But I think the real point here is that there seems to have been, or history shows there has been a relationship between getting the Salvadorans to do what we want and to operate in a fashion which is acceptable to our society and the financial military police aid we provide them.

I think that one of the things that has resulted in conditions in El Salvador getting better, and I think under President Duarte things have gotten better, and that is why these two guerrilla/political leaders have returned. They could not have returned if things had not improved. One of the reasons they have improved is because we made aid contingent on certain conditions, and that is what this amendment does. It does not eliminate all police aid. It allows police aid to flow to the antiterrorism program and the administration of justice program, but it makes additional police aid contingent on meeting, according to the President's own standards, not the standards of the Congress, contingent on judicial system reforms.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. So, Mr. Chairman, it does not block aid. It does not stop aid. It does not halt aid. It does not end aid. It makes a portion of police aid contingent on the President's certification that the judicial system in the recipient country is operating effectively.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. LAGOMARSINO. Mr. Chairman, I offered an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment offered by Mr. KOSTMAYER: At the end of the matter proposed to be inserted by the amendment, add the following: "Except that, the restriction international military education and training contained in the preceding sentence shall not apply if the President determines, and certifies in writing to the Congress, that the country to which assistance is provided has a democratically elected civilian government and is engaged in armed conflict with a Marxist insurgent movement that is receiving significant support from Nicaragua or any country listed as a Communist country under section 620(f) of the Foreign Assistance Act."

Mr. LAGOMARSINO. Mr. Chairman, the gentleman from Pennsylvania said a moment ago that the mission of IMET in the committee bill was by inadvertence. That certainly was not my impression when we debated this issue in the committee. As a matter of fact, the provision in the bill that is before us, not affected by the Kostmayer amendment, was provided by an amendment on the floor by the gentleman from Florida [Mr. McCOLLUM] 2 years ago, so I do not think it was inadvertent at all. We dealt with that very thoroughly and in a very upfront manner.

The Kostmayer amendment would prohibit the provision of international military education and training [IMET] assistance to police or prison officials from El Salvador, Guatemala, and Honduras.

This would prevent this small but significant security assistance program from benefiting these countries in their continued quest for democratic government and security from Communist insurgencies.

It makes little sense to cut professional training while at the same time complaining that the police and prison forces are engaged in human rights abuses. How can we expect them to improve at the same time we are withdrawing essential training, including in human rights principles?

Really there should be no restriction on IMET for these Central American countries. They all have democratically elected civilian governments and are fighting Marxist insurgencies.

If we must have a restriction on IMET training, then the President should be able to waive it in recognition of these countries' progress toward democracy and continued struggle with Communist guerrillas.

My amendment would permit the President to waive the new restriction on IMET if he determines, and certifies in writing to Congress, that: the country has a democratically elected civilian government—which would review the provision of such assistance; is engaged in armed conflict with Marxist insurgent movement; and the guerrilla movement is receiving significant support from Nicaragua or any Communist country.

Adopting this amendment would ensure that IMET assistance would be provided only at the request of civilian authorities and in response to legitimate security needs.

Mr. Chairman, I think my amendment improves the Kostmayer amendment, certainly takes away the objections I have to it, and recognizes the very real fact that these governments, and especially El Salvador, do need this kind of assistance if they are going to move forward in their fight against human rights abuses and in their movement toward professionalism of their police and prison forces.

Mr. CROCKETT. Mr. Chairman, I rise in opposition to the amendment to the amendment, and in support of the Kostmayer amendment.

Very simply, Mr. Chairman, the Kostmayer amendment would prevent the misuse of military aid for the purpose of aiding police forces. The amendment would not prohibit aid for police forces. It would permit such aid to go forward under programs designed for that purpose—including our Antiterrorism Program, our Administration of Justice Program, our Antinarcotics Program, and our Maritime Law Enforcement Program.

But the amendment would prohibit back-door aid to police forces through our military aid program. The amendment would really implement an agreement that was made in the Foreign Affairs Committee, under which the gentleman from Pennsylvania agreed that he would not seek to reach the programs I have mentioned, but only the military aid programs. In drafting the provision in the bill, IMET was inadvertently left out. This amendment would close that unintended loophole.

Here is why the amendment is important. Using the IMET loophole, the Department of Defense has trained 2,800 Salvadoran police under the IMET Program, on the basis of an interpretation that they were performing military duties as opposed to police duties. I do not need to remind my colleagues that the Salvadoran police are among this hemisphere's worst human rights violators. Any assistance to these forces should be carefully monitored, and not given through the back door.

Therefore, Mr. Chairman, I urge my colleagues to close this back door for aid to human rights violators by supporting the Kostmayer amendment.

Mr. HYDE. Mr. Chairman, I rise in support of the Logomarsino amendment to the Kostmayer amendment.

Mr. Chairman, I will not take the 5 minutes.

I just am amazed that the original amendment offered by the gentleman from Pennsylvania seeks to have an untrained police force in some of the hot spots of the world, Honduras, Guatemala, and El Salvador.

I do not quite understand what is gained by having untrained policemen in the cities where terrorists find their greatest field of activity. This is designed to keep the streets of San Salvador and Tegucigalpa and Guatemala City safe for terrorists, the people who drove up to the restaurant in El Salvador and mowed down seven people, four of them I believe, at least four, were American citizens, some marines, just drive up and spray with a machinegun and get away, and you have untrained, ill-equipped police to deal with that.

It seems to me in the modern world, at least in this century, you want to have policemen who are skilled, who are equipped, and who are trained, because the war against terrorism does not confine itself to the mountain ranges and remote forests, but it is in the cities.

I just am appalled that the gentleman somehow focuses in on three areas in the world—no, in our hemisphere, that are fertile fields for the activities of kidnapers.

As a matter of fact, and I know the gentleman knows, that the daughter of the President of El Salvador was kidnaped, and the President did not have any trouble dealing with them. He even talked to them, something that President Ortega is loath to do, talk to his insurgency; but in any event, it does not make sense.

Now, I know we have ideologies around here that drive certain amendments and certain positions. That is all right, but let us not do something really foolish and counterproductive, and in my opinion, and I mean no disrespect, nonsensical, and that is not to train police forces in cities where terrorists are having a field day.

Having said that, Mr. Chairman, I yield to my dear friend, the gentleman from Pennsylvania, the author of this amendment that appalls me so.

Mr. KOSTMAYER. Well, Mr. Chairman, I appreciate my very dear friend and distinguished colleague from the great State of Illinois yielding; but apparently the gentleman does not understand the amendment and I think when I explain it to him, that he will want to have his remarks excised from the Record.

My amendment would not block police assistance to legitimate forces in El Salvador. It would simply funnel aid through civilian institutions, rather than funneling them through military institutions.

Mr. HYDE. Oh, well, if that is the case——

Mr. KOSTMAYER. If I could just reclaim my time, if I can just explain, if the gentleman will give me 30 seconds I will make it clear.

Mr. HYDE. Surely.

Mr. KOSTMAYER. Instead of funneling it through IMET and through MAP, we are going to funnel it instead through four other programs. It is the same money, through four other programs, through the Administration of Justice Program, through the Antiterrorism Program—the gentleman spoke eloquently about terrorism—through the Antiterrorism Program, through the Maritime Law Enforcement Program, and through the Antinarcotics Program. These four civilian police programs would still receive funding to train police in Central America.

In a sentence, and this will be my last sentence, we are trying to civilianize the police force, give the money to civilian forces, not through military forces, but give the money.

Mr. HYDE. All right, the gentleman then has some objection to any military program going to the policemen, like how to shoot and how to pursue terrorists through the streets.

Mr. KOSTMAYER. No, I have not said that.

Mr. HYDE. Well, I have not yielded yet.

Mr. KOSTMAYER. I beg the gentleman's pardon.

Mr. HYDE. Somehow the gentleman feels any military training that these police forces use corrupts them. That is a distinction without a difference. If the gentleman wants them to be trained through civilian sources, rather than military, I say train them with military, with civilians, any way possible, but train them. Get these people trained so they can cope with terrorism in the cities.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from California, who perhaps can throw some light on this murky situation.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I want to speak about one of the points the gentleman made a little bit ago, and that is that the strategy of the guerrillas in El Salvador is very clearly now, now that they have lost pretty much out in the fields, to move into the cities, so you have a guerrilla warfare taking place in the cities.

Obviously, the fight against that, whether it be active fighting or planning or intelligence or all the things that go into that, has to be coordinated with the military. I mean, there is no clear distinction between them.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Kostmayer, and by unanimous consent, Mr. Hyde was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. I yield to my friend, the gentleman from Pennsylvania, and he is my friend.

Mr. KOSTMAYER. Mr. Chairman, I appreciate my friend yielding. If my friend, the gentleman from Illinois, would like to provide military assistance for police training purposes to the civilian police forces, let him militarize those forces. I myself am trying to civilianize the Salvadoran police.

□ 1515

What we are saying is that the Illinois State Police for example, should not be funded by the Pentagon, that there is historically, and I am sure the gentleman from Illinois appreciates this, an important distinction between military police and civilian police.

We acknowledge entirely the need for these funds for civilian police to deal with those horrendous activities which they seek to curtail in that war-ravaged country. We are simply trying to provide those funds through civilian institutions, not through military institutions.

We are not, I repeat, not even suggesting that no funds should be provided.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my distinguished colleague from Pennsylvania [Mr. KOSTMAYER] is not for military aid to El Salvador or any of those fledging democracies that I know of in Central America. I do not know how one can fight a battle against Communist guerrillas in the countryside or in the cities without that kind of assistance.

The gentleman from Pennsylvania [Mr. KOSTMAYER] does say that he supports aid for the police department down there but the police department needs assistance in training their manpower so they can deal with these Communists within the cities.

The question I would like to ask my colleague from Pennsylvania is first of all, does he support military aid for the military in El Salvador; and has he voted that way in the past?

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Yes, and I voted for military assistance to the Duarte government last year. I think this country has to sustain what I think is essentially a democratically elected government in El Salvador, and for the first time in 10 years I did vote for military assistance to El Salvador last year. So there.

Mr. BURTON of Indiana. I appreciate the remarks of the gentleman from Pennsylvania. I am glad he sees the light at least occasionally.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think the gentleman has made a very important statement that he is seeing the light. I understand that by next year the gentleman from Pennsylvania [Mr. KOSTMAYER] will even think that our retaking of Grenada and the freeing of American citizens was a good idea, too. It will take another year maybe but he will get there.

Mr. KOSTMAYER. Mr. Chairman, in fairness, would the gentleman from Indiana yield to me?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I have seen the light because the gentlemen on the other side have seen the wisdom of establishing a connection between providing military assistance and demanding compliance with basic and fundamental human rights requirements. If it had not been for the Members on this side of the aisle, that connection never would have been established. It was established, those funds were made contingent on human rights compliance which is still not perfect, but there has been improvement in El Salvador. On that basis I have seen the light and I think I have seen the light only because they have improved in El Salvador and only because we have applied the same principle which my amendment seeks to apply to military aid.

I appreciate the gentleman from Indiana [Mr. BURTON] for allowing me to respond.

Mr. BURTON of Indiana. If the gentleman has scrutinized this body in its entirety, I believe he will find that we are all very concerned about human rights and we want to make atrocities and right wing death squads end in El Salvador and elsewhere. The trouble is that atrocities also occur at the hands of the Communists. The Communist terrorists are the ones that went into El Salvador and shot the people referred to earlier, in which incident four or five American marines were killed, and the police force was ill-equipped to deal with that atrocity. It was some time, as I understand, 15 or 20 minutes, as I understand it, before the police even arrived. We need to make sure the law enforcement agencies in these fledgling democracies in Central America are first rate. Whatever it takes to train them needs to be done.

I would submit to my colleagues that cutting off funds and training even through the military down there is the wrong approach. The military we are supporting down there we must believe in or my colleagues would not have been voting for aid for them, so why not allow them to train the police force?

It simply does not make any sense any other way.

I urge defeat of the Kostmayer amendment, and I support the substitute offered by the gentleman from California [Mr. LAGOMARSINO].

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know this is a very important matter to a lot of people but there are a lot of important matters in this bill.

I recognize that it is exciting and interesting to keep extending the debate but in fairness to everybody else I think we understand the issue here very clearly. I think we ought to vote against the Lagomarsino substitute, or the amendment to the amendment, because it is basically couched in nice words but it is a repeal of the Kostmayer amendment pure and simple. It tries to neutralize it to zero.

I think we ought to vote against that.

I am going to support the Kostmayer amendment because I support police training for the police forces in El Salvador. I see absolutely nothing wrong with antiterrorist training to the police forces in El Salvador coming through our antiterrorist program on the civilian side. That is where it is coming from now. And I do not see anything wrong for them getting their training through the other civilian programs. There will not be one dollar's difference.

We have $3 million earmarked for police training in another section of this bill. All the Kostmayer amendment says is, do not administer this through the international military education training program. That makes sense. We are trying to help that country under very difficult circumstances to become more democratic and to have those institutions which all of us can support.

One of them is to have a police force that is totally separated from the national army or from other military elements of the national government whether it is the national guard or the treasury police or the special forces.

All the Kostmayer amendment seeks to do is to take a step in that direction by running the training programs for the police forces through civilian administration. There is nothing wrong with that, and since the issue is quite clear, I would hope that as soon as the gentleman from California [Mr. DORNAN] makes his pitch against the Kostmayer amendment and for the Lagomarsino substitute, that we can get to a vote.

Mr. DORNAN of California. Mr. Chairman, I move to strike the last word, and rise in support of the Lagomarsino substitute.

Mr. Chairman, the Lagomarsino amendment attempts to perfect the Kostmayer amendment.

I will state publicly that next year I will be happy to cosponsor an amendment like this with the gentleman from Pennsylvania [Mr. KOSTMAYER], my distinguished friend, to keep the money coming through a civilian source but things are so fluid down there now, and we have captured the Marxist-Leninist plans in El Salvador at least that they are going to move from the hills into urban terror, and the various security forces in El Salvador particularly are so in need of any type of police training from charm school right down to basic use of a firearm that I think the emergency nature down there requires the Lagomarsino language being added to yours.

Let us look simply at what a short description of the Kostmayer amendment is. It prohibits use of IMET funds for police training in El Salvador, Guatemala, and Honduras. The administration strongly opposes this language.

Mr. Chairman, it is absurd to say that if we have respect for human rights, which all of us in this distinguished House do and that we want the police forces down there to respect human rights, that we would prohibit any training during this rough fluid period down there when the guerrillas are changing to come any way in any form that it can, and again I will join my colleagues to limit this to civilian forces next year. There will not be an election intervening, and we will all be back next year, God willing, and our health prevails, but I will cosponsor this amendment with the gentleman from Pennsylvania [Mr. KOSTMAYER] next year, but not now.

I do not often get a chance to correct my colleagues from Indiana and Illinois, particularly the gentleman from Illinois [Mr. HYDE], but it was 13 people that were gunned down in Chili's Cafe in El Salvador, and four of them were Marines, one of them the honor graduate of the security school at Quantico, VA, who because he was a bachelor, chose that assignment. He is Gregory Weber, and he asked to go to El Salvador. He said that was the most important assignment in the world.

Not only did they kill nine Salvadorans along with our four Marines, but the gunmen moved among them and among the tables at this hamburger shop and gave several of the victims the coup de grace with their machineguns. Those four men that were captured that did that had been released just a few days earlier. That is how serious President Duarte is about releasing or giving total amnesty to the people in that country.

In this fluid situation I would say all the help we can get is what we should get down there.

Listen to what the Lagomarsino amendment says, and I would agree with our distinguished chairman of the Committee on Foreign Affairs and it is with a heavy heart that I ever go against him, but listen to the Lagomarsino amendment language. The President, our President, has to say that it is a democratically elected civilian government, that it is engaged in armed conflict with a Marxist, that is, Communist insurgent movement which is receiving significant support from Nicaragua, not yet designated a communist country, and we hope to change that this week, or any country that is listed as a Communist country.

We know what the gentleman from California [Mr. LAGOMARSINO] is talking about, and that is Cuba, which country sent its mercenary troops to the Saudi Arabian Peninsula, into South Yemen, and 18 other African countries and they would like to be fighting in every country in Central and South America if Castro had his way. This is an eminently correct way to perfect the language in the Kostmayer amendment.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. Mr. Chairman, I would be glad to yield to the gentleman from Pennsylvania, with whom I will be a cosponsor next year I hope after we pass the Lagomarsino amendment this year to improve his amendment and get it though in substantially improved form this year.

Mr. KOSTMAYER. Mr. Chairman, I thank my longtime friend for yielding.

I would say that the murders of those brave Americans in El Salvador, I say to my friend from California [Mr. DORNAN] they were arrested but they were let loose. They are not in jail. Those men who murdered those American citizens in San Salvador are out walking the streets of that city as we stand here speaking.

Mr. DORNAN of California. True.

Mr. KOSTMAYER. And if the gentleman will continue to yield, the reason that they are as free as they can be walking the streets with blood on their hands, the blood of American soldiers, is because of El Salvador's amnesty, and in broader terms because the judicial system in El Salvador does not work.

Mr. DORNAN of California. Wrong. President Durate takes the Arias peace plan seriously, as my colleague from California knows.

The CHAIRMAN. The Chair will insist on regular order. The gentleman from California [Mr. DORNAN] is in control of the time.

Mr. DEWINE. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Ohio.

Mr. DEWINE. Mr. Chairman, just for a point of information, the last word I had was that the individuals had not been released. There were a number of Congressmen who protested that. I had a marine who was from my congressional district who was killed in that altercation.

Mr. KOSTMAYER. Protested what?

Mr. DEWINE. Protested release of the individuals who killed the four marines, and killed the other people.

Mr. KOSTMAYER. But the gentleman said they were not released.

Mr. DEWINE. That is correct.

Mr. KOSTMAYER. The gentleman protested their release but they were not released.

Mr. DEWINE. We protested the plan to release them. There was an order signed that would have released them. The last information I have from the U.S. Embassy was that they had not been released.

Mr. DORNAN of California. Reclaiming my time, I am taking the wire service machines out of my office.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DEWINE. Mr. Chairman, I move to strike the last word, and rise briefly to oppose the Kostmayer amendment.

Mr. Chairman, the issue is basically this: Why in the world do we want to change the flexibility that we have had in the training of these individuals? What we are talking about is training that is being conducted by the U.S. military.

The gentleman from California [Mr. LAGOMARSINO] and I were down there several months ago. Our U.S. Embassy staff informed us that the training of the individuals and the training of the police was going along very well, great improvements have been made.

What they told us, the last thing they told us down there was that they needed flexibility.

What the Kostmayer amendment does is take away that flexibility. It is a slap at our military, not the El Salvador military. I think it is a major mistake.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DEWINE. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say this: your best people, your best training, your most effective training and the most funding comes through IMET. These other programs that the gentleman has discussed do exist. But they are underfunded. They are competing with each other. They are a mess.

The best program, the most effective program to train the police, and the police have to work with the military many, many times, is through IMET.

I have had military training, the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs. has had military training, and it does not corrupt us. I would like to think it helped us.

I think we make a serious mistake in hampering the ability of the police forces that cover the streets of these cities where terrorism is rampant from getting the best military training.

I submit to my colleagues that the best training available is through IMET.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LAGOMARSINO] to the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were— ayes 193, noes 214, not voting 26, as follows:

[Roll No. 459]

AYES—193

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Atkins
AuCoin
Bates
Beilenson
Berman
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Matsui
Mavroules
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Richardson
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stark
Studds
Swift
Synar
Torres
Torricelli
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—214

Andrews
Applegate
Archer
Armey
Aspin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Bunning
Burton
Byron
Callahan
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Craig
Daniel
Dannemeyer
Darden
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Nichols
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Patterson
Petri
Porter
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stenholm
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—26

Baker
Biaggi
Boucher
Buechner
Courter
Crane
Daub
Dixon
Donnelly
Dowdy
Flake
Ford (TN)
Gephardt
Hall (OH)
Kemp
Lungren
Martinez
Mineta
Pelosi
Quillen
Roemer
Slattery
Stokes
Stratton
Sweeney
Towns

□ 1545

The Clerk announced the following pairs:

On this vote:

Mr. Flake for, with Mr. Daub against.

Ms. Pelosi for, with Mr Quillen against.

Messrs. DYSON, HEFLEY and VOLKMER changed their votes from "aye" to "no."

Mr. PURSELL and Mr. BROOKS changed their votes from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMEMDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 120, strike line 21 and all that follows through page 121, line 6.

Mr. SOLOMON. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment temporarily.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 115, strike out lines 10 through 16; line 17, strike out "(b)" and insert in lieu thereof "(a)"; and line 23, strike out "(c)" and insert in lieu thereof "(b)".

Mr. DORNAN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DORNAN of California. Mr. Chairman, I will not raise my voice, because I know the Members will find this amendment so historically compelling that they will listen.

Mr. Chairman, the reason I did not want the amendment read is that it is just a lot of "in lieu of," "strike this," "strike that," and a lot of numbers.

What it does basically is strike the prohibition on military assistance to Guatemala. Now in the role of democracies in Central America, the third great victory down there following President Duarte of El Salvador and then President Jose Azcona of Honduras was President Vinicio Cerezo of Guatemala.

Mr. Chairman, the distinguished chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations has called the President of Guatemala, Vinicio Cerezo, a peacemaker.

This is the highest compliment that Mr. OBEY has ever paid any foreign leader throughout the world, a peacemaker. I think it is time that we trusted the duly and democratically elected civilian leadership in Guatemala that we would no longer have a prohibition against them for military training and assistance when the Soviet Union is pumping $1 billion a year of economic and military aid into the small nation of Nicaragua with one-third the population of the almost 8 million people of the nation of Guatemala.

Communist documents have been discovered that call Guatemala the key to the fall of Mexico, the fall of Mexico to communism.

This amendment is going to pass some year in the future, eventually. We no longer can treat Guatemala as a pariah, when there has been a 180-degree situation from when I visited there for the second time in the spring of 1981 and the capital city was under military rule.

Mr. Chairman, parenthetically I understand this lightheadedness among the membership. It is the euphoria over the igning of he INF reaty, knowing that this small step toward peace has been taken between the world's only two superpowers. But one of those two superpowers represented by their Secretary General down at the White House in the east ballroom signing a peace treaty to eliminate nuclear missiles is still pumping $1 billion to $1.5 billion into Central America, into the nation of Nicaragua which has 1 of every 250 of its citizens in prisons and which has one of every nine of its citizens up here in the United States. There is less than 2.5 million people in Nicaragua, there is almost 8 million in Guatemala.

Guatemala elected a one-term, 5-year President in President Cerezo. It is a democracy now. Like the two adjoining nations of Honduras and El Salvador, it is 180 degrees removed from the state of martial law that I saw in that capital city when I first visited there, or the second time I visited there in 1981. When I went back to Guatemala City in July of this year I could not recognize it as the same city.

☐ 1600

You could feel the change. You could feel democracy in the air. Why do we still hold Guatemala to the standard that we would hold some nations somewhere else in the world that is still under the heel of a military junta government?

President Cerezo has been up here. He has met with our Members. He has charmed the liberals of this House no end. He has the support of, I think, almost every conservative in this Chamber.

I do not understand why we do not make it official and recognize that democracy is having its day in that beautiful nation of Guatemala.

So I would ask the Members, please, let us agree to this amendment, not put it off until next year or the year after, when eventually every Member understands it—just like the fall of the Clark amendment, which was limiting our flexibility to push for freedom on the continent of Africa. Eventually it was doomed. It took 10 years to get rid of the Clark amendment.

Let us get rid of this unfair imposition upon the democratic system in Guatemala and vote now to eliminate this language from this otherwise fairly excellent bill.

Mr. Chairman, I yield back the balance of my time.

In conclusion, Mr. Chairman, the situation today in Guatemala is 180 degrees different than it was several years ago when the Carter administration imposed an arms embargo in the interest of human rights. Guatemala has, in fact, experienced a remarkable turnaround from an authoritarian form of government supported by no one to a compassionate pluralistic democracy which is playing an important role in the Central American peace process.

Recently, I was in Guatemala and saw the Guatemalan new beginning first hand. My impressions have been backed up by an independent report from the American Association for the International Commission of Jurists. Let me run down the record of successes which this report cites as Guatemalan successes over the past 2.5 years.

Guatemala now enjoys a freely elected civilian President and Congress. I am sure that many of you have met President Vinicio Cerezo, here in the Capitol.

A new federal constitution has been ratified and instituted.

A new judicial system with a new supreme court of justice and a court of constitutionality exists.

Mr. BONKER. Mr. Chairman, I rise in strong opposition to this amendment, which would eliminate the present statutory prohibition on lethal military aid to Guatemala and permit United States weapons and ammunition to flow to that country's armed forces.

At the time this provision was enacted into law in 1985, the Congress was disturbed by Guatemala's inability to achieve control over the military and security forces; to eliminate kidnapings, disappearances, forced recruitment, and other human rights abuses; and to respect the basic human rights of the country's indigenous Indian population. Today, despite President Cerezo's efforts to establish mechanisms for investigating and prosecuting human rights violations, and despite a number of witnesses' and even victims' positive identification of the police or military forces as perpetrators of abuses, not a single member of the police or military has been tried.

Incidents of political violence in Guatemala unfortunately remain very high. The respected human rights monitoring group America's Watch found press reports on 1,201 political killings and 28 cases of torture between January 1986 and August of this year.

We in the Congress must lend our wholehearted support to President Cerezo's attempts to instill civilian control over the armed forces and police. However, I believe the provision of lethal assistance to the Guatemalan Armed Forces would serve neither this goal and the cause of accountability for human rights violations, nor the achievement of a regional peace settlement under the Guatemala accord. Moreover, I fail to see how any military aid can be justified when the country faces such severe economic problems.

I urge my colleagues to vote down this amendment, and to support the committee bill, which extends for an additional 2 years the current statutory prohibition on weapons and equipment for Guatemala.

Mr. CROCKETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want briefly to make two points. The proponent of the amendment suggests that what the committee is trying to do is prohibit military aid to Guatemala. That, of course, is not true. We gave military aid to Guatemala in 1986, we gave aid to Guatemala in 1987, and the State Department has requested and we are giving military aid to Guatemala in 1988.

What I have before me, Mr. Chairman, is information from the State Department detailing the military assistance provided to Guatemala in fiscal year 1987 and also the request for fiscal year 1988. This administration is not requesting any lethal weapons or ammunition for Guatemala at this time. Furthermore, the Defense Minister of Guatemala, General Gramajo, was in Washington last week seeking support in the Congress for modernization of his armed forces and for communications equipment. He did not ask for lethal weapons nor for ammunition.

Lastly, in checking with the Ambassador from Guatemala to the United States, Ambassador Padilla, the subcommittee was told quite directly that the Government of Guatemala is not seeking lethal assistance at this time. In short, Mr. Chairman, neither the Guatemalan Government nor the administration has requested lethal assistance.

Mr. Chairman, I suggest that we vote this amendment down.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. CROCKETT. I yield to the chairman of the committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to add my opposition to the amendment. I know it is well meant, but the truth of the matter is that what we would be doing in effect, if we strike this section out, would be to force lethal weapons or equipment on a country and a leadership that is not yet quite ready for it. There is no reason to do that.

So let us go on with the assistance we are now providing and leave the psychology and the politics out of it. That is why I think the amendment offered by the gentleman from California [Mr. DORNAN] should be defeated.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, what the amendment to the bill seeks to do is to remove an insult to the Government of Guatemala. In the bill we are saying, "President Cerezo, we don't trust you. We don't think that you know what you want. It is true you have told us that at this time you are not thinking of or you have no plans to ask for lethal assistance, for weapons."

But I would remind my colleagues that this is a 2-year bill. If this bill becomes law, it will be in effect for 2 years. Is there anybody on this floor who can with any accuracy predict what is going to happen in Guatemala and whether or not President Cerezo might come to us with a request for weapons assistance?

I do not think we should be tying President Cerezo's hands, taking this option away from him, even though, as has been said and is the case, he does not plan to ask for such assistance at this time. But 2 years is a long time. The situation can and probably will change. The whole situation in Central America is evolving rapidly. Who knows what the situation will be?

We actually provided some military assistance, albeit not weapons, to the previous military Government of Guatemala. We provide or we have provided military assistance to dictatorships in some cases around the world, and here is a freely elected democracy with a very diverse and pluralistic Parliament. Guatemala now enjoys a freely elected civilian President and a Congress. A new Federal constitution has been ratified and instituted, and a new judicial system, with a new supreme court of justice and a court of constitutionality, now exists.

Mr. Chairman, I say to my colleagues that I think this amendment should be adopted. I think we should say to President Cerezo and other emerging democracies in Central America: "We trust you, and we certainly are not going to provide assistance, even if it is authorized, unless you ask for it."

We did the same thing with President Duarte in El Salvador. There were those who said we should not provide assistance to them, and the answer was: "Yes, we will if the civilian government asks for it."

Mr. Chairman, I think we should do the same thing here.

Mr. CROCKETT. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Michigan.

Mr. CROCKETT. Mr. Chairman, I say to the gentleman from California that we should be as supportive of the President of Guatemala as possible. The point I make is that the President of Guatemala was here recently. The gentleman and I had lunch with him. At that time he stated that Guatemala was not requesting lethal assistance, was not requesting ammunition.

I suggest that the President of Guatemala and the Defense Minister of Guatemala have a better knowledge of what their armed forces need than we have sitting here in the Congress. If and when they ask for lethal assistance, if and when they ask for ammunition, there will be ample time for us to consider it. I am sure that President Cerezo will be in office the next fiscal year as well as this fiscal year.

Mr. Chairman, let us wait and let them decide what it is they need.

Mr. LAGOMARSINO. Mr. Chairman, reclaiming my time, if the time it takes on this bill is any example of how quickly Congress can act on a request, I do not think the President of Guatemala or anybody else would feel very confident. Look at how long it has taken to this point. And how do we have any assurance that any request would be acted on any quicker than that?

I think to take away the action from the President of Guatemala to even request assistance and to have some expectation that it would be granted is not very wise. I think it is demeaning to him. I do not think it helps him at all in his relationship with the military which, from everything I have heard, has been fairly supportive of him.

Mr. Chairman, I would hope that the amendment would be adopted.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Dornan amendment.

I am reluctant to oppose my colleague, the gentleman from California, but it is this gentleman who is primarily responsible, I think it is fair to say, for the fact that military assistance of the nonlethal variety is currently going to Guatemala.

□ 1610

I would like to suggest that the Government of Guatemala, under the leadership of President Cerezo, is doing very well at this moment in handling the Marxist insurgency, the anarchists that are alive and well and operating in Guatelmala.

I think if we take this step to authorize lethal kinds of aid, we are frankly hurting them. We are strengthening the position of the leftists and we are contributing, very frankly, to the kind of misinformation that is circulated in this country about the democracy that is now flourishing under adverse conditions in Guatemala.

As Chairman CROCKETT has said, there are no requests from the Guatemalan Government for this change in assistance. Any kind of lethal aid is not requested, but the kind of ammunition and weaponry that perhaps is needed in small amounts by the Guatemalan Government can be provided with their own funds, so I think it is appropriate to reject the gentleman's amendment.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from California.

Mr. DORNAN of California. May I point out, Mr. Chairman, that much of what the gentleman says is correct, but the final analysis is wrong, because this is a 2-year bill.

I went down and flew with their Air Force in July. I flew in one of these aging little A-37's. Their Air Force is on its backside. Their trucks are falling apart. Their Israeli Avia aircraft are all grounded. All their C-47's have been condemned.

We sent a team down from Kelly Air Force Base to tell them how many years are left, and they said, "This is junk. It's unsafe. Don't fly it."

Of their three Faircraft F-27's, their twin engine turbo jets, two are grounded. They have almost nothing, and the reason they do not ask for any military assistance is they know there is a prohibition, that they are being treated like a second-class nation.

It is an insult. It is a 2-year bill, and let us remove it and see what happens. I anticipate they might not ask for anything, but let us not insult them and tell them we do not trust them.

Mr. BEREUTER. Reclaiming my time, Mr. Chairman, I do not regard it as an insult. I do not think this body does. I have seen this same equipment. The maintenance problems are as the gentleman suggests; however, I believe that there are many other needs for their military assistance and their direct military funds.

Frankly, they are doing very well without that kind of equipment against the guerrillas in the northern and central part of Guatemala, so I urge my colleagues to reject the Dornan amendment.

Mr. BONKER. Mr. Chairman, I rise in support of the amendment offered by my colleagues BARBARA BOXER, JOE KENNEDY, and JOE MOAKLEY, to withhold 10 percent of MAP and 10 percent of ESF moneys authorized for El Salvador until the Government of that nation makes progress in prosecuting those responsible for the death of human rights activist Herbert Anaya. The tragic slaying of Mr. Anaya in broad daylight serves to remind us that civilians in El Salvador are not yet free to voice their opinions, are not yet free to demonstrate their opposition to oppression, and are not yet free from the retribution of paramilitary death squads.

This is perhaps the most critical time in the history of Central America in this century: The Arias Peace Plan offers real hope for lasting democracy throughout the region. With exiled leaders returning to El Salvador under the aegis of the peace plan, it is imperative that the security of all civilians be assured and that the Duarte government recommit itself to the prosecution of those individuals responsible for political murders.

To date, the Government of El Salvador has had a disastrous track record in prosecuting members of right-wing death squads, many of whom are affiliated with the armed forces and security police, for their heinous crimes. Not one member of the Salvadoran security forces have ever been tried for human rights abuses.

We have seen, in recent weeks, positive movement in the Government's investigation of the murder of Archbishop Romero. I believe that this amendment will strengthen President Duarte's hand in bringing those responsible for political slayings to justice. This approach proved successful in helping to resolve the murder of the four American churchwomen killed in 1980. I am hopeful it will bring about concrete results in this case as well.

I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Dornan].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DORNAN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 241, not voting 26, as follows:

[Roll No. 460]

AYES—166

Andrews
Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boulter
Broomfield
Buechner
Bunning
Burton
Chandler
Chappell
Cheney
Coats
Coble
Coleman (MO)
Combest
Craig
Daniel
Dannemeyer
Darden
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gekas
Gilman
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hefley
Herger
Hiler
Holloway
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Quillen
Ray
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rogers
Roth
Rowland (CT)
Rowland (GA)
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—241

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CO)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Moakley
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Richardson
Ridge
Roberts
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—26

Baker
Biaggi
Brown (CA)
Callahan
Courter
Crane
Daub
Dixon
Donnelly
Dowdy
Flake
Ford (TN)
Gephardt
Gingrich
Hall (OH)
Kemp
Lungren
Martinez
Mineta
Pelosi
Roemer
Slattery
Stokes
Sweeney
Towns
Waxman

☐ 1625

The Clerk announced the following pairs:

On this vote:

Mr. Courter for, with Mr. Mineta against.

Mr. Lungren for, with Ms. Pelosi against.

Mr. GEJDENSON changed his vote from "aye" to "no."

Messrs. WORTLEY, TAUKE, GRANDY, ENGLISH, and WATKINS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Boxer: Page 115, after line 8, insert the following:

(c) Assassination of Human Rights Commission President.—

(1) Expression of Concern.—The Congress expresses its deepest concern at the assassination of Herbert Anaya Sanabria, President of the nongovernmental Human Rights Commission of El Salvador (CDHES). This violent act is in direct contrast to the spirit of reconciliation embodied in the Central American peace agreement signed in Guatemala on August 7, 1987.

(2) United States Assistance for Investigation.—The Congress calls on the President to formally offer to the Government of El Salvador such investigative services by agencies of the United States Government as are permitted by law assist in identifying and bringing to trial those responsible for the murder of Herbert Anaya Sanabria.

(3) Withholding of Funds Pending Report to Congress.—The President shall withhold from obligation 10 percent of the funds allocated for assistance for El Salvador for fiscal year 1988 under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), and 10 percent of the funds allocated for assistance of El Salvador for fiscal year 1988 under chapter 4 of part II of that Act (relating to the economic support fund), until at least 15 days after the President notifies Congress that the Government of El Salvador has conducted a thorough investigation of the murder of Herbert Anaya Sanabria and of the earlier threats by members of the Salvadoran security forces against Anaya which were reported by Amnesty International to President Duarte. Such notification shall include a report detailing—

(A) the efforts made by the Government of El Salvador to identify and bring to trial those persons responsible for the murder of Herbert Anaya Sanabria, and

(B) the investigative services provided by agencies of the United States Government to support those efforts.

That notification, and the release of the funds withheld pursuant to this paragraph, shall be considered in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

Mrs. BOXER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. BOXER. Mr. Chairman, the Boxer-Moakley-Kennedy amendment is really quite straightforward. It has two elements. First, it offers the assistance of U.S. investigative services to the Duarte government to help bring to justice the killers of Herbert Anaya, age 32, who was president of the nongovernmental human rights commission of El Salvador and who was shot down in cold blood as he brought his children to school. Mr. Anaya was the father of five children under the age of 10.

Second, it withholds 10 percent of security aid to El Salvador—military and economic assistance—until the Salvadoran Government has convinced the President and the appropriate congressional committees that the Salvadoran Government is making progress on solving the murder.

Mr. Chairman, we give to the country of El Salvador more aid dollars than that country's own budget. We cannot, at the same time that we rightfully chastise the human rights abuses of the Soviets, allow this brutal murder in El Salvador to pass unnoticed or with only sympathetic rhetoric.

Let us stand up for human rights and for an end to cold blooded killings by passing this amendment.

Mr. Anaya is the fifth human rights commissioner to be killed or disappear since 1980. Enough is enough.

Mr. Chairman, this is the time to send a message to President Duarte of El Salvador that we support his work to identify and end the death squads. This amendment will give him leverage to carry forward his work. This amendment gives the law enforcement authorities the incentive to move quickly.

It is important to note the funds withheld are not project development or food aid nor will the funds withheld be likely to be felt until the end of the funding cycle giving Mr. Duarte ample time to conduct an investigation.

It is important to note that Herbert Anaya's murder occurred after the foreign aid bill was passed out of committee, so I believe this amendment is a necessary addition to this very well-crafted bill.

This is why I am so proud that the following members of the Foreign Affairs subcommittees with jurisdiction over human rights and Central America are strongly supporting this amendment. Congressmen WEISS, FEIGHAN, FUSTER, STUDDS, ACKERMAN, GEJDENSON, KOSTMAYER, SOLARZ, and BONKER.

I thank them on behalf of Mr. MOAKLEY and Mr. KENNEDY and myself.

In closing, Mr. Chairman, Herbert Anaya was killed, he was unarmed, he was taking his children to school, and he was killed by a handgun with a silencer—shot in the face, in the arm, twice in the body. And why? Because he was the president of the Human Rights Commission in El Salvador. America's Watch called his murder, "A shocking reminder that death squad activity still persists in El Salvador."

Mr. Chairman, peace is in the air. Last night the President lit the Christmas tree and ignited our hopes for a long awaited nuclear arms treaty.

Let us continue this season of love and peace by passing this amendment.

□ 1640

Mr. MOAKLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a peaceful resolution to the conflict in El Salvador requires that the Salvadoran Government protect the security of civilians wishing to participate in the political life of their country, including opponents and critics of the Government. It seems to me that this is a most basic component in achieving democracy and a lasting peace in El Salvador.

The tragic murder of Herbert Anaya is a clear indication that right wing death squads, and elements of the military and security forces associated with them, do not accept the right of Salvadoran citizens to engage in peaceful opposition activities. Herbert Anaya has not been the only Salvadoran who has been killed or persecuted for his political views and human rights work. We are familiar with his case because as president of the nongovernmental Salvadoran Human Rights Commission—his death received wide press attention.

But there are many, many others who are not as famous or well-known who have been threatened, imprisoned, tortured and some even killed, for being associated with organizations that have either criticized the Salvadoran Government, or publicized its abuses. The Catholic Church, Americas Watch, Amnesty International, and countless other human rights organizations, have documented a long list of denunciations, arrests and human rights violations, against human rights workers and political activists in El Salvador.

The only way to stop this persecution is to make it clear that those who engage in these types of horrendous activities will be punished.

I had the pleasure to meet personally with President Duarte a few weeks ago, after his address to the Congress. The Salvadoran President, in my opinion, is a decent man who desperately wants to see his country move ahead with human rights progress.

I applaud his quick denunciation of the Anaya killing, and his pledge to investigate the case fully. However, if history is any indicator, I think President Duarte could use some help from those of us in Congress who care about human rights. As some may recall, when President Duarte campaigned for the presidency, he pledged to investigate and punish those responsible for such crimes as the murder of the U.S. labor advisors, and Rodolfo Viera, the massacres at Los Hojas and Armenia and the murder of U.S. journalist John Sullivan. Virtually no progress has been made on these cases.

And despite the recent accusations by the Salvadoran President against Roberto D'Aubuisson with regard to the murder of Archbishop Romero very few observers believe that D'Aubuisson will be put behind bars like he ought to be. In fact, to date, there has not been one single military officer tried and prosecuted for a human rights violation against a Salvadoran or American civilian.

Mr. Chairman, the lack of progress on these notorious cases is not because President Duarte has been unwilling to move ahead. Rather, I believe it has been because he has been unable to move ahead.

Sadly, the Salvadoran Government has recently instituted a blanket amnesty which absolves military personnel, death squads and guerrillas from virtually all murders and disappearances that have been committed in that war-torn country. The cases I just mentioned, with the possible exception of the Romero case, will remain unsolved. The blanket amnesty, which lets off the hook some of the worst human rights abusers imaginable, violates international law and I believe was not the type of amnesty envisoned in the Guatemala peace plan—which calls for a respect for human rights as well as national reconciliation.

If anything, the blanket amnesty is a major setback for human rights. It sends the wrong signal to those who have been guilty of gross human rights violations. And it does not promote the type of secure environment in which citizens of El Salvador may engage in meaningful democracy. In fact it encourages the type of atmosphere in which more death squad activity may occur.

Mr. Chairman, the amendment we propose today is a way to strengthen President Duarte's hand in bringing to justice not only those responsible for Herbert Anaya's killing—but it is also a way to strengthen his hand in pursuing justice in other cases.

This is not an anti-Duarte amendment—it is very much a pro-Duarte amendment.

In fact, for my colleagues who are concerned about placing conditions on this small amount of aid—let me quote General Blandon, the Salvadoran Army Chief of Staff, who when asked about previous congressional limitations, stated, "I'll be frank, though some don't want to admit it, the conditions the U.S. placed on us helped. * * *"

Mr. Chairman, the real issue is not Herbert Anaya or his political sympathies. The real issue is justice.

The Anaya case, since it is exempt from the amnesty, takes on an added importance. Will things from this point forward change for the better in El Salvador or will things remain the same? Will this Congress take a strong stand in favor of justice in El Salvador or will we remain indifferent?

Mr. Chairman, this should not be a controversial amendment. All we are asking is that murderers be brought to justice. This is a modest and appropriate response to the increased violence in El Salvador.

I urge my colleagues to vote in favor of human rights. Vote "yes" on the Boxer-Moakley-Kennedy amendment.

Mr. KENNEDY. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Massachusetts.

Mr. KENNEDY. Mr. Chairman, I urge my colleagues to support the Boxer-Moakley-Kennedy amendment, which addresses the problem of political violence in El Salvador. It is a step toward safeguarding human rights and controlling political violence.

More than 10,000 political murders have occurred in El Salvador since 1979. President Duarte has significantly reduced government misconduct, but violence continues. In April, the leader of El Salvador's Farmworkers' Association was found dead after being captured by an army battalion. In June, four men had their throats slashed after questioning by the army, and two of their wives were raped. In September, the leader of El Salvador University's employees' union was kidnaped—no one has seen him since. And most telling of all, on October 26, Herbert Anaya Sanabria, president of the independent Human Rights Commission, was assassinated. This the fifth leader of the Human Rights Commission to be killed or kidnaped since 1980. Duarte himself has expressed his regrets over this killing.

Herbert Anaya was the father of five children under the age of 10. How many children in El Salvador have to go fatherless before political violence is brought under control?

President Duarte depends on more than 1 million U.S. dollars a day to run his government, yet he can't control the activity of the death squads. A continuous flow of money can't be our only U.S. policy. We must assist President Duarte in convincing the right that the days of the death squads are over and the time for the Arias peace plan has come.

The U.S. Congress can help bring the killers of Anaya to justice. The Boxer-Moakley-Kennedy amendment would: First, make U.S. agency help available to President Duarte to assist in the investigation.

Second, influence the government to conduct a thorough investigation by linking a portion of U.S. security aid to the investigation.

There is a precedent for this action. In 1980, the U.S. Congress linked security aid to an investigation of the deaths of the four American churchwomen. The anniversary of their tragic deaths was last week. Yet violence in El Salvador continues.

This amendment is designed to help President Duarte maintain his commitment to democracy by demonstrating his government's ability to enforce law in El Salvador.

Herbert Anaya's children lost their father to needless violence. Now is the time to change United States policy so that El Salvador's children grow up with peace and justice in Central America. Support the Boxer-Moakley-Kennedy amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has expired.

Mr. KENNEDY. Mr. Chairman, I move to strike the requisite number of words.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. Mr. Chairman, I rise in support of the Boxer-Moakley-Kennedy amendment because I believe it is necessary for the United States to speak out against the cold, calculated murder of Herbert Anaya. As the largest provider of aid to El Salvador, the American Government cannot tolerate flagrant human rights violations by those who receive our assistance. This amendment sends a clear message of support for justice in El Salvador.

In the past, Congress has conditioned aid on progress in the investigation of political killings. This strategy has often produced results as in the trial of national guardsmen who were responsible for the 1980 death of four American churchwomen in El Salvador. Government leaders and investigators understood the importance of the case and sought immediate results. American pressure is often needed to dramatize to those individuals, who engage in death squad activity, that such behavior can not continue unabated.

The Boxer amendment is very timely. Last week, President Duarte presented evidence which directly linked a rightwing death squad to the killing of Archbishop Oscar Romero. A witness was brought forth who claimed that he knew the assassin and those who were behind the murder. Mr. Duarte also exhibited a notebook of a terror network which detailed the purchases of weapons, large cash payments, and meetings of military intelligence and police units. While this information is good news for those who have sought a full investigation of Father Romero's death, it is not new evidence to the Government of El Salvador or to the United States Embassy. In fact, American officials and Salvadoran leaders first saw the notebook in 1980 or 1981. It is outrageous that this valuable piece of evidence sat for 6 years before being brought to the public's attention. Mr. Chairman, I believe that if Congress had made assistance conditional upon progress made in the Romero case during consideration of the foreign aid bill in 1982, then those responsible for the crime would be behind bars today.

I urge my colleagues to support the amendment.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I rise in support of the amendment offered by Representatives BOXER, KENNEDY, and MOAKLEY, perhaps for reasons that are different from those of my colleagues. On Sunday, I marched with 200,000 other people, including many of our colleagues, to call for human rights in the Soviet Union.

"Freedom Sunday for Soviet Jewry" was a peaceful, orderly and spirited demonstration, organized to bring attention to the plight of Jews in the Soviet Union and to highlight the issue of human rights in the arms control summit.

I joined the demonstration in order to speak out against human rights violations wherever they occur, be it in the United States or elsewhere around the world.

But, Mr. Chairman, we cannot be arbitrary in our criticism; we must identify all abuses, we must encourage thorough investigations and trials and we must be forceful in demanding justice, whether the offenders be friends or foe.

I am especially concerned that we express our universal concern for human rights in El Salvador.

The United States has regional, humanitarian and monetary interests in this Latin American nation. Last year the American contribution to El Salvador's budget exceeded El Salvador's own share. While El Salvador has made progress in resolving its civil war and returning to a stable democracy, flagrant violations of human rights continue.

The American people, as well as the people of El Salvador, have every right to both a thorough investigation into the murder of Herbert Anaya, as well as an assurance that the assassins will be brought to trial.

Indeed, there is a well established precedent for similar trials in nations that take human rights abuses seriously.

The Argentine Government recently concluded trials of military officials accused of violations; the Israeli Government is investigating John Demjanjuk's links to Nazi atrocities; the United States Congress examined Reagan administration involvement in the Iran/Contra affair; and, in a very encouraging move, the Government of

El Salvador is finally bringing the assassins of Archbishop Romero to justice.

President Duarte must follow these examples by conducting a complete investigation of Anaya's brutal murder, the ultimate violation of human rights.

Mr. Chairman, I have great respect for President Duarte and for his efforts to bring democracy to his land and to his people. I was very impressed with President Duarte when many of us met him here during the last Congress.

I firmly believe that he will do everything he can to bring Anaya's killers to justice. But the U.S. Congress must not stand idly by, hoping the situation will improve—we must back up our faith in Duarte with action, with a forceful commitment to human rights that both nations hold so dearly.

In the interest of an equal opportunity human rights policy around the world, and in the hopes of continuing investigations and trials of human rights abusers, I urge my colleagues to support the Boxer-Moakley-Kennedy amendment.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, withholding 10 percent of aid to the State of El Salvador does not advance the cause of human rights. It imposes further suffering on a people in a very beleaguered country that is undergoing and has undergone for many years a vicious, brutal Communist-led insurgency. We do not help President Duarte by withholding 10 percent of the aid, we erode his authority, his respect, and his ability to control his army.

It is fascinating to read the language of this amendment. It demands that progress be made in solving this murder. It does not say a good-faith effort, it says progress must be made.

What progress have we made in bringing to heel the assassins of KAL 007? Zero. What progress has been made bringing to justice the soldiers that shot Major Nicholson in East Germany? Zero. How many murders in Boston, how many murders in Philadelphia, how many murders in San Francisco, how many murders in Chicago are unsolved and no progress is being made?

We run into dead ends. We cannot always make progress, but we can try. That is all we ought to ask of a government, is a good-faith effort to try to solve the murders.

Is anyone in the world going to deny that President Duarte is trying, trying, trying? He is besieged from the right, he is besieged from the left, and now he is going to be besieged from Boston and San Francisco and Philadelphia and New York: withhold 10 percent until progress is made.

Why do we not just say until a good-faith effort is made, because he is making that good-faith effort. I do not know what it is about El Salvador that raises blood pressure, but one says those words and all of the righteous anger wells up and we do foolish things. Do not withhold aid from a government that is trying to fight the right and trying to fight the left. President Duarte's own daughter was kidnaped by these forces. If anyone deserves sympathy, deserves respect and understanding, he does. Not withholding 10 percent until progress is made

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It is not too easy to get judges down there. We all know about corrupt judges, do we not? We could all spend hours talking about what is going on in our cities right now. But I will tell you, they get notes under the door threatening their lives and it is not easy, and you harm the little people, the campesinos, the people trying to survive in a guerrilla warfare by withholding money from them.

Just ask President Duarte to make a good faith effort. He is making a good faith effort. Reject this amendment. It does not solve anything. It just makes you feel good that you have taken a whack at El Salvador.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York [Mr. Weiss].

Mr. WEISS. I thank the gentleman for yielding to me.

I want to tell the gentleman how bizarre I think his argument is. Here is a government——

Mr. HYDE. I accept the compliment.

Mr. WEISS. Here we have the government of the military of El Salvador who are engaged in death squad activities and he is equating that to rampant murders and killings in the United States or in East Germany or the Soviet Union to whom we do not provide any assistance at all. I cannot follow the gentleman's gymnastics on this one. He really ought to rethink his position. It is a shameful one.

Mr. HYDE. I appreciate the criticism from the gentleman and I deem it praise and I appreciate it.

Mr. GARCIA. Mr. Chairman, the proposed amendment offered by our colleagues Barbara Boxer, Joe Moakley, and Joseph Kennedy, to title VII of the Foreign Aid authorization bill, if passed, may help reinforce the battered civilian government of Jose Napoleon Duarte, as well as bring to trial those responsible for the October assassination of Herbert Ernesto Anaya, the leader of the nongovernmental Human Rights Commission. Through this amendment the United States may be able to support the Central American peace plan drafted by Nobel Peace Prize winner Oscar Arias of Costa Rica. If President Duarte is assisted to make his country more just, more democratic, and more peaceful, this would contribute to peace throughout Central America.

Since the United States contributes more in aid to the El Salvadoran Government than that country's own contribution to its budget, the United States is justified to a certain extent in qualifying the expenditure of part of that aid. This amendment proposes withholding a certain percentage of the aid that goes to the military. In this way the United States may be able to pressure the military to bring to justice those responsible for Anaya's death. At the same time a percentage of economic aid will be withheld until President Duarte's government presents evidence that efforts by his government have been taken to promote justice by bringing to trial the people responsible for Anaya's death and perhaps the death of countless others.

This amendment forces the military of El Salvador to work with the civilian government in order for each to regain the withheld aid. It may even benefit the image of the United States in Central America. U.S. lawmakers, instead of increasing military and economic aid to support democracy, will be limiting aid to help bring about justice and to assist the democratic efforts of a civilian government trying to heal a country torn by civil war.

One final point, I am not supporting this amendment in order to express my opposition to President Duarte. Quite the contrary, I am hopeful that if this amendment is accepted that it will send a signal to those who oppose democracy and justice in El Salvador by letting them know that we in Congress are watching them. This, in turn, will boost President Duarte's quest to stabilize democracy in his country.

Mr. JEFFORDS. Mr. Chairman, I wish to indicate my support for the Boxer-Moakley-Kennedy amendment concerning human rights in El Salvador. I am pleased that the authors of this amendment and the chairman of the committee have formulated an agreement that enjoys broad support.

As a cochairman of the Congressional Friends of Human Rights Monitors, I am pleased that this amendment expresses deep congressional concern over the killing of Herbert Anaya Sanabria, the president of the Nongovernmental Human Rights Commission of El Salvador. Indications are that death squads were responsible for his murder.

This amendment would allow United States agencies to aid the Salvadoran Government in investigating the murder of Anaya and bringing those responsible to justice. In addition, the President is directed by this amendment to report to Congress on the success of Salvadoran Government efforts.

This amendment should not be construed as an attack upon President Duarte or his commitment to human rights. Rather, passage of this amendment should strengthen his hand in dealing with those elements of Salvadoran society that would prefer to resort to violence to achieve their political goals.

President Duarte is currently under a great deal of pressure from both the right and the left. The assassination of Mr. Anaya is an indication of the degree to which the government is unable to control the actions of the extreme elements in El Salvador. A resurgance of death squad activity could quickly plunge Salvador back into the dark days of the early 1980's, erasing the gains made by the Duarte government over the past 3 years.

Of equal concern is the stalemate over judicial reform, a priority of President Duarte's and a primary goal of U.S. foreign policy. American aid has concentrated on both police and judicial reform for the past few years. It is imperative that the law enforcement departments and the judicial system react appropriately to the Anaya murder and restore some faith in the institutions of government. It is imperative that we in Congress indicate our anxiety over indications of death squad resurgance and put the United States squarely behind the rule of law in El Salvador.

I urge all my colleagues to support this amendment.

Mrs. COLLINS. Mr. Chairman. I rise in support of the amendment.

On October 26, 1987, Herbert Anaya, President of the Nongovernmental Human Rights Commission of El Salvador was assassinated by right-wing death squads. This was a tragic event in the ongoing struggle for human rights in El Salvador. As President of the CDHES, Mr. Anaya headed a group of noted lawyers and other volunteers that investigate cases of political killings and disappearances. By working closely with international organizations such as the United Nations Commission on Human Rights, the CDHES has illustrated abuses in El Salvador with the glaring spotlight of international attention.

Reports of human rights abuses by the CDHES have been all too rare. Amnesty International reports that in the past 7 years, more than 60,000 noncombatant civilians have been excecuted, and thousands more have disappeared or been tortured by government forces. As the chief supplier of military hardware to the El Salvadoran Government, the United States must assume some responsibility for these deaths.

The Boxer-Moakley-Kennedy amendment asks the President to offer United States technical assistance to El Salvador for its investigation of the murder of Herbert Anaya, and conditions 10 percent of security aid to El Salvador on confirmation by the President that the Government of El Salvador has satisfactorily resolved the Anaya case.

The U.S. Government is a prime investor in El Salvador. Since 1985, the El Salvadoran Government has received more than $1 billion in United States aid, and for the first time in the history of the foreign aid program, United States aid to El Salvador exceeds that government's total annual budget.

President Duarte faces a difficult task in guiding his country toward a democratic future, and a functioning judicial system is crucial to his success. Indeed, it is in our primary interest to insure the maintenance of a stable, democratic government in El Salvador. The Boxer-Moakley-Kennedy amendment is a step away from intimidation, and toward justice in El Salvador. I urge my colleagues to support it.

Mr. BONKER. Mr. Chairman, I wish to express my staunch opposition to this amendment, which would direct the President to use Military Assistance Program [MAP] funds to send five AH-1 Cobra helicopters to El Salvador.

At a time when the United States has been given another—and possibly our last—chance to support a genuine and indigenous political settlement to the armed conflicts in Central America, the transfer to the region of such imposing weapons of war makes no sense at all. The Cobra is so advanced that even this administration has not requested them from the Congress.

This helicopter is an airborne battleship. Described as one of the United States "major antitank systems," it is equipped with 2 gunships, each of which can fire 4,000 rounds of ammunition per minute; with 52 TOW missiles, each of which can carry white phosphorous warheads; and with grenade launchers.

The winds in Central America have shifted in favor of peace. The signing of the Guatemala accord by the five Central American Presidents in August confirmed the failure of the Reagan administration's policy of militarization. It is time to focus on diplomatic and developmental support, and eschew actions that might rekindle the conflicts.

As President Duarte strives for peace in his country through negotiations with the Salvadoran rebels and opposition groups, it is hardly appropriate for the United States Congress to require the shipment of Cobra helicopters to El Salvador. I hope my colleagues vote down this ill-conceived and counterproductive amendment.

AMENDMENT OFFERED BY MR. FASCELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MRS. BOXER

Mr. FASCELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL as a substitute for the amendment offered by Mrs. BOXER: Page 115, after line 8, insert the following:

(c) ASSASSINATION OF HUMAN RIGHTS COMMISSION PRESIDENT.—

(1) EXPRESSION OF CONCERN.—The Congress expresses its deepest concern at the assassination of Herbert Anaya Sanabria, President of the nongovernmental Human Rights Commission of El Salvador (CDHES). This violent act is in direct contrast to the spirit of reconciliation embodied in the Central American peace agreement signed in Guatemala on August 7, 1987.

(2) UNITED STATES ASSISTANCE FOR INVESTIGATION.—The Congress calls on the President to formally offer to the Government of El Salvador such investigative services by agencies of the United States Government as are permitted by law to assist in identifying and bringing to trial those responsible for the murder of Herbert Anaya Sanabria.

(3) REPORT ON EFFORTS TO INVESTIGATE THE MURDER OF HERBERT ANAYA AND THREATS AGAINST HIM.—Not later than 90 days after the date of enactment of this Act, and on every 90th day thereafter during fiscal years 1988 and 1989, the President shall report to the Congress on—

(A) efforts made by the Government of El Salvador to identify and bring to trial those persons responsible for the murder of Herbert Anaya Sanabria, including efforts to investigate the earlier threats made against him by members of the Salvadoran security forces, which were reported by Amnesty International to President Duarte; and

(B) the investigative services provided by agencies of the United States Government to support those efforts.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, it is obvious on matters of this kind that there are, with propriety, very strong feelings here and very human feelings. Also, it is extremely difficult when we run into conflicting matters of great import, both to the Government of El Salvador and the people of El Salvador and to us, the people of the United States and the policy of the United States. So I have nothing but the greatest of respect for those proponents who offer this amendment, and I might add, in all righteous indignation, because it is difficult to conceive of any rationale, anywhere, that allows for that kind of inhumane treatment with regard to matters of any kind, whether political expression or otherwise. But certainly when it arises because of a simple defense of the dignity of individuals and because of the cause of human rights then I find it totally indefensible. So my substitute takes recognition of all of that, Mr. Chairman, by expressing the concern of the people of the United States on this matter.

It does not, however, go as far as, I will say, as the amendment offered by the proponents which seek to withhold 10 percent of Salvador's MAP and ESF. We recognize that there is a real need for continued assistance by the United States to assist in the investigation of all of these matters because all of us have been aware of the difficulty and the trials—tribulations I was going to say—but more than that, of the leader of this country who was democratically elected, and the almost impossible task he has.

And so we offer in this substitute whatever assistance by way of investigation to strengthen the bonds of justice and to do what is right with respect to this particular matter.

Then we require continued oversight on this matter on a regular basis by requiring a 90-day report on one status of the investigation. I am not overly optimistic, frankly, but I am somewhat heartened by the fact that President Duarte has tried so valiantly, under what I think are almost impossible circumstances, to deal with this problem of the death squads on the right while trying to conduct a war on the other side and build a society with institutions which all of us can earnestly support.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the chairman for yielding.

Mr. Chairman, I want to thank the chairman of the committee, Mr. FASCELL, for his very hard work on this, bringing forward a compromise.

As we all see, there are very strong feelings from the authors of the amendment, from respected Members of this body such as the gentleman from Illinois [Mr. HYDE] who feels very strongly that to withhold funds would send the wrong signal. I would be less than honest if I did not say the authors of this amendment would much prefer to see the leverage we would have if we could withhold the funds.

But in the spirit of the season and in the spirit of compromise and in deference to the chairman and with the knowledge that Members will be watching this issue—I can tell you, Mr. Chairman, we have had very strong support for the amendment as it was drafted. Over 110 Members immediately said they would support it.

So we will be following this. We thank you. We believe it is a first step and we will in fact accept this compromise.

Mr. FASCELL. I thank the gentlewoman very much.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I want to say that on behalf of the minority I accept the substitute. It seems to me that although I agree with all of the points made by the gentleman from Illinois [Mr. HYDE] and was prepared to make many of them myself, that to withhold—to make the statements that the gentleman makes in his amendment about the death of Mr. Anaya is very appropriate. I think we all share in the concern about that. We all want to do that. However, to take away 10 percent of the aid to El Salvador I do not think would assist at all. It would undermine or tend to undermine the position of President Duarte with his own military.

So I think this is a good substitute. It makes sense, it expresses our concern and I support it.

Mr. ANNUNZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I am glad to yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding, my dear friend.

Mr. Chairman, I just wanted to say I could not agree more with the remarks of the gentlewoman from California and I want to commend the chairman of this committee.

Mr. Chairman, if the gentleman should ever leave Congress, and I pray to God he never does, I would suggest he go to work for the National Football League as an arbitrator, because he could solve a lot of things very quickly. I thank the gentleman.

Mr. ANNUNZIO. I thank the gentleman.

Mr. Chairman, I rise to express my support for the Boxer-Moakley-Kennedy amendment to H.R. 3100, the International Security and Development Cooperation Act of 1987. This amendment will withhold 10 percent of both economic and military assistance to El Salvador, until at least 15 days after the President has notified Congress that the Government of El Salvador has conducted a thorough investigation of the murder of Herbert Anaya Sanabria, the President of El Salvador's nongovernmental Commission on Human Rights [CDHES]. Also, this amendment instructs the President to offer the assistance of the United States Government to help El Salvador conduct this investigation.

The time has come for Congress to let President Napoleon Duarte and the Government of El Salvador know that if they wish to receive foreign assistance from our country, repression and human rights violations against their civilians must cease, and that those who have previously committed atrocities must be brought to justice.

On October 27, while Herbert Anaya was waiting outside his home to drive two of his children to school, he was brutality murdered—shot at point blank range by two death squad assailants. Anays's only crime was that he was the head of the country's nongovernmental human rights organization—an organization which had conscientiously documented the human rights abuses of the military, the El Salvadoran Government, and the death squads. Because of these death squads, and their acts and threats of violence, the identities of most nongovernmental human rights workers—except for a few leaders—have been kept secret. Many of the outspoken individuals regularly receive death threats, and terror and repression have become a sad way of life for Salvadorans. Offices have been ransacked and citizens have been intimidated.

Since 1970, death squad-type killings, like that of Anaya, have been blamed for thousands of deaths. Although politically motivated killings have dropped from hundreds a month to just a few, recent activities indicate that death squad activities and human rights violations by the military are again on the rise, and like many of my colleagues in the House of Representatives, I am deeply concerned that the United States has been funding and training a government which uses its military to terrorize and abuse is own citizens.

Today, despite over $2.76 billion in United States economic and military assistance to El Salvador since 1981, the country still cannot control its military; corruption and massive human rights violations still exist; and the judiciary, because of fear and intimidation, has been unable to bring to justice the criminals who perpetrated these crimes. In fact, a November 1987 report by the Arms Control and Foreign Policy Caucus has charged that United States aid to El Salvador has been misused by the military and the ruling party, and this has inevitably destroyed the effectiveness of El Salvador's efforts toward achieving peace and economic recovery.

It is also clear that an atmosphere inviting increased human rights abuses is developing in El Salvador. Besides the recent Anaya assassination, on October 27, El Salvador's National Assembly passed an amnesty bill which would absolve those involved in politically motivated crimes, including those crimes committed by the military and by the death squads.

Mr. Chairman, if true democracy is to be established, and if there is to be national reconciliation, as called for under the Central American peace agreement which was signed by the five Central American Presidents on August 7, then these human rights abuses in El Salvador must come to an end. The Boxer-Moakley-Kennedy amendments sends a strong message to President Duarte that the U.S. Government cannot tolerate these activities, and therefore, I strongly urge my colleagues in the House of Representatives to support this amendment.

Mr. BUSTAMANTE. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I will be glad to yield to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, I rise to speak in support of the substitute to the Boxer-Moakley-Kennedy amendment to H.R. 3100. This amendment offers several specific, positive steps that will contribute to and promote peace in a region of this hemisphere that is undoubtedly of great concern to all in this country.

By offering United States agency support for the investigation of the murder of Herbert Anaya in El Salvador, Congress sends a message to all, that we will no longer tolerate callous disregard of basic human rights.

The provisions of this amendment are straightforward and address the issues:

It offers U.S. agency experience and aid in conducting the investigation. And it instructs the President to present a detailed reporting of agency and Salvadoran Government effort directed toward the investigation. The Government of El Salvador must provide convincing evidence that it is making every effort to identify and bring to justice the murderers of Herbert Anaya, the late President of the Human Rights Commission of El Salvador.

This amendment is necessary not only because it addresses an issue that did not exist when H.R. 3100 was first written, but it also sends a message of support for President Duarte to the Army and the people of El Salvador. We are telling the people of El Salvador that we support the Arias Peace Plan, and that we support their President's efforts to promote peace in El Salvador and the rest of Central America.

Mr. Speaker, support for the Boxer-Moakley-Kennedy amendment places the death squads and other countries in the region on notice that we are no longer willing to ignore human rights abuses. We are saying with our actions that we support basic freedoms, such as speech and assembly, and as long as we provide more than 50 percent of the Salvadoran budget we have the right to expect compliance with our basic expectations of democracy.

I urge my colleagues on both sides of the floor to join us in support of this amendment that speaks so strongly for democracy and peace.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the three authors of the original amendment, because I think it is important to reaffirm the concerns of this Congress for human rights in Central America.

I want to commend my colleagues and the distinguished chairman for their work in bringing us a compromise, because I think it makes a lot more sense to try to be unified on this issue and it is very, very fundamental.

It was almost exactly 7 years ago before Christmas when four American church women were killed in El Salvador, raped and maimed. I think more than any other killing, even though there were hundreds and hundreds of human rights violations, two of whom were from greater Cleveland, those abuses of human rights caught the heart and imagination of the American people. The fact is that when this Congress—I agree with my dear colleague that President Duarte has tremendous pressures on him and I was pleased that he came to address Congress a few weeks ago. But the fact is it was this Congress that raised concerns in the foreign aid bill. We asked for human rights certification of unresolved cases. The Tyler Commission was convened. And I believe it was the pressure of this Congress that brought about the investigation of that crime and eventually guardsmen were brought to trial in El Salvador.

What we should know is that that trial not only brought some kind of retribution to the murderers of the religious, but beyond that it probably saved an awful lot of lives of other people in El Salvador.

So the fact is we do have a responsibility to involve ourselves. My friends, peace is coming hopefully to Central America. We must reaffirm our commitment to human rights to help shape this peace. We know from personal experience that when we make our concerns official, as this amendment skillfully does, and the compromise does, human rights do improve in El Salvador. Personally, I think that in many ways we help strengthen President Duarte when we take these actions.

So I want to compliment everyone involved and support the compromise and hopefully will do the trick. But the fact is we have lost a very powerful person in Herbert Anaya and that is only the latest chapter of a sorry story.

Mr. WEISS. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from New York [Mr. Weiss].

Mr. WEISS. I thank the gentlewoman for yielding to me.

Mr. Chairman, I want to express my commendation of the sponsors of the resolution, the amendment, Mrs. Boxer, Messrs. Moakley and Kennedy and the chairman of the full committee for his substitute which provides for an expression of concern for U.S. assistance in the investigation and for ongoing recurrent 90 day reports into the investigation of the Anaya murder.

I think that as a substitute it in fact under the circumstances does a tremendous job in keeping pressure on to make sure that that killing does not go and be forgotten.

Mr. FEIGHAN. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from Ohio [Mr. Feighan].

Mr. FEIGHAN. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment and associate myself with the remarks of my colleague from Cleveland.

Mr. Chairman, I rise in strong support of the amendment because it offers a sound approach that is fully consistent with United States policy toward aid to El Salvador. It is not a slap at President Duarte, a man who has struggled harder than anyone to give democracy a foothold in his country. It is a warning issued to those in El Salvador who have steadfastly followed a fundamentally undemocratic course—a course whose path is marked by violence, intimidation, and murder.

The sponsors of this amendment are not looking to cut off aid to El Salvador. And as written, this amendment simply requires the President to provide Congress with a report on the progress of the investigation into the murder of Herbert Anaya. The message we are sending is simple: The United States has grave concerns about the prospects of democracy in a country where political matters are decided by one side killing the other.

For the past several years, United States aid has been going to El Salvador for the expressed purpose of helping establish an independent judiciary. This amendment allows us to find out how well this effort is working. We have had some success as was demonstrated in the case of four American churchwomen—one of whom came from the Cleveland area which I represent. I would like to be able to say that United States aid has something to do with putting Salvadoran murderers in jail—whether the victims are Americans or Salvadorans.

Many of my colleagues will be voting on this issue for the first time. Others will have to strain to remember the debates of 3 and 4 years ago when we struggled to address the tremendous human rights problems that existed in El Salvador. Without appearing immodest, I think it is true to say that our efforts in Congress and at times, even in the administration, had something to do with the progress that has taken place. Certainly, there is more to do and this amendment will ensure that this progress will continue.

This amendment flows out of these efforts and is fully consistent with the recommendations of the National Bipartisan Commission on Central America. These recommendations, which form the basis of many of our policies in the region, included a call for the conditioning of aid to El Salvador on demonstrated progress in human rights.

I commend the sponsors for bringing this amendment before the House and I urge my colleagues to continue to support a strong human rights policy now, as it has done in the past.

Mr. DeFAZIO. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from Oregon [Mr. DeFazio].

Mr. DeFAZIO. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to thank my distinguished colleagues for offering this amendment. Not only because the murder of the President of El Salvador's Human Rights Commission is an outrage, but because it offers us an opportunity to discuss the issue of United States assistance to El Salvador.

United States aid to El Salvador has been a flat-out disaster. A disaster for the Salvadoran people, and a disaster for the United States.

This Nation has supplied over $3 billion in military and economic assistance to El Salvador. Despite that, or maybe because of it, El Salvador's economy is a shambles, corruption and misuse of United States aid is widespread, the civil war continues to rage, and the standard of living for most Salvadorans is declining.

We have a choice insofar as our relations with El Salvador are concerned. We can go on, throwing good money after bad, and fooling ourselves into thinking it's doing some good, despite all evidence to the contrary. Or we can rethink our policy. I believe it's time to rethink our policy.

Too often, over the years, this Nation has persisted in a failed policy because we feel it is very important to demonstrate our resolve. We don't want to cut and run. We don't want to admit that billions have been wasted on a flawed policy. The great Roman senator and philosopher, Marcus Tullius Cicero, said something very relevant: "Any man can make mistakes, only an idiot persists in his error."

This amendment will be a message to the military and to the death squads that the U.S. Congress supports a free and open political process, that we insist on respect for human rights and freedom of expression, and that we believe that economic and social justice are the best medicine for the violence in Central America. I urge all of you to support the amendment.

Mr. DELLUMS. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentlewoman for yielding.

First, Mr. Chairman, I would like to congratulate the gentlewoman for her remarks and associate myself with them.

Mr. Chairman, it had been my intention to speak in favor of the original amendment but I shall not do so.

□ 1710

Mr. Chairman, I would simply at this time like to congratulate the gentlewoman from California [Mrs. BOXER] for her diligent work in this regard, and also the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from Massachusetts [Mr. KENNEDY] for their hard work in this matter.

I would also like to thank the chairman of the full committee, the gentleman from Florida [Mr. FASCELL], for his efforts in reconciling this matter and attempting to continue to send a positive and constructive message with respect to our commitment to human rights in El Salvador.

Mr. Chairman, again, there is an escalation of violence in El Salvador. One of the most flagrant examples occured on the morning of October 26. Herbert Anaya Sanabria, president of the nongovernmental Human Rights Commission of El Salvador, was shot to death as he prepared to take his children to school.

Mr. Anaya's assassins were two men using semiautomatic weapons with silencers, dressed in civilian clothing—the classic signature of the Salvadoran death squads.

Mr. Anaya had been an outspoken critic of the ongoing terror carried out against the people of his country.

And what a level of terror. Since 1979, over 60,000 Salvadoran civilians have been killed or disappeared by death squads. Even worse, we have yet to see anyone brought to justice. It is important to remember that this situation has occured while the United States has been giving El Salvador over $1 million a day.

Mr. Anaya was arrested by Salvadoran Government security forces in May of 1986. During the first 14 days while he was held by the security forces, he was tortured and was told by Gen. Reynolds Golcher, director of the treasury police, that he would be killed if he returned to his work with the commission.

Mr. Anaya produced a report on "Torture in El Salvador," based on his interviews while in Marrona political prison. He of course returned to his work when released from prison.

During the spring and summer of this year, the office of the commission was often under surveillance. The members of the commission received anonymous death threats. Mr. Anaya was denounced by the armed forces and the treasury police.

Witnesses say that a death squad car went by the cemetery while Mr. Anaya was being buried. The gun barrels protruded through the windows.

A state of terror exists in that sad country. Unless we do something more lives will be lost and the peace process will be further undermined.

President Duarte does not have the power to break the death squads or to insure justice. We can begin to turn the situation around by withholding this rather small part of the security assistance package until the Salvadoran Government has conducted a thorough investigation of the murder of Mr. Herbert Anaya.

It is also appropriate that at this time that we look at the situation in El Salvador and our involvement. After 7 years of United States involvement and $3 billion of United States money, the situation in El Salvador is not improving.

The Government is ineffective, corruption is increasing, and there is military stagnation and social unrest. Our policy has failed. It has failed most particularly in our effort to press for the establishment of a real system of justice. Without justice no government can win the hearts and minds of its people. We must take this time to seek another way and to move toward peace and justice in El Salvador.

Support the Boxer-Moakley-Kennedy amendment.

Mr. BONIOR of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take very long. I just want to make some comments about the amendments.

I particularly want to address myself to the comments that were made by my distinguished colleague, the gentleman from Illinois [Mr. HYDE], who generally is very thoughtful and cogent on this floor, although we may often disagree.

I think equating the death squads in El Salvador with crime in San Francisco or Boston or Philadelphia is to make a rather bizarre argument. My friend, the gentleman from Illinois, asks "Well, what is so special about El Salvador?"

What is special about El Salvador is that since 1969 65,000 people have lost their lives in that war, and 45,000 of those, it is estimated, were by death squads. That is what is so special about El Salvador.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my friend for yielding.

I do not equate murders in San Francisco with death squad activity in El Salvador. My point was that unsolved murders go on. There are a lot of deaths, and many times no progress is made, even though police departments in Chicago and Boston are making good faith efforts. The amendment calls for progress, and I was trying to indicate that crimes do not always submit to progress and all you can really ask for is good faith. That was my purpose, not to equate the two.

Mr. BONIOR of Michigan. Mr. Chairman, I am pleased that the gentleman has clarified his point.

I think it is time that we stand up in this Congress and support the archbishop and the Government of El Salvador in calling for an investigation of the slaying. It is time for us to send a signal to the Salvadoran death squads that their activities will not be tolerated.

I want to stress this also: that it is time that we support President Duarte. I think that by doing this we will support him. We give him a clear signal that we want the criminal justice system to work in El Salvador. We say that we want the justice system to work in El Salvador and we want him to continue on the path toward progress in reconciling this war-torn nation.

So, Mr. Chairman, I recognize my colleagues on their efforts in behalf of this amendment and trying to bring justice for this terrible act that was done to Mr. Anaya.

Mr. Chairman, on October 26, Herbert Anaya Sanabria, 32-year-old president of the Independent Salvadoran Human Rights Commission, was assassinated after he dropped two of his five children at school.

As his children stood some distance away, two assassins fired handguns with silencers at "point-blank range."

No group claimed responsibility for the killing.

Just 2 weeks after the assassination of Anaya, on November 9, two more victims were found beaten to death along a highway. The initials "FDR," a reference to Leftist Democratic Revolutionary Front, were written on their chests in red ink.

A few days later a Catholic lay worker who guarded a Carmelite convent was killed under circumstances that implicated the treasury police, an arm of the Salvadoran Government.

These incidents are a clear reminder that the ruthless Salvadoran death squads, which have been largely dormant under the presidency of Jose Napoleon Duarte, have reared their ugly head once again.

Anaya was the second president of the commission to be killed and the seventh commission member to have been slain or to disappear in the last 7 years.

The Human Rights Commission and the Roman Catholic Church estimate 65,000 persons have been killed since the Salvadoran war began in 1979. Of that total at least 40,000 were victims of death squads.

Responding to the resurgence of death squad activity, the Archbishop of El Salvador, Arturo Rivera y Damas, warned in a nationally televised homily in mid-November that the "escalating terror" of death squads must stop.

"I pray to God," he said, "We do not lose our heads and get entangled in the trap of violence, which only generates more violence."

After the slaying, a government spokesman denounced the killing and admitted it was the work of "extremist elements seeking to destroy the entire process we have been building." A full investigation was promised.

It is time for the U.S. Congress to join Archbishop Rivera y Damas and the Government of El Salvador in calling for an investigation of the Anaya slaying.

It is time for us to send a signal to the Salvadoran death squads that their activity will not be tolerated.

It is time to demonstrate our support for Salvadoran President Jose Napoleon Duarte, who has mounted a full court campaign to bring about national reconciliation and internal dialog under the terms of the Guatemala peace agreement.

The amendment offered by my friend from—if Mr. FASCELL of Florida offers the perfecting amendment—California, and my colleagues from Massachusetts does just that.

It signals the deep concern that Congress has about the Anaya killing, and tells the death squads of El Salvador that their days are numbered as far as the U.S. Congress is concerned.

Until now there has never been punishment of anyone associated with a death squad.

For this reason the death squads have assumed that threats, intimidation, and murder are acceptable means of governing.

We must change this perception.

The Boxer-Moakley-Kennedy amendment calls for such an investigation into the Anaya murder and offers United States assistance in that effort.

The peace plan signed in Guatemala City on August 7 calls for respect for human rights as well as national reconciliation.

A peaceful resolution of the conflict in El Salvador requires at a minimum that the government protect the security of civilians wishing to participate in the political life of their country, including critics of the government.

In 1984, the paramilitary squads, facing United States pressure, decreased their activities, after President Jose Napoleon Duarte took office. They often had been linked to the army or State security forces, including the treasury police, the national police, and the national guard.

Now it is time to apply United States pressure once again in a constructive fashion in El Salvador.

This amendment is our best hope to show a united front from President Duarte and from Congress against the hated death squads.

Its passage will show clearly to the people of El Salvador that the cries of the 40,000 citizens of their nation who have died at the hands of death squads have not been ignored.

The amendment's passage will show the people of Central America that we stand united behind the Guatemala peace plan, and that we seek peace and democracy in every country in the region.

Vote for peace and reconciliation in El Salvador. Vote for the Boxer-Moakley-Kennedy amendment to the foreign aid bill.

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, on October 26, 1987, a tremendous blow was dealt to the cause of peace in Central America. On that day, as has been stated previously, Herbert Anaya Sanabria, the 32-year-old president of the Independent Human Rights Commission in El Salvador, was gunned down outside his home as he prepared to drive his children to school.

While more than 10,000 political murders have occurred in El Salvador over the years, Anaya's assassination is an important reminder to all of us that death squad activity still reigns in that troubled nation. Reports by several human rights organizations indicate that his murder followed a summer of persecution, including several death threats.

The United States has been more than generous to El Salvador. In fiscal year 1987, we provided $608 million in assistance. This figure exceeded that country's own national budget by $12 million.

Having made such an investment, and having known of Mr. Anaya's commitment to peace in his country, I think it would be shameful for us not to take decisive action. Accordingly, I, along with many others, have cosponsored the Boxer-Moakley-Kennedy amendment to the International Security Development Act of 1987.

That amendment would, as has been stated, instruct the President to withhold 10 percent of all military assistance funds and 10 percent of economic support funds until the Salvadoran Government has provided evidence that efforts have in fact been made to identify and bring to trial the people responsible for Anaya's murder. And second, it would offer United States assistance in conducting the investigation. Fifteen days before the release of the funds, the President must report to Congress detailing these efforts. The notification and release of funds shall be in accordance with usual reprogramming procedures.

Mr. Chairman, having said that, let me say also that I respect the wishes of the authors of the amendment, and, therefore, I stand also in support of the substitute offered by the chairman of the committee.

Let me remind my colleagues, however, that Mr. Anaya was the father of five children, all under the age of 10. My deepest sympathies go out to them and his wife. The amendment we are debating and the substitute are designed to help President José Napoleon Duarte bring their father and husband's killers to justice. Moreover, it will help President Duarte keep his commitment to democracy by demonstrating the ability of his government to enforce the law in El Salvador.

It is my hope that, for the Anaya family and all the people who are working to achieve peace in El Salvador, my colleagues will join me in supporting the substitute amendment.

Mr. STUDDS. Mr. Chairman, I rise in strong support of the amendment. As we observe with great hope the efforts to reconcile peoples at war in Central America, and as we look for ways to support the peace process, we should remind ourselves that our greatest hope and final purpose is the rise of societies free from political terror, free from political murder, and where people are free to criticize their leaders without persecution.

The assassination of human rights leader Herbert Anaya on October 26, as he left his home to take his children to school, shocked and saddened all those in El Salvador who share these hopes. As with the tragic murder of Archbishop Romero in 1980, the people of El Salvador need an ablution that can only be experienced after justice has been done, after those responsible for these killings are identified and condemned by the state. This bringing to justice contains profound symbolism: it represents the hope that the Salvadoran Government believes in fairness, freedom, justice for its people.

All of us share a desire to witness the rise of a more just El Salvador. All of us recognize that the moderate leadership of President Duarte is threatened not only from the left, but also from the right. We may disagree on which threat is the greater, but we share a desire to end the horrors perpetrated by both extremes, so that El Salvador can progress toward true and lasting democracy.

We can agree on the importance of emphasizing the need to respect the just claims of Soviet Jewry, and we can agree on the need to support the Mujahadeen in Afghanistan. We should be able to agree today on the need to respect the claims of those who stand for the cause of human rights in El Salvador. I urge my colleagues to put aside partisanship and join in sending a clear, unanimous message in support of President Duarte, in support of the Salvadoran people, and in support of justice everywhere.

Mr. DYMALLY. Mr. Chairman, I would like to take a moment to express my deep concern over the ongoing and extensive human rights violations in El Salvador. Recently, this type of activity culminated in the brutal murder of Herbert Anaya Sanabria, president of the nongovernmental Salvadoran Human Rights Commission. It is sad to note that his death is but a grisly reminder to the people of El Salvador that death squad activity still exists. In my judgment, the United States cannot afford to turn a blind eye to such atrocities.

That is why, Mr. Chairman, I rise today in support of the Boxer-Moakley-Kennedy amendment—as amended by Chairman FASCELL as found in—to the International Security and Development Cooperation Act of 1987 (H.R. 3100). By voting for this amendment, Congress expresses its overriding concern for the brutal murder of Herbert Anaya Sanabria and sends a firm message regarding our respect for human rights in the region. To ensure a thorough investigation of this horrendous act of brutality we ask the President to report to Congress every 90 days until there is evidence that all reasonable, good-faith efforts have been made by the El Salvadoran Government to identify and bring to trial those persons responsible for the murder of the President of the Salvadoran Human Rights Commission. In addition, the amendment will call upon the President to provide United States agency assistance to the Salvadoran judiciary in the conduct of the investigation. Perhaps most importantly, it is designed to convey a message of support to President Duarte in his efforts to enforce justice and stabilize the democratic structure of El Salvador.

It is clear, the United States has a substantial role to play in El Salvador, but it should differ quite significantly from the past policies of the recent administration. Since the beginning of civil strife in El Salvador, the United States has provided more than $3 billion in aid. For fiscal year 1987 alone, United States aid was equal to 105 percent of El Salvador's own budget. These figures are not only astounding but troubling, since they represent the extensive degree to which El Salvador depends on the United States for its military hardware. Consider that three-fourths of United States aid to El Salvador is spent on war-related activities which serve no real purpose except to assist in the further destruction of the country's housing facilities, schools, and hospitals. I find these figures to be particularly disturbing especially in light of the present situation in El Salvador where living conditions for the majority of its people have declined dramatically since the beginning of the war. Since this time, the infant mortality rate has risen to 36 percent. In fact, today, one out of every four children is malnourished. U.S. military aid to this region has only served to reinforce these grim conditions and exacerbate a volatile situation in which hundreds of innocent civilians have already lost their lives.

Our past policy in Central America makes it apparent that military power cannot bring about the fulfillment of democratic principles. Indeed, military power alone only serves to bring about more bloodshed and a recycle of violence. Despite these deteriorating circumstances, the political will required to change the current situation exists and has expressed itself in a meaningful peace proposal. It requires a concerted effort on the part of all Central American countries to pursue a peaceful approach for an end to internal and regional problems. Whereas a mood of optimism and tolerance exists in this troubled region, I find it sad and ironic that many within the U.S. Government cast doubt and skepticism about the prospects for peace that are explicitly outlined in the Central American peace plan. Instead of waging criticism and scorn, our energies should be directed towards reviving the legal and judicial reforms currently being sought in El Salvador. We need to bring greater attention to bear on politically motivated acts of repression, disappearances and murders which continue to intimidate and horrify its citizens.

Unfortunately, some Members choose to ignore the atrocities in El Salvador because of its strategic importance to the United States. But we must avoid the practice of double standards when addressing the issue of human rights violations in Central America. We must be equally concerned with the development of human rights principles in all countries of the region, whether friend or foe. It is imperative that we endorse a consistent human rights policy to the region and not engage in selective judgment toward the people of Central America. Therefore, I firmly believe that the Boxer-Moakley-Kennedy amendment demonstrates a genuine pledge toward the implementation of human rights standards in the Western Hemisphere. In closing, I want to encourage my colleagues to join me by voting in favor of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. FASCELL] as a substitute for the amendment offered by the gentlewoman from California [Mrs. BOXER].

The amendment offered as a substitute for the amendment was agreed to.

The question is on the amendment offered by the gentlewoman from California [Mrs. BOXER], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. BYRON

Mrs. BYRON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BYRON: Page 121, add the following after line 25:

SEC. 713. CENTRAL AMERICAN PEACE AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) the Presidents of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica signed the "Esquipulas II Accord" on August 7, 1987, to establish democracy, end civil strife, and promote economic stability in Central America;

(2) the establishment of democracy, the termination of civil strife, and the promotion of economic stability in Central America is in the national interest of the United States;

(3) the Esquipulas II Accord calls for the signatories "to make dialogue prevail over violence and reason over rancor";

(4) a lasting peace in Central America can only come about through dialogue;

(5) the Governments of El Salvador, Guatemala, and Honduras have entered into direct negotiations with the representatives of both internal opposition organizations and antigovernment insurgent forces to bring about a mutual and verifiable cease fire within those countries and the region as a whole;

(6) the President of Costa Rica and Nobel Laureate Oscar Arias has called for direct negotiations between the Government of Nicaragua and the Nicaraguan Resistance for a mutual and verifiable cease fire;

(7) President Arias stated that a negotiated cease fire between the Government of Nicaragua and the Nicaraguan Resistance is "indespensable if we are to achieve a lasting peace in Central America";

(8) the Presidents of El Salvador, Guatemala, and Honduras have also called upon the Government of Nicaragua to negotiate directly with the Nicaraguan Resistance; and

(9) the President of Nicaragua announced on November 5, 1987, that the Nicaraguan Government would negotiate a cease fire with the Directorate of the Nicaraguan Resistance through an intermediary.

(b) STATEMENT OF CONGRESS.—The Congress urges the Government of Nicaragua to enter into direct negotiations immediately with the Directorate of the Nicaraguan Resistance in order to bring about a mutual and verifiable cease fire and to reach a political settlement with the Nicaraguan Resistance, so that the spirit of the Esquipulas II Accord may be fulfilled and democracy, peace, and economic stability will become reality for Central America.

Mrs. BRYON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. BYRON. Mr. Chairman, I believe that my amendment is pretty straightforward. It is a sense of Congress that the Nicaraguan Government should negotiate directly with the directorate of the Nicaraguan resistance on a mutually binding ceasefire and more importantly, a political settlement to the civil war in Nicaragua. Let me explain why I feel that this amendment is important and why it should receive the overwhelming support of the House.

The Arias plan which was signed by the five Central American countries last August 7 is a constructive step toward ending the turmoil in Central America. As many of you know, I have supported military assistance for the resistance and I make no apologies for that support. At the same time, I have always felt that a diplomatic solution should be pursued if such a plan could enhance the prospects for democratization of the region, particularly with regard to Nicaragua, if peace is to succeed. That is why I was one of the cosigners of the letter drafted last spring by our colleague, Mr. SLATTERY, urging the President to support the Arias initiative.

There will always be an argument, particularly on my side of the aisle as to why the Sandinistas have come to the table. It is my belief that the presence of the Nicaraguan resistance has played a critical role in getting the Sandinistas to negotiate. However, the intent of this amendment is not to weigh the pros and cons of aid to the resistance, it simply states that Congress recognizes that direct negotiations between the Nicaraguan Government and the resistance are essential if: First, a cease-fire is to be effective; and second, if a political settlement in that nation is to be achieved.

As we know, the Arias initiative as signed does not require direct negotiations between the governments and the armed insurgencies in the region. Nonetheless, President Arias has exerted his considerable influence in persuading the Salvadorian Government to talk directly with the FMLN, and for the Guatemalan Government to negotiate with armed insurgencies opposed to that Government. It was the Nicaraguan Government who were the last hold-outs in negotiating with an armed insurgency. Fortunately, that Government has taken a modest step forward in acceeding to negotiations with the resistance through an intermediary.

Last week, Cardinal Obando y Bravo commented that President Ortega should accept face-to-face talks between the Nicaraguan Government and the Nicaraguan resistance. It is interesting to note that the Nicaraguan resistance had accepted the cardinal's terms for a cease-fire during Christmas while the Sandinistas had rejected the same proposal.

I think it is extremely important that Congress send a signal to the Nicaraguan Government that we expect that Government to negotiate a cease-fire with the Nicaraguan resistance which encompasses an acceptable political settlement. And this sense of Congress sends that signal. If there is ever to be a real peace in Nicaragua, democracy must move forward. And for democracy to move forward in Nicaragua, the resistance must be given the right to be a political force within Nicaragua. Otherwise a cease-fire would be a sham.

Let me also reiterate that the Nicaraguan Government should comply with the Arias initiative by lifting the state of emergency, granting amnesty to the thousands of political prisoners held in Nicaraguan jails, lifting all restrictions on the press and political activity immediately. The Nicaraguan Government should not be permitted to use the cease-fire as an excuse to defer compliance with the treaty. We should insist that the Nicaraguan Government be in compliance now. I ask that the amendment be adopted.

□ 1720

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Maryland [Mrs. Byron].

A primary element of the Arias peace plan is a negotiated settlement and cease-fire. All the democratically elected Presidents who signed the Guatemala peace accord have endorsed the principle of direct negotiations between conflicting sides.

In the case of El Salvador, President Duarte has met directly with the armed opposition fighting in his country. He has even met with them in El Salvador; with those he knows kidnapped his daughter.

If we and the other Central American leaders expect that of El Salvador, we can ask no less of Nicaragua.

Even if the Sandinista regime in Nicaragua refuses to allow discussions to take place in Nicaragua, the pressure from respected leaders in the region should make them realize that it is vital to the peace process that they make a good faith effort to negotiate a peaceful end to the conflict in their country and that requires face-to-face discussions with their armed opposition.

The Sandinistas argue they should be sitting down to negotiate with the United States and not with the armed Nicaraguan resistance because the United States gives support to the Contras. If that logic were to follow, then President Duarte should agree only to talk to Nicaragua rather than the guerrillas fighting in El Salvador, and the United States should agree only to talk with Cuba and the Soviet Union rather than Nicaragua. There can be no question, Nicaragua depends for its lifeblood on the total backing and support of Cuba and the Soviet Union.

So if we are to have peace in Nicaragua, it must begin with direct negotiations between the Government of Nicaragua and the Nicaraguan resistance. As my colleagues have pointed out, just this past weekend, Nicaraguan Cardinal Obando y Bravo called on the Sandinista government to agree to direct negotiations with the armed opposition. It seems apparent that if the cardinal's efforts for peace are to go forward, there must be a willingness on both sides to sit down face to face to hammer out a mutually acceptable solution. The Nicarguaan resistance has shown its willingness to do so. The Democratic leaders in the region have urged the Sandinistas to do so. It is essential that the Sandinistas agree to direct negotiations, also, if the peace process is to have a chance in Central America.

AMENDMENT OFFERED BY MR. CHANDLER TO THE AMENDMENT OFFERED BY MRS. BYRON

Mr. CHANDLER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Chandler to the amendment offered by Mrs. Byron: In subsection (a) of the new section proposed to be added by the amendment, strike out the word "and" at the end of paragraph (8); strike out the period at the end of paragraph 9 and insert in lieu thereof a semicolon; and after paragraph 9 insert the following:

"(10) in signing the Central American peace accord on August 7, 1987, entitled 'Procedure for the Establishment of a Strong and Lasting Peace in Central America', the Nicaraguan Government pledged 'to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice [and] respect for human rights'; and

"(11) under that accord, Nicaragua is specifically required to establish 'complete freedom of press, television and radio' 'for all ideological groups' 'without prior censorship'; to grant political groupings 'broad access to communications media' and full exercise of the rights of association, free speech, and movement; to decree an amnesty guaranteeing 'freedom in all its forms'; and to terminate state of emergency laws while reestablishing 'the full exercise of all constitutional guarantees'."

At the end of subsection (b) of the new proposed section to be added by the amendment, add the following:

"(c) *Actions Which Should Be Undertaken by Nicaragua.*—It is the sense of the Congress that Nicaragua should undertake the following reforms in order to bring about lasting peace, pluralism, and democracy in Nicaragua:

(1) In general.—

(A) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(B) Restore rights to security of person and home and freedom from unjustified arrest.

(C) Stop coercive pressure to join Sandinista party groups.

(D) Stop discriminatory and punitive application of military conscription.

(E) Allow all citizens, including refugees and exiles, to return to Nicaragua.

(F) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including campesinos, Creoles, and Indians.

(G) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

(H) Permit independent human rights observers, including the International Committee of the Red Cross, to meet and travel freely and to visit prisoners, prisons, and tribunals.

(I) End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(2) Political process reforms.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(B) End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(C) Abolish the role of the Committees for the Defense of Sandinismo's (CDS) and other party organizations in dispensing rationing cards and government services.

(D) Conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

(E) Repeal the suspension provisions of the Nicaraguan constitution.

(F) Separate the armed forces from any political party.

(3) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press.

(B) End newsprint restrictions and allow private newsprint sales.

(C) Allow the full spectrum of private television and radio broadcasting.

(4) LABOR RIGHTS.—

(A) Ensure the right to strike and to publish by independent unions.

(B) Release those imprisoned because of non-violent union activities.

(5) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic church to reopen its social welfare, human rights, and publication offices.

(B) Allow Cardinal Obando Y Bravo to resume his televised Sunday mass.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(6) CAMPESINO RIGHTS.—

(A) End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

(B) Cease aerial bombing attacks against civilians and their properties.

(C) Cease the destruction of peasant farmlands.

(D) End pressure to join Sandinista farming cooperatives.

(7) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

(C) Cease aerial bombings and attacks on Atlantic Coast civilians and their properties.

(D) Allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

(d) ACHIEVEMENT OF DEMOCRATIC PRINCIPLES AND PROCESSES IN CENTRAL AMERICA.—It is the sense of the Congress that all countries in Central America should continue to work toward achieving the democratic principles and processes specified in the Central American peace accord of August 7, 1987, entitled 'Procedure for the Establishment of a Strong and Lasting Peace in Central America'."

Mr. CHANDLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. CHANDLER. Mr. Chairman, my amendment calls for specific reforms in Nicaragua so that it will be in full compliance with the Guatemala peace accord. Let's send a message to Central America and especially Nicaragua that we are serious about the Guatemala accord, and that we are serious about democracy.

We all hope that the evidence of full and free democracy in Nicaragua will be clear and unequivocal. Our obligation, as a body that has taken a real and active role in the affairs of this region, is to be certain that the fullest reform possible is realized during this period and beyond.

My amendment elaborates on the needed changes for Nicaragua to fully comply with the letter and spirit of the Guatemala accord.

Among its provisions are:

The rights of opposition parties to meet and organize;

Full freedom of the press;

Freedom for the labor movement to organize and strike;

Unrestrained religious liberty; and

Equal rights for Atlantic coast and Indian peoples.

These principles, the amendment states, should be adopted by all countries in the region.

My amendment also goes into much needed detail on these points. And these principles, it states, should be adopted by all countries in the region.

All political prisoners must be released, not just 10 or 20 percent.

The right of due process and a fair trial must be restored and the prisons must be opened to human rights monitors including the International Committee of the Red Cross.

The right of the Nicaraguan President to suspend the constitution must be abolished, and the national army should be just that, and not the Sandinista's army.

Another key provision is the abolition of the Sandinista Defense Committee's role in dispensing ration cards and other government services which can be used to coerce citizens into joining the ruling party.

The Catholic Church must be allowed to reopen its social welfare, human rights and publication offices, and Cardinal Obando y Bravo must be allowed to resume his televised Sunday Mass; and the persecution of Protestant evangelicals must end.

As the deadline for the agreement signed in Esquipulas by the Central American Presidents draw near, we all hope for a positive outcome. Our common hope is for a peaceful solution to the war in Nicaragua which brings true freedom and democracy to the Nicaraguan people.

Unfortunately, it is not clear that the Sandinistas want such an outcome. We must be sure they do not use this peace initiative to eliminate the Nicaraguan resistance and irrevocably consolidate their power.

Already there are disturbing signs that this is exactly what they will do.

Press gangs have broken into opposition party meetings to take people for the army. Since August, the Sandinistas have called up 30,000 more troops to augment their 70,000 member army.

And just this fall, a mob of women carrying sticks, rocks, and clubs attacked a small rally of the Mothers of the Political Prisoners movement.

The women, members of the government sponsored "Mothers of the Martyrs of the Revolution," were bused in at government expense and Lenin Cerna, the chief of Nicaragua's Secret Police, was present at the riot. Many women had to be hospitalized and at least two were killed.

Finally, Radio Catolica has already been censored by the government, and has until recently been forbidden to broadcast any news at all.

Unfortunately, a few of our colleagues have expressed dissatisfaction with these steps, and we have heard an amendment in the nature of a substitute might be offered.

This substitute would gut all of the specific changes listed in our amendment, and send a message to the Sandinistas that Congress does not expect them to make real and lasting changes under the Guatemala accord.

I am confident, however, that the majority of my colleagues will oppose any such changes, and send a clear message to the Sandinistas that we support full democratization in all of Central America.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

There are 33 specific conditions in the amendment with regard to the Central American peace effort. The peace plan has already been written and it is going to be difficult enough, it seems to me, for the countries that have signed that agreement to make a determination as to whether or not the agreement has or has not been complied with.

The one thing they do not need, in my judgment, is a determination legislatively as to the specific steps that would have to be taken in order to qualify under the gentleman's agreement.

This is micromanagement of the worst kind. I know the amendment is presented in the proper spirit. We are all doing our best to bring peace one way or another to Central America, but the one way we do not want to do it, it seems to me, is for the United States through its elected Representatives to attempt to detail the specifics of that which has been agreed to by the signatory parties.

The United States did not sign that agreement. We reserve the flexibility to make our own judgments in light of the facts at the appropriate time. This would set, even though it is the sense of Congress, in concrete 33 criteria or conditions, without any examination of the facts at the time.

I think despite the good spirit and the good intentions involved here, all this does is throw so much sand into the machine that even a monkey wrench could not straighten it out, so I would urge that the amendment be defeated.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I urge my colleague to support the cause of democracy and support the Chandler amendment to the Byron amendment. Frankly I do not understand how anyone can object to this language. This is not micromanagement, this is not a funding bill. Those opposed to this amendment on the grounds of micromanagement have had no problem supporting other bills which micromanaged policy in Central America and have continually attempted to place a variety of conditions on other legislation dealing with Central America. However, this is not micromanaging, this is not a funding bill. It is a sense of Congress, a statement of principles. Who can object to these principles?

POLITICAL PROCESS REFORMS

First, allow political parties and democratic opposition to meet and march publicly, publicize meetings, meet with and utilize media.

Second, end jailing of opposition party activists, and drafting them or their children in reprisal for nonviolent political activity.

Third, abolish role of the Committees for the Defense of Sandinismo's [CDS] and other party organizations in dispensing rationing cards and Government services.

Fourth, free and open Presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

Fifth, repeal of suspension provisions of Constitution.

Sixth, separate the armed forces from any political party.

PRESS AND MEDIA RIGHTS

First, allow uncensored, free press.

Second, end newsprint restrictions and allow private newsprint sales.

Third, allow full spectrum of private television and radio broadcasting.

LABOR RIGHTS

First, ensure the right to strike and publish by independent unions.

Second, release those imprisoned because of nonviolent union activities.

RELIGIOUS FREEDOMS

First, allow the Catholic church to reopen its social welfare, human rights and publication offices.

Second, allow Cardinal Obando y Bravo to resume his televised Sunday Mass.

Third, allow the return of all expelled Catholic priests.

Fourth, allow religion courses to be taught in private schools.

Fifth, allow Protestant evangelicals to preach and conduct meetings.

CAMPESINO RIGHTS

First, end preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

Second, cease aerial bombing attacks against civilians and their properties.

Third, cease destruction of peasant farmlands.

Fourth, end pressure to join Sandinista farming cooperatives.

INDIAN AND CREOLE RIGHTS

First, permit Atlantic coast residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

Second, end forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

Third, cease aerial bombings and attacks on Atlantic civilians, and their properties.

Fourth, allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

I urge my colleagues to support the Chandler amendment for democracy in Nicaragua. This amendment is carefully crafted to promote the peace process rather than political agendas. Above all else this is a truth in labeling measure. Simply put, it defines the ingredients which must be in the mix for the package to be labeled democracy. Clearly, this is not all inclusive list, none could be, but it is a list which provides enough specifics that we can categorically state that the substance and not just the form of democracy is present. The Congress must state that it is serious about the substance of democratic reforms not just the appearance.

Let us cast a vote for democracy. Support the complete language of the amendment. Support the Guatemala peace accord. Vote for the amendment.

Mr. CROCKETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment to the amendment.

□ 1735

Mr. CROCKETT. Mr. Chairman, this amendment lays out standards for human rights and democratic reforms to which we can all readily subscribe. Unfortunately, the amendment only applies those standards to Nicaragua, while many of them clearly apply not only to other signatories of the Guatemala agreement—El Salvador and Guatemala—but also to numerous other countries throughout Latin America.

Wouldn't the gentleman also want to call upon the Governments of Haiti and Panama to ensure freedom of expression and to call for free and open elections? Wouldn't he also want to call upon the Governments of Cuba, Chile, and Paraguay, and numerous others, to end all forms of torture and to end the practice of holding prisoners incommunicado? Wouldn't he also want to address the issue of aerial bombardment in El Salvador, and the denial of rights and the forced resettlement of Indians in Guatemala? Is there a free press in Paraguay, Panama, or Chile, or a full spectrum of private television and radio broadcasting?

I think I have made my point. I think the gentleman should be commended for developing an excellent list of goals for human rights and democracy throughout the world. Unfortunately, the list is neither all inclusive nor evenhanded. If the gentleman would like to modify the amendment to state the support of the Congress for these actions in all countries in the Western Hemisphere where they do not already exist, I will be anxious to support him.

Until that time, I will have to oppose the gentleman's amendment.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. CROCKETT. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding me this time.

Why does the gentleman stop at the Western Hemisphere? Why do we not encompass the whole world? Why do we not just put in the Soviet Union, Vietnam, North Korea, and so on?

Mr. CROCKETT. Mr. Chairman, indeed in my argument, if the gentleman from Pennsylvania [Mr. RITTER] had listened carefully, I said it should apply to all places where these rights do not now exist. I am not optimistic enough however to believe we will be able to pass it with respect to all the world where these rights do not now exist, but we might pass it with respect to the Western Hemisphere.

Mr. RITTER. If the gentleman will continue to yield, the point I am trying to make is that we could encompass the world, and there is a lot out there that could be included in this amendment, but what we are talking about is the peace process in Nicaragua. We are not talking about the peace process in the Soviet Union or the peace process in Vietnam or the peace process in North Korea. We are talking about Nicaragua.

This whole amendment is about Nicaragua.

Mr. CROCKETT. Reclaiming my time, we were not talking about the peace process of the world, we are talking about democratic standards, and the argument is being made that in order to have democratic standards we need to have them just in one place, Nicaragua.

Mr. HYDE. Mr. Chairman, I move to strike the last word, and rise in support of the amendment.

Mr. Chairman, I will be very brief. I would be embarrassed to vote against this amendment. This amendment certifies such radical things as end forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

What is wrong with a sense-of-Congress resolution that we support that?

Insure right to strike and publish by independent unions, release those imprisoned because of nonviolent union activities.

Who wants to vote against that?

We pass resolution after resolution, and sense of Congress, we commend, we condemn, we point with pride, we view with alarm, and this list of things my colleagues ought to be proud to support. It is not sand. These are diamonds, diamonds of freedom. These are things this country was built on. These are things this country stands for. To include a sense of Congress portion in this monster bill that we stand for the free press, the freedom of religion, compesino rights, Indian and Creole rights, I would be embarrassed to vote "no."

Mr. CHANDLER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Washington.

Mr. CHANDLER. Mr. Chairman, I wanted the gentleman from Michigan [Mr. CROCKETT] to yield, but I would like to at this point thoughtfully suggest that the committee has already established a standard for Nicaragua in this bill. Part of the language that was in the original Tallon-Chandler bill. It is already written that there should be freedoms of expression, association, assembly and movement, religion and education. If the rest of what I want to do is sand in the gears, then that is, too. Either we have a standard by which we are going to make decisions in this country or we do not. I am simply suggesting that in addition to those standards to which we have already agreed without debate, as my colleagues would expect, we add press and media rights, uncensored press, labor rights, religious freedoms, and I fail to understand why we have already thrown sand in the working parts of the Western Hemisphere with those suggestions if we have not already done so with the initial ones.

Does the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs, want to respond?

Mr. FASCELL. Mr. Chairman, if the gentleman has the time I will be glad to respond.

Mr. HYDE. Mr. Chairman, I am happy to yield to the gentleman from Florida.

Mr. FASCELL. It is just a fact, gentlemen, that we all understand what is going on here. Of course the principles are all right. I do not know about the one about teaching religion in private schools, I might want to debate my colleagues on that for a little while.

Mr. HYDE. Reclaiming my time, would the gentleman want it forbidden?

Mr. FASCELL. If the gentleman will yield, I did not say that. I just said that I might wish to debate that with my colleagues on that side of the aisle.

Mr. HYDE. Well, it does not force them to do that. It says "permit." That is a very important point.

Mr. FASCELL. Is the gentleman from Illinois [Mr. HYDE] still yielding to me. Do you want me to respond?

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Florida. I am sorry I may have intruded on his momentum.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

We did accept part of the Tallon amendment. The fact is that this matter would have been subject to a point of order. We were not prepared to rewrite the Guatemala accord.

This will be the third time, but if it satisfies my colleagues on that side of the aisle that that is the way they think we ought to intelligently proceed, so that we might bleed every day to show our strong support for democracy in Central America, so be it.

Mr. HYDE. Mr. Chairman, is the gentleman accepting the amendment?

Mr. FASCELL. Mr. Chairman, I did not accept the amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the perfecting amendment by the gentleman from Washington [Mr. CHANDLER] to the amendment by the gentlelady from Maryland.

The entire thrust of the Arias peace plan for Central America hinges on the requirement there be democratic governments in each country. As President Arias said, "Without democracy, there can be no peace in Central America."

The Guatemala peace accord places as much emphasis on the requirements for democratic institutions and the protection of personal liberties as it does on ending the actual fighting between sides.

The Arias plan makes clear that all elements are equal and indivisible. Quoting from the peace agreement, signed by all the Central American leaders, including Daniel Ortega:

> The points included in this document form part of a harmonious and indivisible whole. The signing [of the document] incurs an obligation, accepted in good faith, to simultaneously comply with the agreement in the establishment of periods.

It was said of this Arias peace plan that it is not a menu from which to choose those courses each President liked. It was a total document obligating each government to adhere to all the principles to which they committed themselves by agreeing to sign the peace accord.

The unfortunate fact is that the Sandinistas signed the Guatemala plan in August, and then unilaterally issued a second peace plan in November which completely contradicts their commitments to the Guatemala peace agreement. It reverts the whole peace process back to the failed Contadora approach because the Sandinistas, in their November peace plan, no longer agree to the elements of simultaneity of the Arias plan, but now require surrender of the opposition before they agree to carry out democratization.

It is for that reason why it is imperative that we support the Tallon language in its entirety with all of its detail. It is the full democratization of Nicaragua that is the key to peace in the region. We cannot minimize our emphasis on that fact, and we must continue to hold the Sandinistas and the other Central American leaders to their commitments for democracy in the region. Otherwise, all the hope we have placed in the Arias peace initiative will be sadly crushed.

I urge my colleagues to give their strong, bipartisan support to the Chandler language and to the Byron amendment as it is amended by the Chandler amendment.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am amazed that there is opposition to this sense of Congress resolution. I am amazed that there is opposition to a section of this resolution that talks about free press and media rights.

How in the world can there be the achievement of a democratic process in Nicaragua if there is no free press and media rights?

On the one hand we say they should stop forcible conscription of youth, but on the other hand we will not say that they should have freedom of the press.

How can we have freedom and democracy in a process that moves toward peace in Nicaragua if we do not allow religious freedom?

There are two major features of this process, one is the press, and the other is the church. In this bill we are going to ignore them.

Mr. Chairman, I think in all good conscience it should be very, very difficult to vote against this amendment, and I urge staunch support from all quarters and from all Members of this House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. CHANDLER] to the amendment offered by the gentlewoman from Maryland [Mrs. BYRON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CHANDLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 346, noes 58, not voting 29, as follows:

[Roll No. 461]

AYES—346

Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Craig
Daniel
Dannemeyer
Darden
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dingell
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Penny
Perkins
Petri
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—58

Ackerman
Akaka
Alexander
Atkins
Bates
Beilenson
Bennett
Bonior
Brown (CA)
Clay
Collins
Conyers
Coyne
Crockett
DeFazio
Dellums
Downey
Dymally
Edwards (CA)
Evans
Fascell
Frank
Garcia
Gonzalez
Gray (PA)
Hawkins
Hayes (IL)
Kastenmeier
Kennedy
Lehman (CA)
Lehman (FL)
Leland
Lewis (GA)
Lowry (WA)
Markey
McHugh
Miller (CA)
Moody
Morrison (CT)
Murtha
Oberstar
Obey
Olin
Owens (NY)
Pease
Pepper
Pickett
Rangel
Rodino
Roybal
Sabo
Savage
Sikorski
Stark
Studds
Weiss
Wheat
Wyden

NOT VOTING—29

Baker
Biaggi
Bliley
Courter
Crane
Daub
Dicks
Dixon
Donnelly
Dowdy
Flake
Ford (TN)
Gephardt
Hall (OH)
Kemp
Lancaster
Lungren
Martinez
McCurdy
Mfume
Mineta
Pelosi
Roemer
Shumway
Slattery
Stokes
Sweeney
Towns
Williams

□ 1805

Mr. AKAKA and **Mr. RODINO** changed their votes from "aye" to "no."

Mrs. MEYERS of Kansas and **Messrs. LEVINE** of California, **FOGLIETTA**, and **MOLLOHAN** changed their votes from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. FASCELL Mr. Chairman, will the gentleman yield,

Mr. WEISS. I am pleased to yield to the gentleman from Florida, chairman of the full committee.

Mr. FASCELL Mr. Chairman, I would like to explain that it is the intention of the manager of the bill that when we dispose of the basic amendment that is now before us to ask that the committee rise.

We will finish our deliberations tomorrow. But in order to do that, Mr. Chairman, we have to get to the basic amendment which is the pending Byron amendment, as amended.

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from New York [Mr. WEISS] has been recognized.

Mr. WALKER. Mr. Chairman, I want to reserve a point of order on the amendment to the amendment.

The CHAIRMAN. The Clerk will first report the amendment and then the gentleman is entitled to reserve a point of order.

AMENDMENT OFFERED BY MR. WEISS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MRS. BYRON, AS AMENDED

Mr. WEISS. Mr. Chairman, I offer an amendment as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. WEISS as a substitute for the amendment offered by Mrs. BYRON, as amended: Page 121, add the following after line 25:

SEC. 713. CENTRAL AMERICAN PEACE AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) the Presidents of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica signed the "Esquipulas II Accord" on August 7, 1987, to establish democracy, end civil strife, and promote economic stability in Central America;

(2) the establishment of democracy, the termination of civil strife, and the promotion of economic stability in Central America is in the national interest of the United States;

(3) the Esquipulas II Accord calls for the signatories "to make dialogue prevail over violence and reason over rancor";

(4) a lasting peace in Central America can only come about through dialogue;

(5) the Governments of El Salvador, Guatemala, and Honduras have entered into direct negotiations with the representatives of both internal opposition organizations and antigovernmental insurgent forces to bring about a mutual and verifiable cease fire within those countries and the region as a whole:

(6) the President of Costa Rica and Nobel Laureate Oscar Arias has called for direct negotiations between the Government of Nicaragua and the Nicaraguan Resistance for a mutual and verifiable cease fire;

(7) President Arias stated that a negotiated cease fire between the Government of Nicaragua and the Nicaraguan Resistance is "indispensable if we are to achieve a lasting peace in Central America";

(8) the Presidents of El Salvador, Guatemala, and Honduras has also called upon the Government of Nicaragua to negotiate directly with the Nicaraguan Resistance;

(9) the President of Nicaragua announced on November 5, 1987, that the Nicaraguan Government would negotiate a cease fire with the Directorate of the Nicaraguan Resistance through an intermediary;

"(10) in signing the Central American peace accord on August 7, 1987, entitled 'Procedure for the Establishment of a Strong and Lasting Peace in Central America', the Central American Governments pledged 'to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice [and] respect for human rights'; and

(11) under that accord, the Central American Governments are specifically required to establish 'complete freedom of press, television and radio' 'for all ideological groups' 'without prior censorship'; to grant political groupings 'broad access to communications media' and full exercise of the rights of association, free speech, and movement; to decree an amnesty guaranteeing 'freedom in all its forms'; and to terminate state of emergency laws while reestablishing 'the full exercise of all constitutional guarantees'."

(b) STATEMENT OF CONGRESS.—The Congress urges the Government of Nicaragua to enter into direct negotiations immediately with the Directorate of the Nicaraguan Resistance in order to bring about a mutual and verifiable cease fire and to reach a political settlement with the Nicaraguan Resistance, so that the spirit of the Esquipulas II Accord may be fulfilled and democracy, peace, and economic stability will become reality for Central America.

"(c) ACTIONS WHICH SHOULD BE UNDERTAKEN.—It is the sense of the Congress that each of the Central American Governments should undertake the following reforms in order to bring about lasting peace, pluralism, and democracy;

(1) IN GENERAL.—

(A) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(B) Restore rights to security of person and home and freedom from unjustified arrest.

(C) Stop coercive pressure to join Sandinista party groups.

(D) Stop discriminatory and punitive application of military conscription.

(E) Allow all citizens, including refugees and exiles, to return.

(F) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including campesinos, Creoles, and Indians.

(G) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

(H) Permit independent human rights observers, including the International Committee of the Red Cross, to meet and travel freely and to visit prisoners, prisons, and tribunals.

(I) End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(2) POLITICAL PROCESS REFORMS.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(B) End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(C) Abolish the role of party organizations in dispensing rationing cards and government services.

(D) Conduct free and open presidential, legislative, and municipal elections as specified by current law.

(E) Repeal the suspension provisions of the constitution.

(F) Separate the armed forces from any political party.

(3) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press.

(B) End newsprint restrictions and allow private newsprint sales.

(C) Allow the full spectrum of private television and radio broadcasting.

(4) LABOR RIGHTS.—

(A) Ensure the right to strike and to publish by independent unions.

(B) Release those imprisoned because of non-violent union activities.

(5) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic church to reopen its social welfare, human rights, and publication offices.

(B) Allow resumption of televised Sunday masses.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(6) CAMPESINO RIGHTS.—

(A) End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

(B) Cease aerial bombing attacks against civilians and their properties.

(C) Cease the destruction of peasant farmlands.

(D) End pressure to join farming cooperatives.

(7) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

(C) Cease aerial bombings and attacks on civilians and their properties.

(D) Allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

(d) ACHIEVEMENT OF DEMOCRATIC PRINCIPLES AND PROCESSES IN CENTRAL AMERICA.—It is the sense of the Congress that all countries in Central America should continue to work toward achieving the democratic principles and processes specified in the Central American peace accord of August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America."

Mr. WEISS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WALKER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order on the amendment.

Mr. WEISS. Mr. Chairman, very briefly let me explain what this substitute is about. What I do is to take that portion of the amendment to the Byron amendment that was offered by Mr. CHANDLER and provide a substitute for that and the substitute very simply strikes wherever the word "Nicaragua" or "Nicaraguan government" appears and says "the governments of Central America." So that everything else remains exactly the same. The purpose of it is to indicate that the Central American peace accord did not just have the Nicaraguan Government pledge to do certain things regarding democracy; it pledged all the governments of Central America.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be delighted to yield to the chairman.

Mr. FASCELL. I thank the gentleman from New York for yielding. Mr. Chairman, I just want to be sure I heard the gentleman correctly. That is he takes the Chandler language as it is and simply makes it applicable to all of the Central American governments?

Mr. WEISS. The Chairman is absolutely correct.

Mr. FASCELL. Mr. Chairman, as far as I am concerned on this side we are happy to accept the substitute.

Mr. WEISS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. WALKER] intend to raise his point of order at this point?

Mr. WALKER. No, Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from Pennsylvania withdraws his point of order.

Mr. HYDE. Mr. Chairman, I move to strike the last word and I rise in opposition to the substitute offered by the gentleman from New York.

Mr. Chairman, ladies and gentlemen, this amendment would be a serious mistake because it diffuses the focus off of Nicaragua, which is the country in question and applies it to all of Central America, such as Costa Rica, a democracy of long-standing and of admirable history. We are not talking about all of Central America. If we are, let us talk about South America, let us talk about the Middle East, let us talk about the subcontinent. Everybody with an I.Q. above room temperature understands that Nicaragua is the problem in Central America.

They are surrounded by democracies, fledgling or otherwise.

Nicaragua is the problem, led by a Marxist-Leninist junta.

These points that were made apply to Nicaragua. Now if you vote for the gentleman from New York's amendment then you are removing the onus, the focus, the attention on Nicaragua's conduct and you are applying it to Costa Rica, to Guatemala, to Honduras, to El Salvador and everywhere else. If indeed we have a problem removing the Miskito Indians from Costa Rica, then let us have some legislation on that. As I understand it, the Miskito Indians are being moved from their homes by the Nicaraguan Sandinistas. So the gentleman's amendment does not make sense. Please do not permit the adulteration of a good blow for freedom and some specificity on where this Congress stands on freedom and democracy and human rights in Nicaragua by applying the gentleman's watered-down, adulterated language.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. I thank the gentleman for yielding.

Mr. Chairman, the most important aspect of my amendment is that it calls for a political settlement in Nicaragua because a ceasefire would only be effective if there is a political settlement. And the key to a political settlement to the civil war in Nicaragua is the democratization of Nicaragua. Therefore, I think, it is extremely important that we establish the necessary criteria for judging the progress of the Nicaraguan Government in granting freedom to the Nicaraguan people. And the amendment works hand in hand with the Arias peace initiative in promoting those reforms in Nicaragua which are necessary for the plan to succeed. We have just had an overwhelming vote in support of the substitute to my amendment which puts hand in glove the teeth that are necessary to work for the political settlement.

Mr. HYDE. Would the gentlewoman agree that the gentleman from New York's amendment guts her amendment and makes it gibberish because it talks about things that do not apply to central America?

Mrs. BYRON. I would have no problem with applying it to Central America if other Central American countries such as Costa Rica and several others have the same problem that we see in the Nicaraguan Government.

Mr. HYDE. It seems to me there is a free press in Costa Rica, is there not?

Mrs. BYRON. I believe there is.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, a group of us just returned from Costa Rica with Speaker WRIGHT and when we met with President Arias, what President Arias had to say was his deep concern about what was going on in Nicaragua and his concern about the democratization in Nicaragua. The shift of focus here would be out of line, because the other countries are completely different than the problems we have with Nicaragua and we should really reject this overwhelmingly and send a clear message to Central America, to Nicaragua and support President Arias in his bid to try to democratize Nicaragua.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the present language has places where only things Nicaraguan are mentioned. In Item 6(d) there is something here to end pressure to join Sandinista farming cooperatives or to cease aerial bombing and attacks on Atlantic coast civilians.

Mr. HYDE. Does the gentleman mean none of that applies elsewhere in Central America, only in Nicaragua?

Mr. RITTER. I think the gentleman is correct when he makes that statement.

Mr. HYDE. Then it would be foolish and a non sequitur to adopt the gentleman's language when what we are talking about applies to Nicaragua?

Mr. RITTER. Yes, words like foolish, nonsense and non sequitur do apply.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

I think to adopt the gentleman from New York's amendment would be to trivialize this whole issue. It does not make a lot of sense to say in all Central America we should stop coercive pressure to join Sandinista party groups? I did not know that there were any. Or that the governments of El Salvador, Guatemala and Costa Rica were pressuring people to join them? That does not make any sense.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I find one thing which is very disturbing in here. If I understand the gentleman from New York's amendment correctly, the other nations of Central America would have to conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law. We would take a longstanding democracy like Costa Rica and bind them to Nicaraguan law under the gentleman's amendment. That is absolutely ludicrous.

Mr. LAGOMARSINO. It is also ludicrous that they would be required to repeal the suspension provisons of the Nicaraguan constitution in El Salvador.

How would the other countries allow Cardinal Obando y Bravo to resume his televised Sunday Mass? Or to cease aerial bombings and attacks on Atlantic coast civilians when one of the countries does not even have an Atlantic coast. I think it is ridiculous. Let us vote this down.

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Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will just take 30 seconds. I think this is very important.

The purpose of the Chandler amendment was to focus on one major potential problem in Central America, that dealing with a Communist government in Nicaragua.

The gentleman's amendment that is now pending would truly trivialize and in fact take us quite apart from the major point that is attempting to be made at this time. The problem is Nicaragua and the form of government some are trying to have in Nicaragua. The problem is not Costa Rica, not Guatemala, but Nicaragua.

Mr. Chairman, I ask the Members to vote "no" on the substitute amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to make a few things clear. I think we are getting this confused a little bit, because as I understand the gentleman's amendment and as I understood the chairman of the full committee, they were saying that the Central American nations agreed to be bound by this and they did not think it was a good idea to single out anyone, but that they would all move toward this; is that correct? Is that the purpose of the gentleman's amendment?

Mr. WEISS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentlewoman for yielding.

Let me clarify the situation. I had assumed that my substitute amendment was so modest and universally acceptable that I did not speak on behalf of it. That is why I think the committee chairman accepted it.

What it does is really to maintain the basic Byron language. It does not touch that at all. It does not gut her language at all. It leaves it alone, and then it takes the additional language offered by the gentleman from Washington [Mr. CHANDLER] and makes that applicable to all the Central American governments.

Mr. Chairman, if my friend, the gentleman from Pennsylvania, will listen, it does not say, by December 31, 1990. It says by the constitutional standard that they have in any of the Central American countries, that we have made sure that in fact we are for democracy everywhere in Central America, because that is what they pledged themselves to in Guatemala.

Mrs. SCHROEDER. Mr. Chairman, if I may reclaim my time, that is what I understood the gentleman to be saying, and I think that is what I understood the chairman of the committee to be saying.

Mr. Chairman, I will yield to the chairman of the full committee and ask him, is that his understanding, that it is better to go along with what they all agreed to?

Mr. FASCELL. Mr. Chairman, I thought that all the countries that had agreed had signed that agreement.

Mrs. SCHROEDER. That is certainly what I thought, and I would think that to move forward and get into meddling and saying that only one really meant it or only one needs it, we would start to be interfering.

Mr. FASCELL. Mr. Chairman, will the gentleman yield further?

Mrs. SCHROEDER. I yield to the chairman of the committee.

Mr. FASCELL. Mr. Chairman, I would like to say that we are either going to have to vote on this amendment or we are going to have to rise. I think the issue is very clear. I would hope that we could dispose of this and dispose of the underlying amendments so that we could rise tonight.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman, and I think he is absolutely correct. I hope that we go along with the Arias agreement.

Mr. Chairman, I yield back the balance of my time.

Mr. CHANDLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, maybe Members find it offensive that people in the United States would like to know what the standard is that we are expecting for a Communist government in our attempt to help bring about reforms, and if that is so, that is too bad. But make no mistake about it, Members here today by an overwhelming vote said that we want press and media rights guaranteed in Nicaragua, we want labor rights in Nicaragua, and we want religious freedoms in Nicaragua, and those who are offended by that are now saying, "Oh, we want to apply that to everybody."

Well when I was in Central America, I do not recall anybody from Costa Rica coming to me, especially the President of that country who won the Nobel Peace Prize, and saying, "We need you, America, to help us guarantee press freedom in our country," or religious freedom or any other freedom, because they have already got it.

In fact, what President Arias said to us was that the only problem in Central America is the Sandinista government in Nicaragua, and as long as that government exists, there will never be freedom there. That is what we learned there, and that is what my amendment was aimed at.

Mr. Chairman, I say to the Members, if you want to aim something at Costa Rica and at Guatemala, the governments that have elected their leaders, than go ahead and do it with your own amendment, but do not try to do it with mine. This is aimed at Communists in Nicaragua, not the people who love freedom.

Mr. HYDE. Mr. Chairman, will be gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, the terminal flaw, in my judgment, with the amendment offered by the gentleman from New York [Mr. WEISS] is that it establishes a moral symmetry between all the countries in Central America, and anyone who thinks there is a moral symmetry down there does not know Central America.

Mr. CHANDLER. Mr. Chairman, when I was in El Salvador talking with the President of that country, President Duarte, he said that one of his biggest problems right now is the press, because they write whatever they want to about him. This is one of his problems. That is one of ours in this country. And is that good? Of course it is. Napolean Duarte has that problem in his country, and I will guarantee that Daniel Ortega does not have that problem in his country. That is why I wrote this amendment the way I did, and if Members find that offensive, I am sorry.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are some distinguished members of the majority in this House who are at this moment drafting yet another perfecting amendment. I would like to see the debate go on until that is accomplished, but I do not see how we can drag it out any longer. I think we have come down to the bottom line.

This is not a moral equivalency argument. If you want to, as the gentleman from Illinois has said, draw some sort of a moral symmetry between four dynamic little democracies and the communist hell-hole that the Sandinistas have turned Nicaragua into, then you can vote for Weiss. If you want to sustain the overwhelming vote for the Chandler amendment, then you will vote down Weiss.

Mr. Chairman, I think we are ready to vote. What are we waiting for?

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I am glad to yield to my colleague, the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank my friend for yielding. Mr. Chairman, does the gentleman agree that on August 7 five of the Central American countries in fact agreed and pledged to support the Arias peace plan?

Mr. DORNAN of California. Yes.

Mr. WEISS. Mr. Chairman, I thank the gentleman.

Mr. DORNAN of California. Mr. Chairman, I believe we are ready to vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. WEISS] as a substitute for the amendment offered by the gentlewoman from Maryland [Mrs. BYRON], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 290, not voting 33, as follows:

[Roll No. 462]

AYES—110

Ackerman
Akaka
Atkins
AuCoin
Bates
Beilenson
Berman
Bonior
Bonker
Bosco
Boucher
Boxer
Brown (CA)
Campbell
Cardin
Carper
Carr
Clay
Coelho
Collins
Conyers
Crockett
DeFazio
Dellums
Dingell
Dymally
Edwards (CA)
Espy
Evans
Fascell
Fazio
Foglietta
Foley
Ford (MI)
Frank
Garcia
Gejdenson
Gonzalez
Gray (PA)
Hamilton
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Howard
Jacobs
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kostmayer
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
Manton
Markey
Matsui
McCloskey
McHugh
Miller (CA)
Moody
Morrison (CT)
Mrazek
Nagle
Neal
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Rahall
Rangel
Rodino
Roybal
Russo
Sabo
Savage
Scheuer
Schroeder
Schumer
Sikorski
Skaggs
Slaughter (NY)
Solarz
Staggers
Stark
Studds
Swift
Synar
Torres
Traxler
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Williams
Wolpe
Wyden
Yates

NOES—290

Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Borski
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Chandler
Chapman
Chappell
Clarke
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Davis (IL)
de la Garza
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Fawell
Feighan
Fields
Fish
Flippo
Florio

Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kasich
Kleczka
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Nelson
Nielson
Nowak
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Udall
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Whitten
Wilson
Wise
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—33

Baker
Biaggi
Cheney
Courter
Daub
Davis (MI)
Dicks
Dixon
Donnelly
Dowdy
Downey
Flake
Ford (TN)
Gephardt
Hall (OH)
Johnson (CT)
Kemp
Lancaster
Lungren
Martinez
Mfume
Michel
Mineta
Moakley
Nichols
Pelosi
Roemer
Rose
Shumway
Slattery
Stokes
Sweeney
Towns

☐ 1845

The Clerk announced the following pairs:

On this vote:

Ms. Pelosi for, with Mr. Daub against.

Mr. Mineta for, with Mr. Courter against.

Mr. WISE and Mr. DURBIN changed their votes from "aye" to "no."

Ms. SLAUGHTER of New York, Mr. LEVIN of Michigan, Ms. KAPTUR, Mr. RUSSO, and Mr. MOODY changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment, offered by the gentlewoman from Maryland [Mrs. BYRON], as amended.

The amendment, as amended, was agreed to.

Mr. FASCELL. Mr. Chairman, I move the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. RODINO] having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, had come to no resolution thereon.

ARMS CONTROL AND DISARMAMENT AMENDMENTS ACT OF 1987

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2689) to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes, with Senate amendments thereto, concur in the Senate amendment to the text of the bill with an amendment, and disagree to the Senate amendment to the title of the bill.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1987".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"(a)(1) To carry out the purposes of this Act, there are authorized to be appropriated—

"(A) $29,000,000 for the fiscal year 1988 and $29,800,000 for fiscal year 1989; and

"(B) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

"(2) Of the amounts authorized to be appropriated by paragraph (1)(A) for each of the fiscal years 1988 and 1989—

"(A) $7,063,000 shall be available only to pay necessary expenses incurred in connection with arms control negotiations conducted with the Government of the Soviet Union on strategic arms reductions, intermediate-range nuclear forces, and space and defensive weapons;

"(B) not less than $310,000 shall be available only for the program for visiting scholars in the field of arms control and disarmament established under section 28 of this Act;

"(C) $780,000 shall be used for external research to assist the Bureau of Verification and Intelligence in making assessments of possible new systems, devices, and capabilities for verification of arms control;

"(D) not more than $1,560,000 may be used for any other external research program; and

"(E) a total of not more than $3,000,000 may be used for all external research.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

SEC. 3. STANDING CONSULTATIVE COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) the Standing Consultative Commission was established by the United States and the Soviet Union under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems as a framework for considering and resolving questions concerning compliance with arms control obligation; and

(2) the United States should raise and attempt to resolve issues relating to compliance by the United States and the Soviet Union with arms control agreements in the Standing Consultative Commission.

(b) ANNUAL REPORTS.—Title III of the Arms Control and Disarmament Act (22 U.S.C. 2571-2577) is amended by adding at the end of the following:

"SEC. 38. REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES.

"The President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the United States Commissioner on the activities of the United States-Union of Soviet Socialist Republics Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. In preparing this report, the Commissioner should consult with former United States Commissioners and other experts. Such annual report shall include detailed information on all substantive issues raised by either party to the Treaty and the response of the other party with regard to such issues. Such annual report shall be transmitted under an injunction of secrecy, but shall be accompanied by an unclassified addendum containing such information with respect to the activities of the Commission as can be made public consistent with the need for confidentiality of Commission proceedings and the national security of the United States.".

(c) STUDY AND REPORT.—The Director of the United States Arms Control and Disarmament Agency shall conduct a study to determine how the Standing Consultative Commission could be used more effectively to resolve arms control compliance issues.

The Director shall report the results of this study to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within 6 months after the date of enactment of this Act.

SEC. 4. COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES.

Title III of the Arms Control and Disarmament Act, as amended by section 3(b) of this Act, is further amended by adding at the end the following:

"SEC. 39. COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES.

"Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control and disarmament issues, the Director shall provide to the Congress not later than June 30 of each year a report setting forth—

"(1) a comprehensive list of studies relating to arms control and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

"(2) a brief description of each such study.

This report shall be unclassified, with a classified addendum if necessary.".

SEC. 5. COMPLIANCE REPORTS.

Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2591) is amended—

(1) in paragraph (1)—

(A) by inserting ", the Soviet Union, and other nations" after "adherence of the United States"; and

(B) by inserting "the Soviet Union and" after "compliance by"; and

(2) by striking out "and" at the end of paragraph (2) and by redesignating paragraph (3) as paragraph (5);

(3) by inserting the following after paragraph (2):

"(3) the section of the report dealing with Soviet adherence shall include information on actions taken by the Soviet Union with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements;

"(4) the section of the report dealing with adherence by other nations shall include information on actions taken by each such nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements; and"; and

(4) in paragraph (5), as so redesignated by this section, by inserting "the Soviet Union and" after "problems of compliance by".

SEC. 6. ACDA INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Title IV of the Arms Control and Disarmament Act (22 U.S.C. 2581-2591) is amended by adding at the end the following:

"SEC. 53. ACDA INSPECTOR GENERAL.

"(A) ESTABLISHMENT AND DUTIES.—There shall be an Office of the Inspector General at the Agency headed by the Inspector General of the Agency who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978.

"(b) DUALITY OF APPOINTMENT.—An individual appointed to the position of Inspector General of the Department of State shall, by virtue of such appointment, also hold the position of Inspector General of the Agency.

"(c) UTILIZATION OF STAFF.—The Inspector General of the Agency shall utilize personnel of the Office of the Inspector General of the Department of State in performing the duties of the Inspector General of the Agency, and shall not appoint any individuals to positions within the Agency.

"(d) REFERENCES.—For purposes of this section, references in the Inspector General Act of 1978 to the establishment involved, to the head of the establishment, and to an Inspector General shall be deemed to be references to the Agency, the Director of the Agency, and Inspector General of the Agency, respectively, except to the extent inconsistent with this section.".

(b) SURVEY OF ACDA CLASSIFIED INFORMATION SECURITY.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the United States Arms Control and Disarmament Agency—

(1) shall conduct a survey of physical, personnel, document, and communications security programs, procedures, and practices at the Agency for the protection of classified information; and

(2) shall submit a report on the results of that survey, together with such recommendations for improvement of classified information security at the Agency as the Inspector General considers appropriate, to the Director of the Agency and to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from Florida?

There was no objection.

Is there objection to the initial request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, and I certainly have no intention of objecting, I yield to the gentleman from Florida [Mr. FASCELL] for an explanation.

Mr. FASCELL. Mr. Speaker, H.R. 2689 is a 2-year authorization bill for the Arms Control and Disarmament Agency [ACDA] Specifically, H.R. 2689 authorizes $29 million for fiscal year 1988 which is $3.7 million less than the executive branch request for ACDA funding. The authorization for fiscal year 1989 is $29.8 million. H.R. 2689 reflects true bipartisan consensus of the Committee on Foreign Affairs and the Senate Committee on Foreign Relations in support of ACDA's role in assisting in the development and implementation of our country's arms control policies.

Mr. Speaker, the Arms Control and Disarmament Agency was created by the Congress in 1961 to: coordinate U.S. arms control policy; negotiate arms control agreements with other governments; conduct and coordinate U.S. Government-sponsored research related to problems of arms control and disarmament; and coordinate and disseminate public information on conventional arms control and disarmament matters. In carrying out these functions, ACDA has consistently enjoyed the solid bipartisan support of Congress.

Considering these facts, our ability in reaching a consensus at this time with respect to ACDA's future funding seems critically appropriate as the President and the General Secretary of the Soviet Union have now met in reaching a historic agreement on the elimination of intermediate-range nuclear forces. It is our view that ACDA's role in this important process has been quite pronounced. Further, it is our belief that ACDA must and will continue to play a significant role in the future formulation of U.S. arms control policies. In this regard, H.R. 2689 contains several important initiatives that are designed to further enhance and strengthen this small but important agency. These initiatives include:

The adoption of an initiative proposed by our colleague who is the ranking minority member of the committee, Mr. BROOMFIELD, that earmarks $780,000 per year in external research funding to assist the Bureau of Verification and Intelligence in making assessments with respect to possible new systems, devices, and capabilities for the verification of arms control agreements. These funds will be used to develop verification technology which could be used to verify arms control agreements in such areas as chemical weapons, nuclear testing, strategic offensive and defensive weapons systems, as well as in the area of intermediate-range nuclear forces.

The adoption of a ceiling on any other external research project of $1.56 million per year which should serve, in our judgment, to preserve ACDA's role in strengthening our Nation's commitment to a viable nuclear nonproliferation policy.

The adoption of a sense of the Congress resolution, in section 3, that expresses our belief that every effort should be made to address and resolve United States-Soviet compliance issues within the Standing Consultative Commission [SCC].

Also included in section 3 are two other important reporting requirements. The first requirement specifies that the President submit a report prepared by the U.S. Commissioner to the SCC on the activities of the Commission. In preparing this report, the Commissioner is encouraged to consult with former U.S. Commissioners and other experts. This report shall include detailed information on major issues raised by either side and the response of the other side with regard to such issues. The second requirement reflects the concern of our colleague, Ms. SNOWE, and specifies that the Director of ACDA conduct a study to determine how the SCC could be used more effectively to resolve compliance issues. Taken together, each of these reporting requirements should serve to enhance the effectiveness of the SCC and congressional awareness of the activities of the SCC.

Section 5 amends the Pell report on United States-Soviet compliance to lend it more balance. The section of the report on Soviet adherence will now include relevant information on actions taken by the Soviet Union with regard to the size, structure and disposition of its military forces in order to comply with existing arms control agreements. This House mandated position is especially important in light of the newly reached United States-Soviet treaty agreement on intermediate-range nuclear forces. This report will result in Congress receiving information relevant to Soviet compliance, as well as noncompliance with arms control agreements.

Finally, section 6 establishes an inspector general for ACDA, with the powers provided by the Inspector General's Act of 1978. In this regard, the State Department inspector general will serve as the inspector general for ACDA but will not receive any additional compensation beyond what he receives solely as the State Department inspector general. In this new capacity, the inspector general will conduct a one-time survey of the security programs, procedures and practices within ACDA and report his findings and recommendations to the Director of the Agency.

Mr. Speaker, in closing, I would say H.R. 2689 reflects what can be accomplished when both the majority and minority work in tandem in developing a solid bipartisan consensus with respect to the operation of an agency such as ACDA. In this regard, the committee strongly believes that each of the initiatives contained in H.R. 2689 will serve to enhance ACDA's continued and future role in the development and implementation of our Nation's arms control policies. The committee also believes that each of these initatives will serve to increase our confidence in the Arms Control Agency and improve the prospects for reaching new and verifiable arms control agreements in the future. Mr. Speaker, I encourage the bipartisan adoption of H.R. 2689.

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I am pleased to join Chairman FASCELL in supporting legislation to authorize the Arms Control and Disarmament Agency's appropriations for fiscal years 1988 and 1989. I would especially like to compliment the chairman and his staff for their bipartisan efforts on this bill.

The legislation before us contains the essential provisions of the previously passed House bill. In particular, the legislation funds the Arms Control Agency for fiscal year 1988 at slightly less than fiscal year 1987. The bill preserves my initiative on arms control verification research while seeking better ways to use the standing consultative commission to resolve arms control compliance issues.

Equally important, this legislation creates an inspector general for the Arms Control and Disarmament Agency to ensure independent examination of Agency programs and to keep the Agency's Director and the Congress informed of any problem and any needed corrective action. The legislation also requires the inspector general to conduct a security survey of how classified information is handled at the Agency.

Finally, this legislation preserves ACDA's role in the areas of nuclear nonproliferation and the Geneva nuclear and space talks. As a result, I urge my colleagues to support this bill. This legislation is a bipartisan effort to provide the Arms Control Agency the funding it needs at a critical time in the arms control process.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the initial request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, DECEMBER 11, 1987 TO FILE CONFERENCE REPORT ON H.R. 1777, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

Mr. MICA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, December 11, 1987, to file a conference report on H.R. 1777, the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REFERRAL OF H.R. 3317 TO SUNDRY COMMITTEES

Mr. MILLER of California. Mr. Speaker, with the concurrence of the Committee on Foreign Affairs and the Committee on Rules, I ask unanimous consent that H.R. 3317 be re-referred jointly to those committees and to the Committee on Interior and Insular Affairs.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RECLAMATION AUTHORIZATION ACT OF 1976 AMENDMENTS

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 649) to amend the Reclamation Authorization Act of 1976, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CRAIG. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from California [Mr. MILLER], chairman of the Subcommittee on Water and Power Resources, to explain the Senate bill, S. 649.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this bill would increase the authorization ceiling for the Oroville-Tonasket Unit of the Chief Joseph project in Washington State by $18 million.

The Oroville-Tonasket Unit was authorized in 1976 to irrigate 10,000 acres of land, and to enhance the salmon resources. Construction of the project is now more than 50 percent complete.

The current cost ceiling is adequate only to cover expenditures through the end of fiscal year 1987.

This bill would authorize an $18-million increase in the project's cost ceiling. This will allow for completion of the project.

This ceiling increase was requested by the administration.

Mr. Speaker, on October 22 the House passed the Water and Power Authorization Act—S. 640.

Title II of that bill also would have increased the authorization ceiling for the Oroville-Tonasket project by $18 million.

However, that legislation has not received final action by the Senate.

I am requesting that this Senate-passed bill receive House approval to insure that construction work on the project is not halted.

This request has been reviewed with the minority and it is my understanding there is no objection.

Mr. CRAIG. Mr. Speaker, I thank the gentleman for his explanation.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Washington [Mr. MORRISON] who is the author of the House version of S. 649.

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman from Idaho [Mr. CRAIG] for yielding to me.

This is a small project by Federal standards but mighty important to some folks I represent. This increased authorization as approved by the Office of Management and Budget and now by the Congress will complete a longstanding and often frustrating rehabilitation project. My appreciation and the appreciation of my people all go to the folks involved and particularly to the gentleman from California [Mr. MILLER].

Mr. CRAIG. Mr. Speaker, further reserving the right to object, I thank the gentleman from Washington [Mr. MORRISON] for his remarks.

Mr. Speaker, I note that S. 649 is similar to a provision of a bill which has already passed the House, it has been supported by the administration, and it is important to the completion of the project for the benefit of the agricultural interests in this portion of Washington, and for the completion of environmental aspects of the project.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, "That section 208 of the Reclamation Authorization Act of 1979 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "88,000,000 (January 1987 prices); *Provided,* That of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RELIGIOUS REPRESSION IN THE SOVIET UNION

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, today I have joined with Congressman CHRIS SMITH and a number of other Members in introducing a legislative resolution calling for release of imprisoned Soviet Christians. Next year marks the millenial celebration of the Russian Orthodox Church—and nothing would be more fitting by way of recognizing this event than a change of policy by the Soviet Government in recognizing the religious rights of the peoples of the Soviet Union.

There has been much hope raised by Secretary Gorbachev's promise of openness and reform in the Soviet Union. Last summer, Konstantin Kharchev, chairman of the Council on Religious Affairs, promised officials of our Government that religious dissidents would be freed from jails, prisons, labor camps, and psychiatric institutions by the end of November, 1987. This promise was broken—and the continued imprisonment of Soviet citizens on religious grounds continues.

Last week, I delivered to the Soviet Embassy the following letter, signed by some 258 of our colleagues there in the House of Representative, outlining some 17 broad categories of the types of religious oppression and repression which Soviet citizens face—be they Christian, Jew, or Moslem. It is not just the promise of glasnost which is important, but the practices of the Soviet government relative to that promise which we must remember in the relationship between our governments.

Following is the letter delivered to Secretary Gorbachev on behalf of those of the 258 Members of the House of Representatives who have joined in addressing this issue:

CONGRESSIONAL HUMAN RIGHTS CAUCUS,
Washington, DC, December 4, 1987.

His Excellency MIKHAIL S. GORBACHEV,
General Secretary of the Communist Party, Embassy of the U.S.S.R., 1225 16th Street N.W., Washington, DC.

DEAR GENERAL SECRETARY GORBACHEV: We join in welcoming you to the United States in conjunction with your forthcoming discussions with President Reagan as you work towards reaching agreement on a proposal to reduce intermediate nuclear missiles. While we share in the desire to control the proliferation of these terrible instruments of destruction, we must also share with you our deep concerns regarding human and religious rights violations which exist within your nation.

While the reduction of nuclear missiles would be a positive step in improving relations between our two nations, it must be remembered that the very presence of these weapons is a symptom of our differences—not the root cause. The core cause of differences and tensions between our governments is that of respect for human rights.

Our tradition recognizes human rights as divinely endowed, and thus transcending the powers of the state. Thus, we regard the question of honoring *religious rights* of citizens as the heart of the human rights question. Your tradition recognizes human rights as "granted by the government", and thus not having autonomy from the government which grants them. From this distinction, are generated the differences between our governments in practices honoring human rights.

Respectfully we note that your government was a party to the Helsinki Accords of 1975, Article 18, which reads as follows:

"Everyone has the right to . . . manifest his religion or belief in teaching, practice, worship, and observance."

We, therefore, felt compelled to share with you our concerns for those institutional practices within your country which are in noncompliance with the Helsinki Accords. We believe these are objective standards by which progress in this area can be measured.

Specifically, the following violations to which we respectfully draw your attention in seeking redress, have been made known to us from citizens living within the U.S.S.R. They are as follows:

1. Interference in the religious governance of religious organizations and institutions.
2. Prohibitions against informal worship activities of small gatherings of believers and adherents.
3. The denial to religious organizations of the right to possess real property, building properties, or instruments of worship.
4. The prohibition of recognizing religious organizations as legal personhoods, which prevents pursual of legal redress in courts of law and administrative agencies.
5. The imprisonment of individuals for practices of religious belief.
6. The incarceration of individuals in mental and psychiatric institutions for practices of religious belief.
7. The forced closing of religious institutions.
8. Prohibitions against the general religious education of minors.
9. Prohibitions against the religious activities of minors.
10. Restrictions on institutions for theological education of Orthodox, Roman Catholic, Protestant, Jewish, and other religious bodies.
11. Prohibitions against and limitations on the importation and distribution of religious materials.
12. Prohibitions against and limitations on the importation of and free circulation of religious materials within the nation.
13. Discrimination against religious adherents and their immediate families in general educational opportunities.
14. Discrimination against religious adherents and their immediate families in employment opportunities.
15. Discrimination against religious adherents and their immediate families in securing housing opportunities.
16. Prohibitions against ordained clergy and acknowledged religious leaders in visiting the sick in hospitals, psychiatric institutions, or jails and prisons.
17. Prohibitions against voluntaristic and charitable activities of religious organizations within the nation.

We welcome the recent promises of your government in regard to the forthcoming release of religious prisoners. We also look forward to the millennial observation of the birth of the Russian Orthodox Church. We trust that such commemoration will be accompanied by renewed recognition of the obstacles religious communities have experienced within the Soviet Union in recent years.

While efforts to negotiate an arms settlement represent a commendable act, once again we remind you that the question of human rights, and religious rights in particular, is at the heart of the conflict between our governments. In keeping with the Helsinki Accords, we implore you to address these human rights violations.

Respectfully yours,

Paul B. Henry, Howard Wolpe, Guy Vander Jagt, Sander Levin, William D. Ford, Fred Upton, Bob Traxler, Bill Schuette.

Frank, R. Wolf, Pat Roberts, Nancy L. Johnson, Tom Ridge, Mickey Edwards, Tom Tauke, Curt Weldon, Wally Herger, Carl Pursell, Dan Burton, Dan Coats, Barbara Vucanovich.

Ronald D. Coleman, Carl Perkins, Lynn Martin, Bill Alexander, John Lewis, George (Buddy) Darden, Tom Lantos, Hank Brown, Dan Glickman, Steny Hoyer, Dan Mica, Lindy Boggs.

Walter E. Fauntroy, Mike DeWine, Bill Hughes, Don Ritter, James Scheuer, John Conyers, Ed Markey, Marge Roukema, John Porter, Jim Sensenbrenner, Norman Y. Mineta, Ralph Regula.

Ken Gray, Frank Annunzio, Buddy MacKay, Joe Kolter, J. Dennis Hastert, Terry L. Bruce, John Hiler, Bill Broomfield, H. James Saxton, Jan Meyers, Claudine Schneider, ———.

Bill Clinger, Sonny Callahan, Christopher Shays, Tommy F. Robinson, Bill Richardson, Melvin Price, Nancy Pelosi, Timothy J. Penny, Elton Gallegly, G.V. Montgomery, Bruce A. Morrison, David E. Bonior.

Rod Chandler, Sid Morrison, Helen Delich Bentley, Mary Rose Oakar, Edward Feighan, Paul E. Kanjorski, Bob McEwen, Jim Moody, Richard H. Stallings, Doug Walgren, Phil Crane, Newt Gingrich.

Jim Jeffords, Olympia J. Snowe, Trent Lott, Chris Smith, Ray McGrath, Henry J. Hyde, Pat Williams, Dale E. Kildee, Joe Skeen, John J. Rhodes, Pat Swindall, Ron Packard.

James McClure Clarke, Joe DioGuardi, Ernest Konnyu, Bill Archer, Louise M. Slaughter, Bill Goodling, James M. Inhofe, Jaime B. Fuster, Howard L. Berman, Barney Frank, Les AuCoin, Ronnie G. Flippo.

Edward Madigan, Buz Lukens, Jim Lightfoot, Constance Morella, James H. Quillen, Bill Young, Howard Coble, Stan Parris, Bill Emerson, Fred Grandy, Bill Archer, Bob Livingston.

Robert K. Dornan, Dan Schaefer, Jim Courter, Barbara Boxer, Steve Gunderson, Robert Torricelli, Mike Bilirakis, Tom Lewis, Tom Bliley, Bill Lowery, Pat Swindall, Gerry Sikorski.

Delbert Latta, Larry Coughlin, Nicholas Mavroules, Herbert H. Bateman, Gerald Soloman, Clay E. Shaw, Jerry Lewis, Jon Kyl, Benjamin A. Gilman, Harris W. Fawell, D.M. Hertel, Frank McCloskey,

Harold L. Volkmer, Steve Neal, Bob Carr, Bill Lehman, Joe McDade, Thomas J. Downey, Bill Nelson, Martin Frost, Carlos J. Moorhead, John J. LaFalce, Tom Luken, Bill Gradison.

Cass Ballenger, Vin Weber, Dean Gallo, David O'B. Martin, Mike Espy, Edward P. Boland, Robert J. Mrazek, Connie Mack, Chester Atkins, Tom McMillen, Dennis E. Eckart, Tony P. Hall.

Guy V. Molinari, Frank Horton, Douglas Bereuter, Charles Stenholm, Jack Fields, George E. Brown, Jr., George C. Wortley, Silvio O. Conte, Norman Dicks, Mel Levine, Beau Boulter, Gus Hawkins.

Henry A. Waxman, Matthew F. McHugh, William J. Coyne, Liz J. Patterson, Bill Green, Kweisi Mfume, Albert G. Bustamante, Marcy Kaptur, George J. Hochbrueckner, Ike Skelton, Ted Weiss, Robert J. Lagomarsino.

Thomas Bliley, Manuel Lujan, Jr., Clarence Miller, Hamilton Fish, Peter W. Rodino, Alex McMillan, David Dreier, Judd Gregg, Joe Barton, Robert C. Smith, Matthew G. Martinez, Mac Sweeney.

Matt Rinaldo, Dan Daniel, Ron Marlenee, Gus Yatron, Jim Lightfoot, David Price, Don Edwards, Jim Oberstar, Dante Fascell, Joe Kennedy, Soloman Ortiz, John Spratt.

Sherwood Boehlert, Richard T. Schulze, Dick Armey, Steve Bartlett, Bob Walker, Don J. Pease, Arlan Stangeland, Bob Whittaker, Hal Rogers, Don Sundquist, Stephen Solarz, Bill Dickinson.

Ben Erdreich, Charles E. Schumer, Dick Durbin, Don Bonker, Billy Tauzin, Michael A. Andrews, Gerry E. Studds, Jim Cooper, Joel Hefley, Thomas Foglietta, Thomas J. Manton, Bob Borski.

Mike Synar, Jack Davis, Jim Leach, Tom Carper, Benjamin L. Cardin, John Bryant, Norman F. Lent, James J. Howard, William O. Lipinski, Bernard J. Dwyer, Lane Evans, John Miller.

Martin O. Sabo, David E. Bonior, Ron Wyden, Howard C. Nielson, Tom DeLay, Ron De Lugo, Larry Combest, Denny Smith, Larry E. Craig, Bill Frenzel, Lamar Smith, Bill Grant, Wayne Owens, David E. Skaggs, Robert Garcia, Rick Boucher.

RESOLUTION CALLING UPON THE GOVERNMENT OF THE SOVIET UNION TO PROCLAIM GENERAL AMNESTY FOR IMPRISONED CHRISTIANS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing a resolution calling upon the Government of the Soviet Union to proclaim a general amnesty for imprisoned Christians. The 79 Members who join me as original cosponsors hope to focus much needed attention on the plight of Christians living in the Soviet Union. The evidence clearly suggests that restrictions on believers continue to be harsh, at times brutal, and violate both the spirit and letter of the Helsinki Final Act.

Mr. Speaker, 70 years after consolidation of the Communist victory in the U.S.S.R., pervasive restrictions continue to be placed on the Soviet peoples' right to worship. Religious education is carefully circumscribed—it is, for example, illegal to formally teach religion to children under 18 years of age and the number allowed to attend seminary is severely limited. The Bible and other religious material, especially in the national languages, is in extremely short supply due to Soviet policy.

Of particular concern to the believers themselves is the threat of KGB harassment, arrest, and imprisonment. I hold in my hand a list of 171 known Christians who have been imprisoned because of their faith. Mr. Speaker, this is only a partial list since many Christians are incarcerated on trumped up charges. Despite glasnost and the approaching millennium celebration, the Soviets continue to discriminate against and imprison believers from virtually every faith denomination. Detention is carried out in horrific psychiatric hospitals, those bizarre prisons such as the dreaded and infamous Perm Camp No. 36-1, or in corrective labor colonies—the euphemism for slave labor camps. Many of the Christian prisoners, such as those mentioned in the resolution, have already served two and three decades of their lives in prison.

These brave souls inspire us to maximize any and all available pressure to make the difference—to press for the release of persecuted believers and an improvement in conditions. I was pleased to learn late last week that the language of the resolution had to be updated before introduction. With the promised release of Anna Chertkova, a Baptist woman who has been in psychiatric hospitals for 15 years, we were tentatively able to remove her name from the list included in the resolution. Mr. Gorbachev has taken the first step—Mr. Speaker, we ask that he release the others.

With the millennium celebration in 1988 of the adoption of Christianity in Kievan Rus', it is increasingly clear that the Soviets will attempt to engineer the agenda so as to maximize their standing with the West and minimize the focus given to the spiritual and religious heritage which abounds among the people.

Konstantin Kharchev, Chairman of the Council on Religious Affairs, has claimed that under Gorbachev's rule—"Now, within the process of glasnost and democratization * * * both religion and the churches will live free under socialism. * * *" That sounds nice. But we are demanding that the deeds match the words. It's time to test the sincerity of Soviet proclamations on religious freedom. Mr. Speaker, I believe we do the Christians who suffer—and all people of all faiths who suffer—no service at all if we are fooled or co-opted by Soviet rhetoric that attempts to convince the world, and the West in particular, that freedom of religion flourishes.

For years, article 52 of the Soviet constitution guaranteed religious freedom. It looks good on paper but repression, not freedom has been the actual Soviet policy concerning religion and the names which make up this list paints a different picture than the Soviets would have us believe.

We as Members of Congress must bear witness to the suffering people of faith and speak the truth for those who have no forum to present their case. This resolution which I am introducing asks the Soviets to declare an amnesty for believers. Mr. Speaker, while an inestimable number of men and women of faith have served time in prison because of their religious activities or are currently serving because of trumped up charges, I include this list of known imprisoned Christians in the RECORD.

LIST OF IMPRISONED CHRISTIANS

Samvel Aleksanyan, Alexander Ivanovich Andriyets, Anatoli Ivanovich Andriyets, Ivan Yakovlevich Antonov, Valeri Yuryevich Antsipalovsky, Grigori Ivanovich Balush, Olga Barinov, Polanya Yu Batyo, Valentin Vasilevich Bei, Stepan Belsky, Vasili Tarasovich Berezovsky, Sergei Yegorovich Bogdanov, Alexander Valerevich Bogodimov, Nikolai Yerofeyevich Boiko, Andrei Vasilyevich Borinsky, Arvydas Cekanavicius, Stanislav Romanovich Chudakov, Timofei Ivanovich Krivoberets, Alexander Vasilievich Krugovykh, Mikhail Ignatiev Kukobaka, Teovils Ernestovich Kuma, Alexei Yakovlevich Kurkin, Lyudmila Stepanovna Kutran, I.G. Kuz, Cheslav Lisovsky, Viktor Ivanovich Litovchenko, Boleslovas Liziunas, Oleg Mikhailovich Lobanov, Vladimir Loboda, Gerhard Gerhardovich Lolwen, Petras Lukosevicius, Lev Grigorievich Lukyanenko, Stepan Mefodyevich Makhovik, Mykola Stepanovych Mamus, Pyotr Mashnitsky.

Gintautas Iesmantas, Yakov Yefremovich, Ivashchenko, Pavlo Federovych Kampov, Voldermaras Karaliunas, Ivan Vladimirovich, Kirilyuk, Henrikas Klimasauskas, Nikolai Stepanovich Klimoshenko, Pavel Klimur, Mykhailo Klishch, Vasyl Antonovych Kobryn, Hieromonk Savva Kolchucin, Nikolai Mikhailovich Kosachvich, Aleksei Nikifirovich Kotov, Ivan Fyodorovich Kovalenki, Yuri Sergeyevich Kravets, Yakov Abramovich Kreker, Mikhail Sergeyevich Kirvko.

V. Damaskin, Vasyl Dobra, Vilis Dogilis, Vasyl Mykhailovych Dolyshny, Sergei Adamovich Dubitsky, Konshaubi Bekirovich Dzhangetov, Ivan Maximovich Fedorchuk, Fr. Vladimir Tikhonovich Fedorenko, Andrei Vladimirovich Filippov, Balys Gajauskas, Nikolai Gershkanu, Pavel Dorofeyevich Goloshchapov, Mikhail Alexandrovich Goryanin, Margarita (Margarete) Leonidovna Gottman, Vasili Ivanovich Gritsenko, Yevgeni Gula, Fr. Stefani Hryhorovych, Katrusya Stepanovna Hryhorovych.

Gederts Melngailis, Afanasi Agafonovich Melnik, Albertas Meskinas, Sergei Vladimirovich Migachov, Hanna Vasilevna Mikhailenko, Fr. Iosif Mikhailov, Oleg Vasilievich Milyutin, Pavel Dmitrievich Minyakov, Sergei Mironenko, Anatoli Mokhinya, Ivan Motrya, Stanislovas Murauskas, Alexei Ivanovich Murkin, Mikhail Ivanovich Murkin, Valentin Yerofeyevich Naprienko, Petro Nechayuk, Ivan Andreyevich Neufeld, Alexander Valentinovich Nikitkov, Pavel Fyodorovich Novozhilov.

Valeri Alexandrovich Origov, Alexander Mikhailovich Oros, Valentina Serapionovna Pailodze, Igor Panachov, V. Paun, Victor Pavlovets, Pavel Stepanovich Pavlyuk, Viktoras Petkus, Vasyl Pidgorodetsky, Vasili Andreyevich Pirich, Fyodor Plaksun, Ivan Petrovich Plett, Nikolai Petrovich Polishchuk, Walter Pretskau, Mikhail Alexandrovich Pshenitsyn, Mikhail Artemovich Pugachov, Yevgeni Nikiforovich Pushkov.

Pavel Raksha, Fr. Iosif Rinkevich, Bernard Vilgelmovich Rosher, Vsevelod Stepanovich Rozhko, Anatoli Fydorovich Runov, Deacon Vladimir Stepanovich Rusak, Vasili Fedoseyevich Ryzhuk, Viktor Yevgenyevich Samsonov, Yelena Nikitichna Sannikova, Andreas Schmidt, Ivan Selyuk, V. Serdyuk, Mikhail Nikolayevich Serin, Nikolai Artemovich Shabubov, Leonid Fyodorovich Shatunov, V. Shcherberts, Fr. Anatoli Shchur, Vladimir Vladimirovich Shelkov.

Gennadi Ivanovich Sheludko, Anatoli Leonidovich Sheludkov, Ivan Grigoryevich Shidych, Shilo, Vasili Grigorevich Shipilov, Sergei Shish, Mikhail Nikolayevich Shoshin, Pyotr Yakovlevich Siemens, Alexander Ivanovich Simendyayev, Semyon F. Skalich, Janis Skudra, Hryhori Slavsky, Ivan Fyodorovich Smetana, Mykhailo Smozhenyk, Fr. Vladimir Solovev, Fr. Ihnati Soltys, Rikhard Albertovich Spalin.

Alexander Sergeyevich Spiridonov, Alexander Vladimirovich Stepanov, Bishop Juligonas Steponavicius, Fr. Alfonsas Svarinskas, Sigitas Tamkevicius, Valeri Safinovich Timokhin, Nikolai Sergeyevich Tkachenko, Vladimir Fydorovich Tulyupa, Andrei Vasiliv, Tatyana Mikhailovna Velikanova, Albert Verbyazh, P. Verian, Zinaida Yakovlevna Vilchinskaya, Nikolai Genrikhovich Vins, Alexander Petrovich Vorona, Mr. Voveris, Fr. Mykhailo Ilych Vynnitsky, Fedir Vyrsta, Stepan Vyrsta, Vladimir Andreyevich Vyushkov, Peter Samuilovich Walter, Viktor Samuilovich Walter, Alexander Ivanovich Yankovich, Ya Yasinsky, Vladimir S. Yastrebov, Vasili, Ivanovich Yudintsev, Mykhailo Maksymovych Yurkiv, Adam Mikhailovich Zarivny, Vyacheslav Vasilyevich Zayats, Mariya Mikhailovna Zhuravel.

DEPLORING VIOLENCE IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, the Organization of American States has issued a statement following their special session on Haiti. After ignoring Haiti and Haiti's difficulties for several months they finally met and issued a statement on the violence in Haiti. The statement said that the Organization of American States deplored the violence that aborted the November 29 elections. It called on the military junta to take all necessary measures to restore the democratic process by holding free elections.

Haiti's Foreign Minister showed up at that meeting and claimed that democracy will soon be a reality in Haiti, but members of Haiti's mass popular coalition organization, the National Front for Concerted Effort, also showed up outside the meeting and stated that the Organization of American States session should have taken a much stronger stand.

They should have called for the international isolation of Haiti, or at the very least they should have issued a statement of support for the nine-member provisional electoral council of Haiti which was illegally disbanded by the military junta on November 29.

Mr. Speaker, for the Foreign Minister of Haiti to show up at the OAS meeting as he did is similar to having Al Capone, after the St. Valentine's Day massacre in Chicago, show up at the FBI headquarters and state that at least he was going to organize law and order in Chicago.

□ 1900

The very people who were responsible for violence, for the massacre now said they are going to organize law and order.

The OAS is also very concerned about the fact that Haiti's internal affairs should be respected. Mr. Speaker, the internal affairs of Haiti are inextricably interwoven with the policy of the United States State Department, this administration and previous administrations. The United States is inextricably interwoven into the internal affairs of Haiti. You cannot separate Haiti from the United States, you cannot separate Haiti from certain other countries that have given it a tremendous amount of aid. Not only has the United States funded the Government of Haiti, the present government and the past dictatorships, but the United States Government also is directly responsible for setting up the present military government.

They could have taken some other alternatives, but they chose to empower the military government, the soldiers instead, and what we have now is a betrayal of the trust that was placed in those soldiers, those generals by the U.S. Government. We did it. We put them in power, the people who are responsible for the massacre on November 29.

Mr. Speaker, I include for the RECORD an editorial which appeared in today's New York Times regarding yesterday's OAS statement on Haiti. The New York Times editorial says that the OAS was too timid. The New York Times calls for the OAS presence in Haiti immediately to assist in any new elections. The Times editorial notes that the OAS opposition to intervention is understandable, but Haiti is a special case, not one of civil war but of anarchy, and there is a precedent. In the past, the OAS was instrumental in establishing, supervising and guarding free elections in the Dominican Republic, which is on the same island of Hispaniola as Haiti.

I also will include with my statement for the RECORD a report which was released by a 20-member election observer team which was in Haiti on November 29. The delegation was put together by the Washington Office on Haiti, a research and policy group. Also Bread for the World was a part of this and the Society of African Mission Fathers was a part of this observer group. They were witnesses to and were caught up in the violence in Haiti on November 29.

The delegation says in its report that while it applauds the United States decision to suspend all nonhumanitarian aid to Haiti, certain other important conditions should be met before that aid is restored.

While everyone is currently focusing on the summit taking place here in Washington between President Reagan and Soviet leader Gorbachev, I hope we do not forget the people of Haiti and their efforts to have democratic rule in their country. Yesterday the Haitians held a general strike to protest the violence of November 29. They are having another one today in which they are calling for the military government to step down and for the reinstatement of the illegally disbanded Electoral Council.

We must support the general strike and we must support all other efforts in opposition to the brutality of the military government, of the army and the terrorist groups in Haiti. We are inextricably interwoven into the internal affairs of Haiti. Our job is to get out of the internal affairs of Haiti. We organized an interim government. The people of Haiti established a constitution.

We can get out of Haiti. We can stop being a part of their internal affairs when they have free elections.

If we take steps to guarantee that free election, we will no longer be involved in their internal affairs. We must do everything possible to guarantee that the Haitian people, the masses, not the brutal elite, not the people who have the guns, but the masses have a free election in Haiti and have it as soon as possible.

The articles referred to follow:

[From the New York Times, Dec. 8, 1987]

AN INTER-AMERICAN FORCE FOR HAITI

The Organization of American States was too timid yesterday in backing free elections in Haiti without endorsing an inter-American force to guarantee the process. Only the most compelling circumstances can justify armed infringements of national sovereignty. Those circumstances prevail in Haiti today:

A junta permits chaos and terror. It fails to fulfill its duty to hold elections. And there exists a legitimate national institution capable of carrying out a democratic vote if protected.

Haiti's two-year-old struggle for democracy last week succumbed to a wave of violence that was at least tolerated, and perhaps orchestrated, by Gen. Henri Namphy's military junta. The junta then and since has made plain its refusal to countenance a truly free election. Apparently it fears that doing so might produce a President determined to end open criminality and special privileges.

A tenuous calm now holds. But the democratically minded Haitians who filled the streets in the past are sure to do so again, with a risk of violent new repression and possible civil war. A descent into deeper tragedy may be inescapable without inter-American intervention to reconstitute the betrayed election under the original electoral council. That body, established by a popularly ratified Constitution and with members nominated by representative civic groups, is Haiti's only existing institution with unquestionable democratic legitimacy.

O.A.S. opposition to intervention is understandable. Nicaragua is not alone in fearing a precedent. But Haiti is a special case, not one of civil war but of anarchy. And there is a relevant precedent. Today's democratic Government in the Dominican Republic, Haiti's island neighbor, owes much to an election guarded by the O.A.S.

Unlike that Dominican force, an O.A.S. presence in Haiti should exclude U.S. soldiers and rely on Latin American and West Indian contingents. Washington is still resented by some Haitian nationalists for its 1915-34 occupation, and remains far too closely identified with the failed Namphy junta.

More drift and more disaster in Haiti can be averted—but only if other hemisphere countries act, together and quickly.

THE HAITIAN ELECTIONS

[Statement of an independent delegation of international observers]

Despite strong and often successful efforts by the Haitian electoral council and people to carry out fair national elections last Sunday, November 29, government-sanctioned disruptions prevented this step toward democracy from succeeding, concluded an independent delegation of U.S. and Haitian representatives that observed the recent elections in Haiti.

The commitment of the Haitian people to making democracy work was evident, the delegation found. One elderly man, at a polling place in Port-au-Prince, the Haitian capital, said proudly that he would vote despite the threat of violence, and was not afraid. Less than 10 minutes later, the man was dead—killed by bullets from a mob of people identified by Haitian sources as connected with military and other right wing repressive forces in Haiti. The mob descended on the man's polling place just minutes after the departure of members of the delegation and later confronted and threatened our delegation. Military forces nearby did nothing to prevent the massacre, which resulted in 15 dead and 23 wounded.

The 20 person delegation, cosponsored by the Washington Office on Haiti, Bread for the World, and the Society of African Mission Fathers, observed the elections at polling places in Port-au-Prince and in the Central Plateau region near the town of Hinche. The delegation included representatives of religious, development and human rights groups from throughout the United States as well as Haiti.

During its work, the delegation observed the following:

In rural areas, electoral officials and voters made effective efforts to carry out balloting, despite long lists of candidates and the late arrival of election materials at many election sites;

Long lines of Haitians were seen waiting at polling stations to vote, before the 6 a.m. starting time for the election;

There was significant military presence, particularly in Port-au-Prince, where the major disruptions occurred, yet no security was provided for voters to protect them from violence that killed at least 23 and wounded at least 67 persons in election-related incidents on Sunday;

When the electoral council postponed the scheduled daylong elections at 9:15 a.m., citing the lack of security to combat widespread violence, many Haitian voters expressed disappointment and anger. Their anger was directed both at the current Haitian government and at the United States for its role in supporting, through military and economic assistance, the current government that had such a heavy role in disrupting the electoral process.

From these and other observations, the delegation concluded:

The Haitian people can carry out free elections, provided violence and intimidation are not allowed to threaten the entire process, as occurred for weeks preceding Sunday as well as on Sunday itself. While the elections show the powerful force of the Haitian military that needs to be firmly controlled if democracy is to prevail, the same elections also show that Haitians are eager for a democratic society, and can carry out an election even in a climate where intimidation efforts are strong.

Notwithstanding the declaration by General Namphy after he dissolved the Provisional Electoral Council and that a new president would be inaugurated on February 7, 1988, it is clear to the delegation that a free electoral process cannot function as long as this government remains in power.

The current Haitian government not only failed to provide protection for voters in areas where violence was most likely, but so-called security forces were involved in efforts to disrupt the electoral process.

Where peoples' organizations and grassroots groups were organized and effective, as occurred in the rural areas of Hinche, elections went more smoothly and appeared on their way to success. But in areas where repressive forces, such as the military and bands of armed loyalists to previous dictatorial regimes, are stronger, there was much more susceptibility to extremely violent disruptions by armed groups.

Independent international observers were welcomed as added security by Haitian voters and electoral officials, despite claims by the current Haitian government that foreign observers contributed to the postponement of the elections less than four hours after they began.

BACKGROUND ON THE ELECTORAL PROCESS

The November 29 elections for President and for legislative positions were carried out under the independent Provisional Electoral Council (CEP) as prescribed by the new Haitian constitution adopted overwhelmingly in a March 29, 1987 national referendum. The Council was repeatedly frustrated in its efforts to conduct the elections by the National Council of Government (CNG), Haiti's interim government installed after the overthrow of Jean Claude Duvalier in February

1986. The CNG attempted to wrest control of the electoral process from the electoral council in June, but was thwarted by a widespread general strike and street demonstrations that pressured the government to return control to the CEP. Military violence, and repeated efforts to burn and destroy election buildings and documents, contributed to a general atmosphere of intimidation and chaos in many areas of the country. Despite the threats, however, the Haitian people registered to vote in impressive numbers—over 73% of the 3 million Haitians eligible to vote registered by early November.

Under the 30 year regime of the Duvaliers, which ended last year, repression was rampant and a small elite controlled the great bulk of the wealth in Haiti. Meanwhile Haiti became the poorest country in the Western Hemisphere, with virtually no political participation and social justice for the peasants and poor city dwellers in the nation.

WHAT IS AT STAKE—AND THE U.S. ROLE

Until a democratically-elected government responsive to the people's needs is in place in Haiti, there is no way that economic life can improve for the millions of Haitians who are poor and hungry. Today, U.S. military and economic aid channelled through the CNG only solidifies the abuses that prevents grassroots, people-oriented development in Haiti.

While we applaud the U.S. government's decision to suspend all non-humanitarian aid to Haiti, we believe that certain important conditions should be met before aid is restored:

1. The CNG should be removed from office and a new provisional government committed to constitutional rule should take office.

2. The Provisional Electoral Council should be restored to its role under the constitution and proceed with arrangements for national elections.

In addition, the United States should:

1. Use its voice and vote to oppose any multilateral development bank assistance to Haiti until the two conditions above are met.

2. Enter into discussions with the Provisional Electoral Council, with Haitian Church leaders, human rights advocates and political party leaders to determine the appropriate direction for U.S. policy. Until that discussion takes place, the U.S. should not consider intervention into Haiti, but should respond to the points of view expressed by the nation's leaders on what constructive role the U.S., in conjunction with the community of nations, can play in supporting the empowerment of the Haitian People.

STATEMENT OF ELLEN LAYMAN

I am Ellen Layman, and I represented the Church of the Brethern as an observer of the national elections in Haiti on Sunday. I served as part of a siz-member observer delegation—four Americans and two Haitians—which stayed in Port-au-Prince.

We visited three polling places and saw voting taking place at only one. Two of the polling places—Sacre Coeur and the school Argentine de Bellegarde—were disrupted by brutal violence.

When the six of us made a narrow escape from an advancing mob brandishing sticks, iron pipes, machetes and guns, we still believed that Argentine de Bellegarde referred to a school with a spacious courtyard where six polling stations would serve the crowds earger to vote. We had been at the school at about 7 a.m. Sunday and heard shots fired nearby. The waiting voters immediately began preparations to defend their poll—piling up rocks, breaking cinder blocks into throwable chunks and positioning sticks at intervals near the courtyard entrance.

We talked to a number of the voters and were impressed by their determination to vote, by their expressed lack of fear and their belief that the election would proceed. Two people stood out—a young woman of 26 who said she was not afraid: "I am strong," she told us, flexing a muscle, and an older man of perhaps 60 who was fiercely insistent that no one would stand in the way of his casting a vote.

Upon leaving Argentine de Bellegarde, we went to Sacre Coeur where a mob had entered the church at about 6 a.m., shot at the worshipers and vandalized and descrated the church. We heard the tape a reporter had made of the attack and learned that there had been no police or military protection. Still, less than an hour later, lines of voters awaited the opening of the polls, proudly clutching the white slips of paper that verified their eligibility to vote.

We saw six or seven people actually vote. Then, as we left Sacre Coeur to make phone calls to arrange the rest of our tour, we were confronted by a mob of about 100 men, shouting at us and brandishing their weapons. Our driver managed to shift into reverse, but as we began our retreat from the mob, the men broke into a run, attempting to thwart our getaway. Fortunately, we were able to slip down a side street to safety, eventually seeking refuge in the private home of a Haitian family where we spent the next 25 hours in hiding, hearing the barrage of gunfire that terrorized Port-au-Prince throughout the night, experiencing a blackout and tensing as cars of armed men slowly passed the house.

In our very brief tenure as observers, we saw a body sprawled by the side of the street, a burned-out service station, smashed cars, barricaded streets—and truckloads of armed, uniformed soldiers and policemen watching passing traffic, but taking no action to halt the violence that, at least in our experience, was taking place where they could both see and hear it.

We learned of the Argentine de Bellegarde massacre after we were safely in hiding. An eyewitness who knew our driver and his car said he saw us leave and that the mob attacked about three minutes later. Fifteen people were slaughtered in the courtyard and the school. Sticks and stones, even in the hands of determined, strong people, are no match for guns and machetes. The old man died there, probably less than 10 minutes after he assured us that he intended to vote and he would not be intimidated by thugs.

We left with two competing observations—the unimpeded violence that eventually shut down the election and claimed the lives of people whose only offense was a desire to vote or an obligation to report the news, and the intense determination of the Haitian people to participate in the democratic process. They displayed an unmistakable resolve that the dream of free and fair elections must some day be realized.

IN HONOR OF 75TH ANNIVERSARY OF THE FORNACA FAMILY BAKERY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I rise today to bring to my colleagues attention the story of a hard-working and successful American family. The Fornaca Family Bakery, the largest family owned and operated bakery in San Diego, is celebrating its 75th anniversary this month. The bakery today produces about 950,000 pounds of bakery product per week, and presently employs about 320 people.

The Fornaca Family Bakery was founded in 1912 by Mario Fornaca, an Italian immigrant who came through Ellis Island and made his way to Los Angeles. In Los Angeles, Mario made friends with another Italian immigrant, a banker, who wanted to loan Mario money to purchase some land to the west of downtown Los Angeles. Mario declined his offer because he had already planned on moving to San Diego to buy a bakery. Mario did just that.

As was the case with the majority of Americans, the 1930's were very difficult for the Fornacas. During the depression the bakery came very close to shutting down. Only with a combination of luck, business skill, and most importantly, family togetherness, was it able to survive.

During World War II, many Fornaca employees went overseas to fight for our country, resulting in a labor shortage. In order to make up for the loss in employees, Mr. Fornaca sponsored several Mexican employees for U.S. citizenship. Some of their children and grandchildren still work at the bakery today.

Among the ideas and values that Mario Fornaca brought with him from his native Italy, was a strong sense of family. It is this sense of family that has guided the Fornaca Family Bakery through 75 years of hard work and sacrifice. It is this family strength, direction, and togetherness, that has made the Fornaca Family Bakery so successful.

Mr. Speaker, in honor of its 75th year, the Fornaca Bakery has introduced a "Born in America" bread line. The red, white, and blue label boasts of rye from South Dakota, oats from Minnesota, butter from California, and ingredients from eight other States. I know that my colleagues join me in saying "congratulations" to the Fornaca family.

IN HONOR OF DR. FRANK G. BURKE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, on December 4 I was present at a very special event held at the National Archives. It was the swearing-in ceremony for the seventh Archivist of the United States, Dr. Don W. Wilson. The President of the United States was there to participate in the event, and our colleague, DICK CHENEY, conducted the swearing in. The President spoke eloquently on the importance of preserving the memory of the United States, which is the job of the Archivist. I congratulate the new Archivist and wish him well as he assumes his important duties.

I would like at this time, Mr. Speaker, to pay a special tribute to the man who has served as Acting Archivist of the United States for the past 32 months. Dr. Frank G. Burke. Dr. Burke assumed the post shortly after the National Archives and Records Administration became an independent agency in 1984. His professionalism as a historian, archivist, and administrator served the National Archives well during this crucial period in the agency's history. Dr. Burke came to the National Archives from the Library of Congress in 1967. He became director of the National Historical Publications and Records Commission [NHPRC] in 1975, before assuming the duties of Acting Archivist in 1984. He brought skill and dedication to the task of preserving the historical records of this Nation, and he has accomplished a great deal. Dr. Burke will return to his duties as director of the NHPRC, where he will continue to play a leading role in preserving historical records and providing for their dissemination in scholarly editions. Mr. Speaker, we owe a great debt to such outstanding professionals as Dr. Burke, who quietly and without fanfare go about the task of preserving for future generations the rich heritage of this Nation, and we look forward to the important contributions he will continue to make in the future.

I am pleased to sponsor a resolution to commend Dr. Burke for his service to the country. The text of the resolution follows my statement. Senator MARK HATFIELD has introduced a companion resolution in the other body.

H. CON. RES. 224

Whereas Dr. Frank G. Burke has spent the past two-and-a-half years in the Presidentially appointed role of Acting Archivist of the National Archives;

Whereas in the capacity of Acting Archivist he also has served as Acting Chairman of the National Historical Publications and Records Commission;

Whereas from 1975 through 1985 he served as the Executive Director of the National Historical Publications and Records Commission;

Whereas from 1974 through 1975, he also served as an assistant to the Archivist of the United States;

Whereas from 1968 through 1974, he served as Director of Educational Programs for the National Archives;

Whereas in all of these positions he has demonstrated leadership and dedication in the preservation and availability of historical documents in both National and State archives;

Whereas he worked tirelessly to achieve the goal of returning the National Archives and Records Administration to the status of an independent Federal agency;

Whereas as Acting Archivist he directed the transition of the National Archives from the General Services Administration to its independent status;

Whereas taking immediate advantage of the new status of the National Archives and Records Administration, he led an aggressive campaign to rejuvenate and establish healthy growth in the Archives;

Whereas he implemented a program focusing upon technological advancement to enhance archival preservation and the overall documentation of historical records;

Whereas such program pioneered an electronic imaging system and a life-cycle system of records;

Whereas representing the Office of Presidential Libraries in the National Archives he joined President Reagan in Atlanta, Georgia, on October 1, 1986, in order to preside over the Opening of the Carter Presidential Library;

Whereas in an effort to enhance the collection of important historical documents he secured the transfer of the Vietnam War records from the United States Army to the National Archives on April 27, 1986;

Whereas he successfully organized the National Archives celebration of the 200th anniversary of the signing of the Constitution of the United States of America, which is preserved and displayed at the National Archives; and

Whereas through his long and decorated service to the National Archives and the field of public records he has remained steadfast in his quest to protect our national memory and keep the ties to our history alive for the future: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress to recognize and express the sincere gratitude of the Congress with respect to the tremendous contributions to the United States of Dr. Frank G. Burke.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Burke.

TRIBUTE TO HOWARD PYLE, TWO-TERM GOVERNOR OF ARIZONA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, Howard Pyle, a two-term Governor of Arizona and a good friend, died in Tempe last Sunday.

Howard Pyle was a truly great American and one of the leading figures of his generation in Arizona. His career in business, broadcasting and his work in the White House left a positive imprint on his State and Nation.

Along with Barry Goldwater and JOHN RHODES and a handful of other GOP leaders, Howard Pyle was a key figure in the rebirth of the Republican Party in Arizona. Over a decade or two, they turned a semipermanent minority party into a Republican Party of winners.

Howard Pyle served as Governor from 1951 to 1955, and was the first Republican to hold the post in 22 years.

He served under President Eisenhower as a deputy assistant for Federal-State relations and later was president of the National Safety Council and chairman of the Federal Occupational Health and Safety Act's National Advisory Committee. He also returned to public life as a Tempe City councilman, and was a strong supporter of the central Arizona project.

My sympathy goes to his wife, Lucile, and his two daughters.

Howard Pyle was a good man, and I will miss him.

REFINANCING OF CERTAIN SMALL BUSINESS DEBENTURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, today I am introducing legislation which will assist some small businesses which are burdened with exorbitant interest rates on debentures guaranteed by the Small Business Administration.

The basic problem is that the affected small businesses want to refinance these loans but cannot do so due to the high prepayment penalties charged by the Government, prepayment penalties which exceed those charged by the private sector.

Certified development companies [CDC's] issue debentures, with an SBA guarantee, and use the proceeds to provide funds to small businesses for plant and equipment. Since Public Law 99-272, these debentures are now sold to private investors and are not a problem; however, those issued prior to this Public Law were guaranteed by SBA and sold to the Federal Financing Bank. Some of these debentures, issued in the early 1980's, bear interest at 13 to 15 percent rates and the small businesses would like to prepay; however, the Federal Financing Bank imposes exhorbitant prepayment penalties, sometimes equal to 30 or 40 percent of the amount of the loan, and this effectively precludes prepayment.

For example, a California small business participated in the CDC Program in 1981 and borrowed $47,000 for 15 years at an interest rate in excess of 15½ percent. In order to prepay that loan today, the SBA has calculated the prepayment penalty in excess of $92,000, even though the total amount outstanding is less than $444,000. This amounts to a penalty of 21 percent.

Another small business in Florida participated in the CDC Program in 1982 and borrowed $500,000 for 20 years at 15 percent interest. The loan is now paid down to slightly more than $400,000 and yet SBA has computed the prepayment penalty at an additional $142,000. This amounts to a penalty of 35 percent.

A similar problem affects another SBA Program, the Minority Enterprise Small Business Investment Company [MESBIC] Program, under which a MESBIC issues debentures, which SBA holds in-house, and uses the proceeds to provide venture capital to socially or economically disadvantaged small businesses. Some of them also have interest rates in the 15-percent range. Although SBA permits prepayment of them without monetary penalty, it too extracts a severe penalty. If a MESBIC prepays, SBA will not purchase any new debentures from the MESBIC until the expiration of the original term of the prepaid debentures.

Mr. Speaker, we find that the Government demands similarly outrageously high prepayment penalties under the MESBIC program.

For example, a New York MESBIC was funded for $600,000 for 10 years in 1981 at an interest rate of slightly under 15 percent. The prepayment penalty for that business, should it elect to prepay this year, would be approximately $150,000 or 25 percent of the amount of the loan.

The prepayment penalties illustrated in the above examples are, of course, in addition to the amount of interest owed on these loans.

Mr. Speaker, I do not believe that these small businesses should be able to walk away from their obligations. However, I believe that we ought to be reasonable in the amount of a penalty we are going to charge them to prepay the loan.

The private sector today purchases the financings previously held by the Federal Financing Bank through the CDC Program. The program serves the same purpose, and the debentures are still guaranteed by SBA, but the difference is that these loans or debentures are sold to private investors rather than to the Federal Financing Bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. That penalty, if the loan is prepaid within 1 year from the date of issuance, is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty goes down and is completely eliminated if the remaining life of the loan is less than one-half.

Mr. Speaker, I believe we should not extract more of a penalty from those who do business with the Government than the private sector would require. Accordingly, my bill provides that any participant in the CDC or Certified Development Company Loan Program or a participant in the MESBIC or Minority Enterprise Small Business Investment Company Program may prepay the debentures or obtain a writedown of the interest rate within the next 9 months providing they pay a penalty for this privilege. This penalty would be the equivalent of 1 year's interest payments, with a reduction being made for each year of the maturity of the loan which has already elapsed.

This would give small businesses the ability to restructure their debt servicing requirements and continue their role as job creators.

The Small Business Committee will be commencing hearings on this measure this week, and I am hopeful that this proposal can be ready for consideration by the entire House early next year.

THE MONTEREY HIGH SCHOOL TOREADORES COMPLETE A GREAT SEASON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I am proud to bring to the attention of my colleagues the accomplishments of the Monterey, CA, High School football team, the Toreadores, during the 1987 season.

The Toreadores had a record of 11-1-1 and went further in the State sectional playoffs than any football team in the school's history. The Toreadores made it all the way to the finals of the Central Coast Section Division I-3A playoffs by defeating teams from Branham and Lynbrook in earlier rounds. It was only in the finals this past Saturday, December 5, that Monterey finally succumbed in the last seconds to a tough Saratoga team by the close score of 12 to 10.

In the most recent rankings, the Toreadores were ranked eighth among schools in northern California.

I would like to list the members of the 1987 Monterey High School Toreadores: Robert Merrill, Ruben Hill, Chris Hampton, Mike Lathan, Jon Edwards, Steve Alkire, Frank Mineo, Raul Dela Flor, Ben Compagno, Lance Buckeldee, Sal Cardinale, Mike Eskridge, Homan Farahmand, Mike Venezia, Tim Sherman, Al Burgois, Bill Ambrosini, Greg McCoy, Troy Sevaaetasi, Shaumbe Wright, James Ray, Maurice Hayden, Carl Cockerham, Clarence Villere, David Morita, Greg Hagio, Hal Coker, Felipe Gonzalez, Scott Silvestri, Victor Lagana, Randy Ongaro, Marc Bomarito, Ron Slocum, Kirk Barrett, Dan Patrick, Chris Young, David Fortune, Eric McSwain, John Hagio, and Frank Sollecito.

The Toreadores' head coach is Pete Noble. Ted Robinson is the team's offensive coordinator. The team's other assistant coaches are Bo Resch, Jack Ahern, Roger Wells, Danny Albert, Ron Bettencourt, and Archie Warren. Dr. Dennis Romero is the team's trainer.

Mr. Speaker, a banquet will be held on December 15 to honor these great players and coaches. I am sorry I will not be able to attend because I will be in Washington. However, as a Monterey High School alumnus, I want the players and coaches to know that I am very proud of their accomplishments. I also know my colleagues join me in congratulating them on their successes and wishing them the best of luck in the future, both on the field and off.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FLAKE (at the request of Mr. FOLEY), for today, on account of illness in the family.

Mr. BAKER (at the request of Mr. MICHEL), for today, on account of illness.

Ms. PELOSI (at the request of Mr. FOLEY), for today, on account of a death in the family.

Mr. SLATTERY (at the request of Mr. FOLEY), for today and the balance of the week, on account of a death in the family.

Mr. DIXON (at the request of Mr. FOLEY), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SMITH of New Hampshire) to revise and extend their remarks and include extraneous material:)

Mr. JEFFORDS, for 60 minutes, on December 9.

Mr. HANSEN, for 5 minutes, on December 9.

Mr. HUNTER, for 5 minutes, today.

Mr. RITTER, for 5 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mr. WOLF, for 60 minutes, December 10 and December 14.

(The following Members (at the request of Mr. STAGGERS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mrs. BOGGS, for 5 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. CONYERS, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BEREUTER, on the Miller of Washington amendment as part of the Fascell en bloc amendments, in the Committee of the Whole on H.R. 3100 today.

(The following Members (at the request of Mr. STAGGERS) and to include extraneous matter:)

Mr. MONTGOMERY.
Mr. FRANK.
Mr. KENNEDY.
Mr. LEHMAN of Florida.
Mr. MILLER of California.
Mr. JACOBS.
Mr. RODINO.
Mr. MINETA.
Mr. COELHO.
Mr. STUDDS in two instances.
Mr. FLORIO in two instances.
Mr. SMITH of Florida.
Mr. SYNAR.
Mr. BERMAN.
Mr. RANGEL.
Mr. GARCIA.
Mr. TRAFICANT.
Mr. HAWKINS in two instances.
Mr. SKELTON.
Mr. MACKAY.
Mrs. SCHROEDER.
Mr. RAHALL.
Mr. KOLTER.
Mr. BRUCE.
Mr. PANETTA.

(The following Members (at the request of Mr. SMITH of New Hampshire) and to include extraneous matter:)

Mr. JEFFORDS.
Mr. CRANE.
Mr. MCMILLAN of North Carolina.
Mr. BEREUTER.
Mr. DAVIS of Michigan
Mr. RITTER.
Mr. DORNAN of California.
Mr. SAXTON.
Mr. HORTON.
Mr. BOULTER.
Mr. SOLOMON.

Mr. Fish.

Mr. Hammerschmidt in two instances.

Mr. Gallo.

Mr. Courter.

Mr. Dreier of California.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills, and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2672. An act to amend title 38, United States Code, to modify the amount of the Veterans' Administration home loan guaranty and to make other improvements in the loan guaranty program, and for other purposes;

H.R. 3483. An act to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes;

H.J. Res. 199. Joint resolution designating April 1988 as "Actors' Fund of America Appreciation Month"; and

H.J. Res. 412. Joint resolution to congratulate King Bhumibol Adulyadej of Thailand on his 60th birthday on December 5, 1987.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 9, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2521. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification of the determination by the Secretary of State that the furnishing of assistance to Egypt, which is more than 6 months in default on loans made under the FAA of 1961, as amended, is in the national interest; copies of the determination and the justification enclosed, pursuant to 22 U.S.C. 2370(q); to the Committee on Foriegn Affairs.

2522. A letter from the Deputy General Counsel, Federal Home Loan Bank Board, transmitting a report of the Board's compliance with the Government in the Sunshine Act for calendar year 1986, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2523. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2524. A letter from the Director, National Park Service, Department of the Interior, transmitting a report on Federal Lands Cleanup Day activities for 1987, pursuant to 36 U.S.C. 169i-1(c)(1); to the Committee on Interior and Insular Affairs.

2525. A letter from the Assistant Secretary of the Interior and Acting Chairman, Migratory Bird Conservation Commission, transmitting the report of the Migratory Bird Conservation Commission for the fiscal year ending September 30, 1987, pursuant to 16 U.S.C. 715b; to the Committee on Merchant Marine and Fisheries.

2526. A letter from the Secretary of Health and Human Services, transmitting a report on pacemaker surgery and Medicare physician payment, pursuant to 42 U.S.C. 13951 nt.; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2290. A bill entitled, the "Indian Health Care Amendments of 1987"; with amendments (Rpt. 100-222, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. de la GARZA:

H.R. 3712. A bill to designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory"; to the Committee on Agriculture.

By Mr. BERMAN:

H.R. 3713. A bill to permit the President to regulate or prohibit transactions incident to travel to and from a country with respect to which passports are designated as restricted for travel; to the Committee on Foreign Affairs.

By Mr. CLINGER (for himself, Mr. Shaw, and Mrs. Johnson of Connecticut):

H.R. 3714. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, and for other purposes; jointly, to the Committees on Government Operations and Public Works and Transportation.

By Mr. DAVIS of Michigan (for himself, Mr. Hertel, Mr. Fields, Mr. Young of Alaska, Mr. Traxler, Mr. Horton, Ms. Kaptur, Mrs. Bentley, Mr. Fawell, Mr. Wortley, Miss Schneider, Mr. Hutto, Mr. Saxton, Mr. Martin of New York, Mr. Upton, Mr. Dingell, Mr. Schuette, Mr. Ridge, Mr. Pursell, Mr. Henry, and Mr. Jontz):

H.R. 3715. A bill to require the Department of Commerce to compile an inventory of the pollutants discharged into the Great Lakes; to the Committee on Public Works and Transportation.

By Mr. DYSON (for himself, Mr. Wilson, Mr. Neal, Mr. Pursell, Mr. Jones of North Carolina, Mr. Cardin, Mr. McMillen of Maryland, Mr. Upton, and Mr. Schuette):

H.R. 3716. A bill to make persons experiencing crop losses during 1987 eligible for emergency crop insurance loans; to the Committee on Agriculture.

By Mr. HOWARD (for himself (by request), Mr. Hammerschmidt, and Mr. Shuster):

H.R. 3717. A bill to require certain actions by the Secretary of Transportation to improve bus safety; to the Committee on Public Works and Transportation.

By Mr. LaFALCE:

H.R. 3718. A bill to authorize the refinancing of certain small business debentures, and for other purposes; to the Committee on Small Business.

By Mr. RANGEL:

H.R. 3719. A bill to amend the Internal Revenue Code of 1986 to extend the targeted jobs tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 3720. A bill to amend the Military Selective Service Act to provide additional selective service registration procedures; jointly, to the Committees on Armed Services and Education and Labor.

By Mr. SUNDQUIST:

H.R. 3721. A bill to provide for discounted sales to Vietnam era veterans of homes held for an extended time by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. FASCELL (for himself, Mr. Crockett, Mr. Fauntroy, Mr. Oberstar, Mr. Gilman, Mr. Towns, and Mr. Gejdenson):

H.J. Res. 416. Joint resolution to support democracy and respect for human rights in Haiti; jointly, to the Committees on Foreign Affairs, Ways and Means, the Judiciary, and Banking, Finance and Urban Affairs.

By Mr. SMITH of New Jersey (for himself, Mr. Boulter, Mr. Lantos, Mr. Porter, Mr. Henry, Mr. Hoyer, Mr. Wolf, Mr. Bliley, Mr. Synar, Mr. Richardson, Mr. Bateman, Mr. Burton of Indiana, Mr. Gunderson, Mr. Ackerman, Mr. Weber, Mr. McDade, Mr. Fields, Mr. Howard, Mr. Jeffords, Ms. Slaughter of New York, Mr. Mrazek, Mr. Schulze, Mr. Feighan, Mrs. Morella, Mr. Kolbe, Mr. Aspin, Mr. Hall of Ohio, Mr. McHugh, Mr. Berman, Mr. Traficant, Mr. Torricelli, Mr. Frank, Mr. Skaggs, Mr. Lent, Mr. Courter, Mr. Ballenger, Mr. Schuette, Mr. Miller of Washington, Mr. Bonker, Mr. Hyde, Mr. Lagomarsino, Mr. Mineta, Mr. Edwards of California, Mr. Moorhead, Mr. Clinger, Mr. Smith of Florida, Mr. Konnyu, Mr. Saxton, Mr. Neal, Mr. Horton, Mr. Conte, Mr. Bonior of Michigan, Mr. Wilson, Mr. Bilirakis, Mr. McGrath, Mr. Hughes, Mr. Roe, Mr. Fawell, Mr. Gilman, Mr. Frost, Mr. Hochbrueckner, Mr. McEwen, Mr. Cardin, Mr. de Lugo, Mrs. Martin of Illinois, Mr. Ritter, Mr. Rinaldo, Mr. Swindall, Mr. Vento, Mr. Dwyer of New Jersey, Mr. Wise, Mr. Wortley, Mr. Scheuer, Mr. Livingston, Mr. Donald E. Lukens, Mrs. Meyers of Kansas, Mr. Holloway, Mr. Shaw, Mr. DeWine, and Mr. Eckart):

H. Con. Res. 223. Concurrent resolution expressing the sense of Congress that in 1988 in celebration of the millennium of the Christianization of Kievan-Rus' the Soviet

Union should proclaim a general amnesty for imprisoned Christians and allow Christians to practice their faith within their churches and homes; to the Committee on Foreign Affairs.

By Mrs. BOGGS:

H. Con. Res. 224. Concurrent resolution expressing the sense of the Congress that Dr. Frank G. Burks is recognized for his faithful service to the National Archives of the United States of America, to the Committee on Post Office and Civil Service.

By Mr. CONYERS (for himself and Mr. Horton):

H. Res. 325. Resolution authorizing printing of the transcript of proceedings of the Committee on Government Operations incident to presentation of a portrait of Hon. Jack Brooks; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

247. By the SPEAKER: Memorial of the Legislature of the State of Maine, relative to Federal rail administration; to the Committee on Energy and Commerce.

248. Also, memorial of the Congress of the Federated States of Micronesia, Eastern Caroline Islands, relative to welcoming the Honorable Michael Wygant, the first U.S. Representative to the Federated States of Micronesia; jointly, to the Committees on Foreign Affairs and Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

PRIVATE RESOLUTIONS

Mrs. BOGGS introduced a concurrent resolution (H. Con. Res. 224) to express the sense of the Congress that Dr. Frank G. Burke is recognized for his faithful service to the National Archives of the United States of America; which was referred to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. Dellums, Mr. Owens of Utah, Mr. Cardin, Mr. Bonior of Michigan, Mr. Darden, and Mr. Coelho.

H.R. 169: Mr. Shumway.

H.R. 719: Mr. Emerson.

H.R. 911: Mr. Studds, Mr. Bustamante, Mr. McMillan of North Carolina, Mr. Mineta, Mr. McMillen of Maryland, Mr. Foglietta, Mr. DeLay, Mr. Rowland of Georgia, Mr. English, Mr. Barton of Texas, Mr. Montgomery, Mr. Gilman, Mr. Smith of New Hamsphire, Mr. Panetta, Mr. DioGuardi, Mrs. Boxer, and Mr. Frost.

H.R. 925: Mr. Richardson.

H.R. 1016: Mr. Edwards of California, Mr. Dowdy of Mississippi, and Mr. Young of Alaska.

H.R. 1144: Mr. Rhodes.

H.R. 1145: Mr. Clay, Mr. Coelho, Mr. Dixon, Mr. Hatcher, Mr. Ireland, Mr. Montgomery, Mr. Ravenel, and Mr. Traxler.

H.R. 1213: Mr. Borski and Mr. Campbell.

H.R. 1325: Mr. Clinger, Mr. Rangel, Mr. Lancaster, Mrs. Boxer, Mr. Mollohan, Mr. Torricelli, and Mr. Sensenbrenner.

H.R. 1433: Mr. Kostmayer.

H.R. 1437: Mr. Baker.

H.R. 1638: Mr. Schumer, Mr. Foglietta, and Mr. Kennedy.

H.R. 1656: Mr. Ford of Tennessee.

H.R. 1769: Mr. Frank and Mr. Espy.

H.R. 1897: Mrs. Schroeder.

H.R. 1938: Mr. Solomon.

H.R. 2212: Mrs. Meyers of Kansas, Mr. Carper, Mr. Vento, Mr. Hughes, Mr. Yates, Mr. Neal, Mr. Howard, Mr. Bennett, Mr. Edwards of California, Mr. Kastenmeier, Mr. Skaggs, Mr. Anderson, Mr. Davis of Michigan, Mrs. Morella, and Mr. Rangel.

H.R. 2321: Mr. Brown of California, Mr. Rowland of Connecticut, Mr. Richardson, Mr. McHugh, Ms. Oakar, Mr. Roe, Mr. Lagomarsino, Ms. Kaptur, Mr. Hatcher, Mr. Owens of New York, Mr. Rangel, Mr. Hammerschmidt, Mr. Feighan, Mr. Visclosky, Mr. Foglietta, Mrs. Boxer, and Mr. Ford of Tennessee.

H.R. 2322: Mr. Brown of California, Mr. Conte, Mr. Rowland of Connecticut, Mr. Richardson, Mr. McHugh, Ms. Oakar, Mr. Roe, Mr. Lagomarsino, Ms. Kaptur, Mr. Hatcher, Mr. Owens of New York, Mr. Hammerschmidt, Mr. Feighan, Mr. Visclosky, Mr. Foglietta, Mrs. Boxer, Mr. Ford of Tennessee, and Mr. Wolpe.

H.R. 3050: Mr. Martinez.

H.R. 3065: Mr. Crockett, Mr. Horton, Mr. Foglietta, Mr. Holloway, Mr. Skelton, Ms. Slaughter of New York, Mr. DeFazio, Mr. Eckart, Mr. Gilman, Mr. Huckaby, Mr. Roberts, Mrs. Bentley, Mr. Ray, Mr. Borski, Mr. Boehlert, and Mr. Torres.

H.R. 3071: Mr. Sabo, Mr. Borski, and Mr. Fascell.

H.R. 3144: Mr. Callahan, Mr. Hall of Texas, Mr. Baker, Mr. Dowdy of Mississippi, Mr. Ireland, and Mr. Espy.

H.R. 3250: Mr. Bilbray and Mr. Morrison of Connecticut.

H.R. 3312: Mr. Solomon.

H.R. 3343: Mr. Moody.

H.R. 3399: Mr. Edwards of California.

H.R. 3440: Mr. Borski.

H.R. 3478: Mr. Boland, Mr. Hawkins, Mr. Fauntroy, and Mr. Hochbrueckner.

H.R. 3482: Mr. Savage and Mr. Miller of California.

H.R. 3485: Mr. Schaefer, Mr. Slattery, and Mr. Packard.

H.R. 3580: Mr. Davis of Illinois and Ms. Kaptur.

H.R. 3595: Mrs. Roukema and Mr. Gallo.

H.R. 3619: Mr. Martinez and Mrs. Collins.

H.R. 3659: Mr. Synar.

H.R. 3671: Mr. Brown of California, Mr. Clay, Mrs. Collins, Mr. Eckart, Mr. Evans, Mr. Fauntroy, Mr. Ford of Tennessee, Mr. Gray of Pennsylvania, Mr. Leland, Mr. Perkins, Mr. Rangel, Mr. Savage, Mr. Solarz, Mr. Towns, Mr. Wheat, and Mr. Wise.

H.R. 3693: Mr. Barnard, Mr. Spence, Mr. Spratt, Mr. Tallon, Mrs. Patterson, and Mr. Ravenel.

H.J. Res. 50: Mr. Robinson, Mr. Durbin, Mr. Mineta, Mr. Spratt, Mr. Denny Smith, Mr. Wilson, Miss Schneider, Mrs. Martin of Illinois, Mr. Ford of Michigan, Mr. Nelson of Florida, Mr. Tauke, and Mr. Solomon.

H.J. Res. 217: Mr. Solomon.

H.J. Res. 386: Mr. Bonker, Mr. Craig, Mr. Dellums, Mr. Dowdy of Mississippi, Mr. Espy, Mr. Flake, Mr. Frost, Mr. Fuster, Mr. Gonzalez, Mr. Hastert, Mr. Inhofe, Mr. Kanjorski, Mr. Kennedy, Mr. Manton, Mr. Morrison of Washington, Mr. Owens of Utah, Mr. Ritter, Mr. Roemer, Mr. Smith of Iowa, Mr. Torres, Mr. Towns, and Mr. Wolpe.

H.J. Res. 389: Mr. Howard, Mrs. Boxer, Mr. LaFalce, Mr. Weldon, Mr. Shumway, Mr. Wolf, Mr. Beilenson, Mr. Manton, Mr. Ford of Michigan, Mr. Skelton, Mr. Aspin, Mr. Weiss, Mr. Foglietta, Mr. McGrath, Mr. Frenzel, Mr. Garcia, Mr. Wilson, Mr. Lowry of Washington, Mr. Hughes, Mr. de Lugo, Mr. Saxton, Mr. Nelson of Florida, Mr. Eckart, Mr. Rangel, and Mr. de la Garza.

H.J. Res. 396: Mr. Hayes of Illinois, Mr. Wortley, Mr. Roe, Mr. Hall of Texas, Mrs. Johnson of Connecticut, Mr. Badham, Mr. Bevill, Mr. Daub, Mr. Blaz, Mr. Fazio, Mr. Rangel, Mr. Lipinski, Mr. Horton, Mr. Buechner, Mr. Mavroules, and Mr. Fuster.

H. Con. Res. 192: Mrs. Bentley, Mr. Skelton, and Mrs. Myers of Kansas.

H. Res. 300: Mr. Coughlin and Mr. Lipinski.

EXTENSIONS OF REMARKS

COMMON SENSE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. JACOBS. Mr. Speaker, among the many privileges which have been granted me, representing Robert Fangmeier in the U.S. Congress stands out prominently.

The following is an article written by Mr. Fangmeier for the Christian Century. It contains a rare item: Common sense.

IDEOLOGICAL CONTRADICTIONS IN U.S. POLICY TOWARD ANGOLA

(By Robert A. Fangmeier)

United States policy toward Angola serves to symbolize how national interest is denigrated by conflict between virulent anticommunism and the pragmatism that guides U.S. policy toward Marxist regimes in many other countries.

Recent U.S.-Angola policy is summarized in the May 13, 1987, issue of *Africa Confidential*, a British-based newsletter. "The basic irony of Angola," the newsletter reports, "is still the one which emerged from the civil war of 1975-76 when the United States' government supported one side and U.S. capital supported the other. Since then the oil industry, which supplies 96% of exports, has been expanded, but still on the basis of exclusively western capital and markets."

Africa Confidential goes on to say that "Cuban troops defending U.S. oil installations are still paid for with U.S. dollars. Meanwhile the U.S. administration continues to supply the Union for Total Independence of Angola (UNITA) with ever more sophisticated weapons."

The idea of Cuban communist troops defending American capitalist oil installations has an ideological Alice-in-Wonderland quality about it. Though this communist-capitalist collusion is not well known to the American people, insiders who follow Angolan politics have apparently been aware of it for some time.

"It is accurate that Cuban troops defend oil installations in Angola belonging to American oil companies working there," writes Representative Lee H. Hamilton (D., Ind.), an authoritative congressional source on U.S.-Angolan policy and more recently House chairman of the Iran-contra hearings. "This has been fairly common knowledge for some time, as I am told, but I am unsure exactly how much has been written in the U.S. press about it. I would agree that this is a unique situation."

Cuban troops were invited to Angola, the Angolan government says, to assist in protecting its newly independent regime from frequent invasions by South Africa, which still occupies a portion of its soil. Moreover, South Africa provides arms, money and strategic military support to revolutionary forces seeking to overthrow the government. The U.S. has joined South Africa in this effort.

The U.S. government does not recognize that of Angola. In recent years this circumstance has been abetted by the administration's policy shift to join South Africa in its effort to find and arm the UNITA forces. These revolutionaries have proclaimed their intentions to destroy U.S. oil installations. Ideological bedfellows in Congress, as well as in the administration, seem determined to force the oil companies out of Angola by law if possible—but failing this, to force them out by violence, as is implicit in the arming of UNITA. Thus U.S. Sidewinder missiles and other military aid are used to attack American oil interests, which in turn are defended by Cuban troops.

U.S. support for UNITA forces is indeed perplexing if one assumes that any rational definition of American national interest includes at least the protection of its citizens and businesses abroad. In a well-researched study titled "Angola: A Matter of Justice," the National Council of Churches observes:

Angola's economic ties are overwhelmingly with the West. The United States is Angola's largest trading partner. Angola is America's third largest trading partner in Sub-Saharan Africa. Two-way trade between the two countries has grown to over $1 billion since the Reagan administration assumed office.

David Rockefeller, retired chairman of Chase Manhattan Bank, likewise notes the mutuality of interest between the U.S. and Angola: "Angola is trying to facilitate a larger Western role in its economy through policies promoting greater privatization and reliance on market mechanisms."

Since 1979 the Angolan government's law favoring foreign investment has encouraged U.S. firms to invest more than $500 million. Indeed, Chevron/Gulf Oil has plans to invest another $1 billion in new capital before 1990. Chevron/Gulf has often lobbied Congress against destabilizing the Angolan government, as have Texaco, Conoco, Cities Service and Marathon Oil.

Angola also wins the U.S.-national-interest stamp of approval from the U.S. Export-Import Bank, the agency charged with guaranteeing loans to support U.S. exports. The bank has lent Angola $250 million over the past five years in three separate loans. These loans have received the necessary endorsement of the National Security Council.

The ideological flag of the administration's policy in Angola as elsewhere is, of course, anticommunism. Angola's leaders are avowedly Marxist. After Angola's independence from Portugal, it for a time pursued socialist economic policies, but with disastrous consequences. In its war against South Africa and UNITA it has received most of its military supplies from the Soviet Union. In the meantime, however, the Marxist leadership has become pragmatic and has joined U.S. business leaders in trying to build a viable economic order devoid of sterile socialism.

Though some American conservatives are angered by this communist-capitalist working relationship, some Cubans find it ironic. "We never thought we would be protecting American interests," a Cuban officer told a *New York Times* reporter in November 1986. Major Alberto García Mestre described this as "a part of his international duty."

The major and his Cuban troops say they are protecting the American oil companies against three enemies which have vowed to sabotage the complex where 180 Americans work: South Africa, a separatist movement seeking independence for the Cabinda province of Angola, and UNITA.

Around the oil fields, Cuban, American and Angolan politics is left at the gate, according to American workers. "We are running an oil field with Sonangola's oil company—the politics we stay out of," an American oil worker told the *Times* reporter. The reporter also sought opinions on the efforts of U.S. conservative groups to force Chevron to pull out of Angola because it in effect supports a Marxist government.

P.J. Demare, a drilling engineer from Baton Rouge, Louisiana, asks, "How can someone be so naive [as] to believe that if Chevron leaves this oil field, it will just shut down? Another foreign company will step in and the U.S. will lose that income."

Despite Angola's obvious turn toward the West, U.S. conservatives in 1987 mounted a furious legislative drive against it and U.S. business interests. A stance consisting of sympathy for the white South African regime, along with virulent anticommunism, has been the hallmark of far-right conservatives in Congress. Though they lost the sanctions fight in 1986, they have fought back to win widespread congressional and administrative support for their South African policies. Meanwhile, they give every evidence of being quietly supportive of South Africa's military and economic destabilization policies against its nine independent southern African neighbors.

A reversal of attitudes since the 1986 sanctions vote against South Africa can be seen in the anti-Angolan legislation introduced by Senator Robert Dole (R., Kan.), who as the majority leader led the battle to override President Reagan's veto in 1986. Now a presidential candidate, Dole has joined with the conservative movement's right wing by offering a bill (S. 1228) that would "impose trade sanctions on Angola, require the U.S. Trade Representative to negotiate with U.S. trading partners the adoption of a trade embargo against Angola, and target U.S. oil companies and individuals with income earned in Angola for double taxation," according to the Washington Office on Africa (WOA).

Commenting on the Dole bill, the Los Angeles Times found the senator's anticommunism somewhat flexible since "he advocates subsidies of roughly $100 million for sales to Moscow that would allow American grain to be bought cheaper in the Soviet Union than it can be purchased in the United States. On the other hand, he would ban all trade with a Soviet-supported regime in Africa, at the cost of hundreds of millions of dollars in trade and benefits. Perhaps only a Farm Belt Republican could get away with this contradictory position."

The Dole bill is symbolic of a series of right-wing steps. In June 1987 the New York Times reported that another $15-$17 million in covert military aid is being sent to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

UNITA. The same Senate that overrode the president's veto of sanctions against South Africa in 1986 seemed to veer right when in a 94-0 vote it approved an amendment to the supplemental appropriations bill. The amendment, introduced by Arizona's Democratic Senator Dennis DeConcini, would encourage the president to impose a trade ban on Angola. There were also other bills seeking to increase aid to UNITA and make the Dole bill even tougher.

The presence of Cuban troops in Angola also serves as an excuse for South Africa's unwillingness to grant independence to Namibia, the last colony in Africa. There are 90,000 South African troops in Namibia in violation of UN Security Council Resolution 435, which would grant independence and UN-supervised elections. It is from colonial Namibia that South Africa launches many of its raids into Angola. The apartheid regime thus has good reason to resent the presence of Cuban troops who tend to frustrate its designs and those of its armed surrogates.

There is now, and has been for some time, an agreement in principal among nearly all the contending parties that Cuban troops should be withdrawn from Angola. In early August the New York Times said that Angola's President José Eduardo Dos Santos "was prepared to be more flexible over the partial withdrawal of an estimated 34,000 Cuban troops in his country in return for [the] independence of South-West Africa, or Namibia, the withdrawal of South African troops from Angola and an end to American aid to antigovernment rebels."

The Angolan leader's statement certainly seems to be a negotiating position. On other occasions the Angolan president has implied that some troops would remain to defend the American oil installations, presumably until any South African and U.S. promises have been kept for a reasonable period of time.

In addition to recognizing Angola's entrapment in superpower East-West politics, we should also acknowledge that Angola has been an independent nation only since 1975—"when the Portuguese fled" and "left a country almost devoid of skilled Angolans," according to a recent *Christian Science Monitor* article. The instant socialism practiced in the early years, the *Monitor* says, has given way to decentralization, with "factories and farms . . . to be run on a profit-loss basis." The Westward drift of Angola is also seen in its desire to join the International Monetary Fund, one of the major capitalist-oriented lending agencies. Founded immediately after World War II, it has a membership of over 140 nations, many of them theoretically Marxist but willing to abide by market principles to receive loans and make their economies work and grow.

Owing to the civil war, however, none of these gestures seemed sufficient to arrest the deterioration of Angola's economy. At the end of August the *Washington Post* reported that a government study stated that "half of Angola's urban population, about a million people, faces acute shortages of staple foods, a situation which may deteriorate into near famine conditions . . . from September onwards."

"To feed people in the cities, as well as an estimated 600,000 displaced people in rural areas, the government is seeking 245,000 tons of food and other emergency aid worth $116 million," reported an August 14, 1986, article in the *Post*. A UNICEF official in Angola said that the U.S. had provided 12,000 tons of grits, vegetable oil and dried fruit last year and has indicated that it will increase that amount to more than 24,000 tons in the coming year.

"It has not ceased to blow my mind that on one hand we are getting more and more victims of this war, and on the other hand we are getting more and more food from the United States for these victims," UNICEF's Babourcar N'Jie told the *Post*.

U.S. Angolan policy does seem to represent a high point in measuring the domination of anticommunist ideology over national interest, especially when compared with the administration's positive policy toward neighboring Mozambique. For the latter nation too is poor and Marxist-led, and like Angola it has turned toward the West for economic assistance and guidance.

Conservative senators such as Jesse Helms and Robert Dole have not missed the similarity between Angola and Mozambique. To achieve quasi-official U.S. backing for the rebel Mozambique National Resistance (RENAMO) movement, Helms delayed for close to a year the nomination of a well-regarded career foreign service officer, Melissa Froelach Wells, to be U.S. ambassador to Mozambique. He wants "freedom fighter" status for RENAMO, as a first step toward military aid to help it overthrow the present government. RENAMO, like UNITA in Angola, is supported with money and military aid from South Africa. It was first organized by the erstwhile white South Rhodesian regime and later offered its mercenary services to South Africa when Rhodesia became independent Zimbabwe.

The Reagan administration, meanwhile, has stood firmly behind its nomination of Wells and its policy of recognizing Mozambique. But the Helms ideological foray partly explains the confusion of U.S. policy in southern Africa. The senator's virulent pro-South African and anticommunist agenda places administration and congressional pragmatists and congressional pragmatists on the defensive. U.S. national interest is being redefined almost entirely in terms of anticommunism. The Helms theory reflects little concern for the independence of Namibia, human rights or U.S. business interests if they fail to fit his ideological design.

The administration's policy of giving food aid to the Angolan government and military aid to UNITA may soon be complicated by a scandal similar in legal and policy implications to the Iran-contra affair. According to the *New York Times*, a House foreign affairs subcommittee "is looking into possible violations of the Clark Amendment which barred indirect or direct Government assistance to the Angolan rebels" until it was repealed in 1985. If these suspicions prove to be accurate, it would be one more instance of administration officials' implementing a policy in direct contradiction to a law passed by Congress.

The possibility of illegal aid to Angola is but one more element demonstrating, at the very least, incoherence in U.S. policy in southern Africa, but more likely it indicates a tacit support of South Africa's policy of destabilization toward its nine neighboring black independent states.

To achieve some rational definition of U.S. national interest in southern Africa, a full-scale congressional investigation of legal and illegal administration programs is needed. The media need to examine more deeply the policy implications for all of southern Africa that are suggested in the domination of anticommunist ideology over U.S. business and trade interests in Angola. The irony of Cuban troops defending American oil wells against UNITA—U.S.-backed forces which are creating tens of thousands of war victims who are being fed in part by U.S. aid—clearly bespeaks the contradictory foreign policy of the present administration.

ARE NORTH AND GOETZ VIGILANTES?

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. STOKES. Mr. Speaker, two distinguished educators from Ohio State University's School of Journalism, Assistant Professors Hugh Carter Donahue and Kevin R. Stoner, have written a series of editorials about Mr. Bernard Goetz and Lt. Col. Oliver North. I would like to note that these articles have appeared in the Chicago Defender and in a longer Spanish version published in California's La Opinion.

Although the Iran-Contra committee hearings have concluded and the report has been published, I am sure there will continue to be considerable debate about the impact that Mr. Goetz and Lieutenant Colonel North will have in the minds of the American public.

I would like to acknowledge these editorials by placing them in the CONGRESSIONAL RECORD.

The text of the editorials follow:

ARE NORTH AND GOETZ VIGILANTES?

(By Hugh Carter Donahue and Kevin R. Stoner)

Because the media have barraged us with information about Bernhard Goetz and Lt. Col. Oliver North, it seems important to look closely at the purifying label the public—duly reported by the press—has bestowed on these two men.

Goetz is often heralded as the "Subway Vigilante," and North the "Foreign Policy Vigilante." Both have evoked the myth of the vigilante, claiming a right to go beyond the law for some allegedly higher purpose.

But this "vigilantism," which both have publicly relied upon to exculpate their actions and which strikes so responsive a chord in public opinion, what does it mean? In Webster, there is a clear progression from the word vigil—to keep watch, which implies a neutral, but careful posture—to vigilante. Vigilante committee—a seemingly innocuous term tucked in between vigilance and vigilant. Perhaps this is the team to which North and Goetz belonged. Such a gathering is defined as "a volunteer committee of citizens organized to suppress and punish crime summarily (as when the processes of law appear inadequate.)" Moving farther down the dictionary page, one encounters vigilantism, "the summary action resorted to by vigilantes when the law fails." Yes, when law fails.

Implicit in the definition of vigilante, one must first value and accept an ideology, a system of laws, else one could not discern failure of the law from triumph. One would also want to be sure that acting above the law produced a transcendent good, else his actions are no better than those of his antagonists, reducing him to law-breaking thug. Belief first—then action.

It is here that Goetz's so-called vigilantism fails. Goetz arrived at his convenient rationale for attempting to kill others only after he had completed the act. Terror and premonition of harm do not an ideology make. Goetz struck out, nearly fatally, on the same basis as will the cornered animal. Said goetz to police: "When I was surrounded, at that point pulling the gun would have been enough . . . I decided to kill them when I saw his face." And we do not call that animal, though we may sympathize with its actions, a vigilante.

Conversely, Oliver North's actions seem to fit the definition of vigilante. Here is a man with an ideology. In relation to the Iran-Contra situation, his belief comes before the experience. With this motivation, North worked to divert money from arms sold to the Ayatollah to Contra rebels in Nicaragua despite the Neutrality Act and the prohibitions of the Boland Amendment. He admitted lying to congressional committees. He told the select committee investigating the scandal he shredded incriminating documents. He worked to establish a secret fund to be used for any foreign policy purpose the administration wanted, no matter how illegal or dubious.

Rep. Henry Hyde, R-Ill., says of North: ". . . He's a true believer. He's swept along by his convictions." Indeed, here is a man who seems to personify Lutheran theologian Deitrich Bonhoeffer's "believer." Bonhoeffer used this justification as rationale for his part in an unsuccessful plot to assassinate Adolph Hitler. But unlike North, Bonhoeffer was moved to action by the very real death camps, the merciless bombing of Spain and Britain and the loss of countless human lives, not merely because he feared an ideology.

Regarding the actions of the Sandinista regime in Nicaragua, a duly elected government whether one approves of it and its methods, where has American law been broken, American ideology concretely threatened?

To justify action that meets the definition of vigilantism, the law or the social order that sustains the believer, in North's case democracy, must be broken or concretely threatened. When tested by such criteria, North loses his status as a "believer," and as such must forgo the purifying title of vigilante.

If ever there was such a concrete threat in modern American diplomatic history, it is the Cuban missile crisis. Clearly the placement, by a hostile government, of missiles less than 100 miles from the United States constituted such a threat. The Kennedy administration quarantined Cuba and negotiated a settlement with the Khrushchev government. Strategy was kept secret, but of critical importance, no laws were broken.

The Sandinistas, on the other hand, accomplished no more than ridding their country of the Somoza family's political domination.

What North attempted to do, by conjuring up a concrete threat to justify his actions, might be called preemptive vigilantism. But this repudiates the very definition of the word. This preemptive vigilantism is at its essence no different from Goetz's attempt to kill because he perceived a threat to his being. There is no higher good here, only the misguided actions of man who equates ideologic disagreement with personal threat. And that leads back to the scenario involving the cornered animal.

If neither man fits the dictionary definition of vigilante, why do large segments of the public hail both as heroes, dispensing frontier justice? The answers are ominous.

Significantly, both men struck out against people whose crime seems to be that of color. The true vigilante pursues true criminals. Evidently, any number of Americans see no distinction between criminals and people of color and so applaud Goetz's and North's actions. More tellingly, the support might reflect a deep uneasiness on the part of whites with regard to the numbers of Blacks, Spanish, Asian and other "foreign" residents in American cities and in the Americas. Goetz, in 1963, went as far to say "we need to get the niggers and spics." This is racism, not vigilantism.

Each looks manly in standing up to authority. This appeals to American's love affair with the individual challenging the limitations—hence frustrations—of legal procedure. That is anarchy, not vigilantism.

Perhaps that is why each man is so dangerous. Their popularity reveals widespread frustration with American democratic ideals and institutions. Precisely because these men's actions undermine those ideals, the media should think twice about adopting catchy terms that dignify the acts of thugs.

A TRIBUTE TO JAMES BALDWIN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. RANGEL. Mr. Speaker, on December 1, 1987, both the Nation and the world suffered a great loss upon the death of one of this century's major authors, playwrights, essayists and thinkers, James Baldwin. Advocating truth, Baldwin's works became a standard of literature and critical thought long before his death. He was an oracle, unveiling humanity through his writings. I am confident that all my colleagues will join me in paying tribute to this great man.

Springing from Harlem, James Baldwin awakened the world to the depths of racial injustice by exposing the duality of being black in America. Through his most famous collection of essays, "Notes of a Native Son," Baldwin reproduced the black experience as one of hostility toward demeaning, white racism while concurrently one of aspiration for the things that white society deemed desirable. Nonetheless, Baldwin encouraged blacks to reject the negativeness that racism imposed upon the psyche. He was always striving for his people to turn the truth of their experience into a force that lifted rather than buried the human spirit.

Equally, he never let white Americans rest easy with the pace of race progress. Baldwin identified racism as a disease of whites. He argued that racism allowed whites to perpetuate the myth of white supremacy and, thus, prevented them from facing their own human weaknesses. "Our humanity is our burden. We need not battle for it. We need only do what is infinitely more difficult, that is, accept it."

Baldwin's affinity for the truth, however, did not leave him free from the criticism of others. From his odd-looking features and his exile to Paris to his open homosexuality and opinions about race, Baldwin was often the subject of controversy. Blacks questioned his dedication as a spokesman for the race. Whites challenged his perspective on racism. Clergy protested his portrait of the relationship of religion to those he wrote about.

Despite this scrutiny, however, Baldwin taught us to both challenge and speak up for ourselves. With his uncanny mirror images of the world, he demonstrated the ability to confront himself through the daily struggle as a black American, a homosexual, and a human being. He had the courage to look at the world as it was, synthesize it and paint reality as boldly and clairvoyantly as he saw it. In his own words:

> I am a witness to whence I came, where I am. Witness to what I've seen and the possibilities that I think I see * * *. [I]n order for me to execute my responsibility, I may have to offend them all, but that also comes with the territory. I don't see how I can repudiate it. Perhaps I did not succumb to ideology, as you put it, because I have never seen myself as a spokesman. I am a witness. In the church in which I was raised you were supposed to bear witness to the truth.

The world is far richer for his witness, the evidence of our shared humanity across race, class, gender and sexual preference.

PUBLIC OUTRAGE GROWS OVER UNSAFE ATV'S

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. FLORIO. Mr. Speaker, public and legal outrage is growing over unsafe all-terrain vehicles [ATV's]. Since 1982, there have been 883 deaths associated with ATV's. ATV's claim about 20 more victims every month, of which almost half are children under 16.

The following Washington Post article describes the growing outrage over the ATV death machines:

[From the Washington Post, Nov. 30, 1987]

All-Terrain Vehicles Face Rugged Legal Path

(By Daniel B. Moskowitz)

All-terrain vehicles are three- or four-wheeled first cousins of the motorcycle, with huge balloon tires, designed to bounce over sand dunes and hilly countrysides at speeds that, one current ad claims, "will embarrass the wind."

But a windstorm of legal opposition to the vehicles is gathering just as fast, and the industry—almost exclusively U.S. subsidiaries of Japanese motorcycle manufacturers—is about to have its own hurricane of litigation and legislation to cope with.

State attorney generals, the Justice Department and Congress are all drawing up attacks designed to, at the least, cut out a substantial part of the market for the machines, which have some commercial uses in remote territories but are primarily sold as fun machines. At the same time, plaintiffs attorneys for victims of ATV accidents have filed hundreds of damage suits that have the potential of eating up much of the profits from the $750 million in sales racked up by the product. It is the accidents that are at the heart of the pending legal actions.

ATVs are accused of adding to noise pollution and speeding land erosion, but the safety issue is the one that has grabbed the enforcers. "These are killer machines," argues Texas Assistant Attorney General Stephen Gardner. "I think they ought to be yanked off the market."

Figures compiled by the Consumer Product Safety Commission indict ATVs in 883 fatal accidents since they became popular in 1982. Most alarming: one-fifth of those deaths were of children age 11 or younger, and another fifth were children between 12 and 15. More than 300,000 injuries requiring treatment at emergency rooms have been blamed on ATV accidents, and 15 percent of those patients were hospitalized—an unusually high percentage.

Ironically, the determination of the law enforcement officials to do something about the safety problem comes as the accident rate has leveled off. Preliminary 1987 figures suggest that it is even declining. Sales of ATVs are off from their peak, too, and the manufacturers say that with fewer inexperienced riders, there are fewer accidents.

The companies have also been careful recently to run advertising featuring helmeted riders and containing warnings to take safety precautions. They have also suggested that states license drivers and require some training before youngsters power up.

Honda Motor Co. once had the ATV market to itself, and still controls more than half of the annual sales of the vehicles. Earlier this month, Honda made just those points in an all-day closed-door meeting with a delegation of state law enforcement officials led by Missouri Attorney General William L. Webster.

Webster warned the company in advance that unless it was ready to promise "a number of measures designed to eliminate needless deaths and injuries," the state attorney generals would begin "protracted and expensive lawsuits." The legal theory: In not spotlighting the hazards, the manufacturers have misled buyers. A total of 26 states have agreed to act together on the problem.

After the meeting with Honda, "All of the states agreed that we were all very disappointed" that the company emphasized driver mistakes as a cause of accidents and denied any design defects in the products themselves, said California Senior Assistant Attorney General Herschel Elkins, who hosted the session. Some of the AGs believe that the tendency of the vehicle to flip over is so great that they should be banned entirely.

The state officials are now hammering out a unified litigation approach, which may be ready to be debated at a Dec. 10 meeting of the National Association of Attorneys General. The CPSC, after failing to get a promise from manufacturers to limit sales to buyers 16 and older, last year asked the Justice Department to sue the companies. That request is still being formulated into a suit, which will ask for warning labels, driver training, and, perhaps, a mandatory refund to unsatisfied customers.

The suit will be legally tricky, because it will be the first to try to use the consumer product safety law against a product whose alleged defect is not in the design but in the marketing approach. But the department is taking a lot of political flak for not moving faster; Democratic presidential candidates Albert Gore Jr. and Paul Simon are making an issue of ATV safety and what they view as a sluggish approach by the administration.

The state officials say they will back off if Justice gets tough with the manufacturers. The industry is in the process of adopting formal standards for ATVs, and already the major companies are complying with some aspects of the proposals, such as labeling machines by the age of driver—8 and older—for whom they are appropriate.

But if the firms substantially redesign the vehicles that could be taken as an admission that the models already sold were less safe than they should have been.

That's a serious concern because the manufacturers already have their hands full with product liability damage suits brought on behalf of accident victims.

AIDS EDUCATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. STUDDS. Mr. Speaker, I would like to share with my colleagues the following op-ed piece by James Carroll from the November 29, 1987, issue of the Boston Globe. Mr. Carroll provides an insightful and sensitive view of how AIDS education must be approached if we are to successfully reduce the number of lives affected by this tragic disease:

[From the Boston Globe, Nov. 29, 1987]

A TIME FOR RETHINKING ON AIDS

(By James Carroll)

In addition to infecting individuals, the terrible AIDS virus can infect the public climate. The danger is that the physical epidemic will spawn a spiritual one, attacking the moral atmosphere in which we live with each other.

In Boston, so far, the communal mood engendered by AIDS has been marked by compassion, hope and reasonableness. The humane tone was set in the beginning by members of the gay community among whom the disease first struck. Their early initiatives were not only to care for those who became ill and to mourn those who died, but also to educate themselves and the rest of us about what was happening.

Boston's extraordinary medical community has contributed to the positive climate as well. Brave and dedicated nurses and doctors have devoted themselves to treating AIDS patients. Boston's medical researchers have been at the forefront of the effort to penetrate the mysteries of the virus.

POSITIVE RESPONSE

The city's political leaders, especially Mayor Flynn and Gov. Dukakis, have taken the lead in funding local programs and distributing the Surgeon General's Report. The media have served as effective mass educators, knowing that real information, however frightening, is always better than rumor and ignorance.

And finally, Boston's response to AIDS has been positive because many citizens have responded too. Administrators and boards have developed humane policies for dealing with the disease in schools and workplaces. Parents have swallowed their qualms and begun to teach their children about it. People have changed their sexual habits. Community organizations are getting the word to those most threatened—and the word is *prevention*.

Remarkable enough, the diverse communities of Boston have together developed a climate—it did not just happen—in which fearing and blaming have taken second place to caring and learning.

But that climate, like the Earth's, is very fragile. One could almost say it is flammable, and events in Boston lately have threatened to ignite it. A climate of caring, in response to AIDS, could be replaced overnight by one of hatred.

BROCHURE DENOUNCED

Consider some of what has happened in the last few weeks. A Boston newspaper columnist proposes that gay people stay on their side of Tremont Street, as if this city needs another exclusionary boundary. The editor of The Pilot writes, in effect, that the gay lifestyle itself breeds AIDS. A doctor whose sensibilities are offended by a frank and explicit AIDS prevention brochure sends copies of it to members of the State Legislature. Legislators denounce the brochure with disproportionate venom.

The assertion by its sponsor, the AIDS Action Committee, that it was never intended for general distribution but was targeted for people who engage in high-risk activity is ignored. The committee itself is bitterly attacked.

Gov. Dukakis joins the fray. Heretofore one of the architects of the positive public climate about AIDS, he not only condemns as inappropriately explicit the brochure which his public health officials recognize as useful, but seems to threaten to cut off state funding for the AIDS Action Committee.

Criticism of the committee and its director, Larry Kessler, mounts. Finally, the governor clarifies his position, saying he opposes defunding the committee. But the movement against it has been launched.

Observers are shocked because the committee is widely acknowledged to be the heart and soul of AIDS education and prevention in Boston. And through all these events, the debate over the Gay Rights Bill is more rancorous than ever, but with a new twist: opponents of the bill now use AIDS as a political weapon.

AIDS isn't going away. No cure is in sight. By the time one comes along our society is going to be ravaged. AIDS is going to affect our lives and our children's lives for many years. No doubt that knowledge, sinking into the deepest levels of our consciousness, is generating a powerful fear, and perhaps that fear makes us all want to strike out at someone.

AIDS is an outrage, and it does outrage us. But anger directed at those who so far have been most vulnerable to the disease will only make it worse. Scapegoating homosexuals, not only blaming them for breeding the disease, as The Pilot seems to, but punishing them by poisoning the climate in which meaningful education can take place, as some in the State House are doing, may satisfy the need to believe that AIDS is someone else's problem, but it will backfire on all of us.

UNDERSTANDING

A rational response to AIDS begins with the conviction that we can control its spread, but that doing so requires that we all change the ways we act and think and even talk. Two of the things we must talk about directly and frankly are sex and death.

We are conditioned to deal with sex, even in its most conventional forms, with euphemisms and jokes. But AIDS involves every kind of sexual behavior, including some that strike many as exotic or even perverse. These kinds of sexual acts are engaged in not only by gays. The impulse to pretend otherwise undercuts the kind of understanding that prevention requires.

To understand how all forms of sexual behavior can be life-threatening, and how they can be safer, sometimes demands a use of the vernacular, even in public. Such expression makes us squirm not just because we're prudish, but because sexuality has, until now, properly belonged to the realm of the private. But something has taken precedence over our traditional notions—the threat of death.

We avoid thinking directly about death because doing so has always seemed like staring into the abyss. AIDS is our abyss now, and to paraphrase Nietzsche, it is staring back at us. Because death from AIDS involves the link with sexual love, which is supposed to be the opposite of death, it is particularly unthinkable.

TOLERANCE NEEDED

Because death from AIDS strikes those among us—young, active people—who are most alive, it is particularly tragic. Because it strikes the addicted to whom life has already been overly cruel, it is particularly heinous. Because now it threatens our children, it chokes us with anxiety.

So AIDS knocks us off balance. Of course it makes us react irrationally. But the fear of death in all these forms, like squeamishness about forms of sex, no longer holds as an excuse. AIDS is an abyss, but it must also be a new source of discipline. It requires us to be exceptionally tolerant, exceptionally respectful of each other, exceptionally open to new ideas about ourselves. Because of AIDS we must all simply be at our human best.

And that means for one thing supporting people, like Larry Kessler and the AIDS Action Committee, who care for the dying by loving them and for the living by educating them. The AIDS Action Committee more than any other group has created the positive moral climate on which we all depend.

We must protect that climate from those who would pollute it out of an old habit of fear, out of the old false comfort of ignorance.

THE SUCCESS OF THE NICARAGUAN RESISTANCE

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. HAMMERSCHMIDT. Mr. Speaker, for the benefit of my colleagues, I would like to reprint the following article regarding the current situation in Latin America, which was written by my friend, Sandy McMath. Sandy is an Arkansas trial lawyer, and a former chief deputy prosecuting attorney at Little Rock. He is also a former U.S. marine captain and Vietnam veteran as well as an accomplished author. Sandy is currently completing his second book, "Southern Passage," which chronicles his 15-month Jeep trip from Mexico to Argentina in 1985–86. His travels and experience permit Sandy McMath to bring unique and insightful perspectives to his writing and I commend his article to my colleagues.

Recent pictures of Nicaraguan refugees streaming to the border and news-hungry Managuan residents grabbing up copies of La Prensa speak louder than all the news and commentary from that unhappy country.

They tell us that when given the slightest chance to vote with their feet, Central Americans reject Communism.

The only reason they've got such a chance just now is the success of the armed Resistance.

There would be no uncensored newspaper, no border visits, no talk of free elections—no Nobel Prize for President Arias—if the Contras had not become an effective fighting force with broad public support.

If we now, out of Glasnostian haste or fussy budgetary rectitude, cut off military aid to the Contras we will not only destroy the Arias peace plan, but with it the last opportunity for peace in the region without the loss of American lives.

The Arias plan is no different in its essential terms from other proposals made over the past six years. What makes it important is that the Sandinistas, who rejected all the others, signed it. Why?

To do in the United States Congress what they cannot do on the battlefield or at the ballot box: Defeat the Resistance.

No Marxist regime has ever held a free election, much less voluntarily shared or relinquished power. The Sandinistas are not about to do so unless the military strength of the Contras leaves them no other choice.

Freed of the threat of a strong Resistance, the Sandinistas will find plenty of excuses to postpone or adulterate new elections.

With the consolidation of the Sandinista regime, the Soviets will have achieved not only their most forward air, sea and guerrilla base but the psychological, as well as physical, severance of Panama and the Southern Continent from the United States.

Notwithstanding "Glasnost", they will waste no time in pressing insurgencies throughout the remainder of the isthmus, including, of course, Costa Rica—all the while keeping a cold eye on their ultimate objective in this business, Mexico.

Aside from our 2000-mile desert border, Magdalena Bay in Baja, California is perhaps the most ideal natural military harbor in the Pacific. The Gulf of California, wholly within Mexican territorial waters, is an 800-mile-long submarine launch track only missile-seconds away from our most vulnerable strategic bases.

Mexico's population has doubled in the last twenty-five years, from under 40 to just at 80 million. It will double again by 2010.

Riddled with corruption and inefficiency, the Mexican economy is in shambles. Government revenues cannot meet current expenditures, much less re-payment schedules on the largest foreign debt in the third world—over $112 billion.

Once a food exporter, Mexico now must import millions of tons of corn, rice, wheat and even beans—and still millions of its people are without.

Most of the windfall billions earned from oil in the late seventies and early eighties was mismanaged, blown on showboat tourist projects of little benefit to the people, or stolen. It is estimated that between 1978 and 1983 over half of the country's gross export earnings (75% from sales by Pemex, the state oil monopoly) were re-exported! Much of that was embezzled or kickbacked public revenue diverted by high officials into Swiss banks and Florida real estate.

With the money now drying up, the country's one-party political system—a semi-benevolent kleptocracy (steal all you can, but leave enough for the rest of us) is unravelling.

Public services have all but shut down in some areas; inflation is in the triple digits (from 12 to 1400 pesos to the dollar in six years); unemployment is over 30%.

Electoral fraud, customarily reserved for a few close races, is now used wantonly to nullify large majorities for what formerly were facade opponents.

When to all this is added the legacy of an abandoned agrarian revolution, leaving the largest number of landless peasants in the hemisphere, it is not hard to see why Mexico is the Sick Man of America.

Democratic reform efforts are underway and some progress has been made. A new generation of civil servants who disdain corruption is slowly taking over. The export base is broadening. But more time is needed and time is running out.

Although the traditional Communist Party in Mexico City is considered a moribund anachronism, there is reliably estimated to be throughout the country a tightly knit "cadre" of Soviet and Cuban-trained *spetsnatz* units capable of disciplined and vicious terrorism—from sabotage to sniping, arson, kidnapping and murder.

Though not by themselves able to precipitate a putsch, they are in an excellent position to co-opt a mass rebellion surging in the strong undercurrent of Marxism-Leninism that dominates the Mexican left.

Bands of insurgents are already active in the densely forested mountains of Chiapas, traditionally a hotbed of rebellion among dispossessed and exploited Mayan descendants. These now assist Guatemalan guerillas, to whom Mexico passively affords sanctuary along the border in exchange for Cuba's promise not to support insurgency in Mexico.

In sum, a major upheaval in Mexico is imminent and the Communists mean to make the most of it. Their chances will be immeasureably increased if their Nicaraguan satellite has been consolidated.

If we abandon the Contras now we will have served notice of our acquiescence to Soviet hegemony in the isthmus, an event immeasurably more damaging than the Kennedy administration's acquiescence in their establishment in Cuba.

The result, is soon upon us as it will be seen to have been avoidable, will be the engagement of American troops against professionally trained, battle seasoned, patriotically aroused, Soviet-backed forces below the Rio Grande—either to "save" Mexico or to contain it.

That such a conflict would eventually be "won" by the United States, would in no way compensate for its incalculable propaganda and diversionary benefit to the Soviets.

For our ability, and willingness, at such a time to fulfill our NATO commitment would be considerably diminished.

General Pershing would not have made the difference in Europe if he had still been chasing Pancho Villa.

WILL H.R. 1720 PROVIDE QUALITY CHILD CARE SERVICES TO WELFARE RECIPIENTS?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. HAWKINS. Mr. Speaker, the House soon will debate the issue of reforming our Nation's welfare system when it considers H.R. 1720, the Family Welfare Reform Act. The bill mandates participation in education, training, and work programs for all nonexempt AFDC heads of household with children over the age of 3. Parents with children under age 3 may volunteer for the program but will not be required to participate unless day-care assistance is guaranteed and participation in the program is on a part-time basis.

Critical to the success of this proposal is access to quality, affordable child care assistance for participants. To date, Federal funding for child care has primarily come from funds under title XX Social Services Block Grant Program. In the last 7 years, this program has been severely decimated by budget cuts. As a result of reduced Federal funding, many States have reassessed their commitment to the child-care needs of working parents, particularly those from low- and middle-income families. The State of Massachusetts, for example, is one of the first States in the country to appropriate State funds specifically for the purpose of providing child-care assistance to poor and needy families. Many States, however, have not replaced those lost resources.

H.R. 1720 attempts to provide child-care reimbursements to the States so that welfare recipients will be able to work toward economic self-sufficiency. The bill's reimbursement ceiling is $200 per month for children under 2 years and $175 for children over the age of 2. However, these rates should raise concern because the national average cost of child care is $250 per month or $3,000 per year per child. Furthermore, the actual cost of child care in State-sponsored welfare work programs, such as those in California and Massachusetts, already exceeds the national average and the thresholds established in H.R. 1720. Clearly, although well-intended, H.R. 1720 does not provide sufficient funds to cover the cost of quality child care for AFDC recipients.

In the case of the Massachusetts Employment and Training Choices Program [ET], the cost of child care has already exceeded the national average at $277 per month or $3,324 per year per child. According to State officials, the cost of child care is expected to average about $3,800 per child per year in fiscal year 1988. For a child with special needs or for infant/toddler care at a day-care center, the cost could run as high as $5,000 annually per child.

Currently, 47 percent of the total budget for the ET Program is spent on providing the necessary child care to enable thousands of clients to volunteer for the program. Almost 100 percent of the child care costs in Massachusetts is derived from State funds. In the current fiscal year, for example, $1 million of the total $41 million budgeted for child care in the ET Program comes from the Federal Government and the remainder from State-appropriated funds. Massachusetts' strong investment in child care and related support services is certainly a significant factor in the successful placement of more than 30,000 welfare recipients in full-time or part-time employment through the ET Program since 1984.

Child care services for welfare recipients and other low-income families under Massachusetts' contracts program vary according to the type of care provided and the age of the child. Family day care homes are reimbursed at an average rate of $389 per month. The State reimburses child care services in centers at a rate of approximately $644 per month for infants; $498 per month for toddlers; $379 per month for preschoolers; and $228 per month for school-aged children. Massachusetts also provides child care services to teen parents primarily in school-based settings. These services are reimbursed at a rate of approximately $822 per month since both parent and child are served.

Although the State of California has not completely implemented its Greater Avenues to Independence [Gain] Program for welfare recipients statewide, it is currently reimbursing center-based providers at a maximum monthly rate of $373 per child in the 13 counties where the program is fully operational. The cost for child care in the California Gain Program is expected to rise to approximately $400 monthly per child in fiscal year 1988. This is $225 more than the allowable reimbursement under H.R. 1720 for children over 2 years.

A key element of California's Gain Program is that actual reimbursement for child care services depend on regional market rates. The Gain Program allows the participant to choose the child care provider that will best suit the child and the family's needs.

According to the California Child Care Resource and Referral Network, the average costs of full time child care across the State in centers are approximately $470 per month for children under 2 years; $342 per month for preschoolers; and $467 per month for school-aged children when school is in session. Family day care homes are reimbursed at average costs of approximately $344 per month for children under 2 years; $329 for preschoolers; and $434 per month for school-aged children when school is in session.

Cost, alone, is not the only factor that determines the quality of child care services. Other factors such as adult/child ration, licensing restrictions, provider qualifications, and the type of program also affect the quality of care for children of participants in welfare-to-work programs. However, cost plays a significant role in determining the nature of these and other related factors.

In reality, child care costs are already much higher in some States than the maximum reimbursement available in H.R. 1720. As we attempt to make improvements to our welfare system, we must be careful not to develop two separate child care systems—one which offers quality care to parents who can afford it and another which results in substandard care for the children of less fortunate families.

It is critical that any efforts to provide child care services for AFDC recipients participating in mandatory education, training, and employment programs be funded adequately and provide access to quality care. Based on current reimbursement rates for welfare recipients in Massachusetts and California, the provisions in H.R. 1720 are insufficient to provide quality child care services, particularly for younger children.

With only lukewarm assurances that there are sufficient Federal and State resources to support this program, the needs of children and adults on welfare will not be adequately addressed by H.R. 1720. As many of the witnesses during the Education and Labor Committee hearings on this issue attested to, welfare reform, without a sufficient investment in adequate child care services, is unrealistic and unfair.

THE 100TH ANNIVERSARY OF GARLOCK MECHANICAL PACKING DIVISION

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. HORTON. Mr. Speaker, on September 29, I was honored to join in the 100th anniversary celebration of the Garlock Mechanical Packing Division in Palmyra, NY. It was an honor to participate in the centennial celebration of a company that has been such a vital part of the economic foundation of Palmyra for 98 of the company's 100 years. From simple cotton and rubber packing rings, its product line has grown in size and sophistication to make it one of the world's leading producers of seals, gaskets, and packing.

On this day of celebration, more than 700 Garlock employees and their family and friends attended the ceremonies. In the company of representatives of the corporate offices of Colt Industries, I presented Mr. John W. Guffey, Jr., division president of the Garlock Mechanical Packing Division in Palmyra, with a U.S. flag that had been flown over the U.S. Capitol on July 4, 1987. Rev. Eugene H. McFarland pronounced the benediction ending the formal ceremony. At that moment, more than 1,000 helium-filled balloons were released to the sky to begin the memorial picnic.

Others attending the celebration were Warner H. Strong, mayor of Palmyra Chamber of Commerce; Edwin E. Wheeler, Palmyra town supervisor; and George W. Townsend, Colt Industries vice president and a former president of Garlock. We gathered together as Phil Berkowitz, Colt vice president, personnel, congratulated all Garlock employees, past and present. He presented Mr. Guffey with a bronze-on-walnut Colt plague commemorating the centennial and signed by David I. Margolis, Colt Industries chairman, president, and chief executive officer. The Garlock family has been and will continue to celebrate this year-long centennial observance. It was a ceremony that I will remember for years to come.

In 1887, Palmyra, NY, boasted a population of just a few thousand. With the formation of the Garlock Packing Co., Palmyra added manufacturing to its list of economic activities. The founder of Garlock, Olin J. Garlock, joined his two partners, Friedrick Griffith and Eugene Nichols, and opened a small office and factory in Palmyra. Based on Olin Garlock's patented idea of the high-speed manufacture of large quantities of packing for steam engines, the company grew in leaps and bounds.

During World War I and World War II, the Garlock Packing Co., joined in the patriotic fever that swept the Nation. During World War I, Garlock management lent the U.S. Government all of its salesman—except those eligible for the draft—for whatever tasks necessary and Garlock continued to pay their salaries. The company pledged full cooperation during this war and contributed a monthly cash amount equal to one-quarter of 1 percent of total salaries.

Declaration of war in 1941 unleashed a wave of patriotism among the employees at Garlock as large numbers of young employees joined the Armed Forces and the remaining employees donated a full day's pay to the war effort. By the end of the war, 12 of the 281 Garlock employees in the Armed Forces gave their lives for their country. I honor all of these men and women for their brave actions in this war.

During its 100-year history, Garlock developed almost every industrial sealing product used by industry. Watchful of the markets for its products, the Garlock Packing Co. proved to be adaptable, flexible, and ingenious. As the years passed, Garlock changed and expanded its product line to keep pace with the introduction of the automobile, the electric motor and, more recently, nuclear power. In the 1980's the company made history when it pioneered the research and development of nonasbestos products and led the industry into a new era.

Today the tradename Garlock is synonymous with the best there is in the sealing industry. Garlock is one of the best known producers of gasketing and packing and is used by virtually every industry in the United States and the entire world. Garlock Mechanical Packing Division, which became a subsidiary of Colt Industry in 1976, joins an elite group of only 82 companies in the United States which have been in business 100 years or more.

Mr. Speaker, I salute the Garlock Mechanical Packing Division of Palmyra, NY, on the completion of its first century in business. The company's exceptional performance is a result of the Garlock family pride that has been around for 100 years. I am sure that the tradition and the excellence of Garlock leadership will continue for another 100 years.

In conclusion, Mr. Speaker, I am submitting a historical list of the 100 year highlights of the Garlock Mechanical Packing Division.

HISTORICAL FACTS COMMEMORATING GARLOCK'S 100TH ANNIVERSARY

1861—On July 5, 1861, Olin J. Garlock was born.

1887—The Garlock Packing Company was formed by O.J. Garlock, Eugene Nichols, and Frederick Griffith.

1889—The Garlock Packing Company moved to Palmyra, New York.

1900-20—During the years of World War I, 77 Garlockers served their country in the Armed Services.

1921-28—The Garlock Employee's Mutual Benefit Association was formed, providing a Health Care Program that was considered very progressive for its time.

1929-39—(1933) Admiral Byrd's Expedition was made to Antartica. Garlock donated all the packing for the ship's involved and was the first packing to reach the South Pole.

(1937) was the year a large celebration was held to honor the 50th anniversary of the world's largest exclusive manufacturer of mechanical packings.

During the Great Depression, Garlock maintained a high degree of profitability due to their enthusiastic employees.

1940-49—On January 31, 1942, O.J. Garlock died at the age of 80.

In this same month, all the Garlock employees donated one day's pay to the World War II effort and a check for $15,386.01 was contributed to the United States Government.

During World War II, 12 Garlock employees died serving their country; 223 Garlockers were in Uniform.

1950-59—Garlock instituted a comprehensive Retirement Plan for all employees.

Mr. Rick McMullen, founder of the United States Gasket, became the new leader of the Garlock Packing Company.

Mr. McMullen went on to become a member of the Board of Directors of Colt Industries. He died on December 15, 1983.

1960-1969—In April 1960, the Garlock Packing Company became Garlock Inc.

On May 24, 1964, Garlock stock was listed on the New York Stock Exchange.

1970-79—In March 1974, George W. Townsend became Garlock's new President.

(1975) Garlock constructed the world's most modern industrial textile plant in Sherbrooke, Quebec.

(1976) Garlock became a wholly-owned subsidiary of Colt Industries.

1980-87—In 1983, the production of asbestos packings was discontinued and replaced with the latest in new fibre technology.

(1987) Garlock set new sales records as compared with past years. Garlock became the leading packing, gasketing, and sealing products company in the world.

Today, Garlock stands as the recipience of their history, their products, and the markets that were the result of their exceptional performance of all the Garlockers who have preceded them.

On July 2, 1987, Garlock dedicated an impressive monument of the United States Flag to all their past employees who have served their country in both war and times of peace. This monument stands to pay tribute to those who served in the past as well as those who will serve in the future.

A tribute to the thousands of Garlockers and their families who enabled Garlock to pledge to all of our fine customers that they will provide "The Seals of Integrity" for another 100 years.

("The Seals of Integrity" phrase began with O.J. Garlock's patent for packing rings made from cotton duck and rubber, that he received in 1861.)

JORGE OCHOA SHOULD BE EXTRADITED TO THE UNITED STATES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. SMITH of Florida. Mr. Speaker, last month a second member of the notorious Medellin cocaine cartel was rearrested in Colombia. Like his cohort Carlos Lehder, Jorge Luis Ochoa is wanted in this country for cocaine trafficking. Unfortunately, in June the Colombian Supreme Court ruled that the United States-Colombia extradition treaty was unconstitutional. Unless the Colombia Congress approves appropriate legislation to reinstate extradition, Ochoa soon will be able to continue flooding this country with cocaine.

I am in the process of drafting letters to President Barco and the leadership of the Colombian Congress. Those letters will urge our Colombian colleagues to reestablish a constitutional extradition system between our two countries. I hope that all of my colleagues in this body will sign these important letters.

Finally, I am including at the conclusion of my remarks an editorial from the November 29, 1987 edition of the Miami Herald.

EXTRADITE OCHOA

Drug trafficking is a difficult evil to fight. The traffickers' powerful mechanism of money and violence, for instance, makes Colombian judges fear a drug lord more *after* he is locked up in prison than when he is free.

The new arrest in Bogota of Jorge Luis Ochoa, the drug lord most wanted in Miami and the reputed boss of the world's largest cocaine cartel, will test the courage and resolve of Colombia's judiciary and government. A year ago, Mr. Ochoa legally walked out the door of a Cartagena customs court. Despite the U.S. drug charges against him, Colombian charges of illegally importing fighting bulls were given primacy. Released on $13,500 bail, he disappeared.

Mr. Ochoa is wanted in Miami on cocaine-trafficking charges in the Nicaraguan Sting, a 1984 case involving shipment of 1,452 pounds of cocaine into the United States via Nicaragua. He is accused of arranging the 1985 murder in Baton Rouge, La., of Barry Seal, an undercover Drug Enforcement Administration informer who was to testify against the Medellin cartel. In 1986 Mr. Ochoa and other cartel leaders also were accused of shipping 58 tons of cocaine into the United States.

Extradition of Mr. Ochoa to the United States may not occur, however. On June 25, in what was considered a cartel victory, the Colombian Supreme Court ruled 13-12 that the 1979 U.S.-Colombia extradition treaty was unconstitutional. Unless new legislation is passed, there's no bilateral vehicle for bringing Mr. Ochoa before a U.S. court.

The State Department nonetheless is rightly pursuing his extradition with Colombian authorities. The Reagan Administration is using a 54-year-old multilateral agreement—the 1933 Montevideo Inter American Multilateral Convention—to pressure Colombian President Virgilio Barco to go beyond making Mr. Ochoa simply serve his pending 20-month sentence for the fighting bulls and to extradite him.

May Mr. Barco find the legal means—and the courage—to extradite Mr. Ochoa. For without the courage to defy the cartel's retribution, Colombian officials cannot hope to reimpose the rule of law upon lawless drug lords.

A SPEECH BY DR. HENRY J. MANKIN

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. KENNEDY. Mr. Speaker, Massachusetts' eighth district is the home of the Harvard Medical School, and I am pleased to report that one of Harvard's distinguished faculty—Dr. Henry J. Mankin—now serves as chairman of the Arthritis Research Committee for another of the world's great medical institutions, the National Institutes of Health, and its National Arthritis Advisory Board.

Dr. Mankin is the Edith M. Ashley professor of orthopaedic surgery at the Harvard Medical School. This year as the spokesman of the National Arthritis Advisory Board, Dr. Mankin testified before the health-appropriations committees of both houses of Congress.

With a majority of my colleagues I am proud to have supported the work of NIH scientists through the passage of H.R. 3058, appropriating funds for the Departments of Labor, Health and Human Services, and Education. As this legislation proceeds to conference, and, I hope, to public law, I want to share with my colleagues Dr. Mankin's testimony on arthritis research. His message is a reminder that health and human needs must remain a national priority.

Mr. Speaker, I ask that Dr. Mankin's testimony be printed in the CONGRESSIONAL RECORD and that it be printed in the Extensions of Remarks for today's RECORD.

STATEMENT OF HENRY J. MANKIN, M.D., MEMBER, NATIONAL ARTHRITIS ADVISORY BOARD

I am Henry J. Mankin, Edith M. Ashley Professor of Orthopaedic Surgery, Harvard Medical School, Chief of the Orthopaedic Service of the Massachusetts General Hospital, and a member of the National Arthritis Advisory Board. I am honored to present the recommendations of the National Arthritis Advisory Board (NAAB).

Congress established the NAAB in 1976 to (1) evaluate the implementation of the National Arthritis Commission's Arthritis Plan, and (2) report annually to the Congress and the Administration with recommendations for policies, programs and budgetary requirements related to arthritis.

Arthritis devastates lives. Arthritic and musculoskeletal disorders are this country's number one crippler, the leading cause of diminished mobility, the second leading cause of activity limitation, and an important cause of mortality. Approximately 37 million Americans are afflicted with one of the more than 100 arthritis-related disorders—including osteoarthritis, rheumatoid arthritis and lupus. Millions more have musculoskeletal conditions such as osteoporosis. Approximately one-third of our population is afflicted by joint swelling, limitation of motion, or musculoskeletal pain.

Although the prevalence of arthritis and other musculoskeletal problems increases with age, these conditions also affect more than 165,000 children. Arthritis in children can cause pain, swelling and deformity. It can retard growth and lead to blindness, kidney disease, or death.

The economic burden of arthritis and musculoskeletal disease is also large. The total costs incurred from conventional forms of arthritis approach $9 billion a year. Osteoporosis and related complications add another $6 billion in annual costs, and back pain and lumbar disk disorders account for an additional $16 billion. As the proportion of our elderly population increases over the next 50 years, these costs are projected to increase dramatically.

The cause or causes of most forms of arthritis are not yet known. There are no known cures and few proven preventive methods. However, the accomplishments of the past decade offer significant hope that the enormous human costs and economic burden associated with these diseases can be significantly reduced. Unfortunately, the future of many of these programs is threatened by inadequate levels of Federal support, and the Board is deeply concerned that the momentum that has been generated will be lost if additional resources are not allocated to its fulfillment.

BUDGET RECOMMENDATIONS FOR NIAMS

The National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS) is the lead agency for arthritis, musculoskeletal, and skin-related research activities. This new Institute requires the continued support of Congress to achieve the goals of the national plan for these diseases. The following table summarizes the Advisory Board's budget recommendations for NIAMS.

	1987 recommendation	1987 appropriation	1988 recommended
Research project grants	$120,817	$94,368	$148,587
Multipurpose arthritis centers	16,275	10,040	15,113
Specialized centers of research	8,080	8,130	8,746
Research and development contracts	5,108	3,027	6,442
Intramural research	9,584	8,422	10,321
Research career awards and other research	7,800	5,934	8,256
National research service awards	6,530	6,433	9,495
Research management and support	6,354	4,542	5,300
Total	180,548	140,896	212,260

INDIVIDUAL RESEARCH GRANTS

Scientific advances have opened up research opportunites that strongly merit funding. Perhaps the most potent research tools we have ever had are the enormously powerful techniques of molecular biology, which enable scientists to define cellular synthetic processes; identify, with infinite purity, the products of that synethesis; and even, depending on circumstances, alter the way the cell acts. Techniques of molecular biology are being applied with great success to the study of a number of diseases. This science has dramatic implications for those with arthritis and musculoskeletal diseases, and the Board had identified the following areas of research that would benefit rapidly from the application of molecular biology techniques:

Identification of possible genetic markers for connective-tissue diseases that would enable early diagnosis and treatment.

Analysis of substances produced or inhibited at the site of disease-related tissue destruction and their relationship to gene activity.

Investigation of the genetic structure and regulation of collagens because abnormalities in these connective tissues may be an early warning sign of disease.

Continued investigation of human growth factors as mediators and their possible link to arthritis-related diseases.

Other promising research opportunities include:

Intensive search for one or more infectious etiologies in rheumatoid arthritis and other forms of inflammatory arthritis.

Expanded research into the role of growth factors, cytokines, and other intercellular mediators in the development of arthritis and collagen-vascular disorders and diseases of bone.

Investigation of defects in the immunologic network in patients with lupus and other autoimmune diseases to find specific interventions to arrest these diseases.

Efforts to define the structural, biochemical, and metabolic abnormalities in articular cartilage associated with osteoarthritis.

Development of new precise means of early detection of osteoporosis and optimal regimens for hormonal and mineral management.

Continued research in materials and design of metallic total joint implants, with special emphasis on bony ingrowth systems.

Identification of mechanisms to monitor sports-related injuries and strategies to prevent such injuries to joints, muscles and ligaments.

Exploration into the role of mediators and physical factors in the healing of fractures.

Research to determine how chronic inflammatory joint diseases in children affect the growth plate to cause short stature and the influence of nutritional deficiency on bone density.

Because of the potential of these areas of research, the Board recommends that the NIAMS receive sufficient funds to support 50 percent of approved competing individual research applications.

For research training, the Board recommends NIAMS receive additional funds for

Fellowships and career development awards to teach beginning rheumatologic and orthopedic researchers the latest techniques of molecular biology and biotechnology.

Fellowships to enable established rheumatologic and musculoskeletal disease investigators to expand their knowledge of molecular biology and biotechnology, and

Special granting mechanisms to enable medical students to engage in research of rheumatologic and musculoskeletal disease.

CENTERS

Nine new multidisciplinary Specialized Centers of Research (SCOR's) were authorized in fiscal year 1987, three each in the areas of rheumatoid arthritis, osteoarthritis, and osteoporosis. These centers are an important addition to the arthritis research program.

The Multipurpose Arthritis Centers (MAC's) also contribute significantly to the national arthritis program through comprehensive biomedical and epidemiological research, training and education, and community and health services. Over the past 8 years, however, the number of MAC's has decreased and the budget of each center has been reduced 15 to 20 percent. The NAAB recommends that all centers be fully funded and at least two additional multipurpose centers in arthritis and musculoskeletal diseases be established within the next year.

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HEALTH CARE IN RURAL AMERICA

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. BRUCE. Mr. Speaker, this year Congress began work in reviving the health care delivery system in rural areas. But we have some hard work ahead of us. A 1986 study conducted by the University of Illinois School of Public Health and the American Hospital Association's Data Center indicated that a total of 83 hospitals closed last year. Over 50 percent of these were in rural areas. The total bed loss among closed rural hospitals was 106 percent higher than in 1985. In addressing rural health care issues we must ask why rural hospitals are in such dire straits.

Mr. Speaker, my experience in the 19th Congressional District of Illinois has brought into focus a few basic facts. First, rural hospitals face lower reimbursement rates from Medicare. In fact, payments under PPS are both inequitable and inadequate. On equity, rural hospitals are paid 17 percent less than their urban counterparts. On adequacy, I would point out that since 1984 the hospital's market basket has risen 12.5 percent while the rate of Medicare hospital reimbursement has increased by only 5.5 percent. Second, rural areas face greater difficulty in attracting physicians and other health care professionals for reasons that include high levels of uncompensated care and high proportion of Medicare and Medicaid patients. In addition, rural hospitals often do not have the resources to furnish all the medical equipment that physicians need to provide the quality of care that patients have come to expect. Third, the impact of hospital closings in rural areas extends beyond the loss of inpatient hospital services. Hospitals are often the second or third largest employer in a rural area and are a hub of economic and community activity. As much as 60 percent of a hospital's total outlays are dedicated to payroll and for each dollar that is earned by a rural hospital that dollar is spent between 1.5 and 3 times in that rural community.

A recent editorial by Professor Anthony R. Kovner in American Health Association News identifies six factors which contribute to rural hospital closures. The factors identified by Kovner mesh with my experiences in downstate Illinois. Mr. Speaker, I believe that all of us concerned with the plight of rural hospitals will find this article to be of interest and would, therefore, like to include this article in the RECORD.

RURAL CLOSURES GO BEYOND PAYMENT—AND INTO THE TROUBLES OF RURAL LIFE

(By Anthony R. Kovner)

A 1986 study, conducted by the University of Illinois School of Public Health and the AHA's Hospital Data Center, indicated that a total of 83 hospitals closed last year, with 52.1 percent of those hospitals located in nonmetropolitan areas. Total bed losses among closed rural hospitals were 106 percent higher last year than in 1985.

Why do such rural hospital closures seem to continue unabated? Identifiable threats include:

Demographic factors. A low population density, worsened by the emigration of the younger population in search of employment in larger communities, results in a higher proprtion of elderly people remaining in rural communities. This elderly population is known to absorb a significant amount of health care services. A weak farm economy also decreases local tax bases and increases the proportion of rural Americans who lack adequate health insurance.

Utilization factors. Overall utilization of inpatient services in rural areas continues to decline, while those same services are increasingly utilized by the elderly who are covered by decreasing Medicare reimbursement. Consequently, rural hospitals reach base levels of fixed costs with high costs per case and low net operating margins.

Greater competition. Urban hospitals' solutions to declining utilization have included market expansion to adjoining rural areas, from which urban facilities attract mostly the younger population; access to urban hospitals often is difficult for the elderly, the poor and their families—who constitute a high proportion of the rural population and who are in greater need of services. These groups then tax rural facilities' resources.

Reimbursement changes. Although a large percentage of elderly patients utilize the acute care services available in rural hospitals, rural facilities are reimbursed at lower PPS rates than are their urban counterparts; also, rural hospitals do not usually benefit from teaching-facility adjustments to DRG payment.

Insufficient physician supply. Rural communities continue to experience difficulties in recruiting and retaining qualified physicians (mostly generalists and family practitioners). Although the total number of U.S. physicians may be sufficient—or more than sufficient—for the nation, there are shortages in many rural areas.

Technological changes. The rapid technological advancement in many areas of medical practice sometimes renders rural health care practitioners and rural hospitals technologically obsolete. Too frequently, facilities, equipment and training are no longer adequate to compete with those at urban hospitals.

There is no one strategy or solution to these problems. But policymakers must realize that rural hospitals have fewer resources than do their urban counterparts to adapt to change—and many needed rural facilities may require emergency governmental financial support to survive.

Anthony R. Kovner is a professor at New York (City) University's Graduate School of Public Administration and director of the Princeton, NJ-based Robert Wood Johnson Foundation's Hospital-Based Rural Health Care Program.

BOB DOLE'S PROBLEM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. STOKES. Mr. Speaker, on Sunday, November 15, 1987, the New York Times published an article written by Anthony Lewis entitled, "Bob Dole's Problem." Mr. Lewis is regularly featured on the editorial pages of the Times in his "At Home Abroad" column.

Mr. Lewis' article represents a sensitive discussion of political realities in South Africa and the impact of these realities on our electoral politics. I would like to bring Mr. Lewis' article to the attention of my colleagues in the Congress. The article follows:

[From the New York Times, Nov. 15, 1987]

BOB DOLE'S PROBLEM

(By Anthony Lewis)

BOSTON.—Senator Robert Dole is a formidable candidate for President: sensible, knowing in the ways of Washington, a conservative who has no time for the fantasies of Reaganomics. He has shed the meanness of the past, showing us instead a man with compassion for the dependent and rejected in society.

But when he formally announced his candidacy last week, there was one sour note, small but irritating. In Iowa, the first key state, television advertising and protesters waving signs objected to his position on South Africa, in particular his support for President Reagan's veto of economic sanctions last year.

Senator Dole was angry. "There's not a racist bone in my body," he said. I am sure he means that. But he has a problem here, a serious one. It is a problem of perceived insensitivity.

Not just on sanctions, but on a series of African issues, Senator Dole has lined up with the extreme right. He joined Jesse Helms in holding up the nomination of a new American ambassador to Mozambique as a way of pressing the Reagan Administration to deal with Renamo, the South African-supported guerrillas who carry out mass murders in Mozambique.

Last summer, in a letter to a Kansas constituent, Senator Dole denounced the African National Congress of South Africa, the outlawed anti-apartheid organization. He said the A.N.C. "espouses 'necklacing,'" the gruesome practice of killing suspected Government spies in the black townships by putting burning tires around their necks.

The constituent sent me the letter. I wrote and asked Senator Dole what the basis was for his statement: Could he please cite an official A.N.C. document or statement that "espoused necklacing"?

Various spokesmen for Senator Dole promised an answer to the question but did not provide one. Finally, last week, a spokesman produced a reply. But it did not cite an official A.N.C. position urging necklacing.

The horror was in fact carried out by angry youths in the townships, not by any A.N.C. policy. There has been no A.N.C. statement espousing necklacing. Winnie Mandela, wife of the imprisoned A.N.C. leader, spoke once of liberating the country "with our necklaces," but she does not speak for the A.N.C. Oliver Tambo, its president, in an anti-apartheid meeting in Zimbabwe in September called for an end to necklace killings.

The point of all this is not just that Senator Dole made a rough accusation that he could not back up. It is that he dealt with the A.N.C. and the whole South African situation as a matter of cheap domestic politics. He showed gross insensitivity to a problem that is tragic in human terms and dangerous in international affairs.

"More than any other organization the A.N.C. represents the aspirations of most of South Africa's blacks." That statement was made by The Economist, the conservative British weekly. Virtually everyone knowledgeable about South Africa agrees. That is why Secretary of State Shultz met Mr. Tambo this year. It is why the South African Government itself has toyed with approaches to the A.N.C. There can be no solution without it.

Beyond that reality there is the deeper truth of Reaganism in South Africa. Black groups, of which the A.N.C. is the oldest, were all peaceful for many years. But they saw blacks killed by the Government, tortured, banned, imprisoned, moved from their homes by the millions. They had no vote, no voice. In the end, they turned to guerrilla activity.

To talk about black protest and violence in South Africa without reference to what brought it on—the long history of official white violence and oppression—is grotesque. How would Bob Dole feel if he and others like him were victims of a political system that deprived him of the most elementary rights for one reason only: his color?

Senator Dole said recently in an interview that "right-wingers who don't want the [Republican] Party to grow, so they kept out the blacks and those kind of folk, probably aren't going to be for me." But he is playing for the support of that extreme right with what he does on Africa.

In today's Republican Party, the radical right has enormous influence in choosing the nominee. But after being nominated it is necessary to be elected—and to govern. Bob Dole understands those realities as well as any politican. But he is not practicing that wisdom when he alienates blacks and others who care about Africa.

A TRIBUTE TO THE HONORABLE HAROLD WASHINGTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. RANGEL. Mr. Speaker, death always leaves in its wake a seemingly insurmountable void, much heartache, and great confusion. We are never prepared for it, but must endure its consequences. I am sure that all of my colleagues joined here today to pay tribute to the Honorable Mayor Harold Washington will agree that his passing has left the city of Chicago and this country in deep sorrow.

I heard and read many statements and public tributes paid to Mayor Washington last week and the consistent theme from all speakers noted his ability as a true public servant and a great political leader. He was able to overcome great odds by creating a feeling of cohesive unity in the city of Chicago, breaking down the longstanding chasms that has evolved over the long years of machine domination in that city.

His prowess as an intelligent, effective leader had its foundation in his early exposure to the political process as a steward for his father, who was the South Side Democratic precinct captain. Even as a young politician, Harold Washington was able to build solid coalitions from factional groups. Always working for the good of his constituents, his base of support continued to grow as he won seats in the State house and senate and the U.S. Congress.

I had the good fortune of working with Harold in this House. I am sure that most of my colleagues who had the same good fortune would agree that his foresight as a legislator was unbounded. He championed the successful effort to preserve key features of the 1965 Voting Rights Act, which was vehemently opposed by the Reagan administration.

Today, all around the country, we can see the positive effects of the move by Congress to protect and continue enforcement of voting rights. The power of the black vote was first realized in Chicago, during Harold Washington's bid for mayor. It was successful voter registration drives and massive organization of the minority community that helped him over the top. Harold's success in Chicago then became a role model for other voter registration drives around the country. The success of which can be measured by the Democratic U.S. Senate and increased number of black elected State and local officials.

As is the case for most great African-American leaders, Harold Washington had to be greater than great and stronger than strong. He was both of these things and more. He won his fight against the organized self-serving establishment, and returned city hall to the people of Chicago.

Last week, the city of Chicago and America lost one of its greatest political leaders and public servants of our time. The unfortunate and unexpected death of Mayor Harold Washington touched the pulse of America, particularly in its black community.

His strength and conviction can never be replaced, however, we must do all in our power to keep his legacy alive. We must tell our children about him, and our children must tell their children. Too often the history and good deeds of African-Americans fall deaf on the ears of our historians. It is our duty to carry on the tradition. It is our duty to keep our heroes alive.

EDUCATIONAL OPPORTUNITIES FOR THE POOR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. FLORIO. Mr. Speaker, the state of education in the United States today has not reached out to all the children who are in need.

At a recent conference, Owen Butler, the former chairman of Procter & Gamble, and Ernest Boyer, the president of the Carnegie Foundation for the Advancement of Teaching and past Commissioner of Education, addressed the crisis in education. Indeed, as Mr. Butler and Mr. Boyer indicate, our educational system is neglecting a core group of poor children from the inner cities and rural areas alike.

Across the Nation, an estimated one-fourth of all children are living in poverty. In urban areas, poverty becomes more pronounced with the needs of half of those children not being met.

One of those unmet needs is education. Without a proper education, the future of these children is not as bright as it could be.

If the fullest potential of these children is to be realized, the Nation must accept the challenge of providing educational opportunities creatively.

Addressing the lack of opportunities in their report, Mr. Butler and Mr. Boyer have drawn up recommendations to improve the educational opportunities available to all children in the Nation's schools but particularly for the neediest of the children.

Included in the trade bill, currently in conference between the House and the Senate, and in the education reauthorization bill are provisions, which I crafted along with Congressman PAT WILLIAMS and Senator BILL BRADLEY, establishing a more effective Federal role in education at the secondary school level for disadvantaged students.

This particular aspect of the trade bill funds basic skills programs in secondary schools, improving the level of education for millions of children in our secondary schools. In the past, secondary schools have received only 12 per cent of all chapter I funding for the disadvantaged.

As the inclusion of these provisions in the trade bill suggests, education, is, in part, a matter of competitiveness.

However, education is more than a matter of competitiveness. Rather, without the essential educational foundations, these needy children will go without realizing their own potential for success and a better life.

The time has come for creative approaches in the improvement of education for our Nation's children. Avenues exist for both the

Federal Government and the community to become more involved in education. With funding for basic skills programs in secondary schools, millions of disadvantaged children in our Nation's high schools will have an opportunity to learn what they would not have had the chance to learn otherwise.

I am including below an article from the New York Times describing the findings and the recommendations of "Children in Need," the report by Mr. Butler and Mr. Boyer:

[From the New York Times, Tuesday, Dec. 1, 1987]

WHEN SCHOOL IMPROVEMENTS BYPASS THE POOR

(By Fred M. Hechinger)

The movement for educational change is bypassing many poor children, a business leader and a top educator assert, and the consequences could threaten both the children's and the nation's future.

The two, Owen B. Butler, retired chairman of Procter and Gamble, and Ernest L. Boyer, president of the Carnegie Foundation for the Advancement of Teaching, spoke at a recent conference of the University/Urban Schools National Task Force, organized by the City University of New York.

Dr. Boyer said the number of impoverished children under 6 years old had increased by one-third in the last decade. Mr. Butler, vice chairman of the Committee for Economic Development, a committee of business leaders, presided over preparation of the report, "Children in Need," which said that 25 percent of American children now live in poverty. The number is closer to 50 percent in the cities.

The effort to improve education is "simply not reaching the neediest children," Mr. Butler said. He said the nation and its economy would be in jeopardy unless these children are served, beginning with prenatal care for their mothers and continuing in their early years and through elementary and high school.

Both men agreed that children's capacity to learn is influenced by the care their mothers get during pregnancy.

"I am convinced," said Dr. Boyer, "that there is an absolute connection between poor nutrition among pregnant teen-agers and their children's performance in school later on." He also denounced parents who feed their children soft drinks and potato chips and expect them to develop physical and intellectual strength.

Better efforts to serve such children would "remove much of the tax burden of welfare and for prisons from our grandchildren," Mr. Butler said. "Beyond that, we can remove the despair and desperation from the lives of many of our children in need."

There is abundant evidence that poor children who had high-quality day care and early childhood education did better in school and had far fewer teen-age pregnancies and less trouble with the law.

Both Mr. Butler and Dr. Boyer rejected the traditional notion that parents alone are responsible for children's early physical and mental nurture.

"If a child has no parents or has parents who are unable or unwilling to provide sound parenting, then we must provide supplemental parenting in high quality infant/child care centers and in high quality preschool programs," Mr. Butler said.

But he added, "There is little sense in giving disadvantaged children a head start if the schools that await them fail to build on early successes and instead produce failure." He denounced what he described as a lack of connection between early child care, preschool education, elementary school, junior high school and high school. He called for improved management, greater decision-making powers in the hands of committed teachers, smaller schools and smaller classes and "a variety of social support, health care and extra-curricular programs."

The Federal Government, he said, must make sure that the poor children receive high-quality education.

Dr. Boyer called for schools where parents can bring their children early in the morning and pick them up after work, where children can get three meals a day and where afternoon programs of study and play would serve children who would otherwise return to unsupervised homes.

He called for summer programs for children whose parents cannot send them to camp or take them along on trips. Without such programs, he said, the nation faces a future of "an ever greater division between the haves and the have-nots."

But even as he asked business to support education, Mr. Butler said he did not suggest that business people should tell the schools how and what to teach.

Where business can help educators is in showing them how to manage the schools better, he said.

Nor, he concluded, should the emphasis be simply on improving the economy. A more compelling reason to invest in the children, Mr. Butler said, is to develop all childrens' talents and to let them "enjoy the fruits of their individual efforts."

CHATHAM HIGH'S COMMITMENT TO PEACE:

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. STUDDS. Mr. Speaker. This week, as President Reagan and General Secretary Gorbachev hold their historic summit meetings, the world watches with hope for constructive steps toward peace. Some do more than watch. It will be my pleasure to welcome a group of seniors from Chatham High School on Cape Cod, MA, who will travel to Washington to present the President and Mr. Gorbachev with a scroll outlining their views on such issues as nuclear war and human rights. I would like to take this opportunity to commend these young men and women on their concern, vision, and initiative, and to share with my colleagues the following newspaper article, which outlines the students' journey in the name of world peace.

[From the Cape Cod Times, Dec. 2, 1987]

CHATHAM STUDENTS PREPARE MESSAGE OF PEACE

(By Kathi Scrizzi Driscoll)

CHATHAM.—A group of Chatham High School seniors are planning a trip to Washington, D.C., next week to deliver a message of peace and cooperation to the superpower leaders during their summit meeting.

Thirty students will relay their thoughts on issues such as nuclear war and human rights in a scroll they hope can be delivered to President Reagan and Soviet leader Mikhail Gorbachev. Class representatives will carry the scroll to Washington next Wednesday. They plan to stage a public demonstration there to express their views during the summit talks.

Their positive message will be support from "the next generation" for the leaders signing an arms control agreement. The students also want to encourage future collaboration to improve world relations and conditions.

"We hope it will make Mr. Reagan and Mr. Gorbachev more aware we feel (the threat of) nuclear war is a problem and are willing to do something about it," said student Amy Vreeland. "We're not trying to change the world, but we hope maybe when they sit down and talk, they'll remember the kids from Chatham."

The students, members of teacher Robert Marshall's psychology class, were inspired to take action after talking Monday with Chatham resident Elizabeth Munson. She said she wanted to make teen-agers think about how they felt on such issues as her way of doing something about the world's problems, and asked the school principal if she might talk to some students. He recommended Marshall's class.

"I didn't come here to stir them up," said Mrs. Munson, who said she was not a member of any organized group. "I had in mind that perhaps they could write letters to Reagan and Gorbachev," said Mrs. Munson yesterday during a strategy session.

With only a week before the summit begins, the students are frantically trying to raise at least $1,000 to send 10 students to Washington. Students plan to scour the area this week for help.

Whatever amount they raise, though, the students are determined to send at least a few representatives to the nation's capital. They plan to contact the state's congressional delegation for any aid they can provide in getting the scroll to the White House and establishing a schedule.

Details of the trip are still sketchy, but students expect to take a train or van to Washington sometime Tuesday, spend the day there Wednesday and return to the Cape that night.

While ironing out the itinerary, the students also have been working on the messages on nuclear war, human rights, the environment, military build-ups and cultural exchanges that will become the scroll. That document may be translated into Russian for Gorbachev, they said.

Students hope to get other students to sign the scroll and plan to conclude it with a "visionary statement" of how they see the world they will inherit.

"We're the next generation coming up . . . we feel it's sort of our turn," Miss Vreeland said.

BUS SAFETY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. HAMMERSCHMIDT. Mr. Speaker, legislation introduced today by the leadership of the Public Works and Transportation Committee contains proposals by the American Bus Association designed to expand on current efforts to improve the safety of intercity bus travel.

This subject is always a timely one, and I am pleased to join my committee colleagues in introducing this measure at the association's request.

Certainly it has been our intent to improve both the quality of bus equipment and the quality of drivers of the equipment, and I believe that we have accomplished a great deal in both areas.

We were able to evaluate the progress that has been made during our committee's recent hearings on bus and truck safety, including oversight of the Motor Carrier Safety Act of 1984 and the Commercial Motor Carrier Vehicle Safety Act of 1986.

With regard to the 1984 act, the ABA has raised concerns as to the effectiveness and comprehensiveness of its application. This bill includes provisions that would clearly expand the act's application, and some of them are likely to be controversial.

While I do not necessarily agree with all of the provisions of this bill, I do believe that they provide important issues for discussion, and it is entirely appropriate for the American Bus Association to bring them to our attention.

TRIBUTE TO THE FORMER MAYOR OF CHICAGO, HAROLD WASHINGTON

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HAWKINS. Mr. Speaker, I rise today to pay special tribute to my friend and former colleague, Harold Washington, the late Mayor of Chicago, who died suddenly of heart failure. Since I was out of town when a special order commemorating his life was called, I would like to take this opportunity to express my heartfelt sense of loss for a man who helped to heal a city torn by racial strife.

Mr. Washington symbolizes a true leader. He led a dynamic movement in Chicago that many believe was prognosticated by the civil rights movement. The death of this outstanding statesman is untimely; he had reached the pinnacle of his career by defeating an entire political system.

Born in 1922 in Chicago, IL, Mr. Washington completed his bachelor of arts at Roosevelt University, Chicago and his juris doctor at Northwestern University. His introduction to politics began at an early age under the guidance of his father, Roy Washington, a lawyer and politician. Mr. Washington's skill as a politician was cultivated and nurtured on Chicago's Southside.

Mr. Washington was a good friend and fellow colleague on the Education and Labor Committee. His remarkable political record spanned two decades; he adamantly pursued and crafted legislation strengthening civil rights and fair labor practices. He served in the Illinois Legislature for 16 years and in Congress for one term. In 1983 Mr. Washington secured a place in the history books by becoming Chicago's first black mayor.

The uniqueness of Chicago politics is legendary, which made Mr. Washington's mayoral victory even more significant—black voter registration increased throughout the country. One hundred thousand blacks in Chicago registered by the November 1982 election and more than 70 percent of the registered blacks voted. Mr. Washington propelled almost overnight to become the unofficial dean of black mayors. His talents as an innovative legislator and dynamic orator enabled him to lead the black independent political movement in Chicago. He sought to unify his beloved city: "I assure you that in the months leading up to the general election, our campaign will reach out to all the citizens of the city. . . . Our determination is to unify this city."

And he did unify Chicago. Prior to his death, he built a reform coalition in the city council and established the city's first freedom of information act. The loss of Mr. Washington will be felt by all. He was a hero to millions. Mr. Washington's legacy will be passed on to the next generation and his integrity, intelligence, compassion, and wit will leave a permanent impact on the city of Chicago.

TURKEY SUBSCRIBES TO LONG TRADITION OF TOLERANCE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. HORTON. Mr. Speaker, most Americans are unaware of the long tradition of tolerance to which our NATO ally—the Republic of Turkey—subscribes. Five hundred years ago, when the entire Jewish community was forced to flee the Inquisition in 1492, Jews found safe haven in the Ottoman Empire under the protection of the Sultan. During the persecutions in Europe in subsequent centuries, particularly during the Nazi atrocities during World War II, many thousands of European Jews fled to safety and a new life in Turkey.

It is with this tradition in mind that I commend to my colleagues a letter from the World Sephard Federation, which convened this week in Jerusalem, to the Turkish Prime Minister. The letter serves as a clear reminder of Turkey's proud tradition.

MR. PRIME MINISTER: The World Sephard Federation, which held its congress in Jerusalem from November 30 to December 2, 1987, wishes to express to you its recognition and deep gratitude following the plenary session on Jewish communities in peril throughout the world. This gratitude is addressed also to the Turkish people.

We have not forgotten Turkey's policy of according persecuted Jews from all over the world refuge and hospitality for centuries.

Please accept, Mr. Prime Minister, the assurances of my high consideration.

ROGER PINTO,
Member of the Presidium WSF, President of the Commission, Jewish Communities in Peril.

"WHERE DO WE GO FROM HERE": THE POWER OF THE BALLOT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. GARCIA. Mr. Speaker, Mrs. Achamma Chandersekaran, the outgoing president of the Indian American Forum for Political Education, delivered a fine speech before the forum's New York State chapter on November 22 on the importance of exercising the most significant right of all Americans: the right to vote.

I am submitting her speech for the RECORD as a source of inspiration for all ethnic minorities in this great Nation of ours. As Mrs. Chandersekaran so eloquently put it "The best thing we can do for our children to get into the mainstream is to give them the sense of being counted. Political participation is the best way to be counted." I urge my colleagues to take a moment to read her fine speech in its entirety:

WHERE DO WE GO FROM HERE?

We, Asian Indians, came from a democracy that gave us the freedom to pursue our destiny. As such, one would expect us to take an active part in the democratic process in this country. However, we see many among us who are reluctant to become citizens of this country. It may be the good life we have here that makes us take the easy way out, or is it because we are not mature enough to make a choice? Some people consider this life on the fence as getting the best of both worlds: the economic and professional advantages of living and working in the United States and the cultural advantages of retiring in India. But I say they may be losing the best of both worlds: They forego the pride and privileges of living here as citizens and they may not be happy in their retirement in India and may have to come back here to their children and friends.

One of the unfortunate results of the apathy and indecision on our part is the impact of this "not counting" situation has on our children. All our education does not seem to help us realize that our children may have problems we did not have because they are growing up in a society where they cannot identify with the mainstream. If we took the time to understand their insecurity and ambivalance, I am sure we will do things that will give them a sense of belonging and the pride of being counted. If we think that getting them into some of the best schools in this country and financing their education should take care of our responsibilities as parents, you should have listened to what two students from Yale had to say regarding their problems at the Voters Coalition Conference.

The best thing we can do for our children to get into the mainstream is to give them the sense of being counted. Political participation is the best way to be counted. In the last local election in Connecticut there was a tie. Wouldn't you have liked to cast the deciding vote? That is where you realize that every vote counts.

I am here with one request: if you are not a citizen, became a citizen. If you file your papers now, you will be able to register and vote in the 1988 elections. Once you become a citizen, register to vote and on election day take the time to cast your ballot. The right to vote is a right that needs to be exercised and not set aside for some vague dream about retiring in India. Make your children feel that you count and they count. Make your elected officials realize that they are accountable to you for their actions.

All of us like to help India in whatever way we can. As much as India needs the dollar and the technology from here, the best thing we can do for India is to become citizens and influence our elected officials to have better relations with India. The United States and India are two democracies and closer ties between the two is a logical step. Even for that we need to be politically involved.

Reading in the Wall Street Journal that we are a unique community of first generation Americans because of our education and our fluency in English, accent and all, made us feel good. We were pleased to read that as first generation we have done better economically than all other first generation ethnic groups. But the questions that come up time and again are: Where do we go from here? How will our second generation compare with other second generations? Will we have governors, senators, congressmen and local officials among our children like other second generation ethnic groups have? Or is it down hill from here on?

If our children do not keep up our uniqueness in doing so well, it will be partially because we are only concerned about our professional satisfaction and too busy accumulating wealth. We are not willing to face up to our responsibilities as immigrants to this great country nor do we take the time to be concerned about all these things. Please realize that we are doing well. We don't have to open another office and spend a few hours there and expand our business. Please don't tell me we are doing this for our children. Money they can make on their own. There is help they need now, as they are growing up, to live up to their potential. Let us take the time to understand the real needs of our children. Let us use our wealth and our education wisely to give our children a sense of belonging, a direction to get into the mainstream and pride in their ancestry.

THE INF TREATY AND THE FUTURE OF SDI

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. MINETA. Mr. Speaker, President Reagan and General Secretary Gorbachev are conducting their third summit meeting here in Washington this week. Today they are expected to sign a major agreement to eliminate medium and shorter range missiles in Europe, an agreement known as the Intermediate Nuclear Forces [INF] treaty. This agreement has been heralded as a significant reduction in existing nuclear forces and marks an important first step on the road toward a major arms control accord. I applaud this agreement, and I look forward to a future agreement that significantly reduces the long-range weapons which make up the vast majority of our nuclear arsenals.

However, with the achievement of the INF treaty there are some who continue to insist upon the early deployment of the star wars defense system. Even in recent remarks prior to the summit, President Reagan stressed that he will not allow the deployment of his strategic defense initiative [SDI] to be hindered. Some of the President's zealous supporters are scared that the INF treaty means he will let up on his pro-SDI position, and they are pressuring him not to accept any restraints proposed by the Soviets.

I would like to bring to the attention of my colleagues the following editorials regarding the summit and the future of star wars.

The first of these three editorials by the San Jose Mercury News looks at some of the motives behind the push for early deployment of SDI. It eloquently points out that the decision to deploy such expensive weapons should not be based on partisan political concerns but on scientific and technical data—data which have yet to point toward a system which is reliable or survivable.

The second editorial deals with another very pertinent question, that of funding SDI. According to this article, a tax increase of 11 percent would be required to pay for this project without increasing the Federal deficit. This translates into an increase of $570 annually to the average family earning between $30,000 and $50,000 per year. This kind of burden will not be accepted by the American people, especially for a program which is predicted to spur the Soviets into building more offensive weapons and escalating the arms race.

In the third editorial, the Mercury News points out that the technologies necessary for deployment of star wars will require at least another 10 years of research and development. I fully agree with their conclusion that a link must be established between cutting offensive strategic weapons and the deployment of strategic defenses. Without such a deal, no real arms control can be achieved.

The signing of the INF treaty raises the hope for reducing long-range offensive weapons. Deploying SDI raises the fear of increasing these weapons and creating a much more dangerous world.

I would encourage all of my colleagues to read these articles on this very important topic, and to reconsider the need for SDI in the future. We must question going forward with a massive defense program that will drain America's research and will endanger, not enhance, nuclear deterrence.

[From the San Jose (CA) Mercury News, Feb. 12, 1987]

THE PLOY IN DEPLOYMENT

The debate within the Reagan administration over "early deployment" of a "star wars" defense system—a debate which has divided the Cabinet—has nothing to do with the president's vision of making the United States safe from Soviet nuclear attack.

So-called early deployment would be a purely political move designed to create popular support for "star wars" so future administrations would have difficulty stopping it. For this reason—but not only this reason—it is a bad idea.

According to scientific opinion, no component of the Strategic Defense Initiative could be deployed before 1992, long after Reagan leaves office. The real debate concerns whether some simpler SDI components should receive early procurement funds—starting next year—that could lead to deployment by 1992.

The trouble is not only that this administration has no business tying the hands of future ones. The trouble is that early deployment would violate the ABM Treaty, end arms control and hurt SDI itself, slowing down its key research.

By siphoning funds and energies into the ground-based components that might be deployable by 1992, the administration will be shortchanging research into the exotic future technologies that are the key to success of the program.

Without these technologies—things such as the X-ray laser, the neutral particle beam and free electron laser—the 1992 stuff would be a waste of money. By going for early deployment, Americans will be buying a pig in a poke.

Defense Secretary Caspar Weinberger and Secretary of State George Shultz have disagreed about early deployment. Weinberger, heavily lobbied by SDI contract companies, one of which is Lockheed missiles and Space Co. of Sunnyvale, wants procurement funds for next year.

Shultz, aware that development funding could threaten the ABM Treaty, provoke opposition from Congress and America's NATO allies and scuttle hopes for an arms control accord with the Soviet Union, has called for a delay.

In testimony last week before the Senate Armed Services Committee, the Joint Chiefs of Staff refused to state their position. "We don't know enough to make that decision," said Air Force Gen. Larry D. Welch. The other chiefs agreed.

Welch was answering Sen. Sam Nunn, D-Ga., who has warned that the administration's plans for a reinterpretation of the ABM Treaty, paving the way for early SDI deployment, could provoke a constitutional crisis with Congress.

If Weinberger wins the debate, it means that the first SDI procurement funds would be channeled next year to companies such as Lockheed that are working on ground-based missile systems capable of hitting attacking missiles as they near U.S. territory.

But while funding such systems might help solidify industry support—only lukewarm while SDI is in its research phase—it would be wasted money. Such ground-based systems bear more similarity to ABM systems debated and rejected by U.S. planners two decades ago than to Reagan's idea for space-based defenses.

The total cost for a ground-based defense system has been estimated by scholars at Johns Hopkins University at $157 billion. Under the ABM Treaty, such a system could legally be deployed only if limited to 100 launchers and erected at the Minutemen site at Grand Forks, N.D.

We see no good reason to spend $157 billion for a hard-site defense system similar to one rejected two decades ago.

For SDI to prove worthwhile, a precondition is that science show that a space-based system truly could render attacking missiles "impotent and obsolete." Once that is plausible, Americans can decide whether such defenses are a better option than arms reductions.

That day of decision is years away. To push a foot in the door with early deployment of ground-based components would do nothing for U.S. security, doom arms control, prejudice the real debate and waste public money.

[From the San Jose (CA) Mercury News, Jan. 26, 1987]

THE SDI TAX BITE

The first thorough costing-out of the Reagan administration's Strategic Defense Initiative shows that it would cost the equivalent of an 11 percent increase in income taxes.

No one, least of all Ronald Reagan, is proposing such a tax hike. Yet to raise the $700 billion required to deploy a comprehensive space-based defense system against Soviet long-range missiles and aircraft, could only drive up the national debt and gut other programs—or require, beginning this year, an average income tax increase of $570 for a family earning $30,000 to $50,000 annually.

The figures, in a study done for the Johns Hopkins Foreign Policy Institute, fill a hole in the SDI debate that has been unfilled since 1983, when Reagan first announced his plan for strategic defenses. For four years, the only mystery greater than whether SDI could work is how much it would cost.

Neither the administration nor Congress has ever given a detailed estimate of SDI costs. Unofficial estimates have pegged SDI's ultimate cost at between $60 billion and $1 trillion, but none of these up to now has been rigorous or detailed enough to be classified as more than a rough guess.

Written by defense analysts Barry M. Blechman and Victor A. Utgoff, the new report rightly urges that if the nation goes ahead with SDI, that the program be financed through taxes, not borrowing or massive cutbacks in other programs.

Borrowing, it says, would create "many near-term adverse macroeconomic effects, such as increased deficits or greater inflation."

Steering clear of the controversy over whether space-based defenses could work, the authors analyze the program strictly in its economic consequences.

They conclude that a program of SDI's magnitude is economically feasible, but requiring a commitment of 0.5 to 1 percent of gross national product for 15 years, would cause a reallocation of economic, technological and human resources on a scale unlike anything the nation has done in peacetime.

It is not to accept all the authors' figures to say that they have done a valuable service. With their well-documented assumptions and projections, they have moved the debate further along. The administration's silence on the economic costs of SDI has weakened its case.

[From the San Jose (CA) Mercury News, Nov. 2, 1987]

THE ON-AGAIN SUMMIT

In extremis, the third Reagan-Gorbachev summit has been saved, with the promise of a fourth being held next year. If all goes as planned, after failing to meet with Soviet leaders at all in his first term, President Reagan will have made it an annual event in his second.

Mikhail Gorbachev, architect of glasnost and the man who Soviet experts say is leading the third Russian revolution, will come to Washington on Dec. 7, his first visit to this country.

Most likely, it will be a restrained one, not the coast-to-coast extravaganza originally planned. The two leaders will sign the Euromissile treaty and discuss Reagan's trip to Moscow next spring.

Whether two more summits is overdoing things depends. As we said during last week's bizarre contretemps, when Gorbachev first declined, then agreed to come to Washington, a summit meeting simply to sign the Euromissile treaty is not necessary.

But the Dec. 7 meeting has the possibility of being more than that. The key will be whether the two leaders can resolve differences that could prevent next year's Moscow summit, the one where an outgoing president would sign the treaty that culminated his arms control work.

Friday's White House statement was vague on those differences, but promising. The Soviets have been insistent that, at the Moscow summit, a link must be established between cutting offensive strategic forces by 50 percent and the deployment of strategic defenses.

Reagan, who mistakenly believes strategic defenses are the key to national security, has been rigid on that point. In Friday's statement, however, he was more amenable, agreeing that "flexibility" on deployment of strategic defenses was one of the points that would be discussed during the Washington summit.

Flexibility most likely means the two nations would agree not to withdraw from the 1972 Anti-Ballistic Missile Treaty for an agreed period, perhaps 10 years. The treaty prohibits the deployment of space-based defenses.

We have long believed that a "grand compromise" linking offensive missile cuts to limits on "star wars" defenses was the direction this nation should take.

Reagan, so close to leaving office, need not worry about tying the hands of future administrations on strategic defenses.

Most experts agree that "star wars" technologies are at least 10 years away from deployment. The more difficult task will be for the two leaders to define what technologies could be tested during the interim 10-year period.

Some of the reasons for the delay in summit preparations became clear last week. Soviet officials leaked a story to Western reporters that, Oct. 21, Gorbachev came under attack at a Central Committee meeting for fostering a cult of personality. The attack was led by Politburo member Boris N. Yeltsin, who has been a principle Gorbachev supporter.

Also last week, in a rare interview, Marshal Sergei Akhromeyev, the Soviet chief of staff, told the New York Times that 50 percent cuts in offensive strategic weapons without limits on strategic defenses "would radically step up the military threat toward the Soviet Union."

Gorbachev is coming to the United States on Dec. 7 as the strongest Soviet leader since Leonid Brezhnev, but he is far from omnipotent.

The key to the success of the third and fourth summits will be to understand that, without limits on putting defenses in space, there will be no limits on reducing offensive weapons on Earth.

TECHNOLOGY TO EDUCATE CHILDREN WITH HANDICAPS ACT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. OWENS of New York. Mr. Speaker, there are over 4 million children with handicaps in America. All of these children could potentially benefit from assistive devices that will help them to participate more fully and independently in the classroom. Assistive devices include such technological products as a page turner, a feeding device, an optical head pointer to use with a communication device, a small powered modified cart, and a computer. However, these technological advances are not available to most children with handicaps because there does not exist a centralized system to link the technology to the individual child.

Promoting the widespread availability of assistive devices will enable children with severe handicaps to participate fully and independently in their educational environment. This new technology will make the difference between a handicapped child who is capable of achieving and manipulating her/his environment and one who is not progressing and is dependent on others.

As a first step to solving this problem, I have introduced H.R. 3602, the Technology To Educate Children With Handicaps Act, which will amend part G of the Education of the Handicapped Act to establish assistive device resource centers in each State. These centers will serve as a vital link between state-of-the-art technology and handicapped students through a statewide system that provides a variety of services. The population to be served by the centers are handicapped individuals from birth through age 21. Each center will provide a range of services; for example, informing local educational agencies and nonprofit community organizations about assistive devices and their availability training to specialists on proper evaluation techniques; and instructing others in the appropriate use of assistive devices.

The "Tech Act" will take the advances in technology and place it into the hands of those who will benefit the most—children with handicapping conditions. Access to an appropriate assistive device is a key determinant to whether a child with a handicap will be an active participant in all aspects of his/her educational environment. The centers will serve as brokers to ensure that handicapped children receive the assistive devices and training they need to maximize their educational potential. If handicapped children are to benefit equally from educational opportunities they must be afforded the means for doing so. H.R. 3602 will make recent technologies advances widely available; rural as well as low income families will be able to take full advantage of these services.

This bill provides us with the opportunity to bring in the full range of handicapped children who have so far been shut out from the reality of equal education opportunities. With a modest investment of $20 million we can continue our commitment to the goal of appropriate education to all handicapped children under the Education of the Handicapped Act. This is a small amount to invest in the lives of young people who have so much to contribute.

I would urge my colleagues to support this legislation and be a partner in this next chapter of education of handicapped children.

The text of H.R. 3602 follows:

H.R. 3602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Technology To Educate Children With Handicaps Act".

FINDING; DECLARATION OF PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that assistive devices are beneficial in helping severely handicapped infants, children, and youth improve their educational performance and increase their interaction with other handicapped and nonhandicapped children in the least restrictive environment.

(b) PURPOSE.—Therefore, it is the purpose of this Act to provide financial assistance for the establishing of assistive device resource centers in each State to allow severely handicapped infants, toddlers, children, and youths to reach their maximum potential in least restrictive environments.

ASSISTIVE DEVICE RESOURCE CENTERS PROGRAM AUTHORIZED

SEC. 3. (a) PROGRAM AUTHORIZED.—Part G of the Education of the Handicapped Act is amended—

(1) by inserting before section 661 the following:

"Subpart 1—General Authority"; and

(2) by adding at the end thereof the following new subpart:

"Subpart 2—Assistive Device Resource Centers

"ASSISTIVE DEVICE RESOURCE CENTERS AUTHORIZED

"SEC. 663. (a) PROGRAM AUTHORIZED.—The Secretary shall, from amounts appropriated pursuant to section 669, make grants to States to pay the Federal share of the cost of establishing assistive device resource centers, in accordance with the provisions of this subpart.

"ALLOTMENT

"SEC. 664. The Secretary shall, from the amount appropriated for this subpart for each fiscal year, allot to each State an amount which bears the same ratio to such amount as the number of children with handicaps counted under section 611 of this Act for the fiscal year prior to the fiscal year for which the determination is made bears to the total number of such children in all States, except that no State shall receive less than $150,000.

"SERVICES

"SEC. 665. (a) ELIGIBILITY FOR SERVICES.—Each assistive device resource center established with assistance under this subpart shall serve—

"(1) severely handicapped infants and toddlers as defined by the State in the application required under this subpart;

"(2) severely handicapped children and youth as defined in the State application approved under this subpart; and

"(3) severely handicapped individuals who have attained 21 years of age if the State plan prescribes a targeted population of handicapped individuals who have attained 21 years of age.

"(b) SCOPE OF CENTER SERVICES.—Each center receiving assistance under this subpart shall—

"(1) train and assist specialists in local educational agencies and nonprofit community organizations to evaluate a handicapped student's potential to benefit from the use of assistive devices;

"(2) instruct teachers, therapists, paraprofessionals, parents, family members, other significant individuals, and handicapped students in the appropriate use of assistive devices;

"(3) provide follow-up services for individuals who have received services by the center when appropriate and collect data to determine the effectiveness of the services provided;

"(4) develop a statewide service delivery system for severely handicapped infants, toddlers, children, and youth that ensures all handicapped children and local educational agencies have access to the services of the center;

"(5) have the ability to assist in the development, design, fabrication, and modification of assistive devices to meet the needs of handicapped individuals;

"(6) disseminate information to local educational agencies and nonprofit community organizations on assistive devices and their availability; and

"(7) provide in-service training to specialists, teachers, administrators, parents, families, and other significant individuals working with handicapped students on the benefits of assistive devices to promote improved educational performance and increased interaction between handicapped and nonhandicapped individuals.

"(c) PRIORITY OF SERVICE; CONSTRUCTION.—(1) Each State shall assure priority of services for handicapped infants, toddlers, children, and youth from birth through age 21.

"(2) Nothing in this subpart precludes the provision of services available from the assistive device resource center to handicapped individuals who are no longer eligible for services under the Education of the Handicapped Act.

"(d) ADVISORY COMMITTEE.—(1) Each center receiving assistance under this subpart shall establish an Advisory Committee.

"(2) No Federal funds may be used for the operations of the Advisory Committee.

"APPLICATIONS

"SEC. 666. (a) APPLICATIONS REQUIRED.—Each State desiring to receive its allotment under this subpart shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATIONS.—(1) Each such application shall—

"(A) describe the manner in which the State will carry out a plan to meet the requirements of this subpart;

"(B) describe the severely handicapped infants, toddlers, children, and youth who will be eligible for services provided through assistance under this subpart;

"(C) describe the types of services that will be offered by the assistive device resource center and the manner in which services will be provided;

"(D) provide assurances that the State will ensure that activities of the assistive device resource center are coordinated with Rehabilitation Engineering Centers in the State;

"(E) describe the procedures that will be used to evaluate the effectiveness of the services provided by the assistive device resource center;

"(F) provide assurances that the State will use Federal funds only to supplement and increase the level of State and local funds expended for assistive device resource centers for handicapped infants, toddlers, children, and youth and in no case to supplant such State and local funds;

"(G) provide assurances that the State will pay from non-Federal sources the non-Federal share of the cost of the application; and

"(H) provide such additional assurances as the Secretary requires to carry out the provisions of this subpart.

"(2) Each application submitted under paragraph (1) shall be submitted by the Governor of the State for a period not to exceed 3 fiscal years.

"(3) Any public agency or private nonprofit organization or institution may submit an application to the State for a grant to establish an assistive device resource center in the State to carry out the services described in subsection (c).

"PAYMENTS; FEDERAL SHARE

"SEC. 667. (a) PAYMENT RULE.—The Secretary shall pay to each State having an application approved under section 664 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be—

"(1) 70 percent for fiscal year 1988;

"(2) 65 percent for fiscal yar 1989; and

"(3) 60 percent for fiscal year 1990.

"DEFINITIONS

"SEC. 668. For the purpose of this subpart—

"(1) the term 'assistive devices' includes adaptive learning devices, mobility and seating systems, augmentative communications systems, writing and reading devices, and environmental control devices;

"(2) the term 'assistive device resource center' means a center established by a public agency or a private nonprofit organization or institution designed to facilitate the appropriate use of commercial and noncommercial available devices that will assist severely handicapped infants, toddlers, children, and youth, and other handicapped individuals to reach their maximum potential; and

"(3) the term 'severely handicapped infants, toddlers, children, and youth' means handicapped infants, toddlers, children, and youth who, because of the intensity of their physical, mental, or emotional problems, need specialized educational and technological services in order to reach their maximum potential in the last restrictive environment.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 669. There are authorized to be appropriated to carry out the provisions of this subpart $20,000,000 for the fiscal year 1988 and such sums as many be necessary for each succeeding fiscal year ending prior to October 1, 1990.".

(b) TECHNICAL AMENDMENT.—Section 662 of such Act is amended by striking out "part" and inserting in lieu thereof "subpart".

NEWARK REMEMBERS PEARL HARBOR AND ARCHIE CALLAHAN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. RODINO. Mr. Speaker, yesterday marked the 46th anniversary of the Japanese attack on Pearl Harbor. This unexpected and unprovoked attack truly changed the course of history. The death and destruction precipitated America's entry into World War II and the countless acts of heroism by brave men and women united our Nation. The United States emerged as a world leader prepared to ensure the triumph of democracy over totalitarianism. It was, as President Roosevelt told a stunned Nation, "a day that will live in infamy." The shock and the horror of this event remains, even 46 years later, vividly etched in the collective memory of America.

One of those brave Americans killed at Pearl Harbor was Archie Callahan—a sailor aboard the U.S.S. *Oklahoma* and the first black resident of Newark, NJ, to give up his life in the service of his country during World War II. An Eagle Scout and graduate of Central High School, Archie Callahan enlisted in the Navy in 1940. He was only 19 years old when he was killed and he was posthumously awarded the Distinguished Service Medal for his unselfish and noble service.

I am very proud that Archie Callahan's sacrifice has not been forgotten by his fellow Newarkers. In 1942, a monument to his memory was erected in Douglas-Harrison Park in the Central Ward and it continues to provide inspiration as a reminder to all of us of the bravery of Archie Callahan.

At the same time, the Emmet Guyton American Legion Post No. 152 in Newark, named after the black World War I veteran, was renamed the Guyton-Callahan Post. This outstanding and community spirited organization, currently under the able leadership of Commander T.K. Van Valkenbough, has honored Archie Callahan by making a valuable contribution to helping all the citizens of Newark. Through sponsorship of youth programs and aiding the sick and the needy, the Guyton-Callahan Post has kept alive the memory and the spirit of Archie Callahan.

On December 6, the Post once again held a special memorial ceremony to commemorate the anniversary of Pearl Harbor. Beginning with a parade, members of the Guyton-Callahan Post and the citizens of Newark marched up Springfield Avenue to the Douglas-Harrison Park where a wreath was placed at the Archie Callahan Memorial.

I also want to commend Newark councilman at large, the Honorable Donald Tucker, for his efforts to ensure that area schoolchildren understand the significance of the Callahan Memorial. At Councilman Tucker's urging, the Newark City Council approved two resolutions, one designating December 6 as "Archie Callahan Remembrance Day" and the second commending the Guyton-Callahan Post for its community service to the citizens of Newark.

We must never forget Pearl Harbor nor the sacrifice of Archie Callahan. This young Newarker, whose life was all too brief, left us with an important legacy of valiant service and dedication. By honoring Archie Callahan, we honor all veterans. As Public Safety Director John B. Keenan noted at the dedication of the Callahan Memorial in 1942: "The city will always remember Archie Callahan after the war is won and the peace secured. He died that we might live. He died that democracy may not perish. His native city will always honor his name." In guaranteeing that future generations remember Archie Callahan and the tragedy of Pearl Harbor, we continue to fullfill this pledge.

TRIBUTE TO COUNCILMAN LESTER J. REESE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. DORNAN of California. Mr. Speaker, I rise today to pay tribute to a good friend and respected community leader from my 38th California Congressional District, Buena Park Councilman Lester J. Reese.

On November 16, 1987, Les retired from public life after 23 years of distinguished service to the citizens of Buena Park, CA, the home of Knotts Berry Farm and the Hollywood Wax Museum. Les' years of service included 9½ years on the city council where he served two terms as mayor, and 13½ years on the Buena Park Planning Commission.

For more than 30 years Les worked as a civil engineer for the California State Department of Transportation. His expertise in transportation and related issues brought him appointments by the Orange County Division of the League of California Cities to the Arterial Highway Financing Program Policy Committee in 1986 and to the "Super" Committee in 1987. Les also served as an active participant on the Santa Ana River Flood Protection Agency working to protect one of the two most dangerous flood plains in the United States, which includes his city of Buena Park. Les has served his community, his State and his country well.

This Thursday, on December 10, 1987, the citizens of Buena Park will host a reception honoring Les for his many years of public service and for his outstanding leadership. Buena Park is fortunate to have been the beneficiary of Les' remarkable energy and commitment to improving the quality of life for all of Buena Park's citizens.

It is with great pleasure that I join with his friends and the citizens of Buena Park in saluting Les' achievements and wishing him a happy, healthy, and productive future.

ROBERT KARAM HONORED

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. FRANK. Mr. Speaker, last month, the Fall River Chamber of Commerce continued its tradition of honoring distinguished citizens of the Fall River area who have made significant contributions to the city, its citizens, and its economic well being.

This year, the Fall River chamber very fittingly gave that award to Robert S. Karam, a man who has contributed enormously to the success of the city of Fall River and its people.

I was unable because of legislative scheduling to attend the dinner in which this award was so deservedly presented to Bob Karam, so I am taking the opportunity now to congratulate the Fall River Chamber of Commerce for the excellence of its choice.

Robert Karam is a first-rate example of a good citizen. In his business career, in his civic activities, in his devotion to his family and friends, in his celebration of his ethnic heritage—in all of these and other ways, Bob Karam demonstrates the best in American life. I have had occasion to work with him on several occasions in the course of his economic development activities, and I can testify first hand that his intelligence, his dedication, and his energy are great assets for the people of Fall River.

Mr. Speaker, in the November 19 issue of the Fall River Herald News, Marion Flanigan wrote a comprehensive article which very well expresses the spirit of that evening, and gives a good description of the qualities that make Bob Karam so important to Fall River, and which led the chamber of commerce to honor him.

At the dinner in which Bob Karam received this award, his good friend, Mayor Carlton Viveiros, who has done so much to promote the economic advance of Fall River, pointed out that Mr. Karam is "truly a role model." I agree, and in the interest of having that role model widely available, I ask that Marion Flanigan's Herald News article be printed here.

ROBERT KARAM IS HONORED BY CHAMBER

(By Marion Flanigan)

Robert S. "Bobby" Karam responded to a standing ovation from some 1,200 friends, and sincere tributes from civic leaders, with a simple statement of his purpose as "a kid from Quequechan Street."

"I wanted to make Fall River a better place to live for my family and friends; together we have all done that," Karam affirmed, as the 21st Outstanding Citizen to be honored by the Fall River Area Chamber of Commerce and Industry. The award is presented annually in memory of Karam's friend and associate, Roger Valcourt.

"I would have welcomed a roast," Karam said, but acknowledged the dignity of his award by citing "the people who have received it before me." The presentation was made by Karam's predecessor in the ranks of Outstanding Citizens, Sumner James Waring Jr.

Attorney Stafford Sheehan, chairman of the board of the Chamber, was master of ceremonies; Monsignor Norman J. Ferris gave the invocation and benediction.

First paying tribute to his mother, Barbara Karam, and his father, the late Tanous Karam, the honoree praised the values of "my Arabic ethnic heritage," noting his family's concern with education and volunteerism.

"Fall River is an untapped community—a city of volunteers," he said, recalling that membership in the Lions Club and the Greater Fall River Recreation Committee, along with the Chamber, provided "great training grounds" for his community concerns.

He urged business leaders to expand the "Adopt-a-School" program, which, for Karam, began when two Westall School students threw rocks during restoration of the Carr-Osborn House, now headquarters of Karam Financial Group, and center of a condominium complex. After chasing the errant students, Karam soon agreed to "adopt" the school. Now, company staff members conduct reading sessions and a computer club at Westall. "If public schools go down the drain, we're all in trouble," he said, to applause.

Another milestone, Karam recalled, was his association with "a kid from below the hill," Mayor Carlton M. Viveiros. The city's longest-serving chief executive was present at the head table, and praised Karam as "truly a role model, an example of what you can do when disciplined, committed and enthusiastic—a business and community leader, and a real Fall Riverite."

Viveiros cited Karam's major role in the foundation of Jobs for Fall River, the Office of Economic Development and the Southeastern Mayors Economic Development Focus Group. All have helped to "bring the city to its present height," the mayor said.

Affectionately known as "Bobby," and in sports circles as "Boo Boo," Karam was lauded for his commitment to the city's economic development, his support of the Milliken Basketball League, his dedication as a trustee of Southeastern Massachusetts University and Charlton Memorial Hospital, and countless acts of generosity known only to the recipients.

Underscoring all the tributes was appreciation of Karam's qualities as "a friend . . . a fiercely loyal man" with "an intensity to get things done," who "wears his feelings on his shirtsleeve, speaks from the heart, and leads from the soul."

Presenting citations from their respective legislative bodies were state Sen. Thomas Norton, state Reps. Joan Menard, Albert Herren, and Robert Correia; City Councilors Marilyn Roderick and Raymond Mitchell; and Larry Silvia of the Milliken Basketball League.

Congratulatory letters were received from Gov. Michael S. Dukakis and city native Louis Lataif, vice president of sales for the Ford North American Motor Operations.

Karam expressed lifelong thanks to his wife, Susan (Hutchinson) Karam; his son, Stephen, 18, a freshman at Babson College; his daughter, Melissa, 14, a freshman at Durfee High School; and his two brothers, Durfee basketball coach Thomas "Skip" Karam, and real estate developer James A. Karam. All joined in the celebration.

The Ceremonial Unit of the Massachusetts Army National Guard began the banquet with a patriotic ceremony. The Durfee High School Orchestra played during the social hour, and organist Roger Dufour, during the banquet.

PERSONAL EXPLANATION

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. RAHALL. Mr. Speaker, I regret that I was unavoidably absent from a vote on codifying the fairness doctrine into law as part of the continuing resolution that was passed by the House on Thursday, December 3. Had I been present, I would have voted "present" on the Dingell amendment to House Joint Resolution 395.

Mr. Speaker, I missed this vote because I was attending a memorial service for a dear friend of ours from West Virginia, Phil McGance, who for many years served as administrative assistant to our former colleague, the Honorable Jennings Randolph. Phil, a native of Grafton, WV, served Senator Randolph and the people of West Virginia for close to 20 years. Following his military service, Phil dedicated his life to working with the West Virginia congressional delegation, and all of us who had the privilege of knowing Phil and working closely with him will miss him very much.

Phil was dedicated to the people of West Virginia and he loved our great State and its people with a fierce compassion and dedication. We owe him a debt of gratitude which can never be repaid. Phil, particularly through his service in Senator Randolph's office, was a credit not only to his native State, but to the entire country. Phil personified the words, "public servant." We will miss him greatly, and my deepest sympathies go out to his family, as well as Senator Randolph, who has continued to work with Phil after he left the Senate until Phil's untimely passing in October.

THE BUS SAFETY ACT OF 1987

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. HOWARD. Mr. Speaker, today I am introducing the Bus Safety Act of 1987 at the request of the American Bus Association. The association represents a major segment of the Nation's intercity bus industry and it is keenly interested in safety on the highways. The association submitted this proposal to the committee and believes that enactment of the legislation would enhance safety.

During the last 7 years the association has played a major role in supporting key legislative efforts to improve truck and bus safety. I, believe therefore, that its new proposal warrants consideration by the Congress. At this point, I believe many provisions contained in the bill, if enacted, would enhance safety. Some proposals in the legislation closely parallel proposals the committee has had under consideration, while other provisions raise issues that have not been heretofore actively considered, but, in my view warrant consideration.

The Bus Safety Act of 1987 calls for full safety regulation of private carriers of passengers as mandated by the Motor Carrier Safety Act of 1984; however, it would expand the application of the act to most for-hire vehicles transporting fewer than 15 passengers. The bill also requires: One, elimination of the commercial zone exemption in the safety arena; two, that all passenger carriers maintain evidence of insurance in their vehicles; three, that all passenger carriers not certificated by ICC be assigned an identification number which must be prominently displayed on all vehicles; four, DOT to implement the Motor Carrier Act of 1984 with respect to inspection standards and State reciprocity for inspections carried out in accordance with those standards; five, the "on-duty time" definition for bus drivers be changed; and six, an Office of Bus Safety be established in the Federal Highway Administration.

Plainly, better identification methods for vehicles and easier verification of compliance with Federal insurance requirements will help to strengthen enforcement capabilities of Federal and State officials and thus, proposals to accomplish these ends seem to have special merit. Likewise, efforts to require the Department of Transportation to implement the Motor Carrier Safety Act of 1984 also deserve special attention.

I have some reservations about broadening the application of the current safety regulations to practically all for-hire passenger carriers regardless of vehicle size and several other aspects of the legislation, but surely they deserve consideration and they should be subject to appropriate public comment and congressional consideration.

With respect to the proposal on commercial zones, I would point out that it parallels legislation now under active consideration by the committee which would eliminate the commercial zone exemption from Federal motor carrier safety regulations for both trucks and buses.

In summary, the Bus Safety Act of 1987 addresses some safety considerations in an extremely positive manner and raises others which on their face warrant close consideration. The committee most probably will take action on legislation affecting truck and bus safety in the next year. Consequently, I believe the association's bill should be introduced for the purpose of formally examining it along with other safety legislation now pending before the committee.

MR. GORBACHEV, LET THESE PEOPLE GO

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. GALLO. Mr. Speaker, on Sunday, December 6, 1987, over 250,000 people gathered on the Mall in Washington, DC, to rally on behalf of Soviet Jews. These people, Jews and non-Jews, came from all over our country, from as far away as Alaska, from my district in New Jersey, and from virtually every other State.

On the eve of the historic summit between President Reagan and General Secretary Gorbachev, these individuals brought with them one message—"Let my people go."

Mr. Speaker, hundreds of thousands of Soviet Jews have been waiting years to receive permission to emigrate to Israel. The years of waiting and hoping have been long and painful. It is time to end this struggle and open the doors to peace and to freedom.

The Soviet Government has made some progress this year in increasing the number of refuseniks who have been allowed to emigrate to Israel. I recently had the opportunity to join the congregation of Temple Emanu-El in Livingston, NJ, in welcoming the Karlin and Manevich families of Leningrad to their new home and to see them reunited with their children, Cantor Manevich and his wife, Emma Karlin Manevich.

However, the people who gathered here on Sunday have reason to suspect that this increase is part and parcel of the Soviet campaign to better their world image and is not a true step forward in reforming their emigration policies. We know of at least 400,000 Soviet Jews who are still waiting for visas. Many of these individuals have been refused again this year.

For instance, I learned recently that my adopted family, the Kagans of Leningrad, received permission for their two children to leave, but Abram, their father, was denied. This decision to force this family to separate is contrary to the Helsinki accords, to Soviet efforts at glasnost, and will fuel the fires of suspicion that have for too long clouded relations between the Soviet Union and the United States.

The Kagan's struggle has served as a constant reminder to me to keep the pressure on the Soviet Union to honor the fundamental rights of individuals to emigrate and of families to be together.

This week, President Reagan will discuss this important human rights issue with General Secretary Gorbachev. It is my great hope that the outcome of these talks will be that permission for the Kagans and the countless other Soviet Jews to emigrate is granted.

Mr. Gorbachev, please heed the call of the thousands who gathered here in Washington on December 6 and let these people go.

TRIBUTE TO THE SAVANNAH UNITED METHODIST CHURCH

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. KOLTER. Mr. Speaker, it is with exceptional pride and privilege that I rise today to pay tribute to a church located in my district. The Savannah United Methodist Church of New Castle, PA, has a long and rich history in western Pennsylvania. The Savannah congregation was organized in 1820. Over the past 167 years, its parishoners have established an unfailing spirit of industriousness and cooperation. That spirit was manifest as early as 1851, when one of its first church structures was built primarily by the free labor of Savannah's worshipers. That tradition has, moreover, extended to the present. On December 20, 1987, a new sanctuary will be dedicated—a product of a 16-year effort which, again was attributable to the perserverence of the church's parishoners. I can most appropriately conclude by citing the words of the church's pastor, the Rev. Frederick H. Gilbert, who stated that church structures are for "* * * the people of God to seek a word from the Lord, to drink from his fountain and commemorate the most significant events in the seasonal cycle and the rhythm of life."

No where is the truth of that statement more evident than at the Savannah United Methodist Church in New Castle, PA.

WHY IS GORBACHEV THE ONLY ONE WHO CAN LEAVE?

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. COURTER. Mr. Speaker, I have sent General Secretary Gorbachev a letter subsequent to his visit here pertaining to the Genis family of Moscow and their repeated requests to emigrate. Because the letter draws attention to the limits of glasnost I believe it merits congressional notice at this time of summitry and all its attendant enthusiasms. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 8, 1987.
His Excellency MIKHAIL S. GORBACHEV,
General Secretary of the Central Committee of the Communist Party of the Soviet Union, the Kremlin, Moscow, U.S.S.R.

DEAR MR. GENERAL SECRETARY: On the day before your arrival here in Washington, there was as you know an enormous parade of American supporters of Soviet Jewry. Some 250,000 persons from all over the country demonstrated. The parade began near the White House, where you signed an important treaty with President Reagan today, and then wound its way to the west front of the Capitol building. Many in the throng carried signs showing support for individual Soviets who are not able to emigrate because of various rulings by Soviet authorities. Some placards questioned whether glasnost means anything real. Of those, the most striking read simply: "Why is Gorbachev the only one who can leave?"

Mr. General Secretary, Anatoly Genis and his wife Galia, mathematicians now living with their family in Moscow, want nothing so much as to relocate abroad to begin a new life and obtain immediate attention for some very serious medical problems. They first applied for permission to leave the country of their birth—which is certainly a right we all have by nature—in 1977. They were refused. They have since been refused repeatedly, most recently on March 10, 1987, fully two years after you entered power promising broad changes and reform.

Constituents of mine from the B'nai B'rith Hillel Foundation at Princeton University in New Jersey have taken a strong interest in the welfare of the Genis family, and have asked me, as their Representative, to assist them. I am only too glad to do so, and I hope that you will direct the appropriate authorities in Moscow to make their release possible.

Sincerely,
JIM COURTER,
Member of Congress.

REMEMBRANCE OF HELENE "LANY" NAROT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. LEHMAN of Florida. Mr. Speaker, on November 22, Lany Narot died and our Miami community lost a very wonderful and special lady. Lany was not a president or chairperson, nor did she lead any troops. But she was always there for the causes that mattered. Her heart went out to individuals with problems ranging from job loss to AIDS. Her interests included a poetry group that sought to appreciate as well as to heighten awareness of the beauty of the English language.

People are amused about stories that a person's "500 best friends" showed up at a particular event, but that is how many were at Lany's memorial service. The fact is that each person there considered Lany Narot a very close and special friend. No one I've ever known understood how to understand people as did Lany.

Lany Narot was also known as a talented and committed professional. Her work as a clinical social worker, as well as the people she helped, meant a great deal to her. As a professional, and as a sensitive, aware human being, Lany touched people at many levels, from street people to the intellectual elite.

No one can capture the life of such a person in a few paragraphs, but the eulogy given by Cantor Jacob Bornstein of Temple Israel in Miami comes very close. I want to share with my colleagues some of what he said about this remarkable woman.

EULOGY FOR HELENE "LANY" NAROT

We embrace and cry in utter disbelief at the shocking word that Lany Narot has died. And we are left numb and silent in the face of its reality as we grieve and mourn the death of this lovely, this caring, loving, giving woman whom we knew as a daughter, a mother, grandmother, sister and dear, dear friend, and as a beloved.

We all know that Lany was a courageous woman. The tragic losses in her life were more than enough to test and to try the spirit of any human being. And yet, Lany had the capacity to find a renewal of life each time, although in diverse ways, as she so eloquently wrote in a chapter which she contributed to a book published in 1981 entitled "What Helped Me When My Loved One Died." She wrote, in part, "There are new losses every day. Sometimes I have immense confidence I can cope with them all, using my past experiences as models. Other times, the loneliness takes over and even feelings of despair. Friends lend their support and love, family remains very important, but my own growth through life's experiences seems to be the most reliable and constant source of strength. My own inner strength helps me carry on."

The Psalmist said that in his affliction he learned the law of God, that not unavailing will be our grief, if it send us back to serve and bless the living; for we learn how to counsel and comfort those, who, like ourselves, are sorrow-stricken. This Lany personified in the comfort she brought to untold numbers of people.

In so many ways Lany stood as a spiritual giant among us, not in the conventional pieties of religious rituals, but in the deeply-felt quality of her human spirit. What a dear friend wrote about her said it for all of us: "She was so beautiful to look at, so kind and non-judgmental."

Lany was indeed a "woman for all seasons." She loved and deeply appreciated works of art, good music, dance, theatre and literature. She was always so eager to recommend a new book that she had just read or a play that she had just seen. There was a radiance about her that was readily infectious, with a smile that easily conveyed warmth. And while she was usually soft-spoken, the words she spoke were invariably so very appropriate, so right, so sensitive, so understanding.

Her family, and we, her friends will remember her. You and we will remember the cherished hours and days of our relationships with Lany. And we will all be enriched by our memories of her for she left us all a good heritage, a heritage that moves us forward to life in the face of adversity; to renewal in the face of loss; and to nobility in the face of human need. Let us then, as we now memorialize Lany Narot, think of this hour as a celebration of her life.

And finally, permit me to conclude with the reading of one of Lany's favorite poems by Edna St. Vincent Millay:

I am not resigned to the shutting away of loving hearts in the hard ground.
So it is, and so it will be, for so it has been time out of mind: Into the darkness they go, the wise and the lovely. Crowned with lilies and with laurel they go; but I am not resigned.
Lovers and thinkers, into the earth with you, be one with the dull, the indiscriminate dust. A fragment of what you felt, of what you knew, a formula, a phrase remains—but the best is lost.
The answers quick and keen, the honest look, the laughter, the love—
They are gone. They are gone to feed the roses. Elegant and curled
Is the blossom. Fragrant is the blossom. I know. But I do not approve.
More precious was the light in your eyes than all the roses of the world.
Down, down, down into the darkness of the grave
Gently they go, the beautiful, the tender, the kind;
Quietly they go, the intelligent, the witty, the brave.
I know. But I do not approve. And I am not resigned.

TRIBUTE TO RON CARPENTER

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. MACKAY. Mr. Speaker, I rise to pay tribute to a man you should know about. Although Washington may have more think tanks per square inch than any city in America, we have a shortage of original thinkers. Too often we are bound by partisan divisions and conventional habits of thought. For this government to succeed, we must instead rely on the fresh perspective, creativity and civic virtue of people like Ron Carpenter.

The citizens of Gainesville, FL, know Mr. Carpenter as the head of a well-respected law firm. They also know him as a man who gives his time freely to such worthy causes as the Alachua County "Turn in a Pusher" program and the local jaycees. In legal circles, Mr. Carpenter is appreciated throughout the State for his service as a member of Florida's Board of Bar Examiners and for his other bar activities.

But Mr. Carpenter has another dimension. He is also a man who has thought long and hard about the large issues and problems facing our Nation. Much more than that, he is a man who put his own professional interests aside in order to make what I believe is a real contribution toward solving at least one of those problems.

Last month, Mr. Carpenter left his business behind to work as a volunteer in my Washington office, or as close to it as we could arrange. Actually, he didn't work in my Washington office, because the only desk we had available was in a small, windowless room across the hall that is more like a closet. But Ron didn't complain. Instead, he set himself to work designing a wholly new approach to one of the major issues facing the 100th Congress. After careful study, and after many meetings and consultations with people from across the political spectrum, he came up with what I believe is an exciting and sensible alternative to the movement for mandated benefits.

Most people say we have no choice. The common view is that at least until we get the deficits under control, Congress can either mandate a better deal for the working poor, or do nothing. But Ron Carpenter has helped convince me that there is a better way—one that serves both liberal ends and business interests, and that saves money. All we need is a new way of looking at old problems.

My thanks to Ronald A. Carpenter, for showing me how it can be done.

SOVIET VIOLATION OF HUMAN RIGHTS

HON. BEAU BOULTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. BOULTER. Mr. Speaker, once again I rise today to remind the Congress of a Soviet violation of human rights that is widespread and severe behind the Iron Curtain—the persecution of Christians by Soviet authorities.

Along with Congressman CHRIS SMITH and over 70 of our colleagues, I am introducing a resolution today which draws the attention of Congress and the United States to the anniversary of the millenium of Christianity's arrival in Russia in 988 A.D. Next year, believers of all Christian denominations in the Soviet Union will be celebrating the 1,000th birthday of Christianity in their country.

It is our hope that this resolution will accomplish several goals. First, it enumerates specific contributions of the Russian Orthodox Church to the religious faith and culture of the Soviet Union, pointing out to the Soviets as well as to Americans how very significant the church has been in Russian history. Even more importantly, the resolution calls for the open publication and distribution of Bibles as well as for the opening of churches and seminaries closed in recent decades to serve the spiritual needs of the people of the Soviet Union. Finally, the resolution expresses the united sense of the United States Congress that all Christian prisoners within the Soviet Union should be released in observance of the millenium and in accord with the human rights agreements signed by the Soviet Government.

Mr. Speaker, 2 months ago the Minister of Religious Affairs, Konstantin Kharchev, met with Senator RICHARD LUGAR here in Washington. Minister Kharchev promised Senator LUGAR that with the celebration of the 70th anniversary of the Soviet revolution in November all the current religious prisoners would be released. November 7 came and went with no new releases reported. We know of approximately 170 Christians who continue to languish in the gulag for openly practicing their faith.

In spite of Kharchev's promise and the much-heralded changes taking place in the Soviet Union today, Christian persecution behind the Iron Curtain is alive and only too well. I am afraid that George Will's hypothesis that glasnost is "the policy of changing almost everything so that everything can remain the same" is only too true. Democratization has not gone so far that Soviet leaders have abandoned Marx's dogma that "religion is the opiate of the people."

Specific cases of Christian persecution—in psychiatric hospitals, labor camps, prisons and in their everyday lives—will probably not be aired over the ABC or CBS news over the coming week as Mikhail Gorbachev visits us in Washington. But the facts remain. What better time than the dawn of a second historic summit to send a signal to the Soviet Union that the United States Congress and the American people will no longer sit idly by and watch such egregious, Stalinesque repression? As President Reagan asks the Soviets for an honest and fair agreement toward achieving world peace, let us also add the voices of those in Congress concerned about international human rights, challenging the Soviets to deal honestly and justly with their own people.

I urge all my colleagues to join us in cosponsoring this resolution and letting the Soviets know that we are aware of their imprisonment of Christians and care enough to make this persecution known.

TRIBUTE TO BETTY TICHO

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to commend Betty Ticho, the executive director of the Los Angeles County Epilepsy Society [LACES] upon her retirement for 30 years of service to the epilepsy movement.

LACES is the only organization in Los Angeles County set up specifically to serve people with epilepsy and was established as a nonprofit voluntary corporation in 1956. Betty has served as the sole executive director for the past 30 years of the organization and is directly responsible for providing such services as information and referral, counseling, advocacy, and education. As my colleagues may be aware, the incidence of epilepsy in Los Angeles County affects more than 1 in every 50 children and 1 in every 100 adults, totaling more than 150,000 in the county. Under the direction of Mrs. Ticho, LACES, as an affiliate of the Epilepsy Foundation of America, is engaged in an ongoing public information campaign to bring the facts about epilepsy to the attention of the community.

On behalf of all of us with epilepsy, I would like to extend my sincere appreciation for the 30 years of service that Betty Ticho has provided to those with this disorder so that they may have greater opportunities in education and employment.

A SYMBOL FOR THE WASHINGTON SUMMIT

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. FISH. Mr. Speaker, yesterday, on the eve of this historic day in the quest for world peace, an extraordinary woman was received at the Department of State for a ceremony with representatives from the world's two superpowers. This ceremony linked our past struggle for freedom to the future path for building peace.

Edwina Sandys, British artist and granddaughter of Sir Winston Churchill, presented identical copies of her sculpture, "War & Peace" to Deputy Secretary of State John Whitehead and Soviet Ambassador Yuri Dubinin. They accepted on behalf of President Ronald Reagan and General Secretary Mikhail Gorbachev.

The polished aluminum sculpture reveals the outline of man's deadly machine of war, the jet fighter. It surrounds an image of peace—a soaring dove. The sculptures were created to commemorate the summit meeting of 1987.

At the presentation, Secretary Whitehead said he was glad both sculptures were facing the same direction. The Soviet Ambassador, his hand tracing the outline of the dove, expressed his hope that the dove would "get larger and larger and the plane would get smaller and smaller until there were only these kind of birds flying in the sky—and in outer space."

Letters to the President and the General Secretary from Miss Sandys accompanied the sculptures. Dated November 30, the 114th anniversary of her grandfather's birth, Miss Sandys wrote each leader about their peace efforts, saying of her grandfather that "if alive (he), would have wanted to share with you the thrill of raising the Iron Curtain to reveal a stage setfair for the 21st century."

Miss Sandys at this important time has invoked the spirit of her famous and beloved grandfather who fought for freedom and sought constantly the path for peace. I thank her for offering to President Ronald Reagan and to the Soviets a source of inspiration which perhaps has best caught the spirit of this historic summit.

TENTH KINGS DAY REGATTA, JACKSONVILLE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. BENNETT. Mr. Speaker, Jacksonville, FL on November 21 and 22 celebrated its tenth King's Day Regatta weekend. This weekend (the one closest to November 17 each year) is set-aside for holding in the St. Johns River an annual sailboat regatta. This is to symbolize the alliance and friendship of the United Kingdom and the United States through the years. It revives a King's Birthday Regatta that was held two centuries ago honoring British royalty in the same place in the St. Johns River. The earlier regatta was, of course, while Florida was a colony of Great Britain in the late 18th century, The 1987 sailing event was covered by the news media and some of these stories are included herewith.

KING'S DAY REGATTA TO FEATURE DIFFERENT LOOK, DIFFERENT COURSE

The largest cruisers-only regatta between Chesapeake Bay and Fort Lauderdale is going to be a bit different this year.

The 10th annual King's Day Regatta is next weekend. The difference from past years will affect not only the roughly 15-nautical-mile distance course on the St. Johns River and the race itself, but prerace festivities.

The Saturday night pre-regatta party will be held for the first time at a site other than the Florida Yacht Club, which will still host the race itself on Sunday.

The site for the pre-race festivities is the Epping Forest YC, the newest member of the sponsoring St. Johns River YC, which encompasses the major sailing clubs in the immediate area (the other clubs are The Rudder Club, the North Florida Cruising Club, Navy Jax YC, San Jose YC and Catalina 22 Fleet 35).

And the start this year will be different.

"We're going to have a weather start for a change," said race commtitee chairman Henry Mullen of the FYC. "With a downwind start, the big boys always shoot out there first because their masts are 20 feet higher than everybody else's. This'll make the start more even, and the boats that get good starts will get paid for them."

Mullen said that the exact course, which will be around the St. Johns River Sailing Association's new permanent racing marks and Coast Guard aids to navigation, won't be determined until race morning in an effort to set the best route possible.

In last year's race, there was virtually no air and Levon Pentecost on J-27 More Aparitions literally drifted across the finish line ahead of Ed Burroughs on Stoner 32 Wild Hare. Those were two of only a handful of skippers in the 67-boat fleet to finish the race within the allotted three-hour time period.

Mullen said race organizers are hoping for a larger fleet this year—the largest in the regatta's history was in 1981, when 125 boats participated.

"We have had calls from St. Augustine and Savannah, so I think we may be spreading out a little," Mullen said.

As usual, guests of honor for the party Saturday night and the race Sunday will be U.S. Rep. Charles Bennett, D-Jacksonville—who inspired the establishment of the regatta in 1977 in commemoration of a race held on the site by British sailors to celebrate King George III's birthday in 1776—and an official representative of the British government. This year, that's Brian Crowe, minister, commercial, from the British embassy in Washington.

Mullen emphasized that the Saturday night party, 6-11 p.m., was open to all sailors in the area, not just those participating in the regatta.

"We want everyone to come out and have a good time; eat or just walk aroung the gardens. It's a chance for those who haven't seen it to see Epping Forest."

Dinner isn't mandatory (there'll also be a cash bar), but those who do want to eat should contact Alicia Dorsey-Frank at 389-6042 for information on reservations (the charge is $25 per couple, and dinner reservation deadline is Tuesday).

Registration procedures are the same as in past years (registration fee is $12)—pre-registration Friday night at the Rudder Club (7-11), late registration at the FYC Saturday morning (10-noon), mail-in registration check-in at 8 a.m. Sunday, skippers' meeting at 9 and race start at 10.

For more information on registration or other aspects of the race itself, call Carnell Mosley at 772-5192 (days) or 268-7625 (evenings).

PLAYING IT SAFE PAYS OFF FOR PEPER IN KING'S DAY

(By Lawrence Dennis)

Rick Peper decided from the start to play it safe yesterday.

It paid off. The Jacksonville attorney kept his cards close to the vest and sailed his J-24 Dixie across the finish line first on corrected time to win the Carl Z. Suddath Trophy for first boat in the 10th annual King's Day Regatta on the St. Johns River yesterday.

Peper, a perennial contender but not a frequent winner in J-24 class events, beat Levon Pentecost for the honor of having the lowest time—once the handicap ratings of the 65 boats in the fleet were taken into account—in the race that is billed as the biggest cruisers-only regatta between Chesapeake Bay and Fort Lauderdale.

Peper came in with a corrected time of 3 hours, 17 minutes, 13 seconds to Pentecost's 3:20:20.

"We sailed it conservatively," said Peper, who crewed for Pentecost aboard J-27 More Apparitions when it won the Suddath Trophy in last year's King's Day. "Our main question was always 'Where is he [Pentecost], and what is he doing?' The fact is, we just tried to stay out of the dead air. We chased the wind and didn't take any chances. We were lucky."

It was the second year in a row that the regatta, established to commemorate a race held on the site by British sailors to celebrate the birthday of King George III in 1775, has been plagued by light air. Last year, only 12 boats in the 65-boat fleet finished within the four-hour time limit.

"We felt that we had to shorten the course in order to finish in time," said Henry Mullen, race committee chairman from the Florida Yacht Club, one of the six organizations forming the St. Johns River Sailing Association that sponsors the event. The course was shortened from its original length of 16.45 miles to 11.5 miles.

First boat across the finish line—period—was Kaos, a Hobie 33 skippered by Rich Brew that took the horn from the committee boat in 3:23:57 on the course between the Fuller Warren and Buckman bridges.

That corrected to 3:22:53 which made Brew sixth in fleet. Ron Campbell, another J-24 sailor, was third overall on High Voltage in 3:20:35, while John MacDonald on Morgan 27 Prowler was fourth in 3:20:32.

In spinnaker classes, Brew took the cup in PHRF "A"; Bill Coolidge won PHRF "B" on Tartan 10 Balls N' All in 3:21:50; Ed Burroughs was first in PHRF "B" on Stoner 32 Wild Hare in 3:21:50; MacDonald won PHRF

"D"; Peper was tops in PHRF "E"; Bert Verway on Stoner 24 March Hare won PHRF "F" in 3:25:40; and Bob Woolverton got the cup in PHRF "G" on C&C 24 Carousel in 3:24:05.

In non-spinnaker classes, Alan Geiger was the winner in PHRF "H" on Tartan 34 Charisma in 3:28:44; Robbie Roth on Tartan 30 Sandi Carol won PHRF "I" in 3:37:42; and Conrad Jurgens took PHRF "J" on O'Day 23 Obsession in 3:25:51.

RALEIGH SMALL BUSINESSES EXCEL

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. PRICE of North Carolina. Mr. Speaker, I want to take this opportunity to congratulate two firms in the Fourth District of North Carolina which have been listed among Inc. magazine's 500 fastest growing private companies in the United States.

The first is Captive-Aire Systems, owned by Robert Luddy, which manufactures kitchen ventilation systems. The company employs 65 people and grew more than 1,500 percent from 1982 to 1986. The House Small Business Committee had the pleasure to hear from Mr. Luddy in a September field hearing in Raleigh, and the company's phenomenal growth is a tribute to him and his employees.

The second firm is Computer Intelligence of Raleigh. This company experienced growth of 820 percent in the same 1982–86 time period and employs approximately 50 people. Rick Mitchell, owner and president of the company, and his fellow owners and employees deserve recognition for their work in customized computer software.

I am pleased to have such dynamic companies in my district. And I wish them continued success in the future.

INFLATED WELFARE PROGRAM

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. McMILLAN of North Carolina. Mr. Speaker, this week the House leadership plans to wipe away any progress we plan to make toward deficit reduction with an insidious vote to inflate welfare programs by over $7 billion.

H.R. 1720, disguised as reform, costs a great deal of time and money. Americans are being asked to swallow $7.2 billion more in Federal spending and are given no idea how we are going to finance this added expense. Under H.R. 1720, we would spend $413,000 on each family to get them off of welfare. Under this reform package, we would increase the number of families dependent on welfare. By raising the amount of benefits each family receives each month, in some States, like California, H.R. 1720 would require a family to find an entry level job that pays $14,000 a year—matching their combined welfare benefits.

I urge my colleagues to consider the welfare dependent family. Do we really believe that by giving them more money and relieving pressure to work we are helping them break through the web of dependency? I think not. I urge my colleagues to vote against H.R. 1720 and for the substitute.

PEARL HARBOR SHIPYARD DAY

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. SYNAR. Mr. Speaker, today the Oklahoma Club of Hawaii is honoring the Pearl Harbor Naval Shipyard employees who saved the lives of 32 sailors on the U.S.S. *Oklahoma* December 7 and 8, 1941.

On that day of infamy 46 years ago today, 19 shipyard employees came to the aid of the sailors perishing on the capsized battleship U.S.S. *Oklahoma.* The shipyard workers cut through with pneumatic chipping drills to rescue 32 men trapped in pitch black compartments slowly filling with water. The U.S.S. *Arizona* was still burning nearby, casting an eerie light on the shipyard employees as they worked. For over an hour there was antiaircraft firing all around the harbor. Yet those courageous workers persisted until the sailors were brought safely ashore.

Today if you were to visit that scene, you would find photographs and the helm of the U.S.S. *Oklahoma* along the staircase leading up to the shipyard commander's office. The U.S.S. Oklahoma Association has donated a commemorative plaque.

Attending today's ceremony in Honolulu are Adm. Ronald Hays, commander in chief of the U.S. Pacific Forces; Albert Willis, paymaster aboard the U.S.S. *Oklahoma* and last sailor to be saved by the 19 shipyard employees; and Richard Goings of Kaneohe, HI, the last surviving shipyard employee honored by today's commemoration.

As we pause to observe the anniversary of a day of darkness, let us not forget those whose selfless and courageous action expressed the most noble instincts of the human spirit. Through the example of such humanity, we come to know and believe when light shines in the midst of darkness, that light cannot be overcome.

I join with the Oklahoma Club of Hawaii in honoring those brave men by observing today as "Pearl Harbor Shipyard Day."

THE GREAT LAKES COASTAL POLLUTION INVENTORY

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. DAVIS of Michigan. Mr. Speaker, today, Senator JOHN GLENN and I are introducing bills authorizing the National Oceanic and Atmospheric Administration to prepare a computerized inventory of all pollutants and their sources which enter the Great Lakes.

Given the much-heralded death of the algae-choked Lake Erie during the 1960's, water quality in the Great Lakes has improved, mostly due to the progress made in controlling direct discharges of wastes from municipalities and industrial sources. The instrument of this progress was the 1972 Great Lakes Water Quality Agreement, signed by Canada and the United States, which emphasized reduction of phosphorus entering the lakes. While eutrophication is no longer a serious threat to water quality, the five Great Lakes face additional problems in the 1980's, the most pressing of which is toxic contaminants. This current concern is reflected in the most recent Water Quality Agreement, which was signed November 18, 1987, and which adds additional goals for reduction of toxic substances and acid deposition.

The International Joint Commission [IJC], the United States-Canadian organization responsible for developing bilateral water quality agreements, has identified 42 "areas of concern" where beneficial uses of Great Lakes waters are impaired. Most of these areas are located near the mouths of tributaries where cities and industries are located, including the connecting channels of the St. Clair and Niagara Rivers. Pollutants are concentrated in these areas because of long-term, direct discharges of wastes from local sources, nonpoint source leaching of contaminants, and accumulation of pollutants from upstream. Nearly all the areas of concern have contaminated sediments.

Understanding all the sources, fates and effects of toxic contaminants in the Great Lakes ecosystem is still at a relatively early stage. Governmental programs to address toxic substances are attempting to bring current sources under control to levels that protect human health. However, it is not clear that such levels are fully effective in the rehabilitation of the Great Lakes, with their long food chains and high degree of bioaccumulation. Also, toxic chemicals released during earlier, less regulated times, remain within the system and continue to cause problems. As a result, all Great Lakes States and the government of Ontario have issued fish advisories suggesting that consumption of certain species and sizes of fish should be avoided because of the high level of mercury, lead or other toxic chemicals present. Most disturbing is a recent IJC report noting an increase in the number of discharges into the lakes, more expired discharge permits, and fewer governmental enforcement actions against polluters.

As a wise man once said, "Know thy enemy." This bill is designed to give Great Lakes regulators and researchers a handle on the types, amounts and sources of pollutants now damaging the Great Lakes—the Nation's largest source of freshwater. The resulting inventory, which will be computerized to allow fast access and quick updating, will aid U.S. efforts to fully implement the new water quality agreement. The U.S. Environmental Protection Agency has used pollution inventories prepared by NOAA for the Atlantic, Gulf of Mexico and west coasts to set standards for pollutant discharges under the Clean Water Act. This valuable tool should be made available to the Great Lakes, especially now that we have renewed our commitment to cleaner, safer waters for our future.

TRIBUTE TO MR. IRVINE KRAUT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community, Mr. Irving Kraut. For the last 6 years, Irving has volunteered many hours to improve the quality of life in the San Fernando Valley. He has been an inspiration for all those who have been acquainted with him.

Irving Kraut was born on April 24, 1905. He boasts a 59-year marriage to his devoted wife, Sylvia. In 1959, the Krauts left Connecticut to live in the San Fernando Valley. There they raised two children and are now the proud grandparents of eight and great-grandparents of another eight—almost nine. A premier value placed on family unity and trust has been a source of strength for the Krauts.

Irving enjoyed a successful career in the grocery and produce industry. At work, he was highly respected by his coworkers, management, suppliers, and customers. His personality and warmth gain Irving friends everywhere he goes.

Since retiring in 1971, Irving has remained extremely active by working in the community. Most notably, he has given generously of his time to volunteer in the offices of California State Assemblyman Richard Katz and in my district office. I am very grateful for Irving's assistance. He is always willing to lend a hand, that is accompanied by a smile.

It is my pleasure to salute Irving Kraut in recognition of his long and prosperous life.

AFGHAN GIVES DETAILS OF DEATHS OF SHAPIRO AND LINDELOF IN AMBUSH

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. DREIER of California. Mr. Speaker, I wish to introduce into the CONGRESSIONAL RECORD an article, "Wife of slain filmmaker accuses Soviets," which the Washington Times carried on November 26, 1987. I am afraid that many of our colleagues may have missed this important report because the news broke during the Thanksgiving recess. The expected discussions between President Reagan and General Secretary Gorbachev on Afghanistan this week compel us to highlight the Soviet violations of international law and human rights in war-torn Afghanistan.

Following the Soviet invasion, foreign journalists were expelled from Afghanistan and strict controls were established over future entry into the country. Since that time, western journalists have been targeted for attack by Soviet and Afghan government forces. This paranoia over media coverage of the situation in Afghanistan is reflected in a statement by Vitaly Smirnov, Soviet Ambassador to Pakistan, to Olivier Warin of French television and the Agence France Presse correspondent in Islamabad on October 5, 1984, "I warn you, and through you, all of your journalist colleagues: stop trying to penetrate Afghanistan with the so-called mujahedin. From now on, the bandits and the so-called journalists—French, American, British and others—accompanying them will be killed. And our units in Afghanistan will help the Afghan forces to do it."

WIFE OF SLAIN FILMMAKER ACCUSES SOVIETS

(By Gus Constantine, Nov. 26, 1987)

In 1984, free-lance journalist Lee Shapiro emerged from Marxist Nicaragua with a powerful documentary that portrayed atrocities committed by the Sandinistas against the Miskito Indians. The film, "Nicaragua Was Our Home," lifted him out of obscurity. It drew raves at the White House and a personal note of appreciation from President Reagan.

Last month, nearing completion of a similar self-assigned mission deep inside Afghanistan, the crusading journalist again emerged from the shadows—this time as an obituary. He, soundman Jim Lindelof and two members of an Afghan resistance group were killed in a communist ambush.

Yesterday he was back in the spotlight, this time as an angry memory.

In an emotional news conference filled with tears and defiant challenges, his wife, Linda Shapiro, provided new details of his death. She wrapped them into a murder accusation against the Soviet Union and challenged Soviet leader Mikhail Gorbachev to include in his upcoming U.S. visit a pledge to return the victims' bodies and the seized film and equipment.

"There is no other conclusion from the known facts than that the Soviets murdered my husband in cold blood," she said at the National Press Club.

"They knew he was documenting their brutality, and they hunted him down," she said.

To support her charges, she cited a statement given to the U.S. Consulate in Peshawar, Pakistan, on Monday by Abdul Malik, an information official of the Afghan resistance group known as Hezb-I-Islami. Mr. Malik was on the filming trip as interpreter and guide, and he was wounded in the attack that killed Mr. Shapiro.

According to Mr. Malik's account, Mr. Shapiro, Mr. Lindelof and he had been inside the occupied country for five months, observing and filming the northern fronts. On Oct. 9, while they were heading home through the Paghman district in Kabul province, they and a group of rebels were approached by four Soviet helicopter gunships.

The helicopters opened fire with rockets for about 15 minutes, Mr. Malik said in the statement. After that, two gunships landed, seized the film and equipment and took off again, according to the statement.

Later, the bodies were taken to another location and buried, Mr. Malik told the consulate.

Participating as a co-host at the press conference was a member of Rep. Charles Wilson's staff. The congressman, a Texas Democrat, was in Peshawar with a Capitol Hill delegation to observe the situation among the resistance fighters, or mujahideen, whose political organizations are based in the city on the Afghan-Pakistani border.

Spokesman Charles Schnabel read a statement from Mr. Wilson eulogizing Mr. Shapiro as "a brave man bent on bringing to the world the tragic story of the atrocities being committed against the Afghan people."

A TRIBUTE TO MR. WILLIAM F. RUMMELL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. William F. Rummell, a very special resident of my 17th Congressional District of Ohio. This outstanding gentleman will retire on January 1, 1988, after having served 21 years as superintendent of the Mineral Ridge School System. Mr. Rummell deserves recognition for the many achievements he has made as a provider for his district's educational and cultural needs. Some of his accomplishments include the construction of a new high school, high school track, and sport locker facilities.

Mr. Rummell's accomplishments extend well beyond the construction of material goods for his community, however. During the time he served in various administrative capacities for his school district, Mr. Rummell became the president of the Trumbull County Superintendents' Association, managed the successful passage of three school levies, developed the middle school program and curriculum for the district, and established an outstanding sense of pride within the community and the district. In all, this unselfish gentleman dedicated 35 years of his life as a teacher, principal, and superintendent to the people of his district. And for this, Mr. Speaker, the people of Mineral Ridge, OH, will always cherish memories of William F. Rummell. I am honored and privileged to represent such a fine person.

SCIENTIFIC EXCHANGES ARE A ONE-WAY STREET

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. SOLOMON. Mr. Speaker, as we consider the foreign aid authorization bill I will offer an amendment requiring a comprehensive review of the methods we conduct scientific exchanges with the Soviet Union, China, and other controlled countries.

Today I am inserting into the CONGRESSIONAL RECORD an article relating to the one-way flow of scientific information which results from exchanges the United States conducts with controlled countries.

This article from the New York Times looks at the lopsided character of a recent American/Chinese scientific exchange. The American scientists involved in the exchange were dazzled by the cuisine and the beautiful landscape of China but were totally isolated from obtaining any meaningful scientific information.

My amendment requires the establishment of an interagency group for scientific information transfer composed of officials from the Departments of State, Commerce, and Defense, and members of the academic and scientific communities. This group shall within 6 months submit to the Congress a proposal on methods to enhance the interagency review of scientific exchange agreements with controlled countries. All Members of Congress who share my concern about the one-way flow of scientific and technical data from the United States should support the amendment.

[From the New York Times, Oct. 28, 1986]

CHEMISTS VISITING CHINA FIND INFORMATION FLOWS ONE WAY

(By Malcolm W. Browne)

PEKING.—Since establishing diplomatic relations 14 years ago, China and the United States have developed a scientific partnership that has become an important conduit of advanced Western technology to the most populous land on earth. But although many fields of Chinese research are now progressing rapidly on their own, growing numbers of American scientists say the flow of scientific information from China to the United States remains a mere trickle.

The lopsided character of American-Chinese exchanges of scientific information was brought home to 14 American chemists who concluded an exchange visit to China this month. Dazzled by China's scenic wonders and sumptuous cuisine, the Americans were nevertheless left wondering if they had learned anything of substance in exchange for the professional insights they had offered to their Chinese hosts.

In their two-week visit, delegates from the American Institute of Chemists presented talks and research material based on their specialties, some of which were linked to industrial and military technologies vital to Chinese interests. The men and women in the group also brought money for a fund that subsidizes some of the 30,000 Chinese scientists and students China has sent abroad to learn from the West.

At the conclusion of their trip, the Americans professed themselves amply rewarded by the chance to tour China, but most also lamented the fact that the scientific exchange had been essentially a one-way transaction. Their experience appears to have been shared by many of the American scientific missions that have visited China in recent years.

Dr. Philip H. Abelson, an organizer of the first delegation sent to China by the American Association for the Advancement of Science in 1978, believes that one reason for the inaccessibility of such information is the relative backwardness of Chinese technology.

"The Chinese don't have all that much to show, and they are naturally reticent about exposing their shortcomings," he said. "Ideological resistance to disclosing privileged information appears to be declining, but it's still a factor. On top of all that, China has always had a negative attitude toward foreigners, and attitudes cannot be changed as easily as switching off a light."

Dr. Abelson added, "I would consider making another trip to China myself only if really substantive information were to become available from the Chinese."

A contrasting explanation for Chinese reticence was offered by William W. Havens, executive secretary of the American Physical Society.

"One-on-one relationships between American and Chinese physicists are generally very productive of results in the pure sciences, especially solid-state and high-energy physics," Dr. Havens said in an interview. "However, some of our applied-science people have been frustrated in their desire to get a glimpse of Chinese industrial processes—those involving advanced lasers, for example—but the Chinese don't structure exchanges in such a way as to allow such glimpses. In fairness, of course, it's hard to imagine an American company like I.B.M. allowing outsiders to see its proprietary processes."

CONTRAST IN APPROACHES

Still, American openness contrasts sharply with Chinese secrecy in many aspects of the scientific relations between the two countries. Space technology is typical. Although Chinese officials and experts have been given significant access to the technology underlying American space programs, the gesture does not appear to have been reciprocal. A large delegation of Chinese space officials invited to Cape Canaveral, Fla., witnessed the destruction of the space shuttle Challenger last Jan. 28, but to date, no American observers have been permitted to watch a launching from the new rocket pad in western China.

As guests of the China Association for Science and Technology (CAST), the American chemists who visited China this month were treated to some of the most spectacular sights in China—the Great Wall, the picturesque sugarloaf mountains of Guilin, the archeological wonders of Xian, and ancient parks, pagodas and palaces of Peking, Canton and Changhai. They visited a collective farm and exchanged innumerable toasts with Chinese officials at a series of banquets. The chemists also saw some tantalizing intimations of advanced Chinese technology.

One of the American delegates was Dr. Abraham L. Landis, a senior scientist at the Hughes Aircraft Company in El Segundo, Calif., who had needed special permission from his employer, a military contractor, to discuss technology with Chinese counterparts. Dr. Landis' specialty is a class of plastics called polyimides, which remain extremely strong even at high temperatures, and therefore have important applications in space and advanced electronics.

Speaking before an audience of about 20 Chinese chemists at the Chinese Academy of Sciences in Peking, he briefly summarized the chemistry and applications of polyimides in the United States, and then listened to a presentation by Prof. Lu Feng-Cai, a scientist whose son is a graduate student in the United States. After describing some of the quantum-mechanical calculations that the Chinese team had used in developing advanced polymers, Dr. Lu showed Dr. Landis a perfectly formed polyimide ring with characteristics that might have suited it for use as a bearing or machine part of some kind.

"I had expected the Chinese to have read up the chemical literature on polyimides," Dr. Landis said, "but I was unprepared for that sample of molded polyimide, which graphically demonstrated to me the extent to which Chinese technology has advanced. And as for Dr. Lu, I can only say that if I had been in China as a student it would have been a privilege to have had her as a teacher."

But the Americans were accorded little more than glimpses. Dr. Rodney Lu-Dai Sung of Fishkill, N.Y., a Chinese-born gasoline chemist at Texaco Inc., spent an entire day briefing Chinese petroleum experts on gasoline additives designed to prevent corrosion, improve combustion, reduce exhaust pollutants and keep engines clean.

"They seemed insatiable for knowledge," he said.

But Dr. Sung, who holds scores of patents for various gasoline additives, got little in return; his requests to visit a refinery or petroleum laboratory were ignored.

In Peking and Canton, John D. Galligan, a vice president for research and development at the Gillette Company in Boston, described advanced processes for depositing ultra-hard ceramic coatings on the edges of razor blades and on the ball tips of ballpoint pens. The processes have important potential applications in metallurgy, including the weapons production.

But although Mr. Galligan's slides and diagrams had been prepared with Chinese titles, his audiences neither commented upon nor questioned his presentation, and it was impossible to discern how much had been absorbed.

"One of the frustrating things," said another of the scientists, "was the almost total lack of feedback from the Chinese." Said another: "Going to China for a scientific exchange was a great experience for all of us. But it's one I'm not personally anxious to repeat."

JACK J. PIERCE RECOGNIZED AS A HERO

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to a true hero. Jack J. Pierce, who resides in Pittsburg, CA, which is in my district, has recently been awarded a medal by the Carnegie Hero Fund Commission in recognition of his rescuing Donnel J. Marion from burning in July 1986.

In a world in which true heroism is a rare occurrence, Jack Pierce stands out as a hero and role model for all to follow. On July 16, 1986, Mr. Pierce was working as a maintenance man in an apartment complex when he heard an explosion in a second floor apartment. Rushing to the apartment, Mr. Pierce opened the door and saw the fire enveloping Mr. Marion's apartment. He shouted for Marion and hearing him, Mr. Pierce entered the apartment, the walls and ceiling of which were aflame. Despite the intense heat and blinding smoke, Mr. Pierce penetrated 25 feet into the apartment and found Mr. Marion in his bedroom. He then dragged Mr. Marion from the apartment thus saving him from the fire.

Jack Pierce's heroic behavior epitomizes the ideals represented by the Carnegie Hero Fund Commission. Established by Andrew Carnegie in 1904, the commission was created to recognize outstanding acts of selfless heroism. People who voluntarily risk their lives in order to save the lives of others are those eligible for this award. Recipients of the "Carnegie hero awards" exemplify selflessness and bravery. Jack Pierce clearly exhibits these qualities.

I am proud to recognize Mr. Pierce today, and know that my colleagues in the U.S. Congress will join me in offering their sincere appreciation for his act of heroism.

THE REALITIES OF THE INF TREATY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. CRANE. Mr. Speaker, this week, Secretary Gorbachev and President Reagan are expected to sign the Intermediate Nuclear Force [INF] Treaty here in Washington. The INF Treaty will, for the first time, result in the reduction of arms through the elimination of an entire class: intermediate-range missiles. This is considered to be a significant improvement in relations between the United States and the U.S.S.R., and therefore world peace.

Nonetheless, controversy has surrounded this monumental event. Premature enthusiasm has erupted throughout the administration, and at this time, the signing of the INF Treaty seems inevitable. Critics are terming the treaty a "treaty for treaty's sake" and a "rushed treaty." These accusations are justified for they question the intentions of the administration and the Soviet Union.

The INF Treaty provides the Reagan administration the opportunity to sign its first arms treaty. In doing so, the White House will be able to offer the American people, and the world at large, a long-awaited arms control agreement. However, popular theory dictates that the President is under pressure to sign an agreement, not to promote U.S. interests, but rather simply to say that one has been signed. If the INF Treaty is signed, President Reagan will be recognized throughout history as a peacemaker. Moreover, while the agreement calls for great concessions on the part of the United States, it appears that Soviet goals remain unchanged. In fact, they may even benefit from such an agreement. The treaty has the potential to weaken NATO, destroy SDI, and denuclearize Europe. Should this result, Soviet conventional forces will find themselves in a powerful position to spread communism, due to their prime location and unparalleled size. There would be little or no deterrence to prevent a conventional intervention of Western Europe.

Another point which must be addressed is that of verification. By now, experience should warn us to be wary of Soviet promises that too often prove empty. This concern is increased due to the high mobility of the missiles involved in the treaty. Can we trust the Soviet Union to abide by an agreement that can easily be broken?

Before the United States commits itself to terms of a treaty the Soviet Union finds acceptable, we must be assured that United States security will in no way be sacrificed or compromised. Two recent articles, by James J. Kilpatrick and Walter E. Williams respectively, appearing in Human Events address fundamental concerns of blindly entering into an agreement with the U.S.S.R. I commend them to my colleagues' attention:

TWO CONSERVATIVES ON U.S.-U.S.S.R. TREATY

WHAT THE AGREEMENT WILL NOT ACCOMPLISH

(By James J. Kilpatrick)

Yes, the recent "agreement in principle" between the United States and the Soviet Union fairly may be described as a breakthrough. Given the inflation that affects language no less than economies, one might even call the agreement historic. But at the risk of raining on a pretty parade, let me suggest that we hold the euphoria. Nothing much has changed.

The tentative agreement is to eliminate medium-and short-range nuclear weapons over a period of three to five years. I say "tentative," because a formal protocol remains to be drafted. Between the principle and the fine print, pitfalls may yet develop. The truly hard bargaining lies ahead.

In the midst of the jubilation over what the agreement may accomplish, let us keep a cool eye on what the agreement will not accomplish.

The proposal will not affect strategic nuclear arms; it will not affect conventional forces; it will not affect basic Communist goals of world domination. If all goes well, the elimination of these weapons will rid the world of no more than 3 or 4 percent of the nuclear arsenal.

This past March, the Department of Defense (DOD) released its annual appraisal of Soviet military power. Consider some sobering figures.

Between 1977 and 1986, the Soviet Union built 3,000 long-range nuclear missiles. In this same period, the United States built 850. The Soviet Union has developed a giant missile called the SS-25; it is "road-mobile." The Soviets also are developing an SS-X-24; it will be "rail-mobile." The DOD reports that "the Soviet Union now has about 10,000 deployed intercontinental strategic nuclear weapons (missile warheads and bombs) and by 1990 is likely to have about 12,000."

Over the 10-year period, the Soviet Union assembled 140,000 surface-to-air missiles. The United States assembled 16,200. The Soviet Union has engaged in a tremendous buildup of tactical nuclear weapons, including artillery with nuclear capability.

While the United States was building 7,100 tanks, the Soviet Union was turning out 24,000 tanks. The Soviet army numbers 211 divisions—40 percent of them in a relatively high state of combat readiness. The Soviets have developed "the most extensive chemical warfare capability in the world." Between 1977 and 1986, the USSR launched 90 submarines; the U.S. commissioned 43. The Soviets' newest submarine, known as the Delta-IV, carries 16 long-range missiles, each of them armed with 10 warheads. The DOD's estimates of Soviet air power are as ominous.

In sum, the Soviet Union has developed, and continues to develop, armed forces far in excess of the arms that might reasonably be justified in the name of national defense. Our own government spends about 6 percent of the nation's gross national product on defense. The Soviets spend 17 percent of their GNP in preparing for war.

The question that seldom is asked, because it seems so beastly rude to ask it, is why the President and his advisers are so eager for formal treaties with the Soviet Union. The Soviets' record of compliance with international agreements is not exactly shining.

The famous Helsinki Accords of 1975, intended to guarantee human rights, cultural exchanges, freedom of travel and the sovereignty of nations, were signed on a Friday morning. By Saturday night they were dead. By way of example: In 1979, the Kremlin confiscated 34 American books sent to the book fair in Moscow. Officials defended the action as "the highest affirmation of freedom of speech."

Why do we treat with these people? At Krasnoyarsk the Soviets have nearly completed a huge new radar facility. Ostensibly its purpose is to track satellites; actually its purpose is to track incoming missiles. Congress and the DOD repeatedly have charged that the structure violates the 1972 treaty on antiballistic missiles. Under the ABM treaty, permissible radar units must be located close to national borders; the giant Krasnoyarsk station is 750 kilometers from the nearest Soviet border on Mongolia.

What have the peace-loving Soviets done to us lately? These are the good friends who planted so many bugs in the U.S. Embassy in Moscow that at least five floors of the building will have to be destroyed. These are the nice chaps who conspired with a Japanese manufacturer to acquire top-secret milling machines. What jolly good folks! They blow up the children of Afghanistan with toys that explode in their hands.

It is possible, of course, that the "great changes" mentioned by State Secretary George Shultz are real, that the recent agreement will lead to more significant agreements, that a new era of peace has begun. Let us pray; but let us not bet the ranch.

DON'T PUT MY NAME ON ANY SUCH TREATY

(By Walter E. Williams)

As the Reagan Administration moves toward a U.S.-Soviet treaty on nuclear force reduction, we should review the history of such treaties, accords and agreements.

In 1919, the Germans signed the Versailles treaty; they had no choice, having been bloodied and utterly devastated during World War I. The treaty lulled the West, enabling Adolf Hitler to attain political supremacy. In 1927, while Hitler was busy amassing power, U.S. Secretary of State Frank B. Kellogg was busy working on a pact calling for the renunciation of war. Two years later, he won the Nobel Peace Prize for his wonderful insights. That was the same year Hitler appointed Heinrich Himmler as Reichsfuhrer SS.

In 1930, Britain, the United States, France, Italy and Japan signed a treaty on naval disarmament. What resulted? Britain and the United States let their ships age, while Japan built a modern, formidable navy. We even sank a few of our ships as a "good will" gesture to underline our commitment to peace.

During the mid-'30s, Prime Minister Winston Churchill urged rearmament, warning Parliament of Germany's air menace. Similar warnings were voiced by some American statesmen. But these warnings were discredited, shouted down by the pre-World War II peace activists. They ultimately succeeded in getting President Franklin Roosevelt to sign the 1937 U.S. Neutrality Act.

Armed with the Neutrality Act, FDR sent appeals to Hitler and Italian dictator Benito Mussolini to settle European differences amicably. Hitler responded by invading Poland, Norway, Denmark, Belgium, Holland and Luxembourg. The rest is history.

The peaceniks and useful fools thought treaties would bring peace. They were wrong. And their folly cost 45 million lives and millions more wounded.

Today's gullibles say it's now different. Mikhail Gorbachev is not like past Kremlin leaders. Just as Nikita Khrushchev was not like Joe Stalin, whom he denounced in 1956, yet Khrushchev ordered the invasion of Hungary the following year. The classy Gorbachev may not be a carbon copy of his predecessors, but he still has troops in Afghanistan and harbors imperialistic designs.

World history suggests that tyrants do not respect treaties. They respect strength, using treaties to weaken their adversaries' defenses and resolve. The military buildup during the Reagan Administration and his Strategic Defense Initiative (SDI) have begun to put the Soviet Union on notice that they cannot win in a military confrontation with us. And our work and technical superiority in the area of strategic defense puts them on notice that they won't be able to use nuclear blackmail much longer.

But we still have some domestic fools trying to undermine our military preparedness, whimpering that SDI is too costly and can never be 100 per cent effective against all incoming missiles. That's a hidden-agenda argument. They want to scrap SDI and the military buildup so more of our tax money will be available for handout programs.

Saving SDI cannot be 100 per cent effective, and hence should not be built, is as ludicrous as saying, during World War II, that since anti-aircraft guns aren't 100 per cent effective against all incoming aircraft, they shouldn't be built. What SDI will do is create uncertainty in the Soviets' minds as to the success of a missile attack.

Ronald Reagan ought to reject any U.S.-Soviet disarmament agreement. If he signs an agreement on behalf of the American people, I'd appreciate it if he'd write an addendum to the treaty to the effect, "Walter E. Williams does not accept, nor will he abide by, any condition of this agreement."

A TRIBUTE TO JACK C. BODENHAMER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. SKELTON. Mr. Speaker, today I rise to pay tribute to a man who was a close friend of mine throughout the years, and, more than that, to a man who was a good friend to Missourians. Jack C. Bodenhamer of Wellington, MO, passed away on October 20, 1987, at the age of 61.

Bodenhamer devoted nearly 25 years of his life to educating Missouri's youngsters while he served as a high school principal, history teacher, driver's training instructor, and football coach for the Wellington-Napoleon Schools. For 9 years, this dedicated man served as superintendent of R-9 schools, working with scores of young people throughout his distinguished career.

A native of Warrensburg, MO, Bodenhamer was a credit to these United States as he was a paratrooper with the 501st Division of the Army's 101st Airborne unit during World War II. He served in the European theater. In addition, Bodenhamer's civic memberships included participation in the American Legion Post in Wellington, the Missouri State Teachers Association, and the Veterans of Foreign Wars, Lexington, MO.

Like many of my fellow Missourians, I am saddened by the loss of this man who was a great educator, patriot, and citizen. I join with Jack Bodenhamer's many friends in extending deepest sympathy to his wife, Betty, his three children and his mother.

RESPONSE TO THE KRAUTHAMMER INDICTMENT OF THE UNITED NATIONS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. BEREUTER. Mr. Speaker, I encourage my colleagues to read the following editorial response by Mr. George Weigel in the November 1987 issue of American Purpose, the publication of the James Madison Foundation, to the critique of the United Nations by Mr. Charles Krauthammer in a recent edition of the New Republic. Of particular note is a discussion of an idea offered by Dr. Morton Kaplan of the University of Chicago. Kaplan has proposed the creation of an Association of Democracies, and Weigel suggests that the "U.S. should consider, whether or not it leaves the U.N. and especially if it leaves, the creation of an Association of Democracies." This Member certainly does not support the abandonment of the United Nations by the United States of America, even though that institution has many frailities, faults, and inefficiencies, and even though it is used as a convenient forum for constant anti-American rhetoric and convenient cover for espionage directed against this country. However, the advantages of the Kaplan idea for such a supplementary association of democratic nations deserves careful consideration by our Government, our political leaders, and by the American people:

SINK THE U.N.?

(By George Weigel)

Charles Krauthammer, the Pulitzer Prize-winning essayist of *The New Republic*, would have been a tough prosecutor had his agile mind turned to the practice of law rather than the practice of commentary. Writing in the flagship journal of American liberalism, Krauthammer has brought a powerful indictment against the United Nations that ought to be pondered by anyone concerned with peace, freedom, and security.

Such minimal attention as has been paid recently to U.N. reform has focused on budgetary matters and the modest alterations in the U.N. budget process that the threat of withholding the U.S. assessment managed to accomplish. Charles Krauthammer is not impressed, however. "The U.N. problem is not an accounting problem" he writes, "though it is an American propensity to see life's failures that way. The problem is political. The real issue with the U.N. is not its excessive budget, but its core budget. What is the U.N. doing when it is not wasting money?" The following are the particulars of the Krauthammer indictment:

1. The U.N. is not only not keeping the peace; its failures as a peacekeeping instrument are weakening those international norms that are supposed to act as buttresses against mass violence for political ends.

When a great power (e.g., the U.S.) goes to a paper institution (e.g., the U.N.) and demands the impossible (e.g., that it enforce international norms, such as freedom of shipping in international waters like the Perisan Gulf), the norms themselves suffer. Neglect of the law, like neglect of the muscles, inevitably leads to atrophy and, eventually, death.

2. The U.N. has shown itself "utterly dispensable" in its last remaining "peacekeeping" role, the interposition of U.N. troops in a conflict zone.

When Nasser ordered the U.N. peacekeeping forces out of the Sinai in 1967, they left. "Belligerents that want to make war can get rid of the U.N. And belligerents that want to make peace do not need it." The chronic chaos of Lebanon demonstrates that there can be war amidst U.N. peacekeeping forces; the current situation in the Sinai shows that there can be peace without them.

3. The U.N. as a kind of badge-of-sovereignty for small, Third World members states adds to, rather than subtracts from, the sum total of international conflict.

This "playpen" theory of the U.N.'s purpose requires that micro-states and mini-powers "develop a position on the Persian Gulf, Central America, and parking slots for satellities in geosynchronous orbit." Then the bloc politics of the U.N. takes over, and conflicts are exacerbated rather than solved.

4. The U.N. further intensifies international conflict by its fondness for, and official approbation of, all manner of "liberation movements," including the PLO and SWAPO.

Thus, in the case of the Middle East, "the U.N. rejects not only the first Arab-Israeli peace treaty, but any other compromise that does not satisfy the most extreme Palestinian irredentists. The U.N. role in the intractable Mideast conflict is thus modest but unmistakable: it is a warkeeping function."

5. When there is no crisis at hand, the U.N. system tends to create one.

For example, the U.N. General Assembly has called for an end to the current Antarctica treaty, which disarms the bottom of the world and supervises the scientific explorations of the 18 countries that actually work there. Antarctica should become, in U.N.-ese, "the common heritage of mankind," and the pursuit of science and minerals in the Antarctic would be the business of everyone—"most particularly those countries that have never set foot on Antarctica, have never invested an ounce of effort into its exploration or development, but have mastered the machinery of the U.N."

6. The U.N.'s "most insidious" function is to debase the currency of moral discourse about international affairs.

Liberal democratic language and the concepts that underlie it—world political community, human rights, democracy, the rule of law—were the foundation of the United Nations system; but they are now blatantly abused with impunity in the odd world of the U.N. Given the political character of the vast majority of member states, the U.N.'s claims to speak for the "world community" are just as spurious as would be the claims of the U.S. Senate to represent the American people, were the Senate to be populated by "self-appointed warlords." Then there is the U.N.'s relentless campaign against Israel: "Israel's alleged crimes fill so many volumes that a student of U.N. documents would have to conclude that Israel is a Nazi state the size of Eurasia." But the double standard is applied far beyond the confines of the Middle East. The U.N. has a "special rapporteur on human rights" for El Salvador, but none for Nicaragua. Chile is regularly bludgeoned; Cuba is never discussed. No U.N. body investigates Ethiopia's forced resettlement program, which has resulted in the deaths of hundreds of thousands of innocents; instead, the General Assembly votes $73.5 million dollars for a conference center in Addis Ababa.

There is more. Cambodia is "Democratic" Kampuchea on the U.N. roster and toteboard, as is "Democratic" Yemen. "Rights" language and claims proliferate, but little or no attention is paid to the abuse of such basic human rights as free speech, religious liberty, or habeas corpus. "Freedom," in UNESCO's Orwellian "New World Information Order," turns out to mean censorship, or in U.N.-speak "regulation of the right to information by preventing abuses of the right of access" (by the government of Democratic Kampuchea, no doubt). The International Civil Aviation Organization's (ICAO) charter mandates the agency to ensure the safe and orderly growth of international air transportation; but ICAO has given special observer status to the PLO, "inventor of the political airline highjacking."

Given these manifold and undeniable corruptions—and the list could be multiplied tenfold—Krauthammer argues that "the issue is not improving U.N. efficiency." Rather, "the United States should make the very deliberate decision that the U.N. serves neither its original purposes nor ours." Therefore, the U.S. should leave the U.N. and "devote the money instead to worthy, non-politicized, U.N.-affiliated organizations, such as the World Health Organization, and to bilateral aid, which the United States, not a bloc of hostile countries, will control."

Why not stay and fight? Because, according to Krauthammer, it is corrupting (permanent minority status leads to strategies of damage limitation, which mean compromise of principles). Because it is wasteful (bilaterral aid makes more sense, in both humanitarian and strategic terms, than investing resources in buying our own bloc at the U.N.). And because it is self-defeating (the U.S. presence gives even the corrupted U.N. a degree of legitimacy; "take away the United States and the U.N. collapses completely or retreats to Harare").

Thus the Krauthammer indictment and verdict.

The indictment has got to be considered soberly by anyone who truly cares about the future of international public life and the prospects for a world in which law and politics slowly replace mass violence as the means for settling arguments and resolving conflicts. The U.N.'s organized advocates in the United States, such as the United Nations Association, have traditionally avoided or tried to deflect a critique such as Krauthammer's. That luxury ought no longer be indulged, especially since Charles Krauthammer is not from that part of the U.S. political spectrum that once put "Impeach Earl Warren" and "U.S. out of the U.N." billboards side-by-side on the interstates. Krauthammer's indictment ought to be taken most seriously precisely by those who want to bring a measure of civil and political order to international public life.

His verdict—"Let it sink"—is surely more controversial than his indictment. Ambassador Jeane Kirkpatrick, Assistant Secretary of State Alan Keyes, and Ambassador Vernon Walters (to name three figures presently or recently involved in U.S. affairs at the U.N. who can hardly be accused of starry-eyed utopianism) all reject Krauthammer's "get out" prescription. One need not accept Krauthammer's policy conclusion to welcome so forthright a statement of it, and from one who has worked hard to resuscitate the liberal internationalist vision that once underlay the U.N. Krauthammer's verdict ought to be in play as this debate continues, which it undoubtedly will. Leaving is, in theory and in practice, an option. Perhaps acknowledging it as such will, as Doctor Johnson said of hanging, concentrate impressionable minds.

But suppose, for the sake of argument, that one were to accept both the Krauthammer indictment and the "Let it sink" verdict. Then what?

Charles Krauthammer himself knows that this is hardly the end of the policy road. There are worthy, U.N.-related agencies that ought to be supported, financially and politically. The World Health Organization, which has ended smallpox and seems on the way to doing the same for such scourges as "river blindness" in West Africa, is the paradigm case here. Strengthening bilateral aid programs also makes sense, with or (perhaps especially) without the U.N. The political task of getting the Congress on board such a reform is another, and more difficult, task that Krauthammer does not address.

But there is surely more to do than this. There is the task of reforming those international agencies that ought to serve important functions, and don't because of their gross politicization. If UNESCO wishes to corrupt its charter, then why not do more than leave? Why not establish a new organization, open to democracies and to predemocratic states willing to take seriously freedom of the press, of scientific inquiry, and of culture? If the ICAO wants to give the PLO observer status, then perhaps we should leave the ICAO—but then establish a new organization to serve ICAO's important functions. Do we really want an international air transport system that is completely fractionated and unregulated? The same course could be followed for refugee affairs, weather, postal service, and all the other myriad functional tasks now performed by the U.N. system.

Beyond this, the U.S. should consider, whether or not it leaves the U.N. and especially if it leaves, the creation of an Association of Democracies. The world's democrats need more than bilateral instruments for common strategic, political, and functional tasks. If the U.N. has failed to live up to the bright promise of its charter, then perhaps the time has come to establish an organization that would meet those standards.

Morton Kaplan of the University of Chicago has proposed such an association. It would include the advanced democracies, each of which would have equal voting rights. Mini-states, such as the Caribbean island democracies, could hold associate membership. The new organization "would have a secretariat that each year would assess the policies of the organization and the member states on democracy worldwide. A parliament and a small executive branch would legislate with respect to human and political rights and control small military and police forces. A charter of human and political rights and a court would adjudicate violations of the charter by or within member states. . . . If the Central American states joined—and a condition of associate membership probably would include vast reductions in armed forces, national guards, militia, and police forces—membership would be the guarantee against violation of human rights by either right-wing or left-wing governments. Membership would also give protection against non-members."

Kaplan's proposals are not without their own problems, but they at least take a cut at addressing a crucial fact of international life today: namely, that the world is being organized, culturally, economically, technologically, and politically. Thus the really urgent questions have to do with the nature, purpose, and effects of that process of organization, which will continue with or without the U.N., and with or without the United States in the U.N. Charles Krauthammer has made a powerful case that the present U.N. system is an obstacle, not an aid, to the task of organizing the world so that peace, freedom, and security are enhanced. Perhaps we should "let it sink"; perhaps not. But the larger issue that Morton Kaplan raises will remain, in either circumstance. One hopes that Charles Krauthammer will turn his energetic intellect toward addressing it.

TACT AND DISCRETION IN THE PRESS—A SHORT HYMN OF PRAISE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mrs. SCHROEDER. Mr. Speaker, this weekend Prof. John Kenneth Galbraith of Harvard University spoke to the press concerning the recent stock market crash, the reasons behind it, and who's to blame. I found his words very thoughtful, and I would like to share them with you.

TACT AND DISCRETION IN THE PRESS: A SHORT HYMN OF PRAISE

(Remarks by Professor John Kenneth Galbraith, Harvard University, to the press. Washington, DC, Dec. 5, 1987.)

I must first express my pleasure in being present at this greatly distinguished convocation. And, as will others no doubt, let me tell also of my pleasure in having this opportunity to improve my standing with so influential an audience. This I do in highly traditional fashion; I seize the occasion to tell you of the press of your intelligence, integrity and, as it may be said, wide-focus perspicacity. I am restrainted in my praise only by the knowledge that of so many of these qualities you already know and have frequently spoken.

But there are other qualities of which you are perhaps less aware. They are your superb discretion, your kind and thoughtful tact. Of these especially I wish to speak tonight.

We meet on this otherwise happy evening in the aftermath of the most traumatic economic event of our time. That was the great stock market crash of October 1987, an occurrence rivaling and even exceeding in extent in associated disorder and fear the Great Crash of 1929. It is your treatment of this drastic event that I wish to talk about and, in a manner of speaking, to commend.

Except for your tact and discretion there would have been serious extra suffering from what happened. And a very small minority of our people could, in the aftermath, have been, in their own view, gravely at risk. But let me deal first with the factors contributing to the event in question.

In Wall Street in these last years we have had one of our periodic outbreaks in financial dementia. These are normal; they grow out of the assumption that intelligence is both measured and enhanced by association with an adequate amount of money. More specifically, people and institutions were in the stock market in these last five years, some in the belief that it would go up forever, some in the equally innocent conviction that their own peculiar financial genius would allow them to get out before the fall. This is the pure speculative situation; there have been many before, going back to the great days in France when John Law and the citizenry of Paris were captured by the engaging myth of the great gold deposits in Louisiana. These episodes never come gently to an end. Anything, or even nothing, can trigger the eventual, inevitable and very rude rush to get out.

However, the reputation of Wall Street for minimal intelligence was seriously in jeopardy in this situation. So was the minority of which I spoke earlier. This latter was our rich, our newly rich, including many of our very rich. They were prominent among those involved in the speculation; their participation was both encouraged and financed by the funds that recent tax reductions had put into their hands. The tax reductions were supposed to encourage hard, productive enterprise. Instead, not surprisingly, that gratifying windfall had gone extensively into the purchase of common stocks.

None of this, however, could be said. Markets in our time are a totem, a symbol of our secular religion. They can do no wrong. To find flaws in their behavior is both theologically and ideologically incorrect. And we cold not put our rich fellow-citizens at risk by saying that they and their much-appreciated tax relief contributed to the debacle.

For both of these reasons the responsibility for the crash had to be removed from Wall Street. Accordingly, it was moved to Washington. Arriving here, it was attributed to the federal deficit. This deficit had not been a source of effective adverse concern for the preceding five years. Now, overnight, it became the central cause of the stock market collapse. This, however improbable, was the immediately available belief. There was, indeed, something cruel about this transfer of blame by Republicans in New York to Republicans in Washington—from a much-loved institution to a much-loved President. However, there was, to repeat, no choice. Some of the blame could then be passed from Washington on to Germany and Japan for handling their economies with greater good sense and restraint. This too was done. But much of the blame had to stay on Pennsylvania Avenue.

In all this the press showed its tact and discretion. It could have emitted loud guffaws and other intensely vulgar sounds. That would have been very damaging. This was an exceedingly delicate exercise in buck-passing; it required the cooperation of all.

In consequence, blame for the Wall Street aberration was effectively shifted. This then resulted in the need for a further exercise of tact and discretion. As deeply symbolic steps were being taken in Washington toward a balanced budget, it would not be helpful to mention that this was what Herbert Hoover had urged in the aftermatch of 1929. Nor could it be said that, some of the problem having been created by the tax reduction on the rich, their taxes above all should be the ones restored. Especially it could not be suggested that the tax reduction now scheduled for next year should be postponed. Here arose the need to protect that vulnerable minority. And here again the press was wonderfully cooperative and admirably restrained. On the symbolism of the budget-balancing gesture there were, indeed, a few indiscreet comments. On increasing taxes on the affluent, on postponing the income tax reduction now on line, the discretion was nearly perfect.

Nor was anyone that I noticed so irresponsible as even to comment on that compelling two-page advertisement by countless of our best-compensated CEOs and by former Secretaries of the Treasury (not excluding that extreme paragon of personal fiscal rectitude, John Connally, speaking from the deep recesses of chapter 11.) Their advertisement called for further cuts in public expenditures, cuts affecting all but the very poor, and suggested, as a last resort, increased taxes, always excluding those that might adversely affect initiative and enterprise. That last, as all know, was code for no increase on those signing the petition.

There was here the special danger of highly offensive comment, even laughter. But here again the tact and discretion of the press were nearly perfect. Thus my bow to all in this room assembled. In large matters and small our recent financial debacle was handled by you with grace and restraint, with a minimum of obtrusive descent to raucous criticism.

I have, I trust, said enough to ingratiate myself for all the near future. You would understand my motives in offering this salutation were I contemplating office. But in this year of the Constitution I reflect only on the indefensible bar it imposes on citizens of Canadian origin as regards the relevant employment. Still, my unqualified commitment to private life does not lessen my desire to be agreeable or my wish for your enhanced respect, even affection. In this spirit I offer this brief but deeply felt tribute to your virtue. May I wish you many more of the same.

VA MEDICAL CARE DESERVES COVERAGE BASED ON GOOD HOMEWORK

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. MONTGOMERY. Mr. Speaker, although I am no journalist, I would think that, to write an objective article or even to editorialize, one should either already know the subject matter or go to the trouble of learning something about it. Failing to do so can obviously lead to gross errors, distortion, and misleading conclusions. A case in point is an article by Daniel S. Greenberg, "A Cabinet Post? Vets Really Need to Abolish Archaic VA Hospital Chain," which appeared in the Los Angeles Times on November 20.

Greenberg's opinions prompted a well-researched, eloquent response from Ms. Katy Colleen O'Hara, who contrasts the Greenberg commentary with another health care article that followed 2 days later.

Ms. O'Hara's letter and the two articles follow:

VA MEDICAL CARE DESERVES COVERAGE BASED ON GOOD HOMEWORK

DEAR EDITOR, Flanigan and Greenberg—a lesson in contrasts.

James Flanigan, "Health Care: We Demand Best—and Pay For It", (Business, November 22, 1987) obviously researched and then succinctly stated facts.

Daniel Greenberg, "A Cabinet Post? Vets Really Need to Abolish Archaic VA Hospital Chain", (Metro, November 20, 1987) indicates his ignorance at the very onset of his diatribe. Why should "vets abolish" their "hospital chain"?

Greenberg protests too much. 'Tis he who is "pandering to the shrill"—pandering to the voices of the for profit hospitals that subscribe to this newsletter.

It is appalling to see a purported editor/publisher afforded so many column inches to expound his unfounded, self-serving verbiage. For surely it is evident he did no research. If he lacked the resources to conduct sound investigation, he should at least have said: "In my opinion".

Observational evidence far surpasses hearsay . . .

Has Mr. Greenberg been in a VA hospital as either patient, visitor, researcher, or investigative reporter?

Has he observed first hand the quality of care over a 12 year period?

Has he talked with patients and/or their families?

Has he observed staff at 6 in the morning, 3 in the afternoon, 11 at night, or at 2 AM?

Has he witnessed the compassionate care of an off-duty resident who volunteers to stay with a patient through the grueling second 12 hour period following open heart surgery?

Has he seen the nurse on her day off stop in to check on a patient out of professional pride and personal concern?

Has he a friend who was finally accepted as a patient at a VA hospital and only then had a diagnosis after 4 years of seeking one through "free enterprise medical facilities"? This writer has.

Greenberg speaks of VA's "own research programs"—Is he aware that medications must be tested extensively in this country before they can be mass-manufactured and dispensed? Is he familiar with the aspirin/persantine studies conducted at VAs in the early '70s? Does he know that only after this research did the FDA approve persantine? My husband, in Los Angeles, was a volunteer participant on that study; my brother, in Florida, a private pay patient, is now taking persantine for his heart condition. Hardly does VA conduct research programs for its own benefit.

Does Greenberg read the New England Journal of Medicine, Science News and other esteemed publications or does he just hang out with his "high priced national medical economy" cronies and lobbyists picking up material during rounds at the local watering holes? It is evident he does not conduct verifiable research. Had he, he would know how moronic and conflicting his statements are:

"Regarded in medical circles as a backwater of medical service"—yet he says "new medical graduates log time at the VA satisfy residency requirements." What he neglects to say is that these residents request to serve their residencies at VA hospitals because they offer a broad base of experience and frequently are located near major teaching medical centers, e.g., UCLA, Scripps/La Jolla. These teaching institutions respect these residencies.

"High rate of accidents and mistakes in patient care as well as a disturbing number of unreported problems"—surely Mr. Greenberg jests. Documentation is a way of life at VA as opposed to private sector hospitals who quietly ignore their "accidents and mistakes." Ever hear of Cedars, Aids, babies—seven years to own-up to an "unreported problem"?

"Cardiac surgery units at four VA medical centers were closed for unacceptable performance"—ever hear of the regulations and standards for operating cardiac surgery units, e.g., "must perform minimum of 150 surgeries per year." Perhaps because it is VA and they do not perform needless surgeries as one finds rampant in the private sector—this could be a consideration.

"In terms of quality of medical service, the VA does not have a good reputation"—perhaps that's because they aren't in to self-aggrandizement, but are in to quality medical care. Verifiable evidence: two urology patients, one private sector and one VA patient. Private sector waited 4 days for results. VA had results in 2 hours. Same tests, but hundreds of dollars more costly via the slow, expensive pass-through-many hands private sector.

"No medical sense in a nationwide health-care system dedicated to a class of patients consisting mainly of elderly, low-income men"—both male and female veterans receive VA outpatient and inpatient services. Some of these patients have private pay insurance that reimburses VA. Many of these patients go to VA because the quality of care exceeds private sector care. Also, by virtue of their patient load, the cost-effective VA hospitals can absorb a part of the burden of Medi-Care, the financially strained, costly, private sector reimbursed health care system.

All in all, Mr. Greenberg took a cheap shot at VA Medical Centers. He attempted to take a news item ("Cabinet Post") to get his nonsense published. Unfortunately, he succeeded. His information is not verifiable. His information is incorrect. His opinion is based on folly. He has the audacity to refer to VA hospitals as "A caricature of a health care system." He is the caricature.

Flanigan states "medical costs are going up faster than inflation" . . . "hospitals finding ways around cost containment, plus lingering inefficiencies, are the big reasons for the rising costs" . . . "in the next few years . . . perhaps a fifth of the nation's hospitals will close" . . . private payments rising 12% to 15%, compared to 1% to 3% for the government kind."

Please send a copy of Flanigan's column to Greenberg. Greenberg might learn how to substantiate his opinions.

Katy Colleen O'Harra.

Marina del Rey,
November 24, 1987.

I know of what I speak after 28 years as a marketing/public relations professional—the last 16 in the private sector health care field working with profit, not-for-profit, and non-profit facilities and agencies. I have spent 12 years personally involved with VA Medical Center care as the wife of a heart patient whose young life has been extended, whose quality of life makes him a contributing member of society—thanks to superb medical care—at a VA hospital.

[From the Los Angeles Times, Nov. 20, 1987]

A Cabinet Post? Vets Really Need To Abolish Archaic VA Hospital Chain

(By Daniel S. Greenberg)

(Daniel S. Greenberg is editor and publisher of Science & Government Report, a private Washington-based newsletter)

If Ronald Reagan really wants to help veterans, he should pursue a simple goal: closure of the Veterans Administration medical empire, the country's biggest and worst hospital chain.

Instead, he is pandering to the shrill veterans lobby by backing cabinet rank for the VA, an elevation that would perpetuate a system of medical care whose time has gone.

The medical part of the VA absorbs $10 billion of the agency's $27-billion budget, but rarely are there plaudits for the quality of VA medicine.

Veterans need to get into the mainstream of modern medicine. They least of all need to be relegated to an anachronistic, heavily bureaucratized system that manages at once to be expensive, dangerously understaffed and often shoddy.

There's little chance that the President will back off from his ill-advised Veterans Day commitment, or that Congress will spare the country and its veterans from this folly. The VA's payroll, spread among 172 hospitals and 200 clinics throughout the country, commands reverent political attention. So does the VA's natural constituency—the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans and an assortment of other veterans groups, all notable for their political sting.

Pulling at patriotic heartstrings, and dishing out campaign contributions, these organizations depict the VA health-care system as medically necessary for many vets and morally requisite for the country that called them to service.

No one can argue about the nation's debt to veterans who suffered disabilities in service or who are unable to afford medical care. Together, these two groups comprise about 94% of the nearly 1 million veterans who receive medical care in VA facilities. But the hospital system that supposedly recompenses them for their service is generally regarded in medical circles as a backwater of medical service.

Hedged by relatively low government pay scales in an otherwise high-priced national medical economy, the VA is frequently a caricature of a health-care system. Thus, the head of the National Assn. of VA Physicians, Dr. Paul Schafer, told Congress last April that, from office clerks through physicians, the VA is a loser in the marketplace. Nurses are in short supply in all sectors of health care, but at the VA, he said, the shortage "is so acute that we are actually in the process of closing down whole wards and curtailing many essential functions." New medical graduates log time at the VA to satisfy residency requirements, he said, "but we can't keep them." And he warned that the VA system "may literally self-destruct under the weight of its own managerial and administrative burden, which has already grown to obscene proportions."

The doctor's complaints may sound extravagant, but a durable fact of the VA medical system is that it inspires little praise in any quarter. The head of the VA nurses' organization, E. Elaine Lloyd, noted that even with pay supplements authorized by Congress, the VA is unable to compete successfully for nurses. Nurses, she said, are pressured into working extra shifts and to handling duties normally assigned to non-nursing staff, to the detriment of patient care.

More money for the VA would seem to be the easy answer, but the problems extend beyond the budget. There's no medical sense in a nationwide health-care system dedicated to a class of patients consisting mainly of elderly, low-income men. The narrowly defined patient population creates an aura of medical isolation in the VA enterprise. The agency seeks to counter this by cultivating ties with medical schools and running its own research programs.

But in terms of quality of medical service, the VA does not have a good reputation. Two years ago, cardiac surgery units at four VA medical centers were closed for unacceptable performance. And a study by the General Accounting Office found a high rate of accidents and mistakes in patient care, as well as a disturbing number of unreported problems.

The real solution to veterans' health care matches that of the rest of the population; a national financing system that will rise above the present patchwork of socialized medicine for the vets and free enterprise for most others. Until that arrives, politics should recognize that medical facilities and personnel are so abundant in almost all parts of this country that there's ample capacity to meet the needs of the veteran population. The $10 billion that's enmeshed each year in the VA medical system could buy a lot of medical insurance and care on the open market.

Forget about cabinet rank for the VA, Mr. President. Since you're not running for anything, you can back what's best for the veterans: abolition of the archaic hospital system that so often fails to meet their needs.

[From the Los Angeles Times, Nov. 22, 1987]

Health Care: We Demand Best—and Pay for It

(By James Flanigan)

Why are Americans paying so much for health care? Against all seeming logic, medical costs are going up faster than inflation, even though the government has been clamping down on Medicare payments for four years now. And private health insurance companies have instituted cost controls on orders from employers trying to curb the expense of company medical plans.

Furthermore, such measures have had an effect, shortening hospital stays and encouraging outpatient treatment. Hospitals on average are only 60% occupied these days and many have closed whole floors rather than pay to heat or cool empty rooms.

Yet this year, with general inflation running about 4%, hospital costs have gone up slightly more than 7% and doctors' bills have risen 7.5%. Total U.S. health expenditures will be close to $500 billion, according to government estimates, up almost 40% since cost containment began in 1983.

To many Americans it looks like a system in chaos, and a wasteful one at that.

But that is only partly true. To be sure, doctors and hospitals finding ways around cost containment plus lingering inefficiencies, are big reasons for the rising costs.

But it is equally true that there have been genuine improvements in health care.

And as the system continues to change, an important point is how seriously medical care is taken in American society. Even in recent years, with all the emphasis on cost controls and budget cutting, Congress has acted to extend health benefits to unemployed workers and the trend in state laws has been to establish health care for the indigent and insurance pools to cover poor health risks.

Medical advances have not been neglected either, as insurance coverage has expanded to cover kidney and heart transplants.

So what is likely in the next few years is that U.S. health care will try to muddle through to greater efficiency—perhaps a fifth of the nation's hospitals will close—while continuing to pioneer in medical science.

CHOOSING DOCTOR IMPORTANT

Now about those doctors and hospitals. It is clear, says Kenneth Abramowitz, health care analyst for the Wall Street research firm of Sanford C. Bernstein, that the hospitals are loading higher charges onto private insurers to make up for the discounted payments they are forced to take from Medicare. Statistics show private payments rising 12% to 15% compared to 1% to 3% for the government kind.

They are able to do that because employers will go only so far to cut medical bills. They are reluctant to force employees to use a cheaper, fixed-fee health maintenance organization, even though the care may be superior. The right to choose one's doctor, and therefore whatever hospital treatment the doctor orders, takes precedence over strict economics.

Doctors, too, are keeping their incomes up by performing more treatments in their offices, ordering more office visits and more testing, notes analyst Thomas McGinnis Jr. of the Eberstadt Fleming investment firm.

And hospitals have kept their doors open by introducing psychiatric care and drug and alcohol treatments for which they receive full "retail" payments, offsetting discounted reimbursements from the government and insurance companies. Wall Street complains because operation of less efficient hospitals has hurt the growth of investor-owned companies such as Humana Inc. and Hospital Corp. of America and health maintenance chains such as Maxicare and U.S. Health Care Systems.

But, again, other economics are at work. It may be unfortunate, but drug, alcohol and psychiatric clinics answer a market need.

And as to more expensive treatments, well, magnetic resonance imaging, which is now replacing X-ray scanning equipment, costs more. But it is also safer than X-rays and gives better-defined pictures.

New drugs to combat cholesterol or to dissolve blood clots in heart attack victims may be expensive, but nobody denies that they represent medical advances.

Why do Americans pay so much for health care? Because they want the best. And, with allowance for lingering inefficiencies, they sometimes get it.

SENATE—*Wednesday, December 9, 1987*

(Legislative day of Tuesday, December 8, 1987)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable Richard C. Shelby, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Glory to God in the highest and on earth peace, good will toward men.—Luke 2:14.

Eternal God of infinite love, while the whole world is thinking about peace, give it ears to hear the glorious message delivered first to shepherds "abiding in their fields by night." Somehow may its reality penetrate our Nation with more than euphoric and sentimental interest. May its promise enfold and pervade the summit conference. Give us ears to hear its simple conditions—"glory to God in the highest—on earth peace, good will toward men." Patient Father, at a time when American business is reaping enormous profit because of the birth we celebrate, may the One who gives peace not be ignored—may He be given His rightful place in our lives. Forgive the pessimism, cynicism, and unbelief which forecloses on hopes and aspirations. At this critical time, help us to comprehend this gracious promise of peace as the gift of love from the Eternal Father of us all. Deliver us from facades and charades at a time when we desperately need reality and truth. In His name whose birthday we celebrate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The bill clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, December 9, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Richard Shelby, a Senator from the State of Alabama, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. SHELBY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order the acting majority leader is recognized.

RESERVATION OF LEADERSHIP TIME

Mr. **PROXMIRE.** Mr. President, first I ask unanimous consent that the time of the majority leader and of the Republican leader both be reserved for their use later at their discretion today.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. There will now be a period, under the previous order, for the transaction of morning business for not to exceed 1 hour with Senators permitted to speak therein for not to exceed 5 minutes each.

The acting majority leader.

NITZE RESPONSE TO GAFFNEY ON INF VERIFICATION

Mr. **PROXMIRE.** Mr. President, it is doubtful that any Senator could make a better informed attack on the verifications provisions of the INF Treaty than Frank Gaffney. Mr. Gaffney until a short time ago was a top official in the Defense Department. He was Secretary Weinberger's prime expert on arms control. When Mr. Weinberger left the Defense Department and Frank Carlucci replaced him, Mr. Gaffney also left the Defense Department. Since then he has become the leading critic of the INF Treaty on the Public Broadcasting System and elsewhere. On November 30, the Washington Post carried an article on the INF Treaty by Mr. Gaffney. Gaffney raised four questions about the treaty. On December 7, Paul Nitze who has been a principal negotiator on the treaty for many months responded to Mr. Gaffney in an article in the Washington Post. Nitze answered each of the questions raised by Gaffney.

Mr. President, I hope that Senators will take the time to consider the answers by Mr. Nitze. They go to the heart of what is the great strength of this treaty. They explain why this INF Treaty is primarily significant exactly because it does provide the most remarkable verification requirements of any treaty we have negotiated. Nitze's shows that the INF Treaty provides the quintessential verification basis for future arms control agreements with the Soviet Union. Few Senators appreciate the remarkable lengths the American negotiators have gone to assure that we can determine militarily significant violations of this arms control agreement by the Soviet Union.

Gaffney's first question was: "Does the treaty actually eliminate the Soviet Union's INF missile infrastructure and capacity?" Nitze says the agreement does exactly that. First, it calls for the elimination of all Soviet INF and missile launchers in the presence of U.S. inspectors. That isn't all. Supporting equipment and structures—such as trucks, garages, must also be eliminated or modified so they cannot support INF in the future.

Second, Gaffney asks: "Are the Soviets supplied data complete, consistent and compatible with our own intelligence estimates of treaty limited systems and activities?" Nitze says the answer is yes. Again, there is more. The treaty gives the United States the right to conduct baseline inspections of all Soviet deployment and support facilities.

Third, Gaffney asks: "Does the treaty language have ambiguities or loopholes?" Nitze replies that unfortunately it does. But find a significant treaty that does not. This is why for past treaties we have established the Standing Consultative Commission. The SCC exists for the precise purpose of clearing up necessary ambiguities. The INF Treaty provides for the same kind of future consultation and resolution. There is no realistic way to negotiate a treaty covering limitation on nuclear weapons that will not require constant inquiry to resolve charges on both sides of violations. This is a problem arms control will always have to live with.

Fourth, Gaffney asks: "Is there an effective onsite inspection regime for suspect facilities?" Nitze answers. There is one. It is not perfect. But it is effective. The treaty does not provide for unannounced onsite inspection. One reason it does not is because the administration understandably considered it unwise to give the Soviets access without notice to our most secure facilities. But the treaty does provide short notice onsite inspection. It provides continuous monitoring of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the exits of the facility used to assemble SS-20's. And what is specially important, the INF agreement provides special measures to enhance United States ability to monitor with reconnaissance satellites the SS-25 bases where, according to Nitze, the Soviets could most easily engage in illegal activity.

Nitze points out that the Soviets could hide INF missiles somewhere. But they cannot make these missiles militarily effective without a very high probability of detection under the treaty. They cannot test the missiles. They cannot train troops in how to operate them. They cannot maintain the garages and trucks to support them. None of these activities could take place without every likelihood that NATO intelligence would know about it.

Nitze also points out that the Soviets agreed to United States proposals that were carefully studied in detail by United States experts. The Soviets accepted United States proposed close-out inspections. The Soviets accepted United States proposed quota for short notice onsite inspections. The Soviets agreed to United States proposed monitoring of the Soviets former SS-20 final assembly facilities.

Mr. President, I ask unanimous consent that the article by Frank Gaffney that appeared in the Washington Post on November 30 raising questions about the INF Treaty, and the response by Paul Nitze carried in the Post on December 7 be printed in that order in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 30, 1987]

TAKE A "TIMEOUT" ON THE INF TREATY

(By Frank Gaffney)

Dear Mr. President:

In your recent moving statement accepting Caspar Weinberger's resignation, you praised your secretary of defense for his service to the country in many ways. One of the most striking to me was the recognition you extended to him for his handling of several controversies for which he has been roundly criticized by others.

I am speaking of the highly publicized revelations during Secretary Weinberger's tenure of several instances of cost overruns and other failures of the Defense Department's procurement system. Despite the fact that for most of the past seven years, Cap has been caricatured with a $500 toilet seat around his neck, you rightly credited him with finding and fixing these problems. In thus commending Secretary Weinberger for his unwillingness to tolerate inadequate performance and unsatisfactory products where they were found, you have set an example that we all should emulate.

In this spirit, I write to express my concern that your administration and the nation may shortly become embroiled in a new controversy over inadequate workmanship and insufficient quality control. This one doesn't involve coffeepots or "gold-plated" hammers; rather, it involves an agreement with our adversary to eliminate all intermediate-range nuclear missiles from Europe. The analogy, however, may be useful in illuminating the causes of my concern.

Like so many of the procurement horror stories, the basic approach was entirely acceptable. Your administration has for six years sought an INF agreement based on a second structure—the so-called "zero option." As a direct result of our patience, tenacity and alliance cohesion, an accord based on this principle is at hand.

If there is a problem with the INF treaty, it will in all likelihood be a result of the same phenomena that occasionally mar defense procurements: unexpected complexity, unanticipated scheduling pressures and corners that had to be cut to get the job completed within the time and resources available. The responsibility for such a problem would not, of course, lie with some contractor or procurement official; indeed, it may not lie with any single individual. Yet the consequences can be every bit as unpleasant and contrary to the national interest—or more so.

My guess is that, if there are resultant problems with the treaty, they will lie in the area of verification. This may seem incredible in view of its unprecedented provisions for intrusive on-site inspection and continuous monitoring of selected U.S. and Soviet facilities. On the face of it, such measures seem to go so far beyond what has been negotiated in support of past arms control agreements that many will conclude that the treaty is, by definition, verifiable.

Unfortunately, the INF treaty can have a range of novel verification measures undreamed of by the framers of the flawed SALT II accord and still not enable us to ensure Soviet compliance. It is for precisely this reason that your administration early on enunciated as a matter of policy a requirement for "effective verification" of any future agreement.

While this term can mean many things, for us it has always had certain cardinal features in the INF context: elimination of the entire infrastructure for supporting INF missiles; comprehensive exchanges of detailed, internally consistent data about the forces being controlled; clear, unambiguous treaty text; and short-notice on-site inspection not only at present and formerly declared facilities associated with treaty-limited items, but also at suspect sites.

This sound verification agenda was made necessary by bitter past experience with Soviet cheating on arms control agreements. If we have failed to keep in mind past lessons in the rush to finish an accord on INF in time for the summit, the risks to the national interest will vastly exceed the damage done by high-priced coffeepots and toilet seats. The prescription for addressing the problem should be the same, however; spare no effort to uncover and assess the errors and accept whatever inconvenience might be caused in fixing them.

In this vein, Mr. President, I urge you to do what Cap Weinberger would have done in a comparable procurement situation, namely call a "time-out," take stock of the situation with the best experts you can find and, if necessary, make adjustments to correct any deficiencies revealed in the process. A week remains before you will be asked to sign the INF Treaty; I strongly recommend that you use that week to review the treaty with key individuals, particularly members of the Senate and others outside the government who are likely to be influential in the upcoming ratification debate. After you and they have had a chance to read the fine print, several questions must be addressed:

Does the treaty actually eliminate the Soviet Union's INF missile infrastructure and capacity?

Is the Soviet-supplied data complete, consistent and compatible with our own intelligence estimates of treaty-limited systems and activities?

Does the treaty language have important ambiguities or loopholes or provisions that otherwise might lend themselves to future debates about meaning and interpretation?

Is there an effective on-site inspection regime for suspect facilities?

If the answer to one or more of these questions is no, by finding it out now—before you sign the treaty—it is possible to seek adjustments with the Soviet Union and avoid these issues becoming a matter of Senate debate and amendment.

Naturally, many will say such an idea is out of the question. They will maintain that this is the best agreement we can get with the Soviet Union, that it cannot be improved. In this regard, I remember how often Cap Weinberger was told that a nonperforming contractor was doing the best he could or that there was no alternative to accepting an inferior product. To my knowledge, he never failed to reject that advice and to set in train the necessary, albeit sometimes inconvenient, corrective steps.

For that matter, your own experience in negotiating with the Soviet Union has decisively demonstrated that determined insistence on sound arms control terms is rewarded in due course by Soviet movement toward our position. Nowhere should this be a more likely outcome than in the area of verification, where Soviet rhetoric about openness and transparency have recently reached new heights.

So, if it comes to that, "Just say no." The United States will not accept another unverifiable arms control agreement, no matter how smartly it is packaged in verification "break-throughs," steps which for all their novelty will not materially alter the difficult task of ensuring Soviet compliance. After all, there is a lot more riding on this than a bad report card from the General Accounting Office.

[From the Washington Post, Dec. 7, 1987]

NO NEED FOR A "TIMEOUT"

(By Paul H. Nitze)

My former colleague, Frank Gaffney, has proposed that the administration "take a 'timeout' on the INF treaty" to address four questions about the treaty's effectiveness [oped, Nov. 30]. A timeout is not needed; we have been addressing these questions all along, and the answers are good ones:

Does the treaty actually eliminate the Soviet Union's INF missile infrastructure and capacity? In a word, yes. The treaty requires the Soviets to eliminate all INF missiles and launchers in the presence of U.S. inspectors. Similarly, certain supporting equipment and structures must be eliminated or modified according to agreed procedures that will render them incapable of supporting INF systems in the future.

After the elimination process is completed, a close-out inspection will be conducted by U.S. personnel at each former Soviet INF deployment or support facility to ensure that it no longer is involved in any INF-related activity. Certain support structures, such as garages formerly used for SS-20 support vehicles and hardened shelters formerly housing U.S. GLCMs, may be retained for non-INF purposes, but the sides will have the right for the next 13 years to conduct short-notice, on-site inspections to ensure that these structures and all former facilities are not performing an INF-related role.

Are the Soviet-supplied data complete, consistent and compatible with our own intelligence estimates of treaty-limited systems and activities? Again, yes. Additionally, the treaty gives us the right to conduct baseline inspections of all Soviet deployment and support facilities to verify the accuracy of these data.

Does the treaty language have important ambiguities or loopholes or provisions that otherwise might lend themselves to future debates about meaning and interpretation? The INF treaty is necessarily long and complex, and contains a great many provisions. There is no way we can today anticipate all future contingencies. That is why all arms-control treaties include provision for future consultations for the purpose of clearing up any differences that may arise. But a great deal of effort over several years of drafting has been devoted to making the text as precise and free of loopholes as we can make it.

Is there an effective on-site inspection regime for suspect facilities? Yes, not a perfect one but an effective one. A perfect regime would require anytime, anywhere, instantaneous, on-site inspection with no right of refusal by the inspected side. As Gaffney knows, the administration took a hard look at this type of regime over the past year and determined that, for the purposes of this agreement, it would be unnecessary, as well as detrimental to U.S. security interests, to give Soviet inspectors such unlimited access to our most secure facilities.

So we sought and achieved short-notice, on-site inspection of former INF deployment and support facilities, continuous monitoring of the exits of the facility that was used to assemble SS-20s and special measures to enhance our ability to monitor with reconnaissance satellites the SS-25 bases where illegal activity could most easily be conducted. If we suspect that illegal activity is going on elsewhere, we can challenge the Soviets in the Special Verification Commission created by the treaty and demand proof that our suspicions are unfounded.

Does this mean that we are guaranteed that the Soviets cannot hide an INF missile somewhere on their territory? No. But they cannot test such missiles, train troops in their operation or maintain the basing infrastructure necessary to support them, all of which we would detect with high probability. Without these, the Soviets could not maintain a militarily significant capability. That is the definition of effective verification.

A final point. Gaffney charges that the administration is endangering its efforts due to the time pressures created by an arbitrary deadline. In fact, the verification regime I have just described results from carefully considered U.S. proposals that were fully studied within the U.S. government and negotiated with the Soviets over the past several months. The significant movement made on verification during the past few weeks consisted of Soviet acceptance of our proposal for close-out inspections, Soviet acceptance of our quota for short-notice, on-site inspections and Soviet agreement to our proposed method of monitoring their former SS-20 final-assembly facility.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

THE INF TREATY SHOULD BE AMENDED

Mr. PRESSLER. Mr. President, I know that Washington is in a state of euphoria over the INF Treaty. Everything else has been forgotten about, includng the budgetary crisis we are in, the Wall Street collapse, and, indeed, it is a most historic event. But there is in our future the duties of the U.S. Senate regarding this treaty. We have a constitutional role to play. There is an implication in this town that the treaty should be ratified almost without question; that amendments would be viewed as killer amendments. Today, I shall describe several INF Treaty amendments I am developing. I believe the Senate has a responsibility to consider amendments to this treaty.

Indeed, the Senate can do several things with treaties: It can attach amendments, reservations, declarations, understandings, or provisos. The most serious of these would be amendments which result in the administration having to negotiate a protocol to the treaty with the other side.

So amendments are not killer amendments. An amendment might be an improvement to this treaty. Indeed, the Panama Canal Treaty had all five types of conditions attached, and the Panama Canal Treaty was adopted on that basis.

So, this is nothing new. It is our responsibility.

I know that the euphoria in the news media and the euphoria across the country about this may be proper protocal, when any head of state visits the United States. Equally proper is the role of the U.S. Senate in offering amendments and reservations to this treaty. It is in the tradition of this body. Not only is it in the tradition, but it is our responsibility.

As a member of the Senate Foreign Relations Committee, I shall participate in the hearings on this treaty which will start on January 19, and by April we should be finished in the Foreign Relations Committee. I shall try to amend the treaty in the Foreign Relations Committee. If I fail there, I will join with others in amending it here on the Senate floor.

Let me describe to you briefly four areas where I think we need to consider either amendments, declarations, or reservations in, but particularly amendments.

First of all, linkage of the treaty's implementation to conventional force imbalances in NATO which would be exacerbated by the elimination of our INF deterrent forces. I shall describe that more later. To put it in blunt language, we are giving up our trump card in Europe and leaving the Russians with a large conventional forces superiority there. It may be that some will say our taxpayers should pay to increase our conventional forces in Europe, but I do not think that would sell very well, particularly in view of the fact that there is great sentiment in our country to lessen our troop commitment in Germany to meet some of the budgetary crises that we have at home.

In any event, I strongly believe that before we give up our trump card, so to speak, that would stop the Russian advancing tank divisions or the 400,000 troops they have in East Germany, before we give up that trump card we should have some linkage in this treaty regarding the conventional force imbalances.

Second, linkage to Soviet human rights practices, including the Soviet mistreatment of Jews and others who seek the emigrate to other countries. Certainly if not an amendment, some declaration about this in that treaty.

Third, stronger treaty language regarding the prohibition of camouflage, concealment and deception of missiles and missile facilities.

Fourth, a requirement that all INF warheads be destroyed in addition to INF missiles and launchers.

Mr. President, this is an outline of some of the amendments and reservations I am still developing for the treaty debate and there will be more. I know some of my colleagues are developing some. I do not think that we should settle just for provisos or declarations attached to the treaty which do not have to go back to the Russians. I think we should have some amendments to the treaty, some amendments that will show the Senate is meeting its full responsibility in treaty making. It is true that amendments would require going back to the Russians with a protocol. But I believe that is part of our responsibility. In the legislative branch of the Government, under our Constitution, it is provided that after the President signs a treaty there is a ratification process and that process includes consideration of amendments. There is no reason that cannot be done.

Mr. President, I would also point out that General Bernard Rogers, our last NATO commander, has said the INF treaty would remove the single most important deterrent weapon from the NATO arsenal. In this respect, the INF Treaty might be considered unequal and unfair to the U.S. and its allies. Much has been made of the argument that the Soviets are giving up almost 5 times as many missiles as we are under this treaty.

This statement is misleading in at least two ways. First, it leaves the Soviets in possession of thousands of INF warheads that are not slated for destruction under the treaty.

Second, the Soviets are in a much better position than we are to compensate for the loss of missiles.

Thus, one amendment I may offer during the Foreign Relations Committee work on the treaty would require the President to certify to the Congress, before the treaty goes into effect if it is ratified, that the loss of the Pershing II missile will not reduce NATO's deterrent capability. I think that would be a hard thing to certify.

Another amendment I mentioned I am working on would require another certification from the President that the Soviets are in full compliance with the ABM Treaty and all other treaties concerning arms control.

The precise language of these amendments will be developed in the next few weeks prior to debate in the Foreign Relations Committee. I mentioned four other areas where I will be developing amendments.

Mr. President, in addition, we are working on amendments with others which will include verification, including a provision for unlimited "challenge" inspections of suspected treaty violations, which I shall discuss further in a moment; linkage to other Soviet actions that threaten international security and stability; and refinement of some of the treaty's terminology.

This treaty violates two of the most important objectives of arms control—stability and lower defense costs. First, it would be destabilizing, as General Rogers has pointed out, in weakening the NATO conventional deterrent. Second, the diminished NATO deterrent capability will lead to greater defense expenditures—which our allies are unwilling to pay for and which we cannot afford in an era of deficit reduction. The question is, Can the Senate improve the treaty through conditions on the ratification approval resolution?

Our knowledge of existing Soviet intermediate range nuclear missiles is inadequate. Therefore, it may be impossible to verify the number and characteristics of such powerful weapons as the SS-20 missile. We cannot realistically evaluate the reduction or elimination of that which we do not know. Thus, I am concerned that Senate approval of the ratification of the INF Treaty could lead to Soviet cheating. Before outlining the amendment, let me say a few words about the verification drawbacks of the treaty.

We do not now possess hard data on the SS-20 missile—on its capabilities, production quantities, deployment and mission. The number of European targets that would warrant being attacked by Soviet nuclear missiles is relatively small—perhaps in the range of 50 to 200 targets. Yet, we estimate that the Soviets possess 441 launchers for these triple-warhead missiles. Furthermore, most of these major targets already are covered by other Soviet missiles, such as the SS-11 and SS-19, which have been tested and deployed in both intermediate and intercontinental range missions. Many targets in Western Europe also could be reached by nuclear-capable aircraft and tactical missiles.

My preliminary examination of the treaty, which was provided to Senate offices only yesterday, contains no identification of the numbers of SS-20 missiles and launchers to be destroyed. In fact, United States intelligence estimates suggest that the Soviets may possess as many as five missiles for each mobile launcher. The Soviets have not admitted to possessing that many SS-20 missiles, and we are forced to rely on estimates, or guesstimates. The same uncertainties exist with respect to other Soviet INF systems. For example, we were unable to detect the existence of SS-23 missile launchers until 5 years after they were deployed. It is entirely possible, then, that we have not detected a large number of SS-20 launchers. Instead of the approximately 2,000 missiles the Soviets admit having which would be subject to the INF treaty's dismantling requirements, there probably are many more. It is ironic that the Soviets have admitted deploying 50 SS-23 transporter-elector-launchers [TEL's]—30 more than United States intelligence had been able to detect. That suggests how adept the Soviets are at concealing their INF missiles and launchers. I might also point out that SS-20 TEL's are compatible with SS-25 ICBM's and some may have been, or now are being, diverted to the SS-25 forces, instead of being destroyed as the INF treaty would require.

The 2,000 missiles the Soviets have acknowledged possessing must be compared to the 436 United States missiles that would have to be eliminated under the treaty. This astoundingly favorable ratio for the United States is simply too great to be believed without careful scrutiny. Never before have the Soviets agreed to such unequal terms favoring the United States. We must question whether they have developed a plan to cheat in order to turn this apparent disadvantage into an advantage for themselves. Why have the Soviets this year accepted the so-called zero-zero arms control position the United States first offered in 1981—an option they have vigorously resisted until now? Could it be that, in the intervening years, they have laid the groundwork for massive deception?

Consistent with the findings of the President's General Advisory Committee on Arms Control and Disarmament [GAC], that the Soviets are guilty of violating three arms control treaties prohibiting deliberate concealment, it is our knowledge that all of the Soviet systems to be eliminated under the INF Treaty are heavily camouflaged and concealed. If the Soviet-provided data on these missiles and their launchers is unreliable, and they have gone to great efforts to deprive the prying eyes of American satellites of the ability to independently develop more reliable measurements, then are we forced to rely on their data? That would be a serious error on our part. Many of their missiles and launchers are mobile; ours are not mobile and are located at known fixed sites in Western Europe.

Much praise has been heaped upon the verification provisions of the INF treaty. Indeed, in many respects they are remarkable, given the fact that the Soviets always have opposed onsite verification methods. Yet they could be inadequate to deal with the kind of deliberate, effective concealment violations the Soviets have committed in the past. The U.S. intelligence community never actually has seen an SS-20 missile. Just the other day, we were told that the Soviets gave our negotiators a picture of it. It was of such poor quality that on the very eve of Mikhail Gorbachev's departure for Washington, DC., our negotiators were demanding a better picture of the SS-20. I assume we must have received it in view of the fact that Mr. Gorbachev now is in our Capital City and the treaty has been signed. All Americans should be distressed by this kind of Soviet attitude. They should be even more concerned about the possibility that this treaty may get us into a vast quagmire of deception, the likes of which the world has never seen.

Mr. President, I might ad a footnote to that. I know thay they let a television station take a picture of the SS-20, driving along a day or two ago. I was somewhat amused by that because they had refused to give the details of them up until the very eve of Gorbachev's departure.

I have been a proponent of onsite inspection in arms control agreements, and I continue to support intrusive verification methods to complement our satellite intelligence capabilities. Let me mention one potential problem, however, with the INF Treaty's limited onsite inspection provisions. In article XI, paragraph 6, inspection standards for missile production facilities are prescribed. It says that the portals of the Votkinsk Machine Building Plant in the Soviet Union may be inspected. Now, I am not sure what is meant by the term "portals." It is not defined in the treaty. I do not want to see a situation develop in which all the doors to our Magna, UT, plants are flung open to Soviet inspectors, but some entrances or exits, including subterranean entrances or exits, to the Soviets' Votkinsk plant are claimed by the Soviets not to be portals within the meaning of the treaty.

More important is a problem I alluded to earlier. That is the question of the missing missiles and the disappeared launchers. All of the missiles covered by this treaty, as well as the SS-25 and perhaps other Soviet missiles not covered by the treaty, use basically the same launcher. If INF missiles have been stashed away in some well-concealed location, then there is a real problem ahead of us. If camouflaged launchers are located in the same places, we will have double trouble. Moving camouflaged launchers to still other hidden stockpiled SS-20's would ensure a long-range strategic disaster for the West if armed conflict occurs between NATO and the Warsaw Pact.

Before I am accused of fantasizing preposterous scenarios, let me point out that press reports of classified U.S. intelligence estimates support the concern I have just expressed. Those reports assert that we have very limited capability to deal with the problem of mobile missiles. Those reports also indicate that the kind of onsite inspections provided for in this treaty will provide only modest improvements in our ability to locate, identify, or count missiles. More disturbing is the assessment that we have only about a 20-percent probability of detecting deployed or on-the-road SS-20's, even with onsite inspection and the newest technology surveillance satellites. Let me stress that there is no similar problem with the fixed-site missiles to be eliminated by the United States in Europe.

Mr. President, there is much more that can and will be said about the verification problems of this treaty. There will be much time to discuss them further both here on the Senate floor and in the Foreign Relations Committee. Let me conclude by saying that the dimensions of this problem are so serious and profound that I expect to offer an amendment or reservation regarding it. That amendment will say, in effect, we must have an unlimited "challenge" inspection right. That is, the right to go anywhere at any time in the Soviet Union, without impediment, to inspect any treaty violations that we suspect. This is a wholly intrusive amendment. It violates every traditional Soviet concept of secrecy and deception. I imagine that it also will be totally opposed by many experts in this country—people guarding our own secrets who do not want Soviets traipsing around all of our sensitive installations. Yet it is a revolutionary, imaginative concept that bears extensive debate in the Senate. It may need refinement—most legislative proposals and ideas concerning treaties do. But this is the framework of one of the amendments, reservations, declarations, understandings, or provisos that I will be developing now that the INF Treaty is in our hands. There will be others.

In conclusion, Mr. President, I think it is very possible this body will ratify this treaty, but I sincerely hope the Senate adopts amendments to this treaty which will send it back to the negotiating table. Under our Constitution, we have the responsibility to consider amendments. There are many precedents for it—in fishing treaties that have come through here in recent years, the Panama Canal Treaty, and so forth.

There is an atmosphere in this town which seems to suggest that it is improper to suggest amendments to the treaty. I think we should be very careful in what we are doing here. Also, I have been concerned, Mr. President, and I say this as a strong supporter of President Reagan, about the White House staff in the last year very much wanting to talk about arms control agreements and not the budgetary deficit, not agriculture, not product liability and tort reform, not the Clean Air Act, which is before the Congress—to almost abandon the domestic agenda and spend its time on arms control agreements, which also are very important. I know that the White House wants to show accomplishment after the Irangate episode and with some of the current staff changes; indeed, if the accomplishments are valid, fine. But I think we in the Senate have a particularly heavy duty to take a closer look than normal at this INF Treaty, because I feel the White House staff is moving things along faster than they normally would and may be slipping some provisions into the treaty that are concessions to the Russians.

Also, I feel that President Reagan is dealing with a new commodity with Mikhail Gorbachev. It is a friendly, smiling commodity, but it also could be a very dangerous one. I just spent Thanksgiving weekend in Nicaragua where the Soviets are spending a billion dollars a year. They have an agenda in Afghanistan regarding the freedom fighters. They also have agenda throughout the world. If you are going to get into the Politburo, you have to believe very strongly in the Communist desire to dominate the world, and Mikhail Gorbachev has that or he would not be where he is in their system.

Mr. President, it is my theme that we in the Senate have a responsibility not just to approve this treaty but to hold very careful hearings, which we will do, but also to very carefully consider any amendments. And I do not want to hear these amendments called killer amendments because they are not. It is the legitimate constitutional role of the Senate in treatymaking. That is the way our Constitution is set up.

SENATOR CLAIBORNE PELL: A LEADER ON HUMAN RIGHTS

Mr. PRESSLER. Mr. President, recently I had the opportunity to travel to Nicaragua with Senator CLAIBORNE PELL, the distinguished chairman of the Senate Committee on Foreign Relations. This was a rare opportunity for me to better understand the depth of his concern for human rights throughout the world.

At Senator PELL's insistence, we were permitted to inspect the infamous El Chipote Prison in Managua. Had I gone alone to Nicaragua, I probably would not have sought the opportunity to visit this notorious place.

I believe it was the distinguished Senator's unusually great concern for human rights that led him to work so hard to visit El Chipote Prison, and I congratulate him for that effort. Throughout our years together in this Chamber, and especially since he became chairman of the Foreign Relations Committee, he has impressed me as a courageous spokesman for human rights. He is one of the great leaders of the Senate in that regard and with respect to many other aspects of our Nation's foreign policymaking efforts.

Several years ago, again with Senator PELL's leadership, I recall visiting another scene that sparked human rights concerns during a visit to Argentina. He was quite forceful in expressing United States concerns regarding the thousands of Argentine citizens who disappeared or were imprisoned because of their political beliefs. He and his capable staff knew how to open doors to a place previously off limits to outside observers—both then and more recently in Nicaragua.

Mr. President, I ask unanimous consent that a December 8, 1987, New York Times article by Stephen Kinzer on our visit to El Chipote Prison be printed at this point in the RECORD.

[From the New York Times, Dec. 8, 1987]

TWO UNITED STATES SENATORS TOUR NICARAGUAN SECURITY JAIL

(By Stephen Kinzer)

MANAGUA, NICARAGUA, Dec. 7.—The first outsiders allowed to visit Managua's security prison, including two United States Senators, said today that the prison is empty and undergoing renovations.

They said the Government's decision to renovate the jail and invite foreigners to view it was part of its effort to show a new political profile in support of the Central American peace accord signed last August.

The security prison, known as El Chipote, has been used as a political detention center for decades. Some officials of the Sandinista Government were held there in the days when they were underground conspirators against the regime of Anastasio Somoza Debayle.

The Sandinistas have maintained that they transformed El Chipote into a humane short-term detention center, but former inmates, some of whom said they were held there for months, have described abuses they said were committed inside.

Interior Minister Tomás Borge, who controls El Chipote and is himself a former inmate, for years refused requests from human rights groups and other outsiders, as well as Nicaraguan investigators, to be allowed to tour El Chipote.

The first and, so far, only visits by outsiders to El Chipote took place on Nov. 26 and 28. They were the result of Mr. Borge's unexpectedly positive response to a request from Senator Claiborne Pell, Democrat of Rhode Island, who was then visiting here with Senator Larry Pressler, Republican of South Dakota.

HUMAN RIGHTS GROUPS INVITED

In addition to the Senators and their aides, Mr. Borge invited officials of Amnesty International, Americas Watch and the International Commission of the Red Cross to inspect the jail.

"The place was described to us as an interrogation center, not a jail," Senator Pell said in a telephone interview from Washington today. "It was starker and bleaker than a similar facility would have been in our own country, but it could have been worse."

"I think we were allowed in because the Government there is trying to do all it can to influence public opinion," the Senator said.

The visitors said El Chipote appeared to have been built to house about 150 prisoners. They said much of the jail was dark, but that windows were now being cut into the ceilings of every cell.

No representative of Nicaragua's non-governmental Permanent Commission for Human Rights was invited on the tour of El Chipote, and the head of the commission, Lino Hernández, said today he was uncertain that what the visitors had seen was a good indication of what the prison had been like.

"Past experience tells us that when foreigners come on missions like this, things are arranged for them in advance," Mr. Hernández said.

Juan Mendez, director of the Washington office of Americas Watch, a human-rights group, said he saw six or seven especially small cells in the subterranean jail, each of which he said was slightly larger than a telephone booth. He said he was told these cells were not used for extended periods.

"These sporadic visits are nice, but what is really needed is permission for the Red Cross to make regular visits there," Mr. Mendez said. He said that Deputy Interior Minister Luis Carrión Cruz had told him the Red Cross's request to make such visits is still under consideration.

SIGNIFICANT REFORMS IN SOUTH AFRICA

Mr. PRESSLER. Mr. President, as I noted last week when I placed an article on the effects of United States sanctions against South Africa in the RECORD, I intend to seek the indulgence of the Senate in these last days of the 1st session and the early days of the 2d session of the 100th Congress to point out other aspects of our error in imposing those sanctions last year. This is the second in this series.

On November 16, the Minister of Foreign Affairs of South Africa, the Honorable R.F. "Pik" Botha, spoke before the Eighth International Symposium on Policy and Strategy in Munich, Germany. His topic was "Southern Africa: Time for Reappraisal," and I believe it is useful to all of us who likely will be faced with the question of further sanctions against his country to examine this speech in detail.

Foreign Minister Botha maintains that, in his opinion, "The imposition of sanctions against South Africa was * * * an historical error based on a number of misconceptions and ignorance of the realities on southern Africa." I find myself in complete agreement with that statement, Mr. President. Mr. Botha notes correctly that the most "important misconception" has been that the South African Government "could be coerced into acceptance of demands from abroad in respect of a wide range of subjects * * *." He points out that no attempt was made to "address the consequences of sanctions for black South Africans, for * * * neighboring states, for employment and for the advancement of * * * black people." Further, he correctly states that the "whole debate in the United States and Europe was conducted on an emotional plane without any reference to the true conditions in South Africa."

Some of the statements made in this speech do not reflect my own opinion, particularly those that apply to our foreign policy in other parts of the world. But I believe, Mr. President, from my own knowledge of South Africa, that he is entirely correct when he says "sanctions assist the radical left and the radical right" in South Africa because the radical left see sanctions as supporting their policy of violence and the radical right claim no amount of reform will ever placate South Africa's detractors. Witness the fact that the ANC has refused to disavow violence and come to the negotiating table—and the fact that the Conservative Party is now the official opposition in the House of Assembly after elections earlier this year.

Another point Mr. Botha makes so well is that South Africa has received little if any credit for the many reforms it has instituted within the past decade—and I intend to speak further on this point in the future. He lists those many reforms and I would call particular attention to them as set forth in his speech.

A final point, Mr. President, is that the Foreign Minister does not simply say that South Africa and its neighboring states are interdependent; he cites details of the intertwined commerce, economy, and developmental aspects of life in southern Africa.

In conclusion, let me quote this very important paragraph on the fact that sanctions retard rather than facilitate the reform process in South Africa:

> The elements committed to violence see the pressure, rightly or wrongly, as being directed against the Government of South Africa and as support for their cause. Why should they engage in negotiations with the South African Government in these circumstances, they ask. The international community is on their side and the longer they hold out, the more pressure on the Government will increase and the stronger will their position become. The sanctions campaign, real or threatened, is thus having a counterproductive effect. The psychological impact is as potentially damaging, if not more damaging in the short term, than the economic impact and * * * governments abroad should be made aware of the implications of their actions. There is in any event no question of sanctions producing a political system in this country which is not the product of genuine negotiations between South Africans.

Mr. President, I commend this speech to our colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SOUTHERN AFRICA: TIME FOR REAPPRAISAL

The theme of discussion at this seminar is extremely relevant. The time has indeed come for Western nations, and the Soviet bloc, to reconsider their attitude to South Africa and its role in the Southern African context.

Sanctions have been applied, and endured, and the heavens did not fall on South Africa.

Major progress has been made both in the area of socio-economic and political reform within South Africa which is simply not recognized abroad.

And, there has been an alarming deterioration in the political, socio-economic and security conditions in all the so-called Frontline States in the region which remain economically interdependent on South Africa.

The imposition of sanctions against South Africa was in my opinion, an historical error based on a number of misconceptions and ignorance of the realities on Southern Africa.

The most important misconception was that the South African government could be coerced into acceptance of demands from abroad in respect of a wide range of subjects ranging from what the outside world perceived to be the ideal political solution for South Africa, the dismantling of apartheid, and racial discrimination, to the release of so-called political prisoners. To achieve these demands sanctions were imposed but those who advocated sanctions were ignorant of the realities of the subcontinent.

I cannot comprehend the way in which governments—particularly in the Western world—which should have access to sound intelligence, are able to project sanctions as being in the interests of any of our neighbouring states. It is surely not beyond the capacity of these governments to ascertain the true economic situation in countries like Mozambique, Zimbabwe, Swaziland, Botswana, Zambia, Lesotho, Angola and Malawi and then to appreciate just how interdependent we all are.

Each and every one of those countries are reliant on South Africa (to a greater or lesser degree) for their communications, transport infrastructure, exports and imports. Investments by South Africa in these countries run into billions which I shall address in due course.

Further, South Africa provides jobs for nearly 2 million black people from our neighbors and the Frontline States and countries further afield. Some are legally in South Africa but the majority have crossed our borders and are working in our country illegally. It goes without saying that they take jobs away from black South Africans, since many of them are willing to work for low wages and in some cases, merely in return for food.

Bear in mind, too, that many of the foreigners working here send part of their earnings back home, implying that well in excess of 2 million foreign blacks depend solely on their South African sourced income.

My government makes decisions on carefully considered factual data and closely examines the consequences of any action it might take. It puzzles me that governments which support sanctions fail seemingly to operate in the same way.

No attempt was made to address the consequences of sanctions for black South Africans, for our neighboring states, for employment and for the advancement of our black people. The whole debate in the United States and Europe was conducted on an emotional plane without any reference to the true conditions in South Africa.

What I find worrying is that if a legislature as powerful as that of the United States, whose actions have international ramifications, can legislate on the basis of emotional rather than on objective criteria, then the world faces potential hazards of frightening dimensions.

Ignoring the South African issue, against this background, how should one view the rationale behind United States action in the Middle East, the Persian Gulf, in Central America, in the Philippines and in respect of the Third World debt crisis. It is a matter of concern that a power like the U.S. is incapable of harnessing and interpreting data rudimentary to decisions impacting on millions of human lives.

Returning to South Africa, it is clear that no cognisance was taken of the fact that sanctions were going to harm the whole subcontinent, help extreme right and leftwing elements within South Africa and retard further reform because sanctions encourage the advocates of violence to scare moderate black leaders away from the conference table.

Sanctions assist the radical left and the radical right. The radical left see sanctions as support for their policy of violence. The radical right claim that no matter how much reform is introduced, the Western world will not be satisfied until this country is destroyed.

One must appreciate that major reforms in South Africa are often viewed as minor reforms by those living abroad.

It is the belief of the South African government that sanctions adopted by European countries against South Africa are vindictive and unwarranted, particularly in the light of the fundamental reforms that have been accomplished and our readiness to negotiate the widening of our democracy to include all the communities and peoples of South Africa.

Secondly, on political reform, by which one understands the right of all communities to form political parties, express political opinions and otherwise participate in the political process, and on the progress toward negotiations with representatives of all racial groups and communities in South Africa on the future system, the State President reiterated in Parliament on August 13, 1987, that the time had come for South African leaders to meet their responsibilities towards our common future and for us to discuss that future with one another. The South African government believes that the National Council Bill, first tabled in Parliament on May 23, 1987, represents a realistic and balanced step which will give a legal basis to such discussion. Since then, wide-ranging discussions have been held with a much wider spectrum of black leaders than is generally appreciated abroad and positive reaction has been received from a large number of persons and institutions within South Africa.

The South African government has decided to proceed with the Bill in amended form. It is the belief of the South African government that the Bill creates an instrument for negotiation among all South African communities on the constitutional future of our country. It provides for the first time for black South Africans to serve on a national constitutional body and to help shape policy.

Also, through the establishing of the Regional Services' Council we will now have joint responsibility at the regional level, in which black and white representatives will serve together. Effective administrative and executive authority at regional and provincial level will be shared and town-planners, for example, will be able to develop new open urban areas.

We are frequently pressurised to provide a timetable for the elimination of so-called "apartheid laws": what more could be expected of the South African government to convince outsiders that we are actively engaged in removing racial discrimination in South Africa?

It might be helpful to list some of the discriminatory measures which have been withdrawn, and some of the nonracial measures which have been introduced in recent times.

Blacks have obtained full property rights in black urban areas.

The Prohibition of Political Interference Act has been abolished.

Influx control, the pass-law system and 34 related measures have been abolished or amended.

Central business districts are being opened to all entrepreneurs.

Forced removals for purely political reasons have been suspended.

The last vestiges of job reservation in the Mines and Work Act are being abolished.

The colour bar in the Liquor Act has been scrapped.

The Prohibition of Mixed Marriages Act and Section 16 of the Immorality Act have been abolished.

Cinemas and theatres may on application open their doors to all persons.

The permit system in terms of which nonwhites had to apply to attend white universities has been abolished.

Restrictions on the movement of people of Indian origin have been removed.

White preference in the immigration laws has been cancelled.

There has been a financial commitment to equal education opportunities for all.

A new urban development strategy has been accepted.

A uniform identity document for all our citizens has been introduced.

A multiracial provincial executive system replaced the former all white provincial councils system.

Multiracial regional services councils are being established.

Black and multiracial trade unions have been legalized.

Work places have been desegregated.

Sport has been desegregated.

The development of open urban areas has in principle been accepted.

Surely this demonstrable commitment to effective reform in all areas of life in South Africa ought to convince serious political observers abroad about the South African government's commitment to move ahead with the reform programme.

The major objective in the South African government's political programme is to achieve participation by all without domination—participation in the wealth of the country and in the decisionmaking process in respect of all matters affecting the interests of all communities in such a way that the rights of minorities are not threatened. We already declared that we are, in principle, ready to negotiate a new South African constitution based on power sharing in respect of all matters of national concern.

It would be encouraging if western governments supported this objective and if they were to acknowledge the major reforms that have taken place in South Africa. I cannot understand why this cannot be done.

Standards and norms are expected of us which are expected of no other African country. It is a form of reverse racism. In the rest of Africa, coups, a government controlled press, dictatorships and nationalised business sectors go unquestioned. We certainly wish to uphold as many of the fundamental European rights and standards as possible but South Africa is simply not a European country. What makes our diversity more complex is the fact that we have to deal with a first world economy and a third world economy.

But, the relative freedoms and democracies that do exist in South Africa are criticised by those wishing to destroy them and replace them with a dictatorship which would eliminate human rights.

My government can bring about change and it is changing but we cannot succumb to demands which would inevitably destroy democracy and the norms and values to which European countries subscribed. There are those elements in our society whose interests are threatened by the government's reform programme. They remain committed to violence as a political instrument and reject negotiations. They are encouraged in their attitude by the campaign of escalating sanctions and threats of sanctions which governments abroad have employed in the belief, it would seem, that this would speed up the achievement of an objective which we share. Far from facilitating negotiations, this pressure is, in fact, retarding the process.

The elements committed to violence see the pressure, rightly or wrongly, as being directed against the Government of South Africa and as support for their cause. Why should they engage in negotiations with the South African Government in these circumstances, they ask. The international community is on their side and the longer they hold out, the more pressure on the Government will increase and the stronger will their position become. The sanctions campaign, real or threatened, is thus having a counterproductive effect. The psychological impact as as potentially damaging, if not more damaging in the short term, than the economic impact and I feel that governments abroad should be made aware of the implications of their actions. There is in any event no question of sanctions producing a political system in this country which is not the product of genuine negotiations between South Africans.

As has been demonstrated this past week with the release of Mr. Govan Mbeki we are in principle prepared to release prisoners convicted of offences directed at the security of the State. However, although the South African Release Advisory Board will continue to make recommendations to the South African Government in terms of its norms, it may assist European Governments in coming to grips with the real objectives of the ANC to reflect on Mr. Mbeki's remarks to the effect that he remains a Communist and that he would continue to support violence.

The President of the USA has publicly said that the South African Government is under no obligation to negotiate the future of the country with any organization that proclaims a goal of creating a communist state and uses terrorist tactics to achieve it.

Mrs. Thatcher has charged the ANC with being a terrorist organization and it is a fact that the executive of the ANC is dominated by members of the South African Communist Party. Should we not insist that this of all organizations should at the very least abandon violence and commit itself to peaceful dialogue?

The ANC, with its dominant communist element, categorically rejects the concept of negotiations. They see negotiations as a betrayal of their revolutionary principles and objectives. They know that they will never get their ideology and philosophy accepted via negotiations. They see revolution, terrorism and intimidation in terms of their ideology, as the only means of achieving their political objectives.

As the official mouthpiece of the ANC, SECHABA, editorialised in its October, 1987 edition: "We are being pushed in two different directions which are in essence one direction, namely anti-communism and renouncing the armed struggle. We are not prepared to move in any one of the two".

Thirdly, a brief remark on South Africa's position in Southern Africa.

South Africa is sincere and is paying a high price, in trying to promote peace and prosperity, for all in the region. The bleak reality of Africa is that there is almost universal economic retrogression, administrative chaos and political ineffectiveness in most states. Even under conditions of peace and stability the countries of Southern Africa face an almost impossible task to get economic development off the ground. All the countries of the region will pay the price of escalating violence and conflict.

Under the circumstances the government cannot sit back and allow the ANC access and supply routes as well as base facilities in neighboring countries.

The criticism of South Africa's supposed "destabilisation" of neighboring states in recent years in effect implies that the South African government should tolerate the threat posed by terrorists in adjoining countries in building up arsenals, and organising acts of terrorism including necklace murders. We are not prepared to ignore this threat to the security of all our peoples and have taken action to counter the hostile build-up in neighbouring states.

In the case of Mozambique for example, South Africa has made every effort to engage the Frelimo government in Maputo constructively with a view to creating a more stable end economically viable region. For our pains we have had to endure repeated accusations of destabilisation.

South Africa is said to be supporting RENAMO yet the Institute of Strategic Studies has just issued its Annual Survey of the Military Balance in which it was found that "RENAMO has no significant outside source of military supplies relying for the most part on material captured during its raids".

It is difficult to justify to the South African taxpayer that our country should turn a deaf ear to a constant barrage of accusation and vilification from a nearby neighbour. We are at this time endeavouring to cope with the pitiful consequences of the socio-economic disruption to a large proportion of the Mozambican population who flood in large numbers across the South African border in search of food and the basic necessities of life.

South Africa has contributed more in financial and development aid as well as the provision of jobs to Mozambique than the most generous Western donors. Since the signing of the Nkomati Accord, for example, South Africa has been involved in projects to upgrade the harbour of Maputo; to repair locomotive and upgrade signal equipment of the Mozambican national railways; to repair and replace fishing vessels; to promote tourism; to repair equipment at electric power stations, to provide cooling facilities for fresh produce and to upgrade sugar refineries.

Despite profound political differences, the South African economy and the economy of surrounding countries are so closely interwoven that these states stand to suffer if the South African economy were to be hurt. This is not surprising when one bears in mind that South Africa accounts for three-quarters of Southern Africa's total output, provides a labour market for people from the whole region, provides the only reliable transport links with the outside world for at least severn states as far north as Zaire, and supplies its neighbours with vital foods, medicine, equipment as well as other goods and services. In addition, neighbouring countries are dependent on the Southern African transport network to carry their overseas imports and exports: Six of the nine members of the Southern African Development Coordination Conference (SADCC) Botswana, Lesotho, and Swaziland (BLS states) Malawi, Zambia and Zimbabwe are land-locked. The interdependence of these countries on South Africa is underscored by the interesting finding of Dr. Yona Seleti of the University of Zambia that the SADCC countries' dependence on the RSA has risen from 50% to 80% since the establishment of the SADCC.

During the 1985/86 financial year, the South African Transport Services (SATS) handled about 7 million tonnes of traffic to and from the seven SADCC states. Three million tonnes of goods were sold to these countries by South Africa while 1,6 million tonnes were goods sold to South Africa. The remaining 2 million tonnes represented the overseas imports and exports of these countries.

Even when peace and stability return to Angola and Mozambique, the operation of the principal regional railway lines outside South Africa will for a long time be faced with major problems due to obsolete and run-down equipment. South Africa rolling stock is today to be found as far north as Zaire and even Tanzania. In 1986, a total of 40 diesel-electric and 40 steam locomotives were on hire to neighbouring states, and whereas in 1983 a daily average of 5,883 South African freight cars were on freight lines as against 936 foreign wagons on South African lines, the present average is as well over 6,000 South African wagons and less than 1,000 foreign wagons in South Africa.

South African Airways (SAA) and its pool partners carried a total of 440,000 passengers and ferried more than 6 million kilogrammes of air freight in 1984/85 to Zambia, Zimbabwe, Malawi, Mozambique, Botswana, Lesotho, Swaziland, Comores, Reunion and Mauritius. SAA is equipped to repair aircraft engines, electronic equipment and to service aircraft and assists neighbouring states in this regard.

At present SAA have maintenance contracts with five African States.

In addition to SAA, Safari's fleet of freight planes ferries urgently needed spares, machinery, pharmaceuticals and consumer goods to destinations all over Africa.

On the trade front, approximately R2 billion or about 7.5% of South Africa's 1984 exports went to 47 African countries. What is important in this respect is that we are supplying our fellow African States with commodities and products at prices which are far cheaper than they can obtain elsewhere. This factor is of vital importance if regard is had to the serious problems encountered by African States in earning foreign currency. At least half of South Africa's African trade is with countries in the region. According to a study undertaken by the Economist Intelligence Unit, all SADCC members, except Tanzania, trade with South Africa; each has more trade with South Africa than with all its SADCC partners combined, and total SADCC trade with South Africa is seven times higher than intra-SADCC trade, with South African exports to SADCC running at about U.S. $2 billion a year.

South Africa is an important source of food to neighbouring as well as more distant African countries. Even in good years, most Southern African countries are net importers of grain crops and often rely on South Africa to supplement their own production. The availability of food in most African countries shows a downward trend, with a corresponding dependence on imports.

The BLS countries and SWA/Namibia obtain all their petroleum products from South Africa, while Zambia, Zimbabwe and possibly countries further north are heavily dependent on supplies via South Africa.

Power and water supplies across national boundaries are important to progress in the whole region particularly Lesotho, Zimbabwe and Botswana which can contribute to South Africa's limited water resources. Huge projects involving billions of rand, like the Lesotho Highlands water supply project could have a profound effect on the economies of the supplying countries.

Lesotho, Swaziland and parts of Mozambique, Zimbabwe and Botswana receive power from South Africa's Electricity Supply Commission.

The tourist industry in Botswana, Lesotho and Swaziland as well as Zimbabwe and Malawi is dominated by South African visitors.

Botswana, Lesotho and Swaziland are joined with South Africa in the Southern African Customs Union (SACU) and, with the exception of Botswana, in the Rand Monetary Area (RMA): The customs union agreement provides for the free flow of goods among member states which levy the same tariffs on goods imported from outside the Union. All major ports of entry are in South Africa, which collects the customs duties and allocates them on a pro rata basis. Whereas the economies of Botswana, Lesotho and Swaziland are very small compared with South Africa—their joint GNP equals about 3% of that of South Africa, their share in the Southern African Customs Union's revenue pool constitutes a crucial share of their total state revenue. Actual disbursements (and share of total revenue) in 1982/83 were:

Botswana, R116 million (32 per cent);
Lesotho, R 71 million (37 per cent); and
Swaziland, R117 million (61 per cent).

The South African Reserve Bank also acts as the central bank for Lesotho and Swaziland, and pays compensation for Rand notes and coin in circulation there. The two countries hold most of their foreign reserves in the form of Rand balances invested in the South African money market. Funds are freely transferable within the Rand Montetary area but Swaziland and Lesotho have the right unilaterally to impose restrictions on the flow of funds to South Africa. The two countries also have free access to the South African capital market through which they have raised substantial loans from time to time.

South African private investors, especially mining houses, have played a substantial role in opening up the mineral wealth of Southern and Central Africa, and in re-establishing large agricultural and manufacturing ventures. Neighbouring countries benefit in many ways from the experience, know-how and resources provided by the South African private sector.

Many of the major construction projects in the region are carried out by South African firms—Cahora Bassa, railways, roads, Malawi's new capital of Lilongwe, etc. In view of their expert knowledge of local conditions and the geographical closeness of their top decision-makers, these firms are well placed to provide competitive services.

South Africa is a substantial creditor of sub-Saharan Africa. Credit is provided by both the public and private sector. By mid-1985, the South African government had provided development funds totalling R214 million to non-South African countries in Southern and Central Africa. The Southern Africa Development Bank plays an important role in this regard as well as the Credit Guarantee Insurance Corporation, based in Johannesburg, which provides both long-term and short-term guarantees. The cumulative total of long-term credit guarantees provided so far to African countries by South Africa is in excess of R400 million.

To conclude:

We have introduced substantial reforms and change in terms of the realities of South Africa;

We shall continue with our programme aimed to extending democracy in South Africa; and

We accept that white domination must end and power-sharing is the only way to govern South Africa equitably in such a way that minority rights are secured.

South Africa is the powerhouse of Southern Africa and stability and progress in our neighbouring states is distinctly in our interests. We can only gain from stability in the region contrary to the perception that we are to blame for the economic retrogression and socio political disintegration in some of the states bordering on our country.

We are puzzled that commentators in Europe and elsewhere should glibly accept propaganda regarding South African destabilization policies when we in fact stand ready to assist our neighbours to achieve greater stability, economically and otherwise.

Sanctions are an historical error when all in Southern Africa needed encouragement to resolve our problems around a conference table. It simply does not make sense for the mainstay of economic life of Southern Africa to be singled out for punishment which would so obviously have repercussions beyond our borders. We are not defying the world. The facts and realities of Southern Africa defy the world.

We realise we must change. Does the Western world realise it has to change its approach or has it become so institutionalised with secretariats and personnel earning their living, pensions, motorcars, housing, subsidies and allowances from the false perception which has been created of South Africa.

Western policies towards South Africa have often been based on false analogies and misconceptions. They have ignored the realities of South and Southern Africa and the time has come for reappraisal of the facts and realities of the region. There are many avenues for constructive Western interaction with South Africa and I would trust that there is a genuine interest in helping those of us in South Africa who are determined to bring about a broader, more equitable political dispensation in our country while at the same time contributing to peace and stability in the region.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Iowa is recognized.

REDUCTIONS IN FEDERAL HIGHWAY AID

Mr. GRASSLEY. Mr. President, in early October, I learned that the Federal Government notified Iowa and many other States of severe, completely unexpected reductions in their Federal highway aid.

We can and must settle this issue so that our States do not continue to lose Federal highway aid.

Briefly, States lost millions of dollars in highway contracting authority and thousands of jobs. The reason rests on two things:

This major loss was caused by a new provision in the highway bill and by the Federal Highway Administration's misunderstanding of the congressional intent in administering the new provision.

More specifically, the new language allows a State to return 2 years of formula interstate construction money to the FHWA which places it in the interstate construction discretionary fund. Because several States returned their interstate formula money, the amount of interstate discretionary funds soared from the original congressional set-aside of $300 million to well over $1.4 billion. This provision would not have created a problem for our States if it were not for a budget balancing mechanism called obligation authority.

Obligation authority restricts spending in the highway program. Congress sets the nationwide obligation ceiling, and FHWA then divides it among the States. The problem is Congress has specified that the discretionary accounts must be covered with full obligation authority.

As a result of FHWA interpretation of congressional intent, obligation authority to cover the huge 1.4 billion discretionary interstate construction pot is being drawn from all 50 States. All States saw their spending authority cut from over 95 percent to 88.1 percent. The FHWA's misunderstanding of our intent resulted in redistribution of 8 percent Federal highway program without discussion or debate by Congress. A few States can recoup their losses by receiving interstate discretionary funds. Unfortunately, States like mine, the State of Iowa, which already have completed their interstates gave up funds needed for other important projects.

Mr. President, I ask unanimous consent that I may enter material in the RECORD to more fully explain the issue. I will include a brief paper explaining the problem and will also include the FHWA notices setting forth the reductions in obligation authority.

There bing no objection, the material was ordered to be printed in the RECORD, as follows:

STATES LOSSES IN OBLIGATION AUTHORITY DUE TO REVISION IN LIMITATIONS

[In thousands of dollars]

	Fiscal year—		Reduction
	1987	1988	
Alabama	243,937	233,107	10,830
Alaska	145,314	134,787	10,527
Arizona	126,309	117,465	8,844
Arkansas	103,727	95,215	8,512
California	849,297	801,039	48,257
Colorado	169,332	162,904	6,428
Connecticut	259,442	246,660	2,782
Delaware	46,540	43,610	2,930
District of Columbia	78,713	74,427	4,285
Florida	377,060	360,261	16,799
Georgia	280,310	258,797	21,513
Hawaii	127,500	122,198	5,302
Idaho	76,165	74,378	1,788
Illinois	352,215	323,692	28,523
Indiana	184,181	167,262	16,919
Iowa	156,752	145,442	11,310
Kansas	135,797	125,160	10,637
Kentucky	154,349	143,467	10,883
Louisiana	246,234	233,699	12,535
Maine	53,856	50,638	3,218
Maryland	261,370	237,505	23,865
Massachusetts	505,722	482,292	23,431
Michigan	272,338	254,609	17,729
Minnesota	195,956	181,655	14,302
Mississippi	116,936	107,999	8,937
Missouri	224,660	205,119	19,541
Montana	97,653	94,249	3,404
Nebraska	97,447	88,063	9,383
Nevada	67,392	62,865	4,527
New Hampshire	51,148	47,424	3,723
New Jersey	300,314	280,175	20,139
New Mexico	98,323	91,029	7,295
New York	603,004	565,490	37,514
North Carolina	220,687	202,991	17,696
North Dakota	69,702	64,103	5,598
Ohio	324,350	312,073	12,277
Oklahoma	138,740	129,162	9,578
Oregon	120,850	111,574	9,276
Pennsylvania	478,431	447,507	30,924
Rhode Island	96,506	90,738	5,768
South Carolina	116,079	111,890	4,189
South Dakota	74,030	65,467	8,563

STATES LOSSES IN OBLIGATION AUTHORITY DUE TO REVISION IN LIMITATIONS—Continued

[In thousands of dollars]

	Fiscal year—		Reduction
	1987	1988	
Tennessee	210,872	199,621	11,251
Texas	597,889	556,991	40,899
Utah	107,461	101,269	6,192
Vermont	49,591	47,035	2,556
Virginia	228,130	217,546	10,584
Washington	247,188	241,207	5,981
West Virginia	101,067	97,398	3,669
Wisconsin	154,339	145,682	8,657
Wyoming	72,835	64,528	8,307
Other	68,869	61,137	7,732
Total	10,536,908	9,880,600	656,308

States participating in voluntary lapse of interstate construction apportionments

Alabama	$88,000,000
California	281,000,000
Massachusetts	361,000,000
Idaho	23,000,000
Maryland	66,000,000
New Jersey	94,000,000
Pennsylvania	120,000,000
Washington	40,000,000
Washington, DC	34,000,000
Total	1,100,000,000

Fiscal Year 1988 Highway Obligation Authority

PROBLEM

Reduced formula obligation authority due to increased interstate construction discretionary funds. Result: cutting projects in the state's highway construction program. This does not take any Gramm-Rudman-Hollings cuts into account and it is not a one-year problem.

BACKGROUND

Most states have based their 1988 highway construction program on the assumption that the formula obligation authority would remain the same as last year, 95.4 percent of the apportionments. However, on Oct. 1, FHWA notified the states that their formula obligation authority was reduced to 88.1 percent.

Technically, all states lose a portion of their formula obligation authority because FHWA had to cover increased funds accumulating in the discretionary "reserve account". Increases to the reserve account were made possible by an FHWA instruction, in accordance with an obscure provision in the 1987 highway bill, which did two things:

It allowed states to voluntarily "lapse" their apportionments, made available in 1987 and 1988, for interstate construction funds which they do not propose to use. Without the provision in the 1987 highway bill, states would not have been able to lapse the 1988 funds this early. Lapsed apportionments are placed in the interstate construction discretionary fund. The states were not required to lapse obligation authority with their apportionments. Only a very few states will benefit from this provision since most states have either completed or nearly completed their system.

It guaranteed that those same few states who lapsed formula interstate construction apportionments would be eligible for interstate construction discretionary funding—with new additional obligation authority.

A likely scenario is as follows:

1. An Interstate construction state can lapse its interstate construction apportionment, and retain its entire obligation authority. They may use this obligation authority for other category projects such as federal aid primary, federal aid secondary, railroad crossings and the like.

2. FHWA places lapsed apportionment into "reserve account" for distribution as Interstate Construction Discretionary funding beginning October 1, 1987.

3. FHWA uses the formula obligation authority taken from all states to create new obligation authority for the increased amount in interstate construction discretionary fund. However, only states with interstate yet to complete are eligible for the interstate construction discretionary fund. All other states have lost obligation authority.

Thus, states which have completed or are close to completion of their Interstate Systems lose twice: we lose desperately-needed formula obligation authority and we are shut out of trying for interstate discretionary funds. This is not a one-year problem.

Federal-Aid Highway Program Obligations

EXPIRATION DATE: OCTOBER 1, 1988

1. *Purpose.*—To advise of tentative limitation on Federal-aid highway program obligations for fiscal year (FY) 1988 and the tentative distribution of this limitation among the States.

2. *Limitation-legislative provisions.*—Based on a review of House Joint Resolution 362 Making Continuing Appropriations for Fiscal Year 1988, and For Other Purposes together with the House action on the Department of Transportation and Related Agencies Appropriation Act of 1988 and the Surface Transportation and Uniform Relocation Assistance Act of 1987, provisions on the limitation of obligations are as follows:

a. Obligations for Federal-aid highways are limited to $12.35 billion for FY 1988.

b. This limitation shall not apply to obligations for projects covered under:

(1) Sections 125, 157, and 320 of Title 23, United States Code (23 U.S.C.);

(2) Section 147 of the Surface Transportation Assistance Act of 1978;

(3) Section 118 of the Union Station Redevelopment Act of 1981;

(4) Section 9 of the Federal-Aid Highway Act of 1981;

(5) Obligations to carry out the provisions of Sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982 (Public Law 97-424);

(6) Section 404 of the Surface Transportation Assistance Act of 1982; or

(7) Obligations of funds made available under subsections (b) and (c) of Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

c. Each State is guaranteed sufficient authority to prevent lapse of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under 23 U.S.C. 104(b)(5)(A).

d. Amounts authorized for administration, the Federal Lands Highways Program, studies under Sections 159, 164, and 165 and the Demonstration Program under Section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the Strategic Highway Research program are charged to the limitation but are excluded from the State-by-State distribution.

e. After August 1, 1988, the Secretary will revise a distribution of funds made available if a State does not plan to obligate the amount distributed during FY 1988 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during FY 1988. The redistribution will give priority to those States having large unobligated balances of funds apportioned under 23 U.S.C. 104, and priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations.

f. After August 1 and on or before September 30, 1988, a State which obligates the amount distributed in FY 1988 under the distribution based on apportioned and allocated funds, as well as any redistributed amounts made available after August 1, 1988, may obligate for Federal-aid highways and highway safety construction on or before September 30, 1988, an additional amount not to exceed 5 percent of the aggregate amount of the following:

(1) Funds apportioned or allocated to that State under Sections 104, 130, 144, and 152 of 23 U.S.C. and

(2) For highway assistance projects under Section 103(e)(4) of 23 U.S.C. which are not obligated on the date such State completes obligation of the amount so distributed. The aggregate amount which may be obligated by all States under this additional obligation authority cannot exceed 2.5 percent of the aggregate amount of funds as defined in (1) and (2) above which would not be obligated in FY 1988 if the $12.35 billion amount of obligational authority were utilized. No State may utilize this additional obligational authority that does not utilize all obligation authority distributed to it for FY 1988 or does not utilize all additional obligation authority redistributed to it after August 1. In addition, this provision will not apply to any State releasing formula obligation authority for the August redistribution.

g. Funds apportioned for FY 1988 or allocated to the States during FY 1988 are to be used to determine the factors for making a State-by-State distribution of the obligation limitation. The State-by-State distribution of the FY 1988 obligation limitation shown on Attachment 1 is based on actual apportionments of FY 1989 Interstate Construction, FY 1989 Interstate 4R funds, and FY 1988 non-Interstate funds.

h. Pursuant to the National Minimum Drinking Age Act, Section 158, 23 U.S.C., three States, as defined by 23 U.S.C., have been found in noncompliance. These States are South Dakota, Wyoming and Puerto Rico. Accordingly, a portion of these States apportionments made during fiscal year 1987 and 1988, of Interstate Construction, Interstate 4R, Primary, Secondary and Urban System funds have been withheld. Obligation authority equal to 88.1 percent of the funds withheld has been reserved in the event that the State comes into compliance and the funds are apportioned. If any State is not in compliance by August 1, the reserved obligation authority will be redistributed among the States as described in paragraph 2.e. above.

3. *Discretionary and/or other non-formula funds.*—Obligational authority is reserved for discretionary and/or other non-formula funds estimated to be allocated during the fiscal year. A proportional share of obligational authority will be distributed with each allocation of funds during FY 1988 consistent with the proportional share dis-

tributed by formula. Such allocations increase the total annual limitation distributed to the State for FY 1988.

4. *Total limitation.*—Obligation authority available for distribution in FY 1988 is less than the total apportionments and allocations for the year on which the distribution is based. The same pro rata share of 88.1 percent is thus available for both formula and non-formula distribution. Attachment 1 shows each State's share of the limitation distributed by formula and the amounts reserved for non-formula programs.

5. *Federal Lands program.*—Obligation authority for the Federal Lands Highways program has been reserved from distribution. Distribution of the reserved authority will be made by the associate Administrator for Engineering and Program Development.

6. *Funds subject to FY 1988 limitation.*—Obligation of the funds shown on Attachment 2 are chargeable to the FY 1988 limitation, as well as obligations of urban system funds for non-highway mass transit projects approved pursuant to 23 U.S.C. 142(a)(2). Also shown are funds exempt from the limitation.

7. *Territories.*—Obligation of apportionments of Hazard Elimination funds and the distribution of Consolidated Primary funds to the territories of American Samoa, Guam, Northern Marianas and the Virgin Islands are subject to the FY 1988 limitation on Federal-aid highway programs. Attachment 1 provides authority to each of the territories based on their share of the FY 1988 Hazard Elimination apportionment. With respect to the territories' share, attachment 1 also provides authority based on the FY 1988 apportionment of Consolidated Primary funds to the States or Territories. Distribution of this authority among the separate territories will be provided by the Associate Administrator for Engineering and Program Development and together with the authority provided by this Notice constitutes each territory's total available obligation authority for FY 1988.

8. *Tentative provisions.*—The program level and allocations among the States are tentative and subject to revision upon passage of the FY 1988 Appropriation Act or other enacted legislation.

9. *Action.*—a. By October 15, 1987, each State shall advise the Division Administrator of (1) the amount it can obligate in excess of its 25 percent share (up to a maximum of 35 percent) or, (2) the amount that can be released during the first quarter for obligation by other States. The responses shall be forwarded by the Division Administrator to the regional office. By October 21 each Regional Administrator shall advise the Washington Headquarters, HFS-30, on a State-by-State basis of the additional authority required or the amount that can be released for obligation by other States. Upon review of the regional reports, the Washington Headquarters will advise of the redistribution, if any, of the first quarter obligation authority. Any redistribution in the first quarter will not change the total allocation for any State. b. Division Administrators should ensure that copies of this Notice are furnished to State Highway Agencies.

R.A. BARNHART.

[Attachment 1]

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: TENTATIVE DISTRIBUTION OF LIMITATION ON FEDERAL-AID HIGHWAY PROGRAM OBLIGATIONS FOR FISCAL YEAR 1988

[Limitation in thousands]

State	Tentative fiscal year 1988 obligation limitation	
	Amount	First quarter 25 percent
Alabama	233,107	58,276
Alaska	134,787	33,696
Arizona	117,465	29,366
Arkansas	95,215	23,803
California	801,039	200,259
Colorado	162,903	40,725
Connecticut	246,660	61,665
Delaware	43,610	10,902
Florida	360,261	90,065
Georgia	258,796	64,699
Hawaii	122,198	30,549
Idaho	74,378	18,594
Illinois	323,692	80,923
Indiana	167,262	41,815
Iowa	145,442	36,360
Kansas	125,160	31,290
Kentucky	143,467	35,866
Louisiana	233,699	58,424
Maine	50,638	12,659
Maryland	237,505	59,376
Massachusetts	482,292	120,573
Michigan	254,609	63,652
Minnesota	181,655	45,413
Mississippi	107,999	26,999
Missouri	205,119	51,279
Montana	94,249	23,562
Nebraska	88,063	22,015
Nevada	62,865	15,716
New Hampshire	47,424	11,856
New Jersey	280,175	70,043
New Mexico	91,029	22,757
New York	565,490	141,372
North Carolina	202,991	50,747
North Dakota	64,103	16,025
Ohio	312,072	78,018
Oklahoma	129,162	32,290
Oregon	111,574	27,893
Pennsylvania	447,507	111,876
Rhode Island	90,738	22,684
South Carolina	111,890	27,972
South Dakota	65,468	16,367
Tennessee	199,621	49,905
Texas	556,991	139,247
Utah	101,269	25,317
Vermont	47,035	11,758
Virginia	217,546	54,386
Washington	241,207	60,301
West Virginia	97,398	24,349
Wisconsin	145,682	36,420
Wyoming	64,528	16,132
District of Columbia	74,427	18,606
Puerto Rico	49,683	12,420
American Samoa	367	91
Guam	367	91
Northern Marianas	367	91
Virgin Islands	367	91
Territories	9,987	2,496
Subtotal	9,880,600	2,470,122
Penalty reserve	26,384	6,596
Administration	213,000	
Federal lands	235,000	
SHRP	30,850	
Studies	1,980	
Demos	106,805	
Allocation reserve	1,855,381	463,845
Total	12,350,000	2,940,563

[Attachment 2]

U.S. DEPARTMENT OF TRANSPORTATION: FEDERAL HIGHWAY ADMINISTRATION—FUNDS SUBJECT TO FEDERAL-AID HIGHWAY PROGRAM: OBLIGATION LIMITATION FOR FISCAL YEAR 1988

Fund	Appropriation codes
Interstate Construction	042, 043, 041, 04C, 04D, 050, 04N, 188, A51, 055, 059, 17A, 193, X42
Interstate Gap Closing	045, 046
Interstate 4R	044, 047, 04R, 199, 04A, X44, 04B
Interstate Discretionary—Construction	054, 057, 05R
Interstate 4R—Maryland	058, 05A, 05B
Interstate Discretionary—4R	056
Rail-Highway Crossings on Any Public Road.	138, 139, 13J, 13K, 13Y, 13W
Hazard Elimination	141, 14M
Consolidated Primary	010, A04, A14, X14, 110, 01L, 195, A06, A65, A35, A61, A85, 196, 11L, A95, A16, A75, A45, A86, 197, X15, 01B, 01A
Combined Road Plan	CR1
Rural Secondary	075, 076, B08, X75, 07F, 07G, 079, 07T, B06, B65, B35, 02A, B61, B85, 07Y, B16, B75, B45, B86
Urban System—Attributable	W36, W33, W3G, W3H, M36, W38, W61, W86, W05
Urban System—Not Attributable	W32, W37, X30, W3C, W3D, M32, W3N, W06, W65, W35, W62, W85
Urban System—PR	W08
HPR	070
Metropolitan Planning	082
Public Lands—FY 1983 and subsequent.	183, K83
Indian Reservation Roads	163, K63
Parkways and Park Highways	179 (Parkways), 180 (Park Highways), K79
Forest Highway—Allocated	191
Special Urban High Density	107, 10V
Special Bridge Replacement	115, 11F
Highway Bridge Replacement & Rehabilitation:	
Apportioned	114, 117, 118, 11W, R85, 11V, 11R, R86, 11A, 11B, 11C
Discretionary	119, 11Y
Talmadge Bridge	186
Franconia Notch	126
Bypass Highway Demonstration	157
Urgent Supplemental Bridges	113
Interstate Transfers:	
Apportioned	117, 192, 17D, 17E
Discretionary	178, 17W, 17F
Los Angeles Freight Transportation Demo, CA–131(a).	220
Buhne Point Shoreline Erosion Demo, CA–131(c).	221
E. Baton Rouge Interchange Congestion Demo, LA–131(d).	222
Louisville Primary Connector Accel. Demo, KY–131(e).	223
Vermont Certification Demo—131(f)	224
Devils Lake—Erosion Demo. ND–131(g).	225
Bridge Over Intercoastal Waterway Demo, FL–131(h).	226
Idaho Truck Safety/Railroad Elimin. Demo—131(i).	227
Acosta Bridge—Florida	169
Studies:	
Section 159 Rail-Hwy Crossing	
Section 164 Hwy Electrification Systems.	
Section 165 Highway Upgrading	
Section 167 California Feasibility Study.	
Demos—Section 149	309
Exempt from FY 1988 Obligation Limitation	
Bridges on Federal Dams	072
Emergency Relief	098, 099, 088, 089
Minimum Allocation	160, 16L, N85, 185
Acceleration of Bridges	116
Union Station	129
Woodrow Wilson Bridge	128
State of the Art Technology/Gap Closing Demo, PA—131(b).	228
Usable Segements Demo, IL–131(j).	229
Alaska Highway:	
Primary	184
Interstate	187
Hazard Elimination	189
Veh-Ped Demo	311
Section 149(B)	307
Section 149(c)	308

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

[Summary of fiscal year 1989 interstate and fiscal year 1988 noninterstate apportionments as of October 1, 1987]

State	Interstate construction	Interstate 4R	Consolidated primary	Rural secondary	Urban system	Bridge replacement and rehabilitation	Hazard elimination	Rail-highway crossings	Interstate transfer	Metropolitan planning	Total
Alabama	117,680,347	47,425,138	41,509,135	12,180,295	9,465,325	29,529,931	2,979,854	3,248,593	0	566,644	264,585,262
Alaska	13,857,628	21,602,034	74,659,695	32,262,424	3,656,578	3,431,000	833,000	2,449,063	0	236,782	152,988,204
Arizona	18,613,720	55,921,535	31,521,319	9,927,237	9,445,922	3,431,000	2,246,311	1,568,217	38,073	614,186	133,327,520
Arkansas	13,857,628	27,617,976	28,381,222	10,593,304	4,464,411	18,519,166	2,014,894	2,387,285	0	236,782	108,072,668
California	300,992,026	246,581,053	167,084,124	23,967,129	92,603,182	39,677,182	14,354,693	10,200,542	7,402,479	6,346,008	909,208,418
Colorado	57,700,052	49,642,621	34,374,243	11,030,433	9,801,075	14,820,410	2,330,986	2,193,582	2,360,526	647,399	184,901,327
Connecticut	69,423,474	32,907,230	25,239,177	3,851,259	10,493,573	50,490,459	1,850,276	1,024,222	83,945,526	742,967	279,968,163
Delaware	13,857,628	12,724,357	11,335,392	2,925,263	3,656,578	3,431,000	833,000	498,564	0	236,782	49,498,564
Florida	160,013,547	89,521,904	75,266,834	14,826,257	34,886,723	21,166,113	6,193,019	4,650,803	0	2,384,257	408,909,457
Georgia	64,788,633	89,681,727	55,428,828	15,742,686	13,914,180	36,098,786	4,004,863	4,594,656	8,653,449	835,541	293,743,349
Hawaii	103,106,623	12,724,357	11,335,392	2,925,263	3,656,578	3,486,445	833,000	394,459	0	236,782	138,698,899
Idaho	25,553,589	23,195,226	18,308,316	7,235,344	3,656,578	3,552,732	1,246,985	1,435,751	0	236,782	84,421,303
Illinois	13,857,628	90,910,655	89,740,869	16,992,093	40,129,885	40,316,309	7,455,620	8,216,095	57,120,378	2,662,011	367,401,543
Indiana	13,954,093	56,510,571	52,531,477	13,836,717	14,533,768	25,135,232	3,861,033	4,881,333	3,769,227	834,872	189,848,323
Iowa	13,857,628	36,700,148	35,240,268	12,699,397	6,651,839	29,594,159	2,717,259	3,749,407	23,572,626	299,090	165,081,821
Kansas	13,857,628	37,177,521	33,224,762	11,995,077	6,217,747	31,829,799	2,636,943	4,847,464	0	274,278	142,061,119
Kentucky	20,472,613	45,524,941	39,494,429	12,182,759	7,437,412	31,976,371	2,664,128	2,691,668	0	395,643	162,839,964
Louisiana	118,151,267	45,168,398	38,805,768	9,830,837	11,858,764	34,745,600	2,835,708	3,154,298	0	706,647	265,257,287
Maine	13,857,628	12,724,357	14,457,976	5,115,031	3,656,578	5,664,169	833,000	930,138	0	236,782	57,475,659
Maryland	109,823,425	38,408,947	33,957,128	5,582,863	14,387,244	20,665,325	2,521,475	1,516,176	41,706,252	1,008,257	269,577,092
Massachusetts	386,327,628	32,221,604	44,576,879	5,993,283	20,390,720	42,725,145	3,389,339	1,985,563	8,381,499	1,426,574	547,418,234
Michigan	43,919,456	83,572,028	82,563,781	17,526,929	27,574,122	20,551,827	6,130,887	5,295,986	0	1,855,719	288,990,735
Minnesota	61,095,631	46,635,971	43,606,750	14,556,552	11,057,778	18,745,200	3,487,276	4,180,914	2,159,283	659,234	206,184,589
Mississippi	13,857,628	32,097,120	31,795,924	10,713,819	4,662,834	24,931,430	2,084,158	2,203,113	0	236,782	122,582,808
Missouri	13,857,628	71,504,352	51,719,851	15,699,930	13,687,288	57,485,444	3,849,351	4,172,226	0	840,956	232,817,026
Montana	13,857,628	40,916,111	26,672,476	11,020,427	3,656,578	7,807,035	1,165,404	1,643,048	0	236,782	106,975,489
Nebraska	13,857,628	21,773,143	25,217,648	9,388,568	4,025,266	19,495,628	1,793,938	2,719,528	1,446,774	236,782	99,954,903
Nevada	13,857,628	22,477,561	18,902,713	7,110,431	3,656,578	3,431,000	887,858	793,736	0	236,782	71,354,287
New Hampshire	13,857,628	12,724,357	11,335,392	2,925,263	3,656,578	7,622,996	833,000	636,278	0	236,782	53,828,274
New Jersey	101,371,656	30,111,765	53,434,622	5,240,451	28,088,050	64,326,309	4,253,336	2,691,178	26,471,613	2,019,358	318,008,338
New Mexico	13,857,628	42,528,906	25,887,882	9,755,334	3,846,099	4,762,502	1,249,701	1,195,878	0	236,782	103,320,712
New York	13,857,628	88,690,609	134,681,785	17,438,927	63,285,408	137,240,000	10,442,701	6,181,271	165,606,672	4,426,183	641,851,814
North Carolina	44,836,510	47,066,430	64,683,918	17,509,717	11,330,129	36,227,380	4,090,899	4,014,260	0	642,572	230,401,815
North Dakota	13,857,628	20,565,097	17,498,580	7,116,265	3,656,578	5,770,256	1,245,631	2,812,696	0	236,782	72,759,513
Ohio	31,204,625	104,157,512	93,769,229	18,277,419	33,397,931	48,847,833	6,894,944	6,618,335	8,947,155	2,098,509	354,213,492
Oklahoma	13,857,628	36,265,853	34,570,481	11,797,779	8,137,333	35,532,534	2,760,728	3,274,328	0	406,613	146,603,277
Oregon	17,944,518	38,468,030	29,444,927	9,908,845	7,272,081	10,298,627	2,381,528	2,171,409	8,343,426	407,051	126,640,442
Pennsylvania	160,608,393	66,536,743	107,743,197	22,151,863	34,318,043	93,567,762	7,487,388	5,820,216	7,402,479	2,300,728	507,936,812
Rhode Island	13,857,628	12,724,357	11,335,392	2,925,263	3,656,578	3,431,000	833,000	442,823	53,530,638	253,819	102,990,498
South Carolina	20,447,828	48,661,514	32,936,860	9,074,054	6,717,225	11,727,707	2,313,886	2,737,825	0	381,839	126,998,738
South Dakota	12,471,866	22,885,014	16,856,751	6,939,593	3,290,921	8,762,637	1,133,047	1,730,731	0	236,782	74,307,342
Tennessee	13,857,628	62,203,155	46,887,886	13,455,694	11,431,360	50,930,038	3,305,678	3,178,349	20,657,322	669,683	226,576,793
Texas	131,609,656	202,914,696	132,584,347	37,362,614	47,233,586	56,358,018	10,516,862	10,694,987	0	2,929,846	632,204,612
Utah	37,822,285	39,330,815	19,824,745	6,571,063	5,141,287	3,431,000	1,294,890	1,190,891	0	336,895	114,943,871
Vermont	13,857,628	12,870,322	11,335,392	2,925,263	3,656,578	7,040,137	833,000	631,769	0	236,782	53,386,871
Virginia	68,754,272	69,791,604	49,846,575	12,860,683	14,816,318	23,066,201	3,517,053	2,705,129	587,412	977,155	246,922,402
Washington	116,168,448	55,316,984	39,771,122	10,195,924	12,668,502	32,871,862	3,027,571	2,916,406	0	841,386	273,778,205
West Virginia	13,857,628	19,198,984	23,695,192	7,528,252	3,656,578	39,283,029	1,399,233	1,694,737	0	236,782	110,550,415
Wisconsin	13,857,628	34,557,147	48,134,349	13,576,458	12,313,728	34,588,734	3,625,523	3,950,995	0	749,978	165,354,540
Wyoming	12,471,866	30,097,206	15,588,319	6,384,553	3,290,921	3,431,000	833,000	907,392	0	236,782	73,241,039
District of Columbia	36,558,238	12,724,357	11,335,392	0	3,656,578	7,117,541	833,000	218,542	11,797,191	236,782	84,477,621
Puerto Rico	0	11,451,922	26,957,295	3,545,242	7,902,736	3,431,000	1,794,243	757,145	0	551,895	56,391,478
American Samoa	0	0	0	0	0	0	416,500	0	0	0	416,500
Guam	0	0	0	0	0	0	416,500	0	0	0	416,500
N. Marianas	0	0	0	0	0	0	416,500	0	0	0	416,500
Virgin Islands	0	0	0	0	0	0	416,500	0	0	0	416,500
Territories	0	0	11,335,392	0	0	0	0	0	0	0	11,335,392
Total	2,768,754,101	2,537,711,965	2,308,427,398	583,178,126	729,706,230	1,372,400,000	166,600,000	156,800,000	543,900,000	47,356,499	11,214,834,319

RELEASE OF INTERSTATE CONSTRUCTION FUNDS BY STATES PURSUANT TO SECTIONS 102(b)(2) AND 114(a) OF THE FEDERAL-AID HIGHWAY ACT OF 1987—AUGUST 27, 1987

1. PURPOSE

a. To establish procedures and to advise the States of how they may release Interstate Construction funds pursuant to Sections 102(b)(2) and 114(a) of the Federal-Aid Highway Act of 1987.

b. To eliminate the provisions of paragraph 2c of FHWA Notice N4550.2 dated July 9, 1987, so that States which utilize Sections 102(b)(2) and 114(a) will be eligible to apply for Interstate Discretionary funds.

2. CANCELLATION

FHWA Notice N4550.2, Release of Interstate Construction Funds by States Pursuant to Sections 102(b)(2) and 114(a) of the Federal-Aid Highway Act of 1987, dated July 9, 1987, is cancelled.

3. BACKGROUND

a. Section 102(b)(2) of the Federal-Aid Highway Act of 1987 provides that before the apportionment of Interstate Construction funds under 23 U.S.C. 104(b)(5)(A) for any fiscal year, if the Secretary and the State highway department agree that a portion of the anticipated apportionment is not needed for such year, the amount of such portion shall be made available for allocation from the Interstate Discretionary Fund under Section 118(b)(2) of 23 U.S.C.

(1) For the purpose of determining the State's formula portion of the obligation limitation, as required by Section 105(c) of the Federal-Aid Highway Act of 1987, only the amount of the apportionment released to the State will be used in computing the State's share.

(2) The next Interstate Cost Estimate used to apportion funds will be adjusted to reflect only those funds actually released to the State.

b. Section 114(a) of the Federal-Aid Highway Act of 1987 amends 23 U.S.C. 118(b)(2) to provide, upon request of the State, that the period of availability for Interstate Construction Funds apportioned before October 1, 1989, be reduced by one fiscal year.

(1) These funds will be made available for allocation from the Interstate Discretionary Fund at the end of the reduced period of availability.

(2) The Interstate Cost Estimate used to apportion funds will be adjusted to reflect the released amounts to the State's cost-to-complete.

(3) In order to assure that sufficient obligation authority is available to provide a proportionate share with Interstate Discretionary allocations made during the fiscal year, FHWA must determine in advance the funds that will be available. Therefore, notification prior to the beginning of the fiscal year is essential for Interstate funds to be released under this Section so that obligation authority can be reserved to allow allocation of these funds during the next fiscal year.

4. ACTION

a. A State which determines that a portion of its FY 1989 apportionment of Interstate Construction funds will not be needed shall advise the FHWA Division Administrator by September 10, 1987, of its determination. The Division Administrator is to review the request and forward it, along with an appropriate recommendation, to the Regional Administrator by September 14, 1987. The Regional Administrator is to forward the request and recommendation to the Office of Fiscal Services (HFS-30) by close-of-business September 15, 1987. States will be notified of the action on their requests following appropriate Headquarters review. To assure that we have complete information, negative reports for those States not utilizing this provision are requested.

b. A State electing to reduce the period of availability of its FY 1988 Interstate Construction Fund apportionment by one year, pursuant to Section 114(a), is to advise the Division Administrator by September 10, 1987, of its decision. The Division Administrator is to advise the Regional Administrator by close-of-business September 14, 1987. By close-of-business September 15, 1987, each Regional Administrator is to report this information to the Office of Fiscal Services (HFS-30). Negative reports for those States not utilizing this provision are requested.

c. The reports required in 3 a and 3 b above may be combined.

d. Division Administrators assure that copies of this Notice are furnished to State highway agencies.

R. A. BARNHART,
Federal Highway Administrator.

RELEASE OF INTERSTATE CONSTRUCTION FUNDS BY STATES PURSUANT TO SECTIONS 102(b)(2) AND 114(a) THE FEDERAL-AID HIGHWAY ACT OF 1987—JULY 9, 1987

1. PURPOSE

To establish procedures and to advise the States of how they may release Interstate Construction funds pursuant to Sections 102(b)(2) and 114(a) of the Federal-Aid Highway Act of 1987.

2. BACKGROUND

a. Section 102(b)(2) of the Federal-Aid Highway Act of 1987 provides that before the apportionment of Interstate Construction funds under 23 U.S.C. 104(b)(5)(A) for any fiscal year, if the Secretary and the State highway department agree that a portion of the anticipated apportionment is not needed for such year, the amount of such portion shall be made available for allocation from the Interstate Discretionary Fund under Section 118(b)(2) of 23 U.S.C.

(1) For the purpose of determining the State's formula portion of the obligation limitation, as required by Section 105(c) of the Federal-Aid Highway Act of 1987, only the amount of the apportionment released to the State will be used in computing the State's share.

(2) The next Interstate Cost Estimate used to apportion funds will be adjusted to reflect only those funds actually released to the State.

b. Section 114(a) of the Federal-Aid Highway Act of 1987 amends 23 U.S.C. 118(b)(2) to provide, upon request of the State, that the period of availability for Interstate Construction Funds apportioned before October 1, 1989, be reduced by one fiscal year.

(1) These funds will be made available for allocation from the Interstate Discretionary Fund at the end of the reduced period of availability.

(2) The Interstate Cost Estimate used to apportion funds will be adjusted to reflect the released amounts to the State's cost-to-complete.

(3) In order to assure that sufficient obligation authority is available to provide a proportionate share with Interstate Discretionary allocations made during the fiscal year, FHWA must determine in advance the funds that will be available. Therefore, notification prior to the beginning of the fiscal year is essential for Interstate funds to be released under this Section so that obligation authority can be reserved to allow allocation of these funds during the next fiscal year.

c. Any State that releases a portion of its apportionment or reduces the period of availability of its previously apportioned Interstate Construction funds will not be eligible for Interstate Discretionary funds in the year in which the apportionment or unobligated balance of funds is adjusted.

3. ACTION

a. A State which determines that a portion of its FY 1989 apportionment of Interstate Construction funds will not be needed shall advise the FHWA Division Administrator by September 10, 1987, of its determination. The Division Administrator is to review the request and forward it, along with an appropriate recommendation, to the Regional Administrator by September 14, 1987. The Regional Administrator is to forward the request and recommendation to the Office of Fiscal Services (HFS-30) by close-of-business September 15, 1987. States will be notified of the action on their requests following appropriate Headquarters review. To assure that we have complete information, negative reports for those States not utilizing this provision are requested.

b. A State electing to reduce the period of availability of its FY 1988 Interstate Construction Fund apportionment by one year, pursuant to Section 114(a), is to advise the Division Administrator by September 10, 1987, of its decision. The Division Administrator is to advise the Regional Administrator by close-of-business September 14, 1987. By close-of-business September 15, 1987, each Regional Administrator is to report this information to the Office of Fiscal Services (HFS-30). Negative reports for those States not utilizing this provision are requested.

c. The reports required in 3 a. and 3 b. above may be combined.

d. Division Administrators should assure that copies of this Notice are furnished to State highway agencies.

R.A. BARNHART,
Federal Highway Administrator.

Two hypothetical examples demonstrating the impact of "the problem".

[Dollar amounts in millions]

	Apportionments	Obligation authority	Percent
State A:			
Fiscal year 1987	$890	$850	
Voluntary lapse	280	0	
Total	610	850	95.4
Fiscal year 1988	900	800	
Interstate construction discretionary funds	+250	220	
Total	1,150	1,020	88.1
2-year total	1,760	1,870	106.2
State B:			
Fiscal year 1987	165	156	95.4
Voluntary lapse	0	0	
Total	165	156	
1988	165	145	88.1
Interstate construction discretionary funds	0	0	
Total	165	145	
2-year total	330	300	91.0

RESOLUTION REQUESTING ACTION TO PREVENT DOUBLE-DIPPING OF OBLIGATION CEILING

Whereas, Section 114(a) of the Federal-Aid Highway Act in 1987 allows states to reduce by one year the period of availability of Interstate construction apportionment; and

Whereas, the Federal Highway Administration (FHWA) originally determined that states which released their Interstate apportionment prior to the maximum period of availability were not eligible for discretionary funds in the same year; and

Whereas, FHWA has subsequently reversed that decision and determined that states which so released their apportionment early would be eligible for discretionary Interstate allocations the same year; and

Whereas, this determination allows a few states to secure unwarranted, extra obligation authority by obtaining such authority first for Interstate apportionment and then again for a discretionary allocation, thereby "double-dipping" obligation authority for the same Interstate highway construction funds; and

Whereas, this situation is unfairly penalizing nearly all the other states; and

Whereas, this situation is exacerbating the hardship for the states caused by the extraordinarily large Interstate discretionary pot resulting from over $1.1 billion of Interstate apportionment released early in FY 1987, which has in turn resulted in obligation authority covering only 88.1 percent of apportionments and allocations; and

Whereas, this double-dipping is a perversion of the federal highway program, and works against speedy completion of the Interstate system because it encourages states to use obligation authority on non-Interstate projects;

Now, therefore be it Resolved, that the Mississippi Valley Conference States call on Congress to take action to correct this ability to "double dip" obligation authority in future years.

Be it further Resolved, that this resolution be communicated to AASHTO and to FHWA.

IOWA DEPARTMENT OF TRANSPORTATION,
Ames, IA, December 2, 1987.
WILLIAM S. RITCHIE, Jr.,
Commissioner, West Virginia Department of Highways, Washington Street, East, Charleston, WV.

DEAR COMMISSIONER RITCHIE: Thank you for the time and effort you've spent searching for solutions to our common problem of deep cuts in obligation authority as a result of an obscure provision in the '87 Highway Bill. It's hard to believe that the provision which allowed voluntary turnback of Interstate Construction apportionments resulted in a redistribution of 8 percent of the federal highway program without any public discussion or debate. It's harder still to accept that we can't do anything about it.

From conversations with your counterparts and mine in 16 other states, it's pretty clear that we're all thoroughly disgusted with the outcome and frustrated that solutions are shot full of holes or that key members of Congress refuse to act for a variety of reasons. We haven't given up and I'm sure you haven't either.

By way of information, I'm enclosing a list which is our best assessment of "winners and losers." However, as CAO's we can't emphasize strongly enough that in reality, there are only losers from this provision. The Highway Trust Fund is precarious at best . . . we see continued and growing support to use gas tax for some type of deficit reduction, if not this year, then next. The only hope in tough budget times for maintaining the integrity of the fund is solid, unified and strong support from every state.

It's clear to me that this latest manipulation caused many of us to reassess our support; if there isn't a solution, I believe we'll see states seeking turnback of federal tax and programs. No one wins when that happens, either.

We must continue our efforts to make people understand what's happened—everyone from our Congressional delegations to individuals with a common interest in a strong transportation system that serves the Nation, not just a few areas.

If we have any hope of stopping further cuts and restoring lost obligation authority, we'll need facts and figures that run the gamut from construction contracts lost to people who'll be out of work. It seems important to also know how much state gas tax we'd each have to raise to make up the loss. If that information can be assembled quickly, I'd like to package it for simultaneous distribution to all our Congressional delegations. If you're interested in this approach, let me know during AASHTO.

I'm sure you're aware that we'll have an excellent opportunity to explore the problem during the Policy Committee meeting on Sunday. (Policy Committee must deal with a resolution from the Executive Committee of Mississippi Valley Conference of AASHTO which requests action on the issue.) It should be a lively discussion!

Sincerely,

WARREN B. DUNHAM, *Director.*

Same letter sent this date via Federal Express and also via AASHTO electronic mail to CAOs of the DOTs in the following 17 states:

Alaska, Delaware, Illinois, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming.

Mr. GRASSLEY. Mr. President, the concept behind the voluntary lapse provision may well have been sound. Its implementation is flawed, however, and I believe causes a harm to many States which was unintentional. The effects of this problem, coupled with additional budget reductions are simply too much.

Frostbelt States like Iowa have long since made plans for the 1988 construction season. Those plans were made in good faith based on reasonable expectations for Federal highway funding. My State's transportation agency made their plans, notified their contractors, their suppliers, their operating engineers and their construction workers that the funding was on its way.

Our cities began to plan how they would use the funds to spur their rebuilding efforts. In America's heartland, we're just coming out of tough times, we're trying to turn the corner like the rest of the Nation, we have good people in the construction industry who only ask for the chance to work—who depand on the Federal highway programs for jobs—everyone from the prime contractor to the man or woman running the bulldozer. We've got minorities and women who are running their own companies, making decent wages, some for the first time, because of the Federal Highway Aid Program and it's special component—the Disadvantaged Business Enterprise [DBE] Program.

Mr. President, I cannot in good conscience allow our States to lose millions of dollars in Federal highway aid. We must redress this wrong. First we must clarify congressional intent so that FHWA revises its policy in one of two ways:

It can require States returning formula interstate funds to return obligation authority along with the funds; or

It can specify that a State which voluntarily returns formula interstate money cannot later be eligible for discretionary interstate money.

Second, we must return the lost obligation authority to the States. I urge you to join with me in correcting this problem.

RESIGNATION OF JUSTIN DART, JR.

Mr. WEICKER. Mr. President, I rise today with deep regret and anger to note the resignation of Justin Dart, Jr., from his position as Commissioner of the Rehabilitation Services Administration. Justin's courage, integrity, and commitment to the rights of disabled Americans are well-known. He has a lifetime of accomplishments behind him, including his efforts while serving on the National Council on the Handicapped to promote civil rights for persons with disabilities.

I might add, parenthetically, that the great laws that have been passed during the past 5 years, whether they dealt with protection and advocacy for disabled individuals, whether they amended Public Law 94-142, whether they dealt with attorneys' fees for those who sought civil rights protections for their disabled children in the courts, whether they dealt with amendments to various authorizations—none would have been possible were it not for the support of Justin Dart and his rallying of the grassroots constituencies behind the efforts of Congress.

Unfortunately, his resignation comes as no great surprise. There have been rumors for the last few months that he might be asked to resign amid the controversy that has surrounded the Rehabilitation Services Administration. These matters have been the subject of hearings in both the Senate and the House, and I have to express my frustration and dismay that there has been no resolution to this festering conflict.

I reserve my anger, rather, for the Secretary of Education, William Bennett, and those in the White House. I have to ask why there was no attempt by Secretary Bennett during these last several months to step in and at least attempt to resolve the differences between the Commissioner and the Assistant Secretary. Where was his commitment to ensuring that the Office of Special Education and Rehabilitative Services functioned in a unified and effective manner? I suspect that the answer is disturbingly simple: He just did not care. If the working relationship between Madeleine Will and Justine Dart appeared likely to self-destruct, he was willing to let it happen.

This experience has been very damaging to the administration of the rehabilitation programs. We have seen morale at RSA, already at a low ebb before Justin's arrival, plummet even further. We have seen the disability constituency groups pitted against each other and choosing sides. We have seen an enormous amount of energy that should have been directed toward moving the rehabilitation service system forward channeled, instead, into a continuing dispute over the management and control of that system.

There is a supreme irony in all of this that does not escape my notice and that I hope all of my friends in the disability community will reflect upon. This dispute, culminating in the resignation of Justin Dart, has done more damage to rehabilitation programs than anything the Department has tried to accomplish through its legislative, regulatory, and fiscal agenda.

One has only to look at the record since the beginning of this administration 7 years ago to see an affirmative commitment to dismantling disability programs within the Department of Education. Whether it was attempting to deregulate Public Law 94-142 back in 1982, or the consistency low priority placed on special education and vocational rehabilitation when it came to the budget, the administration has tried its best to weaken disability programs.

Fortunately, Congress and the disability constituency groups have joined forces to successfully repel those attacks. This unity has enabled us to go on the offensive and accomplish much during this time. There have been real increases in funding for special education and rehabilitation, when other components of the budget have suffered greatly. There have been exciting new programs created: Early intervention for handicapped infants, supported employment to assist the severely handicapped, and a protection and advocacy program for the mentally ill.

But I remind you, these victories were accomplished in spite of the footdragging of the administration at every step along the way. Seeing their agenda routinely thwarted, I do not doubt but that they saw the differences between Madeleine and Justin—whether managerial or philosophical, trivial or serious—as a golden opportunity to foment disharmony, and divide the disability groups that were once united in their opposition to the administration's agenda. I would guess that those above Madeleine and Justin—from the Secretary of the White House—watched with glee as the tension and acrimony built to the point that the operation of the rehabilitation programs came to a virtual standstill. It looked as though the strategy of "divide and conquer" was going to win.

Well, I am here to say that we cannot afford to let them quietly claim victory. The stakes are too high. We have managed to survive 7 years, and within a year still remaining, we cannot let the accomplishments achieved thus far be negated.

So today I ask for three things. First, I hope that a new Commissioner will be selected who has the respect and trust of all the participants in the debate over the provision of rehabilition services—both within and outside the Office of Special Education and Rehabilitative Services. Second, I hope that the Assistant Secretary, whose commitment to supported employment is second to none, will approach her job with a renewed spirit of cooperation and diplomacy, and that she will go the extra mile toward regaining the unity that has been lost. Third, I ask the State rehabilitation directors to go that extra mile, too, and reflect upon what they, and ultimately the thousands of disabled individuals who rely on their services, stand to lose if these differences go unresolved. Without our service providers, there simply is no rehabilitation system.

The loss of a fine Commissioner is a high price for all of us to pay. We must be vigilant to ensure that this sad chapter is closed, and we must move forward in unity, with a renewed and vigorous commitment to serving all individuals in need of rehabilitation services.

Justin said it best when he testified before the House Subcommittee on Select Education last month:

> Our agency, our community is confronted by grave challenges, magnificent opportunities and historic decisions. The time has come to rise above pride and protocol, to face reality, and to unite in responsible, democratic action * * * we have no excuse to fail. We cannot afford to fail.

Mr. President, I ask unanimous consent that the full statement of Justin Dart before the House Subcommittee on Select Education be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY JUSTIN DART, JR., COMMISSIONER, REHABILITATION SERVICES ADMINISTRATION

Mr. Chairman, it is a privilege to appear today before a Committee composed of and staffed by individuals who have been dedicated and successful advocates for the cause of human development.

Mr. Chairman, my prepared presentation and other material has been and will be submitted to you. Because the issues we address today involve the fundamental human rights of millions of people with disabilities, and the basic principles of democracy and good government of the President, the Congress and the Nation, I am going to depart from politics as usual protocol to make a statement of conscience.

Our agency, our community is confronted by grave challenges, magnificent opportunities and historic decisions. The time has come to rise above pride and protocol, to face reality, and to unite in responsible, democratic action.

During my tenure as Commissioner RSA has—thanks to the valiant efforts of our undermanned staff—accomplished much that is positive. Certainly, OSERS-RSA has, during the past few years, initiated the very progressive new programs indicated by our great supporter, Congressman Bartlett, and my distinguished colleague advocate, Assistant Secretary Madeleine Will.

But Mr. Chairman, based on my experience as Commissioner, and my personal research in each of the fifty states, and five of our largest Native American Nations, I must report to you that OSERS-RSA has been for many years, and is today, afflicted—particularly in its central office—by profound problems in areas such as management, personnel, and resource utilization. We are ravaged by disunity and hostility internally and in our vital relationships with our state agency and grantee partners, and certain other segments of the disability community. As I reported to Senator Harkins last month, I believe that these problems are negatively impacting services to citizens with disabilities.

Mr. Chairman, I have had almost no effective authority to contribute to management solutions. But that is no acceptable excuse. I took an oath and I accept a salary as Commissioner of RSA. I apologize to you and to the nation, that in spite of 14 months of struggle working literally 7 days a week, in spite of 8 months of appeals for serious attention and difinitive action through the regular channels, efforts by my colleagues and myself to resolve our problems have not been successful. Faced now with the possibility that paternalistic central control, nonprofessional management and policies of hostility will be institutionalized for years by current revisions of organization and policy, I ask for your help, and for that of the community.

The basic problem here is not simply that Justin Dart is involved in a trivial turf and personality conflict with Madeleine Will. Certainly it is not that the President, who campaigned on a platform of productive independence for all citizens and who endorsed the very progressive concepts advocated in Toward Independence, is personally dedicated to dismantling vocational rehabilitation and independent living.

The problem with our external relations is not, in my view, that the state vocational rehabilitation agencies oppose supported employment and other progressive rehabilitation services. My personal research has convinced me that while the problems of people with very severe disabilities have only begun to be solved, the great majority of the rehabilitation profession have—within the constraints of the law, limited resources and massive public prejudice—been effectively dedicated to solutions. They have, along with great advocacy groups like ARC, NFB, NAD, ACB, UCP, TASH, NAMI, NCIL, and NHIF created a firm foundation from which such solutions can occur.

Our problems are complex. We are confronted by a vast, inflexible federal system which, like the society it represents, still contains a significant proportion of individuals who have not yet overcome obsolete, paternalistic attitudes about disability and, indeed, about government itself. There is a resistance to any sharing of their centralized authority with people with disabilities, their families, advocates and professional service providers, in or out of the federal service. Good management is too often subordinated to the protection of power. And, tragically, a small but all too effective minority in the federal service and in the community seem dedicated to a divide and conquer strategy of promoting hostility among government, advocates and professional service providers.

At issue here are principles squarely endorsed by the President, the Congress, all the great leaders of our major political parties and the overwhelming majority of the American people.

Participatory democracy based on true federal-state-community-citizen partnerships;

Responsible administration of tax dollars in faithful pursuance of the law;

Quality, productivity and independence oriented, professionally administered public services;

And, most important, the civil and basic human rights of people with disabilities to have more than rubber stamp figurehead representation in government, to liberate themselves finally from the subservient dependency produced by millenia of prejudice and authoritarian paternalism, and to participate in the productive mainstream of society as fully independent, fully equal citizens of the first class.

The problems of OSERS–RSA must be solved; and with good faith by all who truly support the independence and equal rights of people with disabilities, they can be solved, and they can be solved without asking any party to compromise on any legitimate issue of principle.

Mr. Chairman, I respectfully appeal to you and your colleagues in Congress, and to all present for guidance, inspiration, moral leadership, and if necessary, support for legislative action which will enable RSA to meet its historic and expanding responsibilities in the nineties and as we enter the 21st century. Help us, above all, to overcome hate and hostility, and to unite.

Let us not seek scapegoats; let us seek solutions. We have no irredeemable enemies, only enemy attitudes.

We stand at an historic crossroads. We are approaching foundational decisions about the future of rehabilitation and the fundamental rights of people with disabilities.

We live in the richest nation in the history of mankind. We have great programs like basic vocational rehabilitation, independent living, supported employment and rehabilitation engineering. We have all the human, technological, economic and political resources necessary to effect a cultural revolution which will utilize the methods and products of science for the dignity and quality of human life.

We are responsible to millions of Americans, and because of the extraordinary influence of our culture, to hundreds of millions of people with disabilities throughout the world in this and future generations.

We are responsible to human beings who are forced to exist in conditions to which we would not subject our pet dogs and cats. We are responsible to potentially proud, productive people who are jobless, homeless, penniless and hopeless. We are responsible to hundreds of thousands who die years and decades before their time.

We have no excuse to sacrifice these responsibilities to self-indulgence and self-destructive hostility.

We have no excuse to fail. We cannot afford to fail.

Like the founders of our independence and our constitutional government, we must transcend politics, personality, turf and the corruption of power. We must join together in complementary unity with all who love justice to build on the firm foundation which you in the Congress and others in this room have laid. We must create a continuum of services, attitudes and environments which will enable all of our children's children in every nation to live lives of productivity, dignity and quality in the mainstream of society.

I will do anything—including, if necessary, playing another role—to cooperate with you and your colleagues in the Congress, with the administration, and with my colleagues in the disability community as we strive together to fulfill this sacred responsibility.

Thank you, Mr. Chairman.

Mr. WEICKER. Mr. President, I ask unanimous consent that a letter sent to the President of the United States by current and former Members of the Subcommittee on the Handicapped also be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. Senate, Committee on Labor and Human Resources,
Washington, DC, December 3, 1987.

Hon. RONALD REAGAN,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are distressed to learn that Justin Dart, a longtime champion of the rights of people with disabilities, has resigned as Commissioner of the Rehabilitation Services Administration. Mr. Dart's thoroughly distinguished record, achieved over many years as a private citizen and more recently as Commissioner, demonstrates his ability to push aside the barriers that confront people with disabilities, establish broad-based collegial relationships with advocacy groups and service providers, initiate and execute new policy in the delivery of services to people with disabilities, and retain the respect of even those who disagree with him.

His resignation is a loss to people with disabilities, their families, and those who provide services to them. As current and former members of the Subcommittee on the Handicapped, we have the highest respect for Mr. Dart and will be vigilant to assure that the programs that he has initiated and over which he had jurisdiction will not be impaired by his resignation.

Sincerely,

Lowell P. Weicker, Jr., Ranking Minority; Tom Harkin, Chairman; Thad Cochran, John F. Kerry, Robert T. Stafford, Howard M. Metzenbaum, Orrin G. Hatch, Brock Adams.

Mr. WEICKER. Mr. President, the formal part of my remarks is concluded, but I cannot leave the floor without observing that even now, having been rebuffed in the proper pursuit of his job, Justin is serving the disability community.

He met with me, persons from the National Council on the Handicapped, and various constituency groups in my office, along with Senator HARKIN, yesterday afternoon in order that we might present to this body a landmark piece of civil rights legislation on behalf of handicapped individuals.

This is a man who from his wheelchair has generated more in the way of support and ideas than those of us who stand on our feet and address the body.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3 P.M.

Mr. BYRD. Mr. President, efforts are going forward to put together the leadership amendment to the reconciliation bill and it is going to take some time. So there is no point in having the Senate, I do not believe, just stay in a quorum call.

I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

There being no objection, the Senate, at 1:14 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, it is my intention, before the day is out, to call up the reconciliation bill.

Work is going forward on developing the amendment which the leadership will offer. I just believe that we ought to get this bill up today, hopefully get the amendment printed in the RECORD, get some talk out of the way, if we can, and be ready then to take on the bill tomorrow, in the hopes that we can complete action on the bill. This is Wednesday, and we only have 3 days left after today, this week, including Saturday.

We have the CR, the continuing resolution, that is going to come behind the reconciliation bill.

Both matters have to go to conference. Both matters have to go back to both Houses following the conferences. Both matters have to go to the President.

The continuing resolution would have to be extended again if we do not by midnight next Tuesday, the 16th, pass a continuing resolution and have it become law.

So I think that Senators should stay around. It seems to me, as I say, that we ought to at least get started on the bill.

Mr. PRYOR. Mr. President, I wonder if the majority leader would be kind enough to yield.

Mr. BYRD. I am glad to yield.

Mr. PRYOR. Mr. President, most of us in the Senate right now are not involved in some of the negotiations going on, I understand, in several separate parts of the Capitol, relative to the reconciliation measure.

I wonder if the majority leader would be so kind as to sort of educate us, just for a moment, or shed some light on, one, what is going on and, two, what the general problems might be in bringing the legislation to the floor. The leader, I understand, has been involved in some of these meetings.

Mr. BYRD. I have been involved to the extent of trying to get all the parties together. The distinguished Republican leader and I have sat down in the office together today and with the so-called summiteers, the Senators we have both appointed to work with the President's representatives. We have had a meeting today. The staffs are working. There are a couple of areas which need to be ironed out, if we possibly can iron them out.

So Senators have met with representatives from the White House, OMB; staffs are continuing to meet; and I am optimistic that we will be able to iron out those problem areas.

I do not think, in the first place, I would serve any purpose by attempting to say what committee jurisdictions are involved here; and, in the second place, I am not one of those who is familiar enough with the details to, I think, adequately respond to the distinguished Senator's question. But I do think it incumbent upon me to get this process going on the floor as soon as we can do it in a reasonable way and let the Senate work its will, and get the bill to conference.

I apologize for the fact that I have given the Senator a nonanswer. That is what I have done.

THE SENATE SCHEDULE FOR 1988

Mr. PRYOR. Mr. President, before I sit down I should like to take just a moment to thank the majority leader for the schedule that the majority leader and I believe the minority leader announced yesterday for next year's legislative session.

This is going to be a dramatic departure, Mr. President, from what we have practiced in the past. It will be a system whereby, we work Monday through Friday, 5 days, no exceptions, 3 weeks on and then 1 week off, to be back home with our constituents. I believe, Mr. President, this is going to be a good system, and hopefully we can avoid these last-minute rushes that we have seen so many times around this body by extending that work week. I think it will add consistency to the scheduling and consistency to the legislative session.

I applaud the leader for forcing this change through. I think it is very constructive. As I have always said around here, if it does not work, we can try something else. But for 1988, that schedule has been announced, and, speaking as this Senator, I should like to state my gratitude and appreciation.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I will lay that schedule in the RECORD tomorrow.

I thank the Senator not only for his observations, but also for his contributions to this effort.

I think we should be willing to experiment with the schedule. I am not sure that the schedule we have laid out will avoid the last-minute problems that seem to attend our sine die efforts every year. But I do think that the proposed schedule gives Senators some predictability, to schedule their trips back to their constituencies or to catch up on committee work here or other work here.

I know that the Senator will do what he can to help me make this schedule work. It is going to take the combined efforts of all.

The distinguished Senator from Arkansas has put his finger on a problem area—that is, with respect to Mondays and Fridays.

By having 3 weeks in and 1 week out, as a general rule as best we can calendar it, my feeling is that I shall have to have cooperation of all Senators on both sides in getting our work done on Mondays and Fridays if we are going to make the schedule work and still get the people's business done. I know I will have that support from the Senator because he has been one of the leaders here in the effort to develop a schedule that assures quality of work along with some quality of family life around here. And I thank him.

Mr. EXON. Mr. President, will the majority leader yield?

Mr. BYRD. I am happy to yield.

Mr. EXON. I join in my thanks to the majority leader for the schedule change, and I think a great deal of the credit for putting some of the details together goes to my friend from Arkansas who just spoke. I hope it will improve the quality of life for all around here. I am not sure it is going to. I think it may improve the quality of life for most of us.

I suspect in the end it is going to complicate the quality of life for the leader because he is going to have less time then ever before to get things done.

So I suggest let us not be overly optimistic on what this is going to do to our work performances here. I think those are not going to be changed until we change some of the rules and each of us give up some of our individual perks or desires. Otherwise, I can only see that we are going to be meeting what we are meeting right now each and every month, as we go away for a week, and I think that is going to complicate the leader's schedule. I pledge myself as one Member to do whatever he thinks is necessary to make some changes in the rules which nobody in the U.S. Senate now or probably previously knows or understood better than the Senator from West Virginia, our majority leader.

RECONCILIATION

Mr. EXON. On that line, I have heard just now that we are going to delay this further. The majority leader still hopes to get into debate sometime today on a matter before us. I accept the answer to the question of the Senator from Arkansas that the Senator feels it is not good to go into in depth any further on what is holding up the matter now. Therefore, the best information I will get will be in the morning newspaper when I will read in the morning newspapers I think what the details of the holdup are now.

My question is, Since the package has not been put together and is not likely to be from what I understand during the waking hours of this day, what is it that we are going to bring forth and debate on when we are not sure what it is?

Mr. BYRD. I did not say we would have the amendment ready during the waking hours of this day. I expect we will. I intend to go out until about 4 o'clock.

Mr. EXON. The majority leader thinks there is a chance that the things will come together in the next few hours?

Mr. BYRD. Work is being done to that end. Staffs are working. The appropriate Senators have been in on discussions, and I do not think, at this point, that we will not know what the package is until we read the newspapers tomorrow. I feel that we are doing our best and that hopefully before too late today we will be able to offer an amendment to the reconciliation bill.

My inclination is to call up the Senate bill and offer a leadership amendment to it, let the Senate work its will on it, and then in the final juncture call up the House reconciliation bill, substitute the Senate reconciliation language as amended and go to conference.

Mr. EXON. Then if I understand, it is the leader's present intention at least subject to change to move things along. Yet I know that the leader recognizes that with this delay we are getting closer to Christmas and the time pressures are going to increase. It is not the leader's intention to bring forth the bill until there has been a finally agreed to compromise among those who we have sent to the summit?

Mr. BYRD. We hope to offer a leadership amendment. That means that we have to have Senator DOLE and the chairmen and ranking members of certain committees on board on this amendment. I can offer an amendment, but that is not a leadership amendment. It may be an amendment of the leader on this side of the aisle. But we have been talking in terms of having a leadership amendment that represents the work product of those Senators in whom we have placed our confidence on both sides of the aisle, the House Members on both sides of the aisle, and the President's representatives. That is the leadership amendment.

I hope that before the day is over we are able to call up that amendment, Senator DOLE and I jointly, and have it printed in the RECORD and perhaps get a couple hours' debate out of the way, or maybe we will not be able to have much debate today.

I can only say to the distinguished Senator that I am optimistic as I have been from the very beginning, and I believe that before long we can proceed as I have outlined.

On the other matter to which he addressed his remarks, he of course put his finger on the vagus nerve that has a lot to do with ulcers. I have been an old ulcer patient myself several years ago, when in the West Virginia Senate I suffered with an ulcer to the extent that I had to lie down in the committee meetings. I would lie on the couch in committee meetings. And I took Pro-Banthine, gelusil, and you name it, I took it for the ulcer. So, I know something about the vagus nerve, and how it affects ulcers.

But until Senators are able to put aside their own desires—that is, the vagus nerve—for the overall interest of the institution, there is no system around here that is ever going to work to the extent that we would like to see it work. There will always be problems—or parliamentary ulcers—and there will always be Senators who are going to put their own individual conveniences ahead of the conveniences of their colleagues and ahead of the conveniences of the Senate itself. It is just human nature, and that has not changed from the beginning, I guess.

So the Senator has touched upon that vagus nerve which has been a part of man's anatomy from the beginning and it will continue to be a part, and it is that little self-centered side of this quivering piece of humanity that puts itself in the forefront and creates problems. I do not think I have ever, in my 29 years in the Senate, said, "Well, if you don't set the vote at this hour, I will object." I have never done that. But there are Senators here who will do that.

I have set a vote on a matter as recently as last week and after the Senate agreed to the hour for the vote after which I got a note from a Senator saying, "The vote can't be made at this hour; count me against it." So, I had to change the vote to start it a half hour earlier.

I went back and undid the hour previously set, put the request anew, and changed it to suit one Senator.

I frankly would feel a little ashamed to take that attitude, but there are Senators here who feel that strongly from time to time. "If I cannot have my way, we just will not agree to a vote."

That is too bad. And there is no rule that will change it and there is no precedent that will change it. There is no commandment that can be handed down from on high that will change it. It is just plain human nature. And some of us never really grow up. That is about what it amounts to. Some of us are perhaps a little more grown up than others; all children.

That is not said to cast aspersions, but to reflect something that I, frankly, have had to deal with. And it is going to be around, I suppose, as long as the people who presently inherit the Earth wish to be Members of the Senate.

Mr. EXON. May I just comment, I knew that I hit a nerve with the leader when I said that, because I have seen him go through some very painful episodes. And most of us sympathize with him and know that he does an outstanding job of leading the Senate.

Mr. BYRD. The Senator from Nebraska has been very considerate of this leader's problems.

Mr. EXON. I would just like to suggest maybe one small way to do it. I always feel that if there is a bill or if there is an amendment that this Senator from Nebraska feels very strongly about or any of my colleagues, that I have the full right of introducing the bill or the amendment.

I think one place where we might be able to clean up our act a little bit is that if the Senator from Nebraska introduces something that the Senator from Nebraska, and the Senator from Nebraska only, is interested in, that one way to quell that kind of activity on the floor of the U.S. Senate would be not giving the Senator from Nebraska or any of my colleagues similarly situated enough seconds for a rollcall vote.

We have become routine in this place, I suggest to the Senator, of giving sufficient seconds, and most of the time there is not.

Now, I recognize that that delays the Senate and a quorum call probably could be forced to it. But the number of rollcall votes and the number of amendments that are forced to a rollcall vote I think is one of the problems that we have.

I am just making this suggestion that possibly we could begin to enforce the number of Senators present on a required vote to even get a rollcall. That might be helpful in speeding up things a little bit.

Mr. BYRD. Mr. President, this is a matter that will be a problem, has been a problem, always will be a problem. The Constitution says there will be a rollcall vote if one-fifth of the Senators present desire it. We cannot get away from it. It is there in the Constitution.

Ergo, if any Senator wants a rollcall vote around here, he will ultimately get it. If he does not get it at first, he will put in a quorum and he will not let us call off the quorum. So we have to have a live quorum or give him the yeas and nays.

So that is a problem, but it is not one that we will ever be able to resolve. Again, it is within the right of every Senator to ask for a rollcall vote. Once in a while I have seen Senators ask for a rollcall vote and, not getting the support of one-fifth of those present, not press it further.

But, most of the time, they will press on for a vote.

Mr. EXON. Let me inquire for the record, to try and speed things up, at the present time this Senator or any Senator can, by going to the majority leader or the minority leader on that side, put a hold on a bill. One Senator can do that, is that correct?

Mr. BYRD. He can put a hold on it, but this majority leader will recognize that hold only for so long a time. I will not say that, just because a Senator or several Senators put a hold on a bill, I will never call it up. Now, I might not ever call up a given bill, but holds on a bill will not, in and of themselves, necessarily deter me from attempting to call that bill up.

In many instances, Senators put holds on a bill, not to prevent its coming up, but to alert the respective party floor staffs, that they want to be notified before the bill is called up. They may have amendments. They may want to just be notified when it is coming up. So it is not always for the purpose of keeping a bill from coming up.

But holds do not necessarily keep this leader from calling up a bill. I do not know of an instance in which I have not called up a bill simply because there were holds on it. We generally know who has the hold on a bill, what is behind the hold.

Mr. EXON. I would just advise the majority leader, because he knows these things far, far better than I do, but I had an experience 2 or 3 years ago where a bill that I was interested in had a hold placed on it, and I could not find out who—it was from the other side—I could not find out who was placing the hold on it. I pressed and pressed and finally found out who had the hold. I went to that individual and said, "Why are you placing a hold on my bill? Is there something we could work out?"

And I was told very nicely, "I have no objection to your bill at all, Senator EXON, but another Senator who chairs a committee has a hold on one of my bills, and, therefore, I looked up and down the list to see what bills were under his jurisdiction and I found yours. And so I put a hold on the bill reported out of the committee."

I would simply say that maybe these things do not happen every day, but they do happen. And I just say that there are abuses—the one that I have just cited—on holds and at least some holds are put on promiscuously I do not know how many holds I have put on bills. I have asked from time to time to be notified when a matter comes up, but I do not know whether I have put a hold on a bill, per se. But I just say that there are these kinds of things that delay keeping things from coming up, sometimes at the legitimate inconvenience of Senators and other times not.

Mr. BYRD. Well, I thank the distinguished Senator. But we often find that Senators do not themselves put the holds on. Staff sometimes calls up and puts the hold on. And, as the Senator indicated, sometimes we find that a Senator is willing to lift his hold, only to learn that another Senator puts a hold on the bill. There are outside forces that often get into the act. They will contact Senators' offices and say, "How about putting a hold on such-and-such a bill?"

What can really keep a bill from being called up is if there are sufficient known votes against cloture, we pretty much know we are wasting our time.

I think the distinguished Senator from Montana has been most patient and I yield the floor. He has been waiting for recognition.

Mr. MELCHER addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Montana.

Mr. MELCHER. I thank the majority leader.

SUCCESSFUL SIGNING OF INF AGREEMENT MEANS BACK TO THE GRIM REALITY OF DOMESTIC PROBLEMS

Mr. MELCHER. Mr. President, as they signed the Intermediate Nuclear Forces [INF] Agreement this week, President Reagan and General Secretary Gorbachev successfully capped the difficult negotiations that led to this first step in United States-Soviet attempts to limit and reduce nuclear armaments. Each of these leaders has his own problems at home—President Reagan with Nicaragua, General Secretary Gorbachev with Afghanistan; President Reagan with the twin towering deficits of treasury and trade, General Secretary Gorbachev with floundering agricultural production and other difficulties with a state-run economy.

Each of the leaders will have to turn his attentions to solving domestic problems. Gorbachev is in the early stages of building his program of glasnost with the people of the Soviet Union; President Reagan is in the waning days of his administration. He needs help. Democrats in the Senate for the most part will help him with the INF Treaty, but we must also try to help him alleviate domestic problems. The problems are of some magnitude because the economy of the United States has been abused, neglected and misled.

Except for the bright spot of the nuclear arms limitation treaty, the Reagan administration finds, in these final countdown months of its tenure, that its poor policies—like chickens coming home to roost—are bogging them down in quagmires of their own making.

Take any of the bright spots the administration has touted as successes: The buildup of our defense capabilities or the declines in the rates of inflation, interest and unemployment. Can any of these be called Reagan administration successes?

True, we have better defense weapons. But the Pentagon, given its head in spending newly appropriated billions, has sunk so much in a multitude of weapons systems that it has had to shirk equal buildup in readiness. That means troop numbers, front-line equipment, munitions, and air transport are limited and those military personnel unfortunate enough to live abroad are clobbered with the declining dollar.

True, inflation came down, despite increased Federal spending. But inflation came down principally because prices for energy and food came down. And inflation can't stay down with our budget deficits so high.

True, interest rates came down for consumers under Federal Reserve Chairman Volcker. But interest rates for agriculture, energy, mining, and other basic industries were only tempered and still are significantly high, and that compounds our problems.

True, unemployment rates dropped as service-related jobs increased. But jobs in the basic industries evaporated as hard times closed down plants, businesses, farms, and communities.

I do not think these are successes when many of our young people wander from State to State seeking jobs that often last no longer than 6 weeks. Or they take a low-paying service job just to survive. Or when legions of older workers who used to have 40-hour-a-week jobs have run out of unemployment benefits and have been unable to find other jobs.

These people constitute merely the tip of the iceberg that chills our economy. Almost 14 percent of our families now live below the poverty level. That means many children are hungry and homeless, that many young people are watching their dreams of a college education evaporate and that many elderly are ending their lives with few comforts because health care costs are outstripping their income and savings.

Millions of people find themselves worse off than when Reagan started his pilgrimage pursuing supply-side economics, aided and abetted by his quest for the holy grail of business deregulation and foreign imports to build foreign investment to finance the ever-increasing fiscal deficits.

It is time we looked at the grim reality of our situation. Under the Reagan administration, this Nation has gone from being the greatest creditor nation to the greatest debtor nation in the history of the world. We were at our zenith in 1981, but within the past 5 years, we have gone from being a $140 billion creditor to a $264 billion debtor. Much of the money we owe in national debt is owed to foreigners. Even the most optimistic economists predict that we will owe foreigners more than $1 trillion as early as 1990.

This is no time for Democrats to crow, however, although we can't follow like sheep. The President does not make a good bellwether. But with the suffering of people, the need for emergency correction of the trade imbalance, the deepening of the public debt and the urgent need to lighten the heavy burden of interest on the debt makes for trying times that must be alleviated the best we can.

Political cooperation, that is constructive political cooperation, is not only necessary, but right, for the times. During the coming months, we can and should ameliorate some of the worst of the Reagan legacy. As Democrats, we can shape the changes that 1988 should bring. Democrats need not point fingers because the public already has fingered the hurts and shortcomings of policies failed and ailments that have not been remedied.

For the President, it is a time to cut his losses. For Congress, it is a time to help him. We would be foolish not to help him if he will let us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4:30 p.m. today.

There being no objection, the Senate, at 3:51 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from South Dakota, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 30 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 4:47 p.m., recessed until 5:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

Mr. CONRAD. The Chair, in his capacity as a Senator from North Dakota, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DORINA'S DREAM

Mr. HUMPHREY. Mr. President, in these days when Washington and apparently the country are swept away in "Gorby" fever, as it is put, perhaps it is well to read into the RECORD an editorial which appeared in today's Boston Herald entitled "Dorina's Dream."

The text of the editorial follows:

She is a 21-year-old Jewish woman, and she is alone. Dorina Paritsky, whose family has been struggling for 11 years to leave the U.S.S.R., was allowed to emigrate to Israel in October. Her family was not.

Dorina's dream is to win the release of her family, who want nothing more than the freedom to live as Jews in the world's only Jewish country. Dorina came to Boston to tell her story last week, then traveled to Washington on Dec. 6 with the Massachusetts delegation that took part in the immense demonstration held on behalf of Soviet Jewry.

She is shy, her English is broken, and she struggles for words to convey the anguish only a newly released refusenik with a still-imprisoned family can know. For all that, she expresses herself with an eloquence we cannot improve, and so we want her to tell her own story.

"My parents are refuseniks 11 years, since I was age 10. At first I could not imagine what this means, to be 'in refuse.' I could not understand.

"We are from Kharkov. A big city, but no tourists come there. No reporters. So how can the world know what it is like for Jews there? Soviet government does not allow synagogues or rabbis. They do not allow Jewish schools. But my father always said, 'You must be a Jew. You must learn Jewish history, Jewish religion. You must live in Israel.' Always he tells me and my sister we must live in Israel.

"My father, Aleksandr, is an ocean scientist. My mother, Paulina, is engineer of bridges. My sister Anna is 16. Soviet government says they cannot leave because they know 'state secrets.' They said I cannot leave because of 'state secrets.' Soviet Union has no logic.

"It was terrible when my father was arrested. I was 15½. He was in prison camp in Siberia. My mother went to Siberia to be near him, so my sister and I were alone. Once I visit my father, in 1982. I still have this picture in my mind: Black sky, black ground, black prison camp. Prisoners in black clothes. Many soldiers with dogs and guns.

"I didn't recognize my father. Thin, very thin. No hair. If he ate food, it would not stay in. He was so sick.

"Soviet government says only I can go, not my family. Just to be cruel. But my parents said, 'You must go. Only there can you help us.' So I am here.

"There must be publicity, much publicity. This gives us a great hope and a great joy. You cannot imagine what it is like for Soviet refuseniks to hear of this news, of people in America making demonstration for them. It is a beautiful thing."

Those are the words of a young woman, a Soviet refusenik who finally was permitted to emigrate but only herself, leaving behind her family. It helps put things in perspective, Mr. President.

We all hope that Mr. Gorbachev whose ways and words seem to be something new represents the beginning of something important but at the very best it is only a very, very small beginning, as the experience of this young woman and her family attest and, of course, that family is but one of tens of thousands in like circumstances.

So let us keep that in mind and let us be realistic about the nature of the Soviet system, its ethical basis—or unethical basis, if you will—the absence of the consent of the governed, which makes it so much different in its basis and in its operation from our own Government.

What disturbs this Senator about the goings on in this situation over the last several days, to be generous in the use of terms, is not that the Soviet leader and our leader have met. That is good and it ought to be institutionalized and ought to happen more often.

But what disturbs this Senator is the raising of the Soviet system which has no sound ethical basis to a level of equivalency with our own, the raising of the Soviet dictator, which is what he really is, to a level of equivalency to the elected President of the greatest democracy of the world. They are not equivalent, not in their ethical basis and not in their operations, as the experience of this young woman and her family so well attest.

So let us be objective and realistic about the Soviet Union and Mr. Gorbachev as we digest the events of these last few days and the agreement reached between our two countries.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Mr. BYRD. Mr. President, I ask that the Senate proceed to the consideration of Calendar Order No. 460, S. 1920.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1920) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, One Hundredth Congress),

The Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on this measure not start running tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, it will be our plan to offer the leadership amendment, ask for its printing, not call it up tonight. No time will run tonight. We will begin work on it tomorrow.

Mr. PACKWOOD. What time tomorrow, Mr. Leader?

Mr. BYRD. Mr. President, in response to the question by the distinguished Senator from Oregon, Mr. PACKWOOD, I shall seek to come in shortly before 9 o'clock so that the Senate can begin on the reconciliation measure at 9 o'clock. The amendment, then, would be called up and then, at the end of the 2 hours on the amendment, it being a first-degree amendment, I anticipate that a rollcall vote will in all likelihood occur.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if the distinguished majority leader would just engage in a very brief conversation with the Senator from New Mexico. As I understand the distinguished Senator from Florida, the chairman of the Budget Committee, he will shortly send to the desk the so-called leadership amendment, as you have identified it, but we will not offer it tonight nor will we call it up tonight. Our idea is that we will send it to the desk. It is a very big amendment and many times we are asked what is in it and we are taking this opportunity to have it printed so everyone will have the opportunity to have it in the printed form when we start on it tomorrow.

Is that the idea of the Senator from Florida?

Mr. CHILES. I think that is correct. We are also going to try to get a summary printed as well.

Mr. BYRD. Might we get consent that when it is offered in the morning, that consent be given to dispense with the reading of the amendment?

Mr. DOMENICI. I am informed by our side that there are those who want no unanimous consent agreements with reference to the reconciliation package or any amendments. But, Mr. Leader, I think we can get that kind of agreement tomorrow. They just need a little time.

Mr. BYRD. That is fair enough. Fine. We will honor that request.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 9 A.M. AND FOR CONSIDERATION OF THE RECONCILIATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business of the day it stand in recess until the hour of 9 o'clock tomorrow morning and that immediately upon the completion of the prayer of the Chaplain of the Senate resume consideration of the pending Senate bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business and that Senators may speak during that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEPARTURE OF RAY ANDERSON BARNHART AS ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION

Mr. THURMOND. Mr. President, on December 31, 1987, Ray A. Barnhart, the 10th Administrator of the Federal Highway Administration [FHWA], will leave his post as Administrator. Although his colleagues and friends will sorely miss him, I am confident that the fine leadership he has displayed as Administrator will be remembered and revered in the years ahead.

Mr. Barnhart is a native of Elgin, IL. He received his undergraduate degree in fine arts from Marietta College in Marietta, OH, and his masters degree from the University of Houston in Houston, TX. Mr. Barnhart has resided in Texas for most of the last 30 years.

Prior to coming to Washington, Ray Barnhart served as city councilman, State legislator and chairman of the Texas Republican Party, where he played an important role in the election of Bill Clements, the first Republican Governor in Texas in more than 100 years. In 1979, he was appointed to serve as one of the three members of the Texas Highway Commission. It was during his tenure as Texas Highway Commissioner that Mr. Barnhart gained the reputation as a capable and dedicated highway administrator.

In January 1981, President Reagan appointed Ray Barnhart as the Administrator of the Federal Highway Administration. Mr. Barnhart has proved himself to be an extraordinary Administrator during his 7-year tenure, the longest of any previous Administrator.

Utilizing his strong leadership abilities, Mr. Barnhart played a key role in the passage of the Surface Transportation Assistance Act of 1982 which raised much-needed gasoline tax revenues for the first time in nearly 23 years. The 5-cent increase in the gasoline tax helped fund needed improvements to the Nation's highway and bridge programs.

Other major accomplishments of Mr. Barnhart include cracking down on organized crime in the highway construction business, establishing 42 technology transfer centers at colleges and universities to improve the work product of local highway employees, and initiating the Strategic Highway Research Program.

Ray Barnhart is a true patriot and a man of action. He has served his Government to the fullest, giving not only his time and talents as an Administrator, but also giving the future leadership of FHWA a solid foundation upon which to build.

I am pleased to publicly commend Ray A. Barnhart for his outstanding leadership and accomplishments as Federal Highway Administrator, and I wish him well in his future endeavors.

THE DEATH OF FORMER CONGRESSMAN EUGENE SILER

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a good friend of mine, former Congressman Eugene Siler, Sr. Mr. Siler was a unique individual who, in his service to Kentucky, developed a reputation as a man of unquestioned integrity and unparalleled dedication to public service.

Before serving as a Representative in Kentucky's old Eighth Congressional District from 1954-64, he served on the Kentucky Court of Appeals, which at that time was the highest court in the State.

After receiving his undergraduate and law degrees from the University of Kentucky, he practiced in an unconventional manner—he refused to take cases that involved alcohol or divorce. This reflected his staunch Baptist upbringing in southeastern Kentucky that led him to be the moderator of the General Association of Baptists in Kentucky, the highest honor that the denomination bestows upon laymen. That background motivated him to add Biblical quotations to his speeches and to oppose the use of profanity and cigarettes. He even tithed his salary to his church and charities.

Although Mr. Siler served in the Navy during World War I and as an Army captain in World War II, he was an early opponent of American involvement in Vietnam and was one of three Members of Congress to oppose President Eisenhower's "fight if necessary" policy for the defense of Formosa. Such independent thinking was also demonstrated when, even though a fiscal conservative, he would moderate his views on Federal spending because of the economic problems that faced his district.

Another friend of mine, Nelda Barton, a vice chairman of the Republican National Committee, said Mr. Siler "* * * was one of the most genuine, patriotic, and spriritual individuals I've ever known." I share Ms. Barton's sentiments and join with many of my fellow Kentuckians in grieving in the passing of this extraordinary individual.

Mr. President, I would like to enter into the RECORD an editorial from today's Lexington (KY) Herald-Leader that is indicative of how highly this fine man was thought of by his fellow citizens. We can all be inspired by its account of Eugene Siler's distinguished career.

> ### EUGENE SILER SR., POLITICAL ORIGINAL
>
> Eugene Siler Sr. followed in nobody's footsteps through life. The trail he chose to blaze was straight and narrow.
>
> Siler, who died Saturday, was the original "Clean Gene" of politics. He hewed to the tenets of an honorable upbringing and the Baptist Church, to which he was steadfastly devoted.
>
> During his 10 years as a Kentucky congressman, there was never a whisper of wrongdoing. In his political career, as in his life, Siler consistently followed the dictates of his conscience.
>
> He was against fellow Republican Dwight Eisenhower's policy of "fight if necessary" to defend Formosa. In 1964, he said—as a way of making a point—that he was a candidate for president. His sole promise was that if elected, he would immediately order American troops home from Vietnam, and then turn the office over to the vice president.
>
> "I promised the mothers of my district that I would cast no vote calculated to send their sons to foreign lands to fight another war in which we have no business as I see it," he said at one point. "I have kept faith with those mothers."
>
> Straight talk by a man who himself had served in two wars—as a Navy enlisted man in World I and as an Army captain in World War II.
>
> The Williamsburg resident was ahead of many people in the matter of education. As an unsuccessful Republican candidate for governor in 1951, his platform said: "If Kentucky does not make progress in public education, it will, of course, be nothing but a lost marble in the rank crabgrass of backwardness." Time has proved him right, much to the state's sorrow and disgrace.
>
> Siler was unbending on his personal rules. He did not, for instance, take cases in his Williamsburg law practice that involved alcohol or divorce. He was, obviously staunchly against alcohol, and he was also against the use of tobacco and profanity. He made no secret about where he stood on matters and no excuses for standing there.
>
> Looking at some of today's political practices, it seems almost unreal that such a man could have held office. But his record stands, and it will for years to come.

THE LITERACY CORPS IS CATCHING ON

Mr. KENNEDY. Mr. President, earlier this year, I introduced a bill to establish a National Literacy Corps. Under this legislation, S. 1016, Federal assistance would be available over 2 years for grants to colleges to establish academic courses encouraging students to tutor in community agencies. This program is worthwhile because it can stimulate a larger increase in literacy tutoring for a Federal investment which is a fraction of the value of the services. It also provides a meaningful opportunity for young people to serve their community and country in a way that is practical, given the competing demands of academics, jobs, and other activities.

S. 1016 is now pending in conference with the House as part of H.R. 3, the omnibus trade legislation, with an authorization of $20 million over 2 years.

In the meantime, several colleges in Massachusetts have established literacy corps programs on their campuses with the help of corporate support obtained by the programs' creator, Norman Manasa, and the Washington education project. The program is also continuing its operations in New York City, where it began a year ago. Evaluations from all programs are very enthusiastic. It is obvious that the idea is catching on. It has great potential, and I am hopeful that our legislation will move forward quickly.

I ask unanimous consent that the text of the Senate-passed authorizing language and a series of recent articles on the program may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE X—LITERACY ASSISTANCE

PART A—LITERACY CORPS ASSISTANCE

SHORT TITLE

SEC. 1001. This part may be cited as the "Literacy Corps Assistance Act of 1987".

PURPOSE

SEC. 1002. It is the purpose of this part to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

LITERACY CORPS PROGRAM

SEC. 1003. From the amount appropriated pursuant to section 1007 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this part, to make grants to institutions of higher education for not to exceed 2 years to carry out literacy corps programs.

USES OF FUNDS

SEC. 1004. (a) IN GENERAL.—Funds made available under this part may be used for—

(1) grants to institutions of higher education for—

(A) the costs of participation of institutions of higher education in the literacy corps program for which assistance is sought; and

(B) stipends for student coordinators engaged in the literacy corps program for which assistance is sought; and

(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 1006.

(b) LIMITATIONS.—(1) No grant under this part to an institution of higher education may exceed $50,000.

(2) No institution of higher education may expend more than $25,000 of a grant made under this part in the first year in which the institution receives such a grant.

APPLICATIONS

SEC. 1005. (a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this part, shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each such application shall—

(1) contain assurances that the institution will use the grant in accordance with section 1004;

(2) contain adequate assurances that—

(A) the institution has established one or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors,

(B) such individuals will be required, as a condition of receiving credit in such course, to perform not less than six hours of voluntary, uncompensated service each week of the academic term in a public community agency as a tutor in such agency's educational or literacy program; and

(C) such tutoring service will be furnished under the supervision of qualified personnel; and

(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this part, in community service activities, including—

(A) the use of a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for work study for community service learning under section 433(b)(2)(A); or

(B) the conduct of a cooperative education program; and

(4) contain such other assurances as the Secretary may reasonably require.

(c) WAIVER.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of clause (3) of subsection (b), grant a waiver of the requirement under such clause if the institution of higher education provides assurances that—

(1)(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

(B) its failure to engage in community service related programs or activities prior to making application under this part will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this part; and

(2) the institution will use a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for community service learning programs pursuant to section 443(b)(2)(A) of that Act if the institution receives an allotment under such part C.

An institution of higher education may apply for a waiver as part of the application described in subsection (b).

TECHNICAL ASSISTANCE AND COORDINATION CONTRACT

SEC. 1006. To the extent that funds are available therefor pursuant to section 1007, the Secretary may, directly or by way of grant, contract, or other arrangement—

(1) provide technical assistance to grant recipients under this part;

(2) collect and disseminate information with respect to programs assisted under this part; and

(3) evaluate such programs and issue reports on the results of such evaluations.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1007. There are authorized to be appropriated to carry out the provisions of this part $10,000,000 for fiscal year 1988, and $10,000,000 for any fiscal year thereafter, subject to section 1051, except that no funds are authorized to be appropriated for this part for more than 2 fiscal years.

DEFINITIONS

SEC. 1008. For the purpose of this part—

(1) the term "public community agency" means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving the handicapped, including disabled veterans.

(2) the term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

(3) the term "Secretary" means the Secretary of Education.

[From the Boston Globe, Apr. 23, 1987]

BILL WOULD SLATE $27.5 FOR LITERACY PROJECT

(By John Robinson)

WASHINGTON.—A pilot literacy project slated to begin in Boston and New York next fall received a boost in Congress yesterday with the introduction of a bill to make the project national with $27.5 million in federal start-up money.

Declaring that "illiteracy is a national disgrace," Sen. Edward M. Kennedy staged a hearing on the subject, and took testimony from former Chief Justice Warren Burger and Norman Manasa, director of the Washington Education Project Inc.

Burger, now chairman of the Bicentennial Commission, linked literacy to democracy and lamented that a larger percentage of citizens could read, write, and digest the Constitution in 1787 than can do so today.

"It is imperative in a democratic society that there be no substantial number of people who are not literate," Burger said.

Manasa, whose interest in literacy began in 1969 when he devised a tutorial program using undergraduates from his school, the University of Miami, urged a tutorial program "on a massive scale".

"The nation is moving with considerable speed into the 'technological age', into a new era where robots and computers will do most of the work that traditionally has been done by the human hand, with the result that vast numbers of semiliterate workers will not be simply unemployed, they will be unemployable, and for a lifetime," Manasa predicted.

"Literacy is no longer a corporate good. It's now essential to corporate profitability," he added.

Under the bill introduced by Kennedy and patterned after the privately-endowed projects run by Manasa's organization, Congress would fund a Literacy Corps for two years.

An estimated 1,000 colleges would be offered grants to establish a 3-credit course under faculty supervision featuring off-campus tutoring by students at elementary schools, prisons and community centers.

Manasa said the object of the literacy project was to provide "realistic education for college students," and to aid those who cannot read effectively.

Seven colleges in Boston, four in New York, and one in Los Angeles have expressed interest in Manasa's project, he said, and three of the colleges in Boston appear ready to commit themselves to starting the project next fall.

The seven Boston schools that have expressed interest are Northeastern, Framing-ham State, Bunker Hill Community, Endicott, Boston College, Leslie and Clark.

[From the Las Vegas Review-Journal, May 29, 1987]

PROGRAM WOULD HELP EASE LITERACY CRISIS

Reading and writing are not only as old as civilization itself; the arts of reading and writing are indeed part of what defines civilization.

Indeed, wherever civilization arose in the ancient world, there too arose the art of reading and writing. Written records have been discovered in northern Babylonia that date back more than 5,000 years.

Today, as civilization crests in an age of global communications and startling advances in mankind's knowledge about himself and the world, there are few activities that do not require some level of literacy. Think of the difficulty one would have shopping or driving, much less attempting to understand the significance of, say, events in the Middle East if one were barred, through illiteracy, from the written word.

Illiteracy in the underdeveloped world is to be lamented. But widespread illiteracy in the heartland of a superpower is inexcusable.

And yet, consider this excerpt from a report from the U.S. Senate Labor and Human Resources Committee:

"According to one estimate, 23 million (American) citizens over the age of 18 cannot read the poison warning on a can of pesticide or a package of cigarettes, the headlines of a daily newspaper or a letter from their child's teacher.

"An additional 35 million are semi-literate, reading so poorly that they barely function at a survival level. That makes 58 million adults, roughly a third of the nation's population over 18, whom our system of education has failed in their adolescent years and who are functionally illiterate today."

The Senate report also cites this disturbing fact: The United States, the most powerful and the freest nation the world has ever known, now ranks 49th in literacy among the 159 countries of the world.

Not only does illiteracy cost this country billions of dollars every year in lost productivity, welfare and unemployment payments, industrial accidents and stymied lives of drugs and crime, it also represents a threat to the very constitutional system that is the foundation of this free nation. People ignorant of the system that allows freedom to flourish cannot be relied upon to recognize threats to it or to defend it, much less to help it blossom in any significant way.

We are not often in agreement with Sen. Ted Kennedy, the liberal Massachusetts Democrat. But Kennedy has devised a worthy plan to address the grave problem of illiteracy in the United States.

The Kennedy plan is a variation of the Peace Corps idea, brainchild of Kennedy's older brother.

What Kennedy proposes is a Literacy Corps, a program that will enable college students to volunteer for a few hours a week as assistant teachers for students in nearby public schools or other community institutions in exchange for college credit. The Kennedy proposal—the Literacy Corps Assistance Act—would provide start-up grants to colleges to establish special academic courses in which students tutor the illiterate in reading, writing and mathematics.

The students would tutor in such places as schools, Head Start centers, juvenile delinquent centers, prisons, adult literacy centers and in agencies for the handicapped and emotionally disturbed.

The Kennedy proposal carries a start-up price tag of $27 million—a modest amount, given the magnitude of the problem. Our people in Washington should support the Literacy Corps.

The United States must rise to this challenge presented by the crisis in literacy. Otherwise, it had better be willing to accept a long, slow decline, slouching toward third-rate nationhood.

[From the New York Times, July 2, 1987]

AMERICA NEEDS A LITERACY CORPS

(By Warren E. Burger and Edward M. Kennedy)

WASHINGTON.—America prides itself on being an "advanced" nation, but its level of illiteracy mocks the term. At international gatherings, President Reagan, in common with most 20th century American Presidents, represents the country with the poorest literacy record of all the industrialized nations.

The answer is at hand. Congress is considering a new strategy in the battle against illiteracy—a Literacy Corps, in which college students would work part-time as tutors in schools and community agencies as part of a special college course.

Vast numbers of citizens lack basic reading skills. According to the best available estimate, 29 million adults—one in every six people over 18 years of age—cannot read the warning on a can of pesticide and a pack of cigarettes, a newspaper headline, a letter from their child's teacher and baseball box scores.

As President Reagan has said, "The hidden problem of adult illiteracy holds back too many of our citizens, and as a nation, we, too, pay a price." He is absolutely right. And the price will go higher. Illiteracy costs the nation heavily in reduced international competitiveness, increased poverty, higher welfare and unemployment benefits, lesser skills in the armed forces, industrial accidents, lost productivity and dead-end lives of crime and drugs.

It is also an insidious threat to our constitutional democracy, as larger and larger numbers of citizens find themselves unable to participate in the system and may become susceptible to demagoguery.

America has never addressed this problem effectively. The Government spends only a relatively small amount—$106 million this year—to fight illiteracy, and the assistance reaches only about 4 percent of those who need help.

The National Advisory Council on Adult Education estimates that we would need to spend 50 times as much—$5 billion—to make a significant impact on the problem through traditional funding programs.

New spending of that magnitude is out of the question because of the Federal deficit. The challenge is to do more without spending more. That is a tall order, but not impossible. This is where a Literacy Corps comes in.

Successful projects at two colleges suggest that such a corps is an idea waiting to happen. The first was developed in 1969 at the University of Miami by Norman Manasa, who was a student there and who now heads the Washington Education Project in the District of Columbia. In 1986, he encouraged St. John's University in Queens, N.Y., to establish a similar program.

It began last January with 12 students and has been well received in schools in Flushing, N.Y. Jeffrey Ratner, principal of Edward Hart elementary School wrote in April: "The benefit of this kind of individualized help is enormous . . . dramatic improvement has been shown by many youngsters in the program."

The St. John's students at his school volunteered to continue their tutoring for more than a month past the end of their college year. Other St. John's students have been tutoring in country family court, a homeless shelter and a class for hyperactive children at a local parochial school.

The results of these pilot efforts almost two decades apart are so compelling that the time has come for a national effort.

Legislation pending in Congress would provide $20 million to launch Literacy Corps projects at hundreds of colleges and universities. It would provide start-up grants of $25,000 per institution to cover initial costs, mainly faculty salaries.

Participating student teachers would enroll in semester-long elective courses at their colleges comparable to those in clinical legal education at law schools. They would be instructed in relevant disciplines and assigned as tutors in schools and other locations, as well as Head Start centers, institutions for the disabled, adult education programs, jails and other facilities.

In a typical semester, each student would provide 60 hours of tutoring. If 800 of our 3,300 colleges participated, it is likely that about 130,000 under-graduates would enroll in the courses and generate nearly eight million hours of tutoring over a two-year period. Valued at $20 an hour, this instruction would be worth $160 million in tutorial services, an eightfold return on the Federal investment.

A Literacy Corps might be the closest thing to a free lunch that Congress will ever see. It could be as free as voting—and it would give us better voters and citizens.

No one should underestimate the benefits that will accrue to people who are taught to read, who will become employable in an increasingly technological economy, who will be able to take care of themselves and their families and contribute to the nation's future economic strength.

In addition to reversing the trend toward illiteracy, a Literacy Corps would harness the idealism, enthusiasm and social commitment of young Americans.

A Literacy Corps is not only affordable but has the potential for the 1980's that President John F. Kennedy's Peace Corps had in the 1960's.

As we both have observed on college campuses in the recent graduation season, young Americans in this supposedly "me" generation are as ready, willing and eager to respond to the challenge of serving the community as their parents were a generation ago. But someone has to ask—and point the way. Colleges and universities can do so—by adopting a Literacy Corps-type program as part of their curriculums.

[From the New York Times, July 21, 1987]

KENNEDY PROCLAIMS BIRTH OF "LITERACY CORPS"

BOSTON.—College students in Boston will teach children and adults to read as part of a privately financed program announced today by Senator Edward M. Kennedy, who called it the beginning of a "national literacy corps."

Mr. Kennedy has sponsored legislation to underwrite similar tutoring programs at 1,000 colleges and universities. Evoking memories of his brother, John F. Kennedy, the Massachusetts Senator said at a news conference today that he envisioned the tutoring programs as a "modern-day Peace Corps."

President Kennedy founded the Peace Corps in 1961 when he called on America's young people to teach such basic skills as construction and farming in developing countries.

A Washington-based nonprofit group, the Washington Education Project, will administer the Boston tutoring program, which will be financed by private contributions.

PLANS FOR TUTORING COURSES

Grants to colleges to cover administrative costs will enable them to offer students elective courses in tutoring. College students who choose to enroll in tutoring courses will give private reading lessons in prisons, schools, adult literacy centers and agencies for handicapped and emotionally disturbed children.

Each participating college will receive a $25,000 grant over two years to cover the administrative costs of the program and to pay the salaries of faculty and student supervisors.

The Bank of Boston announced today that it was donating five $5,000 grants to the Washington Education Project to help finance tutoring programs at five Boston-area colleges. The bank said it hoped other businesses and groups would also provide grants. To date, only Stonehill College and Endicott College have signed contracts agreeing to begin the literacy program in the fall, but Boston College, Bunker Hill Community College and Wheaton College are likely to join the program by the fall, said Norman Manasa, the director of the project.

Students who sign up for the semester-long courses in tutoring will spend a minimum of 60 hours teaching reading skills to illiterate adults and children.

"If a thousand colleges participate, 165,000 students would join the literacy corps and 10 million hours of tutoring would be generated over two years," Mr. Kennedy said in a statement at a Senate Committee hearing. "Valued at $20 an hour, the $27.5 million Federal investment in the program would generate $200 million worth of tutoring services, over a sevenfold return."

Mr. Manasa said his group was raising money so it could offer grants to any school in the country that wanted to set up a tutoring course. Last year, the organization awarded its first grant to St. John's University in Queens, where the tutoring program was offered in the spring term. Twelve student enrolled.

Jeffrey Ratner, principle of P.S. 21 in Flushing, Queens, which was host to a St. John's tutor, called the arrangement "ideal." Mr. Kennedy said 23 million Americans could not read headlines or warnings on cigarette packages and 35 million others could barely function. He added that Federal, state, and local programs now reached only 4 percent of the illiterate population.

"The American populace is less literate today than it was 200 years ago when we ratified the Constitution," he Kennedy said.

[From the Los Angeles Herald Examiner, July 26, 1987]

SHARING THE GIFT OF LITERACY

If Congress agrees, as it should, to establish Sen. Ted Kennedy's national "Literacy Corps" to teach millions of illiterate Americans to read, Norman Manasa deserves the credit. Everything but the name is his idea.

When Manasa was a junior at the University of Miami in 1968, he saw two converging needs. In inner-city schools, migrant camps, orphanages, prisons there were people needing individual attention to improve their academic skills. At the university were students that Manasa figured could use a dose of the real world to flesh out the abstractions they were learning in the classroom.

So he put together a unique program that gave college students in sociology, economics and educational psychology credit for tutoring. The project was an immediate and stunning success. Ultimately, more than 1,000 students participated.

Manasa's approach is even more important now than then. Basic educational skills, particularly reading, are essential to get a job in an increasingly technological society.

For the past 10 years, at the helm of the non-profit Washington Education Project, he has worked to expand his innovative tutoring concept to every college campus in the nation. Progress has been slow, but more colleges are coming on board.

Corporate donations provide two-year, $25,000 grants for administrative costs to each college involved in the program. Tutors, who receive course credit but no pay, spend 60 hours a semester teaching children and illiterate adults how to read.

If even 5 percent of the nation's 10 million college students were to join in a literacy program, they would provide 30 million hours of free tutoring each semester.

Although Manasa is having somewhat better luck these days in attracting corporate support, Kennedy's legislation would provide $20 million for grants, enough to get the Literacy Corps started at 800 colleges. Unfortunately, his proposal is attached to an untenable Senate trade bill. It ought to be reintroduced so it can be passed on its own merits.

[From the Los Angeles Times, July 27, 1987]

AN ATTACK ON ILLITERACY

It has been more than 20 years since we were told why Johnny can't read. Despite the ensuing years of classroom emphasis on reading skills, the U.S. Department of Education now estimates that national illiteracy increases by 1.5 million people each year. For these Americans, the reason why they cannot read no longer matters.

The ability to read and write—sometimes as little as one's own name—has traditionally determined whether or not a person is literate. But the world has changed. Warning labels, sales contracts and even the occasional traffic ticket demand an ability not only to read but also to understand and appropriately respond. For millions of Americans this task is impossible. Unable to function independently in today's complex society, they are considered to be "functionally" illiterate.

The number of functionally illiterate adults in the United States is not really known. Estimates vary from 17 million to 75 million, depending on the breadth of the definition. What is known is that more than 50% of the nation's prison inmates are not able to read newspaper headlines or understand written instructions. And last year 40% of the armed services' enlistees were found to read below the ninth-grade level.

The cost of illiteracy is as impossible to estimate as the problem itself, but it is enormous. While some people succeed despite a lifetime struggle with reading disabilities, most do not. Experts say that illiteracy is responsible for many industrial accidents, higher welfare and unemployment benefits, increased poverty, crime and drug use and loses in international trade.

Sen. Edward M. Kennedy (D-Mass.) has introduced legislation that would be a promising and inexpensive solution to the illiteracy problem. He calls it the Literacy Corps. The program would utilize one of the nation's best resources, the university student. For a one-time cost of $20 million, about 800 universities and colleges across the nation would be able to start programs in which their students, under professional supervision, would each provide 60 hours of reading instruction at local schools, adult-education programs, community groups and prisons. In return for their work, the students would receive college credit for the elective program.

This is an innovative and cost-effective project that deserves congressional support. The Literacy Corps, along with other literacy programs, makes up the Senate's Education for Competitive America Act (S. 406). Unfortunately, this measure has now been attached to the Senate's controversial trade bill. As currently written, this protectionist trade bill has little chance of surviving a presidential veto.

The Senate should reconsider the Education for Competitive America Act on its own. This is an appropriate vehicle for congressional action on the nation's escalating illiteracy problem. The Literacy Corps would offer to thousands, perhaps millions, of non-readers an opportunity to participate in today's world at today's standard. The rewards would be great, the cost so low.

[From the Boston Globe, Nov. 17, 1987]

KENNEDY'S "LITERACY CORPS" IDEA ADVANCES

WASHINGTON CONFEREES OK TUTORIAL PROGRAM

(By Mary Kate Cranston)

WASHINGTON.—House and Senate conferees have agreed on a national program to fight illiteracy that would encourage college students to tutor adults and children in exchange for academic credit.

The measure, part of a trade bill under negotiation, would set aside $20 million to be spent over two years as start-up grants for hundreds of colleges and universities.

A public announcement about the program is expected later this month. Committee staff confirmed details of the effort.

Sen. Edward Kennedy, chief sponsor of the project, which he calls a "literacy corps," said in a statement the project would generate 10 million hours of tutoring in reading and mathematics.

"A problem as enormous as this has tremendous costs to the nation in terms of public welfare expenditures, unemployment benefits, crime and even prison maintenance," the Massachusetts Democrat said. "And it also has large human costs in terms of blighted lives."

Kennedy said he is enthusiastic about the program because not only would it teach people how to read, but it would also involve students in public service.

However, an Education Department official said that while the department is not opposed to the proposal, it is concerned that students may not be mature enough to commit themselves to a long-term program and may consider the course as an easy way to earn college credits.

Twenty-three million Americans are too poorly educated to read the poison warning on a can of pesticide, a letter from their child's teacher, newspaper headlines or the first amendment of the US Constitution, according to Kennedy's office.

Under the program, modeled after privately-endowed projects run by Norman Manasa, director of the Washington Education Project, students would be required to tutor six hours each week of a typical 10-week semester, check in with a teacher on a daily basis and submit a final report to the faculty supervisor at the end of the semester.

Manasa said the three-credit course only permits undergraduates to work in established community agencies that have instructional programs in place.

"Nobody has the right to make grand promises to people trying to learn how to become more learned and then disappear," Manasa said in an interview. "That is harmful and dangerous and not what our program is about."

In Boston, Bunker Hill Community College, Endicott College, Boston College and Stonehill College started the program this fall, along with St. John's University in New York City.

("A problem as enormous as this has tremendous costs to the nation in terms of public welfare expenditures, unemployment benefits, crime and even prison maintenance."—Sen. Edward Kennedy.)

[From the Harvard Crimson, Nov. 18, 1987]

BILL FOSTERS TEACHING ILLITERATES

(By Jonathan S. Cohn)

In an attempt to foster literacy programs nationwide, Sen. Edward M. Kennedy '54 has sponsored a bill in Congress to give students college credit for participating in community tutoring programs.

The bill would provide $20 million to help about 800 public and private institutions around the nation establish student-taught literacy courses.

Though the legislation is still in committee, House and Senate members are "very close" to agreement, Paul M. Donovan, press secretary for the Senate Labor and Human Resources Committee, said yesterday.

Students participating in the program would take a 10-week elective course which includes spending about six hours a week tutoring reading and/or math throughout the semester, Donovan said.

Harvard has several existing literacy programs into which the proposed program could be incorporated, said Professor of Education Jeanne S. Chall, chairman of the Advisory Committee on the Harvard Illiteracy Initiative.

"As long as you have sufficient training and proper supervision, I think it is a very good idea for those who are helped and those who help. It could be made part of [our programs], although ours are more broad-based," Chall said.

But the proposed program is not without its pitfalls, Harvard literacy experts say. "Teaching the illiterate is not an amateurish thing," Chall said, adding, "Tutors have to be taught and taught well."

The program could probably have only limited use, said John Strucker '66, a reading teacher at the Community Learning Center. Strucker said most illiterate people would benefit more from professional teaching than from the good will of and that the time allotted was not sufficient to teach literacy.

But other educators said that they thought the program would work.

The Washington Education Project, a private, non-profit organization on which Kennedy based his program is proof of the bill's feasibility, said Norman Manasa, who created the program. "I think the evidence shows that undergraduates are superior tutors, provided they work under a teaching professional, as they would in this project," he said.

At a recent meeting of the Senate Labor and Human Resources committee, Kennedy said he introduced the bill because "young Americans in this generation are ready, willing and eager to respond to the challenge of public service."

While several area colleges—including Boston College, Bunker Hill Community College, Endicott College and Stonehill College—already offer students credit for literacy tutoring, Harvard does not.

Paul C. Thissen '89, acting co-chairman of PBHA's Project Literacy, said that the bill would at least increase support for the PBHA volunteer program. Thissen said, "It would certainly raise the level of awareness and could lead us to some new programs."

[From the Christian Science Monitor, Nov. 23, 1987]

LITERACY PROGRAM TAPS COLLEGE STUDENTS AS TUTORS

(By Catherine Foster)

BOSTON.—Norman Manasa has kept a dream alive since he was an undergraduate in 1968. And it's just now starting to come true.

The dream? "To transfer economic power to the illiterate poor." The way to do that, he figured, was to give them something that no one could ever take away: the ability to read, write, and do math. Who could give it to them? College students, who had not only the skills but also the untapped desire to share.

So he developed a program in which undergrads would tutor children and adults—and get college credit.

Now, almost 20 years later, the idea is starting to come to fruition. His tutoring program is on six campuses and receiving high-level corporate funding. And if legislation sponsored by Sen. Edward M. Kennedy (D) of Massachusetts passes, the program could be federally underwritten on a much larger scale.

If only a small percentage of the nation's undergraduates spent six hours a week tutoring, Mr. Manasa says, a wave of tutors could be released. That, he says, could start making a dent in the huge number of Americans who are illiterate.

In September, Stonehill College, Endicott College, Boston College, and Bunker Hill Community College, all in the Boston area, offered a tutoring course as a elective. St. John's University in Queens, N.Y., was the first, last year, and, has since expanded the program to another campus.

The United States Department of Education estimates that 27 million adult Americans are "functionally illiterate"—can't read printed instructions, newspapers, bus schedules, etc.

The hidden costs of illiteracy are extraordinarily high, according to Jonathan Kozol, who wrote "Illiterate America": more than $120 billion a year for such things as industrial accidents and welfare payments, and more than $100 billion in lower gross national product. Other, higher, calculations add in the cost of crime and poverty.

And with the US moving into an increasingly technological era, those who can't read might be more than unemployed; they might be unemployable. Manasa's Literacy Corps joins a host of state and private literacy programs run by churches and community groups. PBS and ABC have run literacy campaigns. And there's a movement afoot to get newspapers to start their own.

Manasa started working on the tutoring for-credit idea as a student at the University of Miami. Over a period of four years, 1,000 undergraduates who signed up got three credits for tutoring in prisons, inner-city schools, and Head Start centers. They also met in weekly seminars with supervising professors.

He came to Washington 10 years ago to generate interest in the project on a national scale and formed a nonprofit corporation, the Washington Education Project. Then-Chief Justice Warren E. Burger, Manasa's former boss, got interested. While he was chairman of the Commission on the Bicentennial of the Constitution. Mr. Burger had Manasa speak to the commission about the program. Senator Kennedy heard him and suggested he call his staff.

"This program taps the idealism and potential of young people," Mr. Kennedy says. "It encourages them to pitch in in their communities. And its great success as a pilot program makes me think it could work on a nationwide basis.

Manasa has already gained corporate funding for his vision: the New York Daily News, the Xerox Foundation, Manufacturers Hanover Trust Company, Hughes Aircraft Company, Primerica, the Los Angles Times, and the Bank of Boston.

"Nothing could be more important to the future of this country than the education of our young and reeducation of others who never got the chance," says Ken Rossano, director of development at Bank of Boston. "That's why you'll see more and more companies willing to take part."

Kennedy's bill authorizes $20 million to be divided up into $25,000 grants that would go to 800 colleges that applied for them. The colleges would receive the funds in four payments over two years. The money would be for administrative and supervisory purposes, minimizing the risk to the university until there's enough demand for the class to be incorporated into the regular degree program. Then the costs would be absorbed by student tuition.

Acknowledging that 1960s altruism won't go far in the tight-fisted '80s, Manasa's program is as no-frills as an L. L. Bean boot. His enthusiasm, however, is not.

"We'd do this only in agencies that exist and that have teaching programs in place," he said in a phone interview. "There would be no storefronts, no capital investment. We'd just pump in tutors, use the books already in the classroom that have been paid for by taxpayers. Consequently, there's virtually no money involved."

To avoid upsetting teachers who might view tutors as interlopers, the plan lets teachers choose whether they want tutors and decide which students will be tutored. The tutors maintain a consistent schedule of six hours a week, allowing the teachers to plan around them.

"I wanted the [college] kids not sitting in class and getting only theory but to be able to move between the two worlds of theory and experience. As you can imagine, putting students in ghetto schools would give them a hard dose of reality," says Manasa. He adds that the students also get job experience for the future.

And something more intangible: "It would teach the old virtues of duty, obligation, and compassion," he says. "They can't be learned as theoretical exercises, but only by taking up the responsibility of welfare for another individual."

Ann Saffi, a student at St. John's University, took part in its program last spring. She tutored in a second-grade class as one of her four internships in social work., "It started out as a simple tutoring job, but developed into much more of a relationship," she says. "I was only supposed to go until the beginning of May, but stayed until the end of their term."

Donna Petrie, who is the course instructor for the St. John's program, says the tutored students gain more than just reading skills.

"You take 10- to 12-year-olds already in trouble with courts. They don't trust anybody but their own kind. A kind of bonding takes place. It gives them another chance, because somebody believes in them."

One criticism of the program is that it doesn't provide much training; students start tutoring from the first week of class, but do meet with a faculty adviser weekly. Karl Haigler, director of the federal Department of Education's adult literacy initiative, reserves judgment on this fledgling program but says, "Teaching an adult how to read is not an easy proposition. It takes more than a year to get someone reading at low level to advance a grade. To what extent are students, and adults, able to commit to that?"

Other literacy experts say the money might be better used to support the already established network of literacy programs. "My personal view would be to provide more funding for the $106 million national Adult Education Act [which supports adult literacy programs] rather than re-create a whole new support system," says Jinx Crouch, of the Literacy Volunteers of America.

The Literacy Corps leaves the structure of the course "up to whoever's running it," says the Rev. Eugene Green at Stonehill College, in North Easton, Mass. There, the tutoring is part of the writing program: "Writing, Literacy, and Power," and the course, says Fr. Green, "provides a theoretical reflection on the experience students are having at the site. The method is learned on site."

But one literacy expert, who asked not to be named, said, "The bill makes the problem of adult literacy seem simple to solve when it is a multifaceted social, economic, psychological, and educational issue."

[From the Boston Herald, Nov. 27, 1987]

CURING ILLITERACY

Sen. Edward Kennedy's new "literacy corps" is such an obvious solution to our country's illiteracy problem that it's a wonder it hasn't been thought of before.

Some 23 million Americans, one of every 10, are unable to read the most basic things: newspaper headlines, labels on cans, signs, notices, even warnings. Varied and continued efforts by private organizations over the years have helped some of these people some of the time. But millions of Americans have remained unhelped.

Kennedy's plan, part of a trade bill still under negotation, would change this by making the skills and abilities of the country's college students available to every child and adult who wants to read but cannot.

Under the program, college students would sign up for a tutoring class, much as they would any other class, tutor six hours a week and receive college credits for their work. Students would also be required to report to a supervising teacher and submit a summary of work accomplished at the end of each college semester.

The proposal, which is already being tried in a few local colleges, would require the expenditure of $20 million over the next two years, money that would be dispersed among hundreds of colleges and universities.

The most intriguing aspect of this program is its practicality. It makes the best of a plentiful national resource: bright, educated, enthusiastic students.

Kennedy said the project will generate 10 million hours of tutoring in reading and mathematics. These are needed, functional hours which can only help ease a hidden problem that has been growing for years.

[From the Harvard Crimson, Dec. 1, 1987]

UNDERGRADS TEACH LITERACY—DONATIONS FROM HARVARD ALUMNI BRING PROGRAM TO BOSTON

(By Jonathan S. Cohn)

A sociologist's dream of college students receiving credit for teaching the illiterate has been realized at four Boston-area schools, thanks largely to the financial support of some local Harvard alumni.

The literacy programs which began this fall are the result of educator and sociologist Norman Manasa's Washington Education Project (WEP), a private non-profit organization which uses grants from corporations to fund student-taught literacy programs.

"The project is working to develop programs at colleges across the country that will register undergraduates in 3-credit elective courses and send them into community agencies to teach reading and mathematics to the illiterate poor," said Manasa, who founded and now directs WEP.

Manasa has been at the forefront of the strategy of involving undergraduates in teaching the estimated 23 million Americans who are functionally illiterate. And the practice seems to be catching on.

Sen. Edward M. Kennedy '54 (D-Mass.) introduced a bill in March modeled after WEP that would give federal money to student taught literacy programs.

This year, a $25,000 "challenge grant" from the Bank of Boston enabled Boston College, Bunker Hill Community College, Endicott College, and Stonehill College to offer such courses.

Bank of Boston Director of Development Kenneth R. Rossano '56 said that he helped secure the grant because he thought the project could be a "very powerful program."

"There's no part of the country that could be more enthusisatic about or better for the program than the Greater Boston area, with all its colleges and students." Rossano said. "The undergraduates could make a huge difference."

The Boston law firm of Goodwin, Procter and Hoar was another countributor. Robert B. Fraser '49, chairman of the firm's executive committee said that the company's $5,000 "challenge grant" was part of their general commitment to Boston education.

"The partners of this firm set up an endowment fund of $1,000,000 for early education in Boston schools." Fraser said "The [Washington Education] project sounded like a very good idea and we were eager to be a part of it."

So far, local project directors say, the literacy programs have been very successful.

"We have several programs under the guidelines of WEP, and the people here are very enthusiastic about them," said Diana C. Pullin, Dean of Boston College's School of Education.

The programs in Boston are part of WEP's nation-wide campaign. Manasa, who founded the first such program at the University of Miami in 1969, said that student-taught programs could be "the answer to the nation's massive illiteracy problem."

"The courses are inexpensive to operate," Manasa said "Since the tutoring is done by the undergraduates as part of a college course, they are reliable, profoundly effective, and absolutely free."

However, some literacy theorists are skeptical that undergraduates can effectively teach people to read.

"It's like saying we can cure all the people who have cancer with medical aides and not doctors." Professor of Education Jeanne S. Chall said earlier this month.

Chall is chairman of the Advisory Committee of the Harvard Illiteracy Initiative, which was unveiled by President Bok this fall. The program will fund research into the best literacy teaching methods and train students at the school to teach illiterates.

BICENTENNIAL MINUTE

DECEMBER 9, 1858: STEPHEN DOUGLAS REMOVED AS COMMITTEE CHAIRMAN

Mr. DOLE. Mr. President, 129 years ago today, on December 9, 1858, the Senate Democratic caucus removed Stephen Douglas as chairman of the Committee on Territories. Only twice in the history of this institution has a Senator been summarily stripped of his chairmanship—the other being Charles Sumner, as chairman of the Foreign Relations Committee.

Stephen Douglas stood among the most powerful and influential Senators during the decade before the Civil War. In 1850, after Henry Clay had failed, Douglas had forged the compromise that saved the Union. Four years later, in an effort to organize the Kansas-Nebraska territory, Douglas had attempted to solve the vexing issue of slavery in the territories by promoting popular sovereignty, that is, by letting the settlers vote to decide whether their territories would admit or prohibit slavery. It was the public explosion that followed the Kansas-Nebraska bill that led directly to the formation of the Republican Party.

In 1857 the Democratic Douglas found himself at odds with the Democratic administration of James Buchanan. He believed that Buchanan's support of proslavery factions in Kansas was undermining his concept of popular sovereignty. His break with Buchanan alienated him from Southern Democrats, at the same time that he was under assault from the new Republicans. In 1858, Abraham Lincoln challenged Douglas for his Senate seat. When he narrowly defeated Lincoln, Douglas returned to the Senate to find that the Buchanan wing of the Democratic caucus had stripped him of his chairmanship.

A hard man to keep down, Stephen Douglas rallied from those adversities to win the Democratic nomination for President in 1860, only to lose the election to his old rival, Abraham Lincoln.

TWENTIETH ANNIVERSARY OF THE LOS ANGELES FREE CLINIC

Mr. CRANSTON. Mr. President, 20 years ago on December 17, 1967, a handful of dedicated individuals joined together because they were committed to the idea that "quality health care is a right, not a privilege." These volunteers gathered what resources they had among themselves, moved into a small storefront on Fairfax Avenue in Los Angeles, and began providing free medical services to the disadvantaged members of their community. And thus was the Los Angeles Free Clinic born.

Today, the Los Angeles Free Clinic remains committed to making quality health care available to those who have no place else to turn. During the past two decades, the clinic has provided over 800,000 people with medical and dental care and psychological counseling. Eleven years ago, they introduced the Los Angeles Sex Information Helpline, a special phone-only service that helps anyone who calls with advice about human sexuality, family planning, and related matters. Clearly, in the face of the AIDS epidemic we are now witnessing in this country, such a service was never needed more.

Although known primarily for its medical services, the Los Angeles Free Clinic has long recognized that you can't treat patients successfully unless you deal with the broader set of circumstances that have made them ill. Along with its established legal services department, the clinic's newest department, adolescent services, puts this theory into practice every day. A volunteer staff of 450 are the heart, soul, and backbone of the clinic's service, according to Executive Director Gary Bess. Volunteers include physicians, nurses, dentists, dental assistants, laboratory technicians, pharmacists, social workers, attorneys, therapists, and lay persons who help with administrative work. Through contributions of time and talent from each volunteer, the clinic is able to provide services for less than 15 percent of the cost of other health agencies and hospitals. In 1986 alone, Free Clinic volunteers contributed over $4 million in professional services.

The Los Angeles Free Clinic looks forward to a future when it can treat every person who comes to them for help at the moment they need it. Mr. President, nothing pleases me more than to congratulate the Los Angeles Free Clinic, the oldest and largest free clinic in the United States, for 20 years of dedication and service to the people of Los Angeles.

HUGH H. JACOBS DAY

Mr. HEFLIN. Mr. President, November 20, 1987, was a great day for the citizens of both the city of Mobile and Mobile County. It was a day in which they honored one of their own beloved sons of Mobile—Hugh H. Jacobs—by proclaiming that day as "Hugh H. Jacobs Day." Hugh Jacobs has served the city and county of Mobile, my home State of Alabama, and our Nation in an outstanding capacity for many, many years.

I was delighted to see such deserved recognition and such a tremendous outpouring of gratitude on Hugh's behalf. A wonderful luncheon was held for Hugh and, from what I understand, the attendance list read like a "Who's Who List" of Mobile. While I was kept in Washington on that day by the business of the Senate, my thoughts were with Hugh Jacobs as he was honored by his many friends, by his community and by his family.

Hugh Jacobs has long been a devoted servant of the public good. He has always risen to every call of duty from his community, devoting himself, his time, and his every resource to countless causes and efforts. However, perhaps his efforts are best known in the area of law enforcement. During the tenure of Gov. James E. Folsom, Hugh was appointed as chief of police of the Alabama State docks. After his dedicated service with the State docks, he opened a security business that has served the community of Mobile for many years. In addition to the distinction he earned in the community of Mobile, Hugh was recognized throughout the State, and served as the president of the Alabama Peace Officers' Association.

In addition to his service in law enforcement, Hugh also served our Nation in the Armed Forces. He has been an active veteran, working through the years on behalf of those who fulfilled their duty in the Armed Forces, and has served as commander of the American Legion.

Additionally, Hugh Jacobs has for over 30 years been a member of the Mobile County Democratic Executive Committee. In this capacity, he has contributed greatly to the success of our democracy, and to the vital representation in government of the citizens of Mobile.

Mr. President, I have not even begun to describe the countless contributions and achievements Hugh Jacobs has offered to his community and to my State. It would be impossible to discover all that he has made possible—let alone make a list of his many efforts and achievements. Yet, it is a pleasure for me to describe the valuable friendship and gracious manner, the public responsibility and civic duty, and the wonderful, warm personality that Hugh Jacobs possesses and offers to all. I value his friendship and am thankful for all that he has done for America, for Alabama, and for Mobile.

In closing, I wish Hugh and his family all the blessings and happiness the world has to offer. There is an old Irish prayer that I would like to paraphrase which, I believe, summarizes the feelings of all of Hugh's many friends throughout Mobile and my State:

May the road rise to meet you.
May the wind always be at your back.
May the Sun shine warm on your face.
And may the rains fall soft on your shoulders,
And may the good Lord hold you in the hollow of his hand during all of your days.

Finally, it is not often that an individual is so honored as Hugh Jacobs has been by his friends and his community. Therefore, I ask unanimous consent that the attached resolutions and letters that were presented to Hugh at his luncheon be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Hugh H. Jacobs is a long time resident of Mobile, Alabama and has distinguished himself in a successful career in Law Enforcement, the Security Industry, and community service; and

Whereas, he has served as Past Commander of the American Legion, McLeod Post No. 3; and

Whereas, he has served as Past President of the Alabama Peace Officers' Association; and

Whereas, he is the former Chief of Police of the Alabama State Docks; and

Whereas, he has been a member for many years of the Mobile County Democratic Executive Committee; and

Whereas, he has been active in Veterans and Law Enforcement organizations; Now therefore be it

Resolved, the Mobile County Commission does hereby join the entire "Community", and pay tribute and honor to this outstanding citizen, and declare this as "Hugh H. Jacobs Day" in sincere heartfelt appreciation of his past service and to honor this outstanding citizen and wish him a long and successful future.

PROCLAMATION

Whereas, Hugh H. Jacobs has devoted much of his time toward the betterment of our community throughout the years by serving the citizens of Mobile in various civic and law enforcement organizations; and

Whereas, his interest has been shown through his participation and leadership as Commander of the American Legion McLeod Post 3; as past-President of the Sheriff's and Police Officers Association; and as a member of the Mobile County Democratic Executive Committee for 30 years; as Chief of Police at the Alabama State Docks; and

Whereas, when called upon by family and friends in time of crisis, Hugh has never hesitated to give freely of his time and services to lend a helping hand:

Now, therefore, I, Mayor Arthur R. Outlaw, on behalf of the City of Mobile, do hereby proclaim November 20, 1987 "Hugh H. Jacobs Appreciation Day" in recognition of the many years of service to the citizens of Mobile and as a expression of thanks for the many times he has helped when called upon to answer the needs of our citizens.

HONORARY LIEUTENANT GOVERNOR

To all who shall see these presents greeting: Know ye, That I, Jim Folson, Jr., reposing full trust in your Prudence, Integrity and Ability do, by virtue of the Power and Authority vested in me as Lieutenant Governor of the State of Alabama, hereby commission Hugh Jacobs as a Honorary Lieutenant Governor.

To have and to hold the said office, together with all the Rights, Powers and Emoluments to the same belonging or in any way Lawfully appertaining, during the term prescribed by the Constitution and Laws of the State of Alabama.

In Testimony Whereof, I have hereunto set my hand and caused the Great Seal of State to affixed at the Capitol in the City of Montgomery this 16th day of November in the year of our Lord 1987.

ACHIEVEMENT AWARD PRESENTED TO
HUGH JACOBS

For your continued Community Service and years of dedication to law enforcement, The City of Prichard wishes to express its appreciation.

TELEGRAM

MONTGOMERY, AL, *November 19, 1987.*

HUGH JACOBS,

Care Sheriff Tom Purvis,

Tiny Diny Restaurant, Mobile AL.

Congratulations Hugh on the great friends you behold. Wish I could be there among them today. Its been written that friends are those rare people who ask how we are and then wait to hear the answer. Well these are the folks that are with you today. You know Dizzy Dean said: "It ain't braggin if you really done it." So enjoy the praises cause praise does wonders for the sense of hearing. Remember you can't turn back the clock but you can wind it up again. Lets go for another 32 ounce steak. Good health and happiness.

BOBBY TIMMONS.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2672. An act to amend title 38, United States Code, to modify the amount of the Veterans' Administration home loan guaranty and to make other improvements in the loan guaranty program, and for other purposes;

H.R. 3483. An act to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes;

H.J. Res. 199. Joint resolution designating April 1988 as "Actors' Fund of America Appreciation Month"; and

H.J. Res. 412. Joint resolution to congratulate King Bhumibol Adulyadej of Thailand, on his 60th birthday on December 5, 1987.

The enrolled bills and joint resolutions were subsequently signed by the acting President pro tempore (Mr. SHELBY).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2204. A communication from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Volunteers in the National Forests Act of 1972 to permit volunteers to be considered employees under 31 U.S.C. 3721; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2205. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on a violation of statute prohibiting the obligation or expenditure of funds in excess of amounts available in an appropriation or fund or in advance of an appropriation; to the Committee on Appropriations.

EC-2206. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on a violation of statute involving the overobligation of an approved appropriation; to the Committee on Appropriations.

EC-2207. A communication from the Acting Secretary of the Navy, transmitting, pursuant to law, a report on the proposed transfer of the obsolete submarine ex-*Blenny* to the State of Maryland; to the Committee on Armed Services.

EC-2208. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice that the Department of the Air Force intends to exercise authority for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2209. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a supplemental contract award report for the period November 1 to December 31, 1987; to the Committee on Armed Services.

EC-2210. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant, pursuant to law, notice that the Department of the Navy intends to exercise the authority for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2211. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting, pursuant to law, a report entitled "The Soviet Space Challenge"; to the Committee on Armed Services.

EC-2212. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the recent discovery and disposal of a suspected chemical artillery projectile at the Dugway Proving Ground, UT; to the Committee on Armed Services.

EC-2213. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, notification of the recent discovery and disposal of a suspected chemical mortar projectile at the Edgewood area of Aberdeen Proving Ground, MD; to the Committee on Armed Services.

EC-2214. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the fifth annual report of the net worth certificate purchased under title II of the Garn-St Germain Depository Institutions Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2215. A communication from the acting general counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Federal Financing Bank Act of 1973 to facilitate the sale of loan assets; to the Committee on Banking, Housing, and Urban Affairs.

EC-2216. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the proposed transfer of certain funds within NASA pursuant to the annual Authorization Act; to the Committee on Commerce, Science, and Transportation.

EC-2217. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on the 1986 Youth Conservation Corps Program; to the Committee on Energy and Natural Resources.

EC-2218. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayment of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2219. A communication from the acting general counsel of the Department of Energy, transmitting a draft of proposed legislation to amend the Uranium Mill Tailings Radiation Control Act of 1978; to the Committee on Energy and Natural Resources.

EC-2220. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the annual report containing a list of projects which have been authorized but for which no funds have been obligated during the preceeding 10 full fiscal years; to the Committee on Environment and Public Works.

EC-2221. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the boundary delineation and fencing practices study conducted at Corps of Engineers civil works projects; to the Committee on Environment and Public Works.

EC-2222. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on sole community hospitals; to the Committee on Finance.

EC-2223. A communication from the Deputy Secretary of Transportation, transmitting, pursuant to law, the annual report of the Office of Inspector General, Department of Transportation for the period ending September 30, 1987; to the Committee on Governmental Affairs.

EC-2224. A communication from the Vice President (Human Resources) of the Farm Credit Services, transmitting, pursuant to law, the annual report for calendar year 1986 for the 12th district farm credit retirement plan and thrift plan; to the Committee on Governmental Affairs.

EC-2225. A communication from the District of Columbia auditor, transmitting, pursuant to law, a report entitled "Review of Funds Appropriated For Official Expenses"; to the Committee on Governmental Affairs.

EC-2226. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, notice of approval of the final plan for the PACER SHARE demonstration project at McClellan Air Force Base; to the Committee on Governmental Affairs.

EC-2227. A communication from the actuaries and consultants to the Sacramento Farm Credit Employees Retirement Plan, transmitting, pursuant to law, the annual report on the plan for calendar year 1986; to the Committee on Governmental Affairs.

EC-2228. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the semiannual report of the inspector general, U.S. Information Agency, for the period April 1 to September 30, 1987; to the Committee on Governmental Affairs.

EC-2229. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of Initiative Measure No. 25 (D.C. Act 7-102), certified by the Council on November 17, 1987; to the Committee on Governmental Affairs.

EC-2230. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of surplus real property transferred in fiscal year 1987 for public health purposes; to the Committee on Governmental Affairs.

EC-2231. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Housing and Urban Development, for the period April 1 to September 30, 1987; to the Committee on Governmental Affairs.

EC-2232. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the adjustment of the status of certain aliens under section 13(c) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2233. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Paul Douglas Teacher Scholarship Program; to the Committee on Labor and Human Resources.

EC-2234. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the State Student Incentive Grant Program; to the Committee on Labor and Human Resources.

EC-2235. A communication from the Secretary of Agriculture, transmitting, pursuant to law, notification of the intention to interchange jurisdiction of lands in connection with the Libby Dam and Lake Koocanusa project, Lincoln County, MT, Kootenai National Forest, and Forest Service acquired lands within the Kootenai National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2236. A communication from the Comptroller General, transmitting, pursuant to law, a report on 13 deferrals relative to the President's impoundment message for fiscal year 1988 and the impoundment Control Act of 1974; pursuant to the order of January 30, 1975, as amended on April 4, 1986, referred jointly to the Committee on Agriculture, Nutrition, and Forestry, Committee on Appropriations, Committee on Armed Services, Committee on the Budget, Committee on Foreign Relations, Committee on Labor and Human Resources.

EC-2237. A communication from the general counsel, Department of Defense, transmitting, a report on the views on the Department of Defense on section 308 of H.R. 2714, 100th Congress, to the legislative branch appropriations bill for fiscal year 1988; to the Committee on Appropriations.

EC-2238. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report of building project survey for Baton Rouge, LA; to the Committee on Environment and Public Works.

EC-2239. A communication from the Chairman, U.S. Nuclear Regulatory Commission, transmitting, a draft of proposed legislation to amend section 29 of the Atomic Energy Act of 1954, as amended; to the Committee on Environment and Public Works.

EC-2240. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Water Resources Development Act of 1986; to the Committee on Environment and Public Works.

EC-2241. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on the status of hydroelectric power studies relative to certain Army Corps of Engineers projects; to the Committee on Environment and Public Works.

EC-2242. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report on the death of Enrique Camarena; to the Committee on Foreign Relations.

EC-2243. A communication from the Secretary of State, transmitting, pursuant to law, a report relative to Soviet Union obligations to United States diplomats; to the Committee on Foreign Relations.

EC-2244. A communication from the President of the United States, transmitting, pursuant to law, a report on Soviet noncompliance with arms control agreements; to the Committee on Foreign Relations.

EC-2245. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-104, adopted by the Council on November 11, 1987; to the Committee on Governmental Affairs.

EC-2246. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-111, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2247. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-112, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2248. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-113, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2249. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-114, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2250. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-110, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2251. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-106, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2252. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-107, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2253. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-103, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2254. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-105, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2255. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-115, adopted by the Council on November 24, 1987; to the Committee on Governmental Affairs.

EC-2256. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-108, adopted by the Council on November 10, 1987; to the Committee on Governmental Affairs.

EC-2257. A communication from the Administrator; General Services Administration, transmitting, pursuant to law, the General Services Administration's Office of the Inspector General Report to Congress; to the Committee on Governmental Affairs.

EC-2258. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, the Semiannual report of the Inspector General of the Veterans Administration; to the Committee on Governmental Affairs.

EC-2259. A communication from the Administrator, NASA, transmitting, pursuant to law, the semiannual report of the inspector General of NASA; to the Committee on Governmental Affairs.

EC-2260. A communication from the Executive Director, D.C. Retirement Board, transmitting, pursuant to law, the personal financial disclosure statement for Board member Orlando W. Darden; to the Committee on Governmentl Affairs.

EC-2261. A communication from the Assistant Attorney General (Office of Legislative Affairs), Department of Justice, transmitting, pursuant to law, a draft of proposed legislation to authorize within the Department of Justice the establishment of a Senior Executive Service for the Federal Bureau of Investigation and the Drug Enforcement Administration; to the Committee on Governmental Affairs.

EC-2262. A communication from the Deputy Secretary of Labor, transimitting, pursuant to law, the semiannual report of the Department's inspector general; to the Committee on Governmental Affairs.

EC-2263. A communication from the chief immigration judge, Department of Justice, transmitting, pursuant to law, a report of facts and pertinent provisions of the law as relative to certain aliens whose deportation has been suspended; to the Committee on the Judiciary.

EC-2264. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of the document transmitted to the Federal Register for schedule publication entitled "Final Regulations for Student Assistance General Provisions;" to the Committee on Labor and Human Resoures.

EC-2265. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of the document transmitted to the Federal Register for publication entitled "Final Regulations for the Perkins Loan Program;" to the Committee on Labor and Human Resources.

EC-2266. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of the document transmitted to the Federal Register for publication entitled "Final Regulations for the Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs;" to the Committee on Labor and Human Resources.

EC-2267. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of the document transmitted to the Federal Register for publication entitled "Notice of Final Annual Funding Priority—Postsecondary Education Program for Handicapped Persons—Demonstration Projects;" to the Committee on Labor and Human Resources.

EC-2268. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report on the "Sharing of Medical Resources Program of the Veterans Administration for Fiscal Year 1987;" to the Committee on Veterans Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1612: A bill to authorize appropriations under the Earthworks Hazards Reduction Act of 1977 for fiscal years 1988 and 1989 (Rept. No. 100-239).

By Mr. BYRD (for Mr. Burdick), from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 675: A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992 (Rept. No. 100-240).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 858: A bill to establish the title of States in certain abandoned shipwrecks, and for other purposes (Rept. No. 100-241).

S. 892: A bill to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, UT (Rept. No. 100-242).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 963: A bill to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes (Rept. No. 100-243).

S. 1165: A bill to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey (Rept. No. 100-244).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1335: A bill to establish the city of Rocks National Reserve in the State of Idaho, and for other purposes (Rept. No. 100-245).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1675: A bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes (Rept. No. 100-246).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 1983: A bill authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes (Rept. No. 100-247).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2121: A bill to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia (Rept. No. 100-248).

H.R. 2325: A bill to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas (Rept. No. 100-249).

H.R. 2416: A bill to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes (Rept. No. 100-250).

H.R. 2566: A bill to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes (Rept. No. 100-251).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment and with a preamble:

H. Con. Res. 97: A concurrent resolution to encourage State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12.

S. Con. Res. 43: A concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Ann Dore McLaughlin, of the District of Columbia, to be Secretary of Labor;

The following-named persons to be Members of the National Commission on Libraries and Information Science for the terms indicated:

For the remainder of the term expiring July 19, 1991: Raymond J. Petersen, of Connecticut, vice Kenneth Y. Tomlinson, resigned.

For terms expiring July 19, 1992:

Sally Jo Vasicko, of Indiana, vice John E. Juergensmeyer, term expired.

Julia Li Wu, of California (Reappointment).

Beverly Fisher White, of Florida, to be a Member of the National Museum Services Board for a term expiring December 6, 1990;

Joshua M. Javits, of the District of Columbia, to be a Member of the National Mediation Board for the term expired July 1, 1989;

The following-named persons to be Members of the Board of Directors of the United States Institute of Peace for terms expiring January 19, 1991:

William R. Kintner, of Pennsylvania (reappointment).

Morris I. Liebman, of Illinois (reappointment).

Sidney Lovett, of Connecticut (reappointment).

Richard John Neuhaus, of New York (reappointment).

Elspeth Davies Rostow, of Texas (new position).

W. Bruce Weinrod, of the District of Columbia (reappointment).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS:

S. 1935. A bill to amend the Communications Act of 1934 to provide for the assessment and collection of a fee on the transfer of spectrum licenses and the establishment of a trust fund for public broadcasting; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM:

S. 1936. A bill to designate the General Mail Facility of the United States Postal Service in Cleveland, Ohio, as the "John O. Holly Station of the United States Postal Service"; to the Committee on Governmental Affairs.

By Mr. BYRD (for Mr. Bentsen (for himself, Mr. Dole, Mr. Moynihan, Mr. Armstrong, Mr. Cohen, Mr. Kerry, Mr. Heinz, Mr. Boschwitz, Mr. Levin, Mr. Riegle, Mr. DeConcini, Mr. Domenici, Mr. Byrd, and Mr. Wilson)):

S. 1937. A bill to amend title II of the Social Security Act to continue disability benefits during an appeal; considered and passed.

By Mr. JOHNSTON (for himself and Mr. McClure):

S.J. Res. 231. A joint resolution to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 1935. A bill to amend the Communications Act of 1934 to provide for the assessment and collection of a fee on the transfer of spectrum licenses and the establishment of a trust fund for public broadcasting; referred to the Committee on Commerce, Science, and Transportation.

THE COMMUNICATIONS TRANSFER FEE ACT

● Mr. HOLLINGS. Mr. President, today I am introducing legislation to capture for the American public the value of one of the most important assets of the United States—the radio spectrum. This bill also provides for stable, long-term funding for one of our most important public services—public broadcasting. Finally, this bill corrects a grave mistake of this Federal Communications Commission and reinstitutes the 40-year-old fairness doctrine.

It is long past the time that we collect the value of the public resource known as the radio spectrum. For too long, the public airwaves—worth about $500 billion—have been given away virtually for free. The President recognized this fact, and he included a spectrum fee to capture this value in his fiscal year 1988 budget. The Congress recognized this fact, and it included a spectrum fee in its fiscal year 1988 budget resolution. The Commerce Committee recognized this fact, and it reported out a spectrum fee to comply with the budget resolution. My legislation follows the same path.

The Communications Transfer Fee Act of 1987 imposes a fee for use of the public radio spectrum at the time the license is transferred. With asset values of these spectrum licenses increasing so greatly, this is no more than a minor burden. This legislation applies to virtually all users of the airwaves, including cellular radio, paging, business radio, and broadcasting. Only Government users and public safety users are exempted. Finally, by imposing this user fee, we will reduce the deficit every year by almost $300 million.

This legislation also provides long-term funding for an important public service—public broadcasting. Anyone who has followed the 20-year history of funding for public broadcasting knows that it has been at best highly uncertain. The current administration has made no secret of the fact that it wants to end funding for public broadcasting. At every turn, it has sought to reduce, rescind, or eliminate it. The most recent authorization legislation by Senator Goldwater was vetoed twice by the President. In fact, the only way we have been able to fund public broadcasting in the past decade was to include it in reconciliation legislation. In an atmosphere of such uncertainty, how can public broadcasters fulfill the statutory goals that we had mandated? Congress has created such high expectations but then provides little support. It is time we stopped cheering and started doing something to set this situation right.

That is why this legislation creates an independent trust fund for public broadcasting. With the long-term stability that this provides, public broadcasters will have the opportunity to reach the high goals we have set.

The final provision of this legislation is the codification of the Fairness Doctrine. Earlier this year, both the Senate and the House passed by a substantial margin legislation to accomplish this goal, but it was vetoed by the President. Because of the importance of the fairness doctrine to ensuring that the American public gets complete information in a balanced fashion, we must persist in our efforts to codify it. I can assure everyone I will use every opportunity, including here, to do so.

The approach taken by this bill is fair and balanced. It provides for deficit reduction annually by capturing some of the value of the Nation's airwaves, a resource that belongs to all of us. It provides the necessary funding for public broadcasting, a service that over one-half the American public tune in each week. It provides for the codification of the fairness doctrine. These are sound ideas that deserve all our support.●

By Mr. METZENBAUM:

S. 1936. A bill to designate the general mail facility of the U.S. Postal Service in Cleveland, OH, as the "John O. Holly Station of the United States Postal Service"; to the Committee on Governmental Affairs.

JOHN O. HOLLY STATION OF THE U.S. POSTAL SERVICE

● Mr. METZENBAUM. Mr. President, I am today introducing legislation to rename the U.S. Postal Service building located at 2400 Orange Avenue in Cleveland, OH, the "John O. Holly Station of the United States Postal Service."

It is with great pride that I introduce this bill in recognition of one of Cleveland's greatest citizens, and in tribute to a truly great champion and pioneer in the realm of civil rights.

With his founding of the Future Outlook League in 1935, John O. Holly began a crusade for equal employment opportunities and social justice that would provide a model for the later civil rights leaders of the sixties. John O. Holly pioneered the use of economic weapons—consumer boycotts, and orderly picketing—to force social and economic change for blacks in Cleveland.

In 1935, almost 80 percent of black Americans were unemployed. Fifteen precent of those who were lucky enough to be employed were stuck in menial jobs. Minority businesses numbered less than 50 out of a black population of 80,000 in Cleveland.

Although more than 3,000 businesses were located in central Cleveland, less than 100 of these employed blacks in any capacity.

Against this backdrop, and at great personal risk to himself and his family, John O. Holly succeeded in changing the system. Using the boycott and pickets, he was enormously successful in opening employment doors for blacks in Cleveland.

In 1935, he found jobs for nearly 400 blacks in Cleveland's food chain stores. In 1936, he took on the movie theaters, and was successful in getting employment for blacks as cashiers and ushers.

In 1938, he challenged the discriminatory employment practices of Woolworth Co. Holly and his followers faced violent opposition, and were hauled off to jail, but they succeeded in placing black women into jobs at Woolworth's.

Later, Holly focused attention on the horrible housing conditions in which blacks were forced to live. His efforts spearheaded improvements which resulted in more than 6,000 houses being repaired in a 3-month period, and rent reductions for hundreds of families.

He did much much more.

Mr. President, John O. Holly was a great man. He gave people hope they had never experienced before, and leadership they had never seen.

He was a tireless man, whose commitment to racial and economic equality made him a cherished figure in the Cleveland community.

The designation of this Post Office is a modest effort to recognize John O. Holly's tremendous contribution, and to ensure that his legacy is remembered by those whose lives he benefited.●

By Mr. JOHNSTON:

S.J. Res. 231. Joint resolution to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; to the Committee on Energy and Natural Resources.

IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH THE GOVERNMENT OF PALAU

● Mr. JOHNSTON. Mr. President, I rise today to introduce a joint resolution to authorize the entry into force of the Compact of Free Association between the United States and the Government of Palau. This compact was approved by Congress and enacted as Public Law 99-658 on November 14, 1986.

Under the terms of the compact the people of Palau will achieve, through self-determination, status as a sovereign self-governing republic in free association with the United States, and termination of the United Nations trusteeship agreement under which the United States has administered their islands since 1947. The compact will also provide Palau with the economic and technical assistance needed to assure the growth of a sound economy. Finally, the compact will provide Palau with the security and defense protection of the United States.

The compact is a good agreement for the United States. Under its terms the territory of Palau will be completely foreclosed to the military forces of any nation except the United States. In addition, the United States can be proud of its role in assisting the people of Palau in achieving self-government. The compact agreement demonstrates the desire of the United States to promote self-government among emerging nations, and to seek association with such nations through our common interests in democratic self-government, security, and economic development.

Some of my colleagues may recall the years of lengthy and difficult negotiations which led to the final compact agreement approved by Congress last year. It was originally intended that the Compact of Free Association with Palau would be implemented in Palau as it was implemented in the Federated States of Micronesia and the Republic of the Marshall Islands, the two other Micronesian governments under free association. However, implementation of the compact in Palau was delayed because of conflicts between the terms of the compact and certain provisions of the Palau Constitution. Due in part to this controversy, Congress included a section in Public Law 99-658, section 101(d), which provides that the compact cannot be implemented until the President certifies that the compact has been approved by the Government of Palau in accordance with Palau's Constitution, and by the people of Palau in a referendum, and Congress authorized the President to implement the compact by enactment of a joint resolution.

On November 30, 1987, the President transmitted the necessary certification to Congress.

Mr. President, the joint resolution I am introducing today contains only section 1 of the resolution proposed by the President. It would authorize him to implement the compact.

Section 2 of the President's proposal would amend Public Law 99-658, and thus would amend the terms of the law under which the compact was approved by Congress.

More specifically, section 2 would allow certain banks to seek a judgment against the Government of Palau and to attach the economic assistance provided to Palau under the compact. Section 2 could thus undermine the integrity of the entire agreement. The provision in Public Law 99-658 which section 2 would repeal, section 104(e), was not included without careful consideration. It was specifically intended to prevent creditors involved in the so-called IPSECO power project in Palau from seeking a judgment and attaching financial assistance intended to be paid to Palau under the terms of the Compact.

I need not go into great detail on this issue here, suffice it to say that the U.S. Congress, specifically the Senate Appropriations Committee, made its opposition to the IPSECO project clear to the administration and to the Government of Palau. The IPSECO project was obviously well beyond the Government of Palau's financial resources. IPSECO's price for a powerplant was three times Palau's total annual operating budget. Nevertheless, despite congressional opposition and the excessive cost of the project, officials in the U.S. Department of State saw fit to encourage the project, and the Government of Palau and the banks from which they sought loans saw fit to ignore congressional opposition. To make a bad situation worse, as this project predictably soured, representatives of the creditor banks indicated their intention to attach funds to be provided to Palau under the compact. It was at this point that Congress enacted section 104(e) to protect the integrity of an agreement which had been so carefully developed over the years. Now the creditor banks are seeking legislation to repeal this protection and once again allow them to attach funding from the compact for a project which, from the outset, Congress refused to fund.

The creditor banks, the Government of Palau, and the U.S. Department of State all have unclean hands in this matter. I would simply urge that they negotiate to resolve this issue outside of congressional consideration of this joint resolution.

Mr. President, the purpose of the joint resolution I am introducing today is to authorize implementation of the compact as enacted over a year ago. I intend to schedule a hearing in the Committee on Energy and Natural Resources early in the next session and to provide an opportunity for a full debate of all issues relating to the compact. The people of Palau have been under U.S. administration for over 40 years. They have freely expressed their desire to become a self-governing republic in free association with the United States. I believe that it is incumbent on us, as the administering authority of Palau, to respond expeditiously to the request of the people and Government of Palau to implement the compact.

Mr. President, I ask unanimous consent that the text of the joint resolution and the accompany message from the President of the United States be printed in the RECORD.

There being no objection the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 231

Whereas the President of the United States has certified that the Compact of Free Association between the United States and Palau has been approved in accordance with Section 411 (a) and (b) thereof, as required by Section 101(d)(A) of Public Law 99-658; and

Whereas it is the sense of Congress that the President's certification is correct and proper in light of the internationally recognized act of self-determination by which the people of Palau have approved the Compact and in view of the notification by the Government of Palau that its internal approval process has been completed: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That entry into force of the Compact of Free Association in accordance with Section 101(a) and (d) of Public Law 99-658 is hereby authorized.

SECTION 2. Section 104(e) of Public Law 99-658 is amended to read as follows:

"(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sums and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements.".

To the Congress of the United States:

I transmit herewith for the consideration of the Congress a proposed Joint Resolution that, in accordance with Section 101(d)(B) of Public Law 99-658, would enable the Government of the United States and the Government of Palau to implement the "Compact of Free Association" on a date mutually agreed to by our Governments.

In accordance with Section 101(d)(A) of Public Law 99-658, I hereby certify to the Congress that the Compact of Free Association between the United States and Palau has been approved in accordance with Section 411 (a) and (b) thereof, and that there exists no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact.

The foregoing certification is based upon notification by the Government of Palau that its internal constitutional approval process has been completed. Specifically, on August 29, 1987, President Lazarus E. Salii certified in writing to the Department of State that 73 percent of the people of Palau voting in a plebiscite observed by the United Nations on August 21, 1987, approved the Compact. The Palau National Congress gave its final approval to the Compact on August 27, 1987. Under their constitution, the people of Palau have freely chosen self-government and free association with the United States.

The proposed Joint Resolution would also amend Section 104(e) of Public Law 99-658 in two ways. First, additional language would be added to the first sentence of this subsection, stating that money payable by the United States to Palau shall be paid to Palau in accordance with procedures provided by the Compact and its related agreements. For example, Palau may wish to issue a bond and the additional language would clarify that payment into such an encumbered bank account would be consistent with U.S. responsibilities to Palau. This would place Palau on an equal footing with the other freely associated states.

Second, the proposed Joint Resolution would repeal the last sentence of Section 104(e), which purports to strip United States courts of jurisdiction over commercial litigation now pending in the Federal courts between Palau and certain of its creditors. This attempt to grant Palau sovereign immunity for a single case relating to a power plant project is inconsistent with United States law and policy as embodied in the Foreign Sovereign Immunities Act of 1976. Repeal of this provision would protect the reputation of the United States as an international financial center and allow Palau and its creditors to pursue the rights and remedies available to them through the judicial process. Such repeal would also permit the routine application of the Foreign Sovereign Immunities Act. This would not in any way prejudge the matter, but merely enable the case to be heard in the courts of the United States.

Approval of the enclosed Joint Resolution would enable the United States to bring the Compact into effect and end application of the 1947 Trusteeship Agreement with the United Nations Security Council, under which the United States has administered Palau. The end of the trusteeship would mean the beginning of a new area of political, economic, strategic, and cultural partnership between the United States and Palau.

Therefore, I urge the Congress to pass the attached proposed Joint Resolution authorizing entry into force of the "Compact of Free Association."

RONALD REAGAN●

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. INOUYE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 101, a bill to amend titles XVIII and XIX of the Social Security Act to provide that a nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services, to provide for coverage of certain items and services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes.

S. 533

At the request of Mr. THURMOND, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 889

At the request of Mr. GORE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 889, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1345

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1345, a bill to allow the National Association of State Racing Commissioners, State racing commissions and regulatory authorities that regulate parimutuel wagering to receive and share Federal Government criminal identification records.

S. 1679

At the request of Mr. HATCH, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 1679, a bill to establish a block grant program for child care services, and for other purposes.

S. 1808

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 1808, a bill to require the Secretary of Health and Human Services to determine the appropriate regulatory classification of the transitional devices of the medical device amendments, and for other purposes.

SENATE JOINT RESOLUTION 156

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 156, a joint resolution to establish a U.S. Commission on Improving the Effectiveness of the United Nations.

SENATE JOINT RESOLUTION 206

At the request of Mr. DOMENICI, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Kentucky [Mr. FORD], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 206, a joint resolution to declare Dennis Chavez Day.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. STEVENS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agenices to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 314

At the request of Mr. NICKLES, his name was added as a cosponsor of Senate Resolution 314, a resolution expressing the sense of the Senate regarding the American Civil Defense Program.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

CRANSTON AMENDMENT NO. 1252

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed to the bill (S. 1920) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988; as follows:

At the appropriate place in subtitle B of title IV, insert the following new section:

SEC. . INTEREST ALLOCATION RULES NOT TO APPLY WHERE NO TAX INCREASE RESULTS.

(a) IN GENERAL.—If a taxpayer elects the application of this section for any taxable year—

(1) section 864(e) of the Internal Revenue Code of 1986 shall not apply, and

(2) the allocation and apportionment of interest and other expenses to which such section applies shall be made in the same manner as before the enactment of such section.

(b) NO ELECTION MAY BE MADE UNLESS NO INCREASE IN TAX.—No election may be made under subsection (a) for any taxable year if the application of section 864(e) of such Code would result in an increase in Federal income tax liability for such taxable year.

(c) APPLICATION FOR SUBSEQUENT TAXABLE YEAR.—If the Federal income tax liability for any taxable year following a taxable year for which an election was in effect under subsection (a) would have been increased but for such election, such liability shall be computed as if such election had not been in effect.

(d) ELECTION.—An election under subsection (a) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1986.

TRANSFER OF OBSOLETE SUBMARINE "TURBOT" TO DADE COUNTY, FL

METZENBAUM (AND OTHERS) AMENDMENT NO. 1253

Mr. BYRD (for Mr. METZENBAUM, for himself, Mr. BOSCHWITZ, Mr. PACKWOOD, and Mr. DOLE) proposed an amendment to the bill (H.R. 3283) to allow the obsolete submarine U.S. ship *Turbot* to be transferred to Dade County, FL, before the expiration of the otherwise applicable 60-day congressional review period; as follows:

At the end of the bill, add the following new section:

SEC. . Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E or other advanced aircraft with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any one time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies the Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is removed from the inventory of Saudi Arabia.

OMNIBUS BUDGET RECONCILIATION ACT

BYRD (AND OTHERS) AMENDMENT NO. 1254

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. DOLE, Mr. CHILES, Mr. DOMENICI, Mr. BENTSEN, Mr. STENNIS, Mr. JOHNSTON, and Mr. HATFIELD) submitted an amendment intended to be proposed to the bill (S. 1920), supra; as follows:

On page 88, beginning with line 1, strike out all through the end of the bill and insert in lieu thereof the following:

TITLE IV—COMMITTEE ON FINANCE

Subtitle A—Health, Social Services, and Income Security

SEC. 4000. TABLE OF CONTENTS.

Subtitle A—Health, Social Services, and Income Security

Sec. 4000. Table of contents.

PART A—PROVISIONS WITH MAJOR BUDGETARY IMPACT

SUBPART I—PROVISIONS AFFECTING MEDICARE PART A

Sec. 4001. Hospital payments.
Sec. 4002. Medical education.
Sec. 4003. Payments for hospital capital-related costs.
Sec. 4004. Elimination of periodic interim payment system (PIP) for certain hospitals and extension of disproportionate share adjustment.

SUBPART II—PROVISIONS AFFECTING MEDICARE PARTS A AND B

Sec. 4011. Payment cycle standards.
Sec. 4012. Medicare contractors.
Sec. 4013. Secondary payer provisions.
Sec. 4014. Extension of reductions under sequester order.

SUBPART III—PROVISIONS AFFECTING MEDICARE PART B

Sec. 4021. Physician payments.
Sec. 4022. Payments to hospital outpatient departments for radiology.
Sec. 4023. Part B Premium.
Sec. 4024. Coverage of mental health services.
Sec. 4025. Return on equity payments to outpatient departments.
Sec. 4026. Updating maximum rate of payment per visit for independent rural health clinics.
Sec. 4027. Coverage of certified nurse-midwife services under part B of medicare.
Sec. 4028. Psychologist services in clinics.
Sec. 4029. Payment for therapeutic shoes for individuals with severe diabetic foot disease.
Sec. 4030. Durable medical equipment.
Sec. 4031. Services of a physician assistant.
Sec. 4032. Payment for ambulatory surgery at eye, and eye and ear, specialty hospitals.
Sec. 4033. Clinical diagnostic laboratory tests.
Sec. 4034. Increase in part B deductible.

SUBPART IV—PROVISIONS AFFECTING PRO'S

Sec. 4041. Reforms of peer review program.

SUBPART V—PROVISIONS AFFECTING MEDICAID

Sec. 4051. Nursing home quality.
Sec. 4052. Medicaid benefits for poor children and pregnant women.
Sec. 4053. Waiver authority under the medicaid program for the Northern Mariana Islands.
Sec. 4054. Federal review of State inspection of care (IOC) Determinations.
Sec. 4055. Provision of family planning services to individuals enrolled with a health maintenance organization.
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Subtitle A—Health, Social Services, and Income Security

PART A—PROVISIONS WITH MAJOR BUDGETARY IMPACT

Subpart I—Provisions Affecting Medicare Part A

SEC. 4001. HOSPITAL PAYMENTS.

(a) Applicable Percentage Increase in Payments for Inpatient Hospital Services.—

(1) Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "year and for purposes of subsection (d) for discharges occurring during a fiscal year," and inserting in lieu thereof "year,",

(ii) in subclause (II), by striking "percent," and all that follows through "and" and inserting in lieu thereof "percent,",

(iii) by redesignating subclause (III) as subclause (V),

(iv) by inserting after subclause (II) the following new subclauses:

"(III) for fiscal year 1988, 2.7 percent,

"(IV) for fiscal years 1989 and 1990, the market basket percentage increase (as defined in clause (iii)), and", and

(v) in subclause (V) (as redesignated by subparagraph (C)), by striking "1989" and inserting in lieu thereof "1991";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting immediately after clause (i) the following new clause:

"(ii) For purposes of subsection (d) for discharges occurring during a fiscal year, the 'applicable percentage increase' shall be—

"(I) for fiscal year 1986, 0.5 percent,

"(II) for fiscal year 1987, 1.15 percent,

"(III) for fiscal year 1988, 0.5 percent in the case of hospitals paid at the urban rate and 3.7 percent in the case of hospitals paid at the rural rate,

"(IV) for fiscal year 1989, the market basket percentage increase (as defined in clause (iii)) minus 2 percentage points,

"(V) for fiscal year 1990, the market basket percentage increase (as defined in such clause) minus 1.6 percentage points, and

"(VI) for fiscal year 1991 and subsequent fiscal years, the percentage determined by the Secretary pursuant to subsection (e)(4).".

(2)(A) Section 1886(d)(3)(A) of such Act (42 U.S.C. 1395ww(d)(3)(A)) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, and 1990".

(B) Section 1886(e)(4) of such Act (42 U.S.C. 1395ww(e)(4)) is amended—

(i) by striking "fiscal year 1988" and inserting in lieu thereof "fiscal years 1988, 1989, and 1990"; and

(ii) by striking the last sentence and inserting in lieu thereof the following: "The percentage change may be different for urban subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, rural subsection (d) Puerto Rico hospitals, and all other hospitals and units exempt from the prospective payment system, and may vary among such other hospitals and units.".

(3) The amendments made by paragraphs (1) and (2) shall apply to cost reporting periods beginning on or after October 1, 1987, excluding the first 51 days of the first such cost reporting period, and for purposes of section 1886(d) of the Social Security Act, for discharges occurring on or after January 1, 1988.

(4) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 is amended by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(c)(iv) of such section, and the applicable percentage increase shall be deemed to be 0 percent" before the end period.

(b) Medicare Payments to Sole Community Hospitals.—

(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall issue, to agencies and organizations through which payments are made under part A of title XVIII of the Social Security Act, implementing instructions that set forth clearly and explicitly the manner in which a sole community hospital may apply for an adjustment of the type described in the second sentence of section 1886(d)(5)(C)(ii) of such Act and the factors that such a hospital is required to demonstrate in order to qualify for such an adjustment.

(2) Section 1886(d)(5)(C)(ii) (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting in lieu thereof "1990", and

(B) by inserting between the second and third sentences the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formula by which payments are determined for the hospital under paragraph (1)(A).".

(3)(A) The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (2)(B) does not exceed—

(i) $10,000,000 in the case of fiscal year 1988; and

(ii) $12,000,000 in the case of fiscal year 1989.

(c) Impact Analyses of Medicare and Medicaid Rules and Regulations on Small Rural Hospitals.—

(1) Section 1102 (42 U.S.C. 1302) is amended—

(A) by inserting "(a)" after "Sec. 1102.", and

(B) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary publishes a general notice of proposed rulemaking for any rule or regulation proposed under title XVIII, title XIX, or part B of this title that may have a significant impact on a substantial number of small rural hospitals, the Secretary shall prepare and make available for public comment an initial regulatory impact analysis. Such analysis shall describe the impact of the proposed rule or regulation on such hospitals and shall set forth, with respect to small rural hospitals, the matters required under section 603 of title 5, United States Code, to be set forth with respect to small entities. The initial regulatory impact analysis (or a summary) shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or regulation.

"(2) Whenever the Secretary promulgates a final version of a rule or regulation with respect to which an initial regulatory impact analysis is required by paragraph (1), the Secretary shall prepare a final regulatory impact analysis with respect to the final version of such rule or regulation. Such analysis shall set forth, with respect to small rural hospitals, the matters required under section 604 of title 5, United States Code, to be set forth with respect to small entities. The Secretary shall make copies of the final regulatory impact analysis available to the public and shall publish, in the Federal Register at the time of publication of the final version of the rule or regulation, a statement describing how a member of the public may obtain a copy of such analysis.

"(3) If a regulatory flexibility analysis is required by chapter 6 of title 5, United States Code, for a rule or regulation to which this subsection applies, such analysis shall specifically address the impact of the rule or regulation on small rural hospitals.".

(2) The amendments made by paragraph (1) shall apply to regulations proposed more than 30 days after the date of the enactment of this Act.

(d) Hospital Cost Report.—

(1)(A) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop a data base of the operating costs of inpatient hospital services for a representative sample of hospitals, for use by the Congress and the Secretary in determining an appropriate applicable percentage increase under section 1886(b)(3)(B) of the Social Security Act, evaluating the appropriateness of other payment adjustments under section 1886, and analyzing legislative, regulatory, and budgetary changes.

(B) In selecting a representative sample of hospitals for the data base required to be developed pursuant to subparagraph (A), the Secretary shall—

(i) select subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) with cost reporting periods beginning during the first four months of the fiscal year of the United States Government, and

(ii) to the extent practicable, provide for adequate representation of small rural hospitals, sole community hospitals, and rural referral centers.

(C) The Secretary shall report to the Congress on the data base developed pursuant to subparagraph (A) not later than October 1, 1988.

(2) The Secretary shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an update analysis of the differences between preliminary and settled cost reports).

(3)(A) Subject to subparagraph (B), with respect to cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format.

(B) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to small or rural hospitals or any hospital with a small percentage of medicare volume).

(4) The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

(e) Propac Report on Study of Separate DRG Rates for Urban and Rural Hospitals.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(f) Wage Index Survey.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) of such Act is amended by adding at the end thereof the following: "Not later than October 1, 1989 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(g) Revision of Standards for Including a Rural County in an Urban Area.—

(1) Section 1886(d)(8) of such Act (42 U.S.C. 1395ww(d)(8)) is amended—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end thereof the following new subparagraphs:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any one adjacent urban area; and

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area or areas is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of all adjacent urban areas and the number of residents of the central county or counties of all adjacent urban areas who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under section 1886(d)(3) for hospitals paid at the urban rate to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than the aggregate amount of payments that would have resulted in the absence of the provisions of subparagraph (B). For purposes of computing the wage indices under this section, hospitals to which subparagraph (B) applies shall be treated as rural hospitals.".

(2) The amendments made by paragraph (1) shall apply to discharges occurring on or after January 1, 1988.

(3) For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin, is deemed to be located in Jefferson County, Wisconsin.

(h) Clinic Hospital Wage Indices.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after December, 1986, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution described in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term 'wage costs' does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Standard Metropolitan Statistical Area.

(i) Psychologists' Services Furnished to Hospital Inpatients.—

(1) Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including a clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

(2) The amendment made by paragraph (1) shall apply with respect to services furnished on or after the date of enactment of this Act.

(j) Hospital Condition of Participation Related to Individual Responsible for Care of Patient.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

(k) Outlier Payments for Burn Cases.—

(1) The Prospective Payment Assessment Commission (in this subsection referred to as the "Commission") shall conduct a study of possible modifications to the prospective payment system established under section 1886(d) of the Social Security Act that will provide more adequate and appropriate payments with respect to burn outlier cases, including a recommendation with respect to whether separate payment rates should be established for burn center hospitals. The Commission shall report the results of the study to the Congress not later than April 1, 1988.

(2)(A) Section 1886(d)(5)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(A)(iii)) is amended—

(i) by inserting "(I)" after "(iii)", and

(ii) by adding at the end thereof the following new subclause:

"(II) In the case of any burn-related discharge described in clause (i) or (ii), the amount of the additional payment under such clause shall equal 90 percent of the cost of care beyond the applicable cutoff point.".

(B) Subclause (II) of section 1886(d)(5)(A)(iii) of such Act shall be implemented in a manner that ensures that total payments under section 1886 of such Act are not increased or decreased by reason of the adjustments required by such subclause.

(3) The amendments made by paragraph (1) shall apply to discharges occurring on or after January 1, 1988, and before October 1, 1989.

(l) Changing Cost-Effectiveness Performance Period Under Demonstration Project Reimbursement System.—Section 1814(b)(3) of such Act (42 U.S.C. 1395f(b)(3)) is amended by striking "for the previous three-year period" and inserting in lieu thereof "for any period beginning on October 1, 1983, and ending on the most recent date for which relevant data are available".

(m) Maintaining Method of Reimbursing Hospitals for Bad Debt Under Prospective Payment System.—The Secretary of Health and Human Services shall continue and shall not issue regulations to alter the method for making payments to hospitals under title XVIII of the Social Security Act for the reasonable costs relating to unrecovered costs associated with unpaid deductible or coinsurance amounts for inpatient hospital services covered under part A of such title under policy guidelines (including criteria for what constitutes a reasonable collection effort) in effect on March 31, 1987.

(n) Report on Outlier Payments.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

(o) Classification of Rural Referral Centers.—

(1) Section 1886(d)(5)(C)(i)(I) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended in the first sentence by striking "500" and inserting in lieu thereof "275".

(2) Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by adding at the end thereof the following new subclause:

"(III) The Secretary shall provide, under subclause (I), for the classification of a rural hospital as a regional referral center if the hospital has a case mix equal to or greater than both the median case mix for hospitals (other than hospitals with approved teaching programs) located in an urban area within the United States and the median case mix for hospitals (other than hospitals with approved teaching programs) located in an urban area in the same region (as defined in paragraph (2)(D)), meets the criterion established by the Secretary under subclause (I) with respect to the annual number of discharges for a rural osteopathic hospital, and meets any other criteria established by the Secretary under subclause (I). The Secretary shall implement the provisions of this subclause in a manner that ensures that total payments under this section are not increased or decreased by reason of the classifications required by such provisions.".

(3)(A) Subject to subparagraph (B), the amendments made by paragraphs (1) and

(2) shall apply to payments for discharges occurring on or after January 1, 1988.

(B) An appeal for classification of a rural hospital as a regional referral center, pursuant to the amendments made by paragraphs (1) and (2), which is filed before April 1, 1988, and which is approved shall be effective with respect to discharges occurring on or after January 1, 1988, without regard to when the hospital's cost reporting period began.

(p). Grant Program for Rural Health Care Transition.—

Title XVIII of the Social Security Act is amended by inserting after section 1884 the following new section:

"GRANTS TO RURAL HOSPITALS

"Sec. 1884A. (a) The Secretary shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

"(1) Changes in clinical practice patterns,

"(2) Changes in service populations,

"(3) Declining demand for acute-care inpatient hospital capacity,

"(4) Declining ability to provide appropriate staffing for inpatient hospitals,

"(5) Increasing demand for ambulatory and emergency services,

"(6) Increasing demand for appropriate integration of community health services, or

"(7) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

The program shall be established through the Administrator of the Health Care Financing Administration and shall be conducted by the Administrator in consultation with the Assistant Secretary for Health (or a designee).

"(b) For purposes of this section, the term 'eligible small rural hospital' means any hospital that—

"(1) is located in a rural area (as determined in accordance with subsection (d)),

"(2) has less than 100 beds,

"(3) provides patient services (diagnostic and therapeutic) for a variety of medical conditions, and

"(4) is classified as a—

"(A) government-nonfederal,

"(B) nongovernment not-for-profit, or

"(C) church-operated as osteopathic or other not-for-profit osteopathic,

hospital under the classification codes of the American Hospital Association.

"(c)(1) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in subsection (a) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than twenty-four months) for completion of the project. The application shall be submitted on or before a date specified by the Secretary and shall be in such form as the Secretary may require.

"(2) The Governor shall transmit any application submitted pursuant to paragraph (1) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

"(3) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under paragraph (1).

"(d) A hospital shall be considered to be located in a rural area for purposes of this section if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D).

"(e) In determining which hospitals making application under subsection (c) will receive grants under this section, the Secretary shall take into account—

"(1) any comments received under subsection (c)(2) with respect to a proposed project;

"(2) the effect that the project will have on—

"(A) reducing expenditures from the Federal Hospital Insurance Trust Fund,

"(B) improving the access of medicare beneficiaries to health care of a reasonable quality;

"(3) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

"(A) the primary market or service area of the hospital, and

"(B) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

"(4) the degree of coordination that may be expected between the proposed project and—

"(A) other local or regional health care providers, and

"(B) community and government leaders, as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

"(f) A grant to a hospital under this section may not exceed $50,000 a year and may not exceed a term of two years.

"(g)(1) Except as provided in paragraphs (2) and (3), a hospital receiving a grant under this section may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

"(2) A hospital receiving a grant under this section for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

"(3) Not more than one-third of any grant made under this section may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4)) of the project.

"(h)(1) A hospital receiving a grant under this section shall furnish the Secretary with such information as the Secretary may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

"(2) The Secretary shall report to the Congress at least once every six months on the program of grants established under this section. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

"(3) The Secretary shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

"(i) The provisions of section 1122 shall not apply to capital expenditures made with respect to any project for which a grant is made under this section.

"(j) For purposes of carrying out the program of grants under this section, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.".

(q) Delay in Requirements Relating to Hospital Standards for Organ Transplants and Standards for Organ Procurement Agencies.—

(1) Section 9318(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" each place it appears and inserting in lieu thereof "December 31, 1988".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4002. MEDICAL EDUCATION.

(a) Indirect Medical Education.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.56"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.7", and by striking out ".5795" and inserting in lieu thereof ".405".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in the heading, by striking "September 30, 1986" and inserting in lieu thereof "December 31, 1987";

(B) in the matter preceding subclause (I)—

(i) by striking "September 30, 1986" and inserting in lieu thereof "December 31, 1987",

(ii) by inserting "proportionately" after "reduce", and

(iii) by striking "(in" and all that follows through "(i))";

(C) in subclause (I)—

(i) by striking "October 1, 1986" and inserting in lieu thereof "December 31, 1987", and

(ii) by inserting "and by section 4002 of the Omnibus Budget Reconciliation Act of 1987" after "1985"; and

(D) in subclause (II), by inserting "and by section 4002 of the Omnibus Budget Reconciliation Act of 1987" after "1985".

(3) The amendments made by this subsection shall apply to discharges occurring on or after January 1, 1988.

(b) Exclusion of Costs Incurred With Respect to Foreign Medical Graduates.—Section 1886(h)(4) of such Act (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end thereof the following new subparagraph:

"(F) Foreign medical graduate exclusion.—

"(i) In general.—Except as provided in clauses (ii), (iii), and (iv), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident with respect to any cost reporting period beginning on or after July 1, 1988.

"(ii) First transitional rule.—With respect to the first cost reporting period beginning on or after July 1, 1988, such rules shall provide that the lesser of—

"(I) two-thirds of the number of a hospital's residents for such cost reporting period who are foreign medical graduates but who began their formal training required for initial board eligibility in the specialty for which they are preparing prior to July 1, 1988, or

"(II) two-thirds of the number of residents who are foreign medical graduates but with respect to whom the hospital received payments under this subsection for the last cost reporting period beginning before July 1, 1988,

shall be counted as residents.

"(iii) Second transitional rule.—With respect to the second cost reporting period beginning on or after July 1, 1988, such rules shall provide that the lesser of—

"(I) one-third of the number of a hospital's residents for such cost reporting period who are foreign medical graduates but who began their formal training required for initial board eligibility in the specialty for which they are preparing prior to July 1, 1988, or

"(II) one-third of the number of residents who are foreign medical graduates but with respect to whom the hospital received payments under this subsection for the last cost reporting period beginning before July 1, 1987,

shall be counted as residents.

"(iv) Special transitional rule for hospitals with high percentage of foreign medical graduates.—In the case of a hospital at which, on September 1, 1987, more than 50 percent of the residents for which such hospital receives payments under this subsection are foreign medical graduates, such rules shall provide that the provisions of clause (ii) shall apply for the first 2 cost reporting periods beginning on or after July 1, 1988, and the provisions of clause (iii) shall apply to the subsequent 3 cost reporting periods.".

(c) Rural Health Medical Education Demonstration Project.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this paragraph to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(2) Under a demonstration project conducted under paragraph (1), a sponsoring hospital entering into an agreement with the Secretary under such paragraph shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under paragraph (1) may provide) who have completed one year of residency training.

(3) In selecting from among applications submitted under paragraph (1), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(A) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(B) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(4) For purposes of section 1886 of the Social Security Act—

(A) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under paragraph (1) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under paragraph (1) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(B) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under paragraph (1) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under paragraph (1).

(5) Each demonstration project under paragraph (1) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(6) In this subsection, the term "sponsoring hospital" means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4003. PAYMENTS FOR HOSPITAL CAPITAL-RELATED COSTS.

(a) In General.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) by striking clause (ii) and inserting in lieu thereof the following new clause:

"(ii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988 occurring on or after January 1, 1988, and to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1989, and"; and

(2) in clause (iii), by striking "1989" and inserting in lieu thereof "1990".

(b) Clarification of Secretarial Authority to Incorporate Payment for Other Capital-Related Costs under the Prospective Payment System.—Section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is amended by striking "1987" and inserting in lieu thereof "1991".

(c) Treatment of Capital-Related Regulations.—

(1) Notwithstanding any other provision of law (except as provided in paragraph (3)), the Secretary of Health and Human Services may not change the definition of capital-related costs or change the methodology for computing the amount of payment for capital-related costs (as defined in paragraph (4)) for inpatient hospital services under part A of title XVIII of the Social Security Act. Any regulation published in violation of the previous sentence after August 1, 1987, and before the date of enactment of this Act is void and of no effect.

(2) Any reference in law to a regulation issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act shall not include any regulation issued or proposed with respect to capital-related costs (as defined in paragraph (4)).

(3) Paragraph (1) shall not apply to any regulation issued for the sole purpose of implementing subsections (g)(3)(A) and (g)(3)(B) of section 1886 of the Social Security Act (as amended by section 9303(a) of the Omnibus Budget Reconciliation Act of 1986 and subsection (a) of this section).

(4) In this subsection, the term "capital-related costs" means those capital-related costs that are specifically excluded, under the second sentence of section 1886(a)(4) of the Social Security Act, from "operating costs of inpatient hospital services" (as defined in that section) for cost reporting periods beginning prior to October 1, 1989.

(d) Effective Date.—The amendments made by subsection (a) shall apply to portions of cost reporting periods or discharges occurring on or after January 1, 1988.

SEC. 4004. ELIMINATION OF PERIODIC INTERIM PAYMENT SYSTEM (PIP) FOR CERTAIN HOSPITALS AND EXTENSION OF DISPROPORTIONATE SHARE ADJUSTMENT.

(a) In General.—Section 1815(e)(1) of the Social Security Act (42 U.S.C. 1395g(e)(1)) is amended—

(1) in subparagraph (B), by striking "In" and inserting in lieu thereof "Subject to the last sentence of this paragraph, in"; and

(2) by adding at the end thereof the following:

"No payment shall be made under subparagraph (B) on a periodic payment basis on or after July 1, 1990; except that, the Secretary may provide with respect to a hospital that payments be made on such basis under such subparagraph on or after such date (for such period of time as the Secretary determines is appropriate) if the hospital demonstrates to the satisfaction of the Secretary that discontinuing payments on such basis would pose an immediate threat to the ability of the hospital to operate.".

(b) Temporary Delay in Payments in Fiscal Year 1989.—Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under section 1815(e)(1)(B) of such Act, the Secretary of Health and Human Services shall provide with respect to at least the last twenty-one days for which such payments would be made during fiscal year 1989, that such payments shall be deferred until fiscal year 1990.

(c) For the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

(d) Extension of Disproportionate Share Adjustment.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(B)(5)(ii)(II) (42 U.S.C.1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww)(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

Subpart II—Provisions Affecting Medicare Parts A and B

SEC. 4011. PAYMENT CYCLE STANDARDS.

(a) Payment Floor Standards.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days,

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 11 days, and

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 12 days.".

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days,

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 11 days, and

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 12 days.".

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

(b) PROMPT PAYMENT FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.—

(1) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and inserting in lieu thereof "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

(c) BUDGET CONSIDERATIONS.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4012. MEDICARE CONTRACTORS.

(a) MEDICARE CONTRACTOR BUDGET.—

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for carriers under this section for that fiscal year.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) PAYMENT SAFEGUARDS.—

(1) Section 118 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 355), as amended by section 9216(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by striking "and $105,000,000 for each of fiscal years 1986, 1987, and 1988" and inserting in lieu thereof "$105,000,000 for each of fiscal years 1986 and 1987, $205,000,000 for fiscal year 1988, and $100,000,000 for each of fiscal years 1989 and 1990".

(2) The amendment made by paragraph (1) shall apply with respect to fiscal years beginning with fiscal year 1988.

(c) PROHIBITION AGAINST DENIAL QUOTAS.—

(1) Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended in the second sentence by inserting "or solely on the basis of any specified numerical ratio of amounts that must be saved through denial of claims under utilization review to amounts expended with respect to such review" before the period.

(2) Section 1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2)) is amended by inserting at the end thereof the following: "No carrier shall be found under such standards and criteria not to be efficient or effective or to be less efficient or effective solely on the basis of any specified numerical ratio of amounts that must be saved through denial of claims under utilization review to amounts expended with respect to such review.".

(3) Nothing in the amendments made by paragraphs (1) and (2) shall be construed to limit the authority of the Secretary of Health and Human Services under the law in effect on the date of enactment of this Act to—

(A) ascertain the accuracy of decisions (including medical review decisions) made by a fiscal intermediary under section 1816 of the Social Security Act or a carrier under section 1842 of such Act;

(B) prescribe standards for measuring the performance of any such fiscal intermediary or carrier; or

(C) refuse to renew (or to conditionally renew) the agreement of any such fiscal intermediary or the contract of any such carrier for failing to meet such standards.

SEC. 4013. SECONDARY PAYER PROVISIONS.

(a) APPLICATION OF SECONDARY PAYER PROVISIONS TO GOVERNMENTAL ENTITIES.—

(1) Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)) is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting in lieu thereof "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

(2) The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 1987.

(b) PRIMARY PAYER REQUIREMENT WITH RESPECT TO END STAGE RENAL DISEASE.—

(1) Section 1862(b)(2)(A) of such Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through the period and inserting in lieu thereof "(ii) can reasonably be expected to be made under such plan.".

(2) The amendment made by paragraph (1) shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 4014. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) December 31, 1987, with respect to all such payments; and

(2) January 15, 1987, with respect to payments for physicians' services and durable medical equipment (and other nonphysician services reimbursed on a reasonable charge basis) under part B of such title.

Subpart III—Provisions Affecting Medicare Part B

SEC. 4021. PHYSICIAN PAYMENTS.

(a) THREE-MONTH FREEZE ON INCREASES IN PHYSICIAN PAYMENTS.—

(1) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by adding at the end thereof the following new clause:

"(vi) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.",

(ii) in subparagraph (B), by adding at the end thereof the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987.",

(iii) by adding at the end thereof the following new subparagraph:

"(F) For purposes of this part, with respect to physicians' services furnished in 1988 on or after April 1, the percentage increase in the MEI is—

"(i) the full amount of the percentage increase in the MEI for 1988 for primary services (as defined in subparagraph (E)(iii)), and

"(ii) 0 percent for other physicians' services.",

(iv) in subparagraph (E), by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services (as defined by procedure code by the Secretary)."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physicians' service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

(2) Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the three-month period beginning on January 1, 1988; and

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests that the agreement be terminated.

(3) Section 9332(a)(4)(C) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) by striking "April" and inserting in lieu thereof "July"; and

(B) by striking "at the end of 1987" and inserting in lieu thereof "prior to April 1, 1988".

(b) PAYMENT INCREASE FOR SERVICES FURNISHED IN UNDERSERVED RURAL AREAS.—

(1) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end thereof the following new subsection:

"(m) In the case of services furnished—

"(1) on an assignment-related basis,

"(2) to an individual who is covered under the insurance program established by this part and who incurs expenses for such services,

"(3) by a physician in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332 of the Public Health Service Act, as a health manpower shortage area,

in addition to the amount otherwise paid under this part, there also shall be paid to the physician (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of such amount.".

(2) The amendment made by paragraph (1) shall apply with respect to services furnished on or after January 1, 1989.

(c) CUSTOMARY CHARGES FOR NEW PHYSICIANS.—

(1) Section 1842(b)(4) of such Act, as amended by subsection (a)(1), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332 of the Public Health Service Act, as a health manpower shortage area) for which adequate data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3)) for a service.".

(2) The amendment made by paragraph (1) shall apply to physicians who first furnish services to medicare beneficiaries after January 1, 1988.

(d) REDUCTION IN PREVAILING CHARGE LEVEL FOR OVERPRICED PROCEDURES.—

(1) Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13)(A)(i) In determining the reasonable charge under paragraph (3) for any of the procedures described in subparagraph (C), the prevailing charge for any such procedure otherwise recognized for participating and nonparticipating physicians shall be reduced by the applicable percentage with respect to procedures performed in 1988. A reduced prevailing charge under this subparagraph shall become the prevailing charge level for purposes of applying the economic index under the fourth sentence of paragraph (3) for subsequent years.

"(ii) The applicable percentage specified in this clause is—

"(I) in the case of a prevailing charge that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987, 15 percent;

"(II) in the case of a prevailing charge that does not exceed 100 percent of such average, 0 percent; and

"(III) in the case of any other prevailing charge, a percentage between 0 and 15 determined on the basis of a straight-line sliding scale (as determined by the Secretary).

"(C) The procedures described in this subparagraph are cataract extraction with intraocular lens implant, intraocular lens insertion, coronary artery bypass surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, diagnostic dilation and curettage, pacemaker surgery, and carpal tunnel release.

"(D)(i) In the case of a reduction in the reasonable charge for a physician's service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part after the effective date of such reduction (subject to clause (iv)), the physician may not charge the individual more than the limiting charge (as defined in clause (ii)) plus (for services furnished during the 9-month period beginning on April 1, 1988), ½ of the amount by which the physician's maximum allowable actual charge for the service for the 12-month period ending on December 31, 1987, exceeds the limiting charge.

"(ii) In clause (i), the term 'limiting charge' means, with respect to a service, 125 percent of the prevailing charge for the service after the reduction under subparagraph (A).

"(iii) If a physician knowingly and willfully imposes a charge in violation of clause (i), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(iv) This subparagraph shall not apply to services furnished after the earlier of (I) December 31, 1990, or (II) one year after the date the Secretary reports to the Congress, under section 1845(e)(3), on the development of a relative value scale under section 1845.".

(2) The amendments made by paragraph (1) shall apply to procedures performed on or after April 1, 1988.

(e) CHANGES IN APPLICATION OF MAXIMUM ALLOWABLE ACTUAL CHARGE.—

(1) In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of the carrier that he had actual charges (whether under title XVIII of such Act or otherwise) for the procedure performed during any calendar quarter beginning during the 12-month period ending March 31, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on the physician's actual charges for the procedure for the most recent calendar quarter (to begin during such period) for which the physician has actual charges.

(2) To the extent feasible, for the purpose of determining whether a uniform maximum allowable actual charge under section 1842(j) of the Social Security Act may be applied to a group practice—

(A) in the case of a multi-specialty group practice, in order to qualify for a group MAAC the charges must be uniform within each specialty, but to not necessarily have to be uniform across specialties; and

(B) in the case of hospital departmental practice plans, each department shall be treated separately.

(3) Paragraphs (1) and (2) shall take effect on April 1, 1988.

(f) DATE FOR APPLYING CIVIL PENALITIES FOR IMPROPER USE OF ASSISTANTS IN PERFORMING CATARACT SURGERY.—

(1) Section 1842(k) of such Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting in lieu thereof "(j)(2) in the case of surgery performed on or after March 1, 1987".

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(g) ASSISTANTS AT CATARACT SURGERY.—

(1) Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended—

(A) by striking "the" the second place it appears and inserting in lieu thereof "(A) the"; and

(B) by striking the semicolon and inserting in lieu thereof the following: ", or (B) such organization and the appropriate carrier under such section have determined that the use of the assistant is necessary to perform a surgical technique of established economic benefit (taking into account the cost of the assistant) that eliminates the need for an anesthesiologist or nurse anesthetist;".

(2) The amendment made by paragraph (1) shall apply with respect to services furnished on or after the date of enactment of this Act.

(h) UTILIZATION SCREENS FOR PHYSICIAN SERVICES PROVIDED TO PATIENTS IN REHABILITATION HOSPITALS.—

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utili-

zation practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) COLLECTION OF PAST-DUE AMOUNTS OWED BY PHYSICIANS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.—

(1)(A) Title XVIII of such Act is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

"SEC. 1891. (a) IN GENERAL.—

"(1) The Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title or under a State plan approved under title XIX, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis; and

"(C) if the physician does not provide services, for which payment would otherwise be made under this title or a State plan approved under title XIX, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule, or if the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately bar the physician from the program under this title and from any State program of medical assistance under title XIX of this Act, until such time as the entire past-due obligation has been repaid.

"(3) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338D of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338D of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1876, the Secretary shall deduct the amount of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(3) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(4) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(5) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) NOTIFICATION TO AND AGREEMENT WITH STATE MEDICAID AGENCIES.—The Secretary shall notify each State agency which administers a State plan approved under title XIX of the name of each physician who owes a past-due obligation. If such physician receives any payments, or is employed by an entity which receives any payments, under a State plan, the Secretary shall enter into an agreement with such State under which amounts otherwise payable under the State plan to such physician or the employing entity will be deducted in accordance with the formula and schedule agreed to under subsection (a), or as provided in subsection (d). Deductions made by the State shall be made only from the Federal share of the amount otherwise payable to the physician or employing entity, and the amount otherwise payable to the State under section 1903 shall be reduced accordingly pursuant to section 1903(c).

"(f) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

(2)(A) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(i) by striking out "and" at the end of paragraph (46);

(ii) by striking out the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(iii) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(iv) by inserting after paragraph (48) the following new paragraph:

"(49) provide that the State shall make deductions, as specified by the Secretary pursuant to section 1891(e), from the Federal share of amounts otherwise payable to physicians for services furnished under the State plan.".

(B) Section 1903 of such Act (42 U.S.C. 1396b) is amended by inserting after subsection (b) the following new subsection:

"(c) The amount otherwise payable under subsection (a) to a State shall be reduced by the amount of any reductions in payments to physicians made by the State pursuant to section 1902(a)(49). An amount equal to the amount of the reduction in payment under this subsection shall be credited by the Secretary as repayment of past-due obligations under section 338D of the Public Health Service Act by the physicians from whom, or with respect to whom, the payments were offset.".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to calendar quarters beginning after the date of the enactment of this Act.

(ii) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this paragraph, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3)(A) Section 338D(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare and Medicaid payments pursuant to section 1891 and 1902(a)(49) of the Social Security Act.".

(B) Section 338D(c)(3) of such Act (42 U.S.C. 254o(c)(3)) is amended to read as follows:

"(3) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 of the United States Code.".

(C)(i) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

(ii) The amendment made by subparagraph (B) shall apply with respect to damages arising from contracts entered into after the date of the enactment of this Act.

(j) STUDY OF PREVAILING CHARGES FOR ANESTHESIA SERVICES.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

(k) Change in Date for Annual Report of Physician Payment Review Commission.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March" and inserting in lieu thereof "May".

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

SEC. 4022. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) Amounts Payable.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures), the amount determined under subsection (m);"; and

(2) by adding at the end thereof the following new subsection:

"(m)(1)(A) The aggregate amount of the payments to be made in a cost reporting period under this part for services described in subsection (a)(2)(E) shall be equal to the sum of:

"(i) the lesser of—

"(I) the amount determined with respect to such services under subsection (a)(2)(B) excluding amounts for capital associated with services described in subsection (a)(2)(E) or

"(II) the blend amount for radiology services determined in accordance with subparagraph (B); and

"(ii) amounts for capital associated with services described in subsection (a)(2)(E).

"(B)(i) The blend amount for radiology services for a cost reporting period is the sum of:

"(I) the cost proportion (as defined in clause (ii)(I)) of the amount described in subparagraph (A)(i)(I); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent of 80 percent of the prevailing charge for participating physicians for the same radiology services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for cost reporting periods beginning in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for cost reporting periods beginning in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) Conforming Amendment.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)".

(c) Effective Date.—The amendments made by subsection (a) shall apply with respect to cost reporting periods beginning on or after October 1, 1988.

SEC. 4023. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

SEC. 4024. COVERAGE OF MENTAL HEALTH SERVICES.

(a) Outpatient Services Under Part B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended—

(1) by striking "$312.50" and inserting in lieu thereof "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) Partial Hospitalization Coverage.—

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a hospital-based or hospital-affiliated program which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) Effective Date; Implementation.—

(1) The amendments made by subsection (a) shall apply with respect to calendar years beginning on or after January 1, 1988.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure that there is no additional cost to the medicare program by reason of such amendments.

SEC. 4025. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) In General.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) Conforming Amendment.—Section 1881(b)(2)(C) of the Social Security Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting in lieu thereof "facilities (other than hospital outpatient departments)".

(c) Effective Date.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 4026. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) In General.—

(1) Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after subsection (e) the following new subsection:

"(f) With respect to any year after 1988, in establishing a limit under subsection (a)(3) on payment for rural health clinic services provided by independent rural health clinics, the Secretary shall adjust the limit established under this subsection for the previous year increased by the percentage increase in an index developed by the Secretary that takes into account economic data and the actual costs of furnishing rural health clinic services.".

(2) Section 1833 of such Act, as added by paragraph (1), is amended—

(A) by inserting "(1)" after "(f)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this section, such limit in 1988 shall be $46.".

(b) CONTINGENT EFFECTIVE DATE.—

(1) Subject to paragraph (2), the amendment made by subsection (a) shall become effective 120 days after the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall not become effective if (and shall be null and void) the Secretary of Health and Human Services, prior to the date described in paragraph (1), updates the payment limit under title XVIII of the Social Security Act for services with respect to which such amendment applies to account for increases in practice costs occurring since the date on which such limit was last changed.

SEC. 4027. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES UNDER PART B OF MEDICARE.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) PAYMENT OF BENEFITS.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting in lieu thereof a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking "services; and" in subparagraph (G) and inserting in lieu thereof "services,";

(C) by adding "and" at the end of subparagraph (H); and

(D) by adding at the end thereof the following new subparagraph: "(I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 75 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(c) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means services furnished by a certified nurse-midwife (as defined in paragraph (2)) which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(c) CONFORMING CHANGES.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting in lieu thereof "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4028. PSYCHOLOGIST SERVICES IN CLINICS.

(a) COVERAGE OF PSYCHOLOGISTS' SERVICES FURNISHED AT RURAL HEALTH CLINICS.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting in lieu thereof "physician assistant or a nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act.

(b) DIRECT PAYMENT FOR PSYCHOLOGISTS' SERVICES FURNISHED AT A COMMUNITY MENTAL HEALTH CENTER.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (J);

(B) by adding "and" at the end of subparagraph (K); and

(C) by adding at the end thereof the following new subparagraph:

"(L) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting in lieu thereof a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking "services; and" in subparagraph (G) and inserting in lieu thereof "services,";

(C) by adding "and" at the end of subparagraph (H); and

(D) by adding at the end thereof the following new subparagraph: "(I) with respect to qualified psychologist services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(ff) The term 'qualified psychologist services' means services furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law)."

(5) The amendments made by this subsection shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4029. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) COVERAGE UNDER PART B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

(b) LIMITATION ON BENEFIT.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) Modification of Exclusion.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) Conforming Amendments.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (12) and (13)" and inserting in lieu thereof "paragraphs (13) and (14)".

(e) Contingent Effective Date; Demonstration Project.—

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4030. DURABLE MEDICAL EQUIPMENT.

(a) Purchase of Equipment.—Section 1889 of the Social Security Act (42 U.S.C. 1395zz) is amended:

(1) in subsection (a), by striking "In" and all that follows through the final period and inserting in lieu thereof the following: "Durable medical equipment (other than inexpensive equipment, or equipment that the Secretary designates as eligible for long-term rental) furnished by a participating provider (as defined in section 1842(h)(1)) shall be purchased on a lump sum or lease-purchase basis."; and

(2) by striking subsections (c) and (d) and inserting in lieu thereof the following new subsections:

"(c) Purchase of durable medical equipment (other than inexpensive equipment) on a lump sum basis shall be permitted only if the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly than purchase on a lease-purchase basis.

"(d)(1) If payment for durable medical equipment (other than inexpensive equipment) is made in accordance with a lease-purchase agreement on an assignment-related basis, the total amount that may be paid (including coinsurance) may not exceed an amount equal to—

"(A) the reasonable charge on a lump sum basis, plus

"(B) a fair three month rental charge;

and title to the equipment shall pass to the individual if that sum is reached.

"(2) If payment is made for durable medical equipment (including inexpensive equipment) other than as provided by paragraph (1), or other than on a rental basis for equipment that the Secretary designates as eligible for long-term rental, the total amount that may be paid under this title may not exceed 80 percent (except as otherwise provided by subsection (b)) of the reasonable charge on a lump sum basis.

"(e) If a participating supplier (as defined in section 1842(h)(1)) offers for purchase or rental particular durable medical equipment, the supplier shall offer to furnish that equipment (other than inexpensive equipment) to an individual entitled to benefits under this title on a lease-purchase basis if the individual so requests.

"(f) If durable medical equipment is rented on an assignment-related basis, the beneficiary shall be entitled (as part of the terms under the assignment) to use of the equipment (without additional charge to the beneficiary beyond the coinsurance) as long as the equipment is needed.

"(g) For purposes of this section, the term 'inexpensive equipment' means equipment for which the prevailing charge does not exceed $120 (for equipment first furnished in 1988), or does not exceed that amount as may be adjusted by the Secretary from time to time (for equipment first furnished after 1988).".

(b) Three-Month Freeze on Increases in Payments.—Notwithstanding any other provision of law—

(1)(A) the payment levels under title XVIII of the Social Security Act for durable medical equipment and other non-physician services paid on a reasonable charge basis under part B of such title for the 3-month period beginning January 1, 1988, shall be no higher than the payment levels which were in effect under such title for such equipment on December 31, 1987, excluding reductions made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 (but subject to the provisions of section 4014 of this Act),

(B) the adjustment in the payment levels for such equipment and services that would have become effective January 1, 1988, if not for the enactment of subparagraph (A), shall become effective on April 1, 1988, and

(C) the adjustment in the inflation index change for such equipment that becomes effective January 1, 1989, shall be 75 percent of the adjustment that would otherwise be made on that date; and

(2)(A) subject to the last sentence of this subsection, each agreement with a participating supplier in effect for 1987 under section 1842(h)(1) of the Social Security Act shall remain in effect for the three-month period beginning on January 1, 1988; and

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988.

An agreement with a participating supplier in effect for 1987 under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in paragraph (2)(A) if the participating supplier requests that the agreement be terminated.

(c) Effective Date.—The amendments made by subsection (a) shall apply to equipment first furnished an individual on or after April 1, 1988.

SEC. 4031. SERVICES OF A PHYSICIAN ASSISTANT.

(a) Services Covered.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by striking "defined)" and all that follows through "surgery" and inserting in lieu thereof "defined)".

(b) Determination of Payment Amount.—Section 1842(b)(12)(B) of such Act (42 U.S.C. 1395u(b)(12)(B)) is amended to read as follows:

"(B) In subparagraph (A)(ii)(II), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed (other than as an assistant at surgery) in a hospital,

"(ii) 85 percent in the case of services performed in a skilled nursing facility or intermediate care facility, and

"(iii) 65 percent in the case of other services.".

(c) Effective Date.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1988.

SEC. 4032. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) In General.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting in lieu thereof "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services, and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in subsequent fiscal years.".

(b) Study on Payment Rates.—The Secretary of Health and Human Services shall conduct a study on modifying the amount of payments permitted under section 1833(i) of the Social Security Act with respect to hospitals that specialize in specific surgical procedures and shall report the results of such study to the Congress not later than twelve months after the date of enactment of this Act.

(c) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4033. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Payment.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended—

(1) in paragraph (2), by striking "60" and "62" and inserting in lieu thereof "55" and "57", respectively; and

(2) in paragraph (4)(B)—

(A) by striking "or" at the end of clause (i), and

(B) by striking clause (ii) and inserting in lieu thereof the following new clauses:

"(ii) after December 31, 1987, and before January 1, 1989, is equal to 100 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(iii) after December 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 97 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) Intermediate Sanctions.—Part B of title XVIII is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS"

"Sec. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of canceling immediately the certification of the provider or clinical laboratory.

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall become effective on January 1, 1990.

SEC. 4034. INCREASE IN PART B DEDUCTIBLE.

(a) In General.—Section 1833(b) of the Social Security Act is amended by striking "$75" and inserting in lieu thereof "$85".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to calendar years after 1988.

Subpart IV—Provisions Affecting PRO's

SEC. 4041. REFORMS OF PEER REVIEW PROGRAM.

(a) Report on Improvements in Procedures for Imposing Sanctions.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

(b) Requiring Reasonable Notice and Opportunity for Discussion Prior to Denial of Claim.—

(1) Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

"(B) The notification under subparagraph (A) shall not occur until the organization has—

"(i) made a preliminary notification to such practitioner or provider of such determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(2) The amendment made by subsection (a) shall apply with respect to services or items furnished or to be furnished on or after the date of enactment of this Act.

(c) Separate Funding Levels.—

(1) Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(A) by striking "1986" and inserting in lieu thereof "1988"; and

(B) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(2) Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

(3) The amendments made by this subsection shall apply with respect to fiscal years beginning on or after October 1, 1988.

(d) Contract Requirements.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects the performance of contract obligations under this section not less than 45 days prior to the date on which such policy or procedure is to take effect.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

(2) Section 1153(e) of such Act (42 U.S.C. 1320c-2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting in lieu thereof "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end thereof the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, prior to requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) Section 1153(c)(3) of such Act (42 U.S.C. 1320c-2(c)(3)) is amended by striking "two" and "biennial" and inserting in lieu thereof "three" and "triennial", respectively.

(4)(A) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act.

(B) The amendment made by paragraph (3) shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(e) Preference in Contracting with In-State Organizations.

(1) Section 1153(b)(1) of such Act (42 U.S.C. 1320c-2(b)(1)) is amended by striking "1152(1)(A)" and inserting in lieu thereof "1152(1)(A). If more than one such qualified organization meets the criteria of the pre-

ceding sentence, the Secretary shall give additional consideration to an in-State organization. For purposes of this section, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

(2) Section 1153 of such Act, as amended by subsection (d)(1), is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization unless the Secretary has first complied with the requirements of paragraph (2).

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).".

(3)(A) The amendment made by paragraph (1) shall apply with respect to contracts entered into on or after the date of enactment of this Act.

(B) The amendment made by paragraph (2) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

(f) Requirements Relating to Functions of Peer Review Organizations.—

(1) Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end thereof the following new paragraph:

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform not less than 20 percent of its review activities of rural hospitals under paragraph (1) on the site where services or items are provided and shall include, as part of such on-site review, on-site review at each rural hospital in the organization's area.".

(2) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(B) by striking "previous sentence" and inserting in lieu thereof "previous two sentences".

(3) Section 1154(a)(5) of such Act (42 U.S.C. 1320c-3(a)(5)) is amended—

(A) by inserting "(A)" after "(5)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) The organization shall arrange for several educational sessions to be conducted during a year at hospitals in the organization's area for the purpose of providing providers, practitioners, and hospital personnel with the criteria used by the organization in making the determinations under subparagraphs (A), (B), and (C) of paragraph (1) with respect to such hospital.".

(4) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(A) by inserting "(i)" after "(A)";

(B) by striking the semicolon and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

(5) Section 1154(a)(6) of such Act (42 U.S.C. 1320c-3(a)(6)) is amended by adding at the end thereof the following:

"As a component of the norms described in subparagraph (A) or (B), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and social factors that affect the safety and efficacy of service delivery.".

(6) The amendments made by this subsection shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(g) Telecommunications Demonstration Projects.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasability of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary of Health and Human Services may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

(h) Provider Representation of Medicare Beneficiaries During Appeals of Peer Review Determinations.—Section 1155 of such Act (42 U.S.C. 1355) is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end thereof the following new subsection:

"(b) Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this section by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item. If a person furnishes services or items to an individual and represents the individual under this section, the person may not impose any financial liability on such individual in connection with such representation.".

(i) Financial Liability of Medicare Beneficiaries in Case of Denial of Payment for Substandard Care.—

(1) Section 1866(a)(1)(K) of such Act (42 U.S.C. 1395cc(a)(1)(K)) is amended by striking "person" and inserting in lieu thereof "person any amounts (including the amount of any copayment or deductible under this title)".

(2) Section 1842(l)(1)(A)(iii) of such Act (42 U.S.C. 1395u(l)(1)(A)(iii)) is amended—

(A) by inserting "(I)" after "(iii)";

(B) by striking "and" and inserting in lieu thereof "or"; and

(C) by adding at the end thereof the following new subclause:

"(II) a peer review organization determines under part B of title XI that payment may not be made by reason of section 1154(a)(1)(B), and".

(3) Section 1842(b)(3)(B)(ii)(II) of such Act (42 U.S.C. 1395(b)(3)(B)(ii)(II)) is amended by striking "1862(a)" and inserting in lieu thereof "1862(a) or by reason of a determination under section 1154(a)(1)(B)".

(4)(A) The amendment made by paragraph (1) shall apply to provider agreements as of the date of enactment of this Act.

(B) The amendments made by paragraph (2) shall apply to items and services furnished on or after the date of enactment of this Act.

(C)(i) The amendment made by paragraph (3) shall apply to items and services furnished on or after the date of enactment of this Act.

(ii) The Secretary of Health and Human Services shall provide for such timely amendments to contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (3).

(j) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

(k) Restriction on OMB Authority to Apportion Peer Review Funding.—Notwithstanding any other provision of law, the amounts payable from the Trust Funds under parts A and B of title XVIII of the Social Security Act for carrying out the provisions of part B of title XI of such Act shall not be subject to the apportionment authority of the Office of Management and Budget (as described in subchapter II of chapter 15, title 31, United States Code).

Subpart V—Provisions Affecting Medicaid

SEC. 4051. NURSING HOME QUALITY.

(a) Revision of Requirements for Skilled Nursing Facilities.—

(1) Subsection (j) of section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended to read as follows:

"Skilled Nursing Facility

"(j) The term 'skilled nursing facility' means (except for purposes of subsection (a)(2)) an institution (or a distinct part of an institution) that has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more hospitals having agreements in effect under section 1866 and that meets the following requirements:

"(1) Services.—The institution is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and is not primarily for the care and treatment of mental diseases.

"(2) Development of policies.—The institution has policies, which are developed with the advice of (and with provision for review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides.

"(3) Responsibility for execution of policies.—The institution has a physician, a registered professional nurse, or a medical staff responsible for the execution of the policies developed as provided in paragraph (2).

"(4) Physician supervision.—The institution—

"(A) requires that the health care of every resident be provided under the supervision of a physician, and

"(B) provides for having a physician available to furnish necessary medical care in case of emergency.

"(5) Clinical records; assessments.—

"(A) The institution maintains clinical records (on a discipline-specific or interdisciplinary basis) on all residents.

"(B) The institution provides for—

"(i) accurate assessments of each patient in accordance with the requirements of subparagraph (C), and

"(ii) the results of such assessments to be recorded in the clinical records of the resident and to be used in formulating, reviewing, and revising the plan of care developed under paragraph (8).

"(C)(i)(I) A preliminary assessment shall be performed with respect to each resident within 48 hours of his or her admission to the institution. Such assessment shall be coordinated with any State-required preadmission screening to the maximum extent practicable in order to avoid duplicative testing and effort.

"(II) A comprehensive assessment shall be performed with respect to each resident within 21 days of his or her admission to the institution, at least annually thereafter, and whenever there is a significant change in the resident's mental or physical condition.

"(ii) An assessment required by this paragraph—

"(I) shall include (but not be limited to) the identification of medical problems and the assessment of physical, mental, and psychosocial functioning,

"(II) shall be coordinated by a registered professional nurse and carried out in consultation with appropriate health care providers (such as licensed practical nurses, nursing aides, activities professionals, social workers, pharmacists, nutritionists, mental health professionals, and rehabilitation therapists),

"(III) shall utilize a minimum data set of core elements and common definitions and guidelines for utilization specified by the Secretary (in accordance with guidelines established by the Secretary), and

"(IV) shall be available for review and comment by the resident in accordance with the resident's right to participate in developing his or her plan of care under paragraph (8)(A)(i).

"(D) The institution must not admit, on or after January 1, 1989, any new resident who—

"(i) is mentally ill (as defined in section 1902(o)(7)) unless the State mental health authority, based on an independent physical and mental evaluation, has determined prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by such institution, and, if the individual requires such level of services, whether the individual requires active treatment for mental illness, or

"(ii) is mentally retarded (as defined in section 1902(o)(7)) unless the State mental retardation or developmental disability authority has determined prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by such institution, and, if the individual requires such level of services, whether the individual requires active treatment for mental retardation.

The institution must make a copy of any such determination part of the resident's clinical records.

"(6) Required nursing care and social services.—

"(A) Except as provided in subparagraph (C), the institution provides 24-hour licensed nursing service that is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time.

"(B) Except as provided in subparagraph (C), in the case of an institution with more than 120 beds, the institution has at least one social worker (with at least a bachelor's degree in social work) employed full time.

"(C) A State may waive a requirement of subparagraph (A) or (B) with respect to an institution if—

"(i) the institution demonstrates to the satisfaction of the State that the institution has been unable, despite diligent efforts (including offering wages at the community prevailing rate), to recruit appropriate personnel, and

"(ii) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the institution.

A waiver under this subparagraph shall be subject to annual renewal and to the review of the Secretary (as described in section 1902(a)(33)(B)) and shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the institution.

"(7) Drugs and biologicals.—The institution establishes appropriate methods and procedures for the dispensing and administering of drugs and biologicals.

"(8) Scope of services under plan of care.—The institution provides services to maintain or improve each resident's mental and psychosocial well-being, as well as physical well-being, in accordance with a written plan of care which—

"(A) is developed—

"(i) to the extent practicable, in consultation with the resident (or his or her legal representative), and

"(ii) by a multidisciplinary team coordinated by a registered professional nurse,

"(B) is periodically reviewed and revised after each assessment under paragraph (5)(B), and

"(C) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met.

"(9) Nondiscrimination.—

"(A) The institution establishes and maintains identical policies and practices regarding transfers, discharges, and the provision of those services required under this title or the State plan under title XIX for all individuals regardless of source of payment.

"(B)(i) The institution does not require individuals applying to reside or residing in the institution to waive their rights to benefits under this title or title XIX.

"(ii) The institution prominently displays in the institution and provides to individuals applying to reside or residing in the institution written information regarding how to apply for and use benefits under this title or title XIX and how to receive refunds for previous payments covered by such benefits.

"(C)(i) Subject to clauses (ii) and (iii), the institution does not require any oral or written assurance from any person with respect to an individual who is staying in (or applying for admission to) the institution that such person will be financially responsible for any charges with respect to the individual.

"(ii) An institution may require a person who is authorized by law to disburse the income of such an individual to enter into an agreement to pay, solely from the income of the individual, for items and services furnished to the individual for which payment may not be made under this title or under a State plan approved under title XIX.

"(iii) Where an institution furnishes, at the request of an individual, items or services for which payment may not be made (in whole or in part) under this title or under a State plan approved under title XIX, such institution may require payment by the individual (or by another on behalf of the individual) in an amount equal to the amount for which payment may not be made under such title or plan if, before accepting an item or service, the individual is informed of the amount for which payment will not be made for such item or service. The eligibility of an individual for benefits under this title or medical assistance under title XIX shall not be affected by any payment made by such individual (or other person on behalf of the individual) under the preceding sentence, and the failure to make any such payment shall not constitute grounds for transfer or discharge from the institution.

"(D) The institution does not require (as a condition of admission or continued stay in the facility) any nonrefundable deposit, gift, contribution, or prepayment to be made by or on behalf of an individual.

"(10) Resident's rights.—The institution protects and promotes the rights of individuals residing in the institution, including each of the following rights:

"(A) The right to be informed orally and in writing at the time of admission to the institution of the resident's legal rights during the stay at the facility and to have these rights described in a written statement, which is made available to the resident upon reasonable request and which is updated upon changes in such rights.

"(B) The right to be informed in writing before or at the time of admission and periodically during his or her stay, of services available in the facility and of related charges for such services, including any charges for services not covered under this title or under a State plan approved under title XIX, or not covered by the facility's basic per diem rate.

"(C) In the case of an individual who is unable (as determined by State law) to exercise his or her rights, the rights (as specified in regulation by the Secretary) that may be exercised by another person on behalf of the resident (as permitted under State law).

"(D) The right to prompt efforts by the institution to resolve grievances the individual may have, including those with respect to the behavior of other residents.

"(E) The right to file complaints, voice grievances, and recommend changes in policies and service to the staff of the facility and to outside representatives of his or her choice, free from restraint, interference, coercion, discrimination, or reprisal.

"(F) The right (with those of family members) to organize, maintain, and participate in resident advisory and family councils, including the right to assistance from a designated staff member, space, and privacy for meetings.

"(G) The right to participate freely in social, religious, and community activities that do not interfere with the rights of others residing in the facility.

"(H) The right to associate and communicate privately with persons of his or her choice.

"(I) The right to examine, upon reasonable request, the results of the most recent certification survey conducted by the Secretary or a State or local agency with respect to the institution and any plan of correction in effect with respect to the institution.

"(J) Any other right established by the Secretary.

"(11) TRANSFER AND DISCHARGE RIGHTS.—

"(A) An individual is transferred or discharged only for medical reasons, or for his welfare or that of other patients, or for nonpayment of his stay (except as prohibited by titles XVIII or XIX of the Social Security Act), and is given reasonable advance notice to ensure orderly transfer or discharge.

"(B) The institution documents in a resident's records the circumstances of a discharge or transfer.

"(C) The institution notifies a resident, as evidenced by a signed acknowledgment, at least 30 days in advance of the resident's transfer or discharge except where—

"(i) the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(ii) a more immediate transfer or discharge is necessitated by the resident's urgent medical needs,

as explicitly recorded by the attending physician in the resident's record.

"(D) Before effecting a transfer of a resident, the institution provides the resident with—

"(i) a notice of the resident's right to appeal the transfer to the State survey and certification agency, and

"(ii) the name, mailing address, and telephone number of the State long-term care ombudsman.

"(E) The institution provides sufficient preparation and orientation to residents to provide for safe and orderly transfer or discharge from the institution.

"(F) The institution provides—

"(i) written information to each individual entitled to benefits under a State plan approved under title XIX concerning the provisions of the State plan regarding bed holds before discharging the resident for hospitalization or therapeutic leave, and

"(ii) at the time of discharge of a resident to a hospital or for therapeutic leave, written notice to the resident of the duration of any bed hold under the State plan.

"(G) The Secretary shall establish requirements pertaining to inter- and intra-institution transfers and discharges, including patient rights of notice and appeal.

"(12) ACCESS AND VISITATION RIGHTS.—The institution—

"(A) permits immediate access to any resident by any officially designated representative of the Secretary, the State (including representatives of the State office of long-term care ombudsman), the resident's individual physician, relatives who are visiting with the consent of the individual, and other individuals designated in writing by the resident,

"(B) permits reasonable access during regular business hours by any entity or individual that provides health, social, or legal services to a resident, and

"(C) permits representatives of the State office of long-term care ombudsman, with the permission of the resident (or his or her legal representative) and consistent with State law, to examine a resident's medical, nursing, and social records.

"(13) QUALITY OF LIFE.—The institution cares for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

"(14) QUALITY OF CARE.—(A) The institution meets the needs of each resident for necessary medical, nursing, restorative, and psychosocial services that permit the resident to attain and maintain the highest feasible level of functioning in the least restrictive environment possible in light of his or her condition.

"(B) The Secretary shall establish standards for assessing the quality of care provided by institutions in at least the following areas:

"(i) vision and hearing,

"(ii) activities of daily living,

"(iii) use of physical restraints,

"(iv) accidents,

"(v) nutrition and fluid intake,

"(vi) cognitive, behavioral, and social functioning,

"(vii) use of urinary catheters,

"(viii) prevention and care of pressure ulcers, and

"(ix) use of drugs.

"(15) QUALITY ASSESSMENT AND ASSURANCE.—The institution maintains a quality assessment and assurance program that meets the following requirements:

"(A) A committee, consisting of the director of nursing services, a physician designated by the institution, and at least three other members of the staff, meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary.

"(B) One member of the committee described in subparagraph (A) is assigned primary responsibility for ongoing coordination and oversight of quality assessment and assurance activities.

"(C) The committee seeks comments and suggestions from residents and staff with respect to quality assessment and assurance issues (and maintains a permanent record of the comments and suggestions received).

"(D) Issues addressed by the committee at least annually shall include—

"(i) prevention measures and the occurrence of infectious diseases,

"(ii) the promotion of behavioral, cognitive, and social functioning,

"(iii) quality of life,

"(iv) use of medications (including a review of each resident's drug regimen),

"(v) use of chemical and physical restraints,

"(vi) appropriateness, adequacy, and implementation of nursing plans,

"(vii) frequency and seriousness of accident reports (and measures for preventing accidents), and

"(viii) frequency and resolution of residents' grievances and complaints (and mechanisms for monitoring the satisfaction of residents with the quality of care).

"(E) The committee develops and implements appropriate plans of action to correct identified quality deficiencies.

"(F) The committee—

"(i) documents—

"(I) the time expended by it in quality assessment and assurance activities, and

"(II) the issues that it has addressed, and

"(ii) makes such documentation available, upon request, to Secretary and to the appropriate agency responsible for conducting certification surveys with respect to the institution.

"(G)(i) Except as provided in clause (ii), the confidentiality of committee records is maintained.

"(ii) Committee records shall be made available in accordance with subparagraph (F)(ii) and as required by any other provision of law or by court order.

"(H) In determining whether an institution complies with the requirements of this paragraph, the Secretary and the appropriate State agency responsible for conducting certification surveys with respect to the institution shall take into account the degree to which the committee identified and acted upon any deficiencies found with respect to the institution.

"(16) REQUIRED TRAINING OF NURSE AIDES.—

"(A)(i) The institution—

"(I) provides (by itself or through others) training under a program that is recognized and approved by the State under clause (ii) for individuals that are hired or utilized by the institution as nurse aides, and

"(II) does not employ or utilize any individual as a nurse aide for more than 6 months unless the individual has successfully completed a training and competency evaluation program that is recognized and approved by the State under clause (ii).

"(ii) Not later than January 1, 1990, each State, as a condition of approval of its State plan under title XIX, shall—

"(I) specify those training programs that the State recognizes and approves (in consultation with providers, consumers, nurse aides, health care professionals, and other interested groups) for purposes of subparagraph (A) and that meet the minimum requirements established under clause (iii)(I), and

"(II) maintain a registry of all individuals who have successfully completed such a program and records of all test results with respect to the program.

"(iii) Not later than one year after the date of the enactment of this paragraph, the Secretary shall establish—

"(I) minimum standards for the training and competency evaluation programs described in clause (i), and

"(II) minimum standards for the mechanism by which a State recognizes and approves such programs.

"(iv) The standards referred to in clause (iii)(I) shall specify the minimum amount of time required for initial and ongoing training (not less than 75 hours in the case of initial training), the areas to be included in a training and testing program (including, at a minimum, basic nursing skills, personal care skills, cognitive, behavioral, and social care, basic restorative services, and residents' rights), and the minimum qualifications for instructors in the program.

"(v) The standards referred to in clause (iii)(II) shall specify the frequency with which training and competency evaluation programs shall be reviewed by a State and the methodology (which shall include performance-based evaluations as well as analysis of written submissions) by which a State shall make determinations with respect to whether a program meets the minimum standards established pursuant to clause (iii)(I).

"(vi)(I) The requirement of clause (i)(I) shall apply with respect to individuals hired on or after January 1, 1990.

"(II) No individual who is hired before the date specified in subclause (I) may be employed by an institution as a nurse aide on or after the date that is three years after the date of the enactment of this paragraph unless the individual has successfully completed a competency evaluation program that is recognized and approved by the State under clause (ii). In the case of any such individual, the institution shall allow the individual at least three opportunities to complete such a program successfully and shall make a good faith effort to provide the individual with the preparation necessary to complete such a program successfully.

"(B) The institution does not permit any nurse aide to provide unsupervised patient care of a type for which the aide has not demonstrated his or her competency.

"(C) The institution requires any nurse aide who has ceased providing direct patient care for more than 24 months to complete an appropriate training and competency evaluation program before again providing such care.

"(D) The institution has an ongoing program of training and performance review for nurse aides, including training for individuals providing special care to residents such as those with cognitive impairments.

"(E) The institution provides each new nurse aide an orientation to the facility and to the residents for whom the aide provides care (in addition to the general initial training and competency testing program).

"(F) The institution assures that all aides are able to read, speak, and write sufficiently to perform assigned duties.

"(17) Administration.—(A) The institution is administered in a manner that enables it to use its resources effectively and efficiently to maintain and improve the residents' physical, mental, and psychosocial well-being.

"(B) The Secretary shall establish criteria for assessing an institution's compliance with the requirement of this paragraph with respect to—

"(i) its governing body,

"(ii) its management (including nursing services),

"(iii) resident and consumer participation,

"(iv) medical direction and physicians' services (including the use physicians' assistants and nurse practitioners),

"(v) laboratory, radiological, and pharmaceutical services,

"(vi) resident care (including medical records),

"(vii) agreements regarding transfers of residents to and from hospitals, and

"(viii) levels of professional staffing.

"(18) Level of staffing.—

"(A) The staffing of the institution is at a level to meet the needs of its residents.

"(B) The compliance of an institution with the requirement of subparagraph (A) shall be determined pursuant to the certification and survey process established under section 1864(d) and not pursuant to any reports required to be filed by the institution on a quarterly or other periodic basis. No institution may be required by the Secretary or a State, under this title or title XIX, to submit a quarterly staffing report on or after the date of the enactment of this paragraph.

"(19) Utilization review; plan and budget.—The institution has in effect—

"(A) a utilization review plan that meets the requirements of subsection (k), and

"(B) an overall plan and budget that meets the requirements of subsection (z).

"(20) Independent evaluation.—The institution cooperates in an effective program that provides for regular independent medical evaluation and audit of the residents of the institution to the extent required by the programs in which the institution participates (including medical evaluation of each resident's need for skilled nursing facility services).

"(21) Protection of resident funds.—The institution establishes and maintains a system for protecting the personal funds of residents that meets the following requirements—

"(A) Statement of resident's rights.—The institution furnishes each resident, upon admission to the institution, with a written statement that—

"(i) describes all services furnished by the institution that can be charged to the resident's personal funds and the extent to which any such service is included in the institution's basic rate;

"(ii) states there is no obligation for the resident to deposit personal funds with the institution and describes the resident's right to select how such funds are handled; and

"(iii) describes the institution's obligation, once it accepts the written authorization of the resident, to hold, safeguard, and account for the resident's personal funds in accordance with subparagraph (B).

"(B) Management of personal funds.—Upon the institution's acceptance of the written authorization of the resident (as described in subparagraph (A)(iii))—

"(i) the institution deposits any amount of personal funds in excess of $50 in an interest bearing account (or accounts) that is separate from any of the institution's operating accounts and credits all interest earned on such separate account to such account;

"(ii) with respect to any amount of personal funds not included in the account under clause (i), the institution maintains such funds in a non-interest bearing account or petty cash fund; and

"(iii) the institution assures a full and complete accounting of the personal funds so as to ensure that there is no commingling of such funds with the funds of the institution or with the funds of any individual other than another resident.

"(C) Written record.—The institution maintains a written record of all financial transactions involving the personal funds of a resident who entrusts personal funds with the institution and affords the resident (or a legal representative of the resident) reasonable access to such record.

"(D) Surety bond.—The institution purchases a surety bond to guarantee the security of all personal funds of residents entrusted to the institution.

"(E) Eligibility notification.—The institution notifies the resident (or a legal representative of the resident) and the State agency under title XIX when the personal funds of the resident entrusted to the institution reach an amount that threatens the resident's eligibility for benefits under title XVI or medical assistance under title XIX.

"(F) Limitation on charges to personal funds.—The institution does not charge to the personal funds of a resident the costs of any item or service for which payment is made under this title or title XIX (as the case may be).

"(22) Licensing and life safety code.—

"(A) The institution is licensed under applicable State and local law.

"(B) The institution meets such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon an institution, but only if such waiver will not adversely affect the health and safety of residents, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents in nursing facilities.

"(23) Compliance with federal, state, and local laws and professional standards.—The institution operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with all accepted professional standards and principles.

"(24) Activities Program.—The institution provides for an activities program, directed by a qualified professional, to encourage self care, resumption of normal activities, and maintenance of an optimal level of psychosocial functioning in a manner appropriate to the needs and interests of each resident.

"(25) Miscellaneous.—The institution meets such other conditions relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.

For purposes of subsection (a)(2), such term includes any institution that meets the requirements of paragraph (1). Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title. Nothing in this subsection shall be construed to require an institution that does not participate in the program under title XIX to accept payment under such title or to accept for treatment any individual for whom payment may be made under such title.".

(2) The first sentence of section 1905(c) of such Act (42 U.S.C. 1396d(c)) is amended by striking "and (4)" and all that follows through "funds." and inserting in lieu thereof "(4) meets the requirements of section 1861(j)(21) with respect to protection of patients' personal funds, and (5) except with respect to services described in subsection (d), meets the requirements of paragraphs (5), (6), (9) through (18), and (24) of section 1861(j).".

(3) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (13)(A), by inserting "which, in the case of skilled nursing facilities and intermediate care facilities, are adjusted in accordance with subsection (q)," after "State" the second place it appears; and

(B) by adding at the end thereof the following new subsection:

"(q)(1) Effective for fiscal years beginning on or after October 1, 1989, the plan of a State shall not be considered to have met the requirement of subsection (a)(13) unless the State has, as of April 1 before the fiscal year concerned, submitted to the Secretary an amendment to the plan to provide for an appropriate adjustment in the payment rates for skilled nursing facilities and intermediate care facilities to reflect the costs of complying with any requirement under section 1861(j) (as made applicable to this title by section 1905(i)) that takes effect during the fiscal year concerned which was not in effect on October 1, 1987, in Federal or State law or regulation.

"(2) The Secretary shall, not later than September 30 before the fiscal year concerned, review each plan amendment submitted under paragraph (1) for compliance with the requirement of subsection (a)(13). If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(3) The absence of approval of such a plan amendment does not relieve the State or any such facility of any obligation or requirement under this title.".

(4) Not later than January 1, 1990, the Secretary shall—

(A) specify a minimum data set for use by an institution in conducting the assessments required by section 1861(j)(5)(B) of the Social Security Act, and

(B) establish guidelines for utilization of the data set.

(5) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (47),

(2) by striking the period at the end of paragraph (48) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraphs:

"(49) provide that, with respect to an individual who is furnished skilled nursing facility services or intermediate care facility services under the plan, payment will be made under the plan for at least 3 bed hold days; and

"(50) provide that the State will meet the requirements of section 1902(r) with respect to screening, review, and disposition of mentally ill and mentally retarded residents of skilled nursing facilities and intermediate care facilities (other than intermediate care facilities for the mentally retarded).".

(6) Section 1902 of such Act, as amended by paragraph (3)(B), is further amended by adding at the end thereof the following:

"(r) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(1) PREADMISSION SCREENING.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect a preadmission screening program, for making determinations (using any criteria developed under paragraph (8)) described in section 1861(j)(5)(D) for mentally ill and mentally retarded individuals (as defined in paragraph (7)) who are being considered for admission to nursing facilities on or after January 1, 1989.

"(2) STATE REQUIREMENT FOR ANNUAL RESIDENT REVIEW.—

"(A) FOR MENTALLY ILL RESIDENTS.—As a condition of approval of a State plan under this title, as of April 1, 1990, in the case of each resident of a nursing facility who is mentally ill, the State mental health authority must based on an independent physical and mental evaluation, determine (using any criteria developed under paragraph (8))—

"(i) whether or not the resident, because of the resident's physical or mental condition (or the lack of appropriate alternative placement), requires the level of services provided by a nursing facility or requires the level of services provided in another setting, including an inpatient psychiatric hospital for individuals under age 21 (as described in section 1905(h)) or of an institution for mental diseases providing medical assistance to individuals 65 years of age or older or a program under an approved home and community-based waiver under section 1915(c); and

"(ii) whether or not the resident requires active treatment for mental illness.

"(B) FOR MENTALLY RETARDED RESIDENTS.—As a condition of approval of a State plan under this title, as of April 1, 1990, in the case of each resident of a nursing facility who is mentally retarded, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under paragraph (8))—

"(i) whether or not the resident, because of the resident's physical or mental condition (or the lack of appropriate alternative placement), requires the level of services provided by a nursing facility or requires the level of services of an intermediate care facility described under section 1905(d) or a program under an approved home and community-based waiver under section 1915(c); and

"(ii) whether or not the resident requires active treatment for mental retardation.

"(C) FREQUENCY OF REVIEWS.—

"(i) ANNUAL.—Except as provided in clauses (ii) and (iii), the reviews and determinations under subparagraphs (A) and (B) must be conducted with respect to each mentally ill or mentally retarded resident not less often than annually.

"(ii) PREADMISSION REVIEW CASES.—In the case of a resident subject to a preadmission review under section 1861(j)(5)(D), the review and determination under subparagraph (A) or (B) need not be done until the resident has resided in the nursing facility for 1 year.

"(iii) INITIAL REVIEW.—The reviews and determinations under subparagraphs (A) and (B) must first be conducted (for each resident not subject to preadmission review under section 1861(j)(5)(D)), by not later than April 1, 1990.

"(3) RESPONSE TO PREADMISSION SCREENING AND RESIDENT REVIEW.—As a condition of approval of a State plan, as of April 1, 1990, the State must meet the following requirements:

"(A) LONG-TERM RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under paragraph (2), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(i) inform the resident of the institutional and noninstitutional alternatives covered under the State plan for the resident,

"(ii) offer the resident the choice of remaining in the facility or of receiving covered services in an alternative appropriate institutional or noninstitutional setting,

"(iii) clarify the effect on eligibility for services under the State plan if the resident chooses to leave the facility (including its effect on readmission to the facility), and

"(iv) regardless of the resident's choice, provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation.

A State shall not be denied payment under this title for nursing facility services for a resident described in this subparagraph because the resident does not require the level of services provided by such a facility, if the resident chooses to remain in such a facility.

"(B) OTHER RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under paragraph (2), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has not continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(i) arrange for the safe and orderly discharge of the resident from the facility,

"(ii) prepare and orient the resident for such discharge, and

"(iii) provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation in an appropriate facility or program.

"(C) RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES AND NOT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under paragraph (2), not to require the level of services provided by a nursing facility and not to require active treatment for mental illness or mental retardation, the State must—

"(i) arrange for the safe and orderly discharge of the resident from the facility, and

"(ii) prepare and orient the resident for such discharge.

"(D) DENIAL OF PAYMENT WHERE FAILURE TO CONDUCT PREADMISSION SCREENING.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual for whom a determination is required under paragraph (2) or section 1861(j)(5)(D) but for whom the determination is not made.

"(5) PERMITTING ALTERNATIVE DISPOSITION PLANS.—With respect to residents of a nursing facility who are mentally retarded or mentally ill and who are determined under paragraph (2) not to require the level of services of such a facility, but who require active treatment for mental illness or mental retardation, a State and the nursing facility shall be considered to be in compliance with the requirement of this paragraph if, before October 1, 1988, the State and the Secretary have entered into an agreement relating to the disposition of such residents of the facility and the State is in compliance with such agreement. Such an agreement may provide for the disposition of the residents after the date specified in paragraph (3).

"(6) Appeals procedures.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under paragraph (1) or (2).

"(7) Definitions.—In this subsection and section 1861(j)(5)(D):

"(A) Subject to the last sentence of this paragraph, an individual is considered to be 'mentally ill' if the individual has a primary or secondary diagnosis of mental disorder (as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition).

"(B) An individual is considered to be 'mentally retarded' if the individual requires services of the type provided by an institution described in section 1905(d).

"(C) The term 'active treatment' has the meaning given such term by the Secretary in regulations.

"(D) The term 'nursing facility' means a skilled nursing facility or intermediate care facility (other than an intermediate care facility for the mentally retarded).

For purposes of subparagraph (A), the term 'mentally ill' does not include any organic disease of the brain or dementia (including Alzheimer's disease and related disorders).

"(8) Federal Minimum Criteria for Preadmission Screening and Resident Review.—The Secretary shall develop, by not later than October 1, 1988, separate minimum criteria for States to use in making determinations under paragraph (2) and under section 1861(j)(5)(D) with respect to individuals who are mentally ill or mentally retarded, and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.".

(7)(A) Except as provided by subparagraphs (B) and (C), the amendments made by this subsection shall apply with respect to services furnished on or after January 1, 1988.

(B) Section 1861(j)(6) of the Social Security Act, as made applicable to intermediate care facilities by the amendment made by paragraph (2) of this section, shall apply—

(i) in the case of facilities with more than 120 beds, to services furnished on or after October 1, 1988,

(ii) in the case of facilities with more than 60 beds but not more than 120 beds, to services furnished on or after October 1, 1990, and

(iii) in the case of facilities with 60 beds or less, to services furnished on or after October 1, 1992.

(C) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (e), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) Establishment of Grant Program.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a program of grants to skilled nursing facilities certified as providers under title XVIII of the Social Security Act. The purpose of the program shall be to promote the development by such facilities of projects that enhance the quality of care or the quality of life of residents of such facilities.

(2) Any skilled nursing facility that desires to receive a grant under this subsection to implement a project of the type described in paragraph (1) may submit an application to the Secretary, at such time and in such form and manner as the Secretary may prescribe.

(3) In determining which skilled nursing facilities making application under paragraph (2) will receive grants under this section, the Secretary shall take into account—

(A) the likelihood that the proposed project will achieve its stated objectives,

(B) the likelihood that the proposed project will serve as a model for similar projects in other facilities,

(C) the degree to which the funds provided by a grant will be matched by funds from non-Federal sources, and

(D) the support for the project by the ombudsman, the area agency on aging, nursing home residents and their families, nursing home staff, institutions of higher learning, and other providers of long-term care.

(4) A grant to a skilled nursing facility under this subsection may not exceed $25,000 a year.

(5)(A) A skilled nursing facility receiving a grant under this subsection shall furnish the Secretary with such information as the Secretary may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

(B) The Secretary shall submit a report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

(6) For purposes of carrying out the program of grants under this section, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $2,000,000 for each of the fiscal years 1988, 1989, and 1990.

(c) Changes in Certification Program and Process.—

(1) Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(A) by striking "or skilled nursing facility" and inserting in lieu thereof ", a skilled nursing facility, or an intermediate care facility",

(B) by striking "skilled nursing facility, rural health clinic" and inserting in lieu thereof "skilled nursing facility, intermediate care facility, rural health agency",

(C) by striking "facility, after" and inserting in lieu thereof "facility or intermediate care facility, after", and

(D) by inserting "or, in the case of an intermediate care facility, under title XIX" after "this title".

(2) Section 1864(a) of such Act, as amended by paragraph (1), is further amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities and intermediate care facilities) the posting in a place readily accessible to residents (and residents' representatives),".

(3) Section 1106(e) of such Act (42 U.S.C. 1306(e)) is amended—

(A) by striking "60" the first place it appears and inserting in lieu thereof "30",

(B) by striking "report; nor" and inserting in lieu thereof "report. Nor",

(C) by striking "(e) No report" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2), no report", and

(D) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the first sentence of paragraph (1), the Secretary may release a report described in subsection (d) to a State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) or a designee before the end of the 30-day period described in such sentence.".

(4) Section 1864 of such Act, as amended by paragraphs (1) and (2), is further amended by adding at the end thereof the following new subsection:

"(d)(1) Under each agreement under this section with a State with respect to determining whether an institution therein is a skilled nursing facility or an intermediate care facility, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of facilities (other than facilities of the State) with the applicable requirements of section 1861(j). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State facilities with the applicable requirements of section 1861(j).

"(2)(A)(i) Each skilled nursing facility and intermediate care facility shall be subject to a standard survey of the facility's compliance with the applicable requirements of section 1861(j).

"(ii) A survey may be conducted upon any change of ownership and shall otherwise be conducted, on an unannounced basis, not later than 15 months after the date of the previous survey.

"(iii) The frequency with which surveys are conducted with respect to a facility shall be based upon the degree to which the facility was found, in the most recently conducted survey, to be in compliance with the applicable requirements of section 1861(j).

"(iv) The Statewide average interval between surveys of such facilities shall not exceed 12 months.

"(v) A survey shall include audits of a sample of the residents' assessments and plans of care provided under sections 1861(j)(5) and 1861(j)(8), respectively.

"(B) Each skilled nursing facility and intermediate care facility that is found to have performed poorly with regard to one or more of the applicable requirements of section 1861(j) shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion under the agreement, be subject to such an extended survey.

"(C) All surveys shall be conducted based upon regulations the substance of which the Secretary has developed, tested, and validated.

"(3) Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(4) Each State shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements by facilities.

"(5) The Secretary together with each State agency utilized under this section shall develop written procedures for review of survey findings in cases where the provider of services has substantial disagreement with such findings. Such procedures shall include a system for resolving significant differences in professional judgments about the appropriateness and quality of care (but in no event shall delay the timing of any enforcement action).

"(e)(1)(A) Not later than January 1, 1990, certification surveys under subsection (d) shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse and others selected in accordance with regulations of the Secretary).

"(B) Each State shall maintain and utilize a specialized survey team the duties of which shall include identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against chronically substandard facilities. Such a team shall include (or have prompt access to) an attorney, an auditor, and appropriate health care professionals.

"(2) Each member of a team described in paragraph (1) must receive comprehensive initial and continuing training (of not less than 40 hours annually) with respect to the conduct of such surveys (as approved by the Secretary).

"(3) No health care professional shall serve as a member of a team described in paragraph (1) unless he or she has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary and has experience or education in gerontological nursing or long-term care and in interviewing residents with communicative impairments.

"(4) No individual shall serve as a member of a team described in paragraph (1) if he or she is serving (or has served in the previous two years) as an employee of or consultant to the particular facility being surveyed.

"(f)(1) Each agency with an agreement with the Secretary under this section shall enter into a written agreement with the appropriate State long-term care ombudsman to provide for information exchange, training, case referral, and prompt notification of the ombudsman of any adverse action to be taken by the agency against a skilled nursing facility or intermediate care facility. Such agreement shall provide for access by the ombudsman to any inspection reports and notices of deficiencies, sanctions, or adverse determinations issued by the agency, and, consistent with Federal and State laws governing confidentiality of information, to investigative reports and findings made on account of complaints made by the ombudsman.

"(2) Each agency with an agreement with the Secretary under this section shall ensure that survey procedures are coordinated with the activities of State fraud and abuse units, resident protection and advocacy units, and the State agency under title XIX.

"(g) The Secretary shall develop and implement criteria and procedures for the evaluation of plans of correction submitted by institutions seeking compliance with the standards for skilled nursing facilities and intermediate care facilities. Such criteria and procedures shall be designed—

"(1) to maximize specificity in the plans,

"(2) to require on-site evaluation of the implementation of plans dealing with deficiencies relating to patient care, and

"(3) to emphasize the need for correction to provide for permanent compliance with the standards.

"(h)(1) Each year the Secretary shall conduct surveys of skilled nursing facilities and intermediate care facilities in each State in a sufficient number to allow inferences about the adequacy of each State's surveys conducted under subsection (d)(2).

"(2) Any survey conducted by the Secretary under paragraph (1) with respect to a facility shall be conducted within 1 month of the most recently conducted State survey with respect to that facility.

"(3) In no case shall the Secretary conduct surveys under paragraph (1) with respect to fewer than 5 percent of the facilities surveyed by the State in a year (or with respect to fewer than 5 facilities in each State).

"(4) If the results of a survey conducted by the Secretary under this subsection differ from the results of a survey conducted under subsection (d)(2), the results of the survey conducted by the Secretary shall be conclusive with respect to whether a facility complies with the applicable requirements of section 1861(j).

"(5) Not later than one year after the date of the enactment of this subsection, the Secretary shall by regulation prescribe—

"(A) performance and outcome standards to evaluate and assure the effectiveness of State survey activities (including standards to evaluate the general improvement in quality of care in certified facilities, how the findings from such activities compare with the Secretary's review findings, the appropriateness and effectiveness of State enforcement action, the extent to which repeat deficiencies occur, the extent to which deficiencies are not corrected in a timely manner, and complaint handling activities); and

"(B) administrative sanctions to be imposed on State survey agencies for poor performance (as determined under subparagraph (A)) in relation to the proportion of beneficiaries under this title placed at risk by such performance.

"(6) Each State, and the Secretary, shall make available to the public information with respect to all surveys and certifications made with respect to skilled nursing facilities and intermediate care facilities and information with respect to cost reports of such facilities filed under this title or under State plans approved under title XIX.".

(5) The amendments made by this subsection shall become effective January 1, 1990.

(d) Enforcement Process.—

(1) Section 1866(f) of such Act (42 U.S.C. 1395cc(f)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A)(i) The Secretary shall develop and implement a range of intermediate sanctions to apply to facilities which have been determined to meet the conditions described in (1)(B). Such sanctions shall include—

"(I) directed plans of correction,

"(II) the appointment of receivers in accordance with paragraph (5), and

"(III) one or more of the sanctions specified in clause (ii).

"(ii) The sanctions specified in this clause are—

"(I) civil fines,

"(II) on-site monitoring by an agency responsible for conducting certification surveys (with the costs of such monitoring to be paid by the facility without reimbursement),

"(III) withholding or reducing amounts otherwise payable to a facility under this title or such a plan, and

"(IV) any other sanction designated by the Secretary.

"(iii) The Secretary shall develop and implement specific criteria as to when and how each of these intermediate sanctions is to be applied, the amounts of any fines, and the severity of each of these penalties. These criteria shall be designed so as to minimize the time between identification of violations and final imposition of these sanctions and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies. In accordance with such criteria, the Secretary may impose any such sanction in lieu of, or in addition to, imposing the sanction otherwise provided under paragraph (1).

"(B) In any case where intermediate sanctions imposed by a State pursuant to section 1902(i)(4) are in effect with respect to a facility, the Secretary shall review periodically (not less than once every 3 months) the effectiveness of such sanctions in promoting the correction of the deficiencies involved and shall withhold action under this subsection unless the Secretary determines that such sanctions are ineffective or that the facility's deficiencies immediately jeopardize the health and safety of its patients.

"(5)(A) In any case where the Secretary determines that a skilled nursing facility is chronically failing to meet substantially the requirements of section 1861(j) or of the provider agreement, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients—

"(i) the Secretary shall give public notice of such determination, and

"(ii) in the case of a skilled nursing facility that is not in a period of State-ordered receivership (as defined in subparagraph (C)), the Secretary may appoint a receiver to—

"(I) oversee the operation of the facility;

"(II) establish and oversee the implementation of a correction plan to bring the facility into compliance with the applicable requirements of the State plan, this title, title XIX, and State licensing requirements by a date set forth in the correction plan; and

"(III) assure the health and safety of the facility's patients during the receivership period.

"(B) Subject to paragraph (1), payment shall be made under this title with respect to any services furnished by any such facility to patients who remain in such facility during any period of receivership ordered by the Secretary or the State with respect to such facility.

"(C) For purposes of this paragraph, a period of State-ordered receivership with respect to a facility is a period during which—

"(i) the State has appointed a receiver to oversee the operation of the facility;

"(ii) the State has in effect a correction plan to bring the facility into compliance with the applicable requirements of the State plan, this title, title XIX, and State licensing requirements by a date set forth in the correction plan; and

"(iii) the State has taken measures to assure the health and safety of the facility's patients during the period.

"(D) Public notice shall also be given in any case in which such deficiencies are determined to be rectified.".

(2) Section 1902(i) of such Act (42 U.S.C. 1396a(i)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) If a State determines that a skilled nursing facility or intermediate care facility (other than a facility providing services described in section 1905(d)) that is certified for participation under its plan no longer meets the applicable requirements of section 1861(j) and further determines that the facility's deficiencies do not immediately jeopardize the health and safety of its residents, the State may, instead of terminating the facility's participation under the plan, impose one or more of the sanctions developed in accordance with subparagraph (B).

"(B)(i) The State shall develop and implement a range of intermediate sanctions to apply to facilities that have been determined to meet the conditions described in (1)(B). Such sanctions shall include—

"(I) directed plans of correction,

"(II) the appointment of receivers in accordance with paragraph (5), and

"(III) one or more of the sanctions specified in clause (ii).

"(ii) The sanctions specified in this clause are—

"(I) civil fines,

"(II) on-site monitoring by an agency responsible for conducting certification surveys (with the costs of such monitoring to be paid by the facility without reimbursement),

"(III) withholding or reducing amounts otherwise payable to a facility, and

"(IV) any other sanction designated or approved by the Secretary.

"(iii) The State shall develop and implement specific criteria as to when and how each of these intermediate sanctions is to be applied, the amounts of any fines, and the severity of each of these penalties. These criteria shall be designed so as to minimize the time between identification of violations and final imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In accordance with such criteria, the State may impose any such sanction in lieu of, or in addition to, imposing the sanction otherwise provided under paragraph (1).

"(5)(A) In any case where a State determines that a skilled nursing facility or an intermediate care facility (other than a facility providing services described in section 1905(d)) that is certified for participation under its plan is chronically failing to meet substantially the applicable requirements of section 1861(j) or of its agreement with the State, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients—

"(i) the State shall give public notice of such determination, and

"(ii) the State may appoint a receiver to—

"(I) oversee the operation of the facility;

"(II) establish and oversee the implementation of a correction plan to bring the facility into compliance with the applicable requirements of the title XIX, the State plan, section 1861(j), and State licensing requirements by a date set forth in the correction plan; and

"(III) assure the health and safety of the facility's patients during the receivership period.

"(B) Subject to paragraph (1), payment shall be made under this title with respect to any services furnished by any such facility to patients who remain in such facility during any period of receivership ordered by the Secretary or the State with respect to such facility.

"(C) Public notice shall also be given in any case in which such deficiencies are determined to be rectified.

"(6) The Secretary shall provide States with technical assistance in the development and implementation of the sanctions authorized by paragraphs (4) and (5).".

(3) The amendments made by this subsection shall become effective on October 1, 1990.

(e) LIST OF ITEMS AND SERVICES FURNISHED IN NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.—

(1) The regulations required to be issued by the Secretary of Health, Education, and Welfare under section 21(b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 shall be issued by the Secretary of Health and Human Services on or before the first day of the seventh month to begin after the date of enactment of this Act.

(2) Notwithstanding any other provision of law, in the event the Secretary of Health and Human Services does not issue the regulations under paragraph (1) on or before such day, in the case of a resident of a facility (defined under section 1861(j) or 1905(c) of the Social Security Act) who is eligible to receive benefits under title XVIII of such Act or under a State plan under title XIX of such Act, the costs which may not be charged to the personal funds of such resident (and for which payment shall be made under title XVIII or XIX of such Act, as the case may be) shall include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.

(f) CERTAIN ITEMS AND SERVICES COVERED UNDER MEDICARE AND STATE MEDICAID PLANS.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary"), in consultation (as appropriate) with the State agencies administering or responsible for the administration of State plans under title XIX of the Social Security Act, shall compile, with respect to each State with a plan approved under that title, a list of the scope and extent of skilled nursing facility services and intermediate care facility services that are covered under the plan and a list of the scope and extent of extended care services and post-hospital extended care services for which payment is made under title XVIII of such Act. The Secretary, acting through the State agency, shall make the first such list compiled with respect to a State available to individuals entitled to medical assistance under the State plan and to providers of the services to which the list applies and shall make the second such list compiled available to individuals receiving benefits under part A of such title XVIII and to providers of the services to which the list applies. The Secretary shall provide for each list to be updated periodically to reflect any changes in the services to which the list applies.

(g) NATIONAL COMMISSION ON LONG-TERM CARE.—

(1) Part A of title XI of such Act is amended by adding at the end thereof the following:

"NATIONAL COMMISSION ON LONG-TERM CARE

"SEC. 1139. (a) The Director of the Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a National Commission on Long-Term Care (in this section referred to as the 'Commission'), to be composed of independent experts appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(b)(1) The Commission shall consist of 13 members. Members of the Commission shall first be appointed no later than October 1, 1988, for a term of 5 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(2) The membership of the Commission shall provide expertise and experience in the provision and financing of long-term care. The Director shall seek nominations, and select at least one member of the Commission, from each of the following categories:

"(A) Representatives of Federal and State licensing and certification agencies.

"(B) Long-term care ombudsmen.

"(C) Consumers.

"(D) Representatives of organizations representing nursing homes.

"(E) Representatives of home health agencies.

"(F) Experts in long-term care policy.

"(G) Registered professional nurses.

"(H) Health care and allied professionals with experience relating to long-term care.

"(I) Individuals representing organizations of employees of skilled nursing facilities, intermediate care facilities, or home health agencies.

"(c) The provisions of subparagraphs (C), (D), (F), (G), (H), and (J) of section 1886(f)(6) shall apply to the Commission in the same manner and to the same extent that they apply to the Commission established under section 1886(f).

"(d)(1) The purpose of the Commission shall be advise the Congress with respect to—

"(A) methods of assessing and ensuring quality of care in long-term care facilities and home-care programs,

"(B) necessary and desirable changes in the programs for surveying and certifying such facilities and programs,

"(C) the costs, appropriate staffing, and reimbursement of such facilities and programs,

"(D) the effectiveness of Federal and State licensing and survey procedures and the enforcement of such procedures, and

"(E) maintaining and extending the access of individuals entitled to benefits under title XVIII or under a State plan approved under title XIX to long-term care and home health services (including the effects of State certificate of need requirements).

(2) In addition to carrying out its responsibilities pursuant to paragraph (1), the Commission shall investigate compliance with Federal medicaid requirements in any State that has low reimbursement rates for nursing home care and has moratorium on nursing home beds.

"(e) The Commission shall meet at least quarterly and shall convene such work groups, conferences, and public hearings as it considers necessary to assist it in carrying out its responsibilities.

"(f)(1) Not later than October 1, 1990, the Commission shall submit to the Congress and the Secretary of Health and Human Services (in this section referred to as the 'Secretary') a report setting forth recommendations with respect to—

"(A) the implementation of a system of reimbursement and staffing requirements for long-term care facilities under title XVIII of the Social Security Act that is based on the level of patient needs or the acuity of a patient's condition, or both, and

"(B) methods of ensuring the access of individuals entitled to benefits under title XVIII or under a State plan approved under title XIX to long-term care.

"(2) Not later than 9 months after the Commission submits its report under paragraph (1), the Secretary shall submit to the Congress proposed legislation to implement the recommendations set forth in such report.

"(g)(1) The Commission shall report annually to the Congress and the Secretary on the status of its studies and deliberations. The report shall set forth any recommendations that the Commission has developed in the preceding year with respect to matters relating to long-term care.

"(2) Not more than 90 days after the Commission submits a report under paragraph (1), the Secretary shall submit to the Congress a report setting forth the manner in which the Secretary proposes to implement any recommendations set forth in the report of the Commission, accompanied by proposed changes in law (if any) that the Secretary determines to be necessary to implement the recommendations of the Commission.

"(h)(1) There are authorized to be appropriated, from the Federal Hospital Insurance Trust Fund, such sums as may be necessary to carry out the provisions of this section.

"(2) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.".

(2) The Commission shall conduct a study of the compliance with Federal quality standards by nursing homes in States that the Commission selects that have low reimbursement rates for nursing homes under title XIX of the Social Security Act and have moratoria or limits in effect on the number of nursing home beds.

(h) FINAL REGULATIONS WITH RESPECT TO PLANS OF CORRECTION OR REDUCTION.—

(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations to implement the amendments made by section 9516 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2) The regulations promulgated under paragraph (1) shall be effective as if promulgated on the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 4052. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) MEDICAID OPTIONAL COVERAGE FOR ADDITIONAL LOW-INCOME PREGNANT WOMEN AND CHILDREN.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(1) in paragraph (2)—

(A) by striking "(2) For purposes of paragraph (1)" and inserting in lieu thereof "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(B) by striking "100 percent" and inserting in lieu thereof "160 percent", and

(C) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the nonfarm income official poverty line described in subparagraph (A)."; and

(2) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting in lieu thereof the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2) Section 1902(l) of such Act is further amended—

(A) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting in lieu thereof "or (C)", and

(B) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(3) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting in lieu thereof "or (C)".

(4) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

(c) COVERAGE OF CHILDREN UP TO AGE 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting in lieu thereof "has not attained the age of 6 (or any age designated by the State that exceeds 6 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting in lieu thereof "5, 6, 7, or 8 years".

(d) PREMIUM.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State shall provide for imposing a monthly premium of $5 with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 130 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(3) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical assistance furnished on or after July 1, 1988.

(f) CERTIFICATION OF MEDICAID ELIGIBILITY FOR NEWBORN INFANTS.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end thereof the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all provider claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(g) STUDY AND REPORT ON THE MEDICAL EXPENSES OF FAMILIES WITH CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—The Office of Technology Assessment shall conduct a study and report to Congress, not later than August 1, 1988, on—

(1) the number of children age 18 and under who have high-cost medical expenses exceeding $25,000 in a single year and who have a chronic illness or disability which results in their being developmentally delayed or in their inability to perform one or more normal childhood activities;

(2) the aggregate medical expenses of such children in a single year;

(3) the medical diagnosis or diagnoses of children incurring such expenses;

(4) the age of such children at the onset of major chronic illnesses or disabilities (and the expected duration of such illness or disabilities);

(5) the sources and extent of payment of such medical expenses;

(6) the insurance status and adequacy of insurance coverage for such children, including out-of-pocket liability;

(7) the relation of such out-of-pocket liability to family adjusted gross income;

(8) the causes of out-of-pocket liability, including uninsured or inadequately insured services, copayments, premiums, deductibles, and changes in insurance coverage over the course of the child's treatment; and

(9) the demographic profile of families with such children, including—

(A) family size and composition, including number of parents and children;

(B) race, age, educational status, employment status, and marital status of parents;

(C) age of each child in the family and total amount of medical expenses for each child with a chronic illness or disability which results in inability to perform a major normal, childhood life activity;

(D) geographic distribution of families with such children; and

(E) impact of the expenses of medical care for such children on family financial stability.

SEC. 4053. WAIVER AUTHORITY UNDER THE MEDICAID PROGRAM FOR THE NORTHERN MARIANA ISLANDS.

Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended—

(1) by inserting "and the Northern Mariana Islands" after "American Samoa" the first place it appears; and

(2) by inserting "or the Northern Mariana Islands" after "American Samoa" the second place it appears.

SEC. 4054. FEDERAL REVIEW OF STATE INSPECTION OF CARE (IOC) DETERMINATIONS.

(a) IN GENERAL.—Section 1903(g)(2) of the Social Security Act (42 U.S.C. 1396b(g)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The Secretary may, in such cases as he finds appropriate, conduct an independent medical review of the care of patients in mental facilities, skilled nursing facilities, or intermediate care facilities, including an assessment of the appropriateness of the State's determination under paragraph (1) of level of care requirements, the adequacy of the services provided, and the State's efforts in communicating deficiencies to the facility and assuring corrective action. If the Secretary finds, following the conduct of an independent medical review, that the State has failed to perform an effective medical review, Federal financial participation shall not be available with respect to care provided by the facility involved for patients for whom and during the period for which the review was found to be ineffective. Where the Secretary's review is based upon sampling procedures, the findings of such review may be projected to all parties similarly situated in the State.

"(ii) For purposes of clause (i), a State's program of medical review of the care of patients referred to therein shall not be considered to be an effective program unless it includes provision, found adequate by the Secretary, for the development of a corrective action plan for each facility with respect to which deficiencies were noted and a description of the steps that will be taken by the State in the case of each such plan that is developed to assure that the facility acts expeditiously to implement such plan and correct the deficiencies addressed therein. The corrective action plan must address both deficiencies in services provided to individual patients and deficiencies of the facility generally.".

(b) Utilization Control Penalty.—Section 1903(g)(4) of such Act (42 U.S.C. 1396b(g)(4)) is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall not find a showing of a State unsatisfactory, with respect to the requirement to conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraphs (26) and (31) of section 1902(a), for failure to review the care of each person receiving medical assistance (or, as permitted by the Secretary, each person in a sample group of such individuals) where the showing demonstrates, with respect to each institution subject to this requirement, that the State did not fail to meet the requirement with respect to more than—

"(i) (in the case of an institution with more than one, but fewer than fifty-one such patients) the lesser of ten such individuals or two percent of the total number of such individuals in the institution, or

"(ii) (in the case of an institution with fifty or fewer such patients) one individual.".

(c) The amendments made by this section shall become effective on January 1, 1988.

SEC. 4055. PROVISION OF FAMILY PLANNING SERVICES TO INDIVIDUALS ENROLLED WITH A HEALTH MAINTENANCE ORGANIZATION.

(a) State Plan Requirement.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (46);

(2) by striking the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(4) by inserting after paragraph (48) the following new paragraph:

"(49) provide that, notwithstanding any other provision of this title, an individual enrolled with a health maintenance organization under this title shall be permitted to receive family planning services under the plan from any qualified provider.".

(b) Conforming Amendment.—Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "but only" and inserting in lieu thereof "but, subject to subsection (a)(49), only".

(c) Effective Date.—The amendments made by this section shall apply with respect to services furnished on or after the date of enactment of this Act.

SEC. 4056. OPTIONAL MEDICAID COVERAGE OF INDIVIDUALS IN CERTAIN STATES RECEIVING ONLY OPTIONAL STATE SUPPLEMENTARY PAYMENTS.

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (IX) and inserting "or" at the end of subclause (X); and

(2) by adding at the end thereof the following new subclause:

"(XI) who receive only an optional State supplementary payment based on need and paid on a regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Secretary under section 1634.".

Subpart VI—Social Services and Income Security

SEC. 4061. INCREASED FUNDING FOR SOCIAL SERVICES BLOCK GRANT; EXTENSION OF SOCIAL SERVICES AND CHILD WELFARE SERVICES TO AMERICAN SAMOA.

(a) Increased Funding for Social Services Block Grant.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) in paragraph (3), by striking "year" the first place it appears and all that follows through the period and inserting in lieu thereof "years 1984, 1985, 1986, and 1987, and each succeeding fiscal year other than the fiscal year 1988; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $2,750,000,000 for the fiscal year 1988.".

(b) Inclusion of American Samoa in Social Services Block Grant Program.—

(1) Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended in the last sentence by inserting "American Samoa," after "Guam,".

(2)(A) Section 2003(a) of the Social Security Act (42 U.S.C. 1397b(a)) is amended by adding at the end thereof the following new sentence: "The allotment for fiscal year 1988 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.".

(B) Section 2003(b) of such Act (42 U.S.C. 1397b(b)) is amended by inserting "American Samoa," after "the Virgin Islands," each place it appears.

(c) Inclusion of American Samoa in Child Welfare Services Program.—

(1) Section 1101(a)(1) of such Act (42 U.S.C. 1301(a)(1)) is amended by adding at the end thereof the following new sentence: "Such term when used in part B of title IV also includes American Samoa.".

(2) Section 421(b) of such Act (42 U.S.C. 621(b)) is amended by striking "and Guam" and inserting in lieu thereof "Guam, and American Samoa".

(d) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1987.

SEC. 4062. 2-YEAR EXTENSION OF FOSTER CARE CEILING AND OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) In General.—Section 474 of the Social Security Act (42 U.S.C. 674) is amended—

(1) in paragraphs (1), (2)(A)(iii), (2)(B), (4)(B), and (5)(A)(ii) of subsection (b), by striking out "through 1987" and inserting in lieu thereof "through 1989";

(2) in paragraph (5)(A) of subsection (b) (in the matter preceding clause (i)), by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1989"; and

(3) in paragraphs (1) and (2) of subsection (c), by striking out "through 1987" and inserting in lieu thereof "through 1989".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1987.

SEC. 4063. PERMANENT EXTENSION OF AUTHORITY FOR VOLUNTARY FOSTER CARE PLACEMENTS.

(a) Section 102 of the Adoption Assistance and Child Welfare Act of 1980 is amended—

(1) in subsection (a)(1) (in the matter preceding subparagraph (A)), by striking out "and before October 1, 1987,";

(2) in subsection (c), by striking out all that follows "September 30, 1979" and inserting in lieu thereof a period; and

(3) in subsection (e), by striking "with respect to which the amendments made by this section are in effect".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1987.

SEC. 4064. MOTHER/INFANT FOSTER CARE.

(a) In General.—Section 475(4) of the Social Security Act (42 U.S.C. 675(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

"(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.".

(b) Conforming Amendments Relating to Eligibility Under Other Programs.—

(1) Section 402(a)(24) of such Act (42 U.S.C. 602(a)(24)) is amended by striking "if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received," and inserting in lieu thereof the following: "if an individual is receiving benefits under title XVI or his costs in a foster family home or child-care institution are covered by the foster care

maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B), then, for the period for which such benefits are received or such costs are so covered,".

(2) Section 472(h) of such Act (42 U.S.C. 672(h)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(3)(A) Section 473(a)(2)(A) of such Act (42 U.S.C. 673(a)(2)(A)) is amended—

(i) by striking "or" at the end of clause (i);

(ii) by adding "or" at the end of clause (ii); and

(iii) by adding after clause (ii) the following new clause:

"(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),".

(B) Section 473(a)(2)(B)(iii) of such Act (42 U.S.C. 673(a)(2)(B)(iii)) is amended by inserting "or (A)(iii)" after "(A)(ii)".

(4) Section 473(b) of such Act (42 U.S.C. 673(b)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4065. INCREASE IN PERSONAL NEEDS ALLOWANCE FOR SSI RECIPIENTS.

(a) INCREASE IN STANDARD.—Section 1611(e)(1)(B) of the Social Security Act (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking "$300 per year" in clauses (i) and (ii)(I) and inserting "$360 per year"; and

(2) by striking "$600 per year" in clause (iii) and inserting "$720 per year".

(b) MANDATORY PASS-THROUGH OF INCREASED PERSONAL NEEDS ALLOWANCE.—Section 1618 of such Act is amended by adding at the end the following new subsection:

"(g) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66) to recipients of benefits determined under section 1611(e)(1)(B), on or after October 1, 1987, to be eligible for payments pursuant to title XIX with respect to any calendar quarter which begins—

"(1) after October 1, 1987, or, if later

"(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,

such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments to recipients of benefits so determined, and

"(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with the month in which this subsection is first effective) that—

"(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for that particular month,

is not less than—

"(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—

"(i) in a case to which clause (i) of such section 1611(e)(1)(B) applies or (with respect to the individual or spouse who is in the hospital, home, or facility involved) to which clause (ii) of such section applies, by $5, and

"(ii) in a case to which clause (iii) of such section 1611(e)(1)(B) applies, by $10.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective on July 1, 1988.

SEC. 4066. INCREASE IN SSI EMERGENCY ADVANCE PAYMENTS.

(a) IN GENERAL.—Section 1631(a)(4)(A) of the Social Security Act (42 U.S.C. 1383(a)(4)(A)) is amended by striking "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "a cash advance against such benefits, including any federally administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4067. AUTHORITY OF SECRETARY TO SUSPEND PENALTY FOR TRANSFERRING ASSETS FOR LESS THAN FAIR MARKET VALUE.

(a) IN GENERAL.—Section 1613(c) of the Social Security Act (42 U.S.C. 1382b(c)) is amended—

(1) by inserting immediately after "the exclusions under subsection (a)" in paragraph (1) the following: "and subject to paragraph (4) of this subsection"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Secretary shall by regulation provide for suspending the application of paragraph (1) to the extent (in any instance) that the Secretary determines that such suspension is necessary to avoid undue hardship.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4068. DISREGARD OF AFDC UNDER SSI RETROSPECTIVE ACCOUNTING.

(a) IN GENERAL.—Section 1612(b)(6) of the Social Security Act (42 U.S.C. 1382a(b)(6)) is amended by striking "assistance" and inserting in lieu thereof "payments of aid to families with dependent children under a State plan approved under section 402, and assistance".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4069. EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD.

(a) IN GENERAL.—Section 1613(b) of the Social Security Act (42 U.S.C. 1382b(a)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), the Secretary shall not require the disposition of any real property for so long as it cannot be sold because (i) it is jointly owned (and its sale would cause undue hardship, due to loss of housing, for the other owner or owners), (ii) its sale is barred by a legal impediment, or (iii) as determined under regulations issued by the Secretary, the owner's reasonable efforts to sell it have been unsuccessful.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4070. EXCLUSION OF INTEREST ON BURIAL ACCOUNTS.

(a) IN GENERAL.—Section 1613(d) of the Social Security Act (42 U.S.C. 1382b(d)) is amended—

(1) in paragraph (1), by striking "(if" and all that follows and inserting in lieu thereof a period; and

(2) in paragraph (3), by striking "aside" and inserting in lieu thereof "aside in cases where the inclusion of any portion of the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4071. PERMANENT EXTENSION OF DISREGARD OF IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

(a) IN GENERAL.—Section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Deficit Reduction Act of 1984.

SEC. 4072. EXCLUSION OF DEATH BENEFITS TO THE EXTENT SPENT ON LAST ILLNESS AND BURIAL.

(a) IN GENERAL.—Subparagraphs (D) and (E) of section 1612(a)(2) of the Social Security Act (42 U.S.C. 1382a(a)(2)) are amended to read as follows:

"(D) payments to the individual occasioned by the death of another person, to the extent that the total of such payments exceeds the amount expended by such individual for purposes of the deceased person's last illness and burial;

"(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4073. CONTINUATION OF FULL BENEFIT STANDARD FOR INDIVIDUALS TEMPORARILY INSTITUTIONALIZED.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended—

(1) in subparagraph (A), by striking "and (E)" and inserting in lieu thereof "(E), and (G)";

(2) in subparagraph (B), by inserting in lieu thereof "(subject to subparagraph (G))" after "throughout any month"; and

(3) by adding at the end thereof the following new subparagraphs:

"(G) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, or is in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, if it is determined in accordance with subparagraph (G) that—

"(i) such person's stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is likely (as certified by a physician) not to exceed 3 months, and the particular month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

"(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this title (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to such person in the month prior to the first month throughout which he or she is in the institution or facility.

"(H) The Secretary shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.".

(b) CONFORMING AMENDMENT.—Section 1902(l) of such Act (42 U.S.C. 1396a(l)) is amended by striking "1611(e)(1)(E)" and inserting "subparagraph (E) or (G) of section 1611(e)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on July 1, 1988.

SEC. 4074. TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

(a) IN GENERAL.—Section 9 of Public Law 99-643 is amended—

(1) by striking "sharing a room or comparable accommodation in a" and inserting "living in the same"; and

(2) by striking "shared such a room or accommodation" and inserting "lived in the same such hospital, home, or facility".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4075. EXTENDING FROM 3 TO 6 THE NUMBER OF MONTHS THAT AN INDIVIDUAL IN A PUBLIC EMERGENCY SHELTER CAN BE ELIGIBLE FOR SSI.

(a) IN GENERAL.—Section 1611(e)(1)(D) of the Social Security Act (42 U.S.C. 1382(e)(1)(D)) is amended by striking "three months in any 12-month period" and inserting in lieu thereof "6 months in any 9-month period".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4076. SPECIAL NOTICE TO BLIND SSI RECIPIENTS.

(a) IN GENERAL.—

(1) Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Special Notice to Blind Individuals with Respect to Hearings and Other Official Actions

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of blindness is entitled (under subsection (c) or otherwise) to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) Not later than one year after the date on which the amendment made by paragraph (1) becomes effective, the Secretary of Health and Human Services shall provide every individual receiving benefits under title XVI of the Social Security Act on the basis of blindness an opportunity to make the election under section 1631(l)(1) of such Act (as added by such amendment).

(b) STUDY.—The Secretary of Health and Human Services shall study the desirability and feasibility of extending special or supplementary notices of the type provided to blind individuals by section 1631(l) of the Social Security Act (as added by subsection (a) of this section) to other individuals who may lack the ability to read and comprehend regular written notices, and shall report the results of such study to the Congress, along with such recommendations as may be appropriate, within 12 months after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4077. REHABILITATION SERVICES FOR BLIND SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(a)(6) of the Social Security Act (42 U.S.C. 1383(a)(6)) is amended—

(1) by inserting "blindness (as determined under section 1614(a)(2)) or" before "disability (as determined under section 1614(a)(3))";

(2) by inserting "blindness or other" before "physical or mental impairment"; and

(3) by inserting "blindness and" before "disability benefit rolls" in subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4078. RETENTION OF MEDICAID WHEN SSI BENEFITS ARE LOST UPON ENTITLEMENT TO EARLY WIDOW'S OR WIDOWER'S INSURANCE BENEFITS.

(a) IN GENERAL.—Section 1634 of the Social Security Act (42 U.S.C. 1383c) is amended by adding at the end thereof the following new subsection:

"(d) If any person—

"(1) applies for and obtains benefits under subsection (e) or (f) of section 202 (or under any other subsection of section 202 if such person is also eligible for benefits under such subsection (e) or (f)) as required by subsection 1611(e)(2), being then at least 60 years of age but not entitled to hospital insurance benefits under part A of title XVIII, and

"(2) is determined to be ineligible (by reason of the receipt of such benefits under section 202) for supplemental security income benefits under this title or for State supplementary payments of the type described in section 1616(a),

such person shall nevertheless be deemed to be a recipient of supplemental security income benefits under this title for purposes of title XIX, so long as he or she (A) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of such benefits under section 202, and (B) is not entitled to hospital insurance benefits under part A of title XVIII.".

(b) NOTICE.—The Secretary of Health and Human Services, acting through the Social Security Administration, shall (within 3 months after the date of the enactment of this Act) issue a notice to all individuals who have attained age 60 but not age 65 as of October 1, 1987, and who received supplemental security income benefits under title XVI of the Social Security Act prior to attaining age 60 but lost those benefits by reason of the receipt of widow's or widower's insurance benefits (or other benefits as described in section 1634(d)(1) of that Act as added by subsection (a) of this section) under title II of that Act. Each such notice shall inform the individual that he or she should contact the Secretary or the appropriate State agency concerning his or her possible eligibility for medical assistance benefits under such title XIX.

(c) STATE DETERMINATIONS.—Any determination required under section 1634(d) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act (or State supplementary payments) in the absence of benefits under section 202 shall be made by the appropriate State agency.

(d) CONFORMING AMENDMENTS.—Section 1921(a)(2) of such Act (42 U.S.C. 1396s(a)(2)) is amended—

(1) by striking "1634" in the second subparagraph (B) and inserting in lieu thereof "1634(c)"; and

(2) by adding at the end the following new subparagraph:

"(D) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202(e) or (f) of this Act).".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any individual without regard to whether the determination of his or her ineligibility for supplemental security income benefits by reason of the receipt of benefits under section 202 of the Social Security Act (as described in section 1634(d)(2) of such Act) occurred before, on, or after the date of the enactment of this Act; but no individual shall be eligible for assistance under title XIX of such Act by reason of such amendments for any period before the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4079. EXTENSION OF DEADLINE FOR DISABLED WIDOWS AND WIDOWERS TO APPLY FOR MEDICAID PROTECTION.

Section 1634(b)(3) of the Social Security Act (42 U.S.C. 1383c(b)(3)) is amended by striking "during the 15-month period beginning with the month in which this subsection is enacted" and inserting "no later than July 1, 1988".

PART B—OTHER PROVISIONS

Subpart I—Medicare Provisions

SEC. 4081. HOME HEALTH AND SKILLED NURSING FACILITY PROVISIONS.

(a) HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.—

(1) Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end thereof the following:

"Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to consumer medical records and survey reports.".

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

(b) PUBLICATION OF POLICIES.—

(1) IN GENERAL.—Section 1871 of the Social Security Act (42 U.S.C. 1395hh) is amended by adding at the end thereof the following new subsection:

"(c)(1) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(2) Effective June 1, 1988, the Secretary shall publish in the Federal Register, not less frequently than every three months, a list indicating the subject matter of all such new home health care, extend care, post-hospital extended care, and durable medical equipment coverage instructions and clarifications that have been furnished in the preceeding 3 months to fiscal intermediaries, carriers or service providers, as well as interpretative rules, and statements of policy or changes therein, issued or used by the Secretary, and by fiscal intermediaries or carriers.

"(3) The Secretary shall only change policies or establish standards for payment under this title, and the Secretary or his fiscal intermediaries or carriers shall only issue additional instructions, clarifications, rules, statements, and guidelines for extended care, post-hospital extended care, home health care, or durable medical equipment by written statement, made available to all affected fiscal intermediaries, carriers, and service providers (and to the Secretary when such additional statement is made by a fiscal intermediary or carrier). Any such statement shall only have effect with respect to claims submitted 30 days after its full text has been made available pursuant to paragraph (2).

"(4) The Secretary shall ensure that the practices of fiscal intermediaries and carriers regarding payments under this title are consistent with each other and, to the maximum extent possible, are clearly understood by service providers and beneficiaries. The Secretary, shall periodically consult with representatives of beneficiaries, service providers, fiscal intermediaries and carriers, shall update, and clarify, as necessary, existing policies regarding skilled nursing and home health care to meet such goals.

"(5)(a) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and his fiscal intermediaries as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

(2) REPORT.—Not later than six months after the date of enactment of this Act, the Secretary shall report to Congress on the feasibility of including in the data base required under section 1871(c)(5) of the Social Security Act, as added by the amendment made by paragraph (1) diagnoses (or groups of them), length of coverage, and reimbursements.

(c) CONDITIONS OF PARTICIPATION AND SURVEY PROCESS FOR HOME HEALTH AGENCIES.—

(1)(A) Section 1861(o)(6) of the Social Security Act (42 U.S.C. 1395x(o)(6)) is amended by inserting "the conditions of participation specified in section 1892(a) and" after "meets".

(B) Title XVIII is amended by adding at the end thereof the following new section:

"CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES; HOME HEALTH QUALITY

"SEC. 1892. (a) The conditions of participation that a home health agency is required to meet under this subsection are as follows:

"(1) The agency protects and promotes the rights of each individual under its care, including each of the following rights:

"(A) The right to be fully informed about care and treatment, to participate (where appropriate) in planning care and treatment, and to be fully informed in advance of any changes in care or treatment that may affect the individual's well-being.

"(B) The right to voice grievances with respect to treatment or care that is (or fails to be) furnished without suffering discrimination or reprisal.

"(C) The right to have one's property treated with respect.

"(D) The right to be informed orally and in writing (in advance of coming under the care of the agency) of—

"(i) all items and services furnished by (or under arrangements with) the agency for which payment may be made under this title,

"(ii) the coverage available for such items and services under this title, title XIX, and any other Federal program of which the agency is reasonably aware, and

"(iii) any charges the individual may have to pay with respect to items and services furnished by (or under arrangements with) the agency.

"(2)(A) The agency promptly provides the State entity responsible for the licensing of such agency with the name and social security account number of any individual hired by the agency to provide care and discloses to such entity whether such individual has ever been convicted of a felony.

"(B) The agency promptly informs such entity of a change in the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency.

"(3) The agency only provides items and services described in section 1861(m) (except for medical supplies and durable medical equipment) on or after October 1, 1989, through persons who are licensed health professionals or have successfully completed or are enrolled in and making timely progress in completing a training program that meets minimum standards established by the Secretary. The Secretary shall ensure that durable medical equipment suppliers are properly trained in the demonstration and use of the equipment that they supply to home health agencies. The Secretary shall establish such standards not later than July 1, 1988.

"(4) The clinical records described in section 1861(o)(3) with respect to an individual include the individual's plan of care required under section 1861(m).

"(5) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations and with all accepted professional standards and principles.

"(b) It is the responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient operation of the program.".

(C) Except as otherwise provided, the amendments made by this paragraph shall apply to home health agencies as of the first day of the eighteenth calendar month that begins after the date of enactment of this Act.

(2)(A) Section 1892 (as added by paragraph (1)) is amended by adding at the end thereof the following new subsections:

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct a standard survey of each home health agency.

"(2)(A) Except as provided in subparagraph (B), the standard survey shall be conducted with respect to each home health agency not earlier than 9 months and not later than 15 months after the date of the most recently completed survey conducted with respect to that agency.

"(B) In addition to a standard survey conducted under subparagraph (A), a standard survey of an agency shall be promptly conducted upon—

"(i) a change of ownership of the agency, or

"(ii) a significant number of complaints with respect to the agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) may be made with or without advance notice,

"(ii) not later than January 1, 1990, shall include visits to a sample of the homes of individuals furnished items and services by the agency (but only with the consent of such individuals) for the purpose of evaluating (in accordance with a standardized reproducible assessment approved by the Secretary under subsection (d)) the extent to which the quality and scope of services furnished improved or maintained the functional capacity of such individuals,

"(iii) shall evaluate—

"(I) the quality of care and services furnished by the agency, and

"(II) the agency's observance of rights specified in or pursuant to section 1861(o),

"(iv) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than July 1, 1989, and

"(v) shall be conducted by an individual—

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989, and

"(II) who has not, during the two-year period prior to the survey, served as a consultant to a home health agency with respect to such agency's compliance with any condition of participation specified in or pursuant to section 1861(o).

"(D) Each home health agency that is found, under a standard survey, to have performed poorly with regard to measures of compliance with any condition of participation specified in or pursuant to section 1861(o) shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey.".

"(d)(1) Not later than April 1, 1990, the Secretary shall designate an instrument (or instruments) for use by an agency conducting surveys pursuant to subsection (c).

"(2)(A) Not later than January 1, 1992, the Secretary shall—

"(i) evaluate the assessment process,

"(ii) report to Congress on the results of such evaluation, and

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the training of State and Federal surveyors in the use of any assessment instrument designated under paragraph (1).".

(B) The amendment made by subparagraph (A) shall become effective on the first day of the eighteenth calendar month to begin after the date of enactment of this Act.

(3) Section 1892 (as added by paragraph (1) and amended by paragraph (2)) is further amended by adding at the end thereof the following new subsections:

"(e) The Secretary shall develop and implement criteria and procedures for the evaluation of plans of correction submitted by home health agencies that are found not to meet the conditions of participation and requirements specified in or pursuant to section 1861(o). Such criteria and procedures shall be designed to—

"(1) maximize specificity in the plans submitted, and

"(2) assure that corrections are made by an agency in accordance with a timetable approved by the Secretary.

"(f) If the Secretary determines that—

"(1) a home health agency that is certified for participation under this title—

"(A) no longer substantially meets the conditions of participation specified in or pursuant to section 1861(o), or

"(B) has failed to correct a deficiency in accordance with a timetable approved by the Secretary pursuant to subsection (e)(2), and

"(2) the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services,

the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (g), in lieu of canceling immediately the certification of the agency.

"(g)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (f), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil fines and penalties, and

"(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (f).

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(B) The amendment made by subparagraph (A) shall become effective on the first day of the eighteenth calendar month to begin after the date of enactment of this Act.

(d) Denials and Reconsiderations.—

(1) Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end thereof the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial;

"(2) with respect to any claim that is denied on the ground that the service is not medically necessary, ensure that if such individual (or the provider on behalf of the individual) seeks reconsideration of the denial, the denial is reviewed by a physician (if available, a physician with expertise in geriatrics); and

"(3) promptly notify such individual and the provider of disposition of such reconsideration.".

(2)(A) Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end thereof the following: "Such standards and criteria shall include with respect to home health, extended care, and post-hospital extended care claims whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(2) Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following: "Such standards and criteria shall include with respect to durable medical equipment whether such carrier is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(3)(A) The amendment made by paragraph (1) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendments made by paragraph (2) shall apply with respect to claims filed on or after October 1, 1988.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by paragraphs (1) and (2) on a timely basis.

(e) Moratorium on Prior Authorization for Home Health and Post-Hospital Extended Care Services.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

(f) Fiscal Intermediary Consultation Requirement.—

(1) Section 1816 of such Act, as amended by subsection (d), is further amended by adding at the end thereof the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that the agency or organization implement a mechanism for consulting (at least once annually) with representatives of home health and post-hospital extended care and extended care service providers in the region, beneficiaries of services furnished by such providers, and appropriate personnel in the Health Care Financing Administration with respect to problems of claim review, coverage guidelines, reconsiderations, payments, and other activities of the agency or organization.".

(2)(A) The amendment made by paragraph (1) shall become effective on January 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by paragraph (1) on a timely basis.

(g) Delay in Publishing Regulations with Respect to Deeming the Status of Home Health Agencies.—The Secretary of Health and Human Services shall not publish final regulations providing that for the purposes of title XVIII of the Social Security Act, an entity may be deemed to be a home health agency on the ground that it has been certified by a private accreditation entity, on a date earlier than 6 months after the date on which proposed regulations are published with respect to the deeming of such agencies.

(h) Home Health Prospective Payment Study and Demonstration.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study of and demonstration to test alternative methods of paying home health agencies on a prospective basis for services furnished under title XVIII of the Social Security Act. The study and demonstration shall be designed to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to and quality of, home health care and operations of home health agencies, and shall provide all necessary data for determining a prospective rate or rates for any such method and for determining whether application of a particular method allows for payment under such title on a budget-neutral basis.

(2) The study under paragraph (1) shall account for—

(A) the special needs of sole community home health agencies and new home health agencies;

(B) extraordinary circumstances beyond the control of home health agencies (such as significant fluctuations in population and unusual labor costs);

(C) the need to minimize administrative and financial reporting requirements to reduce program costs;

(D) variations in severity of illness and case complexity that cannot be adequately accounted for by the various methods considered under subsection (a); and

(E) increases in wages and the cost of goods and services included in the cost of providing home health services.

(3) The amount paid for home health services under the demonstration conducted under this subsection shall be no greater than the amount (as determined by the Secretary) that would have been paid for such services under title XVIII of the Social Security Act in the absence of the demonstration.

(4)(A) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Congress an interim report on the progress of the demonstration under paragraph (1).

(B) Not later than July 1, 1990, the Secretary shall submit to the Congress specific legislative proposals based on the results of the study under paragraph (1).

(i) Study of Adjustments to Home Health Agency Cost Limits.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

(j) Beneficiary Notification.—

(1) Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as "the Secretary") shall develop and distribute to each provider with an agreement under section 1866 of the Social Security Act and to each agency or organization with an agreement under section 1816 of such Act a standard form that is periodically updated (as appropriate) and contains a description of—

(A) rights and conditions of coverage with respect to home health services, post-hospital extended care services, and extended care services furnished under title XVIII of such Act;

(B) rights to appeal a coverage determination under such title where the provider of such services decides not to submit a claim on behalf of the beneficiary;

(C) the right to appeal (directly or through the provider) the denial of a claim by an agency or organization pursuant to section 1816 of such Act; and

(D) the practical steps required for initiating appeals described in subparagraphs (B) and (C) (including sources of legal assistance).

(2) The Secretary shall take appropriate steps to ensure that—

(A) each provider with an agreement under section 1866 of the Social Security Act makes the standard document (as updated) distributed under paragraph (1) available to any individual covered under the insurance program under part A of title XVIII of such Act at any time such individual requests home health services, post-hospital extended care services, or extended care services through the provider; and

(B) each agency or organization with an agreement under section 1816 of such Act makes such document available to any such individual at any time the agency or organization makes a determination regarding home health services, post-hospital extended care services, or extended care services furnished such individual with respect to which the individual may appeal.

SEC. 4082. OFFICE OF RURAL HEALTH POLICY.

Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"OFFICE OF RURAL HEALTH POLICY

"Sec. 711. (a) There shall be established in the Department of Health and Human Services (in this section referred to as the "Department") an Office of Rural Health Policy (in this section referred to as the 'Office'). The Office shall be headed by a Director, who shall advise the Secretary on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX on the financial viability of small rural hospitals, the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, and access to (and the quality of) health care in rural areas.

"(b) In addition to advising the Secretary with respect to the matters specified in subsection (a), the Director, through the Office, shall—

"(1) oversee compliance with the requirements of section 1102(b) of this Act and section 4083 of the Omnibus Budget Reconciliation Act of 1987,

"(2) establish and maintain a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues,

"(B) research findings relating to rural health care, and

"(C) innovative approaches to the delivery of health care in rural areas,

"(3) coordinate the activities within the Department that relate to rural health care, and

"(4) provide information to the Secretary and others in the Department with respect to the activities, of other Federal departments and agencies, that relate to rural health care.".

SEC. 4083. SET ASIDE FOR EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES.

(a) Set Aside.—Not less than ten percent of the total amounts expended in each fiscal year by the Secretary of Health and Human Services (in this section referred to as the "Secretary") after October 1, 1988, with respect to experiments and demonstration projects authorized by section 402 of the Social Security Amendments of 1967 and the experiments and demonstration projects authorized by the Social Security Amendments of 1972 shall be expended for experiments and demonstration projects relating exclusively or substantially to rural health issues, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of small rural hospitals, the effect of medicare payment policies on the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, the appropriateness of medicare conditions of participation and staffing requirements for small rural hospitals, and the impact of medicare policies on access to (and the quality of) health care in rural areas.

(b) Agenda.—The Secretary of Health and Human Services shall establish an agenda of experiments and demonstration projects, relating exclusively or substantially to rural health issues, that are in progress or have been proposed, and shall include such agenda in the annual report submitted pursuant to section 1875(b) of the Social Security Act. The agenda shall be accompanied by a statement setting forth the amounts that have been obligated and expended with respect to such experiments and projects in the current and most recently completed fiscal years.

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting in lieu thereof "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and inserting in lieu thereof "group practice, or ambulatory surgical center".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4085. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

(b) DEFINITIONS OF COMMUNITY NURSING AND AMBULATORY CARE AND ELIGIBLE ORGANIZATION.—As used in this section:

(1) The term 'community nursing and ambulatory care' means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term 'eligible organization' means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The site where the entity provides directly, or through other qualified personnel, nursing and ambulatory care is located in an area designated by the Secretary as a health manpower shortage area.

(J) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) AGREEMENTS WITH ELIGIBLE ORGANIZATIONS TO CONDUCT DEMONSTRATION PROJECTS.—

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(d) DETERMINATION OF PER CAPITA PAYMENT RATES.—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act.

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in subparagraph (D)) for that class.

(D) For purposes of subparagraph (C), the term "adjusted average per capita cost" means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) RESTRICTION ON PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND COINSURANCE.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demonstration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization,

the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) COMMENCEMENT AND DURATION OF PROJECTS.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) REPORT.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4086. WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.

Section 9307(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1988" and inserting in lieu thereof "1990".

SEC. 4087. TECHNICAL CORRECTION RELATING TO CERTIFICATION OF PODIATRIC TEACHING PROGRAMS.

Section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting in lieu thereof "Council of Podiatric Medical Education of the American Podiatric Medical Association".

SEC. 4088. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

SEC. 4089. MEDICARE HEARINGS AND APPEALS.

(a) MAINTAINING CURRENT SYSTEM FOR HEARINGS AND APPEALS.—Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the date on which the Secretary of Health and Human Services submits the report required under subsection (b)(1) shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) STUDY AND REPORT ON USE OF TELEPHONE HEARINGS.—

(1) The Secretary of Health and Human Services, together with the Comptroller General of the United States, shall conduct a study on holding hearings under section 1869(b)(1) of the Social Security Act by telephone and shall report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The study under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

SEC. 4090. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.

Prior to January 1, 1990, the Secretary of Health and Human Services shall not conduct any demonstration projects relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act. The Secretary may contract for the design of, and site selection for, such demonstration projects.

SEC. 4091. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) IN GENERAL.—Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act.

(2) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4092. HEALTH MAINTENANCE ORGANIZATION REFORMS.

(a) CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOs/CMPs.—Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each such failure under clause (i) of subparagraph (A) or, with respect to any other determination under such subparagraph, of not more than $10,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

(b) Temporary Waiver for Watts Health Foundation.—Section 9312(c)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end thereof the following new subparagraph:

"(D) Treatment of certain waivers.—In the case of an eligible organization (or successor organization) that is described in clauses (i) and (ii) of subparagraph (C) and that received a grant or grants totaling at least $3,000,000 in fiscal year 1987 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act—

"(i) before January 1, 1990, section 1876(f) of the Social Security Act shall not apply to the organization;

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall waive the requirement of such section with respect to the organization if—

"(I) before such date, the organization has submitted to the Secretary a schedule for the organization to comply with the requirement of section 1876(f)(1) of such Act, and the Secretary has found such schedule to be reasonable and has approved such schedule; and

"(II) periodically after such date, the Secretary reviews the organization's compliance with such schedule and determines that the organization has complied, or made significant progress towards compliance, with such schedule; and

"(iii) after January 1, 1990, if the Secretary has approved a schedule under clause (ii)(I) and has determined, in a periodic review under clause (ii)(II), that the organization has not complied, or made significant progress towards compliance, with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of the Social Security Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.".

(c) Extension of Waivers for Social Health Maintenance Organizations.—

(1) In general.—The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by subsection (b)).

(2) Extension of risk.—Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting "and in succeeding years" after "third year".

(3) Interim report.—Section 2355(d)(2) of the Deficit Reduction Act of 1984 is amended by striking "final" and inserting "interim".

(4) Final report.—The Secretary shall submit a final report to the Congress on the project referred to in paragraph (1) not later than March 31, 1993.

(d) Payment Methodology Reform Demonstrations.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") is specifically authorized to conduct demonstrations under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act.

(2)(A) Demonstrations shall be conducted under this subsection in each of the following three areas:

(i) Computing adjustments to the average per capita cost under section 1876 of the Social Security Act on the basis of health status.

(ii) Contracting with employer-related groups to provide medicare coverage under which payment is based on the experience of the employer-related group, benefits are offered to employees in a managed care setting, and participation is voluntary.

(iii) Accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under section 1876 of the Social Security Act.

(3)(A) In carrying out demonstrations under clause (ii), the Secretary shall appoint (in consultation with the Congress) a panel of specialists to review the project and advise on both rate-setting and the adoption of appropriate measures to ensure high quality of care.

(B)(i) Each demonstration conducted under clause (iii) shall consider geographic bases which may provide more equitable and appropriate payment than is currently provided on a county-by-county basis.

(ii) Demonstrations under clause (iii) shall primarily serve geographic areas in which payment rates under section 1876 of the Social Security Act are below 80 percent of the median of the adjusted average per capita cost for all counties within metropolitan statistical areas (and may include eligible organizations under section 1876 of such Act located in urban areas that primarily serve populations from counties in which payment rates are below such percentage).

(iii) Five million dollars in each of fiscal years 1989 and 1990 is authorized for demonstrations under clause (iii).

(4) The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under paragraph (1) of this section as they apply to experiments under subsection (a)(1) of that section.

(e) HMO Payments for Hospital Services.—

(1) Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

(2) Section 1866(a)(1) of such Act is amended by adding at the end thereof the following new subparagraph:

"(O) in the case of hospitals and skilled nursing facilities to accept as payment in full for inpatient hospital and extended care services that are covered under this title and are furnished to any individual enrolled under section 1876 with an eligible organization that has as of October 1, 1987, exercized the option under section 1876(g)(4) of the Social Security Act as in effect prior to the date of enactment of this section, the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

(3) Provisions of DRG Rates.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations described in paragraph (2) Medicare DRG Rates for payments required by the amendment made by subsection (b) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with eligible organizations under section 1876 of the Social Security Act.

(4) Effective Date.—The amendment made by paragraphs (1) and (2) shall apply to admissions on or after April 1, 1988, or earlier if the Secretary can provide the information required under paragraph (3) in machine readable form.

(f) Discount and Advance Determination of Payments.—Section 1876(a)(1)(C) is amended by adding at the end the following: "In the case of a contract for a term of more than one year, the Secretary, at the request of the eligible organization, may determine the annual rates for each year of the contract in advance of entering into such contract, and may discount those annual rates as the Secretary determines appropriate in advance of entering into such a contract.".

(g) Post-Contract Protection for Enrollees With Eligible Organizations Under the Medicare Program; Priority Under the Bankruptcy Code.—

(1) Section 1876(b)(2) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(F) The entity makes assurances (satisfactory to the Secretary) that in the event the entity ceases to provide items and services pursuant to a contract under this section, the entity will provide or arrange for supplemental coverage of benefits under this title, during any exclusion period related to a pre-existing condition, to all individuals enrolled with the entity who receive benefits under this title.".

(2)(A) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Special payment rule for health maintenance organizations.

"(a) Notwithstanding any other provision of this title, in the case of a debtor in possession that has made the assurances required under section 1876(b)(2)(F) of the Social Security Act, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, shall timely make payments for supplemental coverage of benefits under title XVIII of the Social Security Act (to the extent such payments are necessary to meet the requirement for which assurances are made under such section).

"(b) Any payment under subsection (a) required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.".

(B) Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(12) In the case of an entity that has made the assurances required under section 1876(b)(2)(F) of the Social Security Act, the plan provides for the continuation after its effective date of payment for supplemental coverage of benefits under title XVIII of the Social Security Act, at any time prior to confirmation of the plan, to the extent any such payment is necessary to meet the requirement for which assurances are made under such section.".

(C) The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Special payment rule for health maintenance organizations.".

(D) The amendments made by this paragraph shall become effective on the date of enactment of this Act and shall be effective with respect to cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization was not confirmed by the court as of the date of enactment of this Act.

(h) TASK FORCE ON MEDICARE CAPITATION.—

(1) There is hereby established a Task Force to be known as the Task Force on Medicare Capitation (in this subsection referred to as the "Task Force") to be composed of 15 members appointed in accordance with paragraph (2)(A).

(2)(A)(i) Members of the Task Force shall be appointed by the Prospective Payment Assessment Commission, in consultation with the Physician Payment Review Commission, after consultation with private and prepaid health plan organizations.

(ii) Of the 15 members composing the Task Force—

(I) five members shall be chosen from among representatives of private health plan and prepaid health plan organizations (which representatives may include physicians and other health professionals who serve Medicare beneficiaries),

(II) five members shall be chosen from among researchers in health care delivery and finance and individuals with an expertise in the financing and underwriting of prepaid health care, and

(III) five members shall be chosen from among Medicare beneficiaries and representatives of employers and labor.

(B) Members of the Task Force shall serve for the life of the Task Force. A vacancy on the Task Force shall be filled in the same manner in which the original appointment was made, shall be consistent with the requirements of subparagraph (A)(ii), and shall not affect the powers or duties of the Task Force.

(C) A majority of the members of the Task Force shall constitute a quorum for the transaction of business. Decisions of the Task Force shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(D) The first meeting of the Task Force shall be called by the Prospective Payment Assessment Commission and shall be held not later than January 1, 1988. At such meeting, the members of the Task Force shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members (which in no event shall be less than once every three months).

(3)(A) Members of the Task Force shall serve without pay.

(B) Members of the Task Force shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(4)(A) It shall be the duty of the Task Force—

(i) to review periodically the calculations and methodology employed by the Secretary in determining the capitation rate with respect to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act,

(ii) to document and report on the discrepancies between the actual and projected United States per capita incurred cost used for purposes of determining such capitation rate (and, in particular, to identify such discrepancies with respect to calendar years 1985, 1986, and 1987), and

(iii) to assess alternative methodologies for determining such capitation rate.

(B) Not later than January 1 of 1989 and 1990, the Secretary shall submit interim reports to the Congress describing the activities of the Task Force during the preceding year and containing such assessment, analysis, evaluation, and recommendations (as described in subparagraph (C)(i)) as can reasonably be formulated at the time such reports are prepared and submitted.

(C)(i) Not later than January 1, 1989, the Task Force shall submit a report to the Congress that contains—

(I) an assessment of the extent to which the long-term cost of providing benefits under title XVIII of the Social Security Act would be reduced by providing such benefits through prepaid health plans;

(II) an analysis of the use, cost, and quality of benefits provided under prepaid plans as compared to fee-for-service systems;

(III) an evaluation of—

(aa) the use of various geographic areas in calculating the capitation rate applicable to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act,

(bb) the use of fee-for-service reimbursement and utilization rates in calculating such rate, and

(cc) the effects on such rate of substantial market area penetration by capitated health plans; and

(III) recommendations for revising the method for calculating the capitation rate applicable to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act that specifically address the need for—

(aa) adjusting the rate to account for the case mix (including such factors as age, disability, and functional status) of individuals entitled to benefits under title XVIII of the Social Security Act who are enrolled with the organization, geographic differences in the cost of furnishing services, and the effect of outlier cases,

(bb) controlling and reimbursing for catastrophic illness by using alternative methodologies to calculate the rate,

(cc) developing methods for ensuring that individuals residing in rural or medically underserved areas have access to quality health care (as provided through such organizations), and

(dd) setting a more equitable rate with respect to contracting organizations that serve rural or medically underserved areas (or any geographic area in which the medical practice is more conservative).

(ii)(I) The report submitted to the Congress under clause (i) shall be prepared in consultation with the Health Care Financing Administration and shall be based, in part, upon the findings of various research projects that are conducted by the Task Force or by such Administration.

(II) Prior to submitting the report to the Congress under clause (i), the Task Force shall make the report available to representatives of private and prepaid health plan organizations and shall provide to such representatives an opportunity for commenting upon the report. The comments of such representatives shall accompany the report when submitted to the Congress.

(5)(A)(i) Subject to clause (ii), the Task Force may award grants or contracts to individuals or entities to conduct research that the Task Force determines would be of assistance in the performance of any of the duties of the Task Force (as described in paragraph (4)).

(ii) No contract or grant may be awarded under clause (i) unless the Task Force demonstrates to the satisfaction of the Prospective Payment Assessment Commission and the Physician Payment Review Commission that information otherwise available to the Task Force is inadequate to allow the Task Force to perform such duties.

(B)(i) The Task Force may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates (which personnel shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code).

(ii) The Task Force may use on a reimbursable basis, with the prior consent of the commission concerned, the services of the personnel of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(C) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(D) The Task Force may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(E) The Task Force may procure supplies, services, and property, and make contracts.

(F) For purposes of carrying out its duties under paragraph (4), the Task Force may adopt such rules for its organization and procedures as it deems appropriate, including procedures that allow any interested party the opportunity to submit information to the Task Force.

(6)(A) The Task Force shall terminate on January 2, 1991.

(B) Any funds held by the Task Force on the date of termination of the Task Force shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Task Force on such date shall be disposed of as excess or surplus property.

(7) There are authorized to be appropriated for each of the fiscal years 1988 through 1991 such sums as may be necessary to carry out the provisions of this subsection.

(i) Disabled Individual Classification.—Section 1876(a)(1)(B) of such Act (42 U.S.C. 1395mm(a)(1)(B)) is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end thereof the following new clause:

"(ii) The Secretary shall establish a class of members based on age and disability status that includes individuals who attain the age of 65 during calendar year 1988, 1989, 1990, or 1991, are entitled to benefits under this title, and (prior to attaining such age) received disability insurance benefits under section 223.".

(j) Two-Year Extension on Period for Benefit Stabilization.—

(1) Section 1876(g)(5) of such Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting in lieu thereof "six".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984.

(k) Treatment of Michigan Blue Care HMO Network under 50 Percent Rule.—Blue Care, Inc., a nonprofit corporation which is indirectly owned and operated by Blue Cross and Blue Shield of Michigan, Inc. and which enrolls individuals for the purpose of providing them with health care services through assignment to health maintenance organizations which are indirectly or wholly owned and operated by Blue Cross and Blue Shield of Michigan, Inc., is deemed to meet the requirement of section 1876(f)(1) of the Social Security Act (relating to limitation on enrollment of medicare and medicaid beneficiaries with an eligible organization) if—

(1) such requirement would be met if applied to all individuals enrolled with (or otherwise assigned to) each of such health maintenance organizations, and

(2) not more than 20 percent of the number of individuals who are members of (or otherwise assigned to) each such organization consists of individuals who are entitled to benefits under title XVIII of the Social Security Act.

(l) Assignment of Members for HIP Health Maintenance Organization.—

(1) Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is wholly-owned or wholly-contracted by the parent eligible organization; and

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(2) The amendments made by paragraph (1) shall become effective on the date of enactment of this Act.

(m) Notification of Termination of Risk-Sharing Contract.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(c)(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

(2) The amendment made by paragraph (1) shall apply to contracts entered into (or renewed) on or after the date of the enactment of this Act.

SEC. 4093. RECOVERY OF PAYMENTS FOR CERTAIN PACEMAKER DEVICES.

Section 1862(h) of the Social Security Act (42 U.S.C. 1395y(h)) is amended—

(1) in paragraph (1)(B), by striking "law," and inserting in lieu thereof "law (and any amount paid to a provider under any such warranty),";

(2) in paragraph (1)(D), by striking "(3)," and inserting in lieu thereof "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(3) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(4) in paragraph (4)(B)—

(A) by striking "or has" and inserting in lieu thereof ", has", and

(B) by striking "(2)(B)," and inserting in lieu thereof "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

Subpart II—Medicaid Provisions

SEC. 4101. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) Waiver Formula.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services;

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver; and

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2)—

"(A) limit the individuals provided benefits under such waiver to individuals with respect to whom the State has determined that there is a reasonable expectation that the amount of medical assistance provided with respect to the individual under such waiver will not exceed the amount of such medical assistance provided for such individual if the waiver did not apply, and

"(B) provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

In the case of a State that does not report actual final expenditures under this title to the Secretary on the basis of the age categories described in this subparagraph for a year ending before the date of the enactment of this subsection, such State (in order to be granted a waiver under this subsection for any waiver year with respect to which this subparagraph applies) must report such expenditures on such basis with respect to each fiscal year beginning on or after October 1, 1988.

"(C) In this paragraph:

"(i) The term 'home and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services in an institution for mental diseases.

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

(2)(A) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(B) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

(3) In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through July 1, 1988.

(b) Technical Amendment Relating to Waivers for Home and Community-Based Services.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by striking "and section 1902(a)(10)(B) (relating to comparability)" and inserting in lieu thereof ", section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to single standard for income and resource eligibility)".

(c) Increase in Number of Individuals Who May Be Served Under Model Home and Community-Based Service Waivers.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following: "No waiver under this subsection shall limit by an amount less than 200 the number of individuals in the State who may receive home and community-based services under such waiver.".

(d) Technical Amendment Relating to Effective Date for Provision of Habilitation Services.—Section 9502(j)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by inserting before the end period "without regard to the date on which the individual with respect to whom services are provided was discharged from a skilled nursing facility or intermediate care facility".

(e) Effective Date.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1988.

(2)(A) The amendment made by subsection (b) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(B) The amendment made by subsection (c) shall become effective on the date of enactment of this Act.

(C) The amendment made by subsection (d) shall be effective as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 4102. TREATMENT OF GARDEN STATE HEALTH PLAN.

(a) In General.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396(m)) is amended—

(1) by adding at the end the following new paragraph:

"(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term 'contract' shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection.

"(B) The undertaking described in subparagraph (A) must provide—

"(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

"(ii) for separate accounting for the funds used to operate such program;

"(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

"(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

"(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

"(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b)."; and

(2) in paragraph (2)(F), by striking out all that precedes "a State plan may restrict" and inserting in lieu thereof the following:

"(F) In the case of—

(i) a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or

"(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,".

(b) CONFORMING AMENDMENT.—Section 1902(e)(2)(A) (42 U.S.C. 1396a(e)(2)(A)) is amended by striking out "section 1903(m)(2)(G)" and inserting in lieu thereof "paragraph (2)(G) or (6) of section 1903(m)".

SEC. 4103. MEDICAID MATCHING RATE FOR QUALITY REVIEW OF HMO SERVICES.

(a) IN GENERAL.—Section 1903(a)(3)(C) of the Social Security Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or by a private accreditation body in accordance with section 1902(a)(30)(C)" before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of enactment of this Act.

SEC. 4104. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) CLARIFYING COVERAGE.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the semicolon at the end the following: ", and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in subparagraph (A) if furnished by a physician (as defined in section 1861(r)(1))".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) applies (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 4105. NEW YORK STATE PILOT PROGRAM FOR PRENATAL, MATERNITY, AND NEWBORN CARE.

(a) IN GENERAL.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing its Prenatal/Maternity/Newborn Care Pilot Program (in this section referred to as the "Program") as an alternative to existing Federal programs.

(b) NATURE OF PROJECT.—Under the demonstration project conducted under this section—

(1) any individual who receives benefits under the Program shall not receive any of such benefits under the plan of the State under title XIX of the Social Security Act; and

(2) the Secretary shall make payments to the State with respect to individuals receiving benefits under the Program in the same amounts as would be payable for such benefits under title XIX of the Social Security Act if such individuals were receiving such benefits under such title (as determined by the Secretary).

(c) WAIVERS.—The Secretary may (with respect to the demonstration project under this section) waive compliance with any requirements contained in title XIX of the Social Security Act which (if applied) would prevent the State from carrying out the project, effectively achieving its purpose, or receiving payments in accordance with subsection (b)(2).

(d) REQUIRED ASSURANCES.—As a condition of approval of the demonstration project under this section, the State shall provide assurances satisfactory to the Secretary that the State will continue to make benefits available under title XIX of the Social Security Act to all pregnant women entitled to receive benefits under such title to the extent such benefits are not provided under the Program.

(e) DURATION OF PROJECT.—The demonstration project under this section shall be conducted for a period not to exceed three years.

SEC. 4106. MEDICAID WAIVER FOR HOSPICE CARE FOR AIDS PATIENTS.

Section 1905(o)(1) of the Social Security Act (42 U.S.C. 1396d(o)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "The" and inserting in lieu thereof "Subject to subparagraph (B), the"; and

(3) by adding at the end thereof the following new subparagraph:

"(B)(i) For purposes of this title only, with respect to the definition of hospice program under section 1861(dd)(2), the Secretary may allow an agency or organization to make the assurance under subparagraph (A)(iii) of such section without taking into account any individual who is afflicted with acquired immunodeficiency syndrome.

"(ii) The Secretary shall establish appropriate procedures for making the allowance under clause (i).".

SEC. 4107. DELAY QUALITY CONTROL SANCTIONS FOR MEDICAID.

The Secretary of Health and Human Services shall not impose any reductions in payments to States pursuant to section 1903(u) of the Social Security Act for any calendar quarter beginning before July 1, 1988.

SEC. 4108. TECHNICAL AMENDMENTS RELATING TO NEW JERSEY RESPITE CARE PILOT PROJECT.

(a) CONDITIONS OF AGREEMENT.—Section 9414(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively,

(2) by inserting after paragraph (1) the following new paragraph:

"(2) provide that the State may submit a detailed proposal describing the project (in lieu of a formal request for the waiver of applicable provisions of title XIX of the Social Security Act) and that submission of such a description by the State will be treated as such a request for purposes of subsection (g),", and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by striking "if the project" and all that follows through "Act" the second place it appears and inserting in lieu thereof "the State shall utilize a post-eligibility cost-sharing formula based on the available income of participants with income in excess of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)".

(b) DEFINITIONS.—

(1) Section 9414(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "elderly and disabled individuals" and inserting in lieu thereof "eligible individuals".

(2) Section 9414(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

"(c) DEFINITIONS.—or purposes of this section—

"(1) the term 'eligible individual' means an individual—

"(A) who is elderly or disabled,

"(B)(i) whose income (not including the income of the spouse or family of the individual) does not exceed 300 percent of the amount in effect under section 1611(a)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act), or

"(ii) in the case of an individual and spouse who are both dependent on a caregiver, whose combined incomes do not exceed such amount,

"(C) at the option of the State, who meets a resource standard established by the State,

"(D) who is at risk of institutionalization unless the individual's caregiver is provided with respite care, and

"(E) who has been determined to meet the requirements of subparagraphs (A) through (D) in accordance with an application process designed by the State; and

"(2) the term 'respite care services' shall include—

"(A) short-term and intermittent—

"(i) companion or sitter services (paid as well as volunteer),

"(ii) homemaker and personal care-services,

"(iii) adult day care, and

"(iv) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual), and

"(B) peer support and training for family caregivers (using informal support groups and organized counseling).".

(c) PROVISIONS SUBJECT TO WAIVER.—Section 9414(g) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "section 1902(a)(10)(C)(i)(III)," after "section 1902(a)(10)(B),".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4109. CONTINUED ELIGIBILITY AND RESTRICTION ON DISENROLLMENT WITHOUT CAUSE FOR METROPOLITAN HEALTH PLAN HMO.

For purposes of sections 1902(e)(2)(A) and 1903(m)(2)(F) of the Social Security Act, the Metropolitan Health Plan HMO operated by the New York City public hospitals shall be treated in the same manner as a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act).

Subpart III—Social Services and Income Security

SEC. 4111. NATIONAL COMMISSION ON CHILDREN.

(a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following:

"NATIONAL COMMISSION ON CHILDREN

"SEC. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the 'Commission').

"(b)(1) The Commission shall consist of—

"(A) twelve members to be appointed by the President,

"(B) twelve members to be appointed by the Speaker of the House of Representatives (in this section referred to as the 'Speaker'), and

"(C) twelve members to be appointed by the President pro tempore of the Senate (in this section referred to as the President pro tempore).

"(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission—

"(A) four individuals who—

"(i) are representatives of organizations providing services to children,

"(ii) are involved in activities on behalf of children, or

"(iii) have engaged in academic research with respect to the problems and needs of children,

"(B) four individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

"(C) four individuals who are parents or representatives of parents or parents' organizations.

"(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

"(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

"(3) The Commission shall receive testimony from individuals, and from representatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

"(d) Not later than September 30, 1988, the Commission shall submit a report to the President and the Congress that sets forth recommendations with respect to the following subjects:

"(1) Questions relating to the health of children that the Commission shall address include—

"(A) how to reduce infant mortality,

"(B) how to reduce the number of low birth-weight babies,

"(C) how to reduce the number of children with chronic illnesses and disabilities,

"(D) how to improve the nutrition of children,

"(E) how to promote the physical fitness of children,

"(F) how to ensure that pregnant women receive adequate prenatal care,

"(G) how to ensure that all children have access to both preventive and acute care health services, and

"(H) how to improve the quality and availability of health care for children;

in the context of the purposes of titles V and XIX of this Act and (as appropriate) other provisions of Federal law.

"(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

"(A) how to prevent and treat child neglect and abuse,

"(B) how to provide help to parents who seek assistance in meeting the problems of their children,

"(C) how to provide counseling services for children,

"(D) how to strengthen the family unit,

"(E) how children can be assured of adequate care while their parents are working or participating in education or training programs,

"(F) how to improve foster care and adoption services,

"(G) how to reduce drug and alcohol abuse by children and youths, and

"(H) how to reduce the incidence of teenage pregnancy;

in the context of the purposes of title XX and parts B and E of title IV of this Act and (as appropriate) other provisions of Federal law.

"(3) Questions relating to education that the Commission shall address include—

"(A) how to encourage academic excellence for all children at all levels of education,

"(B) how to use preschool experiences to enhance educational achievement,

"(C) how to improve the qualifications of teachers,

"(D) how schools can better prepare the Nation's youth to compete in the labor market,

"(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

"(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

"(G) how to address the problems of drug and alcohol abuse by young people,

"(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

"(I) how schools might better meet the special needs of children who have physical or mental handicaps;

in the context of the purposes of title XX and part B of title IV of this Act and (as appropriate) other provisions of Federal law.

"(4) Questions relating to income security that the Commission shall address include—

"(A) how to reduce poverty among children, and

"(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried;

in the context of the purposes of parts A, C, and D of title IV of this Act and (as appropriate) other provisions of Federal law.

"(5) In addition to addressing the questions specified in paragraphs (1) through (4), the Commission shall—

"(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner,

"(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data, and

"(C) examine the extent to which programs under this Act can be used to meet the needs of families and children and recommend any changes in such programs to make them more effective in meeting such needs.

The report required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

"(e)(1)(A) Members of the Commission shall be appointed not later than sixty days after the date of the enactment of this section, for terms ending on September 30, 1988.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

"(B) The Commission shall meet not less than four times during the period beginning with the date of the enactment of this section and ending with September 30, 1988.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 4112. BOARDER BABIES DEMONSTRATION PROJECT.

Section 426 of the Social Security Act (42 U.S.C. 626) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following new subsection:

"(b)(1) There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

"(2) The demonstration projects conducted under this section may include—

"(A) projects designed to allow infants described in paragraph (1) to remain with a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal of rehabilitating the parent and eliminating the need for such care for the infant;

"(B) projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant has been abandoned by his or her parents; and

"(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

"(3) In evaluating applications from entities proposing to conduct a demonstration project under this subsection, the Secretary shall give priority to those projects that—

"(A) serve areas most in need of alternative care arrangements for infants described in paragraph (1);

"(B) provide for adequate evaluation; and

"(C) meet such other criteria as the Secretary may prescribe.

"(4) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.".

SEC. 4113. STUDY OF INFANTS AND CHILDREN WITH AIDS IN FOSTER CARE.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), together with the Comptroller General of the United States, shall conduct (or arrange for) a survey to determine—

(1) the total number of infants and children in the United States with acquired immune deficiency syndrome who have been placed in foster care;

(2) the problems encountered by social service agencies in placing infants and children with such syndrome in foster care; and

(3) the potential increase (over the five-year period beginning on the date of enactment of this Act) in the number of infants and children with such syndrome who will require foster care.

For purposes of this section, an infant or child with acquired immune deficiency syndrome includes an infant or child who is infected with the virus associated with such syndrome.

(b) Restriction on Scope of Survey.—In conducting (or arranging for) the survey under subsection (a), the Secretary shall assure that survey activities do not duplicate research activities conducted by the Centers for Disease Control.

(c) Report.—Not later than 12 months after the date of enactment of this Act, the Secretary shall report to the Congress on the results of the survey conducted under subsection (a) and shall make recommendations to the Congress with respect to improving the care of infants and children with acquired immune deficiency syndrome who lack ongoing parental involvement and support.

SEC. 4114. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.

(a) In General.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the program of Aid to Families with Dependent Children under title IV of the Social Security Act.

(b) Nature of Program.—Under the demonstration program conducted under this section—

(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

(2) the Federal government will pay to the State with respect to families receiving benefits under the State's Child Support Supplement Program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving aid and medical assistance under the State plans in effect with respect to such sections.

(c) Waivers.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

(d) Conditions of Approval.—As a condition of approval of the program under this section, the State shall—

(1) provide assurances satisfactory to the Secretary that the State—

(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

(B) will continue to operate an effective child support enforcement program;

(2) agree—

(A) to have the program evaluated, and

(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

(e) Application Process.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may resubmit the application.

(f) EFFECTIVE DATE.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

(g) DURATION OF PROGRAM.—

(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's Child Support Supplement Program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.

SEC. 4115. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) IN GENERAL.—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the AFDC program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) NATURE OF PROJECT.—Under the demonstration project conducted under this section—

(1) every individual eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than six months,

(iii) a single parent with a child under three years of age who has received assistance for less than three years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

(c) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose, or with the requirements of sections 1902(a)(1), 1902(e)(1), and 1916 of that Act (but only to the extent necessary to enable the State to carry out the program as enacted by the State in April 1987).

(d) FUNDING.—

(1) The Secretary shall under section 403(b) or 1903(d) of the Social Security Act (as may be appropriate) reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance, medical assistance, and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the AFDC and Medicaid programs; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) EVALUATION.—The State must satisfy the Secretary that the program will be evaluated using a reasonable methodology.

(f) DURATION OF PROJECT.—

(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

(2) The project may be terminated at any time, on six months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

SEC. 4116. REPEAL OF UNNECESSARY CHILD SUPPORT REVOLVING FUND.

(a) IN GENERAL.—Section 452(c) of the Social Security Act (42 U.S.C. 652(c)) is amended to read as follows:

"(c) The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 457 the amount of each collection made on behalf of such State pursuant to subsection (b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts collected after the date of enactment of this Act.

SEC. 4117. DEMONSTRATION PROGRAM TO ASSIST HOMELESS INDIVIDUALS IN OBTAINING SSI BENEFITS.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) In order to demonstrate and test the feasibility of developing and using special procedures to ensure that all homeless individuals in shelters fully and clearly understand their rights to benefits under the SSI program and other programs established under the Social Security Act, to provide such individuals with all possible assistance in applying for such benefits and obtaining the information and documentation necessary for that purpose, and to ensure that all such individuals receive the benefits to which they are entitled under such programs, up to 10 States may each create an SSI Outreach Team Project in accordance with this section. Each project approved under this section shall meet such conditions and requirements, consistent with this section, as the Secretary of Health and Human Services (in this section referred to as the Secretary) shall prescribe.

(2)(A) The Secretary shall consider all applications received from States desiring to conduct SSI Outreach Team Projects under this section and shall approve up to 10 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(B) Of the projects approved under paragraph (1), 5 shall commence their operations during the fiscal year 1988 and the remainder shall commence their operations during the fiscal year 1989, as designated by the Secretary at the time of such approval.

(3) The Secretary shall make grants to the States whose applications are approved under paragraph (2) in order to cover the costs incurred by such States in carrying out their SSI Outreach Team Projects, including the costs of staff, administration, transportation, and other necessary expenses. The cost of each such project shall not exceed $250,000 a year, except that the Secretary may in any particular case permit the State to incur costs in excess of such amount (and increase the amount of the

grant accordingly), to the extent that appropriated funds are available therefor, if the State satisfactorily demonstrates that higher costs must be incurred in order to properly serve the homeless within the project area.

(b) WAIVERS.—The Secretary may waive any and all requirements, restrictions, and limitations (contained in title XVI of the Social Security Act or in regulations prescribed thereunder, or in any other law or regulation) which could prevent or hinder the operation of the demonstration program under this section.

(c) INFORMATION AND REPORTS; EVALUATION.—

(1) Each State having an approved SSI Outreach Team Project shall periodically submit to the Secretary such information (with respect to the project) as may be necessary to enable the Secretary to evaluate such project in particular and the demonstration program under this section in general.

(2)(A) The Secretary shall from time to time (but not less often than annually) submit to the Congress a full and complete report on the program under this section, together with a detailed evaluation of such program and of the projects thereunder along with such recommendations as may be deemed appropriate. Such evaluation and such recommendations shall be designed to serve as a basis for determining whether (and to what extent) the activities and procedures included in the demonstration program under this section should be continued, expanded, or modified, or converted (with or without changes) into a regular feature of permanent law.

(B) The criteria used by the Secretary in evaluating the program and the projects thereunder shall not be limited to those which would normally be used in evaluating programs and activities of the kind involved, but shall fully take into account the special circumstances of the homeless and their need for personalized attention and follow-through assistance, and shall emphasize the extent to which the procedures and assistance made available to applicants under such projects are recognizing those circumstances and meeting that need.

(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary—

(1) the sum of $1,250,000 for the fiscal year 1988;

(2) the sum of $2,500,000 for the fiscal year 1989; and

(3) such sums as may be necessary for each fiscal year thereafter.

SEC. 4118. MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM.

(a) IN GENERAL.—Section 1631(g)(2) of the Social Security Act (42 U.S.C. 1383(g)(2)) is amended in the first sentence by striking "at the time the Secretary makes the first payment of benefits" and inserting in lieu thereof "at the time the Secretary makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3)".

(b) DEFINITION OF INTERIM ASSISTANCE.—Section 1631(g)(3) of such Act (42 U.S.C. 1383(g)(3)) is amended—

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end the following: ", or (B) during the period beginning with the first month for which the individual's benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with the 13th month following the month in which this Act is enacted, or, if sooner, with the first month for which the Secretary of Health and Human Services determines that it is administratively feasible.

SEC. 4119. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT ALLOWANCE FOR ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall carry out a demonstration program under this section for the purpose of making available self-employment allowances to eligible individuals. To carry out such program, the Secretary shall enter into agreements with three States that—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of the agreement.

(b) SELECTION OF STATES.—

(1) In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the availability and quality of technical assistance currently provided by agencies of the State to the self-employed;

(B) existing local market conditions and the business climate for new, small business enterprises in the State;

(C) the adequacy of State resources to carry out a regular unemployment compensation program and a program under this section;

(D) the range and extent of specialized services to be provided by the State to individuals covered by such an agreement;

(E) the design of the evaluation to be applied by the State to the program; and

(F) the standards which are to be utilized by the State for the purpose of assuring that individuals who will receive self-employment assistance under this section will have sufficient experience (or training) and ability to be self employed.

(2) The Secretary may not enter into an agreement with any State under this section unless the Secretary makes a determination that the State's unemployment compensation program has adequate reserves.

(c) PROVISIONS OF AGREEMENT.—Any agreement entered into with a State under this section shall provide that—

(1) each individual who is an eligible individual with respect to any benefit beginning during the three-year period commencing on the date on which such agreement is entered into shall receive a self-employment allowance;

(2) self-employment allowances made to any individual under this section shall be made in the same amount, on the same terms, and subject to the same conditions as regular or extended unemployment compensation, as the case may be, paid by such State; except that—

(A) State and Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work shall not apply to such individual; and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation,

as long as the individual meets the requirements applicable under this section to such individual;

(3) to the extent that such allowances are made to an individual under this section, an amount equal to the amount of such allowances shall be charged against the amount that may be paid to such individual under State law for regular or extended unemployment compensation, as the case may be;

(4) the total amount paid to an individual with respect to any benefit year under this section may not exceed the total amount that could be paid to such individual for regular or extended unemployment compensation, as the case may be, with respect to such benefit year under State law;

(5) the State shall implement a program that—

(A) is approved by the Secretary;

(B) will not result in any cost to the Unemployment Trust Fund established by section 904(a) of the Social Security Act in excess of the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section;

(C) is designed to select and assist individuals for self-employment allowances, monitor the individual's self-employment, and provide, as described in subsection (d), to the Secretary a complete evaluation of the use of such allowances; and

(D) otherwise meets the requirements of this section; and

(6) the State, from its general revenue funds, shall—

(A) repay to the Unemployment Trust Fund any cost incurred by the State and charged to the Fund which exceeds the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section; and

(B) in any case in which any excess cost described in subparagraph (A) is not repaid in the fiscal year in which it was charged to the Fund, pay to the Fund an amount of interest, on the outstanding balance of such excess cost, which is sufficient (when combined with any repayment by the State described in subparagraph (A)) to reimburse the Fund for any loss which would not have been incurred if such excess cost had not been incurred.

(d) EVALUATION.—

(1) Each State that enters into an agreement under this section shall carry out an evaluation of its activities under this section. Such evaluation shall be based on a treatment group and a control group with not more than one-half of the individuals receiving assistance at any one time being assigned to the treatment group.

(2) The Secretary shall use the data provided from such evaluation to analyze the benefits and the costs of the program carried out under subsection (g), and to estimate any excess costs described in subsection (c)(6)(A).

(e) FINANCING.—

(1) Notwithstanding section 303(a)(5) of the Social Security Act and section 3304(a)(4) of the Internal Revenue Code of 1986, amounts in the unemployment fund of a State may be used by a State to make payments (exclusive of expenses of administration) for self-employment allowances made under this section to an individual who is receiving them in lieu of regular unemployment compensation.

(2) In any case in which a self-employment allowance is made under this section to an individual in lieu of extended unemployment compensation under the Federal-State Extended Unemployment Compensa-

tion Act of 1970, payments made under this section for self-employment allowances shall be considered to be compensation described in section 204(a)(1) of such Act and paid under State law.

(f) Limitation.—No funds made available to a State under title III of the Social Security Act or any other Federal law may be used for the purpose of administering the program carried out by such State under this section.

(g) Report to Congress.—

(1) Not later than two years after the date of enactment of this Act, the Secretary shall submit an interim report to the Congress on the effectiveness of the demonstration program carried out under this section. Such report shall include—

(A) information on the extent to which this section has been utilized;

(B) an analysis of any barriers to such utilization; and

(C) an analysis of the feasibility of extending the provisions of this section to individuals not covered by State unemployment compensation laws.

(2) Not later than four years after the date of the enactment of this Act, the Secretary shall submit a final report to the Congress on such program.

(h) Fraud and Overpayments.—

(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received payment under this section to which he was not entitled, such individual shall be—

(A) ineligible for further assistance under this section; and

(B) subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) If any person received any payment under this section to which such person was not entitled, the State is authorized to require such person to repay such assistance; except that the State agency may waive such repayment if it determines that—

(i) the providing of such assistance or making of such payment was without fault on the part of such person; and

(ii) such repayment would be contrary to equity and good conscience.

(B) No repayment shall be required under subparagraph (A) until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the person, and the determination has become final. Any determination under such subparagraph shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(i) Definitions.—For purposes of this section—

(1) the term "eligible individual" means, with respect to any benefit year, an individual who—

(A) is eligible to receive regular or extended compensation under the State law during such benefit year;

(B) is likely to receive unemployment compensation for the maximum number of weeks that such compensation is made available under the State law during such benefit year;

(C) submits an application to the State agency for a self-employment allowance under this section; and

(D) meets applicable State requirements, except that not more than (i) 3 percent of the number of individuals eligible to receive their regular compensation in a State at beginning of a fiscal year, or (ii) the number of persons who exhausted their unemployment compensation benefits in the fiscal year ending before such fiscal year, whichever is lesser, may be considered as eligible individuals for such State for purposes of this section during such fiscal year;

(2) the term "self-employment allowance" means compensation paid under this section for the purpose of assisting an eligible individual with such individual's self-employment; and

(3) the terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law", have the respective meanings given to such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1979.

SEC. 4120. MODIFICATION OF EFFECTIVE DATE WITH RESPECT TO STATE COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING EXTENDED BENEFITS UNDER THE UNEMPLOYMENT INSURANCE PROGRAM.

(a) In General.—Section 1024(b) of the Omnibus Reconciliation Act of 1980 is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the amendment made by this section shall apply with respect to weeks of unemployment beginning after October 1, 1981.

"(2) In the case of a State the legislature of which does not meet in a regular session during calendar year 1981, the amendment made by this section shall apply with respect to weeks of unemployment beginning after October 31, 1982.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Reconciliation Act of 1980.

SEC. 4121. ASSISTANCE TO HOMELESS AFDC FAMILIES.

The Secretary of Health and Human Services shall take no action on or after December 1, 1987, (by regulation or otherwise) to prevent a State, prior to October 1, 1988, from including in its standard of need with respect to applicants for or recipients of aid under the State plan approved under section 402 of such Act (as a special need for individuals who would otherwise be homeless) an amount for shelter and related needs that varies according to geographic location, family circumstance, or the type of living accommodation occupied.

Subtitle B—Revenue Provisions

SEC. 4500. SHORT TITLE; AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986; TABLE OF CONTENTS.

(a) Short Title.—This subtitle may be cited as the "Revenue Amendments of 1987".

(b) Amendment to the Internal Revenue Code of 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—

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Sec. 4611. Congressional clarification of estate tax deduction for sales of employer securities.
Sec. 4612. Modifications of estate tax deduction for sale of employer securities.
Sec. 4613. Excise taxes on plans or cooperatives disposing of employer securities for which estate tax deduction was allowed.

PART I—ACCOUNTING PROVISIONS

SEC. 4501. REPEAL OF RESERVE FOR ACCRUAL OF VACATION PAY.

(a) General Rule.—Section 463 (relating to accrual of vacation pay) is hereby repealed.

(b) Technical Amendments.—

(1) Section 81 is hereby repealed.

(2) Subparagraph (B) of section 404(b)(2) is amended to read as follows:

"(B) Exception.—Subparagraph (A) shall not apply to any benefit provided through a welfare benefit fund (as defined in section 419(e))."

(3) Paragraph (2) of section 419(e) is amended by inserting "or" at the end of subparagraph (B), by striking out ", or" at the end of subparagraph (C), and inserting in lieu thereof a period, and by striking out subparagraph (D).

(4) Paragraph (5) of section 461(h) is amended to read as follows:

"(5) Subsection not to apply to certain items.—This subsection shall not apply to any item for which a deduction is allowable under a provision of this title which specifically provides for a deduction for a reserve for estimated expenses."

(5) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81.

(6) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 463.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) Change in method of accounting.—In the case of any taxpayer who elected to have section 463 of the Internal Revenue Code of 1986 apply for such taxpayer's last taxable year beginning before January 1, 1988, and who is required to change his method of accounting by reason of the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of such Code to be taken into account by the taxpayer—

(i) shall be reduced by the balance in the suspense account under section 463(c) of such Code as of the close of such last taxable year, and

(ii) shall be taken into account over the 4-taxable year period beginning with the taxable year following such last taxable year as follows:

In the case of the:	The percentage taken into account is:
1st year	10
2nd year	50
3rd year	15
4th year	25.

"Notwithstanding subparagraph (C)(ii), if the period the adjustments are required to be taken into account under section 481 of such Code is less than 4 years, such adjustments shall be taken into account ratably over such shorter period.

SEC. 4502. REPEAL OF INSTALLMENT METHOD FOR DEALERS IN PROPERTY.

(a) In General.—Subparagraph (A) of section 453(b)(2) (relating to exemptions from installment sales) is amended to read as follows:

"(A) Dealer dispositions.—Any dealer disposition (as defined in section 453A)."

(b) Dealer Disposition Defined.—Section 453A (relating to installment method for dealers in personal property) is amended to read as follows:

"SEC. 453A. DEALER DISPOSITIONS.

"(a) In General.—For purposes of section 453(b)(2)(A), the term 'dealer disposition' means any of the following dispositions:

"(1) Personal property.—Any disposition of personal property by a person who regularly sells or otherwise disposes of personal property on the installment plan.

"(2) Real property.—Any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

"(b) Exceptions.—The term 'dealer disposition' does not include—

"(1) Farm property.—The disposition on the installment plan of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)).

"(2) Timeshares and residential lots.—Dispositions on the installment plan described in section 453C(e)(4)(A)(i) (relating to timeshares and residential lots) if the taxpayer elects to have subparagraphs (B) and (C) of section 453C(e)(4) apply to any installment obligations which arise from such dispositions. An election under this paragraph shall not apply with respect to an installment obligation which is guaranteed by any person other than an individual. Any carrying charges or interest with respect to a disposition described in paragraph (1) or (2) shall be included in the total contract price of the property (and added on the books of account of the seller to the established cash selling price of such property) and, if such charges or interest are not so included, any payments received shall be treated as applying first against such carrying charges or interest."

(c) Conforming Amendments.—

(1) Sections 381(c)(8) and 691(a) (4) and (5) are each amended by striking out "or 453A" each place it appears.

(2) Section 56(a)(6)(B) is amended by inserting "an" before "applicable".

(3) Section 56(a)(6) is amended by striking out "or 453A".

(4) Sections 453C (a) and (c)(1) are each amended by striking out "and 453A".

(5) Section 453C(b) is amended—

(A) by striking out "average quarterly indebtedness for" in paragraph (1)(A) and inserting in lieu thereof "indebtedness as of the close of",

(B) by striking out "average quarterly" in paragraph (3)(B), and

(C) by striking out paragraph (4).

(6) Clause (i) of section 453C(e)(1)(A) is amended to read as follows:

"(i) which arises from the disposition after August 16, 1986, of real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000 (determined after application of the rule under the last sentence of section 1274(c)(3)(A)(ii)), and".

(7) Section 453C(e)(5)(C) is amended by striking out "subsection (b)(4) shall not apply" and inserting in lieu thereof "subsection (b) shall be applied by taking into account average quarterly indebtedness".

(8) The table of sections for subpart B of part II of subchapter B of chapter 1 is amended by striking out the item relating to section 453A and inserting in lieu thereof the following new item:

"Sec. 453A. Dealer dispositions."

(e) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to installment obligations arising from dispositions after December 31, 1987.

(2) Special rules for obligations arising from dispositions after February 28, 1986, and before January 1, 1988.—

(A) In general.—In the case of an applicable installment obligation arising from a disposition described in subclause (I) or (II) of section 453C(e)(1)(A)(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section) before January 1, 1988, the amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(B) Change in method of accounting.—In the case of any taxpayer who is required by subparagraph (A) to change its method of accounting for any taxable year with respect to obligations described in subparagraph (A)—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(iii) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

(3) COORDINATION WITH TAX REFORM ACT OF 1986.—The amendments made by this section shall not apply to any installment obligation or to any taxpayer during any period to the extent the amendments made by section 811 of the Tax Reform Act of 1986 do not apply to such obligation or during such period.

SEC. 4503. AMORTIZATION OF PAST SERVICE PENSION COSTS.

(a) IN GENERAL.—For purposes of section 263A of the Internal Revenue Code of 1986 (relating to inventory costs capitalization), the allocable costs (within the meaning of section 263A(a)(2) of such Code) with respect to any property shall include contributions paid to or under a pension or annuity plan whether or not such contributions represent past service costs.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (a) shall apply to taxable years beginning after December 31, 1987.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

SEC. 4504. CERTAIN FARM CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out subsections (c) and (e), by redesignating subsection (d) as subsection (e), and by inserting after subsection (b) the following new subsections:

"(c) EXCEPTION FOR CERTAIN CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an S corporation, or

"(2) a corporation the gross receipts of which meet the requirements of subsection (d).

"(d) GROSS RECEIPTS REQUIREMENTS.—

"(1) IN GENERAL.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a)) shall be treated as 1 corporation.

"(2) SPECIAL RULES FOR FAMILY CORPORATIONS.—

"(A) IN GENERAL.—In the case of a family corporation, paragraph (1) shall be applied—

"(i) by substituting 'December 31, 1985,' for 'December 31, 1975,'; and

"(ii) by substituting '$25,000,000' for '$1,000,000'.

"(B) GROSS RECEIPTS TEST.—

"(i) CONTROLLED GROUPS.—Notwithstanding the last sentence of paragraph (1), in the case of a family corporation—

"(I) except as provided by the Secretary, only the applicable percentage of gross receipts of any other member of any controlled group of corporations of which such corporation is a member shall be taken into account, and

"(II) under regulations, gross receipts of such corporation or of another member of such group shall not be taken into account by such corporation more than once.

"(ii) PASS-THRU ENTITIES.—For purposes of paragraph (1), if a family corporation holds directly or indirectly any interest in a partnership, estate, trust or other pass-thru entity, such corporation shall take into account its proportionate share of the gross receipts of such entity.

"(iii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term 'applicable percentage' means the percentage equal to a fraction—

"(I) the numerator of which is the fair market value of the stock of another corporation held directly or indirectly as of the close of the taxable year by the family corporation, and

"(II) the denominator of which is the fair market value of all stock of such corporation as of such time.

For purposes of this clause, the term 'stock' does not include stock described in section 1563(c)(1)."

"(C) FAMILY CORPORATION.—For purposes of this section, the term 'family corporation' means—

"(i) any corporation if at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of all other classes of stock of the corporation, are owned by members of the same family, and

"(ii) any corporation described in subsection (h)."

(b) SUSPENSE ACCOUNT IN LIEU OF 481 ADJUSTMENTS.—Section 447 is amended by adding at the end thereof the following new subsection:

"(i) SUSPENSE ACCOUNT FOR FAMILY CORPORATIONS.—

"(1) IN GENERAL.—If any family corporation is required by this section to change its method of accounting for any taxable year (hereinafter in this subsection referred to as the 'year of the change'), notwithstanding subsection (f), such corporation shall establish a suspense account under this subsection in lieu of taking into account adjustments under section 481(a) with respect to amounts included in the suspense account.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) shall be the lesser of—

"(A) the net adjustments which would have been required to be taken into account under section 481 but for this subsection, or

"(B) the amount of such net adjustments determined as of the close of the 2nd taxable year preceding the year of change.

If the amount referred to in subparagraph (A) exceeds the amount referred to in subparagraph (B), notwithstanding paragraph (1), such excess shall be taken into account under section 481 in the year of the change.

"(3) REDUCTION IN ACCOUNT IF FARMING BUSINESS CONTRACTS.—If—

"(A) the gross receipts of the corporation from the trade or business of farming for the year of the change or any subsequent taxable year, is less than

"(B) such gross receipts for the taxpayer's last taxable year beginning before the year of the change (or for the most recent taxable year for which a reduction in the suspense account was made under this paragraph),

the amount in the suspense account (after taking into account prior reductions) shall be reduced by the percentage by which the amount described in subparagraph (A) is less than the amount described in subparagraph (B).

"(4) INCOME INCLUSION.—Any reduction in the suspense account under paragraph (3) shall be included in gross income.

"(5) INCLUSION WHERE CORPORATION CEASES TO BE A FAMILY CORPORATION.—If the corporation ceases to be a family corporation during any taxable year, the amount in the suspense account (after taking into account prior reductions) shall be included in gross income for such taxable year.

"(6) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 447 (as redesignated by subsection (a)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)".

(2) Paragraph (1) of section 447(h) is amended—

(A) by striking out "This section shall not apply to any corporation" and inserting in lieu thereof "A corporation is described in this subsection",

(B) by striking out "subsection (d)" each place it appears and inserting in lieu thereof "subsection (e)", and

(C) by striking out "subsection (d)(1)" each place it appears and inserting in lieu thereof "subsection (e)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

PART II—ESTIMATED TAX PROVISIONS

SEC. 4511. REVISION OF CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

"SEC. 6655. FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.

"(a) ADDITION TO TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) Number of Required Installments; Due Dates.—For purposes of this section—

"(1) Payable in 4 installments.—There shall be 4 required installments for each taxable year.

"(2) Time for payment of installments.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15

"(d) Amount of Required Installments.—For purposes of this section—

"(1) Amount.—

"(A) In general.—Except as otherwise provided in this section, the amount of any required installment shall be 25 percent of the required annual payment.

"(B) Required annual payment.—Except as otherwise provided in this subsection, the term 'required annual payment' means the lesser of—

"(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the corporation for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months, or the corporation did not file a return for such preceding taxable year showing a liability for tax.

"(2) Large corporations required to pay 90 percent of current year tax.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), clause (ii) of paragraph (1)(B) shall not apply in the case of a large corporation.

"(B) May use last year's tax for 1st installment.—Subparagraph (A) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

"(C) Special rule for taxable years beginning in 1988.—Subparagraph (A) shall not apply for purposes of determining the amount of the lst and 2nd required installments for any taxable year beginning in 1988. Any reduction in such installments by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

"(e) Lower Required Installment Where Annualized Income Installment or Adjusted Seasonal Installment Is Less Than Amount Determined Under Subsection (d).—

"(1) In General.—In the case of any required installment, if the corporation establishes that the annualized income installment or the adjusted seasonal installment is less than the amount determined under section (d)(1) (as modified by subsection (d)(2))—

"(A) the amount of such required installment shall be the annualized income installment (or, if lesser, the adjusted seasonal installment), and

"(B) any reduction in a required installment resulting from the application of this paragraph shall be recaptured by increasing the amount of the next required installment determined under subsection (d)(1) (as so modified) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subparagraph).

"(2) Determination of annualized income installment.—

"(A) In general.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and modified alternative minimum taxable income—

"(I) for the first 3 months of the taxable year, in the case of the 1st required installment,

"(II) for the first 3 months or for the first 5 months of the taxable year, in the case of the 2nd required installment,

"(III) for the first 6 months or for the first 8 months of the taxable year in the case of the 3rd required installment, and

"(IV) for the first 9 months or for the first 11 months of the taxable year, in the case of the 4th required installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(B) Special rules.—For purposes of this paragraph—

"(i) Annualization.—The taxable income, alternative minimum taxable income, and modified alternative minimum taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) Applicable percentage.—

"In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90

"(iii) Modified alternative minimum taxable income.—The term 'modified alternative minimum taxable income' has the meaning given to such term by section 59A(b).

"(3) Determination of adjusted seasonal installment.—

"(A) In general.—In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

"(i) 90 percent of the amount determined under subparagraph (C), over

"(ii) the aggregate amount of all prior required installments for the taxable year.

"(B) Limitation on application of paragraph.—This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

"(C) Determination of amount.—The amount determined under this subparagraph for any installment shall be determined in the following manner—

"(i) take the taxable income for all months during the taxable year preceding the filing month,

"(ii) divided such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(iii) determine the tax on the amount determined under clause (ii), and

"(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(D) Definitions and special rules.—For purposes of this paragraph—

"(i) Base period percentage.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(ii) Filing month.—The term 'filing month' means the month in which the installment is required to be paid.

"(iii) Reorganization, etc.—The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

"(f) Exception Where Tax Is Small Amount.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than $500.

"(g) Definitions and Special Rules.—

"(1) Tax.—For purposes of this section, the term 'tax' means the excess of—

"(A) the sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies,

"(ii) the tax imposed by section 55,

"(iii) the tax imposed by section 59A, plus

"(iv) the tax imposed by section 887, over

"(B) the sum of—

"(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus

"(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

"(2) Large corporation.—

"(A) In general.—For purposes of this section, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(B) Rules for applying subparagraph (A).—

"(i) Testing period.—For purposes of subparagraph (A), the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(ii) Members of controlled group.—For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

"(iii) Certain carrybacks and carryovers not taken into account.—For purposes of subparagraph (A), taxable income shall be determined without regard to any amount carried to the taxable year under section 172 or 1212(a).

"(3) Certain tax-exempt organizations.—For purposes of this section—

"(A) Any organization subject to the tax imposed by section 511, and any private foundation, shall be treated as a corporation subject to tax under section 11.

"(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

"(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month'.

"(h) Excessive Adjustment Under Section 6425.—

"(1) Addition to tax.—If the amount of an adjustment under section 6425 made before the 15th day of the 3rd month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

"(2) Excessive amount.—For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

"(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

"(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

"(i) Fiscal Years and Short Years.—

"(1) Fiscal years.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

"(2) Short taxable year.—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) Technical and Conforming Amendments.—

(1) Section 6154 of such Code is hereby repealed.

(2) Subparagraph (C) of section 585(c)(3) of such Code is amended by striking out "section 6655(d)(3)" and inserting in lieu thereof "section 6655(e)(2)(A)(i)".

(3) Paragraph (1) of section 6201(b) of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(4) Subsection (c) of section 6425 of such Code is amended by striking out "section 6655(g)" and inserting in lieu thereof "section 6655(h)".

(5) Subsection (h) of section 6601 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(6) Subsection (e) of section 6651 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(7) The table of sections for subchapter A of chapter 62 of such Code is amended by striking out the item relating to section 6154.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 4512. REVISED WITHHOLDING CERTIFICATES REQUIRED TO BE PUT INTO EFFECT MORE PROMPTLY.

(a) General Rule.—Subparagraph (B) of section 3402(f)(3) (relating to when certificate takes effect) is amended to read as follows:

"(B) Furnished to take place of existing certificate.—

"(i) In general.—Except as provided in clauses (ii) and (iii), a withholding exemption certificate furnished to the employer in cases in which a previous such certificate is in effect shall take effect as of the beginning of the 1st payroll period ending (or the 1st payment of wages made without regard to a payroll period) on or after the 30th day after the day on which such certificate is so furnished.

"(ii) Employer may elect earlier effective date.—At the election of the employer, a certificate described in clause (i) may be made effective beginning with any payment of wages made on or after the day on which the certificate is so furnished and before the 30th day referred to in clause (i).

"(iii) Change of status which affects next year.—Any certificate furnished pursuant to paragraph (2)(C) shall not take effect, and may not be made effective, with respect to any payment of wages made in the calendar year in which the certificate is furnished."

(b) Effective Date.—The amendment made by subsection (a) shall apply to certificates furnished after the day 30 days after the date of the enactment of this Act.

SEC. 4513. ESTIMATED TAX PENALTIES FOR 1987.

(a) Delay of Increase in Current Year Liability Test for Individuals.—Notwithstanding section 1541(c) of the Tax Reform Act of 1986, the amendments made by section 1541 of such Act shall apply only to taxable years beginning after December 31, 1987.

(b) Corporate Provisions.—

(1) Ratification of secretarial waiver.—The Congress hereby ratifies the safe harbor provided by paragraph (b) of the Treasury Temporary Regulation 1.6655-2T

(2) Corporations also may use 1986 tax to determine amount of certain estimated tax installments due on or before June 15, 1987.—

(A) In general.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

(B) Installment to which subsection applies.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

(C) Large corporation.—For purposes of this subsection, the term "large corporation" has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act).

PART III—CORPORATE PROVISIONS

SEC. 4521. CERTAIN EARNINGS AND PROFITS ADJUSTMENTS NOT TO APPLY FOR CERTAIN PURPOSES.

(a) Special Rule for Determining Adjusted Basis of Stock of Members of Affiliated Group.—

(1) In general.—Section 1503 (relating to computation and payment of tax by affiliated group) is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Determining Adjustments to Basis.—

"(1) In general.—Solely for purposes of determining gain or loss on the disposition of intragroup stock, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year—

"(A) such earnings and profits shall be determined as if section 312 were applied for such taxable year (and all preceding consolidated years of the member with respect to such group) without regard to subsections (k) and (n) thereof (or any corresponding prior provision of law), and

"(B) earnings and profits shall not include any amount excluded from gross income under section 108 to the extent the amount so excluded was not applied to reduce basis of property or other tax attributes.

"(2) Definitions.—For purposes of this subsection—

"(A) Intragroup stock.—The term 'intragroup stock' means any stock which—

"(i) is in a corporation which is a member of an affiliated group of corporations, and

"(ii) is held by another member of such group.

"(B) Consolidated year.—The term 'consolidated year' means any taxable year for which the affiliated group makes a consolidated return."

(2) Effective date.—The amendment made by paragraph (1) shall apply to any intragroup stock disposed of after October 15, 1987, except that such amendment shall not apply to any intragroup stock disposed of after October 15, 1987, and before January 1, 1989, pursuant to a binding contract in effect on October 16, 1987. For purposes of determining the adjustments to the basis of such stock, such amendment shall be deemed to have been in effect for all periods whether before, on, or after October 16, 1987.

(b) Distributions Received by 20-Percent Corporate Shareholders.—

(1) In general.—Paragraph (1) of section 301(e) (relating to special rule for certain distributions received by 20-percent corporate shareholders) is amended by striking out "subsection (n) thereof" and inserting in lieu thereof "subsections (k) and (n) thereof".

(2) Effective dates.—

(A) In general.—The amendment made by paragraph (1) shall apply to distributions after October 15, 1987. For purposes of applying such amendment to any such distribution—

(i) for purposes of determining earnings and profits, such amendment shall be deemed to be in effect for all periods whether before, on, or after October 16, 1987, but

(ii) such amendment shall not affect the determination of whether any distribution on or before October 16, 1987, is a dividend and the amount of any reduction in accumulated earnings and profits on account of any such distribution.

(B) Binding contract exception.—In the case of a disposition of stock after October 15, 1987, and before January 1, 1989, pursuant to a binding contract in effect on October 16, 1987, the amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on such disposition.

SEC. 4522. BENEFITS OF GRADUATED CORPORATE RATES NOT ALLOWED TO PERSONAL SERVICE CORPORATIONS.

(a) General Rule.—Subsection (b) of section 11 (relating to corporate tax rates) is amended to read as follows:

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 34 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750.

"(2) Certain personal service corporations not eligible for graduated rates.—Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 34 percent of the taxable income."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

PART IV—PARTNERSHIP PROVISION

SEC. 4531. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS UNDER SECTION 469.

(a) General Rule.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) Separate Application of Section in Case of Publicly Traded Partnerships.—

"(1) In general.—This section shall be applied separately with respect to items attributable to each publicly traded partnership.

"(2) Publicly traded partnership.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(A) interests in such partnership are traded on an established securities market, or

"(B) interests in such partnership are readily tradeable on a secondary market (or the substantial equivalent thereof)."

(b) Study.—The Secretary of the Treasury or his delegate shall conduct a study regarding administrative and compliance issues related to the tax treatment of publicly traded partnerships and other large partnerships. The Secretary of the Treasury or his delegate shall not later than January 1, 1989, submit a report on such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, together with such recommendations as the Secretary of the Treasury deems appropriate.

(c) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

PART V—INCOME TAX PROVISION

SEC. 4541. EXPENSES OF OVERNIGHT CAMPS NOT ALLOWABLE FOR DEPENDENT CARE CREDIT.

(a) General Rule.—Subparagraph (A) of section 21(b)(2) (defining employment-related expenses) is amended by adding at the end thereof the following new sentence: "Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight."

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

PART VI—PENSION PROVISIONS

Subpart A—Full-Funding Limitations

SEC. 4550. FULL-FUNDING LIMITATION FOR DEDUCTIONS TO QUALIFIED PLANS.

(a) General Rule.—Paragraph (7) of section 412(c) (defining full-funding limitation) is amended to read as follows:

"(7) Full-funding limitation.—

"(A) In general.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) Current liability.—For purposes of subparagraph (A), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof).

"(C) Special rule for paragraph (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof."

(b) Amendment to ERISA.—Paragraph (7) of section 302(c) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(7) Full-funding limitation.—

"(A) In general.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over,

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) Current liability.—For purposes of subparagraph (A), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof).

"(C) Special rule for paragraph (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof."

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1987.

Subpart B—Pension Funding Requirements

SEC. 4551. DEFINITIONS.

For purposes of this subpart—

(1) 1986 code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

CHAPTER 1—MODIFICATIONS OF MINIMUM FUNDING STANDARD

SEC. 4552. ADDITIONAL FUNDING REQUIREMENTS.

(a) Amendments to 1986 Code.—

(1) In general.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(l) Additional Funding Requirements for Plans Which Are Not Multiemployer Plans.—

"(1) In general.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v)), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

"(2) Deficit reduction contribution.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) Unfunded old liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 15 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) Unfunded old liability.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) Special rules for benefit increases under existing collective bargaining agreements.—

"(i) In general.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 15 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) Unfunded existing benefit increase liabilities.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability (determined without regard to such benefit increase).

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 percent, multiplied by

"(ii) the excess (if any) of the funded current liability percentage over 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 plan years (beginning with the plan year in which such event occurs).

In no event shall the unpredictable contingent event amount exceed the unfunded current liability of the plan for the plan year.

"(B) SPECIAL RULE FOR 1ST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—For purposes of this paragraph, unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987, shall not be taken into account.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for each participant in excess of 100.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—

"(i) IN GENERAL.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d)) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed).

"(II) SECRETARIAL AUTHORITY TO PRESCRIBE SAFE HARBOR RATES.—The Secretary may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of subclause (I).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
5 or less	0
6	20
7	40
8	60
9	80
10 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For additional requirements in the case of plans other than multiemployer plans, see subsection (l)."

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 302 of ERISA is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v)), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 15 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 15 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability (determined without regard to such benefit increase).

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 percent, multiplied by

"(ii) the excess (if any) of the funded current liability percentage over 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the amount of unpredictable contingent event benefits paid during the plan year, (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 plan years (beginning with the plan year in which such event occurs).

In no event shall the unpredictable contingent event amount exceed the unfunded current liability of the plan for the plan year.

"(B) SPECIAL RULE FOR 1ST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—For purposes of this paragraph, unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987, shall not be taken into account.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NO MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for each participant in excess of 100.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—

"(i) IN GENERAL.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d)) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed).

"(II) SECRETARIAL AUTHORITY TO PRESCRIBE SAFE HARBOR RATES.—The Secretary may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of subclause (I).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
5 or less	0
6	20
7	40
8	60
9	80
10 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) Controlled group.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414.

"(D) Adjustments to prevent omissions and duplications.—The Secretary shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) Conforming amendment.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For additional requirements in the case of plans other than multiemployer plans, see subsection (l)."

(b) Amendments to ERISA.—

(1) In general.—Section 302 of ERISA is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Additional Funding Requirements for Plans Which Are Not Multiemployer Plans.—

"(1) In general.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v)), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

"(2) Deficit reduction contribution.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) Unfunded old liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 15 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) Unfunded old liability.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) Special rules for benefit increases under existing collective bargaining agreements.—

"(i) In general.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 15 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) Unfunded existing benefit increase liabilities.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability (determined without regard to such benefit increase).

"(iii) Extensions, modifications, etc. not taken into account.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) Unfunded new liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) Unfunded new liability.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) Applicable percentage.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 percent, multiplied by

"(ii) the excess (if any) of the funded current liability percentage over 35 percent.

"(5) Unpredictable contingent event amount.—

"(A) In general.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the excess (if any) of—

"(i) the amount of unpredictable contingent event benefits paid during the plan year, (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, over

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 plan years (beginning with the plan year in which such event occurs).

In no event shall the unpredictable contingent event amount exceed the unfunded current liability of the plan for the plan year.

"(B) Special rule for 1st year of amortization.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(C) Paragraph not to apply to existing benefits.—For purposes of this paragraph, unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987, shall not be taken into account.

"(6) Special rules for small plans.—

"(A) Plans with 100 or fewer participants.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) Plans with more than 100 but no more than 150 participants.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for each participant in excess of 100.

"(C) Aggregation of plans.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) Current liability.—For purposes of this subsection—

"(A) In general.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) Treatment of unpredictable contingent event benefits.—

"(i) In general.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) Unpredictable contingent event benefit.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) Interest rates used.—

"(i) In general.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(ii) Permissible range.—For purposes of this subparagraph—

"(I) In general.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d) of the Internal Revenue Code of 1986) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed).

"(II) Secretarial authority to prescribe safe harbor rates.—The Secretary of the Treasury may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of subclause (I).

"(D) Certain service disregarded.—

"(i) In general.—In the case of a participant to whom this subparagraph applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
5 or less	0
6	20
7	40
8	60
9	80
10 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary of the Treasury shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(c) REVISION OF VALUATION REGULATIONS.—Effective with respect to plan years beginning after December 31, 1987, the provisions of the regulations prescribed under section 412(c)(2) of the 1986 Code which permit asset valuations to be based on a range between 85 percent and 115 percent of average value shall have no force and effect with respect to plans other than multiemployer plans (as defined in section 414(f) of the 1986 Code). The Secretary of the Treasury or his delegate shall amend such regulations to carry out the purposes of the preceding sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987.

SEC. 4553. TIME FOR MAKING CONTRIBUTIONS.

(a) PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (10) of section 412(c) of the 1986 Code (relating to time when certain contributions deemed made) is amended to read as follows:

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the date which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Paragraph (10) of section 302(c) of ERISA (relating to time when certain contributions deemed made) is amended to read as follows:

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the date which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

(b) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(m) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which interest is charged under this subsection shall run from the due date for the installment to whichever of the following dates is the earlier—

"(i) the date which is 8½ months after the close of the plan year, or

"(ii) with respect to any portion of the underpayment, the date on which such portion is contributed to or under the plan.

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (B)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year by reason of section 412, or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

For plan years beginning in:	The applicable percentage is:
1988	5
1989	10
1990	15
1991	20
1992 and thereafter	25

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) Fiscal years.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) Short plan year.—This subsection shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(2) Amendment to ERISA.—Section 302 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Quarterly Contributions Required.—

"(1) In general.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) Amount of underpayment, period of underpayment.—For purposes of paragraph (1)—

"(A) Amount.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) Period of underpayment.—The period for which any interest is charged under this subsection shall run from the due date for the installment to whichever of the following dates is the earlier—

"(i) the date which is 8½ months after the close of the plan year, or

"(ii) with respect to any portion of the underpayment, the date on which such portion is contributed to or under the plan.

"(C) Order of crediting contributions.—For purposes of subparagraph (B)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) Number of required installments; due dates.—For purposes of this subsection—

"(A) Payable in 4 installments.—There shall be 4 required installments for each plan year.

"(B) Time for payment of installments.—

In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year

"(4) Amount of required installment.—For purposes of this subsection—

"(A) In general.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) Required annual payment.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year by reason of section 412, or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

For plan years beginning in:	The applicable percentage is:
1988	5
1989	10
1990	15
1991	20
1992 and thereafter	25

"(D) Special rules for unpredictable contingent event benefits.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(5) Fiscal years and short years.—

"(A) Fiscal years.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) Short plan year.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(3) Effective date.—The amendments made by this subsection shall apply with respect to plan years beginning after 1987.

(c) Increase in Penalty From 5 Percent to 10 Percent.—

(1) In general.—Section 4971(a) of the 1986 Code (relating to initial tax on failure to meet minimum funding standards) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent (5 percent in the case of a multiemployer plan)".

(2) Effective date.—The amendments made by this section shall apply to plan years beginning after 1987.

(d) Requirement of Notice.—Section 101 of ERISA (relating to duty of disclosure and reporting) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Notice of Failure to Meet Minimum Funding Standards.—

"(1) In general.—If an employer of a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standard under section 302 to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

"(2) Section not to apply if waiver pending.—This section shall not apply to any failure if the employer has filed a waiver request with respect to the required installment under section 303, except that if the waiver request is denied, notice under paragraph (1) shall be provided within 60 days after the date of such denial.

"(3) Definitions.—For purposes of this subsection, the terms 'required installment' and 'due date' have the same meanings given such terms by section 302(e)."

(e) Imposition of Lien Where Failure to Make Required Contributions.—

(1) In general.—Subtitle A of title IV of ERISA (relating to Pension Benefit Guaranty Corporation) is amended by adding at the end thereof the following new section:

"IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS

"Sec. 4010. (a) In General.—If any person in connection with a plan other than a multiemployer plan fails—

"(1) to make a required installment on or before the due date for such installment, or

"(2) to make any other payment required to meet the minimum funding standard under section 302,

there shall be a lien in favor of the plan in the unpaid amount of such installment or payment (including interest) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(b) Notice of Failure; Lien.—

"(1) Notice of failure.—A person committing a failure described in subsection (a) shall notify the corporation of such failure within 10 days of the due date for the required installment or the date the payment described in subsection (a)(2) is required to be made.

"(2) Period of lien.—

"(A) In general.—The lien imposed by subsection (a) shall arise on the 30th day following the due date for the required installment or the date the payment described in subsection (a)(2) is required to be made and shall continue until the full payment of such installment or payment (including interest).

"(B) Waiver requests.—No lien shall arise with respect to a required installment—

"(i) for which a waiver request is granted under section 303, or

"(ii) for which a waiver request is pending under section 303.

If a waiver request is denied, the lien shall arise on the day after such request is denied.

"(3) Certain rules to apply.—Any amount with respect to which a lien is imposed under subsection (a) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(c) Enforcement.—Any lien created under subsection (a) may be perfected and enforced only by the corporation, or at the direction of the corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(d) Definitions.—For purposes of this section—

"(1) Due date; required installment.—The terms 'due date' and 'required installment' have the meanings given such terms by section 302(e)."

"(2) Controlled group.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986."

(3) CLERICAL AMENDMENT.—The table of contents for ERISA is amended by inserting after the item relating to section 4009 the following new item:

"Sec. 4010. Imposition of lien where failure to make required contributions."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

SEC. 4554. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS.

(a) GENERAL RULE.—Section 4971 of the 1986 Code (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(2) Subsection (b) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987.

SEC. 4555. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE OF INSTALLMENT.—Subsection (d) of section 412 of the 1986 Code (relating to variance from minimum funding standard) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this subsection with respect to any required installment under subsection (m) or other payment required to meet the minimum funding standard of this section unless an application therefor is submitted to the Secretary not later than the due date for such installment or payment. Any application under this paragraph may include more than 1 required installment or payment for any plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Subsection (d) of section 412 of the 1986 Code is amended—

(i) by striking out "substantial business hardship" in paragraphs (1) and (2) and inserting in lieu thereof "substantial temporary business hardship (substantial business hardship in the case of a multiemployer plan)", and

(ii) by striking out "SUBSTANTIAL" in the headings of paragraphs (1) and (2).

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 412 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the substantial temporary business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENTS TO ERISA.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE.—Section 303 of ERISA (relating to variance from minimum funding standard) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULES.—

"(1) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this section with respect to any required installment under section 302(e) or other payment required to meet the minimum funding standard of section 302 unless an application therefor is submitted to the Secretary of the Treasury not later than the due date for such installment or payment. Any application under this paragraph may include more than 1 required installment or payment for any plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of ERISA is amended by striking out "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "substantial temporary business hardship (substantial business hardship in the case of a multiemployer plan)".

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 303 of ERISA (as amended by subparagraph (A)) is amended by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the substantial temporary business hardship requirements of subsection (a) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(b) FREQUENCY OF WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—The second sentence of section 412(d) of the 1986 Code is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(2) AMENDMENTS TO ERISA.—The second sentence of section 303(a) of ERISA is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(c) INTEREST ON REPAYMENT OF WAIVED CONTRIBUTIONS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) Paragraph (1) of section 412(d) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(B) Subsection (e) of section 412 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(2) AMENDMENTS TO ERISA.—

(A) Subsection (a) of section 303 of ERISA is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate used for purposes of computing the amortization charge described in section 302(b) for any plan year shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(B) Subsection (a) of section 304 of ERISA is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(d) NO WAIVERS FOR PLANS WITH UNFUNDED CURRENT LIABILITY.—

(1) AMENDMENT OF 1986 CODE.—Section 412(d)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The Secretary shall not waive the minimum funding standard for any plan year for which a plan (other than a multiemployer plan) has an unfunded current liability (within the meaning of subsection (l)(8)(A))."

(2) AMENDMENT OF ERISA.—Section 303(a) of ERISA is amended by adding at the end thereof the following new sentence: "The Secretary of the Treasury shall not waive the minimum funding standard for any plan

year for which a plan (other than a multiemployer plan) has an unfunded current liability (within the meaning of section 302(d)(8)(A))."

(e) Effective Date.—The amendments made by this section shall apply to any application submitted for any plan year beginning after December 31, 1987.

SEC. 4556. OTHER FUNDING CHANGES.

(a) Amortization Periods.—

(1) Amendments to 1986 code.—

(A) Paragraphs (2)(B)(iv) and (3)(B)(ii) of section 412(b) of the 1986 Code are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of the 1986 Code are each amended by striking out "30 plan years" and inserting in lieu thereof "5 plan years (30 plan years in the case of a multiemployer plan)".

(2) Amendments to erisa.—

(A) Paragraphs (2)(B)(iv) and (3)(B)(ii) of section 302(b) of ERISA are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 302(b) of ERISA are each amended by striking out "30 plan years" and inserting in lieu thereof "5 plan years (30 plan years in the case of a multiemployer plan)".

(b) Actuarial Assumptions Must Be Reasonable.—

(1) Amendment to 1986 code.—Paragraph (3) of section 412(c) of the 1986 Code is amended to read as follows:

"(3) Actuarial assumptions must be reasonable.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(c) Limitation on Deduction for Contributions to Certain Plans Not Less Than Unfunded Current Liability.—Paragraph (1) of section 404(a) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) Special rule in case of certain plans.—In the case of any defined benefit plan (other than a multiemployer plan) which has more than 100 participants for the plan year, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 412(l). For purposes of this subparagraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(c))) shall be treated as 1 plan, but only employees of such member or employer shall be taken into account."

(d) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1987.

CHAPTER 2—TREATMENT OF PLAN TERMINATIONS

SEC. 4557. STANDARD TERMINATION PROCEDURES AVAILABLE ONLY WHEN ASSETS SUFFICIENT TO MEET TERMINATION LIABILITY.

(a) General Rule.—Subparagraph (D) of section 4041(b)(1) of ERISA is amended to read as follows:

"(D) when the final distribution of assets occurs, the plan is sufficient for termination liability (determined as of the termination date)."

(b) Technical Amendments.—

(1) Paragraphs (2)(A), (2)(C), (2)(D), and (3) of section 4041(b) of ERISA are each amended by striking out "benefit commitments" each place it appears and inserting in lieu thereof "termination liability".

(2) Subparagraph (B) of section 4041(b)(2) of ERISA is amended—

(A) by striking out "the amount of such person's benefit commitments (if any)" and inserting in lieu thereof "the amount of the termination liability (if any) attributable to such person", and

(B) by striking out "such benefit commitments" and inserting in lieu thereof "such termination liability".

(3)(A) Subparagraph (A) of section 4041(b)(3) of ERISA is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) purchase irrevocable commitments from an insurer to provide all benefits under the plan, or

"(ii) in accordance with the provisions of the plan and any applicable regulations, otherwise fully provide all benefits under the plan."

(B) Subparagraph (B) of section 4041(b)(3) of ERISA is amended by striking out "so as to pay" and all that follows and inserting in lieu thereof "so as to pay all benefits under the plan".

(4) Paragraphs (2) and (3) of section 4041(c) of ERISA are each amended by striking out "benefit commitments" each place it appears (including in any heading) and inserting in lieu thereof "termination liability".

(5) Paragraph (1) of section 4041(d) of ERISA is amended—

(A) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no unfunded termination liability", and

(B) by striking out "BENEFIT COMMITMENTS" in the paragraph heading and inserting in lieu thereof "TERMINATION LIABILITY".

(6) Paragraph (16) of section 4001(a) of ERISA is amended to read as follows:

"(16) 'termination liability' means all liabilities of employees and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986);".

(7) Paragraph (18) of section 4001(a) of ERISA is amended to read as follows:

"(18) 'unfunded termination liability' means, as of any date, the excess (if any) of—

"(A) the termination liability (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the current value (as of such date) of the assets of the plan;".

(8) Subsection (i) of section 4042 of ERISA is amended—

(A) by striking out "all benefit commitments under the plan are" and inserting in lieu thereof "all termination liability under the plan is attributable to", and

(B) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no unfunded termination liability".

(c) Effective Date.—The amendments made by this section shall apply in the case of any termination—

(1) where notice to the Pension Benefit Guaranty Corporation with respect to such termination is provided after October 16, 1987, or

(2) any termination instituted by such Corporation under section 4042 of ERISA after October 16, 1987.

SEC. 4558. DISTRESS TERMINATIONS.

(a) Bankruptcy Reorganization Proceedings Not Separate Basis for Distress Termination.—

(1) Subparagraph (B) of section 4041(c)(2) of ERISA is amended—

(A) by striking out "clause (i), (ii), or (iii)" in the material preceding clause (i) and inserting in lieu thereof "clause (i) or (ii)",

(B) by striking out "a substantial member" in the material preceding clause (i) and inserting in lieu thereof "a member",

(C) by inserting before the period at the end of clause (i) the following: "or become a case seeking a reorganization", and

(D) by striking out clause (ii) and redesignating clause (iii) as clause (ii).

(2) Paragraph (2) of section 4041(c) of ERISA is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(3) Section 4067 of ERISA is amended by striking out "controlled groups who are" and inserting in lieu thereof "controlled groups who are or may become".

(b) Employer Liability to Participants Based on Termination Liability.—

(1) Subparagraph (A) of section 4062(c)(1) of ERISA is amended—

(A) by striking out "outstanding amount of the benefit commitments" and inserting in lieu thereof "outstanding amount of termination liability", and

(B) by striking out the second sentence and inserting in lieu thereof the following: "Except as provided in subparagraph (B), the liability of such person under this subsection shall be equal to the total outstanding amount of termination liability."

(2) Paragraph (19) of section 4001(a) of ERISA is amended to read as follows:

"(19) 'outstanding amount of termination liability' means, with respect to any plan, the excess (if any) of—

"(A) the termination liability (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the termination liability which would be so determined by only taking into account benefits which are guaranteed under section 4022 or to which assets of the plan are required to be allocated under section 4044;".

(3) Subparagraph (A) of section 4049(c)(1) of ERISA is amended by striking out "the outstanding amount of benefit commitments to" and inserting in lieu thereof "the portion of the outstanding termination liability attributable to".

(4) Section 4062(c)(1)(B) of ERISA is amended by striking out "benefit commit-

ment" and inserting in lieu thereof "termination liability".

(c) Employer Liability to the Corporation.—

(1) In general.—Subparagraph (A) of section 4062(b)(1) of ERISA is amended to read as follows:

"(A) In general.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall be the total amount of the unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the Corporation."

(2) Lien.—

(A) Subsection (a) of section 4068 of ERISA is amended—

(i) by striking out "section 4062(b)(1)(A)(i)" the first place it appears and inserting in lieu thereof "section 4062(b)(1)(A)", and

(ii) by striking out "section 4062(b)(1)(A)(i)" the second place it appears and inserting in lieu thereof "section 4062(b)(1)(A) (including interest)".

(B) Title IV of ERISA is amended by transferring subsection (e) of section 4062 of such Act to the end of section 4068 of such Act and by redesignating such subsection as subsection (f).

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2) or (3), the amendments made by this section shall apply in the case of—

(A) any termination where notice to the Pension Benefit Guaranty Corporation with respect to such termination is provided after October 16, 1987, and

(B) any termination instituted by such Corporation under section 4042 of ERISA after October 16, 1987.

(2) Reorganizations.—The amendments made by subsection (a) shall apply to petitions described in section 4041(c)(2)(B)(ii)(I) of ERISA filed after October 16, 1987.

(3) Liens.—The amendments made by subsection (c)(2) shall not apply to a person for the period of any proceedings pursuant to a petition described in section 4041(c)(2)(B)(ii)(I) of ERISA filed before October 17, 1987.

SEC. 4559. IMPOSITION OF LIEN WHERE SIGNIFICANT UNFUNDED CURRENT LIABILITY.

(a) General Rule.—Subtitle A of title IV of ERISA (relating to Pension Benefit Guaranty Corporation) is amended by adding at the end thereof the following new section:

"IMPOSITION OF LIEN WHERE SIGNIFICANT UNFUNDED CURRENT LIABILITY

"Sec. 4011. (a) In General.—If, as of the close of any plan year of a single-employer defined benefit plan—

"(1) the funded current liability percentage of the plan is less than 70 percent, and

"(2) the unfunded current liability of the plan is greater than $25,000,000,

there shall be a lien in favor of the plan in the amount determined under subsection (b) upon all property and rights to property, of the contributing sponsor maintaining the plan and each member of any controlled group (within the meaning of section 412(l)(8)(C)) of which such contributing sponsor is a member. The contributing sponsor shall notify the corporation within 2½ months after the close of any plan year if the plan is described in paragraphs (1) and (2) for such year.

"(b) Amount and Period of Lien.—

"(A) Amount.—The amount of the lien in effect for any plan year shall be the portion of the unfunded current liability of the plan for the plan year equal to the lesser of—

"(i) so much of the unfunded current liability as exceeds $25,000,000, or

"(ii) the amount necessary to increase the funded current liability percentage to 70 percent.

"(B) Period of lien.—The lien imposed by subsection (a) shall—

"(i) arise on the 1st day of the plan year following the 1st plan year in which the plan is described in paragraphs (1) and (2) of subsection (a), and

"(ii) shall continue for plan years until the close of a plan year in which the plan is not described in paragraphs (1) and (2) of subsection (a).

Another lien may be imposed after the expiration of a lien under this subparagraph.

"(c) Enforcement.—Any lien created under subsection (a) may be perfected and enforced only by the corporation, or at the direction of the corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Funded current liability percentage and unfunded current liability.—The terms 'funded current liability percentage' and 'unfunded current liability' shall have the meanings given such terms by section 302(d), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year.

"(2) Certain rules to apply.—The amount subject to a lien imposed by subsection (a) shall be treated as taxes due and owing to the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount of such lien."

(b) Clerical Amendment.—The table of contents for ERISA is amended by inserting after the item relating to section 4010 the following new item:

"Sec. 4011. Imposition of lien where significant unfunded current liability."

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

CHAPTER 3—INCREASE IN PREMIUM RATES

SEC. 4560. INCREASE IN PREMIUM RATES.

(a) General Rule.—Clause (i) of section 4006(a)(3)(A) of ERISA is amended by striking out "$8.50" and inserting in lieu thereof "the sum of $14 plus the exposure-related premium (if any) determined under subparagraph (E)".

(b) Determination of Exposure-Related Premium.—Paragraph (3) of section 4006(a) of ERISA is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The exposure-related premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 of unfunded current liability under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii)—

"(I) Except as provided in subclause (II), the term 'unfunded current liability' has the meaning given such term by section 412(l)(8)(A) of the Internal Revenue Code of 1986.

"(II) For purposes of subclause (I), in computing current liability under section 412(l)(8)(A)(i) of such Code, the applicable percentage under section 412(l)(7)(D)(ii) of such Code shall be 100 percent for any participant with more than 5 years of participation.

"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $70.

"(II) In the case of any plan year beginning in a calendar year after 1988, the $70 amount in subclause (I) shall be increased by the percentage (if any) by which the contribution and benefit base in effect during such calendar year under section 230 of the Social Security Act exceeds such contribution and benefit base in effect during 1988.

"(III) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $10 for each plan year for which such contributions were made. The $10 amount under the preceding sentence shall be adjusted at the same time and the same manner as provided under subclause (II).

"(v)(I) No additional premium shall be determined under this subparagraph with respect to any plan which has no more than 100 participants on each day during the preceding plan year.

"(II) In the case of a plan to which subclause (I) does not apply and which did not have more than 150 participants on each day during the preceding plan year, the amount of the additional premium under this subparagraph for such plan year shall be equal to the product of such premium determined without regard to this subclause multiplied by 2 percent for each participant in excess of 100.

"(III) For purposes of this clause, all single-employer plans maintained by the same contributing sponsor (or any member of such contributing sponsor's controlled group) shall be treated as 1 plan. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code."

(c) Liability for Premium.—

(1) In general.—Section 4007 of ERISA is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) Designated payor.—Section 4007 of ERISA is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the designated payor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such designated payor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before January 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

PART VII—ESTATE AND GIFT TAXES

SEC. 4561. RETENTION OF 1987 RATES FOR 2 YEARS.

Subsection (c)(2)(D) of section 2001 (relating to rate schedule) is amended by striking out "or 1987" each place it appears in the text and heading thereof and inserting in lieu thereof "1987, 1988, or 1989".

PART VIII—EXCISE TAXES

SEC. 4571. EXTENSION OF TELEPHONE EXCISE TAX.

Paragraph (2) of section 4251(b) (relating to applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 3 percent; except that, with respect to amounts paid pursuant to bills first rendered after 1990, the applicable percentage shall be zero."

SEC. 4572. FUELS FOR MOTOR VEHICLES AND CERTAIN OTHER FUELS IMPOSED AT WHOLESALE LEVEL.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by inserting after subpart A the following new subpart:

"Subpart B—Fuels for Motor Vehicles and Certain Other Fuels

"Sec. 4091. Imposition of tax.
"Sec. 4092. Definitions.
"Sec. 4093. Exemption; special rule.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of any taxable fuel by the producer or the importer thereof or by any producer of a taxable fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A)(i) the Highway Trust Fund financing rate in the case of diesel fuel and special motor fuels, or

"(ii) the Airport and Airway Trust Fund financing rate in the case of aviation fuel, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate in the case of any taxable fuel other than liquefied petroleum gas.

"(2) HIGHWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Highway Trust Fund financing rate is—

"(A) 15 cents per gallon in the case of diesel fuel, and

"(B) 9 cents per gallon in the case of special motor fuels.

"(3) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 14 cents per gallon.

"(4) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Highway Trust Fund financing rate shall not apply on and after October 1, 1993.

"(B) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1988.

"(C) The Leaking Underground Storage Tank Trust Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR CERTAIN FUELS CONTAINING ALCOHOL.—Under regulations prescribed by the Secretary—

"(1) 10-PERCENT ALCOHOL FUELS.—

"(A) IN GENERAL.—The Highway Trust Fund financing rate shall be—

"(i) 9 cents per gallon in the case of the sale of any mixture of diesel fuel if—

"(I) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(II) the diesel fuel in such mixture was not taxed under clause (ii),

"(ii) 10 cents per gallon in the case of the sale of diesel fuel for use in producing a mixture described in clause (i) at the time of such sale,

"(iii) 3 cents per gallon in the case of the sale of any mixture of special motor fuel if—

"(I) at least 10 percent of such mixture consists of alcohol (as so defined), and

"(II) the special motor fuel in such mixture was not taxed under clause (iv), and

"(iv) 3⅓ cents per gallon in the case of the sale of any special motor fuel for use in producing a mixture described in clause (iii).

"(B) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which the Highway Trust Fund financing rate was determined under clause (i) or (iii) of subparagraph (A) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such liquid fuel. The amount of tax imposed on any sale of such liquid fuel by such person shall be—

"(i) 5 cents per gallon in the case of diesel fuel, and

"(ii) 5⅔ cents per gallon in the case of any special motor fuel.

"(C) TERMINATION.—Subparagraph (A) shall not apply to any sale after September 30, 1993.

"(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(A) IN GENERAL.—In the case of the sale of any special motor fuel which is a qualified methanol or ethanol fuel—

"(i) the Highway Trust Fund financing rate shall be 3 cents per gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate shall be 0.05 cent per gallon.

"(B) QUALIFIED METHANOL OR ETHANOL FUEL.—For purposes of subparagraph (A), the term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(C) TERMINATION.—Subparagraph (A) shall not apply to any sale after September 30, 1993.

"(3) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—

"(A) IN GENERAL.—In the case of the sale of any special motor fuel which is a partially exempt methanol or ethanol fuel, the Highway Trust Fund financing rate shall be 4 1/2 cents per gallon.

"(B) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—For purposes of subparagraph (A), the term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"SEC. 4092. DEFINITIONS.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) diesel fuel,

"(B) any special motor fuel, and

"(C) any aviation fuel.

"(2) EXCEPTIONS.—The term 'taxable fuel' shall not include—

"(A) any product taxable under section 4081, or

"(B) any product for use as heating oil.

"(3) DIESEL FUEL.—The term 'diesel fuel' means any liquid which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(4) SPECIAL MOTOR FUEL.—

"(A) IN GENERAL.—The term 'special motor fuel' means any liquid described in subparagraph (B) which is suitable for use as a fuel in a motor vehicle or motorboat.

"(B) LIQUIDS DESCRIBED.—A liquid is described in this subparagraph if such liquid is benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, fuel oil, diesel fuel, or gasoline subject to tax under section 4081).

"(5) AVIATION FUEL.—The term 'aviation fuel' means any liquid which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'producer' includes—

"(A) any person who is a refiner, compounder, blender, or wholesale distributor, and a dealer selling taxable fuel exclusively to producers of taxable fuel, as well as a producer,

"(B) but only if such person elects to register under section 4101 with respect to the tax imposed by section 4091.

Any person to whom taxable fuel is sold tax-free under this subpart shall be considered the producer of such taxable fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells taxable fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer.

"SEC. 4093. EXEMPTION; SPECIAL RULES.

"(a) EXEMPTION OF SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply in the case of sales of a taxable fuel to a producer of such fuel.

"(b) CERTAIN USES TREATED AS SALES.—If a producer or importer uses (otherwise than in the production of any taxable fuel) any taxable fuel sold to him free of tax, or produced or imported by him, such use shall be treated for the purposes of this chapter as a sale.

"(c) SPECIAL ADMINISTRATIVE RULES.—Under regulations prescribed by the Secretary, information reporting by the remitter of the tax under this section and information reporting and registration by such other persons shall be required as the Secretary deems necessary.

"(d) CROSS REFERENCE.—

For provisions allowing a credit or refund for fuel not used for certain taxable purposes, see section 6427."

(b) CONFORMING AMENDMENT TO SECTION 4041.—

(1) So much of section 4041 as precedes subsection (f) is amended to read as follows:

"SEC. 4041. GASOLINE USED IN NONCOMMERCIAL AVIATION.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax (at the rate specified in paragraph (2)) on any product taxable under section 4081—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such product under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed under section 4081.

"(2) RATE OF TAX.—The rate of tax imposed by paragraph (1) on any product taxable under section 4081 is the excess of 12 cents a gallon over the Highway Trust Fund financing rate at which tax was imposed on such product under section 4081.

"(3) NONCOMMERCIAL AVIATION DEFINED.—For purposes of this section, the term 'noncommercial aviation' means any use of aircraft, other than use in a business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) TERMINATION.—The tax imposed by paragraph (1) shall not apply on and after January 1, 1988."

(2) Section 4041 is amended by striking out subsections (i), (j), (k), (m), and (n), and by redesignating subsections (f), (g), (h), and (l) as subsections (b), (c), (d), and (e), respectively.

(3) Section 4041 is amended by adding at the end thereof the following new subsections:

"(f) EXEMPTION FOR CERTAIN FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—No tax shall be imposed under this section on—

"(A) any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), and

"(B) any partially exempt methanol or ethanol fuel.

"(2) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—For purposes of this subsection, the term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(3) SPECIAL RULES RELATING TO 10 PERCENT ALCOHOL FUELS.—

"(A) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1)(A) applied, such separation shall be treated as a sale of the liquid fuel.

"(B) TERMINATION.—Paragraph (1)(A) shall not apply to any sale or use after September 30, 1993.

"(g) OTHER SPECIAL RULES.—

"(1) REGISTRATION.—If any product taxable under section 4081 is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this section that the tax imposed by this section applies to such sale unless the purchaser is registered in such manner (and furnishes such information in respect of the use of the product) as the Secretary shall by regulations prescribe.

"(2) SALES BY THE UNITED STATES, ETC.—The tax imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(4) Paragraph (3) of section 4041(b), as redesignated by this subsection, is amended by striking out "Except with respect to the taxes imposed by subsection (d), paragraph" and inserting in lieu thereof "Paragraph".

(5) The last sentence of section 4041(c), as redesignated by this subsection, is amended by striking out "Except with respect to the taxes imposed by subsection (d), paragraphs" and inserting in lieu thereof "Paragraphs".

(c) AMENDMENTS RELATING TO CREDITS AND REFUNDS.—

(1) Subsection (a) of section 6427 is amended—

(A) by striking out "section 4041(a) or (c)" and inserting in lieu thereof "section 4041", and

(B) by inserting "OF FUEL SOLD FOR USE IN AVIATION" after "NONTAXABLE USES" in the heading.

(2) Subsection (b) of section 6427 is amended by striking out "subsection (a) of section 4041" each place it appears and inserting in lieu thereof "section 4041 or 4091".

(3) Subsection (c) of section 6427 is amended—

(A) by striking out "section 4041(a) or (c)" and inserting in lieu thereof "section 4041 or 4091", and

(B) by striking out the parenthetical in the last sentence and inserting in lieu thereof "(except that references to gasoline in such paragraph (4) shall be treated as references to fuels taxable under sections 4041 and 4091)".

(4) Subsection (d) of section 6427 is amended—

(A) by inserting "or 4091" after "section 4041" in paragraph (2) thereof,

(B) by striking out "section 4041(h)(2)" and inserting in lieu thereof "section 4041(d)(2)",

(C) by striking out "section 4041(h)(2)(C)" and inserting in lieu thereof "section 4041(d)(2)(C)", and

(D) by striking out "section 4041(l)" and inserting in lieu thereof "section 4041(e)".

(5) Subparagraph (B) of section 6427(e)(1) is amended by inserting "or 4091" after "section 4041".

(6) Subsection (f) of section 6427 is amended to read as follows:

"(f) TAXABLE LIQUIDS USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or special motor fuel on which tax was imposed at the regular Highway Trust Fund financing rate is used by any person in producing a mixture described in section 4081(c) or in clause (i) or (iii) of section 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular Highway Trust Fund financing rate over the incentive Highway Trust Fund financing rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR HIGHWAY TRUST FUND FINANCING RATE.—The term 'regular Highway Trust Fund financing rate' means—

"(i) 9 cents per gallon in the case of gasoline,

"(ii) 15 cents per gallon in the case of diesel fuel, or

"(iii) 9 cents per gallon in the case of a special motor fuel.

"(B) INCENTIVE HIGHWAY TRUST FUND FINANCING RATE.—The term 'incentive Highway Trust Fund financing rate' means—

"(i) 5 2/3 cents per gallon in the case of gasoline,

"(ii) 10 cents per gallon in the case of diesel fuel, or

"(iii) 5 2/3 cents per gallon in the case of a special motor fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or special motor fuel with respect to which an amount is payable under subsection (b), (d), (e), or (m) of this section or under section 6420 or 6421."

(7) Subsection (i) of section 6427 is amended by striking out "and (h)" each place it appears and inserting in lieu thereof "(h), and (m)".

(8) Paragraph (1) of section 6427(l) is amended by striking out "section 4041(c)(2)" each place it appears and inserting in lieu thereof "section 4041".

(9) Section 6427 is amended by striking out subsection (o), by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

"(m) NONTAXABLE USES OF FUEL SOLD FOR USE IN CERTAIN VEHICLES, ETC.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any fuel on which tax has been imposed under section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to such person an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such fuel under section 4091.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use other than use as a fuel in a diesel-powered highway vehicle or a diesel-powered train, "(B) in the case of any special motor fuel, any use other than use as a fuel in a motor vehicle or motorboat,

"(C) in the case of diesel fuel and any special motor fuel, any off-highway business use (as defined in section 6421(e)(2)), and

"(D) in the case of aviation fuel, any use other than use as a fuel in an aircraft in noncommercial aviation (within the meaning of section 4041(a)(3)).

For purposes of the preceding sentence, the terms 'diesel fuel', 'special motor fuel', and 'aviation fuel' have the respective meanings given such terms by section 4092.

"(3) Refund of highway trust fund financing rate for diesel fuel used in trains.—For purposes of paragraph (1), the use of diesel fuel as a fuel in a diesel-powered train shall be treated as a nontaxable use but only with respect to the portion of the tax imposed on such fuel by section 4091 which is attributable to the Highway Trust Fund financing rate under such section.

"(4) Refund of airport and airway trust fund financing rate for aviation fuel used in noncommercial aviation.—For purposes of paragraph (1), the use of aviation fuel as a fuel in an aircraft in noncommercial aviation (within the meaning of section 4041(a)(3)) shall be treated as a nontaxable use but only with respect to the portion of the tax imposed on such fuel by section 4091 which is attributable to the Airport and Airway Trust Fund financing rate under such section."

(10) Subsection (o) of section 6427, as redesignated by paragraph (9), is amended to read as follows:

"(o) Termination of Certain Provisions.—Except with respect to taxes imposed at the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 or 4091, subsections (a), (b), (c), (d), (g), (h), and (m) shall apply only with respect to fuels purchased before October 1, 1993."

(d) Other Conforming Amendments.—

(1) Subsection (c) of section 40 is amended by striking out "subsection (b)(2), (k), or (m) of section 4041 or section 4081(c)" and inserting in lieu thereof "section 4041(f), 4081(c), or 4091(c)".

(2) Subparagraph (B) of section 4081(e)(2), as amended by section 1703 of the Tax Reform Act of 1986, is amended by striking out "net revenues" and all that follows and inserting in lieu thereof the following: "net revenues are at least $500,000,000 from taxes attributable to Leaking Underground Storage Tank Trust Fund financing rates of tax imposed under this section and sections 4042 and 4091."

(3) Subsection (a) of section 4101, as amended by section 1703 of the Tax Reform Act of 1986, is amended by inserting "or 4091" after "section 4081".

(4) Subsection (a) of section 4221 is amended by inserting "or 4091" after "section 4081".

(5) Section 6206 is amended by striking out "or 4041" and inserting in lieu thereof "or 4041 or 4091".

(6) Subparagraph (A) of section 6416(a)(2) is amended by striking out "special fuels" and inserting in lieu thereof "gasoline used in noncommercial aviation".

(7) Paragraph (2) of section 6416(b) is amended by striking out "or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d)".

(8) Subparagraph (F) of section 6416(b)(2) is amended by striking out "referred to in section 4041" and inserting in lieu thereof "(as defined in section 4092(a)(4))".

(9) Subparagraph (A) of section 6416(b)(3) is amended by inserting "and other than any taxable fuel under section 4091" after "section 4081".

(10) Subparagraph (B) of section 6416(b)(3) is amended by striking out "such gasoline" and inserting in lieu thereof "or any taxable fuel under section 4091, such gasoline or fuel".

(11) Paragraph (1) of section 6420(i) is amended to read as follows:

"(1) For credit or refund of tax in case of special motor fuels used on a farm for farming purposes, see section 6427."

(12) Subparagraph (C) of section 6421(e)(2) is amended to read as follows:

"(C) Commercial fishing vessels.—For provisions allowing a credit or refund for gasoline and special motor fuels used for commercial fishing vessels, see section 6416(b)(2)(B)."

(13) Subparagraph (A) of section 6421(f)(2) is amended by striking out "section 4041(c)(4)" and inserting in lieu thereof "section 4041(a)(3)".

(14) Subsection (j) of section 6421 is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 6652 is amended by striking out subsection (j) (relating to failure to give written notice to certain sellers of diesel fuel) and by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(16) Paragraph (1) of section 9502(b) is amended by striking out "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting in lieu thereof "section 4041 (relating to gasoline used in noncommercial aviation)".

(17) Subsection (b) of section 9502 is amended by striking out "and" at the end of paragraph (2); by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1988, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and".

(18) Paragraph (1) of section 9503(b) is amended by striking out subparagraph (A), by redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively, and by striking out subparagraph (E) (as so redesignated) and inserting in lieu thereof the following:

"(E) section 4091 (relating to tax on fuels for motor vehicles and certain other fuels),".

(19) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) Certain additional taxes not transferred to highway trust fund.—For purposes of paragraphs (1) and (2), there shall be taken into account the taxes imposed by sections 4081 and 4091 only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(20) Subparagraph (D) of section 9503(c)(4) is amended to read as follows:

"(D) Motorboat fuel taxes.—For purposes of this paragraph, the term 'motorboat fuel taxes' means taxes under sections 4081 and 4091 (to the extent attributable to the Highway Trust Fund financing rates under such sections) with respect to gasoline and special motor fuels used as a fuel in motorboats."

(21) Paragraph (2) of section 9503(e) is amended—

(A) by striking out "sections 4041 and 4081" and inserting in lieu thereof "sections 4081 and 4091", and

(B) by striking out "section 4041 or 4081" and inserting in lieu thereof "section 4081 or 4091".

(22) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4091 (relating to tax on fuels for motor vehicles and certain other fuels) to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such section,".

(23) Subparagraph (A) of section 9508(c)(2) is amended by striking out clause (ii) and all that follows and inserting in lieu thereof the following:

"(ii) credits allowed under section 34,

with respect to the taxes imposed by sections 4081 and 4091 (to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such sections)."

(24) The table of subparts for part III of subchapter A of chapter 32 is amended by inserting after the item relating to subpart A the following new item:

"Subpart B. Fuels for motor vehicles and certain other fuels."

(25) The table of sections for subchapter A of chapter 31 is amended by striking out the item relating to section 4041 and inserting in lieu thereof the following new item:

"Sec. 4041. Gasoline used in noncommercial aviation."

(e) Effective Date.—The amendments made by this section shall apply to sales after December 31, 1987.

(f) Floor Stocks Tax.—

(1) Imposition of tax.—On any taxable fuel which on January 1, 1988, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4091 of the Internal Revenue Code of 1986 (as added by this section).

(2) Overpayment of floor stocks taxes, etc.—Sections 6416 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this section so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such section. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

(3) Due date of tax.—The taxes imposed by this subsection shall be paid before February 16, 1988.

(4) Definitions.—For purposes of this subsection—

(A) Taxable fuel.—The term "taxable fuel" means any liquid subject to tax under section 4091 of such Code (as so added).

(B) Taxable person.—The term "taxable person" means any person who holds any taxable fuel on which no tax has been imposed under section 4041 of such Code (as in effect on the day before the date of the enactment of this Act) unless the taxpayer establishes to the satisfaction of the Secretary that tax will be imposed on the sale of such fuel by such person (or any subsequent seller) under section 4091 of such Code (as so added) or the use by such person of such fuel will be for a nontaxable purpose.

(C) HELD BY A TAXABLE PERSON.—An article shall be treated as held by a person if title thereto has passed to such person (whether or not delivery to such person has been made).

(5) TRANSFER OF FLOOR STOCK REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4091 of such Code (as so added).

SEC. 4573. EXTENSION OF TEMPORARY INCREASE IN AMOUNT OF TAX IMPOSED ON COAL PRODUCERS.

Subparagraph (A) of section 4121(e)(2) (relating to the temporary increase termination date) is amended by striking out "January 1, 1996" and inserting in lieu thereof "January 1, 2014".

PART IX—EMPLOYMENT TAXES

SEC. 4581. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3201 (relating to tier 2 employee tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.

SEC. 4582. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3221 (relating to tier 2 employer tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

SEC. 4583. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) COMMISSION ON RAILROAD RETIREMENT REFORM.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) STUDY.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing, structure, and objectives of the railroad retirement system. The Commission shall submit recommendations to the Congress for revisions in, or alternatives to, the current system, to assure the provision of adequate retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account—

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establishing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector; and

(3) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the railroad retirement system.

(c) MEMBERSHIP OF THE COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members, as follows:

(A) 4 individuals appointed by the President—

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) 2 individuals appointed by the Speaker of the House of Representatives from among members of the public—

(i) one of whom shall be appointed after consultation with the Chairman of the Committee on Ways and Means of the House of Representatives, and

(ii) one of whom shall be appointed after consultation with the Chairman of the Committee on Energy and Commerce of the House of Representatives; and

(C) 2 individuals appointed by the President pro tempore of the Senate from among members of the public—

(i) one of whom shall be appointed after consultation with the Chairman of the Committee on Finance of the Senate, and

(ii) one of whom shall be appointed after consultation with the Chairman of the Committee on Labor and Human Resources of the Senate.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) BASIC PAY.—The members of the Commission shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(3) QUORUM.—Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) CHAIRMAN.—The President shall appoint as Chairman one member from the members appointed from the public.

(d) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) ACCESS TO OFFICIAL DATA AND SERVICES.—

(1) OFFICIAL DATA.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit a report to the President and to each House of Congress not later than October 1, 1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

(g) TERMINATION.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

SEC. 4584. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended—

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts",

(2) by striking out "1988" and inserting in lieu thereof "1990", and

(3) by striking out the last sentence.

SEC. 4585. EXTENSION OF FUTA REPAYMENT TAX.

(a) In General.—Paragraphs (1) and (2) of section 3301 of the Federal Unemployment Tax Act (26 U.S.C. 3301) are amended to read as follows:

"(1) 6.2 percent in the case of calendar years 1988, 1989, and 1990; or

"(2) 6.0 percent in the case of calendar year 1991 and each calendar year thereafter;".

(b) Effective Date.—The amendment made by subsection (a) shall apply to wages paid on or after January 1, 1988.

SEC. 4586. TRANSFER OF FUNDS INTO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) In General.—Section 901 of the Social Security Act (42 U.S.C. 1101) is amended by adding at the end the following new subsection:

"Transfers For Calendar Years 1988, 1989, and 1990

"(g)(1) With respect to calendar years 1988, 1989, and 1990, the Secretary of the Treasury shall transfer from the employment security administration account—

"(A) to the Federal unemployment account an amount equal to 50 percent of the amount of tax received under section 3301(1) of the Federal Unemployment Tax Act which is attributable to the difference in the tax rates between paragraphs (1) and (2) of such section; and

"(B) to the extended unemployment compensation account an amount equal to 50 percent of such amount of tax received.

"(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) with respect to wages paid during such calendar years."

(b) Increase in the Limitation on the Amounts in Such Accounts.—(1) Section 902(a)(2) of such Act (42 U.S.C. 1102(a)(2)) is amended by striking out "one-eighth" and inserting in lieu thereof "five-eighths".

(2) Section 905(b)(2)(B) of such Act (42 U.S.C. 1105(b)(2)(B)) is amended by striking out "one-eighth" and inserting in lieu thereof "three-eighths".

(c) Conforming Amendments.—(1) Section 905(b)(1) of such Act (42 U.S.C. 1105(b)(1)) is amended by striking out the last sentence thereof.

(2) Section 901(c)(3)(C) of such Act (42 U.S.C. 1101(c)(3)(C)) is amended by striking out "(i)" and all that follows through the period and inserting in lieu thereof "a tax rate of 0.6 percent."

(d) Effective Date.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 4587. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

(a) Application of Tax to Tips.—Section 3121(q) (relating to inclusion of tips for employee taxes) is amended—

(1) by striking "Employee Taxes" in the heading and inserting "Both Employee and Employer Taxes";

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) Conforming Amendments.—(1) Subsections (a) and (b) of section 3111(a) (relating to rate of tax on employers) are each amended by striking "and (t)".

(2) Section 3121(t) (relating to special rule) is repealed.

(c) Effective Date.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988.

SEC. 4588. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

(a) Social Security Act Amendment.—Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows:

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

(b) FICA Amendment.—Paragraph (1) of section 3121(m) (relating to inclusion of service in the uniformed services) is amended to read as follows:

"(1) Inclusion of service.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

(c) Computation of Wages.—

(1) In general.—Paragraph (2) of section 3121(i) (relating to computation of wages for service in the uniformed services) is amended by inserting "and his compensation for inactive duty training that is computed as a rate of basic pay" after "basic pay".

(2) Conforming amendment.—The second paragraph following subsection (s) of section 209 of the Social Security Act (42 U.S.C. 409) is amended by inserting "and his compensation for inactive duty training that is computed as a rate of basic pay" after "basic pay".

(d) Conforming Amendment.—Section 229(a) of the Social Security Act (42 U.S.C. 429) is amended by striking out "section 210(l)" and inserting in lieu thereof "section 210(l)(1)".

(e) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 4589. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

(a) Social Security Act Amendment.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(b) FICA Amendment.—Subparagraph (B) of section 3121(a)(8) (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987.

SEC. 4590. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) Coverage Under Old-Age, Survivors, and Disability Insurance Program.—

(1) Social security act amendment.—Paragraph (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection (b) does not apply to such amount to the extent of the amount includible in the gross income of the employee under the Internal Revenue Code of 1986".

(2) FICA amendment.—Subparagraph (C) of section 3121(a)(2) (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to such amount to the extent of the amount includible in the gross income of the employee".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987.

SEC. 4591. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) Social Security Act Amendments.—

(1) In general.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) Exception for certain domestic service in the private home of a spouse.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA Amendments.—

(1) In general.—Subparagraph (A) of section 3121(b)(3) (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) Exception for certain domestic service in the private home of a spouse.—Paragraph (3) of section 3121(b) (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 4592. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

(a) Social Security Act Amendments.—

(1) Age below which service for parent is excluded from covered employment reduced to age 18.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 4591(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) Exception for certain domestic service in the private home of parent.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 4591(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA Amendments.—

(1) Age below which service for parent is excluded from covered employment reduced to age 18.—Subparagraph (A) of section 3121(b)(3) (as amended by section 6591(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) Exception for certain domestic service in the private home of parent.—Subparagraph (B) of section 3121(b)(3) (as amended by section 6591(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

PART X—USER FEES

SEC. 4595. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

(a) General Rule.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

(b) Program Criteria.—

(1) In general.—The fees charged under the program required by subsection (a)—

(A) shall vary according to categories (or subcategories) established by the Secretary,

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) Exemptions, etc.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

(3) Average fee requirement.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion	$400
Exempt organization ruling	$320
Employee plan determination	$255
Exempt organization determination	$200
Chief counsel ruling	$200

(c) Application of Section.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990.

SEC. 4596. OCCUPATIONAL TAXES RELATING TO ALCOHOL, TOBACCO, AND FIREARMS.

(a) Occupational Taxes on Distilled Spirits Plants, Bonded Wine Cellars, Breweries, Etc.—

(1) Distilled spirits plants, bonded wine cellars, etc.—

(A) In general.—Part II of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer) is amended by inserting before subpart B the following new subpart:

"Subpart A—Proprietors of Distilled Spirits Plants, Bonded Wine Cellars, Etc.

"Sec. 5081. Imposition and rate of tax.

"SEC. 5081. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every proprietor of—

"(1) a distilled spirits plant,

"(2) a bonded wine cellar,

"(3) a bonded wine warehouse, or

"(4) a taxpaid wine bottling house,

shall pay a tax of $1,000 per year in respect of each such premises.

"(b) Reduced Rates for Small Proprietors.—

"(1) In general.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(B) Technical amendments.—

(i) Subsection (a) of section 5691 is amended by striking out "the business of a brewer, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, or limited retail dealer," and inserting in lieu thereof "a business subject to a special tax imposed by part II of subchapter A or section 5276 (relating to occupational taxes)".

(ii) The section heading of section 5691 is amended by striking out "RELATING TO LIQUORS".

(iii) The table of sections for part V of subchapter J of chapter 51 is amended by striking out "relating to liquors" in the item relating to section 5691.

(C) Clerical amendment.—The table of subparts for part II of subchapter A of chapter 51 is amended by inserting before the item relating to subpart B the following new item:

"Subpart A. Proprietors of distilled spirits plants, bonded wine cellars, etc."

(2) Breweries.—Section 5091 (relating to imposition and rate of tax on brewers) is amended to read as follows:

"SEC. 5091. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every brewer shall pay a tax of $1,000 per year in respect of each brewery.

"(b) Reduced Rates for Small Brewers.—Rules similar to the rules of section 5081(b) shall apply for purposes of subsection (a)."

(b) Wholesale Dealers in Liquors and Beer.—

(1) Liquors.—Subsection (a) of section 5111 (relating to imposition and rate of tax on wholesale dealers) is amended by striking out "$255" and inserting in lieu thereof "$500".

(2) Beer.—Subsection (b) of section 5111 is amended by striking out "$123" and inserting in lieu thereof "$500".

(c) Retail Dealers in Liquors and Beer.—

(1) Liquors.—Subsection (a) of section 5121 (relating to imposition and rate of tax on retail dealers) is amended by striking out "$54" and inserting in lieu thereof "$250".

(2) Beer.—Subsection (b) of section 5121 is amended by striking out "$24" and inserting in lieu thereof "$250".

(3) Repeal of tax on limited retail dealers.—Subsection (c) of section 5121 is hereby repealed.

(d) Tax on Nonbeverage Domestic Drawback.—Subsection (b) of section 5131 (relating to eligibility and rate of tax) is amended to read as follows:

"(b) Rate of Tax.—The special tax imposed by subsection (a) shall be $500 per year."

(e) Tax on Industrial Use of Distilled Spirits.—

(1) In general.—Subchapter D of chapter 51 (relating to industrial use of distilled spirits) is amended by adding at the end thereof the following new section:

"SEC. 5276. OCCUPATIONAL TAX.

"(a) General Rule.—A permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of $250 with respect to such place.

"(b) Certain Occupational Tax Rules To Apply.—Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section."

(2) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 5276. Occupational tax."

(f) Tobacco.—

(1) In general.—Chapter 52 (relating to cigars, cigarettes, smokeless tobacco and cigarette papers and tubes) is amended by redesignating subchapters D, E, and F as subchapters E, F, and G, respectively, and by inserting after subchapter C the following new subchapter:

"Subchapter D—Occupational Tax

"Sec. 5731. Imposition and rate of tax.

"SEC. 5731. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every person engaged in business as—

"(1) a manufacturer of tobacco products,

"(2) a manufacturer of cigarette papers and tubes, or

"(3) an export warehouse proprietor,

shall pay a tax of $1,000 per year in respect of each premises at which such business is carried on.

"(b) Reduced Rates for Small Proprietors.—

"(1) In general.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

"(c) Certain Occupational Tax Rules To Apply.—Rules similar to the rules of subpart G of part II of subchapter A of chapter 51 shall apply for purposes of this section.

"(d) Penalty for Failure to Register.—Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than $5,000, or imprisoned not more than 2 years, or both, for each such offense."

(2) Clerical amendment.—The table of subchapters for chapter 52 is amended by redesignating the items relating to subchapters D, E, and F as items relating to subchapters E, F, and G, respectively, and by inserting after the item relating to subchapter C the following new item:

"Subchapter D. Occupational tax."

(g) Firearms.—

(1) In general.—Section 5801 (relating to occupational taxes) is amended to read as follows:

"SEC. 5801. IMPOSITION OF TAX.

"(a) General Rule.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

"(1) Importers and manufacturers: $1,000 a year or fraction thereof.

"(2) Dealers: $500 a year or fraction thereof.

"(b) Reduced Rates of Tax for Small Importers and Manufacturers.—

"(1) In general.—Paragraph (1) of subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(2) Clerical amendment.—The table of sections for part I of subchapter A of chapter 53 is amended by striking out the item relating to section 5801 and inserting in lieu thereof the following new item:

"Sec. 5801. Imposition of tax."

(h) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on January 1, 1988.

(2) All taxpayers treated as commencing in business on January 1, 1988.—

(A) In general.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having first engaged in such trade or business on such date.

(B) Limitation on amount of tax.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to 1/2 the excess (if any) of—

(i) the rate of such tax as in effect on January 1, 1988, over

(ii) the rate of such tax as in effect on December 31, 1987.

(C) Occupational tax.—For purposes of this paragraph, the term "occupational tax" means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

(3) Due date of tax.—Any amount of tax due on January 1, 1988, by reason of the amendments made by this section, shall be due on April 1, 1988.

SEC. 4597. CUSTOMS USER FEES.

(a) Fees Treated as Offsetting Receipts.—

(1) Subsection (f) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(A) by inserting "as offsetting receipts" after "deposited" in paragraph (1),

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) The Secretary of the Treasury is authorized and directed to pay out of the Customs User Fee Account all salaries and expenses of the United States Customs Service that are incurred in conducting commercial operations.

"(B) The authority to make payments under subparagraph (A) during any fiscal year (other than payments described in subparagraph (C)) shall be subject to such dollar limitations as are provided in any law making appropriations for such fiscal year. Payments may be made under subparagraph (A) during a fiscal year only if a dollar limitation on the total amount of payments that may be made under subparagraph (A) during such fiscal year (other than payments described in subparagraph (C)) is provided by a law making appropriations for such fiscal year.

"(C) Any dollar limitation described in subparagraph (B) shall not apply to any payments made out of the Customs User Fee Account for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury, and such payments shall not be taken into account in applying such a limitation.

"(D) All funds in the Customs User Fee Account shall only be available for the salaries and expenses of the United States Customs Service incurred in conducting commercial operations.", and

(C) by redesignating paragraph (4) as paragraph (3).

(b) Adjustment of Merchandise Processing Fee.—

(1) Paragraph (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(10)) is amended to read as follows:

"(10) For the processing of any merchandise (other than an article described in subparagraph (A), (B), or (C) of paragraph (9)) that is formally entered, or withdrawn from warehouse, for consumption during any fiscal year beginning after September 30, 1988, a fee at a rate equal to the lesser of—

"(A) 0.17 percent ad valorem, or

"(B) an ad valorem rate which the Secretary of the Treasury estimates will provide a total amount of receipts during the fiscal year equal to the amount of the dollar limitation authorized under section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 on the total amount of payments that may be made under subsection (f)(2)(A) of this section during the fiscal year (other than payments described in subsection (f)(2)(C) of this section), reduced by the sum of—

"(i) the excess, if any, of—

"(I) the amount of such limitation for the fiscal year, over

"(II) the amount of the dollar limitation imposed by any law making appropriations for the fiscal year on the total amount of payments which may be made under subsection (f)(2)(A) during the fiscal year (other than payments described in subsection (f)(2)(C) of this section), plus

"(ii) the amount of an estimate made by the Secretary of the Treasury of the amount of funds that—

"(I) will be in the Customs User Fee Account at the beginning of the fiscal year, and

"(II) will not be used to make payments described in subsection (f)(2)(C) of this section, plus

"(iii) the amount of an estimate made by the Secretary of the Treasury of the amount of receipts from fees imposed by any paragraph of this subsection other than this paragraph that—

"(I) will be deposited in to the Customs User Fee Account during the fiscal year, and

"(II) will not be used to make payments described in subsection (f)(2)(C) of this section.

If no authorization is provided under section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 for the amount of the dollar limitation that may be imposed on the total amount of payments under subsection (f)(2)(A) of this section during the fiscal year (other than payments described in subsection (f)(2)(C) of this section), the rate of the fee imposed under this paragraph for the fiscal year shall be 0.17 percent ad valorem.".

(2) Subparagraph (B) of section 13031(b)(8) of such Act (19 U.S.C. 58c(b)(8)(B)) is amended—

(A) by striking out "on which any funds are appropriated to the United States Customs Service for salaries or expenses incurred in conducting commercial operations" in clause (i) and inserting in lieu thereof "of enactment of any law making appropriations for a fiscal year that provides a dollar limitation on the total amount of payments that may be made under subsection (f)(2)(A) during the fiscal year (other than payments described in subsection (f)(2)(C))", and

(B) by striking out "an appropriation to the United States Customs Service if the funds appropriated" in clause (ii) and inserting in lieu thereof "a law described in clause (i) if the funds appropriated by such law".

(c) Fee Imposed on Foreign Content of Certain Schedule 8 Articles.—

(1) Subparagraph (A) of section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended to read as follows:

"(A) provided for under any item in schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00,".

(2) Subparagraph (A) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(i) by striking out "and" at the end of clause (i);

(ii) by striking out the period at the end of clause (ii) and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following:

"(iii) in the case of merchandise classified under item 806.30 of the Tariff Schedules of the United States, be applied to the value of the foreign repairs or alterations to the merchandise; and

"(iv) in the case of merchandise classified under item 807.00 of such Schedules, be applied to the full value of the merchandise, less the cost or value of the component United States products.

With respect to merchandise that is classified under item 806.30 or 807.00 of such Schedules and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a)(10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.".

(d) Provision of Customs Services at Foreign Trade Zones and Bonded Warehouses.—Paragraph (4) of section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(4)) is amended to read as follows:

"(4) Notwithstanding any other provision of law (other than paragraph (2)), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

"(A) for any—

"(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

"(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States; or

"(B) in connection with—

"(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.); or

"(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).

(e) Extension of the Customs User Fees.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c, note) is amended by striking out "1989" and inserting in lieu thereof "1990".

(f) Effective Dates.—

(1) Except as otherwise provided under this subsection, the amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(2) The amendments made by subsection (a) shall take effect on October 1, 1990.

(3) The amendments made by subsection (b) shall take effect on October 1, 1988.

PART XI—DEBT COLLECTION

SEC. 4601. 3-YEAR EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

(a) General Rule.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".

(b) Clarification of Congressional Intent as to Scope of Provision.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

(c) Study by the General Accounting Office.—The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

PART XII—ESTATE TAX PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP

SEC. 4611. CONGRESSIONAL CLARIFICATION OF ESTATE TAX DEDUCTION FOR SALES OF EMPLOYER SECURITIES.

(a) Intent of Congress in Enacting Section 2057 of the Internal Revenue Code of 1986.—Section 2057 (relating to sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Qualified Proceeds From Qualified Sales.—

"(1) In general.—For purposes of this section, the proceeds of a sale of employer securities by an executor to an employee stock ownership plan or an eligible worker-owned cooperative shall not be treated as qualified proceeds from a qualified sale unless—

"(A) the decedent directly owned the securities immediately before death, and

"(B) after the sale, the employer securities—

"(i) are allocated to participants, or

"(ii) are held for future allocation in connection with—

"(I) an exempt loan under the rules of section 4975, or

"(II) a transfer of assets under the rules of section 4980(c)(3).

"(2) No substitution permitted.—For purposes of paragraph (1)(B), except in the case of a bona fide business transaction (e.g., a substitution of employer securities in connection with a merger of employers), employer securities shall not be treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation."

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986.

SEC. 4612. MODIFICATIONS OF ESTATE TAX DEDUCTION FOR SALE OF EMPLOYER SECURITIES.

(a) In General.—Section 2057 (relating to estate tax deduction for sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended to read as follows:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) General Rule.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the proceeds of any sale of any qualified employer securities to—

"(1) an employee stock ownership plan, or

"(2) an eligible worker-owned cooperative.

"(b) Limitations.—

"(1) Maximum reduction in tax liability.—The amount allowable as a deduction under subsection (a) shall not exceed the amount which would result in an aggregate reduction in the tax imposed by section 2001 (determined without regard to any credit allowable against such tax) equal to $750,000.

"(2) Deduction shall not exceed 50 percent of taxable estate.—The amount of the deduction allowable under subsection (a) shall not exceed 50 percent of the taxable estate (determined without regard to this section).

"(c) Limitations on Proceeds Which May Be Taken Into Account.—

"(1) Dispositions by plan or cooperative within 1 year of sale.—

"(A) In general.—Proceeds from a sale which are taken into account under subsection (a) shall be reduced (but not below zero) by the net sale amount.

"(B) Net sale amount.—For purposes of subparagraph (A), the term 'net sale amount' means the excess (if any) of—

"(i) the proceeds of the plan or cooperative from the disposition of employer securities during the 1-year period immediately preceding such sale, over

"(ii) the cost of employer securities purchased by such plan or cooperative during such 1-year period.

"(C) Exceptions.—For purposes of subparagraph (B)(i), there shall not be taken into account any proceeds of a plan or cooperative from a disposition described in section 4978A(e).

"(D) Aggregation rules.—For purposes of this paragraph, all employee stock ownership plans maintained by an employer shall be treated as 1 plan.

"(2) Securities must be acquired by plan from assets which are not transferred assets.—

"(A) In general.—Proceeds from a sale shall not be taken into account under subsection (a) to the extent that such proceeds (as reduced under paragraph (1)) are attributable to transferred assets. For purposes of the preceding sentence, all assets of a plan or cooperative (other than qualified employer securities) shall be treated as first acquired out of transferred assets.

"(B) Transferred assets.—For purposes of subparagraph (A)—

"(i) In general.—The term 'transferred assets' means assets of an employee stock ownership plan which—

"(I) are attributable to assets held by a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a) (other than an employee stock ownership plan of the employer), or

"(II) were held by the plan when it was not an employee stock ownership plan.

"(ii) Exception for assets held on February 27, 1987.—The term 'transferred assets' shall not include any asset held by the employee stock ownership plan on February 27, 1987.

"(iii) SECRETARIAL AUTHORITY TO WAIVE TREATMENT AS TRANSFERRED ASSET.—The Secretary may provide that assets or a class of assets shall not be treated as transferred assets if the Secretary finds such treatment is not necessary to carry out the purposes of this paragraph.

"(3) OTHER PROCEEDS.—The following proceeds shall not be taken into account under subsection (a):

"(A) PROCEEDS FROM SALE AFTER DUE DATE FOR RETURN.—Any proceeds from a sale which occurs after the date on which the return of the tax imposed by section 2001 is required to be filed (determined by taking into account any extension of time for filing).

"(B) PROCEEDS FROM SALE OF CERTAIN SECURITIES.—Any proceeds from a sale of employer securities which were received by the decedent—

"(i) in a distribution from a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a), or

"(ii) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

Any employer security the basis of which is determined by reference to any employer security described in the preceding sentence shall be treated as an employer security to which this subparagraph applies.

"(d) QUALIFIED EMPLOYER SECURITIES.—

"(1) IN GENERAL.—The term 'qualified employer securities' means employer securities—

"(A) which are issued by a domestic corporation which has no stock outstanding which is readily tradable on an established securities market,

"(B) which are includible in the gross estate of the decedent,

"(C) which would have been includible in the gross estate of the decedent if the decedent had died at any time during the shorter of—

"(i) the 5-year period ending on the date of death, or

"(ii) the period beginning on October 22, 1986, and ending on the date of death, and

"(D) with respect to which the executor elects the application of this section.

Subparagraph (C) shall not apply if the decedent died on or before October 22, 1986.

"(2) CERTAIN ASSETS HELD BY SPOUSE.—For purposes of paragraph (1)(C), any employer security which would have been includible in the gross estate of the spouse of a decedent during any period if the spouse had died during such period shall be treated as includible in the gross estate of the decedent during such period.

"(3) PERIODS DURING WHICH DECEDENT NOT AT RISK.—For purposes of paragraph (1)(C), employer securities shall not be treated as includible in the gross estate of the decedent during any period described in section 246(c)(4).

"(e) WRITTEN STATEMENT REQUIRED.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) STATEMENT.—A statement is described in this paragraph if it is a verified written statement—

"(A) which is made by—

"(i) the employer whose employees are covered by the employee stock ownership plan, or

"(ii) any authorized officer of the eligible worker-owned cooperative, and

"(B) which—

"(i) acknowledges that the sale of employer securities to the plan or cooperative is a sale to which sections 4978A and 4979A apply, and

"(ii) certifies—

"(I) the net sale amount for purposes of subsection (c)(1), and

"(II) the amount of assets which are not transferred assets for purposes of subsection (c)(2).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409(1).

"(2) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' means—

"(A) a tax credit employee stock ownership plan (within the meaning of section 409(a)), or

"(B) a plan described in section 4975(e)(7).

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given such term by section 1042(c).

"(4) EMPLOYER.—Except to the extent provided in regulations, the term 'employer' includes any person treated as an employer under subsections (b), (c), (m), and (o) of section 414.

"(g) TERMINATION.—This section shall not apply to any sale after December 31, 1991."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to sales after February 27, 1987.

(2) PROVISIONS TAKING EFFECT AS IF INCLUDED IN THE TAX REFORM ACT OF 1986.—The following provisions shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986:

(A) Section 2057(f)(2) of the Internal Revenue Code of 1986, as added by this section.

(B) The repeal of the requirement that a sale be made by the executor of an estate to qualify for purposes of section 2057 of such Code.

(3) DIRECT OWNERSHIP REQUIREMENT.—If the requirements of section 2057(d)(1)(B) of such Code (as modified by section 2057(d)(2) of such Code), as in effect after the amendments made by this section, are met with respect to any employer securities sold after October 22, 1986, and before February 28, 1987, such securities shall be treated as having been directly owned by the decedent for purposes of section 2057 of such Code, as in effect before such amendments.

(4) REDUCTION FOR SALES ON OR BEFORE FEBRUARY 26, 1987.—In applying the limitations of subsection (b) of section 2057 of such Code to sales after February 27, 1987, there shall be taken into account sales on or before February 27, 1987, to which section 2057 of such Code applied.

SEC. 4613. EXCISE TAXES ON PLANS OR COOPERATIVES DISPOSING OF EMPLOYER SECURITIES FOR WHICH ESTATE TAX DEDUCTION WAS ALLOWED.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension, etc., plans) is amended by inserting after section 4978 the following new section:

"SEC. 4978A. TAX ON CERTAIN DISPOSITIONS OF EMPLOYER SECURITIES TO WHICH SECTION 2057 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of a taxable event involving qualified employer securities held by an employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 30 percent of—

"(A) the amount realized on the disposition in the case of a taxable event described in paragraph (1) or (2) of subsection (c), or

"(B) the amount repaid on the loan in the case of a taxable event described in paragraph (3) of subsection (c).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such employer securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means the following:

"(1) DISPOSITION WITHIN 3 YEARS OF ACQUISITION.—Any disposition of employer securities by an employee stock ownership plan or eligible worker-owned cooperative within 3 years after such plan or cooperative acquired qualified employer securities.

"(2) STOCKS DISPOSED OF BEFORE ALLOCATION.—Any disposition of qualified employer securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(3) USE OF ASSETS TO REPAY ACQUISITION LOANS.—The payment by an employee stock ownership plan of any portion of any loan used to acquire employer securities from transferred assets (within the meaning of section 2057(c)(2)(B)).

"(d) ORDERING RULES.—For purposes of this section and section 4978, any disposition of employer securities shall be treated as having been made in the following order:

"(1) First, from qualified employer securities acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(2) Second, from qualified employer securities acquired before such 3-year period unless such securities (or the proceeds from such disposition) have been allocated to accounts of participants or their beneficiaries.

"(3) Third, from qualified securities (within the meaning of section 4978(e)(2)) to which section 1042 applied acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Finally, from any other employer securities. In the case of a disposition to which section 4978(d) or subsection (e) applies, the disposition of employer securities shall be treated as having been made in the opposite order of the preceding sentence.

"(e) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—This section shall not apply to any disposition described in paragraph (1) or (3) of section 4978(d).

"(2) CERTAIN REORGANIZATIONS.—For purposes of this section, any exchange of qualified employer securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities which were received shall be treated—

"(A) as qualified employer securities of the plan or cooperative, and

"(B) as having been held by the plan or cooperative during the period the qualified employer securities were held.

"(3) DISPOSITION TO MEET DIVERSIFICATION REQUIREMENTS.—Any disposition which is made to meet the requirements of section 401(a)(28) shall not be treated as a disposition.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERMS USED IN SECTION 2057.—Any term used in this section which is used in section 2057 shall have the meaning given such term by section 2057.

"(2) QUALIFIED EMPLOYER SECURITIES.—The term 'qualified employer securities' has the meaning given such term by section 2057, except that such term shall include employer securities sold before February 27, 1987, for which a deduction was allowed under section 2057.

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by—

"(A) the employer, or

"(B) the eligible worker-owned cooperative, which made the written statement described in section 2057(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4978(b)(2) is amended by striking out the parenthetical and inserting in lieu thereof "(determined as if such securities were disposed of in the order described in section 4978A(e))".

(2) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978 the following new item:

"Sec. 4978A. Tax on certain dispositions of employer securities to which section 2057 applied."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events (within the meaning of section 4978A(c) of the Internal Revenue Code of 1986 occurring after February 27, 1987.

TITLE V—CIVIL SERVICE AND GOVERNMENTAL AFFAIRS GENERALLY

SEC. 5001. PAY ADJUSTMENTS DURING FISCAL YEARS 1988, 1989, AND 1990.

(a) ADJUSTMENTS FOR EMPLOYEES UNDER STATUTORY PAY SYSTEMS.—

(1) ADJUSTMENTS UNDER TITLE 5, UNITED STATES CODE.—Notwithstanding any other provision of law, in fiscal year 1988, the overall percentage of adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and in the rates of pay under the other statutory pay systems shall be an increase of 2 percent.

(2) ADJUSTMENTS FOR UNIFORM SERVICES.—(A) Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 is repealed.

(B) The table of contents of such Act is amended by striking out the following:

"Sec. 601. Military pay raise for fiscal year 1988.".

(3) CERTAIN STATUTORY REQUIREMENTS TO REMAIN IN EFFECT.—The provisions of paragraph (1) may not be construed to suspend the requirements of section 5305 of title 5; United States Code, with respect to fiscal years 1989 and 1990.

(4) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATES.—(A) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1 of the fiscal year involved.

(B) Notwithstanding any other provision of law, in fiscal years 1989 and 1990, any percentage of adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and in the rates of pay under the other statutory pay systems shall take effect as of the beginning of the first applicable pay period beginning on or after January 1 of the fiscal year involved.

(b) CERTAIN PAY ADJUSTMENTS NOT APPLICABLE TO MEMBERS OF CONGRESS.—

(1) ADJUSTMENTS INAPPLICABLE TO MEMBERS OF CONGRESS.—Notwithstanding any adjustment in rates of pay made pursuant to section 5305 of title 5, United States Code, or the provisions of subsection (a) of this section, the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U. S. C. 31(2)) shall not apply in the rate of pay of any member of Congress (as described in subparagraph (A), (B), and (C) of section 601(a)(1) of such Act) during any pay period occurring in the fiscal year ending September 30, 1988.

(2) INCREASES IN ADJUSTMENTS NOT APPLICABLE RETROACTIVELY.—No Member of Congress shall receive an increase in a rate of pay after September 30, 1988, based on any increase by an adjustment such Member would have received but for the provisions of paragraph (1), unless such increase is provided pursuant to a law enacted after the date of enactment of this Act.

(c) ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES.—

(1) LIMITATION.—Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2) or any other similar provision of law delaying the effective date of any pay adjustment) during fiscal year 1988, shall not exceed the overall percentage adjustment described in paragraphs (1)(A) and (4) of subsection (a) (determined without taking into account any adjustment which, but for section 15201 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), section 613 of the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" approved October 30, 1986 (Public Laws 99-500 and 99-591; 100 Stat. 3341-330), or any other similar provision of law, would have become effective in fiscal year 1987).

(2) DELAYED EFFECTIVE DATES.—Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1988 (determined without regard to this paragraph, section 15201 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), section 613 of the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" approved October 30, 1986 (Public Laws 99-500 and 99-591; 100 Stat. 3341-330), or any other similar provision of law delaying the effective date of any pay adjustment) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase would have taken effect if this paragraph (and any other such similar provision of law) had not been enacted.

(3) NEGOTIATED WAGE SCHEDULES.—Notwithstanding section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, paragraph (1) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this title.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) EXCEPTIONS.—The Office of Personnel Management may make exceptions from the limitations imposed by paragraph (1), if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "prevailing rate employee" means any employee described in section 5342(a)(2) of title 5, United States Code, and any employee covered by section 5348 of such title; and

(2) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

SEC. 5002. CASH MANAGEMENT IMPROVEMENTS.

(a) SHORT TITLE.—This section may be cited as the "Cash Management Improvement Act of 1987".

(b) PURPOSE.—It is the purpose of this section to increase equity in the exchange of funds between the Federal Government and the States and to increase the efficiency of efforts to manage cash throughout the Government by providing additional procedures and incentives for cash management.

(c) DISBURSEMENT OBJECTIVES.—

(1) DISBURSEMENT OF FEDERAL FUNDS.—Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3720B. Disbursement of Federal funds

"Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary. The Secretary may collect from any executive agency which does not comply with the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance. The amounts of the charges paid under this subsection shall be deposited in the Treasury and credited as miscellaneous receipts. Any charge assessed by the Secretary under this section shall, to the maximum extent practicable, be paid out of appropriations available for agency operations and shall not reduce program funding levels.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 37 of such title is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Disbursement of Federal funds.".

(3) Regulations.—The Secretary of the Treasury shall prescribe regulations, including the regulations required under section 3720B of title 31, United States Code (as added by subsection (c) of this section) to ensure the full implementation of such section 3720B by October 1, 1988.

(d) Payment of Interest.—

(1) Definitional amendments.—Section 6501 of title 31, United States Code, is amended—

(A) by redesignating clauses (7), (8), and (9) as clauses (8), (9), and (10), respectively;

(B) by inserting after clause (6) the following new clause:

"(7) 'Secretary' means the Secretary of the Treasury."; and

(C) by striking out clause (9) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

"(9) 'State' means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.".

(2) Intergovernmental financing.—(A) Section 6503 of title 31, United States Code, is amended to read as follows:

"§ 6503. Intergovernmental financing

"(a) Consistent with program purposes and with regulations of the Secretary, and by means mutually agreed upon by the Secretary and a State, the head of an executive agency carrying out a program shall schedule the transfer of funds to minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means by a State.

"(b) Consistent with program purposes and with regulations of the Secretary, and by means mutually agreed upon by the Secretary and a State, a State shall minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means for program purposes.

"(c)(1) The Secretary shall issue regulations that will require a State to pay interest on funds from the time that funds are deposited to the State's account until the time that funds are paid out in order to redeem checks or warrants or make payments by other means for program purposes. Such interest shall be calculated at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(2) Amounts received as payment of interest under this subsection shall be deposited in the Treasury and credited as miscellaneous receipts, except as provided in paragraph (3) of this subsection.

"(3) If interest is paid under paragraph (1) of this subsection on funds paid to a State from a trust fund for which the Secretary of the Treasury is the trustee, or from the Unemployment Trust Fund, such interest shall be credited to such trust fund. If interest is paid under subsection (d) of this section as a result of a State disbursing its own funds for programs for which the Secretary of the Treasury is the trustee, or for the Unemployment Trust Fund, such interest shall be charged against such trust fund.

"(d) If a State disburses its own funds for program purposes in accordance with Federal law, regulation, or Federal-State agreement, the State shall be entitled to interest from the time when the State's funds are paid out to redeem checks or warrants, or make payments by other means, until the Federal funds are deposited to the State's bank account. The Secretary shall pay, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for interest owed to a State under this subsection. Such interest shall be calculated, at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(e) The budget submitted by the President under section 1105 of this title for a fiscal year shall include a statement specifying, for the most recently completed fiscal year, amounts of interest paid to the Federal Government under subsection (c) of this section and payments of interest to States under subsection (d) of this section.

"(f) If a State receives refunds of funds, the State shall return those refunds to the executive agency administering the program or apply those funds to reduce the amount of funds owed to the State under such program. Interest earned on such refunds shall be considered when setting overall interest obligations between the State and the Federal Government as required by this section.

"(g) If the Federal Government makes a payment to a recipient under a Federal program, and a portion of the payment is an amount which the Federal Government is paying to such recipient on behalf of a State, such amount shall be considered to be a transfer of funds between the Federal Government and the State for purposes of this section.

"(h) A State may not be required by a law or regulation of the United States to deposit money received by it in a separate bank account. However, a State shall account for money made available to the State as United States Government money in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate Federal executive agency on the status and the application of the money, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the money received by the State shall be made available to the head of the executive agency and the Comptroller General for auditing in accordance with chapter 75 of this title.

"(i) The Secretary shall prescribe the methods of payment of interest between the Federal Government and the States, including provisions for offsetting amounts owed by the respective parties. Such methods of payment shall provide for comparable treatment in manner, technique, and timing for both the States and the Federal Government.

"(j) The Inspector General of an executive agency, or an officer of an executive agency performing functions similar to an Inspector General, in the case of an agency in which an Inspector General has not been established by law, shall periodically conduct audits of the implementation of this section. Periodic audits of the implementation of this section shall also be conducted by the States within the scope of work performed under chapter 75 of this title.

"(k) Consistent with Federal program purposes and regulations of the Director of the Office of Management and Budget, the head of a Federal executive agency carrying out a program shall execute grant awards on a timely basis to assure the availability of funds to accomplish transfers in compliance with subsection (a) of this section.

"(l) In determining the amount to be paid by a State to the Federal Government under subsection (c) of this section, or to a State by the Federal Government under subsection (d) of this section, the Secretary shall consider costs incurred by the State determining the amount due.".

(B) The item relating to section 6503 in the chapter analysis for chapter 65 of title 31, United States Code, is amended to read as follows:

"6503. Intergovernmental financing.".

(3) Application of amendments.—

(A) Subject to subparagraph (B), the provisions of this section and the amendments made by this section shall apply to all Federal programs and shall supersede the provisions of any Federal law or regulation in effect on the date of enactment of this title.

(B) The provisions of subparagraph (A) shall apply only to programs and fund transfers involving those executive agencies that are subject to regulation by the Secretary of the Treasury under section 3720B of title 31, United States Code.

(e) Improving the Collection and Deposit of Government Receipts Through National Lockbox Systems.—

(1) Definitions.—For purposes of this subsection—

(A) the term "executive agency" has the same meaning as in section 102 of title 31, United States Code;

(B) the term "lockbox system" means a system under which—

(i) persons owing payments to an executive agency transmit such payments to a locked post office box in offices of the United States Postal Service; and

(ii) such payments are collected from such box by a financial institution and are credited by such institution to the account of such agency without any specific action by such agency; and

(C) the term "Secretary" means the Secretary of the Treasury.

(2) Study.—The Secretary shall study and make recommendations concerning standards for the establishment of lockbox systems for executive agencies. In conducting such study, the Secretary shall—

(A) consider—

(i) the feasibility of establishing such systems;

(ii) the benefits and costs of establishing such systems; and

(iii) the needs of each executive agency for such a system;

(B) develop methods of internal controls and accounting by which the Government can assure that payments received through a lockbox system will be promptly and fully credited to the Treasury of the United States;

(C) develop criteria for the adoption of lockbox systems by executive agencies;

(D) analyze the feasibility and costs of operating lockbox systems through the Department of the Treasury, the Federal Reserve Board, or other appropriate executive agencies; and

(E) develop recommendations for the establishment of lockbox systems by executive agencies, with the cost of establishing and operating such systems paid by appropriated funds.

(3) Report.—Within one hundred eighty days after the date of enactment of this Act, the Secretary shall submit a report on the

study conducted under paragraph (2) to the President pro tempore of the Senate and the Speaker of the House of Representatives. The report shall describe the findings of the study and contain such recommendations as the Secretary considers appropriate.

(4) Guidelines.—Within ninety days after submitting the report required under paragraph (3), the Secretary shall prescribe guidelines which specify procedures to be used by executive agencies in determining whether to establish and operate lockbox systems.

(5) Submission of report to the Secretary.—Within ninety days after the Secretary prescribes guidelines under paragraph (4), the head of each executive agency shall submit to the Secretary a report describing the plans of such agency for the establishment of a lockbox system or specifying the reasons why such a system is not feasible or cost effective for such agency.

SEC. 5003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) Deposit of Certain Savings in Fund.—

(1) Fiscal years 1988 and 1989.—From all funds available to the United States Postal Service in fiscal years 1988 and 1989, the Postal Service shall deposit (from the capital savings resulting from the implementation of the provisions of subsection (b)) into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code—

(A) an amount of $402,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section; and

(B) an amount of $536,000,000 in fiscal year 1989, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) Contributions for cost-of-living adjustments.—Section 8348(h) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, in addition to any payments into the Fund under the provisions of paragraphs (1) and (2), the United States Postal Service shall pay into the Fund, on a cash basis in each fiscal year, an amount equal to the actual cost of any adjustments made under the provisions of section 8340 of this title for any individual who becomes an annuitant by reason of retirement from the United States Postal Service on or after October 1, 1989.".

(b) Capital Savings for Fiscal Years 1988 and 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $447,000,000 in fiscal year 1988;

(B) in excess of $1,995,000,000 in fiscal year 1989; and

(C) in excess of $2,304,000,000 in fiscal year 1990 (subject to the provisions of section 5004(c)(5)(B), if applicable).

(2) Capital investment program.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts), including but not limited to—

(A) modernization of capital facilities and vehicle fleet;

(B) automation of mail distribution functions, including retail operations and information systems; and

(C) all other capital expenditures approved by the Board of Governors or the duly authorized agents of the Board.

SEC. 5004. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE IN THE EMPLOYEES HEALTH BENEFITS FUND.

(a) Contributions for All Annuitants of the United States Postal Service.—Section 8906(g)(2) of title 5, United States Code, is amended by striking out "on or after October 1, 1986,".

(b) Payments for Contributions in Fiscal Years 1988 and 1989.—

(1) Payment limitations.—Payments by the United States Postal Service made for contributions into the Employees Health Benefits Fund under section 8906(g)(2) of title 5, United States Code (as amended by subsection (a) of this section) in fiscal years 1988 and 1989 shall—

(A) be from all funds available to the United States Postal Service in each such fiscal year;

(B) be from funds representing savings to the United States Postal Service resulting from productivity improvements in each such fiscal year; and

(C) be paid into such Fund in each such fiscal year, without—

(i) increasing borrowing under section 2005 of title 39, United States Code;

(ii) increasing the operating budget of the United States Postal Service; or

(iii) increasing postal rates under chapter 36 of title 39, United States Code, for the purposes of financing such payment.

(2) Provisions inapplicable to certain annuitants.—The provisions of paragraph (1) shall not apply to the payment of contributions under section 8906(g)(2) of title 5, United States Code (as amended by subsection (a) of this section) for any individual who retires as an annuitant from the United States Postal Service on or after October 1, 1986.

(c) Productivity Improvement Plans, Reports, and Compliance for Fiscal Years 1988 and 1989.—

(1) Productivity improvement plans.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate a productivity improvement plan specifically enumerating the methods by which the Postal Service shall make the payments required under paragraph (1) of subsection (b) and fulfill the conditions required under subparagraphs (A), (B), and (C) of such paragraph; and

(B) submit such plan to the President and the Committee on Governmental Affairs of the Senate and the Committee on the Post Office and Civil Service of the House of Representatives.

(2) Interim report.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the President and the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any adjustments necessary to meet the requirements under the provisions of subsection (b)(1) of this section for each such fiscal year.

(3) Preliminary audit and report by the General Accounting Office.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b)(1) of this section; and

(B) submit a report of such audit and determinations to the President and the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(4) Determination of compliance.—

(A) On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(i) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b)(1) of this section; and

(ii) submit a final report for each such fiscal year on such compliance to the President and the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(B) Notwithstanding the provisions of section 2005(a) of title 39, United States Code, or any other provision of law, the United States Postal Service may not increase the net increase in the amount of obligations outstanding issued, under the provisions of such section, for purposes of defraying operating expenses of the Postal Service during the period beginning on October 1, 1988, through October 31, 1988.

(5) Fiscal years 1988 and 1989 compliance provisions.—

(A)(i) Any portion of the payments made into the Employees Health Benefits Fund under paragraph (1) of subsection (b) of this section in fiscal year 1988, that is not in compliance with the provisions of subparagraphs (B) and (C) of such paragraph shall be paid from all funds available to the Postal Service.

(ii) An amount equal to any portion of the payments described under clause (i) shall—

(I) be an additional amount of savings included in the productivity improvement plan formulated for fiscal year 1989; and

(II) be achieved as an additional savings in fiscal year 1989 in order to be in compliance with the audit and determination by the General Accounting Office under paragraph (4) for fiscal year 1989.

(B) The limitation on the capital investment program for fiscal year 1990 under the provisions of section 5003(b)(1)(C) shall be further reduced, if applicable, by the amount necessary to achieve expenditure savings in fiscal year 1990 equal to—

(i) the amount of any portion of payments made into the Employees Health Benefit Fund for fiscal year 1989 pursuant to paragraph (1) of subsection (b) of this section, that is not in compliance with the provisions of subparagraphs (B) and (C) of such paragraph; and

(ii) any additional amount of savings which were not achieved as required by the provisions of subparagraph (A)(ii) of this paragraph.

TITLE VI—LABOR AND HUMAN RESOURCES

Subtitle A—Retirement Security Promotion

SEC. 6001. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This subtitle may be cited as the "Retirement Security Promotion Act of 1987".

(b) Table of Contents.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 6001. Short title; table of contents.
Sec. 6002. Minimum benefit security level.
Sec. 6003. Asset withdrawals permitted from certain ongoing single-employer plans; related definitions.
Sec. 6004. Limitations on employer reversions upon plan termination.
Sec. 6005. Three-year amortization of underfunding of plans of controlled group upon distribution to employer from a terminated plan or upon certain transactions involving plan assets; tax-free transfers between certain single-employer plans in same controlled group.
Sec. 6006. Funding waivers.
Sec. 6007. Liability of members of controlled group for taxes on failure to meet minimum funding standards.
Sec. 6008. Increase in liabilities arising upon plan termination.
Sec. 6009. Amendments relating to section 4049 trust.
Sec. 6010. Single-employer plan benefit guaranty premiums.
Sec. 6011. Interest rate on accumulated contributions.
Sec. 6012. Increase in minimum funding standards.
Sec. 6013. Time for making contributions.
Sec. 6014. Study of event-contingent benefits.
Sec. 6015. Effective date.

SEC. 6002. MINIMUM BENEFIT SECURITY LEVEL.

(a) Amendment to Employee Retirement Income Security Act of 1974.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following new paragraphs:

"(41) Minimum benefit security level.—

"(A) In general.—Except as provided in subparagraph (B), the term 'minimum benefit security level' for a plan means the sum of—

"(i) the greater of—

"(I) an amount equal to the full funding limitation (within the meaning of section 302(c)(7)) with respect to such plan, using the projected unit credit funding method, or

"(II) 125 percent of the actuarial present value of all benefit liabilities under the plan, and

"(ii) the amount which would be required to be distributed from the plan under section 4044(d)(2)(A) if the plan terminated.

"(B) Special rule for plans providing qualified event-contingent benefits.—

"(i) In general.—In any case in which a plan provides a qualified event-contingent benefit, the term 'minimum benefit security level' for such plan means the lesser of—

"(I) the sum of 150 percent of the amount described in subparagraph (A)(i) (determined without regard to qualified event-contingent benefits for which the contingency has not occurred) plus the amount described in subparagraph (A)(ii), or

"(II) the amount which would be determined as the amount described in subparagraph (A) if all qualified event-contingent benefits of participants or beneficiaries under the plan, which have not occurred as of the time of the determination, occurred immediately before the determination.

"(ii) Qualified event-contingent benefit.—For purposes of clause (i), the term 'qualified event-contingent benefit' means any subsidy or benefit which is contingent upon the occurrence of an event which,

"(I) has not occurred, and

"(II) does not constitute an event occurring solely with respect to a participant or beneficiary (such as the attainment of any age, disability, death, or the completion of any period of service).

"(C) Interest rate assumption.—The interest rate assumed for purposes of subparagraph (A)(i)(II) shall be—

"(i) the interest rate stated in the plan for purposes of determining single sum distributions, or

"(ii) if no interest rate is stated in the plan for such purposes, 120 percent of the applicable interest rate (within the meaning of section 203(e)(2)(B)).

"(D) Regulations.—The Secretary of the Treasury may prescribe regulations to carry out the provisions of this paragraph. Any such regulations shall be prescribed in consultation with the Secretary.

"(42) Benefit liabilities.—The term 'benefit liabilities' under a plan to any person means all benefits of such person under the plan (including benefits which are not protected under section 204(g)).".

(b) Amendment to Internal Revenue Code of 1986.—Section 414 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(u) Minimum Benefit Security Level.—

"(1) In general.—For purposes of this part, except as provided in paragraph (2), the term 'minimum benefit security level' with respect to a plan means the sum of—

"(A) the greater of—

"(i) an amount equal to the full funding limitation (within the meaning of section 412(c)(7)) with respect to such plan, using the projected unit credit funding method, or

"(ii) 125 percent of the actuarial present value of all benefit liabilities under the plan, and

"(B) the amount which would be required to be distributed from the plan under section 4044(d)(2)(A) of the Employee Retirement Income Security Act of 1974 if the plan terminated.

"(2) Special rule for plans providing qualified event-contingent benefits.—

"(A) In general.—For purposes of this part, in any case in which a plan provides a qualified event-contingent benefit, the term 'minimum benefit security level' means with respect to such plan the lesser of—

"(i) the sum of 150 percent of the amount described in paragraph (1)(A) (other than qualified event-contingent benefits) plus the amount described in paragraph (1)(B), or

"(ii) the amount which would be determined as the amount described in paragraph (1) if all qualified event-contingent benefits of participants or beneficiaries under the plan, which have not occurred as of the time of the determination, occurred immediately before the determination.

"(B) Qualified event-contingent benefit.—For purposes of subparagraph (A), the term 'qualified event-contingent benefit' means any subsidy or benefit which—

"(i) is contingent upon the occurrence of an event which has not occurred, and

"(ii) does not constitute an event occurring solely with respect to a participant or beneficiary (such as the attainment of any age, disability, death, or the completion of any period of service).

"(3) Interest rate assumption.—The interest rate assumed for purposes of paragraph (1)(A)(ii) shall be—

"(A) the interest rate stated in the plan for purposes of determining single sum distributions, or

"(B) if no interest rate is stated in the plan for such purposes, 120 percent of the applicable interest rate (within the meaning of section 411(a)(11)(B)(ii)).

"(4) Benefit liabilities.—For purposes of this subsection, the term 'benefit liabilities' under a plan to any person means all benefits of such person under the plan (including benefits which are not protected under section 411(d)(6)).

"(5) Regulations.—The Secretary may prescribe regulations to carry out the provisions of this subsection. Any such regulations shall be prescribed in consultation with the Secretary of Labor.".

SEC. 6003. ASSET WITHDRAWALS PERMITTED FROM CERTAIN ONGOING SINGLE-EMPLOYER PLANS; RELATED DEFINITIONS.

(a) Amendments to the Employee Retirement Income Security Act of 1974.—

(1) In general.—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating section 414 (29 U.S.C. 1114) as section 415; and

(B) by inserting after section 413 (29 U.S.C. 1113) the following new section:

"SEC. 414. ASSET WITHDRAWALS FROM CERTAIN ONGOING SINGLE-EMPLOYER PLANS.

"(a) In General.—The requirements of this part shall not be treated as violated solely by reason of a withdrawal by the employer during any plan year of assets of an ongoing single-employer plan providing for the withdrawal of plan assets if—

"(1) the employer, and each member of a controlled group including the employer, has not terminated a plan described in section 4021 with assets insufficient to satisfy all benefit liabilities, except that this paragraph shall not apply in any case in which the participants of such earlier terminated plan and the corporation have been placed in a financial position that is not worse than that in which the participants would have been placed had the earlier plan terminated with sufficient assets to meet benefit liabilities, and

"(2) immediately after the withdrawal—

"(A) the current value of the assets in the plan from which the withdrawal is made is not less than the minimum benefit security level (as defined in section 3(41)) for such plan, and

"(B) the current value of the assets in each other single-employer plan (if any) which is maintained by the employer (or by any other person who is, at the time of the withdrawal, in the controlled group including the employer) is not less than the minimum benefit security level for such plan.

"(b) Special Rules for Recently Amended Plans and for Mergers, Consolidations, and Transfers of Plan Assets.—

"(1) In general.—In determining the extent to which a plan provides for the withdrawal of plan assets by the employer for purposes of this section, any such provision, and any amendment increasing the amount which may be withdrawn, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(2) Treatment of plans after mergers, consolidations, and transfers.—Except as otherwise provided in regulations of the Secretary of the Treasury, in the case of a transaction described in section 208, paragraph (1) shall continue to apply separately with respect to the amount of any assets involved in such transaction.

"(3) EXCEPTION FOR CERTAIN EXISTING PLANS.—Paragraph (1) shall not apply with respect to any plan which provides on October 9, 1987, in accordance with section 4044(d) (as in effect on such date), for a distribution of plan assets to the employer upon plan termination.

"(c) RIGHT OF AFFECTED PARTIES TO ADVANCE NOTICE OF PLAN AMENDMENTS PERMITTING ASSET WITHDRAWAL.—A plan may not be amended so as to provide for the withdrawal of plan assets or an increase in the amount which may be withdrawn, in accordance with this section, unless the plan amendment is effective not earlier than 180 days after the employer has provided written notice of such amendment to all affected parties (within the meaning of section 3(46)).

"(d) ONGOING PLAN.—For purposes of this section, a plan is 'ongoing' to the extent that, under both title IV and section 411(d)(3) of the Internal Revenue Code of 1986, the plan is not treated as a terminated plan.

"(e) APPLICATION TO MULTIPLE-EMPLOYER PLANS.—The provisions of this section shall apply with respect to multiple-employer plans (within the meaning of section 3(44)) only to the extent provided in regulations prescribed by the Secretary of the Treasury in consultation with the Secretary.

"(f) REGULATIONS.—

"(1) SUBSECTIONS (a) AND (b).—The Secretary of the Treasury, in consultation with the Secretary, may promulgate such regulations as may be necessary under subsections (a) and (b).

"(2) SUBSECTION (c).—The Secretary may promulgate such regulations as may be necessary under subsection (c).".

(2) PLAN PROVISION MAY PROVIDE FOR ASSET WITHDRAWAL.—Part 4 of subtitle B of title I of such Act is amended—

(A) in section 402(c) (29 U.S.C. 1102(c)), by striking "or" at the end of paragraph (2), by striking "plan." in paragraph (3) and inserting "plan; or", and by adding at the end the following new paragraph:

"(4) that the employer may withdraw plan assets from the plan to the extent permitted under section 414.";

(B) in section 403(c)(1) (29 U.S.C. 1103(c)(1)), by inserting ", or under section 414 (relating to withdrawal of plan assets)" after "subsection (d),"; and

(C) in section 404(a)(1) (29 U.S.C. 1104(a)(1)), by inserting "414," after "403 (c) and (d),".

(3) 60-DAY NOTICE REQUIREMENT FOR PLAN ASSET WITHDRAWAL.—

(A) IN GENERAL.—Section 104 of such Act (29 U.S.C. 1024) is amended—

(i) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(ii) by inserting after subsection (b) the following new subsection:

"(c)(1) Not later than 60 days after the date of any withdrawal of plan assets by the employer pursuant to section 414, the employer maintaining the plan from which the withdrawal was made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such withdrawal. Any such notice shall be maintained in the principal office of the administrator.

"(2) Such notice shall identify the plan from which the withdrawal was made, the amount of the withdrawal, a detailed accounting of assets held by the plan immediately before and immediately after the withdrawal, the benefit liabilities under the plan at the time of the withdrawal, the types of qualified event-contingent benefits (if any) under the plan, the amount of the benefit liabilities assumed as qualified event-contingent benefits, and a statement of all transactions described in section 208 involving the plan during the period commencing with the period of 2 calendar years preceding the withdrawal and ending with the date of the withdrawal.

"(3) Such notice shall include the name and identification of each other single-employer plan maintained by a person in the controlled group including the employer at the time of the withdrawal and the employer maintaining such plan, the current value of the assets of such plan and the present value of the benefit liabilities of such plan at the beginning and end of the last plan year preceding the withdrawal, and a listing of all transactions described in section 208 involving such plan during the 2-year period preceding the withdrawal.

"(4) Such notice shall include copies of all associated Internal Revenue Service filings required pursuant to section 6058 of the Internal Revenue Code of 1986 with respect to—

"(A) the plan from which the withdrawal was made,

"(B) each other single-employer plan maintained by the employer or any other person who was in a controlled group including the employer at the time of the withdrawal during the period commencing with the period of 2 calendar years preceding the withdrawal and ending with the date of the withdrawal, and

"(C) to the extent provided by regulation, each other single-employer plan maintained by the employer and each other person in the controlled group.

"(5) Such notice shall include a certification by an enrolled actuary (including supporting documentation) that the requirements of section 414(a) were met with respect to the withdrawal.

"(6) The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purpose of section 414 and other related provisions.".

(B) RIGHT TO EXAMINATION OF INFORMATION.—Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended—

(i) by striking "description and" and inserting "description,";

(ii) by striking "report and" and inserting "report,"; and

(iii) by striking "operated" and inserting "operated, and any notice and certification provided pursuant to subsection (c)".

(C) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(i) of such Act (29 U.S.C. 1132(i)) is amended—

(i) by inserting "(1)" after "(i)";

(ii) by striking "subsection" in the last sentence and inserting "paragraph"; and

(iii) by adding at the end the following new paragraphs:

"(2) The Secretary may assess a civil penalty against any employer who fails to provide a notice as required under section 104(c). The amount of such penalty may not exceed the greater of—

"(A) $5,000 per day, or

"(B) one-tenth of 1 percent per day of the amount withdrawn,

for the period beginning with the date on which such failure first occurs and ending with the date on which such notice is so provided.".

(4) PERMITTED ASSET WITHDRAWALS CONSTITUTING AN EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by inserting after paragraph (11) the following:

"(12) A withdrawal of assets from the plan permitted under section 414.".

(5) DEFINITION OF SINGLE-EMPLOYER PLAN AND MULTIPLE EMPLOYER PLAN.—Section 3 of such Act (29 U.S.C. 1002) (as amended by section 6002(a) of this Act) is further amended by adding at the end the following new paragraphs:

"(43) SINGLE-EMPLOYER PLAN.—The term 'single-employer plan' means a defined benefit plan which is not a multiemployer plan.

"(44) MULTIPLE-EMPLOYER PLAN.—

"(A) IN GENERAL.—The term 'multiple-employer plan' means a single-employer plan which is maintained by more than one employer.

"(B) TREATMENT OF CONTROLLED GROUP.—For purposes of subparagraph (A), any 2 or more employers who are in the same controlled group shall be treated as a single employer.".

(6) DEFINITION OF CONTROLLED GROUP.—Section 3 of such Act (as amended by paragraph (5)) is further amended by adding at the end the following new paragraph:

"(44) CONTROLLED GROUP.—

"(A) IN GENERAL.—The term 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person.

"(B) COMMON CONTROL.—For purposes of subparagraph (A), the determination of whether two or more persons are under 'common control' shall be made under regulations prescribed by the Secretary of the Treasury under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.".

(7) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by striking the item relating to section 414 and inserting the following new items:

"Sec. 414. Asset withdrawals from certain ongoing single-employer plans.

"Sec. 415. Effective date.".

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (28) the following new paragraph:

"(29) WITHDRAWAL BY EMPLOYER OF PLAN ASSETS.—

"(A) IN GENERAL.—A trust forming a part of a defined benefit plan (other than a multiemployer plan) shall not be treated as failing to constitute a qualified trust under this section solely by reason of a withdrawal of plan assets by the employer permitted under section 4975(d)(16).

"(B) EFFECT OF CORRECTION OF WITHDRAWAL.—Notwithstanding subparagraph (A), in the event that the employer becomes subject to tax under section 4980A (relating to excise tax on certain withdrawals of plan assets) and corrects (as defined in section 4980A(d)(4)) such excess withdrawal within 90 days after the withdrawal giving rise to the tax, then the plan shall not fail to constitute a qualified trust under this section solely by reason of the withdrawal, except to the extent inconsistent with the purposes of this paragraph, or as otherwise prescribed by the Secretary in regulations.".

(2) TREATMENT OF SECTION 403(b) ANNUITY PLANS.—Section 404(a)(2) of such Code (relating to taxation of employees' annuities) is amended by inserting "and (29)" before "and, if applicable".

(3) PERMITTED ASSET WITHDRAWALS CONSTITUTING AN EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of such Code (relating to exemptions from prohibited transactions) is amended—

(A) in paragraph (14), by striking "(F); or" and inserting "(F);";

(B) in paragraph (15), by striking "(F)." and inserting "(F); or"; and

(C) by inserting after paragraph (15) the following:

"(16) a withdrawal of assets of the plan in accordance with section 414 of the Employee Retirement Income Security Act of 1974.".

(4) ACTUARIAL STATEMENTS REQUIRED IN CASE OF ASSET WITHDRAWAL.—Subsection (b) of section 6058 of such Code (relating to actuarial statement in case of mergers, etc.) is amended—

(A) by striking "(b) ACTUARIAL" and all that follows through "the plan administrator" and inserting the following:

"(b) ACTUARIAL STATEMENT IN CASE OF MERGERS, ETC., OR ASSET WITHDRAWAL.—Not less than 30 days before—

"(1) a merger, consolidation, or transfer of assets or liabilities of a plan described in subsection (a) to another plan, or

"(2) a withdrawal of plan assets described in section 401(a)(29),

the plan administrator"; and

(B) by inserting "or section 401(a)(29) (as applicable)" after "section 401(a)(12)".

(5) EXCISE TAX ON CERTAIN WITHDRAWALS.—

(A) IN GENERAL.—Chapter 43 of such Code (relating to excise taxes relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980A. TAX ON CERTAIN WITHDRAWALS OF PLAN ASSETS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each withdrawal of plan assets from a qualified plan by the employer maintaining the plan if the amount of such withdrawal is in excess of the permissible amount.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be a percentage of the amount in excess of the permissible amount, determined as follows:

"(1) CORRECTION WITHIN 90 DAYS.—If a correction occurs with respect to the withdrawal before the end of the 90-day period following the date of the withdrawal, the amount of the tax shall be 5 percent of the amount in excess of the permissible amount.

"(2) CORRECTION WITHIN 365 DAYS.—If a correction does not occur with respect to the withdrawal before the end of the 90-day period described in paragraph (1) but does occur before the end of the 365-day period following the date of the withdrawal, the amount of the tax shall be 50 percent of the amount in excess of the permissible amount.

"(3) NO CORRECTION WITHIN 365 DAYS.—If a correction does not occur with respect to the withdrawal before the end of the 365-day period following the date of the withdrawal, the amount of the tax shall be 100 percent of the amount in excess of the permissible amount and an additional 100 percent of such excess for each subsequent 365-day period as of the end of which a correction has not occurred.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the employer making the withdrawal.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means any defined benefit plan (other than a multiemployer plan) meeting the requirements of section 401(a) or 403(b). Such term shall include any defined benefit plan (other than a multiemployer plan) which at any time has been determined by the Secretary to be a qualified plan (within the meaning of the preceding sentence) or for which deductions have been taken by an employer under section 404.

"(2) PERMISSIBLE AMOUNT.—

"(A) IN GENERAL.—The term 'permissible amount' means the amount (as of immediately before the withdrawal) of the excess of the market value of plan assets over the minimum benefit security level of the plan.

"(B) EXCLUSION.—Such term does not include the market value of plan assets with respect to which a withdrawal may not occur by reason of a failure to meet any requirement of subsection (b) or (c) of section 414 of the Employee Retirement Income Security Act of 1974.

"(C) RECOMPUTATION TO ACCOUNT FOR NEW QUALIFIED EVENT-CONTINGENT BENEFITS.—Pursuant to such regulations as may be prescribed by the Secretary, if within 365 days after the withdrawal, the plan is amended to include (or increase) qualified event-contingent benefits (within the meaning of section 414(u)(2)(B)), the permissible amount shall be recomputed as of the time of the withdrawal and the amount of tax imposed under this subsection shall be determined as though such benefits (or such increase in such benefits) were included in the plan as of the time of the withdrawal.

"(3) MINIMUM BENEFIT SECURITY LEVEL.—The term 'minimum benefit security level' has the meaning provided in section 414(u).

"(4) CORRECTION.—The term 'correction' means, with respect to a withdrawal of plan assets, placing the plan in a financial position not worse than that in which the plan would be if the amount of the withdrawal had not been in excess of the permissible amount as of immediately before the withdrawal.".

(B) CONFORMING AMENDMENT RELATING TO EXCISE TAX ON PROHIBITED TRANSACTIONS.—Section 4975(g) of such Code (relating to tax on prohibited transactions) is amended by adding at the end the following new sentence: "This section shall not apply with respect to a prohibited transaction to which section 4980A applies.".

(C) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"Sec. 4980A. Tax on certain withdrawals of plan assets.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to withdrawals occurring after the later of—

(A) December 31, 1987, or

(B) 90 days after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of any plan which is amended to provide for the withdrawal of plan assets under section 414 of the Employee Retirement Income Security Act of 1974 (as added by this section) during the first plan year beginning after December 31, 1988, subsection (b)(1) of such section shall be applied by substituting "fourth plan year" for "fifth plan year".

SEC. 6004. LIMITATIONS ON EMPLOYER REVERSIONS UPON PLAN TERMINATION.

(a) IN GENERAL.—Section 4044(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(d)) is amended to read as follows:

"(d) DISTRIBUTION OF PLAN ASSETS.—

"(1) IN GENERAL.—In any case in which there are plan assets remaining after satisfaction of all liabilities described in subsection (a), such assets shall be distributed in accordance with this subsection.

"(2) DISTRIBUTION OF ASSETS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—

"(A) IN GENERAL.—The remaining assets of the plan which are attributable to employee contributions shall be equitably distributed to the participants who made such contributions or their beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(B) PORTION OF ASSETS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), the portion of the remaining assets which are attributable to employee contributions shall be an amount equal to the product derived by multiplying—

"(i) the market value of total remaining assets, by

"(ii) a fraction—

"(I) the numerator of which is the present value of all portions of the accrued benefits with respect to participants which are derived from participants' mandatory contributions (referred to in subsection (a)(2)), and

"(II) the denominator of which is the present value of all benefits (or portions thereof) with respect to which assets are allocated under paragraphs (2) through (6) of subsection (a).

"(C) PARTICIPANTS AND BENEFICIARIES.—For purposes of this paragraph and paragraph (3), each person who is, as of the termination date—

"(i) a participant under the plan,

"(ii) an individual who has received, during the 3-year period ending with the termination date—

"(I) a distribution from the plan of such individual's entire nonforfeitable benefit in the form of a single sum distribution in accordance with section 203(e), or

"(II) a distribution from the plan in the form of irrevocable commitments purchased by the plan from an insurer to provide such nonforfeitable benefit,

shall be treated as a participant with respect to the termination, if all or part of the nonforfeitable benefit with respect to such person is or was attributable to employee contributions.

"(3) DISTRIBUTION OF ASSETS TO PARTICIPANTS AND BENEFICIARIES.—

"(A) IN GENERAL.—The remaining assets of the plan which are not required to be distributed under paragraph (2) shall be distributed among participants or beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)) with respect to the termination to the extent provided in subparagraph (B) and in the manner provided in subparagraph (C).

"(B) AMOUNT AVAILABLE FOR DISTRIBUTION.—The amount of the remaining assets described in subparagraph (A) which are required to be distributed under this paragraph is an amount equal to the lesser of—

"(i) the amount of the remaining assets described in subparagraph (A), or "(ii) the excess (not less than zero) of—

"(I) the minimum benefit security level (within the meaning of section 3(41)) of the plan as of the termination date, over

"(II) the sum of plan assets allocated under subsection (a) and plan assets distributed under paragraph (2).

"(C) Manner of distribution.—The amount distributed under this paragraph shall be distributed among the participants or beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)) with respect to the termination so that each such participant and beneficiary receives an equal amount.

"(4) Distribution to employer.—

"(A) In general.—The remaining assets of the plan which are not required to be distributed under paragraphs (2) and (3) may be distributed to the employer if—

"(i) the distribution to the employer does not contravene any applicable provision of law,

"(ii) the plan provides for such distribution, subject to the requirements of subparagraph (B), and

"(iii) the employer, and each member of a controlled group including the employer, has not terminated a plan described in section 4021 with assets insufficient to satisfy all benefit liabilities, except that this clause shall not apply in any case in which the participants of such earlier terminated plan and the corporation have been placed in a financial position that is not worse than that in which the participants would have been placed had the earlier plan terminated with sufficient assets to meet benefit liabilities.

"(B) Special rule for recently amended plans.—

"(i) In general.—In determining the extent to which a plan provides for the distribution of plan assets to the employer for purposes of this paragraph, any such provision, and any amendment increasing the amount which may be distributed to the employer, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(ii) Recently established plans.—A distribution to the employer from a plan shall not be treated as failing to satisfy the requirements of this subparagraph if the plan has been in effect for fewer than 5 years and the plan has provided for such a distribution since the effective date of the plan.

"(iii) Treatment of plans after mergers, consolidations, and transfers.—Except as otherwise provided in regulations of the Secretary of the Treasury, in any case in which a transaction described in section 208 occurs, clause (i) shall continue to apply separately with respect to the amount of any assets transferred in such transaction.

"(C) Employer.—For purposes of this paragraph, the term 'employer' has the meaning provided in section 3(5).

"(5) Distribution in absence of distribution to employer.—Except as otherwise provided in the terms of the plan or in any other document under which the plan is maintained or operated, assets of the plan which remain after distributions in accordance with paragraphs (2) and (3) and which are not distributed as provided in paragraph (4) shall be distributed to the participants and beneficiaries in the same proportions as assets of the plan are allocated under subsection (a).

"(6) General qualification requirements.—If the Secretary of the Treasury determines that any distribution made pursuant to this subsection (without regard to this paragraph) results in discrimination prohibited by section 401(a)(4) of the Internal Revenue Code of 1986 or a violation of section 415 of such Code, then the distribution may be revised to prevent discrimination under section 401(a) or 403(b) of such Code or a violation of section 415 of such Code.

(b) Technical Amendment.—Section 4044(b)(4) of such Act (29 U.S.C. 1344(b)(4)) is amended by striking "section 401(a), 403(a), or 405(a)" and inserting "section 401(a) or 403(a)".

(c) Effective Date.—The amendments made by this section shall apply with respect to terminations with respect to which the termination date occurs on or after October 9, 1987.

SEC. 6005. THREE-YEAR AMORTIZATION OF UNDERFUNDING OF PLANS OF CONTROLLED GROUP UPON DISTRIBUTION TO EMPLOYER FROM A TERMINATED PLAN OR UPON CERTAIN TRANSACTIONS INVOLVING PLAN ASSETS; TAX-FREE TRANSFERS BETWEEN CERTAIN SINGLE-EMPLOYER PLANS IN SAME CONTROLLED GROUP.

(a) Amendments to Employee Retirement Income Security Act of 1974.—

(1) Additional charges to funding standard account.—Paragraph (2) of section 302(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)) is amended—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking "paragraph (3)(D)." and inserting "paragraph (3)(D),"; and

(iii) by adding at the end the following new subparagraphs:

"(E) in the case of a single-employer plan, the amount necessary to amortize any allocated termination funding shortfall determined under section 302A(a) with respect to each prior plan year over a period of 3 plan years, and

"(F) in the case of a single-employer plan, the amount necessary to amortize any allocated transaction funding shortfall determined under section 302A(b) with respect to each prior plan year over a period of 3 plan years.".

(2) Determination of additional charges.—Part 3 of subtitle B of title I of such Act is amended by inserting after section 302 (29 U.S.C. 1082) the following new section:

"SEC. 302A. DETERMINATION OF CHARGES TO FUNDING STANDARD ACCOUNT ARISING FROM CERTAIN EMPLOYER DISTRIBUTIONS IN STANDARD TERMINATIONS OR CERTAIN TRANSACTIONS ADVERSELY AFFECTING PLAN ASSET SECURITY.

"(a) Additional Charge to Funding Standard Account for Allocated Termination Funding Shortfall.—

"(1) Applicability of additional charge.—In the case of a standard termination of a single-employer plan under section 4041(b) in which occurs an employer distribution adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan is (as of immediately after the employer distribution) less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(B) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution),

an allocated termination funding shortfall for the funded plan shall be determined under this subsection with respect to the plan year in which the employer distribution occurs.

"(2) Employer distribution adversely affecting plan asset security.—For purposes of this subsection, an employer distribution adversely affects plan asset security with respect to a funded plan if (at the time of the distribution) the employer receiving the distribution—

"(A) is the employer maintaining the funded plan, or

"(B) is included in the controlled group including the employer maintaining the funded plan.

"(3) Allocated termination funding shortfall.—For purposes of this subsection—

"(A) In general.—The allocated termination funding shortfall for a funded plan is the portion of the aggregate termination funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) Plans among which allocation is made.—The aggregate termination funding shortfall is allocated under this paragraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all single-employer plans, each of which—

"(i) is maintained (at the time of the employer distribution) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution).

"(C) Manner of allocation.—The aggregate termination funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary of the Treasury, in such manner as to ensure that (as of immediately after the distribution)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated), "(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) Aggregate termination funding shortfall.—For purposes of this subsection, the term 'aggregate termination funding shortfall' means an amount (determined as of immediately after the distribution) equal to the lesser of—

"(A) the sum of the termination funding shortfalls for all plans described in paragraph (3)(B), or

"(B) the amount of the employer distribution.

"(5) Additional definitions and special rules.—For purposes of this subsection—

"(A) Funded plan.—The term 'funded plan' means the plan maintaining the funding standard account under section 302 with respect to which the charge is determined under this subsection.

"(B) Termination funding shortfall.—The term 'termination funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction), over

"(ii) the amount of the assets of such plan.

"(C) Controlled group funded ratio.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other single-employer plans maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) Funded ratio.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) Employer distribution.—The term 'employer distribution' means a distribution of plan assets to the employer under section 4044(d)(4) in a standard termination of a single-employer plan under section 4041(b).

"(F) Amount of assets.—Any reference to an amount of assets shall be deemed a reference to the current value of such assets.

"(G) Treatment of multiple-employer plans.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded except to such extent as may be prescribed in regulations of the Secretary of the Treasury referred to in section 302(c)(11).

"(H) Alternative valuation dates.—

"(i) In general.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before an employer distribution shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 302(b)(2)(E) is made, except that, if the employer distribution occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the employer distribution, as of the beginning of the plan year for which the charge under section 302(b)(2)(E) is made.

"(ii) Certification requirements.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the employer distribution, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the distribution.

"(iii) Regulations.—The Secretary of the Treasury may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(6) Security for amortization of charge.—

"(A) In general.—Under regulations of the Secretary prescribed in consultation with the Secretary of the Treasury, the requirements of section 302 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the employer distribution, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the employer distribution. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such date. The security shall be released (and any amounts thereunder refunded with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) Nature of security.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) Payment of security upon nonpayment of amortization amount.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 302(b)(2)(E), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary determines that the amortization, pursuant to section 302(b)(2)(E), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan (within the meaning of subsection (b)(2)).

"(D) Payment of security necessary for meeting minimum funding standard.—In any case in which security is payable under the requirements of this paragraph, the requirements of section 302 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 302(b)(2)(E).

"(b) Additional Charge to Funding Standard Account for Allocated Transaction Funding Shortfall.—

"(1) Applicability of additional charge.—In the case of a transaction adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan (determined as of immediately after the transaction) is less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(B) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction),

an allocated transaction funding shortfall for such plan shall be determined under this subsection with respect to the plan year in which the transaction occurs.

"(2) Transaction adversely affecting plan asset security.—

"(A) In general.—For purposes of this subsection, a transaction adversely affects plan asset security with respect to a funded plan if the requirements of subparagraphs (B) and (C) are met.

"(B) Transaction affecting relationship to plan of employer or controlled group.—The requirements of this subparagraph are met with respect to a transaction if—

"(i) such transaction constitutes a merger, consolidation, or transfer of plan assets or liabilities referred to in section 208, and, in such transaction, assets or liabilities attributable to the funded plan, or to any other single-employer plan maintained by such employer (or by any other person who, as of immediately before the transaction, is in the controlled group including such employer), are transferred to, or consolidated or merged with, another plan, or

"(ii) in such transaction, responsibility for funding the funded plan, or any other single-employer plan for which such employer (or any other person who, as of immediately before the transaction, is in the controlled group including such employer) has responsibility for funding, is assumed (in whole or in part) from such employer (or other person) by another person.

"(C) Adverse effect on controlled group funded ratio.—

"(i) In general.—The requirements of this subparagraph are met with respect to a transaction if the amount allocated to the funded plan in an allocation described in clause (ii) is greater than the amount allocated to the funded plan in an allocation described in clause (iii).

"(ii) ALLOCATION BEFORE TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately before the transaction among all single-employer plans (including the funded plan described in paragraph (3)(B)).

"(iii) ALLOCATION AFTER TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately after the transaction, except that such allocation shall be among all single-employer plans (including the funded plan) which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(3) ALLOCATED TRANSACTION FUNDING SHORTFALL.—For purposes of this subsection—

"(A) IN GENERAL.—The allocated transaction funding shortfall for a funded plan is the portion of the aggregate transaction funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) PLANS AMONG WHICH ALLOCATION IS MADE.—The aggregate transaction funding shortfall is allocated under this subparagraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all plans, each of which—

"(i) is maintained (as of immediately before the transaction) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(C) MANNER OF ALLOCATION.—The aggregate transaction funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary of the Treasury, in such manner as to ensure that (as of immediately after the transaction)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated),

"(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TRANSACTION FUNDING SHORTFALL.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'aggregate transaction funding shortfall' means an amount (determined as of immediately after the transaction) equal to the lesser of—

"(i) the sum of the transaction funding shortfalls for all plans described in paragraph (3)(B), or

"(ii) the controlled group assets available for allocation, as determined under subparagraph (B).

"(B) EXCESS CONTROLLED GROUP ASSETS AVAILABLE FOR ALLOCATION.—For purposes of subparagraph (A)(ii), the amount of controlled group assets available for allocation is an amount equal to the lesser of—

"(i) the sum of the amounts, determined with respect to the funded plan and each other single-employer plan maintained (as of immediately before the transaction) by the employer then maintaining the funded plan (or by any person who is then in the controlled group including the employer), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of the benefit liabilities of such plan, or

"(ii) the sum of the amounts, determined with respect to each plan referred to in clause (i), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of assets (determined as of immediately after the transaction) which such plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(5) REDUCTION IN ADDITIONAL CHARGE WHEN FUNDED PLAN IS TRANSFERRED TO A CONTROLLED GROUP WITH EXCESS ASSETS.—

"(A) IN GENERAL.—In any case in which, in an allocation described in subparagraph (B), an amount is allocated to the funded plan, the amount of the allocated transaction funding shortfall determined under this subsection is the excess of—

"(i) such allocated transaction funding shortfall (determined without regard to this paragraph), over

"(ii) such amount allocated to the funded plan in the allocation described in subparagraph (B).

"(B) ALLOCATION OF EXCESS CONTROLLED GROUP ASSETS.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)), except that such allocation shall be among all single-employer plans (including the funded plan) which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(6) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the plan maintaining the funding standard account under section 302 with respect to which the charge is determined under this subsection.

"(B) TRANSACTION FUNDING SHORTFALL.—The term 'transaction funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction), over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other single-employer plans maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the current value of such assets.

"(F) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded except to such extent as may be prescribed in regulations of the Secretary of the Treasury referred to in section 302(c)(11).

"(G) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before a transaction shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 302(b)(2)(F) is made, except that, if the transaction occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the transaction, as of the beginning of the plan year for which the charge under section 302(b)(2)(F) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the transaction, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the transaction.

"(iii) Regulations.—The Secretary of the Treasury may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(7) Security for amortization of charge.—

"(A) In general.—Under regulations of the Secretary prescribed in consultation with the Secretary of the Treasury, the requirements of section 302 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the transaction, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the transaction. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such day. The security shall be released (and any amounts thereunder with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) Nature of security.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) Payment of security upon nonpayment of amortization amount.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 302(b)(2)(F), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary determines that the amortization, pursuant to section 302(b)(2)(F), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan.

"(D) Payment of security necessary for meeting minimum funding standard.—In any case in which a security is payable under the requirements of this paragraph, the requirements of section 302 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 302(b)(2)(F).

"(c) Regulations.—The Secretary of the Treasury may prescribe such regulations as such Secretary may consider necessary to carry out the provisions of this section (including such regulations as such Secretary may consider necessary to preclude avoidance of the requirements of this section).".

(3) Additional charges not subject to waiver.—Subsection (a) of section 303 of such Act (29 U.S.C. 1083(a)) is amended by striking "section 302(b)(2)(C)" and inserting "subparagraphs "(C), (E), and (F) of section 302(b)(2)".

(4) Clerical amendment.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 302 the following new item:

"Sec. 302A. Determination of charges to funding standard account arising from employer distributions in standard terminations or transactions adversely affecting plan asset security.".

(b) Amendments to Internal Revenue Code of 1986.—

(1) Additional charges to funding standard account.—

(A) In general.—Paragraph (2) of section 412(b) of the Internal Revenue Code of 1986 (relating to charges to funding standard account) is amended—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking "paragraph (3)(D)." and inserting "paragraph (3)(D),"; and

(iii) by adding at the end the following new subparagraphs:

"(E) in the case of a defined benefit plan (other than a multiemployer plan), the amount necessary to amortize any allocated termination funding shortfall determined under section 412A(a) with respect to each prior plan year over a period of 3 plan years, and

"(F) in the case of a defined benefit plan (other than a multiemployer plan), the amount necessary to amortize any allocated transaction funding shortfall determined under section 412A(b) with respect to each prior plan year over a period of 3 plan years.".

(B) Treatment of multiple-employer plans.—Subsection (c) of section 412 of such Code (relating to special rules) is amended by adding at the end the following new paragraph:

"(11) Treatment of multiple-employer plans.—Subparagraphs (E) and (F) of subsection (b)(2) shall not apply with respect to multiple-employer plans, except to such extent as may be prescibed in regulations of the Secretary.".

(2) Determination of additional charges.—Chapter 1 of such Code is amended by inserting after section 412 the following new section:

"SEC. 412A. DETERMINATION OF CHARGES TO FUNDING STANDARD ACCOUNT ARISING FROM CERTAIN EMPLOYER DISTRIBUTIONS IN STANDARD TERMINATIONS OR CERTAIN TRANSACTIONS ADVERSELY AFFECTING PLAN ASSET SECURITY.

"(a) Additional Charge to Funding Standard Account for Allocated Termination Funding Shortfall.—

"(1) Applicability of additional charge.—In the case of a standard termination of a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 in which occurs an employer distribution adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan is (as of immediately after the employer distribution) less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(B) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution),

an allocated termination funding shortfall for the funded plan shall be determined under this subsection with respect to the plan year in which the employer distribution occurs.

"(2) Employer distribution adversely affecting plan asset security.—For purposes of this subsection, an employer distribution adversely affects plan asset security with respect to a funded plan if (at the time of the distribution) the employer receiving the distribution—

"(A) is the employer maintaining the funded plan, or

"(B) is included in the controlled group including the employer maintaining the funded plan.

"(3) Allocated termination funding shortfall.—For purposes of this subsection—

"(A) In general.—The allocated termination funding shortfall for a funded plan is the portion of the aggregate termination funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) Plans among which allocation is made.—The aggregate termination funding shortfall is allocated under this paragraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all defined benefit plans (other than multiemployer plans), each of which—

"(i) is maintained (as of immediately before the employer distribution) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution).

"(C) Manner of allocation.—The aggregate termination funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary, in such manner as to ensure that (as of immediately after the distribution)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated), "(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TERMINATION FUNDING SHORTFALL.—For purposes of this subsection, the term 'aggregate termination funding shortfall' means an amount (determined as of immediately after the employer distribution) equal to the lesser of—

"(A) the sum of the termination funding shortfalls for all plans described in paragraph (3)(B), or

"(B) the amount of the employer distribution.

"(5) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the defined benefit plan maintaining the funding standard account under section 412 with respect to which the charge is determined under this subsection.

"(B) TERMINATION FUNDING SHORTFALL.—The term 'termination funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution),

over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other defined benefit plans (other than multiemployer plans) maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) EMPLOYER DISTRIBUTION.—The term 'employer distribution' means a distribution of plan assets to the employer as permitted under section 401(a)(2).

"(F) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the market value of such assets.

"(G) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded except to such extent as may be prescribed in regulations of the Secretary referred to in section 412(c)(11).

"(H) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before an employer distribution shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 412(b)(2)(E) is made, except that, if the employer distribution occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the employer distribution, as of the beginning of the plan year for which the charge under section 412(b)(2)(E) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the employer distribution, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the distribution.

"(iii) REGULATIONS.—The Secretary may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(6) SECURITY FOR AMORTIZATION OF CHARGE.—

"(A) IN GENERAL.—Under regulations of the Secretary of Labor prescribed in consultation with the Secretary, the requirements of section 412 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the employer distribution, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the employer distribution. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such day. The security shall be released (and any amounts thereunder refunded with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) NATURE OF SECURITY.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974 (relating to bonding), or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) PAYMENT OF SECURITY UPON NONPAYMENT OF AMORTIZATION AMOUNT.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 412(b)(2)(E), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary of Labor determines that the amortization, pursuant to section 412(b)(2)(E), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan (within the meaning of subsection (b)(2)).

"(D) PAYMENT OF SECURITY NECESSARY FOR MEETING MINIMUM FUNDING STANDARD.—In any case in which a security is payable under the requirements of this paragraph, the requirements of section 412 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 412(b)(2)(E).".

"(b) ADDITIONAL CHARGE TO FUNDING STANDARD ACCOUNT FOR ALLOCATED TRANSACTION FUNDING SHORTFALL.—

"(1) APPLICABILITY OF ADDITIONAL CHARGE.—In the case of a transaction adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan (determined as of immediately after the transaction) is less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(B) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction),

an allocated transaction funding shortfall for such plan shall be determined under this subsection with respect to the plan year in which the transaction occurs.

"(2) TRANSACTION ADVERSELY AFFECTING PLAN ASSET SECURITY.—

"(A) IN GENERAL.—For purposes of this subsection, a transaction adversely affects plan asset security with respect to a funded plan if the requirements of subparagraphs (B) and (C) are met.

"(B) TRANSACTION AFFECTING RELATIONSHIP TO PLAN OF EMPLOYER OR CONTROLLED GROUP.—The requirements of this subparagraph are met with respect to a transaction if—

"(i) such transaction constitutes a merger, consolidation, or transfer of plan assets or liabilities referred to in section 414(l), and, in such transaction, assets or liabilities attributable to the funded plan, or to any other defined benefit plan (other than a multiemployer plan) maintained by such employer (or by any other person who, as of immediately before the transaction, is in the controlled group including such employer), are transferred to, or consolidated or merged with, another plan, or

"(ii) in such transaction, responsibility for funding the funded plan, or any other defined benefit plan (other than a multiemployer plan) for which such employer (or any other person who, as of immediately before the transaction, is in the controlled group including such employer) has responsibility for funding, is assumed (in whole or in part) from such employer (or other person) by another person.

"(C) ADVERSE EFFECT ON CONTROLLED GROUP FUNDED RATIO.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a transaction if the amount allocated to the funded plan in an allocation described in clause (ii) is greater than the amount allocated to the funded plan in an allocation described in clause (iii).

"(ii) ALLOCATION BEFORE TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately before the transaction among all single-employer plans (including the funded plan described in paragraph (3)(B)).

"(iii) ALLOCATION AFTER TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately after the transaction, except that such allocation shall be among all single-employer plans (including the funded plan) which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(3) ALLOCATED TRANSACTION FUNDING SHORTFALL.—For purposes of this subsection—

"(A) IN GENERAL.—The allocated transaction funding shortfall for a funded plan is the portion of the aggregate transaction funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) PLANS AMONG WHICH ALLOCATION IS MADE.—The aggregate transaction funding shortfall is allocated under this subparagraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all plans, each of which—

"(i) is maintained (as of immediately before the transaction) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(C) MANNER OF ALLOCATION.—The aggregate transaction funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary, in such manner as to ensure that (as of immediately after the transaction)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated),

"(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TRANSACTION FUNDING SHORTFALL.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'aggregate transaction funding shortfall' means an amount (determined as of immediately after the transaction) equal to the lesser of—

"(i) the sum of the transaction funding shortfalls for all plans described in paragraph (3)(B), or

"(ii) the controlled group assets available for allocation, as determined under subparagraph (B).

"(B) EXCESS CONTROLLED GROUP ASSETS AVAILABLE FOR ALLOCATION.—For purposes of subparagraph (A)(ii), the amount of controlled group assets available for allocation is an amount equal to the lesser of—

"(i) the sum of the amounts, determined with respect to the funded plan and each other defined benefit plan (other than a multiemployer plan) maintained (as of immediately before the transaction) by the employer then maintaining the funded plan (or by any person who is then in the controlled group including the employer), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of the benefit liabilities of such plan, or

"(ii) the sum of the amounts, determined with respect to each plan referred to in clause (i), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of assets (determined as of immediately after the transaction) which such plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(5) REDUCTION IN ADDITIONAL CHARGE WHEN FUNDED PLAN IS TRANSFERRED TO A CONTROLLED GROUP WITH EXCESS ASSETS.—

"(A) IN GENERAL.—In any case in which, in an allocation described in subparagraph (B), an amount is allocated to the funded plan, the amount of the allocated transaction funding shortfall determined under this subsection is the excess of—

"(i) such allocated transaction funding shortfall (determined without regard to this paragraph), over

"(ii) such amount allocated to the funded plan in the allocation described in subparagraph (B).

"(B) ALLOCATION OF EXCESS CONTROLLED GROUP ASSETS.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)), except that such allocation shall be among all defined benefit plans (other than multiemployer plans), including the funded plan, which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(6) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the defined benefit plan maintaining the funding standard account under section 412 with respect to which the charge is determined under this subsection.

"(B) TRANSACTION FUNDING SHORTFALL.—The term 'transaction funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction), over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other defined benefit plans (other than multiemployer plans) maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the market value of such assets.

"(F) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded, except to such extent as may be prescribed in regulations of the Secretary referred to in section 412(c)(11).

"(G) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before a transaction shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 412(b)(2)(F) is made, except that, if the transaction occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the transaction, as of the beginning of the plan year for which the charge under section 412(b)(2)(F) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the transaction, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the transaction.

"(iii) REGULATIONS.—The Secretary may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(6) SECURITY FOR AMORTIZATION OF CHARGE.—

"(A) IN GENERAL.—Under regulations of the Secretary of Labor prescribed in consultation with the Secretary, the requirements of section 412 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the transaction, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the transaction. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such day. The security shall be released (and any amounts thereunder with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) NATURE OF SECURITY.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974 (relating to bonding), or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) PAYMENT OF SECURITY UPON NONPAYMENT OF AMORTIZATION AMOUNT.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 412(b)(2)(F), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary of Labor determines that the amortization, pursuant to section 412(b)(2)(F), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan.

"(D) PAYMENT OF SECURITY NECESSARY FOR MEETING MINIMUM FUNDING STANDARD.—In any case in which a security is payable under the requirements of this paragraph, the requirements of section 412 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 412(b)(2)(F).

"(c) CONTROLLED GROUP.—

"(1) IN GENERAL.—For purposes of this section, the term 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person.

"(2) COMMON CONTROL.—For purposes of paragraph (1), the determination of whether 2 or more persons are under 'common control' shall be made under regulations prescribed by the Secretary of the Treasury under subsections (b), (c), (m), and (o) of section 414.

"(d) REGULATIONS.—The Secretary may prescribe such regulations as the Secretary may consider necessary to carry out the provisions of this section (including such regulations as the Secretary may consider necessary to preclude avoidance of the requirements of this section).".

(3) ADDITIONAL CHARGES NOT SUBJECT TO WAIVER.—Paragraph (1) of section 412 of such Code (relating to waiver in case of substantial business hardship) is amended by striking "subsection (b)(2)(C)" and inserting "subparagraphs (C), (E), and (F) of subsection (b)(2)".

(4) TAX-FREE TRANSFERS BETWEEN CERTAIN PLANS IN SAME CONTROLLED GROUP.—Subsection (c) of section 4980 of such Code (relating to definitions and special rules for tax on reversion of qualified plan assets to employer) is amended by adding at the end the following new paragraph:

"(4) EXCEPTION FOR TRANSFERS BETWEEN CERTAIN PLANS IN SAME CONTROLLED GROUP.—Any amount transferred through a trustee-to-trustee transfer between defined benefit plans (other than multiemployer plans) maintained by the same employer or by employers who at the time of the transfer are in the same controlled group (within the meaning of section 412A(c)) shall not be treated as an employer reversion for purposes of this section (or includible in the gross income of any such employer).".

(5) CLERICAL AMENDMENT.—The table of sections for subpart B of part 1 of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 412 the following new item:

"Sec. 412A. Determination of charges to funding standard account arising from certain employer distributions in standard terminations or certain transactions adversely affecting plan asset security.".

(c) EFFECTIVE DATES.—The amendments made by this section (other than subsection (b)(4)) shall apply with respect to—

(1) employer distributions in plan terminations with respect to which the termination date occurs on or after the date of the enactment of this Act, and

(2) transactions occurring on or after the date of the enactment of this Act.

SEC. 6006. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Section 303 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083) is amended by adding at the end thereof the following new subsection:

"(f) No waiver may be granted under this section with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year."

(2) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of such Act (29 U.S.C. 1083) is amended by striking "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "temporary substantial business hardship".

(3) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Section 303 of such Act (29 U.S.C. 1083) (as amended by the preceding provisions of this subsection) is further amended by adding at the end thereof the following new subsection:

"(g)(1) If an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(A) with respect to such employer, and

"(B) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

"(2) For purposes of paragraph (1), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(b) FREQUENCY OF WAIVERS.—The second sentence of section 303(a) of such Act (29 U.S.C. 1083(a)) is amended by striking "more than 5 of any 15" and inserting "more than 3 of any 15".

(c) REPAYMENT OF WAIVED CONTRIBUTIONS.—

(1) INTEREST.—

(A) VARIANCES FROM MINIMUM FUNDING STANDARD.—Subsection (a) of section 303 of such Act (29 U.S.C. 1083(a)) is amended by striking the last sentence and inserting the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 302(b)(2)(C) for any plan year shall be the greater of (1) 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (2) the highest rate of interest used under the plan in determining charges to the funding standard account maintained by the plan."

(B) EXTENSIONS OF AMORTIZATION PERIODS.—Section 304(a) of such Act (29 U.S.C. 1084(a)) is amended by striking the last sentence and inserting in lieu thereof the following new sentence:

"The interest rate applicable for any plan year under any arrangement entered into by the Secretary of the Treasury in connection with an extension granted under this section shall be the greater of (1) 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (2) the highest rate of interest used under the plan in determining charges to the funding standard account maintained by the plan."

(2) ADJUSTMENTS TO AMORTIZATION PERIOD FOR WAIVED FUNDING DEFICIENCIES.—Subparagraph (C) of section 302(b)(2) of such Act (29 U.S.C. 1082(b)(2)(C)) is amended to read as follows:

"(C) the amount necessary to amortize each waived funding deficiency for each prior plan year in equal annual installments (until fully amortized) over a period of 5 plan years, and".

(d) NOTICE TO PARTICIPANTS OF APPLICATION FOR FUNDING WAIVERS.—Section 303(e)(1) of such Act (29 U.S.C. 1083(e)(1)) is amended by striking "plan." and inserting "plan, and each affected party. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and the benefit liabilities (as defined in section 4001(a)(16)).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply in the case of—

(A) any application submitted after the date of enactment of this Act, for a waiver with respect to a plan year beginning after December 31, 1985, and

(B) any waiver granted pursuant to such an application.

(2) Special rule for subsection (a)(1).—

(A) In general.—The amendment made by subsection (a)(1) shall apply to plan years beginning after the date of enactment of this Act.

(B) Transitional rule for years beginning in 1988.—In the case of any plan year beginning during calendar year 1988, section 412(d)(4) of the Internal Revenue Code of 1986 (as added by subsection (a)(1)) shall be applied by substituting "6th month" for "3rd month".

SEC. 6007. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS.

(a) General Rule.—Section 4971 of the Internal Revenue Code of 1986 (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Liability for Tax.—

"(1) In general.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) Joint and several liability where employer member of controlled group.—

"(A) In general.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) Controlled group.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(b) Technical Amendments.—

(1) Subsection (a) of section 4971 of such Code is amended by striking the last sentence.

(2) Subsection (b) of section 4971 of such Code is amended by striking the last sentence.

(c) Effective Date.—The amendments made by this section shall apply with respect to taxes imposed for taxable years beginning after December 31, 1987.

SEC. 6008. INCREASE IN LIABILITIES ARISING UPON PLAN TERMINATION.

(a) Benefit Liabilities.—

(1) In general.—Section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)) is amended by striking paragraph (16) and inserting in lieu thereof the following:

"(16) 'benefit liabilities' to any person means, in connection with a plan terminated under this title, all benefits of such person under the plan as of the termination date (including benefits which are not protected under section 204(g));".

(2) Conforming amendments.—Title IV of such Act is amended by striking "benefit commitments" each place it appears and inserting "benefit liabilities".

(b) Liability to Corporation for Distress Termination.—Section 4062(b)(1)(A)(ii)(I) of such Act (29 U.S.C. 1362(b)(1)(A)(ii)(I)) is amended by striking "75 percent" and inserting "100 percent".

(c) Liability to the Section 4049 Trust.—Section 4062(c)(1)(A) of such Act (29 U.S.C. 1362(c)(1)(A)) is amended by striking the last sentence and inserting the following: "The liability of such person under this subsection shall consist of the total outstanding amount of benefit liabilities under the plan.".

SEC. 6009. AMENDMENTS RELATING TO SECTION 4049 TRUST.

(a) Acceleration of Distributions From Trust.—Section 4049(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1349(c)(1)) is amended by striking in the first sentence "Not later" and all that follows through "the corporation" and inserting the following: "Not later than 30 days after the receipt of each liability payment under section 4062(c) (but in no event more frequently than once per year), the corporation".

(b) Conforming Amendments.—Section 4049(c) of such Act (29 U.S.C. 1349(c)) is further amended—

(1) in paragraph (1)(B), by striking "such year" and inserting "a fiscal year of the trust"; and

(2) in paragraph (2), by striking all of the first sentence following "this subsection" and inserting "(other than the final payment owed under this subsection) if such payment does not exceed $100.", and by striking "following liability payment year" in the second sentence and inserting "payment due under this subsection".

SEC. 6010. SINGLE-EMPLOYER PLAN BENEFIT GUARANTY PREMIUMS.

(a) Premium Increase.—

(1) In general.—Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking "for plan years beginning after December 31, 1985, an amount equal to $8.50" and inserting "for plan years beginning after December 31, 1987, an amount equal to $25.00".

(2) Conforming amendments.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by inserting "and before January 1, 1986," after "after December 31, 1977,"; and

(C) by adding at the end the following new clause:

"(iii) with respect to each plan year beginning after December 31, 1985, and before January 1, 1988, an amount equal to $8.50 for each individual who was a participant in such plan during the plan year, and".

(b) Employer Liability for Premiums.—

(1) In general.—Section 4007(a) of such Act (29 U.S.C. 1307(a)) is amended—

(A) by striking "The plan administrator" and inserting "(1) Except as provided in paragraph (2), the plan administrator"; and

(B) by adding at the end the following new paragraph:

"(2) Each person who is a contributing sponsor of a single-employer plan or a member of the controlled group including such sponsor shall be jointly and severally liable to the corporation for payment of premiums for such plan. This paragraph shall not apply for plan years in which the assets of the plan exceed the sum of the minimum benefit security level (as defined in section 3(41)) and the premiums due under this section for such plan.".

(2) Conforming amendments.—Subsections (b), (c), and (d) of section 4007 of such Act (29 U.S.C. 1307 (b), (c), and (d)) are each amended by inserting "(or, in the case of a single-employer plan, a contributing sponsor or member of the controlled group including such contributing sponsor)" after "plan administrator" each place it appears.

(c) Deposit of Premiums Into Separate Revolving Fund.—Section 4005 of such Act (29 U.S.C. 1305) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) to the extent attributable to the amount of the premium in excess of $8.50, and

"(B) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan that was terminated before January 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

SEC. 6011. INTEREST RATE ON ACCUMULATED CONTRIBUTIONS.

Section 411(c)(2) of the Internal Revenue Code of 1986 (relating to accrued benefit derived from employee contributions) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

SEC. 6012. INCREASE IN MINIMUM FUNDING STANDARDS.

(a) General Rule.—Paragraph (2) of section 412(b) of the Internal Revenue Code of 1986 (relating to changes to funding standard account) is amended by adding at the end thereof the following new sentence: "In the case of a plan to which subsection (l) applies for any year, if the sum of the normal cost of the plan for the plan year plus the unfunded benefit liabilities contribution for such year determined under subsection (l) exceeds the charge determined under the preceding sentence (reduced by the credits under paragraph (3)(B)), the amount charged to the funding standard account for such year under this paragraph shall be equal to such sum."

(b) Amount of Unfunded Benefit Liabilities Contribution.—Section 412 of such Code (relating to minimum funding standards) is amended by adding at the end thereof the following new subsection:

"(l) Unfunded Benefit Liabilities Contribution.—

"(1) In general.—In the case of a plan to which this section applies for a plan year, the unfunded benefit liabilities contribution for purposes of subsection (b)(2) shall be equal to the lesser of—

"(A) the sum of the amounts determined under paragraph (3), or

"(B) the excess of—

"(i) 100 percent of the plan's benefit liabilities for such year, over

"(ii) the normal cost of the plan for such year determined under subsection (b)(2)(A).

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection applies to a plan (other than a multiemployer plan) for any plan year if the actuarial value of the assets of the plan determined under subsection (c)(2) is less than 100 percent of the plan's benefit liabilities.

"(3) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The amounts determined under this paragraph are the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) the unfunded past service liability of individuals in pay status over a period of 10 years, and

"(ii) the unfunded past service liability of individuals not in pay status over a period equal to the greater of—

"(I) 15 years, or

"(II) the plan's average worklife.

"(B) INCREASE FOR LUMP SUM DISTRIBUTIONS.—The amount determined under subparagraph (A)(i) for any plan year shall be increased by the applicable percentage of the aggregate amount of distributions during the preceding plan year—

"(i) which are not part of a series of payments described in section 72(t)(2)(A)(iv), or

"(ii) as payments for the purchase of annuity contracts for employees which are not held by the trust.

For purposes of this subparagraph, the term 'applicable percentage' means 100 percent minus the percentage which the actuarial value of the assets of the plan under subsection (c)(2) bears to the plan's benefit liabilities.

"(C) PHASE-IN OF AMORTIZATION OF LIABILITIES OF INDIVIDUALS NOT IN PAY STATUS.—In the case of plan years beginning before January 1, 1993, of a plan in existence on the date of enactment of the Retirement Security Promotion Act of 1987, subparagraph (A)(ii)(I) shall be applied to unfunded past service liabilities which are not attributable to plan amendments adopted on or after such date, by substituting for 15 years the number of years determined under the following table:

"In the case of a plan year beginning in:	The number of years is:
1988	25
1989	23
1990	21
1991	19
1992	17.

"(D) SPECIAL RULE FOR PLANS IN COMPLETE PAY STATUS.—If the only unfunded past service liabilities of a plan are liabilities described in subparagraph (A), subparagraph (A) shall be applied by reducing (but not below 1) the 10-year period by 1 year for each year after the 1st year to which this subparagraph applies.

"(E) AVERAGE WORKLIFE.—For purposes of subparagraph (A), the average worklife is the amount (rounded to the nearest whole number) by which—

"(i) the average age at which such employees (and former employees) are reasonably expected to attain pay status, exceeds

"(ii) the average age of employees (and former employees) whose liabilities are taken into account under subparagraph (A)(ii).

"(F) UNFUNDED LIABILITIES.—In determining unfunded past service liabilities, the assets of the plan shall be treated as—

"(i) first funding liabilities described in subparagraph (A)(i),

"(ii) second funding liabilities described in subparagraph (C), and

"(iii) then funding all other liabilities.

"(4) TIME DETERMINATIONS MADE.—Any determination required to be made under the plan for any plan year shall be determined on the valuation date of the plan for such year for purposes of this section."

(c) PERIODS FOR AMORTIZING CERTAIN GAINS AND LOSSES.—

(1) EXPERIENCE GAINS AND LOSSES.—Paragraphs (2)(B)(iv) and (3)(B)(ii) of section 412(b) of the Internal Revenue Code of 1987 are each amended by striking out "15 plan years" and inserting in lieu thereof "7 plan years".

(2) ACTUARIAL ASSUMPTIONS.—Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of such Code are each amended by striking out "30 plan years" and inserting in lieu thereof "7 plan years".

(d) Section 412(c) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(11) EXPERIENCE GAIN AND LOSS OF CERTAIN PLANS REQUIRED TO BE COMPUTED SEPARATELY.—If the accrued liability under a plan cannot be directly calculated under the funding method used for the plan, then the net experience loss or gain of the plan—

"(A) shall be computed separately in such manner as the Secretary may prescribe, and

"(B) shall be amortized under subsection (b)(2)(B)(iv) or (b)(3)(B)(ii), respectively."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply for plan years beginning on or after January 1, 1988.

SEC. 6013. TIME FOR MAKING CONTRIBUTIONS.

(a) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) REDUCTION OF PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—Section 302(c)(10) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(10)) is amended—

(A) in the first sentence, by striking out "For" and inserting in lieu thereof "Subject to subsection (d), for"; and

(B) by striking out the second sentence.

(2) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—Section 302 of such Act is amended

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) In any case in which an employer maintains a plan to which this section applies, there shall be 4 required installments for each plan year ending with or within such taxable year.

"(2) The required installments shall be due as follows:

"In the case of the following required installments:	The due date is:
1st	March 15
2nd	June 15
3rd	September 15
4th	December 15.

"(3)(A) For purposes of this subsection, the amount of any required installment shall be 25 percent of the required annual payment.

"(B) For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) the estimated amount required to be contributed to or under the plan by the employer for the plan year by reason of this section, or

"(ii) in any case in which the preceding plan year equals 12 months, the amount so required for the preceding plan year.

"(4)(A) In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted, for the months specified in this subsection, the months that correspond thereto.

"(B) This subsection shall be applied to plan years of less then 12 months in accordance with regulations prescribed by the Secretary of the Treasury.".

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) REDUCTION OF PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—Paragraph (10) of section 412(c) of the Internal Revenue Code of 1986 (relating to time when certain contributions deemed made) is amended by striking out the last sentence.

(2) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

(A) IN GENERAL.—Chapter 43 of such Code (relating to qualified payments, etc., plans) is amended by inserting after section 4971 the following new section:

"SEC. 4971A. FAILURE BY EMPLOYER TO MAKE QUARTERLY PAYMENTS OF ESTIMATED REQUIRED CONTRIBUTION.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—For each taxable year of an employer who maintains a plan—

"(A) to which section 412 applies, and

"(B) which is not a multiemployer plan (as defined in section 414(f)),

there is hereby imposed a tax equal to the amount determined under paragraph (2) with respect to any underpayment of a required installment for a plan year ending with or within such taxable year.

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph with respect to any underpayment shall be determined by applying—

"(A) the underpayment rate established under section 6621,

"(B) to the amount of the underpayment,

"(C) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the plan year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is contributed to or under the plan.

"(3) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of paragraph (2)(B), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	March 15
2nd	June 15

“In the case of the following required installments:	The number of years is:
The due date is:	
3rd	September 15
4th	December 15.

“(d) Amount of Required Installment.—For purposes of this section—

“(1) In general.—The amount of any required installment shall be 25 percent of the required annual payment.

“(2) Required annual payment.—For purposes of paragraph (1), the term ‘required annual payment’ means the lesser of—

“(A) the estimated amount required to be contributed to or under the plan by the employer for the plan year by reason of section 412, or

“(B) in any case in which the preceding plan year equals 12 months, the amount so required for the preceding plan year.

Subparagraph (B) shall not apply if the preceding plan year was not a year of 12 months.

“(e) Fiscal Years and Short Years.—

“(1) Fiscal years.—In applying this section to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this section, the months which correspond thereto.

“(2) Short plan year.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary.”

(B) Clerical amendment.—The table of sections for chapter 43 of such Code is amended by inserting after the item relating to section 4971 the following new item:

“Sec. 4971A. Failure by employer to make quarterly payments of estimated required contribution.”.

(c) Effective Date.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1990.

SEC. 6014. STUDY OF EVENT-CONTINGENT BENEFITS.

(a) Study.—The Secretary of Labor shall conduct a study of the economic impact of event-contingent pension benefits on private pension plans.

(b) Report.—Not later than February 1, 1988, the Secretary shall submit a report describing the results of the study, together with specific legislative recommendations for protection of private pension plans providing event-contingent benefits, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 6015. EFFECTIVE DATE.

Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this Act.

Subtitle B—Guaranteed Student Loan Program Savings

SEC. 6101. RECOVERY OF EXCESS CASH RESERVES ACCUMULATED UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) In General.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1071) is amended by adding at the end thereof the following new subsection:

“(e) Reduction of Excess Cash Reserves.—

“(1) Limitation on maximum cash reserves.—A guaranty agency shall not accumulate cash reserves in excess of the greater of—

“(A) 40 percent of the total amount paid by that agency on insurance claims during the preceding fiscal year;

“(B) 0.3 percent of original principal amount of loans that are insured by that agency and that are outstanding at the end of such preceding fiscal year;

“(C) an amount which, when combined with all other parts of total agency reserves, equals 0.4 percent of such original principal amount;

“(D) $500,000; or

“(E) the amount required to comply with the reserve requirements of a State law as in effect on October 17, 1986.

“(2) Recovery of excess cash reserves.—The Secretary shall, not later than March 31, 1988, determine for each guaranty agency the maximum cash reserve permitted under paragraph (1) for fiscal year 1986. Subject to paragraphs (3) and (4), if the Secretary determines that any guaranty agency had, at the end of fiscal year 1986, a cash reserve that exceeded such maximum, the Secretary shall direct the agency to eliminate such excess by any one or more of the following methods, as selected by the guaranty agency:

“(A) by repaying any advances to such agency made by the Secretary under this section that are not required to be repaid under subsection (d);

“(B) by withholding and canceling claims for reimbursement otherwise payable under section 428(c)(1);

“(C) by reducing the amount of payments for which application will be made by such agency under section 428(f); or

“(D) by any other method of reducing payments from or increasing payments to the Federal Government, including payment of additional reinsurance fees in addition to the fees required by section 428(c)(9), as proposed by the agency and agreed to by the Secretary.

“(3) Appeals based on special circumstances.—If the Secretary determines, on the basis of an application from a guaranty agency, that—

“(A) the agency's financial position has deteriorated significantly since the end of the preceding fiscal year; or

“(B) significant changes in the economic circumstances (such as a change in agency current cash reserves) or the loan insurance program render the limitations of paragraph (1) inadequate for the continued functioning of the agency,

the Secretary may waive, in whole or in part, the imposition of the remedies required by paragraph (2) for such agency.

“(4) Recovery limits.—The Secretary shall not require a total reduction of cash reserves for all guaranty agencies in excess of $250,000,000 during fiscal year 1988. If the total of cash reserves of all guaranty agencies exceeds the maximum amounts permitted under paragraph (1) by more than $250,000,000, the Secretary shall ratably reduce the amounts that guaranty agencies are directed to eliminate under paragraph (2), so that the total excess cash reserves to be eliminated equals $250,000,000.

“(5) Definitions.—As used in this subsection—

“(A) the ‘cash reserves’ for any guaranty agency for any fiscal year are equal to the agency's cumulative cash receipts less the agency's cumulative cash disbursements at the end of such fiscal year;

“(B) the ‘total reserves’ for any guaranty agency for any fiscal year are equal to the agency's cash reserves plus the agency's cumulative accounts receivable less the agency's accounts payable, as of the end of such fiscal year;

“(C) the term ‘cumulative cash receipts’ includes such receipts as insurance premiums, Federal reinsurance payments, and collections on defaulted loans;

“(D) the term ‘cumulative cash disbursements’ includes such disbursements as payments for default claims, repayment of Federal advances, transfers to other State activities, and payment of collection costs and other operating costs;

“(E) the term ‘accounts receivable’ includes Federal reinsurance payments and administrative cost allowances owed but not yet paid to the guaranty agency, as of the end of a fiscal year; and

“(F) the term ‘accounts payable’ includes collections and reinsurance fees due (but not paid) to the Department of Education, as of the end of a fiscal year.”.

(b) Conforming Amendments.—

(1) The second sentence of section 428(c)(1)(A) of such Act is amended by striking out “shall be deemed” and inserting “shall, subject to section 422(e), be deemed”.

(2) Section 428(c)(9)(A) of such Act is amended by striking out “an amount equal to” and inserting “an amount, subject to section 422(e), equal to”.

(3) The second sentence of section 428(f)(1)(B) of such Act is amended by striking out “shall be deemed” and inserting “shall, subject to section 422(e), be deemed”.

SEC. 6102. REPEAL.

(a) In General.—Subsection (e) of section 422 of the Higher Education Act of 1965 is repealed on September 30, 1989.

(b) Conforming Amendments.—

(1) Effective September 30, 1989, the second sentence of section 428(c)(1)(A) of such Act is amended by striking out “shall, subject to section 422(e), be deemed” and inserting “shall be deemed”.

(2) Effective September 30, 1989, section 428(c)(9)(A) of such Act is amended by striking out “an amount, subject to section 422(e), equal to” and inserting “an amount equal to”.

(3) Effective September 30, 1989, the second sentence of section 428(f)(1)(B) of such Act is amended by striking out “shall, subject to section 422(e), be deemed” and inserting “shall be deemed”.

SEC. 6102. INFORMATION ON DEFAULTS REQUIRED.

(a) General Rule.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 is amended—

(1) by striking out “In” and inserting in lieu thereof “Notwithstanding any other provision of law, in”; and

(2) by striking out “may” and inserting in lieu thereof “shall”.

(b) Conforming Amendment.—The second sentence of section 428(k)(1) of such Act is amended by striking out “may” and inserting in lieu thereof “shall”.

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF LOANS MADE BY THE VETERANS' ADMINISTRATION TO FINANCE THE SALE OF FORECLOSED PROPERTIES.

Section 1816(d) of title 38, United States Code, is amended by striking out paragraph (3).

SEC. 7002. EXTENSION OF LOAN FEE.

Section 1829(c) of title 38, United States Code, is amended by striking out “1987” and inserting in lieu thereof “1989”.

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) NUMBER OF VENDEE LOANS.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than 60 percent" and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent".

(b) TERMINATION OF AUTHORITY TO MAKE AND FINANCE VENDEE LOANS.—Section 1816(d) is amended by adding at the end the following new paragraph:

"(6) This subsection shall cease to have effect on October 1, 1990.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1987.

SEC. 7004. CONSTRUCTION.

(a) CONSTRUCTION FOR PURPOSES OF THE BALANCED BUDGET AND EMERGENCY DEFICIT REAFFIRMATION CONTROL ACT OF 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Control Act of 1987 (Public Law 100-119), the amendments made by this section achieve savings made possible by changes in program requirements.

(b) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, enacted by the provisions of this title and the provisions of such Act shall be treated as having been enacted only once; and

(2) in executing to title 38, United States Code, the amendments made by the provisions of this title and the provisions of such Act, such amendments shall be executed so as to appear only once in the law as amended.

TITLE VIII—AGRICULTURE

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 8001. Short title; table of contents.

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Sec. 8102. Loan rates.
Sec. 8103. Storage expenditures.
Sec. 8104. Whole base bid program.
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Sec. 8106. Paid land diversion program for feed grains.
Sec. 8107. Loan programs for soybeans and other oilseeds.
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SUBTITLE B—PREPAYMENT OF RURAL ELECTRIFICATION LOANS

Sec. 8201. Prepayment of loans.
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Sec. 8301. Study of use of agricultural commodity futures and options markets.
Sec. 8302. Authorization of appropriations for Philippine food aid initiative.
Sec. 8303. Rural industrialization assistance.
Sec. 8304. Plant variety protection fees.
Sec. 8305. Annual appropriations to reimburse the Commodity Credit Corporation for net realized losses.
Sec. 8306. Federal crop insurance.
Sec. 8307. Ethanol usage.

Subtitle A—Agricultural Price Support Programs

SEC. 8101. AGRICULTURAL INCOME SUPPORT REDUCTIONS.

(a) TARGET PRICE REDUCTIONS.

(1) WHEAT.—Effective only for the 1988 crop of wheat, section 107D(c)(1)(G) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(G)) is amended by striking out "$4.29" and inserting in lieu thereof "$4.25".

(2) FEED GRAINS.—Effective only for the 1988 crop of feed grains, section 105C(c)(1)(E) of such Act (7 U.S.C. 1444e(c)(1)(E)) is amended by striking out "$2.97" and inserting in lieu thereof "$2.94".

(3) COTTON.—Effective only for the 1988 crop of upland cotton, section 103A(c)(1)(D) of such Act (7 U.S.C. 1444-1(c)(1)(D)) is amended by striking out "$0.77" and inserting in lieu thereof "$0.762".

(4) RICE.—Effective only for the 1988 crop of rice, section 101A(c)(1)(D) of such Act (7 U.S.C. 1441-1(c)(1)(D)) is amended by striking out "$11.30" and inserting in lieu thereof "$11.19".

(b) DAIRY ASSESSMENT.—Section 201(d)(2) of such Act (7 U.S.C. 1446(d)) is amended—

(1) in subparagraph (C), by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.".

(c) WOOL PRICE SUPPORT REDUCTIONS.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraphs (2) and (3), the";

(2) by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3), for the marketing years beginning January 1, 1982, and ending December 31, 1990, the support price for shorn wool shall be 77.5 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).

"(3) For the marketing year beginning January 1, 1988, and ending December 31, 1988, the support price for shorn wool shall be 76.7 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).".

SEC. 8102. LOAN RATES.

(a) WHEAT.—Effective only for the 1988 crop of wheat, section 107D(a)(3)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a)(3)(B)) is amended by inserting "(except that, in the case of the 1988 crop of wheat, 1 percent)" after "5 percent".

(b) FEED GRAINS.—Effective only for the 1988 crop of feed grains, section 105C(a)(2)(B) of such Act (7 U.S.C. 1444e(a)(2)(B)) is amended by inserting "(except that, in the case of the 1988 crop of corn, 1 percent)" after "5 percent".

(c) COTTON.—Effective only for the 1988 crop of upland cotton, section 103A(a)(2)(A) of such Act (7 U.S.C. 1444-1(a)(2)(A)) is amended by inserting "(except that, in the case of the 1988 crop of upland cotton, 1 percent)" after "5 percent".

(d) RICE.—Effective only for the 1988 crop of rice, section 101A(a)(2) of such Act (7 U.S.C. 1441-1(a)(2)) is amended by inserting "(except that, in the case of the 1988 crop of rice, 1 percent)" after "5 percent".

SEC. 8103. STORAGE EXPENDITURES.

For the fiscal years 1988 and 1989, the Secretary of Agriculture shall ensure that expenditures of the Commodity Credit Corporation for commercial storage, transportation, and handling of commodities owned by the Corporation (excluding storage payments made in accordance with section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e)) are reduced by $230,000,000 in such fiscal years from the amount of funds expended in fiscal year 1987 for commercial storage, transportation, and handling of such commodities. In order to achieve the savings required by this section, the Secretary shall adjust storage, handling, or transportation rates paid by the Corporation and take other appropriate actions.

SEC. 8104. WHOLE BASE BID PROGRAM.

(a) WHEAT.—Effective only for the 1988 and 1989 crops of wheat, section 107D(f) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(f)) is amended—

(1) in paragraph (5)(A), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii) The Secretary shall limit the total percentage of the wheat acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of wheat to a percentage that is 2.5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(9)(A) In the case of the 1988 and 1989 crops of wheat, if the Secretary determines that supplies of wheat will be excessive, the Secretary shall make base diversion payments to producers of wheat who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for wheat on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) Haying and grazing of wheat shall be permitted on acreage devoted to conservation uses under this paragraph, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.".

(b) Feed Grains.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(f) of such Act (7 U.S.C. 1444e(f)) is amended—

(1) in paragraph (5), by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) The Secretary shall limit the total percentage of the feed grain acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of feed grains to a percentage that is 5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(9)(A) In the case of the 1988 and 1989 crops of feed grains, if the Secretary determines that supplies of feed grains will be excessive, the Secretary shall make base diversion payments to producers of feed grains who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for feed grains on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) Haying and grazing of feed grains shall be permitted on acreage devoted to conservation uses under this paragraph, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(E) If the Secretary implements the program provided for by this paragraph, the Secretary shall implement a land diversion program as provided for in paragraph (5).".

(c) Cotton.—Effective only for the 1988 and 1989 crops of upland cotton, section 103A(f) of such Act (7 U.S.C. 1444-1(f)) is amended—

(1) in paragraph (4), by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) The Secretary shall limit the total percentage of the upland cotton acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of upland cotton to a percentage that is 2.5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(8)(A) In the case of the 1988 and 1989 crops of upland cotton, if the Secretary determines that supplies of upland cotton will be excessive, the Secretary shall make base diversion payments to producers of upland cotton who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for upland cotton on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on acreage devoted to conservation uses under this paragraph.".

(d) Rice.—Effective only for the 1988 and 1989 crops of rice, section 101A(f) of such Act (7 U.S.C. 1441-1(f)) is amended—

(1) in paragraph (4), by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) The Secretary shall limit the total percentage of the rice acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of rice to a percentage that is 2.5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(8)(A) In the case of the 1988 and 1989 crops of rice, if the Secretary determines that supplies of rice will be excessive, the Secretary shall make base diversion payments to producers of rice who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for rice on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on acreage devoted to conservation uses under this paragraph.".

(e) Payment Limitation.—Section 1001(2)(B) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)) is amended—

(1) by striking out "and" at the end of clause (v);

(2) by striking out the period at the end of clause (vi) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(vii) any base diversion payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(f)(9), 105C(f)(9), 103A(f)(8), or 101A(f)(8), respectively, of the Agricultural Act of 1949.".

SEC. 8105. ACREAGE LIMITATION PROGRAM FOR FEED GRAINS.

(a) In General.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(1)) is amended—

(1) in subparagraph (A)(i), by striking out "subparagraphs (B) through (D)" and inserting in lieu thereof "this paragraph";

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) In the case of each of the 1988 and 1989 crops of feed grains, if the Secretary provides for an acreage limitation program (as described in paragraph (2)), the Secretary shall provide for a reduction of not more than 5 percent, in addition to the reduction permitted under subparagraph (C), in the quantity of acreage that may be planted to feed grains for harvest on a farm. The Secretary shall permit all or any part of such additional reduced acreage to be devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. The Secretary shall provide for the protection of the feed grain crop acreage base of a farm for any such acreage devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. In the case of the 1989 crop of feed grains, the Secretary may waive the application of this subparagraph if the Secretary estimates that (i) such waiver is necessary in order to maintain adequate supplies of feed grains, or (ii) the quantity of soybeans on hand in the United States on the first day of the 1989 marketing year for that crop (not including any quantity of soybeans of that crop) will be 425 million bushels.".

"(E) If the Secretary waives the provision of subparagraph (D) in accordance with clause (D)(ii), the Secretary shall provide for a reduction of not more than 2.5 percent in addition to the reduction permitted under subparagraph (C) in the quantity of acreage that may be planted to feed grains for harvest on a farm.".

(b) Oats.—Effective only for the 1988 through 1990 crops of feed grains, section 105C(f)(2) of such Act is amended by adding at the end thereof the following new subparagraph:

"(G) In the case of the 1988 through 1990 crops of oats, the Secretary shall not establish a percentage reduction in accordance with paragraph (1) in excess of 5 percent. In implementing this subparagraph, the Secretary shall issue regulations that provide for the fair and equitable treatment of producers on a farm for which an oat and barley crop acreage base has been established. To ensure the efficient and fair implementation of this subparagraph, the Secretary shall announce revisions of the acreage limitation program for the 1988 crop of feed grains that implement this subparagraph as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987. In the case of the 1990 crop of oats, the Secretary may waive the application of this subparagraph if the Secretary determines that the supply of oats will be excessive.".

(c) Conforming Amendments.—

(1) Planting soybeans on reduced acreage.—Effective only for the 1988 and 1989 crops of soybeans, section 201(i)(6)(B) of such Act (7 U.S.C. 1446(i)(6)(B)) is amended by inserting ", except as provided in section 105C(f)(1)(D)" before the semicolon at the end thereof.

(2) Considered planted acreage.—Effective only for the 1988 and 1989 crops of wheat, feed grains, upland cotton, and rice, section 504(b)(2) of such Act (7 U.S.C. 1464(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) any acreage planted to soybeans, sunflowers, or other oilseeds specified by the Secretary in accordance with section 105C(f)(1)(D).".

SEC. 8106. PAID LAND DIVERSION PROGRAM FOR FEED GRAINS.

Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(5) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(5)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) If land diversion payments are made in accordance with this paragraph with respect to the 1988 or 1989 crop of corn—

"(I) in the case of the 1988 crop, the required reduction in the crop acreage base shall be 5 percent and the diversion payment rate shall be $2.00 per bushel; and

"(II) in the case of the 1989 crop, (AA) except as provided in (BB), the required reduction in the crop acreage base shall be 5 percent and the diversion payment rate shall be $1.75 per bushel;

"(BB) If the Secretary waives the provisions of paragraph (1)(D) in accordance with paragraph (1)(E), the required reduction in the crop acreage base for feed grains shall be 7.5 percent and the diversion payment rate shall be $1.75 per bushel. Such land diversion payments shall be made available as follows: 20 percent at the time the producer enters into a contract to participate in the 1989 feed grain program and the remainder at the time payments are made in accordance with subsection (c)(1)(c)(i).

"(ii) In the case of any land diversion program established for the 1988 or 1989 crop of barley, grain sorghum, and oats, the Secretary shall, in determining the diversion payment rate, take into consideration the diversion payment established for the 1988 or 1989 crop of corn, respectively.".

SEC. 8107. LOAN PROGRAMS FOR SOYBEANS AND OTHER OILSEEDS.

(a) Soybeans.—Effective only for the 1988 through 1990 crops of soybeans, section 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(3)) is amended—

(1) in subparagraph (A), by striking out "If" and all that follows through "may" and inserting in lieu thereof "The Secretary may, for each of the 1986, 1987, and 1990 crops of soybeans, and shall, for each of 1988 and 1989 crops of soybeans,"; and

(2) in subparagraph (B), by striking out "If" and all that follows through "shall" and inserting in lieu thereof "The Secretary shall".

(b) Sunflowers.—Effective only for the 1988 through 1990 crops of sunflowers, section 201(l) of such Act is amended—

(1) in paragraph (1)—

(A) by striking out "may" and inserting in lieu thereof "may, for each of the 1987 and 1990 crops of sunflowers, and shall, for each of 1988 and 1989 crops of sunflowers,";

(B) by striking out "for each of the 1987 through 1990 crops of sunflowers"; and

(C) by striking out "8½ cents per pound of sunflower seeds" and inserting in lieu thereof "8½ cents per pound of sunflower seeds, for the 1987 crop, and 8 cents per pound of sunflower seeds, for each of the 1988 through 1990 crops"; and

(2) in paragraph (2)(A), by striking out "may" and inserting in lieu thereof "may, for each of the 1987 and 1990 crops, and shall, for each of the 1988 and 1989 crops,".

(c) Cottonseeds.—Effective only for the 1988 and 1989 crops of cottonseeds, section 201 of such Act is amended by adding at the end thereof the following new paragraph:

"(7) The Secretary shall support the price of each of the 1988 and 1989 crops of cottonseeds through loans at such level and in such manner as the Secretary determines is fair and reasonable in relation to the level and manner in which the price of soybeans is supported.".

SEC. 8108. ADVANCE PAYMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) If the Secretary establishes an acreage limitation or set-aside program for any of the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make advance deficiency payments available to producers for each of such crops."; and

(2) in paragraph (2)(F), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,".

SEC. 8109. ADVANCED EMERGENCY COMPENSATION PAYMENTS FOR WHEAT.

Effective only for the 1987 through 1990 crops of wheat, section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)) is amended by adding at the end thereof the following new clauses:

"(iii) Notwithstanding any other provision of this Act, in the case of each of the 1987 through 1990 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for such crops (or, in the case of the 1987 crop, as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987), estimate the national weighted average market price, per bushel of wheat, received by producers during such marketing year;

"(II) by December 15 of such marketing year (or, in the case of the 1987 crop, as soon as practicable, but not later than 60 days, after the date of enactment of such Act), use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 90 percent of the increase in established price payments estimated to be payable with respect to such crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) Producers shall elect the payment option authorized by clause (iii)—

"(I) in the case of each of the 1987 crop of wheat, not later than 30 days after the date of enactment of the Agricultural Reconciliation Act of 1987; and

"(II) in the case of each of the 1988 through 1990 crops of wheat, at the time of entering into a contract to participate in the program established by this section for the crop.".

SEC. 8110. PRODUCER RESERVE PROGRAM.

Subparagraph (A) of the fourth sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended—

(1) in clause (i), by striking out "17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary" and inserting in lieu thereof "300 million bushels"; and

(2) in clause (ii), by striking out "7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary" and inserting in lieu thereof "450 million bushels".

SEC. 8111. HONEY LOANS AND PAYMENT LIMITATION.

(a) Loan and Purchase Levels.—Effective only for the 1987 through 1990 crops of honey, section 201(b)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of enactment of the Agricultural Reconciliation Act of 1987 by 2 cents per pound for the 1987 crop, 3/4 cents per pound for the 1988 crop, 1/2 cent per pound for the 1989 crop, and 1/4 cent per pound for the 1990 crop.".

(b) Payment Limitation.—Section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) (as amended by the matter under the heading "HONEY" of chapter X of title I of the Supplemental Appropriations Act, 1987 (Public Law 100-71; 101 Stat. 428)) is amended—

(1) in subparagraph (A), by striking out "honey,";

(2) in subparagraph (B)(iii)(I)—

(A) by striking out "cotton, rice, or honey" and inserting in lieu thereof "cotton, or rice"; and

(B) by striking out "103A(a)(5), 101A(a)(5), or 201(b)(2)" and inserting in lieu thereof "103A(a)(5), or 101A(a)(5)";

(3) in subparagraph (B)(iii)(II), by inserting ", except honey," after "any other commodity"; and

(4) in subparagraph (C), by striking out clause (i) and inserting in lieu thereof the following new clause:

"(i) The total dollar amount of loan forfeitures on a crop of honey that a person may make under the annual nonrecourse loan program established for such crop under the Agricultural Act of 1949 may not exceed $250,000."

SEC. 8112. LOAN RATE DIFFERENTIALS.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended by adding at the end thereof the following new sentence: "Notwithstanding the previous provisions of this section, for each of the 1988 through 1990 crops, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 1 percent.".

SEC. 8113. YIELD ADJUSTMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 506(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1466(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of each of the 1988 through 1990 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. Such payments shall be made available to producers at the time final deficiency payments are made available.".

Subtitle B—Prepayment of Rural Electrification Loans

SEC. 8201. PREPAYMENT OF LOANS.

(a) In General.—Section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a) is amended to read as follows:

"SEC. 306A. PREPAYMENT OF LOANS.

"(a) In General.—If, on the effective date of this section, a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator of the Rural Electrification Administration under section 306, the borrower may prepay such loan (or any loan advance made thereunder) by paying the outstanding principal balance due on such loan advance if—

"(1) private capital, with the existing loan guarantee (available at the option of the borrower), is used to replace the loan;

"(2) the borrower certifies that any savings from such prepayment will be—

"(A) passed on to its customers;

"(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

"(C) used to avoid future rate increases; and

"(3) the borrower certifies that the borrower will not apply for a loan made by the Administrator of the Rural Electrification Administration or the Federal Financing Bank to refinance the private loan or replace private capital used to prepay a loan advance under this subsection, except as authorized by the Administrator or the Bank, respectively.

"(b) Processing Fee for Prepayment.—

"(1) In general.—A processing fee shall be assessed against each Rural Electrification Administration borrower who has a request for prepayment of a loan advance from the Federal Financing Bank under this section approved after September 30, 1987.

"(2) One-time fee.—The processing fee shall be assessed as a one-time fee due at the time of prepayment on each loan advance prepaid by charging, against the outstanding principal balance of the loan advance—

"(A) 50 basis points; plus

"(B) points equal to 50 percent of the difference between the interest rate on the Federal Financing Bank loan advance being prepaid and the cost of money to the Federal government at the time of prepayment for new Treasury borrowings of the same maturity as the Federal Financing Bank loan advance being prepaid.

"(c) No Additional Charges.—No sums in addition to the payment of the outstanding principal balance of the loan advance and a processing fee assessed thereon, as prescribed in subsection (b), may be charged as the result of such prepayment against—

"(1) the borrower;

"(2) the Rural Electrification and Telephone Revolving Fund; or

"(3) the Rural Electrification Administration.

"(d) Amendment of Existing Guarantee.—The existing guarantee shall, at the option of the borrower, be amended to include, for the duration of the term of the Rural Electrification Administration guarantee on the Federal Financing Bank loan advance prepaid, the amount of principal balance prepaid on the loan advance plus the amount of the processing fee paid by the borrower and the cost to the borrower of obtaining private capital. Private loans with the Rural Electrification Administration guarantee used to prepay a Federal financing bank loan advance shall not exceed this amount. Such loans shall be made on terms and conditions acceptable to the borrower and the lender.

"(e) Assignability.—A guarantee of a loan advance prepaid under this section with private capital shall be fully assignable and transferable without condition and shall remain available for the remainder of the term of the loan originally agreed to by the Administrator.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall become effective on the date of enactment of this Act.

(2) Agreements under existing law.—In the case of a borrower of an outstanding loan made by the Federal Financing Bank and guaranteed by the Rural Electrification Administration under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936), if the Administrator of the Rural Electrification Administration determined prior to the date of enactment of this Act that such borrower was eligible to prepay, or if such borrower prepaid, an advance on the loan under section 306A of such Act (as in effect prior to the amendment made by subsection (a)), the borrower may prepay any advance received and not repaid by the date of enactment of this Act under any combination of terms and conditions applicable to such prepayments under section 306A of the Rural Electrification Act of 1936 (as in effect prior to the amendment made by subsection (a) or as amended by subsection (a)). No sum in addition to the payment of the outstanding principal balance of any loan advances prepaid shall be charged as the result of the prepayment.

(3) Regulations.—Within 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendment made by this section.

(4) Prepayment facilitation.—In issuing regulations to carry out the amendment made by this section, the Secretary shall—

(A) facilitate prepayment of Federal Financing Bank loan advances;

(B) provide for full processing of each prepayment request within 30 days after its submission to the Rural Electrification Administration; and

(C) except as specifically and directly provided in section 306A of the Rural Electrification Act of 1936, impose no restriction that—

(i) increases the cost to borrowers of obtaining private financing for prepayment under such section;

(ii) delays the full processing of prepayment requests; or

(iii) inhibits the ability of such borrowers to enter into prepayment arrangements under such section.

SEC. 8202. USE OF FUNDS.

Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 312. USE OF FUNDS.

"A borrower of a loan made for electrification purposes may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

SEC. 8203. CUSHION OF CREDIT PAYMENTS PROGRAM.

Title III of the Rural Electrification Act of 1936 (as amended by section 8202 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM.

"(a) Establishment.—

"(1) In general.—The Administrator shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

"(2) Interest.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

"(3) Balance.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

"(b) Uses of Cushion of Credit Payments.—

"(1) In general.—

"(A) Cash balance.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

"(B) Interest.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund. 0

"(C) Credits.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

"(2) Rural economic development subaccount.—

"(A) Maintenance of account.—The Administrator shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

"(B) Grants.—The Administrator is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

"(C) Repayments.—In the case of zero interest loans, the Administrator shall establish such reasonable repayment terms as will ensure borrower participation.

"(D) Proceeds.—All proceeds from the repayment of such loans shall be returned to the subaccount.

"(E) Number of grants.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.".

SEC. 8204. RURAL TELEPHONE BANK.

(a) In General.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end thereof the following new paragraphs:

"(8) The Rural Telephone Bank shall apply its most current cost of money rate at the time of each advance made under loan commitments approved after the date of enactment of the Agricultural Reconciliation Act of 1987.

"(9) A borrower with a loan from the Rural Telephone Bank may prepay such a loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is made not later than September 30, 1988.".

(b) Regulations.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by subsection (a) within 30 days after the date of enactment of this Act. Such regulations shall implement paragraphs (8) and (9) of section 408(b) of the Rural Electrification Act of 1936 (as added by subsection (a)) without the addition of any restrictions not set forth in such paragraphs.

Subtitle C—Miscellaneous

SEC. 8301. STUDY OF USE OF AGRICULTURAL COMMODITY FUTURES AND OPTIONS MARKETS.

The last sentence of section 1742 of the Food Security Act of 1985 (7 U.S.C. 1421 note) is amended by striking out "1988" and inserting in lieu thereof "1989".

SEC. 8302. AUTHORIZATION OF APPROPRIATIONS FOR PHILIPPINE FOOD AID INITIATIVE.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end thereof the following new paragraph:

"(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.".

SEC. 8303. RURAL INDUSTRIALIZATION ASSISTANCE.

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) is amended—

(1) by inserting "and private nonprofit corporations" after "public bodies"; and

(2) by striking out "to facilitate development of" and inserting in lieu thereof "to finance and facilitate development of small and emerging".

SEC. 8304. PLANT VARIETY PROTECTION FEES.

Section 31 of the Plant Variety Protection Act (7 U.S.C. 2371) is amended to read as follows:

"SEC. 31. PLANT VARIETY PROTECTION FEES.

"(a) In General.—The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

"(b) Late Payment Penalty.—On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

"(c) Disposition of Funds.—Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(d) Actions for Nonpayment.—The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

"(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this Act.".

SEC. 8305. ANNUAL APPROPRIATIONS TO REIMBURSE THE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES.

(a) In General.—The first sentence of section 2 of Public Law 87-155 (15 U.S.C. 713a-11) is amended by striking out ", commencing with the fiscal year ending June 30, 1961" and inserting in lieu thereof "by means of a current, indefinite appropriation".

(b) Operating Expenses.—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses.

(c) Effective Date.—This section and the amendment made by this section shall apply beginning with fiscal year 1988.

SEC. 8306. FEDERAL CROP INSURANCE.

It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.

SEC. 8307. ETHANOL USAGE.

(a) Findings.—Congress finds that—

(1) the United States is dependent for a large and growing share of its energy needs on the Middle East at a time when world petroleum reserves are declining;

(2) the burning of gasoline causes pollution;

(3) ethanol can be blended with gasoline to produce a cleaner source of fuel;

(4) ethanol can be produced from grain, a renewable resource that is in considerable surplus in the United States;

(5) the conversion of grain into ethanol would reduce farm program costs and grain surpluses; and

(6) increasing the quantity of motor fuels that contain at least 10 percent ethanol from current levels to 50 percent by 1992 would create thousands of new jobs in ethanol production facilities.

(b) Sense of Congress.—It is the sense of Congress that the Administrator of the Environmental Protection Agency should use authority provided under the Clean Air Act (42 U.S.C. 7401 et seq.) to require greater use of ethanol as motor fuel.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 9001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) Aggregate Allocations for Defense.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $292,000,000,000.

(B) Outlays, $285,400,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(b) Aggregate Allocations for Domestic Discretionary Spending.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $162,900,000,000.

(B) Outlays, $176,800,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $166,200,000,000.

(B) Outlays, $185,300,000,000.

(c) Point of Order in the Senate on Aggregate Allocations for Defense and Domestic Discretionary Spending for Fiscal Year 1989.—

(1) Except as provided in paragraph (5), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(2) Paragraph (1) may be waived or suspended by a vote of three-fifths of the

Members of the Senate, duly chosen and sworn.

(3) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to paragraph (1), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(4) For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(5) This subsection shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) Allocation by Committees on Appropriations for Fiscal Year 1989.—The Committees on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make their subdivisions for fiscal year 1989 under section 302(b)(1) of the Congressional Budget and Impoundment Control Act consistent with the allocations in subsections (a) and (b) for such fiscal year.

SEC. 9002. RESTORATION OF FUNDS SEQUESTERED.

(a) Order Rescinded.—Upon the enactment of deficit reduction provisions of this Act and the appropriations legislation for fiscal year 1988 sufficient to achieve the deficit reduction contemplated by the summit agreement on deficit reduction, the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby rescinded.

(b) Amounts Restored.—Except as otherwise provided in section 4014, any sequesterable resource that has been reduced or sequestered by the final sequester order described in subsection (a) is hereby restored or revived and shall be available to the same extent as if the final sequester order had not been issued.

SEC. 9003. SUBMISSION OF PRESIDENT'S BUDGET.

(a) Date of Submission.—Section 1105(a) of title 31, United States Code, is amended by striking out "February 5 in 1986" and inserting in lieu thereof "January 25 in 1988".

(b) Conforming Amendments.—(1) Section 300 of the Congressional Budget Act of 1974 is amended by inserting "(January 25 in 1988)" after "First Monday after January 3".

(2) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking out all beginning with "On or before" through "in 1986)" and inserting in lieu thereof "Concurrently with each budget submitted pursuant to section 1105(a)", and

(B) by striking out "the budget for the following fiscal year" and inserting in lieu thereof "such budget".

SEC. 9004. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT.

(a) References in Section.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

(b) Revision of Table of Contents.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) Redesignation of Subparagraph Headings.—Section 3(a)(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by—

(1) striking section 3(a)(7)(C);

(2) redesignating section 3(a)(7)(D) as 3(a)(7)(C);

(3) redesignating section 3(a)(7)(E) as 3(a)(7)(D);

(4) redesignating section 3(a)(7)(F) as 3(a)(7)(E);

(5) redesignating section 3(a)(7)(G) as 3(a)(7)(F);

(6) redesignating section 3(a)(7)(H) as 3(a)(7)(G); and

(7) redesignating section 3(a)(7)(I) as 3(a)(7)(H).

(d) Grammatical Clarification of Section 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith".

(e) Substitution of "Proposed" for "Made" With Regard to Amendments in Committee.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed".

SEC. 9005. SALE OF RURAL DEVELOPMENT NOTES.

(a) Sales Required.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $600,000,000 from such sales during fiscal year 1989.

(b) Nonrecourse Sales.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) Contract Provisions.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

(d) Eligibility to Purchase Notes.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

(e) Loan Servicing.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 9006. SALE OF RURAL HOUSING LOANS.

(a) Required Sales to Public.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,590,000,000 in fiscal year 1988, and $2,350,000,000 in fiscal year 1989 from the proceeds of such sales.

(b) Procedures and Terms of Sales.—

(1) Establishment of guidelines.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) Assistance by federal financing bank.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) Reports to Congress.—

(1) Notification of initial loan sale.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

(2) Reports by secretary.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include

the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

(3) Reports by comptroller general.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

(d) Relation to Other Law.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

SEC. 9007. SALE OF EXPORT-IMPORT BANK LOANS.

Section 16 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended to read as follows:

"SEC. 16. SALE OF BANK LOANS.

"(a) Required Sales to Public.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $500,000,000 in fiscal year 1988 and $500,000,000 in fiscal year 1989 from the proceeds of such sales.

"(b) Procedures and Terms of Sales.—

"(1) Establishment of guidelines.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and term applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) Assistance by federal financing bank.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) Reports to Congress.—

"(1) Notification of initial loan sale.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

"(2) Reports by bank.—The Board of Directors shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

"(3) Reports by comptroller general.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

"(d) Securities Laws Not Applicable to Sales.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

SEC. 9010. SALE OF COMMUNITY DEVELOPMENT LOANS.

The Secretary of Housing and Urban Development, under such terms as the Secretary shall prescribe, shall sell Community Development loans in such amounts as to realize net proceeds to the Government of not less than $120,000,000 in fiscal year 1988 and $50,000,000 in fiscal year 1989.

SEC. 9011. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 is amended by striking out "$314,000,000" and inserting in lieu thereof "$414,000,000".

SEC. 9012. SALE OF BUREAU OF RECLAMATION LOANS.

The Secretary of the Interior, under such terms as the Secretary shall prescribe, shall sell Bureau of Reclamation loans made pursuant to the Distribution System Loans Act, as amended (43 U.S.C. 421a-421d), the Small Reclamation Projects Act, as amended (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act, as amended (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Government of not less than $130,000 in fiscal year 1988. In the conduct of such sales the Secretary is authorized and directed to take such actions as he deems appropriate to accommodate, effectuate and otherwise protect the rights and preserve the obligation so the United States and the borrowers under the contracts executed to provide for repayment of such loans.

SEC. 9013. SALE OF MEDICAL FACILITIES LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Medical Facilities loans in such amounts as to realize net proceeds to the Government of not less than $40,000,000 in fiscal year 1988.

SEC. 9014. SALE OF BUREAU OF HEALTH MAINTENANCE LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Health Maintenance loans in such amounts as to realize net proceeds to the Government of not less than $20,000,000 in fiscal year 1988.

SEC. 9015. PUBLIC FACILITIES LOAN SALES.

(a) In General.—The Secretary of Housing and Urban Development shall take such actions as may be necessary to ensure that loans made pursuant to title II of the Housing Amendments of 1955 are sold to the public in amount sufficient to provide a net reduction in outlays of not less than $120,000,000 during fiscal year 1988, and $50,000,000 during fiscal year 1989.

(b) Procedures and Terms of Sales.—The Secretary of Housing and Urban Development shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kinds of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(c) Reports to Congress.—The Secretary of Housing and Urban Development shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this subsection not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, December 9, 1987, to hold a hearing on the U.S. role in international efforts to control and prevent the global spread of the AIDS epidemic on U.S. foreign policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 9, 1987, to hold a hearing on judicial nominations.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Wednesday, December 9, 1987, to hold a hearing on S. 1236, to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Wednesday, December 9, 1987, to hold a markup on S. 1703, amendments to the Indian Self Determination and Education Assistance Act; a hearing on S. 1236, to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INTERNATIONAL MBA PROGRAM

● **Mr. DANFORTH.** Mr. President, the Amos Tuck School of Business Administration at Dartmouth College announced today that it would join with the International University of Japan [IUJ] to establish the first international management MBA Program in Japan. In conjunction with the program, the two institutions have agreed to establish a United States-Japan management research institute in Japan. The curriculum of the new graduate program in international management will be based on the Tuck model, and faculty will be drawn from both Tuck and IUJ and from other American business schools.

Given the recent turbulence in United States-Japan relations, today's announcement is a positive development that merits mention. The Japanese came to the United States seeking our assistance in setting up the MBA Program. They chose a prestigious college with an excellent program. Tuck is the oldest graduate school of management in the country, and has focused on one degree program—a professional master's degree—since its founding. One of my daughters currently attends Dartmouth, and I have been very impressed with the leadership and the curriculum at the school.

The interconnected nature of world markets is apparent to all of us, and cooperative efforts such as the Tuck-IUJ venture are especially important. I am heartened by today's announcement because this new graduate program promises to enhance Japanese and American understanding of each other's business environment and practices. Congratulations are in order for Tuck and IUJ as they move forward with this innovative cooperative effort.●

URANIUM POLICY AND THE FREE TRADE AGREEMENT

● **Mr. JOHNSTON.** Mr. President, last Friday, a letter was sent to the President signed by 24 Senators about uranium supply policy. The letter urges the administration to recognize in the proposed trade agreement with Canada the uranium supply policy approved by the Energy and Natural Resources Committee on October 1, 1987, when it ordered S. 1846 reported.

The letter sent to the White House Friday makes clear that a strong domestic uranium industry and a strong enrichment enterprise are essential to the National interest—both from an energy and a national security perspective. It asserts the view that the uranium supply policy set forth in S. 1846 is compatible with the proposed trade agreement.

Mr. President, I am pleased to note that both the majority leader and the minority leader and many other concerned Senators joined the leadership of the Energy Committee in signing this letter.

The uranium supply policy endorsed by the Energy Committee is contained in title I of S. 1846, the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987, now pending on the Senate Calendar. S. 1846 repeals the requirement of section 161v. of the Atomic Energy Act to restrict the enrichment of foreign uranium for domestic use in order to maintain a viable domestic uranium industry. For an interim period, the legislation replaces this restriction with a sliding scale of charges for the use of foreign uranium above specified levels. All restrictions on uranium use would end on December 31, 2000.

The proposed trade agreement with Canada, like the legislation, seeks to repeal section 161v. and eliminate restrictions on the enrichment of foreign uranium. S. 1846 would repeal this restriction entirely, but the trade agreement, and its implementing legislation can repeal this restriction only as it applies to Canada. Needless to say, this would create serious inequities in our trade relations with other countries.

It is true that for a limited time, S. 1846 substitutes for section 161v. a system of limited charges for the use of foreign uranium, but two points should be made about this approach. First, all charges are removed after the year 2000. Second, there are many other commodities addressed in the agreement where a phased approach is the preferred path to free trade. Third and more important, even while the system of charges is in effect, 37.5 percent of the domestic market before 1994 and 50 percent of the domestic uranium market between 1994 and 2000 is preserved for foreign suppliers without payment of any charges. In addition, grandfathering of existing contracts under the legislation means that the foreign share of the domestic market will be even higher in practice.

What is proposed in S. 1846 is a reasonable, phased approach to free trade in uranium that will give our domestic uranium industry a chance to revitalize its operations and compete in world markets. The Senators who signed the letter to the President last week believe this approach can and should be accommodated within the framework of the Canadian free trade agreement and its implementing legislation.

Mr. President, I urge those who are responsible for negotiating the trade agreement with Canada to consider promptly and urgently the need to accommodate the national uranium policy set forth in S. 1846.

I ask that the text of the letter sent to the President on this important subject be included in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, DC, December 1, 1987.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Uranium is now second only to coal as an energy source for electricity production in the United States, accounting for almost 20% of domestic electric power generation. Use of uranium as a fuel in nuclear power plants is now displacing over two million barrels per day of imported oil, and is saving the nation $15 billion per year in foreign oil payments. Similarly, the Nation continues to have a substantial reliance upon uranium for its national defense requirements.

A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Ironically, at this critical time both the uranium mining industry and the uranium enrichment enterprise are severely depressed. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. There is a broad consensus that the uranium enrichment enterprise simply cannot continue to operate as it has in the past.

In order to resolve these problems, a comprehensive program is desperately needed.

Fortunately, the uranium producers and nuclear utilities have cooperatively sought development of such a program through the legislative process. On October 1, 1987, the

Senate Energy and Natural Resources Committee ordered reported S. 1846, a comprehensive bill that ensures this country's utility and defense requirements for uranium will be met. Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001. The bill also totally reorganizes the uranium enrichment enterprise to permit operation as a continuing, commercial enterprise on a profitable and efficient basis.

We believe the uranium supply policy embodied in this legislation is compatible with the proposed U.S.-Canadian Trade Agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the U.S. uranium industry to our national defense.

The legislation reported by the Committee on Energy and Natural Resources revitalizes the domestic uranium mining industry in a manner that achieves the uranium trade objectives of Agreement. The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium.

The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years, while preserving a substantial share of the U.S. uranium market for foreign producers. In fact, taking into account the provision respecting preservation of existing contracts, the net effect of the legislation is to preserve 50 percent of the domestic market for imported uranium during the period of transition to a free market.

In summary, S. 1846 provides for a phased implementation of free trade in uranium. We understand that a gradual approach will also be proposed in implementing other areas of the U.S.-Canadian Agreement. We urge that in developing the Administration's proposals for implementing legislation for the uranium provisions of the Agreement, the Administration take advantage of the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committee on Energy and Natural Resources.

Sincerely,

Wendell Ford, J. Bennett Johnston, Pete V. Domenici, Jim McClure, Jeff Bingaman, Jake Garn, Orrin Hatch, Don Nickles, Bob Dole, Chic Hecht, Ted Stevens, Steve Symms, Bill Armstrong, Richard Shelby, Malcolm Wallop, Al Simpson, John Breaux, David I. Boren, John W. Warner, Mitch McConnell, Dennis DeConcini, John McCain, Frank H. Murkowski, Robert C. Byrd.●

BIPARTISAN FOREIGN POLICY

● Mr. BOSCHWITZ. Mr. President, on December 1, the op-ed page of the Washington Post contained an article by Senator Boren and Senator Danforth that should not and cannot be ignored by the rest of us in this body. I ask that their article be printed in the Record at the end of my remarks.

I want to congratulate my two colleagues for addressing one of the most serious problems facing this country: The recently increasing difficulty to develop and maintain a consistent foreign policy that provides leadership to the rest of the free world. Instead we now find ourselves more often than not mired in partisan squabbles and in mistrust between the executive and legisative branches.

These two problems are greatly complicated by congressional attempts to micromanage foreign policy in what my two colleagues quite rightly term "incessant and irresponsible tinkering" on "everything from the maximum allowable height above sea level for the site of the Soviet Embassy in Washington to the precise manner in which our forces are to be deployed in the Perisan Gulf."

Mr. President, America's global interests are best served by a bipartisan foreign policy. Our history shows that our goals as a Nation have been advanced when we have been able to speak with one voice. In the aftermath of World War II, a broad, bipartisan agreement emerged, recognizing a new international environment that necessitated a vigorous and united American involvement in the defense of freedom around the world. And America largely succeeded. We rebuilt Western Europe and created an alliance of democracies that persists to this day.

The external challenges we now confront are just as numerous and just as serious. But they will be much more difficult to meet if we as a Nation are so internally divided and if we as a Congress are so intent on carrying our legitimate oversight responsibilities to such heights of absurdity. So I applaud my two colleagues for addressing this issue. I welcome their suggestion that we develop mechanisms for reestablishing broad bipartisan principals, in cooperation with the executive branch, to guide our foreign policy, and I look forward to working with them in helping to achieve this goal.

The article follows:

WHY THIS COUNTRY CAN'T LEAD

(By David L. Boren and John C. Danforth)

Partisan bickering among those who are supposed to be our political leaders has gone too far. It has become a greater threat to our nation than external pressures from the Eastern Bloc or internal weaknesses in the economy. Throughout America, and indeed the world, perceptive people see what is happening to us. They do not doubt America's ability to meet difficult challenges once we unite with a common sense of purpose, but they are truly frightened that our leaders are unable to put political differences behind them in a common effort to support obvious national interests.

Since we arrived in the Senate about a decade ago, partisanship within the institution has increased alarmingly. Some partisan one-upmanship may be expected in domestic matters, but it has spilled over into foreign affairs. In consequence, the stable and resolute foreign policy one should expect from the leader of the free world has been undermined by ongoing antagonism and turmoil between Congress and the executive branch of our government.

On one hand, Congress is alarmed at the freebooting adventurism of a go-it-alone executive, as exemplified by the Iran-contra affair. On the other hand, the executive branch complains that Congress consists of 535 secretaries of state who cannot resist any opportunity to interfere with arms negotiations and to micromanage foreign relations. The result is that mutual suspicion and a state of flux have supplanted the predictability and sense of purpose which characterize a leadership position in world affairs.

Unlike parliamentary systems, our Constitution divides foreign policy responsibility between two independent branches of government. The president is the commander in chief, but Congress gives its advice and consent to treaties and to the appointment of ambassadors. In recent times, Congress has confused this shared responsibility for foreign affairs with incessant and irresponsible tinkering. Routine authorization and appropriations bills have given members almost limitless opportunity to weigh in on everything from the maximum allowable height above sea level for the site of the Soviet Embassy in Washington to the precise manner in which our forces are deployed in the Persian Gulf.

Last year the Senate conducted 20 roll-call votes on aid to the Nicaraguan contras in an unending effort to fine-tune the precise circumstances under which military or humanitarian assistance might be offered.

During recent consideration of the State Department authorization bill, 86 floor amendments were added dealing with such matters as the proper decorum for motorcades carrying foreign visitors around our nation's capital (e.g. no honking), and the closing of our embassy in Antigua. Most of these amendments had received no committee consideration and little debate on the Senate floor.

This fall, the Senate wrestled for weeks over whether to invoke the War Powers Act in connection with American's presence in the Persian Gulf, and finally decided, reversing a previous vote, to defer for two months any judgment on the practice of reflagging and escorting oil tankers.

That sort of vacillation typifies one of Congress' most egregious habits in the field of foreign policy. Whether it is in the Persian Gulf or Central America, SDI or SALT II compliance, fundamental questions go unresolved. Everything is seen as subject to future debate. All issues remain on the table, or can be brought back to the table for further consideration. Even the much-heralded compromise between Congress and the administration on how to interpret the ABM Treaty was an agreement to put off a resolution of the issue until next year.

The free world looks to the United States for leadership, but who can follow a leader that cannot decide where it is going and that sets out first in one direction and then in another?

In light of the debacle of Vietnam and the Iran-contra fiasco, it is unreasonable for any administration to expect Congress to confer upon it the blind confidence of another Tonkin Gulf Resolution. Yet, surely there is room for a modus vivendi between an autonomous executive and a tinkering Congress. The time has come for rebuilding a truly bipartisan foreign policy in which congressional deference in the execution of policy would be offered in exchange for legitimate consultation and trust in the formulation of policy. Congress would agree to restrain its back-seat driver activities in exchange for a role in planning the trip.

The beginning of a new bipartisan foreign policy might be patterned after the efforts of a Democratic administration and a Republican Senate in the post-World War II era. Then, Secretary of State George Marshall, Undersecretary Robert Lovett and Foreign Relations Committee Chairman Arthur Vandenberg met informally at the Wardman Park Hotel to draft a general statement of the principles of American foreign policy. Their meetings formed the basis of Senate Resolution 239, the Vandenberg Resolution, which, in turn, set the stage for the North Atlantic Alliance and gave added support to the Marshall Plan.

In many ways, the now aging and tattered consensus that emerged from those meetings and played a dominant role in American foreign policy throughout the postwar era remains the closest thing we have to a foreign policy blueprint for today. Our generation has not had the will to create a new one.

We suspect that an informal meeting between a limited member of administration and congressional leaders would be able to set forth a broad consensus on the fundamental objectives and principles of foreign policy that could provide the starting point for a new spirit of bipartisanship.

What is needed is both a general statement of foreign policy principles in the manner of the Vandenberg Resolution and an ongoing process for working out specific differences as they arise, but before they are ripe for legislative action.

If the views we have expressed make sense, then the question remains: Where do we go from here? The answer depends on what response, if any, we evoke from the administration and members of Congress. We would hope for an informal meeting of no more than a handful of administration representatives and interested members of Congress for the purposes of (1) drafting a statement of agreed foreign policy principles, and (2) exploring a system for resolving foreign policy disputes. If the call is for volunteers to convene such a meeting then count us in.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Cynthia Shade, a member of the staff of Senator Bennett Johnston, to participate in a program in the Taipei, Taiwan, and sponsored by the Soochow University, from November 27, 1987 to December 6, 1987.

The committee has determined that participation by Ms. Shade, in the program in the Taipei, Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Richard F. Kaufman, a member of the staff of the Joint Economic Committee, to participate in a program in The Hague, sponsored by the Institute for Foreign Policy Analysis, a domestic, educational organization, and the Netherlands Atlantic Commission, a foreign, educational organization, from October 9-10, 1987.

The committee has determined that participation by Mr. Kaufman in the program in The Hague, at the expense of the Institute for Foreign Policy Analysis and the Netherlands Atlantic Commission, is in the interest of the Senate and the United States.●

NUCLEAR MATERIALS PRODUCTION

● Mr. McCLURE. Mr. President, for a number of years, I have been most disturbed by the fragile condition of the Nation's nuclear materials production complex. Much of the complex, particularly the five reactors that produce tritium and plutonium, were built in the 1950's and early 1960's, and it seemed quite clear to me that we might well be vulnerable to the disruption of our nuclear material supply. I believed this would seriously affect the Nation's deterrent force.

During the early 1970's, I supported the planning for a replacement production reactor and successfully fought the Carter administration's attempt to terminate the planning of what became the new production reactor only to see it dropped in the early years of the Reagan administration for budgetary reasons.

I take no pleasure in noting here today that my fears were justified. Through a series of bizarre circumstances, our production capability has been reduced to less than one-fourth what it was only 2 years ago.

I believe this situation is a matter of deep and growing concern to many of us here in the Senate. Actions directed toward resolving the problem have been taken by the Senate Armed Services Committee, the Senate Energy and Natural Resources Committee and the Senate Appropriations Committee. Recently, the Senate provided funding to start, once again, work on materials production replacements in an amendment requiring the Department of Energy to develop an acquisition strategy report that analyzes whether or not two or more production reactors should be procured and constructed, concurrently or sequentially. This amendment also requires DOE to analyze the use of alternative reactor technologies, look at safety, environmental and licensing features and the amortization of reactor capital and operating costs through the sale of byproduct steam.

These features have not been adequately addressed in the past, and they must be, for it is unconscionable to waste the energy that would be produced in the form of heat during reactor operation. The sale of byproduct steam would reduce the cost of the material produced during reactor operation. Furthermore, it seems to me that the present crisis offers us a unique opportunity to draw from our most advanced state-of-the-art technologies so that within 10 years we will be able to open the door on the safest, most environmentally benign reactors that this country has ever built for any purpose.

This could be a reactor such as Mathew L. Wald describes in the New York Times, November 11, 1987. Titled, "A Reactor that Can't Melt Down" Wald writes that some engineers and utility analysts think it is time to develop a second generation of reactors that would be meltdown proof. He notes that proponents of gas-graphite technology hope the Department of Energy will build a graphite plant to produce nuclear materials.

Wald goes on to explain the passive safety features that make a melting of the nuclear fuel impossible, even if the operators make errors and all the mechanical safety equipment fails. Though graphite was given a bad name during the Chernobyl accident, the gas reactor Wald describes differs considerably from the Soviet reactor; the major difference being that in this second generation reactor the rising temperature tends to choke off the nuclear reaction and shut the reactor down. This is the reverse of the situation in Chernobyl. In this second generation reactor, the graphite holds the fuel—multilayered ceramic and carbon pellets about the size of a crayon. The graphite also acts as a moderator and absorbs the heat of the nuclear reaction and gives it off to the helium gas that is used as a coolant. Because graphite can withstand extremely high temperatures, as well as other safety features, designers of the gas-cooled reactor say their reactor can not meltdown even under worst case accident conditions.

I feel it is most important to the Nation from the standpoint of safety and the advancement of reactor technologies that options such as the one described by Wald be given serious consideration by the Department of Energy as it is developing the acquisition strategy mandated by Congress.

Mr. President, I ask that Mr. Wald's article from the New York Times be printed in the Record:

A Reactor That Can't Melt Down?

More than a decade after the last order was placed in this country for a commercial nuclear plant, some engineers and utility analysts think it is time to start developing a second generation of reactors that would be meltdown-proof. Their hope is that these reactors would be available when the demand for power picks up and when cost or environmental impact makes fossil fuels unattractive.

A step toward a new reactor technology could come in the next few weeks as the Department of Energy entertains proposals for a new reactor to produce bomb fuel. Proponents of gas-graphite, technology largely bypassed in this country, are hoping that the Government will construct a graphite plant that could be a model for a new generation of civilian reactors.

Graphite has had a bad name since the April 1986 accident at the Soviet Union's Chernobyl plant. There, the burning graphite core sent radioactive contaminants into the upper atmosphere, and around the world. But the reactor being proposed for the Department of Energy has a different design, which the manufacturer, GA Technologies, Inc., said would not permit the melting of nuclear fuel.

The company says the plant "does not depend on active engineered safety features or human actions for safety of the public or the investment," and that passive features make a melting of the nuclear fuel impossible even if the operators make errors and all the mechanical safety equipment fails.

The reason is the substitution of graphite, which withstands extreme heat, for water, which heat drives off, and for metal, which heat will melt.

In all nuclear reactors, atoms of uranium or plutonium are struck by neutrons and split. This process generates heat and releases more neutrons, which split other atoms, continuing the chain reaction.

To slow the neutrons to the speed at which they are most likely to cause another atom to split, reactors use a medium called a moderator. Civilian reactors in this country, with one exception, use ordinary water (called light water) as the moderator.

The Soviet Union and a few other nations use graphite. The Department of Energy operates one graphite plant, the N-Reactor, in Hanford, Wash., to produce plutonium for bombs.

The design by GA, formerly General Atomics, differs markedly from the ones at Hanford and Chernobyl. A major difference from the Chernobyl plant is that as temperature rises, it tends to choke off the nuclear reaction. At Chernobyl, the opposite was true.

Unlike either the Chernobyl design or the N-Reactor, the GA design does not use metal to encase the nuclear fuel. Instead, GA uses a multilayered ceramic and carbon pellet, little bigger than a grain of sand. Linden Blue, GA's vice chairman, describes these pellets as pressure vessels—the term that in light-water plants is used to describe the multi-ton steel containers in which the water is heated to 600 degrees Fahrenheit.

The pellets are formed into cylinders about the size of a crayon, and the cylinders are placed into blocks of graphite a little bigger than a coffee table.

As the uranium in the pellet is split, the heat and the neurtons flow out of the pellet. But the "daughter atoms" created by the fission, which are the main source of radioactivity, are trapped inside.

The graphite holds the fuel in place and moderates the neurtons' speed in normal operation, the graphite blocks absorb the heat of the reaction and give it off to the helium gas that is used as a coolant. The gas is then used to boil water into steam to make electricity.

In an accident, the graphite can withstand very high temperatures without damage, even if the helium ceases to circulate. In contrast, in a light-water reactor, the water that functions as a moderator and coolant can boil away, and the metal used to hold the fuel in place can melt.

The graphite reactor is meltdown-proof, according to the designers, because it cannot reach 3,272 degrees Fahrenheit, the temperature at which the fuel pellets could break open and allow the radiation to escape.

The reactor is designed to be buried in a silo, and even if the helium stops circulating, and if back up heat-removal systems fail, heat will radiate to the silo walls and into the soil, holding temperatures to a maximum of 2,912 degrees Fahranheit.

GA's proposal for a military reactor differs little in design from its civilian plant. The plan primarily adds "target elements" of lithium-six, a type of lithium tha turns to tritium when it aborbs a neutron. The tritium is a type of hydrogen that is the fuel of H-bombs.

One commercial demonstration graphite plant was built: Fort St. Vrain, in the Colorado town of the same name. The plant is not a good advertisement for the technology, having produced only about 10 percent of the power that would have resulted if it could have run around the clock at 100 percent of capacity. GA says that Fort St. Vrain demonstrated the high quality of the fuel, and the benefits of using helium as the coolant instead of water. But the helium circulator was an untried design, and broke down frequently.

For a new plant, GA says it would use a design proved in Europe, where several graphite-moderated, helium-cooled reactors are operating succeussfully.

GA is competing with some well-established vendors. The Westinghouse Electric Corporation, which designs light water reactors, and Bechtel, the architect-engineering concern that has built many of them, have signed an agreement to bid for the construction of a light-water reactor or a heavy-water reactor, whichever the Department of Energy chooses.●

EDITORIAL BY NEW YORK CITY MAYOR EDWARD I. KOCH ON AIDS

● Mr. MOYNIHAN. Mr. President, I rise today to draw the attention of my colleagues to an op-ed in the November 8, 1987, New York Times by New York City's mayor, Edward I. Koch. It is in reference to an amendment adopted by the Senate to the Labor, HHS, and Education appropriations bill which prohibits the Centers for Disease Control from funding AIDS education programs that promote, encourage, or condone homosexual behavior. Mayor Koch opposed this language—so did I, one of two Senators to do so.

Mayor Koch's own words are persuasive indeed, and I need not summarize them. But I do think great praise is due to the mayor for speaking out for those who are otherwise not heard. What we have now in New York City and other major cities in this country is a crisis—pure and simple. We in the Senate must recognize this and offer assistance in every way we know how. What we must not do is hamper educational efforts that save lives by placing ambiguous restrictions on the funding of such efforts to combat AIDS.

I ask that Mayor Koch's op-ed be placed in the Record in full at this point.

The editorial follows:

[From the New York Times, Nov. 8, 1987]

SENATOR HELMS' CALLOUSNESS TOWARD AIDS VICTIMS

[By Edward I. Koch]

"We have got to call a spade a spade," said Senator Jesse Helms in offering an amendment to the fiscal 1988 apprpriations bill for the Departments of Labor, Health and Human Services, and Education, "and a perverted human being a perverted human being." Ironic comments, indeed, given the profound perversity of the policy his amendment advances.

It prohibits the Federal Centers for Disease Control from funding AIDS programs that "promote, encourage or condone homosexual activities." The Senate passed it, 96 to 2. Only 47 House members had the good sense and common decency to resist homophobic hysteria and oppose the amendment.

Mr. Helms introduced it because he's upset with the New York's Gay Men's Health Crisis. The organization has established a brilliant reputation in caring for and counseling those with AIDS and in educating others on how to prevent the spread of AIDS.

It serves gay men—Mr. Helms's "perverts"—because they're a primary AIDS risk group. Gays comprise about 10 percent of the United States' adult population, or 20 million people. If only half are male, 10 million men are at risk and in need of education and counseling on how to cut the risk. That's why the Gay Men's Health Crisis and organizations like it around the country exist.

The amendment, protests Senator Edward M. Kennedy, is "toothless" and "a foolish exercise." Then why did he vote to make it the law of the land, particularly since it ignores the proved effectiveness of AIDS education efforts and severely impedes our ability to expand them?

To date, New York has had 11,513 AIDS cases reported; of these, 6,605 have died. Of the total cases, 55 percent are homosexual or bisexual men. Among these, the Gay men's Health Crisis and city educational efforts have helped contribute to a decline in the seroconversion rate to 1 percent annually. In nonscientific terms, this means that if you took blood samples from homosexual or bisexual men one year and found them not infected with the AIDS virus, there's only a 1 percent chance that samples from the same men would be infected the next year.

Among intravenous drug users there's an 8 percent seroconversion rate. Obviously, education changes behavior among those whose faculties aren't impaired and enslaved by needles and drugs.

Gay Men's Health Crisis materials, complains Senator Helms, use blunt words and sexually graphic illustration that "perpetuate the AIDS problem." But those the materials reach aren't innocents who'll be shocked by such literature. They already practice sex; they want to know how to practice it more safely. The organization tells them and thereby helps save lives.

If we're shy with one risk group, we'll probably make the same mistake with others. Today, AIDS is found principally among men who engage in homosexual or bisexual practices or intravenous drug abuse. By 1991, some 40,000 people in New York and 270,000 nationally may have AIDS. Some will be heterosexuals who've had intercourse with a bisexual man or a drug user. If they don't know how to protect themselves, how will they? Cutting off Federal funds to organizations like the Gay Men's Health Crisis may only help spread the disease, causing the deaths of not only homosexuals but heterosexuals of both sexes and, most tragic of all, innocent infants.

Senator Helms may not like homosexuals. But he and those who voted for the amendment should remember that homosexuals—and intravenous drug users—are the sons and daughters of families who love them. They too deserve protection against the gravest public health threat our nation faces.

Regrettably, lousy politics overwhelmed good public health policy. Apparently fearing an adverse reaction that a homophobic demagogue might inflame in their home states or districts, members of Congress gave in to homophobic hysteria. Only a few had the courage to vote against this foolish amendment. I commend Senators Daniel Patrick Moynihan and Lowell Weicker and members of New York's House delegation who joined the honor roll: Gary L. Ackerman, Bill Green, Major R. Owens, James H. Scheuer and Ted Weiss. They hold the moral high ground.

The amendment is at fait accompli. The blot on the Congress can't be erased. But what can't be undone can be uncovered. That alone may insure that future Congressional action on AIDS ignores the homophobes by supporting programs and policies that have proved so effective in fighting this tragic disease.●

NASHUA SENIOR HIGH SCHOOL GIRLS BASKETBALL TEAM

● Mr. **HUMPHREY**. Mr. President, today I would like to recognize the achievements of a very special group of people, the girls basketball team of Nashua Senior High School in Nashua, NH, their coach, their families and their school.

This year, the team is ranked No. 1 in the Nation in USA Today's preseason poll. The coveted rank is a testament to their talent, but more importantly, to years of dedication and hard work.

The team has established a 71 game winning streak. They have won the New Hampshire State Class L Basketball Championship for the past 3 years. Two years ago, the team finished the season ranked 5th nationwide in USA Today's poll. They continued their winning ways last year, beginning the season ranked 3d and finishing on top—ranked No. 1.

The Nashua senior high girls basketball team has built this winning tradition on the basis of key principles which deserve our recognition and praise. The team members and their coach have set their sights on a lofty goal—to be the best. They worked hard to achieve this goal by making the most of their capabilities. They pushed themselves as individuals and as a team, constantly raising their performance level. And they kept their eyes on that goal, making sacrifices to maintain that level of excellence.

Their desire has been equally matched by discipline and hard work. When they could have coasted on their talent—they did not. When they were tired or hurting and they wanted to rest—just for a moment, they did not. When they wanted to give in to the tempting array of other activities they could pursue, they did not. In short, when they could have settled for less than their best—they did not.

All along, through days filled with practices, homework, special camps, travel, games and more of the same, the team has been led by their Coach John Fagula, and supported by their families and their school. They in turn have made many sacrifices to support their daughters, sisters, students, and schoolmates.

Especially for their families—who can count the sacrifices, great and small through the years? Countless rides to and from practices and games, scaled down or eliminated family vacations in lieu of advanced training camps, the list goes on.

Their school has been behind them as well in very public and private ways. The crowds at games and rallies cheering them on are easy to see. Not so visible has been the extra time and effort put in by their teachers so the players could progress in the classroom as well as on the basketball court.

These special people also deserve our praise for making sacrifices out of love and pride so these gifted girls could achieve their maximum potential.

I am very proud of all of them. I wanted to bring their accomplishments to your attention today because their efforts and dedication should serve as models for all of us in all walks of life. Whether here in the Halls of Congress representing our constituents or on the hardwood court, or elsewhere, we must dedicate ourselves to excellence in order to achieve excellence.

The Nashua Senior High School girls basketball team has worked hard to be No. 1. I know that I am joined by my colleagues in wishing them continued success during the season ahead.●

BUDGET SCOREKEEPING REPORT

● Mr. **CHILES**. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $8.4 billion in budget authority, but over in outlays by $5.4 billion.

I ask that the report be printed in the RECORD.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 7, 1987.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1988 and is current through December 4, 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H. Con. Res. 93). This report is submitted under section 308 (b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of Senate Concurrent Resolution 32.

Since my last report the President has signed Public Law 100-175, Older Americans Act Amendments of 1987, and Congress has sent to the President H.R. 2672, Veterans Home Loan Program Improvements Act of 1987, changing budget authority and outlay estimates.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF DEC. 4, 1987

[Fiscal year 1988—in billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 93 [2]	Current level +/− resolution
Budget authority	1,137.6	1,146.0	−8.4
Outlays	1,040.0	1,034.7	5.3
Revenues	910.1	932.8	−22.7
Debt subject to limit	2,414.6	[3] 2,565.1	−150.5
Direct loan obligations	34.0	34.6	−.6
Guaranteed loan commitments	148.9	156.7	−7.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with Sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2.800 billion.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS DECEMBER 4, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			898,554
Permanent appropriations and trust funds	779,621	681,502	
Other appropriations		205,550	

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS DECEMBER 4, 1987—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Offsetting receipts	−169,458	−169,458	
Total enacted in previous sessions	610,163	717,594	898,554
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100–4)	−2	−2	
Emergency Supplemental for the Homeless (Public Law 100–6)		−7	
Ginnie Mae Fees (Public Law 100–14)		52	
Surface Transportation and Relocation Act (Public Law 100–17)	10,969		364
Federal Employees Retirement System Technical Corrections (Public Law 100–20)	10	10	
Farm Disaster Assistance Act (Public Law 100–45)	−30	−30	
Supplemental Appropriations, 1987 (Public Law 100–71)	68	915	
Small Business Administration program and authorization amendments (Public Law 100–72)	−41	−41	
Competitive Equality Banking Act of 1987 (Public Law 100–86)		−650	−7
Credit certain air traffic controller service for retirement benefits (Public Law 100–92)		3	
Medicare and Medicaid Patient and Program Protection Act (Public Law 100–93)		3	
Balanced Budget and Emergency Deficit Control Reaffirmation Act (Public Law 100–119)		−160	
Interim extension of certain veterans' housing programs (Public Law 100–136)	677	608	
Technical amendments to laws relating to Indians (Public Law 100–153)	1	1	
Older Americans Act Amendments of 1987 (Public Law 100–175)		5	
Total enacted this session	11,652	707	357
III. Continuing resolution authority:			
Continuing Resolution, fiscal year 1988 (Public Law 100–162)	560,544	366,808	
Offsetting receipts	−30,823	−30,823	
Total continuing resolution authority	529,721	335,985	
IV. Conference agreements ratified by both Houses: Veterans Home Loan Improvement Act of 1987 (H.R. 2672)	−53	−53	
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Guarantee reserve fund	(532)	(532)	
Military service wage credit	(391)	(391)	
Food stamp program	592	341	
Uranium supply and enrichment (receipts)	−90	−90	
Federal Energy Regulatory Commission (receipts)	−6	−6	
Loan guaranty revolving fund	90	100	
National wildlife refuge fund	1	1	
Total entitlement authority	729	431	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of Dec. 4, 1987	1,137,562	1,040,013	910,111
1988 budget resolution (H. Con. Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution		5,313	
Under budget resolution	8,438		22,689

Note.—Numbers may not add due to rounding.●

THE BUDGET

● Mr. McCLURE. Mr. President, representatives from the House, the Senate, and the administration have recently unveiled the finished product of their long and arduous budget negotiations. Although they did their best to dress and doll up this deficit-cutting plan, it has little allure for me.

For a brief time during the negotiations, there sparked a glimmer of hope. We were informed that the negotiators might agree to reducing the cost-of-living adjustments [COLA's] for Social Security and other entitlement programs so that they are set below the rate of inflation. For just a moment, it appeared the negotiators were struck by the realization that they had the authority and opportunity to regain control of a budget which has, in the last decade, taken on a life and will of its own.

This "diet COLA" approach would ensure that all beneficiaries of Federal spending make sacrifices so that we may make our way back to sound fiscal ground. In my mind, it is unfair to hold some recipients of Federal dollars in higher esteem than others. It is unfair to say some are entitled to have their Federal payments rise with the cost of living while others see theirs eliminated or rolled back. Diet COLA may not provide the instant gratification that regular COLA does, but I can guarantee you that months and years from now you and I will be in a lot better shape for choosing the diet COLA.

We have to accept the fact that we cannot consume more than we can afford. We've got to get away from the idea that the select but substantial portion of those who benefit from Government programs are entitled to those benefits. Our Government has responsibilities, but it cannot and should not be charged with spending our country into insolvency because a certain portion of the population feels it is entitled to the same payments for perpetuity.

Just as our Government cannot abandon those who have come to depend on it—say by eliminating all benefit payments in one fell swoop—those beneficiaries have no right to abdicate their responsibilities to that same Government. All Americans have to do their part.

My friend and fellow Idahoan, STEVE SYMMS, has been making this argument year, after year. If more of our colleagues would face fiscal reality, as has STEVE, instead of worrying about their next election, we would not be in this budget mess.

I ask that the following editorial, which was published on December 8, 1987, in the Times-News of Twin Falls, ID, and commends STEVE for his political courage, be printed in the RECORD.

The editorial follows:

[From the Twin Falls (ID) Times-News, Dec. 8, 1987]

"ENTITLEMENT" THINKING MUST COME TO AN END

Sen. Steve Symms has himself in dutch with seniors this week over his recent comment that people on Social Security should help to trim the federal deficit through some combination of delayed increases and taxation of some benefits.

The hail of letters suggests that Symms is not exactly in step with that portion of his constituency over this issue. More than one letter-writer has reminded him that elections, like rain, come eventually.

But Symms, in our view and that of a good many others, is essentially correct on his point, although he may have overstated it.

Three weeks ago, The Times-News ran excerpts from an important article on the deficit and the economic mess which is now coming due.

Called "The Morning After," the article outlined the extensive spending pattern which has gripped America in recent years, the development of indexed payments, such as Social Security and military pensions, which have risen sharply and contributed to the deficit.

The stock market collapse of October was only a warning of a far-worse economic debacle to come if we do not get our house in order.

Many Americans know how this has to be accomplished. It must be done through spending reductions and higher taxes. There is no other way.

Which spending reductions? The only places are military and entitlements. Military expenditures will have to be cut. We must have quality, not exotic, pie-in-the-sky systems. Star Wars is unaffordable. If built, it would not work, but it would surely bankrupt us all.

The greatest defense the nation can create is a strong economy on Main Street, in which goods and services are sold for something reasonably above the cost to produce them, in which capital investment in education, technology and our public works infrastructure are the norm. In short, we must sacrifice, save and build.

All of us must do this. Senior citizens as a group, have made the most dramatic gains in recent years of any goup in the population. Indeed, the improving lot of seniors is one of the great untold stories of the last two decades.

But now, some of the bill is due. The word "entitlement"—meaning a government payment to which someone has a right—must be stricken from our vocabulary.

The bottom line is that neither seniors nor military pensioners—many of whom are still working—are "entitled" to an endless stream of payment increases, the cost of which is to be borne by an increasing tax burden in this generation and the next.

Social Security and military pensions are two of the largest so-called "entitlements." Neither should be cut for existing recipients. No one's check should get smaller.

But it is clear that both will have to grow less rapidly in the future. Both should be "on the table" as Congress takes up a deficit proposal which, so far, is little more than smoke and mirrors.

We have occasionally criticized Symms for his obstreperous nature. Yes, he talks sometimes before he thinks. But this time, he is taking heat unfairly for saying what many already know:

No one on this earth is "entitled" to anything. Not people. Not nations. It is time for all of us to pay our way, including "entitled" groups.●

FORMER POW BENEFITS

● Mr. CRANSTON. Mr. President, my good friend, the Senator from New Jersey [Mr. LAUTENBERG], has long been one of the Senate's great champions of those of our Nation's veterans who made such great sacrifices and endured extreme hardships as prisoners of war. Senator LAUTENBERG was a cosponsor of S. 1365, legislation I introduced with Senator GRAHAM on June 16, 1987, to improve and expand benefits for former POW's, as well as an original cosponsor of S. 9, the Omnibus Veterans' Benefits and Services Act of 1987. On December 4, the Senate passed the provisions of S. 9, including those derived from S. 1365.

In honor of his efforts, Senator LAUTENBERG was presented the New Jersey American Ex-Prisoners of War Legislator of the Year Award on October 30, 1987. The Senator from New Jersey made a moving and compassionate acceptance speech, which I commend to my colleagues, and I ask his remarks be printed in the RECORD.

The remarks follow:

SPEECH BY SENATOR FRANK R. LAUTENBERG BEFORE THE NEW JERSEY EX-POW'S, OCTOBER 30, 1987

Members of New Jersey's American Ex-Prisoners of War, New Jersey veterans leaders, I am pleased to be with you today, and honored to accept your legislator of the year award.

I know that this is a proud year for New Jersey's ex-POW's as well. Your commander, Walt Furca, was elected National Director of the American Ex-Prisoners of War, and Department Commander of the State Unit.

And, symbolizing your group's commitment and staying power, you found a permanent home for your organization in Garfield. In keeping with New Jersey's tradition of leadership, I understand the building dedicated in August is the first building in America solely dedicated to American Ex-Prisoners of War activities.

I am deeply honored to be named the American Ex-Prisoners of War's Legislator of the Year. I've worked hard to represent the needs of ex-POW's, and all veterans in Congress.

Few Americans have given as much to the cause of freedom, or paid as heavy a price, as those who were held prisoner during times of war.

Your treatment was often brutal, harsh, and unforgiving. Many of you still bear the physical and emotional scars of that imprisonment.

You lived months or years in the hands of our enemies, dependent on them for each bit of food, each stick of shelter. You suffered mistreatment, even torture. You saw fellow prisoners beaten or executed at the whim of your captors. Your loyalty was tested by pain, malnutrition or numbing fatigue. The large number of POW's who died in captivity is eloquent testimony to the conditions you had to endure.

In such an environment, the price of loyalty was high. But you paid that price. You endured. You persevered. And ultimately you triumphed.

The 80,000 former prisoners of war living in America today are a proud affirmation of the loyalty of the American soldier. You are proof of the enduring strength of the human spirit.

When you were finally discharged, you were told to put the past behind you. Get on with your lives. But I know that for some, that has not been easy. Especially not for those who face permanent injury every day of your lives. The visible scars of your experience are always with you.

To add insult to injury, it has not always been easy to get compensated for your suffering. While your captivity increased the chance of future disability or illness, it lessened your ability to prove where it came from. Those who held you captive did not stop to keep the health records needed to establish service connected disability.

And after your discharge, most of you did not undergo thorough physical exams. You wanted to put your nightmarish experiences behind you. And the armed services in turn did not require physicals. Still, you continued to suffer from the effects of your imprisonment.

That is why I cosponsored the bill that recognized that reality, and attempts to make up for it. It is the bill allowing ex-POW's to qualify for presumptive compensation for peripheral neuropathy, irritated bowel syndrome, and peptic ulcer disease. These may be hard words to pronounce. But those of you who suffer from these diseases know well what they are.

Despite the absence of medical records, medical studies have established that the conditions many of you experienced in captivity—severe malnutrition, extreme stress, and exhausting physical exertion—are significant risk factors for these three diseases. So under this bill, former prisoners held captive longer than 30 days don't need to show proof of injury to qualify for compensation.

This bill takes another step toward recognizing that the starvation, deprivation, and brutality so common to the experiences of POW's could damage any body system. The bill has been favorably considered by the Senate Veterans' Affairs Committee and is awaiting action on the Senate floor.

But I am pleased to accept this award not only on behalf of New Jersey's Ex-POW's, but all its veterans.

During my time in the Senate, I have tried to be responsive to the needs of all of New Jersey's almost one million veterans. I have fought for bigger medical care budgets for veterans in the Senate Budget and Appropriations Committee. And I have continued to push for the outpatient satellite clinic we have all waited for for so long. That clinic is on its way to becoming a reality. The VA will solicit offers for clinic space within the next two weeks, and the clinic space should be determined this spring. It should be up and running by 1989.

I know that an outpatient clinic won't solve the medical care problems of our state. It is only a beginning. There are problems at the East Orange VA. There are long waits for service. I am planning to visit that facility soon to find out what can be done.●

STATEMENT ON WOMEN'S VIETNAM MEMORIAL

● Mr. QUAYLE. Mr. President, Senate Joint Resolution 215 was recently introduced into the Senate. This bill authorizes and directs the Secretary of the Interior to work with the Vietnam Women's Memorial Project [VWMP] to commemorate the substantial and heroic contributions of women in our effort during the sixties and seventies on behalf of the people of Vietnam.

The commitment of the women who served in Vietnam cannot be underestimated. They served their country with courage and dignity and their patriotism was as strong as any of those who fought in the conflict.

There are over 1,160,000 women veterans of U.S. military service still alive. Of these, 7,000 to 20,000 served in Vietnam. The total number of women who contributed to the effort is close to 250,000.

Ninety percent were nurses in the Army, the Navy, and the Air Force. They also served as physicians and personnel in the Medical Service Corps, as well as in a civilian capacity within the Red Cross, the USO, the CIA, and the U.S. Agency for International Development.

Diane Evans, one of the original members of the project was a 20 year old nursing student in August 1968 when she went to Vietnam. Within 6 months she was the head nurse on the surgical unit at Pleiku near the Cambodian border.

There are eight names inscribed on the memorial here in Washington. They are the women who are officially recognized as having died during their service in Vietnam. Carol Ann Elizabeth Drazba and Elizabeth Ann Jones were second lieutenants assigned to the 51st Field Hospital in Saigon. Eleanor Grace Alexander was a captain at the 85th Evac and Hedwig Diane Orlowski was a first lieutenant at the 67th Evac. Pamela Dorothy Donovan was a second lieutenant assigned to the 85th Evac in Qui Nhon. First lieutenant Sharon Ann Lee died from shrapnel wounds when the 312th Evac at Chu Lai was hit by rockets. Annie Ruth Graham was chief at the 91st Evac in Tuy Hoa. And Mary Therese Klinker was an Air Force flight nurse assigned to Clark AFB in the Phillipines who died when her C-5A Galaxy crashed outside of Saigon while evacuating Vietnamese orphans. Mary Therese was from Lafayette, IN.

In 1980, Public Law 98-297 directed the establishment of the Vietnam Memorial for "the men and women of the Armed Forces of the United States who served in the Vietnam War." Since then we have seen the construction of Maya Lin's wall, and Roger Brodin's statue "The Three Fighting Men."

I believe the Vietnam Veteran's Memorial Project is a fitting and final addition to the Vietnam memorial. The statue will serve as a symbol to those women who served in Vietnam that their heroic deeds are recognized. It will also serve to educate those to the dedication and selflessness of these women.

I have, therefore, added my name as a cosponsor to Senate Joint Resolution 215 and support the efforts of the Vietnam Women's Memorial Project.●

DEFICIENCY PAYMENT CAP

● Mr. HARKIN. Mr. President, in the next few days we will be hearing a lot about budget savings that might be realized through modification of the law defining "person" for the purpose of the $50,000 Farm program payment limitation. In an effort to facilitate understanding of this complex issue, I asked the Congressional Research Service [CRS] to briefly analyze the current situation and the major alternatives available to us and how each would affect farmers. A copy of this study follows my remarks.

I expect to offer an amendment to the reconciliation bill that would require strict adherence to the $50,000 deficiency payment limitation. This amendment will save $50 million in fiscal year 1988 and $435 million in fiscal year 1989 according to CBO estimates.

Earlier this year my Nutrition and Investigations Subcommittee held hearings into the abusive schemes to get around the payment cap. These schemes have increased USDA deficiency payments by billions of dollars. Moreover, they are throwing the payments out of proportion. For instance, in 1986, 1½ percent of participating farmers got 13 percent of total cash deficiency payments.

My amendment will end these abuses, target income assistance to operators of family sized farms, and help reduce the deficit.

As I read the CRS study comparing my proposed amendment to the House passed bill, the most significant difference is that my amendment adheres to the intent of the 1985 farm bill. Under my amendment the payment limitation remains at $50,000 and the total limit on payments including Findlay payments, gain from marketing loans and deficiency payments remains at $250,000. Under the House-passed bill the deficiency payment limitation would effectively be increased to $100,000 and the overall cap would be raised to $500,000. Clearly, this is not the direction we want to go, and I would urge my colleagues to support my amendment.

I ask that the study to which I referred be printed in the RECORD.

The material follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, November 20, 1987.

To: Honorable Tom Harkin (Attention: Bob Andros).

From: Carl Ek, Analyst in Agricultural Policy, Environment and Natural Resources Policy Division.

Subject: Comparison of Farm Program Payment Limitation Proposals.

This memorandum is in response to your request for a brief description and comparison of two legislative proposals that would make changes in the manner in which direct farm program payments are disbursed.

THE PAYMENT LIMITATION

Under current law, direct Federal commodity program payments paid to farmers are basically limited to $50,000 per person.[1] The word "person" can apply not just to individuals, but to entities such as corporations, partnerships, tenants-in-common, joint ventures, trusts, and estates. Through incorporating, forming joint operations, or using other strategies, farmers have been able to circumvent legally the payment limit and quality for additional maximum payments from the U.S. Department of Agriculture (USDA).

A recent General Accounting Office (GAO) study revealed that farm reoganizations have increased dramatically during this decade.[2] The media have reported stories of large farms subdividing to form dozens of smaller units primarily to qualify for multiple Federal farm program payments. Public and congressional criticism has focused both on the perceived inequity of large payments being made to "megafarms" as well as on increased Federal outlays associated with allowing benefits for thousands of additional "paper farms."

However, some in the agricultural community have argued that current farm programs have depressed commodity prices, denying large farmers a reasonable return from the market. Unlike small and medium-size farmers, large farmers are constrained by the payment limit and are thus not able to be fully compensated by Government income supports for lower revenues derived from the market. Given such circumstances, some farm group representatives argue, large farmers are justified in using any legal means at hand to bolster their incomes.

Farmers have employed several methods to increase the number of "persons" on farm operations and thereby receive additional payments. Among them:

Incorporation. When a corporation is formed, the corporate entity qualifies as an additional "person" for purposes of applying the payment limit.

Joint operations. When a joint operation (joint venture, general partnership, etc.) adds members, each new member of the operation qualifies for a separate payment.

Minor children. Minors may be counted as separate persons if they are beneficiaries of land-owning irrevocable trusts, or if they have a farm and live separate from (or have guardians other than) their parents; under these conditions, children qualify for separate maximum payments.

Custom farming. Several farmers may increase their payments through forming a corporate or joint organization, adding a person, titling their equipment over to the entity, and then having the entity custom farm their operation.

Investors. The division of a farm into smaller land units and the cash lease of those units to investors qualifies the owner and each investor for separate payment.

Substantive change. A farm may increase the number of persons receiving payments by proving that there has been a "substantive change" in the farming operation. For example, when the size of a farm is increased or decreased by 20 percent or more, that constitutes a substantive change, and new persons may be added.

Entities with similar membership. Individuals may pair up to form several corporations, so that each individual and each corporation is eligible for a separate payment.

The remainder of this memorandum summarizes changes suggested by Representative Jerry Huckaby and Senator Tom Harkin to regulate the above-mentioned reorganization devices.

THE HUCKABY BILL

As part of its budget reconciliation package, the House Agriculture Committee on October 15, 1987 approved a measure introduced by Representative Huckaby that would make changes in the application of the payment limitation. It was also reported out of the committee the same day as separate legislation (H.R. 3487). Representative Huckaby's bill would make the following changes:

Individuals, incorporation and joint operations. A person would be limited to payments from three entities in which he has a substantial (more than 10 percent) interest. The entity receiving payments must notify its members of the new law, and the entity must submit to USDA on request the names and Social Security numbers of holders of substantial beneficial interest. Persons holding interest in more than the maximum number of entities must notify USDA, indicating those entities for which they wish to receive payments. Payments for additional entities in which the person holds an interest would be reduced by an amount proportional to the amount of interest the individual holds. Failure to notify USDA of all interest in farming entities would result in the person having payments for all entities in which he has an interest computed on a proportional basis.

Corporations and like entities would have to be considered "actively engaged in farming," defined as follows: the entity would have to contribute capital, equipment, or land; to entity's stockholders or members would have to contribute labor or management; the entity's proportion of profits or losses have to be on a par with its contribution; and the entity would have to share in the risk of business.

If a joint operation makes a separate contribution of capital, equipment, or land, and shares in profits, losses, and risks, then the partners contributing labor or management would be considered as actively engaged in farming.

Minor children. Person status is limited to "adult" family members who make a significant contribution of personal labor or management and who share risk.

Custom farming. The new provisions describing what constitutes active engagement in farming would replace current regulations treating custom farming.

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[1] This limit applies to combined deficiency and diversion payments. There are separate payment limits for other programs, such as the Conservation Reserve Program, the disaster assistance program, the marketing loan, and the Findley provision.

[2] See: U.S. General Accounting Office. Farm Payments: Farm Reorganizations and Their Impact on USDA Program Costs. GAO/RCED-87-120BR. Washington, D.C. April 1, 1987.

Investors. To qualify as persons, cash tenants would have to contribute both personal labor or management and equipment.

Substantive change. USDA would not be able to allow farming operations that have been changed to add additional persons unless those changes were determined to be bona fide and substantive; however, the addition to a farming operation of an adult family member providing personal labor or management would be considered a substantive change.

Entities with similar membership. The number of entities from which a person can receive separate payments would be limited to three (see above).

In addition to the above revisions, the Huckaby bill would make changes in the following areas:

Marriage. Husband and wife would be treated as one person, except in cases in which each spouse had brought an independent farming operation into the marriage; each spouse would then be treated as a separate person for those operations.

USDA training. USDA would be required to carry out an education program to train appropriate USDA personnel in proper implementation procedures for the payment limitation.

Suspension of participation. Any producer who knowingly concocted a scheme in order to avoid the payment limitation would be ineligible to receive farm commodity program payments for two years.

Foreign land ownership. Corporations that are not 90 percent U.S.-owned, and certain foreign individuals would not be eligible for U.S. farm program payments.

Government agencies. No State, county, city, or agency would be eligible for payments for land it owns that it farmed for public functions.

THE HARKIN PROPOSAL

This month, Senator Tom Harkin unveiled a proposal which would tighten up application of the payment limit. The Harkin measure contains elements of earlier proposals developed by USDA, GAO, and Representative Huckaby.[3] It would make the following changes:

Incorporation and joint operations. Entities and associations—corporations, partnerships, etc.—would be treated in the same fashion for purposes of the payment limitation. The bill would do this by basing the amount of payments to an entity upon the number of its members who are actively engaged in farming. Payments to members of the entity would be attributed to the member in proportion to the member's interest in the entity, and combined total payments to an individual could not exceed $50,000. An exception would apply to an entity that farms independently of its members; such an entity would be considered as a separate person.

Investors. Passive investors would be eliminated by requiring that for a lessee to be counted as a separate person, he would have to be actively engaged in farming, which is defined as meaning someone who makes a significant contribution of land, cash, or equipment, and personal labor or management.

Entities with similar membership. If one or more persons have a 50 percent or larger interest in two or more entities, all such entities would be treated as one person.

Foreign land ownership. Corporations that are not 90 percent U.S.-owned, and certain foreign individuals would not be eligible for U.S. farm program payments.

If the above revisions are approved by Congress, USDA has announced that it will exercise its administrative authority to make the following additional changes:[4]

Minor children. Minors would be counted as one person with their parents except when the former maintain a separate residence and farm an operation independent of their parents.

Custom farming. If an organization that custom farms a farming operation has an interest in that operation, the custom farmer and all the individuals or entities using his services would be counted together as one person.

Substantive change. Farmers or entities that reduce farm size would not be allowed to increase the number of persons on the operation. Increases in farm size would have to take place before new persons could be added. The number of persons added would have to be justifiable by the increase in size.

SUMMARY COMPARISON

The Huckaby bill and the Harkin proposal differ more in degree than in intent. In general, the Huckaby bill is more restrictive than current law, and the Harkin proposal is more stringent still.

Proponents of Senator HARKIN's measure point out that it is a bipartisan proposal—it leans heavily on recommendations made by USDA—and argue that it would finally put an end to the payment limit evasions that have attracted so much unfavorable attention to farm programs in recent years. These programs are intended to help the small- to medium-size family farm, proponents argue, not corporate giants.

Supporters of Representative Huckaby's bill claim that, while certain provisions of current law may need correction, the Harkin approach would be both disruptive to the farming sector and inequitable to many family farms. In addition, the current combination of commodity programs and the payment limit denies large farms an equitable income—either from the marketplace or the Government, supporters of the Huckaby bill claim, arguing that their proposal strikes a reasonable balance between the business concerns of producers and the perceived need to tighten up on the payment limit.

Under the Harkin proposal, each individual would be limited to $50,000 in total payments; under Huckaby, it would be $100,000. For example, under current law, one entity composed of six individuals qualified for a total of $1,050,000 in payments.[5] Under Huckaby, they would recieve a maximum of $600,000; under Harkin, $300,000.

The Harkin proposal would treat all entities—corporate-type and joint organizations—on an equal basis by basing the amount of payments to an entity on the number of its members who are actively engaged in farming. The Huckaby bill would allow a farmer to have full payments for one operation and up to 50 percent of the maximum payment from two additional entities.

The substantive change rule under Harkin would prohibit farmers from reducing the size of their operations, adding persons, and receiving more payments. Any increase in farm size would have to occur before the addition of persons, and the number of persons added would have to bear a reasonable relation to the amount of land added. The Huckaby bill would grant the Secretary of Agriculture authority to determine when changes are bona fide and substantive, and would justify the addition of persons. However, the bill permits the addition to a farming operation of an adult family member providing personal labor or management to be considered a substantive change.

On at least one issue, the Harkin proposal is less restrictive than Representative Huckaby's: payments to States. Under the Huckaby bill, States subdivisions of States, or their agencies would no longer be exempted from the payment limitation. Supporters of this action charge that such payments have constituted a disguished form of revenue sharing; State school systems and penal institutions should not be dependent upon Federal farm programs for funding, they argue. Under Senator Harkin's proposal, payments to States would continue. Backers of the status quo note that in the past three years, only 21 State entities have received more than the $50,000 limit.[6] Supporters argue further that the costs attributable to the payment limit exemption is relatively small—approximately $7 million out of a total farm program budget that tops $20 billion. Although the amount is small by Federal standards, proponents claim, these revenues loom large in the budgets of several States; a sudden cutback could have serious impact upon the budgets of Montana, Washington, California, and Texas, to name just a few States.

Both bills would reduce USDA outlays for direct payments, the Harkin proposal somewhat more than the Huckaby bill. Analysts disagree over just how much each proposal would save and when the savings would occur. Observers argue that such savings estimates for the two proposals are difficult to determine at this point, given uncertainty over the amount and timing of advance deficiency payments for the 1988 crop year and subsequent years.

If you have any questions or need additional information, please call me at 287-7283.●

SENATOR ROTH MAKES STRONG CASE AGAINST BUDGET COMPROMISE

● **Mr. KASTEN.** Mr. President, I call to the attention of my colleagues an excellent article by the distinguished Senator from Delaware, Senator BILL ROTH, entitled "Budget Accord Is Top Heavy With Taxes."

I agree with the Senator that the budget compromise "does little to cut Government spending and promote continued economic prosperity." The proposed 2-year $23 billion tax increase does nothing to address the underlying cause of the Federal deficit:

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[3] U.S. General Accounting Office. Farm Payments: USDA's Proposed Changes to the $50,000 Payment Limit Could Be Improved. GAO/RCED-87-190. Washington, D.C. September, 1987.

[4] See: U.S. Department of Agriculture. Office of the Secretary. Report to Congress by the Secretary of Agriculture with Respect to the Implementation of the Maximum Payment Limitation. Washington, D.C. March 10, 1987.

[5] See: U.S. General Accounting Office. Farm Payments: Basic Changes Needed to Avoid Abuse of the $50,000 Payment Limit. GAO/RCED-87-176. Washington, D.C. July 20, 1987. P. 24.

[6] U.S. General Accounting Office. Farm Payments: Payments to Entities Exempt From the $50,000 Limit and to Foreign Addresses. GAS/RCED-88-37BR. Washington, D.C. November, 1987. p. 43.

the growth rate of Government spending. Under the budget compromise, spending is slated to rise over 4 percent over fiscal 1987. This is over twice the growth rate of spending that occurred from fiscal 1986 to 1987.

The bottom line is that higher taxes aren't the answer. The combination of continued economic growth and meaningful spending restraint is the only way to reduce the Federal budget deficit.

As we begin debate on the budget compromise, I urge my colleagues to consider some of the points raised by Senator ROTH regarding the flaws in this package. I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Dec. 3, 1987]

BUDGET ACCORD IS TOP HEAVY WITH TAXES

(By William V. Roth Jr.)

The long-awaited deficit-reduction package may have soothed the financial markets temporarily, but it does very little to cut government spending and promote continued economic prosperity. Most Americans will be amazed to learn that, despite suggestions to the contrary, federal spending will still increase by $50 billion if this plan is enacted.

We are not cutting programs, but merely reducing spending from an inflated baseline number. At the same time, these purported savings are being used to persuade legislators to enact a $23 billion tax increase.

I am adamant in support for lowering the deficit, but Washington has met this urgent cry with little more than a package that will perpetuate the federal spending machine. I favor real reduction, not spending cuts from an inflated baseline. It is important that we understand the causes of the budget deficit and not panic and rush in an unthinking manner to adopt policies that will undermine the vitality of our economy.

According to news reports, the package will cut discretionary spending by $2.6 billion, defense by $5 billion and entitlements by $4 billion. In reality, discretionary spending is projected to grow by $7 billion, defense by $3 billion, and entitlements by $37 billion. These are increases of 1%, 4% and 8%, respectively, over last year's level.

Washington must send a message to Wall Street. But it must be the right message: not the spend and spend, tax and tax policies that signal business as usual. It is no small irony that at the same time we are talking about deficit reduction, Congress is enacting a new catastrophic health insurance program whose financing is questionable at best, and at worst, could severely increase the federal deficit.

Unlike some of my colleagues in Congress, I do not believe the American people are undertaxed. There is no shortage of revenue. According to Congressional Budget Office estimates, revenue will rise an average of nearly $70 billion annually for each of the next five fiscal years. In other words, by fiscal 1992 almost $350 billion will be added to federal revenues with no change in tax law.

The most recent fiscal year shows the best way to cut the deficit: Restrain federal spending growth. During fiscal 1987 revenues rose 11% ($85 billion), while federal outlays increased by only 1.2% ($12 billion). Spending as a share of gross national product climbed above its postwar average of about 20% to 24% in fiscal 1986 before declining to 23% in fiscal 1987. The revenue share of GNP, in contrast, is projected to remain around 19% for the foreseeable future, slightly above its postwar average. These figures show conclusively that federal spending has outspaced revenues. It is Congress's inability to restrain spending that has generated sizable deficits—not, as some would argue, a reduction in individual taxes achieved through the Kemp-Roth tax cuts.

As the co-author of the Kemp-Roth personal tax reduction legislation that became the centerpiece of the Economic Recovery Tax Act 1981, I can attest that it was designed solely to restore incentives and the potential for continued economic growth and job creation. Since it took effect, the nation has experienced unprecedented economic expansion. In October alone, more than 500,000 jobs were created. The unemployment rate is near its lowest rate at any time since the end of 1979. We are in our 60th month of peacetime economic expansion. Even after "Black Monday" I and II, the Dow Jones Industrial Average is more than twice its 1981 level, and still about the level of January.

Though the deficit declined by one-third in fiscal 1987, it remains too large. Continually large deficits threaten the economy and our standard of living. This is a serious enough reason for deficit reduction. Excessive federal spending and deficits do need to be brought under control. That responsibility lies with Congress: Not a dime of federal spending can be appropriated without the consent of Congress.

What should Congress do? Here are a few ideas:

First, legislate a two-year nominal freeze on discretionary spending for domestic and defense programs. This does not include a reduction in Social Security cost-of-living increases.

Second, enact the spending reductions already agreed upon by the congressional authorizing committees.

Third, phase out subsidies on agricultural products.

Fourth, enact a federal employee early-retirement option and close unnecessary military bases. Each of these proposals could save billions of dollars over the next five years.

Fifth, trim growth in military procurement by posting acquisition of additional aircraft carriers.

Sixth, cancel spending for necessary energy, water, highway and urban development action grant projects. The Highway Authorization bill passed by Congress over the president's veto contained more than $1 billion in unnecessary "demonstration projects."

Seventh, review the recommendations put forth by the Grace Commission for additional savings through reduced waste and mismanagement.

Eighth, enact a line-item veto authority for the president to reduce pork-barrel spending by Congress. In addition Congress should follow a majority of our states and adopt a balanced-budget amendment.

The deficit agreement—top heavy with taxes—is not the way to meet the challenge we face. We cannot tax our way into continued prosperity. Tax increases were among the policies the Hoover administration adopted after the 1929 market crash. If we have learned anything from the history of the stock market, it should be clear that we should keep as much money as possible in the pockets of the American people and reduce the deficit by reducing government spending.●

SENATOR WILLIAM V. ROTH'S COLUMN ON DEFICIT REDUCTION

● Mr. ARMSTRONG. Mr. President, I commend to my colleagues attention a column written by Senator WILLIAM V. ROTH on the proposed deficit reduction summit agreement which appeared in the Wall Street Journal on December 3, 1987.

Senator ROTH aptly notes that there is little in the way of spending reductions in the summit plan and that it relies almost exclusively on tax increases. I share his deep concern with that imbalance, because there is, in fact, no shortage of Federal revenues, only a lack of will to make difficult decisions on spending.

Senator ROTH suggests a number of ways in which Congress could begin to control spending. I think my colleagues will find the good sense of this article a most useful way to begin thinking about the pending budget reconciliation and continuing appropriations bills.

I ask that the article be printed at this point in the RECORD.

The article follows:

[From the Wall Street Journal, Dec. 3, 1987]

BUDGET ACCORD IS TOP HEAVY WITH TAXES

(By William V. Roth Jr.)

The long-awaited deficit-reduction package may have soothed the financial markets temporarily, but it does very little to cut government spending and promote continued economic prosperity. Most Americans will be amazed to learn that, despite suggestions to the contrary, federal spending will still increase by $50 billion if this plan is enacted.

We are not cutting programs, but merely reducing spending from an inflated baseline number. At the same time, these purported savings are being used to persuade legislators to enact a $23 billion tax increase.

I am adamant in support for lowering the deficit, but Washington has met this urgent cry with little more than a package that will perpetuate the federal spending machine. I favor real reduction, not spending cuts from an inflated baseline. It is important that we understand the causes of the budget deficit and not panic and rush in an unthinking manner to adopt policies that will undermine the vitality of our economy.

According to news reports, the package will cut discretionary spending by $2.6 billion, defense by $5 billion and entitlements by $4 billion. In reality, discretionary spending is projected to grow by $7 billion, defense by $3 billion, and entitlements by $37 billion. These are increases of 1%, 4%, and 8%, respectively, over last year's level.

Washington must send a message to Wall Street. But it must be the right message: not the spend and spend, tax and tax policies that signal business as usual. It is no small irony that at the same time we are talking about deficit reduction, Congress is enacting a new catastrophic health insurance program whose financing is question-

able at best, and at worst, could severely increase the federal deficit.

Unlike some of my colleagues in Congress, I do not believe the American people are undertaxed. There is no shortage of revenue. According to Congressional Budget Office estimates, revenue will rise an average of nearly $70 billion annually for each of the next five fiscal years. In other words, by fiscal 1992 almost $350 billion will be added to federal revenues with no change in tax law.

The most recent fiscal year shows the best way to cut the deficit: Restrain federal spending growth. During fiscal 1987 revenues rose 11% ($85 billion), while federal outlays increased by only 1.2% ($12 billion). Spending as a share of gross national product climbed above its postwar average of about 20% to 24% in fiscal 1986 before declining to 23% in fiscal 1987. The revenue share of GNP, in contrast, is projected to remain around 19% for the foreseeable future, slightly above its postwar average. These figures show conclusively that federal spending has outpaced revenues. It is Congress's inability to restrain spending that has generated sizable deficits—not, as some would argue, a reduction in individual taxes achieved through the Kemp-Roth tax cuts.

As the co-author of the Kemp-Roth personal tax reduction legislation that became the centerpiece of the Economic Recovery Tax Act of 1981, I can attest that it was designed solely to restore incentives and the potential for continued economic growth and job creation. Since it took effect, the nation has experienced unprecedented economic expansion. In October alone, more than 500,000 jobs were created. The unemployment rate is near its lowest rate at any time since the end of 1979. We are in our 60th month of peacetime economic expansion. Even after "Black Monday" I and II, the Dow Jones Industrial Average is more than twice its 1981 level, and still about the level of January.

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What should Congress do? Here are a few ideas:

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Fourth, enact a federal employee early-retirement option and close unnecessary military bases. Each of these proposals could save billions of dollars over the next five years.

Fifth, trim growth in military procurement by postponing acquisition of additional aircraft carriers.

Sixth, cancel spending for unnecessary energy, water, highway and urban development action grant projects. The Highway Authorization bill passed by Congress over the president's veto contained more than $1 billion in unnecessary "demonstration projects."

Seventh, review the recommendations put forth by the Grace Commission for additional savings through reduced waste and mismanagement.

Eighth, enact a line-item veto authority for the president to reduce pork-barrel spending by Congress. In addition, Congress should follow a majority of our states and adopt a balanced-budget amendment.

The deficit agreement—top heavy with taxes—is not the way to meet the challenge we face. We cannot tax our way into continued prosperity. Tax increases were among the policies the Hoover administration adopted after the 1929 market crash. If we have learned anything from the history of the stock market, it should be clear that we should keep as much money as possible in the pockets of the American people and reduce the deficit by reducing government spending.●

INFORMED CONSENT: MASSACHUSETTS

● Mr. HUMPHREY. Mr. President, I call upon my colleagues to support S. 272 and S. 273 which require informed consent for women who undergo abortions. Too many women are caught in a psychological trap when they are faced with this important decision. Because of their vulnerable positions, they often choose to have abortions because they are totally unaware of any other alternatives. They also suffer from the emotional and physical scars that often accompany this major surgical procedure.

As Debbie Sotirkys of Massachusetts testifies, women should have all the information they need to make the right choice in their abortion decision. I ask that her letter be printed in the RECORD.

The letter follows:

DEAR SENATOR HUMPHREY: My first abortion was illegal at the age of 18. That didn't stop the doctor from asking me if I wanted an abortion. That was all the counseling I received.

It is tragic that the counseling most women considering abortion receive is so near-sighted. Those who counsel women at abortion clinics are simply interested in rushing scared women and girls into abortions which many will regret later. It may take months, even years, but once the realization of what abortion is and does set in, women suffer devastating emotional crises and find it very hard to forgive themselves for the role which they had in killing their own children.

The tragedy of killing an unborn child by abortion is compounded by the physical harm done by abortion to many women who undergo the procedure. I myself suffered from a very bad infection after my abortion, an infection which spread throughout my body. Other women I know have been forced to have total hysterectomies or were simply rendered barren as the result of extensive scarring—all because of an abortion to which they never gave informed consent. Abortion is a very dangerous procedure for the mother of the child, both physically and psychologically.

I, along with many others, became hateful, angry, bitter, and resentful after the abortion. I dwelled on the baby's due date for years. My next abortion a year later was legal and the counseling wasn't any better. I wanted to make up for the first baby I killed. In turn I killed this one also. It saddens me to see how tough and "pro-choice" I became after the second abortion. The first one devastated me and, in order to handle my feelings, I had to become hard and put up a wall. I didn't know how to deal with murder.

Can you imagine how it feels years later to see pictures of aborted babies? I thought I would die, seeing what I'd done! I am 100% pro-life now. Women should be told all the facts about abortion. "What you don't know can hurt you!" It kills babies physically and women spiritually.

We, the women who have had abortions, know the physical and emotional pain left in abortion's wake. It has been our struggle to deal with abortion's aftermath, now it is our struggle to tell others the truth about abortion. Please help us in this effort.

Sincerely,

DEBBIE SOTIRKYS,
Massachusetts.●

CONGRATULATING THOMAS F. BUTLER UPON HIS RETIREMENT FROM THE NATIONAL FOREST PRODUCTS ASSOCIATION

● Mr. McCLURE. Mr. President, on December 31, 1987, Tom Butler will be retiring from his position as director of legislative research for the National Forest Products Association.

Tom's career with the NFPA began back in October of 1951 and for a significant part of the intervening years, his job has been to track the activities of the Congress on a day-to-day basis. Anyone able to do that remarkable job for 36 years and still maintain his sanity is deserving of special recognition.

Although his performance deserves to be rewarded, Tom recognizes the problems we face in trying to balance the Federal budget. As a result, he has agreed to forgo any such reward this body might have wished to bestow on him for putting up with us for the last four decades with the request that whatever sum might have been considered be, instead, used to reduce the deficit.

I know that my colleagues join with me in offering congratulations to Tom Butler for a job well done and hope that he will accept our congratulations on his retirement.●

FRAUD OF THE DAY—PART 20

● Mr. HEINZ. Mr. President, the world of fashion is not one which is normally linked with crime. Not long ago, however, some enterprising Taiwanese found a way to turn the transient fashion of today, with its unisex hairstyles and genderless clothes, into illegal import profits. Once again, it was apparel industry which was victimized by customs fraud, demonstrating that customs fraud does not touch all sectors of our economy equally. It is concentrated in import sensitive areas that are subject to some special treatment under U.S. law—such as an import restraint program like textiles and apparel or steel, section 201 relief like the footwear industry had in the late 1970's, antidumping or countervailing duties to offset unfair trade practices, section 232 national security import relief like the machine tool industry is currently receiving, or high tariffs. These are sectors under extra pressure from imports, and it is clear our customs laws are not providing an adequate deterrent in these cases.

In late 1982, Private Collection, a Taiwanese apparel company, attempted to import a shipment of ladies' shorts to the United States. The Customs Service Import Specialist in Seattle decided that the category number on the shipment's customs invoice denoted a category that included, among other things, boys' swim trunks, and was not the proper one for the shipment. We do not know if the company's use of this category number was intentional or mistaken; we do know that this rejection made Private Collection decide to engage in fraud.

It changed its invoices to state that the shipments held boys' swim trunks instead of ladies' shorts, thus misidentifying the contents of the shipment to conform to the category number on the original invoice. In this way, the company hoped to enter the once rejected goods, as well as three further shipments. I would also assume, Mr. President, that quota limits on ladies' shorts were not unrelated to this episode.

Fortunately, the import specialist was not taken in by the seemingly unisex style, and he seized the shipments. Four shipments were seized worth about $262,000. The case was referred for criminal prosecution, but the U.S. Attorney, although the case was airtight, apparently thought that it would be too technical for a jury to understand. In the subsequent civil case, the company was found guilty of breaking 19 U.S.C. 1592, the customs fraud statute. The penalty was mitigated by 50 percent, and Private Collection ended up paying $72,500.

Mr. President, it is clear that this company decided that customs fraud was a viable, cost-effective, low-risk solution to its problem. In this one case it did not pay off. But in how many cases does it pay off? The Customs Service is understaffed, overworked, and underbudgeted. Even when customs violators are apprehended, the chances of prosecution and punishment are slim. The Justice Department prefers to expend its resources elsewhere, and judges have been reluctant to utilize the full scale of penalties available in criminal cases. Customs generally mitigates civil penalties as well, in part to avoid the cost and drain on staff time of lengthy legal proceedings.

Unfortunately, those are conditions that are not going to change in the near term. This administration has proposed cuts in the Customs Service budget every year it has been in office. Congress has generally ignored those proposals, but the modest increases voted have not kept pace with the Service's expanded needs. Much of the increases have also gone toward an expanded drug interdiction program, also an important national priority. In addition, the budget situation makes additional funding for enforcement extremely unlikely. That is why it is imperative that we adopt a private right of action in cases of customs fraud. In this way, private resources would be brought to bear to aid in the discovery and prosecution of customs violations. I urge Senators to join me in seeing that this provision becomes law.●

ENVIRONMENTAL PROTECTION

● Mr. MITCHELL. Mr. President, last week, former Senator Edmund Muskie was honored by the Environmental Law Institute for his hard work in enacting this country's modern environmental statutes. His wisdom on environmental matters remains timely and provides a needed reminder of how far we have come in environmental protection, but also how much further we need to go before we have adequately protected the public health and the environment. I ask that Senator Muskie's comments before the Environmental Law Institute be printed in the RECORD.

The material follows:

REMARKS OF SENATOR EDMUND S. MUSKIE

I am most appreciative of your kind and generous assessment of my efforts to write environmental law; and I am honored that it is associated with the task of generating resources to support the outstanding work of the Environmental Law Institute.

Next year will mark the 25th year—a quarter of a century—since the establishment of the Senate Subcommittee on Air and Water Pollution. As its first chairman, I was given the welcome assignment of applying myself to a problem of which I had been aware since my boyhood, and to which I had applied myself as a State legislator and as Governor of Maine.

I grew up within a few hundred yards of the Androscoggin River—already far from fishable or swimable. I learned to smoke pine needles in a cave on the banks of the Androscoggin. Harness races were held on its frozen surface in the winter, and the ice was harvested for sale in the homes of the area in the summer. When I came to the Senate, it was described as one of the ten dirtiest rivers in America. Today it is one of the success stories of the Clean Water Act.

In the 1960's our effort was to learn as much as we could about the problems and the options for dealing with them. We undertook to arouse public awareness of the problems in order to generate political support for the policies and programs we were equipping ourselves to recommend.

Our legislative initiatives, from today's perspective, evolved slowly but picked up momentum as we developed confidence in our perceptions of what was required. It has been said that in the 1960's we asked for too little, and that in the 1970's we asked for too much.

Another assessment I read recently put it this way: "Environmental spokespersons asked for more than was needed with little scientific support, while industry, facing tough competition, offered less than was necessary." The truth is that we have not done enough.

As we began our work in 1963, we inherited a virtually undeveloped regulatory scene. There was in place a rudimentary waste treatment program authorized at $50 million a year. Enforcement in the water pollution area took the form of enforcement conferences which were effectively a negotiated risk assessment and cooperation instrument—far too limited in its scope and resources. Air pollution was widely perceived as strictly a Los Angeles smog problem.

Our concerns for the environment did not touch toxics, hazardous wastes, acid rain, the greenhouse effect, the vulnerability of the ozone layer. Nor did we focus on the deteriorating quality of the Nations' ground water which furnishes the drinking water for one out of two Americans.

Desertification, deforestation, resource exhaustion, species extinction, climatic changes were not a part of our environmental agenda. And so we began work on our limited environmental agenda.

As a chairman emeritus, I am entitled to invent history, engage in 20-20 hindsight and second guess my successors. I can even put current events into their historical context without great fear of contradiction.

When Senator Cale Boggs of Delaware and I and a few other not very visible Members of Congress began the environmental initiative 25 years ago, we encountered resistance from virtually every quarter:

The administration opposed our legislative proposals—the Johnson administration.

The Chamber of Commerce opposed our legislative proposals—the staff person in charge was Jim Watt.

State and local governments opposed our legislative proposals—they would cost too much.

Only a few—garden clubs, the League of Women Voters, the National Wildlife Federation—were there to support federal involvement in pollution control.

To many, effective environmental investment was antagonistic to economic activity. Only a few shared the opposite view. Fortunately, I was one of them. And the people of Maine apparently shared my view that a quality environment was an important attraction to economic growth.

My colleagues on the subcommittee and I agreed that a policy which pitted local regulators against national industries, that posed a choice between jobs and environmental improvement, was doomed to failure.

With this common view, we set some rudimentary goals. First, we enacted a policy that said the existing quality of our air and water resources ought not be allowed to deteriorate. We knew we had a lot of cleanup to do. We didn't want to have to do the job twice.

Second, we had to establish the legal basis for insinuating the federal government into the environmental process.

What business, we were asked, did Uncle Sam have in the regulation of air and water quality, which historically and appropriately was the responsibility of state and local government?

What business, we were asked, did the federal government have requiring the air to be clean or the water to be safe?

For air pollution we fixed on protection of public health; our jurisdiction over water quality was asserted from a definition of "navigability" which we wrote.

With few experts and fewer organized constituents those definitions came slowly. The political battles were real even if not front page news. And we compromised—to avoid defeat.

To satisfy our detractors, build coalitions, and assure that responsibility for basic environmental decisions would continue to be made at the state and local level, we passed laws that required the establishment of air water quality standards on an air shed and river basin basis.

We demanded and funded public participation and public hearings on regional environmental standards. The success of the regional process was remarkable. Throughout the country the public demanded margins of air and water quality safety far stricter than industry thought reasonable. And those who saw local control as a license to pollute quickly changed their tune.

It was in the area of air quality where this shift was most intriguing. Within months after those first regional air quality standards were adopted the Nixon Administration proposed legislation establishing national air quality standards. And the business community which had resisted federalization of environmental standards supported that initiative. National air quality standards were mandated by the 1970 Clean Air Act.

Now, nearly a quarter of a century into the fight to achieve air quality standards adequate to protect public health, the Washington Post editorializes for "differential" air quality standards. In the future, according to the Post, the quality of the air we breathe should depend on where we live, not on those national public health related air quality standards.

Unlike the 1967 Act, which permitted minimum levels of air quality protective of public health and cleaner air if deemed locally desirable, the Post's proposed policy would set maximum levels of clean air with dirtier air where the task of cleanup has been difficult.

And without saying so, a new EPA policy released late last month accomplishes the same objective by simply declaring that the 1970 Clean Air Act deadlines are illusory and sanctions won't be applied, thus guaranteeing "differential" air quality.

Public health protection is the critical ingredient of federal air pollution regulation. Without this fundamental purpose, the justification for rigorous federal involvement in air pollution control is diminished. The basic thrust of the Clean Air Act is diverted. And I submit that, without public health standards that establish a scientific basis for pollution controls, the credibility of the national environmental cleanup effort will be irreversibly impaired.

After all, it seems to me, the entire toxics revolution is premised on a person's right to expect that the air we breathe, the water we drink, the land we cultivate is free of poison. The toxics revolution is no more than an extension of the battle we began 25 years ago with known, common pollutants.

Moreover, a body of law based on health protection has evolved. These laws, unlike any other public policy, continue to enjoy overwhelming and increasing political support. More people are willing to pay more money today to achieve the protection these laws require than at any other time in my memory. And that must tell us something. It tells me that we have a credible basis for public support. And it tells me political leaders better deliver the goods.

Even a cynic has to be nonplussed by the depth and breadth of support for tough pollution control laws. Moreover, that support actually seems to grow as political will appears to wane.

I remember the early Lou Harris polls in the Earth Day era that showed generalized support for clean air and water in the 70 percent to 80 percent category. It moved into the 80 to 90 percent area in response to Reagan, Gorsuch and Watt. In the 70's, when the public was tested directly on the trade-off between jobs and the environment or on investing in more pollution control, the public was more evenly divided.

For example, in 1977, the year the Clean Air Act was last amended, the Eagleton Institute asked the people of New Jersey, our most urbanized state, to choose between maintaining strict anti-pollution laws or relaxing those laws to create more jobs. The New Jersey public was divided 46 to 46 percent.

In August of this year, the people of New Jersey responded to the same question by a resounding 69 to 19 percent in favor of strict laws!

Similar opinion samples for states from Texas to Maine and nationally indicate similar levels of public commitment. So why, in the face of this support, do Presidents and their men fail to aggressively pursue the initiatives Congress has taken? Why are compromises with health standards, timetables and emission controls the rule rather than the exception?

One would think that if politicians on the firing line don't compromise on tough questions, unelected regulators—and editorial writers for that matter—wouldn't either.

For reasons inexplicable, EPA administrators seem determined to substitute their judgment for that of an elected Congress—to save those "misguided" politicians from their own constituents.

The draft preamble to EPA's newest deadline avoidance policy is filled with arguments justifying its policy choices as merely filling in "gaps" in the Clean Air Act.

It also contains this passage: "On its face . . . the 1977 Clean Air Act . . . requires EPA also to restrict Federal grants to a State's air pollution control program if the State is not implementing its plan." Despite this requirement, EPA proposes to use the cutoff only "as a last resort." Why? "The EPA believes that Congress would not have intended the cutoff to apply automatically" in the current circumstances.

Maybe. Maybe not. But it is this attitude, that Congress could not have intended what it so clearly said, that has thrown our national clean air program into neutral.

Clean air advocates are saying we need a new Clean Air Act that will outfox the regulators and revitalize the program. The fact is, the old law suffers mainly from a lack of regulatory courage.

What this EPA has done with deadlines isn't new. Congress anticipated bureaucratic interference with the 1970 Clean Air Act and incorporated public access to the courts in that law and virtually every other environmental statute since enacted.

Congress even anticipated the judicial disinclination to interfere with administrative discretion.

Today there are dozens of citizen suits pending at all levels of the judiciary. Some have been brought by just plain folks, others by prestigious environmental groups like the Natural Resources Defense Council and the Environmental Defense Fund.

Through all this, the basic laws have survived. The policy has moved ahead, albeit too often at an excruciating pace. The air is cleaner. The public is better educated. A body of law cloaked in Circuit and Supreme Court interpretation has evolved.

And people are still participating in the process. Because it is they, not we, who started it all 25 years ago. Pollution is still a local problem; environment is still a local political issue.

It is this point that seems to miss the regulators. Environment is fundamentally a political question that requires voters to sort out their priorities. People who are elected to office understand this. Regulators are insulated from this reality.

Regulators are not insulated from the demands of their boss. If the people demand a more responsive Environmental Protection Agency, and hold the politicians accountable, the agency can and will respond.

We are already seeing signs of a new militancy among local voters on the environment. Local elections from Los Angeles to Long Island to Fairfax County have turned on quality of life questions. Statewide races from Washington to Florida to New Jersey have focused on environmental issues.

Nationally, the politicians have been better able to get by with generalized commitments and vague promises to "stop acid rain" or "clean up toxic dump sites." Not even Ronald Reagan and Jim Watt publicly favor a dirty environment.

So, as was the case in the year of Earth Day, it's again time to ask the candidates to focus on the specifics. Acid rain, nonattainment and toxic air pollution are tough problems. They are as good a test as any of the potential for leadership. Let's hear more about specific plans. Let's make sure the same message is being delivered in New Hampshire and Illinois, in Minnesota and in Texas. Let's see how each candidate measures up.

I ran for President once, and I am reminded of the advice I received from a voter on the Eastern Shore of Maryland. "Nobody expects a politician to keep all his promises," he said. "But by God, they ought to promise."

Ultimately, it's a matter of raising expectations:

Expectations on the part of candidates and elected officials that they will be called to account.

Expectations on the part of regulators that their job is protecting the public interest and their job is on the line.

Expectations on the part of regulated industry that it will be better in a long run to find ways of cleaning up than to find ways of avoiding it.

In a recent essay, Gus Speth recalled a French riddle used to teach students about the concept of exponential growth: A lily pond, so the riddle goes, contains a single leaf. Each day the number of leaves doubles—two leaves the second day, four the third, eight the fourth and so on. "If the pond is full on the 30th day," the question goes, "at what point is it half full?" Answer: "On the 29th day."●

AMENDING TITLE II OF THE SOCIAL SECURITY ACT TO CONTINUE DISABILITY BENEFITS DURING AN APPEAL

Mr. BYRD. Mr. President, I ask unanimous consent to introduce and have the Senate proceed thereon, a bill on behalf of Senators Bentsen, Dole, Moynihan, and other Senators, dealing with the continuation of Social Security disability benefits during appeal.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1937) to amend Title II of the Social Security Act to continue disability benefits during an appeal.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I support this legislation, which will extend the provisions to allow beneficiaries of disability benefits to elect to continue to receive disability payments and Medicare coverage pending an appeal to an administrative law judge on an adverse continuing disability review decision.

No one advocates paying benefits to those that are no longer disabled; however, mistakes can and have been made in terminating disability benefits. I remember well, the havoc wreaked on the lives of individuals and their families when disability benefits were abruptly terminated. The sad fact of the matter is that many of those individuals were still disabled. Their benefits were reinstated upon appeal of the adverse continuing disability review decision. Unfortunately, in the interim period, thousands of the disabled were left without any medical coverage or any means of support. We must not let this happen again.

I support this measure, and I urge my colleagues to do likewise.

Mr. BENTSEN. Mr. President, the bill I am introducing today is of considerable urgency. Unless we enact legislation this year, disabled Social Security beneficiaries who have been notified of a medical termination decision will no longer be able to receive benefits pending the outcome of an appeal. The provision in the law that authorizes payment of benefits pending appeal expires December 31.

Legislation authorizing disabled Social Security beneficiaries to elect to have disability benefits and Medicare coverage continued pending a decision by an administrative law judge [ALJ] was first enacted in 1983.

You will recall that at that time the Congress was greatly concerned about serious inadequacies in the disability determination process. Of particular concern was the lack of uniformity of decisions between the State disability determination agencies and the ALJ's.

In the early stages of the disability periodic review process, which was initiated by the Disability Amendments of 1980, about 50 percent of those reviewed were found ineligible for benefits by State agencies. Of those who appealed, about 60 percent had their benefits reinstated at the ALJ level.

This discrepancy raised serious questions about the fairness and accuracy of the decisionmaking process. The provision authorizing payment of benefits during appeal was enacted as a temporary measure, pending substantive legislation dealing with the fundamental problems in the disability determination and appeals process.

In the Social Security Disability Benefits Reform Act of 1984, the Congress approved a number of amendments aimed at reforming the process, and providing greater accuracy and uniformity of decisionmaking. At the same time, it extended the authority to continue payments during appeal, but limited the extension to only 4 years, in the expectation that improvements in the program's administration would make a permanent position unnecessary.

However, implementation of the 1984 reform amendments by the Social Security Administration has been slower than expected, and only recently has SSA begun to review significant numbers of cases under new regulations and guidelines. It is not yet clear whether large numbers of cases will be terminated under this review process, and, if so, what the ultimate outcome will be after some of these decisions are appealed.

Because of this uncertainty, I believe it is essential to continue the authority for another year.

This bill will ensure that persons who are disabled and unable to work will have their benefits continued while they pursue their appeal before an administrative law judge. They will also continue to be eligible for Medicare. However, if the initial termination decision is upheld, the cash benefits that have been paid are subject to recovery. Thus, the needs of the disabled are fully recognized, and the Social Security Disability Trust Fund is protected.

Mr. President, all of us in the Congress are concerned that the Social Security System be perceived as fair by both beneficiaries and the public at large. We need this provision for another year, to give us time to assess whether the process is working as the Congress intended. Enactment of this bill is in everyone's interest, and I urge my colleagues to support it.

Mr. MOYNIHAN. Mr. President, I would like to express the great appreciation of the Chamber to the distinguished majority leader and the acting Republican leader for their expeditious approach to this important and necessary bit of legislation. It has to do with a very simple proposition. Under present law, which expires December 31, persons who are receiving disability insurance under the Social Security System, OASDI, and who have been determined, through a "Continuing Disability Review," no longer to be eligible, and who have appealed this determination to an administrative law judge, under present law their entitlement to disability benefits continues until the decision by the administrative law judge is handed down.

In the past, particularly 1982, we had an extraordinarily unhappy experience. The administration speeded up these disability reviews and an enormous number of persons were declared ineligible. Many of these people were seriously disabled and in need of medical care. Many did not have resources, did not have earnings—that is why they were all on disability in the first place—and suddenly they were deprived of their disability insurance income. Many of those terminated appealed these adverse decisions and, in an extraordinary proportion of cases, the administrative law judges found they had been eligible all along; the initial decisions had been wrong. Indeed, the performance of the system was lamentable. In the half-century history of social insurance, Social Security, we had no such thing. And yet, in this interim period, disabled workers and their dependents suffered.

We have, in this matter, complete unanimity. The distinguished chairman of the Committee on Finance is the sponsor of this legislation. I am his cosponsor, as chairman of the Subcommittee on Social Security and Family Policy. I believe this measure has support on both sides of the aisle. I can speak to the fact that Dr. Bowen, the Secretary of Health and Human Services, has written to Members of the Senate asking us to proceed in a timely manner and, indeed, we have very little time. The less time I use in speaking to the matter, the more expeditiously it might be dealt with.

To reiterate, Mr. President, under a provision of current law that expires December 31, 1987, a disability insurance [DI] beneficiary who has been determined to be no longer disabled during a continuing disability review [CDR] may elect to continue to receive DI benefits while appealing the decision to an administrative law judge [ALJ].

If the beneficiary's appeal is successful, he will have experienced no disruption in his benefits.

If the beneficiary's appeal is unsuccessful, then the law provides that he must repay the benefits he received in the interim.

If Congress fails to extend this expiring provision, thousands of individuals will lose their DI benefits while they appeal adverse CDR decisions.

It is worth noting that the House has already acted to extend this provision in its reconciliation bill. But for the prohibition on including Social Security legislation on budget bills, the Finance Committee would have included an extension of this provision in its reconciliation package.

Since the Senate's reconciliation bill is not a viable legislative vehicle, and the December 31 expiration date looms around the corner, we must move this emergency measure.

It is also worth noting, Mr. President, that the administration supports extending this provision. HHS Secretary Otis Bowen informed congressional leaders of the impending expiration of this provision in a letter delivered on December 3.

I commend the Secretary for his handling of this situation, so in contrast to the recent administration response to the expiration of a provision permitting welfare recipients to receive—in-kind—charitable donations without having their public assistance benefits reduced.

In that instance, the administration astonished and angered congressional Democrats and Republicans by instructing Social Security field offices to begin reducing welfare payments for charitable contributions even as the Congress moved to make the disregard of such charity permanent!

Given the administration's disregard for congressional intent, I was compelled to introduce an emergency bill, S. 1793, on October 16, 1987, protecting welfare recipients from these benefit reductions. I am pleased to say that this measure was passed unanimously by the Senate a few days later. A similar provision is included in the House reconciliation bill.

PROTECTING DI BENEFICIARIES

At present, Mr. President, there are about 4 million DI beneficiaries; 2.7 million of whom are disabled workers and 1.3 million of whom are dependent spouses and children.

According to SSA's Office of the Actuary Projections for 1988, about 216,000 disabled workers—or 8 percent of the disabled workers of DI—will be subject to "continuing disability reviews" [CDR's].

Of these annual reviews, about 51,000—or a quarter of those reviewed—will be notified that they are no longer disabled and that their DI benefits will be terminated.

Of these 51,000 disabled workers, the SSA actuary estimates that 43 percent—22,000—will appeal and eventually win their cases. These SSA estimates could be underestimated: In fiscal year 1986, ALJ's reversed 52 percent of DI case-terminations on appeal; in fiscal year 1985, 55 percent were reversed.

Another 35 percent—18,000—will appeal and lose their cases, 20 percent—10,000—won't appeal their cases at all, and about 2 percent—1,000—will appeal but elect not to receive interim DI benefit payments.

In short, Mr. President, a failure to extend this provision would mean that, next year, some 22,000 disabled workers—and roughly 44,000 of their dependents—will be denied interim DI benefits, even though they will eventually win their administrative appeals.

THE NATURE OF THE HARDSHIP IMPOSED

Mr. President, the average length of time that a DI beneficiary waits for an administrative decision from an ALJ is over 8 months. If beneficiaries initiate an administrative appeal, they may receive interim benefits for the first 2 months after the month in which the adverse CDR decision is made, even if this expiring provision is not extended.

The average monthly benefit paid to a disabled worker on DI is $488; to his or her spouse, $130; and to a dependent child, $140. These are December 1987 figures.

Thus, Mr. President, take for example the case of the average disabled husband, dependent wife, and children. Such a family would receive, on average, a DI benefit of $919 per month. During the appeal, unless we extend this expiring provision, this average DI family could lose over $4,500 in benefits.

LEGISLATIVE BACKGROUND

Mr. President, it is the responsibility of the Congress and the Social Security Administration to ensure that only those who are genuinely disabled receive DI benefits.

Toward this end, I supported the adoption of the Disability Insurance Amendments of 1980, requiring SSA to reexamine every individual determined to be temporarily disabled at least once every three years. These reviews are in addition to the administrative procedures previously used.

Unfortunately, Mr. President, the administration did not administer these disability reviews in a fair and judicious manner. In March 1981, the administration accelerated the disability reviews. Numerous individuals, far more than was usual, were notified that they were losing their DI benefits. Requests for appeals piled up and class action suits were filed.

As a consequence, late in 1982, Congress first provided for temporary, interim disability payments, pending the outcome of administrative appeals, Public Law 97-455, enacted in January 1983. And we acted in the nick of time: Between 1981 and 1984, SSA reviewed nearly 1 million DI beneficiaries and nearly half of them had their benefits terminated. But in subsequent appeals, ALJ's reversed over 60 percent of those terminations.

At the time, a Federal judge in Minnesota described the administration's procedures as "arbitrary, capricious, irrational, and an abuse of discretion." Governors from 10 States, including New York, refused to administer the disability reviews as instructed by SSA. In the wake of this fiasco, in April 1984, the Secretary of HHS—Margaret Heckler—suspended all further disability reviews.

This deeply troubling administrative arrogance led the Congress, in 1984, to adopt the Social Security Disability Benefits Reform Act of 1984. That legislation incorporated a number of provisions to rectify the disability review process that I had introduced, as S. 2002, in October 1983.

Among other things, the 1984 amendments extended for the second time, the provision permitting DI beneficiaries to elect to receive benefits while appealing adverse CDR decisions.

The 1984 legislation also required the Secretary of HHS to study the effects of the continued payment of interim DI benefits during appeals. That study and the Secretary's recommendations were expected last summer, but the study was delayed by the moratorium on disability reviews imposed by the Secretary in 1984.

The HHS report is now due to be completed in the summer of 1988. Congressional leaders and the administration agree that, until this report is submitted and while we consider any new recommendations, we must continue to pay interim DI benefits during administrative appeals.

SUPPORT THIS EMERGENCY MEASURE

Mr. President, as chairman of the Social Security Subcommittee in the Finance Committee, I can assure my colleagues that when the Secretary's findings and recommendations reach us, they will be carefully reviewed.

At that time, we will decide whether or not to further extend this interim disability provision or to establish more far-reaching disability review standards.

In the meantime, Mr. President, the provision we consider today protects disabled workers and their families from premature terminations of their DI benefits.

It never has been our intent, nor can it be our intent now, to permit such families to suffer economic hardship. Therefore, I urge my colleagues to support this emergency extension of the provision permitting interim payment of DI benefits during an administrative appeal.

Mr. RIEGLE. Mr. President, I rise to commend my colleague, Senator BENTSEN, for his leadership in introducing S. 1937, a bill which extends for 1 year the continued payment of disability benefits while a person appeals to the administrative law judge [ALJ] level. I am pleased to join with him as an original cosponsor of this bill, which would continue the provision of a crucial protection for disability claimants.

Such a protection was originally enacted on a temporary basis in 1982, and was extended in the 1984 Disability Reform Act amendments. The provision expires on December 31, 1987. Senator BENTSEN's bill extends for 1 year the continued payment of disability benefits during appeal.

The original purpose for enacting this provision still exists: there are long delays in obtaining appeal hearings and decisions. When decisions are finally reached, about half of the individuals who appeal to the ALJ stage obtain reversals of the termination decision. It would be grossly unfair to once again expect individuals who the Social Security Administration [SSA] once found to be disabled to somehow survive without their Social Security and Medicare benefits while their cases are being adjudicated at the ALJ level.

In fact, in 1981 and 1982, many beneficiaries who were cut off from disability payments underwent severe hardship. The stress from the loss of income and health care exacerbated the condition of some of these disabled individuals. Some lost their homes, were unable to purchase food or pay their utility bills, and some even became more seriously disabled. We must not let this happen again.

In 1984, when the 3 year expiration date was included in the Disability Act, it was believed that this would provide SSA with sufficient time to accomplish continuing disability reviews on those intended to be protected by the act. In fact, SSA has barely made a dent in reviewing the average case under the new review procedures.

Late in 1986, the GAO urged SSA to shift its focus away from cases where it does not except the person to improve to cases where it does expect improvement. GAO's concern about SSA failure to review the latter group is so great that it has not pressed SSA on the issue of review of the average case, where improvement is only possible.

As a result, very few of the individuals Congress was most concerned about have benefited from this provision. Their cases will not come up for review until next year or later. In addition, due to the limited use of the provision, SSA has not yet submitted to Congress the results of the study on the effects of the provision which Congress instructed it to undertake in the 1984 act.

Mr. President, I would once again like to commend the leadership of the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, whose commitment to the needs of the disabled is demonstrated in his introduction of S. 1937. I urge all of my colleagues to support this urgently needed legislation.

Mr. COHEN. Mr. President, in the absence of congressional action, the provision of Federal law that permits beneficiaries to continue to receive disability benefits while their cases are under review will lapse on December 31, 1987. Earlier this month, the Secretary of Health and Human Services, Dr. Otis R. Bowen, notified the Congress that, if this expiring provision is not extended by December 31, he will have no recourse but to eliminate interim disability benefits payments. This threatens thousands of disabled Americans who are facing challenges to their entitlement to Social Security disability benefits.

I am pleased to join my colleagues, Senator DOLE, Senator BENTSEN, and others who have put so much effort into making the Social Security Disability Program both efficient and fair, as a cosponsor of legislation to extend for another year this key aspect of the Social Security Disability Benefits Reform Act.

During recent Congresses, the adminstration of the Social Security Disability Program has given rise to storms of criticism and controversy. In 1980, Congress mandated periodic reviews of disability beneficiaries. What took place immediately after the passage of this original reform measure was an effort by the administration to implement a congressional mandate. The administration took to this effort with a fervor that was not matched with capability. The Social Security Administration [SSA] called for the review of cases before staffing was adequate. The SSA called for reviews of cases by inadequately trained staff. The agency reviewed cases without extending adequate notice to beneficiaries—without indicating that the beneficiaries whose cases were under review would have to present fresh medical evidence of disability and carry the burden of proof. And so, thousands upon thousands of beneficiaries were stricken from the disability rolls never having been fully apprised of the nature or the consequences of the disability review procedure itself. It was done in a way that hardly reflected well on the compassionateness of our Government.

One of the very troubling aspects of this procedure was hardship borne by beneficiaries during the appeal of termination decisions. Those individuals who were terminated from the disability rolls bore the burden of appealing the termination decision. The appeals process would take anywhere from 1 year to 18 months, during which time individuals had no source of relief or compensation. Pending their appeals, many caught up in this red tape lost their homes, sold their cars, and suffered tremendous physical and psychological burdens only to have an administrative law judge find that the termination had been in error.

During the 3 years which followed the start of disability reviews in March 1981, State agencies, which apply Social Security Administration guidelines, disqualified some 500,000 beneficiaries. Yet more than 200,000 of these individuals were reinstated after appealing to administrative law judges who ruled that they, in fact, remained disabled and thus were entitled to benefits. Thousands of others were restored to the program by court orders.

The hardships imposed on the truly disabled have been well chronicled by numerous hearings, studies, court decisions, press reports, and personal experiences. These reviews spawned an overwhelming number of court challenges, an unprecedented rebellion by State governments, and pleas for justice from the disabled, their families, and their advocates.

In 1983, I authored, along with Senator LEVIN, the Social Security Disability Benefits Reform Act. This legislation, which eventually became law, established criteria for assessing the continued eligibility of individuals receiving disability benefits. The Social Security Disability Benefits Reform Act also extended the law allowing benefits to be continued pending appeal. I am delighted that the Senate is acting today to preserve the protection that this provision of law has afforded Social Security disability beneficiaries. We need to keep this law on the books to maintain the progress of the past few years in reforming the Social Security Disability Program such that it is both frugal and fair.

The PRESIDING OFFICER (Mr. BINGAMAN). The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1937) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

(a) IN GENERAL.—Subsection (g) of section 223 of the Social Security Act is amended—

(1) in the matter following subparagraph (C) of paragraph (1), by striking "(iii) June 1988" and inserting in lieu thereof "(iii) June 1989"; and

(2) in paragraph (3)(B), by striking "January 1, 1988" and inserting in lieu thereof "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill is passed.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the majority leader on behalf of hundreds of thousands of persons who would have been unjustly and unnecessarily injured and harmed were he not able to bring this matter to the floor as he has done, and as he always does when such matters are at issue.

Mr. BYRD. Mr. President, the distinguished Senator is not only welcome but he is to be thanked on the part of all those same persons for his perspicacity and his forthrightness and effective action.

Mr. MOYNIHAN. I thank the distinguished majority leader.

Mr. DOMENICI. Mr. President, I ask my friend from New York if he will accommodate me by seeking consent that I be made a cosponsor to this legislation.

Mr. MOYNIHAN. Mr. President, I certainly do ask unanimous consent that the distinguished Senator from New Mexico [Mr. DOMENICI] be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I again thank the distinguished Senator from New York [Mr. MOYNIHAN] for his leadership.

ADJUSTMENT TO CERTAIN OIL AND GAS ROYALTY PAYMENTS

Mr. BYRD. Mr. President, I ask the distinguished acting Republican leader if Calendar Order 461 has been cleared on his side on the aisle.

Mr. DOMENICI. Yes, it has been, I say to the distinguished majority leader.

Mr. BYRD. I thank my friend.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order 461.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3479) to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be referred to as the"NTL-5 Gas Royalty Act of 1987".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(2) NT5-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22610).

(3) OTHER TERMS.—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production form Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5, and for which the lessee or royalty payor provides written documentation, determined to be adequate by the Secretary and existing at or near the time the gas was sold, of receipt of less than the highest applicable price under the Natural Gas Policy Act.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—If the gas referred to in subsection (a) of this section was produced from a Federal onshore lease, the value shall be determined in accordance with the lease terms and the regulations codified at part 206 of title 30 of the Code of Federal Regulations as in effect at the time of production.

(c) ROYALTY CALCULATION FOR CERTAIN INDIAN LEASES.—If the gas referred to in subsection (a) of this section was produced from an Indian lease, the value shall be determined in accordance with the lease terms and the regulations codified at part 206 of title 30 of the Code of Federal Regulations and sections 211.13 and 212.16 of title 25 of the Code of Federal Regulations, as applicable and as in effect at the time of production.

(d) WRITTEN DOCUMENTATION.—The written documentation required under subsection (a) of this section may include, but is not limited to, a gas sales contract, purchase statement, receipt, or other written documentation deemed appropriate by the Secretary existing at or near the time of sale showing the actual price received.

(e) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) REFUND FOR FEDERAL ONSHORE OIL AND GAS LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore oil and gas lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any natural gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of such refund from any State.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(c) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(c) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed $2,000,000.

SEC. 5. PROCEDURES.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record as of July 31, 1986, for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act and the terms and conditions for receiving refunds or royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease or leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which the Secretary may select for examination under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due the lessee.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary, and any tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due the lessee.

(c) MMS NOTICE.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(c) REPORT TO INDIAN TRIBES.—The Secretary shall provide a report to each Indian tribe holding an Indian oil and gas lease on

which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5. The report to each tribe shall contain information for each such lease held by the tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(c) of this Act.

SEC. 6. RECORD KEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982, through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? So the bill, (H.R. 3479), as amended, was passed.

The title was amended so as to read "An Act to provide clarification regarding the royalty payments owed under certain Federal onshore and Indian oil and gas leases, and for other purposes".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed and by which the title was amended en bloc.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE JOINT RESOLUTION INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 217

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order 456, Senate Joint Resolution 217, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOR THE RELIEF OF SUSAN A. SAMPECK

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 3319, a bill for the relief of Susan A. Sampeck, and that the Senate proceed to its immediate consideration, that it be read the third time and passed, and that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF OBSOLETE SUBMARINE U.S.S. "TURBOT" TO DADE COUNTY, FL

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 388.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3283) to allow the obsolete submarine U.S.S. *Turbot* to be transferred to Dade County, FL, before the expiration of the otherwise applicable 60-day congressional review period.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1253

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. METZENBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. METZENBAUM, proposes an amendment numbered 1253.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15E or other advanced aircraft with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies the Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is removed from the inventory of Saudi Arabia.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1253) was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3283), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES ON TITLE XI OF H.R. 5

Mr. BYRD. Mr. President, I ask unanimous consent that Senators INOUYE, MELCHER, DECONCINI, BURDICK, DASCHLE, EVANS, MURKOWSKI, and MCCAIN be appointed conferees for purposes of the House-Senate conference on title XI, the Indian Education Amendments of 1987, of H.R. 5, an act to improve elementary and secondary education.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES ON H.R. 2700

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate H.R. 2700.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 2700.

The legislative clerk read as follows:

A bill (H.R. 2700) making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

Mr. JOHNSTON. Mr. President, I intend to ask unanimous consent shortly to have the Senate conferees appointed on H.R. 2700, the energy and water appropriations bill for 1988. First, I would like to take a moment to explain how I see the House and the Senate dealing with pending nuclear waste legislation. Major modifications to the Nuclear Waste Program have been included in both H.R. 2700 and in the budget reconciliation bill which will be before the Senate shortly. I would like to suggest the following method of dealing with the nuclear waste issue:

First, Senate conferees would be appointed on H.R. 2700.

Second, we will attempt to deal with proposed changes in the high-level Nuclear Waste Program as a part of the budget reconciliation legislation which will be conferenced between the House and the Senate as part of the budget reconciliation conference report.

Third, the conferees on H.R. 2700 will defer to any agreement on nuclear issues passed as part of budget reconciliation and will not confer on these issues nor include such matters in such bill so long as efforts on reconciliation continue. If such matters are passed as part of reconciliation, they shall be excluded from appropriations measures, except for the dollar appropriation.

Fourth, if agreement between the House and the Senate on any proposed modifications to the Nuclear Waste Program cannot be reached on the budget reconciliation legislation, there would be an opportunity for a vote by the full House of Representatives on proposals to modify the Nuclear Waste Program as part of their consideration of appropriations measures in accordance with House rules.

Mr. REID. Mr. President, my primary concern with the way that the Senate has proceeded on H.R. 2700 is that the Senate chose to include a major new piece of authorizing legislation on nuclear waste as part of an appropriations bill, thus blocking the House authorizing committees with jurisdiction over nuclear waste from taking part in the formulation of this important legislation. That is why I have taken the steps that I have to delay consideration of H.R. 2700.

As I now understand the chairman's proposal, the appropriations conference on H.R. 2700 would not attempt to finalize an agreement on the nuclear waste provisions in the bill so long as efforts to agree on modifications to the 1982 Nuclear Waste Act are ongoing as part of the reconciliation legislation. Is that correct?

Mr. JOHNSTON. That is correct.

Mr. ADAMS. If the Senator from Louisiana will yield for a moment, I would like to associate myself with the remarks just made by the Senator from Nevada. During the Senate's debate on H.R. 2700, I made it clear that I had no objection to the prompt consideration of all of the portions of the bill with the exception of those provisions to amend the Nuclear Waste Policy Act. It was my intent, as it was the Senator's from Nevada, to assure that those critical changes to existing law were not legislated on the energy and water appropriations bill without the participation of all of the relevant authorizing committees. I welcome the comments of the Senator from Louisiana as an important step in resolving the impasse on this issue.

Mr. REID. Finally, if no agreement can be reached in the reconciliation conference on nuclear waste, any proposed modifications to the Nuclear Waste Program would be put to a vote by the full House as part of their consideration of appropriations measures.

Mr. JOHNSTON. That is correct.

Mr. REID. This proposal gets us back on track. We will be fully involving the House committee with jurisdiction over this issue. With this understanding, I have no objection to the appointment of conferees on H.R. 2700.

Mr. ADAMS. Mr. President, I too believe that this approach will help us get the nuclear waste issue into the process where the rights of all of our colleagues are preserved but where we can begin good faith negotiations between the House and Senate.

Mr. BYRD. Mr. President, I move that the Senate insist on its amendments to H.R. 2700 and request a conference with the House on the disagreeing votes between the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Johnston, Mr. Stennis, Mr. Byrd, Mr. Hollings, Mr. Burdick, Mr. Sasser, Mr. DeConcini, Mr. Hatfield, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Domenici, and Mr. Specter conferees on the part of the Senate.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be deleted from the list of conferees stated by the Chair on H.R. 2700. I just have my platter full, and I cannot.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET RECONCILIATION

Mr. CHILES. Mr. President, I send to the desk for the purpose of being printed an amendment proposed by Mr. Byrd, Mr. Dole, Mr. Chiles, Mr. Domenici, Mr. Bentsen, Mr. Stennis, Mr. Johnston, and Mr. Hatfield and ask that the amendment be printed and lay over at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under Amendments Submitted.)

Mr. CHILES. I ask unanimous consent that a summary of the matters in the amendment also be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of Provisions in Leadership Amendment

The Summit agreement provides for deficit reduction of $30.2 billion in 1988 and $45.9 billion in 1989. The agreement established deficit reduction targets for defense and nondefense discretionary spending, revenues, entitlements and other direct spending programs. These savings were to be achieved through two pieces of legislation: the 1988 reconciliation bill and the continuing resolution.

The leadership amendment to S. 1920, the Senate-reported reconciliation bill, achieves the revenue and entitlement savings called for in the summit agreement. In addition, the amendment contains caps on defense and domestic spending that will result in the required savings in discretionary programs. The amendment to the underlying reconciliation bill results in total savings of $24.1 billion in 1988 and $28.0 billion in 1989. If the continuing resolution complies with the targets in the agreement, the total package will save $33.7 billion in 1988 and $46.2 billion in 1989.

The amendment contains the recommendations of the five Senate authorizing committees with jurisdiction over the areas specified in the summit agreement. These recommendations have been drafted, wherever possible, in consultation with the House committee of jurisdiction and the Administration.

RECONCILIATION—ORIGINAL PROVISIONS

The leadership amendment will leave intact the provisions of the Title I through Title III of S. 1920: Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; as well as the previously enacted reconciliation provisions of the Banking, Housing, and Urban Affairs Committee. Some of the provisions in these titles contain user fees that may be used to reach the $400 million user fee target.

The leadership amendment strikes the remaining titles of S. 1920 and substitutes new language that achieves the summit agreement savings targets. The following summary provides a brief description of the major provisions in the leadership amendment. The attached table shows the current status of savings in the leadership package.

COMPONENTS OF LEADERSHIP AMENDMENT

[Dollars in billions]

	1988	1989	1988–89
Hard taxes	9.07	14.02	23.09
IRS compliance (net) [1]	1.60	2.90	4.50
User fees [2]	0.40	0.40	0.80
Discretionary spending [3]:			
Defense (Function 050)	5.00	8.20	13.20
Domestic discretionary	2.60	3.40	6.00
1989 effect of 1988 2 percent pay	0.00	2.40	2.40
Subtotal, discretionary	7.60	14.00	21.60
Entitlements and other:			
Medicare	2.00	3.50	5.51
Other finance provisions	0.22	0.17	0.39
Farm price supports [4]	1.20	1.30	2.50
GSL balances	0.23	....	0.23
Postal Service	0.83	0.93	1.76
Cash management initiative	0.00	0.01	0.01
PBGC premiums	0.39	0.51	0.90
VA origination fee extension	0.20	0.20	0.40
VA loan guarantee	0.80	1.00	1.80
VA vendee loans	0.04	0.02	0.07
Subtotal, entitlements	5.92	7.65	13.57
Debt service	1.30	3.70	5.00
Deficit reduction under GRH scoring [5]	25.59	41.97	67.56
Asset sales	2.50	3.50	6.00
REA and RTB prepayments	5.35	....	5.35
Grand total deficit reduction	33.74	46.17	79.91
Deficit targets in summit agreement	30.20	45.85	76.05

[1] The summit agreement provides for an increase in IRS staffing levels and a corresponding increase in revenues.

[2] The Senate-reported reconciliation bill contains user fee provisions sufficient to meet the requirements of the summit agreement. Details will be worked out in conference.

[3] The amendment contains caps on defense and nondefense discretionary spending for 1988 and 1989. Savings associated with these caps will be achieved upon enactment of final appropriations for 1988 and 1989 that comply with the agreement.

[4] Preliminary staff estimates.

[5] The debt service adjustment for this deficit calculation excludes savings from asset sales and prepayments.

Note.—Detail may not add to totals due to rounding.

RECONCILIATION—NEW PROVISIONS:

TITLE IV—FINANCE, SPENDING

Medicare and Medicaid

Total Medicare savings reflected in the revised bill are $2.0 billion in 1988 and $3.5 billion in 1989.

DRG Rates

Increases Diagnostic Related Group payments for 1988 by 0.5 percent for urban hospitals, 3.7 percent for rural hospitals, and 2.7 percent for hospitals exempt from the prospective payment system.

Medical Education

Reduces indirect medical education payments to hospitals by 1.8 percent in 1988, reflecting more recent data on allowable education costs. Phases out direct medical education payments for graduates of foreign medical schools.

Periodic Interim Payments

Eliminates advance interim payments for certain hospitals with relatively high indigent admissions as of July, 1989, and shifts the last 1988 payment to 1989.

Capital

Effective January 1, 1988, Medicare capital payments would be paid at reasonable cost minus twelve percent for the remainder of 1988 and for 1989. The moratorium on incorporating hospital capital into PPS would be extended to four years.

Hospital Outpatient Departments

Eliminates return on equity payments to proprietary hospital outpatient departments, and limits aggregate payments to all hospital outpatient departments for radiology services.

Sequester Continuation

The 2.3 percent reduction in Medicare payments under the sequester currently in effect would be extended through December 31, 1987, except that the reduction would continue through January 15, 1988 for physician services and durable medical equipment.

Physician Payments and Durable Medical Equipment

Payments would be frozen for three months. On April 1, 1988, customary charges for physicians would be updated, and prevailing rates would be increased by 3.6 percent for primary care services, and 0 percent for other physician services. Reduces payments for certain surgical procedures. Sets new procedures for establishing charge levels for new physicians. Also establishes bonus 5 percent payments for physicians practicing in rural underserved areas who accept Medicare as payment in full.

Clinical Labs

Fee schedules for clinical laboratories would be rebased to reflect a five percentage point reduction.

Premiums

Extends current law provision requiring premium financing to cover 25 percent of Part B cost through 1989.

Part B Deductible

Effective January 1, 1989, the Part B deductible would be increased from $75 to $85.

Mental Health

Broadens Medicare coverage for psychiatric services and clarifies coverage of psychological services in certain hospital and outpatient settings.

Rural Concerns

Contains several Medicare provisions to examine and improve the financial viability of rural hospitals and improve access to health care in rural areas.

HMOs

Makes several changes to strengthen beneficiary protections under Medicare HMO contracts and make technical changes to HMO law.

Infant Mortality

Expands Medicare to allow States to provide targeted coverage to pregnant women and children with incomes up to 160 percent of the Federal poverty level, with a $5 monthly premium charged between 130 and 160 percent of the poverty level, and to mandate coverage of children up to age 6.

Nursing Home Quality

Establishes additional standards for nursing home quality of care, including nursing and training requirements and protections of residents' rights.

Other Miscellaneous Health Provisions

Includes several Medicare and Medicaid provisions to provide for studies and demonstrations, improve collection of data and program administration, provide for expedited resolution of claims disputes, and enhance beneficiary protection.

Social Services and Income Security

TITLE XX

Increases authorization for Title XX social services block grant by $50 million for 1988 only.

Foster Care

Includes several provisions to improve eligibility and program administration for foster care.

Supplemental Security Income

Increase by $5 a month the amount that SSI individuals and couples in Medicaid institutions are allowed to keep from their monthly SSI checks for personal needs. Sets procedures for eligibility determination for those who are temporarily institutionalized, provides for continued Medicaid eligibility for certain SSI recipients, extends energy aid disregard, and makes other minor changes.

Other

Makes several additional small eligibility determination and program administration changes in SSI and AFDC, Child Support Enforcement, and Unemployment Insurance.

Pension Benefit Guaranty Corporation

Increases PBGC premiums from $8.50 to $14 per participant. Imposes a variable rate premium on underfunded pension programs equal to $6.00 per $1,000 of underfunding. Tightens rules on payment of minimum contributions, restricts granting of funding waivers and plan terminations under Chapter 11. Provides the plan with a lien against employer assets for significant unfunded liabilities under certain circumstances. Net deficit reduction of $205 million in 1988, $201 million in 1989, and $231 million in 1990. (Note that Title VI, the Labor and Human Resources Committee provisions include changes to the PBGC that are not consistent with the Finance provisions. The final PBGC provisions will be worked out in conference.)

Debt Collection

Extends IRS refunds offset authority for three years for all Federal agencies. Saves an additional $300 billion in 1988 and $424 billion in 1989.

TITLE IV—FINANCE, REVENUES AND USER FEES

Committee package increases revenue $9.1 billion in 1988 and $14.0 billion in 1989 as required by the Leadership agreement. The Committee further recommends increases in user fees of $335 million in 1988 and $318 million in 1989.

Employment Taxes

Expands employer share of FICA tax to include all cash tips. Requires income of inactive duty reservists, certain agricultural employees, family members and group-term life insurance to be treated as wages. Increases railroad retirement taxes and extends FUTA tax for three years. Revenues would be increased by $1.2 billion in 1988 and $1.7 billion in 1989.

Excise Taxes

Maintains 3 percent telephone excise tax through 1990. Requires collection of diesel and special motor fuels taxes on sales to retailers. Together these provisions generate additional receipts of $1.5 billion in 1988 and $2.5 billion in 1989.

Gift and Estate Taxes

Freezes current gift and estate tax rates for two years. Revenue estimates anticipate $21 million in 1988 and $176 million in 1989.

Correction of ESOP Estate Provision

Modifies ESOP estate tax provision to correct technical drafting errors incorporated as part of the 1986 Tax Reform Act. Provision also limits maximum allowable deductions to 50 percent of taxable estates and limits deductions to proceeds of sales of employer securities that are issued by domestic corporations that have no publicly traded stock outstanding. Closing loophole generates $1.2 billion in 1988 and $1.6 billion in 1989.

Further Reform of the Tax Code

Accounting Provisions

Repeals cash method of accounting for farms with receipts over $25 million. Terminates special rule that permits taxpayers a deduction for additions to a reserve for vacation pay. Terminates installment method of accounting for dealers and requires contributions to fund pension past service liability to be subject to uniform capitalization rules. Reforms to accounting provisions increase tax collections by $5.1 billion in 1988 and $2.5 billion in 1989.

Corporate Provisions

Modifies corporate estimated tax rules to require larger estimated tax payments. Modifies computation of earnings and profits for intercorporate dividends and basis adjustment, repeals graduated tax rates for personal service corporations. Corporate provisions generate new revenues of $1.7 billion in 1988 and $1.2 billion in 1989.

Partnership Provisions

Suspends at the partnership level, losses and deductions of publicly traded limited partnerships; allows them to be used against income from that partnership with a carry-forward mechanism. Reforms to partner-

ship provisions increase taxes by $77 million in 1988 and $127 in 1989.

Miscellaneous Provisions

Eliminates child and dependent care credit for overnight camp expenses. Precludes employers from making deductible contributions to over-funded pension plan. Proposals increase taxes by $690 million in 1988 and $1.6 billion in 1989.

User Fees

Requires user fees for certain IRS services including letter rulings, determination letters, opinion letters and other written statements requested by individuals and organizations. Increases BATF occupational taxes of the Bureau of Alcohol, Tobacco and Firearms. Amends and extends current Customs Service user fee schedules. Total user fees receipts are projected at $335 million in 1988 and $318 million in 1989.

TITLE V—GOVERNMENTAL AFFAIRS

Federal Pay

Provides for a 2 percent pay increase in 1988 for all Federal civilian employees (except members of Congress) and for all uniformed military personnel. Delays pay raise to January in 1989 and 1990 for all civilian and all uniformed military personnel.

Cash Management

Mandates the establishment of procedures governing transfers of funds between the federal government and state governments in an effort to minimize time between the availability and outlay of federal funds for programs administered by the States. Provides for reciprocal interest payments on funds held for overlong periods of time.

Postal Service

Directs the Postal Service to pay Federal Employee Health Benefits costs for all postal annuitants and to pay for a portion of postal service retiree COLAs on an accrual basis in 1988 and 1989, while covering full costs for new retirees on a cash basis from 1990 on. Both these costs are currently subsidized by general revenues. Requires that the Postal Service delay its capital investment program and absorb FEHB costs within its overall budget to cover the costs of these reforms. Increases in postal rates, borrowing, or operating budgets would not be allowed to finance these new payments.

TITLE VI—LABOR AND HUMAN RESOURCES

Guaranteed Student Loan Program savings

Directs the Department of Education to determine maximum cash reserve levels for all Guaranteed Student Loan Program guaranty agencies. Agencies deemed to hold cash reserves in excess of the Secretary's determination, based on financial guidelines established by the General Accounting Office, would be required to deduct default claim payments first from excess reserve funds.

The language would provide an appeal process for agencies able to demonstrate significant adverse consequences if they deplete cash reserves to the level determined by the Secretary. A waiver, in whole or part, could be granted. Authority under this section would be repealed on September 30, 1989.

Savings from the plan are estimated to be $250 million in 1988.

Pension Benefit Guaranty Corporation

Increases PBGC premium from $8.50 to $25 per participant. Increases minimum funding standard for employer contributions. Limits granting of funding waivers to hardship employers and holds employers liable for termination of underfunded pension plans. Establishes certain conditions to be met to withdraw assets from pension plans and imposes excise tax if an amount in excess of permitted amount is withdrawn. (Note that Title IV, the Finance Committee provisions include changes to the PBGC that are not consistent with the Labor and Human Resources Committee provisions. The final PBGC provisions will be worked out in conference.)

TITLE VII—VETERANS AFFAIRS

Increasing Cash Sales of Acquired Foreclosure Properties

Requires the Veterans Administration to increase the proportion of acquired foreclosure properties sold on a cash basis, rather than through a direct VA loan. Current law requires cash sales for between 25 and 40 percent of foreclosed properties. The bill requires cash sales for between 35 and 50 percent of foreclosed properties.

Repeal of Asset Sale Provision

Section 2 of P.L. 100-136, which required the sale of Veteran's Administration housing vendee loans with recourse, is repealed. Loans could then be sold without recourse.

Extension of Loan Origination Fee

The recently-lapsed Veterans' Administration one percent housing loan origination fee is extended for two years.

TITLE VIII—AGRICULTURE, NUTRITION, AND FORESTRY

One percent reduction in income and price supports

Provides for an additional 1 percent reduction in the target price for the 1988 crops of wheat, feed grains, upland cotton, and rice. Reduces expenditures under the dairy price support program for 1988 by an amount equivalent to a 1 percent support price reduction. In addition, reduces the support price for wool and mohair for 1988 by 1 percent. Saves $160 million in 1988; $550 million over two years.

Loan Rate Decline

Loan rates for the 1988 crops of wheat, feed grains, upland cotton and rice may decline by 1 percent from 1987 levels. Current law would permit a 5 percent decline. The 1 percent limit applies to the 1988 crop only. Loan rates for the 1989 crop would retain the 5 percent maximum reduction. This provision results in savings of $135 million in 1988; $410 million over two years due to reductions in deficiency payments.

Whole Base Bid

Establishes a program for the 1988 and 1989 crops of wheat, feed grains, upland cotton, and rice which would permit a producer to retire his entire base acreage in exchange for a base diversion payment. Payment levels under this program will be established by a bid procedure. The program contains limitations on the amount of acreage in any county that may be retired. USDA/OMB estimates that this provision will save $310 million over two years.

Acreage Limitation Program for Feed Grains

Current law contains a 20 percent maximum acreage limitation program. This provision mandates a 5 percent increase in the maximum acreage limitation for the 1988 and 1989 crops of feed grains. This proposal would permit producers to plant soybeans, sunflowers and other oilseeds on this additional idled acres without losing historical base acreage.

In the case of the 1989 crop of feed grains, the Secretary may waive this 5 percent increase and instead provide for a 2.5 percent increase in the acreage limitation program if 1989 soybean stocks are estimated to exceed 425 million bushels. Soybeans may not, however, be planted on the 2.5 percent of the acreage base idled under such 1989 program.

Authorizes a 5 percent paid land diversion program for the 1988 and 1989 crops and establishes payment rates of $2.00 per bushel for 1998; $1.75 per bushel for 1989. However, if the Secretary does not implement the additional 5 percent acreage limitation program but instead implements the 2.5 percent program, the paid land diversion program for the 1989 crop of feed grains would be 7.5 percent with a payment rate of $1.75 per bushel.

Oilseed Marketing Loan

Mandates a marketing loan program for the 1988 and 1989 crops of soybeans, sunflowers and cottonseed. The established support price for sunflowers is 8 cents per pound.

Commercial Storage Reductions

Directs the Commodity Credit Corporation to reduce its expenditures for commercial storage, handling and transportation by $230 million over 1988 and 1989. CBO estimates that this provision will save $15 million in 1988; $40 million in 1989. USDA/OMB estimate that the same language saves $60 million in 1989; $170 million in 1989.

REA and RTB Loan Prepayments

Allows Rural Electrification Administration (REA) and Rural Telephone Bank (RTB) borrowers to repay their guaranteed loans requiring only that a processing fee be paid. Increases contributions by $5.3 billion in 1988 relative to the sequester (GRH) baseline.

TITLE IX—MISCELLANEOUS PROVISIONS

Defense and Domestic Spending Limits

The Leadership amendment contains budget authority and outlay ceilings for defense and nondefense spending for 1988 and 1989. These ceilings, which are shown in the table below, are consistent with the summit agreement.

	1988	1989
Defense (050):		
Budget authority	292.0	299.5
Outlays	285.4	294.0
Nondefense:		
Budget authority	145.1	160.3
Outlays	148.1	169.2

The outlay ceilings for nondefense discretionary spending are below the GRH baseline by $2.6 billion in 1988 and $3.4 billion in 1989; The nondefense discretionary ceilings are below the CBO baseline by $5.4 billion in 1988 and $8.1 billion in 1989.

In the Senate, these ceilings will be enforced through a three-fifths point of order that will lie against any fiscal year 1989 budget resolution that is not consistent with the agreement. In addition, the House and Senate Appropriations Committees are required to make their 302(b) subdivisions for 1989 consistent with the defense and domestic spending ceilings specified in this amendment.

Language Rescinding the Sequester Order

The leadership amendment contains language that rescinds the sequester order issued by the President on November 20, 1987. In addition, this language restores any sequestrable resource that has been reduced or sequestered by the final order except for reductions in payments to medicare providers. The Finance Committee's recommendations specify that the reductions for physician services and durable medical equipment would continue through January 15, 1988 while all other reductions in provider payments would expire December 31, 1987.

The language makes the rescinding of the sequester order and the restoration of sequestered resources dependent upon the enactment of the 1988 continuing resolution and reconciliation bill that achieve the deficit reduction contemplated in the Summit agreement.

Submission of President's Budget

The amendment contains language changing the date for the submission of the President's budget to January 25 in 1988.

Technical Amendments to the Congressional Budget Act

Other language in the amendment makes technical corrections to the Congressional Budget Act.

Asset Sales

The leadership amendment includes asset sales proposals sufficient to comply with the summit agreement. In addition to the provision in the Agriculture title on the prepayment of REA loans, the leadership amendment directs loan sales from 11 different portfolios achieving deficit reduction of $2.5 billion in 1988 and $3.5 billion in 1989.

The following table provides a summary of the specific loan sales and the savings assumed to be achieved from each.

PROPOSED LOAN SALES

.[In millions of dollars]

	1988	1989
Loan sales:		
Rural housing loan sales	1,590	2,350
Rural Development Insurance Fund	0	600
HUD community development	120	50
College housing loans	50	0
Higher education facilities	50	0
Export-Import Bank	500	500
Bureau of Reclamation	130	0
HHS medical facilities loans	40	0
HHS health maintenance loans	20	0
Total loan sales	2,500	3,500

OTHER CONSIDERATIONS

User Fees

The leadership amendment assumes that the final package will include user fees with savings of $400 million in both 1988 and 1989 and that the details will be worked out in conference. The user fee provisions may be drawn from the Finance provisions in the leadership amendment and from the provisions in the reconciliation bill as reported. The leadership amendment for the Finance Committee includes user fee provisions that would save $335 million in 1988 and $318 million in 1989. The Commerce, Science, and Transportation title, the Energy and Natural Resources title, and the Environment and Public Works title contain seven separate user fee provisions that save $404 million in 1988 and $508 million in 1989.

IRS Compliance

The leadership agreement assumes increases in revenues of $1.9 billion in 1988 resulting from increased funding of $300 million for Internal Revenue Service tax collection efforts. These savings will be accomplished through the appropriations process.

Mr. BYRD. Mr. President, I thank both Senator CHILES and Senator DOMENICI and all other Senators and staffs who have been responsible for putting together the leadership amendment. They have spent hours and days and weeks, and those hours have not ceased. Those hours of blood, sweat, and some apparent tears on the part of myself, if not them; I will accept that feeling at least. I thank them all for the efforts they have made. They have been very, very diligent and the problems have been very, very difficult.

Mr. President, I ask unanimous consent—this is with the approval of Mr. CHILES and other Senators—that amendment No. 1254 be considered as having been sent to the desk for printing, by the majority leader on behalf of all the other Senators named as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, first of all, let me say tomorrow will be a very busy day. I would expect it to be a long day. Action will be going forward on the reconciliation bill. Time is running out. The Senate needs to get the bill to conference.

The Senate still has to take up the continuing resolution which will follow in the wake of action on the reconciliation measure.

So I would repeat to all Senators that in my judgment at this point it appears to me that there will have to be a Saturday session. Both these bills have to go to conference. They have to be acted upon there and sent to the President, and signed or at least we must have the assurance of the signature before we go home. So I am sorry to be the bearer of bad tidings but circumstances dictate such.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 6:15 p.m., the Senate recessed until tomorrow, Thursday, December 10, 1987, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, December 9, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, You have given us our very lives and to make our lives meaningful You have given us the gifts of the spirit. May we learn to use these gifts in our actions to others—the gifts of patience and kindliness, of peace and good will, of justice and reconciliation. Facing the responsibilities of the day let us do so with compassion and mercy, with honesty and integrity.

As the Scripture reminds us, may our love be genuine, hating what is evil and holding fast to what is good. May we love one another with sincere affection and outdo one another in showing honor, and, so far as it is possible, may we live peaceably with all, not overcome by evil, but overcoming evil with good.

On this occasion of former Speaker O'Neill's birthday, we give thanks, O God, for his health and strength. May Your blessing be upon him and his family and may Your benediction be with us all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

AID TO MOZAMBIQUE

(Mr. RAY asked and was given permission to address the House for 1 minute.)

Mr. RAY. Mr. Speaker, today the House will debate the question of aid to Mozambique. Because our country has the undistinguished position of being the largest debtor nation in the world, with a national debt approaching $3 trillion, I am opposed to all foreign aid.

However, if foreign aid for Mozambique is going to be debated, I would like for the record to show that Mozambique is among the poorest countries in the world. More than one-fourth of the total population of 14 million are affected by severe malnutrition and hunger.

I am aware of the Communist influence in this country, but, nevertheless, every Western European country, as well as Japan, Brazil, and Canada is providing assistance because there is a possibility that Mozambique can be rescued from the Communist influence.

I am told that since 1981, Mozambique has moved steadily away from traditional Soviet style development and toward free market policies. Large tracts of state farms have been turned over to private farmers, price controls on fruits and vegetables have been lifted, and foreign investment is now encouraged. Further, the constitutional revision, expected to be approved in 1988, contemplates a provision calling for direct election of the President with multiple candidates.

The information I have received confirms that Mozambique now absents itself on the Afghanistan, Cambodian, and Israeli credential questions in the United Nations. Prior to 1985, Mozambique voted in line with the Soviet Union. Last year, they voted with the United States 7.2 percent of the time.

Great Britain, led by Prime Minister Margaret Thatcher, who has a close relationship with President Juaquim Chissano, of Mozambique, has begun to train several hundred troops in Mozambique. Two officers are also being trained at Sandhurst in England, making Mozambique the only noncommonwealth country to have cadets there.

I certainly am not in any sense of the word sympathetic to countries which lean toward communism or the Marxist philosophy. I fully understand my colleagues who are in opposition.

However, the full story must be presented and I am happy to do my best to present it for the consideration of aid to Mozambique.

TRIBUTE TO TIP O'NEILL ON HIS 75TH BIRTHDAY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, what a great week it is. This week witnessed the first time in 14 years that there has been a United States-Soviet summit on American soil. Yesterday the President signed an agreement to eliminate intermediate-range nuclear forces. And today, Mr. Speaker, marks the 75th anniversary and good health of Tip O'Neill.

Today my colleagues from both sides of the aisle join me in celebrating the good health and 75th birthday of our old pal, Tip O'Neill.

During his 50 years as an elected Representative, Tip fought some hard political battles—he presided over this Chamber for almost a decade. And since his retirement from politics, Tip has fought some hard personal battles.

Yet, through it all, that great Irish-American has maintained his hearty spirit.

Mr. Speaker, only an Irish toast would be a fitting tribute to Tip's birthday:

May you have the joy that's due you,
May the years be gracious and good to you,
May a blue sky smile above you,
And through all of your days, God love you.

CONGRATULATING OUR FORMER SPEAKER ON HIS 75TH BIRTHDAY

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I join with the distinguished gentleman from Massachusetts [Mr. CONTE] in wishing to our former Speaker, Thomas P. O'Neill, Jr., Tip O'Neill, the warmest and best wishes on the occasion of his 75th birthday. Our thoughts and prayers have all been with him recently and we are delighted to note that he is well on the road to recovery. From both sides of the aisle we salute him on this occasion of his birthday and wish him well and ask the blessings of God to be with him.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess today subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not object, but we probably ought to use this occasion to explain to the membership that before doing so, and yielding to the distinguished majority leader, may I simply make it official on this side, too, having been so nicely said by our colleague, the gentleman from Massachusetts [Mr. CONTE], that we certainly wish him all the best for a speedy and complete recovery and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

happiest salutations on his great birthday.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I thank the Republican leader for yielding me this time.

I, too, would like to join in this tribute to our former Speaker. Having just spoken to him on the phone a couple of hours ago, he is recuperating quite well and as we send him good wishes, I would like my colleagues to know that he sends good wishes to all of us here, and wishes us a very happy holiday season.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, further reserving the right to object, I might yield to the distinguished majority leader to brief us on how the legislative schedule will unfold for the balance of the day, and conceivably into tomorrow.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding.

Mr. Speaker, it is anticipated that subject to the authority just granted, that the Speaker will declare a recess at approximately 12:45 this afternoon until approximately 2:30 this afternoon to accommodate the Members attending a luncheon in honor of the General Secretary of the Soviet Union, General Secretary Gorbachev, by Secretary of State Shultz.

The program we anticipate is following any additional 1-minute speeches, is action on the conference meeting on catastrophic illness, followed by a recess, followed by resumption of consideration of H.R. 3100, the foreign aid bill, until about 6 o'clock this evening.

We assume that tomorrow we will either continue with H.R. 3100 or take up the welfare reform bill.

Mr. MICHEL. Mr. Speaker, further reserving the right to object, I assume that the gentleman meant to say that after the 1-minute speeches that there would be a motion to go to conference on the catastrophic health bill, is that not correct?

Mr. FOLEY. If the gentleman will yield, the answer is "Yes."

Mr. MICHEL. Mr. Speaker, has the majority decided under what conditions we will be considering the welfare measure tomorrow?

I know there was some controversy concerning that matter.

Mr. FOLEY. Mr. Speaker, if the gentleman will continue to yield, I understand there may be some additional recommendations or requests of the Committee on Rules. I am not able to detail those for the gentleman at this time.

Mr. MICHEL. Mr. Speaker, further reserving the right to object, assuming it would be impossible to complete action on the foreign aid bill by the end of business today, is it possible that that would be something that would spill over until tomorrow and take the place of the welfare reform bill by any chance?

Mr. FOLEY. Mr. Speaker, if the gentleman will further yield, I think our intention is to go to welfare reform tomorrow, and assuming we cannot conclude with H.R. 3100 this evening as I do not believe we can, then it would be continued at a later date.

Mr. MICHEL. Further reserving the right to object, Mr. Speaker, does the distinguished chairman wish me to yield to him? I yield to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I most certainly appreciate the gentleman from Illinois yielding, and I most certainly do. The gentleman is absolutely right, there is no way we can finish that bill tonight with the recess and rising at 6 o'clock, with all the amendments we have on the books. That is just unthinkable.

If we are going to run welfare reform in here on Thursday, there is no way we can do that, and we are not going to be here Friday, I gather.

Mr. FOLEY. Yes, we will be.

Mr. FASCELL. We are going to be here on Friday.

Mr. MICHEL. Mr. Speaker, further reserving the right to object, I did not intend to open up a little kettle of worms here.

Mr. FASCELL. If the gentleman will continue to yield, I appreciate the gentleman inquiring. I just want to know when the Committee on Foreign Affairs is going to be back on the floor. That is all I would like to know.

Mr. MICHEL. Mr. Speaker, further reserving the right to object, if I might further inquire of the distinguished majority leader, are we or are we not going to have a session on Friday?

Mr. FOLEY. Yes, we anticipate a session on Friday.

Mr. MICHEL. Do we know what we will be talking about or debating or voting on Friday? Is that a deep dark secret?

Mr. FOLEY. Mr. Speaker, if the gentleman will continue to yield, it will be legislation on extending the Endangered Species Act, that would be scheduled for Friday.

I might also tell the gentleman from Illinois that there is always also the possibility that we may be receiving motions to go to conference on the Reconciliation Act, or on other key matters. I know some Members are upset, but we are in the last week of the Congress and this House has not had Friday sessions. Overwhelmingly Friday has been a day when Members have been able to travel to their districts and work in their districts, but we are in the last few days of the Congress, I think the Members should recognize.

Mr. MICHEL. Mr. Speaker, further reserving the right to object, we certainly do not want to impede the progress of what we ought to be doing here before Christmas. When I hear these suggestions that maybe we will be here during the week of December 21, I am concerned about what impact this would have on the membership, particularly for those Members who have children. While my children are all fully grown, I know what that season means to families of this body and how important that is. The more we can get done to get ourselves out of here with the business that has to be done before Christmas, I think all the Members are going to applaud that effort.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER.** The Chair would like to make the observation that all those things necessary for an adjournment at the end of next week have been done by the House with the exception of agreeing to the conference committee reports on the reconciliation bill, and the continuing resolution.

If those things can be accomplished in the remainder of this week and throughout next week, it is the certain expectation of the Chair that we shall adjourn at the end of next week. That depends, of course, to some extent upon the other body, but that is our hope, that is our plan, and that is our expectation.

APPOINTMENT OF CONFEREES ON H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate thereon.

□ 1215

The **SPEAKER.** Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees:

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for sections 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference: Messrs. ROSTENKOWSKI, STARK, DONNELLY, DUNCAN, and GRADISON.

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment—except for sections 2, 3, 12, and 18(a)—and for section 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare Program, and modifications committed to conference: Messrs. DINGELL, WAXMAN, WYDEN, LENT, and MADIGAN.

Except that, for consideration of section 204 of the House bill and section 7 of the Senate amendment, Mr. BILIRAKIS is appointed, vice Mr. MADIGAN.

As additional conferees from the Committee on Education and Labor, for consideration of section 21 of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, CLAY, and JEFFORDS.

CONGRATULATING ATTORNEY GENERAL MEESE ON HANDLING OF CUBAN UPRISING IN FEDERAL PENITENTIARIES

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I would like to extend my personal commendation to the Attorney General of the United States, Edwin Meese, on the very excellent manner in which he personally guided and directed all of the several Federal agencies and public agencies in dealing with the situation in Atlanta and Louisiana Federal penitentiaries. The matter was quite explosive and certainly could have been very disastrous. But for the excellent leadership of the Attorney General and the cooperation of so many civilian, religious, and other agencies of the Government, it proved to be something that we ought to be proud of, that a matter of such urgency to those who were involved on both sides would be resolved peacefully, with no loss of life and in such a manner that all of us can be proud.

A TRIBUTE TO GOV. HOWARD PYLE

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, last week the State of Arizona and indeed the country lost one of its finest citizens when Howard Pyle passed away from complications arising from a stroke he suffered earlier.

Mr. Speaker, Howard Pyle began his career in Arizona as a well known and very popular radio announcer. In 1950, he entered politics for the first time, and to everybody's surprise but his own, he was elected Governor of the State. He was reelected in 1952, and then was defeated in 1954. He was a special assistant to President Eisenhower, an Assistant Secretary of the Interior, and Executive Director of the National Safety Council before retiring to Arizona.

Retire? Did I say retire? Howard was the busiest retiree I ever saw. He wrote a weekly newspaper column right up to his final illness. He was actively involved in a myriad of civic and charitable activities, and his interest in Arizona history never waned.

In my judgment, Howard's greatest long-term contribution to the future of our State was in the area of water. He, along with so many others, worked for years on the central Arizona project, and one of his proudest moments was in November 1985 when that great project was dedicated. He served for many years on the governing board of the CAP, and gave countless hours seeing to the success of an effort he firmly believed was vital to the future of the State that he loved.

We will all miss Howard, but our lives are richer because he was with us. All who knew him join in extending our sympathies to Lucille Pyle and her family.

HUMAN RIGHTS VIOLATIONS BY THE SOVIET UNION

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, during this historic arms control summit meeting between President Reagan and General Secretary Gorbachev, I am compelled to join with the many groups who have converged on Washington, DC, to express my deep concern over the human rights abuses by the Soviet Union against Jews, Ukrainians, Poles, Latvians, Lithuanians, Estonians, Bielarusians, Czechs, Romanians, and many others.

Gorbachev has promised a new openness, and a few prominent Jews, as well as other Soviet dissidents, have been allowed to leave the Soviet Union. However, in fact, the actual policy remains unchanged—repression continues and human rights violations persist.

Today, in the 11th Congressional District of Illinois which I am honored to represent, divided families still wait for their loved ones who have for years been repeatedly denied permission to leave the Soviet Union, and horror stories persist of oppression and human rights violations of individuals who only wish to retain their national and cultural heritage.

General Secretary Gorbachev, if we are truly to have a new era of cooperation and openness with your country, then human rights violations must cease; all who wish to leave the Soviet Union must be allowed to do so; and your citizens must be allowed to practice their own religious beliefs without fear of reprisal. How much longer must they have to wait?

INTRODUCTION OF THE FEDERAL CAPITAL BUDGET ACT

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, yesterday I introduced a bill entitled the Federal Capital Budget Act, H.R. 3714. Similar legislation has been introduced in the Senate by Senator DAN EVANS, and it is to him that credit for this worthwhile initiative belongs.

The Federal Capital Budget Act requires the President to identify capital and operating components, where possible, in his annual budget submission to Congress. The legislation maintains the unified budget, but requires that investment spending at the program, project and activity level be displayed separately.

This legislation seeks to provide what the existing budget does not; adequate information on the revenues, expenditures, surplus or deficit amounts, and financing requirements for capital activities of the Federal Government. It also attempts to provide a distinction between capital and operating activities in a manner which helps identify the resources needed to meet the Government's infrastructure needs.

The private sector and a large majority of State and local governments already practice capital budgeting. We should ask the administration to follow their example.

Currently, our Federal Government uses over 150 separate accounting systems. Each one is tailored to meet the needs of the particular agency using the system. There is little coordination of financial information, and the result of a convoluted web of data that is, at best, an opaque window on the financial practices of the Federal Government.

This bill imposes no changes on the congressional budget process. It only requires the White House to display its budget requests in a new format; one that will assist the administration and Congress to better gauge Federal investment spending.

The Federal Capital Budget Act seeks to reduce the confusion that permeates our deliberations today. It is a worthwhile bill and a first step toward introducing a degree of discipline in our budget system.

I urge all Members to support this bill.

CONGRATULATING PRESIDENT REAGAN ON THE INF TREATY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, often we take the well in the House and express displeasure or disappointment with the President when we think he is wrong. Today I wanted to take the well and indicate support for President Reagan again.

Mr. President, you were right on the INF Treaty and your critics are wrong. The INF Treaty I think is an exciting step forward. It marks real progress in trying to end the arms race. I admit, it is a small step, but it is the first step toward a treaty that can lead to a START Treaty that will be verifiable and put an end to this nuclear arms race. That can result in real budget savings and increased investments to make our economy more competitive.

The fact is we in this country and the Soviets are building weapons we can never use with money we do not have, and we have to get out of this arms race cycle. And Mr. President, you have exhibited leadership on the INF Treaty.

So, stand firm. Pay no attention to the extremist critics. They seem to have overlooked the precedent-setting and rigorous verification procedures and the fact that the Soviet Union will have to eliminate three to four times as many warheads as the United States that puts the INF clearly within the sphere of our national self-interest. Join us and move ahead and negotiate more far-reaching arms-control treaties in the START talks and you will find support here in Congress for the INF Treaty and future verifiable treaties with the Soviet Union.

T&M RANCH ANGELS PROJECT

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, I am honored to once again be the deliverer of one of your first gifts of the holiday season.

If you have not received you will receive today and tomorrow the 1987 Angels of the World Christmas ornament from the T&M Ranch in Indiantown, FL. I hope you will find a special place on your family tree or in your home to display it.

This year's angel is called Amy of England and is modeled after Amy Taylor, one of my best friends and favorite constituents, and a remarkable young mentally disabled woman who has overcome diversity all her life. There would be no limits to what we could accomplish if we had Amy's spirit, courage, determination, and perseverance.

As you probably recall, the T&M Ranch is a coeducational group home for mentally disabled adults. There they learn vocational and individual skills to help them live and work independently.

In the angels project they produce 20,000 ornaments from a working mold developed by internationally known sculptor Lazlo Ispanky then sell the finished ornaments to raise funds to help the less fortunate. The T&M Ranch and the Angels of the World Foundation use the proceeds from the sale to the nonprofit groups to create scholarships for mentally disabled persons.

I am honored to present this gift to you on behalf of Amy, her fellow students at the T&M Ranch, the Angels of the World Foundation and Burt Reynolds, this year's Angel of the World national spokesperson.

Happy holidays.

A BIPARTISAN FOREIGN POLICY

(Mr. LAFALCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, the United States once had a bipartisan, consensus foreign policy. It's time we rebuilt that consensus. We can start by drawing the right lessons from the recently signed INF Treaty.

Liberals should recognize that the Soviets are not removing their INF missiles out of benevolence. The Soviets were the first to deploy INF missiles, sought to prevent NATO deployment of American missiles, and only agreed to eliminate them after their intimidation efforts had failed in Western Europe. The Soviets have agreed to the treaty because it is in their interest to have the Pershing and cruise missiles removed from Europe.

Conservatives should recognize the contribution that Gorbachev has made to bringing the two sides together. The Soviets could have agreed to the zero-option the day Reagan proposed it—the outcome could have been the same 6 years ago. What made the treaty possible was Gorbachev's willingness to negotiate. Conservatives should recognize that this Soviet leader, though certainly dedicated to protecting Soviet interests, is at least somewhat different from his predecessors.

If liberals and conservatives can agree on just these two basic points, if we can agree on a careful, but positive approach to the Soviet Union, it just might be possible to make great progress in the months and years ahead.

CALLING ON THE SOVIETS TO WITHDRAW IMMEDIATELY FROM AFGHANISTAN

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DREIER of California. Mr. Speaker, despite the pomp and circumstance of the summit, we must be mindful of the daily atrocities which the Soviets—under Gorbachev's direction—have committed in Afghanistan. I refer my colleagues to a report by a Geneva University researcher which was released yesterday in Paris. This report estimates that 9 percent of the Afghan population has been killed since the Soviets took control of their country. Mr. Speaker, many among this 9 percent have been innocent women and children.

When President Reagan meets with General Secretary Gorbachev today to discuss Afghanistan, I hope he confronts the Soviet leader with these new figures on victims of this 8-year-old war. Further, I hope the President refuses to accept any Soviet offer short of an immediate and unconditional withdrawal of Soviet forces and weapons of war from Afghanistan.

In light of the new report, I am introducing a sense of the Congress resolution concerning the Soviet Union's treatment of children during its occupation of Afghanistan. The resolution calls on the Soviets to withdraw immediately from Afghanistan, restore Afghan cultural institutions and human rights, allow the verification of this restoration, and release Afghan children being held in the Soviet Union. I urge my colleagues to join me in condemning these heinous Soviet abuses of human rights.

[From the Washington Times, Dec. 9, 1987]

NINE PERCENT OF AFGHANS PERISH SINCE SOVIET TAKEOVER

A report published in Paris yesterday estimates that 9 percent of the Afghan population has been killed since a pro-Soviet government was installed in Kabul in 1978.

The 9 percent loss of the Afghan population dwarfs the 2 percent population loss suffered by the Soviet Union in World War II, for example, when the United States suffered a loss of .002 of its population. Nearly all American losses, by contrast, were military casualties.

The report, conducted by Marek Sliwinski, a Geneva University researcher, and paid for by the French government, says 1.24 million Afghans of a population estimated at 12 million to 15 million have been killed since the current Kabul government took power in April 1978.

The Soviets intervened with troops in December 1979 to preserve the government.

Mr. Sliwinski's study, carried out with Pakistani aid organizations, is the first statistical report on the effects of the conflict.

It was based on information given by 1,300 Afghan families who have fled to Pakistan.

The study was financed by the French secretary of state for human rights and several international aid organizations.

Mr. Sliwinski estimated that on the basis of this representative section of the Afghan population, 9 percent had been killed, one of the highest death rates in recent history, and 5 percent wounded.

He said 16 percent of the deaths were in 1984 and were mainly among the civilian population—with women and children being the main victims of bombardments.

The study said the worst hit areas were on the Soviet border and around Kabul.

The report estimated that five million Afghans have fled the country since the Soviet intervention—with three million in Pakistan and two million in Iran. Mr. Sliwinski added that there were also about 1.5 million refugees inside Afghanistan.

He said the devastation was the result of an ordered, conscious and planned policy that has led to the disintegration of Afghan society.

Mr. Sliwinski's report also said that the dominant Pashtun Afghans had been cut from 39 percent of the population in 1978 to 13 percent today.

Meanwhile, Western diplomats in Islamabad said factional fighting in Kabul between Afghan government troops and those loyal to a former resistance commander left at least 37 soldiers and civilians dead last week.

The diplomats also said heavy casualties are pouring into Kabul from major battles centered around two strategic Afghan cities.

The officials, speaking in Islamabad on condition of anonymity, said reports from Afghanistan described intense clashes continuing around the eastern town of Khost and the southeastern provincial capital of Kandahar.

Kandahar was the scene this year of the heaviest fighting to date in the eight-year war between Soviet-Afghan forces and Moslem guerrillas.

Two Western diplomats quoted a hospital official in Kabul as saying the influx of Afghan dead and wounded at his facility were the highest in memory. They did not provide exact figures.

There was no word on Soviet casualties. The Red Army maintains its own hospitals.

Diplomatic sources said well-armed resistance fighters continue to hold Khost under siege. The Soviets have deployed commandos and elite Spetznaz troops so far without success, the sources said.

The diplomats said the clashes in Kabul were between government forces and those who back Ismatullah Muslim, a resistance commander who defected to the government in 1985 and was made a general.

They said 15 people were killed on Nov. 30 when the general tried to force his way into a pro-government assembly being addressed by Afghan leader Najibullah, who was elected president for a seven-year term at the meeting.

Six of Gen. Muslim's bodyguards were killed in the shootout, the diplomats said. An Agence France-Presse correspondent in Kabul last week for the assembly reported that at least nine people died in the half-hour clash, which erupted when Gen. Muslim tried to break through a roadblock.

The diplomats here said Gen. Muslim, a member of the ruling Revolutionary Council, was admitted to a Kabul government hospital with a leg wound. He escaped from the hospital Friday, they added.

Hours after the Nov. 30 clash, Afghan troops staged an attack with heavy weapons on Gen. Muslim's residence in the Wazir Akbar Khan area of Kabul, killing 22 people, the diplomats said.

They said Gen. Muslim's men took two Afghan secret police officers hostage in Kabul and on Friday followers of Gen. Muslim freed him from the hospital, shooting the hospital administrator when he tried to block them, the diplomats said.

□ 1230

SUPPORT URGED FOR EQUAL OPPORTUNITY FOR MEDICAL LICENSURE AND RECIPROCITY ACT OF 1987

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, on September 9, I introduced H.R. 3241, the Equal Opportunity for Medical Licensure and Reciprocity Act of 1987. My bill addresses longstanding discriminatory practices against educated medical doctors in foreign countries.

Currently, there are over 20,000 practicing physicians in the United States who are foreign medical graduates. Although duly trained and licensed, these physicians are required to pass more difficult requirements than graduates in this country. H.R. 3241 would remove these extra requirements and seek to promote nondiscrimination in State medical licensure and medical reciprocity standards.

Foreign medical graduates have contributed more than their fair share of Nobel Prize winners. Statistics demonstrate that foreign medical graduates are as competent as other graduates, and they have fewer malpractice suits.

This is a serious and long standing problem with individual civil liberties. Ending discrimination is a noble purpose. I urge my colleagues to support H.R. 3241.

THOUGHTS ON ADDRESSING A JOINT SESSION OF CONGRESS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, gosh, I am just so hurt that one of the Members feels badly that I and a few others decided the General Secretary—you got the title wrong, it is not the Secretary General, that is the United Nations, I say to the prior speaker, it is General Secretary with emphasis on General—that he could not come and stand where Douglas MacArthur and Winston Churchill and all the other leaders of the free worlds have stood. We never let Lincoln stand there, we never let Teddy Roosevelt stand there. Even though our great Gen. Andy Jackson had won the battle of New Orleans after the war was over, he never got to stand there. But some people want the head of all world communism to stand there.

Look, I have got some great pamphlets that I will give to my good friend, Mr. BATES and others. You can get them down at the Departmental Auditorium where there is a Soviet exhibit. Here is one you will love: "Mikhail Gorvachev, For the Sake of Preserving Human Civilization" with a little asterisk "does not include Afghanistan" and double asterisk "or Angola, Nicaragua et al."

Look, the front page of one of our Washington papers says that the Soviets had killed 9 percent of the population of Afghanistan. That is not the 43 percent of the Jews in Europe that Hitler killed, it is not the third of the population of Cambodia that the Asian Communists killed, but 9 percent is pretty disgusting in this modern age to kill those brave people in Afghanistan. The leadership can go have lunch with them, but I am glad he is not in this Chamber.

FOREIGN AID APPROPRIATIONS BILL

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, as we debate the foreign aid appropriations bill today, we will be asked to vote on aid to Pakistan and the proliferation of nuclear weapons. Containing the spread of nuclear weapon technology is a legitimate concern which, at its core, is a basic human-rights issue. I rise today to draw attention to a more personal human rights issue—that of a single individual—Mohammed Ejaz Bhatti, a young Pakistani related to me by marriage who currently languishes in a Pakistani prison.

Mr. Bhatti was arrested in December 1981, and convicted of terrorist activity in connection with his membership in a nonviolent pro-Democracy organization, which was the target of an opposition crackdown by President Zia in 1981. While in jail, he was charged with terrorist conspiracy and sentenced to life imprisonment by a military court. His attorney was not permitted to defend him and he was not allowed to testify in his own defense. Though his terrorism conviction was later overturned, he is still in jail serving a life sentence.

During his imprisonment, Mr. Bhatti has been subjected to severe beatings, hung upside down for periods of time, and is currently confined with his feet chained to either end of a metal bar. His weight is down to 70 pounds, dangerously low for a man who is 6 feet tall and he has developed debilitative kidney and cardiovascular conditions and is losing his eyesight. His health is rapidly deteriorating.

Such an egregious denial of human rights is intolerable.

This past August, many of you joined me in sending a letter to President Zia, with over 180 signatures from our colleagues in the House and Senate, protesting his treatment and requesting a civilian trial for Mr. Bhatti. To date, we have not received a reply.

Mr. Speaker, today as we debate the important issue of aid to Pakistan, I hope we can spare a thought for Ejaz Bhatti whose basic human rights have been violated and call on President Zia to right this wrong.

THE FACTS ABOUT SUGAR

(Mr. SCHUETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUETTE. Mr. Speaker, the fundamental reason for maintaining a domestic sugar program lies in the fact that it provides stability and consistency to the supply of high quality sugar at affordable prices to our Nation's consumers. There are critics of the domestic price support loan program for sugar beet and sugarcane growers who would like people to believe that the price of sugar in this country is three to four times the price of the so-called world price of sugar, while according to the foreign agricultural service, the retail price of sugar here in Washington, DC, is lower than it is in half of the world capitals recently surveyed.

I think it is important that everyone know the following three facts:

First, the U.S. price of sugar is lower today than it was in 1981, the year the sugar loan program was first put in the farm bill. Second, the price we pay for sugar today is lower than it was in 1985, the year we extended the sugar loan program, and subsequently extending the trend of decreasing domestic sugar prices. And Third, the world price often referred to by critics of the sugar program, is a myth.

The fact is that only 15 percent of the sugar traded each year is sold at this world price so often cited, and you can be absolutely certain that if the United States were to become a buyer on the world sugar market, the mythical world price would realistically become a whole lot higher.

The fact remains, Mr. Speaker, that sugar, like so many other commodities produced on American farms, is a bargain. U.S. consumers continue to be the best-fed people, for the least amount of money, the world has ever known.

H.R. 1115, PRODUCT LIABILITY ACT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, yesterday the Subcommittee on Commerce, Consumer Protection and Competitiveness of the Committee on Energy and Commerce reported out a bill on product liability, H.R. 1115. I agree with the intent of that bill which is to improve the competitiveness of American industry by lowering their insurance costs. But the subcommittee passed a substitute to H.R. 1115 that few Members saw before the markup began and which was developed without consultation with consumer groups. A number of members of the committee and all of the consumer groups involved feel that there must be some time to confer with Mr. BILL RICHARDSON, our colleague from New Mexico and the bill's sponsor, over desired changes in H.R. 1115.

To his credit, he has been very forthcoming and cooperative. Yesterday, Mr. RICHARDSON said he wanted to solicit comments from all groups interested in H.R. 1115 before full committee markup, and that he was interested in working with me and other Members on amendments that will make H.R. 1115 a clearer, more balanced piece of legislation.

But this process will take time—more time than we have before recess. So I want to urge the chairman of the full Committee on Energy and Commerce to delay action on the bill until January.

Only by consulting with all sides can we assure that H.R. 1115 does not unfairly tilt the balance in product liability actions against those who suffer injuries or death due to unreasonably dangerous defective products.

THE CONTROVERSY SURROUNDING THE WELFARE REFORM BILL

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, according to the best rumors we have heard this week, the House will be debating welfare reform some time tomorrow.

Needless to say, there is a great deal of controversy surrounding this whole debate, and for good reason. The Democratic plan which will be presented tomorrow will cost over $7 billion. The obvious question that I think the American people will have is: "How can something called welfare reform actually cost the American people and taxpayers an additional $7 billion?"

There must be something wrong. Mr. Speaker, there is something wrong.

The so-called welfare reform package is nothing more than a welfare increase. Republicans and some other groups on the other side of the aisle have put together a number of other compromises. The Republican plan takes some great ideas with transportation and child care, without a welfare increase, as an opportunity to bring out some 90,000 people into work training programs.

Mr. Speaker, in these economic times of huge deficits let us not be sucked into supporting a welfare increase which is disguised as welfare reform.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 1254.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there ojection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2543

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill H.R. 2543.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CHAMPIONSHIP ORANGE BOWL GAME IN MIAMI, FL

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, this year's Orange Bowl game in Miami, FL, between the University of Miami and the University of Oklahoma at Norman promises national attention, thrills and eye-popping excitement. However, what it will lack is suspense, because in our opinion the outcome of the Orange Bowl is virtually assured. The victor will be the University of Miami.

Ah, the naysayers, ah, the naysayers.

To back up my prediction I have placed a friendly wager of a bushel of fine Florida oranges joined by my colleague DANTE FASCELL who probably has some oranges even growing in his backyard, with my good friend, Congressman DAVE MCCURDY of Oklahoma who will obviously be a better friend after the game, who has bet prime

Oklahoma beef, the four-hooved kind, I might add.

After the University of Miami is victorious I will be delighted to donate my winnings, as will Congressman FASCELL, to a food charity in our district. May the best team win—the University of Miami is going to win.

TOWARD THE REUNIFICATION OF CYPRUS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, last month a brave group of women peacefully crossed the barbed-wire fences that have divided Cyprus for 13 years. As reported by the New York Times, my wife Kathryn joined nearly 1,000 unarmed Cypriot women who simply wanted to walk across the Green line to homes they have not seen since the 1974 Turkish invasion.

Throwing mattresses over those fences, they confronted a lone Turkish sentry who summoned reinforcements to surround them. Despite the show of force, they walked 100 yards into the north, the first southerners to cross the line since the cease-fire.

The division of Cyprus has separated families and fueled tensions between two vital United States allies, Turkey and Greece. These tensions threaten to destabilize the critical southern flank of the NATO alliance. And as time passes, the precious archeological treasures of Cyprus' ancient ruins and churches are being lost through theft and lack of care.

It is time to follow the courageous first steps of the women of Cyprus. Together with Greece and Turkey, the United States must reinvigorate our efforts to heal the the jagged scar that divides Cyprus and threatens the alliance.

ORANGE BOWL

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, once again the Oklahoma Sooners are Big Eight Conference champions and preparing for their annual trip to the Orange Bowl in Miami.

The Sooners and the University of Miami, ranked No. 1 and 2, will take the field on New Year's Day to determine the 1987 college football national champion.

I might point out that a few weeks ago the University of Nebraska attempted to beat the Sooners with a lot of pregame talk. The result was a convincing Oklahoma victory. Knowing that Jimmy Johnson's Miami team is as boastful as it is talented, we Oklahomans are hoping that the Hurricanes keep on talking until the Sooners are crowned national champs.

I have today joined with my good friend and colleague from south Florida, LARRY SMITH, to add to the unfolding drama of this important game. Congressman SMITH and I have entered into a friendly wager.

For this game, we Sooners will be without our No. 1 quarterback and will yield the home field advantage to the Miami Hurricanes. Knowing that his team enjoys these remarkable advantages, the gentleman from south Florida has agreed to wager a few Florida oranges against several pounds of Oklahoma's finest beef.

I am a proud alumnus of the University of Oklahoma whose additional privilege it is to represent OU as part of my congressional district. Recently, in my official capacity as a member of the House Armed Services Committee, I performed several onsite inspections and verified that Coach Barry Switzer has installed an effective forward air defense system to counter Miami's potent air attack. I am now confident that, whether the name, Holieway or Thompson is on our quarterback's jersey, the Oklahoma Sooners will happily accept the national championship trophy and Congressman SMITH's oranges New Year's night.

Following this inevitable result, I will send some of Oklahoma's finest prime beef to a designated shelter for the homeless in Mr. SMITH's district as a gesture of good will.

□ 1245

PROPOSED WELFARE REFORM LEGISLATION

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, one hardly knows how to respond to this overwhelming Oklahoma modesty that has pervaded the Chamber today. We trust, though, that next year the proper redress will come to the Oklahomans with in the Colorado game.

Mr. Speaker, there is good news today. Some of the critics of the Michel welfare reform bill alleged several weeks ago that this measure added additional costs to the States. I am happy to report that the Congressional Budget Office indicates those reports are simply not accurate. As a matter of fact, what they indicate is the opposite. They indicate that the Michel bill will save the States $479 million. This means not an increased cost to the States but a reduction in costs to the States.

The irony is that the legislation recommended by advocates of the Ways and Means Committee welfare reform bill ends up costing the States $916 million.

Mr. Speaker, the bottom line is that the statements of those liberal critics who had suggested the Republican bill would cost the States money turned out to be inaccurate. Their bill is the measure that imposes additional costs on the States.

There is one other fact that the Congressional Budget Office figures discloses that is worth looking at. The cost of the Ways and Means Committee bill is five and one-half times as much as the Michel bill, but, Mr. Speaker, the Ways and Means Committee bill results in less than a fourth as many jobs.

Mr. Speaker, if we care about the poor in this country, we are going to look for a way to help them become self-sufficient and productive and to realize their own capabilities.

The Ways and Means Committee bill makes people dependent, keeps them on welfare, and reduces the potential for them to get a job. The Michel bill costs a fifth as much but it dramatically increases their ability to become productive and creative. If we care about people, if we have any compassion at all, we should support welfare reform, not simply more welfare. That is the difference between the bills.

The Ways and Means Committee bill is simply more welfare; the Michel bill is true welfare reform. Mr. Speaker, if we have any compassion for the poor, we are going to try to reform welfare.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, yesterday, due to a serious operation on my son, I was unable to vote and requested a leave of absence. Had I been present, I would have voted "aye" on the Kostmayer amendment, rollcall No. 459; "no" on the Dornan amendment, rollcall No. 460; "aye" on the Byron amendment, rollcall No. 461; and "no" on the Weiss substitute amendment to the preceding Byron amendment, rollcall No. 462.

Mr. Speaker, I ask unanimous consent that my statement appear in the RECORD.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New York?

There was no objection.

HOPE, TEMPERED BY HEALTHY SKEPTICISM, MARKS UNITED STATES-SOVIET TALKS

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, in this highly charged and exciting environment, it is not easy for us and the American public to get a handle on the reality of glasnost. Many of us who have been active on human rights issues are filled with hope for the future of United States-Soviet relations but we also maintain some healthy skepticism. Always, our guiding principle must be "actions speak louder than words." These days the words are encouraging yet there are disturbing actions taken by Soviet authorities. Just yesterday, the very day of the signing of the INF Treaty, a most disturbing action took place.

Four individuals whose cases before the Helsinki Commission, Ivan Hel, Mychailo Horyn, Vyacheslav Chornovil, and Paruir Airikyan are examples of the point I make here today. Those people could tell us about the International Seminar on Human Rights hosted by the Press Club Glasnost in Moscow if they had been permitted to attend. The first three are Ukrainians—Chornovil is a journalist and chairman of the Ukrainian nationalist group—and the latter is an Armenian nationalist.

The group boarded a train in Lvov yesterday to attend the seminar in Moscow and before they arrived, Soviet authorities moved to disrupt the event by arresting the above on drug charges. By the way, Mr. Speaker, this appears to be a new technique of the Soviets, leading to their claim that they have no political prisoners, just criminals. Subsequently, according to the New York Times, Moscow authorities advised Press Club Glasnost organizer, Lev Timofeyev, that they had turned down the request that the seminar take place in one of the large meeting halls controlled by state-run organizations.

The activists were released, but they were forbidden, even though the meeting was not held, to go to Moscow. It is also interesting that the drug charges were dropped. That still allows the authorities to deny that the arrests were political.

Mr. Speaker, we welcome the Soviets to a new relationship with us into the family of nations, but we say to the Soviet leaders in Moscow, "Your actions speak louder than your words."

TREATY LEAVES SOVIETS WITH 7-TO-1 ADVANTAGE IN CONVENTIONAL TROOPS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, all of America is hoping for peace. In fact, they are hoping, as I do, that this treaty really works, but now that the smoke has cleared, the truth remains. The Soviet Union enjoys as much as a 7-to-1 advantage in conventional troops and weapons in Europe. In fact, some experts say it will cost America $150 billion to match their conventional edge.

Mr. Gorbachev now negotiates in the future from a position of strength. Mr. Gorbachev is in the driver's seat. Mr. Gorbachev likes this treaty. So I think, before we celebrate, it is incumbent upon Congress, and now especially the Senate, to get real reductions in troops and conventional weapons in Europe.

It is time to discuss peace in Afghanistan and Nicaragua. It is time to look at the issue of the Soviet Jews and the repressive policies of the Soviet Union. Finally, it is time that the Soviets honor a treaty. They have broken all others.

Mr. Speaker, before we start passing out cigars here on the birth of a new day, let us not forget that we have had 43 years of uninterrupted peace through strength and deterrence. I think that Mr. Gorbachev must hear that, and unfortunately the only avenue left is the U.S. Senate.

SUPPORT URGED FOR PAKISTAN

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, it is particularly timely today that, with General Secretary Gorbachev in town, we are deliberating aid to Pakistan and Pakistan's adherence to the Nuclear Nonproliferation Treaty.

Last week seven of my colleagues and I visited Pakistan and observed firsthand the war in Afghanistan, which is an issue on the summit table. My observation, after this visit, is that Pakistan is under tremendous strain and is shouldering a heavy burden in supporting the Afghan freedom fighters. If we are to cut aid to Pakistan, to tie their nuclear hands, we will lose on two fronts: First, the Mujahidin will be abandoned and the 3 million refugees Pakistan is supporting will be without support and the war effort in Afghanistan will eventually suffer; and second, Pakistan will in all probability move forward with its nuclear plans with or without us.

This is exactly what President Zia said to us on our visit to Pakistan.

We need a regional solution to the problem in the area, not requiring of Pakistan what we do not require of India. That is why I am supporting the Wilson-Leath amendment.

INTRODUCTION OF A BILL TO PROHIBIT THE SALE OF AEGIS WEAPON SYSTEMS TO JAPAN

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BENNETT. Mr. Speaker, today I and a number of my colleagues are introducing legislation that would effectively prohibit the Department of Defense from selling the Navy's Aegis weapon system to Japan. I am introducing this bill on behalf of myself, Mr. HUTTO, Mrs. BENTLEY, Mr. HUNTER, Mr. DYSON, and Mr. SISISKY.

Aegis is the Navy's premier shipboard defensive system against attacks from aircraft and sea-skimming cruise missiles. To be installed on 27 *Ticonderoga*-class cruisers and 29 *Arleigh Burke*-class guided missile destroyers, Aegis provides an unprecedented level of protection to our Navy personnel and to the battle groups in which they sail. Aegis has already proven itself at sea, not only in realistic tests against the toughest threats, but also off the coasts of Libya and Lebanon during recent operations.

Aegis depends on a highly sophisticated blend of computers, radars, missiles, and software for its success. Indeed, the actual process of bringing all of these pieces together into an integrated, properly functioning system is an art in itself. But it is precisely this unique melding of high technology that gives Aegis its overwhelming capability. In the words of one Navy admiral, Aegis is truly "star wars at sea."

Mr. Speaker, no other nation has an Aegis system, or a system that even approaches Aegis' capability. The United States has invested hundreds of millions of dollars in developing and perfecting the system. It is worthy of the highest level of protection against espionage and theft we can provide.

Recently it became evident that the Navy is considering the sale of Aegis weapon systems to the Government of Japan. Although still in the early stages of consideration by both countries, the process could eventually lead to the sale of several Aegis systems to be installed on Japanese-built ships. According to Navy officials, the Japanese Maritime Self Defense Force would use these Aegis-equipped ships to patrol the sea lanes within 1,000 miles of Japan.

Unfortunately, Mr. Speaker, we seem to have enough trouble in keeping our defense secrets out of the hands of our potential adversaries; sharing these secrets with our ally, Japan, just complicates not only our own security interests, but theirs as well. With many in this country still questioning the efficacy of Japan's ability to protect itself against espionage activities in the wake of the Toshiba matter, it makes sense not to export one of our most prized naval technologies until we can be guaranteed of its protection.

Mr. Speaker, I urge all Members to examine this important issue closely, and to support this much needed legislation.

Following is the text of the bill as introduced:

H.R. —

A bill to prohibit any funds appropriated or otherwise available to the Department of Defense from being used to implement any sale of the AEGIS weapon system to Japan

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no funds appropriated or otherwise available to the Department of Defense may be used to implement any sale of the AEGIS weapon system to Japan.

□ 1255

PAKISTANI AND INF NUCLEAR POLICIES

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, yesterday, President Reagan and General Secretary Gorbachev signed a treaty to eliminate one class of nuclear weapons—intermediate range forces in Europe.

Today, Congress will begin debating what to do about another class of nuclear weapons—the kind being built in Pakistan right now.

The INF Treaty is a responsible step forward in arms control. But we face a nuclear situation in South Asia that is far more perilous than that in Europe. If a nuclear war occurs in the next 10 years, it will most likely begin in the Third World, between India and Pakistan, as a result of Pakistan's nuclear weapons program. India and Pakistan have fought three wars since 1947. The next one could lead to a nuclear confrontation that drags in the superpowers.

If we provide Pakistan with a $4 billion package of sophisticated weapons without nailing down the nuclear proliferation side of the equation, we make a mockery of our nonproliferation policy and foster a nuclear arms race in South Asia.

Members of Congress have high standards for stability and verification of a treaty on intermediate-range nuclear forces. That's right. Why do we have such low standards for nuclear arms control in South Asia?

We have a law that denies aid to nations building a nuclear bomb. But then we amended it to accommodate proliferation in Pakistan. We got a commitment from the Pakistani Government not to produce nuclear weapons-grade material. But when they blatantly violate it, we do nothing.

It's time to get serious about nuclear nonproliferation, before it's too late. We can't wait for progress on every front to make progress on any front.

Yesterday's INF Treaty closed a small window to nuclear confrontation in Europe. Let's not open a huge door to nuclear confrontation in South Asia.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2260

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2260.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Ohio?

There was no objection.

GLASNOST WITH RESPECT TO WELFARE REFORM

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, I take this time to speak in favor of openness with regard to welfare reform, glasnost, as one of my colleagues refers to it.

Last month the Committee on Rules recommended a closed rule on welfare reform. That is a rule which permits the Republicans a substitute proposal and permits the rest of us no other amendments.

I do not believe that a closed rule on welfare reform is good policy. I do not believe it is good politics. Most of all, I do not believe that it is fair.

When we bring to this floor foreign aid measures, a defense bill, a housing bill, or any one of a variety of pieces of legislation, we provide an opportunity to amend those bills so that other Members can have their voice heard, their opinions judged by the membership.

Mr. Speaker, I hope that when we bring up welfare reform, and I hope that we do it this month, I hope that that rule will permit perhaps three substitutes: one to be offered by the Republicans, one to be offered by a bipartisan group with whom I have worked, and perhaps one to be offered by a group of Democrats who feel that the Committee on Ways and Means bill simply does not spend enough money.

Mr. Speaker, I believe that would be fair. I also believe in the end it would be good politics and good policy, which is a word in favor of openness.

RECESS

The SPEAKER pro tempore. Pursuant to a previous order of the House today, the Chair declares the House in recess subject to the call of the Chair.

The Chair will notify Members 15 minutes prior to reconvening.

Accordingly (at 12 o'clock and 59 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GIBBONS] at 3 o'clock and 27 minutes p.m.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987

The SPEAKER pro tempore. (Mr. GIBBONS). Pursuant to House Resolution 293 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3100.

□ 1528

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, December 8, 1987, title VII was open for amendment at any point.

Subject to clause 6 of rule XXIII, 1 hour and 53 minutes were remaining on debate on all amendments printed in the CONGRESSIONAL RECORD on or before November 10, 1987.

Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. DE WINE

Mr. DEWINE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEWINE: Page 121, after line 25, insert the following:

SEC. 713. JANUARY 22 MOVEMENT OF MOTHERS OF POLITICAL PRISONERS AND HUMAN RIGHTS IN NICARAGUA.

(a) FINDINGS.—The Congress finds that—

(1) the January 22 Movement of Mothers of Political Prisoners in Nicaragua has joined forces to draw attention to the plight of relatives incarcerated for supposed violations of security laws;

(2) over, 1,500 mothers of political prisoners in Nicaragua, through their strength and resolve, utilize peaceful means to dramatize human rights violations in Nicaragua, describe the Sandinista prison system as "cruel and unjust", and have sponsored assemblies which have drawn hundreds of people despite government efforts to stop the demonstrations;

(3) the participants in the January 22 Movement of Mothers of Political Prisoners risk reprisals against their families and themselves and have suffered cruel and harsh punishment for their activities, including threats, torture, detainment, and

further arrest of their family members to coerce an end to their activism for justice;

(4) the January 22 Movement of Mothers of Political Prisoners demand the abolition of the highly political Anti-Somocista Tribunals (TPSs) which operate outside of the existing legal system, enjoy absolute discretion concerning the admissibility of evidence, and fail to recognize basic rights of due process;

(5) the Nicaraguan Constitution, which purports to guarantee basic individual, civil, and political rights, was suspended hours after it was promulgated and a state of emergency, which suspends basic civil rights, was implemented and is still in place; and

(6) the regional peace agreement signed by Nicaraguan President Daniel Ortega in Guatemala on August 7, 1987, which requires the Sandinista government to undertake immediate reforms to democratize Nicaraguan society and end the state of emergency, is consistent with the demands of the January 22 Movement of Mothers of Political Prisoners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the January 22 Movement of Mothers of Political Prisoners should be commended for calling attention to the Sandinistas' deplorable human rights record and for demonstrating inspiring courage in working peacefully for the improvement of human rights in Nicaragua;

(2) the January 22 Movement of Mothers of Political Prisoners demonstrates the need for respect for internationally recognized human rights, including respect for freedom of speech, freedom of the press, freedom of assembly, due process of law, the restoration of individual, political, and civil rights, and the lifting of the suspension of constitutional guarantees in Nicaragua, which are required by the Guatemala regional peace agreement;

(3) the Sandinista government should comply with the demands of the January 22 Movement of Mothers of Political Prisoners and issue a decree of amnesty to all political prisoners and undertake efforts to bring about a general improvement in what has been a contemptible record in their treatment of Nicaraguan citizens;

(4) the Sandinista government should issue a total political amnesty, conduct negotiations directly with the resistance, guarantee the freedom and safety of all Nicaraguans from harassment and persecution, and grant full freedom of the press and other internationally recognized rights, which heretofore have been held in disdain by Sandinista authorities; and

(5) the Sandinista government should, in general, undertake all efforts to meet the requirements of the Guatemala regional peace agreement faithfully and completely.

Mr. DEWINE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. DEWINE. Mr. Chairman, this is a very simple amendment. It is an amendment having to do with the January 22 movement of mothers of political prisoners. It is a sense of the Congress resolution. As the title indicates, it is commending this particular movement in Nicaragua for the work that they have done. As my colleagues can see from the title, it is a group of mothers of political prisoners, and what they have in common is frankly they all met at different times when they were waiting to get into the prisons to see their children, and they have simply banded together. It is a relatively new group, but it is a group that is becoming more and more effective.

What we do with this particular sense of the Congress resolution is to support this particular group.

□ 1530

We have received testimony in our committee, the Western Hemisphere Subcommittee, that has indicated that this particular group has been harassed. Members of the group have been beaten, they have been jailed, they have been threatened, and all they have really wanted and been demanding is the basic rights of their children, the basic rights of the political prisoners in Nicaragua.

No one knows how many people there are in this movement. By some estimates there may be 3,000 to 4,000 individuals. There certainly is ample opportunity for many family members to be involved because of the figures that we have in front of us which indicate there are at least 9,000 or 10,000 political prisoners in the jails in Nicaragua.

So our resolution, sense of Congress, it very simple. It is very basic. What we hope to do is to call attention, worldwide attention in this country and attention in Nicaragua to this movement of people who care about political rights.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio [Mr. DEWINE] who is a member of the Western Hemisphere Subcommittee.

I am pleased Mr. DEWINE is calling attention to the movement of mothers of political prisoners in Nicaragua in his amendment. The plight of political prisoners has been given too little coverage and too little concern. Thousands of individuals are being held incomunicado, deprived of their rights, tortured and abused. The Guatemala peace accords call for an amnesty to release all political prisoners. So far, the Sandinistas have paid only lip service to their commitments to free people held for no other crime than expressing opposition to the Sandinista regime.

The Guatemala agreement states "an amnesty decree will be issued containing all the provisions for the guarantee of the inviolability of life; as well as freedom in all its forms, property, and the security of persons to whom these decrees apply."

Although the Guatemala peace accord requires simultaneity in implementation of the principles in the agreement, the Sandinistas have issued their own, unilateral, peace proposal to achieve surrender of the armed resistance before the Sandinistas agree to democratization and protection of human rights.

The Sandinista proposal states, "when the [commission for international verification and follow up] certifies that the territories of Nicaragua's neighboring countries are no longer being utilized by the irregular forces from 'both within and outside the region precluded by the Esquipulas II accords have in fact ceased, then the Government of Nicaragua shall place in full force the amnesty law and the law repealing the state of emergency, as approved by the National Assembly."

Nicaraguan leader Daniel Ortega has turned the Arias peace plan into another prolonged Contradora process by insisting on conditions to be met by the Contras before the Sandinistas will comply with its commitments to the Guatemala peace plan.

As Ms. Leslie Hunter, of the Central American Peace and Democracy Watch, recently told our subcommittee, "the only way that the FSLAN will comply with the accords is if the United States, Latin America, and other Western democracies insist that they will not be party to a fraud."

It is imperative we convey the strongest message possible in this legislation our concern and support for full adherence and implementation to the Guatemala peace plan.

I commend the gentleman from Ohio for his initiative and urge my colleagues to give it strong, bipartisan support.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish every Member of this body could go down to Nicaragua and meet with the mothers of the political prisoners to see firsthand what they are going through. The gentleman from California [Mr. DORNAN] and I were down there about a month and a half ago and we had an opportunity to sit down and talk with probably 30 to 40 of the mothers and wives of political prisoners. The stories they told about what their husbands and sons are going through in these prisons at the hands of the Communist Sandinista government is something that ought to be told to every single person in America. The torture, the repression, the indoctrination courses, all of that needs to be told because it is something that we as a civilized people who believe in human rights should not tolerate or let that story go untold.

I think this amendment is extremely important in that these ladies are laying their lives on the line by demonstrating against the oppression that is taking place against their husbands and sons in these political prisons. Some of those mothers have been beaten up because they have protested the treatment that has been given to their husbands and sons.

I will not go into all of the details of the torture that has been taking place, but I will tell my colleagues just a few examples. I was told that some of the political prisoners are put in casket-like containers for 2 or 3 days at a time. They do not know whether they are ever going to get out. This kind of mental torture is something that I cannot imagine and I doubt if many of my colleagues can. They are put in rooms with electrical wires running up and down the sides of the walls, very narrow rooms, and when they get exhausted and they lean against the walls, they are shocked.

There are other forms of physical torture that takes place in these prisons, and these mothers and wives know about this. My colleagues you can't imagine what it is like having to live with that day in and day out knowing your husband or son is being tortured that way in those prisons. And the Sandinistas, when they signed the peace accords in Esquipulas in Guatemala said they were going to let all of the political prisoners out. It is estimated there are 5,000 to 6,000 political prisoners in the Sandinista jails, the Communist jails in Nicaragua. They let about 960 out, but there remains 5,000 to 6,000 still incarcerated for nothing other than protesting the repressive policies of the Communist Sandinista government.

So I applaud the gentleman from Ohio for his amendment. I think it is a very timely amendment and I hope it passes unanimously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. DeWine].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from New York is recognized for 5 minutes.

There was no objection.

Mr. SOLOMON. Mr. Chairman, I have an amendment at the desk which I am not calling up temporarily, but I would like to talk to that amendment while some negotiations are going on between the two sides of the aisle.

Mr. Chairman, let me just say at the outset that right now we are really getting down to business. The amendment that I intend to offer in a few minutes does one thing: It strikes section 711 from this committee bill.

Make no mistake about it, this is a make-or-break issue on this piece of legislation before us. If section 711 in its present form stays in the bill, there is absolutely no way that this Member, and I can guarantee many, many others who are receptive to voting for a foreign-aid bill can ever begin to consider voting on this legislation. I am sure I speak for a large number of Republicans on this side of the aisle as well as a number of Members on that side of the aisle who have come to me and talked about this amendment.

Later on when the gentleman from Michigan [Mr. Broomfield] offers the minority substitute for the whole bill, we can take a look at how he has rewritten section 711 so as to make it conform with reality; namely, the reality of Communist tyranny in Nicaragua. But for the time being, I will offer the amendment in a few minutes to strike section 711 altogether.

Frankly, Mr. Chairman, this section is a blatant attempt to micromanage foreign policy.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I am not trying to interrupt the gentleman's train of thought. I would like to enter into a discussion with the gentleman as to the motivation of his amendment. We are trying to reach an accommodation, and I am certainly of the inclination not to take up all of the time involved here. But it seems to me the country has gone through a very painful period of time.

Following the disclosure of the Iran-Contra affair, it became clear that the Secretary of State and others appeared to be running around the globe with a tin cup trying to barter for our foreign policy. Members who come from States with interests in domestic production of textiles found the possibility that we were ready to give up on the trade issue on textiles if we could get certain countries to help the Contras with economic or military assistance. We find ourselves in the Middle East going around and pleading for economic assistance for the Contras when the Congress would not do it.

I think if the gentleman would take a fair reading of the existing language in the legislation, we are not trying to do anything that the Constitution really does not want us to do. If the President or the Secretary of State wants to initiate a foreign policy, does not the gentleman from New York believe that the Congress ought to be the one that approves that and that we ought not be out there trying to trade textiles, or policy in the Middle East, or our foreign aid policy, or our military sales policy, or our policy toward South Africa based on who is going to be helpful to the Contras or any other interests?

Mr. SOLOMON. I hate to reclaim my time, but I think the gentleman has seen the compromise that has been pushed by his side and by my side. The one thing I am concerned about is the constitutionality of what we are doing in this Chamber. I agree with the gentleman. But let me just finish.

Last year, in 1985 when we enacted the International Security and Development Cooperation Act of 1985, we took the gentleman's language. I have the gentleman's language in the conference report, and may I read it to him?

Mr. GEJDENSON. Please do.

Mr. SOLOMON. Because it was his language, and he was a part of it, he agreed to it, and we went along with the gentleman in an act of cooperation. That is all I want to do, is to retain that language in fairness to both sides.

Mr. GEJDENSON. Will the gentleman yield for a second?

Mr. SOLOMON. I am glad to yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

The gentleman is aware that it was Mr. Poindexter who demanded of the conference that that language be adjusted in order to give them the room, apparently, to go out with their tin cup and finance this foreign policy that the Congress had not approved.

Mr. SOLOMON. Absolutely not. It was Gerry Solomon who demanded it.

But let me just read this language, and I will reclaim my time just for a few minutes.

In the conference report in the explanatory statements by the conference committee so that we would know exactly what the intent of the legislation was it says that "The purpose of the second sentence of this section is to prohibit the United States from furnishing economic or military assistance or selling U.S. military equipment on the condition," and I would ask the gentleman from Connecticut to listen because it is his language that I am reading.

The CHAIRMAN. The time of the gentleman from New York [Mr. Solomon] has expired.

(On request of Mr. Gejdenson and by unanimous consent Mr. Solomon was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Mr. Chairman, if I can continue reading the language of the gentleman from Connecticut, because it says that we are prohibited except "on the condition, either expressly or impliedly, that the recipient or purchaser provide assistance to insurgents involved in the struggle in Nicaragua."

In the last sentence of the gentleman's language it says "This section does not prohibit U.S. Government officials from discussing U.S. policy in Central America with recipients of U.S. assistance," that could be Israel, for instance, "or purchasers of U.S. military equipment," that could be South Korea, for instance. "Nor does it prohibit recipients of U.S. assistance from furnishing assistance to any third party on their own volition and from their own resources."

If the gentleman from Connecticut would be reasonable, in the language we are offering we simply are taking his language from last year and incorporating it into the bill, which I think we could avoid a long debate on this issue and certainly we could get on, and more than that we would have a chance of passing this legislation. If the gentleman would be reasonable and would accept the advice of some of his own leaders on his side of the aisle and accept this language, as I have accepted your language as a compromise, then it would be the gentleman's amendment here.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Connecticut.

Mr. GEJDENSON. I say to the gentleman in my 7 years in this Chamber I have not extensively used up the time of the Members, and I do not do it frivolously. I think this is an important issue, and I would say that we are probably closer to the chairman's language as the chairman has proposed it at that stage than the additional modifications that are being sent over from the other side of the aisle. I think what we could do is if the gentleman on the other side of the aisle is interested, take a look at the chairman's original language which was added to the language that is presently in the bill with the clear understanding that this is not a positive suggestion to countries to go out and do it on their own, but I do not think anybody in the original bill argues that countries do not under all international conventions have the right to take action on their own time.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has again expired.

(By unanimous consent Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

☐ 1545

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I would be glad to yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Under every United Nations agreement, every international accord, countries have the right to decide when they run their own flags up or when they take them down, what kind of assistance they provide. But it is awfully hard when the Secretary of the United States shows up at a country's doorstep and says, "Listen, you got $2 billion worth of aid from us last year or in the last 5 years and we would like you to provide some money for the Contras." Or if he does it more quietly. We want to make sure that foreign policy is decided here in the Congress and with the President of the United States and not with the Secretary of State out begging at other nations.

I would be happy to work with the gentleman to see if we can come to an agreement on language.

Mr. SOLOMON. Let me just say to the gentleman I would not want President Gore or I would not want President BUSH or whoever is going to be the President next year to be saddled with what we have, what you have now in section 711.

I will not yield to the gentleman at this point. I will again. I have been very lenient, as the gentleman well knows.

This section would prevent the President, whoever that President might be, from conducting the foreign relations of the United States in Central America. The President has the constitutional authority to enter into arrangements with foreign governments provided they do not interfere.

Now listen, this is what the gentleman ought to be listening to, "provided they do not interfere with congressionally authorized programs." The essential point that I am trying to make is whether the United States assistance is made conditional on assisting the Contras, I am agreeing to that; all I want him to do is to say that it is conditional on that. And the gentleman has the amendment there. Most of the people on his side of the aisle support that amendment. The gentleman ought to accept it. It is certainly a more reasonable compromise.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Chairman, I would be happy to test the proposition whether people on my side of the aisle support the amendment or not. I will be happy to try to work out a compromise. But I think if there is an issue that has been debated in this country it is support for the Contras and if we are going to do it we ought not do it through the back door, we ought to make sure the language in this foreign aid bill lets the President come to the Congress of the United States, the duly elected representatives of the people, to decide how we finance our foreign policy.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has again expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Let me just say again to the gentleman from Connecticut that an amendment to my amendment was offered over here as a compromise. All we have done is say that this military equipment is "made conditional upon."

We have added those words which the gentleman says is allowed in his amendment but he does not want it written in.

Now it is a very simple issue. If the gentleman believes in what he is saying then he will accept the word "condition" in his amendment that was offered to me as a compromise by that side of the aisle. If the gentleman believes in what he is saying, then there is no reason why we cannot write it in. Why does he not accept the amendment, I will go ahead and offer mine, he can offer it as an amendment or I will even amend my own amendment and we will accept it and get onto the important part of the bill.

Mr. GEJDENSON. If the gentleman would yield again.

Mr. SOLOMON. I would be glad to yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding once again.

I would suggest we might give others on either side of the aisle a couple of moments to discuss this. Staff and the chairman are trying to facilitate an agreement that we could all live with and that would protect the administration's power and also the prerogative of the Congress and the American people. And I would hope that before much too longer we could come to that kind of an agreement.

Mr. SOLOMON. If that is the case and if the gentleman would like me to take up some time of the body while he is doing this, I would ask for an additional three minutes.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 3 additional minutes.)

Mr. SOLOMON. I ask for this additional time in order to finish my statement on the amendment I intend to offer in a few minutes.

Let me say specifically section 711 would take a muddled position in the exisiting law, that which is already muddled, and make it even worse.

Existing law is very simple. Our Government is prohibited from providing foreign assistance to any other country on the "condition," and this is the present law as it is written today in law, either expressed or implied that the recipient country will then turn around and provide aid to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua. And not only is indirect assistance to military and paramilitary operations in Nicaragua prohibited under existing law: existing law even seeks to prohibit indirect assistance or encouragement for what is called an act of rebellion against the Sandinista dictatorship.

Just what is an act of rebellion? Congress does not say.

Certainly the Sandinista regime and its patrons in Havana and Moscow would say that any deviation from official orthodoxy constitutes an act of rebellion.

Now, Mr. Chairman, existing law is so ambiguous that Members of Congress were compelled to write report language, which the gentleman from Connecticut and I have been discussing here for the last 10 minutes, in 1985 declaring—and this is what the clarification and the intent of the law was—that U.S. officials at least have the right to talk with other governments about U.S. policy, U.S. foreign policy in Central America. These other governments can, of their own volition refuse to aid whomever they want to in Nicaragua.

Mr. GEJDENSON. Mr. Chairman, would the gentleman yield once again?

Mr. SOLOMON. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding further.

I just want to take one second. I know the majority whip and others want to say a few things, and also people on the gentleman's side. But it is very hard for a country to exercise its own independent foreign policy as someone who represents a $5 billion loan or a $1 billion military assistance program or even a several hundred million dollars assistance program steps into your office and says, "Look, the 6th Fleet is out there protecting your shores. We have given you x number of dollars in military assistance. We may waive our concern for textiles and other issues, and, boy, we are really concerned about the situation in Central America."

Mr. SOLOMON. I will have to reclaim my time at this time just to point out the fallacy of the argument of the gentleman. Does the gentleman think for 1 minute that the $4 billion that we give to the state of Israel every year influences them when they go ahead and they cooperate with South Africa? When they go ahead and sell arms?

Does the gentleman think for one minute that all of those countries in Africa that we give billions of dollars to every year, that that influences their vote in the United Nations when they day after day after day vote against U.S. foreign policy?

That breaks the argument of the gentleman down.

Mr. GEJDENSON. Mr. Chairman, will the gentleman again yield?

Mr. SOLOMON. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding further.

I am sorry the gentleman's administration has not been able to be more effective in the United Nations. But I can tell him where they have been effective.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has again expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Mr. Chairman, let me just say in closing that section 711 is so nit-picking in its application, so constitutionally dubious and so impossible to enforce that I am not sure whether to hold it up to ridicule or to contempt. It probably deserves both.

But I do know this: Keep this section in the bill without it being amended by a compromise and we have heard the last of H.R. 3100. This bill will never command the kind of support it needs in this House and in the Senate. And if it should pass this House by any stretch of the imagination it goes without saying that the administration will veto this bill. They have made this—and I have their recommendation here in front of me—a major issue in this bill and I would just say to the gentleman again we are trying to do everything we can to cooperate with him so that we will take back our jurisdiction from the appropriating committees which time after time we continue to give away. Let us be the Foreign Affairs Committee, Mr. Chairman, let us deal with this bill, but let us make it so that we can work together in a bipartisan effort.

At the appropriate time I will offer my amendment.

Mr. BONIOR of Michigan. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

There was no objection.

Mr. BONIOR of Michigan. Mr. Chairman, if there is one lesson we learned from the Iran-Contra scandal, it is surely this: A policy conducted in secret, against the express will of Congress, is a policy doomed to failure.

The Congress is an equal partner in the making of foreign policy under our Constitution. Any attempt to circumvent Congress or shortchange the process will clearly have disastrous consequences.

If the administration cannot gain the support of Congress, and ultimately of the American people, for its policies, then those policies should not be undertaken.

But apparently old ways die hard.

The committee bill which we have been discussing this afternoon incorporates a clear, unequivocal prohibition against any agreement or understanding, either formal or informal, between the United States and a foreign aid recipient that would assist any persons or groups rebelling against the Nicaraguan Government.

The gentleman from New York [Mr. SOLOMON] proposes to remove these restrictions on third country solicitation from the bill, and permit current law to expire.

That is a recipe for failure.

If the administration wants funds to support its policies it must come to this body, it must come to this Congress.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

The gentleman said that I would seek to change existing law. I simply would take the bill before us and bring it back to existing law. I would not change existing law at all. I just wanted to make the clarification.

Mr. BONIOR of Michigan. I stand corrected.

Mr. Chairman, if this administration wants to support its policies, as I suggested, it must come to Congress, no back room deals, no behind the scenes agreements.

Mr. Chairman, Let us consider for a minute what happened when this prohibition did not exist:

A $10 million contribution from the Sultan of Brunei ended up in the wrong Swiss bank account after secretary Fawn Hall transposed the numbers;

While the United States Congress was debating a textile bill on the floor, approaches were being made by the State Department to the governments of Taiwan and South Korea, two governments directly affected by this legislation;

A major U.S. ally in the Mideast was embarrassed to find its $32 million contribution a major focus of the congressional investigation.

The United States should not be going abroad to fund a policy that is not supported at home.

Nor should U.S. foreign aid be used as a weapon. Current law does not permit the United States to intimidate foreign aid recipients into aiding the Contras. These restrictions should be maintained.

It is also a dangerous policy to become indebted to countries that will obligate us to pay back favors in the future. Even General Secord admitted in the Iran-Contra hearings, "where there is a quid, there is a quo."

Members of this body have deeply held convictions on the issue of Contra aid. Sometimes those who support aid have prevailed; at other times they have not.

But whatever our position on Contra aid, we should all be able to agree that no administration should seek to use foreign governments to subvert the will of Congress.

One of the main recommendations of the Iran-Contra report was that "covert operations of this government should only be directed and conducted by the trained professional services that are accountable to the President and Congress."

I urge my colleagues on both sides of the aisle, and regardless of their position on Contra aid, to unite today in support of congressional prerogatives and our democratic institutions.

The committee language ensures that Congress and the U.S. Government will maintain proper oversight and professional management of our foreign policy.

It will avoid the secrecy and privatization that became so disastrous in the Iran-Contra affair.

Support the committee bill and oppose the Solomon substitute.

Mr. FEIGHAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. FEIGHAN] is recognized for 5 minutes.

There was no objection.

Mr. FEIGHAN. I think the amendment we are likely to see in just a few minutes is not going to become regarded by the name of the author, as ultimately viewed as the Solomon amendment, but much more likely to be referred to in the future "as the Elliott Abrams employment amendment." It involves much more than opening up a back-door channel for aid to the Contras. It will surrender a congressional power of the purse to an administration which not only could, but clearly has in the past, skirted laws it does not like and goes seek funds from friendly third-party countries.

Those countries, by virtue of their own U.S. foreign aid packages would most surely be predisposed to ante up when Mr. Abrams or somebody else of his disposition would come to call.

If we look at the record and the legislative history to this section of the bill, we find that the section under attack by the intended amendment was actually passed by the House and approved by the conference committee in 1985.

It was only after President Reagan threatened to veto the entire bill that the provision was changed.

As my colleague, the majority whip has stated, the Iran-Contra committees have documented what this one loophole in the law has allowed members of the administration to accomplish.

□ 1600

These third-party contributions were destined for what we all learned was designated as "the enterprise," a shadowy nongovernmental entity that would fund covert actions on behalf of the President, with no congressional oversight at all. The existence of this entity, perhaps the most chilling revelation of the Iran-Contra affair should be a lesson to the Congress of the danger of surrendering the power of the purse and the potential for emasculation of our system of checks and balances.

Does the Congress really want to authorize a global marketing program that conditions foreign aid to support for the Contras? Do we want to say to our allies that the Congress does not support Contra aid, but make sure that you give, and give generously, when some member of the administration asks you to donate an airstrip or listening post or some other dimension of the Contra war? Is it not really an offer our foreign aid recipients would not be in a position to comfortably refuse?

All too often we are admonished for our proclivity to micromanage foreign policy. This time the issue is not micromanagement; it is whether this Congress will carry on its constitutionally mandated function or whether it is going to surrender that to a group of people who have clearly demonstrated their disdain for the law. No one elected those salesmen. No one voted for them to supply aid to the Contras through third parties. We will have the opportunity to decide this issue ourselves in the very near future. Until then, let us keep the back door locked.

Mr. Chairman, I urge my colleagues to defeat the amendment that I expect will be offered.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. FEIGHAN. I am very happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, at the end of the report put out by the Iran-Contra Committee, there is an interesting little paragraph that says this:

> Under the view of North and Poindexter, a President whose appropriation requests were rejected by Congress could raise money from private sources or third countries for armies, military actions, armed systems, and even domestic programs.

It seems to me that the choice here before the Congress today is whether the U.S. Government and its duly elected representatives decide what the foreign policy of this Nation is, or do we hand that over to arms merchants and traders across the globe?

If the last instance of us trying to trade for foreign policy is any indication of how good we are, it will be a miserable disaster for the United States.

Mr. Chairman, I thank the gentleman for yielding.

Mr. FEIGHAN. Mr. Chairman, I thank the gentleman for his statement.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

PARLIAMENTARY INQUIRY

Mr. GEJDENSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GEJDENSON. Mr. Chairman, it is unclear to Members on this side of the aisle whether this amendment offered by the gentleman from New York is one of his three amendments on this section or a new amendment not covered by the rule. We do not know whether this is an amendment we have agreed to or some other action.

Mr. SOLOMON. Mr. Chairman, if I may answer, the amendment is right there. It is one of the two amendments I have on this title.

Mr. GEJDENSON. Mr. Chairman, I would reserve all points or order on the amendment at this time.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. SOLOMON: Page 120, Strike line 22 and all that follows through page 121, line 6 and insert in lieu thereof the following:
>
> "Section 722(d) of the International Security and Development Cooperation Act of 1985 is amended by striking the second sentence."

Mr. SOLOMON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electrònic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 463]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Atkins
AuCoin
Badham
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums

Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski

Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi

Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton

Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins

Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson

Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

☐ 1610

The CHAIRMAN. Three hundred ninety-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

☐ 1625

The CHAIRMAN. Does the gentleman from Connecticut [Mr. GEJDENSON] insist on his point of order?

Mr. GEJDENSON. Mr. Chairman, I withdraw my reservation of point of order.

Mr. SOLOMON. Mr. Chairman, I will attempt at this point to explain my amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield so that we on this side of the aisle could get a sense of what the procedure will be?

Mr. SOLOMON. Mr. Chairman, I am happy to yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, what we would like to understand is precisely what the amendment does, and if the gentleman from New York [Mr. SOLOMON] would tell us again which one it is he will be handling. Is this the amendment that would strike the language that would preclude foreign governments from basically being shaken down to finance America's foreign policy, or does this retain the existing language of the foreign aid bill?

Mr. SOLOMON. Let me explain to the gentleman from Connecticut [Mr. GEJDENSON] that there are going to be two amendments that will be offered.

I have an amendment now pending before the Committee which strikes the language in H.R. 3100 dealing with section 711.

In addition, it also strikes the Pell language that was enacted in 1985 which prohibits the President from carrying out his constitutional duty to conduct foreign policy.

In a few minutes the gentleman from California [Mr. LAGOMARSINO] will be offering an amendment to my amendment which will knock out that provision.

Let me just say by way of explanation that the amendment that is pending before the committee right now, my amendment, does not change existing law which prohibits foreign aid from being used to provide direct or indirect support to the Contras.

What my amendment does do is get rid of an unconstitutional, unenforcible stipulation that goes well beyond current law.

Mr. Chairman, in the bill before us, the gentleman from Connecticut [Mr. GEJDENSON] has expanded existing law which was enacted on a bipartisan basis in 1985 which prohibited United States officials from conducting foreign policy and making deals with foreign countries who are the recipients of United States aid, like Israel, or who buy military equipment from the United States such as South Korea.

That language prohibits the United States from entering into deals that would give aid to the Contras.

We were forced to go to this procedure because my good friend from Connecticut [Mr. GEJDENSON] refused in a compromise that was offered by that side of the aisle to simply retain the language from last year while still strengthening the position offered by the gentleman from Connecticut [Mr. GEJDENSON].

So we are forced to go through this procedure of offering to knock out the legislation from last year and then having it reinstated with existing law, not reinstated as in the existing bill, but having it reinstated with existing law by the gentleman from California [Mr. LAGOMARSINO].

Mr. GEJDENSON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. LAGOMARSINO].

Mr. Chairman, the United States Congress, the House and the Senate, established an Iran-Contra Committee to review what happened to this Government when we began to farm out our foreign policy to foreign governments. The American people elect their Congress and their President, and they elect them not to hire other parliamentarians, kings, and fiefs to run our foreign policy.

If the Solomon amendment is passed, it will provide an incentive for this and future administrations to go out and try to find traitors to effect their foreign policy and not come to the U.S. Congress.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. Mr. Chairman, I am delighted to yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, as I understand, the gentleman from Connecticut just stated a number of things that the Solomon amendment would do if enacted.

I just wanted the House to know that the Solomon amendment is the identical language offered by the gentleman from Connecticut [Mr. GEJDENSON] that is in existing law. So whatever it is, we must be doing it together, I say to the gentleman from Connecticut, and I appreciate your calling the committee's attention to it.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, I would be happy to give the gentleman time but that is not a correct understanding.

I think if we take a look at some of our Members and what we found out during the Iran-Contra hearings is that American textile policy was being developed based on a certain textile exporting country or countries who were interested in helping the Contras. We found the administration seeking to establish textile policy dependent on if certain nations would assist the Contras with economic or military assistance.

Our policy in South Africa was being established based on assistance from the South African Government.

Governments in the Middle East were being approached for military and economic assistance. These countries all depend on the United States for economic and military assistance.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. Mr. Chairman, I am happy to yield to the gentleman from Florida, the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, it is very difficult to hear the gentleman from New York [Mr. SOLOMON] who had to shout at the top of his lungs and the gentleman from Connecticut [Mr. GEJDENSON] who also had to do the same.

I will also take this time to tell my colleagues that it is my purpose as manager of the bill to go not beyond 6 o'clock this evening, notwithstanding the fact that we were not able to get to the floor until 4 o'clock today. I have no idea yet whether or not we will be on the floor tomorrow with this bill.

Mr. Chairman, could I inquire how much time we have left?

The CHAIRMAN. The Chair will state that the remaining time is 1 hour and 12 minutes.

Mr. FASCELL. If the gentleman will continue to yield, I want to say that we are now on the last amendments to title VII, or we are on the last issue in title VII if I am correct, which means that we could then get to the next title as soon as we finish this debate.

When the time runs out, however, I want to remind all of my colleagues that we will then under the rule be under the provision of 10 minutes per amendment that has been printed in the RECORD for those amendments that are printed which will be protected for debate time. Although we are doing our best to reach understandings with regard to pending amendments and on other matters as rapidly as we can, and as my colleagues know we have resolved many amendments by offering them en bloc or have otherwise reached agreement, but I hope we can do them all and maybe we will do them all the way the schedule is proceeding but in any event we are working diligently.

I want to take this time to answer the question, also, that has been raised and this is a long session of Congress, and I do not know when it is going to be over. I hate to think that I might win a wager that I made back earlier about adjourning by Christmas Eve, but it would not surprise me.

Some of us have had to come back on the day after Christmas, also, and I hope we do not have to do that.

Suffice it to say that we are all struggling with something that none of us really like and at which sometime all of us are going to have to do something about. We cannot run this Government on a single bill. We are for some reason, whatever the reason, and I do not want to blame anyone, but that is what is happening. We have turned over all policy decisions, all debate, all issues of money to one committee, and if we are going to do that, then we better reexamine the structure of the Congress with regard to authorizing committees.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes.

There was no objection.

Mr. FASCELL. Mr. Chairman, whatever the decision that will be made by this body and the leadership with regard to this problem, until that decision is made it seems to me that those of us who are on authorizing committees must fulfill the responsibility of the authorizing committee. Whether the body does or not, whether the Congress does or not, or whether we quit, or whether we do not quit or whatever. Those are all secondary issues in my judgment.

The House has worked so far very well on difficult matters of foreign policy covered by this bill. I want to compliment my colleagues for that on both sides of the aisle. I know opinions are strongly held. Nevertheless, we have worked to fashion legislation which represents the will of the House. With some continued cooperation on both scheduling and by my colleagues, we can work our way through all the remaining issues.

As I say, we are achieving understandings on a lot of them. I hope we can get through this. It would be my purpose as chairman of the Committee on Foreign Affairs to drive as long as possible within reasonable constraints to finish the bill one way or the other but I do not want to hold my colleagues here at all hours of the night when we have had all this time to consider legislation, and therefore I would seek to rise at 6 o'clock tonight, 6 o'clock tomorrow night, and come back to the floor as many times as necessary. With the help of my colleagues and their willingness, we will finish this bill.

☐ 1640

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment offered by Mr. SOLOMON: strike all after the word "Section" and insert the following:

"711. NICARAGUA—

"In order to make current law applicable to assistance under this Act, section 722(d) of the International Security and Development Cooperation Act of 1985 is amended by amending the second sentence to read as follows: 'The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act of the International Security and Development Cooperation Act of 1987 or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.' ".

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, if this amendment is the amendment the gentleman from New York had earlier indicated, our amendment, our battle is not with this amendment being added to his, and at least for this Member on this side of the aisle, I have no objection to have that amendment added to the Solomon amendment, with the understanding, of course, that there would then be debate on the Solomon amendment as amended by the gentleman from California's amendment.

MODIFICATIONS TO AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. LAGOMARSINO. Mr. Chairman, I ask the indulgence of my colleagues to ask unanimous consent that where the term "1987" appears in the amendment it be changed to read "1988" to make it accurate.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The modification is agreed to.

Mr. LAGOMARSINO. Mr. Chairman, what my amendment would do very easily, and it is very easy to explain, is it would rewrite the Solomon amendment so we would restate present law in this bill.

Section 711 of the bill as it reads now could prevent the administration from entering into any agreement or understanding with a recipient of United States assistance under this act to provide support to the resistance forces in Nicaragua.

The administration has made it very clear that this provision is one of the most troublesome in this entire piece of legislation. It would severely undercut the execution of United States foreign policy in Central America and may very well place unconstitutional restrictions on the President's prerogatives to pursue legitimate foreign-policy objectives.

Mr. Chairman, I could say I would really prefer the amendment of the gentleman from New York [Mr. SOLOMON]. I do not think we ought to have any law on this. But current law, as will be provided by my amendment, section 722(d) of the International Security and Development Cooperation Act of 1985, already contains a more workable approach.

The current law contains a so-called Pell language which prevents the administration from conditioning, and that is the key word, conditioning expressly or implicitly United States military assistance on support for the freedom fighters in Nicaragua. It also prohibits U.S. assistance from providing direct or indirect assistance for the Contras.

The Pell language would continue in force under this amendment.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield for one moment?

Mr. LAGOMARSINO. I yield to the gentleman from Connecticut for one moment.

Mr. GEJDENSON. I thank the gentleman for yielding.

I would say the difference between the Pell language and the language in the bill as we have drafted it is one provision that was taken out in conference at the request of Mr. McFarlane, and we now know the reason they did not want the language that we have in the bill today.

The chairman just made an eloquent statement about authorizing committees. What is at stake here is the elected representatives of the people of the United States, whether they and the President make foreign policy or whether foreign policy is made by kings and fiefs around the globe. That is the whole issue.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. On that issue, I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I would like to say the gentleman is wrong. We all were over there trying to protect America that night. That language was put in at my request, and that is the law.

I would like to just point out one thing. I wish those of my colleagues on that side of the aisle would open up the bill to page 120. I would just like to point out on page 120 the new language written into the law, proposed law by the gentleman from Connecticut [Mr. GEJDENSON] would in effect prohibit the United States of America, the President of the United States, the Secretary of State, Mr. Shultz, the Under Secretaries, any ambassadors, anybody in the U.S. Government from entering into any kind of an agreement with any of our allies who are the recipients of aid or who purchase military equipment from us, even if we approved 500 million dollars' worth of aid directly to the Contras for military purposes. That is exactly what this bill says.

Just so the membership understands what the gentleman is doing, existing law, that is the law that we are operating under today, yesterday and tomorrow, prohibits the U.S. Government from entering into any agreements or understandings with recipients of U.S. assistance or purchasers of U.S. military equipment to provide for such assistance.

Mr. Chairman, I say to Members on that side of the aisle because of the ambiguous language that was in the bill before the conference in 1985, we spent hours negotiating an explanation of the statement by the conference committee. Let me just read what that says.

The CHAIRMAN. The time of the gentleman from California [Mr. LAGOMARSINO] has expired.

(By unanimous consent Mr. LAGOMARSINO was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, I continue to yield to the gentleman from New York.

Mr. SOLOMON. At that conference, all of the members of the majority and all of the members of the minority of both Houses agreed that this was the explanation, and this was the law that we should operate under. It says that "The purpose of the second sentence of this section is to prohibit the United States from furnishing economic or military assistance or selling U.S. military equipment on the condition," and gentlemen, this is the whole debate over this issue, "on the condition, either expressed or implied, that the recipient or purchaser provide assistance to insurgents involved in the struggle in Nicaragua."

The key sentence after this says "This section does not prohibit, does not prohibit U.S. Government officials from discussing," this is the whole argument of the debate, "does not prohibit U.S. Government officials from discussing U.S. policy in Central America with recipients of U.S. assistance or purchasers of U.S. military equipment."

This is the amendment. All the amendment of the gentleman from California does in amending my amendment is go back to existing law to let the United States of America, the President of the United States carry out foreign policy. We still have all of the protections that we have now.

I had offered, before the gentleman offered his amendment, to accept a compromise coming from that side of the aisle which maintained existing law and even strengthened it further, but they turned it down. So that is what forced the gentleman from California, Mr. LAGOMARSINO, to take the time of the House and come back with an amendment which brings us back to existing law. I would hope we could end this debate on this issue. As the gentleman from Florida, DANTE FASCELL, has said, we have so many important amendments to deal with, most of which benefit those of my colleagues on that side of the aisle, and we are not going to have time to debate those issues, which means we will not have a foreign-aid bill this year.

Let us get on with it, Mr. Chairman.

Mr. LAGOMARSINO. Mr. Chairman, reclaiming my time, I would just submit current law is more than sufficient to ensure that the executive branch does not attempt to use foreign aid to influence governments in Central America or elsewhere to provide support to the Contras.

Section II of the bill, which would be changed by this amendment, could also cause recipients of United States assistance to withdraw support from the Nicaraguan resistance at a critical time in the Central American peace process, even though they want to do so for fear that they would be in violation of section 711 of this act.

I might point out to my colleagues, especially those on this side of the aisle, that my amendment is included in the Broomfield substitute. I urge approval of my amendment.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise briefly to state my opposition to the Solomon amendment as amended. If in fact this amendment were to be adopted, what we will do is to make the entire Iran-Contra scandal and the hearings that followed to have been a meaningless exercise.

What the language as incorporated into the legislation by the gentleman from Connecticut [Mr. GEJDENSON] attempts to do is to prevent the kind of informal understandings and intimidation, if you will, or buying off of other countries to provide assistance when our country on the basis of congressional policy was not permitted to do that.

It seems to me this is the first test we have had since the Iran-Contra hearings to see whether we have learned anything, whether in fact we are going to continue to sit by and allow the Elliott Abrams of this world and this administration to come in and directly lie to Congress as to whether they have solicited other countries and whether we will do anything about it or not. This is our chance, it seems to me, to stand up for the Democratic and constitutional processes of this Nation.

I would hope that we would overwhelmingly defeat the amendment offered by the gentleman from New York [Mr. SOLOMON] as amended by the gentleman from California [Mr. LAGOMARSINO].

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, let me just say one thing to my friends from New York and California. It is under existing law that our Secretary of State and Under Secretary of State went out panhandling for American foreign policy. It is under the existing law that this administration brought disgrace upon this Nation and brought a disaster in our foreign policy in Iran.

I would say to the gentleman if he is concerned that $500 million in more aid for the Contras would not be enough for them, when he offers the bill for 500 million dollars' worth of aid for the Contras, at that time might be the appropriate time to send a message to the Secretary of State to go back out and start panhandling again.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from New York [Mr. SOLOMON].

Mr. Chairman, I guess I want to support the amendment offered by the gentleman from California [Mr. LAGOMARSINO] to the amendment offered by the gentleman from New York [Mr. SOLOMON], but I want to support them both ultimately.

I want to bring to the attention of my colleagues the language of the existing law that the gentleman from Connecticut [Mr. GEJDENSON] so valorously is defending. It says the United States, and I guess that means the President and his minions, "shall make no agreement and shall enter into no understanding, either formal or informal, under which a recipient of United States economic or military assistance or a purchaser of United States military equipment shall provide assistance of any kind to persons or groups engaging in an insurgency," or if that is not strong enough, "or other act of rebellion," maybe the mothers marching in front of the church with their kids, "against the Government of Nicaragua." That is, to be kind about it, outrageously unenforceable and outrageously and conspicuously unconstitutional.

□ 1655

You cannot tell the President that he cannot engage in an understanding with another head of state. It may be unenforceable, it may, as in SALT II, the President of the United States and Mr. Brezhnev embraced in a hammerlock at the airport, it was never enforced, it was never ratified. We cannot tell the President that he cannot enter into an understanding, whatever that means.

Vagueness is the best thing about this law as you have it in this bill.

Now the Boland amendments, all five versions of them, will go to the Supreme Court to try to understand what they mean, who they block. This I think they would laugh out of court.

Now if you want to do what you want to do here you ought to say—retrench, say, "No funds shall be expended to any country that makes an understanding or an agreement, formal or informal, at a cocktail party or in a limousine, with any country that wants to help freedom fighters in Central America."

I know it kills you to see that another country might want to send some bandages to some people who are wounded. Let us take Honduras. Now we had better not aid Honduras, because right away we have the ingredients for a congressional hearing of 10 weeks because Honduras, I suspect, is providing safe haven for some freedom fighters from Nicaragua. I suspect we have an aid program to help Honduras.

Now who is to say there has not been an understanding about who is going to do what? Is this a violation of the law? It is incomprehensible. It is unenforceable. It is unconstitutional.

Where in the world does it say you can tell the President he cannot enter into an understanding with somebody else? It may be unenforceable, but you cannot do it this way.

I suggest to you that humanitarian aid—and you say aid of any kind—to people who are bleeding and wounded by another country with whom we have an arrangement or we give aid to is inhumane, it is cruel, it is brutality put into this law.

The existing law says we may not condition our aid upon them giving aid to the Contras. That is enough. We cannot condition our aid on another country aiding the Contras. As far as the gentleman talking about shaking anybody down, the Sultan of Brunei, I would suggest to the gentleman who is a scholar on Muslim history and geopolitics, the Sultan of Brunei is unshakable. There is nothing we have he wants, but he does not like communism. I know how difficult that is to understand. He does not like communism.

So saying that we shake people down, I do not think we are shaking people down to fight in Afghanistan with the mujahidin or others.

The law now forbids conditioning aid on helping the Contras. That is adequate. This is shoutingly, seisemically unconstitutional. I hate to see us look foolish in rushing to block assistance to freedom fighters when we should be helping them.

Mr. FRANK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I agree with the gentleman from Connecticut that we should adopt the amendment to the amendment offered by the gentleman from California but I hope we will then defeat the underlying amendment. The fact is that we need the existing law to be amended because of what we found out in Iran-Contra.

Now Members who put out a report who said that nothing seriously went wrong during the Iran-Contra hearings will understandably be for the status quo. They think it is OK for Secord and Hakim and all these other people to wander around the world humbling, engaging in all this finagling. Some of us do not think it is a very good idea. In particular, what we found out is this, this is not an administration that has an excessive regard for the law. The law said, "You shouldn't engage in deals to get people to aid Nicaragua." No one is suggesting that anyone who spontaneously, voluntarily wants to aid Nicaragua should in any way be impeded.

The language was that this administration should not make it a deal.

The gentleman earlier said that is OK. What we found out was that you have to be very, very explicit with this administration because if you say "Don't make it conditional," they think if they do not write it down that it is conditional that they have complied with the law.

What we are dealing with here is in fact extortion at the international level.

If a country wanted voluntarily to give it, OK. I do not think that the Sultan of Brunei did not know about Nicaragua before Elliott Abrams called him up.

Now if he had wanted to do it he could have done it.

The point, however, is we are not just talking about Brunei. We are talking about Saudi Arabia.

I have heard the arguments. We were told to sell arms to Saudi Arabia that I think would have endangered Israel because the Saudis—and I do not know which country they were, country 1, country 6, country 14—these countries so voluntarily and openly wanted to give it that when we did the Iran-Contra hearing we had to pick a number for the country. We could not even mention the name of the country, that is how voluntary it was.

The fact is that this administration clearly engaged in a practice of extorting countries that needed us to get them to give to Nicaragua. We had language that said they should not do it and that was not good enough.

Now the gentleman has said, well, it is not enforceable. That is true in one sense. You probably could not enjoin the President of the United States from doing it. But we are not, I hope, going to assume that because we put something in the law and cannot get a particular case on it that the President will ignore it. This President will, we know that. But we will have other Presidents. We may have Presidents who will not ignore it. We have a pattern of administration in this case ignoring the law.

I will yield to the gentleman from California if he wants me to yield.

Mr. DORNAN of California. Mr. Chairman, will the gentleman from Massachusetts yield?

Mr. FRANK. I yield to the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding.

I think the admission of the gentleman that there would be no way to force the President to accede to this is also an admission that it is just a good tool to beat up on him. Is he not sort of admitting that it is unconstitutional?

Mr. FRANK. No; I am taking back my time. The gentleman asked me a question. I am not admitting it is unconstitutional. To say that because you cannot—what I said was I would agree that an injunction will probably not lie against the President to enforce this. Not everything that you cannot get an injunction for is unconstitutional. I am hoping that if we pass the law that it is feasible. Others are suggesting, apparently Members on the other side, defending existing law, existing law restricts the President, existing law does say that the President cannot make an agreement to trade the sale of arms for aid to Nicaragua.

So Members on the other side have conceded that we can limit the President's power to engage in that agreement. They have conceded that.

So it cannot be a constitutional issue.

The question is whether we can prevent the President from doing implicitly what we tried to prevent him from doing explicitly. The argument is a clever enough President who does not care about the law, or a President who does not care about the law and has clever enough aides—which probably more properly states this situation—if he can get away with it then we should not even try. I do not think that we should give up on the notion that we might at some point have an administration that will show some respect for the law.

Mr. Chairman, it is very clear this administration violated the law, existing law in spirit. No one thinks that recipients of American aid, country 1, country 4, country 14, will voluntarily, spontaneously be overcome with the desire to aid Nicaragua. Many of these countries are countries which make a pretty good living as mendicants, and suddenly all of a sudden they become donors.

We all know the facts. This administration to which official and unofficial agents went to countries that needed us and said, "Hey, would you ante up for Nicaragua? That Congress won't let me do it."

What the Members want to do is to say "All right, Congress may vote no aid but we will let the President, in effect, go and put pressure on other countries to get them to do what the American Congress won't do." I do not think that is a very good idea.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, we are probably going to get a vote on this. So Members are going to have to go on the record and express an opinon about this type of crafted legislation to tie the hands of the President. I hardly know where to begin to put this in the context of history.

Let me start with the ridiculous and build up to the sublime.

It is ridiculous to assume that the Sultan of Brunei could be shaken down. He just bought the Beverly Hills Hotel for multimillions of dollars, the prime hotel in one of the wealthiest communities in this Nation. He has money to burn.

Why does he have money to burn? Because of oil. He is part of a royal government, as is the whole House of Saud, 3,000 princes in a country that is friendly to us in the main. But I can recall when gasoline over here in Virginia was about 29 cents, 30 cents a gallon and within a matter of months back in the middle seventies it suddenly was $1.30, $1.60, $1.80.

How did they do that, these OPEC countries? By violating laws that if they were international when Teddy Roosevelt put them into effect, would have prevented that, because we busted up cartels and price-fixing in this country domestically. There is not much we can do about it on the world scene.

But here is Saudi Arabia paying storage on their American dollars because they are taking in so many petroldollars from the United States, Europe, and Japan, because we are advanced societies which consume petrol at a higher rate than anybody else. Now they got millions to burn and most royal governments, I grant you, do not like communism, for selfish reasons and for maybe unselfish reasons. But they were willing to help the fight against a vicious totalitarian government in Managua.

Now it is true that most of the nations in the free world are gutless about what they do in the name of freedom.

Who was the more consistent ally in the struggle against freedom and communism in Southeast Asia? Did not many writers of all ideological bents admit that China and certainly the Soviet Union were more consistent allies of North Vietnam?

If people pick and choose the nation or the struggle, the movement for freedom—one man's freedom I guess is another man's poison—we can fill our foreign assistance bills with all sorts of restrictions. I believe that the German Bund before World War II would like to have gotten specific legislation like this into a foreign aid bill that not only would have blocked overt bundles for Britain, but would love to have blocked covert aid that helped set up the Flying Tigers, the American volunteer group in China, or the Eagle squadrons in Great Britain.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I would be happy to yield. The gentleman has always been an enemy of the Bund.

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Chairman, let me assure the gentleman that, at least this Member on this side of the aisle, that if there was a motion to help the Flying Tigers and this was World War II, we would be with the gentleman. But the question is not England and France, it is not the division of the Sudetenland. The question is whether or not this Congress decides who gets military assistance from the United States or whether we go out and market that aid by going to the South Africans and tell them we will be easy on the South Africans "If you just help the Contras"; by going to the Koreans and telling them "If you help the Contras we will cut back on textiles in this country."

Mr. DORNAN of California. Reclaiming my time, I would find the last two specific deeds the gentleman mentioned, if in fact they can be documented, I would find that unseemly. I do not need South Africa's help in anything and I do not need South Korea, who does owe this Nation one hell of a debt. The blood of 33,629 American fighting people was bled into that soil. There are people in wheelchairs, blind, or limbless all over this country who helped win their freedom.

But the sectioning of the Sudetenland is what is at stake in Nicaragua, Angola. And the one movement that the gentleman and other Members will support, the mujahdeen, what I have found peculiar in this Chamber, having just returned from both the Contra camps in Honduras and the alliance mujahdeen camps in Afghanistan is that the one determinate factor that makes it pure for most of you people is that the Soviets are themselves flying the Hind helicopters instead of hiring Cuban mercenaries to do their dirty work.

□ 1710

Why is it that we will help a Moslem country on the other side of the world but, with our own Norte Americanos closer to our Southern States than we are to those very States at this moment, we will rip, shred, and ridicule the freedom fighting moment in Nicaragua but help the one in Afghanistan?

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

(On request of Mr. FRANK, and by unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman from California for making this issue crystal clear. He closed by saying, "Why won't we give aid to Nicaragua?" I understand why he feels that way. But he made it clear. This is a surrogate vote on aid to the Contras. He just made that very clear in this following statement. This is a Contra aid issue.

Mr. DORNAN of California. Well, that clarification was interesting.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I have a few seconds left, so I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I attended virtually every hearing of the Iran-Contra hearings. They went on for weeks and months, and I want to tell the Members that there was not one syllable of testimony that pressure was put on Saudi Arabia or any of the 6 countries, not 14, and numbers were used because they did not want to be embarrassed. They were voluntary in whatever they did, but they did not want to be embarrassed.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I do not have the time.

Mr. DORNAN of California. I yield to the gentleman from Massachusetts.

Mr. FRANK. Why would they be embarrassed? It was a spontaneous act.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, will the gentleman yield to me?

Mr. DORNAN of California. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, they would be embarrassed for the same reason that they do not want to be identified as helping the Mujaheddin in Afghanistan, because the ultimate opponent in Nicaragua is the Soviet Union, and countries would rather not confront that if they can help it indirectly. Surely the gentleman is sophisticated enough to understand that concept.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I do not have the time.

Mr. FRANK. I am talking to the gentleman from California.

Mr. HYDE. I can tell who the gentleman is looking at sometimes.

Mr. DORNAN of California. I yield to the gentleman from Massachusetts.

Mr. FRANK. The gentleman has yielded to me.

Mr. Chairman, I do not find it the case that the South Korean Government is afraid of confronting the Soviet Union. I think they have been rather forthright about it. I think they were worried about the political pressure being put on them, and that is one of the reasons they did not want to be identified.

Mr. DORNAN of California. Mr. Chairman, I will reclaim my time.

Mr. HYDE. Mr. Chairman, the gentleman is dead wrong.

The CHAIRMAN. The gentleman from California [Mr. DORNAN] has the time.

Mr. DORNAN of California. Mr. Chairman, if I may, I would at least end my participation in this debate with this clarification: I asked our military in Bangkok during the Vietnam war why I could not visit the bases in Thailand.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN of California. Mr. Chairman, I promise my colleagues that I will try to finish within this 1 minute.

When I asked why I could not visit the bases in Thailand that the world was writing about—Ubon, Udorn, Takli, and Korat—American bases where friends of mine that I had flown with in peacetime were leaving from and not coming back, dying or being taken prisoner of war over North Vietnam, a very simple explanation was given to me. They said that if we pull out of this war and leave Thailand holding the bag, they need some denial against the united Communists of the worlds.

I said, "There is no way we are going to pull out of this place and lose this. The worst we will get is a stalemate like Korea."

I was wrong. We pulled out precipitously and left several rusty knives in the backs of our allies, and Thailand was able in their manner to look at the victorious Communists and say, "What bases? Takli and Korat? We don't know anything about any American bases."

That is why the cause of freedom in the world is always at a disadvantage, because there is a gutlessness on the side of those who fight for freedom and a consistency among the Communist activists of the world.

The CHAIRMAN. The question is on the amendment as modified offered by the gentleman from California [Mr. LAGOMARSINO] to the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LAGOMARSINO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 0, not voting 16, as follows:

[Roll No. 464]

AYES—417

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell

Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart

Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)

Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—0

NOT VOTING—16

Anthony
Biaggi
Dixon
Donnelly
Dowdy
Garcia
Gephardt
Hall (OH)
Hubbard
Kaptur
Kasich
Kemp
Lancaster
McEwen
Roemer
Sweeney

□ 1720

So the amendment as modified, to the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1735

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to take the full 5 minutes. I hope maybe I will need just 1 minute, or perhaps 30 seconds, but this is a very important vote. There is no question in my mind that if my colleagues wish to preclude in the future the happenings that have resulted in the Iran-Contra hearings, if my colleagues wish to preclude the likes of Colonel North, Admiral Poindexter, General Secord and others from going about intimidating people to raise funds for the Contras, then we must support the language in the bill and oppose the Laromarsino amendment. If my colleagues wish to have rule by law in this country, then let us reject the amendment of the gentleman from New York [Mr. SOLOMON] as amended by the gentleman from California [Mr. LAGOMARSINO].

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 215, not voting 18, as follows:

[Roll No. 465]

AYES—200

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Kolbe
Konnyu
Kyl
LaFalce
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Pepper
Petri
Pickett
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—215

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
DeFazio
Dellums
Derrick
Dicks
Dingell
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hawkins
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Ridge
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder

Schumer
Sharp
Shays
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings

Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky

Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—18

Akaka
Biaggi
de la Garza
Dixon
Donnelly
Dowdy

English
Garcia
Gephardt
Hall (OH)
Hubbard
Kaptur

Kasich
Kemp
Lancaster
McEwen
Roemer
Sweeney

☐ 1750

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—AFRICA

PART A—AFRICA FAMINE RECOVERY AND DEVELOPMENT

SEC. 801. SHORT TITLE.

This part may be cited as the "Africa Famine Recovery and Development Act".

SEC. 802. AFRICA FAMINE RECOVERY AND DEVELOPMENT.

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 6 the following new chapter:

"CHAPTER 7—AFRICA FAMINE RECOVERY AND DEVELOPMENT

"SEC. 471. FINDINGS.

"The Congress finds as follows:

"(1) Drought and famine, most recently in 1983-85, have caused countless deaths and untold suffering in sub-Saharan Africa and have also severely affected the region's long-term development. The most cost-effective and efficient way of addressing Africa's vulnerability to drought and famine is to address its long-term development needs.

"(2) Beyond humanitarian concerns, United States interests in sub-Saharan Africa lie primarily in the advancement of long-term, mutually beneficial economic and political relations. These relations can best be furthered by the promotion of long-term development through a process of economic growth that is equitable, participatory, environmentally sustainable, and self-reliant. A developing Africa will benefit the United States economically through expanded trade and investment, and politically through the avoidance of political turmoil, external interventions that exacerbate international conflicts, and hostility between rich and poor nations.

"(3) The development crisis in sub-Saharan Africa is a result of a combination of internal and external factors which include—

"(A) government neglect of the agricultural sector,

"(B) the stifling of private initiative through inappropriate economic policies, including artificially low farmgate prices and overvalued exchange rates, overextended bureaucracies, political corruption, and repression, and

"(C) worsening terms of trade, oil shocks, world recession, high interest rates, and external aggression.

"(4) Resolution of the development crisis in sub-Saharan Africa calls for, among other things, renewed and sustained real economic growth with increased involvement of the private sector. Political and economic development which protects and involves the individual must be encouraged. Agricultural production must expand to reduce the vulnerability of Africans to recurring drought and food shortages. Productive employment and real incomes must grow and this growth must be spread broadly among the population, for even in countries which are self-reliant in overall food availability, there are large segments of the population without the income or resources to acquire or produce sufficient food. Human productivity must be increased through improvements in health, education, and nutrition in order to expand and sustain the productive capacities of national economies.

"(5) A common cause of past failures of assistance has been the inadequate fit of the assistance and needs. There must be local level consultation and involvement in order to gain the benefit of local advice and participation in assisted projects and programs.

"(6) To provide more responsive, effective development assistance to the poor majority of men and women in sub-Saharan Africa (including the landless, subsistence food producers, and migrants), United States Government development agencies should learn from and build upon the capabilities and experience of African, United States, and other private and voluntary organizations active in local grass roots development efforts. These agencies should consult closely with such private and voluntary organizations and significantly factor their views into decisions on assistance, and they should also support the expansion and strengthening of activities of private and voluntary organizations without compromising their private and independent nature.

"(7) United States Government development agencies should ensure that assistance to sub-Saharan Africa reaches, in just proportions, African women who produce, market, process, and transport the overwhelming majority of the region's food.

"(8) While United States development assistance for sub-Saharan Africa should continue primarily to emphasize projects and programs that attack the longer-term constraints to development, it should also provide program aid to address shorter-term constraints such as maintenance and rehabilitation needs and inappropriate national economic policies that deny prices, markets, the private sector, and good public management their proper role in promoting African development. Assisted economic policy reforms should include provisions to protect vulnerable groups and long-term environmental interests.

"(9) United States development assistance should focus on critical development issues in the following interrelated sectors: agriculture, natural resources, health, population planning, education, and off-farm employment. Of increasing concern, as demonstrated by the recent famine, is the degradation of the natural resource base due to overgrazing, overharvesting of trees, and overcropping on fragile soils and to large-scale inappropriate development projects (particularly in the area of irrigation) which have caused soil erosion, flooding, removal of tree cover, loss of water supplies, and desertification. Prompt action to maintain and restore the natural resource base is essential.

"(10) The effectiveness and efficiency of United States development assistance can be significantly increased through the making of a long-term commitment to development in sub-Saharan Africa, more flexible and integrated programming and improved organization, reporting, and evaluation of assistance, and greater participation in international coordination mechanisms by the governments in sub-Saharan Africa.

"(11) The United States and other international donors should adopt measures to alleviate more effectively the contemporary debt service burdens of low-income countries in sub-Saharan Africa. African debt has expanded more rapidly in recent years than that of any other region. Low-income African countries, the great majority of the world's poorer nations, have little capacity to generate the foreign exchange necessary to meet debt service obligations in a timely manner and maintain even existing levels of economic growth and living standards. The debt of low-income African countries is unique in that it is overwhelmingly owed to official rather than private creditors, and new private capital is generally unavailable to these countries.

"SEC. 472. LONG-TERM DEVELOPMENT ASSISTANCE.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—The President is authorized to provide project and program assistance, on such terms and conditions as he may determine, for long-term development in sub-Saharan Africa.

"(b) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa (including the landless, subsistence food producers, and migrants) to participate in a process of long-term development through economic growth that is—

"(1) equitable, in that it enables the poor to increase their incomes and their access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope;

"(2) participatory, in that it enables the poor to contribute knowledge and other resources and to make and influence decisions that affect their lives;

"(3) environmentally sustainable, in that it maintains and restores the renewable natural resource base of the economy and wisely uses nonrenewable resources; and

"(4) self-reliant, in that it is based on indigenous institutions, private and public, local and national, that have the capacity (including the human resources and finances) to carry out development policies.

Assistance provided under this section should also, in a manner consistent with the preceding provisions of this subsection, encourage private sector development and promote individual initiatives and help to reduce the role of central governments in areas more appropriate for the private sector.

"(c) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) reference in any law to chapter 1 of this part (including references to sections 103 through 106, inclusive) shall be deemed to include reference to this section, and

"(2) assistance under this section shall be provided in accordance with the policies contained in section 102.

"(d) Private and Voluntary Organizations.—

"(1) Consultation to ensure local perspectives.—The agency primarily responsible for administering this part shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa during the initial planning and final review stages of the Country Development Strategy Statement, Mission Action Plan, and any similar annual country planning documents for project and program assistance under this section. In order to gain that perspective, the agency shall consult closely with African, United States, and other private and voluntary organizations which have demonstrated effectiveness in or commitment to the promotion of local, grass-roots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (b). The agency shall establish, in each country which receives assistance under this section, specific and regular mechanisms for such consultation. Views and information emanating from such consultations shall be generally represented in annual assistance plans and significantly factored into decisions on project and program assistance under this section.

"(2) Funding for expansion and strengthening of development efforts.—In carrying out this section, the agency primarily responsible for administering this part shall make available funds for a substantial (relative to fiscal year 1986) expansion and strengthening of development efforts by African, United States, and other private and voluntary organizations which have demonstrated effectiveness in or a commitment to the promotion of local grass-roots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (b). Assistance shall also be made available to support the efforts of such private and voluntary organizations to improve their planning, management, evaluation, and coordination mechanisms in order to enhance their effectiveness in promoting local, grass-roots development and to encourage a broadening of the national and regional impact of local activities.

"(3) Simplified procedures.—The agency primarily responsible for administering this part is encouraged to review procedures for the development, approval, management, and evaluation of projects and programs to be carried out by private and voluntary organizations under this section and to simplify such procedures wherever appropriate. Such procedures should include incorporation of elements which would encourage a long-term perspective, a period of effective joint planning, and a collaborative assistance mode in approaching relationships and new project development.

"(4) Identification of relevant pvos.—In order to identify relevant private and voluntary organizations for purposes of this subsection, the agency primarily responsible for administering this part shall consult with organizations such as InterACTION (American Council for Voluntary International Action), PACT (Private Agencies Collaborating Together), the African Development Foundation, Churches Development Action in Africa, the Office of Technology Assessment, the International Fund for Agricultural Development, the International Labor Organization, the United Nations Children's Fund, and the United Nations Research Institute for Social Development.

"(5) Definition of private and voluntary organization.—For purposes of this section, the term 'private and voluntary organization' includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, higher education institutions, nonprofit development research institutions, other intermediaries, and indigenous local organizations, which are private and nonprofit.

"(e) Local Involvement in Design and Implementation of Projects.—Local people shall be closely consulted and involved in all stages of the design and implementation of every project under this section which has a local focus.

"(f) Participation of African Women.—The agency primarily responsible for administering this part shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decision-making) and integration of African women in each of the critical sectors described in subsection (h). The views of women as well as men shall be ascertained and factored into decisions relating to development activities which affect them, and every effort shall be made to assure adequate attention to gender differences and roles. Country Development Strategy Statements, Mission Action Plans, and any similar annual country planning documents for assistance prepared by such agency shall, for each sector in which assistance is to be provided, address how the participation and integration of women will be promoted and assess the extent to which participation and integration of women exists at the time such document is prepared.

"(g) Shorter-Term Constraints to Long-Term Development and Need for Reform of National Economic Policies.—

"(1) Use of program assistance.—The agency primarily responsible for administering this part shall utilize program assistance—

"(A) to help overcome shorter-term constraints to long-term development, such as the need for maintenance and rehabilitation within the critical sectoral priorities described in subsection (h), and

"(B) to promote reform of national economic policies to support these priorities.

Assistance under this section shall, however, continue to emphasize primarily projects and programs to address other long-term constraints to development.

"(2) Examples of national economic policy reforms which can be supported.—Assistance may be provided to support such national economic policy reforms as correction of overvalued exchange rates, reduction of government budget deficits, raising of real prices of food crops, reform or privatization of inefficient parastatal enterprises, improved public management, and other reforms suggested in the consultation process pursuant to subsection (d)(1) which reflect the local-level perspective of the rural and urban poor in sub-Saharan Africa.

"(3) Protection of vulnerable groups.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers and the urban poor) and long-term environmental interests from possible negative consequences of the reforms. Appropriate protective measures may include monitoring nutrition and poverty levels and using targeted food aid to cushion the impact on the vulnerable poor of diminishing subsidies for consumer goods, focusing budgetary reductions on activities other than social services used by the poor, and supplying credit and agricultural inputs (such as fertilizers, seeds, livestock vaccines, farm animals, veterinary services, farm implements, and labor-saving innovations for collecting water and fuel and for processing food) to poor, isolated, and female farmers to enable them to take advantage of the new incentives resulting from policy reforms.

"(4) Adjustments on account of drought.—Assistance under this section for national economic policy reforms shall take account of the need for adjustments should a recurrence of drought make it impossible to achieve the goals of the reforms.

"(h) Critical Sectoral Priorities.—Assistance under this section shall be provided only with respect to the following critical sectoral priorities for long-term development as described in subsection (b):

"(1) Agricultural production and natural resources.—

"(A) Agricultural production.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes at the macroeconomic and sector levels, agricultural research (including participatory research, in which small farmers are directly involved in the definition of research agendas and the formulation of problems in order to capitalize on local knowledge and experience and enhance support for research efforts; and also including linkages between indigenous efforts and United States universities and between indigenous efforts and International Agricultural Research Centers) and extension, development, and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers (the majority of whom are women) and the farm family. In view of the central role of women in sub-Saharan African food systems, gender roles shall be analyzed and taken into account in order to ensure the integration of women into development activities.

"(B) Natural resource base.—Maintaining and restoring the renewable natural resource base in ways which increase agricultural production, through the following:

"(i) Primary emphasis on small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations. Appropriate activities include agroforestry, small-scale farms and gardens, and other innovative agricultural methods (including energy and resource-conserving techniques and use of organic or regenerative methods where feasible); check dams and terraces and other projects to prevent erosion or protect watersheds; tree planting for windbreaks, soil stabilization, or firewood; energy conservation and small-scale energy production to reduce consumption of firewood and animal wastes otherwise usable as fertilizer; sustained production from indigenous plants and animals, especially to conserve rangelands; and local education and training efforts.

"(ii) Significant support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production. Appropriate activities include strengthening institutions such as environmental authorities, soil conservation and forestry services, and nongovernmental organizations; providing seeds, seedlings, energy-efficient and resource-conserving devices, and other needed materials; and creating financial mechanisms to furnish credit to small farmers.

"(iii) Significant support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources. Appropriate activities include support for African training and educational institutions; development of curricula; training and education components of projects of the kinds described in clauses (i) and (ii); training and education programs through national and local government extension services, nongovernmental organizations, and other appropriate indigenous institutions; establishment of cooperative arrangements between United States and African academic institutions; support for natural resource managers to participate in conferences, courses, seminars, and the like; and training of trainers.

"(2) Health.—Improving health conditions in order to improve the quality of life of the people and their ability to contribute to economic growth, with special emphasis on meeting the health needs of mothers and children through the establishment of self-sustaining primary health care systems that give priority to preventive health.

"(3) Voluntary family planning services.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives, in order to allow couples to space the births of their children as they desire, thus contributing to improved health for mothers and children and reduced pressure on natural resources.

"(4) Education.—Improving the relevance to production and the efficiency of education, with substantial attention given to improving basic literacy and numeracy, especially to those outside the formal educational system, and improving primary education.

"(5) Income-generating opportunities.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas. Off-farm employment opportunities in micro- and small-scale labor-intensive enterprises shall be emphasized (especially those which relate to processing increased agricultural production and adding to the value of that production and to production of consumer goods in rural areas).

"(i) Minimum Levels of Assistance for Certain Critical Sectors.—Of the amount made available each fiscal year pursuant to section 473—

"(1) not less than 10 percent shall be used for activities described in paragraph (1)(B) of subsection (h), including identifiable components of agricultural production projects,

"(2) not less than 10 percent shall be used for activities described in paragraph (2) of subsection (h), and

"(3) not less than 10 percent shall be used for activities described in paragraph (3) of subsection (h).

"(j) African Agricultural University Development.—Given the critical role in African growth and development that indigenous institutions of higher education can play in developing agriculture and human resources and in furtherance of subsection (h)(1)(A), the Administrator of the agency primarily responsible for administering this part is directed to provide support for strengthening and developing selected African higher education institutions in order to address the problems of food production and distribution. In order to create continuing support for applied agricultural research and education, this support should, to the maximum extent possible, promote linkages (A) between agricultural research and extension activities in sub-Saharan Africa through the involvement of institutions of higher education, and (B) between African institutions of higher education and indigenous farmers' associations. This support should be provided on a long-term basis in recognition of the complexity of institution-building efforts and should utilize, in a collaborative manner, the capabilities and expertise of United States universities participating in programs under title XII of chapter 2 of this part. The Administrator shall consult with the Board for International Food and Agricultural Development on effective means of implementing this subsection.

"(k) Country Development Strategies.—In carrying out this section, the agency primarily responsible for administering this part shall formulate coherent country development assistance strategies that explicitly analyze and address—

"(1) relationships among various activities within the same sector and among different sectors;

"(2) the desirability of concentrating assistance on a limited number of eligible sectors, based on country circumstances, for maximum effectiveness; and

"(3) relationships between local and national level activities.

"(l) Effective Use of Assistance.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (b), especially those countries (including those of the Sahel region) having the greatest need for outside assistance. Assistance shall not be allocated for a project or program in a country where the relevant sector or national economic policies are clearly unfavorable to the sustainability or broadened impact of the assisted activity.

"(m) Procurement of Goods and Services.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this subsection shall not be construed to apply to the Comprehensive Anti-Apartheid Act of 1986.

"(n) Generated Local Currencies.—

"(1) Generated under this section.—Local currencies generated under this section by the sale of imports or foreign exchange by the government of a country in sub-Saharan Africa shall be deposited in a special account established by that government. These local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 and which would be eligible for assistance under this section, except that the agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the President to be necessary for requirements of the United States Government. The agency primarily responsible for administering this part shall carefully monitor the deposit of local currencies and their application to specific developmental activities in accordance with this paragraph.

"(2) Generated under other laws.—Local currencies generated in sub-Saharan Africa under chapter 4 of part II of this Act (relating to the Economic Support Fund) or under section 106(b)(2), section 206, or title III of the Agricultural Trade Development and Assistance Act of 1954 (relating to the Food for Peace program) that are to be used for development activities shall be used only for activities which would be eligible for assistance under this section.

"(o) Donor Coordination Mechanism.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(p) Relation to Other Authorities.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally-funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of this part.

"SEC. 473. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) Authorizations.—There are authorized to be appropriated to the President $450,000,000 for fiscal year 1988, $450,000,000 for fiscal year 1989, $450,000,000 for fiscal year 1990, $500,000,000 for fiscal year 1991, and $550,000,000 for fiscal year 1992 for assistance under section 472 and section 477(b).

"(b) Extended Availability of Funds.—Funds appropriated under this section are authorized to remain available until expended. It is the sense of the Congress that the authority of this subsection should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 472.

"(c) Transition Rule.—If the Foreign Assistance and Related Programs Appropriations Act, 1988, is enacted before the date of enactment of this section and does not make funds available for use in accordance with this chapter, the President shall use funds to provide assistance in accordance with this chapter, as follows:

"(1) The funds used pursuant to this subsection shall be derived from funds appropriated by that Act to carry out either chapter 1 of this part or chapter 4 of part II.

"(2) The amount of funds used pursuant to this subsection shall be equal to the amount authorized to be appropriated by subsection (a) less the amount of funds appropriated by that Act which were obligated under those chapters, before the date of enactment of this chapter, for project or program assistance for long-term development in sub-Saharan Africa, to the extent that such previously obligated assistance is consistent with the authorities and requirements of section 472.

Funds obligated to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) shall be excluded in calculating any reduction pursuant to paragraph (2) for previously obligated assistance.

"(d) Limitation on Transfers Between Accounts.—

"(1) Development assistance transfer authority.—The transfer authority contained in section 109 shall not apply with respect to this chapter.

"(2) General transfer authority.—The transfer authority contained in section 610(a) may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"SEC. 474. AID ORGANIZATIONAL CHANGES.

"(a) Development of Plan for Changes.—

"(1) Requirement for preparation of plan.—The Administrator of the agency primarily responsible for administering this part shall develop a plan for organizational changes within the agency in order to carry out section 472 with maximum effectiveness.

"(2) Measures to be considered.—In preparing this plan, the Administrator shall seriously consider measures to increase substantially the proportion of in-country staff time spent on field work at the local grass roots level, develop greater language competence among in-country United States staff, increase the period of in-country assignments, increase the utilization and training of locally hired African staff, increase staff trained in macroeconomics and African political economy to enhance the capacity to provide assistance in policy reform and in technical areas (especially environmental science), and revise personnel incentive and evaluation systems in order to achieve the purpose specified in section 472(b).

"(3) Consultation with and submission of plan to congress.—The plan required by this subsection—

"(A) shall be developed in consultation with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and

"(B) shall be submitted to those committees by the Administrator within 120 days after the date of enactment of this chapter.

"(b) Funding for Increased AID Organizational Resources for Sub-Saharan Africa.—

"(1) Authority to transfer funds.—The Administrator of the agency primarily responsible for administering this part may transfer up to 5 percent of the funds made available each fiscal year pursuant to section 473 to the 'Operating Expenses of the Agency for International Development' account for use in increasing (above the level of resources available for fiscal year 1987) the organizational resources which the agency has available for development assistance activities for sub-Saharan Africa. These funds shall be in addition to amounts otherwise allocated to the agency's Bureau for Africa.

"(2) Consultation.—Such transfers may be made only after consultation with the committees specified in subsection (a)(3).

"(3) Policy on determining amount to be transferred.—The extent to which funds are made available pursuant to this subsection in order to increase the organizational resources available for development assistance activities for sub-Saharan Africa should be determined by the extent to which the plan developed pursuant to subsection (a) achieves the objectives specified in that subsection.

"SEC. 475. EVALUATIONS.

"(a) Development of Evaluation Plan.—

"(1) Requirement for preparation.—The Administrator of the agency primarily responsible for administering this part shall develop a plan for evaluating the agency's progress in achieving the purpose specified in section 472(b). This plan shall provide for—

"(A) interim evaluations to be reported to the committees specified in subsection (b) by February 1, 1989, and February 1, 1991, and a summary evaluation to be reported to those committees by February 1, 1993;

"(B) the establishment of specific criteria for measuring the performance of United States development assistance for the poor majority of men and women in sub-Saharan Africa (including the landless, subsistence food producers, and migrants) in fostering economic growth; increasing the income of the poor, the access by the poor to productive assets and services, and the satisfaction of basic human needs of the poor; maintaining and restoring the renewable natural resource base of the economy; enabling the poor to contribute knowledge and other resources and to make and influence decisions that affect their lives; and enhancing the capacity of indigenous institutions to carry out development policies;

"(C) the collection and on-going monitoring of base-line data for future measurement of the effectiveness of assistance and consideration of exogenous and endogenous factors influencing the impact of development assistance; and

"(D) measures by which the evaluations contained in subparagraph (A) will be used to institutionalize learning within the agency, especially with regard to program planning, and within the international donor community generally.

"(2) Consultation with and submission of plan to congress.—The plan required by this subsection—

"(A) shall be developed in consultation with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and

"(B) shall be submitted to those committees by the Administrator within 120 days after the date of enactment of this chapter.

"(b) Independent Evaluation.—It is the sense of the Congress that the Office of Technology Assessment—

"(1) should conduct independent evaluations of the performance of the agency primarily responsible for administering this part in achieving the objectives specified in subparagraph (B) of subsection (a)(1); and

"(2) should report these evaluations to the committees specified in subsection (a)(2) at the same time as reports are submitted to them pursuant to subparagraph (A) of subsection (a)(1).

"SEC. 476. OTHER ASSISTANCE PROGRAMS.

"To the maximum extent practicable, resources allocated for sub-Saharan Africa under chapter 4 of part II (relating to the Economic Support Fund), title IV of chapter 2 of this part (relating to the Overseas Private Investment Corporation), the Export-Import Bank Act of 1945, the Peace Corps Act, and the African Development Foundation Act shall be used to provide assistance which meets the criteria specified in section 472(b). To the maximum extent practicable, the agency primarily responsible for administering this part should use resources and authorities available under the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, and the Food for Progress Act of 1985 to complement the assistance provided under section 472.

"SEC. 477. INTERNATIONAL ORGANIZATIONS AND MULTILATERAL DEVELOPMENT BANKS.

"(a) Findings.—The Congress finds as follows:

"(1) International organizations have provided significant and critical support for development and humanitarian efforts in sub-Saharan Africa, which has effectively complemented assistance provided by the United States.

"(2) International organizations must continue to play a significant role in addressing issues of critical importance to development in sub-Saharan Africa, such as agricultural production and research, maternal and child health care, family planning, primary and technical education, and the maintenance of the natural resource base. Among the international organizations which have played a prominent role in these areas are the United Nations Development Program, the International Fund for Agricultural Development, the United Nations Children's Fund, the United Nations Environment Program, and the United Nations Development Fund for Women.

"(3) The African Development Bank and the African Development Fund, as the most prominent development institutions in the region, and the International Bank for Reconstruction and Development (especially through the activities of the International Development Association), play a significant role in financing development, in influencing economic policy issues, and in providing training for the region's development leaders. The sectoral priorities of these institutions, which include lending to help countries meet their basic food requirements, to develop their human resource potential through education and health programs, and to create basic infrastructure, are consistent with the objectives of this chapter.

"(4) The Special Facility for Africa of the International Development Association is an important new institution whose purpose is to increase significantly the amount and effectiveness of development resources available to sub-Saharan Africa.

"(b) Funding for Activities of International Organizations.—The President is authorized to make available such amounts from the funds made available pursuant to section 473 as the President deems appropriate to support activities of international organizations which are consistent with the purpose specified in section 472(b) and are undertaken in coordination with the agency primarily responsible for administering this part. Any funds made available under this subsection shall be in addition to amounts authorized to be made available to such organizations from other sources.

"(c) Multilateral Development Banks.—The President is encouraged to use the authorities provided in section 472 in cooperation with activities of the multilateral development banks in sub-Saharan Africa, particularly when such activities are directed toward the encouragement of policy reforms in the beneficiary countries.

"SEC. 478. RESCHEDULING OF DEBT SERVICE PAYMENTS FOR LOW-INCOME COUNTRIES.

"(a) Rescheduling of United States Government Loans.—

"(1) DEBT RESCHEDULING FOR CERTAIN LOW-INCOME COUNTRIES.—The Congress strongly urges the President to provide debt rescheduling in accordance with paragraph (2) to a country in sub-Saharan Africa if—

"(A) that country had an average per capita income in 1984 of less than $550; and

"(B) at any time during the period beginning on October 1, 1987, and ending on September 30, 1992—

"(i) an International Monetary Fund standby agreement is in effect with respect to that country, or

"(ii) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country, or

"(iii) the President finds that, although such an agreement or program is not in effect, the country has indicated its intention and determination to pursue national economic policy reforms which are consistent with paragraphs (2), (3), and (4) of section 472(g).

"(2) NATURE OF DEBT RESCHEDULING TO BE GIVEN.—The debt rescheduling called for in paragraph (1) is the granting of a grace period of 5 years on all payments (including arrearages) to the United States Government with respect to loans made under chapter 1 of this part or chapter 4 of part II of this Act and with respect to sales for dollars on credit terms or for convertible foreign currencies under the Agricultural Trade Development and Assistance Act of 1954. This grace period should begin on October 1, 1987, or the first date thereafter (before October 1, 1992) when the country first meets the specifications described in paragraph (1). At the end of the grace period, payments to the United States should resume with all payments due 5 years after they were originally scheduled. No interest or other charge should apply with respect to the grace period.

"(3) NOTICE TO CONGRESS.—The President shall notify the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate of any debt rescheduling granted in accordance with this subsection within 15 days after the rescheduling is approved.

"(b) POLICY ON USE OF FUNDS FOR PAYMENT OF OFFICIAL DEBT.—It shall be the policy of the United States that funds made available to carry out section 472 not be used by any country in sub-Saharan Africa to make payments with respect to any official debt owed by that country to the United States Government, any foreign government, or any multilateral lending institution.".

SEC. 803. REPORTS TO CONGRESS.

(a) ANNUAL FOREIGN ASSISTANCE REPORTS.—Section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting the following new paragraph (12) after paragraph (11):

"(12) a description, which shall be submitted as part of the annual congressional presentation materials for economic assistance, of the progress made in carrying out chapter 7 of part I (relating to Africa Famine Recovery and Development), including, for each country and for sub-Saharan Africa as a whole, a description of—

"(A) the activities undertaken and the modes of assistance employed, including the amounts obligated and expended (including local currencies);

"(B) which private and voluntary organizations were closely consulted, what specific and regular consultation mechanisms were employed, what views generally emanated from such consultations and how they were factored significantly into decisions on project and program assistance;

"(C) the assistance provided to private and voluntary organizations pursuant to section 472(d)(2), specifying the amounts obligated and expended for such assistance and comparing these amounts with those provided for the previous fiscal year, and describing the steps taken to simplify procedures with respect to projects and programs carried out by such organizations;

"(D) the consultation with and involvement of local people in the design and implementation of projects having a local focus;

"(E) the extent to which there has been a significant expansion of the participation and integration of African women in each of the critical sectors specified in section 472(h);

"(F) program assistance provided to overcome shorter-term constraints to development and to promote national economic policy reforms, including the amounts obligated and expended and the specific criteria used for assistance for national economic policy reforms;

"(G) assistance for the critical sectoral priorities specified in section 472(h), by sector, including the amounts obligated and expended, and how country development assistance strategies address issues of sectoral and other linkages and priorities;

"(H) the support provided for African higher education institutions in order to address the problems of food production and distribution, and the progress being made in strengthening and developing those institutions;

"(I) the concentration of assistance by country, and any decision not to allocate assistance because of unfavorable sector or national economic policies;

"(J) organizational changes undertaken pursuant to section 474, and amounts obligated and expended for these changes; and

"(K) assistance provided to the governments of countries in sub-Saharan Africa for donor coordination efforts, including the amounts obligated and expended; and".

(b) REPROGRAMMING NOTIFICATIONS.—Section 634A of that Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting the following new subsection (c) after subsection (b):

"(c) The notification requirement of this section does not apply to the reprogramming of funds to carry out section 472 (relating to Africa famine recovery and development).".

SEC. 804. CONFORMING AMENDMENTS.

(a) FOREIGN ASSISTANCE ACT.—The Foreign Assistance Act of 1961 is amended as follows:

(1) PRIVATE SECTOR REVOLVING FUND.—In section 108(b), by inserting "and chapter 7 of this part" after "this chapter".

(2) INTEGRATING WOMEN INTO NATIONAL ECONOMIES.—In section 113(b)(1), by inserting "and chapter 7 of this part" after "this chapter".

(3) HUMAN RIGHTS ACTIVITIES.—In section 116(e)(1)—

(A) by inserting ", chapter 7 of this part," after "available under this chapter"; and

(B) by inserting before the period at the end of the sentence "or under chapter 7 of this part, except that funds made available under chapter 7 of this part may only be used under this subsection with respect to countries in sub-Saharan Africa".

(4) ENVIRONMENT AND NATURAL RESOURCES.—In section 117(c)(1), by inserting "and chapter 7 of this part" after "this chapter".

(5) SAHEL DEVELOPMENT PROGRAM.—By repealing sections 120 and 121.

(6) GENERAL AUTHORITIES.—In section 122, by inserting "and chapter 7 of this part" after "this chapter".

(7) PVOs.—In subsection (e) of section 123, as so redesignated by section 312 of this Act, by inserting "and chapter 7 of this part" after "this chapter".

(8) DEVELOPMENT AND ILLICIT NARCOTICS PRODUCTION.—In section 126(b)(1), by inserting ", and chapter 7 of this part," after "this chapter".

(9) TARGETED ASSISTANCE.—In subsections (a) and (b) of section 128, by inserting "and chapter 7 of this part" after "this chapter".

(10) ESF.—In section 531(a), by inserting "or, in the case of countries in sub-Saharan Africa, chapter 7 of part I" after "chapter 1 of part I".

(b) PUBLIC LAW 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in section 106(b)(2), by inserting "or, in the case of sub-Saharan Africa, paragraphs (1) through (3) of section 472(h) of that Act," after "sections 103 and 104 of the Foreign Assistance Act of 1961";

(2) in clause (3)(A) of section 206, by inserting "(or in the case of sub-Saharan Africa, paragraph (1) of section 472(h) of that Act)" after "section 103 of the Foreign Assistance Act of 1961";

(3) in section 301(b), by inserting "or, in the case of sub-Saharan Africa, paragraphs (1) through (3) of section 472(h) of that Act," after "sections 103 and 104 of the Foreign Assistance Act of 1961"; and

(4) in section 303(b), by inserting "(or in the case of sub-Saharan Africa, paragraph (1) of section 472(h) of that Act)" after "section 103 of the Foreign Assistance Act of 1961".

SEC. 805. AFRICAN FAMINE ASSISTANCE.

(a) RELATION TO LONG-TERM DEVELOPMENT.—Section 495K(a) of the Foreign Assistance Act of 1961 is amended by adding after the second sentence the following: "Where appropriate, recovery activities assisted under this section should serve as the foundation for long-term development activities undertaken pursuant to section 472 of this Act.".

(b) MANAGEMENT SUPPORT ACTIVITIES.—Paragraph (3) of section 495K(b) of that Act is amended to read as follows:

"(3) MANAGEMENT SUPPORT ACTIVITIES.—Amounts allocated to carry out this section may be transferred to the 'Operating Expenses of the Agency for International Development' account and used for management support activities associated with the planning, monitoring, and supervision of assistance provided under this section.".

SEC. 806. AFRICAN DEVELOPMENT FOUNDATION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the purposes of the African Development Foundation, as set forth in the African Development Foundation Act, which include supporting self-help activities at the local level, fostering effective participation, and encouraging the establishment and growth of indigenous development institutions which can respond to the requirements of the poor, are consistent with the purpose specified in section 472(b) of the Foreign Assistance Act of 1961 (as enacted by section 802 of this Act).

(b) Authorization of Appropriations.—Section 510 of the African Development Foundation Act is amended by striking out all of the first sentence that follows "purpose," and inserting in lieu thereof "$7,500,000 for fiscal year 1988 and $7,500,000 for fiscal year 1989.".

(c) Independent Evaluation of the Foundation.—It is the sense of the Congress that the Office of Technology Assessment should conduct an independent evaluation of the performance of the African Development Foundation in carrying out its purposes and in assuring the sustainability and replicability of the development efforts which the Foundation supports.

SEC. 807. UNITED STATES TRADE RESTRICTIONS ON PRODUCTS FROM SUB-SAHARAN AFRICA.

(a) Need To Reduce Restrictions.—It is the sense of the Congress that special efforts should be undertaken to reduce trade barriers and promote economic interchange between the United States and developing countries in sub-Saharan Africa.

(b) GAO Study.—The Comptroller General shall conduct a study to determine the restrictions which affect the importation into the United States of products of developing countries in sub-Saharan Africa. To the maximum extent possible, this study shall—

(1) identify the principal United States imports from sub-Saharan Africa;

(2) identify the United States trade with and determine restrictions which affect the importation of products from sub-Saharan Africa;

(3) assess the economic loss to sub-Saharan Africa caused by United States trade restrictions;

(4) assess the economic cost to the United States, in both job loss and dollar loss, of removing those restrictions;

(5) examine United States trade with such countries and identify efforts already made by the United States to reduce barriers and extend preferential tariff treatment to sub-Saharan Africa; and

(6) survey the impact of actions by European countries and others to reduce trade barriers with sub-Saharan Africa.

(c) Report to Congress.—Not later than June 1, 1988, the Comptroller General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (b). This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the study.

SEC. 808. EFFECTIVE DATE.

The amendments made by this part shall take effect on the date of enactment of this Act, but shall apply with respect to fiscal years beginning on or after October 1, 1987.

Part B—Other Provisions Relating to Sub-Saharan Africa

SEC. 821. BALANCE-OF-PAYMENTS SUPPORT FOR COUNTRIES IN AFRICA.

(a) ESF Commodity Import and Sector Programs.—Agreements with countries in Africa which provide for the use of funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for the fiscal years 1988 and 1989 to finance imports by those countries (under commodity import programs or sector programs) shall require that those imports be used to meet long-term development needs in those countries in accordance with the following criteria:

(1) Spare parts and other imports shall be allocated on the basis of evaluations, by the agency primarily responsible for administering part I of that Act, of the ability of likely recipients to use such spare parts and imports in a maximally productive, employment generating, and cost effective way.

(2) Imports shall be coordinated with investments in accordance with the recipient country's plans for promoting economic development. The agency primarily responsible for administering part I of that Act shall assess such plans to determine whether they will effectively promote economic development.

(3) Emphasis shall be placed on imports for agricultural activities which will expand agricultural production, particularly activities which expand production for export or production to reduce reliance on imported agricultural products.

(4) Emphasis shall also be placed on a distribution of imports having a broad development impact in terms of economic sectors, geographic regions, and social equity.

(5) In order to maximize the likelihood that the imports financed by the United States under such chapter are in addition to imports which would otherwise occur, consideration shall be given to historical patterns of foreign exchange uses.

(b) Annual Evaluations.—The agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct annual evaluations of the extent to which the criteria set forth in this section have been met.

SEC. 822. SUPPORT FOR THE SOUTHERN AFRICA DEVELOPMENT COORDINATION CONFERENCE.

(a) Assistance for SADCC Projects.—

(1) Earmarking of funds.—Of the amounts authorized to be appropriated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), not less than $50,000,000 for fiscal year 1988, not less than $50,000,000 for fiscal year 1989, not less than $50,000,000 for fiscal year 1990, not less than $50,000,000 for fiscal year 1991, and not less than $50,000,000 for fiscal year 1992, shall be available only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the 9 member states forming that regional institution.

(2) Uses of funds.—Of the amounts made available pursuant to this subsection each fiscal year, not less than 50 percent shall be available for the transportation sector, and the remaining amount shall be available for one or more of the following sectors: manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

(3) Waiver of restrictions.—Funds made available pursuant to this subsection may be used without regard to section 620(q) of the Foreign Assistance Act of 1961 or any similar provision.

(b) Security of SADCC Projects.—The Congress urges the President to use diplomatic means, including multilateral negotiations and cooperation with international organizations, to protect the security of projects supported by the Southern Africa Development Coordination Conference from external attack, and urges the Government of South Africa to respect the territorial integrity of these states and to refrain from direct or indirect military aggression across its borders.

(c) Policy on Assistance to Certain Countries.—It is the sense of the Congress that assistance should not be provided under subsection (a) for projects or programs in any country which has not made best efforts to prevent the operation in its territory of any organization that supports, encourages, or will not renounce the practice of terrorism, including "necklacing" and state terrorism, against South African blacks.

SEC. 823. ASSISTANCE FOR ZAIRE.

(a) Economic Assistance.—For each of the fiscal years 1988 and 1989, any economic assistance provided for Zaire under the Foreign Assistance Act of 1961 shall be provided under chapter 7 of part I (as enacted by part A of this title), and may not be provided under chapter 1 of part I (relating to development assistance) or chapter 4 of part II (relating to the economic support fund). Such assistance shall be provided, to the maximum extent practicable, through private and voluntary organizations.

(b) Military Assistance.—For each of the fiscal years 1988 and 1989—

(1) the value of assistance provided under chapter 2 of part II of the Foreign Assistance Act of 1961 for Zaire may not exceed $4,000,000; and

(2) financing may not be provided under the Arms Export Control Act for Zaire.

SEC. 824. ASSISTANCE FOR LIBERIA.

(a) Withholding of Assistance Pending Certifications.—Assistance for Liberia under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), under chapter 4 of part II of that Act (relating to the economic support fund), or under title I of the Agricultural Trade Development and Assistance Act of 1954—

(1) for fiscal year 1988, may not be made available before April 1, 1988, and

(2) for fiscal year 1989, may not be made available before December 31, 1988,

and may be made available only after the end of the 30-day period beginning on the date on which the certification for that fiscal year described in subsection (b) has been submitted to the Congress.

(b) Certification Required.—The certification for each fiscal year required by subsection (a) is a certification submitted to the Speaker of the House of Representatives and chairman of the Committee on Foreign Relations of the Senate on or after the date specified in that subsection in which—

(1) the Administrator of the Agency for International Development certifies that the Government of Liberia—

(A) between July 1, 1987, and April 1, 1988 (in the case of fiscal year 1988) or December 31, 1988 (in the case of fiscal year 1989), has complied with the Agency's fiscal year 1986 Conditions Precedent as stated in its Program Assistance Authorization Document and Conditions Precedent in the Program Assistance Authorization Documents for fiscal years 1987 and 1988;

(B) between July 1, 1987, and April 1, 1988 (in the case of fiscal year 1988) or December 31, 1988 (in the case of fiscal year 1989), has not made any extra-budgetary expenditures, has not borrowed from any source, whether local or foreign, in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues, has not used off-shore funds for the financing of domestic expenditures, and has not permitted public expenditures to exceed allocations;

(C) between July 1, 1987, and April 1, 1988 (in the case of fiscal year 1988) or December 31, 1988 (in the case of fiscal year 1989), has not diverted or misused any United States assistance; and

(D) has paid all amounts owed to the local currency accounts, established pursuant to the Agricultural Trade Development and Assistance Act of 1954, for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(2) the President certifies that the Government of Liberia has demonstrated its commitment to progress toward improving human rights conditions by fulfilling each of the following:

(A) the removal of all restrictions on the right of political parties to form coalitions and the right of opposition parties to freely organize, assemble, and disseminate their views;

(B) the lifting of restrictions on freedom of the press; and

(C) the restoration of an independent judiciary.

Any certification pursuant to this subsection shall discuss fully and completely the justification for making each of the determinations required by this subsection and shall contain a full description of the assistance which is proposed to be provided and the purposes to which it is directed.

SEC. 825. POLICY REGARDING KENYA.

(a) FINDINGS.—The Congress finds that—

(1) friendship and longstanding mutual interests bind the United States and Kenya; and

(2) the decline in freedom of political expression in Kenya, intolerance of elements of society critical of government polices, increased detentions for political views, and reports of mistreatment of prisoners could ultimately jeopardize bilateral relations.

(b) UNITED STATES POLICY.—It is therefore the policy of the United States that the provision of security assistance for Kenya for fiscal years 1988 and 1989 shall bear a relation to the Government of Kenya taking significant steps toward improving human rights conditions in Kenya.

SEC. 826. POLICY REGARDING SUDAN.

(a) FINDINGS.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Sudan; and

(2) the peace, security, and economic development of Sudan depend in large part on addressing the problems associated with the traditional north-south division in that country, particularly the need to assure religious freedom and equitable economic development, through political rather than military means.

(b) UNITED STATES POLICY.—It is therefore the policy of the United States that the provision of security assistance for Sudan for fiscal years 1988 and 1989 shall bear a relation to the Government of Sudan making progress toward reaching a political settlement with all parties to the conflict in the south of Sudan.

SEC. 827. POLICY REGARDING MOZAMBIQUE.

(a) FINDINGS.—The Congress finds that—

(1) mutual interests, bilateral and regional in nature, bind the United States and Mozambique;

(2) there is encouraging proof of—

(A) shifts in the Mozambique Government's macroeconomic policy and its openness to the West, and

(B) actions taken by the Government of Mozambique to improve human rights, as detailed in the State Department's Country Reports on Human Rights Practices for 1986, including the recent halt to the execution of insurgents and persons guilty of economic sabotage, and the campaign begun in 1985 to improve the legal rights of detainees;

(3) together these changes raise the possibility of improved relations between the United States and this strategically important country;

(4) the military conflict with the Mozambique National Resistance (RENAMO) has created an extremely difficult domestic climate, involving significant evidence of systematic human rights abuses by RENAMO; and

(5) there is nonetheless a continuing need for the Government of Mozambique to take deliberate steps to improve human rights, particularly with respect to the unlimited power to detain which is presently enjoyed by the state security forces (SNASP), the continued killing of innocent civilians during military operations, the capricious and cruel treatment of prisoners, and the excessive and illegal floggings of individuals.

(b) UNITED STATES POLICY.—It is therefore the policy of the United States that the provision of any future security assistance to Mozambique shall bear a relation to the Mozambique Government's taking significant steps toward improving human rights conditions.

(c) ECONOMIC ASSISTANCE.—The funds authorized to be appropriated for fiscal years 1988 and 1989 to carry out chapter 7 of part I (relating to Africa famine recovery and development) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 that are allocated for bilateral assistance to Mozambique shall be used solely for assistance to the private sector of the economy of Mozambique to the maximum extent practicable. To the maximum extent practicable, such funds shall be channeled to nongovernmental entities in Mozambique.

SEC. 828. RESTRICTION ON MILITARY ASSISTANCE TO COUNTRIES EXPORTING OIL TO SOUTH AFRICA.

(a) STUDY BY THE PRESIDENT.—The President shall conduct a study of the extent to which the purpose of the prohibition on the export of crude oil and refined petroleum products, which is imposed by section 321 of the Comprehensive Anti-Apartheid Act of 1986, is being rendered less effective by direct or indirect sales of such oil and products to South Africa from other countries.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a), including an identification of those countries that are selling crude oil and refined petroleum products, directly or indirectly, to South Africa. Such report shall include an assessment of the extent to which terminating United States military sales and assistance to the countries specified in the report would induce such countries to refrain from such sales to South Africa, and an assessment of the implication for United States national security of terminating such military sales and assistance.

SEC. 829. STUDY AND REPORT ON ATTEMPTS TO UNDERMINE IMPORT SANCTIONS AGAINST SOUTH AFRICA.

(a) STUDY BY THE PRESIDENT.—The President shall conduct a study of the extent to which the prohibitions on the importation of articles of South Africa, which are imposed by the Comprehensive Anti-Apartheid Act of 1986, are being circumvented by any of the following methods:

(1) The transshipment of articles of South Africa through other countries, during the course of which information with respect to the country of origin of the articles is falsified by means of falsification of labeling or ship's records, the establishment of dummy corporations, or otherwise.

(2) The transformation of an article of South Africa in another country by the addition of labor and materials comprising up to 65 percent of the value of the article so transformed.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a), including an identification of those countries described in that subsection, with a view to terminating military assistance to those countries.

PART C—NORTHERN AFRICA

SEC. 841. POLICY REGARDING TUNISIA.

(a) FINDINGS.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Tunisia, which has a long tradition of political stability, relative political openness, and economic and social progress; and

(2) there was a decline in the human rights situation in Tunisia during 1986, including government repression of opposition parties, unions, student organizations, and Islamic groups, and these developments threaten future political stability and economic and social progress.

(b) UNITED STATES POLICY.—The United States reaffirms its strong commitment to the territorial integrity of Tunisia. It is the policy of the United States to base security assistance to Tunisia for fiscal years 1988 and 1989 on the expectation that the Government of Tunisia will take steps, in accordance with its own political tradition of openness, to advance both political stability and economic and social progress.

(c) ECONOMIC SUPPORT FUND.—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $16,200,000 for fiscal year 1988 and not less than $16,200,000 for fiscal year 1989 shall be available only for Tunisia.

SEC. 842. WESTERN SAHARA.

(a) UNITED STATES POLICY.—The policy of the United States shall be to support a negotiated political solution to the conflict in the Western Sahara taking into account the principle of self-determination as outlined in the 1981 Nairobi resolution; to support the effort of the Secretary-General of the United Nations, with support and cooperation of the Chairman of the Organization of African Unity, to encourage, through proximity talks between the parties to the conflict, a peaceful, internationally recognized settlement; and to encourage all parties to the conflict to reach a peaceful internationally recognized settlement. As part of this policy, the United States should carefully consider each type of military assistance it furnishes for fiscal years 1988 and 1989 to any of the parties to the conflict and should seek to insure that the furnishing of such military assistance is consistent with United States policy which seeks a negotiated settlement.

(b) Further Statement of Policy.—It is the further policy of the United States to support Morocco's legitimate defense needs and to discourage aggression by any country in North Africa against another.

Mrs. MORELLA. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentlewoman from Maryland is recognized for 5 minutes

There was no objection.

Mrs. MORELLA. Mr. Chairman, I would like to engage in a colloquy with the gentleman from Florida [Mr. Fascell], the chairman of the Foreign Affairs Committee.

Mr. FASCELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I simply want to say it is still our purpose to rise at 6 o'clock. We have a colloquy here which is very brief and then we will take up the en bloc amendments which have been agreed to, and then we will rise.

Mr. Chairman, it is my understanding that this bill will be the continuing order of business tomorrow morning and the House is coming in at 10'clock. We are up first, so I just wanted to let anybody know.

Mrs. MORELLA. Mr. Chairman, I would like to ask the gentleman from Florida, the chairman of the Foreign Affairs Committee, if he would engage in a brief colloquy with me and answer a question with regard to a Peace Corps related bill which I have introduced.

As the gentleman from Florida knows, I have introduced legislation, H.R. 2632, the Voluntary Education Demonstration Program Act, which would create a special college program to increase participation in the Peace Corps. Such a program would alleviate the corps' shortage of experts in some fields, increase the corps' accessibility to minorities, and encourage our Nation's students to train for peace as so many do for war. Hearings are an important first step in assuring that this legislation is given the careful consideration it deserves.

Can the gentleman tell me whether his committee intends to hold hearings on this legislation?

Mr. FASCELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, let me say from the time the gentlewoman from Maryland discussed this matter with me I have found the concept very interesting and the possibility intriguing of the potential for expanding the very excellent concepts of the Peace Corps, and I can think of no better way to do it, frankly, at this moment than going through the regular colleges in order to do that.

So I can assure the gentlewoman from Maryland that the Foreign Affairs Committee will explore this idea and will hold hearings on H.R. 2632 next spring.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Florida [Mr. Fascell], chairman of the Committee on Foreign Affairs, and look forward to participating in those hearings.

EN BLOC AMENDMENTS OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer en bloc amendments.

The CHAIRMAN. The Clerk will designate the en bloc amendments.

The text of the amendments en bloc is as follows:

En bloc amendments offered by Mr. Fascell:

Page 148, beginning in line 15, strike out "(including the landless, subsistence food producers, and migrants)".

Page 149, beginning in line 10, strike out "the longer-term"; line 11, after "development" insert "in particular economic and social sectors,"; line 12, strike out "shorter-term" and insert in lieu thereof "more general economic".

Page 150, beginning in line 3, strike out "(particularly in the area of irrigation)".

Page 151, beginning in line 12, strike out "(including the landless, subsistence food producers, and migrants)".

Page 153, line 20, strike out "EXPANSION AND"; line 24, strike out "substantial" and insert in lieu thereof "significant"; after "1986)" insert "long-term"; and page 154, line 5, strike out "Assistance" and all that follows through the end of line 12.

Page 156, strike out "Shorter-Term Constraints to Long-Term Development" and insert in lieu thereof "need for maintenance and rehabilitation within critical sectors"; page 157, beginning in line 1, strike out "help overcome shorter-term constraints to long-term development, such as" and insert in lieu thereof "meet"; and line 10, strike out "other long-term constraints to development" and insert in lieu thereof "critical sectoral priorities for long-term development as described in subsection (h)".

Page 158, line 2, strike out "Appropriate" and all that follows through the end of line 14.

Page 159, line 7, strike out the comma and all that follows through "Centers" in line 14 and insert in lieu thereof "directly involving small farmers".

Page 172, line 23, strike out "interim evaluations" and insert in lieu thereof "an interim evaluation"; and beginning in line 24, strike out "February 1, 1989, and February 1, 1991" and insert in lieu thereof "October 1, 1989".

Page 173, beginning in line 6, strike out "(including the landless, subsistance food producers, and migrants)".

Page 174, line 16, strike out "the Office" and all that follows through "conduct" in line 17, and insert in lieu thereof "there should be"; line 20, strike out "; and " and insert in lieu thereof a period; and strike out lines 21 through 24.

Page 180, line 10, before the closing quotation mark, insert the following: "Exceptions to this policy may be made (1) only in certain instances where the recipient country's debt service is a significant barrier to development and where such payments would have a significant effect in leveraging additional flows of development finance, and (2) only after consultation with the Committee on Foreign Affairs of the House of Representatives and the Committee of Foreign Relations of the Senate.".

Page 181, strike out lines 6 through 11 and insert in lieu thereof the following:

"(B) consultation to ensure local perpectives as described in section 472(d)(1);

Page 182, beginning in line 3, strike out "overcome shorter-term constraints to development" and insert in lieu thereof "meet needs for maintenance and rehabilitation within critical sectors".

Page 151, line 5, after "ASSISTANCE" insert "FOR SUB-SAHARAN AFRICA"; page 168, line 9, before the period insert "FOR ASSISTANCE FOR SUB-SAHARAN AFRICA"; and line 14, strike out "assistance" and insert in lieu thereof "ASSISTANCE FOR SUB-SAHARAN AFRICA".

Page 168, strike out line 22 and all that follows through line 19 on page 169; and on page 169, line 20, strike out "(d)" and insert in lieu thereof "(c)".

Page 165, after line 9, insert the following new subsection (k) and redesignate subsequent subsections accordingly:

"(k) In-Country Natural Resources and Environmental Training.—The Administrator of the agency primarily responsible for administering this part shall use not less than the following amounts of the funds made available to carry out this section for in-country natural resources and environmental training in sub-Saharan Africa:

"(1) For fiscal year 1988, the amount used for such training for fiscal year 1987.

"(2) For fiscal year 1989 and each fiscal year thereafter, not less than 4 percent of the funds made available for that fiscal year (pursuant to paragraph (1) of subsection (i)) to carry out subsection (h)(1)(B).

Local currencies accruing under this Act or the Agricultural Trade Development and Assistance Act of 1954 may be used in carrying out this subsection in lieu of an equal amount of dollars.

Page 201, after line 8, insert the following:

SEC. 830. ECONOMIC ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) Earmarking.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), not less than $85,000,000 for each of the fiscal years 1988 and 1989 shall be available only for assistance for sub-Saharan Africa.

(b) Authorization.—In order that the earmarking of funds for sub-Saharan Africa contained in subsection (a) not reduce the amount of funds authorized for other regions of the world, there is authorized to be appropriated for each of the fiscal years 1988 and 1989 $85,000,000 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961.

Page 201, after line 8, insert the following:

SEC. 831. SOUTH AFRICA.

(a) Sense of Congress.—It is the sense of the Congress that, in light of the continued abuse of the most fundamental human rights by the Government of South Africa, the President should make every effort to encourage and influence our European and other allies to join in applying sanctions as outlined in the Comprehensive Anti-Apartheid Act of 1986 against South Africa.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report detailing the progress in gaining international support for such sanctions.

Page 201, strike out line 10 and all that follows through line 9 on page 202 and insert in lieu thereof the following:

SEC. 841. POLICY REGARDING TUNISIA.

(a) FINDINGS.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Tunisia, which has a long tradition of political stability, relative political openness, and economic and social progress;

(2) there was a decline in the human rights situation in Tunisia during 1986 and 1987, including government repression of opposition parties, unions, student organizations, and Islamic groups, and these developments threaten future political stability and economic and social progress; and

(3) the recent announcement by the new government of Tunisia that the Tunisian people "deserve an institutionalized and sophisticated political life based on multipartyism and diversity of grassroots organizations" is a significant and promising development, as is the new government's pledge to introduce legislation clarifying the role of political parties and the status of the press.

(b) UNITED STATES POLICY.—The United States reaffirms its strong commitment to the territorial integrity of Tunisia. It is the policy of the United States to base security assistance to Tunisia for fiscal years 1988 and 1989 on the expectation that the Government of Tunisia will take steps, in accordance with its own political tradition of openness, to advance both political stability and economic and social progress.

(c) ECONOMIC SUPPORT FUND.—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $16,200,000 for fiscal year 1988 and not less than $16,200,000 for fiscal year 1989 shall be available only for Tunisia.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 10 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this en bloc amendment contains six amendments dealing with Africa. One has to do with the African Famine Recovery and Development Act corrections which have been discussed with the AID and are incorporated in this amendment. The other corrects jurisdictional problems that have been agreed to by the Foreign Operations Subcommittee in the Appropriations Committee. It also contains the elements of an amendment offered by the gentleman from Washington [Mr. MILLER], by the gentleman from New York [Mr. SOLOMON], and by the gentlewoman from Rhode Island [Miss SCHNEIDER] with regard to in-country environmental training, and finally the chairman's amendment, which would make sure that other African funds and other funds are not raided by virtue of the earmark and provide the authorization for those funds.

That is basically what this en bloc amendment does.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I have reservations about some of the provisions in the en bloc amendments but I will accept them in order to expedite consideration of the bill. I find the provision calling on the President to urge our allies to impose further economic sanctions on South Africa unnecessary and unfortunate. Unnecessary because the Anti-Apartheid Act already includes a provision which says exactly that. The administration has chosen not to implement this provision, with good reason.

I also find this language unfortunate because economic sanctions against South Africa have been found to be totally counterproductive by many opponents of apartheid in South Africa. In fact polls taken in South Africa indicate that South African blacks oppose economic sanctions by about a 3-to-1 margin. I believe that in the future we will have ample chance to debate this issue, but at this point I will submit for the RECORD a statement that I made in committee on this topic, and a number of recent articles on the issue of sanctions.

OPENING STATEMENT OF CONGRESSMAN DAN BURTON, PRESIDENT'S REPORT ON SOUTH AFRICA SANCTIONS, AFRICA/INTL. ECON. SUBCOMMITTEES, NOVEMBER 5, 1987

Thank you, Mr. Chairman. As far as I can see, the President's report on economic sanctions against South Africa can be summarized in two words: sanctions backfired. In fact, this was known as early as this January, when William Raspberry wrote a column with just that title in the Washington Post. He wrote, "Have economic sanctions against South Africa backfired? Probably yes. Is there anybody in America who supported sanctions who now thinks that maybe sanctions weren't such a wonderful idea after all? Probably not."

Well, they may not be having second thoughts in America, but they are in South Africa.

The South African Council of Catholic Bishops reported on the effect of sanctions this January. According to the report, "There is no doubt that sanctions are * * * and will become very hurtful to the economic and therefore social fabric of this country."

In fact, the Bishops report blamed sanctions for [quote] "* * * consolidating the government in its retreat from meaningful and, indeed, any reform * * *"

A report commissioned by COSATU, the largest black trade union in South Africa, warned that sanctions could result in the loss of 2 million jobs by the year 2000. On April 1, COSATU Vice President Chris Dlamini said on the MacNeil-Lehrer News Hour, "* * * some people are confusing divestment and disinvestment. We have never called for companies to pull out."

Also in April, Michael Buerk of the BBC reported, "The moral issue of South Africa seems so simple and is so complicated. * * * [Sanctions are] a moral gesture that even the most radical Blacks here are questioning now."

But the bottom line is: what do South African blacks think? Are they really for sanctions as their self-appointed representatives claim? On this question the facts are clear and documented: blacks oppose sanctions about 3 to 1.

There have been over 10 polls on the question of sanctions since 1984. In June 1984, 551 black industrial workers were asked, "There are groups of people in America and England who try to encourage banks and organizations not to put their money in factories in South Africa. Do you think this is a good or bad thing?" 26 percent thought it was a "good thing", 74 percent thought it was a bad idea.

In February 1985, 1,478 blacks were asked, "Senator Kennedy is back in America. Should he convince the United States government and U.S. companies to put money in or withdraw money from South Africa? 18 percent said withdraw money from, 34 percent were uncertain, and 48 percent were for increased investment. In May 1985, 1,200 blacks were asked, "Should the outside world apply an economic boycott against South Africa or not?" The answer: 76 percent against a boycott, 16 percent for a boycott.

These polls were so embarassing to the pro-sanctions lobby that a flurry of polls attempted to refute these results. One widely quoted poll by the London Sunday Times found that 77 percent of blacks supported sanctions. But on closer examination the question was rigged. The Times asked, "Do you think other countries are right or wrong to impose economic sanctions unless South Africa agrees to get rid of the apartheid system?" Sounds fair, but a subsequent poll by the same paper found that 39 percent of those asked didn't know what the words "economic sanctions" meant. Those words just aren't widely used in South Africa. So the Times could have asked, "Are you in favor of eating ice cream to get rid of the apartheid system?" and the answer would have been "yes".

But the most telling poll, called the Orkin Poll, is one that the sanctions lobby claimed "neatly overturned" the earlier surveys and proved that two-thirds of blacks are for disinvestment. A closer look shows the exact opposite.

In the Orkin poll of September 1985, 800 blacks were asked to choose between three views: First, total disinvestment (which was described as having the support of the ANC, parts of the UDF, and some unions). Second, that [quote] "foreign firms should not be allowed to invest unless they actually pressure the government to end apartheid and recognize the trade unions"—in other words, conditional investment. And third, unconditional investment. The results were: only 24 percent of total disinvestment (even though this was labeled as the NAC's position), 49 percent for conditional investment, and 26 percent for unconditional investment. Mr. Orkin lumped the middle group with the radical group and claimed that 73 percent are for disinvestment. In fact what his own poll is saying is that 75 percent support investment, particularly if companies work to break down apartheid by following fair labor practices along the lines of the Sullivan principles.

The same poll tried to find out if blacks thought that jobs lost because of disinvestment were worth the sacrifice [quote] "in order to pressure the government to end apartheid." 26 percent said yes, even if many blacks lose their jobs. 25 percent said yes, if only a few blacks lose their jobs, and 48 percent said that no jobs should be sacrificed. But that was 1985. This September, Orkin took another poll asking the same question. This time 60 percent were not prepared to continue supporting sanctions if they result in job losses for blacks; 26 percent would accept a few jobs lost; and a miniscule 14 percent supported sanctions no matter what.

A couple weeks ago the Financial Mail, a generally anti-government magazine in South Africa predicted that these polls would be politically twisted by those who refuse to believe that South African blacks are overwhelmingly against sanctions. They wrote "* * * expect to hear US congressmen debating sanctions this week and beginning their speeches like this: 'A survey released last week shows that an overwhelming majority of black South Africans support sanctions * * *.'" On this the Financial Mail commented, "Those who oppose both apartheid and sanctions can listen, smugly, knowing that the sanctioneers don't have their facts right. That doesn't make them any less dangerous."

The Catholic Archbishop of Durban, Dennis Hurley, said that sanctions leading to disinvestment [quote] "would precipitate conflicts that would go on for 20 years and end in total devastation for the country."

I think its time we stopped trying to add to the burden of apartheid by making blacks suffer, against their will, for their own good. I would just like to close with a question from William Raspberry piece in the Washington Post that should be on the conscience of every Member of this committee and every witness before us today. Raspberry writes:

"The only people who can be cheered by events in South Africa, including the devastation of the economy and the tightening of the screws of repression, are those who believe that bloody revolution is the only solution and that sanctions, by making conditions completely intolerable for blacks, will bring on the revolution. Is that what we really want?"

I think there must be a better way, and that it is not too late to turn off this road and on to a new approach that will help lead South Africa more peacefully toward a truly democratic future, without apartheid or any other form of tyranny. I would like to urge our witnesses today to help us find that road as difficult as that may be.

[From the Washington Post, Oct. 4, 1987]

THE WRONG SOUTH AFRICA DEBATE

A requirement for review written into anti-apartheid legislation enacted last year is putting the question of sanctions against South Africa back on the political agenda. It's a debate for which there is no serious need. There is scant agreement on whether the sanctions voted last year (over a presidential veto) were wise. The Reagan administration feels they haven't worked and won't, and some part of the Congress feels they haven't worked and will—if they are strengthened. Many others who detest apartheid are agnostic. A year's experience has shown sanctions cut both ways: they push the ruling white minority toward reform, but they also stiffen its resistance. Before considering new sanctions, more time and evidence are needed to calculate the net effect of old ones.

There is genuine uncertainty about which external actions promote and which retard internal change. Still, what is clear is that South Africa is not only a society being daily torn apart by apartheid but also one being increasingly touched by impulses toward reform. Whether these will produce a sustained wave is the great question. It is evident that the various sources of change inside and outside South Africa are making a mark. Look at the items listed by Secretary of State George Shultz in a speech on Sept. 29: the new Indaba constitutional proposals negotiated by all racial groups in Natal, the meeting of Afrikaners and the African National Congress, negotiations across racial lines by black trade unions and other groups. Any strategic view must take into account the reality of apartheid's horrors and the potential of developments like these.

In his speech Mr. Shultz reaffirmed the administration view that the primary sources of change in South Africa are internal and that American influence is necessarily limited. He took the occasion to present a democratic vision of South Africa's future and to summarize the contribution the United States intends to keep making by its openness to all peaceful groups, by its aid to black projects and by its forward-looking private business presence.

Some critics view the administration approach as a cop-out, or worse. We disagree. The administration's effort to keep the policy, and the policy debate, within consensual bounds, makes sense.

[From the Washington Post, Jan. 28, 1987]

By William Raspberry

SANCTIONS BACKFIRED

Have economic sanctions against South Africa backfired? Probably yes.

Is there anybody in America who supported sanctions who now thinks that maybe sanctions weren't such a wonderful idea after all? Probably not.

The congressional imposition of sanctions, underscored by a resounding override of a presidential veto, will still be remembered as such a magnificent victory for the forces of righteousness that it may be impossible for the pro-sanctions activists to entertain second thoughts.

And yet the clear evidence is that Pretoria's principal reaction to international sanctions has been what seasoned observers of South Africa had long predicted: a white retreat into the laager—a circling of the wagons—and an end to any pretense of serious reform.

A report commissioned last May by the South African Catholic Bishops' Conference argues that the sanctions imposed to force reform of apartheid are having the opposite effect:

"The whole sanctions issue has consolidated the government in its retreat from meaningful and, indeed, any reform * * * What was anticipated by the pro-sanctions lobby—an early change in government policy with expectations of imminent meaningful black participation in a regime overcome by the pressures of economic boycotts—is not likely to materialize."

How could so many intelligent, well-meaning people have thought otherwise? The answer, I think is that South Africa's racism is so clear-cut an evil, so conducive to good-guy/bad-guy analyses that it's difficult for anti-apartheid partisans to think their way from policy proposal to probable outcome.

Disinvestment, divestiture and, finally, sanctions became such rallying cries for campus activists, civil rights activists and other haters of apartheid that their demands became ends in themselves. In general, only political conservatives who saw apartheid as less threatening to their interests than the prospective loss of vital minerals, sea routes and an anti-communist bastion could bring themselves to question the advisability of sanctions.

For most of the rest, the operative question was: How can you oppose sanctions, which would surely hurt the supporters of apartheid, and still call yourself a supporter of justice for blacks?

The answer, which too few of us found the voice to utter, is that hurting white people is not the same thing as helping black people.

Many were misled by the fact that the threat of sanctions had, from time to time, led the South African government to undertake at least cosmetic reforms of apartheid and concluded that the actual imposition of sanctions would be even more effective.

In fact, South Africa's concessions were undertaken to keep as much as possible of the goodwill of the international community and to avoid wrecking its Western-style economy. Once the damage was inflicted, the threat-induced incentive to change evaporated.

It is a bit like blackmail. Threaten to publish my darkest secrets, and I might pay you hush money. Actually publish them, and you won't collect a dime.

It does not follow, by the way, that failure to impose sanctions would have produced true reform of the South African system. You can't blackmail me into suicide, which is precisely how many in the white South African minority view the one-man/one-vote demands that strike Americans as simple justice.

When it comes to the National Party, which, despite its deepening troubles, still is the dominant political force in the country, the only way to force it into giving up its overwhelming power is to persuade it that the alternative is worse. It's hard to think to anything the United States could do that would strike Afrikaners as worse than giving up control: not contructive engagement, the ineffectual Reagan policy; not economically destructive disengagement, which sanctions have become.

The only people who can be cheered by events in South Africa, including the devastation of the economy and the tightening of the screws of repression, are those who believe that bloody revolution is the only solution and that sanctions, by making conditions completely intolerable for blacks, will bring on the revolution.

Is that what we really want?

[From the New York Times, Oct. 4, 1987]

SANCTIONS WON'T END APARTHEID

(By Helen Suzman)

CAPE TOWN.—A year ago the European Economic Community, the Commonwealth countries and the United States introduced economic sanctions against South Africa. The effects of these sanctions are now under review.

The Reagan Administration, which tried unsuccessfully to veto the comprehensive anti-apartheid act approved by Congress a year ago, believes that the sanctions have been misguided and has rejected new penalties. Other leaders share these doubts.

The European and Commonwealth sanctions are less extensive than the American sanctions in part because of the determined opposition of the British Prime Minister, Margaret Thatcher, and the West German Chancellor, Helmut Kohl, both of whom repudiate apartheid but believe sanctions to be counter-productive and ineffective.

The experience of the past year bears out this belief, the most compelling evidence being the election last May for South Africa's white assembly. This election produced a distinct swing to the right, following a campaign that played heavily on the security concerns of the white minority while encouraging a burst of patriotic sentiment against "outside interference."

These and other factors—including a virtual boycott by the radical left—gave President P.W. Botha's National Party 123 seats out of 166 and strengthened the far-right Conservative Party. The conservatives won the support of 27 percent of the white electorate, captured 22 seats and displaced the anti-apartheid Progressive Federal Party as the official opposition.

Mr. Botha has since reimposed the state of emergency, renewing and extending the powers of detention without trial. Meanwhile, the army and police remain in force in the strife-ridden black and "coloured" townships, press censorship has been tightened and reform measures have been put on the back burner.

So much for the political value of economic sanctions. What of their economic effects? Here, sanctions have been effective. The question is whether they have been at all useful.

The loss of export markets, such as the North American and Scandinavian markets for fruit, will seriously jeopardize the labor market in the western Cape where fruit growers employ nearly a quarter of a million workers, all of whom are black or "coloured." Similarly, declining markets for coal will affect the livelihood of about 30,000 black migrants from neighboring black territories.

More broadly, the absence of foreign investment capital and the withdrawal of foreign companies (especially American firms fed up with the hassle factor and the threat of boycotts at home) have reduced the growth rate to less than the minimum required to keep job opportunities level with new job seekers.

It is estimated that some two million people are presently unemployed, mostly unskilled black workers, and that by the year 2000 the number will have risen to nearly eight million, without sanctions, and to almost 10 million with sanctions. And this is a nation without much of a social security safety net.

Needless to say, whatever harm is done to South Africa's economy will certainly harm the economies of its neighbors, for southern Africa is one economic unit. All the neighboring black states depend on South Africa for jobs, markets, electricity and transport. And if South Africa's job-sustaining capacity is reduced, thousands of foreign workers will be repatriated to the neighboring black states.

One wonders, then, why leaders of the black states are so vociferous in their support of sanctions, and why, since South African blacks are least able to sustain the mass increase in joblessness, their leaders also advocate sanctions and other punitive measures.

The answer to the first question is that the frontline states, while continuing to trade briskly with South Africa, see international pressure as the only way in which to bring down the Pretoria regime. They also rely on the West to make good any economic losses they sustain as a result of sanctions. The answer to the second is usually: "South African blacks are suffering so much already that any additional suffering caused by sanctions will make little difference to their lives."

This contention is not borne out by the reality of joblessness in a country with no dole and no food stamps. There is, of course, a more sophisticated, if equally unrealistic, reply: Economic stress will bring on the revolution and the downfall of the capitalist system, which is closely identified with apartheid. Such a view totally underestimates the strength, ferocity and determination of the armed forces in South Africa to maintain the status quo.

If there were any chance that sanctions would dismantle apartheid, I would be the first to support them. But reducing South Africa to a wasteland would lead not to a nonracial democracy but to more oppression and misery. No one should be under the delusion that things are so bad in South Africa that they could not get worse.

A little over a year ago, Archbishop Desmond Tutu said, "The onus is on those who do not want sanctions to provide us with a viable, nonviolent strategy to force the dismantling of apartheid."

While I disagree with the underlying premise of this remark—that sanctions provide such a strategy—it is relevant to ask what alternative there is, and it is particularly relevant when the question comes from a man who cannot vote, despite the fact that he is South African-born, the head of the Anglican Church in South Africa and a Nobel laureate.

The sad truth of the matter is that there is no instant solution that will transform the South African scene. Despite all the pressures from within and without the republic, the fundamentals of apartheid remain. The most effective instrument for change is economic expansion within the country. This is the force that led in the first instance to those non-cosmetic changes that have taken place in the last 10 years—the opening of skilled jobs to blacks, improvements in education and training, recognition of black trade unions, acceptance of a permanent black urban population and the abolition of the pass laws.

The Western democracies, whose basic values are freedom and human rights, should continue to protest long and loud against all the miserable practices of apartheid and to use all positive measures to speed its demise. But moral indignation should not lead them to impose punitive measures that will wreck the economy of the country in which black South Africans will inevitably share.

(Helen Suzman, the longest serving member of Parliament in South Africa, is spokeswoman for the Progressive Federal Party.)

[From the Washington Post, Jan. 28, 1987]

Church Report Declares Sanctions Unproductive

JOHANNESBURG, January 27.—International economic sanctions imposed to force South Africa to reform its racial policies are having the opposite effect, according to a Roman Catholic Church report released today.

"The whole sanctions issue has consolidated the government in its retreat from meaningful and, indeed, any reform," the report said.

The report was commissioned last May by the Southern African Catholic Bishops' Conference. "This is simply a report to them, and it still has to be evaluated. The bishops have made no statement on the text," a spokesman said.

Pressure from antiapartheid activists and lawmakers in the past year has produced a snowballing campaign by western governments and corporations to impose economic sanctions on South Africa to force an end to apartheid, the nation's system of legislated racial segregation.

The church report concluded that, while government and business leaders boast of beating sanctions, "there is no doubt that sanctions are . . . and will become very hurtful to the economic and therefore the social fabric of the country."

But, the report added, "The whole issue of economic pressures has clearly had a totally counterproductive effect on government thinking."

"What was anticipated by the prosanctions lobby—an early change in government policy with expectations of imminent meaningful black participation in a regime overcome by the pressures of economic boycotts—is not likely to materialize," it said.

"The struggle is going to be arduous and lengthy, and very substantial suffering and confrontation is likely to continue."

The report noted that, while informed blacks have expressed prosanctions views, support for sanctions among most blacks ends when it reaches their pocketbooks.

[From the Wall Street Journal, Oct. 2, 1987]

Plight of South African Sugar Industry Shows Sanctions Fall Heavily on Blacks

(By Roger Thurow)

ENTUMENI, SOUTH AFRICA.—Sitting in a country courthouse that is surrounded by sugar-cane fields and wrapped in fog, the 18 black sugar-cane farmers seem sealed off from the events of the outside world.

Yet it is the international pressures on South Africa that have brought the group together. Economic sanctions have soured the country's sugar industry, and these farmers have come here to wrestle with the consequences. "Without sugar cane, we have no jobs, no money," says Olly Sibiya, one of the growers. "Without sugar cane, we are starving."

On the surface, the international sanctions drive, which picked up steam a year ago today when the U.S. Congress passed an array of penalties, seems to have landed at most a glancing blow. The white government, which was supposed to be prodded into reform, remains unbowed. The economy, fueled by the lofty price of gold—the country's most valuable export, which is barely touched by the sanctions—is still growing.

In Washington, meantime the Reagan administration expressed its opposition to sanctions and said it is seeking "other ways" to prod Pretoria toward dismantling apartheid. "[Sanctions] haven't resulted in significant progress in ending the outrage of apartheid," White House spokesman Marlin Fitzwater said yesterday. The administration is required under the sanctions law to submit a report to Congress this week on conditions in South Africa. If progress hasn't been made toward ending apartheid, Mr. Reagan is supposed to recommend additional sanctions. But the administration is expected, instead, to restate its opposition to sanction.

But here in remote Entumeni, on the vulnerable underside of the economy there is no mistaking the hardship the sanctions have inflicted. And to some, the farmers' plight serves as a warning of the fate that lies ahead for the entire nation if shrinking foreign markets choke off economic growth and throw masses of people out of work.

SLOW DEATH

"Sanctions are never healthy," says Rex Hudson, the general manager of the South African Cane Growers' Association. "It is like a slow bleeding to death."

Each of 18 men and women gathered in the courthouse has about 2½ acres of cane, and each is desperate to expand. But sanctions, particularly moves by the U.S. and Canada to block imports of South African sugar, have stunted the sugar industry's growth. The South African Sugar Association, which regulates cane production along with the government, has stopped handing out new quotas to farmers. So 2½ acres apiece will have to do.

Lacking a sophisticated understanding of the political pros and cons of the sanctions, the farmers talk instead about the uncertainty that the measures have brought to their lives. "We're the ones who feel the sanctions," says Mr. Sibiya. "What kind of future do we have if we can't expand? There is a lot of worry and confusion in this room."

Adds Geoffrey Bhengu, a farmer up the road in the town of Eshowe: "We are like people who know they are moving toward a precipice but can't stop because they have no choice. It is a prolonged tension."

In South Africa, the first to feel the effects are those on the bottom of the economic scale—the blacks. Industries hardest hit by sanctions—coal mining, textiles, agriculture—have already begun retrenchment programs, and most of those turned out of jobs are black.

Yet the nation as a whole still sells more to the world than it buys. The trade surplus has led some businessmen and government officials to adopt an air of invincibility. But others fear it won't be long before the effects of the sanctions creep higher—to the whites.

"Most of us know it can't go on like this," says the manager of an export-import company, bemoaning the restricted access to the markets of North America, Western Europe and Japan. "It hurts to see your goods go to the East bloc or the Third World. We need the exposure to the latest technology. We can't pretend not to feel the effect of sanctions."

There is no pretending in Entumeni. The sugar sanctions have touched off a chain reaction—first hitting the industry as a whole, then rocking the small growers of KwaZulu, which is the government's designated homeland for members of the Zulu tribe, and finally jeopardizing the smallest mill in the country.

FIRST CASUALTIES

When the U.S. sanctions came into effect, one of the first casualties was South Africa's U.S. sugar quota of about 40,000 tons a year. Canada followed by eliminating its allotment of 120,000 tons. Suddenly, the South African industry, already reeling from the depressed world price, had lost about 20 percent of its export market.

Although industry officials say they have found other buyers to take up the slack—they won't say which ones—any hopes for expansion were dashed. The U.S. cutoff hurt more because prices there are set artificially high to protect American farmers—a policy that gave South Africa a $7 million-a-year premium.

Before sanctions hit, the sugar association was making plans to divert this money to aiding the black growers. "Of course, that fell through when we lost the market," says Peter Sale, general manager of the sugar association.

This loss is being felt most acutely in KwaZulu, where sugar cane is the largest source of income. Since 1973, when the association began a financial-assistance program for them, the number of black cane growers has more than quadrupled to about 21,000. And they all had big plans. "When we got into cane growing, we came to stay." Says Mr. Sibiya. "We don't have an option of getting out now like the white farmers."

WHITES HAVE ADVANTAGE

The 2,000 white growers, who raise most of the country's cane, are better able to adjust to market fluctuations, either by planting other crops or by selling their land.

The black farmers don't have this option, because they don't own the land; it is held by the local chief in trust from the central government.

But they may be forced out if the Entumeni sugar mill, the smallest in the country and the only one in the immediate area, shuts down. Already foundering before sanctions came along, the mill was counting on the expansion by the black growers to restore it to health. Now, it is fighting to stay open.

Mr. Bhengu, who is also the deputy minister of education in the KwaZula government, says 1,300 growers, including himself, would go under along with the mill. The precipice, he fears, is getting nearer. "If the mill goes, we have no future as growers," he says. "Then, I fear for the stability of an area that has had peace for the past 100 years."

[From Forbes Magazine, Mar. 9, 1987]

WHY SOUTH AFRICA SHRUGS AT SANCTIONS

(By Peter Brimelow)

"Comment is free, but facts are sacred." This was the creed of the great Manchester Guardian Editor C.P. Scott, a liberal journalist renowned for his courageous appeals for reason at a time when jingoistic emotions ran high in Britain during the Anglo-Boer War (1899-1902). Throughout the Free World today emotions again run powerfully against the Boers' decendants, who run a racist regime in South Africa. With Congress' enactment of the Comprehensive Antiapartheid Act of 1986, the U.S. is firmly committed to waging economic war against Afrikaner rule in South Africa. How effective is this economic warfare? Wishful thinking aside, what are the facts—the sacred facts? In this report from South Africa, Forbes cuts through the comment and rhetoric and gets at the facts.

To the casual American observer, South Africa today looks unnervingly normal. The main cities of Johannesburg and Cape Town are modern, clean and multiracially bustling; the grosser forms of segregation apparently vanished as part of State President P.W. Botha's much derided reforms. By American standards, in fact, relations between the races seem oddly gentle. The sun shines, prices are gratifyingly low in dollar terms—South Africa is one of the remaining tourist bargains—and the dinner talk is of the May 6 election, in which Botha's National Party is expected to run not against the fierce challenges mounted by his political opponents on the left and—especially—on the right, but against American interference. It seems likely to be an easy victory for Botha, one of the first tangible results of the U.S. economic sanctions.

These, of course, are superficial impressions. But the black townships are quiet, patrolled by the army, and the school boycott has ended. Two years after the African National Congress' Oliver Tambo made his New Year's message a call to "render South Africa ungovernable," it isn't. And no one thinks it will be anytime soon.

Such a sense of relief is spreading among South Africa's 4.6 million whites that the antigovernment Johannesburg Star has felt obliged to headline a cautionary story beware sanctions "euphoria." But the managers of many foreign-owned South African companies have a very good reason to feel euphoric: Sanctions have made them rich. This has happened because foreign corporations couldn't simply pick up their factories and go home, as advocates of divestment seemed to think they would. They have had to sell them, frequently to the incumbent managers in the form of leveraged buyouts, often for a fraction of market value, because everyone knew they were desperate. Some companies that have recently decided to pull out: IBM, Coca-Cola, Procter & Gamble. Some deals have been so attractive that American managers have chosen to join in, as in the case of the South African subsidiary of General Motors.

Alternatively, foreign firms have been selling out to other interests. Some are exotic: South Africa's most famous spy, Craig Williamson, who worked undercover inside the African National Congress for several years, recently became head of a unit empowered to purchase foreign assets on behalf of GMR, an Italian group. (He is also a National Party candidate in the upcoming election.) More typical: In November Anglo-American Corp., one of the five capital pools that dominate the South African economy, acquired South Africa's biggest bank, Barclays National, from its British parent, Barclays Bank Plc., long a target for antiapartheid protestors. Significantly, Anglo paid $8.06 for stock trading at $10.30. Barclays will get only about half that because of the machinations of South Africa's ingenious two-tier foreign exchange system. And South Africa will save some 30 million rand ($14 million) in foreign dividend payments annually.

Over the years, disinvestment has been a tremendous boon to a vital component of the South African government-industrial complex: the $650 million Allied Electronics Corp., Ltd. (Altron), with operations in the electronics, telecommunications and electrical power fields. Altron's chairman is William Venter, 52, one of many Afrikaners now prominent in what had once been the exclusively English-speaking preserve of business. Venter has said that his "big break" came in 1976, when he was able to persuade ITT to begin selling its South African subsidiary to him. This became the nucleus of the first major South African-controlled electronics company. "If I had to thank anybody," says Venter, "I think I would thank the American church groups who had played such a major role in making people like ITT feel uncomfortable."

Subsequently Alfton acquired a string of other foreign subsidiaries from the U.S., Britain, France and Holland, including Motorola and, most recently, Asea.

Today the integrated equal-pay work force at Altron's headquarters at Boksburg, near Johannesburg, pores over its circuit boards placidly enough. But their employer is widely regarded as one of Pretoria's chosen instruments, a preferred supplier in telecommunications and in defense electronics.

The ability to bid on government contracts is one of the advantages local managements gain when freed from foreign ownership. They can also cut out the costly social-responsibility programs often implemented to conform with the "Sullivan Principles," the code of corporate conduct for U.S. subsidiaries developed by Leon Sullivan, the Philadelphia clergyman and GM director. Sullivan recently added the further principle that U.S. corporations should actually engage in efforts to challenge South African law, and has said that he will call for complete withdrawal if "apartheid" is not ended by May 31. (Many Americans use "apartheid" to mean "white rule" in general. But to South Africans it has a specific meaning: "petty apartheid," or segregation, and "grand apartheid," or ultimate territorial partition, policies developed by former National Party leader Hendrik Verwoerd and now publicly disavowed by Botha.)

Now, one South African merchant bank is using the list of Sullivan signatories as a marketing tool to locate potential buyouts. From this point of view, disinvestment has been a cheap form of corporate restructuring, quite possibly enhancing the efficiency of the South African economy.

Which is not to say that economic sanctions will have no effect on South Africa—in the long run. With fewer foreign firms and no capital imports, the South African economy will grow more slowly than otherwise. The best guess is it will average up to 3% a year, instead of the 5% to 6% of the 1960s. But it will grow. And it will be that much less vulnerable.

Much of what sanctions are doing to South Africa, in fact, is just the mirror image of what many countries have done to themselves: insistence on Soviet-style self-sufficiency, protectionism; restrictions on foreign ownership. Thus are foreign proponents of disinvestment achieving for South Africa almost precisely what Canadian nationalists have advocated with only partial success against U.S. ownership north of the border.

The difference is that the South African economy, with its sophisticated industrial base and its resources, is better fitted than most for autarky, even if externally imposed. A remarkable 60% of its export earnings are from low-volume, high-value, difficult-to-sanction items like precious metals, diamonds and strategic minerals. According to most estimates, it can generate almost all of its annual capital needs internally; it actually sustained a net outflow of long-term capital after 1976 until the South African authorities imposed a debt moratorium in mid-1985.

To the extent that sanctions are effective, the South African economy will reorient itself away from exports and toward import substitution, much of which would previously have been uneconomic. At a price, the South Africans have the technical capacity to build practically anything. They have already demonstrated this by responding to the oil and arms embargoes in the 1960s and 1970s with stepped-up production at the Sasol oil-from-coal plants, which now supply 70% of their liquid fuel needs, and at the government-backed Armaments Corp. of South Africa Ltd. [Armscor]. The firm now exports arms to 23 countries. Armscor's G-5 self-propelled howitzer, which has a tactical nuclear capability and is supposedly the finest of its type in the world, has been seen recently in action in Iraq.

However, South African businessmen are surprisingly confident about their ability to export even easily sanctionable goods. Sanctions-busting has already been developed to a high art. Revealing its secrets is a serious crime in South Africa, although this has not prevented the English-language press from exposing false labeling of canned fruit and alleged schemes to launder goods through a free port in Britain's Isle of Man. But South Africa has already had considerable sucess evading formal trade bans—over half the country's exports are already categorized as "all other," which is viewed as a partial euphemism. And it can draw on Rhodesian experience: The coordinator of the Department of Finance's antisanctions effort was governor of the Rhodesia Reserve Bank, Desmond Krogh.

Far Eastern markets are expected to remain accessible—and adaptable. South African coal exports in 1986 and 1987 are likely to remain at the 40-million-ton mark, despite the loss of 10 million tons to the French and Danish embargoes, because fierce price-cutting by the South Africans in the Far East is displacing the Australian coal exporters. And an official at the Committee on Pipe and Tube Imports alleges that Thailand, not previously a pipemaker, has undermined U.S. steel sanctions by producing pipes using South African steel. Where there is a will to make a dollar, or a mark or a franc or a lira, there is usually a way.

Or a ruble, for that matter. South African businessmen are confident they will be able to deal through the Soviet bloc. It's tempting to dismiss such claims as bravado. But the Soviets did become one of Rhodesia's major illicit trade partners during its unilateral independence, notably in re-exporting Rhodesian chrome to the U.S., and South Africans have long had intimate, secret relations with them through their participation in the De Beers-managed diamond cartel. Some evidence of the South Africans' sincerity: the real pain in their eyes when discussing the commissions Marxist middlemen charge. Soviet duplicity is dependable, but it is expensive.

"Commissions" work in black Africa, too. "We can sell anything we want to Africa," says one Afrikaner businessman.

"But they can't pay," points out his colleague.

"The Americans will give them alms."

No doubt the Americans will give increased economic aid to black African countries whose trade with South Africa is being reduced by sanctions. Senator Edward Kennedy has proposed $700 million over five years. And undoubtedly a good part of U.S. aid will find its way to South Africa, through purchases of South African goods and services.

Still, sanctions will have some immediate impact. Some exporters, like South Africa's fruit growers, are highly alarmed. Marketing officials say North American and Scandinavian sanctions may cost 12.5% to 15% of fresh fruit sales, and they see little possibility of evasion. The industry employs 220,000 nonwhites.

Here, amid the carefully tended apple orchards of the western Cape, the cutting edge of sanctions is visible at last. Every year farm manager Bernard Napier buses over 200 Xhosas from the autonomous Transkei "National State" to augment the "Colored" (mixed-race) work force on the Graymead farm. As always in Africa, their earnings support several people at home. When the new workers arrive from their homelands, they are so undernourished Napier has to feed them up to strength before they can work. If alternative markets cannot be found, the apple trees on which Napier has spent more than 40 years of his life could be plowed under. Back in the Transkei, the blacks will starve.

This, in a nutshell, is the real trouble with sanctions as a political weapon: They hurt the blacks more than the whites. South Africa is not a nation but a small empire of 23 million people, a sociologists' paradise of different ethnic groups interdependent in fantastically complicated ways. In its peculiar political economy, the dominant caste of 2.7 million Afrikaners are by far the best insulated. Some 40% of them are the employees of the South African state and its dependents: in the civil service, defense forces, police. The 1.8 million English-speaking whites, who tend to be on the liberal side of white politics but are outvoted, are in business and therefore more exposed, although much less so than the best-placed nonwhites, the 800,000 Indians and 2.8 million Coloreds, who have just been given the right to vote for their own assemblies. The 15.2 million blacks, unskilled labor with no vote in a country without any social security net, are intensely vulnerable. And the situation of the estimated 1.9 million blacks from the neighboring "Front Line" states to the north, where they support probably 10 million people, is the most desperate of all.

In theory, the whites could pass most of the costs of sanctions through to the blacks in general and to the Front Line states in particular. In practice, they have been less ruthless—up to now. Despite emitting threatening noises, Pretoria, unlike Nigeria, has not yet expelled its foreign workers. Nor has it acted decisively to end inflation, currently 18% a year, apparently because, like Washington in the 1970s, it is under the delusion that it can and must put jobs first by maintaining high levels of demand. Interacting with South Africa's steeply progressive tax code, this has resulted in unlegislated tax increases so severe that many believe them to be the most important cause of white emigration. Inflation, not insurrection, may be the real threat to white rule in South Africa.

During Oliver Tambo's recent visit to Washington, he told Georgetown University students that white wealth must be redistributed to "raise the impoverished standard of living for millions of our people." This is because he obviously views the South African economy as a static pile of wealth, unfairly monopolized by whites. But the fact is that, despite its highly visible modern section, South Africa is actually a poor country. Its total gross national product is only $51 billion, one-third of Australia's and 1% of the U.S.', a mere $2,232 per capita. That's not enough to go around. The whites, 19.3% of the population and possessors of all the vital technical skills, already contribute 93% of income tax revenue and pay European levels of tax. South Africa is a microcosm of the world—except that its First World is taxed to subsidize its Third World.

Most of Africa has always lived in primeval poverty. Even in South Africa, 1 million blacks are still subsistence farmers. But in South Africa economic activity organized by whites has gradually drawn the blacks out of their tribal lands, into the cash economy and into the cities—to the great consternation of the architects of apartheid. Driving the whites out or depriving them of incentives would reverse this dynamic process and eventually cause economic collapse.

The South African economy may be small by world standards, but it nevertheless composes over one-third of sub-Saharan Africa's total gross domestic product. It is the locomotive that has been pulling the subcontinent out of subsistence farming and out of looming Malthusian tragedy. The last 20 years have been an economic disaster for black Africa, with per capita GNPs falling 16% in the first half of the 1980s alone. Remittances from foreign workers in South Africa provide badly needed foreign exchange for other African countries; it is their natural trading partner and also the most reliable transport route for their exports.

South Africa's economy may prove more adaptable than anyone expects. For example, if Afrikaners can eschew their deep respect for legal forms, the country could exploit the advantages of being an outlaw by ignoring international patents and copyrights, as Taiwan has done—one reason legislating against license agreements, as some sanctioneers urge, could prove self-defeating. A favorite plan: to duplicate the Canadian Maple Leaf gold coin, since the South African authorities obligingly hosted the Canadians when they were planning their own coin, only to find Canada a leader in the sanctions campaign.

South Africa could also find a source of growth in deregulation. At least 3 million blacks work in the "shadow economy," in contravention of laws many of which were part of apartheid's very substantial apparatus of economic control. Even opening a store, for example, required multiple permissions. Legalizing these activities could have profound economic and social consequences.

A very visible case study: the proliferation of black-owned minibuses, called "combis," on South Africa's roads. Partly as a result of the murderous riots in Soweto and the accompanying boycott of the state-subsidized bus company Putco, the police have largely ceded the transport of blacks to these usually illegal private operators, and no longer attempt to maintain Putco's monopoly or enforce safety standards. There are now an estimated 40,000 such black cabs in South Africa—an industry that is booming regardless of sanctions.

South Africans call these fairly labor-intensive, low-technology activities "inward industrialization." They hope to do the same thing with black housing. They think it may enable the economy to keep growing and providing work when import-substitution opportunities are exhausted.

A further unspoken advantage of outlaw status: It could allow South Africa to reverse its drift, impelled by its newly legal, highly politicized black labor unions and by well-intentioned international opinion, toward becoming a high-wage economy for the employed few. In a textbook demonstration of the unintended consequences of minimum wage laws, this draft has resulted in mechanization, the substitution of capital for labor, and no wages at all for the unlucky black majority.

Many South African white liberals blame U.S. sanctions for undercutting Botha's reforms. After the election, however, he may resume the reforms. They won't be what the African National Congress wants nor will they satisfy foreign critics. But they are part of Afrikaner history, which, contrary to myth, did not consist of landing at the Cape in 1652 and blasting everyone flat but, instead, involved a complex process of coercion, cooption, cooperation and diplomacy.

Sanctions were important as a threat; as a reality, they are like pushing on a string. Having imposed them, the U.S. no longer has much influence in South Africa. Unless, of course, we want to send in the Marines.

[From the Indicator SA, Spring 1986]

The Sanctions Surveys—In Search of Ordinary Black Opinion

(By Prof. Lawrence Schlemmer)

The attitudes, opinions and interests of rank-and-file black people in South Africa are frequently taken as a pivotal reference in the debate about economic sanctions against the country. One of the favourite arguments holds that sanctions will most harm the people they are intended to help—ordinary blacks who, accordingly, might be expected to oppose the measures.

Against this view there is ample evidence from the public media that most prominent black spokespeople in extra-parliamentary organizations and the mainline churches support sanctions, ranging from trade embargoes to disinvestment. A frequent argument heard from these quarters is that most black people would be prepared to suffer additional privation in a campaign aimed at destroying apartheid. While this latter argument does not go unchallenged in black society—see former editor Obed Kunene, 'South Africa Then and Now', in the Sunday Tribune, 5 October 1986; and the regular opposition to sanctions expressed by Chief Buthelezi and Inkatha spokespeople—it is a popular viewpoint among protagonists of sanctions abroad.

The controversy has resurfaced with western government debate on the merits of imposing more stringent sanctions, and warrants reconsideration of the survey evidence on whether or not rank-and-file blacks support sanctions.

After a plethora of social surveys published in the media over the past 30 months, great confusion exists over the extent of domestic black support for sanctions. At least eleven surveys have been conducted inside South Africa, some of them leading to diametrically opposed conclusions. In a sense social science owes the concerned political actors and apology for the confusion.

Most of the difficulty lies in the interpretations of the survey findings by authors with dissenting viewpoints, myself included, and in the necessarily brief presentation of our findings in the media. There is an obvious need to attempt to reconcile the different findings in order to shed constructive light on the issue.

BASIC PROPOSITIONS

A balanced interpretation of the major findings (see box) can be facilitated by the following simple propositions about the contemporary position of black people in South African society:

Most blacks completely reject apartheid and obviously welcome pressures or influences brought to bear on the government which will promote sociopolitical change.

Most rank-and-file blacks, being people who are either in poverty, have low incomes and/or live in families with a large number of dependants, would not like to experience a fall in already precarious living standards as a consequence of slow growth or stagnation in the South African economy.

The unemployment and under-employment rate is high in South Africa, affecting anything up to two million people, mainly blacks. Black people are unlikely to support any policy or programme which further reduces the capacity of the economy to create jobs. The best jobs available in South Africa are those created in the modern industrial, commercial and financial sectors.

In large measure attitudes toward sanctions are the result of black respondents weighing the first proposition against the second and third propositions above. The sanctions weapon is generally presented as capable of both influencing the South African government and white establishment, and of weakening the economy and employment growth. In this context the choice boils down to the extent to which black people are willing to endure increased privation for the sake of political pressure on the government, and whether they would see that pressure as likely to be effective.

An argument put forward by some conservatives and by some radical protagonists is that disinvestment will benefit the South African economy by encouraging more appropriate technologies, import substitution, greater labour intensity of production, and a concentration on consumption-led as opposed to investment-led growth. As is always the case in complex economic issues, there is some truth in such arguments.

As a radical point of view, however, this argument is seriously flawed. Firstly, if the South African government were to perceive it to be possible to so redirect economic development policy as to weather the effects of sanctions in this way, the sanctions campaign would lose its whole point—that of coercing government into change. Secondly, if sanctions and disinvestment have some bad effects and some good effects they will also not be effective in influencing a determined and resilient South African government. Hence the effects will be borne by the South African population without any particular political purpose.

The truth of the matter is that the South African economy is an open one which has become increasingly reliant on external capital over the past 30 years. Sanctions and disinvestment may stimulate some short-term growth but in the long term the economy will run into severe balance of payment problems which, will constrain employment growth and expansion generally. Sanctions will probably have considerably more negative than positive effects; hence popular perceptions about sanctions are very broadly correct.

THE ARBITRARY CHOICE

Where the questions (see box) put to blacks are posed in simple terms as a choice between continued investment or disinvestment, with no embellishments or suggestive references to political effects (i.e. to groups who support sanction or to the effect on job creation), seventy five percent or more of rank-and-file black respondents oppose disinvestment (Schlemmer: June 1984; November 1984. HSRC: July 1984; May 1985). Where the respondents are better educated (HSRC: February 1985) or are selected in a snap survey which tends to bias sampling away from industrial workers towards easily interviewed unemployed youth or service workers (Star: February 1985), opposition to disinvestment drops but a majority still oppose disinvestment. In all these instances of neutral forced choice, the respondents split in favor of continued investment, putting economic welfare above vaguely understood political considerations.

In studies where the question is coloured by references to the political purpose of disinvestment, support for sanctions increases in cases where only two choices are given. The first London Sunday Times study (August 1985) obtained a 77 percent endorsement of "economic sanctions" when the question asked linked the sanctions to "getting rid of apartheid" (see survey box).

A subsequent poll by the same organization (July 1986) has, however, invalidated the first poll by establishing that nearly 40 percent of black respondents did not know (or care) what "economic sanctions" meant. Economic sanctions are big words which even most middle class people do not fully understand. To use these phrases in a poll statement which is then associated with a more easily understood political effect is a clear case of very serious bias. The use by the HSRC of the word "boycott" is defensible since this has become a well-known phrase in black political life (school boycott, consumer boycott, etc.).

Hence, when black survey respondents are asked to balance vagueness against pressure to end apartheid they choose the latter. This can hardly be construed as support for a withdrawal of investment capital or prohibitions on South African exports, however.

THE AYES AND NAYS ON SANCTIONS—A BRIEF GUIDE TO 10 MAJOR SURVEYS AND BLACK RESPONSES

THE SCHLEMMER/INDICATOR PROJECT SA (IPSA) SURVEYS

June 1984: A controlled quota sample of 551 black male industrial workers in all metro areas except Cape Town.

First question. There are groups of people in America and England who try to encourage banks and organizations not to put their money in factories which are in South Africa. Do you think this is a good or a bad thing?

	Responses (percent)
Good thing (disinvestment)	26
Bad thing (anti-disinvestment)	74

In a series of further questions on disinvestment, one offered the following choice:

	Responses (percent)
American companies should build as many factories in South Africa as they can, making as many jobs for blacks as they can.	59
American companies should only run factories in South Africa if they can pay high wages, give good pensions and help with housing, even if they make fewer jobs	32
American companies should not run factories in South Africa bacause they make the government of South Africa stronger	9

November 1984: A second stratified probability sample of 1,000 black adults of both sexes, again conducted in all major metro areas except Cape Town.

The first question listed above was repeated:

	Responses (percent)
Good thing (disinvestment)	14
Bad thing (anti-disinvestment)	84
Don't know	2

THE HUMAN SCIENCES RESEARCH COUNCIL (HSRC) SURVEYS

July 1984: A stratified probability sample of 1,473 black adults of both sexes in Pretoria/Witwatersrand/Vereeniging (PWV) area

Question: Should the outside world apply an economic boycott against South Africa or not?

	Responses (percent)
Yes—Boycott	10
No—Do not boycott	82
Don't know	8

February 1985: Another stratified probability sample of 736 men in PWV area, with better educated people over-represented:

The above question was repeated

	Responses (percent)
Yes—Boycott	30
No—Do not boycott	65
Don't know	5

Question: Senator Kennedy is back in America. Should he convince the United States government and United States companies to put money in or withdraw money from South Africa?

	Responses (percent)
Withdraw money (disinvestment)	18
Neither/uncertain, don't know	34
Invest money (anti-disinvestment)	48

May 1985: A third stratified probability sample of 1,200 black adults of both sexes in PWV area:

Question: Should the outside world apply an economic boycott against South Africa or not? (Repeated again)

	Responses (percent)
Yes—Boycott	16
No—Do not boycott	76
Don't know	4

THE SUNDAY STAR/STAR (JOHANNESBURG)

February 1985: A snap survey among 459 blacks in Johannesburg and Soweto—sampling procedure unknown.

Respondents were asked whether they 'supported or opposed disinvestment.'

	Responses (percent)
Opposed disinvestment	51

(The percentage support for disinvestment was not published. It was probably lower than 49 percent due to non-responses or 'don't know' answers.)

THE LONDON SUNDAY TIMES SURVEYS

In association with the Mori Polling Organization working through Morkinor in Johannesburg.

August 1985: A quote sample of 400 blacks of both sexes in Witerwatersrand, Pretoria and Durban; apparently not controlled for socio-economic level.

Question: Do you feel other countries are right or wrong to impose economic sanctions unless South Africa agrees to get rid of the apartheid system?

	Responses (percent)
Right: (pro-sanctions)	77

July 1984: A second quote sample of 615 metropolitan and rural blacks.

The above questions are repeated, respondents were also asked whether they knew or cared about sanctions.

	Responses (percent)
Pro-sanctions	29
Anti-sanctions	37
No opinion	39

In metropolitan areas where most other surveys were conducted, the proportion supporting sanctions was 47 percent, with 24 percent not knowing what sanctions meant.

THE ORKIN/COMMUNITY AGENCY FOR SOCIAL ENQUIRY (CASE) SURVEY

In association with The Institute for Black Research and Research Survey: (Pty) Ltd. Cape Town.

September 1985: A stratified probability sample of 300 black respondents in all major metropolitan areas.

The question on disinvestment sanctions was about 200 words long and is too lengthy to be reported in full. The disinvestment options were:

	Responses (percent)
No investment. This view says that forage firms only help to keep apartheid alive and exploit blacks so foreign firms should not be allowed to remain here at all. This view is supported by the ANC and the PAC, many members of the UDF and some trade unions	24
Conditioned investment/Disinvestment. This view wants to limit or restrict investment—foreign firms should not be allowed to invest unless they actually pressure the government to end apartheid and recognize the trade unions chosen by the workers—supported by Bishop Tutu, Fosatu, Cuso and the SACC	49

Comment: In the news story on the last survey it was claimed by the author that the results nearly overturned the earlier surveys conducted by myself and (by implication) the HSRC survey. A careful interpretation of the results, however, would suggest that Orkin's survey nearly confirms the findings of the earlier surveys (see main text).

THE IMS (SA SURVEY)

Conducted on behalf of a very large South African corporation.

July 1984. A stratified sample of 604 black adults in the Pretoria Witerwatersrand/Vereeniging complex; another random sample of 607 black employees on four gold mines and two coal mines. The study was introduced to respondents simply as a "study of business in general."

Question: Do you think large companies should become involved in trying to bring about political or social change in South Africa or should they concentrate on industrial growth? If the former, which of the following should a large company do?

RESPONSE (PERCENT)

	Black adults	Black miners
Large companies should:		
No answer/Don't know	3	4
Concentrate on industrial growth	31	39
Keep quiet about politics but make sure that everyone has equal conditions, opportunities and equal pay for equal work	12	13
Talk to the SA government about change	37	28
Talk to all people and groups about change	11	16
Not invest more money in South Africa or withdraw from South Africa until certain changes have taken place	6	3

THE QUALIFIED OPTIONS

In cases where more than two options are given, the qualified alternatives gain a great deal of support. This is evidenced in Orkin's CASE study (September 1985) and in the IMS (July 1986) study, as well as in the further question in my 1984 survey. There is an obvious reason for this. The qualified alternatives allow black respondents to balance and endorse both their political interests (proposition 1 above) and their economic interests (propositions 2 and 3). It is entirely predictable that this should happen.

Orkin has interpreted the qualified option as disinvestment. His middle position is really not disinvestment but rather qualified investment. Pressuring the government to end apartheid and recognising unions are stances which the various codes of employment conduct encourage and which are adopted by most larger multinationals. For most foreign firms this is 'constructive engagement' and not disinvestment.

In Orkin's survey only one quarter support full disinvestment. This is the same as the proportion supporting the total disinvestment position in my earlier surveys. It is also not much higher than the average proportion supporting the (total) 'boycott' position in the three HSRC studies or the most recent IMS study (see survey box).

In fact, if one considers the wording of the total disinvestment option in this CASE survey, it is surprising that as few as 24 percent of black respondents supported it. The total disinvestment position is presented as being supported by 'the ANC, the PAC, Azapo, many members of the UDF and some trade unions'. Given the large collective support for these organisations that Orkin's own survey shows, the 24 percent of endorsement which this option actually gained is low indeed.

The full range of surveys leads one to the conclusion that at this stage only a minority of about one quarter or less of rank-and-file blacks in major metropolitan areas (less if rural blacks are included) would support total disinvestment or full economic boycotts. Their reasons, as my surveys and others have shown, are simply that they would not wish to endure collective economic punishment in the sanctions process.

EVALUATING THE FINDINGS

The 'conditional investment' position—interpreted as qualified disinvestment by some writers like Orkin—on the other hand, may well have gained support over the 30 month period covered by the surveys. The wider range of results in my earlier surveys showed clearly that most blacks wanted pressure on the system of apartheid, and due to publicity in the media, the conditional investment option has probably crystallised as the favoured position. The CASE study and the 1986 IMS study compared with proceding findings tend to suggest this trend.

Operative sanctions against South Africa are not yet comprehensive or total in their scope. The present level of sanctions may well be supported by a majority of blacks, who might not endorse further, more punitive measures. Yet sanctions are more than likely to conform to the ratchet principle, with present measures being replaced in due course by more stringent action. Therefore, the issue of current black opinion on total or comprehensive sanctions remains highly relevant.

The main point at this stage, then, is that it can still be said that no survey in which questions were posed in simple descriptive language has proved that a majority of blacks are willing to endorse comprehensive, punitive economic sanctions that would reduce the capacity of the economy to create jobs and welfare. It is certainly true that a majority of black spokespeople, members of the middle-class intelligentzia, students and clergymen support sanctions. This is not surprising since their interests and analyses are political rather than economic. They would undoubtedly benefit from an economic collapse if it meant a consequent collapse of the South African government—an unlikely outcome, however.

SURVEYS AND POLICY

Social surveys cannot define specific policies—it is up to policy makers to decide what mix of provisions are likely to achieve effective pressure for change in South Africa without damaging the long-run interests of black people. In taking these decisions, policy makers abroad must be mindful not only of the immediate effects of their decisions but of the indirect effects and longer-term consequences as well.

The sanctions campaign, whether it succeeds or not, over and above the other serious pressures on the South African economy, can gravely undermine confidence among investors, importers of South African goods and international bankers. Once investor confidence is undermined it may never be fully recovered, even in a changed South Africa.

The most important question for responsible policy makers abroad is whether sanctions will be sufficiently effective to induce the South African government to make concessions which are substantial enough to satisfy the pro-sanctions lobby. There is hardly any convincing evidence that this will be the case. Minister Pik Botha's statement in Witbank on 3 July 1986, suggests the opposite: "The sooner sanctions come the better. We will show the world we will not be made soft." This view seems to be increasingly pervasive in government circles. Statements like these could be bluff and bravado but they could also reflect hardening collective determination. If there is any doubt on this issue, then protagonists of sanctions should be very cautious about the effects of their strategy, as the mass of rank-and-file blacks in South Africa undoubtedly are. Clearly, the majority of black people welcome external pressure on the South African government. The question is how much and of what kind.

SANCTIONS: CASE AGAINST CASE

[From Financial Mail, Oct. 23, 1987]

Supporters of sanctions here and abroad—their theories under fire—are increasingly relying on statistical gymnastics to bolster their case. The argument that blacks support sanctions and are willing to suffer has never been supported by the facts.

That is again clear, with the release by the Community Agency for Social Enquiry (CASE) of the findings of a survey of black opinion. "Blacks do back sanctions, warns survey," said a front-page headline in the Weekly Mail—"Despite hardships, support for pressure higher than in 1985."

The report begins: "As the international sanctions movement struggles to maintain its momentum, a major nationwide survey released yesterday has revealed that two-thirds of black South Africans support sanctions.

"The survey was conducted during August and September by the Community Agency for Social Enquiry. This was the same group which compiled a similar, controversial report two years ago showing that most blacks supported disinvestment by foreign companies."

It's a shame that the sometimes thoughtful Weekly Mail has fallen, so uncritically, for CASE's half-truths. To understand this year's survey, it helps to know what was wrong with the interpretation of the widely quoted 1985 poll to which the Mail refers.

"This report clearly establishes the fact that a decisive majority of urban black South Africans support some form of disinvestment as a means of helping to end apartheid," Mark Orkin, a Johannesburg sociologist and a CASE director, wrote about the 1985 survey.

"Whatever other justifications might now be advanced by the advocates of investment, they can no longer maintain their posture of deferring to democracy, of seeking to respect the available indications of black opinion."

Orkin's findings did not justify his confident conclusions.

Urban blacks were given a three-way choice—between encouraging unbridled investment; kicking out all foreign investment; and a middle position to "limit or restrict investment." The middle position said "foreign firms should not be allowed to invest here unless they actively pressure the government to end apartheid, and recognize the trade unions chosen by the workers."

The results: 26 percent supported investment, 24 percent supported complete withdrawal, and 49 percent took the middle position of conditional investment.

In other words, three out of four rejected wholesale withdrawal, the most radical position and the goal of many anti-apartheid activists and lawmakers outside SA. Three out of four supported investment under some conditions.

Orkin's interpretation was that 73 percent of urban blacks favour some sort of disinvestment. He lumped those who took the middle position—which he called "conditional disinvestment"—with those in the radical position.

We call the middle position "conditional investment," since it refers to controlling the flow of new investment, not kicking out the old. And the conditions are hardly tough: many would argue that business should actively campaign against apartheid and recognise trade unions.

Orkin, then is right only to the extent that 73 percent of blacks don't want business as usual. But that does not demonstrate the support for blanket disinvestment claimed by those who quote the 73 percent figure.

Of course, a middle position in any poll is going to gather a fair amount of support. The fight is over who can claim that middle ground. Our less radical interpretation is supported by another question in the 1985 poll. The question began by noting "some people say disinvestment may cause some blacks to lose their jobs, but the sacrifice is worthwhile in order to pressure the government to end apartheid,"

The question: Is the sacrifice worthwhile? The answers: 26 percent say yes, even if many blacks would lose their jobs: 25 percent say yes, if few blacks would lose their jobs; and 48 percent said the sacrifice of jobs is not worth it. In other words half of the blacks did not believe it is worthwhile to lose jobs in the campaign fo fight apartheid. And that fraction rises to nearly three-quarters if you include those who want only a few blacks to lose jobs (those who, for example, aren't willing to suffer but would tolerate a bit of suffering among their neighbours).

At best, it seems, they would support symbolic—of ineffective—sanctions that send a message but don't create hardships. They apparently don't want to suffer more than apartheid makes them suffer.

Now, a look at this year's offering from CASE—which, we expect, will also be widely misinterpreted. The poll, which surveyed rural as well as urban blacks, gave respondents three choices on sanctions.

The finding; 26 percent opposed sanctions, fearing they would stunt economic growth; 46 percent said sanctions should be applied until the South African government lifts the State of Emergency, frees political prisoners, unbans political prisoners, and abandons apartheid; and 21 percent said sanctions should be enforced unconditionally until the government surrenders power.

Therefore, two-thirds of blacks support sanctions.

There is, however, a problem with this question (besides the universal polling problem of a middle position gathering support because it is a middle position). Blacks who stand in the middle ground are basically opting for concrete action—specific steps Pretoria must take—over a somewhat elusive concept, "sanctions."

Wits professor Lawrence Schlemmer has criticised some other polls on the same ground: "When black survey respondents are asked to balance vagueness against pressure to end apartheid they choose the latter. This can hardly be construed as support for withdrawal of investment capital or prohibitions on South African exports, however."

In other words, what do the respondents agree to when they support "sanctions" to effect change? The answer, again, is in the job-loss question.

This time around, 60 percent were not prepared to continue supporting sanctions if they result in job losses for blacks; 26 percent would agree to seeing some but not many job losses (the "my-neighbour-but-not-me" middle position); and just 14 percent supported sanctions no matter the amount of unemployment.

This is not a portrait of a group of people who are calling for more sanctions and more suffering. Compared to the 1985 survey, blacks are even more wary of the potential effects of sanctions on employment.

We must conclude that many of those who said they support "sanctions" really support symbolic moves that express outrage at apartheid—but don't throw blacks out of work.

That would exclude trade boycotts on, say, coal and agricultural products, which have hit black workers in the targeted fields. And it would include disinvestment only in those cases where assets are either turned over to black workers, or black workers remain employed under South African bosses. (And, we might ask, how exactly are these steps supposed to end apartheid?)

Nonetheless, expect to hear U.S. congressmen debating sanctions this week and beginning their speeches like this: "A survey released last week shows that an overwhelming majority of black South Africans support sanctions . . ."

Those who oppose both apartheid and sanctions can listen, smugly, knowing that the sanctioneers don't have their facts right. That doesn't make them any less dangerous.

Leaving the sanctions debate to the Left only generates more untruths. Blacks want jobs, the end of apartheid and freedom—a combination that only democratic capitalism can deliver.

TOUGH AT THE TOP

Hillbrow's Nat MP, Leon de Beer, is unlikely to return to parliament if he is convicted on any of the scores of charges of fraud or contravention of the Electoral Act. De Beer and two of his helpers are due to appear in court again on January 29, only a week before parliament reconvenes for the new session.

And although De Beer's membership of the NP has only been suspended, he is likely to be formally expelled (even if he is acquitted on all charges) following harsh criticism of party policy in interviews published at the weekend.

De Beer won the seat from the PFP's Alf Widman by 90 votes on May 6. It is now alleged that De Beer and two helpers contravened the Electoral Act, or are guilty of fraud.

In terms of both the constitution and the Electoral act, an MP "shall" be incapable of holding office if sentenced to a prison term of 12 months or more without the option of a fine. However, if convicted of offenses set out in the Electoral Act, the court may declare an MP incapable of holding office and order him to vacate his seat even if he is not sentenced to 12 months or more. It is also possible for parliament itself to expel a member under certain circumstances.

The PFP may also institute a civil action to unseat De Beer, if he is convicted on counts that would have made a material difference to the Hillbrow result.

While attention has been focused largely on De Beer, the fate of another MP also hangs in the balance. The Conservative Party's MP for Schweizer-Reineke, Kobus Beyers, is awaiting the outcome of an application for the sequestration of his estate. If the application succeeds, he will be disqualified from holding office in terms of both the constitution and the Electoral Act.

The CP also faces a new struggle in Standerton where their MP, Jacobus de Ville, was unseated by order of the Pretoria Supreme Court last week, on the grounds that he was a State employee at the time of his election. De Ville held the post of deputy-sheriff. In terms of the Electoral Act, State employees may not stand for parliament.

Management of Shell subsidiary Cadac, and the metalworkers' union, Numsa, together with the SA Boilermakers' Society, prepare for their third meeting to consider "new proposals" aimed at settling their wage dispute.

Some 400 semi- and unskilled workers began a legal sit-in strike at the Industrial plant on October 5. This has brought continuous production to a standstill, says Cadac, but "some limited activity is being maintained." The joint union demand is a minimum wage of R4 an hour (R780 a month), which would mean a 49 percent increase to the wage bill, say Cadac. The company's offer is R3.30 an hour (R643.50 a month) and 75 cents an hour across the board (R146.25 a month)—a 29 percent wage bill rise.

The trial of Numsa general secretary Moses Mayekiso and four others, on charges of treason/subversion, commences before Justice Van Der Walt in the Rand Supreme Court. Mayekiso, Paul Tshabalala, Richard Mdakane, Obed Bapela and Mzwanele Mayekiso, all from Alexandra, have been in custody since June 1986. They are represented by Advocate David Soggott SC. The State is charging the five with offences allegedly committed in Alex between January 1983 and June last year.

Putco management was expected to decide this week whether to hire new drivers, or reinstate the 450 who walked out at the Wynberg division last Friday, following a dispute that broke out three days earlier. This brought the Alexandra service to a halt. With no drivers at the depot, the company had arranged for substitutes from its Putcoton (Dobsonville) depot to drive passengers from the city to the northern suburbs and back again.

Problems arose last Tuesday, when a member of the workshop staff apparently infringed job demarcation by driving a bus across the road. He was dismissed, whereupon workshop workers walked out and were joined by the drivers demanding the workshop manager's dismissal.

After four days of evidently fruitless negotiations with its Wynberg work force and the Zakheni Transport and Allied Workers Union (a branch of the Transport and Allied Workers Union), Putco set a deadline to return to work by Friday at noon. This was ignored. The company claims the workers chose not to adhere to agreed grievance procedures, "instead preferring to enter into an illegal strike, which, until the last hour, the company was sincerely trying to bring to an end."

SA Breweries' beer division and the Food and Allied Workers Union resume negotiations aimed at resolving the two-week-old wage strike at SAB's Isando and Alrode breweries, and depots at Denver, Wadeville and East London. About 1,100 workers are out. The company says it is maintaining about 90 percent of normal production, and there is more than enough beer to go round.

The company has offered an improved minimum wage of R4 an hour, representing a national average increase of 33 percent. The union wants R4.30.

The swapped fresh proposals at a meeting on Monday. SAB negotiator Gary May said intimidation and violence would be a major issue at Tuesday's talks. This followed a company statement saying two houses belonging to its employees were fire-bombed last Sunday, "allegedly by striking workers trying to enforce the two-week-old wage strike." SAB also said "shots were fired into another employee's house; Alrode brewery workers who wanted to get to work were allegedly sjamboked by striking workers and many worker's homes have been visited and the occupants threatened."

The magistrate in the case of the 1986 Kinross goldmine disaster, in which 177 miners died, conducts an inspection of the site on the eighth day of the trial in the Witbank Regional Court. Seven officials of the Gencor mine have pleaded not guilty to charges of culpable homicide, or 13 alternative charges in terms of the Mines and Works Act.

Magistrate Pietersen found that a number of fire extingushers are now in place along the underground haulage where the polyurethane foam wall-lining ignited and caused the disaster. The extinguishers were not there at the time of the accident. The court was also told that various changes had taken place underground at Kinross since the accident.

A new acronym, PPWAWU, is born with the merger of two Cosatu paper and print unions. PPWAWU—not to be confused with predecessor PWAWU—stands for the Paper, Printing, Wood & Allied Workers Union. It claims a paid-up membership of 24,260, and declares its "full support for the freedom Charter and its adoption as the basic minimum demands of the oppressed and exploited in SA."

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Chairman, I rise in support of the en bloc amendments.

Mr. WOLPE. Mr. Chairman, my amendment, which makes a series of changes to the African development title, represents modifications which have been discussed with and have AID's concurrence. The changes provide aid with greater flexibility, yet preserve the basic thrust of the provisions. In several instances bill language was deleted, but it was agreed it would be included as clarifying language to express the committee's intent and establish legislative history. The following language achieves that purpose.

1. Sec. 471(6)—Findings (p. 148, ls. 15-16); Sec. 472(b)—Purpose of assistance (p. 151, ls. 12-13); and Sec. 475(a)(1)(b)—Evaluations (p. 173, ls. 6-8). The phrase "(including the landless, subsistence food producers, and migrants)" is deleted from bill language in the three instances where it appears—in the findings, in the purpose, and in the evaluation plan to be developed by AID to measure its progress in achieving the objectives of the legislation. It is the intent of the Committee, however, to assure that those individuals—the landless, the subsistence food producers, and the migrants—are not overlooked in the development process. They are among the poor majority of men and women in Africa who have all too often been marginalized and neglected. It is essential that those people are involved in the long-term development process in order to assure that equitable, participatory, environmentally sustainable, and self-reliant development is achieved.

2. Sec. 471(9) (p. 150, ls. 3-4)—The amendment deleted the phrase "(particularly in the area of irrigation)" in the findings section. That was inserted as an example of mistakes made in past development projects which were inappropriate to Africa, and resulted in degradation of the natural resource base through soil erosion, flooding, removal of tree cover, loss of water supplies, and desertification. Prompt action to maintain and restore the natural resource base is essential.

3. Sec. 472(d)(2) (p. 154, ls. 5-12 were deleted)—It is the Committee's intention that assistance shall also be made available to support the efforts of such private and voluntary organizations to improve their planning, management, evaluation, and coordination mechanisms in order to enhance their effectiveness in promoting local, grassroots development and to encourage a broadening of the national and regional impact of local activities.

4. Sec. 472(g)(3) (p. 158, ls. 2-14 were deleted)—Economic policy reforms undertaken at the national level often impose unduly harsh consequences on the most vulnerable groups (especially poor, isolated, female farmers, and the urban poor) and on long-term environmental interests. In order to mitigate the possible negative impacts of policy reforms, it is the Committee's intention that appropriate protective measures be undertaken. Such measures may include monitoring nutrition and poverty levels and using targeted food aid to cushion the impact on the vulnerable poor of diminishing subsidies for consumer goods, focusing budgetary reductions of activities other than social services used by the poor, and supplying credit and agricultural inputs (such as fertilizers, seeds, livestock vaccines, farm animals, veterinary services, farm implements, and labor-saving innovations for collecting water and fuel and for processing food) to poor, isolated, and female farmers to enable them to take advantage of the new incentives resulting from policy reforms.

5. Sec. 472(h)(1)(a) (p. 159, ls. 7-14 were deleted)—It is the Committee's intention that agricultural research include the direct involvement of small farmers in defining research agendas and formulating problems in order to capitalize on local knowledge and experience and enhance support for research efforts.

6. Sec. 472(i)(3) (p. 164, ls. 10-11)—Of the funds authorized for population planning activities, the Africa bureau of AID may obligate funds directly or, to the extent it's cost-effective to do so, use existing procedures to utilize the central accounts for population planning. It is the Committee's intention that total population planning funding for Africa, from both this title and title III of the bill total at least $60 million per year.

7. Sec. 475(a)(1)(b) (p. 173, ls. 3-17 were deleted)—Deals with the establishment of specific criteria for measuring the performance of US development assistance. It is the Committee's intention that evaluations provided for in that section present an accurate portrayal of the program as a whole. For that purpose, the agency may use representative sampling and similar techniques.

8. Sec. 803(a)(3)(B) (p. 181, ls. 6-11 were deleted)—It is the Committee's intention that in carrying out the provision, aid will describe what specific and regular consultation mechanisms were employed, what views generally emanated from such consultations and how they were factored significantly into decisions on projects and program assistance.

Mrs. COLLINS. Mr. Chairman, I rise in support of this amendment.

Africa, of all the world's continents, suffers most severely from poverty and disease. In the past 10 years, Africa's population has grown by nearly 25 percent, and chronic desertification due to poor irrigation has greatly contributed to the economic demise of the region.

Somebody looking at Africa's economic crisis would be led to think that it would be a prime candidate for the economic assistance that it so clearly needs. Aid can bring improved agricultural techniques, industrial development, and a humane standard of living. Sadly, though, this is not the case.

Since fiscal year 1985, Africa has suffered a drastic decline in funding from its initial level of $760 million. Africa's share of foreign aid was 13.95 percent in fiscal year 1984; by fiscal year 1987 it had dropped to only 9.6 percent.

Mr. Chairman, it is simply unconscionable that the Earth's poorest continent receives the smallest proportion of foreign aid. Clearly, action is necessary to alleviate this tragic injustice.

The amendment currently under consideration is a start in the right direction. By earmarking $85 million from the economic support fund in both fiscal years 1988 and 1989, Congress will have taken a small step toward bringing about an economically viable Africa.

The total ESF earmark under this measure would be a drop in the bucket when compared to the total account of $3.4 billion. Under the amendment, total ESF levels for Africa would include $5 million for Chad, $14 million for Senegal, $23 million for Somalia, $3 million for the Seychelles, $18 million for the Sudan, $17 million for Kenya, $17 million for Liberia, and $3 million for Djibouti. These paltry amounts will hardly turn Africa around singlehandedly. They are, however, a start.

Passage of this amendment would help our allies and perhaps help make some friends, as well. It can help pave the way toward a more economically viable continent which will inevitably lead to increased markets for U.S. goods and services.

I urge my colleagues to support this measure.

Mr. WOLPE. Mr. Chairman, I rise in support of the en bloc amendments to title VIII relating to Africa. Included are the following noncontroversial amendments:

1. WOLPE OMNIBUS CORRECTIONS TO THE AFRICA RECOVERY AND DEVELOPMENT ACT

This amendment represents modifications of the act which have been discussed with, and have the concurrence of AID. The changes provide AID with greater flexibility in using AID funds to repay debts under very limited circumstances, if Congress is consulted; make clear that policy reforms are both long and short term in nature; mandate a significant but gradual expansion of private and voluntary organization programs in Africa; and give AID greater flexibility in the evaluation process. Finally, in some cases bill language is deleted, but we agree with AID that it would be included in the legislative history to express committee intent. I insert in the RECORD this clarifying language.

2. WOLPE CORRECTION OF JURISDICTIONAL PROBLEM WITH APPROPRIATIONS COMMITTEE

This amendment responds to Chairman OBEY's objection to authorization language directing how appropriations are to be spent. Mr. OBEY has agreed to work in the appropriations conference toward language that would conform appropriations in Africa development assistance to any subsequent new authorization, except to the extent that such assistance could not be provided under the traditional functional accounts.

3. JOHN MILLER, SENSE OF THE CONGRESS

That the President should encourage and influence our allies to apply sanctions against the apartheid regime, and that he should report on his progress within 180 days. In his recent report to Congress, the President cited South Africa's failure to make significant progress toward ending apartheid and establishing a nonracial democracy. In fact, repression in South Africa has increased—approximately 30,000 people have been detained without charge, up to 10,000 of whom were children. Despite specific provisions of the Comprehensive Anti-Apartheid Act, the President has failed to seek international cooperative agreement on sanctions; failed to convoke an international conference on the subject; and failed to support the multilateralization of U.S. sanctions by the U.N. Security Council, because he opposes the sanctions contained in law. Allied support for sanctions is crucial—while United States sanctions affect up to a third of our imports from South Africa, they cover only 5 percent of the European Economic Community's imports from South Africa.

4. MODIFICATION OF SOLOMON AMENDMENT ON POLICY TOWARD TUNISIA

This modification updates the language in the bill by expressing concern over the decline in human rights in Tunisia by acknowledging the November 7 change of government in Tunisia, and the promising statements by President Ben Ali regarding the need for multipartyism and a free press.

5. SCHNEIDER AMENDMENT EARMARKING DEVELOPMENT ASSISTANCE FUNDS FOR IN-COUNTRY ENVIRONMENTAL TRAINING

Environmental degradation is hindering agricultural development in Africa. The amendment will help develop and strengthen Africans' capacity to cope with their own environmental and natural resources issues. This amendment assures that such training will continue at the current modest level of $1.5 million in fiscal year 1988, and then subearmarks 4 percent of the 10 percent overall environmental earmark, which would raise the fiscal year 1989 figure to only $1.8 million. The language is flexible in allowing AID to use either generated local currencies or dollars to achieve the subearmark.

6. FASCELL (WOLPE AND DYMALLY) AMENDMENT EARMARKING $85 MILLION ESF FOR SUB-SAHARAN AFRICA

This amendment reserves a small portion of worldwide ESF—2.5 percent—for sub-Saharan Africa. In the past, Africa's unearmarked funds have been fair game for raiding, from within the State Department, to fund other regional priorities. This amendment would assure that Africa funds would no longer be raided. The amendment would raise total economic assistance to Africa to $585 million in fiscal year 1988. This is still below the administration request for Africa which was $600 million in total economic aid, including $100 million in ESF. Africa has suffered a precipitous decline in funding since fiscal year 1985, when total economic aid was $760 million—a decline greater than any other region. Africa's share of worldwide assistance in fiscal year 1984 was 13.95 percent—that dropped to only 9.6 percent in fiscal year 1987. The amendment would only partially restore that share. The total ESF earmark for Africa is a mere drop in the bucket compared to the entire ESF account of $3.4 billion, or the unearmarked amount of approximately $1 billion. These funds will help our friends in Africa. It will support nations that cooperate with us such as Chad, Kenya, Senegal, Somalia, and Djibouti. These funds will help create a more stable and secure Africa, which is certainly in the United States national interest. They can help pave the way toward a more economically viable continent—which will, in the long run, lead to increased markets for U.S. goods and services.

Mr. BROOMFIELD. Mr. Chairman, I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the en bloc amendments offered by the gentleman from Florida [Mr. FASCELL].

The en bloc amendments were agreed to.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. BRENNAN] having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, had come to no resolution thereon.

CONSIDERING SECTIONS 405 AND 611 OF H.R. 3100, INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987, AS HAVING BEEN ADOPTED IN COMMITTEE OF THE WHOLE FOR PURPOSE OF INCLUSION IN EN BLOC AMENDMENTS THAT MAY BE OFFERED TO BROOMFIELD AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. BROOMFIELD. Mr. Speaker, I ask unanimous consent that I be allowed to incorporate in my substitute to this bill sections 405 and 611 of H.R. 3100 as reported and to have been considered to have been adopted as an amendment in the Committee of the Whole for purposes of their inclusion in our en bloc amendment that may be offered to the Broomfield amendment in the nature of a substitute made in order under House Resolution 293.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. FASCELL. Mr. Speaker, reserving the right to object, I do not have any objection, but I want to ask the gentleman if this is in order to add language to the substitute that the gentleman and I discussed?

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. The gentleman is exactly right.

Mr. FASCELL. On the three pieces?

Mr. BROOMFIELD. That is exactly right.

Mr. FASCELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REQUEST TO CONCUR IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 376, CALLING ON THE SOVIET UNION TO GRANT PERMISSION TO EMIGRATE TO THOSE WHO WISH TO JOIN SPOUSES IN THE UNITED STATES

Mr. FASCELL. Mr. Chairman, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 376) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Senate amendment

Page 3, after line 19, insert:

SEC. 3. In honor of J. Strom Thurmond, and in recognition of his long and outstanding service as a United States Senator, Governor of South Carolina, and South Carolina State Senator, to promote flood control, soil conservation, and rural electrification, the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the J. Strom Thurmond Dam, Reservoir, and Highway, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which the project is referred to shall be held and considered to refer to such project by the name of the J. Strom Thurmond Dam, Reservoir, and Highway.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Florida [Mr. MACK] to explain the measure that is now before the House.

Mr. MACK. Mr. Speaker, I thank the gentleman for yielding and appreciate the opportunity to conclude this legislation. It is legislation dealing with divided spouses. All of us at this appropriate time are concerned about the reunification of divided spouses and have the opportunity tonight to pass this House joint resolution.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to urge my colleagues to support this measure. It is long overdue to bring divided spouses together.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. DORNAN].

□ 1805

Mr. DORNAN of California. Mr. Speaker, I just wanted at this rare moment to compliment the powers that be in the Soviet Union. It seems that the cupid approach is the one thing where they can understand, more than any one issue that involves human rights, that this dividing of husbands and wives is probably the single most cruel thing they have done in the field of nonlethal human rights, that is, where they do not imprison people and kill them. I am glad to see some progress in this area.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, there is some slight question that has arisen with regard to this matter, and I want to take a moment or two to determine the extent of it, if I may. So I would ask my colleagues to bear with me.

When we sent this over, this was a simple resolution, as I understood it, with regard to the divided families and the reunification of spouses, and I want to make sure that we do not run into a jurisdictional problem or some other problem with regard to the Senate amendment.

Therefore, I would ask the parliamentarian if they have had a chance to check the Senate amendment to determine whether or not there is any jurisdictional difficulty.

Mr. WALKER. Mr. Speaker, reserving the right to object——

Mr. FASCELL. Mr. Speaker, I am in the midst of a very deep parliamentary inquiry, but I will say to the gentleman, go ahead.

Mr. WALKER. Mr. Speaker, I was part of a discussion over here, and I want to find something out about this.

Do I understand the issue that had ended up before us is not the divided spouse issue but is in fact a public works issue?

Mr. FASCELL. That is what I am trying to find out right now, and I have asked the Parliamentarian to check it, because I do not want to step on the jurisdiction of another committee in an effort to accommodate the gentleman from Florida, which I am perfectly willing to do. The resolution was a good resolution. It dealt with divided families and reunification of spouses.

Mr. Speaker, I do not know that we can do this in this fashion. I think we will create more of a problem. I see now just by looking at it that we are in the midst of somebody else's jurisdiction on a matter of which we have absolutely no knowledge. I think common sense should tell us that what we should do is to withdraw this right now and try to settle it by tomorrow. I will be happy to bring it back later.

So, Mr. Speaker, I ask unanimous consent to withdraw the request.

The SPEAKER pro tempore (Mr. Brennan). The gentleman from Florida [Mr. Fascell] withdraws his request.

MY PRESIDENT RIGHT OR LEFT

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, I have noticed in the press and the other media that some people think it is not right of President Reagan to roll out the red carpet for Secretary Gorbachev, and I have some advice for those people:

Be patriotic. I mean this: My President, right or left.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I rise to offer a personal explanation for my absence yesterday. I was not here because of a death in the family. Had I been here, I would have voted the following way:

On rollcall No. 459, "yes"; on rollcall No. 460, "no"; on rollcall No. 461, "no"; and on rollcall No. 462 "yes."

Mr. Speaker, I ask unanimous consent that my explanation appear in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SPECIAL ORDERS GRANTED

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that following legislative business and any special orders heretofore entered into the following Members may be permitted to address the House, revise and extend their remarks and include therein extraneous matter:

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Bereuter, for 5 minutes, today.

Mr. Swindall, for 60 minutes, today.

Mr. Ritter, for 5 minutes, today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I would like to take a moment, if I could, to find out what the schedule is for the rest of the week in the Congress. It is my understanding that the schedule announced previously today has now been changed substantially, and that we are going to have legislation on the floor that the Members have not even been informed of prior to this that deals with the Iran-Contra Committee, and possibly extending it through the rest of the Congress.

I think the Members deserve to be informed about what is going on here before we leave this evening. I am wondering if either some Members of the leadership or the Chair can inform this Member what the schedule is, for instance, for tomorrow, since I understand that the previously announced welfare bill is probably not going to come to the floor during the day tomorrow.

I think this is extremely important, since we have a Republican conference on some of these subjects tomorrow and since there are Members who are trying to figure out just what the schedule is. It is important for the Members to be informed just what the business of the House is.

Mr. Speaker, can the Chair give the House some indication of what we are going to be doing for the next 2 days?

The SPEAKER pro tempore. The Chair is not in a position to respond at this point.

Mr. WALKER. Then, Mr. Speaker, I would ask the Chair whether there is some Member who can respond to the Members of the House with regard to the schedule. Or are we going to fly blind going into tomorrow, as we have flown blind so much here in the last couple of weeks?

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Yes, I am glad to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I was here at the time that the chairman of the Foreign Affairs Committee announced that the first order of business tomorrow, he had been assured, would be the resumption of the consideration of the foreign assistance act. So it seems to me that was the announcement. I am just transmitting it because I was here when the announcement was made, and the gentleman from Pennsylvania may have missed it.

Mr. WALKER. Mr. Speaker, further reserving the right to object, then it is our understanding that the welfare bill which had been previously announced as the business of the House will not now come up and instead we will have the Foreign Affairs Committee bill back on the floor tomorrow? Is that the understanding of the gentleman from Texas?

Mr. GONZALEZ. Mr. Speaker, my understanding as a VIP—very important peon—is that that is a fact. What the gentleman has asked as a matter of inquiry is correct.

Mr. WALKER. But I am also informed, and staff has just informed me of this, that there is a possibility that the Iran-Contra Committee situation could in fact be brought to the House floor sometime before the end of this week, possibly on Friday. This is something which had not ever been discussed, as far as I know, with the minority side. We have just found out that this might be put on the schedule yet this week.

That would be a very mean-spirited, partisan kind of measure to bring to the floor, and it would be done for purely partisan reasons, if it is done. I would suggest it is going to cause an awful lot of difficulty around here if in fact that is the schedule, given some of the other partisan activities that have been precipitated in recent weeks.

This gentleman would like to know before we proceed with business tonight just exactly what it is we intend to do with regard to that particular matter. Does the gentleman have any information on that? I would be very glad to yield to the gentleman for his answer.

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield once again, I have been informed here by knowledgeable assistants that the authorization for the existence of this committee expires this weekend, so that if it is desired to continue the committee in any manner, shape or form, there would have to be some action possibly later in the week.

Mr. WALKER. Mr. Speaker, further reserving the right to object, does the gentleman have the same understanding this gentleman does, that that committee has now filed its report?

I thought that we had received a rather thick tome in our office here some weeks ago, and that was the final report of that committee. What puzzles this gentleman is why we would be extending or considering extending the life of a committee that has already made its report.

Mr. Speaker, I am glad to yield to the gentleman from Texas for an answer.

Mr. GONZALEZ. Mr. Speaker, on that subject, not being a member of that committee, I have no real information, hard-nosed information, as to why there would be any need to extend the life of the committee, and I would presume that if that is the case, it will be announced in due course of time and in ample time to be considered and evaluated by the membership.

But not being a member of the committee, I do not know that there is any specific reason, at least not within my knowledge, as to why there would be an extension. I do not know that the authorization expires this weekend.

Mr. WALKER. Mr. Speaker, further reserving the right to object, the gentleman does remember all the newspaper articles about the report of the committee, does he not?

Mr. GONZALEZ. Yes, I do, absolutely.

Mr. WALKER. And the gentleman does remember getting all those reports in his office? There was a minority report and a majority report and a majority-minority report. We had so many reports we did not know which one to open first.

Mr. GONZALEZ. Oh, yes.

Mr. WALKER. I think the gentleman will probably remember all those reports we got out of this committee, and now I understand they are probably going to come back and possibly extend the life of the committee after its report. I would agree with the gentleman and say that this gentleman does not understand the need for that neither, but it is particularly a problem to have this matter brought before us, evidently in a rather surreptitious manner, without much consultation on our side. The people that I have talked to on our side find it to be a very, very mean-spirited action that is being contemplated.

Mr. Speaker, can we get some assurance from the gentleman that that is not going to take place?

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, as the gentleman well knows, I think everybody is familiar with the end result of the committee's work. As a matter of fact, I do not know whether my feelings are hurt or not, but the gentleman, had he noted one of the special orders I had the day after that report was filed and publicized, would have known that I had great remarks to make almost ad nauseum, so we were aware of it.

Mr. WALKER. Mr. Speaker, if I might reclaim my time, I must admit to the gentleman that there are some of his special orders that I do not always note. I must have missed that one.

Mr. Speaker, I would be very glad to yield further to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, let me just say that I think the gentleman might be rushing to judgment in attributing maligning intentions on the part of the leadership and trying to assert this surreptitiously.

As the gentleman well knows, in order to extend the life of any committee or any ad hoc committee or select committee, it is necessary to have full and deliberate consideration by way of resolution and by way of deliberation between the majority leadership and the minority leadership. So it could really be surreptitiously rammed through the House.

I believe that the gentleman can be well satisfied and at ease that if that should come to pass and an extension should be sought before the end of the week and before the House terminates this week, the gentleman from Pennsylvania, as well as myself, would have full opportunity to participate in the deliberations as whether or not the committee deserves to be extended.

Mr. WALKER. Mr. Speaker, further reserving the right to object, this gentleman complains about the fact that we get whip notices that are supposedly based upon the schedule that the majority has prepared for the week, and each week it seems as though those whip notices get changed completely. So, therefore there is no one on our side that is ever able to prepare for what the schedule may be.

I happen to believe that since that happens day after day and week after week, there is some method to that to make sure that there is an inability to prepare for the legislation that is on the floor. In all honestly, I find it rather problematic to conduct the legislative business in this way, and I think the minority is particularly abused by an action where the majority makes these decisions evidently out of their hip pocket and we get informed about it almost as an afterthought. There is absolutely nothing that I saw about this subject on the whip notice. As far as I know, there was no advance notice that this issue was even being contemplated on the House floor this week.

□ 1820

Now to have it brought to us on a Friday, the gentleman from Washington, the majority leader, was out here earlier today announcing that on Friday we were going to have the Endangered Species Act up. Some of us think that maybe the endangered species in this case ought to be the Iran-Contra Committee, that it would be a good time to call an end to it.

Maybe that is what the gentleman had reference to. That was not what we understood the legislative business to be a little bit earlier in the announcement.

Well, I thank the gentleman for his cooperation. I thank him for trying to explain. I must admit, though, that we have not gotten very much of an explanation.

I will leave the majority with this warning. If in fact that comes to be and if in fact we are going to conduct that kind of mean-spirited activity in the House, I think the majority can plan upon the fact that we also will have some tricks up our sleeve and they can plan on a very, very hostile couple of days over the next 2 days if that schedule comes about.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. BRENNAN). Is there objection to the request of the gentleman from Indiana?

There was no objection.

ELECTION DAY VIOLENCE IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, for more than a month before the massacre in Haiti on Sunday, November 29, I joined with other Members of the Congress and with members of the Haitian-American community in calling the attention of the State Department to the fact that step by step the actions being taken by the military government of Haiti indicated that that government does not want elections to take place.

The first act by the military government was to try to take over the election procedure and the election process and to replace the electoral council which was required under the Haitian constitution.

I also said after November 29, and it was quite clear what the military government had in mind, that the State Department had been outwitted. The State Department had been psyched out, that they had made fools of themselves by believing in the military government of General Namphy.

This past week there was an article that appeared in Time magazine which bears out the contention that the State Department was outwitted, that they were made to look like fools. According to the article that appeared in Time magazine, the military junta which rules Haiti today never had any intention of allowing an election to take place. Lt. Gen. Henri Namphy had prepared a decree, and I am quoting Time magazine, had prepared "a decree calling for dissolution of the Electoral Council 5 days before the election." This decree which was put into effect on election day as a result of the disorder and violence, according to Namphy, he had prepared it 5 days before that. He now blames the Electoral Council for the failure of the election and he calls upon the people of Haiti, the organizations that are mentioned in the constitution as being responsible for appointing a new Electoral Council, to appoint a new Electoral Council with new members. They are attempting to form this new Electoral Council, but the people will not cooperate. Human rights, church, and civic groups have refused to name new members. They have made it clear that they will have no part in the sham of establishing an Electoral Council which would be a puppet to the military government.

Unfortunately, there have been denunciations of the Namphy tactic by the State Department. After being outwitted once, they appear to be ready to go through the same process again. They continue to place their trust in the Namphy government.

We would like to hear the State Department denounce the Namphy government for what it is and call, along with the people of Haiti, for a new government, a government which represents the people and which is willing to abide by the constitution.

The Associated Press states today that three leading Haitian presidential candidates, Marc Bazin, Gerard Gorgue, and Louis DeJoie, have vowed to boycott any elections organized under this new Electoral Council to which the military government is seeking to set up.

Another presidential candidate, Sylvio Claude, has said that he will probably join the other candidates in pledging not to participate. They will not run if this new Electoral Council is given the power to conduct the elections. Three of the candidates issued a joint communique stating their intention to boycott the elections and they have proclaimed that they have put aside all personal quarrels and put their heads together in order to make a common front on this issue. Once the real Electoral Council is reestablished, they are willing to run separately, of course, and compete with each other in a regular election.

The article also states that the Haitian supreme court in a surprise move is refusing to name a representative to the new Electoral Council.

Now, the Haitian supreme court is made up of justices who were all there when Duvalier was the dictator. It was expected that they would go along with the plot of the military government, that they would join their fellow Duvalierists and seek to undermine the Electoral Council, but the justices have refused. It was a surprising move, but it is a move which shows the strong will of the Haitian people to resist this new plot.

It has also been pointed out by another article that appeared in the New York Newsday that the death toll on election day was far higher than had been originally presented to date. Instead of the 34 people that we have been quoted as being victims, more like 80 people were killed on election day. Part of the problem is that bodies are still being picked up throughout the streets of Haiti who were killed on that day. Another part of the problem is that certain people claimed their relatives refused to register them with the authorities because they did not want to have trouble getting the bodies out.

In summation, the need still is there for Congress to continue to pressure the State Department to take the strongest possible position in getting the military junta to step down and allow the Electoral Council of Haiti to do the job it was supposed to do and establish free elections in Haiti.

WILDERNESS IMPACT LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, today I am introducing legislation which will assist Western States undergoing Federal wilderness review designations.

Western States have a large percentage of Federal land ownership. The management policies that govern these Federal lands significantly impact bordering private landowners, public land users, State lands, local communities, and in particular, long-range economic development plans for vast areas of the American West.

In Utah for example, my home State, 65 percent of the State's land mass is federally owned and controlled as either Forest Service land, Bureau of Land Management land, Park Service land, Indian land, or Defense Department land. Each of these agencies acts separately regarding land policy and the effect is clear. The decisions made on the lion's share of Utah's land mass, 65 percent, tremendously impact the balance of the State, 35 percent. And Utah is not an isolated example among the Western States.

The following table represents a listing of States with 25 percent or more federally owned land (excluding trust lands, for example, Indian lands):

	Percent
Alaska	86
Arizona	44
California	48
Colorado	36
Idaho	64
Montana	30
Nevada	85
New Mexico	34
Oregon	49
Washington	31
Wyoming	50

This legislation seeks to promote fairness and equity in the wilderness review process. The legislation will allow States with 25 percent or more Federal land ownership to send a "notice of disapproval" to Congress if in the State's opinion, too many acres have been designated as wilderness. Likewise, the State can disapprove of "too few" wilderness acres. This notice of disapproval triggers another review by the House and Senate wherein they must pass a resolution either ratifying the previous designation or act on the State's appeal to adjust the previous wilderness designation.

Ultimately, the purpose of this legislation is to give States an opportunity to have the Congress focus on their individual needs on an extremely critical issue which will affect their growth patterns for generations to come.

I am grateful for the support of my many Western colleagues who have joined me in cosponsoring this legislation.

A TRIBUTE TO FRANK BACCO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, I rise today to offer my congratulations to Mr. Frank Bacco, a lifelong resident of the Pittsburgh area who has served as a bus operator for more than 40 years with the city's Port Authority Transit System. Frank will retire from the PAT on January 1.

Frank Bacco began his distinguished career with the Port Authority Transit System in 1947, but his family has a long and impressive record of providing transportation service to the Pittsburgh area. Beginning in 1913, the Bacco Transit Co. operated a bus service in Pittsburgh and continued to do so until 1947 when the company was sold. In that year, Frank Bacco began work with the predecessor of the Port Authority Transit System.

For the past 10 years, Frank Bacco has operated bus route 84-E through the South Oakland area. He has earned a reputation among his passengers, particularly the area's senior citizens, as a reliable, helpful, courteous, and always safe driver. Frank has been honored for his dedicated service by local citizen groups, has received numerous commendations from the Port Authority Transit System, has been named Driver-of-the Month and has compiled an excellent driving record throughout his four decade career. Frank's career demonstrates his commitment to his community and his family.

In retirement, Frank plans to devote much of his time to volunteer work at various Pittsburgh area hospitals, as well as pursue his hobbies of gardening, woodworking, and cabinet making. He and his wife Theresa plan to spend their winters in Florida and enjoy spending more time with their two sons, Tony and Francis, and their two grandchildren, Christine and Matthew.

My warmest congratulations to Frank and his entire family on his retirement. I commend him for his 40-plus years of service to the Pittsburgh community and wish him a long and healthy retirement.

WESTERN EUROPEAN ASSISTANCE TO SANDINISTA REGIME IN NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, many of the Western European governments generally considered friendly to the United States continue to provide assistance to the Sandinista regime in Nicaragua, in spite of that regime's denial of civil liberties associated with Western democracy.

Moreover, most of the same Western European governments give more assistance to the Sandinista regime than to any of the democratic governments of Central America.

I would like to bring to the attention of my colleagues some revealing figures regarding aid given to Nicaragua in 1986, the last year for which reliable figures are available.

According to information provided by their Embassies here in Washington, DC, the countries of Austria, Belgium, Denmark, Finland, Norway, and Sweden each provided some assistance in 1986 to the Communist dictatorship in Nicaragua—and I am talking about government to government aid in 1986—than they did to all four of the democracies in Central America, combined.

Italy and the European Economic Community, on the other hand, gave more to Nicaragua than to any one of the other four individual democracies.

The Embassies of Spain, France, and the Netherlands declined to supply my office with any current figures regarding how their aid to the Sandinistas compares to that of the Central American democracies around Nicaragua.

However, according to information printed in the CONGRESSIONAL RECORD on October 22, 1987, by my distinguished colleague from Virginia, DAN DANIEL, the French, Spanish, and Dutch Governments in 1986 provided the Nicaraguan Government $4, $10, and $15 million, respectively. The total contribution, according to the figure supplied by our colleague, the gentleman from Virginia, Mr. DAN DANIEL, last year, 1986, was $73.7 million in direct government-to-government aid.

By Daniel Ortega's own admission, Western European nations provided that regime over 100 million dollars' worth of economic assistance last year.

Mr. Speaker, on September 7, 1987, however, new hope for freedom and democracy came to Central America when the Presidents of four Central American democracies and the Communist government of Nicaragua signed an accord in Guatemala City that has the potential for bringing peace to that region.

This accord, as every Member of Congress knows, calls for democratization, cease-fires, amnesties, and dialog with internal oppositions.

Most of the crucial elements of a democracy do not presently exist in Nicaragua, however.

I submit to my fellow colleagues that the issue of internal democracy in Nicaragua cannot be separated from the issue of containing Sandinista subversion of the neighboring democratic nations.

Who—may I ask—in this country, the most enduring democracy in the world would argue with the proposition that the constraints of a viable democratic political opposition, expressing itself through democratic structures, would provide crucial checks and balances against the repressive internal measures and the expansionist and subversive regional ambitions of the Marxist-Leninist Sandinista Party?

Nevertheless, our European friends help sustain this regime by giving it assistance vital to the consolidation of totalitarian rule. This occurs while Nicaragua's significant and increasing military capability and Nicaragua's growing relationship to Cuban and Soviet bloc nations demonstrate that the Sandinista regime is a threat to the security of the neighboring democracies.

Many of our European friends claim that they provide assistance to the Sandinistas in order to prevent the Soviet bloc from being the sole source aid provider. They say that they hope to sustain Nicaragua's relations with democratic nations in order to foster pluralism. I applaud such intentions.

I would like to point out, however, that pluralistic external relations should not be confused with pluralism in internal affairs.

There may be a better way for our European friends and allies to assist the prospects of internal pluralism in Nicaragua, which is a prerequisite to democracy.

Tomorrow, I intend to introduce a sense-of-the-Congress resolution calling upon the Europeans to change direction and focus new attention to the question of how their aid can best be provided to nourish democracy in Central America and Nicaragua.

Mr. Speaker, friends of democracy need to mobilize all their resources and policies to provide international support for democratic self-determination in Central America.

I am calling upon Western European governments that provide assistance to the Sandinista regime to affirm their support for the Guatemala City accord of August 7, 1987, by withholding all direct assistance to that regime unless and until—

First, the Sandinista regime is in full compliance with its obligation under that accord, and

Second, until democratic institutions are established in Nicaragua which result in broad respect for the fundamental human and civil rights of all citizens of that country.

Yesterday, this body passed an amendment to the foreign aid bill that expresses a similar view.

My resolution, however, goes several additional steps. Specifically, it asks Western European nations to reaffirm their commitment to democratic values by directing their economic assistance to Central America away from totalitarianism in favor of greater support for the democratic governments in the region.

Furthermore, it asks the Western European nations to reaffirm their commitment to democratic values by giving political and financial assistance to the now suppressed and persecuted non-Marxist political parties, free press, independent human rights groups, free trade unions, private enterprise, and the various religious denominations and their charitable affiliations.

Finally, it asks the Europeans to reaffirm their commitment to regional cooperation among democratic institutions by channeling some of their assistance to the Central American Bank for Economic Integration and by assisting in the activation and funding of the Central American Development Organization.

The points in favor of this proposal are many and I will name but a few.

First, by linking the cessation of bilateral economic aid to compliance with the Central America Peace Agreement, it emphasizes the importance of Central American solutions to the region's crises.

Moreover, if implemented by the Western Europeans, a suspension of aid could create an important economic leverage tool designed to pressure the Sandinistas to fully comply with the peace plan, in particular the democratization measures.

In addition, the resolution asks the Europeans to direct aid to Nicaragua's internal opposition and private sectors in order to promote political pluralism, a change that would strengthen the prospects for democracy in that country.

By doing so, the Europeans can make a unique contribution. European aid to these sectors would likely be more readily accepted by the Sandinistas than would U.S. aid to such groups.

This is not enough, however.

Cooperative undertakings through regional institutions can reinforce democratic efforts to strengthen pluralism in all the countries of Central America.

The Central American Development Organization [CADO], proposed by the Kissinger Commission and established by the Congress has the capability of coordinating multinational contributions in order to foster regional development.

Public Law 99-83 stipulates that participation should be open to countries "that commit themselves to, among other things, respecting internationally recognized human rights, building democracy, and encouraging equitable economic growth through policy reforms."

These provisions are particularly important with regards to Nicaragua and, if implemented, would create an additional leverage tool to get the Sandinistas to democratize.

Another, even more worthy organization, is already in existence. The Central American Bank for Economic Integration as founded in 1960 to promote the economic integration and balanced development of member countries.

This organization focuses most of its lending on public sector infrastructure projects and industrial development. Moreover, it recently set up a funding mechanism for nonregional countries to participate.

As a subregional bank, this organization has operated largely free of the political considerations normally associated with bilateral economic aid.

In conclusion, there are many viable, sensible, and moral alternatives to the present situation where European democracies are subsidizing totalitarian repression in Central America to the detriment of regional security and aspirations of liberty.

I urge my colleagues to support this timely measure and solicit their cosponsorship.

Thank you, Mr. Speaker.

□ 1835

THE STRUGGLE FOR HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. RITTER] is recognized for 5 minutes.

Mr. RITTER. Mr. Speaker, it is an exciting time, it is a heady time. Mikhail Gorbachev and the Soviet Communist Party have undergone a sea change in style. Media is their specialty, but those of us who have been involved in the struggle for human rights in this body are going to look below the surface. We believe very strongly that the struggle for human rights is absolutely essential in underlining their credibility, their integrity, their reliability, in other words if one cannot dissent, if one cannot comment in the Soviet Union on the state of the world, it is very hard to somehow ensure that treaties will be fulfilled and that obligations would be lived up to.

Let me describe one kind of communication that has touched me quite personally in the last several days. On Friday afternoon, late Friday afternoon, a young man in a trench coat representing the Soviet Embassy delivered a letter to my office in the Rayburn Building. The gentleman's name was Smotov. He is a third secretary of the Embassy here in Washington, DC.

The letter starts off in Russian, "Dear Congressman Ritter," then with an exclamation mark.

The letter comes from a deputy of the Supreme Soviet of the Communist Party of the Sovet Union. The letter is written by the Deputy Chairman of the Supreme Soviet, A.S. Eliseev. The letter talks about America and America's violation of human rights. The letter says that I as someone who speaks out on human rights should be concerned about the human rights violations in the United States.

What are these human rights violations? In the letter they talk about an organization called the Organization of Prisoners of Conscience which has stated that last year 10,000 Americans were arrested for political reasons.

Mr. Speaker, I checked Amnesty International and they knew of no such organization as the Organization of Prisoners of Conscience.

I checked with the Committee on Foreign Affairs, and I checked the Helsinki Commission. No one knew about this organization.

Amnesty International, incidentally, stated that as far as they knew there was not one American going by their definition of human rights violations, not one American that was in jail on the basis of a human rights issue.

What else did this letter talk about? This letter talked about four individuals in Kansas City who did damage to a Minuteman missile site and the fact that they were unfairly sentenced in that we should be looking after their well-being.

In addition, this letter talked about the case of Brian Wilson, and many of my colleagues have heard of what happened at Concord, CA, a U.S. Navy supply train carrying munitions for the Contras in Nicaragua was involved in a great tragedy with Mr. Wilson. It seems as if Mr. Wilson was certain that the train would stop, it seems as if the engineer thought that Mr. Wilson was going to get off the tracks, and a great tragedy ensued. Mr. Wilson lost both legs. That was a terrible thing. But the difference between us and them is that there was a full-scale inquiry into that issue. Members of Congress were involved in that issue, and the procedures of the Government were called into question as a result of these inquiries.

Significant changes have been made in the procedures of the Government in dealing with protesters. Indeed as I understand it, Mr. Wilson is taking his case to court.

It was a tragedy, but to say that somehow we denied the human rights of Mr. Wilson is really missing the difference between the United States of America and the Soviet Union.

We gave Mr. Wilson an open hearing. We have changed our policies. What we are concerned about is does this kind of a letter indicate that the Soviets are not taking seriously our interest in human rights in the Soviet Union?

Do they trivialize our interest in human rights in the Soviet Union?

Do they plan changes that are other than spectacular at the surface?

I say to my colleagues and those watching this special order that this is something that we need to be very much aware of in the days and weeks and months ahead. These are exciting times, these are heady times, but we must look below the media blitz. We must look below the surface to see if the Soviets indeed are interested in glasnost, openness, or glasnost meaning publicity as the Russian definition implies.

THE ACLU REPORT ON MR. MEESE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS] is recognized for 30 minutes.

Mr. **CONYERS**. Mr. Speaker, it is barely possible to pick up a newspaper these days without coming across a story questioning either the integrity or competence of the Attorney General of the United States.

It is surely not strange for the Nation's chief law enforcement officer to appear in front of a Federal grand jury. But it is expected that such appearances will be in his capacity as public prosecutor. When Mr. Meese appears before grand juries these days it is usually in the capacity of suspect or material witness.

On the very day when the select committees were issuing their historic report on the Iran-Contra affair, Attorney General Meese spent 4 more hours answering questions about his own Iran-Contra role before the grand jury convened by Independent Counsel Walsh. This was not his first appearance as a witness before the Iran-Contra jury; and according to news accounts, he has also appeared five times before the grand jury convened by special Wedtech prosecutor McKay. And just last week there were troubling reports out of Miami concerning political interference by the Department of Justice in a 1986 grand jury investigation in that city of possible violations of the Neutrality Act by Contra supporters with apparent connections to Oliver North's covert operations.

Nor does Mr. Meese fare well in the select committees report. That report not only rebukes Mr. Meese for approving the violation of laws and regulations governing covert operations and arms sales to Iran, but also sharply questions the integrity of his conduct of the initial Iran-Contra investigation out of the Justice Department and his credibility before the select committees, where he pleaded lack of recollection some 340 times.

Furthermore, as the Nation's chief law enforcement officer and self-identified legal adviser to the President, Mr. Meese must take the burden of blame for what the Iran-Contra report called the Reagan administration's "disdain for law."

It is no wonder that there has been a crescendo of demands for his removal from office in recent days. Even columnist James J. Kilpatrick, normally a strong partisan of the Reagan administration, has added his voice to the chorus. According to Mr. Kilpatrick:

> The Attorney General is not the brightest guy who served in that position; he had to survive an investigation of his personal finances by an independent counsel before he could take the job. Now he's up to his ears in the Wedtech affair. He's an embarrassment. Surely a good adviser would have spared his party and his president this galling humiliation.

In the wake of the Ginsburg Supreme Court fiasco, the always perceptive David Broder commented about Mr. Meese in the Washington Post:

> As a government official, he has been a disaster—a man whose narrowness of view is matched by his incompetence. His tangled personal affairs have twice earned him investigations by special prosecutors. He has been involved in a string of blunders. * * * Even by the elastic standards of this administration, this latest episode fairly shouts for Meese's resignation.

And in the New York Times, columnist John B. Oakes responded as follows to the Attorney General's protestations of innocence of criminal wrongdoing:

> He is certainly innocent in one respect. He is innocent of any awareness that the chief law enforcement officer of the United States must scrupulously avoid even the appearance of conflict of interest, evasion of the law or lethargy in enforcing it.

But now, in addition to the attacks on his competency and credibility, Mr. Meese is confronted by accusations from another quarter. The American Civil Liberties Union has prepared a 21-page report on his record as Attorney General, which concludes that his statements and policies "demonstrate pervasive hostility to the legal principles he has sworn to uphold." Reviewing his tenure as head of the U.S. Department of Justice, the ACLU finds:

> Mr. Meese's actions in matters relating to freedom of speech, integrity of the federal courts, separation of church and state, reproductive rights, rights of the accused, and civil rights enforcement pose a threat to individual liberty. His speeches demonstrate an alarming animosity toward the Bill of Rights.

The generally accepted rule is 3 strikes and you're out. Questions about Mr. Meese's competency represented strike 1. Concern about his integrity was strike 2. As the ACLU report conclusively demonstrates, he has struck out on his obligation to protect the Constitution of the United States. How much longer he will remain in the lineup is anyone's guess.

I include a copy of the entire ACLU report with these remarks:

ACLU REPORT ON THE CIVIL LIBERTIES RECORD OF ATTORNEY GENERAL EDWIN MEESE, SEPTEMBER 1987

The American Civil Liberties Union Petition to the President was circulated in late 1986 and early 1987. It calls for the removal of Edwin Meese from the position of Attorney General and charges that Meese, "though appointed to the post of Attorney General for the express purpose of upholding the Constitution and the Bill of Rights . . . has instead both failed to enforce the laws of the United States and used the power of the Federal Government to take away established constitutional freedoms." Nearly 200,000 Americans have signed the petition.

This report documents and supplements those charges and the six detailed "counts" in the Petition relating to freedom of speech, the integrity of the courts, separation of church and state, reproductive freedom, rights of the accused, and enforcement of civil rights laws.

A small portion of the evidence in each of these areas is presented here, preceded by a general look at Mr. Meese's approach to his obligations as Attorney General.

OVERVIEW

Mr. Meese's use of the bully pulpit as Attorney General to expound his extraordinary view of the Constitution, along with his actions in specific areas of public policy, demonstrate pervasive hostility to the legal principles he has sworn to uphold.

While any citizen has a First Amendment right to speak his mind, Mr. Meese's speeches, as Attorney General, reveal an animosity toward the very idea of the Bill of Rights that is, to put it mildly, alarming. Many of these speeches have drawn widespread criticism for being seriously misinformed and for advocating views which, if acted upon, would seriously erode constitutional protections.

Analyzing the Attorney General's views in a report requires care since, in the face of intense criticism, Mr. Meese has often drawn back from his original formulations to ones which, while still debatable, are more intellectually respectable. One cannot be sure which is the real Edwin Meese, nor whether it is proper to attack what he originally said without taking into account the reformulations offered by him and his staff. Nonetheless, it appears fair to say that Mr. Meese's original statements probably represent his views, while the reformulations that often follow represent strategic withdrawals.

In any case, it is surely appropriate for critics to attack Mr. Meese's original statements. As Attorney General, Mr. Meese has an obligation to think through what he says before, and not after, speaking publicly. In most cases, it is the original story that gets public attention and that conveys a strong position. The corrections and rewriting never catch up with the first story.

Mr. Meese's attack on the doctrine that what the Supreme Court says is the law of the land—both what he first said and his later corrections—illustrates both the extreme nature of the Attorney General's views as well as the way in which he shifts his position in the face of criticism.

In the prepared text of "A Bicentennial Lecture" on "The Law of the Constitution" delivered at Tulane University on October 21, 1986, Mr. Meese denied that a Supreme Court decision interpreting the Constitution establishes a "'supreme Law of the Land' that is binding on all persons and parts of the government, henceforth and forevermore." Rather, he said, the decision "binds the parties in a case and also the Executive branch for whatever enforcement is necessary." [1]

Mr. Meese went on to explain what he meant by attacking the holding of the Supreme Court in a case called *Cooper* v. *Aaron*. Mr. Meese asserted that "the logic of *Cooper* v. *Aaron*, was, and is, at war with the Constitution, at war with the basic principles of democratic government, and at war with the very meaning of the rule of law."[2]

In a press release assailing the speech as "an invitation to lawlessness and a breach of constitutional duty to uphold the law," Ira Glasser, ACLU Executive Director, explained what *Cooper* v. *Aaron* was, in fact, all about:

"Back in 1954 the Supreme Court ruled, in a case involving the schools of Topeka, Kansas, that racial segregation in public schools violated the Fourteenth Amendment to the United States Constitution.

"A few years later, defiant public officials in Little Rock, Arkansas, refused to let black children enter the public schools. Led by Gov. Orval Faubus, they refused to obey the Supreme Court's ruling, on the flimsy ground that the case only applied to Kansas. President Eisenhower was forced to send troops to Little Rock to protect the rights of black children against this lawlessness. And in 1958, the Supreme Court ruled that its decision in 1954 was the law of the land and that defiant Southern officials were bound to obey it. It is this decision that Mr. Meese has singled out for attack."[3]

Mr. Glasser went on to note that, of course, one has a right to disagree with a decision publicly, to ask the Court to reconsider it, to distinguish other cases on the facts, or to advocate a constitutional amendment. However, until the decision is overruled, he noted that it is the supreme law of the land and that governors and attorneys general are obligated to enforce it throughout the land and not just against the parties in the case.[4]

In response to that attack on his position from a number of quarters in addition to the ACLU, Mr. Meese conceded that Supreme Court decisions bind not only the parties to the case but all lower federal courts and state courts. He conceded also that "it would be highly irresponsible" for executive branch officials not to conform their behavior to the decision. Nonetheless, he defended the speech and did not clarify his position on the constitutionality of Governor Faubus' defiance of the supreme law of the land.[5]

On other occasions and in other forums, Mr. Meese has spoken as carelessly about other important constitutional issues. These include:

An attack on the *Miranda* decision requiring the police to inform those in custody of their rights before they are questioned. In an interview in U.S. News and World Report, the Attorney General stated, in explaining his opposition to the *Miranda* decision, that "[i]f a person is innocent of a crime, then he is not a suspect."[6] Without denying that the quote was accurate, Mr. Meese later claimed to have been misunderstood.[7]

He did not, however, retract other parts of his answer which demonstrated a lack of understanding of the history of police abuse of innocent persons, a history that led to the *Miranda* decision in the first instance and explains the general support for the requirements of the decision in the police community.

The Attorney General explained his opposition to *Miranda* as follows:

"The *Miranda* decision was wrong. We managed very well in this country for 175 years without it. Its practical effect is to prevent the police from talking to the person who knows the most about the crime—namely the perpetrator. As it stands now under *Miranda*, if the police obtain a statement from that person in the course of the initial interrogation, the statement must be thrown out of the trial. Therefore, *Miranda* only helps guilty defendants. Most innocent people are glad to talk to the police. They want to establish their innocence so that they're no longer a suspect."[8]

It is difficult to imagine a statement less respectful of the presumption of innocence, a basic premise of the American judicial system.

An attack on the doctrine of incorporation. As Justice John Paul Stevens has written for a nearly unanimous Supreme Court, it is now well settled that the Fourteenth Amendment to the Constitution incorporates the Bill of Rights as restrictions on state action as well as on actions of the federal government.[9] Yet the Attorney General continues to attack the doctrine and to suggest that it is one of those Supreme Court decisions that is not the supreme law of the land.[10] If Mr. Meese's view were to prevail, the states would be free to abolish freedom of the press, to establish a religion, and to enter homes without a warrant, notwithstanding the Bill of Rights.

Support for the doctrine of "original intent." Like other of Mr. Meese's ideas, this view contains an element of truth. Most people would agree that the courts should seek to determine the original intention of the framers and take that into account in determining the meaning of the Constitution in the current period. Where the Attorney General differs from his critics is in whether the courts can look at other factors as well. Mr. Meese at times appears to be saying that they cannot. His attack on the notion of a living Constitution embodying basic principles to be applied to current facts and situations seems, however, to be entirely outcome determined. Thus, he has not been heard to attack decisions of the Supreme Court that narrow the reach of the Fourth Amendment and ignore its original intent so as to give greater powers to the police in areas such as stop and frisk and the search for "Mere evidence."[11] Here again, Mr. Meese's views on original intent appear to reflect a pervasive hostility to particular rights, and are invoked only to undermine those rights.

Appeals to private citizens to do that which the government is barred from doing under the Constitution. Mr. Meese has not articulated this as a general principle, but on one recent occasion he called for private action in a situation where government action would have run afoul of the Constitution. He called on private employers urging them to spy on their employees, including at the neighborhood pub, to determine if they were taking drugs.[12] This move led many commentators to conclude that the Attorney General has no understanding of the right of privacy.[13]

It is against the background that one needs to examine and understand the importance of the specific charges contained in the ACLU petition.

THE SPECIFIC CHARGES

As noted above, the ACLU petition relates to: (1) freedom of speech; (2) integrity of the courts; (3) separation of church and state; (4) reproductive rights; (5) rights of the accused; and (6) enforcement of civil rights laws. Each is discussed in turn.

The charges against Mr. Meese and the supporting facts follow.

COUNT NO. 1—ATTACKS ON FREEDOM OF SPEECH AND THE FIRST AMENDMENT

The Charge.—Edwin Meese has launched an aggressive campaign to silence dissent and to control what Americans see and hear, calling for unprecedented restrictions on our right to freedom of speech and freedom of the press. Specifically:

1-a. He is actively supporting congressional efforts to gut the Freedom of Information Act, thereby restricting the amount of government information available to the public.

Facts.—The Reagan Administration has consistently sought enactment of amendments to the FOIA that would give agencies greater authority to deny public access to government records and that would increase the costs and delays of FOIA requests.[14] While continuing the Justice Department's lead role in this effort, Attorney General Meese, in his handling of FOIA litigation and fee waivers, has persisted in enforcement of Department policies that have been criticized in Congress and the press as reversals of prior Executive branch interpretations and as violations of both the letter and spirit of the law.[15]

1-b. He named and guided a government Commission on Pornography which has called for sweeping restrictions on constitutionally protected speech.

Facts.—Edwin Meese approved the formation of the Commission and named its members in May 1985.[16] A majority of the members had indicated opposition to pornography before they were appointed.[17] Despite periodic public criticism of the Commission's procedures, Mr. Meese did not alter the manner in which it examined the topic.

Not surprisingly, then, and despite lip-service respecting "constitutional guarantees," the Commission recommended not only increased use of existing obscenity laws, but also creation of new law enforcement mechanisms directed toward sexually-explicit material.[18] Although the Commission's objectivity, its procedures, and its recommendations have by now largely been discredited, Mr. Meese has embraced many of its most radical proposals, including the creation of broad forfeiture statutes; a crackdown on sexually-explicit communication over telephones, computers, and cable television; the creation of a national obscenity task force within the Justice Department; and radical new record-keeping requirements for producers, distributors, and even retailers of sexually-oriented material.[19]

1-c. In 1983 he initiated a proposal to impose lifetime censorship agreements on government workers and then, as Attorney General, continued to urge the use of such agreements to inhibit debate and dissent.

Facts.—Despite the White House promise in 1984 to postpone indefinitely and implementation of the "secrecy agreement" requirements of President Reagan's National Security Decision Directive-84, an idea promoted by Mr. Meese at the time, the Attorney General has condemned reporters who use leaked information, likening them to receivers of stolen property, and has permitted agencies to continue to force thousands of federal employees to sign lifetime secrecy agreements similar to those that the White House told Congress would not be put into effect without further notice to Congress.[20]

COUNT NO. 2—UNDERMINING THE INTEGRITY AND INDEPENDENCE OF THE FEDERAL COURTS

The Charge.—Edwin Meese has challenged the judiciary's legal responsibility to act as independent arbiter of the Constitution and has tried to stack the federal courts with judges opposed to the enforcement of the Bill of Rights. Specifically:

2-a. He has supported congressional proposals to revoke the power of the federal courts to rule on certain controversial issues, because their decisions conflicted with his view of the Constitution;

2-b. He has brought legal actions to restrict federal court remedies for civil rights violations and he has supported legislation to close these courts entirely to certain civil rights lawsuits.

Facts.—

Federal Courts' Jurisdiction

Mr. Meese has supported congressional proposals to revoke the power of the federal courts to rule on certain controversial issues because their decisions conflicted with his view of the Constitution. The Administration has tried to convince Congress that under Article III, section 2, of the Constitution, which allows Congress to institute a court system and regulate (and make exceptions to) the appellate jurisdiction of the Supreme Court, the Congress can decide what constitutional issues these courts will decide.[21] The Administation has tried to "strip" the federal courts of authority to decide issues in the areas of abortion, school prayer and busing.

This effort to strip jurisdiction from federal courts and his antagonism to certain constitutional rulings has as its foundation Mr. Meese's philosophy of "federalism," which was known as "states rights" when it was used extensively by opponents of the civil rights movement.

Consistent with this philosophy, Mr. Meese has supported legislation that would strip the federal courts of authority to adjudicate litigation involving busing of students to remedy past intentional segregation, school prayer and abortion.[22] In fact, Mr. Meese considers these areas to be some of the most important priorities of the Reagan Administration. Most of all, he would like to leave to the states the issues of abortion reform and prayer in the schools.[23] This effort must be seen together with his suggestion that the Bill of Rights ought not to apply to the States and with his suggestion that Supreme Court decisions need not be obeyed by state officials. Taken together, these positions describe a strategy designed to undermine certain constitutional rights.

Federal Remedies

With his enormous power first as counselor to the President and now as Attorney General, Mr. Meese has advocated a broad program to roll back the civil rights victories of the last 30 years. He has pursued this agenda vigorously in the area of a woman's reproductive freedom. He has been energetic in trying to close the doors of federal courtrooms to those who have been discriminated against by recipients of federal financial assistance, local governments with segregated schools, and private and public employers.

At his first press conference as Attorney General, Mr. Meese attacked busing as a remedy for international school segregation.[24] Under Mr. Meese, the Justice Department has not once brought a case asking for the transportation of students to remedy the discrimination resulting from past illegal acts.

Furthermore, William Bradford Reynolds, one of Mr. Meese's closest aides, has written many school districts urging them to void desegregation plans which they had entered into as a result of lawsuits.[25]

Throughout this time, Mr. Meese was challenging affirmative action plans in many factual contexts. His hopes of ending affirmative action were shattered in the 1985-86 Supreme Court term in the cases of *Wygant* v. *Jacobson, Local 28 of the Sheet Metal Workers International Association* v. *EEOC* and *Local Number 93, International Association of Firefighters AFL-CIO* v. *City of Cleveland*. The use of affirmative action to eradicate the effects of past racial discrimination was firmly supported. In Wygant the Court announced standards covering government affirmative action plans which authorize substantial affirmative action in the area of hiring and promotion but place greater restriction on affirmative action plans involving lay-offs.[26] Similarly, in Firefighters and Sheet Metal Workers the Court [26] upheld strong affirmative action plans including goals designed to remedy the impact of past discrimination, clearly rejecting the Administration's views.[27]

Mr. Meese has also supported legislation to close the doors entirely to certain civil rights lawsuits. He has supported legislation that would limit the jurisdiction of federal courts in ways that would severely diminish the ability of the courts to redress legitimate grievances.

2-c. He has advocated the use of "judicial litmus tests" to weed out qualified candidates for federal judgeships who refused to support his views on constitutional issues.

Facts.—Mr. Meese has tried to pack the federal courts with judges opposed to the enforcement of the Bill of Rights. Despite frequent denials, he has used the equivalent of a "judicial litmus test" to put on the bench those people who support his views on the Constitution, whether they are qualified or not. Potential nominees who do not pass the litmus test will not be nominated no matter how qualified they are.[28]

One of Mr. Meese's first actions as Attorney General was to announce that he would actively seek to appoint judges to the federal bench who believe in "the sanctity of human life" (i.e. oppose abortion).[29] Apparently, in his view, some "moral theories" are more welcome in the courtroom than others.

In one instance, a highly qualified attorney, Andrew Frey, a former Deputy Solicitor General, did not receive a nomination because he had made a contribution to the National Coalition to Ban Handguns. Similarly, Judith Whittaker, an attorney with outstanding academic credentials and an impressive employment history, was blocked because she contributed to efforts to pass the Equal Rights Amendment.[30]

On the other hand, Mr. Meese supported the appointment of Daniel Manion, to a seat on the 7th Circuit Court of Appeals. Mr. Manion had a singularly unimpressive academic and professional history, but he had conservative credentials and was the son of a prominent conservative radio commentator.[31] Mr. Meese also supported the appointment of Jefferson Sessions, to be a U.S. District Judge for the Southern District of Alabama. Mr. Sessions, through his largely unsuccessful prosecution of black civil rights activists as U.S. Attorney and through numerous remarks to his colleagues in the U.S. Attorney's office, demonstrated a resistance and opposition to civil rights litigation.[32]

COUNT NO. 3—VIOLATING THE SEPARATION OF CHURCH AND STATE

The Charge.—In a direct attack on First Amendment prohibitions against state-sponsored religion, Edwin Meese has marshaled the powerful forces of the Justice Department to turn the government into a promoter of religion. Specifically:

3-a. In a recent case challenging the government's determination to spend taxpayer money on teacher salaries in religious schools, he argued that the Constitution does not prevent the government from giving direct financial aid to religion.

Facts.—In *Grand Rapids School District* v. *Ball*, the Supreme Count examined the constitutionality of full time employees of the public school system providing classes of "remedial" and "enrichment" education in classrooms located in and leased from private, primarily sectarian religious schools. The court concluded that this program violated the Establishment Clause of the First Amendment because teachers could become intentionally or inadvertently involved in inculcating particular religious beliefs, it could provide a symbolic link between government and religion, and it could have direct effect of promoting religion by providing a subsidy to the primary religious mission of the institutions affected.[33]

The Justice Department filed an *amicus* brief on the side of the school district in this case, arguing that the state action did not violate the Establishment Clause.

3-b. He joined with right wing members of Congress in trying to amend the Constitution to allow teacher-led prayer sessions in public schools, and with the State of Alabama when it sued to force public school students to observe a "moment of silence" for prayer.

Facts.—May 1982, when Mr. Meese served as Counselor to the President, the White House announced support for a constitutional amendment which would have stated: "Nothing in the Constitution shall be construed to prohibit individual or group prayer in public schools and other public institutions. No persons shall be required by the United States or any state to participate in prayer."[34] A statement prepared by the Justice Department explained that the intent of the amendment was to "reverse the effect of *Engle* v. *Vitale* and *Abington School District* v. *Schempp*, which held that it is an impermissible 'establishment of religion' . . . for a state to foster group prayer or Bible readings by students in public schools."[35] As drafted, this would have permitted government officials at the state or local level to choose or even compose prayers to be recited in public school classrooms. Although the amendment failed to garner the two-thirds support required for Senate passage, the White House engaged in vigorous advocacy for the proposal.[36]

In addition, the Administration joined Alabama in the case of *Wallace* v. *Jaffree*, where a parent had challenged the constitutionality of a state statute creating a period of silence for "meditation or voluntary prayer."[37] A majority of the Supreme Court found that the legislative history of the Alabama statute clearly demonstrated that its purpose was to return organized prayer to public schools, and that the state had presented no evidence of any secular purpose. It was, concluded the Court, "intended to convey a message of state-approval of prayer activities in the public schools." [38]

COUNT NO. 4—LEADING A CAMPAIGN TO REPEAL A WOMAN'S RIGHT TO REPRODUCTIVE FREEDOM

The Charge.—Mr. Meese argues that the federal and state governments have unlimited power to restrict abortion and dictate a woman's most private reproductive decisions. Specifically:

4-a. He attacked *Roe* v. *Wade*, which prevents the government from restricting freedom of choice on abortions, and said it was "wrongly decided and ought to be overturned." This year he argued that states should have the right to make abortion a crime.

Facts.—Mr. Meese has often publicly attacked *Roe* v. *Wade*, including in speeches to the American Bar Association.[39] The Justice Department brief in the case of *Thornburgh* v. *American College of Obstetricians and Gynocologists*, 106 S. Ct. 2169 (1986), filed while he was Attorney General, called upon the Court to reverse *Roe* and permit states to make abortion a crime.[40]

4-b. He has supported legislative efforts to strip the federal courts of their right to hear abortion cases, and has supported federal legislation to amend the Constitution to take freedom of choice away from women.

Facts.—In 1973, the Supreme Court held in *Roe* v. *Wade* that the constitutional right to privacy was "broad enough to encompass a woman's decision whether or not to terminate a pregnancy." [41] Mr. Meese has been an implacable foe of that decision and has sought to frustrate the right to choice in every available forum. While he served as Counselor to the President during Mr. Reagan's first term, the White House supported both a constitutional amendment to ban abortion and a controversial "Human Life" statute proposed by Senator Jesse Helms (R-NC).[42] That bill, S. 158, made congressional findings that human life began at conception and stripped the federal courts of their justification to grant injunctions or declaratory judgments in response to state laws limiting the right to reproductive choice.[43] The plainly unconstitutional purpose of the bill was to invite states to enact draconian anti-abortion laws and then obstruct federal judicial protection of the constitutional right recognized in *Roe* v. *Wade* and its progeny.[44]

Since becoming Attorney General in 1985, Meese has made criticism of the Roe decision and the Court that spawned it the hallmark of his administration. In increasingly vituperative public attacks, Mr. Meese called the decision "wrongly" decided" and linked it to the notorious Dred Scott case, which upheld slavery.[45] He has characterized the case as resting on "a logically cracked and politically precarious foundation," [46] and in remarks before the American Bar Association attacked lawyers and judges who support the decision, presumably including the seven Supreme Court Justices who were the majority in *Roe* v. *Wade*, as "ideological lobbyists" and "political power brokers." [47]

In the same speech, he suggested that federal judges have "transform[ed] their courtrooms into mini-legislatures . . ." which are "perceived less as defenders of constitutional rights than as expositors of moral theories." [48]

Last year, the Justice Department filed an unsolicited amicus brief in the Supreme Court in Thornburgh urging the Court to overturn *Roe* v. *Wade*.[49]

The Justice Department's Thornburgh brief argued that the basis for *Roe* v. *Wade* was "so far flawed and is such a source of instability that this Court should reconsider that decision and on reconsideration abandon it".[50] While the brief purported to be a modest plea to "return the law to the condition in which it was before the [1973] case was decided," it was in fact a sweeping and highly political call for State's rights.[51] As Attorney General Meese explained the government's position:

"The judicially created right to privacy and the attendant right to choose an abortion should not take precedence over the clear constitutional reservation of power to the states to make those determinations as to public health and welfare" [52].

COUNT NO. 5—CHALLENGING KEY CONSTITUTIONAL RIGHTS OF THE ACCUSED

The Charge.—Mr. Meese has tried to make his personal prejudice that "only the guilty are suspects" the law of the land. In so doing, he has undermined the principle of "innocent until proven guilty" that protects us all. Specifically:

5-a. He has denounced and urged the Supreme Court to abolish the "Miranda Rule"—which protects individuals in police custody by requiring that they be informed of their rights prior to questioning. He has urged Congress to pass legislation to substantially limit the Rule despite the fact that it is working and most police departments do not object to it.

Facts.—Attorney General Edwin Meese has been one of the most persistent critics of the 1968 Supreme Court decision in *Miranda* v. *Arizona*.

That decision prohibited the use of statements taken from a person in police custody unless certain warnings were provided. The Court simply required, as a matter of elementary fairness derived from the Bill of Rights, that prior to questioning in custody:

"The person must be warned that he has a right to remain silent, that any statement he does make may be used against him, and that he has a right to the presence of an attorney, either retained or appointed."[53]

Miranda acts as both a check on coercive police practices and a reminder of the Fifth Amendment protection against self-incrimination. Its use is now widely accepted and even supported by law enforcement officials. Last June, on the 20th anniversary of the decision, Gerald Arenberg, the executive director of the National Association of Chiefs of Police, said:

"I haven't heard that many complaints from officers about Miranda. One of the basic duties of a police officer is to support and defend the constitutional rights of citizens. Very few people have walked away because they have not been read their rights. A confession itself will not send anybody to prison."[54]

The definitive study on the impact of Miranda, completed by the General Accounting Office in 1979, eleven years after the decision, shows that fears that it would handcuff police were groundless. The GAO found that criminal dockets of 38 United States Attorneys showed that only 4.4 percent of defendants filed motions to exclude confessions and in only 1.3 percent of all cases was evidence actually excluded.[55]

Miranda has fallen into the mainstream of police practice. In fact, several state courts have used state constitutional grounds to extend Miranda beyond the current holdings of the Supreme Court.[56]

In spite of this evidence, the Attorney General has mounted a campaign to attack Miranda. In August 1985 during a televised interview he called the decision "infamous."

Q: Mr. Meese, you just said that you thought that the Miranda case was "infamous," I believe. Do you regard that ruling as infamous?

MEESE: Yes, I think so. I think the idea that the police cannot ask questions of the person that knows most about the crime is an infamous decision. I think it's a wrong decision. I think that if a person doesn't want to answer, that's their right, but you have had, time after time you've had all these ridiculous situations in which the police are precluded from asking the one person who knows the most about the crime what happened.[57]

Again, in October 1985, he expanded on this view in a way that was profoundly revealing of his notions of the legal process.

Q. You criticize the Miranda ruling, which gives suspects the right to have a lawyer present before police questioning. Shouldn't people who may be innocent have such protection?

MEESE. Suspects who are innocent of a crime should. But the thing is, you don't have many suspects who are innocent of a crime. That's contradictory. If a person is innocent of a crime, then he is not a suspect.[58]

In June 1985 he again assailed the doctrine as radical and infamous and called for it to be done away with, gotten rid of, and abandoned.[59]

On January 22, 1987 Mr. Meese expressed his support for a staff report dated February 12, 1986, which stated that Miranda should be overruled.[60] A high Department of Justice official indicated that the Administration still had two years to find the right case to bring to the Supreme Court to overrule Miranda.[61] The report states that overturning Miranda would be among the most important achievements of this Administration.[62]

The report contains many errors in legal empirical research. Its main thrust is the claim that Miranda has resulted in fewer confessions, but it does not discuss more recent and thorough studies that show that convictions have not been affected significantly by Miranda.[63]

Perhaps the most troublesome aspect of the report is its proposed substitute for the Miranda warning. The substitute would not let the accused know he or she was entitled to consult an attorney. Also, the substitute would state that silence by the accused could be used in a court of law.[64] These two provisions are grave threats to the Fifth Amendment right against self-incrimination and the Sixth Amendment right to counsel.

Not only does Mr. Meese misrepresent what the Miranda decision requires and what the results have been, but he also betrays a belief that persons detained and questioned by the police are by definition guilty. This belief is absolutely at odds with the theory which underlies all of our legal system—that accused persons are innocent until proven guilty. While such a misunderstanding is regrettable when held by any person, it is alarming when enunciated by the Attorney General of the United States.

The crux of the Meese argument is that while the Constitution requires that accused persons have the right to remain silent in the face of police questioning, it does not require that they be informed of this right, thus allowing government to take advantage of their ignorance.

The poverty of this argument was made clear by Justice Arthur Goldberg in his opinion in *Escobedo* v. *Illinois*:

"No system worth preserving should have to fear that if an accused is permitted to consult with a lawyer, he will become aware of, and exercise, these rights. If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system." [65]

5-b. He has weakened and sought to abolish the "Exclusionary Rule," which protects us from unlawful searches and seizures by making evidence obtained in violation of the Constitution inadmissible in court.

Facts.—Since *Weeks* v. *United States*, in 1913, the Supreme Court has enforced the Fourth Amendment through the Exclusionary Rule—if evidence is obtained in violation of the Fourth Amendment, the evidence cannot be admitted in the prosecution's case.[66] *Mapp* v. *Ohio* (1961) applied the Exclusionary Rule to the states.[67] Mr. Meese has taken every opportunity to oppose the Exclusionary Rule and (by implication) strong enforcement of the Fourth Amendment.

Mr. Meese's Department of Justice supported S. 237 in the 99th Congress.[68] This bill, introduced by Senator Strom Thurmond, would have eviscerated the Fourth Amendment.

S. 237 had two parts. First, it would have made any evidence admissible if the officer obtaining the evidence undertook the search or seizure in a reasonable, good faith belief that it was in conformity with the Fourth Amendment even if there were no warrant. A second section showing that evidence was obtained pursuant to and within the scope of a warrant would be prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation.[69]

The bill would have reversed the legal system's preference for a warrant. Police would have had little need to go before a magistrate.

There are more warrantless searches now than there are warrant searches. Under the Meese-endorsed bill, the warrant searches could be expected to diminish greatly.

What would be left of the Fourth Amendment if such a law passes? Not much. If police officers obtain a warrant, the evidence is admissible even if the judge makes a mistake as to the existence of probable cause, or as to the description of the person or thing to be searched. As long as the police make no deliberate falsehood, the evidence will be allowed.

In warrantless cases, anything goes. If the policeman reasonably believes that he is in conformity with the Fourth Amendment, the evidence is admissible.

5–c. He has supported legislation to restrict the historic writ of Habeas Corpus, which federal courts use to overturn unconstitutional state court decisions.

Facts.—Edwin Meese is a long-standing and vigorous critic of the federal courts' jurisdiction, established during Reconstruction, to ensure compliance with the Bill of Rights in state criminal cases by entertaining petitions for the writ of habeas corpus.[70] Rooted in the original Constitution, which in turn was the heir to centuries of English law, the habeas statute was intended to bring within its jurisdiction "every possible case of privation of liberty contrary to National Constitution treaties, or laws."[71] Over the past thirty years, federal habeas corpus has become the principal enforcement vehicle for giving concrete meaning to the Bill of Rights.

Since becoming Attorney General, Edwin Meese has sought to undermine public confidence in the writ wherever possible. For example, in a speech before the 7th Circuit Judicial Conference, he characterized the writ of habeas corpus as a "recreational" activity designed to harass federal authorities,"[72] He has further suggested that the practice of granting writs of habeas corpus has "gotten to be quite a game" among federal judges. "In some cases, all it's done is provide a bus ride from the penitentiary to the courthouse."[73]

The Attorney General is a principal proponent of legislation that would deny state prisoners the right they now have under the habeas statute to litigate their federal constitutional claims at least once in a federal court.[74] That bill would among other things, establish an inflexible one year statute of limitations and bar federal consideration of constitutional claims that were fully reviewed in state court. The bill would not, as the Attorney General claims, cut off repetitive and frivolous petitions and "preserve the great writ for appropriate cases."[75] Rather, it would foreclose access to the writ for concededly valid claims. As the American Bar Association testified before the Senate Judiciary Committee, "Because under the bill the correct legal result is unnecessary to a preclusion . . . Federal constitutional rights as previously determined by the Supreme Court or federal courts of appeal may be violated and individuals left without recourse."[76]

Attorney General Meese's disaffection with habeas corpus is closely related to his views on the substantive constitutional claims that habeas petitioners raise and to his unfettered zeal for States' rights. When state power and the Bill of Rights collide, Mr. Meese unwaveringly chooses state power. When a forum is required to resolve a conflict between the two, he believes that the "federal courts have no inherent superiority in their ability to do justice in these cases that raise constitutional questions, and [therefore] we should be unafraid to repose the resolution of these cases in state courts.[77]

Edwin Meese's distaste for habeas corpus is particularly evident in death penalty cases. The unique finality of those cases obligates society to assure that a capital defendant receive a fair chance to present all available defenses. The lower federal courts sitting in habeas provide the primary mechanism for insuring that the procedural safeguards required by the Constitution before the death penalty may be imposed are understood and observed. The Meese Justice Department views habeas petitions in death penalty cases as little more than dilatory tactics and has opposed efforts to amend the proposed habeas legislation to assure that people are not executed in violation of current Eighth Amendment standards. In correspondence with the Judiciary Committee, the Justice Department ridiculed a proposed amendment to provide counsel for death penalty petitions as "federal funding of dilatory litigation in capital cases."[78] Similarly, an amendment that would have exempted death penalty petitioners from some of the procedural strictures of the statute was characterized as "[f]acilitating the obstruction of capital punishment."[79]

COUNT NO. 6—FAILURE TO ENFORCE THE CIVIL RIGHTS LAWS OF THE UNITED STATES

The Charge.—Mr. Meese has led a government campaign to roll back the civil rights gains of the 1960's and 1970's by trying to undermine, and by failing to enforce, antidiscrimination laws supported by every President, Republican or Democrat, for twenty years. Specifically:

6–a. He opposed the Voting Rights Act Amendments of 1982 which outlawed intentional discrimination, as well as practices that result in discrimination, in violation of the Constitution. Now, under his leadership, the Justice Department has become a major obstacle to the Act's enforcement.

Facts.—The Justice Department under Attorney General Edwin Meese has been one of the major obstacles to effective enforcement of the Voting Rights Act of 1965. The Department is engaged in a vigorous four-pronged effort to weaken the Act by attempting to:

narrow its application in court;

selectively harass and prosecute black voting rights activists;

promulgate new and harmful regulations for its implementation; and

Unilaterally change the standards for its enforcement.

Narrowing Court Application of the Act

In the first Supreme Court test of the new Voting Rights Act, *Thornburgh* v. *Gingles*, the Justice Department joined North Carolina in arguing that the provisions of the Voting Rights Act that prohibit states, cities, and counties from enacting discriminatory election laws do not apply if minorities had been able to gain minimal or token success at the polls.[80] The case arose out of a North Carolina legislative redistricting plan which the Justice Department approved but which was later found to be discriminatory by a three-judge federal panel.[81]

In making its case the Department so distorted the legislative history of the Act that a bipartisan group of ten congressional leaders, led by then Republican Majority Leader Robert Dole, took the unprecedented step of filing its own amicus brief in opposition to the Administration. Senator Dole stated that if the Court agreed with the Justice Department it would "in effect undo the compromise in the Voting Rights Act extension we in Congress and the Administration agreed on."[82]

On June 30, the Court rejected the Justice Department's argument and held that the language of the law and its legislative history "plainly demonstrate that proof that some minority candidates have been elected does not foreclose" a legal claim under Section 2 of the Act.[83]

Selective Prosecution of Black Voting Rights Activists

After years of having their complaints about white abuse of absentee voting ignored, black voters in five predominately black Alabama counties were surprised to find themselves the target of investigation after they had been successful in increasing their voter registration and electing many black officials.[84] In the process, officials of the Department of Justice and the U.S. Attorney's office condoned violations of the secrecy of black voters' ballots, spying on black voting organizations, intimidating grand jury witnesses, and ignoring complaints of white voter fraud.[85]

In November 1985, a conviction on four of twenty counts by an all-white jury (which the U.S. Attorney acknowledges was selected on the basis of race) gave the government its only success out of 210 indictments filed against eight Alabama voting rights activities in this costly and protracted assault on black voters.[86]

The American Civil Liberties Union and the Southern Poverty Law Center have brought suit against the Attorney General, his associates William Bradford Reynolds and Stephen Trott, and three U.S. Attorneys on behalf of the victims of this assault, charging the officials with violations of the First, Fifth, and Fifteenth Amendments.[87] Clearly, the goal of the Justice Department was to depress black voting and registration through intimidation and harassment of black voters and those who help them by the initiation of a massive investigation and prosecutions in bad faith. The lawsuit is pending before the 11th Circuit Court of Appeals.[88]

Promulgating Harmful Regulations

In May 1985, the Department of Justice proposed new regulations for the enforcement of Section 5 of the Voting Rights Act.[89] This section is designed to prevent governments with a history of discrimination and low voter registration from re-establishing discriminatory laws or practices affecting voting. Before any voting change can be put into effect, the Act requires that the government submit it to the Department of Justice for review to determine that it is not discriminatory.[90]

Section 5 has been the most effective tool in preventing a return to voting discrimination. Time and again it has prevented such changes from being imposed on citizens who lack the funds to defend themselves from discrimination by filing lawsuits under Section 2 of the Act.

In the new regulations the Department proposed to drastically shift the burden of proof in these submissions. Instead of the government's showing that the changes were not discriminatory, the local citizens who object to the change would have to prove discrimination, and a new more difficult standard of proof would have to be met.[91]

In addition, the regulations would allow the Department to approve changes which caused "unavoidable" discrimination.[92] No definition of what kind of discrimination was unavoidable was offered.

Over one hundred interested persons and groups, including the ACLU, commented to the Department on these changes. The vast majority objected to these sections of the proposed regulations. In November 1985 the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee held two hearings on the regulations. A critical report was issued in January 1986.[93]

On January 6, 1987 the Department issued the final Section 5 guidelines. While considerably improved from the original proposal, the guidelines have several problem areas including a new loophole which allows a judge to order into effect an unapproved voting change when an "emergency" exists, thus encouraging jurisdictions to wait until the last moment to enact voting changes and thus escape scrutiny.

Changing the Standards for Enforcement of the Voting Rights Act

Even more harmful than the proposed changes in regulations discussed above are changes in enforcement of the Act which have been made unilaterally by the Justice Department.

In August 1986, Mr. Reynolds announced to a group of political scientists that the Department will no longer consider whether a proposed voting change has a discriminatory result before allowing it to go into effect. Instead, the Department will consider only whether the change was prompted by a discriminatory intent or causes minorities in a community to "retrogress" or move backward. According to Mr. Reynolds, the Department had been following this new guideline for the last twelve months.[94]

Such a policy is a clear violation of the legislative history of the Voting Rights Act, previous acts of the Justice Department, and statements made by Mr. Reynolds himself to the U.S. Senate as recently as June 1985.[95]

In fact, Mr. Reynolds had set out the reasons why the Department needs to examine discriminatory effects before allowing voting changes to go into effect in a letter to Senator Orrin Hatch:

"Just as the Division [of the Justice Department] is not required first to preclear a voting change and then subsequently challenge its constitutionality in court, neither could Congress have intended so wasteful and inefficient a course to be followed . . .".[96]

The net effect of such a change is that the Department is now allowing voting practices which discriminate to go into effect, thus forcing individual citizens to file suit to have them struck down. The effectiveness of the preclearance requirement has been neatly subverted by this change.

6-b. He has used his authority as Attorney General to support and expand the right of colleges that practice discrimination to receive federal funding.

Facts.—Mr. Meese was instrumental in fashioning the Administration's position in *Grove City College* v. *Bell*, a 1984 decision that is disastrous for civil rights.[97] Before Grove City, if an institution received federal money, it had to abide by laws that prohibited race, sex, national origin and handicap discrimination throughout the institution. The federal agencies disbursing the money were responsible for assuring that recipients did not discriminate.

After the Grove city decision, only the narrowly defined "program or activity" that engages in discrimination is now barred from receiving federal funds.[98] Dozens of court cases have been dismissed since Grove City because the Department of Education found that it had no jurisdiction. For example, the claim of a psychiatry student at Temple University's School of Medicine, who said that her professor had given her a failing grade because she resisted the professor's sexual advances, was dismissed because, while the University receives millions in federal funds, the professor receives none of it.[99] Federal agency enforcement of civil rights laws has ground to a halt.

6-c. He has repeatedly urged the President to revoke a 20-year-old Executive Order which promotes minority employment in the Federal Government, and attempted to withdraw Justice Department support for over 50 similar agreements with states and local governments.

Facts.—

The Attack on Executive Order 11246

In August 1985, the Washington Post and the New York Times reported an attempt by Attorney General Edwin Meese to overturn Executive Order 11246.[100] The 20-year-old law prohibits companies that do business with the federal government from discriminating in their employment practices and requires them to take affirmative action to increase employment opportunities for women and minorities. The law has been instrumental in ending discrimination that has served as a barrier to equal employment opportunities for women and minorities. The proposed changes in Executive Order 11246 would have undermined federal efforts to eradicate the discriminatory exclusion of women and minorities from certain jobs in contractor work forces. The proposal would have prohibited the federal government from requiring federal contractors to set goals and timetables; discouraged federal contractors from voluntarily setting goals and timetables; prohibited the government from considering statistical evidence of discrimination which would ordinarily be considered by a court; and restricted the type of discrimination covered by the Executive Order.[101] Reports of the new proposal touched off a storm of protest inside and outside the Reagan Administration. A majority of the President's Domestic Policy Council as well as nearly 200 members of Congress went on record urging the President to reject attempts by Meese to overturn Executive Order 11246.[102]

Despite substantial opposition, Mr. Meese continued to press publicly and privately within the White House for major changes which would have gutted the Executive Order Program.

The Attack on State and Local Consent Decrees that Contain Goals and Timetables

Shortly after the Supreme Court decision in *Firefighters Local Union* v. *Stotts*, 104 S. Ct. 2576 (1984), the Justice Department embarked on a campaign to overturn more than 50 consent decrees that had been entered into by states and localities to remedy discrimination in the public sector work forces.[103] The Department wrote each of the jurisdictions urging them to go to court to modify the consent decrees to exclude goals and timetables from the available remedies.[104] When Mr. Meese became Attorney General in 1985 these efforts continued and intensified. The efforts culminated in the Department's filing suit in several cases to overturn court approved affirmative action plans.[105] These attacks on existing consent decrees also met with strong opposition. With only one or two exceptions, states and localities refused to abandon affirmative action plans that were settled and working well.[106]

Conclusion

Mr. Meese's actions in matters relating to freedom of speech, integrity of the federal courts, separation of church and state, reproductive rights, rights of the accused, and civil rights enforcement pose a threat to individual liberty. His speeches demonstrate an alarming animosity toward the Bill of Rights. The American Civil Liberties Union presents this report to document its charges and its call for Meese's removal and to enhance public knowledge of these facts.

NORMAN DORSEN,
President.
IRA GLASSER,
Executive Director.

FOOTNOTES

[1] New York Times, October 23, 1986, p. Al and text of speech, "The Law of the Constitution," "A Bicentennial Lecture," Tulane University, New Orleans, Louisiana, October 21, 1986 (Department of Justice Release).

[2] Ibid.

[3] ACLU press release, PR 21-86, October 23, 1986.

[4] Ibid.

[5] Washington Post, November 13, 1986, p. A21.

[6] U.S. News and World Report, October 14, 1985, p. 67.

[7] See e.g., National Journal, November 23, 1985, p. 2646; Washington Post, October 11, 1985, p. A6.

[8] U.S. News and World Report, October 14, 1985, p. 67.

[9] See e.g. *Wallace* v. *Jaffree*, 86 Led 2d, 29, 38 (1985). See also Michael Kent Curtis, No State Shall Abridge: The Fourteenth Amendment and the Bill of Rights (Durham, NC: Duke University Press 1986)

[10] New York Times, July 10, 1985. Address by Attorney General Edwin Meese before ABA, July 9, 1985 (Department of Justice Release).

[11] See e.g. *Terry* v. *Ohio*, 392 U.S. 1 (1968) and *Warden* v*Hayden*, 387 U.S. 294 (1967).

[12] Washington Post, October 31, 1986, p. A5.

[13] Washington Times, November 3, 1986, p. All; Washington Post, November 5, 1986, p. A21; Dallas Times Herald November 6, 1986, p. A18.

[14] See e.g., Freedom of Information Act: Hearings on S. 587, S. 1235, S. 1247, S. 1730, and S. 1751 Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 97th Cong., 1st

Sess. Vol. 1 and 2 (1981) (statements of ACLU, press organizations, and other public interest groups).

[15] See, e.g., The Freedom of Information Reform Act: Hearing on S. 774 Before The Subcomm. of the House Comm. on Government Operations, 98th Cong., 2d Sess. 1017-1030 (1984) (criticism of Justice Department fee waiver policy by Rep. English and Congressional Research Service, Library of Congress).

[16] Department of Justice Press Release, May 20, 1985.

[17] See e.g. Washington Post, March 30, 1983, p. C2.

[18] Final Report: Attorney General's Commission on Pornography, July 1986.

[19] Department of Justice Press Release, October 22, 1986.

[20] See e.g.; Administration Seeks a Stronger Lock on "Classified Files", New York Times, March 24, 1985, p. 5, (quoting Attorney General Meese); Information and Personnel Security: Data on Employees Affected By Federal Security Programs, GAO/NSIAD—86—189FS, September 1986 (report includes data on government employees and contractor employees required to sign secrecy agreements).

[21] "There is No Liberty", A Report on Congressional Efforts to Curb the Federal Courts and to Undermine the Brown Decision, Citizens' Commission on Civil Rights, p. 33.

[22] New York Times Magazine, October 12, 1986, p. 89.

[23] Ibid.

[24] New York Times, March 3, 1985.

[25] ABA Journal, July, 1985, p. 48.

[26] 54 U.S.L.W. 4479 (1986).

[27] Wall Street Journal, July 3, 1986, p. 3.

[28] Congressional Quarterly, November 1, 1986, p. 2729.

[29] Associated Press, March 27, 1985; United Press International April 3, 1985.

[30] The Nation, June 14, 1986, p. 818.

[31] Ibid.

[32] Nomination of Jefferson B. Sessions III, to be U.S. District Judge for the Southern District of Alabama, Hearings before the Committee on the Judiciary, United States Senate, 99th Congress, 2nd Session, March 13, 19, 20; and May 6, 1986, p. 28-29, 35, 47-48.

[33] 87 L. Ed. 2d., p. 267.

[34] S.J. Res. 73g 98th Congress, 1983.

[35] Voluntary School Prayer Constitutional Amendment: Hearings Before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate, 98th Congress, 1st Session, 1983 (statement of Edward C. Schmults, Deputy Attorney General).

[36] See e.g. Washington Times, March 20, 1984, p. 3A.

[37] Department of Justice Press Release, June 4, 1985.

[38] 86 L. Ed. 2d, pp. 29, 46, 1985.

[39] Address of Edwin Meese III, Attorney General of the United States, before the American Bar Association, Wednesday, July 17, 1985. Newsweek, July 29, 1985.

[40] Brief of the United States as Amicus Curial in Support of Appellants, *Thornburgh* v. *American College of Obstetricians and Gynecologists*, July, 1985, p.2

[41] 410 U.S. 113 (1973).

[42] See e.g. Washington Post, September 15, 1982; New York Times June 19, 1983, Sec. IV, p. 7.

[43] Ibid.

[44] Hearings before the Subcommittee on Separation of Powers of the Senate Committee of the Judiciary on S. 158, "A Bill to Provide that Human Life Be Deemed to Exist from Conception," 97th Congress, 1st Session.

[45] Reuters Ltd., September 6, 1985; Los Angeles Times, August 26, 1985. (pt. I, p. 4)

[46] Ibid.

[47] Christian Science Monitor, July 18, 1985, p. 2

[48] Newsweek, July 29, 1985, p. 60

[49] Brief of the United States as Amicus Curicel in Support of Appellants, *Thornburgh* v. *A.C.O.G.*, July 2, 1985.

[50] Ibid.

[51] Brief Amicus Curiae of Senator Bob Packwood, Don Edwards and other members of Congress in support of appellants, *Thornburgh* v. *A.C.O.G.*, August 30, 1985.

[52] Reuters Ltd., September 6, 1985 (emphasis added).

[53] *Miranda* v. *Arizona*, 384 U.S. 436, 444 (1966).

[54] Washington Times, June 16, 1986, p. A5.

[55] Comptroller General of the United States, "Impact of the Exclusionary Rule on Federal Criminal Proceedings," 1979.

[56] L. Baker, Miranda: Crime, Law, and Politics 402 (1983).

[57] Washington Post, August 28, 1985, p. 18.

[58] Washington Post, October 11, 1985, p. A6.

[59] Wall Street Journal, June 13, 1986, p. 22.

[60] Memorandum, Truth in Criminal Justice Report No. 1, The Law of Pre-Trial Interrogation. (Department of Justice) released January 1987.

[61] New York Times, January 22, 1987, p. A1.

[62] See Law of Pre-Trial Interrogation Memorandum, p. 5.

[63] Report by the Comptroller General of the United States, Impact of the Exclusionary Rule on Federal Criminal Prosecutions, (1979)

[64] See Law of Pre-Trial Interrogation, p. 106

[65] *Escobedo* v. *Illinois*, 378 U.S. 478, 490 (1964).

[66] 232 U.S. 383 (1914).

[67] 367 U.S. 643 (1961).

[68] Testimony by Stephen J. Trott, Assistant Attorney General, Criminal Division before Senate Judiciary Committee, October 2, 1985, Senate Hearing 99-211, p. 8.

[69] Ibid., p. 3.

[70] Habeas Corpus Act of 1867, 28 U.S.C. Secs. 2241-2254.

[71] Ex Parte McCardle, 73 U.S. [6 Wall] 318, 325-26 (1867).

[72] U.P.I., May 20, 1986.

[73] Associated Press, October 1, 1985.

[74] S. 238, introduced 99th Congress, 1st Session.

[75] Associated Press, May 20, 1986.

[76] Testimony of Phylis Skloot Bamberger on behalf of the American Bar Association before the Committee for the Judiciary, United States Senate, October 8, 1985.

[77] Los Angeles Times, October 1, 1985.

[78] Letter of Assistant Attorney General John R. Bolton to Honorable Strom Thurmond concerning proposed amendment to S. 238, March 5, 1986.

[79] *Ibid.*

[80] *Thornburgh* v. *Gingles*, 92 L. Ed.2d 25 (1986).

[81] Id. At 25.

[82] Human Events, September 14, 1985, p. 5.

[83] *Thorburg* v. *Gingles*, 92 L. Ed.2d 25, 62 (1986).

[84] New York Times, Sept. 30, 1985 Part I pg. 7.

[85] *Charles Smith et al;* v. *Edwin Meese III et al.* U.S. District Court for the Middle District of Alabama, Northern Division Civil Action No. 85-H-752-N

[86] Newsweek, "Vote Fraud on Trial" November 25, 1985, p. 90.

[87] *Smith* v. *Meese,* Ibid.

[88] Ibid (No. 85-7625).

[89] 28 C.F.R. part 51, "Procedures for the Administration of the Voting Rights Act of 1965, Proposed Roles," Monday, May 6, 1985.

[90] 42 U.S.C. 1973c.

[91] 28 C.F.R. Part 51, Section 51.56(c)(1).

[92] Ibid, Section 51.53.

[93] "Voting Rights Act: Proposed Section 5 Regulations," Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary U.S. House of Representatives January, 1986.

[94] Transcript of Remarks by Assistant Attorney General William Bradford Reynolds on Enforcement of Section 5 of the Voting Rights Act. Annual Conference of the American Political Science Association. Washington, D.C. August 29, 1986, p. 6.

[95] Nomination of William Bradford Reynolds to be Associate Attorney General of the United States: Hearings Before the Senate Committee on the Judiciary, 99th Cong. 1st Sess. 119 (1985).

[96] Letter to Senator Orrin G. Hatch from William Bradford Reynolds Sepetmber 21, 1983, p. 2.

[97] 465 U.S. 555 (1984).

[98] Ibid.

[99] Washington Post, March 25, 1987, p. B3.

[100] Washington Post, August 15, 1985, p. A1, A17 and New York Times, August 15, 1985, p. A1.

[101] Washington Post, March 25, 1987, p. B3.

[102] Washington Post, August 15, 1985, p. A1, A17, and New York Times August 15, 1985, p. A1.

[103] Washington Post, October 25, 1985, p. A1, A19.

[104] Time Magazine, September 9, 1985, p. 41; Wall Street Journal, October 24, 1985, p. 1; Newsweek, December 30, 1985, p. 67.

[105] Letter from Kerri Weisel, Attorney for Department of Justice to John Dacy, Assistant City Solicitor, Woburn City Hall, Woburn, Massachusetts, January 11, 1985; Letter from Mary Mann, Attorney for Justice Department to James Baker, City Attorney, City of Birmingham, Alabama dated March 20, 1985.

[106] New York Times, May 4, 1985, p. 1; Time, September 9, 1985, p. 41; Letter from Representative Peter Rodino, Jr., Chairman of Committee on the Judiciary, Rep. Don Edwards, Chairman of Subcommittee on Civil and Constitutional Rights, and Reps. Robert Kastenmeier, John Conyers, and Patricia Schroeder, to Attorney General Edwin Meese, May 2, 1985, (expressing opposition to recent efforts to overturn consent decrees).

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THE INF TREATY

The SPEAKER pro tempore (Mr. BRENNAN). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I had not planned to make any comment about the previous special order, but I do have concern that that kind of scurrilous attack on an individual without them being able to defend themselves is something that kind of bothers me. As far as I know, there has been no indictment of Attorney General Meese. There may be differences of opinion on how he should conduct himself in that office, but many of us feel like he has done a pretty good job, and so I would just say to those on the other side of the aisle who continually attack him, we could take potshots at Members on your side of the aisle who come under attack by the media, but we do not do that too often. And there are Members on that side of the aisle who have been investigated for improprieties in the Congress, improprieties in their outside activities. But we try to refrain from that kind of attack unless there is no other way to express ourselves, and it is absolutely imperative that we do so.

So I think that the attack that was just made on the Attorney General of the United States was unwarranted, especially in a special order, and I take issue with that.

Now as to my special order, Mr. Speaker, there is a lot of euphoria in the United States right now because we just signed an INF Treaty with the Soviet Union, and everybody in the country seems to be happy that we are dismantling some nuclear weapons, albeit only about 3 percent of the nuclear forces on both sides of the Atlantic and Pacific Oceans.

But the fact of the matter is many people, although not the majority, feel like it may have been a step in the wrong direction. I would like to tonight in my special order try to explain why I have reservations about the just-signed INF Treaty. It may be a post mortem on the position that I have taken and some of my colleagues have taken. Nevertheless, I feel compelled to try to explain why these reservations exist.

I wrote a letter to the Defense Intelligence Agency asking them a number of questions about Soviet capability as far as their intercontinental ballistic missiles are concerned, particularly the SS-24's and SS-25's, and I just received a response today from them which I would like to read to my colleagues who may be watching back in their offices.

Before I do that, however, I want to point out one thing. The INF Treaty provides that we are going to dismantle our Pershing II and ground cruise missiles and the Soviet Union is going to dismantle their SS-20's and some other intermediate-range missiles. They are going to eliminate about 1,400 nuclear warheads; we are going to eliminate about 400.

That sounds good. But my concern has been since the treaty was discussed initially can the Soviets cheat, can they replace INF or can they replace the SS-20's they are going to be dismantling with another generation of missile, and does it really take us back from the nuclear precipice, or does it merely weaken the free world as far as our nuclear deterrent is concerned, and does it put us in an inferior position or will it lead to an inferior position.

The SS-20's they are going to be dismantling are short- and intermediate-range weapons. The SS-24's and SS-25's that they have been building very rapidly are intercontinental ballistic missiles, so I wrote to the Pentagon, the Defense Intelligence Agency, and asked them these questions:

Can the Soviet SS-X-24 and SS-25 strategic missiles be retargeted to hit short-range and intermediate-range targets? Those are the targets that the SS-20's were going to be able to hit before we agreed to have them dismantled.

The answer from the Defense Intelligence Agency is this:

> Both the SS-X-24 and SS-25, like many of the other ICBM's which preceded them, have the technical capability of being flown to a variety of ranges. These would include flight ranges from those typical of the SS-20 IRBM up to a maximum range of around 10,000 km.

What that means simply is that if the Soviets deploy enough SS-24's and SS-25's they can hit not only the intercontinental targets that they have said that they want to hit if they launch a first strike, but they can also use those same weapons to hit the same targets that the SS-20's would have hit.

So this INF treaty that is going to cause the dismantling of the SS-20's and the Pershing II and ground cruise missiles is, in my view, going to be decidedly in favor of the Soviets, because they are building very rapidly SS-24's and SS-25's. The SS-25 is a mobile-launched ICBM with multiple warheads. It is going to be very difficult to verify, if not impossible, because it is on the back of a railroad flatcar, on rails. They can go anywhere in the Soviet Union. And it is going to be mounted on the back of trucks. It is an integral part of a truck system, so it can go anyplace in the Soviet Union and be launched on their intermediate short-range targets as well as intercontinental targets.

I asked this question:

> Considering that both of these systems are mobile, could they not be moved widely throughout the Soviet Union in order to adjust their flight range to strike targets anywhere in Western Europe or Asia?

Their answer was:

> The SS-X-24 and SS-25, both being mobile, can be moved widely in the Soviet Union as desired.

Can they be verified, can you follow them around the jungles, through the mountainous regions of the Soviet Union where they might be hidden? I do not believe so.

Question: Under existing treaties, are there any limits on the number of SS-X-24's or SS-25's the Soviets can produce or deploy?

This is the answer they gave:

> The administration has determined that the SALT I interim agreement and the unratified SALT II Treaty are behind us. Prior to that, the U.S. determined that the SS-25 was a violation of the SALT II provisions in that it was a second new type of ICBM which was prohibited. The Soviets had declared the SS-X-24 as their single permitted new type. Permitted launchers of ICBMs were constrained by the limits and sublimits of SALT II.

So they are not living up to SALT II. As a matter of fact, the President just released the annual report to Congress on Soviet compliance with arms control agreements. That report indicates the Soviets have violated every major arms control agreement that we have signed with them. They violated the ABM Treaty, the Helsinki accords, the Limited Test Ban Treaty, SALT I and SALT II.

I cannot understand why we continue to sign new agreements with the Soviet Union when they have violated almost every single agreement they have signed before, and this is going to give them, in my view, a decided advantage as far as short- and intermediate-range missiles are concerned because of retarget capability of the SS-25's.

The Soviets also misled us about other things. They have told us they were not building an SDI, a strategic defense weapons system of their own that can shoot down incoming ICBM's, which is in violation of the ABM treaty, according to them. They say it is in violation of the ABM treaty.

Over the past decade, the Soviets have spent between $150 billion and $200 billion on strategic defense, an SDI system of their own, not $150 to $200 million, but $150 to $200 billion on an SDI Program, a star wars program of their own, and yet they condemn us for wanting to do that to protect American cities.

Bear in mind, if a mistake is made, if an ICBM is launched from someplace out of the Soviet Union, say Mu'ammar Qadhafi in Libya would get an ICBM with nuclear warheads, or the Ayatollah Khomeini would get one and would launch it, there would be no way we could stop it right now if they pointed it at New York City, or at Los Angeles, or Chicago, or Indianapolis, or wherever that weapons system was pointed. In all likelihood it would hit its designated target because we do not have an umbrella, a defense system to stop it.

That is why the strategic defense system is so important, and the Soviets know that we are developing a system that is workable, and that is why they are fighting it. And it is utter hypocrisy for them to attack our SDI system when we know for a fact that they have spent $150 to $200 billion over the past decade trying to build one of their own.

Mr. Frank Gaffney was the arms control expert at the Pentagon who recently left the Pentagon. He was an assistant to Caspar Weinberger, the former Secretary of Defense, and he wrote an open letter to the President of the United States regarding the proposed INF Treaty which has now been signed and realized by the administration and by Mr. Gorbachev just yesterday. I would like to read for the American people, I wanted to do it last night but we did not have the luxury of the time to do it, but I would like to read briefly this open letter to the President from Frank Gaffney, Jr., who was the expert at the Pentagon, who was the assistant to Mr. Perle in the area of arms control agreements.

This was printed in the Washington Post on Monday, November 30:

[From the Washington Post, Nov. 30, 1987]

TAKE A TIMEOUT ON THE INF TREATY

(By Frank J. Gaffney, Jr.)

DEAR MR. PRESIDENT: In your recent moving statement accepting Caspar Weinberger's resignation, you praised your secretary of defense for his service to the country in many ways. One of the most striking to me was the recognition you extended to him for his handling of several controversies for which he has been roundly criticized by others.

I am speaking of the highly publicized revelations during Secretary Weinberger's tenure of several instances of cost overruns and other failures of the Defense Department's procurement system. Despite the fact that for most of the past seven years. Cap has been caricatured, with a $500 toilet seat around his neck, you rightly credited him with finding and fixing these problems. In thus commending Secretary Weinberger for his unwillingness to tolerate inadequate performance and unsatisfactory products where they were found, you have set an example that we all should emulate.

In this spirit, I write to express my concern that your administration and the nation may shortly become embroiled in a new controversy over inadequate workmanship and insufficient quality control. This one doesn't involve coffeepots or "gold-plated" hammers; rather, it involves an agreement with our adversary to eliminate all intermediate-range nuclear missiles from Europe. The analogy, however, may be useful in illuminating the causes of my concern.

Like so many of the procurement horror stories, the basic approach was entirely acceptable. Your administration has for six years sough an INF agreement based on a sound structure—the so-called "zero option." As a direct result of our patience, tenacity and alliance cohesion, an accord based on this principle is at hand.

If there is a problem with the INF treaty, it will in all likelihood be a result of the same phenomena that occasionally mar defense procurements: unexpected complexity, unanticipated scheduling pressures and corners that had to be cut to get the job completed within the time and resources available. The responsibility for such a problem would not, of course, lie with some contractor or procurement official; indeed, it may not lie with any single individual. Yet the consequences can be every bit as unpleasant and contrary to the national interest—or more so.

My guess is that, if there are resultant problems with the treaty, they will lie in the area of verification. This may seem incredible in view of its unprecedented provisions for intrusive on-site inspection and continuous monitoring of selected U.S. and Soviet facilities. On the face of it, such measures seem to go so far beyond what has been negotiated in support of past arms control agreements that many will conclude that the treaty is, by definition, verifiable.

Unfortunately, the INF treaty can have a range of novel verification measures undreamed of by the framers of the flawed SALT II accord and still not enable us to ensure Soviet compliance. It is for precisely this reason that your administration early on enunciated as a matter of policy a requirement for "effective verification" of any future agreement.

While this term can mean many things, for us it has always had certain cardinal features in the INF context: elimination of the entire infrastructure for supporting INF missiles; comprehensive exchanges of detailed, internally consistent data about the forces being controlled; clear, unambiguous treaty text; and short-notice on-site inspection not only at present and formerly declared facilities associated with treaty-limited items, but also at suspect sites.

This sound verification agenda was made necessary by bitter past experience with Soviet cheating on arms control agreements. If we have failed to keep in mind past lessons in the rush to finish an accord on INF in time for the summit, the risks to the national interest will vastly exceed the damage done by high-priced coffeepots and toilet seats. The prescription for addressing the problem should be the same, however, spare no effort to uncover and assess the errors and accept whatever inconvenience might be caused in fixing them.

In this vein, Mr. President, I urge you to do what Cap Weinberger would have done in a comparable procurement situation, namely call a "time-out," take stock of the situation with the best experts you can find and, if necessary, make adjustments to correct any deficiencies revealed in the process. A week remains before you will be asked to sign the INF Treaty; I strongly recommend that you use that week to review the treaty with key individuals, particularly members of the Senate and others outside the government who are likely to be influential in the upcoming ratification debate. After you and they have had a chance to read the fine print, several questions must be addressed:

Does the treaty actually eliminate the Soviet Union's INF missile infrastructure and capacity?

Is the Soviet-supplied data complete, consistent and compatible with our own intelligence estimates of treaty-limited systems and activities?

Does the treaty language have important ambiguities or loopholes or provisions that otherwise might lend themselves to future debates about meaning and interpretation?

Is there an effective on-site inspection regime for suspect facilities?

If the answer to one or more questions is no, by finding it out now—before you sign the treaty—it is possible to seek adjustments with the Soviet Union and avoid these issues' becoming a matter of Senate debate and amendment.

Naturally, many will say such an idea is out of the question. They will maintain that this is the best agreement we can get with the Soviet Union, that it cannot be improved. In this regard, I remember how often Cap Weinberger was told that a nonperforming contractor was doing the best he could or that there was no alternative to accepting an inferior product. To my knowledge, he never failed to reject that advice and to set in train the necessary, albeit sometimes inconvenient, corrective steps.

For that matter, your own experience in negotiating with the Soviet Union has decisively demonstrated that determined insistence on sound arms control terms is rewarded in due course by Soviet movement toward our position. Nowhere should this be a more likely outcome than in the area of verification, where Soviet rhetoric about openness and transparency have recently reached new heights.

So, if it comes to that, "Just say no." The United States will not accept another unverifiable arms control agreement, no matter how smartly it is packaged in verification "break-throughs," steps which for all their novelty will not materially alter the difficult task of ensuring Soviet compliance. After all, there is a lot more riding on this than a bad report card from the General Accounting Office.

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Mr. Speaker, I do not know if the President read that. I know he felt he was compelled to go ahead and sign the agreement, but I think Mr. Gaffney, who was one of the chief arms control experts in the Pentagon, was very concerned about this after having worked on it for 6 years, and I think probably we should have listened to him and taken a little bit more time.

I would like to talk about one more item, Mr. Speaker. There is a booklet out by Robert Gastrow and James Frelk which is published by the George C. Marshall Institute entitled "How the Soviets Emasculated America's Deterrent." This gives a history of the problems that have been involved with past treaty agreements with the Soviet Union, and it talks about why it is important that we verify everything and make certain we do not go down a dark alley with the Soviets when we sign these treaties, allowing them to violate them when we are compelled to live up to them.

One of the things that concerns me is that we had to spend 3 years to get the Pershing II and ground cruise missiles into Western Europe, into our NATO allies' countries. So we deployed the Pershing II and the ground cruise missiles, and the Pershing II is one of the most accurate missiles in the world. It can fly through one of these doors around the chamber from hundreds of miles away. It is so accurate that it really jeopardizes the Soviets' first strike capability. If they ever decided to launch a first strike, it could knock out a lot of their weapons, and if they did launch a first strike, these Pershing II and ground cruise missiles could hit their designated targets with unbelievable accuracy.

After spending 3 years getting those weapons systems deployed in Europe, the Soviets said they would never come to the conference table to discuss an INF agreement, and yet a year later they started discussing it because they knew for a fact that the Pershing II and the ground cruise missiles were an adequate missile system that could offset the capability that they had achieved through their SS-20's. Now, after we spent 3 years deploying those weapons and getting them in, with all the demonstrations that took place from the nuclear freeze people and the leftist organizations that were demonstrating against them, we are now going to take them out and we are going to destroy them. We are going to allow the Soviets to build a new generation of missiles, the SS-25's, that can be retargeted on the same targets the SS-20's are facing. It just does not make sense to me.

Mr. Speaker, these are some of the questions that I would pose to Mr. Gaffney:

The President has just released the annual report to Congress on Soviet noncompliance with arms control agreements. It indicates that the Soviets have violated every major arms control agreement that we have signed with them: The ABM treaty, the Helsinki accords, limited test ban treaty, SALT I and SALT II. Should we not, as JACK KEMP has said, force the Soviets to live up to past agreements before we sign new agreements?

What would be the cost of building up our NATO conventional forces to match the Communist Warsaw Pact forces? (LES ASPIN quoted $75 billion initially and $20 billion annually.)

Is the United States and its NATO allies prepared to make this increased commitment?

Is this manpower available?

Over the past decade the Soviets have spent between $150 and $200 billion on strategic defense, what is the progress on the Soviet SDI program or the "Red Shield" as it is now called?

Mr. Speaker, I include with my remarks the booklet that I referred to earlier:

HOW THE SOVIETS EMASCULATED AMERICA'S DETERRENT

(By Robert Jastrow and James Frelk, George Marshall Institute)

Robert Jastrow is President of the George C. Marshall Institute and founder and past Director of the NASA Goddard Institute for Space Studies. James Frelk is Executive Director of the George C. Marshall Institute and former National Security Affairs Analyst for the U.S. House of Representatives.

(This article was adapted from Policy Review.)

In 1956, when Khrushchev threatened to intervene in the Suez crisis with nuclear rockets, NATO Commander Gruenther replied, "Moscow will be destroyed as night follows day," and Khrushchev backed away. In 1973, as Soviet troops prepared to enter the Yom Kippur War, Nixon and Kissinger faced Brezhnev down with the threat of a nuclear attack.

In 1979, when Soviet troops moved into Afghanistan, Carter held a meeting with his advisers, considered a nuclear alert, and decided to withdraw from the Olympics.

What had changed between 1973 and 1979? What was the Carter Administration afraid of? Figures on the growth of the Soviet nuclear arsenal suggest the answer. In 1973, the Soviets had no militarily effective nuclear warheads—the accurate kind that can land within a few hundred yards of a hardened missile silo or communications center and destroy it. Accurate warheads are the key to the use of a nuclear arsenal for intimidation, because if used in sufficiently large numbers in a first strike, they can cripple the other side's nuclear forces, and prevent him from effective retaliation. The United States had more than 1,000 accurate warheads in 1973. The yield of these warheads was not very large, but the Soviet targets were not very well protected either. As a consequence, we could cripple the Soviet nuclear forces, but they could not cripple ours.

But in 1974, the Soviets started deploying accurate warheads, and in 1977—a critical year of transition—they reached parity with the United States in this important category of strategic weapons. By 1979, they had 3,450 accurate weapons capable of a first strike—more than twice as many as the U.S. The result, according to then Secretary of Defense Harold Brown, was that by 1979 the Soviet Union could destroy 95 percent of our Minuteman ICBMs in their silos. They could also, Secretary Brown reported, "destroy our bombers by a barrage attack . . . so that even if the bombers got off the ground, they may not escape."

When Nixon and Brezhnev signed the ABM Treaty in 1972, the Americans thought they had obtained a promise from the USSR that it would not menace the survivability of our retaliatory forces in this way. The essence of MAD and the ABM Treaty, after all, was the guaranteed ability to devastate the adversary's homeland if he attacked. In fact, the Americans felt so strongly about this point that they added a "unilateral understanding" to the ABM treaty, in which they said a prime purpose of the negotiation was to "reduce threats to the survivability of our respective retaliatory forces." Failure to reach an agreement on that point, the American negotiators said, "would constitute a basis for withdrawal from the ABM treaty."

But the ink was hardly dry on the ABM Treaty when the Soviets began to slide into their silos the first of a new generation of Soviet ICBMs, more accurate than previous Soviet ICBMs, and good enough to take out our missile silos, command and control centers and other top-priority military targets. The Soviets kept on building these accurate, first-strike weapons until in 1979, as Secretary Brown noted, they had enough of them to place at risk a large fraction of our nuclear deterrent.

And the Soviet arsenal continued to grow. By 1981, the number of accurate Soviet warheads had reached nearly 5,000, leading Secretary Brown to comment, in his annual report to Congress, on "the degree of emphasis in Soviet military doctrine on a war-winning nuclear capability." In one of the great understatements of all time, Dr. Brown called this development "troublesome."

The biggest to the new Soviet missiles, and the biggest ICBM in existence, is the SS-18. The SS-18 is twice as large as an MX, weighs 200 tons, is as high as a 10-story building, can carry at least 10 warheads—each with destructive power exceeding half a million tons of TNT—and has sufficient fuel in reserve to "cross-target" the entire United States. SS-18 warheads are very accurate—better than the Mark 12A warheads which have been the mainstay of the U.S. ICBM arsenal for years. The SS-18 is certainly the most fearsome weapon of mass destruction ever devised by man.

At last report, the Soviets had 308 SS-18s in the field, carrying more than 3,000 warheads. They also had 360 SS-19s and 150 SS-17s, with warheads of comparable accuracy. The number of accurate warheads known to us in this arsenal totals nearly 6,000. The destructive power residing in the deployed SS-18s alone is greater than the destructive power of the entire U.S. missile force.

And the Soviet ICBM buildup continues, apparently without letup. The USSR is now deploying the first of its new fifth-generation missiles, the SS-25, and is about to deploy the 10-warhead SS-24. Both missiles are mobile. The SS-24, which is the size of an MX, is designed to be carried around the country on a railroad flatcar. The SS-25, about the size of a Minuteman, can be carried on the back of a truck.

The mobility of the new Soviet missiles makes a mockery of offers by Soviet leaders to reduce their nuclear forces. We will never be able to tell how many SS-24s and SS-25s the Soviets have because, as James Hackett, former Acting Director of the Arms Control and Disarmament Agency, points out, the SS-24s and the SS-25s, and SS-20s as well, "can be in bunkers, hangars, factories, tunnels, garages—U.S. satellites can't see or count them."

A few months ago the USSR successfully tested a follow-on to the SS-18, apparently even larger than the SS-18, and with even more accurate warheads. There are also reports of follow-ons to the SS-19 and SS-20 (which is accepted by the U.S. as a European and Asian "theatre" missile, but can target the United States if one or two of its three warheads are left off). Finally, the Department of Defense has reported signs of a sixth generation of ICBMs—follow-ons to the SS-24 and SS-25, and also mobile.

The CIA estimates that by the mid-1990s these new missiles can increase the size of the Soviet ICBM arsenal from around 6,000 warheads, its "official" value today, to between 10,000 and 12,000 warheads—all accurate, fast, first-strike weapons capable of destroying U.S. military targets. Around 1995, with this combination of accuracy, prompt delivery and great numbers of warheads, the Soviets will have a first-strike force of terrifying potential.

What security needs in the Soviet Union require this enormous number of ICBM warheads? The Soviet arsenal has long since passed the limits of any reasonable nuclear force aimed solely at deterrence of an American attack. If deterring a nuclear attack were the main goal of Soviet military planners, they would have created a relatively small force of ICBMs, as the U.S. did, and placed the bulk of their resources in second-strike weapons—submarines and bombers. Most (80 percent) of the U.S. arsenal consists of second-strike weapons, either too inaccurate (on submarines) or too slow (on bombers and cruise missiles) to use in a first strike.

With the Soviets, it was the other way around. Most (75 percent) of their warheads are on ICBMs—fast, accurate, and usable in a first strike.

The critical asymmetry beteween U.S. and USSR in numbers of first-strike warheads is masked by figures published now and then for the total numbers of warheads in the two arsenals. The U.S. strategic arsenal has a total of about 11,000 strategic nuclear weapons, in the form of ballistic missile warheads bombs and cruise missiles. The Soviet arsenal has a total of about 10,000 strategic nuclear weapons. But the USSR has a first-strike arsenal; the U.S. does not. The difference can mean curtains for America.

But is the Soviet arsenal really big enough for a first strike? In building a first-strike capability, large numbers of warheads are as important as accuracy and prompt delivery; a small number of warheads, even if accurately placed, will only irritate an adversary without greatly diminishing his power to retaliate. How many accurate warheads are required by the USSR to mount a crippling attack on the nuclear forces of the United States?

American capability for nuclear retaliation is concentrated in some 3,000 key military sites in the U.S. The USSR, targeting two warheads on each site for a higher probability of destruction, would need 6,000 accurate ICBM warheads to cripple our retaliatory power. The Soviet nuclear arsenal projected for the mid-1990s will have sufficient numbers of accurate warheads to do that. After the first strike, the USSR will still have thousands of warheads left for a punishing attack on American cities—if we should be so rash as to attempt to retailiate with the remnant of our nuclear forces surviving the first strike.

Does the U.S. have a first-strike force? The Soviet target list is about the same length as our own—a few thousand key sites. The American ICBM arsenal contains 900 warheads with an accuracy and a destructive power comparable to that of the 6,000 first-class Soviet ICBM warheads (although none comes close to the lethality of the SS-18). When the planned force of 50 MXs is deployed, it will add another 500 accurate warheads ot the U.S. arsenal for a total of 1,400. The remainder of the U.S. arsenal is too inaccurate to be useful against well-protected Soviet targets.

Assigning two warheads to a target, this relatively modest U.S. arsenal of 1,400 accurate weapons can take out 700 targets in the USSR—a minor dent in the Soviet target list. The U.S. arsenal has the accuracy, but not the necessary numbers, to cripple the nuclear forces of the Soviet Union. Mounting a first strike against the Soviet Union with that arsenal would be a suicidal act.

The U.S. plans to deploy larger numbers of accurate warheads in the 1990s, on the Midgetman ICBM and also on a radically new type of submarine-launched missile called the D-5. The D-5 compensates for the inaccuracies of a launch from a submarine by taking a navigational fix on a star or an overhead satelliite after it has been launched and correcting its course in midflight. The course corrections are supposed to make the D-5 nearly as accurate as the best ICBMs.

The Midgetman ICBM will not have much effect on the strategic balance because Midgetman warheads are very expensive ($80 to $100 million per warhead compared to $20 million per warhead for the MX) and the Defense Department only plans to buy 500. But the D-5 is another story. Thousands of D-5 warheads are slated for deployment in the 1990s. If they work out as expected, they should be very effective against an SS-18 silo or any other immovable target.

But therein hangs a sad tale for U.S. defense planners, for the USSR has already taken steps to negate the effectiveness of the D-5—as well as the MX and the Midgetman—by putting its newest ICBMs on mobile platforms—trucks and flatcars. Unfortunately, while the extraordinary precision of a D-5 or an MX makes it a deadly weapon against the SS-18 in a fixed silo; it is almost valueless against a target that can quickly be moved a few thousand yards down the road.

And the USSR has also gone to great lengths to protect a second set of highly valued targets—its own leaders—from the newest U.S. weapons. More than 1,500 hardened fuhrer-bunkers have been built for 175,000 key Party and government officials—the entire top stratum of Soviet leadership. Some of the older bunkers are close to the surface and vulnerable, but the newest ones are deeply buried and probably safe from the most accurate of the new U.S. warheads. The one under the Kremlin is reported to be a mile underground.

The U.S., on the other hand, continues to keep its command structure—both facilities and people—in relatively soft, fixed locations at or near the surface, and vulnerable to the SS-18 and the new fifth-generation Soviet ICBMs. The vulnerability of the U.S. command structure is likely to continue. Imagine the outcry if President Reagan built a bomb shelter a mile under the White House.

So, thanks to Soviet foresight, even the highly accurate MX, Midgetman, and D-5 will not change the strategic picture very much. The Soviets will be able to place our important assets at risk in the 1990s, but we will not be able to place theirs at risk, because by the time the new American weapons are deployed, all the Soviet targets of prime value will be either readily movable or deeply buried.

ARE SUBMARINES VULNERABLE?

At this point, the thoughtful observer will object that the menace of the Soviet nuclear arsenal has been exaggerated. After all, we still have our bombers and ballistic missile submarines.

It is true that the effectiveness of the U.S. bomber force has been compromised by the Soviet ICBM buildup, as former Secretary of Defense Brown noted; in fact considerably less than a third of our bombers are likely to escape the first wave of Soviet ICBMs, and of those that escape, a still smaller fraction will penetrate the massive Soviet air defenses, which now include 10,000 surface-to-air missiles and 12,000 air defense radars.

But the ballistic missile submarines are more effective, and make a better case. One Trident submarine carries enough warheads to attack every large city in the Soviet Union. Furthermore, the newest U.S. submarines are very quiet and hard to find, so the Soviets cannot count on eliminating them in the first wave of their attack, as they can with our land-based missiles. At the present time, ballistic missile submarines are nearly invulnerable.

Navy sources maintain that this invulnerability will persist into the indefinite future, but other defense planners are less optimistic. Promising lines of research have developed for the detection of submerged submarines by other methods than tracking the sounds they emit. In principle, these methods work no matter how quiet the submarine is.

For example, a submerged submarine creates a wake—a disturbed pattern of waves and wavelets that trails behind it on the ocean surface. There is evidence that the wake can be seen from space, using satellites equipped with a new type of "synthetic aperture" radar. Radar images of this kind obtained from SEASAT, the NASA ocean satellite, are reported to have revealed wakes of unknown origin, that could have been produced by submerged submarines.

The problem of submarine vulnerability is compounded by the fact the the USSR now has more than 200 attack submarines, but only 10 to 12 U.S. Trident submarines will actually be at sea at any one time in the 1990s. (Submarines in port would be a relatively easy mark for Soviet first-strike warheads.) With that ratio, Soviets can assign five or even 10 attack submarines to each Trident to trail it from the time it leaves port, keeping it in a box from which it cannot readily escape.

Finally, analysts of Soviet missile capabilities note that the Soviet intercepting missiles, the SA-12s, are small enough to be placed on ships. If armed with nuclear weapons, they may be very effective in destroying our submarine-launched ballistic missiles while these are still in their boost phase. Nuclear-tipped SA-12s promise to be a deadly weapon against U.S. submarine-launched missiles, and one to which the United States appears to have no response at present.

Taking all these factors into account, the Scowcroft Commission on Strategic Forces concluded, "Over the long run, it would be unwise to rely so heavily on submarines as our only [survivable] ballistic missile force." And in a rare display of frankness, a senior Pentagon official said two years ago, "It is a matter of time before our confidence in the invulnerability of the submarine is degraded." Informed opinion agrees that while submarines are safe today, and may remain so for a few years to come, they will not be able to hide in the oceans forever. Exactly when the submarine loses its cloak of invisibility is anyone's guess. However, it is not a question of whether, but when.

SOVIET ABM BREAKOUT

Anxiety over the extent of Soviet preparations for a first strike has been intensified by the discovery that the USSR also seems to be preparing a nationwide ABM defense. This discovery confronts defense planners with the frightening prospect of a Soviet first-strike force that can diminish considerably the American capacity for retaliation, and a Soviet ABM defense that could block whatever counterattack we might manage to get off the ground afterward with our crippled forces. The banning of this nightmarish possibility was, of course—for the Americans, at least—the driving force behind the ABM Treaty.

The ABM Treaty notwithstanding, technical reports received from the Defense Intelligence Agency and the CIA indicate that the USSR has acquired nearly all the elements needed for a defense against the ballistic missiles that would constitute the main instrument of American retaliation. The Soviet Union appears to be poised for a breakout from the Treaty.

Some experts say there is no cause for U.S. concern, because the Soviet ABM defense is not very effective. It is by no means as good as the defenses the SDI is designing for the 1990s; it is certainly not good enough to stop a massive U.S. first strike—if we were to launch one.

But the American arsenal being what it is, a first strike by the United States is of vanishingly low probability. American defense planners are not worrying about how well Soviet ABM defenses might block a U.S. first strike; they are focused on deterring a Soviet first strike—a possibility that the Soviet ICBM buildup brings to the forefront of their attention. For that purpose, the American planners rely on the threat of massive destruction of the Soviet Union in a retaliatory second strike. And against a U.S. retaliatory second strike, with weakened and diminished forces surviving a Soviet first strike, the Soviet missile defense could be exceedingly effective.

At present, the Soviet ABM defenses are deployed only around Moscow, in accordance with the restrictions of the ABM Treaty. However, the CIA has confirmed existence of production lines for turning out the components of the Moscow ABM system—intercepting missiles, radars and so on—in large quantities.

Right now, the output of those production lines is only going into the defenses around Moscow, as far as we know, but new sites can be put into operation in a matter of months. By the early 1990s—four or five years from now—these components can be deployed across the USSR, defending every key Soviet target against U.S. ballistic missiles.

Concern over the intensity of Soviet ABM preparations was heightened last year by the discovery of three huge "battle management" radars—each the size of a football field—in the western USSR near Poland. These radars close the last major gap in a network of similar radars ringing the USSR. Six were already known; the last three to be discovered make a total of nine. Each of the nine has the range and precision needed to pick up oncoming U.S. warheads as they approach the USSR, determine which target each warhead is headed for, and alert individual ABM sites in that warhead's path so that they can send up a missile to intercept it.

The battle management radars are the long pole in the Soviet ABM tent, because they take many years to design and construct. But the Soviets started working on these radars a long time ago. In fact, they must have started designing them while they were still negotiating that ABM Treaty. The three just discovered near

Poland are probably the last in the network. They should be finished around 1991.

The famous Krasnoyarsk radar is one of the radars in the Soviet ABM network. It looks across 2,000 miles of the USSR from central Siberia to the northeast, and covers the approach corridor for U.S. ICBMs from the missile field in the western states. It also covers the launch of missiles from U.S. submarines in the Bering Sea. The Soviets say the Krasnoyarsk radar is for tracking space objects, but its design makes it almost useless for that purpose. The CIA says the Soviet claim is "preposterous."

The network of nine battle management radars, combined with the facilities for mass production of ABM components, will give the Soviet Union the means for setting up a nationwide ABM defense in short order, whenever it judges the moment to be propitious for an overt breakout from the ABM Treaty. According to intelligence reports, that could be in the early 1990s.

Any single one of these Soviet ABM activities would be a cause for concern to the U.S., which is still attempting to honor the ABM Treaty. But the ensemble of Soviet ABM programs is more menacing than the individual items; Robert Gates, Deputy Director of the CIA, calls it "significant and ominous."

The overall pattern of Soviet activities in recent years—the ICBM buildup and the burgeoning ABM capability—suggests the USSR is intent on positioning itself for a first strike. As a consequence of the resultant threat to the effectiveness of our retaliatory forces, the theory of deterrence by Mutual Assured Destruction is collapsing like a house of cards. If the Soviets have a sufficient number of accurate missiles to wipe out the bulk of U.S. nuclear forces in a surprise attack, and they have a missile defense and an air defense adequate to handle a ragged second aftermath of that attack, they will not be deterred by the fear of retaliation, because we will not be able to retaliate.

THE UNEXPECTED ATTACK

Dramatic advances in the accuracy of warheads in recent years have contributed further to U.S. fears of a Soviet first strike. Zbigniew Brzezinski has explained why these technical developments increase the chance of missile attack on the United States.

That story starts in World War II. When the Germans were raining V-2s on Britain, they were pleased if a rocket came within 10 miles of its target. The launch crews used to point their V-2s in the direction of London and hope for the best. Later, the accuracy of ballistic missiles improved to a mile, then to half a mile, and then to a quarter of a mile. For the SS-18 and the Minuteman III, it is 200 to 250 yards. For the MX, warhead accuracy is about 150 yards. That is, half the time an MX warhead will land within 150 yards of its target, after a flight of thousands of miles.

The remarkable precision of these weapons has an important consequence. It makes it possible to achieve the military objectives of a nuclear attack—destruction of the adversary's missile silos, command and control centers and other sites vital to his effective retaliation—with quite small nuclear weapons. The record demonstrates, in fact, that as accuracy has improved, the sizes of nuclear weapons have gone down markedly.

In 1962, the average explosive power of the nuclear weapons in the U.S. strategic arsenal was three megatons (three million tons of TNT). Today it is seven times smaller. The average explosive power of the weapons in the Soviet arsenal was 4⅓ megatons in 1970; today it is five times smaller. The total destructive power of the U.S. arsenal is a quarter of what it was in 1962; the total destructive power of the Soviet arsenal is down by about 40 percent since 1970.

These trends toward greater warhead accuracy and smaller nuclear weapons have been steady over several decades. Now, enter the Pershing 2, recently deployed in Germany. The Pershing 2 is a quantum leap beyond the technology of earlier missiles, because its warheads are "smart." That is, they have computer "brains" and radar "eyes" that view the terrain below, compare what the eye sees to a map of the target area stored in the computer's memory, and then adjust the warhead's course so that it steers itself into the target.

Prior to the advent of the Pershing 2, ballistic missiles carried dumb warheads. Once a dumb warhead has been pushed off its ICBM, its course is set and cannot be changed. The accuracy of the warhead in reaching its target depends on how accurate a push it received at the start. The finest dumb warheads presently deployed are carried by SS-18s and MXs. The 150-yard accuracy of the MX is probably close to the ultimate that can be achieved with a dumb warhead.

But the Pershing 2 warheads, with their brains, eyes and ability to change their own courses, can do much better than an MX warhead. Half the time, a Pershing 2 warhead will land within 35 yards of its target. The Pershing 2 warhead is truly a revolutionary development in missile technology. It has been said, with only mild hyperbole, that it can fly through any window in the Kremlin.

Still the Pershing 2 is only the beginning of the new revolution in warhead technology. Experts see the possibility of warhead accuracies coming down to a few yards or even feet. They forecast the destruction of key military targets by nuclear charges so small as to produce essentially no unwanted blast damage or radioactive fallout.

At first, this trend to accurate warheads and smaller nuclear weapons seems like a good thing, because it means no wholesale destruction in a nuclear attack, and no civilian carnage. But Dr. Brzezinski has pointed out another, and less reassuring, meaning.

When nuclear warheads were all large and very destructive, he notes, a nuclear first strike was "messy and unpredictable . . . not an attractive option for either side." But small, accurate nuclear weapons are usable. They make it possible to carry out a surgical strike—a surprise attack that decapitates the opponent's command structure and destroys the bulk of his forces leaving him "strategically crippled, capable of only a spasmodic, disorganized and strategically aimless response—or none at all."

For the military planner, Dr. Brzezinski concludes, highly precise nuclear weapons make the dreaded first strike "a viable option."

When would the attack come? According to the conventional wisdom among American analysts, a nuclear exchange would develop out of crisis escalation, as in the Mideast crises of 1956 or 1973, or the Cuban missile crisis. As tension mounted, the U.S. would place its forces on nuclear alert; bombers would be loaded and dispersed; the entire fleet of ballistic missile submarines would be put to sea; the U.S. command structure would be geared to a prompt decision when word came that the dreaded ballistic missiles were on their way.

But the conventional wisdom is almost certainly wrong. Why would an adversary pick such a moment as this to attack, when the chances of success are minimal? It would be far better to wait until the crisis has been defused by diplomatic concessions, weary U.S. forces have been stood down from their alert, and American leaders are relaxed in the euphoric belief that the threat of nuclear war has passed. That would be the time to strike.

The mind recoils from the possibility of the "bolt out of the blue"—a surprise nuclear attack, launched when America's guard is down, after a skillful Soviet campaign of deception and disinformation. Yet, as Dr. Brzezinski notes, in commenting on the developments in nuclear weapons in recent years, "One can disregard this possibility only at the greatest peril."

THE NEED FOR A SPACE-BASED DEFENSE

In the ongoing, and often abrasive, argument over the Strategic Defense Initiative, this is one of the main issues that separates SDI supporters from their opponents. Opponents of SDI, by and large, do not believe that the Soviet Union can launch a successful first strike, because they do not agree that U.S. retaliatory forces are vulnerable to a surprise attack; they feel that U.S. deterrence of a Soviet attack by the threat of retaliation will remain effective for many years to come.

In our view, their confidence is contradicted by the events of the last 10 years: the new thrusts in anti-submarine warfare; the trend toward accurate, small-yield nuclear weapons; and most important, the Soviet ICBM buildup, coupled with alarming signs of Soviet preparations for an overt breakout from the ABM Treaty by the early 1990s.

As matters stand today, powerful congressional forces are opposed to the deployment of a missile defense in the 1990s. The SDI budget has been cut to levels that postpone the achievement of test objectives by several years, and a major effort is underway in Congress to force a type of compliance with the ABM Treaty that would preclude demonstrations of the first-generation space-based defenses regarded by the Department of Defense as feasible for deployment in the 1990s.

As a result of these congressional actions, it appears that the United States will have no defense—and certainly no defense based in space—against Soviet ICBMs in the 1990s. That is unfortunate, because a space-based defense located on satellites orbiting over the Soviet Union, that can shoot down the Soviet ICBMs as they rise from their silos, would have a paralyzing effect on Soviet first-strike planning. Since the planner cannot tell beforehand which missiles and warheads will be shot down and which will get through, he cannot target key sites, such as missile silos and command posts, and be confident of their destruction. Thus, the *sine qua non* of a successful first strike—the guaranteed destruction of the adversary's retaliatory forces—is denied to him. Space-based defenses, even if their effectiveness is limited, have a toxic effect on first-strike planning.

This is not true of the "point" defense favored by some members of Congress for the protection of our MX silos and other key military sites. The Soviet planner, confronted by a point defense surrounding a small number of critically important sites, can assign five, 10 or even 20 warheads to those sites to be confident of their destruction; and yet he will have consumed only a very small part of his arsenal on those targets. But if he is confronted with a space-based defense, and feels it is essential to achieve the same level of confidence in destroying these key sites, he must multiply *his entire arsenal* by a factor of five, 10 or 20, since he does not know beforehand which particular missiles in his arsenal will be shot down. Since the present Soviet arsenal cost some $700 billion, that would mean an expenditure of trillions of dollars.

This is only true of the space-based defense, not of the ground-based "point" defense. That is one of the main reasons why Defense Secretary Weinberger has insisted on the inclusion of a space-based layer in even the earliest defenses under consideration by the Defense Department for deployment.

The outlook for the next 10 years is not promising. The congressional politics of missile defense—and especially the opposition to early deployment of a defense from prominent Members of Congress—are such that in the early 1990s the Soviet Union is likely to have a lethal combination of a firststrike attack force and a defense against retaliation—and the United States will have neither. In these circumstances, we believe it will be clear to all that the American government cannot protect its citizens from a nuclear attack, and is no longer a nuclear superpower. The consequences, writes Robert Gates, Deputy Director of the CIA, will be "awesomely negative for stability and peace." We suggest that this development will be seen by the world as the greatest military reversal the United States has ever suffered, with catastrophic political consquences certain to follow.

A REPORT ON THE UNITED STATES-SOVIET TREATY TALKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 60 minutes.

Mr. FOLEY. Mr. Speaker, this is a week of historic importance in the capital of our country as we welcome the General Secretary of the Communist Party of the Soviet Union for the signing of the intermediate nuclear forces agreement, and for discussions with the President regarding not only further arms control agreements, and the possibility of moving toward a strategic nuclear agreement, but a variety of other subjects that are of importance in our relations.

These broader areas include the discussion of human rights issues, regional conflicts such as Afghanistan, Central America, Southern Africa, and Southeast Asia, and finally a host of bilateral issues. It is, I think, a most important and significant opportunity for Americans, both in public and private life, to assess the remarkable abilities and character of this new Soviet leader.

I first had the opportunity to meet the General Secretary in Moscow last April when a delegation headed by the distinguished Speaker of the House visited the Soviet Union.

Today the Soviet Embassy was the site of a meeting between the bipartisan leadership of the House and Senate and the General Secretary, and the impressions I gained in Moscow in April were reinforced today in a meeting of almost an hour and a half with Secretary Gorbachev. He is a man of ability, very clearly a person who is confident of his role as the leader of his nation, and a person of skill in debate and discussion. He welcomes an opportunity to discuss issues, even those that are somewhat controversial and sensitive. As he describes it, he is not always patient with diplomatic formulations and prefers to talk directly.

In our conversations this morning, the Democratic and Republican leadership of the House and the Senate, led by Speaker WRIGHT, had discussions that ranged across the same agenda that were the subject of discussions with the President. I was impressed by the forthright responses of the Secretary General, his candor, and the sense that he brings that he wishes to move forward in improving relations with the United States, not only for the benefit of his own country, but for what he thinks is in the important interests of the international community.

We still have many areas of disagreement with the Soviet Union, and it would be a mistake to believe that all of our differences and difficulties are simply going to disappear or fade away. However, the sense of businesslike concern and frank discussion that was present this morning, I think, gives us hope that there may be additional future progress in other areas. And we now appear to have the opportunity to move forward on a strategic agreement with the Soviet Union.

No one can tell whether the very difficult problems that attain a strategic agreement can be resolved, especially in the final months of this administration, but I think it is the sense of Members on both sides of the aisle that President Reagan's successful conclusion of the Intermediate Nuclear Forces Agreement, which I believe will have strong bipartisan in the Senate as well as in this body gives hope that we can break through the difficulties of a strategic agreement and conclude such a far-reaching and historic reduction in strategic nuclear weapons before the end of the President's term.

In areas of regional conflict, there is continued hope that the Soviet Union will find a means to withdraw its forces from Afghanistan, and that some accommodation can be made in other areas of the world where we have faced each other with different objectives and goals.

There was an expression today of concern about reducing the tensions in the Persian Gulf which the General Secretary felt represented a great danger to peace. He noted that the United States and the Soviet Union have common interests in working toward a peaceful resolution of the tragic war between Iraq and Iran.

In our relations on trade and in other areas, there is, I think, an interest on the part of the Soviet Union, as I believe there is on the side of our Government and people, to improve our trade relations. We are in the final year of the long-term grain agreement which has been a successful basis for extensive trade in agricultural products. And there are other areas of American and Soviet bilateral trade that seem to me to be possible to expand and extend. The General Secretary expressed his view that extensive additional trade agreements and an additional flow of trade would be of great advantage in cementing and improving our relations.

In the area of human rights, where the Soviets sometimes call humanitarian matters, there has in the past been an unwillingness even to discuss these issues on the Soviet side. That has not been true in recent years, and particularly in the talks with the administration, the Soviet side, under General Secretary Gorbachev, has been willing to have the matter become a central part of the agenda. We have, with Members of Congress and members of the administration, constantly pressed home on our Soviet colleagues the importance that these issues have in this country, not because we want to interfere in what some in the Soviet Union regard as an internal matter, but because the American people have had throughout their history a concern for individual and human rights. Indeed, our entire Nation arose out of a common value and a shared tradition of respect for human rights.

The matter goes beyond that because the Soviet Union, along with the United States, has put its signature and approval to the Helsinki Final Act, and its undertakings are international obligations which bind both of us to those agreements.

□ 1920

I think it is important to note that while there is deep concern about problems of emigration and problems of religious freedom in the Soviet Union, there have been indications of some progress in this area. We have conveyed to Secretary Gorbachev the view that further progress will have nothing but the most positive responses in this country and can lay the basis for even closer and improved relations.

It is interesting that nuclear disarmament, which is a goal that the President, Congress and the Soviet leadership share, exists in the context of broader tensions that have existed between our two countries. Those tensions arise from a different history and culture and from the fact that we are two great superpowers with enormous military resources facing each other in many parts of the world. What we can do together to have a closer appreciation of common expectation for our population, a common sense of the respect for human rights and for the welfare and future of our citizens, will only serve to buttress our determination to avoid military conflict and avoid particularly the danger of nuclear war.

The United States and the Soviet Union are still considered adversaries, but we are moving forward in important ways to assure that our tensions and our disagreements do not erupt into threats to peace.

All of us who had an opportunity to meet General Secretary Gorbachev have expressed to him our congratulations, as we have to our President, on a splendid and significant, even signal, agreement concluded this week and we hope it bears fruit for even greater achievements in the future.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1467, ENDANGERED SPECIES ACT AMENDMENTS OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-469) on the resolution (H. Res. 328) providing for the consideration of the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 327, PROVIDING FOR DISPOSITION OF RECORDS OF SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-470) on the resolution (H. Res. 329) providing for the consideration of the resolution (H. Res. 327) to provide for the disposition of the records of the Select Committee to Investigate Covert Arms Transactions with Iran, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to: Mr. LANCASTER of North Carolina (at the request of Mr. FOLEY), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DE LA GARZA, for 5 minutes, today.

Mr. CONYERS, for 30 minutes, today.

Mr. FOLEY, at his own request, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YOUNG of Florida, to extend his remarks in the RECORD and to include therein extraneous material notwithstanding the fact that it exceeds two pages and is estimated by the Public Printer to cost $5,769.25.

Mr. CONYERS, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,700.50.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. JEFFORDS.

Mr. COBLE.

Mr. HUNTER.

Mr. WHITTAKER.

Mr. SAXTON.

Mr. GEKAS in two instances.

Mr. RITTER.

Mr. COURTER.

Mr. GALLEGLY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. DE LA GARZA in two instances.

Mr. MILLER of California.

Mr. UDALL.

Mr. CLAY.

Mr. FRANK.

Mr. LEHMAN of Florida.

Mr. HOYER.

Mr. HAMILTON in two instances.

Mr. DORGAN of North Dakota.

Mr. DYMALLY in two instances.

Mr. YATRON.

Mr. MRAZEK.

Mrs. BOXER.

Mr. PANETTA.

Mr. ROSTENKOWSKI.

Mr. ACKERMAN.

Mr. COLEMAN of Texas in two instances.

Mr. BONIOR of Michigan.

Mr. JACOBS.

Mr. MARTINEZ in two instances.

Mr. APPLEGATE.

Mr. RAHALL.

ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 23 minutes p.m.), the House adjourned until tomorrow, Thursday, December 10, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2527. A letter from the Secretary of Agriculture, transmitting a report outlining the Department's efforts to fulfill a pilot barter program for exchange of agricultural commodities for strategic materials, pursuant to 7 U.S.C. 1431(d)(6); jointly, to the Committees on Agriculture and Foreign Affairs.

2528. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles estimated to cost $50 million or more (Transmittal No. 88-07), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2529. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Brazil for Defense articles estimated to cost $50 million or more (Transmittal No. 88-06), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2530. A letter from the Administrator, National Aeronautics and Space Administration, transmitting his determination that it is in the public interest to use other than competitive procedures for the procurement of launch services for certain expendable launch vehicles [ELVs], pursuant to 10 U.S.C. 2304(c)(7); to the Committee on Armed Services.

2531. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Brazil for defense articles and services estimated to cost $55 million (Transmittal No. 88-06), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2532. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles estimated to cost $72 million or more (Transmittal No. 88-07), pursuant to 10 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2533. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Department's Inspector General for the period April 1, 1987 through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2534. A letter from the Secretary of Defense, transmitting the tenth semiannual report on the activities of the Department's Inspector General covering the period ending September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) and 5(b); to the Committee on Government Operations.

2535. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2536. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2537. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2538. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 US.C. 1339(b); to the Committee on Interior and Insular Affairs.

2539. A letter from the Secretary of the Interior, transmitting a report, "High Plains States Groundwater Demonstration Program Phase I Report," containing recommendations for demonstration projects to be designed, constructed, and operated during phase II of the Groundwater Demonstration Program, pursuant to 43 U.S.C. 390g-2(c)(2); to the Committee on Interior and Insular Affairs.

2540. A letter from the national adjutant, Disabled American Veterans, transmitting the report of the proceedings of the organization's 66th National Convention, including a report of receipts and expenditures as of December 31, 1986, pursuant to 36 U.S.C. 90i; 44 U.S.C. 1332, and section 3 of Public Law 88-504 (H. Doc. No. 100-144); to the Committee on Veterans' Affairs and ordered to be printed.

2541. A letter from the Comptroller General of the United States, transmitting a report on the implementation of food and shelter programs under the McKinney Act on homelessness (GAO/RCED-88-63), pursuant to Public Law 100-77; jointly, to the Committees on Governmental Operations, Banking, Finance and Urban Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2370. A bill to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes (Rep. 100-468). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 328. Resolution providing for the consideration of H.R. 1467, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992 (Rep. 100-469). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 329. Resolution providing for the consideration of H. Res. 327, a resolution providing for the disposition of the records of the Select Committee to Investigate Covert Arms Transactions with Iran, and for other purposes (Rep. 100-470). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (by request):

H.R. 3722. A bill to amend title 38, United State Code, to improve pension benefits for World War I veterans and for surviving spouses of such veterans; to the Committee on Veterans' Affairs.

By Mr. BARTON of Texas (for himself, Mr. Leath of Texas, and Mr. Stenholm):

H.R. 3723. A bill to prevent interagency disputes with the Federal Financing Bank from disrupting Rural Electrification Administration loan guarantee programs; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, and Agriculture.

By Mr. BENNETT (for himself, Mr. Hutto, Mrs. Bentley, Mr. Hunter, Mr. Dyson, and Mr. Sisisky):

H.R. 3724. A bill to prohibit any funds appropriated or otherwise available to the Department of Defense from being used to implement any sale of the AEGIS weapon system to Japan; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. FISH (for himself, Mrs. Roukema, and Mr. Michel):

H.R. 3725. A bill to extend for one year the provision of title II of the Social Security Act which allows continued payment of disability insurance benefits during appeal, and to make permanent the provisions of titles IV and XVI of such act which permit or require the disregarding of in-kind assistance to AFDC and SSI recipients; to the Committee on Ways and Means.

(By Mr. GRAY of Pennsylvania:

H.R. 3726. A bill to amend section 371 of title 28, United States Code, to allow a Federal judge who is at least 60 years of age and has completed 20 years of service to retire from regular active service; to the Committee on the Judiciary.

By Mr. HANSEN (for himself, Mr. Cheney, Mr. Young of Alaska, Mr. Denny Smith, Mrs. Vucanovich, Mr. Nielson of Utah, Mr. Gallegly, Mr. Emerson, Mr. Stump, and Mr. Lujan):

H.R. 3727. A bill to give any State in which the lands are more than 25 percent federally owned the right to disapprove the establishment of wilderness areas located in that State; to the Committee on Interior and Insular Affairs.

By Mr. JACOBS:

H.R. 3728. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide for a Blood Donor Locator Service to assist in prompt notification of blood donors who are found to have or have had the virus for acquired immune deficiency syndrome; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia:

H.R. 3729. A bill to establish a temporary revolving loan fund to assist redevelopment in the Martin Luther King, Jr., National Historic Site and Preservation District in Atlanta, GA; to the Committee on Interior and Insular Affairs.

By Mrs. PATTERSON (for herself, Mr. Roe, Mr. Wolpe, Mr. Miller of California, Mr. Fazio, Mr. Neal and, Mr. Hochbrueckner);

H.R. 3730. A bill to amend the Internal Revenue Code of 1986 to clarify the medical expense deduction available for expenses connected with the acquisition, training, and maintenance of service dogs for handicapped individuals; to the Committee on Ways and Means.

By Mr. RAHALL:

H.R. 3731. A bill to amend the Mineral Leasing Act for Acquired Lands to permit a portion of Federal mineral revenues to be used to expand opportunities for sport fishing and hunting; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. RANGEL:

H.R. 3732. A bill to amend the Internal Revenue Code of 1986 to allow individuals to direct that part or all of their income tax refunds be contributed to a trust fund established for the relief of incurable diseases, and to establish a commission to oversee the distribution of such contributions; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. STAGGERS (for himself and Mr. Frank):

H.R. 3733. A bill to maintain the system of hearing Medicare appeals before administrative law judges, to require a study of alternative procedures for such appeals, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WALGREN:

H.J. Res. 417. Joint resolution designating May 1988 as "Neurofibromatosis Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. DREIER of California:

H. Con. Res. 225. Concurrent resolution expressing the sense of the Congress that the Soviet Union's treatment of women and children in its occupation of Afghanistan is a particularly heinous abuse of internationally recognized human rights; to the Committee on Foreign Affairs.

By Mr. DYMALLY (for himself, Mr. Foley, Mr. Hamilton, Mr. Gilman, Mr. Torricelli, Mr. Rahall and Mr. Solarz):

H. Con. Res. 226. Concurrent resolution supporting the President, in his efforts during his discussions with Soviet General Secretary Gorbachev, to obtain the support of the Soviet Union for a United Nations Security Council resolution calling for an international arms embargo against any party to the Iran-Iraq conflict which refuses to comply with the ceasefire and withdrawal to internationally recognized boundaries called for by United Nations Security Council Resolution 598; to the Committee on Foreign Affairs.

By Mr. WHITTAKER (for himself, Mr. Thomas A. Luken, Mr. Lent, Mr. Florio, Mr. Tauke, Mr. Boucher, Mr. Bilirakis and Mr. Callahan):

H. Con. Res. 227. Concurrent resolution expressing the sense of the Congress that all railroad retirement benefits are exempt from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 and that any such benefits sequestered under the Presidential order of November 20, 1987, should be restored; to the Committee on Energy and Commerce.

By Mr. HAMILTON:

H. Res. 327. Resolution providing for the disposition of the records of the Select Committee to Investigate Covert Arms Transactions with Iran, and for other purposes; jointly, to the Committees on Rules and House Administration.

PRIVATE BILLS AND RESOLUTIONS

PRIVATE RESOLUTION

Mr. ANDERSON introduced a resolution (H. Res. 326) to honor and thank Federal Highway Administrator Ray Barnhart for his dedicated efforts to improve the Nation's highway system; which was referred to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 111: Mr. Ravenel.

H.R. 455: Mr. Oberstar.

H.R. 633: Mr. Jacobs.

H.R. 958: Mr. Ackerman, Mr. Akaka, Mr. Badham, Mr. Bliley, Mr. Boehlert, Mr. Bruce, Mr. Bunning, Mr. Coats, Mr. Davis of Michigan, Mr. Donnelly, Mr. Feighan, Mr. Fields, Mr. Fish, Mr. Frenzel, Mr. Fuster, Mr. Gingrich, Mr. Gray of Pennsylvania, Mr. Hammerschmidt, Mr. Hawkins, Mr. Hunter, Ms. Kaptur, Mr. Kasich, Mr. Kostmayer, Mr. Lantos, Mr. McCloskey, Mr. Martin of New York, Mr. Nielson of Utah, Mr. Pashayan, Mrs. Patterson, Mr. Perkins, Mr. Shumway, Mr. Shays, Mr. Sunia, Mr. Wyden, Mr. Martinez, Mr. Madigan, Mr. Flake, Mrs. Meyers of Kansas, Mr. Spence, Mr. Lehman of California, and Mr. Miller of California.

H.R. 1038: Mr. Packard.

H.R. 1770: Mr. Wise, Mr. Hughes, Mr. Traficant, Mr. Swift, Mr. Clay, Mr. Johnson of South Dakota, and Mr. Akaka.

H.R. 1782: Mr. Henry, Mr. Upton, and Mr. Bunning.

H.R. 1957: Mr. Combest, Mr. Bateman, Mr. Schuette, Mr. Crane, Mr. Durbin, Mr. Dornan of California, Mr. Hughes, Mr. Jones of Tennessee, and Mr. Lewis of California.

H.R. 2238: Mr. Foley, Mr. Derrick, Mr. Dymally, Mr. Dyson, and Mr. Brown of Colorado.

H.R. 2501: Mr. Frank, Mr. Markey, Mr. Synar, Mr. Watkins, Mr. Edwards of Oklahoma, Mr. Daub, Mr. Foglietta, Mr. Yatron, Mr. Owens of Utah, Mr. Duncan, Mr. Chandler, Mr. English, and Mr. McCurdy.

H.R. 2694: Mr. Foglietta.

H.R. 2870: Mr. Rangel.

H.R. 2934: Mrs. Morella and Mr. Packard.

H.R. 3011: Mr. Gordon and Mr. Ridge.

H.R. 3071: Mr. Fauntroy and Mrs. Kennelly.

H.R. 3112: Mr. DioGuardi and Mr. Torricelli.

H.R. 3199: Mr. Moorhead, Mr. Oxley, Mr. Grandy, Mr. Hyde, Mr. Packard, Mr. Holloway, Mrs. Meyers of Kansas, Mr. Smith of Texas, Mr. Shays, and Mr. Latta.

H.R. 3204: Mr. Huckaby.

H.R. 3478: Mr. Roe.

H.R. 3556: Mr. Kostmayer.

H.R. 3584: Mr. Morrison of Washington, Mr. Smith of Florida, Mr. Mrazek, Mr. Smith of New Hampshire, Mr. Gejdenson, Ms. Slaughter of New York, Mr. Weldon, Mr. Moody, and Mr. Oberstar.

H.R. 3638: Mr. Gunderson.

H.R. 3640: Mr. Lagomarsino.

H.R. 3712: Mr. Brown of California, Mr. Emerson, Mr. Harris, Mr. Holloway, Mr. Huckaby, Mr. Jeffords, Mr. Marlenee, Mr. Morrison of Washington, Mr. Robert F. Smith, Mr. Stenholm, Mr. Volkmer, and Mr. Staggers.

H.J. Res. 171: Mr. Carper.

H.J. Res. 287: Mr. Wolpe.

H.J. Res. 293: Mr. Jacobs, Mr. Stratton, Mr. Shuster, Mr. Mazzoli, Mr. Buechner, and Mr. Dwyer of New Jersey.

H.J. Res. 315: Mrs. Collins and Mr. Sawyer.

H.J. Res. 339: Mr. Spratt, Mr. Cooper, Ms. Kaptur, Mr. Applegate, Mr. Thomas A. Luken, Mr. Kasich, Mr. Nielson of Utah, Mrs. Morella, Mr. Pickle, Mrs. Patterson, Mr. Wylie, Mr. Roe, Mr. Evans, Mr. Ravenel, Mr. Owens of New York, Mr. Flippo, Mr. Ford of Tennessee, Mr. Fish, Mr. Matsui, Mr. Callahan, Mrs. Collins, Mr. Lott, Mr. Rhodes, Mrs. Martin of Illinois, Mr. Sawyer, Mr. Erdreich, Mr. Michel.

H.J. Res. 386: Mr. Frank, Mr. Kildee, Mr. Michel, and Mr. Owens of New York.

H.J. Res. 397: Mr. Gray of Illinois, Mr. Denny Smith, Mr. Myers of Indiana, Mr. McCloskey, Mr. Hefner, Mr. Traficant, Mr. Dingell, Mr. Chapman, Mr. Horton, Mr. Traxler, Mr. Conte, Mr. Hawkins, Mr. Leland, Mr. Lipinski, Mr. Roe, Mr. Henry, Mr. Biaggi, Mr. Bustamante, Mr. Daub, Mr. Smith of Florida, Mr. Kildee, Mr. Bevill, Mrs. Collins, Mr. Martinez, Mr. Carper, Mr. Hughes, Mr. Howard, Mr. Wolpe, Mr. Lancaster, and Mr. Hayes of Illinois.

H.J. Res. 399: Mr. Whittaker, Mr. Hochbrueckner, Mr. Nielson of Utah, Mr. Erdreich, Mr. LaFalce, Mr. Hammerschmidt, Mr. Pursell, Mr. Mrazek, Mr. Bryant, Mr. Shumway, Mr. Hyde, Mr. Wilson, Mr. Martinez, Mr. Panetta, Mr. Lancaster, Mr. Boland, Mr. Coleman of Texas, Mr. Lehman of California, Mr. Hatcher, Mr. Jones of Tennessee, Mr. Hansen, Mr. McHugh, Mr. Kostmayer, Mr. Schumer, and Mr. Bliley.

H.J. Res. 405: Mr. Mineta, Mrs. Vucanovich, Mr. Eckart, Mr. Denny Smith, and Mr. Olin.

H. Con. Res. 211: Mr. Bereuter, Mr. Bustamante, Mr. Wilson, Mr. Porter, Mr. Schaefer, Mr. Shaw, Mr. Bliley, and Mr. Weldon.

H. Con. Res. 216: Mr. Gordon, Mr. Green, Mr. Gunderson, Mr. Frank, Mr. Clarke, Mr. Hawkins, Mr. Owens of New York, Mr. Berman, Mr. Yates, Mr. Lewis of Florida, Mr. Hayes of Illinois, and Mr. Mrazek.

H. Res. 210: Mr. Badham, Mr. Donald E. Lukens, and Mr. Denny Smith.

H. Res. 297: Mr. Fawell.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1259: Mr. Smith of Florida.

H.R. 2260: Mr. Traficant.

H.R. 2543: Mr. Smith of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1467,

By Mr. ORTIZ:

—Page 7, line 9, strike out "inshore areas." and insert "all inshore areas and in the offshore areas of the Gulf of Mexico.".

—Page 7, lines 22 and 23, strike out "in inshore areas," and insert "in all inshore areas (".

—Page 7, line 25, strike out "effect." and insert "effect) and in the offshore areas of the Gulf of Mexico.".

—Page 8, line 1, after "inshore areas" insert "and the offshore areas of the Gulf of Mexico".

—Page 8, line 7, strike out "$1,500,000" and insert "$3,000,000".

By Mr. STENHOLM:

—Page 2, between lines 17 and 18, insert the following:

(b) Exception to Listing.—On or after the date of the enactment of this subsection, the species Nerodia harteria paucimaculata (Concho water snake) may not be considered to be an endangered species or a threatened species under the Endangered Species Act of 1973.

H.R. 1720

By Mr. BROWN of Colorado:

—In subsection (h)(6) [page 186, lines 2 through 4], strike out ". . . shall be at least equal to the current pay scale for that position, or, if there is no current pay scale for that position,".

—Strike the entire subsection (h)(8) [page 188, lines 1 through 5].

—Strike the entire subsection (j)(1)(B) [page 195, lines 18 through 25, and page 196, lines 1 through 18].

—Strike subsection (g)(1)(B) [page 215, lines 10 through 15].

—Strike entire section 702 [page 252, lines 17 through 26; page 253, lines 1 through 26; page 254, lines 1 through 25; page 255, lines 1 through 24; and page 256, lines 1 through 25].

H.R. 3644

By Mr. BROWN of Colorado:

—1. Strike subsection (m) [page 31, lines 12 through 20].

—Strike subsection (d) [page 47, lines 15 through 23].

—Strike subsection (j)(3)(A) [page 25, lines 10 through 25; page 26, lines 1 through 3].

—Strike subsection (g)(1)(B)(i) [page 73, lines 24 through 25 and page 74, lines 1 through 14].

—Strike entire section 702 (page 112, lines 16 through 25; page 113, lines 1 through 25; page 114, lines 1 through 25; page 115, lines 1 through 25; and page 116, lines 1 through 25).

EXTENSIONS OF REMARKS

VOTING RECORD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. UDALL. Mr. Speaker, it has become my practice from time to time to list my votes in the CONGRESSIONAL RECORD. I strongly believe that the people of the Second Congressional District of Arizona have a right to know where I stand on the issues decided by this body, and I have found that printing my record here is the best way to provide that information.

This is not an all inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal of the previous day.

The descriptions are necessarily somewhat short, and I am sure that some of my constituents will have additional questions about the issues described here. So I invite them to write me for more specifics.

The votes are described as follows:

KEY

1. Rollcall Number;
2. Number of the bill or resolution;
3. Title of the bill or resolution;
4. A description of the vote;
5. The outcome of the vote;
6. The vote total;
7. My vote, in the form Y=yes, N=no, and NV=not voting;
8. The vote totals of the Arizona delegation (yes-no-not voting);
9. The date.

VOTING RECORD

168. HR 2112. Fiscal 1988 Intelligence Authorization-Rule. Adoption of the rule (H Res 187) to provide for House floor consideration of the bill to authorize an unrevealed amount for intelligence activities in fiscal 1988 and to extend a provision in the current law which prohibits the Central Intelligence Agency from funding the Nicaraguan contras. Adopted 285-115: NV(2-2-1), June 9, 1987.

169. HR 4. Housing and Community Development-Reduced Spending. Wylie, R-Ohio, amendment in the nature of a substitute to reduce the total authorization level by $1.7 billion, from $15.9 billion to $14.2 billion, to authorize 60,000 new federal vouchers for poor persons to use in paying for private housing, and to emphasize rehabilitation of existing public housing units rather than construction of new units. Rejected 179-246:N(4-1-0), June 10, 1987.

170. HR 4. Housing and Community Development-Collective Bargaining. Bartlett, D-Texas, amendment to strike language that requires public housing resident management corporations to abide by collective bargaining agreements with employees of public housing corporations that were contracted prior to the formulation of the resident management corporation. Rejected 176-249:N(4-1-0), June 10, 1987.

171. HR 4. Housing and Community Development-Elderly Rents. Gray, D-Ill., amendment to reduce the rental payments for elderly residents of public housing from 30 percent to 25 percent of their adjusted gross income. Adopted 284-137: Y(1-4-0), June 10, 1987.

172. HR 4. Housing and Community Development-Option to Buy. Morrison, D-Conn., substitute to the Kemp, R-N.Y., amendment to provide that lower-income families residing in public housing be given the opportunity to purchase the dwelling units in any public housing project through an established resident management corporation. Adopted 258-161:Y(1-4-0), June 10, 1987.

174. HR 4. Housing and Community Development-Modular Housing Code. Hefley, R-Colo., amendment to strike a reference in the bill requiring the secretary of housing and urban development to develop a system for implementing voluntary preemptive national codes for modular housing and to allow states to regulate the standards. Rejected 129-282:N(4-1-0), June 11, 1987.

175. HR 4. Housing and Community Development-UDAG Funds. Hiler, R-Ind., amendment to give priority in Urban Development Action Grants to rehabilitation of vacant industrial buildings. Rejected 163-245:N(2-3-0), June 11, 1987.

151. HR 1451. Older Americans Act—Rule. Adoption of the rule (H Res 175) to provide for House floor consideration of the bill to reauthorize the Older Americans Act. Adopted 293-95:Y(1-4-0), May 28, 1987

152. HR 1451. Older Americans Act—Funding Levels. Tauke, R-Iowa., amendments to change authorizations for specific programs with the net effect of reducing total authorizations under the bill for fiscal 1988 by $108 million. Rejected 95-297:N(4-1-0), May 28, 1987

153. HR 1451. Older Americans Act—Influencing Elections. Jeffords, R-Vt., substitute to the Armey, R-Texas, amendment to incorporate into the bill committee report language prohibiting use of funds from the bill for partisan political purposes. Adopted 352-37:Y(5-0-0), May 28, 1987

154. HR 1451. Older Americans Act—Home Care. Roybal, D-Calif., amendment to authorize $2 million annually for fiscal years 1989 and 1990 for demonstration projects to test ways to assist senior citizens who receive home care. Adopted 274-115:Y(1-4-0), May 28, 1987

155. HR 1451. Older Americans Act—Final Passage. Passage of the bill to reauthorize for four years the Older Americans Act, which provides social and nutritional services for senior citizens. The bill authorizes $1.6 billion for fiscal 1988, with a 5 percent annual increase in most programs for fiscal years 1989-1992. Passed 379-8:Y(3-2-0), May 28, 1987

156. HR 1039. Mineral Lands Leasing—Rule. Adoption of the rule (H Res 155) to provide for House floor consideration of the bill to amend the Mineral Lands Leasing Act of 1920 to settle certain oil shale claims on public lands. Adopted 340-0:Y(4-0-1), May 28, 1987

158. HR 1039. Mineral Lands Leasing—Final Passage. Passage of the bill to amend the Mineral Lands Leasing Act of 1920 to set conditions for the resolution of certain oil shale claims. Passed 295-93:Y(2-3-0), June 2, 1987

159. HR 1444. Medicare-Medicaid Patient Protection Act—Final Passage. Stark, D-Calif., motion to suspend the rules and pass the bill to strengthen the ability of the Department of Health and Human Services to exclude from various federal health programs incompetent or unscrupulous health care providers. Motion agreed to 402-0:Y(5-0-0), June 2, 1987

160. HR 2533. Persian Gulf Policy Report—Final Passage. Foley, D-Wash., motion to suspend the rules and pass the bill to require the Defense Department to report on certain aspects of U.S. policy in the Persian Gulf within seven days of enactment. Motion agreed to 302-105:Y(4-1-0)

162. HR 1934. Fairness in Broadcasting—Rule. Adoption of the rule (H Res 179) to provide for House floor consideration of the bill to write into law the "fairness doctrine", which requires broadcasters to air all sides of controversial issues. Adopted 397-0:Y(5-0-0), June 3, 1987

163. HR 1934. Fairness in Broadcasting-Radio Exemption. Green, R-N.Y., amendment to exempt radio stations from the requirements of the fairness do doctrine. Rejected 71-333:N(3-2-0), June 3, 1987

164. HR 1934. Fairness in Broadcasting-Final Passage. Passage of the bill to write into law the "fairness doctrine", which requires broadcasters to air all sides of controversial issues. Passed 302-102:Y(1-4-0)

165. HR 2330. National Science Foundation Authorization-Final Passage. Passage of the bill to authorize $1.89 billion for fiscal 1988 activities of the National Science Foundation. Passed 408-3:Y(4-1-0), June 3, 1987

166. HR 2355. EPA Research and Development-Acid Rain. Bruce, D-Ill., amendment to increase by $3 million annually (making the fiscal 1988 total $55.3 million and the fiscal 1989 total $55.6 million) the appropriations authorized for acid deposition research. Rejected 124-278:N(5-0-0), June 4, 1987

176. HR 4. Housing and Community Development-Budget Reconciliation. Gonzalez, D-Texas, amendment to the Hiler amendment to require that new budget authority in the bill conform to levels established by a future congressional budget resolution for fiscal 1988. Adopted 242-166:Y(1-4-0), June 11, 1987

177. HR 4. Housing and Community Development-Recommittal. Wylie, R-Ohio, motion to recommit the bill to the House Committee on Banking, Finance and Urban Affairs, with instructions to report it back forthwith containing the Kemp, R-N.Y., amendment to permit residents of public housing to purchase their units at 25 percent of fair market value. Rejected 162-243:N(4-1-0), June 11, 1987

178. HR 4. Housing and Community Development-Final Passage. Passage of the bill to authorize $15.9 billion in new budget authority in fiscal 1988 for housing and community development programs administered by the Department of Housing and Urban

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Development and the Farmers Home Administration, including public housing modernization and construction, low-income rental assistance, Community Development Block Grants, Urban Development Action Grants, Federal Housing Administration mortgage loan insurance, and rural housing subsidies. Passed 285-120:Y(1-4-0), June 11, 1987

179. HR 1777. State Department Authorization-Rule. Adoption of the rule (H. Res. 190) to provide for House floor consideration of the bill to set funding levels for the State Department, the United States Information Agency and for other purposes, for fiscal years 1988 and 1989. Adopted 238-134:Y(1-4-0), June 11, 1987

180. HR 1777. State Department Authorization, Fiscal 1988-89-U.S. Embassy in Moscow. Courter, R-N.J., amendment to the Mica, D-Fla., amendment to bar completion for use by U.S. diplomats of the embassy building currently under construction in Moscow. Rejected 142-272:N(2-3-0), June 16, 1987

181. HR 1777. State Department Authorization, Fiscal 1988-89-U.S. Soviet Embassy Contract. Mica, D-Fla., amendment to bar occupancy of the newly constructed Soviet Embassy in Washington unless the President certifies to Congress that the U.S. Embassy in Moscow is secure against Soviet espionage and that steps have been taken to protect secret U.S. communications against eavesdropping from the new Soviet Embassy. Adopted 414-0:Y(5-0-0), June 16, 1987

182. HR 1777. State Department Authorization, Fiscal 1988-89 Technology Transfer. Hunter, R-Calif., amendment to require the secretary of state of report to Congress on steps taken by the governments of Japan and Norway against two firms that sold the Soviet government machinery for making submarine propellers, contrary to international agreements. Adopted 415-1:Y(5-0-0), June 16, 1987

183. 1777. State Department Authorization, Fiscal 1988-89—Drug Testing. Shaw, R-Fla., amendment to require the State Department to inaugurate a program of drug testing for personnel who handle secret information. Adopted 307-103: Y(5-0-0), June 16, 1987

184. HR 281. Construction Labor Law Amendments. Adoption of the rule (H Res 196) to provide for House floor consideration of the bill to restrict the right of unionized companies to set up non-union subsidiaries to do the same work as the parent firm, a practice known as "double breasting". Adopted 240-178:Y(1-4-0-0), June 17, 1987

185. HR 281. Construction Labor Law Amendments—Employers' Bargaining Requirement. Roukema, R-N.J., amendment to require the non-union subsidiary of a double-breasted company to abide by the parent company's union contract only if the National Labor Relations Board determines that the non-union employees want to be covered. Rejected 177-249: N (4-1-0), June 17, 1987

186. HR 281. Construction Labor Law Amendments—'Single Employer' Definition. Bartlett, R-Texas, amendment to redefine "single employer" to require common management control of labor relations, interrelated operations and common ownership, not simply any one of those elements. Rejected 179-247: N(4-1-0), June 17, 1987

187. HR 281. Construction Labor Law Amendments—"Single Employer" Definition. Jeffords. R-Vt., amendment to redefine "single employer" to make a distinction between legitimate dual shops and those designed to avoid using union workers. The amendment specified that two entities would be considered a single employer when employees were transferred between the companies, when they were in direct competition, or when the work of one deprived the other of similar work. Rejected 159-265: N(4-1-0), June 17, 1987

188. HR 281. Construction Labor Law Amendments—Labor Violence. Armey, R-Texas, amendment to the Ballenger, R-N.C. amendment, to allow a company to ignore its duty to bargain collectively if the labor organization involved had directly engaged in or encouraged violence. Rejected 162-262: N(4-1-0), June 17, 1987

189. HR 281. Construction Labor Law Amendments—Labor-Racketeering Connections. Ballenger, R-N.C., amendment to allow a company to ignore its duty to bargain collectively under a contract if the labor organization involved had an officer or former officer who had been convicted of racketeering or bribing a public official. Rejected 158-266: N(4-1-0), June 17, 1987

190. HR 281. Construction Labor Law Amendments—Effective Date. Jeffords, R-Vt., amendment to make the bill applicable only to contracts that are entered into after the date of enactment. Rejected 203-221: N(4-1-0), June 17, 1987

191. HR 281. Construction Labor Law Amendments. Passage of the bill to restrict the right of unionized companies to establish non-union subsidiaries that do the same work, a practice known as "double breasting". Passed 227-197:Y(1-4-0), June 17, 1987

193. HR 1777. State Department Authorization, Fiscal 1988-89-Goodwill Games. Herger, R-Calif., amendment to delete a provision earmarking $500,000 in each year for the Goodwill Games, in Seattle, Wash. Adopted 203-201:N(4-1-0), June 18, 1987

194. HR 1777. State Department Authorization, Fiscal 1988-89-National Endowment for Democracy. Conyers, D-Mich., amendment to abolish the National Endowment for Democracy. Rejected 91-310:N(0-5-0), June 18, 1987

196. HR 1777. State Department Authorization, Fiscal 1988-89-Voice of America Contracting. Bartlett, R-Texas, substitute for the Frenzel, R-Minn., amendment to provide that non-U.S. firms' may bid on certain United States Information Agency contracts provided U.S. firms are permitted to bid on similar contracts in the foreign firms' home countries. Adopted 334-70: Y(3-2-0), June 18, 1987

197. HR 1777. State Department Authorization, Fiscal 1988-89-Voice of America Contracting. Frenzel, R-Minn., amendment to provide that non-U.S. firms may bid on certain United States Information Agency contracts provided U.S. firms are permitted to bid on similar contracts in the foreign firms' home countries. Rejected 167-237:N(2-3-0), June 18, 1987

198. HR 1777. State Department Authorization, Fiscal 1988-89 Recognition of Nicaraguan Contras. Dornan, R-Calif., amendment to express the sense of Congress that the president should consider recognizing the contra rebels in Nicaragua as a belligerent power that legitimately challenges the ruling Sandinista regime. Rejected 137-243:N(4-1-0), June 18, 1987

199. HR 1777. State Department Authorization, Fiscal 1988-89 U.S. Citizens Aiding Nicaragua. Walker, R-Pa., amendment to the McCollum, R-Flka., amendment to require the secretary of state to report to Congress the number of U.S. citizens assisting the government of Nicaragua directly or indirectly. Rejected 144-244:N(4-1-0), June 18, 1987

200. HR 1777. State Department Authorization, Fiscal 1988-89 U.S. Citizens Aiding Nicaragua. McCollum, R-Fla., amendment to require the secretary of state to report to Congress the names of U.S. citizens assisting the government of Nicaragua directly or indirectly. Rejected 103-257:N(2-3-0)

H.R. 3712, A BILL TO DESIGNATE THE U.S. LIVESTOCK INSECTS LABORATORY AS THE "KNIPLING-BUSHLAND" LABORATORY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. DE LA GARZA. Mr. Speaker, yesterday I introduced H.R. 3712, a bill to designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory."

This bill is intended to honor Dr. Edward Knipling and Dr. Raymond Bushland who pioneered efforts to develop the Screwworm Eradication Program—perhaps the most successful effort to eliminate a livestock pest ever initiated by the U.S. Department of Agriculture. These two entomologists are extremely deserving of special recognition.

By renaming the Kerrville facility where much of the research was conducted on screwworm eradication, the "Knipling-Bushland Research Laboratory," we are accomplishing several purposes. One is to honor and recognize two individuals whose accomplishments are deserving of a Nobel prize. Another is to recognize and highlight one of the first peaceful uses of radiation. This peaceful use of radiation is in keeping with the spirit of the summit negotiations that are occurring between Mr. Reagan and Mr. Gorbachev. This peaceful use of radiation demonstrates how man can harness a destructive force and use it for the benefit of mankind to improve our lives through its use and application to agriculture. In addition, one cannot understate the positive international efforts that have resulted from cooperative eradication programs with our Southern neighbors. It is for these reasons that I introduced H.R. 3712.

The screwworm is a livestock parasite which originated in the tropics. It is distributed through Central and South America and the Caribbean. In the past, it has extended its range to include the Southern United States causing extensive losses of domestic livestock.

The adult fly lays batches of eggs on the edges of open wounds. The resulting screwlike worms burrow into the living flesh of the animal, weakening the animal and occasionally causing death.

Records of screwworms in the United States go back to 1832. During the latter part of the last century, screwworms were a serious problem in Texas and the Gulf Coast. In the mid-1930's, a massive outbreak extended to Florida, the Southeastern States, and even to the Great Lakes. Subsequent outbreaks occurred in the Southern United States during each of the subsequent decades until an innovative and effective eradication program, conceived and developed by Dr. Knipling and Dr. Bushland, began in 1962.

As a result of this program, the United States was declared screwworm free in 1966 and significant progress had been made toward achieving similar status for Mexico. In fact, just this past summer, the Mexican Government declared all Mexican States located north and west of the Isthmus of Tehuantepec to be free of screwworms. Total savings to the livestock industry in both countries—cattle, sheep, and hog raisers—are estimated at $1 billion or about $4 for every $1 spent on the eradication program. Screwworm eradication programs are beginning operation in Guatemala and Belize as well.

The Screwworm Program is a model of international cooperation in dealing with an agricultural pest. Since 1972, this program has been coordinated by a joint United States-Mexico Screwworm Eradication Commission. Its successful implementation has served to virtually eliminate the livestock industry's No. 1 airborne pest from the North American continent.

The team of Edward Knipling and Raymond Bushland are largely responsible for the success of the Screwworm Eradication Program. Working together, these individuals developed a means of eradicating screwworms through the introduction of sterile male flies into areas of pest infestations. Billions of these sexually sterile flies were distributed over vast areas of the Southern United States and Mexico to take advantage of their aggressive mating behavior to reduce their numbers.

In 1938, Dr. Knipling observed the aggressive behavior of male screwworms. This was made possible because of earlier research by his colleague, Dr. Bushland, who succeeded in developing a means to raise substantial numbers of screwworms by rearing them on a groundmeat/blood/formaldehyde medium. Dr. Knipling theorized that if a natural population of flies could be overflooded with sexually sterile males, then most of the females would be mated to sterile males, causing a decline and possible extinction of the wild population. However, at that time, no way existed to raise a sufficient number of screwworms for release and methods had not been developed to sterilize and distribute the insects.

It wasn't until 1950 that Dr. Bushland identified doses of x rays that completely sterilized the screwworms and provided the means to implement the eradication strategy devised by Knipling. Dr. Bushland's pioneering studies with x rays and later gamma rays and other types of radiant energy on insects is an area of research for which he has received worldwide recognition.

Working together, Knipling and Bushland tested and perfected their screwworm eradication experiments to finally bring the program to implementation in the Southwestern United States in 1962. This initial effort was promoted and funded by the livestock industry. Subsequent efforts on the part of these scientists have led to the extremely successful screwworm eradication program in place today.

Dr. Knipling is well known for his other accomplishments in the field of entomology. Among these are the development of an insecticide that was used successfully during World War II to control lice and to break an epidemic of typhus in Naples, Italy. Dr. Knipling also pioneered efforts to redirect research into alternatives to the use of insecticides to control insect pests, including biological controls, development of pest-resistant crops, and insect-specific chemicals that interfere with the growth and development processes in insects.

Dr. Knipling, who retired from Federal service in 1973, has received numerous awards, including the President's Award for Distinguished Federal Civilian Service presented by President Nixon.

Dr. Bushland, who directed the Kerrville laboratory from 1950 to 1963, shares recognition with Dr. Knipling for studies to protect military personnel from lice and other pests in addition to his outstanding contributions toward the eradication of screwworm. Dr. Bushland also retired from the U.S. Department of Agriculture in 1973.

Mr. Speaker, the achievements of these two men have done much to promote not only the well-being of American agriculture but also the alternative use of radiation for peaceful purposes and the good will between the United States and her southern neighbors. This is just a small step in providing recognition for accomplishments that are deserving of Nobel Prize recognition.

A TRIBUTE TO LEGISLATOR JANE DEVINE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Suffolk County, NY, Legislator Jane Devine, who is retiring from the legislature after 10 years of distinguished service.

In her 10 years in public office, Jane has been a source of great pride to the residents of her district. She has been elected five times in a district that overwhelmingly favors candidates of another party, proving that her constituents are indeed impressed with the work she has done for them.

In her years as a county legislator, Jane has served on most of the major committees of the legislature and made an important contribution to every one of them. She has won the respect of both Republicans and Democrats alike, and served as the legislature's minority leader in 1984–85. Jane now serves as the chair of the Public Safety Committee and recently presided over important hearings on Suffolk County law enforcement policy.

Mr. Speaker, I was privileged to serve with Jane in the Suffolk County Legislature, and have known her for many years. She is a trusted colleague and a close friend. Her years of public service represents a wonderful legacy not only for Suffolk County residents today, but for future generations as well.

Jane has also been an inspiration to many women who are interested in seeking public office. She has proven there are no limits to what a woman can do once in office. As Susan B. Anthony once said, "* * * there will never be complete equality until women themselves help to make the law."

As a lawmaker, she has been at the forefront of efforts to improve Suffolk County's human services for our county's poor, a constituency without political clout but real needs. She has also played an integral part in the investigation to uncover corruption in the southwest sewer district, has been a leading advocate of efforts to preserve our diminishing open space, and she has worked to protect the sensitive acquifers that provide our drinking water. Jane was also instrumental in extending the Farmland Preservation Program to include the western end of Suffolk County.

In short, Mr. Speaker, Jane Devine embodies the definition of the words "public servant." She has served the residents of her district to the best of her ability, and for that I know they are grateful. Although Jane is retiring, I and the residents of her district can take solace in the fact that Jane will still be an integral part of our community. I wish her all the best for the future as she begins her retirement from public life.

PARENTAL LEAVE IS GOOD FOR BUSINESS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. MILLER of California. Mr. Speaker, for the past 4 years, the Select Committee on Children, Youth, and Families has demonstrated that the dollars we invest in children today save taxpayers and employers many more dollars tomorrow. This sentiment was recently echoed by the Committee on Economic Development, an organization of prominent U.S. business executives.

Cost-effective investments begin in the months preceding birth through the first years of life. Perhaps no time is more crucial than those first precious months of newborn-parent bonding. Medical and social research show that a healthy period of maternal-infant bonding enhances a child's sense of self, trust in others, and later performance in school and at work.

Even if we could turn the demographic clock back to the 1950's when the majority of mothers worked at home, working families today could ill afford the luxury.

Mr. Speaker, for the RECORD, I would like to attach the following comments of Dr. Edward F. Zigler and Rita Watson of Yale University's Bush Center in Child Development and Social Policy. According to Professor Zigler, a former Director of the U.S. Children's Bureau, parental leave is a fundamental investment in the futures of our children. As Professor Zigler and Ms. Watson articulately state, it is shortsighted of business leaders who have endorsed social programs like WIC and Head Start to ignore the social and economic benefits of parental leave.

In the long run, ignoring the needs of newborns today may cost us millions more in social problems and employment deficits later on. The article from the New York Times follows:

[From the New York Times, Nov. 19, 1987]

BUSINESS MYOPIA ABOUT CHILDREN

(By Edward F. Zigler and Rita E. Watson)

NEW HAVEN.—America's business community is schizophrenic. It is wise in advocating early intervention for disadvantaged children, but shortsighted in not supporting parental leave. It is wise in supporting education, but shortsighted in not supporting other developmental needs of children.

When will business leaders understand that to have well-educated, stable and healthy employees tomorrow, they must support the needs of children today? Not long ago, business leaders joined educators to produce the Committee for Economic Development's report on disadvantaged children. Laudably, they urged support for educational programs for the urban poor, for preschool intervention programs such as Head Start, for prenatal care and programs providing protein-rich foods to mothers and children in need.

With such wisdom regarding children's health and education, how can business leaders ignore the basic need of all children: the need to bond with parents? Bonding takes place shortly after birth and requires the time permitted by infant-care leave. Herein lies the schizophrenia.

A parental leave bill is again under legislative review in Congress. It proposes unpaid leave for a mother or father after a child is born or adopted. The Bureau of Labor Statistics says 52.6 percent of mothers of infants less than a year old return to the labor force. Economic necessity forces some mothers back to work within two weeks of a child's birth.

Medical and psychological research supports what most of our grandmothers knew intuitively: Mothers need time to recover physically and emotionally from childbirth, and children and parents need time to bond. Bonding helps a child learn to trust, to feel secure and to do better in school.

Yet businesses are fighting parental leave. The United States Chamber of Commerce initially estimated that it would cost $16.2 billion and later revised the figure to $2.6 billion. The General Accounting Office estimated the cost to businesses at $340 million.

The National Federation of Independent Businesses opposes parental leave, as does the National Association of Manufacturers. Louis Dehmolow, chairman of the 45,000-member National Association of Wholesaler-Distributors, told us that "the [parental leave] concept will endanger the country because it interferes with the personal relationships of people who work together."

Testimony at hearings under the chairmanship of Senator Christopher Dodd, Democrat of Connecticut, revealed that some business leaders personally favored paid parental leave, but their companies would not take an official position. The National Association of Women Business Owners supports minimum Federal standards of six weeks of unpaid leave.

Why hasn't the Committee for Economic Development advocated parental leave? A senior official of the committee told us: "We advocated what we had evidence to support. The entire developmental period is fundamentally important. Anyone who has a child knows that. But the parental leave issue is very controversial in the business community, primarily from a cost issue. The problem is that many Fortune 500 companies have comprehensive benefits, while smaller businesses do not have the resources to deal with it."

Business is taking an inconsistent stand toward children and the well-being of families. The Committee for Economic Development asserts that an investment in children is an investment in the future. The investment should start at the beginning of a child's life and follow through so that dramatic interventions are not necessary later.

After prenatal care, parental leave is the first step toward healthy growth and development and should be included in the cycle that business leaders have advocated: prenatal care to meet physical needs, parental leave and quality child care to meet development needs and early intervention to meet educational needs.

A business community concerned about the future must support and nurture the nation's most valuable resource—its children.

50TH ANNIVERSARY OF GLADYS AND EVERETT DICKSON

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. HUNTER. Mr. Speaker, on December 20, Gladys and Everett Dickson will get together for a celebration with their family and friends. This celebration will commemorate an event too seldom seen in America today. The Dicksons will celebrate their 50th wedding anniversary.

In 1934 Gladys' brother Floyd introduced her to a young soldier, that soldier was Everett Dickson. The two were married on December 24, 1937. God granted this great union four children; Beverly Jean, born 1939, Everett Joseph, Jr., born 1940, Diana Rae, born 1942, and Michael Wayne, born 1945. The family has since expanded with 11 grandchildren and 6 great grandchildren.

In February, 1943, the Dicksons moved to National City, CA, where Everett went to work for San Diego's Lynch Ship Building. In 1951, Everett started work for the naval shipyard at 32d Street, San Diego. In 1963, Everett went to work for National Steel & Ship Building Co. [NASSCO] as a loftsman and he retired in November 1985.

Gladys became active in the Republican Party by walking precincts for the Eisenhower-Nixon Presidential election of 1952. Gladys then joined the National City Republican Women's Club in 1953. She was elected to serve on the San Diego County Republican Central Committee in 1970, and is still active as an elected official. Outside of the political arena, Gladys also volunteered to assist the little league baseball, teen dances, and the Girl Scouts and Boy Scouts. Gladys is currently vice president-elect of the Chula Vista Republican Women's Club.

Gladys and Everett now spend their time visiting parts of our great Nation that they have not seen. They also remain active as a couple enjoying gardening and fishing together. Gladys says that their only wish is to be able to celebrate their 75th wedding anniversary.

I congratulate the Dicksons on their 50th wedding anniversary and hope that they continue to remain active in their community and enjoy their family. I wish them health, happiness, and many more years together.

BISCAYNE GARDENS: A NICE PLACE TO LIVE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. LEHMAN of Florida. Mr. Speaker, we have some great traditional old-fashioned neighborhoods in our 17th Congressional District. No area better reflects our traditional values and the benefits of neighbors working for the common good than does Biscayne Gardens.

South Florida is always changing, but the strength of Biscayne Gardens is that it affords an oasis of stability in a sea of transition. Although it is not incorporated as a town or a city, Biscayne Gardens is nonetheless able to maintain its distinctive character in the very heart of north Dade County.

For several years in the 1970's, our family lived in Biscayne Gardens. My wife Joan's art studio has been there for 20 years, and I have enjoyed many a pancake breakfast on Saturday mornings at the civic association building on Miami Avenue. I hope that I will be able to attend the next pot luck supper.

The Miami Herald recently profiled Biscayne Gardens, and I would like to share this article with my colleagues.

[From The Miami Herald, Nov. 29, 1987]

PAST, PRESENT BLEND IN BISCAYNE GARDENS

(By Kathy McCarthy)

When Guy and Kay Goodwin moved to Biscayne Gardens in 1952, there were five houses on the block and the only way to North Miami was to cross the Biscayne Canal at the bridge at Northeast 125th Street.

Guy Goodwin, 70, used to fish in the river before it became too polluted.

Their neighbor, Ann Shigley, had just moved in behind them. They have been neighbors for 35 years, and their houses are separated by a gigantic poinciana tree that the Goodwins planted as a twig.

"It used to be everybody knew everybody else," said Guy Goodwin, president of the Biscayne Gardens Civic Association, who meets his new neighbors by walking his dog.

"People watch out for you. We still have our neighbors' keys and they have a set of ours," Goodwin said.

Biscayne Gardens, which runs from Northeast 167th to 135th streets and from Northeast Sixth to Northwest 17th avenues, is tucked between North Miami and North Miami Beach.

It is an older neighborhood that has retained some of its old Miami charm. The streets are shaded with oaks or poinciana, and many of the single-family houses were built with wood floors, Florida rooms and front porches.

"It's like living in the country in town," Kay Goodwin said. "It's a little community within a big city."

Bordered by the Biscayne Canal, the land and lush soil once was flower gardens, strawberry fields and a pineapple plantation. It was developed by the late Charles Brand Sr. in 1945.

Slowly, the plant and flower nurseries were sold off to developers who built houses or apartment buildings.

Today, the neighborhood remains a quiet residential community whose newest and unlikely neighbor is the new FBI headquarters building at 16320 NW Second Ave.

Civic pride is strong in Biscayne Gardens, which has fought past attempts by North Miami to annex the neighborhood.

Some residents complained when the FBi headquarters brought more traffic and parked cars along Northwest Second Avenue.

"We just don't want to belong to anybody," Kay Goodwin said. "We're independent. And we get as good service as any municipality."

Residents keep up their property and protectively watch for zoning violators when anyone other than a single-resident family moves onto their block.

"That's the one thing the civic association tries to do—keep up the neighborhood," Kay Goodwin said.

Developer Brand wanted to see the neighborhood thrive, so he donated a third of an acre lot at 15000 N. Miami Ave. to the then-fledgling Biscayne Gardens Civic Association in 1945.

Later, the association raised money and received a grant to build a meeting hall.

"We sold bonds at $10 a bond at 6 percent interest to get money for the building," Guy Goodwin said.

During the 1950s, with chaperones and an orchestra leader named Crusty Drybread, the association held popular teen-age dances at the hall and charged a nickel admission.

Although still active, the association membership has dwindled to about 80 people. About 30 people show up at the meetings. Those still active are eager for new families.

"Many of the original members have died or moved away," Kay Goodwin said. "Gradually, membership fell off. It's sad. It's such a beautiful area."

"We need younger members," Guy Goodwin said, "We're getting a lot of younger people in the area, but everybody's so busy now. It seems like people have less time than they used to."

The association still holds potluck supper meetings on the first Thursday of the month at the building, which is rented out to the Women's Club, union meetings or personal events.

Last month, the association held an Oktoberfest. On Dec. 12, it is holding a fund-raising antique fair. The money will go to help pay for the building upkeep and insurance.

With the exception of commercial Northwest Seventh Avenue, the neighborhood remains residential, with some small business dotting Memorial Highway or North Miami Avenue.

Residents, who like the peace and quiet, want to keep it that way.

Said Ann Shigley, who was the civic association's first woman president in 1956: "Over the years, we've really had the very best Miami has to offer."

TRIBUTE TO THE LATE HONORABLE HAROLD WASHINGTON, MAYOR OF CHICAGO

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. DE LA GARZA. Mr. Speaker, allow me to take this opportunity to say a few words about the untimely passing of a great man—Chicago Mayor Harold Washington. An individual dedicated to public service—a true leader—and a pioneer, Harold Washington is a man who understood the city of Chicago, its people, its potential, and its power. Harold Washington was my friend even before coming to Washington and remained so during his service in Congress.

At the time of his inauguration Harold Washington said:

> I hope someday to be remembered by history as the mayor who cared about people and who was, above all, fair . . . The mayor who helped, really helped, to heal our wounds and stood the watch while the city and its people answered the greatest challenge in more than a century.

History I think will record Harold Washington realized his ambitions. He is a man who will be missed, and to his friends and family and the people he held most dear—the people of his city—go my condolences.

GLEN C. LOURY ARRESTED FOR POSSESSION OF COCAINE AND MARIJUANA

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. CLAY. Mr. Speaker, Glen C. Loury, a black professor at Harvard's John F. Kennedy School of Government, is going out of his way to prove his thesis of "socially destructive behavioral patterns of some blacks." Mr. Loury for several years, wittingly and willingly, has served in the capacity of minister of propaganda against black people in an effort to legitimize attacks by reactionary forces which are destroying beneficial programs aimed at fighting racism and eliminating poverty. He has been one of the foremost and outspoken critics of affirmative action and welfare assistance. He is noted for his writings on the immorality of low-income blacks.

Mr. Speaker, apparently, the malignancy he so poignantly attributes to poverty stricken black folk is contagious to some high income blacks as well. In June of this year, Mr. Loury withdrew his name from consideration for the $82,500 post of Under Secretary of Education after being charged with assaulting a lady friend. He was accused of assaulting her with a "shod foot." Now, Mr. Speaker, this same paragon of virtue has been arrested for possession of cocaine and marijuana. In the name of justice, we must hope that the notoriety he has earned does not infringe on Mr. Loury's right to be innocent until proven guilty and to have a fair and impartial trial.

CENSORSHIP HAS NO PLACE ON CAMPUS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. FRANK. Mr. Speaker, free speech in general is a popular idea in America, but the depressing fact is that for many people, free speech is something they really believe in only for those who agree with them. People on the political left will argue vigorously for their right to speak, but will not mind when people on the right are shut up, and many on the right show no greater consistency. One of those rare individuals who has consistently fought very hard for the right of free speech for everyone, including people whose views are deservedly unpopular, is Prof. Alan Dershowitz, of Harvard Law School. Last month, he wrote a thoughtful and telling article about the inconsistency of many political activists with regard to free speech and once again made what I think is a forceful case for protecting the rights of all—again including those whose views are very unpopular—to engage freely in public debate.

I ask that Alan Dershowitz' forceful defense of free speech published in the November 24 Boston Herald be printed here.

[From the Boston Herald, Nov. 24, 1987]

CENSORSHIP HAS NO PLACE ON CAMPUS

(By Alan Dershowitz)

Some of a college student's most important learning experiences take place outside the formal classroom setting. Political rallies, guest lectures, campus movies and dormitory "bull sessions" all supplement what the professors teach in class. Some colleges and universities seem to understand this better than others.

Throughout the country, efforts are underway to prevent college students from being exposed to certain "controversial" points of view, "offensive" forms of expression and "dangerous" people. University administrators justify such censorship by invoking their paternalistic role as protectors of the students. But often, they are simply capitulating to pressure from alumni, parents, politicians, faculty and even students.

A few recent cases in point:

The faculty of at least one college, Colby in Maine, recently voted to ban the CIA from recruiting on campus. The reason offered was that the CIA was engaged in illegal activities in Central America. But that surely was not the real basis for the vote. Martin Luther King had also been engaged in illegal activity during the 1960s, and this "liberal" college would have welcomed him with open arms to recruit for his noble cause. It is the political nature of the allegedly illegal actively that distinguishes the cases.

A majority of the faculty at Colby College approve of King and disapprove of the CIA. That is an entirely plausible personal view. But it is not a basis for denying students who disagree with it the right to hear from, or be recruited by, the CIA. Indeed, a majority of the Colby students apparently do not want to ban CIA recruiters—not that majority should rule in freedom of speech contexts. The college administration has yet to resolve the deadlock. If the faculty view prevails, the Colby students will be denied the very academic freedom faculty members insist on for themselves.

At Boston University last year, the administration tried to ban dormitory window banners that proclaimed opposition to the university's policy regarding divestment from South Africa. The students took the university to court and won. A Massachusetts law prevents private colleges, as well as government agencies, from denying citizens their civil rights and liberties.

The faculty at Colby should read the judge's opinion, which includes the following observations: "Indeed nowhere in our society is the protection of the free flow of ideas more important than in the university community, the quintessential marketplace of ideas. . . . Within the university, student dormitories play an important role for students' exercise of their freedom of expression, providing students with the only area reserved exclusively for their personal use. Such use, of course, includes the student's right of free speech. . . . Students at learning institutions have a right to engage in symbolic protest."

The Committee of Discipline at Massachusetts Institute of Technology did read the Boston University decision and acted consistently with it in a recent case. MIT has a policy on "sexually explicit" films that requires a committee to pass on whether the movie to be shown portrays sexuality "positively," "normally" and in a non-sexist manner.

My nephew, Adam, who is a junior at MIT, regarded the policy as objectionable; indeed, as objectionable as many people, including him, regard sexist films. He tried unsuccessfully to have it changed. Then he decided—on his own—to engage in an act of civil disobedience and show the controversial film "Deep Throat," on a video machine in his own dormitory lounge. Although that film had been declared constitutionally protected by a Cambridge court in a case involving Harvard students who showed it, it clearly was sexually explicit and probably in violation of the MIT policy. About 80 students—men and women—watched the film without incident.

The dean filed a formal complaint before the Committee on Discipline, and Adam defended himself by attacking the film policy as a violation of his constitutional rights and his academic freedom, as well as those of the viewers. After a long hearing, the committee agreed and dismissed all charges on the ground of academic freedom, in effect rendering the film policy inoperative. Now any student at MIT can decide for himself or herself which constitutionally protected films to show or watch on the campus.

At Syracuse University, as well, students have a right to watch or listen to anyone they please, including obnoxious racists like Louis Farrakhan. Efforts to revoke a student government grant to bring Farrakhan to the campus were properly rebuffed—just as efforts to prevent a South African apologist for apartheid from speaking at Harvard were defeated. Both universities survived the controversy, and the students were the better educated for it. The irony is that some who supported freedom of speech for one racist opposed it for the other—and vice versa.

At my own law school, Harvard, a single student caused the cancellation of a scheduled speech by Adolfo Calero, the leader of the Nicaraguan Contras. Despite security precautions, he simply jumped on the podium in a threatening manner, and the proceedings stopped.

A committee has now been established to take steps to assure freedom of expression for all students, including those who wish to peacefully picket, heckle or otherwise protest the speakers, films or other forms of expression. That is both good educational policy and good constitutional law.

SPARTANS MOVING UP

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. COBLE. Mr. Speaker, the University of North Carolina at Greensboro [UNCG], which is located in my district, has made the decision to upgrade its athletic program to division I status by 1991. The school will begin that move by going to division II starting next season. As far as the UNCG soccer team is concerned, that move is coming at the right time.

On November 22, the UNCG Spartans won their third consecutive division III soccer title, and their fifth championship since 1982. They are the first team in NCAA men's soccer history, in any division, to capture three straight crowns. The Spartans completed their historic feat with a 6–1 victory over Washington University of St. Louis before 3,000 happy soccer fans in Greensboro.

All of us in the sixth district are proud of the fact that UNCG has become the most successful division III soccer team in collegiate history. As UNCG coach Michael Parker said in the Greensboro News & Record, "What a great way to go out. We're leaving division III with the message that we're by far the most outstanding team ever in the history of division III, and it's a great way to leave."

To UNCG Athletic Director Nelson Bobb, Coach Parker, the players and their supporters we extend our congratulations on an outstanding soccer reign in NCAA Division III. We also look forward to many more championships in division II, and eventually, in division I. Way to go, Spartans.

CONDOLENCES FOR AIRLINE VICTIMS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mrs. BOXER. Mr. Speaker, I am deeply saddened and upset to learn that five of my constituents perished in the crash of a Pacific Southwest Airlines commuter plane on Monday. I would like to take this opportunity to express my wholehearted condolences to the familes and friends of Ray Thomson, Donald Hoag, James Sylla, and Neil and Mary Webb.

This loss is especially tragic and senseless because it was apparently brought about by the desperate, angry act of a very disturbed individual.

While words are always little comfort during such a difficult time, I want the grieving families to know that they are in my heart and prayers.

Mr. Speaker, I would like to ask consent to enter into the RECORD, the attached Independent Journal article about these Marinites and their many contributions to our community:

TRAGEDY'S MARIN VICTIMS—PRESIDENT WORKED TO FIX COLLEGE'S FINANCES

(By Paul Peterzell)

Neil J. Webb, a Wisconsin business executive and former president of a college he helped rescue from a financial morass, was selected as Dominican College's president only last May.

Dominican has been under financial pressure because of sharply rising costs and declining enrollment.

Webb was selected for the Dominican post after a nationwide, five-month search. He replaced Barbara Bundy. In announcing his appointment in May, she said: "We are very fortunate to get someone like him. He's extremely well-qualified."

John Levinsohn, president of Dominican's board of trustees, said at the time of the appointment that Webb was "our man." He noted that Webb "had experience with a small, liberal arts college similar to Dominican with some of the same problems. He solved them, and that college is in a dynamic, postive state."

Webb retired almost four years ago as president of St. Norbert College, a private Catholic liberal arts school in De Pere, Wis., with an enrollment of 1,700 students. Dominican has 750 students.

He headed St. Norbert's from 1973 to 1983, and was affiliated with the school for 23 years. Before becoming president, he was an administrative vice president at the college, academic dean and chairman of the psychology department and a teacher.

After retiring, Webb studied in an advanced management program at Harvard University and worked with the Higher Education Research Institute at the University of California at Los Angeles.

Webb received his bachelor's degree in psychology and sociology from Marquette University in Milwaukee. He also earned a varsity letter in high jumping at Marquette. He received his master's and doctoral degrees in clinical psychology from Loyola University in Chicago.

He was born in Fond du Lac, Wis., and lived most of his life in Wisconsin.

Mary Webb was trained as a nurse, and returned to work after their children were grown. She worked until about a year ago.

Mrs. Webb also had served as trustee of the De Pere schools.

The Webbs lived in Tiburon. They have six grown children.

Memorial contributions may be made to the Presidents' Endowed Scholarship Fund, 1520 Grand Ave., San Rafael, 94901

CHEVRON USA MOURNS A WELL-LOVED PRESIDENT

(By Donna Horowitz)

The mood was somber today at Chevron Corp. headquarters in San Francisco, where company, state and U.S. flags flew at half-staff in tribute to four Chevron executives—including a Marin man—who died in Monday's PSA air crash in San Luis Obispo County.

James R. Sylla, 53, of Kentfield, was president of Chevron USA, a 25,000-employee domestic oil and gas subsidiary of the 53,000-

employee Chevron Corp. He also was a corporate vice president and a member of the corporation's executive committee.

"The offices are very quiet today," said Dave Young, a company spokesman who wrote Sylla's speeches.

He said Sylla and the other Chevron executives had been returning from an annual Christmas party in Los Angeles for company employees and retirees.

"It is such a terrible shock. Both my husband and I knew Jim (Sylla) very well being fellow Cornell University alumni," said Judy Edgar, former head of the Marin office of the San Francisco Foundation.

Sylla had served on the awards committee of the Marin Educational Foundation in 1983 and 1984 and the group's board from the beginning of 1985 to last January.

Sylla, a Illinois native, had lived in Kentfield for almost seven years.

He is survived by his wife, Virginia, and three children: John Sylla, a lawyer in Palo Alto; Tom Sylla, 26, a student at the University of Southern California; and Mary Sylla, 26, a student at Brown University in Rhode Island.

He earned a graduate degree in business from the University of Chicago and a bachelor's degree in chemical engineering from Cornell University.

He was named to a vice president's position in 1979 and named president of Chevron Shipping Co. in 1984.

Sylla became president of Chevron U.S.A. in June 1984 and a member of the corporation's executive committee in 1986.

He was incoming president of the San Francisco Chamber of Commerce, board president of the Golden Gate University and a board of governors member of the San Francisco Symphony.

EX-COUNTY OFFICIAL HAD RETURNED TO AIRLINES JOB

(By Thom Calandra)

Ray Thomson jumped from an airlines job to Marin County government and back to airlines in the last seven years of his life.

The former Marin County Public Works director was flying from Los Angeles International Airport, where he worked, to San Francisco when his Pacific Southwest Airlines flight crashed Monday afternoon. Thomson, a Tiburon resident, turned 48 on Nov. 29.

Thomson worked as customer service manager for USAir at the Los Angeles airport. It was a job he took in July 1986, four years after resigning his job as head of public works.

In 1982, after two years as public works director, he said he had a "difference of opinion" with the board of supervisors.

"I think a lot of that was due to the fact that it was Ray's first public-sector job," Thomas Flinn, who worked with Thomson as assistant director of public works, said today.

"There's a big difference in management styles, communication, profit motives between the public and private sectors," said Flinn.

Thomson was married in 1981. His wife, Dorothy, said today she refused to listen to the news reports of the plane crash. She said she had nothing to say at the present time.

When he left public works, Thomson went into private consulting, right about the time when the federal government deregulated airline services.

Before his two-year stint in Marin County, he worked for American Airlines for 14 years. He was operations manager at San Francisco International and San Jose Municipal airports.

"I was considered one of their top executives, but to advance my career I had to agree to transfer anywhere they wanted. And I wanted to stay in Marin County," he said in 1981.

Thomson was born in Crowell, Texas. He was the son of a rancher. He graduated from Texas Tech University with a bachelor's degree in mathematics. He also attended law school at Southern Methodist University for two years.

Said Flinn, "Ray was probably one of the most brilliant men I ever knew and one of the best managers."

BANKER DESCRIBED AS GOOD TROUBLE-SHOOTER

(By Mary Leydecker)

Donald Hoag of San Rafael was described by a colleague today as a well-respected problem solver. Hoag, 43, was vice president and manager of the personnel department of Union Bank at its Northern California regional office in San Francisco.

"He was well respected at the bank," said Patricia Sisley, public relations representative for the bank. "He was very good at working through problems and arriving at solutions beneficial to all parties. He was well-liked."

Hoag traveled frequently as part of his job. He had gone to Los Angeles on bank business.

Hoag was a longtime Marin resident. He lived in Sausalito and Kentfield before moving recently to the Country Club section of San Rafael with his wife, Holly, and two small children, Marie, 4, and Michael, 21 months.

Mrs. Hoag is a flight attendant for Flying Tiger Line Inc. and a Marin antiques dealer.

Hoag was born in Santa Monica. He earned his bachelor of science degree in business at San Jose State University and a master's degree at the University of Southern California.

He served as an Army officer from 1966 to 1968 and then continued in the reserves where he held the rank of lieutenant colonel.

Hoag's business career began in 1968 when he went to work for Flying Tiger in Los Angeles, where he was personnel relations administrator.

In 1972 he was named Northern California personnel manager for Coldwell, Banker & Co., administering recruitment and staff relations programs for the real estate firm's more than 300 employees.

He then worked for Levi Strauss as employee manager and later for 10 years as personnel manager for Sohio in San Francisco.

He joined Union Bank three years ago.

"He was warm, friendly and very caring," Sisley said.

CONGRATULATIONS TO JAMES O. McCARTHY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. DE LA GARZA. Mr. Speaker, the State of Texas is home to one of the largest farm credit districts in the Nation—the 10th District of the Farm Credit System.

And yesterday one of the tallest Texans in my estimation was overwhelmingly elected to a term of office on the district board of directors.

His name is James O. McCarthy—of Rio Hondo in the Texas Rio Grande Valley. He will represent the State's Production Credit Association banks on the big district board.

It has been my privilege to have a friendship with Mr. McCarthy that goes back many, many years. His nearly 3-to-1 election victory to the Texas district board is testimony to his enormous stature among farm credit bankers and customers alike.

His victory doesn't need my words—but I give them freely because I want our colleagues here in this House to know of my pride in Jimmy McCarthy's triumph. We wish him well in his tenure, and we are certain his voice will add to the stability and success of the Farm Credit System in Texas.

NORTH DAKOTA BUSINESS DEVELOPMENT CONFERENCE REPORT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, about 2 months ago, I chaired a business development conference in Bismarck, ND. Our goal was to marshal the best strategies for nurturing business growth in the State, with special emphasis on long-term financing.

To do this, I invited some of the leading national authorities on venture capital and long-term business finance, to engage North Dakota leaders and to present their recommendations on how to spur business growth in a rural, agricultural State like North Dakota.

The speakers faced aformidable challenger. Right now, North Dakota loses about $1.5 billion a year in investments, which become part of the wealth pool of other States and nations. How to harness this escaping wealth—or at least, a part of it—was the central theme of conference presenters.

We heard a number of novel and resourceful suggestions: everything from William Norris' plan for regional innovation networks to Arthur Lipper III's call for the community guarantee corporations and investments in education. In addition, we considered State development models now bearing fruit in States like Iowa, California, Michigan, and Minnesota.

Culling out the very best and most useful ideas is the task which lies before us. In order to do so, I am providing a summary of the key ideas advanced in the conference.

I invite the attention of my colleagues, as well, because many other rural States are facing the same challenge as North Dakota: building a stronger and more diverse economy on an agricultural and natural resource foundation.

The summary report, prepared by the Columbia Institute, follows:

SUMMARY: LONG-TERM FINANCING FOR NORTH DAKOTA BUSINESSES—A PLANNING CONFERENCE FOR PUBLIC AND PRIVATE OFFICIALS

(Congressman Byron L. Dorgan, Chairman, Bismarck, ND, September 25, 1987)

I. NORTH DAKOTA'S MANDATE FOR BUSINESS GROWTH

Governor George A. Sinner of North Dakota described economic development as the administration's top priority.

Long-term business financing is one of North Dakota's greatest needs as we work together to expand our economy and create new jobs. From my perspective, there is good news and bad news. Good News: The prestigious Grant Thornton Study ranked North Dakota as having the best manufacturing climate of all states. We have always ranked high in the eight years the study has been done. Our business climate is excellent for all other types of businesses as well. Significant among the factors that contribute to our favorable business climate is our quality of life here. Bad News: A recent report by Dun and Bradstreet indicates that North Dakota is near the bottom in number of new businesses started.

North Dakota's agriculturally based economy has always been dependent upon outside forces. Early in our history, there was development in a big way, driven by the railroads and the Homestead Act. The railroad promoters laid too many miles of track and started too many towns. The lawmakers organized too many local governmental units.

But now so much has changed. Change has taken place in traumatic ways—driven by outside forces—and all of the nation's production economies have suffered right along with ours. Now economic recovery and reorganization will take capital shifts and patience. First of all, it must be clear that we have to concentrate internally at helping existing businesses expand, on helping North Dakota people start up new businesses. Second, we must continue to recruit and welcome all of the plants and businesses, large and small, that we can find. But most new jobs will be created by people and companies already in a community.

There are two trends that must be reversed: (1) Most North Dakota companies and entrepreneurs don't go after markets beyond our state's borders. (2) The second trend that must be reversed is the reluctance by our own people to invest in North Dakota. Certainly there is money here to invest. Now is the time to move those investments into North Dakota businesses, keep the money here and create jobs here.

We need all the support we can get from the federal government, but North Dakota must primarily address its own needs. Local communities must take a significant leadership role. And, they are doing that. The state is doing its part. We have started a risk capital pool at the bank of North Dakota. We are putting together a state venture capital fund. We have opened a trade office in Tokyo. The Small Business Development Center, which is now headquartered with our Economic Development Commission, is working with existing businesses and new businesses. The State Board for Vocational Education, the Regional Employment and Training Councils, the EDC and the Governor's Employment and Training Forum are establishing training classes for entrepreneurs.

I have met with manufacturers around the state and I am traveling to communities all over North Dakota to help them organize economic development efforts at the local level. During those meetings around the state, the people of North Dakota have been telling me two things. One is that we have a superb work force here. Our employers praise North Dakota workers for their productivity, their intelligence and their integrity. In addition to marketing, the second thing they tell me is that they need help with financing their businesses. That is why all of us are here today, to explore opportunities for providing the financing that our businesses need.

Mr. William S. Patrie, Director, North Dakota Economic Development Commission, traced the steps that led up to the establishment of the Myron Nelson Venture Fund.

Over the past several years, there has been growing interest within the government and the private sector in the creation of a fund to help finance new business ventures. This resulted in legislative hearings and consultations with professional firms. Two bills introduced in the legislature were combined and enacted.

Yesterday the incorporators incorporated the fund which is now legally in existence. The law specified that a majority of the board come from the private sector. The board has a seven member board of directors. The fund is unique in that it has the authority to guarantee bonds.

The law also provides a 25 percent tax credit for investments in the fund and dividends are exempt from North Dakota taxes. The fund is required to be professionally managed by one with a track record in the management of venture funds. Public hearings will be held soon to obtain input for the drafting of the by-laws.

We are pleased to have a venture fund in place to help our effort to stimulate economic development in North Dakota.

Mr. Joseph Lamb, President and Chief Executive Officer, Bank of North Dakota, described the role of the Bank of North Dakota in the state's economic development.

The creation of the Bank of North Dakota along with the State Mill & Elevator was the direct result of the populist movement in the early 1900s. It was a movement in which North Dakotans decided it was time to take control of their own agricultural financing and marketing needs, rather than let outside influences dictate them. While the Bank's role expands, it still holds fast to its original charter. The Bank of North Dakota is a wholesale lender of money, a banker's bank. As a wholesale bank, it works with the local banks, the savings and loans, and the credit unions to provide additional funds to the community.

The Bank of North Dakota has recently gone through a significant restructuring. In so doing, it has positioned itself to become not only a facilitator but a leader in the economic development of North Dakota. The Bank of North Dakota offers a number of programs and services specifically designed to promote economic development throughout North Dakota. These programs are as follows:

Risk Pool Program: In January of this year, the Bank of North Dakota established a $5 million fund to assist local lenders in promoting economic development. An additional $5 million will be allocated to this pool in each of the next four years.

Loans to Small Business Concerns Program: This is a legislatively authorized program that allows the Bank of North Dakota to participate with a local lender in assisting small business development.

FmHA Non-Profit National Cooperation Loan and Grant Program: This program makes available a $3 million pool of funds that will be utilized to stimulate economic development in rural areas (communities less than 20,000).

Agribusiness Operating Loans: Under this program the Bank will participate with a local lender for up to 65 percent of an agribusiness's annual operating needs.

Bank Participations: The Bank of North Dakota can and does assist local financial institutions on a participation basis.

In addition to the traditional credit support to economic development, the Bank of North Dakota has strengthened its commitment through the introduction of additional services and programs. Recently the Bank developed the position of Industrial Loan Specialist.

Also the Bank of North Dakota, working in conjunction with the Economic Development Commission and the North Dakota Export Trading Company, has begun the development of an Export Financing Program.

In the future, the Bank of North Dakota will play an even greater role in the state's economic development. By understanding the businesses better and working closely with the local lenders, the Bank of North Dakota through its resources can play a large role in strengthening the state's economy.

II. MODELS FOR BUSINESS FINANCE IN NORTH DAKOTA

William E. Bivens III, Projects Director, National Association of Development Organizations, noted that North Dakota is doing many of the things that other states are doing to promote economic development.

Some of the things that are different such as the capital pool will put the state in a much better position to grow and to sell its products outside the state. The trends in other states are similar to those in North Dakota. Virtually all states suffered in the recession and all become most interventionist.

Most states have a venture capital program which may take a number of forms. These include: (1) direct loans, usually under $1 million. Most require private sector participation; (2) loan guarantees, usually under $1 million; (3) leveraged deposit programs where deposits are made in an institution that agrees to make development loans, sometimes at below market rates; (4) equity or new equity investments, possibly with pension funds in a solid firm with little risk; (5) grant funds; (6) business development or business credit corporations which may be state chartered with private money and generally for the long-term; (7) participation in federal programs such as small business investment corporations.

It is apparent that North Dakota believes the private sector has a role in the state's economy.

Mr. Derek "Pete" Hansen, Chairman and Director, American Capital Access, Inc., said we should take a new look at the structure of the capital market and come up with new mechanisms to fill some of the gaps.

At the first level, business needs seed capital which is pre-venture capital, the early money. At the second level, the need is for venture capital, pure equity funding. Most of the venture capital funds look for a 40 percent annual return compounded. Only a very small number of high technology, high growth funds can qualify. Most have no chance at venture capital financing. The third level is what may be called mezzanine financing, unsecured financing at a rate less than venture capital. It is the least well provided on a national basis. The fourth level is asset based commercial credit, secured by the assets. The fifth level is bank financing which is the most conservative.

The Michigan program attempts to fill the gaps by providing incentive to the private sector to meet these financing needs. It is in the process of establishing sources for seed money. It will also commit 5 percent of pension funds, $600 million, for investment in responsible and solid medium-size businesses. A business and industrial development corporation will be established to provide about $24 million in amount of about $2 million each on a matching basis to those with good business plans. In addition, we are trying to get the banks to be more aggressive by moving up their margins a little with the state and the business contributing more to the loss reserve.

We should explore the potential for states to work together to respond to some of these needs on a regional basis.

Mr. Ron Manning, State Director, Iowa Small Business Development Center, described a number of small business loan or capital formation programs that can be utilized to stimulate investment and economic development.

Such programs include the following: (1) self-employment loan program; (2) the targetted small business loan and equity grant program for women and minorities; (3) targetted small business linked deposit programs to increase the availability of low cost funds to inject capital into targetted small businesses; (4) the Iowa Small Business Loan Program to assist expansion of small business through the sale of tax exempt bonds and notes; (5) the Community Economic Betterment Account to invest the Iowa lottery in local economic development projects; (6) community development bank grants from the U.S. Department of Housing and Urban Development; (7) the export financing program; (8) the Iowa Product Development Corporation to provide risk capital to feasible ventures that have the potential to create new jobs; (9) the Iowa Business Development Credit Corporation provides loans to firms in conjunction with financial institutions; (10) Iowa Business Growth Company is able to offer the SBA 503/504 loan programs to business in every Iowa community.

Another program, unique in its genesis, structure and potential started a little over two years ago. It is a non-profit loan guarantee organization using only private funds. It has come to be known as the "Golden Circle" loan guarantee fund. It guarantees 100 percent repayment to a participating bank. It is designed to help businesses that cannot secure traditional bank or SBA loans, that create and/or return jobs in the area, that demonstrate a sound business plan and that sell outside the area with economic return to the area, i.e., the "golden circle."

III. SUCCESSFUL BUSINESS FINANCING

Mr. William C. Norris, Chairman Emeritus and Founder, Control Data Corporation, described the steps to be taken to create an environment for successful business financing.

Availability of capital is not the pacing item in the rate of start-up and successful growth of small business. It is the availability of appropriate management and technical assistance. Innovation, which is the source of most new jobs, is the process of creating and utilizing technology to make improvements in existing products, services and processes or creating new ones and getting them into the marketplace.

Economic development and job creation require a vast increase in cooperation at the community level. Young people must be motivated to take more math, science and language courses. A community small business innovation network is needed. Access to advanced manufacturing technology must be vastly improved.

An innovation network consists of three major elements: a cooperation office, seed capital fund, and a business center. The cooperation office performs several functions. These include helping advance understanding of industrial innovation, assistance in acquiring technology from domestic and foreign sources, increasing the role of smaller colleges in innovation and expanding international trade by helping to establish joint ventures between small companies in the U.S. with those in other countries.

A community based comprehensive cooperative approach is required to establish an environment conducive to the generation of economic growth. Achieving the goals is a gargantuan long-term task. The pivotal element is expertly managing technology.

The program I have outlined can be a major factor in providing the means for small business, a resource unique to America, to play a leading role in improving U.S. competitiveness in world markets, expanding economic growth and creating most of the jobs in the future.

Mr. Arthur Lipper III, Chairman, Editor-in-Chief and President, Venture Magazine, outlined the considerations that affect the decisions of a venture capital firm to invest in a business enterprise.

The relationship between the investor and the company is essentially adversarial. The investor's only goal is ever increasing earnings that will increase the value of the equity. The investor and the entrepreneur want different things from the same project. I don't want to be a shareholder in your company. I would prefer to make a guaranteed loan to be paid by a percentage of your revenues. This reduces the element of inherent conflict. We will see more transactions with revenue participation rather than profit participation.

One means to attract investment is through a Community Guarantee Corporation managed by business professionals in the community. Funding should be subscribed by the people in the community. It should earn a profit. The community and/or the state could pay the corporation $10,000 for every job created, to be distributed by the shareholders.

We should identify and encourage those with entrepreneurial tendencies. They differ from those with a small business mindset. They see success in business in wealth creation rather than in their salary and they reinvest profits. Most are early risers and have held a number of jobs for pay before the age of 15. We cannot create entrepreneurs but we can help those with entrepreneurial tendencies.

The only government program needed is education. Our focus must be on the children through education. Education is too important to be left with educators. Business must be involved.

We can do something about our future through human resource development. We can identify the children who want to work and lead and give them as early as possible the educational tools to succeed.

IV. PRIVATE SOURCES OF VENTURE CAPITAL

Mr. Bart Holaday, Managing Director and Division Head, Venture Capital Division, First Chicago Investment Advisors, defined the elements of venture capital.

Venture capital is not a loan. Venture capitalists are not bankers. It is a purchase of equity and involves active participation in the formulation and direction of the company. It involves teamwork. The single objective is a high rate of return.

Characteristics of venture capital investments include a high risk, high return, a long-term (seven to ten years) illiquidity, a rapidly growing market, proprietary protection and experienced management.

Venture capital risks include technology risk, market risk, competitive risk and management risk. From a portfolio point of view, with investments in 20 or more enterprises, the importance of any one investment is reduced. Diversification is the key, by industry, geography and stage of investment.

Areas of intense venture capital activity are characterized by industrial concentration of high technology companies, skilled entrepreneurial management pool and strong support infrastructure.

For North Dakota venture capital development will and should be slow. It must exploit the state's strengths. New companies must be built on what is already here. The first companies must succeed. North Dakota's venture capital must be tied into the national network. Venture capital is not economic development and can make only a small but increasing contribution to economic development. It must proceed slowly and be free of politics. It must build entrepreneurial example and education.

Mr. Bruce Q. Gjovig, Director, Center for Innovation and Business Development, University of North Dakota, provided a regional view of seed capital in the long-term financing of North Dakota business.

Seed capital is early stage financing. It is riskier because the technology, market demand, and management are all tested. Very little seed capital comes from venture capital funds. It is localized investment. Regional sources of seed capital are needed to stimulate and support start-up ventures and new product development.

The primary source is informal investors, those angels who are willing to invest in entrepreneurs and their private companies, innovators and emerging technologies. Bringing entrepreneurs and informal investors together to start new ventures and launch new products is critical.

There are some problems with the linkage between the two. Many entrepreneurs/investors are ill prepared to talk to investors. Many are reluctant to approach family and friends for early investment. There are regulatory problems. There are creative ways to bring entrepreneurs and informal investors together. These include a venture capital network and venture capital clubs.

To better prepare the entrepreneur for the investment community, there is a need for technical development assistance such as development of prototypes and federal and state assistance in applied research and development.

We shouldn't wait for federal and state initiatives. Much can be done by the private sector with leadership and focus.

BRIAN CROWE, BRITISH MINISTER SPEAKS OF BRITISH-AMERICAN RELATIONS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. BENNETT. Mr. Speaker, Hon. Brian Crowe, British Minister for Commerce, recently spoke eloquently of British-American cooperation as he addressed a Jacksonville audience at the Epping Forest Yacht Club November 21. This was the introductory event of the 10 annual King's Day Regatta on the St. Johns. River.

Mr. Speaker, when 10 years ago the boating community in Jacksonville revived the 18th century regatta that was held in the St. Johns River, as late as 1775, it did so in recognition of and for the forwarding of the close friendship and alliance which the United Kingdom and the United States now enjoy and for many years now have enjoyed. The audience included not only sailors in the next day's regatta but members of the Daughters of the British Empire, the Order of St. George, the D.A.R., Sons of the American Revolution, Colonial Dames and the Society of the Cincinatti. The following is the text of the well received speech by the British Minister.

SPEECH AT KING'S DAY REGATTA, JACKSONVILLE, SATURDAY, NOVEMBER 21, 1987

I welcome the opportunity to represent the British Ambassador at this Tenth Anniversary of the revival of the King's Day Regatta. All the more so, since I can fairly be said to represent both sides of the Atlantic. Half my ancestry is Virginian and my forebearers fought on the side of the colonists in the Revolutionary War which so rudely interrupted the King's Day Regattas in 1776. I wonder how differently history might have turned out if the Americas Cup had been instituted at the time of the King's Day Regatta as a way of resolving the differences between our countries.

Actually, I prefer the British terminology, and to call the war of 1776 the War of Independence, not the Revolutionary War. That is because the real revolution, the democratic revolution, had already taken place in England at least a century earlier, when Parliament cut off the King's head, a more drastic treatment even than the American colonists were able to mete out to George III. The men who ruled both our countries at the end of the eighteenth century were more or less democratic oligarchs. What became the fully-fledged democracies we have evolved today in both our countries has common roots in Magna Carta in 1215. American history up to 1776, or anyway 1605 (and I refer here naturally to the Jamestown settlement, not the Pilgram Fathers) is in large part English history.

But if independence was what it was all about in 1776, the worm has indeed turned and interdependence is what it is all about now. In Europe, France, Britain, Spain and nine other countries—including our enemy of two World Wars, Germany—have joined together in the European Community. And if the progress in uniting half a continent sometimes seems slow as we look at the tortuous decision making processes in a union of twelve countries, in a historical perspective what has been achieved in little more than a quarter of a century has been immense. Just as we are joining together in Europe, so we are joined across the Atlantic in a strong military and political alliance, sharing principles and a belief in freedom as well as a common interest in the security and prosperity of our nations. If two World Wars showed us that this was a single world as far as freedom was concerned, the Great Depression of the 1930's showed the same to be true in the economic sphere. The great international institutions created after the second World War, the UN, IMF, World Bank and GATT, not to mention the North Atlantic Alliance, were created precisely to prevent a repetition of the mistakes of the then recent past.

The world prospered under those institutions. There were many reasons but the recognition of the one-world thesis was an important one. This was the period of booming economics based on rising world trade based in turn on greater international cooperation and breaking down the technical and political barriers which prevented the efficient flow of products, ideas, capital and technology.

For a number of reasons, since 1973 the world has been a more difficult place and all our countries have been subjected to political, economic and social pressures. With the passage of the years, and under the pressure of short-term problems—notably the effects of volatile exchange rates—we have come close to ignoring the lessons of the past. Protectionist trade pressures grow: back in Britain in 1980/81 when the pound was strong, in the United States over the past two years; with major protectionist trade legislation actually passed both Houses of Congress. The North Atlantic Alliance is questioned here and there. The European Community becomes bogged down in internal squabbles. Some in the United States—I hasten to say not in the Administration—critical of others and perhaps not enough of themselves, threaten that the United States must pull in its horns in the security field or in the trade and economic field.

The word goes out that the serious problems facing the nation are problems from abroad. Other countries are not carrying their share of the defence burden. Other countries buy Iranian oil and refuse to help protect tankers in the Gulf. Other countries won't buy American goods or flood the American market with their goods. Other countries are buying up US industry. Other countries are bankrupting US farmers. If the diagnosis takes this form, then the solution seems obvious: somehow or other get the other countries to change the behavior and the problems will go away.

Of course, they won't, because, as the famous saying goes, we have seen the problem and the problem is us. We are all part of the problem, and all part of the solution. We all share the defense burden—some could do more and some deserve to do less, but the fact is that most of the west's armed forces in Europe, in all arms, are European. British ships, including minesweepers, are in the Gulf, along with the US Navy. US farmers increased output by 25 percent between 1975-85, contributing mightily to the world's agricultural surpluses. US consumption, investment and government expenditure are more than the nation produces. But the effect is that you have to import the difference, running a trade deficit, as well as a large budget deficit, and foreigners have to lend you the money to pay for it and to make up the shortfall in US domestic savings. That is why the world has waited with bated breath to see by how much, and how, the President and the Congress would move to reduce the US budget deficit.

There are faults on both sides of the Atlantic, and plenty of blame to go round. I would not want particularly to defend the common agricultural policy. And in Europe some—not the UK—could do more by stimulating their domestic economies to maintain world demand. But if Black Monday wiped unimaginable sums off individual's wealth, it also reminded us again of our interdependence. The one lesson we have learned from the 1930s, and that we must not forget now, is that we can only compound our problems if we try to solve them separately, and can solve them only if we work together.

That does not absolve us from solving our own problems and I think Mrs. Thatcher's Britain has set about that in a striking and successful way. Our growth rate at 4 percent is the highest in the industrial world. During the Reagan years the British economy has grown more than the US economy. Barriers to economic efficiency have been removed, the excessive power of the trade unions has been broken, nationalized industries are being privatized, share ownership has spread to a fifth of the population, inflation has been brought under control, the budget deficit has been reduced from over 9 percent of CDP 11 years ago to close to balance today. So Britain is proving a good place to invest, as many American firms, with total investments of some $36 billion have found. And in the reserve direction Britain has become a substantial source of investment in this country, some $70 billion and is the largest foreign investor in the U.S.—a two way flow which is to the great benefit of both countries.

I would like to think that that sums up our relationship: a two-way flow of great benefit to us both—whether in terms of military and political cooperation, in arms control negotiations with the Russians or making the Gulf safer for shipping, in economic affairs by promoting the consolidation and expansion of the world's open trading system, or at the level of personal exchanges and sentiment, like tomorrow's Regatta. I am sorry that there are no British boats but there are lots of good British boats available, as I saw for myself at the Annapolis boat show last month. I look forward to a time when a British boat wins the Regatta, thus redeeming 1776. Meanwhile I am delighted to be here and thank you all for listening.

SOVIET ACTIVE MEASURES IN THE UNITED STATES—AN UPDATED REPORT BY THE FBI

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. YOUNG of Florida. Mr. Speaker, yesterday President Reagan and Soviet General Secretary Gorbachev signed a treaty that will for the first time in history eliminate an entire class of nuclear weapons.

As the Soviets themselves have said, however, this agreement is only a beginning and only addresses short-range nuclear weapons. There are still many other areas of concern we have with the Soviets including their reliance on active measures operations to discredit our Nation in the eyes of our allies and, in fact, in the eyes of our own people.

Throughout my 6-year tenure on the Permanent Select Committee on Intelligence, and also as member of the Defense Appropriations Subcommittee, I have done everything I can to provide the American people with information about previously little-known or little-understood Soviet active measures operations designed to give them a diplomatic and political advantage over the United States by undermining United States credibility with our allies throughhout the world and advancing their own foreign policy objectives.

The Intelligence Committee has held extensive hearings over the years with United States intelligence and counterintelligence officials testifying about the wide range of active measures techniques employed by the Soviets here and abroad. These include the use of forged documents, written and oral disinformation, agents of influence, political influence operations, Communist parties, and an international network of Soviet-controlled front groups.

The committee also has received testimony from Soviet and East-bloc defectors who directed many of the active measures campaigns against the United States. Among these defectors, who have been an invaluable source of information to our intelligence community, was Ladislav Bittman, the former Deputy Chief of the Disinformation Department of the Czechoslovakia Intelligence Service, and Stanislav Levchenko, a former high-ranking officer in the Soviet KGB who was responsible for active measures campaigns in Japan.

In an effort to increase public awareness of these Soviet activities, I persuaded the chairman of the Intelligence Committee to declassify and release large portions of these hearings, and the FBI to declassify a 1983 report by its intelligence division detailing Soviet active measure relating to the United States peace movement. Increasing public awareness and understanding of Soviet active measures operations will improve our ability, and that of our allies, to expose Soviet active measures operations and diminish their effectiveness. American journalists and scholars are becoming increasingly aware of Soviet forgery and disinformation campaigns and are taking great care in checking their authenticity. Similar caution is being exercised in Europe, a favorite target for the Soviets to initiate active measures operations.

Although we are experiencing increasing success at uncovering and derailing these Soviet efforts, we still have a long way to go if we are to expose the thousands of forgeries and countless Soviet agents and contacts that are damaging United States credibility throughout the world. There is no way to know precisely how much the Soviets spend on their active measures operations, but the CIA estimates that it is in excess of $4 billion per year.

In an effort to further increase public awareness of Soviet active measures, the FBI has provided me with an update of its 1983 report on Soviet active measures operations here in the United States. The complete report entitled "Soviet Active Measures in the Untied States 1986–87" follows my remarks.

Mr. Speaker, while I share the hope of all Americans that this week's summit meetings will be productive and lead to a better understanding between United States and Soviet leaders, I caution my colleagues to be aware of Soviet active measures efforts, especially at a time when the world's media is focused on these negotiations. Active measures such as forgeries and disinformation are an important foreign policy tool of the Soviet Union and I commend this latest FBI report to my colleagues so that they might better understand Soviet efforts to alter United States policy and world opinion and to increase public awareness of this Soviet effort in the months and years ahead.

The text of the report follows:

SOVIET ACTIVE MEASURES IN THE UNITED STATES, 1986–87. PREPARED BY THE FEDERAL BUREAU OF INVESTIGATION

I. OVERVIEW OF SOVIET ACTIVE MEASURES OPERATIONS

Definition and Objectives

The term active measures is a literal translation of a Russian phrase used to describe overt and covert techniques and intelligence operations designed to advance Soviet foreign policy objectives and to influence events in foreign countries. In the United States, Soviet active measures operations utilized a wide range of techniques which include: forged documents, written and oral disinformation, agents of influence, political influence operations, use of Communist parties, and an international network of Soviet-controlled front groups.

Although most Soviet active measures occur overseas, those activities that occur in this country contribute to advancing Soviet foreign policy interests and in general discredit the United States. The Soviet leadership in Moscow takes a long-term view of its active measures operations directed against the United States. Through these operations, the Soviets attempt to: directly influence the policies and actions of the U.S. Government; undermine public confidence in U.S. leaders and institutions; influence public opinion against certain U.S. military, economic, and political programs; disrupt relations between the United States and its allies; and demonstrate that the policies and goals of the United States are incompatible with the growth of developing nations.

The Soviet leadership views active measures as an important instrument to carry out its foreign policy goals and objectives. The highest level of the Soviet government, the Politburo of the Central Committee of the Communist Party of the Soviet Union (CC, CPSU), ultimately approves the major themes of Soviet foreign policy and active measures operations. Under the Politburo's general direction, a large and complex bureaucracy designs and implements specific active measures campaigns. The Politburo still considers the United States the "main enemy" and therefore directs a large percentage of its total resources against the U.S. Government.

The Soviet Government's Active Measures Apparatus

During 1986 and early 1987, the Soviet Union restructured but did not reduce its vast active measures apparatus in Moscow. They reorganized the International Department (ID), abolished the International Information Department of the CPSU, and named new experts on Canada and the United States to top leadership positions. Alexander Yakovlev, who was the Soviet Ambassador to Canada from 1973–1983, was named as a candidate member of the Politburo in January 1987. Yakovlev also heads the Propaganda Department of the CPSU. Anatoliy Dobrynin, the former Soviet Ambassador to the United States, was appointed by General Secretary Gorbachev to head the reorganized ID. In addition, Dobrynin was appointed to the senior position of CPSU Secretary.

Both Yakovlev and Dobrynin lived and worked in the West for many years and perhaps understand the culture and Governments of Canada and the United States better than any other high-level Soviet official. They also are acutely aware of previous weaknesses in Soviet tactics and operations directed against the West and will likely modernize the active measures apparatus to make it function more effectively.

The ID is responsible for the overall supervision of active measures operations and designs many of the specific active measures operations and campaigns. The ID also implements active measures operations through its mandate to control and direct pro-Soviet Communist parties, international front organizations, and friendship societies such as the National Council of American-Soviet Friendship (NCASF). These organizations are largely financed and controlled by the Soviet Union, and their campaigns are principally directed at the policies of the United States and other NATO countries. Because they pretend to be non-aligned, independent organizations that promote causes such as peace and disarmament, these front organizations often attract broader public support and are usually more effective than openly pro-Soviet Communist parties or organizations.

Communist front organizations have also played a prominent role in Soviet efforts to establish reliable channels of influence in the United Nations (UN) and in Third World countries. The Soviets' commitment to "anti-imperialism" often establishes a common focal point of interest for independent organizations of women, peace groups, youth, and students. Some U.S. and Third World organizations, normally under financial stress and lacking organizational expertise, see benefits in conducting joint programs with well-organized Soviet controlled front groups.

Soviet Active Measures Operations Against the United States

The Soviet Union continues to conduct espionage and active measures operations against its main enemy—the United States. These activities are carried out in the United States and abroad by Soviet intelligence officers (IOs) from the Committee of State Security, which is commonly known by its initials KGB, and by the lesser known Soviet military intelligence organization, the Chief Intelligence Directorate (GRU), of the General Staff of the Ministry of Defense. Both of these powerful organizations operate on a world-wide basis and have IOs stationed in each Soviet embassy. The FBI estimates the number of known or suspected Soviet IOs stationed in the United States is approximately one-third of the total number of Soviet officials assigned to this country.

The KGB and GRU report directly and indirectly to the CPSU leadership and to the Politburo through their respective chiefs. Viktor M. Chebrikov is the current Chairman of the KGB and has been a full voting member of the Politburo since April 1985. In May 1987, Dimitri T. Yazov replaced Sergey L. Sokolov as Minister of Defense. General Petr I. Ivashutin has been Chief of the GRU since 1963.

Although foreign covert operations are conducted by both the KGB and the GRU, it is the KGB's First Chief Directorate that is primarily responsible for implementing covert active measures operations. The First Chief Directorate of the KGB is organized by both geographical and functional departments. The geographic department that operates against the United States and Canada is known as the First Department. In addition, one functional and specialized component of the KGB's First Chief Directorate, Service A, plans, coordinates, and supports active measures operations worldwide.

In addition to KGB and GRU IOs, the Soviets also rely on the Eastern European intelligence services to assist them in their operations against the United States. The intelligence services of each of these Soviet-Bloc countries serve in varying degrees to assist the Soviet Union in its intelligence collection and active measures operations.

The FBI is cognizant of recent active measures operations against the United States that have been carried out by Eastern European intelligence services under the direct Soviet guidance. While these Bloc services are not large in comparison to the total number of Soviet officers, they significantly increase the total number of hostile IOs in the United States. The FBI estimates that approximately one-third of the Soviet-Bloc officials in the United States are professional IOs.

In the United States, those KGB officers responsible for political and economic intelligence operations support the International Department's mission by handling many of the monitoring and liaison functions in connection with Soviet front organizations. Certain KGB officers currently assigned to the United States are in regular contact with officials from the Communist Party, USA (CPUSA), the NCASF, and other front groups. In addition, the KGB is responsible for developing agents of influence, planting media stories, and surfacing forgeries in support of active measures campaigns.

Before examining recent active measures operations impacting on the United States, it is important to note that many active measures operations utilize overt or semi-overt elements as well as clandestine or covert ones. Although many active measures are planned and executed by Soviet IOs, it should be emphasized that all Soviet officials, journalists, scholars, trade union officials, scientists, and even some students who visit the United States could be used for active measures and influence operations. Most of these individuals are not professional intelligence officers, but rather are coopted by the KGB or GRU for certain purposes. If any Soviet citizen refuses to cooperate, he will not be allowed to travel, and if he does not fulfill the intelligence requirements set for him, he will never be permitted to travel outside the Soviet Union again.

Representatives of other Soviet public organizations, and a network of pro-Soviet international front organizations, communist parties, and individuals are also used to implement these active measures operations. Thus, active measures operations involve individuals from virtually every element of the Soviet society and are closely integrated and coordinated with traditional diplomatic activities and long-term Soviet foreign policy objectives.

II. SOVIET FORGERY OPERATIONS

The Soviet Union conducts forgery operations to discredit the United States and its allies, influence political action and public opinion in America and abroad, and promote worldwide Soviet foreign policy goals. These forgeries are often designed to supply the "factual evidence" needed to prove the disinformation that Moscow has already advanced through other active measures operations and propaganda. Many of the Soviet forgeries are aimed at influencing Third World countries as well as the United States. The Soviets try to get forgeries and disinformation stories printed in the non-communist media. If the Soviets are successful in these efforts, they usually will then reprint these news accounts in their own media. Even when the U.S. Government issues prompt denials of the authenticity of a forged document, the Soviets believe that the denial will never entirely offset the damage caused by the initial release of the news story based upon the forgery.

Many U.S. Government officials and organizations have been targets of Soviet disinformation and forgery operations. Although most forgeries surface overseas, the information and documents used in these operations are often acquired in the United States. Through defector sources and FBI investigation of KGB operations in the United States, the FBI has determined that KGB Residencies collect the types of documents and information that subsequently surface, in altered form, in forgery and disinformation operations.

During August 1986, a fabricated letter, believed to be a Soviet forgery, was mailed anonymously to The Washington Post and U.S. News and World Report. This document purports to be a letter by United States Information Agency (USIA) official Herbert Romerstein to Senator David F. Durenberger, former Chairman of the Senate Select Committee on Intelligence. The letter, dated April 29, 1986, described an alleged USIA campaign to spread disinformation on the Chernobyl nuclear power plant disaster. The forgery was designed to discredit the U.S. Government and damage its relations with Western Europe.

On August 19, 1986, The Washington Post reported some of the details of the USIA forgery. The forged letter suggested that USIA would attempt, among other things, to spread reports that the Chernobyl disaster had claimed 2,000 to 3,000 victims. Only 29 persons are said to have died from acute radiation sickness due to the accident. Although such inflated death statistics did appear in subsequent news reports on Chernobyl, USIA officials stated "the reports stemmed from the confusion and rumors that swept Europe in the days immediately after the disaster." USIA officials insist that they made no effort to encourage or spread the rumors and that neither Mr. Romerstein nor anyone else at USIA advocated such an idea to Senator Durenberger or to anyone else. An employee of Senator Durenberger's office reported that according to the Senator's office records no such letter from USIA was ever received by the Senator.

Mr. Romerstein reported some additional details concerning this particular forgery which makes it an especially interesting example of Eastern-Bloc support of a Soviet active measures operation. The USIA letterhead and the signature block on the forgery were taken from a geuine letter Romerstein had previously written to Lt. General Robert Schweitzer concerning the analysis of another Soviet forgery allegedly written by Schweitzer. During September 1985, Romerstein testified before the Senate Foreign Relations Committee on Soviet forgeries and offered to provide them with a copy of his letter to Schweitzer for Congressional publication. Subsequently, the Press Attache of the Czechoslovakian Embassy, Vaclav Zluva, requested a copy of Romerstein's unclassified letter to Schweitzer. Romerstein provided him with a copy, but uniquely marked the one copy he gave Zluva.

When the forgery bearing Romerstein's name surfaced in the United States, it was obvious because of the unique markings Romerstein had put on the Schweitzer letter that it had been used as the exemplar to fabricate the Chernobyl forgery. When Romerstein confronted Zluva with the forgery, Zluva denied being involved in its preparation but admitted sending a copy of the Schweitzer letter supplied by Romerstein to Prague. Romerstein, who is an expert on active measures operations, believes Prague officials sent the Schweitzer letter to Moscow where it was used as the exemplar for the Chernobyl forgery. This forgery technique of photocopying a genuine letterhead and signature onto a document that contains a bogus text is common among Soviet forgeries. It facilitates preparation of the forged document and generally makes the task of analysis more difficult.

Another document believed to be a Soviet forgery surfaced in the United States and overseas during 1986. This forgery was identified by its drafters as "a copy of a summary paper on U.S. foreign policy approved by the National Security Council in February 1985." It was sent to a number of embassies in the Washington, D.C. area and to news services overseas. The forged document is ten pages in length and discusses U.S. foreign policy objectives. It reported the alleged United States' goal of strategic domination over the Soviet Union by accelerating the Strategic Defense Initiative (SDI) research program and thus establishing "an effective first-strike capability by the year 1995 which would mean victory in a nuclear war and survival thereafter."

This second forgery did not receive widespread dissemination or publication in the United States. It was, however, sent to embassies in Washington, D.C. in an apparent effort to damage U.S. relations with various foreign countries. It appears to also have been designed to negatively affect world opinion on the real purposes of the SDI program. The Soviet Union has long maintained that the real purpose of the SDI program is to develop preemptive nuclear-strike capability. This document certainly intended to help reinforce that perception, although the U.S. Government publicly denounced the document as a forgery in August 1986.

III. SOVIET EFFORTS TO INFLUENCE THE ARMS CONTROL AND DISARMAMENT MOVEMENTS

The Soviet Union continues to devote manpower and resources in overt and covert attempts to influence the arms control and disarmament movements in the United States. The KGB has covertly requested its contacts in the peace and nuclear disarmament movements to continue to report on meetings, participate in upcoming conferences, and obtain information on individuals who are active within the movement. Several KGB officers currently assigned to the United States have been in regular contact with the leaders of Soviet controlled organizations such as the CPUSA, the U.S. Peace

Council (USPC), and the NCASF. In addition, the KGB is particularly interested in information concerning the U.S. peace movement's plans for conferences or demonstrations, its organizations and leaders, and its relations with European anti-war groups.

The current campaign against SDI seems to be aimed at the U.S. Congress, which must approve the funding of SDI. The Soviets hope to convince Congressional leaders that the SDI program is technically unachievable, prohibitively expensive, and easily countered by the Soviet Union.

Communist Party, USA

The CPUSA has historically been one of the most loyal, pro-Soviet communist parties in the world and has received substantial financial support from the Soviet Union. Although relatively small and politically weak, the CPUSA continues to systematically promote Soviet views on arms control proposals and the peace movement through its overt publications and Party operations. The CPUSA also operates a small network of front organizations in the United States.

Since the late 1970s, the ID, CPSU has provided direction to international Communist front organizations and their U.S. affiliates, the CPUSA, and CPUSA front organizations concerning the issues of arms control and disarmament. The Soviets have urged these organizations to mount campaigns against the neutron bomb, NATO theatre nuclear force modernization, U.S. defense policies, and more recently the SDI. The CPUSA has sponsored and participated in demonstrations and rallies, formed coalitions with other peace organizations, and sponsored seminars and workshops to promote Soviet views and influence the American peace movement.

The CPUSA has also directed its major front organizations to support Soviet arms control and disarmament intiatives. The FBI has determined that there are several groups in which CPUSA members have leadership roles or take an active part. Some of these groups are spin-offs from traditional CPUSA fronts, and some deal with arms control and peace. These organizations are often more effective than CPUSA in reaching and forming coalitions with other organizations because they are not always easily identified as CPUSA-controlled or pro-Soviet organizations.

Recent comments made by Gus Hall, the long-time CPUSA General Secretary, clearly indicate that the CPUSA is conducting active measures operations against the SDI program that are in line with the Soviet active measures campaign against SDI.

In response to CPUSA and NCASF national directives, local chapters of these organizations have initiated the following programs to combat SDI:

(1) Wider distribution and circulation of anti-nuclear, peace, nuclear test ban, and "Star Wars" literature and petitions.

(2) Attempts to influence and mobilize a broad movement with the participation of church groups, unions, and civic organizations to end the arms race.

(3) Initiation of a telephone calling program and letter writing campaign to Congressional representatives and to President Reagan calling for an end to SDI.

(4) Support of the aggressive efforts by the USPC, the U.S. affiliate of the World Peace Council, to halt the SDI research program and promote a comprehensive test ban on nuclear weapons.

(5) Placement of nuclear disarmament matters on the agenda of union and church groups.

The CPUSA and its various front organizations have been instructed to form coalitions with other peace organizations and sponsor workshops, seminars, and demonstrations to promote Soviet viewpoints, to influence the U.S. peace movement, and halt the SDI research program. The CPUSA continues to identify possible agents of influence and exploit unwitting contacts for the Soviet Union.

Soviet Intelligence Operations in the United States

KGB Residencies in the United States task their intelligence officers and co-optees to overtly and clandestinely collect a variety of political, economic, and military information about the United States for intelligence purposes. One of the KGB's top collection priorities is for its officers to obtain information on the SDI research program which can be utilized in certain active measures operations directed against the SDI program.

In 1986, the U.S. Government expelled or declared persona non grata 80 Soviet officials assigned to the United States. This action dramatically reduced the number of known intelligence officers in the United States and will likely result in at least a temporary reduction of operational activity. However, the Soviets are expected to attempt to rebuild their intelligence network in the United States during 1987.

One of the Soviets expelled in October 1986 from the Soviet Embassy in Washington, D.C., has been identified as a known KGB intelligence officer who specialized in nuclear disarmament, arms control negotiations, and U.S.-Soviet relations in general. This KGB officer often contacted numerous well placed individuals not only in the government but also in private sectors. When he arrived in the United States in 1982, he started to establish valuable contacts in such places as the Arms Control and Disarmament Agency, the Congressional Research Service of the Library of Congress, the American Political Science Association, and the Brookings Institution. he seldom used hardline Soviet rhetoric with his contacts, but instead tried to portray himself as a scholar. If there was a strong disagreement on a particular topic, he often moved to another less controversial issue. The purpose of these contacts was to promote Soviet foreign policy objectives through the use of various active measures techniques.

During 1986, KGB officers stationed in the United States attempted to:

(1) Gather information on U.S. peace initiatives, arms reduction proposals, and the Geneva arms talks.

(2) Promote the creation of pro-Soviet U.S. peace and disarmament organizations that will discredit the United States and the SDI program.

(3) Create anti-nuclear coalitions and encourage bilateral peace programs like the Sister Cities program.

(4) Establish nuclear-free zones or ports in the United States.

(5) Influence both U.S. and world opinion against SDI.

(6) Utilize the SDI issue to divide the United States and NATO.

(7) Influence and manipulate legitimate U.S. peace and friendship organizations in order to promote Soviet arms control policies and halt SDI research.

(8) Influence U.S. religious leaders and groups to oppose U.S. military spending for new weapons systems like SDI.

(9) Influence U.S. Government policies by creating a large, vocal, and influential body of public opinion that is based on Soviet disinformation.

(10) Obtain SDI studies conducted by well-known foundations or "think-tanks."

(11) Increase the use of active measures operations in the United States to disrupt or halt the SDI research program.

Soviet correspondents in the United States continue to have a particular interest in SDI research and the ongoing Geneva arms negotiations. Several correspondents have traveled extensively throughout the United States gathering information and speaking out on such topics as the growing concern of college campuses about accepting U.S. Government contracts to do SDI research. The articles written by these correnspondents for worldwide dissemination frequently contain disinformation on SDI to discredit the United States and advance the foreign policy goals of the Soviet Union.

The People's Appeal for Peace

The People's Appeal for Peace (PAP) is one of the more recent Soviet efforts to influence public opinion in favor of current Soviet foreign policy priorities and to exert pressure on U.S. Government officials to effect changes that are favorable to Moscow. The goal of this operation is to collect millions of signatures on petitions circulated in the United States and the Soviet Union and then to present the petitions to President Reagan, General Secretary Gorbachev, and UN Secretary General Perez de Cuellar on August 6, 1987, which is the anniversary of the nuclear bombing of Hiroshima.

The principal control and direction for this program comes from the Soviet Committee for the Defense of Peace in the Soviet Union. This organization has utilized two Communist front organizations, the NCASF and the USPC, to carry out its objectives in the United States. On August 8, 1986, representatives from the Soviet Union and U.S. peace organizations gathered at the UN in New York City and signed the PAP. The signing ceremony took place before an audience of several hundred UN officials, diplomats, and members of the general public. This signing marked the beginning of a one-year campaign to collect millions of signatures from U.S. and Soviet citizens on the petitions. The Soviets estimate they will get 180 million signatures, while the U.S. goal is 15 million signatures.

An important fact, which is unknown to many endorsers and signers of the PAP, is that the document was secretly drafted by high-level Soviet officials months earlier and only received a "rubber stamp" approval from various front organizations in the United States. The following four initiatives are a major part of the PAP:

(1) A verifiable comprehensive nuclear test ban.

(2) A freeze, phased reduction and eventual elimination of all nuclear, chemical and biological weapons.

(3) A transfer of resources from military to human needs.

(4) An increase of people to people contact.

This major active measure campaign was touted by its supporters as a contribution by the U.S. and USSR peace movements to the United Nations International Year of Peace and was organized in cooperation with the

United Nations Secretariat for the International Year of Peace.

Although the PAP did not receive much support from various U.S. organizations in 1986, it has thus far in 1987 received the endorsement of several large national organizations, religious groups, trade unions, state and national elected officials, and other individuals. The appeal has been publicized internationally by one well known Soviet front organization, the Christian Peace Conference. In February 1987, the NCASF claimed to have received a total of over 200,000 signatures from almost every state.

The People's Peace Appeal is perhaps the best example of a political influence operation which is run by front organizations in the United States and directed by the Soviet Committee for the Defense of Peace in Moscow. Some of these front organizations have already been directed to send xerox copies of the signatures collected for the People's Peace Appeal to U.S. Congressmen. The CPUSA and some international Soviet front organizations with affiliated chapters in the United States had their members send preaddressed postcards to the President of the United States and to members of Congress.

The Generals for Peace Movement

In 1981, a group of former NATO generals and admirals formed an international organization known as the Generals for Peace and Disarmament (GPD). The GPD has been active in the peace and disarmament movements in Europe. Since its inception, the GPD has been targeted by the Soviet intelligence services and the International Department of the CPSU in Moscow. The GPD has echoed views consistent with Soviet arms control objectives and against NATO. In the past few years, there has been an increase in contact and cooperation between the GPD and retired military leaders from the Eastern-Bloc and the Soviet Union. During 1987, several Polish and Hungarian generals formed into groups that affiliated themselves with the GPD movement.

The Center for Defense Information (CDI) is an organization of retired U.S. military officers that describes itself as one of the foremost independent research organizations which analyzes military spending, defense policies, and weapons systems. Although the CDI is not officially affiliated with the GPD, it engages in similar activities and supports the activities and statements of the GPD and former Soviet military officers.

The Soviets have effectively utilized statements made by GPD and CDI officials in their active measures campaigns. Some of these military officers possess a high degree of credibility not only with the general public but also with various government leaders. The statements and reports from these former military officers are often covered by the United States and foreign media. Some of these former military officers have access to the highest levels of foreign governments.

Mikhail Milshteyn is an excellent example of one Soviet general who enjoys extended media access in the West. Milshteyn, who speaks English, is a senior researcher at Georgi Arbatov's Institute of the USA and Canada and is considered by many to be one of the Soviet Union's foremost experts in the field of military policy. Milshteyn is a retired Lieutenant General in the Soviet Army who is affiliated with the Soviet intelligence services and occasionally represents the Soviet Committee for the Defense of Peace.

Milshteyn has traveled to the United States on numerous occasions and usually promotes Sovet views and Soviet disinformation on arms-control issues. During 1986 and 1987, he made several television appearances on the major networks in the United States. On August 1, 1986, he was interviewed on the NBC's "Today" show in Hannibal, Missouri, as a member of the Mississippi River Peace Cruise. He has also appeared on "60 Minutes" and other television programs as an official Soviet spokesman. On August 8, 1986 he was one of the Soviet signers of the PAP at the UN who also spoke at a UN press conference following the signing of the Soviet directed active measures operation.

On April 21, 1987, The Washington Post reported Lieutenant General Milshteyn was one of seven high-ranking Soviet officers who visted the United States to discuss military policy at the Carnegie Endowment and at Notre Dame. Milshteyn was again featured on the nationwide television program "Today" to discuss arms-control, this time with the director of the CDI, Gene La Rocque. Milshteyn has met with La Rocque, who is a retired Rear Admiral of the U.S. Navy, on numerous occasions.

In December 1986, a new Soviet organization of nine high-level World War II officers was founded in Moscow. Known as the "Soviet Retired Admirals and Generals for Peace and Disarmament," this group's stated purpose is to make a contribution to the Soviet people's struggle to avert a possible nuclear war, prevent the militarization of space, and reduce the number of nuclear and conventional weapons. During a Soviet television interview on December 25, 1986, Lieutenant General Milshteyn made the following comments on the group's work:

"If we come out in support of the Soviet initiatives then it is not because we are some kind of conformist, or that we support all our Government's proposals without even thinking. Our stand simply mirrors the fact that the objectives of our movement are common with the objectives of the Soviet leadership."

In addition to his work in the arms-control area, Milshteyn also helps carry out other active measures campaigns on different topics. In his recent trip to the United States in April 1987, Milshteyn, who is Jewish, stated the problem of Jewish emigration from the Soviet Union has been solved. He declared that all Jews, except those with "state secrets" are free to go "if they want to." These statements to the press help to support Soviet foreign policy objectives.

IV. SOVIET INFLUENCE ON LABOR ORGANIZATIONS AND TRADE UNIONS IN THE UNITED STATES

The Soviet Union has attempted for many years to mobilize labor organizations and trade unions in the United States to join the pro-Soviet peace and disarmament movement and to support Soviet foreign policy. The CPUSA and the World Federation of Trade Unions (WFTU) were traditionally the main organizations that attempted to infiltrate and influence U.S. labor. American labor unions, for the most part, do not support activities that are put forth by known Soviet front organizations. As a result, in addition to the continued pressure directed toward labor unions by the WFTU and the CPUSA, the Soviets are also utilizing new channels in hopes of gaining additional support for their foreign policy objectives.

World Federation of Trade Unions

The WFTU is currently headquartered in Prague, Czechoslovakia, and is a pro-Soviet international trade union organization that claims a total membership of over 300 million. Of this number, 130 million members are from the Soviet Union, while about 90 percent of the total membership is from Communist controlled countries. The WFTU is controlled and directed by the International Department (ID) of the All Union Central Council of Trade Unions (AUCCTU), which is in turn, directed by the ID, Central Committee, Communist Party of the Soviet Union (CC, CPSU).

Since coming under Communist control in 1949, the WFTU has been a major Soviet propaganda agency, its ultimate aim being to set up a unified, worldwide, Communist trade organization and to support Soviet foreign policy. Fred Gaboury is the current WFTU representative to the United Nations (UN) in New York City.

There are at least two issues which will receive attention from the WFTU during the next year. The first issue will deal with Soviet efforts to denounce and neutralize the Strategic Defense Initiative (SDI) research program. The second program, closely associated with the first, will concentrate on the issue of "economic conversion." This concept, to divert funds from military hardware to domestic spending, has been utilized in the past by Soviet-controlled organizations to combat Western military development by emphasizing the tremendous cost of defense programs. The highly publicized cost of SDI research has provided the necessary impetus to revive the viability of "economic conversion" in Soviet active measures operations that will be directed against SDI and the military budget program of the Reagan administration.

Labor Research Association

The Labor Research Association (LRA) which was founded by the CPUSA in 1927, is the U.S. component of the WFTU. Its self-stated goals are "to provide publications, research materials, and educational programs for U.S. labor and trade unions." LRA is headquartered in New York City, and employs at least four fulltime employees.

One of LRA's main functions is to publish a monthly newsletter called "Economic Notes" which portrays the Communist viewpoint on current economic conditions and labor matters in the United States. Copies of the newsletter are made available to many labor organizations throughout the United States.

LRA receives its direction from the Labor Department of the CPUSA and has an Advisory Board of Directors comprised of 13 individuals who are nearly all CPUSA members. The LRA continues to conduct research and investigation into economic and social questions in the interest of the labor movement in the United States. LRA espouses the official line of the CPUSA and has become increasingly more active in world labor matters. During 1986, LRA was actively involved in the peace and disarmament movement as it affects the labor movement in the United States. Specifically, LRA endorses peace events and publishes U.S. Government economic statistics purporting to show how much better off the United States would be economically if tax dollars were diverted from missiles to social programs.

LRA receives some of its funding from the CPUSA. However, finances are also raised through donations, subscriptions to "Economic Notes," and from labor seminars conducted by LRA officials. All contributions to LRA are tax-deductible and it is listed as a non-profit tax-exempt organization.

In 1986, the LRA advertised in various publications that its "special trade union research service" could supply national, regional, or local unions in the United States with the following items that would be useful during labor-management negotiations: corporate reports, in-depth industry studies, international contacts, various reference materials, plant shutdown-strategy studies, and speakers for educational programs.

In addition, LRA announced that it has computerized its operations during 1986 and now has the ability to network with other computers across the United States. They are now using this computer equipment to meet the growing demand for LRA's publications and research services. According to a recent LRA letter to "Economic Notes" readers, the LRA is attempting to purchase access to computer information banks on corporate financial records, and to build a specialized data base uniquely geared to trade union needs. LRA has asked for additional contributions so they will be able to afford the access fees and thus be able to respond to trade union requests from all parts of the country within a matter of hours.

Communist Party, USA

American labor unions, for the most part, do not actively support the WFTU. Consequently, the CPUSA and its front organizations conduct many of the activities on behalf of the WFTU in the United States. CPUSA National headquarters continues to task its districts to focus on the infiltration of labor and trade unions. CPUSA members have been able to join the locals of some trade unions.

One of the major priorities of the CPUSA is to mobilize trade unions in the United States to join the pro-Soviet peace and disarmament movements. Soviet officials continue to emphasize to American trade delegates the importance of mobilizing the trade unions to join the peace and disarmament movement in the United States.

The WFTU and CPUSA continue to believe that the time is propitious to influence trade unions because of the Reagan administration's economic policies and budget cuts, and the unemployment problems in the industrial sector of the United States. These topics and others are routinely discussed in monthly CPUSA-sponsored labor publications such as "Labor Today" and "Economic Notes."

Local CPUSA districts have also been active in creating new political organizations which are involved in labor matters. In 1973, the CPUSA, Wisconsin District was instrumental in creating an organization called the Labor Farm Party (LFP). This organization was basically dormant until the 1986 election year, when it ran a slate of candidates for public office in Wisconsin.

A long-time CPUSA member in Wisconsin ran on the LFP ticket as a candidate for an office in Milwaukee County. Other CPUSA leaders in Wisconsin have commented that LFP is challenging the legitimate labor movement by running its own candidates for political office.

On June 3, 1986, the CPUSA started publishing a new daily newspaper called the People's Daily World (PDW) to replace the Daily World, CPUSA's east coast paper, and the People's World, CPUSA's west coast paper. The PDW is published by Long View Publishing Company and is printed in New York, Chicago, and San Francisco. On May 8, 1986, the PDW stated the initial print run of the PDW was over 250,000 copies. Articles in the PDW remain strongly pro-Soviet and every issue contains "factual information" on the labor movement in the United States.

V. THE SOVIET CAMPAIGN TO INFLUENCE RELIGIOUS ORGANIZATIONS

It is clear from developments within the past few years that the Soviet Union is increasingly interested in influencing and/or manipulating American churches, religious organizations, and their leaders within the United States. This campaign represents Soviet awareness that churches and religious institutions are important factors in the formation of public opinion in the United States. The apparent Soviet objective is to generate a bloc of opposition against increased U.S. military spending for new weapons systems, specially SDI, and to influence religious opinion against only U.S. defense policies.

Previous Soviet efforts were directed more at limited elements within the Christian community. This new campaign has targeted the members and leaders of a broad range of religious institutions within the United States. In an effort to neutralize perceived anti-Soviet feelings, the Soviets have directed increased efforts against the more conservative religious groups and leaders in the United States. One example of this new active measures campaign is the Soviet use of disinformation about the degree of religious freedom in the Soviet Union.

Religion in the Soviet Union

The Soviets have several organizations at their disposal for the conduct of active measures campaigns:

1. The Moscow Patriarchate of the Russian Orthodox Church.
2. The Foreign Relations Department of the Moscow Patriarchate.
3. The Special Commission for Contact with Foreign Religious Circles of the Soviet Peace Committee.
4. The USSR Council for Religious Affairs.
5. The USSR All-Union Council of Evangelical Christian-Baptists.

The most significant and largest religious body in the Soviet Union is the Moscow Patriarchate of the Russian Orthodox Church (ROC). The spiritual and administrative leader of the ROC is Patriarch Pimen of Moscow and All Russia. The ROC apparatus is carefully monitored and controlled by the Soviet Government through the Council for Religious Affairs which is under the Council of Ministers of the USSR. Therefore, only politically loyal and obedient church leaders and administrators reach positions of authority and are allowed to have contact with foreigners. In this way, the Soviet authorities are able to maintain strict control over the ROC.

Soviet church officials have convinced a significant number of their Western counterparts that the Soviet Government is committed to promoting the religious freedom of its citizens. In order to reinforce this facade, the Soviet Government and the ROC are preparing a sophisticated worldwide media campaign in 1988 to commemorate the 1,000th anniversary since the adoption of Christianity in Russia. The Moscow Patriarchate Publishers has announced that it will republish a fifth edition of the Bible to honor the millennium of Christianity in Russia. The number of copies printed will likely follow the example of the previous four editions and thus be very limited.

The Foreign Relations Department of the Moscow Patriarchate is the agency responsible for all relations the ROC has with the Soviet Committee for the Defense of Peace, the Christian Peace Conference, and other Soviet front organizations. It also coordinates activities with the U.S. Peace Council's Religious Circles Committee, the World Council of Churches, the U.S. National Council of Churches, and other religious organizations outside the Soviet Union. The Patriarchate's Foreign Relations Department has greatly expanded its international activities in recent years and has moved to a larger facility, the renovated Danilovsky Monastery, in Moscow. Metropolitan Filaret of Minsk is the Chairman of this influential body and is also the Chairman of the Special Commission for Contact with Foreign Religious Circles, which is in turn part of the Soviet Committee for the Defense of Peace. The Soviet Government maintains strict control over the religious activities inside the Soviet Union and is able to spread propaganda or disinformation outside the USSR.

The USSR Council for Religious Affairs is responsible for maintaining overall control of church-state relations in the Soviet Union. During October 1986, Konstantin M. Kharchev, Chairman of the Council for Religious Affairs, visited the United States and participated in a three-day conference on religious tolerance which was held in Minneapolis, Minnesota. Kharchev stated at the conference that the situation in the Soviet Union has improved and true religious freedom now exists. He indicated that additional Soviet Jaws would be permitted to emigrate and also promoted the idea of a Soviet-hosted international conference on religion in 1987 or 1988.

Kharchev stated that mistakes may have been made in the past with regard to the suppression of religious activities in the Soviet Union, but things have changed and "real religious freedom" does exist in the Soviet Union today as long as its practice does not challenge the CPSU or the Soviet Government.

Kharchev was not scheduled to make a formal presentation during the conference, but he did hand out an 11-page paper, in English, which argued for peace and nuclear disarmament on moral grounds and presented selected examples of religious tolerance in the Soviet Union. Kharchev was described as knowledgeable, articulate, and well-mannered during the conference. Kharchev's style in promoting active measures themes and supporting Soviet foreign policy issues appears to fit neatly into Kharchev's new "glasnost" or openness policy.

The All-Union Council of Evangelical Christian-Baptists (AUCECB) is officially recognized by the Soviet Government and is registered with the State Committee for Religious Affairs. It is composed of only those Baptist and Pentecostal congregations which collaborate with Soviet authorities on both the national and local level and should not be confused with the "unregistered" dissident Baptists and other Christians who are persecuted by the same Soviet authorities. Moscow utilizes the AUCECB in its contacts with evangelical and fundamentalist Christians in the United States. The AUCECB has its own International Department within its Moscow headquarters, which is the largest and best funded section in the AUCECB headquarters, and conducts extensive propaganda activities on behalf of the USSR. The AUCECB is also a constituent organization of the Soviet Peace Committee's Special Commission for Contacts with Foreign Religious Circles and with the Christian Peace Conference.

Three high level AUCECB officials, who are also actively involved in Christian Peace Conference activities, frequently visit the United States at the invitation of such Soviet front organizations as the NCASF and Christians Associated for Relationships with Eastern Europe (CAREE). Alexey Bichkov, Alexi Stoyan, and Anatoly Sokolov are all fluent in English and act as spokesmen for the Soviet Government. They are occasionally invited to attend meetings of various Baptist groups while they are in the United States, and therefore are able to spread propaganda or disinformation about religious freedom in the Soviet Union.

The Soviet Government believes it has been successful in utilizing the visits of prominent, conservative, and anti-Communist Christian leaders to show that it encourages religious freedom. By obtaining statements from prominent conservative American religious leaders while they are in the Soviet Union, the AUCECB is attempting to encourage the development of a more favorable attitude toward the Soviet Government.

It is likely the AUCECB will continue these operations to support various propaganda and active measures campaigns. It appears that the Soviets have acquired an appreciation of the vast audiences and substantial political influence of conservative religious leaders in the United States. They correctly understand that if the anti-Soviet sentiments can be diminished or neutralized within this particular section of the American public, they will have gained a noteworthy success.

Christian Peace Conference

The Christian Peace Conference (CPC) is a major Soviet-backed international front organization that has, since its founding in 1958, sought to influence opinion within church-related groups on a variety of topics. The CPC has its headquarters in Prague, Czechoslovakia and always has been directed by a prominent Soviet or East European theologian or religious figure.

The current President of the CPC is Bishop Karoly Toth of Hungary, who is also a member of the Presidential Committee of the World Peace Council (WPC), another well-known Soviet front organization. Bishop Toth is adroit at presenting Soviet policies and actions in such a way that they will be viewed favorably by American and other Western church officials, clergy, and laymen. Toth has many contacts in the American religious community and enlarging and developing those contacts is a principal reason for his visits to the United States. Bishop Toth is an unfailing and consistent defender of all Soviet actions, though his methods are less crude than most Soviet propagandists. In international religious circles he has defended the Soviet invasion of Afghanistan, martial law in Poland, and the shooting-down of Korean Air Lines Flight 007.

The CPC continues to support a variety of Soviet active measures operations in the United States. It has actively supported and endorsed the People's Peace Appeal, which is an active measures operation directed by the Soviet Committee for the Defense of Peace. Philip Oke is the CPC permanent representative at the UN in New York who utilizes his position and status to support all Soviet active measures in the international community. Several U.S. citizens hold prominent positions in the CPC hierarchy.

The U.S. affiliate to the CPC is known as Christians Associated for Relationships with Eastern Europe (CAREE). This organization carefully follows CPC directives and has increasing contacts with the National Council of Churches and other U.S. religious organizations.

The USPC, which is the U.S. affiliate of the WPC, also contributes to Soviet efforts to influence and manipulate the American religious community by actively establishing and promoting a Religious Circles Committee. This organization was formed in 1985 at the request of the Soviet Committee for the Defense of Peace to involve U.S. church members in more USPC activities and to provide a degree of legitimacy to the USPC in the eyes of the church community. The USPC named one of its top leaders as the Religious Circles Coordinator.

The ultimate Soviet objective is to influence U.S. Government policies by influencing a large, influential, and vocal body of public opinion. The Soviets apparently recognize the strong support that religious organizations can lend to the disarmament movement and to any perceptions concerning the Soviet threat. Many individuals with sincere desires for disarmament, human rights protection, and religious freedom in the Soviet Union are purposely being misinformed by the powerful Soviet organizations that control the activities and actions of all state-sponsored organizations in the Soviet Union.

VI. USE OF SOVIET MEDIA REPRESENTATIVES

Soviet communications media are controlled either by the Soviet Government or the CPSU. All Soviet media, including radio and television stations, news agencies and printing facilities, are state-owned and are therefore subordinate to Soviet political and intelligence goals. News is frequently suppressed and oftentimes distorted and manipulated for active measures purposes.

The Novosti Press Agency (APN) was established in 1961 to disseminate news and feature articles, commentaries, and photographs about Soviet life to foreign countries. It also publishes books, brochures, magazines, and a variety of other materials in many foreign languages. Novosti claims to be commercial and unofficial, but is under Soviet Government control. The leading Soviet newspapers are *Pravda*, the official organ of the CPSU, *Izvestiya*, the official newspaper of the Soviet Government, and *Literary Gazette*, one of the country's largest newspapers with a circulation of 3 million copies.

The Telegraph Agency of the Soviet Union (TASS) is the official news agency of the Soviet Government and is administered by the USSR Council of Ministers. Both TASS and Novosti send large numbers of correspondents on foreign assignments around the world; however, *Pravda, Izvestiya,* Radio Moscow and other Soviet media organizations also have limited numbers of correspondents in many countries, including the United States. TASS also prepares special classified background reports on foreign countries and their leaders, as well as digests of the uncensored foreign media, for use by high-ranking Soviet officials.

As of April 1987, there were over 35 Soviet correspondents working in the United States. While all the correspondents are employees of the Soviet Government and must support Soviet foreign policy objectives, approximately one-third of those correspondents are actually known or suspected KGB intelligence officers. Their overt assignments as correspondents permits them easy access to all areas of the United States. It should be emphasized that it is the direct assignment of these KGB officers and cooptees to influence public opinion and U.S. Government policy through active measures operations approved in Moscow.

On the ABC News program "Nightline," which aired on March 5, 1987, Ted Koppel reported that he and other members of the U.S. media had received a direct communication from Moscow concerning the hunger strike of an American scientist who opposed SDI and all nuclear weapons. The telex was from Georgi Arbatov, the Director of the Institute of the USA and Canada, who is a member of the Communist Party's Central Committee and one of the leading Soviet experts on the United States. Because of his status, he receives numerous requests for interviews and invitations from television talk shows when he visits the United States. This media exposure allows him to present Soviet active measures themes to a vast American audience. Arbatov is a skillful propagandist who uses disinformation, intelligently designed half-truths, and factual omissions to support his contentions. Ted Koppel, who is well aware of Arbatov's background, stated that he was indeed surprised to receive such a blatant anti-SDI telex from Arbatov.

The hard-line Soviet rhetoric of older and oftentimes arrogant spokesmen such as Arbatov and Joe Adamov, a Radio Moscow commentator, are being replaced by the more refined approach of younger and articulate Soviet spokesmen. Recent television appearances by Vladimir Pozner, who appeared on the "Donahue" television show in 1986, Dmitry Titov, of the Soviet Mission to the UN, and Vitaliy Churkin, a First Secretary to the Soviet Embassy who spoke before Congress on the Chernobyl nuclear disaster, are three examples of Soviets who speak almost perfect English and present their messages in a Western style that the American public and media can better identify with and appreciate. This new generation of scholars, journalists, and Soviet officials is more knowledgeable about the West and the importance of the media. They realize that American television can be useful and that they can have an impact on the public's impression of certain issues just by appearing candid and forthright in their contacts.

Soviets Allege U.S. Has Political Prisoners

The Soviet Union continues to allege that the U.S. Government has hundreds of political prisoners in correctional facilities across the United States. These stories are part of a carefully organized Soviet active measures campaign to divert attention from Soviet political prisoners. During 1986, Andrei Sakharov, the well-known Soviet dissident, was on a hunger strike to protest the unwillingness of Soviet officials to allow his wife, Yelena Bonner, to leave the USSR to seek medical treatment. To counter world opinion directed against the Soviet Government, Moscow attempted to convey the impression to its own citizens and to the world that the United States also had political prisoners. Soviet correspondents in the United States began to write articles about Leonard Peltier, the U.S. "political prisoner" and "victim of American injustice."

Leonard Peltier was a leader of the American Indian Movement who was convicted of the 1975 shooting deaths of two FBI Special Agents on the Pine Ridge Indian Reservation in South Dakota. Peltier is currently serving two consecutive life sentences for these murders. He contends that he did not receive a fair trial and that the evidence used against him was fabricated by the FBI in order to ensure a conviction. Support for Peltier's most recent request for a new trial, which is now pending before the U.S. Court of Appeals, includes some Members of the U.S. Congress and the Canadian Parliament.

In December 1986, Peltier was awarded the International Human Rights Prize for 1986 by the Human Rights Commission of Spain. The Human Rights Prize has been given each year since 1982 to people who are outstanding in the defense of human rights. Carmen Caroro, spokeswoman for the Human Rights Commission said: "The award was given to Leonard Peltier because he defended the rights of his people, because he defended their rights to hold onto their land, and because he defended the culture of the American Indian People. Leonard Peltier symbolizes the whole Indian struggle in America." Peltier's case has received worldwide attention based largely upon the Soviet disinformation program.

VII. SOVIET FRONT ORGANIZATIONS IN THE UNITED STATES

In the United States, the Soviet Union effectively implements active measures operations through its ability to direct and manipulate Communist front organizations. In order to mislead the public and circumvent the requirements to register as agents of a foreign government under U.S. law, these front organizations attempt to conceal Soviet financial support. In many cases, this concealment process extends to nearly all the general membership of these front organizations. Only the top leadership positions are aware of the extensive Soviet funding and control over these organizations.

A standing Soviet requirement of the front groups in the United States is to unite as many different groups as possible under the general causes of "nuclear disarmament, peace, jobs, and justice." Front organizations often attract broader public support because they pretend to be non-aligned and independent. In this way they are able to manipulate larger collections of individuals and groups into supporting ideas and actions that consistently support Soviet foreign policy objectives and are directed against U.S. and NATO policies. The National Council of American-Soviet Friendship (NCASF) and the United States Peace Council (USPC) are two of the more active front groups in the United States today.

National Council of American-Soviet Friendship

The NCASF, originally formed in 1943 by the CPUSA, currently consists of approximately 25 active chapters in the United States. Future plans call for at least one chapter in each of the 50 states. The NCASF claims to be an independent and impartial organization that depends entirely on legitimate contributions for financial support. In actuality, the Soviet Union provides funding for NCASF operations.

Publicly, the NCASF continues to state that its purpose is to promote friendship and understanding between Soviets and Americans through cultural, educational, and travel exchange programs. In practice, however, the NCASF works to advance the foreign policy and propaganda objectives of the USSR. The NCASF operates as a Soviet front group which provides the Soviets with an excellent conduit to promote its active measures campaigns, meet with U.S. persons of influence, spot and assess U.S. persons for recruitment operations, and influence certain groups of activists in the U.S. peace movement. The NCASF is used by the Soviets as a bridge to reach people who would be reluctant to participate in an openly pro-Soviet disarmament organization.

Soviet direction of the NCASF is channeled through the Union of Soviet Societies for Friendship and Cultural Relations with Foreign Countries (SOD), with ultimate authority resting with the International Department. Soviet representatives of SOD are in regular contact with NCASF officials and direct the NCASF to conduct activities to support Soviet active measures campaigns.

The NCASF is currently sponsoring more visits by Soviet groups to the United States. These groups are generally referred to as "Goodwill Tours" and are composed of culturally oriented Soviets traveling under tourist visas. In the past, many of these tours have been "peace" oriented and illustrate a Soviet attempt to present themselves as friendly, peace-loving people. One KGB officer expressed a clear and strong interest in having more Soviet entertainment groups visit in order to encourage more contact with larger U.S. audiences and with persons in the U.S. entertainment business. The recent increase in local NCASF chapters in various cities affords these Soviet groups an expanded geographic range within the United States.

These NCASF local chapters act as sponsors, handle logistical requirements such as hotel reservations, etc., and arrange various fora and functions with a variety of domestic groups. During these visits, the NCASF is in a position to assist the Soviet groups visiting the United States. The NCASF provides a mechanism which allows Soviet representatives the freedom to travel to various American cities where they previously had limited access or to travel in areas closed to Soviet diplomats assigned in the United States. The Soviet officials who are visiting the United States under NCASF assistance are also in a position to provide assessments of Americans for possible targeting and recruitment by the KGB.

During 1986, the NCASF sponsored a number of Soviet visitors to the United States that supported existing active measures operations. Two such events that were designed to influence the nuclear disarmament movement were the Mississippi Peace Cruise and the signing of the People's Peace Appeal at the United Nations. Both of these events which were previously described in this report, attracted extensive media coverage and were considered successes by the Soviets.

There appears to be an increased utilization of Soviet international front organizations and their affiliated U.S. organizations to support Soviet active measures operations in the United States. Some front groups are filing for tax exempt status from the Internal Revenue Service (IRS). The New York City Chapter of the NCASF has apparently obtained such beneficial status from the IRS, as has the LRA.

World Peace Council and U.S. Peace Council

The World Peace Council (WPC) is the largest and most active Soviet international front organization, with affiliates in approximately 140 countries. The WPC is one of the Soviet Union's major instruments for political action and propaganda in the nuclear disarmament movement and its current campaign is clearly directed at U.S. defense and arms control policies. The WPC's highest priority is the mobilization of opposition against the SDI research program.

The president of the WPC is Romesh Chandra, who is a long-time member of the Central Committee of the Communist Party of India. Chandra has received many awards, including the Order of Lenin, from the Soviet Union for his work at the WPC. He travels extensively around the world coordinating WPC activities and addressing meetings of the UN in New York City.

WPC activities in the United States are coordinated by its affiliate organization, the USPC. Key leadership positions in the USPC have always been held by trusted CPUSA members who carefully guide their organization along Soviet lines.

The USPC, founded in November 1979, has consistently worked to promote the causes of the WPC and has regularly supported the policies of the Soviet Union. Because the USPC increasingly suffers from being exposed as a Communist front, it has become less open about its Communist affiliations. Early USPC letterheads openly showed affiliation to the WPC, yet a 1985 letterhead no longer shows it. By examining some of the organization's activities, the links between the USPC, the WPC, and Soviet interests are revealed.

Robert Prince, founding member of the USPC, is the U.S. representative on the Secretariat of the WPC in Helsinki, Finland. Prince replaced Karen Talbot who returned to the United States to become the WPC representative at the UN in New York City. After she returned to the United States in 1986, Talbot was elected to the USPC's Executive Board. There are other high-level leaders of the USPC who also regularly travel from the United States to attend WPC meetings around the world.

The USPC, under the direction of the Soviet Peace Council, played an active role in the formation of the People's Peace Treaty. The purpose of this operations is to influence American public opinion on nuclear disarmament, halt all SDI research, and exert pressure on the U.S. Government to accept Soviet arms-control reductions. Leaders of the USPC were also instrumental in forming the Religious Circles Committee, which is another effort initiated by the Soviet Peace Committee to involve U.S. religious organizations in activities of the USPC. The underlying theme of these two operations, as well as many other USPC activities, is to get the USPC involved as an umbrella organization for all peace and social movements. Once the USPC gets other groups involved, it can step-back and allow these other organizations to run the program. In this way the USPC, which is widely known as a Communist front organization, can act as a catalyst and have its programs carried out while not appearing to be actively involved.

VIII. SOVIET INFLUENCE IN THE UNITED NATIONS

The Soviet Union is effectively utilizing the United Nations and its specialized agencies to further Soviet foreign policy goals and intelligence-gathering objectives. At UN Headquarters in New York, the Soviets not only have intelligence officers under diplomatic cover in the Soviet Mission to the United Nations (SMUN), the Ukrainian Mission, and the Byelorussian Mission, but also in the UN Secretariat. All individuals employed by the UN Secretariat must take an oath to carry out their duties and responsibilities as a "international civil servant of the United Nations" and not accept instruction or guidance from any government. In actuality, the Soviets assigned to the UN Secretariat report directly to the SMUN and thus are part of the Soviet bureaucracy which is controlled by the Soviet Foreign Ministry, the Soviet intelligence services, and the CC, CPSU in Moscow.

The Soviet intelligence services use their UN staff assignments to support worldwide intelligence and active measures operations; monitor and manipulate UN activities; collect scientific and technical information of value to the Soviet Union; and spot, assess, and recruit intelligence sources and agents of influence.

The Soviet Union has effectively exploited the system of Non-Governmental Organizations (NGOs) at the UN for active measures objectives. Although NGO representatives cannot vote at the UN, they may attend conferences, sessions, and meetings as observers, submit papers which become part of the official record, and at times speak at meetings. The NGOs are prime targets for Soviet penetration and/or control because of their potential to influence voting members in the UN, worldwide public opinion, and the internal politics of their own countries.

NGOs may become affiliated with the UN system in a variety of ways. For example, an NGO may be granted affiliation by a committee within the Secretariat or receive consultative status with a particular UN agency such as United Nations Educational, Scientific, and Cultural Organization (UNSECO) or the Department or Disarmament Affairs. However, the form of affiliation which is the most desirable and carries the highest degree of recognition throughout the UN system is Category I consultative status with the Economic and Social Council (ECOSOC).

The Conference of Non-Governmental Organizations (CONGO), which has consultative status with the ECOSOC, is the largest and most influential nongovernmental institution within the UN system and is officially recognized as such by the UN, its Secretariat, and various agencies. It is the spokesman for about 200 international organizations associated with the UN. Most of the organizations belonging to CONGO are neutral, nonpolitical groups representing a wide range of viewpoints. Religious organizations, professional societies, and public service associations form the bulk of CONGO's membership. However, the following major international Soviet fronts are also members:

Afro-Asian Peoples Solidarity Organization (AAPSO).

Christian Peace Conference (CPC).

International Association of Democratic Lawyers (IADL).

International Organization of Journalists (IOJ).

International Union of Students (IUS).

World Federation of Democratic Youth (WFDY).

World Federation of Scientific Workers (WFSW).

World Federation of Teachers Unions (WFTU).

World Federation of Trade Unions (WFTU).

Women's International Democratic Federation (WIDF).

World Peace Council (WPC).

On April 15, 1987, the Office of Research and Information Collection replaced the Soviet controlled Political Information and News Service (PINS) at the UN. PINS was established by the UN in 1982 to provide Secretariat staff and member states with summaries of media reports. However, the Soviets used their influence over PINS to select and edit press articles that only reflected an anti-U.S. bias. With the creation of a new research facility at the UN, the Soviet's have lost their ability to manipulate the news at the UN through PINS.

During 1986, the Russian Book Club (RBC) at the UN celebrated its 20th anniversary as a UN Staff Recreational Council (UNSRC) club. From 1962 to 1980, the RBC appeared to serve as little more than a gathering point for Soviet emigres and UN Third Country national staff members interested in learning more about the USSR. However, since 1980 the RBC has become a much more aggressive propaganda tool for the Soviet Government. The RBC, following the UN's lead, dedicated the year 1986 as the International Year of Peace and disseminated disinformation and propaganda regarding alleged Soviet peace initiatives throughout the world.

Current RBC direction and control comes from the SMUN and more specifically from the International Department, CPSU, and the KGB. Since 1986, the RBC activities are directed at creating an overall favorable impression of the Soviet Union to the UN community and, to a lesser extent, the general public. The RBC is the only club within the UNSRC that has propaganda and intelligence objectives; no other member state has a similar organization within the UN staff.

In January 1986, the UNSRC informed the RBC that it must reduce the size of its membership, as the large RBC meetings were causing increased confusion and congestion around the Dag Hammarskjold Library auditorium at the UN complex in New York City. The UNSRC sent the RBC a letter reminding them that UNSRC clubs were established exclusively for UN employees and their immediate families. Based upon the UNSRC constitution, all individuals who were not members of the UN Secretariat were ineligible to continue attending the RBC meetings. During the second half of 1986, the RBC, in violation to the UNSRC directive, continued to send personal invitations to large numbers of CPUSA and NCASF members. It appears that the RBC officials have chosen to violate the UNSRC guidelines because they need these individuals to support their active measures operations.

IX. SOVIET POLITICAL INFLUENCE OPERATIONS

Soviet political influence operations against the United States have steadily increased in the past few years. These operations often utilize several types of agents of influence and tend to be one of the more sophisticated active measures programs. The U.S. citizens involved in political influence operations are not usually recruited agents in the strict sense of the term. Instead, Soviet intelligence officers try to secure the assistance of certain individuals to assist them in advancing established foreign policy goals on certain issues. Oftentimes, these individuals are unaware that the Soviet citizen they are dealing with, who they believe is a religious leader, trade representative, journalist, UN official, or diplomat, is in fact covertly working for the Soviet intelligence services.

Soviet Embassy Contacts Public Relations Firms

A new twist in political influence operations recently surfaced in the United States. On January 11, 1986, the Washington Post, reported that the Soviet Embassy had contacted several private consulting firms in Washington, DC to explore the possibility of obtaining public relations advice. The vice president at one firm was quoted as saying: "We were contacted by a Mr. Al Levine of the information department of the Soviet Embassy and asked if we were interested in discussing the marketing of certain information. He was told we do not represent foreign governments for political propaganda purposes."

The Washington Post also talked to a spokesman for the Soviet Embassy who stated that the Soviet Government normally handles its own relations with the American news media and dismissed the aforementioned reports as "talk around town."

X. FUTURE TRENDS OF SOVIET ACTIVE MEASURES OPERATIONS IN THE UNITED STATES

The FBI believes the following events will receive priority attention in active measures operations conducted by the Soviet Union and its front organizations in the United States.

People's Peace Appeal

On August 6, 1987, the People's Peace Appeal is scheduled to conclude a one-year campaign to collect millions of signatures on petitions supporting Soviet arms control positions. There will likely be an official ceremony at the United Nations when the petitions are presented to UN Secretary General Perez de Cuellar. Copies of the petition are intended to be presented to General Secretary Gorbachev and President Reagan on the same day.

Chautauqua Conference in New York

The Chautauqua Institute of Chautauqua, New York, has scheduled a large conference from August 23-28, 1987. This conference will be the third in a series of conferences alternatively held each year in the United States and USSR.

The Chautauqua Institute and the U.S./USSR Friendship Society in Moscow have sponsored these events to provide a forum for discussion and debate on a wide range of issues that affect relations between both countries. Certainly the issues of arms reduction, SDI research, and a possible Reagan/Gorbachev Summit will be discussed. Approximately 200 Soviets and 5,000 Americans are expected to attend this major conference which will feature several high-level officials from both countries. It is expected that a number of ranking CPSUA officials and Soviet Government leaders will attend. This event is expected to generate substantial public interest and media attention. Inasmuch as the ID controlled U.S./USSR Friendship Society is sponsoring this event, the Soviets undoubtedly will try to use this forum to advance Soviet arms control objectives and influence the American public.

Projected Active Measures Operations Against a Future Summit

The Soviet Union will probably initiate a series of active measures operations designed to support Soviet foreign policy objectives in any future Summit meeting between President Reagan and General Secretary Gorbachev. Local chapters of the CPUSA, NCASF, and other Soviet front organizations will direct some of the active measures campaigns against the U.S. Government.

Prior to the 1985 Summit meeting, one state's local CPUSA and NCASF chapters initiated a campaign to send 8,000 pre-addressed postcards to U.S. Senators, Congressmen, and President Reagan. These postcards were not identifiable with either organization, and public stands were set up so the general public could donate 25 cents and send the following message to President Reagan:

"The summit meeting with Soviet leader Gorbachev holds the key to a future of peace. A halt to all nuclear tests, and end to Star Wars, and deep cuts in strategic missiles will mean more security for all Americans and all humanity. The world is waiting and watching for a meaningful agreement to end the nuclear arms race! Don't come home without it!"

The 13th World Festival of Youth and Students

The World Federation of Democratic Youth (WFDY) and the International Union of Students (IUS) are the two Soviet front organizations which have jointly sponsored a series of 12 World Youth Festivals since 1947. The 12th World Festival of Youth and Students was held in Moscow from July 27 to August 3, 1985, and estimates indicate 20,000 delegates from 157 countries took part in the activities. These Soviet-subsidized, large-scale events mix politics with sports, entertainment and international friendship. The United States National Preparatory Committee (USNPC), which was staffed by high-ranking CPUSA and NCASF members, sponsored 300 delegates and 250 observers to attend the festival.

The Soviets used this festival as a political stage for the USSR to attack President Reagan, U.S. "imperialism," the American military buildup, and to attempt to influence world opinion on peace issues and nuclear disarmament. Soviet organizations such as Soviet Friendship Societies, the Committee of Youth Organizations of the USSR, and the Rodina Society were directed to commit their resources and personnel to the World Youth Festival and the theme of nuclear disarmament. The Rodina Society, a Moscow-based organization which develops and maintains cultural relations with Soviet emigres worldwide, is known to be dominated by the KGB, which utilizes these cultural exchanges as a cover for its illicit operation. This event brought the Soviets into close contact with numerous influential political, academic, religious, and media leaders, as well as thousands of politically active youths from around the world.

Through CPUSA and the CPUSA front organization representatives in the USNPC, Soviet officials carefully screened the Americans who applied to participate in the World Youth Festival. It is known that the KGB exploits such events to spot and assess youth who appear to be sympathetic to communism and/or the USSR. The ultimate KGB goal is to recruit individuals who may eventually acquire positions where they are able to collect intelligence information, support Soviet intelligence operations or otherwise be useful. In addition, the Soviet officials did not want disruptions or serious disagreements to arise during the conference and therefore they carefully screened U.S. applicants to determine their attitudes toward the USSR.

In the summer of 1989, the 13th World Festival of Youth and Students is scheduled to be held in Pyongyang, the capital of the Democratic People's Republic of Korea. The WFDY attaches special significance to this world festival which for the first time will be held in an Asian country. Various Soviet front organizations have already started to promote the 13th Festival to youths around the world. In the United States, the NCASF and the CPUSA's youth group, the Young Communist League, have already started to promote the festival. These groups play a major role in determining who attends the festival as representatives of the United States. In addition, these groups will attempt to secure as many endorsements for the festival as possible from local governments, public officials, and prominent citizens.

Soviet Efforts to Influence the 1988 Presidential Elections

Soviet intelligence officers have already started to collect information on the 1988 Presidential candidates and their positions on various issues. It is possible that the Soviet Union will institute a new series of active measures operations designed to discredit those candidates who have platforms that are not acceptable to the Soviet Government. These operations can also be directed against Congressmen and other elected officials by front organizations, agents of influence, Soviet influenced organizations, and the CPUSA.

The FBI publicly denounced a Soviet forgery that surfaced in the United States in January 1984. The forgery, dated 1947, purported that Ronald Reagan was working in collusion with the FBI and the House Committee on Un-American Activities concerning Communist infiltration into the Hollywood film world. This forgery was designed to discredit President Reagan by raising the issue of "McCarthyism" during an election year.

The CPUSA announced in 1984 that nothing was more important than the defeat of President Reagan. They utilized their front organizations and publications to attempt to convince the American public that the reelection of President Reagan would be a grave mistake and would have significant political and economic ramifications.

An Assessment of Future Active Measures Operations in the United States

In the United States, Soviet intelligence officers will continue to actively target and seek to cultivate influential American citizens, U.S. Government officials, journalists, and political activists. Much of this activity will be overt in nature, although Soviet intelligence officers are always alert for the opportunity to recruit Americans who are in positions to facilitate or assist Soviet active measures operations. The Soviet Union relies extensively on the CPUSA and other front organizations to support Soviet active measures campaigns in the United States. Front organizations of the CPUSA tend to be more effective than the Communist Party because they are not as easily identified as pro-Soviet or Communist-dominated organizations.

One of the major Soviet active measures campaigns currently underway in the United States and Europe is the Soviet campaign to undermine the SDI research programs. The Soviets are specifically interested in exploiting disagreements and creating divisiveness between the United States and its NATO allies on this issue. In the United States, the CPUSA and other front organizations have been directed to undertake operations to influence the activities of independent peace organizations. One objective of the Soviet campaign is to influence U.S. and European peace and disarmament organizations to focus only on the American SDI program, while ignoring Soviet strategic defense programs.

One of the best known and most frequently used Soviet active measures techniques is the surfacing of forged documents. However, in the United States this technique is not being used as effectively or as often as it is in other countries. Although most forged documents do surface overseas, there have been some recent forgeries which have first surfaced in the United States. The Soviets believe that even when the U.S. Government issues prompt denials of the authenticity of a forged document, the denial will never entirely offset the damage caused by the initial release.

Although it is often difficult to judge the effectiveness of specific active measures operations, the Soviets believe these operations have a cumulative effect and are detrimental to U.S. foreign policy and national security interests. Furthermore, the Soviets believe that their active measures operations in the United States do contribute to their overall strategy to advance Soviet foreign policy interests, influence U.S. Government policies, and in general discredit the United States.

THE 25TH ANNIVERSARY OF THE BLUE RIDGE HAVEN EAST CONVALESCENT CENTER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. GEKAS. Mr. Speaker, Blue Ridge Haven East Convalescent Center recently celebrated its 25th anniversary. Blue Ridge East opened its doors on March 4, 1962, and was the first new facility in the greater Harrisburg area designed to give 24 hour nursing care. The facility was built by Morris and Etta Abrams, administrators, and Dr. Donald B. Freedman, the medical director. Ruth E. Mumma, RN, was the first director of nursing and retained this position until her retirement on June 1, 1977.

Blue Ridge Haven East, with a bed capacity of 67 beds, is certified to participate in the Medicare and Medical Assistance programs. The center also has a contract with the Veterans' Administration to accept veterans from the VA Medical Center in Lebanon.

In addition to 24 hour nursing care, Blue Ridge East offers audiological services, speech therapy, physical therapy, and various medical and personal services. The social services and activities departments offer a wide range of social and recreational activities with a therapeutic emphasis. The center encourages community involvement through its Adopt-a-Grandparent Program, community gardening project, and its annual campaign for the Arthritis Foundation. The facility welcomes volunteers of all ages to participate in one of its already existing programs, or to create a unique program of their own design.

Mr. Speaker, I would like to offer my congratulations to Blue Ridge Haven East Convalescent Center on its 25th anniversary. Its employees and volunteers have provided its patients and our community with many years of faithful service and support and for that we thank them and salute them.

SEAT BELTS IN SAN GABRIEL SAVE LIVES

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. MARTINEZ. Mr. Speaker, I rise today to commend the San Gabriel City Council for the adoption of a resolution declaring December 1987 as "Seat Belts Work Month" in San Gabriel. Mayor Janis Cohen, along with city council members Sabino Cici, Mike Falabrino, Ed Lara, and Jeanne Parrish, should be recognized as leaders in promoting the benefits of seat belts as a means of improving public safety in our communities. In conjunction with this resolution, the San Gabriel City Council, with the help of the San Gabriel Chamber of Commerce, the San Gabriel Police Department, and the Automobile Club of Southern California, is conducting a citywide campaign this month to both improve community awareness and increase the usage of seat belts in automobiles.

In my home State, California, 3,000 are killed and over 240,000 are injured as a result of automobile accidents. It is in our neighborhood streets where many of these accidents take place as a result of everyday driving; 75 percent of these accidents within 25 miles of home, with more than 50 percent of all injury producing accidents occurring at speeds lower than 40 miles per hour; 20 percent of all serious injuries suffered in accidents result from nonbelted occupants being thrown into each other. The most frightening statistic is that traffic accidents are now the leading cause of death among people under the age of 45.

The benefits of seat belts are well documented. Seat belts worn properly cut fatalities by 45 percent and reduce the probability of suffering a moderate to serious injury by 50 percent. Seat belts also help drivers in emergency situations maintain vehicle control as well as avoid being thrown from their vehicles. Seat belts are now designed to allow riders to move freely in their cars, but are also designed to lock in place when cars come to sudden halt. Most alarming is the fact that, though nearly all cars now have seat belts, less than 20 percent of all Americans buckle up when they operate their cars.

Mr. Speaker, actions such as to encourage the use of seat belts should be commended. It is my hope that other local governments will follow San Gabriel's lead, and remind their communities that seat belts work and save lives.

WHO IS WATCHING OUR CHILDREN'S HEALTH

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. MILLER of California. Mr. Speaker, today, a very important report "Who Is Watching Our Children's Health?" was issued by the Children's Defense Fund. The report found that U.S. leadership in the vaccination of the Nation's children is floundering, and that we will not meet the Surgeon's General's 1990 immunization goal of having 90 percent of all children complete a basic series of immunizations by age 2.

Most startling is the erosion of the immunization status of the Nation's youngest children. For each of the seven targeted diseases, immunization rates for children age 2 years fell during the 1980–85 period.

These findings are particularly disturbing in light of UNICEF's worldwide campaign to immunize children against preventable diseases. The United States already lags far behind other industrialized nations in our rates of teenage pregnancy and parenthood, in infant mortality rates, and in other important indicators of the Nation's health. Once again, we have been given the dubious distinction of running behind the pack, instead of in front.

This is inexcusable when we have the knowledge to prevent poor health status, especially among the Nation's most vulnerable children. We also know that when prevention strategies are implemented, money is returned to the Federal Treasury. The Select Committee on Children, Youth, and Families documented in its report on cost-effective prevention strategies that for every dollar spent on the Childhood Immunization Program, the Government saves $10 in medical costs.

For 1 million 2-year-olds, rubella vaccination would save $9.8 million in net medical costs and an additional $7.4 million in productivity. The cost of lifetime institutional care for a child left retarded by measles is between $500,000 and $1 million. A Center for Disease Control study indicated that the $180 million spent over several years on a measles vaccination program saved $1.3 billion in medical and long-term care by reducing hearing impairment, retardation, and other problems.

I urge my colleagues to study the report's findings, and to take immediate action to prevent a national tragedy by continuing to support all of the report's recommendations, including enactment of the full authorization levels for the childhood immunization program, the maternal and child health block grant, and the Community Health Centers' infant mortality initiative. The introduction from "Who Is Watching Our Children's Health?" follows:

At a time when UNICEF and third world nations are conducting a world-wide campaign to immunize children against preventable diseases, U.S. leadership in the vaccination effort at home is floundering. The immunization rates of American children are stagnating overall and even declining for some crucial age groups. Congress and the Administration must act immediately to reverse this course.

As a result of more than a century of research, today vaccines are available to prevent illness, disability, or death from a number of the most common communicable diseases of childhood. The use of vaccines to prevent disease has been one of the major success stories in public health and modern medicine. Across the world, similar interventions have been proposed to save the lives of millions of children. Yet, because this nation has not eliminated any major childhood disease except smallpox, the potential for infection still exists in every community. Thus, in order to maintain past successes and achieve further progress, the nation must continue its efforts to provide adequate immunization levels for children.

In the past, successful efforts to improve immunization status and reduce preventable childhood diseases have used a three-pronged approach. The key elements of these efforts were: (1) achievement and maintenance of high immunization levels; (2) development of strong and effective surveillance systems; and (3) aggressive response to disease outbreaks. As a result of problems in the vaccine delivery system and inadequate funding levels, the nation's efforts in each of these critical areas have been reduced since 1980.

We are moving backward rather than forward:

The nation will fail to meet many of the Surgeon General's 1990 Immunization Objectives for the Nation, including goals for reductions in the incidence of measles, mumps, pertussis, and tetanus; and the goal for having 90 percent of all children complete a basic series of immunizations by age two years.

General levels of immunization for preschool-age children worsened or showed no improvement between 1980 and 1985. For example, the proportion of one- to four-year-olds receiving no doses of polio vaccine rose by 40 percent for children of all races and 80 percent for nonwhite children; and the percentage of children who were not immunized against rubella before age five rose during this period.

The erosion of the immunization status of the youngest children is particulary troubling. The proportion of infants inadequately immunized against diphtheria, tetanus, and pertussis increased for all races and for nonwhites. Furthermore, for each of the seven targeted diseases (polio, measles, rubella, mumps, diphtheria, tetanus, and pertussis) immunization rates for children age two years fell during the 1980-1985 period, and none is approaching the goal of 90 percent.

While there is no danger of soon returning to the levels of disease experienced before 1970, during the 1980-1985 period the nation experienced a significant increase in the number of reported cases of measles, mumps, and pertussis.

The number of cases of measles reported in the United States has risen dramatically since 1983, and there were more cases in 1986 than in any year since 1980. Preschool-age children had the highest reported rates in 1985 and 1986. The U.S. Centers for Disease Control (CDC) found that 83 percent of the cases among children age 16 months to four years were preventable through adequate immunization.

In 1986, after 15 years of continuous decline, there was a nationwide increase in the reported number of cases of mumps. For the first six months of 1987 more than 9,000 cases of mumps were reported. This is more than four times the number reported during the comparable period of 1986.

Pertussis, commonly known as whooping cough, can be a serious and even fatal disease. With immunization efforts, the incidence of pertussis dropped to an all-time low of 1,248 cases in 1981. However, the number of reported cases nearly tripled between 1981 and 1985, reaching 3,589, the highest reported number since 1970. During the upswing, the rates of pertussis were highest among children younger than one. Over half of these infants were hospitalized and one in five suffered the complication of pneumonia. As with measles, inadequate immunization is a key factor in recent outbreaks of pertussis.

Surveillance of immunization status virtually has been eliminated. In 1985 the U.S. Immunization Survey, which had been conducted by the Census Bureau for the CDC, was discontinued. No nationwide immunization statistics were collected by the federal government for 1986 or 1987.

The cost of vaccines has increased dramatically during the first half of this decade. Even in constant dollars, the cost of the combined measles, mumps, and rubella (MMR) vaccine more than doubled between 1979 and 1986. And the actual cost of the combined diphtheria, tetanus, and pertussis (DTP) vaccine rose by more than 2,000 percent in a two-year period.

In the face of skyrocketing inflation in vaccine costs, federal funding for the purchase of vaccines has become inadequate. In FY 1979, funding through grants to states totaled $25 million and was used for purchase of 17.4 million doses of vaccine. In FY 1986, federal immunization grant dollars totaled $45 million, yet only an estimated 16.2 million doses of vaccine could be purchased.

As a result of limited numbers of manufacturers that continue to supply vaccines, the liability concerns of manufacturers, and the limited stockpiling (storage and preservation) of vaccines have created increases in costs and vaccine shortages. The system for production and distribution of vaccines is suffering under extreme pressure and already has reached one point of crisis during which childhood immunization schedules were cutback.

WHAT MUST BE DONE NOW: SIX STEPS

The Congress and the Administration must show a sense of urgency about protecting children from preventable illness. Six immediate actions are necessary:

Inclusion in the final federal FY 1988 appropriations bill of funding up to the full authorization levels for the Childhood Immunization Program ($94 million), the Title V Maternal and Child Health Block Grant ($557 million), and the Community Health Centers' Infant Mortality Initiative ($25 million, with a total of $425 million for health centers). Full funding for these programs is essential to the provision of an adequate system for assuring that vaccines, and providers to administer vaccines, are available for all children.

Immediate enactment of S. 422 and H.R. 1018, the Medicaid Infant Mortality Amendments of 1986. These bills would continue Medicaid coverage for the poorest five-year-olds, permit immediate coverage of children younger than five living below 100 percent of the federal poverty level, and raise the optional level of coverage for pregnant women and infants to 185 percent of federal poverty. Enactment of these provisions could ensure the financing of immunizations for tens of thousands of low-income children.

Appropriation of sufficient funds to enable the CDC to maintain an adequate vaccine stockpile. The stockpile authorization level for FY 1988 is set at $5 million.

Enactment of the National Childhood Vaccine Compensation Act with recent modifications. This will require passage of a small excise tax provision adopted by the House Ways and Means Committee. The new vaccine compensation program is a first, and essential, step toward reducing vaccine cost inflation.

Restoration of the immunization surveillance system or replacement of the prior system with a new annual survey. Other national health surveys do not provide adequate information regarding immunization status. Given certain adverse trends in immunization status and recent outbreaks of diseases across the nation, abandoning this system is a serious mistake in public health terms. Surveillance activities should be resumed as soon as possible to chart progress for the end of this decade.

Congress and the U.S. Department of Health and Human Services should begin now to adopt policies and provide funding which can assure an adequate system for providing childhood immunizations by 1992. Meeting the Surgeon General's Objectives, by even that late date, will require a commitment such as was made during the late 1970s: continued increases in funding levels for key child health programs to compensate for vaccine price inflation and growing need for publicly-provided vaccination; aggressive efforts to improve and sustain immunization levels: studies of disease outbreaks and their causes; public education campaigns regarding the importance of childhood immunizations; and ongoing surveillance of a specific and detailed nature.

Every American ought to ask what kind of government would seek to hide, rather than energetically watch, the health status of its young.

RESTORE RAILROAD RETIREMENT BENEFITS INCORRECTLY SEQUESTERED

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. WHITTAKER. Mr. Speaker, I am introducing a concurrent resolution today expressing the sense of Congress that all railroad retirement benefits, including the supplemental annuity portion, are exempt from sequestration under Gramm-Rudman-Hollings and that all supplemental annuity payments that have been sequestered should be restored.

This is a case in which the clear language of the statute and clear congressional intent have been misread by the Office of Management and Budget. The exemption section of the law uses budget account numbers to describe activities and programs exempt from sequestration. In the case of railroad retirement, the budget account number that is used include the supplemental annuity when the law was enacted. Clearly, the Congress intended that the supplemental annuity, as well as all other portions of railroad retirement, would exempt from reduction. This view is shared by the Congressional Budget Office, which treated the supplemental annuity as exempt, and the Railroad Retirement Board, which has strenuously opposed the OMB interpretation.

Railroad retirees are now receiving reduced benefits as a result of this mistaken reading of the law. The Congress should act immediately to restore the benefits that have been wrongfully denied to railroad retirees.

POLLUTION

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. SAXTON. Mr. Speaker, there are few Americans that have not at one time or another been saddened by the effects of pollutants on our beautiful Nation. One of my constituents, Mr. E. Sheldon Graeff of Haddon Heights, NJ, may have captured that feeling in his poem entitled "Pollution." I submit Mr. Graeff's work as reminder to all of the environmental work that we still have to undertake.

There are throw-away bottles, cartons, and cans,
Disposable bags, diapers, and pans.
Most of this stuff won't disintegrate,
So all it can do is accumulate.
There are millions of tons every day,
That has to be picked up and carted away.
Where it all goes, no one knows,
Still mountains of junk just grows and grows.
Our streams are filled with hundreds of things,
Including old tires and mattress springs.
This is all caused by man's crazy whim,
Till there is hardly room for fish to swim.
Most of the water throughout the nation,
Is slightly diluted with fluoridation.
And in cities where water is not so clean,
There's a pungent smell of chlorine.
This makes one stop and think,
Is this stuff really fit to drink.
And every truck and bus that you pass,
You get a good whiff of monoxide gas.
Even the planes flying high above,
Are polluting the air of those we love.
Now God created misty fog,
But man changed this to smog.
Someone broke all the rules,
By putting asbestos in most of our schools.
And hazardous material disposed of in haste,
Has created the problem of toxic waste.
The birds, the bees, the fish in the sea,
Have all felt the effects of DDT.
If we are to preserve our natural resources,
We will all have to change our courses.

EL PASO TEXAS LOSES AN INSPIRATIONAL LEADER

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. COLEMAN of Texas. Mr. Speaker, the west Texas city of El Paso lost one of its most inspirational and flamboyant leaders with the death last weekend of Polly Harris.

She was more than a three-term member of the city council who had run for mayor once and was planning to do it again. She was a leader, especially as a role model to push more women to get involved in civic and community affairs, especially politics. She believed that women had to support other women strongly, and she was a genuine west Texas pioneer in the truest sense of the word.

But beyond her accomplishments, she was a warm, compassionate human being who cared about her community and her fellow human beings. She had an unmatched exuberance for life, a vitality that led a close friend to observe that she lived a life at a run and who gave everything she had 100 percent of the time.

Mr. Speaker, she was both an inspiration to many and a friend to me, and we will all miss her very, very deeply. Today's El Paso Times commented that:

> Polly Harris did not become El Paso's first woman mayor—but she left the door ajar for the one who will. "Aunt" Polly died Sunday of a brain hemmorrhage suffered Thursday. * * * We hope that as she waited for her final curtain in this life, she was somehow aware of the great outpouring of love and respect from everyone in El Paso as we hoped and prayed for her recovery. Since that was not to be, let us be grateful that she chose to light our way with her sparkling personality, generosity to a fault and compassion for every living thing—beacons of memory remaining in this mortal life.

El Pasoans from all walks of life are mourning her passing. The mayor said that "The one thing you never saw was Polly without a smile on her face, and that is what I would like to remember her for." The former chairman of the Democratic Party commented that "it is going to be very difficult, and very dull, in El Paso for a while without Polly Harris." She has been eulogized for her generosity, her exuberance for life, her cheerfulness, and her determination to make our community a better place in which to live.

Mr. Speaker, those of us who were fortunate enough to have our lives touched by Polly Harris are far better for it. She was a rare individual, and a light in the world has been extinguished that cannot be relit. We extend our deepest sympathies to her husband and family, and will keep her memory alive in our hearts in the days ahead.

GALLAUDET'S DR. JERRY C. LEE, A PRESIDENT AND HIS ACCOMPLISHMENTS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. BONIOR of Michigan. Mr. Speaker, it has been a distinct honor for me to serve on the board of trustees of Gallaudet University for the past 8 years, and to watch it grow in stature.

Rarely has a university had such a dedicated group of administrators, faculty, and staff—devoted to meeting the challenges that hearing impaired learners face and turning what would be a handicap into a triumph of communication and individual achievement.

The outgoing president, Dr. Jerry Carlton Lee, has played a demonstrably key role in advancing the goals of what was then a college when he was inaugurated in 1984. He expressed several of those goals in his inaugural address. He pledged:

First, to insist on quality academic programs;

Second, to make certain that student life on campus continues to be as enriching and stimulating as possible;

Third, to anticipate the needs of Gallaudet's national audience in an effective and timely manner;

Fourth, to continue research efforts in the area of language, communication and culture as aspects of accommodation to deafness;

Fifth, to embrace new technology to enhance the quality of Gallaudet's instructional capabilities;

Sixth, to ensure continuing excellence in Gallaudet's national demonstration and dissemination programs;

Seventh, to protect Gallaudet's greatest resource—its people—by ensuring equitable personnel practices.

Now, it is sometimes unfair, as we have witnessed in recent years, to parade inaugural promises of any President with the realities of their term in office. But I think we can safely say that Gallaudet's president has fulfilled his promises and gone beyond his goals. In a time of difficult financial choices, Dr. Lee has moved Gallaudet forward. He will be remembered for his dream—which became a reality on October 24, 1986—of giving Gallaudet the status of a fully recognized university.

He will also be remembered for his lively interest in sports, and for restoring them to their rightful place in the life of a university. During his administration, Gallaudet's football team, in fact, resurrected and became a powerhouse in its division, thanks to his personal advocacy and interest.

Typically, Dr. Lee, after referring to the unversity status as "one of Gallaudet's finest honors," looked to the future. In an article titled "Advocacy", Gallaudet Today, spring 1987, Dr. Lee correctly summarized the central issue facing Gallaudet University:

For years the university has been looked upon as a citadel, a stronghold of extensive outreach services. Its success has come through the collective efforts of many individuals who have paved the way with significant contributions—the Gallaudets, Hall, Elstaad, Merrill, Schreiber, Williams, Switzer, Doctor and many, many more.

As is true of all colleges and universities in today's ever-changing world, Gallaudet University needs advocates from all echelons of society and all sectors of the country and, indeed, the world. We cannot passively wait for the future to take care of itself. Survival in an intensely competitive world requires support from everyone who loves Gallaudet and believes in its important mission.

The advocacy mantle has passed to us. Now it is our task to ensure that the Gallaudet flame continues to burn brightly."

As one who has discovered through holding town meetings in my district on hearing-impaired issues and who uses captioning on monthly television reports for my constituents, I would urge my colleagues to join Dr. Lee and his successor in advocating increased awareness of programs which benefit hearing impaired people. I urge more Members of this body to support national policies which would advance captioning and other advocacy programs as envisioned by Dr. Lee.

As a proud trustee of a great American university—U.S. News and World Report in its recent bi-annual survey, ranked Gallaudet University as the "best liberal arts institution in the East"—I join my fellow trustees in wishing Dr. Lee the same high level of success in his future endeavors that he brought to Gallaudet University during his tenure as its sixth president.

THE VOTERS HALL OF FAME

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. GEKAS. Mr. Speaker, the right to vote as one pleases and the knowledge that each vote counts form the cornerstone of our democratic system of government. Our system is set apart from totalitarian societies in which individual freedom is subservient to and limited by the wishes of a dictatorial individual or party.

Because our constitutional system of government rests on the premise that the people elect their own government, the American electoral process functions not only to determine winners, but also to confer legitimacy upon them and to hold them accountable to the public they have elected to serve.

The great Commonwealth of Pennsylvania has established a Voter Hall of Fame to honor citizens with exemplary voting records. Membership to the hall of fame is open to all Pennsylvania registered voters who have voted consecutively in every November election for which they were eligible for at least 50 years.

Mr. Speaker, today I would like to recognize the constituents from my congressional district who have earned a place in the Pennsylvania Voter Hall of Fame. Those inducted include: Ethel T. Dehner and Gertrude Robinson, both of Harrisburg; Mary B. Reichenbach, Middleburg; George H. Sauers, Kreamer; and Miss Anna M. Troutman, Selinsgrove.

I am pleased to recognize these citizens for exercising our most precious freedom faithfully, year after year, in elections for government representatives on the local, State and Federal levels. They deserve our praise and recognition.

PERSONAL EXPLANATION

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. MARTINEZ. Mr. Speaker, I was unavoidably absent on official Subcommittee on Employment Opportunities business during rollcall votes 459, 460, 461, and 462 on Tuesday, December 8. Had I been present on the House floor, I would have voted "aye" on the Kostmayer amendment; "no" on the Dornan amendment; "aye" on the Chandler amendment; and "aye" on the Weiss amendment.

STATEMENT IN OPPOSITION TO THE BROOMFIELD AND SOLOMON AMENDMENTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1987

Mr. BONKER. Mr. Speaker, I rise in strong opposition to the amendments offered by my colleagues, Mr. BROOMFIELD and Mr. SOLOMON, to delete section 711 of the bill and thwart the committee's efforts to strengthen the prohibitions of third country solicitation for aid to the Contras.

In the wake of the Iran-Contra scandal, the House of Representatives should not be open to the charge that it supports the conditioning of foreign aid or foreign military sales on another country's provision of assistance to the rebels in Nicaragua. The administration can not be allowed to end-run the Congress by securing from foreign governments that which it cannot legally obtain from its own legislature. When Congress authorizes foreign assistance moneys, it does not intend for those moneys to then be held hostage to a policy about which the Congress and the American people continue to express grave doubts.

The original language of the 1985 foreign assistance act sought to prohibit the administration from entering into an agreement with a country that conditioned the provision of U.S. foreign aid upon that recipient nation's provision of aid to the Contras. Unfortunately, as the Iran-Contra investigation has shown, the language was not specific enough. In the drafting of this year's foreign assistance act, the committee expanded the original language to clarify that the administration may not enter into any kind of agreement, formal or informal, that could be construed as conditioning the provision of aid on a country's assistance of the Contras. This strengthened language, section 711 of the bill, is what our colleagues seek to strike.

I urge the House to support the committee language and defeat the amendments offered by Mr. BROOMFIELD and Mr. SOLOMON.

FRANK AND RUTH GALLAGHER CELEBRATE THEIR GOLDEN ANNIVERSARY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. PANETTA. Mr. Speaker, on January 29, 1988, Ruth and Frank Gallagher of Santa Cruz, CA, will celebrate their 50th anniversary. These two long-time activists are a special couple, and I want to let my colleagues learn a little bit about them as they approach this special occasion in their lives.

J. Frank Gallagher and Ruth Kratochvil were born in Nebraska less than 2 years apart but did not meet until some 20 years later in Denver, CO. They were married in Denver on January 29, 1938, at the Holy Ghost Church.

The Gallaghers have nine children: Dennis, Douglas, Barry, David, Mary Pat, Ronald, Kathleen, Sharon, and Maureen. Thus, it should be no surprise to my colleagues that they also have 17 grandchildren and 2 great grandchildren.

Mr. Gallagher has been very active for decades in programs which try to meet tthe special needs of senior citizens. He has served as director of Project SCOUT in Santa Cruz for 18 years. He has been a representative of the California State Commission for 2 years and a senior senator for 6 years, and he is currently a member of the Dominican Foundation Board of Directors. He has also sat on a number of boards for 18 years, especially those with programs assisting seniors in the Santa Cruz area.

Mr. Gallagher is also a long-time member of the Knights of Columbus and has been a member of Holy Cross Church for 25 years. Each week he takes the collection at noon mass at Holy Cross.

Mrs. Gallagher is a long-time member of Y.L.I. and a member of the Coasters and the San Lorenzo Apartment Association. She also does volunteer work for the Gray Bears. She worked for J.C. Penny in Santa Cruz for 14 years while raising her family.

Mr. Speaker, the Gallaghers have had a happy life which has been devoted to family, church, and community. I am proud to be able to honor them in this way, and I know my colleagues join me in congratulating them on this most happy and proud occasion.

1987 SURVEY RESULTS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. YATRON. Mr. Speaker, I want to take this opportunity to inform my colleagues of the results of a questionnaire I recently conducted among the voters of Pennsylvania's Sixth Congressional District. This questionnaire has become an annual event for me, and I always receive an impressive response to the survey. The voters of the sixth district have spoken out and voiced their opinions on a number of important issues facing the 100th Congress. The results are as follows:

1987 QUESTIONNAIRE RESULTS

(1) What policies do you support in order to further reduce the Federal budget deficit?

(a) Reduce domestic spending only—17 percent.

(b) Reduce defense spending only—10 percent.

(c) Reduce spending in both—42 percent.

(d) Raise revenues—2 percent.

(e) Combine cuts in domestic and defense spending with an increase in revenues—29 percent.

(2) What policies do you support to reduce America's trade deficit, improve competitiveness and export performance and to protect American jobs?

(a) Impose stricter quotas and tariffs on imported goods—26 percent.

(b) First negotiate for trade reforms with foreign countries; if these nations still refuse to open their markets, impose severe import reductions—46 percent.

(c) Allow unrestricted free trade—10 percent.

(d) Impose temporary tariffs on imports and use the money to retrain workers and to assist industries hurt by imports—18 percent.

(3) Given the amount we spend to protect the free world, do you think any defense and national security policies changes are in order?

(a) Other nations should assume a greater defense burden—62 percent.

(b) Other nations should reimburse the U.S. for the protection our presence provides—22 percent.

(c) No changes should be made—15 percent.

(4) Would you support giving additional aid to the Nicaraguan Contras?

(a) No—61 percent.

(b) Yes—39 percent.

(5) The Congress has recently approved legislation to provide health insurance for those citizens suffering from catastrophic illnesses. This legislation does not cover long term skilled nursing home or custodial care. Should Congress enact a long term care program or concentrate on catastrophic care?

(a) Enact long term care also—54 percent.

(b) Concentrate on catastrophic care—26 percent.

(c) Do not expand either area because of cost—20 percent.

(6) Do you support welfare reform?

(a) Yes—94 percent.

(b) No—6 percent.

(7) What should Federal government do to address the AIDS crisis?

(a) Greater attention to education and risk reduction—19 percent.

(b) Increased assistance for health care and treatment—2 percent.

(c) More funding for research—15 percent.

(d) a, b and c—13 percent.

(e) Broader testing for AIDS—8 percent.

(f) All of the above—43 percent.

(8) Should employers be required to provide a period of unpaid leave for parents of a newborn or sick child?

(a) Yes—54 percent.

(b) No—46 percent.

(9) Should the Federal government become more involved in efforts to resolve the growing problem of non-hazardous (trash and garbage) waste reduction?

(a) Yes—62 percent.

(b) No—38 percent.

"GROWING PAINS" EXAMINES YOUTH SUICIDE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. ACKERMAN. Mr. Speaker, last night, ABC-TV aired a very important and educational episode of the series "Growing Pains." The program dealt with the complex and tragic problem of youth suicide—the needless and self-inflicted death of this Nation's teenagers.

Last night's episode of this popular TV sitcom dealt with the attempt of Jill, a high-school student, to communicate with someone about her intention to commit suicide. Jill was a loner, a troublemaker and was failing her courses. She did not get along with anyone, so she turned to Jason, a psychiatrist and the father of one of her classmates. Jill made a veiled reference of suicide to Jason. But unlike many others who ignored the suicide threat, Jason took the threat seriously—he listened and talked to Jill. Jill confided to Jason that her mother committed suicide when Jill was only 12 years old. Jill felt abandoned, angry and helpless. Jill felt that her father ignored her feelings. The final scene of the episode finds Jill informing Jason that she spoke to her father, and her father hugged her and said he loved her. We are left with the conclusion that Jill was stopped from taking that fatal last step by an adult who cared enough to listen.

Unfortunately, all endings are not so happy.

Mr. Speaker, all too often, we shun people who have problems. We don't take their concerns seriously, or we simply ignore them. Youngsters need to reach to someone to help them in their time of crisis. This past year, 5,000 youngsters were unable to reach a hand to grasp. These youngsters slipped away from us. They merely became a statistic that represents our failure to communicate, listen, and help. Just as Jason did in last night's episode of "Growing Pains," we need to be available to assist youngsters who desperately need our help.

Mr. Speaker, I commend ABC-TV and the staff of "Growing Pains" for successfully tackling a very sensitive issue and educating the public of a very serious national tragedy.

NEUROFIBROMATOSIS AWARENESS MONTH

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. WALGREN. Mr. Speaker, I want to urge my colleagues to support a bill I am introducing today to designate May 1988 as "Neurofibromatosis Awareness Month." The National Neurofibromatosis Foundation does outstanding work in educating the public about this disorder and promoting Federal policies to help people with NF. Despite their efforts, many Americans know very little about neurofibromatosis. This bill calls on the President to designate May 1988 as "Neurofibromatosis Awareness Month" because I believe this type of Presidential leadership will help us greatly advance public recognition and research on a cure.

Neurofibromatosis [NF] is a neurological genetic disorder that can cause tumors to form on the nerves anywhere in the body at any time. The disorder affects all races and both sexes with varying manifestations and degrees of severity. There is no known cure.

Over 100,000 people in the United States have this disorder. One child in 4,000 is born with NF. Half the people with NF have no family history of the disorder. The most common form that affects the peripheral nervous system—NF-1—can show signs at birth. The form that affects the central nervous system—NF-2—is not manifested until the late teens or in the twenties. This latter form most often leads to deafness.

Commendably, in July 1987, the National Institutes of Health held a consensus development conference, attracting over 200 participants. But we must redouble our efforts to find a cure and pending that, find an effective treatment to control the growth of tumors. Only surgically excising tumors, which can grow back, and correcting bone abnormalities and disfigurement provide any relief for people with NF currently.

The phsychological impact of the disfigurement and the isolation resulting from public fears that the tumors are contagious can be devastating, as so graphically demonstrated in "The Elephant Man," the story of a man with a disease once thought to be NF. The anxiety of not knowing what will happen next—this is often a progressive disorder—is frightening and very burdensome for families.

This bill recognizes the suffering of NF patients and their families and I hope my colleagues will join me in bringing more recognition to the need for the United States to accelerate its efforts to find a cure for NF. As the world's leader in biomedical research, we can certainly take this small step without delay. I urge my colleagues to support this bill.

RETIREMENT OF JANET A. DAVIS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. JEFFORDS. Mr. Speaker, at the end of this month, Janet A. Davis will retire after 32 years of Federal service. Jan has worked on the Hill for 28 years—the last 9½ years spent with the Republican office of the Committee on Education and Labor. In her long career, Jan has worked as a staff assistant for the State Department, U.S. Atomic Energy Commission, Agriculture Department, National Republican Congressional Committee, and served on the White House staff.

Before joining the Education and Labor Committee staff, she worked with the Honorable Ben B. Blackburn, of Georgia, and the late Gordon L. McDonough, of California.

Today, Jan's friends are meeting to honor her on the occasion of her well-deserved retirement. We wish her well for a future filled with good heath and much happiness.

In the years I have worked with Jan, I have found her invariably cheerful, considerate of the feelings of others, and devoted. Her work has been excellent and is performed as one expects from the best of employees.

At today's retirement party, those who Jan worked with will honor her for her years of service and wish for the best in her retirement. Jan is the type of public servant one hears little about, but who is critical for us to perform our jobs serving our constituents and the Nation. I offer my sincerest hope for Jan's happiness in the future. I will miss her dedication and happy disposition.

RETIREMENT OF REV. ANDREW J. McDONAGH

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, it is my privilege to bring to the attention of my colleagues an important occasion in the city of Chicago, the retirement of Father Andrew J. McDonagh, the pastor of St. Mary of the Woods Roman Catholic Church.

For 45 years of priestly service, Father McDonagh has given generously of his life and his love. He has earned many richly deserved awards from civic organizations and from the church, and has spread comfort, faith, and hope to those he has served so well.

On Sunday, December 13, 1987, his family, friends, and parishioners will gather to honor this great priest, and to help him celebrate this milestone in his life's work. In conjunction with this celebration, I ask that the biographical material appearing below be entered in the CONGRESSIONAL RECORD. In so doing, I express my firm belief that the history of Father Andrew J. McDonagh's service and accomplishments are an important part of the history of this country and of the city of Chicago.

I wish Father McDonagh good health and a restful retirement, while at the same time hoping out loud that he remains available to those who love and need him so much.

BIOGRAPHY OF REV. ANDREW J. McDONAGH

Father Andrew J. McDonagh was born on September 26th, 1917, in Chicago, Illinois. His parents were Andrew and Katherine (Kelly), both of whom were born in Ireland, Counties Sligo and Roscommon respectively, He was baptized a few weeks later at St. Columbanus Church, on Chicago's South side. At St. Columbanus school, Fr. McDonagh attended kindergarten and first grade, his teacher was a well known educator, Sr. Rose DeLina, O.P. For reasons of Mr. McDonagh's health, the family moved back to Ireland for several months. But it wasn't long before the McDonaghs were back in Chicago, where young Andrew was enrolled at Holy Cross school. After making his First Holy Communion at Holy Cross, the family re-located once again, to St. Laurence Parish, which was to be home for years to come. Fr. McDonagh graduated from St. Laurence school in June of 1931, his memories of the priests and sisters of his early childhood are warm and inspiring.

Quigley Preparatory Seminary was the next educational step for Andrew McDonagh. The Great Depression had reached its low point, and many of the Quigley students' families were experiencing hard times. Quigley had a five-year program at the time, and after graduation in 1936, Andy McDonagh and his classmates looked forward greatly to the major Seminary, St. Mary of the Lake, in Mundelein, IL. The first two years of major seminary education were devoted to the study of philosophy, and the completion of college credits. The next four years were given over to the study of theology. Fr. McDonagh studied hard and spent summers as a camp counselor and as an employee of Continental Can Co. The day of ordination to the priesthood arrived on May 2, 1942. The Second World War was only six months old when Cardinal Stritch ordained Fr. McDonagh and his 43 classmates to the priesthood. The newly ordained priests could hardly believe that the day had come, and the joy of ordination quickly erased the memories of difficult and rigorous seminary training.

Young Fr. McDonagh was appointed as an assistant pastor to St. Charles Borromeo Parish, at Roosevelt Rd. and Hoyne Avenue. His involvements included youth work (he even became a lifeguard to help fulfill those responsibilities), and general parish duties. The assignment at St. Charles extended until 1948. The transition in the area didn't dampen parishioners' spirits, and they participated greatly in parish activities and organizations. Many of those "first assignment" people in Fr. McDonagh's life are dear friends and associates of his today.

Fr. McDonagh received notice in June of 1948 that he was being transferred to the far Southwest side of Chicago, to the Beverly Hills neighborhood of the city, to St. Barnabas Parish. The war was over, young people home from oversees, and the baby-boom in full swing. Families were re-united and the grief over lost sons and brothers was slowly being assuaged. Fr. McDonagh was a veteran assistant now, and he entered parish life at St. Barnabas with vigor and enthusiasm. Marriage preparation, C.F.M., inquiry classes and a host of parish organizations and activities filled his time. There was never a shortage of things to be done.

St. Nicholas of Tolentine was the next parochial assignment for Fr. McDonagh. He moved to his new appointment in June of 1955, where he was to assist Msgr. Michael Fennessy, one of the last priests of the diocese to be born in Ireland and educated in this country. At St. Nicholas Fr. McDonagh was surprised to find the principal of the school to be Sister Florentine, (Adrian Dominican) who taught him in 8th grade. It was at this time that Fr. McDonagh began to work part-time with the Archdiocese of Chicago's Family Consultation Service. In conjunction with this work he also earned a Master of Arts degree in Clinical Psychology at Loyola University.

It was a long drive north to St. Juliana Parish, in the Edison Park area of the city. Fr. McDonagh was assigned to reside there in 1962, with full time duties as Instructor of Psychology and Counselor at the newly formed college department of the diocesan seminary system. Niles College stood only a few blocks from Fr. McDonagh's residence at St. Juliana. He remained very active in parish ministry while helping to guide the college seminary through the transition decade of the 60's. The Sisters and the children of St. Juliana were a great joy to Fr. McDonagh. The Women's Guild and "Operation Friendship" helped to make St. Juliana a great parish.

During these years, Fr. McDonagh became a consultant to many religious communities. He also became more and more involved with a specialized area of ministry, that of working with people suffering from the disease of alcoholism. He was associated with the Central States Institute of Alcoholism, and helped found the Archdiocesan Committee on Alcoholism and Addiction in 1966.

On November 25, 1968, Fr. McDonagh was appointed by Cardinal Cody as the pastor of St. Nicholas Parish in Evanston, IL. He recognized immediately the need to sensitively and creatively move in directions mandated by the Second Vatican Council of the Church. There were parishioners from one end to the other on the liberal/conservative spectrum at St. Nicholas, and all were cared for under Fr. McDonagh's ministry.

The Holy Spirit had spoken in the Second Vatican Council, and the Council's teachings were and are the Church's. On December 21, 1976, Cardinal Cody appointed Fr. McDonagh to the pastorate of St. Mary of the Woods Parish, located on the Northwest boundary of the city of Chicago. At St. Mary's, too, Fr. McDonagh has endeavored to implement the Documents of the Council, to help them take root in the hearts and minds of the people.

The retirement of Msgr. Daniel O'Rourke, St. Mary's founding pastor, left big shoes to be filled, and Fr. McDonagh has done so admirably. Msgr. O'Rourke and Fr. Earl Thomas and Fr. John Kyle helped greatly on Fr. McDonagh's arrival, welcoming him and making him feel at home immediately. The parishioners affection for the spiritual leader of the past 5 years is attested to by the success of so many programs and activities that have been instituted under his direction.

Through these 40 years, the great majority of Fr. McDonagh's priestly ministry has been on the parish level. It is in parish ministry where he draws encouragement, where he finds strength, and where he celebrates life. It was the parish priesthood to which he was ordained, and the parish priesthood to which he has remained faithful. We all look forward to many more years of his priestly ministry and service.

HUMAN RIGHTS AND THE SOVIET GOVERNMENT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. HOYER. Mr. Speaker, we are now in the midst of the summit. An arms control treaty has been signed. We hear words of hope and cooperation rather than confrontation and fear. We look forward to further advances in relations. Therefore I cannot understand why the Soviet Government continues to act in a way that undermines trust and confidence between our nations. Let me offer a case in point that just happened yesterday.

A group of four leading human rights activits, three Ukrainians and one Armenian, were about to leave for Moscow to participate in an unofficial human rights seminar scheduled to begin on December 10. But they never made it out of the Ukrainian city of Lviv. While boarding the train they were arrested on what appears to be trumped-up charges of drug possession.

Now these are four well-known human rights activists—Vyacheslav Chornovil, Ivan Hel, Mykhailo Horyn, and Paruir Airikian. Two were slated to lead a panel discussion on nationalities problems at the Moscow seminar—that is, until their dubious arrest.

Mr Speaker, if the Kremlin wants the trust of the American people, as I believe it does, it should stop undermining that trust with assaults on the basic rights of its own people.

SDI AND THE ABM TREATY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. COURTER. Mr. Speaker, in our understandable euphoria over the new arms control environment, it is worth recognizing that strategic defense systems need not be a barrier to agreements limiting offensive nuclear weapons. In fact, within the protection afforded by a deployed strategic defense system I believe we could enhance the possibilities of a major breakthrough on a strategic offensive weapons treaty which the President clearly would like to complete. The reason treaty possibilities could be increased is that our fear of Soviet cheating would be reduced substantially. SDI can provide a sort of insurance policy against that risk and we could sign a treaty with greater confidence.

Mr. Spencer Warren published the following article which recently came to my attention in which he shows that the debate over the interpretation of the ABM Treaty is preventing the development of SDI. We should not be blinded by the bright prospect from Moscow. It would be wiser, before the climate changes yet again, to settle the lawyers' dispute over the "right" interpretation of the ABM Treaty and move ahead with SDI development and deployment. We have a solemn obligation under the Constitution to assure the safety of our people no matter what the state of our relations with the Soviet Union or who the future rulers of that unfortunate nation turn out to be.

[From the Chicago Tribune, Oct. 9, 1987]

ABM TREATY NEEDN'T BLOCK STAR WARS DEVELOPMENT

(By Spencer Warren)

Development of the President's Strategic Defense Initiative—a revolutionary system that promises to give the American people a realistic defense against nuclear attack for the first time in the nuclear age—is threatened by an arcane lawyers' argument over interpretation of the 1972 Anti-Ballistic Missile treaty.

Does the treaty permit development and testing of ABM systems or components based on the new technologies that would make possible our space shield, as the Reagan administration's broader, more flexible interpretation holds? Or does the treaty forbid all but research on ABM systems or components based on such technologies, as the narrow interpretation says?

Both the House and Senate have passed amendments to the defense authorization bill that would make the narrow interpretation law. They have allowed arcane lawyers' arguments and an expansive view of Congress' role in foreign affairs to blind them to the main issue, the future safety to Americans.

The U.S. entered into the ABM treaty in the belief that once ABM defenses were limited, restrictions on strategic offensive arms would follow. Our chief negotiator, Gerard Smith, said in a statement appended to the treaty that the U.S. "believes that an objective of the follow-on negotiations should [be to] constrain and reduce on a long-term basis threats to the survivabiity of [the two sides'] strategic retaliatory forces." He added that if such an agreement were not reached within five years, "U.S. supreme interests could be jeopardized . . . constituting] a basis for withdrawal from the ABM treaty."

What happened? Having neutralized the area where they were well behind the U.S., defensive technologies, the Soviet offensive build-up proceeded at breakneck pace. Not only was Smith's objective of reducing the Soviet first-strike threat to our retaliatory forces not met, it worsened well beyond the fears of the U.S. Joint Chiefs of Staff in 1972. The Soviets passed us in the number, size, and destructive power of their offensive missiles, deploying many more types of new weapons than we did. SALT II, in 1979, merely ratified the existing build-up and today, in the START talks, the Soviets continue to reject meaningful restrictions on their first-strike forces.

Clearly, the premises on which we entered into the ABM treaty have not been met. Moreover, the Soviets are blatantly violating the treaty. Both the House and Senate have passed resolutions condemning the Krasnoyarsk radar in Siberia.

The radar contravenes the requirement that ballistic missile early warning radars be placed at the frontiers of the country and be oriented outward, lest they be usable as battle management radars in a nationwide ABM system. Other activities suggest the Soviets may be preparing a nationwide ABM defense. And they have their own massive SDI-type program, which they cynically deny. That's how the Soviets interpret the ABM treaty.

In the face of these developments, our government has the moral and constitutional responsibility to harness this country's great scientific and engineering genius and proceed as rapidly as possible with the SDI, popularly known as the Star Wars program. Yet some say we cannot. Ignoring Soviet cheating, and forgetting the unfulfilled premises of the treaty, they say we must abide by a narrow interpretation that would sharply limit SDI. They claim this is the only legal interpretation.

The first crucial point is that the treaty text is vaguely drafted on development and testing of nonland-based ABM systems or components based on technologies not in existence in 1972. Second, the Soviet negotiators at the time rejected U.S. proposals to ban such development and testing. Most of the U.S. officials who negotiated the treaty (and did a bad job drafting it), and who now advocate the narrow interpretation, are unfriendly toward SDI. Whatever they bargained for, an agreement is binding only to the extent both parties agree, and the Soviets did not.

Advocates of the narrow interpretation are playing into Soviet hands and allowing them to try to use the ABM treaty as a brake on U.S. technology. Once the American people master the issue in its full context, they will not be pleased with those who are turning a question of the nation's security—if not survival—into a trivial lawyers' debate.

AIDS: QUESTIONS AND ANSWERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 9, 1987, into the CONGRESSIONAL RECORD:

AIDS: QUESTIONS AND ANSWERS

Acquired Immune Deficiency Syndrome (AIDS) has become one of America's most troubling public health problems. Since 1981, there have been 47,000 reported cases of AIDS in the U.S. and 27,000 AIDS deaths. I find many Hoosiers alarmed about this disease, and uncertain about the best way to confront it. Here are some frequently asked questions about AIDS, and my responses:

WHAT IS AIDS?

AIDS is a fatal disease that attacks the immune system, destroying the body's ability to fight off infections and cancers. It is transmitted by a virus. There is no cure, and most patients die within two years of diagnosis.

WHAT IS THE EXTENT OF THE PROBLEM?

An estimated 1 to 2 million Americans are now infected with the AIDS virus; roughly half will develop AIDS within the next 5 to 10 years. Some infected individuals may never develop AIDS, and some develop a less serious, but debilitating, disease called AIDS Related Complex (ARC). Efforts to halt AIDS are complicated because infected individuals, with no symtoms of disease, can unknowingly spread the AIDS virus to others. In Indiana, 208 AIDS cases have been reported since 1981.

HOW IS IT SPREAD?

The AIDS virus is transmitted through intimate sexual contact, shared hypodermic needles, the introduction of contaminated blood into the bloodstream, and blood transfers from mother to unborn child. Some 90% of AIDS patients are bisexual or homosexual men, or intravenous drug users. The fastest growing AIDS category is the contraction of AIDS through heterosexual sex. Medical experts stress that there is no evidence that AIDS is transmitted by casual, non-sexual contact.

CAN AIDS BE PREVENTED?

With no cure or vaccine to prevent AIDS, educating those at risk of infection is currently the only way to halt the disease. Studies have shown that condoms can help prevent the spread of the virus during intimate sexual contact. To reduce the risks among intravenous drug users, some public health officials advocate the distribution of clean needles, along with more drug abuse treatment programs. According to the Surgeon General, the most certain way to control the AIDS epidemic is for individuals to maintain faithful monogamous sexual relationships, and to avoid injecting illicit drugs.

WHAT IS THE GOVERNMENT DOING TO FIGHT THE DISEASE?

Priority on the federal level is being given to funding research, assuring access to health care for AIDS patients, and supporting public education programs. In 1988, the federal government will spend nearly $1 billion for AIDS research and prevention, double the 1987 level. Continued rapid increases may be necessary. Many state and local governmetns are also heavily involved.

SHOULD THERE BE MANDATORY AIDS TESTING?

All donated blood is now screened for the AIDS virus, and testing is mandatory for military personnel and recruits, incoming federal prisoners, and immigrants. There is broad agreement that individuals at high risk of AIDS infection should seek testing. Testing can help slow the spread of the virus, when accompanied by counseling to help modify behavior. But most health experts including the Surgeon General, the Centers for Disease Control, and the American Medical Association, resist plans for sweeping, mandatory AIDS testing, such as testing of all hospital patients or those applying for a marriage license. They worry that, because of the stigma associated with AIDS mandatory testing will drive away those high risk individuals, such as drug addicts and those seeking treatment for sexually transmitted diseases, who are most in need of AIDS counseling or medical treatment. With only limited resources, public health officials would prefer to focus testing efforts on high risk groups, rather than try to administer broad testing to those at less risk of infection. Compulsory premarriage screening, for example, could cost $100 million annually. Also, experts caution that current AIDS testing is not infallible.

ARE AIDS VICTIMS BEING TREATED FAIRLY?

Reports that those infected with the AIDS virus are suffering various forms of discrimination, including the loss of job, home, and insurance, have prompted calls for tougher laws to protect AIDS victims. Supporters of such legislation argue that, because the virus is not spread through casual contact, the fear of "catching AIDS" from an infected coworker or neighbor is unfounded. A variety of bills dealing with the rights of AIDS victims and those having contact with them are pending in the Congress.

HOW ARE AIDS HEALTH CARE COSTS BEING FINANCED?

Medical care for each AIDS patient generally costs between $25,000 and $150,000. Private health insurance covers 40% to 60% of all AIDS medical costs. Medicaid, the federal-state health care program for low-income individuals, covers 20% to 30%, and Medicare provides 1% to 3% of costs. Medicaid eligibility is based on strict income and asset requirements, and individuals must "spend down" their savings before qualifying for coverage. For Medicare eligibility, AIDS patients under age 65 must have received Social Security disability benefits for 24 months. Few AIDS patients qualify for Medicare because their average life expectancy is shorter than the two-year waiting period. Some have proposed eliminating Medicare's two-year waiting period for AIDS patients, but opponents counter that it is unfair to exempt one group when other terminally ill individuals have to wait.

WHAT ARE THE PROSPECTS?

All experts predict that the AIDS crisis will get worse before it gets better. Because the disease takes several years to develop and many Americans currently carry the virus, the number of AIDS cases is expected to rise substantially in the future. By 1991, the cumulative AIDS death toll could reach 180,000, with AIDS becoming the leading cause of death for people aged 25-44. Most researchers believe that an AIDS vaccine will not be available for many years, because the AIDS virus quickly develops new strains and because AIDS attacks the immune system normally used by a vaccine to combat a virus. Future AIDS treatment costs will burden the nation's health care system. In 1986, the cost of treating AIDS patients was $1.1 billion. By 1991, the cost could reach $16 billion annually. The difficult issue of how to pay for these rising costs must be addressed.

MINORITY ACQUIRED IMMUNODEFICIENCY SYNDROME AWARENESS AND PREVENTION PROJECTS ACT AND PEDIATRIC ACQUIRED IMMUNODEFICIENCY SYNDROME RESOURCE CENTERS ACT

HON. MERVYN M. DYMALLY

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. DYMALLY. Mr. Speaker, recently I introduced two bills, the Minority Acquired Immunodeficiency Syndrome Awareness and Prevention Projects Act (H.R. 3647) and the Pediatric Acquired Immunodeficiency Syndrome Resource Centers Act (H.R. 3648) in companionship with a bill which was introduced by Senator ARLEN SPECTER of Pennsylvania.

This first piece of legislation is being offered to provide for a targeted outreach and risk reduction program, designed to help prevent the further spread of the deadly acquired immunodeficiency syndrome [AIDS] among minority populations in the United States. This bill responds to minority community concerns regarding the distribution and disbursement of AIDS funding, and the critical need to stimulate preventative activities at the grassroots level, while encouraging community based organizations to play a key role in helping to educate minority populations about what steps they can take to reduce the spread of the disease.

It is hoped that this bill which is geared toward addressing the devastating impact of AIDS on minority communities in the United States, will increase public awareness of the disease as one of the most serious health issues facing minorities today.

Mr. Speaker, I also introduced another bill, the Pediatric Acquired Immunodeficiency Syndrome Resource Centers Act to address the growing national crisis of providing care for children who are suffering from acquired immunodeficiency syndrome [AIDS]. This piece of legislation provides $25 million in fiscal year 1988, and such sums that may be necessary in 1989 and 1990. More than 3,000 infants are known to be affected with the human immunodeficiency syndrome virus each year. The funds are to be used by hospitals for costs needed to care for pediatric aids patients, including staffing, research, acquisition of equipment, renovation of facilities, and education, training and services to provide foster care and home care.

A total of 641 youngsters under 13 years of age have contracted the disease as of November 9, 1987, and 398 have already died. Most of these children become infected through their mothers during pregnancy, at the time of delivery, or after birth through breast feeding. They have become the new homeless children. Either orphaned or abandoned by their parents or other family members, many of these children live in hospital wards from birth through at least their 15th month when test results can show whether they have actually contracted AIDS. Those babies who are found to have contracted AIDS frequently find adoption and foster care as options not available to them. Even those babies who test negative seem to have similarly limited options when their medical histories indicated they were even suspected of having AIDS. This phenomenon has created, in our society, a situation where these homeless babies reside only in hospital wards. The only care, or interaction available to them is provided by nurses and other hospital staff.

This legislation is offered to assist hospitals so they can provide care and treatment to children affected with the AIDS virus. Many prominent Americans are playing key roles in increasing public attention to the threat AIDS poses to their communities.

Mr. John Jacob, president of National Urban League, stated that the black community's previous indifference to the AIDS epidemic is now changing. The Reverend Joseph Lowery, president of the Southern Christian Leadership Conference [SCLC], is playing a key role in advocating strong church and community involvement in AIDS education and risk reduction.

Dr. Beny J. Primm, an African American, and member of the President's AIDS Commission, advocates the need for a massive and sustained educational program which is designed specifically for minority populations. In fact minorities have expressed concern about the AIDS public education programs in their communities.

A multitude of African Americans and Latinos have said those media campaigns, usually television and radio spots; along with newspaper advertisements, fail to get their message across to the groups they are trying to reach. They lack "culturally sensitive messages." This is where community based organizations can be so effective and helpful to spread the message.

In my home State of California, Ms. Eunice Diaz, a member of the Los Angeles City and County AIDS Task Force and a public health specialist, said many doctors, including minority physicians, lack the specialized training required to recognize AIDS in their early stages. My State senator, Hon. Bill Greene, a member of the California legislature, points out the fact that although a disproportionately high number of AIDS cases affect blacks and Hispanics, there has been a significant absence of funding allocated to address their special needs.

The Reverend Carl Bean, a Los Angeles minister and activist in the fight against AIDS, said black church leaders have agreed to discuss the issue openly from the pulpit.

The leadership and involvement of blacks, Hispanic, and other community leaders is essential, for without their support, government and private sector efforts will have minimal impact and success.

My legislation will allow local community groups to take the lead in providing information designed to stop the spread of AIDS within the community itself. Recent national efforts designed to increase public awareness about the incidence of AIDS has failed to highlight a significant issue, the disproportionate number of minority AIDS victims. Twenty-five percent of AIDS patients in the United States have been African Americans and 14 percent have been Hispanic. This is frightening and alarming when you consider the fact that blacks and Hispanics represent only 10 percent and 3 percent respectively, of the U.S. population.

AIDS cases are occuring nearly three times more frequently among black and Hispanic men than among white men. Among women and children with AIDS, 73 percent of the women and 80 percent of the children with AIDS are black and Hispanic. If minority continue to represent 40 percent of the AIDS victims, 180,000 black and Hispanic men and women will be victims of the dreaded disease by 1991.

AIDS is caused by a virus called the human immunodeficiency virus [HIV] which permanently suppresses the body's immune system, rendering it ineffective. This virus is transmitted through sexual contact; second, intravenous [IV] exposure to blood or blood products, for example, sharing needles used to inject illicit drugs, or through blood transfusions; and third, infected mothers transmitting the disease to their infants during pregnancy, at the time of delivery, or after birth through breast feeding.

Most infected persons are asymptomatic or only mildly symptomatic. Since they are often unaware of their infection, they take no precaution to prevent the transmission of the disease to others. In fact, according to epidemiologists at the Center for Disease Control, AIDS is expected to spread much faster in the future among blacks and Hispanics than among whites. Hence, it is essential that community-based organizations be provided funds to provide education on the transmitting and possible dangers of contracting and spreading AIDS. Information must be disseminated immediately to prevent the unnecessary spreading of the disease.

By introducing the Minority Acquired Immunodeficiency Syndrome Awareness and Prevention Projects Act, and the Pediatric Acquired Immunodeficiency Syndrome Resource Centers Act, I have sought to obtain the advice of the Southern Christian Leadership Conference, Mr. Carl Holman of the National Urban Coalition, AIDS expert Dr. Beny J. Primm, the National Urban League, the National Minority AIDS Council, Hon. Bill Greene, Ms. Eunice Diaz, the Rev. Carl Bean and others, of the need to target resources directly to minority organizations for educational programs related to AIDS.

Accordingly, the Minority Acquired Immunodeficiency Syndrome Awareness and Prevention Act amends the Public Health Service Act to provide $190 million in grants over a 3-year period through the office of minority health to community-based organizations for outreach, education and counseling, prevention and research endeavors related to acquired immunodeficiency syndrome. Out of this amount $10 million is annually provided for grants to minority organizations for national coordination, technical assistance, and other activities.

National groups such as Southern Christian Leadership Conference, National Minority AIDS Council, National Urban League, and the National Urban Coalition also provide national leadership to combat the AIDS crisis in minority communities across this Nation.

This bill also creates a National Minority Acquired Immunodeficiency Syndrome Advisory Committee to monitor programs and activities and to advise the Secretary of the Department of Health and Human Services concerning Federal efforts to combat the AIDS epidemic in minority communities.

KOREA/VIETNAM VETERANS LIVING MEMORIAL

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. RITTER. Mr. Speaker, despite a surprise mid-November snowstorm, approximately 350 people braved 6 inches of ice and snow to attend a very special occasion at the Northampton Community Center and listen to the words of guest speaker, retired Gen. William C. Westmoreland. On that Veterans Day, November 11, 1987, a kickoff fundraising banquet was held on behalf of a unique idea for a living memorial, the Lehigh Valley Korea/Vietnam Veterans Living Memorial.

General Westmoreland, who commanded United States and allied troops in Vietnam and who led combat troops in Korea, told the visibly moved audience of veterans and their families that the Vietnam effort was not in vain. He talked about how far Korea has progressed toward prosperity and democracy compared to the Communist North Korea and how our efforts in Vietnam gave 10 years of breathing space and time for non-Communist Asian countries to develop and strengthen themselves economically, politically and militarily.

Throughout his speech, the general was interrupted with applause.

I would like to share with my colleagues and with the American people, my introductory remarks preceding the words of a patriot and American hero, Gen. William C. Westmoreland:

INTRODUCTORY REMARKS OF REP. DON RITTER PRECEDING GENERAL WESTMORELAND

Rev. Clergy, distinguished guests at the head table, distinguished veterans, distinguished leaders of veterans' organizations, members of the Memorial Committee and Board of Directors, family members of those who served and who are serving still—Welcome.

My friends, the Korea/Vietnam Living Memorial may be the most important single project I and my staff have ever been involved with.

Why is it so important? Because war is a matter of life and death for people and for peoples. And it is, thank God, more difficult for free people and free nations to prepare for it, and engage in it. For free people to make those decisions, they must understand why . . . that is paramount.

What does that say about Korea and Vietnam? The Korean War is often referred to as "the forgotten war"—young people don't learn about it in school—older people just don't talk about it anymore. The Vietnam War is perhaps the most controversial, and at the same time, most distorted conflict in our history.

Combining that lack of national memory about Korea with that lack of historical insight into Vietnam, America experiences a collective blind spot. In a dangerous world, such a blind spot could be fatal.

My friends, I believe all of us here recognize that in the darkness of that blind spot stand the veterans of those conflicts. The veterans' contributions—from service, to combat, to not only giving their heart and soul but their limbs and ultimately their lives—stand diminished in that dark shadow.

Our aim with this living memorial, this educational memorial, this community resource is modest and yet ambitious. It is to shed light on shadowed times by giving sight and voice to the experiences, stories, letters, and pictures of Lehigh Valley veterans. It is to collect the reminisces, historical work and personal observations locally, and when appropriate, nationally. We are joined in our effort by very special, nationally recognized figures.

Our aim is to share what we gather through active outreach to our fellow citizens, with students in schools and colleges, with community and religious organizations, with whomever wishes to learn more. We ask all citizens of the Lehigh Valley for their support.

REMARKS OF GEN. WILLIAM C. WESTMORELAND, U.S. ARMY, RETIRED, KOREAN AND VIETNAM VETERANS, LEHIGH VALLEY, PA, NOVEMBER 11, 1987

One of us, George Skypeck, a U.N. veteran has expressed our sentiments during the past several years.

"I was that which others did not want to be.

"I went where others feared to go, and did what others failed to do.

"I asked nothing from those who gave nothing and reluctantly accepted the thought of eternal loneliness—should I fail.

"I have seen the face of terror; felt the stinging cold of fear; and enjoyed the sweet taste of a moment's love.

"I have cried, pained, and hoped—but most of all.

"I have lived times others would say were best forgotten.

"At least someday I will be able to say that I was proud of what I was—a soldier."

I am a proud Vietnam veteran and always have been and am especially on this occasion.

Few have had the anguish that has been mine for those who did in Vietnam what the leadership of our Nation asked them to do and did it well. But in return those men and women have not been treated well by many of their countrymen. But that is now history, a new era is with us.

Yes, as the people of America and the world have noted the ruthlessness and callousness of the rulers in Hanoi—the estimated 1,000,000 boat people (only about one-half surviving the ravages of the sea), the—still in existence—concentration camps in Vietnam, the military occupation of Laos, and the invasion of Cambodia—most of us have reflected on the worthiness of our now defaulted commitment to the people of non-Communist South Vietnam. That commitment was clearly stated from the beginning: To assist the Government of Vietnam and its armed forces to defeat externally directed and supported Communist subversion and aggression and attain an independent South Vietnam functioning in a secure environment.

Historically, there are few exceptions to the rule that wars on foreign lands are fought for the purpose of acquiring those lands as part of a political or economic empire. Vietnam was one such exception. Indeed, history may judge that American aid to South Vietnam constituted one of man's more noble crusades, one that had less to do with the domino theory and a strategic interest for the United States than with the simple equation of a strong nation helping an aspiring nation to reach a point where it had some reasonable chance to achieve and keep a degree of freedom and human dignity.

Even though American resolve fell short in the end, it remains a fact that few countries have ever engaged in such idealistic magnanimity; and no gain or attempted gain for human freedom can be discounted.

It is also a fact that America held the line in Vietnam for ten years against inevitable, rapid expansion of communism in Southeast Asia, thus providing a shield behind which the other countries of Southeast Asia (Malaysia, Singapore, Thailand, Indonesia, and the Philippines) could politically mature and build self-confidence toward the resistance of future Communist pressures. The people of those countries and their leadership understand and appreciate your contribution to their destiny.

At last, America and the world are beginning to realize that America was not defeated militarily on the battlefield in Vietnam. But by propaganda involving exaggerations here at home. Although in the main unwitting, such propaganda sapped the traditional dedication to a cause, persistence and courage of America.

Ironically, you Vietnam veterans deserve even more appreciation than your veteran father of the war in Korea and your veteran grandfather of World War II. Why? Simply because in those earlier wars the country was generally unified behind those sent to the battlefield. But not so with Vietnam.

Have you ever paused to consider that during the Vietnam war there were perhaps more Americans here at home cheering on the Communist enemy and waving his flag than were Vietnamese doing likewise in all of Vietnam. The Vietnam veteran lived through that ordeal only to come home to stony silence or even hostility. And then, with the release of the American hostages, held by the irrational Iranian regime, and the overwhelming reception they received upon release; the mindless lack of welcome of the Vietnam veterans stood in the stark contrast.

Nor did we fight alone in Vietnam. Thirty-four other nations contributed food, medicine, technical advisors, equipment, training, economic aid and the like. Four more—Australia, New Zealand, Thailand, and the Republic of Korea—also furnished combat troops. A fifth—the Republic of the Phillipines—provided a civic action group that had its own security force of infantry, armor, and artillery. The total of foreign groups was 68,800. This was more than had fought under the United Nations in Korea.

If only the Communist are to assist people of emerging nations, what hope is there for those who aspire to freedom? We may well be unable to afford to be the world's policeman, but neither can we afford to fail to live up to the responsibilities that the accidents of a bountiful land and a beneficient fate have placed upon us. It has been fashionable in some quarters to disparage idealism, patriotism and zeal; but if there are to be no more Vietnams, is there to be no more support of aspiring freedom, protection of the weak against the strong?

What of President John F. Kennedy's stirring pledge "to assist the survival and success of liberty?" As many have observed, the price of freedom is never cheap, nor is even the survival of existing freedom. But we see from the plight of the boat people and of that of the refugees pouring into Thailand, the price of freedom's loss is greater still. Though we did not succeed in achieving our stated purpose in Vietnam, a lesser nation would never have tried at all. President Reagan said it for us: "Ours was, indeed, a noble cause".

But despite these psychological pressures that have scarred many men, the percentage of those psychologically affected veterans is little greater than experienced after other wars. But in the aftermath of Vietnam, we have heard so much about this percentage wise small group that the man on the street has been given the false impression that most Vietnam veterans are psychiatric patients. That is not so.

Listen to this: 91% of the Vietnam veterans say they are glad they served. two-thirds say they would serve again even knowing the fate of South Vietnam. There is no difference in drug usage between Vietnam veterans and those of their age group who did not serve. Fewer Vietnam veterans are in jail than their non-veteran age group. The average of the Vietnam veteran was less than 19 years. (I was in my early 50's.) The average age of the man who fought World War II was 26 years. Two-thirds of the men who fought World War II were drafted. Two-thirds of the men who fought in Vietnam were enlisted volunteers.

Yes you veterans are a valuable national asset. You are moving into positions of responsibility and leadership across the spectrum of our society. As time goes on America will be prouder and prouder of you.

Among some of my military colleagues I nevertheless sense a lingering concern that the military served as a scapegoat for the war in Vietnam, I fail to share that concern. The military quite clearly did the job that the Nation asked and expected of it, and I am convinced that history will reflect favorably upon it. The American military services can take pride in their accomplishments in Vietnam and assurance in the knowledge that it was not they who lost the war.

Senator (John) Tower said it for us when he publicly stated that the war in Vietnam was not lost on the battlefield but in Washington, D.C. and Douglas Pike, professor at the University of California, Berkeley, the renowned expert on the Vietnamese Communist, has written: "The American military's performance in Vietnam was particularly impressive. It won every significant battle fought, a record virtually unparalleled in the history of warfare."

In November of 1983 we Vietnam veterans went in droves to Washington, D.C. There we staged a welcome home for ourselves (no one else would do it); we marshalled a parade in honor of ourselves (no one else would do it); and we dedicated a monument to our dead comrades without asking the government for a dime—just a piece of real estate.

Then in November 1984 President Reagan dedicated a monument of the American of the war in Vietnam—again without government appropriations.

Then the City of New York staged the largest ticker-tape parade ever in honor of us—Vietnam vets.

Chicago staged a parade on June 13 last year and Los Angeles did the same in June of this year.

Thank God, the worn and tired attitudes of a decade ago are not almost history. A sensible approach to the Vietnam war era and toward those involved has emerged. As truth overshadows perceptions, facts are overwhelming emotions.

Yes, the Vietnam war was an episode unique in American history. It has left scars that may be with us for years. But those scars are healing rapidly. A more objective view of the period, the cooling of emotions, and constructive attitudes of the type we participate in here and now testify to a new and refreshing public attitude. This is proof that our great Nation has maintained its traditional sense of values—values that have contributed in a major way to the character and success of the United States of America.

Thomas Paine said, during our war for independence: "These are times that try men's souls; the summer soldier and the sunshine patriot will in this crisis shrink from the service of this country. But he that stands it now, deserves both the love and thanks of man and woman."

Such describes the Vietnam veteran. At last his time has come. America, our beloved country, is about to show to him its love and thanks.

America has needed stouthearted men throughout its past history. It will need such men in its—our future.

Roger Hammerstein has described such men:

Give me some men who are stouthearted men
Who will fight for the right they adore
Give me but ten who are stouthearted men
and I'll give you ten thousand more
Oh, shoulder to shoulder and bolder and bolder,
They grow as they go to the fore.
Then, nothing in the world can halt or mar a plan
When stouthearted men stick together man to man.

Never forget—you veterans are stouthearted men and the Nation knows it. And we have—and will—continue to stick together man to man. The Nation knows that too. My admiration goes out.

SUPPORTING THE PRESIDENT IN SUMMIT DISCUSSIONS OF A U.N.-IMPOSED ARMS EMBARGO ON IRAN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. DYMALLY. Mr. Speaker, while I would like to extend my congratulations to the President of the United States for securing an Intermediate Nuclear Forces reduction treaty, I would hope that this success will be complimented with a Soviet agreement to a second United Nations Security Council Resolution which imposes an arms embargo against the party of the Iran-Iraq conflict which refuses to comply with a cease-fire and withdrawal to internationally recognized boundaries as called for by United Nations Security Council Resolution 598.

Today, I am introducing a concurrent resolution in the House expressing our strong support for the President in his efforts to obtain Soviet support for this second United Nations resolution. Since Iraq has agreed to the terms of the first resolution while Iran has consistently refused, then it is clear that Iran is the intransigent party in the Iran-Iraq war and should be the subject of the embargo.

Although full consideration of this resolution is impossible because of time constraints, I would like to emphasize the bipartisan and the leadership support of this resolution. This resolution reflects the spirit of the language just agreed to by both the Senate and House conferees dealing with the State Department authorization conference.

Mr. Speaker, this 7-year conflict has already resulted in over 1,500,000 casualties. The Iran-Iraq war threatens to engulf the whole region as Iran continues to fire Silkworm missiles at the country of Kuwait, and mine the gulf. With 30 U.S. ships and over 25,000 of our troops in the region, the chances of increased hostilities is great. If the Soviet Union is really interested in minimizing tensions in the world, then this is the place to show its commitment to peace.

A TRIBUTE TO NORM BLACHER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. GALLEGLY. Mr. Speaker, I rise today on behalf of myself and Mr. LAGOMARSINO to bring to the attention of the House the retirement of a long-time public servant in California, Mr. Norm Blacher. Mr. Blacher has served the public at the local, regional, State, and Federal levels of government as well as serving the taxpayers for 9 years as executive secretary of the Ventura County Taxpayers Association. Most recently he has guided the Ventura County Association of Governments for the past 15 years as its executive director. Mr. Blacher has been involved extensively in community activities in Ventura County, dedicating countless hours to the Ventura County Symphony Association, Rotary International, and numerous other civic activities. He has been involved academically as an instructor at the University of La Verne, the University of Southern California, and the University of California at Santa Barbara, and been active in many professional associations designed to better the public professional.

Mr. Speaker, it is our mutual pleasure to cite Mr. Blacher's accomplishments in the public sector as a superb example of a citizen of this country who has dedicated his personal and professional life to making our country a better place for us all.

COOPERATION MAKES CRITICALLY NEEDED ROAD IMPROVEMENTS POSSIBLE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. BADHAM. Mr. Speaker, on Friday the U.S. Marine Corps will dedicate a new heavy lift training pad at Camp Pendleton in southern California. This event marks a milestone in the effort to make the Marine Corps a good neighbor to the people of Orange County that has its origins in legislation passed by this body several years ago. My colleagues were kind enough to accept some language I suggested for the 1985 Military Construction Act to make this event possible. The Marine Corps agreed to move some of their training operations from their base in Tustin, so southern California motorists can look forward to improved traffic flow in the Tustin-Irvine area. This decision paves the way for the extension of Jamboree Boulevard through the Tustin Marine Corps Air Station.

Mr. Speaker, I think we should take special note of the outstanding cooperation between the Marine Corps, the County of Orange, the city of Irvine, the city of Tustin, the Irvine Co. and my colleagues on the Armed Services Committee in making this progress possible. The Marines in southern California are practicing to defend freedom around the world and this facility, as well as the facilities in Orange County, play a critical role in keeping these fine soldiers prepared for that mission.

FISHING AND HUNTING OPPORTUNITIES

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. RAHALL. Mr. Speaker, today I am introducing the Sport Fishing and Hunting Opportunity Improvement Act.

This legislation would dedicate 50 percent of all bonuses, rents, and production royalties collected from Federal mineral leases located on acquired lands to a newly established State sport fishing and hunting assistance fund to be administered by the Secretary of the Interior.

Under the bill, amounts deposited in the fund would be allocated to the States to support efforts aimed at maintaining and expanding sport fishing and hunting opportunities. These activities include maintaining State public hunting and fishing areas, State fish stocking programs, and wildlife management and restoration programs. If this legislation had been in effect during fiscal year 1986, it would have made available approximately $25 million to the States for these purposes.

In West Virginia, for example, we have 41 public hunting and fishing areas managed by the State. The Monongahela National Forest is also a popular hunting and fishing area. We have seven State and three Federal fish hatcheries for our trout stocking program. There are also nine recreational lakes under the jurisdiction of the U.S. Army Corps of Engineers. All of these institutions are being stretched to the limit and are in need of greater public support.

I believe that dedicating a portion of revenues collected from Federal mineral leasing activities on acquired public lands to enhance sport fishing and hunting opportunities is an appropriate utilization of Federal mineral leasing receipts. There is also a great deal of precedent for earmarking mineral leasing revenues.

Currently, royalty revenues from Federal offshore leases on the Outer Continental Shelf are distributed to the Land and Water Conservation Fund and the Historic Preservation Fund as well as the General Fund of the U.S. Treasury. For Federal onshore leases on public domain lands, 50 percent of all revenues collected are returned to those States where the leases are located, 40 percent is deposited into the Reclamation Fund and the remaining 10 percent into the General Fund of the U.S. Treasury.

There is, however, no real accounting for mineral receipts collected from Federal leases on acquired lands. While the Interior Department's Bureau of Land Management administers the Federal mineral leasing program on both public domain and acquired lands, and the Department's Minerals Management Service is charged with collecting mineral leasing revenues, since the surface estate of acquired Federal lands is managed by agencies other than the BLM the MMS does not distribute the States' share to the States. According to MMS, once the revenues are collected they revert to the agency that has administrative jurisdiction over the land.

These surface managing agencies utilize a variety of different State share mechanisms ranging from a 25 percent State share for mineral receipts collected on Forest Service acquired lands to a 75 percent State share for mineral leases on lands administered by the U.S. Army Corps of Engineers.

As a point of clarification, while the term "public lands" is often used to describe all Federal land holdings various laws make a distinction between those lands which were purchased by the Federal Government, called acquired lands, and those which have always been in Federal ownership, known as public domain lands. This legislation only concerns mineral leasing receipts from acquired public lands.

In fiscal year 1986, almost $50 million was collected from Federal mineral leases on acquired lands located in 40 States. The vast majority of these leases are on Forest Service lands. It also happens that the States where these national forests are located support a great deal of sport fishing and hunting activities. In my view, it is fitting and appropriate for development-oriented activities, such as oil and gas leasing, which are not necessarily conducive to fishing and hunting be made to contribute to our national commitment to wildlife resources.

PROTOCOL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. JACOBS. Mr. Speaker, some people think it is not Right of President Reagan [PR] to roll out the Red Carpet for Secretary Gorbachev [SG].

IN HONOR OF MSGR. PAUL RITCHER

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. APPLEGATE. Mr. Speaker, today I would like to honor and congratulate Msgr. Paul Ritcher, former and long time pastor of St. Anthonys Church in Steubenville OH, on his 80th birthday celebration. In his 50 years of service, Monsignor Ritcher has devoted his life to the people of Italian heritage in the community. Many successful Italo-Americans in the community attribute his support and encouragement as a key reason for their successes. He inspires the young and the old with his kindness and willingness to help.

As an active member of the community, the monsignor has been involved in many civic activities in the area. He was inspirational in getting the St. Anthony's Church remodeled and the rectory built and he served on the board that built Catholic Central High School in Steubenville. The monsignor continues to be an inspiration for motivating young adults in the area.

Msgr. Paul Ritcher was born in Columbus, OH and was educated at the Northern American College in Rome. In his 50 years of dedicated service, the monsignor has become an important and cherished member of our community. On December 5, 1987, Monsignor Ritcher was awarded for this service by the University of Steubenville with the Poverello Medal. Since 1949, this medal has been awarded to people who perform outstanding work in their profession, such as Sister Teresa of Calcutta. The inscription on the medal reads:

> In recognition of the great benefactions to humanity, exemplifying in our age the Christ-like spirit of charity that filled the life of St. Francis of Assisi.

Again, Mr. Speaker, the monsignor has and will always be a blessing to the community of Steubenville and I am priviledged to honor him in his 80th year.

VOTING RECORD OF HON. DONALD J. PEASE

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. PEASE. Mr. Speaker, I am pleased once again to insert in the CONGRESSIONAL RECORD a list of the key votes that I have cast in the U.S. House of Representatives since the beginning of this Congress.

The list is arranged in the following manner: Each item begins with the rollcall vote number of the bill or resolution that the House was considering, followed by the bill number and a summary of the issue. This is followed by my own vote on the issue and the vote outcome.

This list of votes covers the period of May 18, 1987, to Nov. 19, 1987.

(123) H.R. 1748. FY 1988 Defense Authorization. Amendment requiring the Defense Department to cut $800 million from certain weapons programs and to use the money to speed up production of the F-15 fighter and 3 kinds of missiles. Yes. Failed 130-270.

(130) H.R. 1748. FY 1988 Defense Authorization. Amendment continuing a ban in final assembly of certain chemical weapons until October 1, 1988. Yes. Failed 191-230.

(133) H.R. 1748. FY 1988 Defense Authorization. Amendment prohibiting the use of FY 1988 funds to conduct nuclear explosions with a yield greater than one kiloton as long as the Soviet Union ceases testing and agrees to the reciprocal installation of in-country monitoring equipment. Yes. Passed 234-187.

(135) H.R. 1748. FY 1988 Defense Authorization. Amendment prohibiting the United States from conductuing military maneuvers in Honduras or Costa Rica within 20 miles of the Nicaraguan border. Yes. Failed 197-225.

(141) H.R. 1748. FY 1988 Defense Authorization. Authorizing $289 billion in appropriations for FY 1988 for military functions of the Departments of Defense and Energy. Yes. Passed 239-177.

(155) H.R. 1451. Older Americans Act. Authorizing $1.6 billion in appropriations for FY 1988, with 5 percent increases in fiscal years 1989, 1990 and 1991. Yes. Passed 379-8.

(164) H.R. 1934. Fairness in Broadcasting. Clarifying congressional intent by codifying the fairness doctrine that ensures broadcasters afford reasonable opportunity for the discussion of conflicting views on issues of public importance. Yes. Passed 302-102.

(181) H.R. 1777. FY 1988/89 State Department Authorization. Amendment prohibiting the Soviets to move into their new embassy in Washington unless the president certifies that the new U.S. embassy in Moscow is secure and providing an expanded security program. Yes. Passed 414-0.

(182) H.R. 1777. FY 1988/89 State Department Authorization. Amendment requiring the State Department to report on the status of the Japanese government investigation into the transfer of milling machines to the Soviet Union by Toshiba Machine Company and the Norwegian government investigation into the transfer of numerical controllers by Kongsberg Vaapenfabrikk. Yes. Passed 415-1.

(191) H.R. 281. Construction Labor Law Amendments. Limiting the ability of unionized firms to set up non-unionized subsidiaries to do the same work (double-breasting). Yes. Passed 227-197.

(204) H. Con. Res. 93. FY 1988 Budget Resolution. Setting the congressional budget for the U.S. Government for FY 1988, calling for $1,041 trillion in spending, $932.8 billion in revenues and a projected deficit of $134 billion (under CBO estimates). Yes. Passed 215-201.

(Voice Vote) H.R. 2700. FY 1988 Energy and Water Appropriations. Amendment inserting appropriations for four projects which had been inadvertently omitted from the bill, including Century Park in Lorain and Community Park in Sheffield Lake. Yes. Passed.

(228) H.R. 2714. FY 1988 Legislative Appropriations. Amendments deleting $80,736 to hire six elevator operators for House of Representatives office buildings. Yes. Failed 141-235.

(231) H.R. 2327. Veterans Administration Beneficiary Travel Program. Making certain individuals eligible for beneficiary travel benefits when traveling to Veterans Administration medical facilities. Yes. Passed 420-1.

(235) H.R. 1827. FY 1987 Supplemental Appropriations. Providing $9.3 billion for supplemental appropriations for FY 1987. Yes. Passed 309-114.

(236) H.R. 1827. FY 1987 Supplemental Appropriations. Amendment limiting the Reagan Administration's plans to implement drug testing of federal employees by prohibiting the use of funds for drug testing until certain provisions have been satisfied, including that HHS publish uniform standards for testing on a government-wide basis and that HHS specify the drugs for which employees will be tested. Yes. Passed 343-77.

(237) H.R. 558. Urgent Relief for the Homeless. Authorizing $443 million in FY 1987 and $616 million in FY 1988 to protect and improve the lives and safety of the homeless, with special emphasis on families and children. Yes. Passed 301-115.

(240) H.R. 2763. Commerce, Justice, State and the Judiciary Appropriations. Amendment deleting the entire $305.5 million appropriation for the Legal Services Corporation. No. Failed 127-282.

(247) H.R. 2342. Coast Guard Authorization. Amendment imposing a $20 per year user fee upon recreational boaters. No. Failed 119-287.

(249) H.R. 2342. Coast Guard Authorization. Amendment prohibiting the reflagging of ships owned by Kuwait for 90 days or until Sept. 30, 1987, whichever occurred first. Yes. Passed 222-184.

(250) H.R. 2342. Coast Guard Authorization. Authorizing $2.8 billion for the Coast Guard for FY 1988. Yes. Passed 279-126.

(253) H.R. 2782. NASA Authorization. Authorizing $9.5 billion for NASA for research and development, space programs, construction of facilities and research and program management. Yes. Passed 372-34.

(264) H.R. 2890. FY 1988 Transportation Appropriations. Amendment prohibiting the use of federal funds for airports that allow air carriers which do not have smoking regulations banning smoking on flights of two hours or less to use their facilities. Yes. Passed 198-193.

(269) H.R. 2906. FY 1988 Military Construction Appropriations. Appropriating $8 billion for military construction for the Department of Defense for FY 1988. Yes. Passed 371-48.

(281) H.R. 2470. Catastrophic Health Insurance Bill. Amending the Social Security Act to provide protection against catastrophic medical expenses under the Medicare program. Yes. Passed 302-127.

(286) H.R. 618. Displaced Salvadorans and Nicaraguans. Providing for a temporary suspension of deportation of certain Salvadorans and Nicaraguans. Yes. Passed 237-181.

(293) H.R. 1414. Price-Anderson Act Extension. Reauthorizing and extending provisions of the Atomic Energy Act of 1954 limiting liability for nuclear accidents and establishing procedures for paying for such damages. Yes. Passed 396-17.

(294) H.R. 27. FSLIC Rescue. Allowing the insolvent Federal Savings and Loan Insurance Corporation to borrow $10.8 billion and other provisions, including a requirement for banks to clear deposited checks faster. Yes. Passed 382-12.

(297) H.R. 2881. National Commission on AIDS. Establishing a National Commission on Acquired Immune Deficiency Syndrome. Yes. Passed 355-68.

(310) H.R. 1315. FY 1988 Nuclear Regulatory Commission Authorization. Authorizing $427.8 million in FY 1988 and $422.6 million in FY 1989 for the Nuclear Regulatory Commission. Yes. Passed 389-20.

(319) H.R. 1154. Textile and Apparel Trade Act. Limiting imports of certain textiles and apparel to 1 percent increases and freezing imports of certain shoes at 1986 levels. No. Passed 263-156.

(320) H.R. 442. Japanese-American Civil Liberties Act. Amendment deleting provisions of the bill which provide cash payments of $20,000 to eligible individuals who were interned during World War II. Yes. Failed 162-237.

(231) H.R. 442. Japanese-American Civil Liberties Act. Implementing the rcommendations of the Commission on Wartime Relocation and Internment of Civilians. Yes. Passed 243-141.

(330) H.J. Res. 324. Permanent Debt Limit Extension/Gramm-Rudman Revision. Increasing the statutory limit on the public debt to $2.8 trillion and establishing a revised automatic spending cut procedure to take effect if maximum allowable budget deficits are exceeded in future fiscal years. Yes. Passed 230-176.

(343) H.R. 2310. Airport Reauthorization. Amendment extending the Essential Air Service program (which provides federal funds to airlines to guarantee service to small communites) for 10 years. Yes. Passed 385-14.

(345) H.R. 2310. FY 1988 Airport Reauthorization. Authorizing $28 billion over five years for airport expansions, improvements in the air traffic control systems and other purposes. Yes. Passed 396-0.

(347) H.R. 3030. Farm Credit. Providing financial assistance to the Farm Credit System and requiring the FmHA to enter into loan restructuring agreements with borrowers. Yes. Passed 365-49.

(349) H.R. 3391. Iranian Trade Sanctions. Imposing a total ban on imports to the United States from Iran. Yes. Passed 407-5.

(359) H.R. 162. High-Risk Occupational-Disease Notification. Creating a Risk Assessment Board to identify workers at risk of developing occupational diseases, require notification of such workers, provide for employer-paid monitoring and testing, and allow workers with symptoms of disease to be transferred to other jobs without loss of earnings or benefits. Yes. Passed 225-186.

(382) H.R. 515. Credit-Card Disclosure. Amending the federal Truth in Lending Act and requiring credit card solicitations to display prominently annual interests rates, other fees and grace periods. Yes. Passed 408-1.

(392) H.R. 3545. FY 1988 Budget Reconciliation. Raising $11.9 billion in revenues and cutting spending to meet requirements of the FY 1988 budget resolution. Yes. Passed 206-205.

(414) H.R. 1212. Polygraph Tests. Prohibiting the use of polygraphs on employees or job applicants by most private sector employers. Yes. Passed 254-158.

(415) H.J. Res. 394. FY 1988 Continuing Appropriations. Continues funding for most federal programs through Dec. 16, 1987, at FY 1987 levels. No. Passed 256-159.

(420) H.R. 2167. Railroad Unemployment Insurance and Retirement. Shoring up the railroad unemployment insurance program and reducing its debt to the Railroad Retirement Account. Yes. Passed 366-24.

(428) H.R. 435. Uniform Poll Closing. Mandating simultaneous poll-closing times in 48 states on general-election day in presidential election years. Yes. Passed 208-189.

(433) H.R. 3471. Department of Veteran's Affairs. Establishing the Veterans Administration as a cabinet-level department. Yes. Passed 399-17.

(434) H.R. 3400. Hatch Act Revision. Overhauling the Hatch Act to allow federal employees to engage in political activities during off-duty hours. Yes. Passed 305-112.

(442) H.R. 3100. FY 1988 Foreign Aid Authorization. Amendment requiring 100 percentr of a country's aid from the Economic Support Fund to be spent on U.S. goods and services if the funds are used to purchase imports. Yes. Passed 350-66.

A CONGRESSIONAL SALUTE TO RICHARD F. GAYLORD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1987

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding business and civic leader in my district, Mr. Richard F. Gaylord. Mr. Gaylord will be honored at the 83d Installation Dinner of the Long Beach Board of Realtors, as a member of the 1988 board of directors and as the outgoing president of the Long Beach Board of Realtors. This auspicious occasion gives me an opportunity to publicly express my gratitude for his work on behalf of the city of Long Beach.

Born in Steubenville, OH, in 1943, Richard graduated from the University of Steubenville in 1966 and went on to pursue graduate studies at West Virginia University, while simultaneously obtaining his real estate saleman's license and completing his broker's license course.

Upon moving to California in 1974, Richard joined National Technical Services, Inc., a firm that operates business and trade schools. In September 1976 he made a fortuitous move to Long Beach and joined the Long Beach College of Business as administrator, and served on the college advisory board. Currently, Richard is associated with JTM Brokerage in Long Beach, CA, and is a lecturer in real estate at California State University, Long Beach.

Mr. Gaylord has achieved much and has been honored accordingly. In 1978, the City Council of Long Beach appointed Mr. Gaylord to serve as commissioner of the city's civil service commission. Four years later, he was elected president of the commission. Mr. Gaylord has not concerned himself with the affairs of Long Beach only; in 1981, California Governor Edmund G. Brown appointed Richard to the State Board of Behavioral Science Examiners.

While dedicated to a career in business organizations, Mr. Gaylord has found the time to devote an enormous amount of energy to various civic associations. He served as a member of the board of directors of the Long Beach Children's Clinic and as chairman of the clinic's policy committee. At the political end of the spectrum, Richard has served as past secretary for the Democratic 31st Senate Policy Committee and was an appointed member of the Credentials Committee of the California Democratic Party. He is also active in the downtown Lions Club of Long Beach, as well as the Navy League of the United States, Long Beach Council.

In addition, in 1979, the city of Long Beach Human Relations Committee presented him with an award for his outstanding contributions toward improving human relations in the Long Beach community. Richard Gaylord epitomizes the image of a dedicated community servant.

My wife, Lee, joins me in extending our warmest congratulations to Richard F. Gaylord on this special occasion. Richard is a model citizen: successful in business, respected by his community, and admired by his colleagues. On behalf of the city of Long Beach, we wish Richard Gaylord all the best in the years to come.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 10, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 11

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings of the modified final judgment regarding AT&T divestiture.
SR-253

9:30 a.m.
Judiciary
Immigration and Refugee Affairs Subcommittee
To hold hearings and to mark up S. 1611, to revise the numerical limitation and preference system for immigrant admissions.
SD-226

Select on Intelligence
To hold hearings on intelligence matters.
SD-562

Joint Economic
To resume hearings to review the current state of Federal research and development programs.
SD-628

10:00 a.m.
Finance
Business meeting, to mark up H.R. 1207, to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, and to ban certain resale of drugs by hospitals and other health care entities.
SD-215

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on default in the Guaranteed Student Loan program.
SD-430

DECEMBER 14

10:00 a.m.
Judiciary
To hold hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.
SR-325

DECEMBER 15

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Chandler L. Van Orman, of Maryland, to be Administrator of the Economic Regulatory Administration, Department of Energy.
SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
Securities Subcommittee
To resume hearings on S. 1380, to prohibit certain trading or communication by those who possess material, nonpublic information, and related proposals.
SD-538

Judiciary
To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.
SR-325

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1416, to authorize the Lyman-Jones, West River and Oglala Sioux Rural Water Development Projects, and S. 1431, to authorize the Secretary of the Interior to construct, operate and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, South Dakota.
SD-366

DECEMBER 16

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on activities of the Bureau of Indian Affairs, focusing on the seizure of Crow Indian Tribal records.
SR-485

Select on Intelligence
To hold hearings on intelligence matters.
SD-562

10:00 a.m.
Judiciary
To continue hearings on the nomination of Anthony M. Kennedy, of California,

to be an Associate Justice of the Supreme Court of the United States.

SR-325

DECEMBER 17

10:00 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To hold hearings on the Voice of America transmitter in Northern Costa Rica.

SD-419

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 850, to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.

SD-366

POSTPONEMENTS

DECEMBER 10

3:00 p.m.

Foreign Relations

To hold oversight hearings on the Law of the Sea Treaty (Ex.N, 86th Cong., 1st sess.).

SD-419

HOUSE OF REPRESENTATIVES—*Thursday, December 10, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, as we have been blessed as individuals and as a nation with the wealth and bounty of every good thing, may we become aware of the great responsibility we have to use these gifts with generosity. May we lift our eyes to see the joy that comes through giving, the hope that comes by doing good deeds, the blessings that come through sharing, and the fulfillment and satisfaction that comes by being good stewards of Your many gifts. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GALLEGLY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GALLEGLY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 139, answered "present" 3, not voting 37, as follows:

[Roll No. 466]

YEAS—254

Ackerman
Akaka
Anderson
Andrews
Annunzio
Archer
Armey
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Glickman
Gonzalez
Gordon
Grant
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schulze
Schumer
Sharp
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—139

Badham
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Murphy
Nielson
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Rhodes
Ridge
Roberts
Rogers
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Schroeder
Schuette
Sensenbrenner
Shaw
Shays
Sikorski
Skeen
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—3

Daniel
Gibbons
Nowak

NOT VOTING—37

Alexander
Anthony
Applegate
Biaggi
Boland
Bonker
Boulter
Clay
Conyers
Coughlin
Crockett
Davis (MI)
Dellums
Dixon
Dowdy
Fish
Ford (TN)
Garcia
Gephardt
Gray (IL)
Gray (PA)
Hall (OH)
Hunter
Kaptur
Kasich
Kemp
Mavroules
Miller (WA)
Neal
Roemer
Smith (TX)
Stark
Stokes
Sweeney
Traxler
Williams
Wise

☐ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION FOR ADJOURNMENT

Mr. WALKER. Mr. Speaker, I have a privileged motion that I send to the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves that the House do now adjourn.

The SPEAKER pro tempore (Mr. DEFAZIO). The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The vote was taken by electronic device, and there were—ayes 168, noes 235, not voting 30, as follows:

[Roll No. 467]

AYES—168

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (FL)

NOES—235

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Murphy
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—30

Alexander
Biaggi
Cheney
Clarke
Dixon
Dowdy
Fish
Foglietta
Garcia
Gephardt
Gray (IL)
Gray (PA)
Hall (OH)
Horton
Hunter
Kaptur
Kasich
Kemp
Miller (WA)
Mrazek
Murtha
Roemer
Smith (TX)
Stark
Stokes
Sweeney
Traxler
Waxman
Williams
Young (AK)

☐ 1030

Mr. NAGLE and Mr. COYNE changed their votes from "aye" to "no."

Mr. BROWN of Colorado and Mr. McDADE changed their votes from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

MODIFICATION OF AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3100, INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987, TO BE OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, yesterday I propounded a unanimous-consent request having to do with the contents of my amendment in the nature of a substitute to H.R. 3100.

Chairman FASCELL indicated no objection to my request, and it was accepted by the House.

It has come to my attention that the papers that were before Chairman FASCELL and myself at that time may have been different from the document that was being held by the Clerk.

I, therefore, wish to propose a new unanimous-consent request that reflects my understanding with Chairman FASCELL.

Mr. Speaker, I, therefore, ask unanimous consent that my amendment in the nature of a substitute to H.R. 3100, which was printed in the RECORD on November 10, 1987, pursuant to the rule be modified as follows:

In section 405(a), relating to voluntary contributions to international organizations and programs, strike out "$92,264,000" and insert in lieu thereof "$212,264,000" and strike out "$95,493,000" and insert in lieu thereof "$212,264,000".

In lieu of section 610, relating to Turkish occupation troops and Greek military forces on Cyprus, insert the corresponding section of H.R. 3100, namely, section 611—a copy of which is held at the desk together with the rest of this unanimous-consent request.

In lieu of section 610, relating to Turkish occupation troops and Greek military forces on Cyprus, insert the following corresponding section of H.R. 3100:

SEC. 611. TURKISH OCCUPATION TROOPS AND GREEK MILITARY FORCES ON CYPRUS.

(a) PROHIBITION OF USE ON CYPRUS OF MILITARY EQUIPMENT PROVIDED BY THE UNITED STATES.—Section 620C of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(e)(1) Except as provided in paragraph (2), defense articles of United States origin may not be transferred to or used on Cyprus by Turkey or Greece. This subsection applies with respect to all defense articles of United States origin which are made available to Turkey or Greece after the date of enactment of this subsection.

"(2) Paragraph (1) shall not apply to the extent that the President certifies to the Congress—

"(A) that there has been an armed attack against one or more parties to the North Atlantic Treaty, or there are circumstances clearly indicating that such an armed attack is imminent; and

"(B) that the President has approved the transfer to and use on Cyprus by Turkey or Greece (as the case may be) of defense articles of United States origin upon his determination that such approval is necessary to enable that country to carry out its obligation to respond to that attack pursuant to Article 5 of the North Atlantic Treaty.

"(3) As used in this subsection—

"(A) the term 'defense article of United States origin' means any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) made available pursuant to this Act, the Arms Export Control Act, or chapter 138 (relating to NATO mutual support) or section 7307 (relating to disposal of naval vessels) of title 10 of the United States Code; and includes articles made available under those laws by grant, sale, lease or loan, licensed export, 3rd-country transfer, licensed production, or other means; and

"(B) the term 'transferred to or used on Cyprus' includes use in providing transportation to or from Cyprus and includes stationing or other deployment on Cyprus."

(b) Periodic Reports Regarding Activities on Cyprus of Foreign Armed Forces.—Section 620C(c) of that Act is amended by adding at the end the following: "Such transmissions shall also—

"(1) specify the number of members of the armed forces of the Government of Turkey, and the number of members of the armed forces of the Government of Greece, who were on Cyprus during the preceding 120 days;

"(2) specifying the number of members of the armed forces of the Government of Turkey, and the number of members of the armed forces of the Government of Greece, who were on Cyprus during the preceding 120 days with the permission of the Government of the Republic of Cyprus; and

"(3) describe any defense articles of United States origin (as defined in subsection (e)(3)(A)), which have been made available to Turkey or Greece, which were on Cyprus at any time during the preceding 120 days, specifying (to the extent such information can be obtained) when those articles were transferred to Cyprus and when those articles were made available by the United States to Turkey or Greece (as the case may be).".

□ 1045

The **SPEAKER** pro tempore (Mr. DeFazio). Is there objection to the request of the gentleman from Michigan?

Mr. **FASCELL.** Mr. Speaker, reserving the right to object, and I shall not object, I would simply like to ask the distinguished ranking member of the committee: As I understand from our discussion of what this request is, the gentleman is incorporating in the substitute which he has already filed in the Record the matters that are contained in his unanimous-consent request; is that correct?

Mr. **BROOMFIELD.** Mr. Speaker, if the gentleman will yield, yes, the gentleman is correct.

Mr. **FASCELL.** Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

AUTHORIZING ADDITIONAL TIME FOR DEBATE ON CERTAIN AMENDMENTS TO BE OFFERED TO H.R. 3100, INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987

Mr. **FASCELL.** Mr. Speaker, I ask unanimous consent that an additional 30 minutes of debate be granted on the Pakistan issue, for the consideration of the Solarz amendment only, if offered to section 924 of title IX.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. **LAGOMARSINO.** Mr. Speaker, reserving the right to object, and I do not object to the request, let me say that in fact I approve of the request we discussed earlier. I just want to state to my colleagues, lest there be any misunderstanding, that I intend to offer an amendment which is in the Record relating to the issue of nonproliferation in Pakistan if the gentleman from New York does not offer his amendment. I make this statement just so the record will be clear.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. **WALKER.** Mr. Speaker, reserving the right to object, I am trying to figure out what we are doing here. Do I understand that we are now going to try by unanimous consent to overturn the provisions of the rule by which this bill was brought to the floor that limits the time of debate in such a way as to limit the access of Members with amendments to the floor? Do I understand we are now coming back and the committee is requesting that the rule which it got from the Rules Committee now be abandoned?

Mr. **FASCELL.** Mr. Speaker, will the gentleman yield?

Mr. **WALKER.** I am glad to yield to the gentleman from Florida.

Mr. **FASCELL.** No, I do not want to abandon the rule. Of course not. What I want to do is accommodate Members on both sides of the aisle who feel that the debate on the Pakistan issue deserves more than 10 minutes. I agree with them, so I agreed to make this unanimous-consent request. However, I am ready to go right by the rule, if that is what the gentleman wants.

Mr. **BROOMFIELD.** Mr. Speaker, will the gentleman yield?

Mr. **WALKER.** I am glad to yield to the gentleman from Michigan.

Mr. **BROOMFIELD.** Mr. Speaker, I would hope that we can get back on track here. I think this is a reasonable request as made by the chairman of the committee. This is an extremely important section of the bill, and I think this request is made in fairness to both sides. This is reasonable, and it is not going to affect any of the amendments that are going to be considered. We can move this bill along and hopefully complete the consideration of this bill today if we have cooperation.

So, Mr. Speaker, I strongly support the request of the gentleman from Michigan.

Mr. **FASCELL.** Mr. Speaker, will the gentleman yield?

Mr. **WALKER.** I yield to the chairman of the committee.

Mr. **FASCELL.** Mr. Speaker, let me say to the gentleman that I have the same concern the gentleman does. Look at where we are now. We are, I believe, within 36 or 38 minutes of completing all debate on all amendments. All the amendments printed in the Record would have 10 minutes, and it is the considered judgment on this side that on this one amendment we ought to change the rule. That is all we are doing.

We are on title VIII right now. We are working very hard, as the gentleman knows, to work out matters on both sides of the aisle so we can expedite the consideration of this bill. Hopefully we can wind it up today. With a little cooperation, I think we can do that.

Mr. **WALKER.** Mr. Speaker, further reserving the right to object, let me say to the chairman of the committee that I understand what he is trying to do, and I am glad he and the ranking minority member are trying to work out the problem here.

What disturbs this gentleman is that we have a pattern of operation around here at the present time which is absolutely ludicrous, and that is what we are doing. We are bringing bills to the floor under closed rules, and then when we find out that things are not properly handled under those closed rules, we are coming back and suggesting that there ought to be modifications to that in order to accommodate very serious issues.

I am disturbed by that, particularly then when in the same timeframe we have the leadership coming to the floor with bills that no one ever heard of, that were not announced on the schedule and deciding that the House should take up these kinds of measures without involving the minority side. I have got to tell the gentleman that the way in which we are performing and behaving around this House is absolutely without precedent, in my opinion.

Mr. Speaker, I am not going to object to this request, but I will tell the gentleman that I think it is high time that either we decide we are going to go by the regular processes and bring bills out here under open rules so these kinds of problems are going to be accommodated or we are going to start living by the rules we make. The rules around here only seem to apply when it is the majority interest that they should be applied. Whenever it is in the minority interest for the rules to apply, we seem willing to overturn those rules without notice.

Mr. **FASCELL.** Mr. Speaker, I understand the gentleman's vehemence, if the gentleman will yield further.

Mr. **WALKER.** Yes; I am glad to yield further to the committee chairman.

Mr. FASCELL. But I ask the gentleman to imagine trying to manage a bill when you do not know what is going to happen on the floor. I will say to the gentleman that we have allowed every amendment that anybody wanted to offer here. On this one item, the gentleman is right, but at least everybody gets in on the decision with respect to this one extension.

Mr. Speaker, I thank the gentleman for not objecting.

Mr. WALKER. Mr. Speaker, further reserving the right to object, let me say to the gentleman that the problem is that democracy sometimes gets a little messy, and sometimes in fact when you are managing bills under a democratic system, you have to have a little bit of messiness, and there may be Members who might offer amendments that had not been contemplated before the issues were explained on the House floor.

Mr. FASCELL. Mr. Speaker, I will say to the gentleman that if anybody has missed one, it certainly has escaped my attention.

Mr. WALKER. Mr. Speaker, I must admit that the gentleman's bill has provided a great filler for the House because it adds so many amendments to it, but, on the other hand, I think when we get down to the important issues and then we do not have sufficient time to debate them, that is also a very disturbing pattern to have taken place in the House.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SOLARZ. Mr. Speaker, reserving the right to object, I have been advised by our extraordinarily able and talented legal counsel that there is a minor problem with the unanimous-consent request as drafted, and I would like to suggest, Mr. Speaker, that it be modified, if it is acceptable to the chairman of the committee—I believe it is acceptable to the gentleman from Texas [Mr. WILSON], and I hope it will be to the gentleman from California [Mr. LAGOMARSINO]—in order to make 30 minutes of additional time available for debate on the Solarz amendment or the Lagomarsino amendment, whichever is offered first.

Mr. FASCELL. Mr. Speaker, if the gentleman will yield, let me ask, Is that all right with the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to my friend, the gentleman from California.

□ 1055

Mr. LAGOMARSINO. Mr. Speaker, if the gentleman would yield, would that include other amendments that might be offered to either of the two mentioned?

Mr. SOLARZ. Of course. There would be a grand total of 40 minutes of debate for your amendment or mine, whichever is offered first, and with all amendments related thereto that are in order.

Mr. FASCELL. And that would be 20 minutes to each side, Mr. Speaker.

Mr. LAGOMARSINO. That is acceptable.

The **SPEAKER** pro tempore (Mr. DEFAZIO). Is there objection to the request of the gentleman from New York [Mr. SOLARZ]?

There was no objection.

TERRY ANDERSON'S 1,000TH DAY OF CAPTIVITY IN LEBANON

Ms. SLAUGHTER of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, and to revise and extend my remarks.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. WALKER. Mr. Speaker, reserving the right to object, we did not hear the unanimous-consent request.

The **SPEAKER** pro tempore. The Chair would announce that the Chair is recognizing for 1-minute speeches.

Mr. WALKER. Mr. Speaker, what was the unanimous-consent request?

The **SPEAKER** pro tempore. The unanimous-consent request of the gentlewoman from New York [Ms. SLAUGHTER] was to address the House for 1 minute and to revise and extend her remarks.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I notice the gentlewoman from New York [Ms. SLAUGHTER] is bringing papers with her to the podium. Did the gentlewoman request unanimous consent to be permitted to read from papers as the rules of the House would provide for?

The **SPEAKER** pro tempore. The Chair has no indication that she will read from those papers. She is just carrying them with her.

Mr. WALKER. Mr. Speaker, to be clear, the gentlewoman from New York has not made that request?

The **SPEAKER** pro tempore. She made no such request, and she intends to address the House.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER of New York. Mr. Speaker, today marks Terry Anderson's 1,000th day of captivity in Lebanon. Terry, chief Middle East correspondent for the Associated Press, is the longest held hostage of all the hostages, American and foreign, currently being held in the Middle East.

I have stood before this body on several occasions, to remind my colleagues of the beginning of his third year of captivity, his 40th birthday, and now his 1,000th day. I hope this is the last time and he will be released.

One thousand days ago, Terry was abducted from a Beirut street by Moslem extremists. Over the past 3 years, we have caught glimpses of him in poorly shot videos and crude photographs which keep alive the hope that he is surviving whatever physical and mental torture he has been subjected to. We must bring him home.

At 11 this morning, Peggy Say, Terry's courageous sister, is sponsoring a special ceremony, "Human Rights for Hostages," to remember Terry Anderson and the other hostages on this day. There will be a rollcall of all hostages with children holding their photos and closing the program with the song, "Let There Be Peace."

Mr. Speaker, I wish to appeal to my colleagues to remember Terry and the other hostages today and to work for their release and safe return home. Please keep them in your thoughts and your prayers.

BEAUTIFUL NEBRASKA

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, the official State song of my home State is entitled "Beautiful Nebraska."

I want my colleagues to know about the accomplishments of Nebraska cities to keep our State beautiful. I congratulate the clean city committees and these cities of western Nebraska in my congressional district: North Platte, Ogallala, Kimball, Scottsbluff-Gering, and Alliance, all of whom are here in Washington, DC, to receive national recognition this week.

Tomorrow the North Platte Clean City Committee will receive a national first place "Keep America Beautiful" award. In fact, since that committee was organized in 1978, this city has received an award every year but one.

This year the North Platte group cleaned up a city block, removed the buildings, and now we have a beautiful Christmas tree in that park. They have sponsored contests, headed recycling drives and taken educational programs about recycling to the schools.

MEMORIAL SERVICE FOR THE LATE MAYOR HAROLD WASHINGTON

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I rise to inform the Members of the House that today at 12 o'clock noon there will be a memorial service for the late mayor of the city of Chicago at the Church of Reformation at 212 East Capitol Street. There will be participation in the form of paying tribute on the part of Members of the House of Representatives, and at least two Senators from the other body. I would like to invite Members of this group, who want to attend, to come and pay our respects to a former Member of this body, Harold Washington, who was the mayor of the city of Chicago.

OPPOSITION TO H.R. 1720

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, I rise in opposition to H.R. 1720, the Family Welfare Reform Act of 1987. This bill is not what the poor need, it is not what this country needs, and it is not what this Congress should pass. At this time when we are gravely concerned about the growth of Government and the increase in the deficit, this bill would substantially expand Federal spending and Government involvement in a welfare program with a proven record of failure. H.R. 1720 is not welfare reform, it is welfare expansion.

Neither the Federal Government, nor the States, can afford to throw more money into programs that are irreparably broken. H.R. 1720 greatly increases the financial burden on the States, many of which are already strained to the breaking point. My own State of Oklahoma can ill afford this fiscal nonsense. And yet H.R. 1720 would force my State to not only increase benefits, but also to expand the pool of recipients. This is a double whammy that the taxpayers should not be forced to bear.

Already, Oklahoma's AFDC Program has grown by 8.4 percent in just 12 months. And emergency AFDC grew by a whopping 46 percent in the same time period. Our duty should be to pass legislation that will allow the States to eventually reduce these figures, not increase them. Let's do ourselves and the States a favor and draft a bill that will reduce these figures, something the people of America can afford.

OBJECTION TO INCLUSION OF ANY AID FOR CONTRAS IN CONTINUING RESOLUTION

(Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.)

The SPEAKER pro tempore (Mr. DeFazio). Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, Mr. Speaker, I have noticed that we have had a number of instances where we have come to the podium and had people reading from papers in violation of the House rules. I wonder if the Chair would remind the Members that in asking unanimous consent to make a 1-minute speech where they intend to read from papers, that they might ask permission of the House by unanimous consent to be permitted to do so that they are in compliance with the rules of the House as they proceed, or if that is not the case, then it seems to me it is the duty of the Chair to call that to the attention of the Members at the moment they begin to read from papers.

The SPEAKER pro tempore. The Chair would advise the gentleman from Pennsylvania that generally reading from a paper does not require unanimous consent unless an issue is made of it. In this case the Chair might suggest that Members making 1-minute speeches attempt to refrain from reading from papers to avoid a vote on the issue.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, it is my understanding, and I would tell the Chair, that the reading from papers consists of more than reading from newspapers. It in fact has included reading from typed copy that one might have at the podium. So in fact the Member is reading from papers that are not the official documents of the House of Representatives, and I would hope the Chair would see fit to have the Members of the House obey the rules of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, it is going to be difficult to talk about Nicaragua without papers, but I will try and, unlike the President of the United States, I think I can go 1 minute without referring to 3-by-5 cards.

Mr. Speaker, the House acted consistent with the Arias peace plan when it provided for no Contra aid money in the continuing resolution that was recently passed by the House of Representatives. In doing so, we supported the efforts of the President of Costa Rica, President Arias, as he echoed them yesterday and suggested that any aid to the Contras, no matter what euphemism is used, humanitarian or nonlethal aid, is inconsistent with the peace process that he and the other Central American presidents have endorsed and are supporting and working for, and that, in fact, once again, we find the intransigence of the Reagan administration in their effort to continue to support the Contras as a fighting force standing in the road to peace in Central America.

I hope that when the Senate continues the continuing resolution that it would object to any inclusion of Contra aid.

I will take my papers and sit down and read them, Mr. Speaker.

LEGISLATION TO CORRECT THE CALENDAR YEAR REQUIREMENT AND MUTUAL FUND EXPENSE ISSUE

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and read from papers.)

Mr. SCHULZE. Mr. Speaker, in the last days of this session of the 100th Congress important segments of the American public will likely go without necessary changes in our tax laws. Next year, over 20 million mutual fund shareholders will pay income tax on money they never receive. Next year, certified public accountants face a tremendous, if not insurmountable burden, in filing returns for a large number of taxpayers who are required to adopt a calendar year for income tax purposes.

As an original sponsor of legislation to correct the calendar year requirement and mutual fund expense issue, I am disturbed by our lack of action. As ranking member on the Oversight Subcommittee of the Ways and Means Committee, I am even more concerned by the potential for reduced compliance in our tax law. I must warn my colleagues, the Treasury Department, and the IRS that the American people will not continue to support a voluntary tax system that doesn't work.

ARIAS CALLS FOR END TO ALL CONTRA AID

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Mr. Speaker, today Costa Rican President Oscar Arias Sanchez receives the Nobel Peace Prize—the highest tribute the world can pay to those who risk all in the name of peace.

Arias reiterated his strong opposition to any Contra aid, including humanitarian and the so-called nonlethal aid which the administration has been seeking.

According to Arias, the Contras are "the problem, not the solution." The Reagan administration's continued support of their cause only provides Nicaragua an excuse to keep fighting.

If only President Reagan would listen.

The President has indeed shown he can be a peacemaker in his meetings with Secretary Gorbachev, and we all applaud his efforts in achieving arms reduction.

Perhaps he can be convinced that in Central America, too, the best path toward peace and security for the United States, the best path toward freedom and democracy, lies in negotiations.

Mr. President, I urge you to heed Arias' message. Stop funding the Contras and get on board with the peace process.

Let us join in a united effort to achieve a ceasefire in Nicaragua by Christmas. It would be the greatest gift the people of the Americas could receive.

ON HUMAN RIGHTS DAY SUPPORT EAST GERMAN HUMAN RIGHTS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, today marks the 39th anniversary of the signing of the Universal Declaration of Human Rights.

With this anniversary, we can reflect on the progress made this year on human rights—rising Soviet emigration levels, increasing numbers of persons permitted to travel from East Germany, the lifting of martial law in Taiwan, free elections in Korea and Turkey and promising negotiations toward peace in Central America. But we know that hard work helped to make this possible and we cannot rest until basic human rights are restored to individuals everywhere.

Today I am introducing a resolution regarding the recent arrest of four people in East Berlin. While in Berlin Thanksgiving weekend, I learned that on November 24, the East German secret police entered the Zion Protestant Church and detained members of an unofficial environmentalist/human rights group who were working in the church's basement offices. The police confiscated their literature and printing equipment. Four people were arrested.

Mr. Speaker, in the spirit of International Human Rights Day, I urge my colleagues to cosponsor this resolution to bring attention to this human rights violation.

LEGISLATION TO DESIGNATE THE LAST WILD SECTION OF THE UPPER KLAMATH RIVER AS A COMPONENT OF WILD AND SCENIC RIVERS SYSTEM

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, apparently the view is obscured from the left because the gentleman from Pennsylvania has only been able to see papers placed on this side, but I would hope that he would get a better vantage point in the future.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. DEFAZIO. Mr. Speaker, I have only 1 minute, I am sorry.

Mr. WALKER. Even though the gentleman from Oregon mentioned my name?

Mr. DEFAZIO. Mr. Speaker, I did not mention the gentleman's name.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Oregon [Mr. DEFAZIO] may proceed.

Mr. DEFAZIO. The Secretary of the Interior, Mr. Hodel, recently proposed ripping down a dam to expose the Hetch-Hetchy Valley, reportedly to be one of the most beautiful valleys in the country, again to the light of day. Unfortunately, that valley has been obscured beneath a sterile reservoir throughout this century. We have an opportunity in southern Oregon to preserve a likely source from that same ruin, to preserve the Klamath River. The Klamath River is the most spectacular white water in southern Oregon and one of the best wild and scenic areas in the United States.

I will be introducing legislation today to that effect.

Mr. Speaker, today I will join my colleague from Oregon, Mr. AUCOIN, in introducing a bill to designate the last wild section of the Upper Klamath River a component of our Wild and Scenic Rivers System.

The Klamath provides the best summer whitewater recreation in Oregon. When other rivers in my State run low the Klamath is a challenging 19 miles of class IV and better rapids through an astoundingly beautiful canyon.

It is home to some of the best trout fishing in the State as well—and in Oregon that is quite a superlative. The Klamath attracts flyfishers from around the region.

In previous times the Klamath River canyon was haven to Oregon and California tribes who sought refuge from marauding neighbors or the U.S. Army. In the canyon are sites sacred to those tribes.

The National Park Service included the Klamath on its 1982 inventory of the rivers suited to wild and scenic designation. Today, when development threatens those characteristics protection is urgently needed. Congressman AUCOIN and I hope to provide that protection and recognition by designating the Klamath a national wild and scenic river. I urge my colleagues' support.

ONE THOUSAND DAYS OF CAPTIVITY FOR TERRY ANDERSON

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I remind my colleagues again that today, as has been mentioned previously, is the 1,000th day of captivity for Terry Anderson. We viewed prison uprisings recently in Louisiana and Georgia, and we saw as a result of that, that the winning of freedom for hostages can be realized. I urge Members of this body that so long as one American remains in captivity, so long as one American does not enjoy freedom, we have a situation where this House should keep the heat on. We should continue to focus attention on this fact. Let us hope that Terry Anderson and any others who are held in captivity in the Middle East and other parts of the world will soon be released to freedom and will soon be able to enjoy that very precious ingredient of life.

INTERNATIONAL HUMAN RIGHTS DAY

(Mr. YATRON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATRON. Mr. Speaker, as chairman of the Subcommittee on Human Rights and International Organizations, I welcome "International Human Rights Day." On this day, we remind ourselves that human rights should be realized by every citizen in every country of the world.

The international human rights movement is based on the premise that every nation has an obligation to protect the human rights of its citizens. There are far too many countries which do not honor this international standard—governments whose violations are directed against the integrity of the person, through torture, disappearances, killings, and denials of due process. There are also those regimes which deny civil and political rights—freedom of association, speech, and press, as well as economic and social rights.

We must examine in an unbiased manner the victims of human rights abuse whether they are in the Soviet Union, South Africa, Nicaragua, Chile, Vietnam, Iran, or in countries where violations are more difficult to assess. After we have determined that a human rights situation is serious, we must act swiftly regardless of whether the violator is from a friendly or unfriendly government.

There are steps which can be taken to address grievous human rights conditions. In Congress, hearings, resolutions, and statements denouncing violators are often effective. Where appropriate, Congress has disassociated itself from governments with deplorable human rights records by voting against economic and military assistance, as well as by advocating diplomatic distance. The Subcommittee on Human Rights and International Organizations, entrusted with the responsibility for human rights legislation in Congress, has also initiated legal measures to protect the integrity of an individual from torture, disappearances, and gross denials of due process.

Even when the success of our efforts cannot be determined, calling worldwide attention to the plight of those victimized is always advantageous. In recognition of "International Human Rights Day," it is necessary to reaffirm our commitment to the oppressed, to let them know we join them in their struggle for freedom.

□ 1110

SENSE OF CONGRESS THAT NATIONS OF WESTERN EUROPE SHOULD DESIST FROM AID TO NICARAGUA UNTIL IT LIVES UP TO THE GUATEMALA PEACE PLAN

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, many of the nations of Western Europe have been providing substantial amounts of direct government-to-government aid to the Government of Nicaragua during recent years. Last year such aid exceeded $70 million, and several of those nations gave more to Nicaragua than to all of the other nations of Central America combined.

Today I am introducing a sense-of-the-Congress resolution, the details of which are found in a special order in yesterday's CONGRESSIONAL RECORD, which would ask these nations to desist from their contributions until Nicaragua meets the requirements of the Guatemala City peace accord. I am suggesting that alternatively they provide that assistance to the Common Market Organization of Central America or to the proposed but not yet activated Central American Development Organization, or that they channel it through private voluntary organizations, international or European domestic organizations.

I ask my colleagues to consider advancing this proposal with me and to cosponsor this sense-of-the-Congress resolution which I will offer today.

URGING GORBACHEV TO HEED THE PEOPLE OF THE SOVIET UNION

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, as Mr. Gorbachev prepares to depart from our country today on "International Human Rights Day," he can take great pride in his enormous contribution to the signing of this INF Treaty between our two great countries. And on this 39th anniversary of the signing of the International Declaration of Human Rights, Mr. Gorbachev could make a very significant contribution to the field of human rights and to the prestige and honor and credibility of himself and his country by announcing a true reform of Soviet emigration policy as it affects Jews and other members of the Soviet Union.

Mr. Gorbachev told us that the people of our two nations are way ahead of our countries' leaders in terms of their sentiments and their feelings, and he is right.

Mr. Gorbachev, please take your own words to heart.

Heed the pleas of millions of concerned people the world over who ask that the Soviet Government honor its freely assumed commitments under the Helsinki accords and give your people the rights of free passage that are enjoyed by every other civilized Western nation.

Surely, Mr. Gorbachev you are now aware of the strong sentiments of hundreds of thousands of Americans of every race, creed, and ethnic origin who called for a fair and responsible emigration policy for the Soviet Union.

We have great respect for the Soviet Union's military might, its rich cultural contributions, and its superb accomplishments in science and technology.

But the Soviet Government's continuing and systematic violation of its Helsinki accord commitments will continue to overshadow its many accomplishments and complicate the great goal of achieving the mutual respect and trust between our two great countries which must undergird our negotiations on arms control and regional conflicts.

Please Mr. Gorbachev, give your superb leadership to solving this problem of defiance of international legal and moral norms—a posture which is beneath the dignity of your great country and great people.

HUMAN RIGHTS IN CENTRAL AMERICA

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, today brings together a couple of important occasions. One is a celebration of human rights, and one is the trip of Oscar Arias to receive the Nobel Peace Prize.

Both peace and human rights are very important values to the people in this world. I think that President Arias needs to remember that as he accepts the Peace Prize it was the Contras and the pressure that they created on the Sandinistas that brought them to the negotiating table, and it is going to require a great balancing act to make sure that as he accepts the prize for peace he does not by his remarks help to institutionalize the loss of human rights in Central America.

DESIGNATING UPPER KLAMATH RIVER AS A WILD AND SCENIC RIVER

(Mr. AUCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AUCOIN. Mr. Speaker, today I am introducing, along with my colleague, Mr. DEFAZIO, a bill to designate the Upper Klamath River a wild and scenic river.

The Oregon State Parks Division gives this river a rating of "outstanding" for its native trout population, and the National Park Service says its white water rafting rapids are among the very best in the West.

The Upper Klamath River—in its free-flowing state—already means $2½ million a year to the area economy. Increasing its tourism potential will only increase its economic dividends.

Mr. Speaker, some would allow development, including hydroelectric dam construction on the river.

But it is not simply to stop something that I introduce this bill. It is to affirm something: To affirm the magnificent freedom of a great river in its wild state, to be enjoyed and to be respected for all the years to come.

IRAN-CONTRA COMMITTEE SHOULD NOT BE EXTENDED

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, further I ask unanimous consent I be permitted to read from papers.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ARMEY. Mr. Speaker, I object.

The SPEAKER pro tempore. The objection comes too late and the gentleman was not on his feet.

The Chair has ruled that the gentleman from Pennsylvania may proceed for 1 minute.

Mr. WALKER. Mr. Speaker, we have long suspected that the Iran-Contra investigation had substantial partisan overtones. Today the majority seems determined to confirm those suspicions.

Mr. Speaker, last night the majority sought permission to bring to the floor a resolution to extend the life of the Iran-Contra committee until the end of this Congress. Mr. Speaker, this committee has issued its report. Continuing its existence is purely a partisan effort to undermine the President. That particular idea ought to be withdrawn. That committee should end this Sunday as previously agreed to.

FOREIGN AID AND THE WAR ON DRUGS

(Mr. HOCHBRUECKNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOCHBRUECKNER. Mr. Speaker, as the House prepares to complete consideration of the foreign aid authorization bill (H.R. 3100), I want to raise a very serious concern about the international drug problem.

The Anti-Drug Abuse Act (Public Law 99-570) passed by the 99th Congress included a provision to discourage international drug production and drug trafficking. It provided for a 50-percent reduction in aid to countries which are not cooperating fully with the United States in trying to halt the flow of drugs. The President of the United States is empowered under this act to reduce foreign aid to uncooperative nations. Unfortunately, our President has failed to utilize this important tool.

Last March, the President of the United States certified as "fully cooperative" several countries such as Mexico, Panama, and the Bahamas—recipients of United States taxpayers dollars—which, in fact, had not taken serious action to discourage the flow of drugs. By this action, the President sent U.S. aid to nations which we know are the source of illegal drugs reaching American streets. In my view, this is intolerable.

As Members are aware, the 1986 Anti-Drug Abuse Act enables the Congress to override a Presidential foreign aid certification if we determine that a given country is not fully cooperating with the United States in combatting drugs. I pledge today that if we are faced with the same situation in 1988, I will introduce measures to void any certifications which are unjustified. Furthermore, if this crucial tool in the war on drugs continues to be ignored, I will offer legislation to strengthen the process of leveraging foreign aid in order to discourage drug production.

Our domestic drug crisis has only worsened since passage of the landmark 1986 Drug Act. Now is not the time to give up the battle, but rather to rearm the war on drugs. I have sent a letter to the President of the United States urging that he use the tools which have been provided him to discourage the international drug flow. I include this letter in the RECORD at this point:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 1987.
Hon. RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Today the House of Representatives is considering the Foreign Aid Authorization Bill (H.R. 3100). I feel it is an appropriate time to raise a concern I have about our foreign aid process and the War on Drugs.

As you know, Section 481 of the Foreign Assistance Act was amended by the Anti-Drug Abuse Act of 1986 (Public Law 99-570) to strengthen the process whereby foreign aid may be withheld to discourage foreign drug production and trafficking. Specifically, that law provides for a 50 percent reduction in foreign aid to countries which you certify are not cooperating fully with the United States in halting the international flow of drugs. Public Law 99-570 also includes a provision allowing Congress to pass a resolution disapproving a Presidential certification that a given country has fully cooperated with our nation in combating drugs.

I was greatly disappointed, as were many of my colleagues in the House and Senate, when in March of this year you certified as "fully cooperative" several countries, such as Panama, Mexico and the Bahamas—recipients of our tax dollars—who by reliable accounts had not taken serious action to discourage drug production or prevent drug trafficking. Perhaps because the process for Congressional disapproval was new and untested, Members of the 100th Congress were reluctant to seriously challenge these certifications. However, I am confident that if a similar situation arises next spring, the Congress will take action to reduce assistance to certified nations which are demonstrated to be less than "fully cooperative" with the United States in the War on Drugs.

In order to avoid a possible confrontation between your Administration and the Congress over foreign assistance and the War on Drugs, I respectfully request that you personally review foreign drug activities with the utmost care before issuing certifications on March 1, 1988. Our domestic drug problem is worsening, not improving, and this is due in large part to the continuing influx of illegal drugs across U.S. borders. It is my hope that you will exercise leadership in the 1988 certification process and not reward nations which are less than serious about combatting drugs.

Thank you for your attention to this matter.

Sincerely,
GEORGE J. HOCHBRUECKNER,
Member of Congress.

Mr. Speaker, we cannot permit U.S. taxpayer dollars to be sent to nations which are not working vigorously to prevent illegal drugs from reaching American shores. We must use our foreign aid process to discourage the international drug flow, and to encourage other nations to stop growing drug crops and begin growing food crops.

COMMENTS ON PROCEDURES AND SCHEDULING PRACTICES OF THE HOUSE—THE ARIAS PEACE PLAN

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that I be permitted to address the House for 1 minute, and I further ask I be permitted to read from some papers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. COELHO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from California will state his parliamentary inquiry.

Mr. COELHO. Mr. Speaker, if I am correct, I understand that the gentleman from Pennsylvania [Mr. WALKER] is objecting because the gentleman from Indiana [Mr. BURTON] is reading from some papers?

The SPEAKER pro tempore. The gentleman is correct.

Mr. COELHO. I understand that the gentleman from Pennsylvania has objected to individuals from this side of the aisle reading from papers also.

The SPEAKER pro tempore. The gentleman is correct.

Mr. COELHO. And that the House has been in session now, Mr. Speaker, for 1 hour and 20 minutes, is that correct?

The SPEAKER pro tempore. The gentleman is correct.

The Chair would advise the gentleman from California that there being an objection, the Chair will now put the question on whether the gentleman from Indiana shall be permitted to read.

Mr. COELHO. But Mr. Speaker, my parliamentary inquiry is that we have been in session for 1 hour and 20 minutes but it appears that there are Members trying to delay the process of this House, and I think the American public should know that.

The SPEAKER pro tempore. That is not a proper inquiry. The Chair now asks: Shall the gentleman from Indiana [Mr. BURTON] be permitted to read from papers?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays

5, answered "present," 1, not voting 27, as follows:

[Roll No. 468]

YEAS—400

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

Coelho
DeFazio
Goodling
Konnyu
Perkins

ANSWERED "PRESENT"—1

Hopkins

NOT VOTING—27

Aspin
Bentley
Biaggi
Boland
Crockett
Daniel
Dicks
Dingell
Dixon
Dowdy
Eckart
Ford (TN)
Garcia
Gephardt
Gray (PA)
Hall (OH)
Kaptur
Kasich
Kemp
Mica
Roemer
Smith (FL)
Smith (TX)
Stark
Stokes
Sweeney
Waxman

☐ 1125

So the request was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TORRES). The Chair would also announce that after this reading there will be no more 1-minute speeches and the House will resolve into the Committee of the Whole.

☐ 1140

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Indiana [Mr. BURTON] may proceed.

Mr. BURTON of Indiana. I thank the Chair and I thank my colleagues for their overwhelming vote of confidence to allow me to read, but after having received that tremendous vote, I have decided not to read.

I would just like to make a couple of brief comments, first of all, on the so-called dilatory tactics that are taking place today. Those tactics are taking place because some of the Members feel that an extension of the Iran-Contra committee for another year will serve no useful purpose. All it will do is cause political bickering and more partisanship in this body, and it is designed to try to make the President of the United States look bad during the last year of his term of office.

I think it is being done to try to create the illusion that the Republican Party is corrupt so that we cannot elect a Republican President, which is very likely in 1988.

Along with that, I would just like to say that I heard some comments earlier today about Mr. Arias and his peace proposal and about how we should not be aiding the Contras in Central America because Mr. Arias says we should not. The fact of the matter is that the Communists have been trying to expand their sphere of influence in Central America and throughout that region. We in the United States of America should be concerned about that and should support the Contras, who are fighting for freedom down there.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce that he will recognize for two 1-minute speeches, one on each side, and the Chair at this time will recognize the gentleman from Illinois [Mr. DURBIN].

UNITED STATES RESIDENT DOWNED OVER NICARAGUA SEEKS ACCESS TO UNITED STATES EMBASSY

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, last Tuesday a resident of my congressional district, James Denby of Carlinville, IL, was shot down as he piloted a light plane between the Costa Rican and Nicaragua borders. The circumstances surrounding this incident are not clear. The Nicaraguan Government has claimed that he violated their airspace and charged that he was carrying materials that suggest he was involved in some illicit activity. We have not heard Mr. Denby's side of the story.

Today at 5 p.m. I will be meeting with the Ambassador from Nicaragua in my office. I will request in the strongest terms possible that Mr. Denby be given access as quickly as possible to representatives of the U.S. Government from the Embassy in Managua. Whatever the charges against

Mr. Denby, he is entitled to fair and humane treatment. Denying Mr. Denby access to the American Embassy staff is inconsistent with the most basic principles of justice.

"GOOD VIBES" FOR GENERAL SECRETARY GORBACHEV

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, this is a true story. The Soviet Embassy asked the U.S. Information Agency to send over two American films for late night viewing at the embassy. I guess General Secretary Mikhail Sergeyevich Gorbachev and his lovely wife Raisa are working off adrenalin, as most tourists do, and are staying up late. The films were "Top Gun," produced by one of our major studios, and "Platoon," an independent film. I understand they did not like the ending of "Top Gun." They did like the ending of "Platoon."

The General Secretary said yesterday he would like some "good vibes" from our House of Representatives. Well, I will give him some good vibes, after I point out that we just had a press conference about children from Afghanistan who are missing arms, burned over their bodies, with terrible scarring from the vicious Soviet aggression in Afghanistan.

The good vibes are these: this Member will not in 3 or 4 years object to the General Secretary standing up there and addressing a joint session of Congress if about 400,000 Jews and Pentacostals are out of the Soviet Union, and the Soviet Army is no longer in Afghanistan.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment, a bill of the House of the following title:

H.R. 3319. An act for the relief of Susan A. Sampeck.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2700. An act making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2700) "An act making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Johnston, Mr. Stennis, Mr. Hollings, Mr. Burdick, Mr. Sasser, Mr. DeConcini, Mr. Hatfield, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Domenici, and Mr. Specter, to be the conferees on the part of the Senate.

The message also announced that Mr. Inouye, Mr. Melcher, Mr. DeConcini, Mr. Burdick, Mr. Daschle, Mr. Evans, Mr. Murkowski, and Mr. McCain be appointed conferees, on the part of the Senate, on the bill (H.R. 5), "An act to improve elementary and secondary education, and for other purposes," for the consideration of title XI.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 293 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3100.

□ 1528

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, with Mr. AuCoin in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, December 9, 1987, title VIII was open for amendment at any point.

Subject to clause 6 of rule XXIII, 36 minutes were remaining on debate on all amendments printed in the Congressional Record on or before November 10, 1987.

Are there further amendments to title VIII?

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. Fascell] is recognized for 5 minutes.

There was no objection.

Mr. FASCELL. Mr. Chairman, I am sorry, but I was engaged in conversation. Did I understand the Chair to state that 36 minutes are left under the rule?

The CHAIRMAN. The Chair will state that 36 minutes remain under the rule.

Mr. FASCELL. I thank the Chair. That means, then, that after that we will move, pursuant to the rule, to consider those amendments that are printed in the Record and which may be offered, with 10 minutes of debate; am I correct in that?

The CHAIRMAN. The Chair will state to the gentleman that that is correct.

Mr. FASCELL. Mr. Chairman, we are now on title VIII, and we are proceeding as rapidly and as hard as we can to work out satisfactory understandings with respect to amendments that are printed in the Record. If we can do that, we have an outside chance that we might get finished with this bill today, although there are still several other titles in the bill.

I just want to ask my colleagues to bear with us. We are doing the best we can under the most unusual circumstances, I think, that anybody has ever faced in bringing a bill to the floor of the House. But that is not our fault, and it is not the fault of the leadership. It is just that sometimes, unfortunately, the way we operate around here, or the way we have to operate.

So Members may be seeing too much of us or seeing more of us than they would like, but we are doing our best.

As far as the funding levels on this bill are concerned, I want to remind Members that this bill is significantly below the 1987 authorization and the appropriation level, as well as below the President's request. I want to repeat that. This bill is $1.133 billion below the President's request for fiscal year 1988. It is $574 million below the fiscal year 1987 freeze level, and it is nearly $2 billion below the 1987 authorization levels.

Therefore, this bill—if we continue in the fashion that we have, and I believe we will—is totally consistent with the cap that was placed on the fiscal year 1988 foreign affairs spending by the budget agreement in the so-called summit between the President and the Congress.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am glad to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

I just want to ask this question of the gentleman: It is my understanding from a review of the budget resolution that it is fair and accurate to state that no function of Government has been cut more than the 150 function on foreign assistance and foreign relations, with the exception of the elimination of general revenue sharing, since the passage of Gramm-Rudman; is that correct?

Mr. FASCELL. The gentleman is absolutely correct. We have provided more out of this account for other programs of Government than from any other account.

Even with these budget restraints, Mr. Chairman, that I just mentioned, this is below the President's request, it is below the 1987 authorization, it is below the appropriation level, and it is below freeze levels. In spite of all that, we have managed a readjustment, and this has been worked out in a bipartisan fashion.

I also want to note that we have provided $400 million in additional funding for base rights countries.

□ 1150

We have provided funding in a fashion for Africa so that it does not squeeze other countries in the same account.

We have also managed to increase funding for child survival and the Peace Corps Program.

We have fully funded the President's request for antiterrorism and antinarcotics efforts.

We have fully funded the Camp David peace process and other arrangements which I am sure my colleagues of both parties will find very satisfactory.

We have done the best we know how to meeting the budget constraints that this country faces and still maintain the absolutely vital and essential elements of our foreign aid program to provide for the security interests of this country, our economic interests, and humanitarian concerns.

Therefore, Mr. Chairman, I hope that my colleagues will continue in the spirit we have up until today to go through the rest of this bill and that they will then be in a position to support it.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

Mr. LELAND. Mr. Chairman, I reserve a point of order on the Burton amendment.

The CHAIRMAN. The gentleman from Texas [Mr. LELAND] reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 201, after line 8, insert the following:

SEC. 830. PROHIBITION ON ASSISTANCE TO THE AFRICAN NATIONAL CONGRESS.

(a) PROHIBITION.—None of the funds authorized to be appropriated by this or any other Act may be used to support, directly or indirectly, activities of the African National Congress.

(b) WAIVER.—Subsection (a) may be waived by the President if he certifies to the Congress that—

(1) the National Executive Committee of the African National Congress has taken a stand publicly and officially opposing the practice of "necklacing", the practice of execution by fire, used against South African blacks;

(2) members of the South African Communist Party no longer hold key positions on the National Executive Committee of the African National Congress; and

(3) the African National Congress no longer receives its primary financial, military, and training support from the Soviet Union or other Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, this is a straightforward amendment. It is essentially the same as an amendment that was passed by this House by a vote of 365 to 49 after it was accepted by the chairman of the Africa Subcommittee last year.

Since it was an amendment to H.R. 4868, the Anti-Apartheid Act, rather than the Dellums substitute which ultimately passed this House, it is not on the books now. It is, however, still necessary because the administration has requested $25 million for disadvantaged South Africans in fiscal year 1988.

The Anti-Apartheid Act carefully stipulates that none of the money in this program be used or directed by the South African Government.

This amendment stipulates with equal care that none of the money in this bill go to the African National Congress, as long as it has South African Communist Party members holding key positions on its executive committee, and so long as it will not officially denounce the act of "necklacing," and receives its primary financial and military support from the Soviet bloc.

Now, Mr. Chairman, we have adequate evidence that the African National Congress Executive Committee is controlled by the South African Communist Party and its members, and we have a number of quotes to back that up.

In February 1986, Winnie Mandela, a board member, said:

> The Soviet Union is a torchbearer for all our hopes and aspirations. In Soviet Russia genuine power of the people has been transformed from dreams into reality.

Alfred Nzo, in the Kommunist in 1986 on page 79 said:

> The CPSU (Communist Party of the Soviet Union) is the bulwark of peace on earth.

On April 13, 1986, Winnie Mandela said:

> With our necklaces—

That is putting a tire around people's necks filled with gasoline and burning them to death—

> With our necklaces, we shall liberate this country.

Again, Johnny Makatini, on October 9, 1986, said:

> If there were 4 million of us (black South Africans) left (out of 17 million) after the revolution, that would be better than the present situation.

Winnie Mandela said in TASS, the Soviet organ, on February 18, 1986:

> I have waited four long years to personally send my militant salute to the land of the Soviets and thank it for its fraternal support.

Mr. Speaker, nothing in this amendment should imply that we are deliberately aiding or that aid has been requested for the ANC, just as the stipulations in the Anti-Apartheid Act do not imply that we are aiding the South African Government.

I truly hope that the ANC will turn to the peaceful non-Communist organization that it was through much of its long and distinguished history. Unfortunately, the ANC is not the same organization that it was when it was founded on January 8, 1912.

As Dr. Michael Radu writes in the July-August issue of problems of Communism:

> (The ANC) has changed from a semi-nationalist organization dedicated to the pursuit of civil and political rights for South Africa's blacks, to a "vanguard" type organization with strong Marxist/Leninist elements . . . operating on Leninist principles . . . and pursuing goals that are congruent with Soviet Union foreign policy objectives.

Mr. Speaker, this is a straightforward and commonsense amendment. It was accepted by the chairman on the House floor and passed the House overwhelmingly with the support of the majority of this committee. I ask for its adoption.

POINT OF ORDER

Mr. LELAND. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LELAND. The point of order has to do with germaneness, Mr. Chairman. The gentleman's amendment goes a lot farther beyond the purview of the responsibility of the Foreign Affairs Committee, and thus also the parameters of the bill itself that we are debating here. It reaches the interest of other agencies that are not within the jurisdiction of the consideration of this legislation at this time, and therefore it is nongermane to the arguments that we pursue here today.

Also Mr. Chairman, the amendment that the gentleman has offered goes a lot farther than any other amendment that has been offered here today. It is much broader, the scope of which is too far reaching to be relevant to the discussions we have here today under the foreign aid bill.

The CHAIRMAN. Does the gentleman from Indiana wish to be heard on the point of order?

Mr. BURTON of Indiana. Yes, Mr. Chairman, I do.

I believe this is germane, because it directly impacts upon $25 million for disadvantaged South Africans which are in this bill, and when you are talking about the allocation of spending of $25 million, it is germane on how it is spent. I think the people of the United States, the taxpayers, have a right to know that the money that they are spending, their taxpayers' dollars, are being spent by this bill or authorized by this bill as being spent for a purpose with which they agree, and to support a Communist organization that is involved in terrorist activities is not what the American taxpayers want to see their money used for, so $25 million is involved in this particular amendment and I think it is germane and I ask for a favorable ruling from the Chair.

The CHAIRMAN. Does the gentleman from Texas wish to be heard further on the point of order?

Mr. LELAND. Just to make the point, Mr. Chairman, that the gentleman is correct, I am sure, in his statement, but he also forgets or did not state that this amendment also reaches out beyond what is being debated here today and covers other issues that would be covered under the purview of other legislative responsibilities, as well as other committee actions.

The CHAIRMAN. Does the gentleman from Indiana wish to be heard further?

Mr. BURTON of Indiana. Yes, Mr. Chairman. One other comment.

This amendment was germane. It is almost exactly—in fact, it is exactly the same amendment that I mentioned before. This very amendment was passed by this body last year 365 to 49. There was no issue of germaneness at that time. I fail to see any reason for it to be raised today.

The CHAIRMAN (Mr. AuCoin). The Chair is prepared to rule.

The Chair would state that according to the Procedures of the House, and quoting from section 8, chapter 28, the following:

> * * * a bill authorizing appropriations for a particular program for 10 fiscal years, an amendment restricting authorizations under any act of Congress for any fiscal year contingent upon implementation of a plan to reduce spending under the bill was held not germane as not confined to the bill under consideration.

The Chair would note in reading that amendment of the gentleman from Indiana that the gentleman provides a prohibition on funds appropriated by this or any other act, and the Chair can find in no other instance in title VIII as amended where there is any similar prohibition.

For that reason, the Chair would rule that the gentleman's amendment goes beyond the scope of title VIII and is not germane. Therefore, the point of order is sustained.

Are there further amendments to title VIII?

Mr. SCHEUER. Mr. Chairman, I move to strike the last word. I had prepared an amendment that would establish a famine early warning signal, but because AID is contemplating installing and instituting such a program, I am not going to introduce my amendment.

Mr. Chairman, in the 99th Congress, the Science, Space, and Technology Subcommittee on Natural Resources, Agriculture Research and Environment, which I chair, held 5 days of hearings on the famine in sub-Saharan Africa.

Noted scientists told our panel that the drought which triggered the last terrible famine would surely come again. Unfortunately, recent reports indicate that their prophecy is coming true. But those experts also told us that the inevitable drought need not be accompanied by famine and human devastation.

With adequate advance warning, donor countries and aid agencies could mobilize and send emergency food supplies to targeted areas well in advance of famine. The experts told us that we have the technology to do precisely that.

By coordinating and integrating satellite-based observations with ground observations of health and demograhpic factors, we can identify with remarkable precision the areas vulnerable to famine.

Spurred by the last African famine, AID and the National Oceanic and Atmospheric Administration developed a pilot project, the famine early warning systems [FEWS].

From all accounts, the FEWS program has already demonstrated the potential of an effective drought monitoring program. In 1986, for example, FEWS helped avert disaster in Mali by providing an accurate estimate of the total food needed to avoid starvation.

The new drought in Ethopia was likewise detected early by the FEWS system, enabling aid agencies to rush food supplies to the area in advance of widespread famine.

Unfortunately, as well known, those food supplies were destroyed by rebel troops in Ethopia. Drought monitoring is cost-effective.

Indeed, if the advance warning given by FEWS helps us avoid the need for even just one emergency food airlift, it would pay for itself.

At our hearings, several witnesses expressed concern about the future of the FEWS program. Many expressed concern that as the headlines of famine faded, the FEWS program would quietly succumb to budgetary pressures.

To be effective, of course, a monitoring program must be in place before a drought and famine occurs. Such programs must be supported at stable funding levels over a long period to be effective.

The amendment I have written would ensure that AID continues to support the FEWS program as a long-term program.

Mr. Chairman, in the last week, I have received assurances from AID that the FEWS program will continue to be fully supported in the Africa Bureau.

In fact, I understand that the program is being improved and implemented for at least a 5-year period. I have also been assured that the distinguished chairman of the Africa Subcommittee, Mr. Wolpe, shares my views about the importance of the FEWS program and will continue to ensure adequate support of this program at AID.

Mr. Chairman, in light of these assurances, it appears that my amendment is unnecessary and I will therefore withdraw my amendment.

The amendment reads:

Page 201, after line 8, insert the following:

SEC. 830. AFRICA DROUGHT MONITORING PROGRAM.

The President shall establish an interagency drought monitoring program which integrates satellite, meteorological, agricultural, health, and demographic information with respect to Africa in order to assess drought impacts, provide quantitative assessments of food production and food aid needs, and minimize food supply problems caused by drought in Africa. Not later than September 30 of each year, the President shall submit to Congress a report evaluating this program's success in monitoring and predicting severe regional drought and food problems in Africa.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 166, strike out lines 7 through 15; line 16, strike out "(n)" and insert in lieu thereof "(m)"; page 167, line 21, strike out "(o)" and insert in lieu thereof "(n)"; and page 168, line 3, strike out "(p)" and insert in lieu thereof "(o)".

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, the committee bill establishes a new fund for Africa. One of the provisions in this new fund that especially concerns me is that the "buy America" requirement in the overall Foreign Assistance Act has been waived, and all of you on that side of the aisle, as well as this side of the aisle, should pay particular attention to this. It waives the Buy America Act.

Now, section 604(a) of the Foreign Assistance Act of 1961 requires as a general rule that funds made available for foreign assistance may be used for the procurement of goods and services outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States of America.

Now, specifically, the law encourages the use of American companies in providing goods and services that are furnished as part of foreign aid. That is existing law today.

The law provides a waiver for the President to use if he determines that a waiver would not disadvantage the United States and only—repeat, only—

if the price is lower than the market price prevailing in the United States.

The effect of the provision in this bill is permit, indeed specify, that no such consideration shall apply with regard to this new Africa fund.

I am not questioning the $450 million here. I am questioning the "buy America" clause.

The bill establishes 450 million dollars' worth of new spending without any requirement that preference be given to U.S. companies, U.S. business, and without the requirement that prices be lower than those for U.S. goods and services. That just does not make any sense.

Mr. Chairman, at a time when the Congress is vitally concerned with the trade deficit, I hardly think this is the occasion to take away as much as $400 million, a half billion dollars, in money spent at home and divert it to spending in other countries.

I will point out, too, in this connection that the committee bill does not require the money to even be spent in Africa. It could be spent anywhere else. That ought to concern some of you on that side of the aisle, too.

So I would just conclude by saying to my good friends in the House, and particularly to my good chairman of the Subcommittee on Africa, particularly those on the other side of the aisle, that if you like the Torricelli amendment on cargo preference that you all voted for not too long ago, and I supported you, you will love the Solomon amendment on "buy America."

I would urge your support for it.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

□ 1205

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. Mr. Chairman, I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, it was my intention to speak on the question of SWAPO but in the interest of time I would like to defer back to the gentleman from Michigan [Mr. WOLPE], the chairman of the Subcommittee on Africa.

Mr. Chairman, I had planned to introduce an amendment which proposed to remove SWAPO, the South West Africa People's Organization, from a list of organizations of which a proportionate share of United States funding to the U.N. would be withheld if the U.N. project would benefit SWAPO.

At this point, my decision not to offer the amendment, is based on my belief that the Members of this body have not had the chance to learn about ther everyday reality of South Africa's illegal occupation of Namibia, and the struggle of its people to attain their freedom.

Let us consider the facts. Namibia was invaded by South Africa in 1915, and from that day on, the hateful regime of apartheid has imposed itself on the population. Blacks and whites live in separate and unequal societies. Blacks have almost no rights in their own country. They live in the poorest of conditions while the white minority occupies the land which legitimately belongs to the black majority. Such stark inequities confirm the very existence of such a discriminatory system. Figures show that, of the 1,600,000 citizens, 95 percent are black Africans. The remaining 5 percent, and an estimated 100,000 South African troops, constitute the white minority. Within the black majority, the annual per capita income is a mere $150, as compared to whites who average an annual $3,750.

As in any situation where oppression prevails, eventually people rise against their oppressor. The South West Africa Peoples Organization [SWAPO], after the failure of passive resistance to accomplish the liberation of its people, resorted to waging a war of independence against South Africa, for over 20 years now. This war of independence came in response to the intensified oppression of its members and people, by the South African facade of a government. SWAPO's approach and intent, are very similar to what our forefathers had to confront in America, over 200 years ago, to liberate themselves from the yoke of British colonialism.

South Africa, frustrated by its inability to break the will of the Namibian people, has killed many civilians supporting SWAPO while torturing and imprisoning many others. To justify such barbaric acts, South Africa claims it is combating communism through its allegations that SWAPO is a "Marxist backed terrorist" organization. Yet, the real reason lies with South Africa's economic and strategic interests in Namibia.

To South Africa, Namibia serves as a convenient vantage point from which to attack neighboring countries supporting antiapartheid activities. Also, a fear exists that if Namibia were to liberate itself from South Africa's occupation, it could easily serve as a haven to those victims of apartheid seeking refuge from South Africa. South Africa also fears that if Namibia gains independence, it would require the removal of all South African companies and the eventual cessation of mining for precious resources, and subsequently a loss of profit would be incurred by South Africa.

Obviously, these are very concrete and profitable reasons for South Africa to continue its tyranny over Namibia. Therefore, allowing South Africa to continue its illegal occupation of Namibia sets us in collusion with apartheid, and it is counter to the spirit of the Anti-Apartheid Act of 1986, and contributes to the obstruction of freedom and democracy in Namibia.

Mr. Chairman, I would like to insert into the RECORD the following statements by church groups giving us the facts about Namibia and a record, though by no means all inclusive, of atrocities which take place on a daily basis in Namibia.

DATELINE: NAMIBIA

WHAT IS NAMIBIA?

Namibia is a land in the southern part of Africa along the western coast. Although the country is very large—about the size of California, Oregon and Washington State combined—its people number less than 2 million. This is because much of Namibia is desert and cannot support a large population. Still, the land is blessed with vast riches. Along Namibia's shores is the largest diamond mine in the world. Inland are great deposits of valuable minerals, such as uranium and copper. Many tons of fish are taken each year from Namibia's coastal waters, and Namibian farmers raise cattle and Karakul sheep, prized for their soft and beautiful wool. Yet despite the bounty of the land, Namibia's people are among the poorest in the world.

WHO LIVES THERE?

Most Namibians are black. Before the coming of Europeans in the 1800s, many Namibians made their living from the land. In the fertile north, where most people still live, the main occupation was farming. Farther south, where there is less, water, many Namibians raised cattle for meat and milk. Other lives as fishers and hunters.

Namibians developed their own rich and distinctive lifestyle and culture—music, art, dance, moral and spiritual values and beliefs—along with forms of government suited to their lives and needs. At the heart of Namibian life was the family. Many people lived in great homesteads called kraals. Sometimes kraals grew to include dozens of people, because in Namibia, even distant cousins, aunts and uncles were always welcome.

ARE THERE LUTHERANS IN NAMIBIA?

It was with such traditional hospitality that Namibians greeted the first European visitors to their country, welcoming and sometimes conducting a brisk business with these strangers, swapping cattle, produce and locally made goods for European-made tools, firearms and other products. Lutheran missionaries were among the first white people to live permanently in Namibia, bringing with them not only their Christian faith, but also schools, health care and modern technology. Many Namibians were favorably impressed with the missionaries and their teachings, and by the opportunities for education and employment that they offered, and decided to become Christians themselves. Today, 70 percent of all Namibians are Christians, some 600,000 of them Lutherans. Part of the Lutheran Church in America's special concern for Namibia comes from our shared faith and from contacts between North American and Namibian Lutherans over many years.

But many of the changes that whites brought to Namibia were not for the better. For the whites came not only to live and work in Namibia, but also to rule. Today, Namibians are not able to choose their government, vote for the political party of their choice or freely speak their minds. Instead, for the past 100 years Namibians have been ruled by foreign invaders, first from Germany and later from white-ruled South Africa. Foreign rule began in the 1880s, when German soldiers arrived to make Namibia part of the German empire. Under this colonial rule the Namibian people were driven off their ancestral lands and forced to work as virtual slaves for the Germans. The Namibians fought bravely to defend their land and liberty, but could not match the powerful machine guns and cannons of the colonizers. In 1906 the Germans nearly exterminated the entire Herero people of central Namibia in a bloody campaign to crush resistance to colonial rule. (Much the same fate was suffered by the indigenous peoples of our own lands, Native Americans and Native Canadians, at the hands of the invading Europeans.)

In 1915, South African soldiers invaded Namibia and threw out the German colonizers. A few years later, the United States and other Western nations agreed to let South Africa rule Namibia after its government promised to promote "to the utmost the material well-being and the social progress of the inhabitants." South Africa further pledged to prepare Namibians to become a truly free and independent country, a pledge known as a "sacred trust of civilization." But it was to be a promise broken, a trust betrayed. Instead of freedom, the Namibians and the Western countries soon discovered that they had only exchanged one oppressor for another.

WHAT IS APARTHEID ANYWAY?

For with South African rule came South Africa's system of legalized racial discrimination, a system now known as the doctrine of apartheid. (In the Afrikaans language, apartheid—pronounced "apart-hate"—means "separateness" or "apart-ness.") Under apartheid laws, blacks and whites must always live apart in separate and unequal societies. Only whites may vote and exercise political rights. In Namibia, the new rulers declared that whites alone would own the fertile land and minerals of Namibia. Thousands of black Namibians were driven from their homes in the newly declared "white" areas by the army and police, and forced to live far from jobs, school, churchs and store in blacks-only ghettos and rural reserves.

Under South Africa's race laws everything in Namibian life became segregated—housing, health care, jobs, even church services. It became illegal, for instance, for Namibians working in the mines and factories to move permanently to the white areas, forcing thousands of Namibian husbands and fathers to abandon their families in the countryside and travel far away to work—living in overcrowed, men-only barracks that became breeding grounds for alcoholism, violence and despair. Namibian workers were prevented from joining labor unions and were not allowed to bargain for decent wages and working conditions. As a result, wage for blacks were far lower than those paid whites, and poverty, malnutrition and suffering became their fate.

ARE SCHOOLS SEGREGATED TOO?

A special, inferior kind of education was developed for black students—an education designed to teach only obedience and servitude toward the white masters. Under this system nearly eight times as much money is spent on each white student as is spent on blacks. The shortage of classrooms, books and teachers in black schools is so serious that today only one black student in five is able to attend school at all. Such is the injustice of South African rule in Namibia.

SWAPO? WHAT'S THAT?

In 1959, some Namibians decided to seek the end of South African rule. They formed a group that soon became known as SWAPO, the South West Africa Peoples Organization, to bring Namibians together to work peacefully for freedom. But South Africa responded to Namibian pleas for liberation with greater repression—arresting political leaders, disrupting peaceful marches and meetings, and giving the police vast powers to harass and intimidate even peaceful advocates for justice.

For all of these reasons, the United Nations revoked South Africa's right to rule Namibia in 1966. A few years later, the World Court ruled that South African occupation of Namibia was illegal and ordered them to leave. South Africa refused. It was the refusal of South Africa to obey international law that finally forced SWAPO to take up arms to win their independence, just as England's thirteen American colonies did in 1776. And, despite the power of the South African army, SWAPO's war continues to this day, nearly 20 years later.

The South African army, unable to defeat SWAPO on the battlefield, has turned its anger and frustration on the Namibian people. Many Namibian civilians have been killed by South African forces for supporting SWAPO. Some have been tortured, others have been arrested and held in secret prisons without ever coming to court or being charged with breaking the laws. The South African soldiers just take them away, sometimes for years.

WHAT DO CHRISTIANS SAY?

In the face of such injustice and suffering, it has fallen to Namibia's Christian churches to bear witness to the brutalities of South African rule and to act as a national voice for reconciliation, justice and independence. Working together as the council of Churches in Namibia, the country's main Christian churches—Lutheran, Catholic, Anglican, and Methodist—have called for an end to the war, for South African withdrawal from Namibia, for an end to all discriminatory laws and practices, and for free and fair elections under international supervision.

As a result of these actions, the Namibian churches have suffered great persecution at the hands of the South African authorities. Church leaders have been arrested and deported. Church services have been disrupted by South African soldiers, and pastors prevented from performing their pastoral duties. The Lutheran printing press has been "mysteriously" blown up twice, and church workers terrorized and even killed by South African soldiers.

In response to the appeals of the Namibian churches for prayers and actions in support of peace and freedom in Namibia, almost every nation and church denomination in the world has condemned South Africa's continuing hold on Namibia and its gross violations of the Namibian people's human and civil rights. There have been many efforts at the Untied Nations to punish South Africa with trade sanctions for its failure to obey international law.

WHY SHOULD WE CARE?

Why should Christians in North America be concerned about events in faraway Namibia? Isn't it one-sided, even hypocritical, to worry so much about Namibia when human rights are being violated in other countries throughout Africa, Latin America, and Asia—and right here at home, often in our own communities?

As Christians we are called to stand with the needy and persecuted without fear or favor, and to seek in word and deed an end to suffering and injustice for all of God's people. But North American Christians can find two clear reasons for a particular concern about Namibia.

The first is the tragedy of racial discrimination—a condition shared by Namibians and North Americans. As residents of the United States and Canada we have contributed to and suffered from the terrible burden of racism—the destruction of human lives, the violence, the indulgence of racial pride and hatred. We know, for example, that the legacy of legalized racism—thirty years after its abolition in the United States—continues to haunt that land, twisting the lives of its young, raising barriers among God's people, and challenging our most cherished ideals of liberty and justice for all.

Today, South Africa is the only nation in the world in which racism is the law of the land—a nation that enshrines racial injustice in its very constitution. South Africa has imposed this doctrine of white supremacy on the Namibian people and on its own black majority. This makes South Africa's a special challenge for North Americans who themselves have endured the agonies of racism, and who continue to seek an equality of opportunity and justice that knows no color or creed.

The second reason for Christians' special concern about Namibia is that the injustices inflicted on Namibian Christians are done in the name of Jesus Christ. South Africa's white rulers claims to be devout Christians. They say that the South African system of apartheid is based on Scripture. South Africa's Dutch Reformed Church, the main denomination of the ruling whites, was at the heart of apartheid's creation; maintains that separation of the races is the will of God; and refuses to recognize that the resulting poverty, oppression, and denial of black people's human rights is a travesty of what Christians believe to be God's will for all people.

Christians around the world reject the system of apartheid as contrary to God's teachings. The Lutheran World Federation, for example, has called apartheid a hersey. In 1977, LWF declared opposition to apartheid to be a matter of status confession is for all Lutherans; in 1984, it suspended the white South African and Namibian Lutheran churches from LWF membership for their continued practice of that evil doctrine. The same strong measures were taken against the South African and Namibian Dutch Reformed churches by the World Alliance of Reformed Churches in 1982, after that body had also declared apartheid a heresy.

As Christians we accept responsibility for opposing injustice wherever it may occur. But where persons claim biblical justification for their crimes, many of us find a special obligation to speak out. This is why many Christians in North America feel particularly involved in the struggle for justice in southern Africa.

WHY WON'T SOUTH AFRICA LEAVE?

Why, then, does South Africa, whose government considers itself a Christian government, refuse to abide by law and morality and remain in possession of Namibia? Why does it spend over a billion dollars annually and risk having its vital trading links cut to rule an impoverished and peaceful people against their will? These are important questions, and the answers that South Africa gives—that their soldiers are fighting Soviet communism and preventing a takeover of Namibia by the Cuban-backed "terrorists" of SWAPO—are not convincing.

South Africa's white rulers have other reasons for wanting to stay in control of their Namibian colony. One reason is military. From Namibia, South African soldiers regularly attack other countries whose leaders support the South African and Namibian people in their struggle for justice. Another reason is geographic. Namibia can act as a "buffer" between South Africa and its independent neighbors, making it more difficult for the victims and opponents of the South African government to find sanctuary near South Africa's borders. Still another reason is economic. South Africa fears that its companies may be prevented from continuing their profitable mining of Namibian uranium, diamonds and minerals after independence.

At times South Africa has tried to disguise its rule over Namibia by appointing its allies to political positions. In 1978, for example, a white Namibian rancher was appointed by the South African government to head a so-called Namibian government. It was rejected as a farce by the overwhelming majority of black Namibians and by nations around the world, and it soon collapsed. In 1985, South Africa tried once again to impose an undemocratic pro-apartheid government, the so-called Multi-Party Conference (MPC). When Namibians gathered to demonstrate peacefully in opposition to this maneuver, South African soldiers attacked with whips and clubs, injuring many of the protesters. As before, no other nation has accepted the MPC as the real government of Namibia, and the United States has declared South Africa's move "null and void."

Perhaps a greater reason for South Africa's refusal to heed Namibian pleas for independence is fear—fear that South Africa's own oppressed black majority will be encouraged in their own liberation struggle by Namibian freedom. South Africa's unjust white rulers fear that independence for Namibia will demonstrate to black South Africans that with courage and determination the South African army and police force can be defeated and freedom won. In a land where fewer than five million whites have absolute power over 22 million blacks, such an example could threaten white rule.

No, South Africa stays in Namibia not to fight communism, but to preserve its evil, whites-only political system at home.

BUT WON'T THE COMMUNISTS TAKE OVER?

SWAPO is not a political party with a fixed ideology, but a national liberation movement. That is, SWAPO membership is open to Namibians of all political and religious persuasions who oppose South Africa's colonial rule and are prepared to work for the establishment of democratic rights for all.

There are both communists and capitalists in SWAPO, as well as those with no allegiance to either ideology. SWAPO counts among its members Lutherans, Catholics, Anglicans and Methodists, black people and white people, men and women, the very young and the very old. Two hundred years ago another liberation movement, led by a man named George Washington, fought a war to end British colonial rule in America. Like SWAPO, the American revolutionary movement brought together all manner of patriotic Americans, including those with conflicting political and religious beliefs, to struggle for liberty.

It is true that SWAPO receives arms from the Soviet Union, but it is unfair to say that this makes SWAPO a tool of communism. As Namibia's church leaders point out, SWAPO turned to the East for help in its freedom struggle only after the Western democratic nations refused their support.

Today, support for Namibians in their struggle comes from every part of the globe. The Lutheran World Federation, for example, provides humanitarian assistance—food, clothing, schoolbooks and medicines—to Namibian refugees who have fled their homes to escape the terror of South African rule. There are large Christian congregations and regular worship services in SWAPO's refugee camps, and Lutherans in SWAPO's guerrilla army.

Namibia's Christian churches, like our own, support no political parties or ideologies, but they defend SWAPO against accusations of communism because SWAPO has made only one political demand of the South African government—that it allow Namibians to determine their own political destiny through fair, free, and internationally supervised elections.

WHAT IS THE UNITED STATES DOING?

What has our government done to help the Namibian people achieve their liberty? This is a question many Namibians are asking, because in 1978 the United States, Canada and three other Western countries promised to use their great influence with South Africa to achieve Namibia's independence under a plan for elections called United Nations Security Council Resolution 435.

Sadly, it has been a promise unkept. Instead of freedom, in the years since 1978 the repression and killing of Namibians by the South African army have only grown worse, and freedom is nowhere in sight. The reason for this is not that our nation is powerless to change South African policy, but that it has chosen not to use that power. This is because the United States has put other concerns—including its $15 billion financial investment in South Africa, and global competition with the Soviet Union—ahead of Namibia's independence.

In 1981, for instance, America demanded that freedom for Namibia be linked to the removal of Cuban troops stationed in neighboring Angola—even though the Cubans are there at the invitation of the Angolan government and even though the Cuban soldiers are helping to defend Angola from South African attacks.

Namibians say this is unfair. Why, they ask, should their independence depend on what happens in some other country? Why should Namibians suffer and die because the United States and Angola disagree about an issue that is unrelated to Namibia and over which Namibians have no control?

Instead of pressing South Africa to leave Namibia, the United States, through this linkage, has given South Africa an excuse to stay.

ARE WE BEING FAIR?

Look at the difference between America's treatment of South Africa and Poland. When the Polish government outlawed the Solidarity trade union, America imposed strong economic sanctions on that courtry—cutting off trade, bank loans and sales of machinery, and calling on our allies to do the same.

But against South Africa, whose government has committed much worse crimes against black people in Namibia and within South Africa itself, the United States has done almost nothing. Until very recently, the United States government refused to put any economic pressures for change on South Africa. President Reagan finally agreed to put some weak restrictions on trade with South Africa but only after Congress threatened to impose stiffer penalties. Indeed, under the current administration, some earlier trade limits were dropped, and South Africa was allowed to increase the number of its diplomats here and even send its military personnel to the United States for training. At the United Nations, the United States continues to use its veto powers to prevent the world body from imposing strong economic sanctions against apartheid, ensuring that South Africa goes unpunished for its crimes and is under no real international pressure to change its racist policies.

This situation has left Namibian church leaders angry and confused. How can the United States, the leader of the free world and champion of democracy, they ask, defend South Africa in its occupation of Namibia? Why does the United States have one standard for human rights in Poland and another for human rights in Namibia? Could it be because the victims of Polish oppression are white, while South Africa's victims are black? And if the United States is so concerned about communism, they ask, why do they force the Namibian people to turn to the East for help in the struggle to liberate their country?

WHAT CAN I DO?

As individuals and as church and community groups, there is much that we can do to express our concern for Namibia and our solidarity with the Namibian people. The first is to learn more about Namibia and South Africa, and about apartheid. There are excellent films, books, magazines and newsletters available, many of which can be obtained for no charge through the church. These can help you to become an effective and well-informed advocate for Namibian freedom in your community.

PRAY FOR NAMIBIANS

Again and again, Namibians say, "Please. Pray for us. Remember us in your prayers." How often does anyone in your congregation offer a petition for Namibia? It is one important thing you can do.

WORK WITH AND FOR NAMIBIANS

Many thousands of Namibians have fled the terror and oppression of South African rule for a life of hardship and exile in neighboring countries. Conditions for Namibian refugees are extremely difficult. They have asked their sisters and brothers in North America and Europe for food, clothing, school books, medicines, tools and building materials. As a way of informing yourself and others, and as a way of gathering contributions, you might sponsor a Namibia evening in your church or community with a speaker or film and a discussion period. There are many Namibian students studying in North America—some at Lutheran colleges. They are eager to meet young Americans and to share their lives and experiences under colonial occupation. Your study group or congregation might sponsor a visit by a Namibian student to learn first hand about the injustices of life in Namibia.

BECOME AN ADVOCATE

In Namibia and South Africa it is against the law for black people to advocate and work for their freedom. Many books, magazines, and films about the plight of black South Africans and Namibians—even church publications—are banned in those countries. The white authorities hope that in this way, Americans will never hear black people's cries for freedom. But by becoming an advocate for justice in your community, you can make sure that the voices of the Namibian and South African people will be heard. Let the President and your representatives in Congress or Parliament know of your concern for Namibia. In May 1985, Colorado Congresswoman Patricia Schroeder introduced a bill in the U.S. House of Representatives, H.R. 2589, that would end the mining of Namibia's natural resources by U.S. companies until the day of independence. Find out how your representatives plans to vote on this bill, and whether or not he/she supports effective pressures on South Africa to leave Namibia.

Press your state and local government officials to support Namibian and South African freedom. Are your state and municipal pension funds and tax monies being used to support South Africa? Are local businesses selling South African and Namibian products? Does your bank make loans to South Africa? If the answer to any of these questions is yes, then you can join with others to end these ties to injustice. Working together, we can make a difference in the struggle to free Namibia!

WHAT ARE LUTHERANS DOING?

Lutherans in the United States are working closely with government officials and with their Namibian brothers and sisters to find answers to these troubling questions. In Washington, Lutheran advocates have focused the attention of Congress and the State Department on the plight of the Namibian people under South African rule, and have called on our government to take effective steps to bring Namibia to independence under the international blueprints for free elections contained in United Nations Security Council Resolution 435.

Within the church, the LCA and the ALC, together with Lutheran World Ministries and other concerned church groups, have created educational and advocacy resources for use by synods and congregations. The LCA has endorsed the principle of economic pressure on South Africa as one way to help achieve Namibian independence, including the sale of stocks in U.S. businesses operating in South Africa. In 1982, the LCA's biennial convention declared such a divestment strategy to be "an option effective in publicly expressing solidarity with the people opposed to apartheid in Namibia and South Africa." The church has sold some of its stock in these companies and has tried to persuade other companies to end their presence there, as, in the view of many, U.S. and foreign companies strengthen South Africa in its control of Namibia and in its unjust policies at home.

Individually, many Lutherans are active in efforts to persuade state and municipal governments to divest, and in campaigns to provide humanitarian assistance to Namibian refugees.

Internationally, through the Lutheran World Federation, the World Council of Churches and ecumenical agencies like the Namibia Communications Centre in England, Lutherans stay in touch with their Namibian brothers and sisters, sharing in their brave witness for justice, and helping to ease the burden of persecution and oppression.

ATROCITIES IN NAMIBIA

Martha Jona and three of her sons between ages 9 to 15 are seriously wounded after five drunk soldiers reportedly opened fire on the family car (Sept. 1). The eldest son, Gabriel Jona, 19, said he was driving the car and narrowly escaped injury. The four victims were treated at Onandjokwe Hospital. (Nam)

Zambian citizen Isimwaa Walubita is released from detention in Namibia after being held for eight days by South African soldiers. The Zambian Daily Mail quoted Walubita as saying that he was beaten and tortured with electric shocks. Walubita, who had legally entered the territory, said he was released only after his captors were convinced that no knowledge of SWAPO bases in Zambia.

Reports are published concerning the detention of 160 children, mostly teenagers, held at an army camp near Grootfontein Township near the Angolan border (Sept. 4). The newspaper report cited sources who allege that the youth, all boys, were dressed in army clothes. Some of the boys were shackled with chains on their arms and feet. A SWATF spokesman denied knowledge of the alleged training camp. (Nam)

The family doctor of detained SWAPO leader Daniel Tjongarero is denied access to him after Tjongarero undergoes surgery for a kidney ailment (Sept. 8). Also denied visiting rights were family members of Tjongarero who was hospitalized a week earlier after being jailed on August 18 along with other ranking SWAPO and union leaders. (Nam, NCC)

Johannes Gottlieb files a complaint with the Ovambo Administration, a tribal governing body, that Koevoet men arrived at his home in the Oshigambo area, ostensibly searching for SWAPO insurgents (Sept. 10). He said his home was ransacked, furniture was damaged and the front fence was destroyed. Gottlieb said when the soldiers returned several days later to collect the poles from the fence, his house was set on fire. (Nam)

Maria Isak reports a similar incident, saying that her fence was downed with a large road grader (Sept. 15). In a related incident, Johannes Anakali, a ranking member of the tribal administration, says his house was searched, property stolen and an explosive device planted near the cattle path of his farm. Anakali said he has been subjected to repeated searches since 1984. He said incidents were reported to the nearby Oshivelo base, but the culprits were never brought to justice. Residents of the area meet to address the presence of South African soldiers (Sept. 18). They conclude that the unwarranted house searches for SWAPO insurgents are a pretext, and they call for the withdrawal of South African military forces from the area. (Nam)

Lawyers of Frederika Gideon, a 67-year-old northern Namibian woman confirm that they have filed a suit against the Ovambo tribal Administration (Sept. 11). Mrs. Gideon alleged that she was held over night at the Ohanguena base where she was severely beaten. She reportedly suffered three broken ribs and was treated at the Oshakati Hospital. (Nam)

Residents of the Okahao village lodge complaints of being assaulted and threatened by soldiers from Battalion 911 who they reportedly described as "on the rampage". Jafet Pelema, 27, the owner of a small tavern, said he was visited by drunken soldiers who demanded that he show identification and guns (Sept. 13). Pelema said when he replied that he had no gun, the soldiers beat him until he was nearly unconscious. Pelema said that one of the soldiers used a mortar to assault him on his stomach. (Nam)

In that same complex, the soldiers reportedly stripped themselves nude. They proceeded to bathe in pails of water belonging to residents who complained that they had laboriously collected the water and was distressed to see it wasted.

Other reports were filed by residents and prominent community leaders of the Ongandjera region including the pastor of the Lutheran Church at Okahao who showed reporters walls riddled with bullet holes. The hospital has also been hit. However, officials decided to reinforce the windows with protective grills to ensure that bullets would not hit patients. (Nam)

A series of massive explosive devices are detonated at the Roman Catholic Church at Ombalantu in northern Namibia, totally desecrating the structure and causing damage estimated in the tens of thousands of rands (Sept. 20). No one was hurt in the bombing which occurred only a few hours after the Sunday mass. SWATF blamed the bombing on SWAPO, however, church leaders and local residents firmly rejected that claim, stopping short of pointing to the nearby South African police headquarters. (Nam, NCC).

Barnabus Tjizu, a leader of the National Union of Namibian Workers files a complaint after being jailed for 12 hours without food with 14 hardened criminals in what South African authorities call a case of mistaken identity (Sept. 21). Tjizu, returning to Namibia from a trade union conference in Zimbabwe, was arrested at the airport in Johannesburg. Police said they wrongly believed Tjizu to be a SWAPO member or a member of the Coalition of South African Trade Unions. (Nam)

The South African-installed Windhoek government force, some 4,000 men living in single sex hostels in Katatura to vacate the premises in preparation of demolition of the facilities (Sept. 30). Officials issued a public statement that lumber and building materials could be taken, leading to widespread looting of personal property and clashes between township residents and the men who resided in the hostels. The evictions leave homeless most of the men who will be forced to stay in crowded dwellings in the township, which South Africa has divided along ethnic lines. Others will be forced to return to barren rural regions. (Nam)

SWAPO's Lusaka office confirms that Eliazer Tuhadeleni and his wife Pricilla have gone into exile (Sept. 27), joining the estimated 75,000 Namibians who have been forced to live outside of the country. Tuhadeleni, a veteran SWAPO member, left Namibia shortly after his release from prison. During his 18-year prison term, Tuhadeleni had been severely tortured and beaten. (Nam).

CHURCHES IN NAMIBIA APPEAL AND FIGHT FOR ONLY ONE THING: THE IMPLEMENTATION OF UNSCR 435

Statement by Bishop Kleopas Dumeni at the Lutheran World Federation Executive Meeting in Munich, July 1986. Bishop Dumeni is head of the Evangelical Lutheran Church in Namibia, the country's largest church body with 380,000 members.

Honourable Mr. Chairman, it always pleases me whenever the issue of Namibian independence is placed on the table for discussion. Quite often I am haunted by the feeling that it has been put aside and forgotten. This kind of feeling becomes a temptation that drives a Namibian to a sense of hopelessness. The situation of unending warfare in Namibia does have a tremendously bad effect upon the whole work and ministry of the Church.

Hence, I am herewith heartily expressing thanks and gratitude to all the friends of Namibia.

You have heard much in the news about events in South Africa. I want to describe to you the situation in Namibia last month.

JUNE 1986

Killings of people in cold blood, beatings, throwing people in jail, destruction of properties, torturing people with electric shocks, bomb blasts on roads and other cruel oppressive measures have made the situation during June even far more worse and dangerous than it was in May.

Here are some sentiments expressed by many grassroot Namibians in the parishes which I visited from June 15th-21st, 1986. Both pastors, lay Church workers and parishioners have expressed themselves in the following terms:

"These past two weeks we have more people killed in such a short period than ever before. Throughout our region people are being molested and beaten up by members of the South African Defense Forces (SADF). On our way to Church on Sundays, never mind whether one travels by car, bicycle or on foot, we are being stopped by the S.A. Army Soldiers for the duration of the Church services—some being beaten up and others given electric shocks reportedly as the SADF try to extract some information regarding the whereabouts of SWAPO guerrillas from the local community. Even during the night, nowadays, we are sleeping fully dressed up warmly, simply because the SADF keep on roaming in and around our dwelling houses and sleeping places armed with sticks, clubs, weapons and flash lights, forcing people to join them in the open fields. We are then being beaten up and, worst of all, if one is caught undressed, you will have to endure and suffer terrible cold for the rest of the night. Our fences as well as crops are being trampled down and destroyed by heavy armoured vehicles. When pupils go home from boarding schools to be with their parents over the week-end, cars are being stopped on the way and pupils being beaten up. We are sick and tired on account of the cruel and barbaric treatment perpetrated by the South African army forces against us. We want peace. We want national elections to be conducted as soon as possible in order that this wave of sufferings may come to an end."

Thus says the Namibian people.

SOME NAMES OF PEOPLE KILLED OR BEATEN UP DURING JUNE, 1986:

Mr. Daniel Shifula has been forcefully abducted from his home at night. An explosive device was tied against his body which totally destroyed him to pieces. A lay Church worker, Mr. Samuel Namulo of Okahao has been abducted from his home by force at night and cold-bloodedly killed in the bush. Mrs. Hilja Daniel, the young wife of Johannes Hango of Uukwandongo, Okahao, was brutally shot to death in their house in broad day light. Mr. Lisias Tobias, a teacher from Afoti was killed in broad day light on his way home back from school. Two teachers, Mr. Salomo Tomas Hasheela and Mrs. Emilia Nghuumono of Endolo, died in a bomb blast on their way to school. Mr. Tertullianus Nafine was likewise also killed. In Windhoek newspapers reported an attempt on the life of Mr. Josuah Hoebeb, chairman of our United Lutheran Synod, which did not succeed. Almost every week the South African controlled SWABC announces the death of a number of SWAPO querrillas. Now and then it is also being reported that even the SADF has lost a number of its soldiers in contact with the forces of SWAPO. Oshakati, the main town in the North, has been attacked and properties destroyed. Mr. Paulus Ekandjo and Johannes Hamutwe were severely beaten up. I am not in a position to pinpoint in each and every case who was responsible for these killings, for I don't know who has done it all. For personal security reasons I also did not mention the names of those individuals who supplied me with this information. All I do know, for sure, is that those people were indeed either killed or beaten up. I just want to emphatically make it clear here that every murder committed in this way, every act of torture and beating, as well as every other threat or bodily harm perpetrated against whoever, is being perpetrated against an individual creature of God and as such cannot be condoned by us, as a Church. It is not good news to us at all, regardless of who actually committed these acts.

We do condemn outright these acts of naked violence. As a matter of fact, these killings are continuing to this day, simply because of the South African Government's refusal to sign a ceasefire agreement between her troops and those of SWAPO. In her constant refusal, South Africa is being fully supported by the American Government and other Western governments.

SPIRITUAL LIFE IN THE CHURCH

In the midst of this violence, the spiritual life of the Church is being recognized among her parishioners both in their words and in their prayers as they gather together around the Word of God as well as in their daily living out of the word. Their good Faith in coming together for worship is commendable. They freely express their thoughts and feelings in their prayers in the following terms:

"We know, we have sinned against our God. God has likewise turned against us." Hence they cry out to God: "God have mercy upon us and forgive us our sins."

There are Namibians both in jail and in exile. Many of them are even praying for their persecutors in order for them to repent, that their sins be forgiven and they be saved. On June 16, 1986, the special day of prayer for South Africa and Namibia, they did pray for the South African rulers to recognize and obey the will of God in order to bring an end to the senseless killings of people in South Africa and Namibia as soon as possible.

PREPARATION FOR INDEPENDENCE

Despite all these troubles and hardships, we are nevertheless continuing to prepare ourselves for independence. We are fully confident that the day of independence will be coming. Hence in anticipation thereof, we ask all friends of Namibia to assist us in making ourselves ready and better prepared for that day and time.

I do herewith plead for many more Namibians both, from inside and from exile outside the country, to be granted scholarships. I would sincerely like to commend the Lutheran Churches and Colleges in the USA for their goodwill towards Namibia in deciding freely to increase the number of enrollment of Namibian students at American Colleges and Universities. I urge our friends to start up and continue with some vital development projects inside Namibia, through the churches, including leadership training and development of personnel projects and to draw up some contingent plans of rebuilding and reconstructing the country soon after independence.

As a result of the warfare situation in the region, Churches in both Namibia and South Africa have got a tremendously difficult and hard task after a just peace, namely the work of reconciliation. Reconciliation and mutual forgiveness will be badly needed in Namibia as well as in South Africa.

The South African government is infected by the evil policy of apartheid. It needs to be liberated, the sooner the better. It is the South African government which delays the independence of Namibia by way of continually raising up unrelated and irrelevant pre-conditions since 1978, with the full support of her collaborators. It is a fact that what we do today will eventually effect the future whether positively or negatively. It will be right and beneficial for the coming generations, if we start building peace today. But if the government hard-heartedly continues with its brutal repression, beatings, mass arrests of innocent people and all kinds of violent measures in an attempt to save the status quo, then these things will make life hard for the coming generations by sowing the seed of unnecessary grudges and acts of violence in the future. Hence, I do have a special appeal requesting the South African Government to seriously take that fact and truth into consideration and heed to it. There is still a chance to achieve freedom and independence and to arrive at our goal peacefully by obeying and bending to the will of the majority in Namibia; which will only become known after the holding of a fair and free general election.

Hence, once again I would like to make it crystal clear to all here that: "Churches in Namibia, which are the voice of the voiceless and represent the overwhelming majority of the Namibian people, appeal for and request only one thing, i.e. the immediate implementation of UN Security Council Resolution 435 without any more further delays." That is all what we need and request. To secure this, therefore, we do need your consistent support in this noble effort, in order that Resolution 435 of the UNSC might be implemented with a minimum of delay. That means:

Being faithful to her divine mission, the Church is ever calling out for peace, actually demanding the immediate signing of a ceasefire between the South African Defence Forces and the SWAPO guerrillas. But the Church is calling for peace with justice, peace with self-determination. The Church cannot remain silent while people are suffering unjustly.

In conclusion, I would like to repeat what I said in Brussels last month:

"I am quite convinced that the independence of Namibia will be coming. Then we will share the same rights. Peace will prevail in Namibia. Blacks and whites will live together in peace and harmony. For we hold firmly this truth that all men are created equal. In this faith let us persevere in the struggle, praying together, working together and standing together, firmly believing and hoping that Namibia will be free one day and that peace, justice equality and human rights for all will be protected and safeguarded by law, where it now is being despised and violated. I am still fully convinced that truth and justice will eventually prevail. The day of Namibian independence is surely coming. I plead with you, act now, be with us so the day of freedom will be tomorrow!"

Jesus Christ is lord and He is our Peace.

HOUSE OF BISHOPS,
GENERAL CONVENTION OF
THE EPISCOPAL CHURCH,
Little Rock, AR, November 12, 1987.

Hon. MERVYN M. DYMALLY,
U.S. House of Representatives,
Washington, DC.

DEAR MR. DYMALLY: The House of Bishops of the Episcopal Church held its 1987 interim meeting at The Pheasant Run in St. Charles, Illinois, from September 25 until October 2. During this time, resolutions concerning the Arms Race and Nuclear Deterrence, Southern Africa, Namibia, South

Africa, Central America, and Fiji were adopted, each charging me to share the information contained therein with you.

As Secretary of the House, I relay these six resolutions to you. I urge you to examine each one and respond to all of them in a positive manner. Please be assured that the thoughts and prayers of all of the Bishops of the Episcopal Church are very much with you in your most important work in managing the affairs of our country.

Faithfully,

HERBERT D. NOVAN.

THE ARMS RACE, DISARMAMENT, AND NUCLEAR DETERRENCE

Resolved, That this House of Bishops, meeting in St. Charles, Illinois, commends the President of the United States and the Chairman of the U.S.S.R. for the steps taken in recent months toward an interim treaty to reduce the numbers of our respective intermediate nuclear weapons, thereby reducing the threat of nuclear war; and be it further

Resolved, That we urge President Reagan to continue to press these negotiations forward to a satisfactory conclusion; and to continue negotiations that a significant reduction may be had in strategic nuclear weapons; and be it further

Resolved, That we express our hope that such reductions in intermediate weapons is only the first step toward the ultimate and early abandonment of a strategy based on nuclear deterrence or mutually assured destruction; and be it further

Resolved, That we call on all our people to join us in holding before the world's leaders a vision of peace which does not depend on weapons of mass destruction or violence of any kind, but rather on the Salom of God; and be it further

Resolved, That copies of this resolution be forwarded by the Secretary of this House to the President, the Secretary of State, and the Episcopal Representatives in both Houses of Congress.

Resolution adopted: 9/30/87.

SOUTHERN AFRICA

Whereas, the Executive Council at its meeting in Cleveland, Ohio, June 16–19, drew specific attention to the enormous human and material needs in Southern Africa, in affirming The Lusaka Statement; therefore be it

Resolved, That the House of Bishops

Pledges to uphold the work of the churches in the Frontline States in their prayers;

Expresses its solidarity with Bishops Sengulana and Manhique and the Church in Mozambique, the Christian Council of Angola, and the Church of the Province of Central Africa, as they minister to the victims of drought, starvation, and war;

Affirms the Executive Council action on The Lusaka Statement;

Urges businesses and corporations that have taken concrete measures to disinvest in South Africa to explore opportunities for creative investment in the Frontline States, through the Southern Africa Development Coordinating Council (SADCC);

Urges our government to provide the economic, political, and diplomatic support necessary to enable the Frontline States to decrease their dependence on South Africa; and

Directs copies of this Resolution to be sent to the President of the United States, the Secretary of State, and Episcopal Members of Congress.

Resolution adopted: 9/30/87.

RESOLUTION ON NAMIBIA

Whereas, next year, 1988, will mark the Tenth anniversary of the UN Security Council Resolution 435 calling on South Africa to withdraw its military and political occupation from Namibia, and

Whereas, the South African government has installed a so-called transitional government as a delaying tactic to avoid compliance with UN Security Council Resolution 435, and

Whereas, South Africa still perpetuates its repressive war waged by the South African Defense Forces against the people of Namibia, and

Whereas, the recent mine-workers strike at Tsumeb represents yet another sign of the frustration felt by the Namibian people over the tendency of the international community to regard their national crisis as a "foot-note" to the South African tragedy or some other crisis like the conflict in Angola, and

Whereas, the widespread destruction of church property, harassment, imprisonment, torture and killing of clergy and lay people in Namibia is perpetuated by the repressive war waged by the South African Defense Force and its surrogates;

Resolved, That the House of Bishops

Gives thanks to Almighty God for the courageous witness of the Right Reverend James Kauluma and the Church in Namibia in the struggle for human dignity, justice, and the liberation of Namibia;

Supports the proposal of the Anglican Primates and Bishops of Africa that the Lambeth Conference next year should appoint an "Imminent Persons Group" (an international mediation group) on Namibia;

Calls upon the Reagan Administration to abandon "linking" the UN Plan for the independence of Namibia to issues outside of the country which have no bearing on the inalienable right of the Namibian people to self-determination and independence;

Supports whatever initiatives the Presiding Bishop may take to assure that increased visibility and advocacy be given to the Namibian issue; and be it further

Resolved, That copies of this Resolution be sent to Bishop Kauluma, the President of the United States, the Secretary of State, and Episcopal members of Congress.

Resolution adopted: 9/30/87.

SOUTH AFRICA

Whereas, the struggle for justice in South Africa continues to demand the solidarity of this Church with Archbishop Tutu and all who struggle to dismantle the apartheid system and its injustices against black people in South Africa; and

Whereas, the Executive Council, at its meeting in Cleveland, Ohio, June 16–19, affirmed *The Lusaka Statement,* issued by a consultation in "The Churches' Search for Justice and Peace in Southern Africa," convened by the World Council of Churches; and

Whereas, countless South African children continue to be brutalized by the repressive apartheid government, the Detainees' Parents Support Committee in South Africa, estimating that over 1000 children under 18 are still in detention; and

Whereas, Archbishop Tutu has expressed particular anguish in the plight of South Africa's children, asking for support of the worldwide Church; and

Whereas, legislation is now before the United States Congress calling on the South African government to release all children held under the State of Emergency regulations; therefore be it

Resolved, That the House of Bishops:

Affirms the Executive Council action on The Lusaka Statement and the declarations on South Africa and Namibia issued by the Pre-Lambeth Conference of Anglican primates and Bishops in Africa; and

Pledges its prayerful support for Archbishop Tutu and the people of South Africa, with special concern for the children being held; and

Condemns the victimization of the children at the hands of South Africa's police state; and

Urges the Bishops of the Church to press for the timely passage of legislation now before Congress; and be it further

Resolved, That we affirm the leadership of the Presiding Bishop in calling for continued American economic pressure to end apartheid; and

Request that copies of this resolution be sent to Archbishop Tutu, the President of the United States, the Secretary of State, and Episcopal members of Congress.

Resolution adopted: 9/30/87.

CENTRAL AMERICA

Resolved, That the House of Bishops records its support for "The Central American Peace Agreement," signed on August 6–7, 1987, by the Presidents of the Republics of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica. And be it further

Resolved, That the House of Bishops calls upon the Government of the United States to respond and support the continuing diplomatic efforts, and specifically those agreed upon by the five Central American countries, to bring a just, lasting, and peaceful solution to the suffering and bloodshed in Central America. And be it further

Resolved, That the House of Bishops does reaffirm its strong opposition to the continuing intervention by the United States Government in Nicaragua by providing funds for arms and the U.S. military personnel to train the Contra forces, and through the standing embargo that prevents Nicaragua from obtaining sufficient food, medical supplies, and other necessities through normal trade, and that the House of Bishops does reaffirm its strong opposition to the continuing Soviet and Cuban military intervention, which provides arms and military personnel to train the Armed Forces of the Nicaraguan government, both intervention serving to the continuation of the violence in that country and as a threat to any future peace in the region. And be it further

Resolved, That copies of this resolution be sent by the Secretary of the House of Bishops to the President of the United States, to the Secretary of State, and to members of the Episcopal Congressional delegation.

Resolution adopted: 9/30/87.

Whereas, the recent Partners-in-Mission Consultation of the South Pacific Anglican Council, meeting in Fiji, witnessed the tragic aftermath of the May coup d'etat which overthrew the legitimate democratic government of that nation, placing in peril the civil and human rights of non-ethnic Fijians; therefore be it

Resolved, That the House of Bishops commends the Anglican Church in Fiji for its great courage, virtually alone among the churches there, in speaking out in support of a pluralistic, multi-ethnic democracy; and be it further

Resolved, That the House of Bishops express its firm solidarity with the Rt. Rev. Jabez Bryce and the people of the Diocese of Polynesia in their ministry of reconciliation among the diverse ethnic groups in the nation of Fiji, assuring them of its prayers and support; and be it further

Resolved, That this House commend the Secretary of State for denouncing the military coup, calling for a return of a fully representative government and for urging a reconsideration of U.S. aid and policy toward Fiji pending the return of a legitimate elected government; and be it further

Resolved, That copies of this resolution be sent by the Secretary to the President, the Secretary of State, and Episcopal members of Congress.

Resolution adopted: 9/30/87.

Mr. WOLPE. Mr. Chairman, first of all I want to commend the gentleman from New York [Mr. Solomon], my good friend, for the amendment that he is offering.

I certainly do support the thrust of the amendment. As he knows, I have supported virtually every buy-American provision sponsored in this body. I will not oppose his amendment, but it should be noted that the administration has raised some legitimate concerns in terms of this provision as it operates in foreign lands. Existing procurement restrictions are often very costly and hinder project implementation.

There have been times when American equipment has been provided but there is no supply network or delayed deliveries of equipment or spare parts have hampered the operations of projects. In some cases medicines for important village-level primary health care programs often come with doses written in English. I hope these technical concerns might be addressed in conference.

Having made that one reservation, I accept the amendment.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. Mr. Chairman, I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, the gentleman from Michigan [Mr. Wolpe], the chairman of the Subcommittee on Africa, has been most reasonable on this issue, and I understand the hard work he has put into this effort. I just want to point out that there is waiver authority for the President but there is a long way to go between now and the time this bill passes the Senate and the time we confer, and I am certainly more than willing to work with the gentleman from Michigan. I do appreciate his concern.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Solomon].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VIII?

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 190, strike line 22 and all that follows through page 192, line 20.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, this amendment concerns the establishment of a $50 million earmark in development assistance for the SADCC countries of South Africa. There are a number of problems with this idea, section 822 in the bill, so I have decided to go with an amendment that strikes the whole section.

First let me just say that a 4-year earmark is very, very presumptuous. In fact it may well be as unprecedented as it is presumptuous. It suggests a reluctance to consider this issue on its merits the next time a foreign aid bill is considered in the House, which will probably be next spring, and knowing the administration's difficulty in supporting earmarks it is also suggesting a desire for yet another confrontation, this time ironically on the issue of which there is ample opportunity to reach a consensus.

In any event this Member can neither be so naive on the one hand or clairvoyant on the other as to be led to support a 4-year earmark for one of the most volatile regions in the world.

Hardly a human rights paradise to begin with, southern Africa is a region where there are countries that have official relations of every kind of shade ranging from very good relations to none at all. Let us not lock ourselves into a position.

Second, it needs to be said that the countries which comprise the Southern Africa Development Coordination Conference, or SADCC as it is known, has received more than $2 billion in development assistance during 1985 alone, the last year for which complete figures are available. I am not saying that the OECD has compiled these figures. The World Bank was the largest single donor followed by Italy and the United States, in that order.

They have received $2 billion in 1 year alone. That is a huge sum of money, and moreover the one SADCC country for which we have no official relations, that being Angola, is being kept afloat in large measure by oil sales to the United States of America.

So the free world is already heavily committed to southern Africa. They are so heavily committed that an audit would be more appropriate, I think, than an earmark at this point in time particularly a 4-year earmark.

Third, there is no provision in section 822 that would waive the so-called Brook amendment, and for those who may not have been here in those days that amendment prohibits aid to countries that have defaulted in their past obligations.

I do not see any language that vests waiver authority in the Congress. That authority is vested in the President of the United States, whoever that might be.

The initiative for waiving applicability under that section is to come from the executive branch and not from the Congress. This seems to be one more indication that this issue has difficulty standing on its own merits, otherwise we would not have to resort to subterfuge.

Finally, Mr. Chairman, we all know that these SADCC countries constantly hold out their hands for more and more money, yet every chance they get, most of them bad-mouth the United States and vote against us in the United Nations. A 4-year earmark is just going to take away all of the leverage that we have. After all, if we are going to give these countries money and aid and help, the least they could do is to support us in our efforts throughout the world.

These countries, and I do not have to mention them all, are Tanzania, Malawi, Zambia, Zimbabwe, Angola, Mozambique, and it goes on and on. Think about that when we talk about this 4-year earmark. My amendment would wipe out that earmark and I would appreciate support for it.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the Solomon amendment.

Mr. Chairman, while the gentleman from New York [Mr. Solomon] and I have worked very closely together on many issues, and I have enormous respect for his approach to the general problems of the African continent, on this issue we differ.

Make no mistake about it, there is probably no part of the African continent that is more vital in terms of the American interests than is the region of South Africa. It is precisely in recognition of that importance to American national interests that this earmark has been established within the authorization. First of all, let me address the issue of the long-term nature of the authorization. We are talking here about a 5-year authorization. The notion of providing a longer term authorization is widely supported by AID officials and others precisely because too frequently we move year to year without any kind of planning and foresight which makes it much more difficult for the development of a sound economic program whether in Africa or elsewhere. It makes it very difficult for those countries trying to prepare for a more stable economic future to do so.

At the same time, While we have a 5-year authorization in this legislation, the appropriations process continues to operate on an annual basis and each year funds that would be authorized in this legislation would have to be appropriated by the Appropriations Committee which provides us with the necessary leverage and tactical flexibility that the gentleman from New York [Mr. SOLOMON] seeks to accomplish by this particular amendment but would totally eliminate the earmark.

We need to be clear. Cutting aid to the southern Africa black-ruled countries at this point, eliminating the earmark, would effectively be understood as a weakening of America's commitment to those countries in the region, thereby enhancing the activities of the South African Government and the apartheid regime that are seeking to destabilize by every means available to them those countries in the region.

The focus of the earmark was precisehy to make clear that this country, the Ujited States of America, is not any longer going to allow itself to be an accomplice to South African aggression against the states of southern Africa. We wish to signal our long-term commitment to assist them in reducing their economic and political vulnerability to South African aggression.

Let me say finally that there is no money in this legislation whatsoever for Angola. That should be understood clearly. I know there are concerns among Members of the Congress with respect to whatever assistance may flow to Angola. There are no dollars whatsoever that would flow to Angola under this legislation. The dollars would be available for the other states of southern Africa.

The administration has been enormously successful, for example, in working with countries like Mozambique that has previously had a hostile relationship toward the United States, ideological and doctrinaire in their commitment to Marxism, and I give the Reagan administration credit in successfuly weaning the Mozambique government away from the Soviet Union.

I cannot think of anything more counterproductive to our goal of resisting the spread of communism within southern Africa than to take a position that makes it appear that we are going to be supportive of the South African Government in its destabilizing campaign and resistance to providing the kind of economic support which is required in this region.

Mr. BURTON of Indiana. Mr. Chairman, would the gentleman yield?

Mr. WOLPE. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, could the gentleman name for me just one country that has been weaned away from the Soviet Union?

Mr. WOLPE. Mr. Chairman, I just mentioned one country, Mozambique. The Mozambique Government is clearly manifesting a very different policy from that of previous years. It is now moving to establish itself with western economic institutions, it is significant that President Chissano when he first came to power did not visit the Soviet Union, the first visit he made upon coming to power was to Great Britain. Margaret Thatcher has doubled the level of assistance flowing to Mozambique, and I hardly think Margaret Thatcher is somehow not sympathetic to the anti-Communist efforts that this country has been waging in that region. She is doing so because she understands as does President Reagan that this is an instance where we have a country that has demonstrated a pragmatic commitment to work with the West and is seeking assistance from the West in resisting the aggression of South Africa.

Let me say in addition that there are a number of countries on the African Continent that have, in fact, moved away from the Soviet Union over the years, Somalia, Guinea, Sudan, and Egypt. We sometimes give far too much credit to the power of the Soviet Union. We do not recognize very often the enormous strengths that this country, the United States of America, brings to bear within the African Continent. These countries respect our economic power, they respect our technical skills, and they respect our historic anticolonial commitment. Let us not compromise it in this way.

Mr. Chairman, I urge a "no" vote on the Solomon amendment.

Mr. DYMALLY. Mr. Chairman, I move to strike the last word, and rise in opposition to the amendment.

Mr. Chairman, it is important to establish a long-term financial commitment, commensurate with our political commitment to promote political change in the region, as expressed in the passage of the Anti-Apartheid Act of 1986. We must aid southern Africa development projects, particularly those in the critical transportation and energy sectors, to combat South Africa's countersanctions against SADCC countries and its general drive to regional hegemony to buttress the apartheid system. Events in recent years have demonstrated the rising significance to the United States of those countries bordering South Africa. Critical to United States policy is the awareness that South Africa's regional destabilization and economic warfare have generated political turmoil and economic hardship and created opportunities for increased Soviet influence in the region. By helping SADCC countries resist South Africa, we are effectively counteracting the growth of Soviet influence.

The Reagan administration has supported aid to SADCC countries since 1981. This commitment has occurred because of a recognition that southern Africa's political orientation, stability, and economic well-being are central to U.S. policy. America's interests are best served by states which are secure from external threats and which are supported by open and competitive economies.

The amendment by the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs, which we adopted in this House, to earmark $85 million in ESF for Africa will ensure that security assistance is available to other nations without ending development assistance to these critical SADCC nations.

Mr. Chairman, therefore, I ask the Members to reject the Solomon amendment.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Michigan [Mr. WOLPE], the chairman of the Subcommittee on Africa, said that we are having much success in weaning Mozambique away from the Soviet bloc.

I would like to read a statement by the President of that country, Mr. Chissano, and I quote:

> We have been holding talks with the IMF and the World Bank. One might feel that we are having doubts about the Socialist option. We chose socialism and we did not do it arbitrarily because of some dream. We have combined our experiences with the scientific teachings of Marxism-Leninism.

□ 1220

This is a hardcore, Communist, and when Members of this body say that they are going to wean Mozambique away from the Soviet Union and when the State Department says it, they have their head in the sand. These gentlemen, by their own admission, say they are hardcore Marxist-Leninists and they have no intention of changing.

Let me read some more.

They have received over $1 billion in Soviet military assistance and they control less than one-fourth of the country.

They have hundreds of Soviet, East German, Cuban, North Korean, and other East bloc advisers, and thousands of Zimbabwean and Tanzanian troops.

They vote against the United States 92 percent of the time. Is that weaning them away from the Soviet Union? They vote with us 8 percent.

They have a 20-year Friendship and Cooperation Treaty with the Soviet Union, one of only four such treaties in Africa.

They ignore pleas from the Catholic bishops to bring a negotiated end to the civil war.

That country is a Communist country. They have no intention of breaking their ties with the Soviet Union.

The reason they go to Great Britain and to the United States is to get economic aid that they are not getting from the Soviet Union, because the Soviets have supplied over $1 billion in military assistance, and they are trying to dupe us into giving them economic aid to keep their rotten regime going.

Now let us talk about some of the other SADCC countries.

Mr. Mugabe, the Prime Minister of Zimbabwe, another SADCC state, here is a quote from him: "* * * the (U.S.) Senate voice is dominantly the voice of whites who value more the color of their skin than justice being done to black people. They cannot, as racists at heart * * * " now get that, he is calling the United States Senate racists, and the President of the United States, and the Senate voted overwhelmingly in favor of the South African sanctions bill, but he calls them racists. And he went on to say "be expected to do any better than demonstrating what they really are and stand for. They are undoubtedly supporters of Botha because Botha is white and stands for white supremacy in South Africa as they do in the United States." He is saying the United States is for white supremacy, and the U.S. Senate stands for white supremacy in this country.

Then he goes on to say "* * * no, Mr. Reagan, no honorable Senators, we would rather live in poverty and hunger than receive the filthy lucre in purchase of our sacred principles."

He is throwing it right back in our face. This man obviously does not want our assistance, and I think we should oblige him, just like we should oblige Mr. Chissano, who is tied inextricably to the Soviet Union. Obviously he believes that the Congress is too racist a body to be worthy of giving Zimbabwe assistance.

I think the American people would be appalled that we are not only aiding but earmarking taxpayer dollars for countries that have turned slandering the United States into a competitive sport. I think it is outrageous that anyone would take seriously the moral posturing of Robert Mugabe, who slaughtered thousands of his opponents in Matabeleland, or Chissano, for that matter, who supervised Mozambique's so-called reeducation camps.

The front-line states received over $2 billion in foreign assistance last year from a multitude of countries. This $50 million earmark is simply our meager contribution to an enormous Western slush fund fed by guilt and rhetorical blackmail. The more they insult us, the more they insult us, the more we say we must not be giving enough. This money is worse than a handout, it is a payoff, a payoff to countries whose own policies, foreign and domestic, are bankrupting their countries and oppressing their peoples.

Enough is enough. These are Communist countries.

Zimbabwe is going to get Mig-29's. They have gone to the Soviet Union and said that they want to purchase Mig-29 fighter-bombers. They are getting in bed with the Soviet Union. Angola is getting in bed with the Soviet Union, Mozambique is getting in bed with the Soviet Union.

Earmarking funds for these countries is ludicrous, and we should not be using American taxpayer dollars to further the Communist cause around the world.

Mr. MURTHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. The Chair will state that after the gentleman from Pennsylvaina [Mr. MURTHA] finishes his 5 minutes, all time under the rule will have expired. There will be no time left on this amendment.

The Chair recognizes the gentleman from Pennsylviana [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I appreciate your comments.

Mr. Chairman, I do not follow the argument by my good friend. The Reagan administration supports this aid. These amendments, it seems to me, do the opposite of what the gentleman and I would normally be trying to do. They actually play into the hands of the regime in South Africa, and these amendments undercut our influence as far as I can tell in the mineral-rich countries we are so interested in making sure we have good relations with.

Aid to Mozambique, as I understand it, is strongly supported by great Britain, and they are even sending military aid to Mozambique.

And none of this aid goes to Angola. I am concerned that this particular amendment does the opposite of what the gentleman wants to do, and I would very strongly oppose the amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I had the privilege of attending a luncheon when President Joachim Chissano came to the Hill and my colleague, the gentleman from Indiana [Mr. BURTON], was there. As a matter of fact, he questioned him quite extensively, and I thought that we had reached some rapproachement because President Chissano, I remember the thrust of these kinds of questions, was suggesting that he was moving in a middle course, that he did not belong with the Western bloc or the Soviet bloc.

So I do not want us to be counterproductive. I thought it was a very instructive meeting for the Members that were there, and I certainly oppose any amendment that would force them back.

Mr. MURTHA. I appreciate what the gentleman has said.

Mr. RAY. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Georgia.

Mr. RAY. Mr. Chairman, today the House will debate the question of aid to Mozambique. Because our country has the undistinguished position of being the largest debtor nation in the world, with a national debt approaching $3 trillion, I am generally opposed to foreign aid, in principle.

However, because foreign aid for Mozambique is being debated, I would like for the record to show that Mozambique is among the poorest countries in the world. More than one-fourth of the total population of 14 million are affected by severe malnutrition and hunger.

I am aware of the Communist influence in this country, but, nevertheless, every Western European country, as well as Japan, Brazil, and Canada is providing assistance because there is a possibility that Mozambique can be rescued from the Communist influence.

I am told that since 1981, Mozambique has moved steadily away from traditional Soviet-style development and toward free-market policies. Large tracts of State farms have been turned over to private farmers, price controls on fruits and vegetables have been lifted, and foreign investment is now encouraged. Further, the constitutional revision, expected to be approved in 1988, contemplates a provision calling for direct election of the President with multiple candidates.

The information I have received confirms that Mozambique now absents itself on the Afghanistan, Cambodian, and Israeli credential questions in the United Nations. Prior to 1985, Mozambique voted in line with the Soviet Union. Last year, they voted with the United States 7.2 percent of the time.

Great Britain, led by Prime Minister Margaret Thatcher, who has a close relationship with President Joaquim Chissano of Mozambique, has begun to train several hundred troops in Mozambique. Two officers are also being trained at Sandhurst in England, making Mozambique the only non-Commonwealth country to have cadets there.

I certainly am not in any sense of the word sympathetic to countries which lean toward communism or the Marxist philosophy. I fully understand my colleagues who are in opposition.

However, the full story must be presented and I am happy to do my best to present it for the consideration of aid to Mozambique.

The CHAIRMAN. The Chair would interrupt just long enough to inform Members of what the situation is.

The gentleman from Pennsylvania [Mr. MURTHA] was recognized under the 5-minute rule, and when his time has elapsed, should he choose to use his entire 5 minutes, then all time under the rule will have expired. We will then go directly to a vote. So the gentleman from Pennsylvania has the time under the 5-minute rule, and when he yields, he will yield for so long as he yields and cannot yield specific amounts of time.

Mr. MURTHA. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania has 2 minutes remaining.

Mr. HOUGHTON. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from New York.

Mr. HOUGHTON. Mr. Chairman, the reasons to object to this particular amendment are clear as far as I am concerned. It is neither too much money nor are we really going against the best interests of the United States. Let us not throw Angola into the pot. It is not involved here. It is off limits. There is no assistance of any kind.

As far as Tanzania is concerned, it had nothing to do with philosophic or political reasons. It was a matter which had to do with economics. They are now reworking their debt repayment. They are moving back in terms of private industry. They are well on the way to making their peace with the IMF.

As far as Mozambique is concerned, I agree with the comments which have been made about Mozambique. These are people who are now relying on the British, not the Soviets. And more importantly, the money that we would give to Mozambique would be for rolling stock which would make the south African or the sub-Saharan countries less dependent upon South Africa so that they could open up a saltwater port, and that would free up that whole area. I think that it is in the best long-term interests of the United States to be able to follow that procedure, and I support my President on this.

Mr. MURTHA. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Pennsylvania has 20 seconds remaining.

Mr. MURTHA. Mr. Chairman, I apologize to the gentleman from Indiana [Mr. BURTON]. I wanted to yield to him, but let me just say this: we only have one Secretary of State. All 435 of us would like to make suggestions to the Secretary of State and to the President, but in this particular case I agree with the administration and Mrs. Thatcher. I think we would make a real mistake if we passed this amendment.

I urge the Members to oppose this amendment.

Mr. MFUME. Mr. Chairman, I rise in opposition to the amendments which would restrict or eliminate aid to the Southern African Development Coordinating Conference [SADCC], an organization of the nine "front-line" States located near South Africa. SADCC's members are Botswana, Lesotho, Malawi, Mozambique, Tanzania, Swaziland, Angola, Zambia, and Zimbabwe.

SADCC was created in 1980 to promote regional development and reduce the region's dependence on South Africa. Since that time, progress has been made toward achieving these goals.

Critics will argue that United States assistance to some African countries should be rejected for political reasons—a case in point being Mozambique.

As we know, in the years immediately following its independence, Mozambique's Socialist policies resulted in strained relations with the United States and other Western nations. However, in the past 5 years, Mozambique has taken significant steps to align itself more closely with the West.

These important positive developments were acknowledged by President Reagan when he met with Mozambican President Joaquim Chissano at the White House on October 5, 1987. Some of the impressive changes include:

The number of Western advisers in Mozambique is roughly equal to those of the Soviet Union and other Eastern bloc nations;

Having accepted substantial increases in direct security assistance from Great Britain, Portugal, and Italy;

Successful use of U.S. developmental assistance to promote private agriculture;

A solid commitment to macroeconomic reform. Both international monetary fund and World Bank officials have described Mozambique's economic recovery program as the most far-reaching in Africa;

The moderating diplomatic influence Mozambique has had within the southern African region. It has continued to adhere to the United States-brokered Nkomatic accord with South Africa despite repeated evidence of South Africa's noncompliance.

While restricting United States aid to any SADCC recipient would be counterproductive, this is especially true in the case of Mozambique. SADCC's primary emphasis is on developing rail links for the land-locked nations—Zambia, Zimbabwe, Botswana, and Malawi—of the region, and three of the most important railways run through Mozambique. By prohibiting funding for these projects, the proposed amendments would exclude the United States from a meaningful role in supporting SADCC's efforts.

A chief priority of the 100th Congress must be to do all that is feasible to help abolish apartheid in South Africa. Support for SADCC is essential to achieve this goal because only through strength and independence will frontline States be able to provide the pressure necessary for change in South Africa. Pieter W. Botha's government has already applied countersanctions against these nations and has threatened to impose more. Continued U.S. support is one of the most effective ways to prevent SADCC from suffering increased hardship.

From political, economic, and strategic perspectives, the United States cannot afford to take the nations of Africa for granted. From a humanitarian perspective, we cannot in good conscience turn our backs on a land being ravished by widespread starvation, overwhelming poverty, crippling debt, and regional wars. For these reasons, I ask that my colleagues join me in opposing these ill-advised amendments which threaten the well-being of sub-Saharan Africa.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 190, strike out line 22 and all that follows through line 20 on page 192 and insert in lieu thereof the following:

SEC. 822. SUPPORT FOR FRIENDS IN AFRICA.

Of the aggregate amounts authorized to be appropriated to carry out chapter 1 of part I (relating to development assistance), chapter 7 of part I (relating to Africa famine recovery and development), and chapter 4 of part II (relating to the economic support fund) of the foreign Assistance Act of 1961, not less than $50,000,000 shall be available for fiscal year 1988 and not less than $50,000,000 shall be available for fiscal year 1989 only to assist countries in Africa that demonstrate their cooperation and support for the policies, interests, and values of the United States—

(1) by having formal facilities access agreements with the United States or routinely providing access and overflight rights on an informal basis; or

(2) by having open political systems characterized by regular, free and fair, multiparty elections; freedoms of the press, speech, religion, and association; and general respect for internationally recognized human rights.

The CHAIRMAN. Under rule XXIII, clause 6, the gentleman from Indiana [Mr. BURTON] will be recognized for 5 minutes and the gentleman from Michigan [Mr. WOLPE] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, the American people are a generous people, but many are against foreign aid. Why? Because the American people do not want to be giving handouts to countries that are constantly kicking us in the teeth. It is hard to find a group of countries outside the Soviet bloc that attack the United States more than the front-line states of southern Africa, yet we are not only giving these countries money—we're earmarking it for them.

What is more, these countries are already receiving more foreign aid than they know what to do with. Last year, $2 billion went into the front-line states—and now we're going to earmark another $50 million a year?

What my amendment does is restore the purpose of foreign aid that the American people can support. It says, when times are tough, help your friends, not your attackers. Why should our friends be the first to feel the budget cuts while our attackers are rewarded with earmarks?

This amendment would add a new section titled "Support for Friends in Africa". This section would redirect the $50 million earmark for SADCC—southern Africa—to our best friends in Africa. To qualify, a country would either have to—

have a formal facilities access agreement with the United States, or routinely provide access and overflight privileges to our military; or

have an exceptionally good record of political and human rights—that is, countries with healthy democratic systems, a free press, religious freedom—in short, countries that reflect American values of a free society.

Why not, in a time of tight budgets, have an earmark that would partly restore cuts made to our best friends in Africa?

In 1985, 20 African countries received economic support funds. This year, ESF will go to only eight countries in Africa. Of these eight, four will be cut drastically even at the administration's 1988 request levels. Compared to 1985, Kenya will be cut 30 percent, Somalia 30 percent, Liberia 60 percent, and Sudan 80 percent. And that's if the administration got what it wanted.

In committee, the gentleman from Pennsylvania [Mr. KOSTMAYER] blasted an amndment on the Cyprus problem saying that it sent the message, "Stand with us and we'll kick you right in the teeth." I am afraid that if we do not redirect this earmark we will be doing just that to our friends in Africa.

I'm just thinking that it must be like sitting in a country like Kenya, which provides us with tangible support—a formal military access agreement—and has one of the best human rights records in Africa. It must be unsettling for them to watch this committee earmark funds for countries like Mozambique, Zambia, and Zimbabwe.

These countries have all just hosted one or more delegations from the Soviet bloc this year, and announced new bilateral agreements. On March 11 Prime Minister Machungo of Mozambique expressed his desire to "strengthen relations between Mozambique and the Soviet Union." Mozambique also hosted high-level delegations from East Germany and North Korea. Zambia announced a new agreement with North Korea, and Zimbabwean officials went to Moscow to negotiate a deal reportedly worth $100 million.

Some people might say, we should rush in there and compete with the Soviets in aiding these countries. But where does that leave our friends in Africa? Do we really want to increase support for countries that have turned bashing the United States into a high art? Last year, a Zimbabwean official was so insulting to the United States that President Carter, who was in the audience, walked out in protest and the administration cut aid to Zimbabwe. Yet this is one of the countries this bill earmarks.

To me that's just saying to our friends—as my good friend from Pennsylvania said—"Stand with us and we'll kick you right in the teeth." I don't think that is the way we ought to treat our friends, at least if we want to keep them.

This amendment does not, of course, prohibit one dime from going to SADCC. All it does is remove the earmark, which the administration opposes. In fact, Botswana, a SADCC nation, would qualify under my amendment earmark because it has a democratic government and an admirable human rights record.

To summarize, we don't have much to go around in Africa. If you want to spend it chasing after countries that have turned to the Soviets for support, vote against this amendment. But if you think we should concentrate on restoring cuts to our strongest supporters in Africa, vote for this amendment.

□ 1235

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a great deal of sense. In response to some of his statements, one from my colleague, the gentleman from New York [Mr. HOUGHTON] I would like to point out that a country such as Tanzania does not border South Africa and it has a port, thus it doesn't need to ship its exports and imports through South Africa.

But Tanzania is bankrupt, no thanks to South Africa, but thanks to its own Socialist policies.

Tanzania, for 20 years, has received more aid from Western countries than any country in Africa—and it is still bankrupt. They've defaulted on their U.S. loans, and refuse to make the necessary reforms to put their economy in order.

Let's beware of throwing good money after bad. The committee bill rides roughshod over the Brooke amendment in order to provide aid to countries such as Tanzania. That is an idea whose time hasn't come.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Indiana.

The CHAIRMAN. The gentleman from Michigan [Mr. WOLPE] is recognized for 5 minutes under the rule.

Mr. WOLPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee strongly opposes this amendment as does the administration.

Make no mistake about it, the effect of this amendment and others that may follow would be to seriously disrupt American relationships in southern Africa and undermine American national interests there. The policy issue raised by this amendment of the gentleman from Indiana is the same as raised by the previous amendment. It attempts to delete or restrict assistance to the southern African countries that are trying to reduce their economic vulnerability vis-a-vis the aggression of South Africa.

Mr. Chairman, I urge a "no" on this amendment.

Mr. Chairman, I yield to the distinguished gentleman from Oklahoma [Mr. MCCURDY].

Mr. McCURDY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON].

Not long ago, I had the opportunity to meet with President Chissano of Mozambique. My impression is that he is a leader who is trying to move his country in a new direction, more in line with free market development and a pro-Western foreign policy.

Chissano has not denounced Marxism-Leninism. He has not renounced his ties to the Soviet Union. But in the vitally important southern African region, Mozambique has cooperated with the United States, and its government has the support of the Reagan administration. Against the wishes of the Soviet Union, Mozambique signed an accord with South Africa by which each government renounced support of irregular forces in the other's country.

Mozambique has complied with the accord. South Africa, unfortunately, has not. Mozambique is now challenged by well-armed guerrillas supported by South Africa, and this is why it is seeking military aid not only from the Soviet Union, but also from the West. Great Britain already is providing assistance.

Right now in Mozambique, people are debating a revision of the Constitution. Serious consideration is being given to changing the present system from one in which the ruling party chooses the President to an open election with multiple candidates. Where Mozambique will be in 2 or 5 or 10 years is still an open question. But I agree with the administration that at this critical time it makes sense to work with them and encourage continuing movement toward the West.

On this issue, Mr. Chairman, I support the Reagan administration and urge that the amendment be defeated.

Mr. WOLPE. Mr. Chairman, I yield to the distinguished gentleman from Pennsylvania [Mr. Gray].

Mr. GRAY of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Indiana.

I would point out that the Southern African Development Coordinating Conference [SADCC] has been very helpful in terms of working out new alliances in that region, with this State Department.

Secretary Shultz and the Reagan administration has made some significant initiatives in policy in this area.

It is very clear that if we are to make this area strong economically we have a responsibility to live up to the Nkomati accords as well as to help them get off the economic ties and infrastructure ties of the old colonial days with South Africa.

So therefore this amendment would essentially take that money that will go for transportation, agricultural infrastructure development and eradicate it totally and once again will make those states totally dependent upon the economic infrastructure of South Africa. I do not think any of us want that. I think all of us would like these countries to become developed on their own and not tied to the apartheid regime.

A vote for the gentleman's amendment is in effect a vote to link the SADCC countries closer to the apartheid regime in Pretoria and I am sure no one wants to do that. If you want to avoid it, vote "no" against this amendment.

Mr. WOLPE. Mr. Chairman, I yield to the gentleman from California [Mr. Berman].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, this amendment does not simply remove an earmark. It hamstrings the administration's own flexibility by seeking to impose criteria which could prevent, if enacted, the administration from funding those very recipients that they now seek to fund. It is far more than the previous amendment which we defeated resoundingly. This would hamstring the administration and have the peculiar and I think very counterproductive purpose of essentially telling a country "If you cooperate with the United States militarily it doesn't matter what you do on human rights. Crush your own minorities, crush your dissidents, squelch freedom of the press. If you have a military agreement to allow some basing rights we don't care what you do to your own people."

I think it is a very bad amendment and should be defeated.

Mr. WOLPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in conclusion slashing aid to the southern African countries that would be impacted by the Burton amendment will completely undercut American influence in mineral-rich southern Africa, allowing the Soviet Union to profit from the turmoil created by South African aggression.

I cannot think of a better script for the Soviet Union. It does not serve American interests to proceed in that fashion. The countries that would be the recipients of additional allocations under the Burton amendment were already recipients of additional allocations under the Fascell amendment which we passed yesterday. This amendment established a $85 million earmark precisely for the countries enumerated in the Burton amendment.

I urge a "no" vote on the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Indiana [Mr. Burton].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 172, noes 236, not voting 25, as follows:

[Roll No. 469]

AYES—172

Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bennett
Bentley
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
Fawell
Fields
Gallegly
Gallo
Gekas
Gingrich
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Hubbard
Hunter
Hutto
Hyde
Inhofe
Jenkins
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Rowland (CT)
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Young (AK)
Young (FL)

NOES—236

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bateman
Bates
Beilenson
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Henry
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
MacKay
Manton
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall

Rangel
Ray
Richardson
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stokes
Studds
Swift
Synar
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—25

Biaggi
Bonior
Dixon
Dowdy
Espy
Foley
Garcia
Gephardt
Hall (OH)
Ireland
Kaptur
Kemp
Luken, Thomas
Mack
Markey
Marlenee
Martinez
McMillan (NC)
Roemer
Sabo
Smith (TX)
Stark
Sweeney
Udall
Wylie

□ 1300

Mr. **DERRICK** changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The **CHAIRMAN**. Are there further amendments to title VIII?

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. **BURTON** of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana: Page 197, strike out line 15 and all that follows through line 10 on page 199 and insert in lieu thereof the following:

SEC. 827. ASSISTANCE FOR THE PEOPLE'S REPUBLIC OF MOZAMBIQUE.

(a) Findings.—The Congress finds that—

(1) mutual interests, bilateral and regional in nature, bind the United States and Mozambique;

(2) there is encouraging proof of—

(A) shifts in the Mozambique Government's macroeconomic policy and its openness to the West, and

(B) actions taken by the Government of Mozambique to improve human rights, as detailed in the State Department's Country Reports on Human Rights Practices for 1986, including the recent halt to the execution of insurgents and persons guilty of economic sabotage, and the campaign begun in 1985 to improve the legal rights of detainees;

(3) together these changes raise the possibility of improved relations between the United States and this strategically important country;

(4) the military conflict with the Mozambique National Resistance (RENAMO) has created an extremely difficult domestic climate, involving significant evidence of systematic human rights abuses by RENAMO;

(5) there is nonetheless a continuing need for the Government of Mozambique to take deliberate steps to improve human rights, particularly with respect to the unlimited power to detain which is presently enjoyed by the state security forces (SNASP), the continued killing of innocent civilians during military operations, the capricious and cruel treatment of prisoners, and the excessive and illegal floggings of individuals; and

(6) the Catholic Bishops of Mozambique, in the Pastoral Letter of April 30, 1987, stated that "the only solution for peace and honor is dialogue and national reconciliation . . . We are appealing to all people, organizations and governments, to help the country achieve peace through peaceful means and political dialogue, and national reconciliation to help our people build a society of brotherhood and prosperity".

(b) Economic Assistance.—The funds authorized to be appropriate for fiscal years 1988 and 1989 to carry out chapter 7 of part I (relating to Africa famine recovery and development) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 that are allocated for bilateral assistance to the People's Republic of Mozambique shall be used solely for assistance to the private sector of the economy of Mozambique to the maximum extent practicable. To the maximum extent practicable, such funds shall be channeled to non-governmental entities in Mozambique.

(c) Military Assistance.—

(1) Condition on assistance.—None of the funds authorized to be appropriated for fiscal year 1988 or fiscal year 1989 to carry out chapter 2 of part II (relating to grant military assistance) or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 shall be used to provide assistance to the People's Republic of Mozambique unless the President makes the certification described in paragraph (2) before providing any such assistance for that fiscal year.

(2) Certification required.—The certification required by paragraph (1) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate that the Government of the People's Republic of Mozambique—

(A) is making a concerted and significant effort to comply with internationally recognized human rights;

(B) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(C) has reduced the number of foreign military personnel to no more than 55; and

(D) has held or is committed to holding free elections, and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to the electoral process with internationally recognized observers and the elimination of all restrictions on the formation and activities of opposition political parties.

Mr. **BURTON** of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. **BURTON** of Indiana. Mr. Chairman, this amendment would simply restore existing law regarding military and economic assistance to Mozambique, while including all of the findings in H.R. 3100. I actually disagree with some of the findings that the majority passed in committee, but I have included them in order to expedite this measure.

Mr. Chairman, I do not think this should be controversial. Members in the past have objected to measures that make across-the-board cuts for one reason or another. They say, if there are particular programs or countries that you object to, why not go after them individually? Well, that is what we are doing here.

This amendment simply says the United States will continue to deny military aid to Mozambique.

Mozambique has received over $1 billion in Soviet military assistance but controls less than one-quarter of its territory.

Mozambique has thousands of Soviet, East German, Cuban, North Korean, and other East bloc advisers, and thousands of Zimbabwean and Tanzanian troops there as well.

According to the Defense Department's report, "Soviet Military Power," there are 850 Soviet military advisers in Mozambique.

In fact, if you look in "Soviet Military Power" on page 128, there is a map of the world entitled Soviet Global Power Projection. Mozambique is a busy place on this map: It is green, signifying that it received up to $1 billion in military aid from 1981 to 1986. There is a little red man on the map, signifying up to 1,000 Soviet military personnel. There is a red star, signifying a Soviety treaty of friendship and cooperation, and there is red crosshatching, signifying major Cuban presence.

The only other countries I can see on this map with a similar profusion of symbols are Nicaragua, Angola, Ethiopia, and South Yemen, all Communist countries.

The question is, should we be giving a country like Mozambique this military aid? Current law prohibits military aid, and so the administration has not requested military aid for fiscal year 1988. But unless we reinstitute current law, the State Department could send military aid to Mozambique.

I might add, the State Department a couple years ago in the foreign aid bill tried to get military assistance for this country, a Communist country. We were able to defeat it and I think today we should restate our position that we do not want any military assistance going to a Communist country, but unless we reinstitute current law, the State Department could send military aid.

This amendment also continues the waiver provision in current law, which states that we could send military assistance if the President certifies that Mozambique has committed to holding free elections and has reduced foreign military personnel to 55 which is how many we are allowed in El Salvador.

This amendment also continues the restriction on economic assistance to nongovernemtnal entities, a provision which is already in H.R. 3100.

A vote for this amendment is a vote to continue current law, a vote against military aid to Communist Mozambique, and against joining the Soviets, Cubans, East Germans, and North Koreans in oppressing the Mozambican people.

Let me just conclude, Mr. Chairman, by saying that not only by their words, but by their actions we know this is a hard-core Communist country. We should not be giving them military assistance.

Mr. Chissano recently stated:

> We have combined our experiences with the scientific teachings of Marxism/Leninism. He made it clear that although Mozambique is negotiating with the IMF and other financial organizations this does not mean that it is relinquishing its principles—

That being that he believes in Marxism/Leninism.

He said:

> We have been holding talks with the IMF and the World Bank. One might feel that we are having doubts about the Socialist option. No, that is not the case. We must not confuse the issue. We chose Socialism and we did not do it arbitrarily because of some dream. That is not the case. We chose Socialism-Communism as a result of our experiences. We have combined these experiences with the scientific teachings of Marxism/Leninism.

You cannot get any clearer than that. We most certainly should not be supplying military assistance to a self-avowed Communist leader in a Communist country.

Mr. Chairman, I urge my colleagues to support it. We should support it unanimously and not even have a vote on it.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the gentleman's amendment.

I plan, Mr. Chairman, to offer an amendment to the amendment that has been offered by the gentleman from Indiana, at the appropriate time.

I endorse the general intent behind the modifications that the gentleman from Indiana [Mr. BURTON] has offered in the substitute Mozambique language. Before the United States introduces military assistance to Mozambique, there should be additional evidence that Mozambique is making significant progress in improving human rights and putting in place enduring political and macroeconomic reforms.

In proposing the Presidential certification, the gentleman from Indiana [Mr. BURTON] has added detail and strength to our original language which stipulated that any future assistance to Mozambique shall bear relation to the Mozambique Government taking significant steps toward improving human rights conditions; however, there is a serious problem with two of the specific conditions which the gentleman from Indiana [Mr. BURTON] proposed to include within the Presidential certification.

Conditions (C) and (D) are unacceptable and seriously counterproductive. I therefore in a moment will be offering an amendment which would modify those two conditions, while retaining intact the remainder of the amendment of the gentleman from Indiana [Mr. BURTON].

Condition (C) of the amendment of the gentleman from Indiana [Mr. BURTON] requires that the number of foreign military personnel be reduced to no more than 55. This would cover foreign military personnel of any description. If we were to set this condition, we would as a matter of policy be henceforth into the future denying American military assistance because Mozambique enlisted the help of Zimbabwe forces or of British, Portuguese, and Italian personnel, our allies. That obviously makes no sense.

I therefore will be offering in addition substitute language for condition (C) that would read:

> Continues to show significant progress in reducing Soviet bloc advisers.

Condition (D) of the amendment of the gentleman from Indiana [Mr. BURTON] requires free elections and a commitment to begin discussions with all major political factions; that is, Renamo, to require free elections.

What we are trying to do here is to make clear that we are not going to acknowledge Renamo as a particular political force; assuming the Mozambiquean Government should negotiate, the administration would be opposed to that kind of condition. It undermines entirely the effort the administration has so successfully been making in reaching a new kind of understanding and relationship with Mozambique. It would undermine American national interests in Mozambique and in the region.

Before offering the amendment, Mr. Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman has 2½ minutes remaining on his time.

□ 1315

Mr. WOLPE. Mr. Chairman, reclaiming my time, let me say that to accept the condition in the Burton amendment would be to signal a tilt to Renamo and by implication, toward South Africa. The United States has no business being on the side of South Africa within that region. It undermines American national interests.

Mr. Chairman, I offer an amendment to the Burton amendment.

The CHAIRMAN. The Chair will state that the gentleman from Michigan will have to yield back his time before he offers the amendment that he intends to offer.

Mr. WOLPE. Mr. Chairman, I yield to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I rise in support of the Wolpe amendment to the Burton amendment.

I may be reiterating some of the things that the gentleman from Michigan [Mr. WOLPE] has said, but I would like to put my own twist on this.

The administration is opposed to the stipulation in the Burton amendment, and I am supporting the administration. I think personally it is an impractical approach. I have always been told that I should not try to practice foreign policy without a license, and also since this seems to be such a neat packaging I think we would hurt ourselves.

There are four stipulations, two are all right in terms of progress in human rights, economic and political reform. I do not know how we measure these things but there is no problem there.

As far as reduction of foreign military personnel, this is supported by Mrs. Thatcher, and no more conservative person is there.

She thinks the British military training of the Mozambique forces is going forward well and to cut that off and reduce it to 55 I think is wrong.

As far as free elections and negotiations, the MNR has brutalized the population in Mozambique. There is no way possible to negotiate with that group, and I think it is wrong to tilt toward this mercenary group from South Africa.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, on the rule under which we are operating, under the 10-minute debate procedures we are operating under at this point in the rule, if the gentleman from Michigan [Mr. WOLPE], the chairman of the Subcommittee on Africa, offers an amendment to an amendment, is there 10 additional minutes of debate provided on that amendment?

The CHAIRMAN. The Chair will state that is the case only if such amendment is printed in the RECORD.

That is not the case here.

Therefore, the Committee will go directly to a vote.

Mr. WOLPE. Mr. Chairman, reclaiming my time, the amendment that I am about to offer would stipulate that no military assistance in any event, and none is in the bill now, could ever go to Mozambique unless there is substantial progress in reducing Soviet bloc advisers; and second, that unless there is a commitment to holding competitive elections and political amnesty of the regular forces within Mozambique occurs.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. WOLPE TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. WOLPE. Mr. Chairman, I offer an amendment to the Burton amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLPE to the amendment offered by Mr. BURTON of Indiana: In subsection (c)(2) of the section proposed to be added to the bill by the Burton amendment, strike out subparagraphs (C) and (D) and insert in lieu thereof the following:

(C) continues to show signs of progress in reducing the number of Soviet bloc advisors; and

(D) has held or is committed to holding competitive elections, and has offered political amnesty to opposition paramilitary forces, including the right to participate nonviolently in the national political process.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, is there no debate time?

The CHAIRMAN. The Chair would ask the gentleman to restate his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, is there no debate time on the amendment to my amendment?

The CHAIRMAN. The Chair will state that all time has expired on the debate on the gentleman's original amendment.

Mr. BURTON of Indiana. Mr. Chairman, further inquiring under my parliamentary inquiry, when an amendment is offered, and we are under the 5-minute rule, we have 5 minutes to debate the amendment.

Our time has expired, we cannot reserve any of our time, the time runs to the other side and they then offer a perfecting amendment. It seems to me there ought to be some justice so that the person offering the initial amendment would have some time to respond.

The CHAIRMAN. The Chair will state that under the rule that can be the case only if time has been yielded for that purpose, from the 5 minutes granted in opposition to the original amendment.

The question is on the amendment offered by the gentleman from Michigan [Mr. WOLPE] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 218, noes 177, not voting 38, as follows:

[Roll No. 470]

AYES—218

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Boehlert
Boland
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
de la Garza
DeFazio
Dellums
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hughes
Jeffords
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
MacKay
Manton
Markey
Martin (IL)
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOES—177

Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fields
Flippo
Gallegly
Gallo
Gekas
Gingrich
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jenkins
Kasich
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Miller (OH)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Rowland (CT)
Rowland (GA)
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swindall
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Wolf
Wortley
Young (FL)

NOT VOTING—38

Bevill
Biaggi
Boggs
Bonior
Chandler
Chappell
Coughlin
Dixon
Dowdy
Espy
Foley
Frenzel
Garcia
Gephardt
Gibbons
Hall (OH)
Hammerschmidt
Hubbard
Ireland
Johnson (CT)
Kaptur
Kemp
Lloyd
Luken, Thomas
Mack
Martinez
Matsui
Meyers
Michel
Miller (WA)
Petri
Roemer
Smith (FL)
Smith (TX)
Stark
Sweeney
Taylor
Wylie

□1330

Messrs. KLECZKA, FROST, LELAND, YOUNG of Alaska, SHAYS, and Mrs. SAIKI changed their votes from "no to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. DONALD E. LUKENS

Mr. DONALD E. LUKENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DONALD E. LUKENS: Page 150, strike out line 16 and all that follows through line 4 on page 151; page 177, at the end of line 22, insert closing quotation marks and a period; and page 178, strike out line 1 and all that follows through line 10 on page 180.

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. DONALD E. LUKENS] is recognized for 5 minutes.

Mr. DONALD E. LUKENS. Mr. Chairman, I have the unusual position today of offering an amendment that has the support of the administration on this foreign-aid bill, H.R. 3100.

The purpose of my amendment is simply to strike language providing a debt moratorium for African nations. The cost of the moratorium, by our figures, verified by the Department of Treasury, could be as much as $396 million, almost as much as is provided for the continent of Africa in the entire funding year.

Colleagues of the House, this provision can cost us, the American taxpayer, the American farmer and the working man and woman almost $400 million in the outyears. It is not the cost of the first year that is of concern, it is the cost of the additional 5 years after the first.

Very briefly, countries should be given a 5-year grace period. The U.S. Congress should not be in the position of forgiving debts for foreign countries while farmers and working people are still paying off their debts, and in some cases losing their property.

The bill as currently constructed, without this amendment, would actually forbid a country to repay a debt if it decided to repay its debt to the United States with American aid money. That is to say, if a country decided that the best use for their aid money was to show that it was an honest nation by repaying its debt to the American people, the bill, as constructed, forbids its doing so.

Fourth, it is a dangerous precedent. Countries all over the world are clamoring for their debts to be forgiven for a period. We simply cannot afford to set a precedent like this more than what we have already done.

Fifth, delaying repayment sends the wrong message to the people who owe the money to this country's people and our Government.

Sixth and finally, the provision of the bill sets a standard by which countries should be judged to decide if they are eligible for the debt moratorium, but sets it so low that virtually any country is qualified.

Please join me in voting for this very sensible and money-saving amendment to H.R. 3100.

Mr. Chairman, I retain the balance of my time.

The CHAIRMAN. The Chair wants to explain once again for all Members' benefit that under the rule the Committee now is operating not on a controlled-time situation so that it is not possible for a Member to reserve time. A Member is recognized in behalf of his amendment for 5 minutes and must use his 5 minutes. He cannot reserve time.

If the gentleman from Ohio wants to yield back his time at this point, he may, but he cannot reserve his time.

Mr. DONALD E. LUKENS. Mr. Chairman, I have not yielded back my time, but I was trying to speed up the process because I know members of the committee have heard enough on the bill and are ready to vote on certain amendments, and certainly our committee has gone through this several times. I am willing to speed up the process but I do not wish to lose my time by being considerate enough to yield.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. DONALD E. LUKENS. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I should inform the gentleman there are a couple of Members who do wish to have brief comments on this amendment, and I do not want to blindside the gentleman if he wishes to use more time.

Mr. DONALD E. LUKENS. In that case, I will consume all of my time, Mr. Chairman, and I thank the gentleman.

It was confirmed in committee testimony that the potential cost of a debt moratorium would be $396 million. I received a document from the Department of the Treasury that confirms that amount.

Each year the United States should receive about $80 million in revenue from African nations repaying their loans. This provision of the bill could wipe this revenue out unless we pass this amendment.

This provision of the bill will add significantly to the cost of the entire African aid program unnecessarily, because we are under Gramm-Rudman and these funds must be subtracted somewhere else. This cost is spent over the life of the loan, but the dollar amount is almost as much as the entire total of the aid program for Africa this year.

The countries are given a 5-year grace period; thus, we are in a position of forgiving foreign debts for foreign countries while farmers in my district and the districts of other Members must pay their debts, and in some cases are losing their farms and property.

□ 1345

We would set a dangerous precedent. Countries all over the world are really now clamoring for their debts to be forgiven for this year's period. We cannot afford to set a precedent like this, in my opinion, in the United States, especially in the continent of Africa where it could cost us a third of a billion dollars.

This idea should be considered in context of a world loaded with big debtors like those of Latin America and other countries. We are opening a Pandora's box unless we strike this provision. My amendment strikes this provision.

The countries which have done the least to reform their economies are rewarded the most by this legislation. In fact, adoption of free market policies would allow a country to repay its debts and better the standard of living of its people. This provision, as it stands without my amendment, would give no country any incentive to reform.

The provision of the bill currently sets a loan repayment schedule so low that virtually every nation in the world qualifies. The only reason to ever reschedule a debt is if that country shows strong improvement which would lead to later repayment. I repeat, if you wish to save the American taxpayers and our Government almost $400 million in the next 5 years, especially in the stretch-out years, my amendment makes sense. I would hope for bipartisan support of this proposal.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. WOLPE] for 5 minutes.

Mr. WOLPE. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment of the gentleman from Ohio. Let us be very clear: The debt rescheduling provisions that are in the bill that is before us are very modest, they are very limited, they are an effort to deal with a crushing problem of low-income African debt. But the language in the bill as it is before you is advisory, it is not mandatory. It simply urges the President to do what he already has authority to do. There is no mandate in this legislation.

Second, it is not debt forgiveness. There is no call for debt forgiveness in this bill. What is proposed, or urged or recommended is only a 5-year postponement of payment without charges. It is restricted furthermore only to the poorest countries, those under $550 per year per capita. And it is conditioned on countries meeting tough economic policy conditions, such as the INF standby agreement or World Bank Structural Adjustment Program. The language is in there on an advisory basis because we think that will be a positive incentive to encourage economic policy reform.

The last two points that I think need to be stressed is that if the President in fact chose to implement this provision—and he is, as I said earlier, given that discretion—its cost would be low, no more than $23 million to $33 million per year, a far cry from the $400 million figure that was just mentioned. That is far less than that which is already incurred—it would be far less than that which is already incurred through Presidential rescheduling of African debt. However, under the advisory language of our bill that rescheduling would be better targeted at needy and economically reforming countries than is the existing rescheduling and it could become a model for other donor actions.

A final point I would make is that what we are really doing is basing this model that we are suggesting which is already being pursued by other Western creditors, such as Canada. It is something that would really assist the nations that are the poorest and also America's national self-interest by increasing their economic capacity, making it easier for them to do business with the United States. So I would urge a "no" vote on that amendment.

Mr. Chairman, I yield for a further comment to the gentleman from Connecticut and then I would be pleased to yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of his position in opposition to this amendment. It seems to me this amendment is wrong-headed to the core. What is in the bill is the least that we can do to address the oppressive burden of debt in the poorest African countries. It is penny wise and pound foolish to try to squeeze the last dime out of these depressed economies. The targeting provisions that are recommended here say that with economic reform and with forebearance for a period of time, these countries can begin to grow again and can provide for their own people and to trade with the United States and to become full-fledged members of the world economic community.

That is in the long-term interests of the United States. To strike this provision would be foolhardy.

Mr. Chairman, I urge the Congress not to do so.

Mr. WOLPE. Mr. Chairman, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in support of the provisions on African debt policy as presently found in H.R. 3100 and therefore in opposition to this amendment to strike them offered by my friend and colleague, the distinguished gentleman from Ohio (Mr. LUKENS).

The provisions contained in the bill are a careful and circumscribed approach to the very serious debt repayment problems of the poorest African countries.

Debt as a proportion of exports and of GNP is higher in many African countries than in Latin America. There are 18 African countries classified by the World Bank as low-income and debt-distressed, paying over 30 percent of their export earnings simply to service their debts.

One of the agreements at the Venice Summit this year was to develop a plan for special assistance to the debt-distressed African nations.

Just last week in Paris, 17 donor countries came together with the international financial institutions to discuss how to raise the funds that are necessary to help those debt-distressed African countries that are willing to engage in major structural reforms such as privatization, eliminating government subsidies and import barriers, and reforming their economies along free enterprise lines.

The recommendation of the meeting was that $6.4 billion in bilateral assistance to Africa would be needed over the next 3 years to support adjustment programs, in some cases through various forms of debt relief.

A number of European countries and Canada are already taking a forgiveness approach of converting old loans to grants. An overall total of $2.8 billion owed by the least-developed countries has already been forgiven by our allies.

For a variety of good reasons and necessary precedent-avoidance, this forgiveness approach does not make sense for the United States. The approach taken in H.R. 3100 is therefore not forgiveness of debts and is not constraining the President.

Instead section 478 simply urges the President to consider a 5-year grace period on payments and accrual of interest only for the poorest African countries—those with average per capita annual income of less than $550—and only for those that are engaged in serious structural reform under the supervision of the IMF or the World Bank. There would be a delay in approximate $70 million in principal and interest payment annually owed to the United States by some 29 Africans nations covered by this section, but the real costs are estimates to be $2.8 million annually for the 5-year period. Actual payment would be about $20 to $25 million instead of $70 million.

The African debt provisions in H.R. 3100 are not binding on the President, but they do effectively recognize the seriousness of the Africa debt problem. They provide one acceptable way to create breathing space in repayment of official debts to the United States and an additional reason for countries affected to seriously address and implement necessary reforms.

For these and other cogent reasons I urge retention of the existing language in H.R. 3100 and opposition to this amendment.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for his comments. I urge a "no" vote on the amendment before us.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MURTHA). The question is on the amendment offered by the gentleman from Ohio [Mr. DONALD E. LUKENS].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DONALD E. LUKENS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 125, noes 259, answered "present" 1, not voting 48, as follows:

[Roll No. 471]

AYES—125

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bentley
Bilirakis
Boulter
Broomfield
Brown (CO)
Buechner
Burton
Callahan
Cheney
Coats
Coble
Coleman (MO)
Combest
Cooper
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Duncan
Edwards (OK)
Erdreich
Fawell
Fields
Flippo
Gallegly
Gallo
Gekas
Gingrich
Gradison
Gregg
Hammerschmidt
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Johnson (SD)
Kasich
Konnyu
Kyl
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Marlenee
Martin (NY)
McCollum
McEwen
McGrath
Michel
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Nichols
Nielson
Oxley
Packard
Pashayan
Quillen
Regula
Rhodes
Ridge
Ritter
Robinson
Rogers
Roth
Saxton
Schaefer
Schuette
Schulze
Shaw
Shumway
Shuster
Skeen
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stump
Sundquist
Swindall
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Weldon
Wortley
Young (AK)
Young (FL)

NOES—259

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bliley
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Evans
Fascell
Feighan
Fish
Flake
Florio

Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Lewis (GA)
Lightfoot
Lipinski
Lowry (WA)
Lungren
MacKay
Madigan
Manton
Markey
Martin (IL)
Mavroules
Mazzoli
McCandless
McCloskey
McDade
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Roberts
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
St Germain
Staggers
Stallings
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weber
Weiss
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron

ANSWERED "PRESENT"—1

Obey

NOT VOTING—48

Bevill
Biaggi
Bilbray
Boggs
Chandler
Coughlin
Daniel
Dixon
Dornan (CA)
Dowdy
Dreier
English
Espy
Fazio
Foley
Frenzel
Garcia
Gephardt
Gibbons
Hall (OH)
Hall (TX)
Houghton
Hubbard
Hutto
Ireland
Jenkins
Johnson (CT)
Kaptur
Kemp
Kennelly
Levine (CA)
Lloyd
Luken, Thomas
Mack
Martinez
Matsui
McCurdy
Meyers
Miller (WA)
Montgomery
Petri
Roemer
Smith (TX)
Spratt
Stark
Stenholm
Sweeney
Wylie

☐ 1410

Messrs. NAGLE, ROWLAND of Connecticut, SMITH of New Jersey, McMILLAN of North Carolina, GRANT, and PARRIS changed their votes from "aye" to "no."

Mr. TAUZIN and Mr. FLIPPO changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DONALD E. LUKENS

Mr. DONALD E. LUKENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DONALD E. LUKENS: Page 192, strike out lines 1 through 4.

Mr. DONALD E. LUKENS. Mr. Chairman, the purpose of this amendment is to strike language waiving the Brooks amendment to the SADCC nations of Southwest Africa. The Brooks amendment, section 620(q) of the Foreign Assistance Act of 1961 would remain in effect. The Brooks amendment suspends additional aid to countries which have not paid their current debts to the United States

The Brooks amendment has made the United States a preferential lender. Debts to us are paid first because countries know if they do not pay, they put future foreign credit at risk.

The Brooks amendment is working. Only four countries are currently under the Brooks amendment provisions: Benin, Ethiopia, Liberia, and Tanzania. Under this provision of the bill, Tanzania would be given more aid despite not having paid back its loans. Ironically, the Brooks provisions are likely to be lifted for Tanzania soon because Tanzania is making the needed reforms. Without this leverage, Tanzania will have no reason to reform.

The most immediate beneficiary, Tanzania, of a Brooks waiver has probably received more aid per capita from the rest of the world over the last 15 years than any other African country; and yet all that aid, hundreds of millions of dollars, has not stopped the decline of the economy resulting from its Socialist policies. The answer to Tanzania's problems is reform, not a special exemption from the Brooks amendment.

American farmers and all Americans would be shocked to learn that America continues to give more aid to countries even when they refuse to pay their debts.

I would ask favorable consideration for this amendment. It restores to efficacy and working order the Brooks amendment, which is not working. There is no reason whatsoever, economically or politically, to suspend the Brooks amendment.

I would ask the support of the body for this amendment.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment that has just been offered by the gentleman from Ohio.

I will point out that the administration itself is also opposed to the Lukens amendment.

The purpose of waiving the Brooks amendment, section 620(q) of the Foreign Assistance Act is to insure that there will not be any disruption of urgent regional development projects if one of the southern African development coordination conference member states falls under Brooks.

The precedent for waiving Brooks was set during the 1985 famine relief effort for urgent rehabilitation assistance, such as the provision of seeds and farm implements.

The focus of aid to SADCC is to promote regional development assistance, and not bilateral assistance.

This amendment does not take into consideration that if one SADCC member finds itself under Brooks, it cannot receive U.S. assistance for a regional project, that impacts on several countries and could cause serious disruption to other regional members who are not under Brooks; however, we believe that due to the American commitment to SADCC that the administration will use its power to waive Brooks.

This language that we have in the bill simply expresses congressional support for the Brooks waiver by eliminating the need for further action.

Mr. Chairman, I urge a "no" vote on the Lukens amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). The question is on the amendment offered by the gentleman from Ohio [Mr. DONALD E. LUKENS].

The amendment was rejected.

AMENDMENT OFFERED BY MR. DONALD E. LUKENS

Mr. DONALD E. LUKENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DONALD E. LUKENS: Page 192, after line 20, insert the following:

(d) PROHIBITION ON ASSISTANCE TO CERTAIN COUNTRIES.—Assistance may not be provided under this section for projects or programs in any country—

(1) which receives from the Soviet Union more than three-quarters of the military assistance that it receives from foreign countries, or

(2) in which there are more than 55 military personnel (serving in any capacity) from the Soviet Union, the German Democratic Republic, the Democratic People's Republic of Korea, Cuba, or any other Soviet bloc country.

Mr. DONALD E. LUKENS. Mr. Chairman, this amendment would withhold aid from any country which is overwhelmingly influenced by the Soviet Union until such time as it reduces its military cooperation with the U.S.S.R. and its satellites. Unless America sets a standard by which we give aid to Soviet influenced countries, we will continue to be used by the Soviets to feed countries they are subjugating and controlling.

This amendment sets a simple threshold after which we say, "That's too much, no more aid."

The standard set in this legislation is fair. If a country receives more than three-quarters of its military assistance from the Soviet bloc, we simply say, "That's enough," or if there are more than 55 Soviet bloc troops, the amount of our self-imposed quota on American advisers in El Salvador, occupying that country, we say again, you can support them to that extent, you do not need our help.

Many Communist countries cannot support themselves. The only thing that keeps them from collapsing is American aid. Americans should not be put in the position of keeping afloat weak Soviet-dominated allies, especially when most of their aid comes in the form of military assistance.

The nations most affected would be the People's Republic of Angola and the People's Republic of Mozambique. This amendment will end the spectacle, as happened earlier this year, of a country like the People's Republic of Angola, which is a wholesale violator of human rights and is a dictatorship with tens of thousands of Cuban mercenaries to maintain power and is waging full-scale war on its political opponents. Then it demands that the United States give aid.

This amendment, second, will give incentives to nations to reduce the Soviet military presence in order to remain eligible for American economic aid.

Americans believe that this is the way we spend our foreign aid money, anyway. If most Americans were aware that we give large sums of money in economic assistance to nations which receive their total military aid from the Soviet Union, they would think we are crazy, and yet we do exactly that.

In effect, our development aid is used to grow food to feed large numbers of foreign soldiers which are camped out in this sector.

Vote for the Lukens amendment on aid to any country which is overwhelmingly affected by Soviet military presence assistance.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. DONALD E. LUKENS. I yield to my friend, the gentleman from Indiana.

Mr. BURTON of Indiana. Well, Mr. Chairman, I would just like, maybe in an effort that is futile, to lend my support to the gentleman's amendment. It seems today that we have passed a number of amendments which seem to be in support of Soviet positions in Africa. It is unfortunate that is taking place, but here we have a last ditch effort to show our concern about the Soviet expansionist policy in Africa, and the gentleman is right on the mark.

I would urge everybody to vote for this. If you really believe that we ought to stop the Communist expansionist policy in Africa, the gentleman's amendment makes a lot of sense.

I thank the gentleman for yielding.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the Lukens amendment.

First of all, it should be noted that there is no assistance in this bill whatsoever to Angola. To raise the Angola question is simply to miss the mark.

Second, the administration opposes this amendment, not because it is pursuing Soviet objectives in the region, but because it is pursuing American national interests in the region. It is really the same issue as we have already voted on two or three times previously.

If the standard that is offered by the gentleman from Ohio [Mr. DONALD E. LUKENS] were to be applied anywhere else in the world, it would mean that the United States would have to end its assistance to Morocco, to India, and to Pakistan. It would mean that more than 22 countries in Africa, not just in SADCC, required by this amendment that would be applied elsewhere.

If we were to look at this amendment historically that has been in place over several decades, it would have blocked the historic opportunities which the United States successfully exploited in Egypt, the Sudan, and Somalia, where these countries agreed to expel their Soviet bloc advisers in return for essential American assistance.

This amendment again simply would keep the same kind of concern as those heard previously, those arguments heard previously. It compromises American national interests.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Well, just very briefly, Mr. Chairman, if the gentleman from Michigan could clarify two points for me; first, I listened to the gentleman's introduction of the amendment and frankly it was a very strong case, but when we add all the factors together, is it not the case that the Reagan administration strongly opposes the amendment?

Mr. WOLPE. That is absolutely correct.

Mr. LEACH of Iowa. And is it not also the case that if we go forth with this kind of policy, it will appear as if the United States of America will be supporting South Africa in the advancement of apartheid forces to the north of South Africa?

Mr. WOLPE. That is correct, and I cannot think of a better position for the Soviet Union than to have the United States perceived as an ally of South Africa.

Mr. LEACH of Iowa. So this would appear to be counter to principles upon which our foreign policy is currently premised; is that correct?

Mr. WOLPE. I think that is correct, and as I said, that is why, I take it, the Reagan administration has been so strongly opposed to this kind of amendment.

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Mr. LEACH of Iowa. Mr. Chairman, it just strikes me that as logical as it appears to be in its presentation, that it does have some effects that could be dramatically counterproductive. As much as I have had doubts about our policy toward South Africa, in this case I think it is reasonable for the Congress to stand up with the Reagan administration.

Mr. WOLPE. Mr. Chairman, I thank the gentleman from Iowa for his observation. I certainly would like to reinforce his conclusion. I think American national interests would be ill-served by adoption of the Lukens amendment.

I would like to stand with the administration in what I think has been a very solid policy in Mozambique and the South African countries in this case.

Mr. Chairman, I urge a "no" vote on the Lukens amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. DONALD E. LUKENS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 199, not voting 44, as follows:

[Roll No. 472]

AYES—190

Andrews
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Flippo
Frost
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Hiler
Holloway
Hopkins
Huckaby
Hunter
Hyde
Inhofe
Johnson (SD)
Jones (TN)
Kasich
Kolbe
Konnyu
Kyl

Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lott
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Mica
Michel
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Myers
Natcher
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Pickle
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stratton
Stump
Sundquist
Swindall
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whitten
Wilson
Wolf
Wortley
Yatron
Young (AK)
Young (FL)

NOES—199

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bereuter
Berman
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Feighan
Fish
Flake
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gilman
Glickman
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hawkins
Hayes (IL)
Henry
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lowery (CA)
Lowry (WA)
MacKay
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Perkins
Pickett
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Slattery
Smith (FL)
Snowe
Solarz
St Germain
Staggers
Stallings
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whittaker
Williams
Wise
Wolpe
Wyden
Yates

NOT VOTING—44

Bevill
Biaggi
Bilbray
Boggs
Chandler
Coughlin
Daniel
Dixon
Dowdy
English
Fazio
Foley
Frenzel
Gephardt
Gibbons
Gonzalez
Hall (OH)
Hall (TX)
Houghton
Hubbard
Hutto
Ireland
Jenkins
Johnson (CT)
Kaptur
Kemp
Lloyd
Luken, Thomas
Mack
Matsui
McCurdy
Meyers
Miller (WA)
Montgomery
Pepper
Petri
Roemer
Roth
Smith (TX)
Spratt
Stark
Stenholm
Sweeney
Wylie

Messrs. MARTINEZ, CARR, ORTIZ, and GRAY of Illinois changed their votes from "aye" to "no."

Mr. SKELTON, and Mrs. PATTERSON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title VIII?

If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—ASIA AND THE PACIFIC

PART A—EAST ASIA AND THE PACIFIC

SEC. 901. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.

(a) FINDINGS.—The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under international law, including the United Nations Charter, invaded Cambodia in December 1978;

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with over 140,000 troops;

(4) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

(5) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

(6) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge;

(7) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Coalition Government of Democratic Kampuchea under the leadership of Prince Norodom Sihanouk;

(8) the member states of the United Nations for the eighth time, and by a record vote of 115-21, approved a resolution at the forty-first session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(9) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(10) the United States has supported the leadership role of the Association of Southeast Asian Nations (ASEAN) in the quest for a negotiated political settlement to the Cambodian problem;

(11) the President has indicated the United States is prepared to play a constructive role in such a settlement; and

(12) in the absence of such a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

(b) STATEMENT OF POLICY.—The Congress—

(1) deplores the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon Vietnam to negotiate decisively to restore self-determination in Cambodia;

(3) calls upon Vietnam to withdraw completely its troops from Cambodia;

(4) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of normalization of relations between the United States and Vietnam;

(5) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(6) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(7) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress basic human rights and exterminate the culture and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

SEC. 902. ASSISTANCE FOR THE CAMBODIAN PEOPLE.

Section 905 of the International Security and Development Cooperation Act of 1985 is amended by striking out "1986" and "1987" and inserting in lieu thereof "1988" and "1989" respectively.

SEC. 903. POLICIES REGARDING VIETNAM.

The Congress—

(1) calls upon Vietnam to release all political prisoners;

(2) calls upon Vietnam to adopt and promote a policy of family reunification;

(3) encourages Vietnam to adhere to its self-imposed 2-year target for providing the fullest possible accounting of American prisoners and missing in action; and

(4) calls upon Vietnam to withdraw its military forces from Cambodia and to permit a political settlement in which the

people of Cambodia will be permitted to determine their own future.

Contingent upon progress on the issues discussed in paragraphs (1) through (4), the Congress would encourage a wide range of non-official contacts between the United States and Vietnam to improve understanding between the two countries and to facilitate the solution of unresolved problems, including contacts involving persons in academic, cultural, scientific, journalistic, athletic, and political fields, as well as elected officials.

SEC. 904. JAPAN AND THE ARAB ECONOMIC BOYCOTT OF ISRAEL.

It is the sense of the Congress that the United States should encourage the Government of Japan in its efforts to expand trade relations with Israel and to end compliance by Japanese commercial enterprises with the Arab economic boycott of Israel.

SEC. 905. ANNUAL REPORT REGARDING KOREA.

Section 25(a) of the Arms Export Control Act is amended—

(1) by repealing paragraph (9); and

(2) by redesignating paragraphs (10) through (12) as paragraph (9) through (11), respectively.

SEC. 906. ASSISTANCE FOR THE PHILIPPINES.

(a) Assistance Pursuant to Base Agreement.—

(1) Fiscal year 1988.—For fiscal year 1988, there shall be available only for the Philippines—

(A) not less than $110,000,000 of the funds made available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), and

(B) not less than $124,000,000 of the funds made available to carry out chapter 4 of part II of that Act (relating to the economic support fund).

(2) Fiscal year 1989.—For fiscal year 1989, there shall be available only for assistance for Philippines—

(A) of the funds made available to carry out chapter 2 of part II of that Act, and

(B) of the funds made available to carry out chapter 4 of part II of that Act,

not less than the amount necessary to provide the remaining amount of military and economic assistance specified in the 1983 amendment to the agreement between the United States and the Philippines concerning military bases.

(b) Agrarian Reform.—Of the amounts made available to carry out chapter 4 of part II of that Act, not less than $50,000,000 for fiscal year 1988 and not less than $50,000,000 for fiscal year 1989 shall be available only to assist in the implementation of agrarian reform in the Philippines if the Government of the Philippines initiates an effective agrarian reform program and requests United States assistance for that program and if a substantial majority of the resources for the implementation of that program each year will be provided by the Government of the Philippines or other non-United States donors, or both. If, however, those conditions are not met by the end of the 9th month of a fiscal year, the funds earmarked by this subsection for that fiscal year may be used for assistance for other countries.

(c) Uncommitted FMS Credits.—Uncommitted balances of loans made to the Philippines pursuant to section 23 of the Arms Export Control Act since October 1, 1984, may be disbursed without requirement for repayment of principal or interest, except that the new budget authority provided by this subsection may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 907. SOUTH PACIFIC REGIONAL PROGRAMS; SCHOLARSHIPS.

(a) Earmarking.—Of the amounts made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), not less than $6,000,000 for fiscal year 1988 and not less than $6,000,000 for fiscal year 1989 shall be available only for South Pacific regional programs.

(b) Scholarships.—Of the amounts made available pursuant to subsection (a), not less than $2,000,000 each year shall be available only for scholarships for study at post-secondary institutions of education in the United States. Not more than 10 percent of the funds made available each fiscal year pursuant to this subsection may be used for scholarships for graduate study.

SEC. 908. AUTHORITY TO STOCKPILE DEFENSE ARTICLES IN THAILAND AND KOREA.

(a) Stockpiling in Thailand.—Section 514(c) of the Foreign Assistance Act of 1961 is amended by inserting ", Thailand," after "Korea".

(b) Authorized Level of Additions to Stockpiles.—Section 514(b)(2) of that Act is amended to read as follows:

"(2) The value of such additions to stockpiles in foreign countries shall not exceed $116,000,000 for fiscal year 1988 and shall not exceed $77,000,000 for fiscal year 1989.".

SEC. 909. REFUGEES FROM SOUTHEAST ASIA.

(a) Findings.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975-1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history;

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos;

(5) the United States will try to facilitate on a high priority basis the resumption of the Orderly Departure Program from Vietnam and the processing of Amerasians from Vietnam; and

(6) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 910. COOPERATION ON POW/MIA ISSUE.

It is the sense of the Congress that the President should use available authority and appropriations to provide up to $200,000 in the fiscal year 1988 and up to $200,000 in the fiscal year 1989 for support of humanitarian projects in Laos directly associated with joint United States-Laotian cooperative efforts to resolve questions concerning Vietnam era prisoners of war or those missing in action.

PART B—SOUTH ASIA

SEC. 921. ASSISTANCE FOR THE AFGHAN PEOPLE.

(a) Funds Available for Assistance.—Section 904 of the International Security and Development Cooperation Act of 1985 is amended—

(1) in subsection (a), by striking out "chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund)" and inserting in lieu thereof "chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961";

(2) by striking out "(a) Authorization.—"; and

(3) by repealing subsections (b) and (c).

(b) Effective Date.—The amendment made by subsection (a)(1) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 922. DEMOCRACY IN BANGLADESH.

(a) Primary Purpose of United States Assistance.—The primary purpose of United States economic assistance for Bangladesh is to foster economic development and political pluralism. Accordingly, in determining whether to provide economic assistance to Bangladesh and in determining how much assistance to provide, the President shall take into account whether—

(1) there is a credible electoral process, in which by-elections and eventual general elections accurately reflect the popular will;

(2) there is an effective parliament, in which both the majority and minority are able to make constructive contributions;

(3) the press is allowed to operate freely, and all points of view can be expressed in the press;

(4) there is effective elected government at the local and regional levels; and

(5) there is an independent judiciary.

(b) Requests for Assistance.—Whenever requesting economic assistance for Bangladesh, the President shall report to the Congress with respect to each of the issues described in paragraph (1) through (5) of subsection (a).

SEC. 923. ISRAEL-INDIA RELATIONS.

(a) Findings.—The Congress finds that—

(1) the Government of India has blocked participation by Israelis in international academic gatherings and sporting events held in India; and

(2) India and Israel are sister democracies that share an interest in international cooperation and development.

(b) Statement of Policy.—It is the sense of the Congress that the growth of contacts between Indians and Israelis would benefit both countries and that the Government of India should facilitate such contacts in the future.

SEC. 924. WAIVER FOR PAKISTAN OF SECTION 669 PROHIBITION ON ASSISTANCE.

(a) Findings.—The Congress finds that—

(1) the United States considers the spread of nuclear weapons to South Asia to be potentially catastrophic for the countries of the region and, therefore, has made nuclear nonproliferation a vital element of United States policy toward the region;

(2) United States assistance is intended to induce Pakistan to forgo the development of nuclear weapons and, therefore, any effort by Pakistan to develop a nuclear weapons capability could have serious adverse consequences for the United States assistance relationship with Pakistan; and

(3) the most viable, long-term solution to the dangers posed by the threat of nuclear proliferation in South Asia is an agreement involving all countries of the region and, therefore, it is in the interest of the United States to encourage all countries to seek such an agreement.

(b) Extension of Waiver.—Section 620E(d) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1987" and inserting in lieu thereof "1989";

(2) by inserting "(1)" after "(d)"; and

(3) by adding at the end the following:

"(2)(A) Any waiver for Pakistan under this subsection shall cease to be effective if the President certifies to the Congress that India has formally accepted the application of appropriate, verifiab*** BAD MAG TAPE ***le, and reliable safeguards to all its nuclear materials.

"(B) If such a certification is made with respect to India and the President certifies to the Congress (at the same time or subsequently) that Pakistan has also formally accepted the application of appropriate, verifiable, and reliable safeguards to all its nuclear materials, such acceptance shall be deemed to constitute rehiable assurances, for purposes of section 669(b)(1)(B) of this Act, that Pakistan will not acquire or develop nuclear weapons or assist other nations in doing so.".

(c) Additional Certification Requirement.—Section 620E(e) of that Act is amended—

(1) by striking out "device and" and inserting in lieu thereof "device,"; and

(2) by inserting before the period at the end ", and that Pakistan is taking responsible steps to reduce nuclear tensions on the Asian Subcontinent".

(d) Information on Pakistan's Enrichment Activities.—The President shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing a factual description of the uranium enrichment levels which Pakistan has reached as of the time of the report. This report may be classified if necessary and shall be submitted when the extension (which is provided for in subsection (a)(1) of this section) of the waiver contained in section 620E(d) of the Foreign Assistance Act of 1961 takes effect.

SEC. 925. SALES OF MILITARY EQUIPMENT TO PAKISTAN.

(a) Airborne Early Warning Aircraft.—During the period beginning on the date of enactment of this Act and ending on September 30, 1989, the United States may not sell any airborne early warning aircraft to Pakistan unless the President certifies to the Congress that—

(1) no alternative system exists which could perform the same functions as those aircraft are intended to perform and which would be equally or more cost-effective; and

(2) those aircraft, in conjunction with Pakistani combat aircraft, will enable Pakistan to effectively counter violations of its airspace, and air attacks against its territory, from Afghanistan.

(b) Limitations on Use of Military Equipment.—Section 620E(c) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "solely" before "defensive purposes";

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following:

"(2) Defense articles which are not suitable for defending against the threat to Pakistan posed by the Soviet Union, including because of the Soviet presence in Afghanistan, may not be provided to Pakistan under the Arms Export Control Act or the Foreign Assistance Act of 1961.".

SEC. 926. DEMOCRACY AND HUMAN RIGHTS IN PAKISTAN.

(a) Findings.—The Congress finds that—

(1) the United States has a great interest in Pakistan's political stability;

(2) the completion of the process of democratization is essential for the establishment and maintenance of political stability in Pakistan;

(3) the lifting of martial law and the state of emergency in December 1985 was a positive step in the direction of political democracy;

(4) the holding of parliamentary elections and the lifting of censorship are additional welcome indications of Pakistan's intent to move toward a system of democracy; and

(5) a failure to conduct the next elections on a party basis would raise serious questions concerning the legitimacy of any government coming out of those elections.

(b) United States Assistance.—Section 620E of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(f) United States assistance for Pakistan is intended to promote democratic and representative government and respect for internationally recognized human rights in Pakistan. Therefore, assistance may be provided for Pakistan under the Foreign Assistance Act of 1961, the Arms Export Control Act, and the Agricultural Trade Development and Assistance Act of 1954 only if, each fiscal year at least 30 days before providing any such assistance, the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of Pakistan—

"(1) intends to hold (or has held), in accordance with the current stipulations of the Pakistani constitution, free and fair multiparty-based elections open to the full participation of all eligible voters (as currently specified in that constitution);

"(2) has made significant and demonstrated progress in eliminating human rights violations, in particular the practice of torture, armed attacks against civilian noncombatants, prolonged arbitrary detention, and imprisonment on political grounds;

"(3) has made significant and demonstrated progress in promoting respect for freedom of expression, freedom of the press, freedom of association, freedom of peaceful assembly, and the right of all citizens to participate in political life; and

"(4) has made significant and demonstrated progress in restoring full civil and religious freedom to minority groups, such as the Ahmadis, and in removing restrictions on freedom of religious.

Each such certification shall discuss fully and completely the justification for making each of the determinations required by paragraphs (1) through (4).".

SEC. 927. ILLICIT DRUG PRODUCTION AND TRAFFICKING IN PAKISTAN.

In making determinations with respect to Pakistan pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of Pakistan—

(1) is reducing illicit narcotics cultivation;

(2) is increasing drug seizures;

(3) is increasing its suppression of the manufacture of illicit narcotics;

(4) is increasing the number of illicit laboratories destroyed;

(5) is increasing the number of arrests and successful prosecutions of violators, with particular emphasis on putting major traffickers out of business;

(6) has made changes in Pakistani legal codes in order to enable Pakistani law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws; and

(7) is expeditiously processing United States extradition requests relating to narcotics trafficking.

SEC. 928. SETTLEMENT OF THE CONFLICT IN SRI LANKA.

(a) Findings.—The Congress finds that—

(1) the interests of the United States are best served by the preservation of the territorial integrity of Sri Lanka and the preservation of its democratic form of government;

(2) the accumulated fears of the Sinhalese and Tamil communities have led to increasing civil strife in Sri Lanka, once considered the model for economic development and social equity in the developing world;

(3) India should be encouraged to play a more active role in facilitating a peaceful national reconciliation in Sri Lanka and to apply pressure on groups that advocate the use of violence in pursuit of their goals in Sri Lanka;

(4) the Government of Sri Lanka has made good-faith efforts to enter into negotiations with representatives of Tamil groups

and should be encouraged in those efforts; and

(5) the United States is committed to a peaceful solution to the ethnic strife which has affected Sri Lanka, a solution in which the legitimate grievances of all parties are addressed.

(b) POLICY.—It is, therefore, the sense of the Congress that—

(1) all acts of terrorism against citizens of Sri Lanka should be condemned;

(2) all parties in Sri Lanka, from all communities in and out of government, should renew their efforts to achieve a joint political settlement which meets the legitimate concerns of all the people of Sri Lanka, while preserving the territorial integrity of Sri Lanka; and

(3) all parties outside Sri Lanka should do nothing which would impede progress toward such a settlement.

(c) ADDITIONAL INTERNATIONAL ASSISTANCE IF CONFLICT PEACEFULLY RESOLVED.—It is the further sense of the Congress that if there is a peaceful political settlement of the ethnic conflict in Sri Lanka, the United States should work with other countries to establish an international fund or other multilateral effort to provide additional development assistance for rehabilitation and reconstruction in Sri Lanka.

(d) UNITED STATES ASSISTANCE.—In considering future requests for assistance for Sri Lanka, the Congress will be significantly influenced by the following criteria:

(1) Whether the government is making progress in eliminating human rights violations by the security forces and police.

(2) Whether the number of innocent civilians killed by the security forces has increased or decreased in the preceding year.

(3) What steps have been taken to prosecute those members of the security forces who commit crimes.

(4) Whether international humanitarian organizations which operate confidentially have been permitted access to detainees and have been permitted to provide customary services, including relief and assistance in locating persons who have disappeared.

(5) Whether international humanitarian organizations and nongovernmental human rights organizations have access to all areas of conflict in that country, specifically including the northern and eastern areas of the country.

(6) Whether both sides to the conflict have proceeded in good faith to bring about a cease-fire that would create a more positive atmosphere for a negotiated solution.

SEC. 929. LIMITATION ON DEVELOPMENT ASSISTANCE FOR INDIA.

For each of fiscal years 1988 and 1989, not more than $35,000,000 of the funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 may be made available for assistance for India.

The CHAIRMAN. Are there amendments to title IX?

EN BLOC AMENDMENTS OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

En bloc amendments offered by Mr. SOLARZ:

Page 207, strike out line 20 and all that follows through line 2 on page 208.

Page 210, after line 3, insert the following new subsection (c), and redesignate existing subsection (c) as subsection (d):

(c) HOUSE LOT PROGRAM.—

(1) AUTHORITY TO USE FUNDS: CHARACTERISTICS OF PROGRAM.—Subject to paragraph (3), not more than $13,000,000 for fiscal year 1988, and not more than $12,000,000 for fiscal year 1989, of the amounts made available for assistance for the Philippines under chapter 4 of part II of that Act may be used to assist in the implementation of a productive house lot program for the rural landless in the Philippines which has the following characteristics:

(A) The program will involve the establishment of village centers consisting of a cluster of individual house lots. These lots will normally consist of not less that 1,000 square meters. These lots will be used for a dwelling and for agricultural cultivation by an individual or family, who will have title to the lot and control over it and the production of agricultural commodities on it.

(B) Not less than half of the resources for the program will come from other resources available to the Government of the Philippines.

(C) The program will not use funds made available pursuant to this subsection for housing or electricity, water, or roadways, but will use other funds for these purposes.

(D) The funds provided pursuant to this subsection will be used to cover the cost of purchasing land for the program, for technical assistance (particularly in high value crop production), for agro-processing centers, and for related purposes in order to assist and encourage farmers in introducing high value crops in the village centers.

(2) PRIVATE VOLUNTARY GROUPS.—It is the intent of the Congress that private voluntary groups should be encouraged to become involved with the administration of any house lot program supported under this subsection.

(3) CONDITIONALITY.—Funds may be used pursuant to paragraph (1) of this subsection for such a productive house lot program only if, not later than the end of the 9th month of fiscal year 1988, the Government of the Philippines requests those funds for such a program and proposes an effective productive house lot program having the characteristics specified in this subsection.

Page 210, line 23, strike out "Not" and all that follows through the end of line 2 on page 211.

Page 214, after line 18, insert the following:

SEC. 911. SECURITY ASSISTANCE AND ARMS EXPORT CONTROL PREFERENCES FOR NEW ZEALAND.

(a) FINDINGS.—The Congress finds that—

(1) the people of the United States enjoy a longstanding friendship and close association with the people of New Zealand, and not only share common democratic values, heritage, and national interests but have fought side-by-side in the two World Wars of this century as well as the Korean conflict and the Vietnam conflict, and have participated jointly in numerous multilateral peacekeeping efforts under United Nations and similar auspices;

(2) visits to New Zealand ports by United States naval vessels are a part of this historical, overall framework of military cooperation and coordination which includes many other functions of benefit to all parties to the ANZUS Treaty;

(3) the recent codification of New Zealand Government policy to deny port access to United States ships which might be nuclear powered or nuclear armed is incompatible with the "neither confirm nor deny policy" of the United States, has raised serious operational difficulties for United States naval forces in defending the national security interests of the United States and its allies, and impairs the objective of maximum military cooperation between the United States and New Zealand under the ANZUS Treaty;

(4) the President has taken appropriate action in response to New Zealand's diminished defense cooperation with the United States by suspending United States obligations to New Zealand under the ANZUS Treaty, as announced in August 1986; and

(5) important aims of United States policy, in reaction to the port policies and law of New Zealand, must be to maintain the ANZUS Treaty alliance structure during the absence of New Zealand, to look forward to New Zealand's early return to a normal trilateral defense relationship, and to deny the Soviet Union any potential benefit it might otherwise derive from this temporary discord in the ANZUS Treaty alliance.

(b) NEW ZEALAND SHOULD RECONSIDER ITS POLICY.—The United States urges the Government of New Zealand—

(10 to reconsider its decision and law denying port access to certain United States ships, and

(2) to resume its fulfillment of its obligations under the ANZUS Treaty.

(c) SUSPENSION OF PREFERENCES.—Section 515(a)(6) of the Foreign Assistance Act of 1961 and sections 3(d)(2)(B), 21(e)(2), 21(g), 36(b)(1), 36(b)(2), 36(c)(2)(B), and 63(a)(2) of the Arms Export Control Act shall apply with respect to New Zealand only if the President determines, and reports to the Congress, that New Zealand is complying fully with its obligations under the ANZUS Treaty.

(d) ANZUS TREATY.—As used in this section, the term "ANZUS Treaty" means the Security Treaty Between Australia, New Zealand, and the United States.

(e) ASSIGNMENT OF UNITED STATES MILITARY PERSONNEL TO MANAGE DEFENSE COOPERATION MEASURES.—Section 515(a)(6) of the Foreign Assistance Act of 1961 is amended by inserting ("if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(f) CHARGES FOR CERTAIN ARMS SALES COSTS.—Section 21(e)(2) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(g) COOPERATIVE MILITARY TRAINING AGREEMENTS.—Section 21(g) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(h) CONGRESSIONAL REVIEW OF ARMS TRANSFERS.—The Arms Export Control Act is amended—

(1) in section 3(d)(2)(B), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand";

(2) in section 36(b)(1), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act

of 1987)" after "New Zealand" in the second sentence following subparagraph (P);

(3) in section 36(b)(2), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand";

(4) in section 36(c)(2)(B), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand"; and

(5) in section 63(a)(2), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

Page 214, after line 18, insert the following:

SEC. 912. HUMAN RIGHTS POLICY IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) Condemning Human Rights Violations by the Government of the People's Republic of China.—The Congress—

(1) strongly condemns the continued violations of human rights by the Government of the People's Republic of China, including—

(A) the one-child-per-family policy adopted in 1979 that relies on coercion, economic penalties, and forced abortions (often late in pregnancy) as a means of enforcing compliance;

(B) the continued use of a repressive "birth quota" system that empowers the authorities to dictate to couples if and when they may have a child; and

(C) the use of forced abortions and involuntary sterilizations of Tibetans by Chinese authorities in Tibet; and

(2) affirms internationally recognized basic human rights, such as—

(A) the conclusion made by the 1981 United Nations symposium on Population and Human Rights that compulsory abortion is a violation of human rights; and

(B) the declaration made at the Nuremberg War Crimes trials that forced abortion be regarded as a "crime against humanity".

(b) Instructing the President and the Department of State.—The Congress asks that the President and the Department of State—

(1) raise the concerns expressed in this section with the Government of the People's Republic of China, and

(2) call upon that Government to cease immediately this repressive policy.

Page 214, at the end of line 18, insert the following:

The executive branch shall inform the appropriate oversight committees of the Congress of all progress made in POW/MIA cases in Laos and shall notify the appropriate committees of the Congress of any United States expenditures approved for projects associated with POW/MIA cases in Laos.

Page 223, strike out line 11 and all that follows through line 4 on page 226 (section 928), and redesignate subsequent sections accordingly.

Page 226, after line 10, insert the following:

SEC. 930. ANNUAL REPORT ON PAKISTAN.

The President shall submit a report to the Congress each year which details—

(1) the extent to which Pakistan has received assistance or support from other countries for activities related to nuclear enrichment or the development of nuclear weapons and the extent to which Pakistan has cooperated with or assisted other countries in nuclear enrichment or nuclear weapons development activities; and

(2) the extent to which Pakistan has shared sensitive United States military technology or information with any other country or allowed such technology to be compromised.

Page 208, beginning in line 3, strike out "Japan and the Arab Economic Boycott of Israel" and insert in lieu thereof "Japanese Middle East Policies"; line 5, "it" insert "(a) Arab Economic Boycott of Israel.—"; and after line 9, insert the following:

(b) Participation in Persian Gulf Efforts.—

(1) Findings.—The Congress finds that—

(A) Iran continues to threaten peace and stability in the Persian Gulf region;

(B) Iran has engaged in aggressive military action against United States military forces in the Persian Gulf, including the use of seamines and Silkworm missiles;

(C) Iran has refused to accept a ceasefire in the Iran-Iraq war, as proposed by the United Nations Security council;

(D) Japan's announced policy of refusing to engage in a United States-instigated trade embargo against Iran will continue to provide the Government of Iran with the hard currencies necessary to finance its war efforts;

(E) Japan purchases about 20 percent of Iran's total oil exports, an average of between 1,500,000 and 2,000,000 barrels per day;

(F) continued hostilities in the Gulf threaten the free flow of oil from the Persian Gulf to the industrial democracies;

(G) no industrial democracy is more dependent on the free flow of oil out of the Persian Gulf than Japan; and

(I) Japan's participation in Western efforts to restore peace in the Gulf region have been disappointing.

(2) Sense of congress.—It is the sense of the Congress that, by failing to make substantive contributions to restore peace in the Gulf region, Japan has been negligent in its responsibility as a member of the Western Alliance and as a member of the community of nations.

Page 209, strike out line 15 and all that follows through line 3 on page 210 and insert in lieu thereof the following:

(b) Agrarian Reform.—Of the amounts made available to carry out chapter 4 of part II of that Act, not less than $50,000,000 for fiscal year 1988 and not less than $50,000,000 for fiscal year 1989 shall be available only to assist in the implementation of agrarian reform in the Philippines if the Government of the Philippines initiates an effective agrarian reform program and requests United States assistance for that program and if a clear majority of the resources for the implementation of that program each year will be provided by the Government of the Philippines or other non-United States donors, or both. If, however, those conditions are not met by the end of the 9th month of a fiscal year, the funds earmarked by this subsection for that fiscal year may be used for assistance for other countries.

Page 226, after line 10, insert the following:

SEC. 932. HUMAN RIGHTS OF THE SIKHS IN THE PUNJAB OF INDIA.

(a) Findings.—The Congress finds that—

(1) Amnesty International found in its 1987 report that India has failed to adequately protect the human rights of the Sikhs living in the Punjab;

(2) there is evidence that the Indian authorities are currently suspending basic freedoms in the Punjab and that increasingly harsh police tactics are only aggravating the situation;

(3) due to the breakdown of law and order in the Punjab, India's central government has dismissed the elected state government and has introduced large numbers of police and paramilitary units;

(4) these paramilitary units temporarily sealed off the Golden Temple, the most sacred religious shrine of the Sikh people, and for the first time in centuries, devotees could not offer prayers or bathe in the historic holy tank built around the Golden Temple; and

(5) historically, Sikhs have been a peaceful people, and most Sikhs still want a peaceful solution in the Punjab.

(b) Statement of Policy.—It is the sense of the Congress that the Government of India should continue to allow Sikhs to have full access to the Golden Temple for the purpose of religious worship and should remove all military presence from the shrine as soon as possible. While the Congress condemns the use of terrorist tactics in the region, the Government of India should use restraint in resolving its dispute with the Sikh people in the Punjab. The Congress supports the territorial integrity of India and respectfully urges Prime Minister Ghandi, and all responsible leaders of the Sikh community, to renew their efforts to achieve a political solution that will permit the settlement of accumulated grievances, the restoration of law and order, and the return to home rule in the Punjab, while guaranteeing religious freedom and respect for the human rights of all the people of India.

□ 1445

Mr. SOLARZ. Mr. Chairman, this is an en bloc amendment which I believe has bipartisan support. It is being offered in order to facilitate the more expenditious consideration and rapid conclusion of the debate on this bill.

There are 11 provisions in the en bloc amendment. They are first, a provision authorizing the use of ESF funds for the Philippines for a house lot program.

Second, a provision for a scholarship program for the South Pacific.

Third, a provision concerning security assistance and arms export control preferences for New Zealand.

Fourth, a provision concerning family planning in the People's Republic of China.

Fifth, a provision concerning expenditures for United States-financed projects in Laos.

Sixth, a provision requiring that a report on Pakistan include information on the extent to which Pakistan has received support for nuclear enrichment activities from other countries and the extent to which it has shared sensitive United States technology with other countries.

Seventh, a provision dropping an outdated Sri Lanka amendment from the bill.

Eighth, a provision striking a section of the bill concerning contacts with Vietnam.

Ninth, a provision concerning Japanese policy toward the Persian Gulf.

Tenth, a provision concerning agrarian reform in the Philippines, and

Eleventh, and amendment concerning India's treatment of the Sikh community.

Mr. Chairman, given my druthers, I would not be in favor of each and every provision in this en bloc amendment. But in the interest of clearing the deck for final passage on this legislation, and in the interest of avoiding votes where the results would be a foregone conclusion anyway, we thought it best to present these amendments which do have broad bipartisan support in the en bloc amendment.

PARLIAMENTARY INQUIRY

Mr. SOLARZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLARZ. Mr. Chairman, are we now operating under the 10-minute rule?

The CHAIRMAN. The Chair wants all Members to understand the procedure we are operating under. Under the rule, debate on each amendment, from this point forward, printed in the RECORD, including those offered en bloc, is divided 5 minutes on each side, but the time cannot be reserved. The advocate of an amendment speaks for 5 minutes or he yields as he may wish.

Mr. SOLARZ. So there is a total of 5 minutes on each side for the en bloc amendments?

The CHAIRMAN. Five minutes on the gentleman's side and 5 minutes in opposition.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, the amendment I am offering expresses the sense of the Congress regarding the policy of the Japanese Government in the Middle East. My amendment criticizes the Government of Japan for acting contrary to the collective Western interests in that region. Specifically mentioned in my amendment is Japan's continued adherence to the Arab boycott of Israel, its refusal to join in the Western trade embargo against Iran, and the unsatisfactory contribution Japan has made to the Western campaign in the Persian Gulf.

More so than any other member of the Western alliance, Japan has been afforded, and exploits, the opportunity to exercise a foreign policy based exclusively on independent economic concerns. The Japanese Constitution, prohibiting that country from employing or developing offensive weapons, was viewed with ire by the Japanese in the immediate aftermath of World War II. Now, in many cases, it is used as a figleaf to justify Japan's unwillingness to meet its international obligations.

This could not be more evident than in the Middle East. The United States, along with our Western European allies, has deployed tremendous military resources in the Persian Gulf to defend the free flow of oil to the industrial democracies: Not to the United States alone, but to the allies of the Western alliance. The British are there; the French are there; the Dutch are there; the Italians are there—but the Japanese are not. Underscoring the moral bankruptcy of Japanese policy is that these other countries are far less dependent on Persian Gulf oil than Japan is. Whereas less than 6 percent of total United States consumption and less than 25 percent of Western European consumption of oil comes from the Persian Gulf, 48 percent of the oil consumed in Japan must travel through the Strait of Hormuz.

To add insult to injury, on August 29, 1987, then Japanese Prime Minister Nakosone determined that sending minesweepers to patrol the waters of the Persian Gulf would not violate the Japanese Constitution. He went on to say, however, that it would "not be appropriate to dispatch the self defense forces to the very stage of international conflict because there is a possibility that they will become involved in the conflict." This comment suggests a failure to grasp the concepts of collective security and morally motivated foreign policy.

Japan's failure to join our Persian Gulf campaign is not an isolated event, but rather a continuation of a disturbing pattern. The Japanese continue to subscribe to the Arab boycott of Israel—thereby fortifying an already hostile international environment for America's most reliable ally in the Middle East, Israel. Furthermore, Japan already has announced that it will not join the United States in enacting a trade embargo against Iran aimed at inhibiting that country's ability to finance its war effort.

Mr. Chairman, the Congress of the United States should go on record as strongly criticizing Japan for failing to make substantive contributions to restoring peace in the gulf and for acting contrary to the policy of those nations ensuring its economic lifeline.

Mr. SOLARZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa [Mr. LEACH] for 5 minutes.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I support the amendment pertaining to the Punjab.

Mr. Chairman, this amendment describes Syrian continuing support for terrorism and calls on the President not to rescind any more of the sanctions imposed on Syria last year.

In November last year, the State Department invoked a number of sanctions against Syria following the conviction in London of a terrorist operating on behalf of Syrian intelligence. The terrorist had attempted to blow up an El Al airliner by placing a bomb in the luggage of his pregnant girlfriend.

The Abu Nidal terrorist group claimed responsibility for this act. This year, Abu Nidal was expelled from Damascus, and for this reason the State Department saw fit to return our Ambassador and rescind its request that United States corporations suspend operations there.

The State Department's action implies that Syria is somehow reducing its direct support and sponsorship of terrorism against United States citizens, Israeli citizens, and Turkish citizens. This is not true.

A score of terrorist groups still maintain offices in Damascus and terrorist training bases under Syrian control and with Syrian support.

Though Abu Nidal was expelled from Damascus, he just moved into the Syrian-controlled Beka valley. How little does it take to placate the State Department? Couldn't they just have put a sign up: "We don't support terrorism?"

I don't know why, when Secretary Shultz has personally spoken so strongly about terrorism, that the State Department would fall for a gesture so blatantly cosmetic.

In addition to Abu Nidal: The terrorist group Saiqa, the Abu Moussa faction of the PLO, the Popular Front for the Liberation of Palestine, and the Democratic Front for the Liberation of Palestine all receive direct or indirect material and diplomatic support from Syria.

Syria also supports terrorism against another American ally, Turkey. Two terrorist groups: The American Secret Army for the Liberation of Armenia [ASALA] and the Kurdish Worker's Party [PKK] may still be receiving direct or indirect support for brutal attacks against Turkish civilians.

American oil companies, such as Marathon Oil are to be commended for their voluntary compliance with the State Department request to suspend operations in Syria. But they should not return because of cosmetic gestures by Syria. This amendment would put the House on record that American companies should not help the Syrians find the oil to pay for their Soviet-made war machine. And the State Department should not be egging them on.

TITLE IX. SIKH HUMAN RIGHTS AMENDMENT

Mr. Chairman, a refreshingly bipartisan effort has been taking place in Congress in favor of allowing the Sikh people their basic human rights. Members may not be aware of the situation in the Punjab because the Indian Government maintains a virtual news blackout and forbids most foreign journalists from visiting the region. The Indian Government has been trying to shelter world opinion from its systematic oppression of the Sikhs in the Punjab.

While I appreciate that India has to deal with a terrorist element in the Punjab, an element which I condemn, it is obvious that the increasingly repressive tactics of Indian police and paramilitary units are only aggravating the situation. Let me just quote from the 1987 Amnesty International report on human rights. It expresses concern with regard to, and I quote:

> The detention of hundreds of political detainees held without charge or trial under special "Anti-Terrorist" Legislation or preventive detention laws which lack legal safeguards required by international human rights standards and allow people to be detained for non-violently expressing their opinions;
>
> Allegations from most Indian states of ill-treatment and torture of detainees and some detainees allegedly died as a result; and
>
> Reports that some alleged supporters of armed opposition groups were deliberately killed in "encounters" staged by the police.

Mr. Chairman, on October 24 of this year, Indian police and paramilitary troops virtually sealed off the Golden Temple, the most sacred religious shrine of the Sikh peoples, and for the first time in its centuries-old history devotees could not offer prayers around this most holy temple. Mr. Chairman, let us put this body on record in support of religious freedom for the Sikhs. The vast majority of Sikhs desire a peaceful solution in the Punjab and we should encourage them. Let us urge Prime Minister Gandhi to use restraint in dealing with the crisis in the Punjab.

Mr. Chairman, force is not the answer. The Sikhs have not, nor will they ever, submit to oppression.

Mr. LEACH of Iowa. Mr. Chairman, I rise also in support of the en bloc amendments and to make one comment about one amendment within it which relates to the country of Japan, and only to suggest that in accepting this amendment it is the view of a number of us that it is not as perfectly balanced as we would like. I think it fair to point out that on October 7 the Japanese Government announced a whole series of measures to express certain support for United States policy in the Middle East.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I support and would like to make some comments on specific provisions in the en bloc amendments to title IX.

RE: H.R. 3100 AND THE SOUTH PACIFIC REGIONAL FISHERIES TREATY

Mr. Chairman, last month the U.S. Senate approved the South Pacific Regional Fisheries Treaty by a unanimous vote of 89 to 0. The treaty represents a major effort on the part of the United States to address a collective concern of the countries of the Pacific basin regarding the exploitation of their primary resource, tuna.

It was an arduous task to meet the diverse concerns of the 16 South Pacific countries and the United States. However, the treaty was successfully concluded due to the leadership and personal attention of Secretary of State, George Shultz, and the tenacious and dedicated effort of Under Secretary of State, Edward Derwinski. It was said many times by many people that it would be impossible to conclude such a treaty with the number of countries involved. Fortunately, the persistence of our negotiators paid off.

The American Tuna Association enthusiastically supports the treaty as it will resolve the cycle of boat seizures and retaliatory embargoes that have plagued the industry in the past. The actions and reactions of the island countries and the United States has been detrimental to the development of cooperative relations. The treaty will remove a major irritant and replace it with a constructive and positive framework for maritime cooperation in the Pacific. Access to the major fishing area of the world is guaranteed in exchange for economic assistance from the U.S. Tuna Industry and the Government. The U.S. economic assistance will be $10 million annually in the form of a cash transfer.

Section 206 of title II of H.R. 3100, requires the purchase of U.S. goods and services for any country that receives $10 million or more in ESF funds. The exemption provision provdes that,

> This section shall not apply to any country—
>
> (1) Which receives cash transfer assistance under this chapter of less than $10,000,000 for a fiscal year; * * *

The Forum Fisheries Agency which will receive the annual cash transfer, for subsequent distribution to the Pacific states, is not considered a "country" for these purposes. Furthermore, as no one of the 16 signatory countries will receive the total cash transfer of $10 million, it is clear that the exemption of section 206 applies.

The administration is expected to soon transmit the proposed enabling legislation regarding the South Pacific Regional Fisheries Treaty, formally entitled, the "Treaty on Fisheries Beween the Governments of Certain Pacific Island States and the Government of the United States." I urge my colleagues to expeditiously and sympathetically consider the legislation upon receipt. The Pacific is a vital part of today's world and will be increasingly so in the future. It is incumbent upon the United States to keep the importance of the Pacific in perspective. We must work to develop and maintain our relations with the many Pacific Island states, most of whom have been our close friends for years, through substantial and sincere action, such as the South Pacific Regional Fisheries Treaty.

Mr. Chairman, I rise in support of the amendment in the enbloc amendment offered by Congressman BOB DORNAN, a member and former chairman of the House POW-MIA Task Force, that would strike section 903, the provisions that encourage a wide range of contacts with Vietnam. Knowing of the complex and intricate negotiations in which we are engaged with the Vietnamese on the fate of our brave servicemen missing in Indochina, I believe it is unwise for Congress, at this time, to send independent signals and possible rewards to Vietnam. If such signals are needed from Congress, I have been assured by Gen. John Vessey, our special POW-MIA emissary who recently returned from Hanoi, that the administration will ask for them.

What significant actions have the Vietnamese done to resolve the humanitarian issue or our POW-MIA's? What real progress has recently been made warranting the rewards this section provides? While the Vietnamese have once again reassured us of their cooperation with this issue, actions speak louder than words. So far, all we've heard are words. The Vietnamese have been trying to get us to "expand our contacts with them." Before acceding to their request, let's see some real significant progress on behalf of our missing servicemen. As we found out during the Carter administration's dealings with Vietnam, these gestures do not work unless they are first tied to real results.

I do not disagree with Congress' calling upon Vietnam to promote family reunification, release political prisoners, withdraw from Cambodia and account for American POW-MIA's. I am very concerned, though, about the language that follows. The United States had tried painstakingly hard to separate the humanitarian issue of POW-MIA's from the political issue of Cambodia. This language makes no such distinction—undercutting a very hard-fought U.S. negotiating position. This language further muddies the waters by calling for "unofficial" contacts in political fields and exchanges of elected officials to faciliate these unresolved problems. The Vietnamese have always sought the opportunity to expand their dialog with the United States from the humanitarian POW-MIA issue to broader political ones. This language could allow that to happen. The POW-MIA issue is our primary bilateral humanitarian concern. Cambodia is a multilateral political issue. Just when we may be making real progress, it would be disheartening for Congress to give the Vietnamese a new vehicle to create obstacles.

As chairman of the House POW-MIA Task Force, I met with General Vessey upon his return from Hanoi. I have full confidence in his ability to deal with the Vietnamese and help our POW-MIA's. Instead of initiating our own well-meaning but misguided and misleading actions, let's wait and follow General Vessey's lead. I urge my colleagues to support our POW-MIA's, support General Vessey's initiatives and strike this flawed section relating to Vietnam.

AMENDMENT TO SECTION 907(B)

Mr. Chairman, I want to commend my colleagues from American Samoa and Guam for their initiative to provide scholarships for students from the South Pacific, as contained in section 907(b) of H.R. 3100. Mr. SUNIA and Mr. BLAZ represent constituencies in the Pacific and are particularly aware of the need to foster close relationships between the countries of the Pacific and the United States. One way to do this is to provide an opportunity for individuals from the South Pacific to study at United States institutions of education.

One Pacific Island country with no students currently studying in the United States, has developed relations with Cuba, Libya, and the Soviet Union. This should not come as a surprise, although many have considered the Pacific to be an American lake for decades. We shouldn't expect the South Pacific countries to understand our democratic way of life if the leaders have not been exposed to our system. Providing undergraduate and graduate training in the United States to the future leaders of the island countries may have a profound effect on our relations in the Pacific.

I want to thank the gentleman from American Samoa for working with me to craft a provision that provides a flexible scholarship program for the South Pacific. A great diversity exists in the needs of the many island countries. The need for graduate and undergraduate training varies among the island states. While no cap has been placed on the percentage of funds that are to be used for graduate scholarships, it is intended that the majority of the funds will be for undergraduate scholarships. It should be noted that the term study as used in section 907(b), refers to either academic or vocational training.

Some thought had been given to allow a limited use of these funds for training at other than U.S. institutions, in the event that specialized needs could not be met by a U.S. school. This might occur with regards to either tropical agriculture or tropical medicine. However, the provision restricts the scholarships to U.S. institutions. It would be very useful if the administering agency would identify instances where crucial training needs could not be provided by U.S. institutions. Such data could establish the basis for future funding to be more flexible or specifically identified for other purposes.

The South Pacific Scholarship Program is another step in the continuing effort to develop and maintain cooperative and productive relations with the countries of the Pacific; an area which is vitally important to the United States economically, politically, and strategically.

RICHARDSON AMENDMENT TO SECTION 910 OF H.R. 3100 "POW-MIA COOPERATION WITH LAOS"

Mr. Chairman, as chairman of the House POW-MIA Task Force, I support the new language offered by Mr. RICHARDSON of New Mexico regarding United States POW-MIA cooperation assistance to Laos. This new language, which instructs the administration to keep Congress informed before releasing any POW-MIA related aid to Laos, strengthens the provisions already in H.R. 3100.

My colleagues may recall that during the markup of this foreign aid bill last spring, our POW-MIA negotiators asked that Congress send a signal to back up their efforts with the Lao. This resulted in a very carefully worded amendment I offered that was unanimously accepted. This language is found in both H.R. 3100 and the Broomfield substitute. It is a sense of Congress that the President use available authority and appropriations, up to $200,000, to provide strictly humanitarian aid directly associated with POW-MIA efforts. It allows our negotiators to go to the Lao and say, "Congress is concerned and if you are cooperative, you might receive some help." This language sends a positive signal without denying our negotiators any needed flexibility.

I was opposed to the original Richardson amendment because it earmarked no less than $200,000 to the Lao. It would have given the Lao an important reward and they have yet to do anything really helpful toward resolving the fate of our POW-MIA's. I do not believe in rewards for nothing. Yes, this original Richardson amendment did provide for a Presidential waiver, but what message would we be sending the Lao? Now, we would be saying, "Congress will give you at least $200,000 unless you don't cooperate." The burden is now on the United States. If the President does use his waiver, the Lao will blame us for not cooperating, despite what the facts may really be, claiming that we promised the aid, but then reneged. Note the important flexibility we have lost. Once again, they can play Congress off against the administration at the expense of our brave POW-MIA's, the ones we are trying to help.

We have tried this route before with the Vietnamese during the Carter administration and it failed. The language as it now stands is very carefully worded and unanimously agreed upon by the administration and both sides of the Foreign Affairs Committee. Why make our negotiator's jobs more difficult than they already are?

As chairman of the House POW-MIA Task Force, I can assure my colleagues that this is a top national priority and much is being done. On a technical note, this aid, if provided, would not be on one lump sum, but rather in small POW-MIA projects—like crash site excavations. Think of how many times, sometimes for sums as little as $1,000, the administration will have to consider the waiver. Think of how many opportunities this will give the Lao to lessen cooperation and blame us for it. Ask our negotiators who deal with the Vietnamese and Lao, they are the ones who briefed me. These negotiations are very delicate and complex, let's not let Congress create another obstacle—Hanoi and Vientiene have already done enough of that.

Again, Mr. Chairman, I am very encouraged that Mr. Richardson has not offered this amendment and, instead, has chosen new language, approved and endorsed by the administration, that will help, not hurt our efforts to fully account for our brave POW-MIA's. This positive, new language is part of the Asis title en bloc amendment.

Mr. LEACH of Iowa. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. SMITH].

The CHAIRMAN. The Chair will state to the gentleman from Iowa he has 2½ minutes remaining.

Mr. SMITH of New Jersey. Mr. Chairman, in 1979, the Government of the People's Republic of China adopted a one-child per couple policy and embarked on one of the most vicious, barbaric invasions of personal privacy and family integrity the world has ever known.

The policy has resulted in tens of millions of unborn children even late in pregnancy being killed against their parents wishes.

The policy includes widespread use of forced abortion—a hideous crime that at the Nuremburg trials was deemed a "crime against humanity."

The policy has resulted in tens of millions of Chinese women being sterilized against their will.

The policy has resulted in mandatory IUD insertions for millions of Chinese women.

The policy has resulted in numerous cases of infanticide—the killing of newborn children—mostly of baby girls.

There is now no longer any serious doubt whatsoever, that for most Chinese couples only one child is permitted by the state. And under what is known as the "birth quota" system, the state tells women when and if they are allowed to have the one child permitted under the policy.

Two years ago the House voted 289 to 130 to condemn these practices as "crimes against humanity."

The message this House sends today by passing this amendment is this: Big Brother in Beijing must reverse this obscene policy.

In 1985, the Washington Post carried a three-part page 1 expose of China's coercive population control program. Michael Weisskopf the Post's correspondent in Bejing wrote:

> Publicly, they claim to rely on the powers of persuasion and education, exercising a policy of voluntary consent. They point to declining birth rates and happy one-child couples as symbols of success worthy of the United Nations' First Family Planning Award given jointly to China and India in 1983.
>
> But a closer and longer look reveals a very different picture. China, to be sure, is curbing its population growth, but its success is rooted in widespread coercion, mass abortion and intrusion by the state into the most intimate of human affairs.

The article quotes the Chinese Minister of Family Planning as saying:

> The size of a family is too important to be left to the personal decision of a couple * * * Births are a matter of state planning, just like other economic and social activities, because they are a matter of strategic concern. A couple cannot have a baby just because it wants to.

The Post article goes on to say that—

> Any mother who becomes pregnant again without receiving official authorization after having one child is required to have an abortion, and the incidence of such operations is stunning—53 million from 1979 to 1984, according to the ministry of public health—a 5-year abortion count approximately equal to the population of France.

Sadly these abuses persist to this day despite an aggressive public relations effort by the Government in Bejing and an assortment of apologists and sympathizers from the population control community including the United Nations Fund for Population Activity.

Mr. Chairman, there are some who say that things have changed in China. How I wish that were so. They say China has cleaned up its act. Let's not kid ourselves. The fact of the matter is that the evidence clearly indicates that coercion is still part and parcel of the PRC program.

An August 10, 1987, AID action memorandum by Assistant Administrator Richard Busell concludes that the "Chinese Program remains systematically coercive."

Dr. John S. Aird, former Senior Research Specialist on China at the U.S. Bureau of the Census, says coercion in population control in China is widespread de facto policy. Dr. Aird testified before the Congress earlier this year and said:

> The Chinese program remains highly coercive, and its coerciveness is not due to local deviations from central policies but is a direct and inevitable consequence of those policies.

A few weeks ago Dr. Aird wrote:

> Recently some foreign defenders of China's family planning program have alledged that the Chinese Government has significantly modified program requirements and curbed the more aggressive tactics of family planning cadres since the sping of 1984. The implication is that the program is becoming much less coercive and that U.S. funding for the United Nations Fund for Population Activities [UNFPA], withheld since 1985 because of the UNFPA's support of the Chinese program, can now be resumed.
>
> However, this conclusion is strongly contradicted by the evidence from the Chinese media, which shows that family planning demands were eased only very slightly after 1983, that sterilization of couples with two or more children, abortion for all unauthorized pregnancies, and the absolute prohibition of third births remain in effect, and that the program has been getting stricter again since the fall of 1985. The coercion is still very much alive.
>
> The Chinese program remains highly coercive, and its coerciveness is not due to local deviations from central policies but is a direct and inevitable consequence of those policies. Foreign organizations and individuals that indiscriminately laud the Chinese program or provide financial and technical assistance for any aspect of it place themselves in the position of supporting the program as a whole, including its coercive methods and the violations of human rights that result from those methods.

Steven Mosher, director of Asian studies at the Claremont Institute, the anthropologist who broke the story on these atrocities after living in a rural Chinese village for over a year says the Chinese program remains "relentlessly coercive."

On October 18, the Post carried an extensive commentary by Mr. Mosher after he went back to China last June. In a moving article, he tells the story of one couple that desperately tried to have a second child despite government pressure. I think sharing this story will give members some additional insight into the brutality of the Chinese population control program.

Here are some excerpts:

> By staying home most of the time, Chen's wife was able to hide her pregnancy from the population-control workers for several months. Her growing reclusiveness eventually made them suspicious, however, and they ordered her to go in for a pelvic examination.
>
> Chen explained in blunt terms what that meant. "If the examination revealed that my wife was pregnant, they would order her to have an abortion." So, like millions of Chinese whose plans for a second child have aroused official ire; the Chens opted for "childbirth on the run." His wife would go to live with a cousin in a neighboring county until she gave birth.
>
> Though Chen was expecting censure, he was taken aback by its intensity. Each day at work the vice director of his factory hounded him for information about his wife's whereabouts. Each evening at home he was visited by a birth-control delegation. After 2 months the factory director concluded that Chen could not be broken. He told the factory's dozen purchasing agents and sales representatives to make inquiries in the towns and villages of the surrounding district, promising a bonus to whoever located the missing wife. Chen's wife was found and brought back in February of this year. She was 7 months pregnant.
>
> The factory director ordered her confined to the factory dormitory. At least one member of the birth-control committee was with her at all times, badgering her to accept an abortion. Separated from her husband, too distraught to eat and sleep, she accepted the inevitable.
>
> She was immediately taken to the local medical clinic and given an injection of an abortifacient drug. This shot, universally called a "poison shot" in China, causes the fetus to be born dead or dying 24 to 48 hours later. "They didn't even tell me she was in the clinic until they had already given her the shot," Chen ended ruefully.
>
> The Chen's are only one of tens of millions of couples whose desire for another child has pitted them against a state bent on curbing China's population. The aggressive drive to enforce the "one couple, one child" limit intrudes on the intimate affairs of the family to a degree not seen in China since the cultural revolution.

Mr. Mosher went on in the article to write that the most important question is the extent to which women are still being subjected to abortions and sterilizations against their will. The answer to this question is written into the same 1983 directive quoted above:

> Those women who have already given birth to one child must be fitted with IUD's, couples who already have two children must undergo sterilization of either the husband or the wife, and women pregnant outside of the plan must adopt remedial measures (i.e., abortion) as soon as possible.
>
> This order, written in the imperative, has appeared repeatedly in the Chinese press. Even illiterate peasant women cited this law to me, so often have they heard it repeated in meetings. They understand, as do their urban sisters, that it is a prescription for mandatory IUD insertion, for mandatory sterilization and, when the policy on childbirth is violated for mandatory abortion.
>
> The question whether the one-child policy has been relaxed is moot. Even if the one-child policy were abandoned tomorrow in favor of a "two-child" policy, the Chinese program will remain painfully coercive as women continue to be subjected to IUD insertions, sterilizations, and abortions against their will.

Mr. Chairman, my amendment references the fact that these crimes are also being perpetrated against the people of Tibet. On November 5 of this year the Subcommittee on Human Rights of which I am a member, heard troubling testimony of coercion in population programs directed against Tibetans.

Last March, March 29, 1987, John Avedon wrote an article in the Washington Post describing the situation in Tibet. He wrote:

> The harsh face of Chinese rule includes thousands of forced abortions and sterilizations of Tibetan women each year. The common method for both procedures, recounted from all across the country, is by

injection. In Chamdo, Tibet's third-largest city, there have been numerous reports of fetuses thrown out in the storm drains and garbage bins of the People's Hospital. In Lhasa, many Tibetan women have heard their newborns cry, only to be told later that the infants died at birth.

Mr. Chairman, I strongly urge the House to adopt this amendment. We cannot remain silent in the face of these gross human rights abuses.

Mr. MILLER of Washington. Mr. Chairman, I rise in support of my distinguished colleague's en bloc amendment and thank him for including the house lot section which I authored.

All of us recognize that a politically and economically stable Philippines is one of the cornerstones of our strategic policy in the Pacific region. By deposing the dictator Marcos and restoring democracy to their nation, the Philippine people have taken the first steps toward political stability. For their heroic actions, they deserve our support and loyalty. But the vestiges of decades of dictatorship remain, posing a continuing barrier to continued political and economic progress.

Paramount among these barriers is a system of concentrated land ownership. In that agricultural society, estimates of the number of landless Filipinos range from 6 to 8 million, with 70 percent of the dispossessed living in rural areas. As the people's expectations for the new government continue to rise, those landless Filipinos who are still victimized by that system will be fertile ground for any antidemocratic movement.

This amendment, Mr. Chairman, offers an opportunity to help some 400,000 Filipinos break this land lock with house lots. If the Government of the Philippines approves this plan, this amendment would establish funding for 1,600 village centers throughout that nation. A village center would consist of a number of small grants of land, usually a quarter of an acre, to landless families in the countryside. The cooperative centers would provide marketing and technical assistance for crop production.

Because of the small amount of land granted to each family, technical assistance would encourage residents to produce high value crops such as mushrooms, coffee, and asparagus on a cooperative basis. This approach could also energize a national program for more productive land use and generate much needed foreign exchange.

Mr. Chairman, this is a fiscally sound and strategically correct response to one of the most difficult problems now confronting one of our most important allies. Sooner or later, land reform will come to the Philippines. Self-interest tells us that we should do what we can to encourage its peaceful and timely enactment. But even more important, this amendment is the right thing to do. It is an opportunity for this Nation to be on the right side of history in the Philippines.

Mr. PORTER. Mr. Chairman, I rise to express my support for the Burton amendment regarding human rights of the Sikhs in the Punjab of India.

As cochairman of the Congressional Human Rights Caucus, I have continually endorsed the efforts of the overwhelming numbers of moderate and nonviolent members of the Sikh community who strive to return basic human rights and religious freedoms to their community. As you know, more than half of India's 16 million Sikhs live in the Punjab.

To begin, I want to remind my colleagues that I abhor the increasingly violent confrontation occuring in the Punjab between the small minority of militant Sikhs and security forces. You may remember the bus attacks in June, the assassination of Prime Minister Indira Gandhi, and other such incidents.

However, the issue before us is a much broader one. Last year, I visited India and met Prime Minister Gandhi and Chief Minister Barnala, the head of the elected moderate Sikh government. I have followed this situation for many years, talked to members of the Sikh community and heard from an editor of a Bombay newspaper.

Unfortunately, the religious tensions and political conflicts within the Sikh community, between the Sikhs and the Hindus in the Punjab, and between the Akali Dal and the Indian Government, shade the picture of human rights violations which continue to occur.

We must not forget the indiscriminate 1984 assault on the Golden Temple, the holiest center of the Sikh religion, where thousands were killed. Only this year, Prime Minister Gandhi dismissed Punjab's chief minister, suspended the legislature, and reimposed direct rule by the central government.

I support this amendment because it focuses on basic human rights violations and offers concrete suggestions for improvement including reopening the Golden Temple for religious worship, using restraint in resolving the dispute between the Sikh peoples and the Government, and respecting human rights in the Punjab.

Mr. Chairman, we must continue to uphold our Nation's principles and urge other democractic countries to do the same. I urge my colleagues to join me in supporting this amendment.

Mr. SUNIA. Mr. Chairman, the education system we have in the United States offers our children immense opportunities to learn and grow in many ways, and it gives us the peace of mind that comes in knowing we will leave this great Nation to people who will be well informed and capable.

But we must remember those who are not as fortunate. Most in my part of the world—the South Pacific—are not able to receive the kind of instruction that is afforded to students here in the United States.

And few realize the educational needs of those in the South Pacific as I do. As the only Member of this body from the region, I come to realize that the best way to enhance the prosperity of my territory's neighbors is to educate their future leaders, also.

So it is that I proposed the amendment to H.R. 3100 which gives scholarship funds for students in developing countries in the South Pacific.

Certainly these students, who will be receiving fine schooling from this program, stand the best chance to becoming the future leaders in their respective homelands, because of their training and backgrounds.

But if they are taught in their own area of the world, we will be missing the whole intention of these funds, Indeed, the real purpose of the scholarships will be defeated.

This scholarship fund will go to more than educating students from developing countries alone; it will, in fact, be going for something less tangible: the improvement and continuation of better relations with these countries for years to come.

With this fund we want these young people to understand our way of life, our thought processes and our rationale for the roles we may take in future relations with their countries.

Robert Louis Stevenson, who lived in the Samoan Islands for many years and is even buried there, once said: "Books are good enough in their own way, but they are a mighty bloodless substitute for life."

With that in mind, we must remember that we want these students to receive an education not only from textbooks and lectures but also from living in our country and associating with American students. In receiving this kind of education, they will be able to bring to their homelands a respect for the American system of government and the American way of life.

Should these students be allowed to attend schools in their own region, we will lose this great opportunity. We will let this chance—this chance to teach the future leaders of the South Pacific about ourselves—go by. Instead, they will learn ideals and thoughts which may not be conducive to our way of thinking. They might learn another's philosophy. They will come to understand the role of another country in the world. And after all is said and done, these future leaders will still see the United States as a distant place which they still really know little about.

It has been pointed out to me, and it is a point well taken, that the proposed scholarship funding would be put to good use if some of it went toward education in the form of technical training. There certainly is a need for vocational training in my part of the world, and, if I must say, we should not miss this opportunity to train the young from the South Pacific in the various skills taught through vocational education.

It was indeed my intention to include funding for this type of schooling in my present amendment by using the term "postsecondary" to mean both traditional undergraduate study and technical study in such areas as agriculture, fisheries, business administration, and the economic development sectors.

The 10-percent clause for graduate studies was intended to make it clear to the distributing agency how much should be spent in this area, particularly because the focus of the funds shall be used extensively for undergraduate study. However, if that is clear to the distributing agency, I have no objection to removing the 10-percent stipulation, and allowing the agency to use the funds at its discretion.

Mr. JONES of North Carolina. Mr. Chairman, people in America rightfully get provoked when our country is scorned by foreign governments. How many of us have questioned foreign aid to nations which constantly vote against our interests in the United Nations?

Here we have a case where indignation is not enough. Here we have a country whose agents have been caught red-handed violating our laws, whose leaders have consistently misled us about their actions. Their President and their Prime Minister publicly and loudly proclaim that they will keep their nuclear programs within agreed-upon limits, but our intelligence authorities document that they are hell-bent on producing a nuclear bomb.

So how do we react? Are we outraged? Are we insulted? You can't say so from the committee's bill. Instead, we are looking the other way and reinstating aid for 2 more years.

I know that our relations with Pakistan are generally good. That country has been of immense help in dealing with the Soviet occupation of Afghanistan. They help us quietly in the Persian Gulf region. We don't want to jeopardize that relationship.

But we aren't the ones who put the relationship in jeopardy. We aren't the ones that said one thing and did another. We aren't the ones that broke U.S. law.

Pakistan made a calculated gamble that they could figuratively spit in our eye and get away with it. And from the looks of this bill, they calculated right.

Pakistan's nuclear program would be acceptable to us if they confined it to peaceful civilian uses. It would not threaten regional stability.

But if Pakistan persists with a nuclear weapons program, it makes a shambles of our nuclear nonproliferation policy. And it will set off a nuclear arms race in South Asia.

India will have to respond by producing nuclear weapons herself. India has been capable of this for many years, but she has chosen to forbear that opportunity. If Pakistan goes ahead, India's forbearance will disappear.

The Solarz amendment is the proper response. It will enable United States aid to flow to Pakistan once again, so long as Pakistan acts in the way it publicly pronounces. It permits Pakistan to move forward with a peaceful civilian nuclear program. If Pakistan has been and remains truthful with us, it has nothing to fear from the Solarz amendment.

A nuclear arms race in South Asia is a terrible thing to contemplate. The United States should do all it can to discourage such an event. The Solarz amendment is the best way of pursuing our goal.

Mr. MATSUI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana [Mr. BURTON]. This amendment expresses the sense of Congress that the Indian Government should reopen the Golden Temple for religious worship, use restraint in resolving disputes with the Sikh people, and respect human rights in the state of Punjab.

The tragic circumstances in India are not widely know or fairly publicized. The information we receive is controlled by the Indian Government. No one is currently allowed to visit the state of Punjab, including Members of Congress and foreign journalists. At the same time, religious and ethnic groups have claimed the lives of thousands. It is now time to demand the truth from the Indian Government which casts a long dark shadow over the Sikhs in Punjab.

India is certainly no stranger to religious violence. Mahatma Gandhi, a man respected throughout the world for his dedication to nonviolence and commitment to religious tolerance, engaged in a near-death fast to protest Muslim and Hindu fighting in response to the separatists' call for partition on the eve of independence. When India achieved its independence from Great Britain in 1947, it was essentially divided into the Muslim area which became Pakistan and the predominately Hindu area which became India. If Mahatma Gandhi were alive today, he would surely be engaged in a fast lasting 4 years in an attempt to bring attention to the current human rights violations and to restore peace in the region.

It is the sense of the Congress that the Indian Government should continue to allow Sikhs to have full access to the Golden Temple for the purpose of religious worship and should remove all military presence from the shrine as soon as possible. While the Congress condemns the use of terrorist tactics in the region, the Indian Government must use restraint in resolving its dispute with the Sikh people in the Punjab. The Congress respectfully urges Prime Minister Gandhi and all responsible leaders of the Sikh community to renew their efforts to achieve a political solution that will permit the settlement of accumulated grievances, the restoration of law and order and the return to home rule in the Punjab, while guaranteeing religious freedom and respect for the human rights of all the people in India.

Mr. Chairman, I urge all my colleagues to support this important amendment.

Mr. MARKEY. Mr. Chairman, I rise in strong opposition to the provisions of this bill regarding nuclear weapons proliferation in Pakistan. Weakness invites contempt, and weakness invites peril. The weakness of our nonproliferation policy toward Pakistan has generated contempt for American law and American policy from the Government of Pakistan. More important, the weakness of this bill's nonproliferation language with respect to Pakistan will foster grave danger to the security and stability of South Asia and the world.

Even as we move toward greater nuclear stability between the superpowers in Europe, we are sliding down the road to a nuclear arms race between Pakistan and India.

But if a nuclear war breaks out in the next 10 years, it is more likely to be in South Asia, not in Europe.

This week, Reagan and Gorbachev began to close a small window to nuclear confrontation in Europe. Tragically, the House has left open the door to nuclear confrontation in South Asia.

The Reagan administration concedes that we have no greater interest in South Asia than preventing nuclear weapons proliferation.

The question is, what are we willing to do about it?

Are we going to talk, or act?

We've already tried to jawbone Pakistan into stopping their nuclear bomb program. We gave Pakistan talk, but no action on nuclear nonproliferation; and they gave us talk, but no action on nuclear restraint in return.

American law prohibits aid to countries that operate unsafeguarded enrichment facilities. But we waived that law for Pakistan.

For 6 years, we have given Pakistan one of the massive and sophisticated aid packages in the world. That aid package was supposed to induce the Pakistanis to restrain their nuclear program. Clearly that approach has failed. Rather than restraint, Pakistan has responded with a blatant and continuing violations of our laws and their promises to us.

They tried to smuggle krytrons, maraging steel, and beryllium out of the United States, in blatant violation of our technical security laws. This spring, even as the administration was arguing for another 6-year waiver for Pakistan, a Pakistani native was bribing American officials and falsifying documents to smuggle restricted maraging 350 steel to Pakistan. When the Foreign Affairs Committee took a soft line on Pakistan, did that lead to Pakistani restraint? It had the opposite effect. After Congress' action, the same Pakistani expanded his illegal smuggling efforts to try to get beryllium, which is a component of a nuclear bomb.

Some on the other side argue that if we strongly resist the Pakistani nuclear weapons program, they will accelerate that program. But it doesn't make sense to me that they will give up a $4 billion aid package in favor of a bomb that will buy them only problems in the near term. The problem is, we haven't made them choose.

The Pakistani nuclear weapons program is like a car hurtling down a precipice. We have one pedal to push—making U.S. aid conditional on an end to nuclear enrichment. Some say that this pedal is the accelerator; we say it is the brake. But one thing is sure—if we don't push it, we're going to crash anyway.

Seven years ago, we were debating the nuclear program in India. We buckled. Now we're debating the nuclear program in Pakistan. And we're buckling. In a few years, will we be debating the nuclear program in Iran?

Some seem to argue that if one country has the bomb, everybody should have the bomb. That is wrong. We don't want an equal opportunity nuclear weapons proliferation program. Nuclear weapons are not a good thing. They are a bad thing. We want to reduce nuclear weapons, not increase and spread them.

Whether it is a Pershing II or SS-20 in Europe or a basement bomb in Pakistan or India, a bomb is a bomb is a bomb. And a nuclear war is a nuclear war, whether it is between us and the Russians or between India and Pakistan.

Some say the genie is out of the bottle, and we cannot stop nuclear proliferation. They are wrong. Nonproliferation has worked in Sweden. It has worked in Korea. It has worked in Taiwan. It can work in Pakistan, if we make it work.

Some raise the question of India's nuclear program.

I am no stranger to this issue. Members who were here in 1980 will remember that I led the fight against the shipment of nuclear fuel to India's Tarapur reactor, for nonproliferation reasons. In that I was opposing the Carter administration.

But India is not the issue here. In the South Asian nuclear proliferation crisis today, Pakistan is the problem. India, like China and Russia, has exploded a nuclear device. We cannot unexplode it. But India has not stockpiled nuclear weapons—yet. They will if Pakistan goes ahead with the bomb, and Pakistan will go ahead if we don't stop them.

There is only one country in the world to get a special waiver of our nonproliferation law. That country is Pakistan.

If Members are concerned that we are unfairly singling Pakistan out, I assure them that that need not be the case. I have prepared an amendment that would strike all special language relating to Pakistan's nuclear program, and apply to Pakistan the same law we apply to everyone else. In fact, despite all its illegal activity, Pakistan does not get specially harsh treatment. It gets specially lenient treatment.

There are nuclear proliferation problems elsewhere. We should address them. But we cannot wait for progress on any front to make progress on any front.

Some opponents of strong action on nonproliferation argue that the Parkistani bomb program is a regional problem. They are only part right. Nuclear proliferation is not just a regional problem, but a global problem, involving the superpowers and every other nation in the world.

The Soviet Union wanted the bomb because we had the bomb.

China wanted the bomb because the Soviet Union had the bomb.

India wanted the bomb because China had the bomb.

Now Pakistan wants the bomb, because India has the bomb.

And if Pakistan gets the bomb, Iran will want the bomb.

At some point we have to say "stop." We can stop nuclear proliferation if we want to.

Despite their contempt for our nonproliferation policy, Pakistan is the fourth largest recipient of United States aid in the world.

What have we gotten for our last $3 billion package of aid to Pakistan?

Pakistan refuses to give us military bases.

Their best friend is the People's Republic of China.

They give the PLO's Yaser Arafat 21-gun salutes on official visits.

They send troops to Saudi Arabia to be deployed against Israel, although Saudi Arabia recently sent these troops home because of Pakistan's close relationship with the regime in Iran.

And Pakistan remains a military dictatorship.

Compare this with staunch United States allies such as the Philippines or Korea. These emerging democracies get far less aid than Pakistan, even though they open their territory to American military, naval and air bases.

And the Philippines, Korea, and Taiwan are not engaged in a pell-mell program to build a nuclear bomb.

What effect will the Pakistani bomb have on American security? Remember that Pakistan is first an ally of Communist China, second an Islamic country, and only third a friend of the United States. Just because our interests converge on Afghanistan doesn't mean they converge elsewhere. Iran, too, supports the Afghan Mujahideen. We don't support Iran.

Pakistan's bomb program is reportedly funded by Libya and Saudi Arabia. Let me quote from Pakistan's President, General Zia, who spoke last year about "the aggressive talk about the Pakistani nuclear bomb. It is our right to obtain the technology. And when we acquire this technology, the entire Islamic world will possess it with us."

When Time magazine reported General Zia's admission that Pakistan had developed a nuclear bomb capability, he called the press reports a "Zionist conspiracy" against Pakistan.

Some try to confuse the issue by citing Pakistan's support of the Afghan Mujahidin. I strongly support the Afghan freedom fighters. But Afghanistan should not prevent all progress on preventing nuclear war. Afghanistan did not prevent Reagan and Gorbachev from making progress on nuclear arms control in Europe, and it should not prevent us from making progress on nuclear arms control in South Asia.

The Mujahidin have nothing to do with Pakistan's nuclear weapons program. Pakistan's aid to the Afghan rebels was not bought with American aid, and will not end if we suspend it.

Let me quote from the Ambassador of Pakistan: "Pakistan's opposition to the Soviet invasion of Afghanistan commenced with the invasion itself, and certainly long before the first Unites States aid package was initiated. Nothing will deflect us from adhering to these same principles."

Pakistan supports the Mujahidin because it is in their own national interests not because we bribed them. Pakistan supported the Afghan rebels before we gave them any aid, they support them now, when we have in fact suspended aid, and they will support them in the future if we continue to suspend our aid.

But suspending aid is not the objective of the nonproliferation amendment. The objective is to stop a nuclear bomb program.

Consider carefully what we are talking about. There is no stability to an Indo-Pakistani nuclear arms race.

India and Pakistan are not separated by oceans; they are right next to another—they share a disputed border. There is no warning time for a nuclear attack by India or Pakistan. There are no survivable nuclear delivery systems. One of Pakistan's F-16's was destroyed recently when it hit a wild boar on the runway.

Crisis stability in an Indo-Pakistani nuclear standoff is zero. And Pakistan and India have fought three wars since 1947. They may well fight another one before the century is out.

The question is, will that be a conventional war, or a nuclear war,

It is time to stop compromising our overriding long-term interest in nuclear nonproliferation for short-term political and diplomatic concerns.

When a nuclear bomb goes off in South Asia, when the superpowers are drawn into a Third World nuclear war, it will be too late to learn from our mistakes. We must act now.

Mr. Chairman, a stitch in time saves nine. Today we had, and let pass, an opportunity that may not come again. We could have acted to prevent a nuclear arms race before it is too late. We must not continue down that road.

If we continue to turn our backs on nuclear weapons proliferation in South Asia, we risk catastrophe beyond measure.

Mr. LEACH of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the en bloc amendments offered by the gentleman from New York [Mr. SOLARZ].

The en bloc amendments were agreed to.

The CHAIRMAN. Are there further amendments to title IX?

Are there further amendments to title IX?

If not, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—PEACE CORPS

SEC. 1001. AUTHORIZATIONS OF APPROPRIATIONS.

Section 3(b) of the Peace Corps Act is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the purposes of this Act $142,000,000 for fiscal year 1988 and $142,000,000 for fiscal year 1989.".

SEC. 1002. PASSENGER AUTOMOBILES.

Section 15(d)(4) of the Peace Corps Act is amended to read as follows:

"(4) purchase and hire of passenger motor vehicles, except that—

"(A) section 1343 of title 31, United States Code, shall not apply to vehicles purchased for the transportation, maintenance, or direct overseas support of volunteers,

"(B) except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles and the cost, including exchange allowance, of each such replacement shall not exceed the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price) in the case of an automobile for any Peace Corps country representative appointed under section 7(c), and

"(C) passenger motor vehicles may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;".

SEC. 1003. TECHNICAL PUBLICATIONS.

Section 15 of the Peace Corps Act is amended by adding at the end the following:

"(e) Technical publications produced by the Peace Corps may be sold at cost in furtherance of the purposes of this Act. Up to $200,000 of the proceeds of such sales in each fiscal year may, to such extent as may be provided in advance in appropriations Acts, be credited to the currently applicable appropriation of the Peace Corps, notwithstanding section 3302(b) of title 31, United States Code."

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 228, after line 10, insert the following:

SEC. 1004. PROHIBITION ON PEACE CORPS FUNDING OF ABORTIONS.

Section 3 of the Peace Corps Act is amended by adding at the end the following new subsection:

"(i) None of the funds authorized to be appropriated to carry out the provisions of this Act shall be used to pay for abortions.".

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Chairman, the Chair knows and the desk knows I have two noncontroversial amendments at the desk, and did the Chair say that he has gone past title IX and into title X?

The CHAIRMAN. The Chair will state that the Chair announced twice, inquired twice if there were further amendments to title IX. Hearing none, the Chair instructed the Clerk to designate title X.

Mr. SOLOMON. Mr. Chairman, I ask unanimous consent I be allowed to go back to title IX to take two noncontroversial amendments which I have at the desk, which I believe the Democratic side of the aisle is ready to accept.

The CHAIRMAN. First the Chair would ask if the gentleman from California [Mr. DORNAN], who has an amendment that has been read at the desk, would consent to ask unanimous consent to temporarily withdraw his amendment. That would have to be done first.

Mr. DORNAN of California. Mr. Chairman, I gladly consent.

The CHAIRMAN. Without objection, the amendment is temporarily withdrawn.

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. SOLOMON]?

There was no objection.

The CHAIRMAN. Does the gentleman from Indiana [Mr. BURTON] have a parliamentary inquiry?

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry. I was on my feet. I was not at the microphone at the time when the Chair left title IX, and I also have an amendment to title IX. Since we have gone back to accommodate the gentleman from New York, I make the same request.

The CHAIRMAN. Is there objection to the gentleman from Indiana returning to title IX to offer an amendment?

There was no objection.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 226, after line 10, add the following:

SEC. 930. ADMINISTRATION POLICY ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces," political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than sixty days after the date of enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

(3) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I would appreciate it if we could see what amendment the gentleman is offering. It may well be the equivalent of the Ten Commandments, motherhood, and apple pie. I have often supported the gentleman in the past. Sometimes I have not, but I do like to know what we are voting on.

Mr. SOLOMON. Mr. Chairman, I have just sent a copy of the amendment over there. I am sure the gentleman from New York supports this amendment. This is an identical amendment to one which was just accepted by both the Democrats and Republicans unanimously to the State Department authorization bill. It was this identical amendment.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield again to the gentleman from New York.

Mr. SOLARZ. I am given to believe that identical language has been accepted in the State Department authorization bill.

Mr. SOLOMON. That is the identical amendment that was accepted unanimously by both sides of the aisle in conference.

Mr. SOLARZ. So it obviously does not do any harm. But does it do any good?

Mr. SOLOMON. It does an awful lot of good. On this day, December 10, International Human Rights Day, let us pass this amendment to show the poor oppressed people in Afghanistan that we and the rest of the world have not forgotten them.

Mr. SOLARZ. Mr. Chairman, would our acceptance of this amendment make the gentleman happy?

Mr. SOLOMON. The gentleman from New York always makes me very happy.

Mr. SOLARZ. If that is the case, then, I appreciate the gentleman's statement, and I too support the need to demonstrate congressional support for the brave struggle of the Mujaheddin against the presence of Soviet forces in their country.

Mr. SOLOMON. Is the gentleman going to accept the amendment.

Mr. SOLARZ. After very careful consideration, based on the gentleman's bona fides, we can accept his amendment.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this amendment, which I might add, has already passed the other body, is aimed at reinforcing congressional concern about the continuing Soviet occupation of Afghanistan. The amendment notes that the administration's announced policy toward Afghanistan is that the only thing that will induce the Soviets to negotiate a withdrawal of their forces from Afghanistan is "steadily increasing pressure of all fronts—military, political, diplomatic * * *."

The amendment takes the administration at its word, and to that end, calls for three reports to be delivered to Congress within 60 days of the date of enactment of this act.

The first report calls for a recitation of the history concerning sanctions that have been applied to the Soviet Union since the first anniversary of the invasion of Afghanistan—in other words, sanctions imposed by this administration. What were these sanctions and when were they imposed? When were they lifted? And what impact did they have on the Soviet Union?

The second report calls for a "comprehensive list of all areas or ongoing cooperation that could be withheld from the Soviet Union."

The third report would be concerned with the present status of "Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments."

I trust that this amendment will have the desired effect of putting some backbone into the administration as it has to deal with this very compelling issue. We cannot have business as usual with the Soviets so long as they occupy Afghanistan and are engaged in terrorizing and subjugating the people there.

Since December 27, 1979, 1 out of every 11 Afghans has lost his life at the hands of the Soviet invaders. One out of every four Afghans has fled the country. And who knows how many have been maimed, crippled, and displaced within Afghanistan itself? An entire generation of children is growing up in that country without knowing a day of peace—every day of their lives has been filled with Soviet terror, whether raining down from the skies or blowing off their hands and faces when they stoop down to pick up a booby-trapped toy.

With all of the euphoria over the signing of an important arms control treaty this week, let's not forget the people of Afghanistan. They have an interesting and unique perspective on what it's like to live with the Soviets.

The CHAIRMAN. Does the gentleman from New York [Mr. SOLARZ] seek time on this amendment?

Mr. SOLARZ. No, I do not, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon: On page 214, between lines 18 and 19, insert the following new section:

SEC. 911. CHINESE COMPLICITY IN IRANIAN AGRESSION.

(a) FINDINGS.—The Congress finds that—

(1) on October 16, 1987, the American flagged tanker Sea Isle City, was struck by a Chinese produced Silkworm missile;

(2) at least eighteen persons aboard the Sea Isle City were injured, among them two Americans;

(3) on October 15, 1987, the American owned tanker Sungari was struck by a Chinese produced Silkworm missile;

(4) the People's Republic of China has continued to supply Silkworm missiles to Iran despite repeated official protests by the United States;

(5) the People's Republic of China has so far not unreservedly declared its willingness to support an arms embargo of Iran if Iran refuses to accept United Nations Security Resolution 598, passed July 20, 1987;

(6) recent public reports indicate that the People's Republic of China has also supplied fighter aircraft to Iran; and

(7) the United States is engaged in significant military related technology transfers to China.

(b) PROHIBITION.—(1) Notwithstanding any other provision of law, no credits made available for use under the Arms Export Control Act may be issued and no guaranties may be extended for the People's Republic of China.

(2) Notwithstanding any other provision of law, no cash sales or deliveries pursuant to previous cash or credit sales under the Arms Exports Control Act may be made with respect to the People's Republic of China.

(3) Notwithstanding any other provision of law, no assistance furnished under the Foreign Assistance Act of 1961 may be provided to, or on behalf of projects in, the People's Republic of China.

(c) CERTIFICATION WAIVER.—(1) The prohibitions described in subsection (b) shall remain in effect until the President certifies to the Congress that—

(A) the People's Republic of China publicly and officially indicates its willingness to support and, if applicable, vote for within the United Nations, any arms embargo in the event that Secretary General Perez de Cuellar's negotiations with Iran and Iraq fail to gain Iran's acceptance of Security Council Resolution 598; and

(B) the People's Republic of China no longer sells, leases, or otherwise makes available, directly or indirectly, Silkworm missiles, aircraft, or other arms, ammunition or implements of war to Iran.

(2) A certification transmitted pursuant to this subsection shall be unclassified, except that a classified appendix may be attached. The certification shall include a detailed justification for the President's determination.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes in support of his amendment.

Mr. SOLOMON. Mr. Chairman, the amendment I am now offering is self-explanatory. It states the facts with respect to the sales of Silkworm missiles to Iran by the People's Republic of China, and would cut off United States technology transfers to the P.R.C. until such time as the President certifies to Congress that China has, publicly and officially, indicated its willingness to support an international arms embargo against Iran, and that China is no longer selling or making available to Iran Silkworm missiles or other arms and ammunition.

The ongoing horror of war in the Persian Gulf is a great concern to all of us. The stakes involved do not need to be recited; every Member is familiar with them. The other body has already gone on record condemning Chinese arms sales to Iran, and it is time for the House to go on record, too, My good friend STEVE SOLARZ, always makes the point that America is most effective abroad when we are united at home. And certainly the issue of Chinese arms sales to Iran is an issue around which we can all unite.

Let me just say in conclusion that the P.R.C. must be induced to play a more constructive role in the international sphere. It is no secret that I have long been skeptical about the value of the so-called China card. The skepticism that I and many other Members have can only be reinforced when China insists on selling arms to Iran and assumes other postures that are, directly or indirectly, detrimental to American interests—not least of which are the P.R.C.'s burgeoning espionage activities in our own country that are aimed at stealing United States high technology. This is wholly inconsistent with the official status China enjoys, in State Department parlance, as a friendly, nonaligned country, and it is high time the P.R.C. is put on notice that the funny business must stop.

AMENDMENT OFFERED BY MR. SOLARZ AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLARZ. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ as a substitute for the amendment offered by Mr. SOLOMON: Page 214, after line 18, insert the following:

SEC. 911. TRANSFERS OF SILKWORM MISSILES TO IRAN BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 16, 1987, the American-flagged tanker Sea Isle City was struck by a Chinese-produced Silkworm missile;

(2) at least 18 persons aboard the Sea Isle City were injured, among them 2 Americans;

(3) on October 15, 1987, the American-owned tanker Sungari was struck by a Chinese-produced Silkworm missile;

(4) the People's Republic of China has continued to supply Silkworm missiles to Iran despite repeated official protests by the United States;

(5) the People's Republic of China has so far not unreservedly declared its willingness to support an arms embargo of Iran if Iran refuses to accept United Nations Security Council Resolution 598 of July 20, 1987; and

(6) the United States is engaged in significant transfers of military-related technology and weapons to the People's Republic of China.

(b) DECLARATION OF POLICY.—It is the sense of Congress that—

(1) the United States should review all transfers of United States military-related technology, all sales under the Arms Export Control Act, and all deliveries pursuant to previous sales under the Arms Export Control Act, to the People's Republic of China

until the Government of the People's Republic of China indicates its willingness to support an arms embargo in the event that Secretary-General Perez de Cuellar's negotiations with Iran and Iraq fail to gain Iran's acceptance of Security Council Resolution 598;

(2) the administration should make a strong representation to the Government of the People's Republic of China that the continued transfer of Silkworm missiles to Iran may seriously jeopardize relations between the United States and the People's Republic of China; and

(3) the administration should report to the Congress within 30 days after the date of enactment of this Act whether such a representation has been made, and if so, what response has been received.

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair will inquire, does the gentleman rise in opposition to the amendment?

Mr. SOLARZ. Mr. Chairman, I rise in support of the substitute amendment which I am offering.

The CHAIRMAN. The Chair wishes to remind the Member and all Members that under the rule in a circumstance of this kind the gentleman can speak only in opposition. Under the 5-minute division of time, the gentleman may speak only in opposition to the original amendment.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the original amendment.

PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Chairman, under this 5-minute rule, 5 and 5, we have offering amendments to amendments. Does the Chair mean that the gentleman is not allowed to offer an amendment to my amendment or a substitute for my amendment?

The CHAIRMAN. The substitute is pending, but the Chair would state that amendments not printed in the Record are not debatable. So under the 5-minute division, one can only speak in opposition to the original amendment but may make reference to a substitute amendment, if the debate is relevant to that opposition.

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURTON of Indiana. Earlier today on the Mozambique amendment on military assistance, the gentleman from Michigan [Mr. Wolpe] had a perfecting amendment to mine, and I raised the point of order that I could not respond to his perfecting amendment which he debated under his 5 minutes. Now the Chair is changing the approach, as it appears, and I do not understand that. If one cannot debate a perfecting amendment but only the amendment before the body, then why did it take place earlier on my Mozambique amendment?

The CHAIRMAN. The Chair will state to the gentleman from Indiana that he has not changed the rules. Under the rule under which we are operating, 5 minutes are allocated to each side. The gentleman's problem under the earlier amendment to which he refers was that the gentleman who had 5 minutes in opposition chose not to yield to him.

Mr. BURTON of Indiana. But he debated his perfecting amendment, which the Chair said just now was not debatable because he could only debate the amendment before the body.

The CHAIRMAN. The Chair will state that in the context of opposition to the original amendment a Member may make reference to a subsequent amendment if the debate is relevant to opposition to the original amendment.

Mr. BURTON of Indiana. So if the gentleman from New York decides to perfect the amendment offered by the other gentleman from New York [Mr. Solomon], he can do so if he objects to the original amendment? He can do that in his debate?

The CHAIRMAN. The gentleman has responded to the Chair and said he is rising in opposition to the original amendment. In the context of that opposition, he may make reference to his substitute amendment.

Mr. BURTON of Indiana. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. Solarz].

Mr. SOLARZ. Mr. Chairman, I share many of the concerns which have been expressed by my friend and colleague, the gentleman from New York, about the sale by the People's Republic of China of Silkworm missiles to Iran. I think it is unfortunate. I think in a way it might even be said to be unconscionable.

My only problem with the amendment is that it would require a termination of literally all arms sales and I am not sure we want to lock ourselves into law with that kind of prohibition at the present time. There are larger concerns which we do have. There is a need to maintain a global balance of power.

The Soviet Union, in spite of the presence of the General Secretary in Washington, continues to pose a threat not only to us but to China. There may be situations in which we would deem it mutually advantageous to work together in an effort to contain the Soviet threat. Consequently, the substitute amendments which incorporates in essence the findings which are in the gentleman's amendment and which express his concerns, which I share, about the sale of Silkworm missiles by China to Iran, would provide in the declaration of policy that instead of cutting off all of our technology transfers and arms sales to China, we should review them, and that would send a clear signal to China that the House of Representatives is very unhappy with their policy of providing Silkworms to Iran. It sends a signal to the administration that we believe our policy toward China with respect to arms sales and technology transfers should be reviewed, but we would not want to lock ourselves into such a prohibition.

Mr. Chairman, I believe that my good friend, the gentleman from New York, with whom this has been discussed in advance, would find this acceptable.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I will just say that the gentleman from New York has come a long way since I served with him in the New York State Legislature. I am really proud of him, and I appreciate his astuteness on this matter. I certainly accept his substitute and would hope that it would be adopted.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman very much. He, too, has come a long way as a matter of fact from the days when we served together in what I used to call the American political equivalent to the Gulag Archipelago, the New York State Legislature.

Mr. Chairman, I do believe this substitute is a position around which all good men and women can gather.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Solarz] as a substitute for the amendment offered by the gentleman from New York [Mr. Solomon].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Solomon], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana: Page 226, after line 10, insert the following:

SEC. 930. POLICIES PURSUED BY INDIA.

(a) Findings.—The Congress finds as follows:

(1) The Soviet Union supplies India with over 80 percent of its military needs and provides high-technology weapons that are normally reserved for Warsaw Pact countries.

(2) India was the first country outside the Warsaw Pact to obtain Soviet built MiG-29 fighter bombers, Mi-26 Halo heavy lift helicopters, and Kilo-class submarines. India and the Soviet Union co-produce T-72 tanks and MiG-21 and MiG-27 fighters.

(3) In recent years, India's voting record is even worse than the Soviet Union's when it comes to support for the United States position in votes in the United Nations General Assembly.

(4) India refuses to condemn the Soviet invasion of Afghanistan and the Soviet-backed invasion of Cambodia by Vietnam.

(5) The Human Rights Caucus of the House of Representatives heard testimony from United Nations Ambassador Vernon Walter which confirmed that India, after promising to refrain, introduced a procedural motion that prevented Cuba from being censored by the United Nations Human Rights Commission for flagrant human rights abuses.

(6) India's Prime Minister Gandhi offered a $10.4 million assistance package to the communist Sandinistas in Nicaragua. This offer came at a time when the United States was giving India over $500 million in assistance over a 3-year period. Daniel Ortega awarded Prime Minister Gandhi Nicaragua's highest award, the Order of Augusto Ceasar Sandino, making Gandhi the sixth leader to receive it. Fidel Castro was the first.

(7) In April of 1987, Indian Defense Minister K.C. Pant joined North Korean President Kim II Sung for the latter's 75th birthday celebration in Pyongyang, where he lent dignity to a regime that spends 24 percent of its gross national produce on its military by describing the Indian and North Korean governments as having much to gain by "working for disarmament, development, and just world order".

(8) India has no diplomatic mission in Israel, but maintains warm relations with the Palestine Liberation Organization.

(b) STATEMENT OF POLICY.—The Congress is very concerned about the increasing Indo-Soviet relationship. It is very unfortunate that as the United States becomes India's largest trading partner, India continues to move closer and closer toward the Soviet bloc. If India continues to be a puppet of Soviet foreign policy goals, the United States must quickly reassess the Indo-United States relationship.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, the amendment before you is one the American people will find a little absurd. Why would the United States need an amendment to ban United States foreign assistance to countries that have agreements to obtain Soviet military supersonic aircraft? For that matter, why would we be giving United States aid to any country that receives Soviet supersonic fighter aircraft? Mr. Chairman, the Department of Defense has just released the list of eight countries that, under existing agreements, are awaiting the delivery of Soviet supersonic combat aircraft under existing agreements. These are: Iraq, Libya, Syria, Mali, Afghanistan, India, Yugoslavia, and Algeria. Three out of the eight countries receive U.S. assistance. While Yugoslavia and Mali receive only minor assistance India will get around $50 million this year. I am sure the American people would be more than a little upset if they found out their taxpayer dollars were being used to free up a country's resources in order for them to obtain Soviet fighter aircraft.

The Soviet Mig-29 fighter aircraft formally joined India's air force this past Sunday in a ceremony at Pune, in western India. India is the first country outside the Soviet Union, even before the Warsaw Pact, to receive this top of the line Soviet supersonic fighter plane. The Indian Government has a coproduction agreement with the Soviets which will enable the Indians to produce the Mig-29 locally. The Mig-29 Fulcrum represents a qualitative leap in Soviet fighter technology. It is comparable to the United States F-16 and F-15 and French Mirage 2000. The Mig-29 is likely to become the U.S.S.R's principal export fighter over the next decade. Of course, the Indian Government has every right to purchase military aircraft from whomever they please. What I object to is the use of United States taxpayer dollars to lessen India's economic burden in order for them to purchase top of the line Soviet aircraft.

What is even more troubling is that there are currently 24 countries discussing the purchase of supersonic aircraft with the Soviet Union. What sort of signal are we sending to these countries? What about other countries that are considering such a purchase? Glasnost is one thing, but is the United States really prepared to help finance Soviet aircraft sales? I should think not. Please support my amendment to prevent this from occurring.

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Mr. COURTER. Mr. Chairman, I rise in support of the amendment offered by my colleague from Indiana, Mr. BURTON.

Because India is a democracy, we are inclined to think well of it, to supply aid where necessary, and to work towards good bilateral relations. And indeed, we do all those things.

But I regret to say that India's foreign policy often seems disturbingly undemocratic. Prime Minister Gandhi's government wants better relations with the United States, yes. But New Delhi works just as hard for better relations with the most appalling tyrannies. There would seem to be some problem of discrimination. One would think that any democracy's governors would know that not all governments are created equal.

Countries like North Korea, Cuba, and Libya have been courted, indulged, or supported. So has the PLO. The Governments of Nicaragua and Angola are actually the beneficiaries of Indian economic assistance; that means that while the United States supports freedom fighters in those countries, the Indians, recipients of United States aid, in turn aid the governments we're opposing. My colleague has mentioned many examples. He and various Members gave other examples in a special order of the House on June 2. I drew up my own list of the friends India has chosen unwisely for the editorial pages of the June 8 issue of the Wall Street Journal.

But patterns of cooperation with enemies of democracy is only part of the problem. The trend toward the intensification of such cooperation is just as important. All the indicators point to India traveling further down its leaders' unworthy path.

On July 7 the Minister of State for External Affairs was in Hanoi, where Vietnamese Prime Minister Pham Hung "expressed satisfaction over close cooperation and friendship between the two countries."

In early August, PLO Chief Yasser Arafat made a 3-day state visit to New Delhi. He was very warmly received, and "expressed gratitude for the assistance and support" wich India has extended to the PLO and its cause.

The Kremlin's pawns in Kabul are cooperating more closely on direct banking with New Delhi, and industrial collaboration between Afghanistan and India is to intensify.

Czechoslovakia and India have announced plans for expanding trade. The Communist country will also be building industrial facilities in India.

India and Hungary have been working to increase trade.

Indian trade with the Soviets is going up. Already at very high levels, it is scheduled to increase by as much as 2½ times in the next 5 years, according to the Indian Government's news service.

On July 1, TASS reported that Rajiv Gandhi had "expressed appreciation of the progressive development of Soviet-Indian relations." Here is TASS quoting the Prime Minister: "During the last few years the relations between the Soviet Union and India were improved tremendously. And it is all the more significant because they were already very good."

On July 4, returning from Moscow, the Prime Minister told reporters that "India and the Soviet Union have a general identity of views on most regional issues." Communiques like that almost allow one to forget that there is a holocaust going on in Afghanistan. Indeed, India's voting practice in the United Nations is always to abstain when the other members vote overwhelmingly for the withdrawal of foreign troops.

Mr. Chairman, India cannot justify all this with a wave of the flag of the nonaligned movement. As the world's largest democracy, India has a natural duty to promote democracy. But instead of striving to see civil liberties spread, the Government has embraced one regime after another to which civil liberties are anathema. I hope that passage of this amendment will remind the Gandhi government of the deep difference between those two courses.

AMENDMENT OFFERED BY MR. SOLARZ AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. SOLARZ. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ as a substitute for the amendment offered by Mr. BURTON of Indiana: Page 226, after line 10, insert the following:

SEC. 931. POLICIES PURSUED BY INDIA.

(a) FINDINGS.—The Congress finds that—

(1) President Reagan has favored closer collaboration between the United States and India, the world's two largest democracies;

(2) President Reagan on October 20, 1987, stated that substantial progress has occurred in relations between the United States and India since 1985 and that powerful political, economic, and cultural currents draw our two democracies together;

(3) the President noted India and the United States have a shared dedication to democracy and to the efforts to reduce and eliminate nuclear weapons;

(4) Prime Minister Gandhi has applauded the intermediate-range nuclear force (INF) agreement concluded by the United States and the Soviet Union as an historic step offering the world hope that some day President Reagan's wish that a world without nuclear weapons may be possible;

(5) the President has sought to expand bilateral trade, further reduce trade barriers between our two nations, and increase collaboration between the American and Indian private sector;

(6) the President has achieved an agreement with India to safeguard the use of all United States technology transferred to India and has agreed to enlarge its cooperation with India in defense production;

(7) President Reagan has sought to increase scientific, cultural, and educational cooperation with India through the successful renegotiation of a three-year science and technology agreement and the use of the United States-Indian Fund for Cultural, Educational, and Scientific Cooperation to increase educational resources in both countries;

(8) President Reagan has obtained assurances of increased Indian cooperation to stem drug trafficking and drug abuse and to combat the scourge of international terrorism;

(9) Minister Ghandi has assured President Reagan of India's strong support for United Nations efforts to move toward a political settlement in Afghanistan that would remove all foreign troops from that country and permit its people to live in peace as citizens of a neutral country free from outside intervention; and

(10) Prime Minister Ghandi and the President of Sri Lanka have demonstrated statesmanship and courage in their efforts to end the ethnic strife in Sri Lanka.

(b) STATEMENT OF POLICY.—The Congress calls on the President to take all appropriate steps to encourage India to follow a genuinely independent nonaligned foreign policy. The Congress supports the President's efforts to encourage India to increase its pressure on the Soviet Union to withdraw its forces from Afghanistan, further diversify its procurement of military equipment, intensify its dialogue with Pakistan in order to decrease tensions in South Asia, and undertake steps to contain the threat of nuclear proliferation in the region. Progress on these issues would quickly lead to increased support for closer United States-Indian relations.

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLARZ. Mr. Chairman, I rise in very strong opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON], which in my view is untimely, unfortunate, unhelpful, and worst of all, utterly unbalanced.

To be sure, we have some differences with India, but the gentleman's amendment is in essence a diatribe against India. Its adoption by the Congress would set back very substantially the efforts now being made by President Reagan and his administration to improve our relationship with India.

A few weeks ago Prime Minister Ghandi was in Washington. He met with the President. It was a very good meeting. Prime Minister Ghandi recently expressed his support for the INF Treaty which the President just signed.

India has called upon the Soviet Union to withdraw its forces from Afghanistan.

To be sure, India has not always acted in ways that we would like it to act. But we will have a much better chance of persuading it to further distance itself from the Soviet Union if we adopt the substitute, which takes note of the extent to which we have an interest in better relations with India, than if we adopt the amendment offered by the gentleman from Indiana, which is incredibly inflammatory. He describes India as a puppet state of the Soviet Union. This is sheer, utter, and total nonsense.

India is not a member of the Warsaw Pact. India is a sovereign and independent country. It does not take orders from Washington, but neither does it take orders from the Soviet Union.

The gentleman complains that virtually all of India's sophisticated military equipment, and particularly its Air Force, comes from the Soviet Union. They buy it from the Soviet Union. The reason they buy it from the Soviet Union, rather than from us, is that the Soviet Union sells it to them for rupees. If our aircraft manufacturers were willing to sell American jet aircraft to India for rupees, they would probably buy from us as well.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to my friend, the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I was interested in the gentleman's comment that the Indian Government had called upon the Soviets to withdraw from Afghanistan. I missed that. Does the gentleman remember in what context that was?

Mr. SOLARZ. I think that was done in the context of the discussions which take place from time to time between India and the Soviet Union.

Mr. WILSON. It was not a public call for the Soviets to withdraw from Afghanistan?

Mr. SOLARZ. I do not think it was given in the form of a speech, but I recall Prime Minister Gandhi at his press conference in Washington in October indicated India's strong support for the UN effort to negotiate a settlement that would remove all foreign forces from Afghanistan but I think those of us who know India, and I know the gentleman is familiar with India, and knows that India does not believe its interests are advanced by 120,000 Soviet troops on the subcontinent.

Mr. WIlSON. But I mean, I just cannot let it go, if the gentleman would be kind enough to yield further. India does not vote for the United Nations resolutions calling upon the Soviet Union to withdraw from Afghanistan, does it?

Mr. SOLARZ. The gentleman is correct, but neither did India vote against those resolutions, as do the members of the Warsaw Pact and other countries which are client states of the Soviet Union.

What this substitute amendment does is to praise President Reagan and take note of his efforts to gradually improve Indo-American relations, while simultaneously expressing the sense of the Congress that the President should take additional appropriate steps to encourage India to follow a genuinely independent and nonaligned foreign policy.

Mr. Chairman, I ask the Members of the House to remember one pre-eminent fact. We may be the most powerful democracy in the world, but India is the most populous democracy in the world. We should be trying to work more closely with each other. You catch more flies with honey than with vinegar.

We will have a much better chance of inducing additional changes in Indian policy if we adopt the substitute and reject the amendment. If the amendment is adopted and the substitute is rejected, it will be seen as a repudiation not only of Prime Minister Gandhi, but of President Reagan. The Congress today should simply try to make an effort to improve relations between our two countries, it is in our national interest.

So I would simply say in conclusion, Mr. Chairman, that the amendment offered by the gentleman from Indiana [Mr. BURTON] is full of misleading misstatements. If I had more than 5 minutes, I would be more than happy to show how virtually everything in his amendment represents a distortion of reality, rather than an accurate reflection of reality; so I appeal to my colleagues to vote for the substitute and against the amendment.

I include the text of President Reagan and Prime Minister Gandhi's statements in the RECORD:

REMARKS BY THE PRESIDENT UPON DEPARTURE OF PRIME MINISTER GANDHI OF INDIA

The PRESIDENT: I am delighted to welcome once again Prime Minister Gandhi to the White House. The Prime Minister and I have had useful discussions on the status of U.S.-Indian relations. We noted that in the years since our meeting in 1985, substantial progress has been made. Bilaterial trade has expanded. Collaboration between our private sectors has intensified. We've enjoyed cooperation in defense production, notably the Indian Light Combat Aircraft. The memorandum of understanding on technology transfer has been implemented. The United States is working with India to launch its satellites. The U.S.-India fund for cultural, educational, and scientific cooperation has been inaugurated and we're working together to combat terrorism.

Beyond such concrete achievements, there are powerful, political, economic, and cultural currents that are drawing our two societies into closer collaboration. Our shared dedication to democracy is paramount among these currents. We're also building on a strong foundation of cooperation in the fields of science, technology, and space which permits us, with confidence, to set ambitious new goals. In this connection, the Prime Minister and I have agreed to the following:

To renew the Ronald Reagan-Indira Gandhi Science and Technology Initiative for an additional three years beyond 1988.

We agreed to take steps to substantially expand two-way trade and recognized the need to reduce barriers to free trade.

To consult regularly to ensure that U.S. supercomputer exports to India reflect the rapid pace of scientific advances while at the same time safeguarding U.S. technology.

To work even more closely together to stem drug trafficking and abuse.

To expand de*** BAD MAG TAPE ***fense cooperation in technology and other military areas.

To undertake joint research projects to explore the ejhancement of arid zone agriculture, water management, and evolution of ground water resources.

To increase the educational resources about our countries, as appropriate, using the U.S.-India Fund for cultural, educational and scientific cooperation; to establish a program in research institutions in both countries for short-term exchange fellowships in development-related subjects.

Expanding on our leadership exchanges, the Speaker of our House of Representatives will visit India this year, and his Indian counterpart will visit the United States next year.

Today the Prime Minister and I also discussed East-West relations and the prospects for an historic treaty eliminating an entire class of intermediate-range nuclear missiles of the United States and the Soviet Union. And the Prime Minister emphasized India's long-standing encouragement of such efforts to reduce and eliminate nuclear weapons. In this context, I urged that India and Pakistan intensify their dialogue to build greater mutual confidence, to resolve outstanding issues, and to deal with the threat of nuclear proliferation in the region.

We also discussed the tragic situation in Afghanistan and strongly endorsed movement toward a political settlement—a settlement that would remove all foreign troops from that country and permit its people to live in peace, as citizens of a neutral country and free from outside intervention. On the subject of U.S. security assistance to Pakistan, I assured Mr. Gandhi that our objective is stability and reduced tensions in South Asia and that our assistance is not directed at India.

And finally, let me acknowledge the statesmanship and courage demonstrated by Prime Minister Gandhi and the President of Sri Lanka in their efforts to end the ethnic strife in that troubled island nation. I have pledged to both leaders our full support.

It has been a pleasure to have had this opportunity to discuss these issues with Prime Minister Gandhi and to renew a very real friendship.

Prime Minister GANDHI: It's always a pleasure to be at the White House. Thank you, Mr. President, for your invitation and for your warm words. May I, at the outset, wish Mrs. Reagan the speediest recovery. We know what a source of strength she is to you, Mr. President, in your work for your country and the world.

I also take this opportunity to congratulate the people of the United States on the 200th anniversary of the Constitution. It is one of history's momentous documents that has made the United States grow to greatness. Your Constitution has been an inspiration to us in our struggle for freedom and liberty. As the President informed you, we have had good and most useful meetings. We spoke of world peace and our concern for the well-being of humanity, and we spoke of the relations between our countries.

We agreed upon further methods of strengthening our mutual friendship. The relations between our two countries have always held much promise. In recent years, we have made notable progress toward realizing that promise. Your personal attention and interest, Mr. President, have contributed greatly to our expanding partnership. We have agreed to collaborate at the frontiers of technology. We have reaffirmed the tradition of scientific interaction which has been the hallmark of our relationship. The growth in high technology, trade, and transfers has been a source of considerable satisfaction. I hope that the United States would recognize India not just as a market, but as a partner in technological progress. In the field of bilateral trade and investment, we have agreed that much can be done to expand the present level of activity. We will encourage increased interactiion between our trading entities.

Having successfully launched our cooperation for the Light Combat Aircraft Project, we have now agreed to explore other avenues in the field of defense. This is yet another step forward. I am confident that after our talks today, we will be able to place our relationship on a more enduring basis. We share not only aspirations and values, we sometimes face common threats. We have each recognized the dangers to our societies posed by terrorism and narcotics. I mentioned to you today our determination to fight these problems. I'm aware of your personal concern about narcotics, the price they extract in the form of blighted youth and wasted resources. I would like to reiterate once again our commitment to cooperate with you to this end.

Turning to international issues, I should first like to applaud the statesmanship demonstrated by you, Mr. President, and by General Secretary Gorbachev in pursuing the vexing and complex issues of nuclear disarmament. Your endeavors have given a glimmer of hope to a world threatened by imminent nuclear holocaust. An INF agreement will be an historic step. For the first time, an operational nuclear weapon system will be withdrawn and dismantled. We hope that this will be the beginning of the elimination of nuclear weapons altogether—an objective to which you are dedicated.

I sincerely wish you, Mr. President and General Secretary Gorbachev, every success in these endeavors. All humankind is with you.

Our deliberations today also covered the situation in Afghanistan. We agreed on the need for an early political settlement there and support the efforts of the U.N. Secretary General. I believe that a just solution must ensure a sovereign independent and non-aligned Afghanistan. Foreign intervention and interference must cease. The Afghan refugees must be allowed to return to their homes in honor, dignity and security. We would welcome any earnest efforts in this direction.

We had a frank discussion on the dangers of nuclear proliferation, both horizontal and vertical. My country has consistently recognized that a secure world order cannot be built on nuclear weapons. Our actions have spoken louder than any words in expressing this commitment. We do not have nuclear weapons. We do not want nuclear weapons. And we certainly do not want nuclear weapons in our neighborhood.

We have watched with concern developments in our immediate vicinity. Nuclear stockpiles have multiplied. Yet another country now seems on the threshold of fulfilling a long-time goal of acquiring nuclear weapons. On our part, let me assure you, Mr. President and the people of your country, that we have no intention of producing nuclear weapons unless constrained to do so.

Mr. President, you and I have discussed these matters and expressed our mutual concerns. Time is not on our side. We are faced with critical decisions on issues which need to be addressed urgently.

We appreciate your support to the efforts to end the ethnic conflict in Sri Lanka, Mr. President—in particular to the July 29th Agreement, which I signed with President Jayewardene. We are determined to ensure the full implementation of its provisions as it represents the best hope for peace in the region.

I thank you, Mr. President, once again for your hospitality. Our discussions have been most productive, and I leave Washington confident and optimistic about the future of our relationship. Thank you. (Applause.)

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. First, Mr. Chairman, I think it is fair to emphasize the point of the gentleman from New York that India is the world's largest democracy.

Second, that the gentleman's resolution is thoroughly consistent with the Reagan administration's foreign policy, and the amendment that has been offered is thoroughly inconsistent with Reagan administration foreign policy.

The amendment that was originally offered is inflammatory. This is reasonable. It recognizes that we have differences with India. It recognizes those differences are not likely to go away, but it is statesmanlike and it should be adopted, that is, the amendment to the amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Very briefly, Mr. Chairman, and since the gentleman is yielding to me, I will not ask for a roll call vote——

The CHAIRMAN. The time of the gentleman from New York has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

PARLIAMENTARY INQUIRY

Mr. SOLARZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLARZ. Mr. Chairman, is it possible by unanimous consent to give the gentleman from Indiana 1 minute to address the House?

The CHAIRMAN. Under the rule adopted by the House, all time on the bill has expired. In the Committee of the Whole, that unanimous-consent request cannot be made.

Mr. SOLARZ. Is there any way, Mr. Chairman, in which the gentleman from Indiana would have an opportunity to address the House at this point, any motion which is available to him, such as striking the last word?

The CHAIRMAN. The Chair will state that if a proper unanimous-consent request were made and someone reserves the right to object to that unanimous-consent request, it could be had on that reservation subject to a demand for regular order.

Mr. SOLOMON. Mr. Chairman, I ask unanimous consent that the gentleman have 1 minute to address the House.

The CHAIRMAN. The Chair will not entertain that request. That is not permissible under the rule.

The Chair will state one more time that an appropriate unanimous-consent request could be made to modify the pending amendment, and if a Member chose to reserve the right to object to that unanimous-consent request, then debate could be had.

MODIFICATION OFFERED BY MR. FASCELL TO THE AMENDMENT OFFERED BY MR. SOLARZ AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. FASCELL. Mr. Chairman, I move to strike the last period and insert a comma.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Reserving the right to object, Mr. Chairman—

The CHAIRMAN. Is the gentleman asking unanimous consent for the Chair to vitiate the putting of the question on the substitute amendment?

Mr. SOLARZ. Yes, Mr. Chairman.

The CHAIRMAN. If the gentleman from Indiana temporarily withdraws his point of no quourm, is there objection to the request of the gentleman from New York?

Mr. SOLOMON. Reserving the right to object, Mr. Chairman, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding, and under the gentleman's reservation, I just want to make a couple of brief comments.

The gentleman from New York made some pretty strong statements about my particular amendment. I just want to say the fact of the matter is that after getting $500 million in aid, India did give $10.4 million to the Communist Sandinista government.

They are building and have received Mig-29 fighter bombers, MI-26 Halo heavy lift helicopters, Kilo-class submarines from the Soviet Union, and they are coproducing T-72 tanks, Soviet Mig-21's, Mig-27's, and Mig-29's.

The statements I made are not inaccurate, but due to the press of time, I will not ask for a rollcall vote, and I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. SOLARZ]?

There was no objection.

The CHAIRMAN. The Chair will put the question de novo. The question is on the amendment offered by the gentleman from New York [Mr. SOLARAZ] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will redesignate title X.

The Clerk redesignated title X.

The CHAIRMAN. Are there amendments to title X?

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 228, after line 10, insert the following:

SEC. 1004. PROHIBITION ON PEACE CORPS FUNDING OF ABORTIONS.

Section 3 of the Peace Corps Act is amended by adding at the end of the following new subsection:

"(i) None of the funds authorized to be appropriated to carry out the provisions of this Act shall be used to pay for abortions.".

Mr. DORNAN of California. Mr. Chairman, what I am attempting to do with this amendment is to bring the Peace Corps in line with almost all the other Federal agencies with a prohibition against abortion.

There is one thing wrong with my amendment, and I hope we can correct it here and there is a way to do that.

Before I make a move to recognize someone to correct it, I just wanted to say that this amendment would have passed several other times in the House if people had just been reasonable. This is the exact type of language, or will be shortly, that we have on massive spending bills that affect thousands upon thousands of Americans. To not have a handful of Peace Corps volunteers subject to the same laws of the United States that hundreds of thousands of other people are is just eminently unfair.

There are essentially two options available to Representative DORNAN with regard to the amendment he has filed, one essentially narrow and a second, broader, purpose.

(1) NARROW OBJECTIVE

Simply to include in the underlying authorization act for the Peace Corps the same prohibition on abortion that has been included for at least the past 8 fiscal years in the annual appropriations bills. Opponents of Hyde amendments are always complaining about attaching abortion riders on appropriations bills, complaining that such limitations should be attached to the authorizing legislation. The problem is that there usually are no authorizing vehicles on which the issue of abortion funding can be addressed. On this occasion there is an appropriate vehicle, the authorizing legislation for the foreign aid bill, which includes reauthorization of the Peace Corps Act for 2 years. If the amendment ultimately is enacted, it will also lock into permanent law the prohibition that now must be dealt with annually.

Another important benefit of having this provision adopted by the House is that it will strengthen the prolife position in conference with the Senate. The Senate Foreign Relations Committee's reported foreign bill has several provisions detrimental to prolife positions—that is, restoring funding for the China program through UNFPA and reversing the Mexico City policy. Beefing up the House with prolife amendments will, at a minimum, ensure a better prolife bargaining position in conference.

(2) BROAD OBJECTIVE

Attached are materials which relate to the issue of whether the existing prohibition on funding for abortions should include "transportation costs" associated with bringing Peace Corps workers to the United States to obtain abortions. Peace Corps has interpreted the law to permit Peace Corps funding of such purposes while not permitting actual funding for the abortion itself. For the legislative history, if this approach is taken, proponents should state clearly that in adopting the amendment, it is their intent that all related expenses associated with abortions are prohibited.

The strategic advantages outlined above are also applicable with regard to strengthening the prolife conference position.

□ 1530

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, let me say that we have no objection to the amendment. There is no money being spent by the Peace Corps for that purpose, and this is a restatement of existing law. The gentleman is absolutely correct, and we are happy to accept the amendment.

Mr. DORNAN of California. Mr. Chairman, I appreciate the chairman's comments, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DORNAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 228, after line 10, insert the following:

SEC. 1004. PEACE CORPS HEALTH SERVICES PILOT PROGRAM.

(a) AUTHORITY TO ESTABLISH.—The President may establish, under the Peace Corps Act, a pilot program, to be carried out, during the fiscal years 1988 and 1989, in each of 2 host countries which have existing Peace Corps programs, for the purpose of—

(1) training foreign nationals of the host country to deliver basic health care services; and

(2) providing basic health care to the people of the host country.

(b) HEALTH SERVICES TEAMS.—The training and health care described in paragraphs (1) and (2) of subsection (a) shall be provided by a health service team selected for each of the 2 host countries selected under subsection (a). Each health team shall consist of not more than 12 volunteers who are physicians and dentists. Volunteers on each team shall, to the extent possible, be selected from both experienced physicians and dentists (especially retired persons) and recent medical and dental graduates.

(c) FUNDING.—Funds otherwise authorized to be appropriated to carry out the Peace Corps Act shall be used for the program authorized by this section.

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, this amendment I believe has already been cleared by the majority and the minority. It simply restates what has been done in the appropriations process. It establishes pilot programs in the health care area and in the dental area. It has strong support in the other body. It has been cleared by the Committee on Appropriations.

The Peace Corps is currently undertaking it.

Because of the fact that this is the authorizing committee that should make policy, it was my judgment that it should be done this way.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, we are pleased to accept this amendment. We believe the President has sufficient authority, but if he does not, the gentleman from New Mexico [Mr. RICHARDSON] gives it to him anyway. As he pointed out, this program is underway. We think it is a good amendment.

Mr. RICHARDSON. Mr. Chairman, I appreciate the remarks of my chairman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title X?

The Clerk will designate title XI.

The text of title XI is as follows:

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 1987.

SEC. 1102. USES OF FOREIGN CURRENCIES.

(a) SPECIAL ACCOUNTS; USE FOR DEVELOPMENT PURPOSES.—Section 609(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "any commodity" and all that follows through "sale thereof," and inserting in lieu thereof "assistance is furnished to a foreign country under part I under arrangements which will result in the accrual to that country of local currencies,";

(2) in paragraph (1) by striking out "proceeds" and inserting in lieu thereof "accrued local currencies"; and

(3) by amending paragraph (3) to read as follows:

"(3) utilize the remainder of the Special Account for purposes which are consistent with the objectives of sections 103 through 106 or, in the case of sub-Saharan Africa, section 472, and which are agreed to by the agency primarily responsible for administering part I.".

(b) CONFORMING AMENDMENTS.—Section 531(d) of that Act is amended—

(1) by striking out ", not less than 50 percent" and all that follows through "part I of this Act"; and

(2) by adding at the end the following: "All local currencies that accrue as the result of assistance under this chapter shall be deposited in a special account and used in accordance with section 609 of this Act.".

SEC. 1103. COMPREHENSIVE ANNUAL REPORTS ON FOREIGN ASSISTANCE.

Section 634 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(c) As part of the annual congressional presentation materials on foreign assistance programs, the President shall provide to the Congress a full, complete, and detailed accounting of all assistance provided during the preceding fiscal year under the Foreign Assistance Act of 1961 (other than chapter 7 of part I) and the Arms Export Control Act. This accounting shall include for each fiscal year, among other things, the following with respect to each authorization account:

"(1) The specific projects and other activities carried out in each country.

"(2) The number of persons from each country who were provided with training, and the types of training provided.

"(3) The defense articles and defense services provided for each country.

"(4) The types of goods and commodities provided to each country for economic stabilization purposes under chapter 4 of part II (relating to the economic support fund), and a copy of each agreement for the furnishing of any assistance under that chapter.

"(5) The amounts of local currency generated by United States assistance to each country, the uses of those currencies, and the total amount of those currenies still available for use as of the time of the report.

"(6) A report on any transfers or reprogrammings of funds, and a description of how transferred or reprogrammed funds modified the amounts requested for each account.

"(7) A report on the funds which have been obligated but remain unexpended for each country in each account.

"(8) An analysis of the amount of funds and programs provided through nongovernmental as contrasted to governmental channels.

"(9) For each country to which section 536 applied during the previous fiscal year—

"(A) how the assistance provided under chapter 4 of part II was used in carrying out that section; and

"(B) the progress that was made during that year with respect to long-term economic development and economic policy reform (as defined in that section).

"(10) For each country which received cash transfer assistance under chapter 4 of part II during the previous fiscal year, a detailed description of how the country used the funds that were made available, with a discussion of the United States interests that were served by the assistance (including, as appropriate, a description of any economic policy reforms that were promoted by the cash transfer assistance).

"(d) The annual congressional presentation materials on foreign assistance programs shall also include, for each country for which cash transfer assistance is proposed under chapter 4 of part II for the coming fiscal year, a discussion of the United States interests that will be served by the assistance, including, as appropriate, a description of the economic policy and development situation in the country which may affect the implementation of United States economic assistance programs and long-term economic development.".

SEC. 1104. REPROGRAMMINGS OF ASSISTANCE.

(a) Reprogrammings Subject to Notification Requirements.—Section 634A(a) of the Foreign Assistance Act of 1961 is amended by striking out the first sentence and inserting in lieu thereof the following: "Unless the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of each House of Congress are notified at least 15 days before the funds are obligated—

"(1) funds made available for any fiscal year to carry out any provision of this Act (other than titles III and IV of chapter 2 of part I, chapter 5 of part I, and chapter 9 of part I) or the Arms Export Control Act may not be obligated for assistance for any foreign country or international organization in any amount in excess of 5 percent of the amount allocated for that country or organization for that fiscal year in the report required by section 653(a) of this Act;

"(2) funds made available for any fiscal year to carry out chapter 1 of part I or chapter 4 of part II of this Act may not be obligated for any program, project, or activity in any amount which exceeds by more than 20 percent the amount justified to the Congress for that program, project, or activity; and

"(3) funds made available for any fiscal year to carry out chapter 4 of part II of this Act may not be obligated for any cash transfer assistance.

A notification pursuant to paragraph (3) shall include a detailed description of how the funds proposed to be made available as a cash transfer will be used and a discussion of the United States interests that will be served by providing the assistance as a cash transfer (including, as appropriate, a description of the economic policy reforms that will be promoted).".

(b) Conforming Amendment.—Section 634A(b) of that Act is amended by striking out "reprogramming—" and all that follows through "(2)" and inserting in lieu thereof "reprogramming".

SEC. 1105. FOREIGN ASSISTANCE ALLOCATION REPORTS.

(a) Applicability to Continuing Resolutions.—Section 653(b) of the Foreign Assistance Act of 1961 is amended by inserting after "law making continuing appropriations" the following: "for a period of less than 60 days,".

(b) Applicability to International Narcotics Control Assistance.—Section 653(a) of that Act is amended by striking out "other than" in the parenthetical clause and inserting in lieu thereof "including section 481 but excluding".

SEC. 1106. FOREIGN DEBT REPAYMENT.

(a) Policy on New Economic Assistance Loans to Countries Unable To Service Existing Debts.—It is the sense of the Congress that the Agency for International Development should generally not provide assistance on a loan basis to a country which is unable to service its debt obligations arising from loans provided by the Agency in prior fiscal years, unless it can be demonstrated clearly that the country's inability to service its existing debt is temporary and nonrecurring.

(b) Reports to Congress on Debt Rescheduling.—Section 603(a)(2) of the International Development and Food Assistance Act of 1978 is amended by inserting after the first sentence the following: "This justification shall explain why the proposed debt relief is necessary, how much debt has previously been rescheduled for that government by the United States, why previous debt relief agreements have failed, and what the current prospects are for collecting the rescheduled receivables.".

(c) Accelerated Loan Repayments.—Paragraph (3) of section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting "and" after the semicolon; and

(3) by inserting the following at the end of the paragraph:

"(B) a description of the efforts made pursuant to section 127 by the Administrator of the agency primarily responsible for administering part I to negotiate accelerated loan repayments by countries with the financial resources to make accelerated loan repayments, in particular European countries that were recipients of concessional loans by predecessor agencies;".

SEC. 1107. ANNUAL FOREIGN ASSISTANCE REPORT.

Section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1)(A), by striking out "oceans,"; and

(2) by repealing paragraph (8) and redesignating paragraphs (9) through (13), as redesignated by section 803 of this Act, as paragraphs (8) through (12), respectively.

SEC. 1108. FOREIGN ASSISTANCE ACCOUNTABILITY.

Chapter III of part III of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 671. FOREIGN ASSISTANCE ACCOUNTABILITY.

"(a) Prohibition on Diverting Foreign Assistance for Corrupt Personal Financial Gain or Other Unauthorized Uses.—United States foreign assistance may not be used in any way which would result in corrupt personal financial gain for any person and may not otherwise be used for any purpose other than the purpose for which the assistance was provided.

"(b) Accounting Procedures.—The President shall establish strict accounting procedures and other controls with respect to all United States foreign assistance sufficient to provide reasonable assurance that such assistance is not used for corrupt personal financial gain or otherwise diverted for use for a purpose other than the purpose for which the assistance was provided.

"(c) Sanctions.—

"(1) Termination of assistance.—The President shall terminate all United States foreign assistance to any country whose senior government officials are involved in a substantial violation of subsection (a). Assistance may not be resumed to such a country until the President reports to the Congress that he is satisfied that appropriate steps have been taken to prevent future such violations. Any such report shall include a description of those steps.

"(2) Additional sanctions.—The President shall establish an appropriate range of additional sanctions to be applied if United States foreign assistance is used in violation of subsection (a). Mandatory sanctions shall be included.

"(d) Incorporation in Assistance Agreements.—Each agreement entered into more than 90 days after the date of enactment of this section pursuant to which United States foreign assistance is provided shall incorporate (expressly or by reference) the applicable procedures and controls, and the relevant sanctions, established pursuant to this section.

"(e) Reports to Congress.—

"(1) Establishment of accounting procedures and sanctions.—Not later than 90 days after the date of enactment of this section, the President shall report to the Congress on the steps taken to carry out subsections (b) and (c).

"(2) Annual implementation.—The annual congressional presentation materials on foreign assistance shall discuss the implementation of this section during the previous fiscal year, including a description of any instance in which United States foreign assistance was used in violation of subsection (a) and a description of the sanctions imposed.

"(f) Definitions.—As used in this section—

"(1) the term 'corrupt personal financial gain' means any financial benefit accruing to any person as the result of an act which (as determined by the President) either—

"(A) violates the criminal laws of the recipient country, or

"(B) violates the criminal laws of the United States, or would violate those laws if committed within the jurisdiction of the United States; and

"(2) the term 'United States foreign assistance' includes—

"(A) any funds available to carry out programs under this Act, the Arms Export Control Act, the Agricultural Trade Development and Assistance Act of 1954, or any other Act authorizing foreign economic or military assistance programs;

"(B) any commodities or articles made available for any such program; and

"(C) any local currencies acquired with any such funds, or generated by the sale of any such commodities or articles, for use in any such program.".

SEC. 1109. COORDINATION OF ALL UNITED STATES ASSISTANCE FOR FOREIGN LAW ENFORCEMENT AGENCIES.

(a) Coordination.—The Secretary of State shall be responsible for coordinating all training and other assistance provided by the United States Government to the police, prison authorities, or other law enforcement agencies of any foreign government.

(b) Reports.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the training and assistance provided by the United States Government during the preceding fiscal year to the police, prison authorities, or other law enforcement agencies of any foreign government. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

SEC. 1110. TECHNICAL CORRECTIONS.

(a) CORRECTION OF CROSS-REFERENCES TO INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—

(1) Section 505(e) of the Foreign Assistance Act of 1961 is amended in the second sentence—

(A) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(B) by striking "such defense articles" both places it appears and inserting in lieu thereof "such significant military equipment".

(2) Section 3(a) of the Arms Export Control Act is amended in the second sentence following paragraph (4)—

(A) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(B) by striking "such defense articles" both places it appears and inserting in lieu "such significant military equipment".

(3) Section 36(d) of that Act is amended by striking out "combat" and inserting in lieu thereof "military".

(b) CLERICAL ERRORS IN 1985 AUTHORIZATION ACT.—

(1) Subsection (d) of section 25 of the Arms Export Control Act, as added by section 112(b) of the International Security and Development Cooperation Act of 1985, is amended—

(A) by redesignating that subsection as subsection (e); and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period.

(2) Subparagraph (B) of section 25(a)(5) of the Arms Export Control Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

(3)(A) Section 124(c) of the Foreign Assistance Act of 1961, as so redesignated by section 314 of this Act, is amended by striking out "110(a)" and inserting in lieu thereof "110".

(B) Section 124(e) of that Act is repealed.

(C) Section 110 of that Act is amended by striking out "AND FUNDING LIMITS".

(c) CLERICAL ERRORS IN ANTI-DRUG ABUSE ACT OF 1986.—

(1) Section 481 of the Foreign Assistance Act of 1961 (as amended by section 2005 of the Anti-Drug Abuse Act of 1986) is amended—

(A) in subsection (h)(2)(A), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period;

(B) in subsection (h)(4)(A), by inserting "a" before "joint resolution"; and

(C) in subsection (i)(4)(vi), by striking out "section 1049(c)(2)" and inserting in lieu thereof "section 104(c)(2)".

(2) Section 2015(b)(1) of the Anti-Drug Abuse Act of 1986 is amended by striking out "effects" and inserting in lieu thereof "efforts".

(3) Section 2030(b) of the Anti-Drug Abuse Act of 1986 is amended by striking out "subsection (A)(4)" and inserting in lieu thereof "subsection (a)(4)".

(d) PUBLIC LAWS 99-440 AND 99-529.—Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by redesignating section 117 (as enacted by section 201(b) of Public Law 99-440) as section 115 and by inserting that section before section 116.

SEC. 1111. COUNTRIES WHICH IMPORT SUGAR FROM CUBA.

(a) REDUCTION OF ASSISTANCE BY VALUE OF SUGAR IMPORTS FROM CUBA.—Beginning in fiscal year 1989, the President shall have the authority to withhold from the amount of assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) which is allocated to a country for a fiscal year the amount equal to the value of confirmed sales of sugar which is the product of Cuba and which is imported by that country in the preceding fiscal year.

(b) REDUCTIONS TO BE MADE NOTWITHSTANDING EARMARKINGS.—The withholding of amounts under subsection (a) may be made notwithstanding any provision of law specifying the amount of assistance to be provided to a particular country.

(c) SENSE OF CONGRESS WITH RESPECT TO OTHER COUNTRIES.—It is the sense of the Congress that the President should urge countries that import sugar which is the product of Cuba and do not receive economic support funds or other forms of foreign assistance from the United States to import sugar from other Central American or Caribbean countries with democratically elected governments.

SEC. 1112. EARLY WARNING SYSTEM REGARDING MULTILATERAL DEVELOPMENT BANK LOANS.

(a) ANALYSIS.—The President shall instruct missions of the Agency for International Development and United States diplomatic missions in the relevant foreign countries to analyze the impacts of proposed loans by multilateral development banks well in advance of such loan's approval by the bank. Such analyses shall address the economic viability of the project, adverse impacts on the environment, natural resources, public health, and indigenous peoples, and recommendations as to measures (including alternatives) that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, the information obtained in carrying out this subsection shall be made available to the public.

(b) INVESTIGATIONS.—The President shall further instruct those missions that, if the analysis of a proposed loan pursuant to subsection (a) fails to identify adverse impacts on the environment, natural resources, public health, or indigenous peoples, but there is nonetheless reason to believe that such a loan may have such impacts, they shall undertake an affirmative investigation of such impacts in consultation with relevant Federal agencies.

(c) FURNISHING INFORMATION TO SECRETARY OF THE TREASURY.—If an analysis pursuant to subsection (a) or an investigation pursuant to subsection (b) identifies adverse impacts of a proposed multilateral development bank loan on the environment, natural resources, public health, or indigenous peoples, the Administrator of the Agency for International Development or the Secretary of State (as appropriate) shall provide the relevant information to the Secretary of the Treasury for his consideration in determining whether to instruct the United States Executive Director of the relevant multilateral development bank to seek changes in the loans necessary to eliminate or mitigate such impacts.

(d) COOPERATION WITH OTHER COUNTRIES.—The Administrator of the Agency for International Development or the Secretary of State (as appropriate) shall make the information collected pursuant to subsections (a) and (b), other than classified information, available to foreign governments and shall actively cooperate with such governments to facilitate exchanges of such information.

(e) SEMIANNUAL LISTS.—Six months after the date of enactment of this Act and semiannually thereafter, the Administrator of the Agency for International Development shall publish a list of proposed multilateral development bank loans that may have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The list shall be developed in consultation with interested members of the public and shall contain—

(1) the name of the lending institution;

(2) the name of the borrowing country;

(3) the name of the project or loan;

(4) a brief description of the project or loan;

(5) the total anticipated cost and anticipated contribution from development banks;

(6) a summary of adverse effects on the environment, natural resources, public health, or indigenous peoples;

(7) identification of alternatives which may eliminate or mitigate such effects, including the possibility of terminating further action on the potential loan; and

(8) identification of actions taken or underway by the Administrator or other Federal agencies to secure necessary changes in the project.

SEC. 1113. INDEPENDENT LABOR UNIONS.

The Congress encourages the Administrator of the Agency for International Development to make greater use of independent labor unions in carrying out programs under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), chapter 9 of part I of that Act (relating to international disaster assistance), and chapter 4 of part II of that Act (relating to the economic support fund).

SEC. 1114. COUNTRIES LISTED AS COMMUNIST COUNTRIES.

Section 620(f)(1) of the Foreign Assistance Act of 1961 is amended as follows:

(1) After "Democratic People's Republic of Korea." insert the following:

"Democratic Republic of Afghanistan.".

(2) After "Mongolian People's Republic." insert the following:

"People's Democratic Republic of Ethiopia.

"People's Democratic Republic of Yemen.".

(3) After "People's Republic of Albania." insert the following:

"People's Republic of Angola.".

(4) After "People's Republic of China." insert the following:

"People's Republic of Kampuchea.".

SEC. 1115. REQUIREMENT TO SPECIFY DURATION FOR PERIOD OF WAIVER OF COMMUNIST COUNTRY PROHIBITION.

Section 620(f)(2) of the Foreign Assistance Act of 1961 is amended by inserting "specified" before "period as the President determines".

The CHAIRMAN. Are there amendments to title XI?

EN BLOC AMENDMENTS OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer en bloc amendments.

The CHAIRMAN. The Clerk will designate the en bloc amendments.

The text of the en bloc amendments is as follows:

En bloc amendments offered by Mr. Fascell.

Page 229, line 3, strike out "which are consistent with the objectives of" and insert in lieu thereof "for which funds authorized to be appropriated to carry out"; and line 5, after "472," insert "would be available".

Page 246, strike out line 20 and all that follows through line 16 on page 247 and insert in lieu thereof the following:

SEC. 1114. PROHIBITION ON ASSISTANCE TO COMMUNIST COUNTRIES.

Section 620(f) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(f)(1) No assistance shall be furnished under this Act (except section 214(b)) to any Communist country.

"(2) This restriction may not be waived pursuant to any authority contained in this Act unless the President finds and promptly reports to Congress that—

"(A) such assistance is vital to the security of the United States;

"(B) in the case of a country listed in paragraph (3), the government of the recipient country is taking steps to reduce economic reliance on a centrally planned economy based on the principles of Marxist-Leninism;

"(C) the government of the recipient country is not engaged in a consistent pattern of gross violations of internationally recognized human rights; and

"(D) the assistance will help reduce the recipient country's political, economic, and military reliance (as the case may be) on the Union of Soviet Socialist Republics or on any other Communist country.

"(3) For the purposes of this subsection, the term 'Communist country' includes specifically, but is not limited to, the following countries:

"Czechoslovak Socialist Republic.
"Democratic People's Republic of Korea.
"Democratic Republic of Afghanistan.
"Estonia.
"German Democratic Republic.
"Hungarian People's Republic.
"Latvia.
"Lithuania.
"Mongolian People's Republic.
"People's Republic of Ethiopia.
"People's Democratic Republic of Yemen.
"People's Republic of Albania.
"People's Republic of Angola.
"People's Republic of Bulgaria.
"People's Republic of China.
"People's Republic of Kampuchea.
"Polish People's Republic.
"Republic of Cuba.
"Socialist Federal Republic of Yugoslavia.
"Socialist Republic of Romania.
"Socialist Republic of Vietnam.
"Tibet.
"Union of Soviet Socialist Republics (including its capitive constituents republics).".

Page 247, insert the following after line 16.

SEC. 1115. RESTRICTION ON FOREIGN ASSISTANCE TO CERTAIN COUNTRIES.

(a) Prohibition.—Foreign assistance may not be provided to any country which has in effect a Treaty of Friendship and Cooperation with the Soviet Union, except to the extent that the President determines that such assistance is in the national interest of the United States.

(b) Definition.—For purposes of this section, the term "foreign assistance" means assistance under the Foreign Assistance Act of 1961, the Agriculture Trade Development and Assistance Act of 1954, the African Development Foundation Act, the Inter-American Foundation Act, or the Arm Export Control Act, the Peace Corps programs under the Peace Corps Act.

Page 247, after line 16 insert the following new Section:

SEC. 1116. REPORTS ON COMMUNIST COUNTRIES RECEIVING UNITED STATES HUMANITARIAN DISASTER RELIEF ASSISTANCE.

Section 491 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(d) Whenever the United States is providing humanitarian disaster relief assistance under this chapter or any other provision of law to a communist country (as defined in section 620(f) of this Act), the President shall report to the Congress every 3 months on the steps being taken by the government of that country to alleviate the conditions that make such assistance necessary.".

Page 247, after line 16, insert the following:

SEC. 1117. PAYMENT OF IMPORT DUTIES AND OTHER FEES CONCERNING HUMANITARIAN ASSISTANCE.

Section 491 of the Foreign Assistance Act of 1961, as amended by section 1116 of this Act, is further amended by adding at the end the following:

"(e) Whenever humanitarian relief assistance is provided under the authority in this chapter or any other provision of law, it shall be the policy of the United States to pay no import duties at the point of delivery to the recipient country which represent levies over and above the fees paid for port and other services actually rendered. It shall be the further policy of the United States to not pay fees for such services which are not in line with fees charged in the surrounding region, allowing only for reasonable adjustments which reflect significant differences in the technology at such ports.".

Page 247, after line 16, insert the following:

SEC. 1118. MINERAL IMPORTS FROM COMMUNIST COUNTRIES.

(a) Sense of Congress.—It is the sense of Congress that the vital national interests and security of the United States would be jeopardized if the Nation became dependent on communist countries as the sources for essential minerals and metals.

(b) Report Requirement.—Not later than 180 days after the date of enactment of this Act, and every year thereafter when the annual foreign assistance request is presented to the Congress, the President shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the extent to which the United States is dependent on communist countries (as defined in section 620(f) of the Foreign Assistance Act of 1961) as sources for supply and importation of—

(1) chromium,
(2) cobalt,
(3) manganese,
(4) platinum group metals,
(5) ferroalloys, and
(6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

(c) Additional Information in Reports.—Each report pursuant to subsection (b) shall also describe progress toward reducing such United States dependence through—

(1) stockpiling,

(2) increasing the world supply of strategic and critical materials through the development of promising deposits, both foreign and domestic, and through exploration for new deposits of strategic materials;

(3) decreasing demand for strategic and critical materials through the implementation of improved manufacturing processes, conservation, and recyclying of these materials from scrap and waste; and

(4) identifying and testing substitute materials for current application and developing new materials with reduced strategic materials content for future applications.

Page 247, after line 16, insert the following:

SEC. 1119. EFFECTIVENESS OF UNITED STATES ECONOMIC ASSISTANCE.

(a) Reports.—Not later than December 31, 1988, and December 31 of each third year thereafter, the President shall submit to the Congress a report which analyzes, on a country-by-country basis, the impact and effectiveness of the United States economic assistance provided during the preceding 3 fiscal years. Each such report shall include the following for each recipient country:

(1) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. This analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms which were promoted by the assistance. This analysis shall—

(A) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing economic assistance for that country, and

(B) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(2) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(3) A discussion of the commitment of the host government to addressing the country's needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(4) A description of the trends, both favorable and unfavorable, in each development sector.

(5) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(6) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor

countries, or nongovernmental organizations.

(b) Listing of Assistance Programs Which Are More and Which Are Less Successful.—Each report required by this section shall identify—

(1) those countries in which United States economic assistance has been more successful, and

(2) those countries in which United States economic assistance has been less successful.

For each country listed pursuant to paragraph (2), the report shall explain why the assistance was not more successful and shall specify what the United States has done as a result.

(c) Report To Be a Separate Document.—Each report required by this section shall be submitted to the Congress as a separate document.

(d) Definition.—As used in this section, the term "United States economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), or chapter 4 of part II of that Act (relating to the economic support fund).

The CHAIRMAN. The gentleman from Florida [Mr. Fascell] is recognized for 5 minutes in support of his en bloc amendments.

Mr. FASCELL. Mr. Chairman, this en block amendment contains seven amendments that were printed in the Record by Representatives Kostmayer, Solomon, Dornan, and Hyde.

The amendments include a report on U.S. dependency on Communist countries for strategic minerals; a report on disaster assistance to Communist countries; restrictions on assistance to countries with treaties of friendship and cooperation with the Soviet Union; report on the effectiveness of United States assistance; a prohibition on paying import duties on humanitarian assistance to Communist countries; and a revision of section 620(f) prohibiting assistance to Communist countries; and revision of conditions of the use of ESF local currencies.

Mr. SOLOMON. Mr. Chairman, I rise in support of the en bloc amendments.

Mr. Chairman, this en block amendment contains two provisions that I sponsored and that the full committee has accepted in modified form. Each of my amendments concerns section 620(f) of the Foreign Assistance Act of 1961, the list of Communist countries to which foreign aid is prohibited.

My first amendment serves to rewrite the text of section 620(f), clarifying the criteria under which the applicability of this section, or list, can be waived. My amendment drops the rather turgid, 1950's-style language in the existing act and replaces it with updated terminology that is relevant to the 1980's.

Specifically, this new language establishes economic reforms, greater respect for human rights, and a lesser reliance on Soviet military and economic assistance as the new criteria a country would have to meet in order to be waived from applicability.

My second amendment deals with the issue of our country's reliance on foreign sources for essential minerals and metals. First, it contains sense of Congress language that the security of the United States would be jeopardized if we became dependent on Communist counties for the minerals and metals on which our industrial manufacturing and national defense efforts are based.

It then goes on to require an annual report on the extent to which the United States is dependent on Communist countries, in the section 620(f) list for these essential minerals and metals, including platinum, chrome, cobalt, manganese and so on. This is important information that is very critical to the future of our country.

The CHAIRMAN. The question is on the en block amendments offered by the gentleman from Florida [Mr. Fascell].

The en block amendments were agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana: Page 247, after line 16, insert the following new section:

SEC. 1116. PROHIBITION ON ASSISTANCE TO COUNTRIES RECEIVING SUPERSONIC FIGHTER AIRCRAFT FROM THE SOVIET UNION.

(a) Prohibition.—For fiscal years 1988 and 1989, foreign assistance may not be provided to any country which has an agreement with the Soviet Union pursuant to which that country will obtain supersonic fighter aircraft from the Soviet Union.

(b) Definitions.—As used in this section—

(1) the term "agreement" includes a coproduction agreement; and

(2) the term "foreign assistance" means any assistance under the Arms Export Control Act, the Foreign Assistance Act of 1961 (excluding assistance under chapter 9 of part I, relating to disaster assistance), or the Agricultural Trade Development and Assistance Act of 1954 (excluding emergency food assistance under title II).

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT OFFERED BY MR. SOLARZ AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. Burton], and I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Solarz as a substitute for the amendment offered by Mr. Burton of Indiana: Page 247, after line 16, insert the following:

SEC. 1116. ASSISTANCE TO COUNTRIES RECEIVING SUPERSONIC FIGHTER AIRCRAFT FROM THE SOVIET UNION.

(a) Criteria in Assistance Decisions.—In determining whether to provide foreign assistance to a country for fiscal years 1988 and 1989 and the amount of assistance to be provided, the President shall take into account whether that country has an agreement with the Soviet Union pursuant to which that country will obtain supersonic fighter aircraft from the Soviet Union.

(b) Definitions.—As used in this section—

(1) the term "agreement" includes a coproduction agreement; and

(2) the term "foreign assistance" means any assistance under the Arms Export Control Act, the Foreign Assistance Act of 1961 (excluding assistance under chapter 9 of part I, relating to disaster assistance), or the Agricultural Trade Development and Assistance Act of 1954 (excluding emergency food assistance under title II).

Mr. SOLARZ. Mr. Chairman, I am sure the gentleman from Indiana [Mr. Burton] means very well in offering his amendment, but I have to regretfully conclude that it is a silly amendment. It basically says that we cannot provide any aid to any country no matter how important it may be, no matter how significant its geographical location, no matter how great the need for development assistance, no matter how willing it is to cooperate with us on a wide variety of different matters if it happens to have acquired advanced combat aircraft from the Soviet Union.

Essentially what the gentleman seems to have in mind is India. He would like to cut off all of our aid to India because India has had the collosal gall, the nerve, the chutzpah as well, to purchase jet aircraft from the Soviet Union. The reason India buys jet aircraft from the Soviet Union is primarily because the Soviet Union is willing to sell them jet aircraft for rupees which India can afford.

If Northrup or McDonnell Douglas or General Dynamics were willing to sell India advanced jet aircraft for rupees, I have no doubt that India would be buying American aircraft, but our aircraft manufacturers appear unwilling to sell planes to India for rupees. They want dollars.

Consequently, India has not bought any of our planes, because it cannot afford the dollars, the foreign exchange, they require.

I agree with the gentleman from Indiana [Mr. Burton] that if another country has acquired advanced combat aircraft from the Soviet Union, we ought to take that into account in deciding what to do with our aid program. My substitute, therefore, provides that if another country has acquired such aircraft from the Soviet Union, we should take it into account in deciding the levels of our aid. But my substitute gives us flexibility which the gentleman from Indiana's amendment would not. It is not an automatic and absolute prohibition on aid.

Therefore, I believe adoption of the substitute makes much more sense.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I appreciate my good friend for yielding. Let me say that I am not as optimistic as the gentleman is about them being willing to purchase aircraft and other military equipment from the United States.

I think India is committed to the Soviet Union much more than my colleague does, but realizing the situation the way it is today and with the time constraints we are under, rather than calling for a rollcall, I will with reluctance accede to the wishes of the gentleman from New York [Mr. SOLARZ] and accept his substitute.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman from Indiana [Mr. BURTON] very much for this act of constructive statesmanship, and I hope we can extend this emerging sense of bipartisanship to other issues in the future. Even though the substitute is obviously not completely in accordance with the gentleman's desires, it would put into the law for the first time the fact that this is an aspect of a country's policy that we ought to be taking into account in deciding what to do.

I just want to say lastly to the gentleman from Indiana [Mr. BURTON], that one of the other reasons I am opposed to an absolute cutoff is that we do have in India about a quarter of a million desperately poor people. These people are among the poorest of the poor in the entire world, and our development assistance there, which is very limited, has already been cut back from $50 million to $35 million in this bill, is designed to help the poorest of the poor. I do not think that these impoverished people should be penalized because India has chosen to purchase aircraft from the Soviet Union because they can buy them for rupees, rather than from somewhere else where they would have to spend dollars that they do not have and cannot afford.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. Mr. Chairman, I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, I want to say that I appreciate the way the gentleman from New York [Mr. SOLARZ] has conducted this matter on the floor. I know we are all upset with the limitations on debate, and I think that next year we should find the opportunity to really let India know we are upset with some of the things they are doing. If we were the kind of democracy they are, Maureen Reagan would be the next President of the United States. That might not be too bad, but it would be more like a royal government than what we consider a democracy.

I know the gentleman from New York [Mr. SOLARZ] agrees with me, that the most militarized country in the world is North Korea. To see Kim Il Sung preparing his chubby son to be a royal successor in that Communist country, which is being done, why is it any different to see a 747 pilot take over in India with a strange election?

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Mr. SOLARZ. Mr. Chairman, the gentleman will be interested to know that Yahya Khan, former Prime Minister of Pakistan, one of the great statesmen of the world, and arch-foe of the Soviet Union, went to Doon School as well.

Mr. DORNAN of California. I just met him. I would agree with that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 247, after line 16, insert the following:

SEC. 1116. COORDINATION OF CONGRESSIONAL POLICY TOWARD ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(A) It is the sense of the Congress that—

(1) at least six Members of the Congress designated as provided for in subsection (B), should meet on an ad-hoc basis for the purpose of developing a coordinated Congressional policy toward assessed contributions to international organizations; and

(2) the Secretary of State should provide such cooperation as may be required by such Members.

(B) The Members described in subsection (a)(1) should be designated as follows:

(1) The Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the House as follows:

(a) one Member of the Committee on Foreign Affairs;

(b) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(c) one Member of the Committee on the Budget.

(2) The President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the Senate as follows:

(a) one Member of the Committee on Foreign Relations;

(b) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and Relations;

(c) one Member of the Committee on the Budget.

(C) Not later than March 1, 1988, the Members of Congress designated under this section shall prepare and transmit to the committees of Congress referred to in subsection (b) a report on the findings and conclusions of the Members made pursuant to this section, together with any recommendations for appropriate action by such committees.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN. The gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Chairman, my amendment is very straightforward. I am proposing to my colleagues the formation of an ad hoc panel, appointed by the leadership of both Houses, consisting of one member from each of the respective committees that have jurisdiction over U.S. assessed contributions to international organizations.

The purpose of this new panel will be to study the U.S. obligations to fund international organizations, including our treaty obligations, and present options for improving the present situation.

As the Republican Member of the U.S. congressional delegation to the United Nations for the current session of the U.N. General Assembly, I submit to the Members of this body that urgent, special efforts are necessary in order to clear up the confusion about our assessed contributions.

In view of the fact that the Soviet Union has announced its intention to pay in full its longstanding financial obligations to the U.N. system, global attention is now turning to the United States to see whether or not we will carry our assessed share of the burden.

I am concerned, however, that if the Congress of the United States intends to underfund these obligations, as seems likely, that we do so with a clear understanding of what we lose or what we gain by doing so.

Although the conference committee for the State Department authorization bill recently authorized full funding for existing obligations, problems in meeting requirement in this account are likely to continue. At present the United States is $342 million in arrears to the United Nations regular budget. The authorization does nothing to address the arrearages.

Furthermore, whether the appropriators will be able to provide the funds, necessary to honor our treaty obligations also seems in doubt. This ad hoc committee will be able to hold hearings earlier than would the prepared Commissions with 18c members and do it early next year for advance in our budget deterant for Fiscal Year 1989.

The congressional panel that this amendment establishes would be asked to study U.S. obligations and make its recommendations to the Congress by March 1, 1988, so that the panel's report may be addressed in hearings during the upcoming legislative session.

Mr. Chairman, the language of the amendment parallels language offered by the distinguished junior Senator from Kansas and adopted by that body. I urge my colleagues to adopt this amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the gentleman is absolutely right. We think this is an excellent amendment and we are happy to accept it.

Mr. BEREUTER. I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. DORNAN of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DORNAN of California. Mr. Chairman, I thought I had an amendment at the desk, but I have been informed by the distinguished majority that it was swallowed somehow by the Solomon amendment. It was an amendment to designate two countries as Communist countries. Could I just have an explanation as to what happened to it?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I am glad to yield to the gentleman from Florida, my distinguished chairman.

The CHAIRMAN. The Chair will state the gentleman cannot yield time on a parliamentary inquiry.

What is the gentleman's inquiry?

Mr. DORNAN of California. Mr. Chairman, do I have an amendment left at the desk on Nicaragua and Mozambique?

The CHAIRMAN. The gentleman can submit an amendment if it is germane and otherwise in order to title XI. Does the gentleman have an amendment?

Mr. DORNAN of California. I believe I do.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

Mr. FASCELL. Mr. Chairman, let me reserve a point of order. I think the amendment is subject to a point of order.

The CHAIRMAN. The Chair will state that the amendment must be read by the Clerk first.

Mr. FASCELL. Mr. Chairman, I do not want to be foreclosed on a point of order, so I would like to reserve a point of order.

The CHAIRMAN. A point of order is reserved on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 247, after line 2, insert the following:

"Nicaragua.

The CHAIRMAN. The gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Chairman, I do not think my distinguished chairman's point of order is necessary because I am going to withdraw this amendment. I just wanted to comment on it because I will put it in the next time this bill comes to the House floor.

I have been informed by the administration that they sincerely do not believe Nicaragua is yet a consolidated Communist country. As we have seen with our great President over the last 3 days, hope springs eternal, and I am willing to go that extra Reagan mile or even a kilometer to see if we can stop the consolidation of the state of Nicaragua into what it already appears to be to many fair-minded people, and that is a Marxist-Leninist puppet state of the expanding Soviet empire.

But I will bide my time for a few more months.

I will withdraw this amendment, and I just want to take this opportunity in closing to thank our chairman for about the best floor management of any bill, and this happens to be the most difficult bill ever before this body of any chairman I have ever seen conducting affairs on the House floor. It is an honor to serve under our distinguished chairman, the gentleman from Florida [Mr. FASCELL].

The CHAIRMAN. Does the gentleman from California [Mr. DORNAN] withdraw his amendment?

Mr. DORNAN of California. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 247, after line 10 insert the following: "(5) After 'Republic of Cuba' insert the following: 'Republic of Nicaragua.'"

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. SOLOMON. Mr. Chairman, the amendment I am now offering would place Nicaragua on the list of Communist countries in section 620(f) of the Foreign Assistance Act of 1961, the list of countries to which U.S. foreign aid is prohibited by law. This amendment may seem inconsequential to some, certainly no one that I am aware of advocates taking the fruits of the American taxpayer and making them available to the Sandinistas, but placing Nicaragua on the 620(f) list is an important symbolic step that has been overlooked for too long.

Who can doubt that Nicaragua satisfies all the requirements for membership in 620(f)? Is there anything the Sandinistas have done that deviates in the least degree from the pattern of tyranny—and deception—that was pioneered by the Soviet Union in the 1920s and 1930s? And the Sandinistas themselves have hardly been shy about belaboring the obvious: As early as 1981, Humberto Ortega was publicly boasting that "Marxism/Leninism is the scientific doctrine that guides our revolution." The whole history of the Sandinista regime has served to confirm Ortega's analysis.

It is particularly noteworthy that the Republic of Nicaragua would be placed in alphabetical order right after the Republic of Cuba on the 620(f) list. How appropriate that the Sandinistas would thus be paired with the dictatorship they have striven so hard to emulate.

In the interests of time, there is no need to go into all the attributes of a Communist system. We all know what they are—and we also know that every one of them applies to Nicaragua. But let's look at just one, the single most important telltale sign: Refugees. At least one Nicaraguan in every five is now living somewhere else, most of them having lost everything during the desperate flight out of the country.

The only means by which a Communist country can perpetuate the myth of full employment is to create refugees and conscripts. Either drive people out through the sheer weight of repression, or inflate the size of the military, drafting everything in sight that can carry a gun. In the case of the Sandinistas, that means building a conscript army eight times larger than the one Somoza had; it means building up armed forces that outnumber those in all of the other Central American countries put together; and it means declaring a revolution without borders. So let's put them on the list—they earned their place a long time ago.

Is Nicaragua a Communist country? We've asked the schoolchildren, and they say yes. We've asked Castro and he says yes. We've asked Gorbachev who's given them $1 million a year, and he says yes. And now I'm asking Congress—is Nicaragua a Communist state?

If you think so, vote yes. If you don't think so, vote no.

Mr. FASCELL. Mr. Chairman, I would have objected to this amendment had I been on my feet, for the same reasons that I would have objected on a point of order to the amendment offered by the gentleman from California [Mr. Dornan]. But be that as it may, the gentleman from New York has now made his speech.

There is no aid in this bill for Nicaragua. It does not mean a thing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. Solomon].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title XI?

The Clerk will designate title XII.

The text of title XII is as follows:

TITLE XII—ADDITIONAL ASSISTANCE FOR BASE RIGHTS COUNTRIES

SEC. 1201. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.

(a) Authorizations.—In addition to the amounts authorized to be appropriated by the preceding provisions of this Act, there are authorized to be appropriated, for use in accordance with subsection (b), an aggregate of $400,000,000 for each of the fiscal years 1988 and 1989 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance), chapter 4 of that part (relating to the economic support fund), and chapter 5 of that part (relating to international military education and training) and section 23 of the Arms Export Control Act (relating to foreign military sales credits).

(b) Base Rights Countries.—The funds authorized to be appropriated by subsection (a) shall be available only to meet United States security assistance requirements arising from agreements providing for United States access to military facilities in foreign countries.

(c) Authority to Extend Period of Availability.—Amounts appropriated pursuant to the authorizations of appropriations contained in subsection (a) are authorized to be made available until expended.

SEC. 1202. FOREIGN MILITARY SALES PROGRAM CEILING.

The aggregate foreign military sales financing ceiling for fiscal year 1988 and for fiscal year 1989 which is specified in section 31(b)(1) of the Arms Export Control Act shall be deemed to be increased by the amount appropriated under this title to carry out section 23 of that Act for that fiscal year.

SEC. 1203. MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.

(a) Requirement That Balance Be Maintained.—Amounts authorized to be appropriated by this title may not be made available in a manner inconsistent with—

(1) the policy established in section 620C(b) of the Foreign Assistance Act of 1961; and

(2) the ratio described in section 516(e)(2)(B) (i) and (ii) of that Act (as enacted by section 612 of this Act).

(b) Conforming Provision.—Assistance provided for Greece and Turkey with funds authorized to be appropriated by this title is in addition to the amounts of assistance provided for in section 608 and section 609 of this Act.

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. Fascell:

Page 249, after line 15, add the following:

TITLE XIII—ASSISTANCE TO POLAND

SEC. 1301. SHORT TITLE.

This title may be cited as the "American Aid to Poland Act of 1987".

SEC. 1302. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) Funding.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) Availability of Funds.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) Definition.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 1303. AGRICULTURAL ASSISTANCE FOR POLAND.

Notwithstanding any other provision of law, $10,000,000 of funds made available to carry out section 103 of the Foreign Assistance Act of 1961 (relating to development assistance for agriculture, rural development, and nutrition) for fiscal year 1988 shall be available until August 15, 1988, only for agricultural activities in Poland. Any funds made available under the preceding sentence which have not been obligated or expended by such date may be obligated for other purposes in accordance with section 103 of the Foreign Assistance Act of 1961 if the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of each House of Congress are notified at least 15 days in advance of such obligation. Such notification shall be considered in accordance with the procedures applicable under section 634A of that Act.

SEC. 1304. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) Authority to Donate.—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 1306 of this Act) that have been approved, upon application, by the United States chief of diplomatic mission in Poland, and by the joint commission described in section 1307.

(b) Definitions.—For purposes of this section—

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 1305. USE OF POLISH CURRENCIES.

(a) Use of Polish Currencies.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 1306 of this Act) and approved, upon application, by the joint commission described in section 1307 and by the United States chief of diplomatic mission in Poland.

(b) Availability of Currencies.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

SEC. 1306. ELIGIBLE ACTIVITIES.

Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 is amended by adding at the end the following: "In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 1307 of the American Aid to Poland Act of 1987 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

"(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

"(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

"(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.".

SEC. 1307. JOINT COMMISSION.

(a) ESTABLISHMENT.—The joint commission referred to in section 1304 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 1306 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 1304) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 1308. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

Page 249, after line 15, add the following new title:

TITLE XIV—CHEMICAL AND BIOLOGICAL WEAPONS NONPROLIFERATION

SEC. 1401. FINDING AND POLICY.

(a) FINDING.—The Congress finds and declares that the spread of chemical weapons and the capability to manufacture or otherwise acquire such weapons pose a grave threat to the security interest of the United States and to continued international progress toward world peace and development. Therefore, efforts should be undertaken to stop proliferation of chemical and biological weapons in an attempt to contribute to a complete ban of these weapons.

(b) POLICY.—It is the policy of the United States to—

(1) assure that the policy of the United States regarding all security assistance, including all military assistance and education and training programs, is consistent with this policy;

(2) obtain international agreement to abolish chemical and biological weapons and prohibit their manufacture, possession, or use in the spirit of the Geneva Protocol of 1925 and the Biological Weapons Convention of 1972;

(3) assure that exports from the United States of materials, equipment, or technology having significance for production of chemicals are consistent with efforts to prevent proliferation of chemical and biological weapons;

(4) obtain assurances that exports from the United States of materials, equipment, or technology having direct significance for the production of chemical and biological weapons are used for peaceful purposes;

(5) cooperate with other nations to prevent the spread of materials, equipment, and technology with properties useful for the production of chemical and biological weapons;

(6) examine allegations that other countries are developing and proliferating chemical or biological weapons or materials, equipment, and technology for the production of such weapons;

(7) protect the health and safety of the public against threats from chemical or biological weapons due to accident, terrorism, or war; and

(8) coordinate the policies, programs, and activities of all departments and agencies of the United States Government to implement this policy fully.

SEC. 1402. PROLIFERATION-RISK ASSESSMENT.

(A) IN GENERAL.—The Secretary of State shall assess the risk of the proliferation of chemical or biological weapons, and shall recommend to the Congress legislation to control such proliferation. The assessment shall give particular attention to the technology of chemical or biological weapons and to the materials, equipment, and technology that have direct significance for the production and use of chemical or biological weapons.

(b) PARTICULAR MATTERS TO BE CONSIDERED.—The assessment shall consider the following:

(1) Any recommendation for legislation required to implement fully the policy of this title.

(2) Existing technologies for the production of chemical or biological weapons.

(3) Actual and potential suppliers of materials, equipment, and technology having significance for the production of chemical weapons.

(4) The effectiveness of present United States regulatory and other authority for control of exports of such materials, equipment, and technology.

(5) The projected effect of export controls on industry in the United States, considering the likelihood of obtaining the cooperation of foreign governments in limiting exports of materials, equipment, and technology with properties useful for the production of chemical and biological weapons.

(6) Any other matter the President determines to be relevant in carrying out the policy of this title.

(c) CONSULTATION WITH OTHER AGENCIES.—The assessment shall be carried out in consultation with the Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, and the Director of the Arms Control and Disarmament Agency.

(d) REPORT TO CONGRESS.—Not later than six months after the date of the enactment of this title, the Secretary of State shall transmit to Congress a report setting forth the results of the assessment under this section.

SEC. 1403. ANNUAL REPORT ON PROLIFERATION.

(a) IN GENERAL.—The Secretary of State shall transmit to Congress a biannual report describing the status of—

(1) control of the proliferation of chemical and biological weapons;

(2) efforts to prevent the spread of such weapons; and

(3) programs to control the export of materials, equipment, and technology having direct significance for the production of chemical and biological weapons.

(b) RECOMMENDATIONS.—Each such report shall include any recommendation that the Secretary considers appropriate regarding additional authority needed to carry out the policy of this title.

(c) TIME FOR FIRST REPORT.—The first such report shall be submitted two years after the date of the enactment of this title.

SEC. 1404. CHEMICAL INDUSTRY ADVISORY GROUP.

The Secretary of State shall establish a Chemical Industry Advisory Group to provide advice to the Secretary with respect to sections 1402 and 1403. Members of the Group shall be appointed from business firms in the chemical industry.

SEC. 1405. CONSULTATION WITH CONGRESS.

The Secretary of State shall keep the appropriate committees of Congress fully and currently informed of all developments of significance to the proliferation and control of chemical and biological weapons.

Page 249, after line 15, insert the following:

TITLE XV—OTHER PROVISIONS

SEC. 1501. HUMAN RIGHTS ABUSES BY THE GOVERNMENT OF CUBA.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations was established in 1945 for, among other purposes, the promotion and encouragement of respect for human rights and fundamental freedoms for all;

(2) the United Nations Human Rights Commission was established by the Economic and Social Council in 1946 to investigate and make recommendations concerning the violation of human rights and fundamental freedoms;

(3) the Government of Cuba has engaged in systematic and flagrant abuses of basic human rights and freedoms so offensive that they demand universal condemnation, including—

(A) the arbitrary arrest and prolonged imprisonment of individuals accused of political opposition to the Government of Cuba for engaging in such activities as the open or private expression of political opinions or religious beliefs, the attempt to form independent labor unions, the possession, reproduction, or intended distribution of religious or political literature, including the Universal Declaration of Human Rights, or even the professional representation by legal counsel of those so accused;

(B) the murder of political prisoners while in custody or the execution of individuals sentenced to death for political offenses;

(C) the reported systematic use of physical and psychological torture and the degrading and abusive treatment of political prisoners, especially the "plantados"—those who refuse out of conscience to participate in so-called political rehabilitation programs;

(D) the institutionalized use of a network of neighborhood informants organized by political "block committees", or so-called "Committees for the Defense of the Revolution", to repress the exercise of any freedom of expression and otherwise control the behavior of citizens through intimidation;

(E) the repression of the independent Committee for Human Rights in Cuba for its attempt to register as a legal organization under the laws of the state, and the reported arrest, disappearance, or death of members of the Committee, and the continuing persecution of its president who has had to seek the safety of a foreign embassy out of fear for his life and continues to be deprived of the right to leave Cuba to be reunited with his family; and

(F) the expulsion from Cuba of foreign journalists for having attempted to interview Cuban citizens and report objectively on the human rights situation in that country; and

(4) the United Nations has consistently failed to address the violation of fundamental human rights and freedoms in Cuba.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the United Nations and the United Nations Human Rights Commission have acted selectively and inconsistently in addressing violations of basic human rights in various countries;

(2) the United Nations General Assembly and the United Nations Human Rights Commission have failed to responsibly address the deplorable human rights situation in Cuba despite overwhelming evidence of the continuing disregard and systematic abuse of the most basic human rights by the Government of Cuba;

(3) the President, the Secretary of State, and the Permanent representative of the United States to the United Nations are to be commended for their efforts to place Cuba on the human rights agenda of the United Nations and are strongly encouraged to continue in their efforts to bring this issue to the attention of the United Nations;

(4) the following countries are to be commended for voting in favor of considering human rights violations in Cuba, particularly in light of the thinly veiled threats of the Cuban delegation: Austria, Australia, Belgium, Costa Rica, France, Gambia, Federal Republic of Germany, Iceland, Italy, Japan, Lesoto, Liberia, Norway, Philippines, Somalia, Togo, and the United Kingdom;

(5) the United States should strongly urge the member countries of United Nations Human Rights Commission which are interested in democracy in the region, particularly Mexico, Spain, Peru, Venezuela, Argentina, and Colombia, to support the United States resolution on Cuban human rights at the next session of the Commission;

(6) the United States should take into account this vote in determining United States bilateral and other assistance to all member countries of the Commission;

(7) the United States should continue to emphasize how other countries vote on fundamental issues such as human rights when determining financial support for the United Nations, which includes the contribution to the Human Rights Commission; and

(8) the United Nations Human Rights Commission (which will hold its forty-fourth session in Geneva, Switzerland, in 1988) should include among the highest priorities of its human rights agenda consideration of human rights violations in Cuba.

Page 249, after line 15, add the following:

SEC. 1502. CHILD LABOR RIGHTS.

(a) Findings.—The Congress finds that—

(1) the international exploitation of child labor remains a serious problem, notwithstanding the adoption of the Declaration of the Rights of the Child and efforts by the United Nations, including a draft convention on the rights of the child and a seminar on ways of achieving the elimination of child labor in all parts of the world:

(2) at least 88,000,000 children, and perhaps as many as 200,000,000, children, between the ages of 11 and 15 currently serve in the world's workforce;

(3) child workers frequently labor under extremely hazardous conditions at virtually no pay and in excess of the hours allowed by law for adults;

(4) the use of child labor is growing in many developing countries;

(5) the exploitation of child labor does grave physical, mental, and moral harm to children and severely weakens the society's future capacity for economic growth;

(6) there exist recognized international child labor standards, including the minimum age for admission to employment, which are intended to assure the fullest physical and mental development of young persons;

(7) the United Nations is an appropriate forum for initiatives to focus international attention on child labor rights; and

(8) the annual reports prepared by the Department of State on individual country human rights practices can be used to call greater attention to the international exploitation of child labor.

(b) United Nations Measures.—The United States delegation to the United Nations should recommend to the United Nations appropriate measures to call further international attention to the exploitation of child labor and the need for international respect for child labor rights.

(c) Annual Assessments and Reports.—The Secretary of State shall fully and completely assess, on an annual basis, the status of internationally recognized child labor rights. The Secretary shall include the results of those assessments in the annual reports on individual country human rights practices (submitted to the Congress by the Department of State pursuant to sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961). In making those assessments, the Secretary shall—

(1) use all available information about observance of and respect for internationally recognized child labor rights, including information made available by the International Labor Organization, trade unions, children's advocacy organizations, and human rights organizations; and

(2) describe which countries recognize and abide by internationally recognized child labor rights, including the domestic mechanisms for the enforcement and legal penalties for violations of such rights.

(d) Definition.—For the purposes of subsection (c), the term "internationally recognized child labor rights" includes—

(1) the right of children to not be employed while they are below a minimum age;

(2) the right of children below the age of seventeen to not be employed at night or in occupations that jeopardize their health, safety, or morals;

(3) the right of children to be employed consistent with standards for minimum wages, hours of work, and occupational safety and health; and

(4) the right of children to be free from any form of forced or compulsory employment.

Page 249, after line 15, add the following:

SEC. 1503. REPORT ON PROCESS OF INTERAGENCY REVIEW OF CERTAIN AGREEMENTS WITH CONTROLLED COUNTRIES.

(a) Evaluation of Interagency Review Process.—The Comptroller General shall evaluate and, not later than 1 year after the date of the enactment of this Act, shall submit to the Congress a report on the methods and procedures used in, and the effectiveness of, the current interagency arrangements to review agreements between controlled countries and United States Federal agencies which involve the exchange or transfer of militarily critical scientific or technological information.

(b) Factors To Be Considered.—In carrying out subsection (a), the Comptroller General shall—

(1) evaluate the adequacy of, and the need to enhance, the current interagency review process, particularly with respect to timeliness, mechanisms to ensure appropriate consultation among interested parties, and procedures to assure consistency with current United States laws, policies, and procedures;

(2) review the adequacy of resources available to the Committee on Exchanges of the Technology Transfer Intelligence Committee and other interagency groups to conduct appropriate and timely technical assessments of proposed agreements;

(3) evaluate the policy implications of linking foreign access to United States facilities or individuals to reciprocal access to renowned foreign scientists identified by the United States, including those subject to discrimination on account of their political or religious beliefs;

(4) evaluate the need for, and the feasibility and usefulness of, a requirement that persons who visit controlled countries for purposes of scientific or technological exchanges provide upon their return from such countries, in cases where the visits are supported with Federal funds or other resources of the Federal Government, briefings and reports to interested United States Government agencies on their activities in those countries; and

(5) make any other recommendations that would enhance the benefits to the United States of scientific and technological arrangements with controlled countries.

(c) Other Reviews.—Before submitting to the Congress the report described in subsection (a), the Comptroller General shall submit the report to the Departments of State, Defense, and Commerce and the National Academy of Sciences for their respective reviews of the report. When the Comptroller General submits the report to the Congress, the Comptroller General shall include with the report any comments on the report which are transmitted to the Comptroller General pursuant to such reviews.

(d) Definition.—For purposes of this section—

(1) the term "controlled country" means any controlled country within the meaning of the Export Administration Act of 1979; and

(2) the term "militarily critical scientific or technological information" means any technology on which export controls are in effect under section 5 of the Export Administration Act of 1979.

Page 249, after line 15, insert the following:

SEC. 1504. SOUTH AFRICAN URANIUM EXPORTS.

Section 309(a) of the Comprehensive Anti-Apartheid Act of 1986 is amended by adding at the end the following: "It is the sense of the Congress that no uranium compounds in any form, which is derived from uranium that is produced or manufactured in South Africa, should be imported into the United States".

Page 249, after line 15, insert the following:

SEC. 1505. REPORT ON SOVIET HARD CURRENCY SOURCES AND USES.

Not later than 30 days after the date of enactment of this Act, the President shall submit to the Congress a report (which shall be unclassified, with a classified annex if necessary) which provides the following information with respect to the Union of

Soviet Socialist Republics, Czechoslovakia, Romania, Bulgaria, Hungary, the German Democratic Republic, and Poland:

(1) That country's hard currency income and borrowings from each of the following sources:

(A) Loans by Western governments.

(B) Commercial loans from banks in Western countries, including from branches and subsidiaries of such banks.

(C) Interbank deposits by Western banks and their branches and subsidiaries in banks owned by that country, including those banks owned by that country located in Western countries.

(D) The export earnings of that country divided into the following sectors: oil, gas, gold, arms sales (by country), and other export sources.

(2) That country's hard currency outlays toward each of the following purposes:

(A) Support for allies and client regimes (by country), including forgone hard currency income through subsidization of exports or military assistance.

(B) Support for insurgencies and terrorist groups (by group).

(C) KGB and GRU activities, including disinformation and high technology acquisition.

(D) Debt service.

(E) Imports from Western countries.

SEC. 1506. SOVIET POLICY ON JEWISH EMIGRATION.

(a) Findings.—The Congress finds that—

(1) many Jewish individuals and their families have been prevented from emigrating from the Soviet Union because they were once employed in what the Soviet Government calls "secret work";

(2) General Secretary Mikhail Gorbachev has publicly stated that possession of "State secrets" could not be grounds for refusal to allow individuals to emigrate after 5 years or 10 years at most;

(3) whereas a Soviet review board has been convened by the order of the Politburo to reconsider emigration cases which have been rejected or delayed for many years on the grounds of knowledge of "State secrets";

(4) the Soviet Union has agreed to meet formally with the United States at the highest levels to discuss matters relating to arms control, human rights, and bilateral relations; and

(5) many individuals and their families continue to wait patiently for approval of their applications to emigrate.

(b) Sense of the Congress.—It is the sense of the Congress that, in the course of his negotiations and dealings with the leadership of the Soviet Union, the President should express—

(1) the strong opposition of the United States to the Soviet Union's refusal to permit Yuli Kosharovsky, Aleksandr Lerner, Yakhov Rakhlenko, Valery Soifer, Yulian Khasin, and Gennady and Natsha Khasin, their families, and other families in similar positions, to emigrate from the Soviet Union; and

(2) the desire of the United States that the Government of the Soviet Union comply with its obligations under the Final Act of the Conference on Security and Cooperation in Europe, the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, and permit these individuals, their families, and others to emigrate from the Soviet Union.

SEC. 1507. SOVIET HUMAN RIGHTS POLICY AND THE SUMMIT.

(a) Findings.—The Congress finds that—

(1) President Reagan and General Secretary Gorbachev are meeting in Washington from December 6 to 10, 1987;

(2) among the issues on the agenda are human rights;

(3) despite such welcome developments as the release of political prisoners, the resolution of longstanding divided family and refusenik cases, and the increase in emigration rates, the Soviet Union continues to violate the internationally recognized human rights of its citizens, including freedom of emigration, religion, thought, and expression; and

(4) continued Soviet violations of human rights are a serious impediment to improved bilateral relations between the United States and the Soviet Union.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the President should be commended for his efforts to press the Soviet Union to abide by its commitments to respect internationally recognized human rights and should protest forcefully to General Secretary Gorbachev continued Soviet human rights violations; and

(2) the Soviet Union should abide by its obligations under the Universal Declaration of Human Rights, the International Covenants on Human Rights, and Final Act of the Conference on Security and Cooperation in Europe, to respect human rights and fundamental freedoms, including freedom of emigration, religion, thought, and expression.

Page 249, after line 15, insert the following:

SEC. 1508 COMPREHENSIVE FOREIGN DEBT INFORMATION.

(a) Requirement for Comprehensive Information.—The President shall take steps to insure that the various reports submitted to the Congress provide full and compatible information on the status of all loans, credits, loan guarantees, and all other repayable financial assistance provided to foreign governments by the United States Government. As appropriate, information detailing the current status of foreign debt obligations owed the United States Government may be classified.

(b) Program Covered by Comprehensive Information Requirement.—Program covered by this section should include (but not be limited to) programs under the Foreign Assistance Act of 1961, the Commodity Credit Charter Act, the Arms Export Control Act, the Agricultural Trade Development and Assistance Act of 1954, and the Export-Import Bank Act of 1945.

(c) Information To Be Provided.—Reports subject to this section shall detail, where appropriate, the following:

(1) The amounts of foreign assistance loan authorization, disbursements, accumulated outstanding rescheduled debt, repayments, and outstanding balances, by program and country.

(2) The applicability of provisions of law providing for termination of assistance to countries in default on repayments to the United States Government and the collectibility of non-current loans, by country.

(3) The reasons for any significant shortfalls in repayments of billed principal and interest for the preceding year.

(4) A listing of loan rescheduling, restructuring, and other debt relief, by country, including a statement as to why debt relief is necessary and in the United States interest, how the completed debt rescheduling will affect United States financial interests, how much and how many times debts owed to the United States have been restructured, and what are the prospects for collecting rescheduled receivables, by country.

(5) A listing of how many foreign loans have been written off and for what reason, by program and country.

(6) A list of all contingent liabilities from loan guarantees, credits, and other assistance programs, by program and country.

(7) A best estimate of the current value of the portfolio of outstanding loans and other obligations by program, through the creation of a loan loss reserve account which shall be estimated to reflect the decline from face value of all outstanding loans and other obligations. This loan loss reserve estimate shall reflect the decline in value that may result from factors such as interest concessions and reduced likelihood that loans and other obligations will be repaid in full in a timely manner in accordance with loan terms.

(8) A list of countries still being given new loan assistance, although those countries have had outstanding obligations rescheduled or restructured.

Page 249, after line 15, add the following:

SEC. 1509. REPORT ON UNITED NATIONS-BASED ESPIONAGE.

Not later than 6 months after the date of enactment of this Act and annually thereafter, the President shall provide to the appropriate committees of the House of Representatives and the Senate a comprehensive report on espionage undertaken by foreign nationals within the United Nations Secretariat and member delegations to the United Nations. This report shall be unclassified, with a classified appendix if necessary.

Page 249, after line 15, add the following:

SEC. 1510. REVIEW OF UNITED STATES PARTICIPATION IN THE UNITED NATIONS.

(a) Findings.—The Congress finds that—

(1) the United Nations was founded for the primary purpose of maintaining international peace and security by encouraging peaceful resolution of disputes and the development of friendly relations among nations;

(2) the United States, as the host nation of the United Nations, a founding member of the United Nations, and the largest contributor to the United Nations, became and remains a member of the United Nations in order to contribute to collective efforts among the nations of the world to realize the ends of international peace and security;

(3) the United States is committed to upholding and strengthening the principles and purposes of the United Nations Charter upon which the United Nations was founded;

(4) in recent years, the United Nations as a body, and many of its member nations, have strayed from the original purposes established by the United Nations Charter;

(5) the United States has been called upon to shoulder increasing financial costs associated with the United Nations and its affiliated agencies at a time of increasing budget constraints within the United States;

(6) the presence of the United Nations within the United States has come to present major national security concerns as a result of espionage by foreign nationals within the United Nations Secretariat and member delegations to the United Nations;

(7) according to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985),

approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance; and

(8) other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(b) Presidential Review and Reports to Congress.—

(1) Review.—The President shall comprehensively review United States participation in the United Nations.

(2) Report.—Not later than six months after the date of enactment of this Act and annually thereafter, the President shall provide a written report to the Congress containing the President's findings and recommendations based on the review required by paragraph (1). Each such report shall contain, at a minimum a thorough analysis of the following issues:

(A) The extent and levels of United States financial contributions to the United Nations.

(B) The importance of the United Nations, as presently constituted, to fulfilling the national security and foreign policy objectives of the United States.

(C) The benefits and detriments derived by the United States from its participation in the United Nations.

(D) The danger to the United States from espionage associated with the United Nations, and the financial costs to the United Nations, and the financial costs to the United States of detecting, monitoring, and preventing such espionage.

(E) The advantages and disadvantages of having the United Nations located outside the United States.

Page 249, after line 15, insert the following:

SEC. 1511. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) Findings.— The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished in 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the nonviolent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration";

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) Statement of Policies.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's effort to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Repubic of China such as the Uighurs of Eastern Turkestan (Sinkiang), and the Mongolians of Inner Mongolia;

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas in which the United States Government and people can be helpful; and

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) Transfer of Defense Article.—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) Migration and Refugee Assistance.—Within 60 days after the date of the enactment of this Act, the Secretary of the State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amount authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

(e) Scholarships.—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

Page 249, after line 15, insert the following:

SEC. 1512. DEMOCRACY IN TAIWAN.

(a) Findings.—The Congress finds that—

(1) stability and peace prevail on the island of Taiwan and in the Western Pacific region;

(2) economic vitality, educational advancement, and social progress have created conditions favoring the furtherance of democracy in Taiwan;

(3) the people of Taiwan, in both national and local elections, have shown themselves fully capable of participating in a democratic political process;

(4) the authorities on Taiwan are nurturing a transition toward truely democratic and representative political institutions, although a minority of the seats in the central legislature and central electoral college are filled through periodic elections, with the majority of seats still being held by individuals who took office in the late 1940's;

(5) on September 28, 1986, Taiwan's democratic opposition announced the formation of the Democratic Progressive Party;

(6) on October 7, 1986, President Chiang Ching-kuo, announced that the Kuomintang intended to end the state of martial law and to lift the ban on the creation of new political parties;

(7) the lifting of martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan;

(8) the Kuomintang has indicated a desire over the next few years to make more representative Taiwan's central representative bodies, to broaden decisionmaking within the Nationalist Party, to enhance the rule of law, and to increase the powers of local-level government; and

(9) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan and an acceleration of progress toward a full democracy on Taiwan, including full respect for human rights, will strengthen United States ties with the people on Taiwan.

(b) SENSE OF CONGRESS.—The Congress—

(1) welcomes the democratic trends emerging in Taiwan and commends the progress that has been made recently in advancing democratic institutions and values;

(2) welcomes the lifting of martial law and looks forward to the lifting of the ban on new political parties;

(3) encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions, in particular by—

(A) guaranteeing freedom of speech, expression, and assembly; and

(B) moving toward a fully representative government, including the free and fair election of all members of all central representative bodies; and

(4) requests the American Institute in Taiwan to convey this Nation's continuing support for a democratic and prosperous Taiwan as stated in the Taiwan Relations Act and our encouragement for democracy to the leaders and the people of Taiwan.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes.

Mr. FASCELL. Mr. Chairman, I hope that amendment is entitled title XIII. It would be the last title in this bill and the last amendment.

Mr. Chairman, this includes 14 amendments and this en bloc title XIII has a number of issues which have wide bipartisan support and have been cleared on both sides and include a whole host of measures.

Included in this amendment is a provision for assistance to the people of Poland and another provision by the gentleman from Indiana [Mr. BURTON] requiring the Secretary of State to provide the Congress with a report on Soviet hard-currency sources. I did not know they had any.

It contains another amendment offered by the gentleman from California [Mr. MILLER] and the gentleman from Ohio [Mr. HALL] addressing the compelling problem of the international exploitation of children in the work force.

The amendment contains a modification of the Shumway amendment on Cuban human rights violations.

It contains the amendment by the gentleman from Illinois [Mr. PORTER] on nonproliferation of chemical and biological weapons, which I am happy to join him on.

The amendment also contains a modified version of the Richardson amendment with regard to the ban on the importation of uranium and other products made therefrom from South Africa.

It contains another modified version of the Richardson amendment, an amendment expressing our concern with regard to the right of emigration of Soviet Jews and a modification of the Solomon amendment with regard to the transfer of scientific information to certain countries, which the gentleman has been a leader on and very much interested in for a long time.

This also includes an amendment by the gentleman from Ohio [Mr. KASICH] to improve the reporting on loans owed to the United States, and two amendments by the gentleman from Georgia [Mr. SWINDALL], and one more.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding and for including this amendment that I have offered on chemical and biological weapons nonproliferation.

Mr. Chairman, the issue of chemical and biological weapons proliferation addressed by my amendment is not new. The need to control the use and manufacture of these inhumane weapons has been recognized since their first use during World War I. The Geneva Protocol of 1925 and the Biological Weapons Convention of 1972 are testaments of world opinion on the need to control the proliferation of biological and chemical weapons.

Unfortunately, Mr. Chairman, I fear that this important effort is slowly getting away from us. As the Soviet Union and the United States move closer to reaching a treaty in Geneva banning chemical weapons, the number of countries obtaining biological and chemical weapons continues to grow. Recent reports indicate that 15 nations have joined the chemical weapons club, including Libya, Syria, Cuba, North Korea, Vietnam, Ethiopia, and of course Iran and Iraq. Several additional countries are seeking to possess chemical and biological weapons, and many have already obtained the needed technology to make their own toxic weapons.

This proliferation is far from benign. In the Middle East, Iran and Iraq are now regularly exchanging artillery rounds of chemical ordnance, killing thousands of soldiers and civilians. In Afghanistan, reports persist, that the Mujahideen must now cope with Afghan and soviet poison gas, as well as napalm and phosphorous bombs. In Southeast Asia the people of Laos and Cambodia have been subjected to the cruelties of mycotoxins and other chemical agents.

Most disturbing, however, is the contribution U.S. and Western exports have had in aiding countries seeking to build and maintain chemical and biological arsenals. Many members of the chemical club receive help from the West by importing "pesticide plants" that are eventually converted to other, more lethal, uses. West German assistance in helping Iraq develop mustard gas weapons is only the most well known recent example. We have also learned this year that Syria is producing these weapons with chemicals which initially came from the United States.

My amendment requires the Secretary of State to issue a risk-assessment analyzing the threat of chemical and biological weapons proliferation and suggesting legislative responses to that threat. In addition, the Secretary, with the help of the Defense Department and the Arms Control and Disarmament Agency, will issue biannual reports on the status of proliferation.

We cannot stop the spread of these destabalizing weapons overnight. Yet, through these reports we can begin to gather the necessary information to effectively fight this unnecessary and dangerous spread of chemical and biological weapons. These weapons have the potential to kill as many people as nuclear weapons. They are the ultimate terrorist threat facing the world today, and have been rightly called the "poor man's atomic bomb." It is vital to our national security and the safety of our men and women in the field that the proliferation of chemical and biological weapons must come to a halt.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I rise in strong support of the "en bloc" amendments to title XIII. Incorporated in this group is my amendment to take the critical first step toward ending the brutal exploitation of children in the sweatshops of the world.

This legislation would require the State Department each year to complete a full assessment on the status of internationally recognized child labor rights as part of its nation-by-nation human rights reports.

Under my provision, the Secretary of State must use all available information in making his assessment. Sources would include the International Labor Organization, trade unions, and children's and human rights groups. I would urge the Secretary to consult with his counterparts in appropriate agencies, particularly the Secretary of Labor.

The Secretary also would be required to determine which countries acknowledge and enforce international standards for child labor.

By insisting on child labor reports, we are elevating this entire question to an appropriate level—the level of a first-rank human rights issue.

Today, at least 88 million children—and perhaps as many as 200 million—between the ages of 11 and 15 are part of the world's labor force. They frequently labor in dismal and dangerous conditions, often around hazardous equipment and materials. They work for virtually no pay, and often far in excess of the hours allowed for adults.

We should not be forced to rely on hearsay evidence or press reports for our information. Whether young girls are weaving rugs in Morocco, ragged boys are handling molten glass in India, or peasant children are polishing gems in Thailand for days on end, we must know about it. We must have a Government mechanism for a regular analysis of child exploitation.

The tragedy of child labor does grave physical, mental, and moral harm to children and severely weakens their ability to develop into healthy adults. Children are exploited because their governments are anxious to promote rapid economic development. The fact is that they are sacrificing their single greatest source: their own children.

With the help of the proposed State Department reports, we would be able to focus much-needed attention on the direct, lethal threat these labor conditions pose to the most vulnerable segment of any country's population.

We could highlight those countries that fail to respect even minimal international standards for the protection of children in the workplace. And, of utmost importance, we can build a framework for taking action to stop it. The United States can and should take the lead in this effort.

I welcome the support and efforts of my colleague, Mr. HALL of Ohio. I strongly support his language in this amendment to require that our U.N. representative recommend to that body that it take steps to call greater attention to this issue.

I also want to express my gratitude to my colleague, Mr. SOLARZ, for his help and support for this amendment.

I strongly urge my colleagues to support this effort in behalf of the world's children and to vote in favor of the "en bloc" changes to title XIII.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Fascell en bloc amendment to H.R. 3100 which would add a title XV to the bill. I commend the gentleman from Florida [Mr. FASCELL] for incorporating into title XV the section 1502, which combines the amendments offered by the gentleman from California [Mr. MILLER] and me regarding international child labor rights.

Mr. Chairman, my amendment expresses the sense of Congress with respect to the international exploitation of child labor. According to the United Nations International Labor Organization, an estimated 88 million children between the ages of 11 and 15 serve in the world's work force.

Many of these children are being denied their right to be children. A Cox newspapers series on this issue referred to this as stolen childhood.

The Cox newspapers reporting team of Joseph Albright, Marcia Kunstel, and Rick McKay traveled 65,000 miles in 9 months, during which they interviewed more than 200 people in 11 countries on 5 continents about the international child labor situation.

Their series on child labor demonstrated the complexity of the issues involved. There is no single, easy solution to the problem of the global exploitation of children.

To put an end to the misuse of children and to promote international child labor rights, several different approaches should be implemented on both a bilateral and a multilateral basis. One of the recommendations of the Cox series was the need to improve the coverage of child labor conditions in State Department's annual country reports on human rights practices.

The amendment I submitted, which was incorporated into the Fascell en bloc amendment, recognizes that the annual country reports can be used to call greater attention to international child labor conditions. My amendment, as combined with the amendment offered by the gentleman from California [Mr. MILLER], requires the Secretary of State to assess the status of internationally recognized child labor rights and to include the results of those assessments in the annual reports on individual country human rights practices.

My amendment further notes that the United Nations is an appropriate forum for initiatives to focus international attention on child labor rights. The United Nations already has adopted the Declaration of the Rights of the Child, and has prepared a draft convention on the rights of the child. In addition, a seminar on ways and means of achieving the elimination of the exploitation of child labor in all parts of the world was held in 1985.

While these have been important steps toward elevating international child labor rights in a multilateral setting, it is evident that further steps are necessary. Therefore, my amendment, as accepted by the gentleman from Florida [Mr. FASCELL], states that the U.S. delegation to the United Nations should recommend to the United Nations appropriate measures to call further international attention to the exploitation of child labor and the need for international respect for child labor rights. I especially wish to thank the gentleman from Florida [Mr. FASCELL], for including this provision in section 1502.

Mr. Chairman, I commend the efforts that the gentleman from California [Mr. MILLER] and the gentleman from Ohio [Mr. PEASE] have made to advance international protection of the rights of children. I believe that the amendment I have offered will contribute another approach to calling attention to this serious international problem.

I urge my colleagues to adopt the en bloc amendment offered by the gentleman from Florida [Mr. FASCELL].

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Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to take this time to thank the chairman of the committee and all the staff on both sides of the aisle, because they certainly have labored long and hard. It appears that we are coming to the end of this bill after we deal with the substitute.

So again, Mr. Chairman, I thank the chairman of our committee and all the other members for their cooperation in this matter.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, I rise in support of the chemical weapons-related amendment by the gentleman from Illinois.

I joined with my colleagues on May 19 to vote against the Fascell amendment which would have barred the final assembly of binary chemical munitions during fiscal year 1988.

This vote was a significant step toward the removal of unsafe unitary chemical weapons from the State of Maryland.

There is a substantial amount of unitary-type nerve gas stored in various locations in Maryland, and even some in Montgomery County. The 1985 defense authorization bill banned the destruction of unitary nerve gas stockpiles unless they were replaced by safer binary nerve gas.

Binary means that you have two elements that have to be mixed together to create the chemical weapon. One is a kind of pesticide that is relatively harmless, and the other is common sulfur or alcohol. We have already put into law that the two binary elements have to be deposited in separate States. That means that the pesticide may be stored in Arkansas while the sulfur or alcohol might be stored in Utah.

Binary weapons are safer to transport, safer to use, safer to store, and safer and much cheaper to dispose of. In the places where we now have unitary nerve gas, which is composed of one single element, you have a deadly gas separated from the community by only a thin container. A ban on binary production would hinder removal of the particularly unsafe unitary gas from the places in Maryland in which it is stored. For that and other reasons, five out of the other seven Representatives from Maryland joined me in voting against the Fascell amendment.

Production of binary chemical weapons was also presented as an encouragement to the Soviets to negotiate on a ban of all chemical weapons. For 17 years, from 1970 until last year, the Soviet Union enjoyed unilateral production of chemical weapons. As a result, they possess a chemical weapons stockpile which is held in a high state of readiness and is both growing and overwhelmingly superior to our own. In addition, the Soviets have sophisticated protection gear and dedicated chemical warfare forces, evidence that they are prepared to use such weapons.

The current U.S. chemical stockpile cannot effectively deter chemical warfare. Our munitions average 28 years in age, and most are not compatible with existing delivery systems. Unless the United States modernizes its own chemical stockpile, the Soviet Union and other chemical-armed countries will have no reason to refrain from employing their chemical forces. Our inability to deter or to encourage the Soviets to negotiate was even more pronounced before last year, when Congress ended its 17-year-old ban by permitting the production of 155 mm artillery shells that would carry binary chemicals—nerve gas.

work is far enough along so that it is merely the assembly of these shells that would have been prevented by the Fascell amendment.

On April 21, Ambassador Yuri Nazarkin, the top Soviet chemical weapons negotiator, admitted in a speech to the Conference on Disarmament in Geneva that there was a "clear linkage between United States binary production this fall and the reasons why the Soviets must negotiate a treaty this summer." I am pleased to note that the Soviets have shown an even greater interest in negotiations in the wake of the vote on the Fascell amendment. According to Newsweek October 19, 1987, "The Reagan administration proposed a ban on chemical weapons in Geneva in 1984. But the Soviets showed little interest until the United States decided to produce a new generation of chemical weapons beginning in December." The Soviets have recently allowed international observers into their chemical weapons facilities and have said that they would agree to onsite inspection as part of a ban agreement. I hope that rapid progress can now be made toward just such an agreement.

I wish I could report the same progress in the effort to prevent the spread of chemical weapons capability to nations that do not already have it. The proliferation of chemical weapons technology poses a grave threat to the security of the United States and to progress toward international peace. The number of countries possessing this "poor man's atom bomb" is rapidly increasing, and Iraq's recent use of chemical weapons underscores the fact that the chemical threat is real.

The amendment by the gentleman from Illinois requires that the State Department assess the risk of the proliferation of chemical and biological weapons, recommend to Congress legislation to control such proliferation, and submit biannual reports to Congress on the success in combatting this proliferation. These steps, long overdue, will play an important role in combatting the proliferation of chemical weapons. I urge my colleagues to approve this legislation. With the proper combination of firmness and a willingness to compromise we can make real progress toward not only stemming the international proliferation of nuclear weapons but indeed removing these nefarious weapons from the arsenals of both superpowers.

Mr. SOLOMON. Mr. Chairman, my amendment would allow us to take a close look at how we review scientific exchange agreements and require the Comptroller General to recommend how the current system might be improved.

The amendment would require the General Accounting Office to evaluate the current scientific exchange process and report to Congress on its findings within 1 year.

This amendment would allow us to determine if the issues involved should be more carefully examined. I wish to emphasize one very important point: The amendment would in no way interfer with the current process.

The clear intent of this amendment is to evaluate the entire scientific exchange process and to recommend methods to enhance the process by which we monitor these exchanges.

Mr. Chairman, I am very concerned that the Soviets might be obtaining sensitive militarily useful information through the scientific exchanges we conduct with the Soviet Union and other Communist countries.

Recently, a former high-level Defense official, Richard Pearl, expressed his concern over the flow of American technology through scientific exchanges stating:

> The process by which decisions are made that affect broad policy, detailed negotiations and eventual implementation of agreements for scientific and technology exchanges with the Soviet Union is a shambles, marked by indifference, incompetence and parochialism.

The Soviets currently obtain most of the scientific knowledge and technological know-how from exchanges that are supposed to be mutually beneficial.

Soviet secrecy prevents the United States from learning information of much interest, while American openness continues to facilitate Soviet acquisition of United States advances in science and technology.

The Soviets have identified numerous American universities as targets for the collection of technology. Known Soviet collectors at the United States universities include members of Soviet intelligence agencies, scientists within the Soviet Academy of Sciences, and scientists from the State Committee for Science and Technology who come to study in the United States.

Soviet scientists have performed onsite research in the fields of communications at MIT's operations research center, computers at the research center at Berkeley and the digital systems laboratory at Stanford, ceramic materials at the department of material science at MIT and gas turbine aircraft engines at the aeronautical science department at Northwestern University.

Mr. Chairman, problems in this exchange area were evident recently in the case of deep ocean drilling. This case involves top secret information and I really cannot talk about it here, but I can say that the United States Government was forced into the embarrassing position of having to withdraw a previous invitation to the Soviets to participate in the exchange when we realized that security concerns had not been reviewed. This is an example of how the failure to provide for comprehensive review of these agreements can have a direct impact on American foreign policy.

Mr. Chairman, again let me restate the intent of this amendment. This amendment requires the General Accounting Office to conduct a comprehensive and rigorous assessment of the costs and benefits of scientific agreements and exchanges. It requires GAO to determine and to recommend to the Congress how best to reduce acquisition of militarily useful scientific and technological information through scientific and technological information exchanges the United States conducts with controlled countries.

Mr. HALL of Texas. Mr. Chairman, I rise in support of the Solomon amendment on review of science and technological exchanges that is contained in the en bloc amendment. The gentleman from New York and our staffs have worked closely together to work out an acceptable compromise, and I want to thank him for his interest and cooperation in reaching this agreement. I would also like to express my thanks to the gentleman from Florida [Mr. FASCELL], the full committee chairman, for his fine cooperation and for that of his staff.

I share completely the concern that the gentleman from New York has regarding how the Soviets obtain their scientific knowledge and scientific know-how, particularly in the militarily sensitive areas. However, I am also concerned that his amendment, as originally drafted, would have had an unduly chiling effect on legitimate agreements between and among U.S. and foreign universities that have no military implications. What we have agreed to do in the modified amendment is to examine the current process and see what should be done differently to ensure that these important technologies not pass to the Soviets or any other controlled country, as determined under provisions of the Export Administration Act of 1979.

Our amendment directs the Comptroller General of the United States to look specifically at the following:

First, adequacy of the capability of the Committee on Exchanges of the Technology Transfer Intelligence Committee and other interagency groups to review proposed agreements;

Second, implications of giving foreign scientists, whose countries discriminate against their citizens for unfavorable political or religious beliefs, access to U.S. facilities and individuals;

Third, need for mandatory debriefing of persons who visit controled countries in conducting work under agreements with militarily sensitive implications; and

Fourth, recommendations that would enhance the benefits that the United States receives in entering into scientific and technological agreements with controlled countries.

The Comptroller General is directed to submit a report on his findings to the Congress within 1 year.

Mr. Chairman, last spring the Subcommittee on International Scientific Cooperation, which I chair, heard testimony on the costs and benefits of United States-Soviet science exchanges. We found that U.S. agencies have a number of procedures in place for guaranteeing that leakage of militarily sensitive information does not occur through the medium of scientific exchanges. We also found, however, that the interagency process by which exchanges are monitored has suffered from poor communications and lack of resources. For example, in a somewhat embarrassing episode, the United States extended an invitation for the Soviet Union to participate in the international Ocean Drilling Program, then withdrew the invitation several months after it had been accepted by the Soviets. We were embarrassed, and our partners in the program were furious. Problems like this continue to occur, despite a plethora of review mechanisms, because different interests inside and outside the United States Government feel strongly about relations, including scientific relations, with the Soviet Union.

The modified amendment would enable the Congress to step back and evaluate the process by which interagency agreements are reached to enable the United States to derive benefits from international scientific exchanges without handing over military secrets to our adversaries. If GAO determines that the process is not working, then I hope to work with the gentleman from New York to correct it.

Mr. Chairman, I submit an article by the President of Texas A&M University, Dr. Frank Vandiver, to be included in the RECORD at this point. Dr. Vindiver's article, which has been printed in a number of newspapers throughout the country, warns us of the consequences of overly restrictive limits on science and technology exchanges.

[From the Bryan-College Station Eagle, Nov. 29, 1987]

PLAN THREATENS FREE RESEARCH EXCHANGES

(By Frank E. Vandiver)

A seemingly benevolent amendment before the House of Representatives could threaten the academic community in its efforts to solve world problems through research and teaching. The intent of the amendment to H.R. 3100, the FY 1988 Foreign Aid bill, introduced by Rep. Gerald B.H. Solomon, R.-N.Y., is to bring a halt to espionage—the stealing of scientific and technological knowledge being developed in American colleges and universities. The Solomon Amendment, however, is broad enough to halt legitimate academic exchanges.

Rep. Solomon proposes to establish an "Interagency Group for Scientific Information Transfer, which shall be composed of such officers or employees of the Departments of State, Commerce, and Defense and such individuals from the academic and scientific communities, as the President shall designate." Before any American educational institution, public or private, could begin to negotiate any major agreement with any part of the government or a university of a "proscribed" country, the Interagency Group would review and evaluate any such agreements that might involve "the exchange or transfer, or any scientific or technological information." This sort of censorship or "oversight" would create a chilling effect on the academic world and could stifle initiatives even before their effects can be known.

Basic research is the process of discovering new knowledge; and by its very nature, the results of pioneering research are unknown since these investigations lead to new information. Therefore, whatever "scientific or technological information" results from research cooperation cannot be determined in advance.

A major problem with the Solomon Amendment should be obvious. The Interagency Group is charged with evaluating all agreements "which may involve the exchange or transfer, or any scientific or technological information" between universities. Since prior knowledge of whatever information may be discovered is not possible, the Interagency Group will have no logical basis upon which to assess any proposed agreements. Since there can be no way to determine in advance if the results of any research project will prove harmful to this country, the Interagency Group may tend to forbid any research in particular areas designated in advance.

"Overseers" (I prefer "censors") would have to determine in advance which types of research would lead to harmful effects on this country. Would, for example, research in agriculture which might improve Russian food production be labeled harmful? Would the same criteria be applied to research in medicine since such research could lead to knowledge applicable to germ warfare instead of the cure and prevention of such diseases as glaucoma or other common ailments? Should the long-standing exchange of weather data between the United States and Russia continue? Almost every major American institution of higher education has entered into agreements with foreign universities. Texas A&M University now has 40 agreements with foreign universities. Some are with institutions in nations that are now considered allies. but some are with countries now considered potentially hostile. Given the normal change in status of foreign relations and the long-range nature of academic research, the Interagency Group would have to be virtually prescient to determine which agreements will in the future prove harmful or beneficial.

Even though the Interagency Group is not supposed to have approval authority, the process of having agreements reviewed by personnel from government agencies who cannot be properly knowledgeable of academic research will insert unmanageable bureaucratic administration into academic affairs. In addition, representatives of the "academic and scientific communities" do not always agree on the outcomes of research, especially since research will lead into areas of new knowledge.

Further, prior approval, as envisioned in the review proposed by the Interagency Group, is completely antithetical to academic research, i.e., intellectual inquiry and expression. The federal government and the states have long supported academic research, but they have never prohibited research. To prohibit agreements by "any educational institution" that involve such inquiry and expression seems to violate constitutional rights.

The Solomon Amendments goes too far. The problems that face our world are immense; and rather than discouraging research, we should be doing everyting in our power to assist those who have dedicated their lives to research and teaching. American universities do not have a monopoly on new knowledge. We have learned from the research of foreign colleagues; even those from behind the Iron Curtain, and that research is helping solve problems here at home. Draconian measures such as the Solomon Amendments are just as totalitarian as those of the very foreign nations against whom Rep. Solomon proposes to defend us.

Frank E. Vandiver is president of Texas A&M University.

Mr. SOLOMON. Mr. Chairman, this amendment addresses the ongoing crisis in Tibet. Last June, while considering the State Department authorization bill, the House passed a milder form of this amendment, but much more has happened since then.

Public awareness of the situation in Tibet came to a head in September when the Dalai Lama made his dramatic visit to Capitol Hill. Invited to come by the Human Rights Caucus, which is cochaired by Mr. LANTOS and Mr. PORTER, the Dalai Lama left his exile headquarters in India and came to Washington carrying a message of hope and reconciliation for his beleaguered countrymen.

The brutality of the Chinese response to the Dalai Lama's call for peaceful reconciliation shocked even the most seasoned, may I say jaded, observers of the Chinese scene. Three Buddhist monks were publicly executed, and numerous others were rounded up and detained. Two more Tibetans were executed in a public spectacle staged in front of 10,000 people at a stadium. Telecommunications links with the Tibetan capital were severed, foreigners were expelled, and heavily armed riot police were deployed throughout the region. Finally, Chinese police fired on unarmed demonstrators—killing at least six and injuring countless others.

In response to these stunning and tragic developments, the other body passed, on October 6, the same amendment I am now offering. This amendment outlines the human rights abuses and other problems that have attended the Chinese occupation of Tibet since 1950. It also details the congressional involvement in the Tibetan issue over the past several years.

Finally, Mr. Chairman, it calls for several specific actions by our Government. Most importantly, it calls for the United States to "make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China."

It would have us play a more active role with the Dalai Lama in "his efforts to find a peaceful solution to the Tibetan problem"; It calls for greater attention to be paid by the administration to the plight of Tibetans and other non-Chinese peoples living in the People's Republic of China; and urges congressional delegations to try to visit Tibet.

Finally, Mr. Chairman, this amendment would require any arms sales notifications to Congress concerning the People's Republic of China to be accompanied by a Presidential determination that the People's Republic of China is "acting in good faith and in a timely manner to resolve human rights issues in Tibet"; it would mandate a report from the Secretary of State on human rights in Tibet; and it reaffirms the program we passed last June to provide $200,000 for both fiscal years 1988 and 1989 for aid to Tibetan refugees and 15 USIA scholarships for Tibetan students.

The ongoing crisis in Tibet is an issue that Congress is going to revisit for as long as necessary. What is at stake is the cultural and ethnic survival of a proud and ancient people. Moreover, it touches the essential human right that the American people have declared in survey after survey to be the most important of all: freedom of religion.

Mr. SMITH of New Jersey. Mr. Chairman, the amendment I am offering simply calls on the Soviet Union to allow Soviet Jews to emigrate freely.

Over the recent weeks and months, human rights activists the world over have had a bittersweet reaction to the marked increase in Soviet Jewry emigration. The number of Jews departing the Soviet Union in the month of October almost equalled the total number allowed to leave in 1986. In fact, it is likely that the total number of 1987 will be greater than the emigration over the last 5 years combined. A number of individuals who were informed by the OVIR, the Moscow visa office, last February that they would never be allowed to leave the country are now in Israel or have recently received permission to emigrate.

We are hopeful, Mr. Chairman, that these positive changes indicate a systemic change in Soviet policy and not merely token gestures of cooperation in preparation for the summit meeting.

For a handful of well-known Soviet Jewish leaders, such as Vladimir and Maria Slepak, Ida Nudel, Lev Elbert, and Anatol Schransky, glasnost ostensibly has taken on a new meaning. They themselves will not be allowed true openess and freedom in the West but they have left behind many who haven't yet experienced that freedom. As we speak, even well-known, long-term refuseniks, such as Yuli Kosharovsky, Aleksandr Lerner, Valery Soifer, and the Khasins remain behind.

Mr. Gorbachev's assertion during the NBC interview last week that the United States is "making themselves out to be an active defender of * * * human rights, to resolve their own problem—(by) organizing a brain drain," is a most interesting admission on his part. In contrast, as noted in a Helsinki Commission hearing last week, the Soviets have instigated their own "brain drain" because merely applying for a visa becomes the catalyst for employers to demote or even fire the applicants. Most of the refuseniks have been unable to work in their fields of expertise since the time of their first refusal—instead they are often relegated to menial jobs such as janitors and nightwatchmen.

Mr. Chairman, I am hopeful that the increased numbers in emigration, the era of glasnost, the warming atmosphere resulting from the signing of the INF Agreement and the summit meetings will add up to a better compliance of the Helsinki accords by the Soviet Union. The amendment before us encourages the Soviets in this direction.

Mr. SOLOMON. Mr. Chairman, I am going to make an unaccustomed foray into the area of gratuitous policy language by offering an amendment on Taiwan.

I am doing so because the history of congressional debates in recent years suggests that no foreign aid bill or State Department authorization bill is complete without language that blasts Taiwan.

Although, it must be said in all candor, that the pace of political reform in Taiwan has proceeded in a manner that seems to satisfy everyone except the Formosan Association for Public Affairs and its fund raisers.

Perhaps Taiwan's slow and steady march along the path of political liberalization has been so boring, so routine, even predictable, as to invite skepticism.

After all, where are the riots in the streets?

The mass demonstrations?

The general strikes?

The universities in turmoil?

The political assassinations?

And all the other forms of public martyrdom that have come to be expected as the necessary birth pangs at the dawn of a new political order?

In other words, where is all the excitement?

Well, the excitement is to be found in what 19 million people in Taiwan are doing to build as stable, prosperous, and egalitarian society.

In fact, in all of Asia, Japan is the only country with a larger population than Taiwan to have a higher standard of living.

And while all of this progress has been taking place, the Government has been moving at a measured and deliberate pace toward opening up the political system.

In the last year, significant steps have been taken to legalize the political participation of opposition parties; the most open and free election in the country's history was successfully conducted; and, most importantly, martial law was lifted.

Only last December, several Members and I had the opportunity of holding a private meeting with President Chiang Ching-kuo, during which he told us of his plans to further open up the political system.

And he told us of his hopes to leave behind a legacy, that he wants to be remembered as the man who laid the foundation, on a permanent basis, for democracy in Taiwan.

I will conclude by saying that, over the years, I have had the distinct impression that all of the browbeating we do in congressional resolutions can often have the effect of hindering, or retarding, the political processes we profess to be encouraging.

Nowhere is this more true than in Taiwan, where gradual, but real, efforts at liberalization and democratization have been underway for quite some time—and getting results, without all of the upheavals we have seen in some other countries. But no government is going to respond positively to outside pressures when those pressures can easily be construed as calling into question the very legitimacy of such a government.

And so that is why I am offering a balanced resolution, one that has already been passed by the other body, that salutes Taiwan, its people and Government, for the progress they have made, and exhorts them to continue that process by "consolidating fully democratic institutions." Nothing need more be said to make our point.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 410, noes 0, answered "present" 1, not voting 22, as follows:

[Roll No. 473]

AYES—410

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer

Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Crockett

NOT VOTING—22

Akaka
Biaggi
Dixon
Dowdy
Gaydos
Gephardt
Gingrich
Hall (OH)
Jenkins
Jones (NC)
Kaptur
Kemp
Kolter
Luken, Thomas
Mack
McEwen
Nichols
Price (NC)
Roemer
Smith (TX)
Stark
Sweeney

□ 1615

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

Mr. BROOMFIELD. Mr. Chairman, under the rule I am permitted to offer a substitute and I am also allotted a certain amount of time. Could I be recognized?

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute by and if offered by Representative BROOMFIELD or his designee. Said amendment is not subject to amendment, except one en bloc amendment by and if offered by Representative BROOMFIELD or his designee, which could only include amendments to the bill which have been adopted in the Committee of the Whole, as modified by the orders of the House of yesterday and today.

For what purpose does the gentleman from Michigan [Mr. BROOMFIELD] rise?

Mr. BROOMFIELD. Mr. Chairman, I rise to discuss the substitute that I will be offering very shortly, and before I do that, Mr. Chairman, I yield to the chairman of the committee.

The CHAIRMAN. The gentleman will have to offer his substitute, under the rule.

Mr. BROOMFIELD. I am still working on the text, Mr. Chairman, but pursuant to the rule I will be sending to the desk an en bloc amendment to my amendment in the nature of a substitute to the bill H.R. 3100. The purpose of this amendment is to include a number of amendments which were adopted by the committee as amendments to the bill.

The CHAIRMAN. Does the gentleman offer the substitute that he had printed in the RECORD?

Mr. BROOMFIELD. No, Mr. Chairman, it has been changed considerably.

The CHAIRMAN. Then the gentleman will offer the amendment he has prepared.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROOMFIELD: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Security and Development Cooperation Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—MILITARY ASSISTANCE AND SALES AND RELATED PROGRAMS

Sec. 101. Foreign military sales credits.
Sec. 102. Military assistance program.
Sec. 103. International military education and training.
Sec. 104. Peacekeeping operations.
Sec. 105. Cooperative training agreements with major non-NATO allies.
Sec. 106. Sales from stocks.
Sec. 107. Financing for commercial leasing arrangements.
Sec. 108. Terms of foreign military sales credits.
Sec. 109. Waiver of penalty interest on FMS arrearages.
Sec. 110. Enforcement and processing of arms export licensing requirements.
Sec. 111. Biennial review of the International Traffic in Arms Regulations.
Sec. 112. Reciprocal leasing.
Sec. 113. Sales of antitank shells containing a depleted uranium penetrator component.
Sec. 114. Exclusion of salaries from prices of certain FMS sales.
Sec. 115. FMS Guaranty Reserve Fund.

TITLE II—ECONOMIC SUPPORT FUND

Sec. 201. Authorizations of appropriations.
Sec. 202. Authority to use funds for emergency assistance.
Sec. 203. Restriction on use of funds for nuclear facilities.

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TITLE I—MILITARY ASSISTANCE AND SALES AND RELATED PROGRAMS

SEC. 101. FOREIGN MILITARY SALES CREDITS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—The first sentence of section 31(a) of the Arms Export Control Act is amended to read as follows: "There are authorized to be appropriated to the President to carry out this Act $3,950,000,000 for fiscal year 1988 and $4,088,250,000 for fiscal year 1989.".

(b) AGGREGATE PROGRAM CEILING.—Section 31(b)(1) of that Act is amended to read as follows:

"(b)(1) The total amount of credits extended under section 23 of this Act may not exceed $3,950,000,000 for fiscal year 1988 and $4,088,250,000 for fiscal year 1989."

SEC. 102. MILITARY ASSISTANCE PROGRAM.

Section 504(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter $1,033,716,000 for fiscal year 1988 and $1,069,896,000 for fiscal year 1989.".

SEC. 103. INTERNATIONAL MILITARY EDUCATION AND TRAINING.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—Section 542 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 542. AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out the purposes of this chapter $55,851,000 for fiscal year 1988 and $57,806,000 for fiscal year 1989.".

(b) HUMAN RIGHTS TRAINING IN IMET PROGRAMS.—Chapter 5 of part II of that Act is amended by adding at the end the following:

"SEC. 546. HUMAN RIGHTS TRAINING.

"Respect for internationally recognized human rights shall be an important component of the assistance provided to any country under this chapter for any fiscal year.".

(c) SCHOOL OF THE AMERICAS.—Chapter 5 of part II of that Act (as amended by subsection (b) of this section) is further amended by adding at the end the following:

"SEC. 547. SCHOOL OF THE AMERICAS.

"Of the funds made available to carry out this chapter, up to $3,000,000 each fiscal year may be used for the fixed base operating costs of the United States Army School of the Americas.".

SEC. 104. PEACEKEEPING OPERATIONS.

Section 552(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $31,689,000 for fiscal year 1988 and $32,798,000 for fiscal year 1989.".

SEC. 105. COOPERATIVE TRAINING AGREEMENTS WITH MAJOR NON-NATO ALLIES.

Section 21(g) of the Arms Export Control Act is amended—

(1) by inserting "and with other countries which are major non-NATO allies," after "New Zealand,"; and

(2) by adding at the end the following: "As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 1105 of the National Defense Authorization Act of Fiscal Year 1987.".

SEC. 106. SALES FROM STOCKS.

Section 21 of the Arms Export Control Act is amended by adding at the end the following:

"(j) In the case of a sale under subsection (a)(1)(B) of this section, the President may contract for the procurement of replacement major defense equipment if the eligible country or international organization provides the United States Government with a dependable undertaking as described in section 22(a) of this Act. The authority of this subsection may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 107. FINANCING FOR COMMERCIAL LEASING ARRANGEMENTS.

Section 23(a) of the Arms Export Control Act is amended by adding at the end the following: "The authority of this section may be used to provide financing to Israel for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this Act.".

SEC. 108. TERMS OF FOREIGN MILITARY SALES CREDITS.

(a) WHEN INTEREST RATES DETERMINED.—Section 23(c)(2) of the Arms Export Control Act is amended by striking out the parenthetical phrase in subparagraph (B).

(b) EFFECTIVE DATE.—Section 23(c) of that Act is amended by adding at the end the following:

"(3) Loan agreements made on market rate terms pursuant to this section after September 30, 1984, may be amended to fix the interest rates applicable to undisbursed funds as of the time each disbursement is made. The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 109. WAIVER OF PENALTY INTEREST ON FMS ARREARAGES.

Section 23 of the Arms Export Control Act is amended by adding at the end the following:

"(e) The President may waive the collection of penalty charges that have accrued or may accrue on loans made pursuant to this section or section 24. The authority of this subsection may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 110. ENFORCEMENT AND PROCESSING OF ARMS EXPORT LICENSING REQUIREMENTS.

(a) REGISTRATION FEES FOR MUNITIONS CONTROL LICENSES.—Section 38(b) of the

Arms Export Control Act is amended by inserting at the end the following:

"(3)(A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

"(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

"(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

"(B) Funds made available under subparagraph (A) may not be used for any purpose other than those specified in subparagraph (A), and this limitation may not be waived under the authority of any other provision of law.

"(C) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(b) DISQUALIFICATION AND FORFEITURE FOR VIOLATIONS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—Section 38 of that Act is amended by inserting after subsection (c) the following:

"(d)(1) No contract between a foreign government and a person convicted or debarred for a violation of this section or section 39, or any rule or regulation issued under either section, may be approved for financing under this Act during the twelve months following the date of such conviction or debarment.

"(2)(A) Any person who is convicted for a violation of this section or section 39, or any rule or regulation issued under either section, shall (in addition to any other penalty) forfeit to the United States—

"(i) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was the subject of the violation;

"(ii) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was used in—

"(I) the export or attempt to export, or

"(II) the contribution, gift, commission, or fee that was paid or offered or agreed to be paid,

that was the subject of the violation; and

"(iii) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(B) The procedures in any forfeiture under this paragraph, and the duties and authorities of the courts of the United States and the Attorney General with respect to any forfeiture action under this paragraph or with respect to any property that may be subject to forfeiture under this paragraph, shall be governed by section 1963 of title 18, United States Code. Any new budget authority provided by this subparagraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(c) EFFECTIVE DATE.—Subsection (d) of section 38 of that Act, as enacted by subsection (b) of this section, applies—

(1) in the case of paragraph (1) of subsection (d), with respect to convictions or debarments occurring on or after the date of enactment of this Act; and

(2) in the case of paragraph (2) of subsection (d), with respect to convictions based on conduct occurring on or after the date of enactment of this Act.

SEC. 111. BIENNIAL REVIEW OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.

Section 38(f) of the Arms Export Control Act is amended by striking out the first sentence and inserting in lieu thereof the following: "At least once every 2 years, the President shall review the regulations issued to carry out this section, including the items listed on the United States Munitions List, in order to determine what changes in those regulations are appropriate, including determining what items, if any, no longer warrant export controls under this section. Based on each such review, the President shall revise those regulations as necessary and shall publish a revised compilation of those regulations.".

SEC. 112. RECIPROCAL LEASING.

Section 61(a) of the Arms Export Control Act is amended in subparagraph (B) by striking out "fiscal year 1987 and only with respect to one country" and inserting in lieu thereof "fiscal years 1987, 1988, and 1989 and only with respect to one country each such year".

SEC. 113. SALES OF ANTITANK SHELLS CONTAINING A DEPLETED URANIUM PENETRATOR COMPONENT.

The President may not sell any M833 antitank shells, or any comparable antitank shells containing a depleted uranium penetrator component, to any country other than—

(1) a country which is member of the North Atlantic Treaty Organization, or

(2) a country which has been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.

SEC. 114. EXCLUSION OF SALARIES FROM PRICES OF CERTAIN FMS SALES.

The last sentence of section 503(a) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting ", or from funds made available on a nonrepayable basis under section 23 of the Arms Export Control Act," after "under paragraph (3)"; and

(2) by inserting "(other than the Coast Guard)" after "Armed Forces of the United States".

SEC. 115. FMS GUARANTY RESERVE FUND.

(a) FINDINGS.—The Congress finds that—

(1) during any period in which the balance of the Guaranty Reserve Fund established by section 24(c) of the Arms Export Control Act is inadequate to satisfy claims made on guaranties issued pursuant to that Act, the Federal Financing Bank may defer making such a claim for a reasonable period of time; and

(2) under present circumstances in which the balance of the Guaranty Reserve Fund has been depleted while security assistance funding is constrained at unduly low levels for general budgetary reasons, it is inconsistent with the security interests of the United States to divert security assistance funds to the Guaranty Reserve Fund unless absolutely essential.

(b) LIMITATION ON REPLENISHMENT OF GUARANTY RESERVE FUND.—During fiscal years 1988 and 1989—

(1) the authority contained in the third sentence of section 24(c) of the Arms Export Control Act (as amended by the paragraph under the heading "GUARANTY RESERVE FUND" in Public Law 100-71) may not be exercised; and

(2) funds made available to carry out section 23 of that Act or section 503 of the Foreign Assistance Act of 1961 shall not be made available to the Guaranty Reserve Fund (or otherwise used) for the payment of claims under guaranties issued under section 24 of the Arms Export Control Act, notwithstanding any other provision of law (specifically including any law providing appropriations for foreign assistance and related programs);

unless the President determines, in his discretion, that all other resources and authorities available for the purposes of managing arrearages on credits guaranteed pursuant to the Arms Export Control Act, including authorities available to the Federal Financing Bank, have been exhausted.

TITLE II—ECONOMIC SUPPORT FUND

SEC. 201. AUTHORIZATIONS OF APPROPRIATIONS.

Section 532(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter $3,380,812,000 for fiscal year 1988 and $3,535,365,000 for fiscal year 1989, in addition to amounts otherwise authorized to be appropriated for those purposes.".

SEC. 202. AUTHORITY TO USE FUNDS FOR EMERGENCY ASSISTANCE.

Section 533(a) of the Foreign Assistance Act of 1961 is amended by striking out "1986" and "1987" and inserting in lieu thereof "1988" and "1989", respectively.

SEC. 203. RESTRICTION ON USE OF FUNDS FOR NUCLEAR FACILITIES.

Funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1988 or fiscal year 1989 may not be used to finance the construction of, the operation or maintenance of, or the supplying of fuel for, any nuclear facility in a foreign country unless the President certifies to the Congress that such country is a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America (the "Treaty of Tlatelolco"), cooperates fully with the International Atomic Energy Agency, and pursues nonproliferation policies consistent with those of the United States.

TITLE III—DEVELOPMENT ASSISTANCE

SEC. 301. AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION.

The first sentence of section 103(a)(2) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $471,612,000 for fiscal year 1988 and $488,118,000 for fiscal year 1989.".

SEC. 302. CHILD SURVIVAL FUND.

(a) AUTHORIZATION.—Section 104(c)(2)(B) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(B)(i) Not less than $80,000,000 for fiscal year 1988 and not less than $90,000,000 for fiscal year 1989 shall be used for activities described in subparagraph (A) which are carried out with funds made available under this subsection and chapter 7 of this part.

"(ii) There are authorized to be appropriated to the President $66,000,000 for fiscal year 1988 and $76,000,000 for fiscal year 1989 for use in carrying out subparagraph (A), which are in addition to amounts otherwise available for that purpose and which are authorized to remain available until expended.".

(b) Conforming Amendment.—Section 104(c)(2)(C) of that Act is amended by striking out "Appropriations" and inserting in lieu thereof "Funds made available".

(c) Use of Funds To Reimburse Medical Personnel Detailed to AID.—Section 104(c)(2)(A) of that Act is amended by adding at the end the following: "Funds authorized to be appropriated to carry out the purposes of this subsection may be used to reimburse United States Government agencies, State government agencies, and institutions of higher education for the full cost of personnel detailed or assigned to the agency primarily responsible for administering this part for the purpose of carrying out activities authorized by this paragraph. Personnel so detailed or assigned shall not, during the period of detail or assignment, be counted toward any personnel ceiling applicable to any United States Government agency.".

(d) Restrictions on Assistance Not Applicable.—Section 104(c)(2) of that Act is amended by adding at the end the following:

"(D) Except as provided in this section, assistance provided under this paragraph may be made available notwithstanding any other provision of this Act (other than subsections (a), (f), and (t) of section 620 and section 620A) or any other Act.".

(e) Effective Date.—The amendments made by subsections (c) and (d) do not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 303. POPULATION AND HEALTH.

(a) Authorizations of Appropriations.—Section 104(g)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(A) $223,724,000 for fiscal year 1988 and $231,554,000 for fiscal year 1989 to carry out subsection (b) of this section (relating to assistance for population planning); and

"(B) $143,161,000 for fiscal year 1988 and $148,172,000 for fiscal year 1989 to carry out subsection (c) of this section (relating to assistance for health and disease prevention).".

(b) Family Planning Projects.—Section 104(c) of that Act is amended by adding at the end the following:

"(4) In order to reduce reliance on abortion in developing countries, funds shall be available under this part only to voluntary family planning projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services. In awarding grants for natural family planning under this part, no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the first sentence of this paragraph.".

SEC. 304. EDUCATION AND HUMAN RESOURCES DEVELOPMENT.

(a) Authorizations of Appropriations.—Section 105(a) of the Foreign Assistance Act of 1961 is amended by striking out the second sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $122,699,000 for fiscal year 1988 and $126,993,000 for fiscal year 1989. Funds appropriated under this subsection are authorized to remain available until expended.".

(b) Global Basic Education Enhancement.—The Congress makes the following findings:

(1) Basic education, which includes primary education for children and literacy training for adults, is necessary to promote the social and economic development of people and nations, developing the necessary knowledge, skills, and productive capacities of the workforce.

(2) Basic education increases the effectiveness of investments in other development sectors. The poorer the country, the higher the payoff for teaching its citizens to read, write, and perform basic arithmetic skills.

(3) Improvements in educational levels, particularly of women, are strongly associated with increasing agricultural productivity, improving nutritional status, declining infant and child mortality, and slowing population growth.

(4) Literacy rates in many countries which receive assistance from the Agency for International Development are very low.

(5) The Congress authorizes the appropriation of funds to the Agency for International Development under section 105 of the Foreign Assistance Act of 1961 in order "to reduce illiteracy, to extend basic education, and to increase manpower training in skills related to development".

(6) As a percentage of development assistance funding for education, funding for basic education enhancement has been declining in recent years.

(7) The Agency for International Development could have a substantial role in improving the efficiency and cost-effectiveness of educational systems in developing countries if more resources were directed toward enhancing basic education.

SEC. 305. COOPERATIVE DEVELOPMENT PROGRAM.

Section 106(f) of the Foreign Assistance Act of 1961 is amended by striking out "1986" and "1987" and inserting in lieu thereof "1988" and "1989", respectively.

SEC. 306. ENERGY, PRIVATE AND VOLUNTARY ORGANIZATIONS, AND SELECTED DEVELOPMENT ACTIVITIES.

Section 106(e)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(e)(1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $146,699,000 for fiscal year 1988 and $151,833,000 for fiscal year 1989.".

SEC. 307. PRIVATE SECTOR REVOLVING FUND.

The first sentence of section 108(b) of the Foreign Assistance Act of 1961 is amended by striking out "in each of the fiscal years 1986 and 1987, up to $18,000,000" and inserting in lieu thereof ", up to $12,000,000 in fiscal year 1988 and up to $12,000,000 in fiscal year 1989".

SEC. 308. PROTECTING BIOLOGICAL DIVERSITY.

Section 119(c) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1987" and inserting in lieu thereof "each of the fiscal years 1988 and 1989".

SEC. 309. PRIVATE SECTOR ASSISTANCE.

(a) Repayment.—Section 122 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(f) Section 620(r) of this Act shall not apply in the case of loans made at or near market rates of interest to private borrowers pursuant to the authority contained in this chapter, chapter 7 of this part, or chapter 4 of part II if the President determines that by not applying such provisions repayment to the United States is likely to be greater than if such provisions were applicable.".

(b) Effective Date.—The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 310. USE OF FOREIGN ASSISTANCE LOAN REPAYMENTS FOR DEVELOPMENT ASSISTANCE ACTIVITIES.

(a) Authority To Use.—Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 129. USE OF FOREIGN ASSISTANCE LOAN REPAYMENTS FOR DEVELOPMENT ASSISTANCE ACTIVITIES.

"(a) Authority.—Subject to subsection (e), in the case of any developing country which faces severe difficulties in repaying its external debt obligations, the President may (on a case-by-case basis) permit that country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by that country under this part, into local currency accounts (in equivalent amounts of local currency as determined by the official exchange rate for that country) for use by that country, with the concurrence of the Administrator of the agency primarily responsible for administering this part, for development activities which are consistent with section 102. Such activities may include development activities carried out by United States and indigenous private and voluntary organizations.

"(b) Notification to Congress.—The President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications under section 634A, at least 15 day before each exercise of the authority contained in subsection (a).

"(c) Other Provisions.—The authority contained in subsection (a) may be exercised notwithstanding section 620(r) of this Act and section 321 of the International Development and Food Assistance Act of 1975.

"(d) Acting in Concert With Other Creditors.—In exercising the authority of this section, the President should act in concert with other creditor countries.

"(e) Requirement for Appropriations Action.—The authority of subsection (a) may be exercised only to such extent or in such amount as is provided in advance in appropriation Acts.".

(b) Conforming Amendment.—Subsection (c) of section 124 of that Act is repealed, and subsection (d) is redesignated as subsection (c).

(c) Effective Date.—The amendment made by subsection (a) applies with respect to liability incurred under part I of that Act at any time before or after the enactment of this Act.

SEC. 311. PROVIDING CREDIT FOR THE POOR IN DEVELOPING COUNTRIES.

(a) Findings.—The Congress makes the following findings:

(1) Hunger and hunger-related disease take the lives of 13,000,000 to 18,000,000 people annually. Three-quarters of these deaths are children under the age of 5.

(2) A primary cause of this suffering is the inability of the poor majority living in developing countries to earn incomes which would enable them to provide the nutrition-

al and health benefits that their families need.

(3) The rural and urban poor comprise the developing world's greatest untapped resource, and the health of national economies and democratic institutions is vastly improved when opportunities for the poor to participate in the economies of their countries are actively promoted and expanded.

(4) The inability of the rural and urban poor to obtain credit to finance their economic activities (and related nonfinancial assistance) has long been an obstacle to their achievement of economic progress and well-being.

(5) This inability to obtain credit and other critical productive inputs has been a significant factor inhibiting the growth of micro and small enterprises. Even so, such enterprises still represent an important source of private sector commercial activity in developing countries, provide significant benefits for the poor majority in those countries (particularly women, tribal peoples, and other minorities), and serve to integrate them into the economic life of their countries.

(6) Formal financial institutions in developing countries have not recognized that, although the poor majority may lack collateral for loans and may not be able to comply with all the traditional loan formalities, the productive activities of micro and small enterprises can nevertheless be financially viable if access to sources of credit is expanded.

(7) Experience with making productive credit available to the poor, including to micro-enterprises and to groups of poor people, has demonstrated their ability to repay loans and to achieve significant improvements in their living standards and to make significant contributions to the local economy.

(8) Economic policies, particularly those which are neutral as to enterprise size, are important to the encouragement and operation of micro and small enterprises.

(b) Credit Programs and Other Assistance.—The Administrator shall make assistance available, in accordance with this section, to financial intermediaries in developing countries to enable them to provide loans and other assistance for micro and small enterprises of the poor majority. In carrying out this section, primary emphasis shall be placed on making loans and other assistance available to those individuals living in absolute poverty. Funds described in subsection (f)(2) may be made available to financial intermediaries pursuant to this section for use by them—

(1) in extending credit for micro and small enterprises in order to provide such enterprises with financial resources for working capital, the acquisition of equipment and other supplies, and payment of other expenses of the enterprise;

(2) in extending credit for such purposes as the procurement of farm implements and commodities, the acquisition of livestock, the construction of storage facilities, water and soil conservation activities, and the enhancement of marketing facilities;

(3) for the startup costs incurred by a nongovernmental organization in becoming a financial intermediary, and for other institutional development expenses (including audit and evaluation costs) of the intermediary which are related to the establishment and initial operation of the credit and other business support activities assisted pursuant to this section;

(4) for expenses incurred by the financial intermediary in providing training and technical assistance for micro and small enterprises, in order to enable them to obtain and utilize credit and other nonfinancial assistance under this section; and

(5) to provide other assistance necessary to the successful functioning of micro and small enterprises.

(c) Guidelines for Program.—The Administrator shall issue guidelines for financial intermediaries providing assistance pursuant to this section. These guidelines shall seek to ensure that financial intermediaries—

(1) consult with potential recipients of credit and other assistance under this section, and include their views to the greatest extent possible, in the designing of credit projects to ensure that the projects are responsive to the credit and other productive input needs of the recipients;

(2) establish credit terms at rates of interest which reflect the prevailing market rate of interest and the real cost of providing credit to the targeted beneficiaries;

(3) utilize the assistance made available pursuant to this section to provide credit and related assistance to the poorest people, with special attention being given to the provision of credit and other assistance to women, tribal peoples, and other minorities; and

(4) minimize or remove obstacles to credit provided under this section, such as collateral and literacy requirements.

(d) Primary Emphasis.—In carrying out this section, the Administrator shall place primary emphasis on the development of the capacity of indigenous nongovernmental organizations (especially those representing women, tribal peoples, and other minorities) which will assist the development of micro and small enterprises, but the Administrator may also support other entities as appropriate. Attention shall also be directed to savings and capital formation as part of the systems support for micro and small enterprises.

(e) Advisory Committee.—The Administrator shall appoint an advisory committee to advise the Administrator with regard to the implementation of this section. This advisory committee shall be composed of individuals from nongovernmental organizations who are knowledgeable about the needs of micro and small enterprises in developing countries for credit and other assistance. Among other responsibilities, the advisory committee shall—

(1) assist the Administrator in developing the report required by subsection (m); and

(2) shall review and comment on the initial guidelines issued by the Administrator pursuant to subsection (c) before those guidelines are issued.

(f) Sources of Funds and Funding Levels.—

(1) Assistance for fiscal years 1988 and 1989.—The total amount of assistance provided pursuant to this section shall be at least $50,000,000 during fiscal year 1988 and at least $75,000,000 during fiscal year 1989.

(2) Sources of funds.—Assistance pursuant to this section shall be provided with the following funds:

(A) Funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), and chapter 4 of part II of that Act (relating to the economic support fund).

(B) Foreign currencies acquired as payments of loans made under those chapters pursuant to the authority contained in subsection (h).

(C) Foreign currencies accruing from assistance provided under those chapters.

(D) Foreign currencies accruing or acquired under title I of the Agricultural Trade Development and Assistance Act of 1954, including foreign currencies made available to carry out section 108 and foreign currencies available for use pursuant to title III.

(E) Amounts paid to the United States on loans made to financial intermediaries pursuant to this section.

(3) Allocations of assistance.—Funds allocated under this section shall, to the maximum extent feasible, be made available in support of micro enterprises. The size of individual loans made under this section to micro and small enterprises shall take into consideration such factors as the size of the borrowing enterprise, the nature of the activity being undertaken by the enterprise, and the financial requirements of the enterprise.

(g) Applicable Authorities.—Except as provided in this section, assistance provided pursuant to this section shall be provided in accordance with the relevant authorities contained in the Foreign Assistance Act of 1961 or the Agricultural Trade Development and Assistance Act of 1954.

(h) Authority To Generate Foreign Currencies.—In order to generate foreign currencies which can be made available to financial intermediaries pursuant to this section, the Administrator is authorized to use funds made available to carry out chapter 1 of part I, chapter 7 of part I, and chapter 4 of part II of the Foreign Assistance Act of 1961 to provide assistance to the governments of developing countries on a loan basis repayable in foreign currencies, at a rate of exchange to be negotiated by the Administrator and the foreign government. Such loans shall have a rate of interest and a repayment period determined by the Administrator.

(i) Foreign Assistance Act Assistance to Intermediaries.—

(1) Terms.—Loans and grants made to financial intermediaries for the purposes of this section with funds described in subsections (f)(2)(A), (B), and (C), or with amounts made available pursuant to paragraph (2) of this subsection, shall be on such terms and conditions as are determined by the Administrator and the intermediary.

(2) Use of loan proceeds.—Amounts paid to the United States on loans under this section with funds described in subsections (f)(2)(A), (B), and (C) or with amounts used pursuant to this paragraph shall, as determined by the Administrator, be available for use for assistance pursuant to this section.

(j) Application of Certain Laws.—Section 122 of the Foreign Assistance Act of 1961 shall not apply with respect to loans pursuant to subsections (h) or (i). Funds described in subsection (f)(2)(B) and (C) or subsection (i)(2) which are received by the United States pursuant to this section shall not be subject to the requirements of section 1306 of title 31, United States Code, or other laws governing the use of foreign currencies accruing to the United States. New budget authority provided by this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(k) Terms of Foreign Currency Assistance Under Public Law 480.—Funds described in subsection (f)(2)(D), or in the second sentence of this subsection, which are made available to financial intermediaries pursuant to this section may be provided on a grant or loan basis, notwithstanding any provision of the Agricultural Trade Development and Assistance Act of 1954. Any foreign currencies under that Act which are repaid by financial intermediaries under this section shall be available to and used by the Administrator to make available assistance for the purposes of this section. Section 108(d) of that Act shall not apply to the use of such currencies. Section 103(m) of that Act shall not apply to agreements entered into under section 108 of that Act for purposes of this section.

(l) Notice to Congress.—Funds made available under this section shall be provided in accordance with the procedures applicable to reprogrammings under section 634A of the Foreign Assistance Act of 1961.

(m) Initial Report.—Not later than January 1, 1988, the Administrator shall submit to the Congress a report setting forth the manner in which this section will be implemented.

(n) Annual Reports.—Not later than February 1, 1989, and each year thereafter, the Administrator shall submit a report to the Congress describing the implementation of this section. The report shall include—

(1) a description of the activities funded under this section during the previous fiscal year and the amount of funds described in each subparagraph of subsection (f)(2) which were provided for such activities; and

(2) recommendations for procedural or statutory changes which would facilitate the implementation of this section.

(o) Economic Policies.—In policy dialogues concerning economic policies with, and efforts to reform economic policies of, countries receiving assistance under part I of the Foreign Assistance Act of 1961, the Administrator shall encourage economic policies which promote micro and small enterprises.

(p) Definitions.—For purposes of this section—

(1) the term "Administrator" means the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961;

(2) the term "micro enterprises" means enterprises which are—

(A) single or family proprietorships, small-group enterprises, or other for-profit business entities, which have approximately 7 or fewer workers, which are wholly owned by the poor majority in the developing country, and which often lack access to credit at reasonable cost, and

(B) cooperatives consisting primarily of such individuals or entities;

(3) the term "small enterprises" means enterprises which are—

(A) single or family proprietorships, small-group enterprises, or other for-profit business entities, which have approximately 8 to 15 workers, which are wholly owned by the poor majority in the developing country, and which often lack access to credit at reasonable cost, and

(B) cooperatives consisting primarily of such individuals or entities;

(4) the term "financial intermediary" has the same meaning as is given that term in section 108(i)(2) of the Agricultural Trade Development and Assistance Act of 1954; and

(5) the term "absolute poverty" refers to those people who lack access to assets sufficient to permit them to provide for their basic human needs.

SEC. 312. ASSISTANCE FOR THE PREVENTION AND CONTROL OF AIDS IN DEVELOPING COUNTRIES.

Of the aggregate amounts made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 7 of part I of that Act (relating to Africa famine recovery and development), not less than $20,000,000 for each of the fiscal years 1988 and 1989 shall be available only for activities relating to research on and the treatment and control of acquired immune deficiency syndrome (AIDS) in developing countries.

SEC. 313. MINORITY SET-ASIDE.

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for each of the fiscal years 1988 and 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 7 of part I of that Act (relating to Africa famine recovery and development) shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are socially and economically disadvantaged (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977). For purposes of this section, socially and economically disadvantaged individuals shall be deemed to include women.

SEC. 314. ENHANCING THE PRIVATE-PUBLIC PARTNERSHIP FOR FOREIGN ASSISTANCE.

(a) Additional Policies and Requirements Concerning PVOs and Cooperatives.—Section 123 of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subsections (b) through (h) as subsections (e) through (k), respectively; and

(2) by inserting after subsection (a) the following:

"(b) The Congress encourages the fuller utilization of private indigenous organizations and cooperatives, especially those representing women, tribal peoples, and other minorities, in the implementation and planning of activities authorized by this part. Public and private technical and financial assistance from United States private and voluntary organizations and cooperatives can accelerate the strengthening of these organizations and their ability to assist the poor.

"(c) The Congress encourages the Administrator of the agency primarily responsible for administering this part to use, in addition to funding for other activities of private and voluntary organizations, up to $20,000,000 in each of fiscal years 1988 and 1989 for private and voluntary organizations and cooperatives under this chapter, chapter 7 of this part, and chapter 4 of part II to design, initiate, expand, and enhance food assistance programs that reach the poor in conjunction with food made available under title II of the Agricultural Trade Development and Assistance Act of 1954 and section 416(b) of the Agricultural Act of 1949.

"(d) The Congress finds that one of the most effective and least costly ways to maintain and restore the natural resource base in developing countries is through small-scale, affordable, participatory projects using methods suited to the local environment. Assistance under this part may support private and voluntary organizations in carrying out resource conserving development projects, training, and education programs that promote sustainable agricultural development practices. Particular emphasis should be placed on agricultural and rural development projects which include environmentally sound land and water management technologies, including agroforestry, water harvesting, soil conservation, reforestation, range and pasture management, small-scale irrigation systems, family gardens, park management, renewable and decentralized energy techniques, and the training of local staff on more effective community-based extension techniques that promise greater choice, improved communications, and the more active involvement of farmers in projects utilizing these technologies.".

(b) Funding Levels.—Subsection (i) of that section (as so redesignated by subsection (a) of this section) is amended to read as follows:

"(i) For each of the fiscal years 1988 and 1989, funds in an amount not less than 15 percent of the aggregate amount appropriated to carry out sections 103, 104(b), 104(c)(1), 104(c)(2), 105, 106, 471, and 491 of this Act shall be made available for the activities of private and voluntary organizations and cooperatives; and the President shall seek to channel funds in an amount not less than 18 percent of such aggregate amount for the activities of private and voluntary organizations and cooperatives. Funds made available under chapter 4 of part II of this Act for the activities of private and voluntary organizations and cooperatives may be considered in determining compliance with the requirements of this subsection.".

(c) Non-Federal Funding Requirement.—Subsection (j) of that section (as so redesignated by subsection (a) of this section) is amended to read as follows:

"(j) Funds made available to carry out this part may not be made available to any United States private and voluntary organization (other than a cooperative development organization) which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government. In calculating the amount of Government support received by an organization, there shall be excluded the value of commodities (and related transportation) made available for overseas distribution and the value of contracts for services, grants, and other activities initiated primarily by the agency primarily responsible for administering this part.".

TITLE IV—OTHER ASSISTANCE PROGRAMS AND AUTHORIZATIONS

PART A—FOREIGN ASSISTANCE ACT PROGRAMS

SEC. 401. AMERICAN SCHOOLS AND HOSPITALS.

Section 214(c)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c)(1) To carry out the purposes of this section, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1988 and $36,225,000 for fiscal year 1989.".

SEC. 402. HOUSING GUARANTY PROGRAM.

(a) Increasing Authorized HIG Program Level.—Section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out

"$2,158,000,000" in the second sentence and inserting in lieu thereof "$2,308,000,000".

(b) EXTENDING HIG PROGRAM AUTHORITY.—Such section is further amended by striking out "1988" in the third sentence and inserting in lieu thereof "1990".

(c) BORROWING AUTHORITY.—Section 223(e)(2)(A)(ii) of that Act is amended by striking out "$40,000,000" and inserting in lieu thereof "$100,000,000".

(d) BUDGET ACT.—The authority provided by the amendment made by subsections (a) and (b) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 403. AGRICULTURAL AND PRODUCTIVE CREDIT AND SELF-HELP COMMUNITY DEVELOPMENT PROGRAMS.

(a) EXTENDING PROGRAM AUTHORITY.—Section 222A(h) of the Foreign Assistance Act of 1961 is amended by striking out "1988" and inserting in lieu thereof "1990".

(b) BUDGET ACT.—The authority provided by the amendments made by subsection (a) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 404. TRADE CREDIT INSURANCE PROGRAM.

Section 224(e) of the Foreign Assistance Act of 1961 is amended by striking out "the aggregate amount of outstanding commitments under subsection (a) may not exceed $300,000,000 of contingent liability for loan principal during fiscal year 1986 and may not exceed $400,000,000 of contingent liability for loan principal during fiscal year 1987" and inserting in lieu thereof "commitments entered into during fiscal year 1988 to guarantee loans under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal and commitments entered into during fiscal year 1989 to guarantee loans under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal".

SEC. 405. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS.

(a) AUTHORIZATIONS.—Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President $92,264,000 for fiscal year 1988 and $95,493,000 for fiscal year 1989 for grants to carry out the purposes of this chapter, in addition to funds available under other Acts for such purposes.".

(b) INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT.—Paragraph (2) of section 103(g) of that Act is amended to read as follows:

"(2) In addition to any funds made available under chapter 3 of this part (relating to international organizations and programs) which are used for such purpose, other funds made available to carry out this part may be used for United States contributions to the International Fund for Agricultural Development.".

(c) CONDITION ON CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY.—Section 302(a) of that Act is amended by adding at the end the following:

"(3) Funds authorized to be appropriated by paragraph (1) may be contributed to the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.".

SEC. 406. INTERNATIONAL DISASTER ASSISTANCE.

The first sentence of section 492(a) is amended to read as follows: "There are authorized to be appropriated to the President to carry out section 491, $25,000,000 for fiscal year 1988 and $25,875,000 for fiscal year 1989.".

SEC. 407. ANTITERRORISM ASSISTANCE PROGRAM.

Section 575(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a) There are authorized to be appropriated to the President to carry out this chapter, $9,840,000 for fiscal year 1988 and $10,184,000 for fiscal year 1989.".

SEC. 408. TRADE AND DEVELOPMENT PROGRAM.

Section 661(b) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(b) There are authorized to be appropriated to the President for purposes of this section, $20,000,000 for fiscal year 1988 and $20,700,000 for fiscal year 1989. Amounts appropriated under this subsection are authorized to remain available until expended.".

SEC. 409. OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—Paragraph (1) of section 667(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) $340,600,000 for fiscal year 1988 and $352,521,000 for fiscal year 1989 for necessary operating expenses of the agency primarily responsible for administering part I of this Act; and".

(b) USE OF PROGRAM FUNDS FOR OPERATING EXPENSES.—Section 667 of that Act is amended by adding at the end the following:

"(c)(1) Amounts authorized to be appropriated to carry out the purposes of chapter 1 and chapter 7 of part I and chapter 4 of part II of this Act for fiscal years 1988 and 1989 may be made available to carry out the purposes of this section and section 668.

"(2) For fiscal years 1988 and 1989, the Administrator of the agency primarily responsible for administering part I of this Act shall make available to the Inspector General of the Agency for International Development, from funds made available pursuant to subsection (a) or paragraph (1) of this subsection, such amount for payment of expenses described in section 668(a)(1) as the Inspector General may request. The Inspector General may not request funds under this paragraph for a fiscal year in an amount—

"(A) which is greater than 10 percent of the amount authorized to be appropriated for that fiscal year by section 668(a)(1), or

"(B) which would cause the limitation in paragraph (3) to be exceeded.

"(3) The authorities of this subsection may not be used to increase the amount available for a fiscal year to carry out this section or section 668 to an amount greater than the amount made available for the previous fiscal year to carry out the purposes described in such section, except that the amount used to cover the costs of converting to the mandatory Federal Employee Retirement System shall be excluded in applying this limitation for fiscal year 1988.".

(c) OPERATING EXPENSES OF THE OFFICE OF THE INSPECTOR GENERAL.—Chapter 3 of part III of that Act is amended by inserting the following after section 667:

"SEC. 668. OPERATING EXPENSES OF THE OFFICE OF THE INSPECTOR GENERAL.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $21,000,000 for fiscal year 1988 and $21,735,000 for fiscal year 1989 for necessary operating expenses of the Office of the Inspector General of the Agency for International Development; and

"(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such office.

"(b) AUTHORITY FOR EXTENDED AVAILABILITY.—Amounts appropriated under this section are authorized to remain available until expended.".

PART B—PUBLIC LAW 480 AND SECTION 416 PROGRAMS

SEC. 421. PROMOTING BIOLOGICAL DIVERSITY.

(a) SELF-HELP MEASURES BY DEVELOPING COUNTRIES.—Section 109(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (11) the following:

"(12) promoting the conservation and study of biological diversity.".

(b) USE OF LOCAL CURRENCIES PROCEEDS UNDER TITLE I PROGRAMS.—Section 106(b)(2) of that Act is amended—

(1) by inserting "to carry out activities promoting the conservation and study of biological diversity," after "population planning,"; and

(2) by inserting "promote biological diversity," after "distribution of commodities,".

(c) USE OF LOCAL CURRENCIES PROCEEDS UNDER TITLE II PROGRAMS.—Section 206 of that Act is amended in the first sentence by striking out "or (C)" and inserting in lieu thereof "(C) programs and projects to promote the conservation and study of biological diversity, or (D)".

(d) USE OF LOCAL CURRENCIES UNDER THE TITLE III FOOD FOR DEVELOPMENT PROGRAMS.—Section 301(b) of that Act is amended in the second sentence—

(1) by inserting "programs to promote the conservation and study of biological diversity," after "population planning,"; and

(2) by inserting "promote biological diversity," after "distribution of commodities,".

SEC. 422. FARMER-TO-FARMER PROGRAM UNDER PUBLIC LAW 480.

Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years 1988 and 1989 to carry out the Agricultural Trade Development and Assistance Act of 1954 shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act. Any such funds used to carry out paragraph (2) of that section shall not constitute more than one-fourth of the funds used pursuant to the first sentence of this section, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961.

SEC. 423. MULTIYEAR AGREEMENTS UNDER SECTION 416(b).

Section 416(b)(4) of the Agricultural Act of 1949 is amended by adding at the end the following: "In agreements with recipients of eligible commodities under this subsection (including nonprofit agencies or cooperatives), the Secretary is encouraged to approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection. Such agreements shall be subject to the availability each fiscal year of the necessary agricultural commodities.".

SEC. 424. MINIMUM LEVEL OF FOOD ASSISTANCE.

(a) ANNUAL MINIMUM.—It is the sense of the Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, not less than one-third of the funds available each fiscal year of foreign economic assistance programs should be used to make United States food assistance available to foreign countries pursuant to the Agricultural Trade Development and Assistance Act of 1954 and section 416(b) of the Agricultural Act of 1949.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 or chapter 7 of part I of the Foreign Assistance Act of 1961, the Agricultural Trade Development and Assistance Act of 1954, or section 416(b) of the Agricultural Act of 1949; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.

TITLE V—INTERNATIONAL NARCOTICS CONTROL

SEC. 501. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)": "(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $105,000,000 for fiscal year 1988 and $108,675,000 for fiscal year 1989.".

SEC. 502. ASSISTANCE FOR BOLIVIA.

(a) CONDITIONS ON FISCAL YEAR 1988 ASSISTANCE.—

(1) SECURITY ASSISTANCE.—For fiscal year 1988, assistance may be provided for Bolivia under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia has enacted legislation that will—

(A) establish its legal coca requirements,

(B) provide for the licensing of the number of hectares necessary to produce the legal requirement,

(C) make unlicensed coca production illegal, and

(D) make possession and distribution of coca leaf illegal (other than for licit purposes).

(2) ADDITIONAL REQUIREMENT FOR ESF.—In addition, funds may be obligated for assistance for Bolivia for fiscal year 1988 under chapter 4 of part II of the Foreign Assistance Act of 1961 only if the Secretary of State has submitted to the Congress a plan for conditioning the expenditure of those funds on the Government of Bolivia meeting specific coca eradication targets.

(3) SECTION 481 CERTIFICATION.—For fiscal year 1988, the President may make a certification with respect to Bolivia under clause (i) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985.

(4) RELATION TO OTHER REQUIREMENTS.—The requirements of this subsection are in addition to the requirements contained in section 481(h) of the Foreign Assistance Act of 1961 and other applicable provisions of law.

(b) CONDITIONS ON FISCAL YEAR 1989 ASSISTANCE.—

(1) SECTION 481 CERTIFICATION.—For fiscal year 1989, the President may make a certification with respect to Bolivia under clause (i) or (ii) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(A) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985;

(B) has fully achieved the eradication targets contained in that agreement; and

(C) has begun a program of forced eradication of illicit coca cultivation.

(2) NONWAIVABILITY.—The authorities contained in section 614 of the Foreign Assistance Act of 1961 may not be used to waive the requirements of this subsection, and may not be used to waive the requirements of section 481(h) of that Act for fiscal year 1989 with respect to Bolivia.

(c) DEVELOPMENT ASSISTANCE.—For fiscal years 1988 and 1989, the project agreement document for any project carried out in Bolivia pursuant to chapter I of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall contain a clause requiring that project activities be suspended if the Government of Bolivia fails to keep project areas free of illicit coca cultivation.

SEC. 503. ASSISTANCE FOR PERU.

(a) DETERMINATIONS REGARDING NARCOTICS CONTROL COOPERATION.—In making determinations with respect to Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961 for each of the fiscal years 1988 and 1989, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal years 1988 and 1989 to carry out chapter 1 of part I of that Act (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if, before obligating funds for that fiscal year, the Administrator of that Agency determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 504. ASSISTANCE FOR MEXICO.

Of the funds allocated for assistance for Mexico for each of those fiscal years under that chapter, $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

SEC. 505. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

The Congress urges the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

SEC. 506. WAIVER OF RESTRICTIONS ON ASSISTANCE FOR NATO AND MAJOR NON-NATO ALLIES.

(a) WAIVER.—Section 481(h) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(6) Paragraph (1) does not apply with respect to any country which is a member of the North Atlantic Treaty Organization or which is designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to funds appropriated before the date of enactment of this Act.

TITLE VI—EUROPE AND THE MIDDLE EAST

SEC. 601. ASSISTANCE FOR ISRAEL.

(a) FMS FINANCING.—

(1) AMOUNT.—Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,800,000,000 for fiscal year 1988 and not less than $1,800,000,000 for fiscal year 1989 shall be available only for Israel.

(2) TERMS.—Israel shall be released from its contractual liability to repay the United States Government with respect to the credits provided pursuant to paragraph (1).

(3) ADVANCED FIGHTER AIRCRAFT.—To the extent that the Government of Israel requests that funds be used for such purposes, credits made available for Israel pursuant to paragraph (1) shall be available for the Lavi program or for another advanced fighter aircraft (if agreed by Israel and the United States) or for other advanced weapon systems, as follows:

(A) Up to $150,000,000 for each of the fiscal years 1988 and 1989 shall be available for research and development in the United States.

(B) Not less than $300,000,000 for each of the fiscal years 1988 and 1989 shall be available for the procurement in Israel of defense articles and defense services (including research and development).

(b) ECONOMIC SUPPORT FUND.—

(1) AMOUNT.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $1,200,000,000 for fiscal year 1988 and not less than $1,200,000,000 for fiscal year 1989 shall be available only for Israel.

(2) TERMS.—The total amounts of funds allocated for Israel under that chapter for those fiscal years shall be made available as a cash transfer on a grant basis. Such transfer shall be made on an expedited basis in the first 30 days of the respective fiscal year. In exercising the authority of this paragraph, the President shall ensure that

the level of cash transfer made to Israel does not cause an adverse impact on the total level of nonmilitary exports from the United States to Israel.

SEC. 602. ASSISTANCE FOR EGYPT.

(a) FMS Financing.—

(1) Amount.—Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,300,000,000 for fiscal year 1988 and not less than $1,300,000,000 for fiscal year 1989 shall be available only for Egypt.

(2) Terms.—Egypt shall be released from its contractual liability to repay the United States Government with respect to the credits provided pursuant to paragraph (1).

(b) Economic Support Fund.—

(1) Amount.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $815,000,000 for fiscal year 1988 and not less than $815,000,000 for fiscal year 1989 shall be available only for Egypt.

(2) Terms.—All of the funds made available to Egypt under that chapter for those fiscal years shall be provided on a grant basis.

(3) Conditions on cash transfers.—Subject to the requirements of paragraphs (5) and (6), of the amounts provided for Egypt for each of the fiscal years 1988 and 1989 pursuant to paragraph (1)—

(A) $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years; but

(B) amounts in excess of $115,000,000 may be provided as a cash transfer (subject to the ceiling imposed by the last clause of the second sentence of paragraph (4)) only if—

(i) significant progress is being made by Egypt in implementing a comprehensive economic reform program; and

(ii) the additional funds for such transfer are derived by reprogramming equal amounts from—

(I) funds justified for project assistance for Egypt, and

(II) funds justified for Commodity Import Programs for Egypt.

(4) Derivation of funds from CIP programs.—For purposes of subclause (II) of paragraph (3)(B)(ii), funds shall be derived first from funds justified for public sector Commodity Import Programs. If all the funds justified for those programs have been used for purposes of subclause (II), funds justified for private sector Commodity Import Programs may be used for purposes of that subclause, except that not more than 75 percent of the total amount of funds justified for both public sector and private sector Commodity Import Programs may be used for purposes of subclause (II).

(5) Maintaining the level of United States exports.—In exercising the authority of paragraph (3), the President shall ensure that the level of cash transfer made to Egypt does not cause an adverse impact on the total level of nonmilitary exports from the United States to Egypt.

(6) Notice to congress.—Not less than 15 days before making any cash transfer to Egypt under subparagraph (A) or (B) of paragraph (3), the President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(c) Public Law 480.—The Congress finds that, as a result of previous expressions of congressional concern, there has been a phased reduction in recent fiscal years in the amount of assistance provided for Egypt under title I of the Agricultural Trade Development and Assistance Act of 1954. The Congress directs that this phased reduction continue in fiscal year 1989 and subsequent fiscal years.

SEC. 603. COOPERATIVE SCIENTIFIC AND TECHNOLOGICAL PROJECTS.

Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), not less than $5,000,000 for each of the fiscal years 1988 and 1989 shall be available only for regional cooperative programs in the Middle East in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985.

SEC. 604. USE OF CERTAIN DEOBLIGATED FUNDS FOR PROJECTS IN THE MIDDLE EAST AND FOR ADDITIONAL ASSISTANCE FOR AMERICAN HOSPITALS ABROAD.

(a) Uses of Funds.—Funds made available pursuant to subsections (b) and (c) shall be used as follows:

(1) The first $750,000 shall be transferred to and consolidated with the funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) and shall be used for scholarships for Israeli Arabs for study at institutions of higher education in the United States.

(2) The next $2,000,000 shall be transferred to and consolidated with the funds made available to carry out section 214 of that Act (relating to American schools and hospitals abroad) and shall be used to provide assistance for hospitals outside the United States. The assistance provided pursuant to this paragraph shall be in addition to the level of assistance traditionally provided for hospitals under that section.

(3) The remaining amount shall be transferred to and consolidated with the funds made available to carry out chapter 4 of part II of that Act, with—

(A) half used for regional cooperative programs in the Middle East in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985, and

(B) half used for development projects on the West Bank and in Gaza.

(b) Prototype Desalting Plant in Israel.—Any unexpended amounts of the funds obligated to carry out section 219 of the Foreign Assistance Act of 1961, which are not needed to carry out that section, shall be deobligated and, to such extent as may be provided in advance in an appropriation Act, shall be used in accordance with subsection (a).

(c) Deobligated Assistance for Syria.—Amounts continued available for the necessary expenses arising from the termination of assistance programs for Syria pursuant to section 1004 of the Department of State Authorization Act, Fiscal Years 1984 and 1985, and pursuant to section 101(b)(1) of Public Law 98-151, which are not needed for such expenses, shall be deobligated and, to such extent as may be provided in advance in an appropriation Act, shall be used in accordance with subsection (a), notwithstanding the paragraph relating to the "Syria Termination Account" in section 101(j) of Public Law 90-190.

(d) Continued Availability.—To such extent as may be provided in advance in an appropriation Act, funds deobligated pursuant to subsection (b) or (c) shall continue to be available until expended in accordance with subsection (a).

SEC. 605. WEST BANK AND GAZA DEVELOPMENT INITIATIVE.

(a) Findings.—The Congress finds that—

(1) the United States has shown its support for the West Bank and Gaza development initiative;

(2) United States assistance provided directly to the West Bank and Gaza, as well as through Jordan, necessitate increased cooperation between the United States and the regional states involved; and

(3) other members of the Organization for Economic Cooperation and Development have professed their desire for peace in the Middle East and their concern for the inhabitants of the West Bank and Gaza.

(b) Statement of Policy.—The United States—

(1) hereby reiterates its support for the West Bank and Gaza development initiative, and

(2) calls upon the other members of the Organization for Economic Cooperation and Development to contribute to West Bank and Gaza economic development either directly or through Jordan, as a demonstration by them of a tangible commitment toward peace and coexistence in the Middle East and toward the well-being of the inhabitants of the West Bank and Gaza.

(c) Report to Congress.—Not later than February 1, 1988, the Secretary of State shall report to the Congress on United States efforts to encourage other members of the Organization for Economic Cooperation and Development to contribute to West Bank and Gaza economic development, either directly or through Jordan.

SEC. 606. USE OF CHEMICAL WEAPONS IN THE NEAR EAST.

(a) Findings.—The Congress finds that—

(1) there is evidence that chemical weapons have been used in the Iran-Iraq war;

(2) there are reports that Syria and Libya have the capability to engage in chemical warfare; and

(3) the existence of chemical weapons would pose a threat should wider war break out in the Middle East.

(b) Report to Congress.—Not later than February 1, 1988, the Secretary of State shall report to the Congress on the activities and capabilities of Iraq, Iran, Syria, and Libya with regard to chemical, biological, and radiological weapons, including their sources of supply for such weapons, the technology, equipment, and material each possesses, and the extent to which such weapons could affect the balance of power in the region. This report shall include a United States plan for addressing this problem.

SEC. 607. ASSISTANCE FOR GREECE.

(a) Foreign Military Sales Credits.—Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $313,000,000 for fiscal year 1988 and not less than $313,000,000 for fiscal year 1989 shall be available only for Greece.

(b) Grant Military Assistance.—Of the funds made available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, not less than $30,000,000 for fiscal year 1988 and not less than $30,000,000 for fiscal year 1989 shall be available only for Greece.

SEC. 608. ASSISTANCE FOR TURKEY.

(a) Level of Assistance.—The aggregate amount of funds made available for assistance for Turkey under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) and under the Arms Export Control Act (relating to foreign military sales financing) may not exceed $490,000,000 for fiscal year 1988 and may not exceed $490,000,000 for fiscal year 1989, of which not more than $350,000,000 for fiscal year 1988 and not more than $350,000,000 for fiscal year 1989 may be assistance under chapter 2 of part II of the Foreign Assistance Act of 1961.

(b) Withdrawal of Turkish Military Forces From Cyprus.—It is the sense of the Congress that the President should ask the Government of Turkey to reduce substantially the number of its military personnel on Cyprus.

(c) Report on Americans Missing in Cyprus.—The President shall request from the Government of Turkey a communication regarding its efforts to determine the status of United States citizens missing since the 1974 Cyprus conflict and previously resident in areas of the country now under Turkish Cypriot control. The President shall submit a report with respect to any communication received from the Government of Turkey pursuant to this subsection to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(d) Report on Efforts to Resettle Famagusta/Varosha.—Before providing any assistance for Turkey described in subsection (a), the President shall submit a report, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, on efforts to return the formerly Greek-Cypriot occupied area of Famagusta/Varosha to the Government of Cyprus under the auspices of the United Nations for the immediate resettlement of refugees.

SEC. 609. CYPRUS.

(a) ESF Assistance.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $15,000,000 for fiscal year 1988 and not less than $15,000,000 for fiscal year 1989 shall be available only for Cyprus. Of these funds, not less than $5,000,000 each fiscal year shall be available only for bicommunal development projects.

(b) UN Security Council Resolution 550.—It is the sense of the Congress that there should be compliance with United Nations Security Council Resolution 550, which "considers attempts to settle any part of Varosha (Famagusta) by people other than its inhabitants as inadmissible".

SEC. 610. TURKISH OCCUPATION TROOPS AND GREEK MILITARY FORCES ON CYPRUS.

(a) Policy Against Use on Cyprus of Military Equipment Provided by the United States.—Section 620C of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(e)(1) It is the sense of the Congress that defense articles of United States origin should not be transferred to or used on Cyprus by Turkey or Greece, except as provided in paragraph (2). This policy should apply with respect to all defense articles of United States origin which are made available to Turkey or Greece after the date of enactment of this subsection.

"(2) The policy expressed in paragraph (1) should not apply to the extent that—

"(A) there has been an armed attack against one or more parties to North Atlantic Treaty, or such an armed attack is imminent; and

"(B) such transfer is necessary to enable that country to carry out its obligation to respond to that attack pursuant to Article 5 of the North Atlantic Treaty.".

(b) Periodic Reports Regarding Activities on Cyprus of Foreign Armed Forces.—Section 620C(c) of that Act is amended by adding at the end the following: "Such transmissions shall also—

"(1) specify the number of members of the armed forces of the Government of Turkey, and the number of members of the armed forces of the Government of Greece, who were on Cyprus during the preceding 120 days;

"(2) specifying the number of members of the armed forces of the Government of Turkey, and the number of members of the armed forces of the Government of Greece, who were on Cyprus during the preceding 120 days with the permission of the Government of the Republic of Cyprus; and

"(3) describe any defense articles of United States origin (as defined in subsection (e)(3)(A)), which have been made available to Turkey or Greece, which were on Cyprus at any time during the preceding 120 days, specifying (to the extent such information can be obtained) when those articles were transferred to Cyprus and when those articles were made available by the United States to Turkey or Greece (as the case may be).".

SEC. 611. EXCESS DEFENSE ARTICLES FOR NATO SOUTHERN FLANK COUNTRIES AND MAJOR NON-NATO ALLIES ON THE SOUTHERN AND SOUTHEASTERN FLANK OF NATO.

(a) Extension of Program.—Section 516(a) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "and 1988" and inserting in lieu thereof ", 1988, and 1989,".

(b) Major Non-NATO Allies.—Section 516(a) of that Act is amended in the first sentence by inserting ", and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance," after "military structure".

(c) Excess Defense Articles.—Section 516 of that Act is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting "excess" before "defense articles", and

(B) in the second sentence, by inserting "excess defense" before "articles"; and

(2) in the text of subsection (b) preceding paragraph (1), in subsection (c), and in subsection (d), by inserting "excess" before "defense articles".

(d) Notification to Congressional Committees.—Section 516(c) of that Act is amended—

(1) by striking out "and Foreign Relations" and inserting in lieu thereof ", Foreign Relations, and Appropriations"; and

(2) by striking out "and Foreign Affairs" and inserting in lieu thereof ", Foreign Affairs, and Appropriations".

(e) Maintenance of Military Balance in Eastern Mediterranean.—That section is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting the following new subsection (e) after subsection (d):

"(e) Maintenance of Military Balance in Eastern Mediterranean.—

"(1) United states policy.—The Congress intends that defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the Eastern Mediterranean.

"(2) Maintenance of balance.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section,

closely approximates the ratio of—

"(i) the amount of military assistance and financing provided for Turkey, to

"(ii) the amount of military assistance and financing provided for Greece.

"(3) Exception to requirement.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).".

(f) Definitions.—Subsection (f) of that section (as so redesignated by this section) is amended to read as follows:

"(f) Definitions.—As used in this section—

"(1) the term 'excess defense articles' has the meaning given that term by section 644(g) of this Act;

"(2) the term 'made available' means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

"(3) the term 'member country of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey; and

"(4) the term 'military assistance and financing' means military assistance authorized by section 503 of this Act and foreign military sales financing authorized by the Arms Export Control Act.".

SEC. 612. ASSISTANCE FOR POLAND.

(a) Use of Polish Currencies to Benefit the Handicapped and Orphans and For Holocaust Education.—

(1) Projects for the handicapped and orphans.—Up to the equivalent of $1,500,000 of the Polish currencies described in paragraph (3) may be made available for projects in Poland, carried out under the auspices of the Polish Catholic Church, for the benefit of the handicapped and orphans.

(2) Holocaust education.—Up to the equivalent of $500,000 of the Polish currencies described in paragraph (3) may be made available for projects, carried out under the auspices of the Institute of Jewish Culture and History of the Jagiellonian University of Krakow, for the study of events related to the Holocaust in Poland.

(3) Polish currencies to be used.—The Polish currencies which may be used pursuant to this subsection are the nonconvertible Polish currencies (zlotys) held by the United States, which have been generated by the sale to Poland of surplus United States dairy products, to the extent that such currencies are available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

(4) Waiver of certain requirements.—Polish currencies may be used pursuant to this subsection without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.

(5) BUDGET ACT.—The authority provided by this subsection may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) AGRICULTURAL ACTIVITIES.—Of the funds authorized to be appropriated to carry out section 103 of the Foreign Assistance Act of 1961 (relating to development assistance for agriculture, rural development, and nutrition), up to $10,000,000 may be used for assistance for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations, notwithstanding any other provision of law.

SEC. 613. UNITED STATES CONTRIBUTIONS TO THE ANGLO-IRISH INTERNATIONAL FUND.

Section 3 of the Anglo-Irish Agreement Support Act of 1986 is amended by adding at the end the following:

"(c) FISCAL YEAR 1989.—Of the amounts made available for fiscal year 1989 to carry out that chapter, up to $35,000,000 may be used for United States contributions to the International Fund.".

SEC. 614. ANNUAL REPORTS ON ECONOMIC CONDITIONS IN EGYPT, ISRAEL, TURKEY, AND PORTUGAL.

Section 1205(b) of the International Security and Development Cooperation Act of 1985 is amended by adding at the end the following: "Each such report shall also include—

"(1) a description of how United States assistance for each country is designed to help it through its economic difficulties;

"(2) an assessment of the steps being taken by each country to help it overcome its economic difficulties, including a description of any economic policy reforms undertaken during the previous year;

"(3) a listing and explanation of the steps proposed by the United States to help each country overcome its economic difficulties, and a description of the means by which the United States conveys its recommendations to each country; and

"(4) such other information as the Congress may request with respect to the economic conditions in each country.".

SEC. 615. REPORTING REQUIREMENTS.

(a) CYPRUS NEGOTIATIONS.—

(1) FREQUENCY OF REPORTS.—Section 620C(c) of the Foreign Assistance Act of 1961 is amended by striking out "60-day" and inserting in lieu thereof "120-day".

(2) DUPLICATIVE REQUIREMENT.—Section 620(x)(2) of that Act is repealed.

(b) MULTINATIONAL FORCE AND OBSERVERS.—Section 6(b) of the Multinational Force and Observers Participation Resolution is amended by striking out "Not later than January 15 of each year (beginning in 1983)," and inserting in lieu thereof "As part of the annual congressional presentation materials for security assistance,".

SEC. 616. FOREIGN MILITARY SALES FOR JORDAN.

(a) MIDDLE EAST PEACE.—The foreign military sales financing authorized by this Act for Jordan is provided in the recognition of progress Jordan has made in the search for a just and lasting peace in the Middle East, to encourage further progress, in recognition of the continuing defense needs of Jordan, and in the expectation that Jordan will enter into direct and meaningful negotiations with Israel based on United Nations Security Council Resolutions 242 and 338 in order to resolve the state of war between those two countries.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(c) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons, shall be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

TITLE VII—WESTERN HEMISPHERE

SEC. 701. COSTA RICA'S PEACE INITIATIVE.

The Congress applauds the efforts of Costa Rican President Oscar Arias Sanchez to establish a firm and durable peace in Central America. The Congress strongly supports and encourages such attempts to end the regional military conflict and strengthen democracy through diplomatic initiatives.

SEC. 702. SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.

For fiscal years 1988 and 1989, all assistance allocated for any country in Central America under the Foreign Assistance Act of 1961 and the Arms Export Control Act shall be suspended if the elected president of that country is deposed by military coup or decree, unless the President determines that—

(1) resumption of assistance will promote a return to democracy, or

(2) an elected civilian government has taken office.

SEC. 703. ASSISTANCE FOR EL SALVADOR.

(a) OBJECTIVES.—The Congress expects that—

(1) the Government of El Salvador, and the armed opposition forces and their political representatives, will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including the opportunity for participation in free and fair elections by all Salvadorans;

(2) the elected civilian government will maintain control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending political violence;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in improving the effectiveness of the judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

(b) REPORTS.—Not later than 30 days after the date of enactment of this Act and on April 1, 1988, October 1, 1988, and April 1, 1989, the President shall report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians occurring on or after January 1, 1987, allegedly committed by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

SEC. 704. ANNUAL REPORT ON SOVIET MILITARY ASSISTANCE TO CUBA.

Section 25 of the Arms Export Control Act, as amended by section 904 of this Act, is amended by adding at the end of subsection (d) the following: "The information required by subsection (a)(9) shall be transmitted to the Congress no later than May 1 of each year.".

SEC. 705. RESTRICTIONS ON TRAINING ASSISTANCE FOR ARGENTINA AND BRAZIL.

Section 638 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" before "No"; and

(2) by adding at the end the following:

"(b) No provision of this Act or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this Act for Brazil or Argentina as long as such country continues to have a democratically elected government and the assistance is otherwise consistent with sections 116, 502B, 620(f), 620A, and 660 of this Act.".

SEC. 706. INTER-AMERICAN FOUNDATION.

The first sentence of section 401(s)(2) of the Foreign Assistance Act of 1969 is amended to read as follows: "There are authorized to be appropriated $11,800,000 for fiscal year 1988 and $20,000,000 for fiscal year 1989 to carry out the purposes of this section.".

SEC. 707. ADMINISTRATION OF JUSTICE PROGRAM.

Section 534 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 534. ADMINISTRATION OF JUSTICE.

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the President is authorized to furnish assistance to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in countries in Latin America and the Caribbean. To the fullest extent practicable, such assistance should be provided through multilateral or regional institutions. Such assistance shall be designed to encourage and support efforts in the region to—

"(1) promote respect for the rule of law and internationally recognized human rights by all elements of society;

"(2) improve the professionalism and effectiveness of judicial systems and increase the accessibility of those systems and their capabilities to operate fairly and efficiently; and

"(3) promote the development of civilian democratic institutions, including an effective legal profession; an independent judiciary; modern and humane professional law enforcement agencies; and effective application of the principle of equal justice under law.

"(b) Types of Assistance Authorized.—Assistance under this section may only include the following:

"(1) Programs to support specialized professional training, scholarships, and exchanges for continuing legal education.

"(2) Programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases.

"(3)(A) Programs to enhance investigative and forensic capabilities, conducted under judicial or prosecutorial control.

"(B) For fiscal years 1988 and 1989, programs to assist in the development of academic instruction and curricula for training law enforcement personnel.

"(C) For fiscal years 1988 and 1989, programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel performance evaluation, and internal discipline procedures.

"(D) Programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders.

"(4) Programs to strengthen professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform.

"(5) Programs to increase the availability of legal materials and publications.

"(6) Programs to provide seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights.

"(7) Programs to revise and modernize legal codes and procedures.

"(c) Prohibition on United States Military Involvement in Program.—Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section.

"(d) Equipment.—In carrying out this section, primary emphasis shall be placed on the provision of training and other services, rather than the provision of equipment. Funds made available to carry out this section may not be used to provide any lethal equipment, except equipment used exclusively for training purposes.

"(e) Consultation With Assistant Secretary for Human Rights.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall be consulted in the development and implementation of programs under this section, including determinations of the countries that will receive assistance and determinations of the nature of the assistance to be provided.

"(f) Advance Notice to Congress.—

"(1) In general.—Funds may not be obligated for assistance under this section unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing in accordance with the procedures applicable to reprogrammings pursuant to section 634A of this Act. Such notification shall specify the country which will receive the assistance and the amount, purpose, and nature of the assistance, including a detailed description of the assistance. Except as provided in paragraph (2), such notification shall be provided at least 15 days before the funds are obligated.

"(2) Special requirements.—In the case of assistance under subsection (b)(3), such notifications shall be given at least 30 days in advance and shall specify where the assistance is to be provided and the recipient of the assistance.

"(g) Annual Report.—As part of the annual presentation materials on foreign assistance, the President shall include a description of the assistance provided to each country under this section during the preceding fiscal year, planned for the current fiscal year, and proposed for the coming fiscal year.

"(h) Funding.—

"(1) In general.—For each of fiscal years 1988 and 1989, not more than $28,000,000 of the funds made available to carry out this chapter shall be available to carry out this section, in addition to amounts otherwise available for such purpose. Not more than $7,000,000 of the funds made available for each such fiscal year to carry out this section shall be used for the programs described in subsection (b)(3).

"(2) Additional funds.—For each of the fiscal years 1988 and 1989, not to exceed $6,000,000 of the funds made available to carry out chapter 2 of this part may be transferred to and commingled with funds made available to carry out this section, without regard to the limitations contained in paragraph (1). Not more than $2,000,000 of the funds so transferred in any fiscal year shall be available for bilateral assistance to any one country. Each such transfer shall be subject to the advance notice requirements of subsection (f).

"(i) Waiver of Certain Laws.—Assistance under this section may be provided without regard to section 660 of this Act. Notwithstanding any other provision of law which restricts assistance to foreign countries, assistance may be provided under this section for fiscal years 1988 and 1989 for programs for Peru and for programs for Argentina, Brazil, and Guyana which only involve their participation in regional and multilateral projects and activities.".

SEC. 708. LEVELS OF NONMILITARY ASSISTANCE FOR CENTRAL AMERICA.

Section 465 of the Foreign Assistance Act of 1961 is amended to read as follows:

"Sec. 465. Nonmilitary Assistance for Central America.—The Congress continues to support the recommendations made by the National Bipartisan Commission on Central America with respect to the provision of nonmilitary assistance for Central American countries. However, the Congress believes that it would be inconsistent under current budgetary constraints to provide increased levels of assistance during fiscal years 1988 and 1989 and that it is possible to furnish the needed nonmilitary assistance over a longer period of time than originally recommended by the Commission without negatively affecting the goals and objectives the Commission had in mind.".

SEC. 709. ASSISTANCE FOR HAITI.

(a) Economic Support Fund.—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to $41,300,000 for each of the fiscal years 1988 and 1989 shall be available for Haiti.

(b) Development Assistance.—Of the amounts made available to carry out chapter 1 of part I of that Act, up to $40,000,000 for each of the fiscal years 1988 and 1989 shall be available for Haiti. These funds shall be used to support a transition to and to strengthen democracy in Haiti, emphasizing job creation, rural development, health care and sanitation, small scale irrigation, reforestation, watershed conservation, swine repopulation, and literacy education. Such assistance should reflect the need to distribute development assistance resources more equitably among the various regions in Haiti in order to support sustainable development in all of Haiti.

SEC. 710. NICARAGUA.

In order to make current law applicable to assistance under this Act, section 722(d) of the International Security and Development Cooperation Act of 1985 is amended by amending the second sentence to read as follows: "The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the International Security and Development Cooperation Act of 1987 or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.".

SEC. 711. CRITERIA FOR DEMOCRATIZATION IN NICARAGUA.

(a) Findings.—The Congress finds that—

(1) in signing the Central American peace accord on August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America", the Nicaraguan Government pledged "to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice" and "respect for human rights"; and

(2) under that accord, Nicaragua is specifically required to establish "complete freedom of press, television and radio" "for all ideological groups" "without prior censorship"; to grant political groupings "broad access to communications media" and full exercise of the rights of association, free speech, and movement; to decree an amnesty guaranteeing "freedom in all its forms"; and to terminate state of emergency laws while reestablishing "the full exercise of all constitutional guarantees".

(b) Actions Which Should be Undertaken by Nicaragua.—Nicaragua should undertake the reforms described in subsection (c) in order to bring about lasting peace, pluralism, and democracy in Nicaragua.

(c) Reforms.—The reforms referred to in subsection (b) to be undertaken by the Government of Nicaragua are as follows:

(1) In general.—

(A) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(B) Restore rights to security of person and home and freedom from unjustified arrest.

(C) Stop coercive pressure to join Sandinista party groups.

(D) Stop discriminatory and punitive application of military conscription.

(E) Allow all citizens, including refugees and exiles, to return to Nicaragua.

(F) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including campesinos, Creoles, and Indians.

(G) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

(H) Permit independent human rights observers, including the International Committee of the Red Cross, to meet and travel freely and to visit prisoners, prisons, and tribunals.

(I) End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(2) POLITICAL PROCESS REFORMS.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(B) End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(C) Abolish the role of the Committees for the Defense of Sandinismo's (CDS) and other party organizations in dispensing rationing cards and government services.

(D) Conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

(E) Repeal the suspension provisions of the Nicaraguan constitution.

(F) Separate the armed forces from any political party.

(3) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press.

(B) End newsprint restrictions and allow private newsprint sales.

(C) Allow the full spectrum of private television and radio broadcasting.

(4) LABOR RIGHTS.—

(A) Ensure the right to strike and to publish by independent unions.

(B) Release those imprisoned because of non-violent union activities.

(5) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic church to reopen its social welfare, human rights, and publication offices.

(B) Allow Cardinal Obando Y Bravo to resume his televised Sunday mass.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(6) CAMPESINO RIGHTS.—

(A) End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

(B) Cease aerial bombing attacks against civilians and their properties.

(C) Cease the destruction of peasant farmlands.

(D) End pressure to join Sandinista farming cooperatives.

(7) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

(C) Cease aerial bombings and attacks on Atlantic Coast civilians and their properties.

(D) Allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

(d) ACHIEVEMENT OF DEMOCRATIC PRINCIPLES AND PROCESSES IN CENTRAL AMERICA.—It is the sense of the Congress that all countries in Central America should continue to work toward achieving the democratic principles and processes specified in the Central American peace accord of August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America".

SEC. 712. CENTRAL AMERICAN PEACE AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) the Presidents of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica signed the Central American peace accord in Guatemala City on August 7, 1987, to establish democracy, end civil strife, and promote economic, stability in Central America;

(2) the establishment of democracy, the termination of civil strife, and the promotion of economic stability in Central America is in the national interest of the United States;

(3) the peace accord calls for the signatories "to make dialogue prevail over violence and reason over rancor";

(4) a lasting peace in Central America can only come about through dialogue;

(5) the Governments of El Salvador, Guatemala, and Honduras have entered into direct negotiations with the representatives of both internal opposition organizations and antigovernment insurgent forces to bring about a mutual and verifiable cease fire within those countries and the region as a whole;

(6) the President of Costa Rica and Nobel Laureate Oscar Arias has called for direct negotiations between the Government of Nicaragua and the Nicaraguan Resistance for a mutual and verifiable cease fire;

(7) President Arias stated that a negotiated cease fire between the Government of Nicaragua and the Nicaraguan Resistance is "indespensable if we are to achieve a lasting peace in Central America";

(8) the Presidents of El Salvador, Guatemala, and Honduras have also called upon the Government of Nicaragua to negotiate directly with the Nicaraguan Resistance; and

(9) the President of Nicaragua announced on November 5, 1987, that the Nicaraguan Government would negotiate a cease fire with the Directorate of the Nicaraguan Resistance through an intermediary.

(b) STATEMENT OF CONGRESS.—The Congress urges the Government of Nicaragua to enter into direct negotiations with the Directorate of the Nicaraguan Resistance in order to bring about a mutual and verifiable cease fire and to reach a political settlement with the Nicaraguan Resistance, so that the spirit of the Central Amercian peace accord signed on August 7, 1987, may be fulfilled and democracy, peace, and economic stability will become reality for Central America.

SEC. 713. ASSISTANCE TO CIVILIAN DEMOCRATIC FORCES IN NICARAGUA.

(a) ASSISTANCE TO BE PROVIDED.—The Secretary of State shall use the funds appropriated pursuant to subsection (e) to make assistance available for civilian democratic forces in Nicaragua in order to support a full range of humanitarian and peaceful political activities by those forces.

(b) OPPOSITION CIVILIAN DEMOCRATIC FORCES.—As used in this section, the term "civilian democratic forces" means those civilian forces in Nicaragua (such as political parties, labor unions, and private sector organizations) which are committed to democratic values and to the democratization of Nicaragua.

(c) USES OF ASSISTANCE.—Funds provided to civilian democratic forces pursuant to this section may be used only to support a full range of humanitarian and peaceful political activities and may not be used to support military or paramilitary activities. The Secretary of State shall establish appropriate procedures to ensure that those funds are used consistent with these limitations.

(d) REPORTS.—Not later than 90 days after the date of the enactment of this Act and every 90 days thereafter until all the funds provided to civilian democratic forces in Nicaragua pursuant to this section have been used, the Secretary of State shall provide to the Congress a detailed accounting of how those funds were used and a description of the steps taken to ensure that they were used in accordance with the limitations specified in subsection (c).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1988 and $12,000,000 for fiscal year 1989.

SEC. 714. RELATIONS WITH THE PRIVATE SECTOR IN EL SALVADOR.

It is the sense of the Congress that:

(a) The Government of El Salvador, the business community (including the small business community), the free labor unions, and all other major social, economic and political groups which have a potentially constructive role to play should begin a new dialogue for nation building in El Salvador;

(b) None of these groups can be excluded from the national dialogue; and

(c) The Government of El Salvador and the private sector must abandon the distrust and antagonism that have characterized their relations in the past and must move forward in a cooperative and constructive manner to resolve the problems that threaten to undermine the democratic processes now underway in the country.

TITLE VIII—AFRICA

SEC. 801. AFRICA FAMINE RECOVERY AND DEVELOPMENT.

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 6 the following new chapter:

"CHAPTER 7—AFRICA FAMINE RECOVERY AND DEVELOPMENT

"SEC. 471. LONG-TERM DEVELOPMENT ASSISTANCE.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—The President is authorized to provide project and program assistance, on such terms and conditions as he may determine, for long-term development in sub-Saharan Africa.

"(b) APPLICATION OF DEVELOPMENT ASSISTANCE POLICIES AND GENERAL AUTHORITIES.—

"(1) POLICIES.—Assistance under this section shall be provided in accordance with the policies contained in section 102.

"(2) GENERAL AUTHORITIES.—Reference in any law to chapter 1 of this part (including references to sections 103 through 106, inclusive) shall be deemed to include reference to this section.

"(c) CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall be provided only with respect to the following critical sectoral priorities for long-term development:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes at the macroeconomic and sector levels, agricultural research (including participatory research, in which small farmers are directly involved in the definition of research agendas and the formulation of problems in order to capitalize on local knowledge and experience and enhance support for research efforts; and also including linkages between indigenous efforts and United States universities and between indigenous efforts and International Agricultural Research Centers) and extension, development, and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers (the majority of whom are women) and the farm family. In view of the central role of women in sub-Saharan African food systems, gender roles shall be analyzed and taken into account in order to ensure the integration of women into development activities.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base in ways which increase agricultural production, through the following:

"(i) Primary emphasis on small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations. Appropriate activities include agroforestry, small-scale farms and gardens, and other innovative agricultural methods (including energy and resource-conserving techniques and use of organic or regenerative methods where feasible); check dams and terraces and other projects to prevent erosion or protect watersheds; tree planting for windbreaks, soil stabilization, or firewood; energy conservation and small-scale energy production to reduce consumption of firewood and animal wastes otherwise usable as fertilizer; sustained production from indigenous plants and animals, especially to conserve rangelands; and local education and training efforts.

"(ii) Significant support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production. Appropriate activities include strengthening institutions such as environmental authorities, soil conservation and forestry services, and nongovernmental organizations; providing seeds, seedlings, energy-efficient and resource-conserving devices, and other needed materials; and creating financial mechanisms to furnish credit to small farmers.

"(iii) Significant support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources. Appropriate activities include support for African training and educational institutions; development of curricula; training and education components of projects of the kinds described in clauses (i) and (ii); training and education programs through national and local government extension services, nongovernmental organizations, and other appropriate indigenous institutions; establishment of cooperative arrangements between United States and African academic institutions; support for natural resource managers to participate in conferences, courses, seminars, and the like; and training of trainers.

"(2) HEALTH.—Improving health conditions in order to improve the quality of life of the people and their ability to contribute to economic growth, with special emphasis on meeting the health needs of mothers and children through the establishment of self-sustaining primary health care systems that give priority to preventive health.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives, in order to allow couples to space the births of their children as they desire, thus contributing to improved health for mothers and children and reduced pressure on natural resources.

"(4) EDUCATION.—Improving the relevance to production and the efficiency of education, with substantial attention given to improving basic literacy and numeracy, especially to those outside the formal educational system, and improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas. Off-farm employment opportunities in micro- and small-scale labor-intensive enterprises shall be emphasized (especially those which relate to processing increased agricultural production and adding to the value of that production and to production of consumer goods in rural areas).

"(d) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—Not less than an aggregate of 30 percent of the amount authorized to be appropriated for each of the fiscal years 1988 and 1989 by section 472 shall be used for activities described in paragraphs (1)(B), (2), and (3) of subsection (b).

"SEC. 472. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President $450,000,000 for fiscal year 1988 and $465,750,000 for fiscal year 1989 to carry out this chapter. Funds appropriated under this section are authorized to remain available until expended.

"SEC. 473. AFRICAN AGRICULTURAL UNIVERSITY DEVELOPMENT.

"Given the critical role in African growth and development that indigenous institutions of higher education can play in developing agriculture and human resources, the Administrator of the agency primarily responsible for administering this part is directed to provide support for strengthening and developing selected African higher education institutions in order to address the problems of food production and distribution. In order to create continuing support for applied agricultural research and education, this support should, to the maximum extent possible, promote linkages (1) between agricultural research and extension activities in sub-Saharan Africa through the involvement of institutions of higher education, and (2) between African institutions of higher education and indigenous farmers' associations. This support should be provided on a long-term basis in recognition of the complexity of institution-building efforts and should utilize, in a collaborative manner, the capabilities and expertise of United States universities participating in programs under title XII of chapter 2 of this part. The Administrator shall consult with the Board for International Food and Agricultural Development on effective means of implementing this section.".

SEC. 802. CONFORMING AMENDMENTS.

(a) FOREIGN ASSISTANCE ACT.—The Foreign Assistance Act of 1961 is amended as follows:

(1) PRIVATE SECTOR REVOLVING FUND.—In section 108(b), by inserting "and chapter 7 of this part" after "this chapter".

(2) INTEGRATING WOMEN INTO NATIONAL ECONOMIES.—In section 113(b)(1), by inserting "and chapter 7 of this part" after "this chapter".

(3) HUMAN RIGHTS ACTIVITIES.—In section 116(e)(1)—

(A) by inserting ", chapter 7 of this part," after "available under this chapter"; and

(B) by inserting before the period at the end of the first sentence "or under chapter 7 of this part, except that funds made available under chapter 7 of this part may only be used under this subsection with respect to countries in sub-Saharan Africa".

(4) ENVIRONMENT AND NATURAL RESOURCES.—In section 117(c)(1), by inserting "and chapter 7 of this part" after "this chapter".

(5) SAHEL DEVELOPMENT PROGRAM.—By repealing sections 120 and 121.

(6) GENERAL AUTHORITIES.—In section 122, by inserting "and chapter 7 of this part" after "this chapter".

(7) PVOs.—In subsection (e) of section 123, as so redesignated by section 314 of this Act, by inserting "and chapter 7 of this part" after "this chapter".

(8) DEVELOPMENT AND ILLICIT NARCOTICS PRODUCTION.—In section 126(b)(1), by inserting ", and chapter 7 of this part," after "this chapter".

(9) TARGETED ASSISTANCE.—In subsections (a) and (b) of section 128, by inserting "and chapter 7 of this part" after "this chapter".

(10) ESF.—In section 531(a), by inserting "or, in the case of countries in sub-Saharan Africa, chapter 7 of part I" after "chapter 1 of part I".

(b) PUBLIC LAW 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in section 106(b)(2), by inserting "or, in the case of sub-Saharan Africa, paragraphs (1) through (3) of section 471(c) of that Act," after "sections 103 and 104 of the Foreign Assistance Act of 1961";

(2) in clause (3)(A) of section 206, by inserting "(or in the case of sub-Saharan Africa, paragraph (1) of section 471(c) of that Act)" after "section 103 of the Foreign Assistance Act of 1961";

(3) in section 301(b), by inserting "or, in the case of sub-Saharan Africa, paragraphs (1) through (3) of section 471(c) of that Act," after "sections 103 and 104 of the Foreign Assistance Act of 1961"; and

(4) in section 303(b), by inserting "(or in the case of sub-Saharan Africa, paragraph (1) of section 471(c) of that Act)" after "section 103 of the Foreign Assistance Act of 1961".

SEC. 803. AFRICAN DEVELOPMENT FOUNDATION.

Section 510 of the African Development Foundation Act is amended by striking out all of the first sentence that follows "purpose," and inserting in lieu thereof "$6,500,000 for fiscal year 1988 and $6,728,000 for fiscal year 1989.".

TITLE IX—ASIA AND THE PACIFIC

PART A—EAST ASIA AND THE PACIFIC

SEC. 901. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.

(a) FINDINGS.—The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under international law, including the United Nations Charter, invaded Cambodia in December 1978;

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with over 140,000 troops;

(4) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

(5) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

(6) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge;

(7) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Coalition Government of Democratic Kampuchea under the leadership of Prince Norodom Sihanouk;

(8) the member states of the United Nations for the eighth time, and by a record vote of 115-21, approved a resolution at the forty-first session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(9) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(10) the United States has supported the leadership role of the Association of Southeast Asian Nations (ASEAN) in the quest for a negotiated political settlement to the Cambodian problem;

(11) the President has indicated the United States is prepared to play a constructive role in such a settlement; and

(12) in the absence of such a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

(b) Statement of Policy.—The Congress—

(1) deplores the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon Vietnam to negotiate decisively to restore self-determination in Cambodia;

(3) calls upon Vietnam to withdraw completely its troops from Cambodia;

(4) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of normalization of relations between the United States and Vietnam;

(5) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(6) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(7) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress basic human rights and exterminate the culture and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

SEC. 902. ASSISTANCE FOR THE CAMBODIAN PEOPLE.

Section 905 of the International Security and Development Cooperation Act of 1985 is amended by striking out "1986" and "1987" and inserting in lieu thereof "1988" and "1989", respectively.

SEC. 903. JAPAN AND THE ARAB ECONOMIC BOYCOTT OF ISRAEL.

It is the sense of the Congress that the United States should encourage the Government of Japan in its efforts to expand trade relations with Israel and to end compliance by Japanese commercial enterprises with the Arab economic boycott of Israel.

SEC. 904. ANNUAL REPORT REGARDING KOREA.

Section 25(a) of the Arms Export Control Act is amended—

(1) by repealing paragraph (9); and

(2) by redesignating paragraphs (10) through (12) as paragraph (9) through (11), respectively.

SEC. 905. SECURITY ASSISTANCE AND ARMS EXPORT CONTROL PREFERENCES FOR NEW ZEALAND.

(a) Findings.—The Congress finds that—

(1) the people of the United States enjoy a long-standing friendship and close association with the people of New Zealand, and not only share common democratic values, heritage, and national interests but have fought side-by-side in the two World Wars of this century as well as the Korean conflict and the Vietnam conflict, and have participated jointly in numerous multilateral peacekeeping efforts under United Nations and similar auspices;

(2) visits to New Zealand ports by United States naval vessels are a part of this historical, overall framework of military cooperation and coordination which includes many other functions of benefit to all parties to the ANZUS Treaty;

(3) the recent codification of New Zealand Government policy to deny port access to United States ships which might be nuclear powered or nuclear armed is incompatible with the "neither confirm nor deny policy" of the United States, has raised serious operational difficulties for United States naval forces in defending the national security interests of the United States and its allies, and impairs the objective of maximum military cooperation between the United States and New Zealand under the ANZUS Treaty;

(4) the President has taken appropriate action in response to New Zealand's diminished defense cooperation with the United States by suspending United States obligations to New Zealand under the ANZUS Treaty, as announced in August 1986; and

(5) important aims of United States policy, in reaction to the port policies and law of New Zealand, must be to maintain the ANZUS Treaty alliance structure during the absence of New Zealand, to look forward to New Zealand's early return to a normal trilateral defense relationship, and to deny the Soviet Union any potential benefit it might otherwise derive from this temporary discord in the ANZUS Treaty alliance.

(b) New Zealand Should Reconsider Its Policy.—The United States urges the Government of New Zealand—

(1) to reconsider its decision and law denying port access to certain United States ships, and

(2) to resume its fulfillment of its obligations under the ANZUS Treaty.

(c) Suspension of Preferences.—Section 515(a)(6) of the Foreign Assistance Act of 1961 and sections 3(d)(2)(B), 21(e)(2), 21(g), 36(b)(1), 36(b)(2), 36(c)(2)(B), and 63(a)(2) of the Arms Export Control Act shall apply with respect to New Zealand only if the President determines, and reports to the Congress, that New Zealand is complying fully with its obligations under the ANZUS Treaty.

(d) ANZUS Treaty.—As used in this section, the term "ANZUS Treaty" means the Security Treaty Between Australia, New Zealand, and the United States.

(e) Assignment of United States Military Personnel to Manage Defense Cooperation Measures.—Section 515(a)(6) of the Foreign Assistance Act of 1961 is amended by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(f) Charges for Certain Arms Sales Costs.—Section 21(e)(2) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(g) Cooperative Military Training Agreements.—Section 21(g) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(h) Congressional Review of Arms Transfers.—The Arms Export Control Act is amended—

(1) in section 3(d)(2)(B), by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand";

(2) in section 36(b)(1), by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand" in the second sentence following subparagraph (P);

(3) in section 36(b)(2), by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand";

(4) in section 36(c)(2)(B), by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand"; and

(5) in section 63(a)(2), by inserting "(if the President has made the determination described in section 905(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

SEC. 906. ASSISTANCE FOR THE PHILIPPINES.

(a) Assistance Pursuant to Base Agreement.—

(1) Fiscal year 1988.—For fiscal year 1988, there shall be available only for the Philippines—

(A) not less than $110,000,000 of the funds made available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), and

(B) not less than $124,000,000 of the funds made available to carry out chapter 4 of part II of that Act (relating to the economic support fund).

(2) Fiscal year 1989.—For fiscal year 1989, there shall be available only for assistance for Philippines—

(A) of the funds made available to carry out chapter 2 of part II of that Act, and

(B) of the funds made available to carry out chapter 4 of part II of that Act,

not less than the amount necessary to provide the remaining amount of military and economic assistance specified in the 1983 amendment to the agreement between the United States and the Philippines concerning military bases.

(b) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—For fiscal years 1988 and 1989, all assistance allocated for the Philippines under the Foreign Assistance Act of 1961 and the Arms Export Control Act shall be suspended if the elected president of that country is deposed by military coup or decree, unless the President determines that—

(1) resumption of assistance will promote a return to democracy, or

(2) an elected civilian government has taken office.

(c) AGRARIAN REFORM.—Funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal years 1988 and 1989 may be used to assist in the implementation of agrarian reform in the Philippines if the Government of the Philippines initiates an effective agrarian reform program and requests United States assistance for that program and if a substantial majority of the resources for the implementation of that program each year will be provided by the Government of the Philippines or other non-United States donors, or both.

(d) UNCOMMITTED FMS CREDITS.—Uncommitted balances of loans made to the Philippines pursuant to section 23 of the Arms Export Control Act since October 1, 1984, may be disbursed without requirement for repayment of principal or interest, except that the new budget authority provided by this subsection may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 907. AUTHORITY TO STOCKPILE DEFENSE ARTICLES IN THAILAND AND KOREA.

(a) STOCKPILING IN THAILAND.—Section 514(c) of the Foreign Assistance Act of 1961 is amended by inserting ", Thailand," after "Korea".

(b) AUTHORIZED LEVEL OF ADDITIONS TO STOCKPILES.—Section 514(b)(2) of that Act is amended to read as follows:

"(2) The value of such additions to stockpiles in foreign countries shall not exceed $116,000,000 for fiscal year 1988 and shall not exceed $77,000,000 for fiscal year 1989.".

SEC. 908. REFUGEES FROM SOUTHEAST ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975-1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history;

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos;

(5) the United States will try to facilitate on a high priority basis the resumption of the Orderly Departure Program from Vietnam and the processing of Amerasians from Vietnam; and

(6) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 909. COOPERATION ON POW/MIA ISSUE.

It is the sense of the Congress that the President should use available authority and appropriations to provide up to $200,000 in the fiscal year 1988 and up to $200,000 in the fiscal year 1989 for support of humanitarian projects in Laos directly associated with joint United States-Laotian cooperative efforts to resolve questions concerning Vietnam era prisoners of war or those missing in action.

PART B—SOUTH ASIA

SEC. 921. ASSISTANCE FOR THE AFGHAN PEOPLE.

(a) FUNDS AVAILABLE FOR ASSISTANCE.—Section 904 of the International Security and Development Cooperation Act of 1985 is amended—

(1) in subsection (a), by striking out "chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund)" and inserting in lieu thereof "chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961";

(2) by striking out "(a) AUTHORIZATION.—"; and

(3) by repealing subsections (b) and (c).

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 922. DEMOCRACY IN BANGLADESH.

(a) PRIMARY PURPOSE OF UNITED STATES ASSISTANCE.—The primary purpose of United States economic assistance for Bangladesh is to foster economic development and political pluralism. Accordingly, in determining whether to provide economic assistance to Bangladesh and in determining how much assistance to provide, the President shall take into account whether—

(1) there is a credible electoral process, in which by elections and eventual general elections accurately reflect the popular will;

(2) there is an effective parliament, in which both the majority and minority are able to make constructive contributions;

(3) the press is allowed to operate freely, and all points of view can be expressed in the press;

(4) there is effective elected government at the local and regional levels; and

(5) there is an independent judiciary.

(b) REQUESTS FOR ASSISTANCE.—Whenever requesting economic assistance for Bangladesh, the President shall report to the Congress with respect to each of the issues described in paragraph (1) through (5) of subsection (a).

SEC. 923. ISRAEL-INDIA RELATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the Government of India has blocked participation by Israelis in international academic gatherings and sporting events held in India; and

(2) India and Israel are sister democracies that share an interest in international cooperation and development.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that the growth of contacts between Indians and Israelis would benefit both countries and that the Government of India should facilitate such contacts in the future.

SEC. 924. WAIVER FOR PAKISTAN OF SECTION 669 PROHIBITION ON ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) the United States considers the spread of nuclear weapons to South Asia to be potentially catastrophic for the countries of the region and, therefore, has made nuclear nonproliferation a vital element of United States policy toward the region;

(2) United States assistance is intended to induce Pakistan to forgo the development of nuclear weapons and, therefore, any effort by Pakistan to develop a nuclear weapons capability could have serious adverse consequences for the United States assistance relationship with Pakistan; and

(3) the most viable, long-term solution to the dangers posed by the threat of nuclear proliferation in South Asia is an agreement involving all countries of the region and, therefore, it is in the interest of the United States to encourage all countries to seek such an agreement.

(b) EXTENSION OF WAIVER.—Section 620E(d) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1987" and inserting in lieu thereof "1989";

(2) by inserting "(1)" after "(d)"; and

(3) by adding at the end the following:

"(2)(A) Any waiver for Pakistan under this subsection shall cease to be effective if the President certifies to the Congress that India has formally accepted the application of appropriate, verifiable, and reliable safeguards to all its nuclear materials.

"(B) If such a certification is made with respect to India and the President certifies to the Congress (at the same time or subsequently) that Pakistan has also formally accepted the application of appropriate, verifiable, and reliable safeguards to all its nuclear materials, such acceptance shall be deemed to constitute reliable assurances, for purposes of section 669(b)(1)(B) of this Act, that Pakistan will not acquire or develop nuclear weapons or assist other nations in doing so.".

(c) ADDITIONAL CERTIFICATION REQUIREMENT.—Section 620E(e) of that Act is amended—

(1) by striking out "device and" and inserting in lieu thereof "device,"; and

(2) by inserting before the period at the end ", and that Pakistan is taking responsible steps to reduce nuclear tensions on the Asian Subcontinent".

(d) REPORT ON ILLEGAL NUCLEAR EXPORTS.—Not later than January 1, 1988, the President shall submit to Congress a report detailing—

(1) the degree to which the Government of Pakistan has cooperated in the investigation of the Arshad Pervez case;

(2) what legal action Pakistan has taken against any Pakistanis who are shown to have been involved in this case;

(3) what action Pakistan has taken, and what laws, regulations, or other measures Pakistan has implemented to ensure that no such incident, whether or not undertaken with the support or active assistance of Pakistani Government officials, occurs again; and

(4) the nature of any assurances which the Government of Pakistan has provided against any future procurement which would contribute significantly to the ability of Pakistan to manufacture a nuclear explosive device.

(e) INFORMATION ON PAKISTAN'S ENRICHMENT ACTIVITIES.—The President shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing a factual description of the uranium enrichment levels which Pakistan has reached as of the time of the report. This report may be classified if necessary and shall be submitted when the extension (which is provided for in subsection (a)(1) of this section) of the waiver contained in section 620E(d) of the Foreign Assistance Act of 1961 takes effect.

SEC. 925. DEMOCRACY AND HUMAN RIGHTS IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States has a great interest in Pakistan's political stability;

(2) the completion of the process of democratization is essential for the establishment and maintenance of political stability in Pakistan;

(3) the lifting of martial law and the state of emergency in December 1985 was a positive step in the direction of political democracy; and

(4) the holding of parliamentary elections and the lifting of censorship are additional welcome indications of Pakistan's intent to move toward a system of democracy.

(b) UNITED STATES ASSISTANCE.—Section 620E of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(f) United States assistance for Pakistan is intended to assist Pakistan's self defense and to promote democratic and representative government and respect for internationally recognized human rights in Pakistan. Therefore, in considering future requests for assistance for Pakistan under the Foreign Assistance Act of 1961, the Arms Export Control Act, and the Agricultural Trade Development and Assistance Act of 1954, the Congress will be significantly influenced by such factors as whether the Government of Pakistan—

"(1) intends to hold (or has held), in accordance with the current stipulations of the Pakistani constitution, free and fair elections open to the full participation of all eligible voters (as currently specified in that constitution);

"(2) has made significant and demonstrated progress in eliminating human rights violations, in particular the practice of torture, armed attacks against civilian noncombatants, prolonged arbitrary detention, and imprisonment on political grounds;

"(3) has made significant and demonstrated progress in promoting respect for freedom of expression, freedom of the press, freedom of association, freedom of peaceful assembly, and the right of all citizens to participate in political life; and

"(4) has demonstrated progress in promoting religious tolerance and the right of all citizens to worship according to their beliefs.

Information on these factors shall be included in the annual human rights reports pursuant to sections 116 and 502B of this Act.".

SEC. 926. LIMITATION ON DEVELOPMENT ASSISTANCE FOR INDIA.

For each of fiscal years 1988 and 1989, not more than $35,000,000 of the funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 may be made available for assistance for India.

TITLE X—PEACE CORPS

SEC. 1001. AUTHORIZATIONS OF APPROPRIATIONS.

Section 3(b) of the Peace Corps Act is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the purposes of this Act $142,000,000 for fiscal year 1988 and $146,970,000 for fiscal year 1989.".

SEC. 1002. PASSENGER AUTOMOBILES.

Section 15(d)(4) of the Peace Corps Act is amended to read as follows:

"(4) purchase and hire of passenger motor vehicles, except that—

"(A) section 1343 of title 31, United States Code, shall not apply to vehicles purchased for the transportation, maintenance, or direct overseas support of volunteers,

"(B) except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles and the cost, including exchange allowance, of each such replacement shall not exceed the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price) in the case of an automobile for any Peace Corps country representative appointed under section 7(c), and

"(C) passenger motor vehicles may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;".

SEC. 1003. TECHNICAL PUBLICATIONS.

Section 15 of the Peace Corps Act is amended by adding at the end the following:

"(e) Technical publications produced by the Peace Corps may be sold at cost in furtherance of the purposes of this Act. Up to $200,000 of the proceeds of such sales in each fiscal year may, to such extent as may be provided in advance in appropriations Acts, be credited to the currently applicable appropriation of the Peace Corps, notwithstanding section 3302(b) of title 31, United States Code.".

TITLE XI—ADDITIONAL ASSISTANCE FOR BASE RIGHTS COUNTRIES

SEC. 1101. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—In addition to the amounts authorized to be appropriated by the preceding provisions of this Act, there are authorized to be appropriated, for use in accordance with subsection (b), an aggregate of $400,000,000 for fiscal year 1988 and an aggregate of $414,000,000 for fiscal year 1989 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance), chapter 4 of that part (relating to the economic support fund), and chapter 5 of that part (relating to international military education and training) and section 23 of the Arms Export Control Act (relating to foreign military sales credits).

(b) BASE RIGHTS COUNTRIES.—The funds authorized to be appropriated by subsection (a) shall be available only to meet United States security assistance requirements arising from agreements providing for United States access to military facilities in foreign countries.

(c) AUTHORITY TO EXTEND PERIOD OF AVAILABILITY.—Amounts appropriated pursuant to the authorizations of appropriations contained in subsection (a) are authorized to be made available until expended.

SEC. 1102. FOREIGN MILITARY SALES PROGRAM CEILING.

The aggregate foreign military sales financing ceiling for fiscal year 1988 and for fiscal year 1989 which is specified in section 31(b)(1) of the Arms Export Control Act shall be deemed to be increased by the amount appropriated under this title to carry out section 23 of that Act for that fiscal year.

SEC. 1103. MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.

(a) REQUIREMENT THAT BALANCE BE MAINTAINED.—Amounts authorized to be appropriated by this title may not be made available in a manner inconsistent with—

(1) the policy established in section 620C(b) of the Foreign Assistance Act of 1961; and

(2) the ratio described in section 516(e)(2)(B)(i) and (ii) of that Act (as enacted by section 611 of this Act).

(b) CONFORMING PROVISION.—Assistance provided for Greece and Turkey with funds authorized to be appropriated by this title is in addition to the amounts of assistance provided for in section 607 and section 608 of this Act.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. USES OF FOREIGN CURRENCIES.

(a) Special Accounts; Use for Development Purposes.—Section 609(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "any commodity" and all that follows through "sale thereof," and inserting in lieu thereof "assistance is furnished to a foreign country under part I under arrangements which will result in the accrual to that country of local currencies,";

(2) in paragraph (1) by striking out "proceeds" and inserting in lieu thereof "accrued local currencies"; and

(3) by amending paragraph (3) to read as follows:

"(3) utilize the remainder of the Special Account for purposes which are consistent with the objectives of sections 103 through 106 or, in the case of sub-Saharan Africa, section 472, and which are agreed to by the agency primarily responsible for administering part I.".

(b) Conforming Amendments.—Section 531(d) of that Act is amended—

(1) by striking out ", not less than 50 percent" and all that follows through "part I of this Act"; and

(2) by adding at the end the following: "All local currencies that accrue as the result of assistance under this chapter shall be deposited in a special account and used in accordance with section 609 of this Act.".

SEC. 1202. COMPREHENSIVE ANNUAL REPORTS ON FOREIGN ASSISTANCE.

Section 634 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(c) As part of the annual congressional presentation materials on foreign assistance programs, the President shall provide to the Congress a full, complete, and detailed accounting of all assistance provided during the preceding fiscal year under the Foreign Assistance Act of 1961 and the Arms Export Control Act. This accounting shall include for each fiscal year, among other things, the following with respect to each authorization account:

"(1) The specific projects and other activities carried out in each country.

"(2) The number of persons from each country who were provided with training, and the types of training provided.

"(3) The defense articles and defense services provided for each country.

"(4) The types of goods and commodities provided to each country for economic stabilization purposes under chapter 4 of part II (relating to the economic support fund).

"(5) The amounts of local currency generated by United States assistance to each country, the uses of those currencies, and the total amount of those currencies still available for use as of the time of the report.

"(6) A report on any transfers or reprogrammings of funds, and a description of how transferred or reprogrammed funds modified the amounts requested for each account.

"(7) A report on the funds which have been obligated but remain unexpended for each country in each account.

"(8) An analysis of the amount of funds and programs provided through nongovernmental as contrasted to governmental channels.

"(9) For each country which received cash transfer assistance under chapter 4 of part II during the previous fiscal year, a detailed description of how the country used the funds that were made available, with a discussion of the United States interests that were served by the assistance (including, as appropriate, a description of any economic policy reforms that were promoted by the cash transfer assistance).

"(d) The annual congressional presentation materials on foreign assistance programs shall also include, for each country for which cash transfer assistance is proposed under chapter 4 of part II for the coming fiscal year, a discussion of the United States interests that will be served by the assistance, including, as appropriate, a description of the economic policy and development situation in the country which may affect the implementation of United States economic assistance programs and long-term economic development.".

SEC. 1203. FOREIGN ASSISTANCE ALLOCATION REPORTS.

(a) Applicability to Continuing Resolutions.—Section 653(b) of the Foreign Assistance Act of 1961 is amended by inserting after "law making continuing appropriations" the following: "for a period of less than 60 days,".

(b) Applicability to International Narcotics Control Assistance.—Section 653(a) of that Act is amended by striking out "other than" in the parenthetical clause and inserting in lieu thereof "including section 481 but excluding".

SEC. 1204. FOREIGN DEBT REPAYMENT.

(a) Policy on New Economic Assistance Loans to Countries Unable To Service Existing Debts.—It is the sense of the Congress that the Agency for International Development should generally not provide assistance on a loan basis to a country which is unable to service its debt obligations arising from loans provided by the Agency in prior fiscal years, unless it can be demonstrated clearly that the country's inability to service its existing debt is temporary and nonrecurring.

(b) Reports to Congress on Debt Rescheduling.—Section 603(a)(2) of the International Development and Food Assistance Act of 1978 is amended by inserting after the first sentence the following: "This justification shall explain why the proposed debt relief is necessary, how much debt has previously been rescheduled for that government by the United States, why previous debt relief agreements have failed, and what the current prospects are for collecting the rescheduled receivables.".

(c) Accelerated Loan Repayments.—Paragraph (3) of section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting "and" after the semicolon; and

(3) by inserting the following at the end of the paragraph:

"(B) a description of the efforts made pursuant to section 127 by the Administrator of the agency primarily responsible for administering part I to negotiate accelerated loan repayments by countries with the financial resources to make accelerated loan repayments, in particular European countries that were recipients of concessional loans by predecessor agencies;".

SEC. 1205. ANNUAL FOREIGN ASSISTANCE REPORT.

Section 634(a) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (1)(A), by striking out "oceans,"; and

(2) by repealing paragraph (8) and redesignating paragraphs (9) through (12) as paragraphs (8) through (11), respectively.

SEC. 1206. TECHNICAL CORRECTIONS.

(a) Correction of Cross-References to International Traffic in Arms Regulations.—

(1) Section 505(e) of the Foreign Assistance Act of 1961 is amended in the second sentence—

(A) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(B) by striking "such defense articles" both places it appears and inserting in lieu thereof "such significant military equipment".

(2) Section 3(a) of the Arms Export Control Act is amended in the second sentence following paragraph (4)—

(A) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(B) by striking "such defense articles" both places it appears and inserting in lieu "such significant military equipment".

(3) Section 36(d) of that Act is amended by striking out "combat" and inserting in lieu thereof "military".

(b) Clerical Errors in 1985 Authorization Act.—

(1) Subsection (d) of section 25 of the Arms Export Control Act, as added by section 112(b) of the International Security and Development Cooperation Act of 1985, is amended—

(A) by redesignating that subsection as subsection (e); and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period.

(2) Subparagraph (B) of section 25(a)(5) of the Arms Export Control Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

(3)(A) Section 124(c) of the Foreign Assistance Act of 1961, as so redesignated by section 310 of this Act, is amended by striking out "110(a)" and inserting in lieu thereof "110".

(B) Section 124(e) of that Act is repealed.

(C) Section 110 of that Act is amended by striking out "AND FUNDING LIMITS".

(c) Clerical Errors in Anti-Drug Abuse Act of 1986.—

(1) Section 481 of the Foreign Assistance Act of 1961 (as amended by section 2005 of the Anti-Drug Abuse Act of 1986) is amended—

(A) in subsection (h)(2)(A), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period;

(B) in subsection (h)(4)(A), by inserting "a" before "joint resolution"; and

(C) in subsection (i)(4)(vi), by striking out "section 1049(c)(2)" and inserting in lieu thereof "section 104(c)(2)".

(2) Section 2015(b)(1) of the Anti-Drug Abuse Act of 1986 is amended by striking out "effects" and inserting in lieu thereof "efforts".

(3) Section 2030(b) of the Anti-Drug Abuse Act of 1986 is amended by striking out "subsection (A)(4)" and inserting in lieu thereof "subsection (a)(4)".

(d) Public Laws 99-440 and 99-529.—Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by redesignating section 117 (as enacted by section 201(b) of Public Law 99-440) as section 115 and by inserting that section before section 116.

SEC. 1207. COUNTRIES WHICH IMPORT SUGAR FROM CUBA.

(a) Reduction of Assistance by Value of Sugar Imports From Cuba.—Beginning in fiscal year 1989, the President shall have the authority to withhold from the amount of assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) which is allocated to a country for a fiscal year the amount equal to the value of confirmed sales of sugar which is the product of Cuba and which is imported by that country in the preceding fiscal year.

(b) Reductions To Be Made Notwithstanding Earmarkings.—The withholding of amounts under subsection (a) may be made notwithstanding any provision of law specifying the amount of assistance to be provided to a particular country.

(c) Sense of Congress With Respect to Other Countries.—It is the sense of the Congress that the President should urge countries that import sugar which is the product of Cuba and do not receive economic support funds or other forms of foreign assistance from the United States to import sugar from other Central American or Caribbean countries with democratically elected governments.

SEC. 1208. EARLY WARNING SYSTEM REGARDING MULTILATERAL DEVELOPMENT BANK LOANS.

(a) Analysis.—The President shall instruct missions of the Agency for International Development and United States diplomatic missions in the relevant foreign countries to analyze the impacts of proposed loans by multilateral development banks well in advance of such loan's approval by the bank. Such analyses shall address the economic viability of the project, adverse impacts on the environment, natural resources, public health, and indigenous peoples, and recommendations as to measures (including alternatives) that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, the information obtained in carrying out this subsection shall be made available to the public.

(b) Investigations.—The President shall further instruct those missions that, if the analysis of a proposed loan pursuant to subsection (a) fails to identify adverse impacts on the environment, natural resources, public health, or indigenous peoples, but there is nonetheless reason to believe that such a loan may have such impacts, they shall undertake an affirmative investigation of such impacts in consultation with relevant Federal agencies.

(c) Furnishing Information to Secretary of the Treasury.—If an analysis pursuant to subsection (a) or an investigation pursuant to subsection (b) identifies adverse impacts of a proposed multilateral development bank loan on the environment, natural resources, public health, or indigenous peoples, the Administrator of the Agency for International Development or the Secretary of State (as appropriate) shall provide the relevant information to the Secretary of the Treasury for his consideration in determining whether to instruct the United States Executive Director of the relevant multilateral development bank to seek changes in the loans necessary to eliminate or mitigate such impacts.

(d) Cooperation With Other Countries.—The Administrator of the Agency for International Development or the Secretary of State (as appropriate) shall make the information collected pursuant to subsections (a) and (b), other than classified information, available to foreign governments and shall actively cooperate with such governments to facilitate exchanges of such information.

(e) Semiannual Lists.—Six months after the date of enactment of this Act and semiannually thereafter, the Administrator of the Agency for International Development shall publish a list of proposed multilateral development bank loans that may have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The list shall be developed in consultation with interested members of the public and shall contain—

(1) the name of the lending institution;

(2) the name of the borrowing country;

(3) the name of the project or loan;

(4) a brief description of the project or loan;

(5) the total anticipated cost and anticipated contribution from development banks;

(6) a summary of adverse effects on the environment, natural resources, public health, or indigenous peoples;

(7) identification of alternatives which may eliminate or mitigate such effects, including the possibility of terminating further action on the potential loan; and

(8) identification of actions taken or underway by the Administrator or other Federal agencies to secure necessary changes in the project.

SEC. 1209. COUNTRIES LISTED AS COMMUNIST COUNTRIES.

Section 620(f)(1) of the Foreign Assistance Act of 1961 is amended as follows:

(1) After "Democratic People's Republic of Korea." insert the following:

"Democratic Republic of Afghanistan."

(2) After "Mongolian People's Republic." insert the following:

"People's Democratic Republic of Ethiopia.

"People's Democratic Republic of Yemen.".

(3) After "People's Republic of Albania." insert the following:

"People's Republic of Angola.".

(4) After "People's Republic of China." insert the following:

"People's Republic of Kampuchea.".

SEC. 1210. REQUIREMENT TO SPECIFY DURATION FOR PERIOD OF WAIVER OF COMMUNIST COUNTRY PROHIBITION.

Section 620(f)(2) of the Foreign Assistance Act of 1961 is amended by inserting "specified" before "period as the President determines".

SEC. 1211. EFFECTIVENESS OF UNITED STATES ECONOMIC ASSISTANCE.

(a) Reports.—Not later than December 31, 1988, and December 31 of each third year thereafter, the President shall submit to the Congress a report which analyzes, on a country-by-country basis, the impact and effectiveness of the United States economic assistance provided during the preceding 3 fiscal years. Each such report shall include the following for each recipient country:

(1) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. This analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms which were promoted by the assistance. This analysis shall—

(A) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing economic assistance for that country, and

(B) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(2) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(3) A discussion of the commitment of the host government to addressing the country's needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(4) A description of the trends, both favorable and unfavorable, in each development sector.

(5) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(6) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor countries, or nongovernmental organizations.

(b) Listing of Most and Least Successful Assistance Programs.—Each report required by this section shall identify—

(1) those countries in which United States economic assistance has been most successful, and

(2) those countries in which United States economic assistance has been least successful.

For each country listed pursuant to paragraph (2), the report shall explain why the assistance was not more successful and shall specify what the United States has done as a result.

(c) Report To Be a Separate Document.—Each report required by this section shall be submitted to the Congress as a separate document.

(d) Definition.—As used in this section, the term "United States economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), or chapter 4 of part II of that Act (relating to the economic support fund).

SEC. 1212. INTERNATIONAL SCHOLARSHIP PARTNERSHIP PROGRAM.

(a) Establishment of Scholarship Program.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships in the form of loans to enable students from eligible countries to study in the United States.

(b) Program Objectives.—The program authorized by subsection (a) of this section shall be designed and administered to provide educational opportunities for talented students of limited financial means from eligible countries in order to foster democracy and development in those countries and their regions and to strengthen the relationships between the United States and such countries and regions.

(c) Eligible Countries.—For purposes of this section, the term "eligible country" means any country which is a recipient of United States assistance pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), chapter 4 of part II of that Act (relating to the economic support fund), or the Agricultural Trade Development and Assistance Act of 1954.

(d) FUNDING.—

(1) LATIN AMERICA AND THE CARIBBEAN.—For each of the fiscal years 1988 and 1989, up to $2,000,000 of the funds allocated for the Latin American and the Caribbean regional program under chapter 4 of part II of the Foreign Assistance Act of 1961 shall be available only to provide scholarships for qualified students from eligible countries in Central America and the Caribbean pursuant to this section.

(2) SOUTH PACIFIC.—For each of the fiscal years 1988 and 1989, not less than $2,000,000 of the funds allocated for South Pacific regional programs under chapter 1 of part I of that Act shall be available only to provide scholarship assistance to qualified students from eligible countries in the South Pacific for study at post-secondary institutions of education in the United States pursuant to this section. Not more than 10 percent of funds made available under this paragraph may be used for scholarships for graduate study.

(3) OTHER REGIONS.—Funds made available to carry out chapter 1 of part I, chapter 7 of part I, and chapter 4 of part II of that Act may be used to provide scholarships pursuant to this section to qualified students from eligible countries in regions other than those specified in paragraphs (1) and (2) of this subsection.

(4) PERIOD OF AVAILABILITY.—Funds allocated to carry out this subsection shall remain available until expended, notwithstanding any other provision of law.

(e) COOPERATION WITH STATES AND THE PRIVATE SECTOR.—

(1) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(2) GRANTS TO STATES.—In furtherance of the objectives of this section, the Administrator may make grants to States to provide scholarship assistance to students participating in the program conducted pursuant to this section to attend undergraduate degree programs or training programs of one year or longer in study areas related to the critical development needs of the students' countries.

(3) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this subsection shall be not less than 50 percent.

(4) NON-FEDERAL SHARE.—The non-Federal share of payments under this subsection may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books and supplies.

(5) PRIVATE SECTOR—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section.

(f) IMPLEMENTING REGULATIONS.—The Administrator shall issue such regulations as may be necessary to carry out this section. Such regulations shall include provisions for—

(1) forgiveness of repayment of a student's loan upon the student's prompt return to the student's country of origin for a period which is at least one year longer than the period the student spent studying in the United States; and

(2) forgiveness of half the repayment of the loan if the student is granted asylum or refugee status in the United States under the Immigration and Neutrality Act.

SEC. 1213. ASSISTANCE FOR POLICE OF DEMOCRATIC GOVERNMENTS.

(a) WAIVER.—Subsections (c) and (d) of section 660 of the Foreign Assistance Act of 1961 are amended to read as follows:

"(c) Subsection (a) shall not apply with respect to a country which has an elected government seeking to strengthen democratic institutions, including the criminal justice system, and to improve observance of civil and political rights, and which is not engaged in a consistent pattern of gross violations of internationally recognized human rights.

"(d) Assistance shall not be provided pursuant to subsection (c) unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the amount and nature of the proposed assistance at least fifteen days in advance of obligation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) does not apply with respect to funds appropriated before the date of enactment of this Act.

Mr. BROOMFIELD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The Chair would state to the gentleman from Michigan, it is not necessary for him to offer his en bloc amendment at this point. It could be offered later.

The gentleman is recognized for 30 minutes in support of his amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield at this point?

Mr. BROOMFIELD. I am happy to yield to the chairman, the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I want to thank the gentleman from Michigan for yielding.

I take this moment because I just want to be sure we all understand where we are at this point.

We have completed consideration of the principal bill. We are now under consideration of the substitute of the gentleman from Michigan, which he is prepared to discuss. He will explain it and I will try to unexplain it in appropriate time, which I have been assured will be brief on both sides, I will say to my colleagues, at which point we will consider the substitute and then we will be prepared to go to final passage one way or the other, if the substitute is adopted or otherwise.

I wanted to take this time before we get into that to express my appreciation to the gentleman from Michigan and to the minority, as well as to the staff on both sides, because they have worked very, very hard to get to the point where we are as rapidly, expeditiously, and as thoroughly as we have been able to do.

So I would hope that we get sufficient quietness now so we can all hear the gentleman explain his substitute.

Mr. BROOMFIELD. Mr. Chairman, first of all, I want to join the chairman in paying tribute to the staffs of the majority as well as the minority.

I also wish to thank the gentleman from Florida personally. He has been very considerate of the minority to have an opportunity to offer a substitute, and to give the Members an opportunity to actually weigh the committee bill versus my substitute.

I will give a brief explanation to my substitute text to H.R. 3100 that I will be offering. The gentleman from California [Mr. LAGOMARSINO] and others also wish to speak on my substitute as modified by the en bloc amendments that we will be offering.

My substitute contains many of the positive provisions from the committee bill, but it also modifies flawed policy language and eliminates unnecessary and restrictive provisions.

H.R. 3100, which is the committee bill, is strongly opposed by the administration and the President's senior advisers have recommended to me that he would veto it in its present form. It contains many restrictions, limitations, and constraints that would make it very difficult for the President to conduct foreign policy.

The substitute that I am offering is underbudget. It authorizes lower funding than the committee bill. It strikes unnecessary earmarking and offensive language in the bill.

While it provides the President with lower funding levels, it increases executive branch flexibility to protect U.S. interests abroad.

There have been several changes, Mr. Chairman, in my substitute since it was printed in the CONGRESSIONAL RECORD over a month ago.

In response to concerns that funding for U.N.-related international organizations and programs were insufficient, I would suggest that Members look at the language we have in the substitute, because we have restored the bulk of the funding authorization for this account.

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Furthermore, I have included in the substitute identical language on the use of assistance to station troops in Cyprus to that found in the bill, H.R. 3100. Actually, it is the same language that we have in the committee bill.

Last, I have included in the substitute many positive and constructive amendments agreed to during the House consideration of the bill, H.R. 3100.

Rather than mention each of the amendments, we have prepared a complete list of them which is available for Members to examine at both the minority and the majority desks on the floor.

My substitute, Mr. Chairman, differs from the committee bill in some very significant ways. It eliminates many of the restrictive earmarks. It is also underbudget. It eliminates vast amounts of unnecessary, and what we call micromanaging, and highly restrictive language that would serve no useful purpose, and would indeed hinder the President in carrying out his constitutionally mandated role to conduct the foreign policy of the United States.

My substitute also reduces the inherent friction that makes if difficult to improve executive and legislative relations.

In addition, my substitute already includes the Chandler amendment, the Central American language, which we adopted yesterday with an overwhelming vote.

In addition, my substitute also strikes the Nicaragua language in H.R. 3100. On the floor this amendment to strike was only narrowly defeated by a vote of 214 to 200.

Furthermore, the Broomfield substitute includes $10 million to aid the democratic forces in Nicaragua such as the labor unions, the press, the Catholic Church, and other groups attempting peaceful democratic reforms in Nicaragua. Overall, the Central American provisions of the Broomfield substitute offer a very positive and constructive approach to fostering democracies in Nicaragua, something sadly lacking, I believe, in the committee bill.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to join with the gentleman from Michigan [Mr. BROOMFIELD] in support of his substitute and also to commend him and the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs, as well as the chairmen of the various subcommittees and the ranking minority members for the way they have conducted this debate.

I think it has been outstanding, and very fair, and everybody has had a chance under a very difficult procedural situation to make his or her views known.

With regard to title VII of the substitute, which is the Western Hemisphere portion of the substitute, I can tell my colleagues that the language in it is acceptable to the administration, whereas the language in the bill itself, although it was somewhat improved in some cases, is not acceptable and in some cases I think would be grounds for veto by itself.

I can tell my colleagues that the administration does approve of title VII of this bill.

With regard to another very important part of the legislation, that is, Pakistan, the substitute contains the same language that the bill does on that matter. I want to commend the gentleman from New York [Mr. SOLARZ] and the gentleman from California [Mr. WILSON] and others for working up the agreement they did on that and that agreement is typified as stated in the substitute as well.

I would urge my colleagues to support the substitute. This is something that can become law. The majority bill in my opinion cannot.

As I say, I urge my colleagues to support the substitute.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. Mr. Chairman, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Michigan [Mr. BROOMFIELD].

Mr. Chairman, I want to inform the committee, about the nature of the provisions that are within the purview of the Subcommittee on Europe and the Middle East and the Task Force on International Narcotics Matters, on each of which I serve as ranking minority member. Both the narcotics provisions and the Europe and Middle East provisions in the Broomfield substitute are identical to the committee bill. I repeat those provisions are identical.

The Broomfield substitute is the only foreign aid ballgame in town, right now. I plead to my colleagues on both sides of the aisle to vote for this substitute. While many of us are not fully satisfied with either the committee bill or Broomfield substitute, the Broomfield language is the only language which the administration could support. This Broomfield amendment is better than the committee bill as amended, because it contains less earmarking, less policy micromanaging, than does the committee bill at this point.

I believe it is important that we continue with the regular order of the House by moving forward with passage of a regular authorization bill, because there is policy language in this substitute that we can all agree to, that is necessary, and most important that the administration will probably find it can live with.

Accordingly, I urge that we support this substitute that contains much of what we have agreed to over the past several days, which leaves out some of the material which the administration could use as an excuse to oppose this bill on final passage. Let us pass this bill that we've worked so hard on for so many hours.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. Mr. Chairman, I yield to the gentleman from Iowa, the ranking member of the Subcommittee on Asian and Pacific Affairs.

Mr. LEACH of Iowa. Mr. Chairman, I would make two very brief points. First of all, the impressive aspect of this substitute is not how far apart it is from the majority bill, but how close it is to the majority bill. After all of these extraordinarily testy issues, we have crafted two approaches to foreign policy that are not too far apart.

My own personal sense is that in a number of issues the majority party may well have a slightly more persuasive case but the fact of the matter is it will be vetoed if it passes.

The Broomfield substitute is the only act that can receive acquiescence of the administration. Therefore, I urge this House for the effective legislation that we need, that what we do is pass the Broomfield substitute, pass the bill and that way this House will have, A, done its duty; and, B, in a very significant sense we will have affected the foreign policy of the United States in a very constructive way.

I compliment the gentleman from Michigan [Mr. BROOMFIELD] on an extremely constructive substitute.

Mr. BROOMFIELD. Mr. Chairman, I thank the gentleman from Iowa for his very constructive comments.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. Mr. Chairman, I yield to the gentleman from New York, the ranking member on the Subcommittee on Human Rights and International Organizations.

Mr. SOLOMON. Mr. Chairman, I just want to take off my hat to the gentleman from Michigan [Mr. BROOMFIELD]. He has done an outstanding yeoman job in putting together this substitute which is a real substitute. Let me say there are major differences between this substitute and the bill, H.R. 3100. I know that many of us have labored on both sides of the aisle to make the committee bill a better bill, but the fact remains as we said during committee time and time again, that if we have language in the bill there is no way we will be able to vote for it, and there is no way that President Reagan will sign it.

I know that President Reagan will sign your substitute with these amendments en bloc added to it. Therefore, although I am not a great believer in foreign aid, I will vote for the foreign aid package if your substitute is successful and try to push it through the Senate so that we will have a foreign aid bill.

The question is, Do my colleagues want a foreign aid bill or do they not want a foreign aid bill?

Vote for the Broomfield substitute and my colleagues will have a foreign aid bill.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, briefly, if I could explain an amendment that is included in the Broomfield substitute, and in the committee bill, it is what I call the truth in lending, or the anti-cook-the-books amendment. A lot of people in this House are very skeptical about voting for foreign aid. I happen to be one that is supportive of foreign aid and has been in the past. There is only one problem, however, with the current system of trying to determine how much money we really do give to other countries. When we get right down to it, it is in fact true that many of the loans and the loan guarantees that we make are rescheduled and when we reschedule any of the loans or the loan guarantees, they are not reported on the books as an actual loss of money to the United States. We then turn around and make additional loans to countries once they have already defaulted in a sense, defaulted on the loans and guarantees that we have already made.

In 1987 there are four countries which have received new 3-year GSM 102 loan guarantees although they have defaulted on past guarantees. Here we are in 1987 running huge budget deficits, making additional loans to countries that have already defaulted. Yet we do not call it default, we call it rescheduling, because we call it rescheduling it does not appear on the books as an obligation to the United States, and what this amendment will do is force the various agencies involved in loans and loan guarantees to give us an accurate estimate of how much money is owed to us, how much money we can collect, and not allow the Congress to vote additional foreign aid to countries that have not been able to meet their obligations.

I am pleased that the chairman has accepted it. I am pleased that the gentleman from Michigan [Mr. BROOMFIELD] has accepted it. I suspect there will be an attempt made to take it out of the conference committee because nobody really wants to have truth in lending, or information on cooking the books when it comes down to foreign aid. I hope the Members of the House will support this provision when we go to the conference committee.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. Mr. Chairman, I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, today I rise in support of the Broomfield substitute to H.R. 3100, International Security and Development Assistance Act because it removes some unnecessary earmarking, restrictive policy language, and provides with greater flexibility in making funding allocations. The substitute provides $11.42 billion for foreign aid programs in fiscal year 1988. It provides for a 3.5-percent increase in most foreign aid programs in fiscal year 1989.

The Broomfield substitute retains the earmarks for Israel and Egypt, and funding levels for base-rights countries as in the bill, but eliminates policy language and unnecessary earmarking placed in H.R. 3100.

The substitute retains the "informed consent" language under title III—development assistance; provides a 30-percent aggregate earmark for population, health, and natural resources and retains the bill's policy language on these critical areas under the Africa title; includes the small and micro-enterprise loan program; provides dollars for the Nicaraguan civilian opposition and retains current law restrictions on assistance to the Contras; provides $450 million for Africa fund in each of fiscal years 1988 and 1989; modifies the Hamilton amendment which reforms cash grants, and strikes the Torricelli cargo preference provision, and eliminates $50 million earmarked for front-line states bordering South Africa.

The substitute is not perfect, but I urge support of the Broomfield substitute so that we can pass a foreign aid bill which has bipartisan support.

AMENDMENTS EN BLOC OFFERED BY MR. BROOMFIELD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, pursuant to the rule, I offer an en bloc amendment to my amendment in the nature of a substitute.

The Clerk read as follows:

Amendments en bloc offered by Mr. BROOMFIELD to the amendment in the nature of a substitute offered by Mr. BROOMFIELD: Amend the Broomfield substitute to include the following amendments:

TITLE I—MILITARY ASSISTANCE AND SALES AND RELATED PROGRAMS

Page 16, after line 7, insert the following:

SEC. 116. CONDITIONS ON SALES OF F-15's TO SAUDI ARABIA.

Any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E or other advanced aircraft with a ground attack capability and shall not upgrade existing Saudi Arabia aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any one time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies the Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

Page 16, after line 7, insert the following:

SEC. 117. RESTRICTIONS OF FMS SALES OF STINGER MISSILES.

(a) PROHIBITION.—Except as provided in subsection (b), the United States Government may not sell any STINGER air defense guided missile (or any other man-portable ground-to-air missile with comparable advanced technology) to any foreign military or paramilitary force under the Arms Export Control Act.

(b) EXCEPTIONS.—The prohibition contained in subsection (a) does not apply with respect to—

(1) a transfer to the North Atlantic Treaty Organization or the armed forces of a member nation of that organization;

(2) a transfer to the armed forces of a country designated as major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act of Fiscal Year 1987;

(3) a transfer otherwise specifically authorized by the Congress by an act or joint resolution enacted after the date of enactment of this Act; or

(4) a transfer if the President certifies to the Congress that—

(A) an unforeseen emergency exists which requires the immediate transfer of the missiles; and

(B) no other air defense system can meet the air defense needs of the recipient.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Congress a report which assesses the global threat caused by the proliferation of man-portable ground-to-air missiles with advanced technology comparable to that of the STINGER missile, without regard to the country of origin of those missiles. This report shall give special emphasis to the danger of such missiles being used in acts of terrorism.

Page 16, after line 7, insert the following:

SEC. 116. LIMITATIONS ON MILITARY ASSISTANCE.

(a) GENERAL ASSEMBLY VOTES.—Funds authorized to be appropriated by this title may not be allocated to any country whose votes in the United Nations General Assembly Plenary differed from the United States position by more than 90 percent, as recorded in the most recent Department of State report entitled "Report to the Congress on Voting Practices in the United Nations".

(b) MOST RECENT REPORT DEFINED.—For purposes of applying subsection (a)—

(1) with respect to fiscal year 1988 assistance, the most recent such report shall be deemed to be the report dated April 23, 1987; and

(2) with respect to fiscal year 1989 assistance, the most recent such report shall be deemed to be the next annual report submitted after that date.

At the end of subsection (a), strike the period and add the following: ", unless the President determines, and reports to the Congress, that national security or humanitarian reasons justify furnishing such assistance to that country."

At the end of the amendment, strike the period and add the following: ", and

"(3) With respect to such assistance for each fiscal year thereafter, the most recent report shall be deemed to be the last such report submitted before that fiscal year begins."

TITLE III—DEVELOPMENT ASSISTANCE

Page 26, after line 4, insert the following:

(c) VITAMIN A DEFICIENCY PROGRAM.—Section 103 of that Act, as amended by subsection (b), is further amended by adding at the end the following:

"(j)(1) The Congress recognizes that vitamin A deficiency is a major cause of childhood morbidity and mortality. An estimated 500,000 children are blinded every year from the vitamin A deficiency disease known as Xerophthalmia. The Congress further recognizes that vitamin A intervention programs are inexpensive, practical to administer, and cost-effective in terms of human productivity. Supplying doses of vitamin A, promoting the consumption of foods which are either good natural sources of vitamin A or fortified with vitamin A, nutrition education, and agricultural extension projects which emphasize the utility of consuming adequate amounts of dietary sources of vitamin A are essential interventions to be considered in the design of programs to eliminate vitamin A deficiency.

"(2) Of the funds authorized to be appropriated to carry out this section for each of the fiscal years 1988 and 1989, not less than $8,000,000 shall be available only for the Vitamin A Deficiency Program.".

Page 31, strike out lines 13 through 15.

Page 45, strike out line 17 and all that follows through line 22 on page 57 and insert in lieu thereof the following:

SEC. 314. PROVIDING CREDIT FOR THE POOR IN DEVELOPING COUNTRIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Hunger and hunger-related disease take the lives of 13,000,000 to 18,000,000 people annually. Three-quarters of these deaths are children under the age of 5.

(2) A primary cause of this suffering is the inability of the poor majority living in developing countries to earn incomes which would enable them to provide the nutritional and health benefits that their families need.

(3) The rural and urban poor comprise the developing world's greatest untapped resource, and the health of national economies and democratic institutions is vastly improved when opportunities for the poor to participate in the economies of their countries are actively promoted and expanded.

(4) The inability of the rural and urban poor to obtain credit to finance their economic activities (and related nonfinancial assistance) has long been an obstacle to their achievement of economic progress and well-being.

(5) This inability to obtain credit and other critical productive inputs has been a significant factor inhibiting the growth of micro and small enterprises. Even so, such enterprises still represent an important source of private sector commercial activity in developing countries, provide significant benefits for the poor majority in those countries (particularly women, tribal peoples, and other minorities), and serve to integrate them into the economic life of their countries.

(6) Formal financial institutions in developing countries have not recognized that, although the poor majority may lack collateral for loans and may not be able to comply with all the traditional loan formalities, the productive activities of micro and small enterprises can nevertheless be financially viable if access to sources of credit is expanded.

(7) Experience with making productive credit available to the poor, including to micro-enterprises and to groups of poor people, has demonstrated their ability to repay loans and to achieve significant improvements in their living standards and to make significant contributions to the local economy.

(8) Economic policies, particularly those which are neutral as to enterprise size, are important to the encouragement and operation of micro and small enterprises.

(b) CREDIT PROGRAMS AND OTHER ASSISTANCE.—The Administrator shall make assistance available, in accordance with this section, to financial intermediaries in developing countries to enable them to provide loans and other assistance for micro and small enterprises of the poor majority. In carrying out this section, primary emphasis shall be placed on making loans and other assistance available to those individuals living in absolute poverty. Funds described in subsection (f)(3) may be made available to financial intermediaries pursuant to this section for use by them—

(1) in extending credit for micro and small enterprises in order to provide such enterprises with financial resources for working capital, the acquisition of equipment and other supplies, and payment of other expenses of the enterprises;

(2) in extending credit for such purposes as the procurement of farm implements and commodities, the acquisition of livestock, the construction of storage facilities, water and soil conservation activities, and the enhancement of marketing facilities;

(3) for the startup costs incurred by a nongovernmental organization in becoming a financial intermediary, and for other institutional development expenses (including audit and evaluation costs) of the intermediary which are related to the establishment and initial operation of the credit and other business support activities assisted pursuant to this section;

(4) for expenses incurred by the financial intermediary in providing training and technical assistance for micro and small enterprises, in order to enable them to obtain and utilize credit and other nonfinancial assistance under this section; and

(5) to provide other assistance necessary to the successful functioning of micro and small enterprises.

(c) GUIDELINES FOR PROGRAM.—The Administrator shall issue guidelines for financial intermediaries providing assistance pursuant to this section. These guidelines shall seek to ensure that financial intermediaries—

(1) consult with potential recipients of credit and other assistance under this section, and include their views to the greatest extent possible, in the designing of credit projects to ensure that the projects are responsive to the credit and other productive input needs of the receipents;

(2) establish credit terms at rates of interest which reflect the prevailing market rate of interest and the real cost of providing credit to the targeted beneficiaries;

(3) utilize the assistance made available pursuant to this section to provide credit and related assistance to the poorest people, with special attention being given to the provision of credit and other assistance to women, tribal peoples, and other minorities; and

(4) minimize or remove obstacles to credit provided under this section, such as collateral and literacy requirements.

(d) PRIMARY EMPHASIS.—In carrying out this section, the Administrator shall place primary emphasis on the development of the capacity of indigenous nongovernmental organizations (especially those representing women, tribal peoples, and other minorities) which will assist the development of micro and small enterprises, but the Administrator may also support other entities as appropriate. Attention shall also be directed to savings and capital formation as part of the systems support for micro and small enterprises.

(e) ADVISORY COMMITTEE.—The Administrator shall appoint an advisory committee to advise the Administrator with regard to the implementation of this section. This advisory committee shall be composed of individuals from nongovernmental organizations who are knowledgeable about the needs of micro and small enterprises in developing countries for credit and other assistance. Among other responsibilities, the advisory committee shall—

(1) assist the Administrator in developing the report required by subsection (m); and

(2) shall review and comment on the initial guidelines issued by the Administrator pursuant to subsection (c) before those guidelines are issued.

(f) SOURCES OF FUNDS AND FUNDING LEVELS.—

(1) DETERMINATION OF FISCAL YEAR 1987 ASSISTANCE LEVEL.—The Administrator shall conduct a benchmark survey to determine the total amount of assistance made available during fiscal year 1987 for credit and other assistance (as described in subsection (b)) for micro and small enterprises under part I of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954. The results of this survey shall be reported to the Congress not later than September 30, 1987, or 30 days after the date of enactment of this Act, whichever is later.

(2) ASSISTANCE FOR FISCAL YEARS 1988 AND 1989.—The total amount of assistance provided pursuant to this section—

(A) during fiscal year 1988, shall be at least $50,000,000, or 25 percent more than the amount determined pursuant to paragraph (1), whichever is greater; or

(B) during fiscal year 1989, shall be at least $75,000,000 or 50 percent more than the amount determined pursuant to paragraph (1), whichever is greater.

(3) SOURCES OF FUNDS.—Assistance pursuant to this section shall be provided with the following funds:

(A) Funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), and chapter 4 of part II of that Act (relating to the economic support fund).

(B) Foreign currencies acquired as payments of loans made under those chapters pursuant to the authority contained in subsection (h).

(C) Foreign currencies accruing from assistance provided under those chapters.

(D) Foreign currencies accruing or acquired under title I of the Agricultural Trade Development and Assistance Act of 1954, including foreign currencies made available to carry out section 108 and foreign currencies available for use pursuant to title III.

(E) Amounts paid to the United States on loans made to financial intermediaries pursuant to this section.

(4) ALLOCATIONS OF ASSISTANCE FOR MICRO ENTERPRISES.—At least 80 percent of the funds described in paragraph (3) which are made available under this section each fiscal year shall be used in support of micro enter-

prises. Of the funds used pursuant to this paragraph—

(A) to the maximum extent practicable, at least 50 percent shall be used in support of micro enterprises with 4 or fewer workers, with special emphasis on 1 or 2 person enterprises; and

(B) at least 80 percent shall be used for loans to micro enterprises, to the maximum extent practicable in an amount of $300 or less or, in the case of an initial loan, of $150 or less.

(5) Allocations of assistance for small enterprises.—At least 50 percent of the funds described in paragraph (3) which are made available under this section each fiscal year in support of small enterprises shall be used in support of small enterprises with 10 or fewer workers.

(g) Applicable Authorities.—Except as provided in this section, assistance provided pursuant to this section shall be provided in accordance with the relevant authorities contained in the Foreign Assistance Act of 1961 or the Agricultural Trade Development and Assistance Act of 1954.

(h) Authority To Generate Foreign Currencies.—In order to generate foreign currencies which can be made available to financial intermediaries pursuant to this section, the Administrator is authorized to use funds made available to carry out chapter 1 of part I, chapter 7 of part I, and chapter 4 of part II of the Foreign Assistance Act of 1961 to provide assistance to the governments of developing countries on a loan basis repayable in foreign currencies, at a rate of exchange to be negotiated by the Administrator and the foreign government. Such loans shall have a rate of interest and a repayment period determined by the Administrator.

(i) Foreign Assistance Act Assistance to Intermediaries.—

(1) Terms.—Loans and grants made to financial intermediaries for the purposes of this section with funds described in subsections (f)(3)(A), (B), and (C), or with amounts made available pursuant to paragraph (2) of this subsection, shall be on such terms and conditions as are determined by the Administrator and the intermediary.

(2) Use of loan proceeds.—Amounts paid to the United States on loans under this section with funds described in subsections (f)(3)(A), (B), and (C) or with amounts used pursuant to this paragraph shall, as determined by the Administrator, be available for use for assistance pursuant to this section.

(j) Application of Certain Laws.—Section 122 of the Foreign Assistance Act of 1961 shall not apply with respect to loans pursuant to subsections (h) or (i). Funds described in subsection (f)(3)(B) and (C) or subsection (i)(2) which are received by the United States pursuant to this section shall not be subject to the requirements of section 1306 of title 31, United States Code, or other laws governing the use of foreign currencies accruing to the United States. New budget authority provided by this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(k) Terms of Foreign Currency Assistance Under Public Law 480.—Funds described in subsection (f)(3)(D), or in the second sentence of this subsection, which are made available to financial intermediaries pursuant to this section may be provided on a grant or loan basis, notwithstanding any provision of the Agricultural Trade Development and Assistance Act of 1954. Any foreign currencies under that Act which are repaid by financial intermediaries under this section shall be available to and used by the Administrator to make available assistance for the purposes of this section. Section 108(d) of that Act shall not apply to the use of such currencies. Section 103(m) of that Act shall not apply to agreements entered into under section 108 of that Act for purposes of this section.

(l) Notice to Congress.—At least 15 days before making funds described in subsection (f)(3) available to a financial intermediary under this section, the Administrator shall notify the Congress in accordance with the procedures applicable to reprogrammings under section 634A of the Foreign Assistance Act of 1961.

(m) Initial Report.—Not later than January 1, 1988, the Administrator shall submit to the Congress a report setting forth the manner in which this section will be implemented.

(n) Annual Reports.—Not later than February 1, 1989, and each year thereafter, the Administrator shall submit a report to the Congress describing the implementation of this section. The report shall include—

(1) a description of the activities funded under this section during the previous fiscal year and the amount of funds described in each subparagraph of subsection (f)(3) which were provided for such activities; and

(2) recommendations for procedural or statutory changes which would facilitate the implementation of this section.

(o) Economic Policies.—In policy dialogues concerning economic policies with, and efforts to reform economic policies of, countries receiving assistance under part I of the Foreign Assistance Act of 1961, the Administrator shall encourage economic policies which promote micro and small enterprises.

(p) Definitions.—For purposes of this section—

(1) the term "Administrator" means the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961;

(2) the term "micro enterprises" means enterprises which are single or family proprietorships, small-group enterprises, or cooperatives, which generally have 7 or fewer workers, which are wholly owned by the poor majority in the developing country, and which often lack access to credit at reasonable cost;

(3) the term "small enterprises" means enterprises which are single or family proprietorships, small-group enterprises, or cooperatives, which generally have between 8 and 15 workers, which are wholly owned by the poor majority in the developing country, and which often lack access to credit at reasonable cost;

(4) the term "financial intermediary" has the same meaning as is given that term in section 108(i)(2) of the Agricultural Trade Development and Assistance Act of 1954; and

(5) the term "absolute poverty" refers to those people who lack access to assets sufficient to permit them to provide for their basic human needs.

Page 62, after line 7, insert the following:

SEC. 317. INTERNATIONAL COOPERATION TO PROTECT BIOLOGICAL DIVERSITY.

(a) Finding.—The Congress finds that habitat destruction is a main cause of the accelerating extinction of animal and plant species and that increased international cooperation is essential to protect species threatened with extinction and to halt the loss of unique and irreplaceable ecosystems.

(b) Statement of Policies.—The Congress—

(1) supports the United States efforts, consistent with section 119(g) of the Foreign Assistance Act of 1961, to initiate discussions to develop an international agreement to preserve biological diversity; and

(2) calls upon the President to exert United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve the earth's biological diversity, including the protection of a representative system of ecosystems adequate to conserve biological diversity.

(c) Report.—Not later than 1 year after the date of the enactment of this Act, the President shall submit a report to the Congress on progress toward the goal of negotiating such an international convention.

Page 59, line 3, after "universities," insert "colleges and universities having a student body in which more than 40 percent of the students are Hispanic".

On page 58, after line 15, insert the following new section:

SEC. . AIDS EDUCATION.

Section 104 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"(H) AIDS Education.—As part of providing population assistance under this act, the President shall require that all individuals who ultimately receive family planning assistance are fully informed as to the risks of infection with human immunodeficiency virus through sexual activity. A grant may be made under this act for population assistance only upon assurance satisfactory to the President that the recipient of the grant will, prior to providing to any individual any such assistance, inform the individual—

"(1) of the effectiveness of the particular contraceptive method provided to the individual by the recipient as a method to prevent infection with the human immunodeficiency virus and a comparison of such effectiveness with the effectiveness of sexual abstinence outside a sexually monogomus marriage.

"(2) that many individuals who are infected with the human immunodeficiency virus will develop acquired immunodeficiency syndrome, which is a fatal disease; and

"(3) that the most effective way to avoid becoming infected with the human immunodeficiency virus is to abstain from homosexual relations, from heterosexual relations outside of marriage, and from the intravenous use of illegal drugs.".

Page 42, strike out line 17 and all that follows through line 4 on page 43 and insert in lieu thereof the following:

"(i)(1) For each fiscal year, funds in an amount not less than the percentage specified in paragraph (2) of the aggregate amount appropriated for that fiscal year to carry out sections 103, 104(b), 104(c)(1), 104(c)(2), 105, 106, 472, and 491 of this Act shall be made available for the activities of private and voluntary organizations; and the President shall seek to channel funds in an amount not less than 25 percent of such aggregate amount for the activities of private and voluntary organizations. Funds made available under chapter 4 of part II of this Act for the activities of private and voluntary organizations and cooperatives may be considered in determining compliance with the requirements of this subsections.

"(2) The minimum percentages under this subsection are as follows:

"(A) 15 percent for each of fiscal years 1988, 1989, and 1990.

"(B) 15.5 percent for fiscal year 1991.

"(C) 16 percent for fiscal year 1992 and each fiscal year thereafter.".

Page 43, strike out lines 8 through 19 and insert in lieu thereof the following:

"(j)(1) Funds made available to carry out this part many not be made available to any United States private not voluntary organization (other than a cooperative development organization) which obtains less than the percentages specified in paragraph (2) of its total annual funding for international activities from sources other than the United States Government. In calculating the amount of Government support received by an organization, there shall be excluded the value of commodities (and related transportation) made available for overseas distribution and the value of contracts for services, grants, and other activities initiated primarily by the agency primarily responsible for administering this part.

"(2) The minimum percentages under this subsection shall be 20 percent for each of the fiscal years 1988 through 1991 and shall be 30 percent for fiscal year 1992 and each fiscal year thereafter.

"(3) The Administrator of the agency primarily responsible for administering this part may, on a case-by-case basis, waive the restriction established by this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency primarily responsible for administering this part.".

TITLE IV—OTHER ASSISTANCE PROGRAMS AND ACTIVITIES

Page 65, after line 18, insert the following:

(d) GAO Study of International Organizations Receiving Earmarked Funds.—The Comptroller General shall conduct a study of the accounting practices, current financial reserves, and general level of efficiency and effectiveness of any international organization or agency which is the recipient of funds earmarked pursuant to subsection (a). The Comptroller General shall submit a report on the results of this study to the Congress not later than six months after the date of enactment of this Act.

TITLE V—INTERNATIONAL NARCOTICS CONTROL

Page 73, strike out line 18 and all that follows through page 86, line 11, and insert in lieu thereof the following:

TITLE V—INTERNATIONAL NARCOTICS CONTROL

SEC. 501. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)":

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $98,750,000 for fiscal year 1988 and $98,750,000 for fiscal year 1989.".

SEC. 502. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $500,000 of the funds made available for each of the fiscal years 1988 and 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 503. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) Earmarking of MAP Funds.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $900,000 for each of the fiscal years 1988 and 1989 shall be made available to arms, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purpose of new aircraft.

(b) Notification to Congress.—The Committee on Foreigns Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 504. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) Earmarking of Funds.—Not less than $2,000,000 of the funds made available for each of the fiscal years 1988 and 1989 to carry out chapter 5 of part II of the Foreign Assistance Act (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts for countries in Latin America and the Caribbean; and

(2) the expenses of deploying, upon the request of the government of a foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) Relationship to International Narcotics Control Assistance Program.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(c) Waiver of Section 660.—Assistance may be provided pursuant to this section not withstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 505. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Requirement to Reallocate.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) Additional Assistance for Countries Taking Significant Steps.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradiction targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) International narcotics control assistance.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

(2) Security assistance.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634(A) in order to provide additional security assistance for those countries.

"(b) Definition of Security Assistance.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) Effective Date.—The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 506. WAIVER FOR RESTRICTIONS ON UNITED STATES ASSISTANCE FOR CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for the fiscal year 1988 or fiscal year 1989 if the President certifies to the Congress, during that fiscal year, that—

(1) section 481(i)(5)(C) of that Act (relating to money laundering) does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States, or has taken adequate steps on its own, in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States.

SEC. 507. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

Section 2013 of the Anti-Drug Abuse Act of 1986 is amended—

(1) in subsection (a), by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter," and inserting in lieu thereof "As part of each report required by section 481(e) of the Foreign Assistance Act of 1961,"; and

(2) in subsection (b), before "unless" insert "during the one year period beginning on the date on which the report in which it was listed was submitted to the Congress".

SEC. 508. UNITED STATES RELIANCE ON LICIT OPIUM GUM FROM FOREIGN SOURCES.

(a) Review.—The president shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with teaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

The results of this review shall be reported to the Congress by October 1, 1988.

(b) Section 481(h) Certifications With Respect to India.—For fiscal years 1988 and 1989, the President may make a certification with respect to India under section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961 only if the President determines that the Government of India has taken steps to prevent significant diversion of its licit opium cultivation and production into the illicit market, to reduce its licit opium stockpile, and to eliminate illicit opium cultivation and production. If that certification is made, the President shall include with that certification a detailed report on what steps were taken and an estimate of the amount of licit opium still being diverted to the illicit market.

SEC. 509. ASSISTANCE FOR BOLIVIA.

(a) Conditions on Fiscal Year 1988 Assistance.—

(1) Security assistance.—For fiscal year 1988, assistance may be provided for Bolivia under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia has enacted legislation that will—

(A) establish its legal coca requirements.

(B) provide for the licensing of the number of hectares necessary to produce the legal requirement,

(C) make unlicensed cocoa production illegal, and

(D) make possession and distribution of coca leaf illegal (other than for licit purposes).

(2) Additional requirement for ESF.—In addition, funds may be obligated for assistance for Bolivia for fiscal year 1988 under chapter 4 of part II of the Foreign Assistance Act of 1961 only if the Secretary of State has submitted to the Congress a plan for conditioning the expenditure of those funds on the Government of Bolivia meeting specific coca eradication targets.

(3) Section 481 certification.—For fiscal year 1988, the President may make a certification with respect to Bolivia under clause (i) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985.

(4) Relation to other requirements.—The requirements of this subsection are in addition to the requirements contained in section 481(h) of the Foreign Assistance Act of 1961 and other applicable provisions of law.

(b) Conditions on Fiscal Year 1989 Assistance.—

(1) Section 481 certification.—For fiscal year 1989, the President may make a certification with respect to Bolivia under clause (i) or (ii) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(A) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985;

(B) has fully achieved the eradication targets contained in that agreement; and

(C) has begun a program of forced eradication of illicit coca cultivation.

(2) Nonwaivability.—The authorities contained in section 614 of the Foreign Assistance Act of 1961 may not be used to waive the requirements of this subsection, and may not be used to waive the requirements of section 481(h) of that Act for fiscal year 1989 with respect to Bolivia.

(c) Development Assistance.—For fiscal years 1988 and 1989, the project agreement document for any project carried out in Bolivia pursuant to chapter I of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall contain a clause requiring that project activities be suspended if the Government of Bolivia fails to keep project areas free of illicit coca cultivation.

SEC. 510. ASSISTANCE FOR PERU.

(a) Determinations Regarding Narcotics Control Cooperation.—In making determinations with respect to Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assitance Act of 1961 for each of the fiscal years 1988 and 1989, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

(b) Upper Huallaga Valley Project.—Funds authorized to be appropriated for fiscal years 1988 and 1989 to carry out chapter 1 of part I of that Act (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if, before obligating funds for that fiscal year, the Administrator of that Agency determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 511. ASSISTANCE FOR MEXICO.

(a) Limitation on Assistance.—Of the amounts made available for each of the fiscal years 1988 and 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not more than $15,000,000 may be made available for Mexico.

(b) Prosecution of Those Responsible for the Torture and Murder of DEA Agents.—Of the funds allocated for assistance for Mexico for each of those fiscal years under that chapter, $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior, and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

SEC. 512. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) Greater Attention.—The Congress urges the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) Earmarking of Assistance.—Of the amounts made available for each of the fiscal years 1988 and 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $1,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 513. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President $1,000,000 for each of the fiscal years 1988 and 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effect of production and trafficking of illicit narcotics on source and transit countries.

SEC. 514. DEVELOPMENT OF MODEL TREATIES AND COMPREHENSIVE ANTIDRUG LAWS.

The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive antinarcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad. The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 515. REPORTING ON TRANSFER OF U.S. ASSETS.

Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics related criminal activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961. At the end of each fiscal year, the President shall submit a report to the Congress of all such transfers during that fiscal year, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 516. ESTABLISHMENT OF A LATIN AMERICAN REGIONAL ANTINARCOTICS POLICE FORCE.

The President shall direct the United States representative to the Organization of

American States to seek the views of other member nations on the feasibility of establishing a regional Latin American anti-narcotics force.

SEC. 517. ESTABLISHMENT OF A REGIONAL ANTI-NARCOTICS TRAINING CENTER IN THE CARIBBEAN.

It is the sense of the Congress that the Assistant Secretary of State for International Narcotics Matters should seek the establishment of, and should contribute funds or other resources to, a regional anti-narcotics training center in the Caribbean, and should seek such contributions from other countries for such a center.

SEC. 518. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States,".

SEC. 519. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country, with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

SEC. 520. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 521. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(7) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

TITLE VI—EUROPE AND THE MIDDLE EAST

Page 94, after line 21, insert the following:

(d) Funds for United States Contributions.—It is the sense of the Congress that a priority use of any funds—

(1) which are made available for fiscal year 1988 or fiscal year 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) or chapter 4 of part II of that Act (relating to the economic support fund), and

(2) which are unobligated at the end of that fiscal year and would otherwise be returned to the Treasury, should be the furnishing of assistance to Jordan or United States private and voluntary organizations to support the West Bank and Gaza development initiative.

Page 109, after line 8, insert the following:

SEC. 617. SYRIAN SPONSORSHIP AND SUPPORT FOR TERRORISM.

(a) Findings.—The Congress finds that—

(1) a terrorist operating on behalf of Syrian intelligence was convicted in London of attempting to bomb a civilian airliner in November 1986, prompting the withdrawal of the United States Ambassador to Syria and the imposition of certain sanctions;

(2) the terrorist group Saiqa is under Syrian direction, receives training from the Syrian army, and is believed to be responsible for a number of bombings in Western Europe, including the 1979 bombing of a synagogue in Vienna;

(3) while the offices of the Abu Nidal terrorist group have been expelled from Damascus, the group continues to maintain training bases in the Syrian-occupied Bekaa valley;

(4) the terrorists responsible for the April 1986 bombing of Americans in West Berlin admit to receiving explosives from the Syrian embassy in West Berlin;

(5) the Abu Moussa faction of the PLO maintains offices in Damascus, trains terrorists in Syria, receives instructions from Syrian intelligence officers, and received Syrian diplomatic support in an attempt to destroy a commercial airliner in Madrid in June 1986;

(6) the Popular Front for the Liberation of Palestine, led by George Habash, maintains terrorist forces in Syria, and has claimed responsibility for numerous attacks on Israeli civilians and assassinations of Arab mayors on the West Bank;

(7) the Democratic Front for the Liberation of Palestine maintains offices in Damascus and training camps in Syria; and

(8) the Armenian Secret Army for the Liberation of Armenia (ASALA) and the Kurdish Worker's Party (PKK) have received support from Syria for attacks against Turkish civilians.

(b) Report.—Not later than 120 days after the date of enactment of this Act, the President shall submit a report on the nature and extent of Syrian financial, political, and training support of terrorist groups. This report shall be unclassified, with a classified annex if necessary.

(c) Sense of Congress.—It is the sense of the Congress that—

(1) the United States should not rescind any of the sanctions currently in force against Syria until Syria expels all terrorist groups operating against the United States and its allies and ceases to support or allow terrorist bases on her territory; and

(2) the President should resume his request to United States corporations that, in the national interest, they voluntarily suspend operations in Syria, and United States corporations should resume their voluntary compliance with that request.

(d) Sanctions Described.—The sanctions referred to in paragraph (1) of subsection (c) are those economic and diplomatic measures that were taken with respect to Syria on November 14, 1986, and which were in effect on November 1, 1987, and include the expansion of export controls on all national security controlled items, termination of Export-Import Bank credits, termination of insurance from the Overseas Private Investment Corporation, withdrawal of the offered export enhancement program, the prohibition on the sale of Syrian Arab Airline tickets, notice of termination of the International Air Transport Agreement between the United States and Syria, reduction in the staffs of the Syrian embassy in Washington and the United States embassy in Syria, increased restrictions on visas, and restrictions on high level visits.

Page 109, after line 8, insert the following:

SEC. 618. HUMAN RIGHTS IN BULGARIA.

(a) Findings.—The Congress finds that—

(1) the Government of the People's Republic of Bulgaria is a signatory to the Final Act of the Conference on Security and Cooperation in Europe which calls upon the signatory states to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, and belief;

(2) The Bulgarian constitution provides for certain basic rights, including free speech and press, association and demonstration, and freedom of worship;

(3) in late 1984 and early 1985, over 900,000 members of the Turkish minority were forcibly compelled to change their Turkish names to new Bulgarian names, and Bulgarian authorities imprisoned ethnic Turks for their nonviolent opposition to the name change; and

(4) the continuing repression of the Turkish minority includes the ban on the use of the Turkish language by the Turkish minority in public, the prohibition of Turkish customs, and the circumscribing of Muslim religious practices.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) the Bulgarian Government should abide by its commitments under the Fnal Act of the Conference on Security and Cooperation in Europe; and

(2) the President, the Secretary of State, and the United States delegation to the Vienna follow-up meeting of the Conference on Security and Cooperation in Europe should continue—

(A) to speak out forcefully against violations of human rights in Bulgaria, including the Bulgarian Government's treatment of the Turkish minority, and

(B) to use all diplomatic means to resolve outstanding human rights problems in Bulgaria.

Page 109, after line 8, insert the following:

SEC. 610. HUMAN RIGHTS IN ROMANIA.

(a) Findings.—The Congress finds that—

(1) emigration rates from Romania to the United States have increased from 1,422 last year to 1,932 as of October 1, 1987;

(2) longstanding prisoner of conscience cases were successfully resolved during the summer of 1987, namely the cases of Ioan Ruta, and Erno Borbely, Laszio Buza, and Bela Pall;

(3) all such improvements in Romania are to be welcomed;

(4) in spite of these improvements, a number of United States-Romanian divided families cases, such as the case of Napoleon Fodor, remain unresolved;

(5) human contacts continue to be hindered by laws and decrees such as decree number 408 which prohibits Romanian citizens from communicating with foreigners; and

(6) among the rights that Romania has failed to respect are the rights of religious groups and ethnic minorities.

(b) Statement of Policy.—It is the sense of Congress that—

(1) the United States should seek improved compliance by the Romanian Government with its human rights obligations

under the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Universal Declaration of Human Rights;

(2) the United States should express concern for the fate of Romanians who have not yet received permission to emigrate and who may be harassed and persecuted for their attempts to emigrate; and

(3) the Secretary of State and other executive branch officials should take every opportunity to encourage the Romanian Government to live up to its obligations under the Helsinki Final Act and other international instruments, including at the ongoing Vienna review meeting of the Conference on Security and Cooperation in Europe.

Page 109, after line 8, insert the following:

SEC. 620. PLIGHT OF JEWS IN ARAB COUNTRIES.

(a) Findings.—The Congress finds that—

(1) many Jews presently living in Israel and the Diaspora are originally from Morocco, Syria, Yemen, Iraq, Libya, Lebanon, and the other countries in the Middle East and North Africa representing the proud heritage of oriental Jewry;

(2) the number of Jews who are still citizens of these countries has dropped drastically, as can be seen when comparing 1948 to 1984; Syria, 45,000 versus 4,500; Morocco, 40,000 versus 17,000; Iraq, 125,000 versus fewer than 300; and Libya, 40,000 versus none;

(3) these numbers demonstrate that thriving Jewish cultures and communities, each unique, each historic, each contributing substantially to the enrichment of their respective countries, have been decimated; and

(4) several incidents, including the execution of the leader of the Lebanese Jewish community, the tightening of the noose by the Syrian government around the necks of its Jewish citizenry, and the shooting and stabbing of a pregnant Jewish woman and her two young children by unknown assailants in the Syrian town of Aleppo, remind us that, with the notable exceptions of Morrocco and Tunisia, those Jews remaining in Arab countries continue to suffer deprivations, degredations, and hardships, and continue to live in peril.

(b) Statement of Policy.—It is the sense of the Congress that the United States Government should—

(1) call upon the governments of those Arab countries where Jews still maintain a presence to guarantee their Jewish citizens full civil and human rights, including the right to lead full Jewish lives free of fear and to emigrate if they so choose;

(2) specifically urge the Government of Syria to half its intolerable policy of holding its Jewish citizenry hostage through harassment and intimidation and to allow them to emigrate; and

(3) commend countries such as Morocco and Tunisia for their tolerant treatment of their Jewish minorities and for protection they have provided against attack from the Moslem majorities.

On page 107, between lines 14 and 15, insert the following:

"(c) Assistance in Support of Solidarity.—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for each of the fiscal years 1988 and 1989, not less than $1,000,000 shall be available only for the unconditional support of the independent Polish trade union "Solidarity"."

In lieu of the matter proposed to be added to the bill by the Dornan amendment, insert the following:

(c) Support for Solidarity.—It is the sense of the Congress that—

(1) Solidarity deserves special praise and recognition as the only free and independent trade union in Poland;

(2) Solidarity reflects the Polish people's desire for free and democratic institutions and activities; and

(3) Solidarity is one of the leading democratic representatives of the Polish working people.

(d) Assistance in Support of Democracy in Poland.—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for each of the fiscal years 1988 and 1989, not less than $1,000,000 shall be available only for the unconditional support of democratic institutions and activities in Poland.

TITLE VII—WESTERN HEMISPHERE

Page 121, after line 25, insert the following:

SEC. 713. ECONOMIC GROWTH IN CENTRAL AMERICA.

(a) Findings.—The Congress finds that—

(1) Central America is a region of great economic potential, which has significant natural resources, favorable location, and people justly celebrated for their intelligence, courage, vitality, generosity, and sense of personal honor;

(2) ultimately genuine democracy can only be rooted in the full economic growth and development of Central America's regional economy;

(3) this economic growth must be the product of Central American initiated economic reforms such as deregulating overly controlled economies, privatizing government owned corporations, offering a legal environment conducive to foreign investment, stabilizing regional currencies and possibly introducing a regional trade currency, and lowering high marginal income tax rates, creating efficient capital markets;

(4) the expansion of trade is essential to the economic success of Central America and this will require a more complete integration of the individual economies in the region;

(5) there is a crucial need within Central America for millions of Central Americans to become economic participants in their national patrimony;

(6) proposals for greater economic expansion must always be supplemented with policies to encourage development at the grassroots;

(7) additional emphasis should be placed on the creation of genuine local self-government, exercised in communities having their own independent revenue base, because free political parties, labor unions, solidarity associations, universities and research institutions, newspapers, fraternal organizations, and churches are essential to a fully functioning democracy; and

(8) no program for advancing the prosperity of the people of Central America can have any real chance of success until the people of the free democratic countries of the region can feel confident that they are secure against invasion and antidemocratic insurrection.

(b) Sense of Congress.—It is, therefore, the sense of the Congress that economic growth, development, and prosperity is possible in Central America if appropriate free market reforms are initiated and undertaken by the Central American nations themselves and these reforms are supported by the Western, free market democracies.

Page 121, add the following after line 25:

SEC. 714. RELATIONS WITH THE PRIVATE SECTOR IN EL SALVADOR

(a) Findings.—The Congress finds that—

(1) the Congress has, sometimes reluctantly, supported massive flows of assistance to El Salvador in the hope that all elements of Salvadoran society would eventually work together for peace, social justice, and more equitable economic development; and

(2) United States fiscal resources, particularly for foreign assistance, currently are extremely limited and are likely to be restricted in the future to those programs which demonstrate positive returns.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the Government of El Salvador, the business community (including the small business community), the free labor unions, and all other potentially constructive groups should begin a new dialogue for nation building in El Salvador.

(2) none of the these elements can be excluded from the national dialogue; and

(3) the Government of El Salvador and the private sector must abandon the distrust and antagonism that have characterized their relations in the past and must move forward in a cooperative and constructive manner to resolve the problems that threaten to undermine the democratic processes now underway in that country.

Page 123, after line 12, insert the following new section 723 (and redesignate subsequent sections accordingly):

SEC. 723. POLICY REGARDING CHILE.

It is the sense of the Congress that the Government of Chile should end its oppression of trade unions, opposition political parties, and freedom of expression. As the free and open expression of divergent views is essential for a free and open democratic society, the Congress especially condemns the recent actions by the Chilean Government which censor the expression of political views in that country's press. Congress calls upon the Government of Chile to rescind such laws and embark on a program of democratization.

Page 124, line 14, strike out "$16,000,000 for fiscal year 1989" and insert in lieu thereof "$20,000,000 for fiscal year 1989".

Page 145, insert the following after line 18:

SEC. 766. ASSISTANCE TO NICARAGUA BY OTHER COUNTRIES.

(a) Findings.—The Congress finds that—

(1) President Arias of Costa Rica proposed, and on August 7, 1987, the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua signed, an historic agreement to bring peace to Central America; and

(2) the peace plan in that agreement calls for ceasefires, amnesties, dialogue, democratic processes, and the reduction of military forces.

(b) Sense of Congress.—It is the sense of the Congress that unless and until—

(1) the Nicaraguan Government is in full compliance with its obligations under the Central American Peace Agreement signed in Guatemala City on August 7, 1987, and

(2) democratic institutions are established in Nicaragua which result in broad respect for fundamental human rights of all citizens of that country.

the Governments of the countries of Western Europe should not provide any direct assistance to the Government of Nicaragua. Any assistance to the Nicaraguan people should be limited to aid provided through organizations which are not under the direct or indirect control of the Government of Nicaragua.

Page 124, after line 20, insert the following:

(a) POLICY DECLARATIONS WITH REGARD TO HAITI.—

(1) FAILURE OF NATIONAL GOVERNING COUNCIL TO SUPPORT TRANSITION TO DEMOCRACY.—The United States condemns the failure of the National Governing Council of Haiti to fulfill its pledge to the Haitian people, to the United States, and to the international community to support a transition to democracy in accordance with the provisions of the constitution overwhelmingly approved by the Haitian people on March 29, 1987.

(2) FAILURE OF NATIONAL GOVERNING COUNCIL TO PROTECT HUMAN RIGHTS.—The United States condemns the National Governing Council of Haiti for its failure to provide security and protection for the internationally recognized human rights of the people of Haiti, to abide by international law with respect to human rights, and to provide adequate protection for diplomats as required by international law.

(3) POLICY REGARDING UNITED STATES ASSISTANCE.—It shall be the policy of the United States to suspend all assistance to Haiti (other than the types of assistance described in subsection (c)(3)) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) ACTIONS BY THE UNITED STATES TO PROMOTE HUMAN RIGHTS AND DEMOCRACY IN HAITI.—

(1) IN GENERAL.—The President shall take such steps consistent with otherwise applicable law, as the President deems appropriate—

(A) to encourage full respect for human rights in Haiti;

(B) to promote the Haitian Government's prompt adherence to the commitments it has made to the international community to hold free and fair elections and to respect human rights; and

(C) to assist the people of Haiti in securing a transition to a democratic form of government.

(2) SPECIFIC ACTIONS.—The Congress urges the President to take the following actions, by exercising existing authorities, to achieve the objectives specified in paragraph (1):

(A) Use the vote and influence of the United States to halt or discourage the provision of any assistance to Haiti by international financial institutions, international organizations, and other governments (other assistance of the types described in subsection (c)(3)).

(B) Undertake diplomatic initiatives to secure international cooperation to maximize diplomatic and economic pressure on Haiti.

(C) Immediately suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act.

(D) Furnish assistance to the news media in Haiti to assure freedom of speech and freedom of the press for the Haitian people.

(E) Furnish such assistance (including funding) as the President considers appropriate to—

(i) private and voluntary organizations and nongovernmental organizations:

(ii) foreign governments, including an entity recognized as the legitimate government of Haiti in accordance with subparagaph (G); and

(iii) international organizations.

Assistance under this subparagraph could include United States participation in international peacekeeping activities. It is the sense of the Congress that should the United States consider participation in peacekeeping activities in Haiti, the United States should undertake such activities jointly with other countries and only if the United States has clear indications, based on consultations with entities broadly representative of the Haitian people, that such activities would have the support of the Haitian people.

(F) Sever diplomatic relations with the National Governing Council of Haiti.

(G) Recognize an alternative entity, which is committed to a prompt transition to democracy, as the legitimate government of Haiti.

(H) Impose an arms embargo, impose trade and financial sanctions (under the International Emergency Economic Powers Act), and seek international cooperation for the imposition multilaterally of an arms embargo and trade and financial sanctions against the Government of Haiti.

(3) DENIAL OF VISAS.—In addition, in order to achieve the objectives specified in paragraph (1), the President is authorized and urged to deny visas to, and exclude from admission to the United States, aliens—

(A) who have been involved in the denial of human rights in Haiti or in activities designed to impair Haiti's transition to democracy, or

(B) who are the immediate members of the family and the associates of aliens described in subparagraph (A).

(c) RESTRICTIONS ON ASSISTANCE FOR HAITI.—

(1) SUSPENSION OF ASSISTANCE.—Funds made available by any Act or joint resolution may not be obligated or expended to provide assistance to Haiti (other than the assistance described in paragraph (3)) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(2) ELECTED CIVILIAN GOVERNMENT.—After February 7, 1988, the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, shall not be considered to have been fully and faithfully adhered to by the Government of Haiti for purposes of paragraph (1) unless—

(A) a civilian government is in office pursuant to the provisions for elections set forth in the Haitian Constitution approved on March 29, 1987; and

(B) that government was elected in elections held under the auspices of the Provisional Electoral Council, appointed pursuant to the Haitian Constitution, which was responsible for the organization and administration of the election scheduled for November 29, 1987.

(3) EXCEPTIONS TO BAN ON ASSISTANCE.—Paragraph (1) does not apply with respect to—

(A) assistance, provided through private and voluntary organizations or nongovernmental organizations, to meet humanitarian and developmental needs or to promote respect for human rights and the transition to democracy;

(B) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations; or

(C) assistance authorized by subsection (d).

(d) ASSISTANCE FOR ELECTIONS IN HAITI.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide such logistical, technical, and financial assistance through such departments and agencies of the United States Government as the President determines appropriate for purposes related to the organization and holding of elections under the auspices of the Provisional Electoral Council pursuant to the constitution approved by the Haitian people on March 29, 1987.

(2) CONGRESSIONAL REVIEW.—Not less than 15 days before providing any assistance pursuant to paragraph (1), the President shall notify the committees of the Congress specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section. The notification requirement of this subsection is in addition to any otherwise applicable requirements for notification to the Congress with respect to such assistance. The notification requirement of this subsection does not apply to the extent that section 501 of the National Security Act of 1947 applies with respect to the assistance to be provided.

(e) PERIODIC NOTIFICATION TO THE CONGRESS.—The President shall keep the Congress advised, on a regular basis, of actions taken pursuant to subsections (b), (c), and (d) and on progress made toward achieving the objectives specified in subsection (b)(1).

Page 124, line 21, strike out "(a)" and insert in lieu thereof "(f)"; page 126, line 8, before the period insert ", subject to subsection (c)"; and after line 8, insert the following:

(5) TERMINATION OF EARMARKINGS.—The requirements of this subsection that specified amounts of assistance shall be available only for Haiti shall cease to apply on February 7, 1988, unless as of that date the conditions specified in subparagraphs (A) and (B) of subsection (c)(2) have been satisfied. If assistance described in paragraph (1) or (2) of this subsection is provided for Haiti after that date, consistent with subsection (c), that assistance shall be provided subject to paragraph (3) of this subsection and, in the case of assistance under chapter 1 of part I of the Foreign Assistance Act of 1961, shall be provided in accordance with the last two sentences of paragraph (2) of this subsection.

Page 126, line 9, strike out "(b)" and insert in lieu thereof "(g)"; line 22, after "(j)" insert "is subject to subsection (c) and"; page 127, line 4, strike out "(c)" and insert in lieu thereof "(c)(2)"; and page 129, strike out lines 16 through 22.

Page 118, strike out line 6 and all that follows through line 20 on page 120 and insert in lieu thereof the following:

SEC. 710. RESTRICTIONS ON ASSISTANCE TO PANAMA.

(a) IN GENERAL.—Unless the President has certified to the Congress that—

(1) the Goverment of Panama had demonstrated substantial progress in assuring civilian control of the armed forces, and the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) the Government of Panama is conducting an impartial investigation into allegations of illegal actions by members of the

Panama Defense Forces, including illicit drug-trafficking activities;

(3) freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people; and

(4) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections.

funds authorized to be appropriated by this Act may not be made available for assistance for Panama (other then the assistance described in subsection (e)), the Overseas Private Investment Corporation may not carry out programs for fiscal year 1988 or 1989 in Panama under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, and letters of offer may not be issued to Panama under the Arms Controls Act during fiscal year 1988 or 1989.

(b) Additional Requirements for Fiscal Year 1989.—Unless the President has certified to the Congress that presidential elections were held in Panama as scheduled in 1989 and were free, fair, and honest—

(1) 50 percent of the funds, which are authorized to be appropriated by this Act for each foreign assistance appropriations account for fiscal year 1989 and which are allocated for assistance for Panama (excluding funds for the assistance described in subsection (c)), shall be withheld from obligation:

(2) 50 percent of the amounts allocated by the Overseas Private Investment Corporation for programs in Panama for fiscal year 1989 shall be withheld; and

(3) letters of offer may not be issued to Panama during fiscal year 1989:

The requirements of this subsection are in addition to the requirements of subsection (a).

(c) Exceptions.—Subsections (a) and (b) do not apply with respect to—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) which is provided through private and voluntary organizations or other nongovernmental organizations;

(2) assistance for international narcotics control under chapter 8 of part I of the Foreign Assistance Act of 1961;

(3) disaster relief assistance, including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961;

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act; and

(6) assistance necessary for the continued financing of education for Panamanians in the United States.

(d) Certification Requirements.—Each certification required by this section shall be submitted in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate at least 30 days before any assistance subject to this subsection is provided or any letter of offer subject to this subsection is issued, shall discuss fully and completely the justification for making the required determination, and shall describe fully the assistance proposed to be provided and the defense articles and defense services proposed to be sold, including the purposes to which the assistance or sale is directed.

(e) Nonapplicability of Other Conditions.—Section 761 of this Act shall not apply with respect to assistance for Panama.

Page 123, after line 6, insert the following:

SEC. 722. NONLETHAL MILITARY ASSISTANCE FOR URUGUAY.

Of the amounts authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), not less than $5,000,000 for each of the fiscal years 1988 and 1989 shall be available only for use in providing nonlethal defense articles to Uruguay.

And renumber subsequent sections accordingly.

Page 121, after line 25, insert the following:

SEC. 713. JANUARY 22 MOVEMENT OF MOTHERS OF POLITICAL PRISONERS AND HUMAN RIGHTS IN NICARAGUA.

(a) Findings.—The Congress finds that—

(1) the January 22 Movement of Mothers of Political Prisoners in Nicaragua has joined forces to draw attention to the plight of relatives incarcerated for supposed violations of security laws;

(2) over 1,500 mothers of political prisoners in Nicaragua, through their strength and resolve, utilize peaceful means to dramatize human rights violations in Nicaragua, describe the Sandinista prison system as "cruel and unjust", and have sponsored assemblies which have drawn hundreds of people despite government efforts to stop the demonstrations;

(3) the participants in the January 22 Movement of Mothers of Political Prisoners risk reprisals against their families and themselves and have suffered cruel and harsh punishment for their activities, including threats, torture, detainment, and further arrest of their family members to coerce an end to their activism for justice;

(4) the January 22 Movement of Mothers of Political Prisoners demand the abolition of the highly political Anti-Somocists Tribunals (TPSs) which operate outside of the existing legal system, enjoy absolute discretion concerning the admissibility of evidence, and fail to recognize basic rights of due process;

(5) the Nicaraguan Constitution, which purports to guarantee basic individual, civil, and political rights, was suspended hours after it was promulgated and a state of emergency, which suspends basic civil rights, was implemented and is still in place; and

(6) the regional peace agreement signed by Nicaraguan President Daniel Ortega in Guatemala on August 7, 1987, which requires the Sandinista government to undertake immediate reforms to democratize Nicaraguan society and end the state of emergency, is consistent with the demands of the January 22 Movement of Mothers of Political Prisoners.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the January 22 Movement of Mothers of Political Prisoners should be commended for calling attention to the Sandinistas' deplorable human rights record and for demonstrating inspiring courage in working peacefully for the improvement of human rights in Nicaragua;

(2) the January 22 Movement of Mothers of Political Prisoners demonstrates the need for respect for internationally recognized human rights, including respect for freedom of speech, freedom of the press, freedom of assembly, due process of law, the restoration of individual, political, and civil rights, and the lifting of the suspension of constitutional guarantees in Nicaragua, which are required by the Guatemala regional peace agreement;

(3) the Sandinista government should comply with the demands of the January 22 Movement of Mothers of Political Prisoners and issue a decree of amnesty to all political prisoners and undertake efforts to bring about a general improvement in what has been a contemptible record in their treatment of Nicaraguan citizens;

(4) the Sandinista government should issue a total political amnesty, conduct negotiations directly with the resistance, guarantee the freedom and safety of all Nicaraguans from harassment and persecution, and grant full freedom of the press and other internationally recognized rights, which heretofore have been held in disdain by Sandinista authorities; and

(5) the Sandinista government should, in general, undertake all efforts to meet the requirements of the Guatemala regional peace agreement faithfully and completely,

TITLE VIII—AFRICA

Page 201, after line 8, insert the following:

SEC. 830. ECONOMIC ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) Earmarking.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), not less than $85,000,000 for each of the fiscal years 1988 and 1989 shall be available only for assistance for sub-Saharan Africa.

(b) Authorization.—In order that the earmaking of funds for sub-Saharan Africa contained in subsection (a) not reduce the amount of funds authorized for other regions of the world, there is authorized to be appropriated for each of the fiscal years 1988 and 1989 $85,000,000 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961.

SEC. 841. POLICY REGARDING TUNISIA.

(a) Findings.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Tunisia, which has a long tradition of political stability, relative political openness, and economic and social progress.

(2) there was a decline in the human rights situation in Tunisia during 1986 and 1987, including government repression of opposition parties, unions, student organizations, and Islamic groups, and these developments threaten future political stability and economic and social progress; and

(3) the recent announcement by the new government of Tunisia that the Tunisian people "deserve an institutionalized and sophisticated political life based on multipartyism and diversity of grassroots organizations" is a significant and promising development, as is the new government's pledge to introduce legislation clarifying the role of political parties and the status of the press.

(b) United States Policy.—The United States reaffirms its strong commitment to the territorial integrity of Tunisia. It is the policy of the United States to base security assistance to Tunisia for fiscal years 1988 and 1989 on the expectation that the Government of Tunisia will take steps, in accordance with its own political tradition of openness to advance both political stability and economic and social programs.

(c) Economic Support Fund.—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $16,200,000 for fiscal year 1988 and not less than $16,200,000 for fiscal year 1989 shall be available only for Tunisia.

Page 207, strike out line 20 and all that follows through line 2 on page 208.

Page 210, after line 3, insert the following new subsection (c), and redesignate existing subsection (c) as subsection (d):

(c) House Lot Program.—

(1) Authority to use funds; characteristics of program.—Subject to paragraph (3), not more than $13,000,000 for fiscal year 1988, and not more than $12,000,000 for fiscal year 1989, of the amounts made available for assistance for the Philippines under chapter 4 of part II of that Act may be used to assist in the implementation of a productive house lot program for the rural landless in the Philippines which has the following characteristics:

(A) The program will involve the establishment of village centers consisting of a cluster of individual house lots. These lots will normally consist of not less than 1,000 square meters. These lots will be used for a dwelling and for agricultural cultivation by an individual or family, who will have title to the lot and control over it and the production of agricultural commodities on it.

(B) Not less than half of the resources for the program will come from other resources available to the Government of the Philippines.

(C) The program will not use funds made available pursuant to this subsection for housing or electricity, water, or roadways, but will use other funds for these purposes.

(D) The funds provided pursuant to this subsection will be used to cover the cost of purchasing land for the program, for technical assistance (particularly in high value crop production), for agro-processing centers, and for related purposes in order to assist and encourage farmers in introducing high value crops in the village centers.

(2) Private Voluntary Groups.—It is the intent of the Congress that private voluntary groups should be encouraged to become involved with the administration of any house lot program supported under this subsection.

(3) Conditionally.—Funds may be used pursuant to paragraph (1) of this subsection for such a productive house lot program only if, not later than the end of the 9th month of fiscal year 1988, the Government of the Philippines requests those funds for such a program and proposes an effective productive house lot program having the characteristics specified in this subsection.

Page 210, line 23, strike out "Not" and all that follows through the end of line 2 on page 211.

Page 214, after line 18, insert the following:

SEC. 911. SECURITY ASSISTANCE AND ARMS EXPORT CONTROL PREFERENCES FOR NEW ZEALAND.

(a) Findings.—The Congress finds that—

(1) the people of the United States enjoy a longstanding friendship and close association with the people of New Zealand, and not only share common democratic values, heritage, and national interests but have fought side-by-side in the two World Wars of this century as well as the Korean conflict and the Vietnam conflict, and have participated jointly in numerous multilateral peacekeeping efforts under United Nations and similar auspices;

(2) visits to New Zealand ports by United States naval vessels are a part of this historical, overall framework of military cooperation and coordination which includes many other functions of benefit to all parties to the ANZUS Treaty;

(3) the recent codification of New Zealand Government policy to deny port access to United States ships which might be nuclear powered or nuclear armed is incompatible with the "neither confirm nor deny policy" of the United States, has raised serious operational difficulties for United States naval forces in defending the national security interests of the United States and its allies, and impairs the objective of maximum military cooperation between the United States and New Zealand under the ANZUS Treaty;

(4) the President has taken appropriate action in response to New Zealand's diminished defense cooperation with the United States by suspending United States obligations to New Zealand under the ANZUS Treaty, as announced in August 1986; and

(5) important aims of United States policy, in reaction to the port policies and law of New Zealand, must be to maintain the ANZUS Treaty alliance structure during the absence of New Zealand, to look forward to New Zealand's early return to a normal trilateral defense relationship, and to deny the Soviet Union any potential benefit it might otherwise derive from this temporary discord in the ANZUS Treaty alliance.

(b) New Zealand Should Reconsider its Policy.—The United States urges the Government of New Zealand—

(1) to reconsider its decision and law denying port access to certain United States ships, and

(2) to resume its fulfillment of its obligations under the ANZUS Treaty.

(c) Suspension of Preferences.—Section 515(a)(6) of the Foreign Assistance Act of 1961 and sections 3(d)(2)(B), 21(e)(2), 21(g) 36(b)(1), 36(b)(2), 36(c)(2)(B), and 63(a)(2) of the Arms Export Control Act shall apply with respect to New Zealand only if the President determines, and reports to the Congress, that New Zealand is complying fully with its obligations under the ANZUS Treaty.

(d) ANZUS Treaty.—As used in this section, the term "ANZUS Treaty" means the Security Treaty Between Australia, New Zealand, and the United States.

(e) Assignment of United States Military Personnel To Manage Defense Cooperation Measures.—Section 515(a)(6) of the Foreign Assistance Act of 1961 is amended by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(f) Charges for Certain Arms Sales Costs.—Section 21(e)(2) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(g) Cooperative Military Training Agreements.—Section 21(g) of the Arms Export Control Act is amended by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

(h) Congressional Review of Arms Transfers.—The Arms Export Control Act is amended—

(1) in section 3(d)(2)(B), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand";

(2) in section 36(b)(1), by inserting "(If the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand" in the second sentence following subparagraph (P);

(3) in section 36(b)(2), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand";

(4) in section 36(c)(2)(B), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" "New Zealand"; and

(5) in section 63(a)(2), by inserting "(if the President has made the determination described in section 911(c) of the International Security and Development Cooperation Act of 1987)" after "New Zealand".

Page 214, after line 18, insert the following:

SEC. 912. HUMAN RIGHTS POLICY IN THE PEOPLE'S REPUBLIC OF CHINA.

(c) Condemning Human Rights Violations by the Government of the People's Republic of China.—The Congress—

(1) strongly condemns the continued violations of human rights by the Government of the People's Republic of China, including—

(A) the one-child-per-family policy adopted in 1979 that relies on coercion, economic penalties, and forced abortions (often late in pregnancy) as a means of enforcing compliance;

(B) the continued use of a repressive "birth quota" system that empowers the authorities to dictate to couples if and when they may have a child; and

(C) the use of forced abortions and involuntary sterilizations of Tibetans by Chinese authorities in Tibet; and

(2) affirms internationally recognized basic human rights, such as—

(A) the conclusion made by the 1981 United Nations symposium on Population and Human Rights that compulsory abortion is a violation of human rights; and

(B) the declaration made at the Nuremberg War Crimes trials that forced abortion be regarded as a "crime against humanity".

(b) Instructing the President and the Department of State.—The Congress asks that the President and the Department of State—

(1) raise the concerns expressed in this section with the Government of the People's Republic of China, and

(2) call upon that Government to cease immediately this repressive policy.

Page 214, at the end of line 18, insert the following:

The executive branch shall inform the appropriate oversight committees of the Congress of all progress made in POW/MIA cases in Laos and shall notify the appropriate committees of the Congress of any United States expenditures approved for projects associated with POW/MIA cases in Laos.

Page 226, after line 10, insert the following:

SEC. 932. HUMAN RIGHTS OF THE SIKHS IN THE PUNJAB OF INDIA.

(a) Findings.—The Congress finds that—

(1) Amnesty International found in its 1987 report that India has failed to adequately protect the human rights of the Sikhs living in the Punjab;

(2) there is evidence that the Indian authorities are currently suspending basic freedoms in the Punjab and that increasingly harsh police tactics are only aggravating the situation;

(3) due to the breakdown of law and order in the Punjab, India's central government has dismissed the elected state government and has introduced large numbers of police and paramilitary units;

(4) these paramilitary units temporarily sealed off the Golden Temple, the most sacred religious shrine of the Sikh people, and for the first time in centuries, devotees could not offer prayers or bathe in the historic holy tank build around the Golden Temple; and

(5) historically, Sikhs have been a peaceful people, and most Sikhs still want a peaceful solution in the Punjab.

(b) Statement of Policy.—It is the sense of the Congress that the Government of India should continue to allow Sikhs to have full access to the Golden Temple for the purpose of religious worship and should remove all military presence from the shrine as soon as possible. While the Congress condemns the use of terrorist tactics in the region, the Government of India should use restraint in resolving its dispute with the Sikh people in the Punjab. The Congress supports the territorial integrity of India and respectfully urges Prime Minister Ghandi, and all responsible leaders of the Sikh community, to renew their efforts to achieve a political solution that will permit the settlement of accumulated grievances, the restoration of law and order, and the return to home rule in the Punjab, while guaranteeing religious freedom and respect for the human rights of all the people of India.

Page 214, after line 18, insert the following:

SEC. 911. TRANSFERS OF SILKWORM MISSILES TO IRAN BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) Findings.—The Congress finds that—

(1) on October 16, 1987, the American-flagged tanker Sea Isle City was struck by a Chinese-produced Silkworm missile;

(2) at least 18 persons aboard the Sea Isle City were injured, among them 2 Americans;

(3) on October 15, 1987, the American-owned tanker Sungari was struck by a Chinese-produced Silkworm missile;

(4) the People's Republic of China has continued to supply Silkworm missiles to Iran despite repeated official protests by the United States;

(5) the People's Republic of China has so far not unreservedly declared its willingness to support an arms embargo of Iran if Iran refuses to accept United Nations Security Council Resolution 598 of July 20, 1987; and

(6) the United States is engaged in significant transfers of military-related technology and weapons to the People's Republic of China.

(b) Declaration of Policy.—it is the sense of Congress that—

(1) the United States should review all transfers of United States military-related technology, all sales under the Arms Export Control Act, and all deliveries pursuant to previous sales under the Arms Export Control Act, to the People's Republic of China until the Government of the People's Republic of China indicates its willingness to support an arms embargo in the event that Secretary-General Perez de Cuellar's negotiations with Iran and Iraq fail to gain Iran's acceptance of Security Council Resolution 598;

(2) the administration should make a strong representation to the Government of the People's Republic of China that the continued transfer of Silkworm missiles to Iran may seriously jeopardize relations between the United States and the People's Republic of China; and

(3) the administration should report to the Congress within 30 days after the date of enactment of this Act whether such a representation has been made, and if so, what response has been received.

Page 226, after line 10, add the following:

SEC. 930. ADMINISTRATION POLICY ON AFGHANISTAN.

(a) Findings.—The Congress finds that—

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces," political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) Report to Congress.—(1) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than sixty days after the date of enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

(3) Not later than sixty days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in a suitable classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

Page 247, after line 16, insert the following new section:

SEC. 1116. PROHIBITION ON ASSISTANCE TO COUNTRIES RECEIVING SUPERSONIC FIGHTER AIRCRAFT FROM THE SOVIET UNION.

(a) Prohibition.—For fiscal years 1988 and 1989, foreign assistance may not be provided to any country which has an agreement with the Soviet Union pursuant to which that country will obtain supersonic fighter aircraft from the Soviet Union.

(b) Definitions.—As used in this section—

(1) the term "agreement" includes a co-production agreement; and

(2) the term "foreign assistance" means any assistance under the Arms Export Control Act, the Foreign Assistance Act of 1961 (excluding assistance under chapter 9 of part I, relating to disaster assistance), or the Agricultural Trade Development and Assistance Act of 1954 (excluding emergency food assistance under title II).

Page 247, after line 16, insert the following:

SEC. 1116. ASSISTANCE TO COUNTRIES RECEIVING SUPERSONIC FIGHTER AIRCRAFT FROM THE SOVIET UNION.

(a) Criteria in Assistance Decisions.—In determining whether to provide foreign assistance to a country for fiscal years 1988 and 1989 and the amount of assistance to be provided, the President shall take into account whether that country has an agreement with the Soviet Union pursuant to which that country will obtain supersonic fighter aircraft from the Soviet Union.

(b) Definitions.—As used in this section—

(1) the term "agreement" includes a co-production agreement; and

(2) the term "foreign assistance" means any assistance under the Arms Export Control Act, the Foreign Assistance Act of 1961 (excluding assistance under chapter 9 of part I, relating to disaster assistance), or the Agricultural Trade Development and Assistance Act of 1954 (excluding emergency food assistance under title II).

Page 249, after line 15, add the following:

TITLE XIII—ASSISTANCE TO POLAND

SEC. 1301. SHORT TITLE.

This title may be cited as the "American Aid to Poland Act of 1987".

SEC. 1302. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) Funding.—For purposes of implementing the 1987 Unitd States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) Availability of Funds.—Amounts appropriated under subsection (a) are authorized to remain available until expanded.

(c) Definition.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 1303. AGRICULTURAL ASSISTANCE FOR POLAND.

Notwithstanding any other provision of law, $10,000,000 of funds made available to carry out section 103 of the Foreign Assistance Act of 1961 (relating to development assistance for agriculture, rural development, and nutrition) for fiscal year 1988 shall be available until August 15, 1988, only for agricultural activities in Poland. Any funds made available under the preceding sentence which have not been obligated or expended by such date may be obligated for other purposes in accordance with section 103 of the Foreign Assistance Act of 1961 if the Committee on Foreign Relations of the Senate, the Committee on Appropriations of each House of Congress are notified at least 15 days in advance of such obligation. Such notification shall be considered in accordance with the procedures applicable under section 634A of that Act.

SEC. 1304. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) Authority to Donate.—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 1306 of this Act) that have been approved, upon application, by the United States chief of diplomatic mission in Poland, and by the joint commission described in section 1307.

(b) Definitions.—For purposes of this section—

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 1305. USE OF POLISH CURRENCIES.

(a) Use of Polish Currencies.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 1306 of this Act) and approved, upon application, by the joint commission described in section 1307 and by the United States chief of diplomatic mission in Poland.

(b) Availability of Currencies.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

SEC. 1306. ELIGIBLE ACTIVITIES.

Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 is amended by adding at the end the following: "In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 1307 of the American Aid to Poland Act of 1987 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

"(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

"(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

"(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.".

SEC. 1307. JOINT COMMISSION.

(a) Establishment.—The joint commission referred to in section 1304 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 1306 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 1304) operating in Poland.

(b) Membership.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 1308. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

Page 249, after line 15, add the following new title:

TITLE XIV—CHEMICAL AND BIOLOGICAL WEAPONS NONPROLIFERATION

SEC. 1401. FINDING AND POLICY.

(a) Finding.—The Congress finds and declares that the spread of chemical weapons and the capability to manufacture or otherwise acquire such weapons pose a grave threat to the security interest of the United States and to continued international progress toward world peace and development. Therefore, efforts should be undertaken to stop proliferation of chemical and biological weapons in an attempt to contribute to a complete ban of these weapons.

(b) Policy.—It is the policy of the United States to—

(1) assure that the policy of the United States regarding all security assistance, including all military assistance and education and training programs, is consistent with this policy;

(2) obtain international agreement to abolish chemical and biological weapons and prohibit their manufacture, possession, or use in the spirit of the Geneva Protocol of 1925 and the Biological Weapons Convention of 1972;

(3) assure that exports from the United States of materials, equipment, or technology having significance for production of chemicals are consistent with efforts to prevent proliferation of chemical and biological weapons;

(4) obtain assurances that exports from the United States of materials, equipment, or technology having direct significance for the production of chemical and biological weapons are used for peaceful purposes;

(5) cooperate with other nations to prevent the spread of materials, equipment, and technology with properties useful for the production of chemical biological weapons;

(6) examine allegations that other countries are developing and proliferating chemical or biological weapons or materials, equipment, and technology for the production of such weapons;

(7) protect the health and safety of the public against threats from chemical or biological weapons due to accident, terrorism, or war; and

(8) coordinate the policies, programs, and other activities of all departments and agencies of the United States Government to implement this policy fully.

SEC. 1402. PROLIFERATION-RISK ASSESSMENT.

(a) In General.—The Secretary of State shall assess the risk of the proliferation of chemical or biological weapons, and shall recommend to the Congress legislation to control such proliferation. The assessment shall give particular attention to the technology of chemical or biological weapons and to the materials, equipment, and technology that have direct significance for the production and use of chemical or biological weapons.

(b) Particular Matters To Be Considered.—The assessment shall consider the following:

(1) Any recommendation for legislation required to implement fully the policy of this title.

(2) Existing technologies for the production of chemical or biological weapons.

(3) Actual and potential suppliers of materials, equipment, and technology having significance for the production of chemical weapons.

(4) The effectiveness of present United States regulatory and other authority for control of exports of such materials, equipment, and technology.

(5) The projected effect of export controls on industry in the United States, considering the likelihood of obtaining the cooperation of foreign governments in limiting exports of materials, equipment, and technology with properties useful for the production of chemical and biological weapons.

(6) Any other matter the President determines to be relevant in carrying out the policy of this title.

(c) Consultation With Other Agencies.—The assessment shall be carried out in consultation with the Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, and the Director of the Arms Control and Disarmament Agency.

(d) Report to Congress.—Not later than six months after the date of the enactment of this title, the Secretary of State shall transmit to Congress a report setting forth the results of the assessment under this section.

SEC. 1403. ANNUAL REPORT ON PROLIFERATION.

(a) In General.—The Secretary of State shall transmit to Congress a biannual report describing the status of—

(1) control of the proliferation of chemical and biological weapons;

(2) efforts to prevent the spread of such weapons; and

(3) programs to control the export of materials, equipment, and technology having direct significance for the production of chemical and biological weapons.

(b) Recommendations.—Each such report shall include any recommendation that the

Secretary considers appropriate regarding additional authority needed to carry out the policy of this title.

(c) Time for First Report.—The first such report shall be submitted two years after the date of the enactment of this title.

SEC. 1404. CHEMICAL INDUSTRY ADVISORY GROUP.

The Secretary of State shall establish a Chemical Industry Advisory Group to provide advice to the Secretary with respect to sections 1402 and 1403. Members of the Group shall be appointed from business firms in the chemical industry.

SEC. 1405. CONSULTATION WITH CONGRESS.

The Secretary of State shall keep the appropriate committees of Congress fully and currently informed of all developments of significance to the proliferation and control of chemical and biological weapons.

Page 249, after line 15, insert the following:

TITLE XV—OTHER PROVISIONS

SEC. 1501. HUMAN RIGHTS ABUSES BY THE GOVERNMENT OF CUBA.

(a) Findings.—The Congress finds that—

(1) the United Nations was established in 1945 for, among other purposes, the promotion and encouragement of respect for human rights and fundamental freedoms for all;

(2) the United Nations Human Rights Commission was established by the Economic and Social Council in 1946 to investigate and make recommendations concerning the violation of human rights and fundamental freedoms;

(3) the Government of Cuba has engaged in systematic and flagrant abuses of basic human rights and freedoms so offensive that they demand universal condemnation, including—

(A) the arbitrary arrest and prolonged imprisonment of individuals accused of political opposition to the Government of Cuba for engaging in such activities as the open or private expression of political opinions or religious beliefs, the attempt to form independent labor unions, the possession, reproduction, or intended distribution of religious or political literature, including the Universal Declaration of Human Rights, or even the professional representation by legal counsel of those so accused;

(B) the murder of political prisoners while in custody or the execution of individuals sentenced to death for political offenses;

(C) the reported systematic use of physical and psychological torture and the degrading and abusive treatment of political prisoners, especially the "plantados"—those who refuse out of conscience to participate in so-called political rehabilitation programs;

(D) the institutionalized use of a network of neighborhood informants organized by political "block committees", or so-called "Committees for the Defense of the Revolution", to repress the exercise of any freedom of expression and otherwise control the behavior of citizens through intimidation;

(E) the repression of the independent Committee for Human Rights in Cuba for its attempt to register as a legal organization under the laws of the state, and the reported arrest, disappearance, or death of members of the Committee, and the continuing persecution of its president who has had to seek the safety of a foreign embassy out of fear for his life and continues to be deprived of the right to leave Cuba to be reunited with his family; and

(F) the expulsion from Cuba of foreign journalists for having attempted to interview Cuban citizens and report objectively on the human rights situation in that country; and

(4) the United Nations has consistently failed to address the violation of fundamental human rights and freedoms in Cuba.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the United Nations and the United Nations Human Rights Commission have acted selectively and inconsistently in addressing violations of basic human rights in various countries;

(2) the United Nations General Assembly and the United Nations Human Rights Commission have failed to responsibly address the deplorable human rights situation in Cuba despite overwhelming evidence of the continuing disregard and systematic abuse of the most basic human rights by the Government of Cuba;

(3) The President, the Secretary of State, and the Permanent Representative of the United States to the United Nations are to be commended for their efforts to place Cuba on the human rights agenda of the United Nations and are strongly encouraged to continue in their efforts to bring this issue to the attention of the United Nations;

(4) the following countries are to be commended for voting in favor of considering human rights violations in Cuba, particularly in light of the thinly veiled threats of the Cuban delegation: Austria, Australia, Belgium, Costa Rica, France, Gambia, Federal Republic of Germany, Iceland, Italy, Japan, Lesoto, Liberia, Norway, Philippines, Somolia, Togo, and the United Kingdom;

(5) the United States should strongly urge the member countries of United Nations Human Rights Commission which are interested in democracy in the region, particularly Mexico, Spain, Peru, Venezuela, Argentina, and Colombia, to support the United States resolution on Cuban human rights at the next session of the Commission;

(6) the United States should take into account this vote in determining United States bilateral and other assistance to all member countries of the Commission;

(7) the United States should continue to emphasize how other countries vote on fundamental issues such as human rights when determining financial support for the United Nations, which includes the contribution to the Human Rights Commission; and

(8) the United Nations Human Rights Commission (which will hold its forty-fourth session in Geneva, Switzerland, in 1988) should include among the highest priorities of its human rights agenda consideration of human rights violations in Cuba.

Page 249, after line 15, add the following:

SEC. 1503. REPORT ON PROCESS OF INTERAGENCY REVIEW OF CERTAIN AGREEMENTS WITH CONTROLLED COUNTRIES.

(a) Evaluation of Interagency Review Process.—The Comptroller General shall evaluate and, not later than 1 year after the date of the enactment of this Act, shall submit to the Congress a report on the methods and procedures used in, and the effectiveness of, the current interagency arrangements to review agreements between controlled countries and United States Federal agencies which involve the exchange or transfer of militarily critical scientific or technological information.

(b) Factors To Be Considered.—In carrying out subsection (a), the Comptroller General shall—

(1) evaluate the adequacy of, and the need to enhance, the current interagency review process, particularly with respect to timeliness, mechanisms to ensure appropriate consultation among interested parties, and procedures to assure consistency with current United States laws, policies, and procedures;

(2) review the adequacy of resources available to the Committee on Exchanges of the Technology Transfer Intelligence Committee and other interagency groups to conduct appropriate and timely technical assessments of proposed agreements;

(3) evaluate the policy implications of linking foreign access to United States facilities or individuals to reciprocal access to renowned foreign scientists identified by the United States, including those subject to discrimination on account of their political or religious beliefs;

(4) evaluate the need for, and the feasibility and usefulness of, a requirement that persons who visit controlled countries for purposes of scientific or technological exchanges provide upon their return from such countries, in cases where the visits are supported with Federal funds or other resources of the Federal Government, briefings and reports to interested United States Government agencies on their activities in those countries; and

(5) make any other recommendations that would enhance the benefits to the United States of scientific and technological arrangements with controlled countries.

(c) Other Reviews.—Before submitting to the Congress the report described in subsection (a), the Comptroller General shall submit the report to the Departments of State, Defense, and Commerce and the National Academy of Sciences for their respective reviews of the report. When the Comptroller General submits the report to the Congress, the Comptroller General shall include with the report any comments on the report which are transmitted to the Comptroller General pursuant to such reviews.

(d) Defintion.—For purposes of this section—

(1) the term "controlled country" means any controlled country within the meaning of the Export Administration Act of 1979; and

(2) the term "militarily critical scientific or technological information" means any technology on which export controls are in effect under section 5 of the Export Administration Act of 1979.

Page 249, after line 15, insert the following:

SEC. 1505. REPORT ON SOVIET HARD CURRENCY SOURCES AND USES.

Not later than 30 days after the date of enactment of this Act, the President shall submit to the Congress a report (which shall be unclassified, with a classified annex if necessary) which provides the following information with respect to the Union of Soviet Socialist Republics, Czechoslovakia, Romania, Bulgaria, Hungary, the German Democratic Republic, and Poland:

(1) That country's hard currency income and borrowings from each of the following sources:

(A) Loans by Western governments.

(B) Commercial loans from banks in Western countries, including from branches and subsidiaries of such banks.

(C) Interbank deposits by Western banks and their branches and subsidiaries in banks owned by that country, including those banks owned by that country located in Western countries.

(D) The export earnings of that country divided into the following sectors: oil, gas, gold, arms sales (by country), and other export sources.

(2) That country's hard currency outlays toward each of the following purposes:

(A) Support for allies and client regimes (by country), including forgone hard currency income through subsidization of exports or military assistance.

(B) Support for insurgencies and terrorist groups (by group).

(C) KGB and GRU activities, including disinformation and high technology acquisition.

(D) Debt service.

(E) Imports from Western countries.

SEC. 1506. SOVIET POLICY ON JEWISH EMIGATION.

(a) Findings.—The Congress finds that—

(1) Many Jewish individuals and their families have been prevented from emigrating from the Soviet Union because they were once employed in what the Soviet Government calls "secret work";

(2) General Secretary Mikhail Gorbachev has publicly stated that possession of "State secrets" could not be grounds for refusal to allow individuals to emigrate after 5 years or 10 years at most;

(3) whereas a Soviet review board has been convened by the order of the Politburo to reconsider emigration cases which have been rejected or delayed for many years on the grounds of knowledge of "State secrets";

(4) the Soviet Union has agreed to meet formally with the United States at the highest levels to discuss matters relating to arms control, human rights, and bilateral relations; and

(5) many individuals and their families continue to wait patiently for approval of their applications to emigrate.

(b) Sense of the Congress.—It is the sense of the Congress that, in the course of his negotiations and dealings with the leadership of the Soviet Union, the President should express—

(1) the strong opposition of the United States to the Soviet Union's refusal to permit Yuli Kosharovsky, Aleksandr Lerner, Yakhov Rakhlenko, Valery Soifer, Yulian Khasin, and Gennady and Natsha Khasin, their families, and other families in similar positions, to emigrate from the Soviet Union; and

(2) the desire of the United States that the Government of the Soviet Union comply with its obligations under the Final Act of the Conference on Security and Cooperation in Europe, the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, and permit these individuals, their families, and others to emigrate from the Soviet Union.

SEC. 1507. SOVIET HUMAN RIGHTS POLICY AND THE SUMMIT.

(a) Findings.—The Congress finds that—

(1) President Reagan and General Secretary Gorbachev are meeting in Washington from December 6 to 10, 1987;

(2) among the issues on the agenda are human rights;

(3) despite such welcome developments as the release of political prisoners, the resolution of longstanding divided family and refusenik cases, and the increase in emigration rates, the Soviet Union continues to violate the internationally recognized human rights of its citizens, including freedom of emigration, religion, thought, and expression; and

(4) continued Soviet violations of human rights are a serious impediment to improved bilateral relations between the United States and the Soviet Union.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the President should be commended for his efforts to press the Soviet Union to abide by its commitments to respect internationally recognized human rights and should protest forcefully to General Secretary Gorbachev continued Soviet human rights violations; and

(2) the Soviet Union should abide by its obligations under the Universal Declaration of Human Rights, the International Covenants on Human Rights, and Final Act of the Conference on Security and Cooperation in Europe, to respect human rights and fundamental freedoms, including freedom of emigration, religion, thought, and expression.

Page 249, after line 15, insert the following:

SEC. 1508. COMPREHENSIVE FOREIGN DEBT INFORMATION.

(a) Requirement for Comprehensive Information.—The President shall take steps to insure that the various reports submitted to the Congress provide full and compatible information on the status of all loans, credits, loan guarantees, and all other repayable financial assistance provided to foreign governments by the United States Government. As appropriate, information detailing the current status of foreign debt obligations owed the United States Government may be classified.

(b) Programs Covered By Comprehensive Information Requirement.—Programs covered by this section should include (but not be limited to) programs under the Foreign Assistance Act of 1961, the Commodity Credit Charter Act, the Arms Export Control Act, the Agricultural Trade Development and Assistance Act of 1954, and the Export-Import Bank Act of 1945.

(c) Information To Be Provided—Reports subject to this section shall detail, where appropriate, the following:

(1) The amounts of foreign assistance loan authorization, disbursements, accumulated outstanding rescheduled debt, repayments, and outstanding balances, by program and country.

(2) The applicability of provisions of law providing for termination of assistance to countries in default on repayments to the United States Government and the collectibility of non-current loans, by country.

(3) The reasons for any significant shortfalls in repayments of billed principal and interest for the preceding year.

(4) A listing of loan rescheduling, restructuring, and other debt relief, by country, including a statement as to why debt relief is necessary and in the United States interest, how the completed debt rescheduling will affect United States financial interests, how much and how many times debts owed to the United States have been restructured, and what are the prospects for collecting rescheduled receivables, by country.

(5) A listing of how many foreign loans have been written off and for what reason, by program and country.

(6) A list of all contingent liabilities from loan guarantees, credits, and other assistance programs, by program and country.

(7) A best estimate of the current value of the portfolio of outstanding loans and other obligations by program, through the creation of a loan loss reserve account which shall be estimated to reflect the decline from face value of all outstanding loans and other obligations. This loan loss reserve estimate shall reflect the decline in value that may result from factors such as interest concessions and reduced likelihood that loans and other obligations will be repaid in full in a timely manner in accordance with loan terms.

(8) A list of countries still being given new loan assistance, although those countries have had outstanding obligations rescheduled or restructured.

Page 249, after line 15, add the following:

SEC. 1509. REPORT ON UNITED NATIONS-BASED ESPIONAGE.

Not later than 6 months after the date of enactment of this Act and annually thereafter, the President shall provide to the appropriate committees of the House of Representatives and the Senate a comprehensive report on espionage undertaken by foreign nationals within the United Nations Secretariat and member delegations to the United Nations. This report shall be unclassified, with a classified appendix if necessary.

Page 249, after line 15, add the following:

SEC. 1510. REVIEW OF UNITED STATES PARTICIPATION IN THE UNITED NATIONS.

(a) Findings.—The Congress finds that—

(1) the United Nations was founded for the primary purpose of maintaining international peace and security by encouraging peaceful resolution of disputes and the development of friendly relations among nations;

(2) the United States, as the host nation of the United Nations, a founding member of the United Nations, and the largest contributor to the United Nations, became and remains a member of the United Nations in order to contribute to collective efforts among the nations of the world to realize the ends of international peace and security.

(3) the United States is committed to upholding and strengthening the principles and purposes of the United Nations Charter upon which the United Nations was founded;

(4) in recent years, the United Nations as a body, and many of its member nations, have strayed from the original purposes established by the United Nations Charter;

(5) the United States has been called upon to shoulder increasing financial costs associated with the United Nations and its affiliated agencies at a time of increasing budget constraints within the United States;

(6) the presence of the United Nations within the United States has come to present major national security concerns as a result of espionage by foreign nationals within the United Nations Secretariat and member delegations to the United Nations;

(7) according to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance; and

(8) other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(b) Presidential Review and Reports to Congress.—

(1) Review.—The President shall comprehensively review United States participation in the United Nations.

(2) REPORT.—Not later than six months after the date of enactment of this Act and annually thereafter, the President shall provide a written report to the Congress containing the President's findings and recommendations based on the review required by paragraph (1). Each such report shall contain, at a minimum, a thorough analysis of the following issues:

(A) The extent and levels of United States financial contributions to the United Nations.

(B) The importance of the United Nations, as presently constituted, to fulfilling the national security and foreign policy objectives of the United States.

(C) The benefits and detriments derived by the United States from its participation in the United Nations.

(D) The danger to the United States from espionage associated with the United Nations, and the financial costs to the United Nations, and the financial costs to the United States of detecting, monitoring, and preventing such espionage.

(E) The advantages and disadvantages of having the United Nations located outside the United States.

SEC. . HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished in 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the nonviolent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration";

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Sinkiang), and the Mongolians of Inner Mongolia;

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas in which the United States Government and people can be helpful; and

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) TRANSFER OF DEFENSE ARTICLES.—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) MIGRATION AND REFUGEE ASSISTANCE.—Within 60 days after the date of the enactment of this Act, the Secretary of State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

(e) SCHOLARSHIPS.—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

Page 247, after line 16 insert the following new Section:

SEC. 1116. PAYMENT OF IMPORT DUTIES AND OTHER FEES CONCERNING HUMANITARIAN ASSISTANCE.

Section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) is amended by adding at the end thereof the following new subsection:

"(d) Whenever the humanitarian disaster relief assistance that is being provided under the authority in this chapter or any other provision of law is subject to import duties, loading charges, or other fees levied by the authorities in the recipient country, the President shall promptly report this fact to Congress. Whenever the recipient country in question is a communist country (as defined in Section 620(f) of this Act), the policy of the United States shall be to withhold payment of such fees. This restriction may not be waived pursuant to any authority in this Act unless the President certifies to Congress that payment of such fees is: (A) in the vital national interest of the United States; and (B) in an amount not exceeding the fees levied by authorities in the recipient country on all forms of assistance from the Soviet Union or any other communist country (as defined in Section 620(f) of this Act)."

Page 247, after line 16 insert the following new Section:

SEC. 1116. REPORTS ON COMMUNIST COUNTRIES RECEIVING UNITED STATES HUMANITARIAN DISASTER RELIEF ASSISTANCE.

Section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) is amended by adding at the end thereof the following new subsection:

"(d) Whenever the United States is providing humanitarian disaster relief assistance under this chapter or any other provision of law to a communist country (as defined in section 620(f) of this Act), the President shall report to the Congress every 3 months on the steps being taken by the government of that country to alleviate the conditions that make such assistance necessary.".

Mr. BROOMFIELD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, there are a number of amendments here that we have added as the result of approval and as a result of consideration of legislation on the floor in the last few days. I think it would be appropriate for Members, if they wish, to come over to either the minority or the majority table and we will be glad to go over them.

I will highlight some of them by saying that they include those from the Fascell en bloc amendment to title I, the Smith amendment on F-15's and the Smith/Levine amendment on sales of Stinger missiles;

The Swindall amendment to title I, on United Nation voting record, as amended by the Smith amendment;

From the Fascell en bloc amendment to title III, the Hall amendment on vitamin A deficiency, the Bereuter amendment on basic education, the Gilman amendment on microenterprises, and the Schneider amendment on biological diversity:

The Richardson amendment to title III, on minority set-asides:

The Solomon amendment to title IV, as amended by Mr. WOLPE, on PVO privateness;

The Burton amendment to title IV, on AIDS education:

The Solomon amendment to title IV, on GAO study of certain international organizations;

The Smith substitute for title V an international narcotics control;

From the Hamilton en bloc amendment to title VI, the Levine amendment a West Bank/Gaza development; the Burton amendment on Syria, the Richardson amendments on Bulgaria and Romania; and the Levine amendment on Jews in Arab countries;

The Dornan amendment to title VI on solidarity, as modified by the Solarz amendment;

From the Fascell en bloc amendment to title VIII, the Lagomarsino amendments on Central American economic growth and private sector in El Salvador, the Miller amendments on Chile and Haiti, the Fascell amendment on the Inter-American Foundation, the Leach amendment on assistance to Nicaragua, the Bereuter amendment on Uruguay, the Richardson amendment on Panama, and the DeWine amendment on the January 23 movement in Nicaragua;

From the Fascell en bloc amendment to title VIII, the Fascell amendment on economic support funds, and the Solomon amendment on Tunisia;

From the Fascell en bloc amendment to title IX, the Dornan amendment on Vietnam, the Miller amendment on a house-lot program in the Philippines, the Lagomarsino amendment on South Pacific scholarships, the Broomfield amendment on New Zealand, the Smith amendment on human rights in China, the Richardson amendment on POW/MIA's, and the Burton amendment on Sikhs;

The Solomon amendment to title IX on Chinese sale of Silkworm missiles to Iran, as modified by the Solarz amendment;

The Solomon amendment to title IX, on Afghanistan;

The Burton amendment to title XI, on assistance to countries with Soviet fighter aircraft, United States modified by the amendment of Mr. SOLARZ;

From the Fascell en bloc amendment to title XIII, the following amendments:

From the Fascell en bloc amendment to title XIII, the modified Solarz amendment on Poland; the Porter amendment on CBW nonproliferation, the Shumway amendment on human rights in Cuba, the modified Solomon amendment on exchange of information with certain countries, the Burton amendment on Soviet hard currency, the Smith amendment on Jewish emigration from the Soviet Union, the Richardson amendment on human rights and the summit, the modified Kasich amendment on foreign debt, and the Swindall amendments on espionage at the United Nations and review of United States participation in the United Nations;

The modified amendment to title XIII on Tibet;

The Solomon amendment to title XI on import duties and humanitarian assistance;

The Solomon amendment to title XI on Communist countries receiving United States assistance.

The Leach amendment to title VI on a United Nations peacekeeping force in the Persian Gulf; and

A Solarz amendment earmarking $50 million for Agarian reform.

□ 1645

I would say in summary the key provision was the Pakistan provision. A lot of these were adopted. But I think the Pakistan amendment is the key amendment that we accepted that was developed here on the floor by the gentleman from New York [Mr. SOLARZ] and worked out by the minority. We kept the language in H.R. 3100.

So I am glad to yield to the gentleman from Florida [Mr. FASCELL], the chairman, if he wishes to make some comments.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from Michigan for yielding. I will not take the full allotted time if there is any full allotted time.

The CHAIRMAN. The Chair wants to make it clear that the gentleman does have 30 minutes of his own time and the gentleman from Michigan [Mr. BROOMFIELD] has 12 minutes remaining on his time.

The gentleman from Michigan [Mr. BROOMFIELD] yielded to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I do not want to use up the gentleman's time, in all fairness, although I do not think he wants to extend this any longer. So I will use my own time.

Let me thank the gentleman from Michigan [Mr. BROOMFIELD] anyway for his generosity. He has displayed just now on this matter the same kind of courtesy that he has exhibited throughout the consideration of this bill, both in the committee and on the floor of the House, and I want to thank him and the minority for the good-faith effort that has been made with respect to this legislation, and also express my appreciation to the subcommittee chairman as well as the ranking members and the staff who worked very, very hard over a long period of time to get to the point where we are right now.

I also want to compliment the gentleman from Michigan because I want to say I have never seen a minority member working under such atrocious restrictions, inhibitions, conditions, limitations of record and off the record and on the record. I do not think the administration supports anything, frankly. But if they were going to support anything, which I do not think they do, they would want to support the gentleman from Michigan, which they do not. But he has tried his best to protect his administration and to represent his party, and to protect his members on the House floor. I will give him credit for that, I have been perfectly willing for them to get that kind of a shot with everything but the kitchen sink, and maybe that too, I do not know. I have not had a chance to find out for sure.

But nevertheless, let me say this in sincerity, that I am delighted to have had that kind of working arrangement. It has made it possible for us to get through a very important public-policy debate on very important issues and to arrive at this point.

But I cannot support this substitute, that is no surprise to anybody, any more than I could support a motion to recommit with instructions, and so I would have to strongly oppose it, Mr.

Chairman. The House has worked its will. We have bipartisan amendments throughout the entire bill, and as I said originally, this authorization is below the 1987 authorization, it is below the appropriation, it is below the President's request. We are $1.133 billion below the President's request. We are $574 million below the 1987 freeze. We are nearly $2 billion below the 1987 authorization levels, and we are totally consistent with the cap that has been placed on foreign affairs spending in the summit conference that took place on the agreement between the President and the joint leadership in the Congress. So my colleagues on either side need not have any concern with respect to that.

What we have done in the base bill, basically, and I am sure it has been adopted in the substitute also, is to provide additional funding for base-rights countries, and some other humanitarian concerns, and make sure that where we have earmarked funds it does not squeeze out the rest of the world.

There is a major difference I would want to point out in addition to some others with respect to allocations of funds, and that is simply that in the principal bill we allocate more money on the economic side. That is the only difference that I can see with respect to the allocation of funds. Otherwise, we are relatively close.

So with all due deference to my distinguished ranking Republican member, who has worked harder than anybody I know to try to pull the chestnuts out of the fire for the administration, and has had precious little help, except from his colleagues on his side who have rallied to his side, I will say that for him, and I think they should have, but nevertheless we have worked hard, we have a good bill, and I would suggest that we vote down the substitute and vote on the bill.

We still have to go to conference. We have a long way to go. There will be a lot of opportunity for more bipartisan input.

Mr. BROOMFIELD. Mr. Chairman, in conclusion I again want to thank the chairman for his very generous remarks. I think he has assessed the situation very well. We have worked very hard on this side to develop a substitute bill that would have a chance to get approval by the administration.

I have to say in all truthfulness they are not 100 percent for this bill, but I think they lean obviously more for it than they do the committee bill.

But I do want to thank the chairman of the committee and also want to thank the chairman of the Rules Committee and all of the members of the Rules Committee for their consideration. I think the rule that was granted on this particular bill is most unusual to give the minority this kind of an opportunity to single out the best amendments that were passed and to develop their own substitute, and for that I am appreciative.

I do not know what is going to happen, but again I think we have tried very hard to have a responsible bill. It is well-balanced, it is one again I think that has a chance for passage, and again my thanks to the chairman and the minority members over there for their cooperation.

Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, today I am introducing an amendment to the foreign aid authorizations bill in response to Japan's policy of refusing to join the United States in its trade embargo against Iran. My amendment calls on Japan to join the United States trade embargo against Iran in an effort to restore the peace in the Persian Gulf.

The Government of Iran has refused to accept a cease-fire proposed by the United Nations Security Council. Iran continues to threaten the peace in the Persian Gulf and has engaged in agressive military action against United States Naval forces. This includes the use of sea mines and silkworm missiles. Iran's ability to purchase such military hardware is enhanced by trade revenues received from Iranian oil and other products through the Persian Gulf. Japan's announced policy of refusing to engage in a United States instigated trade embargo against Iran will continue to provide the Government of Iran with the hard currencies necessary to finance its war effort.

Few industrial democracies are more dependent on the free flow of oil out of the Persian Gulf than Japan. Japan purchases about 20 percent of Iran's total oil export, an average of between 1,500,000 and 2,000,000 barrels a day. However, continued hostilities in the gulf threaten the free flow of oil out of the Persian Gulf. Japan's participation in Western efforts to restore peace to the gulf region have been disappointing. My amendment expresses the sense of Congress that, by failing to make substantive contributions to restoring peace in the gulf region, Japan has been negligent in its responsibility as a member of the Western alliance and as a member of the community of nations. I urge the support of my colleagues.

Mr. FEIGHAN. Mr. Chairman, each year we participate in the foreign aid debate, we struggle to provide enough funds to conduct our foreign policy. That debate is usually useful and one that the American people have the right to hear. We must make the case for a set of programs that send a portion of our resources overseas. Over the years, there has developed a bipartisan consensus on the need to fund programs that advance our own security, open markets for the United States, and respond to the needs of the world's poor.

What we have before us is a substitute bill that essentially ignores the entire year's work of debate and study, counter-proposals and compromises. It ignores the work of each committee that held hearings, debated, and passed a bill that fulfills the goals that we all share.

The Broomfield substitute strikes out portions of the bill that ensure we know how our money is spent. It deletes language that ensures that our foreign aid program does not go to uses that subsidize foreign competition against American products. It weakens the language on microenterprises that makes sure that a portion of our development assistance reaches the poorest of the poor and helps to make them self-sufficient.

These changes may seem technical in nature, but I assure you that in each case the substitute will eliminate carefully crafted language that has been developed with the minority and with the administration to make sure that these programs are run according to laws passed by this Congress.

If we pass this amendment, we don't just give the administration carte blanche for the next 2 years. We say to any administration that congressional concerns just do not matter—they do not matter on how the money is spent, they do not matter when it comes to fighting the battle against narcotics, and congressional concerns do not matter when it comes to wrestling with the problems in Central America, the Eastern Mediterranean, and Africa. When it comes down to it, we'll just hand over the money and have done with it.

I cannot see how such an abdication of responsibility serves to implement a policy whose goals we all share. I urge my colleagues to vote against the Broomfield substitute and for final passage of the bill.

Mr. RICHARDSON. Mr. Chairman, today I am offering an amendment to the foreign aid authorizations bill calling on the President to speak out forcefully against human rights violations in the Soviet Union during the summit meeting with General Secretary Gorbachev.

The goal of the summit is to reduce the nuclear threat and to enhance security in Europe. The degree of security and trust between our nations is dependent upon compliance with international commitments. The Soviet Union is obligated under the universal declaration of human rights and the final act of the Conference on Security and Cooperation in Europe to respect human rights and fundamental freedoms.

Despite prisoner releases earlier this year, hundreds of Soviet political prisoners remain in prisons or in psychiatric institutions for attempting to exercise basic rights and freedoms. Although emigration rates have increased, over 12,000 Soviet citizens were allowed to emigrate this year, Soviet authorities continue to deny the right to emigrate as a basic human right. The Soviet's continue to restrict the free flow of information, freedom of religion, thought, and expression. Continued Soviet violations of human rights are a serious impediment to improved bilateral relations between the United States and the Soviet Union.

My amendment urges the President to protest forcefully the violation of human rights to Secretary Gorbachev during the summit meetings. It calls on the Soviet Union to abide by and cease all actions which violate its obligations under the universal declaration of human rights and the final act of the Conference on Security and Cooperation in Europe. I urge the support of my colleagues.

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. BROOMFIELD] to the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD].

The amendments en bloc to the amendment in the nature of a substitute were agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD], as amended.

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 234, not voting 26, as follows:

[Roll No. 474]

AYES—173

Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Fish
Flippo
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hansen
Harris
Hastert
Hefley
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kastenmeier
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stenholm
Stump
Sundquist
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—234

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lowry (WA)
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Ridge
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—26

Akaka
Badham
Barnard
Biaggi
Craig
Dixon
Dowdy
Frenzel
Gephardt
Hall (OH)
Jenkins
Kaptur
Kemp
Kolter
Luken, Thomas
Mack
McEwen
Moody
Nichols
Nielson
Roemer
Smith (FL)
Smith (TX)
Stark
Stratton
Sweeney

□ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Nichols for, with Mr. Akaka against.

Mr. Craig for, with Mr. Moody against.

Mr. Mack for, with Mr. Smith of Florida against.

Mr. MAVROULES changed his vote from "aye" to "no."

Messrs. BEVILL, GOODLING, and DAVIS of Illinois changed their votes from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. COELHO] having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3100) to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes, pursuant to House Resolution 293, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

Mr. KYL. Mr. Chairman, today we are going to vote on passage of H.R. 3100, the International Security and Development Cooperation Act of 1987. I intend to vote against passage of this legislation and I want to take this opportunity to explain why.

My opposition is reluctant, because this could have been a good bill; and I want to state at the outset that I support a U.S. foreign aid program that is consistent with and advances our foreign policy interests and objectives.

Another reason I would prefer to vote for this bill is because I strongly support aid to Israel. We share a common heritage, the values of freedoi and domocracy and a common purpose in resisting communism and tyranny. Further, our strategic relationship puts Israel in a unique position to assist the United States in the conduct of our foreign policy. I fully support the amount of aid that will be provided to Israel under the continuing resolution that we will soon adopt as the funding mechanism for the next year.

The bill we are about to vote on, after 5 days of debate and amendments, and the vote itself, should not, however, be used by anyone as a test on support for foreign aid generally or any specific component within the bill—such as aid to Israel. As we all know, as an omnibus bill, the vote on passage does not allow Members the option to object with their vote to bad aspects of the bill. Rather, Members must either accept all or nothing.

Further, H.R. 3100 is irrelevant to the process of providing foreign aid to other countries. The Senate is not even expected to consider its version of H.R. 3100. The bill will never be sent to the President. It is an absolute irrelevancy insofar as appropriating aid is concerned! Funding for foreign aid will be provided for in the continuing resolution. As a result, all H.R. 3100 represents is an opportunity for everyone to fight out their foreign policy battles. There were numerous provisions and amendments that sought to establish specific operational limitations on our foreign aid policy. Because House passage of H.R. 3100 would increase the chances that they would find their way into the continuing resolution, they had to be supported or opposed. Ultimately, my vote is based on the fact that numerous specifics of this bill—which will be part of the CR—are bad, and I can make that point without jeopardizing the provision of aid because it will be included in the CR.

As H.R. 3100 has developed, it has many problems. One problem involves H.R. 3100's treatment of security assistance. Security assistance to allies and friends is the No. 1 priority of U.S. foreign aid. Yet, H.R. 3100 inadequately provides for this high priority foreign aid program. Of $605.6 million cut from the President's request for foreign aid, H.R. 3100 cuts over half a billion dollars—that's five-sixths of the total cut—from security assistance. That is bad public policy. Further, during consideration of H.R. 3100, two amendments have been agreed to that will further cut security assistance. I have opposed them both, to no avail.

One amendment would reduce the military assistance program authorization by $83.7 million. The other amendment provides that $532 million in foreign military sales funds can be used for the Guaranty Reserve Fund, a loan guarantee program intended to cover defaults in countries' repayment of foreign military sales [FMS] loans. Nearly 90 percent of FMS funding in H.R. 3100 is earmarked for specific countries. By providing for the use of $532 million in FMS money to replenish the GRF, it could necessitate reducing the earmarked FMS funds for the other countries. It is unnecessary and harmful to allow any further cut in FMS funds.

In fact, security assistance has been taking it on the chin for several years. This is evidenced, for example, by the estimated $1.5 billion the United States owes to base rights countries as part of our agreements with these countries to have access to military facilities. In other words, security assistance funding levels in recent years have not even allowed the United States to meet its base rights commitments! Ostensibly because of budgetary constraints, we have been cutting the heart out of our security assistance program—just as we have with defense spending. That represents a false savings. The real need is to prioritize spending consistent with fiscal reality and our national interests.

Another objectionable aspect of H.R. 3100 is its numerous earmarks, limitations, and restrictions which severely constrain the administration's ability to administer foreign assistance programs. This bill would remove the flexibility needed to respond effectively to world events. Over 60 percent of all funding in H.R. 3100 is earmarked, with nearly 90 percent of foreign military sales credits and 73 percent of economic support funds earmarked for specific purposes. Add to this numerous ceilings and limitations and the result is congressional micromanagement of our foreign assistance program.

Examples of this micromanagement include, first, utilization of foreign aid as a trade subsidy programmed for United States exports, resulting in the American taxpayer footing the bill for certain United States exports; second, cargo preference provisions which will undercut the efficiency of the Food for Peace Program (Public Law 480), by increasing the programs transportation costs in an effort to subsidize the merchant marine industry; third, high assistance levels for many African countries which oppose United States policies, are not high foreign policy priorities, or have strong relations with the Soviet Union; and fourth, provisions which encourage African countries to continue to avoid paying their foreign aid debts to the United States.

This kind of micromanagement is not only bad as a general policy, but many of the specific provisions represent narrow special interests and are themselves bad public policy.

Another serious problem I have with H.R. 3100 is the provision in the bill which expanded a current-law proscription against providing foreign aid to another country conditioned on that country then turning around and providing aid to the Nicaraguan Contras. This current proscription will now be expanded to prohibit the United States from "making any agreement, or entering into any understanding, either formal or informal, under which a recipient of United States economic or military assistance or a purchaser of United States military equipment shall provide assistance of any kind to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua." As my colleague, Congressman Henry Hyde stated during debate on this matter, it is "outrageously unenforceable and outrageously and conspicuously unconstitutional. You cannot tell the President that he cannot engage in an understanding with another head of state." Like the Boland amendments, this provision will render it impossible for a member of the executive branch to know whether he is violating a Federal law merely by talking to other countries about their aid policies. If for no other reason, I would have to oppose this bill because of this treacherous provision.

There comes a time when the real operational provisions (which will become policy in the continuing resolution, though not law under H.R. 3100) are more important than the general philosophical support for aid which would be represented by an "aye" vote. We don't have to prove our philosophical commitment to aid by casting a vote that is meaningless on the dollar issue, but has real negative consequences in terms of aid management policy. Moreover, this is the only place we can object to the deep cuts in key parts of our foreign assistance program. Let me illustrate the point another way.

There is no one in the Congress who is a stronger supporter of defense than I am. Yet, I opposed passage of the Defense authorization bill, because, among other reasons, it provided insufficient funding to provide for the national security needs of this Nation and because it contained onerous arms control language. I am a strong supporter of the freedom fighters in Nicaragua and have invested a lot of time in trying to make the peace process work. I strongly believe that keeping the Contras a viable force is key to making the Guatemala accords work. Yet, I voted against continuing resolutions which contained funding for the Contras because of my fundamental opposition to omnibus funding through the expedient of continuing resolutions. I campaigned against the federally-mandated 55 m.p.h. speed limit. Yet, I voted to sustain the President's veto of the highway bill which raised the speed limit because the bill contained billions in pork barrel spending.

Why did I vote against my postion in each of these cases? Because, as everyone here knows, votes are frequently set up in such a way that we have to take a whole lot of bad in order to get the good. And, sometimes that's just unacceptable, either as a matter of public policy or procedural principle. (This situation should make evident the need to provide the President with line-item veto authority.) If we give in to this blackmail system, we give up our last shred of philosophical dignity and the moral basis for our positions.

The long-term continuing resolution will be voted on in less than 2 weeks. It will provide funding for military pay, and other important defense programs, EPA, health and education programs, Medicare, foreign aid and every other program of the Federal Government. I may well oppose passage of this legislation. Am I against any of these things? Of course not! But, as I have said, because of the process we have fallen into here, I have no way of expressing my opposition to what I consider bad policy and bad government in these types of omnibus bills, except to vote "no" on the entire bill. That is why, I must reluctantly vote "no" on this bill. While I support its underlying purpose, while I support specific provisions such as aid to Israel and Egypt, I will not cast an "aye" vote thereby supporting the host of provisions detrimental to the very purpose of the bill.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 286, noes 122, not voting 25, as follows:

[Roll No. 475]

AYES—286

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bentley

Bereuter
Berman
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Coble
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Daub
Davis (IL)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (OK)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gallo
Garcia
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)

Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Inhofe
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lott
Lowery (CA)
Lowry (WA)
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)

Panetta
Pashayan
Pelosi
Penny
Pepper
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rangel
Ravenel
Rhodes
Richardson
Rinaldo
Ritter
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Stallings
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Upton
Vander Jagt
Vento
Visclosky
Vucanovich
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Yates
Yatron
Young (AK)

NOES—122

Applegate
Archer

Armey
Bartlett

Barton
Bennett

Bevill
Bilirakis
Brooks
Brown (CO)
Burton
Chappell
Cheney
Clinger
Coats
Coleman (MO)
Combest
Crane
Daniel
Dannemeyer
Davis (MI)
DeLay
DeWine
Dickinson
Dreier
Duncan
Dyson
Early
Emerson
English
Fawell
Fields
Gallegly
Gaydos
Gekas
Goodling
Gradison
Gregg
Hammerschmidt
Hansen
Hefner
Henry
Herger
Hiler
Hopkins
Hubbard

Hunter
Hutto
Hyde
Ireland
Jacobs
Jones (NC)
Jones (TN)
Kastenmeier
Kolbe
Kyl
Lagomarsino
Latta
Lightfoot
Livingston
Lloyd
Lujan
Lukens, Donald
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Murphy
Myers
Neal
Nielson
Olin
Oxley
Packard
Parris
Patterson
Pease
Perkins
Petri
Quillen

Rahall
Ray
Regula
Ridge
Roberts
Robinson
Rogers
Roth
Russo
Schaefer
Schulze
Sensenbrenner
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Staggers
Stangeland
Stump
Swindall
Taylor
Traficant
Valentine
Volkmer
Walker
Watkins
Whittaker
Whitten
Wylie
Young (FL)

NOT VOTING—25

Akaka
Badham
Barnard
Biaggi
Craig
Dixon
Dowdy
Frank
Frenzel

Gephardt
Hall (OH)
Jenkins
Kaptur
Kemp
Kolter
Luken, Thomas
Mack
McEwen

Moody
Nichols
Roemer
Smith (FL)
Smith (TX)
Stark
Sweeney

□ 1715

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Craig against.

Mr. Smith of Texas for, with Mr. Mack against.

Messrs. HALL of Texas, STENHOLM, BOULTER, EDWARDS of Oklahoma, and SAVAGE changed their votes from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1730

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3100, INTERNATIONAL SECURITY AND DEVELOPMENT ACT OF 1987

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill just passed H.R. 3100, the Clerk be authorized to correct section numbers, cross references, punctuation, and grammatical and spelling errors, to correct the table of contents to reflect the provisions of the bill, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2700, ENERGY AND WATER DEVELOPMENT APPROPRIATION, 1988

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2700) making appropriations for Energy and Water Development Appropriation for the fiscal year ending September 30, 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

The Chair hears none, and appoints the following conferees: Mr. Bevill, Mrs. Boggs, and Messrs. Chappell, Fazio, Watkins, Thomas of Georgia, Whitten, and Myers of Indiana, Mrs. Smith of Nebraska, Mr. Pursell, and Mr. Conte.

HAROLD WASHINGTON SOCIAL SECURITY CENTER

Mr. HOWARD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3700) to designate the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center".

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, under my reservation of objection I yield to the chief sponsor of H.R. 3700, the gentleman from Illinois [Mr. Savage] for an explanation of this legislation offered by the gentleman from New Jersey [Mr. Howard].

Mr. SAVAGE. Mr. Speaker, this is a straightforward resolution. As my colleagues know, Chicago and this Nation lost a great mayor with the death of Harold Washington, who had brought unity in a divided city, and opened up a closed government. He was formerly a colleague of ours here and was highly regarded for how hard he worked and the experience and intelligence and commitment that he brought to that task.

This bill simply renames a Federal building in Chicago the "Harold Washington Social Security Center."

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from

New Jersey [Mr. HOWARD], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Speaker, the Committee on Public Works and Transportation unanimously reported today legislation and honoring the late mayor of Chicago and our former colleague, the Honorable Harold Washington.

The bill H.R. 3700, designates the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center."

It is fitting and proper that a building which is an essential part of that every day life of that great city be named in honor of this man. Harold Washington represented his city at its best—both as a Member of Congress and as a mayor of that great city. He served for 5 years as arbitrator for the Illinois Industrial Commission, then was elected to the Illinois House of Representatives and served in that capacity until he was elected to the State senate. A son of that great city he became a son of that great State. He contributed his understanding and knowledge of public affairs for the help of all during his great service in the U.S. House of Representatives. It was climaxed by his election as mayor a little over 4 years ago and his recent reelection by an overwhelming mandate.

The city of Chicago appreciated and respected this man. We, as his colleagues, join with that city in expressing our sorrow at his departure but our happiness that he was able to contribute much to the development of that city during his career.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I want to express my support for H.R. 3700, which would name a Federal building in Chicago, IL, the "Harold Washington Social Security Center" in honor of our former colleague and mayor of Chicago.

Before his sudden and untimely death last month, Harold Washington lived a life of service to his city of Chicago. His public career began in 1954 when he was appointed assistant prosecutor for the city of Chicago and continued 2 years later when he served as arbitrator for the Illinois Industrial Commission.

In 1965, Harold Washington's first of many elections brought him to the Illinois House of Representatives where he served until his election to the Illinois Senate in 1977. Finally, in 1980 he was elected to this body.

Harold Washington took on a major challenge when he decided to give up his seat in Congress to take on the campaign for mayor of Chicago in 1983. After a long, hard battle when it seemed the odds were against him, he was elected and went on to be reelected in April of this year. He truly cared about the city and people of Chicago.

Mr. Speaker, it is therefore appropriate that we recognize the contributions of Harold Washington to his city and country by naming this building in his honor.

Mr. Speaker, I withdraw my reservation of objection.

GENERAL LEAVE

Mr. HAMMERSCHMIDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3700.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill as follows:

H.R. 3700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building known as the "Great Lakes Program Service Center" and located at 600 West Madison, Chicago, Illinois, shall be known and designated as the "Harold Washington Social Security Center".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Harold Washington Social Security Center".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1720, FAMILY WELFARE REFORM ACT OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-472) on the resolution (H. Res. 331 providing for the consideration of the bill (H.R. 1720) to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, which was referred to the House Calendar and ordered to be printed.

SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN

Mr. HAMILTON. Mr. Speaker, I offer a resolution (H. Res. 330) relating to the termination of the affairs of the Select Committee to Investigate Covert Arms Transactions with Iran, sponsored and supported by the gentleman from Wyoming [Mr. CHENEY] and myself, and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 330

Resolved, That notwithstanding House Resolution 12 and House concurrent Resolution 195 of the One Hundredth Congress—

(1) the Select Committee to Investigate Covert Arms Transactions With Iran, established by House Resolution 12, shall terminate March 1, 1988,

(2) between the date of the adoption of this resolution and the date of the Select Committee's termination, the Select Committee shall not undertake any activity unrelated to the closing of its affairs, except that the Select Committee may receive materials in response to requests made before the date of the adoption of this resolution, and

(3) upon the termination of the Select Committee, its records shall be transmitted to the Clerk of the House of Representatives for storage in the National Archives.

Any Member of the Select Committee may, upon request, have access to the records of the Select Committee which are in the National Archives. Any other Member of the House of Representatives and any member of the staff of any committee or select committee of the House of Representatives, of any joint committee of the Congress, or of any Member of the House of Representatives may have access to such records only upon approval by the Permanent Select Committee on Intelligence in accordance with its rules and the Rules of the House of Representatives.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. HAMILTON] is recognized for 1 hour.

Mr. HAMILTON. Mr. Speaker, I offer this resolution on behalf of myself and the gentleman from Wyoming [Mr. CHENEY], and I want to say at the outset that I appreciate very much the cooperation that I have had from the gentleman from Wyoming throughout the period of the work of the Select Committee to Investigate Covert Arms Transactions with Iran, and especially that I have appreciated his willingness to work with me and the leadership to resolve the problems that arose in connection with this resolution.

The resolution balances three needs, first, is the need to complete the work of the committee in an orderly manner; second, the need to protect sensitive information; and third, the need to ensure access to the committee records for legitimate legislative purposes.

The resolution allows the Select Committee to Investigate Covert Arms Transactions with Iran sufficient time to properly organize its records for storage, and I hope this extension to March 1, 1988, will alleviate some of the problems that have resulted from the failure to permit other select committees adequate time to close their affairs.

The resolution should help ensure that sensitive information is not inadvertently disclosed in committee publications.

It is my understanding that the White House has committed itself to complete a review of the committee's records by January 31, 1988. It is my expectation that this review will be conducted according to standards that protect national security while taking into account the desire of the committee to make public as much of its records as possible.

The resolution will also insure the committee's records for legitimate access to the records of the committee for legitimate legislative purposes.

I am aware of at least one request for access to these records at this time. There may be others.

Until March 1, 1988, the Select Committee to Investigate Covert Arms Transactions with Iran will continue to grant access to its records according to the rules of the committee.

That procedure has worked reasonably well during the past year, and I expect to continue to work with the gentleman from Wyoming and the other members of the committee to respond to legitimate requests.

Upon the expiration of this committee, all committee records will be transmitted to the Clerk for storage in an appropriate secure fashion at the National Archives.

The Permanent Select Committee on Intelligence will determine requests for access to that committee's records pursuant to its rules and the rules of the House.

I believe this resolution offers a workable and reasonable method for disposing of and providing access to the records of the committee and I, of course, urge Members to support its adoption.

Mr. CHENEY. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. Mr. Speaker, I am happy to yield to the gentleman from Wyoming [Mr. CHENEY].

Mr. CHENEY. Mr. Speaker, I thank the gentleman from Indiana for yielding me this time.

Mr. Speaker, this is an important piece of legislation because we hope it is the last time we will have to come to the Congress for the purpose of taking time of the House to discuss the subject of the Select Committee to Investigate Covert Arms Transaction with Iran.

Let me echo the sentiments expressed by the gentleman from Indiana [Mr. HAMILTON] and thank him for the privilege of having served with him on the committee. It has been a very difficult task. He has had the most difficult task of all, to preside over a sometimes contentious and confusing process, but I think the committee has in fact produced a product that the House can be proud of and now we are in the process of closing out our responsibilities.

I would confirm what the gentleman from Indiana has indicated. In conversations today with senior officials at the White House, we have a commitment that as of January 31, 1988, they will have completed their declassification of those materials that the committee has voted to release. I have given my word to the gentleman from Indiana [Mr. HAMILTON] and also to the gentleman from Washington [Mr. FOLEY] that if the White House fails to meet that deadline, I will join with the gentleman from Indiana in coming back to the floor at the appropriate time to seek a further extension of the life of the Select Committee to Investigate Covert Arms Transactions with Iran.

I do not expect that that will be necessary.

To my colleagues on this side of the aisle, the important thing is that as of the adoption of this resolution the investigation is essentially complete, the committee will continue in business until March 1, 1988 to wind down its affairs with a very limited staff. As of March 1, 1988, the documents will be transferred to the Archives under appropriate security procedures, and after that date, except for the members of the Select Committee to Investigate Covert Arms Transactions with Iran, all other requests for access to the materials will require a majority vote of the Permanent Select Committee on Intelligence.

□ 1745

Mr. Speaker, I think it is a good package, I think it is one that deserves the support of the House. I think it satisfies the concerns that many of us on this side of the aisle have expressed in recent days, and I am delighted that we were in fact able to work out this accommodation.

At this point, Mr. Speaker, I would ask the chairman to join with me in a colloquy with respect to explaining specifically what is intended in that paragraph in the resolution, paragraph No. 2, that deals with the committee closing out its affairs.

Mr. Speaker, our resolution provides only for one exception to the provision that the committee will have no further investigative power. That exception allows the select committee to receive materials in response to requests made prior to the date of the adoption of this resolution.

Would the gentleman please explain for the benefit of the House what precisely is covered by this exception?

Mr. HAMILTON. There are, as I have previously discussed with the gentleman from Wyoming, two pending requests for information of which I am aware. I am not aware of any other requests.

Mr. CHENEY. I thank the gentleman and appreciate the clarification.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Florida, the distinguished chairman of the Rules Committee.

Mr. PEPPER. Mr. Speaker, I rise in support of House Resolution 330 which provides for the disposition of the records of the Select Committee to Investigate Covert Arms Transactions with Iran. Under the Rules of the House of Representatives, the authority to establish select committees lies within the jurisdiction of the Committee on Rules.

As Members are aware the Committee on Rules met in emergency session the night of December 9 at the request of Chairman HAMILTON to report a rule for the consideration of House Resolution 327, a resolution to provide for the disposition of the records of the select committee. The authority of the select committee is to expire on December 13, 1987, unless further action is taken.

In the absence of an agreement between the chairman and ranking minority member of the select committee as to the text of the resolution, the Rules Committee reported House Resolution 329, a rule which provides for consideration of House Resolution 327. The rule contains the text of an amendment to be offered by Representative CHENEY of Wyoming as a substitute to the text of House Resolution 327. The rule allows the House the opportunity to decide which of two alternate proposals would best accommodate the will of the House. However, earlier today the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Wyoming [Mr. CHENEY] reached an agreement which is contained in the text of House Resolution 330, and therefore, it will not be necessary to call up the rule.

Mr. Speaker, I would like to commend both gentleman for coming to an agreement which will allow the select committee to complete its business in an orderly fashion and within reasonable time constraints.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Ohio, the distinguished chairman of the Intelligence Committee.

Mr. STOKES. Mr. Speaker, I thank the distinguished chairman for yielding.

The resolution before us speaks of restricting the activities of the select committee until March 1 to: "the closing of its affairs, except that the select committee may receive materials in response to requests made before the date of the adoption of this resolution."

Lest there be any misunderstanding concerning the status of outstanding requests of the select committee to executive branch agencies for information or material or concerning the status of new information that may respond to a previous request or subpoena of the select committee, is it the intent of this resolution to permit the committee to continue to receive and review any new information or material that responds to previous requests or subpoenas, if such information or material becomes available during the remainder of the life of the committee?

Mr. HAMILTON. That is indeed the intent of the resolution and that would be its effect. I am aware of only two such requests.

Mr. STOKES. And is it also the intention of the resolution that the committee may refer any new information acquired before March 1, to appropriate committees of jurisdiction?

Mr. HAMILTON. The rules of the select committee authorize it to make referrals to other committees of jurisdiction.

Mr. STOKES. And finally, is it the understanding of the gentleman that, after March 1, other committees of the House are free to inquire into matters within their jurisdiction that may touch upon any such new information or material?

Mr. HAMILTON. That is my understanding.

Mr. STOKES. I thank the gentleman for yielding and I support the resolution.

Mr. Speaker, I commend the distinguished gentleman from Indiana [Mr. HAMILTON], the chairman of the committee, for the outstanding job he has done, along with the gentleman from Wyoming [Mr. CHENEY], for the outstanding job he has done.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

A similar resolution (H. Res. 329) was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, DECEMBER 11, 1987, TO FILE CONFERENCE REPORT ON H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, December 11, 1987, to file a conference report on H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

I would state further, Mr. Speaker, this matter has been cleared by the minority.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT FRIDAY, DECEMBER 11, 1987, TO FILE REPORT ON H.R. 2790, PUBLIC BUILDING AMENDMENTS

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Friday, December 11, 1987, to file a report on H.R. 2790, the public buildings amendments.

I would state further, Mr. Speaker, this matter also has been cleared by the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, I regret that I was absent for three rollcall votes on title VII to the Foreign Assistance Act, having been detained at the White House for Secretary Gorbachev's departure ceremony.

Had I been present, I would have voted "aye" on rollcall 470, "no" on rollcall 471, and "no" on rollcall 472.

Mr. Speaker, I ask unanimous consent that my explanation for each vote appear in the permanent RECORD immediately following each vote.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

GRANTING FEDERAL CHARTER TO CHALLENGER CENTER FOR SPACE SCIENCE EDUCATION

(Mr. BROOKS asked and was given permission to address the House for 1 minute.)

Mr. BROOKS. Mr. Speaker, I am pleased today to introduce legislation to grant a Federal charter to the Challenger Center for Space Science Education. A similar measure is being introduced concurrently in the Senate.

Following the tragic accident of last year, the families of the *Challenger* crew jointly and exclusively came together to conceive the National Challenger Center, a science education center intended to offer to both children and teachers activities and information derived from American space research. This center is designed to be the living expression of our Nation's commemoration of the crew and their common dream of expanding the educational horizons for young people and for educators.

My colleagues will recall that earlier this session Congress adopted, and the President so proclaimed, that January 28, 1987, be designated "National Challenger Center Day." A similar bill is awaiting action again for next year, but passage of the measure I am introducing today will go even further in recognizing the importance of the sacrifices made by the *Challenger* crew and their families. In creating this lasting, working tribute to the ideals and efforts of the brave men and women lost in the *Challenger* accident, we can—at the same time—add another important facet to our Nation's commitment to excellence in space science and its related fields.

I encourage my colleagues to support the bill, and I look forward to its successful passage in this Congress.

LEGISLATIVE PROGRAM

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute.)

Mr. SENSENBRENNER. Mr. Speaker, I take this time to find out what we are going to be doing tomorrow.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am happy to yield to the gentleman from California, the majority whip, if he can give us an answer.

Mr. COELHO. Mr. Speaker, what we are doing tomorrow is we will come in at 10 o'clock, and on the schedule will be the endangered species legislation.

We will be waiting for the Senate. They are anticipated tonight to complete reconciliation, and then they will send over the papers to us tomorrow, and as soon as those papers get in we will then move to go into conference. It will depend upon whether or not anybody moves to instruct, but at that point we would have the instructions, and that would be the business for the day.

Mr. SENSENBRENNER. Reclaiming my time, what would happen if the Senate is unable to complete consideration of the reconciliation bill, or they are not able to put the papers in proper order to send to us for our consideration?

Mr. COELHO. If the gentleman will yield, we cannot operate depending on that. We are operating on the fact that the Senate will complete the papers tonight. Senator DOLE and Senator BYRD both say they will. They have eliminated 6 hours of debate. I do not anticipate any problems.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, before the gentleman leaves I would just like to know is there any time certain tomorrow that we are going to make a decision on whether or not we will adjourn, or are we just going to wait until we hear from the Senate if it takes until 6 o'clock tomorrow night?

Mr. COELHO. If the gentleman will yield further, we intend to go to conference on the reconciliation bill tomorrow, and we will wait for the Senate's action, and we will determine that sometime tomorrow.

Mr. BURTON of Indiana. If the gentleman will yield further, regardless of how late we go, even if they do not get the papers until 6 o'clock?

Mr. COELHO. If the gentleman will yield further, as he knows we are trying to complete the session for this year. So we will try to take the action that is appropriate. We are not going to give the gentleman a time certain, because it would be inappropriate to do so at this time. We are trying to complete the action, and if we have to be in session all day tomorrow, we will be. But we are going to try to complete action because we want to try to get out of here next week. That is the intent of the leadership.

Mr. SENSENBRENNER. Mr. Speaker, I have a further question of the gentleman from California. Is it the majority leadership's intention to complete action on the endangered species bill regardless of when the papers on reconciliation come over, or will we quit after the papers on reconciliation come over and are acted upon?

Mr. COELHO. The latter is the case.

Mr. SENSENBRENNER. We will quit once reconciliation is acted upon?

Mr. COELHO. Once we move to go to conference, the gentleman is correct.

Mr. SENSENBRENNER. I thank the gentleman.

PRESIDENT OSCAR ARIAS-SANCHEZ RECEIVES THE NOBEL PEACE PRIZE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, man is at his best when engaged in a grand undertaking. The ultimate achievement of a civilized society is peace. Today, our friend and neighbor, President Oscar Arias-Sanchez received the Nobel Prize for Peace for his efforts to bring about a political solution to the hostilities in Central America. I offer my sincere congratulations and personal admiration to President Arias for his vision, courage, and leadership toward the cause of peace. His is an example for all political leaders to follow in best serving the cause of mankind in the grand undertaking of peace.

During a news conference following his acceptance of the Nobel Peace Prize, President Arias called for a cessation of all U.S. support for the Contras. Arias asserted that the Contras are the problem, not the solution, explaining that communism has failed Nicaragua, one of the poorest nations on Earth; and that communism has made conditions worse in Nicaragua, not better. He continued by saying that the Sandinistas are blaming United States intervention via the Contras, for their failure to improve conditions for the beleaguered Nicaraguan people. Arias reasons that by removing the Contras, the excuse of failure is eliminated thus enhancing the prospects of a political solution.

Last week during a meeting with Arias in Coasta Rica, he elaborated to me on this proposition further explaining that by removing the excuse for failure, challenges the Sandinistas to govern by their own merits which would set the stage for a more moderate government in Nicaragua. Arias also said that the basic problem in Central America is rooted in economics, not ideology, and that U.S. support for economic development and trade would nourish democratic governments which is more persuasive and more powerful than American military force. "Votes are more persuasive than bullets," he said.

I submit the text of President Arias' remarks for the consideration of my colleagues: Mr. Arias has thus explained that the power of democracy is the best ideological weapon to use in the fight against the threat of communism.

In reflecting upon President Arias' ideas I am reminded of a quote of Gen. Napoleon Bonaparte who said in the autumn of his career: "There are only two powers in the world, the spirit and the sword. In the end the spirit always wins out over the sword."

TEXT OF SPEECH BY ARIAS ON ACCEPTING NOBEL PEACE PRIZE

When you decided to honor me with this prize, you decided to honor a country of peace, you decided to honor Costa Rica. When in this year, 1987, you carried out the will of Alfred E. Nobel to encourage peace efforts in the world, you decided to encourage the efforts to secure peace in Central America. I am grateful for the recognition of our search for peace. We are all grateful in Central America.

Nobody knows better than the honorable members of this Committee, that this prize is a sign to let the world know that you want to foster the Central American peace initiative. With your decision you are enhancing the possibilities of success. You are declaring how well you know the search for peace can never end, and how it is a permanent cause, always in need of true support from real friends, from people with courage to promote change in favour of peace, even against all odds.

Peace is not a matter of prizes or trophies. It is not the product of a victory or command. It has no finishing line, no final deadline, no fixed definition of achievement.

Peace is a neverending process, the work of many decisions by many people in many countries. It is an attitude, a way of life, a way of solving problems and resolving conflicts. It cannot be forced on the smallest nation or enforced by the largest. It cannot ignore our differences or overlook our common interests. It requires us to work and live together.

Peace is not only a matter of noble words and Nobel lectures. We have ample words, glorious words, inscribed in the charters of the United Nations, the World Court, the Organization of American States and a network of international treaties and laws. We need deeds that will respect those words, honor those commitments, abide by those laws. We need to strengthen our institutions of peace like the United Nations, making certain they are fully used by the weak as well as the strong.

I pay no attention to those doubters and detractors unwilling to believe that lasting peace can be genuinely embraced by those who march under a different ideological banner or those who are more accustomed to cannons of war than to councils of peace.

We seek in Central America not peace alone, not peace to be followed some day by political progress, but peace and democracy, together, indivisible, an end to the shedding of human blood, which is inseparable from an end to the supression of human rights. We do not judge, much less condemn, any other nation's political or ideological system, freely chosen and never exported. We cannot require sovereign states to conform to patterns of government not of their own choosing. But we can and do insist that every government respect those universal rights of man that have meaning beyond national boundaries and ideological labels. We believe that justice and peace can only thrive together, never apart. A nation that mistreats its own citizens is more likely to mistreat its neighbours.

To receive this Nobel Prize on the 10th of December is for me a marvelous coincidence. My son Oscar Felipe, here present, is 8 years old today. I say to him, and through him to all the children of my country, that we shall never resort to violence, we shall never support military solutions to the problems of Central America. It is for the new generation that we must understand more than ever that peace can only be achieved through its own instruments: dialogue and understanding; tolerance and forgiveness; freedom and democracy.

I know well you share what we say to all members of the international community, and particularly to those both in the East and the West, with far greater power and resources than my small nation could ever hope to possess. I say to them, with the utmost urgency: let Central Americans decide the future of Central America. Leave the interpretation and implementation of our peace plan to us. Support the efforts for peace instead of the forces of war in our region. Send our people ploughshares instead of swords, pruning hooks instead of spears. If they, for their own purposes, cannot refrain from amassing the weapons of war, then, in the name of God, at least they should leave us in peace.

I say here to His Majesty and to the honorable members of the Nobel Peace Committee, to the wonderful people of Norway, that I accept this prize because I know how passionately you share our quest for peace, our eagerness for success. If, in the years to come peace prevails, and violence and war are thus avoided; a large part of that peace will be due to the faith of the people of Norway, and will be theirs forever.

□ 1800

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Texas, who, I would observe, is a proponent of peace in Central America and has had visions of this occurrence for a number of years going way back, I believe, to 1983.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding.

I merely want to congratulate the gentleman and thank him for his leadership with respect to this very pervasive issue. The gentleman from Arkansas has been in the forefront of this issue from the very beginning. In fact, he has inspired some of us to speak out, and I think his leadership should be recognized, because I have been impressed by his insight and his perception and his knowledge of this part of the world, which, unfortunately, too often escapes the attention of the leadership of our Nation, both inside the Congress and in the executive branch. I merely wanted to congratulate the gentleman for his continued efforts and thank him for the time he has devoted to meeting such individuals as this great President, President Arias of Costa Rica.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] for sharing his knowledge and information and for providing leadership to me and others in the House of Representatives.

DO YOU KNOW ABOUT THE CONGRESSIONAL AWARD?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, I have been a Member of the House of Representatives for almost 30 years, and yet I discovered in the past weekend in my congressional district a program sponsored by the Congress of the United States which I had never heard about.

This is the Congressional Award Program which has been sponsored over a number of years by individuals such as Adm. Elmo R. Zumwalt, Senator MALCOLM WALLOP, Senator PAUL SIMON, Representative TOM LANTOS, Shirley Chisholm of Holyoke College, and Cathy Lee Crosby.

The Congressional Award Program is designed to encourage young people to contribute to the betterment of their communities through voluntary public service, personal development, and physical fitness. In a small sense, the Congressional Award Program takes up where the award of Eagle Scout leaves off and carries on without any attachment to the Boy Scout programs but encourages in them the same kind of community service which Scouting sponsors and recognizes in its goals.

If there are other Members of the House who have not been aware of this program, I would like to bring to their attention the young man whose achievements were brought to my attention over this past weekend: Alexander Koff of Delmar, NY. Mr. Koff, a 17-year-old senior at Bethlehem Central High School in the county of Albany, was recently the recipient of the silver Congressional Award in recognition of his superior community service and personal achievements. Alexander has been a member of the National Honor Society, a reporter for his school newspaper. He volunteers his time at the Good Samaritan Home. He plays the French horn and has received recognition for his performance in statewide competition. He is a member of the Boy Scouts of America and earned scouting's highest honor, the Eagle Scout Award. He participates on the varsity swimming and track teams in his high school. He is listed as having provided 348 hours of voluntary community services in his area at the Good Samaritan Home and in connection with the school community advisory team. He has also undertaken 1,332 hours of activity of an athletic nature, including soccer, swimming, track, and camping.

I want to express my congratulations to Penny M. Miller, the National Director of the Congressional Award, for the splendid service that they are carrying out in terms of community service at a time when young people are beginning to think of college rather than high school activities. I believe my colleagues will be interested in Alex's activites in the past year.

Not only did he earn his Eagle Scout Award at the age of 16, but he also attended Convention II in Washington, DC where participants submitted their own draft amendments to the Constitution and argued the merits of them on the floor of the House of Representatives. Alexander Koff served as a senior class representative with the student Senate.

We in the House can certainly be proud of the achievements of these young people who have carried out the Program of the Congressional Award, and we should be aware that in our areas are young men and women who are carrying out the program to make the Congressional Award Program work. It makes it clear that in all of our districts young people are looking forward to the opportunity to help to promote the activities of our country in the House and the Senate of the United States. Judging from what I have seen and heard, I can attest that we should all be looking over our shoulders.

LEAVE THE PLO OFFICES OPEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, I rise today in opposition to a grave error that I believe this body is about to make. On Tuesday, House conferees voted by a narrow margin to retain Senator GRASSLEY's amendment to the State Department authorization bill. That amendment would force the closing of the Palestine Liberation Organization's Observer Mission to the United Nations and the Palestine Information Office in Washington.

I oppose the Grassley amendment for three reasons. First, closing the PLO Observer Mission is in violation of our treaty obligations to the United Nations. The Headquarters Agreement of June 26, 1947, between the United States and the United Nations, obliges the United States as the host country to permit U.N. delegations to enter and remain in the United States to carry out their official functions at the United Nations. That would, of course, include the PLO Mission, which was established at the express invitation of the General Assembly in Resolution 3237 of November 22, 1974.

Second, closing the PLO offices violates the first amendment rights of U.S. citizens. No one has ever alleged any criminal activity by these offices of the PLO. Even the Justice Department has taken the position that the PLO offices have broken no laws. To require that the PLO staff, who are American citizens and permanent residents of the United States, cease their informational and U.N. activities would deny them their first amendment right to engage in lawful political activity and their right to political association. To deny any American access to such lawful information and association is a clear violation of the first amendment as well.

Finally, I believe that closing the PLO offices creates but another obstacle to a peaceful solution of the Middle East conflict. There can be no Middle East peace without the participation of the Palestinian people. I am convinced that the only way a comprehensive peace settlement will be achieved is through an international conference, involving all parties, including the PLO.

I strongly oppose the Grassley amendment, and I will vote "No" on the State Department authorization bill.

NATIONAL CHALLENGER CENTER DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation to designate January 28, 1988, as "National Challenger Center Day."

On January 28, 1986, Our Nation lost seven brave Americans on an ill-fated mission of science and education. The National Challenger Center was conceived by the families of the *Challenger* crew as a living expression of our Nation's commemoration of the crew. The Center, which will be privately funded through contributions, will serve as an education center intended to offer children and teachers activities and information derived from American space research.

By acting on this legislation, the House will not only recognize the efforts of these families to establish this memorial to the brave men and women lost in the *Challenger* accident, but will also help in the creation of a lasting, working tribute to their ideals and sacrifices. I encourage my colleagues to support the resolution.

CHAIRMAN PAUL KIRK'S NGA SPEECH A MAJOR PARTY-BUILDING STATEMENT

THE SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 30 minutes.

Mr. UDALL. Mr. Speaker, the chairman of the Democratic National Committee, Paul G. Kirk, Jr., has demonstrated time and, time again his willingness to take on some of the old and shopworn notions that have burdened the Democratic Party in recent national elections. And, at the recent meeting of the Democratic Governor's Association, Chairman Kirk did it again. He proposed that the Democratic Party do away with the cumbersome and divisive traditional platform in favor of a streamlined, less controversial message to the American people from the Democratic Party.

In the Washington Post of December 9, David Broder wrote:

> Now Kirk is challenging the activists of the Democratic left to weigh the relative importance of winning back the White House or writing their favorite planks into the platform.

Mr. Speaker, I agree with Chairman Kirk's reasoning that we must avoid burdening our Democratic candidates, from city halls to the White House, with a 100-page document that reflects the wishes and desires, worthy and unworthy, of every special interest under the broad Democratic umbrella.

Our party is broad and it is responsive. But sometimes we talk too much and write too much for our own good.

Mr. Speaker, I commend Chairman Kirk for his courage and foresight. I ask that his excellent speech before the Democratic Governor's Association be inserted into the CONGRESSIONAL RECORD so that all my colleagues on both sides of the aisle can see that the Democrats mean business in 1988.

Chairman Kirk's speech follows:

REMARKS OF CHAIRMAN PAUL G. KIRK, JR.

Personal Acknowledgments:

My thanks to the Democratic Governors' Association for the invitation to address this luncheon meeting. Your guests, the officers of the Democratic Party, its Executive Committee, our Congressional leadership, elected and party leaders from all levels of government and from every region of the country indicate the importance of this gathering.

I salute your Chairman, Governor Jim Blanchard, for the early and active interest DGA is taking in the Democratic Party's strategic planning for a successful General Election in 1988.

November of 1988 can be the time for a National Democratic victory not least because, in December of 1987, we took the time to talk practical Democratic politics. That's what today is about.

Certain facts could lead some to conclude that fortune alone will favor the Democrats in 1988. In the last 20 years for example, there have been only 2 contests in which an incumbent President has not sought re-election. Both times, 1960 and 1968, the incumbent party nominated its Vice President to head its ticket, and both times the "out" party prevailed. So, some may be tempted to believe that, if the GOP will only nominate its Vice President in 1988, victory will be ours for the taking. Well, it won't be that simple even if the Republicans do nominate George Bush. First of all, in 1960 and 1968, both elections were extremely close. And secondly, when it comes to Presidential elections since 1968, let's be honest—the Republican Party has enjoyed a huge electoral vote advantage.

Not only has the GOP won 4 of the last 5 Presidential elections; in all 5 elections, they have consistently carried 23 states whose electoral college votes total 202—just 68 short of the total of 270 needed to win.

By comparison, Democrats in all 5 elections carried only 1 jurisdiction consistently. Its contribution toward the 270 total needed to win has been—3 electoral votes—267 short of the winning margin and 199 votes short of the comparative base from which the GOP has started.

After 8 years of a Republican establishment, ruling by policies of debt and deficits, with a contest for an open seat, and with America's future virtually "up for grabs"—the Presidential election of 1988 is, I believe, the most important election in modern political history. The Democratic Presidential nomination may be worth more in 1988 than it has been worth in years. But, as the electoral vote tally reflects, we can take nothing for granted.

I have said many times that the Democratic opportunity in November 1988 is equalled only by our obligations. The only way I know to fulfill my obligation as Party Chairman is to talk straight and offer my best political judgment of where we are and what we must do to seize that opportunity.

Some critics will argue that I have taken a line from the actor's script, that I have become the "just say no" Chairman. It's true that I have said "no" to the proliferation of caucuses; "no" to organizational endorsements prior to the nominating process; "no" to protracted public fights over party rules; "no" to an expensive mid-term conference; "no" to artificial straw polls; and "no" to negative campaigning.

Those decisions, tough as they seemed to some, changed some perceptions about the National Democratic Party. We demonstrated that we could say "no" when "no" was believed to be the right answer. But I also take pride in saying "yes" to major investments in modernized, competitive, professional campaign services, organization and machinery. They received less attention, but they helped to bring about significant victories for Democrats in November of 1985, November of 1986 and November of a month ago. And I take pride in having increased significantly the number of party and elected officials who will serve as automatic delegates to our nominating convention.

In preparing for that event and for the general election, we meet today as Party leaders to discuss the final and most important chapter in the story of the Democratic comeback from 1984 through 1988.

There is an opportunity and, I would argue, an obligation which is ours—to construct a positive, political asset which could mean the margin of victory for our Party in what, I predict, will be a very close election. I am speaking of the Democratic Platform of 1988.

Losing 4 of the last 5 Presidential elections while winning a majority at every other level of government, the Democratic Party can fairly be called the master of "split-level" politics.

If we are to earn our way back to the top floor of American government in 1989, and if we are to expand our majorities at all levels of government, it is our obligation to construct a Democratic Platform around which every Democratic candidate at every level in every region of the country can rally with pride!

For my part, gone are the days when our own state and local Democrats feel compelled to run away from—or even against—the Party's national platform, and thus its Presidential nominee, in order to win as a Democrat back home. That's voodoo politics". That's not common sense politics. That's not strategic planning, and that's not the way to unite a party facing a close and critical national election.

Voters are looking and waiting to see whether the Democrats will do what is smart and what is right and what is necessary to win in 1988 and, yes, to lead and to govern in 1989 and beyond.

A long list of legislative initiatives or specific 10 point programs makes an excellent Budget Message or State of the Union address, but it does not necessarily make a winning national party platform.

A litany of social, cultural, or ideological, litmus-test buzzwords may be a source of comfort to narrow-issue pressure groups, but it is not necessarily a winning national party platform.

A document which Republicans quote to attack Democratic candidates more frequently than Democratic candidates do to promote themselves—is neither a unifying nor a winning national party platform.

Veins on the leaves of trees are a captivating study but, as National Democrats, our first obligation is to demonstrate to a national audience that we can see the forest and can lead them through it.

It's one thing for me to give an opinion on what does not constitute a winning Democratic Platform. My purpose today is to suggest a positive alternative and to ask for your help.

If I am right, the 1988 election will be one in which the American people will be looking for a fresh start—but they will be looking for strength and security as well. While they may be looking for change—they will also be looking for a renewed spirit which combines national teamwork with hope and confidence and optimism.

All the hours and dollars we invest in strategic political planning could be for naught if we do not respond by putting forth a clear strategic, national vision and challenge for a national audience to follow—a vision and challenge which is right and necessary and which, politically, will energize our traditional Democratic base but will also attract the ticket-splitters, the swing voters, the independents and, yes, even some enlightened Republicans.

It is in that spirit that I ask you, as Democratic leaders, to join me in a charge and a challenge to the Democratic Party of 1988, its candidates, its campaigns, its constituencies, its Platform Committee and its National Convention. It is a charge and a challenge to write and adopt as its 1988 Platform a brief and readable equivalent of an "open letter" to the individuals and families of America.

Let's make it our purpose in 1988 to reunite with those millions of middle and working class American families who are struggling to make ends meet and with those millions of others whose only hope for an improved standard of living and a more secure future lies with the Democratic Party. Let's tell them the truth about the differences between the two parties in language they want to hear. For the truth remains that their hopes are our hopes; their story is our story. And that story must be told in a way that will make them listen and have hope again.

Unlike our opposition, the Democratic Party believes in the politics of inclusion. But the Democrats in 1988, the "politics of inclusion" must not be confused with the politics of including a line here or a word there in an attempt to satisfy every disparate group in our diverse society. When united as a national team, the diversity of the Democratic Party like that of America itself, is its greatest strength. Our 1988 platform should reflect the timeless truths and unifying principles which make us proud of our political heritage and on which we base our assumptions and our aspirations for the future.

The problems are not easy. With the legacy of debt left behind by the incumbent Republican establishment, borrowing selfishly from the future so it could live comfortably in the past, there will be no quick fixes. The people we seek to serve know it better than we do. So let's not write to them of narrow political promises. Let's write of our larger national challenges and of the critical need for what I call "national teamwork".

Elections are about change. So, let's tell America up front that, under the Democrats, there will be change. Let's tell the country the truth—that, under the Democrats, selfishness and "survival of the fittest" are out—and a spirit of national teamwork is in.

The President alone is elected by the nation as a whole. But the challenges facing this nation, at home and around the globe, will not be solved by the next President alone. What is needed is a Democratic President, backed first by a united Democratic Party, with the leadership and the vision to challenge the noble, the decent and the patriotic instincts of the nation as a whole.

Let's make realism and pragmatism the touchstone of this national campaign, but let's always remember that optimism and patriotism are the hallmarks of our national character.

The next Democratic Presidential nominee will run with each of you, and I predict that you and he will win bigger and govern better by running on a platform which is a compelling and unifying challenge to our collective national will and purpose.

Much work has already been accomplished in laying the foundation for that Democratic Platform. The Democratic Governors' Association, the National League of Cities' Election '88, the Democratic Conference of Mayors, and our own Democratic Policy Commission's "New Choices in a Changing America", all provide real working examples of successful and creative initiatives, of public incentives and private investments, of partnership and teamwork between government and the private sector with shared, practical and positive responsibilities for investing in the people and the future of America.

Looking to those and other works and to the expertise of the Democratic Congress, our letter to the American people can be bold enough and, yes, brief enough so that every American will want to read it and say—that's the American future in which I want my children to live and that's the political party in which I place my trust.

Now, let me tell you briefly why I believe a Democratic challenge of national teamwork is vital if a new era of national purpose and real national strength is to begin on Inauguration Day 1989.

America will be stronger and our freedoms more secure in an America in which the words that begin the Constitution, "We the people", mean all the people; and where all Americans are challenged toward excellence and feel they are part of a team again;

America will be stronger and our freedom more secure because Domocrats commit this country, first and foremost, to a balanced and diversified economy of real strength and real growth; an economy that will unite America, not divide it; that will expand opportunities without deeper debt and will increase the standard of living for all without increased inflation;

Americans want to live in a future where Democrats, whose belief in freedom is second to none, will commit this country to a defense and a security for America that is second to none, but where that strength and that security will be measured in real and balanced readiness and not by wasted dollars and false rhetoric;

Where foreign policies of deceit, disinformation and deniability are replaced with policies of cooperation, coherence and credibility;

Where a fresh take-charge, Democratic leadership and teamwork displayed at home will set an example of cooperation for our allies who then will be compelled to play by the rules and assume their fair share of responsibilities on trade, and defense and energy in an interdependent global economy;

Where, working together to expand our economy, we also exercise the prudence and the discipline to live within our means.

Our families will be stronger and our futures more secure in an America;

Where, all our children, from the grange to the ghetto, are well read and well fed and well prepared for productive jobs and productive lives and for their contribution to a productive and competitive nation;

Where, public and private partnerships are forged to assure an environment that is healthy and clean and that housing and health care are available and affordable;

Where, old age is a reward and not a risk;

Where, economic equity is a guarantee for working men and working women;

Where, it won't be left to vulnerable school children to "just say no" to drugs on the street corner, but where the most powerful office in the world will "just say no" to drugs crossing our borders;

Where, despair and hopelessness in rural America and hunger and homelessness in urban America will never again be ignored with callousness by the highest office in America.

These challenges can be met and a stronger and more secure America will be attained when true patriotism and a sense of community and national teamwork are restored as national values, and when greed and selfishness are discarded as national policies;

When, though partisan in our campaigns, we Democrats can show again what bi-partisan cooperation can mean to our governance;

When we practice the politics of values and restore respect for the value of politics, and for the rule of law and for the role of government and for public life and public institutions;

When individual rights will be respected and protected, but where shared sacrifice and shared responsibilities will be called for and expected;

When there is a renewed bond of cooperation and a positive, pragmatic partnership between the public and the private sectors, between management and labor, between government at every level, and between the races, the regions, the economic sectors and the individuals of America; and

When a Democratic President can again remind us that we are, in the end and always, dependent on each other.

The challenge we face as a national Party is the very challenge we face as a country. Can we call our many diverse elements together to work as a team to achieve a higher purpose? If we can meet that challenge of teamwork as a party, we not only can win an important election but we can set an example for leading the country.

A letter to the American people, setting forth that challenge could be a practical and positive political platform on which every Democratic candidate and campaign at every level in every region of this country could run with pride and confidence.

You may ask: Why issue this challenge at this time? Why not wait until the delegate selection process begins or until the Platform Committee is convened?

First, it falls to a Party Chairman and Party leaders to shape events, not to stand by and bemoan them when it is too late.

Second, in the pre-nomination process of 1987 and 1988, there will have been more substantive debates and joint appearances by the Democratic candidates than in any previous Presidential campaign. Our candidates are experienced and pragmatic problem solvers. They will have been asked every question on every conceivable issue. They will have been as specific and substantive as the voters and their opponents demand them to be. And while they go about the important business of debating specific proposals and issues, it is our collective responsibility to shape the larger events, to set an early tone, to send an early message for our Party and to our Party, and to the all important national audience, that—even before we choose our Presidential nominee, Democrats have a clear, strategic, unifying and overarching vision which sets us apart from our opposition and which calls all Americans to a higher order.

Third, I want it known that support for that kind of a platform will be a key criterion when, next month, I select the Platform Chair and make my appointment of 25 members to the 1988 Platform Committee.

Fourth, now is also the time to urge the Democratic State Chairmen, to apply this same criterion in selecting temporary appointees to the Platform Committees, and to select as temporary members those most likely to be elected as permanent members.

In closing, let's keep in mind that our convention in Atlanta takes place prior to the Republican Convention in New Orleans. If we adopt a platform in Atlanta that speaks in positive, and pragmatic and patriotic terms to a broad national audience, it can not be used as a target of opportunity of the Republican Party. They will be left to defend their sorry record of debt, deficit and division and the vision of the future to which they gaze longingly through a twisted rear view mirror. We will have maintained the momentum from our Convention; we will maintain control of the dialogue, and we will have preserved our opportunity and, yes, our obligation, to seize our vision of the future.

But before we can win and govern America effectively and well in 1989 and beyond, and before we can issue a unifying challenge and call to the nation as a whole, I need your help in joining me in this challenge and call to our Party.

If you should be asked, did the Chairman give any reasons to support him in his call? You can say—"Yes. He said: it's the same 2 reasons we should invest in the feeding and education of our children; it's the same 2 reasons he wants the American electorate to give when they support the National Democratic Party in 1988:

"It's the smart thing to do. It's the right thing to do * * *."

CR MADNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. LOTT] is recognized for 60 minutes.

Mr. LOTT. Mr. Speaker, a foreign visitor in the House gallery last Thursday would have been very confused by all this talk of a CR. But, I'm sure that after listening to the full debate on the rule and the CR he would have concluded that the initials must either stand for "continuing ridiculousness," "certifiable rubbish," or "clobber Republicans."

Of course, our visitor could have gone to the document room and asked for a copy of the CR (H.J. Res. 395), and the accompanying report (H. Rept. 100-415). But, even if our visitor had a firm grasp of the English language, those documents would have been only minimally enlightening, and probably even more confusing in many respects.

Oh, he would learn that the CR makes "further continuing appropriations" for "the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1988, and for other purposes;" and he would probably conclude that CR must stand for continuing resolution. But he would be baffled if he tried to determine from the joint resolution or the report just how much money was being appropriated. The report does explain that $768.5 billion of the $1.1 trillion outlay budget is uncontrollable, leaving only $271.3 billion to annual discretionary action. And it does explain just how much is being saved from various baselines and budget allocations. The report even informs us that the committee heard 4,188 witnesses and produced 94,220 pages of hearing record. But, nowhere in the report or resolution can there be found the total amount being appropriated, let alone a comparison of budget authority and outlays for the various subcommittee bills which are merely referenced in subsections 101 (a)-(m). Such cost estimates are only required by House rules to be included in the reports on general appropriations bills and not in the reports on CR's. One must look elsewhere, in unofficial publications and summaries, to find such figures, variously reported as being between $587 billion and $598 billion. But then, what's $11 billion among friends.

Even the three appropriations bills which have not been considered by the House—defense, foreign operations, and agriculture—are merely referenced by bill number. Members will have to look elsewhere to find out what those measures contain. And yet, these three bills alone reportedly total some $330 billion in budget authority, roughly 55 percent of the $598 billion total BA in the CR. The House is nevertheless being asked to swallow these whole, without amendment, despite reports that the bills are laced with pork and major foreign policy provisions objectionable to the administration.

Moreover, nowhere can there be found the total amount being appropriated for some 25 programs under 10 acts which have not been authorized or included in the 13 appropriations bills already reported or passed in the House. While all these programs are being carried forward at fiscal 1987 levels, the report fails to include the funding levels for 4 of the 25 programs. Again, a check elsewhere reveals that the total funding for these four programs alone is roughly $166 million. The 25 programs are all bunched together in subsection 101(n), and reportedly add up to around $3 billion.

Then we have a hodgepodge of miscellaneous provisions in subsections 108-132, euphemistically referred to by some as "Members' goodies," some of which are costed out, others of which aren't; some of which are appropriations matters, others of which are blatant authorizing and legislative provisions which would be subject to points of order if included in general appropriations bills. But again, no such points of order lie against such provisions in a CR, mainly because it was never anticipated that continuing resolutions would be used to fund the entire Government for the entire year.

FLYING BLIND

Mr. Speaker, our foreign visitor must come away from reading the CR and its report with a great admiration for American efficiency. Here are documents which cover the entire gamut of the Federal Government for a full year, and yet the resolution runs only 25 pages, and the report another 24. What could be more cost efficient than a bill that manages to appropriate, on average, $25 billion per page? Or, when you consider that all 13 of the regular appropriations bills, totaling $595 billion in BA are covered in just three pages, we have managed to appropriate an average of $198 billion per page.

Of course, Mr. Speaker, when this tiny bill is returned from conference, and the actual bill language is inserted where mere references to bills now exist, the number of pages will likely balloon from 25 pages to around 1,000. Last year's omnibus CR, the first of its kind in history, went from 67 pages on initial consideration to 690 pages in the finally enrolled version. And, even then, 4 of the 13 bills were merely referenced by their individual conference report numbers: HUD, Labor-HHS-Education, legislative branch, and Transportation. Those wishing to find the actual legislative language enacted for those four areas would have to look elsewhere.

The point remains that when Members initially consider these continuing resolution, they have very little idea what it is they are being asked to vote for, both because there is little legislative language in the resolutions, and little explanatory information in the accompanying reports. When the final CR emerges from conference, with more, if not totally complete, text, it is usually in the waning hours of a session when Members don't have the time or inclination to examine the contents. Thus, we're flying blind on takeoff and on landing.

And yet, this is the most critical stage of the process, not only because this is the version that becomes law, but because all manner of new provisions could have been added by the Senate or have been produced from whole cloth in conference. Since the rule on such conference reports waives all points of order, there is no real way to determine how much of the conference report is either nongermane to the House-passed bill or goes beyond the scope of matters committed to conference by the House and Senate combined. Such conference reports are open invitations to committing bloody murder undetected—at least until Members are well out of town and safely reelected.

THE CR RULE

Mr. Speaker, the rule on this year's CR was not unlike previous CR rules. Put bluntly, it was a very restrictive rule in terms of amendments. Last year's rule permitted one amendment, to strike a provision in the CR. This year's rule provided for the automatic adoption of three amendments upon adoption of the rule: instructing conferees to implement the budget summit agreement; blocking an FAA regulation relating to airplane repair stations; and denying top-level Government officials the 3 percent pay increase provided for in section 132. These so-called self-executing rules are a dangerous new development, both because they shield substantive and controversial provisions from separate debate and votes, and because they sanction Rules Committee usurpation of other committees' jurisdiction. Procedure becomes substance with the vote on a rule.

The rule went on to make in order separate votes on seven amendments: extending the Clean Air Act attainment deadline—two alternatives, permitting transfers of CCC appropriations, codifying the fairness doctrine, prohibiting aid to Haiti, blocking Federal Government contacts with Japanese construction firms, and reallocating job partnership training funds.

Of these 10 amendments, 9 would have been ruled out of order if offered on a general appropriations bill as being either unauthorized or legislative provisions in violation of clause 2 of rule XXI. But, this House rule does not apply to CR's. As a result, Members think it is proper to petition the Rules Committee to attach such legislative riders to a CR, and, sometimes, they are rewarded. Even so, the Rules Committee waived all points of order against all amendments made in order to the CR, presumably because some still posed potential problems with respect to other House rules still in effect.

Mr. Speaker, not only did the Rules Committee further pollute an already tainted CR with additional extraneous matters, but it also prevented amendments to strike any of the extraneous or otherwise objectionable provisions already in the bill. No opportunity was afforded to strike or amend any of the 25 unauthorized programs in subsection 101(n); any of the miscellaneous provisions in sections 108–131; or any of the provisions in the three major appropriations bills not previously considered by the House.

The Rules Committee took testimony from some 55 House Members and heard requests for over 20 amendments to be made in order. Some of those amendments would have added even more legislative language; but other proposed amendments, such as one to strike an expanded amnesty provision for illegal aliens, would have pruned the bill of much of its excess foliage.

In conclusion on this point, Mr. Speaker, the Rules Committee could have exercised its jurisdiction responsibly by ensuring that the continuing appropriations resolution did just that, continuing the funding of the Government, and nothing more. Instead, the Rules Committee not only gave its blessing to the many "other purposes" to which the CR is being increasingly put, but further compounded that practice by making in order additional nonappropriations amendments. If such omnibus CR's are a madness to begin with, the Rules Committee only managed to escalate their level of absurdity and insanity.

HOW DID WE GET HERE

Mr. Speaker, a historical analysis of continuing appropriations resolutions contained in a recent report by the General Accounting Office [1] reveals that CR's are by no means a recent innovation. Indeed, the analysis found that Congress was passing temporary or partial appropriations as early as 1798. However, up until this decade, CR's were quite limited in duration and scope, serving as temporary, stopgap funding measures until the regular appropriations bills were enacted.

The GAO analysis focuses primarily on the 26-year period from fiscal 1960 to 1985. It reveals that, for the years 1960 through 1979, CR's averaged from one to three pages in length. However, in the 1980's some CR's were 20 or more pages in length, and the fiscal 1985 resolution was some 363 pages. The reason for this increase in the size of CR's is obvious: They are covering more bills for longer periods, using diverse funding formulas, more actual text as opposed to references, and were including more extraneous, legislative matters.

The main reason for the growth in size of CR's is the change in their basic function, from short-term, stopgap measures, to full-year, full-funding measures, covering up to all the departments and agencies of Government. The GAO analysis concludes on this point:

> These resolutions have been used in place of regular appropriations bills and are so broad in scope as to resemble omnibus appropriations bills.

Since that analysis was published, that's exactly what the final CR has become both for last year and this: An omnibus appropriations bill covering all departments and agencies of the Government for the entire fiscal year, with no real pretense or intention of separately enacting any general appropriations measures.

Ironically, one of claims made by the authors of the 1974 Budget Act was that it would "substantially reduce(s) the likelihood of continuing resolutions because of the failure to complete action on the appropriations bills before the start of the fiscal year." [2] The need for CR's would be obviated by Budget Act provisions changing the start of the fiscal year from July 1 to October 1, and requiring that all authorizations be reported no later than May 15 to permit the appropriations process to move forward earlier—a deadline that was unfortunately repealed in the 1985 Gramm-Rudman-Hollings Act.

A Congressional Research Service study, which I am inserting with my remarks as table 1, reveals that in each of the 7 fiscal years preceding the full implementation of the Budget Act in fiscal year 1978, not one appropriations bill was enacted prior to the start of the fiscal year. In fiscal 1977, all 13 were enacted on time. But that accomplishment was short lived. In succeeding fiscal years, the number of on-time enactments declined from nine in fiscal 1978 to zero for the past 3 fiscal years, 1986–88.

TABLE 1.—NUMBER OF REGULAR AND CONTINUING APPROPRIATIONS ACTS ENACTED OR VETOED: FISCAL YEARS 1960–87 [1]

Fiscal year	Initial Congress/session	Number of regular appropriations acts				Number of continuing appropriations acts	
		Enacted on or before start of the fiscal year	Enacted after start of the fiscal year	Enacted	Vetoed	Enacted	Vetoed
1960	86–1	2	10	12	2	3	0
1961	86–2	5	7	12	0	1	0
1962	87–1	0	12	12	0	2	0
1963	87–2	0	12	12	0	4	0
1964	88–1	1	11	12	0	4	0
1965	88–2	0	12	12	0	2	0
1966	89–1	2	10	12	0	5	0
1967	89–2	2	10	12	0	3	0
1968	90–1	1	12	13	0	6	0
1969	90–2	1	12	13	0	4	0
1970	91–1	0	13	13	1	6	0
1971	91–2	0	12	12	1	5	0
1972	92–1	0	13	13	0	5	0
1973	92–2	0	11	11	2	5	0
1974	93–1	0	13	13	0	3	0
1975	93–2	0	13	13	1	4	2
1976	94–1	0	13	13	1	3	0
1977	94–2	13	0	13	1	2	0
1978	95–1	9	3	12	0	3	0
1979	95–2	5	7	12	1	1	0
1980	96–1	3	7	10	0	2	0
1981	96–2	1	7	8	0	3	0
1982	97–1	0	9	9	0	4	1
1983	97–2	1	5	6	0	2	0
1984	98–1	4	6	10	0	2	0
1985	98–2	4	1	5	0	5	0
1986	99–1	0	6	6	1	5	0
1987	99–2	0	0	0	0	5	1

[1] Most legislative action for a fiscal year occurred during the session in which the fiscal year started (referred to in this table as the "initial" session); however, in some cases legislation was not enacted or vetoed until the following session.

The Federal Government used a July 1 to June 30 fiscal year cycle from the mid-1800's through fiscal year 1976. Beginning with fiscal year 1977, the cycle was changed to October 1 to September 30. Measures enacted on October 1 (or on July 1, under the earlier definition of the fiscal year) are considered to have been enacted by the start of the fiscal year.

Over the 28-year period covered by the table, the number of regular appropriations acts considered each year by Congress has varied. This table provides historical information on the 13 regular appropriations acts presently considered by Congress (the title and coverage of some of these acts have changed over the years; the Department of Transportation Appropriation Act originated in fiscal year 1968 and therefore is not reflected in the first 8 years covered by the table). From time to time during the 28-year period, Congress considered other measures that could be regarded as regular appropriations acts, but they are not covered in this table.

In instances where the President vetoed two different versions of the same appropriations act for a fiscal year, both vetoes are counted.

In recent years, Congress has incorporated the full text of certain regular appropriations acts into full-year continuing appropriations acts.

For fiscal year 1968, the District of Columbia Appropriation Act provided continuing appropriations for certain agencies and therefore is counted both as a regular and continuing appropriations act (see section 18 of Public Law 90–134).

Sources: Final Edition of the Calendars of the U.S. House of Representatives (79th–99th Congresses); U.S. Congress. Senate. Office of the Secretary of the Senate. Presidential Vetoes, 1789–1976 (1978) and Presidential Vetoes, 1977–1984 (1985); and U.S. Library of Congress. Congressional Research Service. Government Division. Presidential Vetoes and Ronald Reagan's Use of the Process in His Second Term [by] Gary L. Galemore. Issue Brief 85093. Nov. 28, 1986.

Table prepared by Robert Keith, Congressional Research Service, Apr. 22, 1987.

Moreover, a more disturbing trend was occurring simultaneously. Fewer and fewer appropriations bills were ever being separately enacted in recent years, meaning they were being funded for an entire year through the CR mechanism. In all but 2 of the fiscal years in the pre-Budget Act fiscal years of 1960–75, all general appropriations bills were eventually enacted separately. The exceptions were fiscal years 1971 and 1973 when one and two bills, respectively, were funded for the full year in a CR.

However, in fiscal years 1977–87 when the Budget Act has been in force, on average only 7 of the 13 regular appropriations bills have been separately enacted. And last year was the historic first time in which no regular appropriations bills were separately enacted. This year will apparently follow that precedent of a truly omnibus appropriations bill—replete with extraneous and miscellaneous legislative provisions.

To conclude on this point, Mr. Speaker, we are witnessing the defacto evolution of a whole new animal in this Congress. Our school of 13 regular appropriations fish have been swallowed by a monster whale with barnacles on it.

HANGING IN THE BALANCE

When we attempted during this year's negotiations over Gramm-Rudman II to reverse this trend by providing for severability of the omnibus CR into 13 separate appropriations bills before being sent to the President, we were informed by the House majority leader that this was unacceptable because it would tilt the balance of power in favor of the Executive branch by making it easier for the President to veto the individual appropriations bills.

This attitude struck me as particularly curious in this bicentennial year of our Constitution with nearly 200 years of precedent supporting the separate passage of individual appropriations bills, and the right of the President to exercise his veto power over those measures. If the veto power given to the President by the Framers caused any kind of a tilt, it was a tilt against a runaway Congress, and toward a balance between the branches.

To now suggest that the only way to maintain a balance between the branches is to present the President with omnibus, and nearly veto-proof bills, is a perverse new way of looking at our delicate system of checks and balances. It virtually turns the Constitution on its head, and leaves hanging in the balance any possibility of a long-term solution to the deficit problem by the two branches.

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[1] "Appropriations: Continuing Resolutions and an Assessment of Automatic Funding Approaches," report to the chairman, Committee on Rules, House of Representatives, by the General Accounting Office, January 1986 (GAO/AFMD-86-16).

[2] From the report of the House Committee on Rules on the "Budget and Impoundment Control Act of 1973," H.R. 7130, H. Rept. 93-658, p. 16.

While it is important to have an overview of our budgetary situation, that is the purpose of the Presidential and congressional budgets. An omnibus CR, on the other hand, obscures the forest and the trees with an ominous, dark cloud that portends stormy confrontations rather than a clear view of our fiscal horizon.

While an omnibus CR theoretically gives Congress an upper hand over the Executive, it is actually deleterious to the interests of representative democracy and sound, rational lawmaking—the very heart of our article I responsibilities. Not only are the people's freely elected Representatives shut out of CR's by a restrictive amendment process, but the very timing and packaging of these omnibus bills virtually ensure that Members will have little idea as to what is even in the final version. This is especially true given the shenanigans that occur in the House-Senate CR conference during the waning hours of a session.

It's little wonder that these massive CR's are now euphemistically being referred to as BOMB's, or bloated, omnibus money bills. They're the type of thing that will explode in our faces unless we defuse them soon. But, whether they are referred to as BOMB's, potential embarrassments, abominations, or worse, the fact is they make a travesty of our constitutional role. While the Constitution may say that Congress shall "make all laws," the Framers certainly did not intend that all laws should be made in a single bill each year. And yet, that's about what we are coming to if we continue this CR madness.

WHAT SHOULD BE DONE

Mr. Speaker, ideally, we should outright "ban the BOMB," that bloated, omnibus money bill. It's bad process that leads to bad law in too many cases. But, since a total ban seems politically unattainable given the way we operate around here, we should at least discourage omnibus CR's through penalties or restrictions on their use, or lessen their throw-weight by separately enacting more individual appropriations bills, whether on time or late.

I have proposed legislation to reform the CR process by differentiating between short-term CR's, effective 30 days or less, and long-term CR's. The former would be subject to a set funding formula, as with the traditional CR's over the years. The long-term CR's, on the other hand, will be treated more like regular appropriations bills: full texts and cost estimates would be required, and the prohibitions against legislative and unauthorized provisions and amendments would apply. I would also permit amendments to those bills and provisions in a CR not previously considered by the House. A supermajority vote would be required to waive points of order against provisions not previously considered or to block amendments thereto.

Moreover, I have proposed that, if a long-term CR, covering more than one regular appropriations bill, is sent to the President, he should have enhanced rescission authority over any part of that bill, subject to congressional disapproval by joint resolution rather than approval as required of other rescissions.

I think these reforms would go a long way toward discouraging omnibus CR's in the first place. But, if they still are resorted to, at least they would be handled in a more rational and fair manner. Members might actually have some involvement in and understanding of the process and substance of a CR.

Mr. Speaker, I have no corner on the market when it comes to ideas or commitment to reform the CR process. As the legislative summary I will attach to my remarks indicates, numerous proposals have been introduced, many enjoying widespread and bipartisan cosponsorship. This is not a partisan issue. It is an institutional issue that affects us all individually as Representatives as well as the ability of our system of government to function as intended.

While it's true that CR's are widely decried by Members across the political and ideological spectrum, it is also true that they are widely exploited by many of these same Members as the last train to leave the station. Everybody wants to get on board with their pet legislative project or slab of pork. Nevertheless, I think most of these Members would agree that it's a sloppy and disgusting process, and they would be just as willing to forego their riders so long as others were forced to do the same.

It is my hope, Mr. Speaker, that after 2 years' experience with these adulterated, omnibus CR's, the Rules Committee will hold some serious hearings and deliberations on this whole process and consider some of the worthy proposals that have been introduced. At this point in the RECORD I include a brief summary of these proposals. The summary follows:

A BRIEF SUMMARY OF MEASURES INTRODUCED IN THE HOUSE RELATING TO CONTINUING APPROPRIATIONS RESOLUTIONS

The following measures have been introduced in the House of Representatives in response to the increasing reliance on continuing appropriations measures, particularly long-term, omnibus CRs:

1. HON. TRENT LOTT

H. Res. 48, Appropriations Process Reform Amendments (introduced on Jan. 21, 1987, no cosponsors)—

Short-term appropriations resolutions, effective for 30-days or less, would be required to contain only the lower funding levels and stricter requirements of House or Senate measures or previous year's provisions.

For long-term CRs, effective for more than 30-days, the full texts of the language proposed to be enacted (as opposed to references) must be printed in the CR;

Long-term CRs and amendments would be subject to the provisions of clause 2, Rule XXI, prohibiting unauthorized and legislative provisions;

Committee reports on long-term CRs would be required to include cost estimates and list of all unauthorized provisions;

A two-thirds vote would be required to waive rule relating to contents of short-term CR, or against any provisions in a long-term CR which are in violation of clause 2, Rule XXI, which have not been previously considered and agreed to by House.

H.R. 2232, Budget Process Reform Amendments of 1987 (Introduced on April 30, 1987, 62 cosponsors)—Secs. 103-104 identical to H. Res. 48 above. Sec. 204 establishes a special rescission authority for President over long-term CRs subject to disapproval by enactment of a joint resolution.

2. HON. MICKEY EDWARDS

H.R. 3103 (Aug. 5, 1987)—requiring that any omnibus CR be sent to the President as a series of separate resolutions reflecting the general appropriations bills.

H.R. 3104 (Aug. 5, 1987)—requiring that a 60 percent vote of both Houses be required to pass any continuing resolution for a fiscal year.

H.R. 3199 (Aug. 7, 1987, 114 cosponsors)—requiring enrollment of any omnibus CR into separate bills before being sent to President.

H.R. 3201 (Aug. 7, 1987, 93 cosponsors)—requiring a 60 percent vote of both Houses to pass any continuing resolution.

3. HON. DAVID DREIER

H. Res. 210 (June 24, 1987, 55 cosponsors)—House rules would be amended to—prohibit CRs from being effective for more than 90-days; confine CRs to lower of House or Senate passed bills or previous year's levels; subject CRs to points of order prohibiting unauthorized or legislative provisions in bills or amendments; prohibit limitation amendments unless motion to rise is rejected after consideration of other amendments; prohibit waiving above rules except by two-thirds vote;

The above rules changes would become effective for fiscal 1989 and thereafter.

4. HON. MICHAEL BILIRAKIS

H. Res. 73 (Feb. 5, 1987)—House rules would be amended to prohibit consideration of the Legislative Branch appropriations bill in the House until all other appropriations bills have been agreed to by the House and Senate.

5. HON. ROD CHANDLER

H.R. 2363 (May 11, 1987)—Require that, during a two-year period, each item of a joint resolution making continuing appropriations that is agreed to by both Houses be enrolled as a separate joint resolution for presentation to the President.

H.R. 3683 (Dec. 2, 1987)—Same as H.R. 2363 except it would require that each title of a CR be separately enrolled before being sent to President.

6. HON. DAN SCHAEFER

H. Res. 229 (July 22, 1987)—Amend House Rule XXI to prohibit unauthorized or legislative provisions or amendments in continuing appropriations measures; to restrict CRs to not more than 90-days; to limit them to not more than 90 percent of current law appropriations; and to require a two-thirds vote to waive any of these requirements.

7. HON. AMO HOUGHTON

H. Res. 271 (Sept. 22, 1987, 116 cosponsors)—House Rule XXI would be amended to provide that no appropriations bill under the jurisdiction of more than one subcommittee of the Appropriations Committee, and which applies to periods after November 30 of a fiscal year, could be considered in the House unless this rule is waived or suspended by a vote of 60 percent of the House.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTERT) to revise and extend their remarks and include extraneous material:)

Mr. LOTT, for 60 minutes, today.

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Dornan of California, for 5 minutes, today.

Mr. Schuette, for 5 minutes, today.

Mr. Wolf, for 60 minutes, on December 11.

Mr. Swindall, for 60 minutes, today.

Mr. Walker, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Stratton, for 5 minutes, today.

Mr. Crockett, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Udall, for 30 minutes, today.

Mr. Solarz, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hastert) and to include extraneous matter:)

Mr. Kolbe.

Mr. Mack.

Mr. Barton of Texas.

Mr. Konnyu.

Mr. Hunter.

Mr. Porter.

Mr. Dornan of California.

Mr. Gilman in two instances.

Mr. DioGuardi.

Mr. Fish.

Mr. Pursell.

Mr. Dreier of California.

Mr. Blaz.

Mr. Gekas.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Carr.

Mr. Lehman of Florida.

Ms. Kaptur.

Mr. Brooks.

Mr. Guarini.

Mr. Rodino.

Mr. Ortiz.

Mr. Waxman.

Mr. Pepper in two instances.

Mr. Rangel.

Mr. Miller of California.

Mr. Erdreich.

Mr. McMillen of Maryland.

Mr. Lantos.

Mr. Berman.

Mr. Bryant.

Mr. Conyers.

Mr. Sharp.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3319. An act for the relief of Susan A. Sampeck.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327).

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on December 9, 1987, present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 2672. An act to amend title 38, United States Code, to modify the amount of the Veterans' Administration home loan guaranty and to make other improvements in the loan guaranty program, and for other purposes;

H.R. 3483. An act to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes;

H.J. Res. 199. Joint resolution designating April 1988 as "Actors' Fund of America Appreciation Month"; and

H.J. Res. 412. Joint resolution to congratulate King Bhumibol Adulyadej of Thailand on his 60th birthday on December 5, 1987.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 3 minutes p.m.) the House adjourned until tomorrow, Friday, December 11, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2542. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the study to evaluate the impact on ground-water from municipal wastewater treatment lagoons, pursuant to 42 U.S.C. 6939(c); to the Committee on Energy and Commerce.

2543. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting a report on Public Lands Cleanup Day activities for 1987, pursuant to 36 U.S.C. 169i-1(c)(1); to the Committee on Interior and Insular Affairs.

2544. A letter from the Associate Administrator for Congressional Affairs, General Services Administration, transmitting copy of a proposed lease prospectus in Dallas, TX, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 3700. A bill to designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center," (Rept. 100-471). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 331. Resolution providing for the consideration of HR. 1720, a bill to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives (Rept. 100-472). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3459. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs and for other purposes; with an amendment (Rept. 100-473). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON (for himself, Mr. Howard, Mr. Hammerschmidt, and Mr. Shuster):

H.R. 3734. A bill to recognize the significance of the administration of the Federal-aid highway system and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-aid highway system; to the Committee on Public Works and Transportation.

By Mr. STENHOLM (for himself, Mr. de la Garza, Mr. Madigan, Mr. Coelho, Mr. Roberts, Mr. Emerson, Mr. Espy, Mr. Glickman, Mr. Gunderson, Mr. Harris, Mr. Hatcher, Mr. Herger, Mr. Holloway, Mr. Huckaby, Mr. Jeffords, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Jontz, Mr. Marlenee, Mr. Olin, Mr. Panetta, Mr. Schuette, Mr. Robert F. Smith, Mr. Staggers, Mr. Stallings, and Mr. Tallon):

H.R. 3735. A bill to provide for a research program to examine and enhance agricultural production and food processing systems, and for other purposes; to the Committee on Agriculture.

By Mr. ATKINS:

H.R. 3736. A bill to create a national fund to finance Federal, State, and local efforts to preserve open space; jointly, to the Committees on Ways and Means and Interior and Insular Affairs.

By Mr. BROOKS:

H.R. 3737. A bill to grant a Federal charter to the Challenger Center, and for other purposes; to the Committee on the Judiciary.

By Mr. DeFAZIO (for himself and Mr. AuCoin):

H.R. 3738. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Klamath River in Oregon and California as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. DONNELLY:

H.R. 3739. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of amounts received by tax-exempt organizations from sales; rentals, or other dispositions of lists of members, customers, or contributors; to the Committee on Ways and Means.

By Mr. FAUNTROY:

H.R. 3740. A bill to provide for further participation by the United States in certain multilateral development banks, to improve multilateral development bank environmental performance, and to increase the role of nongovernmental organizations, women, indigenous peoples, and the poor in multilateral development bank activities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FISH:

H.R. 3741. A bill to amend title 10, United States Code, to eliminate the two-tier system for calculating the amount of an annuity paid under the survivor benefit plan for the Armed Forces; to the Committee on Armed Services.

By Ms. KAPTUR (for herself, Ms. Oakar, Mr. Montgomery, Mr. Applegate, Mr. Bilirakis, Mr. Bryant, Mr. Davis of Illinois, Mr. Dornan of California, Mr. Dowdy of Mississippi, Mr. Evans, Mr. Kanjorski, Mr. McEwen, Mr. Ridge, Mr. Hyde, Mr. Ravenel, Mr. Roe, Mr. Boehlert, Mr. Dwyer of New Jersey, Mr. Hawkins, Mr. Traxler, Mr. Waxman, Mrs. Meyers of Kansas, Mr. Oberstar, Mr. Gaydos, Mr. Lantos, Mr. Lipinski, Mr. Daub, Mr. Bustamante, Mr. Emerson, Mr. Owens of Utah, Mr. Solarz, Mr. Wolpe, Mrs. Collins, Mr. Lagomarsino, Mr. Miller of Washington, Mrs. Bentley, Mr. Daniel, Mr. Fazio, Mr. Traficant, Mr. Stump, Mr. Brennan, Mr. Smith of Florida, Mr. Wortley, Mr. Ortiz, Mr. Kolter, Mr. Hall of Texas, Mrs. Schroeder, Mr. Hughes, Mr. McCloskey, Mr. Brown of California, Mr. Lungren, Mr. Lancaster, Mr. Rangel, Mr. Howard, Mr. Fauntroy, Mr. Buechner, Mr. Hayes of Illinois, Mr. Spratt, Mrs. Patterson, Mr. Owens of New York, Mr. Biaggi, Mr. Skelton, Mr. Martinez, Mr. Bevill, Mr. Regula, and Mr. Badham):

H.R. 3742. A bill to amend title 38, United States Code, to authorize erection of a memorial and museum on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict; jointly, to the Committees on Veterans' Affairs and House Administration.

By Mr. THOMAS A. LUKEN (for himself, Mr. Whittaker, Mr. Dingell, Mr. Lent, Mr. Florio, Mr. Tauke, Mr. Tauzin, Mr. Schaefer, Mr. Slattery, Mr. Callahan, Mr. Sikorski, Mr. Bates, Mr. Boucher, Mr. Cooper, Mr. Walgren, Mrs. Collins, and Ms. Slaughter of New York):

H.R. 3743. A bill to improve the safety of rail transportation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUZIN:

H.R. 3744. A bill to amend the Panama Canal Act of 1979 to establish a Panama Canal revolving fund, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. APPLEGATE:

H.J. Res. 418. Joint resolution to designate April 28, 1988, as "National Day of Remembrance of the 749 American Victims of Operation Tiger"; to the Committee on Post Office and Civil Service.

By Mr. BROOKS:

H.J. Res. 419. Joint resolution commemorating January 28, 1988, as "National Challenger Center Day" in honor of the crew of the space shuttle *Challenger*; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself and Mr. Gekas):

H.J. Res. 420. Joint resolution to designate the week of April 17, 1988, as "Crime Victims Week"; to the Committee on Post Office and Civil Service.

By Mr. PEPPER:

H.J. Res. 421. Joint resolution designating May 1988 as "National Digestive Disease Awareness Month"; to the Committee on Post Office and Civil Service.

H.J. Res. 422. Joint resolution designating May 1-7, 1988, as "National Older Americans Abuse Prevention Week"; to the Committee on Post Office and Civil Service.

By Mr. PORTER (for himself, Mr. Lantos, Mr. Henry, Mr. Hoyer, and Mr. Smith of New Jersey):

H. Con. Res. 228. Concurrent resolution expressing the sense of Congress regarding the recent arrest of four people who were detained in the offices of the Zion Church in East Berlin by authorities of the German Democratic Republic; to the Committee on Foreign Affairs.

By Mr. HAMILTON (for himself and Mr. Cheney):

H. Res. 330. Resolution relating to the termination of the affairs of the Select Committee to Investigate Covert Arms Transactions With Iran; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DeWine introduced a bill (H.R. 3745) for the relief of Michael Elliott; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 192: Mr. Sawyer.

H.R. 535: Mr. Campbell.

H.R. 759: Mr. Anderson and Mr. Bunning.

H.R. 994: Mr. Rogers.

H.R. 1481: Mr. Ridge, Mr. Hayes of Illinois, Mr. Anderson, Mr. Kildee, and Mr. Miller of Washington.

H.R. 1606: Mr. Houghton.

H.R. 1729: Mr. Latta.

H.R. 2248: Mr. Dellums.

H.R. 2640: Mr. Shaw, Mr. Wyden, Mr. Nichols, Mr. Shumway, Mr. Crockett, Mr. Stangeland, Mr. Sundquist, Mr. Sikorski, Mr. Oberstar, Mr. Conyers, Mrs. Collins, Mrs. Bentley, Mr. Kostmayer, and Mr. Gekas.

H.R. 2676: Mr. Savage and Mr. Kildee.

H.R. 2801: Mr. Shuster.

H.R. 2828: Mr. Penny.

H.R. 2920: Mrs. Boxer.

H.R. 3013: Mr. Kolter.

H.R. 3071: Mr. Lehman of Florida.

H.R. 3182: Mr. Fuster, Mr. Jontz, Mr. Miller of California, Mr. Green, Mr. Rinaldo, Mr. Donald E. Lukens, Mrs. Patterson, Mr. Lungren, Mr. Wortley, Mr. Panetta, Mr. Hayes of Louisiana, Mr. Davis of Illinois, Mr. Dixon, Mr. Badham, Mr. Sawyer, Mr. Bliley, Mr. Lewis of Georgia, Mr. Skeen, Mr. Bevill, Mr. McGrath, Mr. Wyden, Mr. Wilson, Mr. McCloskey, Mr. Vento, Mr. Howard, Mr. Visclosky, Mr. English, Mr. Lipinski, Mr. Kolbe, and Mr. Kolter.

H.R. 3286: Mr. Henry, Mr. Ridge, Mr. Wilson, Mr. Hughes, Mr. Cardin, Mr. Hyde, Mr. Brown of California, Mr. Manton, Mr. Bustamante, and Mr. Weiss.

H.R. 3348: Mr. Buechner and Mr. Gordon.

H.R. 3363: Mrs. Bentley, Mr. Bonior of Michigan, and Mr. Murphy.

H.R. 3444: Mr. Ford of Tennessee and Mr. Foglietta.

H.R. 3501: Mr. Ritter and Mr. Courter.

H.R. 3523: Mrs. Patterson.

H.R. 3552: Mr. DioGuardi.

H.J. Res. 374: Mr. Bryant, Mr. Lancaster, and Mr. Weiss.

H.J. Res. 383: Mr. Gray of Illinois, Mr. Kennedy, Mr. Bateman, Mr. Shaw, Mr. Inhofe, Mr. Ford of Tennessee, Mr. Frost, Mr. Ravenel, Mr. Goodling, Mr. Bates, Mr. Lancaster, Mr. AuCoin, Mr. Flippo, Mr. Bryant, Mr. Bilbray, Mrs. Bentley, Mr. Cheney, Mr. Conte, Mr. Courter, Mr. Smith of New Hampshire, and Ms. Slaughter of New York.

H.J. Res. 388: Mr. Bryant, Mr. Gray of Illinois, Mr. Hughes, Mr. Jontz, Mr. Lehman of California, Mr. Shumway, and Mr. Lancaster.

H.J. Res. 390: Mr. Frost, Mr. Bateman, Mr. Wortley, Mr. Coughlin, Mr. Fuster, Mr. Lowry of Washington, Mr. Hughes, Mr. Kasich, and Mrs. Morella.

H. Con. Res. 213: Mr. Dornan of California, Mr. Swindall, and Mr. Badham.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1467

By Mr. BEREUTER:

—Page 8, after line 8, insert the following:

SEC. 9. LEAST TERN AND PIPING PLOVER STUDY.

In conducting any nesting preservation or nesting study for the least tern and piping plover (which are listed species under the Endangered Species Act of 1973) as it relates to water releases from the Gavins Point Dam near Yankton, South Dakota, on stretches of the Missouri River between the dam and Sioux City, Iowa, the Corps of Engineers—

(1) may not regulate the flow of water from the dam in a manner that may increase the likelihood of, or worsen, flooding on or along the Missouri River which could jeopardize, threaten, or increase the risk of harm to the life or property of the people living below the dam;

(2) shall, to the maximum extent possible, focus the nesting or preservation studies on those species on stretches of the Missouri River above the dam; and

(3) to minimize potentially adverse flooding on the Missouri River below the dam, shall consult on a regular and frequent basis with appropriate Missouri River riparian organizations regarding the desirable, actual,

and projected releases of water from the dam.

H.R. 3100

By Mr. MARKEY:

(Amendments to the amendment offered by Mr. Leach of Iowa/Mr. Wilson of Texas.)

—In subsection (c), entitled "Extension of Waiver", strike out "1993" and insert in lieu thereof "1988".

—In the proposed amendment to section 669 of the Foreign Assistance Act of 1961 (contained in proposed subsection (b) of the bill)—

(1) in paragraph (2) of subsection (c), strike out the period at the end of subparagraph (B) and insert in lieu thereof "; and";

(2) strike out paragraph (3); and

(3) after subparagraph (B) of paragraph (2), insert the following:

"(C) the President certifies to the Congress that extraordinary circumstances exist which require the provision of United States assistance, and describes in that certification the assistance proposed to be provided to meet those circumstances.

"(3)(A) Any waiver under paragraph (2) shall be effective for 30 days only (unless extended by the Congress).

"(B) Assistance may be provided pursuant to a waiver under paragraph (2) only to the extent necessary to meet the extraordinary circumstances described pursuant to paragraph (2)(C).

"(C) The waiver authority of paragraph (2) may be exercised only once each fiscal year.

"(4) Beginning concurrently with the initial certification issued pursuant to paragraph (1) of this subsection, and for as long as any waiver of the requirements of subsection (a) of this section is in effect for a country in South Asia, the President shall submit any certification required pursuant to paragraph (1) of this subsection to the Congress at the time of the initial certification and thereafter on September 30 of each year. If in any such certification the President determines that the situation in South Asia has changed and the certification previously made under paragraph (1) of this subsection cannot again be made, then the President shall so certify and shall take whatever action is appropriate under this subsection with regard to the assistance programs of the country or countries in question.

"(5) The President shall submit any certification under paragraph (1) and any waiver under paragraph (2) to the committees specified in section 602(c) of the Nuclear Non-Proliferation Act of 1978.".

SENATE—*Thursday, December 10, 1987*

(Legislative day of Tuesday, December 8, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteousness exalteth a nation: but sin is a reproach to any people.—Proverbs 14:35.

Eternal God, perfect in truth and justice and righteousness, history records that no great nation or empire has been defeated by force from without before it had been destroyed by moral decay from within. Whether the great Roman Empire with its deified Emperor and powerful Senate—and its legions deployed throughout the known world—or a tiny city state like Sodom, moral rot was their destruction. Righteous Lord, we profess to be the richest, most powerful nation in the world, with mighty military strength. Yet, casual sex, abortion, pornography, and chemical addiction and dependency, greed and the lust for power infect our culture epidemically. Moral and spiritual anarchy weaken us nationally despite our unprecedented wealth and military might. Gracious Father, help us to see that there is no substitute for truth, for moral and spiritual health, for justice. Save us from the relativism which abandons the absolutes which guarantee strength and peace. We pray this in the name of Jesus, the Man of Peace and lover of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 10, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, S. 1920, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1920) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress).

The Senate resumed consideration of the bill.

MORNING BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed for not to exceed 5 minutes, as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LET'S CHANGE THE INF TO THE VERIFICATION ADVANCEMENT AGREEMENT

Mr. PROXMIRE. Mr. President, my nomination for the most unjustified rap of the year is the criticism of the INF Treaty because it is alleged to leave Western Europe open to conventional attack by the U.S.S.R. This Senator strongly favors the INF Treaty. I will support its ratification with enthusiasm. I would acknowledge, however, that it has no significant effect in reducing medium-range or short-range nuclear missiles in Europe.

To listen to the conservative critics of this agreement, one would believe that we are leaving NATO without nuclear defenses. They're wrong. We are not. Oh, sure, we are removing nuclear weapons that could deliver a devastating punch to Soviet troops if those troops should achieve blitzkrieg breakthrough in a sudden invasion of Western Europe. The argument runs that, absent a credible local nuclear response, the vast superiority of Soviet tanks, helicopters, artillery, and troops could push through Western Europe the way Hitler did in a few days in 1940. In a television interview on December 4, President Reagan contended that tactical nuclear weapons still remaining in Europe would stop such a Soviet blitzkrieg. The President may or may not have been right. Tactical nuclear weapons undoubtedly could be an important part of the defense of Western Europe. But these mininukes have far less power and punch than intermediate- and short-term nuclear weapons. Also, they have to be delivered "in close" in Western Europe where they would destroy not only the cities they were presumably defending, but also the people of Western Europe they were designed to protect.

Does that mean the removal of medium-range missiles from Western Europe leaves this vital area of freedom defenseless? Mr. President, a story in the December 6 New York Times by Richard Halloran does not purport to deal with the INF Treaty, but it provides the strongest argument this Senator has read that after the INF Treaty becomes law and intermediate missiles have been removed, Western Europe will continue to have as strong a nuclear response to deliver as ever. How can this be? Here's how: The fact is, Mr. President, that this country has about one-half of our entire nuclear deterrent, more than 5,000 nuclear warheads, based on submarines. Some of those submarines carry cruise missiles armed with nuclear warheads. It is the ground-launched cruise missiles along with the Pershing II medium-range missiles that are now banned by the INF Treaty which President Reagan and Secretary Gorbachev signed on December 8.

The submarine-based cruise missiles can move right in and take over the precise mission that the land-based Pershings were to perform. They generally have a medium range—that is 1,500 miles. That can easily be extended to 3,000 miles. They have the advantage over the land-based missiles that the submarine version is both invisible and mobile. With submarines plying the eastern Atlantic, the Baltic Sea, the Mediterranean as well as the Pacific, these NATO submarines can perform the same mission as the missile removed by the INF agreement in response to a Soviet invasion of Western Europe. There is a difference. The difference is that the submarine-based nuclear missiles can strike with relative impunity, because they are invisible. They are also very hard to track. Of course, the Soviets, too, have their submarine-based cruise missiles that can easily reach Western Europe.

So what does the INF Treaty accomplish? It accomplished a great deal, but the effective elimination of medium-range nuclear weapons from Western Europe is not one of its achievements. Nuclear weapons will still be there. They will be on both sides. They will continue to serve their

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

deterrent purpose. They will keep the peace. They will keep the peace by posing the terrible threat of mutual annihilation if a superpower war should break out in Europe.

So let me repeat. What did the INF Treaty accomplish? It accomplished an extraordinary agreement on verification. It achieves far and away the most searching and thorough on-the-spot inspection that has ever been negotiated. The verification goes even further. More important than the on-the-spot verification is an agreement to open up more than 100 nuclear missile production and deployment sites for satellite inspection—not only in all of Eastern Europe and the Soviet Union but also in Western Europe and the United States. Since there is no reduction of intermediate nuclear weapons, the verification in this case would ordinarily mean little. But as a precedent to be applied for the major reductions on both sides of strategic nuclear weapons and especially to verify the reduction of conventional arms, it represents excellent progress. In fact, Jonathon Schell, in an article in the December 6 Washington Post has said that the treaty might well be renamed the "On-Site Inspection Agreement." Schell is almost right. Satellite inspection is so much more important than onsite inspection that it should be renamed simply "The Verification Advancement Agreement."

Mr. President, I ask unanimous consent that the article by Richard Halloran in the December 6 New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 6, 1987]

CRUISE MISSILES: A WIDER RANGE AND A NARROWER AIM

(By Richard Halloran)

WASHINGTON.—During a voyage off the Soviet Union's east coast last year, the battleship New Jersey and other ships simulated launching more than 300 cruise missiles at Soviet targets. With computers and crew drills, the battle group pretended to fire at the aircraft carrier Minsk and 26 other warships, at Soviet ports and airfields on the Sea of Japan, the Sea of Okhotsk and the Bering Sea, and at command posts, communication centers and munitions depots well inland.

Officers in the New Jersey battle group reported to Washington that they believed the Russians never detected their ships and, had the launchings been real, they would never have known what had hit them.

Cruise missiles, none of which have yet been fired in anger, are the most lethal of a new and potentially revolutionary category of arms called standoff weapons. Basically, standoff weapons can be slung at a target from so far away that the launch platform, which could be a submarine, ship, airplane or ground base, is not exposed to fire from the target.

It is the ground-launched version of the cruise missile, along with the Pershing II medium-range ballistic missile, that would be banned under the arms control treaty President Reagan and the Soviet leader, Mikhail S. Gorbachev, are scheduled to sign Tuesday.

But ground-launched types are but a small portion of the American arsenal of cruise missiles. Sea-based cruise missiles with conventional, high-explosive war-heads are aboard American warships near the Persian Gulf today and could be used to destroy refineries, naval bases or military command centers in Iran. If the treaty takes effect, B-52 bombers carrying air-launched cruise missiles with nuclear warheads may go on alert in the United States to take up the deterrent role now played by ground-launched missiles in Western Europe.

The Soviet Union has sea-launched cruise missiles and is building air-launched versions, but they are not believed to be as accurate or consistent as those of the United States. The Russians have concentrated more on building and improving ballistic missiles of all ranges.

However launched, the Pentagon's cruise missile is a $2-million flying torpedo with brains. It is powered by a small engine, its 20-foot frame kept aloft with stubby wings, and it finds its way with advanced navigation, keen sensors and a map programmed into its computer. Generally, these missiles can be fired 1,500 miles from a target and strike within 20 to 30 feet of it. The Navy has scored 64 hits in 76 test shots.

A cruise missile fired from a submarine off the coast of Newfoundland in Canada, for instance, could be programmed to cross the beach just north of Cape Ann, Mass., curve west to slip over the Berkshire Mountains, turn south along the Hudson River, pop up over the Palisades, glide between the goal posts at Giants Stadium in the Meadowlands and explode over the 50 yard line. The flight would take about an hour.

Because they fly just 30 or 40 feet above the ground, they are extremely difficult to track by radar. At 550 miles an hour, they move in and out of anti-aircraft missile range before gunners can fire at them. They can be instructed to attack from any direction. In short, defenses against cruise missiles are largely nonexistent.

FLYING FARTHER, HITTING CLOSER

Under development are cruise missiles with a 3,000-mile range, double that of today's missiles; at least one has been fired from a submarine, though it is expected to take more than five years to produce operational versions.

A still more important development is a laser guidance system that will enable a missile to hit within inches of the target. The missile that can thread the goal posts today would be able to hit the crossbar tomorrow. That precision is not especially important for cruise missiles armed with nuclear warheads, but pinpoint accuracy can make a missile with a nonnuclear warhead effective against many targets.

The Air Force has so far stuck with nuclear warheads. But the Navy is concentrating on cruise missiles with conventional warheads. This will most likely complicate future arms control negotiations, because only a specialist up close can tell the difference between a nuclear and a conventional cruise missile.

The Navy has been arming ships and submarines with Tomahawk cruise missiles since 1983; it began deploying them with conventional warheads two years later. By the end of the 1987 fiscal year Sept. 30, the Navy had bought 338 cruise missiles with nuclear warheads and almost 700 with conventional warheads. In the current fiscal year, the Navy plans to buy only 19 nuclear cruise missiles but 456 carrying high explosives.

The reason? Navy officers say the nuclear missiles aren't useful except as a deterrent, while those with high-explosive warheads may well be needed. One submarine armed with Tomahawk cruise missiles, they say, could have mounted the 1986 raid on Libya, which took dozens of Navy and Air Force planes, one of which was shot down.

"Cruise missiles," said one officer, "don't get pilots killed or captured."

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, I ask unanimous consent that I may be permitted to speak for 10 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

The Chair recognizes the Senator from Georgia.

THE INF TREATY

Mr. FOWLER. Mr. President, the signing of the INF Treaty by President Reagan and General Secretary Gorbachev is a small but significant step in advancing America's national security and the security of the people of the world. It is a small but, I believe, significant step back from the nuclear abyss.

At the same time, what is perhaps most important about the signing of the INF Treaty is the challenge and the opportunity that it presents for the future. It is a challenge in that the weapons to be destroyed under its provisions represent only a tiny fraction of the strategic and conventional arsenals in the world. And, indeed, by effectively raising the nuclear threshold through the elimination of one class of nuclear weapons, this agreement makes it even more imperative that the conventional force imbalance in central Europe be addressed.

The INF Treaty also represents a golden opportunity for achieving even more important security enhancing agreements in such areas as long-range strategic forces—that is, the START talks—chemical weapons and conventional forces.

The INF Treaty negotiated by President Reagan establishes a number of important precedents that are essential to achieving success in these other fields. For the very first time, Mr. President, the Soviet Union has accepted intrusive onsite inspections to verify its compliance with the provisions of the treaty. Also, the language on compliance is more detailed and less open to conflicting interpretations than ever before.

Without adequate verification, neither the American people nor the United States Senate could accept an arms control agreement with the Soviet Union, no matter how impressive its other provisions. Second, the INF Treaty actually produces a reduction in weapons, not a controlled increase. And, third, this agreement deals with existing force imbalances by requiring far greater reductions on the part of the country which had the favorable balance—that is the Soviet Union—rather than requiring proportionate reductions by each side.

Thus, in this case—and all of my fellow Americans ought to know this—the Soviets are to destroy 1,752 missiles; the United States, 859.

I want to offer my congratulations to President Reagan and his administration, who successfully concluded this agreement. We also ought to congratulate former President Carter, who forged the bipartisan consensus behind the so-called policy of deploying United States INF forces in Europe as a counter to widespread Soviet deployment of such weapons, while pursuing negotiations to eliminate these weapons. And we also ought to congratulate the American people, who stood behind the President and the Congress; and congratulate our allies, who stood behind this policy, and sometimes at great political costs.

While I am very encouraged by the signing of this treaty, as I have already pointed out there are several cautions in order.

First, the weapons which would be eliminated by the INF Treaty are a very small part of the nuclear arsenals of the United States and the Soviet Union. More significant agreements on long-range or space-based nuclear weapons are yet to come.

Second, raising the nuclear threshold does place a greater importance on deterrence by conventional force readiness. Most especially, this is a challenge to our NATO allies to improve their conventional capabilities.

As 1 of 100 U.S. Senators, I do look forward to fulfilling my constitutional duty to thoroughly and carefully review the provisions of the INF Treaty and the negotiating record. We have a duty to make sure that any treaty we approve is verifiable and furthers the security interests of the United States of America.

But let me make it clear that from what I have seen to date, the critics of this treaty have the burden of proof in demonstrating why an agreement which requires the Soviet Union to surrender a 2-to-1 advantage in a whole category of nuclear weapons, which establishes effective procedures for verification and which is supported by our European allies, is not in the best interests of the United States of America.

Last, Mr. President, my only regret is that as the General Secretary Gorbachev and the Soviet leadership leave the United States today, they were unable to leave the city of Washington and get out into our country and see a little bit of the character of the American people. I wish that Secretary Gorbachev had been able to go to individual States, visit smaller communities, go into a real church of worship and see the number of people who were praying for him and President Reagan, to see the number of our fellow citizens who are praying for Christians and Jews within the Soviet Union, praying they might have an opportunity to worship as they please and travel as they please. Then he would understand that the hopes of Americans are for a true and lasting peace based on respect for differences in our systems, but based also on a belief that we can work out our differences. Yes, that can happen if the American people and the people of the Soviet Union are allowed to face those differences honestly, and across the table rather than across the barrel of a gun.

In short, Mr. President, I would have liked Mr. Gorbachev to have seen that the national strength of this country is not only in missile silos but in grain silos. Mr. Gorbachev looked into the bleary eyes of our arms negotiators. I wish he had looked into the clear eyes of men and women who work for a living in this country, who invest, who save for the future—and who want only for their children, that they may live in a world free from the threat of a nuclear holocaust.

The national strength of this country is not only in our defense systems, as important as those may be. The national strength of our country is in the character of the men and women who work to feed us, to clothe us, to raise our families. They make up the American character of which I am so proud.

Come back soon, Mr. Gorbachev, and see the real America. We think you will like what you see. We know that you will be impressed by the determination behind our character. Only then will you see and have a true understanding of what we in America describe as the American spirit and the American ethic.

I thank you, Mr. President.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes on a separate subject.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota is recognized for 5 minutes.

THE ROLE OF THE SENATE IN TREATY RATIFICATION

Mr. PRESSLER. Mr. President, in the limited time available to me this morning, I would like to summarize the steps the Senate must take regarding the INF Treaty. I am indebted to the experts of the the Congressional Research Service from whose study, "Treaties and Other International Agreements: The Role of the U.S. Senate," I will quote liberally. I believe the Senate has an important and positive role to play in treaty ratification, through the consideration of amendments, reservations, or some other conditions. The Senate has a very important constitutional role that is somewhat misunderstood in some circles. It is one of the differences between parliamentary systems and the U.S. system of government wherein a treaty is signed by our Executive but does not become effective until its ratification is approved by the Senate.

Senate procedure is governed by rule 30 of the Senate rules. The treaty is transmitted to the Senate after the President has signed it. Indeed, Senators have not even seen the negotiating record at that point.

The treaty then is referred to the Senate Foreign Relations Committee. However, at least three Senate committees will hold hearings and make recommendations on this particular treaty: the Committee on Intelligence will make recommendations, the Armed Services Committee will make recommendations, and, finally, the Foreign Relations Committee will consider the recommendations of those committees as well as possible conditions on the treaty and other information before sending the treaty to the Senate floor.

Under this procedure, it probably will take until April or May before the treaty reaches the Senate floor. After it reaches the Senate floor, unlimited debate may occur. So it may be late May before the U.S. Senate actually ratifies this INF Treaty.

(1) PRESIDENTIAL SUBMISSION

The Secretary of State formally submits treaties to the President for transmittal to the Senate. A considerable time may elapse between signature and submission to the Senate, and on rare occasions an international agreement concluded as a treaty may never be submitted to the Senate at all and thus never enter into force. When transmitted to the Senate, treaties are accompanied by a Presidential message consisting of the text of the treaty, a letter of transmittal requesting the advice and consent of the Senate, and the earlier letter of submittal of the Secretary of State which usually contains a detailed description and analysis of the treaty.

(2) SENATE RECEIPT AND REFERRAL

Senate procedure is governed by rule 30 of the Senate rules, although the full requirements of this rule are seldom insisted upon. The treaty is transmitted by the Parliamentarian to the executive clerk, who assigns it a message number. The majority leader then obtains the unanimous consent of the Senate for the removal of the injunction of secrecy and for the treaty to be considered as having been read the first time. A treaty, regardless of its subject matter, is then referred by the Presiding Officer to the Foreign Relations Committee in accordance with rule 25 of the Senate rules. Rule 25 makes an exception only for reciprocal trade agreements. At this point the treaty text is printed and made available to the public.

(3) SENATE FOREIGN RELATIONS COMMITTEE ACTION

Treaties are placed on the committee calendar and remain there until the committee takes action to report them to the full Senate. While it is committee practice to allow a treaty to remain pending long enough to receive study and comments from the public, the committee usually considers a treaty within a year or two, holding a hearing and preparing a written report.

The predominant pattern is for the committee to recommend Senate advice and consent without conditions. The committee usually votes to report a treaty with a proposed resolution of ratification. However, the committee may vote to recommend that the Senate approve treaties subject to conditions. The main categories of conditions might be described in the following way:

Amendments propose changes in the text of a treaty and require the consent of the other party or parties;

Reservations change U.S. obligations without necessarily changing the text and require the acceptance of the other party;

Understandings are interpretive statements that clarify or elaborate provisions but do not alter them;

Declarations are statements expressing the Senate's position or opinion on matters relating to issues raised by the treaty rather than to specific provisions; and

Provisos relate to issues of U.S. law or procedure and are not intended to be included in the instruments of ratification, deposited or exchanged with other countries.

Proposed conditions are usually incorporated as individual provisions in the resolution of ratification.

(4) ACTION BY THE SENATE

After a treaty is reported by the Foreign Relations Committee, it is placed on the Senate's Executive Calendar and the majority leader undertakes to arrange for the Senate to consider it. With very few exceptions in this century, the majority leader has obtained unanimous consent to abbreviate the procedures of rule 30; the Senate then proceeds directly to the consideration of the resolution of ratification as reported by the Foreign Relations Committee.

The following procedures, which were utilized for consideration of the Versailles and Panama Canal Treaties, are based on rule 30.

Consideration begins by the Senate as in Committee of the Whole. The treaty is read and considered for amendment article by article. After each article is read, committee amendments are considered first. After the last article or accompanying document has been considered, Senators may offer amendments to any of the articles.

The proceedings are reported from the Senate as in Committee of the Whole to the Senate sitting as the Senate. Because the previous action was by the Senate sitting as in a committee, any amendments agreed to must be submitted to a vote by the Senate.

The Senate then considers the resolution of ratification, which incorporates any amendments that the Senate has agreed to propose. Senators may then offer reservations, understandings, and other statements that may affect the treaty or its interpretation but do not change its language.

Finally, the Senate votes on the resolution, which may contain both amendments to the treaty and amendments to the proposed resolution. Or a Senator may offer a substitute amendment, proposing that the Senate withhold its advice and consent, or offer a motion to recommit the resolution to the Foreign Relations Committee. The final vote on the resolution of ratification requires a two-thirds majority of the Senators present for approval; votes on amendments, motions, and procedures are by simple majority.

(5) RETURN TO COMMITTEE

Treaties reported by the committee but neither approved nor formally returned to the President by the Senate are automatically returned to the committee calendar at the end of a Congress; the committee must report them out again in order for the Senate to consider them.

(6) RETURN OR WITHDRAWAL

Treaties may be returned to the President without favorable advice and consent in a number of ways. Usually the Foreign Relations Committee reports and the Senate passes a simple resolution directing the Secretary of the Senate to return a particular treaty or treaties to the President. Or the President may ask for the return of a treaty or render it moot by making clear that he will not ratify it even if approved by the Senate.

Subsequent to Senate action, the President ratifies the treaty, if he agrees with any conditions the Senate has imposed. Or he may resubmit it to the Senate or renegotiate it with the other treaty signatory.

The final vote on the resolution of ratification requires a two-thirds majority of the Senators present for approval. Votes on amendments, motions, and procedures are by a simple majority. Treaties reported by the committee but neither approved nor formally returned to the President by the Senate are automatically returned to the Foreign Relations Committee calendar at the end of a Congress. The committee must report them out again in order for consent to reconsider them.

Mr. President, I think it is very appropriate for the American people to understand this lengthy procedure that we will be entering. The Senate does have a treaty veto in the sense that these procedures could lead to treaty renegotiaiton. The Senate has used its veto sparingly but often enough to demonstrate its potency. Since a rejection of the Versailles Treaty, the Senate has formally rejected three treaties. It has rejected two since the Second World War, the optional protocol concerning the compulsory settlement of disputes for the 1958 Law of the Sea Convention in 1960 and the Montreal Aviation Protocols in 1983, but in both these cases motions to reconsider were entered and the treaties formally remain pending.

Mr. President, once again I would like to express my gratitude to the CRS personnel whose treaty procedure study I have cited this morning.

Mr. President, I yield the floor and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

The Senate continued with the consideration of the bill (S. 1920).

AMENDMENT NO. 1254

Mr. BYRD. Mr. President, I ask that the amendment at the desk which is the leadership amendment be called up.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for himself, and others, proposes an amendment numbered 1254.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment (No. 1254), is printed in the Record of December 9, 1987, beginning at page 34465.

Mr. BYRD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The modification is printed as follows:

Section 8105(a) is modified to read as appears on the following pages:

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on acreage devoted to conservation uses under this paragraph.".

(e) Payment Limitation.—Section 1001(2)(B) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)) is amended—

(1) by striking out "and" at the end of clause (v);

(2) by striking out the period at the end of clause (vi) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(vii) any base diversion payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(f)(9), 105C(f)(9), 103A(f)(8), or 101A(f)(8), respectively, of the Agricultural Act of 1949.".

SEC. 8105. ACREAGE LIMITATION PROGRAM FOR FEED GRAINS.

(a) In General.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(1)) is amended—

(1) in subparagraph (A)(i), by striking out "subparagraphs (B) through (D)" and inserting in lieu thereof "this paragraph";

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) In the case of each of the 1988 and 1989 crops of feed grains, if the Secretary provides for an acreage limitation program (as described in paragraph (2)), the Secretary shall provide for a reduction of not more than 5 percent, in addition to the reduction permitted under subparagraph (C), in the quantity of acreage that may be planted to feed grains for harvest on a farm. The Secretary shall permit all or any part of such additional reduced acreage to be devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. The Secretary shall provide for the protection of the feed grain crop acreage base of a farm for any such acreage devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. In the case of the 1989 crop of feed grains, the Secretary may waive the application of this subparagraph if the Secretary estimates that (i) such waiver is necessary in order to maintain adequate supplies of feed grains, or (ii) the quantity of soybeans on hand in the United States on the first day of the 1989 marketing year for that crop (not including any quantity of soybeans of that crop) will be in excess of 425 million bushels.".

"(E) If the Secretary waives the provision of subparagraph (D) in accordance with clause (D)(ii), the Secretary shall provide for a reduction of not more than 2.5 percent in addition to the reduction permitted under subparagraph (C) in the quantity of acreage that may be planted to feed grains for harvest on a farm.".

Sections 9005 through 9015 are modified to read as appears on the following pages:

SEC. 9005. SALE OF RURAL DEVELOPMENT NOTES.

(a) Sales Required.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of $1,147,000,000 from such sales during fiscal year 1989.

(b) Nonrecourse Sales.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) Contract Provisions.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

(d) Eligibility to Purchase Notes.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

(e) Loan Servicing.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 9006. SALE OF RURAL HOUSING LOANS.

(a) Required Sales to Public.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of $1,590,000,000 in fiscal year 1988, and $2,350,000,000 in fiscal year 1989 from the proceeds of such sales.

(b) Procedures and Terms of Sales.—

(1) Establishment of guidelines.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) Assistance by federal financing bank.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) Reports to Congress.—

(1) Notification of initial loan sale.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

(2) Reports by secretary.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

(d) RELATION TO OTHER LAW.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

SEC. 9007. SALE OF EXPORT-IMPORT BANK LOANS.

Section 16 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended to read as follows:

"SEC. 16. SALE OF BANK LOANS.

"(a) REQUIRED SALES TO PUBLIC.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of $500,000,000 in fiscal year 1988 and $500,000,000 in fiscal year 1989 from the proceeds of such sales.

"(b) PROCEDURES AND TERMS OF SALES.—

"(1) ESTABLISHMENT OF GUIDELINES.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and term applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) REPORTS TO CONGRESS.—

"(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

"(2) REPORTS BY BANK.—The Board of Directors shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

"(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

"(d) SECURITIES LAWS NOT APPLICABLE TO SALES.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

SEC. 9010. SALE OF COMMUNITY DEVELOPMENT LOANS.

The Secretary of Housing and Urban Development, under such terms as the Secretary shall prescribe, shall sell Community Development loans in such amounts as to realize net proceeds to the Government of $120,000,000 in fiscal year 1988 and $50,000,000 in fiscal year 1989.

SEC. 9011. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 is amended by striking out "$314,000,000" and inserting in lieu thereof "$414,000,000".

SEC. 9012. SALE OF BUREAU OF RECLAMATION LOANS.

The Secretary of the Interior, under such terms as the Secretary shall prescribe, shall sell Bureau of Reclamation loans made pursuant to the Distribution System Loans Act, as amended (43 U.S.C. 421a-421d), the Small Reclamation Projects Act, as amended (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act, as amended (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Government of $130,000,000 in fiscal year 1988. In the conduct of such sales the Secretary is authorized and directed to take such actions as he deems appropriate to accommodate, effectuate and otherwise protect the rights and preserve the obligation so the United States and the borrowers under the contracts executed to provide for repayment of such loans.

SEC. 9013. SALE OF MEDICAL FACILITIES LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Medical Facilities loans in such amounts as to realize net proceeds to the Government of $40,000,000 in fiscal year 1988.

SEC. 9014. SALE OF BUREAU OF HEALTH MAINTENANCE LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Health Maintenance loans in such amounts as to realize net proceeds to the Government of $20,000,000 in fiscal year 1988.

SEC. 9015. PUBLIC FACILITIES LOAN SALES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall take such actions as may be necessary to ensure that loans made pursuant to title II of the Housing Amendments of 1955 are sold to the public in amount sufficient to provide a net reduction in outlays of $120,000,000 during fiscal year 1988, and $50,000,000 during fiscal year 1989.

(b) PROCEDURES AND TERMS OF SALES.—The Secretary of Housing and Urban Development shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kinds of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(c) REPORTS TO CONGRESS.—The Secretary of Housing and Urban Development shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this subsection not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I shall alert Senators that there probably will be a rollcall vote between 10:30 and 11 o'clock a.m. today.

We have two Senators—at least two Senators—meeting with Mrs. Gorbachev, and that vote should occur before 11 o'clock, so as to accommodate those two, and I would like for it to begin no later than 10:30.

We are presently waiting on a Senator whose name I shall not state here, but he knows that we are waiting on him, and I think he should come to the floor; because, otherwise, I am just going to make this motion, yield back the time, and we will vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is it in order to move to waive the Budget Act prior to the yielding back of time on the amendment that is pending?

The PRESIDING OFFICER. The Chair will state the time would have to be yielded back prior to the consideration of the motion.

Mr. BYRD. I yield back the time on my side.

Mr. DOMENICI. I yield back the time on the leadership amendment on our side.

The PRESIDING OFFICER. All time is yielded back.

Mr. BYRD. Mr. President, I send to the desk a motion.

The PRESIDING OFFICER. The clerk will report the motion of the majority leader.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] moves that sections 310(d), 310(g), and 311, and 305(b) with regard to germaneness, of the Congressional Budget Act, as well as section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 be waived for the consideration of an amendment to be offered by the Majority Leader on behalf of the Leadership, an amendment to the leadership agreement to be offered by the Senator from Kansas [Mrs. KASSEBAUM], an amendment and a motion to recommit with instructions to be offered by the Senator from Texas [Mr. GRAMM], and, upon the adoption of any one of them, for the provisions of the adopted amendment included in the conference report on H.R. 3545.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, will the leader yield for a question?

Mr. BYRD. Mr. President, I yield myself time for accommodating Senators.

Mr. EXON. Mr. President, I have been listening to the motion just proposed by the majority leader. I do not think I have any real problems with it, but for clarification let me say that the majority leader indicated that amendments would be in order by the Senator from Kansas and the Senator from Texas. There will be other amendments that might be offered on subjects not related directly to the message that is intended with the amendments offered by the Senator from Kansas and the Senator from Texas.

The motion that the majority leader just made will not preclude other amendments from being offered on a reconciliation package, will it?

Mr. BYRD. It will not preclude other amendments being offered and this motion will require 60 votes.

Mr. EXON. If the Senator from Nebraska chooses to vote in support of the waiver of the Budget Act, the Senator from Nebraska will have an opportunity to offer amendments or an amendment as we proceed before we have any final vote on the leadership package, is that correct?

Mr. BYRD. He will have an opportunity to offer amendments. He may have to run the same gauntlet that this motion has to run anent the getting of the 60 votes depending upon the nature of his amendment.

Mr. EXON. I thank the majority leader.

Mr. BYRD. Mr. President, I am ready to vote.

Mr. DOMENICI. Mr. President, will the distinguished majority leader yield the floor so I may yield myself 5 minutes?

Mr. BYRD. I yield.

Mr. DOMENICI. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized on his time.

Mr. DOMENICI. Mr. President, I am very shortly going to yield back my time and I hope the majority will yield their time on this motion.

I joined with the distinguished majority leader as a proponent of this motion.

Essentially, last night we put in the RECORD for printing purposes the so-called leadership package. I think most Senators have seen or are familiar with the so-called Kassebaum package. The distinguished Senator from Texas, Senator GRAMM, is on the floor, but I think most people are familiar with his package, and I am using the word "package" in the sense that there is more than a single amendment almost in the nature of a perfecting amendment that leaves only some of the old reconciliation bill and taking the place of the leadership package. That is what both Senator KASSEBAUM and Senator GRAMM would do.

All we are asking the Senate to do here today in this motion is to waive those provisions of the Budget Act that would otherwise require 60 votes, and this motion will require 60 votes in order to accomplish that.

I want Senators who have asked this Senator about motions to strike to understand that this in no way changes anything. Motions to strike were in order, as I understand it. They only required a majority vote whether or not this is adopted. That was the situation with reference to the entire reconciliation bill. If amendments beyond these three packages are desired, the distinguished majority leader has just indicated they are going to be in order under the time limits that we have in the Senate and subject to the rules of the Senate on a reconciliation bill.

This in no way intends to make those amendments either less difficult to offer or easier to offer. They will be subject to the exact same rules that they would have been had this motion not been adopted.

I urge Senators to adopt this motion. We must pass something in the Senate, either the leadership package or some major package of deficit reduction. And since everybody knows what these are, we are asking in advance that they waive the provisions of the act requiring 60 votes.

If I may engage my friend, the Senator from Florida, in a brief colloquy on the motion before us.

The waiver we are about to vote on would waive certain points of order under the Budget Act and under section 20001 of the Comprehensive Omnibus Budget Reduction Act of 1985 for the leadership amendment, the Kassebaum amendment, and an amendment and motion to recommit with instructions offered by Senator GRAMM.

Mr. CHILES. That is correct. We are creating a level playing field to allow the Senate to consider both the leadership package and freeze packages.

Mr. DOMENICI. It would also waive these points of order for certain provisions in the conference report on this bill. I want to be perfectly clear on this point, Mr. President. We are only waiving these points of order for provisions of the three amendments—whichever is adopted—that are also included in the conference report. We are not waiving points of order for new material added in conference or for any other material not included in these three amendments.

Am I correct on this, I ask my friend from Florida?

Mr. CHILES. That is correct. We want assurances that once we have adopted the leadership package, it will still be in order when it comes back from conference with the House. It does not open the door for new material.

Mr. DOMENICI. Could I just make one further comment? I have been asked to make this comment by a number of Senators and I think they are absolutely right.

This waiver in no way increases spending. This waiver in no way permits an increase in spending. All of the packages are deficit reduction packages. We are merely asking that the requisite votes for their adoption, if it is the Senate's desire, be a majority vote instead of 60.

Mr. CHILES. I think we also need to point out that without this we only have the reconciliation package which simply is a shell and does not have any savings and we need this to make the savings.

Mr. ROTH. Mr. President, I rise to voice my support for the motion to proceed with the leadership's substitute amendment for the budget reconciliation bill. While I continue to believe the budget accord with the White House is topheavy with taxes, in my opinion this is an agreement between the President and the leadership of the Senate and the House.

And I believe this proposal should be given the opportunity to be voted on up or down, procedural matters aside. The American people have waited nearly 2 months for the Senate to consider this package, and I believe we should consider it today.

Personally, I have reservations about the package. But I do believe it deserves the opportunity to be voted on. I do feel that, despite my aversion to a tax increase—and my vow to fight one—Chairman BENTSEN has done an impressive job in producing a new Finance Committee package. The $9.2 billion in new taxes does represent an improvement over the original bill reported out of the Finance Committee, as well as H.R. 3545 as passed by a one-vote margin in the House.

The tax package contained in the leadership amendment was carefully crafted so as not to unduly burden any one sector of the economy, or any one region. Although I am not an advocate of tax increases, I believe we must let the process go forward.

ALLOW GREATER FLEXIBILITY FOR USDA IN DETERMINING SAVINGS IN COMMERCIAL GRAIN STORAGE, HANDLING, AND TRANSPORTATION COSTS

Mr. CONRAD. Mr. President, I rise to express my concern regarding provisions in the agricultural portion of the budget reconciliation dealing with commercial grain storage, handling, and transportation.

In particular, I urge the conferees on the budget package to allow the maximum possible flexibility for the Department of Agriculture in finding the $230 million in savings in commercial storage, handling, and transportation.

The Commodity Credit Corporation [CCC] has many options for effecting cost savings—through stock reductions; by avoiding unnecessary CCC grain stock movements; by making grain swaps in lieu of moving grain; and by shopping for relatively inexpensive warehouse space.

These options to implement cost savings will allow the market to function, and minimize the potential disruption to commercial grain storage operations, and to the farmer who relies on the warehouseman to store his grain and to participate in Government programs.

It is my intention that the USDA be provided the maximum amount of flexibility in achieving the savings in commercial storage, handling, and transportation. USDA should not be required to reduce payment rates for storage, handling, and transportation if other savings can be found.

Mr. BYRD. Mr. President, this motion merely allows this amendment to be in order. The vote would still occur on the amendment. But without 60 votes to adopt this motion, the leadership amendment is not in order.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I yield back my time.

Mr. DOMENICI. I yield back my time on the motion.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion of the majority leader. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from New Hampshire [Mr. RUDMAN] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 13, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—81

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—13

Armstrong
Bond
Garn
Hecht
Helms
Kasten
McClure
McConnell
Murkowski
Packwood
Proxmire
Symms
Wallop

NOT VOTING—6

Burdick
Gore
Hatfield
Rudman
Simon
Wilson

So the motion was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 81, the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senate will please be in order.

The Republican leader.

Mr. DOLE. Mr. President, I designate the distinguished Senator from New Mexico [Mr. DOMENICI] as the Senator in charge of the time on this side.

Mr. BYRD. Mr. President, I designate the distinguished Senator from Florida [Mr. CHILES] to be in control of the time on the bill on this side.

Mr. DOMENICI. Mr. President, I yield myself as much time off the bill as I require.

Mr. President, I wonder if the distinguished chairman of the Budget Committee, Senator CHILES, is now prepared to present opening remarks. I prefer that he precede me.

Mr. CHILES. I am ready to proceed.

Mr. DOMENICI. Before the Senator proceeds, might we indicate to the Senators that we are now going to engage in some opening remarks and explanations of what is in the leadership bill and where we are, and then our amendment will be open to further amendment, as I understand.

Mr. FORD. Mr. President, I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. Will all Senators engaged in audible conversations please cease conversations or retire from the Chamber.

The Senator from Florida.

Mr. CHILES. Mr. President, let me just say at the outset I am very pleased with the vote that we just had, 81 to 13 on the motion to waive. What it says to me is that the Senate is serious about seeing that we do something on deficit reduction, and we are serious about sending the signal to the country that we intend to pass the package and we intend to follow up on what the leadership summit was doing and pass a major, meaningful package in regard to deficit reduction.

Mr. President, with that start, I would say that years ago a very smart and I might add a very anxious watcher of the American system asked a question that the Senate now has a chance to answer. She said, "I wonder whether we will ever grow up in our politics and say definite things that mean something."

I think the leadership amendment shortly to come before the Senate says some very definite things about our determination to wipe out the Federal deficit, and I think it means something. More importantly, it actually does something.

During the next 2 years, we are going to reduce the deficit by $80 billion. A Congress led by one party and a President of another have made some hard choices about spending cuts and revenues for the good of the economy. It certainly means some pain. It means doing without for the time being so that we can do better in the future. It means paying out a little more so that we can do a lot more about the Federal deficit, our No. 1 economic problem.

On December 3, the Senate Budget Committee reported out a reconciliation package without recommendation. It was actually just a formality under the Budget Act. We do not have the authority to change what the committees send to us. So without recommendation, the Budget Committee has reported to the full Senate what amounts to a shell. Now we intend to replace it with a deficit reduction agreement reached between negotiators from the Congress and the White House.

The process that brought this package to the floor was a very long and grueling process, and each Senator, whether as a member of the committee or as a representative from his or her State, had to invest hard work and give up parts of their own agendas.

By approving the leadership amendment, every concession and all the days and months of work will have been worthwhile.

Mr. President, many Members of the Senate played a vital roll in this effort, but certainly Senators STENNIS, HATFIELD, BENTSEN, JOHNSTON, and DOMENICI were all relentlessly searching for the common ground where we could reach agreement. Senator PACKWOOD was also involved in those matters.

Of course, the leadership of Senator BYRD was crucial, with Senator DOLE sitting in as the minority leader being very, very helpful.

And, of course, the leadership of Senator BYRD was crucial. His persistence, willingness to listen and capacity for hard work helped keep everyone's feet to the fire.

The committees—including Finance, Governmental Affairs, Agriculture, Labor and Human Resources, and the Veterans, Committee—have worked long and hard to achieve the required real savings.

I also want to say a word of thanks to my good friend PETE DOMENICI. We have not always been on the same side of the issues. But Senator DOMENICI and all members of the Senate Budget Committee were there when it counted most, and I am grateful for all they have done.

Yet, even after all the work and all the time that went into this effort, there is no point kidding ourselves. There is still a sense of uneasiness in this Chamber.

Some feel they have given up too much. Others—myself included—wish we had accomplished something more. But the fact is, we have accomplished a lot.

MAIN ELEMENTS OF THE SUMMIT AGREEMENT

We have the largest deficit-reduction package in history to show for our work. We have had the serious and central participation of the President.

And we have an agreement with some ache in it, because discipline is not an easy thing to accept. After years of passing each other in the night, we are back on the road with the lights on and heading in the proper direction.

The agreement we will put before the Senate today is a worthy package, and worth the approval of the Senate.

It says something, and in straight language, here is what it says:

Eighty billion dollars in deficit reduction over 2 years.

Deficits lower by $33.7 billion in 1988, and by $46.2 billion in 1989.

A reduction in the deficit as a percentage of the gross national product from 4.2 percent in 1987 to 2.9 percent in 1989.

The prospect of a Presidential election year without a crippling battle over the budget.

Here is what the deficit-reduction agreement means in more specific terms:

Additional taxes of $9 billion in 1988, and $14 billion in 1989. When combined with stiffer IRS compliance measures and additional user fees, new revenues total more than $28 billion over 2 years.

Military savings add up to $13 billion combined for 1988-89.

Mr. President, when I point out the revenues here, I take just a minute to specifically say what a soldier Senator BENTSEN has been, not only through the summit but in the original reconciliation, in the summit, and in putting together this package. The Finance Committee—and so I speak also for all the members of that committee—was the first committee to complete its work and yet they had a major, major part of this package. They complied with that. Their savings are true savings. They are vouched for in effect by the administration. We have a package that is acceptable with the administration people, and much of that is because of the tenacious, courageous leadership of Senator BENTSEN. I certainly take my hat off to him and the work he has done in this regard and the leadership that he gives the Finance Committee in the Senate as well.

Domestic savings total some $20 billion over the same timeframe.

I also want to compliment Senator STENNIS and Senator HATFIELD. The Appropriations Committee is sending to the floor a continuing resolution with no amendments. That continuing resolution sets forth the target figures that were agreed on for the numbers in defense, the numbers in foreign assistance, and the general domestic budget numbers. That committee has again complied with the letter and the spirit of the act, and again we compliment them, the membership in the committee, and hope when we get to the continuing resolution all of those figures will hold up, because again they are crucial in putting together this package.

Overall, the agreement means that for every dollar in additional revenues, we reduce spending by $1.75. What we have here is a balanced package to sharply reduce the level of Federal borrowing.

This agreement does not touch Social Security. But it does include entitlement savings—reductions in the farm price support program, reduction in the balances for guaranteed student loans, restraint in payment to providers under Medicare. And I would also point out that this agreement will mean a 1-year freeze on all but 25 percent of new post office construction around the country.

During the course of the debate on this measure, we will have the chance to hear from the members of a number of the authorizing committees who will explain the individual changes in more detail.

But we should keep some general facts in mind. First, the deficit-reduction summit was not intended to produce a comprehensive legislative agenda. So the summit package is a perfecting amendment rather than a total substitute. Yet, by finding savings in both domestic and military accounts and by adding revenues, it fulfills the primary mission—and that was to find a fair mix of policy changes to sharply cut the deficit.

That is what we have done. We have done it without gimmicks, and we have done it for 2 years.

Like anything else we do in the Senate, this package will have its detractors. But consider where we would be without it.

There is every likelihood that the White House and the Congress would have remained at an impasse, blocked by politics from moving ahead, and condemned to go backward by accepting automatic spending cuts.

The markets at home and around the world may not be overjoyed by what we have done. But consider the reaction had we failed to achieve an agreement. And consider the prospects of what might happen if, in these last days of the session, we fail to approve the package we promised.

More than anything else, consider the reaction of people throughout the Nation who are watching for the sign of our intentions about the Federal deficit. Unless we act now, we will be loading the dice in favor of other nations competing for the economic edge.

Each of those is a negative reason. But, in the end, the reasons for adoption of the leadership amendment are all positive.

We have real deficit reduction here. We have it for 2 years.

And we have the sobering fact before us that we have a great deal more to do.

For too many years, we have approached our work like bricklayers without a blueprint—filling in here, patching up there—to keep the economy from falling down.

With the leadership package, we have a solid foundation, built with the right mix of savings and revenues to show this country is serious about the future of our economy and the health of the world's economy.

I certainly hope the Senate will approve the agreement.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. DIXON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself off the bill as much time as I require.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, first let me say that the chairman of the Budget Committee, Senator CHILES, has put the issue clearly before us, and I take this opportunity to compliment him for his patience, his persistence, and his forbearance in bringing us to this point. There were a lot of us who were not too sure we could get here this year, and I want to compliment him for that.

As everyone knows, Senator CHILES has decided, at the end of this term next year, to leave the Senate. While I have publicly made my views known about that, I have not had an opportunity on the floor of the Senate to indicate my genuine friendship for this man, nor have I had an opportunity to compliment him and his State. They have sent us a true public servant in every sense of the word, a man of absolute integrity. Clearly when it comes to the budget and matters of fiscal responsibility, he has been a leading force in trying to instill some common sense into our processes, and, yes, indeed, into the battle between Republicans and Democrats, the President, and the Congress in an effort to address this lingering devastating issue of continued deficit spending.

Mr. President, having said that, let me suggest while that Black Monday with that enormous drop in the stock market is a few weeks behind us, I hope no one here thinks that we can go home for Christmas and return for a new year and not accomplish a significant deficit reduction. If anyone does, they are missing the absolute obvious.

While there are many reasons to be concerned about the international markets, the American economy, and while many things have to be done in the next decade, one thing is obvious: The signals are strong, consistent, persistent—reduce the Federal deficit during periods of growth. When the economy is moving ahead, do not continue the wild policies of major, major deficit spending. That is one message.

The other is that there are certain crises in this country that require the President of the United States and the Congress, Democrats and Republicans, to act in concert.

I really did not think we would ever see the President and Democrats and Republicans in both Houses joining together in a deficit-reduction package. Years ago we used to do things like that on foreign policy, as I understand it. I understand there used to be a great rule named after a great Senator named Vandenberg; "Our disagreements stop at the seashore." But in matters fiscal that Monday served a purpose. It said to all of us and to the President, sit down together talk, and come up with an agreement.

We are going to hear a lot today. We have already heard much about this package not being big enough, and, not reducing the deficit enough. As a matter of fact, we have heard, as my friend from Florida will know, people admonish us as members of that so-called economic summit and say, "Where were the leaders? Where were the people with guts? We need a little more absolute positive gusto for deficit cutting. Where is it?"

Well, when you have to put together a package that the President will sign, that a Democratic House and a Democratic Senate can pass, that Republicans will help them with, that is a different story. That means everyone has to do some things they did not want to do. And we did that. We did not build this legislative package in its detail. But in that summit we ended up agreeing, and our President agreed, to some things he said he would not agree to before, Members of the other side agreed to some things on defense they had indicated they would not agree to before—we all agreed to restrain discretionary appropriations for 2 years. And we were not sure we could ever do that.

There are many entitlements we did not touch. And the reason we did not touch them is because the President took them off the table. And remember the rule I just said. We were trying to get something that could pass and get signed, not another 2 months of confrontation, no winners, no Republicans as victors, no Democrats as victors, going to the American public saying they won. Some of it we did not like. Some of it was tough. But we did it. That was the goal: To put our arms together and whatever flak we are going to take, take it collectively, Republican President, Democratic House and Senate, and Republicans in both Houses helping.

So there are some revenues in here. And I compliment the Finance Committee and their leader, Chairman BENTSEN. There are some entitlement savings in Medicare. They do not affect beneficiaries, but they are a bit tough on some of the institutions and medical professions. Yes. There is a little bite out of agriculture. Those programs are growing dramatically, and the farmers are probably as willing as any other group in America to get the deficits down.

So there will be a reduction there. And I am not going to go through the list. But I am going to make this point: While we did not have any authority in this economic summit conference to draw legislation, this leadership amendment that is before us in terms of deficit reduction, the amount of revenues, the amount of entitlements in each of the 2 years, the mandatory reduction in the expected growth of discretionary programs in both years with caps on both defense and domestic are exactly as agreed to.

There may be some difference of opinion on the substance. When we go to conference, the President has reserved his rights to accept nothing that is inconsistent with the summit conference. And there may be some things in this overall package between our leadership package and the underlying reconciliation bill that are inconsistent in the President's views.

But we cannot solve every single problem on the floor of Senate. We still have to get the House in conference, and then we still have to pass both Houses with that conference report.

So, what have we accomplished? I would like to put it another way. For those who want to do nothing, they do not want the leadership package; they do not want the Kassebaum package; they did not want Senator GRAMM's changes in the Kassebaum package. What they want in my opinion—and I have the greatest respect for all of them, if there are 10 or 20 of them around here—they want chaos in my opinion. They want a sequester.

I have spoken to the sequester issue. I have worked hard on it. I did not happen to be for it this year. Gramm-Rudman-Hollings II did not get my support. I was among the 38 who voted against it. But I know this: The sequester is neither a game plan for responsible government, nor is it a game plan for responsible deficit reduction. It is a hammer, a train on a track that is about to wreck. You do not expect the hammer to hit you in the head, and you do not expect the train to crash.

What do you expect? You expect Congress and the President to adopt a prudent policy that avoids it. No one to my knowledge who advoçates a sequester says it is something we ought to invite, adopt, encourage, let happen if there is a substantive alternative that reduces the deficit and is reasonable—no one. Twenty percent of the total budget is sequesterable, and 80 percent is not. Defense under this sequester would get about a $25 billion budget authority reduction, arbitrary and across the board, in one swoop. I mean it is almost insane in the sixth or seventh year of buildup that has stagnated and will not grow much to think that a sequester is good policy.

So all of these things pushed us to accomplish something. And that is what we are here asking the Senate to vote for ultimately, the so-called leadership package.

I would also say to the Senate—I said it in all dollar respects, money respects—that deficit reduction respects meets the summit's concurrence, and the summit agreement. It does. On the revenue side it is right on target. It met not only the agreement but the statements of the chairman of Finance, Ways and Means, and the President about not only the dollar numbers but the type of subject matter which would be in the agreement. Entitlements on Medicare and agriculture meets the agreement, as well as the sale of assets. There might be a dispute on the REA refinancing when we go to conference. But we have actually placed in this leadership package $2.5 billion in asset sales in excess of the summit agreement so that we go to conference with the ability to negotiate with the White House and others regarding the asset sale package. As a matter of fact, this deficit-reduction package is $33.7 billion in the first year instead of the $30 billion we expected. This is because of those asset sales that I have just described, giving us some latitude on that package in conference.

Mr. President, some people, both within the Senate and out in the marketplace—some about 15 minutes ago—have been critical of the size of this package. Some have sort of chuckled that we surely should be able to do more in this kind of crisis. Well, I say to all of them, just think of what the U.S. Congress will look like if we do nothing.

I think $33 billion in the first year, a 2-year mandatory budget for the first time in history, $45 billion in the second year, done in concert among Democrats, Republicans, and the President. The President has never been able to get an agreement of this magnitude with Congress since early in his tenure, nor have we with him. For this reason alone, I think this agreement sends a very positive signal.

We are not doing this for the stock market or Wall Street. We are doing it because we are worried about our economic future, jobs in your city and mine, for our children. We want to keep growth going and add jobs and prosperity.

I believe that, in essence, this is a very positive act. It moves in the right direction, and clearly it is better than doing nothing, by a long shot. In my opinion, it is dramatically better than a sequester.

I have said before, and I want to say one more time, that this sequester, if we let it go in place, come January and February, has no chance of sticking. It will not stay. Can you imagine that on February 5 or 6, we come back, and we have not done anything? Except a sequester? Can you imagine what our President is going to ask us to do on defense when what we have done as I have described is totally arbitrary? He will ask that we put some money back. The response from the other side and from many of us will be to put some money back in domestic programs. These programs will have also suffered enormous arbitrary cuts. The end product: No deficit reduction come March. That is how I see it. Is that really what we want to do?

Frankly, I believe that is a negative outcome in all respects. We cannot work together. That is a negative. We cannot do anything but try to trust this across-the-board activity that will not stand the test of reality. All of those are negatives. All pluses evolve from passing the package.

Mr. President, there will be two substitutes—I use that word loosely—for the leadership package. I have nothing but the highest regard for both proponents. Senator KASSEBAUM's package has some very exciting ideas. Senator GRAMM's substitute for that, if he offers it, is certainly deserving of consideration. But I want to say to them in advance: Remember, we went to the economic summit to get something that could pass both Houses and get signed by this President, our President, and become law. We believe that after conference, some adjusting, we have exactly that in the leadership package. I do not believe there is any other game in town that has those qualities, no proposal that has those characteristics.

So, not by way of substantive objection, I will have to oppose them, but clearly I compliment their sponsors and supporters in advance.

I do hope, however, that before we wrap up this reconciliation, we will adopt the leadership package with few amendments, if any; work our will on the remainder of the reconciliation package. There are some disputes with reference to the fairness doctrine and other things—and certainly by sometime tomorrow send the package over to the House, so that we can have a conference on this entire package.

Mr. CHILES. Mr. President, I ask unanimous consent that small electronic calculators be permitted on the floor of the Senate during the consideration of S. 1920.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, will the distinguished Senator from Florida yield on his time?

Mr. CHILES. Mr. President, I yield from the bill such time as the majority leader might utilize.

Mr. BYRD. I thank my able friend.

Mr. President, the deliberation on the leadership amendment to implement the budget summit agreement is an exercise in the practical, the doable, the attainable. For 6 years, the Congress and the President have been at odds on how to reduce the deficit without crippling America's future. Those differences, and the resulting inaction, have been at the root of this country's major domestic problem—the budget deficit. Our people, let alone our allies, are increasingly concerned at the inability of this Government to set its financial house in order.

Every Senator has heard of the consequences of failing to reduce the budget deficit—continuing trade problems, more borrowing from foreigners, turmoil on Wall Street, reduced standards of living, higher interest rates, and a growing perception of a Government incapable of governing.

In addition to those woes, there is a new one this year—sequestration. Without a budget agreement, the automatic budget cuts contained in the Gramm-Rudman law would be triggered. And if sequestration became a permanent reality, we would all surely hear from our constituents. I know I would certainly hear from my people in West Virginia who are tired of the fingerpointing and are ready for some fiscal responsibility.

The budget levels afforded to national defense under a sequester would sap our readiness and undermine our ability to defend vital interests throughout the world. Yet, this is just the opposite of what we should be doing with the signing of the INF Treaty. The signing of the INF Treaty makes it incumbent on us, more than ever, to sustain the strength of our conventional forces.

As a matter of fact, when the Senate was debating the Defense authorization bill—I believe it was the Defense authorization bill—I offered an amendment to require the Secretary of Defense to conduct a study of the modernization needs of our conventional and nuclear forces that would result from the ratification of an INF Treaty. That amendment was adopted, and it requires the submission of that study to the Senate, along with the submission of the treaty.

Mr. President, a sequester, if it were to go into effect, would be sending exactly the wrong message and going in the wrong direction from the direction in which we are going as we consider the INF Treaty.

If the sequester were to go into effect, the budget levels for drug enforcement would let more drugs slip across our borders and onto the streets, poisoning our children.

Similar tales can be told of lapses in aviation safety, health and safety inspections, and other vital services if the automatic, across-the-board spending cuts become permanent this year. Across-the-board sequester cuts, far from being the easy answer some believe them to be, are fundamentally irresponsible.

Thus, the task of the budget negotiators this year was not just to reduce the deficit, but to do so in such a way as to avoid gutting those programs that protect our citizens, and that protect this Nation's security. Fortunately, the negotiators succeeded. Once implemented, the budget summit agreement will reduce the deficit and obviate the need for a sequester.

But it will do another important thing. It sets a framework for future progress on the deficit. It is a beginning step that shows that the President—yes even a Republican President—and the Congress—yes, even a Democratic Congress—can work together toward the greater national interest.

There have been those, inside Congress and out, who complain that the budget agreement is too little, too late; that it is insufficient to bolster the stock market or restore the confidence of our allies; in short, that it is a mouse.

Mr. President, I find such characterizations are a little bit discouraging and somewhat off the mark. The representatives from the administration, the congressional committees, and the leadership, labored for 4 weeks, into the evenings, on weekends, on holidays, in search of a budget package that all could agree to. They deserve our sincere congratulations for their perseverence and their perspiration. During those talks, they considered many plans. Yet none, save the one before us today, could command the support of the President and the joint congressional leadership in both Houses.

I said at the outset that the deliberations over this leadership amendment would be an exercise in the practical and the achievable. This budget is achievable. The leadership supports it. The President supports it. It can be enacted. It is a guarantee of deficit reduction this year.

Now as to those who believe that it is not enough, let me ask them to consider the fact that, in its first 2 years, this budget will surpass previous efforts in the amount of permament deficit reductions achieved through legislative changes.

In its first year, this amendment will save $29 billion from the CBO baseline deficit for 1988 and $50 billion for 1989. So there is a total of $79 billion for 2 years. Now it is my understanding that that is the greatest amount ever for 2 years in budget reduction.

So, let us not refer to it as "just a mouse." It is the best ever; it is an accomplishment. And I have already indicated what would be the result if this were to fail. So that is no small feat, Mr. President. It should engender the support of those who are committed to real, permanent deficit reduction.

There are many in this Chamber for whom this budget agreement and this amendment are not ideal, and I am one of them. This is not the package that any one of us would construct if any one of us were a king. But the greater goal of enacting into law a measure to reduce the deficit takes precedence. The President has his budget. The Congress has its budget. Neither approves of the other's budget. Yet without agreement, chaos will reign.

This budget achieves that necessary agreement and avoids chaos. It is a balanced approach, combining revenue increases, with spending cuts, both in defense and domestic programs. It is a responsible budget, and it is responsive to the needs and priorities of the country. I may not agree with every single piece of this package, but the common good resulting from its enactment overshadows any individual shortcomings. I support the leadership amendment as the best, indeed the only, way to reduce the deficit this year.

I urge all of my colleagues to vote for the leadership amendment and to vote against amendments to the leadership amendment.

Let us keep in mind that this is an amendment that has been agreed upon by the Republican leadership in the Senate, the Republican leadership in the House, the Democratic leadership in the Senate, the Democratic leadership in the House, and the President of the United States.

Now start tampering with it and it begins to unravel. When that happens, some of these elements of leadership in one place or the other will jump ship and down goes the package.

So let us be careful. We may not like it in its entirety, and there may be some parts of it we do not like that otherwise we would not support. But let us take the achievable. This is the achievable. This is the agreed-upon package. This is the leadership package. This is the package that has been agreed to by the President.

We must not tamper with the leadership amendment because once it is changed, then it is no longer an agreed-upon leadership package with the combined support of the Republican and Democratic leadership in both Houses and the President of the United States.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Nebraska.

Mr. **EXON**. Mr. President, I would like to ask some questions.

The **PRESIDING OFFICER**. Who yields time?

Mr. **EXON**. Will the majority leader yield me 5 minutes or whatever time is appropriate so that I might ask some questions?

Mr. **BYRD**. On behalf of Mr. CHILES, I yield the distinguished Senator 5 minutes.

The **PRESIDING OFFICER**. The Senator from Nebraska is recognized.

Mr. **EXON**. I thank the leader and the Chair.

I just listened to the majority leader outline the leadership proposal. I believe that he and others know and recognize that I feel that we should be doing more and I will be supporting another amendment that is going to be offered, but I simply say that there is no question in this Senator's mind that the leadership package, although I think it is lacking in what we need to do, is far, far better than falling back on the sequester under Gramm-Rudman for a whole variety of reasons.

The message has been quite clearly delivered here on the floor of the Senate this morning that this package has been agreed to by the Democratic and Republican leadership in both the House and Senate and that this package has been agreed to by the President of the United States and his representatives.

If that is accurate, which I hope it is, then I assume that there will not be significant changes made in the proposal in the conference. But I would like to ask a question of any one of the participants in the budget summit as to whether or not all of the matters have indeed been resolved. It was my understanding and it certainly was the intention that when this package was presented to the House of Representatives and the U.S. Senate, it would be a package that had been agreed to in toto by all parties involved and that there would be no changes made in it in the conference. I now understand that there are certain matters still under negotiation, the REA financing being one of them that I would like to ask about specifically, and it seems to me that both the House and the Senate want to take advantage of the REA financing cut of $5 billion. There seem to be some thoughts that the administration now would like to eliminate that or at least cut it in half to $2.5 billion.

I simply want to know. That is one of the things that I understand is still in dispute. Are there other matters in the leadership package that is being offered here as agreed to by the Democratic and Republican leadership in the House and Senate and the President of the United States that in fact have not been agreed to? I think myself and others are entitled to some explanation in that regard.

Mr. CHILES. I thank my good friend from Nebraska and I will answer his first question specifically, and I will think some and ask my distinguished friend from New Mexico to help me with the second.

As we went through, you know we discussed sort of everything and we discussed asset sales, time after time after time. It was very difficult to come to agreement. As you know, at one time the Senate did not want to score anything on asset sales and the Gramm-Rudman-Hollings said that we would not, and for sequester purposes, that is still true.

So we have to meet our sequester savings and we do in this package without asset sales. But in an effort to try to show we were doing more on the deficit, it was sort of agreed that we would have some asset sales and so we agreed on that figure and I think it is $5 billion in the first year and $3.6 billion in the year 2 that would come off of asset sales. So we could agree on the number.

Now, as to where the asset sales would come from, the administration did not want any of the REA savings and they took that position from the time we started, all the way through the first 3 weeks or so of the meeting.

Here we are getting into week 4, sequester is ready to fall on us, and you know to many of us who felt that we should have been able to do this in the first week or the second week, that was an interminable amount of time we spent. We went over the same areas time after time.

But finally, as the sequester actually sort of went into effect, we knew the deadline was upon us and we were forced then to start making decisions. And we made decisions in a lot of the hard areas—what the revenue number would be finally, what the caps would be in defense, and what would happen in foreign assistance.

Asset sales did not have to be quite as big on everyone's priority because it was not part of Gramm-Rudman-Hollings, it was not part of the sequester, and we got down to that at the last and still could not come to any agreement.

What happened was, as near as I can tell it—and again I ask the distinguished Senator from New Mexico to add to this—the administration said, "We will never accept more than half of the REA savings and we would only accept that if there were certain prohibitions made or conditions made in regard to those savings that we are not having REA's come back in or that we know that this is not going to be a total raid on the Treasury."

Now, those conditions were never spelled out. No one ever said we accept those conditions. No one, to my knowledge, on a piece of paper said, "Well, we will only accept $2.5 billion of the savings." But I think we all did know—certainly the Senator from Florida did—that that was the position of the administration; that where they had resisted REA savings totally, they finally said that they would accept up to one-half.

I assume when we go to this conference, of course, we are putting together a package which has to become law and so we will have the House and the Senate there, but we will have also the administration looking over our shoulder, so to speak.

So as to the agreement itself, the agreement itself was silent on that. Nothing was written into that agreement. But I think everyone knew what the administration's position was. In fact, I think Chairman FOLEY, who chaired the subcommittee, sort of repeated that as being the position several times.

If you ask me if I think I am legally bound or morally bound to that, no, I do not think I am bound to it. But I think I am certainly put on notice that that is strongly their position.

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I would be glad to yield, but let me ask a further clarifying question.

What are the figures for REA financing in the House and Senate version of this compromise as you go into conference, assuming the leadership package will be approved here?

Mr. CHILES. I think it is $5.3 billion. We have also added in some other asset sales for $2.5 billion. So that there will be room to see that we come out with at least $5 billion in asset sales so that we will know we met what the summit agreed to as being those kinds of savings.

Mr. EXON. My question, though, is, if the House has specified $5 billion in REA sales and the Senate has specified the same $5 billion, under ordinary circumstances, that would not be conferenceable and could not be reduced, is that not right?

Mr. CHILES. I think that under our rules, we do have a wide open scope in conference on the bill. And I do not think the Senator should feel that he is simply protected by the fact that we would be doing something else.

Mr. EXON. But if we could change this, if both Houses have specified $5 billion, if we could change that up or down, I guess is what you are saying, to zero, 2.5, to 4.5, to 9.7, does that apply to everything else in this agreement? I mean, is everything open so that the positions taken by the House and the Senate in this bill go to conference and then the conferees are not bound by what either the House or the Senate mandated or dictated or at least to that which they gave their approval?

Mr. CHILES. Well, I feel personally that we are bound by the shape of the leadership agreement. But that is more of a moral binding. I think the rules themselves allow considerable latitude in this conference under reconciliation.

Mr. EXON. More than in a normal conference on another bill?

Mr. CHILES. Yes.

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I am happy to yield.

Mr. DOMENICI. Let me see if I could put what we have before us and what we have to do in the next 8 or 10 days with the House to accomplish the deficit reduction package into perspective another way.

The Senator is very familiar with the defense appropriation bill and the defense budget. Now, the summiteers agreement with the President of the United States concurrence is an absolute total number in budget authority and outlays for the appropriations of the Defense Department. The House has a much lower figure in its appropriation bill. And, as you well know, the Senate Appropriations Committee has come up with an appropriation bill that hits that target almost exactly. But they must to to conference, I say to my friend from Nebraska. There are differences between the two bills.

The only thing to which the summit agreed unequivocally was that defense would get that amount of money that you are aware of in budget authority and outlays. So they must confer on all other issues.

There is sitting on the sidelines of the conference, the administration, having been part of the summit, saying, "We have an agreement on the number. Let us make sure we work out a bill that we do not have to veto because it has something that we absolutely do not want and that we have never agreed to and that was never mentioned as an item in the summit."

That is why I have said very carefully to the Senate that the substantive savings are consistent with the summit.

I might say the tax bill is a good example for my friend from Nebraska. The House has a reconciliation tax bill that is the result of committee actions 3 months ago. We now have a new one that is the result, of the summit, the immediate postsummit bill. The Senate Finance Committee and the House Ways and Means Committee still have to go to conference.

I can tell the Senate, on behalf of the summiteers and the administration, that the bill that the Finance Committee produced is consistent with the summit conference. I cannot tell you that when they go to conference there will not be something changed. The House has to work its will, within the bounds of the total dollars numbers we have agreed to.

In the case of asset sales, I say again to my friend from Nebraska, the summiteers agreed to $5 billion in the first year, $3.5 billion in the second year. I can tell the Senate this agreement does that and more because it has a total of $7.5 billion in asset sales.

But I do not think we can predict with absolute certainty how the conference on those asset sales, including REA, will come out. The administration has reservations such that they want to work with us to achieve area refinancing package they can sign. I think that is the best I can say.

Mr. EXON. I thank the leaders of this bill for their explanation. I just simply want to say that I hope that since the House and Senate are on record for $5 billion savings, that you do everything you can to hold to that. It seems to me that if you have additional savings in the asset sales on top of that, it is not going to hurt a thing, as far as controlling the deficit is concerned, if we would go up to $7.5 billion or even more to help us out in this particular difficult economic period.

I thank both of the leaders and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I had told the distinguished Senator from Texas that I am going to yield time to him off of our side. I am going to do that in just a moment.

Mr. President, before I yield to my friend from Texas, I want to compliment a couple, husband and wife. I do not know them at all. They are not from my State. I have sent a copy of this correspondence to the Senators from Missouri because it happens that Bill and Jane Britt, from Dexter, MO, are their constituents.

In the early days of December, in the midst of the economic summit conference, a letter arrived at my office. I was, indeed, shocked and pleasantly surprised. It was a handwritten letter by these two marvelous people, directed to me. Interestingly enough, it had a check attached. Not a check—a money order, because they did not want to waste time. It was made out to the Senate Budget Deficit Reduction Fund.

We do not have any such fund. However, I assume that passing this bill is the closest opportunity we have to relate to a Senate budget fund. That money order was for $164 and some cents.

The handwritten letter to me said: "Sir,"—and then it goes on with an introductory paragraph that I will not read in its entirety, but it talks about 1 day's pay worth of sacrifice. This man and women, who were obviously fully employed in America, decided to send 1 full day's pay to the Senate Budget Deficit Reduction Fund. Let me read part of the letter:

"What if every working American gave 1 day's pay to be used only on lowering the deficit? Money's to be sent in," as they indicate, "by cashier's check or money order. Thus to hold down extra spending on any unforeseen trouble. One day's pay voluntarily," they say.

"We live in the greatest land in the world. We have learned our lesson * * * so now we need to use what we have learned and get the deficit down.

"To show that we really believe that this could work, we are enclosing our day's pay. What better gift could we give our children and the children of America than the hope of a stronger America?" ending with a quote from John Kennedy, and they put quotes around it: "Ask not what the country can do for you, but what you can do for the country." Bill and Jane Britt.

For any Senators who are going to vote today and have an argument with one piece of this leadership package or another, I hope they will remember the spirit of this letter. I mean, somebody has to sacrifice. Some program has to give a little bit. Somebody has to pay a little more in taxes to get this deficit down.

I ask unanimous consent that that letter and a copy of their remittance be made a part of the Record and I yield 10 minutes to the distinguished Senator from Texas.

Senator Packwood, distinguished junior Senator from Oregon, has asked that I yield him time. I want to state as soon as I have the floor again I will yield him whatever time he needs.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on the Budget,
Washington, DC, December 1, 1987.

Hon. James A. Baker III,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

Dear Jim: I am enclosing a copy of a letter from Mr. & Mrs. Britt of Dexter, Missouri, which I received yesterday. I wanted to send this to you personally because, as you will note when you read their letter, they not only wrote me about their concerns regarding the deficit but also enclosed a money order which represents one full day's pay for them to be applied toward deficit reduction.

We all have received numerous calls from people all over the country with countless suggestions for reducing the deficit, but this is the first "concrete" proposal I have received.

Thanks for making sure this contribution towards lowering the deficit gets deposited in the right pot.

Sincerely,

Pete V. Domenici,
U.S. Senator.

Enclosures.

Dexter, MO,
November 20, 1987.

Senator Pete V. Domenici,
Capitol Hill.

Sir: In a conversation between my husband and myself, he made a statement that has stuck with me, he said, "what would happen, if every working American, gave one day's pay to help lower the deficit".

I think it would be a great step forward, we are in a mess and now is the time for all Americans to come to the aid of our country.

What if every working American gave one day's pay, to be used only on lowering the deficit monies to be sent in by cashiers check or money order. Thus to hold down extra spending on any unforseen trouble. One day's pay voluntarily. We live in the greatest land in the world. We have learned our lesson, hard though it was, so now we need to use what we have learned and get the deficit down.

To show that we really believe that this could work, we are enclosing our day's pay. What better gift could we give our children, and the children of America, than the hope of a stronger America. "Ask not what the country can do for you, but what you can do for your country".

Bill and Jane Britt.

Personal Money Order

First Citizens Bank.
11-23, 1987, No. 145608.

Pay to the order of Senate budget deficit reduction fund, $164.00.

Remitter—Jane M. Britt.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. I thank the distinguished Senator from New Mexico for yielding to me. I find myself torn in this debate and I have tried to figure out why. I think it goes back to that basic human instinct, the instinct for a parent to love even a very ugly child.

As I look at the leadership amendment I find myself torn, really, for several reasons. No. 1, I am very disappointed in the agreement and I am not for it. I do not think it is enough. I do not think it responds to the problem we face. But, on the other hand, I know it would have never come about had it not been for the Gramm-Rudman-Hollings balanced budget law and, therefore, along with 70 or so other Members here who vigorously supported that law, I am at least a foster parent of the budget summit agreement.

So I did not rise today, Mr. President, to urge people to vote one way or another but to make several points that ought to be heard in the debate. I will make those points without hoping to sway anybody. I will feel better as a result of having made them and perhaps they will provide information that could affect the debate some other day.

First of all it is so vitally important that the American people understand that Government does not use the same language that the people of America use. We have heard a great debate over the last month or so about whether we cut enough as this package has been put together. I submit, if you went to Illinois or Texas or Oregon and you went out in the street and you asked the average citizen: What do you mean when you say "cut spending?" They almost invariably would say: If I said I cut spending I would mean I am spending less than I spent last year, less than I spent last month, less than I used to spend. That is what the American public means by "cut." They mean reduce, relative to what you used to do.

Our greatest confusion in the budget debate comes from the fact that when we talk about cutting spending, we have changed the meaning of the word so that we are talking about cuts relative to what we had planned to spend, not relative to what we actually did spend. And that is vitally important.

I want to make a couple of statements that may sound startling, but they are true. There has never been a cut in spending in the aggregate since Ronald Reagan has been President. We have never passed a budget since Ronald Reagan has been President, nor has he proposed a budget, that in the language of Dickie Flatt, from Mexia, TX, would actually cut spending. In fact, despite all the people who are running around the country whining about what has happened with these so-called cuts in Federal spending and how it is a dark day for all the people riding in the wagon who benefit from Government services, I think it is very instuctive to look at what has happened to Federal spending since Ronald Reagan has become President.

In 1981 we were spending $678.2 billion. This year, in the last estimate we are spending $1,015,600,000,000. That is a growth in spending of 49.7 percent since Ronald Reagan has become President. Every year that we have passed a budget since Ronald Reagan became President, we have had a great debate about cutting spending and yet spending has grown every year and has grown by an aggregate 50 percent.

Some might say: Well, yes, but you are talking about increases in defense. So I thought I would figure the number up if you just take defense out. If you take defense out, Federal spending has grown from $521 billion to $733 billion, or 40.6 percent growth in nondefense spending.

This year we have had a lot of talk about cutting spending, a lot of talk about shared sacrifice. In fact, this marvelous couple that sent their check to Senator Domenici wanted to do their fair share. They were willing to give a day's pay. I would bet you they thought we were talking about really cutting spending.

They figured if we are going to cut spending, maybe we ought to pay more taxes.

Let me just review what we really mean in this compromise when we speak of cutting spending.

Last year in defense, we spent $282.5 billion. According to the baseline from which we measure deficit reduction, which simply plugs in an inflation rate to last year's figure, we would have spent $290.5 billion had we done nothing. That figure was cut in the budget summit by $5 billion. So in this compromise, after the cut in spending, we are going to spend $285.5 billion on defense, which is a $3 billion increase over last year, which is a 1.1-percent increase in defense spending.

Nowhere else on Earth is that a cut in spending except in Washington, DC. It may be in Moscow, but I am not familiar with their budget.

On nondefense discretionary spending, spending not required by entitlements but spending that is not for defense, we spent $175 billion last year. We claimed to have cut $2.6 billion, but, actually, we are approving in this compromise $182.1 billion or $7.1 billion more than we spent last year.

In fact, the discretionary part of the nondefense budget under this compromise that "cuts spending" grows by 4.1 percent.

Entitlements and mandatory programs grew from $465.8 billion to $502.5 billion, that means they grow under the terms of this compromise by $36.7 billion or 7.9 percent.

In fact, after the "cuts" we have made, if you add up the columns and you compare last year with this year, total spending grows by 4.5 percent. The truth is that we have not cut spending. We have not reduced defense spending, we have not reduced nondefense discretionary spending, and we have not reduced entitlement spending. In fact, under this compromise that is supposed to represent fiscal responsibility, spending grows 3 times as fast as it grew last year.

The point I am trying to make here is this: Every year we are deceiving the American public by using words that mean different things. The American public would revolt at this whole process if they really understood that we have not cut spending in the postwar period. In fact, there has not been a year since the end of the war period, if you date it in 1946, where we have actually reduced Government spending.

Last year, we made the best effort to control spending since Eisenhower was President in 1955. Spending grew, last year, by 1.2 percent, and that was a dramatic, almost revolutionary, achievement.

I want the American people to understand that when we are talking about raising their taxes and sharing sacrifice, that there is no sacrifice inside the beltway in Washington, DC. We have not cut spending. No one has proposed cutting spending. The whole debate has been about controlling the growth of spending, and this year we are not doing a very good job at that. Last year we did quite a good job.

I do not want to end my remarks without putting them in perspective. As I look at this compromise, I am torn because it is clear——

The PRESIDING OFFICER (Mr. Conrad). The time of the Senator has expired.

Mr. GRAMM. Will the Senator yield an additional 5 minutes?

Mr. DOMENICI. I yield.

Mr. GRAMM. I am torn as I look at this compromise because it is clear that had we not had the constraints of the Gramm-Rudman-Hollings law, the deficit would be a lot higher. The plain truth is this package is an improvement over what would have happened in the absence of any binding constraint on government.

Is it better than the sequester order? Clearly, in terms of spending, we are going to spend a lot more money under this compromise than we would have under sequester. Is it better economically than the sequester order? We could debate that far beyond the time limit we have here to debate. Is it better politically? My guess is it probably is.

But the relevant point is that it is not as good as it ought to be, given the provisions of a law that required us to act and reduce the deficit by at least $23 billion and given the instability in the stock market which clearly was a result of the fact that after 2 years of lowering the deficit we let spending start to grow on us, and we let the deficit start to rise. The Federal Reserve Bank responded to that by taking its foot off the gas and stepping on the monetary brake. The American investment public, which had thought we were going to do something about the deficit changed its expectations. Interest rates started to rise. Instability in the stock market, which clearly is a leading indicator of the economy, appeared.

We had an opportunity to do more in the budget summit. We failed in that opportunity. I think it is unfortunate that that happened. We will have the opportunity again next year and the next, and, thankfully, we are going to continue to debate this issue.

I think it is important that people look at it in that perspective.

Senator KASSEBAUM will offer an amendment that has a spending freeze, but that also freezes the tax rate at 38 percent rather than allowing the tax reform package to go into effect.

I will offer an amendment to strike the revenue provisions of the Kassebaum proposal so that we can vote on her spending control measure with the revenues in the leadership package. I hope that my colleagues will vote for my amendment and give us an opportunity to vote on that.

If that fails, I will offer an amendment that simply freezes discretionary spending, defense and nondefense alike, at last year's level. That is a modest proposal.

I know a lot of people are committed to this package. We can make this package a little bit better if we can adopt that amendment. I hope they will not harden their hearts, having committed to love this little ugly baby. If we can doctor it up a little and put a little ribbon in its hair, dress it up a little and make it a little more lovable, I hope they will not refuse to give us that opportunity.

In any case, I want to congratulate those who have worked long and hard on this package. I wish I had had a chance to work on it. I think I would feel better criticizing it if I had had a chance to have had an input and failed. On the other hand, not having been there and done the work, it is easy from the outside to be critical. I am not going to vote for this package, assuming the amendments fail. This package was not written to get my vote or win my heart. It was written to get a majority and respond to the requirements of the law. Every Member will have to make their own decision as to what they are going to do.

It was an opportunity missed. That opportunity will be back next year and the next and the next until 1992 when hopefully we will have fulfilled the requirements of the law and balanced the budget. I hope we can do that by controlling spending.

If everybody in the country gave 1 day of their pay it would help now, but if we keep spending money at the growing rate that we now are spending money, in a very short period of time we will have squandered their 1 day's pay and we would be asking them for another and then another and then another.

Our problem is a spending problem. It ultimately has to be dealt with as a spending problem. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I am going to take just 2 minutes and then yield as much as the distinguished Senator from Oregon desires.

I want to say very briefly to my friend from Texas, first I listened attentively to his remarks and I compliment him for his grasp of fiscal policy and budget issues in the United States. Obviously today on this package I disagree with the Senator, but I believe his remarks have been very, very guarded.

The Senator has thought through the issue very carefully, and I can read the Senator's remarks one way by saying this package, he does not like the package and would like to make it more lovable—he has a strange definition of lovability. Nonetheless it seems to me that I am drawing from the Senator's remarks that it is better to adopt a package like this than have a sequester.

That is just my interpretation. But I would say to the Senator, he spent a considerable amount of time describing for those who care to listen how we budget around here, that we budget off of a growth rather than off of an existing set of policies. That is true. but I would say to the Senator—and I do not want to make this statement without permitting the Senator to comment—the Gramm-Rudman-Hollings tool, the so-called sequester under Gramm-Rudman-Hollings, is not calculated off of this year's budget either. This was not exactly the Senator's choice; we had to go to conference and get the House to agree. It is a funny kind of duck, so to speak.

You add 4.2 percent to everything including prior year mandatory spending that is in the pipeline. Then you cut off of it $23 billion in the first year.

I argued very strongly against that, as the Senator remembers, in our conference. It is confusing. It permits people to exaggerate the nature of the sequester in terms of its impact. Nonetheless, it is the way we have been doing budget business for eons. We add inflation to everything and then we cut off of that new higher spending levels which are equal to current policies. We did the same in the new Gramm-Rudman-Hollings Law. That will be the way it will be implemented as long as it remains law. This is very, very confusing and difficult, as the Senator well knows, and not as straightforward as the prior approaches.

So the Senator had to accept this approach in order to get the law passed.

Mr. GRAMM. If the distinguished Senator will yield very briefly.

Mr. DOMENICI. Yes.

Mr. GRAMM. I would argue of course—and the Senator could understand it if he had a face like mine—that had I been the only father of the Gramm-Rudman-Hollings law, it would be a much prettier baby. But there were many fathers. I guess we are stuck with the way we do business. Our Founding Fathers very wisely made it difficult to make substantial changes. We try to fight that constraint every day here. Sometimes we succeed a little. Often we do not. But it is important that the public understand the language, and I do believe sometimes we make it complicated, try to make it hard for them to do so. Whether that is by design or not, it is still important to remember that when we are talking about cuts—and politically these cuts are often very difficult, seldom are we talking about actually spending less money than we spent the year before, and that was the point.

Mr. DOMENICI. Mr. President, I am going to take a little time later in the afternoon to respond with reference to spending, because I do believe there is another way to look at the expenditure budget of the United States, and I will try to make the point on discretionary appropriated accounts and defense, both of which are appropriated every year.

I think I can convince the Senate that, in spite of the gross numbers that have been discussed by my friend from Texas, it is not defense spending over the last 3 years even with this agreement, nor is it the discretionary spending in the appropriated accounts that are causing this extreme deficit. Both of these areas are held in substantial check in this budget package.

So long as it is in these areas alone that we are going to restrain and leave most everything else off the table but for agriculture and a few other entitlement programs, if that is the rule, then this is a good package. We are addressing to an extent unheard of, unheard of in the last 15 years, those kinds of accounts in this package both this year and next.

Now, I yield 15 minutes or as much time as the Senator—20 minutes, 30?

Mr. PACKWOOD. Would my good friend leave it open-ended? After having spent 200 hours on this in the month that we worked this out, I would like to speak a little longer than that perhaps.

Mr. DOMENICI. I will for purpose of timing, because we have to know, yield up to 1 hour at this point.

Mr. PACKWOOD. That is all I need. That is ample.

Mr. DOMENICI. I yield the floor.

Mr. PACKWOOD. I thank my friend from New Mexico. He just finished using the word "entitlements." I think for the benefit of those watching us or listening to us we ought to explain every term we use, because we do have a funny language in the Congress. We use acronyms that we think everybody understands, like OMB and CBO. That is Office of Management and Budget, and Congressional Budget Office. Most people do not know what we mean when we say "entitlements."

Entitlement programs are programs under which you are guaranteed to get money. Unless Congress changes the law you automatically get the money. As opposed to what Senator DOMENICI called discretionary spending programs. Those are normally programs where every year we have to appropriate the money and, if we do not positively act, you do not get any money.

Let me read a list of some. This is not all of the entitlement programs, but it is a list of the major entitlement programs: Black Lung, which is a coal miners' program. When you inhale coal dust, it causes pulmonary problems and we have an entitlement program that guarantees coal miners payment under the Black Lung Program.

Civil Service Retirement. It is the retirement program for our public employees. Coal Miners' Benefits. It is another program for coal miners. Coast Guard Retirement. The name is obvious. It is a separate retirement program for the Coast Guard. Military Retirement is a separate program for military retirees and these are distinguished from the Federal civilian retirement programs. Public Health Service Retirement. The Federal Employees Compensation Act. Foreign Service Retirement. Railroad Tier I and Tier II. These are retirement programs for railroad workers.

Social Security. Of course, we all know what that is. Veterans' Compensation. Farm Price Supports are an entitlement program. If you are a farmer you automatically get a certain amount of money without Congress changing the law. Medicare. Unemployment Compensation. Student Loans. Medicaid. Social Services, which is a program whereby we automatically give money to the States for certain social programs. Supplemental Security Income, which is a form of income to the very poor who are not otherwise usually covered by Social Security. AFDC, which is the aid to dependent children program. Veterans' Pensions. Child Nutrition. Food Stamps. Earned income tax credit.

These are not all of the entitlement programs. But when you add all of the entitlement programs together—and these are programs I emphasize again we do not change unless we change the law. You automatically get it. And with programs that are indexed, which means they go up with the cost of living, what you receive automatically goes up without any vote, without any change in the law. These entitlement programs last year were approximately $462 billion of our approximately $1 trillion Federal budget—approaching half of the budget.

To put it in perspective, the military budget is what we call a discretionary budget. We have to vote on it every year.

One of the arguments that we have, perpetual arguments—and I will say to the credit of almost everyone in the budget summit we knew what had to be done. I was one of those in that 15-person budget summit when we met in that month and tried to come up with a recommendation to the Congress. Almost all of us knew that we would at some stage, someday, somehow, some way have to put some kind of a limit on entitlement programs because they are growing, growing, growing, growing, growing, as a percentage of our total budget.

Just Social Security, Medicare, and the retirement entitlements, none of the others, not farm supports, nothing else I have mentioned, just the retirement entitlements and Social Security and Medicare were 32 percent of our budget in 1986, 32.5 in 1987, 33.5 in 1988, and they continue right up as a percentage of our total budget and one day they are going to eat us alive and we know that. And we know that one day we were going to have to face it.

I am not sure we will ever have as extraordinary an opportunity to face the problem and to solve it as we had this fall and we failed. First we had the Gramm-Rudman-Hollings law, and thank goodness we did. Senator GRAMM was absolutely right. We would have done nothing, nothing at all, had we not been under the gun of having to either cut certain spending across the board or come up with an alternative budget. The alternative budget is what we are working on right now. Had we not had that hammer at our necks, gun at our head, ax at our neck, we would not have acted at all. We never have in the past. But this forced us.

Second, we had the stock market crash. I do not know. I am not saying we have enough to know whether the market crashed because we were unhappy with our budgeting priorities or our deficits or not. I do find it unusual that we have had over $200 billion deficits for several years running and the market went up, up while we had these immense deficits. Last year the deficit came down $70 billion for a variety of factors many of which were beyond our control. It was accidental but it came down. And the market plunged. I am not sure what that tells us. But a lot of people thought that the plunge of the market was related to our inept budgeting procedures and actions. So we had a second spur that we could have used to act.

We could have said Gramm-Rudman-Hollings forces us to act with an alternative budget or we have to cut things across the board; two, the stock market is a harbinger that our deficit is out of order and our budget process is out of order, and we need to act. The public was ready for us to act. They were not just willing for leadership. I think they were crying out for leadership, and if there was a discouraging aspect of this entire budget process with the budget summit—the budget summit group of 15 was not made up of a cross section of Congress. It was not made up of a cross section of leadership. It was the leadership. It was Senator BYRD, the majority leader, Senator DOLE, the minority leader, it was the Speaker of the House WRIGHT, and BOB MICHEL, the Republican leader, then it was the chairman and senior Republican members of Ways and Means, Appropriations and Budget in the House, Finance and Appropriations and Budget in the Senate, and chaired by TOM FOLEY who is the No. 2 Democratic leadership in the House. This is the leadership of the Congress. The one thing that distinguishes this group from the rest of the Congress is they have been elected to a position of leadership, and the one thing that distinguishes people in Congress generally from the rest of the public is that Congress has been elected to a position of leadership. And on occasion you run the risk of leading, and one of the risks you run of leading is that on occasion you will fail.

Show me somebody who has never failed, and I will show you someone who has never tried to lead. So it is that group of 15 who sat together. We knew what had to be done. We had more plans tossed about in these little closed sessions that were closed to the press, a budget freeze, and Senator KASSEBAUM is going to present one later this afternoon. We may have a chance to vote on it. We simply say to General Greene, Judy Smith, Jimmy Jones, "Would you take no more from the Federal Government next year than you got last year? For the sake of the country would you be willing to sacrifice and take no more than you got last year for 1 year to help our budget problem?" That idea was tossed around and discarded.

We tossed around the idea of what we call a 2 to 2 plan, a 2-percent limit on increases. Again, Senator GRAMM is absolutely right. We are not talking about cuts, but a 2-percent limit on increases for 2 years across the board, defense, retirement, and Coast Guard—we could not sell that. The problem was not that the budget summit group thought these were not meritorious approaches. I do not think there was a single member of that group that was worried that he—and there were no women in this group—could not be reelected if he supported that. What the group was afraid of was the rest of Congress would not follow, that we would be rejected as leaders, that we would propose this program and have our fellow Members of Congress turn it down. Of course, the ultimate rejection of leadership is when those who have picked you for a leadership position turn down what you select as a major leadership position.

Early on, the argument was made that the President was not exercising leadership, that he had said Social Security is off the table, we would not negotiate on that; indeed, if that was off the table, we would not negotiate on any other retirement program because it would not be fair to say to the Public Health Service employee, to the Foreign Service employee, to the Coast Guard retiree, we are going to freeze you for 1 year, but not those on Social Security. That is not fair. The argument was made if the President said Social Security is not negotiable, it really cut the heart out of any possibility of limiting all of the retirement entitlements. And it was said the President would not consider any tax increases.

But in the last week of negotiations—we concluded them on Friday—from Monday of that week on, those of us inside the room knew that Social Security and the other retirement programs were on the table; that a tax increase including a gasoline tax increase was on the table. And Secretary Baker very clearly said time and time again that it is not fair just to cut spending. That affects the rich and the poor, and it affects the poor more because they are the beneficiaries of more Federal programs than the rich. If we are going to narrow the deficit the package ought to have some spending cuts and some tax increases. And Secretary Baker, if he said it once must have said it 100 times, this administration will match hard spending cuts with hard tax dollars. Translated that simply meant if we really came up with a proposal to cut $1 billion in spending, really cut it, no funny money figures, the administration would come up and agree to $1 billion in tax increases—real taxes. And in the last 5 days we knew that offer was on the table, and we could not bring ourselves to pick up the offer and respond to the President.

Part of the fear was partisan in this sense. The Republicans have a great fear of limiting retirement increases because they feel, we feel, we made some comments about that in 1982 and again in 1986. And the Democrats hit us over the head in the elections, and said they are the ones who are trying to cut our Social Security. So the Republicans were reluctant to approach a suggestion that we do this unless the Democrats would come along, almost hand in hand we walk down to the ballroom together and dance together all in the same direction.

Conversely the Democrats were very afraid to be the ones to suggest the tax increases because they remember in 1984 and former Vice President Mondale getting hit over the head time after time after time by President Reagan in the 1984 election when Vice President Mondale had said at the Democratic Convention after he was nominated, "I will tell you what I am going to do. I am going to raise taxes and he has a secret plan to do so," and the President said "Not me." Poor old Walter Mondale was just defending that position the entire time. It probably hurt the Democrats in the election. So the Democrats were reluctant to approach the tax part of it.

The Republicans were reluctant to approach the Social Security part of it unless we could all agree to go together. And time and again when this group knew that we would have, I think, gone for a gasoline tax, we would have gone for a 2 percent across-the-board limitation, maybe even a freeze, if we could have, and we all said it time and time again, "Can't we go down to the White House, we will all go together, sit down with the President in the Cabinet Room or the Oval Office or the Roosevelt Room and sit down there one afternoon until we come out, all of us together, in the afternoon with an agreement?" So either we can all claim the credit or all mutually share the blame, Republican, Democratic Congress, and the President. We could never quite get to that step. So what we have with the budget package before us is what has been agreed on.

Here is the problem with this package. I have called it a mouse before and the majority leader referred to someone calling it a mouse. That was I, although I think others have called it the same. It has almost become an ant by now. First, I think when all is said and done we will not save this much. Whether you count it as decreased spending or increased taxes, we will not save as much as we would under a sequester. I know the argument will be at this moment as we are looking at it prospectively that we will save that much.

I think that a year from now, if we add it up, we will not have saved as much as sequester.

Two: We have a lot of—I hate to use the word "phony"; "funny," I guess, is a better word—funny assumptions. Some are not even assumptions.

Here is an example of how we got to our totals: If you would have had a sequester, we would have cut all spending, real spending, across the board $24.8 billion—roughly half from defense, half from nondefense. Because you narrow your deficit $24.8 billion and you are borrowing that much less money, next year your interest payments go down a bit. You do not pay as much interest next year because you are not carrying quite as big a deficit.

So, in addition to cutting $24.8 billion, you can add to the savings whatever reduced interest payments you would have paid next year if you had not made the cut, and you add that to the $24.8 billion. But for the budget package to get $24.8 billion, we have counted as part of the total, to get $24.8 billion, the savings on the interest we make by the cuts, which is kind of a bootstrap argument.

It is apples and oranges. In the sequester, you count it afterward and add to savings. Here, we add it to the total amount of money we are required to get to.

I do not want to say they are fraudulent assumptions, because this is an honest group and this budget package is an honest effort, given the restrictions we were under.

When we agreed that we could not approach entitlements and when we finally agreed—when I say "we," I am counting all of us. I was willing to approach entitlements; the bulk of the group was. When we decided that we could not approach entitlements and when we decided that a budget plan, almost any budget plan, was better than a sequester, we had pretty well boxed ourselves in.

If the entitlements are off the reservation, there goes roughly $460 billion of a trillion-dollar budget, just gone.

So we came up with what we have, a hodgepodge of taxes, and they are legitimate taxes. They will produce the $9 billion, although one of them is an across-the-board speedup. A speedup is nothing but an insider's term to mean that you would normally pay your taxes in 1988 but we require you to pay them in the latter part of 1987, and therefore we get to count the money in 1987 as revenue. But if the speedup is perpetual, it is more revenue than otherwise, and you never have to worry about it until you get to the judgment day, the last day of civilization, and there is no longer a year out there to collect any money from. That is in here.

We have what we would call a Medicare shift, to speed up payments if it falls into one fiscal year instead of another.

I am not complaining, given the constraints we were under. This was probably the best we could do with this exception, so far as I am concerned. I was one of the few who did not regard the sequester as all that horrible. I did not regard it as all that horrible because, one, it was genuine. No one argued this. This was a $24.8 billion cut. The reason we would have cut it was not that we were unable to govern. The very act of this Congress passing the Gramm-Rudman-Hollings Act was an act of governance. We said that if we cannot agree on any other kind of budget, then we will agree that spending will be cut across the board. It is not necessarily good budgeting, because you do that and say that we do not have any priorities. Defense has no higher or lower priority than airports, and airports have no higher or lower priority than education, and education has no higher or lower priority than highways, and let us cut them across the board. Clearly, things have priorities, and that is what the budget process is supposed to do. It is supposed to say maybe we think education is more valuable than farm supports or farm supports are more valuable than highways, and we make budget choices. Gramm-Rudman-Hollings said that if we fail to make budget choices, we will cut them across the board.

This budget package is the answer to cutting across the board. Here is the irony of cutting across the board.

Senator GRAMM was absolutely right, that when we use the word "cut" we do not mean "cut." In other words, if you receive $100 this year and next year you expect to receive $110 and you get only $105, that is a $5 cut. It is not a $5 cut. It is a $5 increase from what you got this year. If we had had a sequester, defense spending would have been cut, and it would have been a genuine cut, from about $282 billion in spending last year to $278 billion in spending this year. That is a real cut. It goes down.

If we had had a sequester, if we had had these cuts, nondefense spending would have gone up between $40 billion and $45 billion more than we spent this year—not down, up.

The reason, however, that the sequester was so abhorrent to so many people was the way we made the sequester operate. Unfortunately, the sequester does not cut across the board on all spending. We first exempted all kinds of programs from the sequester. All the retirement programs are exempt from the sequester. Almost all of that entire list of entitlement programs I read are exempt from the sequester.

So, if we had actually sequestered and not exempted any programs at all, if we had actually cut spending across the board because we could not reach a budget and had exempted no programs, we would have cut about 2 percent, maybe 2.2 percent, in spending across the board from what we otherwise would have spent—I emphasize that—from what we otherwise would have spent if we had not exempted any programs. That means that if you are a Social Security recipient and received $100 last year, and without any change in the law there is 4 percent inflation, you would receive $104. If Social Security or Public Health Service retirement or civil service retirement had been left in the category of programs to be cut, instead of getting 4-percent increase, you would have got a 2-percent increase, not a decrease. You would have received $102. But we exempted from any cut Social Security, all the retirement programs, almost all the entitlement programs.

Therefore, because we have said under sequester we are going to cut $24.8 billion, we left a very narrow base of programs to cut them from. After we had exempted all the programs that we were not going to cut at all, then the actual cut on the remaining nondefense programs was 8.5 percent. Any programs that did end up being a cut from what they got last year, were not cut because the sequester is a harsh process, but because we exempted almost everything from the sequester and said to the remaining few programs "You take the cut." Defense was one of those. That is why defense would go down under the sequester.

Having said all of that, I would have preferred the sequester even under the law that exempts most of the budget from the sequester. I would have preferred the sequester to the Budget Program we have, to this mouse that has been referred to, because I think this package is funny, in some cases phony. In the long run it will not result in the savings, over the next year will not result in the savings that we now say that it will result in. And, I want to emphasize the people who say it are honest; they honestly think the savings are going to come. I think when we are done, they are not. There are some savings. Certainly guaranteed tax increases, those are there, but not as much in the way of savings as we thought.

I would have accepted the sequester under the law as it was. If I had my druthers I would have exempted very, very few programs from the sequester at all. I would be willing to exempt those that affect the very poor. Actually that is a relatively modest amount of money that the Federal Government spends for the very poor, the poverty programs. You could exempt the very poor, and very poor programs probably do not come to $70 billion to $80 billion at the outside $90 billion out of our total trillion dollar budget, but that is not an option. It is gone. It is behind us.

We first made the decision in the Gramm-Rudman-Hollings Act to exempt all the programs. Second, we made the decision we did not want to do the sequester anyway, so we are going to have this budget alternative.

I am going to vote against the budget alternative. I fear it is a forlorn hope now, but I am going to vote against it in the hopes that if by chance it is turned down, this Congress will again be faced with the alternative of the sequester or an alternative budget package much better than we have now before us.

Senator KASSEBAUM has a package. There can be others. But I fear that so long as this budget mouse is out before us any other program that is offered as an alternative to it is going to have a difficult time to be adopted, and you know why? First, to adopt it you are going to have to put some limitations on the entitlement programs. You are going to have to answer the question every time you go home, "Why did you vote for a freeze for 1 year instead of a 4-percent increase." And while lots of people are willing to do that, if they know it is going to pass, they are willing to take the medicine if they think there are going to be some salutary effects for the country, they do not want to vote for it if it is not going to pass. They do not know what the President might do in terms of vetoing or not vetoing it.

We honestly do not know in this body if the House would pass it, but we have fears that they would not. So we would have voted for it and they would not.

I fear as long as the leadership package is up there and someone offers a substitute to the leadership package, there are going to be a lot of "no" votes because they will say "Well, I am going to vote for the leadership package." But if we defeat the leadership package, so it is no longer up there, if the choice is then an alternative package or the sequester, then I still think we have an outside shot.

The problem we face this year about budget priorities and entitlements is not addressed by the budget package before us or the sequester. It will only be addressed if we adopt a meaningful budget package that perhaps means-tests entitlements and says to the very rich, even though the law says you can have the money from this program, if you are really rich, maybe you should not get as much. Until we start means testing some of the entitlement programs, and until we start putting some limits on them we are not going to solve our budget program. We will not solve it with the sequester. We will not solve it with the budget alternative before us. Unless we adopt some other budget plan, we will not solve our budget problems this year. We will put it aside and unfortunately by the time we address this again, it is next September, September 1988, 6 weeks before the election, 6 weeks before a Presidential election. And if this Congress did not have the courage to face up to the problem now when we had Gramm-Rudman operating for the first time and we had a tremendous drop in the stock market, when we had a public that finally said, "Lead us to something," we will not do it now, I very seriously doubt if we are going to do it in September 1988, 6 weeks before the election.

That means we postpone it for another year until 1989. At that stage the retirement programs, instead of being 33 percent of the budget, might be 34 or 35 percent of the budget, gradually eating away from all directions until we inevitably come to the day when we know we have to face it. And maybe because the problem is so extraordinary, I should not worry about it so much, because one day we will face it and do it. We have no choice. We are forced to it.

So I would urge defeat of the leadership package today in the hopes that we might today adopt a better package, a package that puts limits on the programs in Government that are extraodinarily growing. If not today, someday we will do it.

But it will take an unusual time before we have a better coalition of circumstances to undertake that action than is before us right now, and that is why I speak more in sorrow than in anger. I am not mad at those who came up with the package. They knew we should have done something better. We could not put together the votes we could not get. We thought our followers would follow. Someday we will. I simply wish it would be today.

I thank the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. **BENTSEN.** Mr. President, with the acquiescence of the manager for the majority for the legislation, I yield myself 15 minutes on the bill.

Mr. President, I listened to the comments of my distinguished friend. He is one of the ablest Members of the Senate, and certainly one of the most eloquent. I share much of his frustrations. I know where he is coming from.

But I come down with a different conclusion as to what has to be done. There must have been 20 different types of proposals, at least, that were brought to us in that so-called summit meeting. The proposals came from Republicans, Democrats, House Members and Senate Members.

But each time we tried to bring about consensus we would see an erosion from one side or the other side; from the extreme right or from the extreme left; or the White House would say: "Not that."

The White House was more or less in a reactive mode. I did not see the leadership there. I must say that I think Secretary Baker and Mr. Howard Baker did a good job, given the constraints that they worked within. But as far as solutions to the problem, I did not see them.

The problem we run into is this: If we go ahead and we put a freeze on now and we pass it here, then we will go to the conference with the House, and we will have a long and bloody conference. When we get all through with it, we will not get anything done. We will come back here reporting in disagreement. The time will have marched on, the time will have passed, and the time will be running out.

What we are looking at is a situation where, around the world, people are viewing this institution and asking, does it still work? Can the Congress and the President, can the Democrats and Republicans, rise above partisanship to the point of trying to do something they think terribly important to the country, at the time of a near crisis in the financial markets of this country and the world? That is what they are looking toward, some reassurance of stability.

Is this an opportunity missed insofar as going much farther to cut this deficit? Yes, I think that is right. And I supported some of those proposals to try to bring the deficit down substantially more.

What the leadership did was to take six of its senior members from the respective committees, Democrats and Republicans, to go in and negotiate with the White House, and to negotiate with the House. We came back with some of those different proposals. We came back with a relatively modest 3-month freeze, took it before the Democratic caucus, took it before the Republican caucus, House and Senate; shot down.

On the Democratic side, in that Senate caucus, I doubt it had 12 votes from the counts we made. That is what we are running into.

Now, my friend says that a lot of people do not want to vote for a freeze, because they think it is not going to be finally effective, and they do not want to take on those constituencies and cast that kind of a vote, if it is not going to finally succeed. And I grant him that. I think there are a number who feel just that way.

But I will tell you, there are some others that will vote for it because they do not think it will succeed. And they will get themselves a chance to cast what looks like a very politically courageous vote, but they will be praying it does not carry, because you pay politically when one is put into effect and the people feel that pain and they feel that cost.

So that is the strange situation you have on this kind of a vote. They just might win. I do not think they will.

I think what we have seen put together in the leadership amendment is a credible package. I said, at the end of that session of negotiations, that it was the most frustrating experience I had had in my experience in the U.S. Senate, and I meant every word of it. But I say it just as sincerely now that that is behind us.

Here you have a consensus of that summit meeting. The Presidency, the House Members, the Senate Members, and the Democrats and Republicans, represent your deputies that met for days and nights on end to try to bring about what could work.

There is not a Member of this Senate that does not think he could write a better bill, including me, from our specific point of view. But that is not the way this system works. The President does not write this piece of legislation, the chairman of the Budget Committee does not, and the chairman of the Finance Committee does not; nor do the ranking members. It comes through working together, bringing about the compromises that have to be made.

Even here in all the digits we deal with when we talk about finance, $75 billion is still a lot of money. We are talking about cutting it $30 billion for the coming fiscal year, $45 billion for the second one.

Why is it so difficult to get this next year's deficit down? Well, one of the reasons is the aberration in tax revenues caused by the tax reform bill. The capital gains rate was going to go up, so you had an awful lot of people last year who sold properties at the end of the year to get the 20 percent capital gain rate. What you picked up was $20 billion additional funds that were paid into the Treasury, this year on last year's returns—a $20 billion swing. And what did it do for next year? It cut receipts by $12 billion. Not only did you not get that extra $20 billion, but they cut it by $12 billion, because there were a lot of people who sold things last year at the end of the year that they would have sold this year and now will not. So it is a $32 billion swing in those numbers. That is why it will be difficult.

I would like to also call the attention of my colleagues to Congress' recent record on omnibus budget legislation. And that record, to put it bluntly, is dismal. For Congress, budget issues have become almost a Gordian knot.

Take a look at the Senator from Florida and the Senator from New Mexico, as able Members as we have in the U.S. Senate. What an incredibly frustrating job to try to reconcile these differences—all the interest groups, all the political pressures; now we have the loss of one of the ablest Members of the Senate, who chooses not to run for reelection. There is no question in my mind but what this has been a contributing factor.

So many times over the past few weeks I have heard critics say how they could have done a much better job, represented by this package, than eventually was done. I'm not a seer, and I'm certainly not a mystic, and I'll say right now that I have no idea about the accomplishments that we might have enjoyed in some ideal situation. What I do know is this: The Budget negotiators entertained at least 20 distinct proposals that could have formed the foundation of their work. Some came from Republicans, others from Democrats. Some came from the House, others from the Senate. Those proposals that came to be regarded seriously were taken back to party caucuses for review, and you know as well as I what happened to them. They were rejected out of hand, each and every one. Is it too much to ask that we put those discarded proposals behind us, and look now at the one deal on which we were able to agree?

What about this package before us? They called it a mouse. Well, that is the first time I have heard $75 billion called a mouse. It is not as much as I would like—the Senator from New Mexico and Senator from Florida tried for bigger numbers to cut that deficit—but it does get us started down that road to a balanced budget by 1993. It does cut some real spending and it does raise some real taxes.

Politically, that is not easy. I do not know anyone around here that wants to have a tax raise named after him. I do not know anyone around here that wants to have cuts in popular programs named after him.

It is not as much as we would have liked, but every journey begins with the first step, and this particular first step chops $75 billion off the deficit in 2 years.

I would hate to see us stumble now because of the recurring fantasy that we can put on our seven-league boots and stride effortlessly toward the budget deficit solution. That kind of daydreaming should stay in fairy tales where it belongs.

And it should not be allowed to cloud our vision on the floor of the U.S. Senate. It would be a tragedy indeed if we passed by this compromise because we were looking for something in the way of a perfect solution.

Action is what we must have, and we need it immediately. I hope and pray that we will get it. I fear, however, that the unfortunate notion that we can achieve perfection is not the only obstacle in our path. Too often in the recent past the Senate has succumbed to inertia because so many of its Members seemed to believe that their version or solution had to prevail. At some point, each one of us has to realize that in a democracy we don't get each bill exactly as each of us would prefer it. At some point, those who deputized the budget summiteers to negotiate on their behalf should embrace the work of their deputies.

No one in this body can honestly say that they did not have their input. We discussed this time and time again with the Members of the Senate. Suggestion after suggestion we received, and we tried them on for size in those summit meetings. This is a consensus document in the strongest sense of the word.

We can attack it from any angle. We can slash it to ribbons. We can stay here until Christmas and/or past Christmas. And if you do not think you can stay until Christmas or past Christmas, between December 25 and the 1st of January, let me tell you the first time I was sworn in the U.S. Congress as a freshman House Member was on December 30, because of these kinds of tie-ups.

And I will tell you what happens as you reach those periods of time. You see debate degenerating, acrimony, very little in the way of consensus work, and often, in anger, the passage of poor legislation.

Let us make this agreement work. Let us make this institution work. We made enough political points this year. We have seen enough of us on our high horses. Let us march together to try to achieve this objective.

If I may, Mr. President, I would like to turn to, and comment briefly on, the portions of the package that are within the bailiwick of the Finance Committee. I do this for the benefit of Members whose legislative concerns have not permitted them to keep abreast of our progress in finance.

Mr. CHILES. Before the Senator turns to that, I wonder if he might yield for a couple of questions I wanted to ask him.

Mr. BENTSEN. I would be delighted to yield.

Mr. CHILES. One, I listened to the Senator and I want to compliment him for his meaningful and eloquent statement. I said earlier in my opening remarks what a soldier the Senator from Texas had been. I repeat those. You were first all the way through this process in trying to help in the Finance Committee getting its savings, in meeting all the objectives that we had and certainly your role in the summit and all of the work that you have done in regard to trying to work toward deficit reduction has just been so meaningful and also so personally helpful to the Senator from Florida, I certainly want to compliment you on that, in that work.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. CHILES. I note that you did speak about the swing because of some of the lost revenue from the Tax Reform Act. I have a copy of a CBO table that refers to that and shows that while, if you look at the deficit, assuming the budget agreement, it shows that our deficit seems sort of flat from $148 billion in 1987; $149.9 in 1988; to $141.9 by 1989. The Senator from Texas was explaining that.

When you take out those swings, it is interesting to note that the deficit is $183 billion in 1987. I am talking, now, about the structural deficit because as you know, we picked up the $20 billion, as I say.

The structural deficit then falls from $183 billion to $141 billion in 1988 and down to $126 billion in 1989. So the structural deficit, with the passage of this package, would fall $42 billion between 1987 and 1988; and $15 billion in 1989. That is some real savings; would the Senator agree?

Mr. BENTSEN. I certainly do.

Mr. CHILES. We are making progress. I ask unanimous consent that a copy of this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET AGREEMENT BETWEEN THE PRESIDENT AND CONGRESSIONAL LEADERSHIP

[By fiscal year, in billions of dollars]

	1987	1988	1989
Base deficit for balanced budget act	148.0	179.9	185.5
Policy changes:			
Taxes [1]		−9.0	−14.0
IRS compliance (net) [1] [2]		−1.6	−2.9
User fees [1] [2]		−0.4	−0.4
National defense spending		−5.0	−8.2
Nondefense discretionary spending		−2.6	−3.4
1989 effect of 2 percent pay raise in 1988 [3]			
Medicare		−2.0	−3.5
Farm price supports		−0.9	−1.6
Guaranteed student loan balances		−0.2	
Federal personnel		−0.8	−0.8
PBGC premiums		−0.4	−0.4
VA loan origination fee extension		−0.2	−0.2
VA loan sales without recourse		−0.6	−0.6
Asset sales		−5.0	−3.5
Debt service savings		−1.2	−4.1
Total policy changes		−30.0	−43.6
Deficit assuming budget agreement	148.0	149.9	141.9
Adjustments:			
Tax Reform Act of 1986	20	−12	−18
One-time outlay savings under current law	15	−2	−2
One-time savings in agreement		5	4
Total adjustments	35	−9	−16
Adjusted deficit	183	141	126
Do		−42	−15

[1] Revenue increases are shown with a negative sign because they reduce the deficit.

[2] These deficit reductions include both revenue and outlay changes; the precise division is not specified in the agreement.

[3] The base deficits in 1988 and 1989 assume a 2 percent pay raise in January 1988. Reducing the 1988 pay raise from 4.1 percent to 2 percent saves $1.1 billion in 1988 and $2.4 billion in 1989.

Mr. CHILES. The other thing I wanted to ask my distinguished colleague and good friend about is, I noticed in the October trade report now we see that the trade deficit was $17.8 billion, an increase of $3.5 billion over the September trade deficit of $14.1. I note that that is accounted for by a surge in imports, manufactured imports rising $3.3 billion; petroleum imports being about $400 million higher. The bright spot was a $800 million increase in U.S. exports but there was even a down side of that with manufacturing exports falling some $400 million. That, of course, has an impact on the dollar, pushing the dollar down.

Now, certainly the Fed is going to find itself in a situation in which it has less running room. It looked like the Fed policy was that we were going to let the dollar fall some and try to get our interest rates down to protect our own economy. Now, certainly, if we do not do something about the dollar, we have to fear inflation very much. I think the Senator from Texas would agree, under the circumstances there is only one wise policy for us to try to follow and that is real deficit reduction?

Mr. BENTSEN. There is no question about that. You have a situation where the trade deficit last year was about $156 billion. If you extrapolate these numbers we are looking at now, you can look at a trade deficit that will be approximately $175 billion this year. That means that our external debt becomes even more. That puts us back in a situation that we were in in the 18th century, when the British could jerk our chain on the economy by deciding whether they renewed our securities or bought our securities at all. It means a mounting foreign debt to this country.

We have to work on that, and on these people that try to say that because of the market problems, all of a sudden you do not need a trade bill. That is heresy and makes no sense at all. It means that more than ever, you need a trade bill, and that we are going to need the help of the administration in bringing that about.

But, in addition to that, what you have to do is you have to cut your domestic budget deficit and this is what we are setting about to do.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Florida is recognized.

Mr. CHILES. Well, reducing our borrowing needs is about the only good way that we can take this pressure off, given the fact that there are these twin problems. If we let the dollar fall further, we have inflation. If we try to raise interest rates—which is one way of preventing the dollar from falling—then we slow our own economy very much. So there is no easy way to manipulate it there, for the Fed or anyone else; and not exactly an easy way, but the soundest way is true deficit reduction. That is the opportunity that we have with the leadership package. Albeit we might have wanted to do more and many people might have wanted to do more, this is the realistic vehicle that is on the block, that we have a chance to do something about, and we certainly should not pass up that opportunity.

Mr. BENTSEN. Well, I agree with my friend. You have the Fed in an impossible situation. If we start going into recession, they have got to lower the interest rate. If we have a run on the dollar, then they have to raise the interest rate to try to keep foreign capital here. But there is one thing that we know that we can do that is positive and constructive, and that is lowering the budget deficit. That is what we tried to do.

Mr. CHILES. I thank the Senator.

Mr. BENTSEN. Mr. President, shortly after the budget summit concluded, I commented publicly that my participation in that exercise was the most frustrating time I had ever spent in the Senate. I meant that sincerely, just as I mean it sincerely now when I say that the frustration is behind me, and that I feel optimistic about our chances on passing the budget package very soon. I am especially optimistic because of the work of the Finance Committee last week. That work helped bring us to this point in our quest for genuine, bipartisan deficit reduction.

During 2 days of intensive work last Wednesday and Thursday, members from both parties on the Finance Committee rolled up sleeves—I mean that literally—set their shoulders to the wheel and made the tough choices that our positions on the Finance Committee demanded of them.

I was stating earlier in my comments no one wants a tax bill named after them nor do they want cuts in any popular program named after them. That is not the kind of authorship we seek, nor the kind of legacy we want to leave behind. But the judgment of history will be with those who tried to do something about the ever-growing deficit that threatens to crush the economy of our country. I believe that members of the Finance Committee had these things in mind as they set themselves to carry out their legislative responsibilities.

Both from the tax side of the ledger, where the Finance Committee produced $9 billion in tax proposals for fiscal year 1988 and $14 billion for fiscal year 1989; and from the spending side, where we proposed cutting medicare expenditures by $2 billion the first year and $3.5 billion the second year, you can see that the Finance Committee has paved the way for practical action to cut the deficit.

I was not alone in my desire to go farther in whipping our disruptive budget posture into line. However, for reasons that I have already discussed at length, I now am just as committed to achieving what the Finance Committee as a whole thought it could realistically achieve.

What the Finance Committee has recommended to the Senate is, almost in its entirely, a compromise on which the Reagan administration has agreed. Treasury Secretary James Baker was with the Finance Committee as we painstakingly developed our plan, and OMB Director Jim Miller was with us as we worked out our recommendations on Medicare.

Tuesday I received a letter from Secretary Baker in which he said that the Reagan administration supports the Finance Committee's plan as a sound method of raising the funds necessary to implement the agreement of the budget summiteers. Secretary Baker said that the plan is consistent with both the letter and the spirit of the agreement.

There are all kinds of things that each of us as Members would have liked to have put in it, a lot of them revenue losers. But the summit participants made a positive and definite commitment that, to the best of their ability, they would try not to have revenue losers put in this piece of legislation; providing that the final decision on details, of course, had to be with the committees and with this body.

Just as the Finance Committee met its responsibilities on the revenue side, so it did as well on the spending side. The overall spending reductions of $2 billion in fiscal year 1988 and $3.5 billion in fiscal year 1989 are real. They are broadly based, and they hit the targets included in the budget agreement. No one enjoys being associated with any initiative that limits the availability of health care or income security provided by the Federal Government, but difficult times require difficult actions by public officials. The Medicare provisions approved by the Finance Committee were fashioned with attention to the most urgent needs of the elderly and disabled, and they are intended to achieve necessary reduction in expenditures without compromising the role of each program as the source of health care coverage for an increasing number of vulnerable Americans.

In meeting its spending targets, the Finance Committee retained the policy goals of the original reconciliation bill. Because it proceeded in this manner, the Finance Committee was able to assign priorities according to demonstrated need.

For example, our plan calls for a modest update in hospital payments, and we differentiate between the rural hospitals and the urban hospitals. We understand that the costs are higher in those rural hospitals, that they are having more and more trouble. In my own State, 23 rural hospitals closed, went broke, closed their doors, in the last 2 years. That is being repeated across the country.

We have tried to correct that imbalance in the funding of the urban and the rural hospitals in this process.

We were able to correct and fund overdue improvements in several programs, such as outpatient mental health programs for Medicare patients; Medicaid coverage of pregnant mothers and infants; and child care for low-income families. We bent over backward to be evenhanded in all parts of our plan.

I believe that we have produced a tax program that is as equitable as its spending side counterpart.

A key element in the agreement of the budget summiteers was the principle that spending reductions would be balanced against the revenue increases. The Finance Committee adhered to that principle by writing a no-frills tax program that is pure and lean.

We put the tax program together with broad bipartisan support. I very much appreciate the contributions that came from both sides of the aisle; from the ranking member, Senator PACKWOOD, and from all the members of that committee; and I appreciate the unanimous vote that we finally had on that package. I also appreciate the contributions from the Reagan administration, as we struggled to keep things on track.

The Finance Committee knew that the tax provisions were going to have to travel some rough roads both on the Senate floor, and in the House-Senate conference. We also knew there was not much time available to us. So we reluctantly came to the conclusion that, on tax policy, we had to travel light, without the baggage of tax changes that would not reduce the deficit.

So we have before us a surprising new phenomenon this holiday season. We have a tax bill that did not become a Christmas tree. It is a clean tax bill, pure and lean.

We are going to be compelled to address technical corrections early next year, and we will be moving as early as possible in that regard. I know that many Members of this body have technical correction provisions that are dear to them and important to them, and we will dedicate our efforts to that task. But the present work of the Finance Committee is, on the revenue side, devoted exclusively to cutting the deficit by raising taxes. We have chosen to do this by tightening tax benefits, improving tax collections, and preventing taxes from expiring in a period of high deficits.

We have steered clear of sweeping changes in tax policy that could darken the economic prospects of any particular industry or any specific region of this country. We have also resisted the temptation of recommending to the Senate a long list of obscure tax reforms.

Our tax program is compact and rests on the ideas that have been a part of the deficit reduction debate for months. They have been out there cooking in the public view, so there should not be any surprises in this package. Not every tax provision is easy to understand, but tax provisions seldom are. Nonetheless, as a whole, they are well known enough and sufficiently few in number that most of the interested observers will be able to analyze them on their own.

I have already noted that no one likes to support a tax increase package, so I would remind you of what Oliver Wendell Holmes said in this regard at the turn of the century. He said, "Taxes are what we pay for a civilized society."

Eighty-three years later I hope I will be forgiven if I paraphrase a bit and say that the balanced, bipartisan tax bill before us today is what we pay to reduce a deficit that endangers our civilized society.

Mr. President, I ask unanimous consent that the text of Secretary Baker's letter of December 8 and the attendant technical explanations of the Finance Committee provisions be made part of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, DC, December 8, 1987.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to take a moment to compliment you and your Finance Committee colleagues for your expeditious and fair action on the revenue package reported on December 3, 1987. Without your leadership, judgment, and work we would not have taken this important bipartisan step toward the implementation of the budget summit agreement.

The Administration supports the Senate Finance Committee's reported revenue package as a sound method for raising the funds necessary to implement the summit agreement. It is consistent with both the letter and spirit of the agreement reached by the negotiators.

I must express our concern, however, about three items. First, we believe the freezing of the estate and gift maximum tax rates at current levels for a two-year period is unfortunate. It fails to complete the intended reform of this section of the tax law as first proposed by the President and enacted by the Congress in 1981.

Second, we believe it is most unfortunate that the Finance Committee deleted a feature of the Pension Benefit Guaranty Corporation (PBGC) reform proposal that would have limited companies' ability to burden the PBGC (and the companies that fund it) with shut-down benefits. While we certainly welcome the free negotiation of such benefits, we believe the PBGC safety net rules should encourage companies that grant such benefits to fund them as well—instead of passing the costs on to others.

Third, we believe the $300 million from the so-called refund offset provision adopted by the Committee should be included in the revenue totals. The budget agreement called for $9 billion of *gross* receipts. The fact that the Administration welcomes a provision that reduces tax refunds to people who will not pay back government loans does not justify ignoring the revenue gained.

As we stated from the start of the budget negotiations, our ultimate support depends, of course, on Congress carrying out its obligation to implement all of the agreed spending cuts. However, I wanted you to know that I appreciate your efforts to produce this package, Mr. Chairman. I am hopeful that the other committees will follow your example and promptly complete their work within the terms of our agreement so that the full Senate can adopt the implementing package as soon as possible. We stand ready to assist in the achievement of that objective.

Sincerely,

JAMES A. BAKER III.

FINANCE COMMITTEE SPENDING PROVISION AMENDMENTS (SUBMITTED FOR INCLUSION IN THE LEADERSHIP DEFICIT REDUCTION PACKAGE)

The Committee approved the following Medicare provisions. Unless noted otherwise, the effective dates in the original Committee bill and the amendments described below would generally be January 1, 1988.

MEDICARE PART A

1. *Hospital Prospective Payment System (PPS):* Effective January 1, 1988, urban hospital payment rates would be increased by 0.5 percent, rural hospital payment rates by 3.7 percent, and rates for PPS-exempt hospitals by 2.7 percent. The 3.2 percentage point differential between urban and rural hospitals created in the original Committee bill would be maintained.

2. *Hospital Capital:* Effective January 1, 1988, Medicare capital payments would be paid at reasonable cost minus twelve percent for the remainder of FY 1988 and for FY 1989. The moratorium on incorporating hospital capital into PPS would be extended from two years in the original Committee bill to four years.

3. *Direct Medical Education Payments for Foreign Medical Graduates:* Effective for cost reporting periods beginning on or after July 1, 1988, Medicare direct medical education payments for graduates of foreign medical schools (other than Canada) would be phased out. For most hospitals, payments would be reduced by one-third in the first year, and two-thirds in the second year and would be eliminated in the third year. For those hospitals in which more than half the interns and residents are foreign medical graduates, a longer transition would apply—payments would be reduced by one-third in each of the first two years, two-thirds in each of the following three years, and would be eliminated thereafter. The provision would not affect indirect medical education payments.

4. *Sole Community Hospitals:* As in the original bill, this provision would become effective October 1, 1987. Additional volume adjustment payments made available under the original Committee bill would be capped at $10 million in FY 1988 and $12 million in FY 1989.

5. *Rural Referral Centers:* The eligibility threshold for rural referral center status under PPS would be reduced to 3000 discharges per year, (from the current criterion of 5000 annual discharges), but only for rural hospitals with a case mix index that exceeds both the regional and national medians for urban non-teaching hospitals. The provision would be budget-neutral.

6. *Treatment of Certain Rural Hospitals as Urban Hospitals*: The original Committee provision allowing certain rural hospitals to be paid urban rates PPS would be modified, on a budget-neutral basis, to eliminate the wage-related criteria.

7. *Pacemaker Warranties*: Hospitals would be required to report the payments they obtain in connection with pacemaker replacements made under warranty. Medicare payments to the hospital would be reduced at the end of the year by the amount of such payments. The provision would be effective January 1, 1988.

MEDICARE PARTS A AND B

8. *Continuation of Sequester Through December 31, 1987*: The 2.324 percent reduction in Medicare payments under the sequester currently in effect would be extended through December 31, 1987, except that the reduction would continue through January 15, 1988 for physician services and durable medical equipment.

9. *Managing Contractor Restrictions*: The original Committee provision prohibiting the use of denial quotas by Medicare contractors would be modified to confirm the

authority of the Secretary of HHS to manage Medicare contractors effectively.

10. *Peer Review Organization Provisions*: The authority of the Office of Management and Budget to apportion funds for Medicare Peer Review Organizations would be eliminated. The on-site review requirements in the original Committee bill would be modified to limit the requirement to rural hospitals and reduce the percentage of on-site reviews from 50 to 20 percent.

11. *Medicare Health Maintenance Organization Provisions*:

a. HMOs would be required to guarantee continuation of certain supplemental coverage in the event they terminate operations under Medicare.

b. HMOs would be required to inform beneficiaries of the possibility that the HMO's participation in Medicare will not continue indefinitely.

c. The Prospective Payment Assessment Commission, in consultation with the Physician Payment Review Commission, would be required to appoint a task force on capitation payment reform.

d. Medicare would continue to pay HMOs for disabled enrollees as disabled enrollees after they attain age 65.

e. Authority for the benefit stabilization fund would be continued for two additional years.

f. The Secretary would be required to waive the 50-50 rule for Blue Care of Michigan and HIP of New York.

MEDICARE PART B

12. *Temporary Freeze on Payments for Physician Services and Durable Medical Equipment*: For the first three months of calendar year 1988, Medicare payment rates for physician services and durable medical equipment would be frozen at 1987 levels. (Except that, as noted above under Item 8, for the first fifteen days of January 1988, the 2.324 percent reduction in payment amounts under the sequester currently in effect would continue to apply to these payment amounts.) In addition, the maximum allowable actual charges in effect for 1987 would be frozen for the first three months of 1988. All participation agreements in effect on December 31, 1987, would continue through March 31, 1988, unless the physician or supplier requests that the agreement be terminated. The deadline for agreements to participate in Medicare in 1988 would be extended to March 31, 1988.

13. *Physician Payment Updates:* On April 1, 1988, customary charges for physicians would be updated. The update in prevailing charges would be zero percent, except for primary services as defined in the original Committee provision (office, home, nursing home and emergency room visits). The update for primary services would be 3.6 percent.

14. *Overpriced Procedures:* The list of overpriced procedures in the original Committee bill would be expanded to include cardiac pacemaker implantation. Effective April 1, 1988, prevailing charges for these procedures would be reduced on a sliding scale basis as in the original Committee bill, except that the maximum reduction would be increased to 15 percent.

15. *Clinical Lab Provisions:* Effective January 1, 1988, the fee schedules for clinical laboratories would be rebased to reflect a five percentage point reduction. The limit on fee schedules, effective on January 1, 1988, would be 100 percent of the national median and, effective January 1, 1989, would be reduced to no less than 95 percent of the national median. The Secretary of HHS would be authorized to apply intermediate sanctions to clinical laboratories that fail to meet Medicare standards.

16. *Part B Deductible:* Effective January 1, 1989, the Part B deductible would be increased from $75 to $85.

17. *Therapeutic Shoes:* Medicare coverage of therapeutic shoes would be implemented, as under the original Committee bill, but only if proven cost-effective by a demonstration project.

18. *Eye and Ear Hospitals:* The provision in the original Committee bill would be modified to include eye specialty hospitals as well as eye and ear specialty hospitals. In addition, the threshold for qualifying for the exemption from the current law transition scheduled to begin on October 1, 1988 would be reduced from 50 percent of outpatient procedure revenue to 30 percent of outpatient service revenue.

MEDICAID

19. *Infant Mortality:* The bill originally reported by the Committee would be modified to reduce eligibility income limits for pregnant women and infants up to age 1 from 185 percent to 160 percent of the federal poverty level. A monthly premium of $5.00 would be charged families with incomes between 130 percent and 160 percent of the federal poverty level. Expanded coverage of children meeting Aid to Families with Dependent Children (AFDC) income and asset standards, but not eligible for AFDC payments, would be modified to mandate coverage through age six. Coverage for children through age eight would be a State option.

20. *Nursing Home Quality:* The nursing home quality provisions included in the original Committee bill would be modified:

a. Authority to waive the nurse staffing requirements would be granted to the State (with the Secretary maintaining "look-behind" responsibility);

b. Minimum hours of nurse aide training would be reduced to 75 hours;

c. Persons with Alzheimer's disease or related disorders would be excluded from the preadmission screening requirements;

d. States would be required to submit State plan amendments detailing how payments would be adjusted to meet new requirements applied to nursing homes;

e. Nursing homes would be required to provide an activities program directed by a qualified professional; and

f. Other miscellaneous and technical changes would be made.

21. *Home and Community-Based Waivers:* New waiver authority provided under the original Committee bill would be modified to limit growth in annual spending on long-term care to 7, rather than 9 percent. The provision of the original Committee bill dealing with waivers awarded before March 1985 would be deleted.

22. *Respite Care:* Technical corrections related to the respite care pilot project in New Jersey would be included.

23. *Metropolitan HMO:* The six-month lock-in guarantee currently authorized for Federally qualified HMOs would be authorized for the Metropolitan Health Plan HMO operated by the New York City public hospitals.

24. *Spousal Impoverishment:* The section relating to spousal impoverishment included in the original Committee bill would be deleted.

25. *Medicaid Cap for Puerto Rico and Territories:* The provision increasing the Medicaid cap for Puerto Rico and the Territories included in the original Committee bill would be deleted.

INCOME SECURITY AND SOCIAL SERVICES

26. *Personal Needs Allowance for SSI Recipients:* The original Committee bill would have increased the personal needs allowance for Supplemental Security Income recipients who are in Medicaid institutions by $5 a month (from $25 to $30), effective January 1, 1988. The effective date of the provision would be delayed for 6 months, to July 1, 1988.

27. *Increase in Funding for Title XX:* The entitlement cap for the title XX social services program is increased by $50 million for FY 1988, from $2.7 billion to $2.750 billion. The original Committee bill had provided for an increase of $100 million for FY 1988.

28. *Assistance to Homeless AFDC Families:* The Secretary of Health and Human Services would be prohibited from taking any action (by regulation or otherwise) to prevent a State, prior to October 1, 1988, from meeting the needs of homeless families with children as part of its AFDC "special needs" program. Amounts for shelter and related needs may vary according to geographic location, family circumstance, or the type of living accommodation occupied.

SENATE FINANCE SPENDING PROGRAMS—ADMINISTRATION ESTIMATES

[Outlays in millions,[1] provisions changed from original finance bill noted with an asterisk]

	Fiscal year 1988	Fiscal year 1989
Medicare Part A:		
Cash flow: eliminate PIP for disp. share	0	(480)
Indirect medical education*	(340)	(550)
Prospective payment system update*	(410)	(430)
Capital payments reduction*	(180)	(110)
Sole community hospital increase*	10	12
Phase out payment for foreign med. grads*	(5)	(40)
Extend GRH through 12/31/87*	(120)	0
Medicare Parts A and B:		
Cash flow: Payment cycle floors	(530)	(190)
NHSC loan collection	(12)	(16)
Payment safeguard add-on	10	10
Minor provisions*	1	5
Peer review organization requirements*	5	20
Medicare Part B:		
Payments for new physicians	(30)	(90)
Outpatient radiology	0	(40)
Eliminate ROE for outpatient departments	(20)	(40)
Increase mental health limit to $1,100	50	90
Bonus for rural physicians	0	5
More coverage of physician assistants	0	0
Part B premium extension [1]	0	(860)
Medicare economic index and MD prices*	(180)	(380)
Overpriced physician procedures*	(20)	(50)
Durable medical equipment (DME)*	(30)	(50)
Clinical lab limits*	(100)	(190)
Change part B deductible to $85 in FY89*	0	(130)
Therapeutic shoes*	0	0
Extend GRH through 12/31/87 for all part B, through 1/15/88 for physicians and DME*	(100)	0
Total Medicare	(2,001)	(3,504)
Medicaid:		
Nursing home quality*	6	95
Infant mortality*	0	155
HCBW revisions*	0	0
Quality control moratorium and other	13	(13)
Income Security:		
Title XX (social services)*	48	2
Infant foster care	5	6
Personal needs allowance*	3	13
Other	1	3
Total net entitlement savings	(1,925)	(3,243)

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[1] Estimates reflect changed effective dates and interactions within the Medicare program. Gross spending estimates are reflected for Part B provisions. Premium effects of all Part B items is reflected in the Part B premium estimate.

SUBTITLE B: DESCRIPTION OF REVENUE PROVISIONS

A. ACCOUNTING PROVISIONS

1. Repeal of Vacation Pay Reserve (sec. 4501 of the bill[1] *and sec. 463 of the Code)*

Present Law

Under present law, an accrual method taxpayer generally is permitted a deduction for the taxable year in which all the events have occurred that determine the fact of a liability and the amount thereof can be determined with reasonable accuracy (the "all events" test). In determining whether an amount has been incurred with respect to any item during the taxable year, all events that establish liability for such amount are not treated as having occurred any earlier than the time economic performance occurs (sec. 461(h)). With respect to a liability that arises as a result of another person's providing services to the taxpayer (such as the liability to provide vacation pay in exchange for services by an employee), economic performance generally occurs when such other person provides the services.

In order to ensure the proper matching of income and deductions in the case of deferred benefits (such as vacation pay earned in the current taxable year, but paid in a subsequent year) for employees, an employer generally is entitled to claim a deduction for the taxable year of the employer in which ends the taxable year of the employee in which the benefit is includible in gross income (sec. 404(b)). This rule applies to deferred benefits without regard to the economic performance rules. Consequently, an employer is entitled to a deduction for vacation pay for the taxable year of the employer in which ends the earlier of the taxable year of the employee for which the vacation pay (1) vests (if the vacation pay plan is funded by the employer), or (2) is paid.

An exception to this rule applies to amounts that are paid within 2½ months after the close of the taxable year of the employer in which the vacation pay is earned. Such amounts are not subject to the deduction-timing rules applicable to deferred benefits, but are subject to the general rules under which an employer is entitled to a deduction when economic performance occurs (i.e., when the services of the employee for which vacation pay is earned are performed). Amounts paid within 2½ months after the close of the employer's taxable year in which the all events test and the economic performance requirement are satisfied generally will be deductible for the such taxable year even though the employee does not include the benefit in income for such taxable year.

Under a special rule of present law, an employer may make an election under section 463 to deduct an amount representing a reasonable addition to a reserve account for vacation pay (contingent or vested) that is paid during the current taxable year or within 8½ months after the close of the taxable year of the employer with respect to which the vacation pay was earned by the employees.

Reasons for Change

The special rules under present law relating to the reserve for accrued vacation pay create a disparity in tax treatment between accrued vacation pay and other deferred benefits. The timing of deductions for vacation pay should not be more favorable than the timing of deductions for other deferred benefits.

Explanation of Provision

The special rule that permits taxpayers a deduction for additions to a reserve for vacation pay would be repealed. Accordingly, under the amendment, deductions for vacation pay generally would be allowed in any taxable year for amounts paid during the year plus vested vacation amounts paid or funded within 2½ months after the end of the year.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1987. A change from the reserve method of accounting for vacation pay to the method required by the amendment is treated as a change in method of accounting that is initiated by the taxpayer and made with the consent of the Secretary of the Treasury. The net amount of the adjustment required by the change in method of accounting is required to be taken into account over a period not to exceed 4 taxable years. The amendment specifies the percentage of the adjustment that is required to be taken into account for each taxable year in the 4-year period. If Rev. Proc. 84-74, 1984-2 C.B. 736, would require the adjustment to be taken into account over a period of less than 4 taxable years, the adjustment is to be taken into account ratably over the shorter period.

2. Repeal of Installment Method for Dealers (sec. 4502 of the bill and secs. 453, 453A, and 453C of the Code)

Present Law

Under present law, a taxpayer who sells property ordinarily must recognize gain or loss at the time of the sale. However, a taxpayer who is eligible to use the installment method may defer the payment of tax and recognize gain from a sale of property in proportion to the payments received.

In general, the installment method may be used to report gain from the sale of personal property by dealers in personal property who regularly sell on the installment plan or from the sale of other property where at least one payment is to be made after the end of the taxable year of the sale.

Under the installment method, in any taxable year, a taxpayer recognizes income resulting from a disposition of property equal to an amount that bears the same ratio to the payments received in that year that the gross profit under the contract bears to the total contract price ("the gross profit ratio"). Payments taken into account for this purpose generally include cash or other property (including foreign currency and obligations of third parties), marketable securities, certain assumptions of liabilities, and evidences of indebtedness of the purchaser that are payable on demand or are readily tradable.

Use of the installment method generally is limited under the socalled "proportionate disallowance rule" for dealer sales of real property and dealer sales of personal property eligible to be reported on the installment method, as well as for sales of real property used in the taxpayer's trade of business or held for the production of rental income where the selling price of such real property is greater than $150,000. Under the proportionate disallowance rule, a pro rata portion of the taxpayer's indebtedness is allocated to, and is treated as a payment on, the installment obligations of the taxpayer.

Use of the installment method is not allowed for sales pursuant to a revolving credit plan and for sales of publicly traded property. In addition, the installment method may not be used for purposes of the alternative minimum tax for sales that are subject to the proportionate disallowance rule.

At the election of the seller, installment obligations arising from certain sales of residential lots and "timeshares" are not subject to the proportionate disallowance rule. Rather, such taxpayers may compute their tax liability under the installment method and are required to pay interest on the amount of deferred tax attributable to the use of the installment method. In addition, the installment method may be used for purposes of the alternative minimum tax for sales of residential lots and "timeshares" if interest is paid on the amount of the deferred tax.

Reasons for Change

In general, the underlying reason for allowing the reporting of gain on the installment method for Federal income tax purposes is that the seller may be unable to pay tax currently because no cash may be available until payments under the installment obligation are received. It is believed that dealer sales of property for notes or accounts receivable do not create the significant cash-flow problems that the installment method is designed to alleviate because a dealer generally is able to finance receivables. The repeal of the installment method for dealer sales will end the ability of a dealer to defer tax on a sale of property by taking back a note or account receivable that is payable in a future year.

Explanation of Provision

The amendment repeals the installment method for dispositions of property by dealers ("dealer dispositions") effective for dispositions occurring after December 31, 1987. Generally, all payments to be received from a dealer disposition of property are treated as received in the year of disposition.

A dealer disposition is defined for purposes of the repeal of the installment method as any disposition of personal property by a person who regularly sells or otherwise disposes of property on the installment plan. A dealer disposition also includes any disposition of real property that is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business. A dealer disposition does not, however, include certain dispositions of residential lots or "timeshares" if the taxpayer elects to pay interest on the amount of deferred tax attributable to the use of the installment method. Additionally, a dealer disposition does not include a disposition of property used or produced in the trade or business of farming.

The installment method rules applicable to dispositions of residential lots or "timeshares" with respect to which interest is paid or dispositions of property used or produced in the trade or business of farming are not affected by the amendment. Thus, a disposition of such property on the installment plan will be subject to the current rules applicable to dealers using the installment method.

Effective Date

The repeal of the installment method for dealer dispositions is effective for dispositions occurring after December 31, 1987. The treatment of an installment obligation arising out of a dealer disposition occurring before March 1, 1986, is not affected by this provision.

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[1] In the headings throughout this explanation, section citations to the bill refer to the bill as it would be amended by the leadership amendment.

An applicable installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, is subject to the proportionate disallowance rule for taxable years ending after December 31, 1986, and beginning before January 1, 1988. Any gain from an installment obligation arising out of a dealer disposition occurring after February 28, 1986, and before January 1, 1988, that remains to be recognized as of the first day of the first taxable year beginning after December 31, 1987, is not to be recognized as payments are received (or treated as received under the proportionate disallowance rule) in a later taxable year. Instead, the amount of the gain that remains to be recognized from such installment obligations is to be taken into account as a section 481(a) adjustment. The amount of the section 481(a) adjustment is to be taken into account under the principles of Rev. Proc. 84-74, 1984-2 C.B. 736, but the adjustment period generally is 4 taxable years rather than 6 taxable years. In determining the period that the adjustment is to be taken into account, the application of the proportionate disallowance rule is not to be treated as a new method of accounting.

The amendment does not affect the transition relief provided at the time the proportionate disallowance rule was enacted.

3. Treatment of Past Service Pension Costs Under Uniform Capitalization Rules (sec. 4503 of the bill and sec. 263A of the Code)

Present Law

In general, uniform capitalization rules govern the inclusion in inventory or capital accounts of all costs incurred in manufacturing, construction, and other types of activities involving the production or real or tangible personal property, or incurred in acquiring or holding property for resale. In the legislation mandating a uniform set of capitalization rules, Congress directed the Treasury Department to model the regulations implementing these rules after the regulations issued under section 451, dealing with capitalization of costs in connection with extended period long-term contracts.

The extended period long-term contract regulations require capitalization of all direct costs and an allocable portion of indirect costs such as general and administrative and overhead costs. Temporary and proposed regulations issued by the Treasury Department provide that contributions to a pension or annuity plan are not subject to the uniform capitalization rules to the extent they represent past service costs within the meaning of section 412 (containing rules for actuarial funding of pension plans).[2] Such costs are subject to other limitations in the Code, currently deductible. If the taxpayer's actuarial funding method does not distinguish between current and past service costs, all pension costs must be treated as current service costs, which are subject to capitalization.

Reasons for Change

For purposes of the uniform capitalization rules, pension costs incurred by a taxpayer that are deemed to relate to past services under the Code's actuarial funding rules should be treated in the same manner as costs deemed to relate to current services. Both types of costs are costs that are necessarily recovered out of the proceeds from the sale of property produced or held in the year the costs are incurred. Thus, consistent with the uniform capitalization rules' objective of matching expenses with the related income, past as well as current service costs should be subject to capitalization.

Explanation of Provision

Under the amendment, past service loss will be subject to the uniform capitalization rules. Thus, an allocable portion of all otherwise deductible pension costs, whether relating to current or past services, will be included in the basis of the property that is produced or held for resale.

Effective Date

The provision will apply to taxable years beginning after December 31, 1987. The amount of any section 481 adjustment required by the amendment (that is, the adjustment reflecting pension costs deducted by a taxpayer in taxable years beginning before January 1, 1988) must be included in income over a period not exceeding four years.

4. Certain Farm Corporations Required to Use the Accrual Method of Accounting (sec. 4504 of the bill and sec. 447 of the Code)

Present Law

Entities engaged in the trade or business of farming generally may use the cash method of accounting for such trade or business. A corporation, or a partnership with a C corporation as a partner, that has gross receipts in excess of $1 million for any taxable year beginning after 1975 must use an accrual method of accounting, unless it is a "family corporation" (sec. 447). In general, a "family corporation" is a corporation 50 percent or more of whose stock is owned by members of the same family (sec. 447(c)(2)). Certain closely-held corporations substantially owned by two or three families on October 4, 1976, and at all times thereafter also qualify as a "family corporation" (sec. 447(h)).

A tax shelter engaged in the trade or business of farming may not use the cash method of accounting, regardless of whether or not it also is a "family corporation."

Reasons for Change

It is felt that any corporation, or partnership with a C corporation as a partner, that is engaged in the trade or business of farming and that has gross receipts in excess of $25 million should be required to use the accrual method of accounting. It is believed that an accrual method of accounting will more accurately reflect the income of such an entity; and that such large entities, whether closely held or not, are sufficiently sophisticated to keep their books and records using an accrual method.

Explanation of Provision

In general

A family corporation is required to use an accrual method of accounting unless, for each prior taxable year beginning after December 31, 1985, such corporation (and any predecessor corporation) did not have gross receipts exceeding $25 million. Gross receipts for any taxable year which is a year of less than 12 months must be annualized in order to determine if they exceed $25 million. A family corporation includes those family-owned corporations and those closely held corporations that are not required by present law to use the accrual method of accounting, regardless of size (sec. 447(c)(2) and sec. 447(h) of present law).

Attribution rules

In determining the amount of gross receipts of a family corporation, certain attribution rules apply. In the case of a family corporation that is part of a controlled group (within the meaning of sec. 1563(a)), a percentage of the gross receipts for the taxable year of other members of such controlled group may be allocated to the family corporation. The percentage used in allocating such gross receipts is equal to the percentage of the fair market value of stock in such other member held directly or indirectly by the family corporation on the last day of the taxable year of such other member. For this purpose, stock excluded under section 1563(c) is not considered.

For example, a father and his son own 100 percent of Corporation A (a family corporation) and 60 percent of Corporation B. Corporation A owns an additional 20 percent of Corporation B. The remaining 20 percent of Corporation B is held by an unrelated party. Corporation A and Corporation B are members of the same controlled group. Eighty percent (20 percent direct ownership and 60 percent indirect ownership) of the gross receipts of Corporation B will be included with the gross receipts of Corporation A for the purpose of determining whether Corporation A has gross receipts in excess of $25 million.

It is not intended that the attribution of gross receipts from one member of a controlled group to another member result in such receipts being taken into account more than once. It is anticipated that the Secretary of the Treasury will issue regulations accomplishing this result. For example, assume that Corporation A in the example in the preceding paragraph sells a calf to Corporation B for $100. Corporation B feeds the calf and sells it to unrelated parties for $250. The gross receipts of Corporation B attributable to Corporation A from this transaction would be 80 percent of the difference between $250 and $100, since the $100 of receipts attributable to that stage of the calf's development while held by Corporation A already is being taken into account in the gross receipts of Corporation A.

If a family corporation owns, directly or indirectly, any interest in a partnership, estate, trust, or other pass-through entity, the family corporation must take into account its proportionate share of the gross receipts of such a pass-through entity in determining the gross receipts of the family corporation.

Suspense account

If any family corporation is required by this provision to change its method of accounting, such corportion shall not be required to take into income so much of the adjustment under section 481 as is used to establish the opening balance of a suspense account. The initial opening balance of the suspense account is the lesser of the net adjustment that otherwise would have been required to be taken into account under section 481 as of the beginning of the year of change or the amount of such net adjustment determined as if the change were made as of the beginning of the preceding taxable year. The portion of the adjustment under section 481 that is not used to establish the suspense account is taken into income in the year of change.

For example, a calendar year family corporation is required to change to the accrual method of accounting effective for its taxable year beginning January 1, 1988. The net adjustment under section 481 as of January 1, 1988 is $100,000. The net adjustment under section 481 as of January 1, 1987 was $95,000. The opening balance of the suspense account will be $95,000 and $5,000 ($100,000-$95,000) will be required to be included in income in the taxable year beginning January 1, 1988.

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[2] Temp. and Prop. Reg. sec 1.263A-1(b)(2)(v)(H)(1).

The amount placed in the suspense account is required to be taken into income upon the occurrence of certain events. If the taxpayer fails to meet the definition of a family corporation, the amount of the suspense account is to be taken into income in the taxable year in which the corporation ceases to be a family corporation. Also, if the gross receipts of the corporation attributable to farming for any taxable year decline to an amount below the gross receipts attributable to farming for the last taxable year for which the cash method of accounting was allowed, a portion of the suspense account may be taken into income.[3] The portion to be taken into income is equal to the current balance of the suspense account multiplied by a fraction the numerator of which is the gross receipts for the current taxable year and the denominator of which is the lesser of (a) the gross receipts of the taxpayer for the taxable year preceding the year of change or (b) the gross receipts for the most recent year in which a portion of the suspense account was taken into income under this rule.

Effective Date

The provision is effective for taxable years beginning after December 31, 1987.

B. ESTIMATED TAX PROVISIONS

(Secs. 4511-4513 of the bill, sec. 1541 of the Reform Act, and secs. 3402, 6654, and 6655 of the Code)

1. Corporate Estimated Tax Reform (sec. 4511 of the bill)

Present Law

Under present law, a corporation that fails to pay an installment of estimated income tax on or before the due date generally is subject to a penalty computed at the rate of interest for tax underpayments. The penalty may not be waived. The penalty is computed by applying the underpayment interest rate to the amount of the underpayment of the installment for the period of the underpayment. The amount of the underpayment is the difference between the payments made on or before the due date of each installment and 90 percent of the total tax shown on the return for the year, divided by the number of installments that should have been made. The penalty on underpayments of estimated tax that are between 80 percent and 90 percent of the actual tax due is imposed at three-quarters of the full rate.

There are three exceptions to the penalty. No penalty is imposed upon a corporation if total tax payments for the year equal or exceed installments based on (1) the preceding year's tax liability, if a return showing a liability for tax was filed for the preceding year; (2) the tax computed by using the facts shown on the prior year's return under the current year's tax rates; or (3) 90 percent of the taxes which would be due if certain income already received during the current year was annualized. Large corporations may not use exceptions (1) and (2) described above. A large corporation is defined as a corporation having at least $1 million of taxable income in any of the three prior taxable years. No penalty is imposed where the tax is less than $40.

Reasons for Change

Although the individual estimated tax rules were consolidated and simplified in 1984, no similar consolidation and simplification was done for the corporate estimated tax rules; it is appropriate to do so at this point. Also, because of the difficulties many large corporations experience in computing accurately their estimated tax payments for the first quarter, it is appropriate to provide for them for that quarterly payment the same safe harbor that is currently available to small corporations.

Explanation of Provision

The amendment consolidates all the corporate estimated tax rules into one section of the Code, similar to the provision enacted for individuals in 1984. Also, several modifications are made to present law.

The underpayment penalty with respect to any installment applies to the difference between payments made by the due date of the installment and the lesser of an installment based on (1) 90 percent of the tax shown on the return; or (2) 100 percent of the tax shown on the preceding year's return. As under present law, exception (2) generally does not apply to a large corporation, except that a large corporation can use that exception for purposes of making its first estimated tax payment for any taxable year. Thus, both large and small corporations may base their first estimated tax payment of any taxable year upon 100 percent of the tax shown on the preceding year's return. A special transition rule provides that, for taxable years beginning in 1988 only, a large corporation can use that exception for purposes of making its first and second estimated tax payments. In determining whether a coporation is a large corporation (i.e., whether its taxable income exceeds $1 million), net operating loss and capital loss carryforwards and carrybacks are disregarded. The safe harbor based on the previous year's facts and the current year's rates is eliminated.

In addition, the full rate of the penalty is imposed with respect to any payment only to the extent the total payments for the year up to the required installment are below 90 percent of the taxes which would be due if the income already received during the current year was placed on an annual basis. Thus, the "cliff" effect of the penalty under present law is eliminated. Additionally, the reduced rate of the penalty for underpayments that are between 80 and 90 percent is eliminated. Any reduction in an estimated tax payment or payments resulting from using the annualization exception must be made up in the next payment in that taxable year for which the corporation does not use the annualization exception.

Finally, no penalty is imposed if the tax for any taxable year is less than $500.

Effective Date

This provision applies to taxable years beginning after December 31, 1987.

2. Revised Withholding Certificates Required to be Put Into Effect More Promptly (sec. 4512 of the bill)

Present Law

If an employee furnishes to his or her employer a withholding allowance certificate (Form W-4 or W-4A) that replaces an existing certificate, the employer must make the certificate effective no later than the first status determination date that is at least 30 days after the date the employee furnishes the certificate to the employer. The status determination dates are January 1, May 1, July 1, and October 1 of each year. For example, if an employee furnishes a replacement withholding allowance certificate to his or her employer on June 2, the employer must make that certificate effective no later than October 1.

Employers may elect to make replacement certificates effective earlier than they are required to statutorily; most employers elect to do so.

Reasons for Change

It is appropriate to reduce the amount of time before a replacement withholding certificate must become effective.

Explanation of Provision

Employers will be required to give effect to replacement withholding allowance certificates (Form W-4 or W-4A) no later than the start of the first payroll period ending on or after the thirtieth day after the day on which the employee furnishes the certificate to the employer. Employers are permitted to continue to elect to give effect to replacement withholding allowance certificates on any date between the date it is furnished by the employee and the statutorily mandated effective date.

Effective Date

The provision applies to replacement withholding allowance certificates furnished after the day 30 days after the date of enactment of the bill.

3. Estimated Tax Penalties for 1987 (sec. 4513 of the bill)

a. Delay of increase in current year liability test for individuals

Present Law

Individuals owing income tax who do not make estimated tax payments are generally subject to a penalty (Code sec. 6654). In order to avoid the penalty, individuals must make quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 90 percent of the current year's tax liability. Amounts withheld from wages are considered to be estimated tax payments.

The Tax Reform Act of 1986 increased from 80 to 90 percent the proportion of the current year's tax liability that taxpayers must pay to avoid the penalty. This was effective for taxable years beginning after December 31, 1986.

Reasons For Change

It is appropriate to modify the estimated tax rules for individuals for 1987, due to the difficulties a number of individuals had with Form W-4 and with other provisions of the 1986 Act.

Explanation of Provision

The amendment delays for one year this increase from 80 to 90 percent. Thus, for taxable years beginning before January 1, 1988, individuals may avoid the estimated tax penalty by making quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 80 percent of current year's tax liability. For taxable years beginning after December 31, 1987, individuals may avoid the estimated tax penalty by making quarterly estimated tax payments that equal at least the lesser of 100 percent of the prior year's tax liability or 90 percent of the current year's tax liability.

Effective Date

The increase from 80 to 90 percent is effective for taxable years beginning after December 31, 1987 (instead of taxable years beginning after December 31, 1986).

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[3] For this purpose, gross receipts from taxable years of less than 12 months will be annualized.

b. Corporations may use 1986 tax to determine certain estimated tax installments due before July 1, 1987

Present Law

No estimated tax penalty is imposed upon a corporation with respect to any installment if that installment plus all prior installments for the year are based on the lesser of (1) the preceding year's tax liability, if a return showing a liability for tax was filed for the preceding year; (2) the tax computed by using the facts shown on the prior year's return under the current year's tax rates; or (3) 90 percent of the taxes which would be due if certain income already received during the current year were placed on an annual basis. Large corporations may not use exceptions (1) and (2) described above. A large corporation is defined as a corporation having at least $1 million of taxable income in any of the three prior taxable years.

Present law does not give explicit authority to the Treasury to provide alternative estimated tax rules for corporations.

The Treasury has issued regulations, applicable to estimated tax payments due before July 1, 1987, that permit corporations to base those estimated payments on 120 percent of 1986 taxable income with certain modifications.

Reasons for Change

Because of the numerous changes made by the Tax Reform Act of 1986, some corporations had difficulty in accurately computing their estimated tax payments for the first part of 1987. Therefore, it is appropriate to modify the estimated tax penalties for those payments.

Explanation of Provision

Two safe harbors are provided for corporate estimated tax payments due before July 1, 1987. First, all corporations, including large corporations, are permitted to base those estimated tax payments on 100 percent of the 1986 tax liability. Second, statutory authorization is provided for the safe harbor provided in the Treasury regulations.

Under the first safe harbor, no penalty for the underpayment of estimated tax for a taxable year beginning in 1987 will be imposed on a large corporation (as defined in sec. 6655(i)(2) of the Code) for any payment due on or before June 15, 1987, if the corporation's estimated tax payments meet the present law requirements (of sec. 6655(d)(1)) applicable to other corporations allowing payments to be based on the tax shown on the prior year's return. Thus, large corporations are expressly authorized to utilize the estimated tax safe harbor of paying the preceding year's tax liability for estimated tax installments for taxable year 1987 due on or before June 15, 1987. A corporation may take advantage of this rule only to the extent that the underpayment of estimated tax is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987. This relief is available for the first two payments of a calendar year corporation and for the first payment of a fiscal year corporation whose taxable year begins on or before March 1, 1987.

Thus, a calendar year corporation may avoid an estimated tax penalty by making the April 15 and June 15 installments based on 100 percent of the preceding year's liability and by making the September 15 installment based on 90 percent of the current year's tax liability (and by paying any shortfall from prior payments attributable to the difference between the 100 percent test and the 90 percent test as part of the September 15 installment).

Effective Date

The provisions are effective for corporate estimated tax installments for 1987 that were due before July 1, 1987.

C. CORPORATE TAX PROVISIONS

1. Certain Earnings and Profits Adjustments Not To Apply For Certain Purposes (Overrule "Woods Investment Co.") (Sec.4521 of the bill and secs. 1503 and 301(f) of the Code)

Present Law

In general, an affiliated group of corporations may elect to file a consolidated return, that aggregates the income and deductions of the common parent and its subsidiaries. An affiliated group generally includes a domestic corporation and its domestic subsidiaries connected in a chain of at least 80-percent ownership. The Code grants the Treasury Department broad authority to use regulations governing the computation of the tax liability of an affiliated group of corporations filing a consolidated return.

In 1966, the Treasury Department issued revised consolidated return regulations requiring adjustment of a parent corporation's basis in the stock of a subsidiary by reference to changes in the earnings and profits of the subsidiary. The regulations require a parent corporation to increase its basis in the stock of a subsidiary by the amount of the undistributed net earning and profits of the subsidiary for the taxable year, and to reduce its basis in such stock by the amount of any deficit in earnings and profits, among other adjustments. At the time these regulations were issued, differences between earnings and profits and taxable income were essentially permanent as opposed to timing differences. The result was that adjustments to basis of the assets of a subsidiary were reflected immediately as adjustments to the parent corporation's basis in the stock of the subsidiary.

Subsequently, Congress enacted amendments to the provisions of the Code defining earnings and profits. As a result of these amendments, certain deferral amounts affected earnings and profits at a different rate than they affected a corporation's taxable income. For example, earnings and profits were reduced only by the amount of straight-line depreciation, even though accelerated depreciation was used for purposes of computing taxable income. Similarly, gain reported on the installment method and income reported under the completed contract method were included in earnings and profits at a faster rate than for taxable income purposes.

The purpose of these amendments to the definition of earnings and profits was to prevent corporations with economic profits from making distributions to individual shareholders that would otherwise constitute tax-free returns of capital, or capital gains taxed at a preferential rate, to the shareholder. In a consolidated return context, however, the effect of applying these amendments in computing basis adjustments was to create a disparity between the rate at which these items reduced or increased a parent's basis in the stock of its subsidiary and the rate they reduced or increased the group's consolidated taxable income. Because of these earnings and profits adjustments, a parent corporation could sell stock in a subsidiary and recognize an artificially reduced gain, or an artificial loss.

In *Woods Investment Co.* v. *Commissioner*, 85 T.C. 274 (1985), the Tax Court rejected the Internal Revenue Service's argument that the taxpayer should not be allowed to apply these amendments for purposes of computing basis adjustments because the effect was to allow the taxpayer a double deduction. The court held the Service was bound by a literal application of the statutory definition of earnings and profits and its own regulations requiring basis adjustments based on earnings and profits. The Service subsequently announced that it would not appeal this decision and would not reassert the position taken in *Woods* against other taxpayers (Announcement 86-32). It nonetheless took the position that its position in *Woods* was correct, and stated that it was considering modification of the consolidated return regulations to prevent understatement of gain in that situation and other situations.

A similar issue arises in a consolidated return context where an insolvent subsidiary realizes cancellation of indebtedness income. The earnings and profts of the subsidiary may be increased by the amount of such income, even though the income is excluded from the subsidiary's taxable income. If so, the parent corporation's basis in the stock is increased (or its "excess loss account" or negative basis is reduced) by an amount that has not been reflected in consolidated taxable income.

A benefit similar to that at issue in the *Woods* case may exist where the distributor and distributee do not file a consolidated return.

Special rules prevent the occurrence of these distortions in certain circumstances.[4] If a 20-percent or more corporate shareholder receives a distribution from another corporation that would otherwise qualify for the dividends received deduction, the taxable income of the shareholder (and its adjusted basis in the stock of the distributing corporation) is determined by ignoring certain adjustments otherwise required in determining the earnings and profits of the distributing corporation (see. 301(f)). That is, the earnings and profits treatment of the items is conformed to the taxable income treatment. These special conformity rules do not apply, however, to depreciation.

Reasons for Change

The present consolidated return regulations, as applied in the *Woods* case, confer an unwarranted and unintended tax benefit. Under present law, the adjustment in the basis of a subsidiary's stock fails to account for the tax benefits realized by the consolidated group during the subsidiary's affiliation and also fails to require the group to pay tax on the economic profit received when a subsidiary is sold. The purpose of the statutory changes to the earnings and profits provisions was to ensure that distributions of economic profits that exceeded taxable income would be taxed to individual shareholders as dividends. Providing a corresponding basis adjustment for purposes of determining gain or loss on a sale of the stock is inappropriate.

The provision of present law modifying the definition of earnings and profits in the case of distributions to 20-percent or more corporate shareholders should appropriately apply to depreciation as well as to the items specified in section 312(n).

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[4] It is unclear whether and to what extent these special rules apply in a consolidated return context, but it is understood that taxpayers generally take the position they do not.

Explanation of Provision

Under the amendment, solely for purposes of determining gain or loss on disposition, a parent corporation's basis in the stock of a subsidiary with which it files a consolidated return is to be determined by computing earnings and profits of the subsidiary without regard to sections 312 (k) and (n) or any prior corresponding provision. Thus, the parent's basis for purposes of determining gain or loss on disposition of the stock will be computed as if, throughout the period of the subsidiary consolidation with the parent, the subsidiary's earnings and profits had been computed without regard to the special adjustments for depreciation and other items.[5]

In addition, the amendment provides that earnings and profits for this purpose does not include any cancellation of indebtedness income of the subsidiary excluded under section 108 to the extent such income did not reduce basis of property or other tax attributes. No inference is intended as to prior law.

Finally, the amendment expands the provision modifying the definition of earnings and profits in the case of distributions to a 20-percent or more corporate shareholder to include adjustments for accelerated depreciation. It is intended that this provision (sec. 301(f)) will apply only where the distribution is between corporations not filing a consolidated return.

Effective Date

The amendment to the rules relating to adjustments in the stock in a consolidated subsidiary generally applies to stock disposed of after October 15, 1987. However, the amendment does not apply to dispositions pursuant to a written contract binding on October 16, provided the disposition is completed before January 1, 1989. The computation of gain or loss on dispositions subject to the provision will thus be computed taking into account the principles of the amendment during the entire period the subsidiary filed a consolidated return with the selling corporation, regardless of whether the subsidiary filed a consolidated return with the selling corporation in the year of the disposition or was eligible to do so.

The amendment to section 301(f) generally applies to distributions after October 15, 1987. However, the amendment does not apply for purposes of determining gain or loss on a disposition of the stock, in the case of dispositions pursuant to a written contract binding on October 16, provided the disposition is completed before January 1, 1989. For purposes of determining the earnings and profits after October 16 in the case of dispositions subject to the amendment, the amendment is deemed to have been in effect for all prior periods, whether before, on, or after that date. However, the amendment does not affect the determination whether any distribution on or before October 16, 1987, was a dividend, or the amount of any reduction in accumulated earnings and profits on account of any such distribution.

2. Benefits of Graduated Corporate Rates Not Allowed To Personal Service Corporations (sec. 4522 of the bill and sec. 11 of the Code)

Present Law

Under present law, corporations are subject to a tax at the rate of 34 percent. However, for corporations with taxable income below $335,000, graduated rates are provided. These rates are 15 percent on taxable income not over $50,000, and 25 percent on taxable income over $50,000 but not over $75,000, with the benefits of these lower rates phased out as taxable income increases from $100,000 to $335,000.

Reasons for Change

The personal service income of corporations owned by its employees is taxed to the employee-owners at the individual graduated rates as it is paid out as salary. It is inappropriate to allow the retained earnings to be taxed at the lower corporate graduated rates.

Explanation of Provision

The taxable income of a personal service corporation (as defined in section 448(d)(2) relating to the cash method of accounting) will be taxed at a flat rate of 34 percent. For this purpose, a personal service corporation is a corporation substantially all the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and substantially all the stock of which is held by the employees performing services for the corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1987.

D. PARTNERSHIP PROVISIONS

1. Treatment of Publicly Traded Partnerships Under the Passive Loss Rule (sec. 4531 of the bill and sec. 469 of the Code)

Present Law

Under present law, deductions from passive trade or business activities (within the meaning of the passive loss rule (sec. 469)), to the extent they exceed income from such passive activities, generally may not be deducted against other income. Similarly, credits from passive activities generally are limited to the tax attributable to the passive activities. Suspended losses and credits are carried forward and treated as deductions and credits from passive activities in the next year. Suspended losses from an activity are allowed in full when the taxpayer disposes of his entire interest in the activity.

Income from passive activities does not include income such as compensation for services or portfolio income (including interest, dividends, royalties, annuities, and gains from the sale of property held for investment. For this purpose, property held for investment generally does not include an interest in a passive activity.

A passive activity generally is an activity involving the conduct of a trade or business in which the taxpayer does not materially participate. Present law provides that, except as provided in regulations, no interest in a limited partnership as a limited partner is treated as an interest with respect to which the taxpayer materially participates. Present law also provides Treasury regulatory authority to issue regulations requiring net income or gain from a limited partnership to be treated as not from a passive activity. Thus, except to the extent that the Treasury Department may provide in regulations, income from limited partnerships, including publicly traded limited partnerships, may be offset by passive losses from other sources.

Reasons for Change

It is believed that the return on investment in a publicly traded partnership is essentially comparable to the return on other portfolio investments. Under the passive loss rule, passive losses cannot be applied to offset portfolio income such as interest, dividends, annuities or royalties not derived in the ordinary course of a trade or business. It is believed that income from all publicly traded partnerships should be treated similarly to income from such investments for purposes of the passive loss rule.

Thus, the amendment provides that net income from an interest in any publicly traded partnership is not treated as passive income that can be offset by passive losses. Rather, like dividend income and other portfolio income, income from publicly traded partnership interests is not allowed to be offset by losses (or credits) from passive activities. Losses (and credits) from interests in such partnerships are suspended at the partner level and allowed upon a disposition of the interest in the partnership.

Explanation of Provision

General rules

Under the amendment, net income from publicly traded partnerships is not treated as passive income for purposes of the passive loss rule. Each partner in a publicly traded partnership treats loss (if any) from the partnership as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities. Net income from publicly traded partnerships is treated as portfolio income under the passive loss rule.

Net losses and credits attributable to the interest in the publicly traded partnership are not allowed against the partner's other income, but rather are suspended and carried forward. Such net losses can be applied against net income from the partnership in the next year (or the next succeeding year in which the holder of an interest in the partnership has net income from the partnership). Upon a complete disposition (within the meaning of the passive loss rule) of the partner's entire interest in the publicly traded partnership, any remaining suspended losses are allowed.

In general, income and loss items attributable to an interest in a publicly traded partnership can offset each other. Thus, for example, assume that a holder of an interest in a publicly traded partnership has a net loss from the partnership in one year of $2,000, and net income from the partnership in the next year of $1,500. $1,500 of the loss from the first year may be applied against the $1,500 income in the second year. The remaining $500 loss continues to be suspended at the partner level, and may be carried forward to future years to offset net income from the partnership. Similarly, a partner's share of credits from the partnership may be applied only to offset the partner's income tax liability attributable to the partnership interest. It is intended, however, that a partner be entitled to the $25,000 allowance with respect to credits from the partnership as under present law. The election to adjust basis in the event of a disallowed credit upon a complete disposition is intended to apply, in the case of a complete disposition of an interest in a publicly traded partnership.

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[5] These modifications to the rules for determining earnings and profits for investment adjustment purposes are not intended to affect the authority of the Treasury Department to require in the consolidated regulations that earnings and profits (computed under the general rules of section 312) be deemed distributed up the entire chain of affiliated corporations to the common parent on an annual basis.

In the case of publicly traded partnerships with income that is treated as portfolio income (under the passive loss rule as generally applicable) and losses from business activities, the losses may not be applied against the portfolio income. Thus, under the amendment, partners' shares of the loss may not be applied against their shares of that portfolio income. Thus, partners in publicly traded partnerships cannot offset losses from partnership activities against portfolio income within the partnership that could not be offset against portfolio income derived outside the publicly traded partnership.

In determining which losses from the partnership interest are suspended and carried forward under the provisions, the general rules normally applicable in determining which losses are suspended under the passive loss rule are applicable. Generally, the amount of the suspended losses is determined on a pro rata basis.

For purposes of this rule, partners in publicly traded partnerships treat their interests in each such partnership as separately subject to the loss (and credit) limitation and disposition rules of the passive loss rule. Thus, under this rule, no net losses or credits attributable to an interest in a publicly traded partnership are allowed against income other than income from that partnership (except as otherwise provided under the passive loss rule, for example, upon a complete disposition of the partner's interest in the partnership).

The rules applicable to transfers by reason of death and to gifts are also intended to apply, in the case of transfers of interests in publicly traded partnerships. This is consonant with applying the loss and credit limitations and the disposition rules of the passive loss rule separately at the partner level to partners' items from publicly traded partnerships.

The intended overall result is that net losses and credits of a partner from each publicly traded partnership be suspended at the partner level, carried forward (not back) and netted against income, other than the partnership's portfolio income, from (or tax liability attributable to) that publicly traded partnership, and that suspended losses are allowed upon a complete disposition of the partner's interest in the partnership.

Publicly traded partnerships

Publicly traded partnerships are defined for purposes of the provision as partnerships whose interests are (1) traded on an established securities market, or (2) readily tradeable in a secondary market (or the substantial equivalent thereof).

For this purpose, an established securities market includes any national securities exchange registered under the Securities Exchange Act of 1934 or exempted from registration because of the limited volume of transactions, and any local exchange. It also includes any over the counter market. An over the counter market is characterized by an interdealer quotation system which regularly disseminates quotations of obligations by identified brokers or dealers, by electronic means or otherwise.

An interest is treated as readily tradeable on a secondary market (or the substantial equivalent thereof) if the interest is regularly quoted by brokers or dealers making a market in the interest. (See Treas. Reg. section 1.453-3(d)(3).) Thus, for example, an interest is readily tradeable in a secondary market where the interest is traded on a market essentially equivalent to an over the counter market, or where the holder has a readily available, regular and ongoing opportunity to sell or exchange his interest.

A partner's ability to trade the interest, without more, will not cause the interest to be treated as readily tradeable, nor will occasional sales of interests in the partnership, the terms of which are not widely publicized or widely available, indicate the existence of a secondary market.

The existence of a buy-sell agreement among the partners, without more, will not cause a partnership to be treated as publicly traded. Nor will the occasional and irregular repurchase or redemption by the partnership, or acquisition by the general partner, of interests in the partnership, cause the partnership to be considered as publicly traded under the provision. A regular plan of redemptions or repurchases, or similar acquisitions of interests in the partnership such that holders of interests have readily available opportunities to dispose of their interests, that is essentially equivalent to a secondary market, indicates that the interests are readily tradeable on what is the substantial equivalent of a secondary market.

In general, a provision for the discretion of the general partner or the partnership to refuse consent to transfer of an interest in the partnership (or of rights to income or other attributes of an interest in the partnership) does not, without more, prevent a partnership from being considered publicly traded. For example, the discretion of the general partner to refuse consent to a transfer if the transfer would cause a termination of the partnership for Federal income tax purposes does not cause the partnership to be treated as not publicly traded. Similarly, if the general partner must consent to any transfer of an interest in the partnership, but the assignment of rights to income (or other attributes) of the partnership is not so limited, the consent requirement does not cause the partnership to be considered as not publicly traded.

Effective Date

The provision is effective as if included in the amendments made by section 501 of the Tax Reform Act of 1986. Thus, the provision is effective for taxable years beginning after December 31, 1986.

2. Study of Tax Treatment of Publicly Traded Partnerships (sec. 4531(b) of the bill)

Present Law

Present law provides that a partnership is not subject to tax at the partnership level, but rather, income and loss of the partnership is subject to tax at the partner's level. A partner's share of partnership income is generally determined without regard to whether he receives any corresponding cash distributions. Thus, under present law, partnerships generally are treated as conduits for tax purposes.

Reasons for Change

This amendment changes the tax treatment of certain publicly traded partnerships, based on concerns related to preserving the effectiveness of the passive loss rule to curb tax shelters, achieving fair and equitable tax rules, and improving administrability of the tax law. Therefore it is appropriate to monitor and observe the changes made, in order to ascertain whether they have been effective and whether further changes are necessary.

Explanation of Provision

The amendment provides that the Secretary of the Treasury or his delegate shall conduct a study of compliance and administrative issues relating to the tax treatment of publicly traded partnerships and other large partnerships.

Effective Date

The Secretary is required to submit a report on the study, with such recommendations as the Secretary deems appropriate, to the House Committee on Ways and Means and the Senate Committee on Finance no later than January 1, 1989.

E. CHILD AND DEPENDENT CARE CREDIT

Deny Eligibility of Overnight Camp Expenses for Credit

(Sec. 4541 of the bill and sec. 21 of the Code)

Present Law

An income tax credit is provided equal to up to 30 percent of certain employment-related child and dependent care expenses (sec. 21). For example, costs incurred by the taxpayer for a day care center or nursery school, a housekeeper or other home care, and summer camps (including overnight camps) are eligible for the credit if incurred to enable the taxpayer to work.

The amount of qualified expenses eligible for the credit is limited to $2,400 ($4,800 for the care of two or more individuals). The 30 percent credit rate is reduced by one percentage point for each $2,000 (or portion thereof) of adjusted gross income (AGI) between $10,000 and $28,000. The credit rate is 20 percent for taxpayers with AGI exceeding $28,000.

Reasons for Change

It was concluded that a taxpayer's expenses for sending a child or other dependent to an overnight camp are not sufficiently related to the taxpayer's employment to justify providing a tax credit for such costs, as contrasted to the costs of day care. Overnight camp expenses are a personal consumption expenditure that is not a necessary cost of being able to go to work.

Explanation of Provision

Under the provision, costs incurred by a taxpayer to send a child or other dependent to an overnight camp are ineligible for the child and dependent care credit.

Effective Date

The provision is effective for expenses paid in taxable years beginning on or after January 1, 1988.

F. PENSION PROVISIONS

1. Modify Full Funding Limitation (sec. 4551 of the bill and sec. 412 of the Code)

Present Law

Under present law, subject to certain limitations, an employer may make deductible contributions to a qualified defined benefit pension plan up to the full funding limitation (sec. 404). The full funding limitation generally is defined as the excess, if any, of (1) the accrued liability (including normal cost) under the plan, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the value of the plan's assets determined under section 412(c)(2) (sec. 412(c)(7)). Generally, the accrued liability is based on projected benefits, which, unlike accrued benefits, are the benefits that are projected to be earned by normal retirement age, rather than the benefit accrued as of the close of the current year.

If a defined benefit plan is terminated, the employer's liability to plan participants does not exceed the plan's termination liability (generally the liability for benefits determined as of the date of the plan termination). However, contributions to a plan with assets significantly in excess of termination liability may be deductible because the full funding limitation is determined on the basis of projected benefits.

Reasons for Change

Defined benefit pension plan should be funded in such a manner as to provide benefit security for participants. An employer should not be entitled, however, to make excessive contributions to a defined benefit pension plan to fund liabilities that it has not yet incurred. Such use of a defined benefit plan is equivalent to a taxfree savings account for future liabilities and is inconsistent generally with the treatment of unaccrued liabilities under the Code.

An overall cap on an employer's deductions for plan contributions is appropriate in the case of over funded plans. A proper balance between the competing concerns described above is achieved by limiting deductible contributions to a defined benefit pension plan to the extent that the contributions cause plan assets to exceed 150 percent of current liabilities, (i.e., generally accured liabilities).

Explanation of Provision

Under the amendment, the full funding limitation generally is defined to mean the excess, if any, of (1) the lesser of (a) the accrued liability (including normal cost) under the plan, or (b) 150 percent of current liabilities (as defined for purposes of the funding rules in this amendment, except that preparticipation years of service are taken into account in all cases), over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the value of the plan's assets determined under section 412(c)(2).

The amendment does not modify the definition of accrued liability in section 412(c)(7). Also, the requirement of section 412(c)(6)(B) that all amortizable amounts be considered fully amortized is applied without regard to the change in the full funding limitation (adding the 150 percent of current liability limitation).

It is further intended that the full funding limitation (as well as the other limitations on deductions for plan contributions) may not be avoided by the creation of multiple plans with coordination of benefits between the plans. The Secretary is to prescribe rules consistent with this intent.

Effective Date

This provision is effective for years beginning after December 31, 1987.

2. Minimum Funding Standard and Deductions

a. Additional funding requirements (sec. 4552 of the bill)

Present Law

In general

Under present law, certain defined benefit pension plans are required to meet a minimum funding standard for each plan year. The minimum funding standards require that an employer contribute an annual amount sufficient to fund a portion of participants' projected benefits determined in accordance with one of several prescribed funding methods, using actuarial assumptions that are reasonable in the aggregate.

Generally, a funding method calculates the cost of benefits under the plan in 2 components: (1) normal cost, which represents the cost of benefits allocated to the current year under the plan's funding method, and (2) a portion of the plan's accrued liabilities (i.e., all costs other than normal cost). The costs in (2) include costs with respect to past service liability (e.g., the cost of retroactive benefit increases), experience losses, and changes in actuarial assumptions. The amounts in (2) above are amortized over a period of years depending on the nature of the cost. Experience gains and gains from changes in actuarial assumptions are taken into account generally by offsetting a portion of the gains against the amounts determined under (1) and (2) above for the year. Losses increase such amounts.

Each defined benefit pension plan is required to maintain a special bookkeeping account called a "funding standard account". The account is charged with the costs described above and the amount necessary to amortize waived contributions (see below), and credited with the gains described above, the amount of waived contributions for the year, and contributions for the plan year. If, as of the close of a plan year, the account reflects credits equal to or in excess of charges, the plan is treated as meeting the minimum funding standard for the year. Thus, as a general rule, the minimum contribution for a plan year is determined as the amount by which the charges to the account would exceed credits to the account if no contribution were made to the plan.

Currently, some employers maintain "floor-offset" arrangements, which are a combination defined contribution plan and defined benefit plan. Under such an arrangement, a participant's benefits under the defined benefit plan (the floor plan) are offset by the participant's benefits under the defined contribution plan (the offset plan). The IRS has ruled that floor-offset arrangements may meet the qualification requirements of the Code if certain requirements are satisfied.

Past service liabilities

Past service liability existing before the effective date of the minimum funding standards (generally, 1976) is amortized over a period of 40 years. All other past service liability is amortized over a period of 30 years.

Experience gains and losses

Experience losses arise when a plan's experience is less favorable than anticipated under the plan's assumptions (e.g., interest, mortality, morbidity, and employee turnover). Similary, experience gains arise when a plan's experience is more favorable than anticipated. Experience gains and losses are amortized over 15 years.

Gains and losses from changes in assumptions

If the actuarial assumptions used for funding a plan are revised and, under the new assumptions, the liability of a plan is less than the liability computed under the previous assumptions the decrease is a gain from changes in actuarial assumptions. If the new assumptions result in an increase in the liability, the plan has a loss from changes in actuarial assumptions. The gain or loss for a year from changes in actuarial assumptions is amortized over a period of 30 plan years.

Switchback liability

Certain plans may elect to use an alternative minimum funding standard account for any year in lieu of determining contributions under the rules described above. Specified annual charges and credits apply with respect to the alternative account. The minimum funding standard is considered satisfied for a year if a contribution meeting the requirements of the alternative account is made, even if a greater contribution would be required under the normal funding rules.

If the plan switches back from the alternative account to the regular method of determining contributions, the excess, if any, of charges over credits at the time of the change ("the switchback liability") must be amortized over a period of 5 plan years.

Contingent benefits

Under present law, benefits contingent on events such as the shutdown of a facility are funded in the same manner as other benefits. Thus, the plan assumptions may include a probability that the shutdown or other contingency will occur. If too low a likelihood of the contingency occurring is assumed, then an experience loss occurs when the event occurs.

Shutdown and similar contingent benefits are guaranteed by the Pension Benefit Guaranty Corporation (PBGC) in accordance with the generally applicable rules regarding such guarantees (e.g., the limit on the dollar amount and type of benefit guaranteed) (see discussion below). To the extent the benefits are guaranteed, the guarantee phases in over time after the plan or plan amendment providing for the benefit is adopted (or the effective date of the plan or amendment, if later).

Valuation of assets

Under present law, the value of plan assets is to be determined in accordance with any reasonable actuarial method of valuation that takes into account fair market value and that is permitted under Treasury regulations. The regulations permit plan assets to be valued on the basis of the average value over a period not exceeding the 5 most recent plan years. Regardless of the valuation method used, the method must result in a value that is between 80 percent and 120 percent of fair market value or between 85 percent and 115 percent of average value as defined in the regulations (Treas. reg. sec. 1.412(c)(2)-1(b)(6)).

Factors contributing to underfunding of defined benefit plans

A plan is considered to be underfunded if, upon termination, it lacks sufficient assets to discharge its liabilities. One reason underfunding may arise is that, despite the minimum funding standard, the plan may terminate before the time necessary for full amortization of its liabilities has expired. This is particularly true with respect to plans that base benefits solely on service, rather than on service and salary, and that provide regular benefit increases with respect to all years of service.

For example, assume that, at the time a plan was adopted, it provided benefits measured (in part) by service performed before the plan was adopted. The liability for those benefits (past service liability) is amortized over a period of 30 years. If the plan terminates before the end of the 30-year period, then the plan will be underfunded unless favorable investment experience, gains due to favorable mortality experience or other experience gains are sufficient to offset the unfunded liability arising from the past service benefit.

Underfunding may also be attributable to unamortized losses arising from investment experience or other experience (e.g., mortality, morbidity, employee turnover) that is less favorable than anticipated. An example of significant experience losses creating underfunding is the substantial increase in plan liabilities that is triggered by a plant closing or similar sudden workforce contraction that has not been fully anticipated in funding the plan. In some cases, a plan is underfunded at termination because the employer obtained a waiver of the funding standard and the plan was terminated before the waived funding deficiency was fully amortized.

Reasons for Change

As of September 30, 1985, the PBGC reported a deficit of approximately $1.3 billion. As of September 30, 1986, the PBGC's deficit nearly tripled over the prior year, reaching $3.8 billion (approximately $2 billion of which is attributable to the termination of plans maintained by LTV Corporation). The substantial increase in the deficit of the PBGC is generally attributed to the termination of certain steel industry pension plans with insufficient assets to provide guaranteed benefits.

The PBGC's deficit has not affected its immediate ability to pay pension benefits to retired participants in terminated plans. However, PBGC officials estimate that projected increases in the PBGC's deficit could result in insufficient assets to pay annual costs in approximately 15 years.

The General Accounting Office issued a report on March 19, 1987 (the "GAO Report")[6] stating that, during the years 1983-85, 70 percent of the claims against the PBGC for termination of underfunded plans resulted because the present-law funding standards do not require sufficient contributions to fund increased unfunded liabilities arising in part from numerous benefit increases within 5 years of plan termination.

It is believed that the present-law funding requirements expose plan participants and the PBGC to excessive risk. Under present law, the funded status of a plan may deteriorate even if the minimum funding requirements are fully satisfied. Thus, it is concluded that the present-law rules, which provide long-term financing of increases in unfunded liabilities under a pension plan, create an incentive for employers to provide benefit increases that might otherwise not be affordable.

Accordingly, more rapid funding requirements would more appropriately limit the ability of employers to delay or avoid funding obligations. An employer should not have the opportunity to make pension promises that exceed its financial capacity to meet its promises. In order to reduce the financial risk to plan participants and the PBGC, the amendment requires certain plans to be funded more rapidly depending on the funded status of the plan.

It is believed that certain types of contingent benefits create special funding problems. Benefits contingent on relatively unpredictable events, such as a plant shutdown, typically are not adequately funded before the event occurs. Thus, upon the occurrence of the contingency, a tremendous increase in plan underfunding may occur, and the employer often is not financially able to fund such benefits at that time. In some cases, the liability for the benefits may be shifted to the PBGC. It is believed that it is appropriate to provide special funding rules with respect to certain contingent benefits.

Explanation of Provisions

In general

The amendment retains the present-law funding standards under section 412 of the Code, with certain modifications. In addition, with respect to an underfunded plan, the minimum required contribution is, in general terms, the greater of (1) the amount determined under section 412 (with the modifications made by the amendment), or (2) the sum of (i) normal cost, (ii) the amount necessary to amortize experience gains and losses and gains and losses resulting from changes in actuarial assumptions over 5 years, and (iii) the deficit reduction contribution. In addition, a special funding rule applies with respect to benefits that are contingent on unpredictable events.

More specifically, the amendment provides that, for an underfunded plan, the amount otherwise required to be charged to the funding standard account for a plan year otherwise is increased by (1) the excess of (i) the deficit reduction contribution over (ii) certain charges to the funding standard account reduced by certain credits to such account, plus (2) the unpredictable contingent event amount (if any) for the plan year. The charges taken into account under the preceding sentence include (i) the amount necessary to amortize past service liability, (ii) the amount necessary to amortize each waived funding deficiency, and (iii) the amount necessary to amortize certain amounts credited in the case of an employer previously using the alternative minimum funding standard account (the switchback liability). The credits taken into account include the amounts necessary to amortize decreases in past service liability.

As under present law, contributions in excess of the minimum required contribution will create funding credit balances that may be used to offset the required minimum contribution. In addition, credit balances in existence on the effective date may be used to offset required minimum contributions. The amendment does not affect the ability of an employer to maintain a floor-offset arrangement.

Deficit reduction contribution

Under the amendment, the deficit reduction contribution is the sum of (1) the unfunded old liability amount, and (2) the unfunded new liability amount. Calculation of these amounts is based upon the plan's "current liability".

Current liability.—Under the amendment, the term "current liability" means all liabilities to employees and their beneficiaries under the plan (as determined under sec. 401(a)(2)). However, the value of any "unpredictable contingent event benefit" is not taken into account in determining current liability until the event on which the benefit is contingent occurs. An "unpredictable contingent event benefit" is any benefit contingent on an event other than (1) age, service, compensation, death, or disability, or (2) an event which is reasonably and reliably predictable as determined by the Secretary.

It is not intended that an event will be considered reliably and reasonably predictable solely because an actuarial probability of the event occurring may be determined. It is further intended that the Secretary of the Treasury will prescribe rules defining events that can and cannot be reasonably and reliably predicted and will revise these rules as new benefits are developed.

Unpredictable contingent event benefits are intended to include benefits that depend on contingencies that, like facility shutdowns or reductions or contractions in workforce, are not reliably and reasonably predictable. Such contingencies are not limited to events that are similar to shutdowns or reductions in force. For example, a benefit dependent on the profits of the employer or the value of employer stock dropping below a certain level would be considered a benefit contingent on an event that is not reasonably and reliably predictable (unless the contingency is illusory).

If an employer provides an early retirement window benefit under which employees who have satisfied certain age or service requirements or both are offered a limited period of time during which they may elect to retire, such a window benefit is generally considered to be contingent on an event that can be reasonably and reliably predicted. The Secretary of the Treasury may, in appropriate circumstances, treat such window benefits as benefits which are contingent on an event that cannot be reasonably and reliably predicted.

It is intended that a benefit contingent on marital status, such as a qualified joint and survivor annuity, is generally to be considered a benefit that is contingent on an event that can be reasonably and reliably predicted.

It is intended that the Secretary of the Treasury may prescribe rules to prevent employers from avoiding the new minimum funding rules by characterizing contingencies as not reasonably and reliably predictable. For purposes of the definition of current liability, a benefit is generally not to be considered contingent on an event which is not reasonably and reliably predictable if there is substantial certainty that the event on which the benefit depends will occur.

An early retirement subsidy, social security supplement, survivor subsidy or similar benefit in addition to the basic retirement benefit under a plan that is payable only on the satisfaction of certain eligibility conditions, (e.g., age and/or years of service eligibility conditions) is included in current liability to the extent that the employee has earned the subsidy, supplement, or similar benefit.

For example, assume that a plan provides that an employee is entitled to a basic retirement benefit commencing at age 65 of 1 percent of final average pay times years of service and that, if the employee retires at age 55 with at least 25 years of service, the employee's retirement benefit will not be actuarially reduced for early commencement (i.e., this is an early retirement subsidy). For purposes of calculating the current liability for such plan for a year, an employee age 50 with 20 years of service has a total retirement benefit (i.e., normal retirement benefit plus early retirement subsidy) of 80 percent of the unreduced age 55 benefit (based on final average pay at age 50). That is, there is no actuarial reduction for commencement before age 65. The same analysis applies in determining the extent to which a social security supplement, survivor subsidy, or similar benefit has been earned under the plan.

Current liability is generally determined in accordance with plan assumptions. Thus, in the example described above, because not all employees who have earned a right to some portion of the early retirement benefit will ultimately satisfy the eligibility conditions for the subsidy (e.g., not all such employees will remain with the employer until age 55), a plan is to calculate its current liability for the year by using reasonable turnover and mortality factors.

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[6] U.S. General Accounting Office, *Pension Plans: Government Insurance Program Threatened By Its Growing Deficit* (GAO/HRD-87-42).

The amendment provides a special limitation on the interest rate used for purposes of calculating current liability. Under the amendment, the interest rate is the rate used for calculating costs under the plan. If such rate is not within the permissible range, then the plan is required to establish a new interest rate that is within the permissible range. The permissible range is defined as a rate of interest that is not more than 20 percent above or below the average mid-term applicable Federal rate (AFR) for the 3-year period ending on the last day before the beginning of the plan year for which the interest rate is being used (or, if shorter, the period that the AFR has been computed). The average is determined by averaging the rate in effect for each month during the applicable 3-year period. The Secretary may prescribe one or more indices in lieu of the average mid-term AFR to be used in determining the permissible range.

The amendment provides that certain service may be disregarded at the employer's election in calculating the plan's current liability. In the case of certain participants, the applicable percentage of the years of service before the individual became a participant are taken into account in determining current liability. The applicable percentage is (1) 0, if the individual has 5 or less years of participation, (2) 20, if the individual has 6 years of participation, (3) 40, if the individual has 7 years of participation, (4) 60, if the individual has 8 years of participation, (5) 80, if the individual has 9 years of participation, and (6) 100 if the individual has 10 or more years of participation. Partial years of participation are rounded to the nearest whole year.

The rule disregarding pre-participation service is available with respect to any participant who, at the time of becoming a participant, has not accrued any other benefits under any defined benefit pension plan (whether or not terminated) of the employer or the employer's controlled group, and has years of service before such time in excess of the years of service required for eligibility to participate in the plan. The rule applies only with respect to new participants in years beginning after December 31, 1987.

The amendment provides that unfunded current liability means, with respect to any plan year, the excess of (1) the current liability under the plan over (2) the value of the plan's assets reduced by any credit balance in the funding standard account. The funded current liability percentage of a plan for a plan year is the percentage that (1) the value of the plan's assets reduced by any credit balance in the funding standard account is of (2) the current liability under the plan.

Unfunded old liability amount.—The unfunded old liability amount is, in general, the amount necessary to amortize the unfunded old liability under the plan in equal annual installments (until fully amortized) over a fixed period of 15 plan years (beginning with the first plan year beginning after December 31, 1988). The "unfunded old liability" with respect to a plan is the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1987, determined without regard to any plan amendment adopted after October 16, 1987, that increases plan liabilities (other than amendments adopted pursuant to collective bargaining agreements described in the following paragraph).

Under a special rule applicable to collectively bargained plans, increases in liabilities pursuant to a collective bargaining agreement ratified before October 17, 1987, are also amortized over 15 years. Thus, under the amendment, the unfunded old liability amount with respect to a collectively bargained plan is increased by the amount necessary to amortize the unfunded existing benefit increase liabilities in equal annual installments over a fixed period of 15 plan years, beginning with the plan year in which the increase in liabilities occurs pursuant to the bargaining agreement (or, if later, the first plan year beginning after December 31, 1988). For purposes of this rule, the unfunded existing benefit increase liability means the unfunded current liability determined by taking into account only (1) liabilities attributable to the increase in liabilities pursuant to the agreement, and (2) the value of assets in excess of current liability (determined without regard to the liabilities described in (1)).

The employer may elect to amortize unfunded existing benefit increase liability under an alternative rule instead of the rule described above. Under the alternative rule, the increases in liabilities under the collective bargaining agreement would be calculated as of the beginning of the first plan year beginning after December 31, 1987. This amount would be included in calculating the initial unfunded old liability and, together with any other unfunded old liability, would be amortized over 15 years (beginning with the first plan year beginning after December 31, 1988).

For purposes of determining the unfunded existing benefit increase liability, any extension, amendment, or other modification of a bargaining agreement after October 16, 1987, is not taken into account. In general, the unfunded existing benefit increase liability only includes increases in liability pursuant to the bargaining agreement and therefore does not include liability increases with respect to individuals covered by the plan who are not subject to the collective bargaining agreement. However, if more than 75 percent of the employees covered by the plan on October 16, 1987, are subject to the collective bargaining agreement, then the unfunded existing benefit increase liability includes the liability with respect to all employees in the plan whose benefits are determined directly or indirectly by reference to the terms of the bargaining agreement, whether or not such employees are subject to the agreement. Separate plans may not be treated as a single plan for purposes of this rule, even if the benefits under the plans are coordinated.

For example, assume a benefit increase under a collective bargaining agreement ratified before October 17, 1987, takes effect on January 1, 1990, and that the liability due to the benefit increase is $10x. The current liability of the plan determined without regard to the benefit increase is $100x, and the value of plan assets is $105x. The plan year is the calendar year. The unfunded existing benefit increase liability is $5x. This amount will be amortized over 15 years beginning in 1990.

Alternatively, instead of amortizing the benefit increase as described above, the employer could elect to add the liability due to the increase (calculated as of January 1, 1988) to the unfunded old liability (determined without regard to the benefit increase) and amortize the entire amount over 15 years beginning in 1989.

Unfunded new liability amount.—The unfunded new liability amount for a year is the applicable percentage of the plan's "unfunded new liability." "Unfunded new liability" means the unfunded current liability of the plan for the plan year, determined without regard to (1) the unamortized portion of the unfunded old liability and (2) the liability with respect to any unpredictable contingent event benefits, without regard to whether or not the event has occurred. Thus, in calculating the unfunded new liability, all unpredictable contingent event benefits are disregarded, even if the event on which that benefit is contingent has occurred.

If the funded current liability percentage is less than 35 percent, then the applicable percentage is 30 percent. The applicable percentage decreases by .25 of one percentage point for each 1 percentage point by which the plan's funded current liability percentage exceeds 35 percent. For example, if the funded current liability percentage is 55 percent, then the applicable percentage is 25 percent, and the unfunded new liability amount for the plan year is 25 percent of the unfunded new liability. Similarly, if the funded current liability percentage is 80, then the applicable percentage is 18.75 and the unfunded new liability amount for the plan year is 18.75 percent of the unfunded new liability.

Unpredictable contingent event benefits

If the event on which an unpredictable contingent event benefit is contingent occurs during the plan year and the assets of the plan are less than current liability (calculated after the event has occurred), then an additional funding contribution (over and above the minimum funding contribution otherwise due) is required. The amount of the required additional contribution is generally equal to the greater of (1) the amount of unpredictable contingent event benefits paid during the plan year (regardless of the form in which paid), including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract with respect to a participant with respect to such benefits, and (2) the amount that would be determined for the year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 years, beginning with the plan year in which the event occurs. For the year in which the event occurs, an amount equal to 150 percent of the amount determined under (1) above may, at the employer's election, be treated as the unpredictable contingent benefit amount. In no case, however, will the unpredictable contingent event amount exceed the unfunded current liability (including the liability due to the contingent event benefit) of the plan.

If the event on which an unpredictable contingent event benefit is contingent occurs during the plan year and the assets of the plan equal or exceed current liability (calculated after the event has occurred), then the employer may continue to fund the plan's unpredictable contingent event benefits as under present law (i.e., generally as an experience loss), subject to the application of the special rule if the plan's funding falls below current liability.

Adjustments

The Secretary of the Treasury is to prescribe appropriate adjustments in the unpredictable contingent event amount, the old liability amount, the new liability amount, and the other charges and credits under section 412 as are necessary to avoid inappropriate duplication or omission of any factors in the determination of such amounts, charges and credits (for example, adjustments reflecting asset appreciation or depreciation).

It is also intended that the Secretary will provide special rules for multiple-employer plans where appropriate.

Small plan exception

The new funding rules for plans with assets less than current liability do not apply to a plan with no more than 100 participants on any day in the preceding plan year. In the case of a plan with more than 100 but no more than 150 participants during the preceding year, the amount of the additional contribution is determined by multiplying the otherwise required additional contribution by 2 percent for each participant in excess of 100. For purposes of this rule, all defined benefit plans (including multiemployer plans) of the employer and the employer's controlled group are treated as a single plan. Controlled group is defined as in section 414(b), (c), (m) and (o). With respect to a multiemployer plan, only employees of the employer (or a controlled group member) are taken into account.

Valuation regulations

The amendment provides that, effective with respect to plan years beginning after December 31, 1987, the portions of the regulations permitting asset valuations to be based on a range between 85 percent and 115 percent of average value are to have no force and effect. In addition, the amendment provides that the Secretary of the Treasury is to amend the regulations to carry out the intent of this provision.

Effective Dates

In general, the changes in the minimum funding requirements for defined benefit pension plans apply with respect to plan years beginning after December 31, 1988.

Contingent event benefits with respect to which the event has occurred before October 17, 1987, are not subject to the new funding rule for such benefits. If the event has not occurred on or before October 16, 1987, such benefits are subject to the new funding rules for such benefits. If the event occurs after October 16, 1987, and before the first day of the first plan year beginning after December 31, 1988, funding under the new rule begins in such first plan year. Of course, for the first plan year beginning after December 31, 1987, contingent event benefits are subject to the new rules regarding gain and losses.

With respect to provisions that cross reference the definition of "current liability," the definition is effective at the time the provision cross referencing it is effective.

b. Time for making contributions (sec. 4553 of the bill)

Present Law

Under present law, an employer is treated as making a contribution that satisfies its minimum funding requirement for a plan year if the contribution is made within 8½ months after the close of the plan year. Of that 8½ month grace period for making plan contributions, 6 months were provided under Treasury regulations.

Reasons for Change

In light of the GAO report, it is believed that it is not appropriate to permit employers to make no contributions until 8½ months following the end of the plan year. The GAO report found that a significant amount of claims against the PBGC occurred when plan contributions for a year were not made because their payment deadline expired after the date of plan termination.

Further, it is believed that requiring quarterly plan contributions could provide an early warning to the PBGC, the IRS, and to plan participants of possible employer difficulty in meeting its funding obligations. Such an approach is consistent with other tax laws, such as those requiring withholding taxes and estimated tax payments to be made on a quarterly basis. Because the amendment requires that a significant portion of the year's contribution be made in installments during the plan year, it is believed that that it is not necessary to accelerate the 8½ month period for making the final plan contribution.

In addition, there is concern that, under present law, employees do not receive adequate information relating to the funded status of a plan maintained by the employer. As a result, employees may make retirement planning decisions without knowledge of the risk that they will not receive their promised benefits under the employer-maintained plan. Accordingly, it is believed that employees should be aware of whether or not the employer is making required contributions to the plan so that each employee may assess the risk that the employer's plan will not have sufficient assets to pay benefits when due.

In order to ensure that contributions are actually paid to the plan, it is also believed that it is appropriate to provide for a lien in favor of the plan if contributions are missed.

Explanation of Provisions

Quarterly payments of estimated required contribution

Under the amendment, 4 installment payments of minimum funding contributions are required for each plan year. The due dates of these 4 required installments are, in the case of a calendar year plan year, April 15, July 15, October 15, and January 15 of the following year. The amount of each required installment is 25 percent of the required annual payment.

The amendment defines the required annual payment to be the lesser of (1) 90 percent of the amount the employer is required to contribute for the plan year under the minimum funding requirements (other than the unpredictable contingent event amount) or (2) 100 percent of the amount the employer was required to contribute for the preceding plan year (other than the unpredictable contingent event amount) with respect to the plan and any predecessor plans. The second rule does not apply if the preceding plan year was less than 12 months. The unpredictable contingent event amount is required to be contributed in addition to the installment contributions otherwise due. Thus, for example, if the unpredictable contingent event amount for a quarter is equal to the amount of payments of unpredictable contingent event benefits, such amount is required to be contributed at the same time and in addition to the otherwise required next quarterly installment.

In the case of a plan year that is not a calendar year, the due dates of the required installments are (1) the 15th day of the 4th month, (2) the 15th day of the 7th month, and (3) the 15th day of the 10th month following the beginning of the plan year, and (4) the 15th day of the 1st month following the beginning of the following plan year. Under the amendment, the due dates of required installments in the case of a short plan year are to be determined under Treasury regulations.

If a required installment is not paid to the plan by the due date for the installment the funding standard account is charged with interest on the amount of the underpayment for the period of the underpayment. The amount of the underpayment is determined by subtracting the installment payments made on or before the due date of the installment from the required installment.

The period of the underpayment is the period from the due date of the installment to the earlier of (1) the contribution due date for the plan year (i.e., 8½ months following the end of the plan year), or (2) with respect to any portion of an underpayment, the date on which the portion is contributed to the plan. Contributions are credited first to the underpayments arising first.

The rate of interest is the greater of 175 percent of the Federal mid-term rate (AFR) or the rate of interest used under the plan in determining costs.

Notice of failure to meet minimum funding standards

The amendments requires that the employer is to notify participants and beneficiaries if the employer fails to make a required installment or fails to make the final contribution (i.e., the contribution required by 8½ months following the end of the plan year). It is expected that the Secretary will prescribe special notice rules in the case of multiple employer plans targetting the notice to participants and beneficiaries with respect to the employer failing to make the required contribution.

Imposition of lien

If the employer fails to make a required contribution (including a required installment payment) when due, a lien arises in favor of the plan in the amount of the missed contribution (including interest). The lien is on all property and rights to property, whether real or personal, belonging to the contributing sponsor and members of the controlled group of the contributing sponsor. The lien generally arises 30 days after the due date of the contribution, and continues until the payment of such contribution (including interest). However, if a timely request for a funding waiver is made with respect to the contribution, then the lien does not arise until the day after the waiver is denied. No lien arises if the waiver is granted. The employer is required to notify the PBGC of any failure to make a required contribution within 10 days after the due date of the contribution.

If the employer fails to make successive contributions, the lien previously in existence under this provision does not terminate. Rather, the provision operates with respect to each successive missed contribution.

The lien may be perfected and enforced only by the PBGC or, at the direction of the PBGC, by the contributing sponsor or any member of the controlled group of the contributing sponsor. Rules similar to the rules in section 4068 (c), (d), and (e) of ERISA apply with respect to the lien and the amount on which the lien is based. A perfected lien is treated as a Federal tax lien, and an unperfected lien is treated as a Federal tax claim.

Effective Dates

The provisions are effective for plan years beginning after December 31, 1987. Under a transition rule, the amount of each required installment payment (other than payments of the unpredictable contingent event amount) is (1) 5 percent for plan years be-

ginning in 1988, (2) 10 percent for plan years beginning in 1989, (3) 15 percent for plan years beginning in 1990, and (4) 20 percent for plan years beginning in 1991.

c. Liability of members of controlled group for taxes on failure to meet minimum funding standards (sec. 4554 of the bill)

Present Law

If, as of the close of any plan year, the minimum required contribution has not been made and charges to the funding standard account exceed credits to the account, then the excess is referred to as an "accumulated funding deficiency." Unless a minimum funding waiver is obtained, an employer who is responsible for contributing to a plan with an accumulated funding deficiency is subject to a 5-percent nondeductible excise tax on the amount of the deficiency (Code sec. 4971). If the deficiency is not corrected within the "taxable period," then an employer who is responsible for contributing to the plan is also subject to a nondeductible excise tax equal to 100 percent of the deficiency. The taxable period is the period beginning with the end of the plan year in which there is a deficiency and ending on the earlier of (1) the date of a mailing of a notice of deficiency with respect to the 5-percent tax or (2) the date on which the 5-percent tax is assessed by the Internal Revenue Service (IRS).

The excise taxes imposed for a failure to meet the funding requirements applicable to a plan are imposed only on an employer who is responsible for contributing to the particular plan in which the deficiency arises. Another taxpayer that is a member of the same controlled group of corporations or trades or businesses as the employer is not liable for a funding deficiency unless the other taxpayer is also responsible for contributing to that plan. Under proposed regulations, the entire controlled group would be liable for any excise taxes imposed for a failure by a member of the group to satisfy the minimum funding requirements.

Reasons for Change

It is believed that the present-law rules relating to the liability to make contributions to a pension plan enable an employer that is a member of a controlled group to avoid its liabilities when it is unable to make a required contribution even though other members of the employer's controlled group have sufficient assets to make the employer's required contribution. The failure to impose liability for the contributions on a controlled group basis increases the potential risk to plan participants and the PBGC.

In addition, in light of the GAO report, it is believed that increases in the taxes for failure to make contributions are needed to help ensure that contributions are made when due.

Explanation of Provision

Under the amendment, as under present law, the employer who maintains a pension plan is liable for any excise taxes imposed for a failure to meet the minimum funding standards (Code sec. 4971). In addition, if the employer is a member of a controlled group, each member of the employer's controlled group is jointly and severally liable for such excise taxes.

Under the amendment, a controlled group is any group of employers treated as a single employer under section 414(b), (c), (m), or (o).

The amendment also increases the amount of the first-tier excise tax from 5 percent to 10 percent.

Effective Date

The provision is effective for taxes imposed with respect to plan years beginning after December 31, 1987.

d. Funding waivers (sec. 4555 of the bill)

Present Law

Within limits, the IRS is permitted under present law to waive all or a portion of the contributions required under the minimum funding standard for a plan year. Generally, the IRS has required that a request for a waiver be submitted by the end of the plan year following the plan year for which the waiver is requested. A waiver may be granted if the employer (or employers) responsible for the contribution could not make the required contribution without substantial business hardship and failure to grant the waiver would be adverse to the interests of plan participants in the aggregate. The IRS generally takes the position that a waiver will not be granted unless the hardship is temporary and the employer demonstrates that recovery is likely. Under present law, an employer is required to notify each employee organization representing employees covered by the plan of an application for a funding waiver. No more than 5 waivers may be granted within any period of 15 consecutive plan years.

A waived contribution is a waived funding deficiency. Under the funding standard, the amount of a waived funding deficiency is amortized over a period of 15 plan years, beginning with the year following the year for which the waiver is granted. Each year, the funding standard account is charged with the amount amortized for that year unless the plan becomes fully funded. Interest on the waived amount is equal to the rate applicable to late payment of taxes (Code sec. 6621(b)). The IRS generally allows deductions for contributions made to amortize waived deficiencies more quickly than over 15 years. (See, e.g., Rev. Rul. 78-223, 1978-1 C.B. 125.)

Reasons for Change

It is believed that employers have used funding waivers in the past to minimize plan contributions during the period immediately preceding the termination of a plan. The GAO report found that 30 percent of the claims against the PBGC arising during the period 1983-1985 resulted from the failure of employers to make required plan contributions prior to plan termination. The GAO concluded that significant percentages of the large claims represented required contributions that were overdue or had been waived by the IRS.

Under present law, funding waivers are equivalent to an extension of credit from a plan to the employer that normally would be treated as a prohibited transaction. It is believed that such an extension of credit is not appropriate unless adequate safeguards apply to protect participants' benefits. Plan participants should not be required to finance the continuing operations of an employer by placing their retirement benefits at risk.

Further, it is believed that the integrity of the plan termination insurance program will be jeopardized if employers have the opportunity to avoid liability for their pension promises at the expense of other employers who moderated their promises or are more financially secure and remain in the defined benefit system.

Explanation of Provision

The amendment modifies the rules governing the availability of minimum funding waivers in several respects. Under the amendment, a waiver application is required to be filed no later than the due date for the contribution (including required installments). Thus, a waiver for a quarterly installment must be made by the due date for the installment.

The standards for obtaining a waiver are clarified by incorporating in the statute the present-law requirement that the employer seeking a waiver is required to establish that the financial hardship is temporary. The IRS is directed to apply the temporary hardship standard to prevent the granting of funding waivers to employers that will not recover sufficiently to make their waived contributions. Because all members of the controlled group of the employer maintaining the plan are liable for excise taxes under the minimum funding rules, the hardship determination is based, under the amendment, upon the circumstances of the entire controlled group, as well as the circumstances of the particular employer.

In order to make funding waivers more equivalent to commercial loans, the amendment provides that the interest rate on waived contributions for purposes of determining the amortization charge for waived amounts is increased from the interest rate applicable to the late payment of taxes to the greater of the plan's interest rate for funding purposes or 150 percent of the Federal mid-term rate (as in effect under sec. 1274 for the first month of the plan year). The interest rate based on the Federal mid-term rate is intended to be an administrable measure of a market interest rate for borrowing by a distressed company.

To protect plans against protracted periods of serious underfunding and serious deterioration of the funded status of the plan, the amendment provides that a funding waiver may not be granted with respect to a plan that has assets less than current liability. The determination of whether a plan has assets less than current liability is to be made at the beginning of the plan year or at such other time as determined by the Secretary.

In addition, the amendment reduces the number of waivers that may be granted with respect to any plan within a 15-year period from 5 to 3. A single waiver request may be made with respect to all quarterly contributions for a year and the final required contribution.

It is not intended that the amendment will affect the administrative practice of the IRS under which deductions are allowed for contributions that amortize waived funding deficiencies more rapidly than the required amortization.

Effective Dates

The provision relating to funding waivers is effective with respect to any application for a funding waiver submitted with respect to plan years beginning after December 31, 1987. With respect to the rule restricting the number of waivers in a 15-year period, waivers granted prior to the effective date are taken into account.

e. Amortization periods (sec. 4556(a) of the bill)

Present Law

In determining plan funding under an actuarial cost method, a plan's actuary generally makes certain assumptions regarding the future experience of a plan. These assumptions typically involve rates of interest, mortality, disability, salary increases, and other factors affecting the value of assets

and liabilities. The actuarial assumptions are required to be reasonable in the aggregate. If, on the basis of these assumptions, the contributions made to the plan result in actual unfunded liabilities that are less than anticipated by the actuary, then the excess is an experience gain. If the actual unfunded liabilities are greater than those anticipated, then the difference is an experience loss. For a single-employer plan, experience gains and losses for a year are amortized over a 15-year period.

If the actuarial assumptions used for funding a plan are revised and, under the new assumptions, the liability of a plan is less than the liability computed under the previous assumptions, the decrease is a gain from changes in actuarial assumptions. If the new assumptions result in an increase in the liability, the plan has a loss from changes in actuarial assumptions. The gain or loss for a year from changes in actuarial assumptions is amortized over a period of 30 plan years.

Reasons for Change

It is believed that the present-law amortization period for experience gains and losses delays unnecessarily the reconciliation of actual experience and actuarial assumptions. The present-law amortization period for experience losses contributes to underfunding and thereby undermines benefit security and increases the risk of loss to the PBGC. The present-law amortization period for experience gains similarly contributes to inappropriate overfunding because such gains are taken into account over a long period.

Similarly, it is believed that the present-law amortization period for gains and losses resulting from changes in actuarial assumptions delays unnecessarily the reconciliation of the old assumptions with the new assumptions. In addition, the lengthy amortization period provided under current law may contribute to undue manipulation of plan assumptions.

Explanation of Provision

Under the amendment, the period for amortizing experience gains and losses is reduced to 5 years from 15 years. The period for amortizing gains and losses from changes in assumptions is reduced to 5 years from 30 years.

Effective Date

The provision is effective for gains and losses arising in plan years beginning after December 31, 1987. The amendment does not affect the amortization period applicable to gains and losses arising in plan years beginning before January 1, 1988.

f. Actuarial assumptions must be reasonable (sec. 4556(b) of the bill)

Present Law

Under present law, the actuarial assumptions used to determine costs, liabilities, interest rates, and other factors under a plan are required to be reasonable in the aggregate. Present law does not require any individual actuarial assumption to be reasonable.

Reasons for Change

The present-law rule for actuarial assumptions presents significant compliance problems for the IRS. It is substantially more difficult for the IRS to establish that a plan's funding is determined on the basis of actuarial assumptions that are, in the aggregate, unreasonable than to challenge any individual assumption.

It is believed that these administrative problems reduce the ability of the IRS to require an employer to make plan contributions necessary to meet the plan's benefit obligations.

In addition, some employers who wish to maximize their tax deferral or obtain a larger tax deduction in a particular year use unrealistic actuarial assumptions (such as an extremely low interest rate assumption) in order to generate larger plan contributions and deductions. The inability of the IRS to challenge individual actuarial assumptions makes it more likely that employers who want to manipulate the present-law rules may do so.

Explanation of Provision

The amendment modifies the standard for actuarial assumptions to require that all costs, liabilities, interest rates, and other factors are to be determined on the basis of actuarial assumptions and methods (1) each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or (2) which result, in the aggregate, in a total plan contribution equivalent to the contribution that would be obtained if each assumption were reasonable. Under the amendment, as under present law, the costs, etc., are required to represent the plan actuary's best estimate of anticipated experience under the plan. It is intended that the taxpayer has the burden of demonstrating that each actuarial assumption is reasonable and, if each actuarial assumption is not reasonable, that the assumptions in the aggregate result in a total contribution equivalent to the contribution that would be obtained if each assumption were reasonable.

Effective Date

The provisions are effective for plan years beginning after December 31, 1987.

g. Limitation on deduction for contributions to certain plans not less than unfunded current liability (sec. 4556(c) of the bill)

Present Law

Under present law, an employer may deduct contributions to a pension plan, within limits. In the case of a defined benefit pension plan, an employer's contributions to a plan may not be deductible even though the sum of the contributions plus the plan assets do not exceed the plan's current liability for the plan year.

Reasons for Change

Under the amendment, underfunded plans are subject to an exposure-related PBGC premium based on the amount of underfunding as a function of current liability. It is believed that it would be unfair to impose the exposure-related premium if the employer is willing to fund the plan up to the level of current liability.

Explanation of Provision

The amendment provides that the maximum deduction limit for contributions to certain defined benefit pension plans for a plan year is not to be less than the unfunded current liability for the plan. Current liability is determined as under the minimum funding rules. Thus, if the employer elects to take pre-participation service into account in calculating current liability under the minimum funding rules, such service is also taken into account in calculating current liability for purposes of this deduction rule. Except as provided by the Secretary, contributions to a defined benefit pension plan are deductible under this rule if the plan has 100 or more participants during the plan year. For purposes of the 100-participant rule, all defined benefit plans (including multiemployer plans) maintained by the same employer or any member of such employer's controlled group are to be treated as a single plan. With respect to multiemployer plans, only employees of the employer (or controlled group member) are taken into account.

Effective Date

The provision is effective for years beginning after December 31, 1987.

3. Treatment of Plan Terminations (secs. 4557-4559 of the bill)

Present Law

Law before 1986

Prior to 1986, an employer could, subject to contractual obligations, terminate a single-employer defined benefit pension plan at any time without regard to the financial health of the employer and without regard to the level of assets in the plan. If a terminated single-employer plan had assets that were sufficient to pay benefits at the level guaranteed by the PBGC, the plan was required to pay those benefits to participants and beneficiaries, and the employer had no liability to the PBGC. If a single-employer plan was terminated with assets insufficient to pay benefits at the level guaranteed by the PBGC, the PBGC would pay unfunded guaranteed benefits. The employer was then liable to the PBGC for the insufficiency or for an amount equal to 30 percent of the employer's net worth, if less. The employer had no further liability to plan participants and beneficiaries.

SEPPAA

The Single Employer Pension Plan Amendments Act (SEPPAA), enacted in 1986, substantially modified the rules relating to the termination of single-employer defined benefit pension plans. Under SEPPAA, the conditions under which an employer may voluntarily terminate a plan were revised and an employer's liability to plan participants and the PBGC was increased in the case of a termination of an underfunded plan.

Guaranteed benefits

Subject to limits, the PGBC guarantees basic benefits under a plan. Basic benefits consist of nonforfeitable retirement benefits other than those benefits that become nonforfeitable solely on account of the termination of the plan, ERISA set the maximum guaranteeable benefit at $750 per month in 1974, to be adjusted annually based on the Social Security wage and benefit base. The maximum monthly amount for 1987 is $1,857.95.

Guarantees do not apply with respect to benefits in effect for fewer than 60 months at the time of plan termination unless the PGBC finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of securing increased guaranteed benefits for participants. In cases in which they apply, guarantees are phased in at the rate of $20 per month or 20 percent per year, whichever is greater, for (1) basic benefits that have been in effect for less than 60 months at the time that the plan terminates, or (2) any increase in the amount of basic benefits under a plan resulting from a plan amendment within 60 months before the date of plan termination.

Standard terminations

After SEPPAA, a single-employer defined benefit pension plan may be voluntarily terminated only in a standard termination or in a distress termination. A plan may be terminated in a standard termination only if it has sufficient assets to pay all benefit commitments under the plan. Benefit commitments are greater than guaranteed benefits, and include all benefits guaranteed by the PBGC and all benefits that would be guaranteed but for the dollar limit on the guarantee or the length of time the benefit has been in existence (the phase-in rule). In addition, benefit commitments include early retirement supplements or subsidies and plant closing benefits with respect to participants who have satisfied all conditions for entitlement prior to termination, without regard to whether such benefits are guaranteed.

Benefit commitments are less than plan termination liability. Termination liability represents all benefits that have been promised under the plan up to the date of plan termination, and consists of all fixed and contingent liabilities to plan participants and beneficiaries. Benefit commitments can be significantly less than termination liability. For example, benefit commitments do not include benefits that vest solely due to plan termination or contingent benefits (such as early retirement benefits) for which the participant has not satisfied all conditions for entitlement prior to termination; these benefits are, however, included in termination liability.

If a plan is terminated in a standard termination so that the plan assets are sufficient to satisfy benefit commitments, then the employer has no further liability to plan participants, even if the plan is not sufficiently funded to meet termination liabilities.

Distress terminations

A plan with assets insufficient to provide benefit commitments may be terminated in a distress termination only if the PBGC determines that each contributing sponsor and each substantial member of the contributing sponsors' controlled group satisfies at least 1 of 4 distress standards established by SEPPAA. An entity is a contributing sponsor if it (1) is responsible for funding the plan or (2) is a member of the controlled group of an entity that is responsible for funding, has been responsible for funding the plan, and has employed a significant number of participants under the plan while it was so responsible. The term "controlled group" means a group of entities under common control. A "substantial member" of a controlled group is generally any entity whose assets comprise at least 5 percent of the assets of the controlled group.

In order to terminate a plan in a distress termination, a plan administrator is required to demonstrate that each contributing sponsor and each substantial member of each contributing sponsor's controlled group meets one of the following criteria: (1) a petition in bankruptcy or a State insolvency proceeding has been filed seeking liquidation of the entity and the petition has not been dismissed; (2) a petition in bankruptcy or a State insolvency proceeding has been filed seeking reorganization of the entity (or a case described in (1) has been converted to a reorganization), the petition has not been dismissed, and the bankruptcy court has approved the plan termination; (3) unless a distress termination occurs, the entity will be unable to pay its debts when due and will be unable to continue in business; or (4) with respect to the entity, the costs of providing pension coverage have become unreasonably burdensome, solely as a result of a decline in the workforce covered as participants under single-employer defined benefit pension plans of which the entity is a contributing sponsor.

In a distress termination, if there are benefit commitments in excess of PBGC-guaranteed benefits that cannot be paid out of current plan assets ("outstanding benefit commitments"), then the PBGC is required to appoint an independent fiduciary with respect to a special termination trust maintained for the benefit of participants. Each contributing sponsor of the plan and each member of the controlled group of a contributing sponsor is jointly and severally liable to the termination trust for the lesser of (1) 75 percent of the outstanding benefit commitments, or (2) 15 percent of the total benefit commitments.

In general, payment of liability by a contributing sponsor to a termination trust is to be made under commercially reasonable terms, with deferrals of certain amounts in years in which no person liable for the payment has pre-tax profits. Such deferred amounts are only payable after similar deferrals with respect to liability to the PBGC have been paid in full. However, there is no assurance that amounts will not be paid to plan participants before the employer's full liability to the PBGC has been discharged.

In a distress termination, if the plan assets are insufficient to fund guaranteed benefits, each contributing sponsor and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the outstanding balance of any accumulated funding deficiency, and (2) the balance of the amount of any waived funding deficiencies. The full amount of a contributing sponsor's liability to the PBGC is due and payable as of the date of plan termination.

In addition, upon the termination of a plan pursuant to a distress termination, each contributing sponsor of the plan and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the total amount of all unfunded guaranteed benefits, up to 30 percent of the collective net worth of the entities that are liable, (2) the excess of 75 percent of the unfunded guaranteed benefits over 30 percent of the collective net worth of the entities that are liable, and (3) interest on such amounts from the date of termination. Payment of this liability is generally to be made based on commercially reasonable terms, with deferrals of certain amounts in years in which the liable entities have no pre-tax profits.

The rules described above apply without regard to whether the employer or any member of the controlled group also maintains one or more plans that have assets in excess of termination liabilities.

PBGC claims in bankruptcy

Under present law, up to the 30-percent of net worth limit, the PBGC's claim has the priority status of a Federal tax for bankruptcy purposes. The remainder of the PBC's claim generally has a lower priority status, that of an unsecured claim.

Termination by PBGC

The PBGC is authorized to commence proceedings to terminate a plan under certain circumstances and is required to do so if the plan does not have assets available to pay benefits that are currently due under the terms of the plan.

Reasons for Change

Standards for termination

The SEPPAA distress termination standards still permit ongoing, healthy companies to shift liabilities to the PBGC. Under SEPPAA, an employer in financial distress may terminate an underfunded plan pursuant to a reorganization while operating at a profit following the reorganization. This ability may also create a competitive disadvantage for other companies in the same industry that have not reorganized and have not reduced their liabilities. It is believed that a distress termination should not be available in these circumstances.

Lien rules

While eliminating a reorganization as a condition permitting a distress termination, it is believed that it is appropriate to add safeguards to protect the PBGC's and participants' interest in a reorganization or other bankruptcy proceeding.

The GAO Report stated that, as of January 1986, the PBGC had recovered or expected to recover only 14 percent of its total claims in 1983-1985. The report concluded that this low recovery was due to 2 factors. First, recovery was low because the 30 percent of net worth limit on employer liability prevented the PBGC from recovering the full amount of guaranteed benefits. Second, the PBGC claim has priority status in bankruptcy only up to the 30 percent of net worth limit. Because most claims for due but unpaid contributions exceed this limit, they (with limited exceptions) have a low priority in bankruptcy, that of an unsecured claim. Contributions that were due but unpaid as of the termination were the cause of 30 percent of the PBGC's claims in 1983-1985.

The GAO report concluded that increasing liability to the PBGC would improve the recovery rate, but would not be sufficient to reduce the potential liability of the PBGC. According to the report, a major problem continues to be the low priority of PBGC claims in bankruptcy. SEPPAA increased the ability of the PBGC to secure its claim by requiring security in the case of certain funding waivers. Even if SEPPAA had been in effect with respect to the claims on the PBGC during 1983-1985, however, the GAO found that only 4 percent of the total claims for the period could have been secured by the PBGC. The report recommended that the priority of PBGC claims in bankruptcy be increased.

It is believed that appropriate measures are necessary in order to better protect the PBGC and plan participants in the case of bankruptcy. Accordingly, the amendment provides that the plan is entitled to security in certain cases in which there is risk of loss to the PBGC or plan participants.

Employer liability

Present law places limits on the liability of the employer to plan participants and the PBGC. Under present law, plan participants may lose their right to pension benefits if a plan is terminated with assets less than termination liability because the employer is not fully liable for unfunded benefits and because the PBGC has no liability for benefits in excess of guaranteed benefits. Similarly, if a plan terminates with assets less than guaranteed benefits, the PBGC may not be made whole with respect to the benefits it pays participants because the employer is not fully liable to the PBGC for unfunded guaranteed benefits.

The limits to employer liability under present law may also adversely affect the funding of plans because certain employers have insufficient incentive to fund a plan in excess of the level of benefit commitments. This disincentive may increase the likelihood that participants will not receive their full pension benefits and that the PBGC will have to provide unfunded guaranteed benefits.

In order to encourage employers to fund promised benefits, ensure that plan participants receive promised benefits, and ensure that the PBGC is made whole with respect to guaranteed benefits it pays, it is believed that employers should be fully liable for their pension promises.

Explanation of Provisions

Employer liability

Under the amendment, the required plan asset level for a standard termination is increased from the present-law requirement of benefit commitments to the full level of the plan's termination liability to participants. As under present law, the plan's termination liability is all liabilities to employees and their beneficiaries under the plan, and includes all fixed and contingent benefits that would be provided if the plan had sufficient assets (Code sec. 401(a)(2)). Of course, such liability is to be determined without regard to the level of plan assets.

Under the amendment, a defined benefit pension plan with assets insufficient to provide its termination liability to participants is unable to terminate unless the employer (and controlled group) can satisfy the criteria for a distress termination. Following a distress termination, the employer's (and controlled group's) liability to participants is increased from the present-law percentage of benefit commitments to the full amount of the plan's unfunded termination liability to the extent not guaranteed by the PBGC, and the employer's (and controlled group's) liability to the PBGC is increased to the full amount of unfunded guaranteed benefits.

Standards for termination

The amendment provides that a reorganization does not qualify as a condition under which a distress termination is permitted. Thus, under the amendment, in order to terminate a plan in a distress termination, a plan administrator is required to demonstrate that each entity that is a contributing sponsor or a member of a contributing sponsor's controlled group meets one of the following criteria: (1) a petition in bankruptcy or a State insolvency proceeding has been filed seeking liquidation of the entity and the petition has not been dismissed or converted to a petition seeking reorganization, (2) unless a distress termination occurs, the entity will be unable to pay its debts when due and will be unable to continue in business, or (3) with respect to the entity, the costs of providing pension coverage have become unreasonably burdensome, solely as a result of a decline in the workforce covered as participants under single-employer pension plans of which the entity is a contributing sponsor.

Lien rules

Consistent with the increase in the liability of the employer to the PBGC, the amendment removes the 30-percent of net worth limitation on the amount of the PBGC lien that arises upon plan termination.

In addition, under the amendment, a statutory lien arises in favor of the plan to the extent that as of the close of a plan year (1) the plan's assets are less than 70 percent of current liability and (2) the unfunded current liability exceeds $25 million. The unamortized portion of the plan's unfunded old liability amount is disregarded in making these determinations. The lien is on all property and rights to property, whether real or personal, belonging to the contributing sponsor and the members of the contributing sponsor's controlled group.

The lien arises on the first day of the plan year following the plan year in which the determination is made, and continues until the close of the plan year in which the plan is not described in (1) or (2) above. If, from one plan year to the next, the level of unfunded current liability increases, the amount of the lien is increased by the amount of the increase in plan underfunding. The employer is required to notify the PBGC when the plan is described in (1) and (2) above.

Rules similar to the rules in section 4068(c), (d), and (e) of ERISA apply with respect to the lien and the amount on which it is based. As under section 4068(c), a perfected lien is treated as a Federal tax lien, and an unperfected lien is treated as a Federal tax claim. In addition, any lien created by this provision may be perfected and enforced by the PBGC or, at its direction, by the contributing sponsor or any member of the controlled group of the contributing sponsor.

Effective Dates

The provisions are generally effective in the case of terminations where notice to the PBGC is provided after October 16, 1987, and terminations instituted by the PBGC after October 16, 1987. The provision creating a lien where unfunded current liability exceeds certain levels is effective with respect to plan years beginning after the date of enactment.

4. Employer Access to Assets of Overfunded Plans

Present Law

Access to plan assets

Under present law, a trust forming part of a pension plan is not qualified under the Code unless it is impossible under the trust instrument, prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the trust assets to be used for, or diverted to, purposes other than for the exclusive benefit of employees or their beneficiaries. However, upon termination of the plan and after satisfaction of all fixed and contingent liabilities of the participants and beneficiaries (termination liability), the employer may recover any excess assets remaining in the trust that are due to erroneous actuarial computations.

Similarly, under ERISA, the assets of an employee benefit plan may not inure to the benefit of any employer and are to be held for the exclusive purpose of providing benefits to participants in the plan and their beneficiaries and of defraying reasonable expenses of administering the plan. However, any excess assets of a plan may be distributed to the employer upon termination of the plan if (1) all liabilities of the plan to participants and their beneficiaries have been satisfied, (2) the distribution does not contravene any provision of law, and (3) the plan provides for such a distribution.

Under present law, whether the employer has the right to the excess assets of a pension plan or is required to share the excess assets with plan participants is generally determined under the plan document. Thus, if the plan document provides that the employer is entitled to the reversion of excess assets, the employer is not required to share the reversion with participants. A majority of the cases provide that, subject to any applicable collective bargaining agreements, a plan may be amended at any time prior to termination of the plan to provide that the excess assets may revert to the employer.

Upon termination of a plan, all benefits as of the date of termination are required to become 100 percent vested and nonforfeitable. In addition, benefits generally are to be distributed or annuitized.

Implementation guidelines

Although an employer is not permitted to recover excess assets except upon termination of a plan, certain procedural guidelines permit transactions that, in effect, permit the withdrawal of assets from an ongoing plan. Typical examples of such transactions are termination-reestablishment and spinoff-termination transactions.

In a termination-reestablishment transaction, the employer terminates a defined benefit plan, recovers the excess assets, and then establishes a "new" plan that generally covers the same employees and provides the same or substantially similar benefits as the old plan. In a spinoff-termination transaction, a single plan is split into 2 plans, 1 plan covering retirees and 1 covering active employees. The excess assets are allocated to the plan covering retirees. That plan is then terminated, allowing the employer to recover the excess assets.

In response to concern that reversions can reduce the security of participants' benefits, procedural guidelines were developed jointly by the Department of the Treasury, the Department of Labor, and the PBGC. The procedures, referred to as the "Implementation Guidelines for Terminations of Defined Benefit Pension Plans" or the "Implementation Guidelines," were issued by the Administration as a news release on May 24, 1984.

The Implementation Guidelines set forth administrative procedures for processing certain terminations of qualified defined benefit pension plans involving reversions of excess assets to the plan sponsor. The guidelines generally provide that a bona fide termination of a defined pension plan will be recognized as having occurred under either a spinoff-termination or a termination-reestablishment transaction only if certain conditions are met.

A spinoff-termination is considered bona fide under the guidelines only if (1) the benefits of all employees are vested as of the date of the termination; (2) all benefits accrued by all employees as of the date of the termination are provided for by the purchase of annuity contracts; (3) the continuing plan adopts a special amortization period (with the approval of the IRS); and (4) appropriate notice is provided to employees.

Under the Implementation Guidelines, termination-reestablishment transactions are generally recognized as bona fide. If the new plan provides credit for service before that plan was adopted, however, the guidelines do not treat the transaction as bona fide unless a special amortization period is adopted (with the approval of the IRS).

The guidelines note that spinoff-terminations or termination-reestablishments may affect the qualified status of plans because the Code requires that qualified plans be permanent. The guidelines generally provide that the permanency requirement prohibits an employer that has engaged in a spinoff-termination or termination-reestablishment transaction from engaging in another such transaction for at least 15 years.

Reasons for Change

It is believed that the present law standards, as reflected in the Implementation

Guidelines, and the present-law excise tax on reversions are appropriate rules for addressing the issue of employer access to excess plan assets.

Explanation of Provision

The amendment confirms present law as contained in the Implementation Guidelines.

Effective Date

The provision is a clarification of present law.

5. Increase in PBGC Premium Rates (sec. 4560 of the bill)

Present Law

In general

The PBGC was created in 1974 by ERISA to provide an insurance program for benefits under defined benefit pension plans maintained by private employers. According to the PBGC's latest annual report, the single-employer insurance program currently covers more than 30 million participants in more than 110,000 defined benefit pension plans. PBGC revenues include premiums charged to defined benefit pension plans, earnings on investments, and collections from sponsors of terminated plans.

Premiums

Since its inception, the pension insurance program has charged a flat-rate premium based on the number of plan participants. ERISA initially authorized an annual per-participant premium of $1.00. The premium rate was raised to $2.60 for plan years beginning after December 31, 1977. SEPPAA increased the rate to $8.50, effective for plan years beginning after December 31, 1985.

Liability for premiums

Under present law, the plan administrator is liable for the payment of premiums.

Reasons for Change

In light of the PBGC deficit, a raise in the PBGC premium is needed. In its report, the GAO estimated that annual premium revenues of $446 million would be needed to retire a $4 billion deficit over 15 years at the PBGC's current interest rates. Projected annual revenue, however, is only $298 million, or 33 percent less than $446 million. Further, the GAO concluded that additional revenues would be needed to pay future expected claims and the program's administrative expenses.

It is believed that it is equitable to base the increased PBGC premium in part on the extent of a plan's underfunded status so that the premium reflects in part the potential PBGC liability created by the plan. However, basing the entire increase on a plan's underfunded status would unduly burden financially distressed plans and employers and could lead to a greater crisis for the PBGC if a significant percentage of these plans were terminated. Thus, it is believed that some of the necessary revenues should be derived from an increase in the flat premium.

As under the minimum funding rules, it is believed that the employer sponsoring a plan and related employers should be responsible for liabilities associated with the benefits promised under the plan. Thus, it is believed that the employer sponsoring the plan and all related employers should be liable for payment of the premium.

Explanation of Provision

Under the amendment, the flat-rate per-participant PBGC premium is increased to $14. In addition, the amendment applies an exposure-related per-participant premium based on the amount of potential liability the plan creates for the PBGC.

The exposure-related per-participant premium is determined by dividing an amount based on the plan's unfunded current liability by the number of plan participants in the plan at the end of the preceding plan year. The amount based on unfunded current liability is $6.00 for each $1,000 of unfunded current liability as of the end of the preceding plan year.

The additional per-participant premium is not to exceed $70 (indexed beginning in 1989 in accordance with the social security benefit and contribution base).

The $70 cap (indexed) is reduced in the case of certain plans. If an employer made the maximum deductible contributions to the plan for 1 or more of the 5 plan years preceding the first plan year beginning after December 31, 1987 (i.e., for a calendar year plan year, 1983–1987), then the cap on the exposure-related premium is reduced by $10 for each plan year for which such contributions were made. The $10 amount is indexed at the same time and same manner as the $70 cap. This special rule operates to reduce the exposure-related premium only for the first 5 plan years the premium is in effect.

As under the new funding rules, the exposure-related premium does not apply to any plan that has no more than 100 participants on each day of the preceding plan year. For purposes of this 100-participant rule, all defined benefit plans (including multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) are treated as one plan. With respect to multiemployer plans, only employees of the employer (or controlled group) are taken into account. In the case of a plan with more than 100 but less than 150 participants on each day during the preceding plan year, the amount of the exposure-related premium is determined by multiplying the otherwise required additional premium by 2 percent for each participant in excess of 100.

In addition, the special rule disregarding certain pre-participation service in calculating current liability under the funding rules applies in calculating current liability for purposes of the exposure-related premium. However, for premium purposes pre-participation years of service are taken into account if the participant has 5 or more years of service.

The amendment also provides that, with respect to a single-employer plan, the contributing sponsor, as well as the plan administrator, is liable for payment of the premium and that each member of the contributing sponsor's controlled group is jointly and severally liable for such payment.

Under the amendment, all amounts related to the exposure-related premium and the increase in the flat-rate premium are to be deposited in a separate revolving fund. Amounts in this fund may not be used to pay administrative costs of the PBGC or benefits under any plan terminated before January 1, 1988, unless no other amounts are available.

Effective Date

These provisions apply to plan years beginning after December 31, 1987.

6. Multiemployer Plans

The provisions described in 2 through 5, above, do not apply to multiemployer plans.

G. ESTATE AND GIFT TAXES

Retention of 1987 Rates for 2 Years (sec. 4561 of the bill and sec. 2001 of the Code)

Present Law

The estate and gift taxes are unified, so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate.

For 1987, the gift and estate tax rates begin at 18 percent of the first $10,000 of taxable transfers and reach 55 percent on taxable transfers over $3 million. For transfers occurring after 1987, the maximum gift and estate tax rate is scheduled to decline to 50 percent for taxable transfer over $2.5 million.

Reasons for Change

It is inappropriate to permit revenue from existing taxes to be reduced at a time when additional revenues are needed to reduce the budget deficit.

Explanation of Provision

The scheduled decline in gift and estate tax rates is deferred for two years. The maximum rate declines to 50 percent for decedents dying, and gifts made, after December 31, 1989.

Effective Date

The provision is effective for decedents dying, and gifts made, after December 31, 1987.

H. EXCISE TAXES

1. Telephone Excise Tax: 3-Year Extension (sec. 4571 of the bill and sec. 4251 of the Code)

Present Law

A 3-percent excise tax is imposed on amounts paid for local telephone service, toll (long-distance) telephone service, and teletypewriter exchange service (Code sec. 4251). The tax is scheduled to expire after December 31, 1987.

Exemptions from the tax are provided for communications service furnished to news services (except local telephone service to news services), international organizations, the American National Red Cross, servicemen in combat zones, nonprofit hospitals and educational organizations, State and local governments, and for toll telephone service paid by a common carrier, telephone or telegraph company, or radio broadcasting company in the conduct of its business. Exemptions are also provided for installation charges, certain coin-operated service, and private communications systems (e.g., certain dedicated lines leased to a single business user).

Reasons for Change

It is inappropriate to permit existing taxes to expire at a time when additional revenues are needed to reduce the budget deficit. Therefore, it is felt that a 3-year extension of the telephone excise tax is appropriate in view of the existing budgetary deficit situation.

Explanation of Provision

The amendment extends the current 3-percent telephone excise tax for 3 years, through December 31, 1990.

Effective Date

The provision is effective for telephone bills rendered after December 31, 1987, and before January 1, 1991.

2. Collect Diesel Fuel and Special Motor Fuels Taxes on Sales to Retailer (sec. 4572 of the bill and sec. 4041, 4101, 6421, and 6427 of the Code)

Present Law

The diesel fuel and special motor fuels excise taxes generally are imposed on the sale of the taxable fuel by a retail dealer to the ultimate consumer of the fuel. Under an exception, retail dealers may elect to have wholesale distributors collect and pay the diesel fuel tax when the fuel is sold to the retailer.

Reasons for Change

Imposition of the tax at the retail level has fostered inefficient collection procedures and encouraged tax avoidance schemes because there are many tax collectors at the end of a long marketing chain. Imposing these taxes at an earlier stage in the marketing of these fuels would reduce opportunities for evading payment of the fuels taxes. Collection of excise taxes at the point in the distribution chain with a smaller number of taxpayers provides for more efficient administration of the tax since there are fewer taxapayers for the Internal Revenue Service to monitor. Furthermore, collecting these excise taxes at a uniform marketing level eliminates any special advantage for a single industry segment, e.g., integrated operations versus independent wholesale dealers.

Explanation of Provision

The excise taxes on diesel and special motor fuels and nongasoline aviation fuels are imposed on sales by importers and producers; wholesale distributors may elect to be treated as producers, if they satisfy registration and bonding requirements to be established by Treasury.

The provisions of present law permitting tax-free sales for certain exempt purposes are repealed. Instead, taxpayers who purchase such fuels for nontaxable uses may claim refunds or credit the amount of tax they paid against their income tax liability. In addition, Treasury is authorized to require such information reporting and registration that is necessary to prevent evasion of the tax.

Effective Date

The provision is effective on January 1, 1988.

3. Extension of Termination Date for Coal Excise Tax Rate (sec. 4573 of the bill and sec. 4121 of the Code)

Present Law

A manufacturer's excise tax is imposed on the sale or use of domestically mined coal by the producer (Code sec. 4121). Under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the rate of tax was increase, effective April 1, 1986, to $1.10 per ton of coal from underground mines, and 55 cents per ton of coal from surface mines, but not to exceed 4.4 percent of the sales price.

Amounts equal to the revenues collected from the coal excise tax are appropriated automatically to the Black Lung Disability Trust Fund. The Trust Fund pays certain black lung disability benefits to coal miners (or their survivors) who have been disabled by black lung disease in cases where no coal mine operator is found specifically responsible for the individual miner's disease.

Under present law, the tax rate is scheduled to revert to 50 cents on underground coal and 25 cents on surface coal (but not to exceed two percent of price) on the earlier of January 1, 1996 or the first January 1 as of which there is (1) no balance of repayable advances from the general fund to the Trust Fund, and (2) no unpaid interest on such advances.

Reasons for Change

It was concluded that the termination date for the coal excise tax rate presently in effect should be extended in order to provide for the long-term solvency of the Black Lung Trust Fund. As of the beginning of fiscal year 1987, the Trust Fund deficit (i.e., the amount of advances repayable to the general fund) was $2.9 billion.

Explanation of Provision

The termination date for the coal excise tax rate enacted in COBRA is extended from January 1, 1996 to the earlier of (1) January 1, 2014 or (2) the date the Trust Fund achieves solvency (as defined under the present-law termination provision).

Effective Date

The extension of the termination date for the present-law coal excise tax rate is effective from January 1, 1996 to January 1, 2014, subject to the solvency provision described above.

I. EMPLOYMENT TAXES

1. Railroad Retirement Provisions (secs. 4581–4584 of the bill and secs. 3201 and 2331 of the Code)

Present Law

The Railroad Retirement Program consists of a tier I benefit structure which is generally equivalent in benefits and financing to the Social Security program and a separately financed tier II benefit structure. Under present law, the tier II program is financed primarily by a payroll tax of 14.75 percent for employers and 4.25 percent for employees. This tax is applied to wages up to $32,700 per year. (This wage base amount is increased annually by the increase in average annual wages in the general economy.)

Tier II benefits are includible in income for income tax purposes in the same manner as benefits received under a qualified pension plan. However, the 1983 amendments to the Railroad Retirement Program appropriate from the general fund to the Railroad Retirement Account an amount equal to the increase in income tax liability that results from including tier II benefits in income. This appropriation to the Railroad Retirement Account is limited to an aggregate total of $877 million and applies only to benefits received prior to October 1, 1988.

Reason for Change

The 1983 amendments to the Railroad Retirement Program require an annual report on the solvency of the program. The 1987 report includes an analysis by the chief actuary of the program indicating that program is inadequately funded and recommending changes to address the situation. The chief actuary also recommends the establishment of a board to study whether fundamental changes in method of paying for the program need to be considered by the Congress.

Explanation of Provisions

Increase in railroad retirement tax

The provision increases the employer tier II tax by 1.35 percentage points to 16.1 percent. The employee rate is increased by 0.65 percentage points to 4.9 percent.

Commission on Railroad Retirement Reform

The provision also establishes an eight-member Commission to study alternative methods of securing the long-range solvency of the Railroad Retirement Program. The President is to appoint four members, representing railroad management, railroad labor, commuter railroads, and the general public. The President pro tempore of the Senate is to appoint two members representing the general public after consultation with the Chairman of the Senate Committees on Finance and on Labor and Human Resources. The Speaker of the House of Representatives is to appoint two members representing the general public after consultation with the Chairmen of the Committees on Ways and Means and on Energy and Commerce. The Commission is to submit its findings to the Congress by October 1, 1989.

The provision also eliminates the $877-million limit on the amount of general funds that are appropriated to the Railroad Retirement Account on the basis of income taxes on tier II benefits, and provides that such appropriations will be made for two additional years based on tier II benefits paid through September 30, 1990.

Effective Date

The tax rate increases are effective for wages paid after December 31, 1987. The other provisions are effective upon the date of enactment.

2. FUTA Tax: Three-Year Extension of Repayment Tax; Transfer of Funds into the Federal Unemployment Account (secs. 4585–4586 of the bill, sec. 3301 of the Code, and sec. 90 of the Social Security Act)

Present Law

The Federal Unemployment Tax Act (FUTA) generates revenues which are allocated among several accounts in the Federal Unemployment Trust Fund. Funds in the Employment Service Administration Account are used to meet the Federal and State administrative costs of operating unemployment compensation programs and most of the cost of Employment Service operations. The Extended Unemployment Compensation Account (EUCA) is used to meet half the cost of extended unemployment benefits (EB), which are paid in times of unusually high unemployment. (The other half of EB costs are funded from State unemployment taxes.) The Federal Unemployment Account (FUA) is a reserve account from which States may borrow funds in the event the State unemployment account is temporarily unable to meet benefit liabilities.

Each of these accounts in the Trust Fund has a statutory ceiling. When the ceiling is reached, excess funds are distributed among the account according to rules specified in Title IX of the Social Security Act. When all of these accounts reach their ceiling levels, any excess amounts would be distributed to the State unemployment accounts in the Trust Fund.

The gross Federal unemployment tax rate is 6.0 percent, plus a temporary 0.2-percent rate enacted in 1976. In general, employers qualify for a credit of 5.4 percentage points against this tax, leaving a net Federal tax of 0.6 percent plus the temporary 0.2 percent. The tax is paid by employers on the first $7,000 of annual earnings of each employee. (In some States, the 5.4-percent credit is reduced to recover outstanding State loans from FUA.)

The temporary 0.2-percent additional rate was added in order to repay borrowing of the Federal Unemployment Trust Fund from the general fund of the Treasury during the mid 1970's. The outstanding indebtedness was repaid this year, and the additional tax will terminate at the end of 1987.

Reasons for Change

While the EUCA account has fully repaid the outstanding borrowing from the general fund of the Treasury, the experience of the 1970's indicates that the Unemployment Fund may need to accumulate a higher level of reserves than provided under present law, in order to have reasonable assurance of weathering economic cycles without undue reliance on general fund borrowing.

Explanation of Provisions

The temporary 0.2-percent additional FUTA tax rate is to be continued for three additional years, through 1990. The statutory ceilings on the EUCA and FUA accounts are increased in order to accommodate the additional revenue generated by extending the tax rate. The EUCA account ceiling is increased from ⅛ of the amount of total annual wages to ⅜ of total annual wages. The FUA account ceiling is increased from ⅛ of total annual wages to ⅝ of total annual wages.

Effective Date

The provision is effective for wages paid during calendar years 1988 through 1990.

3. FICA Tax Provisions

a. Expand employer share of FICA tax to include all cash tips (sec. 4587 of the bill and sec. 3121(q) of the Code)

Present Law

The FICA taxes imposed on the employee and the employer generally are equal. The employer is responsible for withholding the employee's share of the tax from the employee's wages and remitting the tax, together with the employer's share of the tax, to the Internal Revenue Service.

Special rules apply to tips. For purposes of the employee FICA tax, all tips received by an employee are considered remuneration for services and are subject to the tax. The tips generally are deemed to be received at the time the employee files a written statement with the employer reporting the receipt of the tips. Tips are subject to FICA taxes only in the case of employees who receive at least $20 in cash tips in a month. Tips in a medium other than cash are not subject to FICA taxes.

However, the full amount of tips received by an employee usually is not subject to the FICA tax imposed on the employer. For purposes of the employer's share of FICA taxes, the employee is deemed to receive wages only to the extent of the excess of the Federal minimum wage rate over the actual wage rate paid by the employer. Any tips received in excess of the difference between the wages paid and the minimum wage are not subject to the employer's portion of the tax.

Reasons for Change

Under present law, an employee is required to pay FICA taxes on the total amount of his or her cash tips up to the Social Security wage base. The employer, however, is required to pay FICA taxes only on a portion of the tips. Because Social Security benefits are determined with respect to the entire amount of tips, current law in effect provides a benefit to employers whose employees receive part of their compensation in the form of tips, as compared to other employees who receive all their compensation as salaries. It is believed that to apportion the costs of Social Security benefits more accurately, employers should be subject to tax on all tips which are credited for benefit purposes.

Explanation of Provision

Under this provision, all cash tips which are subject to the employee FICA tax are included within the definition of wages for purposes of the employer's share of FICA taxes. Thus, employers must pay FICA taxes on the total amount of cash tips and other remuneration, up to the Social Security wage base.

Effective Date

This provision is effective for remuneration received on or after January 1, 1988.

b. Extend FICA tax to include inactive duty earnings of military reservists and certain other earnings (secs. 4588, 4589, 4591, and 4592 of the bill and secs. 209 and 210 of the Social Security Act)

Present Law

Under present law, certain forms of earnings paid to employees are exempt from FICA taxes. These earnings include the following:

Armed Forces reservists.—Approximately 1.4 million Armed Forces reservists do not receive credit for Social Security benefits and are not subject to Social Security (FICA) taxes for inactive duty earnings paid for "inactive duty training." Earnings from fulltime active duty or from "active duty for training" (training sessions lasting several weeks) constitute covered employment under current law.

Agricultural workers.—Cash renumeration paid to an employee in any taxable year for agricultural labor is excluded from the definition of wages unless the employee receives more than $150 during the year for such labor or the employee works for the employer more than 20 days during the year and is paid on a time basis.

Individuals aged 18-21.—Services performed by individuals under age 21 who are employed by their parents, even if employed in the parent's trade or business, do not constitute covered employment under present law.

Spouses.—Services performed by an individual in the employ of a spouse do not constitute covered employment.

Reasons for Change

It is believed that the wages of the particular groups of employees described above should receive the same treatment generally accorded other wages for FICA tax purposes. These provisions also ensure that these individuals receive Social Security coverage (including disability and survivor benefits).

Explanation of Provision

The amendment extends credit toward Social Security benefits, and imposed FICA taxes, with respect to services performed by reservists in "inactive duty training"; to services performed by individuals aged 19–21 working for their parents in a trade or business; and to services performed by an individual in the employ of his or her spouse's trade or business.

The amendment also requires, with respect to agricultural labor, that: (1) any remuneration for agricultural labor paid by an employer to an employee constitues wages for FICA purposes if the employer pays more than $2,500 to all employees for such labor during the taxable year; (2) the $150 annual cash pay test is to be applied if the $2,500 annual payroll test is not met; and (3) the 20-day test be eliminated.

Effective Date

These provisions are effective January 1, 1988.

c. Treatment of group-term life insurance as wages under FICA (sec. 4590 of the bill and sec. 209 of the Social Security Act)

Present Law

The cost of group-term life insurance provided by an employer to an employee is excluded from the definition of wages for purposes of the FICA tax. For income tax purposes, the cost of employer-provided group-term life insurance is includible in an employee's gross income to the extent that the coverage exceeds $50,000. Additionally, the total amount of employer-provided group-term life insurance is included in an emloyee's gross income to the extent that the coverage is provided on a discriminatory basis (sec. 89).

Reasons for Change

It is believed that the FICA tax treatment of group term life insurance provided by an employer for an employee should be conformed to the treatment of such benefit for income tax purposes.

Explanation of Provision

The provision treats the cost of employer-provided group-term life insurance as wages for FICA tax purposes to the extent such cost is includible in gross income for income tax purposes.

Effective Date

The provision is effective January 1, 1988.

J. USER FEES

1. Internal Revenue Service Fees (sec. 4595 of the bill)

Present Law

The Internal Revenue Service (IRS) currently provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS responds to these inquiries through the issuance of letter rulings, determination letters, and opinion letters.

A letter ruling is a written statement issued by the National Office of the IRS that interprets and applies the tax law to a specific set of facts. A letter ruling generally is followed by the IRS on audit in determining the tax liability of the recipient of the ruling.

A determination letter is a written statement issued by a district director of the IRS that applies principles previously announced by the National Office of the IRS to a specific set of facts. A determination letter generally is issued in the same circumstances as a letter ruling and is followed by the IRS on audit in determining the tax liability of the recipient of the letter. Most determination letters involve the qualification of retirement plans and the status of organizations seeking exemption from tax.

An opinion letter is a written statement issued by the National Office of the IRS that addresses the acceptability of the form of a master or prototype pension plan and any related trust or custodial account.

The IRS currently does not charge taxpayers for issuing letter rulings, determination letters, or opinion letters.

Reasons for Change

It is believed that, as the Administration has proposed in the last several budgets, the relatively small number of persons that request letter rulings, determination letters, and opinion letters should pay for the benefits of these services. It is also believed that the provision should not be made permanent at this time so that the Congress may examine the impact of the provision on taxpayer compliance.

Explanation of Provision

The amendment requires the IRS to charge a fee for each request for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. The amount of the fee is to vary based on the type of request, as follows:

Category:	*Fee*
Employee plan ruling and opinion..	$400
Exempt organization ruling	320
Employee plan determination	250
Exempt organization determination	200
Chief counsel ruling	200

The IRS is authorized to vary the amount of the fee charged for subcategories of requests based on the average time for (and the difficulty of) complying with requests in the subcategories. In addition, the IRS is authorized to provide exemptions and reduced fees. The IRS may vary the amount of the fee or provide exemptions or reduced fees only if the average fee charged during a fiscal year for requests in any category is not less than the fee listed above for that category.

The amount of the fee is payable in advance and is refundable only if the IRS refuses to respond to the request. The fee is not refundable if the person making the request withdraws the request prior to the issuance of the ruling or determination.

Effective Date

The provision applies to requests filed on or after the first day of the second calendar month that begins after the date of enactment. The provision does not apply to requests filed after September 30, 1990.

2. Extensions and Increases in Certain Alcohol, Tobacco, and Firearms Occupational Taxes (sec. 4596 of the bill and secs. 5091, 5111, 5121, 5131, 5271, 5801, and 5845 of the Code)

Present Law

Occupational taxes are imposed on numerous business activities involving the production and marketing of alcohol, tobacco, and firearms products. Brewers currently pay $110 per year for each brewery operated by them, except any brewer of fewer than 500 barrels a year pays $55 per year (sec. 5091). Manufacturers and importers of National Firearms Act (NFA) firearms pay a $500 per year occupational tax for each place of business, except a person who manufacturers or imports only weapons classified as "any other weapon" under section 5845(e) pays a tax of $25 per year (sec. 5801). No occupational taxes are imposed on distillers, wineries, or tobacco manufacturers.

Dealers in NFA firearms generally are subject to an annual occupational tax of $200 per place of business; dealers who deal only in weapons classified as "any other weapon" under section 5845(e) are subject to an annual tax of $10 per place of business (sec. 5801).

An annual $255 per place of business occupational tax is imposed on wholesale liquor dealers; an annual $123 tax is imposed on wholesale beer dealers (sec. 5111).

An annual occupational tax of $54 per place of business in imposed on retail liquor dealers; the tax is $24 per place of business for retail beer dealers (sec. 5121). A special tax of $4.50 per month in which sales are made is imposed on "limited retail dealers" in distilled spirits; the tax is $2.20 per month for limited retail dealers in beer and wine only (sec. 5121).

Persons permitted to use distilled spirits without payment of tax, or who deal in or use specially denatured distilled spirits, must obtain permits under present law, but no occupational tax is imposed on these persons with respect to this activity (sec. 5271).

Present law permits drawbacks (refunds) of the distilled spirits tax in certain cases. Persons receiving drawbacks of this tax for distilled spirits to be used for nonbeverage purposes are subject to an occupational tax based on the amount of alcohol used. The tax ranges from $25 per year (drawbacks not exceeding 25 proof gallons) to $100 per year (drawbacks exceeding 50 proof gallons) (sec. 5131).

Reasons for Change

The Bureau of Alcohol, Tobacco, and Firearms (BATF) incurs significant expenses in regulating the three industries over which it has jurisdiction. The President proposed in his budget that the direct beneficiaries of these regulatory provisions pay a greater share of the costs incurred by BATF.

The amendment generally concurs with the President's proposal. It was determined that the appropriate way to accomplish the proposal was to increase the present occupational taxes, which generally have not been increased since the early 1950s, and to impose those taxes more uniformly across the businesses affected.

Explanation of Provisions

The present producer/manufacturer occupational taxes are increased to annual amounts of $1,000 per place of business for producers of all taxable alcoholic beverages (distilled spirits, wine, and beer), manufacturers of all taxable tobacco products, and for firearms producers. A special rate of $500 per year applies to businesses having gross receipts of less than $500,000 in the preceding taxable year. For purposes of this special rate, all members of a controlled group of corporations (substituting 50 percent for the general 80 percent test of control) are treated as one business.

The present firearms dealer occupational tax is increased to $500 per year per place of business.

The present alcoholic beverage wholesale dealer occupational taxes are combined and imposed at an increased rate of $500 per year per place of business.

The present alcoholic beverage retail dealer occupational taxes are combined and imposed at an increased rate of $250 per year per place of business. The present occupational taxes on limited retail dealers are repealed. The retail dealer occupational tax further is extended to all persons required to acquire permits for tax-free use of distilled spirits under section 5271.

The three occupational tax rate for persons receiving drawbacks of the distilled spirits tax for spirits used in nonbeverage products are combined and increased to $500 per year per place of business.

Effective Date

These provisions are effective on January 1, 1988.

As under present law, the occupational taxes generally will continue to be paid for a period of 12 months, covering the period July 1-June 30. Thus, subject to special rules for the period January 1-June 30, 1988, all persons subject to tax under the provisions of the bill are liable for the entire annual tax on July 1, 1988.

For the period January 1-July 1, 1988, a series of special rules will apply. Persons initially subject to tax as a result of the provisions are liable for a tax equal to one-half of the otherwise applicable annual rate on January 1, 1988.

In the case of persons who paid an occupational tax during calendar 1987, for which no further tax is due until July 1, 1988, under present law, a tax is due on January 1, 1988, in an amount equal to one-half of the excess of the new tax rate for the occupation involved over the present-law rate.

3. Customs User Fees (sec. 4597 of the bill)

Present law

As enacted in the Omnibus Budget Reconciliation Act of 1986, an ad valorem user fee is applied to all formal entries of merchandise imported for consumption in the amount of 0.22 percent during fiscal year 1987, dropping to the lesser of 0.17 percent or the rate which will provide revenue equal to the appropriated level of customs' commercial operations in fiscal year 1988, and expiring September 30, 1989. The fee does not apply to articles classifiable in schedule 8 of the Tariff Schedules (including products containing U.S. components which are classifiable in item 807.00 of the Schedules and U.S. articles returning to the United States after having been processed abroad which are classifiable in item 806.30).

Reasons for Change

The customs user fees provisions are amended in response to concerns expressed by the Administration and the trading community based on experience with the users fees over the past year.

The Administration's budget proposal would have extended the customs users fees indefinitely and modified the schedule 8 exemption insofar as it applies to imported articles containing U.S. components. Although it is intended to adopt the Administration's recommendation with respect to the schedule 8 exemption, the program is extended for one additional year, to September 30, 1989, rather than extending it indefinitely. It is also intended that the amendment relate to a number of concerns about the way the program has been administered thus far which the Senate would like to see addressed satisfactorily before it will consider making this program permanent.

It is further intended that the amendment relate to particular concerns that the fundamental purpose of the program of providing adequate funding for the commercial operations of the Customs Service is not being met. During the first year of the program, the Office of Management and Budget did not allow any of the proceeds of the customs users fees account to be spent for the commerical operations of the Customs Service. Further, the Administration's budget proposal for the Customs Service for fiscal year 1988 once again called for a drastic reduction of 2,000 customs officers. Such cuts should not be necessary if the customs users fees program is being properly implemented.

The intention also is that the amendment modify current law dealing with the disposion of user fees and the manner of their application to fund Customs' commerical operations. This modification is designed to clarify current law in order to obviate administrative problems which have arisen from OMB's interpretation of current law. Under its interpretation, OMB has seen fit to maintain two user fees accounts, one for passenger and conveyance fees and another for the commerical operations fee on imports. Because certain legal requirements, such as the procedure for recommending an increase or decrease in user fees, are triggered by the user fee account balance in relation to expenditures, it is believed that administration and oversight will be simplified if only a single Customs User Fees Account is established. All users fees are required to be deposited in a single Customs User Fees Account. Current law is to be further clarified by reiterating that funds deposited in the Customs User Fees Account be employed, to the extent provided in appropriations acts, to reimburse all costs of the Customs Service for commerical operations. Finally, the intention is to include provisions designed to ensure that operators of foreign trade zones and customs bonded warehouses would no longer be, in effect, assessed twice for customs transactions occurring at such facilities.

Explanation of Provision

The amendment changes these user fees provisions. First, the expiration date for the fees would be extended for one additional year, until September 30, 1990. Second, in order to avoid placing a double burden on operators of foreign trade zones and customs bonded warehouses, a provision has been added precluding the Customs Service from assessing an annual fee on such operators in addition to the per-entry fee that is now applicable to merchandise withdrawals from such facilities.

Third, the amendment changes provisions of present law that permit inporters to avoid the application of the users fees entirely if any portion of the imported article is of U.S. origin and eligible for duty-free treatment under items 806.30 or 807.00 of the Tariff Schedules. As amended, only the value of the U.S. components or materials which are eligible for duty-free treatment under such provisions would be exempt from the users fee. The value of the foreign components of the imported article would be subject to the fee.

To ensure that no additional recordkeeping burdens are imposed upon the public as a result of this amendment, the following simplified accounting requirements applicable to duty-free articles entering, or eligible for entry, under items 806.30 and 807.00 of the Tariff Schedules of the United States (TSUS) should be implemented. These requirements would apply to all imports of: (1) articles with U.S. content; (2) commingled merchandise consisting of articles with U.S. content and like or similar articles not containing U.S. content; and (3) articles exported from the United States for processing abroad and returned to the United States for further processing.

Importers may enter the articles on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business. The data would be calculated according to generally accepted accounting principles so as to establish the following for a one-year period: (1) the total value of all articles imported, based on U.S. customs principles of valuation; (2) for item 807.00 articles, the U.S. content portion of the value cited in item 1 value represented by processing abroad; and (3) for item 806.30 articles, the portion of the item 1 value represented by processing abroad. In this context, the valuation of all imports during an import year would be based on data from the prior import year and applied across-the-board to such imports, thereby eliminating discrete calculations with respect to articles, individual components contained within such articles, and individual entries. Accordingly, 1986 data would apply to 1987 imports, 1987 data to 1988 imports, and so on. It is intended that the term "import year" be defined as either a calendar year or some other 12-month cycle, depending on the accounting cycle utilized by the importer.

Upon termination of operations by an importer, a "catch-up" adjustment reflecting actual percentages from the year prior to the termination would be required to ensure that the importer has paid the appropriate amount of user fee. With the exception of this adjustment, or unless required by a Customs audit, no other adjustment or reconciliation in connection with user fee payments shall be required of the importer.

Fourth, the amendment adds clarifying language regarding the customs user fees. In the Budget Reconciliation Act of 1986, Congress required that the fees were to be placed in a dedicated account for expenditures for commercial operations of the Customs Service. The new language specifies that the fees are to be treated as receipts offsetting expenditures of salaries and expenses for commercial operations. The purpose is to make clear that it is inappropriate to treat the fees as revenues, as the Administration has done. In addition, the section clarifies that the user fees on passengers and conveyances are to be deposited in the same dedicated account as the ad valorem fees and, to the extent they are not needed to reimburse the Customs Service for expenses incurred in providing overtime inspectional services, they are to be used as receipts offsetting commercal operations expenditures.

K. COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES

3-Year Extension (sec. 4601 of the bill, sec. 6402 of the Code, and sec. 3702A of title 31, United States Code)

Present Law

Certain Federal agencies are authorized to notify the IRS that a person owes a past due, legally enforceable debt to the agency. The IRS then must reduce the amount of any tax refund due the person by the amount of the debt and pay that amount to the agency. This program expires after December 31, 1987.

Before a refund can be offset under this program, the agency which is owed a debt must certify to the Treasury that the debtor has been notified about the proposed offset and has been given at least 60 days to present evidence that all or part of the debt is not past due or not legally enforceable. If a refund otherwise due an individual is subject to offset both under this provision and because of AFDC past-due support, the offset for AFDC past-due support is implemented first.

Under IRS regulations, the program only affects refunds due individuals, not corporations.

Reasons for Change

A 3-year extension of the debt collection provisions is believed to be appropriate so that the Federal Government can use every means available to collect debts owed to Federal agencies that the agencies have been unable to collect themselves. It is not believed to be appropriate to permit existing debt collection provisions to expire at a time when additional revenues are needed to reduce the budget deficit. Moreover, expanding the debt collection program to apply to debts owed to all Federal agencies by individuals or corporations should enhance the effectiveness of the program.

Concern was also expressed, however, about the possible negative effect of this program on voluntary tax compliance. Therefore, the provision is extended for 3 years, which would provide the Congress with an additional opportunity to assess the effect of the program on voluntary tax compliance. Also, GAO is required to report on the impact of this program on voluntary tax compliance. This report will be an important element in assessing the effectiveness of the program.

Explanation of Provision

The amendment extends for 3 years the tax refund offset program. In addition, the amendment expands the scope of the program in two ways. First it applies to debts owed to all (not just selected) Federal agencies. Second, it applies to debts owed by either individuals or corporations.

Prior to the enactment of this amendment, some Federal agencies may take actions to notify a debtor of a proposed offset and to certify to the Treasury that a debt is owed, as required by section 3720A of title 31, United States Code. It is intended that these agency actions not be affected by the fact that they were taken before Congress enacted this 3-year extension of the Federal debt collection program.

Prior to the expiration date of December 31, 1990, this provision should be evaluated to determine the extent to which it facilitates the collection of debts owed the Federal Government and increases the amount of debts collected, as well as to examine the effects of this provision on voluntary taxpayer compliance with the income tax law. Therefore, GAO, in consultation with the Secretary of the Treasury, is required to report to the Congress on the effects of this program on voluntary tax compliance. This report is to provide and analyze data on the effects of the program, such as whether taxpayers whose refunds are offset continue to file tax returns and whether those taxpayers adjust their withholding so as to create additional tax collection difficulties.

Effective Date

The provision is effective on January 1, 1988, and expires after December 31, 1990. The report is due on April 1, 1989.

L. ESTATE TAX DEDUCTION FOR SALES TO AN ESOP

(Secs. 4611-4613 of the bill, sec. 1172 of the Reform Act, and secs. 409 and 2057 of the Code)

Present Law

In general

The Tax Reform Act of 1986 (sec. 1172 of the Act and sec. 2057 of the Code) adopted a special provision allowing partial relief from estate taxes through, an estate tax deduction for sales of employer securities to an employee stock ownership plan (ESOP) or an eligible worker-owned cooperative. This provision was adopted for a temporary period of time to encourage transfers of employer securities to ESOPs. The provision permits a deduction from the gross estate of a decedent equal to 50 percent of the proceeds received from a qualified sale of employer securities. Under the Act, a qualified sale is any sale of employer securities by the executor of an estate to an ESOP or an eligible worker-owned cooperative.

IRS Notice

IRS Notice 87-13 (January 5, 1987) provided that the estate tax deduction for transfers to an ESOP or worker-owned cooperative is not available unless (1) the decedent directly owned the employer securities immediately before death, and (2) after the sale, the employer securities are allocated to plan participants or are held for future allocation in connection with an exempt loan under section 4975 or in connection with a transfer of assets from a defined benefit plan under the rules of section 4980(c)(3). Except in the case of a bona fide business transaction, employer securities are not treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation.

Reasons for Change

In enacting the estate tax deduction, Congress intended that it would be utilized in a limited number of transactions with a relatively modest revenue loss. As drafted, the estate tax deduction was significantly broader than what was originally contemplated by Congress in enacting the provision. It is necessary to conform the statute to the original intent of Congress in order to prevent a significant revenue loss under the Tax Reform Act of 1986.

While Congress intended to encourage transfers of employer securities to ESOPs by providing for partial elimination of estate tax liability, it was not intended that estates be able to eliminate all estate tax liability through use of the deduction or that the securities acquired in a transaction for which the deduction was claimed need not be allocated to plan participants. The provision would not have been adopted in its present form had the full extent of the revenue impact and effect of the provision been recognized.

It is now necessary to modify the provision to bring the revenue loss in line with the original estimate and Congressional intent. The modifications contained in the amendment (which are essentially identical to modifications proposed in S. 591, introduced by Senator Bentsen) are designed to achieve this result while maintaining to the fullest extent possible the incentive to transfer employer securities to ESOPs.

The primary thrust of the amendment is to conform the provision to the original intent of Congress in enacting the deduction. In this respect, the amendment has two elements.

First, the amendment makes clear that the positions taken by the Internal Revenue Service in Notice 87-13 with respect to the estate tax deduction are an accurate statement of Congressional intent in enacting the provision. If these clarifications are not made, taxpayers could qualify for the deduction by engaging in essentially sham transactions.

Second, the amendment makes additional changes in the deduction which more fully effectuate the intent of Congress to provide limited relief from the estate tax. These changes will give taxpayers and the Internal Revenue Service more administrable guidance as to the requirements that must be satisfied by the decedent and the ESOP and the consequences of failing to satisfy these requirements.

Explanation of Provisions

Confirmation of IRS Notice

The amendment confirms the positions taken in IRS Notice 87-13.

Tax-credit ESOPs

The amendment clarifies that the estate tax deduction is available in the case of sales of employer securities to tax-credit ESOPs (sec. 409(a)).

Nonpublicly traded stock

The amendment limits the deduction to sales of employer securities which are issued by a domestic corporation that has no stock outstanding that is readily tradable on an established securities market.

Estate requirements

Sale by executor.—As enacted, section 2057 would have applied only with respect to sales by the executor of an estate. There are significant issues and potential inconsistencies created by this language. For example, it is common for individuals to structure their estates so that not all the assets are included in the probate estate and subject to the control of the executor. Assets may be in a revocable trust or other similar arrangement which is excluded from the probate estate. In the case of assets held in trust, the statute could be interpreted to preclude the sale of such assets in a transaction qualifying for the estate tax deduction because the executor cannot sell the trust assets.

Congress, in enacting the estate tax deduction, did not intend to draw arbitrary distinctions among the types of assets includible in the gross estate of a decedent depending upon whether the assets are within the control of the executor.

The amendment clarifies that the provision applies to sales of employer securities to the extent the securities are includible in the gross estate. Thus, assets held in trust are eligible for the estate tax deduction to the extent the employer securities held by the trust are listed as securities on the estate tax return. On the other hand, if a decedent owned a partnership interest, the value of the partnership interest is reported on the estate tax return and not the value of the underlying assets of the partnership. Consequently, under the provision, if the assets of a partnership consisted of employer securities, such securities may not be sold in a transaction qualifying for the estate tax deduction.

Limitation on deduction.—In order to ensure that the provision results in only a partial elimination of estate tax liability, the amendment limits the amount of the deduction allowable under section 2057 to 50 percent of the taxable estate (determined without regard to sec. 2057). Also, the amount of estate taxes imposed by section 2001 (determined without regard to any credits allowable against the tax) may not be reduced by more than $750,000 by reason of the deduction.

Holding period requirement.—In order to prevent transfers in contemplation of death, the amendment imposes a holding period requirement for the decedent with respect to the employer securities to be sold to an ESOP. Thus, in order for the estate tax deduction to be available, the securities are required to be assets that would be includible in the gross estate of the decedent if the decedent died at any time during the shorter of (1) the 5-year period ending on the date of death, or (2) the period beginning on October 22, 1986, and ending on the date of death. For purposes of determining whether the holding period requirement has been satisfied, securities which would be includible in the gross estate of the spouse of the decedent if the spouse died during the holding period are to be treated as securities includible in the gross estate of the decedent during such period. In the case of the estate of a decedent who died before October 22, 1986, the holding period requirement is satisfied if the decedent held the employer securities on the date of death.

The period for which the decedent is considered to have held the stock is reduced for any period for which the holding period is reduced under section 246(c)(4) (relating to periods in which the risk of loss is diminished).

Assets transferred from other plans.—The amendment provides that the estate tax deduction does not apply to the extent that the employer securities are acquired with transferred assets. Transferred assets are assets of an ESOP which are attributable to assets held by another qualified plan maintained by the employer (other than another ESOP) or assets attributable to a period of time when a plan was not an ESOP. Assets held by the ESOP on February 27, 1987, are not transferred assets, regardless of their source. The denial of the deduction extends to assets that are transferred directly from one plan to another (for example, pursuant to section 4980(c)(3)), assets which are rolled over from another plan, assets which result from a conversion of another plan into an ESOP, and assets which are merged into an ESOP from another plan (other than an ESOP). The Secretary has the authority to except assets from this provision under appropriate circumstances.

In order to prevent the employer from acquiring securities in a section 2057 transaction with the proceeds of a loan and then using transferred assets to make payments on the loan, the amendment imposes an excise tax if a loan payment is made with transferred assets. The tax is imposed on the employer maintaining the ESOP and is equal to 30 percent of the amount paid on the loan (including both principal and interest payments). This provision is not intended to expand the permissible sources from which exempt loans can be repaid pursuant to section 4975.

ESOP allocation requirements and substitution prohibition

In general.—The amendment modifies the allocation requirement and nonsubstitution requirement in present law (as reflected in the IRS Notice) in several respects. The modifications provide objective rules for determining when a prohibited substitution of employer securities occurs and also change the sanctions for failing to allocate the securities acquired in the section 2057 transaction or acquiring securities in substitution for other employer securities. The new provisions are intended to ensure that plan participants receive the employer securities acquired in a section 2057 transaction (or the proceeds of a disposition thereof) and that the transaction results in an increase in employer securities in the plan.

Dispositions within 1 year preceding sale.—The amendment prohibits an ESOP from selling employer securities and using the proceeds to acquire substitute employer securities in a section 2057 transaction. Further, the amendment modifies this nonsubstitution rule contained in present law (as reflected in the IRS Notice) to provide that the deduction is available with respect to proceeds from a sale to an ESOP only to the extent the proceeds are greater than the excess (if any) of (1) the proceeds from the disposition of employer securities during the 1-year period preceding the sale, over (2) the cost of employer securities purchased by the plan during such 1-year period. In addition, for purposes of the rule, all ESOPs of the employer are treated as a single plan.

In determining the proceeds of the plan from dispositions of employer securities, the following dispositions are not taken into account: (1) distributions made on account of the death or disability of the employee, the retirement of the employee after the attainment of age 59½, or a separation from service of the employee which results in a 1-year break in service; (2) certain exchanges of qualified employer securities for other employer securities in a corporate reorganization; and (3) dispositions required to meet diversification requirements (section 401(a)(28)).

This provision can be illustrated by the following example: On July 1, 1988, executor E sells employer securities to an ESOP. The proceeds of the sale are $150,000. During the 1-year period from July 2, 1987, through July 1, 1988, the cost of employer securities acquired by the plan and all other ESOPs maintained by the employer (excluding the purchase from executor E) is $350,000. The proceeds of the ESOP (and all other ESOPs maintained by the employer) from the disposition of employer securities during the same period (excluding any dispositions excepted from the provision) is $400,000. The estate tax deduction is not available with respect to $50,000 of the proceeds received by executor E and is available with respect to $100,000.

Dispositions within 3 years following sale.—To preclude an ESOP from disposing of qualified securities within 3 years of the date of a sale qualifying for the estate tax deduction, an excise tax is imposed on the employer maintaining the ESOP. The tax is equal to 30 percent of the amount realized on the disposition. No penalty tax is imposed on dispositions which are excepted from the provision prohibiting dispositions within the one-year period preceding the sale. The amendment contains ordering rules for determining which securities are considered disposed of in any dispostion.

The 30-percent excise tax does not apply to dispositions of securities with respect to which the estate tax deduction is denied due to a failure to meet the nonsubstitution requirement.

Failure to allocate.—The amendment imposes an excise tax on the employer maintaining the ESOP in the event of a failure to allocate securities acquired in a section 2057 transaction. The tax is equal to 30 percent of the amount realized on the disposition of qualified employer securities before the securities are allocated to the accounts of plan participants if the proceeds from such disposition are not so allocated. This excise tax is coordinated with the tax on distributions within 3 years following the sale, so that this tax does not apply to disposition to which the premature disposition tax applies.

The tax applies in a number of situations to which the tax on premature dispositions does not apply. For example, the tax applies if the shares were disposed of after expiration of the 3-year period in order to repay an exempt loan.

Taken together with the 3-year rule, this provision requires that, within the 3-year holding period, employer securities are to be allocated to plan participants or held for allocation. After expiration of the 3-year holding period, the securities may be sold, but the entire proceeds of the sale (including any amounts owing on an exempt loan) are to be allocated to plan participants.

The 30-percent excise tax does not apply to dispositions of securities with respect to which the estate tax deduction is denied due to a failure to meet the nonsubstitution requirement.

Effective Dates

Confirmation of IRS Notice

Because this provision of the amendment accurately reflects Congressional intent in enacting the estate tax deduction, it is effective as if included in the Tax Reform Act of 1986.

Tax-credit ESOPs

This provision is effective as if included in the Tax Reform Act of 1986.

Nonpublicly traded stock

This provision is effective with respect to sales after February 27, 1987.

Estate requirements

Sale by executor.—This provision is effective as if included in the Tax Reform Act of 1986.

Limitation on deduction.—This provision is effective with respect to sales of employer securities to an ESOP after February 27, 1987. Sales on or before February 27, 1987, are not subject to the limitations in the provision, but are taken into account in determining whether the limitations are met with respect to post-effective date sales.

Holding period requirement.—This requirement is effective with respect to sales to an ESOP after February 27, 1987.

Assets transferred from other plans.—This provision is effective with respect to sales to an ESOP after February 27, 1987, and, in the case of transfers used to make payments on a loan, transfers used after February 27, 1987.

ESOP allocation requirements and substitution prohibition

Dispositions within 1 year preceding sale.—This provision is effective with respect to sales to an ESOP after February 27, 1987.

Dispositions within 3 years following sale.—This provision is effective with respect to dispositions of qualified securities by the ESOP after February 27, 1987. The 30-percent excise tax does not apply to dispositions of securities with respect to which the estate tax deduction is denied due to a failure to meet the nonsubstitution requirement.

Failure to allocate.—This provision is effective with respect to failures to allocate employer securities occurring after February 27, 1987.

ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS

Provisions Approved by the Senate Finance Committee, Fiscal Years 1988–90

[In millions of dollars]

Item	1988	1989	1990
I. REVENUE PROVISIONS			
A. Accounting Provisions:			
1. Repeal vacation pay reserve	396	1,983	2,038
2. Repeal installment method for dealers	2,043	2,964	2,143
3. Require capitalization of pension past service liability	70	110	120
4. Repeal cash method of accounting for farms with receipts over $25 million	24	36	38
B. Estimated Tax Provisions	1,580	779	371
C. Corporate Tax Provisions:			
1. Modify computation of earnings and profits for intercorporate dividends and basis adjustments (overrule Woods Investment Company case) (Includes binding contract rule.)	94	328	450
2. Denial of graduated rates for personal service corporations	75	125	140
D. Partnership Provisions: Portfolio income	77	127	170
E. Child and Dependent Care Credit: Deny credit for overnight camp expenses	11	106	112
F. Modify Pension Funding Rules [1]	679	1,502	992
G. Estate and Gift Taxes: 2-year freeze of 1987 rates	21	176	165
H. Excise Taxes:			
1. Telephone tax: 3-year extension	1,324	2,266	2,472
2. Collect diesel fuel and special motor fuels taxes on sales to retailer	208	230	200
3. Extend termination date for coal excise tax			
I. Employment Taxes:			
1. FICA tax provisions:			
a. Expand employer share of FICA tax to include all cash tips	184	281	302
b. and c. Expand FICA tax to inactive duty reservists, certain agricultural employees, family members, and group-term life insurance includible in wages	200	261	278
2. Railroad retirement taxes	144	182	183
3. FUTA tax: 3-year extension	715	1,009	1,033
J. ESOP Estate Tax Deduction	1,226	1,553	1,862
Subtotal, Revenue Provisions	9,071	14,018	13,069
II. USER FEES			
A. Internal Revenue Service Fees	46	60	60
B. Extensions and Increases in Certain Alcohol, Tobacco, and Firearms Occupational Taxes	167	106	106
C. Customs Service Fee	122	152	591
Subtotal, User Fees	335	318	757
III. OUTLAY REDUCTION			
A. Debt Collection: 3-year extension	300	425	425
B. PBGC Premiums Increase	390	510	540
Subtotal, Outlay Reduction	690	935	965
Grand Total, Deficit Reduction	10,096	15,271	14,791

[1] Includes provisions to modify full-funding limitation and effects of Finance PBGC-related provisions to modify funding rules.

Mr. BENTSEN. I thank my colleagues and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I again want to compliment the Senator from Texas for his very, very fine statement and for the work he has done in this regard. I think the tax package that is presented before us gives us an answer to what some of us have been saying for a long time, that there was a way to get some real revenue without doing something to change people's individual tax rates, without doing something that would in any way stifle the economy or hurt the economy, and yet would give us some real revenue that would grow in the future years.

Like the Senator from Texas and the Senator from Florida, no one likes to talk about taxes. A lot of people in my State keep asking me all the time, "Why in the world do you keep talking about taxes? Do you want to raise taxes?" I say "No, I do not want to raise taxes or talk about them."

As the Senator from Texas said, the reason we have taxes to start with is to pay for what this Government has decided to spend. Our problem has been over the last years, and certainly since 1981, we have been willing to spend hundreds and thousands of millions of dollars, and billions of dollars, more than we have been willing to pay for.

That has given us a national debt that has tripled in the last 7 years, roughly. It took us 100 years to incur the first trillion dollars of national debt and now we find we have raised the debt limit up until 1989 to $2.8 trillion, which literally is a tripling of that national debt. Of course, with that comes that rising trade deficit, comes the tremendous obligations to maintain the debt service. We are saying that here is a measured step toward trying to say that we are going to balance, somewhat, or the equivalent.

I read earlier that we are getting more than two spending dollar cuts for the dollars in the tax revenue cuts.

I think the Senator from Texas and the Finance Committee have certainly designed that kind of balanced package that is so proper and makes so much sense.

I believe the public understands that there really is no free lunch, that eventually you are going to pay. I think they understand better than our leadership does, really, that the deficit is a tax on them. It is a tax that they are paying with that increased interest rate; it is a tax that they are paying on the jobs we are sending overseas; it is a tax that we will pay with inflation if we do not get it under control. That starts all of those if you incur the tax, where we, in many instances, lack the political will to say we have to favor this.

I think the Senator from Texas knows that if we were ever on the basis that, before we can leave here every year, we had to pay for whatever we decided to spend, we would be very careful about what we decided to spend money on, that we would not start new programs if we had to start borrowing money, so to speak. I think he has hit the package that makes sense, as part of our agreement, and I again compliment him and thank him.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I know the distinguished senior Senator from Texas is busy and he has completed his remarks, but I wonder if I could just take a moment in his presence and compliment him and engage in a dialog.

First let me say I think the distinguished Senator from Texas would agree with me that there are many who thought this economic summit group, which he and I were privileged to be designated by our membership to attend in their behalf, had some kind of magic wand; that we were no longer part of the process called the House of Representatives with all of their prerogatives and the Senate with its prerogatives. I am sure we now understand, and I hope everybody in the Senate understands, and maybe foreign countries understand, that we have no capacity to go off on the side, even with the President's representatives, outside of the Senate and the House and put together a legislative package and walk out and say it is done. We have still to work through the normal legislative process of getting the House of Representatives to pass what it must pass, the Senate to pass what it must pass, and that the final product must be consistent with what the President had in mind. We are in the process of doing that.

Mr. BENTSEN. I say to my distinguished friend, he is absolutely right. And how many times we repeated that in that conference.

Mr. DOMENICI. Absolutely.

Mr. BENTSEN. And telling the administration there is no way we could commit that this was the final instrument; that we all had to go back to our committees, that we had to go back to this body, and that we had to follow the procedures of the Senate and the House.

Mr. DOMENICI. So that for those who are wondering where is the budget summit package going, let me just suggest it has to take a step at a time. Actually, it will not be completed until the President affixes his signature to two major bills—this one, reconciliation, after it has gone to conference and completed its process through both Houses, and the appropriation bill for all of next year called the continuing resolution. This too will hopefully meet the targets set in this summit conference. When he has both of those bills and we have done our work and he signs them, we will have the $30 billion in the first year growing into $45 billion in the second.

I think that we have to make that point, I say to my friend from Texas, because at each step we can only do what the Members with us trying to be leaders but with them having their strong conviction, will let us do. And I join the Senator in urging that we take this first step today and that we pass this leadership amendment as soon as we can, giving everyone their prerogatives and we get on with the next step, which is the full year appropriations bill. The Senator still must go to conference on a tax bill, as I understand it. Is that not right?

Mr. BENTSEN. That is correct. I have been through a number of those and they are not easy.

Mr. DOMENICI. I want to close this dialog with the distinguished senior Senator from Texas by complimenting him for his leadership and the hard work of his committee. Frankly, they had more to do with the deficit reduction, any way you look at it. In pure dollars and cents, they were the biggest contributor to the deficit reduction package. They come closest of any committee to doing their work in a way that was consistent with the summit in every respect, dollars and substance. As the Senator has indicated, the administration says this is consistent with both the spirit and the substance of those day-after-day-after-day meetings at which the representatives of the administration were in attendance and we as Members of Congress were in attendance. I compliment the Senator.

Mr. BENTSEN. We have quite an able membership on this committee and they really put their shoulders to that wheel and turned out the product. I am proud of them.

Mr. DOMENICI. Mr. President, I would like to just make a few observations to the Members without being presumptuous and without wanting to limit it to my side. I hope Members who have amendments will come to the floor and begin to discuss their willingness to offer them. We have a little bit of a procedural situation in front of us because we are proceeding down one tree with a leadership amendment. If there are those who want to move to strike provisions of the underlying bill, we are willing to accommodate in order to get things going. So I would urge that those who have amendments to accommodate the Senate and this deficit reduction package by getting down here and seeing if they cannot work out something where we can start calling up their amendments.

Having said that, I have listened to the marvelous exchange this morning starting with Senator GRAMM, of Texas; Senator PACKWOOD, with a rather lengthy history of the summit conference and his explanation of the structural deficit of the United States of America, and ending here, just before I give these few remarks, with my good friend from Florida, and the distinguished chairman of the Finance Committee.

Now, I have heard many things and I do not know that I disagree with all of them or any of them. I am not sure that there is an absolute direct relationship between our trade deficit and our American governmental deficit. I have heard the trade deficit and the budget deficit are tied together rather inextricably. I think there is a relationship in terms of a problem. Surely, you cannot have the kind of trade deficit we have and the kind of fiscal deficit we have and expect continued good times. You have to reduce the fiscal deficit as you make a long-term effort to reduce the trade deficit. To solve both problems is to put the American economic future in jeopardy because you are putting the real economy and the worded debt financial problems under extreme pressure which will put way too much pressure on the currency and ultimately back on monetary and fiscal policy.

The one thing we can agree on in essence is that we ought to be getting the fiscal deficit down. You cannot solve all economic problems at once. But it is clear that the trade and budget deficits cannot grow at the same time, and produce prosperity.

Having said that, I want to thank Senator PACKWOOD for his analysis, but I want to draw a different conclusion than he did. I want to borrow from his remarks for a couple of minutes and congratulate him. He has now looked at 15, 20, 30 years of American fiscal policy. If I read him right, he concludes that, based on history, it is not the defense budget that is breaking the bank, so to speak.

In relatively historic terms, defense is no higher than it was in John Kennedy's Presidency as a percent of our total prosperity. As a matter of fact, it is lower. And interestingly enough, the distinguished junior Senator from Oregon, who is not an appropriator, took a look at the discretionary appropriated accounts—and he has defined those for us. He came to the same conclusion as we and that we urged on the members of the summit conference. It is not the package of discretionary accounts which has been breaking the bank. As a matter of fact, that group of accounts is substantially lower relative to the size of the whole budget than it has been historically. In the last 8 years, these accounts grew in a couple of years by slightly more than inflation. But for the most part those entire accounts—our national efforts in education, in highways, in water and sewer cleanup programs, in EPA and the like—as a matter of fact, in real terms are going down, not up.

So he arrived at the conclusion, third conclusion, that neither were the cumulative taxes on Americans so low as some might suggest. Just about the same level of taxation as we have had historically for the last 4 decades—19.5 percent of our gross national product, and so he concluded as many have, subject to his definition, it is the entitlement programs that have grown rather dramatically in the past 2½ decades.

Now, Mr. President, he then concluded, very interestingly, that a Gramm-Rudman sequester would not significantly alter the structural deficit problem. And he is right because all it will do is take a big chunk out of defense and a big chunk out of 20 percent of the domestic programs, all of which for the most part are discretionary accounts. So what you are doing under a Gramm-Rudman sequester, aside from its disorderliness, its lack of priorities, and its arcaneness, is the things we are already cutting and which are not really causing this major structural defeat. He concluded that. I did not. It is true. I suggest, if that is the case, if it is true why would we want a sequester. If there is another package that accomplishes as much deficit reduction and does not suffer from the impediments of an across-the-board cut of the type we have been describing this morning that is described as the Gramm-Rudman-Hollings sequester. I do not think there is any reason unless one has the hope that sometime between Christmas Eve and New Year's we will get called back in here and we will pass a better package. And I use those dates figuratively, Christmas and New Year's, but I think everyone understands. Where would we get that kind of a package in the waning days of this calendar year to do that, that would satisfy the President, Democrats and Republicans in the House, and in the Senate? How would that happen?

So I conclude that there is only one other possible reason for being against this package. And I conclude that it might have been the tax component. And, Mr. President, we have heard the distinguished chairman of the Finance Committee indicate that the tax package is acceptable to the President of the United States, and that it is both in spirit and substance consistent with the economic summit agreement. That might not be enough for some. So, let me give a second reason.

One could say they are worried about taxing anyone for anything in these fiscal times because it might harm the economy. Or, they might say we would rather do what the President suggested in his budget some 8 or 9 months ago and outspending more. And I just want to say if that is a justification let me just give you a few numbers. I believe taxes are taxes with an exception that you can tailor taxes to be adverse to the economy. So let us assume we are not talking about such taxes. None of those are in my conversation.

The President had over $9 billion in his budget in taxes. It just depends on how you define taxes. In terms of real, revenue increases in the Internal Revenue Code taxes, he had $6 billion. Real taxes in the name of user fees where people, groups of Americans, paid a tax for a service rendered by the Federal Government, brought it up to over $9 billion. I really cannot imagine—unless one just thinks we are going to invent a new deficit reduction package out of the air in the next month that is better than this, or that this tax package when combined with the other savings is going to truly harm the economy—and I cannot understand why we would not adopt it.

If there are those who want to come down and say they are going to vote against it because of certain provisions in the Tax Code, I would understand that. Or if somebody thinks defense is too high, would like to cut it more, or too low and would like to add, I could understand that. But the sequester is an answer to none of those. It accomplishes no more significant change in the structural deficit than we are going to do. It is better on defense than a sequester. It is better on domestic discretionary than a sequester, no more in taxes if you include users than the President, and is 2 years in duration with binding targets in the second year, which is rather historic. And so I join with Senator BENTSEN from Texas in urging that we adopt it and get it on over to the House and hope that in the next 7 or 8 days in a conference we can come out with something that is consistent with the summit and with our package.

And then I now want to close and indicate to any of those Senators who would like to discuss discretionary appropriated accounts, or the defense budget, for the last 2 or 3 years as contributors to the deficit, whether they are growing substantially or whether we realize those are the ones that we ought to chop, because they are all out of proportion. I would welcome a discussion because I think I can convince anyone that those are not the causes for this deficit, and even at that, we are restraining them substantially over what they would have been either in the budget we approved earlier in the year or the natural tendencies of the Congress in terms of the appropriations process.

Again, from our side, not being presumptuous for the entire institution, I urge Republican Senators who have amendments to get them down here, see if we cannot work out some way to start calling them up, and see if the amendments to the leadership package are preferable at this point so we can get on with seeing whether this leadership package is acceptable in the not-too-distant future.

I yield the floor.

Mr. BYRD. Mr. President, will the distinguished Senator yield? I join the distinguished Senator in urging that Senators call up their amendments. We provided for two such amendments in our motion, and I wonder if we could not encourage the introduction of those amendments at this time. I would like to add my appeal to that of the distinguished Senator. It is 11:30, and we hope to finish this bill. We have the continuing resolution behind this one. And Senators are notified that we will in all likelihood have a session Saturday and the measures have to go to conference. They have to be brought back, sent to the President, and he has to sign them. If we do not finish by Saturday week, then we are into Christmas week. So it is chipping off Monday, then there is only Tuesday, and that will chip off that. There is only Wednesday. And the next day is Christmas eve.

So this is valuable time, Mr. President, I hope Senators will come and call up their amendments, and I hope the cloakrooms will try to get in touch with Senators and urge them to take advantage of this moment in which nobody is here. I do not see anybody vying for recognition. It is a good time to call up their amendments. There will not be a better time. And there will come a time I suppose when we can yield back time on a bill. How much time remains on the bill?

The **PRESIDING OFFICER.** Fifteen hours fifty-three minutes.

Mr. **BYRD.** And Senators in control of that time of course can yield it back, can they not, or as much thereof as they would wish?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. **BYRD.** In other words, if 10 hours were yielded back, it would leave how much time?

The **PRESIDING OFFICER.** Five hours, fifty-three minutes.

Mr. **BYRD.** I think it is possible to finish this bill tonight, although I have an engagement tonight. I am perfectly willing to stay and work on it.

So I do not see any takers. I will put in a quorum call. The quorum calls are being charged against those who ask for the quorum.

The **PRESIDING OFFICER.** Provided that the Senator who makes that request controls time.

Mr. **DOMENICI.** Mr. President, you indicated to the distinguished majority leader how much time is left on the bill. Could you tell us how that is divided between the two sides?

The **PRESIDING OFFICER.** The Senator from Florida controls 8 hours and 9 minutes, and the Senator from New Mexico 7 hours 42 minutes.

Mr. **DOMENICI.** Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I see on the Democratic Legislative Bulletin 20 amendments. Perhaps Senators do not realize that this overall 20 hours that was available at the beginning, when we first began our action on this bill today, was all; that the time on the amendments, even though there are 2 hours—one an amendment in the second degree and one a debatable motion—comes out of the 20. That time is not in addition to the 20 hours.

So I hope they will understand that the leadership is not inclined to run out the 20 hours, if we can possibly get the work done in less time.

It should also be understood that there is a nondebatable motion that can be voted on to cut the 20 hours down. That is not necessary if both sides agree to yield back their time.

So, that time, the 20 hours—and now we only have something like 15 hours—can rapidly dwindle if time is yielded back.

Now, the leadership is not desirous of making it hard on Senators by yielding back time or trying to stop them or prevent them from calling up their amendments and having some time for debate. But time is marching on, the clock is not still; and with 20 amendments on this side—I assume there are some on the other side of the aisle—it is obvious that Senators ought to be calling up their amendments.

The managers are here, waiting; and after so long a time, if Senators do not call up their amendments, then I may move to go to third reading. That is a debatable motion. That is a motion I recall having been made only once since I have been working the leadership. I will just move to go to third reading. That is a debatable motion, and there will be 1 hour on that, but that will come out of the remaining overall time.

I am not going to be in a great hurry to do that. I am not saying that our patience is running out. But, obviously, if there are that many amendments around, if Senators intend to call them up, they ought to activate themselves and come over and take advantage of the opportunity.

I especially hope that the amendments that were provided for in the waiver motion this morning can be called up relatively soon.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, as I indicated a while ago, there are some amendments listed on both sides of the aisle. We put calls out on our side to see if Senators will get over and call up their amendments.

We cannot get anyone to come over and call up amendments.

I think there is a situation here in which some Senators are waiting on other Senators to go first and vice versa.

As a consequence, we are just wasting good daylight here when we have a bill that has to go to conference, and the Senate ought to work its will on this amendment. Perhaps some of the amendments will not be called up, and I hope that is the case.

Mr. President, I am going to suggest a quorum that is going to be live, but before I do that, the distinguished Republican leader and I have talked, and we both feel very much the responsibility of trying to advance the action on this bill. I think we have agreed that we will yield some of the time back now. At least that will indicate to Senators that we just cannot continue to wait and wait.

May I ask once more how much time remains?

The **PRESIDING OFFICER.** Fifteen hours and 31 minutes.

Mr. **BYRD.** Very well.

If the distinguished Republican leader and I each yielded back 2 hours, or we could yield 2½ hours, that would leave 10 hours.

Mr. President, I yield 2½ hours back from this side of the aisle.

The **PRESIDING OFFICER.** The majority leader yields 2½ hours.

Mr. **DOLE.** I yield 2½ hours.

The **PRESIDING OFFICER.** The Republican leader yields 2½ hours.

Time is so yielded.

Mr. **BYRD.** Mr. President, how much time remains?

The **PRESIDING OFFICER.** Now there are 10 hours and 31 minutes.,

Mr. **BYRD.** I thank the Chair.

Mr. **DOLE.** Will the majority leader yield?

Mr. **BYRD.** Yes. I yield the floor.

Mr. **DOLE.** No; I just wanted to ask a question. I would say I think our colleagues need to understand we are trying to accommodate them, not the leaders. We are trying to accommodate them.

Mr. **BYRD.** Yes.

Mr. **DOLE.** Because this bill does need to go to conference.

I understand the distinguished Senator from New Mexico has convinced some of our colleagues on this side to maybe not offer their amendments, at least they have indicated they would not.

We now, as I understand it, have maybe three amendments on this side: An amendment by my colleague, Senator KASSEBAUM; an amendment by the Senator from Alaska, Senator STEVENS; and a perfecting amendment to the Kassebaum amendment, a substitute or perfecting amendment, by Senator GRAMM. Is that correct?

Mr. **DOMENICI.** Mr. President, let me just say that that is correct with reference to our knowledge of amendments.

There is one other accommodation that I have committed to out of our time and I want to make sure the distinguished leader knows that, and that has to do with Senator DANFORTH from Missouri, who wants to make a motion to strike a provision in the underlying amendment. He can do that. He has an absolute right to do that. But I just wanted you to know that I have told him we would have enough time for him to do that.

He could probably do that before other amendments are offered, if we set aside the pending amendment. And if he came down here and asked, I assume we would be willing to accommodate him. I cannot make that decision without you and others on the floor, but I am going to call and ask if he would like to do that. It is on the underlying amendment, so we would have to set ours aside temporarily. To get something done, I will call him to see if he would choose to do that.

Otherwise, I think we only have the three you mentioned.

Mr. BYRD. The remaining time then would enable us to finish action on the bill by midnight tonight. Of course, I have to say that any time for rollcall votes are not charged against the remaining time; am I correct?

The PRESIDING OFFICER (Mr. ADAMS). The Senator is correct. The time for rollcalls is not charged against the time.

Mr. BYRD. At least we have the end in sight, if we are willing to stay long enough. And I hope we will not have to do that.

Mr. DOLE. In the event we might be able to complete action, say, at 10 or 11 or at midnight tonight, then it would be the intention of the majority leader to move to the continuing resolution tomorrow?

Mr. BYRD. Yes.

Mr. DOLE. And if we do not complete it tomorrow, then it is safe to assume we would complete it on Saturday?

Mr. BYRD. I have informed Senators on this side that we would, in all likelihood, have a Saturday session, unless we finish Senate action on these two measures beforehand, because we have only next week. And we are working, as the Republican leader has said, in every Senator's interest here.

Mr. DOLE. That is right.

Mr. BYRD. Because after Saturday, we have 6 more days, including the next Saturday. And if these matters have not gone to conference, been agreed upon there, gone back to the two respective Houses, gone to the President, gotten his signature or at least his assurance that he will sign them, then our only alternative is to start chipping away on Monday of the following week, which is Christmas week. And none of us want to do that.

Mr. DOLE. It would seem to me the die is pretty well cast, based on the one vote we have had, that most Members are going to stick with the leadership on this package. It may not be what everybody likes, but it is the best we have. I encourage all of our colleagues, particularly those on this side, to accommodate the majority leader. We might even get lucky and finish this by 8 or 9 o'clock.

Mr. BYRD. We could. We could yield back more time. If Senators are not going to call up their amendments, why we might as well just do it.

Mr. DOLE. I am ready. I thank the majority leader.

AMENDMENT NO. 1255

(Purpose: To permit capitalization of certain ground rents for mortgage revenue bond income targeting rules)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 1255.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IV of the amendment, insert the following new section:

SEC. . AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent of such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment.

Mr. INOUYE. Mr. President, the amendment which I am proposing today would increase the number of new home buyers eligible for low-cost Hula Mae mortgages for Hawaii under the provisions of the Mortgage Revenue Bond Program.

The Hula Mae Program was designed for moderate income families who are purchasing their first home. The recent tax reform imposed a purchase price ceiling on homes financed by the Hula Mae Program and is based upon the average home sales in various geographical areas. However, leasehold properties are treated differently. The Internal Revenue Service regulations require that lease rents be capitalized for the full term of the mortgage and its capitalized value be added to the purchase price when applying the purchase price ceiling.

Hawaii's real estate is different from the rest of the country. Many homes are built on leasehold land with residents holding long-term leases. The rental payment is not fixed over the life of the lease, but, rather is renegotiated, often before the expiration of the mortgage contract. The Service's regulations do not permit capitalization of rental payments when those payments are unknown. As a result, existing regulations preclude many Hawaii residents from participating in the Hula Mae Program.

The Joint Committee on Tax scored this amendment as a de minimus revenue impact.

Mr. President, I have been assured that this proposal is part of the so-called technical amendment bill which I have been assured will be introduced early next year and considered. Am I correct?

Mr. DOLE. The Senator is correct. It is part of the technical corrections bill and will be, as I understand it, reported early next year by the Senate Finance Committee or the House Ways and Means Committee.

Mr. INOUYE. With that assurance, Mr. President, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right and the amendment is withdrawn.

AMENDMENT NO. 1256

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 1256.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page, line, insert the following:

SEC. . EXEMPTIONS FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS AND CARGO.

(a) PASSENGERS TRANSPORTED BETWEEN POSSESSIONS, ETC.—Paragraph (1) of section 4462(b) (relating to a special rule for Alaska, Hawaii, and possessions) is amended.

(1) by inserting "or passengers" after "cargo" in subparagraph (D), and

(2) by inserting at the end thereof the following new sentence: For purposes of subparagraph (D), the loading and unloading of passengers shall not be included in such subparagraph if there is any loading or unloading of such passengers outside the State or possession of such loading."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

On page, line, insert the following:

SEC. . ADMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(b) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSIONS.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "July 1, 1988".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

Mr. INOUYE. Mr. President, the amendments which I am proposing today would correct two inequities in the Harbor Maintenance Revenue Act of 1986. The first, subjects cargo shipped between Hawaii and United States possessions in the Pacific to a harbor maintenance tax, and the second, subjects certain passenger ships to a harbor maintenance tax within the State.

The act imposes a 0.04 percent tax on port use. The U.S. Customs Service is accorded the responsibility of collecting such tax on cargo. Mr. President, the act exempts cargo loaded in Hawaii, Alaska or a United States possession for shipment to the United States mainland for the use or consumption on the mainland. Further, cargo loaded on the United States mainland for shipment to Hawaii, Alaska or a U.S. possession are also exempt. However, there is no exemption for cargo shipped between Hawaii and U.S. possessions in the Pacific. These shipments are labeled exports and are taxed. I believe Congress intended to include an exemption because cargo shipped from California to American Samoa is exempt, and shipments to and from Puerto Rico, which has U.S. port status, are also exempt.

Certain passenger ships such as island hops and those which sail around the Hawaiian island chain are also assessed a tax. These interisland ships serve as alternative transportations for the residents of Hawaii. Not all of our tourist attractions and resident recreations are accessible by car or bus. We have no train system to assist our residents and visitors. Therefore, Hawaii bears an unfair burden of this tax.

Mr. President, I have been advised that these two proposals will be part of the technical corrections bill and will be considered early next year. Am I correct?

Mr. DOLE. I would say to the distinguished Senator from Hawaii that the Senator is correct.

Mr. INOUYE. With that assurance, Mr. President, I wish to withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment and the amendment is withdrawn.

Mr. INOUYE. Thank you very much.

Mr. DOLE. If the Senator would yield? I would say in reference to the one additional amendment we are trying to clear with the distinguished ranking member on the committee, Senator PACKWOOD, that is on nurse practitioners, and as soon as we can do that we will advise you.

Mr. BYRD. Mr. President, the distinguished Republican leader and I are hoping that Senators will come and call up their amendments.

I believe that the distinguished Senator from Iowa, Mr. HARKIN, has an amendment and he is coming now. I think, if the distinguished Republican leader would join me, we will just say that we are going to finish this bill today and we want to be as generous as we possibly can be with Senators in the yielding of time. But we only have 10 hours remaining and, under the rule, the two leaders can yield as much of that time back as they feel compelled to. So we can say that by staying in late, the bill will be finished today. So I would urge Senators to get their skates on, get over here, and call up their amendments.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, before I offer an amendment, I want to make a parliamentary inquiry. As I understand it, on the offer of an amendment, there is a 1-hour time limit. Is that correct?

The PRESIDING OFFICER. The Senator is correct. There is a 1-hour time limit on an amendment, equally divided.

If there are two amendments, it would be 1 hour. In this case, there is an amendment to an amendment.

Mr. HARKIN. And the time limit is 1 hour. Therefore, as the offerer of the amendment, I would have a half-hour under my control?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. And whoever would rise in opposition would have the other half-hour?

The PRESIDING OFFICER. The Senator from Florida would have one-half hour under his control if he seeks to exercise that and is in opposition to the amendment. He would have to declare that to the distinguished Senator.

Mr. HARKIN. And then on the yeas and nays on an amendment to the committee bill, the adoption of an amendment would require, as I understand, Mr. President, from inquiry, 60 votes. Is that correct?

The PRESIDING OFFICER. Adoption of the amendment, the Chair will state to the Senator from Iowa, would only require a majority vote. However, if a point of order is raised against the amendment or if there are points of order, the Chair would rule on those. If they are made, it could require a 60-vote majority. I hope the Chair has answered the Senator's question.

Mr. HARKIN. This Senator is now advised of the situation.

AMENDMENT NO. 1257

(Purpose: To provide for the fair and equitable application of the maximum limitation on farm program payments that may be received by a person)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] for himself and Mr. HEINZ amendment numbered 1257.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. ____. EQUITABLE APPLICATION OF THE LIMITATION ON PAYMENTS THAT MAY BE RECEIVED BY A PERSON.

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by adding at the end of subparagraph (A), the following new sentence: "Such regulations shall provide that a producer who rents or leases land from an individual or entity must be combined as one person, for payment limitation purposes, with the individual or entity from whom the land is rented or leased unless the producer makes a substantial contribution of owned land or owned equipment and personal management to the farming operation that includes the rented or leased land."; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) In applying the limitation provided for by this section, the Secretary shall—

"(i) provide for similar treatment of all entities;

"(ii) except as provided in clause (iii), determine the amount of payments that may be received by any entity based on the number of members of the entity who are determined to be actively engaged in farming;

"(iii) consider any entity that is conducting a farming operation independently of all of its members to be a separate person, and combine as one separate person all entities that are owned or controlled by the same one or more individual;

"(iv) except as provided in subparagraph (D), attribute all payments received by an entity to the members of the entity that have an interest in the entity, such attribution to be based on the interest of the member in the entity; and

"(v) consider an individual or entity that is a member of an entity to be actively engaged in farming if such individual or entity has made a significant contribution (determined based on the total value of the farming operation) of (I) land, cash, or equipment, and (II) labor or management to the farming operation.

"(C) For the purpose of this section, the term 'entity' means a corporation, trust, estate, limited partnership, general partnership, joint venture, charitable organization, and, except as provided in subparagraph (A), any other entity or association.

"(D) The Secretary may elect not to attribute payments to a member of an entity as provided for in subparagraph (B)(iv) if it is determined that—

"(i) the interest of the member in the entity is less than 10 percent; and

"(ii) attribution of the payments to the member would have little or no impact on the application of the limitation provided for by this section.".

(b) Ineligibility of Foreign Persons.—The Food Security Act of 1985 is amended by inserting after section 1001 (7 U.S.C. 1308) the following new section:

"SEC 1001A. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"(a) General Rule.—Notwithstanding any other provision of law, for each of the 1988 through 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) Person That Is Ineligible.—

"(1) Definition.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm.

"(2) Exception.—Notwithstanding the provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments in an amount determined by the Secretary to be representative of the percentage interest of the entity which is owned by citizens of the United States.

"(c) Effect.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments, or benefits as the result of the production of a crop of an agricultural commodity, other than the 1988 crop of winter wheat, planted, or commodity program or conservation reserve contract entered into, before the date of enactment of this section.".

(c) Regulations.—

(1) In general.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The provisions of section 1001(5) of this Act shall be applicable in applying the limitation provided for in this section.".

(2) Effect.—The amendment made by this subsection shall be effective with respect to contracts entered into on or after the date of enactment of this Act.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall be effective only with respect to the 1988 through 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, and honey.

Mr. HARKIN. Mr. President, I am pleased that the budget negotiators have succeeded in putting together this package that cuts the deficit by more than $30 billion. I support that. I hope we can bring the budget deficit down even more. However, I would hope that we also look at some of the sacrifices that are being made by different individuals, different groups, and to make sure that the cuts that are being made are being made fairly and that if we have some other cuts that can be made, that will not harm our rank and file out there, the average American, then I think we ought to make those cuts to bring the deficit down even a little bit more.

Mr. President, the amendment I am offering here closes a glaring loophole in the farm price support program.

Under the existing farm program, agriculture makes direct payments to participating farmers based on the difference between a preestablished target price and the loan rate or the market price, whichever it might be. This difference is referred to as the deficiency payment, the difference between the loan rate and the target price payment.

Under the 1985 law, there is supposed to be a limit of $50,000 to any one farmer, or program participant, I should say, in deficiency payments. In other words, no farmer, under the 1985 farm bill, can get more than $50,000.

However, Mr. President, there is a loophole in that section of the farm bill that is big enough to drive a Mack truck through, maybe even 10 or 20 Mack trucks through, because we have found that they were not just getting $50,000 but getting as much as $1 million or $2 million in deficiency payments.

The amendment I am offering here will save millions of dollars by making this program more efficient, effective, and fair.

CBO estimates my amendment will save $50 million in fiscal year 1988, $435 million in fiscal year 1989, and $420 million in fiscal year 1990.

Mr. President, on July 21 this year, the subcommittee which I chair, the subcommittee on nutrition and investigations, held 1 day of hearings into the abuses of USDA's $50,000 payment limitation. The GAO testified concerning program abuses and farm reorganizations designed to harvest the hundreds of millions of dollars in USDA subsidies without any subsidy whatsoever in production or farm activities.

Mr. President, I want Senators to understand this.

GAO estimated that this abuse, this loophole in the law, would amount to $2.3 billion through 1989, with $900 million lost alone in fiscal year 1989 due to these farm reorganizations.

I want to make it clear, Mr. President, that GAO said from 1985 to 1989, because of this loophole, we are going to spend about $2.3 billion of taxpayers' money.

Well, now, let us see where that money is going.

As I said, we had the hearings this summer.

I might also say, Mr. President, last year I proposed this amendment here on the floor of the Senate, and I might just add that it was a procedural vote where we needed 60 votes but did not quite get them. This year I am proposing the same legislation again.

I might also point out, Mr. President, that this amendment is supported by the USDA, by the GAO, and by the IG's office—the inspector general's office—of USDA. All of them say that this loophole ought to be closed and ought to be closed in the manner I am proposing here today.

Mr. President, I would like to go over some charts so Senators can see basically what we are talking about and see the magnitude of the problem.

We can see from this first chart, Mr. President, the increases, the outlays of money for deficiency payments from new farm reorganizations. This is not farmers increasing production. It is not new farmers who are now farming and who were not farming before. This is simply through the reorganization of farm structures in increasing their payments.

In 1985 it just started small, and you can see the progression up to fiscal year 1989, not going up in a straight line, but going up geometrically.

For example, I think last year it went up by some $600 million and will go up again this next year. So this is the kind of abuse we are looking at. This is the kind of money.

If we look at 1990, it will be completely off the chart. Right now we are up to over $2 billion, almost $2 billion, estimated by the end of 1989, about $2.3 billion through 1989.

As I said, it was $900 million in fiscal year 1989 alone.

Let us look at what we are talking about in terms of these farm reorganizations on the next chart.

Here is a specific example, Mr. President, that we uncovered in our investigations that GAO looked at.

Here we have a farming operation that has a farm by a father with four sons and a daughter, each one of them involved in the farming operation.

In 1985, this farming operation got $50,000 each in payments to each one of these individuals. The father got

$50,000, son B, son C, son D, and so on. Each got $50,000, and daughter F got $50,000. They operated as a joint venture. The total amount of money they received was $300,000. That is all well and good. They were each involved and each got $50,000. No problem.

But between 1985 and 1986 they hired an attorney and what happened is on the next chart.

Now we see these six entities begin to form what is called the Christmas tree. Father A and son B form A and B, Incorporated. Father A and son C form A and C, Incorporated, each one forming a paper entity with each other. So before we had six people and now we have 21 persons qualifying for $50,000 in payments.

So in 1985 these six people got $300,000 and through just a paper manipulation forming these different corporations, the next year they got $1,050,000. They did nothing else except reorganize themselves and going from $300,000 in 1 year, to which I think they were rightfully entitled, to $1.05 million just because they set up this Christmas tree.

Again, Mr. President, what my amendment seeks to do is to redefine "person" so that each one of these individuals could still qualify for the $50,000 if they are actively engaged in agriculture, have an input of labor, capital, and management, but they would be precluded from building this Christmas tree and getting $1.05 million. So this is one example showing how active farmers reorganized themselves to increase their payments.

That is just one side of the story. There is another side of this story, and that is now investors, who are not engaged in agriculture, reorganize themselves when they cash rent their farms to increase the amount of money that they are receiving.

This second case study—and again, I would say that this abuse has to be stopped also—involves a landowner. These examples are basically the same, but the landowner had a subsidiary that contracted with a managment corporation to manage a farm with 6,000 acres. We had the landowner, the subsidiary, and management corporation managing the farm. They were permitted to get $50,000 in deficiency payments. Again, no one is really arguing about that. But what they did then is they changed their operation on paper and here is how it looks now. You have the landowner, the subsidiary, the management corporation, and the management corporation took the 6,660 acres of land and divided it into 28 parcels of 238 acres each.

Each one of these squares represents one of those investors. This is one with 238 acres, there is one with 238 acres.

Now, I should have 28 of these squares, but I did not have room on the chart so this square represents numbers 3 through 26 of 238 acres, so there should be 28 of these little squares where before we just had the landowner, the subsidiary, and management of the farm. We now have 28 different paper corporations, each one of those qualifying for the $50,000 payment limit, so they go from one year and $50,000 to the next year and $1.4 million that they are bilking the Government. They did not farm any more. They did not grow anything else. They just made a paper manipulation to change the structure of their farming operation.

We had the one before, Mr. President, defined as a Christmas tree and you can take a look at it. This is the example of farmers who are actively in farming and involved changing their structure. Someone said it looked like a Christmas tree. Actually, it looks like a Christmas tree ornament and it is quite an ornament. That ornament is worth about a million bucks to these farmers. That is the Christmas tree.

This other one is called a cookie cutter because it is like they took a cookie cutter and cut up 28 parcels and each parcel now gets the $50,000 payment.

So, Mr. President, that is what this amendment seeks to do. I think that these examples—and these are just two of the many examples that GAO and the inspector general's office came up with—I think these examples show that we have something which has run amoke here. We have to close this loophole. I believe that our programs ought to be targeted to those farm operators who operate family-sized farms and not to people who can gin up the papermill and create all these paper entities.

What my amendment does is it closes this loophole. But I might also point out that the amendment is carefully drawn so that people like the widows, widowers, and others who cropshare their land will not be affected. They will still be able to get their $50,000 payment as long as they can show that they are contributing land, labor, or some capital to the operation.

I might point out that in this cookie cutter operation, where they set up 28 different parcels of land, these individuals did not invest a cent. They did not put up anything. In many cases they got a loan based upon their potential payment from the Government, so at the end of the year, without putting up any capital, they got a payment from the Government. And I can tell you right now that some of the individuals involved here, lived outside the United States, and one or more of these individuals were minor children under the age of 10, who obviously were not contributing any land, any labor, or any capital to the operation. So this amendment that I offer will strengthen the controls and close the loopholes. It will save us over $400 million a year. And it will only affect about 15,000 real and I might add pretend farmers. These are not real farmers. These are pretend farmers.

Mr. President, I would just like to point out how many and who would be affected under this amendment. I received from the Department of Agriculture the total number of farmers who participate in the Farm Program and how many receive over this $50,000 payment limit. Nationally, Mr. President, we had 979,698 participants in the Farm Program in fiscal 1986, the last year for which we have figures. The number of producers who got over $50,000 in payments was 15,477, or 1.58 percent of all of the farmers in the country. And this loophole will not be closed for all those because obviously legitimately some of those who are receiving $50,000 ought to contunue to receive $50,000. But not the $1.4 million or the $1.05 million as the Christmas tree showed.

Last, Mr. President, a lot has been said about who receives this money. A lot of newspaper articles have been written. We know, for example, that the Prince of Liechtenstein—wherever Liechtenstein might be—who does not even live in this country, last year I believe received some $2.2 million—$2.2 million to the Prince of Liechtenstein in deficiency payments from the taxpayers of this country.

Well, I believe, if we are going to cut the budget, if we are trying to cut the deficit, we want to do it fairly, let us target these programs for operators of family-sized farms and get the hand of the Prince of Liechtenstein out of the till and make the programs work as they were intended to work.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes 40 seconds.

Mr. HARKIN. I reserve the remainder of my time.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. Who yields time? Time is controlled in this situation by the Senator from Florida, if he is in opposition.

Mr. BYRD. Mr. President, on behalf of Mr. CHILES, I yield to the distinguished Senator from Alabama—how much time does he want?

Mr. HEFLIN. I would say at this time maybe 10 minutes.

Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. HEFLIN. Mr. President, I rise in opposition to the Harkin amendment. This is the first amendment that will come up pertaining to the leadership package. If the Harkin amendment is adopted, the floodgates are open—and I think that the efforts of the White House, the leadership of the Senate, the leadership of the House of Representatives, the leadership of the Budget Committee, which has worked diligently for many, many months, the leadership of the Finance Committee, and the leadership of the Appropriations Committee, all of which have been involved, stand in jeopardy.

This is a test vote on the summit that was worked so hard at by so many people to arrive at a solution to reduce deficits. And this amendment is placing the work on the budget in jeopardy. That is the first thing I think you ought to consider at this stage.

Second, if we do not come up with a deficit reduction package, what are the signals that go out, what are the signals that go out to the financial markets, what are the signals that go out to the world at this particular time? I think that is something that we all are interested in.

We are interested in coming up with a deficit reduction package. Now the machinery, the mechanism, by which the leadership package was arrived at, is in jeopardy, too, with this amendment. You had the various authorizing committees meet, and the various authorizing committees met with an idea of achieving the reduction in spending, and how it would be achieved. The Agriculture Committee spent many, many hours relative to these matters, and finally on Friday of last week they came up with a package. This package does not include the Harkin amendment.

That process was designed to allow the authorizing committees to work on this. If you send a signal that the floodgates are open, then all of the work of the authorizing committees in producing the leadership package are in jeopardy.

I have spoken generally about where we are in the significance of the fact that this is a first vote. Let me address the issues that are involved here. I think there are abuses. There is no question that there is a need for an answer, and a solution relative to the abuses that we have. There was a GAO study, and the various charts that he has showing some of the instances of abuse which have occurred. But it is similar to when you go to the doctor. You first try to diagnose the illness, and then it is the matter of prescribing a medicine. If a wrong medicine is prescribed, you may have worse results.

The Secretary of the Department of Agriculture has the authority to promulgate the regulations pertaining to persons, and how this should be defined. If there are ills, then the finger of blame needs to be pointed not at Congress, but at the Department of Agriculture.

Yes, we had a hearing that was directed toward the abuse, and toward what the GAO study showed. But we have had no hearing, no hearings whatsoever, no investigation, no deliberation, no careful consideration as to the solution.

If you give the wrong medicine, you can have a patient that can go into chills. And can in effect die. You can have all sorts of things that come about when you choose the wrong solution. It may well be that in the long run some aspects of the Harkin amendment are good, and that it might be good medicine. But, on the other hand, there could be far-reaching consequences affecting family farmers that need to be considered, and that need to be carefully reviewed. We need to have testimony about the effect of certain solutions, and in this instance we have had none, not even the first word pertaining to the solution that has been proposed by the Harkin amendment.

I could say that for all practical purposes there have been no hearings. And here we are on a reconciliation package where there have been in effect no hearings whatsoever.

They would come back and say, yes, we had a GAO study, we pointed out the abuse, but we have had no hearings on solutions.

One of the beautiful things—and I say beautiful because it has worked and it is a thing of beauty pertaining to the 1985 farm bill—was the marketing loan that was adopted for certain crops like rice and cotton. It has worked. The figures we have, for example, since the marketing loan has gone into effect pertaining to cotton will show that there has been at this stage to date a 30-percent decrease in the cost to the Government because of the marketing loan to cotton.

There is not as much in rice, but over time it appears that it will have at least a 26-percent decrease in the cost to the Government as compared to what it cost before the marketing loan went into effect.

What is the effect of the Harkin amendment on the marketing loan? I ask that not only from the viewpoint of the effect that it could possibly have on the cotton program and on the rice program, but there are many Senators who believe that the solution to the farm problem that we have today lies in the marketing loan for wheat, and corn.

As a part of the package it has been recognized that the marketing loan is working, and as a part of the leadership package we have here to offset some situations that would develop we are adopting a marketing loan as it would apply to soybeans.

The problem with the Harkin amendment and its effect upon marketing loans generally is what will be the effect 2 years from now? Will it in effect cause a reversal of the trend in cotton? Will it cause a reversal of the trend where we have been saving money on rice? We do not know. But we do know this: That there are many cotton farmers, many rice farmers, who are considering getting out of the program and therefore they are going to plant fencerow to fencerow, because the marketing loan has worked and the price of cotton has gone up, the price of rice has gone up. And the program that has been designed under the marketing loan may well be destroyed.

Whenever we get back to the farm bill, whether it be in 1990, or whenever, we may look at the marketing loan as being the savior for corn. Senator HARKIN's State of Iowa has a great deal of corn. They are looking into the issue of the marketing loan as being protection for that commodity.

But here, with this amendment, we are getting into something we do not know one thing about on how the effect and what the solution of the Harkin amendment might be. And we are going off into a situation of where we may well be destroying the program without carefully considering it. Agriculture problems are complicated, extremely complicated. And if you do not have hearings and you do not try to foresee the problems that will arise, you are going to get into more trouble. The Harkin amendment ought to be called the uncertainty amendment because we do not know the extent of this trouble and where it might be.

So I say to you at this time that this is not the vehicle by which we ought to be going off into some uncertainty. There are abuses. The Secretary of Agriculture can correct them. We in Congress can correct them after we have hearings on solutions.

So, without going off into some wild blue yonder, without knowing where we are going and what we are going to do, and without any hearings on solutions to these abuses without any projections as to what would happen with current farm programs, and overall farm policy, I ask the Senate to reject the Harkin amendment. Because, I think that while the amendment has some good intentions, we all know the road to the devil is paved with good intentions.

You have to see where you are going. Are you going to dig a road or highway through a mountain or through rock, or is it going to be through sand? You have to know something about it. We have a situation here in which we do not know one thing in the world about the consequences of this; we know nothing about the solution.

So I beg the Members of the Senate, let us, first, not open the floodgates on the leadership package. Let us not start a situation of where we are going into a matter that we do not know what is going to happen on deficits.

Let us respect the work of some who have tried to reduce deficits.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Who yields time?

Mr. HARKIN. Mr. President, before I yield time, I want to respond briefly.

First, I ask unanimous consent that the names of the following Senators be listed as cosponsors of this amendment: Senator Burdick, Senator Lautenberg, Senator Helms, Senator Boschwitz, and Senator Metzenbaum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I just want to respond that indeed the subcommittee on investigations had a full day of hearings on this issue this year.

As to the fact that there have been no investigations, there are six full GAO reports on this $50,000 payment limit. The Inspector General of the Department of Agriculture wrote 15 reports on this abuse, and it has been consolidated in one report. This has been investigated by all branches, by Congress, by the GAO, and by the Inspector General's office.

I also pointed out—I do want others to speak on this—that basically this amendment will help the leadership package, because it will give us more flexibility to make adjustments because of the increased savings we have in this measure.

I yield 6 minutes to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, the Senator from Alabama has said that marketing loans would be impaired by this amendment. As I understand the amendment, the payments on the marketing loans, the amounts below the loan rate, do not count toward the $50,000 limit.

Am I correct in that?

Mr. HARKIN. The Senator from Minnesota is absolutely correct.

Mr. BOSCHWITZ. I thought so.

Mr. President, I rise in support of the amendment offered by the Senator from Iowa.

I have not been an advocate of payment limits in the past. Frankly, a good portion of the commercial-size farms are now impacted by the $50,000 limit, because one of the economic realities of our time is that farms are indeed getting bigger. More of them will be impacted by the limit that is suggested by the Senator from Iowa, and which I support them in years gone by.

The 1985 farm bill also exacerbated the $50,000 payment limit problem, because by lowering the loan rate and keeping target prices high, deficiency payments, which are the subject of the $50,000 limit, increased. As a result, more farms were affected for that reason as well.

The farm program that Senators Boren, Karnes, and I have introduced, known as decoupling, which the Senator from Iowa and I do not agree on—in our bill, the "person" definition is like the "person" definition the Senator from Iowa is seeking by his amendment.

Anyone who has watched the farm policy debate in the past few years knows that I do not always agree with my friend from Iowa, for whom I have the highest regard and highest respect because of his knowledge of farm issues and because of the empathy he brings to the plight of the farmer. That plight still exists, and, while easing in the last year, it still is a problem for those who find themselves heavily in debt.

On the subject of "person" definition, I think the equities are quite clear, and the Senator from Iowa and I are on the same side.

I am worried about the integrity of farm programs and their ability to continue. We hear about outrageous abuses such as the Prince of Liechtenstein receiving millions of dollars in payments. While the abuses amount to a very small portion of the overall payments made to farmers—it is the negative perception of the people, what they see printed and see on TV, that worries me. While it amounts to only a small portion of the entire sum that is spent on farm programs, nevertheless, it endangers the viability of the entire farm program because there is such a strong reaction, as there should be, to those kinds of offenses.

So I am pleased to support the Senator's amendment. I am also particularly pleased that he has made some exceptions for the subchapter S corporations. Under the present law, subchapter S corporations are treated quite harshly and are treated as only one person. Under the Senator's amendment, they would be treated more fairly. Where two or three farm families have gone together, at the advice of counsel, at the advice of university advisers, and now find themselves unduly restricted, the amendment would give relief. So I think the Senator from Iowa is doing the right thing and the fair thing in that regard as well.

I am pleased to commend the Senator from Iowa on this amendment. It is long overdue. I hope we can come out of conference with it or something like it, and I hope, too, that it will be expeditiously adopted by the Senate.

Mr. President, I ask unanimous consent to have printed in the Record an article by Warren Brookes, which appeared in the Washington Times on May 28, 1987.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, May 28, 1987]

Bumper Crop of Benefits

(By Warren Brookes)

Over the last six weeks, Congress has added nearly $1.5 billion in the already bloated $26 billion farm subsidy program, including an additional $1 billion for export subsidies, and $400 million in "disaster" relief for farmers hit by last year's floods.

With huge payments like these, there is no sentiment among farmers for any significant change in the current program, let alone the radical Harkin-Gephardt production-quota proposal.

Not, that is, unless Congress does what no one expects it to do: set some kind of real limits on the amount of subsidies a single farm unit can receive by making it tougher to "reorganize" farms into multiple "persons" or corporations, each entitled to up to $50,000 a year in subsidies.

According to the General Accounting Office, these "reorganizations" alone will cost taxpayers an additional $2.5 billion from 1984 to 1989, with some 31,000 "new persons" added to farm subsidy rolls by 1989. (See chart.)

And thereby hangs a fascinating tale.

During last month's passage of the $9.3 billion supplemental appropriations bill, House Appropriations Committee Chairman Jamie Whitten, Democrat of Mississippi, no farm radical, managed to attach an amendment forcing the U.S. Department of Agriculture to hold yet another referendum on the idea of "mandatory supply control" and develop rules to implement such a program.

The measure passed the House overwhelmingly, despite the objections of House Agriculture Chairman E "Kika" de la Garza, Democrat of Texas, who, like 70 percent of all farmers, opposes Harkin-Gephardt.

When the bill got to the Senate, the Harkin-Gephardt rider was stripped out by Senate Agriculture Appropriations Subcommittee Chairman Quentin Burdick, Democrat of North Dakota.

Whereupon Washington Post agriculture reporter Ward Sinclair published an article contending that the big agribusiness lobby (grain traders, fertilizer companies, food processors) was killing the Harkin-Gephardt initiative.

The problem with this thesis is that the folks who put the Harkin-Gephardt referendum idea into the supplemental appropriation bill were not the "farm advocacy" groups at all, but the big cotton and rice producers in Mr. Whitten's district.

They are worried that Congress just might get serious about clamping down on the huge subsidy excesses to major producers, many of whom are collecting millions of dollars.

Last year the top 15-percent of the grain, cotton and rice farmers collected about 70 percent of the huge $26 billion subsidy kitty, with large farms worth more than $1 million averaging well over $200,000 each.

If these grotesque subsidies—paid by average Americans earning less than $30,000-a-year per family—were to get solidly capped, the recipients would want to do what the sugar growers already have done: limit total agriculture supplies to the market in order to drive up U.S. farm prices by $20-$25 billion, 75 percent of which would go to the top 15 percent of farmers.

This is why the cotton and rice "heavy-hitters" appeared en masse April 22 before their friend and fellow "good old boy," House Agriculture subcommittee Chairman Jerry Huckaby, Democrat of Louisiana, to protest USDAs proposal to make it tougher for farmers to pile up subsidy entitlements by phony "reorganizations."

As the violins played, these large-farm operators, many of them leasing thousands of acres of land from small landlords and then setting up dummy corporations to multiply their "entitlements" to your tax money, sang out the sob song of the professional "rent-seeker," namely that their special interest would benefit all of us, even the poor!

One of the more sickening performances was by Jack Hamilton—a cotton, soybean, rice and wheat farmer from Louisiana—who contended that his farm and its subsidy payments were really a philanthropic cause. To prove it, he produced a table showing all of the different poor and elderly folks being "benefited" by his operation.

Included were seven landlords, among whom were three he described as "black widows," one "white widow," and one "black Baptist church" and one "retired farmer" from whom he leased 785 acres of land and to whom he paid a total of about $42,975 in rent, or about $50 an acre.

Of course, the only reason he rented that land was because he could make good money farming it along with his own 1,244 acres. His 2,092 acres will produce estimated revenues of $502,565 this year, of which $133,000 or so will come from the taxpayers direct.

So that $42,975 he paid in rent was not out of the goodness of his heart, but because with the added acreage he could generate an additional $200,000 in income—much of it from you and me.

This, of course, is precisely why, in this "farm depression era," tens of thousands of farmers like Mr. Hamilton are busy leasing every available acre they can find just to earn more money from subsidies.

It's getting more disgusting every day.

The PRESIDING OFFICER. Who seeks time? Who yields time?

The Senator from Iowa and the Senator from Florida control time. Who yields time?

Mr. PRYOR. Mr. President, a parliamentary inquiry.

Who is controlling the time for the opponents?

The PRESIDING OFFICER. The time for the opponents has been controlled by the Senator from Florida and the majority leader acting for the Senator from Florida.

Mr. PRYOR. Mr. President, I wonder if the distinguished manager will yield to the Senator from Arkansas 3 minutes in opposition to the Harkin amendment.

Mr. CHILES. I am happy to yield.

Mr. PRYOR. I thank the distinguished Senator from Florida for yielding.

Mr. President, this is a package that none of us really likes. I think all of us pretty well admit that.

I was involved, as many other Members of this body were, in some phases of this package—the Finance Committee package, the governmental affairs package, and now the agriculture package—upon which this issue is based at this moment.

Mr. President, I think the day will come when there will be a change in the "definition of person" issue that Senator HARKIN has raised on this floor today. I think the day is going to come when we will reexamine this issue. I think the day is going to come when we will change the way the moneys are distributed to the farmers across our country. I think the day will come, probably sooner rather than later, as to how we will make those equitable distributions and how we will define "person" under the deficiency payment philosophy that we have had for a number of years in American agriculture. Mr. President, this is not that day.

I would just like to say, as my friend from Alabama, Senator HEFLIN, has just stated, that if we do adopt the Harkin amendment, we are going to begin the unraveling of a piece of very carefully put together legislation.

I urge my colleagues, in all due respect to my good friend from the State of Iowa, Senator HARKIN, that we oppose the Harkin amendment for the time being, that we pass this agricultural package as a package. It was not easy to put together. There were long hours spent in putting it together. The corn people gave, the cotton people gave, the rice people gave—some gave, some took—but all of us gave some to find the $2.4 billion in savings that we were mandated to save under not only the budget law but the Gramm-Rudman-Hollings law.

Mr. President, for a further and better explanation of the issue that is before the Senate today, I ask unanimous consent to print in the RECORD an April 7, 1987 article from Farm Journal written by Mr. John Marten.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

$50,000 Limit Promotes Part-Time Farming

(By John Marten)

The new Reagan plan the issue. Shrinking government outlays the goal. Limit *all* annual direct payments to $50,000 per individual the action. Only time will tell if it will sell.

Since the Harkin-Gephardt proposal is dubbed the "Save the Family Farm" Act maybe this new Reagan plan should be called the "Make 'em All Part-time Farmers" Act or the "Lawyers and Lease Preparers Welfare" Act. Washington is trying to save money by social legislation that defies the laws of economics. It makes for less efficiency—a higher cost farm sector in the long run.

The family farm folklore of today says "Little is lovely, big is bad"—a notion common to most any ruralist. But the rural "mythologist" of today also argues that the "wrong folks" are getting the government checks. "Not so," say the data in Table 1—current transfer payments are, in fact, relatively larger for those in need—on target if you will.

USDA data show that "high-debt" farmers account for just 21.4% of farms but get 50.8% of all payments! And over 55% of high-debt farmers receive payments versus just 30+% of low-debt folks. I'm not saying this is perfect, but it's a clear refutation of the "wrong folks are getting rich" myth.

The same USDA study showed that:

Family-sized farms in the $40,000-to-$250,000 sales class made up just 33% of farmers and 41% of all sales, but collected 58% of all ASCS payments.

That typically part-time farms with under $40,000 sales totaled 60% of all farms, got less than 6% of ASCS checks, and produced less than 8% of sales.

Finally, the big $250,000+ folks comprise just 7% of all farms, make 51% of all sales, but get less than 37% of program payments.

Many viewpoints can be supported with these facts. But "full-time family farms aren't treated fair" isn't one of them.

A rural revolution? This policy would sure keep the lawyers busy. So far, we've created over 250,000 new "ASCS Farms" since 1985 as farmers battle the current rules in the 1985 farm bill, which cut their income and render them uncompetitive based on socially acceptable price supports.

A Kansas father-son corporation that maximized efficiency at 4,000 wheat acres in 1982 is in big trouble now. As Table 2 suggests, they hit the $50,000 mark on less than 700 acres this year (line 10), and they'll have less than 500 planted acres covered in 1988 if the new "$50,000 in total" plan becomes law.

Corn farmers would really begin to "think small" if the limit becomes law. A near-40% shrinkage would occur from 1987 to '88 (line 11). Less than 350 acres (line 9) would put you into the "big and bad (and broke?)" category.

So the consequences of this revolution are:

Continued heavy legal activity as farmers try to maintain their efficiency levels (volume) to keep costs down.

Sales of land and/or lack of buying interest by larger farmers.

Faster shift away from cash and toward crop-share eases

Major growth in custom farming to keep machinery, labor, etc., busy and efficient.

Hectic but very profitable times for lawyers, real estate brokers and farm managers.

Supply control vs. payment limits—this is the key trade-off. Keep cutting the limits and you eventually have big farmers producing more while smaller ones study the noxious weed laws in their state! (While sharpening sickles.)

But Uncle Sam will save billions, right? Nope. Given the current loan and target price structure, we would just: (1) cut compliance; which, (2) boosts production; which, (3) raises loan and deficiency costs! Clearly this dog just chases his tail.

Fairness and justice are two words not easily defined—and so the payment limit debate has no "right" answer. Should federal payments really be targeted even more to those with high debts and high costs? Why reward those results? Is that fair to a frugal neighbor who has low costs, no debt and pays income taxes? Many would say "no way."

And yet, few of us want government subsidies so uniform and large as to reward or promote cotton, corn and wheat "mega-farms." Perhaps it is time to consider a "graduated" or "volume-related" target price notion (you'd get less per unit as acreage increased.)

It's full-time family farms that will bear the brunt (along with OMB) of the "savings" in the new Reagan plan.

TABLE 1.—FARM PAYMENTS GENERALLY ARE ON TARGET! [1]

Financial condition	Number of farms	Percent of all farms	Percent getting payment	Percent of all payments
High debt; negative cash flow	173,000	11.2	53.3	15.8
High debt; positive cash flow	158,000	10.2	58.2	35.0
Low debt; negative cash flow	519,000	33.5	30.0	8.1
Low debt; positive cash flow	701,000	45.1	31.0	41.1

[1] 1986 USDA survey. Data covering 1.6 million farms and $13 billion in direct program payments and net CCC loans in 1985.

TABLE 2.—HOW THE $50,000 PLAN DOWNSIZES FARMS

	Corn	Wheat	Cotton
1. Target price	$2.97	$4.29	77¢
2. Formula loan	$2.17	$2.71	50¢
3. Actual loan/average price	$1.73	$2.17	45¢
4. Amt. subject to limit (1−3)	$1.24	$2.12	32¢
5. ASCS program yield	120 bu.	50 bu.	600 lb.
6. Payment/acre grown (4×5)	$149	$106	$192
7. Max. ARP idling (percent)	20	30	25
8. Max. base coverage, acres	420	674	347
9. Max. plantings in 1988 (8—7)	336	472	260
10. Max. plantings in 1987	555	654	310
11. Proposed 1988 as percent of 1987 (9÷10)	60.5	72.2	83.9

Mr. PRYOR. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, will the Senator yield 3 or 4 minutes to the Senator from Arkansas?

Mr. CHILES. I am happy to yield, to the Senator from Arkansas, 4 minutes.

The PRESIDING OFFICER. The Senator from Florida yields 4 minutes to the Senator from Arkansas.

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Florida and the President.

Mr. President, I rise in opposition, reluctantly, because the Senator from Iowa is always out on the cutting edge in trying to preserve the farm programs that we have and trying to help the American farmer become taxpayers.

As my distinguished colleague has already pointed out, this might be an amendment that I could happily stand on the floor and support 2 years from now, but today it is premature.

The marketing loan programs that we put into effect in the 1985 farm bill have begun to work.

I have addressed about three different farm groups in my State in the past 30 days, and it is the first time in at least 6 years that I have been able not to go with hat in hand, my head between my legs in apology. I was able to face those farmers and say things are indeed looking better. We had the biggest yield of cotton this year in the history of our State. Two bales per acre were not out of the ordinary. And cotton prices have been pretty good. Rice, which was selling a year ago for $1.60 a bushel, is up in the $4 to $4.50 range because of the marketing loan provisions we had in that bill.

But I can tell you the farmers in the State of Arkansas, and I expect I speak for the farmers of Iowa, are not yet taxpayers. Even though they are going to make a little money this year, they still have such staggering losses from the preceding years that they still have to write off, and they will not be able to pay any taxes soon to the U.S. Treasury.

Mr. President, I want to also say that I speak to you not only as a Senator from an agricultural State, I speak to you as a Senator from the South where the devastation of this amendment will be the greatest.

First of all, I hope a point of order will be raised against the amendment; and, second, I hope my colleagues will not support this amendment because it is premature.

If I have to vote for anything dealing with deficiency payments, I will take the provision that is in the House bill now, the so-called Huckaby amendment. I am not too crazy about it, but it is infinitely preferable to this amendment which in my opinion will unravel, as my colleague said, the 1985 bill and all the progress we have made. Farmers for the first time in years have some legitimate reasons for believing that their future does indeed look brighter, and this will be a throwback.

So I urge, indeed I plead, with my colleagues to vote "no" on this amendment.

I yield back such time as I have remaining, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. CHILES. I am happy to yield.

The PRESIDING OFFICER. Does the Senator from Florida yield time?

Mr. CHILES. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Florida yields 2 minutes to the Senator from Texas.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I share the comments of my distinguished friend from Arkansas who spoke very eloquently on this piece of legislation. It is a highly technical issue that we are dealing with here, and of such a complexity that I really do not think we can resolve it on the floor of the Senate.

I strongly urge we let the agriculture committees solve the problem and work it out.

The other side of the argument, too, is that we have before us a package that has been put together at the summit meeting of the conferees, and if we start accepting amendments now and particularly those that are highly technical and complex I do not know where we stop. It is a slippery slope to get on, and I hope we could oppose these amendments and set that kind of a pattern very early on, and we can defeat this amendment by an overwhelming margin.

Frankly, I think, that will help send a message so that we will not have nearly as many amendments tonight and hopefully will finish the overall package.

I urge defeat of the amendment.

The PRESIDING OFFICER (Mr. REID). Who yields time?

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. Six minutes and fifty-eight seconds.

Mr. FOWLER addressed the Chair.

Mr. CHILES. Does the Senator from Georgia wish time in opposition to the amendment?

Mr. FOWLER. One minute.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 1 minute.

Mr. FOWLER. Mr. President, I rise in opposition to the Harkin amendment and would like to associate myself with the remarks of my friends from Arkansas, Alabama, and Texas.

This is a complex matter. This issue has been described as one giant loophole, when the truth of the matter is that the so-called person definition was put into the law to resolve the regional differences between the way we farm in the different regions of our country. The person definition was put into the law to try to ensure fair treatment and just treatment to all farmers regardless of where and how they were forced to farm by soil and climate and regional limitations.

Crops like cotton and rice, despite our fine soil and climate in the South, cannot be farmed profitably on 40-acre plots. Capital is pooled; money from brothers and sisters and in-laws and sometimes neighbors all have to be brought together in order to put together a farm where these crops can be farmed profitably.

I understand and I applaud the sincerity benind the approach of my friend from Iowa, but we should not be allowed to try to rewrite a definition that has served its purpose and served its purpose well at this time.

I think it is important that our colleagues understand what this amendment would do before they cast their votes. This is an issue that goes to the heart of regional differences in agricultural production. It is about the way we farm in the South, the way we produce agricultural commodities for our great Nation and the world.

From the first colonies, southern farming has differed from northern farming. Our land and climate lend themselves to producing certain commodities, such as cotton and rice, that are simply not profitably grown on small, 40-acre plots. Farmers who choose to grow these crops must, for the most part and of necessity, organize a larger farming operation than farmers who grow other crops.

Today's larger farms in the South are often the product of pooled capital and labor. Savings and credit and the work of brothers, of fathers and sons, of in-laws, and even of unrelated neighbors, have been pooled in order to produce southern commodities and a decent livelihood for southern farmers.

These farms have existed for years. And for years, the Federal Government has recognized these regional differences, has taken into account the different structure of farms in the South, and has reasonably and equitably chosen not to penalize southern farmers for the crops they grow or the way they choose to grow them. For years, our Nation's farm programs have treated our Nation's farmers fairly without regard to region.

And now, of all times in the midst of a crisis in rural America and across the South, are we going to abandon this past and embark on a course into uncharted territory?

The amendment which was just introduced. I, as but one member of the committee of jurisdiction, have not had an opportunity to review in detail. No hearings have been held on this topic since I joined the Senate, and this specific legislation has not been openly examined outside of the context of budget reconciliation by the members of the Agriculture Committee assembled.

Its effects on the South, while undoubtedly negative, are unknown and unquantified. But what is the cost of this legislation? How many southern farms will be broken up? How many will go under? We don't know for sure, and we won't know the tradeoffs without a hearing on the specifics of this language and without discussion among the members of the Agriculture Committee.

The current person definition has been characterized by some as one big loophole—that is to misunderstand the purpose of the person definition. That purpose is to treat all farmers, farmers at each point of this Nation's compass, with equal and just consideration.

The person definition can be revised in order to solve the problems pointed out by some of my colleagues while continuing to allow farmers North and South, East and West, the flexibility that other breadwinners enjoy to organize and operate in a manner that suits their positions and interests.

We are not prepared today, I think, here on the floor, to revise this definition in any detail or with any forethought or fair consideration for regional differences. This is work appropriately left to the committee of jurisdiction.

That is why in the name of fairness to the farmers of all regions, and in the name of prudence in this body's deliberations, I oppose this amendment at this time and call on my colleagues likewise to oppose it.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. BOSCHWITZ. Mr. President, I rise to say that I inadvertently forgot to mention that the administration is very much in favor of this amendment. They consider it to be good farm policy. I do as well.

As I have indicated, in the event there would be any savings that would result from an adoption of this amendment, certainly other aspects of the package could be adjusted. I would even say that loan rates could be adjusted, but I better not do that on the time of the Senator from Iowa.

But in any event, the administration does indeed favor this amendment, and it is good policy.

I yield the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Wisconsin, Senator KASTEN, also appear as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, there is nothing technical and there is nothing very intricate about this amendment. Once more, we go around it. Here are two examples. Here is one with six people, all in a farming operation. They each got $50,000. In total they got $300,000. No one is complaining about that.

But in 1 year, what they did is set up a Christmas tree. In 1 year they went from $300,000 to $1,050,000 in Government payments, without anything else, other than setting up a paper Christmas tree.

The other example I showed is how a landowner that had a subsidiary that has a management corporation managing 6,060 acres of land. They got a $50,000 payment limitation. But in 1 year they went out and set up 28 separate paper corporations, each one getting $50,000. In 1 year they went from $50,000 to $1.4 million. It does not take very much to figure this one out.

I might just add, on the legality, on saying "Let the Department of Agriculture take care of it," they are trying to take care of it. In fact, on this case alone the Department of Agriculture is in court trying to recover the money. They cannot do it because the law is the law.

What I am talking about here is not illegal. It is perfectly legal to do this. And unless we pass this amendment, it will be perfectly legal next year.

If we are trying to save money, let us cut where the fat is the thickest. I just have to say that in these kinds of cases like this, this is where we could make some savings, quite frankly.

You talk about not reopening the 1985 farm bill. This package devastates the 1985 farm bill. It cuts the target prices 1 percent. It adjusts the loan rates. It cuts the paid diversion. It increases the unpaid ARP. Talk about undoing the 1985 Farm Program, that is what the package does.

I am just saying, fine. I support the package. But I am saying let us make a few additional savings that we can make right here without hurting any family sized operations.

I also want to say, in closing, that I appreciate the comments made by my distinguished colleague from Minnesota. As he indicated, sometimes we do not always agree on agriculture matters. But I have the highest respect for his analytical abilities and for how he is always getting to the crux of the problem in agriculture. In fact, we found ourselves agreeing many times in the analysis of the problem, but we happened to have reached different conclusions sometimes. But on this one, we are together and we both believe very strongly that this is one abuse that ought to be closed.

I reserve the balance of my time, if I have any remaining.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I wonder if the Senator from Florida would yield me 1 minute?

Mr. CHILES. How much time does each side have?

The PRESIDING OFFICER. The Senator from Florida has 7 minutes and 30 seconds, and the Senator from Iowa has 2 minutes and 40 seconds.

Mr. CHILES. The Senator from New Mexico wishes some time and the Senator from Arkansas, and then I will yield back any time we have remaining and let the Senator from Iowa use his remaining time, and we will call for a point of order against the amendment.

Mr. HEFLIN. I would like to have a couple of minutes.

Mr. CHILES. I yield 2 minutes to the Senator from Alabama and 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to simply say that the Senator from Iowa is right about the Christmas tree. That is a problem with this program and it ought to be eliminated and it will be eliminated in conference with the House.

All I am saying is that nobody here is arguing that there have not been abuses in this program. There is a provision in the House bill that gets at those abuses, and that gives our conferees and the House conferees wide latitude in eliminating them.

But you cannot suggest to the farmers in Arkansas that they give up the right to a deficiency payment because they are going to get cut 1 percent on their target prices. You take a vote down there and I promise you they will stick with these deficiency payments every time. They are absolutely critical to their survival.

But I want the Record to show that the Senator from Iowa has made a cogent point. It can be, it should be, and it will be dealt with. But you do not have to do it with a broad ax, which he is trying to do.

Mr. President, I yield the floor.

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished manager for yielding me 1 minute.

Let me urge Senators in this brief minute to refrain from taking the easy way on the proposal. The easy way is to try to ingratiate yourself with those who are suspicious of farm programs, who think there are changes that ought to be made in the 1985 farm bill. There may be improvements that can be made in the farm bill. This may be one of them. But we are here trying to meet targets established in a bipartisan agreement, not to try to engage in one-upmanship political posturing.

And I am not suggesting that is the motivation, but it is a temptation to try to do just a little bit better for this group of interests or that group of interests all the way along as we consider this bill.

Please refrain from voting in support of this amendment and follow the managers of this bill and let us try to implement the agreement that was reached at the summit.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alabama is recognized for 2 minutes.

Mr. HEFLIN. Mr. President, they mentioned abuses involving the Prince of Liechtenstein, or something like that. That can be cured simply by a regulation by the Secretary of Agriculture. This matter is subject to regulation or any corrections in regards to that. And I certainly think that there ought to be. I urge the Secretary of Agriculture to adopt the Liechtenstein regulation, or whatever it might be called, to try to do it.

But let us not try to ruin one little element of the farm bill, as Senator BUMPERS said, with a broad ax, where we do not know what we are cutting down.

You get up here, and you take a bulldozer—and that is what this Harkin amendment is, a bulldozer—and it may be trying to cut down a Christmas tree. And it may be that the Christmas tree needs to be cut down by a Boy Scout hatchet. But let us not use the bulldozer and destroy or bring about an uncertainty to the entire farm program.

The solution, in my judgment, to the farm program lies in the marketing loan. This can have a terrible effect on the marketing loan. Two years from now, if it has a terrible effect on the marketing loan, then we will not be finding a solution for wheat, we will not be finding it for corn and other feed grains.

So I say let us stick with the leadership package. Let us stick with the procedure at this time. As Senator BENTSEN says, vote this amendment down with a big vote. It means we may not have to be here at 3'clock tomorrow morning.

So I say let us go with what the leadership has done in its package relative to this matter and let us not use a bulldozer when a Boy Scout hatchet can perhaps do the job.

Thank you.

The PRESIDING OFFICER. The Senator's time had expired.

Who yields time?

Mr. CHILES. I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. Two minutes is yielded to the Senator from New Mexico.

Mr. DOMENICI. I thank my friend from Florida.

Mr. President, the distinguished chairman of the Budget Committee is going to make a point of order shortly that this amendment is nongermane under sections of the Budget Act.

Frankly, I do not believe we ought to pass on the substance of this measure today. I think the germaneness issue is a very relevant and important one if we will just consider what we are trying to do here today. We are not engaged in an effort to reform the agriculture program or the tax laws of the country. We are engaged in trying to put together a $30 billion deficit package.

The Agriculture Committee of the U.S. Senate had a role in this package. Interestingly enough, they could have done this as part of their savings package. But, I remind the Senate, they did not do that. The committee of jurisdiction, in response to a leadership request to save money in the Farm Program, saved money in the Farm Program, and they did not vote in this measure.

Whether it is good or not so good, the Senator from New Mexico is not going to pass judgment on that. I am going to support the point of order and oppose the motion to waive because I see nothing but a litany of measures to be offered between now and midnight that are amendments to the leadership package that were not considered and not voted out by the committees. If the germaneness rule is not used to inhibit, we will never complete our work and we will have all kinds of votes, few of which will contribute to the deficit reduction package.

So I urge that everyone understand that it is an important vote, not just a procedural one.

I thank the Senator from Florida for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes and forty seconds.

Mr. LAUTENBERG. Mr. President, I am pleased to join as a cosponsor of this important amendment.

Mr. President, as Congress struggles to find ways to cut spending, there is one place I would urge all my colleagues to focus in on: abuses in farm programs.

While spending on housing, mass transit and environmental protection has been cut or all-but-frozen, the costs of agricultural programs have been skyrocketing. In the late 1970's, costs were under $4 billion annually. By 1986, that figure had grown to almost $26 billion.

When there is that kind of growth in spending, there is usually a lot of waste. That's certainly true with farm programs. By exploiting a variety of technical loopholes, large farming operations are avoiding even the modest payment limits set by Congress to hold down costs.

Exploiting these loopholes is easy. Under law, no single person can get more than $50,000 in certain Farm Program payments meant primarily for small farmers. But the law defines person to include corporations, partnerships and various other entities.

So producers who want more money from the Government simply find someone else and form a corporation. With a few minor changes, the new person is entitled to an extra $50,000. Then, if that is not enough, the producer can just turn around and do it again to qualify for another $50,000.

A second way producers avoid the payment limit is to divide up their farms into several parcels. Then they rent each parcel to an investor. It does not matter whether the investor can tell the difference between a pitchfork and a dessert fork. With a few minor technical changes, he or she qualifies the farm for an extra $50,000.

There are other ways to get around the legal limits. They are documented in a recent study by the U.S. General Accounting Office. As the GAO reported, the loopholes in the law are large, and producers increasingly are exploiting them.

The horror stories are endless. In one case, a group of producers reorganized their operations to create 15 separate paper entities, each of which qualified for an extra $50,000. Thus, instead of receiving the $300,000 maximum payment as Congress had intended, they got $1,050,000, a healthy $750,000 increase.

In another case, a company divided up its land, found 28 nonfarming investors, and increased its Government payments from $50,000 to $1.4 million.

With returns like that, it is no wonder that many farming businesses are spending less time farming their crops and more time farming the Government.

Many of the so-called farmers who qualify for their own $50,000 in farm program payments have no direct personal involvement in actual farming. Some are even farming American crops from overseas. Prince Hans Adam of Liechtenstein, for example, is part owner of a Texas farm twice the size of his homeland. His farming operation qualified for $2.2 million in Federal subsidies last year.

These types of scams cost the taxpayers substantial sums of money. Reorganizations are expected to cost $2.3 billion between 1984 and 1989. This money does not aid the small, struggling family farmer. It goes largely to line the pockets of wealthy investors and large, profitable agribusinesses.

Government waste like this is always outrageous. But at a time when our economic future depends on reducing the budget deficit, it is obscene.

This amendment will close the gaping loopholes in current law. I am hopeful it can win with bipartisan support. After all, the costs to the Government are significant. Yet the windfall is reaped by relatively few producers in relatively few states.

I urge my colleagues to support this amendment. These abuses simply must be stopped, and soon.

Mr. HARKIN. Mr. President, we asked the Department of Agriculture in our hearings. In fact, I believe it was the Senator from Arkansas, Senator PRYOR, if my recollection is correct, who asked the USDA, GAO, and the IG's office if, in fact, they could correct this through regulation. Their response was, no, they could not; it would take a change in the law.

So, again, we have this court case pending now. They cannot collect because the law is the law is the law. And you cannot really change the law with regulations. It is going to take the Congress to change the law.

I might respond to my esteemed colleague from New Mexico that we are not trying to reform the agriculture program or anything else here. What we are, I think, with this amendment attempting to do one thing: to close a glaring loophole that I do not think anybody ever intended to be in the farm bill of 1985.

When we voted for the $50,000 payment limitation I believe that is what we really voted for. No one ever anticipated the Christmas trees that would be generated to get above that $50,000 payment limit.

I might also respond, just for the record, that the committee, the Agriculture Committee, did not take any formal action. With respect to the leadership package that we have here, we did not have one vote in the Agriculture Committee on this. It is not a formal report of the Agriculture Committee. There were no votes taken. The Agriculture Committee reported nothing. We simply sent suggestions from informal meetings that we had to the leadership on where they could accomplish these cuts.

So, quite to the contrary to the remarks made by my distinguished colleague from new Mexico, this is not a formal recommendation from the Agriculture Committee. No votes were ever held in the Agriculture Committee on this measure.

Again, what we are trying to do here is reduce the deficit and hopefully trying to reduce the deficit without hurting the average American citizen. That is what this does. It provides $50 million of savings this year; $435 million in savings in 1989, and $420 million in fiscal year 1990. I daresay that if we do not pass this amendment today, it is going to go on this year and next year and the year after and we will expend well over about a billion extra dollars in payments to people like the Prince of Liechtenstein, who do not really need it.

Mr. President, I ask unanimous consent that the following appear in the RECORD:

A listing of the 1986 deficiency payments to participating producers, and three articles dealing with this topic, one called "King-size Farm Subsidies for European Prince," another titled "Payments Fit for a Prince," and the last titled "Axing a Mississippi Christmas Tree and Other Princely Farm Subsidies."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL 1986 DEFICIENCY PAYMENTS TO PARTICIPATING PRODUCERS

State	Total		Greater than or equal to $50,000		
	Producers	Payments	Producers	Percent	Total payments
Alabama	7,712	$52,908,464.06	337	4.37	$16,929,031.86
Alaska	12	188,542.38	0	.00	.00
Arizona	2,175	86,116,315.23	925	42.53	54,683,564.61
Arkansas	21,869	291,215,840.49	1,656	7.57	85,130,452.59
California	10,497	228,615,411.69	1,996	19.01	103,293,619.82
Colorado	13,892	112,437,048.22	179	1.29	9,190,829.82
Connecticut	20	81,821.61	0	.00	.00
Delaware	423	4,147,959.96	4	.95	200,000.00
Florida	1,095	5,798,443.61	21	1.92	1,077,529.71
Georgia	10,062	64,523,820.26	219	2.18	11,278,239.50
Idaho	9,683	94,900,532.54	146	1.51	7,857,885.22
Illinois	99,963	464,819,021.08	283	.28	14,673,291.35
Indiana	42,626	206,196,470.53	150	.35	7,871,801.16
Iowa	105,597	606,035,949.84	330	.31	17,989,715.37
Kansas	90,326	418,629,600.52	331	.37	17,708,909.17
Kentucky	11,196	31,703,330.93	16	.14	800,000.00
Louisiana	15,333	158,238,656.42	992	6.47	50,868,524.32
Maine	90	293,958.72	0	.00	.00
Maryland	2,020	11,853,620.49	14	.69	702,777.23
Massachusetts	11	21,948.27	0	.00	.00
Michigan	19,167	104,840,443.23	143	.75	7,742,391.90
Minnesota	52,776	366,768,107.99	317	.60	16,536,657.11
Mississippi	11,923	171,807,228.66	1,654	13.87	84,118,428.08
Missouri	46,137	161,288,088.83	205	.44	10,437,764.31
Montana	17,828	178,487,851.53	311	1.74	17,118,484.12
Nebraska	68,228	411,007,005.63	447	.66	22,659,179.39
Nevada	124	1,009,317.78	3	2.42	179,835.55
New Jersey	446	2,623,461.17	0	.00	.00
New Mexico	3,676	33,092,634.46	81	2.20	4,839,421.31
New York	4,648	25,352,777.17	19	.41	952,094.74
North Carolina	13,122	41,175,371.22	80	.61	4,098,661.81
North Dakota	49,820	362,104,347.43	208	.42	10,658,876.49
Ohio	31,851	129,424,579.97	66	.21	3,349,196.29
Oklahoma	37,303	204,488,891.28	152	.41	7,656,836.37
Oregon	6,187	51,866,950.31	73	1.18	3,802,966.40
Pennsylvania	5,022	14,898,978.63	3	.06	150,000.00
Rhode Island	4	2,180.35	0	.00	.00
South Carolina	4,561	31,312,905.62	159	3.49	8,257,897.42

FISCAL 1986 DEFICIENCY PAYMENTS TO PARTICIPATING PRODUCERS—Continued

State	Total		Greater than or equal to $50,000		
	Producers	Payments	Producers	Percent	Total payments
South Dakota	33,454	174,615,563.49	142	.42	7,376,246.73
Tennessee	13,379	53,438,580.81	184	1.38	9,412,537.46
Texas	77,612	687,804,811.42	3,306	4.26	168,378,177.22
Utah	1,663	8,361,121.41	3	.18	153,855.13
Vermont	53	115,377.78	0	.00	.00
Virginia	4,524	13,569,770.79	13	.29	654,135.36
Washington	10,520	116,910,266.68	203	1.93	10,384,828.09
West Virginia	343	1,102,917.83	1	.29	50,000.00
Wisconsin	19,573	98,985,319.60	102	.52	5,396,409.60
Wyoming	1,152	6,954,949.42	3	.26	150,001.25
National total	979,698	6,291,136,557.34	15,477	1.58	804,771,052.66

Source: USDA.

FISCAL 1986 DEFICIENCY PAYMENTS TO PARTICIPATING PRODUCERS

State	Total		Greater than or equal to $50,000		
	Producers	Payments	Producers	Percent	Total payments
Alaska	12	$188,542.38	0	0.00	$0.00
Connecticut	20	81,821.61	0	.00	.00
Maine	90	293,958.72	0	.00	.00
Massachusetts	11	21,948.27	0	.00	.00
New Jersey	446	2,623,461.17	0	.00	.00
Rhode Island	4	2,180.35	0	.00	.00
Vermont	53	115,377.78	0	.00	.00
West Virginia	343	1,102,917.83	1	.29	50,000.00
Nevada	124	1,009,317.78	3	2.42	179,835.55
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National total	979,698	6,291,136,557.34	15,477	1.58%	804,771,052.66

Source: USDA.

[From the Washington Post, Dec. 10, 1986]

KING-SIZE FARM SUBSIDY FOR EUROPEAN PRINCE

(By Andrew Mangan)

The crown prince of Liechtenstein is a partner in a Texas farm that is larger than his own country—and collects king-size subsidies from the U.S. government.

Subsidies of $2.2 million, the largest support payment to any farm in Texas this year, went to Farms of Texas Co., a $70 million partnership owned by Crown Prince Hans Adam of Liechtenstein and International Paper Co., headquartered in New York, according to the Agriculture Department.

Hans Adam, 41, heir-apparent to the throne, owns half of the partnership, which controls 50,000 acres in Brazoria County near its headquarters, 17,000 acres east of Dallas in Hopkins County, and 9,500 acres near Texarkana. Records detailing the holdings and government subsidies were made available by federal agriculture officials in Brazoria County.

The principality is far smaller than the prince's Texas holdings. Nestled in a valley between Switzerland and Austria, Liechtenstein covers slightly less than 40,000 acres.

Various properties accumulated by the royal family over the past 700 years are administered by the Prince of Liechtenstein Foundation, which has been acquiring American farmland.

International Paper is one of the world's largest natural-resources companies, holding more than 6.3 million acres of timberland.

USDA officials said the money paid to Farms of Texas easily surpassed payments to any other farm in the state in 1986.

The government spent a record $25.6 billion in fiscal 1986 on various agriculture programs. Provisions in last year's farm law aimed at helping the family farm are resulting in large payments to major institutions.

Dan Mathews, who manages 90,000 acres of farm and ranch land for the prince's Farms of Texas, said he took part in the federal subsidy program not because he wanted to, but because he had to.

"In 1985 we didn't participate because we could operate outside the government program," Mathews said in a telephone interview. "But in 1986 we were forced in. By forced, I mean the government started selling rice at half price. Either you join in the program or go broke."

Under the farm act, prices were slashed to make U.S. products more attractive to foreign buyers. Farmers are protected from the cuts through direct subsidies to make up lost income.

"We're not trying to milk the government, but we just can't farm against them at half price," Mathews said.

Sen. Phil Gramm (R-Tex.) said the subsidy system should be restructured to close loopholes.

Rep. E (Kika) de la Garza (D-Tex.), chairman of the House Agriculture Committee, defended the payments to Farms of Texas Co., saying such subsidies "are not welfare payments. They are for supply management."

The problem should be partly solved when newly passed legislation capping total subsidies to farmers at $250,000 goes into effect next year, de la Garza said.

[From The Washington Post, Dec. 15, 1986]

PAYMENTS FIT FOR A PRINCE

The ultimate family farmer has emerged. He is Crown Prince Hans Adam of Liechtenstein, partner with giant International Paper Co. in a little something called Farms of Texas Co. For growing rice and other crops on about 75,000 acres (twice the size of Liechtenstein), the prince and paper company this year will collect an estimated $2.2 million in federal farm support payments, the most of any farm in Texas.

The stories of large support payments to the rich have become familiar. Especially amid budget cuts for other sectors of society, they have stirred great indignation, and indeed something needs to be done about them. But don't be fooled. Cap the payments to the gentleman and corporate farmers, and you will increase the fairness of these programs but not greatly reduce their cost. The costs are high not because of ripoffs, but because Congress in the bill it passed in 1985 made the programs too generous.

The target prices on which subsidies are based will come down over the life of the bill, but too slowly. Because the targets are so high, many more farmers than in the past have been drawn into the programs. But the acreage controls are such that production per farmer is also high. The government thus has, as the budget people put it, a lot of exposure. The biggest operations and most generously subsidized are in cotton and rice. But cotton and rice account together for only about $3 billion of the roughly $25 billion that the programs will cost this year. Half the total cost will come in corn, where yearly payments per farmer tend to be less than $50,000.

Congress will get back into the farm issue next year; so at least it threatens. A favorite panacea is to cap payments per farmer. On paper they already are capped at $50,000 a year. If that were enforced across all the programs, cotton and rice included, budget officers say the government would save only several hundred million dollars a year. Other proposals are to target payments only on the needy. The budget experts warn that this population would be hard to define (would you use net income? return on investment? assets versus debt?) and that the government could end up subsidizing the least efficient producers. In any case farmers don't want what they regard as "welfare." a third possibility is to—forgive the word—"decouple" income supports and production, so that farmers wouldn't have to grow crops already in surplus to earn their payments. How long would the country's nonfarmers stand for that?

Still other legislators are proposing production controls. Instead of having the government buy surpluses, they would forbid farmers to produce them. Production would be tailored by the Agriculture Department to match demand. Support costs would go down, but prices would go up. To some extent the United States would yield the export market, and the program would require an enormous federal presence, much larger than its advocates acknowledge: Uncle Sam would be the scarecrow in every field.

The right alternative is to reduce the target prices, not so precipitously as to jeopardize the shaky farm credit system, but clearly faster than in current law. The high supports compound the problem of oversupply that they are meant to solve. yes, weed out the rich; put a cap on supporters to any one producer. But carefully lower the whole lake at the same time.

AXING A MISSISSIPPI CHRISTMAS TREE AND OTHER PRINCELY FARM SUBSIDIES

(By Ward Sinclair)

Up on Capitol Hill, they're chopping down the Mississippi Christmas tree, and they may even take some of the fun out of American-style farming for the crown prince of Liechtenstein before they're done.

Which is to say that Congress, after having failed in several previous attempts, is trying one more time to plug the legal loopholes that have allowed many farmers and unreasonable facsimiles to collect millions of dollars worth of unintended federal farm subsidies.

Investigations by Congress, the General Accounting Office and the Agriculture Department since 1985 have disclosed that hundreds of farmers and investors have farmed the loopholes to a fare-thee-well, in some cases collecting more than $1 million each when the ostensible limit is $50,000.

Among the more eye-catching findings:

The Mississippi Christmas tree, a lawyer's invention that showed land owners and farmers who to subdivide and reorganize farms into multiple legal entities to qualify for more than one maximum payment of $50,000. In one case, 26 California investors each received $50,000 from the same farm; in another, 56 tenants of a big California rice farm split $1.5 million in subsidies with the family that owned the property.

A 75,000-acre farming operation in Texas, owned jointly by Crown Prince Hans Adam of Liechtenstein and the International Paper Co., qualified for about $2.2 million in federal subsidy payments last year. The farm is twice the size of the prince's homeland.

Now the House Agriculture Committee, embarrassed by the publicity and chastened by urban legislator's complaints about excesses in the farm programs, has approved legislation designed to stem the flow of income subsidies.

As part of a budget reconciliation package, farm-state lawmakers worked out a compromise with Rep. Charles E. Schumer (D-N.Y.) that could prevent millions of dollars in unwarranted payments over the next several years.

"The days of million-dollar farm payments to individuals are over," Schumer said. "It will soon take more than a clever lawyer and a friend who owns land to collect farm payments. We may not have eliminated government rip-offs completely, but we made a big dent."

Added Rep. Leon E. Panetta (D-Calif.), an Agriculture Committee member who worked on the compromise: "Reducing federal budget deficits too often means reducing benefits for people in genuine need. But this is a case where wealthy investors and large farm operations are ripping off the system for millions of dollars a year. There should be no hesitation about . . . ending this welfare system for the rich."

Sen. Tom Harkin (D-Iowa) said yesterday that he intends to offer similar subsidy curbs when the Senate Agriculture Committee takes its reconciliation package to the floor. Harkin said his proposal will aim to assure that only legitimate farmers qualify for federal assistance.

The House package was worked out between Schumer, whose challenges last year got the Agriculture Committee moving, and Reps. Panetta, Dan Glickman (D-Kan.) and Jerry Huckaby (D-La.), key subcommittee chairmen.

Their agreement would allow subsidies only for active farmers who make significant contributions of labor, management, land, equipment or capital to the operation. Foreign land owners who are not active participants in their farming operations here would be barred from receiving subsidy payments.

The Christmas tree scheme would be banned by limiting individuals to maximum payments from no more than three legal farming entities—that is, $150,000.

Another section of law allows farmers to receive as much as $200,000 in additional federal payments not covered by the $50,000 direct-subsidy limit.

Mr. DOLE. Mr. President, the American people are demanding—and correctly so—that the Congress knuckle down and reduce the deficit. This reconciliation package, while not achieving the size of reductions I had hoped we would accomplish, represents the last chance we have for deficit reduction this year.

Therefore, the leadership has pledged to oppose all amendments seeking to add extraneous issues to the leadership package. There are several amendments that have been brought to my attention which have substantial merit, and the Harkin amendment certainly fits in that category.

I know that the distinguished chairman and ranking member of the Committee on Agriculture share my belief that the intent of the amendment of the Senator from Iowa is worth pursuing. Furthermore, I know the committee will bring this proposal before the committee in the near future.

Unfortunately, to date, the amendment has had only 1 day of hearings before the Committee on Agriculture, and at that hearing only one witness, from the General Accounting Office, was able to testify. If we are able to give close and careful consideration to this proposal, we might find some improvements which could be made. However, with the current parliamentary situation, no perfecting amendment can be offered at this time.

Mr. President, for these reasons I will vote not to waive the point of order at this time. I do so, however, with the knowledge that the proposal of the Senator from Iowa will be given full and fair hearings at the Committee on Agriculture, and that the issue will be before the Senate once again in the very near future.

The PRESIDING OFFICER. The Senator from Florida has 41 seconds.

Mr. CHILES. Mr. President, I have listened to the arguments. The Senator from Iowa certainly makes some very fine arguments for the amendment. The Senator from Florida is compelled to raise a point of order against the amendment as we will raise against all of the nongermane amendments to the leadership package and to say that there may be many, many well-meaning amendments that are out there that could be made to this package. What we are about now, of course, is trying to put together this leadership package.

We did ask for the advice and consent, certainly of the major committees, the committees that were asked to make savings, and the Agriculture Committee was one of those committees that had to make savings. We took their advice and relied on their advice and worked with them and made sure that those savings would be sufficient to meet the leadership agreement needs, the summit agreement needs, and that is what we have.

So, for those reasons, I hope that the amendment will not be adopted on this measure. Certainly none of us want to follow, I certainly do not, the Christmas tree provisions or the others. But, if it is meritorious, then it should rise again on its merits on a vehicle that is proper for it.

So, Mr. President, I would yield back the remainder of my time and, pursuant to section 310(e) of the Budget Act I would raise the point of order against the amendment on the basis that it is not germane to the provisions of S. 1920, that it does address new matter not included in S. 1920, and that it is not germane and subject to a point of order under No. 310(e) of the Budget Act.

Mr. HARKIN. Mr. President, I move to waive the Budget Act for consideration and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion is debatable.

Who yields time?

Mr. CHILES. I yield back all my time.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, it is not my intent to take any additional time. I understood at least one other Senator wanted to speak on this and I wanted to at least give that Senator the opportunity to do so.

I did want to, however, make one other point that I did not make, with the time that I had before.

A lot has been said about the so-called Huckaby amendment that is in the House provision of the bill and, in that context, a lot was said about not reopening the 1985 farm bill and not messing with the 1985 farm bill.

I pointed out the package in front of us does mess with the 1985 farm bill in terms of changing target prices and loan rates and whole base bids and raising the unpaid ARP, lowering the loan rates, adjusting the loan rates and many other things. So a lot of changes were made in the 1985 farm bill in this package.

I might also point out that with the so-called Huckaby amendment in the House, that is also, not consistent with the 1985 farm bill. And lest there be any confusion about this, the Huckaby amendment in the House raises the $50,000 limit effectively to $100,000; raises it from $50,000 to $100,000 per operator, and also raises the total amount that any one farmer or operator could receive from $250,000 to $500,000.

So, while the Huckaby amendment, I would be frank to admit, does close partially the loophole that allows the Christmas trees here and everything else, the Huckaby amendment basically cuts a tier off of this Christmas tree but leaves the rest of it there.

So, while it does save a little bit, it still raises the maximum payment from $50,000 to $100,000; I do not know if that is what the Senators want to do.

Mr. President, if we are ready to vote, and I think we are, I would now yield back the remainder of my time.

Mr. CHILES. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida yielded back the remainder of his time.

The Senator from Iowa—the Senator from Arizona?

Mr. DECONCINI. I do not know who is controlling the time. I would like a minute and a half.

The PRESIDING OFFICER. Both Senators yielded back the remainder of their time.

Mr. DECONCINI. That means I am cut off from saying anything in this case?

The PRESIDING OFFICER. The Senator may ask for unanimous consent.

Mr. DECONCINI. I ask unanimous consent for 1 minute that I may speak in opposition to the amendment by the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I apologize to my colleagues for having to infringe on the time here. I appreciate the time constraints but I am very concerned about having to revisit this subject matter again and again. The Senator from Iowa, if I understand his amendment, would reduce the payment limitation. In a State like Arizona that is going to cause a great market problem because our producers, particularly cotton producers, will produce in a very large amount, from fencepost to fencepost, if they are not included in this particular subsidized program. We are trying to lower subsidies. This is not going to end up lowering it. It is going to end up costing more.

Likewise, I understand this is already going to be in conference. We have very fine conferees here who have worked long and hard on this particular subject matter. We ought to leave it to them.

I was listening in my office to the Senator from Alabama and I think he says it better than I have been able to explain it, but this proposal is detrimental to any efforts to reduce the costs of the farm subsidy program.

In the Senator's State of Iowa these limitations may be considered very substantial. But coming from a State where we must do agriculture on a large basis for it to be economical, these are family farms, too, and they happen to be very large.

So, Mr. President, I hope that the amendment by the Senator from Iowa, with all due respect to his expertise in this area and he is a good friend of mine, will be defeated. Again, I thank the body for indulging me that 1 minute.

The PRESIDING OFFICER. All time has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent that a letter from the National Taxpayers Union be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL TAXPAYERS UNION,
Washington, DC, December 8, 1987.

Re: Harkin amendment to the FY 1988 Reconciliation bill to more effectively limit farm support payments to $50,000.

DEAR SENATOR: The National Taxpayers Union supports an amendment that Sen. Tom Harkin will offer to the FY 1988 reconciliation bill. The proposed language would tighten definitions in 1985 farm legislation to close loopholes that allow individuals and corporations to circumvent the $50,000 payment limit. Unless this amendment is approved, many wealthy farm operators will continue to harvest hundreds of thousands, even millions of dollars in federal subsidies. The Harkin language will assure that caps on farm price support payments set by Congress will be more closely applied.

The National Taxpayers Union has watched the startling increase in farm subsidies over the past seven years. In our view, these excessive subsidies have provided inappropriate incentives which promoted production far beyond demand, exacerbating the very situation the government is trying to correct.

In order to restrain farm subsidies, Congress has tried to place a $50,000 cap on total price support payments that can be made to a farmer or a farm operation. However, farmers and other owners have found legal means under current law to circumvent the prescribed limits. Farms have been divided into smaller units, corporate ownerships have been creatively rearranged, and the definition of a person has taken on new meanings.

Sen. Tom Harkin has proposed language that would close these loopholes. If the Harkin language were adopted, the Congressional Budget Office estimates the government would save $50 million in FY 1988, $435 million in FY 1989 and $420 million in FY 1990.

It is time to reduce farm subsidies; they are too costly and they stimulate too much production. The National Taxpayers Union urges you to support the small cutback Senator Harkin is proposing. By your yes vote you will save the U.S. Treasury almost $1.0 billion over the next three years.

Sincerely,

SHEILA MACDONALD,
Director, Government Relations.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa to waive the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "yea."

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—47

Biden
Bingaman
Bond
Boschwitz
Bradley
Cohen
Conrad
D'Amato
Danforth
Daschle
Dixon
Dodd
Durenberger
Evans
Exon
Glenn
Grassley
Harkin
Heinz
Helms
Humphrey
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McConnell
Metzenbaum
Mikulski
Mitchell
Nickles
Pressler
Proxmire
Quayle
Roth
Rudman
Sanford
Sarbanes
Specter
Stafford
Thurmond
Trible
Weicker
Wirth

NAYS—49

Adams
Armstrong
Baucus
Bentsen
Boren
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cranston
DeConcini
Dole
Domenici
Ford
Fowler
Garn
Graham
Gramm
Hatch
Hatfield
Hecht
Heflin
Hollings
Inouye
Johnston
Kassebaum
Matsunaga
McCain
McClure
Melcher
Moynihan
Murkowski
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Sasser
Shelby
Simpson
Stennis
Stevens
Symms
Wallop
Warner

NOT VOTING—4

Burdick
Gore
Simon
Wilson

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote? If not, on this vote, there are 47 yeas and 49 nays. Three-fifths of the Senators present, duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The amendment adds new subject matter not contained in the bill or the pending amendment. It is not germane as required by section 305(b) of the Budget Act, and therefore, as previously announced, the amendment falls.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order.

Who yields time?

Mr. CHILES. Mr. President, I think the Senator from New Jersey would like recognition for an amendment. I think the Senator from Maine wanted a couple of minutes on the previous amendment.

Mr. EXON. Mr. President, I have no objection to that.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Florida yield time?

Mr. CHILES. I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Florida yields time to the Senator from Vermont.

Mr. LEAHY. Mr. President, I will be brief. I do not speak on this last amendment. I understand that a number of Senators are twixt and between a rock and a hard place on it because some want to support the amendment but also want to support the leadership in requesting all amendments in this package which is not a bad position to be in.

The leadership, I know, has worked very, very hard to put together a package. There is an agricultural section which the leadership worked out with us to put in. I found myself with that same kind of concern. I voted for the Harkin amendment although I want very much to support the leadership getting through a package that does not stray from what we have here.

I would note, Mr. President, that at some point this "person" definition is going to have to be changed. This is probably not the package because of the procedural problems to do it in but sooner or later it is going to be done. I hope that is in the committee of conference because the House has a different definition than we do in the Senate.

I must say, Mr. President, that I expect the Senator from Iowa to be on the floor with changes in this again. I am going to want to see changes in it as one who will have to bring a farm bill to the floor. I do not want to have to carry the heavy burden of an out-of-date "person" definition.

I do not want to carry the burden of having to defend a farm program that has with it an irrational system that just begs editorial writers and editorial cartoonists in opposition to the whole farm program because of it. So this may not have been the package to make the change. It is why I did not speak on it earlier but the change will come and will have to come.

Mr. President, one other thing. I think this is the appropriate thing to do. On behalf of the Committee on Agriculture, Nutrition, and Forestry, I am submitting the attached program allocation pursuant to section 302(b) of the Congressional Budget and Impoundment Control Act.

I ask unanimous consent that the committee's section 302(b) program allocation and program account assignments be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Committee on Agriculture, Nutrition and Forestry

[Program allocation for fiscal year 1988]

Rural Development, Electric and Telephone Programs—Direct spending:	
Budget authority	1,560
Outlays	1,672
Conservation, Land Management and Forestry Programs—Direct spending:	
Budget authority	618
Outlays	606
Farmer's Home and Farm Credit Programs—Direct spending:	
Budget authority	933
Outlays	3,710
Farm and Commodity Programs—Direct spending:	
Budget authority	23,114
Outlays	22,871
Ocean Freight Differential—Direct spending:	
Budget authority	60
Outlays	60
Nutrition Programs—Entitlements funded in appropriations accounts:	
Budget authority	4,454
Outlays	4,425

Committee Total—Direct spending:	
Budget authority	26,285
Outlays	28,919
Entitlements funded in appropriations accounts:	
Budget authority	4,454
Outlays	4,425

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

[Program account assignments]

Program: Rural Development, Electric and Telephone Programs—Account Numbers:

12 3100 0 1 271 FC1 2064
12 4230 0 3 271 BO1 2064
12 4230 0 3 271 FC1 2064
12 4231 0 3 452 BA1 2064

Program: Conservation, Land Management and Forestry Programs—Account Numbers:

12 8210 0 7 301 BC1 2064
12 5219 0 2 302 BA1 2064
12 8028 0 7 302 BC1 2064
12 8210 0 7 302 BC1 2064
12 9922 0 2 302 BA3 4264
12 9921 0 2 852 BA1 2064

Program: Farmer's Home and Farm Credit Programs—Account Numbers:

12 4140 0 3 351 BA1 2064
78 4131 0 3 351 BD1 2064
12 4155 0 3 452 BD1 2064

Program: Farm and Commodity Programs—Account Numbers:

12 4336 0 3 351 BA1 2064
12 4336 0 3 351 FC1 2064
12 5210 0 2 351 BA1 2064
12 8412 0 8 351 BB1 2064
12 1500 0 1 352 BA1 2064
12 5070 0 2 352 BA1 2064
12 8137 0 7 352 BC1 2064
12 8203 0 7 352 BC1 2064
12 8214 0 7 352 BC1 2064
12 8218 0 7 352 BC1 2064
12 8227 0 7 352 BC1 2064
12 8232 0 7 352 BC1 2064
12 9971 0 7 352 BC1 2064
12 9972 0 7 352 BC1 2064

Program: Ocean Freight Differential—Account Numbers:

69 1751 0 1403 BA1 2064

Program: Nutrition Programs—Account Numbers:

12 3502 0 1 605 AA1 RD RD
12 3502 0 1 605 HA1 RD RD
12 3539 0 1 605 AA1 RD RD
12 3539 0 1 605 AA2 RD RD
12 3539 0 1 605 AA3 RD RD

Mr. LEAHY. I thank the Senator from Florida for yielding.

Mr. BYRD. Mr. President, will the Senator yield for 1 minute?

Mr. CHILES. I certainly yield to the majority leader.

A MEETING WITH SECRETARY SHULTZ

Mr. BYRD. Mr. President, Secretary of State Shultz is in room S-407. For any Senator wishing to go up and listen to the Secretary, he will be commenting on the summit and the joint statement. He has to leave at 4:30 to go to the House side, and then he is preparing to go to Europe.

So if any Senators wish to go up there, he is there waiting now in room S-407.

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

The Senate continued with the consideration of the bill (S. 1920).

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I just wanted to say in regard to controlling time in opposition to the amendment I would like to yield to the Senator from Arkansas, Senator PRYOR, time in opposition to the amendment.

Mr. EXON. Who will control the time?

Mr. CHILES. The Senator from Nebraska.

Mr. EXON. As I understand it, there is 1 hour equally divided.

Mr. CHILES. That is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Will the Senator from Nebraska yield 30 seconds on my time?

Mr. EXON. Yes.

Mr. DOMENICI. Might I ask the Senator from Florida if I am correct, after the so-called "chicken-farm amendment"—is that the nickname of this amendment?

Mr. EXON. The chicken-farm amendment.

Mr. DOMENICI. Do I understand that the distinguished Senator from Kansas, Senator KASSEBAUM, is prepared to go immediately after this amendment regardless of the disposition of her substitute package?

Mr. CHILES. I understand that is correct.

Mr. EXON. I have discussed this with the Senator from Kansas. She told me she intended to do so.

Mr. DOMENICI. I thank the Senator.

I wonder if we might ask the Senate if it would grant unanimous consent to the ordering of the amendments in the following manner: immediately following the Exon amendment, Senator KASSEBAUM with her freeze amendment would be the next pending business.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, I would like to request that the Senator change slightly to say after final disposition of the Bradley amendment, then the Kassebaum amendment would be the next amendment in order.

Mr. DOMENICI. I thought I said that. I apologize if I did not. I said disposition of it regardless of its disposition.

Mr. BUMPERS. Or how it is disposed of.

Mr. DOMENICI. Or how it is disposed of. I modify my request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I want to be sure that Budget Act points of order are preserved in requesting sequencing of amendments. I add that to the request.

The PRESIDING OFFICER. Is there objection heard to the request of the Senator from New Mexico?

Mr. DOMENICI. As modified by the majority leader.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

AMENDMENT NO. 1258

(Purpose: To repeal the suspense account for farm corporations required to use accrual method of accounting and to increase the gross receipts test from $25,000,000 to $50,000,000)

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself Mr. BRADLEY, Mr. SANFORD, Mr. CHAFEE, Mr. GLENN, Mr. DIXON, and Mr. DURENBERGER, proposes an amendment numbered 1258.

On page 344 strike section 4504(b) of the amendment.

On page 342, line 1 in section 447(d)(2)(A)(ii) of the Internal Revenue Code of 1986, as added by section 4504(a) of the bill, strike "$25,000,000" and insert "$50,000,000".

Mr. EXON. Mr. President, I rise today in support of an amendment by myself and others to the tax portion of the reconciliation bill which would do two things: it would help to further reduce the Federal deficit while at the same time ending an abuse and gross unfairness in our tax laws.

Yes, it takes a tough man to make tender chickens. But all it takes is a few tough Senators who are not chickens to bring these winged tax giveaways home to roost. It is the Christmas gift-giving season, but that should not be extended to bird conglomerates, and I am not talking about a partridge in a pear tree.

Under present law, some multimillion-dollar food processing companies are treated as though they are family farms and receive millions of dollars in tax benefits by being allowed to use cash accounting, rather than accrual accounting, for income tax purposes. Meanwhile, other competing food processing companies do not enjoy this windfall and are hit much harder by the tax laws. It is simply and directly unfair and discriminatory tax policy.

I believe the present situation is unfair for two reasons. First, the tax laws are maintaining an unlevel playing field among large food processing companies which are business competitors. Second, the exception which permits family-owned farming corporations to use cash accounting for tax purposes is obviously intended for family farms that do not have the armies of accountants and lawyers available to large corporations. To then allow some large corporations to benefit from this rule is contradictory. One of the benefiting companies had sales last year of over $1.5 billion. Where I come from in Nebraska, a company with sales over $1.5 billion is not a family farm.

The problem with the present law is not a new issue and has been the topic of debate in Congress recently. Earlier this year, I introduced legislation which would have addressed the matter by disqualifying large food processing companies from using cash accounting. Also, my former colleague from Nebraska, the late Senator Zorinsky, had raised this issue and also introduced corrective legislation.

The Senate Finance Committee has one of the most difficult jobs of any committee in the Senate and deserves to be commended. But it did make a major error in drafting the present tax package now before the Senate. The good news is that the Finance Committee package does require these large corporations engaged in farming to switch from cash to accrual accounting. But the bad news is that it also included language which suspends indefinitely, in effect forgiving, a few large corporations from their obligation to pay hundreds of millions of dollars in taxes on previously earned but untaxed income. In other words, while the committee package solves one unfairness, it creates another unfairness that allows the untaxed income to escape tax, thus losing the benefit of legitimate increased Federal revenue and greater deficit reduction.

Mr. President, the treatment of suspending indefinitely the payment of these deferred taxes is contrary to the way other taxpayers have been treated when required by tax law changes to switch from cash to accrual accounting. Last year's tax reform bill required many business taxpayers to switch accounting systems and pay their deferred taxes over a 4-year period. There is no reason why Congress should this year treat a handful of multimillion-dollar corporations more generously by not requiring payment of deferred taxes.

Accordingly, our amendment strikes the provision which allows these giant companies to avoid paying taxes on their previously earned but untaxed income. That change will eliminate the inequity, as we have offered in this amendment. The amendment would leave the committee's portion which does require these companies to switch from cash to accrual accounting. Finally, the amendment would change the threshold for the size of the companies affected from $25 million in gross receipts to $50 million in gross receipts. My original bill on this subject would have set a $100 million gross receipts cut-off, so the $50 million figure is somewhat of a compromise.

Thus, the result of the amendment would have the bill language require these corporations engaged in farming with annual gross receipts over $50 million to switch from cash to accrual accounting. Under an existing provision of law, they would then have to pay back their deferred taxes over a 10-year period, which I suggest is very generous. Under the circumstances, I believe this would be more than generous and would certainly be more fair to other taxpayers than suspending indefinitely payment of their deferred taxes as the committee provision would do.

I have been informed by the staff of the Joint Committee on Taxation that our amendment would result in increased Federal revenues of approximately $300 million over a 3-year period. Considering the size of our deficit problems, I think we need to do all that we can that is fair to help reduce the deficit. I believe this amendment is a fair way toward that goal.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received from the Joint Committee on Taxation.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **EXON**. Mr. President, one final point must be made. The forces which prevailed upon the Senate Finance Committee to let these large corporations avoid payment of their deferred taxes also prevailed on the House Ways and Means Committee. The House included a similar provision which lets these corporations avoid paying their deferred taxes in the House reconciliation bill. The amendment before us is needed at a minimum just to keep this issue alive for the Senate-House conference committee.

If this amendment is not adopted, the conferees will face a situation where both Houses have passed similar provisions giving big tax benefits to these few large corporations. I hope the Senate will agree that we should not let our conferees be confronted with such an unfortunate situation. Instead, they need the freedom to report back a revenue bill that is fair.

EXHIBIT 1

HON. J. JAMES EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: This is in response to a request from Don Norden of your staff for a revenue estimate of a cash accounting provision.

This provision would disallow the use of cash accounting by farmers with gross receipts in excess of $50 million. The estimated revenue effects are as follows:

[Millions of dollars]

Fiscal year:	
1988	63
1989	121
1990	130
1991	138
1992	147

This estimate assumes that the provision is effective for taxable years beginning after December 31, 1987. It is assumed that corporations affected by the provision would be required to make an accounting adjustment under Section 481 by spreading over ten years the cumulative effect of changing from the cash to the accrual method of accounting. In addition, attribution of gross receipts is determined by using the propportionate method described in the proposed Senate amendment on reconciliation.

I hope this information will be helpful to you. If we can be of any further assistance, please let me know.

Sincerely.

DAVID H. BROCKWAY.

Mr. **EXON**. Mr. President, I yield the floor, and I reserve the remainder of the time on this side.

The **PRESIDING OFFICER**. Who yields time?

Mr. **EXON**. Mr. President, I yield to the Senator from New Jersey.

Mr. **BRADLEY**. Mr. President, I rise in support of the amendment of the Senator from Nebraska.

The premise of this amendment is that people should pay their taxes. If you owe tax, you should pay tax.

In the Finance Committee bill, which is overall an excellent bill, there is, unfortunately, one provision that effectively forgives hundreds of millions of dollars in back taxes for a few big agribusinesses. No one disputes that fact. The bill will effectively forgive hundreds of millions of dollars in back taxes for a few big agribusinesses. I know that. They know that. The Finance Committee knows that. The bill forgives hundreds of millions of dollars in back taxes.

What this amendment would do is to say, "No, you have to pay those back taxes."

Under present law, most business taxpayers have to use the accrual method of accounting.

This method matches up income and expenses, prevents abuses and underpayment of tax.

There is an exception to the accrual accounting requirement, and that is for family farmers. They can use the cash method of accounting. It is simpler and it saves money by allowing family farmers to defer taxes. But it ought to be limited to real family farms, the guys with grit under their fingernails out there in the fields. But because of the clout of a handful of huge family-held corporations, some of the very biggest agribusinesses in this country, they continue to use the cash method of accounting despite the

Senate's efforts to make them switch to the accrual method.

Who are these big corporations? Well, in the poultry industry alone, about 20 corporations are on the cash method. They are not your mom and pop operators either. For example, one public company's financial data shows that they had sales of more than $1.5 billion last year—that is right, $1.5 billion. Their pretax income was almost $100 million. And how much did they pay in tax? Well, in 1986 they paid $10 million on $100 million in income. They paid $10 million in tax and they deferred almost $40 million. In other words, they owed $50 million in taxes, but they only had to pay $10 million in taxes.

Now, you can see why they like the cash method. The cash method lets them defer the extra $40 million. Try explaining that to a hardworking family trying to make ends meet without that kind of help from Uncle Sam. That is just 1 year. The $40 million in tax savings is just 1 year.

According to this same company's financial statements, their total owed but unpaid taxes as of June 1987 amount to a whopping $135 million. These are taxes that they owe but they do not have to pay because of cash accounting.

This was one company, a public company's financial statement. That is where these numbers came from.

Another company's financial statement showed that in 1986 they had $32 million in income, and you know how much taxes they paid—zero. They paid no tax because of the cash method of accounting.

Well, the Finance Committee saw this, and we said enough is enough, and the committee bill denies cash accounting to corporate farms with sales above $25 million.

But the bill also does something else. It effectively forgives the hundreds of millions of dollars in deferred taxes. That is a gift from the taxpayers of America to a handful of the biggest corporate agribusinesses in this country. How does that happen, you say?

Well, to be quite candid with you, the bill does not say that we forgive these taxes. It talks about a suspense account. They can suspend payment of taxes. There is a euphemism if I ever heard one. Suspending payment of those deferred taxes means essentially not paying them at all.

Mr. President, how can we in this bill ask the elderly and the sick and the poor to pay more to visit the doctor each time they go to see the doctor, which is what we do, while a few wealthy corporations are pocketing hundreds of millions of dollars in taxes no one disputes that they owe? We will have a debate later about income tax rates, and one proposal will be to freeze tax rates at the 1987 levels. The Kassebaum amendment will be debated, et cetera.

But it is clear that some people in this body feel that it is unfair to have a top corporate rate of 34 percent. But if you complain about the unfairness of a top corporate rate of 34 percent, you should scream about the unfairness of the big chicken farmer ripoff.

Mr. President, recall a few minutes ago the description from the public financial data of a company that made $32 million in income and paid zero taxes. That company does not care where the tax rate is. That company does not care if the tax rate is 35, 36, 40, or 46 percent. It uses the cash method of accounting. It does not have to pay any taxes. So naturally it is not so concerned about where the rate is. The people who are concerned about where the rate is are the people who are paying the taxes.

So, our amendment, the amendment offered by the distinguished Senators from Nebraska and North Carolina and me, is fair and reasonable. We simply say to those big companies: You are going to have to pay those deferred taxes, you owe them, you are going to have to pay them. But we are going to give more small farmers the right to continue cash accounting.

First, we raise the cap from $25 to $50 million. This insures that all farmers who have a legitimate claim to stay on the cash method are taken care of. More real family farmers do better under the Exon amendment. Corporations with sales over $50 million have to us the accrual method, and instead of indefinitely suspending deferred taxes, they are going to have to pay those taxes over 10 years: 10 years, not 1 year, 2 years, 3 years, 4 years, but 10 years. I might add that some, including the National Grange which supports this amendment, believe the cap should be $100 million. If our amendment passes and it can be demonstrated to the satisfaction of the conferees that $50 million does not protect legitimate family farmers, then the conference might consider a higher limit.

To me, this amendment is a sound compromise. It is fair to taxpayers, who otherwise would foot the bill to let the big farms off the hook. It is fair to the other farm corporations who have not been using the cash method. These farms have been at a severe disadvantage in the past. Let us not compound the unfairness of putting hundreds of millions of dollars into their competitors' pockets which is what happens under the bill absent the amendment of the distinguished Senator from Nebraska.

Again, the premise of the amendment is simple: People should pay their taxes. If you owe, you should pay. You should not come to Congress and seek a special fix to allow you to escape paying the taxes that you owe.

The Finance Committee bill essentially forgives hundreds of millions of taxes for these corporations. The Exon amendment forces these large agribusinesses to pay the taxes that they owe.

Mr. President, I am prepared to yield back to the distinguished Senator from Nebraska and hope that we support the amendment and look forward to the discussion that we might have on it with the opponents.

Mr. EXON. I thank my friend.

How much time does the Senator from Nebraska have remaining?

The PRESIDING OFFICER. Thirteen minutes.

Mr. EXON. Thank you.

We reserve the remainder of our time.

The PRESIDING OFFICER. Does the Senator from Arkansas yield time?

Mr. PRYOR. Mr. President, if the Senator from North Carolina would like to offer his support for his amendment, I would be glad to yield to him.

Mr. SANFORD. I appreciate that graciousness. I believe I will defer to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas and the Senator from Nebraska control the time.

Who yields time?

Mr. PRYOR. Mr. President, I will speak only briefly at this point.

Mr. President, the two previous speakers and the proponents of this particular amendment and I guess for choice of better words this is called the chicken wars, and I think one of the editorials called it that the other day.

First, this amendment at this time has no business of being on the floor of the Senate. If this amendment passes, it is not only going to very seriously damage the possibility of this legislation being passed but also it is going to begin the unraveling of this very, very carefully crafted piece of legislation, this section of which came from the Senate Finance Committee.

The two previous speakers have spoken about moving various segments of the poultry and the cattle-feeding industry into the accrual accounting system. That is what the issue is about, they maintain.

That issue is moot. It is entirely moot because in both the House version and in the Senate Finance Committee version those companies that sell over $25 million in gross receipts are going on January 1 not 1990, not 1989, but 1988, to the accrual system of accounting.

The competitors of many of the poultry industries have achieved what they want. They want, as they say, a level playing field but now in the final hour of this major reconciliation bill those individuals and those true corporate giants who are now selling over $9 to $11 billion in gross sales are attempting to put other segments of the poultry industry into a very vulnerable position; that position being to, one, put them on the accrual system in January of next year; but, two, to say that you only have a 10-year period to pay back those deferred taxes from the past.

Well, Mr. President, very simply this amendment is going to the heart of an issue, a poultry issue, a cattle feeding issue, a pineapple growing issue, and even, yes, in some cases a family farm issue; that is correct, Mr. President, and I do not deny that.

However, Mr. President, I must say that the poultry industry has no USDA support program. The U.S. poultry industry has grown faster than any other segment of our agricultural economy.

And, as I am sure my good colleague and friend, Senator BUMPERS, will shortly say, we are vitally interested in this amendment because in the State of Arkansas alone, I say to my friends, the sponsors of this legislation, that 1 out of every 12 persons in our State today have their jobs either directly or indirectly in the poultry business. It has been a fast growth industry. And today that industry has said:

> OK, this fight is over. January 1st, we will go to the accrual system. That is what our competitors wanted us to do and that is what we are going to do.

Well, Mr. President, I would say basically that this amendment is not about raising revenues. I know my friend from Nebraska said $300 million over the next 3 years. I think the accurate figure is somewhere around $160 million over the next 3 years.

I do not think, Mr. President, that this amendment is about a level playing field because today this amendment in its present form is a punitive amendment, a punitive amendment, a double hit on many poultry industries across our country.

Finally, Mr. President, it is about one giant company, one giant corporate conglomerate with sales of somewhere around $11 billion each year, attempting to render and make vulnerable many segments of this industry so that ultimately they can go down there and pick them off.

Mr. President, the poultry industry today is not all that healthy. Only look today at the New York and American and over-the-counter stock prices of our poultry stocks and we will see that as a matter of fact.

I urge, Mr. President, our colleagues not to support the Bradley-Exon-Sanford amendment. We do not think it is proper. We think it is punitive. We have shown good faith going to the accrual system.

Mr. President, we are very hopeful that this amendment will not prevail and begin the unraveling of this package that has been put together.

Mr. President, I reserve the remainder of my time.

Mr. GLENN. Mr. President, I want to urge my colleagues to support this amendment. The issue here is not revenue. When you consider the size of our deficit, our amendment wouldn't make much of a dent. What is at issue here is something that is much more important—what is at stake is the principle of tax fairness.

I believe that the Finance Committee correctly closed the loophole that allowed large family farms—many of which are large, profitable poultry producers—to continue to use the cash method of accounting. It is only fair since all other corporations were put on the accrual method by the Tax Reform Act of 1986.

However, it is fundamentally unfair to let these large poultry producers get away without paying any taxes on previously earned, but untaxed income. This is an outrageous loophole. Remember that it was only last year when this Congress required thousands of other corporations to switch to the accrual method and pay taxes on deferred income over 4 years.

I cosponsored this amendment because the same rules should apply to these large, very lucrative poultry producers. These producers knew they would have to pay taxes on this income one day; that is the very point of the cash method. It only defers income; it does not exempt it from taxation. Under the committee's proposal, this deferred income would escape taxation altogether.

I cosponsored this amendment because the loophole it would close is a subsidy to a few very profitable poultry producers. We would be giving one group of companies a tax break that is unavailable to many of its direct competitors in the poultry business. A free market system can ill afford this type of competitive advantage.

Let's be clear about one thing. We are not talking about the small family farm. The amendment is even more generous to the small family farm. While the finance committee proposal requires family farms with more than $25 million in sales to switch to the accrual method, the amendment, in the spirit of compromise, raises this threshold to $50 million.

I urge my colleagues to support this amendment.

Mr. GRASSLEY. Mr. President, I am voting in favor of the amendment offered by Senator BRADLEY on the basis of the fairest approach under the circumstances.

This issue does not involve a question of true family farmers. I do not believe there exist family farmers who make $25 million let alone $50 million. I share the viewpoint of Iowa's Cattlemen's Association that the cap should be lowered down to $5 million. But that is not an option under this amendment, nor under the Finance Committee's provision.

Therefore, this involves really a question of what very large companies will be required to pay in taxes, and how they pay it. It is not a farmer issue. Therefore, the question of whether the cap it placed at $50 or $25 million becomes less important.

The question really is, Should some companies avoid paying taxes that have been deferred under cash accounting? Simply put, under the Finance Committee's provision, a loophole a mile wide will allow certain companies to avoid paying this tax indefinitely.

Under the Bradley amendment, everyone pays.

Let's take care of the loopholes today.

Another day we can bring the cap down to where it should be.

Mr. WARNER. Mr. President, I ask unanimous consent that a statement by this Senator may be included in the RECORD as stated in full just prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, proponents of the Exon/Bradley/Sanford amendment argue that all agribusinesses should have a level playing field. But they ignore the fact that both the Senate Finance Committee and the Ways and Means Committee, with the approval of the administration, have already done precisely that. Beginning in 1988, all large family farms will be required to pay taxes using the accrual method. As a result, the U.S. Treasury will be collecting well over $110 million in additional taxes during the next 3 years.

Mr. President, the large family-owned farms have already been hit hard by the Finance Committee and the Ways and Means. So what do the supporters of this amendment hope to accomplish? Let's set the record straight.

This issue is, in fact, an internal industry fight. The principal backers of this amendment have already lobbied and won the issue of cash versus accrual. But they are not satisfied. They want more. They now seek to penalize their primary competitors, hoping to pick up additional market share, using the tax system to do the job for them. This is something in which the Government should not take sides.

The poultry industry is going through a period of consolidation. By proposing this amendment, there are companies hoping to weaken the family-farm companies in order to acquire them down the road. The Senate should not vote to support one side or the other in this internal poultry industry battle.

Mr. President, everyone has been talking chickens, but this issue goes much further than just a couple of large chicken producers. It would also affect the turkey industry, which, I am proud to say, North Carolina is the No. 1 producer. Here are just a few of the North Carolina companies having large family-owned turkey operations:

First, Prestage Farms in Clinton, NC.

Second, Carrolls Foods in Warsaw, NC.

Third, Goldsboro Milling Co. in Goldsboro, NC.

Fourth, Nash Johnson & Sons in Rose Hill, NC.

Fifth, Cuddy Farms in Marshville, NC.

Sixth, Stout Enterprises in Monroe, NC.

Seventh, Circle S. Ranch in Monroe, NC.

Mr. President, the pending amendment lacks merit and I trust the able Senator from Arkansas [Mr. PRYOR] will move to table it at the appropriate time.

Mr. WARNER. Mr. President, I rise in opposition to the pending amendment, and urge my colleagues to vote against it.

This amendment is targeted at the deferred tax liability that several agribusinesses have accumulated under the use of cash method of accounting. While I do not wish to judge the merits of that goal here, the amendment before us imposes a costly retroactive tax burden on a very few farm operations.

Last year, I was one of a minority of Senators to cast a vote against the tax reform legislation. I did so for a variety of reasons. Chief among those reasons was my opposition to the many retroactive provisions in the bill, provisions which businesses or individuals felt they could rely on in planning for the coming years.

This amendment appears to me to be a prime example of tax retroactivity. The amendment before us does not merely change policies in midstream; it reaches back to change tax rules from past years.

I understand that the change currently in the reconciliation legislation is good, well-intentioned tax policy. These farms making over $50 million annually are not family farms, and should not be treated as such. That is part of the underlying legislation. But this amendment, which has been characterized as fair and reasonable is really neither.

The proponents of this amendment claim that theirs is a simple amendment: People and companies should pay their fair share of taxes. I couldn't agree more. But forcing these farm operations to pay these deferred taxes is downright punitive.

A farming operation in Virginia will, under this amendment, find itself saddled with an additional $80 million of taxes to be paid over the next 10 years. This additional, unanticipated tax bill will not come out of the operation's bank account or cash reserves, but will come in lieu of jobs and production facilities. Recapturing this deferred tax liability will have a very detrimental impact on the poultry industry as a whole, to the gain of a handful of agribusinesses.

In opposing this specific amendment, I want to make very clear that I do not oppose every notion upon which it is based. Indeed, there are several agribusiness operations which will reap indirect benefit from passage of this amendment. And some of those businesses have operations in Virginia.

But I cannot stress strongly enough that the amendment under consideration goes beyond good tax policy. The members of the Finance Committee have done that. They have written good tax policy.

If the Senate is interested in doing the right thing, the equitable thing, in the application of our Nation's tax laws, the Senate should table this amendment.

The PRESIDING OFFICER. Who now yields time?

Mr. EXON. Mr. President, I yield 7 minutes to the Senator from North Carolina.

Mr. SANFORD. The Senator is not seeking recognition right now.

The PRESIDING OFFICER. The Senator is not now seeking recognition.

If neither side yields time, the time will run equally on both sides.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina seeks recognition.

Mr. EXON. I yield 7 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 7 minutes.

Mr. SANFORD. Mr. President, I thank the distinguished Senator from Arkansas for his comments regarding the use of deferred taxes for growth in the poultry industry.

I remember helping design what they call the four corners when working on an economic development project in Arkansas. And I would be glad to see this money go to that kind of needed economic development. But this money, several hundred million dollars of it, is going to multimillionaires. It just strikes me that it is extremely unjust, indeed it is unconscionable, for us to stand here with a great deficit and give away at least a half-billion dollars.

Now, if Arkansas finds the chicken business important, North Carolina finds it extremely important. And I represent farmers in North Carolina that have been operating under this cash accounting loophole for years. But I also represent farmers that have been paying their fair share of taxes for years. North Carolina is either second or third in the production of poultry so if this were simply a question of helping the development of the poultry industry, I would not be supporting an amendment. But this is not a poultry question. It is not a question of the economy. It is a question of fairness.

Unfortunately, we have seen that certain companies have been given a tremendous advantage by a loophole that was not intended for them, a loophole that was intended for small farmers. And all of a sudden we find some of the major corporations in the country claiming to be poor family farmers and taking advantage of this loophole.

Now the loophole has been closed. But I cannot for the life of me see why we ought to give these large corporations the money that they owe in taxes, but so far have not paid. Everybody else pays taxes. Everybody else during the time their loophole has been in place paid taxes. And now these large corporations do not want to go back and pay the taxes that they owe.

I might remind my colleagues that 2 years ago we required all corporations with revenues of more than $5 million to move from the cash method to the accrual method of accounting and gave them 4 years to catch up. Now we are giving these large corporations 10 years to catch up. Anybody who owes $100,000 today and has 10 years to pay it off will make another $100,000 by investing those deferred taxes before they have to pay them off. This is eminently fair. It is extremely unfair to all the hard-working people in this country to give away this much money to a handful of large corporations.

Now, as far as the small farmer is concerned, the small farmer in North Carolina feels that they are being put upon by this kind of an approach. Not only do they pay taxes, not only do they pay taxes on time, not only will they be paying taxes in the coming years and they paid them in the past years, but they have found this kind of distortion of the market extremely disturbing to them. This cash accounting has distorted prices in the poultry market as well as the feed market.

This amendment is a matter of fairness. I think it is a matter of simply doing our duty to see that we collect the taxes that are due.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the New York Times, which says, in part: "When other Americans are asked to sacrifice, it makes no sense to except a few multimillionaires;" one from the Washington Post, which comments on this vast giveaway; and a letter from the National Grange in support of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 9, 1987]

THE BIG FARMERS' TAX HARVEST

To most Americans, the difference between "cash" and "accrual" tax accounting remains a matter of accounting esoterica. But a handful of giant, family-controlled farming businesses know how to make the most of it. They use cash accounting, meant to make life easier for individuals and small farmers, to defer hundreds of millions of dollars in taxes. Senator Bill Bradley of New Jersey leads the fight to close this expensive loophole.

Under cash accounting, expenses can be deducted immediately, rather than in the year the expenses are expected to create taxable income. Cash accounting is simpler, but costs the Treasury revenue because it allows tax liability to be deferred. For that reason, Congress in 1986 required virtually all corporations to adopt accrual accounting.

But in the process of preserving cash accounting for family farmers, Washington lumped in the few dozen huge agribusinesses controlled by single families. The biggest, the billion-dollar Tyson Farms Corporation, has used cash accounting to defer $135 million in taxes.

The Senate Finance Committee's tax bill would force all very large farmers to switch to accrual accounting. But like a similar proposal in the House, the bill exempts past deferrals, effectively wiping out hundreds of millions of dollars in accumulated liabilities. Senator Bradley, along with James Exon of Nebraska and Terry Sanford of North Carolina, is asking the Senate to be tougher. Their amendment, expected to reach the Senate floor today, would require full payment of the deferred taxes over the next 10 years.

Closing the loophole will barely make a dent in the Federal deficit. It's the symbolism here that's important.

When other Americans are asked to sacrifice, it makes no sense to except a few multimillionaires.

[From the Washington Post, Dec. 9, 1987]

CHICKEN WAR

A CHICKEN WAR is about to break out in the U.S. Senate. The feathers could hit the fan as early as today.

The issue is more tender than juicy. It involves the taxation of family farms. The tax law has traditionally allowed such entities to use an accounting method under which costs tend to show up faster than revenues. When an operation is growing there is almost always enough cost around to enable the operator to defer recognition of profit and, therefore, defer some taxes. The right to defer taxes is valuable, the equivalent of an interest-free loan.

Helping family farmers is not the worst thing in the world. They occupy, and perhaps deserve, a special place in our lore and politics. But there's a problem with this provision. Some family farms have become quite large and no longer deserve the special treatment.

In last year's cleansing of the tax code an effort was made to deny use of the magical accounting method to the largest family farmers. It failed, but this year it was revived in the name of deficit reduction. The reconciliation bill passed by the House last month as part of its $12 billion tax increase would limit use of the cash accounting method to family farms with gross receipts under $25 million. So would the bill from the Senate Finance Committee awaiting action on the Senate floor.

But in taxes there is always another layer. Yes, the larger farmers—many of them chicken producers, including Perdue Farms of Maryland—would have to use a more balanced accounting method in the future. But no, they wouldn't necessarily have to pay off their deferred taxes from the past. It's conceivable they'd never have to pay them, though for some the amounts are in excess of $100 million. The chairman of the House Ways and Means Committee, Dan Rostenkowski, even offered to let them stage the payments over several years. He was beaten in his own committee, 11 to 10, on the proxy of committee member and presidential hopeful Richard Gephardt. Some members of the Finance Committee also pressed for payment and were similarly rebuffed.

Now one of them, Bill Bradley, intends to offer a chicken amendment on the floor. The amount at stake is not as large as the principle, but the amount is not paltry, either. The Senate should crow aye.

NATIONAL GRANGE,
Washington, DC, December 9, 1987.
Hon. BILL BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: On behalf of its over 365,000 members, the National Grange endorses the Senate leadership's deficit reduction package as a responsible attempt by lawmakers to exercise prudent fiscal responsibility and as a sound alternative to sequestration.

The National Grange, along with many other national agricultural organizations, endorsed Title VIII—Agriculture as reported by the Senate Agriculture, Nutrition, and Forestry Committee, in a letter of December 9. We ask that any amendments offered to Title VIII on the Senate floor be carefully scrutinized since the package as reported is a well-crafted vehicle for conference.

With regards to the revenue provisions of the reconciliation bill, we do have two concerns that need to be corrected during floor debate. First, the National Grange strongly opposes the provision which allows corporations who must change their methods of accounting to hold prior deferrals in a suspense account. We do support a cap on cash accounting at $100 million but realize that the Exon-Sanford-Bradley Amendment, which caps cash accounting at $50 million and allows a 10 year payback of previous deferrals, is a fair compromise and, therefore, encourages you to support this amendment.

Second, the Grange strongly opposes any change from current law for FICA tax collection as it pertains to services performed by certain agricultural workers and we have reservations with changes regarding spouses and individuals aged 18 to 21 working for their parents. Both provisions will burden agricultural employees/employers. The repeal of the 20-day test and addition of the new $2500 annual payroll test will seriously hamper the use of seasonal workers and increase production expenses of producers (particularly for fruit and vegetable producers).

It is our hope that the above mentioned concerns will be addressed during floor debate. As stated before, we do support passage of the leadership's package as an acceptable alternative to sequestration. We look forward to working with the conferees to assure a final package that meets the needs and concerns of rural America and the nation as a whole.

Sincerely,

MARK C. NESTLEN,
Legislative Representative.

The PRESIDING OFFICER. Who now yields time?

Mr. PRYOR. Mr. President, I think the minority leader is seeking recognition.

Mr. DOLE. Will the Senator yield to me?

Mr. PRYOR. I am glad to yield to the minority leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, earlier today, I visited with the distinguished majority leader on how we could expedite this bill. And I say very honestly, I have friends on both sides of this amendment, so it is one of those kinds of amendments.

We had an amendment just before this one, the Harkin amendment, that had a lot of merit. But in an effort to pass this deficit reduction package, I voted against it. I think it has been generally agreed that unless there is some exceptional reasons that that would be the leadership position. I think we must demonstrate to the American people that we can move ahead, get this deficit reduction package out of the way.

This amendment was discussed in committee. It probably has a great deal of merit, but I am willing again, as I said the last time, to either help table this amendment or vote against it for one single reason at this time, and that is to get on with the deficit reduction package, get it passed, and get to conference.

We are going to meet again next year—and that is not very far off—and I assume this amendment will come back up again, or at least some modification of it. So I hope that this amendment can be defeated on this measure, just as the last amendment was defeated.

Now, this amendment only needs 51 votes, because it is germane. But I am willing to take a little lead. That is the leader's responsibility, from time to time. I think most Members want to finish this bill and demonstrate that we can govern and do the work and, I would hope, on that basis at the appropriate time there be a motion to table this amendment and any other amendment, including any I might have on this bill.

Mr. BYRD. Mr. President, would the Senator yield me 2 minutes?

Mr. PRYOR. I would be glad to yield to the majority leader.

Mr. BYRD. Mr. President, I associate myself with the remarks of the distinguished Republican leader. This package is the efforts that have been put forth by our own selectees, who went to the meetings, attended the summit dutifully: Hourly, daily, weekly.

Now, this is the test. If we start amending this bill it starts unraveling and we will have our choice as to whether or not we want to sequester and let the people know that we cannot do anything, that we are musclebound and that they cannot look to us, the Senate, to govern its own passions and continue to be undisciplined.

I hope that we will vote to table this amendment. I am not saying it does not have a lot of merit. But let us keep our eyes on the ball. The important thing here is to bring about budget deficit reduction. The President is joining with us in this package.

It is one thing to offer an amendment to satisfy our own consciences. But we also have to have a conscience about this package. This is our one chance. I hope Senators will remember that when they vote.

We can be around here Christmas week and we can be around here the week after Christmas or we can have a sequester.

Mr. President, I urge Senators in this instance to vote against the amendment—vote to table it.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. PRYOR. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from Arkansas has 19½ minutes. The Senator from Nebraska has 8 minutes and 45 seconds.

Mr. PRYOR. I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. ROTH. Mr. President, I rise to speak against the amendment offered by my colleagues that would strike the Senate Finance Committee provisions requiring farm corporations to change from the cash to accrual method of accounting.

Both the Finance Committee bill and the amendment offered by my colleagues address three issues that arise in requiring some farm corporations to change from cash to the accrual method of accounting. The first issue is the gross receipts threshold at which companies will be required to change form cash to accrual. The second issue is whether the deferred tax liability is recaptured. If it is, the third issue is how long the taxpayer will have to pay back the deferred tax liability.

The Finance Committee bill applies to corporate family farms with more than $25 million in annual gross receipts. The amendment being offered raises the threshold and applies to companies with more than $50 million in gross receipts.

Both the Finance Committee provision and the amendment being offered require the past deferred tax liability to be recaptured. How long the taxpayer will be given to pay back the deferred tax liability determines the degree of retroactivity the change in the law will have on the taxpayer.

I supported the Finance Committee provision because I generally believe that when Congress decides to change the law, it is unfair to tell the taxpayers that it is being changed retroactively. While I recognize the need for all companies to compete on the same basis, I do not think it is justifiable to retroactively require companies that have relied upon specific statutory provisions to pay back immediately a deferred tax liability that was built up in compliance with existing law.

Let us also recognize who has benefited from current law. Most importantly, the American consumer has benefited from lower poultry prices, as poultry production has flourished without any of the subsidies that have benefited other agricultural commodities. Moreover, poultry production has flourished even though commodity price supports have hurt the producers.

The cost of production for poultry farmers has been increased due to the price support system that has artificially raised the cost of their primary inputs—corn and soybeans.

The Senate bill is a carefully crafted compromise which will require all companies to compete on an equal basis, prospectively. All taxpayers with gross receipts in excess of $25 million will be on the accrual basis for tax years beginning after December 31, 1987. It must be remembered that the much maligned "suspense account" in the Senate bill is not forgiveness of the tax liability, it is simply a deferral. And it is not nearly as generous as current law.

Under current law, a family farm corporation's deferred tax liability can be triggered in two ways. First, if the family sells its controlling interest in the company, therefore failing to meet the family farm test, the deferred tax liability must be recognized over 10 years.

Second, if the corporation fails to expand, increasing its gross receipts and expenses from year to year, a portion of the deferred tax account must be taken into income that equals the percentage reduction in gross receipts during the same period.

Essentially, the Senate bill captures the deferred taxes in a suspense account, and the circumstances under which the tax is triggered on the suspense account are not nearly as generous as current law. In the first case, in which the family loses control of the business, the deferred tax liability is due in 1 year under the Finance Committee bill, rather than in 10, as is provided under current law.

In the second case, if the business fails to maintain the same level of receipts from its farming operations, a portion of the suspense account is taken into income under this rule, just as it would have been under current law cash accounting rules.

Much has been made of the "big giveaway" to the largest corporate farmers. Personally, I don't believe that when Congress decides to change the law and increase the tax liability on a limited sector of an industry by $100 million there has been a giveaway. It is ridiculous to suggest that when Congress changes the rules, unless we retroactively recapture all the previously deferred tax benefit immediately, there is a giveaway.

A real giveaway would be a fresh start, rather than just a suspension. Although I am not suggesting that outright forgiveness is appropriate, there are certainly a number of precedents for simply forgiving the tax liability.

For example, when the 1954 code originated accrual accounting for almost all businesses—other than farmers and personal service organizations—that had previously been on cash accounting, all pre-1954 deferred taxes were forgiven. In 1984, Congress changed the DISC [domestic international sales corporations] rules for U.S. exporters, all previously deferred taxes were forgiven.

The total amount of DISC related taxes forgiven was approximately $14 billion, with several individual companies saving over $500 milion in taxes. In 1982, the rewriting of the life insurance rules included at least two fresh start provisions, including MODCO—modified coinsurance.

In each of these cases, Congress forgave the deferred tax liability, going far beyond the scope of the "suspense account" which simply requires the deferred tax to be paid when the company ceases to expand, or the business is sold.

My colleagues have argued that the suspense account is effectively a permanent deferral for a few of the biggest companies that will continue to grow and will continue to be closely held. However, facts in the marketplace simply do not support their argument. Market surveys show that consumption is no longer growing at boundless levels. Salmonella scares have caused recent declines in poultry consumption.

In fact, many of the smaller companies had real economic losses last year. A change in the law that would now force them to pay back their deferred tax liability immediately, while they were actually losing money, would force them to sell out to the largest producers sooner, rather than later. However, with the suspense account, the tax won't be due until they sell their business, or the marketplace dictates it is no longer economical for them to grow or stay in business.

Mr. President, I want to reiterate the issue here is not whether all family farms with gross receipts in excess of $25 million should be put on the accrual basis of accounting. That is agreed. The only issue is whether the change in the law should be retroactive. As a general principle, I have opposed retroactive changes in the tax laws.

The Finance Committee bill requires that the deferred tax liability be recaptured when market conditions dictate the farmer's gross receipts from farming should be reduced, or when the business is sold.

The **PRESIDING OFFICER.** Who now yields time?

Mr. **PRYOR.** Mr. President, I yield what time the distinguished chairman of the Finance Committee requires.

The **PRESIDING OFFICER.** The Senator from Texas is recognized.

Mr. **BENTSEN.** Let me state that we discussed this for some time in the committee and we went through many mutations of it. It is obvious that some kind of transitional period has to be thought about in this instance and I support the final conclusion of the committee.

I want to echo the comments of the leadership, both the majority and the minority. If we start going down this road and we lose these amendments, I do not know where we stop. The whole process can unravel. Then you get the problem of spillover, I think, into the continuing resolution, and the unraveling of the appropriations process.

We do not have much time left. To those that think we cannot stay on beyond Christmas, I would just note that when I was first sworn into the U.S. Congress as a freshman House Member, it was on December 30 of that particular year. So it is possible to work right on through the holiday season. I hope we can avoid that and come to an early conclusion and support the leadership in this process.

The **PRESIDING OFFICER.** Who, then, yields time?

Mr. **EXON.** I yield 3 minutes to the Senator from Minnesota.

The **PRESIDING OFFICER.** The Senator from Minnesota is recognized for 3 minutes.

Mr. **DURENBERGER.** Mr. President, I am pleased to cosponsor the amendment offered by my distinguished colleagues from New Jersey and Nebraska. I am a member of the Finance Committee. This issue was discussed there.

I rise because of the plea by the leadership, which is certainly understandable. I can understand the need for the leadership to expedite passage of this particular measure. I made my decision to cosponsor this amendment today, and I made my decision to speak on it within the last hour or so, despite the fact that I have and I will continue to support the leadership package all the way through.

This amendment would restore a level of equity and fairness to the small family farmers of America who face stiff competition from giant farm corporations.

The amendment we are offering today would require that large farm corporations switch from the cash method of accounting to the accrual method, and that when they make this change, they must include in income over a 10-year period, any increases in income—and, therefore, taxes owed—resulting from the accounting change.

Mr. President, there is no argument over whether large farm corporations should be required to change their accounting methods. Both the House bill and the Senate Finance Committee bill require large farm corporations to shift to the accrual method.

The only issue for debate is whether the farm corporations required to make this accounting change must pay taxes on the amount of income previously deferred under the cash method.

In all candor, I must say that I am somewhat surprised that we are even considering the issue whether these large farm corporations should be required to adjust their income to reflect the change from the cash method to the accrual method. Whenever any taxpayer makes a change in his accounting method, the taxpayer is required by law to adjust his income to reflect the change in accounting method. Such an adjustment is not voluntary; it is mandatory for every taxpayer in America.

The policy of requiring such adjustments reflects a simple fact: When taxpayers change their accounting methods, adjustments are necessary to reflect the transitional changes that occur between the old method of accounting and the new method. In most instances, when the change in accounting method occurs, taxpayers are required to include in income a portion of the income that was deferred by using the old accounting method.

The Internal Revenue Service recognizes that such accounting change adjustments can cause genuine hardship for some taxpayers. Therefore, IRS often allows taxpayers to spread out the effect of the change over a period as long as 6 years.

In last year's Tax Reform Act, we voted to require most corporations and partnerships with more than $5 million in gross receipts to shift from the cash method of accounting to the accrual method. In so doing, we required these companies to spread out the effect of the accounting change over a 4-year period.

Yet in the accrual accounting provision adopted by the Finance Committee, we have, in effect, suspended the requirement that large farm corporations make the adjustment that we require of all other taxpayers. This, in effect, amounts to a forgiveness of tax which cannot be justified.

The amendment we are offering today allows farm corporations to spread out the effect of the accounting change over 10 years. I think this is more than fair. Small farmers have had a hard enough time competing with these large farm corporations.

Changing the tax laws to effectively forgive these taxes can only serve to reward those farm corporations that have found it beneficial, for tax purposes, to overproduce at the expense of the small farmer. I urge my colleagues to support this amendment.

The **PRESIDING OFFICER.** Who now yields time?

Mr. **PRYOR.** Mr. President, I yield 3 minutes to my colleague, Senator BUMPERS, from Arkansas.

The **PRESIDING OFFICER.** The Senator from Arkansas is recognized for 3 minutes.

Mr. **BUMPERS.** Let me disabuse my colleagues of the idea that somehow this is only a poultry issue. The Senator from New Jersey has pointed out that there are 20 big integrated poultry companies in the country that have been using the cash accounting basis. I think there are many more, but I want you to know that there are wineries in California, there are feedlot operators in Colorado and in Texas, there are vegetable growers in Florida and in Texas, and there are hundreds of other farm businesses in this country which are using cash accounting and who potentially are affected here.

That brings me to the poultry industry of which I am an unabashed defender because it provides 1 out of every 12 jobs in my State. A year ago, "Sixty Minutes" did a big story on salmonella in poultry and its sales plummeted. The Senate Agriculture Committee held a hearing on salmonella in poultry and sales plummeted further. Then following these big sales drops, the Finance Committee delivered the coup de grace to this just barely breathing industry by putting them on an accrual accounting system.

The poultry industry has been in a loss position for the last 6 months and it anticipates that it will lose at least 1 cent a pound on all 15 to 16 billion pounds of poultry it produces next year.

What we are doing here is beating a dead horse, one that has got only a little life left in it.

I want to disabuse you of one other notion. The Senator from New Jersey said that the Finance Committee bill on the issue of deferred taxes is a gift. It is not a gift. It never was a gift for these companies to defer their tax payments and it was not tax evasion. As long as these firms expanded, built new plants, produced more jobs, they could defer their tax payments.

But the minute their sales declined, they had to pay. And they are going to have to pay taxes anyway under the Finance Committee version.

If you adopt the Bradley amendment or the Exon amendment, here this industry is, almost down for the count, and it will have to start paying taxes January 1 when at the same time they are going to accrual accounting.

Bear in mind, now, do not be deceived, these firms have to go on the accrual accounting method on January 1, and they will at the same time be paying taxes that have been previously deferred.

Let me give you an illustration of what the Bradley amendment will do to the medium-sized poultry firms. Incidentally, they are not all multimillionaires.

We all know the one company to which he is alluding. It is a good company. It is a good company in my State and it produces a lot of jobs. And it is the biggest poultry producer in the world.

But the companies you are talking about here are not all that big.

Let me give you an example of a medium-sized poultry operator, for example, in my State.

Mr. President, how much time does the Senator from Arkansas have remaining?

The PRESIDING OFFICER. Fifteen minutes.

Mr. BUMPERS. Will the Senator from Arkansas yield an additional 2 minutes?

Mr. PRYOR. I can yield 1 minute to the Senator because a couple of people have to catch a plane. I will do that.

Mr. BUMPERS. Let me give this example. Let us assume that a company next year in the poultry business loses money. Let us assume they lose $1 million. Let us further assume that they have $50 million in deferred taxes. Under the Bradley amendment they will have to start paying on $5 million in deferred income, while they have a loss of $1 million. The tax on $5,000,000 in deferred income is $1.4 million. If this went on for 10 years, that means they will pay $1.4 million in taxes while they're losing $1 million per year. Who do you think can sustain that? Answer: Nobody.

Mr. President, you talk about taking care of the poor folks, I will tell you we have thousands, tens of thousands of people in my State working in the poultry industry. I promise you, this is a bill that is going to force a lot of firms out of business, and who is going to buy these firms? Who do you think is behind this amendment? If the proponents are really just the white hats wanting to collect taxes, why has the limit been raised from $25 to $50 million? The sum of $50 million is not exactly a mom and pop operation, is it?

I will tell you why it was raised. Because the sponsors started getting phone calls from people saying, "You have to raise it another $25 million to take care of me."

Mr. PRYOR. I yield 1 minute to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I had a very erudite and convincing speech that I was going to make on this matter, but to accommodate the plane catchers, I will just concur in the remarks of the distinguished Senator from Arkansas and the distinguished Senator from Texas who have already spoken.

Thank you, Mr. President.

Mr. PRYOR. Mr. President, I yield 1 minute to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Arkansas for yielding time to me.

I will follow the lead of my good friend from Alabama and say that I support the committee leadership who are trying to keep this a clean reconciliation bill so that we can meet the challenge that is before the Senate. That is to try to do something effective that we can have a consensus of support on to reduce the deficit, not to give Senators an opportunity to bring their pet projects to the floor and under sharp time constraints maybe luck out and hit paydirt with an amendment.

The Finance Committee has reviewed this proposal very carefully. They have rejected it. I think the Senate ought to respect the judgment that committee has made and reject it also by agreeing to the motion to table the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PRYOR. I yield 1 minute to the Senator from Iowa.

Mr. HARKIN. Mr. President, I want to follow the point made by the distinguished Senator from Arkansas, Senator BUMPERS.

The committee was going in the right direction. They lowered the gross sales limit on cash accounting down to $25 million. Now this amendment seeks to raise it back up to $50 million. These are not mom-and-pop operations you are helping.

My family farmers in Iowa do not benefit from this change. I thought it was a good compromise, to lower it to $25 million. They were going in the right direction.

Now the amendment of the Senator from New Jersey raises it back up to $50 million.

As the Senator from Arkansas said, these are not mom-and-pop operations. The amendment tends to go in the wrong direction again. For that reason, I stick with the committee amendment because I think it is going in the right direction.

The PRESIDING OFFICER. The Senator from Arkansas has 8½ minutes remaining and the Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, there's a sense of outrage on this floor. Anger has been expressed by the Senator from Arkansas and the Senator from Iowa. What they are outraged about is the proposition that people who owe taxes should pay taxes. That is what the outrage is about because what this bill does is to say that very large agribusinesses who owe hundreds of millions of dollars can suspend indefinitely the payment of taxes that they have incurred in previous years. That is what the proposition is.

Mr. President, I would hope that before we go along with the great chicken farm ripoff, which is embodied in this bill, that we stop and think do we really want to reject the proposition that people who owe taxes should pay taxes. I hope we will assert that people who owe tax should pay and support the amendment of the Senator from Nebraska.

Mr. BUMPERS. Will the Senator yield 1 minute?

Mr. PRYOR. I yield 1 minute.

Mr. BUMPERS. Mr. President, I do not know how much plainer we can make it. Under the Finance Committee amendment the threshold goes directly down to $25 million. These people are not being forgiven anything. The difference between the Bradley amendment and the committee amendment is when they are going to pay the taxes they have deferred, not whether they are going to pay the taxes.

Go back and look at the committee amendment. It requires the payment of deferred taxes. Not one dime of it is forgiven. It is a question of whether you are going to hit them next year at a time when they are losing a penny a pound in the chicken business or later on.

I do not know that much about all the other feedlot operators and vegetable farmers who are on cash accounting, but I can tell you they also are all going to pay every dime of taxes that has been deferred.

The sponsors want them to start next year and I do not. That is the difference.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. I would like to make a correction in what the senior Senator from Arkansas said. They do not have to pay their back taxes off unless it is sold off to another entity. The Senator from Arkansas is mistaken.

This is one whale of a break in what they are getting under this program. What we said last year to our constituents who had $5 million in revenues was we forced them to switch to the cash method of accounting and to pay their deferred taxes over 4 years.

This amendment takes a step in rectifying what will remain an inequity. The farmers still get a tremendous break. We are not putting them on the same scale as everybody else, not by a long shot. Even after this amendment, family farms over $5 million but less than $50 million will still be using the cash method of accounting. Even after our amendment, family farms with incomes over $50 million will have not 4 years but 10 years to pay their taxes on their deferred income. Absent this being approved, the suspension remains in there and they never pay taxes on their past income unless they sell the business.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time does the proponent of the amendment have remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 3½ minutes, the Senator from Arkansas has 7 minutes. Who now yields time? Time runs equally against both sides.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have been listening with interest and I feel there are an awful lot of people who are misinformed as to what this amendment does. There has been talk of objection to this amendment because somebody brought in a pet project. The pet project was the chicken egg that was laid and hatched in the Finance Committee. That is where the pet project is. This amendment only corrects an unfair pet project, and I am wondering if people really understand that. Leadership and others have come to the floor and said, "Well, this has a lot of merit, but don't pass it now because it will unravel the package." Why would you unravel a package when you are raising $300 million more in the next 3 years to help us adjust to this deficit situation?

I think it not wise for the leadership to say, "This is the package that we have devised; don't fool with it; do not touch it; it is as perfect as we can be; and we are opposing it because it might unravel the package."

What they are saying to us is, "You are in a straitjacket. You buy what we dictate and we are not going to tolerate any tampering with it."

Any time we can raise additional funds that are due, any time we can make a satisfactory arrangement where these people who had had their taxes deferred can pay them back in 10 years where always before when we have converted from cash to accrual accounting we have only given them 4 years, it is not accurate at all to say that this is not forgiven to many corporations, because all of these corporations that are getting this sweetheart chicken deal today would, if this amendment is not adopted, continue to receive it as far as they could into the future so long as that family owned that corporation.

It is not fair. It is an egg laid in the Finance Committee. It is a pet project. We are trying to correct it here for fairness and to get some additional income.

Mr. President, I ask unanimous consent to have several newspaper articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 14, 1987]

"FAMILY FARM" TAX BREAK ISN'T CHICKEN FEED

(By James Flanigan)

With lobbyists and tax lawyers fidgeting in the wings, the House Ways and Means committee on Tuesday took up reconsideration of last year's Tax Reform Act looking to get about $6 billion of new taxes by closing loopholes—among them the curious case of the billion-dollar family farm.

That's a reference to a tax law curiosity that allows farming corporations, no matter how large, to use a method of accounting intended to aid small family farmers. Big companies can qualify as family farms—even if they are listed on major stock exchanges—if 65% of their stock is owned by no more than three families. For example, the company that makes McDonald's Chicken McNuggets—Tyson Foods of Springdale, Ark.—qualifies as a family farm even though it has about $1.7 billion in annual sales.

How can that be? It's the kind of distortion that arises when tax law makes social policy. Back in 1976, in an earlier change in the tax laws, Congress decreed that all corporations should adopt the same type of cost accounting—called accrual accounting—the type, naturally, that brought the government the most tax money.

HEAVY LOBBYING

But it exempted family farms, so as not to impose on small businesses the burden of keeping records like big corporations. Farmers could use cash accounting, which allowed them to continually defer taxes by purchasing feed at the end of one tax year and reaping the income from the fattened chicken or animal in the next. As long as they bought the same amount or more feed at the end of each tax year, that is, they could defer taxes indefinitely and thus enjoy an interest-free loan from the government.

A nice deal for those who qualify and, as it happens, 18 of the 20 largest poultry farmers in the United States—names like Perdue, Gold-Kist, Foster Farms, Hudson Foods, Pilgrim's Pride, Pennfield—are technically family farms and able to use cash accounting, even though all have revenue of $100 million or more and, presumably, are capable of keeping records like any other big company.

So credit the law of unintended consequences for their tax break.

But credit also the law of countervailing power—or more simply, envious competitors—for trying to get it repealed. Among top chicken producers there are two companies whose pattern of stock ownership does not qualify them as family farms. One is ConAgra Inc., an Omaha-based $9-billion (sales) giant of the food industry that is the second-largest chicken producer after Tyson. Holly Farms, a $1.4 billion (sales) Memphis company, is the other chicken producer denied use of the cash accounting tax break. And so Holly and ConAgra are spending money on lobbyists and public relations—$500,000 for a six-month assignment is customary—to persuade Congress to undo the tax break of the big family farmers, who, of course, have hired their own lobbyists to influence Congress to leave the law alone.

Full employment for lawyers and influence peddlers. Is that how the system works?

GIVES COMPETITIVE EDGE

As a matter of fact it is, says Cliff Butler, chief financial officer of Pilgrim's Pride Corp. of Pittsburg, Tex. That tax benefit, Butler says, "is the reason the consumer enjoys low-priced chicken"—a reference to the fact that chicken hasn't risen in price in half a century, and can still be had in the supermarket for 60 cents a pound.

But tax breaks aren't the reason. Productivity and economies of scale have made chicken a big and efficient industry. Tyson, for example, has its chickens grown by 6,500 contract farmers, employs 26,000 people itself. ConAgra and the other big producers have similar arrangements. It's an industry that will give the American people an estimated 7 billion chickens this year, whether in supermarkets or restaurants.

The tax break, in fact, may be a minor thing in such an industry. But it helps, says James Blair, counsel for Tyson Foods, which deferred $100 million in taxes last year. "Cash accounting encourages investment," Blair says, "It's the way we have always used tax policies, not merely for revenue but for national priorities." Blair neglects to mention that because it is not available to all, the tax break is a competitive advantage by act of Congress.

It is the kind of thing, in fact, that tax reform was supposed to do away with—distortions arising from the confusion of tax and social policy. The family farm provision survived last year, however, and may indeed survive this week. It is low on Ways and Means' list of priorities because repealing it doesn't promise that much additional tax money, and the lobbyists for and against it may cancel each other out.

Common sense may say that a billion-dollar business is not a family farm, but lobbyists and tax lawyers have little time for such sentiment.

[From the Arkansas Democrat, Oct. 17, 1987]

MEASURE CANCELS TYSON, HUDSON BACK TAXES

(By Rex Nelson)

WASHINGTON.—When the House Ways and Means Committee put together a package to raise $12 billion in new revenues for fiscal 1988, it included a little-noticed provision that could save giant poultry producers in Arkansas about $500 million over the next three years.

The committee announced Thursday it had adopted an amemdment that would repeal the cash method of accounting for companies qualifying under a loophole left in the 1986 tax bill. In that loophole, Tyson Foods Inc. and Hudson Foods Inc. fell under the definition of family farms, while one of their major in-state competitors, ConAgra Poultry Co. of El Dorado, did not qualify because it is owned by a conglomerate.

What was not revealed was that committee Democrats (Republicans boycotted the drafting sessions) approved another amendment preventing the federal government from collecting deferred taxes from companies remaining at least 50 percent family-owned.

Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., had favored a proposal designed to raise $600 million over three years. The amendment repealing the cash method of accounting will raise just $100 million during that period.

According to The Wall Street Journal, Rep. Beryl Anthony Jr., D-Ark, led the fight to kill the Rostenkowski plan and thus save Tyson and Hudson potentially millions of dollars. The amendment to prevent the government from collecting deferred taxes ties 10-10, which would have killed it. But, according to The Journal, Anthony voted by proxy for Rep. Richard Gephardt, D-Mo., and the motion passed 11-10.

Anthony, who represents Arkansas' 4th Congressional District, which includes El Dorado, is a friend of Gephardts' and has been a strong supporter of his campaign for the 1988 Democratic presidential nomination.

Anthony, who was not available for comment Friday, received $1,500 from Tyson family members for his 1986 re-election campaign. He is chairman of the Democratic Congressional Campaign Committee, which, according to The Journal, received $30,000 in contributions along with a sister committee from Tyson family members on a single day in April.

Tyson, the country's largest poultry company, is headquartered in Springdale. Hudson Foods is based in Rogers.

Firms qualifying for the loophole could defer paying taxes when stocking up on birds, feed and other inventory at the end of each year.

Rep. Bill Frenzel, R-Minn., called the amendment preventing the government from collecting deferred taxes "a Perdue-Tyson poultry scam."

Perdue Farms Inc. is a large poultry company based on the East Coast.

"They gave them a half-billion dollar free ride," Rep. Hal Daub, R-Neb., told The Journal.

The Tyson family has donated $168,900 in the last 2½ years to congressional candidates, party committees and political action committees. Most of those contributions have gone to Democrats, including several members of the tax-making Ways and Means Committee.

The 1986 tax bill forced most companies with more than $5 million in annual receipts to switch from the cash method to the accrual method of accounting. Those companies then were forced to pay taxes on all previously earned income.

While forcing the poultry giants to switch accounting methods, the practical effect of the Anthony amendment is that those companies don't have to pay the back taxes.

"It's unbelievable," one Washington tax attorney said.

FUN AND GAMES WITH CHICKEN FEED

(By Ruth Simon)

Most reasonable observers would not call Hudson Foods a family farm. Based in Rogers, Ark., Hudson is now the country's 17th-largest poultry producer. In the fiscal year that ended last Sept. 28, Hudson earned $8.5 million on sales of $185 million. It went public in February, raising $21.3 million.

Your basic family farm? The Internal Revenue Service, not always a reasonable observer, thinks so. As a result, Hudson was able to defer $7.6 million, its entire federal tax bill, last year under long-standing IRS rules. This deferral can be rolled over more or less indefinitely.

Hudson is not a fluke. Other agri-industrial complexes, including $1.1 billion (sales) Tyson Foods and privately held Perdue Farms (estimated sales, $740 million), also routinely receive tax breaks originally intended for family farms. How? By qualifying under some rather arcane rules that allow "family farms" to use cash accounting instead of the accrual accounting the IRS requires most companies to use when computing taxable income. The rules date from 1919, when the Treasury concluded farmers weren't sophisticated enough to use accrual accounting and said they could use cash accounting instead. Big farmers didn't abuse the provision, because taxes were low. Besides, there weren't many big farms.

The choice of cash or accrual is especially important for livestock farmers because such production costs as feed are incurred well before the livestock is sold.

Consider a chicken farmer. Accrual accounting would require him to report a portion of his feed inventories at the end of each year, while not permitting him to expense the feed until the bird was actually sold. The theory is that the feed is an integral part of the cost of producing the bird. Accrual accounting says income and expenses should be matched, so feed costs should not be deducted until revenue is received.

Cash accounting, in contrast, allows the farmers to report cash expenses and receipts when they actually occur. That means the farmers can immediately deduct the feed as an expense, but he doesn't have to report the chickens as income until they are sold. Expensing in the current period while deferring income to a later period amounts to a tax-free loan to the farmer from the Treasury. The bigger and more profitable the farm, the larger that tax-free loan tends to be.

In 1976 the Treasury argued that agri-businessmen were equipped for the rigors of accrual accounting. Treasury tried to limit cash accounting to farmers grossing less than $1 million annually. That sent the big livestock producers squawking to their congressmen, who chickened out. Even a farm grossing $1 billion or more could be a "family farm," Congress said, if at least 50% of its stock was controlled by a single family. It also carved out exceptions for individuals, partnerships and Subchapter S corporations and for farm corporations controlled by two or three families.

Hudson Foods Chairman James Hudson played those loopholes with the skill of Stephanie Grapelli on jazz violin. Hudson, a former Ralston Purina executive, and two other investors bought the business from Ralston Purina in 1972. Hudson bought out his co-investors in 1984, and took the farm public in February.

But note the key: Hudson Foods has 12 million shares outstanding. James Hudson owns outright 7 million of those shares, 58%, and has the right under a revocable proxy to vote an additional 3 million shares owned by his family and company executives. With Hudson effectively controlling 10 million shares—83% of the common—Hudson Farms can do several more public offerings and still qualify as a "family farm."

Hudson cheerfully agrees "it's been a long, long time" since he drove a tractor. But, he says, "Farming, as defined in the tax code, is the production of farm products. It doesn't matter whether you ride a tractor or a horse." In other words, say Hudson, all farmers are created equal and should be treated equally by the IRS.

Springdale, Ark.-based Tyson Foods, the nation's second-largest poultry producer (after ConAgra), is also proving adept at playing by the family farm rules. This $1.1 billion agricompany contracts out chicken production to thousands of small farmers, and it derives more than 60% of its revenues from such "further processed products" as Chicken McNuggets and frozen dinners.

To remain a family farm—but also raise public equity—Tyson recently reincorporated in Delaware, where it can issue two classes of stock. The Tyson family will trade its 55% Class A holding for restricted Class B shares that carry ten votes each. Outside shareholders can keep the Class A shares or swap them for Class B, which pays a lower dividend. If only the Tysons make the switch, they will control 92% of the voting rights—far above the magic 50% minimum. Any new stock issued by Tyson will be of the Class A variety.

Important? It is to Tyson. Tyson earned $35 million in the fiscal year that ended Sept. 28. Cash accounting allowed it to defer about $26 million in taxes. That amounted to 78% of Tyson's 1985 federal tax bill.

"We consider ourselves as an umbrella over about 6,000 farms and farm families," says Chairman Don Tyson, defending his use of the family farming rules. "If we didn't have this kind of situation, we couldn't protect those 6,000 farmers."

But do family farmers need such protection? The fact is, cash accounting often works against farmers by making cattle, hogs and certain orchards attractive tax shelters and by encouraging overproduction. "I've seen too many instances where egg producers or others on a cash basis will expand their operation to avoid paying income tax," says Agriculture Secretary Richard Lyng, who was briefly on Hudson Foods' board. "That kind of tax policy has caused family farmers a lot of trouble."

Chuck Hassebrook of the Center for Rural Affairs in Walthill, Neb. agrees. "Cash accounting," he warns, "really distorts supply and demand." And Tyson may soon freeze the amount it defers because tax factors are warping its business decisions.

This seems like just the kind of loophole genuine tax reform should plug. Indeed, the Administration's reform proposals would have limited cash accounting to companies with less than $5 million in gross receipts. But the big farmers and their lobbyists squawked as in 1976, and congressmen again clucked. Reforming farmers' cash accounting was one of the first proposals to be dropped last year by congressional tax writers.

Mr. EXON. Mr. President, I am prepared to yield back any remaining time that we have if the same is true with the opposing forces.

The PRESIDING OFFICER. The Senator has yielded back his time.

Mr. BRADLEY addressed the Chair.

Mr. PRYOR. Has all time been used, Mr. President?

The PRESIDING OFFICER. The Senator from Nebraska has 38 seconds.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Is the Senator from Arkansas prepared to yield back the remainder of his time?

Mr. PRYOR. We are prepared to yield it back. We have no more requests for time. Does the Senator from New Jersey yield back the remainder of his time.

Mr. BRADLEY. Yes.

Mr. EXON. I yield back the remainder of the 38 seconds of which I have control.

Mr. PRYOR. Mr. President, I move to table the Exon-Bradley amendment.

The PRESIDING OFFICER. There is a motion to table.

Mr. BRADLEY. Mr President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—53

Adams
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Breaux
Bumpers
Byrd
Chiles
Cochran
Conrad
Cranston
Daschle
Dole
Domenici
Ford
Fowler
Garn
Gramm
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Inouye
Johnston
Leahy
Matsunaga
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Stafford
Stennis
Stevens
Trible
Warner

NAYS—41

Armstrong
Bond
Bradley
Chafee
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dodd
Durenberger
Evans
Exon
Glenn
Graham
Grassley
Heinz
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Levin
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Moynihan
Pell
Sanford
Simpson
Specter
Symms
Thurmond
Wallop
Weicker
Wirth

NOT VOTING—6

Boren
Burdick
Gore
Lautenberg
Simon
Wilson

So the motion to lay on the table the amendment (No. 1258) was agreed to.

Mr. PRYOR. Mr. President, I move to table the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. Those Senators who have business to conduct other than that before the Senate will please adjourn to the cloakroom.

AMENDMENT NO. 1259

(Purpose: To guarantee budget deficit reduction compliance)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BAUCUS, Mr. BIDEN, Mr. GORE, Mr. BUMPERS, Mr. CONRAD, Mr. D'AMATO, Mr. DODD, Mr. EVANS, Mr. EXON, Mr. HOLLINGS, Mr. LEVIN, Mr. SYMMS, and Mr. WEICKER, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself and others, proposes an amendment numbered 1259.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed later in the RECORD under Amendments Submitted.

Several Senators addressed the Chair.

Mr. BOREN. Mr. President, will the Senator yield to me for a brief statement?

Mrs. KASSEBAUM. I yield.

Mr. FOWLER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BOREN. Mr. President, I would like the record to show that I had a very strong interest in the last vote. I was in a room in the Intelligence Committee area where the bells did not go off. I was not informed that there was a vote in progress, and I arrived on the floor just as the vote was closed.

Had I been present, I would have voted for the motion to table the amendment. I would like the record to reflect my views and why I was not present.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, this amendment is offered as a substitute for the leadership agreement. It replaces that agreement with an across-the-board approach to deficit reduction.

We have all heard this debate many times, and I will be brief, because there are many who want to speak.

I feel that this is a window of opportunity for us in the U.S. Senate to show that indeed we can make a difference. It is an equitable approach to our deficit problems; it is one that will work. It is a balance that gives us the opportunity for 1 year to put things on hold, both on the spending side and the revenue side, so that in the future we may be better able to sort out the options and the choices we do have to make.

I think it is important to point out that with this particular package, we have a substantial saving in just 1 year of $41.3 billion. We have a total package of $41.3 billion; total spending savings of $25.1 billion; total revenue savings increase of $16.2 billion.

This is achieved by just freezing spending 1 year. The two exceptions are a 2-percent increase in COLA's on the entitlement programs with full funding on SSI and the full rise in exemption for standard deduction and personal exemption on the revenue side.

This, I believe, is a balance that works, and you will hear many other comments, but it is a significant savings. It is time that we do some real spending cuts and some real revenue to match that in order to help us during this difficult time.

I would like to yield for a moment to some Senators who I know have to leave for a brief period of time.

I am happy to yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, at the outset of the domestic summit, the Nation had great expectations of a bold, dramatic package of taxes and cuts. Everything was on the table. At long last, we seemed prepared to reach out and touch the untouchables of entitlements and COLA's.

However, 6 weeks later, we are back to square one, business as usual. The summiteers promised to scale the fiscal Alps. But their final product—the leadership amendment—looks more like a budget molehill.

Instead of fashioning a true fiscal solution, they confected yet another short-term political fix. The summiteers claimed reductions of $30 billion for 1988, but once you cut through the cotton candy of user fees, asset sales, and IRS initiatives, you are left—at best—with only some $20 billion in substantive deficit reductions. It is the umpteenth reprise of smoke and mirrors. And, not surprisingly—in the eyes of many Senators—the sequester is looking better and better all the time.

Apologists for the summit package insist it is the best we can do. They are wrong. We can and must do better. Today as never before—short of a sequester—our last, best hope for genuine budget reduction lies with the freeze proposal advanced by Senator KASSEBAUM, myself and others, and now supported by a bipartisan group of nearly two dozen Senators.

When I originally proposed a budget freeze in 1982, we began with 11 votes and ended up with 38. Since then, the original Hollings freeze has been echoed in a series of budget freeze proposals. In 1984, we had the KGB freeze, Kassebaum-Grassley-Biden-Baucus. Today—as our Nation's fiscal crisis deepens—we have returned to what is, in essence, the 1988 model Hollings freeze.

If I had my druthers, the freeze would take the following shape:

By freezing budget authority spending at 1987 levels for defense and nondefense discretionary, we would save $11.1 billion. By freezing—not cutting—COLA's at the 1987 levels plus freezing fiscal year 1988 reimbursement levels for services provided by doctors and hospitals at fiscal year 1987 levels, we would save $8.5 billion. By freezing the 1987 tax rates, we would save $17.2 billion. Debt service savings would be $1.4 billion. The total deficit reduction of this 1988 model Hollings freeze would be $38.2 billion in fiscal year 1988.

And lest that sound draconian or contractionary, let me make this point. Although my own freeze would save $21 billion, the baseline budget for 1988 would still grow by a whopping $45 billion.

Indeed, we could improve on this stripped-down Hollings freeze proposal by adding some bells and whistles from the summit package. For instance, the summit package includes an additional $1 billion in Medicare savings; $0.9 billion in Commodity Credit Corporation savings; and $9 billion in new revenues. If we take that $11 billion in deficit reduction and combine it with a budget freeze, we would generate a total deficit reduction of nearly $50 billion. At that point, you're finally talking about real money.

Shared sacrifice has been the hallmark of all my budget freeze proposals. The 1988 model Hollings freeze would be no exception. Unlike the summit package, it would not single out retirees or any other group. The freeze is simple—no gimmicks, no fudge. It is fair—its impact is across the board. And it is final—it gets the job done.

Yes, senior citizens would shoulder their share of cuts. But their cutbacks would take place in the context of across-the-board, evenly shared sacrifice. Seniors have always been willing to do their share—as long as they are not singled out for disproportionate or unfair treatment.

Mr. President, for weeks the summit conferees agonized as though they were giving birth to a porcupine. Instead, they produced a mouse—a stillborn mouse.

The summit package has been scoffed at by the financial markets. Its own authors have damned it with faint praise. It has failed to rally a committed majority in the Congress. The time has come to break the logjam with a single, decisive stroke. The 1988 model Hollings freeze—or its kindred spirit, the Kassebaum freeze—is an idea whose time has come.

Mr. President, I commend our distinguished colleague for her leadership, persistence and perseverance. Others like Senators BIDEN and BAUCUS and all of us have been in the vanguard of the budget freeze.

For years now, Senators have clung to the pipedream that we would grow our way out of our deficits. In the process, we have indulged in a whole bag of tricks. The leadership conference alternative offers numerous cases in point. For instance, it assumes an inflation rate of 4.2 percent, and from that inflated amount they extrapolate that they have cut $19.2 billion, and they give themselves a good Government award for cutting spending by $19.2 billion and raising taxes by $11.0 billion for a total savings of $30.2 billion.

So I have to take reluctant exception with my leadership. They have worked hard, but when they say if we do not pass the leadership alternative we face the specter of sequester, it is exactly this prospect that I have a mind in supporting the Kassebaum freeze proposal. We need a constructive, viable alternative that will get the job done. I repeat, the budget freeze is an idea whose time has come.

The **PRESIDING OFFICER.** Who yields time?

Mrs. KASSEBAUM. I am happy to yield time to the Senator from Delaware.

Mr. BIDEN. I will not take that much time. I thank my colleague from Kansas.

Before my friend from South Carolina leaves the floor, let me say what all of us know which is that he is the great granddaddy, the granddaddy, the father and the son of this notion of the freeze. He was talking about the freeze long before any of us, including the Senator from Delaware, and I am just sorry we did not heed his advice 7 years ago, 6 years ago, 5 years ago, but maybe we will do it now.

Mr. President, there is an economic crisis that is obvious in this country. We have to act wisely if we are going to avoid its worst consequences. It is my hope that before the Senate completes action on this bill we will have taken at least one small step.

The foundations of our economy have been weakened by years of excess. The full extent of our economic problems are, quite frankly, notwithstanding what happened on Wall Street, not yet visible, but the financial markets have tried to warn us. The litany of our problems is not new. We have been talking about the problems for years. Therein lies our first problem: We have talked rather than acted.

We have failed to devise long-term solutions to our budget deficit problems.

We have not acted to improve productivity, to increase our competitiveness in ways that can help our trade situation.

We have not reduced the deficit, but we have in fact been reducing support for education, job training, civilian research and development, infrastructure and the like, and our deficit reduction efforts have sometimes been part of the problem rather than part of the solution of reducing the deficit.

We have done nothing to reduce our dependence on foreign capital. While we have talked of increasing savings, the fact has been greater consumption. We have failed to slow the growth of business, consumer, and government debt.

Today, here on the Senate floor, there is little evidence that we are even laying plans to deal with these problems, not only today but in the future.

The budget summit negotiations to reduce the budget deficit were, as have been stated by many today, good-faith negotiations. The negotiators worked hard to achieve deficit reduction. Their proposals will, in fact, reduce deficits by $33.7 billion in fiscal year

1988, if everything turns out to be correct. Estimates are that the deficit will be decreased from a potential $179.9 billion in fiscal year 1988 to about $146 billion. That is perhaps a good start. But unfortunately it does not even get us to the point where we were supposed to be at the end of the fiscal year just finished, which was $144 billion.

What is more, the leadership proposal before us is not a plan. It is not a road map to lower deficits and a stronger economy. Instead, it is a compilation of many unrelated actions, some of which will have long-term benefits for deficit reduction, others of which may even be counterproductive to long-term deficit reduction.

I am here tonight to propose an alternative again with my friend from Kansas. It is a freeze of Federal spending and a freeze of the Federal Tax Code for both individuals and corporations. It is an effort to combine real deficit reduction, of greater magnitude than that proposed by the so-called leadership proposal, with the time to develop a rational economic plan for our country which is lacking now.

My support of the freeze proposal is not intended in any way to denigrate the efforts made by participants in the summit. In fact, it is a wonder that they were able to arrive at any agreement. They had the difficult task of reconciling the divergent views of Republicans and Democrats, conservatives and liberals, executive and legislative branches, and every other cat and dog that could be dragged into that room.

But I do believe that the freeze is a better way to meet the immediate need for deficit reduction. It approaches the problem from a different perspective. It seeks to develop a plan that will suit the American people, not just a few negotiators and some special interests. The sequester has been in effect since November 20. It will not be possible for much longer to call it off. Yet it is urgent that we find a better alternative than the summit proposal that has been offered to us.

Let me just briefly describe the proposal for my colleagues here on the floor or listening in their offices.

This proposal freezes spending and taxes for fiscal year 1988 at fiscal year 1987 levels. We are going to be saying to the American people who expect an additional tax break, not more taxes, but an additional tax break, "You've got to hold off a year," and to everyone who expects more in terms of direct spending by the Federal Government, "You've got to hold off a year, everybody hold a year, because we had a serious problem."

The result of adopting our proposal will be to reduce the deficit by $43.3 billion in fiscal year 1988, from a potential $179.9 billion to $136.6 billion. Even though it is only a 1-year freeze, it will achieve a similar level of over $40 billion in the next fiscal year, 1989.

It will save $16.8 billion by freezing spending.

Defense appropriations will be frozen, saving $6.4 billion in fiscal year 1988, followed by another $9.7 billion in fiscal year 1989.

Domestic appropriations will be frozen, saving $4.7 billion and $6.5 billion respectively.

Federal pay, including congressional salaries, would be frozen.

Cost-of-living increases [COLA's] for all indexed programs, including Social Security, would be frozen at 2 percent. It is a 2-percent increase. So we are not talking about taking away money from people. We are talking about limiting the increase that people have. This will save $3.8 billion in fiscal year 1988 and more in fiscal year 1989, even though COLA's will be capped for only 1 year. Supplemental Security Income, upon which many elderly poor rely, will not be frozen at all. The full increase will go forward.

Medicare payments to doctors and hospitals will be frozen, saving $1.3 billion and $2.2 billion respectively, without reducing service to the elderly.

The freeze will increase revenues by $16.2 billion in fiscal year 1988. This will bring in increased revenues of $16.2 billion in fiscal year 1988 and $7.7 billion in fiscal year 1989. This is accomplished by freezing all of the provisions of the Tax Code for 1 year. Rates for both individuals and corporations will be the same in 1988 as they were in 1987.

We are not taking away anything given. We are just delaying for 1 year going to the next step.

However, for individuals, the scheduled increases in the personal exemption and the standard deduction will not be frozen. That will go forward.

So I say to all my fellow Americans listening that middle-income Americans, average Americans, will, in fact, continue to get some of the benefit of the next stage of the Tax Code's implementation.

The freeze also incorporates several noncontroversial savings from the leadership proposal that save $9.8 billion. There are also savings of $1.6 billion in interest payments due to just the action we would be taking in lowering the deficit.

Think of that. What we are talking about here today if we adopt the freeze, merely by adopting the freeze, we will save $1.6 billion in interest.

We argue on this floor about legislation to increase education or 100 other things I can name by several hundred million dollars and we fight over it and talk about the budget consequences. We would save over a billion and a half dollars in interest if we just adopted this plan.

The freeze offers a number of advantages for the difficult situation in which we find ourselves.

Originally the freeze was proposed by us to urge the budget summit negotiators to move to a widely acceptable approach like the freeze. Actually, something like the freeze was considered from time to time in the bipartisan budget negotiations.

The freeze will spread the effects of deficit reduction fairly among all beneficiaries of Federal programs. It is an equitable approach, asking all to bear a small piece of the burden which belongs to us all. I believe that all Americans are willing to share in that burden to get our economy under control as long as they know everybody else is in the same boat.

In that connection, Mr. President, I would call to the attention of my colleagues a letter from Cathy Reynolds, the president of the League of Cities, to my distinguished colleague from Kansas. She supports this freeze, calling it a proposal for "balanced deficit reduction." The elected officials of our cities and towns are the officials nearest the people, and I welcome this evidence of their support. I will ask that the full letter be printed at the end of my remarks.

The freeze will provide more real deficit reduction in fiscal year 1988 than the summit—$33.7 billion for the summit versus 43.3 billion for the freeze. This will provide greater assurance of congressional intention to deal effectively with deficits.

Even though the freeze offers greater reductions in deficits, in the long run it will also offer greater protection to those who benefit—whether through the tax system or direct spending—from Federal programs. The leadership proposal is an open invitation to more haphazard spending reductions and tax increases in future years which may seriously hurt some people on a selective basis.

The equity of the proposal is clear. There is an even split between increased taxes ($16.2 billion) and real spending cuts ($16.2 billion.) It reduces both defense ($6.4 billion) and non-defense ($4.7 billion) appropriations by significant but not damaging amounts

It would keep deficits on a downward track, while allowing time to develop further deficit reduction measures that can strengthen our economy. This is perhaps the greatest strength of the freeze. It allows us time to adopt measures that will help to stimulate saving. It will permit us to seek better ways to encourage investment and increase productivity. In other words, it will put in place a major deficit reduction measure that does not prejudice future actions. It will allow rational consideration of deficit reduction rather than relying on marathon negotiations as the Christmas holidays approach—always a poor way to make policy.

In 1984, in a similarly difficult situation, I joined Senator Kassebaum and others—at the time it was Senators Kassebaum, Grassley and Baucus—in proposing a freeze, to put deficits on a downward path while Congress devised further deficit reduction measures. The savings from the 1984 freeze would have been $45 billion in fiscal year 1985. The 1984 freeze would have resulted in declining deficits in 1985 and 1986—estimated then at $161.5 in fiscal year 1985 and $148.5 billion in fiscal year 1986. My colleagues will note that we would then have been in fiscal year 1986 just about where the leadership proposal promises to take us if we adopt their package now. So, I hope we will not make the same mistake again.

In 1984 the Congress chose not to adopt a freeze. The result was record high deficits in the next two fiscal years of $212 billion and $221 billion.

The freeze that we are offering today is basically similar to the one that we proposed in 1984, with mild modifications. It is clear in retrospect that we could have had a head start on deficit reduction had we adopted it then. This proposal today can work as well as the 1984 proposal would have worked.

I urge my colleagues to join us in seeing the light.

Quite frankly, Mr. President, it seems to me that the only way in which we are going to gain control of these deficits is to say: "Stop everything where it is now," guaranteeing significant savings that exceed the leadership package for the next 2 years and, in the meantime, get about the business of reordering the budgetary priorities in this Congress.

I thank my colleagues for their indulgence.

I ask unanimous consent that the letter of support from the National League of Cities dated December 9, 1987, to which I referred, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

National League of Cities,
Washington, DC, December 9, 1987.

Hon. Nancy Kassebaum,
U.S. Senate, Washington, DC.

Dear Senator Kassebaum: I am writing on behalf of the public elected officials of the nation's cities and towns to support the reconciliation freeze amendment you and your colleagues have authored as a substitute to either the Gramm-Rudman sequester or the so-called summit agreement.

We believe that this is the only substantive proposal pending which would call for balanced deficit reduction, rather than calling for disproportionate cuts in a minority of federal programs. More importantly, it substitutes a proposal for which—unlike under Gramm-Rudman—the Congress would be accountable, but which would achieve meaningful and substantial reductions in the federal deficit.

Our membership believes that serious federal deficit reduction requires careful scrutiny of all federal expenditures. We are concerned at those proposals which would automatically excempt the majority of federal expenditures. The exemptions from scrutiny or sequester have become so great that what is left is insufficient to achieve a balanced budget and would, in any case, lead to grave disinvestment in programs which provide essential services to the citizens of this country.

We are impressed and particularly commend your proposed freeze of federal tax rates as well as spending. Our members do not understand how this nation can afford to cut federal tax rates at a time of record federal deficits.

While I recognize the overwhelming odds you confront, I am impressed with the courage of your convictions and wish you the best in your efforts.

With best regards,

Cathy Reynolds,
President, Councilmember-at-Large

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FOWLER. Mr. President, I yield 5 minutes to the Senator from Texas, Mr. Bentsen.

The PRESIDING OFFICER. The Senator from Georgia yields 5 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, we have been through this process time and time again. We had at least 20 different proposals that we tried in that budget summit and much of it was input from Members. We tried several mutations of the COLA's to try to accomplish this. Finally, we decided we could not get enough support for that, and that it would sink the whole package.

We came back to our individual caucuses, and in each instance, we were turned down on proposals that would have been a deferral or a freeze for a period of time.

Now, let me tell you what has happened to us. Let us look at some of the practical problems.

If you go this way, you are going to find a substantial segment of our population will be affected by it. This Kassebaum amendment would put a 2-percent ceiling on Social Security cost-of-living increases.

Here is the problem with it at this time: It is simply going to be too late to try to bring it about. It would be extremely difficult to implement. Most of the checks are already printed with a 4.2-percent increase included. They are due to be delivered in just 3 weeks.

The Social Security Administration has said to us that these checks can either go forward or they can be stopped. They cannot be changed. Checks could possibly be sent out at the old December rates. If that were done, then the checks would have to be late. I do not think that the Senate can support a provision which will make the January Social Security checks for some 40 million Americans arrive several weeks late.

The other option is to pay the checks with the increase and then implement the lower rates later in the year. According to SSA, it would take at least 2 or 3 months to reprogram the computers to reduce the COLA to 2 percent. We would then be in the position of cutting benefits after beneficiaries have already accustomed themselves to the higher rates. Of course, the projected savings would then only be partially achieved.

In short, we would be, at this time, wreaking havoc on the people who depend on Social Security benefits.

Mr. President, this is not a time to cast a vote just to make us feel good. This is a time for a vote that will do some good. A vote today for this proposed freeze amendment would do no good and potentially would do a lot of mischief.

I simply ask my colleagues to consider what happens to the deficit reduction process if the pending amendment passes. I will tell you what happens to it. It will stop dead in its tracks. There is no way this is going to pass the House of Representatives. We can go into those conference negotiations and stay in those negotiations and try to convince them, and we will not prevail. We will come back here in disagreement and start the whole process over.

I promise you, we will be here for a long time and we will see the new year before this one passes the House of Representatives, and I urge that we vote against it.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mrs. KASSEBAUM. I would like to yield myself just about 1 minute to respond to the Senator from Texas regarding the COLA adjustment taking into account the concerns that he raised. I would just like to clarify for the Record that there is language in our bill that specifies the effective date does not take place until January 15, which answers the question of adjustment on the COLA's.

Mr. BENTSEN. I do not think it does take care of the situation. I still think you have a mechanical delay that is going to cause a very serious problem, from what I have been told by the Social Security people.

Mrs. KASSEBAUM. Mr. President, I would like to yield 5 minutes to the Senator from New York, Mr. D'Amato.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. Mr. President, I rise this evening to support the budget package and amendment submitted by Senator Kassebaum and to give credit where credit is due to Senators Kassebaum and Hollings, who have been advocating a budget freeze for a number of years now. They have done a marvelous job in articulating the flaws in the summit package, notwithstanding the effort made by those who have worked to put that package together.

Mr. President, to be quite candid, only in Washington can a $30.2 billion reduction package really mean $47 billion more in spending. It is incredible.

The summit package reduces the budget only after first adjusting for inflation, so we start with 1987 figures, we add 5 percent for inflation, then we come in with our cuts and what is the net result? The net result is a 1-percent increase in defense spending and a 4-percent increase in nondefense spending and we are back to the same old business. We go back to our districts and say yes, we are going to reduce the budgets and we are going to cut but do not cut my favorite program. We do not even have the courage to say: Let us freeze spending. And that is what this program does and it does it fairly and it does it with compassion and it does not do it with smoke and mirrors; across the board.

If we cannot stand up and go home to our constituents when we are in a critical time in this Nation, then shame on us. And maybe we should not be here.

And we have got the Social Security lobby. And we have got the Member of Congress over on the other side, Claude Pepper, who gets up, and Jimmy Roosevelt who sends out the letters and tells them we are going to disembowel them, we are going to take your services away, we are going to hurt you. That is just not the case. We allow for a 2-percent increase as it relates to that important program; a 2-percent increase where the COLA is affected and a 4-percent increase as it relates to those who are without. Those who are on disability, the SSI.

It is straightforward. It is honest. And it saves over $80 billion in 2 years. Real savings.

If you are going to have any hope of getting the markets to respond in a positive way to what we are doing, then let us be mature, let us be honest, let us be factual. That is what this proposal does.

I just say one other thing. To those people down on Pennsylvania Avenue, and to those who have great pride of authorship as it relates to the tax provisions and code that was passed last year, for God's sake wake up. Do not rest on pride of authorship.

Oh, yes, so your tax provisions may be altered slightly. We are going to freeze the Tax Code for 1 year. But let the Record show that 88 percent of the American public who pays taxes will actually pay lower taxes as a result of this plan, if it is enacted; 88 percent. Virtually everyone earning $50,000 and under.

Mr. President, I spoke to a number of people, rather affluent, wealthy: stock brokers, corporate leaders. I said, if you had a package that really cut spending, that would be significant, and I explained this package that would reduce spending, would you go along with a 1-year freeze as it related to the tax package? They said yes.

It may be that Senator Bentsen is right. Maybe our House colleagues will resist it. But by God we owe it to the American people to attempt to come forward with a meaningful plan. Let us get it begun.

There will be those who say we have broken faith with the public because we came forth with a tax proposal that reduced the top tax from 38 to 28 percent and we would withhold that for 1 year under this plan. But the fact is that 88 percent of all individuals would experience no increase in taxes or actually get a tax cut. Almost uniformly, taxpayers under $50,000 would get a tax cut.

The reason is because we would allow the standard deductions that were provided for in the code of 1986 to continue to go up, exemptions would go from $1,900 to $1,950, and the standard deduction would increase from $3,670 to $5,000.

Mr. President, let me simply say I did not put this package together. Senator Kassebaum did. And she had the courage to move forward and to articulate it and to attempt to galvanize people. This is something Senator Hollings has spoken about. I think the leadership should begin sometimes to wake up and look at what the Members really want instead of holding in the Members; because of that power of leadership, act in a very positive manner in saying let us give the best proposal an opportunity at passage so that we can truly say that we have come together to do the business of the people.

By God, when we have come to this Senate, that important, distinguished body, we do it a great disservice if we fail to go forward and meet the courage of our convictions and continue to play petty politics.

I commend, again, the Senator for having the courage to move forward in the face of very strong, unified opposition.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Kansas.

Mrs. KASSEBAUM. I would like to yield time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. Thank you, Mr. President.

Let me first, as my colleagues have done, congratulate the leadership for the long and extended negotiations they went through to come forward with a package. Far better that we have a package in front of us than no package at all. Far better that we have brought forward what this Senator at least believes is an incomplete and inadequate package than be staring at sequestration as the only alternative in front of us.

But having said that, Mr. President, now it is our turn. The leadership, as they have said, have done the best they can. And I congratulate them for having done that. But now it turns to us, all Members of the Senate. It is up to us to do the best we can and, frankly, I, for one, do not want to be counted among those who are captured by temporary timidity or who could be fairly accused of creeping cowardice.

Mr. President, too much of what we face in the difficulty of the program we are now presenting is what I would call a self-fulfilling prophecy. Let me describe to you conversations I have had in the course of the last week. One conversation with a very senior White House official who said candidly: Your package is a better package than the one agreed to by the leadership and the administration. It clearly would be better for the country. But, it simply cannot pass. And so, therefore, we ought not to adopt it.

I have talked to some of my fellow colleagues who are up for reelection. They say: Your package is the best package for the country and one we ought to endorse, but my advisers tell me that it is dangerous politically if it does not have a chance of passage. And so the self-fulfilling prophecy picks up steam.

We are told by the leadership in the House on both sides that there are not anywhere near enough votes in the House to bring this forward and so, therefore, we ought not to pass it no matter how good it might be, theoretically.

So the self-fulfilling prophecy gathers further steam.

Mr. President, I have talked to a good many House Members. They do not tell me the same story. They say there is a lot of support out there among the membership, just as there is among this membership.

There are some others in this body who say, "Well, I am with you on a spending freeze, but I do not like to delay that tax reform package for 1 more year, and, therefore, I cannot vote for the package." And so the self-fulfilling prophecy gains more steam.

Mr. President, I think it is time for us to quit worrying about self-fulfilling prophecies. It is time for us to take bold action. I am certain that if this Senate were to adopt this package and pass it and send it to the House of Representatives, there is a very good chance indeed that the House of Representatives would respond positively.

I can guarantee you, Mr. President, that no matter what is said now, I cannot conceive that if a Senate and a House sent a package like this to the President accompanied by an ebullient and rising market, by editorials praising it, which I am confident would come from all over the country, that the President in the face of that would turn it down.

Mr. President, bold action is necessary.

Let me describe very briefly two scenarios. I fear they are the two scenarios which face this Nation over the next year.

One, insufficient response. I would call the leadership package insufficient response. I believe with all my heart that it will lead not to a falling but a raising deficit; that it will have a dampening effect on the economy, and we will see further shudders in the financial markets and the resulting shudders throughout our economy.

We will be faced, believe me, with an emergency next spring, and we will be back revisiting this same issue as we begin to deal with the budget for fiscal year 1989.

We will be facing bigger deficits which inevitably lead to higher interest rates, the only way we can attract enough money from here and overseas to finance that larger deficit. Just as inevitably we have higher interest rates, we will have higher inflation.

What good does that do to an elderly citizen trying to exist on Social Security who cheers when the full 4.6 percent cost-of-living allowance comes into their retirement check to find that a year later inflation is rolling along in double-digit figures? Have they gained anything?

What good is it for a taxpayer to get a tax cut now through the tax reform package only to find a year from now that the economy has stumbled so badly that their investments, their background, their future, their jobs, are all in jeopardy?

No, Mr. President, I do not think that is the scenario this Senate ought to buy.

There is a different one. It is for us to be bold enough to catch up with the rest of the American people, the American people who I am confident are willing to do as my colleagues have said earlier. That is to engage in a 1-year "hold it" package to make sure that we all recover economic strength and security.

Let us opt for a big and a bold, even-handed package, created through an ebullient economy, and in doing so lower not raise inflation rates, in doing so have a smaller not a larger deficit to finance, in doing so recreate some confidence within the international financial community and among our trading partners. It is a better end result for those same retirees and those same taxpayers to take the small freeze now. A year from now they will unquestionably in my mind be better off.

Let us talk about a freeze a little bit compared with the leadership package.

The leadership package will increase current taxes on taxpayers by about $11 billion. We will ask everyone who uses a telephone, and I know of few people in this country who do not, to pay more to use the telephone, whether rich or poor. There will be other what some would call nuisance taxes or sin taxes. But, nonetheless, they are tax increases.

The proposal we suggest has no tax increases in it. It merely says, "Wait a year to get further tax cuts."

If we do not do that, if we adopt the leadership package, let me tell you what will happen.

For the second year of the tax reform, I endorse it and believe that a year from now it ought to be implemented as part of the total tax reform package. But between the time we passed tax reform and today we have had October 19 and the successive days in which the market has shown us very clearly that we better do something better than we are about to do.

Let me tell you what will happen.

We will be asking citizens for new taxes. We will be forcing such cuts on a narrow focus of our citizenry. We will be saying to some, "Get your full cost-of-living allowances," but we will be saying to taxpayers through the second year of tax reform, those at the lower end of the tax brackets, from zero to $10,000, $10,000 to $20,000, clear up to $50,000 of income, most of the taxpayers of this Nation, "You are going to pay more in the way of taxes because that is the working of the second year of tax reform."

But, oh, yes, there are tax cuts, and they are for those from $50,000 and up, and they are most particularly for those taxpayers, if you can believe it, with incomes of $200,000 a year or more who will receive a tax cut of $8.7 billion, all of that in the face of this leadership package asking people to pay more for their telephone bills, to pay more in a wide scattering of what some would call luxury or sin taxes.

Mr. President, under the circumstances now existing, that is simply unfair.

As an alternative, the freeze would say, "Next year we will hold it. Nobody will pay any more than they are paying today in tax year 1987."

In fact, all taxpayers will pay a little less because in this package we will allow standard deductions and standard exemptions to rise, thus lowering the tax burden.

Mr. President, those who are concerned that if we delay this tax reform transition by a year they will never get it, I am prepared to add a proposal to this, if we adopt this package, that I think will handle this program. It would require that in order to further modify or further delay the transition period, we would have to go through a procedure much like the Budget Act that would require a 60-vote waiver, which I think is good protection indeed.

Mr. President, we have heard from the distinguished chairman of the Finance Committee that it is too late; Social Security checks are already being prepared; that we cannot provide any change.

Mr. President, I simply reject out of hand that as an argument against this package. We have waited for the literal 40 days and 40 nights of this negotiating committee to finish their work, for them to say after this extended period, "We have acted but we have taken so much time that now you are prevented from an alternative action."

That is not fair either, and it is not necessary. The Senator from Kansas [Mrs. KASSEBAUM] has already spoken on the effectiveness date we have provided, but more importantly, if we are able to adopt this amendment, Mr. President, it is time for the Social Security and other administrations to take another look to decide just how they can work overtime if necessary and accomplish what we then would be on our way to requiring.

Mr. President, this can be achieved. It can be achieved realistically. We are being asked in a short period of time, in just a few hours really, to adopt this, almost 800 pages of change. That contrasts, Mr. President, with the proposal we are making to substitute for it—a thin, simple, easily understood, doable package.

There is some real question as to whether that whole 800 pages will really accomplish what we are trying to accomplish. There is no question that a simple freeze which we have included in here and a simple delay of 1 year in the tax cut provisions of the Tax Reform Act will be carried out and we will gain all of the budget cuts we have suggested.

We are asking for one thing, and that is a simple sacrifice of all Americans for 1 years, evenly spread on both those who receive benefits and those who pay taxes. It is a 1-year sacrifice. And to what end? The end is to gain the second scenario I pointed out, to save for ourselves a better economy and a better future, to give ourselves a chance to recover from the trade deficits which now plague us. And the alternative of acting timidly, maybe even cowardly, to not be willing to face up to some difficult votes I fear is going to lead us down the wrong path.

Are we unwilling? Well, as Americans I do not think we are unwilling. I think they are way ahead of us. We might be unwilling as Senators, but the citizens out there, I am convinced, faced with these two alternatives and clearly explained to them, would opt overwhelmingly for the amendment now before you.

Our people very often are ahead of us. In this case, I am confident they are ahead of us. It is time for us to catch up, and the best, simplest, most straightforward way for this Senate and ultimately this Congress to catch up is to take the bold and I think rather courageous action necessary to pass the amendment sponsored by the distinguished Senator from Kansas and many of us who joined her in this effort.

Mr. **CHILES** and Mr. **EXON** addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

The Senator from Florida.

Mr. **CHILES.** Mr. President, I yield myself such time as I might need.

Mr. President, I start out by complimenting the Senator from Kansas and her cosponsors for proposing this amendment. I know it is done with a great sense of feeling that this is the right thing to do. I know that it is also done with a great deal of courage. I am delighted to see that kind of courage in the Senate. I know that the Senator from Kansas has often displayed that, and I know it has a lot of sincere sponsorship. It has some features of fairness that are attractive to all of us because it seems to balance off the sacrifice that it is calling for on the freeze side with a freeze on the tax rate.

I think that we need to examine it closely though, and I think we need to look at the situation in which we find ourselves in light of the economy. And as one of those who had to spend that 40 days and 40 nights that has been talked about—and it seemed to me it was an awful lot longer than that—in the budget summit, I can tell you it was an incredibly long time and we did explore many, many alternatives in an attempt to see what we could do.

It is interesting because I hear it said, "Let's just take this action. We don't care what the House will do. The House will maybe go along, there will be an outpouring of support for this. The President will go along because there will be an outpouring of support," and yet let us recall where we find ourselves now. We find ourselves with sequester in effect. It is not a question of going into effect. It is already happening. Some withholding is taking place. Some is not being felt because the agencies have a little money on hand and are able to stave it off for a period of time. But we know that, again, whatever action we take is going to be taken in a very short period of time. It is going to be taken between now and the next several weeks or the full force of that sequester will be in effect. And we also know that the markets which are incredibly fragile are watching the actions we take.

Now, the Senator from Florida is not going to be one to say that the leadership package is all that I thought it should be, all that I thought the situation demanded, all that the economy needs. It is none of those things. But having said that, it has been out there for a while. The market has looked at it, you might say, and while maybe it has not buoyed up the market, at the same time the market has not collapsed in the face of it. There has been some kind of feeling of can they pass this, can this happen, can they get this done? And we see other factors now seem to be affecting the market.

I noticed for a few days every time anything happened in the market, the writers would say they thought the package was not good enough.

I do not read that anymore. It is important for whatever reason they think. And we know, of course, Wall Street wanted more, and whatever we had done they would have wanted more because regardless of what they have done before to bring the market into such a bad situation, they now want to say it is up to Washington to bail them out.

But in the summit we did not ask the administration people one time; we asked them time, after time, after time, "Is there a possibility of getting the President to go along with some delay on the tax provisions?" And we got the answer back repeatedly, "No, no, no. This is the cornerstone of the President's whole policy. He will not deviate from that." We went back one time and said, "What about 3 months on just the top portion, just the 33 percent to the 28 percent, what about 3 months on that?" Exactly the same answer, just as adamant, just as strong. We were told that that was impossible to do.

Now, of course, we saw also what would happen every time something would be said about COLA's, and it is interesting because in many instances the Republican Members of the House were the ones who said, "No, no, no," to consideration about that. And at times there were others, of course, who joined in. Never, of course, was that officially put on our table, but it certainly was discussed, as everyone knows, and every combination of it was discussed to see whether it was possible to put together some combination of that, and again it never was possible so that the White House would go along with it or so it looked like there was any opportunity to do that.

Now I want to look at the package itself just for a minute. I tried to say a lot of good things about the structure and all. But now when I look at this package I think what I would be looking at if I were an analyst is not just what happens in 1 year but what happens in year 1, year 2, year 3, year 4, and looking into the outyears. When I compare the packages with this mouse that people have tried to call the package that we have before us, and I look at this tiger, I am not sure that this tiger has the teeth that we are trying to attribute to it. It appears to me that it is a 1-year tiger, or sort of a paper tiger.

Where do the savings come from? The savings, it is interesting, come from the Social Security freeze and the Medicare cuts. So we are taking all the savings out of the seniors, and we are saying that is all right. It is fair to you. But do not look at any of the other entitlement programs.

I do not find any savings out of the entitlement programs. I do not see anything coming out of agriculture, farms. I do not see any savings coming out of there. I do not see anything coming out of student loans. I do not see anything coming out. All I see is Medicare, Social Security; we will just take it in that kind of place. And we will say it is good for us because we are going to help the economy.

You know, if you can make that kind of argument and the Senator from Florida has had a proposal in which several years ago I floated it and went down in my State, discussed with my seniors, and basically felt like maybe it would have been a disaster if it passed, but I felt like I could offer it and I did offer it at times. It called for a freeze on Social Security, for a year freeze on Social Security, it also called for some new taxes, and it balanced them off similar to what we are looking at here.

But the taxes were real. And the taxes were going to be something that would continue. Here the freeze on the taxes is 1 year, and then it is over. And the Senator from Washington said he is going to put something in there if it passes so it takes 60 votes to try to do anything in the future on those taxes.

But that COLA cut keeps cutting. It cuts and cuts. It sort of keeps cutting, but the tax cut does not. Again, I look at agriculture. And I look at these people that have this great courage that have proposed this freeze. I do not see any cuts in agriculture. I do not see any cuts across there.

It seems like to me if we are going to say you are going to hold up building post offices or you are only going to build 25 percent of them for a period of time, that takes a little courage. Everybody has some post offices. I sure have some around and I think everybody else does. But I do not see any cuts like this.

Again, and the point that I really want to make is, weigh these packages together and compare them. And we have some comparison sheets that are set out. You will see in year 1, the Kassebaum package has more savings.

It has more savings like $40 something billion to $30 billion in the first year. But then if you look at every year after that, beginning in year 2, and look in the outyears, then you see that the leadership package saves much more and continues to save more in the outyears. And I believe that if I was that analyst on Wall Street I would be looking at one that is writing into permanent law, savings that are going to continue, spending cuts and revenues that are going to continue. And I would look in the other and I would see some that are not.

The defense and domestic appropriation ceilings are only for 1988. Yet, in the leadership package, they are for 2 years. They continue. So while as I say it is $44 billion to $37 billion in the second year, from then on the revenues that are in the leadership package—because they continue and the spending cuts because they are more permanent and they continue—and the savings will be greater.

So given the fact that not only does it have the opportunity of passage, and that it is blessed by the leadership of the White House and the House and the Senate, and certainly that I think is a major reason understanding what we are about here and trying to pass something, but in addition to that weighing the packages themselves. If you are looking at the long haul, if you are studying this, what is structurally really being done is to say we are going to sort of reverse the way we are doing business, we are going to start this deficit going the other way, and weighing on that basis then I think the leadership package is a better package.

Mr. **EXON** addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mrs. **KASSEBAUM.** I yield 10 minutes to the Senator from Nebraska.

Mr. **DOMENICI.** I wonder if I might follow the Senator from Florida for a few minutes.

Mr. **CHILES.** I will be happy to yield such time as he needs.

Mr. **DOMENICI.** Ten minutes. I will try to keep my remarks to 10 minutes.

The **PRESIDING OFFICER.** The Senator from New Mexico is recognized.

Mr. **DOMENICI.** I thank the Senator, the chairman of the committee, for yielding.

I, too, want to offer my congratulations to those who have put this freeze package together. I guess I was almost going to say so-called freeze and I am because I think this freeze is somewhat of a misnomer. We ought to make sure everybody understands what it is. But I want to commend you for taking on some very difficult issues. Obviously, you have addressed the automatic cost-of-living increase for the pension programs, including Social Security, and you have raised some revenues with the freeze in the Tax Code. But I guess what I really must share with you as much as I admire you and have respect for you, and all those who have spoken out for this very powerful tiger that is supposed to be up against this mouse, I regret to tell you that I am not at all sure that if your goal and objective is to send a strong signal to someone, I assume the marketplace of America, Wall Street, the business community, you will want to send them a very strong signal that your amendment is going to get the deficit under control and the leadership package is not.

Well, I regret to tell you that I agree 100 percent with my friend, the chairman of the committee. Let me give you a couple of numbers for Senators who are disposed to vote for the tiger over the mouse. Using as good of an analysis as I am capable of, if everything happens as you all plan it in your package, and I will tell you in a little while that you are gambling on some of your package's things happening, your package will save $82 billion over 2 years. And the mouse will save $79.9 billion. Will you permit me to round the leadership package's total and call it $80 billion; $82.8 billion versus $80 billion. I do not really believe we should categorize the two packages as one being a big tiger and the other a little mouse if those are the numbers.

Those are the numbers. As a matter of fact, the tax policy that is carried out in this so-called freeze, in this Senator's opinion—aside from tinkering with the tax reform package, which I do not believe you will ever get signed into law, and I think that might be reason enough not to proceed with it, but let us just assume that you could overwhelm the President and he would sign it—moves in the wrong direction. It increases the tax base in 1988 substantially, and then it increases the tax base almost none the next year. You have a 1-year freeze and then nothing.

The Finance Committee, following the direction of the summit, moves in the right direction—a little over $9 billion of revenues in the first year and $14 billion in the second year—for a total of $23 billion which will reoccur in later years. As a matter of fact, it will grow.

Your package moves in the wrong direction; absolutely the wrong direction. We will have to come back next year and raise taxes again to pick up the taxes that are not in your package. There is $14 billion in this one. Including cost-of-living indexes, if the distinguished chairman is correct, there is $10 billion of savings in this package from 2-percent cost-of-living increases instead of the 4.2 or 4.4 percent the pensioners are entitled to. Further, the chairman of the Finance Committee says you cannot even recoup all of the estimated savings from your 2-percent increases. It is too late. The checks are already printed and you will either send a Social Security check with a COLA in it or you will send them none, or you will be in February and March trying to collect back from seniors across the country what you paid them by mistake because you cannot get the change to 2-percent increases done in time. That is an entitlement program. We are cutting the structural deficit by cutting entitlements.

If my numbers are right, under my definition of entitlements, the leadership package has $13.6 billion in entitlements over the 2 years. The package that is here labeled a tiger has $15 billion, $10 billion of which is from the cost-of-living indexes.

What happened to the rest of the entitlements—agriculture; Medicare; student loans; post office savings such as transferring, as we should, the costs of postal pensions to the Postal Service; and the other entitlement savings that are in the leadership amendment?

It seems to me that unless one really wants to make a point that we ought to partially freeze the COLA's because we want to prove that we can do that, this package—with a 1-year episode of COLA reductions and a 1-year episode of freezing the tax reductions that are going to occur—is saying that regardless of what the tax revenue and entitlement savings, numbers say if you do those two things, there is something that makes it inherently better.

Frankly, I have said that we must address the entitlements sooner or later in America. I will say in passing that I believe the debate this year has finally reached the point where sooner rather than later the leadership of America will address the entitlement programs. This is not addressing them. There are more savings in the entitlements in the leadership package than in the substitute package, in the 2 years.

We have all grown accustomed to the fact that if you freeze the COLA's, you get the savings. But freezing COLA's alone does not get you the leadership package's savings when you change Medicare the way the Finance Committee changed it. In agriculture, you do not get the savings that the Agriculture Committee gets when it changes the agricultural program as it has done. You do not get the change in the student loan program where you are ordering every State to reduce its reserves, as is done in the leadership amendment.

Frankly, if you had a 2-year or 3-year plan that involved changing the entitlements and changing the taxes in this manner, you could call it a tiger and you could call the other one a mouse.

I do not think $82 billion versus $80 billion is all that much difference; and I think the tax policy reflected in the Finance Committee bill is better for a deficit reduction than a 1-year freeze in the Tax Code which has no recurring effect thereafter. Indeed, the finance tax provisions provide a recurring tax increase as prescribed by the summiteers.

I have the highest respect for those who offer this package. There is one other serious shortcoming in talking about real savings and a real package. I will speak to that shortcoming, and then I will sit down.

The package that the leadership offered has a budget authority and an outlay limitation on defense and a budget authority and an outlay limitation for the appropriated accounts, nondefense—both budget authority and outlays in 1988. For the first time in history, it also has the same limitations in the second year. The leadership package's 2 years of limitations will cause real outlay savings.

The substitute package has neither—it has outlay limitations in neither year—budget authority in defense and budget authority in appropriated accounts and no outlay limitations. That is a step backward from where we all wanted to go.

I apologize on the outlays. If you put it in a modification, it was not in the amendment.

I ask the prime sponsor: is there an outlay limitation in 1988?

Mrs. KASSEBAUM. No.

Mr. DOMENICI. In neither 1988 or 1989 do you have budget authority? So my statement is accurate.

I want to say in conclusion that if there were an enormous difference between these packages, perhaps an argument that we ought to gamble, which I think is being offered here, even though the President says no, we should gamble anyway; even though the summiteers said no. But I do not see this package, as I view it and as I analyze it, to be significantly better than the leadership package that is pending before us, which will become law, which will get signed by the President, and which, both in spirit and in substance, will be adopted in conference. That is how I see it.

Mr. EVANS. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I understand that the distinguished prime sponsor has a modification.

Mrs. KASSEBAUM. I just wish to correct for the RECORD that there is not a cap in 1988. There is in 1989.

Mr. DOMENICI. Budget authority or outlays?

Mr. EVANS. Both.

Mrs. KASSEBAUM. There is a budget authority cap in 1988 on both and neither in 1989.

Mr. DOMENICI. So I believe my remarks remain intact. I think my own analysis is correct.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. EVANS. Will the distinguished Senator from New Mexico yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. EVANS. Mr. President, to clear this up, I have the amendment in front of me, and I believe that for 1988 there is a limit on both budget authority and outlays for both domestic and military spending. But that is not the question.

The question is this: I presume that the distinguished Senator and ranking member of the Budget Committee endorses the folder which the Budget Committee has just sent out, dated December 10, 1987, revised program, which sets forth the two programs—the committee's program and the Kassebaum proposal—side by side. I encourage all my colleagues, incidentally, to read it. I think it is the very best argument for adopting the freeze. This is one prepared by the Senate Budget Committee, December 10, 1987, and is probably pretty new, since this is December 10. I commend it to the Senator from New Mexico because it says, in the Budget Committee's own figures, that the freeze in a 2-year period would total $87.5 billion. The freeze under the leadership agreement is $79.9 billion. That is a significant difference.

However, to go beyond, included in that are $23 billion of hard taxes, as compared with our proposal, which has $24 billion of hard taxes.

The most important thing I commend to the distinguished Senator from New Mexico and my colleagues is that there is indeed a difference. Take the 2 years—and I might say that I have been here only for a short time, but I have seldom seen us take the long-range view and do anything for much longer than a 1-year period. But, even assuming the 2 years, that proposal of $87.5 billion is almost 70 percent on the spending side.

The proposal of the administration and the leadership is smaller by almost $10 billion and it is less than 60 percent on the spending side. So it is a higher percentage of new taxes. I think the Senator is right in saying that the taxes that they propose would continue into the future. The taxes we propose would not continue into the future. But the very fact that we have created a lower base for spending means that the spending cuts will certainly continue into the future and in the long range I would say to my colleague from New Mexico does he not believe that it is infinitely better to have a long-range program with emphasis on spending cuts rather than on tax increases as a way of gaining the revenue necessary to close the budget deficit?

Mr. DOMENICI. I certainly do, I say to my good friend from Washington. But I regret to tell him that my analysis would indicate that the leadership package in the second year and the third year and the fourth year is significantly better that the outyear savings in the package offered by the Senator from Kansas, which the Senator is a cosponsor of, that is being credited with being so far superior. It is better in the first year.

Mr. EVANS. And the second.

Mr. DOMENICI. And in no year thereafter. I am looking for the long-term.

Mr. EVANS. I say to the Senator from New Mexico my admiration for him is second to none in the Senate, but I would also say to him that to conclude that we can even estimate what the situation will be and what the needs will be 3, 4, and 5 years out is simply beyond belief. We do that and we create a lot of figures and we write them down on our budgets, but the Senator from New Mexico knows and this Senator knows that we cannot predict the economy, we cannot predict income, we cannot predict interest rates, we cannot predict gross national product, we cannot predict unemployment for that long in advance. So we are really guessing when we get out that far.

I will just say finally to the Senator from New Mexico, I would far rather buy off on a good 2-year plan and in fact in the freeze it only takes 1 year to do the job and set the new base, a 2-year plan which emphasizes spending reductions rather than a 2-year plan which emphasizes to a much greater degree tax increases.

Mr. DOMENICI. Mr. President, I yield myself 1 minute.

Let me just say the Senator did not close by asking me a question.

Mr. EVANS. My question is whether the Senator does not agree it is better?

Mr. DOMENICI. I agree with the Senator's theory. It would be better to have more cuts and less taxes over the next 4 or 5 years, but I regret to tell him that I do not really believe he has produced a masterful deficit reduction package because he has done two things that we have not, frozen the tax schedule and cut Social Security and pensions by 2.3 percent. I do not think that just because he has done that it is inherently a better package. It might be, but when I look at it and compare the other entitlements and the taxes in the second, third, and fourth year and the other savings because of the caps, that all by itself does not make it that much a better package. As a matter of fact over 2 or 3 years it is not better than the leadership package.

Mr. EVANS. I say to my good friend from New Mexico, we could continue this, but there are others waiting. I will just say to my good friend that I would commend this summary of the Budget Committee on which he served for such a long time and with such distinction because I think that it really does the best job of proposing that the freeze is a better alternative than anything I have seen yet.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. EXON. I thank the Chair and my friend and colleague from the State of Kansas for proposing this measure of which I am a cosponsor.

Here stands the Senator from Nebraska once again trying to appeal to the Senate to be more realistic and fairer than they have been in the past, to see over the horizon, to take stock of where we have been and where we are going.

Where are we going right now? We just had a vote here within the last hour where an amendment of the Senator from Nebraska was turned down that would have closed a terribly unfair loophole in the tax bill and at the same time would have brought in $300 million more in the next 3 years, not insignificant, I say, when we are faced with the situation we are today. Where are we today? Here we are, about to pass this package, I assume. Because I suspect that when we got 41 votes for the amendment of the Senator from Nebraska a while ago that was strongly opposed by the leadership on both sides, we may indeed have reached our high watermark, those of us who think we should do more than the leadership package.

We are at this position today, Mr. President. The stock market has plunged 45 points. I suppose that is an indication of the enthusiasm that the stock market has for this package that we are about to introduce.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. EXON. I have been waiting a long time to talk and then I would suggest to my friend from Florida that he has ample time and I have limited time.

I yield.

Mr. CHILES. I only wanted to ask the Senator a question about the stock market. I wondered if it had anything to do with the market that the trade deficit went up about $11 billion to $15 billion, I believe, for this quarter?

Mr. EXON. I thank the Senator my friend from Florida, for interjecting his remarks.

The Senator from Nebraska was about in the next breath to move on to not only has the stock market dropped today by 45 points but also there was a new record set in the last month for the trade deficit, up about 25 percent.

That just further drives home the point that I am trying to make. At a time when the dollar is plunging like a rock like it has never plunged before, supposedly that was going to have a significant turnaround in our trade deficit and the exact opposite is happening.

I thought it was also interesting to note that one of the reasons that our trade deficit is further out of balance was a big surge in food imports—food imports of all things—from abroad into the United States, and we have a trade bill tied up over here that everybody is afraid to move on because we are going to be accused of being protectionists. I suggest it is time that we recognize that it is time to be live protectionists rather than to have a totally dead economy, and it is time we wake up and I think we have not been awakened from our slumbers with the leadership package.

Mr. President, I am pleased to be part of this bipartisan group of Senators who are proposing a freeze or fail policy, a true across-the-board freeze on Federal spending, a freeze on Federal tax policy and a 2-percent increase for recipients of Federal retirement benefits.

For years, going back as far as 1982, Senators HOLLINGS, myself, and some others have been promoting the freeze concept as the key to fiscal restraint. If our recommendations had been taken when first offered, the Nation would be well on its way toward a balanced budget and we would be deciding how to apply Federal budget surpluses to reduce the accumulated national debt which is skyrocketing at the same time.

We suggested this approach when the concept was unpopular. Then a spending freeze across-the-full-board budget would have solved our problems. Today, it is only the first step on a long journey of austerity. However, unless we take this modest step, our task will become increasingly difficult. We will soon be unable to talk of freezing budgets but will have no choice but to engage in wholesale eliminations of Federal programs and retirement benefits and massive tax increases to avert financial disaster. To put off the difficult decisions until there are no attractive alternatives would be a complete failure of political leadership and courage. I assure you the citizens of the Nation will not tolerate many more seasons of inaction.

We are going to continue to offer proposals that we feel are much more realistic and I suggest with the history of the past 6 or 7 years we can take some solace in the fact that we better take something more dramatic to do something more than we have done under the leadership package.

Today, we face a real choice: Freeze or fail.

The U.S. Congress, the President and the American people have fooled themselves long enough. The American economy has been drinking the champagne of supply-side economics to the point of intoxication. While our friendly "nothing to worry about" bartender of this supply-side economics filled our glasses with vintage "dawn in America," the economy was falling off its stool into a second rate status at the same time, and we have gone from the largest creditor to the largest debtor in the world.

On October 19, 1987, the economy ran out bubbles and the crash of the stock market was the first noticeable ache of our supply-side hangover. The Nation has awakened to find that since 1981, annual budget deficits have grown from $79 billion to a record $220 billion in 1986 and that the accumulated national debt has more than doubled from $931 billion in 1981 to over $2.4 trillion today. We are assured of it tripling in the 1980's. Our status as a world economic power has also been compromised more than most understand today. In 1981, the United States was the world's largest lending nation. Today, we are the world's largest borrowing nation. Each year since 1981, the United States set a new record trade deficit; in 1986 topping $168 billion, and it is going to be close to the $200 billion range at the end of this year. These dangerous trends were ignored due to the drunkenness of our supply-side euphoria.

During the hoopla of the supply-side celebration, I am certain that our small group of fiscal conservatives sounded like old sour grapes prohibitionists. We were preaching the gospel of deficit reduction. I remember in 1981, Senator BRADLEY and I offered an amendment to the Kemp-Roth tax bill to make the second and third year of the 1981 tax cut contingent on actual deficit reduction. In 1982 and 1983, Senators JOHNSTON, NUNN, and I offered alternative across-the-board deficit reduction budgets which would have balanced the budget in 5 years or less and in 1984 and 1985, Senators HOLLINGS, ANDREWS, and I offered our bipartisan freeze budgets.

Each year, we warned of the folly of our Nation's fiscal policy and predicted the inevitable day of reckoning. Instead of turning to discipline and restraint, the Congress and the President turned to another vice known as the Gramm-Rudman law. This procedure once again delayed action and made reality a more difficult thing to face. Today we must sober up the economy with serious and meaningful action.

Mr. President, I had proposed my own deficit reduction plan and many of its key elements are contained in the pending amendment by the Senator from Kansas. I agreed to be a cosponsor of the Kassebaum package to help develop a compromise or a consensus.

I ask unanimous consent that a copy of my own proposal be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I believe it is a better proposal than the measure before us. It is no "mouse" and it is a tiger. I would ask the question: Would the leadership accept my package as a real "tiger"? I suspect not. I suggest that the leadership agreement is considered sacrosanct. It is "untouchable."

The freeze concept, which is the cornerstone of the pending amendment and the several budgets I have proposed in the past, is a fair and meaningful way to address the deficit. If we are to begin to seriously face the deficit crisis, we need to start discussions from what we spent the prior year, not from the presumed increases contained in the budget baselines. A freeze budget is fair because it is a truly across-the-board approach. It asks all Americans—working men and women, government employees, farmers, those receiving Federal retirement benefits, defense contractors, and even millionaires—to share in the burdens of deficit reduction. It is effective because the bipartisan freeze proposal saves over $41 billion in 1988. The leadership plan saves only $30 billion and the unfair Gramm-Rudman reductions save only $23 billion.

Mr. President, I am pleased to lend my strongest support to the bipartisan freeze budget. I am certain that some Americans will object to individual components of this package. However, in its entirety, it is a balanced plan of shared sacrifice. I am convinced that Americans will support such an austere plan and will willingly make their patriotic contribution to the deficit reduction effort if they believe that the total proposal is fair and that the result of the sacrifice will reduce the deficit.

I encourage my colleagues to step forward and take a stand on serious deficit reduction. This is a proposal which will build confidence in the Nation and on the financial markets and demonstrate our resolve to reduce the deficit.

EXHIBIT 1

Exon freeze proposal

[In billions]

Freeze on defense and domestic budget authority	$11.0
Legislative branch reduction (including recission of congressional pay increase)	.1
Restraint on Federal employment through attrition	1.4
2 percent COLA cap on entitlements (except SSI)	4.2
Existing reconciliation spending cuts	2.4
Compromise AG restraint	.7
Interest savings (+/−)	1.4
Subtotal	22.2
Revenues:	
Revenues on which there is agreement by budget negotiators	9.0
Delay implementation of a portion of tax cut due January 1, 1988 for top taxpayers	2.5
Oil import fee	5.0
Less rebate for heating oil	−1.0
Subtotal	15.5
Other items:	
REA loan refinancing (higher estimates exist)	5.0
IRS Enforcement (net)	1.6
	6.6
Recap:	
Total spending reductions	22.2
Total revenues	15.5
Other	6.6
Total fiscal year 1988 deficit reduction	44.3

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the Kassebaum amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from North Dakota.

Mr. CHILES. Mr. President, may I ask on what basis time is being yielded now?

Mrs. KASSEBAUM. Off of the time of the committee amendment, the Budget Committee amendment.

Mr. CHILES. Would the Chair tell me who has the time remaining on the committee amendment?

The PRESIDING OFFICER. The time on the bill is controlled by the chairman and ranking member of the Budget Committee.

Mr. CHILES. And on the amendment, what time is remaining?

The PRESIDING OFFICER. The Senator from Florida controls 4½ minutes on the amendment the sponsor of the amendment has no more time remaining.

Mr. DOMENICI. Mr. President, how much time have the sponsors of the amendment used in addition to the statutory half hour?

The PRESIDING OFFICER. The Chair would respond, 41 minutes.

Mr. DOMENICI. I yield an additional 19 minutes to the Senator from Kansas. She asked me for an additional half hour and I was not here to do that. If I understand correctly, that will be a half hour extra, in addition to the half hour she had.

Mr. CHILES. No. No, that would be an hour in addition to the 30 minutes.

Mr. DOMENICI. They used 41 minutes in excess of the 30 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Well, I had agreed to 30, so we have exceeded that. But I do not want to be unrealistic.

How much additional time would the Senator want off the bill?

Mrs. KASSEBAUM. Well, I have a request for 20 additional minutes for two further speakers.

Mr. DOMENICI. What does the chairman think about this?

Mr. CHILES. Well, I do not want to cut off anybody. On the other hand, under the rules, there was 30 minutes to the side, and the rest, of course, under the control of the chairman and ranking member. I think all of us have made certain promises to people as to when the vote would occur.

Mrs. KASSEBAUM. Mr. President, I would only ask for consideration. I have not spoken much at all because there have been many speakers who wished to speak. I would like to at least be able to ask for an additional 15 minutes.

Mr. DOMENICI. Mr. President, might I ask the distinguished Senator from Texas, if under the previous unanimous consent agreement he would have had a half an hour on his motion to recommit? Would he yield 15 minutes of that time to the distinguished Senator from Kansas?

Mr. GRAMM. I would be happy to yield it to the distinguished Senator from Kansas.

Mr. DOMENICI. I assume that would satisfy everybody, and he would then be limited to 15 minutes on his motion to recommit.

The PRESIDING OFFICER. Is there objection to the Senator from Texas yielding 15 minutes to the Senator from Kansas? Hearing none, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. I thank the Senator from Kansas and I thank the Chair.

Mr. President, we had a series of questions from the Senator from New Mexico: Why is this freeze proposal better, superior, to the proposal that has come from the leadership?

Mr. President, let me suggest that looking at fiscal 1988 tells a big part of the story. Under the leadership proposal, spending cuts in 1988, $14.8 billion; the freeze, $19.9 billion. Revenues, the leadership package in 1988, $11.1 billion. Under the freeze, $16.2 billion. Deficit reduction in 1988 under the leadership package, $33.7 billion; under the freeze, $44 billion.

Mr. President, there are significant additional savings that could develop if we would put into place the freeze: $1.6 billion in 1988 on IRS revenue enforcement; $5 billion of additional savings that could accrue that are savings that appear in the package that is presented by the leadership that could be adopted and put into place after the freeze is adopted.

Mr. President, if we take the potential that exists with the freeze proposal compared to the potential that exists with the leadership proposal, there is no comparison. And the reason is very simple. The freeze proposal takes on the sacred cows. The freeze proposal takes on COLA's. The freeze proposal freezes the tax rates.

Those are the things that the leadership walked away from. They were afraid. They were afraid they would not be supported when they came to the floor of the U.S. Senate. They were afraid that they would not be supported if they went on to the floor of the House of Representatives.

My answer and the answer of those who offer the freeze proposal is: Let us see. Let us give people an opportunity to go on record and say whether they are willing to stand and take on the sacred cow of the tax reduction, take on the sacred cow of COLA's.

If we do that, if we have the courage to stand up and be bold on those items, then we can move quickly, Mr. President, and we could take the $5 billion of additional savings that is in the leadership proposal that are not in the freeze, we could take the $4.5 billion over 2 years in IRS enforcement, we could take the $10 billion of revenue that is in the second year that is not in the Kassebaum plan, and we would have $20 billion of additional deficit reduction over the $87.5 billion that is already in this proposal.

Mr. President, I think we have got to be clear to the American people. The leadership proposal does not reduce the deficit. The deficit will be the same next year as it was last year, if we adopt it.

Mr. President, we will not be reducing spending if the leadership proposal is adopted. Spending will be going up $52 billion. And, Mr. President, in the face of mounting deficits, we will be giving a tax reduction, if the leadership proposal is adopted; $9 billion to individuals. For those earning over $200,000 a year, if we adopt the leadership proposal, we will be giving them a tax break on average of $4,500 a year. I do not know, Mr. President, how we go back to our constituents and say: "We have done our best," if the leadership proposal is what we do.

I would respectfully suggest that if we put in place a freeze and take on the sacred cows, that we would then have an additional opportunity to move ahead with further deficit reduction.

Mr. President, I come from an agricultural State. There is no reason that we would not be willing, those of us that represent agriculture, to step forward and put additional cuts on the table if the freeze proposal is adopted.

It is for those reasons, Mr. President, that I urge my colleagues to support the Kassebaum amendment.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from Kansas.

Mr. President, let me say first, I read in a very interesting interview in the New York Times the other day, where the Senator from Washington, Mr. EVANS, was saying that one of the reasons he decided not to seek reelection was because the Senate is no longer a deliberative body. I do not see how anybody could disagree with that.

It is downright depressing, when you think of the magnitude of the deficit issue and then consider who is listening and who is paying attention and who is working and putting the country above politics around here. That is not to castigate anybody. It is simply to say that it is a depressing sight to know that nobody much is listening or paying attention during an important debate on a critical issue.

I did not vote in 1981 for the tax cut that brought about this crisis. As a matter of fact, I suppose the most courageous vote I ever cast, the one of which I'll always be proudest, was when I stood at this desk in 1981 and said: "You cut taxes by $750 billion and spend $1½ trillion on defense and you will create a deficit big enough to choke a mule." Let me tell you, I take no pride in being a prophet in saying that. You would have had to be dumb not to know that. Nevertheless, here we are today. The old saw that the more you cut taxes, the more revenue you get has been demonstrated to be as farcical as it sounds.

I want to make this statement as emphatically as I can. The approach the leadership package takes to deficit reduction will not reduce the deficit now or any time in the future. Never.

You know, I hate the Kassebaum amendment. I hate to vote for it. It is no pleasure to me to vote for some of the things in that amendment. But I will tell you something that is even more painful, and that is to look at all these Christmas cards of finely posed family pictures that I get from my colleagues. I look at the proud look on the parents' faces; so proud of their children; beautiful families.

I have sent out these cards. Nobody could be a prouder father than I am. I am such a doting father, I am overly indulgent.

The thing that is more painful to me than voting for the Kassebaum amendment is to say I am prepared for my children to lead a B-grade life and to die poor. So I told Senator KASSEBAUM that I would support her.

Colleagues, listen to this. Since 1981 the amount of nondefense, not entitlement, noninterest, discretionary money available to us to balance the budget has gone from 26 percent of the budget to 14.9 percent of the budget. What does that mean?

Listen to this. I have said it over and over again. There are roughly 500 functions of Government, from the landing lights at National Airport to the Capitol Police to the Defense Department. Five hundred functions of Government.

The Senator from North Dakota has made a magnificent statement and referred to the "sacred cows." Here they are: Defense, Social Security, Medicare, Medicaid, interest on the debt, civil service pensions, and veterans' pensions—7 of those 500 functions.

Nobody here wants to vote to cut any of those functions. You hear people sitting around the coffee shop and saying: "Why don't you cut all that spending and balance the budget? If you not only cut the other 493 functions of Government, but totally eliminate them—eliminate Congress, eliminate the White House, eliminate the court system—and just fund those seven functions, eliminate everything except those seven sacred cows, you would still have a $56 billion deficit. That is the reason the leadership package takes us nowhere.

We will be back here in April rewriting this issue because by the time April gets here we will then know that the growth rate in this country is going to be increasing at only 2 percent instead of the 3 percent we're assuming now. CBO says that for every percentage point the growth rate is below their projection of 3 percent, you can add roughly $17 billion to the deficit.

Nobody doubts for a moment that we are going to be here in April, back at the same old stand, trying to deal with this knotty problem, because we're deluding ourselves with this so-called leadership package.

It was a pitiful sight seeing those budgeteers negotiating. I respect them and I applaud them because they were operating under such terrible constraints: no, you cannot do this; no, you cannot do that.

You know what my attitude is? Send the President a package that has real budget reduction in it. If he wants to veto it, let the blame be on his hands. That is not Congress' responsibility to fold because the President said he is going to veto something.

It was almost an obscenity to watch those men trying to raise $9 billion in revenues on the one hand while we give away $17 billion in tax cuts on January 1, 1988, which goes to the wealthiest people in America.

Look at this chart right here, colleagues. (Referring to chart.) Take a look at this chart. There it is. This is what the tax reform law means.

This is not what Senator DALE BUMPERS says. This is what the Joint Tax Committee says happens with tax reform.

They say that if you let the 1988 tax rates go into effect you are going to give people who make over $200,000 a year an average tax cut of $4,384. All the people who earn $50,000 or less get a tax increase.

Let me go further. Do you know the average income of the people in this country who make over $200,000? There are about 579,000 taxpayers who file tax returns on over $200,000 a year. But do you know what the average income of that group is? It's $489,000. They are the people who get virtually every dime of that $8.2 billion tax cut that goes into effect January 1, and here we are trying to raise $9 billion someplace else in order to accommodate the richest of the rich.

You may not favor a tax increase, but will everybody who favors a tax cut for the rich while we are trying to address a $2.3 trillion debt please stand up?

I have seen some insane things around here, but I believe that this tax cut at this time is the height of idiocy. There is no other way to describe it.

How are you going to tell your constituents back home how you labored and groaned and moaned and heaved to come up with a $30 billion package of which at least $12 billion is smoke and mirrors?

Listen, if you add to the Kassebaum amendment a sale of assets of $7 or $8 billion in assets and put one of those phony $1.6 billion figures in for IRS enforcement, you will have a $52 billion package here.

Mr. President, I only have 10 minutes, so I will just close by saying that whenever I have made a speech in my State to my people, saying I did not vote for all this plan in 1981 and I have explained why, they have applauded. There were only 11 Senators who stood up here and voted against that tax cut. I have found since I have been in politics that occasionally if you stand up and do what you honestly believe is right and just and proper, you can go home and I do not care how unpopular it is, I do not care whether it is taxes or Robert Bork or you name it and people appreciate it. If you do not have the ability to go home and justify a courageous vote, you do not deserve to come back here.

In Arkansas they have applauded the fact that I voted against those tax cuts which have brought us to this miserable moment in the history of the country.

I have not mentioned it, but I will do everthing I can to keep this terrible tax cut from going into effect, and if it goes in into effect I will do everything I can to repeal it.

It is tough to give a passionate speech about taxes, budget freezes, and asset sales, but it is easy to get passionate about the future of the country. It is easy to get passionate about my children's future. They have a right to demand that we hand over to them a vibrant, viable Nation. You and I have been most fortunate, and we owe our children a little good fortune too.

And so, Mr. President, I will just close by saying I have listened intently in the privacy of the cloakroom, and is it not curious that I have not heard three people in the cloakroom say this leadership package is a good one. I have heard people say they will vote for it, but I have not heard one say it will come close to doing the job. I have heard people speak in the cloakroom who wished they had the courage to vote for the Kassebaum amendment. This is a sad commentary on this body. I hope no one will rationalize a vote for this package with the reason that we want to get out of here by December 19 so we have to pass this package. I will stay here as long as it takes because I want next year to be a happier Christmas than this one.

I thank the Senator from Kansas for yielding to me.

THE SUMMIT AGREEMENT ON DEFICIT REDUCTION

Mr. KASTEN. Mr. President, the budget summit compromise shows conclusively that the Gramm-Rudman-Hollings Act works. The threat of the automatic "hammer" has forced the President and the congressional leadership to come to the bargaining table to hammer out a deficit reduction agreement. This is a positive development.

Unfortunately, the actual agreement does very little to reduce the growth rate of Government spending and promote continued economic prosperity.

For starters, the majority of the proposed $30.2 billion is derived from defense cuts and higher taxes. There are virtually no substantive reductions in nondefense spending. Most of the nondefense savings consists of accounting gimmicks, one-time asset sales, or savings that have already been achieved by Congress.

Second, the proposed $23 billion 2-year tax increase does nothing to address the underlying cause of Federal deficits: the growth rate of Government spending. In fact, past experience tells us that higher taxes often lead to increased Federal spending.

Real deficit reduction can only occur by restraining spending growth. This package does not do this. Under the leadership package, Federal spending will increase by $50 billion over fiscal 1987. That's over twice the increase that occurred last year.

Mr. President, given the fact that the growth of Federal expenditures is not reduced in any meaningful way, I have decided to oppose the leadership agreement.

There are other options available that produce real reductions in spending growth. Senator KASSEBAUM's amendment to freeze both defense and domestic spending, and provide for a 2 percent increase in entitlement COLA's is the kind of approach that we should be taking on the spending side.

I do, however, oppose the tax rate freeze envisioned by the Kassebaum plan. It would deny the American people the much-needed tax relief promised under last year's historic Tax Reform law. If the Finance Committee's proposed revenues, or some other combination of taxes that would not harm the economy, were substituted for the tax rate freeze, I might be able to support it because the balance is shifted towards meaningful spending restraint.

I agree with the distinguished Senator from Oregon, Senator PACKWOOD, that the sequester may be preferable to the leadership package. Many of my colleagues have argued that a sequester would be disastrous. They argue that the sequester represents a failure of leadership and that the cuts are too deep. I myself oppose some of the cuts envisioned under sequester.

But we should remember that a sequester is a permanent reduction in the spending base. Contrary to the illusory spending cuts and real tax increases in the budget compromise, a sequester would actually cut government borrowing by $23 billion.

U.S. businesses would have $23 billion more to finance domestic investment. Under the leadership agreement we'll be lucky to see $15 billion of reduced demands on the financial markets.

I think the markets are looking for real results—not an agreement for agreement's sake. They are looking for reduced pressure in the capital markets.

A sequester is not my first choice. But neither is the leadership agreement. I would have liked to have seen some constructive approaches to reduce the deficit such as a capital gains tax rate cut, granting the President a line-item veto or enhanced recission, and the implementation of the Grace Commission recommendations to achieve savings through reduced waste and mismanagement.

I hope that we can come up with a deficit reduction package that adopts the Kassebaum approach to restrain spending across-the-board. This kind of approach is fair, equitable and, more important, effective.

Restraining the growth rate of spending is the only meaningful way to reduce the budget deficit and assure continued economic growth for the American people.

Mr. BINGAMAN. Mr. President, I rise in support of the leadership perfecting amendment to the Omnibus Budget Reconciliation Act of 1988.

First, I want to offer my sincere appreciation to my good friend and chairman of the Budget Committee, the senior Senator from Florida [Mr. CHILES] for his contribution to the budget process and his efforts in shaping this budget package. Many others have also been involved in this effort and deserve praise, including the majority leader, the minority leader, the ranking member of the Budget Committee and many others. This package represents the labors of many individuals over many, many hours, but none more prominently than the distinguished senior Senator from Florida whose leadership in the Senate will be sorely missed in the 101st Congress.

The leadership package with a combination of balanced spending cuts and prudent revenues will reduce the deficit by $33.74 billion in fiscal year 1988 and $46.17 billion in fiscal year 1989 for a 2-year total of $79.91 billion. The elements of this bipartisan agreement lower the deficit by an amount that exceeds the requirements of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987—the Gramm-Rudman-Hollings Act—and thus eliminates the need for sequestration. As pointed out by others, this action goes beyond deficit savings of last year and previous years. The reductions in fiscal years 1988 and 1989 surpass deficit cuts in each of the previous years of the Reagan administration. As a result, this package is the most significant response yet to spiraling budget deficits of the 1980's.

This package is also significant in that it not only has bipartisan sponsorship but involves the Reagan administration. Throughout my tenure in the Senate I have been impressed with the President's lack of real involvement in congressional efforts to reduce the massive budget deficit that was accumulated during his watch.

I must say that I do have some reservations concerning this agreement. It is by no means perfect, but it is consistent with my efforts to be among the constructive majority of Senators who would rather take some action to reduce the deficit instead of letting it mount in favor of the elusive "perfect" plan.

Among the concerns I have about this package include the effect it could have on guaranteed loans. In the effort to reduce them, nationwide reserves would be reduced by $250 million—$1.4 million from the New Mexico Student Loan Corp., a 62-percent reduction. I also question the wisdom of some of the asset sales called for, as well as changes in Medicare, in farm price supports, and in Federal personnel. I regret some of the changes very much and would prefer that other options could be substituted, but it is clear that any changes would upset the delicate agreement reached between Congress and the administration.

It is clear to me, Mr. President, that there are some very serious shortcomings in our budgetary process at this time and I urge all of my colleagues to call for realistic changes that can make the system work more fairly for all Americans. It is clear we cannot keep spending more than we receive in revenues and it is clear we must stop this game of saddling future generations with our debt. The leadership package can be a significant down payment toward action to reduce spending, but more, much more, needs to be done as soon as possible.

Mr. LEVIN. Mr. President, the Senate today is presented with a choice. Does it end up doing the minimum necessary to reduce the deficit and to restore some degree of faith in the financial markets and in the public at large? Does it simply accept doing the minimum necessary to avoid the blunt and irrational across-the-board Gramm-Rudman cuts? Or, does it try to do something more; something more credible, more equitable and more effective. This is the choice before us today.

The leadership package is surely better than nothing. It is better than the aimless drift of budget deficits in the $150 to $200 billion range. These deficits threaten our economic security and even our economic sovrenreignty. The collapse of the stock market in October was only the foretaste of what could come.

This Nation is being forced to walk a monetary tightrope: if interest rates are kept high in order to attract the foreign investment now sadly needed to help finance our deficit, then we risk stifling economic activity and throwing this country into a recession. If, on the other hand, we lower interest rates in order to sustain economic growth, then there is the risk of reducing the attractiveness for foreigners of U.S. investments, with the paradoxical result that foreign funds needed to help finance the deficit will dry up and interest rates will then rise in any case.

So, we're in pretty much of a "damned if you do and damned if you don't" situation because of the need to attract foreign funds to help finance the deficit. The only way out of this bind is to reduce the deficit itself.

Of course, we could rely on the automatic across-the-board Gramm-Rudman cuts for this minimal action. But we would do so at the risk of shaking further the confidence in our ability to demonstrate leadership in handling this Nation's economic affairs. It was the need to restore confidence that led the congressional leadership and the President to the summit in the first place. Relying on across-the-board cuts in domestic and defense programs to reduce the deficit would also jeopardize our ability to adequately fund programs to improve and protect the quality of life for all Americans. In a sense they are like surgery without anesthetics—the job gets done, but at the considerable discomfort of the patient.

So while the across-the-board Gramm-Rudman cuts would be preferable to inaction, the leadership amendment is preferable to the Gramm-Rudman cuts. But we should do more, and the "more" is represented by the Kassebaum substitute.

The Kassebaum approach has two distinct advantages over the leadership amendment.

First, it provides for greater deficit reduction in fiscal year 1988 and over fiscal year 1988 and fiscal year 1989 combined than does the leadership amendment. Looking at fiscal year 1988, the Kassebaum substitute would reduce the deficit by $41 billion instead of the leadership amendment's $33 billion—a difference of about 25 percent. This extra margin of deficit reduction is exactly what the financial markets and the American people are looking for in terms of a resolute commitment for serious deficit reduction.

Second, it provides for more equitable deficit reduction in the form of shared sacrifice. The element of the Kassebaum substitute that I find most attractive is its freezing of the income tax rates at the 1987 levels. Under the 1986 tax reform law, those rates are scheduled to drop in 1988, in a manner which primarily benefits the highest income individuals.

I know that opponents of the rate freeze argue, for example, that we simply must reduce the maximum marginal tax rate for the highest income taxpayers from 38.5 to 28 percent as scheduled. They talk of how the American people are holding us to a so-called "solemn commitment" not to change the tax reform rate structure in any way. That rhetoric doesn't match up with the facts. Earlier this year, a nationwide sample of the American people was asked whether the top Federal income tax rate for the wealthiest taxpayers should be cut next year, as scheduled, to 28 percent, or should the rate for those taxpayers stay at the current 38.5 percent, with the money gained being used to reduce the deficit. By a margin of 3 to 1—61 to 20 percent—this nationwide sample said, "reduce the deficit, not the rate."

The Kassebaum substitute freezes rates at the 1987 level. By doing so, it assures that the wealthiest taxpayers in this Nation will share in the burden of deficit reduction. What troubles me about the Finance Committee portion of the leadership amendment is that, because it allows income tax rate cuts to take effect next year, some very wealthy taxpayers particularly will not pay a dime more toward deficit reduction at the same time we are asking for sacrifice through spending restraint from some of the less-well-off members of society. Furthermore, freezing the income tax rates, thereby assuring shared sacrifice by the upper end of the income scale, is so important that I am willing to vote—albeit reluctantly—for a 2 percent cap in social security and Federal retirement cost-of-living-adjustments in order to achieve it. It is also important to me that under the Kassebaum substitute supplemental security income—the Federal assistance program for the poorest and most vulnerable would still receive a full cost-of-living adjustment.

Now, there are those who will argue that if the Senate adopts this substitute, it will assure a presidential veto and the across-the-board cuts. However, I think it is much more likely that if the Senate passed the Kassebaum substitute, it would be greeted with such enthusiasm in the domestic and international markets and with such applause by the American people that either the President won't veto it or his veto would be overridden. If, however, it turns out that his veto is not overridden, the Congress could still attempt to pass the leadership amendment.

Sure, there is some risk in taking this extra step for deficit reduction. But there is a greater risk—to our economy and to our long-term fiscal health—in our taking only the minimal action necessary. The leadership amendment is the bare minimum. The Senate can do better. We should lead by passing the Kassebaum substitute.

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment offered by my good friend from Kansas, Senator KASSEBAUM. Before I outline my rationale for opposing the amendment, I want to first thank the Senator for having the courage to bring it before the Chamber. I share her frustration over the inability of National Government leaders to attack the Federal deficit in a meaningful way. And if this was the first time the Senate debated this issue, I might be inclined to agree with Senator KASSEBAUM that this amendment is necessary.

But this is not the first time the U.S. Senate has debated a freeze amendment, Mr. President. Every year for the last 7 years we have debated a freeze amendment. And in 1985, when it appeared that there was no other option, I supported the biggest freeze of all. I supported that amendment because the leadership of the House and the President's advisers had decided that $200 billion deficits were preferable to a tax increase or cuts in the programs which were important to them—defense and entitlements.

Some people would say that the Senate's vote that evening was a mixture of drama and history. Dramatic in that an ailing Senator was pulled out of a hospital at 1:50 a.m. in order to give the Vice President an opportunity to cast the tie-breaking vote. Historic in that it was one of the Senate's boldest efforts to get deficit spending under control.

Everyone in the Chamber knows what happened after that vote. The President was on the phone making a deal with Tip O'Neil before the Vice President got back to the Oval Office. In the end, good politics won out over responsible policy. And we are now struggling to cope with the consequences of those good politics—Gramm-Rudman-Hollings.

Like most Members in this body, I view the Gramm-Rudman process much like I viewed the vote in 1985. It is a necessary evil. It forces those who don't seem to be bothered by $200 billion deficits to come to the table and make the hard policy choices necessary to get the deficit under control.

The most frequently heard criticism against the Gramm-Rudman sequester process is its mindless nature. I often refer to it as our own "vegomatic". Good programs suffer along with bad. It is an accounting procedure which makes no allowance for policy.

It is not my intention to claim that the leadership package that is pending before the Senate is perfect. But it is infinitely better than sequestered cuts or any other mindless approach to deficit reduction. It represents a conscious decision by the Members of the Senate to change policy in a way that produces lower spending and narrower deficits. It picks and chooses between good programs and bad. It is an attempt to make policy.

Consider, on the other hand, the freeze approach. Senator after Senator has come before the Senate and accused those who would vote against this amendment as lacking courage. Well, I welcome them to join us on the Finance Committee. Tell our Nation's health care providers that the changes we are making in Medicare aren't painful. We'll reduce payments to doctors and hospitals over the next 2 years by $5.5 billion. Over the 4-year period—1986 to 1989—Medicare payments for hospital services to 30 million elderly and disabled Americans will have risen by an annual average of less than 2 percent against an average increase in hospital costs of 7 percent by tough decisions taken in the Finance Committee.

Let's be honest with ourselves and our constituents. Year after year our constituents write us letters, visit our offices, pull us aside when we visit their town and tell us what is on their minds. If your constituents are anything like mine, they have deficits on their minds. They put us in office, and they want us to solve the deficit. Not postpone it, solve it. Not tomorrow, today. Now.

And that is why the Senate should defeat this amendment. It doesn't make hard choices, it just postpones them. It is the easy way out of our deficit dilemma. It freezes good programs with the bad, and in so doing, it forces the good programs to suffer so that the bad may escape our scrutiny. A freeze is a poor substitute for policy. I hope the Senate has the wisdom to reject this amendment.

Mr. SIMPSON. Mr. President, I rise in support of the Kassebaum amendment. I am a cosponsor of the amendment and I believe that a strong case has been made for adoption of this amendment. I support this amendment for the following reasons:

The amendment achieves deficit reduction in the amount of $41.6 billion for fiscal year 1988 by imposing a spending freeze upon defense and nondefense discretionary programs at fiscal year 1987 appropriated levels:

The leadership deficit target for fiscal year 1988 is $30.2 billion, which has been characterized by Senator PHIL GRAMM as only an attempt at controlling spending rather than producing actual spending cuts.

A spending freeze holds spending in check and results in true deficit reduction rather than the illusory spending cuts proposed by the leadership amendment.

Deficit reduction is achieved without raising additional taxes:

The deficit is the result of excessive spending not undertaxation. The leadership amendment proposes $9 billion in additional taxes. A recent Newsweek poll found that Americans prefer spending cuts to taxes by a 6-to-1 margin. Tax practitioners have complained that the revenue raising provisions of the leadership package will only further complicate a Tax Code that has been changed nearly every year for the last decade.

The Kassebaum amendment proposes a 1-year freeze of the tax reform act of 1986, which will freeze the entire code, not just the rates. Thus the phase out of consumer interest, investment interest and passive losses would be frozen at the 1987 level of 65 percent deductibility instead of the scheduled 40-percent deductibility. This is advantageous to taxpayers. However, freezing tax rates at 1987 levels rather than allowing them to drop in 1988, is certainly disadvantageous to the taxpayer.

The Kassebaum amendment provides for cost-of-living adjustments [COLA] on all emtitlement programs of 2 percent rather than 4.2 percent.

I admire Senator Kassebaum's consistency, sincerity, and courage in proposing this alternative package to the Senate, and I support her. This package is the only honest way of trying to achieve fiscal sanity—because it deals with the cost-of-living allowance.

Thank you, Mr. President.

The **PRESIDING OFFICER.** Who yields time?

Mrs. **KASSEBAUM.** Mr. President, if I may ask, I believe all my time has been used?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. **CHILES.** How much time does the Senator from Florida have remaining?

The **PRESIDING OFFICER.** The Senator from Florida has 14½ minutes remaining.

Mr. **CHILES.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **CHILES.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **CHILES.** Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER.** All time has been yielded back.

Mr. **GRAMM** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Texas.

AMENDMENT NO. 1260 TO AMENDMENT NO. 1254

(Purpose: To reduce federal expenditures by imposing a discretionary spending freeze, and for other purposes)

Mr. **GRAMM.** Mr. President, I send an amendment to the amendment of the leadership to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1260 to Amendment No. 1254.

Mr. **GRAMM.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

of the language proposed in amendment No. 1254;

In section 9001 (a)(1)(A), strike "$292,000" and insert in lieu thereof "$291,300";

In section 9001 (a)(1)(B), strike "$285,400" and insert in lieu thereof "$284,100";

In section 9001 (b)(1)(A), strike "$166,200" and insert in lieu thereof "$161,000"; and

In section 9001 (b)(1)(B), strike "$176,800" and insert in lieu thereof "$175,000".

Mr. **GRAMM.** Mr. President, I have been sitting here pondering whether I should offer a motion to recommit with instructions to strike the tax provision of the Kassebaum amendment and, therefore, give Members an opportunity to vote on whether or not they want the 28-percent marginal rate to go into effect, or whether to offer this perfecting amendment to the underlying leadership amendment.

I have decided to offer this perfecting amendment because I find a lot of people who are for the leadership amendment are going to vote against both my motion to recommit and the Kassebaum amendment. I thought that that would create some confusion about where this body stands on the issue of lowering marginal income tax rates next year from 38 to 28 percent.

So, Mr. President, I have sent a very uncomplicated amendment to the desk. I apologize to my colleagues if there is any confusion, but I can clear it up very briefly.

The amendment that I have sent to the desk is to the leadership amendment. Instead of the figures for defense and nondefense discretionary spending that are contained in the leadership amendment, my amendment simply freezes discretionary spending, defense and nondefense alike, in fiscal year 1988 at fiscal year 1987 levels. By freezing next years' level of spending authority at this year's level, although outlays will increase in both defense and nondefense we still are able to save a total of $3.2 billion.

Mr. President, we have all talked about trying to do something about the deficit. Senator KASSEBAUM has given us a choice on an overall freeze involving COLA's and involving reimbursement under Medicare and Medicaid.

Unfortunately, it also freezes the marginal tax rate at 38 percent instead of fulfilling the tax reform promise we made to the American people that the marginal rate was going down to 28 percent.

So the amendment I have offered gives Senators an opportunity to demonstrate that they are at least serious enough about reducing spending that they are willing to freeze the discretionary accounts, defense and nondefense alike, in terms of budget authority, not outlays, at this year's level.

Now, we would still have the flexibility within the nondefense discretionary account to increase funding for AIDS research, or to increase expenditures on airport and air travel safety, but we would have a freeze on the aggregate amount available for such discretionary spending.

Mr. President, I remind my colleagues that there are a lot of Americans who would view freezing spending this year at last year's level to be child's play. A lot of people in my State over the last 2 years have lost their jobs, have had to reorder their lives, and they have done it. All that this amendment does is simply ask that in the discretionary accounts we limit next year's spending authority for defense and nondefense alike to the level that we spent this year.

Now, that is a straightforward amendment. If we adopt it, it would mean that we would go into conference with the House with a lower deficit in fiscal year 1988, lower by $3.2 billion, than would be the case if we adopt the leadership amendment. If we are not serious enough about deficit reduction to at least freeze, not cut but freeze, the discretionary accounts, then I do not think we are very serious. This is as modest a change in the leadership package as you can make.

Now, if you vote for this change, it does not preclude you from coming back and voting for the Kassebaum amendment. You may decide to do that. You may not. But if this amendment is adopted, whether the Kassebaum amendment is agreed to or not, the deficit will be $3.2 billion lower, not because we cut anything but because we froze discretionary spending next year at this year's level.

Now, Mr. President, I cannot resist going back to a comment that was made by the distinguished Senator from Arkansas. I would like to comment on this whole issue of freezing tax rates next year at this year's level.

As I listened to the distinguished Senator from Arkansas—and I often agree with him, but I have a hard time agreeing with him on the statement that he made earlier—it seemed to me that his statement basically boiled down to the following sort of assertion, that somehow if we did not freeze tax rates, if we let the marginal rate go down to 28 percent, people were not going to have a Merry Christmas.

Now, can you imagine it, Joan and Johnny Brown are working in Waxahachie, TX. They both have pretty good jobs; they both make $20,000 to $25,000 apiece. They are saving money to send their children to Texas A&M University. They are involved in all kinds of activities, giving a little money to the church, a little money to school, a little money to the community chest, and now we are asked to believe that unless we keep their tax rates at 38 percent they are not going to have a happy Christmas. Can you imagine John coming in and saying to his wife, "We are not going to have a happy Christmas because Congress had passed a law that was going to lower our marginal rate of taxes from 38 to 28 percent and they have decided to let that go into effect instead of freezing it at 38 percent."

Now, Mr. President, that may explain behavior in some other State, but it does not explain behavior in Texas. People in my State are not going to have a blue Christmas if we do not raise their taxes. They are going to have an unhappy Christmas if we do raise their taxes, and what they would like us to do is to control our spending.

The amendment that I have offered is a very modest amendment. I remind my colleagues that all it does is stipulate that the current level of the two aggregate discretionary spending accounts, defense and nondefense, will also be next year's spending level in those same two aggregate discretionary accounts.

By doing that, we will save $3.2 billion. That is not heavy lifting. That is not cruel and unusual punishment. That is simply asking the Federal Government to operate like every family and every business in America has to operate. In fact, even with the adoption of this modest amendment, total Federal spending next year will still grow by over 3 percent. So this is a reasonable proposal. I hope that my colleagues will support it in overwhelming numbers.

Mr. President, I reserve the remainder of my time.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Texas will yield for a question.

Mr. GRAMM. Mr. President, who controls the time in opposition to this amendment?

The PRESIDING OFFICER. The Senator from Florida controls the time in opposition.

Mr. GRAMM. I would be happy to yield to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. This is just a question.

Mr. GRAMM. Since there is 30 minutes on the other side, perhaps the Senator from Florida would like to yield or, if not, I will.

Mrs. KASSEBAUM. I merely want to ask a question of the Senator from Texas, not to make a statement.

Mr. GRAMM. I yield.

Mrs. KASSEBAUM. I heard the Senator speak about discretionary spending. Does he touch the entitlements in his amendment?

Mr. GRAMM. I do not. So all this amendment does, to show you how modest it is, is take the discretionary aggregate accounts of the Government, defense and nondefense, and in those two aggregate accounts, just as is the case in the package of the Senator from Kansas, the level of budget authority for next year is limited to the level we are spending this year. We limit the aggregate of nondefense and defense discretionary spending next year to the amount that we spent this year. And in doing so we save approximately $3.2 billion.

Mrs. KASSEBAUM. I thank the Senator.

Mr. GRAMM. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair would inform Members that if time is not yielded the time is taken off both sides.

Mr. GRAMM. Mr. President, I send a technical correction to my amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

Of the language proposed in amendment No. 1254:

In Section 9001(a)(1)(A), strike "$292,000" and insert in lieu thereof "$291,300";

In section 9001(a)(1)(B), strike "$285,400" and insert in lieu thereof "$284,100";

In section 9001(b)(1)(A), strike "$162,900" and insert in lieu thereof "$161,000"; and

In section 9001(b)(1)(B), strike "$176,800" and insert in lieu thereof "$175,000",

The PRESIDING OFFICER. Who yields time?

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Arizona?

Mr. CHILES. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. DeCONCINI. I thank the chairman.

Mr. President, I rise to oppose the amendment of the Senator from Texas. Let me say I realize his intention here is to achieve a greater savings than the package has in it. That I have to applaud. We all could add additional things to cut or additional things to tax or additional things to shift from one area to another. But in this instance it seems to me that the best has been put together. And if we mess with this, let me just explain to my colleagues what it may mean to the programs that some of us have worked long and hard on.

Being chairman of the Subcommittee on Appropriations that has authority and jurisdiction over the Treasury, the Post Office and other governmental authorities, including the Internal Revenue, which is one of the biggest fundraisers for this country, I am sure those listening are not too happy to hear that, but in fact, that is the case. The compliance on the Internal Revenue Code is one of the key areas that we always seem to go to. I do that quite reluctantly. However, if we adopt this amendment, as has been explained to me, it would necessitate cutting another at least $2 billion from the domestic programs. We are already going to have a cut of approximately 3.5 percent. What does that mean? Just in the area of drug enforcement, that means quite a cut. That means a reduction in customs agents, a reduction in the Border Patrol, a reduction in the law enforcement across the board, and those are already going to take a 3.5-percent hit.

So I think it is important that as we go through this exercise this evening we carefully weigh because now we are talking about priorities. We are talking about what do we think are the important parts of the Federal Government, and I think drug enforcement happens to be one of them, and law enforcement. We can all share in the hurt, share in the amount of reductions that have to come about, but do we want to start cutting away at the capabilities just when we are about to start to succeed in stopping the flow of drugs into this country, particularly from our southern borders? I submit that is not in the best interest here.

Those will argue saying, listen, we have to cut this deficit at any cost. Well, where have we all been for the last 7 years? The deficit has grown and grown. We have finally reached a package here that truly reduces the deficit by $30 billion. That is better than I have seen in almost 11 years that I have been here where we are actually going to see it go downhill. So I hope we do not adopt this amendment. I think it would be detrimental to our drug enforcement effort, not to mention many, many other programs that need to be at least maintained, and only take a cut of 3 percent. That is a substantial cut in many, many vital areas.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. GRAMM. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAMM. Mr. President, we have just heard the distinguished Senator from Arizona talk about cuts. I want to remind my colleagues that there are no cuts in the level of defense spending in the leadership package. In fact, under the leadership package, defense grows above current levels by $3 billion or 1.3 percent. There are no cuts in the aggregate amount of nondefense discretionary spending in the leadership package. In fact, it grows by $7.1 billion or 4.1 percent.

All the Senator from Texas has said is, let us freeze the aggregate budget authority for defense and nondefense at this year's level. That will mean that defense will still grow by $1.6 billion and nondefense will still grow by $5.3 billion. Yet, we hear that if we do that, we are going to be cutting drug enforcement, and we are going to be cutting this sacred cow and that sacred cow. It sort of makes you wonder what the average family does when Johnny falls down and breaks his arm. They have to go out and spend money to have that arm set.

And you would wonder how they do it. Well, they do it by reordering priorities. They do it by not going to the movies. They do it by not going on vacation.

I have proposed here the most modest of amendments. The amendment saves $3.2 billion out of a $1.046 trillion budget. It does not direct that drug enforcement or anything else be cut. It simply says that we are going to limit defense budget authority to the level of this year. We are not going to cut it. We are going to limit the nondefense discretionary budget authority to the level of this year. And yet we keep hearing about all these cuts. Well, I submit to my colleagues that if we cannot even limit the pace of spending growth without everybody bringing up every sacred cow in the budget, how are we ever going to deal with the deficit problem?

And I remind my colleagues that in the leadership package we would spend 4.5 percent more next year than we spent this year. In nowhere else but Washington, DC, in fact, more specific than that, here in this great Capitol, nowhere else on Earth would that be called a cut in spending. All I have proposed to do is not cut, but limit, spending growth. Yet, we hear the outcry, "Do you realize if we limit the growth that we are going to have to make these cuts?"

I am simply asking that we let defense next year, in terms of budget authority, stay where it is this year. Let nondefense discretionary spending next year stay where it is this year. That is not cruel and unusual punishment. Surely, in a $1,046,008,000,000 budget we can limit the growth of spending to what would still be more than $40 billion. That is, let it grow by $40 billion but not $44 billion and still not have the functioning of the Government come to an end.

So I hear the arguments, but they sound awfully weak to me, and I think they are going to sound weak to the American people.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, will someone yield me time?

Mr. CHILES. I yield the Senator 5 minutes.

Mr. JOHNSTON. Mr. President, I think it was H.L. Mencken who said that for every complicated problem, there is a simple solution and it is always wrong. I hope I did not misquote Mr. Mencken; but if he said that, it is entirely true with respect to this amendment.

It has the advantage of simplicity. You can put it on a bumper sticker. It says "freeze," and maybe the American people like the freeze. I do not know. At least, they might like the simplicity of the bumper sticker.

Mr. President, if I was ever sure of any one thing, it is this: It will not work.

I had the duty of being on that so-called budget summit and sitting there in that room week after week, with the Secretary of defense, Mr. Carlucci; with representatives from the White House; Jim Baker; Howard Baker; the Director of OMB. We looked at that defense budget. We talked for days and days and days on the question of whether the figure should be $285.4 in outlays or $285.5 in outlays.

You might say that $100 million does not make any difference in the defense budget. Well, if you had been in that budget summit and sat next to the Secretary of Defense, you would know that it does make a great deal of difference.

It makes a great deal of difference in the domestic side whether you cut $100 million or $200 million. Indeed, we argued that for weeks, because it means, for example, a question of whether you can or cannot have the space station; the question of whether you can or cannot have additional money for the super collider; the question of whether you can or cannot have a program of nutrition for hungry children.

Mr. President, these figures, an additional $1.4 billion cut in defense, simply have no relationship to needs, to the threat from the Soviet Union, to the ongoing weapons programs. The only thing it has to do with is the fact that it says "freeze" and that you can write it on a bumper sticker.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. NUNN. Is the Senator saying that the Gramm amendment cuts 1.4 or 1.5 out of outlays on defense? What is the number?

Mr. JOHNSTON. The number I have is that it cuts out an additional $1.4 billion in outlays.

Mr. NUNN. Below the leadership package or below the Kassebaum amendment?

Mr. JOHNSTON. Below the leadership package.

Mr. NUNN. Below the leadership package?

Mr. JOHNSTON. That is correct.

Mr. NUNN. And that is in outlays, not budget authority.

Mr. JOHNSTON. That is in outlays. As the distinguished Senator from Georgia knows, the outlays in defense, I think, is a ratio of about 2 to 1.

Mr. NUNN. About 3 to 1.

Mr. JOHNSTON. I think you would have to cut——

Mr. NUNN. I understand that it is only a .7 cut in budget authority and a 1.5 cut in outlays, which means it has to come out of personnel. That is the only way you can get that ratio.

Mr. JOHNSTON. You would have to fire civilian employees or cut the troops. It is as simple as that.

Mr. NUNN. I agree with the Senator.

Mr. JOHNSTON. For example, we could cancel this aircraft carrier which is in our defense appropriation bill, and that, I think, is $3.2 billion in budget authority; but in outlays it is less than $100 million because the spendout rate is so slow in that.

This would devastate defense. It would absolutely devastate defense. The Secretary of Defense, if he were here, would say that.

I think the kindest thing I can say for this amendment is that it is a killer amendment. If here, on the eve of Christmas, we want to kill this whole package, then adopt this amendment, because it would be vetoed and it would not work.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BUMPERS. Mr. President, who controls the time on this amendment?

The PRESIDING OFFICER. The Senator from Florida controls 18 minutes and 56 seconds. The Senator from Texas still has 13 minutes remaining.

Mr. GRAMM. I yield myself such time as I might use.

Mr. President, we have just heard that if we limit the growth in defense to $1.6 billion more next year than this year—that is, if we only spend $1.6 billion more next year then we are spending this year—we are decimating defense; that, in fact, Ivan will knock down the gate and our freedom will be lost.

We have also heard that if we do not let spending on nondefense discretionary programs grow more than $5.3 billion next year, we are not going to have a space station, we are not going to be able to control communicable diseases. I am glad they did not go into the whole repertoire or everybody's eyes might have been filled with tears.

Does anybody really believe that limiting spending authority on discretionary accounts next year to the level we spent this year would mean that Ivan would knock down the door or that we could not come up with money, out of a budget of $1.046 trillion, to fund the space station?

In fact, for the increase in discretionary nondefense accounts that this amendment provides, we could fund the space station five times over.

For the growth allowed under this amendment, we could fund the increase given last year on health research 10 times over.

All this amendment does is to seek to limit the aggregate growth in spending. This amendment does not cut anything. All this amendment does is take the current aggregate for defense and state that, in terms of budget authority, we are not going to commit any more new spending next year than we did this year; and it takes the aggregate for nondefense discretionary, and pledges that we are not going to commit any more spending next year than we did this year.

Now, if you want to cancel the new $8 million weed research center at North Dakota University, or if you want to put the cap back on the beekeepers loans, so that beekeepers cannot get any more than $250,000 a year from the Government—we removed that last year in the emergency spending package because it was terribly unfair—if you want to do those things, you can get more money for space and you can get more money for combating communicable diseases.

I ask my colleagues to be serious. We are not having serious arguments against this amendment when we hear that we are not going to be able to defend the Nation if we freeze aggregate defense spending next year at this year's level or that we are not going to be able to keep the skies safe or fight communicable diseases or protect ourselves against illegal drugs.

This amendment simply says let us freeze discretionary budget authority in the aggregate, defense and nondefense alike, at this year's level. Such a freeze, when combined with spending already approved and in the pipeline, would still result in a net increase in total spending levels in those two aggregate, discretionary accounts.

I submit that that is not heavy lifting or cruel or unusual punishment. People have said to me: "Well, I am shocked. Why aren't you doing something about entitlements?" Well we are going to get an opportunity to vote on entitlements in the Kassebaum amendment.

I am simply giving Members an opportunity in the easiest and most painless form to save $3.2 billion.

Now you either want to save that money or you do not want to save that money. But saving the money does not mean that we cannot fight drugs; it does not mean that we cannot have a space station, because the reality is that even while saving this money we will still spend more than we did last year because of the spend out rates of money we committed last year and in prior years.

So this amendment simply states that defense will be $1.6 billion more in outlays next year than it is this year and that nondefense discretionary spending will be $5.3 billion more in outlays next year than it is this year.

I submit to my colleagues that that is a very modest amendment. Some will say it is too modest. "I am not going to vote to save $3.2 billion. If GRAMM is serious let him propose to save $32 billion."

Of course, if I proposed saving $32 billion they would say, "My gosh, the world is going to come to an end if you save $32 billion."

So I submit it is sort of like the fellow who was too heavy for light work and too light for heavy work. No matter how you write it they are not going to vote for it.

All this amendment does is give us a straight up or down vote on the simplest, most painless way to save $3.2 billion.

That is not very much. But do you realize that that is a third of the total level of real spending savings next year in the leadership package? When you take out REA where we let loans be refinanced and where we lose almost $2 billion in present value by allowing them to be paid off without a penalty, when you take that kind of business out of the leadership savings, you find that we have here almost a third as much in this little amendment. This little amendment saves almost a third as much in terms of controlling the growth of spending as the leadership package does.

So it is simple. It is reasonable. It is relatively painless in a trillion dollar budget and yet it raises the level of total spending control measures and deficit reduction by almost a third.

So I urge my colleagues to vote for this very simple addition, save a little more money, $3.2 billion. We go to conference with the House. They are already way over the agreement anyway. Let us go into conference under the agreement and maybe we will come out either under it or on it. I cannot see any harm that can come to the Nation and I can see a lot of good that can come by not spending $3.2 billion.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator from Florida yield 5 minutes to the Senator from New Mexico in opposition to the amendment?

Mr. CHILES. I yield.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think I have said it often enough heretofore that I need not repeat it, but I will again.

The distinguished Senator from Texas knows that I have the greatest respect for him and I understand his knowledge of the budget process extremely well, and he is indeed an expert.

Now, Mr. President, having said that, let me just say to the Senators the distinguished Senator from Texas has offered an amendment that sounds innocuous. It sounds simple. He has made it sound sweet as honey. But have no mistakes in any of your minds, it is a killer amendment, not a little amendment, a killer amendment.

If the Senate adopts this amendment, and we have to impose this on the House, and the President of the United States, after the summit conference—my friend from Texas smiles because he knows what the Senator from New Mexico is saying is absolutely right—we upset the agreement on the discretionary accounts of the U.S. Government, including defense, which probably took up 30 to 40 percent of the summit deliberations. We could not get away from discussing these accounts because both Houses have already appropriated. We are 3 months into a year and we both appropriated off a budget resolution that had about 4 percent or 4.5 percent increase.

The actual starting point of the Gramm-Rudman-Hollings cuts provide for a 4.2-percent increase. To achieve cuts below that we argued and we argued and we made a compromise. And as with all the compromises made in that budget summit conference, there are two that are absolutely and unequivocally specific and there is no two ways to get to them, and that is the budget authority and outlays for the defense of our Nation. There is a number in budget authority with a number in outlays for defense. And it saves over $5 billion and the President of the United States gave and gave and gave there, and my friend from Texas says it is not very much. We have saved $5 billion in defense after all those days and the President said yes and the Senator from Texas is saying oh, it is very small, but it is $1.3 billion in outlays more of a reduction. He can talk all he wants about it not being a reduction. It is that much less in defense than we settled on after days and days of discussion with the House Members who wanted less, the President who wanted more, and now my friend from Texas says, oh, it is a simple little amendment, $1.3 billion more in defense cuts.

On the domestic side, we went back and forth with Foreign Affairs and the other items in appropriations and we struck a deal. Those numbers are in the leadership package and the appropriators from both Houses have 1 week, next week, to reach the targets that we agreed upon and staffs are already working with Senators trying to see how are we going to reach those summit targets. Now, my friend from Texas comes down here with a very inviting amendment. It is really not very much, he says, but it is another $1.9 billion in the discretionary nondefense appropriated accounts.

The cut by the Senator from Texas is in addition to the about 3.5 to 3.8 percent cut off the midpoint between the House and Senate bills that we already have passed this year.

Having said that, and the Senator from New Mexico is not one that is normally up here arguing to spend more money, but I do want to get a deficit reduction package through and I can tell you we cannot get this one through. The President will not take it. The House will not take it.

Second, let me suggest that these accounts that my friend from Texas wants to hit again are not the cause of this big deficit anyway. They are going to be growing at less than 2 percent this year and next year. If that is all that was happening to the budget, the tax growth would take care of it. We have reduced these accounts over the last 4 or 5 years in budget authority and this summit deal that we made with the President is a good one.

So I hope that somebody will move to table this amendment. I really do not believe we will accomplish a great deal with it.

My friend from Texas may prove a point, but I believe we will prove a real point. We will prove a point that we can destroy a deficit reduction package over this amount of money because the Senator from Texas says it does not amount to much. It will destroy the package.

If you want to freeze COLA's or go with the Kassebaum 2 percent cost of living that is a different issue than the Senator from Texas' amendment. That is real major structural policy change. I do not agree with it. But this pending amendment is not a structural change. This will just put us back to ground zero in the deficit reduction work we have been so busy at for all these weeks.

I yield the floor.

Mr. STENNIS. Mr. President, will the Senator who controls time in opposition to this amendment yield me 5 minutes?

Mr. FOWLER. Mr. President, as a member of the Budget Committee, I yield the distinguished chairman of the Appropriations Committee 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. STENNIS. Mr. President, the presence of this measure on the floor tonight is highly important.

Just a few of the simple overwhelming facts that guided this economic summit group that was selected in a special assignment and I was the last one perhaps that was selected, but I was asked to serve because of my position on the Appropriations Committee.

Frankly, it was one of the finest experiences that I have had in the years that I have been here. It was a very splendid way. I am not putting this on a personal basis. I have the very highest regard for the Senator from Kansas, a fine colleague who is on this amendment. I have nothing but praise for her.

But this economic summit was the finest demonstration of unified necessity, of moving forward. Those people were Democrats from the House and Republicans from the House, Democrats from the Senate, and Republicans from the Senate. Also there were men there representing the President of the United States, several of them well known by most of the membership and trusted in judgment and in high purposes. Others were there who had been in service here but went over in some other departments.

We had very exceptionally fine, capable men there, the head of one of the departments concerning finances, the Secretary of the Treasury. I did not know him personally, but I found him to be an excellent man in his field of operations where he is specially trained and experienced.

And we went there expecting to be there for 2 weeks. Let me emphasize I played a very small part in this contribution to the end product, but I learned a lot along the way. We were expecting to be there about 2 weeks and it took 4 full weeks, morning and afternoon sessions, and some night sessions; over and over and over again with the most circumspect capabilities of those people that were working there during this period at the expense of neglecting their other official duties.

And there emerged from that group something that looked miraculous to me, from such a very high percent of selection and purpose and trial and error and argument and reargument. Some had said, "Why, this is ridiculous. This will never amount to anything. The President of the United States has already made up his mind and he is not going to give in and change his position enough to make any difference here in results."

After these days of effort, it was presented to the President and he did agree to it, as we all know, and we consummated this thing in just another day and a half.

I have been on this Appropriations Committee a good number of years and have seen a lot of money pass through those channels and also the authorization of that money. But this was one of the finest pieces of work, one of the finest jobs on this subject matter. We have not had anything that equals this effort of the panel and equals what it has put together. This group did one of the very finest jobs that I have seen by anyone. And we have had some excellent men over a long period that I am familiar with, a good number of years.

I would just weep almost to see this thing turned out now and thrown to the wind.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. May I have 2 additional minutes?

Mr. CHILES. I yield the Senator 2 additional minutes.

Mr. STENNIS. I would not know where to turn, and I do not know anyone else who would have such knowledge. I think it has already been looked to. I would not know where to turn or who to turn to if this group—and I take no credit for it myself—if what they say is not considered seriously rather than tossed aside and ridiculed and criticized. We will have been lower than I have ever seen us and lower than we realize, in fact.

Now we must do something about this subject matter. There is no doubt in my mind about that. It has a $1 trillion money mark on it for a 12-month period. I think we should try it out—and then followed in a more firmer path.

I say it is nothing less than a tragedy, not tragedy how anyone votes, but to abandon this purpose now and particularly in a field like this. Where else are we going to turn?

If we are going to abandon this, we ought to take the whole field down and see if we cannot come up with a whole product, a whole plan that will have meaning and will be better than this that we already have before us.

So I submit that, Mr. President, with a firm, not a great knowledge of the subject matter do I claim, but I have some idea about the selection of money for appropriations for a 12-month period.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mrs. KASSEBAUM. Mr. President, will the Senator yield me a couple of minutes?

Mr. CHILES. I yield 2 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Florida.

Mr. President, I rise in opposition to the amendment of the Senator from Texas because he does not really touch on the most difficult part of this budget. About 40 percent will be held separate. And for me, the whole purpose of the endeavor on the freeze package that we have been talking about earlier is to freeze some parts of our budget that we have held separate. With Senator GRAMM's amendment, we really still have not addressed that.

And we have missed an additional $4.2 billion in savings on cost-of-living adjustments on our entitlement programs.

These, Mr. President, are what I think must be addressed and we have to do it in a fair and equitable manner.

So it is a disappointment to me that the Senator from Texas has not included, as a matter of fact, entitlements in his package. It is for that reason, Mr. President, that I will be voting in opposition.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 5 minutes and 57 seconds.

Mr. GRAMM. Mr. President, I yield myself such time as I might use.

Mr. President, this is one of the more remarkable debates that I have heard in many months here. The debate started with one of our colleagues saying that if we did not raise people's marginal rates from 28 percent to 38 percent, that they were not going to have a happy Christmas; that unless their marginal rate of taxes is frozen at 38 percent, rather than being allowed, as we promised them, to decline to 28 percent, that they were going to have a blue Christmas.

Then we heard that if we froze budget authority in discretionary defense accounts that we could not defend the Nation.

Then we heard that if we limited the growth of nondefense discretionary spending, as the pending amendment does, to only 3.5 percent more than what we spent last year, that we could not have the space station, even though that $3.5 billion increase would buy five space stations in terms of the expenditure we are going to have for that project next year.

Then we heard we are not going to be able to protect ourselves from illegal drugs, even though the increase available after adoption of this amendment would fund a tenfold increase in our drug effort.

And then we have heard two of our colleagues make a statement saying they are just terribly disappointed about this amendment because it does not cut enough, it does not cut the right things.

Now, I would like to say to my colleagues that if this amendment does not cut enough, offer another amendment to cut more. In fact, the distinguished Senator from Kansas has such an amendment pending. If it did not freeze marginal tax rates next year at this year's level and abrogate a commitment in tax reform that we made to the working men and women of America, there might be more support for it than there is. But you are going to have an opportunity to vote on that.

If someone wants to offer an amendment dealing with entitlements, offer it and I may vote for it. But I am giving the Senate an opportunity here to save $3.2 billion, not by cutting spending—God forbid we should ever cut any spending; but by simply trying to freeze two aggregate discretionary accounts at the levels we spent this year.

Now, Mr. President, I do not believe that if we fail to raise people's taxes they will have a blue Christmas. I think if we raise their taxes, they are going to have a blue Christmas, at least people where I am from. I do not know people, in some cases, from other parts of the country. Maybe they are different. I do not believe it, but maybe.

I do not believe that saving $3.2 billion out of all the discretionary accounts in the Nation's budget is going to mean that Ivan is going to knock the gate down next year. In fact, some would argue that Ivan is already here; that he has been here all week.

I do not believe that if we simply try to save $3.2 billion out of $1 trillion 46.8 billion, that suddenly we cannot fight drugs or disease or that we cannot have a space program. I believe we can do all those things. I support those programs.

This amendment again is a very straightforward amendment. It may not save as much as some people would like. If so, vote for this and then vote for the addition that you want. But if you vote against this amendment you are saying: I do not want to freeze discretionary spending. And again you can justify it in a lot of ways. But the bottom line is, this is a simple, virtually painless way of simply imposing a little fiscal discipline by freezing discretionary spending at current levels. I do not think that is unreasonable. I hope my colleagues will vote for the amendment and I reserve the balance of my time.

The PRESIDING OFFICER. Who now yields time?

Mr. DOMENICI. Parliamentary inquiry. How much time does the Senator from Texas have on his amendment?

The PRESIDING OFFICER. A minute and twenty seconds.

If neither side yields the time runs equally against both sides.

The Senator from Florida.

Mr. CHILES. Mr. President, I think that we are about ready to wrap up our debate on this. I think I would just state that if we look and see what some of these cuts would be: From the midpoint on where we are between the House and the Senate bill, with the new proposal by Senator GRAMM, Commerce and Justice would be cut 9.7 percent. The other independent agencies, and that is where we already have a tremendous problem with NASA now and the space station, the cuts there would be 4.8 percent. Interior Committee would be cut 10.3 percent from the midpoint of where we are now. The Treasury and Postal, and that is where most of our drug money is, Customs—and the money that we use to fight drugs will be cut 11.3 percent. We already have had Senator NUNN speak about defense and say that the only way they could make the additional cuts in defense which are over $1.2 billion, those cuts would have to come out of personnel.

So I think it is pretty clear, Mr. President, that what we would be talking about here at this stage of the game is, as the Senator from New Mexico said: This is like one of those balls that the wrecking companies use when they want to demolish houses and it is swinging and it will sort of knock down everything that we have been trying to do in putting together a meaningful package of deficit reduction; because of what it would do.

I can remember so well, Mr. President, the hours that we spent in the summit, and literally days talking about 0.1 in defense; lowering it $100 million, and the administration's agonizing over that and what happened to define that change. Now to see that we are talking about this cut, which is 10 times that, more than 10 times that—this would be the wrecker.

Mr. GRAMM. Mr. President, if the distinguished Senator from Florida does not object, I will go ahead and run off my 1 minute while they are conferring.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I would like to go back in light of all of these horror stories and simply relate the facts. If the pending amendment is adopted, we will spend $1.6 billion more on defense next year than we spent this year; we will spend $5.3 billion more on nondefense discretionary programs next year than we spent this year; and the total level of Federal spending will still be 4 percent higher next year than it is this year.

How those facts can be converted into cuts that endanger national defense, that endanger public health, that endanger drug enforcement is hard to imagine. But, of course, if you think people are going to be unhappy at Christmas if we do not raise their taxes, then you can imagine anything, and I yield back the balance of my time.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Florida has 3 minutes remaining. The time is running on the Senator from Florida's time.

Mr. CHILES. How much time does the Senator from Florida have remaining?

The PRESIDING OFFICER. Two minutes and forty seconds.

Mr. CHILES. Mr. President, I yield back the remainder of my time and I move to table the Gramm amendment. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. REID). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida to lay on the table the amendment of the Senator from Texas, amendment number 1260, as modified.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr.

Burdick], the Senator from Indiana [Mr. Gore], and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. Wilson] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—72

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Warner
Weicker
Wirth

NAYS—24

Armstrong
Bond
Boschwitz
Evans
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
Kasten
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Proxmire
Roth
Rudman
Symms
Thurmond
Trible
Wallop

NOT VOTING—4

Burdick
Gore
Simon
Wilson

So the motion to lay on the table amendment No. 1260, as modified, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Kansas [Mrs. Kassebaum]. The yeas and nays have been ordered.

Mr. RIEGLE and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. CHILES. Mr. President, I yield 5 minutes off the bill to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. RIEGLE. I thank the Chair. I thank the Senator from Florida.

I wonder if we could have order in the Chamber.

The PRESIDING OFFICER. The Senate is not in order. The Senate will come to order. Senators will take their seats and refrain from speaking. The Senate will come to order.

The Senator from Michigan is recognized for 5 minutes.

Mr. RIEGLE. I thank the Chair.

Mr. President, it is I think very important for us to recognize that the amendment that will be offered here shortly and voted on, offered by the Senator from Kansas, has contained within it a major cut in Social Security benefits. It comes in the form of a cut in the planned COLA benefit, the cost-of-living adjustment that is scheduled to take effect next year and which of course is a catchup adjustment. In other words, it is an inflation adjustment to make up for buying power that has been already lost because of inflation, the higher cost for items that senior citizens and retirees have to buy in order to live, whether it is utility bills, or medicines, food or shelter, and things of that kind.

We have said many times that there should not be cuts in Social Security in order to try to balance the Federal budget. The reason for that is that the Social Security trust fund is a separately financed trust fund. It is in surplus. It is building a larger and larger surplus each day and by cutting Social Security in any form in order to create a larger surplus in the Social Security trust fund, it is only for the purpose of being able to in a sense hide and allow other spending, higher spending, in the regular categories of the Federal budget.

We should not be tampering with Social Security at all. It is not contributing to the Federal budget deficit. As a matter of fact, over the next 6 years Social Security is going to be contributing, building a surplus of $394 billion. And so to suggest in any way that somehow Social Security is not on a sound footing and we ought to cut the benefits because of the fact we do not have the discipline to deal with other spending categories in the regular part of the budget I think is just a serious error.

Also, I think we have to understand some other things will be happening to those on Social Security come January of this next year. There is scheduled to take effect an increase in the Medicare benefits cost that will be deducted from each Social Security recipient's paycheck. When the automatic deduction from their payment takes effect, that will have the impact of reducing the amount of money that they would otherwise receive. On top of that planned Medicare increase which is already in the law, we have coming down the track a catastrophic health insurance bill, and that will add an additional charge that will go against the checks to be paid out to our Social Security recipients.

So that if in turn we were to add the major cut being proposed by the Senator from Kansas in terms of a major reduction in the planned cost-of-living adjustment, you would have the effect of driving well over 100,000 senior citizens in this country below the poverty line. Those are the official estimates that we have had just from effect of that amendment. But in a sense, it is worse than that, because it is really, in my view, a dishonest accounting trick.

The President to his credit has said keep Social Security off the table. Keep it off the table because it is not contributing to the Federal budget deficit. And therefore you should not go over and somehow damage the Social Security recipient in order to create the appearance of a smaller deficit in the regular categories of the Federal budget.

So I would hope that before Members vote on this they will consider very carefully the part of the so-called Kassebaum package that relates to the cuts in Social Security. Every poll that has been done in this country makes it clear that the public understands that it is a separately financed trust fund, that it is solvent, but it is building a huge surplus, it is not contributing to the deficit, and overwhelmingly people in all parts of the country, both parties, men and women, all groups say that they do not want cuts in Social Security. They understand that that is not the problem with the Federal deficit, and we should not pretend that we are solving the Federal budget deficit problem by taking it out of the hides of the senior citizens of this country.

So I would hope that everyone understands that if they vote for that package they are voting to cut Social Security. Should the packages pass, and I certainly hope that it will not, but should it pass then later on this evening or some time before this bill passes we would have a chance to vote precisely on that Social Security cut because I think we ought to have a record vote. Everybody ought to have to step up to the plate on that one if they feel Social Security benefits should be cut. But I would hope we would not face that moment because we would defeat the Kassebaum amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOMENICI. Mr. President, I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mrs. KASSEBAUM Mr. President, I want to say there is not a Member of this body who is not appreciative of the efforts of those who helped formulate this leadership package. It is bound to have been an extremely difficult package to put together. But there is a strong bipartisan group of us here that believe that there is an opportunity to touch part of the budget that has been held off limits, approximately 40 percent of the budget. We have a budget that reflects revenues that come in and spending that goes out. It reflects different types of trust funds. But it reflects what we are as a nation, and I happen to feel, Mr. President, that no special-interest group really wants to be held up in the glare of the spotlight and say no, you cannot do anything that is going to be difficult for us. We are not cutting anyone. We are merely not allowing a raise.

It is merely a freeze and an equitable one, because when people who are receiving Social Security benefits say, "Yes, but how is it affecting you," I can say it is affecting me on the revenue side, because we are freezing the tax program, and the tax levels will not lower for 1 year, either, and I cannot take advantage of a reduced tax rate. That is the balance that is important.

No, it is not a masterful deficit reduction package. We are going to need to sort through the priorities and options that will come next year. But for 1 year we have a major saving that will be reflected in future years, because we have held the baseline at a lower level.

That is why I say to those who negotiated the leadership package that ours will be successful in the outyears. We have been willing to address the entitlement programs and hold that base level, so that there is a cumulative effect of savings that is still more than is in the leadership package.

Before I close, Mr. President, I would like to add that I think it gives us an opportunity to do something now that will enable us to build in the future, because we do have needs that have to be met, and it is going to be very difficult for us in the next 2 years to adjust our spending and adjust our revenues. This is why I feel it is such an opportunity for us. It is time for us to show that we can put things on hold with the savings that will benefit everyone, and allow us in the future to address our needs and our priorities as we feel they must be addressed.

Mr. President, I yield back any time I have remaining.

Mr. CHILES. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 25, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—71

Adams
Armstrong
Bentsen
Bingaman
Bond
Boschwitz
Bradley
Breaux
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Packwood
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner

NAYS—25

Baucus
Biden
Boren
Bumpers
Conrad
D'Amato
Daschle
Dixon
Dodd
Evans
Exon
Fowler
Hollings
Karnes
Kassebaum
Levin
McClure
Murkowski
Nunn
Pressler
Rudman
Simpson
Wallop
Weicker
Wirth

NOT VOTING—4

Burdick
Gore
Simon
Wilson

So the motion to table the amendment (No. 1259) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate is not in order. Those Senators who do not have business pending before the Senate, please move their conversations to the cloakroom. The Senate will be in order.

The majority leader.

Mr. BYRD. Mr. President, if I might have the attention of all Senators, this would be a good time to get an understanding as to how many amendments remain. The Senate is going to finish this bill tonight.

There are 5 hours remaining on the bill. The minority leader and I are going to yield back 1 hour each, so that means we have 3 hours left on the bill.

It would be fair to Senators who are going to call up amendments if we could get unanimous consent to cut the time under the rule in half, at least, on amendments. The time on amendments is 1 hour on second-degree amendments, 2 hours on first-degree amendments.

Now, here is the way this will play: Unless we get unanimous consent to balance out the time on all amendments, we only have 3 hours. The first Senator who gets recognized and calls up his amendment will get the time under the rule. If it is a second-degree amendment, he will get 1 hour. That only leaves 2. The next Senator who stands up and gets recognition on his amendment gets 1 hour on the second-degree amendment or, if it is a first-degree amendment, he gets 2 hours. Those who did not get recognized and who still have amendments will not get any.

So I will ask unanimous consent that the time on amendments be reduced to 30 minutes on any amendment, with the time to be equally divided in accordance with the rule and, Mr. President, subject to the additional provision that no budget points of order be waived.

Mr. DANFORTH. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I would like very much to cooperate with the majority leader. I will have an amendment which I think will be controversial and I am sure it will be contested by Senator HOLLINGS. Several Senators have indicated that they would like to speak on my side of it.

I do not intend to belabor the issue, but I do think it would take about a half an hour to the side.

Mr. BYRD. Very well. That is one of the most controversial amendments, I know.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I revise my request as follows: That there be 1 hour on the amendment to which the Senator has alluded, to be equally divided in accordance with the rule, and that time on any other amendment be limited to 20 minutes, the time to be equally divided in accordance with the rule; and time on any debatable motion be limited to 10 minutes, time to be equally divided in accordance with the usual form; and protecting all budget points of order.

Mr. DANFORTH. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, it may be that, instead of offering an amendment, I will instead make a motion to strike. So I would like it understood that that would be included.

Mr. BYRD. That would be an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Reserving the right to object, do I understand a regular amendment would have 10 minutes on a side?

Mr. DOLE. Yes.

Mr. PRESSLER. That is fine with me.

The PRESIDING OFFICER. Are there objections?

Mr. GLENN. Reserving the right to object, could we have some idea of what the amendment is about? Some of us are not aware of what the controversial amendment will be.

Mr. DOLE. The fairness doctrine.

Mr. DANFORTH. This is the amendment dealing with title I of the underlying bill which imposes the transfer fee on radio and television stations, codifies the fairness doctrine, imposes Coast Guard user fees, and creates a trust fund for public broadcasting.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, as I understand it we will each yield back an hour at this time.

Mr. BYRD. Yes.

Mr. DOLE. I yield back 1 hour on this side.

The PRESIDING OFFICER. The two leaders having each yielded back 1 hour of their time, that leaves the remaining time of 3 hours and 3 minutes remaining.

Mr. BYRD. Mr. President, I thank all of our colleagues for their consideration and cooperation in this regard.

I have one additional plea, and that is that, as you can see, there are not many amendments going to be adopted here tonight in this package. It would be well if Senators could restrain themselves from calling for rollcall votes on some of these amendments. Senators know the amendments are not going to be adopted and it is just going to prolong the agony.

So if Senators would be willing to call up their amendments, have a voice vote on them, and let the Senate work its will that way—any Senator, of course, has the right to ask for the yeas and nays, but the yeas and nays take a minimum of 15 minutes.

I ask unanimous consent that the time on rollcall votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. This would save a half an hour on three rollcalls.

Mr. PACKWOOD. Mr. President, will the leader respond to a question?

Mr. BYRD. Yes.

Mr. PACKWOOD. If we will finish tonight, is it your plan to go to the CR tomorrow?

Mr. BYRD. Yes.

Mr. PACKWOOD. And hopefully finish tomorrow, if we can?

Mr. BYRD. Hopefully.

Mr. PACKWOOD. And, if not, you are going to go on Saturday or skip Saturday and go to Monday?

Mr. BYRD. No.

Mr. PACKWOOD. You are going to go Saturday on the CR?

Mr. BYRD. Yes. I say that so that all Senators will understand that, in an effort to go home and get everybody out of town before the week of Christmas, which is the week after next, the CR has to go to conference, the reconciliation bill has to go to conference, there may be some extended discussions in conferences, the conference reports have to come back from the two Houses, have to be accepted, sent to the President, and the President has to have his signature on them before we go home or he can assure us he is going to sign them.

So this means we have to be here Saturday and we may have to be here the next Saturday. But, because of the kind of cooperation we are getting here tonight, hopefully we will not have to be here next Saturday. And as soon as we have final action on these two measures, we are going to go home, whether it is Saturday, Friday, or Thursday.

I hope that Senators will cooperate to the very greatest extent.

Let me say this: In appreciation for the cooperation of Senators, the two leaders have decided that, if we continue to get this cooperation, instead of coming back on the 19th of January, we will come back on the 25th of January.

I thank all Senators.

The PRESIDING OFFICER. Are there any further amendments?

The Senator from South Dakota.

AMENDMENT NO. 1261

(Purpose: To clarify the recovery of excess cash reserved from guaranty agencies provision)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] for himself, Mr. PELL, Mr. WARNER, Mr. STAFFORD, Mr. TRIBLE, Mr. DASCHLE, Mr. MELCHER, and Mr. ROTH, proposes an amendment numbered 1261 to amendment No. 1254.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 422(e)(1) of the Higher Education Act of 1965, as added by section 6101(a) of the amendment, strike out "or" at the end of subparagraph (D), strike out the period at the end of subparagraph (E) and insert in lieu thereof a semicolon and "or", and add at the end thereof the following:

"(F) the amount required to comply with reserve requirements and other obligations of contracts, as in effect on June 30, 1987.".

Mr. PRESSLER. Mr. President, since coming to Congress in 1975, I have supported balancing the Federal budget. It is unfair for us to burden future generations of taxpayers with such an enormous deficit. However, I also believe that the cuts should be made across the board without eliminating important services. For this reason, I am deeply concerned about a provision in the budget agreement that would require guaranty agencies of the Guaranteed Student Loan Program to reduce their excess cash reserves. I rise today to offer an amendment to correct this problem and would like to take this opportunity to explain it to my colleagues.

The current summit proposal contemplates cutting the Guaranteed Student Loan Program by $250 million. This would be done primarily by requiring guaranty agencies to spend down or reduce their existing reserves to a level which is determined by one of five guidelines established by the General Accounting Office. The guaranty agency for my State, the Education Assistance Corporation, would have to spend down $6,447,161 in addition to $2,292,918 which it being asked to return as a result of the 1986 amendments to the Higher Education Act would make a total return of $8,739,079. This would leave EAC with a reserve level of 0.4 percent. Currently, it has reserve level of 3.2 percent.

Under the budget agreement, it appears that EAC would be forced to stop guaranteeing loans to maintain its ability to meet existing legal and financial obligations. The level of reserves provided for under this proposal would not permit EAC to meet its existing contractual obligations with lenders, which include maintaining minimum reserve levels, and thus expose itself to almost certain litigation. In addition, with this reduced reserve level, EAC would be unable to continue providing services to students, schools, and lenders which are necessary to operate a successful program. Even though EAC has managed to keep a low default rate and has been conservative in its financial operations, it would be forced to operate with an inadequate reserve level. In essence, EAC would be penalized for its efficient operation of the type of program which Congress envisioned in the Higher Education Act.

The Education Assistance Corporation operates an exemplary program which provides a tremendous service to students, schools, and lending institutions. It provides ongoing training and technical assistance to school financial aid officers and the loan officers from the participating lending institutions. Students can expect EAC to process their loan applications within 24 hours. Upon inception in 1979, the Education Assistance Corporation was required by the Department of Education to put in writing a plan whereby EAC would assure 100 percent access to all eligible students. EAC has, at all time, kept this promise. The guaranty agency for my State provides many adidonal services, and at the same time enjoys a low default rate.

It also is important to note that services to students have improved as a result of the establishment of the Education Assistance Corporation. Before EAC was founded, there were few if any services provided to schools and lenders. Turn-around time for processing guaranteed student loans took at least 6 to 8 weeks. Additionally, the annual volume of federally insured student loans [FISL] made by South Dakota lenders was less than $12 million. The limited lender participation resulted from lack of support from the Federal Government in training and technical assistance, and from poor service. The first 9 months that EAC was in business, it guaranteed over $18 million in student loans. EAC's annual loan volume is approximately $50 million. Currently, its accumulative guarantee volume approximately is $408 million. Additionally, EAC has contracts with over 200 lenders. For these reasons, I find it extremely unfair that EAC is forced to comply with the proposed maximum reserve limitations set by GAO.

Additionally, I want to make it clear that if this amendment is defeated under no circumstances would it adversely affect a guaranty agency's ability to appeal to the Secretary of Education. Currently, the budget agreement contains an exception for guaranty agencies required by State law to maintain a minimum reserve level. The purpose of my amendment is to apply the same type of exception for guaranty agencies required by contract to maintain a minimum reserve level.

I do not quarrel with the current exception for minimum reserve levels required by State law. To the contrary, it makes good sense. The problem is that this same exception is not afforded to guaranty agencies which are contractually required to maintain a minimum reserve level. Guaranty agencies must be permitted to maintain reserves which will be adequate to satisfy its contractual obligations, which include minimum reserve requirement. Because the principle sources of income received by guaranty agencies are received at the time a loan is guaranteed, cash reserves are required to not only meet current cash needs, but also future expenses relating to its existing portfolios. Decreasing loan volume for example, would severely impact a guaranty agency's source of income. It would not however, decrease its obligations as a guaranty agency which include making guarantee payments to lender providing preclaims and other default prevention assistance and other loan collection activities with respect to its existing portfolios. Lenders must be assured that a guaranty agency can meet such future obligations with respect to existing loans regardless of its ability to guaranty new loans. These reserves, like those required by State law for many of the State agencies, are based on prudent business decisions. They insure EAC's ability to honor its guarantees to the participating lending institutions.

If my proposal is accepted, it is expected that EAC would be able to continue to honor its contracts with lenders.

It still would be able to demonstrate to lenders its financial stability through its maintenance of an adequate reserve fund. Most importantly, if my proposal is accepted, the students of South Dakota would continue to have access to postsecondary educational funding.

Again, I rise today to express my extreme disapproval of the reduction in reserve levels for guaranty agencies as contemplated in the budget agreement package. My State is being penalized for operating a top-notch business. It has one of the lowest default rates in the Nation. If EAC is forced to reduce its Federal reserve level to 0.4 percent, it may stop guaranteeing loans to students. I do not think the budget agreement intended to decrease students' access to guaranteed student loans. However, that is what will happen if my proposal is not accepted. My amendment simply provides an exception for guarantee agencies required by contract to maintain a minimum reserve level.

If this provision becomes law, the guaranty agencies for my State and others will be devastated. It appears that the Education Assistance Corporation, which guarantees student loans in my State, would be forced to stop doing business. This would be a grave injustice to South Dakota students. So, today, I rise to express my opposition to this proposal and to urge my colleagues to support this amendment which would at least protect guaranty agencies' contractual agreements and obligations with lenders.

The PRESIDING OFFICER. Is there further debate? Who yields time?

Mr. PRESSLER. Shall I ask for the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CHILES. A voice vote would be acceptable.

Mr. PRESSLER. Will you vote for it?

Mr. CHILES. I think I might.

Mr. PRESSLER. Mr. President, I think we have the votes to win this, very frankly. We have seven cosponsors from a broad spectrum. If my colleagues will accept it, I will not ask for a rollcall vote.

Mr. CHILES. Does the Senator wish to use his remaining time?

Mr. PRESSLER. No.

I certainly do not wish to take the time of the Senate for a rollcall vote. Because I have seven cosponsors, I would have to ask for a rollcall vote if it is not acceptable.

Mr. CHILES. We would have to have a rollcall under the circumstances.

Mr. President, the amendment by the Senator I think is unnecessary and redundant. It would add language instructing the Secretary of Education to consider contractual obligations when determining the amount of excess cash a guaranty agency holds in reserve. The appeal process already provided in the student loan section of this bill would allow guaranty agencies to receive a waiver, in whole or part, from spend-down requirements as determined by the Secretary of Education.

So, if an agency can demonstrate that depleting its cash reserve to a level determined by the Secretary would cause it to violate legal obligations necessary to guarantee student loans, the appeal section would provide relief.

Now, some guaranty agencies also operate secondary market financial institutions that compete to buy and/or service student loans. Secondary markets issue bonds to raise capital necessary to purchase student loans. Some agencies operating secondary markets commit to maintaining their cash reserves at a specified level in contracts with bondholders. So, what is happening is the U.S. Government is losing interest because of these excess reserves that are being held by the guaranty agencies.

In turn, some of those guaranty agencies are using that interest and, therefore, entering into the secondary market where they are selling or servicing student loans. Congress has never set that program up. Many States do not do that. This amendment would cost some $70 million and it would make us fall short of the summit agreement.

Therefore, at the proper time, I intend to raise the budget point of order and ask the Chair to rule on that point.

Mr. PRESSLER. Mr. President, the chairman of the education subcommittee supports this amendment. Perhaps the Senator from Florida will give him a minute of time from his side.

Mr. CHILES. I am happy to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise in support of the amendment offered by the Senator from South Dakota, Mr. PRESSLER.

I am very seriously concerned over the potential impact of the changes in the GSL Program contained in the leadership package. It could well threaten the viability of several of our State guaranty agencies, as well as discourage the participation of lenders in the GSL Program.

In my own home State of Rhode Island, for instance, I am told that this provision would place our State agency in a very precarious position, and one that might eventually pull them under. The income the agency derives from its reserves is the difference between the agency's ability to operate in the red or the black.

This situation, as I understand it, is repeated in at least a dozen other States. The amendment proposed by the Senator from South Dakota would afford some protection for these agencies by adding a sixth guideline to the leadership proposal in this area. It would allow an agency to retain sufficient funds to meet the reserve requirements and other obligations of contracts that are already in effect. This would make clear that such contracts already negotiated and signed would continue in effect, thus providing those States with sufficient reserves to continue their important work in the GSL Program.

I would also like to make it clear that whatever the outcome of the vote on this amendment, it will not affect the provisions in the leadership package that enable an agency to make an adverse circumstances appeal to the Secretary of Education.

Mr. President, I urge my collegues to join me in supporting the Pressler amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield me 1 minute?

Mr. CHILES. Yes.

Mr. DOMENICI. Mr. President, many of us have concerns about this provision but there is an appeals process built into it. It was intended to take care of the principal problem raised by the Senators who support the amendment.

I think we ought to leave the amendment in the bill. We have time to go to conference. If our appeals process does not take care of the contractual obligations that States are concerned about, that they may have contractual obligations that preclude a lowering of the reserve, we can work it out in conference to make sure the appeal process gives them that assistance. I hope that Senate will not take this out of the package but will leave it in. It is subject to a point of order.

Mr. WARNER. Mr. President, I have been advised by the Virginia State Education Assistance Authority of the devastating effect the deficit reduction summit agreement may have on the operation of the Guaranteed Student Loan Program in my State.

Under the proposal recommended by the budget summit, student loan guarantee agencies will be asked to spend down $250 million of their reserves, money which in my State have been carefully and prudently built up over 25 years. The proposal is patently unfair to the Commonwealth of Virginia.

States which have been the best managers, those with the lowest default rates, the lowest student guarantee fees, and the lowest Federal Government obligations are being asked to sacrifice the benefits and results of their labors.

Virginia, with reserves of $37.1 million, would be required to spend down $29.9 million, the largest payment of any State, amounting to 13 percent of the total required savings. It is incredible that this burden would be placed on any State and, in particular, Virginia, which only guarantees 1 percent of annual student loan volume nationally.

Mr. President, to further stress the unfairness of the proposal, let me share how the spend down would be applied. Of the 50 States, the District of Columbia and our territories, 50 percent of savings would be required from only 10 States, D.C., and Puerto Rico. An additional 13 States would be responsible for 25 to 50 percent, and 13 others would pay less than 25 percent.

Of the remaining 15 States, no requirement would be made. I repeat, 15 States would not be asked to contribute to deficit reduction under education entitlements.

Mr. President, where is the shared sacrifice in this proposal? Where is the equity? And on what grounds?

The Higher Education Act Amendments of 1986 directed the General Accounting Office, GAO, to establish guidelines for the repayment of Federal seed money previously provided to the State student loan agencies. The Commonwealth of Virginia repaid its obligation in 1984. The GAO has further established the guidelines for this proposal, without, I might add, the benefit of review or comment by the Senate Labor and Human Resources Subcommittee on Education, our own in-house experts on the fundamental operation of the Guaranteed Student Loan Program.

Beyond that, to my knowledge, several State agencies have tried to ascertain the source of GAO's standards in this matter. By what measure have they determined what minimum levels of reserve funding are needed? There has been a total disregard for contractual agreements and reserves which may have been obligated for the backing of bonds. Indeed, reserve levels may be reduced to such a point that increased risk will cause lendors to refuse to enter into agreements.

Mr. President, I fear that my State is faced with a fait accompli on this proposal. Alternatives presented by the National Governors Association have been regarded as unacceptable. The budget summit agreement has been an enormous effort, and I clearly recognize the hard work and contributions of the participants. I must protest this provision, however, and strongly request that a more equitable solution be included if the measure ultimately goes to conference.

Mr. President, I rise to join as an original cosponsor of the amendment offered by my colleague from South Dakota, Senator PRESSLER, to prevent the spend-down of guaranteed student loan reserves below contractually agreed minimums.

As I have previously stated, under the deficit reduction summit agreement, the Virginia State Education Assistance Authority will be asked to contribute $29.9 million in savings, the largest monetary amount of any State and 13 percent of the total $250 million reduction required under education entitlements.

Senator PRESSLER, with the support of our Education Subcommittee chairman, Senator PELL, has developed this amendment to address one of the principal failings of the guaranteed student loan reserve spend-down proposal. That problem involves the quandary State agencies will be facing if reserves are spent down below contractual agreements. I am advised that the budget agreement does respect minimum reserve levels required by State law, but it makes no allowance for contractual minimums agreed upon by our State guarantee agencies and lenders.

The State Education Assistance Authority of Virginia has endorsed the Pressler amendment as a means of relief from the full and, in my opinion, punitive effects of the spend-down proposal. In this way, Virginia and other States can honor their agreements with student loan lenders and avoid actions which would most certainly be fiscally damaging and harmful to otherwise creditworthy student loan programs.

I commend Senator PRESSLER for this timely and necessary amendment and encourage all of my colleagues to join in this effort.

The PRESIDING OFFICER. Who yields time? The Senator from Florida.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

Mr. President, pursuant to section 310(d) of the Congressional Budget Act, I raise a point of order against the amendment. The adoption of the amendment would result in an increase in the deficit.

The PRESIDING OFFICER. No time remains.

The Senator from Florida has raised a point of order.

The Senator from South Dakota.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I move to waive the Budget Act on this point.

The PRESIDING OFFICER. The Senator from South Dakota has moved to waive the Budget Act. The motion is debatable for 10 minutes, equally divided. Who yields time?

Mr. CHILES. Mr. President, I yield back all of my time.

Mr. PRESSLER. Mr. President, I ask for the yeas and nays.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. No time remains. The Senator from South Dakota has asked for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota to waive the provisions of the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 23, nays 72, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—23

Biden
Chafee
Conrad
Danforth
Daschle
Durenberger
Glenn
Hatch
Helms
Kennedy
Lugar
McClure
Melcher
Pell
Pressler
Roth
Sarbanes
Stafford
Symms
Thurmond
Trible
Warner
Weicker

NAYS—72

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chiles
Cochran
Cohen
Cranston
D'Amato
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Wallop
Wirth

NOT VOTING—5

Burdick
DeConcini
Gore
Simon
Wilson

The PRESIDING OFFICER. On rollcall No. 406, the motion to waive the Budget Act, the yeas are 23, the nays are 72. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. CHILES. I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, if there is no further amendment to the leadership package, then I think we could proceed to a vote.

The PRESIDING OFFICER. Are there further amendments? The Senator from Montana.

Mr. MELCHER. Mr. President, we have had a situation developing for the past several months that affects the senior citizens on Medicare. And it has to do with part B of Medicare.

The PRESIDING OFFICER. Who yields to the Senator from Montana?

The Senator from Florida?

Mr. CHILES. Did the Senator from Montana propose an amendment?

The PRESIDING OFFICER. He has not sent an amendment to the desk.

Mr. CHILES. I would be happy to yield time to the Senator from Montana.

AMENDMENT NO. 1262

(Purpose: To provide for a reduction in the medicare part B premium to prevent the amount of such premium from exceeding the maximum prescribed by law and to further reduce such premium by eliminating amounts targeted to the contingency reserve fund)

The PRESIDING OFFICER. The Senator from Montana.

The Senator from Montana has submitted an amendment to the desk.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 1262 to Amendment No. 1254.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 4023 of the amendment, strike "Section" and insert in lieu thereof "(a) IN GENERAL.—Section" and add at the end thereof the following new subsection:

(b) ADJUSTMENTS IN PREMIUM.—Notwithstanding any other provisions of law, the Secretary of Health and Human Services shall, not later than April 1, 1988—

(1) reduce (in accordance with section 1839(e) of the Social Security Act) the amount of the premium under part B of title XVIII of such Act, otherwise in effect for 1988, to reflect the total amount of reductions in the benefits payable under such part for such year occurring by reasons of the amendments made by this Act; and

(2) further reduce such premium by an amount equal to the difference between the amount of such premium (as reduced by paragraph (1)) and the amount of such premium (as so reduced) if established without regard to amounts allocated to the contingency reserve fund.

The PRESIDING OFFICER. The Senate will be in order. Those who do not have business on the floor will please adjourn to the cloakroom.

The Senator from Montana.

Mr. MELCHER. Mr. President, under current law those on Medicare for part B are faced beginning January 1 with an increase in Medicare cost of $6.90 per month. That is almost $7 per month. That announcement was made at the end of September.

Since that time, older Americans on fixed incomes and very modest incomes have been alarmed. It is a case of too much at one time. Prior to this, the increases in Medicare have been rather modest amounts, at least compared to this for part B costs.

The Aging Committee hearing we held in November found that the $6.90 increase per month would cause some elderly to choose between other necessities and paying the additional charge.

The amendment I have sent to the desk would reduce the charges by approximately $2.40 per month. That still leaves a substantial increase for the elderly, $4.50 a month. Keep in mind that the reconciliation package before us reduces part B expenditures by a total of about $500 million. Since 25 percent of the part B program is paid for by beneficiaries, I feel there should be a proportional reduction for beneficiaries when Federal expenditures are reduced. So, about 40 cents of the reduction would come from the proportional reduction in costs to beneficiaries.

The other $2 per month premium reduction simply comes out of the contingency portion of the part B Medicare Trust Fund.

I do not argue that it is not essential to build up the contingency portion of the part B fund. I am just arguing at this stage that this should be foregone for the time being until part B costs can be reduced.

Even under my amendment, the elderly would have to pay for an almost $5 per month increase in their monthly part B premium. There are plenty of elderly, I suppose, who are affluent and can easily pay for this increase. But our findings in the committee have shown that the great majority of the elderly are living on incomes ranging from $400 to $800 per month. When you are living on that type of income per month, an extra cost of $5 a month collected by Uncle Sam is a pretty big chunk out of your pocketbook.

So, Mr. President, and my colleagues, what I am asking here is a little understanding and a little compassion for the elderly who are strapped into a position of fixed income and who must maintain their part B Medicare coverage. Have some consideration for them, have some fairness, and let's not permit this much of an escalation in their monthly premiums.

I wish we could do more. I am sure there will be many on the floor who say we should not do even this much. I do not believe that anybody should be so pressed to pay for their Medicare part B premiums that they then will have to give up adequate nutrition or forego the few little pleasures that they might have in their retirement.

So I ask that you consider the amendment and make it part of the package.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Yes. I am delighted to yield.

Mr. BENTSEN addressed the Chair.

Mr. BUMPERS. I would like to ask a question.

The PRESIDING OFFICER. The Senator from Texas is withholding time.

Mr. BENTSEN. I yield 5 minutes to myself.

Mr. BUMPERS. Mr. President, the Senator from Montana controls the time on his amendment. He just yielded to me for a question on his time.

Mr. BENTSEN. I defer to the distinguished Senator.

The PRESIDING OFFICER. I thought the Senator from Arkansas was asking for recognition. Was he asking for recognition for a question?

The Senator from Arkansas.

Mr. BENTSEN. I am delighted to defer to the Senator from Arkansas.

Mr. BUMPERS. I have just a quick question, if the Senator will indulge me. I wanted to ask the Senator from Montana to make sure I understand this. Is this 25 percent less $1.90?

Is that what it amounts to?

Mr. MELCHER. Under part B the people on Medicare must pay 25 percent of the cost of part B. The Treasury pays the other 75 percent. The $6.90 increase that the people on Medicare must pay comes out of their own pocket.

Mr. BUMPERS. Is the $6.90 a part of the 25 percent? They pay a maximum of 25 percent?

Mr. MELCHER. That is right.

Mr. BUMPERS. $6.90 is an increase this year?

Mr. MELCHER. $6.90 is the increase for the premium beginning in January. Under current law the $17.90 that Medicare beneficiaries now pay will increase to $24.80 in January.

Mr. BUMPERS. So your amendment is just simply a $1.90 reduction from the 25 percent, whatever that is?

Mr. MELCHER. That is right.

Mr. BUMPERS. Is this just a reduction that comes out of the Social Security Trust Fund?

Mr. MELCHER. It would just mean that the part B trust fund would not build up as rapidly. There is about $6 billion in the trust fund at this time. The law requires that you build that up, implement that in establishing the $6.90.

I am just saying that is too big a bite at one time, and we should hold it to five, and the contingency fund will not build up.

Mr. BUMPERS. How much does the Senator's amendment cost?

Mr. MELCHER. About $464 million—in that neighborhood.

Mr. BUMPERS. I thank the Senator.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, I am sympathetic to the issue raised by the Senator from Montana. An increase in the Medicare premium of 38.5 percent is an enormous increase, and I understand the burden it creates.

However, such an increase is not out of line with what has happened in other health services, for example, with Federal employees there was a 40-percent increase.

One of the reasons for this is that the contingency fund was used in the past to reduce this year's premium, but the actuaries did not anticipate the kind of increase that occurred in physicians' services during 1987. When the premium for 1988 was calculated, there was not as much money available in the reserves as had originally been projected so it was necessary to increase the premium by an unprecedented 38 percent.

Severely reducing the contingency fund would get us into the same kind of trap again. So I must strongly resist the amendment.

The CBO figures we have on this proposed state that will cost over a half-billion dollars a year, and obviously it violates the summit agreement and violates the requirements of the budget. Of course, it is subject to a point of order.

I want to assure the distinguished Senator that when we go into the conference, I will be pleased to see what we can do to buy the premium down some. We will work with the House conferees, to the extent we can because it is my objective, just as it is his, to protect the elderly and disabled from abrupt increases in the Medicare premium. But I want to be sure that we do not violate the budget requirements. I would commit to try to restrain the premium increase, if the Senator would withdraw his amendment. Otherwise, I will have to make a point of order.

Mr. MELCHER. Mr. President, will the chairman yield to me, to respond?

Mr. BENTSEN. I yield on the Senator's time.

The PRESIDING OFFICER. The Senator from Montana is recognized for 41 seconds.

Mr. BENTSEN. How much time do I have?

The PRESIDING OFFICER. Seven minutes and fifty-nine seconds.

Mr. BENTSEN. I yield a couple of minutes to the Senator.

Mr. MELCHER. I thank the Senator for his graciousness and for his comments.

I well realize that the chairman and the rest of us in this Chamber are alarmed at the 38.5-percent increase. That is a pretty steep climb for 1 year.

With the understanding that the chairman will attempt in conference to get a reduction, I withdraw my amendment. I commend the chairman for his comments, and I know of his willingness to work on this.

The PRESIDING OFFICER. The Senator has withdrawn his amendment.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Montana for his cooperation, and assure him that we will do all we can. I understand what an extreme increase that is, and whatever we can accomplish in a responsible way, we will try to do it.

Mr. MELCHER. I thank the chairman.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. MELCHER. Mr. President, I would like to take a few moments to express my concerns about the budget reconciliation bill we will be asked to vote on tonight. My concerns reflect the concerns of millions of this Nation's finest citizens—its elderly.

In their youth, it was their idealism, their determination and their sweat that helped make this country the great Nation it is today. When their country called, they answered.

But now, in their retirement years, they are calling out to their nation. And the question is: Will their nation answer?

Quite simply, the cost of growing old is soaring. Many of our elderly are being flattened financially by the costs of growing old—costs like prescription drugs, doctor bills, basic services, and even funerals.

These fine folks aren't demanding handouts. Rather, they simply are seeking minimal assistance to live out their lives with quiet dignity and in good health.

The special Committee on Aging has been working toward that goal on a number of fronts this year. And many of those areas are addressed in this reconciliation bill. I'd like to outline a few of them.

HOME HEALTH CARE

During two hearings by the Special Committee on Aging into home-health-care services for the elderly, we found that quality assurance is virtually nonexistent under the various Federal programs that provide for home care services. In addition, the fragmentation of funding sources results in a fragmentation of services.

The distressing result is that those who need home care services the most frequently are the least able to obtain it.

In a few weeks, the committee will publish a report on access to and quality of home care. And I'm happy to note that several of the problems detailed in the report are addressed in this reconciliation bill.

One problem we identify in the report is that there currently is nowhere for a home care client to turn to report poor or abusive care. That will change under the reconciliation bill. It provides for a toll-free hotline and investigative unit so home care clients and their families can check on the rating of a Medicare certified home care agency, make inquiries or file complaints.

Another problem we found centers around the "conditions of compliance" that home health agencies must meet if they want to be paid under the Medicare and Medicaid programs. Too frequently, the committee found only paper compliance with these conditions.

The reconciliation bill expands the current conditions of participation with several new requirements, including:

Protection and promotion of a "Patient Bill of Rights."

Requiring home-health agencies to notify State licensing agencies regarding certain hiring decisions and any changes of ownership.

Training programs must meet certain minimum standards.

Inclusion of a home-care plan in a patient's clinical record.

In addition, the reconciliation bill requires a survey of each participating home health agency with 15 months to evaluate the quality of care and determine how well the agency is observing the patient bill of rights.

Historically, home-health agencies that haven't met the Medicare conditions of participation simply were terminated. I'm not convinced that is the proper course of action in all cases. And the reconciliation bill reflects this thinking by providing for intermediate sanctions to give these agencies the opportunity to correct their deficiencies, get their house in order and get back into compliance.

This reconciliation bill provides several additional steps to help solve some of the many problems surrounding the home-health-care industry. And I commend the leadership of the Budget and Finance Committees for their fine work in including these important requirements.

NURSING HOME QUALITY

The Special Committee on Aging has had an active and longstanding oversight role regarding nursing home conditions and quality. This reconciliation bill makes some major revisions in the area of nursing homes to improve quality of care and residents' rights. This legislation also corrects major gaps in the standards for nursing home regulation that had allowed too many marginal and substandard nursing homes to continue operating.

Under this bill, staffing requirements for nurses and social workers have been upgraded. And standards will be established for programs to train and test nurses' aides. This is an absolute must. It is difficult, if not impossible, to assure safe and proper care of nursing home residents without the proper training of those who provide most of the basic, direct care.

Elderly nursing home residents are individuals—each with unique physical, mental, and social problems. Under the reconciliation bill, more accurate assessments of each resident's problems and treatment needs would be required on admission and at least annually afterward. Likewise, all States would be required to screen mentally ill and retarded individuals before admission to determine if they need nursing home care or another more appropriate type of care.

I am pleased that the committee has amended this provision to exclude from this screening requirement persons with Alzheimer's disease or related disorders.

Although many States already have such assessment and screening systems in place, a national standard should help assure that all of our Nation's nursing home residents will be provided higher quality care.

To insure that a nursing home is providing quality care, this bill will add muscle to the process by which States survey facilities. Those facilities in which the health and safety of residents were found to be in danger could, as under current law, lose their Medicare accreditation. Those facilities found to be below standards, but in which life and limb were not in danger, would be subject to intermediate sanctions, such as fines, onsite monitoring or reduced or withheld payments. The sanctions would be lifted when the problem areas were corrected.

This will allow problems to be corrected without forcing nursing homes to shut down and thereby disrupt the care of its residents. It also will help States get tougher against facilities that are chronically substandard.

MEDICARE APPEALS—ADMINISTRATIVE LAW JUDGES

This legislation also contains a provision that prohibits the Secretary of Health and Human Services and the Health Care Financing Administration from changing the procedures for Medicare appeals before administrative law judges. This prohibition will remain in place until the Secretary of HHS and the Comptroller General report to Congress on the implications these changes will bring about.

Last year's Budget Reconciliation Act gave Medicare part B beneficiaries the right to a hearing in front of an administrative law judge when the amount in question is more than $500. However, I have learned that HCFA, in implementing this provision, is requiring beneficiaries to first go through an appeals process with the insurance carrier before they are entitled to the hearing before the administrative law judge. This clearly is not what the Congress intended.

In addition, HCFA wants to establish a separate administrative law judge corps to be headquartered in Baltimore. And it wants to hold hearings by telephone.

Without a doubt, we need to have more information before HCFA is allowed to proceed with its plan. And I'd like to have some assurances from the Secretary and HCFA that Medicare beneficiaries aren't going to be steamrollered in this process.

For this reason, my distinguished colleague from Tennessee, Senator JAMES SASSER, and I have introduced the Medicare Appeal Rights Preservation Act of 1987. This bill, S. 1857, would require the Comptroller General, in consultation with the Secretary of HHS, to study the feasibility of the HCFA proposal of conducting appeals hearing by telephone. And the Comptroller would be required to report his findings to Congress within 6 months.

In our legislation, Senator SASSER and I want the Comptroller to pay particular attention to several issues:

First, the feasibility of conducting telephone hearings, the difficulties they impose on Medicare beneficiaries and the extent to which they have been used under Medicare and other Federal entitlement programs.

Second, the feasibility of establishing a separate corps of administrative law judges for Medicare outside the Social Security Administration, to which they currently report.

Third, the cost of carrier hearings compared with the cost of face-to-face hearings.

And finally, whether hearings under part B in which the amount in question is more than $500 could be handled more appropriately, efficiently, and fairly by requiring either a hearing before the carrier as a precondition of a hearing before an administrative law judge or conducting either hearing by telephone.

Once Congress gets this information, we will be in position to decide whether HCFA should go ahead with its proposal or study alternatives that are more cost effective and more feasible. Above all, it will give us the information we need to insure the due process rights of Medicare beneficiaries are protected.

PERSONAL-NEEDS ALLOWANCE

On August 7 of this year, my good friend from Arkansas, Senator DAVID PRYOR, and I introduced S. 1635, a bill called the SSI Improvements Amendments of 1987. The reason we introduced the bill was because it was obvious to us that the Supplemental Security Income Program is not adequately meeting the needs of the poor elderly, the blind, and the disabled.

I am extremely pleased that the Finance Committee has agreed with us and seen fit to include a number of the provisions of S. 1635 in its budget reconciliation package.

Among the most important of those is a provision to increase the personal needs allowance for nursing home residents. The personal needs allowance is relied upon heavily by nursing home residents for small items not covered by Medicaid. These include such basics as toiletries, postage stamps, clothing, shoes, bus fair, and telephone service.

Seventeen years ago, back when the personal needs allowance was developed, the payment levels were set at $25 a month for an individual and $50 a month for a couple. Surprisingly, it's stayed at those levels ever since. The reconciliation bill would increase the personal needs allowance to $30 for an individual and $60 for a couple. And even though this improvement isn't as great as Senator PRYOR and I would hope, it nonetheless is a good start.

Another provision of this bill will help those who are temporarily institutionalized maintain their SSI eligibility. Under current law, if an SSI recipient is admitted to a Medicaid institution even for a few days, his or her benefit for that entire month is reduced to the level of the personal needs allowance. This cut in income makes it extremely difficult for a person to maintain his or her home.

That possibility would be eased under a provision in the reconciliation bill which would retain full monthly benefits for those who enter Medicaid facilities for temporary stays.

Another important item in the bill provides for the permanent exemption of inkind assistance from consideration as income under SSI and aid to families with dependent children. This is the same issue that produced an enormous outcry of protest in October when the Reagan administration announced a policy which would have reduced benefits for the elderly, blind and disabled who receive free food, shelter, clothing, and other donations from charitable organizations.

Although the administration temporarily has reversed its policy, this reversal will last only for a few more months. And while the Senate already has passed legislation to permanently extend the exemption, this legislation hasn't yet been passed by the House. The House reconciliation bill, however, does include a provision identical to the protection in the bill before us today.

Other provisions of S. 1635 which have been incorporated into the reconciliation bill would:

Increase the advance payments to eligible persons who are faced with an emergency.

Lengthen the period of time during which otherwise eligible individuals residing in public emergency shelters can continue to receive SSI benefits.

Require that blind recipients be sent a special notice of any action taken or proposed with respect to their benefits under the SSI Program.

While not all of the provisions incorporated into the reconciliation bill are as far reaching as those Senator PRYOR and I originally proposed, we still are heartened and commend the Finance Committee for incorporating as much as it has. The changes are decent, fair, and sensible, and they represent a move in the right direction. They not only will increase the fairness of the SSI Program in the short term, but also can be built upon in the future. And they will help ensure that disadvantaged individuals are not denied vital assistance.

RURAL HEALTH

Many of our elderly continue to live in isolated rural areas and small towns and often have transportation problems, so getting to their doctor or to a hospital is vital. I am glad to see the many provisions in the reconciliation package designed to bolster small hospitals, clinics, and physicians in rural areas.

A key item in encouraging physicians to practice in rural, underserved areas is the 5-percent bonus for physician services on claims for which Medicare assignment is accepted. This is a small first step in what I hope will be a continuing effort by Congress to begin building more equity into Medicare physician reimbursement by increasing payments to rural doctors who traditionally have been paid much less than those in urban areas.

The 3.6-percent increase for primary services, including office visits, home visits, nursing home visits, and emergency room visits also is an indirect boost to rural physicians who are more likely to be the family and general practitioners the elderly use the most.

With so many of our small rural hospitals barely surviving financially or on the brink of closure, the 3.7-percent increase to rural hospitals for prospective payment system services in 1988 should help keep more of these hospitals open and accessible to our rural elderly.

Likewise, other provisions designed for immediate and longer range protection and stabilization of rural hospitals, including sole community hospitals and rural referral centers, could be the continuing lifeline for rural health care.

The groundwork for a more rational determination of future payment increases and changes needed in the system will be established through a number of steps. These include extending the protection for interim capital costs and payment adjustments for sole community hospitals, and then requiring the Prospective Payment Assessment Commission [ProPAC] to make recommendations on the separate urban and rural hospital payment system while mandating the Secretary of the Department of Health and Human Services to develop a data base for rural hospitals.

In addition, the establishment of permanent authority for an Office of Rural Health within the Department of Health and Human Services is reassuring to many of us in Congress who represent largely rural areas. We can be hopeful that the Secretary of HHS will get the information and advice needed on the particular effects of current policies and proposed changes in Medicare and Medicaid relating to the financial viability of rural hospitals and residents access to health care.

This office also will provide rural health care coordination and clearinghouse functions within HHS and across Federal departments. If used effectively, this office could provide the vital focus needed by the administration, Congress, and rural constituents to assure a rational and reachable health care system in our Nation's remote areas.

The PRESIDING OFFICER. Are there amendments?

AGRICULTURE TITLE OF BUDGET RECONCILIATION BILL

Mr. LEAHY. Mr. President, earlier this year, the Agriculture Committee was given budget reconciliation instructions which required savings totaling $1.33 billion from the level of spending expected as of January 1987. Reductions in the amount of spending expected for the 1988 through 1990 fiscal years were required to total $5.838 billion. In addition, the committee was instructed to raise revenues of $7.2 billion through the prepayment of Rural Electrification Administration loans.

The Agriculture Committee met those original targets. However, scored against more recent spending estimates, the original committee proposals did not have the effect of reducing the Federal deficit.

Mr. President, between January and August of this year, projected costs associated with agriculture declined by $9 billion over fiscal years 1988-90. These savings were due, in large measure to programs contained in the 1985 farm bill. In essence, the Agriculture Committee was not given credit by the budget process for programs which are working, programs which are reducing costs, programs which recognize the long-term nature of agriculture, programs which are beginning to restore some health to agriculture.

The reductions in agriculture spending called for in all of the deficit reduction proposals before this body today are in addition to that statutorily mandated reduction.

As the result of the so-called budget summit, a meeting between congressional leaders and the administration, and at the request of the leadership, the committee has now drafted new proposals that provide for a reduction in agriculture spending of approximately $2.5 billion according to current estimates of Federal expenditures for fiscal years 1988 and 1989, and about $60 million in fiscal year 1990. Relative to projections of agricultural spending made in January of this year, the cost of the agricultural programs will now decline by more than $8.9 billion in fiscal years 1988 and 1989 alone.

The agriculture title of this budget package provides for changes in five main farm program areas in order to achieve the requested savings. Income support levels are reduced, acreage reduction programs for feed grains are increased, a whole base bid diversion program that will take additional acres out of production is implemented, and price support loan levels are adjusted, and revenue is generated through the prepayment of Rural Electrification Administration loans.

Mr. President, this package is going to cause pain to our Nation's farmers. This package will in all likelihood reduce their net farm income for the 1988 crop year. We made every effort to keep these cuts at a minimal level. But this Nation's farmers will get cut.

This is not the package I would have had the committee recommend; I don't believe it is the package that Senator LUGAR, the ranking minority member on the committee would have liked to submit. I don't know that any Senator on the committee likes every aspect of this package. I believe, however, that we have drafted a proposal that a majority of the Agriculture Committee can support.

I hope the Senate will support this package, but I will stress that our work does not end here. We will approach the conference with the House on this issue with a single-minded determination. With their cooperation, the final agriculture package will be one that accomplishes the budgetary savings required in a reasonable and sensible manner.

Mr. DURENBERGER. Mr. President, today we will consider the bipartisan budget package that has been developed in conjunction with the President and the House and Senate leadership. Although this is far from a perfect package, it represents a fair compromise that I am willing to support.

As part of this package, the Senate Finance Committee fulfilled the commitment made at the budget summit to come up with a 2-year $23 billion package of tax increases as part of the $76 billion deficit reduction agreement.

The tax package ensures that next year's individual income tax rate cuts will go into effect on time. This maintains the commitment on tax rates that Congress and the President made to the American people last year. In order to fulfill that commitment, I fought against a proposal that would have extended the Medicare payroll tax to all earnings. I am pleased that the committee dropped that proposal.

I would be remiss however, if I did not point out that the tax package does not remedy many of the egregious mistakes that we made in the 1986 tax reform bill. The chairman of the Ways and Means Committee has made it impossible for us to pass this deficit reduction package along with a 600-page technical corrections bill within the 3-week time period remaining this year.

There are many tax provisions that I believe should have been included in this package. However, the committee faced the difficult choice of either adopting a clean stripped-down revenue bill, or risking the possibility that if it included certain revenue-losing provisions, the whole budget package would fall apart.

In my view, the committee made the correct choice in adopting a clean revenue bill. Had the committee failed to come up with a package, I think we would have risked throwing the world's markets into chaos. If we do not pass the budget package quickly, I think we run a serious risk of demonstrating a failure of congressional leadership that could damage our credibility in world financial markets.

Mr. President, this package is an achievement for which the distinguished chairman of the Finance Committee, Senator BENTSEN, deserves enormous credit. In spite of the very stressful and demanding budget deficit environment and weeks of tough negotiations, the leadership and the Finance Committee were able to preserve several basic principles in the package; make important public policy changes, while, at the same time, including provisions that would actually fund modest new programs.

The first principle the committee preserved was that there must be a higher operating cost update for rural hospitals. Since the beginning of the prospective payment system, rural hospitals have been paid less than their urban counterparts. This unfair payment system has contributed to their overall economic frailty. As all of us who represent rural America know, this part of America is still trying to recover from economic devastation.

Rural hospitals have had no other funds to fall back on to compensate for declining revenues, a shrinking tax base and changes in medical practices patterns. Their problems in some areas have reached crisis proportions. While we may not be able, or want, to keep open every hospital in America, we have an obligation and duty to preserve access to health care, especially in rural areas where a hospital may be the only access point. Without these facilities, life and limb are literally at risk. We cannot let that happen. This agreement helps to protect health care in rural America and this Senator is proud to be a part of that effort.

The second principle that the committee incorporated in this agreement is that policy changes are needed and we cannot let the burden of deficit reduction demands stop the Congress entirely from making programmatic and policy changes that are essential to continually improve Medicare and Medicaid. For example, this legislation includes a small rural hospital transition grants program that is aimed at some of the same rural problems described earlier.

The grant program would assist small rural hospitals in reviewing and assessing their services, in comparison to the community's needs, and help them revise their programs to more closely match the area's requirements. This will ultimately save Medicare money and improve the quality of service by making certain that key services are available, while unneeded ones are retired or consolidated with other health units.

There are also important expansions in Medicaid for covering low income children and pregnant women—an essential national investment—as well as great improvements in nursing home quality. In addition, of particular importance and urgency to this Senator, are beneficiary protections that will ensure that Medicare beneficiaries who choose HMO's will be protected from disenrollment and from being left without coverage if an HMO drops its risk contract.

The third principle the committee preserved was that providers under the Medicare Program who have had low fees for many years would not have their fees reduced at all, or to the same extent as providers whose Medicare fees are above the national median. This is an important issue of equity in the Medicare Program, where all reimbursement, which was designed originally to follow physician usual and customary payment patterns throughout the country, has repeated all of the inequities that existed at the beginning of the Medicare Program. Since the moderate fee physicians—many of whom are in rural areas—have in effect been undercompensated, relative to their peers for years, it seems particularly unfair to compound the inequities by cutting them by the same proportion as their better compensated colleagues.

There are many other very critical provisions in this agreement, which deserve mention, but time is limited. It is worth repeating that the leadership deserves the admiration of all Senators for the achievements represented here. The agreement is responsible, meets deficit reduction targets and makes needed social progress in some policies and programs. I urge my colleagues to support it.

TITLE VII—VETERANS' PROGRAMS

Mr. CRANSTON. Mr. President, as Chairman of the Veterans' Affairs Committee, I have submitted to the distinguished chairman of the Budget Committee [Mr. CHILES], by a letter dated December 3, 1987, three provisions to achieve savings in accordance with the summit agreement on deficit reduction. These provisions, included as title VII of the pending leadership package, are as follows:

WITHOUT-RECOURSE SALES OF VENDEE LOANS

First, the provision in section 2 of the recently enacted Public Law 100-136 which restricts the VA from selling vendee loans without recourse for less than the unpaid balance of the loan, that is, for 100 percent of par value, would be repealed.

Buyers of VA-acquired properties have two options available with respect to financing such purchases. They can pay cash—which they usually will obtain through a loan from a conventional lender—or, if they qualify under the VA's credit-underwriting criteria, the VA will finance the transaction and accept the buyer's promissory note—known as a "vendee loan." For the VA to sell a loan "with recourse" means that the sales agreement includes the VA's promise in the event of default to buy the loan back for an amount equal to the outstanding balance.

A provision to repeal section 2 was also included as section 405 of S. 9, the "Omnibus Veterans' Benefits and Services Improvements Act of 1987", as agreed to by the Senate on December 4 and passed in the form of an amendment in the nature of a substitute for H.R. 2616.

S. 1691, which was enacted as Public Law 100-136, was introduced by Senator MURKOWSKI and myself on September 16 in order to provide 90-day extensions of two provisions—the 1-percent loan fee and the provisions of section 1816(c) of title 38 establishing the "no-bid formula" for determining whether the VA acquires, or does not acquire, at a liquidation sale the property securing a VA-guaranteed loan that is in default—which had September 30, 1987, sunset dates established in section 2512(c)(2) of the Deficit Reduction Act of 1984 (Public Law 98-369).

Mr. President, S. 1691 was introduced as an interim measure, pending enactment of a comprehensive home loan bill, for the purpose of preventing a substantial hiatus in the collection of the fee, which both would have been inequitable to those required to pay the fee before and after the hiatus and would have jeopardized the solvency of the VA's loan guaranty revolving fund [LGRF]. Such a comprehensive bill has now been approved by the Congress, a compromise agreement on S. 1801/H.R. 2672, the "Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987", which was approved by the House on November 17 and the Senate on December 4 and is now awaiting the President's signature. Without the fee, there would be a need for additional appropriations—currently about $20 million per month—to pay the claims of the holders of defaulted VA-guaranteed loans.

On October 1, 1987—the day after the fee and no-bid provisions had expired—the House passed an amended version of S. 1691. The House-passed version provided, in lieu of the 90-day extension, a 46-day extension through November 15, 1987. It also contained a provision to prohibit the VA permanently from selling vendee loans without a repurchase agreement which would make the VA ultimately liable for a subsequent default by the new purchaser, that is, without recourse, unless such loans are sold for par value. The House committee leadership, during debate on S. 1691, indicated that if the short-term extension of the fee were not enacted they would not agree to reinstate it.

Although we were very reluctant to accept this House amendment, Senator MURKOWSKI, our committee's ranking minority member and I, reached the conclusion that it was necessary to do so in order to keep the 1-percent fee alive and perserve the solvency of the LGRF, which secures home loan guaranties. The Senate concurred in the House amendments on October 1, 1987. The President ultimately signed the bill on the last day—October 16, 1987. During this delay, the VA's LGRF lost approximately $10 million.

If the House provision had simply ensured that nonrecourse sales could be made only if the VA obtains fair value for the loans, I could probably have endorsed it. However, as I indicated when the Senate reluctantly accepted the amendment on October 1—in my statement beginning on page S13344 of the RECORD—I believe that it went too far in a number of respects.

The House provision has the effect of prohibiting the VA from selling vendee loans without-recourse. I do not believe such a permanent and rigid limitation on without-recourse sales is good public policy. There is nothing wrong with a without-recourse sale as long as the sale price of the loan is not greatly discounted from what the price would be if the loan were sold "with recourse".

Although I do not agree that an absolute prohibition of without-recourse sales is desirable, I certainly do share the House's concern that the LGRF must be protected against the administration's attempt to provide quick cash for one-time reductions of the budget deficit at the expense of the home loan program and the veterans who benefit from it and to use without-recourse sales as a means of privatizing the program.

It may be that, regardless of the marketing strategies used, the VA would be able to sell vendee loans without recourse only at unacceptable discounts. However, I do not believe that has been demonstrated solely on the basis of the VA's first attempt at such a sale. Rather, the VA—perhaps with the assistance of independent financial consultants familiar with such loans sales—needs to develop improved marketing strategies to carry out a fair test of the viability of such sales. Perhaps such methods as overcollateralizing loan sales or reinsuring them privately—both forms of recourse that may be less costly—should be tried by the VA as they were recently tried by the Farmers Home Administration in September.

Accordingly, in S. 1801/H.R. 2672 as passed by the Senate on October 30, Senator MURKOWSKI and I proposed and the Senate adopted an amendment—as section 16 of that bill—to repeal the House provision. We then endeavored to work with our colleagues on the House Veterans' Affairs Committee to seek a compromise which would allow without recourse sales where that would be to the benefit of the LGRF. Unfortunately, we were unable to reach such an agreement in the context of that legislation. I hope we can eventually find a solution that will address the concerns which have been raised in both bodies while allowing the VA to sell vendee loans without recourse when that would be in the best interest of the LGRF. However, our efforts to do this will be greatly impeded by the budget scorekeeping situation which has been imposed upon us by the Congressional Budget Office [CBO] and the Office of Management and Budget [OMB]: that is, that if the VA were to continue its prior policy of selling loans with recourse—the proceeds of which the CBO and the OMB have now decided should be treated as loans to the Government and not as receipts—the deficit would increase by about $1 billion. Hence, it appears that any formula we come up with that would be considered by the CBO or the OMB to result in any with-recourse sales would be scored as increasing Federal outlays.

Mr. President, the CBO estimates that, as measured against the Gramm-Rudman-Hollings [GHR] baseline, this provision would achieve savings in fiscal year 1988 of $611 million in outlays. According to the Senate Budget Committee staff's November 30, 1987, description of the Summit Agreement on Deficit Reduction, the savings in outlays would be $0.8 billion in fiscal year 1988 and $1.0 billion in fiscal year 1989.

LOAN FEE

Mr. President, the second provision in the veterans' programs title would extend the 1-percent VA loan fee for 2 years, through September 30, 1989. The fee extension also is included as section 13 of the compromise agreement on H.R. 2672/S. 1801, which is awaiting the President's signature. For more information regarding the background of and rationale for this provision, I would refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801. (S. Rept. No. 100-204, pp. 41-43)

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $165 million in fiscal year 1988 and $221 million in fiscal year 1989. According to the Budget Committee staff document describing the summit agreement, this provision would achieve savings of $0.2 billion each year.

VENDEE LOAN CEILING

Mr. President, the third provision in the veterans' programs title would generally increase during fiscal years 1988, 1989, and 1990, the proportion of acquired foreclosed properties which the VA is required to sell for cash rather than by vendee loans, from a minimum of 25 percent and maximum of 40 percent to 35 percent and 50 percent, respectively. This provision is included as section 6 of the compromise agreement on H.R. 2672/S. 1801. For more information on the background of and rationale for this provision, I would refer my colleagues to the more extensive treatment of this subject in the committee report on S. 1801 (pages 30-31) and my floor statement in the RECORD on December 4 on the compromise agreement on H.R. 2672/S. 1801 (S17385).

The CBO estimates that, as measured against the GRH sequestration baseline, this provision would achieve savings in budget authority and outlays of $83 million in fiscal year 1988 and $72 million in fiscal year 1989.

Mr. MATSUNAGA. Mr. President, will the distinguished senior Senator from Arkansas, chairman of the Subcommittee on Public Lands, National Parks and Forests, yield for a question?

Mr. BUMPERS. Certainly, I would be happy to yield to my good friend, the junior Senator from Hawaii.

Mr. MATSUNAGA. Am I correct in assuming that the pending legislation, as amended by the Senate Energy and Natural Resources Committee, codifies the current policy of the National Park Service which bans entrance fees for urban outdoor recreation areas with multiple entrance points?

Mr. BUMPERS. The Senator from Hawaii is correct.

Mr. MATSUNAGA. And is it not also the policy of the Park Service, at certain facilities, not to charge an entrance fee for those who are passing through the park in order to get to a distant point beyond the park, without stopping, where the most practical route necessitates that they do so?

Mr. BUMPERS. That is my understanding. Certainly, the National Park Service has the latitude under provisions of the bill under consideration to do so.

Mr. MATSUNAGA. I thank the chairman of the subcommittee for his clarification. Mr. President, I raise this point, because I have been concerned about how this particular piece of legislation would be implemented by the National Park Service at such facilities as Hawaii Volcanoes National Park, which lies between the city of Hilo on the Island of Hawaii and the island's western "Kona" coast. These concerns were somewhat allayed by a letter I received from Mr. William Penn Mott, Jr., director of the National Park Service, wherein he states, and I quote: "No charge is made for nonrecreational traffic on Highway 11," which is the main artery of travel between Hilo and Kona.

The letter further states "no fees will be charged for nonrecreational use of the park" and gives as examples of such users those who work or volunteer their time at the Volcano Art Center, a community-based facility located with a park concession, personnel assigned to the Kilauea Military Center located in the park, persons visiting residents in the park, and anyone needing access by park road to enter the Royale Gardens subdivision.

Mr. President, I believe the position of the Park Service in this regard to be an enlightened one—indeed, the only practical one, given the community situation at the Volcano National Park, and I am satisfied now that the pending legislation would allow such a position. But because of the great community concern prevailing in regard to the recent imposition of entrance fees, and the fact that we are poised here to make these fees permanent, I submit for the RECORD the letter from the Park Service so that the policy for implementing this particular piece of legislation be explicit in regard to Hawaii Volcanoes National Park.

UNITED STATES DEPARTMENT
OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC

Hon. MARK M. MATSUNAGA,
U.S. Senate, Washington, DC

DEAR SENATOR MATSUNAGA: The U.S. Senate is considering H.R. 1320, legislation to authorize new entrance fees at some areas of the national park system and increase entrance fees at others. We are currently operating an expanded entrance fee program under the FY 87 continuing resolution.

Under H.R. 1320, all the revenues collected will be returned to the national park system to enhance park operations. Under both the House and Senate bills, an estimated $500,000 will go directly back to Hawaii Volcanoes National Park in 1988. This will be a significant addition to the Park's $1.6 million operating budget. The money will be used for resource management, research, or interpretation.

Under a formula set up in the FY 87 continuing resolution, $175,000 returned to Hawaii Volcanoes National Park as part of the fee program. This enabled the park to hire 19 new employees and undertake many needed projects. These include:

1. Increased interpretation at eruption areas.

2. Youth Conservation Corps Resource Management Project.

3. Interpretive walks and talks.

4. Special ecological projects, preserving native vegetation.

5. Feral pig fence construction.

6. Preservation of historic old Volcano House.

7. Maintaining fountain grass control.

8. Hiring biological research technicians for fire pre-planning and fuel modeling.

9. Staffing the new geology museum at Kilauea Summit.

If H.R. 1320 is enacted and Hawaii Volcanoes National Park remains part of the fee program, the Park will have the ability to continue these worthwhile programs, and add new ones they have been unable to fund in the past.

The walk-in fee at Hawaii Volcanoes National Park is $2.00 per person with a limit of $5.00 per family, or $5.00 per car no matter how many passengers are in the car. The permit is valid for 7 days. For the local or frequent user, an annual park pass is also available. The pass costs $15 and admits the permit holder and any accompanying passengers in a private vehicle. Where entry is by other than private vehicle, the pass admits the permit holder, spouse, children, and parents.

There is no charge for children under 13, educational groups, persons 62 years of age and older, persons who are permanently blind or disabled. No fee is charged nor questions asked of those natives coming to the volcano for religious purposes.

No fees will be charged for non-recreational use of the park. This would include those who work or volunteer their time at the Volcano Art Center, persons assigned to the military facilities at KMC, persons visiting residents in the Park, and anyone needing access by park road to the Royale Gardens Subdivision. No charge is made for non-recreational traffic on Highway 11.

The effect of entrance fees is being monitored not only at Hawaii Volcanoes National Park but at all the fee sites to ensure that they are fair and equitable for all. Where fees are having a negative effect on one or more segments of the visiting public, you can be assured that we will make the necessary changes.

Thank you for your concern and the opportunity to clarify our fee program.

Sincerely,

WILLIAM PENN MOTT, Jr.,
Director.

MEMORANDUM

To: Charles Kinney.
From: Jim Martin.
Dated: July 9, 1987.
Subject: Wirth amendment to the Park Fees Bill (H.R. 1320).

Tom Williams of the Public Lands Subcommittee of the Energy and Natural Resources Committee suggested that I forward to you a copy of an amendment that Tim Wirth proposes to offer to H.R. 1320. We have worked with both the minority and majority staff of the Committee in drafting this amendment.

The purpose of the amendment is to provide a mechanism for mitigating the offsite impacts to fish, wildlife, watersheds, and other natural resources associated with development and operation of winter sports sites on National Forest System lands. The amendment will dedicate the permit fees paid by owners of the winter sports sites to mitigate and enhancement of natural resources on the National Forests, without necessity for further appropriation. (This provision is similar to the other provisions of this bill, which make available to the national park system the funds collected from entrance and campground fees.) The Wirth amendment does not change the Forest Service's management of the national forest system lands.

SECTION —

At the appropriate place in the bill, add the following new section:

SEC. . FISH AND WILDLIFE, RECREATION, AND OTHER NATURAL RESOURCE ENHANCEMENT FOR WINTER SPORTS SITES.

(a) That portion of the receipts collected from permits issued for the development and operation of winter sports sites on National Forest System lands that would otherwise be credited to miscellaneous receipts of the Treasury shall, notwithstanding any other provision of law, be deposited into the special account provided for by this section and shall be subject to the terms and conditions applicable to such account.

(b) Notwithstanding any other provision of law, amounts covered into the special account from such permits during each fiscal year shall be available for obligation or expenditure by the Chief, Forest Service, United States Department of Agriculture (hereinafter referred to as the "Chief") for the protection and enhancement of fish and wildlife habitat, recreation, and other natural resources. Amounts covered into the special account during each fiscal year from this source shall be allocated among National Forest System units in accordance with subsection (c) in the first fiscal year after the year in which such funds are covered into the special account. Accounts allocated to a unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

(c) Notwithstanding any other provision of law, the amounts covered into the special account of the Forest Service from this source shall be available for obligation and expenditure by the Chief to be used in such fiscal year for mitigating and enhancing fish and wildlife, recreation, and other natural resources affected, directly or indirectly, by the development and operation of winter sports sites located on units of the national forest system. To the extent possible, the Chief shall allocate funds from this source among units of the National Forest System in such a way as to reflect the contribution to the special account from each unit of the National Forest System.

(d) If the Chief determines, after opportunity for public comment, that all or a portion of the funds covered into the special account are not needed for mitigation and enhancement of fish and wildlife, recreation, and other natural resources affected by winter sports sites, the Chief may use the available funds for mitigation and enhancement of fish and wildlife, recreation, and other natural resources within any unit of the National Forest System: Provided that no more than 20 per centum of the funds available under this subsection may be expended or obligated for expenditure in any one state.

(e) Except as expressly provided herein, nothing in this section shall be construed to affect the management of the National Forests.

CRISIS IN RURAL HEALTH CARE

Mr. HEFLIN. Mr. President, there is a crisis in America's rural communities, a crisis regarding access to quality health care services. The primary focus of many communities' health care, the rural hospital, is in jeopardy of disappearing.

These are hard times for rural America. We have in our part of the country a growing number of the poor, the unemployed, and the elderly. These people depend on their community hospitals. The elderly population in particular is known to absorb a significant amount of health care services. But if these rural hospitals don't get some relief from economic pressures confronting them, they may not be around much longer.

Rural hospitals are the key to a strong rural health care system. In addition to basic acute care, these hospitals are often the locus in their community for home health services, respite care, nursing care, preventive health and well-child clinics, and other health services. They are essential to attracting and retaining physicians and other health professionals in rural areas. Moreover, in most small towns, the local hospital is more than a place to receive health care. The rural hospital is usually among the largest employers in their communities. The local hospital many times acts as the anchor in a community which assures industries that an area is suitable for economic development.

Unfortunately, however, there is growing evidence that rural health care is under severe strain. Many of the Nation's rural hospitals are struggling with inadequate Medicare and Medicaid reimbursement, Federal cost-cutting initiatives, declining admissions, and an increasingly competitive health care environment.

Inadequate reimbursement granted to hospitals for Medicare patients can ultimately raise concerns about quality and access to health care as reduced payment rates force hospitals to cut down on staff and close unprofitable services. This is particularly troublesome for rural hospitals. The possibility of numerous closures is becoming a reality across the country.

Data from the American Hospital Association [AHA] indicate that many of the 2,700 rural hospitals in this country are in severe financial distress; some to the point of anticipated closure. The problem is most severe among small hospitals with less than 50 beds. These facilities serve nearly 95 million people. About 345 of them are their communities' sole source of health care. If one of these facilities were to close, the residents would be greatly disadvantaged in their access to needed health services.

Mr. President, in my own State of Alabama, 70 of the 144 hospitals are rural. The majority of these rural hospitals have less than 50 beds. In addition to having fewer beds, these hospitals treat a higher percentage of patients who are elderly, people whose illness tend to be more acute, resulting in more costly care. The volume of this type of patient, coupled with the intensity of care required, in turn makes these hospitals much more dependent on the Medicare system for their survival than other hospitals.

In Alabama alone, it is estimated that 12 hospitals will be forced to close their doors over the next year. Ten of those hospitals are located in rural areas. Six additional hospitals have indicated that unless their circumstances dramatically improve they will be out of business by 1988. Those institutions represent nearly a quarter of the rural hospitals in Alabama.

A similar picture is developing nationwide. From 1980 to 1985, of 214 hospitals that closed, 86 were rural. In 1985, there were 49 closings; urban closings slightly outnumbered rural, 28 to 21. But in 1986, 71 community hospitals closed—more than in any other year of this decade—52 percent of these hospitals were in rural areas. Hospitals with fewer than 100 beds accounted for 83 percent of 1986 closures.

Another alarming fact: data from the Alabama Hospital Association indicate that their members located in rural areas experienced an operating loss of 2.44 percent in 1986. In fact, 75 percent of the hospitals in Alabama experienced a loss during that time period; only 25 percent had any kind of operating margin at all. Net income from patients in Alabama hospitals, based on income statements included in Medicare cost reports which were filed by 119 hospitals in the 1986 calendar year, was 1.21 percent of gross patient revenue. Only 48 of the 119 Alabama hospitals analyzed earned an operating profit while 71 incurred net operating losses. The fact is, the average Alabama hospital incurred a loss from services to patients of 3.52 percent for it's 1986 fiscal year.

According to the Prospective Payment Assessment Commission [PROPAC] in its February 1987 annual report to Congress, more than 25 percent of small rural hospitals ended their first prospective payment system [PPS] fiscal year—fiscal year 1984—in the red. The urban margin was a full 7 percent higher than the rural margin. Over one fourth of rural hospitals incurred losses under the system, while few urban hospitals had losses. The hospital which, as an aggregate, had the lowest operating margins, and tended to go into the red most frequently, were those hospitals with less than 50 beds. Of those hospitals, 10 percent had an operating margin deficit of as much as 18.4 percent. The Commission stated in their report: "Financial difficulties of rural hospitals deserve continued attention, especially small rural hospitals, which had the highest proportion of PPS losses of any hospital group."

There are a variety of reasons for the precarious situation in which our rural hospitals find themselves. As compared to their urban counterparts, rural hospitals tend to be smaller, have fewer patients, lower costs, fewer specialized areas, and often serve a population older than average. Rural hospitals treat fewer private-paying patients and treat a disproportionately high percentage of Medicare patients. The dependence on Medicare as a major payment source has become a particular concern since the implementation of the prospective payment system [PPS] in October 1983.

Under PPS, hospitals are paid a fixed price for hospital care provided to Medicare patients based on 468 diagnosis-related groups. However, rural hospitals are paid lower rates than urban hospitals, usually 20-35 percent less, but sometimes as much as 50 percent less. The rationale behind the different rates is that, on average, hospital services provided by rural hospitals cost less than hospital services provided by urban hospitals because urban hospitals often treat sicker patients than rural hospitals.

A payment system like PPS, which is based on averages, just doesn't work for rural hospitals. The system discriminates against these hospitals by paying lower rates for an inpatient service in a rural hospital than paid for the same service in an urban hospital. Because of their small size and the large number of Medicare beneficiaries these hospitals are unable to be compensated adequately for the low Medicare payment provided for each case. They cannot adjust easily to fluctuations in inpatient admissions or case mix, whereas larger hospitals can average the fluctuations from year to year and over many cases.

For small rural hospitals, which tend to operate closer to the margin, these fluctuations can be devastating financially. Because about two-thirds of rural hospital patients are Medicare patients nationwide, compared to about one-third for urban hospitals, rural hospitals are doubly at risk when the payment system fails to compensate them adequately for their special circumstances or when inequities in payment policies exist. Clearly, the implementation of the Medicare PPS has had a tremendous impact on rural institutions.

When the Medicare PPS was enacted, we were not aware of many of the differences between rural and urban hospitals that might adversely effect the financial viability of one group. Since that time, we have made several modifications in the payment formula which have somewhat lessened the severity of the payment differential between urban and rural hospitals. More must be done however, especially on the issue of an adequate and equitable payment increase for fiscal year 1988.

Congress is currently debating the amount of payment increase hospitals will receive from Medicare for fiscal year 1988. I am pleased that the Senate Finance Committee has approved a budget package that includes a payment increase to rural hospitals of 3.7 percent effective January 1, 1988. This is quite an improvement over the rate of increase recommendations made by the administration.

Under current law, both the Secretary of Health and Human Services [HHS] and the Prospective Payment Assessment Commission [PROPAC] are required to report to Congress with their recommendations for an appropriate fiscal year 1988 payment increase. The Secretary recommended an increase of 0.75 percent for PPS hospitals and 1.9 percent for PPS-exempt hospitals. However, PROPAC, a nonpartisan panel of healthcare financial experts, recommended increases of 2.2 percent for urban hospitals, 3.0 percent for rural hospitals, and 4.4 percent for PPS-exempt hospitals.

The Senate budget package contains a number of other provisions that will go far in ensuring that rural hospitals get their fair share of Medicare funds. The package directs that: the Health Care Financing Administration [HCFA] must issue explicit criteria for issuing a volume adjustment for sole community providers; HCFA must publish an impact analysis of any Medicare or Medicaid regulation that affects rural hospitals; HHS must establish an Office of Rural Health Policy to advise Congress on the effects of current and proposed policies on rural hospitals; HCFA must set aside at least 10 percent of research funds for projects related to rural health issues; PROPAC must report on the feasibility of phasing out separate PPS rates for rural and urban hospitals; HCFA must study revisions in the PPS wage index to better account for variations in each hospital's occupational mix; and HHS is to report whether or not rural hospitals are getting their fair share of outlier payments.

The Senate budget package also provides that the eligibility threshold for rural referral center status under PPS would be reduced to 3,000 discharges per year (from the current criteria of 5,000 annual discharges) for rural hospitals with a case mix index that exceeds both the regional and national medians for urban nonteaching hospitals.

The Senate budget package will also allow certain rural counties bordering on cities to be determined as part of the urban area for purposes of Medicare reimbursement. Those rural counties from which at least 15 percent of workers commute into all adjacent Metropolitan Statistical Areas [MSA's] or at least 20 percent of workers commute in either direction from all adjacent MSA's will be considered an outlying county of the MSA of choice. This particular provision will help seven hospitals in Morgan and Lawrence Counties, AL to qualify for the higher urban rate rather than the lower rural rate.

Another critical issue faced by our rural hospitals is the recruitment and retention of qualified physicians, mostly generalists and family practitioners. Although the total number of U.S. physicians may be sufficient for the Nation, there are shortages in many rural areas. Studies have shown that when a small, rural hospital closes, the community often loses its physicians and has difficulty attracting new ones because doctors often will not practice in an area without a hospital. Many rural hospitals contend that they must pay as much for qualified hospital staff as do nearby urban hospitals since they both draw from the same geographic labor pool. Rural hospitals in remote areas argue that they sometimes must pay higher than normal salaries to attract specialized staff such as intensive care nurses to their community. This intensifies the problem of making health care services locally accessible.

The Senate budget package calls for a payment increase for physician services rendered in underserved rural areas after January 1, 1989. An additional payment of 5 percent would be added to the amount Medicare pays the physician, if the physician accepts Medicare assignment on the claim. I believe that these payment incentives represent a good start in helping hospitals in rural areas attract and retain qualified health care personnel and in preserving access to health care by Medicare beneficiaries.

While these provisions offer some relief, serious shortcomings in the system remain. The diagnosis related grouping [DRG] payment system is inadequate in terms of volume fluctuations, the discrepancy between urban and rural rates, the updating factor, an outlier policy, and access to post-acute services. Despite special treatment, sole community provider hospitals remain at risk; changes in costs related to case mix need to be recognized as does admissions declines, and modifications in community demand. As solutions are applied to these problems, they must recognize the burdens of administrative paperwork and cash flow for small, rural hospitals.

There are several provisions under current law which recognize the special characteristics of rural hospitals. Changes included in the Sixth Omnibus Budget Reconciliation Act of 1986 (SOBRA, Public Law 99-509) went further in addressing the special needs of rural hospitals. These provisions offer some relief, but more can and must be done if the restructuring of health care in rural areas is to proceed in a manner that offers the potential to contain costs, but still provide reasonable access to adequate health care by all Medicare beneficiaries regardless of where they reside.

In conclusion Mr. President, small, rural hospitals have responded to the changes in the health care financing system in many ways. To cut costs, they have closed unused beds, laid off unnecessary staff, reduced the time patients are hospitalized and increased outpatient services. However, many small, rural hospitals will have difficulty making further cuts without reducing necessary services. Hospital budgets have already been cut so slim that continued demands for cost reductions could affect quality of care. Cost-cutting alone is not the answer to long-term financial viability for rural hospitals.

There is no one strategy or solution to these problems. Provisions of the Senate budget bill are necessary and will be of help. However, foremost in our minds should be the need to study equity concerns of small or rural hospitals with respect to the Medicare prospective pricing system and other financial constraints that inhibit such hospitals' ability to provide needed health care services to their communities. PROPAC recommended that "Medicare payment policies need to be thoroughly evaluated to ensure that they do not inadvertently place rural hospitals at a disadvantage and jeopardize access to hospital care for Medicare beneficiaries."

Action is needed now to alleviate the current crisis in our rural health care industry—a crisis that threatens the viability of many of our rural hospitals. Further adjustments to the system must be made to build upon current law and further address the needs of rural hospitals. We must do all that we can to insure that our citizens in rural communities will have access to these services in the future.

AN ADMIRABLE BEGINNING

Mr. PROXMIRE. Mr. President, I am going to support the leadership package. It is not perfect, but no budget package will ever meet that test. It will, however, give us some time, and right now that is what we need.

What do I like about this package? First of all, it is enforcable. The numbers in this package stand a reasonable chance of being accurate. Most budgets we deal with are filled with false hopes and assumptions. They are pious declarations of intent. This package goes beyond intent and contains some binding limits on defense and domestic spending.

Second, those limits are good for 2 years, and will last through 1988, an election year. During an election year, the administration and Congress have an unfortunate habit of passing a supplemental money bill during the spring of an election year. This bill is filled with "goodies" for those facing a tough election or those who sit on the "right" committees. Under the terms of this agreement, passing such a supplemental will take 60 votes in the Senate. That will not be an easy task, even during an election year.

Third, this agreement is fair. It increases taxes, a little. It reduces defense spending, a little. And it cuts projected domestic spending, again a little. Taxes go up by $23 billion, defense takes a $13 billion reduction, and discretionary domestic spending is reduced about $9 billion.

Fourth, this amendment leaves Social Security alone. This Senator is unalterably opposed to using a mercilessly regressive payroll tax—to pay for Social Security and nothing else—to balance the budget. This tax is already running a $38 billion surplus. Without it, the deficit in 1988 would be $38 higher. Is that not enough of a contribution for Social Security to make? Under these circumstances we should not fundametally change the nature of the most successful social program the Federal Government has ever developed.

What do I dislike about this amendment? It does not make enough of a reduction in the deficit. Some have argued that to reduce the deficit more we must cut Social Security payments. What a red herring. Suppose the administration had offered the Congress the following challenge: We know, and you know, that the domestic budget contains a lot of pork. We have identified over 40 programs which on objective evidence should be eliminated. Here's the challenge: For every $1 the Congress is willing to cut from these programs, we—the administration—are willing to cut an equal amount from defense.

Freezing the Social Security COLA for 1 year would save about $6 billion in 1988. Merely eliminating the domestic programs identified by the administration would save $4 billion. If that could be matched on the defense side, we would have a savings of about $8 billion—$2 billion more than a COLA freeze. The deficit would be lower, and the budget would be a more efficient, equitable document.

Mr. President, this Nation is going to face a recession sometime in the future. This package will delay that day of reckoning. It is this Senator's hope that after the 1988 election, a new administration and a new Congress will be able to do more, and that the economy will give us that amount of time.

Mr. SHELBY. Mr. President, I rise today to join my colleagues in the debate of the Budget Reconciliation Act. I would like to commend the Senate Finance Committee on their refusal to join with the House of Representatives in several provisions that will wound corporate America.

Specifically, I disapprove of the provision in the House Ways and Means package which would limit the interest deduction for debt incurred in connection with a corporate acquisition. This provision would render uneconomic hundreds of friendly acquisitions that save and create jobs. This would impact companies that are not only contributing to the real economic growth in this country but also providing vital national services and products.

Consider for example, Kinder-Care Learning Centers, today a very successful national chain of daycare centers. This concern is relatively young and its incredible success and broad expansion is in part due to tax laws that encourage such growth. The provisions in the House tax reconciliation package would discourage future success stories of this type.

Another objectionable provision is that that would change the tax treatment of the market discount on taxable and tax-exempt bonds. This House provision would force investors to pay an immediate tax on gains they may never receive. It could cause a massive drop in bond prices, potentially costing investors billions of dollars.

The most incredible consequence of this bill is that it would force the Federal Government, industrial companies, and municipalities to pay higher coupon rates to investors to compensate them for the accelerated tax liability. Our economy would not benefit from increasing the cost of capital for growth companies and it is ludicrous to increase the Federal cost of borrowing in a deficit reduction bill.

Finally, I believe that the provision which would reduce the dividends received deduction to 75 percent and deny it outright to most classes of preferred. This would wipe out the ability of American companies to issue preferred stock, which is an important way to raise capital for many industrial, financial, and utility companies. Our companies need flexibility and creativity at their disposal to beat foreign competitors. It is counterproductive to increase their cost of capital and limit their flexibility.

In short, I oppose these shortsighted provisions that the House included in their tax bill. I commend my Senate colleagues for their wisdom in refusing to do the same and I urge them to hold firmly to this position in conference.

Mr. BRADLEY. Mr. President, I am pleased that the Senate is acting to make selected cuts to meet the Gramm-Rudman targets rather than let across-the-board cuts take effect. I do not support each and every provision in this reconciliation bill, but it is clearly better for the country than the across-the-board cuts mandated by Gramm-Rudman. The bill will reduce the 1988 deficit by roughly $24 billion and the 1989 deficit by roughly $28 billion. When the continuing resolution is adopted, total savings from these two bills will equal $34 billion in 1988 and $46 billion in 1989.

Mr. President, there are many sizable budget reductions included in the bill now before us. For example, funding for urban hospitals will be cut significantly. And reimbursement for laboratory services and various medical procedures is cut dramatically. But this bill also contains a number of provisions that I believe will improve our health care system in New Jersey and the Nation.

First and foremost, Mr. President, this bill contains the key components of S. 422, the Infant Mortality Amendments of 1987, which Congressman WAXMAN and I introduced earlier this year. The bill before us allows States to provide health care under the Medicaid program for potentially 350,000 more pregnant women and almost 800,000 mothers and their infants up to age 1. It does so by expanding the Medicaid eligibility limits and enabling States to charge a monthly premium of $5 to families with incomes between 130 and 160 percent of the Federal poverty level. In addition, this bill gives health care to children up through the age of 6 who are poor enough to meet the aid to families with dependent children [AFDC] income and asset standards, but who are not eligible for AFDC payments for other reasons. States would be given the option to provide their coverage to children through age 8.

Mr. President, we frequently talk about the chain of problems facing our poor. We also know how critical prenatal care and pediatric care for infants is to growing up healthy and strong. Inadequate prenatal care frequently results in low-birth-weight infants. If these low-birth-weight infants survive, they experience a much higher rate of health problems in the future. If ever there was a place for us to intervene, this is it. We can have an impact on our citizens, giving them a chance to be the best they can be from the very beginning. The human costs and the dollar costs are too high, not to extend prenatal care and health services to pregnant women, infants, and young children.

Second, Mr. President, this bill contains a number of home-care quality provisions from S. 1076, the Medicare Home Health Services Improvement Act. Very little attention has been placed at the Federal level on the quality of care that home-care agencies provide. The evaluation of quality of care has focused on the home-care agency's organizational form, its facilities and equipment, its staff's credentials, and its fiscal management. These standards tend to measure an agency's capacity to deliver services rather than the quality of the services actually provided. In addition, Medicare conditions of participation contain no home health aide training or proficiency. Home health aides are unlicensed workers who provide homemaker, personal support, companion, and other health-related services to home-care patients. Despite their wide range of responsibilities, these providers often receive litttle or no formal training.

The provisions in this bill would strengthen Federal quality monitoring by requiring HCFA to establish a revised certification survey that focuses on the quality of patient care and the effect of that care on the patient. This would ensure that the capacity to deliver care actually translated into the provisions of high-quality care. Rights for home-care consumers would be established and quality monitoring surveys of home-care agencies would be conducted annually and unannounced. Intermediate sanctions for poor quality would also be established, including civil fines and denial of Medicare reimbursement for future Medicare patients.

In addition, States would be required to establish hotlines for receiving consumer complaints about home care as well as a central authority to investigate complaints. This authority would have enforcement powers and access to consumer medical records and survey reports. The appeals of denials of coverage for home care would also be expedited. Finally, employees of home-care agencies, including home health aides, would be required to complete a training program that is approved by the Secretary of HHS. The bill also requires HCFA to make public all of its homecare policies so that home-care providers and consumers can better understand HCFA's coverage policies.

Mr. President, a third key provision increases the number of children that can be served under the Model Waiver Program. Section 2176 of the Omnibus Budget Reconciliation Act of 1981 enabled States to seek waivers to furnish home and community-based services to individuals who otherwise would be institutionalized. There are two types of waivers for which States may apply; the regular waiver, which is primarily for the elderly and disabled, and the model waiver request. The model waivers attract the most severely disabled individuals, those who do not meet the eligibility and service requirements of regular waivers; a large percentage are severely disabled children who should be discharged from hospitals if services could be made available in the home.

When the model waiver was developed, each State was limited to granting services to 50 persons. This is clearly too low a level; model waivers are frequently filled in some States, including New Jersey. I am pleased that this bill requires HCFA to raise the 50-case maximum to 200. States would still have the option of serving less. This would allow States like New Jersey to expand existing successful programs without added administrative costs.

Finally, Mr. President, the bill before us provides an exemption from Federal regulations that would have prevented the State of New Jersey from operating a health maintenance organization. The exemption is necessary to enable the State to receive Federal Medicaid matching funds, thereby allowing continuation and expansion of the Garden State Health Plan, which provides cost-efficient quality health care to low-income New Jerseyans.

It is anticipated that within a year the Garden State Health Plan will expand to serve 20,000 New Jerseyans and double to 40,000 recipients within 2 years. New Jersey will receive an estimated $10 million in Federal funds next year for the project.

Medicaid recipients often have trouble receiving health care services. The Garden State Health Plan will improve access to health services while still maintaining a high level of quality care. Since HMO's can provide care in a cost-effective manner, it is anticipated that this program will save the Federal and State government about $5 million next year.

In sum, Mr. President, the bill before us reduces the deficits and shifts funds from lower priority programs to higher priority programs. It includes several key initiatives that I believe will improve our health care system. I urge support for the legislation.

SOYBEAN MARKETING LOAN

Mr. HEFLIN. Mr. President, I am very pleased that a Marketing Loan Program for soybeans is included in the agricultural portion of this budget reconciliation package. This program is not a totally new program. In 1985, I sponsored an amendment to the farm bill which granted the Secretary of Agriculture authority to implement a marketing loan for soybeans. This amendment was adopted and became a part of the Food Security Act of 1985. My amendment gave discretionary authority to the Secretary of Agriculture to implement the marketing loan for soybeans. Thus far, the Secretary has refused to exercise that authority despite the overwhelming evidence of the merits of a Marketing Loan Program as shown by the cotton and rice marketing loans.

The marketing loan language included in this package would require the Secretary of Agriculture to implement a marketing loan for the 1988 and 1989 crops of soybeans. Amendments to existing law to accomplish these changes are contained in the package. Thus with these changes the section would contain the following:

TITLE VIII—SOYBEANS

SOYBEAN PRICE SUPPORT

SEC. 801. Effective only for the 1986 through 1990 crops of soybeans, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) inserting "soybeans," after "tung nuts," in the first sentence; and

(2) adding at the end thereof the following new subsection:

"(i)(1)(A) The Secretary shall support the price of soybeans through loans and purchases in each of the 1986 through 1990 marketing years as provided in this subsection.

"(B) The support price for the 1986 and 1987 crops of soybeans shall be $5.02 per bushel.

"(C) The support price for each of the 1988 through 1990 crops of soybeans shall be established at a level equal to 75 percent of the simple average price received by producers for soybeans in the preceding 5 marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the level of price support may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel.

"(2) If the Secretary determines that the level of loans or purchases computed for a marketing year under paragraph (1) would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the level of loans and purchases for soybeans for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for soybeans, except that the level of loans and purchases may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel. Any reduction in the loan and purchase level for soybeans under this paragraph shall not be considered in determining the loan and purchase level for soybeans for subsequent years.

"(3)(A) The Secretary may for each of the 1986, 1987 and 1990 crops of soybeans, and shall, for each of 1988 and 1989 crops of soybeans, permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the prevailing world market price for soybeans, as determined by the Secretary.

"(A) The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for soybeans; and

"(ii) a mechanism by which the Secretary shall periodically announce the prevailing world market price for soybeans.

"(4) For purposes of this subsection the soybean marketing year is the 12-month period beginning on September 1 and ending on August 31.

"(5)(A) The Secretary shall make a preliminary announcement of the level of price support for soybeans for a marketing year not earlier than 30 days before the beginning of the marketing year. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(B) The Secretary shall make a final announcement of such level as soon as complete information and statistics are available on prices for the 5 years preceding the beginning of the marketing year. Such final level of support may not be announced later than October 1 of the marketing year with respect to which the announcement is made. The final level of support may not be less than the level of support provided for in the preliminary announcement.

"(6) Notwithstanding any other provision of law—

"(A) the Secretary shall not require participation in any production adjustment program for soybeans or any other commodity as a condition of eligibility for price support for soybeans;

"(B) the Secretary shall not permit the planting of soybeans for harvest on reduced acreage or acreage set aside or diverted from production under any other Federal Government program;

"(C) the Secretary may not authorize payments to producers to cover the cost of storing soybeans; and

"(D) soybeans may not be considered an eligible commodity for any reserve program.".

Mr. President, let me emphasize that this budget reconciliation package does not alter the soybean loan rate as established by the Secretary of Agriculture. Let me also emphasize that this package does not change or alter the loan floor of $4.50 per bushel as set forth in section 201(i)(1)(C) of this title. The loan floor remains intact.

Under the marketing loan, farmers who take out a Commodity Credit Corporation loan on their soybeans will have the option of repaying the loans at either the loan rate or the prevailing world market price, whichever is lower. Obviously, if the world market price is above the loan rate, farmers will choose to repay their loans and sell their crops into the market for the higher price.

In the event world market prices are depressed, the Marketing Loan Program will prevent our loan program from becoming a floor under world prices. Today, the Soybean Program, with its nonrecourse loan, serves as a protective guaranteed price umbrella for foreign competitors which is encouraging tremendous soybean production overseas. This situation is hurting soybean farmers throughout the Nation.

With a marketing loan, U.S. soybeans will be available on the world market at the same price as that offered by foreign competitors. No longer will American soybean farmers be the supplier of last resort during times of surplus and depressed prices.

Soybean farmers all across the Nation want and need a marketing loan. During the past years they have seen U.S. soybean acreage decline by over 17 percent from 71.4 million acres in 1979 to only 58.7 million acres in

1987. During this time, when U.S. soybean acreage has declined by over 12 million acres, soybean acreage outside the United States has expanded by over 15 million acres.

U.S. soybean acreage has declined because of the low soybean prices that have characterized most of this decade, because of the higher income protection afforded other U.S. crops, and because of the Conservation Reserve Program.

Soybean production outside the United States has expanded because of the protective umbrella afforded them by the U.S. Non-Recourse Soybean Loan Program. Under our current Non-Recourse Loan Program the Commodity Credit Corporation effectively prevents cash soybean prices here and around the world from falling below our loan rate. It does this by assuming ownership of all soybeans placed under loan in the United States that are not redeemed by farmers because cash soybean prices are below the cost of the redeeming the soybeans from the loan.

Thus, the United States effectively becomes the world's storehouse for all surplus production while our foreign competitors sell their soybeans onto the world market.

Soybean farmers in South America absolutely love our current Non-Recourse Soybean Loan Program because it limits their downside price risk. They know the U.S. Non-Recourse Loan Program will keep world prices from falling below the loan rate. Because of this protection, farmers in Brazil and Argentina can invest the money necessary to clear pastureland to plant soybeans without the risk of world market prices falling below their break even price.

In fact, because of the South American soybean harvest occurring roughly 6 months after our harvest, our loan program has the effect of guaranteeing South American farmers a higher price than it does our farmers. This is a classic example of an ineffective, misguided, and destructive U.S. policy.

A marketing loan for soybeans will change and improve this situation. Under a marketing loan the Commodity Credit Corporation will no longer assume ownership of our soybeans during periods of oversupply and low prices. Instead, farmers will take out a CCC loan on their soybeans, repay the loans at the world price, and sell the soybeans into the world market. Our farmers will receive the income protection of the loan rate but our soybeans will be exported rather than stored. No longer will Brazilian and Argentine investors have the benefit of United States price protection to reduce their risks. No doubt the higher risk will cause many South American investors to seek a less risky place to invest their money than in soybean production. Instead they will have no protection and assume all of the risks of the volatile world market.

I anticipate that the Soybean Marketing Loan Program will help the United States compete head to head with foreign producers and help regain U.S. market share. I believe that it will come to the aid of the U.S. soybean farmer. And, I am hopeful that it will once and for all take the U.S. Government out of the soybean storage business.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, one of the most controversial and, in my view, questionable revenue raisers in the leadership deficit reduction package is the one which requires employers to pay Social Security or FICA taxes on tips received by employees. It seemed to be with great reluctance that this provision was included and only when it became clear there were no other tax increases the administration would accept or the Finance Committee could agree on at that time.

Nevertheless, I believe, as do many of my colleagues, that the FICA tax on tip income is bad tax policy and bad budget policy. How can it be fair or proper policy to assess an employer payroll tax on nonpayroll income? This is income received directly by an employee from a customer. The employer has no control over the amount of this income or whether it is even reported as income by the employee. Past legislative history has recognized this and specifically excluded tip income from the definition of wages subject to employer-paid Social Security tax.

Furthermore, Mr. President, how can it be proper budget policy for the Senate to be raising Social Security taxes for the purpose of reducing the overall Federal budget deficit? These funds are not needed for the Social Security Program. If they were, we might have considered this issue when we wrote the Social Security Amendments of 1983. But we did not. What we are doing here is no different and no better than cutting selected Social Security benefits in order to cut the deficit in the operating funds of the Federal Government.

Under normal circumstances, which don't seem to exist around here this year, raising Social Security taxes in a budget reconciliation bill would subject the whole package to a point of order.

Mr. President, my purpose here is not to try to cause parliamentary problems or any other difficulty for this deficit reduction exercise. It is of utmost importance that we pass this bill, and I especially want to commend Senator BENTSEN for his effective leadership in fulfilling the Finance Committee's obligations under terms of the budget summit agreement.

I would like to inquire of the chairman, however, if he would consider a strategy in conference where he might be willing to drop the FICA tax on tips provision if other revenue increases, possibly from the House package, can be adopted in its place.

Mr. BENTSEN. Mr. President, I want to thank the Senator for raising this difficult issue. He is correct that the FICA tax on tips was one of the more controversial issues during our markup session and we were all reminded of this many times by our restaurant industry constituents.

Putting aside further discussion of the merits of this tax, let me point out that the reconciliation bill passed by the House also contains a FICA tax on tips provision. Unless the House conferees were willing to back away from their position it would be extremely difficult to change it at this time. However, I surely would not preclude making appropriate changes in the provision if that is the prevailing sentiment among the House and Senate conferees.

Mr. CHAFEE. Mr. President, I thank the chairman of the Finance Committee for his willingness to reconsider this issue, and I know the restaurateurs in his State would be as grateful as those in mine if we could accomplish some changes here.

As the chairman well knows, restaurateurs have been subject to a number of adverse tax changes in recent years, including the cumbersome tip reporting system and the 20-percent reduction in the business meal deduction. Furthermore, it strikes me as completely inequitable for the Government to attribute tip income to the employer for payroll purposes, but deny that it is wages or remuneration for employment for purposes such as meeting the requirements of the minimum wage. The Government ought not to be able to play heads, I win, tails you lose with its laws.

Restaurateurs who are mostly smaller, independent operators, will be forced to change payroll accounting for possibly millions of employees when this legislation takes effect 3 short weeks from now. The National Restaurant Association tells me it could cost a medium-size restaurant over $10,000 a year to pay this new tax. With many companies midway through their fiscal year and with such a short time between congressional action and the January 1 effective date, it would seem reasonable at a bare minimum that we delay the effective date if we can't find a way to drop it altogether.

I thank the chairman for his consideration of this issue and urge him to pursue whatever options are available to him to convert this situation.

Mr. RIEGLE. Mr. President, I would like to engage the distinguished Chairman of the Finance Committee, Mr. BENTSEN, in a colloquy.

Mr. President, the mortgage credit certificate (MCC) program was enacted by Congress in 1983 to complement the mortgage revenue bond (MRB) program in assisting first-time buyers. Like MRB's, MCC's are issued by State and local housing agencies to provide financial assistance to first-time home buyers. With an MCC, a homeowner may take a credit each year against his or her liability for a portion of the mortgage interest. Lenders view this credit as additional income and are thus able to lower the income level required for a borrower to qualify for a home.

Since their introduction, my home State of Michigan has achieved great success in the use of mortgage credit certificates. Among the other States to have experimented with the program is the chairman's home State of Texas. In Michigan, we are now approaching our volume cap of $50 million in what was originally thought to be a pilot program. These certificates have been serving households with average incomes of $22,000 and now operates through 80 lenders in Michigan.

Mr. President, this summer I introduced legislation to extend the mortgage revenue bonds and mortgage credit certificate programs through 1992. At that time, it was my impression that both of these programs had been extended last year by the 1986 Tax Reform Act through December 31, 1988.

Unfortunately, it was discovered that because of a typographical error in the final 1986 act language, only the mortgage revenue bond program had been extended, and that because of the omission, the mortgage credit certificate program is statutorily scheduled to sunset at the end of this year. The technical corrections to the 1986 act (S. 1350) corrects this error and extends MCC's to December 31, 1988.

The distinguished chairman can understand my concern that the mortgage credit certificate program is about to expire and the technical corrections bill which takes care of my concern is not included in the leadership deficit reduction proposal. I would simply ask the chairman if he plans on bringing the technical corrections bill to be acted upon by the Senate and if he does, when may we expect it?

Mr. BENTSEN. I thank my friend from Michigan for bringing this matter to my attention. I share your concern regarding the need for prompt action on technical corrections legislation. I expect that the Finance Committee will turn to technical corrections legislation early next year.

Mr. RIEGLE. I thank the chairman for his encouraging remarks. I wonder if the chairman might also tell me if he considers the mortgage credit certificate program extension a purely technical correction and therefore noncontroversial in nature.

Mr. BENTSEN. Mr. President, if I may respond to my friend, I do indeed consider this program's extension through 1988 a true technical correction. As the Senator from Michigan has accurately stated, the only reason the mortgage credit certificate program is technically about to expire is because of a typographical error in the statutory provisions of the 1986 Tax Reform Act—pure and simple. All along, it was Congress's intent to see that this program continue through 1988 with the mortgage revenue bond program.

Mr. DOLE. Mr. President, I would like to join with my distinguished colleague from Michigan in this discussion and thank him for bringing this issue up before the Senate. As my colleague knows, I was the principle cosponsor of the MCC Program in 1983. I remain very much committed to this efficient homebuyer assistance program. It is truly unfortunate that solely because of a clerical, typographical error in the 1986 Tax Reform Act this program will technically expire on December 31, 1987.

Mr. RIEGLE. I want to express my appreciation to both the distinguished Chairman of the Finance Committee and the Republican leader for their comments, and I look forward to working with them on technical corrections as early as possible in the next session.

Mr. PRYOR. Mr. Chairman, it is my understanding that in regard to the treatment of timeshares and lots under the applicable installment accounting provisions the leadership amendment makes no changes to what Congress passed in the Tax Reform Act of 1986. It is my additional understanding that the House also retains current law, and, therefore, the treatment of timeshares and lots will be a nonconferenceable item in the budget reconciliation conference.

Mr. BENTSEN. Yes, that is my understanding.

Mr. CRANSTON. Mr. Chairman, as you know, the financial community has widely anticipated the passage of the Technical Corrections Act of 1987. However, because of the importance of passing the reconciliation bill as soon as possible, technical corrections apparently will not be part of the reconciliation package this year.

Mr. BENSTEN. The Senator from California is correct. As a result of the budget summit with the White House, the technical corrections have been taken out of the reconciliation bill.

Mr. CRANSTON. No doubt you have heard from a number of individuals who are concerned about how to conform to the Tax Reform Act of 1986 in the absence of technical corrections.

For example, investors have significant doubt about how to treat the capital they have raised for investment in low income housing. Such capital had been raised in reliance on the technical corrections. Without the technical corrections, investors will be faced with expiring allocations of tax credits which do not carry forward to 1988 and will need guidance in making investment decisions in December, 1987. Without such guidance, low income housing credits will be wasted and private sector capital expenditures on low income housing will be deferred, or even worse, eliminated in some cases. In any event, the losers will be the already disadvantaged occupants of the low income housing. It is my hope that taxpayers who file tax returns in reliance on the Technical Corrections Act of 1987 will not be penalized.

Mr. BENTSEN. I have heard from a number of constituents who are concerned about how to conform to the Tax Reform Act without technical corrections. I assure the Senator that efforts will be made to provide retroactive protection for those who are relying on the original Technical Corrections Act of 1987 which I introduced with Congressman ROSTENKOWSKI earlier this year. I will also urge the Treasury Department to provide guidelines for those taxpayers who file their 1987 returns in reliance on those technical corrections.

Mr. CRANSTON. I thank my friend from Texas for his willingness to address this issue.

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Mr. GRASSLEY. The Committee on Finance has included a provision calling for reimbursement by the Medicare Program of services provided by physician assistants in doctors offices, clinics, and in private homes. This provision is roughly similar to legislation I introduced earlier this year, S. 1230, and which was introduced in the House of Representatives by Congressman RON WYDEN.

I am grateful to the committee and the chairman for their consideration in including this legislation in their reconciliation package.

However, I have one concern with the provision included by the committee in their reconciliation package. And that is that the reimbursement rate included in the committee's provision is set at 65 percent of the supervising physician's prevailing rate as opposed to a reimbursement rate of 85 percent as proposed in S. 1230.

May I know why the committee used the lower reimbursement rate?

Mr. BENTSEN. When the Committee submitted the proposal to the Congressional Budget Office for its analysis, we received a cost estimate much higher than we had anticipated. We felt the only way we could include the proposal in our reconciliation package was to lower the reimbursement rate so as to keep the cost within acceptable levels.

Mr. GRASSLEY. As a former member of the Finance Committee and as a current member of the Budget Committee, I appreciate the chairman's concern about the potential cost. However, it is my understanding that those original CBO cost estimates were based on an overestimation of the number of physician assistants currently practicing.

In light of this, the Congressional Budget Office has reevaluated this proposal. When the estimates were redone using a new number for the total number of certified physician assistants, the cost of provision—at an 85-percent reimbursement level—became $10 million less than the original estimate for the 65-percent reimbursement level.

Does this accord with your understanding of the facts on this issue?

Mr. BENTSEN. Yes; that is my understanding.

Mr. GRASSLEY. Because of this, it was my intention to offer an amendment on the Senate floor to raise the reimbursement rate in this provision to 85 percent.

However, I understand that the committee wishes to use OMB scoring for key provisions of its revised reconciliation package, and because this particular provision has not been scored as part of this revised package, it is the preference of the managers of the bill to consider this issue during conference with the House rather than on the floor of the Senate

Am I correct that it is your opinion that this is a more appropriate method of proceeding on this issue?

Mr. BENTSEN. Yes.

Mr. GRASSLEY. In light of that, I would like to address several specific concerns.

The co-sponsors of S. 1230 and I believe that the 65-percent reimbursement level is too low and should it be impossible for the Senate's conferees to negotiate a higher reimbursement level, we would prefer to see the provision dropped.

Can I have the assurance of the chairman that he will not allow the provision to be retained at the 65-percent reimbursement level?

Mr. BENTSEN. I can give the Senator my assurance that I will move to drop the provision if an agreement to include the 85-percent rate cannot be reached.

Mr. GRASSLEY. We believe quite strongly that the 85-percent rate as provided for in the original legislation is appropriate and justifiable within the budgetary constraints as outlined by the committee. This is particularly true in light of the fact that primary care services have traditionally been undervalued.

I understand that when you get to conference you will need to discuss the cost of this provision with OMB should you try to change the reimbursement level presently in the bill.

It is also my understanding that OMB estimated the cost of this provision as it was included in your original reconciliation package at zero. Is this correct?

Mr. BENTSEN. That is correct.

Mr. GRASSLEY. Also, as I mentioned earlier, CBO's revised estimate of the cost of this provision puts the cost at the 85-percent reimbursement level, at $10 million less than the original CBO estimate for the provision at the 65-percent reimbursement rate.

Furthermore, when you evaluate the cost estimates made by CBO for various reimbursement rates. 65 percent, 80 percent, and 85 percent, it is evident that the reimbursement rate has a relatively small effect on the total cost of the provision. Indeed, over 3 years, going from a 65-percent reimbursement rate to an 85-percent reimbursement rate makes a difference of only $18 million. Therefore, it is at least plausible that, even though OMB may estimate some cost for this change, that cost should still be considerably lower than anything CBO has estimated.

In that case, would it be your feeling that unless OMB comes in with cost estimates radically different than those they made originally, it should be possible to achieve the 85-percent reimbursement rates we are seeking, or a reimbursement rate very close to that? And can I have your assurance that you will endeavor to negotiate a reimbursement rate as close to the original Grassley-Wyden legislation as possible?

Mr. BENTSEN. I will do my best to secure an agreement that reflects the reimbursement policy in the original Grassley legislation.

Mr. SYMMS. The Tax Reform Act of 1986 contained a provision requiring small businesses—specifically subchapter S corporations, partnerships, and personal service corporations—to change to a calendar year bookkeeping system rather than allowing them to continue to use a fiscal year system.

Congress adopted this measure in the Tax Reform Act because it would speed up the payment of taxes, not because it would actually increase the amount of tax paid by owners of such corporations and partnerships. This law causes an acceleration of tax receipts to the Internal Revenue Service, which may help this Government reduce the deficit in the very short run, but it only causes bookkeeping havoc for thousands of businesses across the Nation. Because this inequity must be corrected, I introduced S. 1718 on September 25, and I have supported Senator BAUCUS' similar bill, S. 1520, which would permit small businesses to retain their freedom of choice.

Today I am rising in support of a measure in the House of Representatives' budget reconciliation bill that substantially matches the provision Senator BAUCUS introduced in the Senate. This legislation is revenue neutral and was developed over long months of thoughtful planning and negotiations. It corrects a stringent, unnecessary, and unworkable requirement which was added with no debate, without hearings, and without a complete understanding of the impact it would have on many taxpayers. Besides imposing considerable hardship on small business owners and CPA firms, it will place an unreasonable administration burden on the IRS itself.

Traditionally, a business selects a fiscal year ending at a slow time in their business cycle to facilitate the closing of books and the taking of inventory. This bill recognizes the importance of the reasoning behind this decisionmaking process. Mr. President, how many retailers do you know that will want to be beginning their bookkeeping responsibilities during the yearend holiday season?

For these reasons, Mr. President, I urge my colleagues to consider the importance of accepting the House reconciliation measure in conference committee and give it their support.

Mr. LAUTENBERG. Mr. President, I want to express my strong interest in a provision in the original Senate Finance reconciliation package which has been dropped from this bill. The provision essentially embodies a bill of which I am an original cosponsor, S. 1520.

It's an important provision, and there is a real need for its prompt enactment. Essentially, it would allow certain types of organizations to retain their fiscal years. That's important not only to these businesses, but also to accountants, who will face substantial and unnecessary burdens if legislation isn't enacted soon.

As the bill proceeds to conference, I would hope that the conferees would be willing to include the provisions of S. 1520.

Mr. DIXON. Mr. President, we all know that the United States is the greatest and most powerful country in the world. Regrettably, our world position is being threatened and undermined by our escalating deficits. America is now the world's largest debtor nation. From 1981 to 1987, our debt to foreigners has increased by $550 billion. At the same time, our national debt has increased to more than $2.5 trillion.

Efforts to remedy this situation have had little effect. It took a worldwide stock market crisis to force the administration and Congress to join forces to attempt to effectively address this devastating situation.

The administration sat down with Congress to craft a responsible solution to the problem. It was a unique opportunity to make significant strides in restoring our economic and world position.

Unfortunately, however, the summit accord failed to result in greater deficit reductions. After a month of meetings, the President and congressional leaders could only commit to a package that is effectively not much larger than the current Gramm-Rudman-Hollings requirement.

The results of the budget accord fall far short of the achievement anticipated when the summit began. It is hardly an ideal package. Yet, to its credit, this package produces the largest deficit reduction agreement in history.

The reconciliation package on which we are voting today is certainly preferable to the automatic across-the-board cuts that have been triggered under the Gramm-Rudman-Hollings Balanced Budget Act. It is preferable in terms of the level of deficit reductions, as well as the equity and balance of the cuts.

The automatic sequester calls for a $23 billion deficit reduction. The summit agreement achieves $30 billion of deficit reduction in 1988, and over $76 billion of savings over the next 2 years. When the one-time savings—such as tax reform, asset sales, and outlay shifts—are discounted, permanent savings result in $25 billion in 1988 and $42 billion in 1989.

One-time savings artificially lowered our deficit figures for fiscal year 1987. With the exclusion of one-time savings the 1987 deficit would have reached a level of $185 billion, rather than the reported $149.7 billion. The summit agreement will reduce the deficit from this $185 billion in 1987 to $155 billion in 1988 and $145 billion in 1989.

The summit package is a balanced plan. All parts of the budget—defense, domestic discretionary spending, entitlements, and revenues—share in the sacrifice. Savings from a sequester would be extremely unbalanced, with almost all deficit reduction coming from defense and domestic appropriations.

The summit agreement is far better than the Gramm-Rudman-Hollings sequester in its effect on low and moderate income Americans. Appropriations for domestic discretionary programs would be cut less than one-third as much under this package. Fiscal year 1988 appropriations for domestic discretionary programs would be $8 billion higher under the budget agreement than under sequestration. In addition, fiscal year 1988 outlays for domestic discretionary programs would be $4.7 billion higher under the budget agreement.

While the defense budget would also fare better under this accord, defense appropriations would be only slightly above a freeze level. Defense outlays would increase only 1.2 percent from fiscal year 1987 levels, the smallest increase in 10 years.

The revenue component of this agreement includes $9 billion of new taxes in 1988 and $14 billion in 1989. None of the taxes would come from changes in income tax rates, income tax indexing, or any broad-based consumption taxes. The agreement calls for $4 million of additional user fees in each year.

The budget summit fell short of what we all had hoped would be achieved by the unique opportunity and circumstance provided it. What did emerge, however, is a deficit reduction package upon which the President and leaders of Congress have agreed. Priorities have been established, and the way has been paved for larger deficit reductions for fiscal year 1988 and beyond. These savings are larger than would result through the Gramm-Rudman-Hollings sequester.

I will vote in support of this package, and I encourage my colleagues to do the same.

Mr. ROTH. Mr. President, to borrow what has now become a well-worn political cliche: Here we go again! Today as our Nation feels the effect of the precarious stock market, Congress is ready to do what it always does: Throw money at the problem.

Now, I would like to recognize the leadership and the committee work that has gone into this package.

However, I rise to express my concern and my opposition to the budget reconciliation bill. Frankly, I don't believe that American people are going to be taken in by a measure that does so little toward spending cuts and does so much toward tax increases. I do believe that our countrymen will agree with me, that this package is not in their best economic interest, nor in the best economic interest of America.

Now, I have heard suggestions that I should vote for this because the only alternative is a sequester. And my position concerning a sequester has been clearly stated. I voted against the original Gramm-Rudman law, and when Congress revised Gramm-Rudman in September, I voted against that, too. On September 23, I stood on this floor and strongly opposed the changes being made. I knew it would result in a tax increase, and look at what we have today. That very day, I said:

> The Gramm-Rudman-Hollings process * * * once again puts us firmly in a position for tax increases. * * * We see that it could provide, intentionally or otherwise, the grist needed to force the White House into a tax increase.

The automatic across-the-board spending cuts are a trap for the President, a ticket to new taxes on a road to new revenues. Clearly, I do not want a sequester. I did not vote for one. I do not favor one. But neither do I favor a tax increase on the American people.

In short, this reconciliation bill will raise $9 billion in new taxes this year and $14 billion next year. In return, we are supposedly cutting spending. This is how Congress is trying to sell the bill, but it is not the truth. In reality, this bill, combined with the continuing appropriations bill—which we will be voting on in the near future—will actually lead to an increase in spending of nearly $50 billion over last year's spending. And that, Mr. President, is not a deficit reduction.

In fact, under this bill, it is likely that this year's deficit will be greater than last year's deficit, and our constituents will soon see that little has been done to cut spending. They will see that Congress is merely reducing the spending level from an inflated baseline. And I believe they will be incensed that these synthetic figures are being used to force them to swallow a $23 billion tax increase.

I am adamant in my support for lowering the deficit, but this is not what Congress is proposing. In fact, while those who support this bill are saying that discretionary spending will be cut by $2.6 billion, defense by $5 billion, and entitlements by $4 billion, the reality is that discretionary spending will grow by $7 billion, defense by $3 billion, and entitlements by $37 billion. These represent increases of 1 percent, 4 percent, and 8 percent respectively over last year's level.

Frankly, this is not the message Washington can send to Wall Street. It's not the message Washington can send to Main Street. The business as usual message of tax, tax, tax, spend, spend, spend has run its course, and we cannot allow it to run any longer. I find it no small irony that just as we talk about deficit reduction, and the fragile economy of our country, Congress is also enacting a new catastrophic health insurance program whose financing is questionable at best, and at worst, could severely increase the deficit.

To compound matters, for the past 2 months Congress has repeatedly voted overwhelmingly to approve appropriations measures that were much higher than last year. Time and again, I've stood in this Chamber to vote against spending measures—not because I didn't agree with them, but because I believe we need to bring spending under control. And time and again, I found myself in the minority.

Repeatedly, Congress has demonstrated its inability to stick to a budget. And Congress has repeatedly, over the past year, voted to authorize new programs and reauthorize old ones. Each of these actions takes us one step deeper into deficit despair. Our history clearly demonstrates that

Congress cannot restrain its spending habits.

If Congress was serious about the deficit, these appropriations and authorizations would be reviewed more carefully. Instead, Congress continues to ignore any semblance of restraint and responsibility. It's not on a sound budget, and consequently—according to a study I released—we found that every dollar of tax increases, generates $1.58 in additional spending. Quite frankly, the only way the deficit is going to be reduced is when the American people say, "Enough," and cut off our allowance.

Though the deficit has declined by one-third in fiscal 1987, it remains too large. Continually large deficits threaten the economy and our standard of living. This reason alone is serious enough to warrant deficit reduction measures. And there is only one body in America that can do what needs to be done. The responsibility lies here on Capitol Hill. Not a dime of Federal spending can be appropriated without the consent of Congress.

With this in mind, I believe there is a very responsible way that we can overcome the deficit, send the proper message to both Wall Street and Main Street, and restore sound economic principles. While everyone must agree, the market situation is disturbing, and is in need of immediate attention, there is also some good news. Today the economy is solid—better than it has been in any post-war period since 1796. And this must be the base upon which we build our deficit reduction.

While the recovery is allowed to continue, Congress must take measures toward real cost-cutting. I believe there are a number of areas where closer scrutiny can provide greater efficiency and cost-effectiveness. Simply, Government can cut back, and the time has come to make the "harder choices," to get the President and Congress together, to examine real spending cuts and the real role of the Federal Government.

I believe we should phase out subsidies on agricultural products. I believe we must eliminate urban development action grants. And we should enact my legislative proposals mandating a Federal employee early retirement option. It surprises me that as we look for sure-fire, easy ways to cut back, we can't get agreement on this one proposal—a proposal that is supported by Federal workers, and will create better career opportunities for women, minorities, and our young work force. This proposal, alone, could save as much as $3 billion over the next 5 years. But we shouldn't stop here.

Consequently, I've sponsored or endorsed several proposals to cut Government spending. I endorse the idea of legislation for a 2-year freeze on discretionary and defense spending for savings of at least $10 billion. This, of course, does not include a reduction in Social Security and other retiree cost-of-living increases.

We should also close unnecessary military bases. And we should trim the growth in military procurement by postponing acquisition of additional aircraft carriers.

You all know my feelings about military waste and abuse. Our Government can save literally billions of dollars by demonstrating the same care in shopping for hardware that the American consumer must demonstrate. Our defense programs must operate with a mentality of finite resources.

These, however, are only a few, preliminary areas where we can become more financially responsible. To care for the people's taxes is an extremely important trust, and I hope they will be developed more thoroughly. I hope that as we look to sound economic policies, we will keep in mind that in our society the people's money is best left with the people—to be saved and invested—to build our country the way it was intended to be built. Government has proven what it does with money—it's spent its way into a deficit. Let's give the people a chance.

This deficit agreement—top-heavy with taxes, is not the way to meet the challenge we face. We cannot tax our way into continued prosperity. Tax increases were among the policies the Hoover administration adopted after the 1929 market crash. If we are to learn anything from the history of the stock market it should be clear that we should keep as much money in the pockets of the American people and reduce the deficit by reducing Government spending.

Mr. GLENN. Mr. President, as chairman of the Subcommittee on Manpower and Personnel of the Committee on Armed Services, I would like to comment on the provision in this bill which lowers the military pay raise we authorized in the fiscal year 1988-89 Defense Authorization Act of 3 percent to 2 percent effective January 1, 1988.

Mr. President, I want to point out that the Senate had a 4-percent military pay raise in the fiscal year 1988-89 Defense authorization bill and that we compromised in conference with the House to come down to 3 percent. I indicated at that time that I felt strongly that we needed to give our military personnel a competitive pay raise. Based on the employment cost index [ECI], the index used by the Department of Defense to compare military pay increase to the private sector, the 3-percent raise would have just about kept pace with projected private sector wage growth. However, measured against the ECI, military personnel are currently some 9.4 percent behind private sector wage growth. By dropping to a 2-percent pay raise, we will be widening this gap to double digits. I know we have deficit problems that we have to deal with and that we have to ask for belt tightening all around. Therefore, I reluctantly curb my instinct to oppose the reduced level of a 2-percent increase in military pay that is in this bill for fiscal year 1988. At the same time, I want to say again that we have to be very careful about what we do next year. The growing pay comparability gap is insidious and could cause retention and recruiting problems that we need to be wary of.

Mr. President, I also want to say that I am concerned about our Federal civilian personnel whose salaries and wages have been capped over the last few years. In comparison to the private sector wage growth, they are even further behind than military personnel. As measured against the private sector they are currently 24 percent behind. This kind of treatment of our Federal civilian work force is bound to cause problems in the future if we are not careful.

Finally, Mr. President, I believe it is a credit to our men and women, both in and out of uniform that they carry out their duties in a professional and dedicated manner in spite of the pay gaps. I think their services are undervalued and we need to keep this mind as we deal with the pressures of fiscal reality.

Mr. BOSCHWITZ. Mr. President, I rise to speak about the agricultural portion of the leadership amendment to budget reconciliation.

Senator HEFLIN often advises us not to buy a pig in a poke. That is good advice. What we have here however is worse than a pig in a poke it is a snake-in-a-sack. When we untie the string all of agriculture is going to get a little excited.

I stood on this floor way back in April when we first brought up the Senate budget proposal and objected on the grounds that agriculture was singled out as the only program where spending will be cut below levels of last year. Every other item of the budget got an increase over 1987 levels.

For the last 6 years I have heard Members from the other side of the aisle get up wailing and moaning about how the President and others were trying to balance the budget on the backs of farmers. That never happened as farm program costs rose faster than anything else in the budget—increasing over 300 percent during the period.

Then we come along in 1987 and the first budget proposed by the new majority takes it out of the hide of farmers. I would not object so much if program costs were rising, but they are not. They are coming down.

Let us talk about why they are coming down, why demand for the goods American farmers produce is back up and why the farm financial situation has turned around. Then let's talk about the snake-in-a-sack the Senate is being called on to approve.

There is one simple reason American agriculture is coming back—competitiveness. This body has spent a lot of time this year worrying and giving lip service to the need for America to be competitive. We have a giant trade bill languishing in conference which will probably end up making America less competitive.

However, in agriculture the positive trade balance is growing even more. We don't have fancy new corn or soybeans. No—we have a competitive price—pure and simple. Why? Because in 1985 we, in a more or less bipartisan way, passed a farm bill that had lower loan rates and other tools such as export subsidies and generic certificates to make our prices competitive.

In addition, the value of the dollar has gone down. Some of my colleagues are quick to ask why, as long as the value of the dollar is going down, do loan rates matter? Using that logic, raising loan rates to offset the dollar drop comes out the same on price.

The answer as to why this logic doesn't work comes in two parts. First, the impact of a high-valued dollar was overstated in the early 1980's and the impact of a lower valued dollar is overstated in the current period. You have to look at the value not only relative to the U.S. value of the purchasers currency, but the value of the competition's currency.

High rates of inflation in places like Argentina and Brazil and to a lesser extent Australia offset much of the U.S. currency changes.

Second, instituting high loan rates in good times is just what we did in the 1970's. Every time Congress could get away with it loan rates were raised. It really didn't make much difference because we were cranking along at full capacity and market prices pretty much stayed above the loan rate.

Then the 1980's hit and all the factors that caused U.S. farmers to become prosperous in the 1970's reversed. Good weather worldwide, the Soviet embargo, a high-valued dollar, petro dollars in the Third World, interest rates—they all changed against farmers.

Our farm legislation made things worse. Instead of acknowledging the changed world, we continued our high loan rates and our massive set-aside programs as if we were the only people who produced or knew how to farm. For 5 years the administration and some Members of Congress argued, begged, and threatened on the loan rates issue. For 5 years we lost and for 5 years American agriculture slipped deeper and deeper in the hole.

Then in 1985 a light finally dawned on Congress that things were not working too well and that we had better stop cursing the storm and start fixing the boat.

That boat fixing consisted of lower loan rates, marketing loans, export subsidies, and the Generic Certificate Program.

This leadership package, attached to this bill because of its loan rate provisions, starts poking holes in the boat again. When the weather gets rough in the future—and it will—we will have to go through the same wrenching experience we did in the early 1980's.

As far as I am concerned, limiting the Secretary's discretion to reduce loan rates from 5 percent in 1988, to 1 percent under this proposal is very shortsighted policy. If market conditions change, this little loan rate adjustment makes us uncompetitive and outlays will actually increase. It is inconsistent with the market oriented focus of the 1985 Food Security Act which is gaining more and more adherents for its success.

This action has additional international implications. The Europeans have just now for the first time come to the negotiating table to reduce international subsidies and trade barriers. They do this not because they want to. They do it for the same reason the Soviets agreed to our arms control proposal—because the United States showed resolve to stand up to our adversaries and fight back. The European Community did not give us the time of day when we nicely asked them to stop inducing and dumping so many goods on the market.

After the 1985 farm bill they started paying a whole lot more attention. I fear their belief that we would not stay the course, would not show resolve, and would soon fall back into the muddled policy we have always had may be confirmed by our actions. They will become harder to deal with; meaningful reform will surely be set back.

Mr. President, I do not have an amendment to strike the loan rate provisions because the convoluted computer costing game would charge me with additional outlays and a point of order would be brought. However, I will work as hard as possible to see that conference comes out with something that makes more sense than this.

I realize that this whole budget summit and leadership amendment process is out of the ordinary. I would have preferred to let the chairman, Mr. LEAHY and ranking member Mr. LUGAR work things out—that is what leadership is about.

Instead, the committee was called together Friday afternoon and a 15-line piece of paper was handed to us with the comment that it had already been cleared by the Senate leadership. In desperation Senator PRYOR and I laid down another proposal—we didn't even know the cost-out on it when we laid it down.

Let me make clear that we are talking about a $2.5 billion package—on 15 lines with some numbers beside them. I now find that those 15 lines have expanded to over 50 pages of legislative language. There are so many items in this mess that the committee was never made aware of, I don't have the time to go through them.

The point is this. If we are going to have a leadership package let's have one. If we are going to have committee action let's do it properly. The rump session last Friday was so bad even the Senate Recorder gave up trying to keep track of what was going on.

The Senate Agriculture Committee has never been known for adhering to very many rules—that is good in many instances. Senators under this and the preceding chairman have had extensive rights to participate. However, I would hope that all members of the committee work to see that no future meeting disintegrates into the scene we had last Friday.

Mr. ADAMS. Mr. President, there has been a lot of talk in the last few days about "solutions" to the budget problems we face. Before I turn to the specific concerns that I have about the various budget proposals which have been offered, let me try to take a look at the way we got into this mess.

The root cause goes back to the decision made by President Reagan and David Stockman to cut taxes, increase defense spending, and hope that somehow we could have a balanced budget as a result. It was, as then Senator Howard Baker said, a riverboat gamble. Well, we have been rolling the dice for a couple of years now—and they came up craps last month.

We could have avoided that. Over the past few years there have been persistent attempts to try to make the changes we needed to make. There have been calls to increase revenues—those calls have fallen on deaf ears. There have been calls to reduce defense spending—those calls have fallen on deaf ears. There have been calls to reform entitlements—and those calls were heard by the people in the White House. But there is no way to justify touching the programs that help those who have the greatest need while we protect those who have no need but greed.

Mr. President, this administration is concerned about the rhetoric of deficit reduction. They like the rhetoric of a constitutional amendment to balance the budget; they like the rhetoric of a line-item veto; but they don't like rhetoric that has anything to do with reality. They don't like facing the fact that their 1981 tax cuts and defense increases started a national fiscal disaster or that partial "fixes" such as Gramm-Rudman can't fix it.

As a result, we have wandered for 7 years in an economic wonderland with $200 billion deficits as far as the eye can see, with a trillion dollars added to our national debt, and a stock market which inflated by speculative takeovers finally toppled and only now is staggering back.

Traditional Republican economics have often been described as a policy without a heart. This Reaganomics is a policy without a heart or a brain. Trying to run on percentage cuts or fixes, the congressional response was to adopt a policy without a heart, without a brain—and without eyes. The Gramm-Rudman-Hollings approach asked us to take a blind, wild swing at the problem. the weakness in Gramm-Rudman-Hollings is not that it asks for cuts—it is that it does not ask us to make cuts based on our Nations sense of values. Instead of looking at our needs and values, Gramm-Rudman-Hollings just asks us to look at a "baseline"—and, as we have seen all to often, this administration is willing to manipulate the data to get a baseline they like. This baseline also freezes into place the Nation's spending into a high defense/nonprogressive tax system.

In terms of specifics, the Kassebaum amendment, while commendable, is also blind. It freezes in place the inequities of the President's budget, it freezes in place the unacceptable priorities it reflects, it freezes into place the errors of the past. It achieves real savings, but it achieves them in unacceptable ways. The Gramm amendment, in my view, is even worse: it asks that all the sacrifices be made on the spending size without any recognition of the need for comparable equity by freezing tax rates. That is why I voted against both of those amendments.

That leaves us with the leadership package. Those who participated in the budget summit, which essentially gave birth to the leadership amendment, labored for weeks and produced, at best, a patch which we can slap on a leaking tire. No one believes that their proposal—based on what we know about it—will repair the damage that has been done. However, it can keep us going, it can keep the tire inflated until we reach a garage where we can buy a new one. That garage is about 13 months away when a new President, with a more realistic view of economics, will come into office. The leadership amendment can, I believe, can get us through that 13 month period without creating the hardships and perpetuating the inequities associated with the freeze proposal.

In short, Mr. President, I simply do not believe we can do anything about our basic structural problems until 1989. But we must start the debate now. As long as this administration thinks they have to "negotiate" with the Congress—as if we were some foreign power with which they have an adversarial relationship rather than a cooperative one—as long as the administration clings to the tattered dream of supply side economics, there isn't a chance to repair the system. Instead of trying to deal with those who will not talk, we ought to be working on getting through this next year with a minimum of damage and I for one am developing plans and strategies for a repair and revitalization of the Federal Budget System.

Mr. President, I do not fault the leadership for coming up with this plan which has less than we need. I do not criticize the proponents of the freeze for coming up with less than we want. In this environment, I just don't think we can get at the causes of our problems. So I will ultimately support the best patch I can find and that is the leadership package.

Mr. METZENBAUM. Mr. President, I will vote for the leadership amendment to the pending reconciliation bill, in spite of some serious reservations over a number of its provisions.

In my opinion, Mr. President, we could have done better. But the leadership amendment is the best plan before us—and above all, it is much better than an across-the-board sequester.

Two provisions in particular cause me concern.

The first is the language included by the Budget Committee to achieve savings in the Guaranteed Student Loan Program. This provision requires State guarantee agencies to give up specified portions of their cash reserves.

The Senate Education Subcommittee has not had an opportunity to hold hearings on this issue or to consider its potential effect on the GSL Program. I'm worried about the impact this action may have on the long-term stability of the system, and on the solvency of individual agencies.

I also have a number of questions about the validity of the formula used to determine the amount of reserves which an agency must give up. It's a shame if States like Ohio, who have done a good job and who have low default rates, end up being penalized for properly managing their programs.

The second flaw in the amendment is the increase in the Medicare part B deductible from $75 to $85. Now, many would argue that $10 is a small price to pay in the name of deficit reduction. For some, no doubt, it is. But couple that with the whopping 38½-percent increase in the Medicare premium, then consider the fact that the part A deductible has increased by 155 percent since 1981, and you're talking about a burden that's tough to bear for a lot of senior citizens.

There is a growing perception, Mr. President—both here in the Halls of Congress and in the popular press—that all of our Nation's elderly are living on easy street. That's a dangerous perception, because it's just plain wrong.

It is a fact that the social programs of the last 40 years have alleviated some of the fear of growing old.

It is a fact that Social Security has been a powerful weapon against poverty.

It is a fact that Medicare provides decent health care to those who might otherwise go without.

But it is also a fact that millions of older Americans live in poverty, millions more live in fear of it, and millions more are just getting by, day by day, month by month.

I hope my colleagues remember that the next time someone trots out another half-baked proposal to cut Social Security benefits or to freeze the COLA.

Again, Mr. President, I'll vote for the leadership amendment. It's not perfect—but there's probably no such thing. It does put a dent in the deficit, it is real savings, and hopefully we can do better on the next round.

I yield the floor.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD.)

THE LEADERSHIP DEFICIT REDUCTION PACKAGE

● Mr. SIMON. Mr. President, I would like to voice my support for the leadership deficit reduction package. The bill makes some tough choices and puts us on a sure path toward a balanced budget.

The agreement provides for $30 billion in savings for 1988 and $46 billion in 1989. Some of the savings are the "one-shot" variety. However, a solid core of the legislation will continue to provide savings well into the future. Many of the cuts are painful, but that may be the hallmark of a good deficit reduction bill.

Like Senator CHILES, I believe we may have missed a golden opportunity for even greater deficit reduction. In particular, I believe more savings should have been found in defense spending. We should eliminate duplicative weapons systems and inject true competition into the procurement process. I also believe greater revenues could have been found that would enhance the equity and progressivity of the Tax Code.

Mr. President, this Nation's economy has been backed into a corner. Under the leadership of the Reagan administration, we gutted programs that move people from the unemployment rolls into productive jobs. The official unemployment rate masks much greater joblessness across this Nation. We simply cannot afford to allow these people to go without jobs. They cost us with increased welfare payments and lower tax revenues. We must begin to restore funding for programs that stimulate employment. Only when we return our budget priorities to these kind of long-term investments will we pull ourselves from the current budget quagmire.

In closing, I would like to pay tribute to the chairman of the Budget Committee, Senator LAWTON CHILES. This body will lose his leadership during the next Congress and we will be the lesser for it. LAWTON has a rare ability to lead delicate negotiations. He inspires good faith on the part of all participants so that everyone gives up something for the common good. And, he was always willing to take his share of the tough cuts right from the start.

I don't know what his reasons for retiring are, but I know that negotiations on the budget always take a toll. Somehow, I hoped his calm exterior meant the tensions were not penetrating, but we are all human. The next year doubtless holds even more frustrations, but I look forward to making further progress on the deficit under LAWTON's leadership. Jeanne joins me in wishing LAWTON and Rhea only the best in the coming years.●

IMPLEMENTING THE BUDGET AGREEMENT

Mr. DOLE. Mr. President, I rise to urge my colleagues to support the adoption of this reconciliation package. I do so without much enthusiasm, for this is a very modest achievement.

I am disappointed.

Black Monday gave everyone in Washington and Wall Street a good scare. As a result, the budget summit was convened and there were great expectations. Rightly so. We had an unprecedented opportunity to set aside partisan differences; and for the good of the country make serious spending reforms that would ultimately result in balancing the budget. But that didn't happen. The summiteers came up with the bare minimum, but no more.

Having said that, this package is clearly better than nothing, and clearly better than a sequester. The revenue increase is much lower than many feared. And there are a few fundamental changes in spending that will have long-term impact.

What we have to all keep in mind that this is only the beginning, the first step. In the immediate future, we have to go to conference with the House, and pass an omnibus appropriations bill. And beyond that, it will be increasingly difficult to meet even the revised Gramm-Rudman-Hollings targets—especially in an election year. But sooner or later, and I hope it is sooner, Washington is going to have to face up to budgetary realities. Congress and the President are going to have to do what the Senate had the courage to do back in 1985—eliminate programs, address entitlement programs, and cut real spending. We proved that it can be done. We can do so again.

So, Mr. President, let me once again urge my colleagues to support this measure. Every little bit counts, and while this is only a little bit, it shows that we did not walk away from the problem, that we were at least willing to make an attempt to deal with the deficit.

BUDGET PACKAGE: AGRICULTURE

Mr. President, the Senate Agriculture Committee met last Friday and again yesterday to iron out a proposal which meets the committee's required budget savings of $2.5 billion.

PACKAGE OUTLINE

I would not suggest that this is a great package. It is only a starting point. The package does meet the required budget savings and at least maintains the fundamental direction of the farm bill by continuing to allow a decline in loan rates albeit more slowly than current law would allow. The administration strongly opposes restricting their authority to reduce loan rates saying it could jeopardize recent export gains.

The package protects farmers' income by limiting declines in target prices to 1 percent and only for 1 year. In fact, the Senate's package simply switches the scheduled 2 and 3 percent declines to 3 and 2 percent. So the total target price decline would still be 5 percent over the next 2 years.

The package also gives soybean and oilseed producers a marketing loan for 2 years to make their crops more competitive worldwide. In addition, it allows the production of soybean and oilseed crops during fiscal year 1988 on the 5-percent increase in the unpaid feed grain acreage reduction program, or arp. However, if soybean stocks exceeded 425 billion bushels, then the feed grain arp would be reduced 2.5 percent and the paid land diversion would be increased 2.5 percent. Planting more acreage to soybeans and oilseeds should help producers arrest the alarming decline in acreage planted to these crops.

NEED FOR EQUITY AMONG COMMODITIES

Mr. President, one of my concerns going into the conference will be to ensure that feed grain producers are not required to take a disproportionate share of budget cuts. I believe most people in rural America feel that, in general, budget functions should be treated equally and that no single program within any budget function should face the brunt of the budget ax.

Feed grain producers are initially being required to increase their unplanted acreage amounts by an additional 5 percent while decreasing their paid land diversion acreage by 10 percent. They also have their diversions tied to the stock levels of a nonprogram crop during the second year of this plan. Many feed grain producers will find this highly objectionable. So we will need to examine this further during conference and I will look forward to working with the feed grain industry in this regard.

We may also need to re-examine the provision that achieves savings through lowering commercial storage rates. We need to be sure we provide adequate incentive for commercial elevators to store CCC-owned grain.

CONCLUSION

Mr. President, I would reiterate that the Senate Agriculture Committee's budget package, now part of the leadership package, is only a starting point and may need improvements once we get to conference. We should ensure that all commodities and programs are treated equitably while minimizing any adverse impact on America's farmers.

Mr. LEAHY. Mr. President, I rise today in support of the leadership deficit reduction amendment which represents the plan recently negotiated by President Reagan and the bipartisan leadership of Congress.

While this plan to reduce the Federal budget deficit is not perfect, it is a major achievement. The amendment will reduce the deficit by $75 billion over 2 years through roughly equal cuts in defense and domestic spending, and by closing more than $9 billion in tax loopholes.

This plan represents the first time in 7 years that domestic programs, such as law enforcement, education, and health research, have not been forced to shoulder the burden of deficit reduction alone. For the first time, the Pentagon must do its share. As a result of this amendment, defense spending will be frozen, producing a savings of $5 billion.

Last Friday, the new Secretary of Defense Frank Carlucci ordered more than $33 billion in budget savings at the Pentagon for the next fiscal year. Much of that savings will be produced by cleaning up the Defense Department's wasteful procurement practices. This amendment is the first step toward controlling wasteful spending at the Pentagon, in a way that will ensure a strong national defense.

This amendment is also far better than the alternative: The automatic budget cuts under the Gramm-Rudman-Hollings balanced budget law. Allowing the automatic budget cuts to take full effect would have devastating effects nationwide. Three thousand air traffic control workers, including controllers, would be laid off. One thousand new senior citizen housing units, crucial in my own State of Vermont and elsewhere, would not be built. The Coast Guard would be forced to mothball more than one-fifth of the ships it uses to fight illegal drug trafficking. Research on a cure for AIDS would be cut by $82 million, and the National Institutes for Health would have to cancel 3,300 research grants to scientists searching for cures for other diseases.

The Gramm-Rudman-Hollings sequester would also have very serious repercussions in Vermont. Low income energy assistance would be cut by $866,000 in the middle of winter. Student financial aid would be slashed by almost $700,000. Federal highway funds would be cut by more than $950,000 at a time when improving roads is on the top of Vermont's agenda. Social services block grants, which help so many in our communities, would decline by nearly one-half of $1 million. This is not the way to reduce the Federal deficit.

Automatic cuts would also deal a harsh blow to American farmers. Under the sequester, dairy farmers will face an 8½ percent cut in milk support prices. An 8½ percent cut in all farm programs could drive American agriculture right back into a depression. More and more farmers could be forced off their farms.

The whole purpose of Gramm-Rudman-Hollings, of which I was an early supporter, was to use the threat of unacceptable cuts like these to force Congress and the President to throw politics aside and work together to reduce the deficit. And, it has worked. For the first time in this administration, President Reagan sat down at the same table with leaders in Congress and negotiated a bipartisan plan. This plan represents the largest one-time reduction in the Federal deficit in our Nation's history.

The budget summit agreement and this amendment, however, are not perfect. I believe Congress should go even further in reducing the Federal deficit. By putting off some of the tough decisions to reduce the deficit, we are going to make the job even harder next year, when the Congressional Budget Office estimates the deficit may grow to more than $190 billion.

That is why I support freezing the Federal Tax Code for 1 year. Under the new tax reform law, the two top tax rates are scheduled to be eliminated this year, reducing the top tax rate from 38.5 percent to 28 percent. I favor postponing this decrease for 1 year—a plan which will raise more than $16 billion.

Freezing the Tax Code will actually produce a tax cut for 94 percent of the taxpayers in my State of Vermont. The tax freeze permits increases in the important standard deduction and personal exemptions—the tax breaks for the middle class. In addition, the tax freeze would prevent the scheduled decreases in other important middle-income deductions, such as the consumer interest deduction.

Under the tax freeze, the 6 percent of Vermonters who earn more than $50,000 will simply be asked to pay the same taxes they paid last year, to help reduce the Federal budget deficit. I have spoken to business people and investors across Vermont and the Nation. Mr. President, they are willing to accept this one-time freeze in taxes, if it will help make truly significant progress toward reducing the Federal budget deficit.

I also believe that we can do more to control Federal spending; not by cutting Social Security COLA's for our Nation's elderly, but by eliminating waste.

For example, the Congressional Budget Office reports that more than $1.7 billion could be saved by adopting more competitive procurement rules for travel by Federal workers. While travel costs have risen by 33 percent for the traveling public since 1981, Government travel costs are up by more than 41 percent. The reason: The Federal bureaucracy has not used its enormous buying power to reduce travel costs.

Mr. President, in the agriculture title of the leadership amendment, we on the Agriculture Committee demonstrated that we can make tough choices to reduce the budget deficit. The agriculture deficit reduction package will trim approximately $2.5 billion from the national debt over the next 2 years. These spending cuts will not come easy.

Under the leadership amendment, target price levels for all of the basic commodities will be reduced in 1988. This reduction is over and above the reductions already scheduled to occur under the current Milk Price Support Program and the Wool Price Support Program will take equivalent cuts in spending. Other provisions will help decrease surplus production and reduce excessive storage costs.

This is only one example of places where the Senate can still cut spending to reduce the deficit without harming national security. We do not have to stop with the leadership deficit reduction amendment.

Mr. President, I urge the Senate to adopt the leadership deficit reduction amendment. It has the support of the President, of Democrats and Republicans, and it deserves the support of the Senate. While I had hoped for even greater deficit reduction, the leadership amendment makes a real and significant down payment on our budget deficit.

Mr. BAUCUS. Mr. President, several of my colleagues have come to me asking me what happened to my proposal to allow partnerships, Sub S corporations and personal service corporations to retain their fiscal year for accounting purposes. I am saddened to report that the Finance Committee did not include this much-needed, time-sensitive proposal in our budget reconciliation. I am pleased to report to them that this omission reflected a desire to move budget reconciliation along, rather than any opposition to the proposal itself.

I support reducing the deficit. However, I also support reducing the unreasonable problems we are imposing upon accountants and their clients—small businesses, farmers and ranchers—by not resolving this issue before the end of the year.

For that reason I again want to urge the conference to include the tax year conformity solution which Senator HEINZ and I, joined by almost one-half of the Members of the Senate have been striving to enact.

Small business owners will see increased accounting and legal fees under the tax year conformity proposal we enacted in last year's tax reform bill. We should not let that happen.

Small business owners, farmers, and ranchers will be required to pay accounting and legal bills for the cost of closing their books twice and filing two sets of tax returns—Federal and State—for each of the two accounting periods ending in calendar year 1987. We must act now to stop this foolishness.

Because this provision applies to existing as well as newly formed entities, small businesses which have used a fiscal year accounting period for many years will now have to amend contracts, compensation agreements, and retirement and employee benefit plans. This may make lawyers rich but it does nothing to improve competitiveness.

Our failure to act this year will add to the paperwork burden of small businesses and create greater administrative burdens both for taxpayers and the Internal Revenue Service. How will we explain that to our constituents.

Some of my colleagues may not yet be familiar with the need for fixing this fiscal year problem. Some may ask, "Why do businesses care if they have to give up being on a fiscal year?"

Let me answer that by saying that there are many important business considerations involved in why businesses opt to be on a fiscal year accounting period. Most businesses select a fiscal year which ends at a slow period in their business cycle. In this way these small business operations do not have to close their books and take inventory while trying to cope with a busy sales period, a planting season, or a harvest time.

For example, a rancher would want his taxable year to end in September, not December. Harvest is over. His business year is over in September. His business calendar closes with the seasons, not with the ringing of bells on New Year's Eve.

A retailer wants his tax year to end after the December holidays are over and before spring merchandise is in demand. He does not want to have to close his books when he is trying to have a post-holiday sale and dealing with shoppers returning the gifts they did not like.

A ski resort owner wants his tax year to end in May or June when there is no snow. He has no desire to have to do his accounting when he could be selling lift tickets and servicing the skiers who fill his slopes.

This is especially important for the small and family-operated businesses who do not have the flexibility to shift personnel from sales to accounting or the money to hire extra help to do his accounting chores.

I have worked with the accounting profession to develop an absolutely revenue-neutral solution which would allow these small businesses to retain their fiscal year accounting periods and pay enhanced estimated taxes to offset any revenue benefit their fiscal year might otherwise give them. The Joint Committee on Taxation has provided invaluable assistance in helping us make this solution revenue neutral.

Members of the accounting profession are to be commended for their responsible approach to solving a problem they did not create. Given the current Federal deficit, it was not possible, politically or fiscally, to promote any other proposal. I thank them for understanding the problems we in Congress have. Now I ask my colleagues to understand their problems. I ask that we include help for them in the conference agreement on this reconciliation bill.

We must act now. There will be no time to address this problem in a technical corrections bill next year. Next year is too late. By then the omelette will be broken. All the king's men won't be able to put that omelette together again. The eggs will have been broken, scrambled, and served by next year. After the beginning of the year a business's fiscal year will have to be changed to a calendar year. It will not be reasonable to go back and undo the steps the business will have to go through to conform to the calendar year end. Either we correct this problem before we adjourn this year or businesses in our States will be forced to convert to and live with, calendar year accounting.

Correcting this problem must be done now. I trust Chairman BENTSEN will leave no stone unturned in working to include a solution to this problem in the conference agreement. I urge my colleagues to work for that goal.

Mr. CHILES. Mr. President, I urge the adoption of the leadership amendment.

The PRESIDING OFFICER. Are there amendments?

The question is on agreeing to the leadership amendment.

The amendment (No. 1254), as modified, was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1263

(Purpose: To strike provisions relating to nuclear waste policy contained in the reported bill and to substitute in lieu thereof the nuclear waste provisions adopted by the Senate on November 18, 1987, with the passage of H.R. 2700, and for other purposes)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1263.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed later in today's RECORD under amendments submitted.)

Mr. JOHNSTON. Mr. President, this amendment, which is a joint, agreed-to amendment between the Energy Committee and the Environment and Public Works Committee, simply takes out of reconciliation the provisions on nuclear waste as entered in reconciliation by the Energy Committee and as entered by the Environment and Public Works Committee, and places in lieu thereof the Senate-passed bill in toto. It is agreed to by all parties.

Mr. President, during consideration of S. 1920, the Omnibus Budget Reconciliation Act of 1987, I am offering an amendment to strike the provisions of the reported bill that relate to nuclear waste policy and replace them with the nuclear waste provisions the Senate adopted on November 18, 1987, as a part of H.R. 2700.

Specifically, my amendment will delete the provisions of title III of S. 1920 relating to nuclear waste, sections 3002-3009 and 3011. It will substitute for subtitle A of title II the text of S. 1668 as amended during Senate consideration of H.R. 2700.

These provisions of title III, reported by the Committee on Environment and Public Works, are outside the jurisdiction of that Committee and, in the case of sections 3002-3009, score no savings.

Although revenues may be generated by section 3011, the subject matter of this section is not within the jurisdiction of the Committee on Environment and Public Works. Thus section 3011 would be subject to a point of order under rule XV, paragraph 5 of the Standing Rules of the Senate and under the "Byrd Rule" (section 20001(d)(1)(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended).

Specifically, such revenues would be generated by increasing the rate of collections for the Nuclear Waste Disposal Fund. The budget for the fund is shown in the Congressional Budget Office baseline as being under the sole jurisdiction of the Committee on Energy and Natural Resources.

The provisions of S. 1668 have already been scored by the Budget Committee with savings of $139 million in budget authority and $70 million in outlays in fiscal year 1988. The subject matter is within the jurisdiction of the Committee on Energy and Natural Resources.

This legislation, as perfected by the Senate during consideration of H.R. 2700, provides a balanced program to redirect the national effort to manage and dispose of nuclear waste. Such a redirection is essential if the program is to have a chance to be successful. In that context the provisions of the legislation are integral to the success of the program achievement of the savings the Budget Committee has scored.

Some would argue that the provisions of this amendment are merely incidental to the savings and therefore are extraneous under the "Byrd Rule." I would argue that they are not, for the following reasons:

First. Sequential site characterization is essential to generate savings.

The General Accounting Office has estimated that site characterization of three repository sites under current law will cost $5.9 billion. Only one of these sites will eventually become a repository. The only way that any significant savings can be generated from the nuclear waste program is to reduce the number of characterized sites. S. 1668 does that by requiring that sites undergo characterization sequentially, with the first acceptable site characterized becoming the repository. Based on the record, there is ample reason to believe that at least one of the three candidate sites now under consideration can be successfully characterized.

Sequential site characterization will lead to additional efficiency and cost reduction in the program by allowing the Department of Energy to concentrate its best efforts on a single site. This will add to the savings resulting from not characterizing two sites.

Second. To be accepted by the host State, sequential site characterization must be accompanied by a benefits package.

Narrowing the focus to a single preferred site intensifies the opposition in the State that is eventually chosen. The nuclear waste program is an unprecedented effort in Federal-State interaction from which the State gains very little under current law. Success in such a program ultimately requires the cooperation of the State chosen for a waste facility. This will be impossible unless incentives can be provided for the State so that this Federal-State interaction becomes a cooperative one.

To accomplish this, S. 1668 gives up some of the savings generated through sequential site characterization by authorizing generous benefits payments to host States. Without these payments the determined opposition of a host State could prevent any progress in the program.

Third. A back-up facility must be provided in the event that sequential site characterization results in delay in opening a repository.

The characterization and licensing of a deep geologic repository for high-level nuclear waste has never been accomplished anywhere in the world. We are attempting it for the first time. The schedule for opening a repository, therefore, must be regarded as quite uncertain. There are many ways this schedule could be stretched out.

Yet the Department of Energy is required by contractual obligations and current law to begin acceptance of spent nuclear fuel by January 31, 1998. In addition, an important goal of the nuclear waste program is the demonstration of the capability of the Federal Government to address the problem of nuclear waste management. Timely acceptance of spent nuclear fuel as required is essential to such a demonstration.

Because of the uncertainty in the schedule for availability of a repository, it is prudent to include in the waste management system a backup facility capable of accepting spent nuclear fuel and storing it temporarily until the repository is opened. In this way, the requirements of law can be met without placing undue pressure on the repository construction or licensing process.

Accordingly, a monitored retrievable storage facility is authorized by S. 1668 to ensure that the contract obligations of the Department of Energy to accept spent nuclear fuel in 1998 are fulfilled. This facility also provides significant system advantages to the program that the Department believes justify the facility on its own merits.

S. 1668 would also authorize generous benefits payments to a State hosting a monitored retrievable storage facility, so that the Federal-State interaction in the siting of such a facility will be a cooperative one. As is the case for a repository, without these payments the determined opposition of a host State could prevent any progress in the program.

In sum, sequential site characterization, a monitored retrievable storage facility, host State incentives and significant cost savings from the program are tightly linked. These provisions are by no means "merely incidental" to achieving the savings.

Fourth. Currently, there is no need to construct a second repository.

Deferring plans to construct a second repository will result in significant additional savings.

It is generally agreed that the spent nuclear fuel expected to be generated through the first decade of the next century can be accommodated in a single repository. However, current law requires the development of two deep geologic repositories. The simple fact is that a second repository will not be needed for many years, and substantial expenditures on such a repository are unwarranted at this time. S. 1668 defers decisions on the second repository program until the first decade of the next century, generating further program savings. Deferring the second repository also allows the Department of Energy to focus its efforts more effectively on a single repository program.

These are the essential elements of the amendment I am offering. I believe that each element of the package is important to the success of the program as a whole.

I assume that Congress intends this program to succeed. Failure of the program will also generate savings, but at the cost of ignoring a problem that only the Federal Government can solve. I believe that option to be unacceptable, and I am therefore determined to urge the adoption of the program embodied in S. 1668 in its entirety.

Mr. BREAUX. Mr. President, if my colleague will yield to me for a moment. For the benefit of those Members who wonder what is going on and whether or not we are about to engage in another protracted fight over the nuclear waste issue that was played out just a couple of weeks ago on the energy and water appropriations bill, I would like to make just a few observations and address a couple of questions to my distinguished senior Senator.

First, as the Members are all aware, both the Environment and Public Works Committee and the Energy Committee included amendments to the Nuclear Waste Policy Act in response to our respective budget reconciliation instructions. I think all the Members are aware of the differences in those two versions and I do not want to get into that now.

Yesterday, before the Senate appointed conferees to the energy and water bill, H.R. 2700, Senators JOHNSTON, REID, and ADAMS entered into a colloquy wherein assurances were given that the Senate conferees would not conference the nuclear waste issues contained in that bill as long as negotiations were continuing on the budget reconciliation track. Obviously, we need to have an agreed to procedure for a place-holder on the nuclear waste issue in the reconciliation bill if those negotiations are to bear fruit.

Now, as I understand the situation, certain points of order could be made against both the energy and environment nuclear waste provisions in the reconciliation bill, and if all such points of order were sustained by this body, we would have no process for negotiating an agreement where all the committees in both the House and Senate are involved.

Therefore, we have worked out an agreement with the Energy Committee which is reflected in the current amendment. It is my understanding that the Energy Committee has agreed that notwithstanding the fact that the nuclear waste place-holder embodied in this amendment is going to be placed in the energy title of the reconciliation bill, Senator JOHNSTON, the distinguished chairman of that committee has agreed that Senator BURDICK, chairman of the Environment and Public Works Committee will be entitled to name three members of our committee to the appropriate subconference on the nuclear waste issue. Is that indeed the distinguished Senator's understanding of the situation?

Mr. JOHNSTON. Yes, it is.

Mr. BREAUX. This agreement does not affect the jurisdiction of the two committees in any way. Am I correct?

Mr. JOHNSTON. That is correct.

Mr. METZENBAUM. Mr. President, will the Senator from Louisiana explain a little more fully what this amendment is about?

Mr. JOHNSTON. Yes.

As part of the energy and water appropriation bill, we passed a nuclear waste provision. The Senator will recall that we passed nuclear waste provisions out of the Energy Committee. We started with that as part of energy and water. We amended it; we changed it. What we are doing is taking that provision, as passed by the Senate, without any change at all, and putting it in this reconciliation bill, in lieu of the provisions on nuclear waste which the Energy Committee reported and which the Environment and Public Works Committee reported.

This is being done by agreement between the two committees.

Mr. METZENBAUM. Is there anything else over and beyond that? Is there anything having to do with other matters, other than the specifics the Senator just mentioned? In other words, we came out of the Energy Committee with an amendment; and my question is, has there been anything added to or subtracted from that amendment?

Mr. JOHNSTON. Only that which was added to and subtracted from any floor action.

Mr. METZENBAUM. Is there anything in this amendment having to do with the question of contractors' liability?

Mr. JOHNSTON. No. This does not deal with Price-Anderson at all.

Mr. METZENBAUM. Nothing?

Mr. JOHNSTON. Absolutely nothing.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Who yields time?

The Senator from Louisiana has 7 minutes and 3 seconds under his control.

Mr. MITCHELL. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I yield.

Mr. MITCHELL. Mr. President, I understood the Senator to say that the amendment includes the Senate bill as enacted, including the amendments added on the floor. From that, I take it that the amendments offered by myself and my colleague from Maine are included in the amendment which the Senator is now offering.

Mr. JOHNSTON. The amendments are included, and we will stick with those through thick and thin in conference.

Mr. MITCHELL. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BENTSEN. Mr. President, who has the time in opposition?

Mr. DOMENICI. I am not opposed, so I am disqualified.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

If the Senator from Florida is favorable to the amendment, the time will then be under the control of the minority leader. Will there be desire to yield back the time?

Mr. DOMENICI. I yield back any time in opposition.

Mr. CHILES. I yield back any time.

The PRESIDING OFFICER. Is there further discussion?

The question is on agreeing to the amendment of the Senator from Louisiana. The amendment (No. 1263) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1264—MOTION TO STRIKE TITLE I

Mr. DANFORTH. Mr. President, I move to strike title I of the bill, and, I know that this is the issue on which there is 1 hour equally divided.

The PRESIDING OFFICER. (Mr. REID). The Senator is correct.

The amendment follows:

Strike Title I, beginning on p. 2, line 1, through and including line 5 on page 9.

Mr. DANFORTH. Mr. President, having moved to strike title I, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, title I is a title to the underlying reconciliation bill. Title I has nothing to do with the so-called leadership compromise.

The issue that is before us now arises because the leadership compromise, the leadership amendment is not a substitute for the whole bill, but instead is a perfecting amendment.

Therefore, the leadership amendment leaves in the bill certain aspects of the original reconciliation bill.

One of those portions of the reconciliation bill that is not touched by the leadership amendment is title I, which is the Commerce Committee title to the bill.

Mr. President, title I has within it four parts. Two so-called user fees are in title I. One of the user fees is a transfer fee on the transfer of radio and television licenses. A second user fee is a Coast Guard user fee.

In addition to those two user fees, title I codifies the fairness doctrine and it creates a trust fund for public broadcasting. That is what title I does.

Mr. President, the user fees that are incorporated in title I were specifically considered by those who negotiated the leadership package. These user fees, these taxes were expressly considered by the leadership negotiating team and they were expressly rejected.

So these fees are not only extraneous to the leadership amendment, they are contrary to the agreement of the leadership negotiating team.

They are unacceptable to the administration. They will almost certainly be dropped in conference and they exceed the amount of money, the total amount of money along with other user fees that are in the leadership package. They exceed the total amount of money that the leadership group agreed to come up with by way of user fees.

So this is extraneous money, contrary to the leadership agreement, and, as a matter of fact, it is unacceptable to the President of the United States.

Most Senators have heard that the President opposes the codification of the fairness doctrine. I guess all of us do, having vetoed it.

There is a letter from Secretary Baker and Budget Director Miller, and the letter says—among other things—it is a letter of December 10:

> Two Senate Commerce Committee provisions must be removed in order to make the bill acceptable. First there is a provision that codifies the fairness doctrine. As you know, last year the President vetoed free-standing legislation to accomplish this objective. Another Commerce Committee provision would set a fee for the transfer of Federal Communications Commission licenses and establish a trust fund. This fee would fall most heavily on owners of the least economic viable licenses, AM radios and UHF television. The public broadcasting trust fund established with revenue from the transfer fee is also objectionable and must be deleted.

So, Mr. President, the question before us now is, Why do this? Why put in user fees that are not necessary to the package that have been previously rejected? Why codify the fairness doctrine when it is veto bait as far as the President of the United States is concerned?

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 6 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 6 minutes.

Mr. PACKWOOD. I thank the Chair.

Mr. President, I was on the budget summit leadership conference. The Senator from Missouri is very correct. This issue was not sloughed over in the conference. It was discussed and rejected, along with the Coast Guard user fees.

We full well knew the issue. We were trying to debate whether we should have $800 million in user fees or $400 million in user fees. We decided on $400 million and said we would not put in any that had not been mutually agreed between the House and the Senate. We will take them out.

That was the agreement. So if we in good faith are going to adhere to the budget summit leadership agreement these ought to be out. In my judgment they should have been out in the leadership package, but that is neither here nor there.

Second, this is a very dangerous budget practice from the standpoint of the Budget Committee and reconciliation in future budgets, because it henceforth every committee in order to meet its savings targets, and that is usually what they are, savings targets, can instead devise a tax which they can call a user fee and send it on to the Budget Committee, you are going to have a plethora of trust funds created by every committee in the Congress for the purpose of funding the very functions that they supervise and we all know of the incestuous relationship—I do not mean that badly—between committees and the functions that they supervise. The Agriculture Committee loves the farmers. The Commerce Committee loves the Coast Guard, and on and on.

This in any way, shape, or form is not a user fee by any of the normal definitions we used to call user fees, which was to tax the user, collect revenues in a trust fund for the benefit of the user. In the airport trust fund, you pay money on the ticket and they use it to improve the airports. In the Social Security trust fund, you pay money into the Social Security trust fund and you collect benefits.

Gasoline tax, you collect money in the trust fund and you spend it on highways. This is not a user's fee. It is a tax, straight-out tax. It belongs in the jurisdiction of the Finance Committee. If we are going to have any rational budgeting process, this should be out of this bill.

I am not going to go into long detail about my views on the fairness doctrine anyway, but in addition to everything else, not only is this a tax on the sale of broadcast properties, it is a tax on free speech. Because it says that if the radio station or television station is sold and the fairness doctrine is violated, the tax is increased. I am almost torn in theory. In theory, I want to support it because I think it makes the case against the fairness doctrine all the more constitutional when it is in court. I am not going to argue that point here tonight.

I would encourage every Member of this Senate to realize the road you are walking on when you start on these trust funds and user fees in committees and support the motion to strike of the Senator from Missouri.

Mr. BENTSEN. Will the Senator from Missouri yield me 4 minutes?

Mr. DANFORTH. I yield 4 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, as the chairman of the Finance Committee, I rise to support the motion on the basis of jurisdiction. There is no question in my mind but what this is a tax; and it is a sales tax.

What you have in this tax is a situation where the tax is calculated based on the value of the sale. Whether the station sells for $1 million or sells for $100 million, a 2-percent tax applies. Or if it has been sold after being held for a very short period of time, then a 4-percent tax applies. This tax does not at all resemble a fee for government services, or for the use of government property.

This tax also gives rise to numerous tax-type issues typically dealt with by the Finance Committee: Was the sale an installment sale? What kind of depreciation schedule did the seller use? What if the price is not paid in cash? Those are the things which are normally in the jurisdiction of the Finance Committee, not within the jurisdiction of the Commerce Committee, and I happen to serve on both of them.

So I think we make a very serious mistake if we step over the jurisdictional line. Frankly, I think this tax could have been structured as a user fee and could have been nailed down and pinpointed in that direction.

Therefore, I must very strongly resist this particular amendment. I must also say, insofar as what my ranking minority member, the distinguished Senator from Oregon, has stated, what we have is a situation where we agreed in the summit meeting that we would have 400 million dollars' worth of user fees—400 million dollars' worth—but that those things would be the common items in the House and the Senate reconciliation bills.

So I consider this to be a violation of what we tried to do and what we committed to try to bring back in conference. Therefore, I must support the motion to strike.

Mr. DOMENICI. You support the Senator from Missouri.

Mr. BENTSEN. I very definitely support the Senator from Missouri.

Mr. CHILES. I yield any time I might have in opposition to the motion to strike to the control of the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina controls 30 minutes.

Mr. HOLLINGS. Mr. President, I yield myself momentarily such time as it will take necessary to explain the exact situation.

First, Mr. President, each of the distinguished Senators now that have spoken know how to write legislation and they know how to submit the particular, what they call the leadership package. And the very fact is that my distinguished colleague from Oregon has been a violent opponent of the fairness doctrine and he knows how to get rid of it and he has been getting rid of it for about 2 or 3 weeks in that summit conference, but did not succeed.

Of course, you have the amendment as a perfecting amendment. And they know how to draw things around here, particularly the draftsmanship of this particular summit status as it is, or whatever you would call it.

So, be that as it may, let me get to the point, because we are short of time.

I would readily agree to strike all references to the fairness doctrine. I understand how the Senator from Oregon feels. There is no question in my mind it will come up again. We have within that Committee of Commerce by instruction from this body, the U.S. Senate a veto message. Now, we have a sufficient majority vote to report that out tomorrow morning, but we do not have the two-thirds. And they know that and we know that and we both have been watching that very closely as members of that particular committee.

But I would rather not waste the time and get right to the substance, because you see the motion to strike strikes some $325 million from this particular deficit. I have been hearing the moaning and groaning and, oh, how they are going to balance the budget and what a wonderful job and, at 10:15 at night, just when we are ready to pass it, here comes the Simon-pure conferees and all of a sudden they are going to knock out $325 million from the Coast Guard and from the FCC, the radio spectrum user fee was recommended by the President in the first instance. They did not raise a point.

I refer particularly to page 2-55 of the President's budget that he submitted in January. He called for a spectrum fee on that page.

I ask unanimous consent that the text of that page be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

BUDGET OF THE UNITED STATES GOVERNMENT

FISCAL YEAR 1988

PROPOSED DEFICIT REDUCTIONS

(Change from current services, in billions of dollars)

	1987	1988	1989	1990	1991	1992
Revenue changes:						
Governmental receipts	−0.1	−6.1	−8.0	−8.6	−8.8	−8.9
Credit reform		−1.3	−0.6	0.9	2.2	3.6
Other loan asset sales		−4.2	−1.7	−0.8	−0.3	− *
Privatization:						
Amtrak sale and grant termination		−1.6	−0.6	−0.7	−0.7	−0.7
Sale of NPRs		−2.5	−0.3	0.5	0.7	0.6
Sale of RMAs			−1.8	−2.6	−5.4	−4.0
GSA real property sales		−0.3	−0.4	−0.2	−0.2	−0.2
Terminate crop insurance		−0.2	−0.5	−0.6	−0.7	−0.8
Health professions training subsidies	−0.1	−0.2	−0.2	−0.2	−0.2	−0.2
Subtotal, privatization	−0.1	−5.4	−3.7	−3.8	−6.5	−5.3
User fees:						
Credit fees	−0.3	−1.6	−1.6	−1.7	−1.8	−1.9
Other user fees	− *	−1.7	−1.9	−1.9	−1.9	−1.9
Subtotal, user fees	−0.3	−3.2	−3.5	−3.6	−3.7	−3.8
Other revenue changes:						
FSLIC		−1.6	−0.8	−0.5	0.1	−0.9
Medicare premium increase		−0.6	−1.8	−3.1	−4.4	−5.8
Subtotal, other revenue changes		−2.1	−2.6	−3.6	−4.3	−6.7
Subtotal, revenue changes	−0.4	−22.4	−20.1	−19.5	−21.5	−21.2
Interest	− *	−1.3	−3.2	−6.0	−9.3	−14.3
Total deficit reductions	−1.3	−42.4	−54.2	−66.2	−79.9	−90.6

* $50 million or less.

Mr. HOLLINGS. So that started the debate at the beginning of the year. And I will talk fast, Mr. President, because it has been a very difficult experience, as you well know, under this process.

Once recommended, our broadcaster friends, who to me are the most powerful I know of—if you do not really understand, I can tell you here and now they can change votes right and left. And that is quite understandable. We live and breathe by television and that is our reelection. And when it comes to performing the task on a spectrum fee as called for by the President, if the local broadcaster calls, you are going to do him a favor. You are not worried about the President. You are worried about your own reelection. That is common sense. I respect that. But they must also respect that power, too, because, next point:

We debated it and it was contained in the budget of the U.S. Congress. This Senate and the House jointly and, thereafter, in conference, what did they ask for? It was a spectrum fee by auction.

So you had, finally, the President and the Congress and the committee instructed. Thereupon, Mr. President, it got pretty heated after June 24 and sides piled up and particularly did they have a group of spectrum users get together known as the Alliance for Communication Licensing. And that particular Alliance for Communication Licensing contained the membership of GTE and land mobile and cellular, satellite, all of the different users of the spectrum got together vigorously opposing a spectrum fee by auction but thereupon favoring a fee by transfer, which is in the bill.

The NAB—everybody ought to wake up at 10:15 on this one—thereupon, in July, they put out their reconciliation option. This has been a struggle as the chairman of the Commerce Committee because we do not have any influence. I have heard my distinguished colleague from Missouri made a very impassioned sort of lecture and sermon in the caucus, because several members of the caucus told me so: "We can't let HOLLINGS get away with this." HOLLINGS get away with what?

I have been struggling all year long to support the decisions of the President and the Congress. And here came the NAB and opened the door for old HOLLINGS. Here is how it reads: "NAB strongly opposes these proposals," which was the fees, auction fees and otherwise, spectrum fees.

NAB strongly opposes these proposals except for an auction that is clearly restricted to assigning licenses for non-mass media spectrum uses.

Translation: We favor a spectrum fee for everybody but us. Never more greedy, never more selfish, never more stupid.

I have been in the game 40 years and I never heard them putting that down in black and white. I know we lobby, you know like Russell Long said, "Not for you and not for me, but tax the fellow behind the tree."

This guy puts it in writing. They made it formal policy.

I obviously then, trying to fulfill this, wrote the members of the committee saying on July 17 we would have a conference and an executive markup on July 25, and we would move forward with some idea of trying to get the Coast Guard fee and the spectrum fee in there and then started talking to individual Senators and saying: "Look, we have unanimity."

Now, you do not get that around this town. We have the President, the Congress, all the users of the spectrum fee, including broadcasters, favoring what? A spectrum fee. There is just one exception: The broadcasters say "Not on us," but they do favor it in this paper.

I ask unanimous consent to have the text of this printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

RECONCILIATION OPTIONS

As part of the Budget Reconciliation process, the Senate Commerce Committee is considering a number of ways in which the federal deficit can be reduced through revenues generated in programs within the Committee's jurisdiction. NAB understands that among the options being considered are three that would affect the communications industry. These three are:

(1) use of auctions to assign licenses for use of the spectrum;

(2) an increase in fees charged to communications entities under the FCC's "cost of regulation" fee schedule; and

(3) imposition of a fee or surcharge on transfers of licenses.

NAB strongly opposes these proposals except for an auction that is clearly restricted to assigning licenses for non-mass media spectrum uses.

1. Spectrum Auctions. Congress and the FCC have adopted a variety of policies to encourage ownership of broadcast facilities by minorities and women. These policies are intended to increase diversity of station ownership, and consequently, the diversity of viewpoints provided to the public. If spectrum auctions were used to assign broadcast licenses, this would undermine these policies by making it even more difficult for minorities and women to obtain licenses.

Furthermore, the historical quid pro quo for the free licenses that broadcasters receive is their obligation to use those licenses to serve their communities in the public interest. This core obligation has not been eliminated by deregulation. It would be unfair to retain these obligations and also require broadcasters to bid for their licenses.

2. Fee Schedule. In 1986, Congress passed legislation that established a schedule of fees for FCC services (P.L. 99-272). This schedule was carefully designed to allow communications entities regulated by the FCC to reimburse the federal government for the cost of these services. By law, this fee schedule is to be increased or decreased only in relation to changes in the Consumer Price Index.

NAB did not oppose this fee schedule, as its members are willing to bear their fair share of the cost of FCC services. If, however, Congress decides to eliminate the cost-based rationale for these fees, and to increase them simply to raise revenues, NAB will oppose such a proposal. Such fees would be no more than taxes, to be raised whenever more revenues are needed.

3. Transfer Fees. As with increases in the fee schedule, NAB would oppose the imposition of a fee on license transfers that is designed solely to meet revenue targets. Such transfer fees could be increased virtually at will, and would make long-term planning by station owners difficult and uncertain.

Conclusion. NAB recognizes the serious problems caused by the federal deficit, and the Commerce Committee's obligation to consider ways to help reduce that deficit. The Committee is considering far-reaching proposals, however, in a context that does not allow for careful deliberation, public hearings, or other formal input from interested parties. NAB hopes that the Committee will reject quick, but temporary, budget fixes that will have severe impacts upon the industries within its jurisdiction.

Mr. HOLLINGS. And so, Mr. President, we had unanimity, but the broadcasters are way more powerful. We could not get the meeting on July 25, and we could not get, of course, any meetings in the early part of August and we were trying in September. I will never forget the distinguished majority leader in the Democratic caucus saying: All right, we have extended the time, we have extended the time on reconciliation and everybody has responded except the Commerce Committee. And he looks over at me as if to say: Mr. Budget-Know-It-All and everything, you are the only fellow in violation. It was embarrassing.

I went to my colleague, Senator DANFORTH, the ranking member, and said: "JACK, look, we cannot get any votes. They have locked us in. These broadcasters have got them, I can tell you this, on an auction. But having taken the position they have in the alliance, all other users endorse a spectrum fee by transfer.

I have got many letters here and we will include them in the RECORD.

I said, let us have a meeting and agree on that part.

Now, in all candor, I did not mention fairness doctrine because this gentleman had taught me a lesson, the Senator from Oregon.

In 1981, without a holler about any hearings and hearings and notice, here comes this broadcast crowd that beat me all year long. They did not want a hearing, they did not want any notice, because they got me beat. I could not get any vote in the Commerce Committee to comply with the instructions of the U.S. Senate.

But the Senator from Oregon, the former chairman in 1981, he just stood on the floor on reconciliation and put in the whole deregulation of broadcasts on the reconciliation bill.

There was not any notice, there was no hearing. Barry Goldwater, the chairman, and I had to race over here and we had quite a scene, but no use to go into that. But I remembered it well and I knew his opposition to the fairness doctrine, and that is why I did not mention it. But the fact remains not a soul objected to the process.

I want you to look at the record. We met off the floor. We are going to meet down here in 146, then we met up there in 126. It has been characterized by a broadcast, that he herded them in, ramrodded—you do not ramrod. Senators even know how to put a quorum.

The other day last week they held us up all day long in the Budget Committee because they just took the Republican Senators out when they did not have the vote so we could not get a quorum. So we met from 10 o'clock until 4:30 that afternoon and finally got, out of exhaustion, this particular reconciliation bill that is now under consideration.

But the point is that I did it that way. We went in the room over here, all the broadcasters there. The room was jammed full. No one raised the point of any kind of process. They knew what had been going on all year long and we have been beat and I knew, with 24 hours notice, the broadcasters could change all the votes in this body unless the conscience would sell the individual. Which I hope for this evening—or perhaps even later on.

Because, Heavens above, for all the spectrum users to come forward and say it is fair and we are willing to go along with it and here comes the rich of the richest—and I do not object to richness, but I mean of all things to have the audacity to come in here and say: Put fees on everybody but us.

The license sold in my back yard for $66 million; in Little Rock, AR, for $50 million; the average license is over $200 milion, and they sold $10 billion in licenses in 1985, all they are going to pay that particular county is a transfer fee. Why not pay the real value, the public spectrum which we are charged to protect and do something about?

Now, right to the idea of public broadcasting. We have had the authorizing bill actually vetoed twice in 1985. Incidentally, by process, my distinguished ranking member, the mover of this particular motion to strike, he put on financing for public broadcasting in 1985 on the reconciliation bill. I have followed the lessons of Senator PACKWOOD and Senator DANFORTH in this particular instance, when it comes to process. Everyone was notified. Senator DANFORTH voted for what you see in this bill. He did make the motion thereafter to knock the fairness doctrine out and in respect to that, we can do away with that and knock it out. It is in several places but I would move to strike, I guess, at the end of the time when it is yielded back. It is in four places in the bill and we are not playing games and I would move to strike it and I take it he would accept it and then we can vote.

But we have had now on public broadcasting tremendous difficulty. The Carnegie Foundation, back 20 years ago, recommended a spectrum fee. They had a joint conference in England, at Dixley, and I have gotten a letter from Clifton Daniels. Well, that is exactly what they recommended.

We had, actually, a fee on all television, radio sets for 15 years around this particular Government as an excise tax. But in this particular regard, when we could get all the users of the spectrum to come forth, when we do not have an authorizing bill and we have had hostility from the executive branch under President Nixon—he tried to adulterate the station in Florida. Everybody knew about that. We had to save the station in Florida because he did not like the editorial in the Washington Post.

Now comes this President redlining public broadcasting. We are trying to stabilize public broadcasting because over a third of their time is expended begging. And here is a well-respected institution that everybody likes, including the broadcasters, and we want to get them away from all the solicitation and let them put that little bit of money in production and give and continue the fine talented network shows that they put on.

I want to hold back here just for a moment and let my colleague from West Virginia talk about it, but I can tell you here and now, the process was respected. It has been awfully difficult for this Senator to even get the quorum, but let me retain the remainder of my time and yield 5 minutes to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from South Carolina.

Mr. President, I hope that title I is not stricken and I must say that there has been a lot of talk, not so much on this floor but in the Halls of this part of the Congress in the last week or so, about the process. People have complained about the process. The Senator from South Carolina made reference to that.

To argue about process is an easy thing to do, and I do not think any of us would argue that the process that we are going through in these very hours, days, and weeks, and will go through tomorrow and the next day and the next week is anything to brag about.

What we are really talking about here, and what I really want to focus on, is the matter of public broadcasting itself. One can complain about the process, but one has to deal with the substance of what it is that we are voting on; that is a motion to strike a source of permanent funding for public broadcasting as well as a potential for the next 2 years to substantially reduce our deficit.

I think this is a sound proposal incorporated in the reconciliation package. We do a lot of talking in this body about education. We do a lot of worrying about it, and competitiveness.

It occurs to me that the history of these next several years is going to be whether or not this country can pull her act together in terms of educating our young people, children, obviously, in particular. I think that future is going to be largely tied to the way in which we can support public broadcasting itself. In fact, 53 percent of teachers use public broadcasting in their classrooms.

We are talking, Mr. President, not about a process, not about a conflict, not about a matter of jurisdiction. We are talking about public broadcasting. We are not trying to square off commercial broadcasting versus public broadcasting. We are talking about a permanent funding for public broadcasting, which is good in and of itself. One hundred million Americans watch it. Four out of five homes watch it every month.

There are 324 public television stations. If you are a child, you have more hope through better programming in public television than you do through anything else in school; in fact kids spend more time in front of a television set than they do in school by the time they graduate from college.

We better hope that what they watch inures to their benefit. I will not go through the litany of all those public television, radio, and other programs which are available to children, but I will say that I think it is better by and large than what they are able to get elsewhere on television.

For adults, public television is far and away that particular medium which is most productive and helpful in terms of art, culture, music, drama, and the history of our world. There is more educational, fundamental, interesting, mind expanding in the best sense of the word in public television and radio than anywhere else in our country and fundamentally everybody in this body knows that.

That is what is interesting about this debate. It is not really a difference of opinion about public radio, public broadcasting, but we have gotten ourselves caught up in the process of jurisdiction. It is not that.

We have a chance, here, in this Senator's judgment, to establish for the first time a permanent funding for public broadcasting.

I have to tell you that the amount of money which we spend in this country on public broadcasting is much less than they do in Canada where they spend $25 per person; much less than they do in Japan where they spend $14 per person. We spend $4 per person and only 15 percent of that comes from the Federal Government. The rest comes from corporations, school districts, and local sources.

But it is very hard, Mr. President, to raise money, not just because the economy is bad but because it is getting tougher.

Federal funding is a necessary leverage by all accounts in order to get other funding from other sources to pay for public broadcasting.

Well, as the chairman of the Commerce Committee has indicated, we have had a very hard time getting funding for public broadcasting. We end up with it. It is attached to the CR at the last moment. But if the President had vetoed it in the early 1970's and early 1980's we would have had a hard time counting on funding for public broadcasting.

Here is a chance for permanent funding. That is what we are debating. It reduces the deficit for 2 years and sets up a permanent trust fund. This Senator sees nothing wrong with that.

This Senator is not attracted to the arguments of process or jurisdiction. But this Senator is attracted by the arguments in favor of public broadcasting. It would be this Senator's hope that the motion to strike will fail.

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise not because I oppose public broadcasting or the proposed method of funding. I just wish Senators would listen to where we are.

We had a reconciliation bill hanging out there for about 3 months. Part of that reconciliation bill was this proposal. I really am not interested tonight in how it got there. The fact that it was late getting to the Budget Committee seems irrelevant to my argument.

That reconciliation bill, and this proposal, as marvelous as it is, was destined to the graveyard. It was gone. There was no reconciliation bill. It was never going to be called up. It was the one that mandated $21 billion in taxes, you will recall, and all the other things. It sat there.

Do you know why we are here? Because the President of the United States responded to a bipartisan group of Senators who asked him to go to a summit conference.

You could take the reconciliation bill and shrivel it up and throw it away, including that provision, good, bad, indifferent, or however it was adopted.

We went to a summit conference. The President's men went there. We agreed.

I am going to tell you, there are few things that we agreed on that I can tell you as absolute and unequivocal as this one.

"There will be no fairness doctrine in the leadership package when it comes to my desk for signing," said the President's people.

We agreed.

"There will be no tax on the transfer of television and radio."

We agreed.

Why did we do that? Because we wanted to pass a reconciliation bill. We lose nothing. We agreed in that summit conference to reduce the budget by x amount, and we said we will use user fees that both Houses have passed.

This has not passed both Houses.

There was a reason for that. We understood that the other agreed-to user fees had been passed by both Houses and when you go to conference on this leadership package it could get done quickly.

The issue tonight is not whether this is a good package for public television, a tax or a user fee. The issue is, does the U.S. Senate want to send off to conference a piece of an old reconciliation bill that we just finished telling the President of the United States we will not put in our package? Then we will have to take it out in conference, or what? Or, we will lose the whole deficit reduction package.

Why do we not just do what we ought to do. The President has been forthcoming. He is now saying, "You send me what I have agreed to. I will not back up one minute. I am buying taxes I was not for. I am for all these other things." We agreed to give life to a dead reconciliation bill on our word and his word.

So what were we talking about 3 months ago about equity and all these other things? They would have gone nowhere but for that summit agreement.

That is why the Senator who voted for this provision is here on the floor tonight asking us to take it out. Am I correct, I ask the Senator from Missouri?

Mr. DANFORTH. That is absolutely correct. I am on the opposite position on the merits of the fairness issue from the Senator from Oregon and on the same side as the Senator from South Carolina. That does not have anything to do with the argument being made.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the President of the United States recommended a tax on radio and television. You might get in that little conference and have Baker and Miller tell you what they would like to knock out on account of the broadcasting, but I can guarantee you if we pass this we will get Ronald Reagan's signature. Do not worry about that. He recommended it. We have it by transfer fee and we have all the users agreed on this special fee, including the broadcasters. They just do not want it on them themselves.

I do not think the President will have the audacity to veto that part.

You are right about his position on the fairness doctrine. As I understand, I will make the motion at the proper time to strike and it will be agreed to and we can just vote on the substance, really, of taking care of the deficit to the tune of $325 million, and then that part that went onto the spectrum fee to go into a trust fund for the financing of public broadcasting.

Mr. WIRTH. Will the Senator yield?

Mr. HOLLINGS. I yield 4 minutes to the Senator from Colorado.

Mr. WIRTH. I thank the Senator for yielding.

I am sorry we are dropping out the fairness doctrine, but that is being done. I think the Senator is quite right in dropping the objectionable parts of the bill, objectionable to the administration.

I would like to speak to what I thought was a good proposal by the administration on the spectrum user fee.

Let us draw parallels between this and other scarce commodities that the public owns that are used on the private side.

If in the State of Oregon there is a national forest that is timbered, people going in timbering it do not get it for nothing. It seems to me they pay a fee. I am sure they do. They pay a fee for being able to timber on that public land.

If in the State of Colorado or the State of Wyoming someone goes in and wants to mine a coal seam that is on Federal land, they do not get to do that for nothing. They have to pay for doing it. They pay a fee for being able to use that scarce public resource.

It is the same thing with grazing rights. If someone in the State of Nevada is grazing their cattle on BLM land, they do not get to do that for nothing. They pay a fee for using that scarce public commodity.

The spectrum fee is no different than that. It is a scarce commodity. It is something a lot of people want. The

FCC allocates that as a scarce commodity. Some people win it and some people lose it. Some people get it. In this case, however, they get it for nothing, unlike timber where people pay a fee or coal where people pay a fee or grazing where people pay a fee.

For a broadcasting spectrum, the users pays no fee.

So the administration was very enlightened in suggesting, as the Senator from South Carolina put into the RECORD, a fee that they would pay for this scarce public goods.

What is wrong with that? We do it everywhere else. We are not going to do it for broadcasters because they are a powerful lobby? I guess that is what the question is about here.

They have said they would like to have a fee if it would not only apply to them. They also said they would support public broadcasting. Public broadcasting was well laid out by the Senator from West Virginia.

The virtues of public broadcasting were clearly laid out by the Senator from West Virginia and the broadcasters themselves have said for year after year after year that they want to do everything they possibly can to support public broadcasting and a competitive agenda and they did that after Gramm-Latta. After Gramm-Latta years ago, the administration tried to strip out public broadcasting altogether. The broadcasters came galloping to the rhetorical support of public broadcasting and said they wanted to help. So they ran advertisements for public broadcasting.

What we have here is the joining of two good ideas, the good idea of the administration to have a spectrum use fee to let the people who have that spectrum pay for it just like anybody else pays for a scarce public commodity. That is reasonable, fair economics. That is one good idea.

The other good idea was the idea that the broadcasters themselves had that what they wanted to do was to support public broadcasting. Here is the opportunity that they have. And we have the opportunity tonight, unfortunately, dropping the fairness doctrine, getting rid of what is objectionable to the administration, to keep two very good ideas—first, paying for a scarce commodity, which is what we do every place where the Government has something that is used by a private individual and, second, the support of public broadcasting by the broadcasters, the NAB. All of those folks, year after year after year, have said that they want to do it. I would hope that we could all maintain the proposal that came out of the Commerce Committee. It is good economics and it certainly is good for public broadcasting.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator's time has expired. Who now yields time?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this idea of the transfer tax may be a great idea. I do not know. We have never had a hearing on it to my knowledge. It may be a wonderful idea. We decided on it kind of on the spur of the moment when the Commerce Committee was mustered on, I think, a Wednesday afternoon in October.

But the fact is that this particular tax, the transfer tax on radio and TV stations was considered by the budget summit negotiators and it was rejected. It was agreed that this was not going to be in the package. The same with the Coast Guard fees that are also a part of title I. This is opposed by the President of the United States.

The agreement that was made by those who met at the summit was to produce a grand total of $400 million in user fees for 1988 and another $400 million in 1989. That amount has been exceeded by the leadership package as it now exists. We have already exceeded that amount that was agreed to in the aggregate for user fees without these fees. And therefore title I contains fees that was not agreed to, that are extraneous, that are opposed, that are not necessary to make the total amount of the agreement.

I would ask other Members of the Senate why pass a tax we do not need? There are plenty of times that we are called upon to vote for things we do not want to vote for and we absolutely need them. Why would any Senator vote for a tax we do not need? Why vote for a tax that will probably be dropped out by the House of Representatives and already has been strongly opposed by the President of the United States? Why vote for a tax that exceeds the aggregate amount in user fees that the budget summit people agreed that they would come up with? What is the reason for it? Is it the sheer joy of taxing people? That is the only argument for putting it in this bill. Not that it is needed for the package but that we really delight in extracting money out of people who want to sell radio and TV stations. If you want to extract it from them, maybe it should be done in some other way. Maybe there should be a spectrum auction. Maybe that is the way to do it. I do not know.

But why do we have to do it now in this bill in this remnant of the old reconciliation bill which has been purged from the package by the agreement of our congressional negotiators and those negotiating on behalf of the President of the United States? It makes no sense to this Senator.

Mr. President, for that reason, I think that not only the fairness doctrine aspect of title I should be struck for the bill but the entire title.

I might say, as I did earlier on the fairness doctrine, I have stood on the floor of the Senate with the Senator from South Carolina and argued for the fairness doctrine. I agree with him on the merits. I do not think it is the thing to do here in this bill in this fashion.

I agree on the merits on public broadcasting. I am not sure about the trust fund, but last year Senator Goldwater and I, I think played as big a role as anyone in the Senate in creating over the President's objection a 3-year authorization for public broadcasting.

I think it is wonderful to have public broadcasting, but that again is not the issue. This is shoehorning extraneous matter into what we believed was a package that was agreed to by the President and those who negotiated the budget. It is shoehorning something from an old remnant of a reconciliation bill, something that was not agreed to, something that was opposed by those who negotiated the package. I never dreamed that this remnant would continue to survive.

Mr. President, if Senators want to vote for a tax that is not necessary just because they delight in voting for a tax, this is the time to do it.

You will have your opportunity this very night to vote for a tax that exceeds the amount that the summit negotiators came up with. You can do it if you really enjoy raising people's taxes. I do not. I do not.

Mr. BRADLEY. Mr. President, I oppose the provision in the reconciliation bill added by the Commerce Committee to impose a tax on the sale or transfer of any radio spectrum license. This tax would apply to all users of the radio spectrum—including radio, television, cellular radio, paging, and business radios.

Mr. President, I take no position on the merits of the proposal. I strongly support public broadcasting and look forward to finding ways to provide it with stable and long-term funding authority. A transfer tax may even be a worthwhile mechanism to do so. There may be better ways.

But the merits of this proposal are not the primary issue for me.

I am extremely concerned about the precedent which would be set in allowing committees—other than the Finance Committee—to consider and report tax legislation to the Senate.

The proposal before us establishes a percentage of the sale price of any spectrum license which would be levied and used to support grants to public broadcasting. While I recognize the argument that this is a fee—similar to mineral leases and royalty payments, I find more persuasive the case that this is an excise tax—similar to Federal gasoline taxes—and as such, should be considered by the Finance Committee.

This is more than some petty feud between the Commerce Committee and the Finance Committee. It is important to have a coherent tax policy. If each committee can formulate taxes, a coherant policy will be impossible. I am particularly concerned about the consequences as each committee is required to meet its Gramm-Rudman-Hollings targets. Committees will be formulating fees in order to avert the need to adopt cuts.

I understand the pressure that committees feel to meet their budget targets. But good public policy requires that taxing authority be concentrated in one central committee which has overall responsibility and accountability. For that reason, I must vote to strike the Commerce Committee measure. I hope we will have the opportunity very soon to devise a way to assure an authorization base for public broadcasting.

The PRESIDING OFFICER. Who now yields time?

Mr. ROCKEFELLER. Will the Senator yield?

Mr. HOLLINGS. I yield to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, not wishing to be redundant in my remarks, may I just simply say that I support the chairman of the Commerce Committee. His argument has much merit and I think it is deserving of the most serious consideration by this body. I think all of us support public broadcasting. We have said so in speeches, in articles, and other remarks. This is the time to show our support.

I thank the Senator.

Mr. HOLLINGS. Mr. President, my colleagues from Missouri said we might have a spectrum auction. He knows better. We struggled all year long with the spectrum auction ever since the President recommended that in January. We could not get a vote on the entire committee, not one vote. Broadcasting has this fixed. And then he ends up and says why vote for a tax we do not need?

Now, most respectfully, I heard years back when I came here, Washington was the only insane asylum in the world run by the inmates; they were trying to make marijuana legal and make tobacco illegal. We are struggling at midnight to find $9 billion in increased taxes so on January 1, in 20 days, we can decrease it $17 billion. And now even if you adopt the leadership package word for word you would still have a $140 billion deficit.

Do not need? We have cried for the Corporation of Public Broadcasting. I have never seen a more outstanding group, both in radio and television. We have been loyal to them and they have been loyal to the people and they certainly have not been polishing by putting us on or taking us off programs. I participate very seldom, but I have been in this public broadcasting since we started the State system back over 25 years ago. And right to the point, we need to stabilize the financing of this magnificent system.

We cannot get an authorizing bill through President Ronald Reagan. He red-lines it. So I am not a bit surprised how he is now reacting. But the point is we need to stabilize it and the best way in the world is to take a spectrum fee that is unanimously supported by the Congress, voted on, by the President, suggested in his budget, and by all users of the spectrum including the broadcasters. They believe in a spectrum fee but not for themselves.

If you want to vote that selfishness, I hate to be the one preaching, I hate to be the one preaching, but if you want to draw down about what is needed, if you want to be that selfish, go ahead because we need it. We need it for the deficit. We need way more, another $140 billion to get ours straightened out here and get us in line with municipal government and State government at every level. They have to pay their bills. Just vote for taxes because we like them? Voting for paying bills because we like to pay the bills and more than anything else we would like to set up a good trust fund supported across the board by everyone for public broadcasting?

I yield my remaining time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. ROCKEFELLER. I thank the Senator from South Carolina.

I ask the Senator from Missouri if he will yield to me for a question.

Mr. DANFORTH. Yes.

Mr. ROCKEFELLER. The Senator made a point that what we are trying to do here is shoehorn the public broadcasting money into an inappropriate vehicle. He says that he is very much for public broadcasting, he is not sure about a trust fund, but he is for public broadcasting and presumably for the funding thereof and points to his own work on the matter last year.

But is it not true that the President twice in 1984 vetoed possibilities for this? We had to in fact attach it at the last moment on the Budget Reconciliation Act, and that this really is the point: that we are in fact talking about the substance and the funding of public broadcasting; that at least in this administration and in a previous one in the early 1970's there has been a conscious and real attempt to remove the funding for public broadcasting. This is not a peripheral issue at all but a matter of are we going to have a funding source that we can count on through various administrative philosophies for public broadcasting because, in fact, it has been vetoed by this President? Is that not why we are forced to come to a process like this?

Mr. DANFORTH. I would answer the Senator from West Virginia by saying I really do not think that is the point. I think if that were the point then we would have a hearing on the subject of a trust fund. Then we would proceed to mark up a bill on the subject of a trust fund, and we would fight the battle of public broadcasting. And we would fight the battle of how it is funded and whether or not a trust fund is created in a very open and direct manner. I think that is the way we could handle it.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. DANFORTH. Mr. President, I am on my own time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DANFORTH. What happened here was the members of the Commerce Committee were convened one afternoon for the purpose of addressing the question of reconciliation back when the old original reconciliation bill was still a live item. We met and with no notification at all we were told that the fairness doctrine was a part of the package, and we were given a written couple of pages on what we were doing. There had been no prior notice. We had waived.

As a matter of fact, I had gone around to the minority members of the Commerce Committee and asked them if they would be willing to waive any objection to this hurried meeting. They said of course we will waive any objection to the hurried meeting. We went down, and then were told something we never expected, never understood before; and, that was that the fairness doctrine was going to be codified in this legislation.

I do not think the Members on this side would agree to that. I happen to agree with the fairness doctrine. I agree with codifying the fairness doctrine. But it was done by slipping it into this package on reconciliation.

I have to say to the Senator from West Virginia that I never realized that we had created a trust fund for public broadcasting until the following week. I had been back to Missouri in the interim. I had come back to Washington. I received a telephone call from a constituent informing me for the first time that we had voted to create a trust fund for public broadcasting. I do not think that is right.

I think that public broadcasting has a future in this country, and it certainly should. It is because it touches the basic values that we want to perpetuate. I do not think that it furthers the values that we want to hold up for public broadcasting to try to slip it in. That is what has been done here.

If the Senator from West Virginia wants to introduce a bill on public broadcasting, I may well not support him because I was the one who insisted on extending the authorization to 3 years last year. That is what we did. We have an authorization that goes to 1990. I take pride in having done that.

But I do not believe it is right to try to do it by not informing people, by not having hearings, by not having the markup and slipping it into reconciliation without any prior efforts to accomplish the same thing in the usual way.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. DANFORTH. Of course.

Mr. ROCKEFELLER. I very much respect what the Senator is saying, but again we have come back to that matter of process as opposed to the substance of the issue. I think the Senator will agree that in fact it was on a reconciliation bill in 1985—that this matter for funding for public broadcasting was indeed attached, and the very point at which we are at this moment. Would the Senator not agree with that?

Mr. DANFORTH. The public broadcasting has been, at least when I was chairman of the committee, something on which we held hearings and on which we reached agreement within the committee. It was handled very openly and very directly. That is the way I think it should be handled. But I think really the question here is: Should the Senate of the United States renege on the budget agreement that was reached with the President of the United States and with the other negotiators? Should we renege on it? We have agreed to adopt the leadership package. We have done that. Now should we undo what had been agreed to?

This was not agreed to. This was not part of the deal. This was contrary to what the deal was; contrary to what the leadership came up with. And for that reason, I just do not think we should do it.

Mr. President, if I have any more time, I do not see any other Senator who wants to speak on the subject—

Mr. HOLLINGS. Would the distinguished Senator yield?

Mr. DANFORTH. Of course.

Mr. HOLLINGS. When the Senator says it was not a deal, would he mind if we put in the Record a transcript of our particular markup which shows on its face it was allocated to public broadcasting?

I ask unanimous consent that we include it in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Committee on Commerce, Science, and Transportation]

Budget Reconciliation

Wednesday, October 21, 1987

U.S. Senate,
Committee on Commerce, Science,
and Transportation,
Washington, DC.

The Committee met, pursuant to the Call of the Chair, at 2:35 p.m., in Room S-146, The Capitol, the Hon. Ernest F. Hollings (chairman of the committee) presiding.

Present: Senators Hollings, Inouye, Ford, Riegle, Exon, Gore, Rockefeller, Kerry, Breaux, Danforth, Kassebaum, Stevens, Kasten, and McCain.

The Chairman. It was envisioned in the present January budget that there be a vote, and we continued to discuss our debate on and off the floor and with our colleagues, and we never could get, frankly, a vote to support that. As an alternative, and I am somewhat embarrassed that we have not been able to conform with the reconciliation construction on the Committee. We all have been talking back and forth of what are the ways to approach this.

We thought of two ways to comply: one with the transfer fee; and the other with the Coast Guard fee that we passed out of this Committee, Senator Stevens' and my bill last year. Under the transfer fee, what we would charge is 2 percent on the transfer. In other words, on everyone that sells a station, upon the transfer just like if you sell your property in downtown Washington, it is 1 percent in and 1 percent out. There would be a 2 percent transfer fee.

It would be 4 percent for broadcast licenses transferred within three years. In other words, we have been trying to do something to cut down on the trafficking of licenses in a lesser period than some three years.

We checked with CBO, and that brings in $340 million. The Coast Guard, what I call the WEP triple E, that is, you either pay for the rescue effort, you pay for the rescue effort we have or you buy a membership. The Coast Guard fee as proposed by Senator Stevens and we reported out as a Committee last year would bring in $50 million.

We have the allocation of the transfer fee funds of some $340 million to the two years of our reconciliation construction, and thereafter, allocated to public broadcasting.

There is an element in here also with respect not only to the trust fund to go to public broadcasting, but the compliance with the Fairness Doctrine to the effect that the fee, instead of 2 percent would be 3 percent, 1 percent more.

We have talked this around and I hope it is all in front of you. We would be glad to discuss it and answer any questions that there are.

Senator Inouye. We have a quorum, Mr. Chairman.

Senator Danforth. Mr. Chairman, on this transfer fee, what would be the effective date?

The Chairman. The effective date, you would have to do it after the enactment of the bill. You cannot say after October 1, because you cannot figure it in. We have changed that, to the enactment of the bill.

Senator Danforth. The enactment of the bill.

The Chairman. Yes. It cannot be retroactive. I would rather lose a few million bucks, or whatever they are. Incidentally, those particular licenses increase about 10 percent each year and they continue to increase, and we continue to lose out entirely on them.

I think it is a manifestly good way of trying to respond to our reconciliation and not being punitive. I know if you have, for example, an inspection fee, I would go in and bid in my area as high as I could go to cut out the competition. This way, it only falls on those who transfer, and everybody pays alike.

Senator Stevens. Where did you get this 315 E thing on the Fairness Doctrine? How does that come in here?

The Chairman. What we are trying to do is get that back in.

Senator Stevens. You do not want my vote then? [Laughter.]

The Chairman. Oh, yes.

The Coast Guard one, Ted, you can describe it. This is the one that you put in. It is a user fee charge schedule for different types of direct services.

The Secretary would also establish an SOS stamp system, involving the sale of the stamp permitting purchasers to receive the Coast Guard services without charge, and the Secretary would not be authorized to charge a users fee unless users have had a reasonable opportunity to purchase the stamp.

It is the same bill that we reported out and debated in the Committee.

Senator Stevens: Well, they came at us in the first place, remember Mr. Chairman, with a request for a user fee applied by tonnage and by length of the boat and what the function of the boat was. It got so subjective that it cost so much money to really put it into effect.

I suggested that let us just have a stamp similar to the duck stamp concept. If you have a stamp then you still do not have to pay any fees if you asked for service from the Coast Guard, that is, for towing and that sort of service.

If you do not have the stamp, then it would be subjected. You would be assessed a fair value for the service you asked for, and that can be substantial for a weekend boater to be towed back into port.

I suggest that it is an offer that every boater would not be able to refuse. It is the kind of stamp that everyone would have. It amounts to a support of the Coast Guard. Everyone that I have talked to said fine, I will pay that.

The Chairman. Senator Inouye moves that we have 11 and now we have 12.

Senator Inouye. I move that the section be adopted, subject to amendment.

Senator McCain. Mr. Chairman, I have some further discussion before the vote.

The Chairman. Surely.

Senator McCain. I do not understand the rationale for codifying the Fairness Doctrine as we are trying to work on reconciliation here and trying to get everybody to agree.

It is a very controversial issue, and one that would not have a place whether you happen to support or not support the Fairness Doctrine.

Perhaps you could illuminate me on why it is necessary to have that in this reconciliation.

The Chairman. Well, you are fairly well illuminated. I think we are all illuminated on that particular score, John, you know that. [Laughter.]

Senator McCain. In the interest of fairness, do you not want to drop that out?

The Chairman. No, I would like to put it in there and just put it as a part of this particular measure. We have got it and have had it before our Committee.

The question is, should we move it or do you want to get an amendment? Should we report it? I do not want you folks to leave before we report it, subject to amendment.

Senator Riegle. I second.

All in favor, say aye.

(A chorus of ayes.)

Senator Kassebaum. Wait just a second.

The Chairman. Yes, ma'am.

Senator Kassebaum. Excuse me. What are we reporting, subject to amendment?

The Chairman. These two proposals. I still do not know where the Fairness Doctrine is, is that what we are talking about that could be amended?

Any part of this can be amended.

Senator Danforth. I was going to ask a question about the Coast Guard.

The Chairman. Yes.

Senator Danforth. We had a proposal last year, correct, on this?

The Chairman. Right, and this is it.

Senator Danforth. A draft type thing?

The Chairman. Yes.

Senator Danforth. Is this identical to what we agreed upon last year?

The Chairman. That is identical to it. That is what I asked to have passed.

Senator Danforth. We are passing the same version?

The Chairman. The same version of it, that is right.

Subject to amendment, all in favor of reporting it, say aye.

(A chorus of ayes.)

The Chairman. Opposed?

Senator Stevens. The Fairness Doctrine—

Senator Kasten. Mr. Chairman, can we have a record vote on that question, so that we can have it clear about on which side these people were?

The Chairman. Sure.

Senator Kasten. I think some of us are confused. You got the votes, but I think some of us would like to be on record.

Senator Stevens. I would move to delete the 1 percent fee for those who are found to be willfully violating the Fairness Doctrine, which no longer exists.

The Chairman. You heard the motion and you want a roll call?

Senator Stevens. I want everyone to understand what happened, because if this goes to reconciliation it means that it is going to be a very controversial thing for some of us. Support reconciliation, period.

This ought not to be there. It is just putting a 1 percent fee on a doctrine that the FCC already has.

Senator Kasten. Mr. Chairman, I simply asked for a record vote on the question that we just prevailed on a voice vote, as to reporting the bill subject to amendment.

The Chairman. Let us get that. Let us have a record vote. The Clerk will call the roll.

The Clerk. Mr. Inouye?

Senator Inouye. Aye.

Senator Breaux. Mr. Chairman, before we call, are we voting on what, just the Coast Guard user fees?

The Chairman. No. We are reporting on the whole matter, subject to amendment.

Senator Stevens. It will still be subject to amendment?

The Chairman. Right.

The Clerk. Mr. Ford?

Senator Ford. Aye.

The Clerk. Mr. Riegle?

Senator Riegle. Aye.

The Clerk. Mr. Exon?

Senator Exon. Aye.

The Clerk. Mr. Gore?

Senator Gore. Aye.

The Clerk. Mr. Rockefeller?

Senator Rockefeller. Aye.

The Clerk. Mr. Bentsen?

The Chairman. Aye, by proxy.

The Clerk. Mr. Kerry?

Senator Kerry. Aye.

The Clerk. Mr. Breaux?

Senator Breaux. Aye.

The Clerk. Mr. Adams?

Senator Adams. Aye.

The Clerk. Mr. Danforth?

Senator Danforth. Aye.

The Clerk. Mr. Packwood?

Senator Danforth. No, by proxy.

The Clerk. Mrs. Kassebaum?

Senator Kassebaum. No.

The Clerk. Mr. Pressler?

(No response.)

The Clerk. Mr. Stevens?

Senator Stevens. No.

The Clerk. Mr. Kasten?

Senator Kasten. No.

The Clerk. Mr. Trible?

(No response.)

The Clerk. Mr. Wilson?

(No response.)

The Clerk. Mr. McCain?

Senator McCain. No.

The Clerk. Mr. Chairman?

The Chairman. Aye.

Mr. Adams votes aye by proxy. He is presiding today.

The Clerk. There are twelve ayes and five nays.

Senator Danforth. Mr. Chairman?

The Chairman. Yes, sir.

Senator Danforth. Mr.Chairman, I have stood by you on the floor on the Fairness Doctrine. We have made this argument together, and I agree with you on the Fairness Doctrine. But, it is clear that on our side at least, there are very strong feelings against it.

Obviously, very strong feelings in the Administration on this subject. And for that reason, I really believe that I had no idea that the Fairness Doctrine was going to be a part of this. In fact, we have not had an opportunity to study the whole thing. At least some of our members have raised questions to this whole concept. I thing we have gone along with that.

I really think that it really is pushing it a little bit too far to try to deal with the Fairness Doctrine in this legislation. Therefore, I would move that we delete the Fairness Doctrine provision.

The Chairman. Very good. You have heard the motion. Is there any discussion?

(No response.)

The Chairman. Do you want to call the roll on that?

The Clerk. Mr. Inouye?

Senator Inouye. No.

The Clerk. Mr. Ford?

Senator Ford. No.

The Clerk. Mr. Riegle?

Senator Riegle. No.

The Clerk. Mr. Exon?

Senator Exon. No.

The Clerk. Mr. Gore:

Senator Gore. No.

The Clerk. Mr. Rockefeller?

Senator Rockefeller. No.

The Clerk. Mr. Bentsen?

The Chairman. No, by proxy.

The Clerk. Mr. Kerry?

Senator Kerry. No.

The Clerk. Mr. Breaux?

Senator Breaux. No.

The Clerk. Mr. Adams?

The Chairman. No, by proxy.

The Clerk. Mr. Danforth?

Senator Danforth. Aye.

The Clerk. Mr. Packwood?

Senator Danforth. Aye, by proxy.

The Clerk. Mrs. Kassebaum?

Senator Kassebaum. Aye.

The Clerk. Mr. Pressler?

(No response.)

The Clerk. Mr. Stevens?

Senator Stevens. Aye.

The Clerk. Mr. Kasten?

Senator Kasten. Aye.

The Clerk. Mr. Trible?

(No response.)

The Clerk. Mr. Wilson?

(No response.)

The Clerk. Mr. McCain?

Senator McCain. Aye.

The Clerk. Mr. Chairman?

The Chairman. No.

The Clerk. There are 6 ayes and 12 nays.

Senator Danforth. How much money did we raise, Mr. Chairman?

The Chairman. Well, I think $340 plus the $50 is $390.

Senator Danforth. What was our goal?

The Chairman. The $394. The $340 could be more. I say that because CBO just gave us an earlier estimate, and I think we can get them up $4 million.

Thank you very much.

(Whereupon, at 2:55 p.m., the hearing adjourned.)

Mr. HOLLINGS. As the Senator refers to, did not the chairman include public broadcasting funding in 1985 on the reconciliation bill? The Senator from Missouri was the chairman.

Mr. DANFORTH. Of course, I did.

Mr. HOLLINGS. I thank him very much. I am just trying to follow his lead.

Mr. DANFORTH. No; not quite. We had hearings on the subject. We notified the members of the committee about what we were doing. I do not recall. I am glad the transcript is going in the Record but I do not recall any discussion in the Commerce Committee on creating a trust fund for public broadcasting. Maybe it was discussed.

Mr. President, I yield back the balance of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, in voting to support Senator Danforth's motion to strike title I, I want to nevertheless, reiterate my support for public broadcasting and my recognition of the value of there being a stable source of funding for it. However, as title I is presented to us on the floor tonight, we would have to agree to Coast Guard user fees as well. I have long been concerned about the administration's attempts to impose Coast Guard user fees as a matter of policy and as a matter of the disproportionate impact that they would have on my constituents in Michigan. As attractive as the public broadcasting elements of title I are to me, I cannot support that title as long as it includes these new Coast Guard user fees.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 1265

Mr. HOLLINGS. Mr. President, I move to strike. This is a motion to strike as contained on several pages. It has been checked by the distinguished Senator from Missouri.

I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 1265.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 19, strike the comma and insert in lieu thereof a period.

Strike all from line 20 on page 2 through line 2 on page 3.

On page 3, line 7, strike ", or 5".

On page 3, strike lines 8 through 9 and insert in lieu thereof "of".

Strike all from line 18 on page 6 through line 10 on page 7.

Mr. HOLLINGS. That is what we did. This amendment was sent to the Senator from Missouri, and he changed it a little bit.

Mr. DANFORTH. Mr. President, my motion to strike goes to the entire title I. What Senator HOLLINGS is doing, in effect, is to agree to strike that portion of title I that codifies the fairness doctrine.

So, if we agree to this—and I, of course, am agreeable to it—this would still leave in title I, the two taxes, the Coast Guard user fee and the transfer fee for the radio and TV stations, and would also leave in the trust fund for public broadcasting. Of course, I agree with striking the fairness doctrine.

Mr. HOLLINGS. Mr. President, in order to save time. I yield back our time on the amendment.

Mr. DANFORTH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1265) was agreed to.

Mr. HOLLINGS. Now we go to the Danforth amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ARMSTRONG (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—66

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Chafee
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Garn
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Roth
Sanford
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Trible
Wallop

NAYS—28

Adams
Biden
Byrd
Chiles
Cranston
Ford
Fowler
Glenn
Graham
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Metzenbaum
Mikulski
Nunn
Reid
Rockefeller
Rudman
Sarbanes
Sasser
Thurmond
Warner
Weicker
Wirth

ANSWERED "PRESENT"—1

Armstrong

NOT VOTING—5

Burdick
Dodd
Gore
Simon
Wilson

So the amendment (No. 1264) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I take the floor at this time just to acquaint Senators with the program for tomorrow and to thank all Senators on both sides of the aisle for the very excellent cooperation that the leadership on both sides had received from all Senators.

The reconciliation bill which was expected to take a couple of days at least is about to be passed. I understand that there are no further amendments that would require rollcall votes in the judgment of the managers. There are technical amendments, and so on.

I would like to have the first rollcall vote begin tomorrow morning at 9:30. It will be a half-hour rollcall vote and it will be a vote on the nomination for the Secretary of Labor.

So this rollcall vote will begin at 9:30. It will be a 30-minute rollcall vote.

Then the Senate will proceed to the continuing resolution.

Now, if we do not finish the continuing resolution tomorrow, we have no alternative but to be in Saturday and work on that continuing resolution. Midnight of next Wednesday is the deadline and if we do not have a continuing resolution that is adopted, goes to conference, goes to the President, is signed by the President by midnight next Wednesday, there has to be another temporary extension.

So the sooner that we can get that continuing resolution to conference, the sooner we are going all of us home.

If we are in Saturday, we have to be back in Monday if we do not finish. So I would urge Senators to think about this this evening and see if they cannot within their own minds and hearts decide to restrain themselves on calling up amendments.

Let us not have the usual Christmas tree effort here as we are so close to Christmas time. Let us avoid calling up amendments if we can possibly do so. Obviously there are only going to be few amendments called up. We have, I believe, four pages of single-spaced amendments. That is folly. So I am urging all Senators on both sides to think over tonight and in the morning we will have our joint whip groups contact Senators and see if they want to agree not to call up their amendments.

And those who feel so bound and compelled to call up amendments, we will ask them if they will be agreeable to entering into a time agreement on the amendment. Let us finish the CR tomorrow night. It seems to me we ought to be able to take up necessary amendments tomorrow and dispose of them. I understand from the Republican leader that they have seven amendments on his side of the aisle.

Mr. DOLE. I think the word got out. It is up to 15. But we could probably whittle that down with a little pressure.

Mr. BYRD. I hope that we will pray about it tonight and that we will remember that if we do not get this CR finished, we only have one more week and then it is Christmas week. I do not believe anyone in here relishes the idea of being in here on Monday of Christmas week, or Tuesday of Christmas week, or Wednesday of Christmas week.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. Can I assume we will be meeting again next year? In case anybody does not get to do it tomorrow, they could do it early next year probably.

Mr. BYRD. Yes. And if we have the kind of cooperation that we had on this reconciliation measure, they will not come back next year until the 25th of January.

So I again thank you all, and I hope that you will consider cutting these amendments down. Let us desist in calling up amendments to the CR.

Now, having said all that, inasmuch as there are not going to be any rollcall votes on amendments tonight, if no Senator indicates he wants a yea and nay vote on final passage, let us call it a day.

All right, there will be no more rollcall votes on this matter or any other today.

Mr. CHAFEE. Mr. Leader, you mentioned that if we made good progress on the CR tomorrow and perhaps if we finished it Saturday, would we be in Monday or have you any indication on what we will do on Monday?

Mr. BYRD. If we finish tomorrow, we will not be in on Saturday. If we do not finish it tomorrow, we will be in Saturday.

Mr. CHAFEE. And if we finish on Saturday, do you have any thoughts on Monday?

Mr. BYRD. If we finish it on Saturday, we will not be in on Monday because this is all we are going to do unless we have items that can be passed by unanimous consent. This is all, the CR and the reconciliation measure.

I thank everyone. There will be no more rollcall votes today.

Mr. STEVENS. Mr. President, just before the Senate retires tonight, I want to indicate that I would have asked for a rollcall vote——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Alaska has the floor.

Mr. STEVENS. I would have asked for a rollcall vote. I will not do so. But I want to register a strong objection to one portion of this bill. I think all Members ought to know what is in it, because I think you will rue the day that you did not vote on this section.

I have tried now for several days to get a costing out by the Office of Management and Budget for an alternative to a section in the Government Affairs portion of the leadership amendment. That portion requires the Postal Service to delay its capital investment programs and absorb the Federal employee cost within its overall budget.

Mr. BYRD. Mr. President, the Senator is entitled to be heard. May we have order?

The PRESIDING OFFICER. The majority leader is right. The Senate is not in order. The Senator from Alaska has the floor and wishes to be heard. Will Senators please take their seats and refrain from talking?

Mr. STEVENS. I thank my friend, the majority leader and the Chair.

Let me repeat. This provision requires the Postal Service to delay its capital investment program and to absorb the Federal employee health benefit costs within its overall budget to cover the cost of these reforms.

It specifically states that an increase in rates, borrowing, or operating budgets will not be allowed to finance these new payments.

Now, Mr. President, we have not appropriated moneys for the operation of the Postal Service since 1982. Prior to the organization of the Post Office in 1970, one-fourth of the Postal Service budget was paid from the Treasury. And the Postal Service has, in fact, lived up to its requirement under the existing law to break even. We have a constitutional responsibility——

Mr. GLENN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Ohio raises a point of order that the Senate is not in order. Will Senators please take their seats? Staff will please leave the rear of the Chamber or be seated.

The Senator from Alaska.

Mr. STEVENS. Again, I thank the Chair.

We have a constitutional responsibility, Mr. President, to maintain Post Offices, and post roads. Under this bill, the Postal Service will not be able to spend for capital expenditures—and I will put the list of capital expenditures in the RECORD so you will see what this bill does to every State in the Union almost—money it has already borrowed. It has borrowed this money at 9 percent, a billion-and-a-half dollars at 9 percent interest, to build these needed projects to maintain postal service in this country. This says they cannot spend that money, notwithstanding the fact they are paying interest on it.

Now, in addition to that, since it prevents raising rates in 1988 and 1989, I predict for you that the postal stamp rate in 1990 will exceed 30 cents. It is now 22 cents.

Mr. President, since I have been in the Senate I have been on the Post Office and Civil Service Committee. I think I have served on that committee longer than any Member of the Senate now. And I tell you I have never seen anything done to the Postal Service under the guise of budget control as this bill does. The guidance from the leadership amendment was to raise $850 million in the first year from Federal personnel costs. And what was it, 1.4 in the second year?

Mr. DOMENICI. No; the same amount.

Mr. STEVENS. The same amount in the second year. That entirely was placed upon the Postal Service, with a prohibition not only against raising rates, but against using the money it has already borrowed and on which it has to pay interest.

The Federal Government is one of the largest users of the Postal Service. We have shot ourselves in the foot because by 1990 we will be using 30-cent stamps instead of 22-cent stamps, and we call this budget control.

Further, the interest in the 2 years that they cannot use the money is entirely lost.

Now, there is going to be a real great impact on third-class mail. A lot of people say to me, "Why do you want all that mail?" Third-class mail is the mail that brings in the revenue to maintain the Postal Service today. There are people in this country that want to do away with the Postal Service. They say to me, "privatize it." And that includes some people down at OMB today who have led the Congress to this decision today, at least the Senate so far, to this decision not to pursue Federal personnel cost reductions and instead to put this on the Postal Service, contrary to the Postal Reform Act of 1970.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. In just a couple of minutes, I will.

A significant loss in third class mail revenues will mean operating costs will go up and that will increase the possibility that we will have even a higher cost stamp, because the third class revenues go down. And that is what is going to happen if we do not buy the equipment which will be listed on the pages I am going to put in the RECORD.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. Members of the Senate staff will retire from the Chamber or be seated.

Mr. BYRD. Mr. President, the Chair is entitled to the respect of Members as are the Senators who speak. I urge the Chair to continue until it gets the order that it is asking for.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. It is late at night but I have waited. I did not want to disrupt this. I support the leadership concept. But as the members of the Governmental Affairs Committee know, I have objected all along to this concept of where these savings would come from.

Those third-class revenue dollars are not going to be regained and we are witnessing the beginning of the privatization of the Postal Service, which means a great deal to my part of the country. To the rural portions of this country that still depend on the mail service for delivering communications and for delivering needed parcel post, this is the beginning of the end of the Postal Service as we have known it.

Now, I understand, everybody says this is the only thing we could do under the circumstances. Unfortunately it is the only thing we can do because we could not get costed out any other alternative that I tried to raise.

I see my good friend from Ohio, Senator GLENN, the chairman of our committee, is on his feet. I congratulate him for trying. I want everybody to know the committee has tried to get costed out a series of alternatives to this proposal which would not have done this damage to the Postal Service. I do not know what we can do to stop a bill when it comes back from conference but if this is still in there I intend to use every right I can to try and see if we can send it back to conference again. Because this is wrong. This is absolutely wrong, to allow us to be used by someone who wants to compel, really, the destruction of the Postal Service to give us only one alternative to meet this goal and that is what this is in my opinion.

I asked for and received a briefing paper on the program implications of this action. I ask unanimous consent it be printed in the RECORD after my remarks. I ask that a chart be printed that has been prepared by my staff, "Implications of Outlay Reductions on Facility Program." This is the loss of post offices, of new equipment, and what it means in terms of the handling of bulk mail as well as regular mail.

I ask that a factsheet on the actions necessary to reduce capital expenditures in 1988 and 1989 prepared by the Postal Service be printed in the RECORD after that and a statement by the Chairman of the Board of Governors of the Postal Service be printed thereafter.

I have taken this action to put you all on notice. In my opinion, we have no alternative tonight. We have no alternative tonight and I am not critical of anyone who has sought this vote of the Senate on this provision as being the only alternative available. But I tell the Senate: Unless we can get the readouts on the budget implications of suggested alternatives from the Office of Management and Budget, under the way the Gramm-Rudman-Hollings procedure is now laid out, we are completely at their mercy in terms of how they will read out a suggested alternative to something they have sent us.

Unless we can get them, we are going to be nothing but rubber stamps for people who have ideas as to how to change this country; people who have never been elected, will never be voted for or against. We are. We are sent here to represent our people and, I tell you, I tell the Members of the Senate, this is wrong. It is wrong to be put in that position. It is wrong to be painted into a corner by a procedure we have created to give ourselves the discipline to bring about the reduction of this budget.

Mr. President, I think there has to be an alternative. We have suggested alternatives such as a mandatory restriction against hiring replacements for vacancies not caused by retirement. Hiring one out of three, for instance, could be costed out and, over a period of about 9 months, make up this kind of money in this fiscal year. That was objected to because we cannot get it costed out.

We suggested other ways to require the President to make the savings that are brought about by not filling vacancies that occur during this period. The Senator from Ohio suggested other solutions, which I found more palatable. Not totally acceptable, I would say to my good friend, but more palatable than the alternative that is in this bill.

But, Mr. President, we still have the best Postal Service in the world. Our country has a Postal Service which I like to remind people, in the days when the Postal Service, the old Post Office Department delivered mail for 3 cents, we bought ice cream cones for a nickel. Now I challenge you to find an ice cream cone anywhere close to 22 cents.

The efficiency of this Postal Service has been maintained contrary to the jibes against it. It can do the job and will do the job if we will only not shackle it. Can you imagine telling people who borrowed $1.5 billion to modernize the best Postal Service in the world they have to pay interest on the money but they cannot use it although they have to modernize equipment to ensure delivery of the increasing volumes of mail in this country? That is what we have done, Mr. President.

I am going to sit down but I urge everybody to study these charts. If anybody has any questions now I would say to my friend I would answer them; but again I am not to be interpreted as being critical of the managers of this bill or the leadership amendment. That is the thing we must do but we have got to find a way out of this dilemma. I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLICATION OF OUTLAY REDUCTIONS ON FACILITY PROGRAM

[In millions of dollars]

Post Office and State	Project description	Necessary action	Estimated project cost	Outlay impact: Fiscal year 1988	Outlay impact: Fiscal year 1989
Phoenix, AZ	South Central Station	Cancel project	$6.8	$2.0	$4.8
Arizona total			6.8	2.0	4.8
Alhambra, CA	General Mail Facility	Suspend construction award	61.7	0.0	8.0
Beverly Hills, CA	Main Post Office	do	21.3	8.0	3.0
Carmichael, CA	do	do	6.3	2.0	2.0
Escondido, CA	do	do	9.2	3.0	6.2
Los Gatos, CA	Carrier Annex	do	5.2	1.5	3.7
Long Beach, CA	N. Long Beach Station	do	6.3	2.0	4.3
Los Angeles, CA	Rancho Park Station	do	12.2	3.0	9.0
Laverne, CA	Main Post Office	do	5.6	1.6	4.0
Manhattan Beach, CA	do	Suspend construction award	9.6	3.5	3.5
Marysville, CA	General Mail Facility	Cancel project	10.0	3.0	6.0
Palos Verdes, CA	Main Post Office	Suspend construction award	9.9	3.7	3.7
San Diego, CA	Linda Vista Station	do	6.5	1.5	1.5
San Diego, CA	General Mail Facility	Cancel project	65.5	0.0	33.0
Sacramento, CA	do	Suspend construction award	96.4	0.0	5.0
California total			325.5	32.8	92.9
Aurora, CO	Main Post Office	Suspend construction award	9.8	2.8	2.8
Denver, CO	General Mail Facility	do	75.5	36.0	36.0
Do	University Station	do	7.0	1.5	1.5
Colorado total			92.3	40.3	40.3
Boca Raton, FL	Sandlefoot Branch	Cancel project	5.2	2.6	2.6
Daytona Beach, FL	General Mail Facility	do	9.2	3.0	6.2

IMPLICATION OF OUTLAY REDUCTIONS ON FACILITY PROGRAM—Continued

[In millions of dollars]

Post Office and State	Project description	Necessary action	Estimated project cost	Outlay impact	
				Fiscal year 1988	Fiscal year 1989
Fort Myers, FL	do	do	32.3	4.0	14.0
Fort Lauderdale, FL	Northwest Branch	do	5.4	1.0	4.4
Gainesville, FL	General Mail Facility	Suspend construction award	20.7	8.5	8.5
Jacksonville, FL	Bulk Mail Center Exp	Cancel project	65.8	4.0	15.0
Miami, FL	Sunset Branch	do	5.3	1.0	4.3
Do	Airport Mail Facility	Suspend construction	2.5	1.3	1.2
Do	N. Miami Branch	Cancel project	5.8	1.0	4.8
Do	Krome Branch	do	6.5	2.0	4.5
Orlando, FL	Mid-Florida GMF	Suspend construction award	39.7	17.0	17.0
Ormond Beach, FL	Main Post Office	Cancel project	5.0	1.0	4.0
Panama City, FL	General Mail Facility	do	7.6	1.6	6.0
Pompano Beach, FL	N. Lauderdale Branch	do	5.2	1.2	4.0
Tampa, FL	South Tampa Bay Annex	do	33.4	5.0	12.0
Miami, FL	S. Florida MPA	do	48.4	14.0	17.2
West Palm Beach, FL	Wellington Branch	do	5.6	1.0	4.6
Florida total			303.6	69.2	130.3
Athens, GA	General Mail Facility	Suspend construction award	10.7	4.8	4.8
Atlanta, GA	North Georgia GMF	do	82.1	33.0	33.0
Georgia total			92.8	37.8	37.8
Champaign, IL	General Mail Facility	Suspend construction award	17.5	5.0	5.0
Chicago, IL	Graceland Station	Cancel project	9.3	4.0	5.3
Do	Bulk Mail Center Expan	do	26.4	2.0	12.2
Do	South Suburban GMF	do	26.3	6.0	10.0
Do	O'Hare Mail Proc. Annex	do	51.6	3.0	3.0
Do	Main Post Office	do	102.0	5.0	11.0
Do	Southwest Suburban MPC	do	29.0	0.0	2.0
Illinois total			262.1	25.0	48.5
Topeka, KS	Mail Processing Annex	Suspend const. award	11.1	5.0	5.0
Kansas City, KS	Bulk Mail Center	Cancel project	19.6	0.0	1.5
Kansas total			30.7	5.0	6.5
London, KY	Mail Processing Annex	Suspend const. award	7.3	3.5	3.5
Bowling Green, KY	General Mail Facility	do	7.7	2.5	2.5
Kentucky total			15.0	6.0	6.0
Kansas City, MO	Main Post Office	Cancel project	53.0	2.0	3.5
Missouri total			53.0	2.0	3.5
Worcester, MA	Mail Processing Annex	Cancel project	37.6	11.0	0.9
Massachusetts total			37.6	11.0	0.0
Minneapolis, MN	Main Post Office	Cancel project	33.7	0.0	16.8
Minnesota total			33.7	0.0	16.8
Bronx, NY	Vehicle Maintenance Fac	Cancel project	14.0	0.0	7.0
Brooklyn, NY	Main Post Office	do	160.1	25.0	
New York, NY	Manhattan GMF	do	213.0	0.0	6.0
Do	Murray Hill Station	Cancel renovation	22.4	0.0	3.5
Poughkeepsie, NY	Mid-Hudson GMF	Suspend const. award	29.9	13.5	13.5
Watertown, NY	Mail Processing Annex	Cancel project	9.5	3.0	6.5
New York total			448.9	41.5	36.5
Cincinnati, OH	Mid-City Station	Cancel project	9.0	4.5	4.5
Cleveland, OH	Air Mail Facility	do	10.7	5.7	5.0
Ohio total			19.7	10.2	9.5
Lehigh Valley, PA	General Mail Facility	Suspend const. award	40.6	18.5	18.5
Philadelphia, PA	Air Mail Facility	Cancel project	40.1	4.5	18.0
Do	Bustleton Station	Suspend const. award	5.7	1.4	1.4
Harrisburg, PA	General Mail Facility	Cancel project	54.3	6.0	0.0
Pennsylvania total			140.7	30.4	37.9
Bryan, TX	General Mail Facility	Suspend construction award	13.6	5.5	5.5
Dallas, TX	North Dallas MPC	do	72.1	27.8	27.8
Houston, TX	North Houston MPC	do	78.7	33.5	33.5
Texas total			164.4	66.8	66.8
Dulles, VA	Airport Mail Facility	Cancel project	13.3	7.0	7.0
Centerville, VA	Main Post Office	do	5.7	2.5	2.5
Virginia total			19.0	9.5	9.5
Charleston, WV	GMF Expansion	Cancel project	15.9	9.5	6.4
Clarksburg, WV	General Mail Facility	Suspend const. award	17.7	7.0	7.0
West Virginia total			33.6	16.5	13.4
New Construction grand total			2,068.3	405.4	578.5

FACT SHEET

Purpose: Potential Actions Under Consideration to Reduce Capital Expenditures in Fiscal Years 1988 and 1989

Immediate halt in the Major Facility (+$5 million) Program. 70 expansion or replacement projects for major mail processing centers would be cancelled.

Scale back plans for replacement of Technical Training Center in Norman, Oklahoma.

Immediate halt in the regional new construction program. This would involve cancelling approximately 250 Main Post Office or stations in each of the two years.

Suspend site acquisition program.

Suspend Long-Life Vehicle program, and terminate the delivery of approximately 18,000 vehicles in each of the two years.

Cancel awards for 1962 Intermediate Vehicles.

Cancel contract award for 407 semi-trailers and 122 truck tractors.

Cancel contract awards of 118 Flat Sorting Machines.

Cancel award of 224 Bar Code Sorters.

Cancel award of Standard Field Computer System.

Cancel the award of contract for 35,924 Integrated Retail Terminals.

Cancel the award of contract for 17,700 Retail Vending equipment modules.

Suspend new contract awards for all Automatic Data Processing equipment.

MAIL PROCESSING DEPARTMENT

Air to highway diversion: A 1986 study indicated a potential savings of $101 million. (Minimal service impacts as measured by average days to delivery.)

6AM to 6PM Processing: A 1986 model of two facilities indicated a potential savings of $633,000 in Wichita and $900,000 in Omaha. (Approximately 50% of mail at those facilities would be delayed one day.)

Eliminate Sunday Processing: Relatively minor savings were identified in the 1986 study i.e. $80,000 in Wichita and $200,000 in Omaha. (Seven to ten percent of mail at those facilities was estimated to be delayed one day under this proposal.)

Eliminate the two day service standard.

Eliminate all service measurement systems ($15m).

Eliminate the Evergreen Network.

Reduce Amtrak System Usage (Estimated Savings Potential of $15m).

Increase the proportion of centralized deliveries: The CAR report indicated that $15 million dollars per year could be saved for every one percent conversion of present door deliveries to centralized delivery.

Explore possibility of "postponing" MLOCR deployment and make expanded use of alternative strategies (Postal Soft, Modifications to existing SLOCRS to allow second line read for box section mail).

Cancel or postpone small parcel and bundle sorter procurement.

Eliminate Saturday delivery.

Close post offices on Saturdays.

Reduce retail hours.

Reduce collections (Eliminate Night Owl).

Procure only plastic sacks.

Explore savings potential of privatization of mail transport equipment centers, repair shops etc.

Pursue rural carrier savings through current negotiations (potential for expanded HCR box route utilization).

STATEMENT BY CHAIRMAN GRIESEMER

I want to talk briefly about legislation that is being discussed on Capitol Hill as a part of the current deficit reduction movement.

More than seventeen years ago, the Postal Service was set up as an independent establishment that would stand on its own financial feet and not be a burden to the taxpayers. The Postal Reorganization Act requires the Postal Service to operate on a "break even" basis over time, covering its costs by its revenues. For the past decade or more, it has been just about right on the mark. You could say that it is the one major part of the Government that works within a balanced budget law.

Let me read a short excerpt from President Nixon's 1970 Message to the Congress relative to postal reform. He said:

"I propose that the Post Office Department be reorganized as an independent establishment . . . designed to make it at least as free from partisan political pressure as are such . . . establishments as the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, and the National Aeronautics and Space Administration. The Postmaster General would no longer be a member of the Cabinet . . ., and the Postal Service would be insulated from direct control by the President, the Bureau of the Budget and the Congress."

Some of the legislation now under consideration would go a long way toward turning the postal clock back to where it was before 1970.

This legislation arises out of the current deficit reduction actions. Actions whose main purpose we all support and applaud. For fiscal years 1988 and 1989, it would require the Postal Service to come up with about $1.7 billion in so-called "savings." Roughly half of this would come from a mandated cut of the postal capital budget—funds needed to replace obsolescent buildings and vehicles and bring in high-speed automated processing equipment. The other half would come from a mandated cut of operating expenses—largely wages for employees to sort and deliver the mail. The legislation would require the Postal Service to pay over these "savings" to cover certain health benefit costs and annuity costs of Postal Service retirees. And it would require periodic submission of "productivity improvement plans" and reports to the President and the Congress.

I've no doubt that my colleagues on this Board will agree that the Postal Service should bear its share of the deficit reduction load. I know that the Postmaster General and his management team share this view. But the details of how to do it should be determined by postal management under our general oversight—not by an Office of Management and Budget that has no responsibility at all for the kind of mail service that this country receives.

Slashing operating expenses will surely disrupt the quality of postal services in the near term. Slashing capital expenditures will badly erode the quality, and greatly increase the cost, of postal services in the future. If the Congress determines that the Postal Service should pay more of the cost of retirement benefits for former postal employees, the way to do it is through careful balancing of current and future service needs against a measured calculation of necessary rate adjustments.

PROGRAM IMPLICATIONS

Approximately $2.1 billion in expenditures are required to fund planned capital investment projects in FY 88. At the end of Accounting Period 3 (12/18/87), year-to-date capital expenditures are expected to total $350 million, leaving a remaining plan of $1.79 billion. About two thirds of this remaining amount relates to contract commitments from previous years. Thus the expenditure figure associated with new FY 88 commitments for the remainder of the fiscal year is only about $531 million.

Thus as a practical matter, an immediate $400 million expenditure reduction this year translates into almost a 75% reduction in the Postal Service's Capital Investment Plan for the remainder of Fiscal Year 1988. It would essentially require suspending the Postal Service's Major Facility Program (for projects costing more than $5 million.) This means suspending the construction award or canceling the project for some 75 major projects. (A full list is provided in an attached table.) The negative impact on these programs for FY 88 would be compounded by a further reduction of $500 million proposed for FY 89.

Many of these projects are critical to meeting our service standards, since they are major mail processing centers that are now at operating capacity or housed in obsolete, aging buildings. Deferral of these projects can be expected to hurt operations in the future, particularly in terms of our ability to improve service in major metropolitan areas and to accommodate growth in booming areas.

A TRIBUTE TO DAVE BROCKWAY

Mr. BENTSEN. I would like to pay tribute to Dave Brockway, who is the chief of staff of the Joint Committee on Taxation. He is a man who became chief of staff in 1983, was already an experienced staffer and tax lawyer, and has made an invaluable contribution to the tax laws of this country. He played a major role in the 1986 tax reform. He served in the difficult role of trying to satisfy the House of Representatives and the Senate at the same time, and has done it in an admirable way.

I know that every member of the Finance Committee will want to join me in thanking him for his service and his contribution to his country and we wish him well in his new endeavors as he leaves this service at the end of this year.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time? The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I ask unanimous consent that the text of the leadership amendment already adopted be considered original text for the purpose of an amendment to be offered by Senators BENTSEN, MELCHER, BREAUX, INOUYE, DODD, HATFIELD, ADAMS, EVANS, RUDMAN, HEINZ, HATCH, KENNEDY, DECONCINI, MCCAIN, and myself.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 1266

(Purpose: To establish a National Economic Commission)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] for himself, Mr. DOLE, Mr. D'AMATO, Mr. DOMENICI, Mr. MURKOWSKI, Mr. NUNN, Mr. BUMPERS, Mr. STAFFORD, Mr. GORE, Mr. MITCHELL, Mr. KERRY, Mr. SIMON, and Mr. BYRD proposes an amendment numbered 1266.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE —NATIONAL ECONOMIC COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. . There is hereby established the National Economic Commission (hereafter in this title referred to as the "Commission").

MEMBERSHIP

SEC. . (a)(1) The Commission shall be composed of twelve members until the meeting of the Presidential Electors in December 1988 when it shall be expanded to fourteen members:

(A) two citizens of the United States appointed by the President;

(B) one Senator and two citizens of the United States appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) one Member of the House of Representatives and two citizens of the United States appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives and one citizen of the United States appointed by the Minority Leader of the House of Representatives.

(F) two citizens of the United States appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may be private citizens.

Individuals who are not members of Congress, and are appointed under subparagraphs B, C, D, E and F of paragraph 1 shall be individuals who—

(A) are leaders of business or labor or persons with distinctive qualifications or experience, and

(B) are not officers or employees of the United States.

SEC. . (a) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) The Commission shall elect a Chairman from among the members of the Commission.

(c) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

FUNCTIONS OF THE COMMISSION

SEC. . (a) The Commission shall conduct a comprehensive study and review of—

(a) The elements of Federal policy that have resulted in the national debt and budget deficit.

(b) The Commission shall make specific recommendations regarding:

(1) methods to reduce the deficit, promote economic growth, and encourage savings and capital formation;

(2) a means of ensuring the burden of achieving our deficit reduction goals is equitably distributed and not borne disproportionately by any one economic group, social group, region or state.

(3) the current and prospective economic factors and developments in the United States that should be taken into account in making economic policy and increasing international competitiveness; and

(4) the institutional arrangements required to achieve the appropriate coordination, within the United States, for the making and implementation of economic policy. (c)(1) The Commission shall submit to the President and to the Congress by no later than March 1, 1989, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

POWERS OF THE COMMISSION

SEC. . (a) The Commission may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to request from the heads of executive and legislative departments, agencies, establishments or instrumentalities of the Federal Government such information as the Commission may require for the purpose of this title, and each such department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, and subject to the exceptions set forth in the Freedom of Information Act, 5 USC 522, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall to the extent possible, and subject to his discretion make any of the facilities and services of such department, agency, or instrumentality available to the Commission and to the extent possible and subject to his discretion detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this title, provided that any expenses of the Commission incurred hereunder shall be subject to the limitation on total expenses set forth in section 6(b) of this title.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title, subject, however, to the limitation on total expenses set forth in Section 6(b) of this title.

The Commission shall be considered an "advisory committee" within the meaning of the Federal Advisory Committee Act 5 USC APP. 2, 3(2)

(4) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission subject to the limitation on total expenses set forth in Section 6(b) of this title shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, U.S.C., governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provisions of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairman deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(5) Service of an individual as a member of the Commission, or employment of an individual by the Commission, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relations to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, U.S.C., or comparable provisions of Federal law.

COMPENSATION OF MEMBERS

SEC.—(a) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available therefore.

(b) The Commission shall have a staff headed by an Executive Director appointed by the Chairman. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

The total expenses of the Commission shall not exceed $1 million. Prior to the termination of the Commission, pursuant to Section 7 of this title, the General Accounting Office shall conduct an audit of the Commission's financial books and records to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

TERMINATION OF COMMISSION

SEC. . The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

Mr. MOYNIHAN. Mr. President, the hour is late and I think it would be right to say that this is an amendment familiar to the Senate. It would create a National Economic Commission. It has been discussed in private conversations and in conference, as you might say, for several months now.

In offering this amendment I would like to thank the distinguished Governor of New York, Mario Cuomo, who has taken the lead in bringing this concept of a bipartisan commission to the forefront of the debate on national economic policy.

Last month, after 4 weeks of difficult negotiations, Members of the House and Senate and the White House reached agreement on a bipartisan 2-year plan to reduce the budget deficit. The plan was not as ambitious as some might have liked. President Reagan summed it up in his Saturday radio address when he said that it was "probably not the very best deal that could have been struck." And that is what made the budget agreement significant. The White House compromised on revenues and defense spending and Congress on domestic spending. The agreement demonstrated that just possibly we can govern.

The budget summit agreement was just the beginning. Even with $30, billion in savings, this year's deficit will be larger than last year's. Next year's probably only slightly lower, Perhaps higher. Years of struggle ahead.

The challenge we now face is to maintain the spirit of bipartisan cooperation that produced that agreement so that we can develop fair and effective long-range policies that will reduce the budget and trade deficits and promote economic growth both here and abroad.

There is no doubt that the long-term economic health of the Nation is at stake. The massive deficits which the Federal Government has incurred year after year have made us increasingly dependent on foreign capital. I remarked some while ago that the 1980's will be remembered as the time we borrowed a trillion dollars from the Japanese and gave a party. That understates. Since 1981 the national debt has gone from about $900 billion to well over $2.5 trillion by the end of 1988. This situation has weakened our Government's hand in negotiations with West Germany and Japan on trade and economic policy, contributed to unacceptably high trade imbalances, and resulted in a massive transfer of wealth from labor to capital. Increased interest payments on the debt have also passed the $200 billion mark, and are largely responsible for our budget deficit. Think about it. Spending and revenues are roughly in balance. Interest on the debt equals the deficit.

A National Economic Commission can help to resolve these problems. Like last month's budget summit, the NEC would be a collaborative effort between the administration and Congress, with private sector participation an added feature. The Commission would build upon the budget summit's achievements, sending an important signal to financial markets that bipartisan cooperation on the economy will continue.

But for the press of time and differences regarding its composition, I believe that the Commission would have been included in the budget agreement. We have continued our discussions with the Speaker and majority leader of the House, our own distinguished majority and minority leaders here in the Senate, the chairmen of the Finance and Budget Committees, the White House and other key participants in the budget summit process. I can now report that this amendment resolves all the objections that were raised during the summit negotiations to the Commission, which now has broad bipartisan support.

This bears repeating. The Commission will be strictly bipartisan—six Republicans and six Democratic appointees. After next year's election, the President-elect will select two additional members to ensure that the next administration has input into the process. The Commission will report its recommendations no later than March 30, 1989. These recommendations will cover the entire range of economic issues, including deficit reduction, economic growth, increased savings and capital formation and the international competitiveness of the U.S. economy.

The Commission will also avoid the politicization of the campaign, yet conclude its business in ample time to give the next administration an opportunity to implement its recommendations, if it so chooses. I think that it is no coincidence that the Senate's three Presidential candidates, Senators DOLE, SIMON, and GORE, are all cosponsors of this amendment. A National Economic Commission can help forge the consensus necessary to achieve a comprehensive solution to our economic problems.

Presidential commissions charged with reporting on various aspects of American life have often proven useful. They first became commonplace under Theodore Roosevelt, who frequently used these commissions to bypass Congress. Roosevelt's first commission was established in 1902 to investigate the anthracite coal strike in Pennsylvania, and by the time he left office in 1902 he had created 11 such commissions.

Of course, a commission is no substitute for sound policy, but if properly structured and conceived, a bipartisan commission can accomplish much.

Take, for example, the 1982-83 Commission on Social Security. Though the problems that faced the Social Security System were far more discrete and manageable than the broader economic problems that will confront the National Economic Commission, the experience is both instructive and encouraging.

As far back as 1946, Secretary of Labor Frances Perkins wrote in "The Roosevelt I Knew" that "in 1980 it would be necessary for the Congress to appropriate money to make up a deficit [in social security]." Shortly after the Reagan administration took office in 1981, OMB Director David Stockman seized upon the system's well-anticipated financial problems and announced that there would soon occur "the most devasting bankruptcy in history." There was no substance to this warning. In reality, at the very worst, checks might have been a day or two late.

The bipartisan Social Security Commission was formed, and I, along with BOB DOLE, JOHN HEINZ, and BILL ARMSTRONG from the Senate, Barber Conable from the House, former Social Security Commissioner Bob Ball, and others began to look closely at the problem. Although it was apparent that certain things needed to be done to put the system in shape, the situation was not nearly as bleak as portrayed.

BOB DOLE, Barber Conable, and I, along with the White House staff, got to work and in a span of just 12 days, from January 4 to January 15, 1983, worked out the historic Social Security amendments which ensured the solvency of the retirement funds far into the next century.

The Social Security Commission succeeded because it was faced with a manageable problem and because a political consensus existed in favor of preserving the system. However, it will not be so simple to place our political economy on a sound footing. The problems are far more complex, and a political consensus has not yet emerged regarding the causes of our economic difficulties, much less the solutions.

Each of these economic challenges—a sluggish national and international economy, the Federal deficit, the

Third World debt crisis, exchange rate misalignment and trade imbalances—is difficult in its own right. Discrete solutions are not available because of the interconnected nature of the problems. Initiatives which address one problem run the risk of exacerbating others, and neither political party can bring off a comprehensive solution without support from all major constituencies.

It is in circumstances such as this that commissions can be particularly useful. They can be used to respond to pressing issues where the status quo is untenable and a blueprint for long-term action is required. In order to accomplish this task, members of the NEC should be broadly representative of the key sectors of our society, be free of ideological rigidity and have the stature to ensure that their autonomy is respected and their recommendations heeded.

The NEC would also help ensure that critical economic issues are not relegated solely to the realm of election year politics and sloganeering that can result in rigid positions that foreclose the realistic responses required when the campaigning ends and govening begins.

The NEC, which would consist of representatives from Congress, business and labor, academia, other distinguished private citizens, and the executive branch, would set out, facts, options and recommendations for addressing national and global concerns as part of an overall hopefully coherent economic strategy. And, most importantly, it would have the credibility and capacity to help build a political consensus necessary to advance this strategy.

Eventually, these problems must be dealt with by our basic national political institutions, Congress and the Presidency. The Commission's role is to supplement—not supplant—our regular political process and to set broad goals and principles, examine problems, and suggest specific policies to achieve these goals. The Commission's findings and recommendations would help continue the effort that developed during the budget summit to address these problems—long-term solutions which enable us to gain control of the deficit, restore our position in trade, promote economic growth, develop equitable arrangements between lenders and Third World debtor nations and place the international economic system on a sound footing.

These solutions require unprecedented decisions regarding the sharing of burdens and the opening of opportunities. But people will be willing to accept the difficult decisions if they appreciate the short and long-term benefits of those solutions. The Commission can help create the national consensus necessary to implement its recommendations. Such a consensus, and a marshalling of political will, is required if we are to achieve solutions to these seemingly baffling economic problems.

Several Senators addressed the Chair.

Mr. MOYNIHAN. Mr. President, I am not aware of a time agreement. I see the distinguished majority leader and the distinguished minority leader are standing.

The PRESIDING OFFICER. Under the previous order, there is 10 minutes per side.

Mr. MOYNIHAN. Mr. President, I yield the remainder of my time to the Republican leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, as many of us have said from the outset, the proposals we have discussed here today are only a first, and admittedly small step, in our efforts to get the deficit under control.

We still have before us a tremendous problem that I believe would benefit from the serious thinking of experts both inside and outside the Government. The Economic Commission that we are proposing to create would provide us that opportunity.

The negotiations which led to the so-called leadership package showed again that there are subjects that are difficult for both sides to contend with, but that are critical if we are to ever achieve long-term reform. And unfortunately, until we are able to face all our problems equally, certain programs will bear the brunt of our short-term solutions.

The Commission, which will at first be composed of an equal number of Democrats and Republicans, will have as its charge the study and review of all the elements of Federal policy that have resulted in the national debt and budget deficit. They will also be asked to make specific recommendations on methods to reduce the deficit and a means of ensuring that the burden of achieving our deficit goals is equitably distributed among all economic groups, regions, and States.

NARROW FOCUS

We have deliberately limited the scope of the Commission's charge, so as to improve its chances of actually producing a useful product in a timely fashion. While I am fully aware of the fact that the problems that face us are multifaceted and involve trade relations with other nations as well as international exchange rate issues and Third World debt responsibilities, there is just so much we can expect to be done in a limited period of time.

TIMING OF REPORT

We have chosen to give the Commission until March of 1989 to report back to us. While wishing that we could see some earlier results of their efforts, we frankly wanted to avoid the potential politicization of the report should it be available prior to the November elections and provide an opportunity for the incoming administration to have input.

CONCLUSION

While not a perfect solution, the creation of the Commission is another step in series of efforts to gain control of our deficit, restore our competitive position and promote stable, long-term economic growth.

I urge my colleagues to vote in favor of the proposal.

Mr. President, I think it is also fair to say that there has been a lot of discussion and a lot of work on trying to put this together. There has been a lot of cooperation on both sides of the aisle.

Initially, an idea was suggested by the distinguished Governor of the State of New York, Mario Cuomo. He had an idea for an economic commission. This has been somewhat restricted. It is not just a budget deficit commission. Many of the things that were suggested have been eliminated not because they did not have merit, but because of the complexity and the time involved.

Now I think we have a good product. It has broad bipartisan support. I commend not only our colleagues but members of our staffs who have been working for the past 3 or 4 weeks in this effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from New York.

Mr. D'AMATO. Mr. President, as an original cosponsor, let me commend Senator DOLE and Senator MOYNIHAN also for their taking time to express appreciation to Governor Cuomo for his coming to the Congress to express his views and concerns on this commission. This bipartisan commission will lead to long-term solutions to the problems that we face.

Mr. President, I rise today as an original cosponsor of a amendment offered by Senator MOYNIHAN and DOLE establishing a National Economic Commission. The sole purpose of the Commission is to recommend ways to reduce the budget deficit beyond fiscal year 1988.

Recently Governor Cuomo came to Washington for a meeting with Senator DOLE and others to discuss his idea of a bipartisan commission to study the budget deficit, trade imbalance, and Third World Debt issues. For the better part of a year Governor Cuomo has advocated creation of a National Economic Commission as a forum to propose solutions to these problems.

The Governor feels, correctly, that only a package of recommendations supported by a bipartisan consensus will result in long-term solutions.

Without such a consensus, we will continue to address these issues on a piecemeal basis. We will continue to muddle through only reacting to each crisis.

The need to attack our Nation's economic woes has been heightened by the October 19 collapse of the stock market. At a minimum, the market is telling Washington that the key to economic stability is deficit reduction. Not just for fiscal year 1988, but well into the future. We cannot be satisfied with a plan to reduce the deficit for just 1 year.

After meeting with Governor Cuomo, Senator DOLE decided to make formation of a National Economic Commission a top priority. The amendment offered today represents a compromise plan that would have the Commission focus solely on deficit reduction. Its membership would include individuals selected by the executive branch as well as both parties in Congress.

The panel would begin work almost immediately with the goal of finishing work by March 1, 1989. The report could then become the basis of congressional budget deliberations. The 101st Congress would have the opportunity to incorporate the panel's recommendations into the fiscal year 1990 budget.

The National Economic Commission will not replace the efforts made to reduce the fiscal year 1988 budget deficit. But the Commission will provide a blueprint for long-term deficit reduction. This is essential to avoid a recession and perpetuate economic growth.

I urge my colleagues in the Senate to support our amendment to establish a National Economic Commission.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my friend for yielding.

I would like to join with my colleagues on the Moynihan amendment.

Mr. President, a few weeks ago I introduced a bill for a 1 year national debt reduction, savings, and economic reform commission and talked about the need for a long-term correction in U.S. fiscal policy—one that encourages savings, economic growth, and national debt-deficit reduction.

And, so naturally I am pleased to be here today to join my fellow colleagues in a similar effort to set up a 1-year, blue ribbon, independent, nonpartisan 14-member national commission to analyze and recommend ways to reduce the deficit and debt, and enhance savings, capital formation, and economic growth.

Mr. President, our country is in an extremely shaky financial condition. It is deep in rising debt, burdened with massive deficits, and faced with disappearing savings for capital growth.

It is reached a point that we have become extremely vulnerable. So much so that recent record U.S. dollar lows and the single-day "crash" of Wall Street stock prices have put our Nation's credit and economic growth at risk.

It is obvious that something far more fundamental than a short-term budget "summit" fix is needed to restore confidence in our fiscal stability.

What is needed is a long-term correction in U.S. fiscal policy—one that encourages savings and debt reduction.

This country's debt is staggering. In the past 6 years public debt has doubled to nearly $2.5 trillion and net corporate debt has increased by more than $5 trillion. Last year nearly one fifth of our revenue, roughly $195,000 billion, went to pay just the interest on our debt while interest payments soaked up one half of corporate America's earnings.

The savings we use for economic growth is disappearing. Consumer savings as a percent of disposable income is roughly one half of what it was 6 years ago. It is at its lowest point in 40 years—nearly $100 billion off normal levels. Our savings is so small we must rely on the savings of other countries to finance our debt. Eleven percent of our present public debt has come from foreign sources—roughly $250 billion—nearly twice the Federal deficit.

Savings for the long-term is critical for a healthy economy. Savings increase the money supply making capital for private and public investment available at affordable low-interest rates. This helps to stimulate growth, create jobs, and generate additional revenues to help pay off our debt, keep taxes low, and stretch out the Federal budget dollar. It makes us less dependent on foreign savings, more competitive with foreign countries, and avoids necessary Federal Reserve Board actions that risk inflation or recession.

But, savings alone is not enough. We must also curb the excessive Government debt that eats into our Nation's limited savings, taking capital away from private investment opportunities for economic growth.

Our current system is off-track. It encourages debt not saving. Interest on debt is deductible while interest on savings is taxed. For example, a person in a 33 percent tax bracket who puts $1,000 in a 6-percent money market fund for one year will have only $990 left of purchasing power after taxes, assuming a 5-percent inflation rate.

Getting a healthy policy mix of savings and debt can go a long way toward stabilizing the dollar, curbing Wall Street excesses, miximizing the Federal budget dollar, making us competitive abroad, and stimulating growth.

The budget "summit" agreement offers no overall plan for fiscal reform. It does avoid arbitrary Gramm-Rudman budget cuts and it contains some symbolic leadership value. But, still leaves us with an uncertain feeling about our fiscal future. By next year we will still have more debt and spending than ever.

Yet, we must not overreact. Fiscal reform is not just finding numbers to balance a budget. It is coming up with the right long-term policies that can lead to a stable, healthy economy.

But it is a sensitive and complex problem. A fast-track blue-ribbon economic commission will help give us thoughtful, straight-forward, balanced, and measured policy options—options that are not unduly influenced by harmful particular political pressures. It will also minimize untimely, excessive, or wrong combinations of tax increases, spending cuts, and Federal reserve actions that could retard growth and cause undue hardship to millions of Americans.

Mr. President, because of this, I ask this body to support this amendment.

The Commission's cost is minimal. Its expenses are limited to no more than $1 million, and will be paid from Secretary of Treasury funds.

Groups that are now working on similar projects could give the Commission a good running start at a credible, expedited report for the next President by March 1, 1989.

A long-term correction in U.S. fiscal policy is long overdue. I ask you to join us in this amendment.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the distinguished majority leader be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further discussion on the amendment? Is all time yielded back? All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 1266) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I thank the distinguished manager of this legislation, the Senator from Florida, the chairman of the committee, and the distinguished Senator from New Mexico, the ranking member, and especially the majority leader who made it possible at this late hour to bring this matter before the Senate.

EXPORT-IMPORT BANK ASSET SALES

Mr. HEINZ. Mr. President, the leadership package that we are considering in this reconciliation debate represents one more step, albeit a modest one, in coming to grips with the budget deficit problem. While the package is small in comparison with the fiscal gap we are facing, it must at least be applauded as better than no leadership at all.

There is, however, one element of the package that is worthy of no applause at all, and that is in fact a real losing proposition. I refer to asset sales, the budget gimmick that trades a quick, temporary infusion of funds for larger deficits in the future and permits us to avoid difficult budget choices now. As my colleagues know, I have been increasingly concerned about the management of Federal credit and the issue of asset sales. I am a sponsor and strong supporter of credit reform, which would avoid the entire issue of selling off assets by scoring the cost of credit accurately and up front. However, I do not expect credit reform to be implemented nor asset sales abandoned in our discussion of the leadership package today.

What I would at least like to see is more even-handed treatment of programs forced to undertake asset sales. I am submitting an amendment for printing that I will not propose that would condition any asset sales by the Export-Import Bank on exemption of the Bank from prepayment penalties required by the Federal Financing Bank for early retirement of agency debt. This amendment would not change the deficit or increase spending but would accord Eximbank the same waiver of penalties provided for the Rural Electrification Administration in section 8201 of the leadership package.

My amendment would protect the Bank from $90 million of capital losses arising from prepayment penalties. These losses will further reduce the capital base of the Bank and with it the confidence of investors and exporters at the very time that they are looking to the Bank to meet export financing needs no longer met by commercial banks.

As I have stated, my amendment does not alter the deficit nor does it increase resources for new spending by Exim. Exim lending is controlled by annual appropriations. It is a bookkeeping transfer internal to the Government. FFB is now making money at the expense of Exim's capital base by collecting high interest payments based on interest rates prevailing in the early 1980's while borrowing at lower rates today. My amendment would end this drain by permitting Exim to refinance at par without changing Federal spending of Treasury's borrowing requirements.

I have submitted this amendment with no illusions about the difficulty of altering the leadership package. Everyone is concerned about lowering the deficit and does not want to upset the summit deal. But there is also a trade problem out there—October's trade deficit hit $17.6 billion, up from $14.1 billion in September. I believe it is necessary to at least make the effort to preserve our one source of official export finance at a time when financing is often the key to export deals and banks are getting out of the business.

Eximbank's direct credit program has been reduced by nearly 90 percent in 5 years. It is the whipping boy of the budget process. I ask my colleagues to work with me to preserve this vital institution, if not in amending the budget compromise today, then in future budgets.

I ask unanimous consent that the text of this amendment be printed following my statement in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of section 9007 (adding a new section 16 to the Export-Import Bank Act of 1945), add the following:

"(e) LIMITATION.—Loans may be sold pursuant to this section only to the extent that funds realized from the sale are used to prepay obligations issued by the Export-Import Bank of the United States to the Federal Financing Bank in order to fund the Export-Import Bank's lending program without any charges associated with the prepayment in excess of the outstanding balance on the obligations and the interest due as of the date of the prepayment.".

AMENDMENT NO. 1267

(Purpose: To extend the Arizona Health Care Demonstration Project)

Mr. DeCONCINI. Mr. President, I send an amendment to the desk on behalf of myself and Mr. McCAIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. McCAIN, proposes an amendment numbered 1267.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.

(a) RENEWED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to subsections (b) or (c) of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1115 as of September 30, 1987.

(b) TERMS AND CONDITIONS.—The Secretary's renewed approval of the project under subsection (a) shall—

(1) subject to subsection (c), be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(2) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(c) PERMITTING ADDITIONAL WAIVERS AND COVERAGE.—Nothing in this section shall be construed to prevent the applicant from seeking approval, in due course, from the Secretary—

(1) for additional waivers under section 1115 of the Social Security Act,

(2) for coverage of additional optional groups, and

(3) for coverage of long-term care and other services which were not covered as of September 30, 1987.

Mr. DeCONCINI. Mr. President, our amendment responds to a request from our State legislative leadership for the extension of Arizona's Indigent Health Care Demonstration Program—the Arizona Health Care Cost Containment System [AHCCCS]. AHCCCS has been providing health care services to at least 215,000 Arizonans since 1982. As a prepaid health plan, it has been a joint State-Federal demonstration project under the Medicaid program for the past 5 years.

We are now on the threshold of making the program permanent. However, the current HCFA imposed deadline of January 31, 1988 for completing negotiations on the outstanding issues does not give the State sufficient time to finish the work that has been undertaken by the legislative leadership and the Indian tribes to reach agreement on the final plan. We need to give the State additional time to complete its negotiations. Our amendment accomplishes this by allowing the demonstration program to continue operating until September 30, 1989 under the approved waiver which was in effect on September 30, 1987.

By adopting this amendment, we are saving the Federal Medicaid budget $70 million. Without the amendment, AHCCCS will be phased out of operation by the Health Care Financing Administration and Arizona's only option will be to adopt a traditional fee-for-service Medicaid Program. If this happens, the Federal Government will end up paying $70 million more out of its Medicaid budget. By extending the AHCCCS Program, the most the Federal Government will pay in the current fiscal year for AHCCCS is $110 million, not the $180 million required for a traditional Medicaid program if that were adopted by the State to maintain health services for the indigent in Arizona.

Mr. President, the distinguished chairman of the Finance Committee, Senator BENTSEN, and the ranking minority member, Senator PACKWOOD, understand the urgency of the situation facing Arizona. In fact, they have been very responsive to our need for this amendment and have agreed to accept the provision. I thank them for their willingness to help us. This Senator is most appreciative of their leadership and the fine work they have done on our behalf. I would urge the support of my colleagues for this amendment so the people of Arizona can continue to get critical health services provided by the Arizona Health Care Cost Containment Program.

Mr. President, I thank the ranking member and the chairman of the Finance Committee, Senator PACKWOOD and Senator BENTSEN, for their cooperation in getting this matter to the floor in a very timely manner, as well as the Senator from New Mexico and the Senator from Florida for their valuable cooperation.

Mr. President, I yield to my colleague.

Mr. McCAIN. Mr. President, I join my distinguished colleague and friend from Arizona, Senator DECONCINI, in offering this amendment to extend the life of the Arizona Health Care Cost Containment System [AHCCCS] through September 1989.

This program operates on a 5-year waiver provided by the Department of Health and Human Services. The program, which provides care on a capitated rather than the traditional fee-for-service basis, has been pointed to on many occasions by the administration as the model for how they would like to see Medicaid operate in the future.

However, Mr. President, we face a problem. The State of Arizona and the Federal Government are still working out the details of the second 5-year waiver. Unfortunately, if the details of the new waiver are not agreed to by January 1988, the program will begin to be dismantled—with a drop dead date of September 1988.

If the program is dismantled, and the State of Arizona has to revert to the traditional fee-for-service Medicaid Program, and the Federal Government would have to shell out an additional $70 million annually—beginning in 1988. According to the Congressional Budget Office, the Federal Government's share of AHCCCS is $110 million, while under the traditional fee-for-service Medicaid Program it would be $180 million.

Senator DECONCINI and I believe that it is important that the time period for dealing with this issue be long enough so that the State of Arizona and the Federal Government can achieve an agreement over the details of the new waiver.

At the present time, the leadership of our State government, members of both parties—both the executive and the legislature—are working vigorously with the Federal Government to reach an agreement. We trust that the additional year extension, provided by this amendment, will provide adequate time during which an agreement can be reached over the details of the new waiver. It is for this reason that we request the support of our colleagues in the consideration of this amendment.

In closing, we would just like to remind our colleagues that if the State of Arizona is forced to revert to the traditional Medicaid Program prior to a resolution of the primacy issue, it is not only the people of Arizona that will suffer but it is the Federal budget as well. After all, according to the Congressional Budget Office, the fee-for-service will cost the Federal Government $70 million more per year than it currently pays for our State's innovative Medicaid Program.

Again, we urge our colleagues to support this amendment.

Mr. President, I thank my colleague from Arizona for his efforts in helping the State of Arizona through a very difficult time. I would also like to extend my appreciation to my colleague from Florida and my colleague from New Mexico for allowing this amendment to be accepted. I believe this is a very important measure. The State of Arizona will have an opportunity to resolve what, for the State of Arizona, has become a very contentious issue.

Mr. DECONCINI. Mr. President, I ask that the RECORD show that the entire Arizona delegation has worked on this matter for many, many hours, the Members of the Senate and Members of the House. I want the RECORD to show that we have labored hard in the State of Arizona on the matter.

The PRESIDING OFFICER. Is there further debate? Is all time yielded back? All time has been yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1267) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BREAUX. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1268

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 1268.

Mr. BREAUX. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title III, add the following new section:

"Sec. . Notwithstanding the limitation provided for in the third sentence of Section 3 of the Tennessee Valley Authority Act of 1933, as amended, the Tennessee Valley Authority is hereafter authorized to spend power revenues to pay salaries that exceed such limitation to not more than 25 key employees, to be designated by the Tennessee Valley Authority Board of Directors on the basis of the need to attract or retain such employees in the management of the Authority's nuclear power operations, provided that the total amount of such salary paid in excess of such limitation shall not exceed $900,000 per year, said amount to be adjusted by the Board annually for inflation in the cost of living from the average for the calendar year 1987."

Mr. BREAUX. Mr. President, I have discussed this amendment with both the chairman of the full committee and the ranking minority member and the managers of the bill who have indicated they have no objection to the amendment.

The amendment merely attempts to, and I think does in fact, correct a problem dealing with the Tennessee Valley Authority's inability to hire top personnel to run their nuclear power facilities. There are approximately 25 employees, and they simply cannot, other than going through the process of contracting out with private industry, obtain these employees because of the low salary level. This amendment corrects that problem by raising the ceiling on what they can pay their employees. In effect, it will bring about a savings because they will be able to effect that savings by paying a higher salary than they can now but certainly substantially less than they have to pay out under the contract provision. I ask support for my amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment? Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1268) was agreed to.

Mr. BREAUX. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

AMENDMENTS NO. 1269-1278

Mr. CHILES. Mr. President, I send a number of approved amendments to the desk and ask unanimous consent that the approved amendments be immediately considered en bloc, they be considered as having been read and passed and a motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection to the request of the

Senator from Florida? Hearing none, that will be the order.

The amendments are as follows:

Amendment No. 1269

Purpose: To strike the provision restricting OMB authority to apportion funds for peer review under the medicare program.

Strike subsection (k) of section 4041 of the amendment.

Amendment No. 1270

Purpose: To deny a pay raise to Members of Congress, senior Executive Branch employees, and Federal judges.

Strike subsection (b) of section 5001 and insert in lieu thereof the following:

"(b) Certain Pay Adjustments Not Applicable to Members of Congress, and Other Senior Executive, Legislative, and Judicial Branch Officers.—

(1) For any pay period occurring in the fiscal year ending September 30, 1988, no adjustment in rates of pay made pursuant to section 5305 of title 5, United States Code, or the provisions of subsection (a) of this section, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for the office or position as of September 30, 1987 if, as of such date, such rate (or maximum rate) is—

(A) fixed at a rate which is equal to or greater than the rate of basic pay for Level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(B) limited to a maximum rate which is equal to or greater than the rate of basic pay for level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(2) No rate of pay for any office or position shall be increased after September 30, 1988, based on any increase by an adjustment that would have been received but for the provisions of paragraph (1), unless such increase is provided pursuant to a law enacted after the date of enactment of this Act.

Amendment No. 1271

Section 1891 of the Social Security Act, as added by the amendment made by section 4021(i)(1)(A) of the amendment, is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "(1)",

(B) by striking "The" and inserting in lieu thereof "Subject to subparagraph (B), the", and

(C) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section. "; and

(2) in paragraphs (1) and (2) of subsection (b), by striking "338D" each place it appears in such paragraphs and inserting in lieu thereof "338E".

Section 1915(c) of the Social Security Act, as added by the amendment made by section 4021(i)(2)(B) of the amendment, is amended by striking "338D" and inserting in lieu thereof "338E".

Section 4021(i)(3) of the amendment is amended—

(1) by striking "(3)(A)" and inserting in lieu thereof "(3)",

(2) by striking "338D(b)(1)" and inserting in lieu thereof "338E(b)(1)", and

(3) by striking subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph:

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

Amendment No. 1272

Purpose: Strike section 9010.

On page 714, line 7, strike "section" and insert "title".

Amendment No. 1273

In section 4033 of the amended bill, strike subsection (c) and insert in lieu thereof the following:

(c) Effective Date.—

(1) The amendments made by subsection (a) shall apply with respect to services furnished on or after January 1, 1988.

(2) The amendment made by subsection (b) shall become effective on January 1, 1990.

Section 4052(c)(1) of the amended bill is amended by striking "has not attained the age of 6 (or any age designated by the State that exceeds 6 but does not exceed 8)" and inserting in lieu thereof "is age 6 or under (or is any age designated by the State that exceeds 6 but does not exceed 8)".

Section 1915(d)(5)(B) of the Social Security Act, as added by section 4101(a)(1)(B) of the amended bill, is amended in clauses (i) and (ii) by striking "7 percent" each place it appears in such clauses and inserting in lieu thereof "7 percent times the number of years beginning after the base year and ending before the waiver year involved".

Amendment No. 1274

At the appropriate place, add the following new section:

SEC. . WHEAT ACREAGE DIVERSION.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 is amended—

(1) in clause (i) by striking out "and (IV)" and inserting in lieu thereof "(IV), and (V)"; and

(2) in clause (ii)—

(A) by striking out "and (IV)" in subclause I and inserting in lieu thereof "(IV), and (V)"; and

(B) by adding at the end thereof the following new subclause:

"(V) Effective for the 1988 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the producers on the farm are prevented from planting such acreage, if intended for wheat, to wheat for harvest in 1988 because of a drought in 1987 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.".

Amendment No. 1275

Strike section 4086 of the bill and insert in lieu thereof the following:

SEC. 4086. WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.

Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "Temporary" in the heading; and

(2) by striking "for hospice care provided before October 1, 1988,".

Amendment No. 1276

At the appropriate place insert the following new section:

"SEC. . DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

"(a) In General.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) Nature of Project.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May, 1987.

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C 2020(e)) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals which may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) Funding.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) Project Application.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

"(A) also be treated as an applicant to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) Waiver.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) Construction.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) Project Audits.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) Evaluation.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

Amendment No. 1277

The bill is amended as follows:

(1) On page 43, line 3, the phrase "a period set by the Secretary not to exceed" is deleted;

(2) On page 43, lines 24 through 25, the phrase "the Secretary under" is deleted.

SECTION 1. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) Medicare Certifications and Recertifications for Certain Services.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or

a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician," and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) Medicaid Certifications and Recertifications for Certain Services.—Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting in lieu thereof "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting in lieu thereof "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B) by striking "a physician;" and inserting in lieu thereof "a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician with a physician;".

(c) Supervision of Health Care Furnished in Skilled Nursing Facilities.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,".

(d) Definition.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Specialist

"(ff)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a masters degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner' " and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(e) Effective Date.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to items and services furnished on or after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance provided on or after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 2. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) Payment of Beneifts.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests;", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1861(s)(2)(L), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10).".

(b) Contracts With Carriers.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13) In providing payment for the items and services described in section 1861(s)(2)(L), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) Definition.—Section 1861(s)(2) of such Act (52 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) Conforming Change.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(L)" before the period.

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) In General.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in paragraph (5)—

(1) by inserting "(A)" after the paragraph designation; and

(2) by striking "elsewhere;" and inserting in lieu thereof "elsewhere; and (B) services furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialist (as defined in section 1861(ff)(1)) working in collaboration with a physician;".

(b) Effective Date.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

Sec. 4. The Secretary shall issue such rules and regulations which will ensure that this provision is implemented in a budget neutral manner. The Secretary is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation.

AMENDMENT NO. 1269

Mr. MITCHELL. Mr. President, I rise in support of Senator Heinz' motion to strike from the leadership package a provision offered in committee which would prohibit the Executive Office of Management and Budget [OMB] from limiting the amount of Medicare funding available to the Secretary of Health and Human Services for the Medicare Peer Review Organization.

Earlier this year I introduced legislation, which was supported by my colleague from Pennsylvania, which is intended to reform and improve the PRO Program. One of the most serious problems with the program involves the amount of funding available to carry out the activities mandated by law.

While my legislation addresses the question of funding, it does not mandate a specific funding level for the program. In the past it has been difficult to get an adequate level of funding from OMB in spite of support for increases from Congress and the Health Care Financing Administration.

Senator HEINZ' amendment, included in the leadership package, would have limited OMB's control over the funding levels for the PRO Program. I am pleased that since the committee's inclusion of this amendment, Senator HEINZ and others have reached a tentative agreement with OMB on a 2-year funding level that would fund an expanded scope of work, including review in nursing homes and home health facilities.

OMB's agreement to fund PRO activities at $625 million for the upcoming 2-year cycle is a significant step toward adequate funding for this important program which monitors the quality of care delivered to the Nation's Medicare beneficiaries.

I am optimistic that this agreement will resolve one of the most serious concerns expressed about the PRO Program—a lack of adequate funding. I commend Senator HEINZ for his efforts in reaching this important agreement.

Mr. HEINZ. Mr. President, the amendment I am offering will strike from the leadership package a provision I offered in committee to prohibit the Executive Office of Management and Budget [OMB] from limiting the amount of Medicare funds the Secretary of HHS can use to carry out the activities of Peer Review Organizations [PRO's].

Mr. President, this provision was passed by the committee because of a growing frustration with OMB's constraints on PRO funding. Congress has created and expanded the PRO system in an effort to ensure that the quality of health care for Medicare beneficiaries is high and is not impaired by efforts to control Medicare costs. We learned a tough lesson about the effect of cost containment on health care quality when we implemented the hospital DRG system with its incentives to release patients "sicker and quicker" from our hospitals. Our response was to mandate a more strict review by PRO's of the quality of care hospitals provide. While PRO's have done their best, they have been "hamstrung" in their reviews because of limited funds and limited access to post-hospital care settings. If we do make sure that PRO's are adequately funded now, I fear we will see more and more serious quality problems as we tackle the next target for health care cost containment, rising part B physician costs.

The committee took this meat-ax approach to limiting OMB's control over PRO funds to give us some time to work with OMB on an adequate funding level. I'm pleased to report that we have reached a tentative agreement with OMB on a 2-year funding level that would fund a reasonable scope of work for PRO's and that is acceptable to Senators BENTSEN, MITCHELL, and myself. I have a letter today from OMB confirming this agreement and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, December 10, 1987.

Hon. LLOYD BENTSEN,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Administration has previously indicated, we have serious objections to Section 4041(k), "Restriction on OMB authority to apportion Peer Review funding", of the Senate Finance Committee December 3, 1987 package for inclusion in the Leadership Deficit Reduction Amendment. However, I also indicated in my earlier letter to you that we looked forward to working with your staff to resolve appropriately the concerns of the Committee.

My understanding is that our staffs have clarified—and, I hope, resolved—the concerns. The concerns discussed included the overall level of Peer Review Organization (PRO) funding, the general priority accorded various PRO tasks, and related financial management issues.

The Administration intends to issue by January 1, 1988, a scope of work for the third round of PRO contracts. For budgeting and planning purposes, we are assuming that $625 million will be available for obligation for the third round of biennial PRO contracts. This funding level is projected to be consistent with the expected requirements of the scope of work.

In light of the staff discussions and this letter, I trust that you will move to have Section 4041(k) deleted from the Senate Finance Committee provisions included in the Leadership Amendment. Once that has been accomplished, the Administration would be able to fully support the package of Medicare, Medicaid, and Income Security provisions adopted by the Finance Committee to implement the Budget Summit Agreement.

Sincerely yours,
JAMES C. MILLER III,
Director.

Mr. HEINZ. Mr. President, we anticipate that OMB will agree to apportion $625 million for an approved scope of work for the PRO program prior to completion of conference.

In brief, OMB has agreed to fund the next, 2 year cycle of PRO activities at a level of $625 million. And to extend the PRO scope of work to include PRO review of nursing home, home health, and physician care, as required by COBRA. OMB has also agreed to work closely with the Secretary of DHHS and with Finance members in determining how the $625 million will be apportioned.

Mr. President, the agreement we have reached with OMB is fair, cost-conscious, and goes a long way to ensure that our "quality watch" under Medicare does not stop at the hospital door, but extends as well to nursing homes, physician offices, and the beneficiary's home. This agreement is also an important and constructive step by OMB, DHHS, the Congress, and the PRO industry toward a common workplan and a common goal. I believe we have made progress in moving the Congress' quality objectives for Medicare with this agreement. I move to strike my provision.

AMENDMENT NO. 1273

Mr. BENTSEN. Mr. President, the first correction will clarify that the rebasing of the lab fee schedules becomes effective for services furnished on and after January 1, 1988, and the 1990 effective date applies only to the intermediate sanctions provision.

The second technical correction is to clarify that coverage of the DEFRA children—those who meet the AFDC income and resource requirements but do not receive AFDC—would be expanded by 2 years—through age 6 rather than up to the 6th birthday.

The third technical correction modifies the formula for the home and community-based waivers to clarify that the growth factor of no more than 7 percent is applied on a per year basis.

The fourth technical amendment clarifies that section 4056—optional Medicaid coverage of individuals in certain States receiving only optional State supplementary payments—applies only in situations in which the State's income disregard rules are more restrictive than SSI rules. This conforms the language to the intent to cover States such as Oklahoma that have an income disregard for their State supplementary payments that is more restrictive than SSI, and conform to the original CBO and OMB estimates that the provision was budget neutral or saved money. Without the correction, CBO now estimates a cost of $10 million in fiscal year 1988.

The fifth technical amendment clarifies that the delay in collecting quality control penalties is not a forgiveness of penalties, but rather a prohibition on the Secretary collecting the penalties prior to July 1, 1988.

AMENDMENT NO. 1274

Mr. HATFIELD. Mr. President, the amendment I am offering today provides relief to the wheat farmers in the Pacific Northwest who were prevented earlier this year from planting their 1988 crop due to extreme drought conditions. Most of the wheat grown in the Northwest is soft white winter wheat and farmers historically have planted their crop in the fall. If the crop is not planted then, much smaller yields result since planting is delayed until spring.

In Oregon perhaps 20 to 30 percent of wheat farmers were not able to plant because the usual fall rains did not materialize. The Columbia River Basin is prime wheat country in Oregon and Washington but these areas were listed in the "extreme" category when measured by the Palmer Drought Index. Pendleton, OR, usually receives an inch of rain in October; this year it got a trace. The 3 month total ending October 31 was .08 inches. The weather news from Walla Walla, WA, was just as bad—no rain fell in October and only .21 fell during the same 3 months.

My proposal provides winter wheat farmers, who have not planted a 1988 crop due to drought conditions, the option of not planting in the spring and receiving 92 percent of their normal deficiency payments. Without the so-called 0/92 option, many farmers will plant a spring wheat crop, and no matter how small the crop, the farmers will receive the full 100 percent of their deficiency payments. According to CBO, this amendment is at least savings neutral.

I assure my colleagues that this amendment is drawn very narrowly and is not an endorsement of a comprehensive 0/92 option.

There is precedent for using 0/92 as a disaster relief measure. Earlier this year we enacted legislation—Public Law 100-45—allowing farmers in the Midwest, who were unable to plant their 1987 crop due to flooding, to use the 0/92 option. Mr. President, we have a pending disaster of the opposite nature now in the Pacific Northwest.

It is my understanding that members of the Agriculture Committee have no objection to this amendment and I urge my colleagues to adopt this proposal.

AMENDMENT NO. 1275

Mr. DODD. Mr. President, today I am urging my colleagues to join me in sponsoring an amendment to this reconciliation package, to modify a waiver for the Connecticut hospice.

This reconciliation package contains only a 2-year extension of the waiver on in-patient/home-care ratios for Connecticut hospice. But we have been enacting temporary waivers for the Connecticut hospice, the oldest and first teaching hospice in the country, since 1982. Without a permanent waiver, it will not be able to continue providing quality care to thousands of Connecticut residents and their families. Lack of a permanent waiver is also hampering plans to move forward in meeting the health emergency posed by the AIDS epidemic.

Because Connecticut hospice was designed to serve the entire State and continues to provide in-patient care statewide, it can never meet the 20- to 80-percent ratio established by the hospice legislation. The Connecticut hospice does meet a 20-to-80 ratio for the entire State but not for its direct home-care delivery service area.

This is a no cost provision. Connecticut hospice consistently comes in under the cap of $7,391 per patient. The cost per case at Connecticut hospice totals only $5,350 per patient.

When the original temporary waiver was enacted, my colleagues agreed that the oldest hospice and the first teaching hospice in the country should not be put out of business. Given the long and strong tradition of quality care at Connecticut hospice, I urge my colleagues to support this amendment to assure that this hospice will be able to continue serving the residents of my State.

AMENDMENT NO. 1276

Mr. EVANS. Mr. President, I rise to offer an amendment which would enable the State of Washington to move ahead with its carefully-designed Family Independence Program [FIP]. The operation of the FIP demonstration project requires Federal waivers in AFDC, Medicaid, and Food Stamps. Although it would have been more desirable to have moved free-standing waiver legislation, the time constraints under which we are working have obviated that possibility.

Last April, the Washington State Legislature enacted the Family Independence Program [FIP]. Implementation of this project is scheduled to begin in March 1988. However, the State statute requires that the Governor submit a report on the action taken by Congress to approve FIP. The State legislature must then reapprove FIP prior to the March 1 start date. Failure of Congress to act by the end of 1987 will delay program implementation for as long as an additional year since the State legislature will adjourn in early March.

The Senate Finance Committee, after reviewing the FIP proposal, included the necessary AFDC and Medicaid waivers of its reconciliation mark. Thus, the project needs only the food stamp waiver before it can be implemented. Our amendment would provide for such a food stamp waiver. This language has been cleared with the chairman of the Agriculture Committee as well as the distinguished ranking member. Similar legislation already has been approved by the House Agriculture Committee. FIP is budget neutral at the State level. CBO has concluded that the effects of the waiver legislation would be budget neutral at the Federal level as well.

FIP is a 5-year demonstration project as an alternative to the current AFDC program. It is a work-training intensive project aimed at enhancing the job skills of welfare recipients. It is a proposal that has been carefully constructed and has received overwhelming bipartisan support from our State legislature as well as national and State welfare rights organizations. I urge the amendments immediate adoption.

AMENDMENT NO. 1276

Mr. ADAMS. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Washington State, Mr. EVANS and myself. It is my understanding that this amendment is not controversial, and has been cleared with both sides.

This amendment allows Washington State to use its Federal Food Stamps allocation for the purpose of operating a demonstration program, the Family Independence Plan, for 5 years as an alternative to the current AFDC Program. Provisions permitting similar use of the State's AFDC and Medicaid funds are already part of the overall reconciliation bill currently before the Senate. Inclusion of this provision simply makes the package complete.

The Family Independence Plan is designed to address many of the concerns that have been raised about the existing AFDC program. This plan provides a multiservice assistance package, including job placement and training, child care, and guaranteed child care and Medicaid for a year after permanent placement. It is budget neutral at the State level, and I assure my colleagues that the Congressional Budget Office has determined that the amendment we offer today is budget-neutral at the Federal level as well.

Authorization of the Washington State plan as a demonstration program will be an important step toward national welfare reform. This plan has received bipartisan support, both within my State and nationwide. It guarantees that participants will not be worse off than they were before, and protects their traditional entitlement rights. It also provides for a renewed focus on the development of work skills as the most dependable way for individuals to permanently escape the trap of dependency.

I am proud of the contribution that my State, behind the leadership of it's distinguished Governor, the Honorable Booth Gardner, is making to the cause of welfare reform; and I urge my colleagues to support this effort by accepting this amendment.

AMENDMENT NO. 1277

Mr. MELCHER. Mr. President this amendment to the federal oil and gas leasing provisions in the bill provides for a fixed 3-year recycle period on the over-the-counter leases. It is an amendment supported by the independent oil and gas producers.

The 3-year recycle period provides stability in their operations and will help them to assure the best opportunity for exploration and development on Federal leases.

The country needs more oil and gas development. The independent operators are the fore-front of renewed exploration.

AMENDMENT NO. 1278

Mr. INOUYE. Mr. President, the amendment which I am proposing today incorporates the provisions of S. 101, the Advanced Nursing Services in Nursing Homes Act, and is cosponsored by Senators BURDICK, SIMON, and BINGAMAN.

Under the current Medicaid law, nurse practitioners are authorized to perform recertification of medical necessity in skilled nursing facilities and in intermediate care facilities, as long as they are supervised by physicians. Our amendment would expand these services by allowing nurse practitioners and clinical nurse specialists to certify and recertify the need for continuing care in both institutions under the programs of Medicare and Medicaid. Further, we have modified the physician supervision requirement to only require collaboration.

An additional aspect of this amendment would provide for the reimbursement of nursing visits in the same manner as physician visits are reimbursed, that is, when required on a periodic basis by the statute. The Congressional Budget Office [CBO] has indicated that this amendment has no dollar cost and we are confident that it will provide quality health care in a cost-effective manner.

Mr. President, the purpose of our amendment is to bring the most current state of the art nursing care to our Nation's senior citizens. Without question, our population is rapidly aging and unfortunately, there is a severe shortage in all health disciplines of individuals who are specially trained in geriatric care.

As drafted, our amendment will specifically pay nurse practitioners and clinical nurse specialists 75 percent of their prevailing charge, a rate I might point out that is 5 percent less than what physicians receive. Further, we have required that nurses who receive payment for services cannot charge the beneficiaries an additional amount, that is, there a mandatory Medicare provision assignment.

Finally, to ensure that there will not be an economic conflict of interest, we have modified our original legislation to insure that those professional nurses who are performing the certification and recertification services may not be employees of the institution. I might point out that such a requirement of an arm's-length relationship between the practitioner and the facility is not required under the current law for physicians who are providing these same services.

Mr. DOMENICI. Mr. President, I thank my good friend, the chairman of the Budget Committee, for his time and effort and patience on this bill and the majority and minority staff of the Budget Committee and of those committees that performed work to put this package together.

Mr. President, I would like to take a minute to thank the staff who have worked so very hard on this effort. I would like to thank not only the minority staff of the Budget Committee, but the very able staff of the other committees, which contributed to the leadership amendment: the staffs of the Finance Committee, the Agriculture Committee, the Governmental Affairs Committee and the Labor and Human Resources Committee. It is too easy to forget that it is these many talented, hardworking staff members who work long hours under very difficult circumstances to help us do our work. This is particularly true of our own minority leader's staff. I just want to express my own gratitude here, now, and I am sure the gratitude of the many members of the budget summit process.

I see the majority leader sitting here and while there has been a lot of complaining about the economic summit, I think maybe we witnessed a little bit of history tonight because I do not think in 15 years—and I would bet that if we checked the record for all the Senate's history—an informal agreement between a President and six Senators without any power, no reconciliation instructions, nothing to hold over them, but the committees of the Senate went to work and in substance, if not in absolute spirit, complied with the summit conference passed in one day in the Senate. I think it bodes well for the Congress if we can now get it out of conference.

I think it really says there was a difference between meeting with the President and the House, Democrats and Republicans, and passing something and waiting around for a sequester. I think it is a genuine effort in a crisis. I personally was not sure that we could accomplish it. There are many who think we could have accomplished more, but just think, the Finance Committee did its job with nothing but the word of these summiteers saying you ought to do it. Government Operations did theirs. Agriculture did theirs. And surely every "t" is not crossed and when we go to conference we will have a chance to correct a few things, but I think it is a marvelous example of what can happen when the President and Democratic leaders and Republican leaders sit down together.

I want to thank the majority and minority leaders for the tremendous help they have been to us and obviously it goes without saying to my friend Senator CHILES.

Mr. President, even though we voice vote this, there are five or six Senators who wanted the RECORD to reflect that they would have voted "no" on final passage if permitted, and I ask unanimous consent to insert their names in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD as follows:

Had there been a vote on this bill, the following Senators would have voted no: Senators GARN, WALLOP, MCCLURE, MCCAIN, SYMMS, EVANS, BOND, and KASTEN.

Mr. CHILES. Mr. President, I thank my good friend and colleague and the fine Senator from New Mexico for his kind remarks. It is interesting that we in effect passed the leadership amendment on a voice vote. We worried as to whether there would be the 60 votes to waive under any consideration. We have been able to get that and then to have passed this. I agree that it does show you can come to some agreement, and even though many of us wanted more, all of us did, than we had here, we did finally, after the end of 4 weeks, put something together that avoided the sequester. A missing ingredient for long a time has been participation of the President, and finally when we had the participation of the President, we were able to get passage.

I personally do not think there is any way you ever can do something meaningful regardless of whatever process you have without the active involvement and leadership of the President and the spirit and will of the Congress through its leadership working to do that. I think this was an example of that.

Mr. President, I thank the majority leader because he supported us all through this process at the summit, as did the minority leader. But I remember on many occasions he said, "Whatever you all agree to, I will help you pass." He certainly held to that all the way through. He did not try to be an active participant. He sent us there, but backed us up all the way, and I thank him so much for that. Through the joint leadership support we had we were able to put this package together.

I say again to my friend from New Mexico, it was very nice to be working together. I missed that during a long period of time this year. It shows the kind of results that happen when we participate together.

Mr. BYRD. Mr. President, the action that has been taken here today is the culmination of a great deal of labor and painstaking effort on the part of those Senators and House Members and representatives of the President who sat for days on end and worked to surmount extremely difficult obstacles. We have witnessed an extraordinary event. It demonstrates that the basic fabric of our system is an enduring fabric. It demonstrates the integrity of this body when we see the leadership package withstand every amendment, every motion, every attack and then resolved by a voice vote. And to add to that then the final passage of the reconciliation measure itself is an event sui generis.

I find myself pitifully incapable of expressing my gratitude to the distinguished Republican leader and distinguished chairman and ranking member of the Budget Committee and also to the chairman of the Finance Committee.

And I want to thank the ranking member of the Finance Committee, although he did not accompany us all the way in this journey. I also thank Senators STENNIS, JOHNSTON, and HATFIELD. But I saw a truly admirable demonstration on the part of these Senators who sat for days, who did their very best in extremely difficult and complicated situations. And so let me just say thank you to them.

I would add one final note in support of something that has been said here about the working together of the President and the Congress. The journey has not been completed, but what we have seen here should indicate to the country that in this system of ours a Republican President and a Democratic Congress can come together. When they do put their heads together, they move mountains.

As I said earlier today, there are those who think that the package was not all that one would wish for, and I am sure that each of us would agree to that. But we have shown that we can work together, and that this system will work.

I think that coming on the heels of a visit here by the leader of the other superpower, and in the context of all the great outpouring of courtesy and a considerable amount of admiration, this is something that says to me that this superpower here, this system that we have is superior to any other system which was ever conceived by the mind of man. Here there is no dictatorship nor proletariat, and there is no dictator of the dictatorship of the proletariat. I read just 2 weeks ago "The Life and Death of Lenin" by Robert Payne. I would recommend the reading of that book to every American. It is a rather sobering thing just to be reminded of the other system that is the chief adversary of our own. It is quite easy to be swept away in moments like the days that we have just experienced, but it is refereshing to go back and to be reminded of things that we long since have forgotten ourselves.

In reading that book about the life and death of Lenin, I came to have a better insight into the Soviet bureaucracy, and of Soviet communism itself. I did not become an expert, but it helped me in these past few days to remain pretty sober as a lot of events were swirling around us.

I need only close by saying that Lenin in that book is quoted as saying "We shall destroy everything, and on its ruins we shall build our temple."

And I was also reminded of Khrushchev's statement which I had long since forgotten, but I think it is good that we keep it in sight in our mind's eye. And now I shall recall it. "Do not believe we have forgotten Marx, Engels, and Lenin. They will not be forgotten until shrimp learn to sing."

I thank my friends. As long as we have men of the caliber of these Senators who have worked so long and so hard to achieve what has been done here today. I shall have no doubt that the Senate will continue to prove it has the integrity to deal with the most serious problems. And then in the final analysis, whether Republicans or Democrats, we are going to do what we think is best for this sytem of ours and this country of ours.

The PRESIDING OFFICER. Is there further debate on the measure?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Has all time been yielded back?

Mr. DOMENICI. I yield any time remaining on our side.

Mr. CHILES. Mr. President, just briefly I wanted to mention all of the dedication of the staff again for my part on both sides, and the work they did during the summit as well as all of the work during this. The hours they put in are always so much longer than any of us put in, and the debt of gratitude to them is always so, very, very much due for their attention and the work in that.

Mr. President, I yield back the remainder of my time.

PROCEDURES FOR GOING TO CONFERENCE WITH THE HOUSE

Mr. CHILES. Mr. President, I ask unanimous consent that H.R. 3545 be deemed as having been considered and amended by striking all after the enacting clause and inserting in lieu thereof the language of S. 1920, as amended, and be considered as having been read for the third time and passed, and the motion to reconsider laid on the table, that the Senate insist upon its amendment and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. CHILES. I thank the Chair.

The PRESIDING OFFICER. Is there further business to be brought before the Senate?

S. 1920 RETURNED TO THE CALENDAR

Mr. CHILES. Mr. President, I ask unanimous consent that S. 1920 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

DECEMBER 10, 1816: SENATE CREATES STANDING COMMITTEES

Mr. DOLE. Mr. President, today is the 171st anniversary of the creation of standing committees in the U.S. Senate. It was on December 10, 1816, that the Senate established 11 standing committees: Foreign Relations, Judiciary, Ways and Means—which later became the Finance and Appropriations Committees—Commerce, Military Affairs, Naval Affairs, the Militia, Public Lands, Claims, Post Office, and Pensions.

Prior to 1816, the Senate had done its work through a series of temporary committees, appointed to handle specific bills, treaties, or nominations. In any session of Congress, several hundred of these ad hoc committees would be created and disbanded as they performed their assignments. Obviously there could be no seniority system as we know it, although some Senators were repeatedly reappointed to certain types of committees according to their areas of expertise. Inequalities also prevailed, for a few Senators drew a great number of committee appointments while other Senators served on none.

The Senate did have three standing committees for housekeeping functions: for enrolled bills, engrossed bills, and contingent expenses. But in the aftermath of the War of 1812, with major social, economic, and diplomatic issues facing the United States, the Senate realized the need to create permanent committees that would provide continuity and stability for the legislative process.

In December 1816, the Senate received President James Madison's annual State of the Union Message. Virginia Senator James Barbour proposed that instead of creating a host of special committees to address each provision of the message, standing committees be appointed. On December 10 the Senate adopted Barbour's proposal, and within the week the first permanent committee appointments were made, establishing a committee system that continues today.

AIRPORT SECURITY SYSTEMS

Mr. HEFLIN. Mr. President, for a couple of years now, we have known how ineffective our existing airport system is. Many of us have been calling for serious efforts to improve that system, with better detection equipment and with better training and better paid employees to operate that equipment. Instead, we have been faced with nonsensical calls for bans on nonexistent firearms.

The possibility that an air tragedy in California was actually a mass murder carried out because of our shoddy security system in scathing criticism of how we and the FAA have fiddled while disaster was smoldering ready to blaze. This tragedy did not occur because someone was able to smuggle a small lightweight steel gun aboard and not because someone invented a plastic undetectable gun aboard. It was accomplished because existing means for detecting existing firearms were not used effectively. The perpetrator reportedly smuggled a .44 Magnum on board. Are we now to believe that a firearm weighing nearly 3 pounds is not readily detectable?

Pending legislation in this Chamber would, according to the experts, make our security even weaker by creating a false sense of security. Its main sponsor has even said he is more concerned wtih banning some guns than with improving airport security. I disagree and would call upon this body promptly to sponsor legislative and administrative efforts to improve our airport security system and not to divert attention from this threat to our lives with legislation aimed at problems which do not exist.

A TRIBUTE TO THE HUNTSMAN FAMILY OF SALT LAKE CITY

Mr. GARN. Mr. President, this week, in Salt Lake City, a drama—and a near-tragedy took place involving one of my closest friends, one of Utah's most generous and respected families, and courageous and conscientious agents of the FBI and the Salt Lake City Police Department.

On Tuesday of this week, two 17-year-old high school students kidnaped James Huntsman, a 16-year-old son of Jon and Karen Huntsman, of Salt Lake City. The kidnapers subsequently demanded $1 million for the release of the boy, but Federal agents were able to trace the location of the callers and succeeded in rescuing James Huntsman and capturing the suspected kidnapers.

Sadly, the successful rescue was not without its price. Special FBI Agent Grant Alan Jacobsen, a 20-year FBI veteran just 2 weeks from retirement, was stabbed in the chest and very nearly lost his life in the struggle to separate young James Huntsman from one of his captors.

Mr. President, I applaud the dedication and bravery of the FBI agents who skillfully effected James' rescue. I especially wish to pay tribute today, in this Chamber, to the courage of a member of the FBI who chose to place the safety of others ahead of his own. The tragedy is that his heroism and selfishness very nearly cost him his life. It is my fervent hope that Special Agent Jacobsen, who is today in serious but stable condition, will be able to completely recover from the grave wound he received in this incident.

There is another aspect of this incident that I wish to bring to the attention of my colleagues. That is the response of the Huntsman family to this terrible experience. There is no question in my mind that James Huntsman was targeted as a kidnaping victim because of the well-known wealth and civic activity and generosity of his family, who have made several large monetary donations to various institutions in Utah. One might expect that being subjected to the horror of a child's kidnaping, and experiencing the mixed feeling of relief at his rescue and concern and sadness at its cost, would drive the family into seclusion and would be ample reason for them to withdraw from the sort of civic involvement that made them visible and vulnerable. Yet, after James' rescue on Wednesday, Jon and Karen Huntsman called a news conference, praising and thanking the Federal and local authorities for saving their son's life. At the same time, Jon indicated that this incident would not cause him or his family to shrink from what they consider to be their civic duty, and will continue to participate in and support the worthwhile activities in the community and State in which they live and for which they have a great sense of gratitude.

Mr. President, as unfortunate and near-tragic as this incident has been, it has served to demonstrate some of the highest and most noble virtues to which we should all aspire. The skill, bravery, and dedication of Special Agent Jacobsen and his colleagues, and the great personal stamina and sense of community responsibility of the Huntsman family, far outweigh the savage, terrible, misguided act of two young men who chose to commit a vicious crime.

SENATOR EDWARD M. KENNEDY'S 25 YEAR RECORD

Mr. BRADLEY. Mr. President, few of us can look back on our tenure in the U.S. Senate and point to the many accomplishments of our colleague, the senior Senator from Massachusetts, Senator KENNEDY.

I was very pleased to note that Harvard University's Kennedy School of Government recently took the time to look back on Senator KENNEDY'S remarkable 25-year record of service to the people of Massachusetts and to the entire country. I would like to share their assessment with my colleagues as an inspiration for us all. I ask unanimous consent that the transcript of the proceedings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRIBUTE TO SENATOR EDWARD M. KENNEDY AND HIS 25 YEARS OF SERVICE IN THE U.S. SENATE BY THE INSTITUTE OF POLITICS AND THE JOHN F. KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY, NOVEMBER 30, 1987

Speakers:

Honorable Richard L. Thornburgh, former Governor of the Commonwealth of Pennsylvania; Director of the Institute of Politics at the John F. Kennedy School of Government, Harvard University.

Graham T. Allison, Dean of the John F. Kennedy School of Government, Harvard University.

Ronald H. Brown, Partner, Patton, Boggs & Blow, Washington, D.C.; Chairman of the Senior Advisory Committee of the Institute of Politics.

Claire Fleming, Chairman, Student Advisory Committee of the Institute of Politics; Harvard University Class of 1988.

Paul Holtzman, Law Clerk to the Honorable Pierre N. Leval, United States District Court, New York City; former Chairman of the Student Advisory Committee of the Institute of Politics; Harvard University Class of 1982.

The Honorable Jonathan Moore, United States Coordinator for Refugee Affairs and Ambassador-at-Large, Department of State; former Director, Institute of Politics.

Richard E. Neustadt, Douglas Dillon Professor of Government, Harvard University; former Director of the Institute of Politics.

Derek Bok, President, Harvard University.

Senator Edward M. Kennedy.

REMARKS OF RICHARD L. THORNBURGH

Good evening to you all. I'm Dick Thornburgh, the Director of the Institute of Politics, and I'm very pleased to welcome all of you this evening to a tribute to Senator Edward M. Kennedy for twenty-five years in public service. It will not surprise you to learn that between a former Republican Governor of Pennsylvania and the senior Democratic Senator from Massachusetts, there are certain differences on the issues of the day. But I must say that there are certain views that Ted Kennedy and I hold that are very much in coincidence. First of all, we share a zest and an enthusiasm for the process of elective politics. Secondly, we recognize the need to transmit that zest and enthusiasm to the next generation of leaders, many of whom will come from this Harvard community. And thirdly, we recognize the importance and usefulness of the Institute of Politics in bridging that gap between the academic community and the real world—the so-called real world—of politics and government. So for me it's a particular pleasure to act as the master of ceremonies and traffic cop this evening as we join in paying tribute to Ted Kennedy for twenty-five years of exemplary service as Senator from this State and as a national and world leader. I'm going to call upon, this evening, a group of associates and friends of Ted Kennedy to reflect on his career and to offer their tributes in their own words as a lead-in to the featured address of the evening, which will be delivered by Senator Kennedy.

First of all, I'd like to call upon the Dean of the John F. Kennedy School of Government, Dean Graham Allison.

REMARKS OF GRAHAM T. ALLISON

I'm greatly honored to salute Senator Edward M. Kennedy for a quarter century of distinguished public service in the Senate of the United States. Others on the program will offer more perspective on his achievements in that body. I'll speak to what I know best—his contributions here at the Kennedy School, not only as the State's senior Senator, but as a steady, active partner in building a living memorial to the ideals of public service exemplified by his brother, John Kennedy, and indeed by the remarkable family of Kennedys. For twenty-one of the past twenty-five years he has been unfailingly generous with his time and enthusiasm for the Institute of Politics, as a member of the School's Visiting Committee, and as a wise counsel. He has been the single most important advocate for creating an institution at Harvard that would inspire young men and women to elective politics. Today, elective politics seems or appears to many to be more closely related to acting or prime-time TV than to the teaching and research purposes of a great university. Indeed, many faculty members, even at Harvard, find it easier to scoff at the folly of knaves and fools than to take up the challenge of improving the quality of our public leadership. Whatever our local tendencies to backslide and whenever we are discouraged by our own failings, Teddy has been there, never wavering in his conviction that electoral politics is the noblest calling of public service, or in his insistence that through the Institute of Politics this be a vital center of the school that bears his brother's good name.

As the fourth son in a family that in some wonderfully mysterious way bred public service into the children's bones, he and his siblings have been acutely aware of the price. The eldest brother died in World War II, the second was assassinated as President, a third was killed as he pursued his party's nomination for the Presidency. Weaker hearts counseled retreat—especially in the face of countless threats to Senator Kennedy's own life—but not Edward Kennedy. Without missing a step, he assumed the family's mantle of leadership in public service, steadfastly refusing to compromise his commitment to his values, even when they have been lightning rods for right-wing extremists. Through all his personal adversity, he's held fast to certain guiding stars. As he said on one occasion, "The pursuit of the presidency is not my life. Public service is." Or on another occasion that revealed even more of his heart, he said he would like to be considered, "A Senator for the average working family—the ones that don't have powerful voices or interests in the Congress of the United States."

The record of his legislative achievements over the past quarter century is extraordinary. Not just as champion of equal rights or access to health care or more recently the Literacy Corps, but also in areas like airline and trucking deregulation, the modernization of the federal criminal law, or even budget cutting. Last May 29th, as we celebrated what would have been John F. Kennedy's seventieth birthday and dedicated the new JFK Park, Senator Kennedy said, "Jack has finally come back to Harvard." We at the Kennedy School feel that he's never left. Indeed we see him and his ideals exemplified in the man we honor this evening, Senator Edward M. Kennedy.

REMARKS OF RICHARD L. THORNBURGH

Thank you Graham, very much. The Institute of Politics is served by a Senior Advisory Committee which is made up of leaders from public and private life who serve as counselors to those of us who have the responsibility of overseeing the Institute's day-to-day activities. I am pleased to introduce the Chairman of the Senior Advisory Committee, and a distinguished lawyer and politician in his own right, Ron Brown.

REMARKS OF RONALD H. BROWN

Thank you very much, Dick. We are, of course, here this evening to praise Senator Kennedy—give him well-deserved praise—for his twenty-five years of brilliant public service. In recounting those years, certain pictures and images flash through our minds—images which all of us have when we think of those twenty-five years. Images of Ted Kennedy fighting on the floor of the Senate for fairness and justice and equity. Images of Ted Kennedy maintaining an impossible public schedule with grace and dignity. Images of Ted Kennedy fighting to protect the interests of the people of Massachusetts. Images of Ted Kennedy electrifying the 1980 Democratic National Convention with his "The Dream Shall Never Die" speech. Images of Ted Kennedy, the leader, driving himself and his staff to do better. Images of Ted Kennedy taking on the tough and often unpopular issues—in effect, sailing against the wind.

But I hope that's not the only image or those are not the only images we see as we reflect on those twenty-five years. I hope we also see Ted Kennedy earnestly talking to students and young people, genuinely seeking their views and ideas. I hope we also see Ted Kennedy holding and feeding starving children in East Africa. I hope we also see Ted Kennedy playing tennis with the intensity of a middle linebacker, but yet able to laugh when he makes errors, laugh at himself—he makes enough errors so that he's able to laugh a lot on the tennis court. I hope we see Ted Kennedy visiting a former staff member who is on his deathbed dying of cancer. I hope we see Ted Kennedy kissing his son Teddy. This is the true measure of the man. Ted Kennedy has more character and compassion and concern and caring for people than any man I know. I'd like to salute him on his twenty-five years of public service. But more important, I'd like to salute him for being one heck of a human being.

REMARKS OF RICHARD L. THORNBURGH

Thank you, Ron. If there's one thing that Senator Kennedy has urged on the Institute of Politics throughout his years of affiliation with this organization, it is attention to students, and the nurturing of student interests in the political world. Our Institute is served by an outstanding group of students who constitute the Student Advisory Committee. And with us this evening to join in this tribute is Claire Fleming, this year's Chairman of the Student Advisory Committee.

REMARKS OF CLAIRE FLEMING

While growing up in the Midwest, I often saw your picture on the front page of a local newspaper or on the evening television news. I never thought that I would have the opportunity to meet you or even let alone work with you. But over the past three and a half years of my experience here at the Institute, I have indeed had that privilege. It is your dedication to the Institute of Politics which I would like to speak to this evening. I remember that as a freshman it amazed me that a Senator, particularly one as busy as Senator Kennedy, could be so dedicated to a student organization like the Institute of Politics Student Advisory Committee. Those of us who have been involved with the Student Advisory Committee have often enjoyed the helpful suggestions which the Senator offers at Senior Advisory Group meetings. He is truly dedicated to the purpose of the student program and he takes his advisory role to the SAC very seriously. We all appreciate the attention and respect that he has given us. He has always offered helpful advice to student programs as well as insightful suggestions for future directions for these programs. He too, has always been there to lend support and encouragement to students.

But Senator Kennedy's dedication has not only been expressed through words. He has most certainly been dedicated in action as well. His commitment to students and student programs is clearly expressed and can be seen, whether it is taking time to talk with students over a cup of coffee about the outcome of the 1986 elections, or agreeing to an interview with the Harvard Political Review. There's also the time that he flew halfway across the country, despite being ill, to make an appearance at a high school leadership conference that the Student Advisory Committee was sponsoring. These are only a few examples of the commitment that I have seen by Senator Kennedy over my past three and a half years here at the Institute. But it is this kind of dedication that students have enjoyed since the founding of the Institute over twenty years ago. Recently, I was asked to write a fellowship essay explaining how I had learned and grown here at Harvard. I cited working with Senator Kennedy as a major educational and broadening opportunity that I had experienced here. Senator Kennedy, working with you has indeed been an unforgettable experience. It has been both a privilege and an honor. For your time spent with students, your guidance and your overall dedication to the Institute of Politics, I thank you.

REMARKS OF RICHARD L. THORNBURGH

To demonstrate that the Senator's interest in the students is not just a sometime matter, but indeed stretches back over the years, and to provide us with a further perspective, I am pleased to introduce Paul Holtzman, who was Chairman of the Student Advisory Committee at the Institute of Politics in the Class of 1982.

REMARKS OF PAUL HOLTZMAN

As Claire Fleming and Ron Brown know, the annual visit of the Senior Advisory Committee to the Institute is always a hectic and exciting time. Participants in each of the Institute's programs are anxious to speak of the year's accomplishments and hear the suggestions and ideas of the distinguished members of that Committee. During my time in the Institute, it was always a challenge to the diplomatic skills of even so even-handed a moderator as Jonathan Moore to keep the agenda moving and time evenly allocated. Despite Ambassador Moore's best efforts, however, the schedule always seemed to go awry around mid-day at the time of the presentation of the Student Advisory Committee. For it seemed that each time that Jonathan tried to move on to the next scheduled presentation, a firm glance from over a pair of half-glasses would signal that Senator Kennedy had yet another question to ask. Looking up from the charts and graphs of our annual report, the Senator would probe the reason for a 3.1 percent increase or decrease in student study group attendance, or ask which visiting fellows were being considered for the fall. It wasn't that Senator Kennedy wasn't interested in faculty research projects, or the model for yet another new wing of this building; it was simply that he had another question to ask about the student program—usually a question for a student who had not yet had a chance to speak. The Senator's flurry of questions each year reflected a long-standing and energetic commitment to the Institute's student programs. For a full generation of undergraduates passing through the IOP, Senator Kennedy's interest in this program has been a resource of immeasurable value.

At the dedication of this school in 1978, Senator Kennedy called the Institute a magnet between the University and elective office. It is a magnet whose force has touched many students over the years. In no small part, it's been the Senator's personal commitment to, and love for, this Institution that has kept that magnet at full strength over the years. Radcliffe and Harvard students who have listened in the Forum, debated in study groups or with fellows over dinner in the houses, have all been the beneficiaries of the energy so consistently given the Institute by Senator Kennedy. The 400 students from 65 New England colleges who attended our 1982 training conference here, entitled "Education for Action in a Nuclear World," were also beneficiaries, because that program to teach skills of political organizing and grassroots lobbying grew out of a suggestion from Senator Kennedy in a discussion at one of those extended meetings of the Senior Advisory Committee. As with the Nuclear Conference, as Associates and Members of the Student Advisory Committee, hundreds of undergraduates have had the additional privilege, as Claire mentioned, of working in common cause with the Senator to maintain the vitality and creativity that is the heart of the IOP.

In another sense, the Senator has himself been a magnet. For his example of a life devoted to the service of the public has itself sparked in so many students an interest in public life. From the Class of 1982 of the Student Advisory Committee, I'm glad to report that the idea of public service still glows in, among others, the founder of the country's first PAC supporting candidates committed to freedom in South Africa; the founder of a tenants' rights group for the elderly of South Brooklyn; a candidate for the Boston school committee; several Hill staffers; and more than a few campaign junkies and law students with a pronounced bent toward public interest law of one stripe or another.

While it's true that the law schools and business schools have had their share of IOP alums, I fervently believe that our exposure to the public service example of Senator Kennedy and others has contributed mightily to the ability of most to fend off the well-funded entreaties of corporate law and Wall Street banks. In looking to horizons broader than mergers and buy-outs, Institute alumni draw on both specific policy interest developed here and a pervasive spirit of public service and interest in the electoral process acquired through long days of planning on the Institute's second floor, and cheeseburgers with staff members and fellows at Charlie's Kitchen. To have benefitted from Senator Kennedy's vision and commitment to this Institute is a privilege for which we will always be grateful. And it is a privilege which we can repay best by following the Senator's example in giving something of ourselves in the pursuit of the public good.

REMARKS OF RICHARD L. THORNBURGH

Thank you Paul. It's now my particular pleasure to welcome back to the Institute of Politics and the John F. Kennedy School of Government to give us additional perspective over the years, my distinguished predecessor, Jonathan Moore, now Ambassador for Refugee Affairs in the United States Department of State and a world traveler in the interest of human rights around the world. Jonathan, welcome home.

REMARKS OF JONATHAN MOORE

Thank you, Governor. Several years ago in this same hall, the Institute was sponsoring its presidential candidate series, and it fell upon me to introduce Senator Kennedy, then a candidate for the Democratic nomination. Mindful of the need for a measure of neutrality, I tried to conceal the lack of hard support in my remarks with increased rehetoric and decibels. No such luck. He immediately rejoined, "Well, that was almost an endorsement." This time, Senator, since as we know, I suffer under no similar constraints of bipartisanship, you get the full treatment, and I have the unelapsed time that was not used by the people who have preceded me here with their brief remarks.

During Senator Kennedy's twenty-five years of service in the U.S. Senate, he served this University, including this School, and most especially it's Institute of Politics. Two of the programs at the Institute, which he supported with greatest personal delight, were the students and the fellows—the students, because they represented the future energy and devotion in public service; the fellows because they represented political refugees, if not persecuted, at least abused and exhausted, in need of nourishment and care.

It is the Senator's commitment to refugees in a more literal sense that I want to celebrate tonight, which you may not hear as much about as you hear about other things. The first time we met, after he became Senator, was in 1966 and I was up on the Hill to brief him for the State Department for a trip he was taking to investigate the plight of civilian casualties and refugees in Southeast Asia. He had joined the Refugee Subcommittee of the Senate Judiciary Committee immediately following his election, became its Chairman in 1965, and has remained its leader of ranking members ever since. He worked hard on the Immigration Reform Act of 1965, chairing hearings and floor managing his first major legislation. He struggled with the miseries of Biafra, Bangladesh and the Sahel, working for the Indochina refugees and the continuing outflows from Vietnam, Laos and Cambodia, and held hearings on the Cuban-Haitian crisis. He was the prime Senate sponsor of the Refugee Reform Act of 1980. He led the cries for the call for help in the Ethiopia exodus in 1984-85, and a year ago pressed our attention to the worsening situation in Mozambique. Each year, he has asserted a leading role in the consultation process, which sets the worldwide ceilings for admission of refugees to the United States. He made his Subcommittee the watchdog of humanitarian affairs of the U.S. Senate.

It is typical of Senator Kennedy's personification of the principle that human caring must translate into effective public policy brought about by resourceful and dogged political effort, that once he had become a champion of the refugees, he stuck to it, despite the demands and distractions of more prominent causes. And the refugees—the wounded, starving, vulnerable, heroic refugees across the globe—and those others of us who work for them, continue to benefit immensely from his compassionate and tenacious leadership. In simple, unadorned language, Senator Kennedy opened hearings earlier this year on the refugee crisis in Southern Africa: "I have continued to follow closely the issues of immigration and refugees, both overall questions involving immigration to the United States, the way refugees are treated abroad, the reunification of families, asylum, and all those people who look to our country as a source of hope and inspiration. We will try and focus on some of the very important human needs that exist in other parts of the world and how we as a country and as a society are dealing with those issues. They offer, I think, enormous opportunities for leadership." Keep on focusing, Senator. We want a lot more from you.

REMARKS OF RICHARD L. THORNBURGH

Thank you, Mr. Ambassador. Richard Neustadt was the first Director of the Institute of Politics. He is recognized today as the remaining authority on the subject of the presidency. But perhaps most importantly, he brought a warm glow to this Institution and his colleagues in this chill of the fall with word of his impending nuptials. His marriage is upcoming to Shirley Williams, a member of the Senior Advisory Committee of the Institute of Politics, and that my friends is pure subversion. But he joins us this evening to present his tribute to Senator Kennedy—Dick.

REMARKS OF RICHARD E. NEUSTADT

I think it's fair to say, Ted, that I'm trying to bore from within, to get more influence on that Senior Advisory Committee.

I believe that I'm invited here in my capacity as the first Director of the Institute. There isn't much that I can say that hasn't already been said—by the Dean, by the students, and by Jonothan. I have another capacity. I'll come to that in a minute. In the first capacity, let me only say that when the Institute was starting, and the school in its new character was very new and there wasn't much of a school, and there was only the beginnings of an Institute, Bob Kennedy and his brother Ted, who took over the responsibility for helping us on behalf of the interested and concerned family after Bob died, were marvelously supportive. And by supportive I don't mean that they were acquiescent. They sometimes agreed with what we were doing. They often disagreed. They stated their agreements. They let us know. When we decided otherwise, they accepted with good grace. It's remarkable. But they did not stop making clear their views of what we might have done, should have done, and could have done. And indeed, I can think of one or two subjects in which the Senator is still of the view that we went astray in some respects, or could have done more in other respects. And I have to say here, to end this particular topic, the older I get the more I think you may have had a point. Which is to show it's fortunate that I'm the professor and he's the Senator.

But I have a second capacity in which I can claim some expertise on Ted Kennedy and I want just a word for this. I am one of the dwindling band of surviving members of Harry Truman's White House staff. And one of the chief legislative efforts of Truman's seven years was to give reality to the third dimension of what originally was understood by the term Social Security—namely, health insurance. In 1934, President Roosevelt's Committee on Economic Security had recommended a three-part insurance scheme for Americans. Old age insurance, unemployment compensation, and comprehensive health insurance—a minimal support for people who were sick. And President Roosevelt, a foxy gentleman, decided that he didn't want to risk the opposition of the AMA to old age insurance and unemployment compensation, so he held off on health insurance. In 1937 he wrote a note, which I discovered subsequently in the files, to his then Budget Director, saying—this was two years after the Wagner Act of '35 that created old age insurance and unemployment compensation—"Dan, I want to get on with health insurance, but let's wait 'til after the next Congressional election." The '38 Congressional election ended all possibilities for a generation. It created a conservative coalition that dominated Congress on welfare schemes into LBJ's time.

Truman picked up the gage in 1945 and for years, with the help of Senator Wagner and Senator Murray of Montana, fought to get comprehensive health insurance enacted. We came close to success once, but the Korean War intervened. And the other thing that intervened was the American Medical Association's moves into politics frontally, with financial support for candidates who would oppose what they call socialized medicine. And that so scared the political community that nothing could be done again, until Johnson's time. And even Johnson—even Lyndon Johnson—decided he had to be content with the entering wedge of Medicare. But it was not possible to go farther. And then along comes Ted. And now ever since then, he has been refusing to accept anything short of the underlying principle that was first enunciated in this country by the President's Committee on Economic Security in 1934, and was first enunciated by a President in 1945, and was fought for by two extraordinary Senators—Murry and Wagner, especially Bob Wagner, one of the great men in social reform in our modern history in the United States Senate. And I think one ought to understand that Ted in his twenty-five years has managed to give himself a claim on being Bob Wagner's successor.

REMARKS OF RICHARD L. THORNBURGH

Thank you, Dick. To introduce our featured honoree and speaker of the evening, I have the great privilege of welcoming to you and presenting to you the President of Harvard University, Derek Bok.

REMARKS OF DEREK BOK

Thank you very much. It's a great privilege to be able to be here and participate in this celebration of twenty-five years of public service. I remember that it was the first year of my Presidency, that's very long ago—too long ago—but it was on a fall day in which I was invited to have lunch with Senator Kennedy and with Jackie Kennedy in her New York apartment and talk about the Institute of Politics—literally only two or three months after I had taken office. I was beset with problems so numerous and intense that I could scarcely imagine how to scope with them, and now I was to hear about one more. I remember it was a lovely day, with a beautiful view of Central Park, and I remember, before lunch during the warm-up period, discussing with Senator Kennedy the problem of Vietnamese refugees—in 1971— and their needs. And I remember reflecting what an interesting issue that was, because for me, who knew almost no one in public life, it would be very interesting to see how much a very busy Senator of the United States really knew about that problem with which he had been prominently identified, but which clearly carried no great political mileage whatsoever in furthering whatever ambitions in public life he might have. And I remember how impressed I was in the course of our conversataion at the detailed knowledge that he had of the nature of the problem—the costs of prosthetic devices, of all kinds of details that bore upon what the United States could do to alleviate the unspeakable misery of those whose lives had been disrupted and whose bodies had been maimed by a conflict in which they had no responsibility whatsoever. That was a very impressive exchange for me that helped reinforce, I think, my most optimistic sentiments about public servants and the ideals that can animate them at their best.

Thereafter we had lunch and the talk turned to the Institute of Politics and we had what the State Department likes to describe as a full and frank exchange. That was a period in which the Kennedy School and the Institute of Politics and Harvard in general were trying to make do in this new enterprise of preparation for public service with greatly inadequate resources. And I'm sure, in trying to do everything at once, we were doing nothing particularly well. But we certainly heard, both from Senator Kennedy and from Jackie Kennedy, their ideal of what an Institute of Politics might accomplish, and their concerns about whether we were headed in the right direction.

And since that time, I like to feel that the Senator in his way, and I in mine—and a great many other people—have really labored to try to make the Institute of Politics something much closer to the ideal which he articulated that day and which animated his brother—the ideal of really building a sturdy bridge, an attractive bridge between the academy and the world of political life and elected office. And although he must speak for himself, I'd like to believe that both he and I think that a great deal of progress has been made in pursuit of that ideal in the intervening years. A great deal of credit for that progress goes to the distinguished directors of the Institute who are here tonight.

But apart from those who labor full-time on the work of the Institute, no one deserves more credit than the senior Senator from Massachusetts. In all ways that have been described here tonight, his constant effort to come here and to take an interest in the Institute, particularly in the work that the students do, has really been—as you have heard tonight—an inspiration to us all. And to me as a President of this Institution, I can only say that what he has done really exemplifies the role of Harvard alumni at their best—very critical, but critical because they care, and they care as all of us should care about participating in the endlessly unfulfilled task of trying to make this Institution realize something close to its potential in the service of humane causes. And in helping us come closer to a very important cause we owe him a great debt of gratitude. So it's my distinct pleasure to present to you tonight Harvard's most impressive living embodiment of that dedication—a lifelong dedication—to public service that represents in the last analysis the ideal of the Institute of Politics, and the ideal of this School that bears the name of the Kennedy family. Thank you very much.

REMARKS OF SENATOR EDWARD M. KENNEDY

Thank you very much, President Derek Bok. Just before we came down to this assembly, we met with some of those who have spoken this evening, and those who have had a long-time association with the Kennedy School of Government and the Institute of Politics. I mentioned there—just very informally—and I welcome the opportunity to repeat it to a broader audience this evening, that President Kennedy was proud of his association with Harvard and proud of the role that Harvard played during his New Frontier. I know that I speak for all the members of the Kennedy family in saying how proud he would have been if he were here today to pay tribute to this School of Government that bears his name and to the Institute of Politics which plays such an important and lively role in inspiring a new generation to enter public service.

So many of those who have spoken this evening have made this possible—from President Bok, who reviewed with us those early meetings, which were meetings of love between the members of our family and a leader of a great university in our country and the world, who was willing to speak with us and to work closely with us—to Dick Neustadt, one of the early designers; Ken Galbraith, who advised the members of the family as we were establishing the Institute; Jonathan Moore, one of our ablest directors, now succeeded by Governor Thornburgh, who I know is being challenged by this opportunity and is giving great time and direction to the students; Ron Brown, who is our Chairman of the Senior Advisory Committee; Claire Fleming and Paul Holtzman, who spoke so well and reminded us of those past meetings; and Graham Allison, the Dean, for his continued good work. To all of them, I am indeed indebted. They talk about twenty-five years. That's a long time to be in the United States Senate—at least that's what my Republican colleagues keep telling me. I just wish that my mother and father could be here now. The old saying is very apt—my mother would enjoy every minute of it and my father wouldn't have believed a word of it.

Seriously, I am grateful for this honor—and happy to be back at Harvard and at this School. John Kennedy, who has been described by William Manchester as probably the best read President of the 20th Century, also had perhaps the strongest conception of any modern President about the connection between public life and intellectual life. In a commencement address here more than thirty years ago, he spoke of the university as an active force, and assailed the notion that it could be wholly detached or largely indifferent.

To him, this did not mean that the university should be a compliant servant to government—a mere supplier of research, a mental factory to restock the arsenals of authority. Instead he valued the tension between what he called "power" and "poetry"—and viewed the tension as a source of both creativity and correction.

Today this school not only bears John Kennedy's name, but carries forward his conviction that the power of ideas can enrich, refine, and rein in the ideas of power. He would have appreciated the fact that the school now encompasses as well the study of the press and its impact on politics and public policy. For he saw newspapers and television increasingly becoming mechanisms for hurrying history—means to sit in instant judgment on events only hours old. Not only in editorials, but in virtually every story; even more now than in the 1960s—the press is becoming explicitly judgmental—and therefore, more directly influential.

Tonight, for a few minutes, I would like to reflect on all this in the context of the present national campaign. Few subjects in public life need more serious reflection, and have received less of it. Few enterprises evoke more predictable patterns of press behavior and comment. And no element of our politics is more important: a presidential election is more than a game, a melodrama, or a mini-series. Whether we are conscious of it or not, we are in the midst of deciding how the most powerful nation on earth will conduct itself for at least the next four years. And the choices made during that period will have consequences for decades or generations to come.

In the remarks that follow, I do not intend to be comprehensive—I leave that for scholarly minds and hands at places like this, where the post-election studies will be written, footnoted, and debated in far greater depth. Nor do I pretend to be entirely objective—no one who has been a presidential candidate ever could be. But my experience in national campaigns, winning and losing, from 1960 to 1980, has left me with a very real sense of a widening gap between the real issues and the reporting; a feeling that the voters are not seeing candidates whole or clearly, but through a journalistic lens increasingly honed to the prism of "People Magazine" and "Entertainment Tonight.".

The problem is not entirely the fault of the press. The candidates themselves may rightly deserve some share of the blame. But they are out there, in the vortex of onrushing events, captive to the imperative of minting a 30-second sound bite, gaining a headline, winning the battle of quotable quotes. Frequently events matter less than what is now widely referred to as spin control—who in which campaign can explain why something doesn't mean what it seems.

I think I speak for many Americans when I suggest that there are some things very wrong with this process. Let me discuss three concerns—and how they are affecting the Democratic primary campaign.

First, our attention appears to be riveted on politics at the expense of issues.

To some extent that has always been the case. But this year, probably because two candidates were driven from the race early, we have experienced a primary election level of coverage long before there were any caucuses or primaries to cover. This could be useful if it was used to tell us, in specific issue terms, what candidates actually think.

Instead staff shake-ups, major and minor alike, command more space than a major speech. Stories of palace intrigue inside campaigns, involving names most of the public never heard of, and squabbles none of the public care about, fill columns of newsprint with material that really isn't news.

Nothing more clearly manifests the distorted political bent of the coverage than the obsession with polls. Everybody takes them; everybody trumpets them; and everybody treats them as the near equivalent of an election. Candidates move up and down, gain or lose attention and money, are perceived to be stalled or surging—and nobody bothers to ask how accurate such pre-caucus and pre-primary surveys are likely to be, or have been in the past.

They did not predict the rise of Jimmy Carter in 1976—or the decline of Walter Mondale in 1984. In 1979, the November polls said there was no way I could lose Iowa—and in 1980, the March polls said there was no way I could win New York.

The polls did not pick up the McGovern movement early in 1972 or the McCarthy breakthrough of 1968. Yet now polls have become the quintessential pseudo-events of the pre-primary campaign. They may tell us something, but they don't tell us everything. Perhaps we cling to them because they offer us numbers—and the numbers confer a certain appearance of reality. It is the statistical analogue of false consciousness; it is false objectivity. Or perhaps the seductive pull of the numbers reflects a resistance to the harder work of dealing with issues on their own terms. If the focus was not on who's ahead in surveys, endorsements, money and Iowa trips, attention would have to be paid to what the candidates are saying—not about each other—not about the process—but about principles, problems, and possible solutions.

Instead serious candidates can be all but read out of the race before a single election is run.

Bruce Babbitt has a thoughtful and courageous approach to questions like Third World debt, but voters hardly know it at all. There is little room for that in newspaper coverage which often seems designed primarily as a campaign manager's newsletter. So Governor Babbitt is probably best known in Iowa for riding a bicycle across the state. He realized the relative press value of discussing the danger of a banking collapse versus pedalling his ten-speed into Des Moines—and you can't blame him for acting accordingly.

In a similar vein, the Reverend Jesse Jackson has advanced alternative policies in areas ranging from relations to Cuba to the agricultural economy. You don't have to agree with him to recognize the seriousness of his views. But most voters haven't read a word about most of the Jackson platform. The reports they see essentially rehash the same old stories—what percentage of the black vote he will hold, who will be hurt by his candidacy, and how he will act at the convention—speculation on which I suspect he himself has spent very little time.

The campaign has become a grinding cattle show, in which all the incentives are to play for short-term advantage. They way to win debates is to plan out the best one-liner—to search for your own version of "There you go again" or "I paid for that microphone"—which itself was originally borrowed from a Spencer Tracy movie. Thus Al Gore, who has something important to say about national security, could hardly be heard on the subject until he finally met the demand for political shorthand—for terms like "liberal litmus test," and "soft"—or "hard"—"on defense."

Let me note, by the way, that all of us who have run in recent years have experienced similar demands—and sometimes succumbed to them. We have supplied the cameras with a steady diet of "visuals," contrived appearances where we may meet no voters at all, but where we can find a backdrop—a real life movie set—so that in the scramble for air time, an anonymous producer won't dismiss an important statement as "boring—it's just a talking head." And every candidate has paid the price of pungent prose when that seemed to be the only way to get the cameras turning.

Good visuals and good lines have their rightful place. But they are not the center of a campaign or of government, despite Mr. Deaver's once relentless attempt to turn the Reagan Administration into a series of visuals and slogans—in effect a permanent campaign.

And what is happening in this campaign represents a further Reorganization of the public dialogue—which leads me to my second concern: what issues coverage there is now comes largely in the form of labels—and if the candidates won't supply them, then the press corps will. It is easier to deal in caricature than complexity—and while there are journalistic exceptions, too many reporters have taken the easy way out.

For example, while I do not fully agree with Dick Gephardt on the issue, his trade bill is not an across the board, Smoot-Hawley tariff increase. To dismiss it as "protectionist" is to miss the reality: it is in fact a complex proposal, involving a series of steps, which conceivably could result in lowering trade barriers. The bill deserves to be debated in detail, not on the basis of stereotypes. And it ought at least to be read by those who are writing about it.

In the same spirit, those who are writing about Mike Dukakis ought to listen to what he has actually said. In terms of the Massachusetts miracle, he never has claimed he did it all. But he does have a clear claim to leadership, to seeing what government could do, and getting it done. Because of him, this Commonwealth was prepared to take maximum advantage of national economic change. It is simply not relevant to object that national trends played a vital part, or that others have helped shape the miracle—the Governor knows that and has never suggested otherwise. His role in the Massachusetts miracle is not an all or nothing proposition; but it was and is a central role, in which he has pioneered new ideas and incentives for economic development. Where is the detailed coverage of that—of initiatives like the Office of State Planning, or the revitalization of Taunton and Lowell?

As the campaign wears on, sifting the political news on page after page, relegating issues to an occasional obligatory story, another phenomenon—which is my third concern—comes to pervade the process. Candidates are raised up—only to be torn down—and to justify that, the whole field is falsely characterized as unimpressive and insubstantial.

It is now happening to Paul Simon. I know him well—and he is a man of principle—and not simply because he refuses to give up his bow tie—which the press then took to as a prize visual. Now that his season has seemingly dawned, we have seen a rush of stories revealing in reproachful terms that he doesn't have a plan to pay for every proposal he has ever made. That is hardly news about him—or virtually any presidential candidate in this field or in my memory. When was the last time a platform was enacted whole into law?

Proposals give a sense of a candidate's priorities—of values and hopes. They point a direction, but they cannot predict an entire presidency. To profess surprise that not every dime or dollar is accounted for in advance echoes the comment of the police inspector in "Casablanca": "Rick, I'm shocked, shocked to find out that gambling is going on in here." That kind of shock is no substitute for a genuine examination of issues—but at least on the Democratic side, it is virtually the only kind of examination we have had.

And as each candidate's season passes, much of the press, in self-fulfilling disappointment, renews the suggestion that they are all dwarfs anyway. If there is a pack journalism this year, that is its common chord.

I happen to think that Governor Dukakis is the best candidate—and I am working to elect him. But in my view, he is the best of a very good set of candidates.

The complaint that there were giants in other days, running in other campaigns—a complaint amplified by the question: "Where are they now?"—represents an even deeper disregard for history than the obsession with pre-primary polls.

Often the giants, too, were at first dismissed as dwarfs in their own time.

Lincoln was derided as a party hack, with no executive experience. And the assault came not only from enemies, but from those who should have been friends. Wendell Phillips assailed him as "a huckster"—and William Lloyd Garrison called him a "coward" who would block emancipation.

Franklin Roosevelt was dismissed by Walter Lippmann as an "amiable man" of no consequence. The New Republic weighed in that he was "not a man of great intellectual force or supreme moral stamina"—which sounds like some of what the New Republic writes about candidates today.

Listen to some of the other things that were said of FDR—and you will hear the cliches of 1987. Here are sentences from the Nation magazine:

"His candidacy arouses no real enthusiasm . . . [There is] no evidence whatever that people are turning to Roosevelt . . . There is small hope for better things in his candidacy."

Come forward a generation, to 1960, and Walter Lippmann does it again. He urges that John Kennedy step aside, so Adlai Stevenson can be drafted. And later in the year, Arthur Schlesinger has to write a book to refute another journalist's view, widely repeated, that there is no difference between Kennedy and Nixon.

Obviously, in 1987, there are many who have forgotten history—for they surely are repeating it. But now the message of mediocrity is applied to a field of candidates, is woven like a thread through most of the coverage, and magnified by the increasingly powerful technology of the information age.

People and politicians, candidates and non-candidates alike, are left asking: Is this any way to pick a president?

Yet I also reject the argument that the central answer is systemic, that it depends on another round of reform, a new set of rules. A single, national primary would make the capacity to raise money even more decisive—and a multi-candidate race would put a high premium on polarizing the party. There may be a case for some kind of regional primaries; there are also sensible objections.

No system is perfect—and who would want to return to the time when a controlled convention could deny the clear preference of the people?

I think Iowa is as good a place to start as any—and as you may recall, I don't have a self-interest in saying that.

I also think that the press can do a better job of reflecting on its own role—and recognizing that the choice ultimately belongs to voters, not reporters.

Journalists, no matter how they act, will inevitably influence the process. The Heisenberg principle applies to presidential politics as well as physics: observing an event changes it. Nor would any of us want a press corps reporting only the facade of the campaign.

But here are some things I think we can do:

Candidates should be able to discuss campaign coverage without fear of being assailed as "whiners" or "complainers" or agents of repression. I see no prospect for a resurgence of Agnewism, which in any case consumed its own perpetrator. I do see a reason for an honest public dialogue founded on mutual respect—and no reason why a candidate should not be free to give a speech like this.

At the same time, the press can resist the standard of the lowest common denominator, the rationalization that all news is fit to print that has appeared anywhere else, in any barely respectable newspaper. There are hard questions here, but they are no excuses for not settling easy ones. Newspapers don't have to decide all the circumstances under which it's proper to follow someone around in order to decide that it's time to follow issues more seriously and more thoroughly. Handicapping the race is irresistible, but it should not be the ceaselessly beating heart of campaign journalism.

Finally, we can approach presidential elections with at least a minimal sense of consequence and history. Why not give stories historical context? Theodore White told us what went on inside a campaign, but he also related it to what had gone on in other generations and other campaigns. And those who borrow his approach should not leave half of it behind.

Soon much of what I have discussed here truly will be academic—the province of scholars, political scientists and historians. As the pace of events carries us past Iowa and New Hampshire and Super Tuesday, as Time and Newsweek and the networks feature and celebrate the winner, we will hear no more talk of dwarfs—and the result, no matter what it is, will appear to have been inevitable—or at least expected. It is always easier to read the tea leaves after the cup is drained. But I also hope that, here at this School, at the Press Center, and maybe even in the wider arena of the public dialogue, we will continue to think about how the tea was brewed—about the roles we all played—politicians and press, as well as voters. As we make the most decisive choice in the public life of the world, let us recall the words of T.H. Huxley: "The medieval university looked backwards; it professed to be a storehouse of old knowledge. The modern university looks forward; it is a source of new knowledge."

And when the subject is presidential politics—in 1987, we are all teachers, and we are all students, and we have a lot to learn.

THE PEARL HARBOR SUMMIT: HISTORICAL CONSIDERATIONS

Mr. HELMS. Mr. President, the visit of Mr. Gorbachev to Washington on the very anniversary of the attack on Pearl Harbor has been the occasion for considerable comment.

The irony has not been lost. The Japanese Empire, the violator of treaties, attacked the United States without warning on December 7, 1941.

Now another evil empire, the Soviet Union, has come pretending to proffer peace, but preparing for war.

Even as Japan was in the midst of diplomatic negotiations to establish peace in the Pacific, Japan attacked us.

Even as the Soviet Union pursues a diplomacy couched in the jargon of peace, her past history, her present history, and indeed her intentions for the future, as manifest in her military programs and deployment, are aimed directly at the disarmament of the West and the destruction of freedom. Today I shall take up the question of the historical issues; tomorrow it is my intention to address the Senate on broader strategic and economic issues.

At another time I shall speak of the treaty itself, whose benefits are not self-evident, and whose defects belie the euphoria that seems to intoxicate official Washington. Those defects are likely to receive a critical and extensive examination in the Senate.

Suffice it to say at this time that President Reagan gave his arms control negotiators four criteria for any arms control treaty in his administration. They are:

First, meaningful reductions
Second, reductions to equal levels
Third, effective verification
Fourth, cessation of Soviet violations.

It will be up to the administration to make its case that the INF Treaty in fact meets these criteria. A number of questions arise immediately:

First. Are the reductions meaningful when the Soviets have a plethora of other nuclear weapons for European targets?

Second. Can it be said that the reductions are equal when INF wipes out all the deterrent forces on the NATO side, and leaves the Soviet Union with 97 percent of its present missile levels?

Third. Can there be effective verification when our Government has never seen an SS-20, when we don't have even a picture of an SS-20, and when we don't know how many SS-20's the Soviets have to begin with? Can there be effective verification when we have only onsite inspection of those SS-20's which the Soviets have declared, and cannot inspect those which may be hidden on nondeclared sites?

Fourth. Can the INF Treaty have any meaning when no effort has been made to require the Soviets to stop violating the present treaties?

Indeed, Mr. President, the anniversary coinciding with the visit of Mr. Gorbachev reminds us that violations of treaties meant to keep the peace are a true barometer of future intentions. The Soviet record on peace treaty violations is a stark reminder of the fundamental and irreformable duplicity that accompanies every treaty negotiated, signed, and ratified with the Soviet Union.

Given the Soviet record, let us look then at some historical considerations suggested by the dates Mr. Gorbachev chose for his visit.

THE SNEAK ATTACK

Forty-six years ago, President Franklin D. Roosevelt stood before a joint session of Congress and began with the following statement:

> Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.
>
> The United States was at peace with that Nation and, at the solicitation of Japan, was still in conversation with its Government looking toward the maintenance of peace in the Pacific. Indeed, one hour after Japanese air squadrons had commenced bombing in the American Island of Oahu, the Japanese Ambassador to the United States and his colleague delivered to our Secretary of State a formal reply to a recent American message. And while this reply stated that it seemed useless to continue the existing diplomatic negotiations, it contained no threat or hint of war or of armed attack.
>
> It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time, the Japanese Government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace.

Mr. President, with these words, President Roosevelt described the imminent peril confronting this Nation and the free world, and a few moments later asked for a declaration of war against the Japanese Empire. The entire speech took 6½ minutes. It took Congress only 33 minutes after the conclusion of the President's speech to pass, by a vote of 82 to 0 in the Senate and 388 to 1 in the House of Representatives, a joint resolution declaring that a state of war existed between the United States and Japan.

That hour was an historic moment in the annals of the United States. It is an hour that this Nation will never forget. But just because it is so familiar, we take it for granted. We do not study it in order to learn what that moment meant. I would like to take a few moments to draw for us some lessons that are applicable to our times.

Mr. President, it is worthwhile to analyze what President Roosevelt said.

First, he said that the United States was suddenly and deliberately attacked by Japan. There are two points to consider: The suddenness and the deliberateness—the suddenness because the United States was taken unaware, the deliberateness because it did not happen by accident, but after long planning.

Second, he said that the United States was at peace. We had no ulterior intentions. We were not preparing for war.

Third, he pointed out the deception of the Japanese. We were actually engaged in peace negotiations with the Japanese. At the very time they attacked, the Japanese Ambassador was exchanging polite notes with the Secretary of State, without a hint that hostilities were coming.

Fourth, he pointed out not only that the attack was deliberate, but that the deception was deliberate. This is why December 7, 1941, was a "day of infamy." It was not just the surprise attack, but the deliberate deception of the United States which was actively engaged in diplomatic activities intended to guarantee the peace in the Pacific. In other words, the peace negotiations were a coverup for the planning of the attack.

Finally, Mr. President, it is noteworthy that the deception included "false statements and expressions of hope for continued peace." It was not only a diplomatic campaign, but a propaganda campaign aimed at conquest.

The American people always find it difficult to believe that some nations operate out of malice, out of malice engendered by dreams of conquest. We took the Japanese at their word. We had no aims of dominance in the Pacific. We could not believe that anyone would adopt a course of action so contrary to their outward show. But we learned a lesson, a lesson written in blood and destruction.

These are lessons that are perennial. It was Commodore M.C. Perry, USN, the man who brought Western civilization to the East, to Japan specifically, who looked forward to modern events with prophetic vision. In 1856—over 130 years ago—Commodore Perry read a paper before the American Geographic and Statistical Society in New York which lays the present century before us with startling prediction. The Commodore said:

> It requires no sage to predict events so strongly foreshadowed to us all; still "Westward" will "the course of empire take its way." But the last act of the drama is yet to be unfolded, and notwithstanding the reasoning of political empires, Westward, Northward, and Southward, to me it seems that the people of America will, in some form or other, extend their dominion and their power, until they shall have brought within their mighty embrace multitudes of the Islands of the great Pacific, and placed the Saxon race upon the eastern shores of Asia. And I think too, that eastward and southward will her great rival in future aggrandizement (Russia) stretch forth her power to the coasts of China and Siam: and thus the Saxon and the Cossack will meet once more, in strife or in friendship, on another field. Will it be friendship? I fear not! The antagonistic exponents of freedom and absolutism must thus meet at last, and then will be fought that mighty battle on which the world will look with breathless interests; for on its issue will depend the freedom or the slavery of the world—despotism or rational liberty must be the fate of civilized man. I think I see in the distance the giants that are growing up for that fierce and final encounter; in the progress of events that battle must sooner or later inevitably be fought.

Commodore Perry could not have seen how his vision would be realized—how the United States, with no desire of empire, would be drawn into a war with the Japanese Empire, and how the result would be an extraordinary extension of dominion and power resulting in the rebuilding of Japan into a peaceful nation, and a mighty friendship that embraces the multitudes of the islands of the great Pacific.

GENERAL MACARTHUR'S STRATEGIC VISION

Commodore Perry's vision reminds us of another speech before a joint session of Congress, a speech that took place on April 19, 1951. It was of course the speech by Gen. Douglas MacArthur, a man as familiar with the Pacific as the commodore, and one of the towering giants of our century. It was his leadership that fulfilled the commodore's prophecy. General MacArthur said:

> Of more direct and immediate bearing upon our national security are the changes wrought in the strategic potential of the Pacific Ocean in the course of the past war. Prior thereto, the western strategic frontier of the United States lay on the littoral line of the Americas with an exposed island salient extending out through Hawaii, Midway, and Guam to the Philippines. That salient proved not an outpost of strength but an avenue of weakness along which the enemy could and did attack. The Pacific was a potential area of advance for any predatory force intent upon striking at the bordering land areas.
>
> All this was changed by our Pacific victory. Our strategic frontier then shifted to embrace the entire Pacific Ocean, which became a vast moat to protect us as long as we could hold it. Indeed, it acts as a protective shield for all of the Americas and all free lands of the Pacific Ocean area. We control it to the shores of Asia by a chain of islands extending in an arc from the Aleutians to the Mariannas held by us and our free allies. From this island chain we can dominate with sea and air power every Asiatic port from Vladivostok to Singapore and prevent any hostile movement into the Pacific * * *. Under such conditions, the Pacific no longer represents a peaceful lake. Our line of defense is a natural one and can be maintained with a minimum of military effort and expense. It envisions no attack against anyone nor does it provide the bastions essential for offensive operations, but properly maintained would be an invincible defense against aggression.
>
> The holding of this littoral defense line in the Western Pacific is entirely dependent upon holding all segments thereof, for any major breach of that line by an unfriendly power would render vulnerable to determined attack every other major segment. This is a military estimate as to which I have yet to find a military leader who will take exception.

Mr. President, this kind of strategic thinking seems to be absent from our national councils today. How well General MacArthur understood that the defense of the Nation depends upon holding all segments of our defense, lest any major breach render us vulnerable. The heart of any strategy for peace depends not only upon military strength to put up a protective shield against the enemy, but also the will to use that strength not only for defense, but to change an enemy seeking domination into an ally reconstructed in liberty. General MacArthur had the mentality that understood the need for both; and he succeeded in the Pacific so admirably that the freedom of our allies in the Pacific today is an embarrassment to the apologists for totalitarian socialism everywhere.

Unfortunately, today we wistfully imagine that despotism can reform from within. We think that a strategic military defense is no longer the firm underpinning of freedom. We think that the Soviet Union, to be blunt, has "an interest" in peace, an interest to which we can appeal with rational arguments. One hundred and thirty years ago, Commodore Perry understood the conflict better than we do today.

COMMODORE PERRY ON THE UNITED STATES AND RUSSIA

Mr. President, Commodore Perry was also right in his perception of the Russian desire of aggrandizement of power and territory, how Russia would "stretch forth her power to the coasts of China and Siam"—or, we might say, Indochina—moreover, the commodore, over 130 years ago, correctly foresaw that the United States and Russia would meet "as the antagonistic exponents of freedom and absolutism." He could not have predicted the horrifying aberration of the human spirit known today as communism, but he caught the essence of the conflict.

And let us look again at what he said:

> Then there will be fought that mighty battle on which the world will look with breathless interest.

Is that not true, Mr. President? Is that not true? Does not the whole world wait to see what the resolution of that battle will be?

And the commodore was right again on the meaning of that battle. He said:

> On its issue will depend the freedom or the slavery of the world—despotism or rational liberty must be the fate of civilized man.

That is the choice we are faced with, today, Mr. President. That is the choice between communism and freedom. That is the choice between the Soviet Union—that massive gulag—and the United States.

Nor must we forget, Mr. President—and this is the most important oracle—nor must we forget the clear, unchallengable voice of the commodore ringing from the past, as he said:

> I think I see in the distance the giants that are growing up for that fierce and final encounter; in the progress of events that battle must sooner or later inevitably be fought.

Mr. President, we somehow think that the iron law that dominates human nature can change. We hope to avoid a conflict, and rightly so. No one wants war. But we forget that we are already engaged in a battle—not a battle fought with weapons, but a battle of steel nonetheless. It is the steel of one will against another will.

GORBACHEV ATTACKS PEARL HARBOR

That steel was exhibited only 2 months ago when, according to reports published in the Washington press, Mr. Gorbachev and the Chief of the Soviet General Staff, Marshal of the Soviet Union Akhromeyev, descended into an underground bunker near Moscow on September 29 and 30 and personally directed an important missile test.

The missile involved was the experimental TT-09 ICBM, also known as the SS-X-26. The salient points regarding this missile are as follows:

First, the SS-X-26 is the largest and most deadly missile known to man, heavier even than the super-heavy SS-18.

Second, the SS-X-26 is designed to carry 20 highly accurate, megaton-yield, hard-target-destroying warheads.

Third, the SS-X-26 is the third "new type" of ICBM, a gross violation of the 1979 SALT II restraints allowing only one "new type."

Fourth, the SS-X-26 violates the cap on heavy ICBM throwweight.

Fifth, the SS-X-26 tests violated the ban on encryption of missile-test telemetry, thus denying the information on flight characteristics supposedly guaranteed to us for purposes of monitoring compliance.

Sixth, Mr. Gorbachev directed the missile in an "over the pole" flight pattern, the first time any such pattern was ever tested by anybody, since an "over the pole" pattern implies a first strike.

Seventh, the SS-X-26 was being rushed ahead of schedule and tested at a period of its development which might have ended in disaster for its target had there been the slightest malfunction.

Eight, the target was Hawaii.

Mr. President, I cannot guarantee that Mr. Gorbachev personally entered the bunker to direct the test, as the newspaper accounts citing intelligence sources, related. Reportedly, all these facts were placed before the then National Security Adviser, Mr. Carlucci. But the tests did take place. The missile was aimed at Hawaii. The Senate voted overwhelmingly to condemn these tests. Even the State Department, struggling to master the art of understatement, sent a three-sentence protest. No one denies this.

Furthermore, Mr. Gorbachev is unquestionably the head of the Soviet Defense Council, and the Soviet Defense Council does have charge of such important tests. If Mr. Gorbachev was not physically present in the bunker, it is reasonable to assume that he approved the order for the test. It is even reasonable to assume that Marshal of the Soviet Union Akhromeyev was present, if not Gorbachev.

What does not seem reasonable is the Mr. Gorbachev and Marshal Akhromeyev 2 months later are being toasted in the White House, and the Marshal is a welcome guest of Secretary Carlucci in the Pentagon.

Mr. President, never before has a missile test been aimed at the sovereign territory of another nation. Never has there been a test of a missile so flagrantly in violation of past arms control agreements. Never before has there been a test of a missile in a first-strike pattern. Is Mr. Gorbachev trying to tell us something?

It is hardly fantasy to see a connection between the fact that Mr. Gorbachev ordered a test with Hawaii as a target—indeed, with Pearl Harbor as a target—in defiance of all agreements under international law, and his choice of December 7 as the date of his arrival, and December 8, the day President Roosevelt proclaimed the previous day to be a day of infamy, as the date of his signing the INF Treaty. Mr. Gorbachev has something to tell us. He who has ears to hear, let him hear.

Does Mr. Gorbachev come as a man of peace, or a man of intimidation? Perhaps some of those who see in him only a man of peace have been struck blind, just as the pilots of the American planes observing the SS-X-26 tests were struck blind by Soviet lasers.

Mr. President, observe the parallels of history.

Mr. Gorbachev proclaims himself to be a man of peace; but like the Japanese were doing in 1941, he is preparing for war.

Mr. Gorbachev purports to be negotiating arms control treaties; but like the Japanese, who were using the peace negotiations of the day for bloody purposes, Mr. Gorbachev prepares at careening speed the world's most deadly missile and aims at the United States.

Like the Japanese of 1941, the trail Mr. Gorbachev leaves behind is a trail of unrepentant violations. The symmetry between the Japanese attack on Pearl Harbor and Mr. Gorbachev's attack on Pearl Harbor is all too obvious.

It was General MacArthur who saw the dawn of the nuclear age. The sneak attack on Pearl Harbor ended in the tower of flame and cloud in Nagasaki. The war which he directed in the Pacific, the war which made the Pacific into a "peaceful lake," was successful in large part because of his brilliance and clear military thinking. But the peace which followed was also successful because of his objective and compassionate policies in rebuilding Japan. The true man of war and the true man of peace are one and the same.

But the false man of war pretends to be a man of peace. The nuclear power of Hiroshima and Nagasaki has mushroomed into undreamed-of forces. The confrontation predicted by Commodore Perry between the Saxon and Cossack has come to pass, even though today "the Saxon" stands for a nation of many ethnic strains united in liberty, and "the Cossack" stands for a totalitarianism rooted in the denial of God. The giants he perceived to be moving toward that final and fierce encounter now face each other.

Do we understand that Mr. Gorbachev sees himself as a man of war, coming to take account of the booty he fully expects soon to be his?

Do we understand that Mr. Gorbachev can only have contempt for a nation that lavishes adulation on a man who uses their sovereign territory for deadly target practice?

Do we understand that Mr. Gorbachev's "false statements and expressions of hope for continued peace," as President Roosevelt characterized the Japanese actions, are but the prelude to what may well be the most dangerous period in our history?

QUESTIONS RAISED BY THE INF TREATY

The questions we must ask ourselves must center on the real reasons why Mr. Gorbachev is so eager to grant peace. The treaty signed by Mr. Gorbachev and the President deserves the closest of scrutiny—not only in terms of its text, but in terms of Soviet treaty compliance. We must ask ourselves whether the Soviets might have some ulterior motive in a treaty whose main accomplishment, the denuclearization of Europe and the neutralization of Europe, is a goal sought by Soviet strategic planners from the end of World War II.

We must ask ourselves why the Soviets are so eager to give up a marginal capability in SS-20's, a capability duplicated many times over with other weapons, in order to get rid of the Pershing II's, the one weapon in Western Europe that can wreak swift, sure, and certain retribution on Soviet territory against Soviet aggression. We must ask ourselves what could be the Soviet motive in making concessions that are militarily insignificant to them in return for the removal from NATO of the only weapon that chills their bones and makes them pause in the intimidation or invasion of Europe. Can we take away the one credible deterrent to war in Europe, and expect that there will be peace.

The issues in this treaty are not new. In 1919, an extraordinary strategic thinker, Sir Halford J. MacKinder, summarized them in a book called "Democratic Ideals and Reality." MacKinder wrote:

> Who rules East Europe commands the Heartland:
>
> Who rules the Heartland commands the World-Island:
>
> Who rules the World-Island commands the World.

That is what the INF Treaty is all about. We do not think of Europe any more as the Heartland, and we do not think of Eurasia as the World-Island. But the Soviets do. We must turn our maps upside down, and look at the world from the Soviet perspective. We must understand that once Europe is incorporated into the Soviet domain of influence and intimidation, then the United States becomes isolated and insular. The scope of world freedom will shrink to our shoreline, and we will be beleaguered and alone.

In short, Mr. President, there is only one question to be sought for in the heart of this treaty. Does this treaty make nuclear war more likely or less likely? Or to state it a different way, does this treaty make peace more likely or less likely?

PEACE IN OUR TIME

The people of our Nation universally desire real peace, but real peace is not to be had simply for the desiring. Real peace is inseparable from freedom. A peace treaty entered into blindly is but the prelude to defeat or destruction.

Winston Churchill understood that in the late 1930's in the period leading to Munich, the period he called the gathering storm. Churchill won no prizes for popularity in pointing out dangers to Britain, as Hitler broke treaty after treaty, agreement after agreement.

Instead, the popularity went to Chamberlain, the leader of Churchill's own party, the man who was bringing "peace in our time." As early as 1934, Churchill proposed an amendment in Parliament declaring that the strength of the military forces was no longer adequate "to secure the peace, safety, and freedom" of His Majesty's faithful subjects. The Air Minister, Baldwin, ridiculed Churchill's warnings, claiming that his figures of German strength were exaggerated by half, and it was impossible to predict what might happen by 1937.

As late as September 1938, Chamberlain could still speak of the war in Europe as "a quarrel in a faraway country between people of whom we know nothing." In a radio broadcast, he stated:

> I am myself a man of peace to the depths of my soul. Armed conflict between nations is a nightmare to me; but if I were convinced that any nation had made up its mind to dominate the world by fear of its force, I should feel that it must be resisted. Under such a domination, life for people who believe in liberty would not be worth living; but war is a fearful thing, and we must be very clear, before we embark on it that it is really great issues at stake.

A short while later, Chamberlain returned from Munich in triumph, but the Conservative Party was split by the angry resignation of the first Lord of the Admiralty, Duff Cooper, who summed up the situation as follows:

> The Prime Minister has confidence in the good will and in the word of Herr Hitler, although, when Herr Hitler broke the Treaty of Versailles, he undertook to keep the Treaty of Locarno, and when he broke the Treaty of Locarno, he undertook not to interfere further, or to have further territorial claims in Europe. When he entered Austria by force, he authorized his henchmen to give an authoritative assurance that he would not interfere with Czechoslovakia. That was less than six months ago. Still the Prime Minister believes that he can rely upon the good faith of Hitler.

The mistakes of Chamberlain were fatal, but many people of his time believed them to be sincere mistakes, carried out in an atmosphere of euphoria. As Churchill later wrote in "The Gathering Storm."

> There was widespread and sincere admiration for Mr. Chamberlain's persevering and unflinching efforts to maintain peace, and for the personal exertions which he had made. It is impossible in this account to avoid marking the long series of miscalculations, and misjudgments of men and facts, on which he based himself; but the motives which inspired him have never been impugned, and the course he followed required the highest degree of moral courage. . . . The differences which arose between leading Conservatives, fierce though they were, carried with them no lack of mutual respect, nor in most cases did they sever, except temporarily, personal relations. It was common ground between us that the Labour and Liberal Oppositions, now so vehement for action, had never missed an opportunity of gaining popularity by resisting and denouncing even the half-measures for defence which the Government had taken.

Mr. President, it is commonplace to state that we are at a great historical moment, that a new relationship with the Soviet Union is emerging, that arms control process is ushering in an era of peace. That is why I have taken some pains to examine crucial historical precedents, and what men of honor and vision have had to say about those times. Each person will study these precedents and draw his or her own conclusions, perhaps conclusions different from what I have drawn.

Nevertheless, I believe that it is legitimate to doubt that a new era is at hand; or, if one is a pessimist, that the new era may turn out to be one of a kind we did not foresee and would not have chosen. Yet, if we expect Soviet compliance in the future, we must examine Soviet compliance in the past. A treaty is worthless, and dangerous, if an adversary does not comply with the terms agreed upon.

THE SOVIET RECORD OF NONCOMPLIANCE

Mr. President, President Reagan laid down a reasonable criterion for his negotiators when he sent to Congress his March 10, 1987, Sixth Report on Soviet Noncompliance with Arms Control Agreements. He said:

> Compliance with past arms control commitments is an essential prerequisite for future arms control agreements.

Just last week, however, President Reagan in his seventh report confirmed a serious new Soviet ABM Treaty violation to Congress. In the light of this new Soviet violation, it is useful to recall a quotation from Lenin in 1918: "Promises are like pie crusts, made to be broken."

Yet President Reagan is correct when he states that there can be no new arms treaty, no real treaty, until the Soviets comply with the old treaties. What good are arms control treaties if the Soviets do not comply with them?

Do arms control treaties, when not complied with, become nothing more than an exercise in unilateral disarmament?

Does the history of the unilateral disarmament of the Western democracies in the 1920's and 1930's demonstrate that unilateral disarmament and appeasement of totalitarian dictators lead only to instability, enslavement, war?

The historical record shows that the Soviet Union has violated virtually every single international security treaty it has ever signed, except one—the Hitler-Stalin Pact of August 23, 1939. But this treaty, the only one which the Soviets ever complied with fully, was the catalyst for World War II.

A summary of the facts of diplomatic history and of careful case studies shows clearly that the Soviets do not hesitate to sign treaties while fully intending to violate them from the very moment they are consummated.

Indeed, Mr. President, there is reason to believe that the INF Treaty just signed is another treaty that the Soviets have already violated. There is unclassified evidence that the Soviets have mixed the banned SS-20 missiles with the almost identical SS-25 ICBM's, which are outside the scope of the treaty.

It is worth while to recall what President Reagan said about the credibility of Soviet diplomacy just after the Soviets brutally shot down Korean Airlines Flight 007, murdering 269 innocent passengers, including our late distinguished colleague, Larry McDonald. Mr. Reagan said:

> What can be said about Soviet credibility when they so flagrantly lie? What can be the scope of legitimate mutual discourse with a state whose values permit such atrocities? And what were we to think of a regime which establishes one set of standards for itself and another for the rest of mankind.

Mr. President, in addition to reminding the Senate of the long list of official United States Government findings of Soviet treaty violations since the Bolshevik Revolution of 1917, I would like to call two documents to the Senate's attention.

The first is the President's December 2, 1987, unclassified report on Soviet noncompliance with arms control agreements, and the second is the dissenting views to the report by the Permanent Select Committee on Intelligence of the House of Representatives entitled "Intelligence Support to Arms Control." These two most recent documents merely provide current and official support for my proposition that it is dangerous to sign new treaties with the Soviets, because they have not complied with any of the old ones.

The best summation of the Soviet attitude toward treaties was given by Soviet leaders themselves. As I noted, Lenin stated that "Promises are like pie crusts, made to be broken." Lenin also coldly admitted shortly after the March 1918 Soviet-German peace treaty of Brest-Litovsk that: "Yes, of course we are violating the treaty. We have already violated it 30 or 40 times." But Joseph Stalin most succinctly summarized Soviet diplomacy, when he made the famous statement that:

> Words have no relation to actions—otherwise what kind of diplomacy is it? Words are one thing, actions another. Good words are a mask for concealment of bad deeds. Sincere diplomacy is no more possible than dry water or wooden iron.

If Soviet leader Gorbachev's "glasnost" [Glass-nost] and "perestroika" [para-stroy-ka] policies made him a different kind of Soviet leader, perhaps the Soviet Union would not be increasing its violations of the SALT I ABM Treaty on the very eve of the Pearl Harbor Summit, as President Reagan has just confirmed to Congress.

Indeed, I believe that Gorbachev is no different from all the rest of the Soviet leaders before him. Not only did he have a long career in the KGB, he resorted to murder to destroy his rivals and become Soviet General Secretary, but his so-called reformist policies have only one fundamental objective—to make the Soviet Union more effective in its quest for domination over the United States.

Mr. President, 32 years ago, on August 1, 1955, the Senate Committee on the Judiciary filed an important report on Soviet treaty violations. This report was followed by similar Senate Judiciary Committee reports on January 1, 1959, and January 1, 1964. The Department of Defense made a similar report on Soviet treaty violations on November 5, 1962.

These four official reports covered more than 150 Soviet international security treaty violations from 1917 through 1964.

But then, for the next 20 years, there was total, complete official blackout of the news of Soviet treaty violations.

On January 23, 1984, that official, United States Government cover-up ended with President Reagan's first report to Congress on Soviet SALT violations. The first report established Ronald Reagan as the first President to have the courage officially and publically to accuse the Soviet Union of violating SALT treaties.

It was a historic report, because it broke the 20 year silence from official Washington on Soviet violations of international security treaties.

Since that January 23, 1984, historic Presidential Report to Congress on Soviet SALT Violations, there have been six more, for a total of seven official reports to Congress on Soviet SALT cheating. These reports establish a still-expanding pattern of over 50 Soviet violations of SALT and other arms control treaties.

These seven Reagan administration reports, together with the previous four 1955-64 reports from both the legislative and the executive branches, are of real significance for U.S. security and world peace. Without Soviet compliance with arms control and international security treaties, there can be no order in international relations and no reliable security arrangements not wholly based on military might.

But now a total of 11 official United States Government reports to Congress confirming over 200 Soviet treaty violations establish the fact that the Soviets always cheat on their solemn legal commitments to comply with international security treaties.

Soviet noncompliance with treaties will inevitably increase the risk of war. That is why the chief American arms control negotiator in Geneva, our distinguished Ambassador Max Kampelman, himself stated recently that:

> It is essential in our negotiations in Geneva that we highlight the issue of Soviet violations of existing arms control agreements, even though they will yell like stuck pigs.

But as Lenin stated in 1916, "Every peace program is a deception * * * unless its principal object is * * * the revolutionary struggle."

Mr. President, I will now remind the Senate of the chronological history of these Soviet treaty violations, which is appropriate just as President Reagan and Gorbachev are signing a new treaty.

Here is a list of the most important violations of international security treaties from the official 1962 Defense Department report:

> 1. On May 7, 1920, the new Soviet regime signed a treaty with the independent Georgian Republic, pledging no interference in Georgia's internal affairs. The Soviet violation: On February 11 and 12, 1921, Soviet troops invaded Georgia, in a step leading to

the absorption of the Republic into the USSR.

2. On March 16, 1921, in a trade agreement with Britian, the Soviet Union pledged not to engage in propaganda in Britain. The Soviet violation: On May 26, 1927, Britain ended the agreement because of Soviet violations, including Soviet failure to stop propaganda inside Britain as promised.

3. On June 5, 1922, the Soviet Union concluded a friendship agreement with Czechoslovakia. The Soviet violation: On June 29, 1945, the USSR compelled Czechoslovakia to cede the Carpatho-Ukraine to the Soviet Union.

4. On December 12, 1943, the USSR and the Czech Government-in-exile signed a treaty of friendship and mutual assistance. The Soviet violation: On February 25, 1948, the Czechoslovakian Government was forced to accept a Communist ultimatum as the Soviet Union completed arrangements to force the country into its satellite empire. The Soviet ultimatum compelled the appointment of a cabinet of Moscow followers, and it climaxed the Soviet postwar drive to absorb the once-independent Czechoslovakia.

5. On December 17, 1925, the USSR signed a nonaggression and neutrality pact with Turkey. The Soviet violation: On March 20, 1945, the USSR denounced this pact, and began a campaign to secure control of the Black Sea straits.

6. On August 31, 1926, the Soviet Union concluded a nonaggression pact with Afghanistan. The Soviet violation: On June 14, 1946, the USSR forced Afghanistan to cede the border territory of Kishka.

7. On September 28, 1926, the Soviet Union made a nonaggression pact with Lithuania, later extending the agreement through 1945. The Soviet violation; On June 15, 1940, Soviet troops invaded Lithuania. On August 8, 1940, Lithuania was annexed by the Soviet Union.

8. On September 27, 1928, the Soviet Union adhered to the Kellogg-Briand pact for the renunciation of war. The Soviet violation: The Soviet Union violated this pledge by their 1939–40 invasions of Poland, Lithuania, Estonia, Romania, and Finland.

9. On January 21, 1932, the USSR agreed to a nonaggression pact with Finland. The Soviet violation: On November 30, 1938, Soviet military forces invaded Finland.

10. On February 5, 1932, the Soviet Union signed a nonaggression pact with Latvia. The Soviet violation: On June 16, 1940, Soviet troops invaded Latvia.

11. On May 4, 1932, the Soviet Union pledged nonaggression in an agreement with Estonia. The Soviet violation: On June 16, 1940, Soviet military forces invaded and occupied Estonia.

12. On July 25, 1932, the Soviet Union signed a nonaggression pact with Poland. The Soviet violation: On September 17, 1939, Soviet troops invaded Poland.

13. On May 8, 1934, the USSR and Poland extended their nonaggression pact for ten years. The Soviet violation: On September 29, 1939, the USSR signed an agreement with Nazi Germany to partition Poland.

14. On June 9, 1934, the USSR agreed to recognize Romania, and to guarantee her sovereignty. The Soviet Violation: On June 27, 1940, the Soviet army invaded and occupied the Romanian provinces of Bessarabia and Northern Bukovina.

15. On September 15, 1934, the USSR entered the League of Nations, pledging thereby "the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another." The Soviet violation: On August 23, 1939, the USSR made a treaty with Nazi Germany, termed "a joint conspiracy" to deprive Poland, Estonia, Latvia, Lithuania, Finland, and Romania of their independence and territorial integrity.

16. On August 31, 1937, the Soviet Union signed a nonaggression pact with the Republic of China. The Soviet violation: On October 2, 1940, the USSR broke relations with the Republic of China, after recognizing the Communist Chinese regime it helped to eventually gain power in 1948.

17. On July 30, 1941, the USSR concluded an agreement with the Polish Government-in-exile, pledging mutual aid and cooperation. The Soviet violation: On April 28, 1943, the USSR broke its relations with the Polish Government-in exile, on the pretext of the Polish request for a Red Cross investigation of the Katyn Forest Massacre.

18. On September 4, 1941, the Soviet Union pledged adherance to the Atlantic Charter, which provided that agreeing countries seek no aggrandizement, that the countries desired no territorial changes not made with the freely expressed wishes of the people concerned, and that they respected the right of all peoples to choose their own government. The Soviet violation: Against these promises stands the Soviet Union's record of occupation and domination of Romania, Estonia, Latvia, Lithuania, Czechoslovakia, Tannu Tuva, Afghanistan territory, Hungary, East Germany, Albania, Bulgaria, Poland, North Korea, and Mongolia.

19. On January 29, 1942, the Soviet Union, with Iran and Britain, signed a treaty of alliance, providing for the Military use of Iranian territory only until the end of military operations against Germany. The Soviet violation: The Soviet Union refused to withdraw its troops from Iran at the end of World War Two.

20. On February 4-11, 1945, at the Yalta Conference, the USSR agreed on various postwar measures, including adoption of a resolution that the liberated peoples of Europe should have the opportunity to solve their economic problems by democratic means. The Soviet violation: In violation of this agreement stands the USSR's record of dominations in Bulgaria, Romania, Poland, East Germany, Hungary, and Czechoslovakia, and other countries which were forced into postwar roles as satellites of the Soviet Union.

21. On February 11, 1945, the USSR at the Yalta Conference, agreed to a declaration that the Polish provisional government "shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot." The Soviet violation: On January 5, 1947, the Soviet Union refused to participate in the meeting with the United States and Britain to secure compliance with the 1945 agreement pledging free elections in Poland.

22. On April 11, 1945, the USSR signed a 20 year treaty of friendship, mutual aid, and cooperation with Yugoslavia. The Soviet violation: On September 29, 1949, the USSR denounced this agreement.

23. On June 14-18, 1945, President Truman and Premier Stalin agreed, in an exchange of letters, to "free access by air, road, and rail, from Frankfurt and Bremen to Berlin for U.S. forces." The Soviet violation: From April 1, 1948, to May 12, 1949, the Soviet Union imposed the Berlin Blockade by severing all land and water routes between Berlin and West Germany. The Western Allies supplied Berlin by airlift. In March, 1962, the Soviet Union harassed flights by Allied airplanes between Berlin and West Germany.

24. On July 17 to August 2, 1945, at the Potsdam Conference, the USSR agreed that there should be uniform treatment of the German people throughout Germany. The Soviet violation: East Germany today continues to be a rigidly controlled Soviet satellite. Its people have been denied free elections, have been isolated from the people of West Germany, and have been victimized by the same kind of regimentation, police rule, and economic restrictions imposed on the people of the Soviet Bloc states in Europe.

25. On August 14, 1945, the Soviet Union entered into a treaty with the Republic of China, containing these pledges: "Each high contracting party undertakes not to conclude any alliance and not to take any part in any coalition directed against the other high contracting party . . . the treaty comes into force immediately . . . and shall remain in force for a term of 30 years." The Soviet violation: On February 14, 1950, these pledges were broken when the USSR made a new agreement with the Communist Chinese regime it had helped to create. The Soviets did not even bother to change the basic wording. The new treaty also pledges: "Both high contracting parties undertake not to conclude any alliance against the other high contracting party . . . The present treaty will be valid for 30 years."

26. On March 10, 1947, the Soviet Council of Ministers, meeting in Moscow, agreed that all German prisoners of war should be repatriated by December 31, 1948. The Soviet Violation: On August 3, 1955, the Soviets furnished the West German Red Cross with data on the health and whereabouts of only 20 of the approximately 14,000 Germans known to be still held in the USSR.

27. On May 4 and June 20, 1949, Four Power Agreements of New York and Paris guarantee the United States, British, French, and Soviet joint control of Berlin, all access routes to and from the city, and freedom of movement within the city. The Soviet violation: On September 20, 1955, the USSR unilaterally transferred Soviet control over all access routes to and from Berlin to the East German regime.

28. On July 27, 1956, the military armistice was established between the United Nations command and opposing communist forces of North Korea and China, assisted by the USSR. The Armistice Agreement pledged signers to "cease introduction into Korea of reinforcing military personnel." The Soviet violation: On July 11, 1956, the United Nations command detailed a long list of armistice agreement violations by communist parties. On May 6, 1957, the U.N. command, in another series of official complaints, charged that the communists had sent troops into Korea's demilitarized zone six times in a period of less than 4 months.

29. On January 14, 1956, the USSR signed an agreement with Yugoslavia, pledging $110 million in credits for industrial construction. On August 4, 1956, the USSR pledged an additional grant of $175 million, bringing the total to $285 million. The Soviet violation: On May 28, 1958, Yugoslav sources disclosed that the Soviet Union had postponed for five years the grant to Yugoslavia amounting to $285 million. This represented an attempt to retaliate against Yugoslavia for its refusal to accept the Soviet Communist Party's ideological leadership.

30. On October 19, 1956, the USSR-Japanese joint declaration pledged the Soviet Union to refrain from interference in Japan's internal affairs. The Soviet violation: In 1958, during the weeks preceding the Japanese elections of May 22, the Soviets beamed radio propaganda at Japan violently opposing the election of Premier Kishi's government. Between 1959 and 1960, the USSR threatened Japan with the possibility of nuclear war if Japan ratified the U.S.-Japan security treaty, signed January 19, 1960.

Mr. President, the above only partial listing of Soviet violations of international security treaties occurred between 1917 and 1960, and they were officially confirmed by the Senate Judiciary Committee and by the Department of Defense in 1962 and 1964. But there was a long hiatus from 1964 until 1984, when there were no official United States Government reports on Soviet treaty violations. Then on January 23, 1984, President Reagan made his first report to Congress on Soviet SALT violations. There have now been seven such reports to Congress, confirming the following numerical tabulation of Soviet violations of SALT and other arms control treaties:

First. SALT I ABM Treaty—10 confirmed violations;

Second. SALT I Interim Agreement—5 confirmed violations;

Third. SALT II Treaty—22 confirmed violations;

Fourth. Limited Test Ban Treaty—30 confirmed violations;

Fifth. Threshold Test Ban Treaty—24 likely violations;

Sixth. Biological Warfare Convention—multiple confirmed violations;

Seventh. Geneva Protocol on Chemical Weapons—multiple confirmed violations;

Eighth. Kennedy-Krushchev Agreement of 1962—Confirmed violations.

In addition, Mr. President, long before SALT began in 1969, the Soviets violated two significant arms control treaties, one in the 1920's, which even entailed on-site inspection, and another in the late 1940's. Soviet authorities on international law have candidly stated their view of treaty compliance: "Those institutions of international law which can facilitate the accomplishment of the stated tasks of Soviet foreign policy are recognized and applied in the USSR; those which contradict these aims in any way are rejected."

According to an official U.S. State Department Soviet Affairs Note dated August 10, 1959:

"Few nations can match the USSR in vociferous protestations of loyalty to international obligations! However, such declarations which are typical of Soviet propagandists and scholars alike—diverge widely from Soviet practice. In the years since the Bolshevik Revolution the Soviet government, while consistently accusing others of bad faith in international dealings, has not hesitated to violate its own treaty obligations when such actions appeared to be in its interest. The history of the last 40 years provides numerous examples of deliberate treaty violation by the Soviet regime.* * * The USSR has disregarded treaty provisions inconvenient to itself, has unilaterally denounced conventions to which it is a party, has threatened abrogation as a means of intimidation, and has on several occasions attacked fellow signatories to treaties of friendship and nonaggression.

Mr. President, I ask unanimous consent that the December 2, 1987 report entitled "The President's Unclassified Report On Soviet Noncompliance With Arms Control Agreements" be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

The President's Unclassified Report on Soviet Noncompliance With Arms Control Agreements

The following is the text of a letter from the President to the Speaker of the House of Representatives and to the President of the Senate transmitting the President's report, in classified and unclassified versions, on Soviet noncompliance with arms control agreements as required by P.L. 99-145.

Dear Mr. Speaker (Dear Mr. President): In response to congressional requests as set forth in Public Law 99-145, I am forwarding herewith classified and unclassified versions of the Administration's report to the Congress on Soviet noncompliance with arms control agreements. (Detailed classified briefings will be available to the Congress in the near future.)

The information contained in this report, in addition to that provided in our previous reports, is essential to understanding the problems we face in seeking to achieve sound, equitable and verifiable agreements for arms reductions that will strengthen our security and that of our allies.

The Soviet Union to date has not corrected its noncompliance activities. Indeed, since the last report, there has been an additional case of Soviet violation of the ABM Treaty in the deployment of an ABM radar at Gomel, and other violations are continuing.

No violations of a treaty can be considered to be a minor matter, nor can there be confidence in agreements if a country can pick and choose which provisions of an agreement it will comply with. The Gomel violation can be quickly corrected by the Soviet Union if it so chooses. We are urging them to take the actions needed to do so, and to resolve other longstanding violations, especially that of their radar located at Krasnoyarsk. Correcting their violations will be a true test of Soviet willingness to enter a more constructive relationship and broaden the basis for cooperation between our two countries on security matters.

I am confident the Congress fully shares my concern about Soviet noncompliance. Congressional support and consensus on this issue is an essential element of our efforts to secure corrective actions, and pursue the kind of arms reductions agreements that will best serve the interests of the United States and the world.

Sincerely,

Ronald Reagan.

Soviet Noncompliance With Arms Control Agreements

At the request of Congress, I am submitting this report on Soviet Noncompliance with Arms Control Agreements. This Report represents another in a series of reports to Congress by this Administration regarding this serious issue. The series includes Reports dated January 1984, February and December 1985, March 1987, and the 1984 Report on Soviet Noncompliance prepared for me by the independent General Advisory Committee on Arms Control. Each of these reports has enumerated and documented, in detail, issues of Soviet noncompliance and our attempts to resolve the issues. Likewise, this Report addresses questions of Soviet noncompliance with existing arms control agreements, including the Anti-Ballistic Missile Treaty, the Biological and Toxin Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Limited Test Ban Treaty. Now that we have put the SALT I Interim Agreement and the SALT II Treaty behind us, Soviet activities with respect to those agreements are not treated in this Report. I will report on the Threshold Test Ban Treaty at a later date. The provisions of the Helsinki Final Act that relate to military security and confidence-building have been superseded by the Stockholm Document, a development that is treated later in this introduction. When taken as a whole, this series of reports provides a clear picture of continuing Soviet violations and forms the basis for our concern that future agreements must be effectively verifiable and complies with.

In the December 23, 1985, Report, I stated:

"The Administration's most recent studies support its conclusion that there is a pattern of Soviet noncompliance. As documented in this and previous reports, the Soviet Union has violated its legal obligation under, or political commitment to, the SALT I ABM Treaty and Interim Agreement, the SALT II Agreement, the Limited Test Ban Treaty of 1963, the Biological and Toxin Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Helsinki Final Act. In addition, the USSR has likely violated provisions of the Threshold Test Ban Treaty."

I further stated:

"At the same time as the Administration has reported its concerns and findings to the Congress, the United States has had extensive exchanges with the Soviet Union on Soviet noncompliance in the Standing Consultative Commission (SCC), where SALT-related issues (including ABM issues) are discussed, and through other appropriate diplomatic channels."

The compliance concerns enumerated in this Report are not unfamiliar to the Soviet Union. I expressed my personal interest in these issues directly to General Secretary Gorbachev during my meetings with him, both in 1985 in Geneva and then again in Reykjavik in October 1986. In addition, the Standing Consultative Commission discusses compliance concerns in detail during its biannual sessions. The classified Report includes detailed summaries of this SCC dialogue. Most recently, Secretary of State Shultz raised U.S. concerns about Soviet noncompliance during his October 1987 visit to Moscow.

Additional time has passed and, despite these continuing intensive efforts and the critical stage we have entered in the negotiation of arms reductions of historic proportion, the Soviet Union has failed to correct its noncompliant activities; neither have they provided explanations sufficient to alleviate our concerns on other compliance issues. Indeed, recent Soviet activities at an electronics facility at Gomel have raised an additional compliance issue with regard to the ABM Treaty.

Compliance with treaty obligations is a cornerstone of international law; States are to observe and comply with obligations they have freely undertaken. In fact, in December 1985, the General Assembly of the United Nations recognized the importance of treaty compliance for future arms control, when, by a vote of 131-0 (with 16 abstentions), it passed a resolution that:

Urges all parties to arms limitation and disarmament agreements to comply with their provisions;

Calls upon those parties to consider the implications of noncompliance for international security and stability and for the prospects for further progress in the field of disarmament; and

Appeals to all UN members to support efforts to resolve noncompliance questions "with a view toward encouraging strict observance of the provisions subscribed to and maintaining or restoring the integrity of arms limitation or disarmament agreements."

Congress has made clear its concern about Soviet noncompliance with arms control agreements. In February 1987, the Senate passed a resolution, by a vote of 93-2, which:

"Declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been its violation of existing agreements, and calls upon it to take steps to rectify its violation of such agreements and, in particular, to dismantle the newly-constructed radar site at Krasnoyarsk, Union of Soviet Socialist Republics, since it is a clear violation of the terms of the Anti-Ballistic Treaty . . .".

The Senate repeated its call for dismantlement of the Krasnoyarsk radar in a resolution dated September 16, 1987. For its part, the House of Representatives, on May 6, 1987, voted 416-0 in support of a resolution recognizing that by constructing the Krasnoyarsk radar, the Soviet Union was in violation of its legal obligations under the ABM Treaty.

Compliance with arms control commitments remains an essential element of my arms control policy. As I have stated before:

"In order for arms control to have meaning and credibly contribute to national security, it is essential that all parties to agreements fully comply with them. Strict compliance with all provisions of arms control agreements is fundamental, and this Administration will not accept anything less."

I have also said that:

"Soviet noncompliance is a serious matter. It calls into question important security benefits from arms control, and could create new security risks. It undermines the confidence essential to an effective arms control process in the future . . . The United States Government has vigorously pressed, and will continue to press these compliance issues with the Soviet Union through diplomatic channels."

Despite these continuous efforts, I regret to report that during the period since my last Report, the Soviet Union has failed to correct its noncompliance activity or to provide explanations sufficient to alleviate our concerns. Soviet explanations and actions are fully described in the Report. The Report presents and distinguishes between both violations and possibly noncompliant actions which are historical in nature and instances of ongoing and new noncompliant behavior.

THE ABM TREATY

We continue to have deep concerns about Soviet noncompliance with the ABM Treaty. One of our principal concerns is with the Krasnoyarsk radar which is a clear violation of the Treaty. The radar demonstrates that the Soviets were designing and programming a prospective violation of the ABM Treaty even while they were negotiating a new agreement on strategic offensive weapons with the United States.

The only permitted functions for a large, phased-array radar (LPAR) with a location and orientation such as that of the Krasnoyarsk radar would be space-tracking and national technical means (NTM) of verification. Based on conclusive evidence, however, we judge that this radar is primarily designed for ballistic missile detection and tracking, not for space-tracking and NTM as the Soviets claim. Moreover, the coverage of the Krasnoyarsk radar closes a major gap in the coverage of the Soviet ballistic missile detection, warning, and tracking screen. Its location allows it to provide warning of a ballistic missile attack, to acquire attack characterization data that will enable the Soviet strategic forces to respond in a timely manner, and that could aid in planning the battle for Soviet defensive forces.

All LPARs, such as the Krasnoyarsk radar, have the inherent capability to track large numbers of objects accurately. Thus, they not only could perform as ballistic missile detection, warning, and tracking radars, but also have an inherent technical potential, depending on location and orientation, of contributing to ABM battle management.

LPARs have always been considered to be the long lead-time element of a possible territorial defense. Taken together, the Krasnoyarsk radar and other Soviet ABM-related activities give us concern that the Soviet Union may be preparing an ABM defense of its national territory. Some of the activities, such as the construction of new LPARs on the periphery of the Soviet Union and the upgrade of the Moscow ABM system, appear to be consistent with the ABM Treaty. The redundancy in coverage provided by these new radars and the disposition of these radars closely resembles the design of the U.S. Safeguard ABM program. The construction of the radar near Krasnoyarsk and the deployment of a Flat Twin and a Pawn Shop outside a permitted ABM system deployment area or designated ABM test range are violations of the ABM Treaty. Other Soviet ABM-related activities involve potential or probable Soviet violations or other ambiguous activity. These other issues, discussed fully in the body of the report, are:

The testing and development of components required for an ABM system that could be deployed to a site in months rather than years, and the movement of parts of Flat Twin and Pawn Shop for a new location;

The concurrent operation of air defense components and ABM components;

The development of modern air defense systems that may have some ABM capabilities;

The demonstration of an ability to reload ABM launchers in a period of time short enough to cause us concern as to Soviet capabilities and intent; and

The locating of parts of a Flat Twin and Pawn Shop at a location that is neither a permitted ABM deployment area nor an agreed test range.

Soviet activities during the past year have contributed to our concerns. Construction is continuing on three additional LPARs similar to the Krasnoyarsk radar. These new radars are located near the periphery of the western USSR and oriented consistent with the ABM Treaty's provisions on ballistic missile early warning radars (if they are for early warning). The primary mission of these radars is ballistic missile detection and tracking.

The Soviets have sought recently to convey the impression that they are addressing our concerns in a responsible fashion, but have not taken any actions which in fact redress our concerns regarding their possible preparation of a territorial defense. For example, on September 5, 1987, a U.S. Congressional Delegation was permitted to visit the Krasnoyarsk radar. Although the Soviet invitation represented a departure from the long Soviet history of secrecy in such matters, the observations of the Congressional Delegation regarding the stage of construction, the quality of construction, and other features of the radar in no way change the assessment that the radar is designed for ballistic missile detection and tracking. The radar is unquestionably an LPAR, whose location and orientation are inconsistent with the ABM Treaty.

In recent years, we have gathered an increased amount of evidence on activities that could be associated with Soviet concurrent operations. This may or may not indicate an increase in Soviet concurrent operations. Also of significant concern is the initial deployment in the western USSR to Soviet ground forces of the SA-12 defensive system, a variant of which has been tested against tactical ballistic missiles and may have some ABM capability.

Our continuing reexamination of Soviet ABM-related activities demonstrates that the Soviets have not corrected their outstanding violation, the Krasnoyarsk radar. With regard to Krasnoyarsk, on October 23, General Secretary Gorbachev told Secretary of State Shultz that the Soviets were imposing a one-year construction moratorium on Krasnoyarsk. Although activities at Krasnoyarsk continue to be noted, the remaining work needed on the radar is interior work, so that it would be difficult to ascertain whether the Soviets have indeed ceased construction at the site.

The absence of Soviet dismantlement of the Krasnoyarsk radar, the new violation in the deployment of the Flat Twin and Pawn Shop observed at Gomel, and the totality of Soviet ABM-related activities in 1987 and previous years, suggest that the USSR may be preparing an ABM defense of its national territory.

The Soviet Union clearly continues to increase its capability to deploy an ABM defense. The Soviet programs involved a much greater investment of plant space, capital and manpower than comparable U.S. programs. As I said in the December 1985, Report, a unilateral Soviet ABM defense: "would have profound implications for the vital East-West balance. A unilateral Soviet territorial ABM capability acquired in violation of the ABM Treaty could erode our deterrent and leave doubts about its creditibility."

CHEMICAL, BIOLOGICAL AND TOXIN WEAPONS

The integrity of the arms control process is also hurt by Soviet violations of the 1925 Geneva Protocol on Chemical Weapons and the 1972 Biological and Toxin Weapons Convention. Information obtained in 1987 does nothing to allay our concern about Soviet noncompliance with these important agreements. Progress toward an agreement banning chemical weapons is affected by Soviet noncompliance with the Biological and Toxin Weapons Convention. Because of the record of Soviet noncompliance with past agreements, we believe verification provisions are a matter of unprecedented importance in our efforts to rid the world of these heinous weapons—weapons of mass destruction under international law.

The U.S. has determined that the Soviet Union has maintained an active offensive biological warfare program and capability. Until recently, the Soviet Union has never acknowledged that it conducted even permitted BW-related activities other than to say that it had been in compliance with its obligations under the BWC.

As a result of the 1986 BWC Review Conference, States party to the Convention agreed to exchange information on facilities built for high-risk (high-containment) biological experiments and facilities engaged in other activities relating to the convention. The Soviet submission is an unprecedented public declaration of permitted Soviet BW-related facilities and is a welcome step.

An example of the discrepancy between Soviet public and private arms control diplomacy is the recent Soviet treatment of our concerns regarding an outbreak of anthrax in Sverdlovsk in 1979. The U.S. has evidence that the outbreak occurred as a result of an accidental release of large quantities of anthrax spores from a prohibited BW facility, contributing to our concerns about the Soviet BW program. We have raised the issue repeatedly with the Soviets as early as March 1980, and have been told that the outbreak stemmed from the consumption of contaminated meat.

Since the 1986 BWC Review Conference, the Soviets have provided additional details regarding the incident in various informal public fora. However, the Soviet account is inconsistent with information available to us, and in many aspects is not consistent with a contaminated meat explanation.

Again, while we welcome the provision of new information and the opportunity to discuss these issues, our concerns regarding the Soviet biological warfare program and capability are unanswered. The Soviets have maintained a prohibited offensive biological warfare capability. It may include advanced biological agents about which we have little knowledge and against which we have no defense. The Soviets continue to expand their chemical and toxin warfare capabilities, contrary to their public claims. Neither NATO retaliatory nor defensive programs can begin to match the Soviet effort. And, even though there have been no confirmed reports of attacks with lethal chemical, biological or toxin agents since 1984, previous activities have provided the Soviets with valuable testing, development, and operational experience.

NUCLEAR TESTING

The record of Soviet noncompliance with the treaties on nuclear testing is of legal and military concern. Since the Limited Test Ban Treaty (LTBT) came into force over 20 years ago, the Soviet Union has conducted its nuclear weapons test program in a manner incompatible with the aims of the Treaty. That conduct regularly resulted in the release of nuclear debris into the atmosphere beyond the borders of the USSR. When the Soviets ended their unilateral nuclear testing moratorium on February 26, 1987, they resumed their pattern of noncompliance with treaties on nuclear testing by conducting the test in a way which resulted in the release of radioactive matter into the atmosphere beyond the borders of the USSR. Even though the material from these Soviet tests does not pose calculable health, safety or environmental risks, and these infractions have no apparent military significance, our repeated attempts to discuss these occurrences with Soviet authorities have been rebuffed. The United States presented demarches to the Soviets on two separate occasions of unambiguous venting in 1987 and received completely unacceptable explanations. Soviet refusal to discuss this matter calls into question their sincerity on the whole range of arms control agreements.

During their 1985-86 moratorium, the Soviets undoubtedly maintained their test sites because they quickly resumed testing and have since conducted a series of tests. One of these tests raised sufficient concern about Soviet compliance with the 150 kt limit of the Threshold Test Ban Treaty (TTBT) that the U.S. raised the issue with the Soviets.

In the March 1987 Report we reaffirmed the December 1985 U.S. Government judgment that, "Soviet nuclear testing activities for a number of tests constitute a likely violation of legal obligations under the Threshold Test Ban Treaty." We also reported that the finding would stand until a number of studies, which had been initiated in an attempt to provide a somewhat improved basis for assessing Soviet compliance, could be completed. While significant progress has been made on those technically difficult issues, we do not expect to provide an update until next spring.

The United States and the Soviet Union have met several times at the experts level to discuss the broad range of issues relating to nuclear testing. In a joint statement issued at the time of the September 1987 meeting between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze, the two sides indicated their intention to design and conduct joint verification experiments at each other's test sites. On November 9, 1987, the United States and the Soviet Union began full-scale, stage-by-stage negotiations in which the first step is to agree on effective verification measures which will make it possible to ratify the U.S.-USSR TTBT and Peaceful Nuclear Explosions Treaty (PNET). As a result of this first round of discussions, arrangements are being made for preliminary visits to each side's test sites.

THE HELSINKI FINAL ACT

The Accord reached at the 1986 Stockholm Conference on Confidence- and Security-Building Measures containing new standards for notification, observation, and verification of military activities, including on-site inspection, went into effect January 1, 1987. To date, Soviet military activity forecasts, subsequent notifications, and the acceptance of requests for two inspections have been consistent with their obligations under the new agreement. The Soviets have provided the minimum information required and have, therefore, remained within the scope of their obligations. In view of this and without any new evidence, this compliance issue will not be treated in this report. However, we have exercised our prerogative for on-site inspection and will be carefully monitoring Soviet compliance with these new standards. While this Accord appears to be a step in the right direction, we must continue to seek further confidence and security building measures.

COMPLIANCE AND ARMS CONTROL

A consistent and fundamental priority of my Administration has been achieving deep and equitable reductions in the nuclear offensive arsenals of the U.S. and USSR. That goal is closer to reality than it has ever been in the history of mankind, but it will be achieved only if effective verification and total compliance are integral elements of the process both with respect to existing arms control agreements and possible new ones.

We must insist on effective verification of the provisions of these new agreements, respond appropriately to any Soviet noncompliance, and continue to make our strategic decisions based on the nature and magnitude of the Soviet threat. A double standard of compliance with arms control obligations is unacceptable.

I look forward to continued close consultations with the Congress as we seek to make progress in resolving compliance issues and in negotiating sound arms control agreements.

The findings of Soviet noncompliance with arms control agreements follow.

THE FINDINGS

Anti-Ballistic Missile (ABM) Treaty

Treaty Status

The 1972 ABM Treaty and its Protocol ban deployment of ABM systems except that each Party is permitted to deploy one ABM system around its national capital area or, alternatively, at a single ICBM deployment area. The ABM Treaty is in force and is of indefinite duration. Soviet actions not in accord with the ABM Treaty are, therefore, violations of a legal obligation.

1. The Krasnoyarsk radar

Obligation: To preclude the development of a territorial defense or providing the base for a territorial ABM defense, the ABM Treaty provides that radars for early warning of ballistic missile attack may be deployed only at locations along the periphery of the national territory of each Party and that they be oriented outward. The Treaty permits deployment (without regard to location or orientation) of large phased-array radars for purposes of tracking objects in outer space or for use as national technical means of verification of compliance with arms control agreements.

Issue: The March 1987 Report examined the issue of whether the Krasnoyarsk radar meets the provisions of the ABM Treaty governing phased-array radars. We have reexamined this issue.

Findings: The U.S. Government reaffirms the conclusion in the March 1987 Report that the new large phased-array radar under construction at Krasnoyarsk constitutes a violation of legal obligations under the Anti-Ballistic Missile Treaty of 1972 in that in its associated siting, orientation, and capability, it is prohibited by this Treaty. Construction continued in 1987. The absence of credible alternative explanations have reinforced our assessment of its purpose. Despite U.S. requests, no corrective action has been taken. This and other ABM-related activities suggest that the USSR may be preparing an ABM defense of its national territory.

2. Mobility of ABM system components

Obligation: Paragraph 1 of Article V of the ABM Treaty prohibits the development, testing, or deployment of mobile land-based ABM systems or components.

Issue: The March 1987 Report examined whether the Soviet Union has developed a mobile land-based ABM system, or components for such a system, in violation of its legal obligation under the ABM Treaty. We have reexamined this issue and considered the impact of the Soviet actions at Gomel.

Finding: The U.S. Government reaffirms the judgment of the March 1987 Report that the evidence on Soviet actions with respect to ABM component mobility is ambiguous, but that the USSR's development and testing of components of an ABM system, which apparently are designed to be deployable at sites requiring relatively limited special-purpose site preparation, represent a potential violation of its legal obligation under the ABM Treaty. The recent movement of parts of a Flat Twin and Pawn Shop reinforces our concerns about ABM system component mobility. This and other ABM-related Soviet activities suggests that the USSR may be preparing an ABM defense of its national territory.

3. Concurrent testing of ABM and air defense components

Obligation: The ABM Treaty and its Protocol limit the Parties to one ABM deployment area. In addition to the ABM systems and components at that one deployment area, the Parties may have ABM systems and components for development and testing purposes so long as they are located at agreed test ranges. The Treaty also prohibits giving components, other than ABM system components, the capability "to counter strategic ballistic missiles or their elements in flight trajectory" and prohibits the Parties from testing them "in an ABM mode." The Parties agreed that the concurrent testing of SAM and ABM system components is prohibited.

Issue: The March 1987 Report examined whether the Soviet Union has concurrently tested SAM and ABM system components in violation of its legal obligation since 1978 not to do so. It was the purpose of that obligation to further constrain testing of air defense systems in an ABM mode. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment made in the March 1987 Report that the evidence of Soviet actions with respect to concurrent operations is insufficient fully to assess compliance with Soviet obligations under the ABM Treaty. However, the Soviet Union has conducted tests that have involved air defense radars in ABM-related activities. The large number, and consistency over time, of incidents of concurrent operation of ABM and SAM components, plus Soviet failure to accommodate fully U.S. concerns, indicate the USSR probably has violated the prohibition on testing SAM components in an ABM mode. In several cases this may be highly probable. This and other ABM-related activities suggest the USSR may be preparing an ABM defense of its national territory.

4. ABM capability of modern SAM systems

Obligation: Under subparagraph (a) of Article VI of the ABM Treaty, each party undertakes not to give non-ABM interceptor missiles, launchers, or radars "capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode . . ."

Issue: The March 1987 Report examined whether the Soviet Union has tested a SAM system or component in an ABM mode or given it the capability to counter strategic ballistic missiles or their elements in flight trajectory in violation of their legal obligation under the ABM Treaty. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment made in the March 1987 Report that the evidence of Soviet actions with respect to SAM upgrade is insufficient to assess compliance with the Soviet Union's obligations under the ABM Treaty. However, this and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

5. Rapid reload of ABM launchers

Obligation: The ABM Treaty limits to 100 the number of deployed ABM interceptor launchers and deployed interceptor missiles at launch sites. It does not limit the number of interceptor missiles that can be built and stockpiled. Paragraph 2, Article V, of the Treaty prohibits the development, testing or deployment of "automatic or semi-automatic or other similar systems for rapid reload" of the permitted launchers.

Issue: The March 1987 Report examined whether the Soviet Union has developed, tested or deployed automatic, semi-automatic, or other similar systems for rapid reload of ABM launchers in violation of its legal obligations under the ABM Treaty. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment made in the March 1987 Report that, on the basis of the evidence available, the USSR's actions with respect to the rapid reload of ABM launchers constitute an ambiguous situation as concerns its legal obligations under the ABM Treaty not to develop systems for rapid reload. The Soviet Union's reload capabilities are a serious concern. These and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

6. ABM components at Gomel

Obligations: To preclude the deployment of a territorial defense or providing the base for a territorial defense, the ABM Treaty provides that ABM components cannot be deployed outside of the one permitted ABM system deployment area or designated ABM test ranges for any purpose.

Issue: In March 1987, the U.S. Government observed the appearance of major parts of the original Flat Twin radar, including all of the modular sections of the radar body, and a Pawn Shop van at an electronics plant in Gomel, about 550 kilometers southwest of Moscow. The timing of the arrival of parts of the Flat Twin and Pawn Shop indicates that they came from the radars that were removed from the Sary Shagan Missile Test Center where, by January 1987, the Soviets were observed disassembling a number of these ABM components. U.S. concern regarding the issue of mobile ABM components previously raised with the Soviets could be exacerbated by this Soviet action.

Finding: The U.S. Government finds that the USSR's activities with respect to moving a Flat Twin ABM radar and a Pawn Shop van, a component of an ABM system, from a test range and initiating deployment at a location outside of an ABM deployment area or ABM test range constitutes a violation of the ABM Treaty. While it is not likely that the actions at Gomel are to support an ABM defense at that locality, deployment of such radars at Gomel to carry out any function is inconsistent with ABM Treaty obligations. This and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

7. ABM territorial defense

Obligation: The ABM Treaty and Protocol allow each Party a single deployment area, explicitly permit modernization and replacement of ABM systems or their components, and explicitly recognize the existence of ABM test ranges for the development and testing of ABM components. The ABM Treaty prohibits, however, the deployment of an ABM system for defense of the national territory of the Parties and prohibits the Parties from providing a base for such a defense.

Issue: The March 1987 Report examined whether the Soviets have deployed an ABM system for the defense of their territory or provided a base for such a defense. We have reexamined this issue.

Finding: The U.S. Government reaffirms the judgment of the March 1987 Report that the aggregate of the Soviet Union's ABM and ABM-related actions (e.g., radar construction, concurrent testing, SAM upgrade, ABM rapid reload, ABM mobility and deployment of ABM components to Gomel) suggests that the USSR may be preparing an ABM defense of its national territory.

Biological weapons convention and 1925 Geneva protocol

Chemical, Biological and Toxin Weapons

Treaty status

The 1972 Biological and Toxin Weapons Convention (BWC) and the 1925 Geneva Protocol are multilateral treaties to which both the United States and the Soviet Union are Parties. Soviet action not in accord with these treaties and customary international law relating to the 1925 Geneva Protocol are violations of legal obligations.

Obligation: The BWC bans the development, production, stockpiling or possession, and transfer of microbial or other biological toxins except for a small quantity for prophylactic, protective or other peaceful purposes. It imposes the same obligations in relation to weapons, equipment and means of delivery of agents or toxins. The 1925 Geneva Protocol and related rules of customary international law prohibit the use in war of asphyxiating, poisonous or other gases and of all analogous liquids, materials, or devices and prohibits use of bacteriological methods of warfare.

Issue: The March 1987 Report examined whether the Soviets are in violation of provisions that ban the development, production, transfer, possession, and use of biological and toxin weapons and whether they have been responsible for the use of lethal chemicals. We have reexamined this issue.

Finding: The U.S. Government judges that continued activity during 1987 at suspect biological and toxin weapon facilities in the Soviet Union, and reports that a Soviet BW program may now include investigation of new classes of BW agents, confirm the conclusion of the March 1987 Report that the Soviet Union has maintained an offensive biological warfare program and capability in violation of its legal obligation under the Biological and Toxin Weapons Convention of 1972.

There have been no confirmed attacks with lethal chemical or toxins in Cambodia, Laos, or Afghanistan in 1987 according to our strict standards of evidence. Nonetheless, there is no basis for amending the March 1987 conclusion that, prior to this time, the Soviet Union has been involved in the production, transfer, and use of trichothecene mycotoxins for hostile purposes in Laos, Cambodia, and Afghanistan in violation of its legal obligation under international law as codified in the Geneva Protocol of 1925 and the Biological and Toxin Weapons Convention of 1972.

Limited Test Ban Treaty

Underground Nuclear Test Venting

Treaty status

The Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Limited Test Ban Treaty) (LTBT) is a multilateral treaty that entered into force for the United States and the Soviet Union in 1963. Soviet actions not in accord with this treaty are violations of a legal obligation.

Obligation: The LTBT specifically prohibits nuclear explosions in the atmosphere, in outer space, and under water. It also prohibits nuclear explosions in any other environment "If such explosions cause radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted."

Issue: The March 1987 Report examined whether the USSR's underground nuclear tests have caused radioactive debris to be present outside of its territorial limits. We have reexamined this issue including evidence obtained since the Soviets resumed nuclear underground testing in February 1987.

Finding: the U.S. Government reaffirms the judgment made in the March 1987 Report that the Soviet Union's underground nuclear test practices resulted in the venting of radioactive matter on numerous occassions and caused radioactive matter to be present outside the Soviet Union's territorial limits in violation of its legal obligation under the Limited Test Ban Treaty. The Soviet Union failed to take the precautions necessary to minimize the contamination of man's environment by radioactive substances despite numerous U.S. demarches and requests for corrective action. This practice has continued. Since the resumption of Soviet undergound testing in February 1987 the United States has presented demarches to the Soviet Union on two separate occasions when unambiguosly attributable venting has occurred.

BOSTON HERALD CONTEST—MASSACHUSETTS CHILDREN WRITE TO GORBACHEV

Mr. KENNEDY. Mr. President, in connection with the historic United States-Soviet summit in Washington this week, I had the privilege today of delivering to Soviet officials 12 prize-winning letters written by children in Massachusetts to General Secretary Gorbachev of the Soviet Union. The letters were submitted to the Boston Herald as part of a contest sponsored by the newspaper, and the Herald judges picked the prize winners from among 515 entries in three age categories.

I commend the Boston Herald for this worthwhile initiative, and I hope that General Secretary Gorbachev will take the opportunity to read all of these letters, for they eloquently express the hopes for peace and good relations between our two nations.

These hopes are widely shared by Americans of all ages, and I am sure they are shared equally by the vast majority of Soviet citizens. Most of all, it is the children in both our nations and throughout the world who will be the principal beneficiaries of our efforts this week and of our continuing progress to prevent nuclear war and promote international peace. And they will also be the principal victims, if we fail.

I believe that my colleagues in the Senate will find these prize-winning letters of special interest, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TWELVE TO FOURTEEN YEAR OLDS

FIRST PRIZE: PETER COLWELL, 12, EAST BOSTON

I feel the warmth of the earth rising. I feel that peace, harmony and brotherhood are nearer than ever thought possible, when I realize that you, an honorable leader of the powerful Union of Soviet Socialist Republics, and President Reagan, a respected commander of the United States of America, will meet for the purpose of nuclear disarmament agreements.

In the hands of two fine leaders lies a vital decision, and I feel it is just a breath away! Please make the lives of millions of this world's citizens safer, more peaceful, as a result of your visit.

SECOND PRIZE: ERIC CHESNAKAS, 13, CAMBRIDGE

I am writing to you for a very important reason, world peace. I believe that if we all work together we can achieve this most precious goal. If we don't work together, then we can die together.

The one thing that scares me the most is having another war. I'd hate to die just because nations can't get along with each other. God made the Earth for everyone. One nation shouldn't try to rule the whole world. We shouldn't have to kill each other to solve a problem. I hope you and President Reagan accomplish many things when you two meet.

THIRD PRIZE: MINDY PEIRCE, 12, WAYLAND

I am a 12-year-old girl living in Wayland, Mass., and am writing you this letter to tell you my feelings about the children of the future. I din't really ever think about it before until recently. My parents were away and all of a sudden I thought of myself as an adult. I was a little nervous because I could imagine our earth as being totally polluted and everyone enemies. It was a terrible thought and I hope it won't become true. I wish that the Soviet Union and the United States would be friends and work together in things because both of our continents have a great deal of knowledge and together we could find out things that we never knew before.

FOURTH PRIZE: JOSEPH JUPIN, 12, NEW BEDFORD

Allow me to introduce myself. My name is Joe Jupin and I am 12 years of age. I would like to talk to you about the relationship between the U.S.A. and the U.S.S.R. I don't think you really want to go to war. So do something about it. Just think if our two countries were united we could break up all wars in the world and there could be world peace. And who cares who's the toughest country. And no matter what you ever do I will always remain your friend. Please write back.

P.S. Just remember, nobody wins a war.

NINE TO ELEVEN YEAR OLDS

FIRST PRIZE: MISS BEVIN MURPHY, 9, MILFORD

I think we should have peace all throughout the land from America's lakes to Russia's lakes to Russia's sand.

Peace talks are good, but that's all they are.

To succeed in our goal we must reach out far.

The only thing dividing us is the Atlantic sea.

I think we should unite and answer the people's plea.

SECOND PRIZE: JULIA HUYEN TRAN, 11, SHARON

As you visit the United States of America, I want to write to you about freedom and openness.

I congratulate you for your policy of 'glastnost' or openness. But, freedom and openness always go together. Where there is freedom there comes openness. My country becomes great because it is free and open. The Constitution guarantees us with all basic freedom, and the United States government is open to its people. If you are truly for 'glastnost,' then let freedom become a part of your country and in other countries that are influenced by the Soviet Union.

THIRD PRIZE: KELLY BRUNO, 10, WINTHROP

Please keep trying to keep peace. I know that it's hard and you must get tired, but please don't stop trying. Fighting comes too easy to people. Fighting is never the answer to anything. It leads too easily to war and it frightens me. I have a baby brother. He's five months old. His name is Dennis and he's beautiful. The last thing I want him to grow up to see or be in is a war. I know that wars can come unexpectedly, but please keep trying to keep the peace with Americans like me. Thank you for listening.

FOURTH PRIZE: JAMES T. KALIL, 11, LAWRENCE

We are learning Russian history in our sixth grade. Your history to survive is a lot like our fight and start in America.

I never knew we fought together in the first and second (World) wars. When I read this I said to myself, 'Why am I supposed to fear you and you me?" The history books don't teach fear of each other. Who does?

I would like to exchange sixth grade history textbooks to see what you tell your children about us. Maybe if we can see how adults tell us to see each other, it would explain a lot of things.

SIX TO EIGHT YEAR OLDS

FIRST PRIZE: CHRISTOPHER A. GREEN, 7, BROCKTON

Christmas is almost here. I think it would be a great idea if while Santa is bringing presents he takes some of the bad things away with him, like guns and bombs. When I have a fight with my friends we talk about it. I don't want them to die because they don't want to do what I want them to do. What do you think? You still have time to write Santa a letter. My mom is a mail man. If you like she could get it to Santa for you quickly.

SECOND PRIZE: JENNIE MILLS, 8, BEDFORD

I hope someday our countries can be friends. A war is like a fight I had with my friend Heather. She said twice she would play with me at recess. But she never did. So a few of my friends and I got together and wrote notes. Mean ones! Then one day I saw her with her head down waiting for the bus. I went over to her and said I was sorry. She did not believe me. So I had to write more notes, nice ones this time. Now we are friends again.

THIRD PRIZE: RICHIE NICOLO, 7, REVERE

I am glad you are coming to my country. President Reagan is a nice man. We learn about peace in school. How about giving it a chance? I know it's hard and I've learned about missiles and stuff. Will I go to the war when I grow up? I don't want to leave my mother. I like you Mr. Gorbachev. My father's head looks like yours. Maybe someday I'll come to Russia. Someday to see the kids. Do you have video games?

FOURTH PRIZE: BETSY BARRETT, 6, EVERETT

People should not have bombs because they can kill. Killing is not very nice. Everyone should be able to do what they want to do. Everybody is good enough to be free. People should be free because they have their own lives and their own fun. Everyone should be friendly with each other, meet each other in every state because if they meet each other as friends, they will become good friends. They should get rid of all this war stuff. Think up a good plan to free all the world and talk to each other.

THE MARKET CRASH IN PERSPECTIVE

Mr. HATCH. Mr. President, one of the most frequently asked questions in Washington today is "Does the stock market drop mean that we need new economic policies?" My own answer is: New economic policies—yes. New gimmicks—No! Responsible policymakers must avoid the temptation to find short run, quick legislative or administrative solutions that fail to correct our longstanding problems.

While the complexity of the market makes any analysis tentative and incomplete, I believe it is safe to suggest that the stock market crash in October reflected a very real loss of trader confidence in the American economy. I would also argue that the crisis in confidence was sparked by recent and ill-conceived attempts by the Federal Government to supress—but not address—our major problems: the U.S. international trade deficit and the Federal budget deficit. A third longstanding problem, in the opinion of many, has been U.S. monetary policy and its effect on interest rates.

First, let's look at the trade deficit. The U.S. current account deficit, the disproportionately large amount of imports relative to exports, is the overconsumption of foreign goods financed by the surplus in the capital account. In other words, we are borrowing overseas for our domestic investment, while we consume, rather than save, at home. A strong economy and a strong nation have made the United States attractive to foreign investors, and this investment from overseas has "financed" our overconsumption. The prospect of foreign ownership and a large debt to other nations has, for years, left analysts less than sanguine.

The Federal budget deficit is a similar problem. It would be fair to say that a great deal of the excessive consumption is the result of Federal fiscal policy which promises instant gratification at the expense of saving, investment, work, invention, innovation, and risktaking. There is a tendency in Congress to overpromise benefits and downplay the effort required to produce these benefits. We subsidize business that is not economically viable, substitute inefficient Government programs for the more efficient private efforts, and heavily tax productive investment efforts to pay for these programs.

A third longstanding problem of policy has been the monetary strategy of the Federal Reserve System. Our national monetary policy has never been the source of much stability for the economy, and recent years have not seen much improvement. Traditionally, the Fed has periodically increased the money supply in order to stimulate the economy artificially. The regrettable outcome of this maneuver, Mr. President, is something like a heroin "Fix." It does not last long, and larger doses are required to keep the "high" going.

When inflation results, the Fed then slows the money supply growth rate, and the painful "withdrawal" of recession squeezes inflation out of the economy. This was the monetary pattern from 1975 until 1982. Subsequently the Fed maintained excessively high money growth rates until this past summer when they began to fear the advent of another inflationary surge.

Meanwhile, another significantly gloomy index appeared on the mental horizon; a new projection of the Federal budget deficit. The Congressional Budget Office, in the late summer of 1986, had estimated the total budget deficit for fiscal years 1987, 1988, and 1989 at $461 billion. This fall, the figure climbed to $533 billion. The $72 billion increase was due mostly to new Federal spending. Despite all of the congressional talk about Gramm-Rudman discipline, the deficit picture was, indeed, getting worse.

This, then, was the volatile setting for the October crisis in confidence. It only remains to combine a longstanding weakness with some immediate poor decision or bad news to push us off a cliff.

There were two follies this fall that moved confidence closer to the precipice, Mr. President:

First, Congress was about to address the account deficit with some very damaging gimmickry—on the order of the Gephardt amendment. Part of the House version of the trade bill, Gephardt would impose sanctions on any country that has an excessive trade deficit with the United States. Hardly good news for international trade, such a protectionist measure would surely lead first to retaliation, and then to recession.

Second, the Federal Reserve, fearing an inflationary surge, reduced the monetary growth rate this fall, and created another reason to believe that a recession was not far behind.

Just exactly what technicality finally triggered the spiral may never be known. Such crisis always spawn questions like, "Why today? Why not yesterday?" But our preoccupation with this question is maddeningly shortsighted. A spiral is a spiral, and just because the deficits have been around for some time, doesn't allow us to ignore them as causal while we question the mechanics of the fall. Did we have our umbrella at cliff edge? Was there a loose pebble? We must look at our proximity to the cliff and the problems that brought us there. After all, any number of events could break our foothold again.

The recent budget summit agreement has had little impact on the market, no doubt being discounted as the weak response that it is.

Washington, instead of making the hard decisions, has chosen to investigate the flaws in the stock market. No fewer than 14 studies have been launched to date—some from the White House, some from Congress—to analyze why the market responded to the force of gravity.

The real answer is all too clear and far less glamorous. We must back away from the precipice. We must bring Federal spending under control, and we must encourage domestic saving and investment. We also need to institute a stable monetary policy.

Only with these goals can we expect to put the American economy on a solid footing. The responsible course for legislators to take is one that looks at the long-term welfare of the country, and not at the short-term need to get re-elected. Wall Street merely reflects our vulnerability. It carries the message of our weaknesses.

Mr. President, do I think we will overcome our shortsightedness? I must say, not soon. I am not optimistic—not as long as Washington continues to respond by just "shooting the messenger."

THE REMARKABLE CROMMELIN FAMILY—A CREDIT TO ALABAMA AND THE NATION

Mr. HELMS. Mr. President, a friend in Alabama, Will Hill Tankersley, has sent me a story published a few weeks back in the Alabama Journal about the father of one of my fine associates on the staff of the Senate Foreign Relations Committee. I would probably have never read the story had it not been for Mr. Tankersley because Quentin Crommelin, Jr., is too modest to bring it to my attention.

The senior Quentin Crommelin, now a 68-year-old retired Navy Captain, had a distinguished career in the Navy, including service as commanding officer of the aircraft carrier, U.S.S. *Lexington.*

I believe Senators will enjoy reading about the service and sacrifices made by the Crommelin family. Therefore, Mr. President, I ask unanimous consent that the aforementioned article published by the Alabama Journal, written by Anderson Scott, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Alabama Journal, Nov. 2, 1987]

COAT STAND IS METAPHOR FOR CAPTAIN'S LONG CAREER

(By Anderson Scott)

Needless to say, it is unusual for a coat stand to serve as a metaphor for a man.

But the metaphor is apt. The stand is an ornately carved affair, with wooden duck's heads arching out to hold a variety of hats and overcoats, the slightly rough wardrobe of a gentleman farmer. Slung off the rack as casually as the coats is an AK-47 assault rifle, with a large bayonet fixed to the barrel.

The stand belongs to 68-year-old Captain Quentin Crommelin. Until 1970, he served in the Navy in a variety of duties, including commanding the aircraft carrier Lexington and flying against the Japanese in World War II.

Two of his brothers were killed in the war. The two brothers who survived both attained the rank of admiral.

Currently on patrol in the Persian Gulf is the guided-missile frigate The Crommelin, named after his brothers killed in the war, Charles and Richard, and his late brother Admiral Henry Crommelin.

Quentin Crommelin remembers with special fondness brother Charles, 10 years his senior.

"He was a fighter pilot and a test pilot. He was a wonderful man.

"He was testing a plane built by Curtis that was a dog. The plane had killed the previous two test pilots who had flown it, and when Charles got it, the engine quit and Charles crashed. The crash broke his legs and almost tore off one of his arms. When I saw him after the crash, he was in traction, smoking a cigar and talking to my old man as though nothing had happened."

Charles recovered and went into combat against the Japanese as the oldest air group commander in the war.

He was seriously injured again when he attacked a Japanese installation singlehandedly, without waiting for re-enforcements.

"The enemy put 243 holes in him as he was diving towards them. He managed to pull out of the dive and make it back to the carrier, even though the plane was all shot up. They pulled him out of the plane had shipped him to the hospital in Pearl Harbor."

When he got to Pearl Harbor, he was loaded in an ambulance for the final leg of the trip to the hospital.

"Charles made the ambulance go to the bar where he knew his squad would be drinking, had a drink with them, and then headed on to the hospital. Of course, the doctor chewed him out. But Charles told the doctor that he wanted the kids to know that it's not so bad to be shot."

Charles, when healed, again went into combat, despite a loss of peripheral vision as a result of his wounds.

In a cruel irony, Charles was killed on a reconnaissance mission when another American plane hit his.

Brother Richard fought in the Battle of the Coral Sea and was shot down in the Battle of Midway. He was rescued from the ocean, and continued to fly. He was killed over Tokyo.

Crommelin is modest about his own role in the war. "I'm not a combat hero. I tried my best, but I never had much to shoot at."

And about the special qualities needed to fight, Crommelin is equally unassuming.

"You have qualms in a tight situation, but you try to do your job and get out alive. Mostly you don't want to look bad in the eyes of your friends. Esprit de corps is the greatest courage-maker.

"Young men have the feeling of I'm going to live forever and it's not going to happen to me. It makes for great soldiers . . . If we get in a war—God forbid—the young men would come out of the hills and forests to defend the country, the way they always have."

Although his duties with the Navy were varied and distinguished, Crommelin said that he remembered with the most fondness his days as squadron commander in the 1940s. Crommelin said squadron commanders got to fly—a job he sorely missed as he moved up the ranks—and were "close to the kids."

As an air group commander in the 1950s, Crommelin helped preside over the introduction of jets onto aircraft carriers. "The group commander flies all the planes in his group, and we had jets and prop planes. Jets and props have different landing techniques. Well, I had been flying props all day and switched over to a jet in the afternoon."

As he flew the jet in for a landing, Crommelin cut his throttle, correct for a prop plane but wrong for a jet. In a fluke accident, the jet missed the cables on the carrier deck which were meant to snare it. Crommelin found himself running off the end of the deck, with no power in his engines.

The plane rolled over in mid-air, but before it hit water the engines caught and Crommelin managed to straighten out and come around again for a landing.

"The boys on the deck said they were composing telegrams to my next-of-kin," Crommelin laughed.

Since retiring from the Navy in 1970, Crommelin has cattle-farmed on his family's ancestral plantation on the banks of the Coosa River near Wetumpka. Visitors to Fort Toulouse see his house, a pink and white stucco Italinate mansion, far off the road.

Crommelin has a long lineage of Montgomery notables. His great-uncle John Crommelin and two of his cousins, Gaston Gunter and Will Gunter, were mayors.

Crommelin grew up with his four brothers and three sisters in a house which stood on the corner of Hull Street and Columbus Street, now Kiwanis Park.

Crommelin's brother John currently lives on another part of the plantation.

Crommelin married his wife, Pricilla, in 1943. Pricilla was a ballet dancer, and of late has garnered acclaim as one of the region's best painters.

Crommelin has two children. Daughter Pricilla Crommelin-Monnier is married to a French native and lives in Paris. She was the lead dancer with the Harkness ballet company and currently runs a ballet school.

Son Quentin Jr. is a combat veteran of the Vietnam War. He now serves as chief minority council to the Senate Foreign Relations Committee. Quentin Jr. played a role in the recent Iran-Contra hearings, advising Republican senators on various points of law.

At the end of a two-hour interview Crommelin was asked if the gun on the coat stand was a prop.

He laughed. "No, it works. It makes trespassers polite."

THE 1,000TH DAY OF CAPTIVITY OF TERRY ANDERSON

Mr. LEAHY. Mr. President, today, December 10, marks the 1,000th day of captivity for Terry Anderson. Mr. Anderson, an Associated Press reporter, is the senior member of the group of Americans who are hostages in Lebanon.

During those 1,000 days, Mr. Anderson's father, Glenn Anderson, Sr., and his brother, Rich, have both died of cancer. So far as we know, Mr. Anderson is not aware of their deaths. His daughter was born and has learned to walk and talk without him. The days of his captivity have turned into weeks, the weeks into months, the months into years.

We all remember how Ronald Reagan, after making the American hostages in Iran an issue of the 1980 campaign, took his oath of office on the day of their release. Those Americans spent less than half the time in captivity that Terry Anderson has, with no end in sight.

During the past year, this administration has been preoccupied with controlling political damage from the Iran-Contra scandal. That foreign policy disaster resulted in no reduction in the number of American hostages. There are now eight, and there is no sign of progress toward their release. In fact there is no evidence that anything is happening to give us hope for their release.

This terrible and tragic situation is, in large part, a direct and predictable result of our current Middle East policy, or perhaps I should say nonpolicy. In 7 years we have seen our role in that region dissolve. We have gone from being the brokers of an historic peace treaty between Egypt and Israel to the superpower that had no choice but to retreat from a senseless policy of military intervention in Lebanon.

There is no better incentive for the United States to regain a meaningful diplomatic role in the Middle East than the release of the American hostages. It is time for a new effort to free these men, not with cakes, a Bible, missiles, and promises to the ayatollahs of Iran, but with credible, diplomatic overtures conducted at the highest levels in governments which can affect the situation. I mean especially Syria, which retains good relations with Iran and is the paramount

power in Beirut and northern Lebanon, including the Bekaa Valley.

I urge the administration not to forget Terry Anderson and the other seven American citizens. As important as the INF Treaty is, and further steps toward nuclear arms control, as diverting as the Presidential election year will be, as preoccupied as a lame duck administration always is, we must not forget that eight Americans are being held in daily danger by fanatics and terrorists.

I recently received a letter from Peggy Say, Terry Anderson's sister. I am sure she has written to other Members of Congress too, urging a new commitment to bring the hostages home. I share her sense of urgency, and call on Secretary of State Shultz to give this his highest priority. God forbid that we should have to wait for the inauguration of our next President before we see these men again.

TRIBUTE TO RICHARD NARKEWICZ AS PRESIDENT OF THE AMERICAN ACADEMY OF PEDIATRICS

Mr. LEAHY. Mr. President, it is with great pride that I rise today to commend Dr. Richard Narkewicz for being appointed the president of the Academy of Pediatrics on November 3, 1987. Dr. Narkewicz, a fellow Vermonter and a dear friend, has a distinguished academic and professional history. He graduated with honors from St. Michaels College of Vermont and the University of Vermont Medical College. In continuation of his academic career, Dr. Narkewicz has been an able clinical professor of pediatrics at the University of Vermont from 1966 until the present time.

Dr. Narkewicz has an equally impressive professional background. Dr. Narkewicz was a captain in the U.S. Air Force where, from 1963 to 1966, he was chief of pediatrics and professional services at Griffiths Air Force Base in New York. And since 1966, Dr. Narkewicz has maintained a thriving private pediatric's practice in South Burlington, VT.

It is a great honor to be elected president of the American Academy of Pediatrics. The American Academy of Pediatrics has more than 33,000 members in the United States, Canada, and Latin America. The academy is dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults. They establish sound effective policies on a broad range of issues to ensure a healthier future for our children.

Mr. President, I am very proud that a Vermonter is now the President of the American Academy of Pediatrics. With his strong academic and professional background and his active commitment to the world's children, I am confident that Dr. Narkewicz will be an outstanding leader for the academy. As a friend and as a colleague, I look forward to working with Dr. Narkewicz to improve the health and welfare of all children.

MESSAGES FROM THE HOUSE

At 10:25 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327).

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of titles I, II, and IV of the House bill, and the entire Senate amendment (except for sections 14, 14A, 14B, 14C, 19, 20, and 25), and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. STARK, Mr. DONNELLY, Mr. DUNCAN, and Mr. GRADISON.

From the Committee on Energy and Commerce, for consideration of titles II, III, and IV of the House bill, and the Senate amendment (except for sections 2, 3, 12, and 18(a)), and for section 6 of the Senate amendment insofar as consideration of such section entails changes in eligibility requirements to participate in part B of the Medicare Program, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, Mr. LENT, and Mr. MADIGAN, except that, for consideration of section 204 of the House bill and section 7 of the Senate amendment, Mr. BILIRAKIS is appointed, vice Mr. MADIGAN.

Appointed as additional conferees from the Committee on Education and Labor, for consideration of section 21 of the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. CLAY, and Mr. JEFFORDS.

The message further announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 2689) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes, with an amendment, in which it requests the concurrence of the Senate; and that the House disagrees to the amendment of the Senate to the title of the bill.

ENROLLED BILLS SIGNED

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 649. An act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327); and

H.R. 3319. An Act for the relief of Susan A. Sampeck.

The enrolled bills were subsequently signed by the President pro tempore [Mr. STENNIS].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2269. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the status of the Department of Agriculture's efforts to carry out a pilot barter program under Section 416(d) of the Agricultural Act of 1949, as amended by Section 1129 of the Food Security Act of 1985 (Section 416(d)); to the Committee on Agriculture, Nutrition and Forestry.

EC-2270. A communication from the Director, Office of Management and Budget, transmitting, pursuant to law, a report on the reapportionment of certain appropriated funds for Radio Free Europe/Radio Liberty Inc.; to the Committee on Appropriations.

EC-2271. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a draft of proposed legislation to amend the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

EC-2272. A communication from the Director of the National Park Service, Department of the Interior, transmitting, pursuant to law, a report of the National Park Service on the second Federal Lands Cleanup Day; to the Committee on Energy and Natural Resources.

EC-2273. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2274. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2275. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2276. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2277. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2278. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-2279. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "DEFRA Report to Congress on Pacemaker Surgeries;" to the Committee on Finance.

EC-2280. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, U.S. Department of Agriculture; to the Committee on Governmental Affairs.

EC-2281. A communication from the Deputy Assistant to the President and Director, Office of Administration, transmitting, pursuant to law, a report concerning personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (Domestic Policy Staff), and the Office of Administration; to the Committee on Governmental Affairs.

EC-2282. A communication from the Secretary of Defense, transmitting, pursuant to law, the Semiannual Report on Audit, Inspection, and Investigative Operation in the Department of Defense which covers the 6-month period ending September 30, 1987; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-361. A joint resolution adopted by the Second Olbiil Era Kelulau; to the Committee on Appropriations.

"S.J. Res. No. 2-114

"Whereas, on the 2nd day of April, 1947 the United Nations Security Council unanimously approved the Trusteeship Agreement for the former Japanese mandated islands and said Trusteeship Agreement was further approved by the Congress of the United States on the 18th day of July, 1947; and

"Whereas, said Trusteeship Agreement, pursuant to Article 76(b) of the United Nations Charter, set forth under Article 6 requirements that the United States as administering authority promote the economic advancement and self sufficiency of the inhabitants and protect the rights and fundamental freedoms of all elements of the population without discrimination; and

"Whereas, by virtue of the Covenant between the United States of America and the people of the Commonwealth of the Northern Mariana Islands certain provisions of United States civil rights laws became applicable to said Commonwealth on January 9, 1978; and

"Whereas, after that date the Trust Territory Government which was established by the administering authority employed various Micronesians within the Commonwealth; and

"Whereas, the Trust Territory Government, during and after January 9, 1978, established and maintained three separate pay scales for Micronesians, Third Country Nationals and Americans or persons of European stock; and

"Whereas, said pay scales provided that Micronesians would earn approximately one half of their American or European counterparts although having the same qualifications, being employed in the same job and doing the same work; and

"Whereas, certain Micronesians who were so employed maintained a legal action in the United States District Court for the Northern Mariana Islands, styled *Temengil, et al.*, v. *Government of the Trust Territory, et al.*, (DCNMI Civil Action No. 81-0006), which was brought to stop such discriminatory practices and obtain damages based upon the discrepancy in pay set forth above; and

"Whereas, the Government of the Trust Territory and the United States have admitted during the course of these proceedings that the difference in pay as set forth in said pay scales was done intentionally and purposefully; and

"Whereas, the United States District Court has entered its judgment finding facial discrimination existed against plaintiffs in the practices of the Trust Territory Government and has entered an award in excess of $20,000,000.00; and

"Whereas, said lawsuit has been certified as a class action and now covers in excess of Nine Hundred Micronesians throughout Micronesia of whom many are citizens of the Republic of Palau; and

"Whereas, defendant Trust Territory and United States have evidenced their intention to appeal the award of the United States District Court, which will further extend litigation for another two years, aggravating the negative feelings and adding to the costs; and

"Whereas, said appeal will be based upon procedural and jurisdictional matters, none of which may apply to the Trust Territory Government in the future, since the United States will no longer be administering the Trust Territory and will have effectively dismantled the Government, thus making the appeal an exercise for lawyers; and

"Whereas, the Trust Territory Government and the United States Government have conceded and stipulated to their conduct and thus the ethical and moral correctness of the District Court's decision cannot be doubted; and

"Whereas, the appropriation by the United States Congress of sufficient funds to satisfy the judgment in this case and other expeditious action to fairly and finally resolve this matter would allow the Trust Territory to be concluded on a harmonious note and be a benevolent gesture towards the new Micronesian nations which have entered into close and mutually beneficial alliances with the United States: Now, therefore, be it

"Resolved by the Senate of the Second Olbiil Era Kelulau, Twelfth Regular Session, 1987 (the House of Delegates concurring), the United States Congress is hereby requested to appropriate sufficient funds to satisfy the judgement of the District Court of the Northern Marianas in Civil Action No. 81-0006; and be it further

"Resolved, That the President of the United States, the President of the Senate and Majority Leader of the Senate and the Speaker of the House are hereby requested to assist in the fair and expeditious resolution of this matter; and be it further

"Resolved, That certified copies of this joint resolution be transmitted to the President of the United States, to the Presiding Officers of the United States Senate, to the Speaker of the United States House of Representatives, to the United States Secretary of the Interior, to the President of the Republic of Palau, to the President of the Senate and the Speaker of the House of Delegates of the Second Olbiil Era Kelulau, to Chairman Ron de Lugo of the Subcommittee on Insular and International Affairs of the United States House of Representatives, to the President of the Federated States of Micronesia, to the Speaker of the Congress of the Federated States of Micronesia, to the Governor of the Commonwealth of the Northern Mariana Islands, to the Speaker of the Commonwealth of the Northern Mariana Islands House of Representatives, to the President of the Senate of the Commonwealth of the Northern Mariana Islands, to the President of the Republic of the Marshall Islands, and to the Speaker of the Republic of the Marshall Islands Nitijella."

POM-362. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Commerce, Science, and Transportation:

"Resolution

"We, your Memorialists, the Senate and the House of Representatives of the State of Maine in the Second Special Session of the 113th Legislature, now assembled, most respectfully present and petition the Congress of the United States, as follows:

"Whereas, the Maine Legislature enacted 1985 Public Law, chapter 813, which established the Legislative Task Force on Railroads and charged the task force with identifying the most effective role for the State in retaining and enhancing rail transportation in Maine; and

"Whereas, the Legislative Task Force on Railroads has learned that the Federal Rail Administration has chosen to eliminate their Bangor, Maine Office and move their only Maine-based track inspector to their regional office, in Cambridge, Massachusetts; and

"Whereas, during the deliberations of the task force it was found that there are no rules or regulations enforceable by any state or federal agency that establish basic standards of sanitation on rolling stock in which railroad employees work; and

"Whereas, the Congress of the United States is currently considering proposed amendments to the Railroad Safety Act of 1970; now, therefore, be it

"Resolved, That We, your Memorialists, do hereby respectfully urge and request the Congress of the United States to vote to reinstate the Bangor, Maine Office of the Federal Rail Administration, to staff this office with motive power and equipment and hazardous-material experienced personnel in addition to the current track inspector, and to improve railroad occupational safety and health conditions; and be it further

"Resolved, That a duly authenticated copy of this resolution be immediately submitted by the Secretary of State to the Honorable Ronald W. Reagan, President of the United

States, the Honorable George Bush, President of the Senate, and the Honorable Jim Wright, Speaker of the House of Representatives of the Congress of the United States, and to the members of the United States Senate and the United States House of Representatives from the State of Maine."

POM-363. A resolution adopted by the Tennessee Association of Alpha Phi Alpha Fraternity, Inc., relative to acid rain legislation; to the Committee on Environment and Public Works.

POM-364. A resolution adopted by the Legislature of the State of California relative to the Republic of Korea; to the Committee on Foreign Relations.

"S. Con. Res. 6

"Whereas, The friendship and commerce program in the form of the sister city concept was inaugurated by the President of the United States in 1956 to establish greater friendship and understanding between the people of the United States and other nations through the medium of direct personal contact; and

"Whereas, All succeeding United States Presidents have endorsed this program conducted for the broad purpose of exchanging ideas between the citizens of this state, the United States, and the people of other nations; and

"Whereas, The people of the Republic of Korea, like the people of this state and the United States, generally, have overcome great adversity and have built a successful, prosperous, free economy; and

"Whereas, The Republic of Korea has been one of the most faithful allies of the United States since 1948; and

"Whereas, Strong commercial ties now exist between the citizens of the Republic of Korea and the citizens of this state; and

"Whereas, The people-to-people program initiated by President Eisenhower in 1956 and endorsed by President Kennedy in 1961 was designed to bring the people of the world closer together in the interests of peace and prosperity; and

"Whereas, A friendship and commerce relationship between the Republic of Korea and California is in the best interest of a cooperative and mutually beneficial relationship for the people of the two geo-political entities involved; now, therefore, be it

"Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature, on behalf of the people of the State of California, extends to the people of the Republic of Korea, and invitation to join California in a friendship and commerce relationship and to conduct mutually beneficial social, economic, educational, and cultural programs in order to bring our citizens closer together and strengthen international understanding and goodwill; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the Prime Minister of the Republic of Korea, the Speaker of the National Asssembly, the Mayor of Seoul, Republic of Korea, George Deukmejian, Governor of California, each Member of Congress from the State of California and to the presiding officers of the legislative houses of the other states of the Union."

POM-365. A petition from the officers and members of Zone Temple #86, Pythian Sisters of Sandusky, Ohio, favoring legislation to declare October 16-23, 1988 as "National Pythian Sisters Week"; to the Committee on the Judiciary.

POM-366. A resolution adopted by the City Council of Detroit, Michigan opposing any effort by any level or agency of government to subvert the rights of working men and women by interfering with and/or taking over any labor organization that is a part of this Country's free trade union movement; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Special report entitled "Finance Committee Allocation of Budget Totals—Fiscal Year 1988" (Rept. No. 100-252).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 526. A bill for the relief of Kumari Rajlakshmi Bais.

H.R. 1191. A bill for the relief of Maria Helena Vas and Jose Maria Vas.

H.R. 1390. A bill for the relief of Chu Pei Yun (Zhu Bei Yun).

H.R. 1863. A bill for the relief of Helen Ying-Yu Lin.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. Dodd, and Mr. Weicker):

S. 1938. A bill to establish a commission to investigate Federal involvement with the immigration of Nazi collaborators; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. Glenn, Mr. Bentsen, Mr. Chiles, Mr. Danforth, Mr. Dodd, Mr. Dole, Mr. Graham, Mr. Hatch, Mr. Heflin, Mr. Hollings, Mr. Inouye, Ms. Mikulski, Mr. Murkowski, Mr. Pressler, Mr. Riegle, Mr. Stafford, Mr. Stennis, and Mr. Symms):

S. 1939. A bill to grant a Federal charter to the Challenger Center, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. Danforth):

S. 1940. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself, Mr. Bingaman, Mr. Ford, Mr. Garn, Mr. Simpson, Mr. McClure, and Mr. DeConcini):

S. Res. 341. A resolution to permit amendments to bills implementing trade agreements under section 151(d) of the Trade Act of 1974 if such amendments relate to the domestic or foreign commerce of the United States in uranium, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. Dodd, and Mr. Weicker):

S. 1938. A bill to establish a Commission to Investigate Federal Involvement With the Immigration of Nazi Collaborators; to the Committee on the Judiciary.

COMMISSION TO INVESTIGATE FEDERAL INVOLVEMENT WITH THE IMMIGRATION OF NAZI COLLABORATORS ACT

● Mr. METZENBAUM. Mr. President, today I am introducing legislation to establish a commission to investigate Federal involvement with the immigration of Nazis and Nazi collaborators.

For too long, there have been reports of Federal agents aiding Nazis and axis collaborators in their attempts to escape to the United States and other parts of the world. It has been widely rumored that many Nazis were used by the Federal Government for their scientific and technical expertise and that others were used in United States campaigns against communism in Europe. Further, there has been increasing evidence that certain Federal agents and agencies had a hand in hiding the pasts of certain Nazis and Nazi collaborators during the years following World War II.

Unfortunately, there have never been any clear answers in this controversy. In 1982, the House Judiciary Committee ordered the GAO to study these allegations, but after 3 years, the Comptroller General came back with a highly inconclusive report. In the report he stated: "It is highly unlikely that any widespread conspiracy has existed in Federal agencies." However, the report went on to say that GAO "cannot absolutely rule out the possibility of * * * deliberate obstruction of investigations of some alleged Nazi war criminals." For some reason, GAO would not, or could not, clearly indicate the full extent of Federal involvement in these activities.

Most recently, in the trial of Klaus Barbie, we have been painfully reminded of the United States government's efforts to aid Nazis during the years immediately following World War II. The Federal Government helped Barbie, and other Nazis, flee Europe and relocate in South America and the United States. In theory, these actions were taken in order to keep these Nazis from aiding Communists and the Soviet Union. In reality, these actions represent the execution of painfully flawed policies, and are unforgivable excuses for aiding the most heinous criminal of the time.

We cannot allow the facts surrounding this untold chapter in history to lie uncovered. As painful and damaging as the facts may be, we can no longer allow them to remain hidden.

George Santayana, a Spanish writer and philosopher who lived in the United States, wrote: "Those who cannot remember the past are condemned to repeat it." This is one chapter in history that we cannot allow to be repeated.

Mr. President, we cannot allow these questions to remain unanswered. The legislation I am introducing will authorize the establishment of a commission to investigate Federal involvement with the immigration of Nazis. The commission will be composed of nine members, chosen by the Congress and the President. It will have full subpoena activity so that it can get to the truth behind this matter. The commission would issue a report within 18 months, describing the full extent of Federal involvement with the immigration of Nazis.

This measure will enable us to learn the facts. I urge my colleagues to support it.

I ask unanimous consent that the text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission To Investigate Federal Involvement With the Immigration of Nazi Collaborators Act".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) In General.—There is established a commission to be known as the Commission To Investigate Federal Involvement With the Immigration of Nazi Collaborators (hereinafter in this Act referred to as the "Commission").

(b) Members.—(1) The Commission shall be composed of nine members, who shall be appointed within ninety days after the date of the enactment of this Act, as follows:

(A) Three to be appointed by the President.

(B) Three members to be appointed by the President from a list transmitted by the Speaker of the House of Representatives.

(C) Three members to be appointed by the President from a list transmitted by the majority leader of the Senate.

(2) Each list transmitted under paragraph (1) shall contain the names of at least six individuals. In preparing such lists the Speaker of the House of Representatives shall consult with the minority leader in the House of Representatives and the majority leader of the Senate shall consult with the minority leader in the Senate.

(3) No individual who is an officer or employee of the Federal Government is eligible to serve as a member of the Commission.

(c) Terms and Vacancy.—Members shall be appointed for the life of the Commission. Any vacancy occurring in the membership of the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(d) Meeting.—The first meeting of the Commission shall be called by the President within one hundred and twenty days after the date of the enactment of this Act, or within thirty days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later. Thereafter, the Commission shall meet at the discretion of its Chairman or at the call of a majority of its members.

(e) Quorum.—Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) Chairman.—The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) No Compensation but Travel Expenses.—No member of the Commission shall be paid any compensation by virtue of service performed as a member of the Commission. However, while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 3. DUTIES.

(a) General Investigation.—The Commission shall conduct a full and complete investigation of any efforts by the Federal Government to assist Nazi war criminals and Axis collaborators in entering the United States, including any such efforts to conceal their backgrounds and any knowledge by Federal officials of their backgrounds.

(b) Specific Review.—In particular, the Commission shall determine—

(1) how many Nazi war criminals and Axis collaborators entered the United States with the assistance or knowledge of officials of the Federal Government,

(2) the nature and extent of such assistance and knowledge, including the levels of the officials who provide that assistance or had such knowledge, and

(3) the extent to which intelligence agencies of the Federal Government used deception or violated the laws of the United States in bringing these individuals to the United States, and the extent to which these agencies provided false or misleading information to Congress concerning their activities in this respect.

(c) Report.—The Commission shall submit a written report of its findings and recommendations to the President and the Congress as soon as practicable, but not later than eighteen months after the date of the first meeting of the Commission under section 2(d). Such report may include recommendations for such changes in law or regulations as may be required to safeguard against unlawful assistance in similar cases.

SEC. 4. POWERS OF COMMISSION.

(a) Meetings and Hearings.—For purposes of carrying out this Act, the Commission or, on the authorization of the Commission, any subcommittee or member thereof, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it considers appropriate.

(b) Obtaining Information From Federal Agencies.—The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Subpoenas.—(1) In carrying out this Act, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and production of any evidence that relates to any matter which the Commission has the authority to investigate. A subpoena may be authorized and issued by the Commission in the conduct of its investigations only when authorized by a majority of its members voting, a majority being present. Subpoenas may be issued over the signature of the Chairman of the Commission, or any member of the Commission designated by that Chairman. The Chairman of the Commission, and any member of the Commission designated by the Chairman, may administer oaths to any witness.

(2) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(5) The Commission is deemed to be an agency of the United States for the purpose of applying part V of title 18, United States Code (relating to immunity of witnesses) to proceedings before the Commission.

SEC. 5. ADMINISTRATIVE PROVISIONS.

(a) Staff.—(1) The Commission may appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332 of such title.

(2) Upon request of the Commission, the head of any Federal agency is authorized to detail to the Commission, on a reimbursable basis, any of the personnel of such agency to assist the Commission in carrying out its duties under this Act and such detail shall be without interruption or loss of civil service status or privilege.

(b) Use of Experts and Consultants.—The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-16 of the General Schedule.

(c) Administrative Services.—The Commission may enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator.

(d) Supplies.—The Commission may procure supplies, services, and property by contract in accordance with the applicable laws and regulations and to the extent or in such amounts as are provided in advance in appropriations Acts.

(e) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. TERMINATION OF COMMISSION.

The Commission shall terminate ninety days after the date on which the report of the Commission is submitted to the Congress under section 3(c).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON CONTRACT AUTHORITY.

(a) Authorization of Appropriations.—To carry out the provisions of this Act, there are authorized to be appropriated such sums as may be necessary.

(b) Restriction on Contract Authority.—Any authority under this Act to enter into contracts shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.●

By Mr. GARN (for himself, Mr. Glenn, Mr. Bentsen, Mr. Chiles, Mr. Danforth, Mr. Dodd, Mr. Dole, Mr. Graham, Mr. Hatch, Mr. Heflin, Mr. Hollings, Mr. Inouye, Ms. Mikulski, Mr. Murkowski, Mr. Pressler, Mr. Riegle, Mr. Stafford, Mr. Stennis, and Mr. Symms):

S. 1939. A bill to grant a Federal charter to the Challenger Center, and for other purposes; to the Committee on the Judiciary.

FEDERAL CHARTER FOR THE CHALLENGER CENTER

Mr. GARN. Mr. President, in 1969, I was with my father when the Apollo crew made their "leap for mankind" on the surface of the Moon. As we watched the historic events unfold, my father began to weep. I asked him, "Dad, what's wrong?" He told me that he was thinking back to the day when his father had read him the account of the Wright brothers' first flight and the excitement and wonder he felt at that time. To think that we had come so far in one lifetime was an emotional event for the millions of Americans and others around the world who watched the Moon landing that night—and for my father in particular, who had been inspired by the Wright brothers to become one of Utah's pioneer aviators. I have said in this Chamber before that I wish my father had been able to share in the experience of my shuttle flight because he, as much as anyone I know, appreciated and reveled in the progress we have made in space.

This week marks the anniversary of that first flight at Kitty Hawk. It is an appropriate time for us to measure the progress we have made in these short 80 years, to reflect on our accomplishments and defeats, on both the triumphs and the tragedies. However, most importantly, we need to focus on our future in space. We mustn't forget to dream of the possibilities that space offers us, and we in Congress mustn't forget our grave responsibility to turn those dreams into realities.

As you will recall, Mr. President, last spring Senator Glenn and I, along with a number of our colleagues, introduced S. 407, legislation to grant a Federal charter to the Challenger Center for Space Science Education. S. 407 includes a section to authorize up to $10 million for the purpose of assisting the Challenger Center in becoming a national learning center. However, there are some procedural problems inherent in authorizing moneys on charter legislation.

Therefore, today we will introduce new charter legislation that will include no authorizing language. The new bill will be the same as S. 407, except that section 17, entitled "Authorization," will be deleted.

Eighteen cosponsors of S. 407 have already joined as original cosponsors to the new chapter legislation. I am hopeful that other Senators will show their support for this project and add their names as cosponsors in the near future. Forty cosponsors are required in order to ensure Judiciary Committee consideration of this bill.

A Federal charter offers to an organization the recognition and stature of being acknowledged by the Federal Government. The Boy Scouts and Girl Scouts of America, the U.S. Olympic Committee, the Future Farmers of America, and other worthy organizations enjoy a Federal charter. The charter does not act as an endorsement, nor can the organization claim congressional approval or Federal Government authority for any of its activities, unless so authorized by Congress or the appropriate Federal authorities.

Granting the Challenger Center a Federal charter will be a significant measure of our interest in supporting and promoting this worthy cause.

As you know, following the shuttle accident, the families of the *Challenger* crew decided to establish a space education center called the Challenger Center. Their hope is that this center will continue the final mission of the *Challenger* and help to complete the dreams of those who flew her.

Our intention is to make the Challenger Center the Nation's principal commemorative effort in honor of the seven brave Americans who lost their lives when the space shuttle *Challenger* was destroyed on January 28, 1986. It will be a "living memorial" to the *Challenger* crewmembers.

The center will provide the children and young people of the Nation with an opportunity to experience the sciences, especially the space sciences, at work. It will help teachers learn how to be more effective in teaching the concepts embodied in space science. And it will serve as a focal point to bring together the best talents, skills, and resources to continue to improve learning and teaching opportunities for generations to come.

The center has made significant strides in establishing a Washington headquarters, as well as regional mission sites and affiliated museums across the country. Over 10,000 individuals have contributed in excess of $2 million, and the families and friends of the Challenger Center have traveled thousands of miles to communicate the purpose of the Challenger Center and to garner valuable support for its programs.

Congressman Jack Brooks is introducing companion legislation in the House of Representatives today to grant the center a Federal charter. We are hopeful that both bills will be given early consideration and passed in the near future.

Mr. President, I ask unanimous consent the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The Challenger Center, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Challenger Center (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its articles of incorporation and, for the purpose of perpetuating the memories of the Members of the Crew of the space shuttle Challenger, who lost their lives on January 28, 1986, during the launch of flight 51-L, shall include—

(1) building and maintaining a Challenger Center (referred to in this Act as "the Center"), to serve as a "living memorial" to the Challenger crewmembers;

(2) developing within the Center a dynamic national learning center which shall serve as a model for the stimulation of interest in and the development of curricula and teaching aids for space science education and shall include scholarship and residential training programs for students and teachers;

(3) providing within the Center "hands-on" learning experiences for children, including interactive exhibits, in areas which shall be free and open to the public;

(4) developing and producing space science educational programs, to be made available for distribution through such media as nationwide cable broadcasts, in association with other entities involved in the dissemination of information related to the sciences, such as the Smithsonian Institution; and

(5) participating, in a spirit of cooperation and reciprocity, in programs with other societies devoted to the expansion of space science education and the commemoration of

the significant achievements of America's space exploration programs.

The corporation shall function as a space science education organization as authorized by the laws of the State or States in which it is incorporated.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. ELIGIBILITY FOR MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation, except that terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

SEC. 6. BOARD OF DIRECTORS.

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS ON CORPORATE POWER.

(a) Distribution of Income or Assets to Members or Officers of the Corporation.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection shall be construed to prevent the payment of compensation to the officers of the corporation for services rendered to the corporation or to prevent their reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) Loans or Advances.—The corporation shall have no power to make loans or advances to any member, officer, director, or employee of the corporation.

(c) Issuance of Stock or Payment of Dividends.—The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(d) Nonpolitical Nature of the Corporation.—(1) The Corporation and its officers, employees, and agents acting as such shall have no power to contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation. The provisions of this paragraph shall not preclude the corporation from responding to Congressional requests for testimony regarding legislation dealing with the matters with the scope of the corporation's activities, or with respect to legislation affecting space science educational programs of the Federal Government.

(2) No officer or director of the corporation, acting as such officer or director, may commit any act prohibited under paragraph (1) of this subsection.

(e) Approval of the Congress or the Federal Government.—The corporation shall have no power to claim congressional approval or Federal Government authority for any of its activities, unless such approval or authorization is provided by action of the Congress or by the appropriate Federal officials, in accordance with established laws and administrative procedures, or unless such activities are expressly within the scope of this Act.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when they have acted within the scope of their authority.

SEC. 10. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of the corporation may be inspected by any member, or any agent or attorney of such member, for any proper purpose, at any reasonable time.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law.", approved August 30, 1964 (78 Stat. 636; 36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(72) Challenger Center.".

SEC. 12. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required pursuant to section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law.", approved August 30, 1964 (78 Stat. 636; 36 U.S.C. 1102). The report shall not be printed in a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

SEC. 16. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. **GLENN**. Mr. President, I would like to rise in support of this bill.

We now stand at a crossroads for the space program—we have moved beyond the tragedy of the *Challenger* accident, but have not yet stepped firmly toward a revitalized space program.

Twenty-five years ago, America was at the cutting edge of space technology. We were firmly committed to excellence in space and were prepared to do what was necessary to ensure that we remained at the forefront of the modern scientific revolution. Today, we need to commit ourselves to another quarter century of excellence, to see to it that we have what it takes to bring us triumphantly into the 21st century, and to ensure that our most precious resource, our children, have the educational opportunities to take full advantage of our technical advances.

We have before us an indication of the path we are choosing. The Challenger Center for Space Science Education is well on the way to becoming reality. It is a place where the educational mission of the *Challenger* can be continued, where young minds can be stimulated, and where future generations can be encouraged to study science. Clearly, the center merits our full support.

The Challenger Center is particularly exciting because it is not a statue that will be solemnly and passively viewed, then quickly forgotten. And it isn't simply a once-a-year observation of a tragic event. Instead, it is a living memorial expressing the goals and ideals of the *Challenger* crew, embodying the mission of the space shuttle *Challenger*, and furthering the education of our Nation's youth. Its success is not only an indication that the *Challenger's* educational mission will continue, but that the American people strongly support the space program.

Almost as important as this is the fact that the Challenger Center for Space Science Education stands as a symbol for the two principles which made this country what it is today. First, it stands for education—perhaps the most fundamental strength of our Nation. Second, it represents our commitment to research and science, which has allowed us to continually push back our frontiers. Education and basic research have laid the groundwork for our society, and we need to do all we can to build upon that foundation.

Today we do indeed stand at a crossroads. We were brought here by the *Challenger* tragedy, and in many ways we can blame the accident for the space program's lost momentum. However, we can also see now that we were full of complacency, a sense that we could continue to reap success because we had always done so—and that was very dangerous attitude to take.

We are now confronted with a multitude of choices regarding the space program, but that is a good thing, for we can now choose to make America's excellence in space a national goal. The Challenger Center will help us make this positive choice, and we now have a firm commitment to the future.

By Mr. MOYNIHAN (for himself and Mr. Danforth):

S. 1940. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

NATIONAL HERITAGE RESOURCE ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce S. 1940, the National Heritage Resource Act, which will restore the ability of museums, public libraries, and research institutions in the United States to acquire major collections of original works by living artists, writers, composers, and scientists. I am joined by my distinguished colleague from Missouri, Senator DANFORTH. The National Heritage Resource Act will ensure that our Nation's cultural heritage will be preserved and made available in our libraries, museums and universities for public enjoyment and for scholarly research. Companion legislation has already been introduced in the House of Representatives by Representative THOMAS J. DOWNEY.

The National Heritage Resource Act will repeal a change made to the Tax Code in 1969, which has had a pernicious effect on the efforts of public nonprofit and governmental institutions to preserve our cultural heritage. The 1969 change specifically denied to living scientists, painters, authors, poets, composers, and other creative artists a tax deduction for the fair market value of self-created works or papers that they personally donate to a museum, library, or research institution. Such individuals may only deduct the cost of materials used to produce the donated property—the paint and canvas, paper and ink, or the like. As a result, the tax incentive for donations of artistic or literary property by its creators to public nonprofit or governmental institutions has been virtually eliminated. By contrast, a purchaser of a painting or original manuscript who subsequently donates the property receives a full fair market value deduction for the gift.

The impact of the 1969 change on the preservation of our cultural heritage for public enjoyment has been hurtful in the extreme. The removal of the tax incentive for donations by original producers has meant that creative works and manuscripts now almost invariably go into the commercial market, either here or abroad. According to Dr. Daniel J. Boorstin, Librarian of Congress Emeritus, the Library of Congress was receiving manuscript collections totaling nearly 200,000 manuscripts each year prior to 1969. Since that time, the Library has received only one major gift of self-created material of a living author. The Library of Congress' Music Division has been similarly affected: it received 1,200 manuscripts between 1963 and 1970, and only 30 manuscripts in the decade after that.

The loss of the Igor Stravinsky manuscripts illustrates the problem in painful detail. In 1962, the great composer began to donate his manuscripts to the Library of Congress on a systematic basis. Two were given in that year, two in 1963, nine in 1964, four in 1965, and so on. By 1969, Dr. Boorstin has written, Stravinsky, then in his late eighties, initiated discussions with the chief of the Library's Music Division concerning the disposition of the entire body of his works. But the tax changes of that year brought the process to a halt, and the Stravinsky manuscript collection is now in the hands of a private foundation in Switzerland.

The experience of libraries and museums around the country has been similar. In New York State, New York University reports a decline in donations by authors and artists of between 80 and 90 percent since 1969; the New York State Library estimates a similar reduction in gifts of manuscripts. The Museum of Modern Art in New York City received donations of 52 works from creators in the 3 years before the provision went into effect, but only 15 works since 1972.

The long-term effects of the 1969 amendment have been a concern for some time. In 1981, a Presidential Task Force on the Arts and Humanities recommended repealing the 1969 provision, and the Senate Finance Committee approved a measure to do so in 1982, though the provision was not enacted into law. Both Senator BAUCUS and I have introduced legislation in recent years with the same aim. The decline in creator donations, and the toll on our cultural heritage, continues. The need for remedial action remains urgent.

The legislation I introduce today would restore the full fair market value deduction for creators of literary, musical, and artistic properties, restoring to them the same tax treatment as that given a purchaser or collector of such property who donates. This will help to restore the past practice of direct donations to institutions by creators themselves, increasing the odds that their works and papers will be widely available for the enjoyment and edification of the many—not privately held for the more fortunate few. This change will also foster the ability of the individual artist, author, or composer to determine which institution would most benefit from receiving a work—an important factor in ensuring the quality and integrity of collections, as noted by the Presidential Task Force on the Arts and Humanities.

The legislation I introduce today contains specific safeguards against abuse by donors. The bill requires that works for which a deduction are taken be in existence for at least 1 year before the work is donated to discourage tax-inspired creations. Also, donors must obtain a written appraisal of the fair market value of the donated work, and file it with their return. The appraisal must include evidence of the extent to which the works of the donor are owned, maintained, or displayed by museums, libraries, research facilities, or similar institutions. Finally, the receiving institution must use the donated property in a manner related to its tax-exempt purpose.

The legislation also addresses a key concern that motivated the 1969 legislation: tax write-offs for the donation of papers by public officials. The bill contains a flat prohibition on the use of the deduction for the donation of any letter, memorandum, or similar property written by or for an individual in furtherance of official duties while such individual was an officer or employee of the United States or any State or locality.

In this regard, it seems to me time that we be open about the origins of the 1969 legislation. You will imagine that it was not written into the Tax Code for the purpose of depriving the Library of Congress of the Stravinsky manuscripts. It was inserted in the Tax Reform Act of 1969 with the specific intent of denying a tax deduction to former President Lyndon B. Johnson and former Vice President Hubert H. Humphrey. Each was then retired—or so it was thought. Senator Humphrey of course gloriously returned to our ranks. One Senator sought to punish, in their political eclipse, two great public men who had been unassailable at the apogee of their influence and strength. But the legislation went far beyond its original narrow intent, catching in its net the entire creative community. A matter of indifference to its sponsor, perhaps, but hardly to us. A full political generation later, it is time for remedy.

Mr. President, this legislation will restore some incentive for our Nation's artists, poets, authors, composers, and scientists to favor public institutions over the commercial market when it comes to the disposition of their works and papers. The public good is the ultimate beneficiary. This legislation helps to preserve the record of American civilization—our national heritage—by encouraging its deposit in the institutions most competent to preserve it and insure access to all. The need is great, and I urge my colleagues to join me in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

"(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

"(ii) no reduction in the amount of such contribution shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, music, artistic or scholarly composition, any letter or memorandum, or similar property, but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 1 year prior to such contribution,

"(ii) the taxpayer—

"(I) has received a written appraisal of the fair market value of such property by a person qualified to make such appraisal (other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)) which is made within 1 year of the date of such contribution,

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal, and

"(III) the appraisal takes into account but is not limited to the factors described in clause (vi),

"(iii) the donee is an organization described in subparagraph (A) of subsection (b)(1),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent to which property created by the personal efforts of the taxpayer is or has been—

"(I) owned, maintained, or displayed by organizations described in subparagraph (A) of subsection (b)(1), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)).

"(C) MAXIMUM DOLLAR LIMITATION.—The aggregate amount of qualified artistic charitable contributions allowable to any taxpayer as a deduction under subsection (a) for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

"(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income with respect to the type of property described in subparagraph (B) that is created by the taxpayer, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to such property or to similar property created by individuals other than the taxpayer.

"(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee."

SEC. 2. TREATMENT OF EXCESS DEDUCTION FOR PURPOSES OF MINIMUM TAX.

Paragraph (1) of section 56(b) of the Internal Revenue Code of 1986 (relating to adjustments applicable to individuals) is amended by adding at the end therof the following new subparagraph:

"(F) DEDUCTION FOR CHARITABLE CONTRIBUTION OF ART, ETC. CREATED BY TAXPAYER NOT ALLOWED.—In determining the amount allowable as a deduction under section 170, subsection (e)(6) shall not apply."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to contributions made after December 31, 1987, in taxable years ending after such date.●

ADDITIONAL COSPONSORS

S. 368

At the request of Mr. MATSUNAGA, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 368, a bill to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs in the United States, to place restrictions on drug samples, to ban certain resales of drugs purchased by hospitals and other health care facilities, and for other purposes.

S. 450

At the request of Mr. ARMSTRONG, the names of the Senator from Kentucky [Mr. FORD], the Senator from Florida [Mr. CHILES], the Senator from Texas [Mr. GRAMM], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 450, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1620

At the request of Mr. PELL, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1620, a bill to reauthorize and revise the act of September 30, 1950 (Public Law 874, 81st Congress) relating to Federal impact aid, and for other purposes.

S. 1787

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1787, a bill to amend title 38, United States Code, to prescribe certain presumptions in the case of veterans who performed active service during the Vietnam era.

S. 1830

At the request of Mr. SANFORD, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1830, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers born in years after 1916 and before 1930—and related beneficiaries—and to provide for increases on their benefits accordingly, and for other purposes.

S. 1893

At the request of Mr. BUMPERS, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1893, a bill to amend the Internal Revenue Code of 1986 to extend the individual income tax rates in effect in 1987 for 3 years but to provide cost-of-living adjustments in such rates, and for other purposes.

S. 1896

At the request of Mr. CRANSTON, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Illinois [Mr. DIXON], the Senator from Michigan [Mr. RIEGLE], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1896, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 1929

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1929, a bill to amend the Small Business Investment Act to establish a corporation for small business investment, and for other purposes.

SENATE JOINT RESOLUTION 180

At the request of Mr. PRESSLER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 180, a joint resolution designating the honeybee as the national insect.

SENATE JOINT RESOLUTION 199

At the request of Mr. BYRD, the name of the Senator from Virginia

[Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 199, a joint resolution to designate the month of April 1988, as "Trauma Awareness Week".

SENATE JOINT RESOLUTION 215

At the request of Mr. DURENBERGER, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial to women of the Armed Forces of the United States who served in the Vietnam war.

SENATE JOINT RESOLUTION 218

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. MELCHER, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution to facilitate the convening of a Silver-Haired Congress.

SENATE RESOLUTION 270

At the request of Mr. LAUTENBERG, the names of the Senator from South Dakota [Mr. DASCHLE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 270, a resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

SENATE RESOLUTION 341—RELATING TO CONSIDERATION OF BILLS IMPLEMENTING TRADE AGREEMENTS

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. FORD, Mr. GARN, Mr. SIMPSON, Mr. MCCLURE, and Mr. DECONCINI) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 341

Resolved, That with respect to the Senate, the provisions of section 151(d) of the Trade Act of 1974 (19 U.S.C. 2191(d)) (relating to the prohibition of amendments) shall not apply to an amendment to an implementing bill or approval resolution relating to the domestic or foreign commerce of the United States in uranium.

Mr. DOMENICI. Mr. President, today I am introducing a resolution on behalf of myself, Senator BINGAMAN and others, changing the Senate rules to allow the Free Trade agreement with Canada to be amended. Earlier the Senate had agreed to prohibit amendments to the Free Trade Agreement. If this resolution is approved the Senators could offer a plan for transitional protection for the United States Uranium Industry which the Canadian negotiators refused to include in the agreement just last Sunday.

U.S. trade negotiators responded favorably when asked to provide protection to the U.S. uranium industry following a letter from the coalition of 24 Senators. The letter urged the President to incorporate a plan for transitional protection for the industry that was recently approved by the Senate Energy Committee. Mr. President, I ask unanimous consent that the letter to the President be included in the RECORD. United States trade negotiators offered the plan to Canadian negotiators on Sunday, however, the Canadians turned the plan down. The Canadians' refusal to include our plan has forced us to go this route. We will have to change the agreement which, as it is presently written would prohibit any protection for our U.S. industry.

The Secretary has been sued by uranium mining companies because after finding the industry "non-viable," he failed to act on this finding and use his authority to protect the industry. A decision by the Supreme Court on whether to hear an appeal by the Secretary, who lost in two lower courts, is expected in the near future.

In response, the Senate Energy Committee approved legislation, S. 1486, to provide protection for our uranium industry through the year 2000. Uranium producers and nuclear utilities helped modify the bill.

The import section of the bill penalizes utilities for using excessive amounts of foreign uranium. The legislation states that a utility will be penalized on a sliding scale per kilogram of foreign uranium used beyond 37.5 percent of its total uranium consumption until the year 2000.

There being no objection, the letter mentioned earlier was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, DC, December 1, 1987.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Uranium is now second only to coal as an energy source for electricity production in the United States, accounting for almost 20 percent of domestic electric power generation. Use of uranium as a fuel in nuclear power plants is now displacing over two million barrels per day of imported oil, and is saving the nation $15 billion per year in foreign oil payments. Similarly, the Nation continues to have a substantial reliance upon uranium for its national defense requirements.

A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Ironically, at this critical time, both the uranium mining industry and the uranium enrichment enterprise are severely depressed. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. There is a broad consensus that the uranium enrichment enterprise simply cannot continue to operate as it has in the past.

In order to resolve these problems, a comprehensive program is desperately needed.

Fortunately, the uranium producers and nuclear utilities have cooperatively sought development of such a program through the legislative process. On October 1, 1987, the Senate Energy and Natural Resources Committee ordered reported S. 1846, a comprehensive bill that ensures this country's utility and defense requirements for uranium will be met. Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001. The bill also totally reorganizes the uranium enrichment enterprise to permit operation as a continuing, commercial enterprise on a profitable and efficient basis.

We believe the uranium supply policy embodied in this legislation is compatible with the proposed U.S.-Canadian Trade Agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the U.S. uranium industry to our national defense.

The legislation reported by the Committee on Energy and Natural Resources revitalizes the domestic uranium mining industry in a manner that achieves the uranium trade objectives of Agreement. The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium.

The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years while preserving a substantial share of the U.S. uranium market for foreign producers. In fact, taking into account the provision respecting preservation of existing contracts, the net effect of the legislation is to preserve 50 percent of the domestic market for imported uranium during the period of transition to a free market.

In summary, S. 1846 provides for a phased implemetation of free trade in uranium. We understand that a gradual approach will also be proposed in implementing other areas of the U.S.-Canadian Agreement. We urge that in developing the Administration's proposals for implementing legislation for the uranium provisions of the Agreement, the Administration take advantage of the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committtee on Energy and Natural Resources.

Sincerely,

Wendell H. Ford, J. Bennett Johnson, Pete V. Domenici, James A. McClure, Jeff Bingaman, Jake Garn, Orrin G. Hatch, Don Nickles, Robert Dole, Chic Hecht, Ted Stevens, Steve Symms, Bill Armstrong, Richard Shelby, Malcolm Wallop, Alan K. Simpson, John Breaux, David I. Boren, John W. Warner, Mitch McConnell, Dennis DeConcini, John McCain, Frank H. Murkowski, Robert C. Byrd.

Mr. BINGAMAN. Mr. President, I am pleased to introduce this resolution with my colleague, Senator DOMENICI, regarding the domestic uranium and the United States-Canada Free Trade Agreement.

Our Nation has long recognized the importance of a viable domestic uranium industry. A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. This is reflected in the fact that the domestic uranium industry is facing approximately 90-percent unemployment and production is down to about one-third of peak levels and United States needs. In New Mexico, all licensed uranium mills with the exception of one have been placed on standby status and some will not reopen.

In order to resolve these problems, a comprehensive program is desperately needed.

On October 1, 1987, the Senate Energy and Natural Resources Committee reported out S. 1846, legislation that ensures this country's utility and defense requirements for uranium will be met.

Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001.

The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium. The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years, while preserving a substantial share of the U.S. uranium market for foreign producers.

Mr. President, the uranium supply policy embodied in this legislation is compatible with the proposed United States-Canadian Free Trade Agreement. S. 1846 provides for a phased implementation of free trade in uranium. It is my understanding that a gradual approach will also be proposed in implementing other areas of the United States-Canadian agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the United States uranium industry to our national defense.

However, because of the process by which the agreement will come before the Senate—the fast-track procedure, implementing legislation may come into conflict with the bill. The purpose of this resolution is to create a process whereby implementation of the United States-Canadian Free Trade Agreement will not conflict with the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committee on Energy and Natural Resources.

I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

INOUYE AMENDMENT NOS. 1255 AND 1256

Mr. INOUYE proposed two amendments to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill (S. 1920) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress); as follows:

AMENDMENT No. 1255

At the appropriate place in title IV of the amendment, insert the following new section:

SEC. . AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent of such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment.

AMENDMENT No. 1256

SEC. . EXEMPTIONS FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS AND CARGO.

(a) PASSENGERS TRANSPORTED BETWEEN POSSESSION, ETC.—Paragraph (1) of section 4462(b) (relating to a special rule for Alaska, Hawaii, and possessions) is amended.

(1) by inserting "or passengers" after "cargo" in subparagraph (D), and

(2) by inserting at the end thereof the following new sentence: For purposes of subparagraph (D), the loading and unloading of passengers shall not be included in such subparagraph if there is any loading or unloading of such passengers outside the State or possession of such loading."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. . AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) CARGO TRANSPORTATION BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(b) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSIONS.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "July 1, 1988".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates.

HARKIN (AND OTHERS) AMENDMENT NO. 1257

Mr. HARKIN (for himself, Mr. BURDICK, Mr. LAUTENBERG, Mr. HELMS, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. KASTEN, and Mr. HEINZ) proposed an amendment to amendment No. 125 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . EQUITABLE APPLICATION OF THE LIMITATION ON PAYMENTS THAT MAY BE RECEIVED BY A PERSON.

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by adding at the end of subparagraph (A), the following new sentence: "Such regulations shall provide that a producer who rents or leases land from an individual or entity must be combined as one person, for payment limitation purposes, with the individual or entity from whom the land is rented or leased unless the producer makes a substantial contribution of owned land or owned equipment and personal management to the farming operation that includes the rented or leased land."; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) In applying the limitation provided for by this section, the Secretary shall—

"(i) provide for similar treatment of all entities;

"(ii) except as provided in clause (iii), determine the amount of payments that may be received by any entity based on the number of members of the entity who are determined to be actively engaged in farming;

"(iii) consider any entity that is conducting a farming operation independently of all of its members to be a separate person, and combine as one separate person all entities that are owned or controlled by the same one or more individual;

"(iv) except as provided in subparagraph (D), attribute all payments received by an entity to the members of the entity that have an interest in the entity, such attribution to be based on the interest of the member in the entity; and

"(v) consider an individual or entity that is a member of an entity to be actively engaged in farming if such individual or entity has made a significant contribution (determined based on the total value of the farming operation) of (I) land, cash, or equipment, and (II) labor or management to the farming operation.

"(C) For the purpose of this section, the term 'entity' means a corporation, trust, estate, limited partnership, general partnership, joint venture, charitable organization, and, except as provided in subparagraph (A), any other entity or association.

"(D) The Secretary may elect not to attribute payments to a member of an entity as provided for in subparagraph (B)(iv) if it is determined that—

"(i) the interest of the member in the entity is less than 10 percent; and

"(ii) attribution of the payments to the member would have little or no impact on the application of the limitation provided for by this section.".

(b) INELIGIBILITY OF FOREIGN PERSONS.—The Food Security Act of 1985 is amended by inserting after section 1001 (7 U.S.C. 1308) the following new section:

"SEC. 1001A. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"(a) GENERAL RULE.—Notwithstanding any other provision of law, for each of the 1988 through 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) PERSON THAT IS INELIGIBLE.—

"(1) DEFINITION.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm.

"(2) EXCEPTION.—Notwithstanding the provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments in an amount determined by the Secretary to be representative of the percentage interest of the entity which is owned by citizens of the United States.

"(c) EFFECT.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments, or benefits as the result of the production of a crop of an agricultural commodity, other than the 1988 crop of winter wheat, planted, or commodity program or conservation reserve contract entered into, before the date of enactment of this section.".

(c) REGULATIONS.—

(1) IN GENERAL.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The provisions of section 1001(5) of this Act shall be applicable in applying the limitation provided for in this section.".

(2) EFFECT.—The amendment made by this subsection shall be effective with respect to contracts entered into on or after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective only with respect to the 1988 through 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, and honey.

EXON (AND OTHERS) AMENDMENT NO. 1258

Mr. EXON (for himself, Mr. BRADLEY, Mr. SANFORD, Mr. CHAFEE, Mr. GLENN, Mr. DIXON, and Mr. DURENBERGER) proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

On page 344 strike section 4504(b) of the amendment.

On page 342, line 1 in section 447(d)(2)(A)(ii) of the Internal Revenue Code of 1986, as added by section 4504(a) of the bill, strike "$25,000,000" and insert "$50,000,000".

KASSEBAUM (AND OTHERS) AMENDMENT NO. 1259

Mrs. KASSEBAUM (for herself, Mr. BOREN, Mr. EVANS, Mr. BIDEN, Mr. BAUCUS, Mr. BUMPERS, Mr. CONRAD, Mr. D'AMATO, Mr. DODD, Mr. EXON, Mr. HOLLINGS, Mr. LEVIN, Mr. SIMPSON, and Mr. WEICKER) proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

Strike out the matter proposed to be inserted and insert:

TITLE IV—SPENDING AND TAX FREEZES

SEC. 401. SPENDING FREEZE.

(a) DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.—

(1) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal year 1988 for major functional category 050 (National Defense) shall be:

(A) New budget authority, $291,300,000,000.

(B) Outlays, $284,100,000,000.

(2) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal year 1988 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(A) New budget authority, $161,000,000,000.

(B) Outlays, $175,300,000,000.

(3) POINT OF ORDER.—It shall not be in order in the Senate or House of Representatives to consider any bill or resolution making appropriations if the enactment of such bill or resolution, as recommended by the respective committee on appropriations, would fail to be consistent with the allocations in paragraphs (1) and (2) of this subsection.

(4) RULEMAKING AUTHORITY.—The provisions of paragraph (3) are enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) LIMITATIONS ON COST-OF-LIVING INCREASES DURING 1988.—

(1) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in paragraph (2) or (3), no increase shall be made in payments or benefit amounts under any provision of law which would otherwise require such increase to become effective during fiscal year 1988 as a result of changes in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages.

(2) EXCEPTION FOR SUPPLEMENTAL SECURITY INCOME BENEFITS.—Paragraph (1) shall not apply to any payments or benefit amounts under section 1617 of the Social Security Act (relating to supplemental security income benefits).

(3) 2-PERCENT INCREASE FOR INDEXED ENTITLEMENTS.—If a person is entitled under any provision of law to any increase described in paragraph (1), paragraph (1) shall apply only to the extent of the portion of such increase in excess of 2 percent.

(4) NO ENTITLEMENTS.—No person shall be entitled to any increase in payments or benefit amounts under any provision of law if payment thereof is denied by reason of this subsection.

(5) COORDINATION WITH FUTURE YEARS.—Notwithstanding any other provision of law, any change in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages, which would have resulted in any increase in payments or benefit amounts during fiscal year 1988 but for the provisions of paragraph (1) shall not be taken into account for purposes of determining any increase in payments or benefit amounts during fiscal year 1989 or any fiscal year thereafter.

(6) PAYMENTS TO WHICH SUBSECTION APPLIES.—This subsection shall not apply to any payment on or before January 1, 1988.

(7) SPECIAL RULE FOR CERTAIN DISABILITY COMPENSATION.—Payments and benefit amounts under the following provisions shall be treated as described in paragraph (1):

(A) Sections 314, 351(1), 362, 411, 413, and 414 of title 38, United States Code, which were increased by amendments made by title I of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99-238).

(B) Section 10 of Public Law 85-857 in the case of persons who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) FEDERAL WAGE FREEZE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no increase shall be made in wage or salary compensation amounts paid to any employee of the Federal Government, including Members of Congress, under any provision of law which

would otherwise require such increase to become effective during fiscal year 1988 as a result of changes in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages.

(2) NO ENTITLEMENT.—No employee of the Federal Government, including Members of Congress, shall be entitled to any increase in wage or salary compensation payments amounts under any provision of law if payment thereof is denied by reason of this section.

(3) COORDINATION WITH FUTURE YEARS.—Notwithstanding any other provision of law, any change in—

(A) the Consumer Price Index (or any component thereof); or

(B) any other index which measures costs, prices, or wages, which would have resulted in any increase in payments or benefit amounts during fiscal year 1988 but for the provisions of paragraph (1) shall not be taken into account for purposes of determining any increase in payments or benefit amounts during fiscal year 1989 or any fiscal year thereafter.

(d) PAYMENTS FOR INPATIENT HOSPITAL SERVICES AND PHYSICIANS' SERVICES FOR FISCAL YEAR 1988.—

(1) NO APPLICABLE PERCENTAGE INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—Notwithstanding any other provision of law, the applicable percentage increase under section 1886(b)(3)(B) of the Social Security Act for fiscal year 1988 shall be 0 percent.

(2) NO INCREASE IN THE MEI WITH RESPECT TO PAYMENTS FOR PHYSICIANS' SERVICES.—Notwithstanding any other provision of law, for purposes of part B of title XVIII of the Social Security Act, with respect to physicians' services furnished in 1988, the percentage increase in the MEI (as described in section 1842(b)(4)(E)(ii)) shall be 0 percent.

SEC. 402. TAX FREEZE.

(a) 1-YEAR FREEZE IN INDIVIDUAL AND CORPORATE INCOME TAX RATES.—

(1) INDIVIDUALS.—Section 1(h) of the Internal Revenue Code of 1986 (relating to tax schedules for taxable years beginning in 1987) is amended by striking out "1987" in the text and heading thereof and inserting in lieu thereof "1987 and 1988".

(2) CORPORATIONS.—Section 601(b) of the Tax Reform Act of 1986 is amended to read as follows:

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

"(2) TAXABLE YEARS BEGINNING IN 1987 AND 1988.—In the case of a taxable year beginning in 1987 or 1988, section 11(b) of the Internal Revenue Code of 1986 shall be applied as if it reads as follows:

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $25,000,

"(2) 16.5 percent of so much of the taxable income as exceeds $25,000, but does not exceed $50,000,

"(3) 27.5 percent of so much of the taxable income as exceeds $50,000, but does not exceed $75,000, and

"(4) 40 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $550,000 for any taxable year, the amount of the tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $15,250.' "

(3) EFFECT OF CHANGES.—

(A) Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rates under paragraph (2) with respect to a taxable year beginning in 1986 and ending in 1987.

(B) For treatment of taxable years beginning in 1988 and ending in 1989, see section 15 of such Code.

(b) DEDUCTIONS.—

(1) INTEREST.—Section 163(d)(6)(B) of the Internal Revenue Code of 1986 is amended by striking out "60" in the item in the table relating to 1988 and inserting in lieu thereof "35".

(2) PASSIVE LOSSES.—Section 469(l)(2) of the Internal Revenue Code of 1986 is amended by striking out "60" in the item in the table relating to 1988 and inserting in lieu thereof "35".

TITLE V—OTHER PROVISIONS

Subtitle A—Asset Sales

SEC. 501. PREPAYMENT OF RURAL ELECTRIFICATION LOANS.

(a) IN GENERAL.—Section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a) is amended to read as follows:

"SEC. 306A. PREPAYMENT OF LOANS.

"(a) IN GENERAL.—If, on the effective date of this section, a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator of the Rural Electrification Administration under section 306, the borrower may prepay such loan (or any loan advance made thereunder) by paying the outstanding principal balance due on such loan advance if—

"(1) private capital, with the existing loan guarantee (available at the option of the borrower), is used to replace the loan;

"(2) the borrower certifies that any savings from such prepayment will be—

"(A) passed on to its customers;

"(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

"(C) used to avoid future rate increases; and

"(3) the borrower certifies that the borrower will not apply for a loan made by the Administrator of the Rural Electrification Administration or the Federal Financing Bank to refinance the private loan or replace private capital used to prepay a loan advance under this subsection, except as authorized by the Administrator or the Bank, respectively.

"(b) PROCESSING FEE FOR PREPAYMENT.—

"(1) IN GENERAL.—A processing fee shall be assessed against each Rural Electrification Administration borrower who has a request for prepayment of a loan advance from the Federal Financing Bank under this section approved after September 30, 1987.

"(2) ONE-TIME FEE.—The processing fee shall be assessed as a one-time fee due at the time of prepayment on each loan advance prepaid by charging, against the outstanding principal balance of the loan advance—

"(A) 50 basis points; plus

"(B) points equal to 50 percent of the difference between the interest rate on the Federal Financing Bank loan advance being prepaid and the cost of money to the Federal government at the time of prepayment for new Treasury borrowings of the same maturity as the Federal Financing Bank loan advance being prepaid.

"(c) NO ADDITIONAL CHARGES.—No sums in addition to the payment of the outstanding principal balance of the loan advance and a processing fee assessed thereon, as prescribed in subsection (b), may be charged as the result of such prepayment against—

"(1) the borrower;

"(2) the Rural Electrification and Telephone Revolving Fund; or

"(3) the Rural Electrification Administration.

"(d) AMENDMENT OF EXISTING GUARANTEE.—The existing guarantee shall, at the option of the borrower, be amended to include, for the duration of the term of the Rural Electrification Administration guarantee on the Federal Financing Bank loan advance prepaid, the amount of principal balance prepaid on the loan advance plus the amount of the processing fee paid by the borrower and the cost to the borrower of obtaining private capital. Private loans with the Rural Electrification Administration guarantee used to prepay a Federal financing bank loan advance shall not exceed this amount. Such loans shall be made on terms and conditions acceptable to the borrower and the lender.

"(e) ASSIGNABILITY.—A guarantee of a loan advance prepaid under this section with private capital shall be fully assignable and transferable without condition and shall remain available for the remainder of the term of the loan originally agreed to by the Administrator.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall become effective on the date of enactment of this Act.

(2) AGREEMENTS UNDER EXISTING LAW.—In the case of a borrower of an outstanding loan made by the Federal Financing Bank and guaranteed by the Rural Electrification Administration under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936), if the Administrator of the Rural Electrification Administration determined prior to the date of enactment of this Act that such borrower was eligible to prepay, or if such borrower prepaid, an advance on the loan under section 306A of such Act (as in effect prior to the amendment made by subsection (a)), the borrower may prepay any advance received and not repaid by the date of enactment of this Act under any combination of terms and conditions applicable to such prepayments under section 306A of the Rural Electrification Act of 1936 (as in effect prior to the amendment made by subsection (a) or as amended by subsection (a)). No sum in addition to the payment of the outstanding principal balance of any loan advances prepaid shall be charged as the result of the prepayment.

(3) REGULATIONS.—Within 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendment made by this section.

(4) PREPAYMENT FACILITATION.—In issuing regulations to carry out the amendment made by this section, the Secretary shall—

(A) facilitate prepayment of Federal Financing Bank loan advances;

(B) provide for full processing of each prepayment request within 30 days after its submission to the Rural Electrification Administration; and

(C) expect as specifically and directly provided in section 306A of the Rural Electrification Act of 1936, impose no restriction that—

(i) increases the cost to borrowers of obtaining private financing for prepayment under such section;

(ii) delays the full processing of prepayment requests; or

(iii) inhibits the ability of such borrowers to enter into prepayment arrangements under such section.

SEC. 502. RURAL TELEPHONE BANK.

(a) In General.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end thereof the following new paragraphs:

"(8) The Rural Telephone Bank shall apply its most current cost of money rate at the time of each advance made under loan commitments approved after the date of enactment of the Agricultural Reconciliation Act of 1987.

"(9) A borrower with a loan from the Rural Telephone Bank may prepay such a loan (or any part thereof by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is made not later than September 30, 1988.".

(b) Regulations.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by subsection (a) within 30 days after the date of enacement of this Act. Such regulations shall implement paragraphs (8) and (9) of section 408(b) of the Rural Electrification Act of 1936 (as added by subsection (a)) without the addition of any restrictions not set forth in such paragraphs.

SEC. 503. SALE OF RURAL DEVELOPMENTS NOTES.

(a) Sales Required.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $600,000,000 from such sales during fiscal year 1989.

(b) Nonrecourse Sales.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) Contract Provisions.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

(d) Eligibility To Purchase Notes.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

(e) Loan Servicing.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 504. SALE OF RURAL HOUSING LOANS.

(a) Required Sales to Public.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,590,000,000 in fiscal year 1988, and $2,350,000,000 in fiscal year 1989 from the proceeds of such sales.

(b) Procedures and Terms of Sales.—

(1) Establishment of guidelines.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) Assistance by federal financing bank.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) Reports to Congress.—

(1) Notification of initial loan sale.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

(2) Reports by secretary.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

(3) Reports by comptroller general.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

(d) Relation to Other Law.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

SEC. 505. SALE OF EXPORT-IMPORT BANK LOANS.

Section 16 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended to read as follows:

"SEC. 16. SALE OF BANK LOANS.

"(a) Required Sales to Public.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $500,000,000 in fiscal year 1988 and $500,000,000 in fiscal year 1989 from the proceeds of such sales.

"(b) Procedures and Terms of Sales.—

"(1) Establishment of guidelines.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and term applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) Assistance by federal financing bank.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) Reports to Congress.—

"(1) Notification of initial loan sale.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

"(2) Reports by bank.—The Board of Directors shall submit periodic reports to the

Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

"(3) Reports by comptroller general.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

"(d) Securities Laws Not Applicable to Sales.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to the appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

SEC. 506. SALE OF COMMUNITY DEVELOPMENT LOANS.

The Secretary of Housing and Urban Development, under such terms as the Secretary shall prescribe, shall sell Community Development loans in such amounts as to realize net proceeds to the Government of not less than $120,000,000 in fiscal year 1988 and $50,000,000 in fiscal year 1989.

SEC. 507. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 is amended by striking out "$314,000,000" and inserting in lieu thereof "$414,000,000".

SEC. 508. SALE OF BUREAU OF RECLAMATION LOANS.

The Secretary of the Interior, under such terms as the Secretary shall prescribe, shall sell Bureau of Reclamation loans in such amounts as to realize net proceeds to the Government of not less than $130,000,000 in fiscal year 1988.

SEC. 509. SALE OF MEDICAL FACILITIES LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Medical Facilities loans in such amounts as to realize net proceeds to the Government of not less than $40,000,000 in fiscal year 1988.

SEC. 510. SALE OF BUREAU OF HEALTH MAINTENANCE LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Health Maintenance loans in such amounts as to realize net proceeds to the Government of not less than $20,000,000 in fiscal year 1988.

SEC. 511. PUBLIC FACILITIES LOAN SALES.

(a) In General.—The Secretary of Housing and Urban Development shall take such actions as may be necessary to ensure that loans made pursuant to title II of the Housing Amendments of 1955 are sold to the public in amount sufficient to provide a net reduction in outlays of not less than $120,000,000 during fiscal year 1988, and $50,000,000 during fiscal year 1989.

(b) Procedures and Terms of Sales.—The Secretary of Housing and Urban Development shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kinds of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(c) Reports to Congress.—The Secretary of Housing and Urban Development shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this subsection not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

Subtitle B—Other Provisions

SEC. 511. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) December 31, 1987, with respect to all such payments; and

(2) January 15, 1987, with respect to payments for physicians' services and durable medical equipment (and other nonphysician services reimbursed on a reasonable charge basis) under part B of such title.

SEC. 512. INCREASE IN PENSION BENEFIT GUARANTY CORPORATION PREMIUM RATES.

(a) General Rule.—Clause (i) of section 4006(a)(3)(A) of ERISA is amended by striking out "$8.50" and inserting in lieu thereof "the sum of $14 plus the exposure-related premium (if any) determined under subparagraph (E)".

(b) Determination of Exposure-Related Premium.—Paragraph (3) of section 4006(a) of ERISA is amended by adding at the end thereof the following new subparagraphs:

"(E)(i) The exposure-related premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 of unfunded current liability under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii), the term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of the current liability under the plan over the value of the plan's assets determined under section 412(c)(2) of the Internal Revenue Code of 1986 (reduced by any credit balance in the funding standard account) meaning given such term by section 412(l)(8)(A) of the Internal Revenue Code of 1986.

"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $70.

"(II) In the case of any plan year beginning in a calendar year after 1988, the $70 amount in subclause (I) shall be increased by the percentage (if any) by which the contribution and benefit base in effect during such calendar year under section 230 of the Social Security Act exceeds such contribution and benefit base in effect during 1988.

"(III) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $10 for each plan year for which such contributions were made. The $10 amount under the preceding sentence shall be adjusted at the same time and the same manner as provided under subclause (II).

"(v)(I) No additional premium shall be determined under this subparagraph with respect to any plan which has no more than 100 participants on each day during the preceding plan year.

"(II) In the case of a plan to which subclause (I) does not apply and which did not have more than 150 participants on each day during the preceding plan year, the amount of the additional premium under this subparagraph for such plan year shall be equal to the product of such premium determined without regard to this subclause multiplied by 2 percent for each participant in excess of 100.

"(III) For purposes of this clause, all single-employer plans maintained by the same contributing sponsor (or any member of such contributing sponsor's controlled group) shall be treated as 1 plan. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

"(F) Current liability.—For purposes of subparagraph (E)—

"(i) In general.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) Treatment of unpredictable contingent event benefits.—

"(I) In general.—For purposes of clause (i), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(II) Unpredictable contingent event benefit.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than age, service, compensation, death, or disability, or an event which is reasonably and reliably predictable (as determined by the Secretary).

"(iii) Interest rates used.—

"(I) In general.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(II) Permissible range.—For purposes of this subparagraph the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d) of the Internal Revenue Code of 1986) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed). The Secretary of the Treasury may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of the preceding sentence.

"(iv) Certain service disregarded.—

"(I) In general.—In the case of a participant to whom this clause applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(II) Applicable percentage.—For purposes of this clause, the applicable percentage shall be 100 percent, except that the applicable percentage shall be zero in the case of an employee with less than 5 years of service.

"(III) Participants to whom subparagraph applies.—This clause shall apply to any participant who, at the time of becoming a participant has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

(c) Liability for Premium.—

(1) In general.—Section 4007 of ERISA is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) Designated payor.—Section 4007 of ERISA is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the designated payor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such designated payor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) Deposit of Premiums Into Separate Revolving Fund.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before January 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

SEC. 513. VETERANS' HOME LOAN PROGRAM.

(a) Extension of Loan Fee.—Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

(b) Repeal of Authority To Sell Certain Home Loans With Recourse.—Section 1816(d) of title 38, United States Code, is amended by striking out paragraph (3).

(c) Inapplicability of Provisions.—(1) The amendment made by subsection (a) shall not take effect if a law that makes the same amendment is enacted before the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall not take effect if a law that makes the same amendment is enacted before the date of the enactment of this Act.

GRAMM AMENDMENT NO. 1260

Mr. GRAMM proposed an amendment, which was subsequently modified, to the amendment No. 1254 to the bill (S. 1920), supra; as follows:

Of the language proposed in amendment No. 1254, in section 9001(a)(1)(A), strike "$292,000" and insert in lieu thereof "$291,300";

In section 9001(a)(1)(B), strike "$285,400" and insert in lieu thereof "$284,100";

In section 9001(b)(1)(A), strike "$162,900" and insert in lieu thereof "$161,000"; and

In section 9001(b)(1)(B), strike "$176,800" and insert in lieu thereof "$175,000".

PRESSLER (AND OTHERS) AMENDMENT NO. 1261

Mr. PRESSLER (for himself, Mr. Pell, Mr. Warner, Mr. Stafford, Mr. Trible, Mr. Melcher, Mr. Daschle, and Mr. Roth) proposed an amendment to amendment No. 1254 proposed by Mr. Byrd (and others) to the bill (S. 1920), supra; as follows:

In section 422(e)(1) of the Higher Education Act of 1965, as added by section 6101(a) of the amendment, strike out "or" at the end of subparagraph (D), strike out the period at the end of subparagraph (E) and insert in lieu thereof a semicolon and "or", and add at the end thereof the following:

"(F) the amount required to comply with reserve requirements and other obligations of contracts, as in effect on June 30, 1987.".

MELCHER AMENDMENT NO. 1262

Mr. MELCHER proposed an amendment to amendment No. 1254 proposed by Mr. Byrd (and others) to the bill (S. 1920), supra; as follows:

In section 4023 of the amendment, strike "Section" and insert in lieu thereof "(a) In General.—Section" and add at the end thereof the following new subsection:

(b) Adjustments in Premium.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall, not later than April 1, 1988—

(1) reduce (in accordance with section 1839(e) of the Social Security Act) the amount of the premium under part B of title XVIII of such Act, otherwise in effect for 1988, to reflect the total amount of reductions in the benefits payable under such part for such year occurring by reason of the amendments made by this Act; and

(2) further reduce such premium by an amount equal to the difference between the amount of such premium (as reduced by paragraph (1)) and the amount of such premium (as so reduced) if established without regard to amounts allocated to the contingency reserve fund.

JOHNSTON AMENDMENT NO. 1263

Mr. JOHNSTON proposed an amendment to amendment No. 1254 proposed by Mr. Byrd (and others) to the bill S. 1920, supra; as follows:

1. Subtitle A of Title II is amended to read as follows:

"Subtitle A—Nuclear Waste

Sec. 2001. That this subtitle may be cited as the "Nuclear Waste Policy Act Amendments Act of 1987".

PROGRAM REDIRECTION

Sec. 2002. The Nuclear Waste Policy Act of 1982 is amended at the end by adding a new title IV to read as follows:

"TITLE IV—PROGRAM REDIRECTION

"FINDINGS, PURPOSE AND DEFINITIONS

"Sec. 401. Findings.—(a) Congress finds that—

"(1) redirection of the program under titles I and II of this Act to provide for the sequential characterization of respository sites and the construction of a monitored retrievable storage facility as part of an integrated nuclear waste management system will result in significant Federal budget savings in fiscal years 1988, 1989, and 1990;

"(2) such a redirection is required if the Secretary of Energy is to carry out in a timely fashion his responsibility under this Act to provide for the permanent disposal of spent nuclear fuel and high-level radioactive waste in a manner that protects the public health and safety and the environment; and

"(3) it is appropriate that the Federal Government provide payments to Indian tribes, States and affected units of local government within whose reservations or jurisdiction, as the case may be, a repository or monitored retrievable storage facility will be cited under this title.

"(b) Purpose.—It is the purpose of this title to—

"(1) direct the Secretary of Energy to select a single site that is suitable for characterization for the first repository and to proceed with characterization of that site;

"(2) direct the Secretary to proceed with the construction of a monitored retrievable storage facility as part of an integrated nuclear waste management system; and

"(3) provide for benefits payments from the Waste Fund to any Indian tribe, State or unit of local government within whose reservation or jurisdiction, as the case may be, a repository or a monitored retrievable storage facility may be sited under this title.

"(c) DEFINITION.—For the purposes of this title the term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

"FIRST REPOSITORY SITE CHARACTERIZATION

"SEC. 402. (a)(1) On or before January 1, 1989, the Secretary shall select as the preferred site for the first repository one of the sites previously selected for characterization as candidate sites for the first repository that the Secretary determines on the basis of available information to be the most suitable for characterization as a repository. In selecting the preferred site under this subsection, the Secretary shall give primary consideration to—

"(A) prospects for successfully licensing a repository at such site;

"(B) potentially disqualifying factors at the site;

"(C) potentially adverse impacts on the public health and safety and the environment of locating a repository at such site; and

"(D) the estimated cost of characterization, development and operation of repository at such site.

"(2) In the period between the date of the enactment of this section and January 1, 1989, the Secretary shall carry out at the sites previously selected for characterization as candidate sites for the first repository such activities as the Secretary determines would provide information useful in making the selection required under this subsection, including information on potentially disqualifying factors, except that the Secretary shall not initiate construction of an exploratory shaft facility until such time as a preferred site is selected under this subsection.

"(b)(1) Effective on the date of selection of a preferred site for the first repository under subsection (a), the Secretary shall take all those actions required or contemplated under this Act to assure that a repository will be constructed and operated at such site at the earliest practicable date.

"(2) Effective on such date of selection of a preferred site, the Secretary shall suspend work at other sites selected for characterization as candidate sites for the first repository.

"(c) If the Secretary determines that the preferred site for the first repository selected under subsection (a) is not suitable for a repository, the Secretary shall—

"(1) immediately notify interested States and Indian tribes and Congress of such determination;

"(2) suspend all future benefits payments under this title with respect to such site; and

"(3) within 6 months after such determination select a new site as the preferred site for the first repository from the sites remaining of those considered under subsection (a).

"(d) Effective on the date of selection under this section of any site as the preferred site for the first repository, the State in which the site is located shall be eligible to enter into a benefits agreement with the Secretary under section 404.

"(e)(1) Any decision by the Secretary under subsection (a), paragraph (b)(2), or subsection (c) shall be in writing, shall be available to Congress and the public, and is not subject to judicial review except as provided in this subsection.

"(2) Any action for review of a decision by the Secretary may only be brought within 30 days after public notice of the decision.

"(3) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any action brought under this subsection. In reviewing any such action the court shall render its decision within 60 days from the date that the action is filed unless the court determines good cause exists for an extension. In such case the court may extend the time for its decision by not more than 30 days, and such extension may be renewed no more than 2 times.

"(4) In review of any decision under this subsection, the scope of review shall be governed by the provisions of section 706 of title 5 of the United States Code, except that subparagraphs (E) and (F) of paragraph (2) of such section 706 shall not apply.

"(5) Any person entitled to judicial review under the provisions of section 702 of title 5 of the United States Code may bring an action under this subsection.

"(f)(1) The decision of the Secretary to select a preferred site for a first repository under subsection (a) shall include a detailed statement of the basis for such decision and shall be accompanied by an environmental evaluation, as required herein. The environmental evaluation shall include—

"(A) a detailed analysis by the Secretary of the criteria required to be considered under subsection (a);

"(B) a comparative evaluation of the preferred site with the other sites previously selected for characterization as candidate sites for the first repository;

"(C) a description of the decision process by which the preferred site was selected; and

"(D) a summary of, and response to, comment received.

"(2) Before preparing the environmental evaluation, the Secretary shall—

"(A) solicit the comments of the National Academy of Sciences; and

"(B) provide an opportunity for comment by the public.

"(3) For a period of 2 years after the selection of a preferred site under this section the Secretary shall preserve all writings, records of meetings, draft reports and studies, and other documents and recordings prepared by or for employees of the Department of Energy or by or for persons under contract to such Department, relating to the selection of such preferred site and the completion of the environmental evaluation with respect to such selection. Subject to existing law, the Secretary shall make these documents available for inspection by any person requesting to review the documents, at a reasonable time and place. The Secretary shall provide for the photocopying of any such documents at a reasonable fee.

"(g) Nothing in this section affects judicial review of actions of the Secretary, the President, or the Commission taken under titles I or III prior to or subsequent to a decision of the Secretary under subsection (a), paragraph (b)(2), or subsection (c).

"(h) Within 1 year after the selection of any site a a preferred site for the first repository under subsection (a), the Secretary shall report to Congress on the potential impacts of locating a repository at such site, including the recommendations of the Secretary for mitigation of such impacts and a statement of which impacts should be dealt with by the Federal Government, which should be dealt with by the State with State resources, including the benefits payments under section 404, and which should be a joint Federal-State responsibility. The report under this subsection shall include the analysis of the Secretary of the authorities available to mitigate these impacts and the appropriate sources of funds for such mitigation. Potential impacts to be addressed in the report under this subsection shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing or creation of new communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges or railways damaged as a result of the construction, operation and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation and eventual closure of the facility.

"(i)(1) The Secretary, or his designee, shall value land for leasehold or ownership title for purposes of site characterization and respository development in a manner that, in the opinon of the Secretary or such designee, addresses the unique geophysical attributes causing such land to be selected as a candidate site for deep geologic disposal for high-level radioactive waste and spent nuclear fuel.

"(2)(A) The Secretary, in acquiring private land for site characterization and repository development under this Act, shall, to the extent practicable—

"(i) acquire such private land only after a site characterization plan has been issued under section 113; and

"(ii) minimize the disruption of private use of lands in the vicinity of those acquired.

"(B) Nothing in subparagraph (A) affects the authority of the Secretary to secure leasehold interest, easement, or right of way that the Secretary determines is necessary to carry out the purposes of subsection (a)(2).

"(3) The Secretary shall offer any landowner, or his heirs, first right to repurchase any land previously secured from such landowner for site characterization or repository development, should the site be found unsuitable, and after the site has been fully reclaimed as required under section 113.

"SITING OF MONITORED RETRIEVABLE STORAGE FACILITIES

"SEC. 403. (a) The proposal of the Secretary (EC-1022, 100th Congress) to locate a monitored retrievable storage facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee, with alternative sites on the Oak Ridge Reservations of the Department of Energy and on the former site of a proposed nuclear powerplant in Hartsville, Tennessee, is hereby annulled and revoked. In carrying out the provisions of this section the Secretary shall make no presumption or preference to such sites by reason of their previous selection.

"(b) During the period between the date of the enactment of this section and January 1, 1989, the Secretary shall conduct a survey and evaluation of three potentially suitable sites in not less than 2 States for a monitored retrievable storage facility. In conducting such survey and evaluation, the Secretary shall consider the extent to which siting a monitored retrievable storage facility at each site surveyed would—

"(1) enhance the reliability flexibility of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act;

"(2) minimize the impacts of transportation and handling of such fuel and waste;

"(3) provide for public confidence in the ability of such system to safely dispose of the fuel and waste;

"(4) impose minimal adverse effects on the local community and the local environment;

"(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion; and

"(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate.

"(c)(1) The Secretary may, on or before January 1, 1989, select as the site for a monitored retrievable storage facility any site that—

"(A) the Secretary determines to be suitable for a monitored retrievable storage facility; and

"(B)(i) is located in a State where the Governor and the legislature of such State request in writing such selection; or

"(ii) is located on the reservation of an Indian tribe where the governing body of such tribe requests in writing such selection.

"(2) The Secretary may make grants to any State, Indian tribe or unit of local government to support an assessment of the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or government.

"(3) The Secretary shall make every reasonable effort making use of authority under this title and under other law to encourage requests and to secure a site under this subsection.

"(d)(1) If the Secretary selects a site for a monitored retrievable storage facility under subsection (c), the Secretary, consistent with section 141, shall construct and operate such facility as part of an integrated nuclear waste management system and in accordance with applicable agreements under this Act affecting such facility.

"(2) Except as provided in subsection (l), if the Secretary does not select a site under subsection (c), the Secretary, not earlier than January 1, 1989, but not later than October 1, 1989, shall select the site evaluated under subsection (b) that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act. The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under this paragraph. Such notification shall be accompanied by a report setting forth the Secretary's reasons for selecting the site.

"(e)(1) The selection of a site under subsection (d)(2) shall be effective at the end of the 60-day period beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under subsection (d)(2) shall not be effective except as provided under subsection 115(c).

"(2) For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under subsection 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

"(3) Once the selection of a site for a monitored retrievable storage facility is effective under this subsection, the Secretary, consistent with section 141, shall construct and operate such facility as part of an integrated nuclear waste management system and in accordance with applicable agreements under this Act affecting such facility.

"(f)(1) The Secretary shall study the need for and feasibility of 1 or more monitored retrievable storage facilities in addition to the facility authorized in this section. Such study shall examine the desirability of colocating the site of a monitored retrievable storage facility for spent nuclear fuel from civilian nuclear activities with a site at which substantial volume of high-level radioactive waste generated from atomic energy defense activities are located. Such study shall also include the development of a plan for the management of such high-level radioactive waste in a system that includes 1 or more monitored retrievable storage facilities capable of storing both high-level radioactive waste and spent nuclear fuel. The Secretary shall report to Congress by April 1, 1989, on the results of the study under this paragraph.

"(2) If the Secretary determines, on the basis of the study under paragraph (1), that 1 or more additional monitored retrievable storage facilities are in the public interest and are needed to fulfill the responsibilities of the Secretary under this Act, the Secretary shall notify Congress and potentially interested States and Indian tribes of such determination and shall submit to Congress site-specific proposals for the construction of the needed monitored retrievable storage facilities in accordance with the provisions of section 141 of this Act.

"(g) Once selection of a site for a monitored retrievable storage facility is made under subsection (c) or is effective under subsection (e) or upon authorization by Congress of 1 or more sites for monitored retrievable storage facilities under subsection (f), the Indian tribe on whose reservation the site is located, or, in the case that the site is not located on a reservation, the State in which the site is located, shall be eligible to enter into a benefits agreement with the Secretary under section 404.

"(h) The provisions of section 116(c) or 118(b) with respect to grants, technical assistance, and other financial assistance shall apply to the State, to affected Indian tribes and to affected units of local government in the case of a monitored retrievable storage facility in the same manner as for a repository.

"(i)(1) During the period between the date of the enactment of this subsection and October 1, 1988, the Secretary shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such times as a permanent geologic repository has been constructed and licensed by the Commission and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

"(2) In conducting the study under paragraph (1) the Secretary shall—

"(A) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which storage on the sites of civilian nuclear power reactors affects the costs and risks of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

"(B) consider the extent to which amounts in the Waste Fund can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites of civilian nuclear power reactors;

"(C) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

"(D) solicit the views of State and local governments and the public.

"(j)(1) By April 1, 1989, the Secretary shall submit to Congress a report that describes the benefits of storing for at least 50 years spent nuclear fuel compared to the current system design allowing such fuel to age for 10 years prior to emplacement in a repository. Such report shall describe—

"(A) the changes in design of an integrated nuclear waste management system;

"(B) the effect on cost caused by implementing such long-term storage compared to the present system;

"(C) the effect of long-term storage on the current schedule of the repository program calling for the acceptance of spent fuel in a repository by 2003;

"(D) the increase in repository capacity as a result of reduced thermal load and the possibility of disposing the spent nuclear fuel likely to be produced in the foreseeable future in a single repository;

"(E) the increase in assurance that transportation of aged spent nuclear fuel can be carried out safely; and

"(F) the relative impact on public health and safety and the environment.

"(2) In developing the report under paragraph (1), the Secretary shall consider the long-term storage and disposal practices for spent nuclear fuel and high-level radioactive waste of other nations that generate such fuel or waste.

"(3) The Secretary shall seek public comment on the report under paragraph (1) and shall submit any written comments to Congress as part of the report.

"(k) For purposes of this section 'monitored retrievable storage facility' means a facility described in section 141(b)(1).

"(l)(1)(A) There is established a MRS Review Commission (hereinafter in this subsection referred to as the 'MRS Commission'), which shall consist of three members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(B) Members of the MRS Commission shall be appointed not later than thirty days after the date of the enactment of this subsection from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

"(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this paragraph, the MRS Commission shall—

"(i) review the status and adequacy of the Department's evaluation of the systems advantages and disadvantages of bringing such a facility into the national radioactive waste disposal system;

"(ii) obtain comment and available data on the subject from affected parties, including States containing potentially acceptable sites;

"(iii) evaluate the utility of such a facility from a technical perspective; and

"(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

"(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

"(A) repository design and construction;

"(B) waste package design, fabrication and standardization;

"(C) waste preparation;

"(D) the waste transportation system;

"(E) the reliability of the national system for the disposal of radioactive waste;

"(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

"(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilities in building and operating such a facility.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress between January 1, 1989 and January 20, 1989.

"(4)(A)(i) If the recommendation of the MRS Commission under paragraph (1)(D) is that the national nuclear waste management system should not contain a monitored retrievable storage facility, the Secretary may exercise his authority under subsection (d)(2) unless Congress, within 90 calendar days of continuous session of Congress (as computed for purposes of section 115) after transmission of the recommendation of the MRS Commission under paragraph (3), passes, and there is enacted into law, a resolution disapproving the deployment of a monitored retrievable storage facility as a part of the national nuclear waste management system.

"(ii) Any resolution under this subparagraph shall be introduced within 30 days after the date of transmission of the recommendation of the MRS Commission under paragraph (3). Such a resolution shall be expedited and considered by Congress in accordance with the procedures for consideration of a resolution of repository siting approval under subsections 115(d) through (g), except the 60-day period in section 115(d)(3) shall be shortened to 30 days.

"(B) In all other cases, the Secretary may exercise his authority under subsection (d)(2), after the report and recommendation of the MRS Commission has been transmitted to Congress.

"(5)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

"(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

"(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

"(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

"(C) The MRS Commission shall cease to exist sixty days after the submission to Congress of the Report required under this subsection.

"(D) There are authorized to be appropriated to the MRS Commission to carry out the purposes of this subsection such sums as may be necessary.

"BENEFITS AGREEMENTS

"SEC. 404. (a)(1) The Secretary may enter into a benefits agreement with a State concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate. The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement. Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

"(2) Benefits and payments under this title may be made available only in accordance with a benefits agreement under this section.

"(b) A benefits agreement entered into under subsection (a) may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 408.

"(c) The Secretary shall offer to enter into a benefits agreement with the Governor of the State containing the preferred site for the first repository. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

"(d) The Secretary shall offer to enter into a benefits agreement relating to a monitored retrievable storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

"(e)(1) Only one benefits agreement for a repository under section 402 and only 1 benefits agreement for a monitored retrievable storage facility selected under section 403(c) or 403(d) may be in effect at any one time.

"(2) If Congress authorizes one or more additional sites for monitored retrievable storage facilities under section 403(f), then only 1 benefits agreement for each such additional monitored retrievable storage facility may be in effect at any one time.

"(f) Decisions of the Secretary under this section are not subject to judicial review.

"CONTENT OF AGREEMENTS

"SEC. 405. (a)(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under titles I and III, the Secretary shall make payments to such State or Indian tribe that is a party to a benefits agreement under section 404 in accordance with the following schedule:

"BENEFITS SCHEDULE

[Amounts in million of dollars]

Event	MRS	Repository
Annual payments prior to first spent fuel receipt	20	50
Upon first spent fuel receipt	50	100
Annual payments after first fuel receipt until closure of the facility	50	100

"For purposes of this subsection, the term—

"(A) 'MRS' means a monitored retrievable storage facility,

"(B) 'spent fuel' means high-level radioactive waste or spent nuclear fuel, and

"(C) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(2) Annual payments prior to first spent fuel receipt under this section shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after first spent fuel receipt until closure of the facility shall be made on the anniversary date of first spent fuel receipt.

"(3) If the first spent fuel payment under this section is made within 6 months after the last annual payment prior to receipt of spent fuel, the first spent fuel payment shall be reduced by an amount equal to one-twelfth of such annual payment for each full month less than 6 that has not elapsed since the last annual payment.

"(4) Notwithstanding paragraphs (1), (2) or (3), no payments under this section may be made before January 1, 1989, and any payment due under this title before January 1, 1989, shall be made on or after such date.

"(5) Except as provided in this section, the Secretary may not restrict the purposes for which the payments under this section may be used.

"(6) Any State receiving a payment under this section shall transfer not less than one-third portion of such payment to affected units of local government. A plan for this transfer and appropriate allocation of such portion among such governments shall be included in the benefits agreement under section 404 covering such payments. In the event of a dispute concerning such plan, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(b) A benefits agreement under section 404 shall provide that—

"(1) a Review Panel be established under section 406;

"(2) the State or Indian tribe waive its rights under title I to disapprove a recommendation of its site for application for a facility construction authorization;

"(3) the parties to the agreement shall share with one another information relevant to the licensing process for the repository or monitored retrievable storage facility, as it becomes available; and

"(4) the State or Indian tribe participate in the design of the repository or monitored retrievable storage facility and in the preparation of documents required under law or regulation governing the effects of the facility on the public health and safety.

"(c) The Secretary shall make payments to the States or affected Indian tribes under this section from the Waste Fund. The signature of the Secretary on a valid benefits agreement under section 404 shall constitute a commitment by the United States to make payments in accordance with such agreement.

"REVIEW PANEL

"SEC. 406. (a) The Review Panel required to be established by section 405(b)(1) of this Act shall consist of a Chairman selected by the Secretary in consultation with the Governor of the State or governing body of the Indian tribe, as appropriate, and 6 other members as follows:

"(1) two members selected by the Governor of the State or governing body of the Indian tribe;

"(2) two members selected by units of general local government affected by the repository or monitored retrievable storage facility;

"(3) one member to represent persons making payments into the Waste Fund, to be selected by the Secretary; and

"(4) one member to represent other public interest, to be selected by the Secretary.

"(b) The members of the Review Panel shall serve for terms of 4 years each and, other than full-time employees of the Federal Government, shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Review Panel, including their necessary travel or other expenses while engaged in the work of the Review Panel.

"(2) Expenses of the panel shall be paid by the Secretary from the Waste Fund.

"(c) The duties of the Review Panel are to—

"(1) advise the Secretary on matters relating to the proposed repository or monitored retrievable storage facility, including issues relating to design, construction, operation, and decommissioning of the facility;

"(2) evaluate performance, as it considers appropriate;

"(3) recommend corrective actions to the Secretary;

"(4) assist in the presentation of State or affected Indian tribe and local perspectives to the Secretary; and

"(5) participate in the planning for and the review of preoperational data on environmental, demographic, and socioeconomic and conditions of the site and the local community.

"(d) The Secretary shall make available promptly any information in the Secretary's possession requested by the Panel or its Chairman.

"(e) The requirements of the Federal Advisory Committee Act do not apply to a Review Panel established under this title.

"SITING A SECOND REPOSITORY

"SEC. 407. (a) While this title is in effect, the Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

"(b)(1) Notwithstanding section 112(b)(1)(C), the Secretary is not required to nominate sites for a second repository or to recommend to the President sites for a second repository.

"(2) Notwithstanding section 114(a)(2), the President is not required to submit to Congress a recommendation of a site for a second repository.

"(c) The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"(d) Upon the date of the enactment of this section the Secretary shall phase out in an orderly manner within 6 months funding for all existing research programs designed to evaluate the suitability of crystalline rock as a potential repository host medium.

"(e) In the event that the Secretary at any future time considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall give consideration as a supplement to the siting guidelines under section 112 to potentially disqualifying factors such as—

"(1) seasonal increases in population;

"(2) proximity to public drinking water supplies, including those of metropolitan areas; and

"(3) the impact characterization or siting decisions would have on lands owned or placed in trust by the Federal Government for Indian tribes.

"TERMINATION

"SEC. 408. (a) The Secretary may terminate a benefits agreement under this title if—

"(1) the site under consideration is disqualified for its failure to comply with guidelines and technical requirements established by the Secretary in accordance with this Act; or

"(2) the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(b) A State or Indian tribe may terminate a benefits agreement under this title only if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act or the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(c) Decisions by the Secretary under this section shall be in writing, shall be available to Congress and the public and are not subject to judicial review.

"MISCELLANEOUS PROVISIONS

"SEC. 409. (a) This title does not affect the provisions of titles I and III of this Act except to establish an alternative procedure for the characterization and development of repositories and the siting of monitored retrievable storage facilities.

"(b) The powers and duties of the Secretary under this Act are not affected by this title except as expressly stated in the title.

"(c) In implementing the authorities contained in this title, the National Environmental Policy Act of 1969 shall not apply, except as provided in subsection (d).

"(d) Notwithstanding subsections (a) and (c), the requirements of title I with respect to the National Environmental Policy Act of 1969 shall apply to a repository or monitored retrievable storage facility covered by a benefits agreement under section 404, except that the provisions of section 114(a)(1)(D) and the provisions of the fourth and fifth sentences of section 114(f) of this Act requiring consideration of 3 sites for purposes of complying with the requirements of the National Environmental Policy Act of 1969 shall not apply.

"(e) The Secretary shall offer to any State, Indian tribe or unit of local government within whose jurisdiction a preferred site or a site for a monitored retrievable storage facility is located under this title an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid out of the Waste Fund.

"OVERSIGHT BOARD

"SEC. 410. (a) Within 30 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences (hereinafter in this section referred to as 'the Academy') for the purpose of establishing an oversight board under the auspices of the Academy to review and evaluate the scientific and technical adequacy of the Secretary's programs under this Act.

"(b) The oversight board established under this section shall consist of an appropriate number of scientists, engineers, and other individuals determined to be qualified by the Academy.

"(c) Activities of the Secretary to be reviewed by the oversight board under this section include—

"(1) activities under section 402(a)(2) relating to the information useful in selecting a preferred site;

"(2) activities under section 402(b)(2) relating to surface based testing at candidate sites that are not selected as the preferred site;

"(3) the site characterization program at the preferred site; and

"(4) such other activities involving significant scientific or technical issues as the Academy finds appropriate.

"(d) The oversight board shall establish procedures for the appropriate involvement in the work of the board by the Secretary, the Commission, affected States and affected Indian tribes. In addition to other reports deemed appropriate by the Academy, the board shall provide an annual report on the status of the programs of the Secretary under this Act that have been reviewed by the board. All reports of the board shall be available to the Secretary, the Commission, and the public.

"(e) The expenses of the oversight board under this section shall be paid from the Waste Fund.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 411. There is authorized to be appropriated from the Waste Fund for activities under the Nuclear Waste Policy Act of 1982—

"(a) in fiscal year 1988, no more than $567,000,000;

"(b) in fiscal year 1989, no more than $545,000,000; and

"(c) in fiscal year 1990, no more than $484,000,000.".

REPORTS

SEC. 2003. The Nuclear Waste Policy Act of 1982 is amended by inserting a new section 10 as follows:

"REPORTS

"SEC. 10. (a)(1) Within 60 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences for a study of major facets of reprocessing of spent nuclear fuel, including economics, the impact of reprocessing on the potential for the proliferation of nuclear weapons and effects of reprocessing on nuclear waste management. The study shall include an analysis of the economics of reprocessing spent nuclear fuel that has been aged for 3 years, 15 years, 30 years, and 50 years, and shall include a sensitivity analysis with respect to the price of uranium and the value of plutonium and uranium recovered in reprocessing. This aspect of the study shall compare the lifecycle cost of a nuclear waste management program involving reprocessing and disposal of vitrified waste with a nuclear waste management program involving direct disposal of spent nuclear fuel.

"(2) The Secretary shall submit the report of the National Academy of Sciences under this subsection to Congress by September 30, 1989.

"(3) Funds for work performed under this section shall be derived from available appropriations from the Waste Fund.

"(b) Within 270 days after the date of the enactment of this section, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

"(c) The comprehensive statement of the Secretary pursuant to section 114 shall include a comparative analysis of the economics of nuclear waste management strategies based on (1) reprocessing spent fuel as a source of new fuel for light water reactors and the disposal of the resultant nuclear wastes and (2) direct disposal of spent fuel. Such analysis shall also compare the advantage and disadvantages of such strategies".

TRANSPORTATION

SEC. 2004. Subtitle A of title I of the Nuclear Waste Policy Act of 1982 is amended by inserting at the end thereof a new section 126 as follows:

"TRANSPORTATION

"SEC. 126. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this subtitle or under subtitle C except in packages that have been certified for such purposes of the Commission.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.

"(d) The Commission shall require actual test on a sample full-scale package, in addition to any simulated tests, tests on scale models, or engineered analysis as part of the certification process of the Commission for package design for the transportation of spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C.

"(e) The Commission shall conduct a survey of the packages for transportation or disposal of spent nuclear fuel or high-level radioactive waste used or intended to be used by other nations and report to Congress by January 1, 1989. The report under this subsection shall describe foreign designs and shall comment on the potential for such designs to meet or exceed applicable Commission regulations or standards for such transportation, storage or disposal.

"(f) There is hereby authorized to be appropriated such funds as may be necessary from the Nuclear Waste Fund, without fiscal year limitation, to the Secretary of Energy for use in the upgrading and construction of road and rail facilities to be utilized in the transportation of spent nuclear fuel and high-level radioactive waste within the State in which a repository is located under this Act. Obligation of such funds by the Secretary shall be on the basis of need as determined by the Secretary after consideration of the availability of alternative sources of funding. Obligations of funds under this subsection may be made only after consultation with the governor of such State."

SITE APPROVAL

SEC. 2005. (a) Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding the phrase "and in subparagraph (I)" at the end of the fourth sentence thereof;

(2) striking the word "and" at the end of subparagraph (G);

(3) striking the period after subparagraph (H) and inserting in lieu thereof "; and"; and

(4) adding a new subparagraph (I) as follows:

"(I) a statement by the Secretary, after consultation with the Secretary of Defense, with regard to any site recommended under this section, that construction and operation of a repository at such site would not seriously jeopardize the national security by reason of interference with national defense activities, if any, occurring nearby.".

(b) Section 116 is amended by adding a new subsection (e) as follows:

"(e) ADJACENT STATES.—Effective on the date of the enactment of this subsection, a State may exercise the same rights and opportunities to participate in the site selection, review and approval process under this section as the State in which such candidate site selected for characterization for a repository is located if such State—

"(1) borders on the State in which such candidate site is located; and

"(2) lies contiguous to a river, waterway or aquifer whose flow, as determined by the Secretary of the Interior, passes adjacent to or underneath the site, and continues downstream or down gradient to such bordering State.".

CONSIDERATION IN SITING FACILITIES

SEC. 2006. Subtitle A of title I of the Nuclear Waste Policy Act of 1982 is amended by adding at the end thereof a new section 127 as follows:

"CONSIDERATION IN SITING FACILITIES

"SEC. 127. The Secretary, in siting Federal research projects, shall give special consideration to proposals from States where a repository is located.".

SEC. 2007. In the event that the Secretary undertakes characterization of a site at Yucca Mountain, Nevada, for a nuclear waste repository, under the Nuclear Waste Policy Act of 1982, as amended, such site characterization shall include research to examine the potential effects on such site of continued testing of nuclear weapons at the Nevada Test Site including, but not limited to, whether such testing would cause earthquakes at such site, movement along faults affecting such site, or damage to such a repository if located at such site.

SUBSEABED DISPOSAL

SEC. 2008. (a) OFFICE OF SEABED DISPOSAL RESEARCH.—There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by a Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office of Subseabeds Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within thirty days of the date of enactment of this Act.

(c) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Seabed Consortium described in subsection (d) of this section and other persons.

(d) SEABED CONSORTIUM.—(1) Within 60 days of the date of enactment of this Act, the Secretary shall establish a university-based Seabed Consortium involving leading oceanographic universities and institutions, national; laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

(2) The Seabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995.

(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

(3) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of subparagraph (2).

(e) ANNUAL REPORT.—The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

(f) FUNDING AUTHORIZATION.—Such funds are hereby authorized to be appropriated as are necessary for carrying out the purposes of this section.

AMENDMENTS TO THE TABLE OF CONTENTS

SEC. 2009. The Table of Contents of the Nuclear Waste Policy Act of 1982 is amended by—

(a) adding after "Sec. 9. Applicability." the following item:

"Sec. 10. Reports.";

(b) adding after "Sec. 125. Termination of certain provisions." the following items:

"Sec. 126. Transportation.

"Sec. 127. Consideration in Siting Facilities."; and

(c) adding the following items at the end thereof:

"TITLE IV—PROGRAM REDIRECTION

"Sec. 401. Findings, Purpose and Definitions.

"Sec. 402. First Repository Site Characterization.

"Sec. 403. Siting of Monitored Retrievable Storage Facilities.

"Sec. 404. Benefits Agreements.

"Sec. 405. Content of Agreements.

"Sec. 406. Review Panel.

"Sec. 407. Siting of Second Repository.

"Sec. 408. Termination.

"Sec. 409. Miscellaneous Provisions.

"Sec. 410. Oversight Board.

"Sec. 411. Authorization of Appropriations."

2. In Title III, strike sections 3002 through 3009 and section 3011, and renumber the remaining sections of Title III accordingly.

TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE TERRITORY OR AIR SPACE OF THE UNITED STATES

SEC. 2010. (a) Plutonium in any form may not be transported by aircraft from a foreign nation to any foreign nation through the territory or air space of the United States unless such plutonium is transported in a package that has been certified safe by the Nuclear Regulatory Commission in accordance with subsection (b) and all other applicable law.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft traveling at maximum cruising speed, appropriately loaded with sample full scale packages containing test material;

(2) conduct an actual drop test from maximum cruising altitude of sample full scale package containing test material; and

(3) certify that the package, samples of which were tested under paragraphs (1) and (2), is acceptably safe for use in the transport of plutonium by aircraft.

(c)(1) The parameters of the tests under subsection (b) shall be determined by the Nuclear Regulatory Commission after public notice and opportunity for comment.

(2) The results of all tests under this section shall be available to the public.".

DANFORTH AMENDMENT NO. 1264

Mr. DANFORTH proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

Strike Title I, beginning on page 2, line 1, through and including line 5 on page 9.

HOLLINGS AMENDMENT NO. 1265

Mr. HOLLINGS proposed an amendment to amendment No. 1254 proposed by Mr. BYRD (and others) to the bill S. 1920, supra; as follows:

On page 2, line 19, strike the comma and insert in lieu thereof a period.

Strike all from line 20 on page 2 through line 2 on page 3.

On page 3, line 7, strike ", or 5".

On page 3, strike lines 8 through 9 and insert in lieu thereof "of".

Strike all from line 18 on page 6 through line 10 on page 7.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 1266

Mr. MOYNIHAN (for himself, Mr. DOLE, Mr. MURKOWSKI, Mr. NUNN, Mr. D'AMATO, Mr. BUMPERS, Mr. STAFFORD, Mr. GORE, Mr. MITCHELL, Mr. KERRY, Mr. SIMON, Mr. DOMENICI, and Mr. BYRD) proposed an amendment to the bill S. 1920, supra; as follows:

At the end of the bill add the following:

TITLE —NATIONAL ECONOMIC COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. . There is hereby established the National Economic Commission (hereafter in this title referred to as the "Commission").

MEMBERSHIP

SEC. (a)(1). The Commission shall be composed of twelve members until the meeting of the Presidential Electors in December 1988 when it shall be expanded to fourteen members:

(A) two citizens of the United States appointed by the President;

(B) one Senator and two citizens of the United States appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) one Member of the House of Representatives and two citizens of the United States appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives and one citizen of the United States appointed by the Minority Leader of the House of Representatives;

(F) two citizens of the United States appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may be private citizens.

Individuals who are not members of Congress, and are appointed under subparagraphs B, C, D, E and F of paragraph 1 shall be individuals who—

(A) are leaders of business or labor or persons with distinctive qualifications or experience, and

(B) are not officers or employees of the United States.

SEC. . (a) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) The Commission shall elect a Chairman from among the members of the Commission.

(c) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

FUNCTIONS OF THE COMMISSION

SEC. . (a) The Commission shall conduct a comprehensive study and review of the elements of Federal policy that have resulted in the national debt and budget deficit.

(b) The Commission shall make specific recommendations regarding:

(1) methods to reduce the deficit, promote economic growth, and encourage savings and capital formation;

(2) a means of ensuring that the burden of achieving our deficit reduction goals is equitably distributed and not borne disproportionately by any one economic group, social group, region or state.

(3) the current and prospective economic factors and developments in the United States that should be taken into account in making economic policy and increasing international competitiveness; and

(4) the institutional arrangements required to achieve the approrpriate coordination, within the United States, for the making and implementation of economic policy.

(c)(1) The commission shall submit to the President and to the Congress by no later than March 1, 1989, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

POWERS OF THE COMMISSION

SEC. (a) The Commission may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to request from the heads of executive and legislative departments, agencies, establishments or instrumentalities of the Federal Government such information as the Commission may require for the purpose of this title, and each such department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, and subject to the exceptions set forth in the Freedom of Information Act, 5 USC 522, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall to the extent possible, and subject to his discretion make any of the facilities and services of such department, agency, or instrumentality available to the Commission and to the extent possible and subject to his discretion detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this title, provided that any expenses of the Commission incurred hereunder shall be subject to the limitation on total expenses set forth in section 6(b) of this title.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title, subject, however, to the limitation on total expenses set forth in Section 6(b) of this title.

The Commission shall be considered an "advisory committee" within the meaning of the Federal Advisory Committee Act 5 USC App. 2, 3(2)

(4) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission subject to the limitation on total expenses set forth in Section 6(b) of this title shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, U.S.C., governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairman deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(5) Service of an individual as a member of the Commission, or employment of an individual by the Commission, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, U.S.C., or comparable provisions of Federal law.

COMPENSATION OF MEMBERS

SEC. . (a) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available therefore.

(b) The Commission shall have a staff headed by an Executive Director appointed by the Chairman. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

The total expenses of the Commission shall not exceed $1 million. Prior to the termination of the Commission, pursuant to Section 7 of this title, the General Accounting Office shall conduct an audit of the Commission's financial books and records to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

TERMINATION OF COMMISSION

SEC. . The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

DECONCINI AMENDMENT NO. 1267

Mr. DECONCINI proposed an amendment to the bill S. 1920, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.

(a) RENEWED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to subsections (b) and (c) of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A Statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1115 as of September 30, 1987.

(b) TERMS AND CONDITIONS.—The Secretary's renewed approval of the project under subsection (a) shall—

(1) subject to subsection (c), be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(2) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(c) PERMITTING ADDITIONAL WAIVERS AND COVERAGE.—Nothing in this section shall be construed to prevent the applicant from seeking approval, in due course, from the Secretary—

(1) for additional waivers under section 1115 of the Social Security Act,

(2) for coverage of additional optional groups, and

(3) for coverage of long-term care and other services which were not covered as of September 30, 1987.

BREAUX AMENDMENT NO. 1268

Mr. BREAUX proposed an amendment to the bill S. 1920, supra; as follows:

At the end of Title III, add the following new section:

"SEC. . Notwithstanding the limitation provided for in the third sentence of Section 3 of the Tennessee Valley Authority Act of 1933, as amended, the Tennessee Valley Authority is hereafter authorized to spend power revenues to pay salaries that exceed such limitation to not more than 25 key employees, to be designated by the Tennessee Valley Authority Board of Directors on the basis of the need to attract or retain such employees in the management of the Authority's nuclear power operations, provided that the total amount of such salary paid in excess of such limitation shall not exceed $900,000 per year, said amount to be adjusted by the Board annually for inflation in the cost of living from the average for the calendar year 1987.".

HEINZ AMENDMENT NO. 1269

Mr. CHILES (for Mr. Heinz) proposed an amendment to the bill S. 1920, supra; as follows:

Strike subsection (k) of section 4041 of the amendment.

RUDMAN AMENDMENT NO. 1270

Mr. CHILES (for Mr. Rudman) proposed an amendment to the bill S. 1920, supra; as follows:

Strike subsection (b) of section 5001 and insert in lieu thereof the following:

"(b) Certain Pay Adjustments Not Applicable to Members of Congress, and Other Senior Executive, Legislative, and Judicial Branch Officers.—

(1) For any pay period occurring in the fiscal year ending September 30, 1988, no adjustment in rates of pay made pursuant to section 5305 of title 5, United States Code, or the provisions of subsection (a) of this section, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for the office or position as of September 30, 1987 if, as of such date, such rate (or maximum rate) is—

(A) fixed at a rate which is equal to or greater than the rate of basic pay for Level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(B) limited to a maximum rate which is equal to or greater than the rate of basic pay for level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(2) No rate of pay for any office or position shall be increased after September 30, 1988, based on any increase by an adjustment that would have been received but for the provisions of paragraph (1), unless such increase is provided pursuant to a law enacted after the date of enactment of this Act.

HATCH (AND KENNEDY) AMENDMENT NO. 1271

Mr. CHILES (for Mr. Hatch, for himself and Mr. Kennedy) proposed an amendment to the bill S. 1920, supra; as follows:

Section 1891 of the Social Security Act, as added by the amendment made by section 4021(i)(1)(A) of the amendment, is amended—

(1) in subsection (a)(1)—

(A) by inserting "(A)" after "(1)",

(B) by striking "The" and inserting in lieu thereof "Subject to subparagraph (B), the", and

(C) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section."; and

(2) in paragraphs (1) and (2) of subsection (b), by striking "338D" each place it appears in such paragraphs and inserting in lieu thereof "338E".

Section 1915(c) of the Social Security Act, as added by the amendment made by section 4021(i)(2)(B) of the amendment, is amended by striking "338D" and inserting in lieu thereof "338E".

Section 4021(i)(3) of the amendment is amended—

(1) by striking "(3)(A)" and inserting in lieu thereof "(3)",

(2) by striking "338D(b)(1)" and inserting in lieu thereof "338E(b)(1)", and

(3) by striking subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph:

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

BYRD (AND OTHERS) AMENDMENT NO. 1272

Mr. CHILES (for Mr. Byrd, Mr. Dole, Mr. Chiles, Mr. Domenici, Mr. Bentsen, Mr. Stennis, Mr. Johnston, and Mr. Hatfield) proposed an amendment to the bill (S. 1920), supra; as follows:

Strike section 9010.

On page 714, line 7, strike "section" and insert "title".

BENTSEN AMENDMENT NO. 1273

Mr. CHILES (for Mr. Bentsen) proposed an amendment to the bill (S. 1920), supra; as follows:

In section 4033 of the amended bill, strike subsection (c) and insert in lieu thereof the following:

(c) Effective Date.—

(1) The amendments made by subsection (a) shall apply with respect to services furnished on or after January 1, 1988.

(2) The amendment made by subsection (b) shall become effective on January 1, 1990.

Section 4052(c)(1) of the amended bill is amended by striking "has not attained the age of 6 (or any age designated by the State that exceeds 6 but does not exceed 8)" and inserting in lieu thereof "is age 6 or under (or is any age designated by the State that exceeds 6 but does not exceed 8)".

Section 1915(d)(5)(B) of the Social Security Act, as added by section 4101(a)(1)(B) of the amended bill, is amended in clauses (i) and (ii) by striking "7 percent" each place it appears in such clauses and inserting in lieu thereof "7 percent times the number of years beginning after the base year and ending before the waiver year involved".

In section 1902(a)(10)(A)(ii)(XI) of the Social Security Act, as added by section 4056 of the amended bill, after "as established by the State" insert "pursuant to standards that are more restrictive than the standards for supplementary security income benefits under title XVI".

In section 4107 of the amended bill, strike "shall not impose any reductions in payments to States pursuant to section 1903(u) of the Social Security Act for any calendar quarter beginning before July 1, 1988" and insert in lieu thereof "shall not, after September 30, 1987 and prior to July 1, 1988, impose any reductions in payments to States pursuant to section 1903(u) of the Social Security Act (or pursuant to similar provisions of law in effect prior to the enactment of section 1903(u))"

HATFIELD AMENDMENT NO. 1274

Mr. CHILES (for Mr. Hatfield) proposed an amendment to the bill (S. 1920), supra; as follows:

At the appropriate place, add the following new section:

SEC. . WHEAT ACREAGE DIVERSION.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 is amended—

(1) in clause (i) by striking out "and (IV)" and inserting in lieu thereof "(IV), and (V)"; and

(2) in clause (ii)—

(A) by striking out "and (IV)" in subclause I and inserting in lieu thereof "(IV), and (V)"; and

(B) by adding at the end thereof the following new subclause:

"(V) Effective for the 1988 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the producers on the farm are prevented from planting such acreage, if intended for wheat, to wheat for harvest in 1988 because of a drought in 1987 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.".

DODD (AND OTHERS) AMENDMENT NO. 1275

Mr. CHILES (for Mr. Dodd, for himself, Mr. Weicker, and Mr. Moynihan) proposed an amendment to the bill (S. 1920), supra; as follows:

Strike section 4086 of the bill and insert in lieu thereof the following:

SEC. 4086. WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.

Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "Temporary" in the heading; and

(2) by striking "for hospice care provided before October 1, 1988,".

EVANS (AND ADAMS) AMENDMENT NO. 1276

Mr. CHILES (for Mr. Evans, for himself and Mr. Adams) proposed an amendment to the bill S. 1920, supra; as follows:

At the appropriate place in the insert the following new section:

"SEC. . DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

"(a) In General.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) Nature of Project.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May, 1987.

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals which may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

"(B) The project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) Funding.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) Project Application.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

"(A) also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

MELCHER AMENDMENT NO. 1277

Mr. CHILES (for Mr. MELCHER) proposed an amendment to the bill S. 1920, supra; as follows:

FIXED THREE-YEAR RECYCLE PERIOD

The bill is amended as follows:

(1) On page 43, line 3, the phrase "a period set by the Secretary not to exceed" is deleted;

(2) On page 43, lines 24 through 25, the phrase "the Secretary under" is deleted.

INOUYE (AND OTHERS) AMENDMENT NO. 1278

Mr. CHILES (for Mr. INOUYE, for himself, Mr. BURDICK, Mr. SIMON, and Mr. BINGAMAN) proposed an amendment to the bill S. 1920, supra; as follows:

SECTION 1. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) MEDICARE CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician," and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) MEDICAID CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting in lieu thereof "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting in lieu thereof "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B) by striking "a physician;" and inserting in lieu thereof "a physician, or, in the case of skilled nursing facility services or intermediate case facility services, a physician, or nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician with a physician;".

(c) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,".

(d) DEFINITION.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Specialist

"(ff)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a masters degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term nurse practitioner" and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(e) EFFECTIVE DATE.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to items and services furnished on or after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance provided on or after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 2. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) PAYMENT OF BENEFITS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests,", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1861(s)(2)(L), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10)."

(b) CONTRACTS WITH CARRIERS.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13) In providing payment for the items and services described in section 1861(s)(2)(L), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) DEFINITION.—Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(L)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in paragraph (5)—

(1) by inserting "(A)" after the paragraph designation; and

(2) by striking "elsewhere;" and inserting in lieu thereof "elsewhere; and (B) services furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialists (as defined in section 1861(ff)(1)) working in collaboration with a physician;".

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 4. The Secretary shall issue such rules and regulations which will ensure that this provision is implemented in a budget neutral manner. The Secretary is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be allowed to meet during the session of the Senate Thursday, December 10, 1987, to continue hearings on S. 1886, the Financial Modernization Act of 1987, and S. 1891, the Financial Services Oversight Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 10, 1987, in open session to consider the nomination of Kenneth P. Bergquist to be Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 10, 1987, to hold a nomination hearing for Richard H. Melton to be Ambassador to Nicaragua.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on December 10, 1987, at 2 p.m. to hold oversight hearing on the modified final judgment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, December 10, beginning at 2 p.m., to conduct a hearing on S. 1840, a bill to amend the Refuge Administration Act to designate the coastal plain of Arctic National Wildlife Refuge as a wilderness, and related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, December 10, 1987, at 2:30 p.m. to conduct a hearing on S. 1346, "Performing Arts Labor Relations Amendments."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on December 10, 1987, to hold a hearing on computer reservation systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND ENVIRONMENTAL OVERSIGHT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, December 10, to conduct a hearing to examine the question of delays and inefficiencies in the Superfund Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PRESIDENT'S "MINIONS AND FAVORITES"

● Mr. METZENBAUM. Mr. President, in light of our celebration of the bicentennial of the signing of the Constitution, I would like to take a moment to mention an interesting book that examines its history. "To Form a More Perfect Union," by Willard Weiss, combines both historical research with keen analysis to reveal much about the actual working of the Constitution. By looking at the Constitution through the eyes of national leaders from the past 200 years, Weiss offers many interesting insights into the inherent strengths and weaknesses of this important document.

Perhaps the most important point made in this book is reflected in a comment made by George Mason. Mason refused to sign the Constitution because he feared that it created a government run by "minions and favorites." Weiss points out that subsequently, these minions and favorites, mostly top Presidential aids, have often acted on the President's behalf, even without his knowledge or consent.

This problem became all too clear this summer as we all witnessed the proceedings of the Iran-Contra hearings. One of the key questions that was asked was: Did the President know, and if so, when did he know?

In the conduct of our most sensitive foreign policy, the President must be fully aware of the design and execution of such policy. Sadly, however, this President's "minions and favorites" have almost entirely taken over the policymaking process, often excluding the President from this important process. George Mason's comments were, indeed, prophetic.

Mr. President, this book makes interesting reading for all those in search of a bright, new perspective on our Constitution.●

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

● Mr. DECONCINI. Mr. President, just about a year ago this country was shocked to learn the United States had sold arms to Iran, a prime sponsor of international terrorism, whose assistance made possible terrorist attacks resulting in the deaths of U.S. citizens in Lebanon and elsewhere. These arms sales were carried out in direct contravention of established U.S. policy.

This alarming news was closely followed by the revelation that proceeds from these arms sales were used to fund the Contras. The legality of these acts is highly questionable, but there is no doubt that the intent of

U.S. law was violated and our democratic processes subverted; the rule of men was substituted for the rule of law. In both instances, because the law was circumvented and the Congress, as well as foreign service and intelligence professionals, were ignored, our democracy was jeopardized and U.S. foreign policy damaged.

In today's dangerous world the United States needs a strong, effective intelligence capacity upon which to build and carry out its foreign policy goals. These goals can best be achieved if the procedures governing the initiation and execution of intelligence activities are spelled out in clear and concise terms.

While recent executive branch action has produced guidelines which greatly diminish the ambiguities which previously existed, such guidelines require the force of law to ensure they will be binding on the intelligence activities not only of this administration, but on those which follow as well.

Congressional notification of covert actions, or special activities, emerged as a central issue of the Iran-Contra controversy. Had Congress been notified, such an ill-conceived policy might have been averted. There are and have been numerous covert activities for which appropriate notification of the Congress, through its Intelligence Committees, has been made without any improper disclosures.

Public support of any government initiative is essential to its success. As the branch of Government most closely responsible to the citizens of this country, it is the Congress which is in the best position to judge popular support of Government policy. Therefore, the law must be lucid about when and who in the Congress should be notified of a planned covert action.

In October, I joined Senator COHEN in cosponsoring S. 1721, a bill designed to strengthen congressional oversight of intelligence activities by giving the force of law to the guidelines recently established by the President. This bill unequivocably sets forth the responsibilities of both the President and the Congress regarding covert activities. The President would be authorized, by statute, to carry out covert activities, but such activities would be specifically prohibited from violating any U.S. law.

This legislation, through its strengthening and delineation of the congressional oversight process, would protect this country against a recurrence of the events which have so painfully unfolded over the past year.

Specific provisions of S. 1721 address the issue of congressional notification by requiring, except in the most extraordinary circumstances, when events require the President's immediate response, that at least the leadership of the intelligence committees and the Congress be notified within 48 hours of the finding being signed by the President. The bill also would require consultation between the President or his representatives and the intelligence committees prior to the initiation of a covert activity. Retroactive findings would be prohibited, and third party involvement, such as that of a foreign country, as well as whatever agency or department of the U.S. Government is charged with executing the activity, must be identified.

Through the establishment of a comprehensive system for congressional notification of planned covert activities, this legislation would prevent the abuse of power which characterized the sale of arms to Iran and the diversion of profits from those sales to the Contras and private entrepreneurs.

INDEPENDENT INSPECTOR GENERAL AT CIA

I was also pleased to join Senator SPECTER in sponsorship of his bill, S. 1818, the National Security Reform Act, which would establish for the first time an independent office of inspector general at the Central Intelligence Agency, a post which would both enhance the accountability of the CIA and act to deter abuses, such as those which occurred as a result of the CIA's clandestine support of arming the Contras.

As described in the congressional committees' report on its investigation of the Iran-Contra affair, the CIA's inspector general "appears not to have had the manpower, resources, or tenacity to acquire key facts uncovered by other investigations."

Even if the CIA's present IG system were reinvigorated with increased resources and a more robust commitment to its task were made, such an internally appointed IG would lack the true independence necessary for real accountability.

The independently appointed inspector general created by this bill would provide the Congress, through its intelligence committees, as well as the executive branch, through its reviews of CIA programs and accounts, with reliable and impartial reports.

Under the bill, the inspector general would be appointed by the President, subject to Senate confirmation. The reports of this inspector general would be submitted to the Intelligence Committee at least on a semiannual basis. The bill also includes safeguards to protect national security, allowing the Director of Central Intelligence to stop an investigation if he determined an ongoing operation was involved or that national security was jeopardized. In either instance, the Intelligence Committees would be provided with the DCI's rationale for taking such action within 7 days.

Like S. 1721, this bill also tightens the procedures for congressional notification of covert activities in addition to establishing criminal penalties for any Federal employee who willfully provides false information to a committee or subcommittee of the Congress.

For some time now, the Intelligence Committee has been considering legislation and other measures designed to improve its ability to fulfill its oversight obligations. Because the Senate depends on the Intelligence Committee as its primary source of information about the activities of the intelligence community, this committee must have the tools adequate to perform its task. These two bills would not only give the committee those tools, but the opportunities for abuses of power would be restricted and the environment in which our foreign policy objectives could thrive and our democratic institutions prosper would be enhanced as well.●

INFORMED CONSENT: MICHIGAN

● Mr. HUMPHREY. Mr. President, I ask that three letters be entered into the CONGRESSIONAL RECORD following my remarks. As my colleagues know, each day I present the testimonial letters of women who have experienced abortions in the past. Their experiences make them uniquely qualified to render opinions on the need for informed consent legislation. Although the Supreme Court has decided that every woman has a constitutional right to abort her child throughout all 9 months of her pregnancy, the Court did not revoke the freedom of the woman to choose life for her baby. This freedom of choice is impeded by the real situation of abortion on demand. S. 272 and S. 273 will restore the basic rights of pregnant mothers as they struggle to make the best decisions to deal with the lives of their children and themselves.

The letters follow:

JUNE 8, 1986.

DEAR SENATOR GORDON HUMPHREY: On January 12, 1979, I went behind the closed doors of the abortion chamber and had an abortion which I really did not want. I received poor counseling—mostly I was told what a safe procedure it was and that it would just remove a mass of cells. I asked if it was safe and the lady who owned the abortion chamber said it was 99 percent safe. I even asked about complications. The only one she mentioned was a missed abortion and the fact that they would do another abortion on the next check up in that event.

On the day I had my check up in February of 1979, the abortionist told me everything was fine and they had removed the "products of conception." He asked if I had any questions. I asked why I still felt pregnant. He said this was because of the hormonal change in my body.

On March 29, 1979, I went back again for another check up. The abortionist then said I probably had a cancerous tumor that comes from having an abortion. I asked if it could be the baby. He said definitely not and even internally examined me twice. In September of 1979, I had a caesarian section to bring into this world a baby boy that the abortionist missed—Praise the Lord!

Thank you for caring about the mothers who feel their pregnancies are a problem. They need to be informed about fetal development and all the things that I was never told.

Linda Vander Velden,
Wisconsin Director,
Women Exploited by Abortion.

July 1986.

Dear Senator: I'm writing to support your efforts to inform women about abortion and what it entails. When I was seventeen, I became pregnant. I was scared and so was my boyfriend. We didn't know what to do. This was not a subject anyone talked about. I looked in the phone book and found a clinic that gave pregnancy tests and did abortions. So I made an appointment with the abortion clinic.

I got there and there was a room full of young women. I was crying out of fear and shame. No one looked at you, everyone kept their heads down hoping not to see anyone they knew. First there was the pregnancy test confirming that I was pregnant. Next you gave them your $180 and you would see a "counselor" before going in to the doctor's room.

The counselor asked if I was on any birth control and if I wanted some. I was so upset that she began counseling me, telling me some women use abortion as a form of birth control, some have ten or twelve and can still become pregnant. This did make me feel better knowing that just one abortion wouldn't be bad if some women have ten or twelve. Nothing was mentioned about the baby that was inside me. No information on the risks I was taking to my body and future child bearing.

I am now twenty-four and married with a child. I'm very lucky and thankful. But I have since learned the truth of what abortion does to the child in your womb and the risks involved. I feel that every woman should be fully informed of what happens in an abortion. I thank you for your concern and time.

Sincerely,
Mrs. Leslie A. Denardo,
E. Lansing, MI.

July 1986.

Dear Sir: Here is the experience of my abortion which has set my energies toward informing girls and women that deciding on an abortion does not eliminate the fear of being pregnant nor does it diminish the fact that you are a mother. Aborting my baby caused me much sorrow—many nights I would cry myself to sleep. I began to see a psychiatrist to help me deal with it.

On February 2, 1984, I had my first pregnancy aborted in which I was misled to believe that it was my only alternative. I was single, twenty-two, and at the prime of my life. I made a phone call to a local clinic. I can recall only two questions that were asked: (1) what my name was, and (2) if this was my first pregnancy. I was told that it would cost $245 and to bring cash only. I would have to bring someone with me to drive home after the abortion.

At the doctors office, I was led to a room and left alone for ten minutes. Two medical personnel came in and one of them estimated that I was about three months along. I was given a free, one month supply of birth control pills, and they asked me why I wanted the abortion. I answered that I had just moved to Maine from Arkansas, and I felt alone. I also thought that it would hurt my parents to know. I began to cry. I was handed a form to sign; I do not recall any of the questions or statements, only that I was agreeing to the abortion. I was given a shot of Valium and was told that the suction method would used, causing some discomfort.

During the abortion, I remember wanting to sit up because I was having severe stomach cramps, but one of the assistants held my shoulders down. I remember that the one who was performing the abortion said, "Its all over with," and left the room. The assistant told me not to try to stand for awhile and then she left too. I sat up and saw a large glass canister. It finally dawned on me that my baby was in it. I kept saying over and over, "My God, my God!" Someone came into the room and covered the canister with a cloth and took it out, leaving me alone again. I dressed up in the numbness of the Valium and with the shock of knowing the reality of the abortion. I walked unassisted from the room to the waiting room barely able to focus my eyes to find my friend in the lobby.

It took a very long time for me to recover mentally and emotionally. The self confidence that I once had was only rebuilt through outside sources. I got pregnant soon after the abortion and maybe it was to fill the void in my life. I made another appointment for an abortion, but this time a friend and a family member supported me by accepting my situation and by offering a helping hand. I later became aware of programs which can assist financially. It was knowing that I wasn't alone and the realization of how precious my baby was that brought joy to me during my months of pregnancy.

I am still single, but I am happy and I enjoy watching my child grow from one stage to the next. I can't imagine what my life would be like if my little girl Jennifer had been aborted from my life.

Andrea Rogers,
E. Lansing, MI. ●

SALUTE TO JACK STACKPOOL

● Mr. DURENBERGER. Mr. President, more than three decades have passed since I graduated from St. John's University, but I still remember the aggressive ballhandling and take-charge leadership of "fellow Johnny," Jack Stackpool.

Jack was one of those unique student-athletes St. John's has become known for. He is a great inspiration to the students he has coached. And, I am proud to say, he is a good friend.

Jack Stackpool's impressive résumé was enhanced, Mr. President, through Jack's induction into the Minnesota Coaches' "Hall of Fame." Jack was inducted into this prestigious group of retired coaches on November 6 at a banquet in Minneapolis, along with Bill Selisker of Crosby-Ironton, Walt Williams of Minneapolis Southwest, and the late Ted Peterson, who was a long-time and well-known sportswriter.

Although he has retired from coaching after 25 years, Jack is still a social studies teacher and athletic director at Glenwood High School. Previously, he taught and coached at Wabasha and Foley.

Jack has always been willing to give of his time to his profession, having served as president of the State coaches association, game manager for the first two State high school all-star basketball games, and as district and regional representative to the Minnesota State High School League.

Mr. President, because of his outstanding contributions to the education and athletic accomplishments of young athletes over more than a quarter century, I ask that a letter from me to the Minnesota Coaches Association and an article on Jack Stackpool from the West Central Tribune in Willmar, MN, be printed in the Record.

The material referred to follows:

November 6, 1987.

Mr. Jack Stackpool, Mr. Bill Selisker, Mr. Walt Williams, Mrs. Ted Peterson, c/o Minnesota Coaches Association, Minneapolis, MN.

Dear Friends: It's an honor for me to extend greetings and my personal congratulations as you are inducted into the Minnesota Coaches "Hall of Fame."

As the son of a college athletic director, I saw at a very early age the benefits of participation in school sports. And, as the father of four very sports-minded sons, I've been reminded over and over again how much coaches contribute to the lives of the student/athletes they work with. These contributions are made both to physical fitness and athletic skills, and to the mental attitude and values which young people carry with them for the rest of their lives.

As new members of the Minnesota Coaches "Hall of Fame," you are being recognized by your peers as the "cream of the crop," in coaching in Minnesota. As a "fellow-Johnny", I'm particularly pleased to see Jack Stackpool receive this coveted honor. Each of you are very special people who are most deserving of this high honor.

It's very fitting that Ted Peterson is among this year's "Hall of Fame" inductees. I was an avid reader of Ted's sports-writing and know that he is missed by all those who counted on his colorful, yet fair reporting of high school and other sports over an entire career.

Thanks to each of you for your contributions. And, best of luck to all Minnesota coaches in the future.

Sincerely,
Dave Durenberger,
United States Senator.

[From the West Central Tribune, Aug. 28, 1987]

Coaching Group Honors Stackpool

(By Bruce Strand)

Glenwood.—Jack Stackpool has always said "yes" to getting involved in projects that promote Minnesota high school basketball.

In recognition, the Minnesota Basketball Coaches Association has said "yes" to Glenwood's nomination of Stackpool to the state coaches Hall of Fame.

Stackpool, 53, a social teacher and athletic director at Glenwood, coaches 25 years at Wabasha, Foley and Glenwood. The association honors only retired coaches.

He'll be inducted Nov. 6 at a banquet in Minneapolis, along with Bill Sellisker of Crosby-Ironton. Walt Williams of Minneapolis Southwest, and the late sportswriter Ted Peterson of Minneapolis and Alexandria.

"It's an excellent honor," said Stackpool. "You always try to do the best you can as you coach, and this is something nice added on by my fellow coaches."

Stackpool held several offices, including president, with the state coaches association. He served as game manager for the first two state high school all-star basketball games. He was district and region representative for many years.

The MBCA's criteria for Hall of Fame selection are: (1) demonstrating a dedication to the highest value of competitive high school basketball, (2) conducting programs in a beneficial way for players, schools, and community, and (3) membership and participation in the MBCA and its parent organization.

This is the fourth year of the Hall of Fame. Twenty-one persons have been inducted. Stackpool is the first from the Tribune area.

Stackpool was nominated by his longtime assistant, Donald Torgerson, and his successor, John Holsten, along with Albany athletic director Pete Herges and Starbuck coach Greg Starns.

"Jack proved himself in many ways as a coach," said Herges, himself a Football Coaches Hall of Fame member. "His teams were always very well prepared, and his ability to adjust to various changes in the game, I think were responsible for conference championships he won at Foley.

"Ethically, he's a person to look up to, one you'd like to have your son play for."

Torgerson cited Stackpool for being "a leader in our district and region . . . He likes to take charge and see that things are done correctly."

Stackpool is a native of Chicago, where he played prep basketball for Johnny Dee, a former Notre Dame standout who would eventually coach at that university. Dee's ex-teammate, Buster Hiller, coached at St. John's and Dee steered Stackpool there.

He played basketball at St. John's, where, ironically, he once guarded co-inductee Sellisker in a game in which the Johnnies ended a long losing streak against Hairline.

After earning his degree at St. John's—a masters in education with emphasis on political science from St. Cloud came later—Stackpool served in the Army for two years before starting his teaching/coaching career.

Stackpool never got into a state tournament, but established winning traditions at all his locations while promoting the sport in those extra-capacities.

Being active is a family trait.

His wife, Mary, teaches a Partners in Agriculture program (for farm wives) at Alexandria Vo-Tech, and ran unsuccessfully for the state senate last year.

Their youngest son, Tom, was the Tribune's 1978 Hengstler-Ranweller Award (top area senior athlete) recipient as a four-sport star. He's now a graduate basketball coaching assistant at University of North Dakota, after coaching at Perham for four years.

Oldest son Mike, a drama standout at Glenwood, now works in a psychiatric hospital in Denver. Another son, Dick, a football/track star at Glenwood, has two college degrees and is involved in the insurance business in Dallas. Daughter Ann, an all-state musician in high school, does social work in Cambridge.

"I guess I'm a proud father," he said after rattling off his offspring's achievements in response to a reporter's question.

He took pride in his coaching, too. In both his kids and his job, it showed.●

HUMAN RIGHTS DAY

THE PERSECUTION OF THE BAHA'IS

● Mr. HEINZ. Mr. President, today we observe Human Rights Day, the 39th anniversary of the signing of the Universal Declaration of Human Rights. Unfortunately, we observe this day more to note the denial of human rights in many places than to celebrate their actual observance around the world.

One place where the denial of basic human rights is expecially disturbing is Iran. In Iran, a religious minority the Baha'is, continue to suffer what can only be called barbaric persecution.

Not long ago the intolerant Islamic government of Iran executed two Baha'is, whose only crime was to profess a faith not allowed under the extreme and distorted version of Islam practiced by the mullahs of Tehran. Now, five more Iranian Baha'is have been arrested, and another 12 already languishing in Iranian prisons are threatened with execution.

Some human rights problems are surrounded with controversy. There is no doubt about the persecution of Iran's Baha'is. It is documented in a recent report by the United Nations Special Representative on human rights, who collected eye-witness accounts of this persecution. The United Nations itself acted on this report, condemning the barbaric Iranian Government behavior towards the Baha'is in a resolution passed last month.

There is no doubt about the persecution of Iranian Baha'is—the only question is whether we will continue to speak out and demand that the barbarism come to an end.

Each time I have spoken out on the repugnant official Iranian abuse of the Baha'i community, I have noted that this persecution runs counter to the spirit and traditions of Islam. Islam is not a religion of intolerance, of persecution, of attacks on loyal and peaceful groups who are outstanding members of the community. This is a perversion of Islam. It is an unconscionable violation of universally recognized human rights.

On Human Rights Day, let us remember a minority that suffers in a remote place, away from the spotlight of international publicity. The Baha'is of Iran suffer for their faith. We must make their faith in our vigilance, our concern, a well-founded one by never letting their plight slip from the agenda of the world's urgent humanitarian issues.●

CONCERNED CITIZENS FOR DEMOCRACY

● Mr. HUMPHREY. Mr. President, this Saturday the organization "Concerned Citizens for Democracy" is hosting a luncheon in Miami in honor of freedom fighters around the world.

This is a very timely meeting. There has been a great deal of euphoria and hoopla surrounding the summit conference that has blurred our perception of the true nature of Soviet communism. This meeting will provide a badly needed forum for those fighting for freedom to put the events of the past couple days into perspective.

Freedom fighters in countries such as Afghanistan, Cuba, Nicaragua, Angola, Mozambique, Ethiopia, Eastern Europe, and the Soviet Union know the other side of Mikhail Gorbachev's smile. Freedom fighters and their representatives have converged upon Washington in recent days, to remind us that despite the smiles and optimism of recent days, millions of people continue to suffer under the yoke of communism.

In Afghanistan, 120,000 Soviet troops continue to wage genocide against an innocent civilian population. Soviet aggression against that nation is directly responsible for creating the largest refugee population in the world. A new report on human rights in Afghanistan, financed by the Government of France, estimates that 1.24 million Afghans have died as a result of direct Soviet aggression in Afghanistan. That's 9 percent of the population. That's equivalent to more than 20 million dead Americans. There has been much talk in recent days about how Mr. Gorbachev is trying to "withdraw" from Afghanistan. The facts however show that Soviet aggression against the Afghans and neighboring Pakistan has increased since Mr. Gorbachev came to power rather than decreased.

Afghanistan is but one brutal example, Mr. President. Much closer to home, we can point to aggression in Nicaragua and Cuba. I salute "concerned citizens for democracy" for focusing their attention on the plight of the "captive nations" of the world. President Reagan appropriately honored Carlos Perez, the chairman of "Concerned Citizens for Democracy" in his 1984 State of the Union address. As a victim of Castro's oppression in Cuba, Carlos understands the dangers in trusting Communist protestations of "peace" and "goodwill." Actions speak for themselves.

Despite the media portrayal of the Soviet system and the Soviet leader as moral equivalents of American democracy and the president of that democracy, the fact remains there is a very fundamental difference between them. The ethical basis of our system is the consent of the governed. The ethical basis of communism is deceit, force, and terror. That difference remains, despite Mr. Gorbachev's smile, and we will be faithful to the birthright of our children if we keep it firmly in mind.

Mr. President, I commend, "Concerned Citizens for Democracy" on the occasion of their important meeting on Saturday.●

FRAUD OF THE DAY—PART 21

● Mr. HEINZ. Mr. President, since September I have been bringing to the Senate's attention a growing list of cases of customs fraud which demonstrate the need for legislation like the Senate amendment creating a private right of action against customs fraud to combat this illegal activity.

Today I want to discuss one of the most serious frauds of all—the fraud being perpetrated by the opponents of the Senate amendment in the form of irrational scare stories about it.

Several weeks ago as part of my series on customs fraud, I discussed—and disposed of—the concern that a private right of action would be used to bring frivolous claims for the purpose of harassing innocent parties. I responded to that scare story by describing in some detail how the Federal courts are now effectively dealing with frivolous lawsuits by imposing sanctions pursuant to rule 11 of the Federal Rules of Civil Procedure.

Today more than ever, thanks to the changes made in the 1983 amendments to rule 11, there is no doubt that it provides a comprehensive and effective method of policing litigation in the Federal courts.

Today I want to point out that the States have understood the usefulness of rule 11 even if those who oppose the Senate amendment have not. While rule 11 does not apply to actions brought in State courts, and, of course, the Senate amendment does not affect State courts since actions under it could only be brought in the Court of International Trade, the States have recognized the potential of frivolous lawsuits in a variety of areas aside from customs fraud and have enacted legislation similar to rule 11. This year alone a cursory survey reveals that at least 11 State legislatures have introduced and approved bills to deal with frivolous litigation. These States include: Alabama, Arkansas, Colorado, Connecticut, Idaho, Nebraska, North Dakota, Ohio, Texas, Virginia, and Washington.

What has impressed me most of all about these bills, Mr. President, is the degree to which they resemble Federal rule 11. The statute enacted in the State of Virginia, for example, reads almost verbatim like its Federal counterpart. Virtually every State that has acted has included a provision awarding costs and attorney fees for bringing a claim which lacks a basis in fact or law. The similarity to the Federal approach is more than coincidence. It stands as a convincing testimonial of the soundness and effectiveness of rule 11 and the ability of the courts to deal with sham lawsuits.

In conclusion, I hope that all my colleagues will support the customs fraud amendment and will not allow themselves to be sidetracked by irrelevant and fraudulent arguments against it from those who simply have little interest in doing anything about the fraud problem. It would be a terrible mistake not to enact this amendment because of an ill-founded concern over frivolous or harassing claims.●

NOMINATION OF ANN DORE McLAUGHLIN

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order as in executive session to order the yeas and nays on the nomination of Ann Dore McLaughlin, of the District of Columbia, to be Secretary of Labor.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. BYRD. Mr. President I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I have discussed this request with the distinguished Republican leader.

Mr. President, I ask unanimous consent that at the hour of 9:15 tomorrow, the Senate go into executive session; that there be 15 minutes of debate on the nomination of Ann Dore McLaughlin to be Secretary of the Department of Labor; that time for debate be equally divided between Mr. KENNEDY and Mr. HATCH; that at the hour of 9:30 a.m., the Senate proceeded to vote on the nomination; that that vote, which has been ordered to be a rollcall vote, be a 30-minute rollcall vote; that the call for the regular order occur at the hour of 10 a.m.; that upon the disposition of the nomination, the motion to reconsider be laid on the table; that the President be notified of the confirmation of the nomination; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the prayer by the Chaplain, there be a period for morning business to extend until the hour of 9:15 a.m., and that Senators may speak during the period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ORDER FOR RECOGNITION OF THE TWO LEADERS

Mr. BYRD. Mr. President, both the majority leader and the minority leader will be at the White House when the Senate convenes at 9 a.m. I therefore ask unanimous consent that the order for the recognition of the two leaders under the standing order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE CONTINUING RESOLUTION, HOUSE JOINT RESOLUTION 395

Mr. BYRD. Mr. President, I ask unanimous consent—and this, of course, is not being done without the knowledge of the Republican leader—that upon the return to legislative session under the order, following the disposition in executive session of the nomination aforementioned, the Senate proceed to the consideration of Calendar Order No. 465, House Joint Resolution 395, the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order entered, that the Senate stand in recess until the hour of 9 o'clock this morning.

The motion was agreed to; and at 12:12 a.m. the Senate recessed until Friday, December 11, 1987, at 9 a.m.

EXTENSIONS OF REMARKS

BEYOND THE CALL OF DUTY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. WELDON. Mr. Speaker, I would like to share with my colleagues an article which appears in this month's Rural Electrification magazine. As a former volunteer firefighter and past chief and president of my local volunteer fire company, I am proud to be able to share this American story.

"Beyond the Call of Duty" is the title and theme of this article. When you read this article, you read the story of 1.5 million volunteer firefighters across this Nation. I believe the author eloquently captures the unique nature of these men and women. The author states,

The most compelling reason why these men risk their lives entering burning buildings is the hardest for them to put into words. They describe it variously as community service, helping others, self satisfaction.

While reading this article, please consider the selfless commitment that our Nation's fire service personnel have made. Volunteer as well as paid firefighters have been supporting our Nation since the 18th century. Mr. Speaker, the time has come for this body to lend its support to our Nation's fire service.

[From the Rural Electrification magazine, December 1987]

BEYOND THE CALL OF DUTY

(By Kate Yancey)

How long would it take you at two in the morning to awaken from a deep sleep, dress, pull on heavy rubber boots and run to the car? Five minutes? Three? Could you do it in a minute?

"I can do it in 22 seconds!" boasts Johnie Ray, a bearded 44-year-old grandfather who fights fires. He's one of 60 volunteers in the Gravois (Mo.) Volunteer Fire Department.

"It takes a special breed to be a fire fighter," he says. "You've got to be ready day and night."

Pride permeates this small band of volunteers like the fog that shrouds their lakeshores at night. The Gravois volunteers protect 200 square miles of hilly, rough terrain bordering Missouri's Lake of the Ozarks, a vast body of water that attracts vacationers in the summer and retirees all year round. Twenty years ago there was no fire protection in this area at all. If a house caught fire, the only thing to do was to call friends and neighbors, who would vainly aim a garden hose.

Today the Gravois Volunteer Fire Department boasts four stations, 10 trucks and three helicopter pads. When the alarm sounds, a pumper is on the road in three minutes. Besides fighting fires, the volunteers can handle almost any emergency. Some are trained emergency medical technicians, some are schooled in tornado recognition and storm recovery; some attend classes on how to rescue accident victims. They search for people lost in the woods; they respond to ambulance calls; they carry ropes, crowbars, chain saws, portable generators and all that gear needed to enter a burning building.

"And not one of us collects one penny for it," says Jay Fleener, president of the department's board of directors. He says that not to arouse pity, but to indicate the abundant pride. "Those guys are working for free. They drive their own cars and buy their own gas to get to the stations. They even buy their own badges and sirens."

Community support is the key to his department's success, says Fleener. "You wouldn't believe what the people in this community do for us. Anything you ask for they'll give."

When the volunteers needed help and materials to build their second station in Laurie, a small town down Missouri Highway 5 from the original station in Gravois Mills, local people "opened up their arms and their hearts," says Wallace Talbott, a retired Army officer and spokesman for the department. "I mailed out appeals for money and one man sent us a catalog of plumbing supplies. He said to pick out everthing we needed and he'd give it to us."

A woman called to say that her husband had been an electrical contractor and that the fire department could come over and pick up all the conduit, wire and circuit breakers that they could haul. Local building contractors pitched in with donated time and materials, and with the help of the fire fighters, the station was built.

"Everything we build is 99 percent volunteer help," says Fleener. Indeed, most of the $15 fee that the 2,900 members pay every year goes toward overhead—insurance, utility and phone bills, truck maintenance, gasoline and tires. The rest of the department's expenses are paid by donated money.

The money pays for more than fire prevention. In winter, when snow blankets the steep old hills and turns the gravel, washboard roads to ice, the fire fighters are out there in their four-wheel-drives, delivering groceries and medicine, checking on cabins, being the good Samaritans. In return for their generosity, the community rewards them generously with time and money, says "Colonel" Talbott.

A great asset of the department, says the present fire chief, is the number of retirees in it. "Without our retired people on the force," says Don Heinerikson, "I don't think we'd have anything to speak of. A lot of fire departments don't look at the older people as being useful or effective. We rely on those skills and the wisdom that they bring to us. They come from all kinds of jobs that we put to great use. We've got retired welders, electricians, mechanics, and then we've got people who have been in banking, insurance, administration; we've even got some retired air traffic controllers. It makes for a pretty fantastic fire department."

The average age of the volunteers is 54. They range from a 16-year-old high school student to two 78-year-olds. Not everyone fights fires: Orville Lester, a retired mechanic from Kansas City, Kans., is one of the 78-years-olds. He contributes by collecting garage sale items for the volunteer women's auxillary, the Buckettes. "Orville is a great asset," says Chief Heinerikson. "And like the other retirees, he's out there with the public and able to do a lot of PR for the department that those of us who work don't have the time to do."

Regardless of age, the volunteers defend their type of department fiercely. What others might see as handicaps, these men see as advantages. For example, if given the choice, would they convert to a tax-supported department, instead of one supported by members? After all, it would put an end to the seemingly endless chore of fund raising.

"Noooo way! No way," says board president Fleener. "One of the reasons we are a volunteer department is that we don't want a city government or a county council to be dictatorial of our policies. If we're going to be volunteers we want to run it and we want to provide the services. See, the way we're organized right now, we don't have one man running around telling everybody what to do. We all know what to do. We know our trucks, we know our equipment and how to handle it."

The Colonel agrees. "If we got paid for it, then the public out there would say, hey, you're spending our tax money, and we need to keep an eye on you."

The volunteers elect new officers every August, and no one can hold the same position for two consecutive years. Most of the veterans have been a station captain, a lieutenant, a board member or maybe even the fire chief at least once.

Because of the placement of its four fire stations and the quality of its equipment, the Gravois Volunteer Fire Department has been rated a Class 9 department by the Insurance Service Office, a national organization of property and liability insurance companies established by the insurance industry. The lower the rating, the lower home owners' insurance rates are.

To get a Class 4 or better almost always requires a full-time career municipal department, according to Bob Finley of the Missouri Fire and Rescue Training Institute, part of the extension division of the University of Missouri-Columbia. Most rural departments are rated lower than that, but most ratings better than a 10 result in insurance rate savings, he says. The Gravois volunteers estimate that they can save their members up to a third on insurance premiums.

"The Gravois department is out of ordinary for the state as a whole," says Finley. Of Missouri's estimated 750 volunteer departments, representing 18,000 volunteers, Finley estimates that up to 30 percent have only one station and one pumper truck. "Most departments average 15 to 25 volunteers and cover only about 25 square miles. I'd say the Gravois department is one of the largest in the state."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

It wasn't always that way. Twenty years ago Jay Fleener and his partner were in a resort business, Larry Whittman, bought a 1946 Ford pumper for $600, mainly to pump out their resort's swimming pool. Soon they were responding to fire calls simply because there was no other fire protection in the area.

"We fought fires in baseball caps and T-shirts," says Whittman. "There were no helmets, not even any gloves." Even today, one of the department's pumpers is mounted on the body of the original old Ford.

The volunteers pride themselves on finding bargains by buying used pumpers at a third of the cost, then rebuilding them to suit their needs. A lot of their fire-fighting equipment—coats, hats and gloves—are hand-me-downs donated by big city departments when they buy new equipment.

"We really don't feel deprived of anything right now, especially when you compare us to other fire departments that are really struggling," says Whittman.

And struggle some of them do. White Hall, Ala., has a tiny force that was given a truck from nearby Selma. The front seat was three boards propped up on one end by a tree stump, according to Jim Monihan, chairman of the National Volunteer Fire Council. Monihan has been a volunteer fire fighter with the Lewes (Del.) Fire Department for 23 years and has seen most of the triumphs and tragedies of the trade.

Monihan's group is currently in the middle of surveying rural volunteer fire departments, trying to discover what makes them tick, and why some fail while others thrive. "One of the problems we've seen is recruitment and retention of personnel," he says. "One department will be full to the hilt and the one right next door will be screaming for help. We don't know why. But that's what we're hoping the survey will reveal."

There are other rural fire problems. For instance, the death rate from fires is higher in rural America than anywhere else in the world. People living in rural communities of less than 2,500 people are two to three times more likely to die from fire than people in the largest cities, according to the U.S. Fire Administration. Several factors contribute to this. Fewer rural homes have smoke detectors; there are more wood-burning stoves and portable space heaters; homes are farther from the fire stations; there tends to be less enforcement of building and fire codes; and rural fire departments have less time and fewer resources to spend on fire prevention.

The Gravois volunteers know the frustration of getting a fire call from the outskirts of their territory, knowing it will take precious minutes to get there. They know what it's like to have to haul their own water, pump from farm ponds, deal with treacherous roads and old equipment.

They sympathize with the 1.5 million volunteers from coast to coast who juggle the demands of jobs, family and fire fighting. Most of the Gravois volunteers donate 500 to 600 hours a year to this community service; some of the retirees give up to 1,000 hours. They know what it's like to be called out at one in the morning, to come back at three and crawl into bed, smelling like smoke, beside a sometimes not-so-understanding wife.

All activities in their lives are subject to interruption. Some have been called out of church, some out of the shower ("You don't dry off, you just put your clothes on over the soap"). Others have been beckoned from national anthems at ball games, from meetings at work, from classes in school, and of all places, from the privacy of their bathrooms.

One of the biggest frustrations, they say, is that people in rural areas don't know where they live. All the preparation in the world on the part of the volunteers will not help the home owner who calls in and can't give directions to his home. The Colonel remembers one incident in particular.

"We had one guy call in a few years back, frantically. He said, 'This is Dale Cartwright. I've got a cabin on fire. Hurry!' Then he hung up. Well, the fireman who took the call had only been on the force about 6 months. He didn't know any Dale Cartwright, so he had to drive around looking for smoke. By the time he got there, the cabin was in ashes. But he had done the only thing he could do."

One of the solutions to this problem has come from Co-Mo Rural Electric Cooperative. "Co-Mo's been a big help by sharing their computer printouts with us," says Larry Whittman. "Each of their customers has a location number paired with maps of the area, and it's helped us locate fires better than any other system."

Three employees of the Tipon, Mo.-based co-op are Gravois volunteers.

Why do volunteer fire fighters put up with these frustrations? One reason, and probably a small one, is the excitement of the call. Another is the camaraderie. At their weekly Thursday night meetings, after business is done, the Gravois volunteers gather 'round and badger each other with gentle humor.

One of them flushes to the gills when reminded of the time, while in a hurry to dress for a call, he forgot to put pants on under his fireman's suit. Another laughs and shakes his head as he recalls the time that only half of a house was on fire; the other half was intact. The only way to save it was to get a chain saw, cut the house in two, and pull the burning part away.

The camaraderie is deepened by the knowledge that one's life depends on a buddy in the pumper or the guy up the hose lost in smoke. "You have to get close to people when you're out here working with them in a volunteer situation," says chief Heinerikson. "We see some pretty bad stuff. Sometimes after a particularly bad fire the guys will go back to the station and talk about it. It helps to talk it out. . . ."

The most compelling reason why these men risk their lives entering burning buildings is the hardest for them to put into words. They describe it variously as community service, helping others, self-satisfaction.

Johnie Ray puts it this way: "If you can save a house or you can save one little thing out of a house, or if you can save a life, it's all worth it. Because after a fire, when you reach for your toothbrush, or a coat or something that came from a grandparent, it's gone. So anything that we save, it's very important. Ultimately, we all lose something or somebody, and if we can prevent that for just a little while, it makes you feel good; it makes it all worthwhile."

Worthwhile enough to awaken from a deep sleep at two in the morning and be out the door in 22 seconds.

TERRELL, TX, HONORS BFTS MEMBERS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. HALL. Mr. Speaker, during World War II, and prior to the United States official entry into the fight, the city of Terrell, TX, served as the home of the No. 1 British Flying Training School, to train pilots for the Royal Air Force.

Recently, in Terrell, 100 members of No. 1 British Flying Training School Association, many traveling from England, were reunited—some brought together for the first time in 45 years.

The entire community turned out to honor these men. The day's events were highlighted by the dedication of a new municipal airport access road named in honor of the No. 1 BFTS Association and the opening of the No. 1 BFTS Exhibit at the Terrell Heritage Society Museum—a remarkable display of uniforms, historic photos, newspapers, magazines, and equipment.

No. 1 British Flying Training School was the first of six schools set up in the United States in 1941 to train pilots for the Royal Air Force. They trained in Stearman PT 18's, Vultee BT 13a's, and North American AT 6a's loaned by the U.S. Army Air Corps. The instructors, both flying and ground, were American civilians. Approximately 2,200 cadets passed through No. 1 BFTS, including about 130 Americans—the first group graduating November 2, 1941, and the last, August 24, 1945.

During the life of the school, 19 cadets were killed in flight training. All are buried in the BFTS plot in the Oakland Memorial Park in Terrell, TX, which was officially dedicated by Viscount Halifax, British Ambassador to the United States, in 1942. This plot has been cared for over the years by the citizens of Terrell and originally by those ladies who arranged the hospitality extended to the cadets during their training in Terrell.

After returning to the United Kingdom, many of those trained in Terrell were killed in action—but many were also awarded decorations for bravery—one winning the Victoria Cross, Britain's highest award for courage.

In 1962, a reunion dinner was held in London. Those who took part subscribed to a special memorial plaque for the people of the city of Terrell, recording their association with No. 1 BFTS. This was presented at a ceremony in 1962 and has been displayed in the foyer of the National Guard Armory. In 1983, a No. 1 BFTS Association was formed in the United Kingdom and in 1985 a North American branch was added. Reunions have been held in London in 1984 and 1986 and in Dallas and Terrell in 1985.

Mr. Speaker, it is important that we recognize these men and their dedication to protecting our freedoms. I especially want to commend the officers of the No. 1 BFTS Association and their president, Air Chief Marshal Sir John Gingell GBE, KCB. On the United Kingdom committee are Alan Bramson, chairman; A.J. Allam, secretary; Ron Miller, treasurer; and directors, Capt. Basil Amos, Capt. Chris Couch, Don Sawyer, Tom Broyles, and Fergie Rettie. On the North American committee are Eric Gill, chairman; Nicky Naumovick, vice-chairman; Marvin Krieger, secretary; W. Stewart Storie, treasurer; Henry C. Madgwick, membership chairman; and directors, Pauline Bond Baxter, Virginia Brewer, T. Paul Nelson, Bill Brookover, and Charles Dyar. These brave young men comprised part of the group Winston Churchill alluded to when he said "Never in the field of human conflict was so much owned by so many to so few"—those who fought and won the Battle of Britain—and preserved the free world.

As we adjourn today—let us do so in memory of them.

CLAUDE "BLACKIE" EVANS REPRESENTS THE FINEST IN NEVADA'S ORGANIZED LABOR MOVEMENT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BILBRAY. Mr. Speaker, I rise today with deep respect and a profound sense of admiration to pay tribute to one of Nevada's most outstanding labor leaders, Mr. Claude "Blackie" Evans. Mr. Evans is a man with true drive and ambition to bring the voices of the working men and women of Nevada to the forefront of various issues.

Formerly a boxing champion, Mr. Evans has left the boxing ring to make his arena the Nevada Legislature, resort industry board rooms, factory offices and any other place where he may advocate the rights of workers. A genuine fighter, Mr. Evans has been instrumental in leading this advocacy into the limelight. As a steelworker for 18 years at the Titanium Metals Corp. plant in Henderson, NE, Mr. Evans has rapidly climbed the ladder of success, bringing with him the hopes, dreams and aspirations of the working men and women of our State. At 18 he was elected vice president of the steelworkers local and 4 years later became the youngest president ever. In 1978 he was elected executive secretary-treasurer of the Nevada AFL-CIO and is currently seeking his fourth term.

Mr. Evans has fought with courage, dignity and diligence in the pursuit of his vision of a just system and improved conditions for workers in the State of Nevada, as well as nationally. He has spent countless hours voicing the concerns of workers, and has worked effectively at broadening and articulating these views. His efforts and those of others bore fruit during the 1987 session of the Nevada State Legislature.

Mr. Speaker, on behalf of Nevada, I wish to commend Mr. Evans on the unique caliber of his achievements. He is an individual with many talents and an asset to the State of Nevada and to this country.

NATIONAL OLDER AMERICANS ABUSE PREVENTION WEEK

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. PEPPER. Mr. Speaker, the physical, financial, and psychological abuse of the elderly is a shocking and still largely hidden phenomenon affecting our Nation's most helpless and vulnerable citizens. The average American would find it hard to believe how widespread elder abuse is—how its victims live in cities, suburbs, and rural areas, and represent every socioeconomic group, every race, and every religion.

My Subcommittee on Health and Long-Term Care of the House Aging Committee has tried to document this problem since the late 1970's. In 1981, the committee issued a report, "Elder Abuse: An Examination of a Hidden Problem." At that time, we estimated that one out of every 25 older Americans or roughly 1 million people may be victims of abuse each year. The committee found that elder abuse is simply alien to the American ideal. Even abused elderly are reluctant to admit their children, loved ones, and those entrusted with their care have assaulted them. For this reason, the abuse of our elderly at the hands of their children until recent items has remained a shameful and hidden problem.

Through subsequent hearings and a continuing investigation on the part of the Aging Committee, and increased attention by the media, elder abuse has finally been acknowledged as a serious social problem. Unfortunately, the States are currently severely hampered in channeling moneys toward programs for the prevention, detection, and treatment of elder abuse. Since 1981, the primary source of Federal funding for State protective services, the social services block grant, has been drastically reduced, by direct cuts and the effects of inflation. Yet the incidence of elder abuse, according to estimates of the Subcommittee on Health and Long-Term Care, rose to 1.1 million cases annually in 1985, representing an increase of 100,000 abuse cases annually since 1981. Faced with the clear need to do more, the Federal Government, regrettably, is doing considerably less.

To call attention to the problem of elder abuse and to encourage programs and activities at all levels of government, I introduce today legislation to designate the week of May 1-7, 1988 "National Older Americans Abuse Prevention Week." This measure, which has been introduced in the other body by my colleague, Senator DECONCINI, would go far toward improving the health and well-being of older Americans, which is certainly one of our Nation's highest priorities. A variety of activities conducted around the Nation would draw needed attention to the shocking national problem of elder abuse and, it is hoped, result in new strategies for prevention.

I strongly encourage my House colleagues to add their support to this initiative. Our helpless, vulnerable elderly, for whom protective services are so limited, are counting on the support of all of us.

Thank you.

H.R. 3723: TO PREVENT INTERAGENCY DISPUTES WITH THE FEDERAL FINANCING BANK FROM DISRUPTING RURAL ELECTRIFICATION ADMINISTRATION LOAN GUARANTEE PROGRAMS

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BARTON of Texas. Mr. Speaker, yesterday, myself and Congressmen MARVIN LEATH and CHARLES STENHOLM introduced legislation which will help our Nation's rural electric cooperatives. This legislation stems from problems that rural cooperatives have experienced when the Rural Electrification Administration [REA] and the Federal Financing Bank [FFB] have failed to come to terms on their annual loan commitment agreement.

Mr. Speaker, in July of this year, Brazos Electric Cooperative contacted me about a problem they were having securing the release of approved funds from the FFB, an entity of the Treasury Department. After numerous contacts with both agencies in question, I discovered that Brazos Electric Cooperative, as well as other cooperatives across the country, had not received approved guaranteed loan funds because the annual loan commitment agreement had not been signed. This agreement is negotiated between the REA and the FFB and details the fiduciary responsibilities the REA has with the FFB.

After learning of this, I immediately started working on the problem. After 2 months of diligent work, and after soliciting the personal involvement of the Secretary of Agriculture, Richard Lyng, the agreement was signed. The total delay experienced by cooperatives around the country was 11 months. In short, a 12-month agreement was signed the last month of the time period the agreement was designed to cover.

The legislation we just introduced will solve this problem by continuing to keep the previous year's agreement in force until a new one is signed. It does not affect the agreement's negotiations, give unfair advantage to either party, nor set a definitive timetable for a new agreement to be signed. It simply keeps the old agreement in effect until a new agreement is reached so that authorized and approved loan funds can be released in a timely fashion.

I urge all Members of the House to support this simple and commonsense legislation. Senator BENTSEN and several of his colleagues introduced similar legislation this week indicating both Houses support speedy resolve of this problem.

The following is a copy of the act:

H.R. 3723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That section 6 of the Federal Financing Bank Act of 1973 (22 U.S.C. 2285) is amended by adding at the end the following new subsection:**

"(d) Notwithstanding any other provision of this section, section 7, or section 17, any agreement entered into between the Rural

Electrification Administration and the Bank, which governs the fiduciary responsibilities of the Rural Electrification Administration with respect to loans made and guaranteed under section 306 of the Rural Electrification Act of 1936 during any period ending on or after September 30, 1986, shall, notwithstanding the expiration of such agreement, remain in effect and govern fiduciary responsibilities of the Rural Electrification Administration with respect to loans so made and guaranteed after such expiration date, until such agreement is superseded by another agreement entered into between the Bank and the Rural Electrification Administration.".

JOURNALIST PUTS FOCUS ON RELIGION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. LEHMAN of Florida. Mr. Speaker, in south Florida, a 60-year-old journalistic tradition has acquired vibrant new editorial leadership.

Norma Orovitz is a multitalented person whose rich background and multiple careers have already made her an important asset to our community. She has recently taken on a challenging new leadership position as managing editor of the Jewish Floridian.

Norma Orovitz was recently profiled by another important south Florida institution, the Miami Herald, and I would like to share this article with my colleagues.

JOURNALIST PUTS FOCUS ON REGION

(By Jennifer Tescher)

Norma Orovitz, newly appointed managing editor of The Jewish Floridian, describes herself as a transitional woman.

The Beaches area resident says she uses her traditional religious background and feminist ideals to combine Judaism and journalism in one package.

"I'm intimately familiar with the community because I've written about it for 15 years," said Orovitz, 44. "It's a perfect marriage for me."

Communicating with the community is nothing new for Orovitz. For six years she was a consumer columnist for The Miami News. She also has hosted and produced the "Smart Shopper" consumer segments for A.M. South Florida, which aired on WTVJ-Channel 4 in 1985.

"As a reporter, my ideas only went as far as my words. As an editor I can play with the packaging. I'm involved from conception to completion," she said.

In its 60th year, the Dade County edition of The Jewish Floridian has a circulation of 25,000. Orovitz says it is the most established Jewish publication in this part of the country. It recently gained some competition, when The Miami Jewish Tribune, another Miami-based weekly, started publishing in December 1986. The Tribune claims a circulation of 36,000 in Dade and south Broward counties, said Jack Levine, its president and co-publisher.

Orovitz said the presence of The Tribune makes a statement about South Florida's Jewish community.

"It says we are a vibrant community that can support more than one paper," she said.

To write about the Jewish community, Orovitz said she needs to play an active role in it. She has.

Four years ago she started a weekday breakfast forum at Temple Israel, where professionals could meet to discuss the growth of downtown before heading to the office. Now she's a vice president at Temple Israel and a member of its board of trustees.

"People like to feel that there is a place that's theirs. I consider Temple Israel Dade County's neighborhood congregation," she said.

Orovitz is the first woman president of the southeast region of American Jewish Congress, an organization that fights for the rights of Jews and other minorities.

"I was asked to join AJC because I am a woman and a non-attorney," she said. "To become president is such a delicious irony," she said.

Holding high leadership positions was not Orovitz's original plan. Her aspirations ended with having children and possibly teaching high-school English.

After having three daughters, she went back to college and graduated at age 32.

"I'm grabbing on to the opportunities my daughters take for granted," she said. "I feel a tremendous responsibility that what was given to me I give to my children.

"I only know how to do my best."

OUTDOOR AMERICA CONSERVATION FUND ACT OF 1987

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. ATKINS. Mr. Speaker, each generation of Americans leaves its signature on the landscape of the United States. We can thank our forebearers for the preservation of much of the natural beauty of America in parks and protected conservation areas all over the country.

But what of our generation? What will the America we leave to our children look like? In our time, Federal funding for conservation has decreased precipitously, and the open spaces that give America its character are being filled in by overdevelopment. We need to change this trend immediately if we are to prevent America from becoming a concrete country.

The centerpiece of previous efforts at the Federal level has been the land and water conservation fund. However, the land and water conservation fund is dependent upon yearly appropriations by the Congress. These appropriations have averaged $300 million per year, never reaching the authorized total of $900 million per year. Last year, only $188 million was appropriated. Clearly, if we are to make the preservation of open space a national priority, we need to assure a steady source of funding for the acquisition of land.

That's why I am introducing today the "Outdoor America Conservation Fund Act of 1987." A companion bill was introduced by Senator JOHN CHAFEE. This bill takes a first step in the right direction by replacing the poorly funded land and water conservation fund with a dedicated trust fund that will provide a steady source of funding for land acquisition. The new trust fund would be self-sustaining, so it would not add to the deficit.

The fund would be drawn from three sources: $300 million from the Outer Continental Shelf oil and gas production and leasing; $200 million from the issuance of conservation bonds for both large and small investors; and $500 million from a real estate transfer tax of 2.5 percent on transactions larger than $5 million. It should be noted that the rate of the real estate transfer tax is based upon preliminary estimates, and may be reduced. And it should be noted that the trust fund will not cost the ordinary taxpayer a dime.

My legislation would direct that 55 percent of the fund be sent to the States, localities and land trusts, leaving 40 percent for acquisitions by the Federal Government and 5 percent for a new "National Endowment for the Preservation of Open Space."

The States, localities and land trusts would be required to provide a 50 percent match for grants for land purchase, and a 65-percent match for grants for rehabilitation of existing projects. Grants for the purchase of areas of national significance would only require a 25-percent match from the recipient.

The Federal portion would be divided among the National Park Service, the Fish and Wildlife Service, and the Forest Service. The Federal Government currently has a tremendous backlog of authorized land purchases within national parks and Federal wildlife refuges that only await funds. The outdoor America conservation fund could provide these funds quickly.

The National Endowment for the Preservation of Open Space would encourage private contributions to conservation projects and programs. We need Federal leadership to galvanize support for conservation programs among private businesses. The National Endowment for the Preservation of Open Space would act as a lightning rod for private activism for preserving open land, and as an information clearinghouse to help different parts of the country learn about successful programs elsewhere.

The land and water conservation fund is scheduled to expire in 1989. Now is an appropriate time for the Nation's leaders to begin reforming and modernizing the funding mechanism for the purchase of open land.

We can meet the challenge posed by overdevelopment, if we act now. We can turn the tide from land consumption to land conservation. I urge my colleagues to support the bill.

TRIBUTE TO JACKIE L. ROWAN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. HALL of Texas. Mr. Speaker, I would like to commend Jackie L. Rowan, from my hometown of Rockwall, TX, for receiving the Carnegie Medal from the Carnegie Hero Fund Commission for risking his life while saving another.

This distinguished award was given to him for rescuing 2-year-old Andrew Hester from his burning house. After Andrew's mother tried unsuccessfully to rescue him, Jackie Rowan climbed through a window into Andrew's bedroom, and despite heavy smoke, crawled to Andrew's crib and lifted him out. By following the sound of voices outside, Rowan crawled back to the window, handed Andrew out to others, and then safely escaped by diving out the window.

Rowan's award brings to 93, the total number of persons who have been recognized by the Commission in 1987, and to 7,162 the total number of persons throughout the United States and Canada who have been given the Carnegie Medal since the fund's inception in 1904.

Mr. Speaker, I want to thank Jackie Rowan and all the recipients of the Carnegie Medal for their bravery and for risking their lives while saving the lives of others.

TRIBUTE TO HERMAN WESTFALL

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BILBRAY, Mr. Speaker, I rise today to bring to the attention of my colleagues the retirment of Herman Westfall, an outstanding chief financial officer for the University of Nevada—Las Vagas. A first-rate administrator, Mr. Westfall has been instrumental in the school's development and rapid growth.

In 1962, Mr. Westfall came to Las Vegas as the new assistant business manager for, at that time, the Southern Regional Division of the University of Nevada. As he watched a campus comprised of a handful of buildings, a student body of 1,059, and a faculty of 50 grow to become a major university with 25 buildings, a student population of over 13,000, and a faculty of more than 400 members, Mr. Westfall's responsibilities have increased. As business manager he did the work of purchasing, personnel, and the business office. Later on Mr. Westfall assumed the responsibility of the physical plant, which had been previously run from Reno. It was not long before the university became a full-fledged business operation, with their own issued checks and bank account. In 1968, Mr. Westfall was named liaison to the State public works board and began supervising the construction of campus buildings.

Mr. Speaker, what this individual has accomplished for the academic environment in Nevada is an effort that we can all admire. Education is an issue that is vital to our Nation as a whole. It is my pleasure to call this unique and professional service to the attention of my collegues. The work of Mr. Westfall will long be engraved upon the minds of future generations of leaders in Nevada and for our Nation.

NATIONAL DIGESTIVE DISEASE AWARENESS MONTH

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. PEPPER. Mr. Speaker, for 5 consecutive years, I introduced a House joint resolution to designate 1 week of the year "National Digestive Disease Awareness Week." Last year, to give this area of concern the attention it merits, legislation was passed naming May "National Digestive Disease Awareness Month." To continue our successful effort to enhance the awareness of the American public, the Congress and the administration through this effort, I am introducing today a bill designating May 1988 "National Digestive Disease Awareness Month."

Digestive diseases are more widespread than many imagine. More than 20 million Americans suffer from chronic diseases of the digestive system. Over 14 million cases of acute digestive diseases are treated in this country annually, and one third of all malignancies are digestive related.

Digestive diseases rank third among illnesses in total cost in the United States. Digestive diseases necessitate 25 percent of all surgical operations. These illnesses represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality.

The cost of digestive disease is estimated at $17 billion per year in direct health care costs, and figuring for working hours lost and other losses, the total annual economic burden for digestive disease is close to $50 million annually. Of course, these diseases also take their toll in ways that cannot be measured in dollars.

The bill I introduce today is a response to these high costs, in financial terms and in human terms. It calls for a unified national effort to increase awareness and to combat digestive disease.

I urge my colleagues to join me in cosponsoring this initiative, as so many have done in the past. Thank you.

QUESTIONS OF INTEGRITY AT LIVERMORE LABORATORY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BROWN of California. Mr. Speaker, in the midst of this week's summit meeting between President Reagan and General Secretary Gorbachev we are reminded by an article in the Sacramento Bee, how ideological biases can intervene to disrupt possible agreements on highly scientific and technical arms control issues.

There are enough complex issues relating to the President's strategic defense initiative [SDI] without raising the question of whether the President and his advisers received misleading and overly optimistic presentations from two key scientists of the University of California-operated Lawrence Livermore Laboratory. Yet that is the charge made by the former director of Nuclear Weapons Programs of the Lab, Roy Woodruff. His statements are confirmed by the present director of the program, and by other scientists who are familiar with the situation, according to the Bee's story.

The x-ray laser program at Livermore has had a troubled history. The present eruption of charges has been brewing since Roy Woodruff resigned his position in 1985 in protest at being prevented by lab Director Roger Batzel from correcting "overly optimistic, technically incorrect" presentations about the program. According to Woodruff, Dr. Edward Teller, and Dr. Lowell Wood presented to many of the Nation's highest policymakers exaggerated claims about the prospects for success of the x-ray laser program. While some level of optimism is warranted and expected in any scientific pursuit, the presentations by Teller and Wood to President Reagan, William Casey, Caspar Weinberger, Robert McFarlane, and others were more than simply optimistic projections; they were politically motivated exaggerations aimed at distorting national policy and funding decisions.

Beyond the specific technical issues raised by Woodruff's charges are additional questions which demand thorough investigation and reasonable answers. A whole complex of mechanisms are nominally in place to oversee the Livermore and Los Alamos laboratories, but these mechanisms failed almost uniformly to investigate the charges and correct the misrepresentations. For example, why didn't the University of California [UC], which directs the lab and is responsible for the technical quality of its work, exercise more responsible oversight of this situation? Why have the university liaison to Livermore, the senior vice president for academic affairs, and the president of the university failed, for 2 years, to meet with Mr. Woodruff to discuss the evidence he collected documenting the misrepresentations, despite repeated requests for meetings by Mr. Woodruff? Why has the UC Scientific and Academic Advisory Committee, which reviewed issues pertaining to the university and the nuclear weapons labs under university management, ignored the controversy surrounding the x-ray laser? The regents of the university too were familiar with Dr. Teller's and Dr. Wood's abuse of their positions at the lab, yet they failed to act.

One must also ask why the Department of Energy made only a cursory investigation into this matter, and then failed to release the reports prepared by the two investigators? Has the Congress created an uncontrollable institution, free to pursue policies favorable to its own continued existence and elite status, and unanswerable to broader public policy goals?

What is fundamentally at issue in this case is the integrity of the Lawrence Livermore Laboratory and of the entire national laboratory system. We cannot tolerate politically driven or technically inaccurate presentations from Lawrence Livermore, or any of our weapons labs, to our Nation's top policy makers. The director of Livermore, Roger Batzel, should have taken action to balance the highly subjective and ideologically motivated influence of Dr. Teller and Dr. Wood. The university president and the regents should have stepped in. Department of Energy contract monitoring officials should have conducted a thorough investigation. By failing to act, these people have failed the Nation.

Beyond the question of scientific integrity is the question of credible and timely information for the purpose of sound policy making. I would like to refer briefly to other examples which give reason for concern.

One of these is a conflict surrounding a completed but not yet released report by the Office of Technology Assessment [OTA]. This report deals with the strategic defense initiative [SDI] program, looking specifically at the questions of software and survivability. The report was mandated by Congress and was due to be delivered in an unclassified form by the end of August. It is now 3 months overdue because of absurd classification decisions by the Department of Defense. Information that has been cleared by DOD for other studies has been stamped classified in the OTA report. Information derivable from obvious physical principles has been marked classified. Even information from public testimony by government witnesses has been labeled classified by DOD reviewers of this OTA report. Clearly, the Department of Defense has decided to do what it can to prevent this report from being delivered to Congress.

A similar situation confronts a report by the Congressional Research Service on seismic verification of underground nuclear testing. The report, based entirely on unclassified information, has been deemed secret by the Department of Defense, and will not be released.

One could almost surmise that there are some ideologically driven administrators at the Pentagon who wish to control the flow of information necessary for sound policymaking by the Congress.

The common link in all of these situations is the distortion of policymaking resulting from erroneous, misleading or inadequate information. I would not go so far as to claim that any one party or administration has a monopoly on virtue in this regard. I would contend, however, that the very future of our society depends upon the availability of adequate and accurate information by policymakers. To that end, I have requested the help of the General Accounting Office in verifying the situation described in the Sacramento Bee article. I will be taking other steps to deal with some of the other issues I have raised.

I invite my colleagues to read the Bee story in full, and to be prepared for the next chapter in this disturbing story.

[From the Sacramento Bee, Dec. 4, 1987]

UC, "Star Wars" Data Hit as Summit Nears

(By Deborah Blum)

Livermore.—California scientists gave top Reagan administration officials misleading information about "Star Wars" weapons before the Reykjavik arms-control summit with the Soviets last year, according to documents obtained by The Bee.

The University of California, whose scientists prepared that information, was told it was wrong—much of it based on exaggerated claims—but did nothing to correct it. UC executives say they have no plans to intervene before next week's arms-control meeting with the Soviets either.

Internal letters and memos claim that overly optimistic presentations on space weapons have been made to White House arms-control negotiators, ranking Pentagon officials and members of Congress as recently as this fall—and as long ago as 1983.

Four years ago, for instance, scientists at Lawrence Livermore National Laboratory, managed by the university, wrote to the White House science adviser, saying that one key "Star Wars" program, the classified X-ray laser, was entering "engineering phase," ready to be developed as a full-scale weapon. The laser is still reportedly not a usable weapon.

The 1986 Reykjavik summit collapsed because of a U.S. refusal to restrict "Star Wars" research, partly based on administration insistence that space weapons could be deployed by the mid-1990s. President Reagan said recently that he will not bargain over the program this year either.

Robert Park, who monitors politics for the American Physical Society, the professional organization of the country's physicists, said that Reagan has become such a strong backer of the space weapons program that perhaps balanced information from Livermore would not have made a difference at Reykjavik.

"But the president should have had all the facts, and they should have been correct," Park said, from the society's Washington, DC office.

"What disturbs me in all this is the role of the University of California. It's not very comforting to find that they are stewards of a national nuclear weapons laboratory and that they didn't give the rights of the rest of the country to be assured good information a moment's thought. And a lot rides on that information."

Shortly before the Reykjavik summit, in October 1986, Roy Woodruff, the former head of nuclear weapons programs at Livermore, urged university administrators who operate Livermore for the U.S. Department of Energy to make sure that balanced information was provided to Reagan. The university took no such action, Woodruff said.

In formal complaints filed with both the university and the laboratory, Woodruff charged that two top Livermore scientists, Edward Teller, developer of the hydrogen bomb, and Lowell Wood, a physicist and a protege of Teller, made exaggerated statements about the X-ray laser and other "Star Wars" programs to high White House officials. Teller, a friend of Reagan's for 20 years, has been considered one of the most influential voices in persuading the president to support the space weapons program.

"Last October, I met with (university Vice President) William Frazer and I said, 'The president is about to go to the summit and the only person from the university laboratory who has given him advice about 'Star Wars,' as far as we know, is Edward Teller,' " Woodruff said.

"I asked him how he felt about that. He said he would check into it. But he didn't call me back."

Frazer, UC vice president for academic affairs, said he recalled the meeting, but at the time, he didn't feel any specific concern about the Reykjavik summit. Frazer said he was more concerned about the larger issue, of protecting freedom of speech for laboratory scientists, including Teller.

Teller and Wood refused to comment.

James S. Kane, the university's liaison to the laboratory, said that it's not the university's job to judge the accuracy of information coming out of Livermore or its companion facility, Los Alamos, even though it is responsible for making sure the labs produce good technical information. The university receives $12 million a year from the Energy Department to manage the labs.

"I don't see the university ever going around with a truth squad trying to correct errors," Kane said. "And that's admitting that errors may exist. I don't think it's the university's mission to establish institutional truth."

The only formal action the university has taken is to review personnel grievances filed by Woodruff, who is charging that the laboratory retaliated against him for trying to correct misinformation put out by Wood and Teller. Woodruff resigned as head of defense systems at Livermore in October 1985, after the director repeatedly refused to allow him to send out letters of correction, according to the grievance.

Woodruff claimed, in documents filed with the university, that from 1983 to 1985, Teller and Wood sent out a series of letters greatly overstating progress on the X-ray laser, which relies on a nuclear bomb explosion to drive multiple laser beams, each supposedly capable of destroying a missile. The statements included a 1983 letter to then White House science adviser George Keyworth saying that the X-ray laser was ready for engineering work.

During that time period, the White House promised Livermore an extra $100 million for X-ray laser research, causing even supporters of weapons development, such as the director of Los Alamos and the top Defense Department official on nuclear weapons, to warn that more legitimate weapons research was suffering as a result.

After Woodruff spent almost a year trying to interest other university officials, he sent a letter last February to UC President David P. Gardner, asking him to help protect the lab's scientific integrity.

"Fearless independence and objectivity" in a nuclear weapons program are essential to the country's security, he wrote.

Gardner refused to see him and still has not done so; today, the UC president says he didn't want to get involved with a potential grievance and was well-informed through Woodruff's discussions with university staffers.

"I can't understand why the university would act as if the only issue involved is a personnel grievance," Park said. "I find it troubling and so do a lot of other scientists. I suppose because I'm an academic myself, I expect more from a university."

Woodruff says, both in his grievance and in a series of letters sent to university officials, that he first became aware of faulty information going out from his program in December 1983. A colleague at Livermore leaked him a copy of the letter sent to Keyworth.

"Although I was in charge of the X-ray laser program at that time, I had not been allowed to see the letter," Woodruff said. He asked laboratory director Roger Batzel to send a letter of correction, but according to Woodruff's grievance complaint, Batzel refused to send a letter or to allow Woodruff to do so.

The complaint adds that although Batzel promised to allow Woodruff to review future letters from Teller and Wood, the same thing happened a year later: misleading letters were sent to Paul Nitze, one of Reagan's top arms negotiators, and Robert McFarlane, then head of the White House

National Security Council. Again, Woodruff was not allowed to correct them.

During that same time period, records from Livermore's classified briefing books show that Teller and Wood were making similar presentations to other high-ranking officials about "Star Wars" issues, both concerning the X-ray laser and more generally.

In spring 1985, Wood briefed the late William Casey, then director of the CIA, about Soviet work on the X-ray laser, calling his report: "A Technological Race for the Prize of the Planet." But other laser experts say 1985 was a slow year in Soviet X-ray laser work—during most of 1985, the Soviets voluntarily halted nuclear bomb tests, which are essential to the research.

In April 1985, Wood also briefed Gen. James Abrahamson, chief of the SDI program. That briefing, called "Columns of Fire in the Valley of the Giant Mushrooms," referred to a proposal to do a fiery demonstration of the X-ray laser at the Nevada Test Site. Livermore scientists say Abrahamson changed his mind after others told him it was not possible.

In early October, 1985, Wood again briefed Abrahamson on the vulnerability of objects in space to powerful ground-based lasers. In a letter to the Energy Department, Woodruff said Abrahamson asked him, as head of the program, if the information was accurate. "I had to respond that I had never seen it before."

Woodruff resigned a short time later.

University officials argue that Woodruff was also able to present his point of view. He made repeated trips to Washington, D.C., to that end, even persuading a former lab director to get him an interview with arms negotiator Paul Nitze. "Roy certainly wasn't muzzled," Kane said.

But Woodruff says he was never able to reach many of the top policy-makers—McFarlane, Secretary of Defense Caspar Weinberger, Energy Secretary John Herrington, President Reagan—whom Teller and Wood saw frequently. He said he needed help from the laboratory management to get there—and he didn't get it.

"They keep saying to me, 'You were able to brief congressional staffers and so you should be satisfied,'" Woodruff said. "I thought this was more important than that."

And Kane acknowledges that point: "It's probably true. The quality of the people he could talk to wasn't as good as the people Teller and Wood were seeing. We might have been able to strengthen his hand. But I can't see us ordering the lab director to . . . establish a laboratory view."

Woodruff wasn't the only weapons scientist alarmed by the kind of presentations coming out of Livermore. The director of Los Alamos at the time, Donald Kerr, warned Batzel in early 1985 that bad information was draining money away from more genuine science projects.

"It was a concern of mine at the time and it still is," said Kerr, now an executive with the private technology firm EG&G Corp. in Wellsley, Mass.

Richard Wagner, a former Livermore scientist who had become the top nuclear weapons official in the Defense Department, called the laboratory in concern, according to Energy Department correspondence. "I was very concerned about the way the information about SDI was being presented," said Wagner, now a science consultant with Kaman Sciences Corp. in Alexandria, Va. "It's a very far-out technology, and there's so little data."

Wagner said the nub of misrepresentation was statements that actual weapons could be delivered in a fairly short time period, perhaps within half a dozen years. He said he talked to Woodruff about the program—"he's a superb technical scientist and manager"—but wasn't sure others in the Defense Department knew enough about Livermore to do that.

Hans Bethe, the Nobel-Prize-winning nuclear physicist who worked with Teller on the Manhattan Project, was also concerned, even conferring with Kerr at Los Alamos about the need for objective information from the labs.

"Dr. Teller often overstates the facts," Bethe said, in a telephone interview from his office at Cornell University. "Whether he does it for political reasons or otherwise, I don't know. And I sat in classified briefings at Livermore and heard Lowell Wood exaggerate the facts as well. And it is important, because they have been influential on SDI."

Even George Miller, who replaced Woodruff as an associate director of the lab, expressed the same worries: "I was aware of the many statements Dr. Wood and Dr. Teller made within that time frame, and my view of the program was always consistent with Roy Woodruff's. And I have a great deal of concern that in the discussions surrounding this issue, the integrity of the lab will be damaged."

Roger Batzel refused to be interviewed for this story. But in a statement released earlier this fall, he also said Woodruff's assessment of the laser program was close to the lab's official position. Batzel said he knew Woodruff thought national leaders were being misled by Teller and Wood, but he felt that correct information was being disseminated through other channels.

By Oct. 29, 1985, Woodruff decided he'd had enough. He resigned as associate director, requesting another position at the laboratory. Batzel accepted his resignation two days later in a letter praising his contributions to the laboratory.

In his unclassified letter of resignation, Woodruff warned that Livermore was losing credibility because of "potentially misleading information" going out about the X-ray laser. "If Lowell (Wood) is given even moderate credibility by those key leaders of the Administration and the Congress with whom he has discussed his views (and I believe he is considered credible), then the damage is much more serious," Woodruff wrote.

In fact, high-ranking government officials and scientists say, Teller and Wood have played a powerful role in the development of the Strategic Defense Initiative. Research done by Gregg Herken of UC San Diego's Institute on Global Conflict and Cooperation found that as early as February 1981, shortly after Reagan took office, Teller and Wood were briefing national leaders about the promise of a "third generation of nuclear weapons", including the bomb-pumped X-ray laser.

Reagan launched the "Star Wars" program with a speech, in March 1983, which emphasized the potential of such lasers. Herken describes Teller as a key member of the "laser lobby", insiders who sold Reagan the "Star Wars" program and have kept the President a believer even since in the possibility of building a technological shield over the country.

The White House Science Office, in response to a query by The Bee, said that Teller remains a member of the White House Science Council and that his credibility is extremely high. "The fact that he is a member of the council speaks for itself," said an office spokeswoman.

Woodruff said that the national security issues are so important that the University should have felt compelled to investigate. But UC officials Frazer and Kane called that a matter of judgment. Both said the university chose not to interfere with laboratory affairs.

When Woodruff resigned, the university inquiry consisted of Kane talking only to Batzel, the lab director. He didn't talk to Woodruff about why he has resigned; he didn't ask to see the resignation letter, which raised the question of the X-ray laser. And according to Kane, Batzel only told him that he and Woodruff disagreed about lab management. The university then let the matter drop.

"In retrospect, I fault myself for not pushing further, and others fault me as well," Kane said.

In March 1986—seven months before the Reykjavik summit—Woodruff himself alerted Harold Weaver, who then chaired the university committee that oversees the technical quality of the laboratories. He told Weaver about his concerns that the lab was not providing objective information to policy-makers. But, Weaver, a UC Berkeley astophysicist, did not start a Scientific and Academic Advisory Committee investigation.

"We were bamboozled by the laboratory in the beginning," Weaver said. "But I'm sorry we didn't do more at the time. And I hope that the SAAC is not partly to blame for what has turned out to be a very bad situation.

Frederick Reines, a UC Irvine physicist who chairs the advisory committee today, said his panel has not looked into the quality of SDI information disseminated by Livermore either, although Woodruff raised the issue with him both last fall and this summer.

As part of an information packet he sent Reines this July, Woodruff wrote: "I resigned from a position that was the most satisfying of my professional career, out of a deep concern for my country and the damage to national security that I believe was—and is—occurring from the misrepresentation of the Laboratory's X-ray laser and other SDI-related research to the highest policy-makers of our country."

Reines wrote Woodruff on July 17, saying he had received the material. Woodruff has heard nothing from him since. In a telephone interview with the Bee, Reines said his committee, although chartered to do technical investigations, has not and is not considering exploring this one.

"The labs are enormous programs, and we have a relatively limited amount of time," he said. "We choose those things we feel have the most direct bearing on the laboratories."

Herbert York, a former director of Livermore who serves on Reines' committee, said members are aware of problems at the lab. "If I were the lab director now, I would be figuring out a way to better control Teller and Wood," he said. "They've gone too far. But it's hard. The president calls Teller to the White House to ask his opinion. We can't tell him what to say. I don't know if anyone in a university context can control this. Maybe, if Boeing or Lockheed were running the program, they'd just be fired."

Frazer said he was offended by charges that the university is not meeting its responsibilities. He said he believes the university acted properly in backing Batzel's decision not to officially counter Teller's and Wood's statements.

"The lab director's judgment was that Woodruff had ample opportunity to do that on his own," Frazer said. "It's easy in retrospect to come to other conclusions. But our chancellors on UC campuses don't always make perfect decisions. We don't try to follow them around, second-guessing them."

Frazer said that the university left it to the U.S. Department of Energy to investigate the accuracy of statements made to federal leaders. Department spokesman Jack Vandenberg said the proper official to comment on questions concerning Livermore was not available.

But the Energy Department has recently moved to counter statements made by Lowell Wood at a Congressional hearing this fall. At the hearing, on defense issues, Wood asserted that the basic power source for orbiting space weaponry could be as simple as today's solar panels; a top energy official promptly wrote to Congress, saying the department took "strong exception to Dr. Wood's claims."

Wood also suggested, during that hearing, that a single X-ray laser station would have the potential to wipe out a whole missile field. Congressmen have queried Livermore about that statement, without so far receiving a response.

The legislators have also requested a General Accounting Office investigation into the quality of technical information from Livermore.

And the Pentagon's Strategic Defense Initiative Organization also acknowledges trouble in California: "There appears to be an internal problem with DOE or more specifically, with Livermore lab," said Maj. Alan Frietag, an SDI spokesman.

Woodruff says that technical integrity remains the central issue.

In a Nov. 5 letter to Gardner—as yet unanswered—he emphasized that point: "If you were to take the time to check, . . . I believe you would find a key piece of information—that the problem remains with us today."

CHILD CARE A PRIORITY IN CANADA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. MILLER of California. Mr. Speaker, in the United States, there are at least 25 million children under the age of 15 who have mothers in the labor force. Yet there are fewer than 3 million regulated child-care slots available for those who may need out-of-home child care. In every State, millions of children, especially infants, remain on waiting lists for subsidized child care; millions of children also languish in substandard child-care programs, or are left at home alone while their parents work, threatening children's safety and jeopardizing the security of families.

Last week, the Washington Post reported that Canada had unveiled a $4 billion plan to double the number of spaces at child care centers to meet the needs of their working families. The plan would also double the child-care tax deduction to $3,000 per child for children age 6 and under, largely benefitting the country's middle-income families. In Canada, low-income families already receive considerable support from the Government for child care.

In this country, we don't even spend close to that amount and our child care needs are much greater. It's been estimated that the Federal Government spends less than $500 million through the title XX social services block grant to assist low-income families with child-care expenses. Millions remain unserved. The child-care tax credit, which primarily benefits middle income families, is limited to 20 to 30 percent of a family's child-care expenses up to $2,400 for one child or $4,800 for two or more children. Such policies fall far short of Canada's plan. Still, critics within Canada maintain that their plan is too modest to meet the growing need.

Attached is the article from the Post describing Canada's bold and timely plan. This story once again reveals that other nations are more willing than we are to make a substantial commitment to protecting and supporting children and families while ensuring their economic viability. I, along with more than 100 of our colleagues, have provided opportunities by putting forth several legislative options to expand and strengthen the Nation's child-care system. It is my hope that Canada's exemplary action will move us closer toward adopting a long overdue national child-care policy.

CANADA UNVEILS $4 BILLION PLAN ON CHILD CARE

(By Herbert H. Denton)

OTTAWA, December 3.—Responding to growing demand, the Canadian government today announced an ambitious $4 billion program to double the number of spaces at day-care centers over the next seven years.

The initiative, which is designed to create room for an additional 200,000 children by the mid-1990s, will include operating grants to centers and subsidies to help nonprofit child-care groups build or buy facilities.

The plan also calls for tax adjustments to provide more relief for working parents with middle incomes, especially those with children under the age of 6, and a modest tax break for families with mothers who choose to stay at home. Poor families already receive substantial government aid for child care.

The initiative, which requires approval by Parliament and negotiations with the country's provincial governments, has been studied for nearly two decades and was strongly promoted by women's organizations.

Aides to Prime Minister Brian Mulroney said they hoped the program, promised in his election campaign three years ago, would help lift Mulroney's popularity when he faces voters again before the end of 1989. Mulroney's party dominates Parliament, which is expected to pass the measure.

Critics have complained that the plan gives Canada's provincial governments some discretion in spending the federal funds and that the program's size still falls short of the need.

While the plan calls for services for more than 400,000 children, advocacy groups contend that an additional 1.5 million youngsters require day care. Health and Welfare Minister Jake Epp denied that the number was that high, but he declined to give his own estimate.

Under the plan, tax deductions for child care for children aged 6 and under would double, to $3,000 per child. The deduction for children 7 to 14 would remain at about $1,500. An existing $6,000 ceiling on deductions would be lifted, which would help larger families.

The U.S. Tax Code provides a 30-percent tax credit on annual child care expenses up to $2,400 per child, or $4,800 for two or more children.

Unlike many Americans, Canadians have an abiding faith in the ability of government to solve social problems. They seldom gripe about paying higher taxes than U.S. residents in order to support an array of social programs, including an expensive but highly regarded universal health care system.

Barbara McDougall, Mulroney's minister responsible for the status of women, said the new child care initiative "is vital to the government's recognition of the important role women play in the economy of their individual families and of Canada as a whole.

"The National Strategy on Child Care," she added, "has been designed in the context of values that we as a government support: that economic equality encourages social equality; that Canadians are able to choose the service that is most appropriate for them, and, therefore, that they are best served when government gives them those choices rather than restricts their ability to choose for themselves."

One feature of the proposal admired even by critics is a special $75 million fund for research and development on special child-care problems faced by shift workers and rural and native parents. The government also expects to use some of the money for programs to train and improve child-care workers.

As in the United States, there has been a rapid rise over the past decade in the number of Canada's working women. In 1976, fewer then one-third of mothers with children under 3 worked. Now well over half do. More than two-thirds of those with children in grade school and junior high school hold jobs.

Canada already has several programs for families. A "baby bonus" provides monthly payments of nearly $300 to all families with dependent children under 18, and tax deductions for child-care expenses have been raised in recent years. Government unemployment insurance provides maternity benefits of up to 60 percent of previous income for a 15-week period before and after childbirth.

Under another program, the five-year-old Canada Assistance Plan, the federal and provincial governments subsidize day care for low-income families, although Mulroney has been criticized for allowing those benefits to rise automatically as inflation has increased.

THE "ROCKET DOCKET"

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. KOLBE. Mr. Speaker, clogging the Nation's court system with frivolous litigation may be a boon for high-powered trial lawyers, and for the megacorporations and government bureaucracies they represent. But for the rest of us, justice delayed is still justice denied. In most parts of the country, the elapsed time between the filing of litigants' papers and the start of a civil trial is more than 1 year. The waiting period in some jurisdictions is more than 2 years.

This is outrageous, particularly for the economically disadvantaged people of this country. Men and women of modest means can ill afford the legal "stall tactics" that are embarrassingly routine in many jurisdictions. In the broader context, frivolous litigation is a drain on our National Treasury and the taxpayers. It shackles our businesses and industries precisely at the time when competitive pressures around the world are increasing.

But there is hope for change. The Federal courts in Virginia's eastern district—the so-called rocket docket—have earned a reputation for dispensing speedy justice. According to the Administrative Office of the U.S. Courts, the "rocket docket's" 12 judges beat all 93 other Federal jurisdictions in the time elapsed between the filing of litigants' papers and the start of a civil trial. Instead of delays of 1 year or 2, litigants in eastern Virginia usually wait only 5 months. The secret for the "rocket docket's" is disarmingly simple: Restoring hard work and discipline to bar and bench alike. We would be well served to learn from their success.

The following article, written by Paul M. Barrett for the December 3 edition of the Wall Street Journal, describes the "rocket docket" in greater detail. I commend it to my colleagues and to all others interested in reforming America's legal system to ensure that people from all walks of life get the justice to which they are entitled.

[From the Wall Street Journal, Dec. 3, 1987]

"ROCKET DOCKET": FEDERAL COURTS IN VIRGINIA DISPENSE SPEEDY JUSTICE

(By Paul M. Barrett)

ALEXANDRIA, VA.—Getting a case to trial is often an ordeal. Skirmishing over procedural matters can churn up huge expenses and result in years of delay.

But in the federal courts of eastern Virginia, the judges hate foot-dragging and frivolous paper wars. Their courtrooms have come to be known widely as the "rocket docket." They produce speedy justice with a combination of unforgiving rules and fierce pride in efficiency.

Around here, says one attorney, the judicial philosophy is "put up or shut up." Only partly in jest, he says a lawyer's death is "sometimes an excuse" for postponing a case, "but not if there's another warm-blooded lawyer back at the office."

Virginia's Eastern District is comprised of courthouses in Alexandria, Richmond and Norfolk. A study by the Administrative Office of the U.S. Courts shows that the district's 12 judges consistently beat all 93 other federal jurisdictions in elapsed time between the filing of litigants' papers and the start of a civil trial. The national median is 14 months; in some districts, it's more than two years. But in the rocket docket, it's only five months.

FAVORING PROSECUTORS?

Not surprisingly, this accelerated pace draws criticism from some attorneys—particularly criminal defense lawyers. They complain that the system tends to favor prosecutors, whose larger staffs can better handle the rapid turnover of cases. But most lawyers concede that the advantages are overwhelming: Clients generally save money on legal fees and have more confidence that the court system works.

Jonathan Hauser, a Norfolk attorney, recounts a 1985 suit in which a fisherman he represented won $147,000 from an insurance company after his boat was destroyed in a storm. In another jurisdiction, "we might have faced two years of litigation," says Mr. Hauser. And during that time, he says his client probably would have gone bankrupt. Instead, the case was heard after five months of preparation, and the trial took two days.

Whenever possible, Virginia lawyers seeking quick action look for ways to bring suits in the Eastern District. U.S. District Judge Richard Williams, a member of the rocket docket, insists that the secret to swift results is no more complicated than making clear who wears the black robes.

In private, the 64-year-old judge is an unpretentious man who avoids legal jargon, calls many cases "no-brainers," and carries court documents in a canvas U.S. Mail satchel. But in court, he rules imperiously. When lawyers dawdle, he interrupts in a booming voice, questioning witnesses himself. "Don't play games," he warns one attorney. "I'm not going to let this jury be abused by havoc."

Presiding over a recent criminal trial of a man charged with harboring a fugitive, he rapidly grows impatient with defense efforts to prove contradictions in a witness's testimony. "There is no inconsistency," he declares, and that settles it. Several jurors nod and scribble notes.

Marvin Miller, the defense attorney in the case, says Judge Williams is "great" for expediting plea bargains, but can be "terrible" for defendants trying to impeach government witnesses.

Moreover, Mr. Miller complains that the Eastern District judges' "penchant for speed has little to do with a penchant for fairness." (Nevertheless, the jury convicted Mr. Miller's client on only a lesser charge of lying to federal marshals.)

Critics of clogged federal courts usually blame increasing litigation on such matters as mass toxic torts and criminal appeals. But Judge Williams says rising caseloads are only part of the problem. He also attributes much delay to lawyer's manipulation of "discovery"—the pre-trial investigation of an opponent's case—and on peripheral motions designed to wear down the other side.

In the past 15 years, "you've seen the rise of a whole bar who specialize in this 'motions' practice," says the judge, barely disguising his distaste for the trend. "Too many judges have let lawyers run the courts" by surrendering control over discovery deadlines and trial schedules. "Around here, the judges tell the lawyers what to do."

Judge Robert Merhige Jr., who sits in Richmond and is frequently asked by other jurisdictions to help clear their backlogs, adds that attorneys "know we mean business and conform their behavior accordingly."

Robert Bennett, a Washington lawyer who practices nationally, confirms that "any honest litigator" will admit to using the tactics Judge Williams describes. But ideally, he says, "lawyers shouldn't be tying down the courts to serve their clients." The Eastern District's success in disciplining the bar makes it "the best court I've ever been in," he says. He also echoes the consensus here that judges elsewhere could easily adopt the rocket docket's no-nonsense aproach.

Judge Williams applied the heat in a recent class action involving 7,000 current and former prisoners charging jail overcrowding in Prince William County. Lawyers in the case estimate that, in any other jurisdiction, discovery in such a suit could have lasted years; instead, they were allowed six months without extensions.

"Knowing that trial date is carved in stone focuses everyone's attention," says Victor Glasberg, the prisoners' lawyer. "You discover you can build your case" in the time allowed, "and the certainty that you'll get a hearing quickly more than outweighs" any sacrifices.

Mr. Bennett, the Washington lawyer, cites another difference. In other courts, he says, "you learn your case as you go—after filing" a suit. With an open-ended court calendar, "you file a zillion interrogatories, 50 deposition notices and go on a great fishing expedition." In Virginia's Eastern District, he says, "you can't get away with it."

To expedite cases, rocket-docket judges also squeeze standard judicial guidelines and apply their own home-grown restrictions. In most Eastern District cases, for example, laywers can't depose more than five people who aren't plaintiffs or defendants. Judge Williams restricts criminal defendants to five character witnesses and all litigants to one hired expert per discipline. He generally takes an hour to empanel a criminal jury; elsewhere the process routinely consumes an entire day.

FROM WEEKS TO DAYS

In the prisoners' class action, lawyers expected the trial to last weeks. Judge Williams set, and met, a deadline of three days. He pushed the case forward with the unusual technique of allowing lawyers themselves to summarize for the jury the testimony of scores of prisoners and county officials.

If the suit had arisen in the state court, we could have delayed it as a litigation tactic for years," says John Foote, the county attorney, who ultimately lost. The prisoners received $250,000, and the court ordered the jail shut down—an outcome Mr. Foote now characterizes as "fair."

Some lawyers and judges trace the rocket docket's roots to Judge Walter Hoffman of Norfolk, who singlehandedly cleared a legendary backlog in the late 1950s by working around the clock and seven days a week. Judge Hoffman, now 80 years old and semi-retired, modestly downplays such accolades. But he admits that his workaholic spirit came to pervade the jurisdiction.

"We decided we didn't want to miss a single trial date," he recalls, "and we still don't."

For people of modest means, Mr. Glasberg says, the rocket docket is most important as "a great equalizer." That's because it lessens the ability of large law firms or the government to bury opponents in blizzards of pretrial briefs. Invoking an aphorism heard frequently in the Eastern District, he adds: "For a lot of people, justice delayed really is justice denied."

VICTIMS OF CRIME WEEK

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. FISH. Mr. Speaker, today I am introducing legislation to designate the week of April 17-23, 1988 as "Crime Victims Week." Joining me in this effort is my good friend and colleague, Congressman GEORGE W. GEKAS, who is the ranking minority member on the Subcommittee on Criminal Justice of the House Judiciary Committee.

For many years, the need to focus attention on the plight of innocent crime victims has been a high personal priority. Unfortunately, I acquired a first-hand appreciation of the unique trauma of the crime victim several years ago when I was robbed at gunpoint near my home. Most crime victims are not as fortunate as I. Many die leaving survivors distraught and sometimes destitute. Many are seriously injured, necessitating the expense of hospitalization and prolonged absence from work. While the criminal is insured punctilious adherence to his due process rights at considerable public expense, the victim has too long been rewarded with inattention and inconvenience. I do not urge less justice for the accused, but would observe that simple justice requires as much compassion for the victim as the victimizer.

As a result of my experience, in 1981, I founded the National Victims of Crime, a nonprofit organization aimed at educating the public regarding the existing rights of the law-abiding, as well as strengthening laws at both the Federal and State levels with respect to victims' rights. In addition, I was involved in the enactment of the "Crime Victim and Witness Protection Act of 1982" and was the principal House sponsor of the "Victims of Crime Act" in 1983. That landmark Victims of Crime Act was subsequently enacted into law as title II, chapter 14, of the "Comprehensive Crime Control Act of 1984" (Public Law 98-473).

The 1984 law established, for the first time, a program of Federal financial assistance for victim compensation programs. Money in the crime victims fund is derived from four sources: First, fines collected from persons convicted of certain Federal offenses; second, special penalty assessments collected from individuals convicted of Federal crimes; third, proceeds from collateral and bail bonds forfeited by persons charged with Federal crimes; and fourth, money forfeited from collateral profits derived from a crime—the so-called Son of Sam provision.

The proceeds of the crime victims fund are distributed in the following ways: First, to state-operated crime victim compensation programs, which reimburse victims directly for medical bills, lost wages, and related costs incurred as a result of their victimization; second, to privately or publicly administered crime victim assistance programs, for counseling and crisis intervention; third, for services to victims of Federal crimes; and fourth, to State-operated programs, through the Secretary of Health and Human Services, to use to improve the handling, investigation and prosecution of child abuse cases.

This fund took in approximately $68.3 million in fiscal year 1985, its first year of operation. In fiscal year 1986, the fund took in $62.5 million and is expected to take in some $77 million in fiscal year 1987. These moneys have helped countless thousands of crime victims in their readjustment and rehabilitation after their victimization and in restoring balance in the American system of justice. The Victims of Crime Act is due to sunset at the end of fiscal year 1988. Legislation to provide for its reauthorization is currently pending in the Subcommittee on Criminal Justice, where two hearings have been held.

The likelihood of becoming a victim of violent crime is now greater than that of being injured in an automobile accident. It is a sad legacy that over the past few years, nearly 35 million Americans were victimized annually; 6 million of whom were raped, robbed, beaten, or murdered. The impact of crime is devastating to innocent victims and their families. In addition to the physical injuries and the financial losses, the victim is further scarred with the emotional loss of one's sense of dignity, security, and trust in other human beings.

Further compounding the pain and anguish victims must endure has been the unfortunate and historical insensitivity to the plight of victims. In the past, the criminal justice system has too often ignored the victims before making crucial decisions regarding their cases or failed to notify the victim that a criminal had been released on bail. While the system offered legal representation and other forms of aid to the accused, it offered minimal assistance to the victim in recovering from the tremendous burden resulting from victimization.

Five years ago, President Reagan's Task Force on Victims of Crime presented an agenda to reform these injustices and restore balance to the criminal justice system. Included among those recommendations was the proposed establishment of a crime victims fund, which was achieved through the 1984 legislation.

An Office for Victims of Crime was established within the Office of Justice Programs at the Department of Justice. The Federal Government began awarding fines from penalties collected from Federal criminals convicted of Federal crimes to the States to aid victims of crime. In addition, the National Victims Resource Center, within the Office for Victims of Crime, was established to provide information on victim assistance programs and laws nationwide. Largely as a result of these efforts, community programs for victims have grown in number and now every State has a designated agency responsible for victim services.

These initiatives provide strong indications that the criminal justice system, which for too long was preoccupied with the legal rights of the accused, is now addressing the needs of victims with equivalent fervor. There has been tremendous progress throughout the country over the past 5 years in improving the response to victims of crime. The importance of the support and involvement of President Reagan and his entire administration cannot be overstated.

The President has traditionally proclaimed a week in April as "Victims of Crime Week." I call upon my colleagues to join me in focusing America's attention on the plight of crime victims and in reminding people that the responsibility for crime lies with those who commit it, not with those forced to endure it.

TOM GLOOR: JEFFERSON COUNTY LEADER AND FRIEND

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. ERDREICH. Mr. Speaker, Jefferson County, the State of Alabama, and our Nation lost a leader last week, and I lost a close friend and long-time colleague in public office.

Tom Gloor, State legislator, president of the Jefferson County Commission, Bessemer City Council president, World War II hero, successful businessman, died on December 4 at the of 64.

Tom was born in Rock Island, IL, on February 22, 1923, and grew up in Iowa. He attended Burlington (Iowa) Junior College for a year before enlisting in the Army Air Corps in 1942.

He flew 68 combat missions and was shot and seriously wounded on a mission a month before the war ended. In an incredible return flight, though severely wounded Tom piloted his plane onto an airfield in Germany (that Americans had occupied only moments earlier, with the help of a fellow pilot flying in a plane next to Tom's, guiding him in and even occasionally bumping Tom's wing to keep him alert. He collapsed upon landing, and it would take almost a year in military hospitals before he recovered.

After the war, Tom eventually moved to the Birmingham areas in the automobile business. Shortly he owned his own dealership in Bessemer, and his success in business soon translated into success in another arena: public office. In 1966, he was elected to the Alabama House of Representatives. Typical of his leadership qualities, his first year in Montgomery he was selected as the Outstanding Freshman, and in 1970 he was reelected without opposition.

In his second term Tom, in a unique leadership role, was elected both House speaker pro tem, the second highest leadership position in the House, and chairman of the Jefferson County delegation. In 1971, the Captiol press corps name Tom the "most effective" Member of the House.

When a slot came open on the then-three member Jefferson County Commission, Tom won the special election in 1972 to gain the seat. Two years later he was elected to the first of two terms as President of the County Commission.

During those two terms I served with Tom and our third commission colleague, Chriss Doss. The three of us had also served together in the Alabama House.

He left politics in 1982 to spend more time with his wife, Fran, his three sons, Tom, Jr., Terry, and Scottie, and his grandchildren: grandsons, Tom Gloor III and Michael Gloor and his granddaughter, Lauren Gloor. But as he said when he decided to run for a slot on the city council in Bessemer in August 1986: "I miss politics. Once it gets in your blood, its kind of a disease." Upon election his council colleagues elected him President.

It is hard to describe a man of Tom's character and energy. His impact on his church, his community, with people across our county and State, cannot be put into a few words. Here is what some had to say when Tom died of cancer last week. Chriss Doss, who served with Tom, as I did, for 12 years, said: "He was a dynamic leader of sterling integrity, outstanding ability, and wholehearted commitment. Tom was a person of conviction, and he could be tough in the pursuit of what he held to be right. But he always had concern, class, and dignity, and was fair."

John Williamson, who had convinced Tom to move to Birmingham in 1947, in his eulogy at Tom's funeral called Tom "an uncommon man with a common touch," someone "equally at home with the rich and poor, black or white, a man who was much more ready to smile than to frown."

The Birmingham News, in editorial comment, concluded with these words, and I attach the full editorial below:

Mark Twain once wrote that a man's highest calling is to study and improve himself so that one day he might be of service to his community. Tom Gloor met that calling extraordinarily. Jefferson County and Alabama were extremely fortunate to have been the beneficiaries of his concern and his abilities.

The Birmingham Post-Herald, in editorial comment said, and I attach the full editorial below:

Tom Gloor was the kind of public official we could use more of around here. He was smart, canny, savvy, insightful, humane, and deeply concerned about the ways in which local government can help people as individuals, and help communities prosper.

Tom helped shape his State and county. I miss him as a friend, and our community feels the loss as his family does. In the last weeks Tom commented on how he had received a new lease on life by surviving his near-fatal combat injury in World War II. He said: "You know, I had more than 40 years that I almost missed, and those were wonderful years and I was greatly blessed, and that's a lot to be thankful for." Tom, I would only add, we all were blessed.

[From the Birmingham News, Dec. 8, 1987]

Tom Gloor

Very few people ever commit themselves to public service in the remarkably enduring way Tom Gloor did.

He served his nation as a fighter pilot in World War II. Shot down on a mission over Germany a few weeks before the war's end, he had to spend almost a year in the hospital enduring therapy to overcome paralysis caused when a bullet grazed his spine.

He served his state as an Alabama lawmaker from 1966-1972, compiling such an impressive record of accomplishment that he was named the Outstanding Freshman in the Alabama House of Representatives in 1966 and chairman of the Jefferson County House delegation a few years later. The Capital press corp named him the House's "most effective" member in 1971.

He served his county as a Jefferson County commissioner from 1972-1982. As president of the commission, he brought the much needed perspective of a man who had been successful in private business and public office to the commission, and it showed in the way Jefferson County was managed with efficiency, but concern for all its citizens.

And he was serving his city, Bessemer, on its newly established city council when he died Friday night after a nine-week bout with cancer. As president of that panel, Mr. Gloor helped make sure the transition from a three-man commission to a seven-man council was carried out as smoothly as possible.

Had Mr. Gloor's legacy only consisted of his efforts in the business world, he still would have been judged a very successful man. But there was a fighter's streak in Tom Gloor that continually seemed to propel him into the public arena to use his talents, his knowledge and his determination in battle for the public good.

Mark Twain once wrote that a man's highest calling is to study and improve himself so that one day he might be of service to his community. Tom Gloor met that calling extraordinarily. Jefferson County and Alabama were extremely fortunate to have been the beneficiaries of his concern and his abilities.

[From the Birmingham Post-Herald, Dec. 10, 1987]

Loss of a Leader

We note with sadness the death of Thomas W. Gloor. Metropolitan Birmingham will be a lesser place without him.

Tom Gloor was the kind of public official we could use more of around here. He was smart, canny, savvy, insightful, humane and deeply concerned about the ways in which local government can help people as individuals, and help communities prosper.

Though he was above all a pragmatist, the Gloor philosophy was perhaps too conservative, and he often preferred a glib remark to a thoughtful statement, but when one stopped to think about it, his conservatism usually made sense and his wisecracks were often a propos. He was as much a colorful character as he was a leader—and he had a lot of talent for both.

He served with distinction in the state House of Representatives, then became a county commissioner. After a decade on the old three-member commission, including seven years as president, he resigned in 1982 rather than follow a federal judge's order to pay restitution to county jail prisoners.

He said at that time he was through with politics, but he was a politician to the bone. When the Bessemer city government was reorganized as a city council in 1986, Gloor ran for, and won, a seat. He was elected president of the council, and worked to guide that fledgling government until his death last week.

Gloor was 64 when he died, young enough to have given years of fine leadership to his city and this area. He had the knowledge, personality, skill and dedication to have gone on being a fine leader. Unfortunately his health failed, and Birmingham lost one of its best.

BLACK WOMEN FILM MAKERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to bring to your attention, and the attention of all my colleagues, to a recent article on the contributions of black women film makers to the media industry. Through independent films, womens such as Pam Jones, Kathleen Collins, Ayoka Chenzira and Michelle Parkerson are foraging a pathway for generations to come.

Traditionally, film production and direction has been a white, male dominated occupational arena. As women of color, black female film directors and producers have largely been locked out of the educational and professional networks that would provide them with access to work in the film industry. Despite the increasing numbers of black women film makers, they are still excluded from the vast Hollywood film system, which sends movies into hundreds of theaters across the Nation.

Instead, these women must depend on sporadic showings of their work at film festivals, community centers or museums. Moreover, without the financial and emotional support of family and friends, the voice of these film makers would not be heard. Their struggle is a testament to the pervasiveness of both the racism and sexism that continues to be thorns in the side of this Nation's progress.

We have been denied of the genius of these talents for too long. Such discrimination victimizes each citizen and tarnishes the meaning of democracy throughout the world. Therefore, I am sure that the following article will be of interest to each of us:

Black Women Break Into Film

(By Ernece Kelly)

Who are Pam Jones, Kathleen Collins, Ayoka Chenzira and Michelle Parkerson? They're Black women who are among a burgeoning group of East Coast film-makers, part of an independent industry with the potential to turn Hollywood upside down.

Although Hollywood has employed women as editors, writers, make-up artists and dressers, few women have worked as directors. There are notable exceptions—Elaine May whose Ishtar flopped critically and at the box office, and the recently released, much bally-hooed "Dirty Dancing" directed by Linda Gottlieb. Apparently, Hollywood is following society's slow process of eradicating gender/race discrimination: first white women join white men, then minority men, then perhaps minority women.

Pam Jones, whose initial film "Grown" is currently making the rounds of New York City community centers, believes that with increasing numbers of Blacks coming out of film schools, we can expect more films from the hands of Black women. A graduate of New York University's department of film and video production, she's like Black film pioneer Oscar Michaux, literally carrying her films tucked under her arm and going from one small viewing room to another.

COMMUNITY SUPPORT

Community cooperation is only one strand of the network which director Jones wryly asserts debunks the term "independent."

"No," she says, "filmmaking is very much a collaborative effort. Family and friends are right there with money, helping hands and emotional support." The well-publicized saga of how producer/director Spike Lee made his award winning "She's Gotta Have It" in only 12 days with the aid of friends, family and borrowed money, underscores Jones' assertion.

The success of Lee's film and that of Robert Townsend's "Hollywood Shuffle" which closely followed, has encouraged Black women filmmakers, according to Jones. Because these men showed the "bankable" nature of films by and about Blacks, Jones believes that more Black films will be made in the next few years.

OUTRIGHT TALENT

Valerie Smith, curator of the Whitney Museum's 1987 program, "The Black Women Independent: Representing Race and Gender," sees an inventiveness in the work of the current crop of Black women filmmakers. They seem to be exploring, she says, "new ways of casting, new ways of working with camera angles . . . new ways of using voice-overs."

Moreover, Black women are coming of age in the technical end of movie-making. Kathleen Collins, Professor of film history and aesthetics at the City College of New York, whose feature-length film, "Losing Ground" was aired both on Public Broadcasting and on European television, debunks the "technology is too complex" explanation for why so few women become filmmakers. "I think the myth of technology has been more a problem than the technology itself . . . I don't think the true simplicity of filmmaking dawned on me until I actually did it."

ABOUT CHANGE

Collins' "Losing Ground" operates on at least two levels. While the story centers on the marriage of two Blacks, its message is about the dynamics of change. Like Spike Lee's "She's Gotta Have It," it includes a fantasy sequence which the filmmaker, who also wrote the script explains: ". . . real change usually requires some release of fantasy energy . . . before one can actually initiate the change."

As complex as Collins' and other women filmmakers work is, no generalizations can be made about their styles, themes or techniques. A radically different vision of change, for example, rests at the heart of Brooklynite Ayoka Chenzira's film, "Hairpiece: A Film for Nappyheaded People." As straightforward as its title, "Hairpiece" looks with love and well-balanced humor at the extraordinary lengths Blacks have gone through to tame our often rebellious locks. Pulsing with a rhythm-and-blues soundtrack and lightning-fast animation which might suggest frivolity. Chenzira's serious message grows out of her own experiences.

"It's frightening to me that I can still walk down the street and hear Black people talk about having 'good' hair," she says. "So one aspect of "Hairpiece" looks at how some people feel 'less than' they are, and how they think that someone else is 'better than' they are."

Another of Chenzira's films, "Syvilla: They Dance to Her Drum," examines the life and work of Syvilla Fort, a dance teacher who taught and inspired generations of dancers, including the filmmaker. Tied to Fort's life, the film is traditional in its narrative-line and similar to Michelle Parkerson's 1963 film, "Gotta Make This Journey: Sweet Honey in the Rock" which celebrates the music and politics of the a cappela group founded by civil rights activist Bernice Reagon. Parkerson's earlier film, "But Then, She's Betty Carter" did the same for that talented maverick of jazz vocalists.

Since the films of independents aren't produced in Hollywood they rarely become part of that vast Hollywood distribution system which sends movies into hundreds of theaters from coast to coast. They depend instead on occasional showings at film festivals, sporadic one-night stands at community centers, or showings at museums such as the exhibition of 12 films and videos made by Black women which New York's Whitney Museum mounted in 1987. East Coast filmmakers also have the Black Filmmaker's Foundation which regularly previews works by both established and new Black filmmakers and which this summer devoted an evening to women. In Chicago, the Black Light Film Festival features works by Blacks each summer.

On the issue of responsibility and relationship to other Blacks, the filmmakers differ. For Pam Jones, the question has been whether she diminished the traditional image of the Black woman as a source of strength when she chose a teenager as her focus in "Grown." Kathleen Collins believes that the greatest obligation for the Black or woman filmmaker is "to deal with your own obsessions."

On all counts, Black women filmmakers show diversity. Yet they share in common the condition of being little known outside a growing but still small circle of film buffs. They deserve better.

HONORING MICHIGAN'S SESQUICENTENNIAL FARM FAMILIES

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to give special recognition to 44 farm families in Michigan's Washtenaw, Livingston, and parts of Ingham and Lenawee Counties. These families have been honored by the State of Michigan's Bureau of History as sesquicentennial farm families. To be so designated, a farm must be a minimum of 10 acres and be held by the same family for 150 years.

A special plaque has been presented to each family for permanent display on their historic property.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in offering sincere congratulations and best wishes to the following 44 sesquicentennial farm families:

WASHTENAW COUNTY

Richard and Grace Alexander, Donald and Wana Baldus, Archie Lee Brandbury, Del Campbell, Raymond Diuble et al., Fred Murray Fishbeck, Carl S. Geddes and Charles W. Geddes, Ethel M. Hammond, Webb and Admay Harwood, Jesse Hewens.

Grace E. Judson, Anna B. Kaercher, John L. Kennedy, Robert Malick, Blanche F. McKim, Donald Mull, Thomas C. O'Brien, Leo O'Connor, James F. Potter, Howard and Aelen LeBaron.

William R. Scadin, Garvin Smith, Benjamin Stein, Mrs. Edward Sullivan, Rolland F. Sweetland, John M. Tandy, Donald Tichner, Lawrence Tucker and Mr. Ron Tucker, Harold and Mary Wilson.

LIVINGSTON COUNTY

Roscoe and Berneta Eager, Henrietta Faussett, Philip Foster, Rex and Darlene Hendee, Clifford and Bethel Kellogg, Ernest and Kathryn Lawson, Vera Merrill, Gerald F. Munsell, Harold and Katherine Sommer, Eda Smith, Robert Wakeman.

INGHAM COUNTY

Wayne and Barbara Malcho, Grant C. Putman.

LENAWEE COUNTY

Gary E. Service, Robert Joseph Smith.

MIDDLE EAST REGIONAL COOPERATION PROGRAM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. WAXMAN. Mr. Speaker, I rise in strong support of H.R. 3100, the International Security and Development Cooperation Act of 1987. This important legislation addresses many urgent needs, and includes continued support for the Middle East Regional Cooperation Program.

The Middle East Regional Cooperation Program, which sponsors joint scientific projects with Egyptian, Israeli, and American scientists and institutions, would receive at least $5 million for fiscal years 1988 and 1989 under H.R. 3100. This program began with an amendment I offered to the 1980 foreign aid authorization bill and has quietly grown into an outstanding success. The program's development—in the face of frequent strains in the Israeli-Egyptian relationship—exemplifies the promise of joint technical projects in eroding deep-seated mistrust and hostility between peoples.

The major projects in this program—in epidemiology, oceanography, and arid zone agriculture—have produced impressive scientific results. The epidemiology project, for instance, was directly responsible for quelling an outbreak of leishmaniasis in Egypt in 1982. And one of the arid lands projects has developed a strain of tomatoes that grows in the brackish, saline water so common to the region. Another has engineered a high-protein strain of fodder for sheep and goats that thrives on dryer land than any previously known strain.

In addition to these concrete achievements, the Middle East Regional Cooperation Program has had a major impact on intangible relations between Israelis and Egyptians. After 30 years of complete scientific isolation, over 1,000 Egyptian and Israeli scientists have now begun working together and are developing close personal relationships. This is the kind of progress on which real peace is founded—progress which, unlike a peace treaty, can never be subverted or abrogated.

The Middle East Regional Cooperation Program is currently funded by economic support funds from AID's Asia/Near East regional account. Section 603 of H.R. 3100 continues to support the program and, for the first time, would specifically earmark dollars to ensure an adequate and uninterrupted flow of funds.

The United States' investment in Middle East peace has made Egypt and Israel our largest single foreign aid priority. Yet the Middle East Regional Cooperation Program is the only component of our aid to two countries aimed at building a long-term foundation for peace through engendering personal and institutional relationships. In fact, the cooperation program's funding accounts for less than one tenth of 1 percent of the combined $5 billion Israeli/Egyptian foreign aid package.

Both the scientific gains and impressive progress in peaceful cooperation make the Middle East Regional Cooperation Program one of our most valuable and productive foreign aid efforts. I urge all my colleagues to join me in supporting this worthy program.

COURT LUCINA NO. 186, CATHOLIC DAUGHTERS OF THE AMERICAS, CELEBRATES 75TH ANNIVERSARY IN JERSEY CITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. GUARINI. Mr. Speaker, on Sunday, December 13, 1987, the 75th anniversary observance of a most important group will take place. Court Lucina No. 186 of the Catholic Daughters of the Americas will observe their commencement date of December 15, 1912.

The Catholic Daughters of the Americas are a very important arm of the Roman Catholic Church, providing financial, spiritual, and direct aid in many charities and religious groups, including nursing homes, unwed mothers, St. Joseph's Home for the Blind, the homeless, Christ Hospital, St. Francis Hospital, visiting shut-ins and others. The extent of their aid includes not only funds, but food and personal necessities along with many volunteer hours of counseling and direct service.

A mass is to be held at St. Anne's Church, 3545 Kennedy Boulevard, Jersey City, NJ, at 12:30 p.m. on Sunday, December 13, 1987, with clergy consultant, Rev. Msgr. Edward J. Larkin officiating. His concelebrants are Msgr. James McKenna, pastor of St. Anne's Church, and Rev. Thomas Olsen, pastor of St. Paul of the Cross Church, Jersey City.

Luncheon will follow at the Plankboard Inn, 3498 Kennedy Boulevard, Jersey City, at 2 p.m. Guests will include State Regent Grace De Cairano, First Vice State Regent Lucy Brown, and District Deputy Muriel Clark. Attendance is expected to be 100 which will include representatives from sister courts throughout the State.

The following history of Court Lucina was provided by Theresa Scott, regent:

Court Lucina No. 186 was instituted on Sunday, December 15, 1912, in St. Paul of the Cross Parish, Jersey City, New Jersey. The name was taken after a departed Sister of Charity, who had labored as Mother Superior in the Parish for many years. The noble and thoughtful idea of cherishing the name of Mother Lucina was that of Miss Kathryn Martin, First Regent, through whose efforts and the cooperation of their Worthy State Regent, Miss August Fallon, Court Lucina was instituted.

A class of forty-nine candidates were initiated. The ritualistic work was conducted by Court Paulus Hook No. 20 of Jersey City, Miss Ella Bradley, Grand Regent, presiding.

Mrs. G.V. Walsh, Worthy Vice Supreme Regent of New York, offered congratulations to Court Paulus Hook and Court Lucina, and delivered an instructive, interesting and witty address on Isabella. (This was the former name of Catholic Daughters).

Miss Augusta Fallon, Worthy State Regent of New Jersey, spoke in highest praise of Court Lucina, and gave a good word of advice—"Be loyal to one another, and let unity and harmony exist in all Courts."

Miss Donohue, District Deputy of Court Lucina, presented the Grand Regent, Miss Kathryn Martin, with a gavel given to Court Lucina by Mrs. O'Connor, sister of Mother Lucina. Ms. Martin accepted the gavel with thanks, stating that she would always cherish Mother Lucina's memory in the use of the gavel, and use it righteously.

Rev. Father O'Connor congratulated Court Lucina, spoke highly of Miss Martin, wished the Daughters success, and hoped Court Lucina would reach a membership of five hundred.

The closing address was delivered by Rev. Dr. Mackel, pastor of St. Paul of the Cross Parish, who gave high praise to the Order and the impressive ceremony he had witnessed throughout the initiation, and said he was delighted Isabella had arrived in St. Paul of the Cross Parish. He predicted great and grand things for Court Lucina.

The members hope that with the cooperation of all members as manifested in the past 75 years, Court Lucina shall continue to strive toward the realization of the moral and spiritual precedents handed down by their predecessors.

Officers of Court Lucina are as follows: regent, Theresa Scott; 1st vice regent, Elizabeth Lindsay; 2nd vice regent, Ann Wallace; recording secretary, Ella Tuzzio; financial secretary, Viola Sawicki; treasurer, Genevieve Kessler; monitor, Theresa Rothe; trustee, Carmella Tuzzio; trustee, Evelyn Mahoney; trustee, Isabelle Vegliachich.

I must commend this group, who join others in my district, in providing much-needed volunteer services. We are well aware of the restrictions of the Gramm-Rudman Act and the cutbacks in the social service Federal funding areas which must be attended to. Without the input of groups such as the Catholic Daughters of the Americas, the important function of filling in gaps of providing much-needed human services would be an impossibility.

Groups such as the Catholic Daughters of the Americas have indeed been the Rock of Gibraltar in helping families during times of great need. They indeed echo the poem of Pope John Paul II when he speaks of life's work and the dedication of individuals in their vocations, serving God and man:

INSPIRATION

Work starts within, outside it takes such space
That it soon seizes hands, then the limits of breath.
Look—your will strikes a deep bell in stone,
Thought strikes certainty, a peak
Both for heart and for hand.
For this certainty of mind, the certainty of eye,
For this vertical line
You pay with a generous hand.
The stone yields you its strength,
And man matures through work
Which inspires him to difficult good.

With work then it begins: the growing in the heart and the mind,
Great events, a multitude of men are drawn in.
Listen to love that ripens in hammers, in even sounds.
Children will carry them into the future, singing:
"In our fathers' hearts
Work knew no bounds."

This inspiration will not end with hands.
Down to stone centers it descends through man's heart
And from the heart's center the history of stones
Grows large in the layers of earth.
And in man grows the equilibrium
Which love learns through anger.

Neither is ever exhausted in man,
Ever ceases in the shoulders' tension,
In the heart's hidden gesture.
They partake of each other, fulfilling each other,
Raised by a lever which joins movement and thought
In an unbreakable circle.

If from afar you want to enter and stay in man
You must merge these two forces into a language
Simple beyond words
(Your speech must not break at the lever's tension:
The fulcrum of anger and love).
Then no one will ever tear You
Out from the center of man.

These wonderful women, in their service to our families made up of the mothers, fathers, and children and grandparents needing their help, proves indeed that:

Good moral character is not an inheritance, that each individual must build it for himself or herself.

The Catholic Daughters of the Americas give extra meaning to the following message of all persons of good will:

The real purpose of our existence is not to make a living for ourselves, but to make a life—a worthy, well-rounded, useful life.

Do all the good you can
By all the means you can
In all the ways you can
In all the places you can
At all the times you can
To all the people you can
As long as ever you can.

I am sure my colleagues here in the House of Representatives will want to join me in this salute to Court Lucina No. 186, Catholic Daughters of the Americas, on their diamond jubilee.

HUMAN RIGHTS DAY—1987

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. SMITH of New Jersey. Mr. Speaker, today marks the end of the formal meetings between President Reagan and Secretary General Gorbachev but hopefully marks the beginning of a new era between our two nations. As Mr. Gorbachev said, the work has just begun on the approval and implementation of the INF Treaty. Mr. Speaker, I believe we must also declare this the beginning of a new era of understanding with respect to human rights.

I believe President Reagan has made it clear that the arms control treaty is only one aspect of the summit meetings. Among the other issues of concern are the abuse of human rights perpetrated by Soviet forces in Afghanistan is abominable, the continued repression and imprisonment of men and women of all religious faiths in the Soviet Union and the Soviets continued use of psychiatric institutions to subjugate prisoners of conscience.

The havoc and chaos created in Afghanistan and the blood which has been shed is unconscionable. As reported in yesterday's Washington Times, 1.24 million Afghans—approximately 9 percent of the population—have been killed since 1978 when the Kabul government, a puppet of the Soviet Union, seized power. The tragedy is that a large number of these deaths have been women and children. In fact, 16 percent of the deaths occurred in 1984 alone and were primarily civilian deaths. It has been 8 years ago this month, following the 1979 summit meetings, that Soviet troops rolled across the Afghan border to help bolster the Kabul government. For 8 years, the Afghan peoples have been denied their basic human rights and freedoms due to the Soviet policies of indiscriminate military attacks, especially in regions supportive of the mujahedin.

Earlier this week I introduced a resolution calling upon the Soviet Union—as they celebrate in 1988 the millennium of Christianity in Kievan-Rus', the ancient principality whose capital was Kiev—to grant an amnesty for imprisoned Christians. The fundamental freedom of religion is severely restricted in the Soviet Union. Religious believers are often sentenced for up to 3 years' imprisonment on the charge of "circulating anti-Soviet slander." This "slander" may be in the form of distributing or printing Bibles and prayer books produced on homemade presses. Many other religious believers have already served two and three decades in prisons because of their faith.

One tactic of the Soviet authorities often used against people of faith and political dissidents is the use of involuntary psychiatric incarceration. Because of the unacceptable practices used in the Soviet psychiatric hospital system, Mr. Speaker, the Soviet All-Union Society of Psychiatrists and Neurologists withdrew from the World Psychiatric Association in 1983. The unethical practices continue against prisoners of conscience. In fact, Amnesty International reported that at least 44 prisoners were being detained against their will at the end of last year. I was pleased to learn last week that Anna Chertkova, a 14-year victim of psychiatric drugs such as Sulphazin which causes tremors and high fever and affects the mind, was finally released.

Mr. Speaker, I am hopeful that the Soviet Union will strive to reform their ways in these areas of particular concern to me and my colleagues. I believe that not only must we "trust but verify" in the realm of arms control but also in human rights.

LEGISLATION TO ESTABLISH WORLD WAR II VETERANS' MEMORIAL AND MUSEUM

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Ms. KAPTUR. Mr. Speaker, I invite my colleagues to join me in sponsoring legislation being introduced today to establish a World War II Veterans' Memorial and Museum.

December 7 of this year marked the 46th anniversary of the attack on Pearl Harbor and the entrance of the United States into World War II. Over 16 million Americans served in this Nation's Armed Forces during that conflict. Over 400,000 made the ultimate sacrifice in defense of freedom around the world. This was a conflict in which the choice between democracy and tyranny was crystal clear. That war also profoundly shaped the fundamental political, economic and cultural alliances that have been operative in the decades since its end.

Yet, nowhere is there one single monument to honor all of our veterans, both deceased and living, who carried this Nation to victory. Nowhere is there one place to which World War II veterans can bring their children and grandchildren and say "Here is the World War II Veterans' Memorial. These are the reasons for which that war was fought." I and the 65 other Members who have joined me as original cosponsors believe there should be such a place.

Only a national memorial and museum, located in our Nation's Capital, can pay tribute to those valiant men and women as well as give a sense of the times, the scope of the war, the numerous actors in that conflict, the multiple issues, goals and objectives that came into play in the war and, of course, the enduring values to which our participation in that struggle was dedicated.

I hope our colleagues will join us in so honoring these veterans and in sharing with future generations of Americans the lessons imparted by World War II.

A NEW DEAL FOR JAZZ

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. CONYERS. Mr. Speaker, the designation of jazz as a "rare and valuable national American treasure" by the U.S. Congress marks the beginning of a new deal for jazz. The response from both the private and public sector indicates to me that we can expect a higher level of support for this artform in the future.

Here in Washington, Mayor Marion Barry has thrown the full support of the city government behind the establishment of a national center for the study of jazz. Such a facility would provide jazz an institutional foundation that it has lacked in the past. It can be where we preserve the history of the music as well as promote its study and performance.

While jazz has languished in relative obscurity here in the United States, it is the foundation of all American music. The comtemporary sounds of today have evolved from ragtime, swing, and bebop. Todays electronic music duplicates the basics and builds on the creativity of such masters as Ellington, Goodman, Basie, Parker, and Coltrane. These were the pioneers that created joy and communicated goodwill like no other delegation of ambassadors in history.

Jazz has achieved preeminence around the world as an indigenous American music and art form and a product of the African-American experience. In the months ahead, I will be working with the many artists and organizations joining me here today, and Senator ALAN CRANSTON who sponsored the resolution in the Senate, to bring the value and importance of jazz to the attention of more Americans. The recognition of this treasure by the Congress of the United States is a great first step in that direction.

Earlier today, I held a press conference to announce the passage of House Concurrent Resolution 57 by the Senate. In addition to Mayor Barry, Phyllis Hyman, Keter Betts, Willis Conover, and my colleague from New York, FRANK HORTON, I was joined by Mr. John Glasel who spoke on behalf of the American Federation of Musicians. Mr. Glasel's remarks contained a plan of action for jazz community to act on in the future. I would like to insert his statement in the CONGRESSIONAL RECORD so that it will be available for all of the Members to consider:

MAKING CULTURAL HISTORY

(Remarks by John Glasel, President, Associated Musicians of Greater New York, Local 802, AFM, Executive Officer, American Federation of Musicians, AFL-CIO)

We are here today to rejoice at the passage of a Resolution by the Congress of the United States which makes jazz a National Treasure, as a matter of law. For the 200,000 members of the American Federation of Musicians of the United States and Canada and the millions of music lovers who have treasured our uniquely American contribution to the world of music, this is an historic occasion. This is the first time in our nation's history that jazz music has been thus honored and recognized, as a matter of law, by our federal government.

That this honor has been finalized as this year's Christmas season approaches reminds me of the story about the way Christmas was once observed by a family with two children, one of whom was an optimist and the other, a pessimist. Their parents had set aside two rooms in their home for the two children's Christmas presents. For the pessimist, the parents filled one room with every imaginable type of gift, such as a bicycle, a sled, a computer, a television set, and many, many other goodies. As the story goes, on Christmas morning, the pessimistic youngster was ushered to this roomful of gifts, and after a brief investigation, emerged from the room asking "Is this all?" The optimistic youngster was taken to the other room, which contained one full truckload of fresh stable manure. After the child failed to emerge from the room for several hours, the parents opened the door and were amazed to find the youngster on his hands and knees, furiously digging through the manure with his hands. When asked why he was so engaged, the optimistic youth looked up and, without interrupting his labors, stated simply, "There must be a pony in here somewhere!"

On this historic occasion, the pessimists among us might well remind us of some of its bittersweet aspects. They could properly point out that the action is long overdue, since jazz music has been highly esteemed by the people and governments of many other countries for more than a half century. They could further complain that this honor, by itself, will have little effect on the fortunes of the dedicated musicians and presenters in this field. It is an unfortunate fact that performance opportunities for jazz have long been more plentiful abroad, particularly in Europe and Japan, than they are in our nation, which is the home and wellspring of this great music. The pessimists can properly point to many great needs for the nurturing of jazz which are unmet by a simple statement that it is a National Treasure.

But there are always plenty of pessimists in this world. While their predictions are sometimes fulfilled, their attitude stands in the way of progress. It's up to the optimists among us to prove the pessimists wrong, and to build from this significant first step in a way that will promote the further flowering and development of our National Treasure. And there are many other steps that can and should be taken to achieve that goal.

Even as we speak, at this very moment, efforts are being made to further one of those needed steps. On the other side of Capitol Hill this afternoon, a Senate subcommittee is conducting a hearing on a bill which could significantly improve the lot of many American musicians, especially the jazz musicians who are employed in night clubs, lounges, hotels and similar establishments. The bill is known as the Performing Arts Labor Relations Amendment. Its adoption will correct an irrational interpretation of the U.S. labor law which denies musicians employed in such establishments the right to be represented by a union of their choice. Simply put, the operators of such establishments can refuse to negotiate with any union, since the law deems them not to be employers of the musicians. As a result, far too many practitioners of our treasured art of jazz have found themselves without the basic protections that other Americans enjoy. They cannot obtain the medical and pension benefits and grievance procedures which are standard not only for other American workers, but which are routinely available to musicians working in the symphonic, theatrical, recording and broadcasting fields. Jazz musicians are thus being discriminated against, and far too many of them are unprotected against medical emergencies, unprepared for the declining income which is inevitable in their later years, and unsupported in the event of disputes with their employers. I know that J. Martin Emerson, the president of our international union, would have liked to be here today to help celebrate the passage of this significant resolution, but, as you may well understand, it was more important for him to testify before the Senate committee on this important legislation. We should all wish him well, and be prepared to foster the passage of the Performing Arts Labor Relations Amendment (S. 1346/H.R. 1638).

Many other measures can and should be taken to help our National treasure flourish. Foremost among them should be the revision of our Copyright law to protect recorded performances. Our law, unlike that of many other countries, gives performers no rights in the exploitation of their recordings. Only composers, authors and publishers are protected. Jazz is founded on spontaneous, improvised performance, which can only be preserved via recordings, and the practitioners of our beloved treasure are being left out in the cold, economically. It is unfair that the composer of a song can obtain royalties when recordings of his works are utilized commercially, while the jazz musician whose genius often creates the main focus of those recordings receives no recompense. The copyright law must be changed. Another avenue which should be pursued to properly treasure jazz is to increase funding of grants for education and performance. Investigations should also be undertaken to find other means to improve the economics of jazz presentation, which, as we in this room are all too well aware, is an economically marginal enterprise that is far too often a literal "labor of love."

Musicians and music lovers everywhere have a special debt of gratitude to Representative John Conyers and the resolution's cosponsors, whose tireless efforts have finally borne fruit with the adoption of this historic resolution. But we of the American Federation of Musicians hope that today's celebration will be more than a commemoration of his efforts. Mr. Conyers, there's more, much more, to be done. We and you must dedicate ourselves to a continuing effort to truly treasure our great American musical art form. The Resolution represents a historic beginning. Let's all look forward to a great future for our new National Treasure.

ST. ROCCO'S CHURCH—A BRIGHT BEACON OF HOPE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. RODINO. Mr. Speaker, St. Rocco's Church in Newark, NJ is celebrating the 50th anniversary of the construction of its present church building on Hunterdon Street.

This beautiful church is noted for its Italo-Byzantine style and its magnificent full dome which was recently covered in gold leaf to complete an ongoing restoration. Constructed in 1937 during the Great Depression, the building of a new church at a time of economic hardship was an act of faith in the future. The church, designed by architect Neil J. Convery, is a reproduction of St. Blasius in Lendinara, Italy.

Among its many features are statues of St. Rocco, St. Cataldus, and St. Nicholas of Bari which stand above the main entrance. The interior incorporates Italian marble with reverential artwork on the ceiling. The beauty and historical significance of St. Rocco's was recognized in 1980 when the church was placed on the National Register of Historic Sites.

But throughout its proud history, the outstanding characteristic of St. Rocco's has been its enduring sense of mission. This parish, from one generation to another, has worked diligently to provide hope and comfort to all people. Through good times and bad, despite changes in the Central Ward neighborhood where the church is located, St. Rocco's has remained deeply committed to the community. The members of St. Rocco's—a rich diversity and the church's greatest asset—have never forgotten that the fundamental tradition of the church is to help others. This is the true hallmark of the past, the present, and the future of St. Rocco's.

Today, under the dedicated ministry of the Reverend John Nickas, St. Rocco's continues to open its doors to those in need. The church rectory offers a valuable refuge for the homeless, the hungry and those in search of encouragement and support. In the basement of St. Rocco's, the children's center provides an important service to neighborhood youngsters. On Ashland Street, St. Rocco's School serves as both a vital education center and a community base for a full program of activities.

I want to extend my congratulations to all the members of St. Rocco's Church as they celebrate this important milestone. Their positive contributions have enriched our community and earned our gratitude. With a concern for others and a willingness to embark on new fields of ministry, St. Rocco's continues to build on this historical foundation. As it faces the challenges of the future, St. Rocco's remains a bright beacon of hope for all the citizens of Newark.

PART OF EIFFEL TOWER MAKES ITS HOME IN HARRISBURG

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. GEKAS. Mr. Speaker, yesterday when we thought of the Eiffel Tower we naturally thought of Paris, France, home of the famous landmark and masterpiece of wrought-iron technology. Today when we think of the magnificent Eiffel Tower some of us think of Harrisburg, PA, the new home of a piece of the famed tower.

Recently, Harrisburg area developer John O. Vartan couldn't resist the opportunity to purchase a piece of the original tower and enshrine it in Harrisburg. John's purchase, a 27-foot-long section of the Eiffel Tower's spiral staircase, will be unveiled for the public on Monday, December 14, 1987, at the steps of the Capitol.

The Eiffel Tower was erected in 1889 for the exhibition celebrating the 100th anniversary of the French Revolution. From a detailed set of plans designed by French engineer Alexandre Gustave Eiffel, the 12,000 metal parts of the tower were all prefabricated and numbered for assembly. The gigantic undertaking proceeded so smoothly that not one worker's life was lost by accidents on the scaffolding. The tower was completed, except for the elevators, in 26½ months.

John Vartan's purchase contains 44 of the original, 1,710 steps. He plans to transport the stairs throughout the east coast. The steps will finally be enshrined inside a future office building to be constructed in Harrisburg by Vartan in Louis IV style.

Mr. Speaker, anyone who wants to see a piece of the famous Paris landmark will only have to go to Harrisburg to see it. I invite all my colleagues in the U.S. Congress to visit Harrisburg, PA, to see and enjoy this piece of history.

H.R. 1467 AND THE KEMP'S RIDLEY SEA TURTLES

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. INHOFE. Mr. Speaker, I rise in support of H.R. 1467 and more specifically, I rise in defense of the Kemp's ridley sea turtle. In the last 40 years we have seen a dramatic and disturbing decline of this once abundant species. The decline of ridleys since 1947 has been estimated at 98 percent, and each year large numbers of the remaining ridleys are needlessly drowned in shrimping nets. While conservation groups often cry "wolf," the ridley is indeed endangered.

Although it may seem uncharacteristic of me to be involved in this matter, my concern is genuine because it arises from my personal experiences and observations.

For over 30 years, I have been personally involved in the "ridley cause" as I observed them on South Padre Island, Many dedicated individuals in the area have expended much time and effort to guard these animals from human predators and nurse injured ridleys back to health. The most caring of these people is Ila Loetscher, well known as the "Turtle Lady" of South Padre Island. Mrs. Loetscher has protected and nursed dozens of injured ridleys back to health after a near fatal encounter with a shrimp boat. The dedication of people like Mrs. Loetscher to preserve the ridley is worthy of our support. So on behalf of the "Turtle Lady" and myself, I ask you to understand the danger facing one of nature's most fragile and lovable creatures and join our cause.

U.S. EDUCATION ASSISTANCE TO THE SOUTH PACIFIC ISLAND STATES

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BLAZ. Mr. Speaker, I rise today to state that I am heartened by our country's renewed interest and appreciation of the island nations of the South Pacific. The recent ratification of the Tuna Fisheries Treaty by the Senate and the provisions in the foreign aid bill, H.R. 3100, providing assistance to this long-neglected area marks what can be called a return to the Pacific by the United States.

Although the amounts are a mere pittance in comparison with the amounts earmarked for other areas of the world, they represent something much more. As you know Mr. Speaker, the people of these islands fought valiantly by our side during the Second World War. Our experience with them fostered a strong friendship and created a huge reservoir of goodwill towards the United States by these islanders. Sorry to say that after the war ended up until recently, the United States neglected these friends who had expected a closer, stronger, friendlier relationship with us. That is why I said earlier that I am heartened by the renewed interest and commitment by the United States for the island nations of the South Pacific. We are on our way to demonstrating our concern and addressing positively the needs of this vital region.

I would like to commend particularly my colleagues, Mr. SUNIA and Mr. LAGOMARSINO, for their work in the section of the bill which provides scholarship funding for students from these islands who are interested in pursuing postsecondary education at U.S. institutions.

I believe this is an example of the positive steps we are and should continue taking to foster better relations with that part of the world. For not only will these funds assist in providing quality academic or vocational training for the future leaders of these nations, they will allow them also to learn first-hand what the American experience is all about. Conversely, we will benefit by learning of cultures and peoples of a region which with we have little knowledge or experience. And if this is what the scholarships are ultimately intended to do—promote a greater understanding amongst the people of the South Pacific and the people of this country which will form the foundation for an even stronger, healthier and friendlier relationship in the future—then we here have done our job well.

GENUINE WELFARE REFORM

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. MACK. Mr. Speaker, today the House is considering welfare reform legislation. The test of any genuine welfare reform has to be whether it successfully prepares people for work, eases them off the welfare rolls, and breaks the tragic cycle of dependency among our Nation's poor.

Under these criteria, clearly H.R. 3200 is superior to H.R. 1720. The proponents of H.R. 1720 say it will "promote family stability and self-support through work." But a closer look at the bill shows the bill would not be good for welfare families.

Perhaps the most telling comparison between H.R. 1720 and the Republican substitute, H.R. 3200, lies in how many people are helped. According to CBO, almost 1 million people will participate in employment and training programs under the Republican bill. Only about 365,000 people will participate under H.R. 1720. Especially in light of the fact that the price for H.R. 1720 is almost five times as high as for H.R. 3200, H.R. 3200 is the legislation which deserves our full support.

The problem with H.R. 1720 is that it actually encourages people to stay on welfare and builds in disincentives to work. H.R. 1720 is also a bill which, although it pretends to be welfare reform, actually increases welfare benefits—further discouraging people from breaking their dependency on welfare.

The Republican substitute, on the other hand, sets participation standards that States must meet, while at the same time granting States substantial flexibility in designing their employment and training programs. The Republican bill also provides both child care and health insurance during the transition from welfare to work.

Mr. Speaker, I support H.R. 3200. It will allow many welfare recipients to enter the labor force and leave welfare. I encourage my colleagues to join me in supporting this legislation.

SUPPORTING THE PRESIDENT IN SUMMIT DISCUSSIONS OF A U.N.-IMPOSED ARMS EMBARGO ON IRAN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. DYMALLY. Mr. Speaker, while I would like to extend my congratulations to the President of the United States for securing an Intermediate Nuclear Forces Reduction Treaty, I would hope that this success will be complimented with a Soviet agreement to a second U.N. Security Council resolution which imposes an arms embargo against the party of the Iran-Iraq conflict which refuses to comply with a cease-fire and withdrawal to internationally recognized boundaries as called for by U.N. Security Council Resolution 598.

Today, I am introducing a concurrent resolution in the House expressing our strong support for the President in his efforts to obtain Soviet support for this second U.N. resolution. Since Iraq has agreed to the terms of the first resolution while Iran has consistently refused, then it is clear that Iran is the intransigent party in the Iran-Iraq war and should be the subject of the embargo.

Although full consideration of this resolution is impossible because of time constraints, I would like to emphasize the bipartisan and the leadership support of this resolution. This resolution reflects the spirit of the language just agreed to by both the Senate and House conferees dealing with the State Department authorization conference.

Mr. Speaker, this 7-year conflict has already resulted in over 1,500,000 casualties. The Iran-Iraq war threatens to engulf the whole region as Iran continues to fire Silkworm missiles at the country of Kuwait, and mine the gulf. With 30 U.S. ships and over 25,000 of our troops in the region, the chances of increased hostilities is great. If the Soviet Union is really interested in minimizing tensions in the world, then this is the place to show its commitment to peace.

H. CON. RES. 226

Whereas United Nations Security Council Resolution 598, adopted July 20, 1987, calls for an immediate ceasefire in the Iran-Iraq conflict and provides for subsequent consideration by the Security Council of steps to ensure compliance with the resolution;

Whereas Public Law 100-96, enacted August 18, 1987, notes that "the Iraqi Government has called for an immediate ceasefire and a negotiated solution to the conflict, including a withdrawal to the internationally recognized border";

Whereas Iran has refused to accept a ceasefire in accordance with United Nations Security Council Resolution 598;

Whereas the United States Armed Forces have approximately 30 ships and 25,000 personnel in the Persian Gulf region;

Whereas Public Law 100-96 declares that "the policy of the United States Government shall be to support (1) a ceasefire and a negotiated solution to the Iran-Iraq conflict, including a withdrawal to the internationally recognized border, and (2) the establishment of an international tribunal to investigate the origins of the conflict";

Whereas Public Law 100-96 also expresses the sense of the Congress that "if either party to the Iran-Iraq war rejects peace negotiations and an internationally sanctioned ceasefire, including a withdrawal to the internationally recognized border, the United States should support internationally approved political and economic measures against that country, and maintain existing limitations on trade"; and

Whereas the Soviet Union, as a member of the United Nations Security Council, has not accepted a resolution to ensure compliance with United Nations Security Council Resolution 598: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby declares its support for the President in his efforts, during his discussions with Soviet General Secretary Gorbachev, to obtain the support of the Soviet Union for a United Nations Security Council resolution calling for an international arms embargo against any party to the Iran-Iraq conflict which refuses to comply with the ceasefire and the withdrawal to internationally recognized boundaries called for by United Nations Security Council Resolution 598.

INTERNATIONAL HUMAN RIGHTS DAY AND THE SUMMIT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. GILMAN. Mr. Speaker, it is indeed noteworthy that today's commemoration of International Human Rights Day coincides with the current summit meeting between President Reagan and Soviet General Secretary Mikhail Gorbachev. However, while we applaud the signing of the important INF Treaty, it has become clear that the crucial issue of human rights has not been accorded the same priority by the Soviet Union.

This thirty-ninth anniversary of International Human Rights Day celebrates the signing of the Universal Declaration of Human Rights. This document is accepted by a multitude of nations as a guideline for the treatment of their own citizens. Yet, unfortunately, there are numerous signatories who do not fulfill their obligations under this declaration, including the Soviet Union.

We in the West consider human rights inalienable; they include religious freedom, cultural concerns, and freedom of thought, movement, and communication. Yet, on the eve of the summit, Leningrad activist Lev Furman was arrested for unfurling a banner in Palace Square. He was immediately arrested and is reported to be serving a 10 day sentence. For what? For espousing the precepts of human rights and those concepts contained within the Universal Declaration on Human Rights, and other international agreements to which the Soviet Union is signatory.

Let us acknowledge the limited progress made by the U.S.S.R. on this important matter. Yes, emigration of Soviet Jews, Armenians, and ethnic Germans has risen in the past year. But it is clearly not what it should be. Instead, insidious obstacles to emigration take place with ever rising frequency. The harassment, beatings and detentions of Jewish refuseniks and other activists during the Capital-to-Capital telebridges is clear indication that freedom of speech and movement is still extremely limited. Last Sunday's arrest of Lev Furman is the other face of glasnost. While we marched 200,000 strong, in freedom, from behind the White House to the United States Capitol, Soviet citizens could only dream of the day when something similar can occur in Moscow.

Religious freedom is denied to many hundreds of thousands of Christians, including Catholics, Baptists and Pentacostals throughout U.S.S.R. Estonians, Latvians and Lithuanians long for the day when their countries will be their own once again. Ukraine, the breadbasket of the Soviet Union, maintains its food production while the shadow of the forced famine under Stalin remains fresh in Ukrainian minds. Ethnic heritage and traditions are repressed, religious activity is strictly monitored, and any nationalist tendencies in all of these republics are summarily suppressed. International Human Rights Day commemorates the efforts for freedom being made by all these people in the Soviet Union as well as other countries around the world, who desire nothing more than compliance with the Universal Declaration of Human Rights.

Mr. Speaker, it is incumbent upon us to applaud these millions of dedicated men and women, who speak out against injustice in the face of certain punishment. We are with them in spirit, and assure them that we in Congress will continue to press for Soviet compliance with the Universal Declaration of Human Rights, hailed by so many nations 39 years ago today in the chambers of the U.N. We can do no less. This week's historic summit meeting represents a meeting of the minds regarding intermediate range nuclear weapons. Let us hope and pray that a meeting of the minds will soon come to pass on human rights matters as well.

RELIGIOUS PERSECUTION STILL EXISTS AROUND THE WORLD

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BERMAN. Mr. Speaker, while today marks the 39th anniversary of the signing of the Universal Declaration of Human Rights, the goals stated in that document remain distant for many people in the world. Persecution on a religious basis continues to exist around the globe.

Many of us have been working, in Congress, at home, and abroad, to bring attention to the plight of people suffering under such oppression. Just this week more than 200,000 people marched in Washington to protest the treatment of Jewish individuals in the Soviet Union.

Another country oppressing people on a religious basis is Iran—a nation under the grip of Islamic fundamentalists—which has systematically and viciously persecuted citizens of that country who practice the Baha'i faith.

The Iranian Baha'is are being jailed, tortured, and killed in a nation where they represent the largest minority religious group. While adhering to a religion that stresses the principles of social equality, universal education, and the elimination of world prejudice, the Baha'is are in constant fear for their lives.

It is incumbent upon those of us in free nations to focus on the abusive conditions perpetuated in certain nations and to insist on respect for all men and women, regardless of their choice of religious expression. I urge the Iranian Government to halt the abusive treatment of the Baha'is immediately and to release those Baha'is currently detained.

I also hope that the Government of Egypt will pay attention to the outcry against the policy of Iran and not continue to prosecute Baha'is on the basis of religion. The situation in Egypt demands our close attention as well, and we must encourage that nation to develop a society tolerant of all religions.

SOVIETS TARGET MEDICAL FACILITIES AS PART OF THEIR GENOCIDAL ATTACK ON THE PEOPLE OF AFGHANISTAN

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. DREIER of California. Mr. Speaker, I wish to bring to my colleagues' attention the conclusions of the Independent Counsel on International Human Rights on the choice of targets by the Soviet and Afghan Government forces in Afghanistan. The following analysis and conclusions are taken from the "Report of the Independent Counsel on International Human Rights on the Human Rights Situation in Afghanistan." In addition to intentional attacks on civilians, the report outlines the destruction of civilian food and water supplies, medical facilities, and places of worship. This information speaks volumes about what the Afghan people have endured since the Soviet takeover of their country. I would like to insert into the CONGRESSIONAL RECORD the section of the report concerning unlawful targets.

The material follows:

E. UNLAWFUL TARGETS

61. Both the law of the Hague and the law of Geneva regulate, restrict and, in certain instances, prohibit the choice of targets by parties to an armed conflict. Certain targets unrelated to the armed conflict are illegal.

In the course of their interviews the Independent Counsel noted that, in addition to such legitimate targets as mujahedeen installations, attacks appeared to be regularly launched against a variety of targets which are entitled to protection under international law. The frequency with which such attacks were described leads the Independent Counsel to believe that the reports they received were not of isolated mistakes, but of deliberate target acquisition by Soviet and DRA forces.

62. A previous portion of this report has been devoted to a description of attacks which have taken place on civilians. The targeting of civilians is of course in direct contravention to the affirmative obligation of Common Article 3 which requires that persons taking no active role in hostilities be treated humanely.

63. Intimately related to the lives of the civilian population is their food and water supply. A number of international relief organizations indicated that their attention was shifting from the provision of medical care to the provision of food, usually in the form of seed for planting. The shortage of food caused by the destruction of food supplies was independently stressed by a number of Afghan village elders and resistance leaders. As part of their usual practice in the occupation of a village, Soviet troops are reported to destroy crops and kill livestock. The methods described ranged from setting food on fire with tracer bullets or flares to contaminating food by urinating and defecating on stored grains. The water supply is not neglected by the Soviet armed forces. Irrigation canals are reported to be regularly bombed and the Independent Counsel received a number of credible reports of the poisoning of wells and other water sources.

64. Medical facilities and personnel identified as such by the display of the internationally recognized symbols of the red cross or the red crescent are entitled to special protection. They certainly are not legitimate targets of attack. The Independent Counsel learned from international relief organizations which operate inside Afghanistan that such organizations are reluctant to identify their facilities by use of the red cross. This is because they have learned from experience that identifying such a location appears to draw attacks. For example, reports were received that on two instances building in Paktiska identified as medical facilities were bombed, in each case by MiG's whose sole action was to attack those facilities.

65. A place of worship, such as a mosque, is not a legitimate target of attack, unless it is being used as a military installation. The Independent Counsel, during the course of their interviews, learned that following the occupation of a village or other area, Soviet forces usually use the local mosque as a latrine. To further compound the insult, pages of the Holy Koran are used as toilet paper. The fundamental role which religion plays in the life of the Afghans will be discussed in greater depth later in Section G.2 of this report. However, from the manner in which this attack is carried out it is clear that the choice of mosques as targets is not made out of military necessity, but as a means to degrade and humiliate the people, in violation of paragraph 1(c) of Common Article 3.

22. Refugees fleeing their country or outside their country are protected against attack. Yet, a Pakistani Government official responsible for Afghan refugee affairs told the Indpendent Counsel that, while accompanied by the United Nations Special Rapporteur, he and the Special Rapporteur personally witnessed an attack within the Afghan/Pakistan border area on a refugee column in which a number of people were killed. It is incontestable that the number of aerial attacks on Afghan refugee camps in the border areas of Pakistan has increased dramatically in the last year. During the visit of the Independent Counsel to Pakistan, a number of such attacks took place, with many reported deaths. Attacks on refugees within Afghanistan by ambush or helicopter strafing were also reported. While in Quetta, the Independent Counsel heard extremely disquieting testimony that a group of refugees in the Rigistan desert on their way to Pakistan in 1987 were captured by Soviet troops in helicopters and thrown while alive into a bonfire made up of the posessions they had been carrying with the result that all captured were killed.

CONCLUSIONS ON UNLAWFUL TARGETS

67. The evidence adduced by the Independent Counsel on International Human Rights indicates that little if any discrimination is made by the Soviet and DRA forces between legitimate and illegitimate targets of attack. Rather to the contrary the war is being waged without restraint on the civilian population of Afghanistan and the physical and religious structure that supports it. Even these persons who have given up their country and are going or have gone into exile are not immune from attack. Unlawful attacks by Soviet and DRA forces on illegitimate targets is widespread and systematic.

SOVIET JEWRY AND THE SUMMIT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. LEVINE of California. Mr. Speaker, history was made 2 days ago in the East Room of the White House. At 1:30 p.m. on Tuesday, President Reagan and General Secretary Gorbachev signed the first arms control agreement ever which will actually eliminate, and not simply limit, an entire class of nuclear weapons.

Both leaders deserve praise for this remarkable achievement, for their tangible and concrete commitment to reducing the threat of nuclear war. Hopefully, the INF Treaty will provide the impetus for a much more militarily significant agreement on long-range strategic arms.

Nonetheless, Mr. Speaker, the glow of Tuesday's events should not blind us to the fact that history of another sort was made this past Sunday. On that day, thousands upon thousands of Americans—Jew and Gentile, white and black, old and young—converged upon Washington in a show of solidarity with Soviet Jewry.

Two hundred thousand people marched from the Ellipse to The Mall to demonstrate their support for those individuals in the Soviet Union for whom glasnost remains merely an empty promise. I participated in this march, and was overwhelmed by the response, by the sea of faces I saw as I sat on the stage and looked for over the crowd.

Mr. Gorbachev might have a nice smile, and a quick and easy manner, but it was his regime that bullied and broke up a concurrent demonstration by Jewish refuseniks in Moscow on Sunday. It was his regime that roughed up television crews and detained an American news correspondent. It was Mr. Gorbachev himself who made the outrageous—and ominous—remark to Tom Brokaw that the uproar over Soviet Jews is being orchestrated by the United States to support a brain drain. And it is Mr. Gorbachev who has demonstrated absolutely no sensitivity to human rights issues during his visit to Washington.

Mr. Speaker, in the arena of human rights and individual freedoms, the differences between our system and the Soviet system could not be more stark. We should not lose total sight of that fact, even with the positive feelings generated by the summit.

During the Mall demonstration on Sunday, Pearl Bailey sang a moving rendition of "Let My People Go." The Tuesday, December 8, 1987 edition of the New York Times carried an editorial entitled "Let All These People Go." I commend it to the attention of my colleagues so that they can be reminded of the importance of keeping the pressure on regarding Jewish emigration, and I ask that it be included in the RECORD.

[From the New York Times, Dec. 8, 1987]

LET ALL THESE PEOPLE GO

Glasnost or not, Soviet citizens attempting a peaceful human rights protest in Moscow Sunday got the familiar pre-Gorbachev bullying by K.G.B. goons, who also roughed up television crews and for hours detained Peter Arnett of the Cable News Network. In Washington, meanwhile, an unexpected outpouring of 200,000 people peacefully filled the Mall to form a human petition on behalf of emigration rights of Soviet Jewry.

The contrast cannot be ignored by Mikhail Gorbachev if he hopes to understand Americans. The right to petition is fundamental, enshrined in a Constitution that Americans care about deeply. They also care deeply about the right to emigrate—as Soviet Jews, political dissidents, Pentecostals, ethnic Germans and a host of others vainly clamor to leave. The sentiment is not feigned or fabricated to embarrass Mr. Gorbachev. It is rooted in America's experience as mother of exiles, a point Mr. Gorbachev seemed to grasp in his interview last week with Tom Brokaw of NBC.

Yet the Soviet leader went on to say that the fuss over Soviet Jews was really about a "brain drain," an effort by the United States to lure away scientists and doctors trained at Soviet expense. The same bizarre theme has now been repeated, and inflated, by the Soviet spokesman Gennadi Gerasimov. To him, the problem is that the United States will let in some people but not others. "I could say what about Mexican immigration to this country? What about the wetbacks?"

Surely Mr. Gorbachev and his colleagues appreciate the difference between *in* and *out*. The demonstrations against Soviet human rights behavior protest Moscow's refusal to let thousands of people out. No people are known to be protesting, in

Mexico or anywhere in the world, Soviet unwillingness to let them in.

Mr. Gorbachev may not know that sympathy for Russia's persecuted Jews first welled up in American newspapers in 1820. Reaction to further persecution inspired punitive proposals in 1879 and protest rallies in 1882. A succession of grisly pogroms caused Congress in 1911 to try to abrogate a commercial treaty with Russia. This sympathy extended to political offenders, whose plight was described in "Siberia and the Exile System," an 1891 exposé by George Kennan, a relative of his modern namesake.

Under Mikhail Gorbachev, Soviet officials no longer refuse even to discuss human rights. They have freed well-known prisoners. Siberia, they say, will no more be used as a place of punishment. They promise new procedures. All of this is important, but falls far short of compliance with Soviet pledges in the Helsinki accords and the U.N. Declaration of Human Rights to allow citizens freely to leave their country.

Failing that, the campaign must continue. It does not favor to Soviet victims to make their deliverance a condition for next steps in controlling weapons that threaten all humanity Indeed, arms and other agreements can help create conditions for opening doors. But if Mr. Gorbachev is serious about nurturing a new relationship with the United States, he needs to heed the grievances that brought 200,000 people to the Mall on a cold December day.

LEGISLATION ON UNRELATED BUSINESS INCOME TAX

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to clarify that certain items of income received by tax exempt organizations are unrelated business income and subject to tax.

Mr. Speaker, the latest rage in fundraising gimmicks by organizations which are exempt from tax under section 501(c) of the Internal Revenue Code are so-called affinity credit cards. Typically, a tax exempt organization—such as a college or university—will participate in a solicitation of its members by a bank for credit card applications. For every member who applies for a credit card, the exempt organization will receive a flat dollar amount, plus 0.5 percent of the total charge made to the card by the member, plus a flat amount for each renewal of the card. The Wall Street Journal reported a prediction in September that "within the next few years there won't be any nonaffinity group cards."

My bill clarifies the tax treatment of the amounts which these organizations receive from affinity card transactions. Section 511 of the Internal Revenue Code imposes a tax on the unrelated business income of charitable and other organizations. Under the income tax regulations, income is unrelated business income if it is derived from a trade or business which is regularly carried on, and not substantially related to an organization's exempt purpose. Additionally, several items of income—such as royalties, rents, dividends, interest and other items—are excluded from a calculation of unrelated business income under Internal Revenue Code section 512.

Obviously, objective tests such as "not substantially related" are extremely difficult for the Internal Revenue Service to enforce. Nonetheless, in revenue ruling 72-431, 1982-2 CB 281, the Service held that a regular sale of membership mailing lists by an exempt educational organization constituted an unrelated trade or business. This revenue ruling seemed dispositive of this question—and would seem to clearly apply the unrelated business income tax to organizations engaging in affinity card transactions—until the announcement of a private letter ruling by the IRS last week.

In private letter ruling 8747066, the Service reasoned that the income derived from an affinity card transaction entered into between a tax exempt fraternal organization and a bank would be unrelated business income. Nonetheless, the private letter ruling indicated that the amounts received from the transaction would be royalty income and therefore excludible from a calculation of unrelated business income. it is important to note, however, that the IRS ruling letter is currently under reconsideration.

Although the term "royalty" is not defined in code section 512, the term has been defined as "amounts received not only for the use of patents and copyrights, but for secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property." *Commissioner* v. *Affiliated Enterprises,* 123 F.2d 665, 668 (1941). The payment "must relate to the use of a valuable right." Revenue ruling 81-178, 1981-2 CB 135. Apparently, the preliminary assessment by the Internal Revenue Service is that the income received from an affinity card transaction can be excluded from the computation of unrelated business income as a payment for "the use of a valuable right."

My bill would provide that income received in connection with the sale, rental or grant of a right to use lists of members, customers or contributors to tax exempt organizations would be unrelated business income. In that sense, my bill codifies so much of revenue ruling 72-431 that applies to the sale of membership lists to taxable businesses or other entities. Code section 513(h)(1), which allows tax-free sales of membership lists between tax-exempt organizations, is not disturbed by this legislation. Additionally, my bill clarifies that the income received is not to be treated as one of the "modifications"—or exclusions—listed in code section 512(b). Therefore, this income would not be treated as royalty income and to that extent, my bill would overrule private letter ruling 8747066. The provision would be effective for amounts received after November 24, 1987, although no inference should be drawn from this date as to the proper tax treatment of amounts received before November 24, 1987.

Mr. Speaker, let me stress that my intent is not to stop these transactions. I just want to insure that the amounts received are treated for what they are: unrelated business income. As a member of the Committee on Ways and Means, I will push for speedy action on this measure either separately or in the context of a larger review of the tax treatment of unrelated business income.

PERSONAL EXPLANATION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. KOSTMAYER. Mr. Speaker, on December 3 the members of the conference committee on the State Department authorization bill were meeting on the Senate side of the Capitol. Because of this, I inadvertently missed rollcall No. 453. If I had been present, I would have voted "aye."

IN HONOR OF THE KOREAN COMMUNITY OF COLUMBUS, GA

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. RAY. Mr. Speaker, I wish to take a few moments to express my admiration for the Korean community of Columbus, GA. I have been asked to attend a holiday celebration hosted by that community and present their "Family of the Year" awards. Each year two awards are presented, one for a Korean family and one for an American family, which has best demonstrated the strengths and values of the family.

I am grateful to the Korean community of Columbus for asking me to attend their ceremony this year. I have been worried about what I believe to be the deterioration of the American family, and I am thankful to them for bringing attention to the strengths of the American family.

The Korean community of Columbus represents the finest traditions of the American melting pot. Many of them have come to Georgia through connections with the military. Within their community there seems to be a determination to be a contributing and responsible member of the community. They have overcome handicaps of culture and language by having a commitment to the American Dream.

I am proud to have the privilege to represent the Korean community of Columbus in the House of Representatives. I believe that their efforts to support and strengthen the American family are worthwhile and commendable.

THE ACCOMPLISHMENTS OF GUY RUTLAND III

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. DARDEN. Mr. Speaker, I would like for my colleagues to take note of the accomplishments of Guy Rutland III, an outstanding Georgia businessman who recently was elected chairman of the board of the American Trucking Associations. The ATA is the largest representative of the American trucking industry and its 7 million men and women.

Guy Rutland is chairman of Allied Systems, a management company that oversees the operations of the Motor Convoy—the Nation's third-largest hauler of automobiles and trucks—and Auto Convoy, another auto hauler. These companies, operating about 1,500 tractor-trailers in 37 States, are based in Mr. Rutland's hometown of Decatur, GA.

Mr. Rutland long has been active in the trucking industry. He is a former chairman of the Georgia Motor Trucking Association, is director of the Florida Trucking Association and also has served as chairman of the board of the National Automobile Transporters Association.

He also is active in business and civic affairs. Mr. Rutland is chairman of the board of the Howard Schools, a private school and demonstration project for children with learning disabilities, and also is involved in the activities of the Georgia Safety Council and the Atlanta Safety Council.

Mr. Rutland was graduated from the Citadel in Charleston, SC, in 1960, with a B.S. in civil engineering. He and his wife, Linda, have three children—Christine, Guy IV, and David.

Mr. Speaker, Guy Rutland III, possesses an outstanding record of achievement in business and civic affairs. I invite my colleagues to join me in congratulating him on his election as chairman of the board of the American Trucking Associations.

SPEECH BY THE HONORABLE ANDY JACOBS

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. SHARP. Mr. Speaker, I would like to share with my colleagues the speech made by our distinguished colleague from Indianapolis, ANDY JACOBS, on Veterans Day.

As grand marshal of the city's annual Veterans Day commemoration, ANDY JACOBS delivered particularly eloquent remarks to honor those who have served our Nation in its greatest times of need, and in remembrance of those who made the supreme sacrifice in the defense of our Nation and its freedoms.

REMARKS BY CONGRESSMAN ANDY JACOBS, JR., VETERANS DAY MEMORIAL SERVICE

"In a just world," wrote Homer, "there would be no need for valor." On the cusp of the eleventh hour of the eleventh day of the eleventh month of the two hundred eleventh year of the Republic, in a bleak week, the clouds parted, the sun shone and God smiled on the few, the very few, who came to this hallowed place to remember. To remember those who went forth to do their duties as defined by the duly constituted authorities of the land we love. To do their duties to endure the mud, the snow, the exposure, the loneliness, the fire, the thunder, the chaos, the bone chilling terror, the torture and for many, the unspeakably horrible deaths which ended their worlds, their dreams, their hopes and their ambitions. The philospher said, "Civilization progresses because young men die for their countries and old men plant trees under which they will never sit."

Once upon a time, in the place of their memories, there were laughing, breathing, loving people, our fellow and fallen citizens. To give one's life for one's country is love than which there can be no greater. Valor is a beautiful thing, which should not be wasted on public officials who seek self-aggrandizement through unnecessary war, who seek to be vicarious heroes by wasting forever the lives, the very beings, of brave men and women, some of whom are here today as members of the loyal armed services of the United States.

God grant that we be worthy of the supreme sacrifice of those we profoundly honor here today, that we may have the wisdom to choose national leaders with sufficient vision and integrity to accept the simple and well-known truth that if our marvelous nation ever goes to war again, it should be because we have to, not just because we have a chance to.

They will be done, Almighty God.

AFRICA AID EARMARKS FOR POPULATION HEALTH AND ENVIRONMENT MAKES GOOD SENSE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. PORTER. Mr. Speaker, there was some thought that an amendment would be offered to the foreign assistance authorization which would make the 10-percent earmarks of the Africa fund discretionary.

I believe the Foreign Affairs Committee has wisely provided 10 percent earmarks in the Africa fund to support population, health, and the environment. The most basic and pressing problems of Africa fall into these three areas. Africa has the world's fastest population growth rate, largest number of AIDS victims and worst problem of desertification.

Many countries in Africa now have the highest population growth rates in the world. Kenya, our best friend in the region who provides support to our fleet in the Indian ocean, boasts the world's fastest population growth rate of 4 percent per annum. Many African nations ignored their population problems until very recently. They felt that our concern for family planning was somehow a threat to their future.

All that has changed. Within the last 10 years, nearly every African nation has come to recognize the importance of family planning. Our Agency for International Development reports that Africa has the fastest growing component of our international family planning programs. I believe that a 10-percent commitment of our Africa funds to family planning is a minimum number for what our effort should be.

Population growth is the engine that drives so many other problems in Africa. It strains resources in education, jobs, and health. Making a strong commitment to it here, as the committee version does, is a commitment to the long-term future of Africa.

The health earmark also makes sense. Along with Mr. OBEY and Mr. MRAZEK, I have worked to combat the spread of the AIDS virus worldwide. Recent reports show that well over 100 countries have people who have been infected with the AIDS virus, most of them in Africa.

AIDS poses one of the greatest threats to public health in this century. It threatens to wipe out 40 years of progress made by child survival initiatives and public health programs. Best estimates show that 5 to 10 million people are already infected with the AIDS virus and between 50 and 100 million people will be infected by 1990.

The World Health Organization [WHO] has taken the lead in coordinating international efforts to combat the spread of this disease through their Special Programme on AIDS. Earmarking 10 percent of the Africa funds for health is essential to helping maintain the health infrastructure of Africa that must withstand the onslaught of this modern day plague.

The environmental earmark is also important. As the author of the Tropical Forest Protection Act of 1987, I know that Africa is home to one of the world's largest remaining rain forests. These forests house half of all known species of plant and animal life; many species reside only in tropical forests and face extinction as their habitats are destroyed. Extinction robs current and future generations of priceless genetic resources and disturbs fragile forest ecosystems.

Loss of the world's rain forests would cause a global change in the environment and would imperil the long-term development of Third World countries that are economically dependent on these forests. This earmark will help to combat this problem and the desertification that threatens the future of many sub-Saharan countries.

For these reasons, I believe the Foreign Affairs Committee in fashioning aid for Africa has acted properly in earmarking specific portions of that aid for voluntary family planning, for health, and for environmental concerns.

A TRIBUTE TO LUCAS REYES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a truly special individual whose selfless dedication has benefited countless persons in many different ways. I speak of Lucas Reyes, who for 50 years has committed himself to the service of his fellow man as an agricultural scientist. Once in a great while, one is fortunate enough to know an individual whose unselfish devotion is an inspiration in the truest sense of the word. Lucas Reyes is such a person. For half a century, he has worked diligently to improve the quality of agriculture in south Texas.

It would be difficult to overstate the contributions Lucas Reyes had made to the advancement of agriculture in south Texas. In fact, Mr. Reyes has sometimes been referred to as "Mr. South Texas Agriculture." Many agricultural producers of the Costal Bend area of Texas agree that if one individual were to be given the credit for the high status of agriculture in this region, this credit would certainly go to Lucas Reyes.

Mr. Reyes' work as a research agronomist has covered many types of crops and applications. Since he began his work to establish cotton as a viable and profitable crop in south Texas, cotton yields have increased dramatically while other cotton-producing areas have experienced declining yields. In grain sorghum research, Lucas Reyes worked to improve varieties and disease resistance which has resulted in substantial increases in production. In addition, Mr. Reyes was among the first agricultural scientists to observe the need for agronomic and disease evaluation of small grains and is credited with the introduction of spring-type Mexican wheat varieties. Throughout south Texas, he has cooperated widely with county extension agents and producers and assisted with crop demonstrations, field days and research and education tours.

These accomplishments, along with others to numerous to mention, have elevated Lucas Reyes to a highly respected position not only among his colleagues but among those of us who have had the good fortune to know him as well. It is therefore my profound honor to salute Lucas Reyes as he completes a half century of exemplary dedication and service to the people of south Texas.

TRIBUTE TO ELLIOT A. LESSER

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. DIOGUARDI. Mr. Speaker, I was invited to attend tonight's 75th anniversary dinner of the Anti-Defamation League of New Rochelle. Unfortunately, I regret that our business here prevents me from joining those at Temple Beth-El to honor Elliot Lesser.

Elliot Lesser is a special human being who is more than deserving of the distinguished Wolf Duberstein Human Relations Award.

As we pay tribute to Mr. Lesser it is important to remember the purpose of the Anti-Defamation League. Recent tragic events in Mahopac and Yonkers are emblematic of a growing problem in America—desecration of religious property. This kind of action can not be tolerated in a society so proud of its freedom of expression. The Anti-Defamation League is to be commended for addressing this problem.

As a former practicing certified public accountant, I am well aware of the demands of Elliot's position with Laventhol and Horwath. His membership and leadership in such professional societies as the New York Chapter of the Real Estate Securities and Syndication Institute and the American Institute of Certified Public Accountants, of which I am a proud member, testify to Elliot's interest in his profession. This interest and dedication carries over to his numerous community interests.

As the past president and treasurer of the Tom Paine B'nai B'rith Lodge; secretary of the Westchester-Putnam Council of B'nai B'rith; and trustee and chairman of the Audit and Finance Committee of Beth-El synagogue, Elliot has worked hard to advance the interests of the Jewish community. I am proud of my fraternal brotherhood with Elliot and I ask my colleagues to join with me in honoring him.

A TRIBUTE TO COL. THOMAS GEORGE LANPHIER

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. HUNTER. Mr. Speaker, today I offer tribute and remembrance to a great American. Col. Thomas Lanphier died on Thanksgiving Day in La Jolla, CA; Tom would have been 72 the next day.

Col. Thomas George Lanphier, Jr., was born into an Army family on November 27, 1915. He earned a degree in journalism from Stanford University and went on to become an aviation cadet with the Army Air Corps in March 1941. Tom Lanphier was assigned to fly P-38 Lightnings in the Southwest Pacific for the 339th Fighter Squadron.

Tom's life and, indeed, the history of World War II changed forever on April 18, 1943. Washington intercepted a secret Japanese transmission, and Tom was sent to lead a mission acting upon it. The four P-38's that Lanphier commanded came upon a Japanese bomber, and Lanphier's guns sent it down in flames. That Japanese aircraft was carrying Adm. Isoroku Yamamoto, the Commander of the Imperial Japanese Navy and the mastermind of the surprise attack on Pearl Harbor.

Tom Lanphier left the Army Air Corps with the Navy Cross, Silver Star, and two Air Medals. He went on to become managing editor of the Idaho Daily Statesman from 1945 to 1949. He was the president of the Air Force Association until 1948, and was a special assistant to the Secretary of the Air Force during 1949 and 1950. He later moved to San Diego, CA, to become the vice president of Convair. He left the aerospace industry to speak and consult on business and military affairs.

Mr. Speaker I am certain that all of my colleagues feel the great loss of the American hero, Tom Lanphier. There are too few heroes left. We can look to Colonel Lanphier's life as an inspiration and an exercise in patriotism. He leaves a great legacy not only to the United States of America, but also in his wife Phyllis, his daughters, and his grandchildren. He will be missed.

INTERNATIONAL HUMAN RIGHTS DAY—THE 40TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. LANTOS. Mr. Speaker, today here in the United States and in many countries around the globe we are commemorating International Human Rights Day. This day has a special significance because today marks the 40th anniversary of the adoption by the United Nations General Assembly of the Universal Declaration of Human Rights.

It is appropriate that we pause, that we take time today to reflect on the essential importance of human rights in our world. And on this 40th anniversary it is helpful for us to consider the human rights which we in the United States take for granted, but which have been given international recognition because they are not observed in many other countries.

We live in a world in which it sometimes appears that human rights are violated by governments more often than they are respected, a world in which many of these rights are denied—the right of political dissent, the right of free movement, the right to worship, the right of ethnic minorities to preserve their traditional cultures and languages, the right of free speech, and many other internationally recognized human rights are denied.

As I have said on many occasions, human rights are indivisible—the denial of human rights anywhere is a threat to free men and women everywhere. If we acquiesce in the denial of basic rights, we strengthen the forces of repression and tyrany. It is only in a world where the fundamental rights of all of us are recognized and respected that the rights of any of us will be safe.

For this reason it is essential that we fight for the human rights of all—of the Baha'is in Iran; of all races in South Africa to live without racial discrimination; of the peoples of South Korea and Haiti to hold free and democratic elections; of the people of Cuba to speak out freely against their government and protest the denial of their human rights; the rights of the Tibetan people to worship and maintain their culture in the face of Chinese opposition; of the Hungarians in Romania to maintain their culture and language; for Christians and Jews and Moslems in the Soviet Union to practice their own religions, to maintain their own individual cultures, and to emigrate from the Soviet Union if they chose to do so.

Mr. Speaker, I call on all of my colleagues in the Congress to join in marking International Human Rights Day by calling attention to the violation of human rights around the world and by calling for our recommitment to the observance of human rights everywhere.

H.R. 3200 VERSUS H.R. 1720—TRUE WELFARE REFORM VERSUS THE DEMOCRATS' WEAK ATTEMPT

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. KONNYU. Mr. Speaker, I commend the majority party for emulating, after years of strong opposition, Republican efforts to reform welfare. I am, however, disturbed with portions of the majority party's welfare reform package we will be considering today, specifically, the H.R. 1720 contained policy of no mandatory participation in the Welfare Work Program.

When I was elected to this Congress, one of my chief goals was to initiate and enact a true workfare program not unlike the system my bill placed into law while serving in the California State Legislature. A true welfare reform program must include a workfare system requiring mandatory work-for-benefits participation. Such requirement will break the welfare dependency cycle among those families who prefer a welfare check to a paycheck.

Mr. Speaker, now is the time to make the hard choices necessary to reform our welfare system to one which we can build upon * * * and one which will build our Nation. The choice is not H.R. 1720, but, rather, the more balanced Republican substitute containing mandatory work participation.

POLITICAL STABILITY: KEY TO ECONOMIC, SOCIAL, AND POLITICAL DEVELOPMENT

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. FOGLIETTA. Mr. Speaker, on October 29 a very interesting forum sponsored by the Association on Third World Affairs was held in the Cannon Building. The topic was "Political Stability: Key to Economic, Social, and Political Development." The panelists, Dr. Philip M. Chen, Director of the Asia World Institute (Taipei), Chhang Song, former Minister of Information of Cambodia, and Ambassadors Habib Ben Yahia of Tunisia, Edward S. Laing of Belize, Emmanual Paleaez of the Philippines, represented the wide spectrum of the Third World.

Mr. Speaker, I am submitting for the RECORD a summary of this very important hearing.

POLITICAL STABILITY: KEY TO ECONOMIC, SOCIAL, AND POLITICAL DEVELOPMENT

Hahn: Welcome to a discussion about excellence—about countries that are doing things well, about governments that are providing better economic, social, and political conditions for their people.

This meeting is being held at a critical time in world history. This is a time when old labels and old concepts are being questioned, and many old stereotypes being discarded. Socialism? Capitalism? Liberal? Conservative? Words like these mean less and less as countries are becoming more and more concerned with realities—more concerned with who are our people? What do we need? What actions and programs can really help us?

For many years, we have been seeing western democracies adopting programs which were considered socialist. Now we are seeing more and more countries devoted to Marxism and the building of the true Communism looking towards good old free enterprise as the answer to their economic ills. And we see how many African nations, while still dedicated to building African socialism, are now looking into privatization of various sectors of their economy, where they feel it will benefit their people.

We have with us today the representatives of three countries who have been making some special brews of their own that have been working very well for them. I am referring to Taiwan (the Republic of China), the Republic of Tunisia and the Republic of Belize. We also have the very distinguished representative of a nation which is starting to build very carefully a brew of its own so that its people will at last have prosperity and freedom, namely The Philippines. Then we have the representative of a country which, hopefully, will profit from what we hear today, so that a free Cambodia may soon have democracy and economic prosperity.

There is definitely a positive correlation between economic development and political democracy in the case of Taiwan. As the country's economy continues to prosper, self-confidence has grown stronger. The Asian Wall Street Journal, commenting on the ROC's recent movement toward political liberalization, said: "The country's stronger self-image paved the way for the lifting of martial law and for a more aggressive policy forwards Mainland China."

The very first step towards economic development was redistribution of national wealth through land reform.

The ROC has succeeded in the creation and redistribution of national health with the principal of impartiality. In 1951, per capita income was as low as only 202 USD. In 1987, our per capital income was about 5,000 USD. Less than 40 years ago, Taiwan had only 300,000,000 USD in foreign reserves. This year, th Central Bank reported USD at 69 billion in foreign reserve, ranking third in the world after Japan and West Germany. Of course, when you have so much foreign reserve, it is not all a blessing.

The Christian Science Monitor recently reported that "opposition politics has been lively on Taiwan," and that the international news media has focused on the main opposition party, the DPP. The columnist also states that the opposition parties, until recently rarely tolerated, are now functioning freely.

In conclusion, the developing experience of ROC deserves close attention and may serve as a model for other developing countries in spite of the differences in conditions stemming from various national background. The Taiwan model for economic development and political competitiveness is characterized by stability and progress, tightly linked and tightly balanced and that development takes place gradually in a stable and evolutionary and construction manner, rather than a revolutionary and high risk pattern. Political stability is crucial for economic progress. Economic growth in turn beomes the determining factor for the evolution of democratic political culture by creating an increasingly sophisticated populace—one of the key elements required for a political democracy.

Hahn: One salient thought that emerges from everything you have siad, and you've said a tremendous amount, is what do we mean when we talk about political stability? We don't mean just keeping the same group in power, because that would mean that places like Ethiopia, Albania or South Africa are political stable. Political stability means having the same form of government in power for a long time, but the government must be in touch with the people as a whole, keeping in mind the needs of the people and being responsive to them. Then you can achieve the economic growth which in turn leads to the awakening of people's minds, and to the sort of liberalization which we are all applauding in your country and in other countries.

Tunisia is very far from Taiwan and has a very different ethnic background, but it too has performed some miracles during the 31 years since it became independent. On the even of independence it was so poor and underdeveloped that many so-called experts were saying that it was crazy to give Tunisia independence—that it had nothing and could never be anything. But through policies of a responsible government representing the will and needs of the people, Tunisia has accomplished economic and social miracles which have let it reach the point where it is exporting the latest word in technology to other Arab countries and engaging in other spectacular things—not just economic, but also diplomatic. Ambassador Habib Ben Yahia will explain how.

Ben Yahia: I am impressed by Dr. Hahn's perception of the problems and by the presentation of our friend from Taiwan. I am taking these as challenges.

I cannot out-bid the presentation of our friend from Taiwan on the performance of Taiwan. I will try to give, in very brief sketches, Tunisia's approach to political stability and endeavors towards democracy and for progress. My presentation will not be theoretical, because we have practiced every possible recipe that has been tried in the world. We are not dramatic people, but pragmatic people. When we got our independence, we were really starting from scratch. Despite the fact that we had behind us about 30 centuries of history, the timing of our entry into our very strategic area meant that the challenges were great domestically, regionally and internationally. Let me give you our own recipe.

We think that progress, political stability and democratization of our political system are interrelated and are influenced not by the dreams of the people, but by the approach, the options, the outlook of these people and second, by the environment and the challenges—and thank God we don't lack those challenges in our area. So what we did was to start to invest heavily in human resources.

Tunisia has spent, since it regained its independence, 34% of its budget on education. If you add welfare and health services, it comes to 42% of our budget on human resources. This is a worldwide record. We were the first country to impress the World Bank in the early 1960s, and I was involved in the negotiations. After long negotiations with the World Bank, Tunisia was the first country to get an educational loan. This wasn't fashionable at that time—it became later on. So we invested heavily in this quite risky business because investment in human resources is wise and you have to develop your economy to receive and create the opportunities for employent for those trained, skilled people coming out of school—university and vocational training schools. The challenge of creating job opportunities for the increasing rate of trained people was met with a lot of courage and a lot of perseverance.

Our economy is not big because we are a small country. It hasn't inherited rich natural resources. Water in Tunisia is as precious as oil. We have a very important agricultural sector predominant in the economy, so we invested in the infrastructure: you cannot do much if you don't have roads, communication networks, ports or airports. We invested in the 60s also in dams and I am glad to say that this country (U.S.) has been instrumental in helping Tunisia to develop from scratch from the beginning of its independence.

So my conclusion would be that you cannot draw the line and present any clear-cut recipe for political stability, openness, democracy and success unless you are clear in the objectives, consistent in your choices, and try not to shift from one theory to another, but rather balance your approach according to the realities of the environment you live in—the kind of people you are handling, not the kind of genes, but the kind of people. We are trying to develop regional cooperation with our neighbors, and happily most are in accordance with Tunisia's view concerning the necessity of creating a wider common Maghreb market. We believe the future of Tunisia and its stability will depend on whether we succeed in diffusing the crisis we have in our area and creating a common interest among the neighbors so that what Churchill called "the soft underbelly of Europe" would be the hard underbelly of Europe, becoming prosperous and more stable.

Hahn: Some salient similarities with Taiwan emerge. Apart from the common belief that you must steer by your own lights, you share the belief that the biggest resource a country has is the human resource; develop human resources and other developments follow.

Ambassador Edward Laing represents Belize. We don't usually hear much about Belize—not because it is small, but because it is not having the horrible problems that usually make the headlines. Little Belize has one of the highest human rights records on the face of the earth. Freedom House in New York which is very tough in rating governments of civil rights and civil liberties, rates Belize at the top. There are a number of things very right in Belize, which Ambassador Laing will discuss.

Laing: Belize is in the Yucatan Peninsula on the mainlaind of Central America, just across form Cuba, just below Mexico. It is very interesting geographically, with lowlands in the middle of the country and to the north, rising.

Currently Belize is a parliamentary democracy under two houses—the upper house and the lower house, the upper house being the nominating body and the lower house being the elected body. In addition, we have a written constitution with human rights provisions based primarily on the Universal Declaration of Human Rights, the European Convention on Human Rights and similar instruments observed elsewhere in the world.

Belize therefore epitomizes political stability, which I agree is indispensible for economic growth. But Belize does not yet have a successful economic picture. We still need investments and trade to develop our potential, and achieve excellence in every field of activity.

Hahn: We certainly hope countries in a position to help will appreciate the excellent climate Belize offers for investments and trade.

Another nation striving to achieve its full potential is The Philippines. We all know of the mighty victory for democracy won by the Filipino people. Ambassador Pelaez, a former minister and legislator, will discuss how his government is planning to strengthen democracy.

Pelaez: I would like to take off on the statement of our guest speaker, Dr. Chen. In this country there are tensions, but it does not necessarily mean that the country is falling apart. In the United States you have tensions, but they do not refer to the stability of the country: they refer to nominations to the Supreme Court and other things. The Philippines is a unique experiment in democracy.

Unlike the experience of Taiwan, we want to do our economic development under a democratic system and this, of course, is much harder. But in spite of everything, while the economy had receded by 5% each year, in 1984 and 1985, by 1986 Aquino had turned around the economy and during the first half of this year it had already grown by 5.1%. Many things have been done. All the regulations, all the monopoly, all the authoritarian decrees were done away with and we have worked towards a free enterprise system. Because we had to deal with the IMF and the World Bank, we have restructured our economy, biting the bullet. We are lowering tariffs, we are inviting investments and we are, in short, trying to build up a free market economy. We think this will work.

There have been several attempted coups. General Stillwell said that this reminded him of Vietnam. I said, "General, what is happening in the Philippines is not in the style of Vietnam, but in the style of Thailand, where there are conflicts among the military, but basically the government is strong." There is a small but noisey rightist segment. There is a substantial influence from the Communists, but the large majority of the people are with Aquino. One criticism of her was that she was not a hands-on President. She allowed debate in her Cabinet because at that time there was no Congress. Congress is now the venue for policy and debate. She has now tightened her Cabinet, she changed some members and now she is taking the leadership of the country. On last October 20, she made that announcement, and the effect has been electric. Insurgency has been controlled. The factionalism in the military is dying down and the economy is coming back.

Hahn: You have made it very clear that democracy is going to become very strong in the Philippines because it is nothing new—it is in the character and the tradition of the people.

To your right is a gentleman who represents a country which has had a far worse time than you have had. In fact, Cambodia has had a far worse time than just about any other country on the face of this earth. Chhang Song hopes to profit from the constructive examples of other countries represented here today who have obtained freedom and built better lives for their people.

Chhang Song: Cambodia shares a colonial background with Tunisia, since the French ruled our country for a hundred years. Like the Philippines, we are an island, so nobody could reach us. But we got caught with the Vietnamese on one side and Thailand on the other side. We never had political stability, or a real system to govern our country following clear cut objectives.

After the communist takeover in 1975, I was one of the three Cabinet members to survive. The other 13 were assassinated. The war was not lost in Cambodia, it was lost in one of these rooms here. I spend most of my time here on Capitol Hill, because I think that the war could be won or lost right here. So I think we in the Third World have to speak out—to demonstrate our willingness or capacity to build a democratic system.

We have to thank the ASEAN countries, who for the past 10 years have made a tremendous effort to help us at the United Nations. Every year all the ASEANS were working with and helping Cambodia—spending countless hours working on the Cambodian question. But we Cambodians keep going in different directions.

But the struggle of the Cambodian people continues, and there is a lot of optimism in the air. I want to urge the United States Government to please help them. They have only limited resources with which to fight. Without the United States' commitment to help Cambodia, nothing much will be accomplished.

Like my friends and I, the government of Taiwan has suffered. You had to start from scratch—we started from scratch. We are trying to help all Cambodians everywhere, you are trying to help all Chinese. I invite and challenge you to help us rebuild Cambodia as we want it to be rebuilt, and not the way that other people do.

Hahn: You have said, in effect, that we human beings must take our fate in our own hands as the Tunisians, the Taiwanese, and the Philippine people are doing. We have in you the nucleus for building a new Cambodia based on freedom and learning from Asian neighbors who can build democracy and freedom.

Our guests today have said an enormous amount of constructive things. This meeting is not a single event—we will stay in touch with one another, keep learning from one another and work together to build democracy and prosperity wherever we can on the face of the earth.

WOODROW WILSON HIGH SCHOOL, "HOME OF THE HEISMAN"

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BRYANT. Mr. Speaker, it is my distinct pleasure to call to the attention of this body the unique accomplishments of the students and faculty of Woodrow Wilson High School in Dallas throughout its 59 years of operation in the heart of the Fifth Congressional District of Texas.

Woodrow, as this venerable institution has been called by generations of its family, scored another distinctive accomplishment recently when one of its graduates, Tim Brown of Notre Dame University, received recognition as the Nation's premier collegiate football player by winning the Heisman Trophy.

That accomplishment alone would be reason enough to recognize Woodrow, but Tim Brown's election marked the only time in the 53-year history of the Heisman that one high school has produced two winners.

The late Davey O'Brien, a 1935 graduate of Woodrow, was also an All-America player and Heisman Trophy winner as a senior quarterback at Texas Christian University in 1938.

The magnitude of these two achievements becomes more apparent when you consider that there are in excess of 34,000 high schools in the Nation. For one school to be honored with such a prestigious award twice in less than half a century borders on the unbelievable.

Small wonder that Barbara Byrd Adamson, a 1956 graduate of Woodrow, has formed an alumni association of graduates of the school she has dubbed "the home of the Heisman."

Several other Woodrow graduates have distinguished themselves in athletics—among them football All-Americans I.B. Hale of TCU, Malcolm Kutner of the University of Texas, and Bill and Herschel Forester of Southern

Methodist University, and U.S. Open and Masters golf champion Ralph Guldahl.

The school has also produced a number of political leaders, including a former member of this body. Texas Attorney General Jim Mattox was my immediate predecessor in Congress, serving the people of East Dallas where he grew up and graduated from Woodrow. Among Woodrow's graduates are Texas Supreme Court Justice Bob Phillips and former Dallas mayors Jack Evans and Wallace Savage.

And coincidentally Woodrow Wilson High School and Washington, DC, have at least one more common bond—both the three-story Gothic high school and a building of the Library of Congress were designed by architect Mark Lemmon.

In its 59 years, Woodrow Wilson High School has been not only a proud landmark of Dallas, but also something of a barometer of the city's progress. When it was built, the school was literally out in the country, drawing its student body from the more affluent Dallas families living near or beyond the city limits in large rambling homes with broad expanses of grounds.

Today the school is considered inner city, with Dallas' large and growing downtown skyline drawing ever closer to its site at 100 South Glasgow. Many of the stately older homes have been replaced by clusters of apartments, or have been renovated into multiunit apartments themselves. Others have withstood the impact of time and change and have been restored to their former glory by successful younger professional couples seeking quality homes for their families.

The Woodrow student body in the 1987–88 school year is 49 percent Hispanic, 27 percent white, 17 percent black and 7 percent Asian and other ethnic groups—reflecting the constantly changing ethnic makeup of Dallas' population.

For these and other reasons I ask my colleagues to join me in offering hearty congratulations to current and past faculty, staff, and students of Woodrow Wilson High School in Dallas, as well as special congratulations to 1987 Heisman Trophy winner Tim Brown.

Woodrow has served, and continues to serve, its city well.

TWENTIETH ANNIVERSARY OF THE LOS ANGELES FREE CLINIC

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. WAXMAN. Mr. Speaker, it is with great pride that I call to your attention the 20th anniversary of the Los Angeles Free Clinic. It is an honor to have the free clinic located in my district, and to have many of its staff and clients among my constituents.

On December 17, 1987, the Los Angeles Free Clinic will conduct a gala groundbreaking ceremony for its new Seniel Ostrow Building. When completed, this new facility will vastly increase the space available for the clinic's services and the number of patients the clinic will be able to serve.

The Los Angeles Free Clinic was the first facility of its kind established in the United States, and for two decades has been the largest free community health service center in the United States.

Like many free clinics, the Los Angeles Free Clinic was founded out of a concern for the medical and psychological problems of youth in the 1960's. In the intervening years, the horizons of the Los Angeles Free Clinic have vastly risen. The clinic now has an outstanding gerontology program, a range of services aimed at the working poor, and a continuing role in serving children and young adults.

The completion of the Seniel Ostrow Building will require massive support from both public agencies and private citizens. I salute the friends of the free clinic, especially Mimi West, for both their volunteer efforts and their self-sacrificing financial contributions.

I ask that the Speaker and the Members of the House of Representatives join me in congratulating the Los Angeles Free Clinic for its past contributions and in wishing it every possible success in its new and exciting future endeavors.

HOUSE JOINT RESOLUTION 395, CONTINUING RESOLUTION FOR FISCAL YEAR 1988

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, on December 3 of this year, Congress passed House Joint Resolution 395, continuing appropriations for fiscal year 1988. While I voted for this bill, it was with a sense of reluctance. My reservations about this measure are no different than the ones that I expressed during debate on the House budget reconciliation passed on October 29. Specifically, I feel that many of the deficit cutting measures that make up the $76 billion reduction slated for the coming 2 fiscal years are, at best, illusory. Clearly, the lukewarm responses of the global markets after the announcement of the November 20 budget agreement indicates that substantive budget progress remains to be seen. A wide range of economists see this deficit reduction package as merely symbolic, devoid of any enduring power to hold down Federal spending. First, there is the issue of one-time asset sales, which set no precedent for year-to-year, recurring savings. Second, the $1.2 billion savings on Federal interest payments does not constitute a true cut in spending—it is merely a savings on paper. Further, the proposal to generate another $1.6 billion from enhanced tax collection procedures is based on questionable logic; the true, lasting benefits of this have been vigorously debated since the idea was first proposed. What we are left with is a budget package that contains a fiscal year 1988 deficit figure of $149.1 billion. This represents an increase, not a decrease, of $1.1 billion over this year's deficit. This runs counter to the kind of fiscal discipline that we should be seeking in our budget deliberations here in the House. For this reason, we should view this bill as just a first step along the road to sensible budgeting; we must now summon the courage to implement real deficit reduction measures, to put aside partisan concerns in the interest of the long-term health and stability of our economy.

THE AGRICULTURAL PRODUCTION AND FOOD PROCESSING SYSTEMS RESEARCH ACT OF 1987

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. STENHOLM. Mr. Speaker, I am very pleased to be joined by several of my colleagues in introducing a bill which provides for a research program to examine and enhance agricultural production and food processing systems.

More specifically, the legislation authorizes the Secretary of Agriculture to make competitive grants to private persons, corporations, research institutions, and governmental entities for research focused upon: First, development of a statistical framework to measure the significance of any microbiological or chemical agents on, or affecting, agricultural products; second, identifying any microbiological or chemical agents which pose significant human health risks; and third, to devise a practical and workable testing methodology and control procedures for microbiological or chemical agents. Moreover, to assist the Secretary in reviewing and awarding grants, this legislation creates a peer review committee comprised of generally recognized expert scientists from the government, academia, and private research organizations. Finally, the bill requires the Department of Agriculture to report to Congress on an annual basis as to the implementation of the grant program and findings of the funded research.

Mr. Speaker, the American public is afforded the certainty of consuming the safest and most wholesome food supply found anywhere in the world. Public protection has been in the past and should always remain the primary objection of any food processing and inspection program.

Nonetheless, the House Agriculture Committee has conducted several public hearings and reviewed countless pages of written testimony surrounding our current inspection programs. I have come to the conclusion that in this age of technological advances, we should certainly move ahead and properly look at ways which take us further down the road in making a good system better.

As mentioned earlier, this legislation will authorize research for all agricultural products, be they meat, poultry, grains, or fish. This broad approach is essential because we must be concerned about the increased safety of all foods.

In addition, we all would agree that adequate research cannot be conducted overnight. That is why the legislation authorizes the research to be conducted over a 5-year period.

Recognizing that we are dealing with a very complex issue, the best strategy in enhancing our current agricultural production and food processing systems lies in a three-pronged approach that combines research, proper regulation, and consumer education.

Mr. Speaker, this bill represents a "common sense" approach in seeking answers to difficult problems. Only after we have the evidence, can we or should we proceed to form any conclusions, or submit recommendations.

I would encourage all my colleagues to join with us in supporting this measure.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The wholesomeness and safety of agricultural products are important to the health and well-being of the people of the United States.

(2) The American consumer enjoys the safest agricultural products in the world.

(3) It is appropriate to periodically examine agricultural production and food processing systems, especially with respect to foodborne microbiological and chemical agents, to further improve consumer protection.

(4) Such examination may enhance the health and well-being of the people of the United States and enhance public confidence in the wholesomeness and safety of food products.

(5) Additional research into the wholesomeness of agricultural products should be conducted to identify any improvements that may be necessary.

(6) The Secretary of Agriculture should oversee such research because the Secretary is charged with ensuring the wholesomeness of agricultural products.

SEC. 2. GRANT PROGRAM.

(a) Authority to Make Grants.—The Secretary of Agriculture may make competitive grants, after consultation with the committee established under section 4(a), for periods not to exceed 5 years, to persons and governmental entities for research to be carried out for any of the purposes specified in section 3. Such grants shall be made without requiring matching funds to be provided by recipients of such grants.

(b) Limitation.—No grant may be made or expended under this act for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

SEC. 3. RESEARCH PROGRAM.

The Secretary of Agriculture shall establish a research program—

(1) to establish a statistical framework to measure the extent to which microbiological and chemical agents in or affecting agricultural products pose significant risks to human health,

(2) to identify any microbiological or chemical agent that poses a significant human health risk under the statistical framework established under paragraph (1), and

(3) to identify the means to avoid the causes of human health risks posed by microbiological and chemical agents in or affecting agricultural products or to control or reduce such risks, including—

(A) developing techniques for the rapid identification of such microbiological and chemical agents, and

(B) analyzing agricultural production, and food processing and distribution, to determine those points at which intervention could occur to control any significant risk to human health posed by a microbiological or chemical agent in or affecting an agricultural product.

SEC. 4. CONSULTATION.

(a) Creation of Committee.—The Secretary shall establish a committee to perform peer review evaluations of proposed research projects for which grants under this Act are requested.

(b) Review of Research Proposals by Committee.—(1) Upon receipt of an application submitted under section 5 for research to be carried out for any of the purposes specified in section 3, the Secretary shall refer the research proposal contained in such application to the committee for its review.

(2) If the committee determines that the research proposal has merit, the committee shall request the Secretary to publish the research proposal in the Federal Register.

(3) Upon receiving such request, the Secretary shall publish in the Federal Register—

(A) the research proposal, and

(B) a notice requesting persons and governmental entities to submit written comments on the research proposal to the Secretary not later than 30 days after the publication of such notice.

(4) The Secretary shall transmit to the committee all comments received under paragraph (3)(B).

(5) After consideration of such comments, the committee shall recommend to the Secretary whether a grant should be made under this Act for such research.

(c) Composition of Committee.—The committee shall be comprised of 8 members as follows:

(1)(A) Two members shall be appointed from among scientists who are employed by colleges, universities, and State agricultural experiment stations and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, or pathology.

(B) Two members shall be appointed from among scientists who are employed by private research organizations and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, or pathology.

(C) One member appointed under each of subparagraphs (A) and (B) shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives. One member appointed under each of such subparagraphs shall be appointed by the chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) The Secretary of Agriculture, ex officio, or the designee of the Secretary.

(3) One member shall be appointed by the Secretary of Agriculture from among individuals who are employees of the Department of Agriculture and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, or pathology.

(4) One member shall be appointed by the Administrator of the Environmental Protection Agency from among individuals who are employees of the Environmental Protection Agency and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, or pathology.

(5) One member shall be appointed by the Commissioner of the Food and Drug Administration from among individuals who are employees of the Food and Drug Administration and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, or pathology.

(d) Committee Deliberations.—In reviewing research proposals received under subsection (b), the committee shall exert its best efforts to identify both—

(1) proposals for basic research, and

(2) proposals for applied research,

taking into consideration the practical application of the results of basic research and applied research.

(e) Applicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the committee.

SEC. 5. ELIGIBILITY FOR GRANTS.

To be eligible to receive a grant under this Act, a person or governmental entity shall submit to the Secretary an application that contains—

(1) a proposal to carry out research for one or more of the purposes specified in section 3,

(2) assurance that such person or entity will submit to the Secretary a detailed report of the research conducted with such grant, and

(3) such other terms and conditions as the Secretary may require by rule.

SEC. 6. REPORTS TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation of this Act and on the findings of the research for which grants are made under this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) the term "agricultural product" means—

(A) an agricultural commodity,

(B) livestock, poultry, or fish, or

(C) a product of an agricultural commodity, livestock, poultry, or fish,

produced for direct or indirect human ingestion,

(2) the term "livestock" has the meaning given it in section 2(a)(4) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)(4)),

(3) the term "poultry" has the meaning given it in section 4(e) of the Poultry Products Inspection Act (21 U.S.C. 453(e)), and

(4) the term "Secretary" means the Secretary of Agriculture.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) Funds Authorized.—There are authorized to be appropriated for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 such sums as may be necessary to carry out this Act.

(b) Limitation on Administrative Costs.—Not more than 4 percent of the amount appropriated for a fiscal year to carry out this Act may be expended by the Secretary for administrative costs incurred to carry out this Act in such fiscal year.

REPORT ON KRASNOYARSK

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. CARR. Mr. Speaker, on September 5 of this year Mr. DOWNEY, Mr. MOODY and I, together with five American experts and one reporter, spent an afternoon inspecting and photographing the controversial and previously secret Soviet installation near the city of Krasnoyarsk. After returning, we submitted a report on our trip. Now that all attention is focused on the Soviet Union as Mr. Gorbachev visits Washington, I will take the opportunity to share our report by inserting it in the RECORD at the conclusion of my remarks.

Before inserting our report, I offer some personal observations.

First, there is the matter of openness.

Dramatic as the details of our visit to Krasnoyarsk may have been, in some respects they are less important than the basic fact that the Soviet Government, at the highest level, permitted and supported the visit. They took us to one of their most secret military areas, helicoptered us around the site, and allowed us to look, touch, and photograph essentially without restriction. Our reception by the members of the Soviet Academy of Sciences was not merely cordial and correct; it was warm and enthusiastic.

Before making this visit, I myself was somewhat wary of press reports on the new Soviet policy of openness. But there is no denying the implication of our access to Krasnoyarsk, which could not have happened at any previous time in Soviet history. Real change is in the wind; it is happening now. The traditional closed Soviet society would never have allowed such openness.

Of course, the openness of a society can be judged by two yardsticks: external and internal. Our delegation had a breathtaking and most encouraging exposure to Soviet openness as it relates to the outside world, but we had no opportunity to observe openness as it relates to Soviet citizens. Here we have no first-hand information, and can only rely on what the news media tells us.

Much ot what we hear is encouraging: For the first time, we hear accounts of free, heated, and open debate among Soviet citizens and government officials on major national issues. Mr. Gorbachev's own accounts of the problems and stagnation within his country set an example of candor many of our own politicians would do well to follow. On the other hand, recently we have also seen KGB thugs and goons attacking peaceful demonstrators in Moscow. I urge Mr. Gorbachev to identify the persons responsible and give them lifteime jobs sweeping the streets in downtown Krasnoyarsk.

The bottom line is that our access to Krasnoyarsk strongly argues that in external affairs the Soviet Government is liberalizing. The opportunities to reduce the danger of nuclear war, to cut back on the senseless arms race, and to ratchet down international tensions appear to be real. Seizing this opportunity should be first priority for the next administration. A new era of mutually diminishing foolish secrecy can mutually raise confidence in arms agreements.

Second, there is the question of whether the Krasonyarsk installation is a battle management radar. In a sense, any large phased array radar, including the American PAVE PAWS radars and the installation in Greenland, could be used for some battle management functions. But other than in this very generic sense, Krasnoyarsk clearly cannot become a battle management radar. Its lack of hardening and apparent low frequency make it very poorly suited for that purpose.

There has been much discussion of our description of the structure at Krasnoyarsk as being of shoddy quality. I must stress that the structure is adequate for peacetime functions. Our purpose in describing the structure was not to belittle Soviet construction standards; we understand the difficulty of building a large structure under the severe weather conditions which exist in that part of the world. Our purpose was to explain, in terms the American people can readily understand, why this structure is unsuited to battle management functions.

Third, there is the question of whether the Krasnoyarsk installation violates the ABM Treaty by being an early warning radar deployed in an impermissible location. Before seeing the installation for myself, I voted—on the basis of the best evidence then available—for an amendment declaring it a violation. Had I seen the installation, I would have voted the other way and I believe I could have persuaded others to do likewise. While Krasnoyarsk would be a violation if brought close to completion, at present it is so far from completion that it cannot be considered a deployed radar at all, and therefore is not a violation at this time.

I hope it will never be deployed, and the recent action of the Soviet Government in declaring a 1-year construction moratorium at the Krasnoyarsk site is an encouraging sign. Our visit, and the Soviet Government's freeze, establish a baseline which can be verified by subsequent visits to resolve Krasnoyarsk as an ABM Treaty compliance issue.

In conclusion, Mr. Speaker, the Krasnoyarsk visit was a major step toward better United States-Soviet relations. The world will be well served if there are many more.

FINAL REPORT[1] TO THE SPEAKER OF THE HOUSE ON FACT-FINDING TRIP TO THE SOVIET UNION, AUGUST 29–SEPTEMBER 7, 1987

[By Thomas J. Downey, Bob Carr, and Jim Moody][2]

The House of Representatives has passed legislation mandating strict compliance with the existing ABM Treaty, and it has passed a new bilateral 1-kiloton maximum on nuclear test explosions.

During our trip, we witnessed a dramatic demonstration of the ability of Americans to monitor Soviet compliance with these restrictions, and unprecedented co-operation on the part of the other side in facilitating this monitoring.

Our specific observations and findings are described below. Our general finding is this:

Based on these improved verification opportunities, and on the information we obtained by exercising them, we are convinced the House legislation is well taken. We find that national security will be best served if, as the legislative cycle progresses, the House insists most firmly upon its position.

I. BACKGROUND OF TRIP AND PARTICIPANTS

While this was an official House-sponsored fact-finding trip at the invitation of the Supreme Soviet and the Academy of Sciences of the USSR, it originated through the indispensable efforts of the Washington-based Natural Resources Defense Council.

We were accompanied by the following:

Charles Archimbeau, seismologist, University of Colorado;[3]

Anthony Battista, electronics expert, staff of the House Armed Services Committee.

Thomas Cochran, nuclear physicist, chief scientist of the Natural Resources Defense Council.

Jeffrey Moore, Sovietologist, staff of Congressman Downey.

Christopher, Paine, arms control expert, staff of Senator Edward Kennedy.

Robert Sherman, arms control expert, staff of Congressman Downey and Carr and associate staff member of the House Appropriations Committee for Congressman Les AuCoin.

Also traveling with us were the following Soviet officials.

Alexei Arbatov, head of disarmament and security affairs at the Institute for World Economy and International Relations of the Soviet Academy of Sciences;

Viktor Fedorov,[4] Soviet Council of Ministers;

Andrei Kokoshin, deputy director of the United States and Canada Institute of the Soviet Academy of Sciences;

Voltaire Kraskovski,[5] Lt. Gen., Soviet Air Defense Command.

Yevgeni Velikhov, vice president of the Soviet Academy of Sciences;

Vladimir Vologin, special assistant to Academician Velikhov.

II. ABM TREATY BACKGROUND

The Anti-Ballistic Missile Treaty of 1972 sought to limit the number of ABM complexes on each side to two, later reduced to one. To achieve this objective, it restricted to specified sites the deployment or construction of large phased array radars (LPARs) for ABM battle management.

At the same time, the authors of the ABM treaty recognized that LPARs are also necessary for the non-ABM function of early warning, and desired to permit these LPARs to be built. The problem was that the physical and electronic characteristics of early-warning radars have some characteristics in common with ABM battle management radars. Thus, the treaty draws the line by defining an early-warning radar as "located on the periphery of national territory and oriented outward", and permits any number of such installations. Deployment of early-

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[1] All information we gathered is being made available to U.S. government technical experts and intelligence analysts. We caution that, pending their analyses, our report is subject to revision.

[2] We note that all Congressional members of the delegation were members of the majority party. However, several members of the House minority party were invited to be part of the delegation. We regret that none was able to participate.

[3] Nuclear explosion site only.

[4] Krasnoyarsk only.

[5] Krasnoyarsk only.

warning radars at other locations is prohibited, although the treaty is silent on construction of such radars.

Tracking space objects, another non-ABM function, also requires LPARs. These are permitted by the treaty without restriction.

If, as the Administration claims, the installation near Krasnoyarsk is an *ABM battle-management radar,* it would violate both the letter and the purpose of the ABM treaty. An ABM battle-management radar would optimally have the following characteristics:

Structural hardening against blast.

Hardening against electromagnetic pulse.

Independent power generation capability.

Underground tunnels and support facilities.

Frequency in low gigahertz [6] range.

If it is an early-warning radar, since it is not on the Soviet periphery, it would violate the letter of the treaty if deployed. An early warning radar would optimally have the following characteristics:

Structural hardening against blast.

Hardening against electromagnetic pulse.

Independent power generation capability.

Underground tunnels and support facilities.

Frequency in the low hundreds of megahertz [7].

Location on the periphery of the Soviet Union, looking toward the threat. A full system of early warning radars would provide gap-free coverage around the entire periphery.

If it is a spacetrack radar, as the Soviet government has claimed, it would not require hardening or independent power generation. Its frequency would optimally be in the high hundreds of megahertz. And it would probably look south toward the majority of space orbits, although this is not necessarily true if those orbits are covered by other radars.

The need for hardening battle management and early warning radars is a subject of dispute.

Some commentators hold that blast hardening battle management radars is futile, since at attainable hardness levels no large ABM radar can survive a determined nuclear attack. If this is correct and hardening is useless, battle management radars will not be around long enough to manage a battle, and serve no visible purpose.

Others hold that attainable hardening, combined with active defense to impose a standoff distance on the attacker's warheads, can prolong the life of the battle management radar for a useful period.

For early warning radars, which can serve much of their purpose by the simple act of being destroyed, hardening is less essential than for ABM battle management radars.

The case for electromagnetic hardening and independent power generation for both battle management and early warning radars is clearer than the case for blast hardening. Electromagnetic hardening and independent power generation would prevent a "quick easy kill" in which a single nuclear explosion would quickly disable a large number of radars. But considering that a shoddy and leaky basic structure makes EMP hardening inherently more difficult, structural and electronic hardening are to some extent associated.

The American battle management radar at Grand Forks [8] and the PAVE PAWS early warning radars are electromagnetically hardened. The Grand Forks battle management design is also structurally hardened in the sense that its independent power supply is underground and designed to resist substantial shock.

Thus, if we assume U.S. installations are not goldplated, it seems inconsistent to argue that hardening is not an inherent characteristic of a battle management or early warning radar.

We were told on several occasions that the Krasnoyarsk installation is a bureaucratic foulup. According to this account, it was begun in the 1970s as a dual purpose early warning plus spacetrack radar. It was not placed on the periphery because of the difficult weather conditions there, and there was no communication between the arms controllers and the radar planners; the latter did not realize the installation was in violation of the ABM treaty, and this was not brought to the attention of top leadership until the U.S. cited Krasnoyarsk as a treaty violation in 1983. At that point, the military argued, successfully, that the Soviet Union should not restructure an ongoing military activity for the sake of a treaty the U.S. Administration was seeking to destroy.

We have no objective way to evaluate this account. While it is consistent with the evidence we saw, so are a number of other possible explanations.

We strongly suggested to the Soviets that the most prudent course would be to stop, or at least slow down, work on the project while the future of the ABM Treaty is under debate. In individual conversations, the Soviets agreed that this would be a constructive course.

On other occasions, the Soviets pressed their contention that the U.S. radars at Thule and Fylingdales are new radars and therefore violations of the ABM Treaty; they offered to drop Krasnoyarsk if we would drop our two installations. Mr. Downey presented and defended the Administration's view that Greeland and Fylingdales are merely upgrades of existing radars, and are therefore grandfathered into the treaty.

III. ADDITIONAL ARMS CONTROL ISSUES

SALT II. In discussion with Supreme Soviet members and arms control specialists, we raised the question of SS-17 silo dismantlement in compensation for SS-24 deployment. We indicated that, notwithstanding the Administration's overt violation of that treaty, any ambiguity involving Soviet compliance with the 820 MIRV ICBM limit would be of grave consequence. We asked for a count of SS-24s, deployed and SS-17 silos dismantled.

They indicated that they hoped to have this count at a follow-up meeting scheduled after our return from monitoring the test explosions. As it happened, this follow-up meeting was pre-empted by the trip to Krasnoyarsk. But we made clear our continuing interest in this matter, and asked that the information be transmitted to us as soon as possible.

ASAT. We urged the Soviets to unilaterally dismantle their obsolete ASAT, as a "go-the-extra-mile" response to the House zeroing of the Miniature Homing Vehicle program. We explained that we were satisfied with the bilateral ASAT test ban Congress had created, but that destruction of the existing Soviet system would eliminate an additional political issue of some salience.

They were receptive to the idea, and asked us whether dismantlement would be most useful if done to launchers, SS-9 boosters, or kill vehicles. We responded that while it would be best if all three were destroyed, the critical factor was that the ASAT be rendered verifiably inoperable. A complicating factor is the use of the launchers and the boosters for other purposes.

Like SALT II, this matter was to be taken up again at later discussions which were pre-empted by the trip to Krasnoyarsk.

Future arms control. We engaged the Soviet arms control specialists in extensive discussion of future arms control possibilities. Among these were—

1. A depressed-trajectory flight test ban.
2. A terminal MaRV flight test ban.
3. A flight test ban on all ballistic missiles.
4. A deployment ban on all MIRV missiles.
5. A missile submarine standoff zone.
6. An anti-submarine-warfare free zone.

Most of these propositions obviously would require complex, careful negotiation. But all attracted substantial positive interest from the Soviet side. With determination on both sides, there is evidence that most or all can be turned into viable agreements. However, we note that the U.S. Administration has shown no interest in any of these stabilizing propositions.

We note a fundamental change in apparent Soviet expert attitudes. During the SALT II period, Soviet positions consisted largely of zero-sum attempts (largely unsuccessful) to extract the tightest possible limits on the U.S. side and the loosest limits for the Soviet side. Now the Soviets have seem to have moved beyond this, and appear most interested in non-zero sum propositions which increase crisis stability for both sides. If this development can be translated into concrete agreements, it will be most welcome.

IV. ACCESS TO INFORMATION

The Soviet Union has traditionally been a closed society. While it remains so, we have witnessed openings which can only be described as spectacular.

Krasnoyarsk

This installation is, according to Soviet scientists, located within a large security area in which standing orders are to shoot intruders without warning. Yet reportedly by direct order of "the highest level" and with the concurrence of the Politburo, nine Americans [9] were permitted to descend upon it and spend nearly four hours shooting more than a thousand photographs, taking two video tapes and one audio tape, and making notes and sketches without restriction.

This must have been a shocking experience for the officials and technical experts on the Krasnoyarsk project, all accustomed to working in utmost secrecy and only one of whom had ever before met an American. Nevertheless, they conducted us around their installation with courtesy and with no apparent resentment.

Our Soviet hosts described our visit as a unilateral action; they did not at that time request reciprocity in the form of access of U.S. radars at Thule or Fylingdales.

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[6] Billions of cycles per second. Generally, higher frequency gives better resolution, while lower frequency gives longer range.

[7] Millions of cycles per second.

[8] This was its purpose at time of construction. Since dismantlement of the Safeguard ABM system it was designed to serve, it has been used as an attack assesssment radar.

[9] Including William Broad, science writer for the New York Times

Our access to Krasnoyarsk was dramatic and extensive. At no point were our notes, tapes, or photographs censored or even examined by Soviet officials in any way. Nevertheless, we wish to be clear about what access we were granted and what we were not.

There were no restrictions whatever on external examination of the radars. On the 70-kilometer helicopter flight to the site, we were allowed to monitor the cockpit instruments and to photograph the terrain, in order that subsequent analysis could remove any doubt that we were indeed taken to the Krasnoyarsk site. Our helicopters did a slow circle of the entire site, giving us ample opportunity to photograph it. Once on the ground, we were free to look at whatever external features interested us. In some instances members of our party, with cameras, wandered around the installation entirely unaccompanied by any Soviets.

Inside, our access was sometimes rushed, on the rationale that we needed to make our air departure window. Whatever this was in fact the entire motivation, we cannot say.

Initially, we were taken on a guided tour of the ground floor and one other floor of the transmitter and receiver; although note-taking, sketching, audio taping, and audio dictation were allowed, no cameras were permitted to be used inside. Later, at our urging, our hosts agreed to let us photograph and video-tape one floor of our choice.

At the receiver we were able to wander at will, open any door, and photograph several floors of our choice.

At the transmitter we chose, to satisfy particular points of technical curiosity, to return to the seventh floor, which was the same floor we had seen on the guided tour. We also performed a more detailed examination of the first floor, including rooms we had not previously been shown. But while we had earlier been allowed to spend ten minutes making notes and sketches of the power distribution board, we were not allowed time to photograph it. We recommend that a subsequent delegation do this, and also allow more time to examine other floors of the transmitter.

Most of our questions were answered fully and directly. However, our hosts declined to specify the frequency of the radar and the capacity of the computer. To our question of whether the frequency was 180 megahertz, the response was translated as "something like that." Computer capacity was specified only as "millions" of instructions per second, and as comparable to a Cyber supercomputer. Target-tracking capability was specified only as "many thousands."

Monitoring of explosions

For more than a year, the Natural Resouces Defense Council has been permitted to install and operate seismic monitoring stations in the Kazakhstan area which includes the Soviet nuclear test site. These installations have been calibrating the transmissive properties of that area, listening to the earthquakes and industrial explosions as they have occurred. Last week they also listened to multi-ton TNT [10] test explosions, simulating small nuclear explosions.

However, the team has not been permitted to listen to actual nuclear explosions. When such explosions have occurred, a Soviet military officer has been helicoptered to each site and has disconnected and sealed the equipment. In part, it appears to reflect Soviet reaction to the current Administration's opposition to a nuclear test ban. In part, it also appears to reflect a split within Soviet ranks, with the military and the weapons designers being a good deal less interested in arms control than the scientific community as a whole. This phenomenon is not unknown in the United States.

A new agreement between the Natural Resources Defense Council and the Soviet Academy of Sciences will permit new monitoring stations which will be allowed to remain turned on during Soviet nuclear tests.

Intellectual openness:

In the long term, the increased intellectual openness we perceived may be even more important than the access to specific physical facilities and information.

Two of us served as Official Congressional Advisors to the SALT II talks a decade ago. At that time, we spent many frustrating hours attempting to engage Soviet negotiators in serious arms control discussions, only to be met with nothing more than rigid repititions of the Brezhnez party line.

We saw evidence that this world is changing. We have spent a week engaging high Soviet arms control planners in freewheeling discussions in which they did not hesitate disagreements with each other and with the decisions of their government on major points of national security policy. The significance of this aspect of *glasnost* cannot be overstated.

OBSERVATIONS

The ABM Treaty:

Whatever the purpose of the installation at Krasnoyarsk, it is at least several years from operational status. While the basic concrete structures are largely complete, we saw no installed antenna elements, computers, or other electronic equipment anywhere. The transmitter had a completed antenna face and extensive plumbing and electrical power wiring (but no electronic cables); the receiver did not.

Blast hardening, to the extent achievable above ground, requires the highest quality construction.

The installation we saw is not built to such standards. On the contrary, its construction quality is below that which would be considered acceptable for public housing in the United States.

Instead of a large poured unit or steel frame structure, we saw simple blocks of concrete, presumably prefabricated, stacked atop one another and cemented sloppily or not at all. Construction quality throughout the installation can only be described as shoddy. Electrical wiring was far below normal American civilian standards. Crumbling masonry was everywhere. When one member of our party wanted to take a sample of the masonry, he had no difficulty detaching it manually.

Electromagnetic hardening is an expensive and painstaking process, involving leak-free metallic shielding for the entire structure and for individual cable runs. We saw no evidence whatever of such hardening. On the contrary, the structures had a number of glass windows, which are categorically incompatible with hardening. Given the basic design of the structure, we question that it could ever be electronically hardened without tearing it down and starting over.

We saw no evidence for an independent power generation capability. Our hosts asserted none was present or planned. They said there would be only a battery system, presumably for momentary brownouts.

While we cannot rule out the possibility of underground support facilities, they would be duplicative; we did see extensive support facilities being constructed in an above-ground and highly vulnerable manner. Due to limited time, we did not enter these facilities or examine them internally; we recommended that a subsequent delegation do so.

We observed two anomalies for which we have no ready explanation.

First, there is the question of work in progress. Our Soviet hosts told us there are about one thousand construction workers on the site. Even considering our visit was on a Saturday, we saw surprisingly little signs of any workers having been on site at any time in the recent past.

We saw heavy machinery—cranes and bulldozers—scattered around the site. But we saw none of the small implements normally associated with construction work, nor did we see any of the debris we would expect to follow the presence of a thousand human beings. We saw neither trash nor trash receptacles.

Every member of the delegation was struck by the barren, deserted feeling of the site. Comments ranged from "This is like an after-the-nuclear-war movie" to "I can't tell if they're building this thing or taking it down."

We draw no conclusion from this. There is no reason for the Soviets to exaggerate the size of their work force. And it is possible that normal daily cleanup is more effective than at American sites, or that a special cleanup was done in anticipation of our arrival.

Second, we were not able to satisfy ourselves regarding the purpose of two large vented mounds beside the transmitter. We were told these covered "tanks for cooling water, in case the pumps go out." But it is not clear why water tanks require large vent pipes. Nor is it clear how ground-level water tanks could service the tall transmitter or receiver if the pumps became inoperative.

The 1-kiloton threshold:

In Kazakhstan, we witnessed the seismic monitoring of one 20-ton and two 10-ton TNT explosions, respectively fifty and one hundred times smaller than the threshold the House has sought to establish. These explosions were conducted in the same geologic region as the Soviet nuclear test site at Semipalatinsk. They were monitored by multiple seismic stations maintained jointly by the Natural Resources Defense Council and the Soviet Academy of Sciences.

This explosion was not "decoupled," [11] but the 100:1 yield ratio exceeds the best decoupling factor yet demonstrated by American experiments, which ranges from 70:1 for low frequency to less than 10:1 for high frequency.

By fortuitous coincidence, eighteen seconds before the vibrations from one of the explosions reached our monitoring station, we began to get signals from a large distant earthquake. The earthquake notwithstanding, the signals from the explosion came through clearly and unmistakably.

VI. FINDINGS

The ABM Treaty

Based on what we saw, we judge the probability of Krasnoyarsk functioning as a battle-management radar to be extremely low. Its lack of hardening, lack of independent power generation, and inappropriate frequency all mitigate against this application.

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[10] This is the standard reference material for measuring nuclear explosions.

[11] Conducted in a cavern to reduce shock-wave transmission.

We are unable to form a clear judgment on the question of early-warning vs. spacetrack. On the one hand, the lack of hardening and independent power generation, plus the inland location, would make it a poor early warning radar. On the other hand, the estimated frequency of 180 megahertz, plus the northeastern orientation, would make it a poor spacetrack radar.

Whether the installation is early-warning or spacetrack, it is clearly not deployed. Thus, we judge it to be not a violation of the ABM treaty at this time. However, due to its ambiguous nature we would no longer be able to make that statement if the project were carried through to completion.

The ABM treaty provides no specific definition of deployment, specifying only that ". . . each Party undertakes . . . not to deploy in the future radars for early warnings of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward." We are here using a definition analogous to the SALT II definition of a deployed ballistic missile submarine as one which has completed sea trials and is therefore judged complete and ready for operation.

Such a yardstick was not previously feasible for ground-based radars; lacking on-site inspection, it was reasonable for the Administration to define deployment as time of first identification. Based on our inspection, we are now able to apply a more precise definition. We note, however, that the application of this definition can only continue if repeated inspection is permitted, as we hope it will be. This is the only way we can verify the absence of an effort to deploy.

The 1-kiloton threshold

As a result of this demonstration we are convinced that it is possible to detect nuclear 1-kiloton explosions in the region of the Soviet nuclear test site, and to verify a threshold at that level at that site.

Further studies are now needed to determine how many monitoring stations would be needed to verify a 1-kiloton explosion anywhere in the Soviet Union.

CHRONOLOGY OF TRIP FROM MOSCOW TO KRASNOYARSK RADAR SITE AT ABALOKOVO, RUSSIAN REPUBLIC—SEPTEMBER 5, 1987

3:20 am (Moscow time)—Depart Sovietskaya Hotel, Leningradsky Prospekt, Moscow. Travel 25 minutes to Vnukovo Airport.

4:00 am (Moscow time)—Depart Moscow via Aeroflot jet (jet privately arranged by Soviet Academy of Sciences).

7:29 am (Moscow time)—Arrive Omsk, Russian Republic for refueling.

8:41 am (Moscow time)—Depart Omsk* (*Please note a 3 hour time difference between Moscow and Omsk).

10:40 am (Moscow time or 2:40 p.m. local Kranoyarsk time)—Arrive Yeniseysk Airport, Russian Republic.

3:00 pm (local time)—Depart via MI-8 helicopter for radar site at Abalokovo.

3:35 pm (local time)—Arrive Krasnoyarsk radar site; Abalokovo, Russian Republic. Greeted by Oleg A. Losev, Vice-Minister, Ministry of Radio Industry of the U.S.S.R.

3:40 pm (local time)—Proceed on foot to west corner of transmitter building. Proceeded along northwest side of transmitter to stop at northeast face (front) of building.

At this time a discussion ensued between Mr. Battista and the chief engineer of the facility on the frequency of the facility, its size, its purpose (space track vs. early warning) and the nature of the water supply for cooling purposes.

4:00 pm (local time)—Enter into first floor of transmitter building. Proceed into left wing of building. Escorted through the power supply room, instrument calibration room, equipment inspection room, and electrical equipment room.

4:25 pm (local time)—Proceed via elevator to 7th floor transmitter building. Escorted through instrument assembly room.

4:30 pm—Proceed up ramp to transmitter room, directly behind the face of the transmitting antenna.

4:35 pm—Pass through cooling room and to elevator. Before taking elevator back to first floor, we view antenna element, take elevator to first floor.

4:40 pm—Exit transmitter building from first floor.

4:45 pm—Proceed on foot along 400 metre dirt road to receiver building.

5:10 pm—Enter receiver building at ground level rear entrance, turn right and proceed down small hallway to stairwell. Proceed to third floor and a series of three rooms described as control rooms.

5:20 pm—Proceed back to ground level and view power supply room.

5:25 pm—Exit receiver building via ground floor. Proceed to outdoor tent for dinner.

5:30 pm—6:45 pm (local time)—Dinner.

6:45 pm—7:15 (local time)—Members, Tony Battista and New York Times Correspondent are given additional time to view additional locations within transmitter and receiver. They are allowed to choose the floors they wish to visit, and are allowed, for first time, to take interior photographs.

7:25 pm (local time)—Depart radar facility via two helicopters.

8:05 pm (local time)—Arrive Yeniseysk Airport.

8:20 pm—Depart Yeniseysk via Aeroflot.

10:05 pm (Krasnoyarsk time)—Arrive Omsk.

10:50 pm (Krasnoyarsk time or 6:50 pm Moscow time)—Depart Omsk.

10:00 pm (Moscow time)—Arrive Vnukovo Airport.